UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS
FIRST SESSION

VOLUME 147—PART 1

JANUARY 3, 2001 TO FEBRUARY 7, 2001
(PAGES 1 TO 1561)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2001

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

SENATE—*Wednesday, January 3, 2001*

The third day of January being the day prescribed by the Constitution of the United States for the annual meeting of the Congress, the Senate assembled in its Chamber at the Capitol for the commencement of the 1st session of the 107th Congress and at 12 noon was called to order by the Vice President [Mr. GORE].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, Your glory fills this hallowed Senate Chamber. We exalt You as Sovereign of our beloved Nation, and we are profoundly moved as we prepare to witness the divine encounter between You and the Senators-elect as they are sworn in. You have destined them for greatness as leaders of our Nation. They are here by Your choice and are accountable to You for how they lead this Nation under Your guidance. May the awesome vows they take and the immense responsibilities they assume bring them to true humility and to an unprecedented openness to You. Save them from the seduction of power, the addiction of popularity, and the aggrandizement of pride. Lord, keep their priorities straight: You and their families first; the good of the Nation second; consensus around truth third; party loyalties fourth; and personal success last of all.

In the 107th Senate, equally divided between Republicans and Democrats, grant them unity and effectiveness to work together to solve problems and grasp the opportunities for our Republic at this propitious time.

May they never forget that they are here to serve and not to be served. Consistently replenish the reserves of their strength and their courage so often drained by pressure and stress. Anoint their minds with Your Spirit and guide them as they seek to know and do Your will in the crucial issues before our Nation. We believe that this can be America's finest hour awaiting leaders imbued with Your power. God of Abraham, Isaac, and Jacob and the Lord Jesus Christ, You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The VICE PRESIDENT. The majority leader, Senator DASCHLE, is recognized.

(Applause, Senators rising.)

A HISTORIC DAY

Mr. DASCHLE. Mr. President, on behalf of the entire Senate, but especially this Senator, I welcome you back to the Senate. This is a historic day. Never before in the history of our Nation have we had a 50-50 Senate. I welcome and congratulate all 11 of our newly elected Senators and the family members and friends who are here to share this important day with them.

Years after he left the White House, Harry Truman wrote that the decade he spent in the Senate were the happiest years of his life. As our new colleagues begin their Senate careers, we hope that they, too, are beginning what will be the happiest years of their lives.

Several of our departing colleagues are also here with us today. To them we say thank you: Thank you for sharing with us and with our Nation some of the best years of your lives, thank you for the contributions you have made to our Nation during your years of public life, and thank you for the important contributions you will continue to make in the coming years. It has been a pleasure and an honor to work with each of you.

The writer Thomas Wolfe said that America is a place where miracles not only happen, they happen all the time. Today we are experiencing one of those miracles: The peaceful transition of power from one Congress to the other. Some people say it will take another miracle for this Congress and administration to find a way to work together. As we begin this historic Congress, let us resolve that we will work in good faith with each other to do the people's business. That is our pledge from this side of the aisle. We know our colleagues on the other side of the aisle feel as we do.

Finally, on a personal note, it is a high honor to have the privilege of officially opening this Senate. When I first ran for Democratic leader 6 years ago, I thought if I won, I would be majority leader. I must confess that in 6 years as minority leader, I had a moment or two when I wondered if that day would ever arrive, but I assure you, I intend to savor every one of the next 17 days.

I know we are all looking forward to a bipartisan and a productive 107th Congress that will serve our country well. It is an honor to be a part of this Congress and to be able to work, once again, with my friend and my colleague, Senator LOTT.

I now ask unanimous consent that the Republican leader be permitted to speak.

The VICE PRESIDENT. Without objection, it is so ordered. The minority leader, Senator LOTT, is recognized.

(Applause, Senators rising.)

Mr. LOTT. Thank you, Mr. President.

THANKING THE VICE PRESIDENT

Mr. LOTT. I appreciate the courtesy of the distinguished majority leader for this opportunity to speak.

I want to extend also the appreciation of the Senate and a grateful Nation to the Presiding Officer, the Vice President of the United States, for the service he has given to our country.

(Applause, Senators rising.)

The VICE PRESIDENT. The Chair will remind the Senate that boisterous demonstrations are against the rules.

(Laughter.)

Mr. LOTT. It is obvious, Mr. President, you still maintain your sense of humor. I want to thank you for your leadership and also for the example you have set through a very difficult time. You took the appropriate step, and now we are prepared to move into a transition and to a new administration.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

FACING NEW CHALLENGES

Here in the Senate also we are having a historic experience. I would like to welcome all of the new Senators who are joining us today. I congratulate them. I look forward to working with the new Senators on both sides of the aisle.

As Senator DASCHLE said, I also extend, again, our appreciation to the Senators who may be in the Chamber and who are retiring or leaving the Senate, who have served, most of them, for at least 6 years and some for much longer than that. They have done a lot to make this country a better place in which to live.

I also extend our appreciation to the extended family of the Senate, our staff members new and old, and to the families who are in the gallery today. I realize we should not be referring to those in the gallery, but there are a lot of people who have made an awful lot of contributions and sacrifices to make this day possible for us in the Chamber. So we have a lot of people we need to thank, and also to realize that we are in a position where we can make this an even better country.

To the new Members, I urge them to take a look around and think about the challenges and opportunities they will have here. It is a unique institution, created by the founders of this Republic. Quite often we are frustrated with the rules—frustrated even today that we are going through this unique situation—but they had a lot of foresight. They created this unique Senate that makes sure we take the time to think through an issue and to have full debate. And while sometimes we believe, on one side or the other, that we did not have an ample opportunity for debate, I am sure we are going to work together to find a way to give everybody that opportunity over the next 6 years.

For those of us who have been here a few years, we also face new challenges. We have one today. I must say it is the first time I have ever been referred to as the minority leader. And while it beats certain alternatives, I liked the other title better. But we are showing here today—and hope we will show during the next 17 days and, more importantly, during the months beyond—that we will always find a way to work together.

It is quite often not easy to find consensus, as is forced upon us quite often in the Senate, but we must strive for it. Quite often Senator DASCHLE and I do our very best to find a logical solution to a problem, and we have 98 other Senators who may not agree with us, but we will continue to work together to make this great Republic—the best, most outstanding the minds of men have ever created—work as it should.

I look around the Chamber, on both sides of the aisle, and I see men and women with the potential to raise this country to an even higher level, to our highest and our best. I will work as the leader of my party, and in 17 days as the majority leader of the Senate, to find a way to make that possible.

One bit of information from a housekeeping standpoint. We will have some housekeeping resolutions that we will do in a moment. One of them is to begin the introduction of bills on January 22. Senators should be prepared to have bills ready. Senator DASCHLE and I have already talked about the fact that we will do the usual five alternating from one side to the other. We will do that for the first 20 bills. There will be a lot of other announcements Senator DASCHLE and I will make.

So thank you for this opportunity. I thank you on my side of the aisle for this leadership role. Together we will go forward.

I yield the floor.

CERTIFICATES OF ELECTION AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate the various credentials of Senators elected for 6-year terms beginning on January 3, 2001, elected to fulfill the remainder of an unexpired term, or appointed to fill a vacancy.

All certificates, the Chair is advised, are in the form suggested by the Senate or contain all the essential requirements of the form suggested by the Senate. If there be no objection, the reading of the above-mentioned certificates will be waived, and they will be printed in full in the RECORD.

There being no objection, the documents ordered to be printed in the RECORD are as follows:

STATE OF HAWAII

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November 2000, Daniel K. Akaka was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor, Benjamin J. Cayetano and our seal hereto affixed at Honolulu this 27th day of November, in the year of our Lord 2000.

By the Governor:

BENJAMIN J. CAYETANO,
Governor.

COMMONWEALTH OF VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, George F. Allen was duly chosen by the qualified electors of the Commonwealth of Virginia, as Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our Governor James S. Gilmore, III, and our seal hereto affixed at Richmond, Virginia this 14th day of December, in the year of our Lord 2000.

JAMES S. GILMORE,
Governor.

STATE OF NEW MEXICO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Jeff Bingaman was duly chosen by the qualified electors of the State of New Mexico, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Gary Johnson, and our seal hereto affixed at Santa Fe this 8th day of December, in the year of our Lord 2000.

By the Governor:

GARY JOHNSON,
Governor.

STATE OF MONTANA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Conrad Burns was duly chosen by the qualified electors of the State of Montana, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Marc Racicot, and our seal hereto affixed at Helena, Montana, this 27th day of November, in the year of our Lord 2000.

By the Governor:

MARC RACICOT,
Governor.

STATE OF WEST VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November, 2000, Robert C. Byrd was duly chosen by the qualified electors of the State of West Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 2001.

Witness: His excellency our governor Cecil Underwood and our seal hereto affixed at Charleston this Eleventh day of December, in the year of our Lord 2000.

By the Governor:

CECIL UNDERWOOD,
Governor.

STATE OF WASHINGTON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November, two thousand, Maria Cantwell was duly chosen by the qualified electors of the State of Washington a Senator from said state to represent said state in the Senate of the United States for a term of six years, beginning on the third day of January, two thousand and one.

In witness whereof, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this seventh day of December, A.D., two thousand.

GARY LOCKE,
Governor.

State of Missouri

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Missouri, I, Roger B. Wilson, the Governor of said State, do hereby appoint Jean Carnahan, a Senator from said State to represent said State in the Senate of the United States commencing at noon on the 3rd day of January, 2001, until the vacancy therein, caused by operation of law, is filled by election as provided by law.

Witness: His Excellency our Governor Roger B. Wilson, and our seal hereto affixed at Jefferson City, Cole County, Missouri this 4th day of December, in the year of our Lord 2000.

By the Governor:

Roger B. Wilson,
Governor.

State of Delaware

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

Be it known, an election was held in the State of Delaware, on Tuesday, the seventh day of November, in the year of our Lord two thousand, that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Constitution and Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

And whereas, the official certificates or returns of said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found Thomas R. Carper to be the person highest in vote, and therefore duly elected the Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord two thousand one.

I, the said Thomas R. Carper, Governor, do therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said Thomas R. Carper the person highest in vote at the election aforesaid, and therefore duly and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord two thousand one.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the 4th day of December in the year of our Lord two thousand and in the year of the Independence of the United States of America the two hundred and twenty-fourth.

By the Governor:

Thomas R. Carper,
Governor.

State of Rhode Island

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Lincoln D. Chafee was duly chosen by the qualified electors of the State of Rhode Island, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: To the signature of his Excellency our Governor Lincoln C. Almond, and our seal hereto affixed at Providence, this 21st day of November, 2000.

By the Governor:

Lincoln C. Almond,
Governor.

State of New York

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November, two thousand, Hillary Rodham Clinton was duly chosen by the qualified electors of the State of New York a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the third day of January two thousand one.

Witness: His excellency our Governor George E. Pataki, and our seal hereto affixed at Albany, New York, this twelfth day of December in the year two thousand.

By the Governor:

George E. Pataki,
Governor.

State of North Dakota

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Kent Conrad was duly chosen by the qualified electors of the State of North Dakota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our Governor Edward T. Schafer, and our seal hereto affixed at Bismarck this 27th day of November, in the year of our lord 2000.

By the Governor:

Edward T. Schafer,
Governor.

State of New Jersey

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Jon S. Corzine, was duly chosen by the qualified electors of the State of New Jersey, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Given, under my hand and the Great Seal of the State of New Jersey, this 8th day of December, in the year of Our Lord two thousand.

By the Governor:

Christine Todd Whitman,
Governor.

State of Minnesota

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Mark Dayton was duly chosen by the qualified electors of the State of Minnesota, a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Jesse Ventura, and our seal hereto affixed at Saint Paul this 11th day of December, 2000.

By the Governor:

Jesse Ventura,
Governor.

State of Ohio

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to certify that on the 7th day of November 2000, Mike DeWine was duly elected by the qualified electors of the State of Ohio as the Senator from said State in the Senate of the United States for the term of six years, beginning on the third day of January, 2001.

In testimony whereof, I have hereunto subscribed my name and caused the great seal of the State of Ohio to be hereto affixed at Columbus, Ohio, this 15th day of December, in the year of our Lord 2000.

By the Governor:

Bob Taft,
Governor.

State of Nevada

CERTIFICATE OF ELECTION UNITED STATES SENATE SIX YEAR TERM

To the President of the Senate of the United States:

This is to certify that at a general election held in the State of Nevada on Tuesday, the seventh day of November, two thousand, John Ensign was duly elected a Member of the United States Senate, in and for the State of Nevada, for the term of six years from and after the third day of January, two thousand one, and until his successor is elected and qualified:

Now, Therefore, I Kenny C. Guinn, Governor of the State of Nevada, by the authority in me invested by the Constitution and laws thereof, do hereby Commission him, the said John Ensign, as a Member of the United States Senate, for the State of Nevada, and authorize him to discharge the duties of said office according to law, and to hold and enjoy the same, together with all powers, privileges and emoluments thereunder appertaining.

In testimony thereof, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol at Carson City, this 4th day of December, two thousand.

Kenny C. Guinn,
Governor.

State of California

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Dianne Feinstein was duly chosen by the qualified electors of the State of California, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Gray Davis, and our seal hereto affixed at Sacramento this 16th day of December, in the year of our Lord 2000,

By the Governor:

GRAY DAVIS,
Governor.

STATE OF TENNESSEE

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Bill Frist was duly chosen by the qualified electors of the State of Tennessee as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our Governor, Don Sundquist, and our seal hereto affixed at Nashville this 28th day of November, in the Year of our Lord, Two Thousand.

By the Governor:

DON SUNDQUIST,
Governor.

STATE OF UTAH

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Orrin G. Hatch was duly chosen by the qualified electors of the State of Utah, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Michael O. Leavitt, and our seal hereto affixed at Salt Lake City, this 1st day of December, in the year of our Lord 2000.

By the Governor:

MICHAEL O. LEAVITT,
Governor.

STATE OF TEXAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Kay Bailey Hutchison was duly chosen by the qualified electors of the State of Texas, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor George W. Bush, and our seal hereto affixed at Austin, Texas this 27th day of November, in the year of our Lord 2000.

By the Governor:

GEORGE W. BUSH,
Governor.

STATE OF VERMONT

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

On November 14, 2000, the Statewide canvassing committee met as required by Vermont law, and issued a Certificate of Election to James M. Jeffords based upon the official return of votes cast at the General Election held on November 7th, 2000.

This is to certify that on the 7th day of November, 2000, James M. Jeffords was duly chosen by the qualified electors of the State of Vermont, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor, Howard Dean, and our seal hereto affixed at Montpelier, Vermont, this 14th day of December in the year of our Lord 2000.

By the Governor:

HOWARD DEAN,
Governor.

COMMONWEALTH OF MASSACHUSETTS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November, in the year two thousand, Edward M. Kennedy was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, two thousand and one.

Witness: His Excellency, our Governor, Argeo Paul Cellucci, and our seal hereto affixed at Boston, this sixth day of December in the year of our Lord two thousand.

By His Excellency the Governor:

PAUL CELLUCCI,
Governor.

STATE OF WISCONSIN

CERTIFICATE OF ELECTION AS UNITED STATES SENATOR

To the President of the Senate of the United States:

This is to certify that on the 7th of November, 2000, Herbert H. Kohl was duly chosen by the qualified electors of the State of Wisconsin a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Tommy G. Thompson, and our seal hereto affixed at Madison this 14th day of December, 2000.

By the Governor:

TOMMY G. THOMPSON,
Governor.

STATE OF ARIZONA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November 2000, Jon Kyl was duly chosen by the qualified electors of the State of Arizona a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd Day of January 2001.

Witness: Her excellency the Governor of Arizona, and the Great Seal of the State of Arizona hereto affixed at the Capitol in Phoenix this 27th day of November, 2000.

JANE DEE HULL,
Governor.

STATE OF CONNECTICUT

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to Certify that on the seventh day of November, two thousand, Joe Lieberman was duly chosen by the qualified electors of the State of Connecticut a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, two thousand and one.

Witness: His Excellency our Governor, John G. Rowland and our seal hereto affixed at Hartford, this twenty-ninth of November, in the year of our Lord two thousand.

JOHN G. ROWLAND,
Governor.

STATE OF MISSISSIPPI

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Trent Lott was duly chosen by the qualified electors of the State of Mississippi, a Senator from said State to represent the State of Mississippi in the Senate of the United States for the term of six years, beginning on the 3rd Day of January, 2001.

Witness: His Excellency our Governor Ronnie Musgrove, and our seal hereto affixed at 10:30 a.m. this 12th day of December, in the year of our Lord 2000.

By the Governor:

RONNIE MUSGROVE,
Governor.

STATE OF INDIANA

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

Be it known by these presents:

Whereas, according to certified statements submitted by the Circuit Court Clerks of the several counties to the Election Division of the Office of the Secretary of State of Indiana, and based upon a tabulation of those statements performed by the Election Division, the canvass prepared by the Election Division states that at the General Election conducted on the seventh day of November, 2000, the electors chose Richard G. Lugar to serve the People of the State of Indiana as United States Senator from Indiana.

Now, therefore, in the name of and by the authority of the State of Indiana, I certify the following in accordance with title 2 United States Code Section 1:

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Richard G. Lugar was duly chosen by the qualified electors of the Senate of Indiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Frank O'Bannon, and our seal hereto affixed at Indianapolis, this thirtieth day of November, in the year of our Lord, 2000.

By the Governor:

FRANK O'BANNON,
Governor.

STATE OF GEORGIA

CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Zell Miller was duly chosen by the qualified electors of the State of Georgia, a Senator for the unexpired term ending at noon on the 3rd day of January, 2005, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of Paul Coverdell.

Witness: His Excellency our governor Roy E. Barnes, and our seal hereto affixed at Atlanta, Ga. this 7th day of December, in the year of our Lord 2000.

ROY E. BARNES,
Governor.

STATE OF NEBRASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Ben Nelson was duly chosen by the qualified electors of the State of Nebraska, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor Mike Johanns, and our seal hereto affixed at Lincoln, Nebraska this 11th day of December, in the year of our Lord 2000.

By the Governor:

MIKE JOHANNS,
Governor.

STATE OF FLORIDA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the Seventh day of November, 2000, Bill Nelson was duly chosen by the qualified electors of the State of Florida, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 2001.

Witness: His excellency our governor, Jeb Bush, and our seal hereto affixed at Tallahassee, this Twenty-seventh day of November in the year of our Lord 2000.

By the Governor:

JEB BUSH,
Governor.

COMMONWEALTH OF PENNSYLVANIA

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November, 2000. Rick Santorum was duly chosen by the qualified electors of the Commonwealth of Pennsylvania as a United States Senator to represent Pennsylvania in the Senate of the United States for a term of six years, beginning on the third day of January, 2001.

Witness: His excellency our Governor Thomas J. Ridge, and our seal hereto affixed at Harrisburg this fourteenth day of December, in the year of our Lord, 2001.

By the Governor:

THOMAS J. RIDGE,
Governor.

STATE OF MARYLAND

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Paul S. Sarbanes was duly chosen by the qualified voters of the State of Maryland a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 2001.

Witness: His Excellency our Governor Parris N. Glendening, and our seal hereto affixed at the City of Annapolis, this 7th day of December, in the Year of Our Lord, Two Thousand.

PARRIS N. GLENDENING,
Governor.

STATE OF MAINE

CERTIFICATE OF ELECTION FOR A SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the seventh day of November in the year Two Thousand, Olympia J. Snowe was duly chosen by the qualified electors of the State of Maine, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January in the year Two Thousand and One.

Witness: His excellency our Governor, Angus S. King, Jr., and our seal hereto affixed at Augusta, Maine this sixth day of December, in the year of our Lord Two Thousand.

By the Governor:

ANGUS S. KING, Jr.,
Governor.

STATE OF MICHIGAN

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Debbie Stabenow was duly chosen by the qualified electors of the State of Michigan a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Given under my hand and the Great Seal of the State of Michigan this 14th day of December, in the Year of our Lord, Two Thousand.

By the Governor:

JOHN ENGLER,
Governor.

STATE OF WYOMING

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 7th day of November, 2000, Craig Thomas was duly chosen by the qualified electors of the State of Wyoming, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 2001.

Witness: His excellency our governor, Jim Geringer, and our seal hereto affixed at the Wyoming State Capitol, Cheyenne, Wyoming, this 22nd day of November, in the year of our Lord 2000.

By the Governor:

JIM GERINGER,
Governor.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senators to be sworn will now present themselves at the desk in groups of four as their names are called in alphabetical order, the Chair will administer their oaths of office.

The clerk will now read the names of the first group.

The legislative clerk called the names of Mr. AKAKA, Mr. ALLEN, Mr. BINGAMAN, and Mr. BURNS.

These Senators, escorted by Mr. INOUYE, Mr. DOMENICI, Mr. WARNER, and Mr. BAUCUS, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. BYRD, Ms. CANTWELL, Mrs. CARNAHAN, and Mr. CARPER.

These Senators, escorted by Mr. ROCKEFELLER, Mrs. MURRAY, Mr. BOND, and Mr. BIDEN, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. CHAFEE, Mrs. CLINTON, Mr. CONRAD, and Mr. CORZINE.

These Senators, escorted by Mr. REED, Mr. SCHUMER, Mr. DORGAN, and Mr. TORRICELLI, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. DAYTON, Mr. DEWINE, Mr. ENSIGN, and Mrs. FEINSTEIN.

These Senators, escorted by Mr. WELLSTONE, Mr. LUGAR, Mr. REID, and Mrs. BOXER, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. FRIST, Mr. HATCH, Mrs. HUTCHISON, and Mr. JEFFORDS.

These Senators, escorted by Mr. THOMPSON, Mr. BENNETT, Mr. GRAMM, and Mr. LEAHY, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. KENNEDY, Mr. KOHL, Mr. KYL, and Mr. LIEBERMAN.

These Senators, escorted by Mr. KERRY, Mr. FEINGOLD, Mr. MCCAIN, and Mr. DODD, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. LOTT, Mr. LUGAR, Mr. MILLER, and Mr. NELSON of Florida.

These Senators, escorted by Mr. COCHRAN, Mr. BAYH, Mr. CLELAND, and Mr. GRAHAM, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. NELSON of Nebraska, Mr. SANTORUM, Mr. SARBANES, and Ms. SNOWE.

These Senators, escorted by Mr. HAGEL, Mr. LOTT, Ms. MIKULSKI, and Ms. COLLINS, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The clerk will read the names of the last group.

The legislative clerk called the names of Ms. STABENOW and Mr. THOMAS.

These Senators, escorted by Mr. LEVIN and Mr. ENZI, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

The VICE PRESIDENT. The majority leader is recognized.

CALL OF THE ROLL

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators answered to their names:

[Quorum No. 1]

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bunning
Burns
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

The VICE PRESIDENT. A quorum is present.

LIST OF SENATORS BY STATES

(Republicans in Roman (50): Democrats in *Italic* (50): Total 100)

Alabama—Richard C. Shelby and Jeff Sessions.

Alaska—Ted Stevens and Frank Murkowski.

Arizona—John McCain and Jon Kyl.

Arkansas—Tim Hutchinson and *Blanche L. Lincoln*.

California—*Dianne Feinstein* and *Barbara Boxer*.

Colorado—Ben Nighthorse Campbell and Wayne Allard.

Connecticut—*Christopher J. Dodd* and *Joseph I. Lieberman*.

Delaware—*Joseph R. Biden, Jr.* and *Thomas R. Carper*.

Florida—*Bob Graham* and *Bill Nelson*.

Georgia—*Max Cleland* and *Zell Miller*.

Hawaii—*Daniel K. Inouye* and *Daniel K. Akaka*.

Idaho—Larry E. Craig and Michael D. Crapo.

Illinois—*Richard Durbin* and Peter G. Fitzgerald.

Indiana—Richard G. Lugar and *Evan Bayh*.

Iowa—Chuck Grassley and *Tom Harkin*.

Kansas—Sam Brownback and Pat Roberts.

Kentucky—Mitch McConnell and Jim Bunning.

Louisiana—*John B. Breaux* and *Mary L. Landrieu*.

Maine—Olympia J. Snowe and Susan M. Collins.

Maryland—*Paul S. Sarbanes* and *Barbara A. Mikulski*.

Massachusetts—*Edward M. Kennedy* and *John F. Kerry*.

Michigan—*Carl Levin* and *Debbie Stabenow*.

Minnesota—*Paul D. Wellstone* and *Mark Dayton*.

Mississippi—Thad Cochran and Trent Lott.

Missouri—Christopher S. Bond and *Jean Carnahan*.

Montana—*Max Baucus* and Conrad R. Burns.

Nebraska—Chuck Hagel and *E. Benjamin Nelson*.

Nevada—*Harry Reid* and John Ensign.

New Hampshire—Bob Smith and Judd Gregg.

New Jersey—*Robert Torricelli* and *Jon S. Corzine*.

New Mexico—Pete V. Domenici and *Jeff Bingaman*.

New York—*Charles E. Schumer* and *Hillary Rodham Clinton*.

North Carolina—Jesse Helms and *John Edwards*.

North Dakota—*Kent Conrad* and *Byron L. Dorgan*.

Ohio—Mike DeWine and George V. Voinovich.

Oklahoma—Don Nickles and James M. Inhofe.

Oregon—*Ron Wyden* and Gordon H. Smith.

Pennsylvania—Arlen Specter and Rick Santorum.

Rhode Island—*Jack Reed* and Lincoln Chafee.

South Carolina—Strom Thurmond and *Ernest F. Hollings*.

South Dakota—*Thomas A. Daschle* and *Tim Johnson*.

Tennessee—Fred Thompson and William H. Frist.

Texas—Phil Gramm and Kay Bailey Hutchison.

Utah—Orrin G. Hatch and Robert F. Bennett.

Vermont—*Patrick J. Leahy* and James M. Jeffords.

Virginia—John W. Warner and George Allen.

Washington—*Patty Murray* and *Maria Cantwell*.

West Virginia—*Robert C. Byrd* and *John D. Rockefeller, IV*.

Wisconsin—*Herb Kohl* and *Russell D. Feingold*.

Wyoming—Craig Thomas and Michael B. Enzi.

INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 1) informing the President of the United States that a quorum of each House is assembled.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The resolution (S. Res. 1) was agreed to, as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. Pursuant to Senate Resolution 1, the Chair appoints the Senator from South Dakota [Mr. DASCHLE] and the Senator from Mississippi [Mr. LOTT] as a committee to join the committee on the part of the House of Representatives to wait upon the President of the United

States and inform him that a quorum is assembled and that the Congress is ready to receive any communication he may be pleased to make.

INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 2) informing the House of Representatives that a quorum of the Senate is assembled.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The resolution (S. Res. 2) was agreed to, as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

ELECTION OF THE HONORABLE ROBERT C. BYRD AS PRESIDENT PRO TEMPORE AND ELECTION OF THE HONORABLE STROM THURMOND AS PRESIDENT PRO TEMPORE

Mr. DASCHLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 3) to elect Robert C. Byrd, a Senator from the State of West Virginia, to be President pro tempore of the Senate of the United States, and to elect Strom Thurmond, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 3) was agreed to, as follows:

S. RES. 3

Resolved, That Robert C. Byrd, a Senator from the State of West Virginia, be, and he is hereby, elected President of the Senate pro tempore, to hold office until 12:00 meridian on January 20, 2001, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SEC. 2. That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office effective 12:00 meridian on January 20, 2001, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

The VICE PRESIDENT. The Senator from West Virginia.

(Applause, Senators rising.)

The Senator, escorted by Senator DASCHLE and Senator LOTT, advanced to the desk of the Vice President; the oath prescribed by law was administered to Senator BYRD by the Vice President; and he subscribed to the oath in the Official Oath Book.

(Applause, Senators rising.)

(The PRESIDENT pro tempore assumed the chair.)

(Applause, Senators rising.)

Mr. DASCHLE. Mr. President, we officially congratulate you on the ascendancy to your new position.

NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. DASCHLE. I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 4) notifying the President of the United States of the election of a President pro tempore.

The PRESIDENT pro tempore. The resolution is privileged.

Without objection, the resolution is agreed to.

The resolution (S. Res. 4) reads as follows:

S. RES. 4

Resolved, That the President of the United States be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. DASCHLE. I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 5) notifying the House of Representatives of the election of a President pro tempore of the U.S. Senate.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 5) reads as follows:

S. RES. 5

Resolved, That the House of Representatives be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

FIXING THE HOUR OF DAILY MEETING

Mr. DASCHLE. I send a resolution to the desk and again ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 6) fixing the hour of daily meeting of the Senate.

The PRESIDENT pro tempore. Without objection, the resolution is agreed to.

The resolution (S. Res. 6) reads as follows:

S. RES. 6

Resolved, That the daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

PROVIDING FOR COUNTING OF ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT

Mr. DASCHLE. Mr. President, I send a concurrent resolution to the desk and now ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 1) to provide for the counting on January 6, 2001, of the electoral votes for President and Vice President of the United States.

The PRESIDENT pro tempore. This is a privileged resolution.

Without objection, the concurrent resolution is agreed to.

The Senate concurrent resolution (S. Con. Res. 1) reads as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Saturday, the 6th day of January 2001, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

EXTENDING THE LIFE OF THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. DASCHLE. Mr. President, I send a second concurrent resolution to the desk and now ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies.

The PRESIDENT pro tempore. This is a privileged resolution.

Without objection, the concurrent resolution is agreed to.

The concurrent resolution (S. Con. Res. 2) reads as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 2001, the joint committee created by Senate Concurrent Resolution 89 of the One Hundredth Sixth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 2001, the provisions of Senate Concurrent Resolution 90 of the One Hundredth Sixth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, are hereby continued with the same power and authority.

APPOINTING CHAIRMEN OF STANDING COMMITTEES

Mr. DASCHLE. I send a final resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 7) designating chairmen of standing committees.

The PRESIDENT pro tempore. This is a privileged resolution.

Without objection, the resolution is agreed to.

The resolution (S. Res. 7) reads as follows:

S. RES. 7

Resolved, That the following Senators are designated as Chairmen of the following committees until 12:00 meridian on January 20, 2001:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, of Iowa.

Committee on Appropriations: Mr. Byrd, of West Virginia.

Committee on Armed Services: Mr. Levin, of Michigan.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, of Maryland.

Committee on the Budget: Mr. Conrad, of North Dakota.

Committee on Commerce, Science, and Transportation: Mr. Hollings, of South Carolina.

Committee on Energy and Natural Resources: Mr. Bingaman, of New Mexico.

Committee on Environment and Public Works: Mr. Reid, of Nevada.

Committee on Finance: Mr. Baucus, of Montana.

Committee on Foreign Relations: Mr. Biden, of Delaware.

Committee on Governmental Affairs: Mr. Lieberman, of Connecticut.

Committee on Health, Education, Labor, and Pensions: Mr. Kennedy, of Massachusetts.

Committee on the Judiciary: Mr. Leahy, of Vermont.

Committee on Rules and Administration: Mr. Dodd, of Connecticut.

Committee on Small Business: Mr. Kerry, of Massachusetts.

Committee on Veterans' Affairs: Mr. Rockefeller, of West Virginia.

Committee on Indian Affairs: Mr. Inouye, of Hawaii.

Select Committee on Intelligence: Mr. Graham, of Florida.

SEC. 2. Effective on January 20, 2001 at noon the following committees shall have the following chairmen, pursuant to Republican Conference ratification:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar of Indiana.

Committee on Appropriations: Mr. Stevens, of Alaska.

Committee on Armed Services: Mr. Warner, of Virginia.

Committee on Banking, Housing, and Urban Affairs: Mr. Gramm, of Texas.

Committee on the Budget: Mr. Domenici, of New Mexico.

Committee on Commerce, Science, and Transportation: Mr. McCain, of Arizona.

Committee on Energy and Natural Resources: Mr. Murkowski, of Alaska.

Committee on Environment and Public Works: Mr. Smith, of New Hampshire.

Committee on Finance: Mr. Grassley, of Iowa.

Committee on Foreign Relations: Mr. Helms, of North Carolina.

Committee on Governmental Affairs: Mr. Thompson, of Tennessee.

Committee on Health, Education, Labor, and Pensions: Mr. Jeffords, of Vermont.

Committee on the Judiciary: Mr. Hatch, of Utah.

Committee on Rules and Administration: Mr. McConnell, of Kentucky.

Committee on Small Business: Mr. Bond, of Missouri.

Committee on Veterans' Affairs: Mr. Specter, of Pennsylvania.

Committee on Indian Affairs: Mr. Campbell, of Colorado.

Select Committee on Intelligence: Mr. Shelby, of Alabama.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I send to the desk en bloc 12 unanimous consent requests, and I ask for their immediate consideration en bloc, that the requests be agreed to en bloc, and the motion to reconsider the adoption of these requests be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The unanimous consent requests are as follows:

That for the duration of the 107th Congress, the Ethics Committee be authorized to meet during the session of the Senate;

That for the duration of the 107th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minute duration, the warning signal be sounded at the beginning of the last 7½ minutes;

That during the 107th Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate;

That the majority and minority leaders may daily have up to 10 minutes each on each calendar day following the prayer and disposition of the reading of, or the approval of, the Journal;

That the Parliamentarian of the House of Representatives and his three assistants be given the privileges of the floor during the 107th Congress;

That, notwithstanding the provisions of rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed;

That the Committee on Appropriations be authorized during the 107th Congress to file reports during adjournments or recesses of the Senate on appropriations bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposed amendments shall be printed;

That, for the duration of the 107th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to House bills or resolution;

That for the duration of the 107th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate is authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions and concurrent resolutions—messages from the House of Representatives; and that they be appropriately referred; and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions;

That for the duration of the 107th Congress, Senators be allowed to leave at the desk with the Journal Clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant-at-Arms be instructed to rotate such staff members as space allows;

That for the duration of the 107th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day;

That no bills or further resolutions, or committee-reported legislation, other than those whose introduction and consideration have been agreed to by the majority leader, following consultation with the Republican leader; be in order prior to January 22, and further that for the remainder of the 107th Congress, Senators may be allowed to bring to the desk bill, joint resolutions, concurrent resolutions, and simple resolutions, for referral to appropriate committees.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I now ask unanimous consent that there be a period of morning business for statements only, with Senators permitted to speak therein for up to 10 minutes each, with the exception of the majority and minority leaders.

The PRESIDENT pro tempore. There will now be a period for the consideration of morning business.

Mr. DASCHLE. I thank my colleagues.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURBIN). Without objection, it is so ordered.

FINAL ASCERTAINMENT OF ELECTORS

The PRESIDING OFFICER. The Chair lays before the Senate communications from the Director of the Federal Register, National Archives, transmitting, pursuant to law, certified copies of the final ascertainment of the Electors for President and Vice President, which are ordered to lie on the table.

APPOINTMENT

The PRESIDING OFFICER. The Chair appoints the Senator from Connecticut, Mr. DODD, and the Senator from Virginia, Mr. WARNER, as tellers on the part of the Senate to count the electoral votes.

THE 107TH CONGRESS

Mr. DASCHLE. Mr. President, 213 years ago, the Framers of the Constitution created the United States Senate.

In all the years since then, only 1,864 Americans have been granted the privilege of serving in this extraordinary body; and that includes the new Senators we welcome today.

For every Senator, whether serving in the 18th Century or the 21st, whether beginning one's first term, or—like Senator BYRD—one's eighth the opening of a new Congress has always been a time of great hope. This Congress is no exception.

We have important work ahead of us. We also have—within us—everything we need to do that work wisely and well—if we choose to do so.

Never before has America had a 50/50 Senate. Thirty-one State legislatures have dealt creatively with this challenge in the last 30 years, but no U.S. Senate has ever been divided exactly in half.

An even split does not necessitate political gridlock—as these States have demonstrated—but does require bipartisanship.

Senate LOTT and I have had a number of discussions over the past weeks about how to organize this Congress so that it is both representative and productive. Our conversations have been friendly and constructive, and they are continuing. It is my hope that we will have a plan soon that our fellow Senators, and our fellow Americans, will agree is workable and fair.

Another reason this Senate is historic is because it includes—I'm happy to note—a record number of women. Of the 11 new Senators who join us today, 4 are women. In all, there are now 13 women in this Senate—the most women ever to serve in the Senate at the same time. I am especially proud that 10 of those women are Democrats. In fact, there are more women Senators in our caucus this year than there were in the entire Senate last year. That is good news, for women, for families, and for this institution.

There is one more reason this Senate is historic and that is, the extraordinary events that occurred between the election and today.

This last Presidential election tested the patience of our people and the strength of our institutions like no other election in our lifetime. It was a difficult time for all Americans. But throughout those 5 long weeks of uncertainty—from election night until the Supreme Court decision—the American people remained confident that our system of government was strong enough to withstand the test of a contested Presidential election. They continued to believe that we could resolve the uncertainty, and move on. The challenge for this Congress, and this Senate, is to prove worthy of that faith. I am hopeful we can.

Now, we have a President-elect. His administration is taking shape. In just over 2 weeks, George W. Bush will become our President.

I speak for all my colleagues on this side of the aisle when I say we are ready to work in good faith with our Republican friends and with President-elect Bush and his administration to find bipartisan solutions to the challenges facing our Nation. As I have said before: Bipartisanship is not an option. If we are going to do the work here in the appropriate way, as we have been sent here to do, it is now a requirement.

Unfortunately, not everyone understands or accepts that fact. A couple of weeks ago, I read a column by a well-known syndicated political pundit. The headline read: "Beware the bipartisanship."

The next day, there was another column. It had a different author, but the sentiment was the same. The headline on that one read: "Bipartisan blather."

The writer of the first column said bipartisanship amounted to "betrayal" of one's principles and supporters.

The author of the second column was even more succinct and scathing. He called it, bipartisanship, an "instrument of emasculation."

Both of these men are good writers. They are on talk shows all the time. But they are not—as Teddy Roosevelt put it—"in the arena." They have not answered a call to public service, as we have. They didn't look people in the eyes and tell them: "If you'll vote for me, I promise you I will do my level best in the Senate, to pay down the national debt, or create an affordable prescription drug benefit", or do any of the other things we told people back home we would try to do.

They are clever writers, but they did not take an oath to serve their Nation. We have.

We need to use our cleverness to find the bipartisan solutions that evaded the last Congress. We need to show the American people that their faith in our system of government was not misplaced. And I believe we can.

After reading those negative views of bipartisanship, I decided I needed a different perspective, so I reread all seven of the speeches from the leader's lecture series.

For those who may not be familiar with it, the leader's lecture series is the most extraordinary lecture series in the city.

I commend my friend, Senator LOTT, whose idea it was.

Shortly after he became majority leader, he decided that we ought to take advantage of the unusual—perhaps unprecedented—fact that so many former Senate leaders were still alive. As he put it, we ought to find a way to share with the Nation "the wisdom and insights that can be gained only by a lifetime of service to free people."

The lectures all take place in the majestic Old Senate Chamber, where Clay and Webster debated the great issues of their day.

Over nearly 3 years, we have heard candid recollections and sage advice from seven remarkable leaders. As we begin this new Congress, I thought it might be instructive to listen again to what they had to say about what works in the Senate and what this Senate is all about.

Mike Mansfield was majority leader from 1959 to 1969. He was also Ambassador to Japan under both parties.

In the end, he said, the Senate can only function "if there is a high degree of accommodation, mutual restraint, and a measure of courage—in spite of our weaknesses—in all of us."

Howard Baker is a friend to many of us. He was the Senate majority leader during the Reagan administration and later served as President Reagan's chief of staff.

He said that our ability to settle matters of national importance peacefully and honorably in this Chamber is one of the things that sets this Nation apart from so many others.

He offered what he called a "Baker's Dozen Rules for Senate Leadership."

Among his rules: "Have a genuine respect for differing points of view. Remember that every Senator is an individual, with individual needs, ambitions and political conditions. Also remember that even members of the opposition party are susceptible to persuasion and redemption on a surprising number of issues."

The third speaker in the series was ROBERT C. BYRD, the only one of the seven with whom we still have the good fortune to work and learn from nearly every day.

In his more than 40 years in this body, Senator BYRD has served as both majority and minority leader, as President pro tempore, and as chairman of the Senate Appropriations Committee.

In his typically wise lecture, he reminded us that our founders "were pragmatists, rather than idealists," and that this Senate is itself the result of a compromise, the Great Compromise of July 16, 1787.

He went on to say: "Political polarization . . . is not now, and never has been, a good thing for the Senate.

"I am talking about politics when it becomes gamesmanship or mean-spirited, or when it becomes overly manipulative, simply to gain advantage. I am not talking about honestly held views or differing political positions. Those things enrich our system.

"Americans," he said, "have always loved a good debate. And that is what I believe they wish for now: more substantive and stimulating debate, and less pure politics and imagery."

I couldn't agree more.

President Bush—the first President Bush—said two of the most important legislative accomplishments during his Presidency were, first, the Clean Air Act, which passed as a result of the extraordinary combined efforts of President Bush and George Mitchell; and second, the Americans with Disabilities Act, whose two strongest champions in this body were Bob Dole and TOM HARKIN.

He described both measures as "landmark pieces of legislation that became a reality only after the White House and the Senate demonstrated bipartisanship and compromise."

George Mitchell, my friend and immediate predecessor as Democratic leader, recalled the 3½ years he spent chairing the Northern Ireland peace negotiations after leaving the Senate.

Frequently during those negotiations, he said, one party would plead with him to limit debate by the other parties.

He never would, explaining: "I got my training in the United States Senate."

After 3½ years of talking, the parties reached an agreement to end a conflict that had gone on for hundreds of years.

Senator Mitchell said he is often asked whether there are common lessons that can be drawn from his experience in this Senate and at the peace table in Belfast.

Yes, he said. And among the most important is this:

"There is no such thing as a conflict that can't be ended. Conflicts are created and sustained by human beings. They can be ended by human beings."

That is a lesson worth remembering as this new Congress begins.

The sixth speaker in the leader's lecture series is also a friend to many of us—a man to whom I owe a personal debt of gratitude and for whom I have the greatest respect: Robert J. Dole.

For 18 months, he and I served as leaders of our parties.

That was 6 years ago. My party had just done the unthinkable. We had lost the majority in both the House and the Senate. Not only was Senator Dole now the majority leader—a position I had hoped to hold—but it was also widely assumed that he would run against a Democratic President the next year.

We could have had a terrible relationship. The fact that we did not was due to Senator Dole's love of this body and this Nation, and to his fundamental sense of fairness and decency.

He served as Republican leader for 11 years—longer than any Republican in history. In all, he spent 10,000 days in this Senate. Of those 10,000 days, he said, a few stood out especially vividly.

One day that stood out, he said, was when he invited former Senator George McGovern to join the congressional delegation attending the funeral of former First Lady Pat Nixon:

> (A) reporter asked George why he should honor the wife of a man with whom he had waged a bitter battle for the White House. Senator McGovern replied: "You can't keep on campaigning forever." And George was right.

It seems to me that is another lesson worth remembering as this Congress begins.

The seventh speaker, former Vice President Dan Quayle, recalled as one of his proudest achievements in the Senate was working with TED KENNEDY to strengthen America's job-training programs in the early 1980s.

He also said that people often ask him how being Vice President compares with being a Senator.

He tells them: "When you are Vice President, it is always impressed on you that you are No. 2 . . ."

But "when you are a Senator, you are your own person. You have real autonomy. You make independent decisions . . . You are, in a way, an independent conscience in this institution.

"The best word to describe a Senator is: free. He or she is free to stand up and debate, free to speak his or her mind, free to act according to his or her best judgment.

"I believe you would concur that the Senate's best debates," he added, "are bipartisan debates."

These are seven remarkable leaders who achieved the highest positions in their parties—who know what it means to be in Teddy Roosevelt's "arena."

To them, bipartisanship is not emasculating. It is ennobling. It is not betraying the people who sent us here. It is the only hope we have of serving them.

What is bipartisanship in the 107th Congress? We will need to find the right answer to that question if we are to serve our country well. We will not be able to quantify bipartisanship. Bipartisanship is not a mathematical formula. It is a spirit. It is a way of working together that tolerates open debate. It recognizes principled compromise. It means respecting the right of each Senator to speak his or her mind, and vote his or her conscience. And it means recognizing that we must do business differently after an election that gave us a 50-50 Senate and an almost evenly divided House. Above all, it means putting the national interest ahead of personal or party interests.

This year, as I said, is a historic year for the Senate. This past year was also historic. it was the 200th anniversary of Congress' first meeting in this building.

As part of the anniversary celebration, artists are restoring what are known as the Brumidi Corridors on the first floor of the Capitol's Senate wing.

The Corridors were painted more than 150 years ago by an Italian immigrant named Constantino Brumidi, the same man who painted the ceiling in the Rotunda.

He has been called "America's Michelangelo"—and with good reason.

He spent 25 years of his life painting scenes on the walls and ceilings of this Capitol. It was a labor of love for the country he chose as his home.

I think I must have walked through those corridors 1,000 times over the years. Every time, I marvel at Brumidi's talents and their beauty.

Over the years, Brumidi's original work was covered with layers of paint and varnish and dirt. Now, restorers are scraping those layers off. And what they are revealing beneath is an even more beautiful depiction of Brumidi's imagination over 100 years ago.

I believe the same can be true of this Senate. Many times over the last several years, a layer of bitter partisanship has settled over this body. Even with that disadvantage, it has remained the greatest legislative body in the history of the world, and one in which I am proud to serve. But think how much more effective it could be if we could wash away the partisanship.

At the first Leaders' Lecture, Senator LOTT compared the Old Senate Chamber to this Chamber. He said that the Old Chamber was more intimate, and more beautiful. And he was right. But this Chamber has one profound distinction that makes all the difference. The Old Chamber celebrates our past.

In this Chamber, it is our privilege—and our responsibility—to chart our Nation's future.

I look forward to working with Senators on both sides of the aisle, and with our new President, to find honorable ways to do the work we have all been sent here to do.

I yield the floor.

CONGRATULATING THE MAJORITY LEADER

Mr. REID. Mr. President, before the majority leader leaves the floor, I want to tell him how much I appreciate not only the content of what he has stated but the expression that was given. We have a lot of work to do.

As our leader, we Democrats have watched you over these past 6 years, and have marveled at the work you have been able to do. I do agree with you; the Senate has changed remarkably in its composition. It has improved so much with the addition of women. Now 20 percent of our conference is made up of women. We are a better Senate for that having occurred. We are going to continue to get better.

I say to the majority leader that we support you. We acknowledge there are some things we need to work out. I hope in this tone of compromise that the first thing the Republicans will do, during the time they are in the minority status, would be to acknowledge that the Senate is 50-50, and as a result of that, because most of the work is done in committees, we have an arrangement where the committees are evenly divided. I know our leader has worked hard to accomplish that. I hope that can be done between you and Senator LOTT. I hope we will not have to have filibusters by the Republicans on a resolution to establish what is a fair, equally divided committee structure in the Senate.

I also acknowledge the leader for his statement about what we need to do. We have so many things to do: With education, health care, making sure that workers are protected, dealing with the difficult problems we have with Medicare, and paying down this huge debt that we owe. I hope we can keep our eye on the prize and not get burdened with partisan squabbling.

So as one of your loyal lieutenants, I look forward to this next Congress and accomplishing things for the people of the State of Nevada, the people of South Dakota, the people of Louisiana, and the whole country, so that we can walk out of here as proud, when this Congress ends, as we are at the beginning of this Congress.

Again, I congratulate and applaud the majority leader for his remarks.

THANKING THE ASSISTANT MAJORITY LEADER

Mr. DASCHLE. Mr. President, let me thank the distinguished assistant Democratic leader, the now assistant majority leader, for his kind remarks and for all he has done for the Senate and for our caucus.

As we closed out the 106th Congress, many called attention to the remarkable work done by the assistant majority leader—then assistant Democratic leader—in the last Congress. He has become an invaluable asset. His leadership, and the strength of his day-to-day involvement on the Senate floor, in concert with our Republican colleagues, is so deeply appreciated.

I share his optimism and his determination to make this a productive Congress. I look forward, in the most heartfelt way, to working with him as we face the challenges of the new Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REED). Without objection, it is so ordered.

RECESS

Mr. DURBIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 3:15 p.m. today.

There being no objection, the Senate, at 2:01 p.m., recessed until 3:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. AKAKA].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Hawaii, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CLELAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCOOP JACKSON'S DESK

Mr. CLELAND. Mr. President, today we saw new Members of the Senate sworn in. It was a pleasure to see a dear personal friend, MARIA CANTWELL from the great State of Washington, sworn in as that State's junior Senator.

When I was visiting with her in the fall, during the maximum climactic days of her campaign, we were talking about the Senate and great Senators from the State of Washington, and the name of Henry "Scoop" Jackson came up. He has been one of my heroes. As a matter of fact, last year I was given the Scoop Jackson Award, and it was a great honor for me to receive it.

Scoop Jackson was, of course, known for his stance for a strong military, a strong defense, and also a strong commitment to positive and progressive social policies. This made him a great statesman from the State of Washington.

When Maria and I discussed this, I said: It is interesting; when I came to the Senate 4 years ago, I wound up with Scoop Jackson's desk. As a matter of fact, as my colleagues know, it is a tradition, after one has served here a while, that they carve their name in the desk when they leave.

This honored desk has Scoop Jackson's name carved in it. It is my pleasure today to yield to the freshman Senator from the great State of Washington and, in the great tradition of Scoop Jackson, to yield to her this desk which will be transferred to her shortly. I wish her the very best and a long, lively term in the Senate, particularly in the tradition of Scoop Jackson.

I welcome Senator CANTWELL and yield the floor.

The PRESIDING OFFICER. The Senator from the State of Washington is recognized.

Ms. CANTWELL. Mr. President, I thank my good friend, Senator CLELAND of Georgia, for the honor and this gift of a very humble beginning for me in the Senate, to have the opportunity not only to work with him and my new colleagues but to be the recipient of such a warm welcome.

Senator Jackson was obviously a landmark in our Capitol, as well as his years of dedication in our State. Senator Jackson arrived here in January of 1941—he was 28 years old—and started to represent the State of Washington, the Second Congressional District, and then later, for 31 years, served in the U.S. Senate.

He was a great leader on foreign policy, on human rights, on arms control, and on the importance of our environment, with the Jackson-Vanik amendment, with the National Environmental Protection Act, and a variety of other landmark environmental policies that were so important to the State of Washington but also to this country.

It is an honor to accept this gift from Senator CLELAND of the desk of Senator Scoop Jackson, a Senator who was known as one who worked across the aisle in a bipartisan fashion. In fact, one observer of public policy, George Will, called him one of the "finest public servants I have known, who mastered the delicate balance of democracy."

Again, I thank the Senator from Georgia for this very kind gift and outreach on my very first day in the Senate in the hope that I will carry on the Northwest tradition that has been so important to our State.

Mr. CLELAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. LINCOLN). Without objection, it is so ordered.

TRIBUTE TO MR. ROBERT BOYER

Mr. THURMOND. Mr. President, I rise to recognize the service and career of Mr. Robert Boyer, a member of the senior executive service, upon his retirement after 33 years of honorable and distinguished service. Throughout his career, he has epitomized the Navy core values of honor, courage, and commitment and has displayed an exceptional ability to advance the Navy's facilities requirements within the Department of Defense and the Congress. I commend him for a superb career of service to the Navy, our great Nation, and my home state of South Carolina.

Mr. Boyer received the 2000 Presidential Rank of Meritorious Executive for sustained superior performance, leadership and management. He has a distinguished reputation as one of the government's leaders in strategic acquisition, business innovations, and contract initiatives. As the lead senior civilian with the Naval Facilities Engineering Command, Mr. Boyer is a visionary, directly responsible for the implementation of new acquisition strategies and innovative operations and organization changes that serve Navy operating forces, senior leaders of industry, and other customers worldwide. As the Executive Director of Acquisition during the past three years, Mr. Boyer established a creative and ground-breaking an acquisition program copied both within and outside the federal government. The global scope of his responsibilities and the depth, breadth and sheer quantity of contractual actions under Mr. Boyer's purview are staggering. While Mr. Boyer continues to champion innovation and initiative within the entire Command, he continually exceeds the execution and performance goals of his Acquisition program. His loyalty and integrity are unequaled, as is the respect that he has earned from his workforce. His combination of superior talent, leadership acumen and genuine love of his work make him a gifted executive.

Mr. Boyer's acquisition innovations have changed construction and service contracting ashore and set new standards within the Department of Defense for programs such as the Public-Private-Venture for the Family Housing and Utility product lines. He has made dramatic operational improvements, realigning scarce resources to acquire the best possible value for the Navy. We widely acclaim his innovative approaches within the Navy and most recently, focused senior leaders on his acquisition innovations.

From December 1991 to May 1996, Mr. Boyer was the Senior Procurement Executive for the Federal Management Agency. In this capacity he directed a nationwide contract, grant, and cooperative agreement program in support of the Agency's all hazard mission. His duties included direct support to the multibillion dollar state and local municipality efforts to improve their disaster mitigation programs, response, and recovery efforts. From 1971 to 1991, Mr. Boyer worked in various acquisition positions within the Department of Navy. Mr. Boyer served as a U.S. Army Infantry Officer from 1968 to 1970.

Mr. Boyer was born in Annandale, Virginia, but adopted South Carolina as his home while attending the Citadel where he earned his Masters in Business Administration. He is married to the former Julie Mandell. He and Julie have a son, Robby, and a daughter, Tracy.

Madam President, I wish him and his family the best in his well-deserved retirement.

ADDITIONAL STATEMENTS

TRIBUTE TO JANET L. HOFFMAN

• Ms. MIKULSKI. Mr. President, I rise to bring to the Senate's attention the passing of a great and unique woman—Janet L. Hoffman. She was described by the Baltimore Sun as "a lobbyist whose political and financial wizardry helped Baltimore shoulder the burden of urban poverty."

I first became acquainted with Janet Hoffman in 1971 as a member of the Baltimore City Council. I came into politics as a fiery protestor and had to learn how to turn my protest placards into legislation. Janet Hoffman really taught me, guided me and mentored me in the strategy of governance and the wiles of government finance. I learned how to operationalize my good intentions and learned how to budget. She was patient, persistent and a strong advocate for women's rights. She was so proud of seeing me come to the Congress, the Senate and a member of the Appropriations Committee.

She'd be so proud in having her biography included in the CONGRESSIONAL RECORD on the day that four new women are sworn into the United States Senate. She would have cheered—and would have wanted to make sure they understood government finance.

Mr. President, the Baltimore Sun described Janet Hoffman best. I ask that the Sun's article on her life and legacy be included in the RECORD.

[From the Baltimore Sun, Dec. 31, 2000]

JANET L. HOFFMAN DIES; LOBBYIST, ADVISER TO CITY

FINANCE EXPERT STEERED STATE AID TO BALTIMORE

(By C. Fraser Smith)

Janet L. Hoffman, a lobbyist whose political and financial wizardry helped Baltimore shoulder the burden of urban poverty, died yesterday of kidney failure at Oak Crest Health Care Center in Parkville. She was 81 and had lived in Mount Washington for many years.

A strategist as well as a master of government finance, Mrs. Hoffman used Baltimore's fading power with pre-eminent efficiency, building coalitions and making friends in the highest places.

"She was the best thing the city had in Annapolis," said state comptroller and longtime Baltimore mayor William Donald Schaefer. "Everybody trusted her. She never misled anybody. Her credibility was 100 percent in Annapolis. She was brilliant."

A woman who dressed simply, she walked the corridors of the State House and City Hall in one of the many berets she wore.

"She had a passion for the city that drove her," said Marvin Mandel, Maryland's governor in the 1970s. "Everybody respected her. She was aggressive, too. But in the end, she was one of the most knowledgeable persons in Annapolis."

"She was the most effective governmental lobbyist in the history of our state," said U.S. Rep. Benjamin L. Cardin. "I owe my sensitivity toward fiscal matters to her."

As Baltimore's first and longest-serving lobbyist in Annapolis, she invented a position soon copied by the state's largest subdivisions as they competed with her for state aid. She continued in the job for 33 years, retiring in 1986 but returning as a consultant periodically until 1996, when she left the State House for good.

Then 77, she had served in city or state government for almost a half-century. On her last day of city service, the House of Delegates passed a resolution commemorating her work.

She was known in her prime as Maryland's 48th senator, an institutional honor that gave her a "kick." In truth, she had more real power than many of the 47 men and women who earned the title at the polls, and she served far longer than any of them.

In marathon lobbying sessions of 1976, she won funding for the Baltimore subway and the downtown Convention Center from the General Assembly. She was so exhausted she collapsed and was driven home by a state trooper.

"I remember going up to the gallery and speaking with Donald Schaefer and Janet," Cardin said. "It was a very dramatic moment, an incredible night."

Earlier in the decade, working with city budget official Charles Benton, she recommended selling what is now BWI Airport to the state and using the proceeds to build the National Aquarium.

The trust of those she worked with combined with a keen sense of history to bring her city an annual bonanza of financial aid, including a 1960s realignment of responsibility for welfare that freed the city of strains that might have precluded the downtown renaissance of the 1980s. She also created financial formulas to pay for portions of city fire, police, highway and educational expenses.

Eight governors were elected during her service: William Preston Lane Jr., Theodore

R. McKeldin, J. Millard Tawes, Spiro T. Agnew, Marvin Mandel, Harry R. Hughes, William Donald Schaefer and Parris N. Glendening.

"On the outside she was rough and tough," said former Speaker of the House R. Clayton Mitchell Jr., a Kent County Democrat.

"But when you got to know her, she was sweet and lovable. You could rely on her figures. She had a talent and gift for numbers."

Not infrequently, she helped them solve fiscal and political problems. She did it with great mental dexterity, bill-by-bill memory of legislative history and a keen sense of what motivates people. Candid and direct to the end, she said she was leaving finally to make way for new minds.

"A more exploring, fresher approach is needed," she said. "It's hard at my stage to pick up a bill and really read it because I think I know what's in it."

Her first government job came in 1949 when she became the first staff member in the state's newly created Fiscal Research Bureau, which analyzed legislation for the House and Senate. Thirteen years later, she left to do the same work for Baltimore.

City legislators and mayors, not governors, were her bosses. A master of the complicated formulas used to redistribute the state's revenue, Mrs. Hoffman made the arithmetic work year after year for Baltimore with categories of aid she sometimes invented—sometimes on the thinnest pretext. Then she sold them to the presiding officers and governors who put them in play.

The state treasury's growing importance to a struggling city losing population and power was little appreciated until she took over. She learned that Baltimore department heads were coming to Annapolis to lobby against money bills that would have helped the city. Too much paperwork, they told her. That view changed.

She quickly became a presence in the assembly. Unique among public or private lobbyists, she was given access to the Senate lounge and floor by then-Senate President Steny H. Hoyer, now a member of Congress. Her singular status was owed to the trust built over years of service, according to Mr. Schaefer.

"I think she's the smartest woman I ever met in the area of finance," the former mayor and governor said in 1996. "People knew when she told them something, it was right." Asked if he gave her authority to act in his absence, Mr. Schaefer said he gave her authority to act in his presence.

In the 1960s, with the help of a rural and conservative Senate president, the late William S. James, Mrs. Hoffman managed a restructuring of responsibilities between the state and local governments that shifted the financing of welfare from the subdivisions to the state.

Then, like many major U.S. cities, Baltimore was paying a quarter to a third of its welfare costs, a burden that was growing and would have exhausted city resources if the state had not stepped in. Mrs. Hoffman proposed limiting the welfare payments of any state subdivision to a fixed percentage of revenue from its tax rate.

"It meant that while the city's welfare caseload was growing and its tax-paying middle class was leaving, there was a limit on what the city had to spend," said William S. Ratchford II, director of the state Department of Fiscal Services. "If she hadn't worked that out, chances are the city would not have had the wherewithal to do what it did later."

Mrs. Hoffman persuaded legislators that what helped Baltimore was good for the state. The state's major employment center was protected, and other, equally poor, jurisdictions profited from the formulas she devised.

Adherents and adversaries alike were at times awed by her forward-looking approach.

"I had the best teacher in the world," said Blair Lee IV, son of the former acting governor, Blair Lee III, and a former lobbyist for Montgomery County.

"We'd sit around late at night studying her city bills," he said. "Why would she be trying to change some nondescript little bit of language or numbers in a bill? We looked and looked and crunched and crunched, and finally we'd see that Janet was dealing with something she saw coming 10 years down the road."

One year she pushed a bill that guaranteed a certain level of aid that seemed lower than the sums Baltimore won year after year. Why? Because she knew the formula on which that aid was based would not work in the city's favor forever.

"She could write a communicated budget formula and talk to the least sophisticated legislator," Lee said. "She was a rare creature. She walked both sides of the track."

One year she helped then-Senator Hoyer corral the votes he needed to become senate president. Once again, she had picked the right horse.

The next summer, she sat on a committee that worked out school funding formulas with then-Lieutenant Governor Lee. It was her payback—and Baltimore's—from Senate President Hoyer.

She left in 1996 with concerns about the conduct of public business:

"People are unwilling to explain a broader point of view than one that is readily understood by their local press or their constituents," she said. "The legislature needs a way to see problems resolved structurally without having to have a divisive fight each time."

The former Janet Leland was born on the Upper West Side of New York City into a family of lawyers. She was a graduate of New York University. In 1941 she received a master's degree in public administration from NYU.

Her home life was quiet. She kept a garden filled with spring flowers and roses. She also listened to classical music.

In 1944 she married Morton Hoffman, an urban and economic consultant, who died in July.

Funeral services will be held at 2 p.m. Tuesday at Sol Levinson & Brothers, 8900 Reisterstown Road.

She is survived by two daughters, Constance Hoffman Baker of Baltimore and Ellen L. Hoffman of Berkeley, Calif., and four grandchildren.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. William, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States a treaty and submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Senate be informed that a quorum of the House of Representatives has assembled; that J. DENNIS HASTERT, a Representative from the State of Illinois, has been elected Speaker; and Jeffrey J. Trandahl, a citizen of the State of South Dakota, has been elected Clerk of the House of Representatives of the One Hundred Seventh Congress.

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 1. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional adjournment of the Senate.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 1. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 2. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 3. A resolution to elect Robert C. Byrd, a Senator from the State of West Virginia, to be President pro tempore of the Senate of the United States, and to elect Strom Thurmond, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 4. A resolution notifying the President of the United States of the election of a President pro tempore; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 5. A resolution notifying the House of Representatives of the election of a President pro tempore of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 6. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 7. A resolution designating Chairmen of the following Senate committees; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Con. Res. 1. A concurrent resolution to provide for the counting on January 6, 2001, of the electoral votes for President and Vice President of the United States; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Con. Res. 2. A concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 90 of the One Hundred Sixth Congress; considered and agreed to.

SENATE CONCURRENT RESOLUTION 1—TO PROVIDE FOR THE COUNTING ON JANUARY 6, 2001, OF THE ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Saturday, the 6th day of January 2001, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

SENATE CONCURRENT RESOLUTION 2—TO EXTEND THE LIFE OF THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES AND THE PROVISIONS OF S. CON. RES. 90 OF THE ONE HUNDRED SIXTH CONGRESS

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 2001, the joint committee created by Senate Concurrent Resolution 89 of the One Hundredth Sixth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 2001, the provisions of Senate Concurrent Resolution 90 of the One Hundredth Sixth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, are hereby continued with the same power and authority.

SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 3—TO ELECT ROBERT C. BYRD, A SENATOR FROM WEST VIRGINIA, TO BE PRESIDENT PRO TEMPORE OF THE SENATE OF THE UNITED STATES, AND TO ELECT STROM THURMOND, A SENATOR FROM THE STATE OF SOUTH CAROLINA, TO BE PRESIDENT PRO TEMPORE OF THE SENATE OF THE UNITED STATES

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 3

Resolved, That Robert C. Byrd, a Senator from the State of West Virginia, be, and he is hereby, elected President of the Senate pro tempore, to hold office until 12:00 meridian on January 20, 2001, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SEC. 2. That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office effective 12:00 meridian on January 20, 2001, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SENATE RESOLUTION 4—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 4

Resolved, That the President of the United States be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

SENATE RESOLUTION 5—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 5

Resolved, That the House of Representatives be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

SENATE RESOLUTION 6—FIXING THE HOUR OF DAILY MEETING OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 6

Resolved, That the daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 7—DESIGNATING THE CHAIRMEN OF THE FOLLOWING SENATE COMMITTEES

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 7

Resolved, That the following Senators are designated as Chairmen of the following committees until 12:00 meridian on January 20, 2001:

Committee on Agriculture, Nutrition, and Forestry: Mr. Harkin, of Iowa.

Committee on Appropriations: Mr. Byrd, of West Virginia.

Committee on Armed Services: Mr. Levin, of Michigan.

Committee on Banking, Housing, and Urban Affairs: Mr. Sarbanes, of Maryland.

Committee on the Budget: Mr. Conrad, of North Dakota.

Committee on Commerce, Science, and Transportation: Mr. Hollings, of South Carolina.

Committee on Energy and Natural Resources: Mr. Bingaman, of New Mexico.

Committee on Environment and Public Works: Mr. Reid, of Nevada.

Committee on Finance: Mr. Baucus, of Montana.

Committee on Foreign Relations: Mr. Biden, of Delaware.

Committee on Governmental Affairs: Mr. Lieberman, of Connecticut.

Committee on Health, Education, Labor, and Pensions: Mr. Kennedy, of Massachusetts.

Committee on the Judiciary: Mr. Leahy, of Vermont.

Committee on Rules and Administration: Mr. Dodd, of Connecticut.

Committee on Small Business: Mr. Kerry, of Massachusetts.

Committee on Veterans' Affairs: Mr. Rockefeller, of West Virginia.

Committee on Indian Affairs: Mr. Inouye, of Hawaii.

Select Committee on Intelligence: Mr. Graham, of Florida.

SEC. 2. Effective on January 20, 2001 at noon the following committees shall have the following chairmen, pursuant to Republican Conference ratification:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar, of Indiana.

Committee on Appropriations: Mr. Stevens, of Alaska.

Committee on Armed Services: Mr. Warner, of Virginia.

Committee on Banking, Housing, and Urban Affairs: Mr. Gramm, of Texas.

Committee on Budget: Mr. Domenici, of New Mexico.

Committee on Commerce, Science, and Transportation: Mr. McCain, of Arizona.

Committee on Energy and Natural Resources: Mr. Murkowski, of Alaska.

Committee on Environment and Public Works: Mr. Smith, of New Hampshire.

Committee on Finance: Mr. Grassley, of Iowa.

Committee on Foreign Relations: Mr. Helms, of North Carolina.

Committee on Governmental Affairs: Mr. Thompson, of Tennessee.

Committee on Health, Education, Labor, and Pensions: Mr. Jeffords, of Vermont.

Committee on the Judiciary: Mr. Hatch, of Utah.

Committee on Rules and Administration: Mr. McConnell, of Kentucky.

Committee on Small Business: Mr. Bond, of Missouri.

Committee on Veterans' Affairs: Mr. Specter, of Pennsylvania.

Committee on Indian Affairs: Mr. Campbell, of Colorado.

Select Committee on Intelligence: Mr. Shelby, of Alabama.

SINE DIE APPOINTMENTS

The PRESIDING OFFICER. The Chair announces the following appointments made on December 18, 2000, during the sine die adjournment:

Pursuant to the provisions of S. Res. 105 (adopted April 13, 1989), as amended by S. Res. 149 (adopted October 5, 1993), as amended by Public Law 105–275, further amended by S. Res. 75 (adopted March 25, 1999), and S. Res. 383 (adopted October 27, 2000), on behalf of the Majority Leader, the appointment of the following Senators to serve as members of the Senate National Security Working Group for the 107th Congress:

The Senator from Mississippi (Mr. COCHRAN) (Republican Administrative Co-Chairman);

The Senator from Alaska (Mr. STEVENS) (Co-Chairman);

The Senator from Arizona (Mr. KYL) (Co-Chairman);

The Senator from South Carolina (Mr. THURMOND);

The Senator from North Carolina (Mr. HELMS);

The Senator from Indiana (Mr. LUGAR);

The Senator from Virginia (Mr. WARNER);

The Senator from Mississippi (Mr. LOTT);

The Senator from Tennessee (Mr. THOMPSON); and

The Senator from Colorado (Mr. ALLARD).

Pursuant to 22 U.S.C. 1928a–1928d, as amended, on behalf of the Vice President, and upon the recommendation of the Majority Leader, the appointment of Senator SMITH, of Oregon, as Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 107th Congress.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107-1

Mr. BAYH. Madam President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following convention transmitted to the Senate on January 3, 2001, by the President of the United States: Convention on Safety of U.N. and Associated Personnel (Treaty Document No. 107-1).

Further, I ask unanimous consent the convention be considered as having been read for the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, with a view to receiving the advice and consent of the Senate to ratification, subject to an understanding and a reservation, the Convention on the Safety of United Nations and Associated Personnel adopted by the United Nations General Assembly by consensus on December 9, 1994, and signed on behalf of the United States of America on December 19, 1994. The report of the Department of State with respect to the Convention is also transmitted for the information of the Senate.

Military peacekeepers, civilian police, and others associated with United Nations operations are often subject to attack by persons who perceive political benefits from directing violence against United Nations operations. The world has witnessed a serious escalation of such attacks, resulting in numerous deaths and casualties. This Convention is designed to provide a measure of deterrence against these attacks, by creating a regime of universal criminal jurisdiction for offenses of this type. Specifically, the Convention creates a legal mechanism that requires submission for prosecution or extradition of persons alleged to have committed attacks and other offenses listed under the Convention against United Nations and associated personnel.

This Convention provides a direct benefit to United States Armed Forces and to U.S. civilians participating in peacekeeping activities by including within its coverage a number of types of operations pursuant to United Nations mandates in which the United States and U.S. military and civilians have participated in the past. If the United States were to participate in operations under similar conditions in the future, its forces and civilians would receive the benefits created by this instrument. The Convention covers not only forces under U.N. command, but associated forces under national command or multinational forces present pursuant to a United Nations mandate. In situations such as we have seen in Somalia, the former Yugoslavia, and Haiti, certain attacks on these associated forces would now be recognized as criminal acts, subjecting the attackers to prosecution in or extradition by any State that is a party to the Convention. As a result, the international community has taken a significant practical step to redress these incidents. In doing so, we recognize the fact that attacks on peacekeepers who represent the international community are violations of law and cannot be condoned.

By creating obligations and procedures that increase the likelihood of prosecution of those who attack peacekeeping personnel, this Convention fulfills an important objective under my Directive for Reforming Multilateral Peace Operations of May 1994, which directs that the United States seek additional legal protections for United States peacekeeping personnel.

The recommended legislation, necessary to implement the Convention, will be submitted to the Congress separately.

I recommend that the Senate give early and favorable consideration to this Convention subject to the understanding and reservation that are described in the accompanying report of the Department of State, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 3, 2001.*

RECESS UNTIL TOMORROW

Mr. BAYH. Madam President, I ask unanimous consent that when the Senate recesses today, it do so until 12 noon, Thursday, January 4, at which time the majority leader or his designee be recognized.

There being no objection, the Senate, at 4:58 p.m., recessed until Thursday, January 4, 2001, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 3, 2001:

THE JUDICIARY

BONNIE J. CAMPBELL, OF IOWA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE GEORGE G. FAGG, RETIRED.

JAMES E. DUFFY, JR., OF HAWAII, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CYNTHIA HOLCOMB HALL, RETIRED.

BARRY P. GOODE, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CHARLES E. WIGGINS, RETIRED.

ROGER L. GREGORY, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

KATHLEEN MCCREE LEWIS, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE CORNELIA G. KENNEDY, RETIRED.

ENRIQUE MORENO, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

SARAH L. WILSON, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE LOREN A. SMITH, TERM EXPIRED.

HELENE N. WHITE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

JAMES A. WYNN, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA, UNITED STATES COAST GUARD, AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

To be vice admiral

REAR ADM. THAD W. ALLEN, 3199

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be commander

TIMOTHY AGUIRRE, 1256
CHRISTOPHER D. ALEXANDER, 8689
LATICIA J. ARGENTI, 2150
MEREDITH L. AUSTIN, 1024
STEVEN T. BAYNES, 8825
MICHAEL L. BEDARD, 5386
LINCOLN H. BENEDICT, 5406
JON G. BEYER, 7553
CARLYLE A. BLOMME, 3865
ROGER V. BOHNERT, 3342
PAUL J. BRABHAM, 1852
MICHAEL M. BRADLEY, 7462
ROBERT E. BROGAN, 7830
BRIAN G. BUBAR, 7819
GREGORY C. BUSCH, 9823
MARK A. CAWTHORN, 8681
MICHAEL B. CHRISTIAN, 1044
DANIEL J. CHRISTOVICH, 8550
BARRY A. COMPAGNONI, 9615
TIMOTHY A. COOK, 4340
KEVIN P. CRAWLEY, 6739
BRUCE P. DALCHER, 3967
MARC L. DEACON, 9119
CAROLYN M. DELEO, 4890
BURTON L. DESHAYES, 7261
MARK DIETRICH, 9478
MARK E. DOLAN, 7193
DAVID H. DOLLOFF, 4553
JAMES B. DONOVAN, 3857
PATRICK R. DOWDEN, 5088
NATHALIE DREYFUS, 5944
BRIAN L. DUNN, 6146
JACOB R. ELLEFSON, 5817
CRAIG L. ELLER, 6094
LISA M. FESTA, 9243
JAMES J. FISHER, 1885
SCOTT A. FLEMING, 8978
BRENDAN C. FROST, 1029
KARL J. GABRIELSEN, 0725
MICHAEL S. GARDINER, 0028
EDWARD J. GIBBONS, 2543
STEVEN R. GODFREY, 6404
NANCY R. GOODRIDGE, 0514
GLENN F. GRAHL, JR., 3960
CATHERINE A. HAINES, 8549
RALPH HAWES, 0924
MICHAEL J. HAYCOCK, 8241
JOHN N. HEALEY, 4605
JAMES M. HEINZ, 8055
MARK S. HEMANN, 5304
THOMAS E. HICKEY, 9762
THOMAS J. HUGHES, 1690
RICHARD K. HUNT, 6957
WILLIAM F. IMLE, 0093
JAY JEWESS, 7199
DALE M. JONES, JR., 4121
ROBIN E. KANE, 6141
TERANCE E. KEENAN, 6890
FRANK H. KINGETT, 7223
SCOTT A. KITCHEN, 4543
JAMES L. KNIGHT, 6184
JOSEPH B. KOLB, 0545
GARY D. LAKIN, 9300
BOBBY M. LAM, 9472
TIMOTHY P. LEARY, 8839
THOMAS F. LENNON, 1392
PATRICK LITTLE, 5654
JAMES R. MANNING, 7806
JAMES F. MARTIN, 5262
LORI A. MATHIEU, 6375
MICHAEL F. MC ALLISTER, 4978
DOUGLAS R. MC CRIMMON, JR., 5225
JOSEPH C. MC GUINESS, 8218
MICHAEL P. MC KENNA, 0445
WILLIAM F. MC MEEKIN, 0878
TOMMEY H. MEYERS, 3922
MATTHEW E. MILLER, 5736
WILLIAM J. MILNE, 1391
BROOKS A. MINNICK, 5931
JAMES M. MONTGOMERY, 4683
MARK E. MOONEY, 1995
LAURIE J. MOSIER, 4195
STEVEN A. MUNSON, 9736
FREDERICK G. MYER, 9378
KIMBERLY J. NETTLES, 7672
DAVID W. NEWTON, 6219
HUNG M. NGUYEN, 9114
JACK W. NIEMIEC, 8352
MARK S. OGLE, 2495
DOUGLAS H. OLSON, 9953
GREGORY S. OMERNIK, 6520
JOSEPH S. PARADIS, 7180
JOHN R. PASCH, 1712
ALBERTO L. PEREZVERGARA, 6900
MARK P. PETERSON, 3323
JOSEPH D. PHILLIPS, 8888
DANIEL T. PIPPENGER, 8902
SCOTT M. POLLOCK, 2658
BRIAN F. POSKAITIS, 2748
MANUEL R. RARAS III, 9587
KENNETH J. REYNOLDS, 1577
CHRISTOPHER L. ROBERGE, 3662
JEFFREY C. ROBERTSON, 3766
DON G. ROBISON, 9422
BRYON H. ROMINE, 5672
STEPHEN C. ROTHCHILD, 5752
BRANDT G. ROUSSEAUX, 1037
CHRISTOPHER P. SCRABA, 1486
MICHAEL J. SCULLY, 9879
GERALD F. SHATINSKY, 7121
MICHAEL W. SHOMIN, 4626
GARY S. SPENIK, 6754
DOUGLAS W. STEPHAN, 6699
KELLY S. STRONG, 8898
GREGORY J. SUNDGAARD, 7485
JOHN D. SWEENEY IV, 4133
PAUL S. SWED, 3482
CHRISTOPHER J. TOMNEY, 3253
MICHAEL E. TOUSLEY, 1219
MARK A. TRUE, 7225
STEVEN C. TRUHLAR, 3828
CHARLES A. TURNER, 8874
TODD S. TURNER, 7290
GENELLE T. VACHON, 4344
KURT A. VANHORN, 9270
DAVID A. VAUGHN, 6022
MATTHEW VON RUDEN, 6177
RODERICK E. WALKER, 5917
TODD K. WATANABE, 2645
ROBERT B. WATTS, 1233
STEVEN A. WEIDEN, 5721
HOWARD R. WHITE, 4966
WERNER A. WINZ, 2619
GUSTAV R. WULFKUHLE, 0162
WILLIAM J. ZIEGLER, 9736

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ALBERT H. KONETZNI, JR., 2358

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. TIMOTHY W. LA FLEUR, 3609

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) JAMES S. ALLAN, 7214
REAR ADM. (LH) HOWARD W. DAWSON, JR., 6320
REAR ADM. (LH) KAREN A. HARMEYER, 8014
REAR ADM. (LH) MAURICE B. HILL, JR., 6455
REAR ADM. (LH) JAMES M. WALLEY, 5129

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE, UNDER TITLE 10, U.S.C., SECTION 1552:

To be major

ROBERT V. GARZA, 0136

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

LINDA M. CHRISTIANSEN, 7456

To be captain

JAMES R. JONES, JR., 0705
ROBERT M. MONBERG, 7936

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be colonel

*CHARLES G. BELENY, 5646

To be lieutenant colonel

MATTHEW J. BUNDY, 1174
KIMBERLY CYPHERTRANDALL, 2543
JOHN I. DUNHAM, JR., 4125
CHARLES D. FRIZZELLE, JR., 5495
WILLIAM T. HANCOCK, 0293
WILLIAM A. LUBLINER, 7963
DAVID M. ROBINSON, 3443
ROBERT I. SMITH, 9171
GEORGE L. SOWELL, 3971
PHILLIP F. STADELMANN, 8555
LAURA L. SYLVIA, 0592
DANIEL J. ZALEWSKI, 8024

To be major

ASHLEY B. BENJAMIN, 4462
GREGORY L. CANDELL, 9938
SUSAN C. FARRISH, 7278
DOUGLAS J. GOTTSCHALK, 1044
JEFFREY L. HAMILTON, 1383
JOSEPH B. LEE, 3245
LINDA M. REICHLER, 3323
PETER L. REYNOLDS, 6545
MICHAEL F. RICHARDS, 2074
DALE M. SELBY, 1353
BRIAN D. WALL, 8015
MICHELE R. ZELLERS, 7954

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MARCUS G. COKER, 2781

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS A PERMANENT PROFESSOR OF THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 4333 (B):

To be colonel

EUGENE K. RESSLER, JR., 8827

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

KENNETH W. SMITH, 3784

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

TIMOTHY I. SULLIVAN, 6483

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

VIRGINIA G. BARHAM, 8962
JAMES C. BUTT, 7133

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

FELIX T. CASTAGNOLA, 8148

AARON R. KENNESTON, 1625

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WILLIAM P. BLAICH, 9135
MICHAEL J. COLLINS III, 1423
JEAN L. DABREAU, 5962
IRA K. WEIL, 9478

ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10 U.S.C., SECTIONS 624 AND 3064:

To be colonel

GREGORY O. BLOCK, 6420 JA
ROBERT A. BURRELL, 1793 JA
DANA KYLE CHIPMAN, 5098 JA
THEODORE E. DIXON, 8734 JA
KARL M. ELLCESSOR III, 7917 JA
JOSEPH T. FRISK, 1079 JA
RICHARD O. HATCH, 8732 JA
PAUL P. HOLDEN, JR., 0839 JA
DAVID B. HOWLETT, 5721 JA
KENNETH J. LASSUS, 2209 JA
LAWRENCE J. MORRIS, 0355 JA
PATRICK D. OHARE, 4761 JA
SANDRA B. STOCKEL, 1978 JA
STEVEN T. STRONG, 1150 JA
ANNAMARY SULLIVAN, 8229 JA
CLYDE J. TATE II, 1356 JA
ROBERT D. TEETSEL, 3493 JA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MOSES N. ADIELE, 2732
TERRY T. ALLMOND, 6168
LINDA D. ANDERSON, 3848
JOHN H. ANSOHN, 7879
JOHN W. ANTONETZ, 0836
FERNANDO H. AUSTIN, 3734
BENNIE L. BAKER, 4315
BRUCE A. BAKER, 2029
JOSEPH E. BAPTISTE, 1890
STERLING C. BEASLEY, 0714
JOSEPH G. BECKER, 1830
JOHN B. BELFRAGE, 6999
VIRGILIO A. BELTRAN, 7576
STEVEN R. BENNETT, 4829
WILLIAM A. BENNETT, 2216
ZOLTAN T. BERKY, 6025
HOWARD A. BERRY, 1543
CATHY M. BINDER, 1654
DAN W. BOLTON, 1172
GERALD J. BOTKO, 2088
CAROL L. BOWDOIN, 6811
DAVID A. BRADSHAW, 3879
ESPERANZA B. BRAGA, 6869
CELIA Y. BRAMBLE, 3035
WALTER D. BRANCH, JR., 7874
THOMAS G. BRAUN, 4279
DARWIN R. BRENDEN, 3392
CHARLES E. BRENTS, 5598
THOMAS C. BROACH, 6069
CHARLES A. BROOKS, 1975
WILLIAM L. BROWN, 0890
WILLIE C. BRUCE, 9475
MICHAEL D. BUNYARD, 3390
MARY L. BURNETT, 3001
BACA DAVID L. C'DE, 3934
MICHAEL V. CANALE, 6403
KEVIN P. CAREY, JR., 2956
ANAVEL O. CARIN, 5672
AGNES F. CARNEY, 9334
DOUGLAS R. CARNEY, 8661
LOLA J. CASE, 8856
VAUGHN E. CAUDILL, 7360
FRANCIS H. CHANCE, 4277
LIE P. CHANG, 1936
RAGHAVA V. CHARYA, 4991
PHYLLIS A. CHELETTE, 7702
JOHN W. CHILES, 4941
ROBERT A. CLINTON, 8068
BRIOCHE J. COICOU, 3870
JAYNE H.R. COOLEY, 2345
PATRICIA H. COX, 9888
MORRIS F. CRISLER, 8627
RONNIE W. CROMER, 1458
LINDA G. CROSSER, 8005
LAUREN M. CURTIS, 3867
PETER CZERNEK, 1682
ASDGHIG D. DADERIAN, 2973
STEVEN C. DANIELL, 9308
SHARON G. DASPIT, 9801
PAUL D. DAVIS, 8184
MICHAEL G. DEEKEN, 6621
CAROLYN A. DEVERELL, 3190
RAHUL N. DEWAN, 3233
CATHERINE D. DIGILIO, 7352
ELIZABETH A. DOEHRING, 0322
MICHAEL C. DOHERTY, 5106
JOHN S. DOMENECH, 6807
THOMAS F. DOWLING, 0738
JOHNNIE J. EIGHMY, 4821
LINDA J. EPPELE, 2920
WILLIAM H. ETTINGER, 3567
ROBERT G. EVANS, 3963
TRAVIS A. EVERETT, 2114
ANTONIO EXPOSITO, 3238
GLEN N. FEATHER, 1773
DAVID A. FEIL, 4371
JAMES M. FETTER III, 4712
JAMES G. FLOYD, JR., 0770
NANCY A. FORTUIN, 9893
RICHARD V. FRANCIS, 1729
LEE A. FRIELL, 7339
GUY GARCIAVARGAS, 2936
MICHAEL P. GAVIN, 4093
JOHN A. GIBSON, 7536
STEPHAN A. GINSBERG, 0924
MARK E. GLANDON, 9796
VISHNU GOPAUL, 2123
KIM R. GOTTSHALL, 8092
EDWARD L. GRIFFIN, 2339
JAMES E. GRIFFITH, 3879
MICHAEL D. HABLITZEL, 4741
JAMES W. HAMILTON, JR., 8730
MICHAEL B. HAMMOND, 9366
SYED S. HAQQIE, 4137
JOHN W. HARDEN, JR., 5726
JEANNE L. HARDIN, 0988
MARY A. HARPER, 5504
DONALD S. HART, 3723
AARON HEARD, 6780
CARL D. HEINECKE, 5510
CHRISTOPHER M. HICKS, 6279
RONALD S. HIGGINBOTHAM, 6941
RICHARD G. HINES, 2657
LESLIE M. HOLLOWELL, 6626
ROBERT L. HOLMES, 3739
THOMAS J. HOLTMANN, 1778
JAMES M. HOUSEWORTH, 0405
GEORGE S. HSU, 1816
THOMAS R. HULL, 8919
JOHN P. HUNTLEY, 9689
ARTEMIO A. IFURUNG, 6771
RICHARD J. INDRIERI, 7006
DONALD W. JEHN, 3600
JEFFREY D. JOHNSON, 8461
TONE JOHNSON, JR., 4395
DON W. KANNANGARA, 4376
PAUL A. KARWASKI, 1162
KENDRA K. KATTELMANN, 6386
LARRY S. KELLEY, 6720
HALLAN L. KELLY, JR., 6050
ZEHERA N.A. KHAN, 7809
CHARLES M. KING, 1379
STEPHEN M. KIRKLAND, 9359
GORDON L. KOENIG, 0990
STEPHEN H. KOOPMEINERS, 0595
MICHAEL D. KOPLIN, 2208
PAUL J. KRAUTMANN, 0711
DONALD M. LAIRD, 2967
CAROLYN S. LANGER, 6106
GARY A. LAWSON, 8018
WILLIAM S. LEE, 0161
HARVEY H. LEIMBACH, 0209
JAMES N. LEMON, 9547
JINNA A.W. LESSARD, 4730
GREGORY F. LINDEN, 9229
PATRICIA A. LITTLE, 8021
JOHN J. LOMBARDI, 3423
SARA M. LOWE, 5562
RONDA F. LUCE, 1901
BARBARA M. MACKNICK, 5454
SCOTT M. MALOWNEY, 1475
CHARLES R. MARIS, 8347
MARK D. MARKS, 7793
EDWARD W. MARTIN, 4723
SHIRLEY S. MAYER, 7508
JAMES P. MCCARTHY, 0058
NIKKI S. MCCARTY, 1923
IRVING W. MCCONNELL, 2995
HALBERT H. MCKINNON, JR., 8811
KATHLEEN D. MCLERAN, 5907
ROBERT E. MCMILLAN, 4731
CONCEPCION MENDOZA, 9406
EUGENIA W. MESSICK, 5641
JANE L. MEYER, 2947
RONALD D. MILES, 0116
DENNIS R. MILLER, 8260
JERRY C. MILLER, 5589
PEGGY A.M. MISER, 6410
KATHLEEN J. MOORHEAD, 7428
JOHN D. MORGAN, 8170
MARSHALL S. MOULIERE, 2774
FREDERICK W. MULLIN, 5086
WILLIAM J. MYERS, 1838
ERIC W. NODERER, 2807
PHILLIP A. NOKES, 3148
BRIAN A. PALAFOX, 9996
PAUL W. PAUSTIAN, 5009
KEVIN L. PEHR, 3284
SIDNEY H. PENKA, 3506
KENNETH W. PETERS, 5407
KAREN M. PFAU, 0325
ELRY E. PHILLIPS, 8271
JOANNE L. PICHASKE, 6928
RENATO R. PIMENTEL, 9162
DEENA G. PITTMAN, 6971
DENNIS E. PLATT, 7100
ERNEST M. POLAO, 8393
MICHAEL S. POLLOCK, 9193
GERALD C. POTAMIS, 9996
ROBERT A. POWELL, 7000
SANDRA L. PRIOR, 1408
SHIRLEY A. QUARLES, 3126
ALLEN B. QUEEN, 2880
KENNETH J. RATAJCZAK, 8442
MICHAEL B. RATH, 4734
JAMES D. READ, 4345
HERNANE C. RESTAR, 9928
DENNIS C. RHEA, 9867
SIDNEY F. RICKS, JR., 5267
EUGENE M. RIEHLE, 3785
JULIAN E. RITTER, 4241
DONALD W. ROBERTS, 8899
MILDRED RODRIGUEZRIVERA, 7802
CEFERINA P. RUIZ, 3567
JOHN B RULE, 0466
ROBERT P. RYAN, 2748
COSWIN K. SAITO, 3211
JOHN S. SCHREIBER, 0207
MARK R. SEYMOUR, 3389
KENNETH L. SHIELDS, 7307
RUBY M. SIMMONS, 4905
JOSE T. SINGSON III, 8217
ALBERT R. SMITH, JR., 1247
JACQUELINE D. SMITH, 4380
NISHA P. SOPREY, 6871
JOSEPH S. STANKO, 4866
RICHARD L. STARCHER, 7807
EDWARD L. STEVENS, 4972
PAUL M. STICKEL, 6695
JEFFREY C. STILES, 3696
CHARLES E. STUTTS, 2383
MARY M. SUNSHINE, 0777
DEBRA J. TENNEY, 8904
CARY T. THREAT, 4650
SALVACION TORRE, 5110
THOMAS TRESKA, 0195
JOHN T. TRUMP, 8988
GENE E. TULLIS, 4407
DIANE M.B. VOGELEI, 4412
PAULA M. WALKER, 3435
CARL M. WARVAROVSKY, 8554
STEPHEN A. WASNOK, 7553
DENISE WILLIAMS, 8052
JOHN E. WOLF, 4863
EARL S. WOOD, 9000
MAYO C. WOODSON, 3141
WILLIAM H. YIM, 2842
FRANCES K. YOUNG, 8065
HORACE J. YOUNG, 6434

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

NORMAN F. ALLEN, 9647 JA
STEPHANIE A. BARNA, 5209 JA
MICHAEL J. BENJAMIN, 7990 JA
STEPHEN J. BERG, 9271 JA
DRU A. BRENNERBECK, 8074 JA
BRYAN T. BROYLES, 0075 JA
STEVEN E. BUTLER, 8197 JA
LOUIS A. CHIARELLA, 7854 JA
THOMAS D. COOK, 0356 JA
GEOFFREY S. CORN, 4675 JA
ROBERT J. COTELL, 2274 JA
CLAYTON R. DIEDRICHS, 9738 JA
SHELLEY R. ECONOM, 1475 JA
JOHN P. EINWECHTER, 4257 JA
RICHARD J. GALVIN, 0423 JA
JAMES F. GARRETT, 3454 JA
MARK J. GINGRAS, 0890 JA
KEVIN H. GOVERN, 4441 JA
CHARLES D. HAYES, JR., 4628 JA
JAMES W. HERRING, JR., 4584 JA
WILLIAM R. KERN, 3315 JA
JAMES D. KEY, 6907 JA
CHERYL R. LEWIS, 4269 JA
CRAIG A. MEREDITH, 0317 JA
EDWARD J. OBRIEN, 8550 JA
BILLY D. PERRITT, JR., 8033 JA
STUART W. RISCH, 3767 JA
MICHAEL E. SAINSBURY, 9695 JA
MARK W. SEITSINGER, 5247 JA
EDWARD J. SHEERAN, 9115 JA
SAMUEL J. SMITH, JR., 6587 JA
THOMAS F. STRUNCK, 4606 JA
KENNETH J. TOZZI, 7904 JA
PAUL H. TURNEY, 0470 JA
STEVEN E. WALBURN, 8749 JA
LAUREL L. WILKERSON, 4886 JA
DARIA P. WOLLSCHLAEGER, 7600 JA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE NURSE CORPS (AN), MEDICAL SERVICE CORPS (MS), MEDICAL SPECIALIST CORPS (SP), AND VETERINARY CORPS (VC) AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be colonel

STEPHEN C. ALLISON, 1522 SP
LINDA J. ANDERSEN, 8289 AN
DENISE J. ANDERSON, 6994 MS
MARGARET A. BATES, 8076 AN
ROGER D. BAXTER, 4527 AN
STEPHEN B. BERTE, 4248 MS
DEBRA D. BERTHOLD, 2615 SP
MARK H. BITHER, 4025 AN
BURTON F. BRIGGS, 0623 MS
THOMAS A. BROWN, 9222 MS
BARBARA J. BRUNO, 9805 AN
DONALD R. BUCHWALD, 3582 MS

BARCLAY P. BUTLER, 5801 MS
JOAN M. CAMPANARO, 9064 AN
BRENDA CHEWNINGKULICK, 3329 MS
MARY C. CLARK, 0778 AN
PATRICIA L. CORDIER, 9129 AN
ERNEST F. DEGENHARDT, 0969 AN
KEITH E. ESSEN, 3566 AN
ANTHONY M. ETTIPIO, 1140 AN
HOLLY D. FORESTER, 5897 AN
BRENDA J. FORMAN, 1324 SP
JOHN R. FORNEY, 9173 MS
KEITH W. GALLAGHER, 5366 MS
PETER M. GARIBALDI, 4001 MS
NORMALYNN GARRETT, 9928 AN
NANCY K. GILMORELEE, 6865 AN
SANDRA L. GOINS, 2167 AN
RAJ K. GUPTA, 3841 MS
RICHARD W. HARPER, 4690 AN
*WILLIAM J. HARTMAN, 2343 AN
JOANN E. HOLLANDSWORTH, 2866 AN
LADONNA N. HOWELL, 1384 AN
DORIS T. JOHNSON, 7670 AN
MICHAEL S. KAMINSKI, 3679 MS
FORREST W. KNEISEL, 9787 MS
THOMAS D. KURMEL, 1806 MS
RANDAL C. LAYTON, 9906 VC
ROSS D. LECLAIRE, 5367 VC
ROBERT J. LIPNICK, 3063 MS
MARK A. LYFORD, 1958 MS
JULIE M. MARTIN, 5038 MS
ANITA H. MCCOWEN, 2535 AN
DANIEL F. MCFERRAN, 5029 MS
ELIAS G. NIMMER, 8855 MS
GARY C. NORRIS, 5201 MS
PATRICIA C. NOSSOV, 9772 VC
WILLIAM R. NOVAK II, 3573 MS
KEITH B. PARKER, 7769 MS
JEROME F. PIERSON, 7802 MS
LINDA L. PIERSON, 8692 MS
JAMES O. PITTMAN, JR., 6344 MS
BEVERLY A. PRITCHETT, 4354 MS
MONICA A. SECULA, 7666 AN
JETTAKA M. SIGNAIGO, 2079 MS
EDDIE J. SIMMONS, 2591 AN
DEBORAH G. SMITH, 9266 AN
ROBIN J. TEFFT, 9778 SP
JOAN K. VANDERLAAN, 4595 AN
RICKE J. WEICKUM, 1730 MS
JANNIFER E. WIGGINS, 7646 AN
CALVIN E. WILLIAMS, 3174 MS
THOMAS J. WILLIAMS, 5913 MS
PAUL W. WINGO, 9520 MS
MARK E. WOLKEN, 3599 VC
STACEY YOUNG MCCAUGHAN, 0357 AN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE MEDICAL CORPS (MC) AND DENTAL CORPS (DE) AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be colonel

*KEITH S. ALBERTSON, 5171 MC
BRIAN D. ALLGOOD, 9595 MC
CARLOS E. ANGUEIRA, 9440 MC
MICHAEL J. APICELLA, 3426 DE
JANIINE G. BABCOCK, 5524 MC
EVELYN M. BARRAZA, 5767 MC
HERMAN J. BARTHEL, 3650 MC
NICHOLAS J. BATTAFARANO, 1887 MC
DALE A. BAUR, 7724 DE
GREGORY A. BLYTHE, 9487 DE
CHARLES D. BOLAN, JR., 3732 MC
LAWRENCE G. BREAULT, 4030 DE
ELAINE L. BRENT, 3548 MC
JOHN W. BRYSON III, 5838 DE
HENRY B. BURCH, 3780 MC
JENNIFER L. CALAGAN, 5799 MC
CHARLES M. CALDWELL, 2901 MC
CHARLES W. CALLAHAN, 7169 MC
BRIAN S. CAMPBELL, 0832 MC
LESTER C. CAUDLE III, 0880 MC
BENJAMIN T. COOK, 9694 DE
MARYJO CORBETT, 7006 DE
PAUL R. CORDTS, 0506 MC
RAYMOND A. COSTABILE, 0487 MC
KATHRYN A. CRIPPS, 8979 DE
DENISE M. DEMERS, 1783 MC
JIM B. DUKE, JR., 9555 DE
MARK F. DUVERNOIS, 8668 DE
CALVIN L. EARLY, 6054 DE
TIMOTHY P. ENDY, 0182 MC
KELLY J. FAUCETTE, 9734 MC
JOHN P. FOLEY, 0611 MC
PHILIP R. FRANK, 8548 MC
MARIA L. FREYFOGLE, 2810 DE
MICHAEL S. FULKERSON, 6013 DE
JOHN A. GAWLIK, 2296 DE
DALE L. GIEBINK, 1844 DE
SCOTT G. GOODRICH, 2554 MC
COLIN M. GREENE, 1967 MC
HENRY A. GREENE, 9108 DE
*DONALD G. HEPPNER, JR., 3108 MC
CHARLES W. HOGE, 5630 MC
THOMAS L. IRVIN, 9899 MC
JOSEPH B. ISAAC, 9538 DE
JOHN M. JACOCKS, 0429 MC
JEFFREY P. KAVOLIUS, 7137 MC
WILLIAM R. KLEMME, 4536 MC
ROBERT J. LABUTTA, 6197 MC
DANIEL P. LAVIN, 7240 DE
DOUGLAS A. LIENING, 0210 MC
ALAN J. MAGILL, 1072 MC
CORNELIUS C. MAHER III, 2524 MC
KAY H. MALONE III, 9726 DE
*KIM R. MARLEY, 6384 MC
*BRYAN MARTIN, 9990 MC
CARL J. MASON, 2834 MC
GLENN D. MCDERMOTT, 6589 MC
NATHAN K. METHVIN, 3567 DE
MARTY G. MOON, 6999 DE
RUSSELL R. MOORES, JR., 1528 MC
JOSEPH T. MORRIS III, 2180 MC
WALTER J. MORRIS, JR., 5380 DE
*JEROME B. MYERS, 8682 MC
MARY C. NACE, 4398 MC
KAREN K. NAUSCHUETZ, 9492 MC
ROBERT J. NEWMAN, 5475 MC
JAMES H. NORTH, JR., 6350 MC
KEVIN S. OAKES, 5570 DE
SEAN D. ODONNELL, 8776 MC
STEPHEN B. OLSEN, 8101 MC
JAMES E. PARKER, 0825 DE
MARK E. PEELE, 1586 MC
DENNIS S. PEPPAS, 2271 MC
DAVID W. POLLY, JR., 7852 MC
SHIRLEY M. POLLY, 3075 MC
CHAEIM S. PONTIUS, 4541 MC
CLIFFORD A. PORTER, 6155 MC
ARLYNN G. RAEZ, 3295 DE
MATTHEW W. RAYMOND, 7344 MC
ROBERT B. ROACH, JR., 9462 DE
DANIEL K. ROBIE, 4107 MC
BRET F. SANDLEBACK, 3423 DE
HOWARD J. SCHMIDT, 2425 MC
RICHARD T. SHAFFER, 7016 MC
STEVEN R. SHANNON, 2108 MC
CRAIG D. SHRIVER, 0237 MC
PETER A. SILKOWSKI, 2992 MC
GARY E. SIMMONS, 6520 MC
DONALD R. SKILLMAN, 1796 MC
GEORGE R. SMITH, 8811 MC
LINDA L. SMITH, 9787 DE
*PAUL D. SMITH, 4233 MC
PATRICK ST PIERRE, 3175 MC
MARK A. SUNDBERG, 9913 DE
LOREE K. SUTTON, 4636 MC
GARY D. SWIEC, 9049 DE
MARTIN H. TIEVA, 8749 MC
PAULA K. UNDERWOOD, 9906 MC
JOHN F. UPHOFF, 7162 DE
THOMAS K. VAUGHAN, 8266 MC
TERRY J. WALTERS, 7055 MC
THOMAS P. WARD, 8143 MC
MICHAEL J. WILL, 4184 DE
JON J. WILSON, 8213 MC
MING T. WONG, 9578 DE
PETER ZAGURSKY, JR., 9243 DE
KARL N. ZEFF, 3469 MC
ROBERT K. ZUEHLKE, 4349 DE

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RONALD S. CULP, 2501
CHRISTOPHER J. LORIA, 9523

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR ORIGINAL REGULAR APPOINTMENT AS A PERMANENT LIMITED DUTY OFFICER TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be lieutenant

KEVIN D. SULLIVAN, 3612

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

STEPHEN L. COOLEY, 7735

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

BRIAN J.C. HALEY, 2808

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

WILLIAM J. NAULT, 0925

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624.

To be commander

JAMES P. SCANLAN, 1538

NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

DOUGLAS J. ADAMS, 7092
ERRIN P. ARMSTRONG, 3864
SCOTT A. BAIR, 7542
PAUL J. BERNARD, 1372
WARREN R. BULLER, 2164
CHRISTOPHER J. CAVANAUGH, 6814
TIMOTHY A. CRONE, 4646
CHRISTOPHER R. DEWILDE, 9748
MARK T. EVANS, 7337
DARRYL D. FIELDER, 2956
BILLY D. HUNTER, 9024
KRISTEN E. JACOBSEN, 8906
MARK D. KESSELRING, 6212
LAWRENCE F. LEGREE, 1897
PHILIP E. MALONE, 9126
TODD A. MAUERHAN, 9571
MICHAEL E. MULLINS, 9466
ALEJANDRO E. ORTIZ, 2405
CAREY M. PANTLING, 2854
DAVID T. PETERSON, 6686
MARSHALL R. PROUTY, 1609
JOHN W. REXRODE, 9550
TIMOTHY A. SALTER, 1102
BRIAN K. SORENSON, 5420
MICHAEL A. STEEN, 3419
THOMAS W. TEDESSO, 7712
MATTHEW W. VINCENT, 6724
FRANK G. WAKEHAM, 7373
DONALDSON E. WICKENS, 1979
GREGORY J. ZACHARSKI, 3133

HOUSE OF REPRESENTATIVES—*Wednesday, January 3, 2001*

This being the day fixed by the 20th amendment to the Constitution of the United States for the meeting of the Congress of the United States, the Members-elect of the 107th Congress met in their Hall, and at noon were called to order by the Clerk of the House of Representatives, Hon. Jeff Trandahl.

The Chaplain, the Rev. Daniel P. Coughlin, offered the following prayer:

Lord God, Almighty, by Your Divine Providence You have brought us to this new day. Bless us in our gathering, form us by Your Word, guide us by Your Spirit.

The people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for themselves and posterity, have acted according to the Constitution of this country and by lawful elections they have elected their representatives to serve in this House as the 107th Congress.

Give this body an outpouring of Your Holy Spirit, that they may be wise in their judgments and serve freely the best interests of all of the people of this Nation.

Broaden their personal concerns that they may seek the common good and always be attuned to the helpless sighs of the most vulnerable in our society.

Clarify their vision, as they work together in the search for the best ideas and strategies to meet the greatest needs of our times.

Bless all Members of this House, new and experienced. May their faith in You, Lord God, and in the destiny of this Nation, keep them humble in Your service.

May their families remain their deepest love and lasting joy.

May all here who assist them in this Chamber, in congressional offices and in committee responsibilities, be wise in their counsel and gracious in their service.

May this Congress, Lord God, be a sign of unity and confidence to this Nation; good news to the poor and an instrument of peace in the world.

Lord God, in You we trust now and forever. Amen.

PLEDGE OF ALLEGIANCE

The CLERK. The Members-elect and their guests will please rise and join in the Pledge of Allegiance to the flag.

The Clerk led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The CLERK. Representatives-elect, this is the day fixed by the 20th amendment to the Constitution for the meeting of the 107th Congress and, as the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect.

Certificates of election covering 435 seats in the 107th Congress have been received by the Clerk of the House, and the names of those persons whose credentials show that they were regularly elected as Representatives in accordance with the laws of their respective States or of the United States will be called.

Without objection, the Representatives-elect will record their presence by electronic device and their names will be reported in alphabetical order by States, beginning with the State of Alabama, to determine whether a quorum is present.

There was no objection.

The call was taken by electronic device, and the following Representatives-elect responded to their names:

[Roll No. 1]

ANSWERED "PRESENT"—429

ALABAMA

Aderholt
Bachus
Callahan
Cramer
Everett
Hilliard
Riley

ALASKA

Young

ARIZONA

Flake
Hayworth
Kolbe
Pastor
Shadegg
Stump

ARKANSAS

Berry
Hutchinson
Ross
Snyder

CALIFORNIA

Baca
Becerra
Berman
Bono
Calvert
Capps
Condit
Cox
Cunningham
Davis
Dooley
Doolittle
Dreier
Eshoo
Farr
Filner
Gallegly
Harman
Herger
Honda
Horn
Hunter
Issa
Lantos
Lee
Lewis
Lofgren
Matsui
McKeon
Millender-McDonald
Miller, Gary
Miller, George
Napolitano
Ose
Pelosi
Pombo
Radanovich
Rohrabacher
Roybal-Allard
Royce
Sanchez
Schiff
Sherman
Solis
Tauscher
Thomas
Thompson
Waters
Waxman
Woolsey

COLORADO

DeGette
Hefley
McInnis
Schaffer
Tancredo
Udall

CONNECTICUT

DeLauro
Johnson
Larson
Maloney
Shays
Simmons

DELAWARE

Castle

FLORIDA

Bilirakis
Boyd
Brown
Crenshaw
Davis
Diaz-Balart
Deutsch
Foley
Goss
Hastings
Keller
Meek
Mica
Miller
Putnam
Ros-Lehtinen
Scarborough
Shaw
Stearns
Thurman
Weldon
Wexler
Young

GEORGIA

Barr
Bishop
Chambliss
Collins
Deal
Isakson
Kingston
Lewis
Linder
McKinney
Norwood

HAWAII

Abercrombie
Mink

IDAHO

Otter
Simpson

ILLINOIS

Biggert
Blagojevich
Costello
Crane
Davis
Evans
Hyde
Jackson
Johnson
Kirk
LaHood
Manzullo
Phelps
Rush
Schakowsky
Shimkus
Weller

INDIANA

Burton
Buyer
Carson
Hill
Hostettler
Kerns
Pence
Roemer
Souder
Visclosky

IOWA

Boswell
Ganske
Latham
Leach
Nussle

KANSAS

Moore
Moran
Ryun
Tiahrt

KENTUCKY

Fletcher
Lewis
Lucas
Northup
Rogers
Whitfield

LOUISIANA

Baker
Cooksey
Jefferson
John
McCrery
Tauzin
Vitter

MAINE

Allen
Baldacci

MARYLAND

Bartlett
Cardin
Cummings
Ehrlich
Gilchrest
Hoyer
Morella
Wynn

MASSACHUSETTS

Capuano
Delahunt
Frank
Markey
McGovern
Meehan
Moakley
Neal
Olver
Tierney

MICHIGAN

Barcia
Bonior
Camp
Conyers
Dingell
Ehlers
Hoekstra
Kildee
Kilpatrick
Knollenberg
Levin
Rivers
Rogers
Smith
Stupak
Upton

MINNESOTA

Gutknecht
Kennedy
Luther
McCollum
Oberstar
Peterson
Ramstad
Sabo

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MISSISSIPPI

Pickering
Shows
Taylor
Thompson
Wicker

MISSOURI

Akin
Blunt
Clay
Emerson
Gephardt
Graves
Hulshof
McCarthy
Skelton

MONTANA

Rehberg

NEBRASKA

Bereuter
Osborne
Terry

NEVADA

Berkley
Gibbons

NEW HAMPSHIRE

Bass
Sununu

NEW JERSEY

Andrews
Ferguson
Frelinghuysen
Holt
LoBiondo
Menendez
Pallone
Pascrell
Payne
Rothman
Roukema
Saxton
Smith

NEW MEXICO

Udall
Wilson

NEW YORK

Ackerman
Boehlert
Crowley
Engel
Fossella
Gilman
Grucci
Hinchey
Houghton
Israel
Kelly
King
LaFalce
Lowey
Maloney
McCarthy
McHugh
McNulty
Meeks
Nadler
Owens
Quinn
Rangel
Reynolds
Serrano
Slaughter
Sweeney
Towns
Velázquez
Walsh
Weiner

NORTH CAROLINA

Ballenger
Burr
Clayton
Coble
Etheridge
Hayes
Jones
McIntyre
Myrick
Price
Taylor
Watt

NORTH DAKOTA

Pomeroy

OHIO

Boehner
Brown
Chabot
Gillmor
Hall
Hobson
Jones
Kaptur
Kucinich
LaTourette
Ney
Oxley
Portman
Pryce
Regula
Sawyer
Strickland
Tiberi
Traficant

OKLAHOMA

Carson
Istook
Largent
Lucas
Watkins
Watts

OREGON

Blumenauer
DeFazio
Hooley
Walden
Wu

PENNSYLVANIA

Borski
Brady
Coyne
Doyle
English
Fattah
Gekas
Greenwood
Hart
Hoeffel
Holden
Kanjorksi
Mascara
Murtha
Peterson
Pitts
Platts
Sherwood
Shuster
Toomey
Weldon

RHODE ISLAND

Kennedy
Langevin

SOUTH CAROLINA

Brown
Clyburn
DeMint
Graham
Spence
Spratt

SOUTH DAKOTA

Thune

TENNESSEE

Bryant
Clement
Duncan
Ford
Gordon
Hilleary
Jenkins
Tanner
Wamp

TEXAS

Armey
Barton
Bentsen
Bonilla
Brady
Combest
Culberson
DeLay
Doggett
Edwards
Frost
Gonzalez
Granger
Green
Hall
Hinojosa
Jackson-Lee
Johnson, E.B.
Johnson, Sam
Lampson
Ortiz
Paul
Reyes
Rodriguez
Sandlin
Sessions
Smith
Stenholm
Thornberry
Turner

UTAH

Cannon
Hansen
Matheson

VERMONT

Sanders

VIRGINIA

Boucher
Cantor
Davis, Jo Ann
Davis, Thomas M.
Goode
Goodlatte
Moran
Schrock
Scott
Sisisky
Wolf

WASHINGTON

Baird
Dicks
Dunn
Hastings
Inslee
Larsen
McDermott
Nethercutt
Smith

WEST VIRGINIA

Capito
Mollohan
Rahall

WISCONSIN

Baldwin
Barrett
Green
Kind
Kleczka
Obey
Petri
Ryan
Sensenbrenner

WYOMING

Cubin

□ 1236

The CLERK. The quorum call discloses that 429 Representatives-elect have responded to their name. A quorum is present.

ANNOUNCEMENT BY THE CLERK

The CLERK. The Clerk will state that credentials, regular in form, have been received showing the election of the Honorable ANÍBAL ACEVEDO-VILÁ as Resident Commissioner from the Commonwealth of Puerto Rico for a term of 4 years beginning January 3, 2001; the election of the Honorable ELEANOR HOLMES NORTON as Delegate from the District of Columbia; the election of the Honorable DONNA M. CHRISTENSEN as Delegate from the Virgin Islands; the election of the Honorable ENI F.H. FALEOMAVAEGA as Delegate from American Samoa; and the election of ROBERT A. UNDERWOOD as Delegate from Guam.

ANNOUNCEMENT BY THE CLERK

The CLERK. The Clerk will state that since the last regular election of Representatives to the 107th Congress, a vacancy now exists in the 32nd District of the State of California, occasioned by the death of the late Honorable Julian C. Dixon.

ELECTION OF SPEAKER

The CLERK. Pursuant to law and to precedent, the next order of business is the election of the Speaker of the House of Representatives for the 107th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Clerk, the Congress and the Nation have been blessed these past 2 years by the inspiring leadership of a gentleman whose only special interest in these United States of America is these United States of America. We are deeply grateful for his selfless devotion to this institution and to the advancement of the American people and the American Republic.

Mr. Clerk, as Chairman of the Republican Conference, I am directed by the unanimous vote of that conference to present for election to the office of the Speaker of the House of Representatives for the 107th Congress the name of the Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois.

The CLERK. The Clerk recognizes the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Clerk, as Chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the office of Speaker of the House of Representatives for the 107th Congress the name of the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri.

The CLERK. The Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois, and the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri, have been placed in nomination.

Are there any further nominations?

There being no further nominations, the Clerk will appoint tellers.

The Clerk appoints the gentleman from California (Mr. THOMAS), the gentleman from Maryland (Mr. HOYER), the gentlewoman from New Jersey (Mrs. ROUKEMA), and the gentlewoman from Ohio (Ms. KAPTUR).

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.

□ 1330

The following is the result of the vote:

[Roll No. 2]

HASTERT—222

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Thomas M.
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeny
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

GEPHARDT—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gonzalez
Gordon
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Morkey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

MURTHA—1

Taylor (MS)

PRESENT—2

Gephardt
Hastert

NOT VOTING—3

Gutierrez
Lipinski
Stark

□ 1249

The CLERK. The tellers agree in their tallies that the total number of votes cast for a person by name is 429, of which the Honorable J. DENNIS HASTERT of the State of Illinois has received 222, the Honorable RICHARD A. GEPHARDT of the State of Missouri has received 206, and the Honorable JOHN P. MURTHA of the Commonwealth of Pennsylvania has received 1, with 2 recorded as "present."

Therefore, the Honorable J. DENNIS HASTERT of the State of Illinois is duly elected Speaker of the House of Representatives for the 107th Congress, having received a majority of the votes cast.

The Clerk appoints the following committee to escort the Speaker-elect to the Chair: The gentleman from Missouri (Mr. GEPHARDT),

The gentleman from Texas (Mr. ARMEY),

The gentleman from Texas (Mr. DELAY),

The gentleman from Michigan (Mr. BONIOR),

The gentleman from Oklahoma (Mr. WATTS),

The gentleman from Texas (Mr. FROST),

The gentleman from Illinois (Mr. CRANE),

The gentleman from Illinois (Mr. HYDE),

The gentleman from Illinois (Mr. EVANS),

The gentleman from Illinois (Mr. LIPINSKI),

The gentleman from Illinois (Mr. COSTELLO),

The gentleman from Illinois (Mr. MANZULLO),

The gentleman from Illinois (Mr. RUSH),

The gentleman from Illinois (Mr. LAHOOD),

The gentleman from Illinois (Mr. WELLER),

The gentleman from Illinois (Mr. JACKSON),

The gentleman from Illinois (Mr. BLAGOJEVICH),

The gentleman from Illinois (Mr. DAVIS),

The gentleman from Illinois (Mr. SHIMKUS),

The gentlewoman from Illinois (Mrs. BIGGERT),

The gentleman from Illinois (Mr. PHELPS),

The gentlewoman from Illinois (Ms. SCHAKOWSKY),

The gentleman from Illinois (Mr. JOHNSON), and

The gentleman from Illinois (Mr. KIRK).

The committee will retire from the Chamber to escort the Speaker-elect to the chair.

□ 1345

The Sergeant at Arms announced the Speaker-elect of the House of Representatives of the 107th Congress, who was escorted to the chair by the Committee of Escort.

Mr. GEPHARDT. Members of the House, families of House Members, honored guests, ladies and gentlemen. First, I want to say that I thought a few moments ago about asking for a recount, but I decided against it.

This is a day of celebration for candidates and our families, and it is also a day of celebration of our continuing experiment in democracy, which we again have successfully achieved, even in the face of a very close election. What sets America apart is that despite very difficult events, we decide elections by the rule of law, and we have peaceful transitions of power.

Mr. Speaker, I called you after the election to congratulate you, and all of us on the Democratic side extend our congratulations to you and your Members today.

We hope for a bipartisan atmosphere in this new Congress, and we understand that this requires not just words, but deeds and actions. We know that our differences on issues are heartfelt and real, but I hope the closeness of the margin between our parties in the Congress will be viewed as an opportunity, not a hindrance. This is the people's House, and we are all proud to be part of it. It is not a Republican House; it is not a Democratic House. As a recognition of that principle, it is our hope that in gestures, both small and large, on the part of each of us as individuals and as leaders, we will make that principle a daily reality.

Mr. Speaker, on behalf of my Democratic colleagues, we honor your leadership and we respect your majority. Our pledge is to meet you halfway and, in return, we hope that great things in these 2 years can be accomplished for the American people that we serve.

Ladies and gentlemen of the House, it is my honor to present the Speaker of the House of the 107th Congress, the gentleman from Illinois, DENNIS HASTERT.

Mr. HASTERT. I guess I really should not hammer it down while I am still getting applause, but I want to thank DICK GEPHARDT for his gracious remarks. DICK GEPHARDT has been a great leader of the House Democrats. He has unified his Democrat Caucus over the last 2 years with unusual effectiveness. He has criss-crossed the Nation, doing his best to help his candidates take a majority in the House. He has worked day and night with a singular determination. I know how hard he has worked, because I had to do my best just to keep up with him.

DICK, let me say that I respect your commitment to your principles, I respect and deeply admire your competitive spirit, and thank you so much for your heartfelt comments today. Thank you very much.

Now that the campaign is over, I know you will put the same energy and determination that you demonstrated during the campaign in working with me to do the people's business. Thank you all, Democrats, Republicans, for this honor, to be Speaker of the whole House.

Today, I stand before you at the beginning of a new year, some say the beginning of a new millennium, and certainly, the beginning of a new Congress. Today, we swear in 41 new Members in the House. One of our new Members is one of the greatest football coaches in college football history, TOM OSBORNE. On the Senate side, we welcome nine new Senators, including the first First Lady ever to run for public office.

☐ 1400

We have a new President in the White House who won in the closest election in our Nation's history. While times in the past 2 years have been difficult, this time of new beginnings provides us with new opportunity to reach out and to work with all of our colleagues to get the people's work done.

This will be my second term as Speaker of the House, but I could not have done this without the voters of Illinois' 14th District. This past November they elected me to my eighth term in the House of Representatives. I want to thank those people from the Fox Valley and environs of Illinois for trusting me year after year to represent them in this, the people's House, in the Nation's Capitol.

I also appreciate the bipartisan support that I receive from our Illinois leadership. With us today we have the Governor of the State of Illinois, we have the mayor of the great city of Chicago, Richard Daley, along with Governor Ryan. We also have the Republican leader in the Illinois House of Representatives. I thank them for joining us today.

To my family, my wife, Jean, my two sons, Josh and Ethan, I thank you for your love, your encouragement, your understanding. Jean, thank you for providing me with a good dose of midwestern common sense every time I need it. And in this job, I need it often.

As I said 2 years ago and it is still true, the Fox River, not the Potomac River, is still my home. My family reminds me of that fact every day.

Two years ago I stood here as the Speaker of this House, untested and largely unknown. While Hastert may still not be a household name, I hope that I have earned your respect as a fair and just Speaker of this House. By this election today, I am reassured that I have performed the duties that have been asked of me to lead this House and do the will of the people.

To all those Democrats who have gone out of their way to support me over the last 2 years, I value your respect and your loyalty because I had to work harder to earn it. And for the rest of my Democratic colleagues, if I have not earned your respect in the last 2 years, I hope I can earn it in the next 2. I know it is not easy to have a rival party lead the House's agenda. After all, I, too, used to be in the minority. But I gave my word that I would go out of my way to make sure your voices are heard, and my word is my bond.

Our political system has endured a trial. This trial has exposed many warts in our political process. It has also exposed the great strength of our democracy. After all, our system is based upon laws, not on personalities, and ultimately, our Constitution triumphs.

Our democracy is stronger also because we have two strong political parties and a vibrant opposition. Make no mistake, the system of checks and balances originally devised by our Founding Fathers works, and it will continue to work to protect the freedom of our citizens.

Many have commented about the deep wounds caused by this latest political competition, but it serves no purpose to dwell on the past. After all, our country is at peace. Our economy is still fundamentally strong. Our people are united with a strength of purpose and by a desire to live the American dream. It is only in Washington where many still have a lingering animosity over the political parties.

We need to get over it. We need to work together to revitalize this democracy. We need to get to the people's business. I have a great faith that we can do so. This Nation has faced greater trials, and we have persevered and prospered.

A former Speaker, a gentleman from Texas by the name of Sam Rayburn, once said, "I do believe when critical hours arise, the Members of this House will do as they have done in the past: Rise to the occasion, and show to the world that whether Republicans or Democrats, we are all Americans, and love and want to protect and defend and perpetuate the institutions of this, the best, the mightiest, and the freest government that ever blessed mankind in all the world."

He was right then, and his words ring true today. Let us show people that even those who disagree can reach reasonable solutions for the sake of a nation.

Our new president was elected on an agenda to promote prosperity, opportunity, and security for all Americans. We have a duty to consider his agenda and to help him lead America in this next Congress.

Two years ago I stood before you and said that every child should have the right to a good education and a safe school. We have made some progress, but we have a long way to go.

In a sense, this election was all about the education of our children. Improving education still represents one of the Nation's greatest challenges. Every child must have access to a good education and a safe environment. Every school must be more accountable. Every parent must have faith that his or her child is getting the best education possible.

President-elect Bush spoke of ending the soft bigotry of low expectations. We must expect more of our teachers, more of our parents, more of our students, and more of our schools. We must make sure they have the resources to do the job without wasting money on more Federal bureaucracy.

I taught government and history at a small high school in northern Illinois for 16 years. My wife taught in that same town for 34 years. I know firsthand some of the problems that our public schools face: declining test scores, rising dropout rates, complacency, decreasing graduation rates.

Yet, I know hundreds of teachers personally, and I know there are hundreds of thousands of dedicated teachers who want to see our children succeed.

The hundreds of Federal programs created to remedy the problems are not helping. We need local solutions. If we really want to help children learn, we need to send more dollars and decisions to the parents, the teachers, and the folks who run the schools. We need to cut Washington red tape.

To show the Nation our commitment to better schools, I will reserve the first House bill, H.R. 1, for President-elect Bush's education proposal. Together, let us pledge to improve education for all of our students.

Retirement security is another challenge that Congress must face. Let me begin about social security. Social security is a sacred trust. Our challenge is now to keep it working far into the future.

In the last session of Congress we put Americans' social security dollars in a lockbox so that government could no longer raid those funds and threaten the future of the program. That helped social security in the short term. Now we must look to the long term. The American people deserve better than a fraction of 1 percent return on their social security investment. If this program does not do better, it will not survive.

The new President and the Congress have both promised to save social security. Now is the time to make good on that promise. Together we must search for a solution to a long-term problem.

Retirement security also means health care. Medicare must be modernized, and that process must include prescription drug coverage for all of our senior citizens. No senior should be forced to choose between putting food on the table and having access to lifesaving drugs. Together, we can work to modernize Medicare.

National security is another challenge that the 107th Congress must face. We have done a good job of providing for more resources for our men and women in uniform, but we can do better. It is still a dangerous world out there, and our defensive capabilities must improve to keep our citizens safe.

President-elect Bush pledged to work with the Congress to support our national missile defense program and provide our military with the funds they need to stay strong. This will be a top priority of the 107th Congress. Together we can work with the President to improve our Nation's security and to keep our citizens safe from international threats.

Finally, we have a duty to be fiscally responsible and to take steps to keep our economy strong. The last Congress paid off more debt than any other Congress in history. That is an amazing achievement. You helped make that happen. We are on the road to pay off our public debt by the year 2013. By continuing to pay off debt, we keep our economy strong. We need to also have the responsibility to return surplus money back to the taxpayers with commonsense tax relief.

We need to restore fairness to our Tax Code. It is not fair to tax people for being married. It is not fair to tax people on every penny they earn while they are living, and then tax them on what they have left over when they die. In the last Congress we made progress on these two tax fairness initiatives. This year, let us get it done.

Also, there are troubling signs that our economy is slowing down. President-elect Bush has proposed a tax relief package that will stimulate economic growth. I believe we have a duty to our constituents and this country to consider this proposal. Together we can work with the new President to keep our economy strong and to give tax relief to all Americans.

More than 20 years ago, I stood as a high school teacher before the classes of my high school day in and day out. I taught them about the promises and the possibilities of this Nation, this country we call America. I taught them that in America, people work hard to achieve their dreams for their families, for their careers, and for their communities. I told each student they could fulfill almost even their wildest dreams if they were willing to sacrifice and to work for that dream.

Little did I know then how fate would bring me to this place and to this position, the Speaker of the House. But fate has also brought all of you here. You all have sacrificed your time and your effort, and your families have sacrificed with you, for a chance to serve in this body. You have done so because you believe that you can get good things done for your constituents and for all the American people, and that by your efforts, you can make this even a better Nation.

□ 1415

Together we have a great opportunity to work for the American people as their representatives. There is no higher honor and there is no greater responsibility. As we promise in solemn ceremony to uphold the Constitution by taking the oath of office, let us do so with the conviction that we renew the American government with each new Congress; that we will renew our efforts by working together, fighting about principle and searching for truth through debate.

Today, we are sworn in to represent the people. We participate in the greatest ongoing democratic ritual in the world. Let us always be mindful of our duties to our constituents and respectful of the traditions of this institution. Let us pray that God guides us in all that we do in these halls; that he gives us the knowledge to do the people's work, the strength to persevere, and the wisdom to know when to listen to what others say on this floor. May God bless this House.

Now, it is my time to do the people's business, and it is my great honor to recognize my good friend and colleague from the Committee on Commerce, whose legislative skills I admire so much.

I ask the Dean of the House of Representatives, the honorable gentleman from Michigan (Mr. DINGELL) to administer the oath.

Mr. DINGELL then administered the oath of office to Mr. HASTERT of Illinois, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

Mr. DINGELL. Congratulations.

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedents, the Chair will swear in all Members of the House at this time.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect rose, and the Speaker administered the oath of office to them as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now Members of the 107th Congress.

MAJORITY LEADER

Mr. WATTS of Oklahoma. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as their majority leader the gentleman from Texas, the Honorable RICHARD K. ARMEY.

MINORITY LEADER

Mr. FROST. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority leader the gentleman from Missouri, the Honorable RICHARD A. GEPHARDT.

MAJORITY WHIP

Mr. WATTS of Oklahoma. Mr. Speaker, as chairman of the Republican Conference, I am directed by the conference to notify the House officially that the Republican Members have selected as their majority whip the gentleman from Texas, the Honorable TOM DELAY.

MINORITY WHIP

Mr. FROST. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority whip the gentleman from Michigan, the Honorable DAVID E. BONIOR.

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, CHIEF ADMINISTRATIVE OFFICER, AND CHAPLAIN

Mr. WATTS of Oklahoma. Mr. Speaker, I offer a privileged resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1

Resolved, That Jeffrey J. Trandahl of the State of South Dakota, be, and is hereby, chosen Clerk of the House of Representatives;

That Wilson S. Livingood of the Commonwealth of Virginia be, and is hereby, chosen Sergeant at Arms of the House of Representatives;

That James M. Eagen, III, of the Commonwealth of Pennsylvania be, and is hereby, chosen Chief Administrative Officer of the House of Representatives; and

That Father Daniel P. Coughlin of the State of Illinois, be, and is hereby, chosen Chaplain of the House of Representatives.

Mr. FROST. Mr. Speaker, I have an amendment to the resolution, but before offering the amendment, I request that there be a division of the question on the resolution so that we may have a separate vote on the Chaplain.

The SPEAKER. The question will be divided.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

AMENDMENT OFFERED BY MR. FROST

Mr. FROST. Mr. Speaker, I offer an amendment to the remainder of the resolution.

The Clerk read as follows:

Amendment offered by Mr. FROST:

Resolved, That Dan Turton of the District of Columbia be, and is hereby, chosen Clerk of the House of Representatives;

That Steve Elmendorf of the District of Columbia be, and is hereby chosen Sergeant at Arms of the House of Representatives; and

That Moses Mercado of the District of Columbia be, and is hereby, chosen Chief Administrative Officer of the House of Representatives.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas (Mr. FROST).

The amendment was rejected.

The SPEAKER. The question is on the remainder of the resolution offered by the gentleman from Oklahoma (Mr. WATTS).

The remainder of the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Will the officers-elect present themselves in the well of the House?

The officers-elect presented themselves at the bar of the House and took the oath of office as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office of which you are about to enter. So help you God.

The SPEAKER. Congratulations. You have been sworn in as officers of the House.

NOTIFICATION TO SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 2) to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that J. Dennis Hastert, a Representative from the State of Illinois, has been elected Speaker; and Jeffrey J. Trandahl, a citizen of the State of South Dakota, has been elected Clerk of the House of Representatives of the One Hundred Seventh Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 3) authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1430

APPOINTMENT AS MEMBERS OF COMMITTEE TO NOTIFY THE PRESIDENT, PURSUANT TO HOUSE RESOLUTION 3

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT).

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 4) authorizing the Clerk to inform the President of the election of the Speaker and the Clerk, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected J. Dennis Hastert, a Representative from the State of Illinois, Speaker; and Jeffrey J. Trandahl, a citizen of the State of South Dakota, Clerk of the House of Representatives of the One Hundred Seventh Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RULES OF THE HOUSE

Mr. ARMEY. Mr. Speaker, by direction of the House Republican Conference, I call up a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundred Sixth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Sixth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Seventh Congress, with amendments to the standing rules as provided in section 2, and with other orders as provided in section 3.

SEC. 2. CHANGES IN STANDING RULES.

(a) PUBLICATION OF DOCUMENTS.—

(1) In clause 2(b) of rule II, strike "printed and".

(2) In clause 2(c)(3) of rule II, strike "printing and".

(3) In clause 2(c)(4) of rule II, strike "printed".

(4) In clause 2(e) of rule II, strike "printed and".

(5) In clause 2(f)(2) of rule II strike "or mail".

(6) In clause 2(f)(2) of rule II strike ", in binding of good quality,".

(b) Preparation of Enrolled Bills.—

(1) In clause 2(d) of rule II, designate the existing text as subparagraph (1) and insert thereafter the following new subparagraph:

"(2) The Clerk shall examine all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examine all bills and joint resolutions that have passed both Houses to see that they are correctly enrolled and forthwith present those bills and joint resolutions that originated in the House to the President in person after their signature by the Speaker and the President of the Senate, and report to the House the fact and date of their presentment.".

(2) In clause 4(d)(1) of rule X, strike subdivision (A), redesignate the succeeding subdivisions accordingly (and conform the subdivision-reference in subdivision (C), as redesignated).

(c) Responding to Subpoenas.—In rule VIII, strike "subpoena or other judicial order" in each of the nine places it appears and insert in lieu thereof (in each instance) "judicial or administrative subpoena or judicial order".

(d) Renaming of Committee on Commerce; Establishment of Committee on Financial Services.—In clause 1 of rule X—

(1) strike paragraph (d);

(2) redesignate paragraph (e) as paragraph (d);

(3) redesignate paragraph (g) as paragraph (e) and transfer that paragraph before paragraph (f);

(4) in paragraph (f)—

(A) strike "Commerce" and insert in lieu thereof "Energy and Commerce" (and conform the reference in clause 3(c) of rule X); and

(B) strike subparagraph (15) and redesignate the succeeding subparagraph accordingly; and

(5) insert the following new paragraph after paragraph (f):

"(g) Committee on Financial Services.

"(1) Banks and banking, including deposit insurance and Federal monetary policy.

"(2) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

"(3) Financial aid to commerce and industry (other than transportation).

"(4) Insurance generally.

"(5) International finance.

"(6) International financial and monetary organizations.

"(7) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

"(8) Public and private housing.

"(9) Securities and exchanges.

"(10) Urban development.".

(e) Enhanced Oversight Planning.—In clause 2(d)(1) of rule X, insert after subdivision (A) the following new subdivision (and redesignate the succeeding subdivisions accordingly):

"(B) review specific problems with federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;".

(f) Intelligence Oversight.—In clause 3 of rule X, add the following new paragraph at the end:

"(l) The Permanent Select Committee on Intelligence shall review and study on a continuing basis laws, programs, and activities of the intelligence community and shall review and study on an exclusive basis the sources and methods of entities described in clause 11(b)(1)(A).".

(g) Oversight of Officers.—

(1) In clause 4(d)(1) of rule X, amend subdivision (A) (as redesignated) to read as follows:

"(A) provide policy direction for the Inspector General and oversight of the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General;".

(2) In clause 4(a) of rule II strike "policy direction and".

(h) Size of Intelligence Committee.—In the second sentence of clause 11(a)(1) of rule X—

(1) strike "not more than 16" and insert in lieu thereof "not more than 18"; and

(2) strike "not more than nine" and insert in lieu thereof "not more than 10".

(i) Preserving Majority Quorum Requirements.—In clause 2(h)(3) of rule XI, strike "the reporting of a measure or recommendation" and insert in lieu thereof "one for which the presence of a majority of the committee is otherwise required".

(j) Clarification of Hearing Procedures.—In clause 2(k) of rule XI—

(1) in the caption, strike "investigative";

(2) in subparagraph (1)—

(A) strike "an investigative hearing" and insert in lieu thereof "a hearing"; and

(B) strike "investigation" and insert in lieu thereof "hearing";

(3) in subparagraph (2), strike "to each witness" and insert in lieu thereof "to each witness on request";

(4) in subparagraph (3) strike "investigative"; and

(5) in subparagraph (5)—

(A) strike "an investigative hearing" and insert in lieu thereof "a hearing";

(B) strike "asserted" and insert in lieu thereof "asserted by a member of the committee"; and

(C) strike "any person" and insert in lieu thereof "any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness".

(k) Certain Supplemental Reports Without Additional Layover.—In clause 3(a)(2) of rule XIII, add the following new sentence at the end: "A supplemental report only correcting errors in the depiction of record votes under paragraph (b) may be filed under this subparagraph and shall not be subject to the requirement in clause 4 concerning the availability of reports.".

(l) Performance Goals and Objectives.—

(1) In clause 3(c) of rule XIII, amend subparagraph (4) to read as follows:

"(4) A statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.".

(2) In clause 4(c)(2) of rule X, strike "matter involved" and all that follows and insert in lieu thereof "matter involved.".

(m) Report Detail on Unauthorized Appropriations.—In clause 3(f)(1) of rule XIII, amend subdivision (B) to read as follows:

"(B) a list of all appropriations contained in the bill for expenditures not currently authorized by law for the period concerned (excepting classified intelligence or national security programs, projects, or activities), along with a statement of the last year for which such expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.".

(n) Corrections Calendar.—

(1) In clause 4(a)(2) of rule XIII, insert after subdivision (B) the following new subdivision (and redesignate the succeeding subdivisions accordingly):

"(C) a bill called from the Corrections Calendar under clause 6 of rule XV;".

(2) In clause 6(a) of rule XV, strike "that has been on the Corrections Calendar for three legislative days" and insert in lieu thereof "that is printed on the Corrections Calendar".

(o) Objections to Exhibits.—In clause 6 of rule XVII, strike "its use shall be decided without debate by a vote of the House" and insert in lieu thereof "the Chair, in his discretion, may submit the question of its use to the House without debate".

(p) Postponing Requests for Recorded Votes on Amendments in Committee of Whole.—In clause 6 of rule XVIII, add the following new paragraph at the end:

"(g) The Chairman may postpone a request for a recorded vote on any amendment. The Chairman may resume proceedings on a postponed request at any time. The Chairman may reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.".

(q) Naming of Public Works.—In rule XXI, add the following new clause at the end:

"Designations of public works"

"6. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that provides for the designation or redesignation of a public work in honor of an individual then serving as a Member, Delegate, Resident Commissioner, or Senator.".

(r) Motions Instructing Conferees.—

(1) In clause 7 of rule XXII, in subparagraph (c)(1), strike "first legislative".

(2) In clause 7 of rule XXII, in subparagraph (c)(1)—

(A) strike the dash after "privileged";

(B) strike the designations of subdivisions (A) and (B); and

(C) strike "; and" and insert in lieu thereof ", but only".

(3) In clause 7 of rule XXII, redesignate paragraph (d) as paragraph (e) and insert the following new paragraph after paragraph (c):

"(d) Instructions to conferees in a motion to instruct or in a motion to recommit to conference may not include argument.".

(s) Repeal of Automatic Public-Debt Measure.—

(1) Strike rule XXIII and redesignate the succeeding rules accordingly.

(2) In clause 4(f)(2) of rule X, strike "budget" and all that follows and insert in lieu thereof "budget.".

(3) In clause 9(b)(2) of rule X, strike "rule XXIV" and insert in lieu thereof "rule XXIII".

(4) In clause 3(a)(5) of rule XI, strike "rule XXIV" and insert in lieu thereof "rule XXIII".

(5) In clause 4 of rule XXIII (as redesignated), strike "rule XXVI" and insert in lieu thereof "rule XXV".

(6) In clause 5 of rule XXIII (as redesignated), strike "rule XXVI" and insert in lieu thereof "rule XXV".

(7) In clause 12(a) of rule XXIII (as redesignated), strike "rule XXVII" and insert in lieu thereof "rule XXVI".

(t) PROHIBITION ON PAID EMPLOYMENT OF SPOUSE.—In clause 8 of rule XXIII (as redesignated), add the following new paragraph at the end:

"(c)(1) Except as specified in subparagraph (2)—

"(A) a Member, Delegate, or Resident Commissioner may not retain his spouse in a paid position; and

"(B) an employee of the House may not accept compensation for work for a committee on which his spouse serves as a member.

"(2) Subparagraph (1) shall not apply in the case of a spouse whose pertinent employment predates the One Hundred Seventh Congress.".

(u) OATHS CONCERNING CLASSIFIED INFORMATION.—In clause 13 of rule XXIII (as redesignated), add the following new sentence at the end: "The Clerk shall make signatures a matter of public record, causing the names of each Member, Delegate, or Resident Commissioner who has signed the oath during a week (if any) to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of the week and making cumulative lists of such names available each day for public inspection in an appropriate office of the House.".

(v) ACTIVITIES OF CONSULTANTS.—In clause 14(b) of rule XXIII (as redesignated), add the following new sentences at the end: "An individual whose services are compensated by the House pursuant to a consultant contract may not lobby the contracting committee or the members or staff of the contracting committee on any matter. Such an individual may lobby other Members, Delegates, or the Resident Commissioner or staff of the House on matters outside the jurisdiction of the contracting committee.".

(w) CLARIFICATION OF TERMS IN GIFT RULE.—

(1) In clause 4(a)(1) of rule XXV (as redesignated), strike "; and" and insert in lieu thereof a period.

(2) In clause 4(a)(2) if rule XXV (as redesignated), strike "(2) when" and insert in lieu thereof "(2)(A) When".

(3) After clause 4(a)(2)(A) of rule XXV (as redesignated), insert the following new subdivision:

"(B) When used in clause 5 of this rule, the terms 'officer' and 'employee' have the same meanings as in rule XXIII.".

(4) In clause 5(e)(1) of rule XXV (as redesignated), strike "and" after subparagraph (1).

(5) At the end of clause 5(e)(2) of rule XXV (as redesignated), strike the period and insert in lieu thereof "; and".

(6) After clause 5(e)(2) of rule XXV (as redesignated), insert the following new subparagraph:

"(3) the terms 'officer' and 'employee' have the same meanings as in rule XXIII.".

(x) TECHNICAL CORRECTIONS IN RECODIFICATION.—

(1) In clause 3(a) of rule VII, strike "paragraph (b), clause 4," and insert in lieu thereof "clause 4(b)".

(2) In clause 5(a) of rule VII, strike "clause 9" and insert in lieu thereof "clause 11".

(3) In clause 7(b) of rule X, strike "under this paragraph".

(4) In clause 7(d) of rule X, strike "this paragraph" and insert in lieu thereof "this clause".

(5) In clause 7(e) of rule X, strike "this paragraph" and insert in lieu thereof "this clause".

(6) In clause 7(f)(1) of rule X, strike "this paragraph" and insert in lieu thereof "this clause".

(7) In clause 7(f)(2) of rule X, strike "this paragraph" and insert in lieu thereof "this clause".

(8) In clause 9(g) of rule X, strike "paragraph (a) of clause 6" and insert in lieu thereof "clause 6(a)".

(9) In clause 11(d)(1) of rule X, strike "clauses 6(a), (b), and (c) and 8(a), (b), and (c) of this rule" and insert in lieu thereof "clauses 8(a), (b), and (c) and 9(a), (b), and (c) of this rule".

(10) In clause 2(m)(1) of rule XI, strike "subparagraph (2)(A)" and insert in lieu thereof "subparagraph (3)(A)".

(11) In clause 7(a) of rule XII, strike "All other bills" and insert in lieu thereof "Bills".

(12) In clause 1 of rule XIV, strike "clause 9(a)" and insert in lieu thereof "clause 8".

(13) In clause 3 of rule XIV, strike "clause 9" and insert in lieu thereof "clause 8".

(14) In clause 2(c) of rule XV, strike "printed with the signatures" and insert in lieu thereof "published with the signatures".

(15) In clause 8(c) of rule XVIII, strike "this rule" and insert in lieu thereof "this clause".

(16) In clause 8(b) of rule XXIII (as redesignated), strike "clause 7" and insert in lieu thereof "clause 9" in both places where it appears.

SEC. 3. SEPARATE ORDERS.

(a) STANDARDS COMMITTEE RULES.—For the One Hundred Seventh Congress, each provision of House Resolution 168 of the One Hundred Fifth Congress that was not executed as a change in the standing rules is hereby reaffirmed (except that, notwithstanding section 13 of that resolution, the chairman and ranking minority member of the Committee on Standards of Official Conduct may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee).

(b) BUDGET ENFORCEMENT.—

(1) During the One Hundred Seventh Congress, references in section 306 of the Congressional Budget Act of 1974 to a resolution shall be construed in the House of Representatives as references to a joint resolution.

(2) During the One Hundred Seventh Congress, in the case of a reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be.

(3) During the One Hundred Seventh Congress, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority within the meaning of the Congressional Budget Act of 1974.

(c) CERTAIN SUBCOMMITTEES.—Notwithstanding clause 5(d) of rule X, during the One Hundred Seventh Congress—

(1) the Committee on Government Reform may have not more than eight subcommittees;

(2) the Committee on International Relations may have not more than six subcommittees; and

(3) the Committee on Transportation and Infrastructure may have not more than six subcommittees.

(d) NUMBERING OF BILLS.—In the One Hundred Seventh Congress, the first 10 numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate when introduced during the first session.

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. ARMEY) is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri (Mr. GEPHARDT), or his designee, pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, I ask unanimous consent that the time allocated to me be controlled by the gentleman from California (Mr. DREIER).

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to extend congratulations, a happy new year, and my appreciation to the majority leader for his fine leadership.

Mr. Speaker, the comprehensive changes we are proposing in H. Res. 5 seek to build on the successful institutional reform accomplishments of the past 6 years, which have helped to make the House more accountable and have strengthened our ability to govern effectively and responsibly.

As you will recall, Mr. Speaker, we streamlined the committee system, made Congress compliant with antidiscrimination and workplace safety laws, established term limits for committee chairmen, completely abolished proxy voting, opened committee meetings to the public and press, modernized the rules of the House to make them more understandable, and consolidated the number of standing rules from 51 to 28, soon to be 27 if H. Res. 5 is adopted.

Also, thanks to the leadership of our colleagues, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. EHLERS), our investments in technology are transforming the culture, operations, and responsibilities of Congress in a very positive way.

With that having been said, I want to describe some of the more significant positive rules changes we are proposing to the standing rules of the House, and those are contained in section 1 of the resolution.

In an effort to reduce printing costs and provide for the more timely distribution of them, section 2(a) of the resolution amends clause 2 of rule II to encourage the electronic publication and distribution of executive branch reports and House Journals and Calendars, while still allowing Members to receive printed copies of these documents.

In what is obviously one of our most significant changes, Mr. Speaker, section 2(d) of the resolution establishes a new Committee on Financial Services, which will have jurisdiction over the following matters:

(1) banks and banking, including deposit insurance and Federal monetary policy;

(2) economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services;

(3) financial aid to commerce and industry (other than transportation);

(4) insurance generally;

(5) international finance;

(6) international financial and monetary organizations;

(7) money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar;

(8) public and private housing;

(9) securities and exchanges; and

(10) urban development.

Mr. Speaker, jurisdiction over matters relating to securities and exchanges is transferred in its entirety from the Committee on Commerce, which will be redesignated under this rules change to the Committee on Energy and Commerce, and it will be transferred from the new Committee on Energy and Commerce to this new Committee on Financial Services. This transfer is not intended to convey to the Committee on Financial Services jurisdiction currently in the Committee on Agriculture regarding commodity exchanges.

Furthermore, this change is not intended to convey to the Committee on Financial Services jurisdiction over matters relating to regulation and SEC oversight of multi-state public utility holding companies and their subsidiaries, which remain essentially matters of energy policy.

Mr. Speaker, as a result of the transfer of jurisdiction over matters relating to securities and exchanges, redundant jurisdiction over matters relating to bank capital markets activities generally and depository institutions securities activities, which were formerly matters in the jurisdiction of the Committee on Banking and Financial Services, have been removed from clause 1 of rule X.

Matters relating to insurance generally, formerly within the jurisdiction of the redesignated Committee on Energy and Commerce, are transferred to the jurisdiction of the Committee on Financial Services.

The transfer of any jurisdiction to the Committee on Financial Services is not intended to limit the Committee on Energy and Commerce's jurisdiction over consumer affairs and consumer protection matters.

Likewise, existing health insurance jurisdiction is not transferred as a result of this change.

Furthermore, the existing jurisdictions of other committees with respect to matters relating to crop insurance, Workers' Compensation, insurance anti-trust matters, disaster insurance, veterans' life and health insurance, and national social security are not affected by this change.

Finally, Mr. Speaker, the changes and legislative history involving the Committee on Financial Services and the Committee on Energy and Commerce do not preclude a future memorandum of understanding between the chairmen of these respective committees.

The reasons for establishing a new Committee on Financial Services are compelling. It reflects the coordinated and comprehensive approach to financial services that is emerging in the wake of the Gramm-Leach-Bliley Act. It demonstrates and communicates a level of understanding that will increase market confidence in our ability to comprehend the increasingly integrated nature of the financial services market.

It will strengthen congressional oversight of financial regulators and enterprises and will put the House of Representatives in a better position to address the marketplace inequities caused by the Federal Government's slow response to change.

Now, Mr. Speaker, there are a number of other significant positive changes included in H. Res. 5. To enhance oversight planning, section 2(e) of the resolution amends clause 2(d)(1) of rule X to require committees to consider bills that will make candidates for the Corrections Calendar procedure in their initial legislative and oversight planning process.

Section 2(g) amends clause 4(d)(1) of rule X and clause 4(a) of rule II to clarify that the Committee on House Administration provides policy direction only for the Inspector General and not other officers of the House. We have professional officers, and we want to give them more authority over their operations.

In a further attempt to improve policy and programmatic oversight, section 2(l) amends clause 3(c) of rule XIII clause 4(c) of rule X to repeal the requirement that committee reports include a summary of oversight findings and recommendations by the Committee on Government Reform, if timely submitted.

That requirement is replaced with a new requirement that committee reports include a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

The purpose of this change is to strengthen the existing procedures and rules governing committee reports to ensure the development of more clearly defined performance goals and objectives, including outcome-related goals and objectives for the programs, and to the extent possible, projects or activities authorized under the act.

Consistent with this intent, the statements should be similar to the performance goals model established in the Government Performance and Results Act. More specifically, when applicable, all performance goal statements should: (1) describe goals in an objective, quantifiable, and measurable form; (2) describe the resources required to meet the goals; (3) establish performance indicators to measure outputs or outcomes; and (4) provide a basis for comparing actual program results with performance goals.

As a result of the expanded reporting requirements in section 2(m) of the resolution, the amount and usefulness of information available to Members regarding unauthorized appropriations will be expanded. The amendment to clause 3(f)(1) of rule XIII would apply to all unauthorized appropriations with the exception of programs, projects, or activities that are classified for the purpose of protecting national security.

Section 2(r) amends clause 7 of rule XXII to prohibit the use of argument in the form of a motion to instruct conferees or a motion to recommit a conference report. These motions are instructive motions, not debating motions. Motions to instruct are debatable once they are pending before the House, but not while they are being offered. Motions to recommit with instructions are debatable during the hour allotted on the conference report.

House Rule XXIII regarding the statutory limit on the public debt will be replaced by section 2(s) of the resolution, and the total number of House rules will drop from 28 to 27. This will restore accountability to the budget process by having an up or down vote on any statutory increase in the public debt.

Section 2(u) of the resolution requires the Clerk of the House to release information concerning Members' executions of the oath regarding classified information. Right now there is no way to find out who has or has not signed the secrecy oath.

For the most part, the remaining provisions of the section are technical, conforming, or clarifying in nature.

Section 3 of the resolution consists of "Separate Orders" which do not change any of the standing rules of the House. These are more or less housekeeping provisions which deem certain actions or waive the application of certain rules of the House.

For example, on September 18, 1997, the House adopted the recommendations of a 12-member bipartisan task force on ethics reform with certain amendments, which included not only changes to the standing rules of the House but also freestanding directives to the Committee on Standards of Official Conduct.

Those freestanding directives address committee agenda, committee staff, meetings and hearings, public disclosure, requirements to constitute a complaint, duties of the chairman and ranking member, investigative and adjudicatory subcommittees, standard of proof for adoption of statement of alleged violation, subcommittee powers, due process rights of respondents, and committee reporting requirements.

In order to have force and effect in the 107th Congress, the freestanding provisions of H. Res. 168 are being carried forward by section 3(a) of the resolution.

However, notwithstanding section 13 of H. Res. 168, the chairman and ranking minority member of the Committee on Standards of Official Conduct may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with which they so consult, and shall not thereby be precluded from serving as full voting members of any adjudicatory subcommittee.

Section 3(c) of the resolution provides a limited number of exemptions to clause 5(d) of rule X regarding the limitation on the number of subcommittees a committee may establish.

On November 13, 1997, the House approved H. Res. 326, which provided an exception for the Committee on Government Reform to temporarily establish an eighth subcommittee for the remainder of the 105th Congress.

H. Res. 5 in the 106th Congress allowed the Committee to again establish an eighth subcommittee to accommodate the need for extensive oversight over the census.

□ 1445

Section 2(c) of this resolution grants the Committee on Government Reform another waiver of clause 5(d) of rule X to permit an eighth subcommittee for the duration of the 107th Congress.

In addition, section 2(c) allows the Committee on Transportation and Infrastructure and the Committee on International Relations to establish six subcommittees notwithstanding the requirement of clause 5(d)(2) of rule X that a committee may have a sixth subcommittee if it maintains a subcommittee on oversight.

At this point, Mr. Speaker, I would like to include for the RECORD a more detailed section-by-section summary, although I doubt that that is possible, of H. Res. 5 as well as other relevant material.

SECTION-BY-SECTION SUMMARY OF H. RES. 5—ADOPTING HOUSE RULES FOR THE 107TH CONGRESS

SECTION 1. RESOLVED CLAUSE

The rules of the House of Representatives for the 106th Congress are adopted as the rules of the House of the 107th Congress with amendments as provided in section 2, and with other orders provided in section 3.

SECTION 2. CHANGES IN STANDING RULES

(a) Publication of Documents. The rules regarding the responsibilities of the Clerk of the House with respect to the printing or methods of distributing executive branch reports, the House Journal and calendars of the House are modified generically to encompass alternative forms of publication and distribution. [Rule II, clause 2]

(b) Preparation of Enrolled Bills. The responsibility for examining all bills, amendments and joint resolutions after passage by the House, and for examining all bills and joint resolutions that have passed both Houses of Congress to see that they are correctly enrolled and presented to the President will be transferred from the Committee on House Administration to the Clerk of the House. [Rule II, clause 2(d); Rule X, clause 4(d)(1)]

(c) Responding to Subpoenas. The rules addressing responses to the legal process are clarified to reflect the current interpretation that such rules apply to both judicial orders and administrative subpoenas. [Rule VIII]

(d–1) Establishment of Committee on Financial Services. The Committee on Banking and Financial Services is abolished and a new Committee on Financial Services is established consisting of the jurisdiction of the old Committee on Banking and Financial Services, and jurisdiction over securities and exchanges and insurance generally (which is transferred from the Committee on Commerce). [Rule X, clause 1]

(d–2) Renaming of Committee on Commerce. The Committee on Commerce is redesignated as the Committee on Energy and Commerce. [Rule X, clause 1]

(e) Enhanced Oversight Planning. Committees are required to include in the oversight plans they adopt at the beginning of each Congress a review of specific problems with federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or impose a severe financial burden on individuals. This review would be the basis for the consideration of bills that may be candidates for the Corrections Calendar procedure. [Rule X, clause 2(d)(1)]

(f) Intelligence Oversight. The Permanent Select Committee on Intelligence is to have exclusive oversight responsibility over the sources and methods of the core intelligence agencies. [Rule X, clause 3]

(g) Oversight of Officers. The Committee on House Administration will provide policy direction only for the Inspector General and not for other officers of the House. The Committee will retain all oversight responsibilities over the Clerk, Sergeant-at-Arms, and Chief Administrative Officer. [Rule X, clause 4(d)(1)(b); rule II, clause 4(a)]

(h) Size of Intelligence Committee. The size of the Permanent Select Committee on Intelligence will be increased from not more than 16 Members to not more than 18 Members, of which no more than 10 may be from the same party. [Rule X, clause 11]

(i) Preserving Majority Quorum Requirements. The requirement for a majority quorum for ordering a measure reported, the release of executive session material, the issuance of subpoenas, and determining if evidence or testimony may tend to defame, degrade, or incriminate any person is clarified with conforming language. [Rule XI, clause 2(h)(3)]

(j) Clarification of Hearing Procedures. The procedures for committee hearings are modified to: resolve an unintended implication about hearings labeled as something other than investigative; clarify that a copy of the committee rules and hearing procedures shall be made available to each witness "upon request;" and clarify that an assertion that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person must be made either by a Member of the committee or by a witness at a hearing. [Rule XI, clause 2(k)]

(k) Certain Supplemental Reports Without Additional Layover. A committee may file a supplemental report without additional layover to correct errors in the depiction of record votes in committee. [Rule XIII, clause 3(a)(2)]

(l) Performance Goals and Objectives. The requirement that committee reports include a summary of oversight findings and recommendations by the Committee on Government Reform, if timely submitted, is repealed and replaced with a new requirement that committee reports include a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding. [Rule XIII, clause 3(c); rule X, clause 4(c)(2)]

(m) Report Detail on Unauthorized Appropriations. The reporting requirements for unauthorized appropriations are expanded to include a statement of the last year for which the expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures. [Rule XIII, clause 3(f)(1)]

(n) Corrections Calendar. On the second and fourth Tuesdays of a month, a bill that is printed in the Corrections Calendar section of the daily calendar may be considered without further layover. [Rule XIII, clause 4(a)(2); rule XV, clause 6(a)]

(o) Objections to Exhibits. When the use of an exhibit in debate is objected to, the requirement that the question of its use be decided without debate by a vote of the House is modified to provide discretion to the Chair to submit the question of its use to the House without debate. [Rule XVII, clause 6]

(p) Postponing Requests for Recorded Votes on Amendments in Committee of the Whole. The current practice of providing authority, through special rules, to the Chair to postpone votes on amendments in the Committee of the Whole, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote, is made permanent. [Rule XVIII, clause 6]

(q) Naming of Public Works. It shall not be in order to consider a bill, joint resolution, amendment, or conference report that provides for the designation or redesignation of a public work in honor of an individual then serving as a Member, Delegate, Resident Commissioner, or Senator. [Rule XXI]

(r) Motions Instructing Conferees. The intended operation of the rule to avoid noticing a 20-day motion to instruct on the first legislative day of a week is restored, and the elements of privilege are restated to clarify that they operate in tandem and not independently. Further, instructions to conferees in any motion may not include argument. [Rule XXII, clause 7]

(s) Repeal of Automatic Public-Debt Measure. The rule regarding the statutory limit on the public debt is repealed, and the succeeding rules are redesignated accordingly. [Rule XXIII]

(t) Prohibition on Paid Employment Spouse. The application of the provisions of section 3110 of Title V of the U.S. Code as it relates to Members of the House is prospectively strengthened. [Rule XXIV, clause 8 (redesignated as rule XXIII, clause 8)]

(u) Oaths Concerning Classified Information. The requirement that a Member, Delegate, or Resident Commissioner sign a secrecy oath before having access to classified information is modified to require the Clerk of the House to make such signatures a matter of public record, publish new signatures, if any, in the Congressional Record on the last legislative day of the week, and make cumulative lists of such names available each day for public inspection in an appropriate office of the House. [Rule XXIV, clause 13 (redesignated as rule XXIII)]

(v) Activities of Consultants. The prohibition against representing a third party or interest by individuals whose services are compensated by the House pursuant to a consultant contract is limited to the contracting office or committee, including its staff. Such individuals will continue to be considered employees of the House for purposes of other applicable provisions of the Code of Conduct. [Rule XXIV, clause 14 (redesignated as rule XXIII)]

(w) Clarification of Terms in Gift Rule. In the gift rule, the definition of "employee" is clarified to cover all employees of the House, not the narrower meaning assigned for purposes of the limitations on outside earned income. [Rule XXVI, clause 4(a) and 5(e) (redesignated as rule XXV)]

(x) Technical Corrections in Recodification. Technical and grammatical changes are made throughout the rules of the House to correct changes that were made as a result of the recodification of the House rules at the beginning of the 106th Congress.

SECTION 3. SEPARATE ORDERS.

(a) Standards Committee Rules. The freestanding directives of H. Res. 163 of the 105th Congress (sections 3, 4, 5, 7, 10, 11, 12, 13, 14, 15, 16, 17, 20, and 21) regarding ethics reform shall be carried forward in the 106th Congress. However, notwithstanding section 13 of that resolution, the chairman and ranking minority member of the Committee on Standards of Official Conduct may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee.

(b) Budget Enforcement. During the 107th Congress, references in section 306 of the Congressional Budget Act of 1974 to a resolution shall be construed in the House of Representatives as references to a joint resolution. In the case of reported bill or joint resolution considered pursuant to a special order of business, a point of order under section 303 of the Congressional Budget Act of 1974 shall be determined on the basis of the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be. During the 107th Congress, a provision in a bill or joint resolution, or in an amendment thereto or a conference report thereon, that establishes prospectively for a Federal office or position a specified or minimum level of compensation to be funded by annual discretionary appropriations shall not be considered as providing new entitlement authority within the meaning of the Congressional Budget Act of 1974.

(c) Certain Subcommittees. Notwithstanding clause 5(d) of rule X, during the 107th Congress the Committee on Government Reform may have not more than eight subcommittees; the Committee on International Relations may have not more than six subcommittees; and the Committee on Transportation and Infrastructure may have not more than six subcommittees.

(d) Numbering of Bills. In the 107th Congress, the first 10 numbers for bills (H.R. 1 through H.R. 10) shall be reserved for assignment by the Speaker to such bills as he may designate when introduced during the first session.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Happy new year, and happy new year to my chairman.

Mr. Speaker, last fall's election was a record breaker. Votes for everything from President down to State legislators were closer than ever before. If the voters told us anything on November 7, it was we have to work together. The only mandate this Congress and the White House have is to put aside our differences and get things done. But, Mr. Speaker, that mandate of cooperation is not reflected in this Republican rules package.

This rules package skews committee ratios so much in favor of the Republicans that you would think they had won by a landslide while in fact, Mr. Speaker, their majority in the House is less than 2 percent. Many Americans believe that if the Republicans in Congress have barely more than 50 percent of the vote, then the Republicans should get no more than 51 percent of the committee slots and resources. But one look at this rules package shows that that is not the case.

Mr. Speaker, I include for the CONGRESSIONAL RECORD the following two charts detailing the skewed committee ratios.

If Republicans, with a 51.3 percent majority in the House, maintain the same committees at the same size they were in the 106th Congress but use a committee ratio reflecting the ratio in the House (and keep all Republicans currently on each committee), the following numbers of additional Democrats would have committee seats:

Committee	New ratio	Added Democratic seats
Agriculture	27-26	+2
Appropriations	34-33	+6
Armed Services	32-31	+3
Banking	32-31	+3
Budget	24-23	+4
Commerce	29-28	+4
Education	27-26	+4
Government Reform	24-23	+4
House Administration	6-5	+2
International Relations	26-25	+2
Judiciary	21-20	+4
Resources	28-27	+3
Science	25-24	+2
Small Business	19-18	+1
Transportation	41-40	+6
Veterans	17-16	+2
Ways and Means	23-22	+6

House Committee Party Ratios

106th Congress	Total	Seat Edge	Distribution of seats				Independent	Difference in % Committee majority compared to % House majority
			Members		Percentage			
			Majority (R)	Minority (D)	Majority (R)	Minority (D)		
Total House Members	435	12	223	211	51.26	48.51	1	....
Total Committee Seats	835	83	458	375	54.85	44.91	2	3.59
COMMITTEE								
Agriculture	51	3	27	24	52.94	47.06	....	1.68
Appropriations	61	7	34	27	55.74	44.26	....	4.47
Armed Services	60	4	32	28	53.33	46.67	....	2.07
Banking and Financial Services	60	5	32	27	53.33	45.00	1	2.07
Budget	43	5	24	19	55.81	44.19	....	4.55
Commerce	53	5	29	24	54.72	45.28	....	3.45
Education and the Workforce	49	5	27	22	55.10	44.90	....	3.84
Government Reform	44	5	24	19	54.55	43.18	1	3.28
House Administration	9	3	6	3	66.87	33.33	....	15.40
International Relations	49	3	26	23	53.06	46.94	....	1.80
Judiciary	37	5	21	16	56.76	43.24	....	5.49
Resources	52	4	28	24	53.85	46.15	....	2.58
Rules	13	5	9	4	69.23	30.77	....	17.97
Science	47	3	25	22	53.19	46.81	....	1.93

House Committee Party Ratios—Continued

106th Congress	Total	Seat Edge	Distribution of seats				Independent	Difference in % Committee majority compared to % House majority
			Members		Percentage			
			Majority (R)	Minority (D)	Majority (R)	Minority (D)		
Small Business	36	2	19	17	52.78	47.22	....	1.51
Standards of Official Conduct	10	0	5	5	50.00	50.00	....	−1.26
Transportation and Infrastructure	75	7	41	34	54.67	45.33	....	3.40
Veterans' Affairs	31	3	17	14	54.84	45.16	....	3.57
Ways and Means	39	7	23	16	58.97	41.03	....	7.71
Permanent Select on Intelligence	16	2	9	7	56.25	43.75	....	4.99

Source for data are Congressional Yellow Book, and Vital Statistics on Congress, 1999–2000.
Delegates and Resident Commissioner are included in the committee ratios.
For consistency, vacancies are counted in overall total and party totals.
Percentages were calculated by computer, and reflect rounding.
In some instances, published source may indicate unfilled vacancy.
Ratios do not reflect post-election resignations.

Last Congress when the majority party was entitled to 51 percent of the seats, my Republican colleagues took 59 percent of the seats on Ways and Means, they took 57 percent of the seats on Judiciary, and they took almost 56 percent of the seats on the Committee on the Budget.

Mr. Speaker, in addition to being unfair, those committee ratios denied millions of Americans their right to representation on specific congressional committees. And my Republican colleagues are about to do that again in this Congress when the majority is even slimmer than it was last year. But I think it is better to put it this way, Mr. Speaker: If the ratios on the committees were to reflect the ratio in the House this Congress, 58 more Democratic districts would have their representatives seated at the committee tables. Even my dear friend, my chairman, the gentleman from California (Mr. DREIER) signed a joint committee report saying, and I quote, committee seats should be allocated to reflect the overall ratio of the House. Of course, that was a different time and a different place.

Up until 6 years ago, my Republican colleagues regularly included requirements for fair committee ratios in their rules packages. That is, Mr. Speaker, until they became the majority. Mr. Speaker, while millions of Americans will lose their voice first in congressional committees, millions more lost their voices during this past presidential election. Perhaps more important than anything else we do in Washington would be to restore America's confidence in the election process. But, Mr. Speaker, that too is missing from this Republican rules package.

Nowhere is there a mention of what happened during this Presidential election. Nowhere is there a call on Congress to fix our flawed election process. Nowhere is there a recognition of the urgent need to restore people's confidence in American elections. Mr. Speaker, in just 3 days, a joint session of Congress will count the votes of the Presidential electors and declare the winner of the Presidential election. Millions of Americans are questioning that election and demanding action. Mr. Speaker, this rules package fails to take any action on their behalf.

That is why, Mr. Speaker, I am urging my colleagues to support the Democratic rules package. Our rules package includes the Republican proposals for committee ratios from the 102nd and the 103rd Congresses. Our rules package also takes steps to reform our election process. It gives the Committee on the Judiciary until March 1 to recommend ways to ensure that all eligible Americans who vote shall have their votes counted, especially our military personnel who vote by absentee ballots.

Mr. Speaker, even though the next set of Federal elections is 2 years off, we really need to get started right away making sure that everyone's vote is counted and counted fairly. Fair elections are the foundation on which our democracy is built and there is nothing more important than ensuring that this process be as fair as possible.

Mr. Speaker, I urge my colleagues to support the motion to commit. If the motion to commit passes, we will have adopted the Democratic amendments to the rules of the 107th Congress. Our amendments will improve the way we conduct elections and ensure more fair committee ratios.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the pending rules package proposes to amend clause 3 of rule X to give the House Permanent Select Committee on Intelligence the "exclusive" authority to "review the sources and methods of entities described in clause 11(b)(1)(A)." Included in that list is the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947. The term National Foreign Intelligence Program, as defined by the 1947 Act, "refers to all programs, projects, and activities of the intelligence community, which includes the Treasury Department, the Federal Bureau of Investigation, and other governmental agencies that impact matters within the jurisdiction of the Committee on the Judiciary." See 50 U.S.C. 401a(4). As you know, pursuant to House rule X, the House Committee on the Judiciary has jurisdiction over all provisions of criminal law, espionage, and subversive activities affecting the internal security of the United States.

Will the adoption of these proposed changes alter in any way the oversight jurisdiction of the Committee on the Judiciary?

I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. I thank the gentleman for his inquiry. The House should know that this change is not meant to circumscribe in any way, shape, or form the oversight or legislative jurisdiction of the House Committee on the Judiciary. As an ardent supporter of programmatic oversight, it is my intention that the Committee on the Judiciary continue to vigorously and fully pursue those matters within its oversight jurisdiction. The proposed rules change will not hamper your oversight efforts in this regard.

Mr. HYDE. I thank the gentleman for his explanation.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House, and the ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I have heard a great deal of talk about how this is going to be a new and a different and a better Congress. I have heard a lot of people tell me about how we are going to proceed to have bipartisanship and cooperation and conciliation. I would observe to the Members of this body that the system will work if we have cooperation, conciliation, and compromise. I would add to that one thing more: Consultation. It would be nice if the majority would talk to the minority about their plans and about what they are doing. It would be even nicer if they would let us talk to them about what we are doing here and to be consulted and to have an actual discussion about what rules are going to obtain.

These rules are interesting. I have been writing rules in this place for a long time. I would note to my colleagues that in these rules are a number of interesting things, massive changes in the jurisdiction of the Committee on Commerce. No discussion with the minority on that matter whatsoever. No justification for what has been done here. We are simply informed, "This is what we are going to do to you."

I would observe that the jurisdiction that is being transferred from the Committee on Commerce is jurisdiction which was created by Sam Rayburn 60 or 70 years ago and that has been exercised vigorously and well by the Committee on Commerce all during those times. And that never has there been a scandal in that particular line of jurisdiction because the Committee on Commerce has always seen to it that the interests of the American investors were protected.

I would note that the committee across the hall, the Banking Committee, has presided over some splendid scandals in the area of banking and savings and loans and has never understood what was going on. Taxpayers have ponied up at least $500 billion because of the incompetence and indifference of that committee. And now we are transferring the jurisdiction over securities to the Banking Committee so that they may conduct the business of the securities industry in precisely the same way they have supervised the business of the banking and the savings and loan industries.

I would simply tell my colleagues, you have created the opportunity for splendid scandals and you have created something else: You have made your choice of fools, and I should say that you should now look forward to a splendid disaster. It is coming.

The other things which have been done which I think are noteworthy here are that you have changed the rules on motions to recommit. I do not know whether you have done this for the same reason that you have made the changes in the jurisdiction of the Committee on Commerce. You did that to take care of one Member. One Member. Not the interests of the House, not the interests of the banking industry or the securities industry or indeed the interests of the investors of the United States. I hope there is a good reason you have done this other than to make it more difficult for the minority to express its will or to have this House have votes on matters of important questions.

You have also done some other things. You have continued to constrain the minority in its ability to write reports critical of what they conceive to be wrongdoing or failures in legislation by saying to it that only 2 days will exist for the minority to come forward with complaints with the content of legislation. Is this the kind of good will? Is this the kind of cooperation, conciliation, and is it the kind of action that we are hearing when we are talking about having compromise and cooperation and bipartisanship? I think not. If we are to work together, and I would remind my colleagues on the majority side, there are only a few seats' difference between the Members on this side and on the other side. If you want to have a President who was elected by the narrowest margin in history and whose tenure as a legitimate President is, in fact, open to question because of the curious manipulations of the Supreme Court and because of the way in which the election in Florida was conducted and counted and handled to succeed and to be able to talk about bipartisanship and cooperation, this is not the way that you begin the affairs of this Congress.

I did not intend to make an angry speech, and I would like my colleagues to know this is not an angry speech. This is a speech of sorrow and sadness because the majority is throwing away the good will that they are going to need to have a bipartisan Congress run with cooperation, conciliation, and compromise which the American people both need and want.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I would like to ask some questions, perhaps in the form of a colloquy, of the chairman of the Committee on Rules about the changes which we are facing between committees. I am a member of the Banking Committee and the details elude me. First about the insurance question. In establishing the question on financial services, this resolution adds a term, and I quote, "insurance generally" to the jurisdiction of that committee. However, no such jurisdiction existed in rule X in the 106th Congress.

Can you describe for me what the term "insurance generally" is intended to convey?

□ 1500

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from California.

Mr. DREIER. Let me say, and I thank the gentleman for his question, matters relating to insurance generally are intended to include matters, for example, that have an impact on the policy holder, the solvency of insurers or financial institutions that are underwriting or selling insurance, activities that are financial in nature or incidental to a financial activity; the national treatment of insurance companies, auto insurance, life insurance and property and casualty insurance.

However, as I mentioned previously in my statement, existing health insurance jurisdiction is not transferred as a result of this change. Furthermore, the existing jurisdiction of other committees with respect to matters relating to crop insurance, worker's compensation, insurance antitrust matters, veterans' life and health insurance and national social security are not affected by this change.

Mr. CASTLE. Mr. Speaker, let me ask next about some securities issues. Regarding securities and exchanges, does the transfer of this jurisdiction to the Committee on Financial Services include underwriting, dealing, and market making?

Mr. DREIER. Yes, that is correct.

Mr. CASTLE. Another question. Does it include accounting standards applicable to capital raising under applicable securities laws and the Securities Act of 1933?

Mr. DREIER. Once again, the gentleman is correct.

Mr. CASTLE. Does it include exchanges, investment companies, and investment advisors?

Mr. DREIER. Yes, that is correct.

Mr. CASTLE. Does it include jurisdiction over the Public Utilities Holding Company Act?

Mr. DREIER. As I mentioned previously in my statement, this change is not intended to convey to the Committee on Financial Services jurisdiction over matters relating to regulation and SEC oversight of multistate public utility holding companies and their subsidiaries which remain essentially matters of energy policy.

Mr. CASTLE. I thank the gentleman very much for clarification on these issues.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the co-chair of the Democratic Steering Committee and the ranking member on the Committee on House Administration.

Mr. HOYER. Mr. Speaker, as all of us know, this House is now divided by its narrowest margin since the 83rd Congress when Republicans held 221 seats and Democrats 213. Today, our Republican friends hold a bare five-seat majority, 221 to 212. Thus, if we are to accomplish anything, bipartisanship, as President-elect Bush talked ad nauseam about in the campaign, is a sine qua non. It cannot be mere rhetorical window dressing.

Unfortunately, Mr. Speaker, I regret to say the first day of the 107th Congress we have missed an opportunity to demonstrate our commitment to bipartisanship. Since the Republicans regained the majority in 1995, there has been a growing disparity between the minority's representation in this House and the committee slots available to its Members elected by the American public, Republicans and Democrats, to represent them. Simply put, there are not enough committee slots available to the minority party, which now controls 49 percent of this body. Nevertheless, the allocation of committee slots has remained unchanged, 55 percent for the majority, 45 percent for the minority.

Now let me call attention to this chart. It is probably a little difficult to understand, but what it tracks is minority representation, not majority; whether Democrats were in the majority or Republicans were in the majority. One will note, up to the 104th Congress, when Democrats were in control, the percentage of committee slots allocated and the percentages in the House tracked one another. One will note that when the minority got more slots in the House, they went up. When they got less, they went down.

The point is, it was fair. It was representative and it gave to minority members the opportunity to do what they said they wanted to do, represent Americans.

Now I would call the attention of my colleagues, and I would hope the former governor of Delaware, who is one of the fairest members in this House, would look at this stark contrast; and I would say here is the 104th Congress, the 105th, the 106th, the 107th. One will note that the minority line has been flat lined, notwithstanding the fact that we have picked up in each of the last four elections additional seats and made the difference between the majority and minority parties smaller; but the line has not changed.

The majority line has gone up in terms of their percentage, and the variance. That is not fair. It is also, I would say to the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), contrary to his representations when he was in the minority. In my calculations, we would need an additional 64 seats in order for us to be allocated the number of seats that we are entitled to as a result of our percentage in the minority.

What is being done is contrary to the rhetoric. It will not further bipartisanship, and I would ask that that be corrected as we move ahead in the next few days.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Thibodaux, Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, let me first acknowledge, as did the ranking minority member of the Committee on Commerce, our extraordinary disappointment in the jurisdictional transfer from the Committee on Commerce to this new Committee on Financial Services. It is important, as the chairman has said, to know, however, that memorandums of understanding regarding that transfer are now being negotiated so that there is clarity in the transfer.

Like the gentleman from Delaware (Mr. CASTLE), we too had similar questions about the meaning of the jurisdictional changes; and I would first ask my friend, the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), a simple question. The rules changes being considered today will clearly transfer jurisdiction over securities and exchanges from the Committee on Commerce to the new Committee on Financial Services, and the Committee on Financial Services will also be accorded insurance, generally. But there is not any intent on the part of the Committee on Rules to transfer or otherwise affect the jurisdiction of the Committee on Commerce; is that correct?

Mr. DREIER. That is correct.

Mr. TAUZIN. Indeed, the gentleman pointed out very clearly that health care insurance and Public Utility Holding Company Act jurisdiction still resides with the Committee on Commerce; is that correct?

Mr. DREIER. Correct.

Mr. TAUZIN. Is the chairman also in agreement that further memorandums of understanding are being worked out regarding issues?

Mr. DREIER. Yes, I know discussions are underway right now in dealing with some of these questions.

Mr. TAUZIN. Some of the questions like FASB and ECNs?

Mr. DREIER. That is correct.

Mr. TAUZIN. Let me say on behalf of many members of the Committee on Commerce we, of course, are extremely disappointed in this transfer. While we would, of course, like to retain that jurisdiction, we would like to retain it for a simple reason and that is because the Committee on Commerce has done, as the ranking minority member has stated, an extraordinary job in representing good policy for the stock market and the security industries in general, as well as for the insurance industry of this country, and the record will demonstrate, I think, that the extraordinary care and concern the Committee on Commerce has given to these issues has created an extraordinarily stable environment for financial trading and for insurance.

While we regret this transfer, we appreciate the cooperation of the chairman of the Committee on Rules in the memorandum and in further clarifications of jurisdictional shifts.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I appreciate the gentleman from Massachusetts (Mr. MOAKLEY) yielding me this time.

Mr. Speaker, I welcome the Members back as the Member who represents the jurisdiction where the House sits. Members may know that I sought return of my vote in the Committee of the Whole this Congress. I appreciate that the gentleman from Virginia (Mr. DAVIS) and the gentlewoman from Maryland (Mrs. MORELLA) offered an amendment in the majority rules that was rejected that would have granted the tax-paying residents I represent a vote in the Committee of the Whole. I appreciate that there were other Members of the majority that supported this amendment.

I had hoped, after 10 years in the Congress, to get the return of the vote I won in 1993. The Members know me very well. They know the city I represent very well. So much of its business comes before this body. They have seen the city through tough times, a city that is doing very well. They know me to be a cheerleader for its rights and no apologist for my city when it is not doing its best.

When a vote is won for the first time in 200 years and then it is lost, it hurts. May I say that I feel no personal injury. I am always treated with respect in this body. I have almost all of the rights of this body. I feel I belong to this club, but the people I represent do not. They have paid the price of admission, however. They are third per capita in Federal income taxes. I have the full vote in committee which I cast in their name. I had thought that the limited vote would be forthcoming, particularly since there is a revote if my vote decides an issue. Yet even this limited vote meant everything to D.C. residents because it is the first time they have ever had a vote on the House floor since the city was established.

The limited vote, the revote provision, meant that the majority had nothing to lose by granting these taxpayers a vote in the Committee of the Whole. The people I represent, however, lost everything when they lost the vote because they lost the only vote they had ever had.

What entitles each Member to cast their vote more than anything else are the taxes their constituents pay. The limited vote I sought, with a remote provision, would have meant some modicum of that respect to the taxpaying Americans I represent.

I hope in the years to come, while I am still a Member of this House, that it will be found within the hearts of the Members and within their understanding of our country's principles first to grant District residents the limited vote I sought in the 107th Congress and then to see to it that no Americans who pay taxes to their government are left without full representation in the Congress of the United States.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader in the House.

Mr. GEPHARDT. Mr. Speaker, I rise in opposition to the rules changes proposed by the majority, which I believe contradict the promise of working together in a truly bipartisan spirit because they undermine the rights of Democratic Members. They also fail to address what I think is the most pressing issue that comes out of this troubled national election, and I urge all Members to support the Democratic alternative to give Democrats fair representation on committees, to accurately reflect the closeness of the margin in the House and to give this House the impetus to move forward quickly on electoral reforms to ensure that every citizen's vote in this country counts in every election from now.

In the last few weeks, we have heard a lot of talk about bipartisanship and about compromise, about finding consensus and common ground. We applaud the verbal commitment to bipartisanship, but we also believe that bipartisanship must be more than just words. It must be backed up with deeds and actions. The Republican proposal that changed the rules, we think, does not meet this test. It does not change the ratios on committees to reflect the true makeup of the House and the will of the voters, and it does not begin to address the issue of electoral reform, which I think is one of the top priorities of the American people.

We hope for a bipartisan atmosphere in this new Congress, and I hope the closeness of the margin between our parties will be viewed as an opportunity, not a hindrance. This is the people's House. It is not a Republican House; it is not a Democratic House. To advance progress, we must recognize and practice that principle, and the first step is to allow the committees who do the work of the Congress to reflect the way people voted in this election.

□ 1515

We must have electoral reform. Our alternative makes electoral reform a top national priority for our country to reflect the will of the American people. Our proposal calls for swift action to make sure that every vote cast gets counted, including military votes.

Voices were stifled on election day. This is completely unacceptable. We should not have unequal voting procedures in any part of the country or ever hear again about voter intimidation. It is wrong, and we should do everything in our power to right those wrongs by working together to expand the franchise and to make sure that every vote cast gets counted.

This is a great democracy, and in our democracy voting is the most important right, so let us pledge today to make every effort to protect the rights of every American.

In closing, let me urge all of our colleagues to support the truly bipartisan, truly fair, truly just package that the Democratic Party puts before the House. I appeal to have a discussion of all the rules changes that affect this House, including the unilateral decision to reconstitute the Committee on Banking and Financial Services and to diminish the jurisdiction of the Committee on Commerce and the decision to narrowly draw the minority's ability to offer motions to recommit.

So, vote yes on the Democratic motion. Let us begin the process of electoral reform and achieve true parity on all of the committees of the House. Let us reflect in the House the decision of the American people.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Speaker, I rise in support of the Resolution and the creation of a new Committee on Financial Services, which incorporates the jurisdiction over the nations securities laws and the regulation of the business of insurance with the jurisdiction of the former Committee on Banking and Financial Services.

With the enactment of the landmark Gramm-Leach-Bliley Act in the 106th Congress, consumers enjoy the promise of greater competition in the financial services industry, leading to the development of innovative new products, services, and giving the institutions offering those services the ability to provide them at lower costs and with greater convenience for the consumer.

The Gramm-Leach-Bliley Act created a new regulatory framework for companies providing these services. It only makes sense that the House modernize its committees to provide the kind of oversight needed in the modern marketplace.

Under the Resolution before us, jurisdiction relating to securities and exchanges is transferred in its entirety from the former Committee on Commerce to the new Committee on Financial Services, including securities dealing, underwriting, and market making. Matters relating to the Securities and Exchange Commission, including accounting standards, investor protection, equities exchanges, broker-dealers, investment companies, and investment advisors also are included under the jurisdiction of the Committee on Financial Services.

Similarly, jurisdiction over the Foreign Corrupt Practices Act has its root in the Securities Act of 1934 and would also fall under the new Committee's jurisdiction over securities and exchanges. Regulation of stock market quote data also would fall under the jurisdiction of the Committee on Financial Services, as would legislation to regulate its publication and sale as part of computerized databases.

Jurisdiction over matters relating to insurance generally also is transferred to the new Committee on Financial Services, including matters relating to the business of insurance, the solvency of insurers and institutions underwriting or selling insurance, the protection of insurance policyholders, the national treatment of insurance companies, auto insurance, life insurance, and property and casualty insurance.

These are matters that are directly related to the regulation of the nation's markets for securities and insurance, and it is my belief and understanding that they will be referred to the Committee on Financial Services in the future.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Speaker, I rise today in strong objection to the transfer of jurisdiction over finance issues from the Committee on Commerce to the Committee on Banking and Financial Services. I must say that the policy arguments behind this watershed change are very suspect.

The Committee on Banking and Financial Services has no expertise in terms of oversight of legislation in the area of securities or insurance. I mean none, zip, none. And, if it is not broken, why fix it? There is no problem, so why are we fixing it? I will tell you, it is strictly politics and nothing else.

Serious legislative issues which were unresolved in the Committee on Commerce during the last Congress will now be turned over to a committee with no background or understanding of these important matters at all. I am speaking specifically here of the question of pay equity for the Securities and Exchange Commission, Section 31 fee reduction. Whether these issues will ever be addressed in the 107th Congress remains an open question.

As a Member from New York where these issues are of paramount importance, I must stress the fact that these issues will not be addressed by a committee with the appropriate background, and, therefore, I tell you now, this is pure bare knuckle politics. It is nothing else. It is bad policy.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in strong opposition to the changes in the House rules proposed by the Republican leadership.

For months now, the American people have been hearing an abundance of talk from the Republican side about the new era of bipartisanship. Well, in their first act, the Republicans have brought forth a set of changes in the House rules, with no consultation from the Democratic side, and will attempt to ram these changes through on a partisan vote. Democrats only heard about the changes after the decision was made.

Mr. Speaker, in a move to appease and reward just one of the conservative Members, the House leadership has abolished one full committee, the Committee on Banking and Financial Services, and has stripped another, the Committee on Commerce, of its longstanding jurisdiction over securities issues.

Mr. Speaker, you claim that this move is rooted in substantive changes and not politics, but this does not pass the straight-face test. For what substantive reasons have you placed the jurisdiction of our financial markets in the hands of the committee that wrote the laws which brought us the savings and loan debacle? For what substantive reason are you hurting the career of the gentlewoman from New Jersey

(Mrs. ROUKEMA), the rightful heir to the chairmanship of the Committee on Banking and Financial Services? Is it because she is a woman? Is it because she is a moderate? Or is the gentlewoman from New Jersey (Mrs. ROUKEMA) being passed over because she has not raised enough money for your campaign coffers?

I would say to my colleagues, it is politics as usual for the Republican leadership and the 107th Congress. By their own hand they have written a document to govern this institution which rewards conservative politics and political fund raising at the expense of diversity and bipartisanship. I would urge my colleagues to oppose these rule changes. Vote no on the resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, the 107th Congress is barely 3 hours old, and I must tell you, I am very disappointed by the first action we are being asked to vote on. The rules package does not reflect the ground rules to bringing about a bipartisan Congress.

I listened very carefully to the Speaker's comments just an hour ago where he called upon all of us to listen to each other and to work together in a bipartisan way. I am prepared to continue to work with my Republican colleagues in an effort to deal with the important issues of this Congress. But I must tell you, Mr. Speaker, it starts with fairness. It starts with fairness in the process, fairness in the rules.

The rules package being presented by the Republicans does not represent fairness. First, there was no consultation with the Democrats. That is wrong. One cannot justify that. Secondly, the committee ratios are unfair. We have one of the smallest majority margins in the history of this Congress, less than 51 percent of the membership are Republicans, and yet when you look at the number of Republicans on the committees, the Democrats should have almost 60 more seats in order to equal their number. That is wrong.

Mr. Speaker, I remember the first day that I was on the Committee on Ways and Means and how proud I was to be appointed to that committee. The chairman welcomed both the Democratic and Republican members and said that we now have a seat at the table. Well, the Committee on Ways and Means in the 107th Congress will be 60 percent membership on the Republican side of the aisle. Three Democrats should be more on that committee. Three of my colleagues on the Democratic side of the aisle are being denied their fair opportunity to represent the views of their constituents. That is wrong. That needs to be corrected.

It starts with fairness in the committees. The Committee on Ways and Means will be considering tax legislation, Social Security reform, Medicare reform. I listened very carefully as the President-elect called upon bipartisan cooperation on each of these issues, yet the committee that will consider it in this body will not be fairly represented by the views of this House. That is wrong, and needs to be corrected.

Mr. Speaker, there is still time to correct this injustice. The Speaker said to us just an hour ago we should be judged by our actions, and I agree. Now is the time to be judged by our actions. The Republicans control the vote on the rules of the House. We on the Democratic side understand that. But we call upon the Republicans to understand what they have done on committee ratios is just wrong and cannot be defended. There is still time to correct this injustice.

The American people are watching our actions. Let us start off on the right path, not the wrong one. I urge my colleagues to support the Democratic substitute, the Democratic motion to instruct, for it provides for the basic fairness, so we all can work together in a truly bipartisan way.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the Democratic substitute to the rules package before us. Earlier today, over 430 Members of this House swore an oath of office to uphold the Constitution of the United States. That Constitution calls for a democratic form of government, ensuring the right to vote to all eligible people in our country.

However, the Republican package does nothing to address the election that we have just gone through, and I commend our Democratic leader, the gentleman from Missouri (Mr. GEPHARDT), for making the Democratic substitute have swift action by the Committee on the Judiciary to report by March 1 on urgent election reform measures to correct the problems that occurred in the last election. Implicit in the right to vote is the fact that your vote will be counted. We must remove obstacles to participation in voting and counting before the next election.

Also implicit is representation in Congress. That means representation on committees as well. Nothing is more American than a sense of fairness. That sense of fairness is absent in this Committee on Rules package put forth.

Mr. Speaker, I urge our colleagues to support the Democratic substitute.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ), the Vice Chairman of the Democratic Caucus.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this is the first test of bipartisanship, the first test of leadership, and the Republican leadership has failed it. They seem to look at the rules package as a way to settle political debts, to gain strategic advantage and work out intra-party struggles, and they are wrong. A rules package should have one central and overriding concern, how the American people are represented in the people's House.

So when the representation on committees does not fairly reflect the makeup of the House as decided by the people, the rules package fails this test; and when we fail to take advantage of an historic opportunity to address the problems in our election system, the rules package fails this test.

We all know that tens of thousands of voters were disenfranchised in this past election. We have a responsibility to make sure that never happens again. Democrats are fighting for these voters; Republicans are ignoring them.

I urge our colleagues to give us on this first day bipartisanship, by fairness in the committee assignments, fairness in the opportunity for the Nation's voters, and voting for the Democratic alternative.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will inform the gentleman from California (Chairman DREIER) that I will, at the end of the speeches, put in a motion to recommit, which will deal with committee ratios and election reform.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I obviously believe that we have been able to successfully craft a very good package of rules changes for the 107th Congress. As I have listened over the last few minutes to the statements from my colleagues on the other side of the aisle, it really is a misunderstanding of what it is that we are doing here and of what the process is.

You have to go back over 120 years before Speaker Reed was Speaker of the House to find a time when we did not enjoy majority rule where the party in the majority actually set forth the rules under which the House was governed.

That is exactly what has happened this year. We have just over the last few minutes seen a vote for Speaker of the House. The Democrats voted for the gentleman from Missouri (Mr. GEPHARDT), the Republicans voted for the gentleman from Illinois (Mr. HASTERT). There were more votes for the gentleman from Illinois (Mr. HASTERT) than there were for the gentleman from Missouri (Mr. GEPHARDT). Was that a partisan vote? Well, yes, it was a partisan vote.

Did we, in fact, see a crafting of the rules done in a bipartisan way? Well, we certainly took into consideration minority proposals. I am always willing to listen to the thoughts of our colleagues from the other side of the aisle. But I served for 14 years in the minority here, and sometimes we did not even get that much from those who were in the majority.

I am not saying we should do it exactly the same way, because we learned some things from you that I have to admit were good, and there are other things that we learned that we have not proceeded with. That is why if one looks at the proposals that we have had come forth beginning with the Republicans becoming the majority, the Republican takeover in 1994, to today, I believe we have done an awful lot to recognize minority rights.

□ 1530

It has been my experience, having served 14 years in the minority, that led me to say that we wanted to do things, like ensure that the minority has a right to offer that motion to recommit, and we have done that. We have continued it. I know that there was consideration to this issue of reinstating proxy voting, and it is no secret that there was a discussion on our side about it, and we decided to keep the ban on proxy voting, and that, of course, ensures that committee chairmen do not simply use the proxy vote without other members of the majority being there, often at the expense of the minority.

The other thing that I think is very important for us to note is the question of committee funding. I am very proud, and I have worked closely with the gentleman from Massachusetts (Mr. MOAKLEY) on the issue of committee funding on the Committee on Rules, and I know that other committees have been able to put together a package, and under the leadership of our Committee on House Administration and the gentleman from California (Mr. THOMAS), we have increased the funding level for the minority for their committee staffs.

The other question that was raised during this debate had to do with committee ratios. By tradition, Mr. Speaker, the way this works is, the Speaker of the House and the minority leader work out an agreement on committee ratios, and that is exactly what is taking place now, and that is what has taken place here.

Then, on this issue of the jurisdictional change, I will say that I am very proud of the fact that going back 7 years to what was called the Joint Committee on the Organization of Congress, one that I cochaired, along with Senator DOMENICI and former Senator Boren and former Congressman Lee Hamilton, a committee which spent a great deal of time looking at reforms of this institution. At that time, 7 years ago, 1993, I offered a proposal which dealt with this exact jurisdictional shift, which we are finally including today, 7 years later. I did not quite make it then. My proposal then died on a 6-6 tie vote. We are doing it today, and obviously, it is controversial in the eyes of many, but it is being done for the same policy reasons that I proposed back in 1993.

Now, it is even more important than it was then because of the passage of the very important Financial Services Modernization Act that we were able to pass in the 106th Congress. That is the reason we are doing this, and I believe that it will enhance our ability to deal with a wide range of very important public policy questions that are on the horizon.

So let me just say that this is a fair package; it is a balanced package. I think it deserves bipartisan support. While I doubt that we will have too many Members on the other side of the aisle who will join in support of the rules package, I do not believe that it, in any way, undermines the commitment that the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), made just a few minutes ago here in this Chamber to our goal of working to bring about solutions to the challenges that we will face in this very important new year.

So with that, I will say that I look forward to working with my colleagues as we move ahead on a number of important issues, and I urge strong support of this package.

Mr. GREEN of Texas. Mr. Speaker, I have mixed feelings about our new rules package.

We have a new president, new House, and new Senate, but we are beginning the new millennium with some of the same partisan divisions.

My friends in the Majority want to pass a new rules package for the 107th Congress that does little to address the views and concerns of the Minority.

Specifically, Mr. Speaker, despite all the talk about bipartisanship, little has been done in the House to modify committee ratios to reflect the Minority's gains in the last election, or even the gains made by Democrats in 1998.

I believe all committees in the House should reflect the 51–49 percent split between Democrats and Republicans.

While I was pleased to see that the Republicans are considering adding a seat for each party to Appropriations, Commerce, and Ways and Means, this will do nothing to achieve parity on these committees.

In fact, if one member is added to both sides of the Commerce Committee, on which I serve, the ratio will still be 55–45. While I welcome new colleagues to these committees, the addition does nothing to achieve the parity the minority is seeking.

The reality is that the House now has one of the smallest majorities in the history of our country. Committee ratios should reflect that small majority.

Mr. Speaker, I do not want to stand up here today and throw cold water on the 107th Congress.

In fact, I was pleased to see that the Republicans rejected efforts to bring back proxy voting. I approved of this reform when it was instituted in the 104th Congress, and I am pleased to see that the majority has chosen to keep it.

Nevertheless, I have concerns about this rules package, and hope that the majority recognizes the gains made by Democrats during the electoral process.

We are all going to remember the unfulfilled potential of the 106th Congress, I do not want the same fate to befall the 107th Congress.

I do not want to feel like Tom Hanks, stranded on an island talking to a volleyball.

This body must learn to communicate and allow input in the decision making process.

I have great hopes for the 107th Congress, but the success or failure of the legislative agenda rests solely with the majority.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

MOTION TO COMMIT OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. MOAKLEY moves to commit the resolution H. Res. 5 to a select committee comprised of the Majority Leader and the Minority Leader with instructions to report back the same to the House forthwith with the following amendments.

Strike section 2 of the resolution and in lieu thereof, add the following:

"SEC. 2. CHANGE IN STANDING RULES.—

COMMITTEE RATIOS.—Clause 5(a)(1) of Rule X of the Rules of the House of Representatives is amended by adding the following new sentence: "The membership of each committee (and each subcommittee or other subunit thereof) shall reflect the ratio of majority to minority party members of the House at the beginning of the Congress. This requirement shall not apply to the Committee on Rules and the Committee on Standards of Official Conduct."

At the end of the resolution, add the following:

"(e) ELECTION REFORM.—The Committee on the Judiciary is directed to report to the House no later than March 1, 2001 legislation comprising its recommendations to ensure that all eligible Americans who vote (including military personnel who vote by absentee ballot) shall have their votes counted."

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 213, not voting 18, as follows:

[Roll No. 3]

YEAS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Costello
Cramer
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—213

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Thomas M.
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Barr
Brown (FL)
Carson (IN)
Conyers
Coyne
Culberson
Cummings
Hefley
Hunter
Keller
Kirk
Murtha
Riley
Rush
Strickland
Thomas
Watts (OK)
Wilson

□ 1555

Messrs. SIMMONS, RYAN of Wisconsin, GUTKNECHT, and TERRY, Mrs. GRANGER, Ms. DUNN, and Messrs. POMBO, JONES of North Carolina, GILCHREST, DOOLITTLE, TANCREDO, SCARBOROUGH, WELLER, BURTON of Indiana, SHADEGG and GRAHAM changed their vote from "yea" to "nay."

Messrs. LARSON of Connecticut, SAWYER, and TIERNEY, Ms. DEGETTE, Ms. JACKSON-LEE of Texas, Mr. ROTHMAN, Mr. NADLER, Ms. SLAUGHTER, Mr. WEINER, and Ms. MCCARTHY of Missouri changed their vote from "nay" to "yea."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 206, not voting 9, as follows:

[Roll No. 4]

YEAS—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Thomas M.
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Flake
Fletcher
Foley
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)

Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Carson (IN)
Ferguson
Hefley
Johnson (IL)
Keller
Murtha
Riley
Thomas
Watts (OK)

□ 1615

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION OF MAJORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 6) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That the following named Members be, and they are hereby, elected to the following standing committee of the House of Representatives:

Committee on Rules: Mr. Dreier, Chairman, Mr. Goss, Mr. Linder, Ms. Pryce of Ohio, Mr. Diaz-Balart, Mr. Hastings of Washington, Mrs. Myrick, Mr. Sessions and Mr. Reynolds.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 7) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 7

Resolved, That the following named Members be, and are hereby, elected to the following standing committee of the House of Representatives:

Committee on Rules: Mr. Moakley of Massachusetts, Mr. Frost of Texas, Mr. Hall of Ohio, and Mrs. Slaughter of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. FROST. Mr. Speaker, I offer a resolution (H. Res. 8) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 8

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the six minority employees authorized therein shall be the following named persons, effective January 3, 2001, until otherwise ordered by the House, to-wit: Steve Elmendorf, George Kundanis, Moses Mercado, Sharon Daniels, Dan Turton, and Laura Nichols, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94. In addition, the Minority Leader may appoint and set the annual rate of pay for up to three further minority employees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DAILY HOUR OF MEETING

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 9) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 9

Resolved, That unless otherwise ordered, before Monday, May 14, 2001, the hour of daily meeting of the House shall be 2 p.m. on Mondays; 11 a.m. on Tuesdays; and 10 a.m. on all other days of the week; and from Monday, May 14, 2001, until the end of the first session, the hour of daily meeting of the House shall be noon on Mondays; 10 a.m. on Tuesdays, Wednesdays, and Thursdays; and 9 a.m. on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR A JOINT SESSION TO COUNT ELECTORAL VOTES

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 1) to provide for the counting on January 6, 2001, of the electoral votes for President and Vice President of the United States.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Saturday, the sixth day of January 2001, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING LIFE OF JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES AND PROVISIONS OF S. CON. RES. 90 OF ONE HUNDRED SIXTH CONGRESS

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 90 of the One Hundred Sixth Congress.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from

January 3, 2001, the joint committee created by Senate Concurrent Resolution 89 of the One Hundred Sixth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 2001, the provisions of Senate Concurrent Resolution 90 of the One Hundred Sixth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, are hereby continued with the same power and authority.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF JOINT COMMITTEE TO MAKE NECESSARY ARRANGEMENT FOR THE INAUGURATION ON JANUARY 20, 2001

The SPEAKER pro tempore. Without objection, pursuant to the provisions of Senate Concurrent Resolution 2, One Hundred Seventh Congress, the Chair announces the Speaker's appointment as members of the joint committee to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States on the 20th day of January, 2001, the following Members of the House:

Mr. HASTERT, Illinois;
Mr. ARMEY, Texas;
Mr. GEPHARDT, Missouri.

There was no objection.

PROVIDING FOR ATTENDANCE AT INAUGURAL CEREMONIES ON JANUARY 20, 2001

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 10) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 10

Resolved, That at 10:30 a.m. on Saturday, January 20, 2001, the House shall proceed to the West Front of the Capitol for the purpose of attending the inaugural ceremonies of the President and Vice President of the United States; and that upon the conclusion of the ceremonies the House stands adjourned until 2 p.m. on Tuesday, January 30, 2001, or pursuant to such other concurrent resolution of adjournment as may then apply.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND RECESS OR ADJOURNMENT OF THE SENATE TO SATURDAY, JANUARY 20, 2001

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 1) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Saturday, January 6, 2001, it stand adjourned until 10 a.m. on Saturday, January 20, 2001; and that when the House adjourns on Saturday, January 20, 2001, it stand adjourned until 2 p.m. on Tuesday, January 30, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Saturday, January 6, 2001; Sunday, January 7, 2001; Monday, January 8, 2001; Tuesday, January 9, 2001; Wednesday, January 10, 2001; Thursday, January 11, 2001; Friday, January 12, 2001; Saturday, January 13, 2001; Sunday, January 14, 2001; Monday, January 15, 2001; Tuesday, January 16, 2001; Wednesday, January 17, 2001; Thursday, January 18, 2001; or Friday, January 19, 2001; on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 10 a.m. on Saturday, January 20, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT TO SATURDAY, JANUARY 6, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on Saturday, January 6, 2001.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, January 30, 2001, the Speaker, majority leader and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD FOR THE FIRST SESSION OF THE 107TH CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, for the first session of the 107th Congress, all Members be permitted to extend their remarks and to include extraneous material within the permitted limit in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER MORNING HOUR DEBATES

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that on legislative days of Monday and Tuesday during the first session of the 107th Congress:

(1) the House shall convene 90 minutes earlier than the time otherwise established by order of the House solely for the purpose of conducting morning-hour debate (except that on Tuesdays after May 14, 2001, the House shall convene for that purpose 1 hour earlier than the time otherwise established by the House);

(2) the time for morning-hour debate shall be limited to the 30 minutes allocated to each party (except that on Tuesdays after May 14, 2001, the time shall be limited to 25 minutes allocated to each party and may not continue beyond 10 minutes beyond the hour appointed for the resumption of the session of the House); and

(3) the form of proceeding to morning-hour debate shall be as follows:

(4) the prayer by the Chaplain, the approval of the Journal, and the Pledge of Allegiance to the flag shall be postponed until resumption of the session of the House;

(5) initial and subsequent recognitions for debate shall alternate between the parties;

(6) recognition shall be conferred by the Speaker only pursuant to lists submitted by the majority leader and by the minority leader;

(7) no Member may address the House for longer than 5 minutes (except the majority leader, the minority leader, or the minority whip); and

(8) following morning-hour debate, the Chair shall declare a recess pursuant to clause 12 of rule I until the time appointed for the resumption of the session of the House.

The SPEAKER pro tempore (Mrs. WILSON). Is there objection to the request of the gentleman from Nevada?

There was no objection.

INAUGURAL CEREMONIES OF THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. GIBBONS. Madam Speaker, I offer a privileged resolution (H. Res. 11) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 11

Resolved, That at 10:30 a.m. on Saturday, January 20, 2001, the House shall proceed to the West Front of the Capitol for the purpose of attending the inaugural ceremonies of the President and Vice President of the United States; and that upon the conclusion of the ceremonies the House stands adjourned until 2 p.m. on Tuesday, January 30, 2001, or pursuant to such other concurrent resolution of adjournment as may then apply.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Under Clause 2(g) of Rule II of the Rules of the U.S. House of Representatives, I herewith designate Ms. Martha C. Morrison, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which she would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

If Ms. Morrison should not be able to act in my behalf for any reason, then Mr. Gerasimos C. Vans, Assistant to the Clerk or Mr. Daniel J. Strodel, Assistant to the Clerk should similarly perform such duties under the same conditions as are authorized by this designation.

These designations shall remain in effect for the 107th Congress or until modified by me.

With best wishes, I am,
Sincerely,
JEFF TRANDAHL,
Clerk.

☐ 1630

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mrs. WILSON) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with the requirements of Clause 2(b) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to submit this list of reports to which it is the duty of any officer or Department to make to Congress.

With best wishes, I am,
Sincerely,
JEFF TRANDAHL,
Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair customarily takes this occasion on the opening day of a Congress to announce its policies with respect to particular aspects of the legislative process. The Chair will insert in the RECORD announcements by the Speaker concerning: first, privileges of the floor; second, introduction of bills and resolutions; third, unanimous-consent requests for the consideration of bills and resolutions; fourth, recognition for one-minute speeches, morning-hour debate, and special orders; fifth, decorum in debate; sixth, conduct of votes by electronic device; seventh, distribution of written material on the House floor; and eighth, use of personal, electronic office equipment on the House floor.

These announcements, where appropriate, will reiterate the origins of the stated policies. Citations to House Rules in those statements have been updated to conform to the recodified House Rules. The Speaker intends to continue in the 107th Congress the policies reflected in these statements. The policy announced in the 102nd Congress with respect to jurisdictional concepts related to clause 5(a) of rule XXI—tax and tariff measures—will continue to govern but need not be reiterated, as it is adequately documented as precedent in the House Rules and Manual.

The announcements referred to follow and, without objection, will be printed at this point in the RECORD.

There was no objection.

1. PRIVILEGES OF THE FLOOR

The Speaker's instructions to the former Doorkeeper and the Sergeant-at-Arms announced on January 25, 1983, and on January 21, 1986, regarding floor privileges of staff will apply during the 107th Congress. The Speaker's policy announced on August 1, 1996, regarding floor privileges of former Members will also apply during the 107th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 25, 1983

The SPEAKER. Rule IV strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated as recently as August 22, 1974, by Speaker Albert under the principle stated in Deschler's Procedure, chapter 4, section 3.4, the rule strictly limits the number of committee staff permitted on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member has an amendment actually pending during the five-minute rule. To this end, the Chair requests all Members and committee staff to cooperate to assure that not more than the proper number of staff are on the floor, and then only during the actual consideration of measures reported from their committees. The Chair will again extend this admonition to all properly admitted majority and minority staff by insisting that their presence on the floor, including the areas behind the rail, be restricted to those periods during which their supervisors have specifically requested their presence. The Chair stated this policy in the 97th Congress, and an increasing number of Members have insisted on strict enforcement of the rule. The Chair has consulted with and has the concurrence of the Minority Leader with respect to this policy and has directed [the Doorkeeper and] the Sergeant-at-Arms to assure proper enforcement of the rule.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 21, 1986

The SPEAKER. Rule IV strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated by the Chair on January 25, 1983, and January 3, 1985, and as stated in chapter 4, section 3.4 of Deschler-Brown's Procedure in the House of Representatives, the rule strictly limits the number of committee staff on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member's amendment is actually pending during the five-minute rule. It also does not extend to personal staff of Members who are sponsors of pending bills or who are engaging in special orders. The Chair requests the cooperation of all Members and committee staff to assure that only the proper number of staff are on the floor, and then only during the consideration of measures reported from their committees. The Chair is making this statement and reiterating this policy because of concerns expressed by many Members about the number of committee staff on the floor during the last weeks of the first session. The Chair requests each chairman, and each ranking minority member, to submit to the [Doorkeeper] Sergeant-at-Arms a list of staff who are to be allowed on the floor during the consideration of a measure reported by their committee. Each staff person should exchange his or her ID for a "committee staff" badge which is to be worn while on the floor. The Chair has consulted with the Minority Leader and will continue to consult with him. The Chair has furthermore directed the [Doorkeeper and] Sergeant-at-Arms to assure proper enforcement of rule IV.

ANNOUNCEMENT BY THE SPEAKER, AUGUST 1, 1996

The SPEAKER. The Chair will make a statement. On May 25, 1995, the Chair took the opportunity to reiterate guidelines on the prohibition against former Members exercising floor privileges during the consideration of a matter in which they have a personal or pecuniary interest or are employed or retained as a lobbyist.

Clause 4 of rule IV and the subsequent guidelines issued by previous Speakers on this matter make it clear that consideration of legislative measures is not limited solely to those pending before the House. Consideration also includes all bills and resolutions either which have been called up by a full committee or subcommittee or on which hearings have been held by a full committee or subcommittee of the House.

Former Members can be prohibited from privileges of the floor, the Speaker's lobby and respective Cloakrooms should it be ascertained they have direct interests in legislation that is before a subcommittee, full committee, or the House. Not only do those circumstances prohibit former Members but the fact that a former Member is employed or retained by a lobbying organization attempting to directly or indirectly influence pending legislation is cause for prohibiting access to the House Chamber.

First announced by Speaker O'Neill on January 6, 1977, again on June 7, 1978, and by Speaker Foley in 1994, the guidelines were intended to prohibit former Members from using their floor privileges under the restrictions laid out in this rule. This restriction extends not only to the House floor but adjacent rooms, the Cloakrooms, and the Speaker's lobby.

Members who have reason to know that a former Member is on the floor inconsistent with clause 4 of rule IV should notify the Sergeant-at-Arms promptly.

2. Introduction of Bills and Resolutions

The Speaker's policy announced on January 3, 1983, will continue to apply in the 107th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 3, 1983

The Speaker. The Chair would like to make a statement concerning the introduction and reference of bills and resolutions. As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several hundred bills have been introduced. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92d Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

3. Unanimous-Consent Requests for the Consideration of Bills and Resolutions

The Speaker's policy announced on January 6, 1999, will continue to apply in the 107th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 6, 1999

The Speaker. The Speaker will continue to follow the guidelines recorded in section 956 of the House Rules and Manual conferring recognition for unanimous-consent requests for the consideration of bills and resolutions only when assured that the majority and minority floor leadership and committee and subcommittee chairmen and ranking minority members have no objection. Consistent with those guidelines, and with the Chair's inherent power of recognition under clause 2 of rule XVII, the Chair, and any occupant of the Chair appointed as Speaker pro tempore pursuant to clause 8 of rule I, will decline recognition for unanimous-consent requests for consideration of bills and resolutions without assurances that the request has been so cleared. This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the Chair that orderly procedures will be followed; that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle. In addition to unanimous-consent requests for the consideration of bills and resolutions, section 956 of the House Rules and Manual also chronicles examples where the Speaker applied this policy on recognition to other related unanimous-consent requests, such as requests to consider a motion to suspend the rules on a nonsuspension day and requests to permit consideration of nongermane amendments to bills.

As announced by the Speaker, April 26, 1984, the Chair will entertain unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request.

4. Recognition for One-Minute Speeches and Special Orders

The Speaker's policy announced on January 25, 1984, with respect to recognition for one-minute speeches will apply during the 107th Congress with the continued understanding that the Chair reserves the authority to restrict one-minute speeches at the beginning of the legislative day. The Speaker's policy announced in the 104th Congress for recognition for "morning hour" debate and restricted special-order speeches, announced on May 12, 1995, will also continue through the 107th Congress with the further clarification that reallocations of time within each leadership special-order period will be permitted with notice to the Chair.

ANNOUNCEMENT BY THE SPEAKER, AUGUST 8, 1984, RELATIVE TO RECOGNITION FOR ONE-MINUTE SPEECHES

The Speaker. After consultation with and concurrence by the Minority Leader, the Chair announces that he will institute a new policy of recognition for "one-minute" speeches and for special order requests. The Chair will alternate recognition for one-minute speeches between majority and minority Members, in the order in which they seek recognition in the well under present practice from the Chair's right to the Chair's left, with possible exceptions for Members of the leadership and Members having business requests. The Chair, of course, reserves the right to limit one-minute speeches to a certain period of time or to a special place in the program on any given day, with notice to the leadership.

Upon consultation with the Minority Leader, the Speaker's policy, which began on February 23, 1994 and was reiterated on January 4, 1995, will continue to apply in the 107th Congress as outlined below:

On Tuesdays, following legislative business, the Chair may recognize Members for special-order speeches up to midnight, and such speeches may not extend beyond midnight. On all other days of the week, the Chair may recognize Members for special-order speeches up to four hours after the conclusion of five-minute special-order speeches. Such speeches may not extend beyond the four-hour limit without the permission of the Chair, which may be granted only with advance consultation between the leaderships and notification to the House. However, at no time shall the Chair recognize for any special-order speeches beyond midnight.

The Chair will first recognize Members for five-minute special-order speeches, alternating initially and subsequently between the parties regardless of the date the order was granted by the House. The Chair will then recognize longer special orders speeches. A Member recognized for a five-minute special-order speech may not be recognized for a longer special-order speech. The four-hour limitation will be divided between the majority and minority parties. Each party is entitled to reserve its first hour for respective leaderships or their designees. Recognition will alternate initially and subsequently between the parties each day.

The allocation of time within each party's two-hour period (or shorter period if prorated to end by midnight) is to be determined by a list submitted to the Chair by the respective leaderships. Members may not sign up with their leadership for any special-order speeches earlier than one week prior to the special order, and additional guidelines may be established for such sign-ups by the respective leaderships.

Pursuant to clause 2(a) of rule V, the television cameras will not pan the Chamber, but a "crawl" indicating morning hour or that the House has completed its legislative business and is proceeding with special-order speeches will appear on the screen. Other television camera adaptations during this period may be announced by the Chair.

The continuation of this format for recognition by the Speaker is without prejudice to the Speaker's ultimate power of recognition under clause 2 of rule XVII should circumstances so warrant.

5. Decorum in Debate

The Speaker's policies with respect to decorum in debate announced on January 3, 1991, and January 4, 1995, will apply during the 107th Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 3, 1991

The Speaker. It is essential that the dignity of the proceedings of the House be preserved, not only to assure that the House conducts its business in an orderly fashion but to permit Members to properly comprehend and participate in the business of the House. To this end, and in order to permit the Chair to understand and to correctly put the question on the numerous requests that are made by Members, the Chair requests that Members and others who have the privileges of the floor desist from audible conversation in the Chamber while the business of the House is being conducted. The Chair would encourage all Members to review rule XVII to gain a better understanding of the proper rules of decorum expected of them, and especially: First, to avoid "personalities" in debate with respect to references to other Members, the Senate, and the President; second, to address the Chair while standing and only when and not beyond the time recognized, and not to address the television or other imagined audience; third, to refrain from passing between the Chair and the Member speaking, or directly in front of a Member speaking from the well; fourth, to refrain from smoking in the Chamber; and generally to display the same degree of respect to the Chair and other members that every Member is due.

The Speaker's announcement of January 4, 1995, will continue to apply in the 107th Congress as follows:

The SPEAKER. The Chair would like all Members to be on notice that the Chair intends to strictly enforce time limitations on debate. Furthermore, the Chair has the authority to immediately interrupt Members in debate who transgress rule XVII by failing to avoid "personalities" in debate with respect to references to the Senate, the President, and other Members, rather than wait for Members to complete their remarks.

Finally, it is not in order to speak disrespectfully of the Speaker; and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges. This separate treatment is recorded in volume 2 of Hinds' Precedents, at section 1248 and was reiterated on January 19, 1995.

6. Conduct of Votes by Electronic Device

The Speaker's policy announced on January 4, 1995, will continue through the 107th Congress.

The SPEAKER. The Chair wishes to enunciate a clear policy with respect to the conduct of electronic votes.

As Members are aware, clause 2(a) of rule XX provides that Members shall have not less than 15 minutes in which to answer an ordinary [rollcall] record vote or quorum call. The rule obviously establishes 15 minutes as a minimum. Still, with the cooperation of the Members, a vote can easily be completed in that time. The events of October 30, 1991, stand out as proof of this point. On that occasion, the House was considering a bill in the Committee of the Whole under a special rule that placed an overall time limit on the amendment process, including the time consumed by [rollcalls] record votes. The Chair announced, and then strictly enforced, a policy of closing electronic votes as soon as possible after the guaranteed period of 15 minutes. Members appreciated and cooperated with the Chair's enforcement of the policy on that occasion.

The Chair desires that the example of October 30, 1991, be made the regular practice of the House. To that end, the Chair enlists the assistance of all Members in avoiding the unnecessary loss of time in conducting the business of the House. The Chair encourages all Members to depart for the Chamber promptly upon the appropriate bell and light signal. As in recent Congresses, the cloakrooms should not forward to the Chair requests to hold a vote by electronic device, but should simply apprise inquiring Members of the time remaining on the voting clock.

Although no occupant of the Chair would prevent a Member who is in the well of the Chamber before the announcement of the result from casting his or her vote, each occupant of the Chair will have the full support of the Speaker in striving to close each electronic vote at the earliest opportunity. Members should not rely on signals relayed from outside the Chamber to assume that votes will be held open until they arrive in the Chamber.

7. Use of Handouts on House Floor

The Speaker's policy announced on September 27, 1995, will continue through 107th Congress.

The SPEAKER. A recent misuse of handouts on the floor of the House has been called to the attention of the Chair and the House. At the bipartisan request of the Committee on Standards of Official Conduct, the Chair announces that all handouts distributed on or adjacent to the House floor by Members during House proceedings must bear the name of the Member authorizing their distribution. In addition, the content of those materials must comport with standards of propriety applicable to words spoken in debate or inserted in the Record. Failure to comply with this admonition may constitute a breach of decorum and may give rise to a question of privilege.

The Chair would also remind Members that, pursuant to clause 5 of rule IV, staff are prohibited from engaging in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Staff cannot distribute handouts.

In order to enhance the quality of debate in the House, the Chair would ask Members to minimize the use of handouts.

8. Use of Personal, Electronic Office Equipment on House Floor

The Speaker's policy announced on January 27, 2000, will continue through the 107th Congress.

The SPEAKER. The Chair would like to take this occasion to remind all Members and staff of the absolute prohibition contained in the last sentence of clause 5 of rule XVII against the use of any personal electronic office equipment, including cellular phones and computers, upon the floor of the House at any time.

The Chair requests all Members and staff wishing to receive or send cellular telephone messages to do so outside of the Chamber, and to deactivate, which means to turn off, any audible ring of cellular phones before entering the Chamber. To this end, the Chair insists upon the cooperation of all Members and staff and instructs the Sergeant-at-Arms, pursuant to Clause 3(a) of rule II, to enforce this prohibition.

APPOINTMENT AS MEMBERS OF HOUSE OFFICE BUILDING COMMISSION

The SPEAKER pro tempore. Pursuant to the provisions of 40 United States Code, 175 and 176, the Chair, without objection, announces the Speaker's appointment of the gentleman from Texas (Mr. ARMEY) and the gentleman from Missouri (Mr. GEPHARDT) as members of the House Office Building Commission to serve with the Speaker.

There was no objection.

ON THE BEGINNING OF THE 107TH CONGRESS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, today we begin the 107th Congress, and much work lies ahead of us. It is my hope that we will be able to join together to do the work of the American people who have entrusted us to do just that. The American people want a government which rises above partisan bickering and makes a real commitment to empowering individuals and communities. Our parents, teachers, and schools need the ability and resources to make their own decisions on educating America's children so that no child is left behind and every child has the chance to succeed.

Madam Speaker, this Congress must also work to ensure that every American has access to affordable and quality health care. And this Congress should grant the hardworking people of America real relief from overbearing tax burdens they currently face, starting with the elimination of the marriage penalty tax and the death tax.

I am confident that we will rise to these challenges and pass responsible legislation which will meet the needs of not only Nevadans but every American.

CONGRATULATING GALE NORTON ON HER NOMINATION AS SECRETARY OF THE INTERIOR

(Mr. SCHAFFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAFFER. Madam Speaker, I would like to welcome everyone back and also to congratulate the Governor of Texas, the President-elect of the United States, not only for inspiring and earning the confidence of the country but in particular for the selection and nomination announcement early on about the Secretary of the Interior. Gale Norton, from Colorado, is the past attorney general for the great State of Colorado; and I am thoroughly excited and convinced that our colleagues, Madam Speaker, will be thrilled as well with the skill, expertise and attributes that Gale Norton will bring to the office of Secretary of the Interior. Her record in the State of Colorado is one that is clearly in the best interests of maintaining the integrity of our environment and doing so in a way that honors and respects western values and realizes the integral link between economic livelihoods of Westerners and also the maintenance and preservation of our most precious natural resources.

It is going to be an exciting time for us to work closely with the Department of the Interior under that new leadership, and I am anxious to move ahead and look forward to working hard with the new secretary.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF THE KEEP OUR PROMISE TO AMERICA'S MILITARY RETIREES ACT IN 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Madam Speaker, today the gentleman from Georgia (Mr. NORWOOD) and I are introducing the Keep

Our Promise to America's Military Retirees Act. This is the successor bill to H.R. 2966 and H.R. 3573 which we introduced in the 106th Congress.

Madam Speaker, the United States is the greatest military power in the world. We could never have achieved such superiority without the millions of Americans who risked all to serve this great country. These patriots put the security of home and family on the line to defend the freedoms of all Americans. We do not hesitate to ask American men and women to make military service a career. And what do they ask for in return? All they ask is that the promises made when they entered the service are fulfilled when they retire.

Americans who agreed to serve a military career, at least 20 years, to protect our democracy were promised lifetime health care benefits by recruiters. But for many, the promised health care was not delivered. The Keep Our Promise to America's Military Retirees Act would restore adequate health care to our military retirees by enabling them to elect coverage under the Federal Employee Health Benefits Program.

Last year, Congress responded to overwhelming grassroots support for the Keep Our Promise Act by including portions of the bill in the 2001 National Defense Authorization Act. Congress took the historic step of extending TRICARE, the military health care program, to military retirees beyond the age of 65 beginning in FY 2002. Finally, elderly military retirees will be able to keep TRICARE as a supplement to Medicare just like elderly civilian Federal retirees can keep their FEHBP as a supplement to Medicare.

Unfortunately, Congress did not address the pressing health care needs of military retirees under age 65 who must continue coverage under a TRICARE program that is woefully inadequate for many of them. TRICARE essentially offers health care benefits to retirees at military treatment facilities on a space-available basis. That is, they can pay for treatment if there is room for them at a military base. But with downsizing and base closures, access to military health care is difficult. It is impossible for those who cannot travel even short distances. And many retirees who do not live near bases cannot find a civilian doctor who participates in TRICARE. The Promise Act will allow retirees who are not well served by TRICARE to participate in the Federal Employees Health Benefit Plan.

Madam Speaker, retirees who entered the service prior to June 7, 1956, when the program now known as TRICARE was enacted actually saw much of their promised and earned benefits taken away. Under the Keep Our Promise Act, the United States Government would keep its word to this most elderly group of retirees by paying the full cost of FEHBP enrollment. Military retirees across the country will tell you that this is landmark legislation to fulfill the government's broken promise for which they have been fighting for years. Madam Speaker, when you or I or anyone else buys something on the open market, we are always warned to let the buyer beware. But military recruiters are not salesmen. Recruiters are agents of the United States Government, the American people.

Should Americans doubt their own government? We owe it to our military retirees who were led to believe they would receive lifetime health care that the government will be there for them. Madam Speaker, it is up to Congress to adequately fund TRICARE so it can provide the level of health care we owe our military retirees. And we must make sure that the Defense Department administers TRICARE in a manner consistent with that goal. Right now TRICARE does not properly serve many of our military retirees. They need to be treated fairly and compassionately. This is what the Keep Our Promise Act does.

Passing this bill will let America's military retirees who served in World War II, Korea, Vietnam, and the Persian Gulf know that we honor and respect them by keeping our word to them. And passing this bill will get the attention of the next generation of Americans who must not be discouraged from military service.

Madam Speaker, we should keep our promise to America's Military retirees. We should pass the Keep Our Promise to America's Military Retirees Act.

VACATING HOUSE RESOLUTION 11

The SPEAKER pro tempore. Without objection, the proceedings whereby House Resolution 11 was considered and adopted are vacated since the same resolution had been previously adopted as H. Res. 10.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment concurrent resolutions of the House of the following titles:

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 6, 2001, of the electoral votes for President and Vice President of the United States.

S. Con. Res. 2. Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 90 of the One Hundred Sixth Congress.

The message also announced that a committee consisting of two Senators be appointed to join such committee as may be appointed by the House to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The message also announced that the Secretary inform the House that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

The message also announced that the House of Representatives be notified of the election of ROBERT C. BYRD, a Senator from the State of West Virginia, as President pro tempore.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Member (at the request of Mr. SHOWS) to revise and extend his remarks and include extraneous material:

Mr. SHOWS, for 5 minutes, today.

ADJOURNMENT

Mr. SHOWS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Saturday, January 6, 2001, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1. A communication from the President of the United States, transmitting a request to make available previously appropriated emergency funds for the Department of Health and Human Services pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; (H. Doc. No. 107–10); to the Committee on Appropriations and ordered to be printed.

2. A communication from the President of the United States, transmitting a request to make available previously appropriated emergency funds for the Department of Health and Human Services pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; (H. Doc. No. 107–8); to the Committee on Appropriations and ordered to be printed.

3. A letter from the General Counsel, Architectural and Transportation Barriers Compliance Board, transmitting the Board's final rule—Electronic and Information Technology Accessibility Standards [Docket No. 2000–01] (RIN: 3014–AA25) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4. A letter from the Acting Director, Office of Workers' Compensation Programs, Department of Labor, transmitting the Department's final rule—Regulations implementing

the Federal Coal Mine Health and Safety Act of 1969, as amended (RIN: 1215–AA99) received December 20, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post 1996 Rate-of-Progress Plans, One-Hour Ozone Attainment Demonstrations and Attainment Date Extension for the Metropolitan Washington D.C. Ozone Nonattainment Area [DC–2025, MD–3064, VA–5052; FRL–6922–9] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods for List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation [FRL–6920–6] (RIN: 2040–AD58) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Control of Emissions of Hazardous Air Pollutants from Mobile Sources [AMS–FRL–6924–1] (RIN: 2060–AI55) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements [AMS–FRL–6923–7] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; One-Hour Ozone Attainment Demonstration and Attainment Date Extension for the Springfield (Western Massachusetts) Ozone Nonattainment Area [MA069–7205; A–1–FRL–6927–6] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Connecticut; One-Hour Ozone Attainment Demonstration and Attainment Date Extension for the Greater Connecticut Ozone Nonattainment Area [CT056–7215b; FRL–6924–5] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks [AD–FRL–6923–8] (RIN: 2060–AH81) received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

12. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Kosovo, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 107–6); to the Committee on International Relations and ordered to be printed.

13. A communication from the President of the United States, transmitting a supplemental report, consistent with the War Powers Resolution, to help ensure that the Congress is kept fully informed on continued U.S. contributions in support of peacekeeping efforts in Kosovo; (H. Doc. No. 107–5); to the Committee on International Relations and ordered to be printed.

14. A letter from the Director, Office of Enforcement Policy, Wage and Hour Division, Department of Labor, transmitting the Department's final rule—Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models; Labor Certification Process for Permanent Employment of Aliens in the United States (RIN: 1215–AB09) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

15. A letter from the Deputy Chief Counsel, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Areas Unusually Sensitive to Environmental Damage [Docket No. RSPA–99–5455; Amdt. 195–71] (RIN: 2137–AC34) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

16. A communication from the President of the United States, transmitting a Proclamation to implement the non-textile/apparel benefits of the African Growth and Opportunity Act (Title I of Public Law 106–200); (H. Doc. No. 107–9); to the Committee on Ways and Means and ordered to be printed.

17. A letter from the the Director, the Congressional Budget Office, transmitting CBO's final sequestration report for Fiscal Year 2000, pursuant to 2 U.S.C. 901; (H. Doc. No. 107–7); to the Committee on the Whole House on the State of the Union and ordered to be printed.

18. A communication from the President of the United States, transmitting a report concerning Japan's research whaling activities that diminish the effectiveness of the International Whaling Convention (IWC) conservation program, pursuant to section 8 of the Fishermen's Protective Act of 1967, 22 U.S.C. 1978 (the Pelly Amendment); (H. Doc. No. 107–11); jointly to the Committees on International Relations and Resources, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on January 2, 2001]

Mr. TALENT: Committee on Small Business. Summary of Activities of the Committee on Small Business, 106th Congress (Rept. 106–1050). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. Survey of Activities of the House Committee on Rules, 106th Congress (Rept. 106–1051). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LEACH:

H.R. 11. A bill to revise the banking and bankruptcy insolvency laws with respect to the termination and netting of financial contracts, and for other purposes; referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY (for himself, Mr. FOLEY, Mr. HERGER, and Mr. HAYWORTH):

H.R. 12. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on contributions to individual retirement accounts; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself and Mr. FOLEY):

H.R. 13. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself and Mr. CONDIT):

H.R. 14. A bill to establish a Bipartisan Commission on Social Security Reform; to the Committee on Ways and Means.

By Mr. DREIER (for himself, Ms. MCCARTHY of Missouri, Mr. ENGLISH, Mr. DEUTSCH, and Mr. SESSIONS):

H.R. 15. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 15 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mrs. ROUKEMA, Mr. GILMAN, Mr. QUINN, and Mr. CLEMENT):

H.R. 17. A bill to provide assistance to mobilize and support United States communities in carrying out youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens; to the Committee on Education and the Workforce.

By Mrs. BIGGERT:

H.R. 18. A bill to amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 19. A bill to nullify the effect of certain provisions of various Executive orders;

to the Committee on International Relations.

By Mr. GREENWOOD:

H.R. 20. A bill to amend section 211 of the Clean Air Act to modify the provisions regarding the oxygen content of reformulated gasoline and to improve the regulation of the fuel additive, methyl tertiary butyl ether (MTBE), and for other purposes; to the Committee on Energy and Commerce.

By Mr. BARR of Georgia:

H.R. 21. A bill to amend title 18, United States Code, to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply if the conviction occurred before the prohibitions became law; to the Committee on the Judiciary.

By Mr. LaTOURETTE:

H.R. 22. A bill to delay any legal effect or implementation of a notice or rights and request for disposition form of the Immigration and Naturalization Service if an alien admits to being in the United States illegally, gives up the right to a hearing before departure, and requests to return to his country without a hearing; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H.R. 23. A bill to permit congressional review of certain Presidential orders; to the Committee on the Judiciary.

H.R. 24. A bill to amend title 18, United States Code, with respect to the authority of probation officers and pretrial services officers to carry firearms, to the Committee on the Judiciary.

By Mr. SWEENEY (for himself, Mr. BOEHLERT, and Mr. McHUGH):

H.R. 25. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SERRANO:

H.R. 26. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTLETT of Maryland:

H.R. 27. A bill to amend the Internal Revenue Code of 1986 to prohibit the use of public funds for political party conventions; to the Committee on House Administration.

By Ms. SLAUGHTER (for himself and Mrs. MORELLA):

H.R. 28. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

By Mr. GEKAS:

H.R. 29. A bill to prevent Government shutdowns; to the Committee on Appropriations.

By Mr. GEKAS (for himself and Mr. YOUNG of Alaska):

H.R. 30. A bill to establish a commission to review and explore ways for the United States to become energy self-sufficient by 2011; to the Committee on Energy and Commerce.

By Mr. BARTLETT of Maryland (for himself, Mr. STEARNS, Mr. BRADY of Texas, Mr. HALL of Texas, Mr. SCHAFFER, Mr. HILLEARY, Mr. CALLAHAN, Mr. HAYWORTH, Mrs. EMERSON, Mr. NETHERCUTT, Mr. BARCIA, Mr. STUMP, and Mr. SIMPSON):

H.R. 31. A bill to protect the right to obtain firearms for security, and to use firearms in defense of self, family, or home, and to provide for the enforcement of such right; to the Committee on the Judiciary.

By Mr. BEREUTER (for himself and Mr. SCHAFFER):

H.R. 32. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture.

By Mr. BEREUTER:

H.R. 33. A bill to amend the Agricultural Market Transition Act to authorize a program to encourage agricultural producers to rest and rehabilitate croplands while enhancing soil and water conservation and wildlife habitat; to the Committee on Agriculture.

H.R. 34. A bill to amend the Agricultural Market Transition Act to provide for the payment of special loan deficiency payments to producers who are eligible for loan deficiency payments, but who suffered yield losses due to damaging weather or related condition in a federally declared disaster area; to the Committee on Agriculture.

H.R. 35. A bill to amend the Federal Election Campaign Act of 1971 to prohibit all individuals who are not citizens or nationals of the United States from making contributions or expenditures in connection with elections for Federal office; to the Committee on House Administration.

H.R. 36. A bill to amend the National Trails System Act to authorize an additional category of national trail known as a national discovery trail, to provide special requirements for the establishment and administration of national discovery trails, and to designate the cross country American Discovery Trail as the first national discovery trail; to the Committee on Resources.

H.R. 37. A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Resources.

H.R. 38. A bill to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 39. A bill to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound and job creating program for the exploration, development, and production of the oil and gas resources of the Coastal Plain, and for other purposes; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MEEK of Florida, Mr. OWENS, Mr. RUSH, and Mr. TOWNS):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequently de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself and Mr. MATSUI):

H.R. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mr. LaHOOD, Mr. COOKSEY, Mr. BARR of Georgia, Mr. THUNE, Mr. BILIRAKIS, Mr. MORAN of Kansas, and Mrs. BIGGERT):

H.R. 42. A bill to amend the Internal Revenue Code of 1986 to reduce estate and gift tax rates, and for other purposes; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Ms. DUNN, Mr. THOMAS M. DAVIS of Virginia, and Mr. RAMSTAD):

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to provide a higher purchase price limitation applicable to mortgage subsidy bonds based on median family income; to the Committee on Ways and Means.

By Mrs. BIGGERT:

H.R. 44. A bill to amend the Inspector General Act of 1978 to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Government Reform.

H.R. 45. A bill to amend title 18, United States Code, with regard to prison commissaries, and for other purposes; to the Committee on the Judiciary.

H.R. 46. A bill to amend title VI of the Elementary and Secondary Education Act of 1965 to raise awareness of eating disorders and to create educational programs concerning the same, and for the other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. UPTON, Mr. EHLERS, Mr. HOEKSTRA, and Mr. SMITH of Michigan):

H.R. 47. A bill to require any amounts appropriated for Members' Representational Allowances for the House of Representatives for a fiscal year that remain after all payments are made from such Allowances for the year to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on House Administration.

By Mrs. CHRISTENSEN (for herself, Mr. FALEOMAVAEGA, Mr. UNDERWOOD, and Mr. ACEVED-VILA):

H.R. 48. A bill to amend titles XI and XIX of the Social Security Act to remove the cap on Medicaid payments for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa and to adjust the Medicaid statutory matching rate for those territories; to the Committee on Energy and Commerce.

By Mr. CLYBURN:

H.R. 49. A bill to establish the United States Commission on Election Law Reform to study election procedures used in the United States and issue a report and recommendations on revisions to such procedures, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself, Mr. TAUZIN, Mr. DINGELL, Mr. LaTOURETTE, Ms. Eshoo, Mr. Frost, Mr. Cox, Ms. Eddie Bernice Johnson of Texas, Mr. Burr of North Carolina, Mr. McGovern, Mr. Olver, Mr. Hastings of Florida, Mr. Horn, Mr. Phelps, Mr. George Miller of California, Mr. Clyburn, Mr. Boehlert, Mr. Deal of Georgia, Mr. Barton of Texas, Mr. Udall of Colorado, Mr. Riley, and Mr. Burton of Indiana):

H.R. 50. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time for Presidential general elections; to the Committee on House Administration, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 51. A bill to amend title 10, United States Code, to provide that persons retiring from the Armed Forces shall be entitled to all benefits which were promised them when they entered the Armed Forces; to the Committee on Armed Services.

By Mr. CONDIT (for himself and Mr. Cox):

H.R. 52. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gas in certain areas within the State; to the Committee on Energy and Commerce.

By Mr. CONDIT:

H.R. 53. A bill to amend title 18, United States Code, to provide criminal penalties for the harassment of victims of Federal offenses by the convicted offenders; to the Committee on the Judiciary.

By Mr. CONDIT (for himself and Mr. Portman):

H.R. 54. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on Rules.

By Mr. DREIER:

H.R. 55. A bill to make the Federal employees health benefits program available to individuals age 55 to 65 who would not otherwise have health insurance, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 56. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of agricultural water conservation systems; to the Committee on Ways and Means.

By Mr. DeFAZIO (for himself, Mr. Leach, Mr. Lampson, Mr. McGovern, Mr. Frost, Mr. McNulty, Mr. Olver, Mr. Clement, Ms. Rivers, Mr. Sanders, Ms. McKinney, Ms. Lee, Mr. Cardin, Mr. Costello, Mr. Wu, Ms. Slaughter, Mr. Obserstar, Mr. Kucinich, Mr. Udall of Colorado, Mr. Baldacci, Ms. Pelosi, Mr. Blumenauer, Mr. Filner, Mr. Serrano, Mr. Evans, Mr. Farr of California, Ms. Hooley of Oregon, Mr. Inslee, Mr. Isakson, and Mr. Gillmor):

H.R. 57. A bill to establish a commission to study and make recommendations with respect to the Federal electoral process; to the Committee on House Administration.

By Mr. DEUTSCH:

H.R. 58. A bill to amend section 804 of the Federal Food, Drug, and Cosmetic Act to correct impediments in the implementation of the Medicine Equity and Drug Safety Act of 2000; to the Committee on Energy and Commerce.

By Mr. DREIER:

H.R. 59. A bill to establish a program of grants for supplemental assistance for elementary and secondary school students of limited English proficiency to ensure that they rapidly develop proficiency in English while not falling behind in their academic studies; to the Committee on Education and the Workforce.

By Ms. JACKSON-LEE of Texas (for herself, Mr. Langevin, and Mr. Hinojosa):

H.R. 60. A bill to establish a commission to develop uniform standards which may be adopted by the States for the administration of elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdictions of the committee concerned.

By Mr. DREIER (for himself and Mr. Pomeroy):

H.R. 61. A bill to promote youth financial education; to the Committee on Education and the Workforce.

By Ms. JACKSON-LEE of Texas:

H.R. 62. A bill to amend title 5, United States Code, to establish election day in Presidential election years as a legal public holiday by moving the legal public holiday known as Veterans Day to election day in such years, and for other purposes; to the Committee on Government Reform.

By Mr. DREIER (for himself and Mr. Royce):

H.R. 63. A bill to amend the Internal Revenue Code of 1986 to allow unused benefits under cafeteria plans and flexible spending arrangements to be distributed; to the Committee on Ways and Means.

By Mr. EHLERS:

H.R. 64. A bill to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

By Mr. BILIRAKIS (for himself, Mr. Condit, and Mr. Kolbe):

H.R. 65. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive a portion of their military retired pay concurrently with veterans' disability compensation; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 66. A bill to amend the Metric Conversion Act of 1975 to require Federal agencies to impose certain requirements on recipients of awards for scientific and engineering research; to the Committee on Science.

By Mrs. EMERSON:

H.R. 67. A bill to establish the Medicare Eligible Military Retiree Health Care Consensus Task Force; to the Committee on Armed Services.

By Mrs. EMERSON (for herself and Mr. Berry):

H.R. 68. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Energy and Commerce.

By Mrs. EMERSON:

H.R. 69. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to military retirees for premiums paid for coverage under Medicare part B; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas:

H.R. 70. A bill to prevent children's access to firearms; to the Committee on the Judiciary.

H.R. 71. A bill to provide for the establishment of a task force within the Bureau of Justice Statistics to gather information about, study, and report to the Congress regarding, incidents of abandonment of infant children; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 72. A bill to amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 73. A bill to require the Secretary of Education to conduct a study and submit a report to the Congress on methods for identifying and treating children with dyslexia in kindergarten through 3rd grade; to the Committee on Education and the Workforce.

H.R. 74. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

H.R. 75. A bill to amend the Public Health Service Act with respect to mental health services for children, adolescents and their families; to the Committee on Energy and Commerce.

H.R. 76. A bill to allow postal patrons to contribute to funding for emergency food relief within the United States through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Government Reform.

By Mrs. EMERSON:

H.R. 77. A bill proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

H.R. 78. A bill proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

H.R. 79. A bill proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.R. 80. A bill proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

H.R. 81. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

H.R. 82. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to certain senior citizens for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. Traficant):

H.R. 83. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to provide for cost-of-living adjustments to guaranteed benefit payments paid by the Pension Benefit Guaranty Corporation; to the Committee on Education and the Workforce.

By Mr. ENGLISH (for himself and Mr. Paul):

H.R. 84. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 85. A bill to reauthorize the Trade Adjustment Assistance program through fiscal year 2006, and for other purposes; to the Committee on Ways and Means.

H.R. 86. A bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 87. A bill to amend the Immigration and Nationality Act to restore certain provisions relating to the definition of aggravated felony and other provisions as they were before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mr. FOLEY:

H.R. 88. A bill to amend the Internal Revenue Code of 1986 to increase the unified credit against estate and gift taxes to the equivalent of a $5,000,000 exclusion and to increase the annual gift exclusion to $30,000; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 89. A bill to require the Federal Trade Commission to prescribe regulations to protect the privacy of personal information collected from and about individuals who are not covered by the Children's Online Privacy Protection Act of 1998 on the Internet, to provide greater individual control over the collection and use of that information, and for other purposes; to the Committee on Energy and Commerce.

H.R. 90. A bill to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes; to the Committee on Energy and Commerce.

H.R. 91. A bill to regulate the use by interactive computer services of Social Security account numbers and related personally identifiable information; to the Committee on Energy and Commerce.

H.R. 92. A bill to ensure the efficient allocation of telephone numbers; to the Committee on Energy and Commerce.

By Mr. GALLEGLY (for himself, Mr. Horn, Mr. Condit, Mr. LaTourette, and Mr. Berman):

H.R. 93. A bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Government Reform.

By Mr. GREEN of Texas:

H.R. 94. A bill to provide Capitol-flown flags to the families of deceased law enforcement officers; to the Committee on the Judiciary.

H.R. 95. A bill to protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HALL of Texas:

H.R. 96. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by requiring the Managing Trustee to invest the annual surplus of such trust funds in marketable interest-bearing obligations of the United States and certificates of deposit in depository institutions insured by the Federal Deposit Insurance Corporation, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

By Mr. HALL of Texas (for himself, Mr. Condit, Ms. DeLauro, Mr. Barcia, Mr. Green of Wisconsin, Mr. Engel, Mr. Horn, Mr. Weiner, Mr. Ney, Mr. Quinn, Mr. Hilliard, Mr. Aderholt, Mr. Cramer, Ms. Berkley, Mr. Smith of Washington, Mr. Baldacci, Mr. Green of Texas, Mr. Wexler, Mr. Filner, Mr. Taylor of North Carolina, Mr. Frost, Mr. Riley, Mr. Lampson, and Mr. Ryan of Wisconsin):

H.R. 97. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington (for himself and Mr. Boyd):

H.R. 98. A bill to amend the Agricultural Trade Act of 1978 to increase the amount of funds available for certain agricultural trade programs; to the Committee on Agriculture.

By Mr. HAYWORTH:

H.R. 99. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Education and the Workforce.

By Mr. EHLERS (for himself, Mr. Kolbe, Mr. Horn, Mr. Baca, Mr. Candlin, Mr. Camp, Mr. Filner, and Mr. Gibbons):

H.R. 100. A bill to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 101. A bill to amend the Elementary and Secondary Education Act of 1965 to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; to the Committee on Education and the Workforce.

H.R. 102. A bill to amend the Internal Revenue Code of 1986 to encourage stronger math and science programs at elementary and secondary schools; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 103. A bill to amend the Indian Gaming Regulatory Act to protect Indian tribes from coerced labor agreements; to the Committee on Resources.

By Mr. CLYBURN:

H.J. Res. 1. Joint resolution proposing an amendment to the Constitution of the United States to provide for the appointment by the States of Electors for the election of the President and Vice President on the basis of the popular vote of each Congressional district of the State and for the appointment of two electors by each State on the basis of the total popular vote of the State; to the Committee on the Judiciary.

By Mr. DINGELL:

H.J. Res. 2. Joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. GREEN of Texas:

H.J. Res. 3. Joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. SERRANO:

H.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States to repeal the twenty-second article of amendment, thereby removing the limitation on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 1. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. ENGLISH:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued in honor of the United States Masters Swimming program; to the Committee on Government Reform.

By Mr. FILNER:

H. Con. Res. 3. Concurrent resolution expressing the sense of the Congress regarding a Federal holiday to commemorate the birthday of Cesar E. Chavez; to the Committee on Government Reform.

By Mr. PASCRELL:

H. Con. Res. 4. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero; to the Committee on Government Reform.

By Ms. JACKSON-LEE of Texas:

H. Con. Res. 5. Concurrent resolution expressing the sense of the Congress that the States should adopt uniform voting procedures to carry out the election of the President and Vice President; to the Committee on House Administration.

H. Con. Res. 6. Concurrent resolution expressing the sense of the Congress regarding the need to pass legislation to increase penalties on perpetrators of hate crimes; to the Committee on the Judiciary.

H. Con. Res. 7. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the late George Thomas "Mickey" Leland; to the Committee on Government Reform.

By Mrs. ROUKEMA (for herself, Mr. LaTourette, Mr. McHugh, Mr. Farr of California, Mr. Abercrombie, Mr. Boehlert, Mrs. Morella, Mr. Whitfield, Mr. Bentsen, Mr. Barrett, and Mr. Horn):

H. Con. Res. 8. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Mr. SERRANO:

H. Con. Res. 9. Concurrent resolution entitled the "English Plus Resolution"; to the Committee on Education and the Workforce.

By Mr. SWEENEY:

H. Con. Res. 10. Concurrent resolution expressing the sense of the Congress that State earnings limitations on retired law enforcement officers be lifted to enhance school safety; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATTS of Oklahoma:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. Resolution to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

H. Res. 4. Resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

H. Res. 5. Resolution adopting rules for the One Hundred Seventh Congress; considered and agreed to.

By Ms. PRYCE of Ohio:

H. Res. 6. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FROST:

H. Res. 7. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

H. Res. 8. Resolution providing for the designation of certain minority employees; considered and agreed to.

By Mr. ARMEY:

H. Res. 9. Resolution fixing the daily hour of meeting of the First Session of the One Hundred Seventh Congress; considered and agreed to:

H. Res. 10. Resolution providing for the attendance of the House at the Inaugural Ceremonies of the President and Vice President of the United States; considered and agreed to.

H. Res. 11. Resolution expressing the sense of the House of Representatives that oversight hearings should be held immediately to determine the causes and outcomes surrounding this influenza season's vaccine shortage; to the Committee on Energy and Commerce.

By Mr. DREIER:

H. Res. 12. Resolution opposing the imposition of criminal liability on Internet service providers based on the actions of their users; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KELLER:

H. Res. 13. Resolution to express the intention of the House of Representatives to fully fund the Federal Pell Grant Program, to the Committee on Education and the Workforce.

By Mrs. ROUKEMA:

H. Res. 14. Resolution expressing the sense of the House of Representatives with respect to the seriousness of the national problems associated with mental illness and with respect to congressional intent to establish a "Mental Health Advisory Committee"; to the Committee on Energy and Commerce.

By Mr. SHOWS:

H. Res. 15. Resolution supporting the national motto of the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT (for himself, Mr. Regula, Mr. English, Mr. Ney, Mr. LaTourette, Mr. Collins, Ms. Hart, Mr. Quinn, Mr. Hobson, and Mr. Sherwood):

H. Res. 16. Resolution calling on the President to take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself, Mr. Filner, Mr. Hinchey, Ms. Lee, Mr. Kucinich, Mr. McGovern, and Ms. Pelosi):

H. Res. 17. Resolution recognizing the security interests of the United States in furthering complete nuclear disarmament; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Mr. Sanders, Mr. Shays, Mr. Waxman, Ms. Eshoo, Ms. Roybal-Allard, Mr. Hastings of Florida, and Ms. Slaughter):

H. Res. 18. Resolution expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on International Relations.

EXTENSIONS OF REMARKS

THE NOTCH BABY ACT OF 2001

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, today I am again introducing legislation to assist the over 6 million senior citizens who have been negatively impacted by the Social Security Amendments of 1977. Seniors born between the years of 1917 and 1926—the Notch Babies—have received lower Social Security monthly payments than those seniors born shortly before or after this ten year period. My legislation, the Notch Baby Health Care Relief Act, will offset the reduction in Social Security benefits by providing a tax credit for Medicare Part B premiums.

The approach taken in this bill is different than taken by my Notch Baby Act of 2001 or in any other Notch bill that has been introduced. This legislation is particularly noteworthy because it was suggested to me by one of my constituents—adjust Medicare Part B premiums for senior citizens born between the years 1917 and 1926, their spouses and their widows or widowers. The bill also eliminates the Medicare Part B premium late enrollment penalty for these individuals.

As health care expenses can take up a large portion of a senior's retirement income, this tax credit can go a long way to both correct the inequity caused by the Notch and to help seniors meet their health care needs. I urge my colleagues to review the Notch Baby Health Care Relief Act, to discuss this legislation with the seniors in their districts, and to join me in cosponsoring this important legislation.

RE-INTRODUCTION OF THE MEDICARE UNIVERSAL PRODUCT NUMBER ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, it is my pleasure to re-introduce today a bill that could provide a significant new tool in the battle against Medicare waste, fraud and abuse: the Medicare Universal Product Number Act.

In 1996, the first-ever comprehensive audit of Medicare's books revealed that Medicare was losing more than $23 billion every year to waste, fraud, and abuse—almost 14 percent of the program's budget. Since that time, the Department of Health and Human Services has taken important steps to crack down on abusive practices. By fiscal year 1999, net payment errors totaled an estimated $13.5 billion, or about 8 percent of total Medicare fee-for-service benefit payments.

While significant progress has been made, we must do more to ensure that all Medicare funds are used for the benefit of patients. In particular, room for improvement exists in Medicare's reimbursement for durable medical equipment (DME). Durable medical equipment includes supplies like catheters, wheelchairs, walkers, and ostomy supplies needed by patients. Many Americans would undoubtedly be shocked to learn that the Medicare program frequently pays for DME without knowing exactly what product was supplied to the beneficiary. Under the current system, items are grouped under broad codes. Medicare pays the average price for all the items included in that category, no matter whether the least or most expensive one was provided. Moreover, the coding system does not allow government officials to determine exactly which product under the code was supplied.

The Medicare Universal Product Number Act will empower Medicare to know precisely what items are being supplied. This bill would require all medical equipment paid for by Medicare to have a Universal Product Number (UPN) very similar to the bar codes on groceries. When suppliers submit claims for reimbursement, they will identify items by UPN. Medicare will know exactly what equipment has been provided and reimburse accordingly. The UPN can be an invaluable aid in tracking down improper payments, identifying willful upcoding and fraud, and reducing program waste.

UPNs are already used extensively by the Department of Defense, Veterans Administration, and many private hospitals and health care purchasing cooperatives. HCFA should recognize the utility of UPNs for Medicare and support the passage of the Medicare Universal Product Number Act.

I am proud to be joined in this effort by my distinguished colleague from Corning, Representative AMO HOUGHTON, who has a long record of activism on health and Medicare. I would also like to note that this legislation has the support of the American Orthotics & Prosthetics Association, the Healthcare Electronic Data Interchange Coalition (HEDIC), the Health Industry Distributors Association, the Health Industry Group Purchasing Association, Invacare, the National Association for Medical Equipment Services (NAMES), the National Association of Wholesaler-Distributors, Premier, Inc., the Uniform Code Council, and VHA, Inc.

Medicare program integrity is improving, but we still have a long way to go. The current system is wasteful and vulnerable to abuse. UPNs are a common-sense solution to make Medicare a smart health consumer for the sake of older Americans, taxpayers, and medical equipment suppliers alike.

INTRODUCTION OF THE SURVIVING SPOUSE FAIRNESS ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. ROUKEMA. Mr. Speaker, today I talk about the Surviving Spouse Fairness Act that I will introduce today. I propose this legislation out of fairness and the need to make the tax code simpler to those who have suffered the loss of a spouse.

Today's tax code pressures a surviving spouse to sell their home within the same year that their spouse died in order to reap the full $500,000 capital gains exclusion. After the year of death, the surviving spouse is treated as a single person and only allowed $250,000 exclusion.

Why should a surviving spouse incur a tax penalty on the sale of their home just because their spouse died?

Why should a surviving spouse, who was married for decades, not be treated the same as a married person?

My bill would allow the full $500,000 of capital gains exclusion on the sale of the home of a widow or widower who has not remarried and would have otherwise qualified for the exclusion if their spouse had not died.

The Joint Committee on Taxation last year found that this bill would cost only $43 million over five years. The small revenue loss would be exceedingly affordable for the amount of emotional relief, justice and tax simplification the bill would provide.

I call on my colleagues to support this important legislation.

THE BIPARTISAN COMMISSION ON SOCIAL SECURITY REFORM

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. PORTMAN. Mr. Speaker, the 2000 Report of the Social Security Board of Trustees projects that the amount of money going out of the Social Security Trust Fund will begin to exceed the tax dollars coming into the system in 2015 and, as a result, the Social Security Trust Fund will be depleted in 2037. At that time, only 72% of Social Security benefits would be payable with incoming receipts unless changes are made today.

The primary reason is demographic: the post-World War II baby boomers will begin retiring in less than a decade and life expectancy is rising. By 2025 the number of people age 65 and older is predicted to grow by 75%. In contrast, the number of workers supporting the system would grow by 13%.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

If there are no other surplus governmental receipts, policymakers would have three choices: raise taxes or other income, cut spending, or borrow the money. Mirroring this adverse outlook are public opinion polls showing that fewer than 50% of respondents are confident that Social Security can meet its long-term commitments. There also is a widespread perception that Social Security may not be as good a value in the future as it is today.

While it is accepted that Social Security reform is needed without undue delay, there clearly is no consensus on how this should be accomplished. This was evident by the Report of the 1994–1996 Social Security Advisory Council, which provided three very different plans but none of which received a majority's endorsement. It also is reflected by the many bills introduced in the 105th and 106th Congress and proposals by the Administration that represents a diversity of approaches to Social Security reform. As a result of differences within Congress and no clear direction from the outgoing Administration during the last 8 years, there has been no movement on Social Security reform.

This state of affairs shows the need for to develop consensus legislation between Congress and the Bush Administration that can be enacted into law without undue delay. To accomplish this goal, Mr. CONDIT and I are reintroducing a bill we offered last year to establish a Bipartisan Commission on Social Security Reform charged with developing a unified proposal to ensure the long-term retirement security of Americans. It is important to note that President-elect Bush has endorsed the concept of a bipartisan commission to pave the way to a consensus on Social Security reform.

The Commission we propose will consist of 17 members to be appointed by the House and Senate majority and minority leadership and the President. The commissioners are to be individuals of recognized standing and distinction who can represent the multiple generations who have a stake in the viability of the Social Security system. They also must possess a demonstrated capacity to carry out the commission's responsibilities. At least 1 of the commissioners will represent the interests of employees and 1 member will represent the interests of employers.

Reforming Social Security needs to be addressed sooner, not later, to allow for phasing in any necessary changes and for workers to adjust their plans to take account of those changes. Further delay simply is not acceptable, and it is my hope that we will take up the Bipartisan Commission on Social Security Reform Act of 2001 as one of the first pieces of business in the 107th Congress. Mr. CONDIT and I will be working with the leadership and the Bush Administration to make this goal a reality.

INTRODUCTION OF DRUG PRICE COMPETITION IN THE WHOLESALE MARKETPLACE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, today I am introducing legislation that will preserve drug price competition in the wholesale marketplace, prevent the destruction of thousands of small businesses across America and avoid a possible disruption in the national distribution of prescription drugs to nursing homes, doctors offices, rural clinics, veterinary practices and other pharmaceutical end users. As befitting such legislation, I am pleased to note that this bill has cosponsors from both political parties, a number of different committees and many different areas of the country.

Our objective is to prevent and correct the unintended consequences to prescription drug wholesalers of a Final Rule on the Prescription Drug Marketing Act (PDMA) issued by the Food and Drug Administration in December 1999. This regulation will require all wholesalers who do not purchase drugs directly from a manufacturer to provide their customers with a complete and very detailed history of all prior sales of the products all the way back to the original manufacturer.

Absent such sales history, it will be illegal for wholesalers to resell such drugs. But in a true "Catch 22" fashion, the regulation does not require either the manufacturer or the wholesaler who buys directly from the manufacturer to provide this sales history to the subsequent wholesaler. In addition, the wholesaler who does not purchase directly from a manufacturer has no practical way of obtaining all the FDA required information needed to legally resell Rx drugs. The result of this rule will be that most small wholesalers will be driven out of business. The FDA has estimated that there are about 4,000 such secondary wholesalers who are small businesses.

The FDA's Final Rule will also upset the competitive balance between drug manufacturers on the one hand and wholesalers and retailers on the other by granting the manufacturers the right to designate which resellers are "authorized" and which are not, quite apart from whether the reseller buys directly from the manufacturer or not. The original intent of the PDMA was that wholesalers who purchase directly from manufacturers be authorized distributors, exempt from the requirement to provide the sales history information to their customers. However, the FDA's regulation has separated the designation of an authorized distributor from actual sales of product, and will allow manufacturers to charge higher prices to wholesalers in exchange for designating them as authorized distributors. Drug price competition will also be significantly reduced if thousands of secondary wholesalers are driven out of business. The result of the FDA's regulation will be that consumers and taxpayers will pay even higher prices for prescription drugs.

Seems to me that the FDA is protecting the drug companies at the expense of the American public at a time when these companies must be encouraged to lower their outrageous prices so that our seniors and others in need can afford to pay for their medicine.

Thus, while the Congress wrestles with difficult questions regarding drug pricing for seniors, expanded insurance coverage for prescription drugs and the like, the PDMA Rules is a drug pricing issue that is relatively uncomplicated, easy to solve and not expensive.

The bill would make minor changes in existing language to correct the two problems described above. First, the bill would define an authorized distributor as a wholesaler who purchases directly from a manufacturer, making the definition self-implementing and removing the unfair advantage given to the manufacturer by the regulation. Second, the bill will add language to the statute which will greatly simplify the detailed sales history requirement for most wholesalers. If prescription drugs are first sold to or through an authorized distributor, subsequent unauthorized resellers will have to provide written certifications of this fact to their customers, but will not have to provide the very detailed and unobtainable sales history. For any product not first sold to or through an authorized distributor, a reseller would have to provide the detailed and complete sales history required by the FDA Rule. This would protect consumers against foreign counterfeits or any drugs which did not enter the national distribution system directly from the manufacturer, while eliminating a burdensome and expensive paperwork requirement on thousands of small businesses which has no real health or safety benefit in today's system of drug distribution.

My cosponsors and I invite and encourage Members to add their names to this bill and look forward to its prompt enactment this year. Unless the FDA regulation is reopened and significantly modified by the agency, overturned in court or, as I hope, corrected by this bill, wholesalers will have to start selling off their existing inventories as early as May because the products will be unsalable when the regulation goes into effect in December 2001. This forced inventory liquidation will be accompanied by an absence of new orders by thousands of wholesalers, and the result could easily be disruptions in the supply of prescription drugs to many providers and end users. Let us then move quickly to fix this problem and save consumers, taxpayers and thousands of small business men and women across the land from higher drug prices, potential health problems due to supply interruptions and significant economic loss and unemployment.

RE-INTRODUCTION OF THE COLLEGE STUDENT CREDIT CARD PROTECTION ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, today my colleague Representative JOHN DUNCAN and I are proud to re-introduce the College Student Credit Card Protection Act.

I drafted this legislation in 1999 in response to a growing number of horror stories about young people and credit card debt. For example, I heard from a constituent whose stepson filed for bankruptcy at the age of 21. He was $30,000 in credit card debt. According to a University of Indiana administrator, we lose more students to credit card debt than to academic failure.

Credit card companies are aggressively marketing their cards to college students. We all receive credit card solicitations at home. In just one year, one of my employees received a shopping bag full of credit card solicitations. Now, magnify that number exponentially for college students.

I remember when an unemployed student was not able to get a credit card limit without a parent as a co-signer. Now, students are not only targeted through the mail and by phone, but also in person through booths set up on campus that promise a free t-shirt or mug for every completed application. As fundraisers, student groups can earn $5 for every application they get their friends to fill out. Most of the time, all they require for approval is a student identification card.

The easy access to credit allows students to make costly purchases that would not have been possible under a typical student budget. Students then no longer make the connection between earnings and consumption—needs and wants. Students can go from getting the card just in case of an emergency to charging entertainment expenses such as nights out with their friends and then to extravagances like a spring break trip to Cancun.

While many college students are adults who are responsible for the debt they charge, the credit card industry's policy of extending high lines of credit to unemployed students needs to be reviewed. The College Student Credit Card Protection Act would require the banks to determine if a student can even afford to pay off a balance before the companies approve a card. My bill would limit credit lines to 20 percent of a student's annual income without a cosigner. Students could also receive a starter credit card with a lower credit limit, allowing increases over time for prompt payments. Another provision would eliminate the fine print in credit card agreements and solicitations, where fees and penalties are hidden. If a parent cosigns for their child's credit card, my bill would require the credit card company to notify the parent in writing of any credit line increase.

So before the credit card statements with Christmas purchases arrive, the message to credit card companies should be simple: determine if the student can afford to pay off a balance before approving a card.

INTRODUCTION OF LEGISLATION PRESERVING THE MORTGAGE INTEREST DEDUCTION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. ROUKEMA. Mr. Speaker, today I support the resolution preserving the mortgage interest deduction. I introduced this resolution today and I ask my colleagues to join me in support of this important resolution.

The mortgage interest deduction has served as one of the cornerstones of our national housing policy for most of this century and may well be one of the most important tax policies in America today. This incentive has transformed this nation from one that was ill housed to the best-housed nation in the world.

The value of home ownership to this nation is beyond measure. Home ownership is a fundamental American ideal that promotes social and economic benefits beyond the simple benefits that accrue to the occupant of a home.

Homeowners are allowed to deduct the interest paid on their home mortgage when filing their personal income tax returns. There have been a number of attempts in recent years, however, to convince Congress to repeal or restrict the deduction. My legislation is a resolution expressing the "sense of Congress" that the deduction should be left intact.

Mr. Speaker, I ask all my colleagues to join me in this important resolution.

TRIBUTE TO EDWARD J. MARUSKA

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to recognize a good friend and distinguished constituent, Edward J. Maruska, who recently stepped down as the long-serving Executive Director of the Cincinnati Zoo and Botanical Garden. He will be honored on January 12, 2001, by the Board of Trustees of the Cincinnati Zoo and Botanical Garden for his outstanding accomplishments and steadfast work.

In 1962, Ed began his work at the Cincinnati Zoo and Botanical Garden as General Curator. In 1968, he became the Zoo's Executive Director, and, since then, he has worked tirelessly to make it one of the very best in the nation.

The Zoo is known for its rare and diverse animal collection, which includes 75 endangered species. Thanks to Ed, the Zoo now also is recognized around the world for its state-of-the-art exhibits. Exhibits like the outdoor primate center, Big Cat Canyon and the outdoor red panda area are praised worldwide for their appearance and design. In addition, the Zoo has been very successful at breeding rare and endangered species.

Ed has written more than 20 books, articles and papers that cover a number of zoological topics ranging from exotic cats to amphibians and salamanders. He is also one of the world's foremost experts on salamanders, and his research interest in the maintenance and reproduction of amphibians has made the Zoo's research collections of salamanders among the best in the nation.

Ed has dedicated much of his time as a member of many organizations, including the American Association of Zoological Parks and Aquariums; the Society for the Study of Amphibians and Reptiles; the Whooping Crane Conservation Association; the Explorer's Club; the International Society of Zooculturists; The Wilds; and the International Union of Directors of Zoological Gardens.

Ed plans to maintain an office at the Zoo where he will continue his work as a writer and on conservation efforts with a particular focus on species extinctions. All of us in the Cincinnati area are greatful to Ed for his vision and hard work, and we wish him well on his future endeavors.

DEFEND THE RIGHT TO LIFE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, today I introduce a constitutional amendment for the protection of the right to life. Tragically, this most basic human right has been disregarded, set aside, abused, spurned, and sometimes altogether forgotten. Even more tragically, the United States Government has been a willing partner in this affair, and the sad consequence is the sacrifice of something far more important than just principle.

One of the things that sets America apart from the rest of the world is the fact that in this country, everyone is equal before the law. Regardless of race, religion, or background, each person has fundamental rights that are guaranteed by the law. However, we too often overlook the rights of perhaps the most vulnerable among us—the unborn. When abortion is legal and available on demand, then where are the rights of the unborn? When abortion is sanctioned and sometimes paid for by the government, then how do we measure the degree to which life has been cheapened? When an innocent life is taken before its time, then how can one say that this is justice in America?

My amendment would establish beyond a doubt the fundamental right to life. Congress has an obligation to do what it has failed to do for so long, fully protect the unborn. I urge this body to move forward with this legislation to put an end to a most terrible injustice.

INTRODUCTION OF THE RESEARCH CRITICAL ON WOMEN'S HEALTH AND ENVIRONMENTAL RESEARCH CENTERS ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, I am proud to introduce a very important bill that will enhance scientific research analyzing the relationship between women's health and the environment: the Women's Health Environmental Research Centers Act. This legislation seeks to address the current lack of initiatives specifically examining women's health in connection with the environment.

Scientists have recently uncovered startling linkages between environment exposures and disorders like Parkinson's Disease. These new findings have particular significance for women. Women may be at greater risk for disease associated to environmental exposures due to several factors, including body fat and size, a slower metabolism of toxic substances, hormone levels, and for many, more exposure to household cleaning reagents.

The Pew Environmental Health Commission just released the results of an 18 month study in which they found that the nation suffers from a troubling shortage of strong leadership in environmental health. The Pew report stressed that an understanding of environmental factors offers the best disease prevention and cost saving opportunities. Among the recommendations of the Pew report is the development of a nationwide tracking network for environment toxins and disease. The Commission is strongly urging the incoming Administration to strengthen our public health infrastructure. During the current fiscal year, Congress has already asked the Centers for Disease Control and Prevention (CDC) to develop a nationwide tracking network so we can begin to associate disease with certain environmental toxins, genetic susceptibility and lifestyle. I was proud to lead a group of my colleagues in writing to CDC Director Koplan to urge that this project be undertaken quickly and given priority by the agency.

Over the past decade, evidence has accumulated linking effects of the environment on women and reproductive health, cancer, injury, asthma, autoimmune diseases such as rheumatoid arthritis and multiple sclerosis, birth defects, Parkinson's Disease, mental retardation and lead poisoning. Lead and other heavy metals found in the environment have been implicated in increased bone loss and osteoporosis in post-menopausal women.

Chronic diseases like those listed above account for 3 out of 4 deaths in the U.S. annually. One hundred million Americans, more than a third of the population, suffer from some form of chronic disease. And chronic conditions are on the rise. Rates of learning disabilities have risen 50 percent in the last decade. Endocrine and metabolic diseases such as diabetes and neurological diseases such as migraine headaches and multiple sclerosis increased 20 percent between 1986 and 1995.

The New York Breast Cancer Study found that women carrying a mutant form of a breast cancer gene are at higher risk of developing breast or ovarian cancer if they were born after 1940, as compared to women with the same mutant genes before 1940. This suggests that

The interaction between environmental factors and one's genes also affect susceptibility to disease. This will be a major area of research now that the Human Genome Project has been completed and new disease-related genes are being found at a rapid pace.

While the scientific community has become increasingly aware of the unique susceptibilities of women to environmental and chemical exposures, our understanding of how these exposures contribute to the diseases of women, and how they interact with genetic factors, is quite negligible. It has been difficult to determine which genes are susceptible to certain environmental toxins because of the lack of large scale studies and centralized data collection. It is time we looked at these possible exposures and their effects from a variety of disciplines—oncology, microbiology, endocrinology and epidemiology.

Current scientific findings indicate that environmental factors affect women's health. For example:

More than 8 million Americans have autoimmune diseases. Most are several times more common in women than in men. More than 90% of patients with Systemic Lupus Erythematosus (SLE) are women.

Studies have shown that occupational exposure to silica is related to SLE and other diseases. These occupations include mining, pottery and glass making, farming and construction.

Exposure to nitrous oxide (laughing gas) by women dental assistants has been correlated to a severe decrease in fertility according to one study.

Over 9 million working women also have serious back pain. Women are twice as likely to endure job related injuries and illnesses than men.

Dioxin exposure is a key factor in cancers and other reproductive health factors such as endometriosis, fertility and birth defects. Dioxins, which include 219 different chemicals and polychlorinated biphenyls (PCBs), have been found to disrupt human endocrine systems.

More than 70,000 synthetic chemicals are in commercial use today, with an estimated 1000 new chemicals being introduced each year. Most Americans would be shocked to learn that only a handful of these chemicals have ever been adequately tested to determine their effect on humans (full data exists for only about 7% of these chemicals).

The evidence is clear and accumulating daily that the byproducts of our technology are linked to illness and disease and that women are especially susceptible to these environmental health related problems. We need research programs that are specifically targeted towards women's health. The passage of the Women's Health Environmental Research Centers Act is a crucial step toward establishing the valuable and needed basic research on the interactions between women's health and the environment.

This legislation has the strong support of a range of organizations, including the Society for Women's Health Research, the National Women's Health Network, the Association of Women's Health, Obstetric, and Neonatal Nurses, and Physicians for Social Responsibility. I am proud to have as original cosponsors two distinguished colleagues: Rep. SUE KELLY of New York, a long-time activist on women's health issues, and Rep. DAVID PRICE, who represents the Research Triangle area of North Carolina, where the National Institute for Environmental Health Sciences is located.

The Women's Health Environmental Research Centers Act is a simple, commonsense step Congress can take toward filling the current gaps in women's health research. I urge my colleagues to cosponsor this legislation and support its speedy passage.

YOUNGER AMERICANS ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. ROUKEMA. Mr. Speaker, on December 16, 2000, in accepting his appointment as Secretary of State, Colin Powell urged America to invest in its youth. He said, "We have nothing more valuable as a national asset in anyone's country than the young people." Today, I rise to introduce the Younger Americans Act, a comprehensive, coordinated, community-based approach to youth development. This legislation, which is based on the principles promoted by General Powell's America's Promise group, is a major investment in the youth of this country.

Mr. Speaker, as General Powell has said, now is the time to invest in America's youth. This effort is long overdue. Too many of our programs for youth focus on problems after the fact. The Younger Americans Act is intended to help our young people stay on the road to success and survive the challenges along the way. This legislation is designed to provide additional resources for programs that prepare youth for adulthood. This is "preventive medicine" that will keep good youth from becoming "problem youths."

President-elect George W. Bush has urged this Nation's leaders and policymakers to "leave no child behind." The Younger Americans Act is a bold, new investment in America's young people, providing the critical resources they need to develop skills, contribute to their communities, and build a better future for themselves and the Nation.

This legislation establishes, for the first time in our Nation's history, a comprehensive, coordinated national youth policy. The programs developed under the legislation will follow the five core principles of America's Promise, the organization founded by General Colin Powell to strengthen the "character and competence" of America's youth.

Ongoing relationships with caring adults—parents, mentors, tutors, or coaches.

Safe places with structured activities during non-school hours.

Access to services that promote healthy lifestyles, including those designed to improve physical and mental health.

Opportunities to acquire marketable skills through effective education.

Opportunities to give back through community service and civic participation.

Fulfilling these five promises will help prepare young people to be the parents, workers, voters, and leaders of the future. Under the Younger Americans Act, our national youth policy will not regard young people as problems or only seek to prevent risky behaviors such as delinquency, truancy, and drug abuse—as do most existing Federal programs for youth. Rather, it will support positive youth development efforts, creating positive goals and outcomes for all our country's youth. It will also ensure that young people are involved in the planning, implementation, and evaluation of efforts directed toward youth.

One key component of the bill is that mental health screening and services are made available to young people. Many youth who may be headed toward school violence or other tragedies can be helped if we identify their early symptoms. Just today, David Satcher, Assistant Secretary for Health and Surgeon General, released a National Action Agenda for Children's Mental Health, in which it was found that the Nation is facing a public crisis in mental health for children and adolescents. According to the report, while 1 in 10 children and adolescents suffer from mental illness severe enough to cause some level of impairment, fewer than 1 in 5 of these children received needed treatment. Dr. Satcher urged that "we must educate all persons who are involved in the care of children on how to identify early indicators for potential mental health problems." In fact, a tragedy of contemporary youth is the significant rise we have seen in suicide rates.

According to Dr. Satcher, "the burden of suffering by children with mental health needs and their families has created a health crisis in this country. Growing numbers of children are suffering needlessly because their emotional, behavioral, and developmental needs are not being met by the very institutions and systems that were created to take care of them." This bill provides an important step in ensuring that children with mental health needs are identified early and provided with the services they so desperately need to help them succeed in school and become healthy and contributing members of society.

This bill provides resources for after-school programs, to ensure that youth have access to positive activities that promote their development. I was a member of the Bipartisan Working Group on Youth Violence in the 106th Congress. The findings of this group, and numerous studies, have indicated that charitable and community initiatives should promote access to after-school programs during the peak hours for youth crime of 3:00 to 6:00 p.m. Too often, children return after school to an empty home or to the streets. An estimated 5 to 7 million "latchkey" children go home alone after school. Children who are unsupervised during the after-school hours are more likely to engage in delinquent and other high-risk behaviors, such as alcohol and drug use. After school programs can provide safe, drug-free, supervised and cost-effective havens for children. Quality after-school programs can provide adult supervision of children during after-school hours, and they can provide children with healthy alternatives to and insulation from risk-taking and delinquent behavior. Students should be encouraged to participate in extracurricular school activities. Studies have shown that a student in one after school activity is almost 50 times less likely to commit crime.

One important aspect of the bill is the collaboration of public and private local organizations. I am pleased that faith based organizations have been included in the bill as collaborators in youth development activities. These organizations have proven effective in addressing the needs of youth and it is important that we have the benefit of their expertise when creating youth development programs.

Finally, let me say that there is no "one size fits all" way to helping our children become productive members of our society. We must allow for an array of programs to address the variety of youth in a variety of communities. This bill provides the flexibility necessary to allow each community to tailor their youth development efforts to their specific needs.

Investing wisely in children and youth by engaging them in positive activities is more effective and much less costly than waiting until young lives · have taken a bad turn. The Younger American's Act is a common sense approach to what should be a high national priority. Young people are 23 percent of our population, but 100 percent of our future. This bill will help them achieve their full potential and their rightful place as valued—and valuable—members of their communities.

Let's make sure that "we leave no child behind." General Powell has promised to use his new role as Secretary of State to spread the America's Promise message on the value of youth around the world. Let's be certain that his message is heard and taken to heart in the U.S. Congress.

MOVE SWIFTLY ON CAMPAIGN FINANCE REFORM

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. HORN. Mr. Speaker, as the 107th Congress convenes today to begin work on the nation's business, one of our first priorities must be reform of our campaign finance laws. In each of the past two Congresses, the House passed comprehensive legislation in this area by substantial bipartisan majorities. In this Congress, we can and must move swiftly to pass campaign finance legislation and assure that comprehensive reforms become the law of the land.

Later this month, I will be joining with many of my colleagues in cosponsoring bipartisan legislation offered by Mr. SHAYS of Connecticut and Mr. MEEHAN of Massachusetts. The Shays-Meehan bill is genuine, meaningful reform to prohibit the use of so-called "soft" money that pollutes our campaign system with unregulated, unlimited and unconscionable sums of money from special interests. Both major parties have become addicted to this flood of money. By adopting the Shays-Meehan bill, we all can just say "No" to soft money.

Another bill that I am cosponsoring is more limited, but no less important. This is the "Stand by Your Ad" bill offered by our colleague DAVID PRICE of North Carolina to require that advertisements put out by campaigns carry a clear and prominent statement identifying which candidate is responsible for the ad. This simple step toward accountability could do wonders for improving the tone of our campaigns. I commend Mr. PRICE for his work on this bill and I am proud to join him.

INTRODUCTION OF THE NOTCH BABY ACT OF 2001

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, today I introduce the Notch Baby Act of 2001, which would create a new alternative transition computation formula for Social Security benefits for those seniors born between 1917 and 1926. These seniors, who are generally referred to as "Notch Babies," have been receiving lower monthly Social Security benefits than seniors born the years just prior to or after this ten year period.

There are those who dispute the existence of a Notch problem. However, take into consideration the following example presented in a 1994 report by the Commission on Social Security Notch issue. There are two workers who retired at the same age with the same average career earnings. One was born on December 31, 1916 and the other was born on January 2, 1917. Both retired in 1982 at the age of 65. The retiree born 1917 received $110 a month less in Social Security benefits than did the retiree born just two weeks before in 1916. Also take into consideration that there are currently more than 6 million seniors in our Nation who are faced with this painfully obvious inequity in the Social Security benefit computation formula.

By phasing in an improved benefit formula over five years, the Notch Baby Act of 2001 will restore fairness and equity in the Social Security benefit computation formula for the Notch Babies. For once and for all this legislation would put to rest the Notch issue, and it would put an end to the constant barrage of mailings and fundraising attempts, which target our Nation's seniors in the name of Notch reform. Our seniors deserve fairness and equality in the Social Security system. They deserve an end to the repeated Congressional stalling on this issue. I urge my colleagues in the House to discuss this issue with the seniors in their districts, and to join me in ensuring that the Notch issue is addressed in the 107th Congress.

RE-INTRODUCTION OF THE SMALL COMMUNITIES ASSISTANCE ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, my colleague Representative SHERWOOD BOEHLERT and I are proud to reintroduce the Small Communities Assistance Act.

For years, small towns and villages have labored to satisfy environmental regulations tailored to the needs and resources of major cities. This bipartisan legislation would direct the U.S. Environmental Protection Agency (EPA) to provide more help for small communities in meeting their environmental obligations.

Larger urban areas can have an entire environmental services department that employs dozens of people to interpret the EPA's complex and sometimes costly regulations. At the same time, small communities often do not have even one full-time employee assigned to this task. This bill will assist small communities and give them a larger voice in drafting regulations with a fair and balanced approach considering they do not have the staff and financial capabilities of larger communities.

People who live in small towns are proud of their community and their environment. They want to comply with health and environmental standards in order to leave a healthy legacy for their children. However, small communities need flexibility in order to comply with environmental regulations as they seek to protect their families' health and the local environment. One size does not fit all.

The Small Communities Assistance Act would require each EPA regional office to establish a Small Town Ombudsman Office to advocate for small communities. The EPA would also develop a plan to increase the involvement of small communities in the regulatory review process so that EPA regulations would be flexible enough to account for small town priorities. The agency would be required to survey small communities and establish a small community advisory committee.

AN EXCELLENT SELECTION FOR TRANSPORTATION

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. HORN. Mr. Speaker, I want to commend President-elect Bush for his nomination of Norman Mineta to be his Secretary of Transportation. Secretary Mineta will bring great distinction to his new role, building upon a distinguished record in this body and as Secretary of Commerce.

When I was first elected to Congress, Norm Mineta took me, a freshman in the minority party, around Congress and helped in any way he could. I will never forget that generosity, but it reflects the personality of this true gentleman. Secretary Mineta has lived a life that we can all learn from.

Growing up in California during the Second World War, I have strong feelings on the national shame perpetrated against the Japanese-American community during the war. I have been touched by how that experience formed Norm, a period prominently displayed in his official portrait that hangs in 2167 Rayburn. Instead of harboring a lifetime of bitterness against the country that imprisoned him and his family, Norm Mineta devoted much of his life to public service. He has helped make this a better nation and has helped us become better Americans.

During his 21 year in this House, Norm Mineta was a leader in transportation policy and a fair chairman of what was then called the Committee on Public Works. He is well suited to leading the Department of Transportation in the years to come. Congress—and this body—has fought hard to provide our nation the funding necessary to address the many problems facing transportation today. Norm Mineta brings with him the intelligence, experience, and disposition to be an excellent member of the new Administration and I look forward to working with him in the years to come.

A BALANCED FEDERAL BUDGET

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, this afternoon I fulfill the pledge I made to the citizens of southern Missouri to introduce and work tirelessly to pass an amendment to the Constitution of the United States, that requires a balanced Federal budget. Over the course of the past several decades, fiscal irresponsibility has produced a Federal debt that is fast approaching $5 trillion. That's trillion, with a 't,' Mr. Speaker. A debt of $5 trillion is a mind-boggling figure, but it can be placed in a much clearer perspective. A child born today immediately inherits nearly $20,000 of debt, owed directly to Uncle Sam. The same is true for every American. The era of continuing annual budget deficits must end, and it is clear that the only way to restore conservative fiscal values to the Nation's budget is to pass the balanced budget amendment to the Constitution.

The stakes in this debate could not be more important. The fiscal future of the United States hinges on the ability of Congress and the President to make the difficult choices required to balance the Federal budget. It's more than debating trillion dollar figures. It's about making our economy stronger and providing every working American family with a better chance to make ends meet. A balanced budget will strengthen every sector of our economy with lower interest rates that will help families stretch each paycheck further. Home mortgages, automobiles, and a better education will become more affordable to every working family, making the American Dream closer to reality for all.

Mr. Speaker, I am committed to working with my colleagues in the new Congress to see that the balanced budget constitutional amendment is passed and sent to the States for ratification. A constitutional amendment is certainly no substitute for direct action on the part of the Congress. However, we have seen time and time again instances where those who object to conservative fiscal responsibility find convenient excuses to deny the American people a balanced budget. An unbreakable enforcement mechanism is clearly needed to ensure that those who would continue to spend our children's future further into debt are not able to do so.

I also want to make plain that the Social Security trust fund has no place in this debate. The independent trust fund is a sacred trust between generations and must never be used to balance the budget or hide the true size of the deficit.

Commonsense conservatives in Congress and the American people are committed to balancing the budget. I look forward to working throughout this session with all of my colleagues and the White House to pass the balanced budget constitutional amendment on a bipartisan basis. The obligations we owe to hard working American families, their children, and our Nation's future generations deserve nothing less than decisive action to preserve our future by balancing the budget. A constitutional amendment will ensure this outcome.

RE-INTRODUCTION OF THE WOMEN'S RIGHT TO KNOW ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, I am proud to reintroduce the Women's Right to Know Act in the 107th Congress. This bill ensures that so-called "gag rules" upon women's access to information about reproductive health care are not imposed by the states or the federal government in the future.

First imposed during the Reagan and Bush Administrations by executive order, the gag rule denied federal funds for any health care clinic whose employees counseled, referred, or discussed terminating a pregnancy in any way. If they did so, the clinic's funding could be rescinded. Congressional efforts to overturn these executive orders were vetoed.

Thankfully, President Clinton revoked the gag rule as his first order of business in 1993. While this marked major progress towards better health care for women on a federal level, it did not prevent individual states from imposing statewide gag rules. Currently two states, Missouri and Colorado, have gag rules—with Pennsylvania's state senate having considered and narrowly defeated a similar law in May 2000. With statewide "gag rules" on the rise, the threat of a federal "gag rule" being re-implemented looms on the horizon.

Contrary to the predictions of many gag rule supporters, abortion rates have not been linked to a reversal of this federal policy. In fact, abortion facts actually declined to a twenty year low in 1997 with record drops in teen pregnancy.

Leaving the gag rule to the power of executive order is playing Russian roulette with women's reproductive health. We must intensify our efforts to safeguard a women's access to full reproductive options and prevent the gag rule from ever being imposed again. For the government to withhold information about reproductive health care in a violation of our democratic principles and an unconscionable act against the people it intends to serve.

The Women's Right to Know Act ensures that gag rules will not be imposed by the states or the federal government in the future. This legislation states that no state or federal government entity may limit the right of any health care provider to supply, or any person to receive, factual information about reproductive health services, including family planning, prenatal care, adoption, or abortion.

The government has no right to interfere with private health care decisions. I therefore urge my colleagues to support this legislation and allow Americans to have access to complete, factual information so that can make informed decisions about their health care.

INTRODUCING H.R. 218, THE COMMUNITY PROTECTION ACT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. CUNNINGHAM. Mr. Speaker, today I am reintroducing my legislation to permit qualified current and former law enforcement officers to carry a concealed firearm in any jurisdiction. This measure is called the Community Protection Act, and I have requested that it be assigned the same bill number as in previous Congresses—H.R. 218.

The Community Protection Act provides three benefits to our police and to our country.

First, it effectively provides thousands more trained cops on the beat—at zero taxpayer cost.

Second, it enables current and former law enforcement officers to protect themselves and their families from criminals. When a criminal completes his or her sentence, that criminal can find where their arresting officer lives, where their corrections officer travels, and other information about our brave law enforcement personnel and their families.

And, third, it helps keep our communities safer from criminals.

This measure is very similar to the H.R. 218 reported by the Judiciary Committee in the 106th Congress.

Members and the public interested in additional background information on the Community Protection Act, I encourage them to read the Judiciary Committee report accompanying H.R. 218 from the 105th Congress (H. Rept. 105–819), my testimony before the House Judiciary Subcommittee on Crime Tuesday, July 22, 1997, or my statement from introduction in the 106th Congress on January 6, 1999.

I urge all my colleagues to support this important common sense anti-crime legislation.

TRIBUTE TO MARK MIODUSKI

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. OBEY. Mr. Speaker, there are many people in this institution who work tirelessly and often thanklessly in order to improve the lives of the people we serve. Those who benefit from their work will never recognize their faces or know their names and day after day and year after year they produce a better country. Today, I rise to pay special tribute to one of them. I offer my most sincere gratitude to Mark Mioduski who has recently left the minority staff of the House Appropriations Committee after fourteen years of distinguished service to the federal government.

For the past five years, Mark Mioduski has been my right-hand man on the Labor, Health and Human Services and Education Appropriations Bill. He has applied a unique blend of technical know how from both budgetary and parliamentary standpoints, creativity and high energy to staffing this important bill. As many people know, the Labor, HHS bill is one of the most difficult appropriations bills to manage and is usually one of the last appropriations bills to pass. Mark has been instrumental in helping to navigate and negotiate numerous high profile and tricky issues affecting the Department of Labor, including funding for the Occupational Safety and Health Administration (OSHA) and the National Labor Relations Board (NLRB) and the recently published ergonomics regulation. In fact, Mark has lived and breathed the ergonomics issue over the last five years and knows the issue better than virtually anyone else on Capitol Hill. In addition, Mark has made significant contributions to a wide range of health and education issues, including working to expand funding for health care access, for biomedical research at the National Institutes of Health, for AIDS and emerging infectious diseases, for Low-Income Energy Assistance, for Head Start, for the Social Services Block Grant, and for Pell Grants for disadvantaged students. The Departments of Health and Human Services, Labor, and Education also owe him a debt of gratitude for his detailed attention to their programs and appropriations requests.

Mark has spent most of his career in public service. He began his federal service after being selected to participate in the Presidential Management Intern Program, which is designed to attract the best and brightest to the federal government. He then spent four years with the Interior Department as a senior budget analyst before joining the staff of the House Appropriations Committee. For the last decade he has worked on the Appropriations Committee and, he has been of great assistance to many members and their staffs. I am sure a good many of you saw him as he wore a path to and from the Capitol often carrying his signature workbag which was passed down to him by his father.

Mr. Speaker, I have greatly appreciated the job that Mark has done with humility and good humor over the years. Mark has been not only an outstanding public servant, but also he is an outstanding human being. He cares a great deal about the well being of this country and the people in it who rely on those of us in government to help make this a better place for everyone, especially the most vulnerable among us. Not many of those Americans know his name or know the countless hours he has devoted to his job, but he can leave this institution knowing that many, many Americans and their families have been benefitted from his efforts.

He, like all of us, has been a public servant and he has measured up to the meaning of that term in the fullest possible measure. America's health care system with all its shortcomings provides more help for more deserving Americans because he has worked here. The National Institutes of Health are stronger and the research it oversees is better because he has worked here. Public health programs, not just in this country, but abroad provide more protection to millions of children and adults because he has worked here. Worker protection programs are better able to improve the safety and health of workers, and working families throughout this country have been able to take advantage of additional training and education to improve their livelihood because he has worked here.

Mark's dedication to the Appropriations Committee and to his work has resulted in many long hours. There were weeks on end when I am sure that Mark did not see much of his family. Mark's departure is a great loss for me as well as the Committee, but I hope that he will be able to spend more time with his wife Lori Whitehand and his two young sons, Ryan and Eric. I wish him the very best in his new endeavors and much success in this new chapter of his career.

VOLUNTARY SCHOOL PRAYER

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, I rise today to introduce a constitutional amendment to ensure that students can choose to pray in school. Regrettably, the notion of the separation of church and state has been widely misrepresented in recent years, and the government has strayed far from the vision of America as established by the Founding Fathers.

Our Founding Fathers had the foresight and wisdom to understand that a government cannot secure the freedom of religion if at the same time it favors one religion over another through official actions. Their philosophy was one of even-handed treatment of the different faiths practiced in America, a philosophy that was at the very core of what their new nation was to be about. Somehow, this philosophy is often interpreted today to mean that religion has no place at all in public life, no matter what its form. President Reagan summarized the situation well when he remarked, "The First Amendment of the Constitution was not written to protect the people of this country from religious values; it was written to protect religious values from government tyranny." And this is what voluntary school prayer is about, making sure that prayer, regardless of its denomination, is protected.

There can be little doubt that no student should be forced to pray in a certain fashion or be forced to pray at all. At the same time, a student should not be prohibited from praying, just because he/she is attending a public school. This straightforward principle is lost on the liberal courts and high-minded bureaucrats who have systematically eroded the right to voluntary school prayer, and it is now necessary to correct the situation through a constitutional amendment. I urge my colleagues to support my amendment and make a strong statement in support of the freedom of religion.

INTRODUCTION OF THE ESTABLISHMENT OF A PERMANENT OFFICE OF VIOLENCE AGAINST WOMEN ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. SLAUGHTER. Mr. Speaker, I am proud to join with my distinguished colleague, Representative CONNIE MORELLA, in introducing the Violence Against Women Office Act. This bill would make permanent the Violence Against Women Office within the Department of Justice.

Mr. Speaker, domestic violence is shockingly pervasive in our society today. The National Violence Against Women Survey, released by the National Institute of Justice and the Centers for Disease Control and Prevention in July 2000, found that:

Domestic abuse rates remain disturbingly high. Nearly 25 percent of women and 7.6 percent of men surveyed reported they had been raped or physically assaulted by a current or former spouse, cohabiting partner, or date at some point in their lifetime.

Stalking by intimates is more common than previously thought. Almost 5 percent of surveyed women and 0.6 percent of surveyed men reported being stalked by an intimate at some point in their lifetime; 0.5 percent of surveyed women and 0.2 percent of surveyed men reported being stalked by such a partner in the previous 12 months.

Domestic violence has major implications for public health and our health care system. Of the estimated 4.9 million intimate partner rapes and physical assaults perpetrated against women annually, approximately 2 million will result in an injury to the victim, and 570,457 will result in some type of medical treatment to the victim. Of the estimated 2.9 million intimate partner physical assaults perpetrated against men annually, 581,391 will result in an injury to the victim, and 124,999 will result in some type of medical treatment to the victim.

According to these statistics, approximately 1.5 million women and 834,732 men are raped and/or physically assaulted by an intimate partner each year in the United States. Domestic violence is nothing less than an epidemic, and must be attacked with all the resources we would bring to bear against a deadly disease.

We have made important progress over the past decade. One of my proudest accomplishments in Congress was my work as a lead author of the Violence Against Women Act. This bill, passed by Congress in 1994 and signed into law by President Clinton, has effected a sea change in the way our nation views and addresses domestic violence. VAWA made possible today's programs to educate judges and law enforcement officers, support shelters for battered women and children, and collect vital information on statistics on violence. Nevertheless, studies show that we still have a long way to go.

The legislation I am introducing today with Representative MORELLA would establish a permanent Office of Violence Against Women within the Department of Justice. At present, this office only exists by administrative fiat. It could be abolished or subsumed into another part of the Department at any time. In our view, the existence of the Office of Violence Against Women should not be subject to changing political winds.

This legislation has the support of numerous domestic violence organizations all over our nation. In the 106th Congress, it garnered the support of almost 150 bipartisan cosponsors in short time. Representative MORELLA and I are hopeful that the 107th Congress will acknowledge the importance of this bill by passing it into law as soon as possible.

Tragically, there is no indication that domestic violence will disappear any time soon. Congress should signal its commitment to the fight against domestic abuse by establishing a permanent Office of Violence Against Women.

THE RE-INTRODUCTION OF THE FAITH-BASED LENDING PROTECTION ACT

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. ROYCE. Mr. Speaker, each day our Nation's religious institutions quietly go about performing critical social programs that serve as lifelines to individuals and families in need. Besides providing places of worship, religious institutions also serve their communities by operating outreach programs such as food banks soup kitchens, battered family shelters, schools and AIDS hospices. To families in need, these programs often provide a last resource of care and compassion.

Yet, in spite of the clear social good that these programs provide to communities across America, we are faced with the growing reality that religious institutions are finding it increasingly difficult to secure the necessary capital resources at favorable rates that enable them to carry on this critical community work.

Mr. Speaker, today I am re-introducing legislation that I believe will help ensure that religious institutions have available all the financial resources necessary to carry out their missions of community service. The Faith-Based Lending Protection Act, which enjoys bipartisan support, seeks to amend the Federal Credit Union Act by clarifying that any member business loan made by a credit union to a religious nonprofit organization will not count toward total business lending caps imposed on credit unions by Federal law.

Each year credit unions loan millions of dollars to nonprofit religious organizations, many located in minority and/or lower income communities. Historically, these loans are considered safe and help sustain critical social outreach programs. Without legislative action, Mr. Speaker, these religious institutions will find it increasingly difficult, if not impossible, to secure the necessary funds under favorable terms to allow them to continue their work. I urge my colleagues to join me in this legislative effort.

INTRODUCTION OF THE YOUNGER AMERICANS ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased today to re-introduce, along with my colleague Mrs. ROUKEMA, the Younger Americans Act. Last September, we introduced this bill with our counterparts in the Senate and a vast national coalition of supporters including former Joint Chiefs of Staff Chairman Colin Powell and America's Promise, the Boys & Girls Clubs of America, Big Brothers/Big Sisters, the National Urban League, America's Promise, the Child Welfare League of America, the United Way, the National Mental Health Association, and others.

We knew then that we would not have enough time in the 106th Congress to pass the legislation. But we did want to signal the strong support of a bipartisan coalition in both the House and Senate and of a broad array of national and grassroots organizations. I look forward now to working with them to pass this legislation in the 107th Congress. This is landmark legislation that will dramatically increase after-school opportunities for youth by providing them with adult mentors, education, sports, and volunteer activities.

As any parent or teacher knows, the best way to keep kids out of trouble and help them learn and grow is to keep them busy and give them opportunity. Today's bill is an historic opportunity to dramatically expand safe and exciting programs for children and youth after school, a time when too many kids suffer from a lack of activity and adult supervision. A recent Urban Institute study found that one in five young people age 6–12 are left without adult supervision after school and before their parents come home from work, a critical period during the day to keep youth both positively engaged and out of trouble.

Thirty-five years ago, Congress made a decision to help seniors and passed the Older Americans Act. In doing so, Congress launched a series of highly effective local efforts that have improved and enriched the lives of our nation's elderly. It helped pay for senior centers, Meals on Wheels, and community service programs like Green Thumb. For too long, however, Congress has ignored the needs of our nation's young people. It has failed to make the issues of young people a priority and has failed to make an adequate investment in their development and well-being.

Our new bill attempts to correct that oversight. Today, we seek to repeat the success of the Older Americans Act by funding a national network of high-quality programs tailored to the particular challenges faced by youth today. Too often, we find that public programs for young people focus on the problems of youth and promote piecemeal policies that seek to redress negative behaviors like juvenile delinquency or teen pregnancy. But the evidence shows that the most promising approaches to helping young people are those that foster positive youth development, build social and emotional competence, and link young people with adult mentors. This is the future of youth social program in the 21st century and it is an approach we seek to advance through this legislation.

The Younger Americans Act will help coordinate and fund youth-mentoring, community service through volunteerism, structured academic and recreational opportunities, and other activities aimed at fostering the positive educational and social development of teens and pre-teens. Under the bill, the federal government would distribute funds by formula to community boards that would oversee the planning, operation, and evaluation of local programs. Funding for local programs in the initial year would be $500 million, and would rise to $2 billion in 2006, in addition to matching funds provided by local and state governments and the private sector.

To qualify, each local program would be required to adopt a comprehensive and coordinated system of youth programs with the following five general components: ongoing relationships with caring adults; safe places with structured activities; access to services that promote healthy lifestyles, including those designed to improve physical and mental health; opportunities to acquire marketable skills and competencies; and, opportunities for community service and civic participation. Thirty percent of funds would be targeted to youth programs that address specific, urgent areas of need such as urban and rural communities that currently lack sufficient access to positive and constructive opportunities.

I want to thank all of the members of the coalition behind this bill for bringing us together. I applaud their work on this legislation and the work that they do every day in each of our local communities. I want to express special appreciation to all of the young people from these associations, who have rightly played such a key role in drafting and advocating for this legislation.

Congress has enacted many worthwhile programs to help young people. But the bill we are introducing today has a different message. Our bill responds to the tremendous desire of young people to have the greatest opportunity possible to be active, creative, and productive citizens in our society, rather than receiving society's help only after they are in trouble. Kids are asking to be given a chance to make a difference in their own lives. We are saying that that is exactly what Congress can and should do. I am confident we can make that happen. I look forward to working with my colleagues to pass this legislation.

INTRODUCTION OF THE IDENTITY THEFT PREVENTION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. PAUL. Mr. Speaker, today I introduce the Identity Theft Prevention Act. This act protects the American people from government-mandated uniform identifiers which facilitate private crime as well as the abuse of liberty. The major provision of the Identity Theft Prevention Act halts the practice of using the Social Security number as an identifier by requiring the Social Security Administration to issue all Americans new Social Security numbers within five years after the enactment of the bill. These new numbers will be the sole legal property of the recipient and the Social Security Administration shall be forbidden to divulge the numbers for any purposes not related to Social Security Administration. Social Security numbers issued before implementation of this bill shall no longer be considered valid federal identifiers. Of course, the Social Security Administration shall be able to use an individual's original Social Security number to ensure efficient administration of the Social Security system.

Mr. Speaker, Congress has a moral responsibility to address this problem as it was Congress which transformed the Social Security number into a national identifier. Thanks to Congress, today no American can get a job, open a bank account, get a professional license, or even get a drivers' license without presenting their Social Security number. So widespread has the use of the Social Security number become that a member of my staff had to produce a Social Security number in order to get a fishing license!

One of the most disturbing abuses of the Social Security number is the congressionally-authorized rule forcing parents to get a Social Security number for their newborn children in order to claim them as dependents. Forcing parents to register their children with the state is more like something out of the nightmares of George Orwell than the dreams of a free republic which inspired this nation's founders.

Congressionally-mandated use of the Social Security number as an identifier facilitates the horrendous crime of identity theft. Thanks to the Congressionally-mandated use of the Social Security number as an uniform identifier, an unscrupulous person may simply obtain someone's Social Security number in order to access that person's bank accounts, credit cards, and other financial assets. Many Americans have lost their life savings and had their credit destroyed as a result of identity theft—yet the federal government continues to encourage such crimes by mandating use of the Social Security number as a uniform ID!

This act also forbids the federal government from creating national ID cards or establishing any identifiers for the purpose of investigating, monitoring, overseeing, or regulating private transactions between American citizens, as well as repealing those sections of the Health Insurance Portability and Accountability Act of 1996 that require the Department of Health and Human Services to establish a uniform standard health identifier. By putting an end to government-mandated uniform IDs, the Identity Theft Prevention Act will prevent millions of Americans from having their liberty, property and privacy violated by private-and-public sector criminals.

In addition to forbidding the federal government from creating national identifiers, this legislation forbids the federal government from blackmailing states into adopting uniform standard identifiers by withholding federal funds. One of the most onerous practices of Congress is the use of federal funds illegitimately taken from the American people to bribe states into obeying federal dictates.

Mr. Speaker, of all the invasions of privacy proposed in the past decade, perhaps the most onerous is the attempt to assign every American a "unique health identifier"—an identifier which could be used to create a national database containing the medical history of all Americans. As an OB/GYN with more than 30 years in private practice, I know well the importance of preserving the sanctity of the physician-patient relationship. Oftentimes, effective treatment depends on a patient's ability to place absolute trust in his or her doctor. What will happen to that trust when patients know that any and all information given to their doctor will be placed in a government accessible data base?

Many of my colleagues will claim that the federal government needs these powers to protect against fraud or some other criminal activities. However, monitoring the transactions of every American in order to catch those few who are involved in some sort of illegal activity turns one of the great bulwarks of our liberty, the presumption of innocence, on its head. The federal government has no right to treat all Americans as criminals by spying on their relationship with their doctors, employers, or bankers. In fact, criminal law enforcement is reserved to the state and local governments by the Constitution's Tenth Amendment.

Other members of Congress will claim that the federal government needs the power to monitor Americans in order to allow the government to operate more efficiently. I would remind my colleagues that in a constitutional republic the people are never asked to sacrifice their liberties to make the job of government officials a little bit easier. We are here to protect the freedom of the American people, not to make privacy invasion more efficient.

Mr. Speaker, while I do not question the sincerity of those members who suggest that Congress can ensure citizens' rights are protected through legislation restricting access to personal information, the only effective privacy protection is to forbid the federal government from mandating national identifiers. Legislative "privacy protections" are inadequate to protect the liberty of Americans for several reasons. First, it is simply common sense that repealing those federal laws that promote identity theft is more effective in protecting the public than expanding the power of the federal police force. Federal punishment of identity thieves provides cold comfort to those who have suffered financial losses and the destruction of their good reputation as a result of identity theft.

Federal laws are not only ineffective in stopping private criminals, they have not even stopped unscrupulous government officials from accessing personal information. Did laws purporting to restrict the use of personal information stop the well-publicized violation of privacy by IRS officials or the FBI abuses by the Clinton and Nixon administrations?

Second, the federal government has been creating property interests in private information for example, a little-noticed provision in the Patient Protection Act established a property right for insurance companies to access personal health are information. Congress also authorized private individuals to receive personal information from government databases in the copyright bill passed in 1998.

Perhaps the most outrageous example of phony privacy protection is the Clinton Administration's so-called "medical privacy" proposal, which allow medical researchers, certain business interests, and law enforcement officials' access to health care information, in complete disregard of the Fifth Amendment and the wishes of individual patients! Obviously, "privacy protection" laws have proven greatly inadequate to protect personal information when the government is the one providing or seeking the information.

The primary reason why any action short of the repeal of laws authorizing privacy violations is insufficient is because the federal government lacks constitutional authority to force citizens to adopt a universal identifier for health care, employment, or any other reason. Any federal action that oversteps constitutional limitations violates liberty because it ratifies the principle that the federal government, not the Constitution, is the ultimate judge of its own jurisdiction over the people. The only effective protection of the rights of citizens is for Congress to follow Thomas Jefferson's advice and "bind (the federal government) down with chains of the Constitution."

Mr. Speaker, those members who are unpersuaded by the moral and constitutional reasons for embracing the Identity Theft Prevention Act should consider the overwhelming opposition of the American people toward national identifiers. The overwhelming public opposition to the various "Know-Your-Customer" schemes, the attempt to turn drivers' licenses into National ID cards, the Clinton Administration's Medical Privacy proposal, as well as the numerous complaints over the ever-growing uses of the Social Security number show that American people want Congress to stop invading their privacy. Congress risks provoking a voter backlash if we fail to halt the growth of the surveillance state.

In conclusion, Mr. Speaker, I once again call on my colleagues to join me in putting an end to the federal government's unconstitutional use of national identifiers to monitor the actions of private citizens. National identifiers threaten all Americans by exposing them to the threat of identity theft by private criminals and abuse of their liberties by public criminals. In addition, national identifiers are incompatible with a limited, constitutional government. I, therefore, hope my colleagues will join my efforts to protect the freedom of their constituents by supporting the Identity Theft Prevention Act.

INTRODUCTION OF THE MILITARY RETIREE HEALTH CARE TASK FORCE ACT

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, I am here today to introduce the Military Retiree Health Care Task Force Act of 2001. This legislation will establish a Task Force that will look into all of the health care promises and representations made to members of the Uniformed Services by Department of Defense personnel and Department literature. The Task Force will submit a comprehensive report to Congress which will contain a detailed statement of its findings and conclusions. This report will include legislative remedies to correct the great injustices that have occurred to those men and women who served their country in good faith.

Let us not forget why we are blessed with freedom and democracy in this country. The sacrifices made by those who served in the military are something that must never be overlooked. Promises were made to those who served in the Uniformed Services. They were told that their health care would be taken care of for life if they served a minimum of twenty years of active federal service.

Well, those military retirees served their time and expected the government to hold up its end of the bargain. They are now realizing that these were nothing more than empty promises. Those who served in the military did not let their country down in its time of need and we should not let military retirees down in theirs. It's time military retirees get what was promised to them and that's why I am introducing this legislation.

HONORING JUNE PINKNEY ROSS

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. LAMPSON. Mr. Speaker, today I salute and honor the indomitable June Pinkney Ross of Galveston, Texas.

I was recently honored to have contributed to the "Book of Letters" being presented next week to Ms. Ross in celebration of her twenty-seven year career as Executive Director of the Galveston County Community Action Council.

The residents of Galveston County, particularly the disenfranchised and the children who could not speak for themselves, have been well served by June Ross' unselfish acts of caring, sharing, kindness and understanding of their plight.

It is well known that June Ross will literally fight to the bitter end for the right thing, is bluntly and sometimes frighteningly honest about how to address the needs of the poor and does not mind sharing her unedited opinion on any subject that is placed on the table. We who know her and have been privileged to work with her always knew that we could count on her to go after grants for which her agency qualified and, once the money was received, to disburse it where it was most needed. I have enjoyed working with June Ross and always felt that she would make a fair assessment of any situation that she was confronted with and react accordingly.

My one regret during our relationship is that I never got a chance to sample her cooking. Ms. Ross' radio cooking class was quite successful and listeners would bombard the station for her recipes. I am sure that she approached that job with the same diligence and commitment that she has given to the State of Texas and Galveston County throughout the years. I want to also take this opportunity to let her know that I am grateful for her service to our great nation as a member of the United States Military.

Mr. Speaker, I salute June Ross for all she has done to make the community better (United Way, one of the original founders of Hospice) and hope she knows how much she is respected and loved.

CHIEF PHILLIP MARTIN—CHAMPION OF PEACE AND PROSPERITY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. DELAY. Mr. Speaker, I am proud to introduce to the RECORD the following editorial that appears in Indian Country Today. As the piece points out, Chief Phillip Martin of the Mississippi Band of Choctaw Indians has for more than a quarter of a century used the free-market as a tool to better the lives of his fellow tribe members and neighbors.

Self-reliance and not government dependency is the secret to prosperity. But there is no need to tell Chief Martin that fact. He has lived his life promoting the economic vitality of his people and they have reaped the benefits of his progressive thinking. I salute Chief Martin for all he has done to further the cause of freedom—for his people and for our nation.

[From Indian Country Today, Dec. 27, 2000]

MISSISSIPPI CHOCTAWS: THE BENEFITS OF PEACE CHIEFS

If a people are going to strive to achieve economic prosperity, the reduction of conflict, the acceptance and understanding of peace, is a most useful strategy. Mutual understanding, common cause and unity of action become possible. Little ever improves from virulent conflict and nothing moves forward in war. Leadership with vision often works actively to reduce conflict while putting its major efforts toward the positive building of fair community governance and efficient enterprises. At this moment of shifting political climates, when the future of Native nations is clouded by uncertainties on the national level, it seems proper to salute a consistent peace chief, one who led his own people from severe poverty and obscurity to sustained prosperity and regional political prominence.

He is Phillip Martin, long-time chief of the Mississippi Band of Choctaw Indians. A man of great perseverance, the 75-year-old Martin has led and guided his 6,000-member Choctaw tribe since 1959. Periodically, yet consistently reelected to the tribe's highest office for more than 40 years, Phillip Martin is universally credited for the success of the Choctaw, who are well posed to enter the 21st century as a self-determined people. While other, more conflictive tribes have deepened their economic dependencies and allowed spirals of violence to weaken their body politic, the Mississippi Choctaws have built steadily for more than 30 years. A well-entrenched tradition remembers the attitude of historical chief, Pushmataha, who in 1811 reasoned against war with their neighbors while Tecumseh appealed to the Choctaw warriors to join his war parties. While he had been a great warrior as a young man, Pushmataha opted for peace as he aged as a chief.

While Tecumseh has come down through the history as the greater leader, and Pushmataha is the lesser known. Interestingly, the response of Pushmataha, who coolly analyzed the horrible suffering war would bring, was actually quite sophisticated and just as completely dedicated to the preservation and survival of his people. He pointed out how his own tribe had painstakingly worked out friendly relations with their white neighbors. Their relations were reciprocal and as a result, things were going well.

To start killing their neighbors with whom they had such relations did not seem a good idea to Pushmataha, who kept his people out of the war and guided them for another 14 years.

Like Pushmataha, Phillip Martin came home from war to embark in a career that would build education and civic action and economic opportunity for his people. He was one of those from what has been called "the greatest generation." A World War II Air Force combat veteran who lost a brother in the war, Martin served in the military until 1955. When he returned home, his people had their pride and their language, but little else. They were among the poorest sharecroppers in a poor state, acutely discriminated against. They were basically just holding on a tribal base, having come through a very dark historical period as a people of color in a racially polarized South. Suffering from 80 percent unemployment, 90 percent lived in proverty and the tribe averaged a sixth-grade education.

Appreciably, Martin returned home of sound mind and character and applied himself to the betterment of his people through self-sufficient enterprise. Martin led an early fight to construct and operate the first high school on the reservation in 1963, beginning a trend that has seen consistent improvement in the educational level of the reservation population. He began the planning that would lay out a modern community infrastructure with good housing. He pursued and constructed an industrial park and after 10 years of chasing contracts, began a successful 20 years of economic growth. General Motors, Ford Motor Co., Oxford Speakers and other companies have located manufacturing plants in the Choctaw's 80-acre industrial park, which boasts 500,000 square feet of manufacturing space.

By 1994, the year when their enterprises diversified and accelerated with construction of a casino and entertainment center, the nation ran a total payroll topping $84 million. It had sound management and was ready to take on the complexity of gaming. The nation's Chahta Enterprises is now one of the 10 top employers in Mississippi. Its entertainment complex receives more than 2.5 million visitors a year and the tribe has built more than 1,000 new houses, constructed a major hospital, schools, nursing home, shopping center and day care center.

In what used to be the poorest county in the poorest state in the United States, in one of the most conservative states in the union, the Choctaws led an economic revolution. Today, with nearly universal employment, only 2.7 percent of household income comes from social services and this mostly involves elderly and handicapped. The tribe's manufacturing plants, still going strong, consistently win high qualify awards. They employ some 8,000 people, mostly non-Natives.

Most interestingly, a stroll down the reservation's main elementary school will reveal a lot of students speaking fluent Choctaw.

"Tell the other tribes" Martin says, "we can all do this. If you really want to do it, and get your act together, you can do it." This is a generous thought, but such progress will also require vision, and political acumen. To Martin's credit, when the political winds turned right in 1994, he was positioned to solidify friendships with such Republican powerhouses as Sen. Trent Lott, R-Miss.

Hiring quality lobbyists as their new wealth allowed, the Choctaw leader persuaded a good sector of Republicans to the righteousness of the Native nations sovereignty from taxation. In particular, the Choctaw initiative convinced the country's major anti-tax organization—Americans for Tax Reform, whose 500-plus organizations network and 90,000 activists supported the Indian case as an anti-tax strategy.

Politics is the art of achieving your group's self-interest, and it certainly makes for diverse bedfellows. But always the proof is in the pudding. The Choctaw strategy, precise and proper for their geopolitical context, is pragmatically brilliant. In the hold of the old South, this Mississippi tribe provides a welcome signal, an example of where visionary leadership can make a huge difference to the future of a people. An appreciation and salutation is due Choctaw chief and statesman, Phillip Martin, visionary, quiet building, steady helm.

TRIBUTE TO MARK TOLBERT, JR.

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Mark Tolbert, Jr., a young man fatally injured in an automobile accident December 22. Affectionately known as "Marky," he was the oldest son of Bishop Mark Tolbert, Sr. and Mrs. Emelda Tolbert, pastor and First Lady of Christ Temple Church in Kansas City, Missouri. Marky was taken to heaven by a "chariot of fire" one month past his nineteenth birthday. Although Marky left us at a young age, he led a remarkable and inspiring life.

He had recently completed his first semester of college at the University of Kansas in Lawrence, majoring in Business Administration. He was looking forward to working during the semester break at a local sporting goods store, continuing the work ethic he developed at an early age by working after school and during the summer.

Marky had a genuine love for people, especially children. He coached an after school basketball team at Faxon Montessori School that went undefeated for two years. He was a tutor at the Lee A. Tolbert Community Academy Saturday School and by his counseling, guidance, and initiative served as a role model to the youth of our community. With his strong work ethic and love of God and family he was destined to make the world a better place.

Before Marky could walk, he was involved in Christ Temple Church, beginning by making "joyful noises" on the drums. He further developed his musical talents over the years and played the keyboard at Sunday morning services even during his first semester of college. He helped serve the homeless during the church's annual "Feed the Multitude" ministry. He was President of the New Generation Choir and a member of the Sunday School. Marky was a founding member of the Radical Praise Steppers, a group of youth who showed praise to their heavenly Father through dance routines that encompassed clapping, stepping and stomping in unison while singing praises to God. They performed at church, district councils, national conventions and community events.

I attended his funeral December 30 with over 800 people. So many mourners came that the overflow of almost 300 people had to be accommodated in the church basement to watch the service on large screen television. Senior Pentecostal Ministers from around the country spoke in praise of Marky's life and legacy. The eulogy was performed by a family friend, Bishop Norman L. Wagner, President of the Pentecostal Assemblies of the World. Bishop Wagner delivered a powerful, uplifting sermon from the Second Book of Kings of the Bible. He compared Marky with the prophet Elisha and ended his sermon by stating that "God had to send a chariot of fire to take him out." Those in the congregation as well as the grieving family felt their hearts lifted from sorrow to joy knowing that Marky's greatness would not be diminished by death.

Marky's memory will live on in all those whose lives he has touched. His is a loss felt by his family and congregation, and the greater Kansas City community. Marky's beacon of light may be extinguished here on earth, but it glows brightly in heaven.

Mr. Speaker, please join me in expressing condolence to the Tolbert family for the loss of this very special child, and to paying tribute to the service he gave to family friends, church and community during his 19 years on this earth.

TRIBUTE TO DON H. COX

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. HUNTER. Mr. Speaker, I wish today to honor a distinguished public servant from my district in Imperial County, California. Don H. Cox retired on December 1, 2000 after serving for 12 years as a member of the Board of Directors for the Imperial Irrigation District (IID). He represented district 4, which includes the city of Brawley where he and his family reside.

Don was elected to the Board in 1988 and reelected in 1992 and 1996. He served as Board President in 1991 and 1997, and served as Vice-President in 1990, 1995, and 1996. Don also served on the District's Water, Budget, EPA, Geothermal, Salton Sea, Energy, and Salton Sea Emergency study groups. He was appointed by the Governor of California to serve as a director of the Regional Water Quality Control Board for the Colorado River area and also served as a member/director of the Colorado River Board of California, the IID Water Conservation Advisory Board, California Farm Water Coalition, and the Association of California Water Agencies' Water Rights Committee. I had the pleasure of working closely with Don through his leadership on the Salton Sea Authority since its inception in 1993.

Don served in the United States Navy during World War II and upon returning from the war, earned his degree in agriculture economics from the University of California, Berkeley. Following his studies, Don returned to the Imperial Valley to farm with his sons, which he has done for over 40 years. He is a past member of the Imperial Valley Vegetable Growers Association and was involved with many cotton boards. Despite his recent retirement, Don remains involved in the farming community as a newly elected member of the Board of Directors of the Imperial County Farm Bureau.

Don has been a member of the Brawley Rotary Club for over 30 years, a member of the Benevolent and Protective Order of Elks-Lodge #1420 for over 40 years and a lifelong member of the Imperial Valley Navy League. He has also served his community as a member of the Brawley Union High School Quarterback Club.

Throughout my many years in Congress, I have valued Don's insight into, and knowledge of, the many important issues facing the IID and the farming community in the Imperial Valley. It is my distinct privilege to honor my distinguished friend.

FAIRNESS AND EQUITY FOR FEDERAL RETIREES WITH PART-TIME SERVICE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. MORAN of Virginia. Mr. Speaker, today, I am reintroducing legislation to correct a longstanding inequity that affects a great number of Federal retirees in my district and throughout the Nation who have served for a portion of their careers in a part-time capacity. I am pleased that Mr. DAVIS of Virginia, Mr. WYNN, Ms. NORTON, Mrs. MORELLA, Mr. WOLF, and Mr. GILMAN have joined me as original cosponsors of this important legislation.

The current retirement formula for Federal workers with part-time service was enacted by Congress in 1986 as a provision of the Consolidated Omnibus Budget Reconciliation Act (COBRA) (P.L. 99–272). For the most part, the reforms contained in COBRA were fair. They ensured an equitable calculation for all employees hired after 1986 and prevented part-time employees from gaming the system in order to receive a disproportionately higher benefit. The 1986 reforms were based on a procedure developed and recommended to the Congress by the General Accounting Office (GAO). In a nutshell, the new methodology determines the proportion of a full-time career that a part-time employee works and scales annuities accordingly. Under the formula, a part-time worker's salary is calculated on a full-time equivalent basis (FTE) for retirement purposes. Thus, a worker's "high-three salary" could occur during a period of part-time service. This often happens when a senior level worker cuts back on his or her hours to care for an ill spouse or deal with other personal matters. Many of the people in this situation are women.

The problem is that the 1986 law had unintended and often unfair consequences for workers hired before 1986 who have some part-time service after 1986. Specifically, according to the way the law has been implemented by OPM, some part-time workers are not able to apply their full-time equivalent (FTE) salary to pre-1986 employment. This effectively limits their ability to receive the advantage of their "high-three average" salary for their entire careers. The reason for this inequity can be traced to subsection (c) of Section 15204 of COBRA. It provides that the new formula shall be effective with respect to service performed "on or after the date of the enactment of this Act."

Whether this was a drafting error, or whether OPM has taken an unnecessarily restrictive reading of the statute is hard to determine. What is clear is that the current practice is plainly contrary to the intent of the Congress, which was to grandfather existing employees into the new system and to ensure that no Federal workers would be harmed by changes in the retirement formula.

In a letter dated February 19, 1987 to then-OPM Director Constance Horner, the Chairman of the Committee on Post Office and Civil Service, The Honorable William D. Ford, objected to this anomalous and unfair result. He wrote:

> As in many other instances involving benefits, Congress chose to protect or to "grandfather" past service—to apply the new benefit formula only to future service rather than previously performed service under the older, more generous formula. This policy is often adopted to avoid penalizing individuals through the retroactive application of changes not anticipated by them. (As a measure of fairness, the policy of prospectivity is often applied to benefit improvements as well.)

Notwithstanding Chairman Ford's efforts to clarify congressional intent, this inequity has continued for 14 years. OPM has publicly acknowledged that there is a problem with COBRA. Director Lachance stated publicly in a letter to Chairman Fred Thompson of the Senate Committee on Government Affairs: "I agree that an end-of-career change to a part-time work schedule can have an unanticipated adverse effect on the amount of the retirement benefit." She also acknowledges in that same letter that a comparable bill in the other body, S. 772 introduced by Senator ROBB, "would eliminate the potential for anomalous computations by providing that the full time salary would be applicable to all service regardless of when it was performed while the proration of service credit would apply only to service after April 6, 1986 [the date of enactment]."

This is precisely what the bill we are offering today does. It allows the retirees affected by this inequity to have their full-time equivalent salary for their high 3 years to apply to their entire careers, not just the portion after 1986. My bill differs from S. 772 in that it places the burden on affected retirees to request a recalculation of benefits. This is coupled with a requirement that OPM conduct a good faith effort to notify annuitants of their right to obtain a recalculation. For all future retirees, benefits will be calculated in accordance with the new formula.

This bill is identical to a measure I sponsored last year. That legislation was cosponsored by seven members of the House and was endorsed by the National Association of Federal Workers in July. NARFE has made the bill a high priority.

Mr. Speaker, this is a matter of great consequence to many Americans who devoted their most productive years to public service. Some of my constituents have annuities that are thousands of dollars less than they would be under my bill. As I indicated, a disproportionate share of these retirees appears to be women, who left the federal service to care for others.

It is particularly appropriate that we address this issue now, as changing work-force needs and lifestyles make part-time service more popular, both from the standpoint of the worker and the employee. Many of the anticipated work-force shortages that are anticipated in the federal civil service can and should be met with part-time workers. I am concerned that they will not be so long as the anomalous and unfair provisions of P.L. 99–272 are allowed to stand. I urge my colleagues to join me in cosponsoring this important legislation.

PROTECT OUR FLAG

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mrs. EMERSON. Mr. Speaker, today I introduce a constitutional amendment for the protection of our nation's flag. The flag is a revered symbol of America's great tradition of liberty and democratic government, and it ought to be protected from acts of desecration that diminish us all.

As you know, there have been several attempts to outlaw by statute the desecration of the flag. Both Congress and state legislatures have passed such measures in recent years, only to be overruled later by decisions of the Supreme Court. It is clear that nothing short of an amendment to the Constitution will ensure that Old Glory has the complete and unqualified protection of the law.

The most common objection to this kind of amendment is that it unduly infringes on the freedom of speech. However, this objection disregards the fact that our freedoms are not practiced beyond the bounds of common sense and reason. As is often the case, there are reasonable exceptions to the freedom of speech, such as libel, obscenity, trademarks, and the like. Desecration of the flag is this kind of act, something that goes well beyond the legitimate exercising of a right. It is a wholly disgraceful and unacceptable form of behavior, an affront to the proud heritage and tradition of America.

Make no mistake, this constitutional amendment should be at the very top of the agenda of this Congress. We owe it to every citizen of this country, and particularly to those brave men and women who have stood in harm's way so that the flag and what it stands for might endure. I urge this body to take a strong stand for what is right and ensure the protection of our flag.

IN HONOR OF BARBARA BASS BAKAR

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Ms. PELOSI. Mr. Speaker, I rise to pay tribute to a wonderful San Franciscan as she celebrates her 50th birthday. Barbara Bass Bakar is a leader in our community whose commitment to quality health care, education, and the performing arts has greatly benefited our city. It is my honor to commend and thank her for her work.

Barbara has actively worked to promote better health care. Her efforts on behalf of the University of California, San Francisco's (UCSF) programs in the areas of cancer science and patient care have made a difference in many people's lives. She serves on the UCSF Board of Directors and helped to create the UCSF Foundation Wellness Lecture Series and the Raising Hope benefit series. With her husband, Gerson, she established the Gerson and Barbara Bass Bakar Distinguished Professor of Cancer Biology at UCSF's Cancer Research Institute.

Barbara's commitment to education is exemplified by her contributions to the Achievement Rewards for College Scientists (ARCF) Foundation, Inc. She has volunteered her time for many years on the Board of Directors of the ARCF Foundation and has been instrumental in their success at promoting science education in the U.S. through graduate scholarships.

In the arts community, Barbara is highly regarded for her service on the Board of the American Conservatory Theater. She has served on the Executive and Finance Committees of this resident professional theater. Barbara has also donated her time to the San Francisco Museum of Modern Art, including as a member of the Accessions Committee, and to the endowment committee of the Jewish Community Endowment Fund.

All of Barbara's contributions to our community life are in addition to her remarkable career in the business world. After successful tenures with Bloomingdales, Macy's California, and Burdines, she rose to the post of President and CEO of Emporium and Weinstocks. Prior to that, she served as Chair and CEO of I. Magnin. She also sits on the Board of Directors of the Bombay Company and the DFS Group Ltd. and DFS Holdings Ltd.

San Francisco is fortunate to count Barbara Bass Bakar among its residents as she continues to direct her considerable talents and energies toward improving our world. It is my honor to thank her and to join her husband, Gerson, in wishing her a Happy Birthday.

IN MEMORY OF RALPH LAIRD, JR.

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. FARR of California. Mr. Speaker, I rise today to pay tribute to a man who affected the lives of many during his career in public education and his community activities, Ralph Laird, Jr. Mr. Laird passed away on October 24 in Walnut Creek, California, after a long illness.

Ralph Laird, Jr., was born in Danville, Illinois on March 23, 1924. He graduated from Danville High School in 1942, served in an Army unit under the overall command of General George Patton in World War II, and returned to the United States to attend the University of South Dakota under the G.I. Bill. Graduating in 1949, and later receiving his Masters Degree in Education from San Francisco State University, Mr. Laird was the only one of his brothers and sister to receive an education past the eighth grade.

Mr. Laird worked for nineteen years at John Swett High School in Crockett, California. It was here that he began an incredible career in education working as a teacher, coach, Vice Principal and, for the last five years of his service there, as Principal. He was the coach of the 1959 championship John Swett basketball team, the first such championship for the school in decades, and also participated in community activities as a manager of an East Vallejo Little League team, camp director for the Vallejo YMCA, and a father in the Indian Guides program.

Mr. Laird was the first principal of San Dimas High School in San Dimas, California, and later was principal of Amador High School in Pleasanton, California. He ended his career in education as Assistant Superintendent of the Amador School District, but remained active as a leader in the SIRS organization and was a member of the Pleasanton Library Board.

In his life, he was committed to helping every person rise to their full potential. In all his school positions, he served as a mentor, worked extra hours, supported new teachers, and stayed in touch with many students with whom he had worked during his thirty-five years in education. His dedication to public service in its most pure form—the education and nurturing of our children—is an example for all of us to strive for.

Beyond his professional life, Ralph Laird was also well known for his ability to tell a story or a joke on almost any subject. His obituary stated, "He never met a pun he didn't like." He brightened any room he walked into, and was the patriarch of a wonderful family. He will be sorely missed not just by his community, but by his family—including his wife of 54 years, Dorothy; his sons, John, James and Thomas; and three grandchildren. All those touched by him during his life will miss his friendship, leadership, good humor, and guidance.

REGARDING THE RESOLUTION OPPOSING THE IMPOSITION OF CRIMINAL LIABILITY ON INTERNET SERVICE PROVIDERS BASED ON THE ACTIONS OF THEIR USERS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. DREIER. Mr. Speaker, as the Internet has grown in importance to our economy and our culture, Congress has considered a succession of bills addressing unsavory conduct on the Internet. While many of these proposals have been well-intentioned, they have proposed widely differing, sometimes technologically unrealistic, or unconstitutional approaches to this important issue.

The Internet offers Americans an unprecedented avenue for communication and commerce, changing the way we work, play, shop, and communicate. This phenomenon, referred to by the United States Supreme Court as the "vast democratic fora of the Internet" can be attributed chiefly to the policy embraced by the House in an amendment to the Telecommunications Act of 1996 offered by my distinguished colleagues CHRIS COX and RON WYDEN, and that I was pleased to support.

The Cox-Wyden amendment ensures that Internet service providers, website hosts, portals, search engines, directories and others are not burdened by the threat of civil tort liability for content created or developed by others. This measure has provided welcome certainty and uniformity with regard to civil tort liability on the Internet, while in no way limiting remedies against the provider of illegal content.

However, criminal bills continue to take widely varying and often quite different approaches to this issue. In addition, foreign nations and courts in Europe and Asia are stepping up efforts to hold U.S. companies liable for website content located in the United States that is criminal under their laws, but entirely lawful under our First Amendment. There is even a Cyber-crime Treaty that the Clinton Administration has been negotiating with countries that are part of the Council of Europe that could restrict Congress' ability to legislate in this area if we do not act soon.

For these reasons, I believe that the 107th Congress must act to preserve strong criminal penalties against criminals on the Internet, while creating a uniform and sensible structure limiting service providers' liability for content that third parties have stored or placed on their systems, but that may violate some criminal law. Given the importance of U.S. global leadership in the Internet industry, and of keeping the Internet open so that individuals can communicate and do business with one another, we cannot afford to cede the initiative or authority in this important area.

ON RE-INTRODUCTION OF THE NOTIFICATION AND FEDERAL EMPLOYEE ANTI-DISCRIMINATION AND RETALIATION ACT

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. SENSENBRENNER. Mr. Speaker, today I am making good on a promise I made during the last days of the previous Congress. During a press conference on October 24th last year announcing the introduction of H.R. 5516, the Notification and Federal Employee Anti-discrimination And Retaliation Act (the No FEAR Act) of 2000, I pledged to reintroduce this legislation on the first day of the 107th Congress. That day has arrived. I am pleased to introduce the No FEAR Act of 2001.

During that press conference, a spokesman for the NAACP noted the NAACP Task Force on Federal Sector Discrimination and other civil rights organizations are supporting this legislation. It was hailed as the first civil rights legislation of the 21st Century. I would like to thank the courageous individuals and organizations, which have spoken out on the need for this legislation for their support.

I would also like to thank Representative Sheila Jackson-Lee and Representative Connie Morella for their support of this bill when it was first introduced. This year I have made some modifications to the bill which ensure that its contents do not otherwise limit the ability of federal employees to exercise other rights available to them under federal law. The new draft also requires federal agencies to report their findings to the Attorney General in addition to Congress. Finally, the legislation makes more explicit references to reimbursement requirements under existing law. I believe that these changes make a good bill better.

As the Chairman of the Committee on Science during the last Congress, I was very disturbed by allegations that EPA practices intolerance and discrimination against its scientists and employees. For the past year, the Committee on Science has investigated numerous charges of retaliation and discrimination at EPA, and unfortunately they were found to have merit.

The Committee held a hearing in March 2000, over allegations that agency officials were intimidating EPA scientists and even harassing private citizens who publicly voiced concerns about agency policies and science. While investigating the complaints of several scientists, a number of African-American and disabled employees came to the Committee expressing similar concerns. One of those employees, Dr. Marsha Coleman-Adebayo, won a $600,000 jury decision against EPA for discrimination.

It further appears EPA has gone so far as to retaliate against some of the employees and scientists that assisted the Science Committee during our investigation. In one case, the Department of Labor found EPA retaliated against a female scientist for, among other things, her assistance with the Science Committee's work. The EPA reassigned this scientist from her position as lab director at the Athens, Georgia regional office effective November 5, 2000—a position she held for 16 years—to a position handling grants at EPA headquarters. In the October 3 decision, the Department of Labor directed EPA to cancel the transfer because it was based on retaliation.

EPA's response to these problems has been to claim that they have a great diversity program. Apparently, EPA believes that if it hires the right makeup of people, it does not matter if its managers discriminate and harass those individuals.

Diversity is great, but in and of itself, it is not the answer. Enforcing the laws protecting employees from harassment, discrimination and retaliation is the answer. EPA, however, does not appear to do this. EPA managers have not been held accountable when charges of intolerance and discrimination are found to be true. Such unresponsiveness by Administrator Browner and the Agency legitimizes this indefensible behavior.

Subsequent to the hearing, other federal employees have contacted me with information regarding their complaints of harassment and retaliation.

Federal employees with diverse backgrounds and ideas should have no fear of being harassed because of their ideas or the color of their skin. This bill would ensure accountability throughout the entire Federal Government—not just EPA. Under current law, agencies are held harmless when they lose judgements, awards or compromise settlements in whistleblower and discrimination cases.

The Federal Government pays such awards out of a government-wide fund. The No FEAR Act would require agencies to pay for their misdeeds and mismanagement out of their own budgets. The bill would also require Federal agencies to notify employees about any applicable discrimination and whistleblower protection laws and report to Congress and the Attorney General on the number of discrimination and whistleblower cases within each agency. Additionally, each agency would have to report on the total cost of all whistleblower and discrimination judgements or settlements involving the agency.

Federal employees and Federal scientists should have no fear that they will be discriminated against because of their diverse views and backgrounds. This legislation is a significant step towards achieving this goal.

NO TO A WORLD COURT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues to consider carefully and submit the following editorial from the December 30, 2000, edition of the Omaha World-Herald, entitled "No to a World Court" into the Congressional Record.

[From the Omaha World-Herald, Dec. 20, 2000]

No to a World Court

America's political leaders are being wooed with a siren song they would do well to resist. Foreign governments, political activists and academics are sounding that song with the aim of enticing the United States into ratifying a treaty to create an International Criminal Court. The song goes something like this:

Turn away from old notions. Turn away from your antiquated allegiance to national sovereignty. Embrace a higher moral order. Recognize that if nations are to promote true justice, they must swallow their pride and bow to a higher authority, a court, that will decide questions of war crimes and genocide and see that wrongdoers receive the punishment they deserve.

If a treaty establishing the court is approved by 60 nations, the world would finally have a permanent international forum with the authority to prosecute masterminds of genocide and war crimes.

It is superficially appealing. But behind the high-minded sentiments lies an agenda hostile to U.S. interests.

Foreign governments and activists organizations have sent strong indications that they envision the court largely as a tool for reining in the assertion of U.S. power. Through its ability to prosecute American officials and military people, the court would give anti-American critics a powerful new instrument for undermining U.S. military operations and intimidating U.S. leaders from launching future ones.

Creation of the court would also aid its boosters in their efforts to create a new standard for military operations, an "enlightened" standard that would, in effect, severely restrict U.S. military options under threat of international prosecution.

The eagerness of international activists to promote such extravagant legal claims was demonstrated this year when human rights groups tried unsuccessfully to haul NATO officials before an international tribunal investigating war crimes from the Yugoslav civil war. The activists claimed, without foundation, that NATO's 1999 bombing campaign violated international law in reckless disregard for civilians.

That air campaign, ironically, was marked not by callousness on the part of NATO officials but by the extraordinary lengths to which they sought to minimize casualties, civilian as well as military. Regrettable losses of civilian life occurred nonetheless, fanning the criticism of such interventions.

As if all this weren't enough, the proposed procedures for the International Criminal Court would place it in direct opposition to civil liberties guaranteed under the U.S. Constitution. Proceedings before the court would allow no trial by jury, no right to a trial without long delays, no right of the defendant to confront witnesses, no prohibition against extensive hearsay evidence and no appeals.

David Rivkin and Lee Casey, two American attorneys with extensive experience in international law, note that the court would serve as "police, prosecutor, judge, jury and jailer," with no countervailing authority to check its power.

Rivkin and Casey also point out that trying Americans under such conditions was precisely the sort of injustice that Thomas Jefferson warned against in the Declaration of Independence more than 200 years ago.

In listing the injustices committed by the British government, the Declaration heaped particular scorn on the way Americans had been abused by British vice-admiralty courts. Such courts, the Declaration said, had subjected American defendants "to a jurisdiction foreign to our constitution, and unacknowledged by our laws." The courts denied people "the benefits of Trial by Jury" and involved transporting them "beyond Seas to be tried for pretended offenses."

When the U.S. Constitution was drafted in the late 1780s, it specifically required that criminal trials be by jury and held in the state and district where the crime was committed.

The appropriate course for the United States would be to continue supporting international courts on an ad hoc basis, such as the Yugoslav tribunal, to meet the needs of particular situations. Such bodies have powers far more modest than that of the proposed court.

A chorus of foreign governments, advocacy groups and commentators has a far different agenda, however. They are urging the United States to sign and ratify the treaty creating the International Criminal Court. To hinder the court's creation, they say, would be the opposite of progressive.

But the siren song ought to be resisted. Otherwise, by bowing to foolhardy legal restrictions, the United States would be handing its clever critics the very chains with which they would bind this country. And so we would lose some of our ability to defend not only our own interests but the freedoms of others.

RECOGNIZING MRS. ANN HEIMAN OF GREELEY, COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. SCHAFFER. Mr. Speaker, today I wish to recognize one of my constituents, Mrs. Ann Heiman of Greeley, Colorado. Last autumn, Mrs. Heiman received The Daily Points of Light Award for her community action and acts of generosity.

Mrs. Heiman's story is remarkable. A cancer survivor of 47 years, she has never stopped in her service to her fellow citizens. Mrs. Heiman was a founding member of the original Eastside Health Center, served on the task force for a family assistance organization, and was a founding board member of the Weld Food Bank—which distributes 37 tons of food weekly to those in need. She was also one of the first board members of A Woman's Place, a center for abused women, and she is a member of the local board of education.

I am extremely proud of Mrs. Heiman. I am proud to recognize her as an outstanding Coloradan. Her dedication to our western community and her compassion for all have made an enduring difference in the lives of her neighbors. I ask the House to join me in extending congratulations to Mrs. Heiman of Colorado.

TRIBUTE TO MARQUETTE POLICE CHIEF SAL SARVELLO ON THE OCCASION OF HIS RETIREMENT

HON. BART STUPAK

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. STUPAK. Mr. Speaker, as you and our House colleagues are aware, I have worked since my first day in Congress to bring a broad awareness of the needs and concerns of law enforcement officials to the floor of this chamber. I experience the great joy of this personal mission when I can speak, as I do today, to celebrate the career and dedication of a law enforcement officer at the house of this retirement.

Police Chief Salvatore Sarvello joined the Marquette, Michigan, Police Department as a patrolman in 1971, about the same time that I was joining public safety department in the nearby community of Escanaba. Our careers took different paths—I became a Michigan State Trooper and eventually entered politics, while Sal worked his way up through his department, becoming chief in 1995. Despite our different paths, we had numerous opportunities to work together, perhaps most significantly on the issue of methcathinone, an illegal drug that plagued northern Michigan for several years. Production of this drug, commonly known as CAT, took root in our area. With the help of Sal and other investigators in the region, I was able to develop legislation—my very first piece of federal legislation signed into law—that took the claws out of this highly addictive substance.

Sal has always been a supporter of the COPS program, the wonderfully ambition and successful plan to help cities, counties, townships and other municipalities hire additional law enforcement officers. I have worked hard in Congress to ensure this program continued to receive funding until the goal of hiring 100,000 new officers by the 2000 was reached, and the support grass-roots support of officers like Chief Salvatore was essential in accomplishing this task. I worked with Sal for the visit of Vice President Al Gore, first in 1992 as part of a campaign swing for the Clinton-Gore ticket, and again in '94. I appreciate and applaud his professionalism in dealing with the complications, uncertainties and last-minute decisions associated with a visit on short notice of a national political to a small community.

A recent article in the Marquette *Mining Journal* notes that Chief Sarvello's law enforcement career actually goes back to the mid-60s, when he served as a U.S. Air Force Security police officer in Vietnam. This lifetime of public service, the article notes won't end with the Chief's retirement, because he plans to remain active with the Marquette West Rotary Club and with his parish, St. Michael's Catholic Church.

The chief looks forward to spending more time with Joan, his wife of 34 years, and his sons, Michael and Scott. At a special gathering Friday, the community will have a chance to wish the best to its retiring chief. Mr. Speaker, I ask you and our colleagues to join me in offering our thanks to this dedicated public servant, Chief Sal Sarvello, for a job well done.

INTRODUCTION OF BILL TO AMEND CLEAR CREEK COUNTY, COLORADO, LANDS TRANSFER ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. UDALL of Colorado. Mr. Speaker, I am today reintroducing a bill to provide additional time for Clear Creek County to sell certain lands that it received from the United States under legislation passed in 1993.

Under that legislation—the Clear Creek County, Colorado, Public Lands Transfer Act—the County took title to certain public lands with explicit authority for their sale, subject to two basic requirements: the County must pay to the United States any net proceeds realized after deduction of allowable costs, as defined through agreement with the Secretary of the Interior; and any lands not sold within 10 years after enactment of the Transfer Act must be retained by the County.

In the last Congress, I introduced a bill to extend for an additional ten years the period during which the County will be authorized to sell these lands. This has been requested by the Commissioners of Clear Creek County because it has taken longer than anticipated for the county to implement this part of the Transfer Act. Additional time would mean a greater likelihood that the County can sell these lands, and thus a greater chance that the national taxpayers will benefit from payments by the County. Last year, the House passed the time-extension bill, but the Senate did not complete action on it.

The bill I am introducing today is almost identical to the one the House passed last year. The only difference is that the new bill would extend until May 19, 2015 the time for the county to sell the lands in question—one year longer than under the previous bill. The additional year would be provided in recognition of the additional time that will now be required for the bill to be enacted into law.

TMJ IMPLANTS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 3, 2001

Mr. TANCREDO. Mr. Speaker, in April 1999, I received a phone call and correspondence from TMJ Implants, a company located in Golden, Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis by the United States Food and Drug Administration (FDA). Over the last year and a half—and delay after delay resulting in the pulling of the implants from the market, I have watched the process drag on, leading to the loss of millions of dollars by the company and countless number of patients who have been put through unnecessary pain. While I will let my submission speak for itself, suffice it to say that I sincerely believe that most of the frustration could have been avoided had everyone sat down and laid everything out on the table in the spirit of what was called for under the FDA Modernization Act. Unfortunately, the agency has been unwilling to do so—and it seems that these problems will continue into the foreseeable future.

Over the last year and a half, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each relaying to me the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic decrease in pain, an increase in range of motion and increased function. To date, there is no scientific reasoning for the fact that the total and partial joints are not on the market. All of this calls into question the integrity of the agency—something that I find very disturbing.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure.

I am convinced that the work of TMJ is based on solid, scientific principles and the removal of the implants from the market has been and continues to be erroneous, contrary to the Agency's earlier findings and the statutory standard that should be applied.

I would like to take this opportunity to submit into the RECORD a copy of a letter from Mr. Roland Jankelson to the FDA urging the agency to come to an agreement as soon as possible so that this disaster is remedied and thousands of patients in the general public can receive relief.

ROLAND JANKELSON,
15 PONCE DE LEON TERRACE,
Tacoma, WA, December 28, 2000.

MR. LES WEINSTEIN,
U.S. Food and Drug Administration, Ombudsman, Center for Devices and Radiological Health,
9200 Corporate Blvd., Rockville MD.

Re: TMJ Implants, Inc.

DEAR MR. WEINSTEIN,

With reference to our phone conversation today, please note the following comments (especially the last point, which I hope will shape your actions in the next couple of days):

1. There is no need for another meeting with ODE. The purposes of this meeting (as stated in the Blackwell E-mail) are bogus—just more obfuscation and more delay. As Mike Cole stated in his December 27, 2000 letter to Tim Ulatowski, a copy of which you have: "You say we must arrive at an acceptable, consistent diagnosis criteria in order to write a label". I say we are already there, and have been for two months . . . (Underlining is my emphasis).

2. There never has been any credible evidence before the FDA of a safety problem (in over thirty plus years of use) that would prevent the Christensen devices (total and partial joint) from meeting the required standard of reasonable assurance of safety. Approval was given to TMJ Concepts device with limited data and little history. The information, data and history given to FDA for the TMJ Implants device exceeds many-fold, by every possible measure, the composite of information used to approve its competitor. The Christensen Company, its consultants and its attorneys have responded to every issue, every hypothetical concern posed by FDA, no matter how far-fetched these issues and concerns were. See Mike Cole's notes attached for just a quick summary of the Company's responses since the October Panel meeting. As Mr. Cole states in his letter, the questions posed in the Blackwell E-mail were addressed two months ago. Yet, for two months, there has been no response from the Ulatowski side. You and Mr. Ulatowski have been informed that this was a company on the verge of financial ruin. This does not make any difference to Mr. Ulatowski—It is not his concern, not his focus. A man's reputation, ruined. A company financially gutted. Patients suffering. "Myotronics" all over again. How could this happen again? It has.

With respect to the meeting called for in the Blackwell E-mail: There is no more explanation needed from the Company. There is no more "perspective (Blackwell's word) to share. Just more delay.

3. Forget that Dr. Christensen faces financial ruin. Forget that his company's resources are nearly exhausted. Every day that goes by without FDA approval of the TMJ Implants, Inc. total joint, and partial joint in particular, is a day that patients suffer. The PMA record is indisputable. Physicians and patients have uniformly made it clear that the FDA is harming them. The FDA is on notice that physicians are withholding needed surgery, waiting for the Christensen devices, both total and partial joint. The physicians have uniformly made it clear to the FDA that the TMJ Concepts, Inc. joint is unacceptable for their patients. Others have made it clear that without the availability of a partial joint, patients will be subjected to surgery that unnecessarily destroys healthy anatomy. Witholding approval of these devices is a willful disregard by FDA of the public health. Ulatowski does not care.

4. About five years ago, Rick Blumberg, Deputy Counsel for Litigation, for whom I have great respect, persuaded me to forego what would have extended FDA's involvement in the Myotronics matter, i.e. litigation by Myotronics that would have further publicized the already well-publicized findings of more than two years of Congressional hearings, OIA and IGHHS investigations. Rick assured me, and I believe he believed, that the FDA was, indeed, changed in reaction to the revelations of the multiple and extra-legal activities of FDA employees intentionally directed at and intended to harm Myotronics. BUT HE WAS WRONG! The abuse, misuse of agency authority for the pursuit of a private agenda to harm a targeted company, retaliation and punishment, is all repeated against TMJ Implants, Inc., whose devices for thirty plus years served a specialized "salvage need" and relieved human suffering. Standing in the middle of these abuses: the same Mr. Tim Ulatowski.

5. The record cries out for intervention by you and other responsible FDA officials. Neither Susan Runner nor Tim Ulatowski have credibility in this matter. In reviewing this matter, you and senior FDA and OIA officials should look at a number of issues:

(a) A phone call from Dr. Susan Runner to Dr. Christensen days before the May 1999 Panel meeting informing Dr. Christensen that his PMA would be disapproved, and advising him to withdraw it.

(b) Information leaked by the FDA prior to the 1999 Panel that TMJ Implants, Inc. devices "were either withdrawn by FDA or would soon be". Remember the FDA leaking in the Myotronics case.

(c) Treatment of TMJ Implants, Inc. PMA's with standards different than used for its competitor, TMJ Concepts, Inc.'s PMA: TMJ Concepts, Inc. was approved without delay in spite of a device history covering only a few years and limited data, compared to a device history of more that thirty years for the Christensen devices, and much more data.

(d) Removal of the partial and total joint form the market in spite of a 9–0 Panel approval and a need acknowledged the FDA Panel.

(e) Allegations that Dr. Susan Runner had a conflict of interest stemming from her past relationship with Dr. Mecuri, TMJ Concepts, Inc. chief technical consultant—allegations rejected by OLA without any apparent serious injury.

(f) Data and evidence covering over thirty years of use that demonstrates a remarkable safety record. Why has this device been held hostage?

(g) Staff's dismissal of TMJ Implants, Inc. request for the addition of qualified experts for the October 2000 Panel.

(h) The assembly of a Panel for the October 2000 meeting which lacked balance and qualifications. Only one certified Oral Maxillo-Facial surgeon among five consultants. Why?

(i) Concerns about the independence of a number of October 2000 Panel members and consultants.

(j) Acknowledgement by one of the October 2000 Panel members to Dr. Christensen *prior to the Panel meeting* that he believed (knew) the Panel would recommend disapproval.

(k) Acknowledgement by the same Panel member that he knew by the noon break in the October 2000 Panel meeting that members intended to vote for disapproval.

(l) Acknowledgement by the same Panel member that he believed the PMA (the TMJ Implant, Inc. partial joint) should be approved, but that he voted for disapproval (with the majority) because he believed he would not otherwise be invited to another panel. So much for the idea of independence!

(m) Questions concerning why the partial joint PMA was subjected to a second Panel (the October 2000 Panel) after a May 1999 Panel recommended approval 9–0 (what conditions).

(n) Questions regarding the appropriate level of micro-management of diagnostic protocols, and pathology indications, and why labeling provided by the company was deemed unacceptable. On the issue of concern about improper staff micro-management, see December 31, 2000 letter from Roland Jankelson to Lee Weinstein.

(o) Did the Ulatowski group, particularly Susan Runner, ignore information and misrepresent data and information provided by the Company? Incompetence? Deliberate?

(p) Did the Ulatowski group ignore for two months the Company's responses following the October 2000 Panel meeting when it knew the delay threatened the financial viability of the Company? See (1) Mile Cole notes, and (2) Mike Cole letter to Ulatowski dated December 27, 2000.

(q) Questions about Susan Runner's independence and objectivity. Appearances of a personal agenda to favor TMJ Implants, Inc. competitor. Differences of standards and treatments applied to each are indisputable. Why did it happen?

(r) Concern about the extraordinary delay in the review process, continuing to this date, and whether it is intended to deliberately punish TMJ Implants, Inc. There are similarities between this case, and a history of retaliation by FDA employees revealed by 1995–1996 hearings of the House Subcommittee on Oversight and Investigations.

(s) Concern about Susan Runner's competence (qualifications, training and experience) to review these particular devices.

(t) Questions about why the Ulatowski group has ignored the physicians' claims of patient harm from the removal of these devices from the market. See sample of physicians' letters. See sample of patients' letters.

6. No more meetings, please. No more conference calls that just provide more delay. Have Tim Ulatowski put in writing all matters with which he is not satisfied, any standing in the way of approval. If he cannot state it in writing, "it should not exist". Have this happen on Tuesday, Ulatowski's first day back (while he took last week away from work, Dr. Christensen continued to "bleed" more money). Get this PMA done next week. We can argue about culpability, need for investigations and legal remedies later. I thank you in advance for doing what needs to be done.

Sincerely,

ROLAND JANKELSON.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference.

This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 4, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 9

10:30 a.m.
Foreign Relations
To hold hearings on a United Nations Reform Report.
SD–419

JANUARY 16

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Colin L. Powell, to be Secretary of State.
SH–216

JANUARY 17

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Colin L. Powell, to be Secretary of State.
SH–216

SENATE—*Thursday, January 4, 2001*

(Legislative day of Wednesday, January 3, 2001)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, thank You for Your hand upon our shoulders assuring us of Your providential, palpable presence and reminding us of Your faithfulness. It is a hand of comfort as You tell us again that You will never leave nor forsake us. It is a hand of conscription calling us to be "Aye ready!" servants who receive from You the orders of the day. It is a hand of courage that gives us daring to take action because You have taken hold of us. It is a hand of correction alerting us to what may be less than Your best for us or our Nation. It is a hand of confidence to press forward. Your faithfulness fails not; it meets the problems of today with fresh guidance for each step of the way. So we will be all the bolder; Your hand is upon our shoulders. We will not waver; You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period of morning business with each speaker not to exceed 15 minutes in their presentations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina.

THERE IS NO SURPLUS

Mr. HOLLINGS. Mr. President, parroting Patrick Henry: Peace, peace, everywhere man cried peace, but there is no peace. Surplus, surplus, everywhere men cry surplus, but there is no surplus. That is the point of my comments this afternoon. I have to embellish it or flesh it out so you will understand the reality, that "it is not the economy, stupid," rather it is the real economy.

During Christmas week, I picked up USA Today. A headline read "Surplus soars despite the slump." That is dangerous. People think we have a surplus and everybody is running around: Whoopee, cut all the revenues; wait a minute, if you don't cut it, those Democrats are going to spend it. Let's have tax cuts, tax cuts.

This morning, I picked up Roll Call. It had a very interesting article by Stuart Rothenberg, one of the best of the best. Not quoting the entire article, he had a little squib about our new colleague and my friend, Senator TOM CARPER of Delaware. I quote part of the article as of this morning:

> Delaware Senator Tom Carper's record in the House is not easy to pigeonhole. During a six-year period, from 1983 through 1988, his U.S. Chamber of Commerce ratings ranged from 38 to 64, his liberal Americans for Democratic Action ratings ranged from 55 to 80 and his AFL–CIO ratings ranged from 59 to 86.
>
> The Delaware Democrat tended to be more moderate on economic issues, but that generally reflected his aggressive efforts to cut the budget deficit. Since that's no longer a problem, he will face a different set of legislative priorities on the economy, possibly altering his image.

I will repeat that: "Since that's no longer a problem . . ." The deficit has been solved, according to this morning's Roll Call. Not at all. We had that balanced budget agreement in 1997, so you would think that the budget would have been balanced in 1998. To the contrary.

In 1998, according to the Congressional Budget Office, we had a deficit of $109 billion, not a surplus. In 1999, we had a deficit of $127 billion, not a surplus.

For the year 2000, just 3 months ago, fiscal year ending September 30, 2000, I quote from page 20, table 6 of the final monthly Treasury statement by the U.S. Department of the Treasury. It shows that the agency securities issued under special financing authorities at the beginning of fiscal year 2000 was 5 trillion 606 some-odd billion dollars, whereas on September 30, it was 5 trillion 629 some-odd billion dollars. That is a deficit, not a surplus, of $23 billion.

If there is any doubt, the distinguished Presiding Officer and I were here when we worked out the last surplus under President Lyndon Baines Johnson. That was in 1968–1969. That was before we changed the old fiscal year to October 1. It used to begin July 1. In December, early that first week, if I remember correctly, George Mahon, who was then chairman of the Appropriations Committee, and all of us called over to Marvin Watson and said: Ask the chief if we can cut another $5 billion, and we did. We got permission.

Does my colleague know what the budget was for fiscal year 1968–1969 for Social Security, Medicare—go right on down the list—guns and butter, the war in Vietnam? The civil economy was $178 billion. The interest now is $365 billion, $1 billion a day; just the interest carrying charges, not for Government, just for past profligacy.

I have a list of the Presidents from Truman through Clinton and their corresponding budget information; these are Congressional Budget Office figures. I ask unanimous consent this table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOLLINGS' BUDGET REALITIES

[In billions]

President and year	U.S. budget	Borrowed trust funds	Unified deficit with trust funds	Actual deficit without trust funds	National debt	Annual increases in spending for interest
Truman:						
1946	55.2	-5.0	-15.9	-10.9	271.0	
1947	34.5	-9.9	4.0	+13.9	257.1	
1948	29.8	6.7	11.8	+5.1	252.0	
1949	38.8	1.2	0.6	-0.6	252.6	
1950	42.6	1.2	-3.1	-4.3	256.9	
1951	45.5	4.5	6.1	+1.6	255.3	
1952	67.7	2.3	-1.5	-3.8	259.1	
1953	76.1	0.4	-6.5	-6.9	266.0	
1954	70.9	3.6	-1.2	-4.8	270.8	
Eisenhower:						
1955	68.4	0.6	-3.0	-3.6	274.4	
1956	70.6	2.2	3.9	+1.7	272.7	
1957	76.7	3.0	3.4	+0.4	272.3	
1958	82.4	4.6	-2.8	-7.4	279.7	
1959	92.1	-5.0	-12.8	-7.8	287.5	
1960	92.2	3.3	0.3	-3.0	290.5	
1961	97.7	-1.2	-3.3	-2.1	292.6	
1962	106.8	3.2	-7.1	-10.3	302.9	9.1
Kennedy:						
1963	111.3	2.6	-4.8	-7.4	310.3	9.9
1964	118.5	-0.1	-5.9	-5.8	316.1	10.7
Johnson:						
1965	118.2	4.8	-1.4	-6.2	322.3	11.3
1966	134.5	2.5	-3.7	-6.2	328.5	12.0
1967	157.5	3.3	-8.6	-11.9	340.4	13.4
1968	178.1	3.1	-25.2	-28.3	368.7	14.6
1969	183.6	0.3	3.2	+2.9	365.8	16.6
1970	195.6	12.3	-2.8	-15.1	380.9	19.3
Nixon:						
1971	210.2	4.3	-23.0	-27.3	408.2	21.0
1972	230.7	4.3	-23.4	-27.7	435.9	21.8
1973	245.7	15.5	-14.9	-30.4	466.3	24.2
1974	269.4	11.5	-6.1	-17.6	483.9	29.3
1975	332.3	4.8	-53.2	-58.0	541.9	32.7
Ford:						
1976	371.8	13.4	-73.7	-87.1	629.0	37.1
1977	409.2	23.7	-53.7	-77.4	706.4	41.9
Carter:						
1978	458.7	11.0	-59.2	-70.2	776.6	48.7
1979	504.0	12.2	-40.7	-52.9	829.5	59.9
1980	590.9	5.8	-73.8	-79.6	909.1	74.8
1981	678.2	6.7	-79.0	-85.7	994.8	95.5
Reagan:						
1982	745.8	14.5	-128.0	-142.5	1,137.3	117.2
1983	808.4	26.6	-207.8	-234.4	1,371.7	128.7
1984	851.9	7.6	-185.4	-193.0	1,564.7	153.9
1985	946.4	40.5	-212.3	-252.8	1,817.5	178.9
1986	990.5	81.9	-221.2	-303.1	2,120.6	190.3
1987	1,004.1	75.7	-149.8	-225.5	2,346.1	195.3
1988	1,064.5	100.0	-155.2	-255.2	2,601.3	214.1
1989	1,143.7	114.2	-152.5	-266.7	2,868.3	240.9
Bush:						
1990	1,253.2	117.4	-221.2	-338.6	3,206.6	264.7
1991	1,324.4	122.5	-269.4	-391.9	3,598.5	285.5
1992	1,381.7	113.2	-290.4	-403.6	4,002.1	292.3
1993	1,409.5	94.2	-255.1	-349.3	4,351.4	292.5
Clinton:						
1994	1,461.9	89.0	-203.3	-292.3	4,643.7	296.3
1995	1,515.8	113.3	-164.0	-277.3	4,921.0	332.4
1996	1,560.6	153.4	-107.5	-260.9	5,181.9	344.0
1997	1,601.3	165.8	-22.0	-187.8	5,369.7	355.8
1998	1,652.6	178.2	69.2	-109.0	5,478.7	363.8
1999	1,703.0	251.8	124.4	-127.4	5,606.1	353.5
2000	1,769.0	234.9	176.0	-58.9	5,665.0	362.0
2001	1,839.0	262.0	177.0	-85.0	5,750.0	371.0

*Historical Tables, Budget of the U.S. Government FY 1998; Beginning in 1962 CBO's 2001 Economic and Budget Outlook.

Mr. HOLLINGS. Mr. President, this shows how when President Clinton came to office in January of 1993, in fiscal year 1992, the last year of President George Herbert Walker Bush's term, according to the Congressional Budget Office, there was a deficit of $403,600,000. We were spending $400 billion more than we were taking in that year.

Since Clinton has taken office, we have reduced that deficit from $403 billion to $23 billion. We were headed in the right direction.

I hope Mr. Rothenberg, Roll Call, USA Today, and the free press will finally get the truth to the American people. That is all we want. We have to be talking and singing from the same hymnal. Everybody is running around saying: Yes, I am for a tax cut, but not quite as big; I am for this; I am for that. We don't have any taxes to cut. To put it another way, the best tax cut is to reduce the deficit.

If one reads the Internet site of the U.S. Treasury—publicdebt.treas.gov—the public debt to the penny, as of 11 o'clock—which is when they changed it—is 5 trillion 728 some-odd billion dollars. At the close of fiscal year 2000 on September 30, it was $5.674 trillion, and it has gone up to $5.728-some-odd trillion.

So you can see, not only did we end fiscal year 2000 with a deficit—not a surplus—of $23 billion—but in 3 months of this fiscal year, President Bush is going to be submitting his budget, talking about tax cuts, loss of revenues; and the deficit is already $54 billion. And that is without factoring in the $30 billion we appropriated before we went home for Christmas.

So don't give me all of this talk about fiscal responsibility and everything else. The only responsible thing we had, of course, was President Clinton's and the Democrats' 1993 economic program that cut spending, that increased taxes, and cut the size of Government.

Yes, I stand on the floor and publicly acknowledge I voted for an increase in taxes on Social Security. We were told by my distinguished colleague from Texas, Senator GRAMM, that they would be hunting us down in the street, us Democrats, and shooting us like dogs if we increased the Social Security tax.

We increased the tax on gasoline. We cut, as I say, the size of Government. But they want to keep talking, particularly the media. We politicians do a little liberality, and, well, they call it spin. They even have a program called "Spin" now on national TV. But we are entitled to a little spin. We run for public office, and we have to explain a lot of things we do—but not the media; they are supposed to give us the exact truth.

There is a recent book called "Maestro" by Bob Woodward about Alan Greenspan. I refer to page 95. I am not going to read the whole thing, obviously, but I quote at the bottom of page 95, about our Chairman of the Federal Reserve Board, Mr. Alan Greenspan. I am quoting from the Woodward book:

> The long-term rates—the 10-year and longer rates—were an unusual 3 to 4 percent higher than the short-term Fed funds rate, at about 7 percent. The gap between the short-term rate and the long-term rate, Greenspan lectured, was an inflation premium being paid for one simple reason. The lenders of long-term money expected the federal deficit to continue to grow and explode. They had good reason, given the double-digit inflation of the late 1970s and the expanding budget deficits under Reagan. They demanded the premium because of the expectation of new inflation. The dollars they had invested would, in the near and distant future, be worth less and less.
>
> Perhaps no single overall economic event could do more to help the economy, businesses and society as a whole than a drop in the long-term interest rates, Greenspan said. The Fed didn't control them. But credible action to reduce the federal deficit would force long-term interest rates to drop, as the markets slowly moved away from the expectation of inevitable inflation. Business borrowing costs, mortgages and consumer credit costs would go down. Clinton was so sincere and attentive, and full of questions and ideas, that Greenspan continued. Establishing credibility about deficit reduction with the markets would lower rates and could trigger a series of payoffs for the economy, he said.
>
> Greenspan outlined a blueprint for economic recovery. Lower long-term rates would galvanize demand for new mortgages, refinancing at more favorable rates and more consumer loans. This would in turn result in increased consumer spending, which would expand the economy.
>
> As inflation expectations and long-term rates dropped, investors would get less return on bonds, driving investors to the stock market. The stock market would climb, an additional payoff.

That is the end of the quote. You can read on.

I am for a tax cut, too, but how do you get it? Not estate taxes. Giving millionaires' heirs millions of dollars, tax free, is not going to recover the economy and have a good effect.

Interestingly, the one thing that really is being spent on Social Security—the payroll tax—nobody wants to cut. That is the crowd that is really getting ripped off. Otherwise, you do not hear anything about the Social Security taxes, that they were going to hunt us down in the street like dogs and shoot us for increasing. They do not say, cut Social Security taxes. But they come with things like the estate tax, marriage penalty, and everything else of that kind. They talk of a $1.3 trillion tax cut that would return us back to where we were in 1993.

Yes, the Federal Reserve, Greenspan, they reduced the Fed rate a half a percent yesterday. That was fine business. That is the short-term rates, but that does not affect the overall economy.

The long-term, we cannot tinker with that except to set generally fiscally sound policy, put the Government on a pay-as-you-go basis.

I have been up here 34 years, and we did it in 1968, 1969. We had a balanced budget. I got the first AAA credit rating for the State of South Carolina from Standard & Poor's and Moody's back in 1959, 1960—40 years ago. But it is a tremendous frustration to this particular Senator to hear everyone crying surplus.

What is the monkeyshine? The monkeyshine is, you can look right at the front page of the same Treasury report. And you ought to read that. As of the final monthly Treasury statement—highlighted—I quote: This issue includes the final budget results and details, a surplus of $237 billion for fiscal year 2000.

And then, as old John Mitchell would say, don't watch what we say, watch what we do. You turn to page 20, table 6, and there is no surplus at all. On the contrary, there is a deficit of $23 billion.

How do they do that saving face? I will tell you how they do it. They do it, No. 1, by taking from the trust funds, Social Security.

Mr. President, I ask unanimous consent to have printed in the RECORD this document entitled "Trust Funds Looted to Balance Budget."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRUST FUNDS LOOTED TO BALANCE BUDGET

[By fiscal year, in billions]

	1999	2000	2001
Social Security	855	1,009	1,175
Medicare:			
HI	154	176	198
SMI	27	34	35
Military Retirement	141	149	157
Civilian Retirement	492	522	553
Unemployment	77	85	94
Highway	28	31	34
Airport	12	13	14
Railroad Retirement	24	25	26
Other	59	62	64
Total	1,869	2,106	2,350

Mr. HOLLINGS. Mr. President, at the end of fiscal year 2000—last September—we owed Social Security some $1.009 trillion. We owed military retirement $149 billion, and civilian retirement $522 billion. You can go right on down.

Now, as projected by the Congressional Budget Office, we are going to borrow $244 billion more this fiscal year 2001 from these trust funds. When the day of reckoning comes, who is going to raise the taxes? Who is going to issue the bond and raise the taxes at that particular time to pay for the benefits?

All we need to do to make Social Security fiscally sound is quit spending it. I have a lockbox, a true lockbox written by Ken Apfel of the Social Security Administration. I couldn't get a vote on it all last year or the year before. I will put it up again this year.

If you want to have truth in budgeting, please see my staffer, Mr. Barry Strumpf, and join with me in a bipartisan fashion to get at least truth in budgeting. We are going to offer an amendment calling for a budget freeze because we still play this game here of surplus, surplus. We put in an amendment to the budget resolution year before last in that last session of Congress, and we got 24 votes for the Greenspan stay the course. Alan Greenspan, at that time, said: Stay the course and just take this year's budget for next year. If you did that, you could save some $50 billion.

As a Governor, I had to do that. Many a mayor this year will do just that. He will go before his council and say: We don't want to fire the firemen. We don't want to fire the policemen. We are getting along well. Let's just take this year for next year. If we did that at the Federal level, we would save $50 billion.

The other way in which they play this game of public debt and Government debt is not only to borrow from all these trust funds—like borrowing from yourself, like taking your MasterCard and paying off your Visa card—but they are also projecting no new spending. The CBO will adjust their economic assumptions to accommodate the $1.3 trillion tax cut. You can see what is going on.

I don't think the economy can stand it. I think the best tax cut and the way to get on top of long-term interest rates is to do exactly what was done back in 1993.

I will make one more reference. Two weeks ago, in an issue of Newsweek they had an article on page 58: "Boy Did We Know Ye," comments by members of the Clinton administration, by Stephanopoulos, Leon Panetta, and several others. I will read just this one little paragraph by Bob Rubin.

> The moment that most sticks in my mind was the meeting we had with Clinton on Jan. 7, 1993 in Little Rock.

I read that because this is just about January 7 in the year 2001.

Reading further:

> We met with him for six and a half hours on what the budget strategy ought to be. From the beginning what we [the economic team] recommended was that there ought to be a dramatic change in policy, with the view that deficit reduction should create lower interest rates and spur higher confidence. Before the meeting, George Stephanopoulos told me that was going to be hard, [that Clinton] would have to make that decision over time, but after about a half hour at

> the meeting, Clinton turned to us in the dining room of the governor's mansion in Little Rock. He said, "Look, I understand what deficit reduction means [in terms of public criticism for program cuts], but that's the threshold issue if we're going to get the economy back on track. Let's do it."

And we did it, and that is why we have had the good economy. We are about to go the other direction on this tax cut, returning to the increased deficits of the Reagan years. We had less than a trillion-dollar debt when President Reagan took office in 1981. For 200 years—including all the wars, the Revolution, Spanish American, World War I, II, Korea, Vietnam—we accumulated less than a trillion-dollar debt. We now have a debt without the cost of a war—the Saudis took care of Desert Storm—of 5 trillion 700-some-odd billion. We can't stand that any longer.

I thank the distinguished Chair for indulging me, but the truth has to come out. I hope Members on both sides of the aisle will work with us to reduce the deficit and reduce the debt. Let us get to work on it and quit playing games with the American public.

I yield the floor.

The PRESIDING OFFICER (Mr. Reid). The Senator from Nevada.

Mr. REID. Before the Senator from South Carolina leaves the floor, I will reflect with him a minute on some of the struggles we have had the last several years.

Remember, there was an effort by the Republican majority to pass a constitutional amendment to balance the budget. The Senator from South Carolina remembers that battle, where he and this Senator and a number of others started out as a very small group opposing it. We said, if you want a constitutional amendment to balance the budget, you should have one that excludes the surpluses of Social Security. Remember the battle there. We were able to stop them from getting enough votes to pass that.

What would that have done to this country if that foolish constitutional amendment had passed?

Mr. HOLLINGS. It would constitutionalize the profligacy and the waste and the reckless fiscal conduct that we engage in here, and you wouldn't have any control over it because everybody would say: There is the Constitution. And you would read the first page of the Treasury report, how we have a surplus of $237 billion, when the truth of the matter is, if you look in the report, we have a $23 billion deficit. When you constitutionalize, you dignify the blooming thing. That was the ultimate. I couldn't go along with that game.

Mr. REID. Mr. President, I appreciate my friend's courage and leadership on these fiscal issues. He has the ability, because of his experience, to see what is going to happen in the future, to be a little ahead of most everyone around here on these financial issues. I appreciate the Senator recognizing the tough vote we took in 1993 on the Clinton budget deficit reduction act. Members of the House of Representatives lost their elections; they lost their political careers for having voted for that. But they should know that they did the right thing.

Mr. HOLLINGS. They did the right thing. There is no question.

Mr. REID. We have a new Member of the Senate today—she was sworn in yesterday—Maria Cantwell from the State of Washington. She was a freshman Member of the House of Representatives, and she, with courage, walked up and voted for that Clinton deficit reduction plan. She lost her election because of that. The people of the State of Washington now know that she did the right thing and now she is a Senator from the State of Washington. Again, I commend and applaud the Senator from South Carolina for his statement today but mostly for his leadership on these fiscal issues during the entire time I have been in the Senate.

Mr. HOLLINGS. I thank the distinguished leader. The truth will out, is what the distinguished Senator from Nevada is saying. I am glad we have Senator Cantwell here. It was another Representative from Pennsylvania, I remember we had to finally get her vote and she lost. She was a distinguished Member.

Mr. REID. Her name was Marjorie Margolies-Mezvinsky.

Mr. HOLLINGS. That is it. She had the courage to do it. But here we are in January, seeing this binge that we are on and the only argument is how are we going to spend a so-called surplus. How many tax cuts are we going to get to buy the people's vote. That is the best thing, running on TV, saying: I voted for tax cuts, I am for tax cuts. That is the only thing that holds that crowd in office.

Mr. REID. The biggest tax cut this country could get is reducing the $5 trillion debt we have. Will the Senator agree?

Mr. HOLLINGS. Very much so. That is the tax cut I favor. That is the way to give to middle America so they get a lower mortgage rate and lower financing rate on the refrigerator, the stove, et cetera. That is what Greenspan told them, and I hope Greenspan will get back and say the same thing here, some 7, 8 years later, that what we really need to do is hold the line.

I had the privilege of sitting there with Don Evans, the new Secretary of Commerce-designate, the best friend of President-elect Bush. One sentence I got, over all the things he said with respect to trade, competition, trade and technology, there is one sentence: tell the President rather than, by gosh, all these tax cuts, just come in and hold the line, stay the course as Greenspan recommended last year and take this year's budget for next year.

Don't start us pell-mell down the road to loss of revenue and increasing the deficit, increasing the debt, when we are telling the people that this is going to lower the debt and lower the deficit. It is pure folly.

Mr. REID. The people who met yesterday with the President-elect in Texas, these rich people—and I have nothing against rich people; I am happy he is meeting with them—I hope some of them realize the biggest tax cut anyone will ever get in their entire professional career is if we reduce the deficit.

We talk about across-the-board tax cuts; that will give an across-the-board tax cut because everything they do, from buying a new piece of land to paying their mortgages, will be cheaper.

Mr. HOLLINGS. I looked at that list and it looks to me like a bunch of corporate heads who are interested in sales. They are not interested in the economy and the market; they are corporate heads interested in sales. It is like asking children if they want broccoli or spinach, or do you want a dessert. They are in Austin saying whoopee, give me dessert.

I know the advice that crowd will give. Tell them to start talking to the Bob Rubins. This action yesterday by the Federal Reserve and Greenspan will influence the short-term but not the long-term rates.

I thank the distinguished leader, and I thank the Presiding Officer.

APPOINTMENTS

The PRESIDING OFFICER. The Chair appoints the Senator from Connecticut, Mr. Dodd, and the Senator from Kentucky, Mr. McConnell, as tellers on the part of the Senate to count the electoral votes.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. Landrieu). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Durbin). Without objection, it is so ordered.

THE SENATE

Mr. LEAHY. Mr. President, I have served with the distinguished Presiding Officer for a number of years. We served together a number of times in the Congress during his service in the other body, in fact, on conference committees on rural issues, agricultural issues, and other issues. The distinguished Presiding Officer would agree with me that yesterday was something unique as we watched the opening of the session.

I was glancing through the Congressional Record. We are blessed with the finest reporters of any parliamentary body in the world; it is very accurate, but the one thing it cannot show is some of the facial expressions and some of the other features of the session.

It was such a unique situation. The First Lady was elected Senator. Her husband, the President of the United States, and daughter were in the visitors gallery. I should note for the RECORD, while they sat in the visitors gallery, they were given front row seats, probably coincidental, probably alphabetically, but somehow it was arranged.

The usual thing that happens is a motion is made to notify the President of the United States that we have gone back into session and we have assembled with a quorum present. The majority leader, Senator DASCHLE, moved to notify the President of the United States, and I heard a voice in the back of the Chamber say: Well, he's sitting right up there; you don't have to do that.

These are the interesting things, seeing so many new Members come in, the largest number of women in the Senate. When I first came to the Senate, there were none. It shows, though, even with 13 women Senators, we have a long way to go. We should have a lot more, and I expect we will. It shows a change in the Senate.

The thing I want to reflect on is the 50-50 Senate. Certainly not in the last two centuries have we seen this. This can be a glass half full or a glass half empty. I like to think of it as a glass half full.

We have fallen on very contentious times in the Senate. We had partisanship in the Senate and the other body of the most contentious nature that I have seen in my 26 years here. Following the impeachment process and the lame-duck House just over 2 years ago, we have never seemed to recover fully. I think all of us were hurt in some ways, but certainly the American people were hurt.

I have said many times, I believe the Senate can be and should be the conscience of the Nation. When you think of what we have here—a nation of 280 million Americans—there are only 100 of us who get the opportunity to serve at any given time. With all of our talents, with all of our frailties, only 100 of us can represent those 280 million Americans at any given time. We have a responsibility to all of them, not just to our own State—of course, we have a major responsibility to our State—but to all of the country.

I think in this 50-50 Senate we have a unique ability to carry out that responsibility. I hope we will see Senators working to form bipartisan cooperation, finding those things that unite us rather than divide us—as some have said in campaigns—that we know we should do.

The closest friendships I have had in my life have been formed in this body, with Members on both sides of the aisle. It frustrates me to think we have to either support or reject an idea simply because of its party's origin.

That does not mean Republicans should automatically adopt whatever Democrats want or Democrats ought to automatically adopt what Republicans want. But we can do something in this body to set an example for the new President, somebody who comes in carrying some nearly unique electoral factors. He received half a million votes fewer than the man he defeated. He won by one electoral vote, after the U.S. Supreme Court stopped the recount in the State of Florida. But he will be our President on January 20, and we will all accept that.

We will feel, at least initially, some of the pain from some of the campaigns and some of the elections on both sides. But ultimately we have to look out at what is, in many ways, the most wonderful country history has ever talked about—our own—and think of what we can do to make it better.

I am not suggesting a litany of areas in which to go. But we will see what happens during the hearings on Presidential nominees during the next couple weeks and those that will continue thereafter. It is a chance for us, at least in the Senate, to try to work together. Will we always agree? No. Can we agree a lot more than we have in the past? Yes.

We have two extremely hard-working leaders in Senator DASCHLE and Senator LOTT. Both have different philosophies. Both have entirely different types of caucuses to lead. But they are two leaders who respect the fact that the Senate can do better, should do better, and I believe will do better.

So I think it will be a very interesting year. I wrote in my journal yesterday, I could not think of anywhere on Earth I would have rather been than in this body yesterday at noon. And I think of how fortunate everybody was who was in attendance to see history being made.

With that, Mr. President, I have gone over my time—although I have not seen any wild stampede of Senators coming on the floor seeking recognition—and I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ELECTORAL COLLEGE

Mr. DURBIN. Madam President, this Saturday, January 6, there will be an extraordinary event—which occurs every 4 years—created by our Constitution. There will be the count of the vote of the electoral college, the official determination of the identity of the next President of the United States.

Probably this year more than most, we are sensitive to this matter, and we understand what led up to it—a historic election where the Democratic candidate for the President, AL GORE, outpolled the Republican candidate for President, George W. Bush, by over 400,000 votes nationwide and lost the election.

It is not the first time in American history this has occurred. If I am not mistaken, it is the fourth time we have elected a President who failed to win the popular vote.

But the rules of the game and the rules of this election were dictated by those who wrote the Constitution many years ago when they made it clear that the process would not be by a popular vote but, rather, by the vote of electors in an electoral college.

What is the electoral college?

I think we can recall from our earliest civics classes that it is a creation of the Constitution which assigns to every State an elector for each Member of Congress and for the two Senators.

In my home State of Illinois, with 20 Members of the House and 2 Senators, we have 22 electoral votes. The State of Wyoming, with one Congressman and two Senators, has three electoral votes.

So the voters who cast their votes at the polls in Arkansas, Illinois, and Wyoming on November 7 were not voting for AL GORE, George Bush, Ralph Nader, or anyone else. They were voting for electors—men and women who then came and ultimately cast their votes in State capitols a week or so ago. Those votes will be counted in the House Chamber this coming Saturday.

I, for one, believe this is a system which should be abolished.

The electoral college has been in place for over 200 years. You might wonder how men who wrote the Constitution, in their infinite wisdom, came up with this idea that the American people would not elect the President of the United States but the state legislatures would appoint electors in each State, who would then elect the President of the United States.

Today, by state laws, the people elect the electors on a winner-take-all basis in each state. There are two exceptions. Two States, Maine and Nebraska, allocate their electors by congressional districts. But, by and large, every other State has a winner-take-all situation.

The reason this was created by our Constitution is interesting. We generally think of elections in a democracy where people cast their votes and a majority will win. That applies to almost every election, whether it is for school board, or for mayor, or for county official, or for Governor, or for Senator, or for Congressman. But in the original Constitution, the men who wrote that document in the name of democracy showed a distinct fear of democracy, because they did not give the power to the people or the power to the voters in America to choose Federal offices in most cases.

In fact, in two out of three cases where the American people were given the right under this Constitution to choose a Federal officer, they were to do it indirectly, not directly—indirectly in the case of the President with the electoral college, and in the original Constitution indirectly when it came to this Chamber.

The Senators were not elected by the people of the United States under this Constitution. No. They were chosen by State legislatures. It wasn't until the 17th amendment to the Constitution in 1913, after a great deal of corruption and scandal, that we decided to change that and create a direct vote where the people of the United States each choose their two Senators to represent their States. It was a breakthrough, really, democratizing the electoral process.

When they, of course, empowered the people in each congressional district to choose a Member of the House of Representatives, that was a direct vote—the only direct vote in the Constitution given by our Founding Fathers in this democracy.

Out of the three opportunities—for President, for Senators, and for the House of Representatives—our Founding Fathers said in two out of three in this document: We don't trust the people to make this choice directly.

Why not? Why wouldn't they trust the voters in a democracy?

Their reasoning in creating the electoral college was very clear. They said first: How in the world can a voter in the State of Virginia ever come to know a candidate for President from a State as far away as Massachusetts? He—because they were all men—may never hear of this candidate and may never meet this candidate. So we had better create a system where it isn't a direct vote by a voter for a President but, rather, an indirect vote.

Secondly, of course, there was a concern not only that there wouldn't be this knowledge of the candidate, but a concern that they had to get the Constitution ratified, and the smaller States in this new national consolidation were concerned about their power. So the people who wrote the Constitution said in the electoral college, the States will decide. We will give more power to smaller States. That is why we have an electoral college today.

Some people like the electoral college. A lot of people from smaller States like the old electoral college. Let me illustrate for a moment why. If there are 281 million people in America, which is a rough estimate of our population, and we have 538 electoral votes, which is the subtotal of the membership of the House of Representatives and the Senate plus 3 for the District of Columbia, then we roughly have about 522,000 Americans for every electoral vote cast for President. That is kind of the standard by which to judge.

On a clear equality of this system, each electoral vote should be represented by 522,000 Americans. Take a State such as Wyoming. Wyoming has a population of about 480,000 people. Wyoming has three electoral votes. So if one lives in Wyoming, you are a bonus voter for President. Every 160,000 population in Wyoming gives one electoral vote for President. I live in the State of Illinois with 12 million people and 22 electoral votes, about 550,000 people per electoral vote for President.

We can see the distinction, the difference. Why should some get a bonus in voting for President because they live in the State of Wyoming as opposed to living in any other State? That was created by the Constitution.

I am not raising this issue in this question because of this specific election. Some might think, standing on the Democratic side of the aisle, that is what it is about. I first raised the issue in 1993, and I raised it again a week before the election in November of this last year. I understood, and I hope others do, what is at issue here goes way beyond any single election and the election of any single person. I happen to believe that in a democracy, one that I respect and thank God I had a chance to be born into, that the people should speak through their votes, and a majority vote should rule, as it does in virtually every democratic institution.

That is not the case when it comes to the electoral college. In fact, we have an indirect system, a winner take all system, where States are voting in disproportionate strength based on their population. Smaller States like it because they have more power. They believe it attracts more attention to them during the course of a national campaign. From that perspective, it is hard to argue. From the perspective of a nation that is trying to say to every American, we want to be able to say you elected the President, how can you do that under an electoral college system which gives bonus votes, triple the voting power, in some States, over other States? That is exactly what happened in this election and every single election since our Constitution was enacted so many years ago.

So on a bipartisan basis Congressman RAY LAHOOD, a Republican from Peoria, IL, and I have introduced a proposed constitutional amendment to abolish the electoral college and to say that to be elected President of the United States you will be elected by popular vote of the people nationwide, and you must win at least 40 percent of the vote. If any candidate fails to win 40 percent of the vote, then the top two candidates have a runoff election a short time after the original election.

It is different, but I think it reflects more what a democracy should represent, the voice of the people and the vote of the people, instead of an electoral college which has become a constitutional dinosaur.

I hope families across America will take some time on Saturday to turn on C-SPAN and have their children sit down and watch the vote of the electoral college. It will be like watching a dinosaur roam through the jungle because that is what we have as a system to elect the President of the United States.

Now, having stated my views on this issue and why I feel this way, let me give a candid political analysis. I don't have a chance in passing this constitutional amendment. I have to bring this amendment to the floor of the Senate where the small States have the same number of votes. The smaller States will stop us in our tracks. If there was some miracle of miracles and we passed it through the Senate and the House, where do we send it? To the States, where we need three-fourths of the States to approve it, and the smaller States will stop us there.

That is why there have been more proposed amendments to this section of the Constitution than any other, and none of them have passed. It is an interesting academic discussion. I hope it doesn't end there, because if it ends there it is academic and does not help us understand a frustration that voters feel as to what happened on November 7 of this year.

Let me suggest that what Maine and Nebraska have done, other States can do: Allocate electoral votes by congressional district that gets closer to the people's will. In those States, if a candidate for President wins the votes in a congressional district, he received that vote, and the one who won a majority of the votes in the State wins the two votes that are allocated for the Senators. At least there would be some allocation of votes within a State that would be closer to the will of the people.

Let me also add that I think we would be derelict in our duty if we overlooked the reality of the failure of our election process on November 7, the failure of a process which generated some $3 billion in spending by candidates and barely brought out a scant majority of voters in the United States who participated. Think of all the attention paid to that Presidential campaign and election after November 7 with the recounts, the court cases, the Supreme Court, on and on and on. Half the people in this country really didn't have much of a reason to watch it because they hadn't voted in the first place. They were observing something that was as foreign as watching an Australian rules football game, trying to understand what this is all about.

We ought to be reflecting on the fact that so few people participate in our elections. I think it is important to think anew in this new millennium, in this new century, as to how we will make America not only more democratic in name but more democratic in practice; what we can do to make our elections more effective, to bring more people to the polls. I think we ought to approach it with an open mind.

Why do we vote on Tuesday? I don't know. Somebody thought Tuesday was a good day at one point in time. But is it a good day now for most Americans, or is there a better day? Could we find a way to vote on a weekend without, perhaps, raising some religious objections from some groups? I hope so. Can we find ways to vote that are more convenient for voters? In States such as Oregon and Washington, more and more people vote by mail. In fact, in Oregon virtually all the ballots were cast by mail. My brother-in-law lives in the State of Washington. He is a permanent absentee voter. He always receives his ballot by mail and returns it. You can do that in Illinois, but it is pretty difficult. We should be trying to establish a national means by which people can vote without these obstacles.

And let's talk about the voting machinery. In my home State of Illinois, and in 40 percent of the polling places across America, they have these infamous Votomatic punch systems. I have been through enough election contests as a staffer, as an attorney, and as an elected official, that by the time I finish punching my ballot out, I stop for a minute, turn it to the light, I knock off the chads. I know what to look for. I know what can disqualify my vote. How many Americans know how to do that? Probably more today than last year. Still, an awful lot have gone to the polls and made a personal sacrifice to do their civic duty to cast their vote and have their vote be heard, when it comes to the election of the President, only to learn afterwards that tens, if not hundreds of thousands, of ballots have been voided, possibly their own. That is not fair. It is not American. It is not something we ought to tolerate. I think it is more than a coincidence that the biggest breakdown in disqualification of these ballots turns out to be in inner-city precincts. I don't think that is any accident. In many instances, that is where we have the oldest voting equipment, we have less attention paid to the education of voters, and, as a consequence, folks who are making a genuine effort to do their best and do their civic duty are denied that opportunity.

By and large, this decision on how to run a campaign and how to manage an election is a State and local responsibility, as it should be. But my colleague from the State of New York, Senator SCHUMER, who sits next to me, has proposed that we bring forward a fund for electoral reform across America and create incentives and opportunities for States and localities to upgrade their voting equipment.

Let me tell you about a piece of voting machinery that is used in South America. It is a piece of machinery where you have indicated the name of the candidate and the office and a symbol for the candidate's party. When you vote and push on the screen for your choice, up pops the picture of the candidate to verify that you picked the person for whom you want to vote. Doesn't that sound modernistic and futuristic? You may be surprised to know the equipment is produced in the United States. It is sold in South America, but it has not become popular here in this country. But think of the unlimited possibilities for us to create a system that is honest and fair and helpful to voters, instead of one creating obstacles and problems that can be strewn in their paths so they would leave the polling place uncertain and maybe frustrated.

During this great debate over the election of November 7, 2000, with this electoral vote next Saturday and the swearing in of President George W. Bush on January 20, in just a few weeks, if we do not stop to think about the long-term impact of the integrity of voting in America, I think we are derelict in our duty as elected officials. I hope, if we are not going to amend our great Constitution to eliminate the electoral college, we will at least dedicate ourselves, on a bipartisan basis, to modernizing the machinery of elections across America so the next election in 2 years or beyond will be a fair election, a more honest election, and one that creates more opportunities.

I do not believe there is a partisan spin to this. I believe Republican candidates, Democratic candidates, and independent candidates alike can all be disadvantaged by the uncertainties of the current election system. We need to encourage more people to be involved, and we need to say to them: We are doing everything within our power to use the technology and resources of America to make elections in this country an even better experience for all Americans.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

OKLAHOMA SOONERS FOOTBALL—2000 NATIONAL CHAMPIONS

Mr. NICKLES. Mr. President, I rise today to congratulate the Oklahoma Sooner football team which defeated the Florida State Seminoles last night by a score of 13–2, the seventh national championship for the Sooners and their 17th appearance in the Orange Bowl.

I was in Florida last night for this great game with my friend and colleague from the House, J.C. WATTS who is a former quarterback for OU.

The Sooners went to the Orange Bowl with a perfect 12–0 record. To reach the Orange Bowl, they defeated several outstanding teams including the once-number-one-ranked-Nebraska Cornhuskers, the University of Texas, and Kansas State. And although we did not play the Florida State Seminoles before last night, Bobby Bowden, the head coach, has an outstanding football team and a fantastic program. It was an honor for me to be in Florida to watch these two great teams.

I also want to congratulate Coach Bob Stoops and his topnotch coaching staff. Stoops, who is only in his second year at the University of Oklahoma was named the ``AP Coach of the Year''—a well-deserve honor. We are very proud to have such a first-class and outstanding person leading our Sooners to the No. 1 spot.

In addition, I wish to congratulate my friend and our former colleague in the Senate, David Boren, who is the President of the University of Oklahoma. He is not only doing a fantastic job of raising the academic standards, but also the athletic goals of the University.

Again my congratulations to the team, to their leader, and to President David Boren.

From the entire State, we are all very proud of the University of Oklahoma.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

THE ORGANIZATIONAL RESOLUTION

Mr. DASCHLE. Madam President, I want to give a report on the progress Senator LOTT and I have been making throughout the day. We have been discussing matters relating to the organizational resolution throughout the day and have just, again, had the last of our meetings for the day.

While we are closer than we were at the beginning of the day, there are still some matters to be resolved. However, it is my hope that we could resolve the outstanding issues some time tomorrow, and then it would be my hope that the Senate will proceed to a vote on the organizing resolution.

Senators should be aware that it may require a rollcall vote. It is my hope we can avoid that, but that is yet a possibility. So for purposes of the schedule, I think Senators should be prepared to be here to vote. It is my intention to call the Senate back into session at 10:30 a.m. tomorrow. We will have further reports about our progress and about the schedule for the day after we convene.

TRIBUTE TO FORMER CALIFORNIA SENATOR ALAN CRANSTON

Mrs. FEINSTEIN. Madam President, this past weekend, our nation lost one of its finest public servants with the passing of former California Senator Alan Cranston.

Senator Cranston served California well, and our hearts and thoughts go to his son Kim and the rest of his family at this difficult time.

Senator Cranston holds the distinction of being the only Democrat in our State's history to win four terms to the United States Senate, serving 24 years.

Born in Palo Alto, California in 1914, Alan Cranston was a tireless champion for peace, justice, and human rights. He was also a steadfast advocate for the poor and oppressed.

Senator Cranston was educated at Stanford University where he excelled as both a student and athlete. After graduating, Senator Cranston worked as a correspondent for the International News Service and then served his nation well in the U.S. Army in World War II.

In 1939, Alan Cranston edited the first unexpurgated English translation of Adolf Hitler's "Mein Kampf" published in the U.S. in an effort to alert Americans to the dangers of the Third Reich.

In fact, Senator Cranston had the very unique experience of being sued by Hitler for copyright violation for his work on this editing project—and in true Alan Cranston form—he wore this as a badge of honor and demonstrated that he would stand up to anyone in pursuit of Democratic principles and ideals.

His first service in elected office was when he won his race for California State Controller in 1962. He then ran successfully for the Senate in 1968 and was elected seven times as party whip.

He was called by many as one of the best "nose counters" in the Senate. My esteemed colleague and former Senate Majority Leader ROBERT BYRD said of Senator Cranston, "He is absolutely superb when it comes to knowing how the votes will fall in place on a given issue."

Senator Cranston also was a strong leader in an effort to protect our environment. I am proud to say that he was the original author of the Desert Protection Act and he called me shortly after I won election to the Senate in 1992 to ask me if I would take over the effort to get the bill approved. In 1994, we amended the bill a number of times but were able to get it passed and make the legislation a reality.

This landmark measure created two new national parks—Death Valley and Joshua Tree—and one national preserve—the Mojave. In total, the measure has permanently saved and protected over 7 million acres of pristine California desert wilderness for all time.

As Thomas Jefferson said in 1809 that "the care of human life and happiness, and not their destruction, is the first and only legitimate object of good government," it appears to me that Senator Cranston demonstrated this view with strong and forceful advocacy of arms control.

In the Senate, Alan Cranston played a leading role in moving the SALT and START arms control treaties through this body, and he drafted the first bill to eliminate funding for the Vietnam War.

In 1983, Alan Cranston said that ending the arms race would be the paramount goal of his run for the Presidency. That effort was not successful, but his effort to promote an honest dialogue on this issue grew and he continued to work toward a more peaceful planet right up until the time of his death.

In 1996, he became chairman of the Gorbachev Foundation USA based in San Francisco, founded by former Soviet President Mikhail Gorbachev and devoted to nuclear disarmament.

More recently, he served as President of the Global Security Institute, a think tank devoted to same end. The Institute recently persuaded more than 100 international civilian leaders, including 44 former presidents and prime ministers, to sign on to its nuclear weapon elimination initiative.

Signators included former President Jimmy Carter, former Defense Secretary Robert McNamara, Nobel Laureates Kenneth Arrow and Elie Weisel, Coretta Scott King, astronaut Sally Ride and retired Supreme Allied Commander General Andrew Goodpaster.

Former Representative Lionel Van Deerlin describes Senator Cranston's devotion to nuclear disarmament well when he said, "He's got to be remembered for pioneering, when the Cold War was still on, limiting the worst weapons ever conceived."

In summing up the career of Senator Alan Cranston, I believe a recent editorial in the Los Angeles Times aptly sums up his life and his service to our Nation:

> [Senator Cranston] toiled in the trenches during a long political career in behalf of California and world peace. The value of his efforts and dedication was not fully appreciated at the time and was overshadowed by his departure from the Senate. It's that body of work that should be remembered and celebrated now.

Mr. President, our Nation is no doubt a better place because of Senator Alan Cranston's service, and we will miss him deeply.

CONCEALED WEAPONS LAW

Mr. LEVIN. Madam President, I am very disappointed that the Governor of Michigan chose to sign a bill that will increase the number of concealed weapons on our streets by tens of thousands.

On New Year's Day, Governor Engler signed into law House Bill 4530, which takes discretion away from local gun boards and requires that authorities must issue concealed weapons licenses to those who meet certain requirements.

On December 13, 2000, I wrote a letter to the Governor asking him to veto the legislation. I asked the Governor to support our law enforcement personnel who believe the concealed weapons bill will make them and the public less safe. These groups include the Michigan Association of Chiefs of Police and the Michigan Police Legislative Coalition, which includes the Michigan State Police Troopers Association, the Michigan State Police Command Officers Association, the Michigan Association of Police, the Police Officers Labor Council, Detroit Police Lieutenants and Sergeants Association, Detroit Police Officers Association, Warren Police Officers Association and Flint Police Officers Association.

I support the position of law enforcement groups in this matter and I believe the people of Michigan do also. Local gun boards should retain control of these often life and death decisions.

KENNEDY CENTER HONORS

Mr. HOLLINGS. Madam President, each year since 1978 our capital city has inaugurated its season of celebration with the Kennedy Center Honors, a joyful celebration of the lifetime achievements of our greatest performing artists. The whole nation shares in that celebration during the CBS broadcast of the Honors Gala, which this past year was on December 27.

All Americans should be grateful to CBS for its commitment to what has become an American institution, our highest honor for the performing artists who do so much to define our national spirit and our identity around the world.

Our deepest gratitude goes to those talented individuals who conceived the Honors and have produced it for more than two decades. George Stevens, Jr., Washington's own showman who came here in the Kennedy Administration to work with Edward R. Murrow and who has since given us a remarkable series of Emmy Award-winning films, created the Honors with the great Hollywood showman Nick Vanoff, one of the shaping influences of popular television. They produced the show for years—and since Nick's death, George has produced the show each year with Don Mischer, who has given the world other extraordinary broadcasts from the Emmy Awards to the Opening Ceremonies of the Olympic Games. Their artistic genius constantly renews the Honors, fills it with fresh delights and gives us an evening that is both entertaining and equal to the Pantheon of artists it celebrates.

This year's show honored Mikhail Baryshnikov, Chuck Berry, Placido Domingo, Clint Eastwood, and Angela Lansbury—again illuminating the span and sparkle of America's talent. I think how proud President Kennedy would have been of this ceremony which, like the Kennedy Center itself, fulfills his hope for "an America that will not be afraid of grace and beauty and which will reward achievement in the arts as we reward achievement in business or statecraft."

So for all they do to make that dream come true, I want to take this opportunity to acknowledge the Chairman of the Kennedy Center, James A. Johnson, and the impresarios of the Honors, George Stevens, Jr. and Don Mischer. For so many years, they have graced the stage of the Kennedy Center with this great celebration; they have graced the life of our nation by marking out the heights of its history in the performing arts. May the show go on and on.

ADDITIONAL STATEMENTS

TRIBUTE TO JACK BASSO

• Mr. SARBANES. Mr. President, I rise today to pay tribute to an outstanding public servant, Peter "Jack" Basso, Assistant Secretary for Budget and Programs at the U.S. Department of Transportation. Jack is retiring after more than 35 years in government service and moving on to a second career with the American Association of State Highway and Transportation Officials.

Throughout his 36-year career with the federal government, Jack Basso has distinguished himself for his leadership, commitment and dedication to public service and to making government work better. Beginning as a financial program analyst at the Federal Highway Administration, he quickly advanced through the ranks to positions in senior management at an FHWA regional office and at the agency's headquarters. He served as Deputy Chair for Management at the National Endowment for the Arts, Assistant Director for General Management at OMB, and Deputy Assistant Secretary for Budget and Programs before being nominated by President Clinton to his present position as Assistant Secretary for Budget and Programs and Chief Financial Officer at the U.S. DOT.

As a senior member of the Senate Banking Committee which has jurisdiction over the nation's transit programs, I came to know Jack, as many other Members of Congress did, during the crafting of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and its successor, the Transportation Efficiency Act for the 21st Century or TEA 21. Jack put in countless hours running the tables, advising the Committees and individual Members, and helping to work out the compromises that ultimately resulted in the enactment of these landmark pieces of legislation and record budgets for financing the Nation's transportation infrastructure. I have enormous respect for the professionalism, ingenuity, and integrity which he brought to the positions in which he has served and greatly value the assistance he has provided to me and my staff over the years. The replacement of the Woodrow Wilson Bridge and many other transportation projects in Maryland and throughout the Nation would not be taking place, but for his persistent efforts.

Jack Basso's contributions and accomplishments in these positions have been recognized through many prestigious awards including the Public Employee's Roundtable Chairman's Award for Distinguished Public Service, the Presidential Rank Award, the Government Technology E-Commerce Leadership Award, and the General Services Administration's Travel Manager of the Year Award for two years running. His abiding sense of responsibility and commitment have earned him the respect and admiration of everyone with whom he has worked.

It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career Jack Basso has exemplified a steadfast commitment to meeting this demand. I want to extend my personal congratulations and thanks for his many years of hard work and dedication and wish him well in the years ahead.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, without amendment.

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 6, 2001, of the electoral votes for President and Vice President of the United States.

S. Con. Res. 2. Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 90 of the One Hundred Sixth Congress.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, January 4, 2001, at 10 a.m. on the nomination of Donald L. Evans to be Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 1, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 1) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DASCHLE. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 1) was agreed to, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Saturday, January 6, 2001, it stand adjourned until 10 a.m. on Saturday, January 20, 2001; and that when the House adjourns on Saturday, January 20, 2001, it stand adjourned until 2 p.m. on Tuesday, January 30, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Saturday, January 6, 2001; Sunday, January 7, 2001; Monday, January 8, 2001; Tuesday, January 9, 2001; Wednesday, January 10, 2001; Thursday, January 11, 2001; Friday, January 12, 2001; Saturday, January 13, 2001; Sunday, January 14, 2001; Monday, January 15, 2001; Tuesday, January 16, 2001; Wednesday, January 17, 2001; Thursday, January 18, 2001; or Friday, January 19, 2001; on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 10 a.m. on Saturday, January 20, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

ORDERS FOR FRIDAY, JANUARY 5, 2001

Mr. DASCHLE. Madam President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 10:30 a.m., Friday, January 5; that following the prayer and pledge, the Journal of proceedings be approved to date; that the time for the two leaders be reserved for their use later; and that there then be a period of morning business until 11 a.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, would the majority leader yield?

Mr. DASCHLE. Madam President, I would be happy to yield to the assistant Democratic leader.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. REID. I say to the leader, I have had a number of inquiries today as to whether or not votes may be required tomorrow. I heard you say we may have at least one very important vote tomorrow that is possible. Is that true?

Mr. DASCHLE. That is correct.

The possibility exists that a request for a rollcall vote could occur on the organizing resolution. And were that to take place, of course, we would set a time certain for that matter to be voted upon, which would include, of course, some time for debate.

Mr. REID. I ask one further question. If, in fact, that vote is required, it would be on organizing the Senate, which is a very important vote. Is that also a fair statement?

Mr. DASCHLE. That is correct.

As all of our colleagues know—the distinguished Senator knows probably better than anybody on our side—this has been a matter that Senator LOTT and I have been working on now for over 2 months. We have been in constant consultation with our colleagues on both sides, and with our more senior Members even more frequently.

So this is a very important matter, and I hope people would treat it as such. It is critical we continue our work here so that we can organize the Senate, that we can appoint Members to appropriate committees, and that we can take the business of the committees as seriously as that business requires, given hearings and other issues that need to be resolved at an early date. So it is very important for us to conduct our business throughout the rest of the month.

I appreciate very much the assistant majority leader's comments and questions in that regard.

I now yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m. tomorrow, Friday, January 5, 2001.

Thereupon, the Senate, at 7:07 p.m., adjourned until Friday, January 5, 2001, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 4, 2001:

THE JUDICIARY

H. ALSTON JOHNSON III, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE JOHN M. DUHE, JR., RETIRED.

SENATE—*Friday, January 5, 2001*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, source of all power, we praise You that You entrust Your power to the Senators so that they may lead and govern. Keep them mindful that they hold power with Your permission and for Your purposes. May the power they hold be equally measured by the humility they express. Human power can lead to pride. Praise to You, for the privilege of power is the antidote to this pride. With power comes power struggles to determine who is in control. These power struggles can denigrate our awareness that You are in control. In this unprecedented time when power must be shared by the parties, bless the Senators with an equally unprecedented measure of trust in each other and each other's parties.

Dear Father, work in the minds and hearts of the Senators as they consider the Senate committee organization. May this Senate exemplify to the Nation that great leaders can work together. When You are our Lord, there is no need to lord it over others; when we remember our accountability to You, we can be accommodating to one another. May it be so in this Senate for Your glory and the good of our beloved Nation. You are Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed the hour of 11 a.m. with Senators permitted to speak for up to 5 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that following the statement of the Senator from North Dakota, Mr. DORGAN, speaking in morning business, the Senate be in recess subject to the call of the Chair.

The PRESIDENT pro tempore. Is there objection? There is no objection. It is so ordered.

The senior Senator from North Dakota is recognized.

ORGANIZING THE SENATE

Mr. DORGAN. Mr. President, we have been in a quorum call this morning and for some part of yesterday. I know news reports are explaining to the American people that we are in the process of organizing in the Senate at this point and it has been a bit difficult because, for the first time in the history of our country, the Senate is evenly split as between Republicans and Democrats.

There was an occasion in the last century, about 120 years ago or so, in which there was an equal number of Republicans and Democrats. But there were also two Independents serving in the Senate at the time. Having read a bit about that period of time, my understanding is the Independents had quite an interesting time bargaining as between the two political parties about what their respective roles might be, should they choose to assist one political party or another.

But that is not the case in this circumstance. We are evenly split. The American people caused that to happen. They sent 50 Republican Senators and 50 Democrat Senators here to the Senate. It is my hope that the negotiations currently underway between the Democratic leader, now the majority leader, Senator DASCHLE, and the Republican leader, Senator LOTT, will bear fruit and that we will be able to organize in a manner that is consistent with the wishes of the American people. The American people have, by their desire, said that they want a split Senate, in fact a dead-even tie.

That would say to us that after January 20, the Vice President-elect, RICHARD CHENEY, will have the opportunity to give the Republicans an additional vote in this Chamber for the purpose of organizing. That is certainly true. But it is not the case that the Vice President, in his presiding role according to the Constitution, is going to play a role in any committee in this Congress. There is no such role for the Vice President. Therefore, in each and every committee we have a representation from 50 Democrats and 50 Republicans, a selection, then, of which is made to the committee membership. We feel very strongly that those committees ought to have a membership of 50/50.

Yesterday, we had the first hearing in the Committee on Commerce, Science, and Transportation on which I serve. Senator McCAIN, who is the chairman of that committee—actually yesterday it was Senator HOLLINGS who was technically the Chair, and Senator McCAIN works very closely with Senator HOLLINGS—Senator McCAIN, in his opening statement, said: The way this committee works, we don't report things out of this committee that represent a partisan division. We work our issues out between the Republicans and Democrats. What we bring to the floor of the Senate, he said, from the Commerce Committee, represents a consensus among the members of the Commerce Committee.

He is right about that. He is a person who has chaired that committee all of the years that I have served on it in a circumstance where he really searches for ways to find common ground between the two political parties. Much to his credit, I must say, Senator McCAIN has said he believes a 50/50 split on the committee is appropriate, given the fact that the Senate is split 50/50. I only mention that because just yesterday he made the point that a 50/50 split will not make much difference in committees where you work in a bipartisan way, and we do that—and he does that.

But it is my hope that now, in the coming hours, that Senator LOTT and Senator DASCHLE will be able to reach an agreement that is fair and one that allows us to do our work and allows us to organize our committees. I feel very strongly the product of that work should at the very least provide a 50/50 membership on the committees.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. REID. I say to my friend, he is right on the mark. Senator McCAIN is quoted in the paper today, almost verbatim what the Senator from North Dakota said. He said, as quoted in the paper: I don't report things out of my committee on a partisan basis. If I did, they won't go anyplace anyway. And, in reality, the Senate is divided 50/50.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

He went on further to say, as he understood the framework of the agreement, the Democrats would allow him to be chairman. He thought that was a pretty good deal.

I say to my friend from North Dakota, in the form of a question, and ask if he would agree: The fact is, the Senate is divided 50/50. As I said before, it doesn't matter what kind of math you use; 50 Democrats and 50 Republicans comes out equally. It would seem to me that the committee structure should be equal.

Again, reading in the Washington Times, which seemed to be a press release from the dissidents—I should not say "the dissidents"—it seemed to be a press release from those people opposing equality in the Senate. It appeared to be a press release they issued. They are saying: I don't understand. We are going to be in the majority. We deserve to have one more on the committee.

I say to my friend from North Dakota, and I ask if he would agree with me: The Republicans are not in the majority in the Senate of the United States. On the organizational matters, there will never be any tie the Vice President can vote upon, as Alan Simpson said, formerly the assistant Republican leader and Republican whip. As he said: The Republicans will be killed by the public publicity-wise if they try to oppose equality in the Senate.

He went on further to say that he thought the committee chairmanships should rotate on a yearly basis.

So again in the form of a question: I would hope, as I am sure my friend from North Dakota hopes, that the work of our leader, Senator DASCHLE, and their leader, Senator LOTT, comes to fruition. These men have worked extremely hard. They deserve the support of their two caucuses. What they are trying to do, as I understand it, is come up with something that is fair. That is all the majority of this Senate wants. The majority of the Senate wants a 50/50 division. If we had a vote on that today, that is how it would take place. So we should get that here as quickly as possible and get on with the business of the Senate. Then we would not be in quorum calls here.

Does the Senator from North Dakota agree?

The PRESIDENT pro tempore. The time of the senior Senator from North Dakota has expired.

Mr. REID. I ask unanimous consent, in that I took so much time of my friend from North Dakota, that his time be extended for another 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I say in response to the remarks of the Senator from Nevada, I certainly agree with his comments. It is not a circumstance where I believe there is any ill will anywhere in this Chamber on those issues. It is hard for a party that has been the majority for there now to be a circumstance where they are not the majority. In fact, they are in a body that is split evenly, 50/50. That is not easy. That is hard to deal with. I understand that. I do not suggest there is ill will anywhere. I am sure they are trying to grapple through these issues and how to respond to that.

But I must make another comment. This is not unusual. It has not happened in this body, but it has happened plenty of times around this country. On many occasions, somewhere over 30 occasions, the legislative bodies in the States—either a State Senate or a State House of Representatives—has discovered itself to be evenly divided, tied with respect to the number of Republicans or Democrats. Incidentally, I sent a report to Senators on this and, in every case, they had to reach an agreement. You know, they said: What we have is a membership that is equally divided, so how do we respond to this? Some State legislative bodies said we will have 50/50 splits on the committees. Some said we will have cochairs. Some said we will have rotating chairmanships. They have made all kinds of accommodations for it. In fact, in one State they actually just flipped a coin and decided who was in the majority by a coin toss. There are so many different mechanisms for States to make these decisions. We have not had to make those decisions until now.

What I hope will happen is that Senator DASCHLE and Senator LOTT, in the coming couple of hours, because time is of the essence here, will be able to reach an agreement that is fair to every Member of this Chamber and fair to both political parties.

We don't want that which we don't deserve. But we do believe that if, by virtue of the decisions made by the American people, we have 50 percent of the membership of a body of 100, we have the opportunity to have that same percent of the membership on the committees, because that, after all, is where the work originates that eventually comes to the floor of the Senate.

I graduated in a high school class of nine—top five, incidentally. I understood from either lower math or higher math, that when you have 100 seats and 50 are Republicans and 50 are Democrats, that is called a tie. That is the basis of all of this negotiation.

Let us hope in the next few hours our two leaders can reach final agreement. Then we will turn, next week, to a circumstance where we have the capability of organizing and making all of the committee assignments and move on to deal with the nominations sent to us by President-elect Bush.

If such an agreement is not reached, of course, if there are some discordant voices in the Senate who say, "It doesn't matter it is 50/50, we insist on having a majority in every circumstance in every way," if that is the case, of course those many of us who feel very strongly about the need to have the opportunity to have a 50/50 split on the committees would not want to allow that to happen. There will then ensue, of course, a battle about organizing.

Let's avoid that. Let's not do that. Let us, today, in the next couple of hours, resolve this in the right way and in a fair way. If we do that, we will have best served the American people's interest.

Mr. REID. If the Senator can be interrupted, and I will be very quick, he raises an important issue. People in the State of Nevada in 1985 had a tie in the Nevada State Assembly, equal numbers of Democrats and Republicans. It was one of the most productive sessions in the history of the Nevada Legislature.

EVAN BAYH, when he was Governor of the State of Indiana, had a tie in the State Legislature. That was one of the most productive in the history of the State Legislature.

I say to my friend, he is absolutely right on target. I also say, in addition to Senator McCAIN, there are other people who will become chairmen after January 20, Republicans, who stated 50/50 is a fair way to do things.

I hope we can work this out. I know people have strong feelings, but I hope the two leaders will be able to bring something to us so we can get down to the work at hand. I appreciate the Senator yielding.

Mr. DORGAN. The point is, we wish Senator DASCHLE and Senator LOTT well and hope they succeed in reaching an agreement, and we pledge our cooperation to help them do that.

FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I have come to the floor today to briefly talk about the Federal Reserve Board and our economy because it is important we have some discussion on what is happening in our economy.

I have been watching in recent days the announcements both by the Federal Reserve Board and also the way the press in this country has portrayed the discussions about a softening or weakening economy and the Federal Reserve Board's attempts to respond to it by cutting interest rates.

Let me first say uncharacteristically that the Fed did the right thing a few days ago by reducing the Federal funds rate by 50 basis points. The interest rates imposed by the Fed have been historically too high. Seven months ago, the Federal Reserve Board increased interest rates for the sixth time, and that was 50 basis points. Do my colleagues know why the Fed did that 7 months ago? Because the Federal Reserve Board said America had an economy that was too strong and growing too rapidly.

The reason I want to have this brief discussion today is to say this economic slowdown people talk about is not an accident. The Federal Reserve Board believed the economy was growing too rapidly. They worried, therefore, that it would ignite a new wave of inflation. In my judgment, that was not a logical conclusion of the economic growth we were seeing, but nonetheless, Alan Greenspan and the Federal Reserve Board deliberately wanted to slow down the economy.

What is the result of all of that? Let me read a couple of headlines: "Slowing Factory Activity Hints at Recession. Sharp Drop Is Weakest Monthly Reading Since 1991." USA Today.

"GM to Idle Eight Plants Next Week." Associated Press, January 4.

"Sears to Close 89 Locations." This morning's Washington Post.

"E-Toys to Eliminate 700 Jobs."

"Covad to Lay Off 400 Workers."

I think one gets the point. This economy is slowing. The Federal Reserve Board increased interest rates six times since June 1999, the last time 7 months ago, by 50 basis points, believing that despite higher productivity growth by the American workers there would be a new wave of inflation, and intending that it had to respond to an economy that was growing too rapidly. In my judgment, they were mistaken. I said so at the time on the floor of the Senate.

Seven months later after saying the economy was growing too rapidly, we have all these news reports that, gee, this economy is slowing. I wish the reporters would ascribe that slow growth now or the slowdown of the economy to the Fed's actions. This was medicine administered by an economic doctor 7 months ago and the months previous to that on five other occasions because the Fed believed our economy was growing too rapidly. It was the wrong medicine at the wrong time. The result is a slowdown, in many cases, perhaps, a slowdown that is more dramatic than the Fed intended. Because of that, 2 days ago the Fed decided it would decrease the Federal funds rate by 50 basis points. The problem is that does not always take effect quickly. It takes some while for it to course its way through our economy.

A 50-basis-point reduction is not enough. The Federal funds rate, and therefore all other interest rates, are still high historically relative to the current rate of inflation. It is, therefore, a tax on the cost of money. An average American household, because of the previous six interest rate increases imposed by the Fed, is now paying $1,700 a year in additional interest charges. Think of the chaos that would have caused had someone come to the floor of the Senate and said: We have a proposal. We think the economy is doing too well, and we would like to ask every American family to pay $1,700 more a year in taxes. Think of the debate about that.

Higher cost of credit is a tax on the American people artificially imposed by the Fed. Interest rates that are higher than are justifiable. Real interest rates, above the rate of inflation, are still extraordinarily high, and in my judgment, represent a wrongheaded public policy.

We will see if we get out of this with a slowdown that is a soft landing and slow, gradual growth once again, or whether the Fed has really miscalculated and increased interest rates so much that it took this economy off track. I hope it is not the latter. I hope it is the former. I am not wishing a bad result, but I am saying the next time someone talks about this economy—I heard some conservative commentators say this is the Clinton slowdown. This slowdown is engineered by the Federal Reserve Board. They talked about it, they insisted upon it, they voted upon it, and now 7 months later, we bear the fruit that might be a bitter fruit. I want people to understand.

I kind of yearn for the day—and I was not here then—when we debated interest rate policies all across this country. Read the economic and financial history of this country and you will find that a century and a half ago, the question of interest rates and monetary policy was debated from bar rooms to barber shops all across this country. As late as 50 years ago, a quarter point increase in the Federal funds rate imposed by the Fed would be front page headlines and debated at great length, but not anymore.

The Fed acts imperviously to public input. It is the last dinosaur in town. It operates behind locked closed doors. The American public is not allowed in, and no President will comment much about the Fed because they are worried they will upset the market. So they went on their merry way 7 months ago believing they ought to slow down the American economy.

The next time you hear about this economic slowdown, understand it was engineered by the Federal Reserve Board and let us hope they take aggressive additional action—not just the 50 basis points a couple days ago—but aggressive additional action to put interest rates where they ought to be relative to the rate of inflation and stop overtaxing the American families by engineering the higher cost of credit they have caused in the last year and a half that is unjustifiable.

It probably is shouting in the wind to talk about the Federal Reserve Board, but it is, nonetheless, therapeutic for me, so I continue to do it.

I very much hope we can continue an economy that produces the rewards of new jobs and new opportunities and hope for all Americans. We need a balanced fiscal policy and a balanced monetary policy to do that. The Fed controls monetary policy absolutely. We control fiscal policy. We will have, I assume in a matter of weeks, people bringing to the floor of the Senate very substantial proposals for tax cuts, as some say, $1.3 trillion or $1.5 trillion over the next 10 years, to respond to this very issue of an economic slowdown. Again, I say this slowdown was deliberately engineered by the Fed. We need to be very careful, however, on fiscal policy which we control not to put this country back in the same peril of budget deficits in the future. It would be very irresponsible to begin permanently disposing of a surplus that is projected in the future but that has not yet occurred.

If we have a surplus, and I hope we do, that results from a growing economy, a fair amount of it ought to be used to reduce Federal debt. If during tough times we run up Federal indebtedness, during good times surely we must pay it down. What better gift to America's children than that? If we have surpluses in the future, and I hope we do, some of it, in my judgment, can and should go back to the American families who pay their taxes and could use some tax relief, but not just with a formula that deals with income taxes.

Most Americans pay more in payroll taxes than income taxes. If we are going to send money back in the form of tax relief—and we should if we have these surpluses, after we have allocated some to reducing the Federal debt—then let us make sure we understand we send it back based on the total tax burden the American families face, and that includes the payroll tax.

Finally, if we have surpluses—and I hope we will—some of it should be devoted as well to the investments in the things that make America a better place in which to live: Sending our kids into the best classrooms in the world, building our infrastructure, providing for our health, and those kinds of issues as well.

Mr. President, you have been generous with time today.

Again, let me hope that this day ends with good news for all of us in our ability to organize. We will continue these debates later in January.

I yield the floor.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDENT pro tempore. In accordance with the unanimous consent request previously granted, the Senate now stands in recess awaiting the call of the Chair.

Thereupon, at 11:11 a.m., the Senate recessed until 2:34 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DORGAN).

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, Senator LOTT and I have been continuing in our discussions and negotiations throughout the day. We have reached an agreement, and we are now in a position to lay the resolution before the body. It is my intention to have a vote—as I understand it, there is no request for a rollcall vote—at 3:30 this afternoon. So I encourage those Senators who wish to participate in the debate, or to present their views, to come to the floor between now and 3:30. At that time, I will ask that the Senate vote on the organizing resolution.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the vote occur at 3:30 and that it be a unanimous-consent request for a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President, and I will not object.

Mr. DASCHLE. Mr. President, I ask the request be vitiated.

The PRESIDING OFFICER. The request is so vitiated.

Mr. LOTT. Mr. President, if I could be recognized at this point, I do want to say I was certainly willing to cooperate with that. I have asked if there is a Member who feels the necessity of a recorded vote. I have not been so notified. I want to make sure Members understand we anticipate there will be a voice vote. However, there will be opportunity for debate and a colloquy which Senator DASCHLE and I will have between now and 3:30.

So Members can have some idea of what to expect, we do expect to have the vote around 3:30. In the debate or comments that will need to be put in the RECORD, they can still be made after that. But between now and that time, we still have an opportunity for Members to present their statements on the RECORD.

Mr. DASCHLE. I now, again, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

CONDUCT OF A 50/50 SENATE

Mr. DASCHLE. The other day, I quoted the writer Thomas Wolfe who said:

> America is not only the place where miracles happen, they happen all the time.

If the resolution I will soon introduce is not miraculous, it is, at the very least, historic. It is also fair and reasonable. The details and the spirit of this agreement, which I expect the Senate to pass later today, should enable us to conduct our Nation's first 50/50 Senate in a most productive and bipartisan manner.

I especially thank the Republican leader, Senator LOTT. We will enter into a colloquy in a period of time to be later determined, but I must say, without his leadership and his sense of basic fairness, this agreement would not have come about. He and I have spent many hours over the last several months, and now weeks, and certainly in the last several days, negotiating the details of this agreement. He spent many more hours consulting with the members of his caucus about it. He and they deserve credit for taking this unprecedented step.

I also thank and commend my colleagues on this side of the aisle for their good counsel and patience as this agreement was negotiated, and for their support of the finished product. I particularly thank our distinguished President pro tempore, ROBERT C. BYRD, for his advice. When you are making history, you can't have a better guide than the man who has literally written the book on the history of the Senate.

Our negotiations involve many difficult issues and many strongly held opinions. Neither party got everything it wanted. Both sides made concessions. Both caucuses made principled compromises. That is the essence of democracy.

This agreement accurately reflects the historic composition of the Senate. More important, I believe it reflects the political thinking of the American people. It calls for equal representation on Senate committees. Every committee would have the same number of Republicans and Democrats. And it specifies that Republicans will chair the committees after January 20. It allows for equal budgets and office space for both caucuses, at 50/50.

One of the most vexing questions we struggled with during our negotiations was how to break ties when committees are divided equally. We have agreed that in the event of a tie vote, either leader can move to discharge a bill or nomination. The Senate will then debate the motion to discharge for four hours, and that time will be equally divided. There will then be a vote on the motion. If the motion passes, the bill or nomination would be placed on the calendar.

Similarly, the resolution allows committee Chairs to discharge a subcommittee in the case of a tie vote and place the legislative item or nomination on the full committee agenda.

We arrived at this process after much thinking and exchange of ideas. Senator LOTT has been concerned that equal representation on the committees could lead to gridlock. While I do not share that concern, I believe this was a fair concession to get this agreement.

As to cloture, the resolution provides that no cloture resolution shall be filed by either party except to end a debate, and in no case would cloture be filed before at least 12 hours of debate.

This provision reflects concerns on our side of the aisle. We wanted to ensure that there would be an opportunity for debate before cloture was filed. Here, too, I believe Senator LOTT and the Republicans have provided a fair compromise.

The resolution provides that the majority leader shall retain his prerogative to obtain first right of recognition but that both leaders may be recognized, as is currently the case, to make motions to proceed; and in scheduling legislation on the floor, both leaders shall attempt to attain an equal balance of the interests of either of the two parties; and if either party achieves a true majority during the 107th Congress, we would need to adopt a new organizing resolution.

Senator LOTT and I have discussed other ways to ensure bipartisanship in the Senate, from the right to offer amendments to the makeup of conference committees. We have pledged to work together to make the Senate operate in a fair and bipartisan manner, which I hope will enable us to demonstrate to the American people that their system of government is strong and sound.

I have been asked what bipartisanship will mean in the 107th Congress. We cannot quantify bipartisanship. Bipartisanship is not a mathematical formula; it is a spirit. It is a way of working together that tolerates open debate. It recognizes principled compromise—such as today's historic agreement. Bipartisanship means respecting the right of each Senator to speak his or her mind and vote his or her conscience. It means recognizing that we must do business differently after an election that gave us a 50/50 Senate and almost an evenly divided House. Above all, it means putting the national interests above personal or party interests.

Tomorrow, Congress will count the electoral ballots and officially recognize the results of the Presidential election. It is fitting that today we officially recognize the results of the Senate elections which gave us an even split between the parties.

Today's agreement makes a big downpayment on the bipartisanship we owe our country. Democrats and Republicans made significant concessions, putting the national interest first and putting party aside. It is my hope and my expectation we are witnessing only the beginning of a cooperative and productive 107th Congress. This certainly sets a mark.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I wouldn't say this is my preferred result, but I think it is a reasonable one with a serious dose of reality. We have work to do and we need to begin it now, not in a week or two or three or four. We need to conclude the assignment of our Members to the all important committees that will be having hearings on the nominees. We need to go forward with the confirmation hearings on the President's nominations to the Cabinet, not in 2 weeks or 3 weeks but right away, as soon as possible, as soon as the necessary paperwork has been completed and the schedule has been agreed to by the senior members of the committees.

As soon as the Inauguration, we need to have in place a Secretary of the Treasury, a Secretary of State, a Secretary of Defense, perhaps a Secretary of Commerce—as many as we can get—so that this new administration will be ready to begin work the morning of Monday, January 22.

More important than these rules agreements or the organization resolution and the hearings of the nominees is, what are we going to do with it? What are we going to do about the concerns of the American people? Will we be able to come together and do what needs to be done to improve the quality, availability, accountability, and safety of our schools in America? I think we can.

But if we in this Chamber wrestle over finite details of the rules—while they do make a difference, rules do affect substance—I think the American people will say: What is this talk of bipartisanship? Why aren't you coming together, agreeing on this, and moving to the agenda of education and dealing with the problems of our defense needs in America, dealing with the problem of readiness of the defense of our country, confronting the needs of our people on Medicare and what we are going to do about prescription drugs and Social Security reform?

That was a big item in this campaign. To the credit of our President-elect, George W. Bush, he had the courage to step up and say we need to take a look at this.

The last discussion I had with the Senator from New York, Mr. Pat Moynihan, in this aisle was what we should do about reforming Social Security, how it could be done, and just with two or three actions, we could secure Social Security for 70 years. By the way, he also talked about how he believes there should be some opportunity for individuals to invest some of that money.

Social Security, Medicare, prescription drugs, defense, education, tax relief for working Americans that keeps the economy growing—that is the agenda. We are going to have tough debates. We will have different approaches, but we will find a way to come together and get a result because the American people are expecting that of us—the Republicans, the Democrats, President George W. Bush, all of us.

I would prefer to have a clear advantage on every committee and a clear advantage number-wise on everything. While that is preferable, it is not the reality. There are those in this Chamber who will not agree with me that we are going to support this resolution. There are those in this Chamber who probably will not agree with Senator DASCHLE that this is enough. Some will say it is too much; others will say it is not enough. Who is to say?

The day may come when we will say: Well, yes, we didn't do that right; we didn't figure some of the things that might happen or the way the rules might be used or abused. If that happens, then we will have to deal with it. Senator DASCHLE and I will have to go to the Member on his side of the aisle or my side of the aisle and say: That is not in good faith. That is not what we intended. Or, when we make a mistake, change it. We have done that. One of the last actions we did this past session was to put back in place a rule dealing with scope coming out of conference that we changed a few years earlier. We finally realized it was not right, and we changed it.

What we have here, as difficult as it may make life for us, as difficult as it may be for our committee members and our chairmen and ranking members to make this situation work, it is going to require additional work, but it can be done. It is going to force us to work together more than we have in the past. No doubt. I do not think that is bad. I think this is a framework for bipartisanship. There has been a lot of talk about that word, and I am sure there are some people in this city, in this Chamber, who smirk at that, laugh at that. People across America are saying: I have heard enough of that; let's get some results here.

It is a framework to see if we really mean it. It can force us to live up to the truest and best meaning of that word—nonpartisanship, Americanship, that is what we ought to call it—to find a way to get to these issues.

The President has repeatedly talked about how he is going to be a uniter, not a divider; he is going to reach out. Be conservative, yes; he was elected because, he is, but he also is compassionate about it.

The Government can be involved and be helpful in certain areas. It can be a big problem in a lot of others. I guess I am of the school that follows the latter part of that more than the former, but there are clearly some roles for the Federal Government. I do not have to list them—defense, national transportation, health care concerns in America. This is America. We cannot leave any child behind. We cannot leave any mother or grandmother unattended. We have to be in a position to do something about those situations.

We should follow the President-elect. Shouldn't we follow him? He has laid down a marker. He has talked about coming together and getting results. Should we do no less?

This is a classic case of extending the hand of friendship, of good faith. Will it lead to tremendous accomplishments or will that hand of friendship be bitten or the posterior kicked by one side or the other? It could, but we have to start from a position of good faith and reach out and say we are going to make this work.

If it does not work, then the American people will see. If these 50/50 committees do not function, then we can talk about obstructionism, and one way or the other, the American people will know who is trying to make it work and who is stalling it. If we come to this floor and have a debate on a tax bill and it passes this Senate by whatever number and does not get to conference or is tied up in conference or is killed in conference, do you think the American people are going to stand for that? I do not think so. We cannot let that happen.

I have been here 28 years, in the House and Senate. I was here during the eighties. I watched Speaker Tip O'Neill. I had quite a relationship with him. On the floor, we fought like tigers. I even had his words taken down one time. He never uttered a word to me about that. He never held it against me. Privately, he could not have been any friendlier.

In instance after instance, even though he controlled the Rules Committee, he had the power to stop the Reagan agenda. He did not do it. He would not do it. He said: No, this is the President. He was elected. He has a right to have his program considered and voted on. And the Speaker fought him like a tiger.

I remember going to former Congressman—the Senator from Texas was there—Ralph Hall from Texas. I stood on the Democratic side of the aisle, and the Speaker came up and said: Ralph, you can't vote for this Reagan budget. I said to my friend, Ralph—actually, it was Sam Hall, not Ralph. RALPH HALL is a good man also.

Mr. GRAMM. That was the deciding vote.

Mr. LOTT. Sam, this is a chance where you can make a difference for history. We can control spending some, we can give the people a little tax relief in a way that will help the economy grow.

He stood there with the two of us looking at him, took out his voting card, stuck it in the box, and voted for it. That required an act of courage. Did the Speaker get mad at him? Did the Speaker rough him up or punish him? No. He said: I am going to fight you, President Reagan, but as two good Irishmen, we will get together at the end of the day, we will have a good discussion, we will have a little fun, and we will talk about America.

That is what is going to happen here. There will not be obstructionism. If there is, it will be clear who is doing it, if it is on our side, one way or the other, or on the other side. This is not a prescription for inaction. It could be a prescription for action beyond our wildest imaginations.

We are going to talk a little bit more about what is in it. I will not go into all the details here. The resolution will be read. It is relatively short, relatively simple. In instance after instance, Senator DASCHLE and I discussed points, argued about points. When we could not come to agreement, we said we would deal with the rules as they are. So we got it down to what really matters.

Yes, we are going to have 50/50 on the committees, but remember the Senate is 51/50, it is not 50/50. It is 51/50. The Constitution very clearly provides for this. Our forefathers were brilliant. They were brilliant. They could not have seen this exact situation, and while it is not unprecedented, it is rare that we have had these ties of 50/50, or in one instance I think it was 48/48, maybe one time 38/38. It has been relatively rare in 200 years, but they provided for this. It is in the Constitution. Senator BYRD carries his around. Mine is not quite as tattered as his, but I have referred to it quite a few times in my life.

Article I, section 3:

> The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

That is the solution. If it is 50/50, the Vice President breaks the tie. It is equally divided. We will have a way to deal with it.

My concern about doing 50/50 was: It just cannot work, Senator DASCHLE. If we are killing a nominee or a bill in the subcommittee or in the full committee, there has to be a way to have that matter considered by the full Senate. Do my colleagues think if we had a Supreme Court nominee killed on a tie vote in the Judiciary Committee that the American people would stand for that or that the full Senate would be satisfied with that? No.

So we labored and we labored, and we tried a lot of different innovative ideas—some I suggested, some Senator DASCHLE suggested—and most or all of them were not liked by both caucuses. Neither side liked them.

We finally came up with what I think is a further extrapolation of what the Constitution provides, and that is, if there is a tie by a unique procedure, a discharge petition, a superdischarge petition, if you want to call it that, a discharge action, the matter could be brought to the floor, debated, yes, but not blocked on a unanimous consent request, not filibustered, but to get it on the calendar, whether it is the Legislative or Executive Calendar. At that point, all the rules of the Senate apply. When we go forward from there, all rights and prerogatives are preserved. It could be filibustered.

A lot of my colleagues on both sides of the aisle, when I talked about what the rules already were, were shocked. Most people do not realize you can filibuster a Federal judge. Sure, you can filibuster. We had one last year the Democratic side filibustered, and then they said: Oops, we don't think that is a good idea; that is not something we want to start doing around here, and backed away from it. We did; they did. We are going to fix that. The rider is there.

On bills, sure, you can filibuster the motion to proceed, you can object to this, that, or the other and filibuster the bill. Nothing has changed on that. It will still be protected. I think we should try to find a way to do less of that, less filling up of the tree, no filling up of the tree, if at all possible. I don't intend to make that a practice, and I want to make it clear, and I will clarify it even later.

We should not have situations where we filibuster every bill and have to file cloture in every instance. We ought to have a full and fair debate on both sides and move on and have a vote. We can do that.

Different times call for different actions. Last year is history. It was an election year. It was an unusual election year. It rendered an unusual result. What are we going to do with it? Are we going to make this Republic work and produce for the people or are we going to argue over part B of rule XII of the Senate? It is important; I do not diminish it at all, but I think the American people expect more of us than that. This resolution may haunt me, but it is fair, and it will allow us to go on with the people's business.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DASCHLE. Mr. President, the Senator from Idaho sought recognition first, and I will allow him to be recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. Others of our colleagues have come to the floor. The hour is late and snow is falling.

We gather here today in the full recognition that elections have consequences. There is no question that the November election changed the character, the makeup of the Senate. We have heard now both of our leaders talk about the agonizing effort they have gone through for the last several weeks to understand the consequence in light of the rules of the Senate and the way we must govern in the coming months.

I am not quite sure if we can yet determine whether the glass is half full or whether the glass is half empty, but we know that somewhere right about at the middle, it is divided, and that it is in that division we must work out our differences to govern. That is what our two leaders have attempted to do.

The resolution before us this afternoon speaks to that line that we are attempting to draw and that we as Senators are attempting to understand.

I could tell you what I believe the election meant, but I am not quite sure that my opinion is any more accurate than anyone else's.

But I do know one thing that the American people will expect of us in the coming months. They will expect us to give a new President an opportunity to lead. They will expect us to allow a new President to form his Cabinet in the way he has chosen, for the purpose of developing that leadership and for the purpose of shaping his policies for us and the Nation, to evaluate and form those policies ultimately for us to be governed.

We have a responsibility in the Senate. We are going to start hearings on those nominees to that new Cabinet in the very near future. I hope, in the atmosphere of bipartisanship, and the kind of cooperation we see here today, the hearings will be fair, the hearings will be probative, but, most importantly, that in the end it is not the choice of an obstructionist to deny a new President his opportunity to lead and, therefore, his opportunity to form a new Cabinet. That is part of what our leaders struggled over: How do we sift that out and create that kind of fairness in the process?

Time will tell. And that is exactly what Leader LOTT has just said. Some of us on our side are very hesitant at this moment. We have worked with the other side, but we have also seen an element of what we would call obstructionism over the course of the last year. But that was last year. Since that time, an election has passed. We are now in the business of shaping a new Congress, with a new administration, to accomplish new goals for the American people. I hope we can work cooperatively to accomplish that.

Shall we live in interesting times? a Chinese proverb might say. I would say to whomever crafted that Chinese proverb, I have lived in enough interesting times. Two years ago at this time we were talking about the procedures of the Senate for trying the impeachment of a President—interesting times. Following the November election, our Constitution hung in the balance for 36 long days—interesting times, historic times. And now, in a very historic way, the Senate attempts to govern itself in a 50/50 representation.

For this Senator, enough history. Now let's get on with leading and governing for the sake of the American people and for this great country.

I yield the floor.

The PRESIDING OFFICER (Mrs. LINCOLN). The majority leader.

SENATE PROCEDURE IN THE 107TH CONGRESS

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to the resolution we have at the desk, that no amendments or motions be in order to the resolution, and that the Senate vote without any intervening action or debate at 3:30 on adoption of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I will not, if I can be assured between now and 3:30 the Senator from New Mexico has an opportunity to speak, but I am not sure that will occur. I would object to the time certain. The rest of it I will not object to.

Mr. DASCHLE. How much time would the Senator from New Mexico be interested in?

Mr. DOMENICI. I would like to reserve 10, 15 minutes, let's say.

Mr. DASCHLE. How much time——

Mr. GRAMM. Ten.

Mr. DASCHLE. Will the Senator from Alaska seek recognition?

Mr. STEVENS. I will, but I seek to follow Senator BYRD. He is my chairman. I will follow Senator BYRD.

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I modify the unanimous consent request that I made in the following manner. I ask unanimous consent that the following Senators be recognized in this order, and to the times allocated as I will suggest: Senator BYRD be recognized for 10 minutes, Senator STEVENS be recognized for 5 minutes, Senator GRAMM of Texas be recognized for 10 minutes, Senator DOMENICI be recognized for 10 minutes, Senator ROBERTS be recognized for 4 minutes, Senator BENNETT be recognized for 5 minutes, and that Senator REID of Nevada be recognized for 2 minutes; that at the end of the debate the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 8) relative to Senate procedure in the 107th Congress.

The Senate proceeded to consider the resolution.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. To say that these are historic times would be hackneyed and trite. To say that the leaders of the Senate have risen to new heights and are acting and speaking as statesmen would be something other than trite.

I first want to congratulate my leader on this side of the aisle and my leader on that side of the aisle. I know they have gone through some excruciating moments. I know, without asking, that they have lost some sleep. I know, without inquiring, that they have rolled and tossed on their pillows, having been in their shoes myself.

When I came to the Senate, Lyndon Johnson was the majority leader. Politics did not prevail over statesmanship. He worked with a Republican President, President Eisenhower, in the best interests of the Nation.

When the great civil rights debate of 1964 occurred, Everett Dirksen did not play politics.

Had Everett Dirksen not worked with Lyndon Johnson and with Mike Mansfield, the Civil Rights Act of 1964 would never have been written. Had Everett Dirksen played politics instead of acting the part of statesman, cloture would never have been invoked on the Civil Rights Act of 1964.

When the Panama Canal treaties were before the Senate in 1977, had Howard Baker chose to play the part of a politician and not worked with ROBERT BYRD in the interests of the Nation as we saw those interests, the Panama Canal treaties would not have been approved. More lives would have been lost. Howard Baker acted the part of statesman. We both were swimming uphill. The Nation's polls showed that the people generally were much opposed to the Panama Canal treaties. We came together. Even in this past election, I still lost the votes of some West Virginians because of my support of the Panama Canal treaties in 1977.

We saw on those occasions the separation aisle here become a passageway to the best interests of the Nation: Senators from both sides joining hands and marching together.

On the Appropriations Committee, we do not need a resolution of this kind. We have always worked together, Republicans and Democrats, on that committee. The longer I work on that committee, the better our members of both parties seem to work together. We have worked well throughout all the years I have been on that committee, when Senator Russell was chairman, when Senator McClellan was chairman, when Senator Ellender was chairman, and when Senator Hatfield was chairman, when Senator Stennis was the chairman.

I say here today and now that the paradigm of cooperation, of statesmanship, of bipartisanship has occurred during the chairmanship of TED STEVENS. I am one Democrat who has absolutely no compunction when it comes to stating the truth about a colleague. If I have to say that the chairman is a better chairman than I have been, I have no compunctions about that. I said that several times about Slade Gorton, the former chairman of the appropriations subcommittee on the Department of the Interior. He was a superb chairman. He was a better chairman of that subcommittee than I ever was. That is a westerner's subcommittee in the main.

TED STEVENS has been a chairman par excellence. We don't need any resolution: Whatever problem there is, he and I can settle it. There is no rivalry, none, between these two Senators. There is no party between these two Senators. There is only friendship and respect and trust. That is the way it has always been, and that is the way it is always going to be.

That is the secret to getting things done in this evenly membered Senate in these times, a 50/50 tie: trust, mutual respect and trust. I am not going to go to heaven if I hate Republicans. My old mom used to say: "You can't go to heaven and hate anybody, ROBERT."

Now, there are some people on both sides of the aisle who are extremely partisan. There are many others who are only moderately partisan. I think for the most part we can say that most Members on both sides are moderately partisan.

This agreement is a real accomplishment. I don't think I would have accomplished this, if I had been majority leader. That leader on the Republican side had an extremely tough way to go. Today he has risen to a new stature. I thought he did himself well during the impeachment trial. I thought my own leader set a fine example. Today these two leaders have set a wonderful example. But the example of statesmanship goes beyond these two leaders.

I know it has been difficult for Members, particularly on the Republican side, to come to an agreement such as has been reached here. But they have been willing to give up their partisanship for the moment in the better interests of the Nation.

Also, it is exceedingly important—I have already mentioned it here—to

George Bush, who will become the President of the United States on January 20. It is vitally important to him, if he is to expect to see his programs considered and adopted. And hopefully, from his standpoint, certainly, and from the standpoint of many others, if he is to see those programs succeed, he is going to have to have help. He can't depend on all of its coming just from his side of the aisle. He is going to have some help over here. Who knows, I may be one who will vote with him from time to time. There will be others on this side.

This agreement is exceedingly important to him. It sets the right example. It should give heart and encouragement to the people of the Nation. I view it as a pact which will make it possible for us to rise above the interests of party, rise above even ourselves from time to time, and enable us to accomplish something worthy of remembrance in the pages of history.

This can be the most difficult situation that could ever confront the U.S. Senate. We could just tie ourselves in knots. But there is a spirit of goodwill that I see emanating here that has brought about this agreement, which I hope will be agreed upon soon, and it is a unique agreement.

I personally express my deep gratitude to Mr. LOTT and to Mr. DASCHLE. I would never have thought it could be done. I viewed the future with a great deal of dread, but I am encouraged to believe that we can, indeed, accomplish something that will be in the best interests of both parties, be in the best interests of the Nation, and be in the best interests of this Senate and make this Senate, once again, the beacon that it has so many times shown itself to be in times of peril, in times of stress in the history of this great Nation.

Mr. STEVENS. Madam President, I am humbled by the statement of the President pro tempore and the current chairman of the Appropriations Committee. He and I have served together now for many years. I know he did not know earlier today in our conference I told the conference that I thought that this resolution that has been crafted by our two leaders was, in fact, extending a hand of friendship across this aisle based upon trust.

He, in his normal way, has stated it more clearly and precisely than I. Senator BYRD honors us all. But we are here as senior Members. As our leader on this side of the aisle has said, this is a 50/50 split in the Senate. But it is still the Senate of the United States. Coming from Alaska, I know the value of the vote that comes from the Vice-Presidency. It was the only vote that Vice President Agnew cast that broke the tie on the Alaska pipeline and brought our Nation billions of barrels of oil.

We face issues all the time when we are split and have a tie. This time we start with a tie, but we start also with the friendships and the knowledge of one another that have been built up over the years. I think it will be an interesting experience for newcomers to witness. The Senate starts on the basis of trust.

When I was a very new and appointed Senator, I asked a Senator here who was managing the bill on the other side of the aisle to call me when it came time to offer an amendment. I was tied up in a committee. I was surprised that the bell rang in the committee and the vote was going on. I came to the floor. I am not one to be shy in expressing my opinions, and I went to the then manager of the bill and started to berate him. Senator Mike Mansfield came to me and said: Senator, you should not use language like that on the floor of the Senate. I told Senator Mansfield what had happened. He, as the majority leader, looked at that Senator and said: Is that true? The manager of the bill said: That's true, but that amendment would not have passed. Senator Mansfield said: Have you got your amendment, Senator?

He took the amendment from me, he stopped the vote that was going on, he returned the bill to second reading, and he offered my amendment. That amendment passed, and it has benefited my State for a long time.

I merely state it here today to say every Senator on this floor has equal rights. The 50/50 that we have is the result of the voters of the country, but there need not be a division between this body in terms of the 50. We work on the basis of a majority. We can have a tie at almost any time, or a majority with a quorum.

We are looking at a process where every Senator has the right now to understand the responsibility that comes from this agreement that has been reached. I congratulate the Democratic majority leader; I congratulate our future Republican majority leader for reaching this conclusion. I share the feelings of my friend from West Virginia that this is an act, really, of true statesmanship. I believe those who have not agreed should help us make it work because it will take the relationships that exist between myself and my great friend from West Virginia to make this work. I not only trust the Senator from West Virginia, I trust him with my life, and he knows that. We have never had an argument. I have served with him as chairman; he has served with me as chairman. We have resolved every difference we ever had before we came to the floor. That is what is going to happen now.

Most of the work we do will be in committee. This resolution gives us the ability to work in committee on the basis of trust. I honor the two leaders for what they have done. I am proud of the Senate today.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I begin by congratulating our two leaders. I personally have deep concerns about this agreement and its workability, but I begin my statement today by saying I intend to support it. I intend to do everything in my power to make it work. I want to make a pledge to myself and my colleagues that I hope others will make, at least to themselves. If it fails, it won't be because of me.

I will try to explain my concerns in the few minutes that I have. First of all, when it became clear that we had the extraordinary result of an equal number of Members in both parties, I sought direction from the ultimate source of direction in the American democracy by turning to the Constitution. As Senator LOTT has already pointed out, the founders so long ago, in a world so different than our own, not only thought about this potential but they wrote it into article I, section 3 of the Constitution. In fact, they didn't wait very long in writing the Constitution to put it in.

In section 1 of article I they give exclusive legislative powers to Congress. In section 2, they establish the House of Representatives. In section 3, they establish the Senate. Then they turn to exactly this question: "The Vice President of the United States shall be President of the Senate"—the only responsibility given to the Vice President in the Constitution of the United States. Then they give him his only delegated power other than the power of succession in the event of death. That power is, "but shall have no Vote, unless they be equally divided."

My basic response in following the Constitution as a guide is that we have reached exactly the situation that the founders recognized in writing the Constitution. We do not have 50 Members of the Senate who are Democrats and 50 who are Republicans. We have reached section 3 of article I of the Constitution in terms of American history, and the Vice President of the United States, with the Senate equally divided, casts the deciding vote. My reaction, in looking at this provision of the Constitution, was that we have a Republican majority, that we have 51 Republicans and 50 Democrats.

It is awfully easy to say it when the new Vice President is a Republican, but let me make it clear: If the new Vice President were a Democrat, I would expect the Democrats to be the majority in the Senate. I personally would have never contemplated that they would not have a majority on each of the committees because they would have the responsibility under the Constitution for governing.

We have made a decision to go in the other direction. I have said that I will support it and I will do my part in making it work. But let me tell you what my concern is about it. If there is anything that we learn as we live and have experience, it is that the old adage about never giving someone responsibility without giving them authority is a valid adage. That is my concern about this agreement, even though I hope it does represent a reaching across the aisle, I hope it does bring in an era of bipartisanship. I am sure people back home do not understand why it is not so easy for us to get together.

I have disagreements with Senator BYRD, not because I don't love Senator BYRD, not because I don't admire Senator BYRD, and not because Senator BYRD is a Democrat and I am a Republican. I have differences with Senator BYRD from time to time because we have a different vision of what we want America to be. We have a different conception of the problems we face. Jefferson said: Good men with the same facts are prone to disagree.

My concern is that we may very well, in this process, be guaranteeing gridlock by giving just the responsibility to one party which clearly, under the Constitution, Republicans now have. Come the 20th, our leader will be called "majority leader." I will be the chairman of the Banking Committee. Senator DOMENICI will be the chairman of the Budget Committee. My concern is that we should not separate responsibility from authority.

I am reminded, in concluding my remarks, of the Biblical story, as Senator BYRD and I am sure everyone will remember, about the two ladies who brought a baby before Solomon and contested about whose baby it was. Now, Solomon could have decided: The solution here is an equal division. He could have cut the baby in half. But Solomon decided that was not right to divide the baby and fortunately, with his great wisdom, he figured out how to determine who was the real mother by feigning to cut the real baby in half in which case the real mother said: No, let her have it. Solomon, with his great wisdom, having determined the real mother, gave her the child.

I hope that by separating responsibility and authority we have not cut the baby in half here today. I hope we can make this work. I think it is in the interests of the Nation that it work. Bipartisanship is a wonderful thing, and we have had it on many issues. Senator BYRD and I worked together on the highway bill, and every time I ride on one of our new highways in Texas, I rejoice that we got together and made the Federal Government stop stealing money out of the highway trust fund, and we spent the money building new highways in America so when people pay gasoline taxes, sure enough, the money goes for the purpose they are told it goes.

There have been many great bipartisan actions taken by Congress. But there are times when there are differences, not because one party is good and the other party is bad or one party is right and one party is wrong—but because there are fundamental differences. When those occasions arise, we are going to have to work very hard to make this system work.

I intend to try to make it work. I think we can make it work. I believe we are going to pass the President's tax bill, for example. I think it is going to get an overwhelming vote in the end. But I would say that under this system it is going to be a lot harder to make the Senate work.

So in this joy from bipartisanship, I hope we are all committed to rolling up our sleeves and engaging in the extra effort that this is going to take. I commit today that I am, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Does the majority leader seek recognition?

Mr. DASCHLE. If I could just make a unanimous consent request? The Senator from Virginia, Mr. WARNER, asked for 3 minutes. I ask unanimous consent he be recognized preceding the recognition of Senator REID for 3 minutes.

Mr. INHOFE. Reserving the right to object, and I will not object, but if he is going to be able to get that, I would like to have 1 minute before his time.

Mr. DASCHLE. I ask unanimous consent Senator INHOFE then be recognized, and Senator CARPER be recognized after Senator REID for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, fellow Senators, after we had a Republican conference, I went to my office and, with one of my most helpful friends and workers in my office, I prepared some remarks. Let me assure you, after being part of the Senate here this afternoon, I don't need my remarks. But I would like to share with Senator BYRD and those who speak of history—I would like to share my history as a Senator. It will be very brief.

I was unexpectedly elected to the Senate and I never had been a legislator anywhere. I was on a city council. I sit here—but I sat in that second-to-last seat and waited my turn. And what a long time it took.

I was never blessed with the luxury, Senator BYRD, that you have been in your life of being on the Democratic side all of your life and having such huge majorities from your side of the aisle. When I arrived, there were only 38 of us. We didn't have to worry about this kind of agreement, as you know. The Democratic majority was a huge majority and they ran every committee. They were in charge and they got a lot done.

But what I learned, so there be no mistake about it, was to work with Democrats. I learned to work with them when we got up to 44, and I learned to work with them when we got up to 46, and what a thrill when we finally got a majority. I still have more legislation passed here, there, and yon that is bipartisan. I wish to say from the very beginning, I pledge to try to make this work. I will do that with every ounce of ingenuity, wisdom, or the opposite thereof if required, to try to make something work.

It is one thing to say to this Senate: Senator HARRY REID and I have grown to be very good friends because we serve on an appropriations subcommittee and we always agree on everything after we have spent some time disagreeing. But I would also tell you that he and I do not agree on policy. I note, with a big smile on my face, his policy positions have become more known and more pronounced since he has occupied the second chair on that side—which I expected of him.

Did I have any real friends in the Democratic Party who went to exceptional ends to be helpful to me? Let me tell you a brief story. I was a pipsqueak in the Senate, and Senator Long was a very big Senator. I was just starting my first term. I passed only one bill. It was a big bill. It imposed a 10-cent gasoline tax—Senator BYRD, you remember that—on the users of the inland waterways. Do you remember that fight? It went on forever, but I won fair and square, and I went home to campaign. And, believe it or not, a Senator from that side of the aisle, in my absence—I was in New Mexico—was going to undo my victory because they had the votes and he had the floor. A staffer called me and said: You better come back, get off the campaign trail and come over here and defend the only legislative victory you have, of any significance, in the first 6 years. I was prepared to do it.

Guess what the next call was, in about a half hour—Russell Long. I had defeated him on the floor in that debate. And he said: PETE, they won't do that.

I said: What?

They will not upset your victory. You won. You stay home and campaign.

Think of that, telling a Republican to stay home.

You stay home and campaign and I will take the floor in your place and object to what is contemplated. And the victory that you got will not be undone here on the floor by a Democrat.

That is friendship, right? But, listen, I didn't agree with Russell Long on a lot of things—and he knew that—here on the floor of the Senate.

I say to my Democrat friends on the other side of the aisle, all kinds of expressions have been used talking about what is going on: "We extend a hand to you" and all those other wonderful words.

All I can say is, I am going to do my best to work with you, and I hope you will do the best you can to work with me on the Budget Committee and get something done.

I, too, thought we were starting this session—and it is the reason I was concerned about what was happening—I thought we started with the idea that on January 21, Vice President CHENEY would be in that chair and he would make it no longer 50–50 but 51–50. I still believe that is the case.

My thinking is he is going to be denied the right to vote on this issue. Maybe we ought to have a lengthy debate so he can have a vote on this issue.

Our leadership has gotten together—I cannot use words of high enough praise to exceed the great words on the floor complimenting you, Senator DASCHLE, and my Republican leader for what you are doing.

Those who have listened to me in our own conference and maybe some media person has caught a glimpse of what I was saying heretofore the last few days, I hope everybody understands that was my version of what we were stepping into, and I thought clearly from the precedents I had read that that event would occur in due order, and we would not be split 50/50.

It is imperative we try to work together. The fact that I am going to try to work with my counterpart, KENT CONRAD, with whom I have already met two times and talked with today at length about the Budget Committee—but I am not sure it will work—while I am going to try my best, I do not know whether we are going to be able to get the work of the American people done under a 50/50 arrangement as to the committee structure. I hope and pray that it will work.

I assure my leaders that, with all our vigor and all our commitments, it will be tough to get our work done as to serious and contentious matters that are between the two parties or favor the President. It will be very difficult to get it done. Nonetheless, I support it. It is a very high-minded purpose that both of you had in mind and you achieved it. Our Republican leader achieved it. He will be praised for trying to bring not just friendliness but bipartisan effort to the Senate.

My words expressing how much I hope that works are inadequate. I hope our praise will not be short lived and what we are praising them for today will not be for 2 weeks or 2 months, but maybe at the end of 1 year, when we look back on it, we can say, in spite of the most difficult committee structure we have worked with in this Senate, we were able to work.

I know Senator BYRD as chairman and ranking member of the Appropriations Committee and Senator STEVENS, my great friend as well as his, have been able to do that, but I submit to them that the appropriations work is a little bit different than some of the other committee work. Some of it will end up in our committees that have very philosophical, very partisan overtones. We will try to mellow those and get our work done as Senator BYRD and Senator STEVENS have in such an exemplary manner.

I close by saying I graduated along in this Senate, never serving in any other institutional body of legislative significance. Senator BYRD has frequently said that we must learn to understand and know the Senate, and once we have, we will love it. I have heard him say those words or others. I am one to whom you have said: Senator DOMENICI, you have really learned what the Senate is all about. I hope I have. I wanted to achieve; I wanted to bring bills to the floor that were contentious. I see no other way to run the Senate other than that.

Nonetheless, again I repeat, I pledge all my energy to making this bipartisan arrangement work. I say to Senator DASCHLE, I will try. I say to Senator BYRD, I will try. To my distinguished majority leader, rest assured this Senator will try to make your excellent agreement, difficult agreement work. If I have reservations, I think they are legitimate. They are concerns about whether this institution can work with equal committees and without more assurance on the conference situation which others will discuss.

All of the discord is gone. Senator LOTT was my leader in the negotiations. I compliment him for the results, and I compliment the majority leader for his success.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kansas is recognized for 4 minutes.

Mr. ROBERTS. I thank the distinguished Presiding Officer.

Madam President, the motto from my home State of Kansas is "Ad astra per aspera." Translated it means "to the stars through difficulty." If you take a look at our pioneer past and the history of the problems we experienced in the West, our heritage and progress we have made as a free State, the motto is very appropriate. Perhaps "to the stars through difficulty" should be the appropriate motto to describe the challenge we face in the Senate as we begin what Senator BYRD has described as a very historic and a very unprecedented session. With a 50/50 membership split, we have to proceed in a bipartisan fashion or we are not going to proceed.

I thank and pay credit to the distinguished majority leader, Senator DASCHLE, and our distinguished Republican leader, Senator LOTT, for persevering. Senator BYRD said it was excruciating, and it probably has been. There has been a lot of second-guessing, a lot of concern, a lot of frustration, a lot of worries. I have had some of those, but they have basically worked out what we hope will be a blueprint of Senate rules and procedures that will allow us to work together and avoid gridlock and get something done.

Our respective leaders have said, and will speak for themselves, that this will not be easy. Senator DOMENICI and Senator GRAMM have expressed those concerns.

I suppose some are wondering why a worker bee or a rank-and-file person in the Senate should be here as opposed to the leadership and the distinguished chairmen of the committees, but I have a little history in regard to this body and the other body.

I served 14 years as a staffer, 16 years in the House of Representatives, and now 4 in the Senate. That is a long time. I am the only member of the Kansas delegation who has ever served in the minority. That is rather astounding to me.

I can remember when how legislation was considered and when it was considered in the House was a foregone conclusion. There were an awful lot of Charlie Stenholm-Pat Roberts amendments. All of a sudden, they became Roberts-Stenholm amendments. I can remember how that worked. In the Agriculture Committee, we were not that partisan.

I have a great deal of reverence for this body. I serve on the Agriculture Committee. We have to get a farm bill done, tax policy changes, sanctions reform; we have to have an export policy that works. Our farmers and ranchers are still hurting. Senator HARKIN and Senator LUGAR will devise ways to get that done. We cannot hold that up.

The distinguished chairman-to-be after January 20 and the distinguished Senator from Michigan have quality of life issues with our armed services people; we have our vital national interests to prioritize; we have some recruiting problems, some retention problems. Quite frankly, our military is stressed, strained, and hollow. We must address this. It is our national security. We cannot hold this up. We have to move ahead.

I also serve on the Intelligence Committee. In that respect, the chairman-to-be, Senator SHELBY, and the current chairman have to detect and deter and get ready for consequence management with all sorts of problems in regard to terrorism and homeland defense. We are talking about the individual freedoms and the security of the American people. We cannot hold that up by a filibuster or any kind of gridlock.

In regard to what we have to do, let us follow the example of President-elect Bush. He has said: Let us unite. I am a uniter; I am not a divider. We can do that. We can follow his example. We have reached out with a hand of friendship and trust, as described by Senator STEVENS. We ought to seize that opportunity.

I know there are some who say we are going to get a slap in the face in return. It will not be a slap in the face in return to anybody in this body or from a partisan standpoint; it will be a slap in the face to the American people, and they will understand that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERTS. Madam President, I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERTS. I talked to a respected and veteran newspaper editorialist of the Washington Post, Bob Kaiser, just a couple days ago. He said: PAT, you have been around here quite a while. Is this possible? 50/50, will it work in the Senate? Can you avoid the partisan bickering and all that that encompasses?

I said: I don't know, Bob, but we've got a shot. We have an opportunity. Borne out of necessity, we must do this.

Senator LOTT and Senator DASCHLE, and our leadership team, thank you for arranging this possibility. It is now up to us. We have the responsibility, and, yes, both of us now have the authority. Let's see if we can get it done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. BENNETT. Madam President, I had not realized when I came down to the floor that this was going to turn into a history class. But I have a little history to add to it myself, and I hope that it is appropriate.

During our conference today, we talked about a previous situation where the Senate was close to this circumstance. The Senator from Oklahoma, Mr. NICKLES, and I had an exchange about the facts in that situation. He had it different than I had it. So naturally, under those circumstances, you go check it out. I found out we were both right. So I would like to recite that to perhaps give us a historical setting of where we are.

I have only served in this body for 8 years. But as I have indicated on the floor on other occasions, as a teenager I sat in the family gallery while my father served here. And this will perhaps shock everybody, but that was before STROM THURMOND was sworn in. I was in the Senate Chamber before STROM THURMOND was, if you can believe that. And it is true.

The Republicans had just won the historic election of 1952. Dwight Eisenhower was the President. The Republicans won the Senate by the narrowest of margins, 49/47. Then, very quickly, Robert Taft was the majority leader. I still have memories, sitting in the family gallery, of watching Robert Taft—a man whose face is now in the lobby as one of the five greatest Senators in American history—prowling around in the back of this Chamber.

One of the interesting things about it is that the Chamber looked exactly the same then as it does now, except that TRENT LOTT has now changed the color of the walls, I think wisely, in the television age.

But very quickly in the Eisenhower administration, Wayne Morse found that his differences with President Eisenhower were irreconcilable, and he announced himself an independent. So you had 48 Republicans, 47 Democrats, and 1 Independent.

Senator Morse insisted that he would not take his committee assignments from either party, he would take them from the Senate as a whole, and very quickly discovered that that kind of a stance meant he got no committee assignments, period. So he began caucusing with the Democrats with whom he was more ideologically aligned.

Then Robert Taft died. He contracted cancer. He yielded the majority leader's position to Senator Knowland of California. Senator Taft fought the cancer gallantly for months, and then he died. There was a Democratic Governor in the State of Ohio, and Robert Taft was replaced by a Democrat. It suddenly became 48 Democrats, and 47 Republicans, with 1 Independent.

That was the position Senator NICKLES was trying to explain to me during the conference, and he was right. My memory was the first circumstance, and that was right. The difference was, we had had a death in there that I had forgotten.

Now this was the situation: Because the Republicans had organized the Senate with 49 Senators to begin with, they had organized it with a Republican majority on every committee. They held that Republican majority on every committee until Senator Taft died, and it switched. At that point, Senator Morse—this I do remember—said, A, he had been elected as a Republican and, B, the Republicans controlled the administration and, therefore, in order to prevent the new President from being frustrated in his opportunities to get things through, he would, even though he had denounced his Republican party membership, vote with the Republicans on organizational issues, giving the Republicans 48, the Democrats 48, and with Richard Nixon in the chair giving the Republicans 49.

Here is the key point. Under those circumstances, the Democrats said: We will not ask for a realignment of the committees. We will allow the majority that was there on the committees to be maintained through the balance of this Congress.

So it was 48 Democrats, 47 Republicans, and 1 Independent, with the Independent vowing to vote against any organizational resolution the Democrats might bring forward, and of course Vice President Nixon would vote also that way, so the Republicans, even though they had only 47 seats, in a 96-seat Senate, maintained the chairmanships and a 1-vote margin on every committee.

Now we are in a different situation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENNETT. Madam President, I ask unanimous consent that I may proceed for an additional 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. Now we are in a different situation in that we come into it even, 50/50. This time, the Democrats have not been so shy about saying, we will automatically give up control on each committee. And they have been very firm about saying that the committee ratios must be exactly the same. If I were in their shoes, frankly, I would probably be arguing exactly the same way.

On the other hand, the Constitution has been cited here by the Senator from West Virginia, by the majority leader, and others, saying that the Republicans have the ultimate right to break the tie through Vice President CHENEY after January 20.

This creates what is sometimes called an immovable object facing an irresistible force, with both sides digging in and saying: This is what we absolutely have to have. And with the power of the filibuster, both sides have a nuclear weapon.

To have come up with a resolution that is producing the kind of rhetoric we are now hearing on the floor this afternoon demonstrates the wisdom, the intelligence, and the skill of our respective leaders. I, for one, want to go on record congratulating them both and all of the Members of the Senate who are lining up behind it, even though there are those on both sides of the aisle who are terribly unhappy with the ultimate result. The fact that we have one that is now going to pass by unanimous consent is a tribute to our leadership. I wanted to express that here today.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute.

Mr. INHOFE. Madam President, while I do not disagree with anything that has been said here, I do feel compelled to make a statement. While I was not on the floor, there was a unanimous consent request propounded successfully, so that this is automatically going to become a reality without a vote. That is fine. That is going to happen. But I have to say, I was not here on the floor, as 75 percent of the Senators were not here.

I am not criticizing the majority leader or any Member of this Senate. But I have to say, I agree with Senator

BYRD that—I think he probably recited it, even though I was not here—section 3 of Article I of the Constitution says:

> The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

I often say that one of the few qualifications I have for this office is that I am not an attorney. So when I read the Constitution, I know what it says. So after the 20th, we will be a majority party.

While I chair two subcommittees, the rule that we are adopting here, the resolution, says that even though I chair that subcommittee, if it is an equal vote—it is a tie vote—it goes on to the full committee. I do not think that is right. For that reason, I just want to make sure the RECORD does reflect I do oppose the resolution. I would like to have the RECORD reflect that.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Virginia is recognized for 3 minutes.

Mr. WARNER. I thank the Chair. May I say, I congratulate the Presiding Officer for assuming the chair. I assume this is her first opportunity.

Madam President, I was among the class of chairmen to hold out for the one-vote majority, not for any reason personal against my distinguished friends and colleagues on the other side of the aisle but because of the enormity of the annual bill of the Armed Services Committee on which our distinguished colleague from West Virginia serves and my distinguished chairman from Michigan serves.

That bill last time was brought to the floor with about 450 pages. It grew to 900 pages. It took us 5 weeks. Therefore, with that type of responsibility, whether I am the chairman or others are chairman or, indeed, on this side of the aisle, should it occur on a split, you need the authority to do the job. Then you have to accept the responsibility.

I fought the battle along with others. My distinguished leader, Mr. LOTT, gave me every opportunity to express my views. The decision was made within our conference. I accept that decision, and I today publicly commit to make it work. We have to make it work. We have an obligation to 281 million people to make it work.

Our great Republic, three branches, coequal in authority, has gone through one of the great chapters of American history, a hard-fought election by the contenders in the executive branch, that decision then thrust upon the judicial branch, finally decided by the Supreme Court of the United States. Now to the legislative branch is posed a challenge to make it work. That we will do.

I say to my friends in the Senate, we will draw from that treasure that we have in this institution called personal friendships and relationships. They are not well known publicly, but I am blessed, I say with humility, to have so many close, personal relationships throughout this Senate, ones in which I pose great trust and confidence.

If I may be personal to my good friend from West Virginia, or my good friend, Senator REID, and Senator LEVIN, we shall make this work in the interest of our country. Because the other two branches are going to make it work, we will. The legislative agenda of President Bush will rotate around the axle of the Senate—no disrespect to the other body. This split will be the axle around which it rotates, and we will make it work and move forward in the interest of this country.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the chairman of the Budget Committee, Senator CONRAD, be recognized for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I thank my colleague for this time.

We have an agreement. I believe it reflects well on both sides of the aisle and the leadership on both sides of the aisle. I think neither side of the aisle is fully satisfied. There are problems in this agreement, as there are problems in any agreement, but it is a very good first start.

The hard reality is that the elected membership of this body is split 50/50. The elected membership, Senators, are split 50/50. So one would anticipate that the membership of the committees would be split 50/50. This is a result of an election. The people of our country have spoken. They have chosen who serves here, who represents them in this Chamber, and it is their decision that has determined the result.

There has been much discussion of the Constitution and the Vice President's role. It is absolutely the case that under our Constitution the Vice President breaks ties. Those are ties on the floor of the Senate. The Vice President doesn't break ties in committees. So I think the arrangement that has been worked out between the two leaders is the only logical conclusion to which one could come.

As a member of the Budget Committee and the lead Democrat on the Budget Committee, let me say that the Budget Committee will be among the first places to test this new arrangement. Senator DOMENICI, who will chair the Budget Committee after January 20, which I have the privilege of chairing for the next 2 weeks, has said he will give it his best effort to make this work. I come to the floor to say I make the same pledge, that I will give my best effort to make this arrangement work.

What I mean by that is what I have just had the opportunity to say to the Secretary-designate of the Treasury, Mr. O'Neill, in my office just moments ago, that bipartisanship is more than a word. It means that both sides give up part of their fixed positions. That is what bipartisanship means. If there is going to be compromise, it means that neither side gets precisely what it is seeking. But only through that kind of compromise and bipartisan spirit can we advance the agenda in this Chamber.

Senator DOMENICI and I have already spoken several times. We had an extended discussion today. It is a good beginning.

Again, I pledge my best effort to making this arrangement work. I think it can work. I believe if people of good faith join together, we can achieve much for our country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I have stated publicly on previous occasions my admiration for the two leaders, the Democratic leader and the Republican leader, and certainly that is accentuated as a result of the work they have done today.

The work they have done has been difficult and hard, but in the process of doing the work, there have been some unsung heroes I want to recognize. I call them heroes. I underline and underscore that. When an idea is given by Senator DASCHLE or by Senator LOTT, somebody has to put this on paper and work out the details. Those details have been worked out. Therefore, I want to make sure the Senate record is spread with the fact that we have had people who could be out in the private sector making lots and lots of money. They are here because they are dedicated public servants.

I mention specifically Mark Patterson, Mark Childress, Caroline Fredrickson, Marty Paone, and Lula Davis on this side, who have spent tremendous amounts of time trying to carry forth the wishes of the two leaders.

On the Republican side, there are others who could mention probably more people than I, but I have been able to witness personally this last week the tremendous work of Dave Hoppe, Elizabeth Letchworth, and Dave Schiappa, who have done tremendous work and have really made it possible to arrive at the point we are today. The work, the leadership, the policy direction by our two leaders has been significant, but it has only been able to be implemented because of the work of these staff people.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, this is my first opportunity to address this body, so this is a special day for me.

For the past 8 years, I have been in and out of this Chamber any number of times as Governor of Delaware and chairman of the National Governors' Association. I have never had the opportunity to sit down in one of these seats or to speak at one of these podiums.

One of the great things about being Governor is you get to be part of the National Governors' Association. There is a strong history there of Democrats and Republicans, and one or two Independents as well, to actually work together, to reach across the aisle and to find consensus, not just occasionally but routinely.

One of the aspects I liked most about being Governor was that every day you came home you felt good because you had gotten something done. Some of us previously served together in the House for awhile. I can remember any number of times going home on the train to Delaware feeling frustrated, not just 1 night or 1 week but maybe months, because we hadn't gotten enough done. We hadn't really met what was expected of us by the people who sent us here.

I suspect, for people outside this body, the action we are endorsing today will have a relatively little consequence or seems to be of little consequence. But the agreement that has been struck is an agreement of real consequence, not just for those of us working here in the years to come but I think a real consequence for our Nation.

We could have spent much of this month, and maybe the next month and the month beyond that, arguing about the size of the negotiating table and how many seats were going to be at that negotiating table or how many members would be on committees and subcommittees. We are not going to be doing that. Instead, we are going to have the opportunity to take up the business of the people who sent us here to work in the first place.

This may be the triumph of man's hope over experience, but maybe if we can agree on some of the difficult issues we are agreeing on today, then there is some hope and promise that we may be able to find agreement on campaign finance reform, on ways to continue reducing our Nation's debt, and we might shore up the Social Security and Medicare trust funds, and we might cut some taxes—Democrats and Republicans will find common ground there—and how we might extend health care coverage to folks who don't have it, and prescription assistance for some of our older Americans, and even on schools.

When the American people voted for 50 Democrats and 50 Republicans, they did not vote for gridlock. When they voted for almost equal numbers in the House, they did not vote for gridlock. When they voted almost equally for George W. Bush and AL GORE, they did not vote for gridlock. I am proud to stand here on my third day as a Senator to be able to support a wonderful compromise struck by two excellent leaders that holds forth the promise that the next 2 years that we work together in the 107th Congress will be 2 years that will show a great deal more progress for our country, and that is good. This is a good day. I commend those who brought us to this agreement.

I yield back my time.

Mr. LEVIN. Mr. President, the Senate is in an unusual situation and we are dealing, I believe, with extreme wisdom. It is a very difficult anomaly. It has never happened before that the Senate has had a 50/50 split of this nature at the beginning of Congress. The only thing that comes close was in 1953, which was very different because the Republicans had a majority in the beginning of the Congress and the 50/50 situation that existed only occurred in the second session of that Congress. The same party was in control throughout with the Vice President's vote in the second session, which had the majority in the first session.

This is an unusual situation. It took wisdom and statesmanship on the part of our leaders to put together a resolution which would carry us through this very difficult point. Just like during the impeachment situation, the leadership was able to work out a process which allowed the Senate to function and to proceed in a manner that would allow us to have comity and civility, to avoid recrimination. So here the leaders have been able to put together a resolution which will permit us to do just that. I not only wish to thank Senators DASCHLE and LOTT, but many others have been involved in this. I see one of the clear architects of anything we do around here in the Senate based on a knowledge of the Senate as an institution and a knowledge of the Constitution. Senator BYRD is on the floor. His role on this has been essential as well; the wisdom and the implications and precedents which preceded us, and which we will be setting here today, are very much known to Senator BYRD. As always, we have relied heavily upon him in achieving this result. I simply say this: One of the national papers said a few days ago that power-sharing is the first test in the Senate.

Whether that term "power sharing" is particularly beloved by Members of this body, nonetheless that is really what we have had to achieve today. We have succeeded in passing that test, in my judgment. We carved out the mechanism which will allow us to respect the fact that we have a 50/50 Senate.

On the other hand, we are different from the House in at least two ways. Being in the presence of Senator BYRD, I am sure there are many more ways; but at least in two ways that I focus on.

First, we have a Vice President, somebody who can break a tie.

Second, we are a continuing body. The fact is we are a continuing body. If we didn't agree to a resolution, the previous Senate's resolution would continue to be in force until it was supplemented by a new resolution.

That is very different from the situation that exists in the House of Representatives.

In my home State in Michigan, we had a very positive experience in 1993, I believe, with a 50/50 House of Representatives. But they ended up with joint speakers, joint chairmen—joint everything, because there was no alternative. There was no way of breaking that tie.

We have a way of breaking a tie here. We have a Vice President at least on the Senate floor. We don't have a Vice President in committee, but we have a Vice President on the Senate floor. And we have a continuing body. We are a continuing body, which means that the last resolution would have continued in place, with all of the difficulties and complications that would have created, until it was replaced by the resolution we are adopting here today.

I commend our leadership and all those who have been involved in making it possible for us to proceed as a Senate in a manner which I think the public will respect as being fair and which is respectful of this body and this institution.

I know how conscious we must be of what we are doing—not just for the next period of time until a majority is reestablished by one party or the other, but we must be respectful of the implications of what we are doing for future circumstances similar to these.

History, I believe, will judge this agreement favorably. It is an agreement which is very sensitive to the history of this body. It is about as close to the 50/50 yard line as we can get consistent with the fact that there is indeed a Vice President who on the floor can break a tie consistent with the nature of this body as a continuing institution.

The old saying that "necessity is the mother of invention" is surely true again. It is the mother of bipartisan invention here, and I think it will serve us very well, and we will find we can work together as well as we have so often even when one of us is in the majority and one in the minority.

I know this has been the case on the Armed Services Committee. As the Presiding Officer knows and may know again, many of our committees work very well together on both sides of the aisle. It has been true between myself and Senator WARNER, who has been chairman and will again be on the 20th, and with Senator THURMOND before him. We have worked together very closely. That closeness will continue surely and even perhaps be enhanced, if that is possible, by this resolution.

I thank all those who have been involved.

I see Senator REID is also on the floor. I want to add my thanks to him because he has been at every moment involved in the carving of this document. I commend him and all others on both sides for their efforts.

I yield the floor.

The PRESIDING OFFICER. Pursuant to the agreement, the resolution is agreed to, and the motion to reconsider is laid upon the table.

The resolution (S. Res. 8) was agreed to, as follows:

S. RES. 8

Resolved, That, notwithstanding the provisions of Rule XXV, or any other provision of the Standing Rules or Standing Orders of the Senate, the committees of the Senate, including Joint and Special Committees, for the 107th Congress shall be composed equally of members of both parties, to be appointed at a later time by the two Leaders; that the budgets and office space for such committees, and all other subgroups, shall likewise be equal, with up to an additional 10% to be allocated for administrative expenses to be determined by the Rules Committee, with the total administrative expenses allocation for all committees not to exceed historic levels; and that the Chairman of a full committee may discharge a subcommittee of any Legislative or Executive Calendar item which has not been reported because of a tie vote and place it on the full committee's agenda.

SEC. 2. *Provided*, That such committee ratios shall remain in effect for the remainder of the 107th Congress, except that if at any time during the 107th Congress either party attains a majority of the whole number of Senators, then each committee ratio shall be adjusted to reflect the ratio of the parties in the Senate, and the provisions of this resolution shall have no further effect, except that the members appointed by the two Leaders, pursuant to this resolution, shall no longer be members of the committees, and the committee chairmanships shall be held by the party which has attained a majority of the whole number of Senators.

SEC. 3. Pursuant to the provisions and exceptions listed above, the following additional Standing Orders shall be in effect for the 107th Congress:

(1) If a committee has not reported out a legislative item or nomination because of a tie vote, then, after notice of such tie vote has been transmitted to the Senate by that committee and printed in the Record, the Majority Leader or the Minority Leader may, only after consultation with the Chairman and Ranking Member of the committee, make a motion to discharge such legislative item or nomination, and time for debate on such motion shall be limited to 4 hours, to be equally divided between the two Leaders, with no other motions, points of order, or amendments in order: *Provided*, That following the use or yielding back of time, a vote occur on the motion to discharge, without any intervening action, motion, or debate, and if agreed to it be placed immediately on the Calendar of Business (in the case of legislation) or the Executive Calendar (in the case of a nomination).

(2) Notwithstanding the provisions of Rule XXII, to insure that any cloture motion shall be offered for the purpose of bringing to a close debate, in no case shall it be in order for any cloture motion to be made on an amendable item during its first 12 hours of Senate debate: *Provided*, That all other provisions of Rule XXII remain in status quo.

(3) Both Leaders shall seek to attain an equal balance of the interests of the two parties when scheduling and debating legislative and executive business generally, and in keeping with the present Senate precedents, a motion to proceed to any Legislative or Executive Calendar item shall continue to be considered the prerogative of the Majority Leader, although the Senate Rules do not prohibit the right of the Democratic Leader, or any other Senator, to move to proceed to any item.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to speak for up to 10 minutes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATIONS ABOUT S. RES. 8

Mr. NICKLES. Mr. President, it is no secret that I have had serious reservations about this resolution. Let me first make a commitment to Majority Leader DASCHLE and soon-to-be Majority Leader LOTT that I will certainly work with them and all Members of the Senate to make sure it works. I have the greatest respect for them, and I have the greatest respect for the Presiding Officer, the Senator from Hawaii, Mr. AKAKA, who is, in my opinion, Mr. Civility in the Senate.

I have stated in the past that what is vitally important for us to be successful in the Congress is that we need a greater return of civility and working together and trusting each other. This resolution I have had problems with because it is difficult for me to see how two people can drive a car at the same time or have their hands on the steering wheel at the same time.

Also, the way I look at the precedents of the Senate, it is not consistent. When the Senate was organized on January 7, 1953, there was an equal number—the Senate was equally divided 48–48, with 48 Republicans and 47 Democrats; the Independent was convening with the Democrats, I think. The resolution said there was an equally divided Senate, but it also gave a majority of one on 15 committees.

I am troubled by breaking the precedent of the Senate. I think it is important that we work together. I compliment the leaders because they have been working together. It is incumbent upon us to make this work.

Not everybody is happy with the resolution, but this is the Senate. I think it is vitally important for our country that President-elect Bush and we get things done. It is going to be a test. It is a test that I will certainly commit to do everything I can to make it successful. I see some challenges. Any committee you look at, if you have an equal number—most committees have an odd number, so if you have disputes, one group or the other is going to win. We are going to try to run committees on equal numbers. That will be a challenge for Democrats and Republicans, and it will be incumbent upon all of us to work together. While I am not totally satisfied with this resolution, I commit to the leaders to help make it successful.

I ask unanimous consent that a copy of the resolution of organization of the Senate in 1953 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the 83d Congress, 1st Session, Senate Report, No. 1, Jan. 7 (legislative day, Jan. 6), 1953]

STANDING COMMITTEES OF THE SENATE

[To accompany S. Res. 18]

The Committee on Rules and Administration, to whom was referred the resolution (S. Res. 18) proposing changes in the number of certain standing committees, having considered same, report thereon favorably with an amendment, and recommend that the resolution, as amended, be agreed to by the Senate.

This resolution would accomplish the following changes in the Senate rules affecting certain standing committees as follows:

1. To increase 10 standing committees by 2 members each (1 majority, 1 minority), and to reduce 5 similarly.

2. To permit 18 Senators of the majority and 3 of the minority to serve on four standing committees—Civil Service, District of Columbia, Public Works, or Government Operations. (Present rules do not include Civil Service or Public Works and do not recognize the minority.)

This will present the following committee picture:

15 members instead of 13 (9):
Agriculture
Armed Services
Banking and Currency
Finance
Foreign Relations
Interstate and Foreign Commerce
Judiciary
Labor and Public Welfare
Interior and Insular Affairs
11 members instead of 13 (5):
Civil Service
District of Columbia
Government Operations
Public Works
Rules and Administration
23 members instead of 21 (1):
Appropriations

The proposal

1. Creates 20 new positions in the more desired committees (10 each for majority and minority) without increasing total number of committees.

2. Makes committee size more nearly reflect committee workload and thereby adjusts burdens and responsibilities more equally to all Senators and all committees.

3. Establishes a minimum margin of 1 for the majority party in each of the Senate's 15 committees, which present rules do not, in an evenly divided Senate. This can be seen from the following:

Present committee structure

1 committee of 21	21
14 committees of 13	182
Total committee positions	203
2 assignments for each of 96 Senators requires	192
Leaving for members serving on 3 committees	11

Which does not provide the necessary minimum of 15 for control of 15 committees in an evenly divided Senate.

Proposed committee structure

1 committee of 23	23
9 committees of 15	135
5 committees of 11	55
Total committee positions	213
2 assignments for each of 96 Senators requires	192
Leaving for members serving on 3 committees	21

Which divided 18 to the majority and 3 to the minority gives the margin of 15 for the majority to have the minimum 1 on each of 15 committees.

4. Permits continuity and experience for both parties on the committees which, in the past, have tended to be loaded with new Senators.

5. Insures better use of senatorial talent, industry, and ability, for both majority and minority.

In summary

1. The plan meets the necessary mechanics of an evenly divided Senate.
2. It opens the door for new Senators on major committees.
3. It retains the values of long Senate service.
4. It dispossesses no one, has distinct advantages for majority and minority.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

ORGANIZING A 50/50 SENATE

Mr. KERRY. Mr. President, I join the number of colleagues who have spoken on the floor with respect to this agreement. I share both the respect and admiration that have been expressed for the leadership for the work they have done in order to bring us here.

Particularly, I know the Senator from Mississippi, Mr. LOTT, worked hard within his caucus and had to be particularly persuasive in order to reach this accord.

I think this agreement respects the outcome of the election this year. It is a reflection of the closeness of the division in the Presidential race. It is, in my judgment, a fair and accurate reflection of what happened in the Senate itself with the losses that took place on one side of the aisle and a result that ended up with 50 Senators in both parties.

I have argued since day one that the only fair way, and the only sensible way, to try to bring the country together and set the stage to be able to reach the compromises we needed to reach was to reflect the representation of the Senate as a whole in the committee structures.

Some on the other side argued for some period of time that that is not the way it should work. We heard some people talking a few moments ago about how, if you are responsible for driving the train, you then need the extra vote in order to be able to guarantee that you can drive the train.

The problem with that argument all along is, that is not what the representation of the Senate itself reflects.

The second problem with the argument is that it relied essentially on the notion that, by having an extra vote, you somehow have an added power beyond the power of compromise, beyond the power of logic, beyond the power of the merits of your argument, that you have a power of the extra votes simply to drive your will through. We have seen that in operation in the last few years in the Senate, frankly. I think for many of us it has been a very negative and, frankly, a very unproductive experience.

The last few years saw us avoiding the rules of the Senate in order to drive through by virtue of the fact that there were more votes on one side. In the end, you may be able to do that on occasion, whether it is the reconciliation rules that allow you to do that, or it is a particular conference rule, or the Rule XXVIII issues we have had over the last years. Those allowed you to do it.

But I know the distinguished Senator from West Virginia would give the most eloquent argument in the Senate for the fact that that didn't necessarily serve the interests of the Senate nor even the interests of the country.

What we have achieved today I believe stands to set the stage for the ability of the Senate to serve the interests of the country.

Is there something of a sense of loss for some by virtue of this agreement? I think yes. I think that is reflected in the sort of difficulty that was presented in getting here to this moment. But in the end, I think the logic was simply so powerful that 50/50 on both sides means you divide the Senators and their committees according to that number.

I admire and respect the Senator from Texas, who is one of the brightest and most articulate people in the Senate and who read from the Constitution about the powers of the Vice President to cast a vote to break a tie. Indeed, that is absolutely true. But I think most constitutional experts would tell you that is sort of the vote of last resort—that it never contemplated that the Vice President of the United States is somehow going to be represented on every single committee, and then he is going to go to each committee and cast a vote. It contemplates, if there is a tie and ultimately there is the inability of the Senate to work its will of compromise, that in that case the Vice President has the ability to cast his vote. Now the Vice President will still have that ability. That is respected in this agreement.

What this agreement achieves, which I think is perhaps the most important missing ingredient of the Senate, was reflected in the comments of the Senator from West Virginia, our former leader and President pro tempore, who turned to his colleague on the Appropriations Committee and talked about trust. He talked about respect. Those committees that work the best in the Senate don't need this resolution. Those chairmen of either party who want to make their committee work effectively don't need a resolution to know the best way to get something through the Senate and through the House is to be inclusive, not exclusive.

So, in fact, we in the minority were remarkably forbearing in the last year or two in not pressing the full advantage of the rules that we might have pressed in order to stop the Senate cold in its tracks in order to disrupt in the many ways possible, using the rules of parliamentary procedure, to require our colleagues to be repeatedly on the floor of the Senate to vote. In many ways, we were acquiescent, and some might blame us for having been so. I think it was out of respect for the process and out of the belief that there is a better way to get business done here.

What I believe this agreement now does is set the stage for us to be able in the Senate to grow the respect and the trust about which the Senator from West Virginia talked. It gives Members the opportunity and requires Members in committee to look to the other side of the aisle to try to build the consensus necessary.

We all understand in that process we will never necessarily get 100 of our colleagues or 99 of our colleagues, but we can build enough of a consensus that we can send legislation to the floor with votes of 16–4 or 18–0 or of a sufficient number at least to recognize that there has been a respect for the views of both sides rather than a willingness to simply write a piece of legislation in conference without even including one Member of the Senate of the other side of the aisle and then bring it to the floor and expect people to be happy and expect to pass something that doesn't invite a veto or that somehow has the consent of the American people.

The American people are why we are here, all of us. I think this agreement today respects what the American people said on election day. I think it respects this institution. I think it gives everyone an opportunity, long awaited, to do a better job of being Senators and allowing this body to be the great deliberative entity that it is supposed to be.

In the end, this resolution and the words that comprise it in its three pages are not going to do the job. Any Senator who is sufficiently disgruntled by this agreement, who figures that they will go their own path, has the ability to continue to do things as we have done them in the last few years. But I think this is a message to all Members that we have an opportunity to try to legislate in the best sense of the word, to find the compromise. There is no way this will work without that compromise. All Members need to understand that.

I hope in the next days the American people will see the Senate set the example that we all want, and I know we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, let me express my appreciation to the distinguished Senator from Massachusetts. He is a Senator of enormous ability and great talents. One of those talents is the capability of elocution in such an impressive and persuasive manner. I want to thank him for his words today.

The President-elect can be very grateful to the two leaders of this body today and to the Senators who have acceded to the needs and the requirements of the moment to give up a little; everyone gives up a little. We are waiving some rules; we are temporarily changing some rules in this resolution. In the interests of going forward in the Nation and in the interests of making it possible for this institution to rise to the expectations of the American people and accede to their will, this resolution is really a unique instrument.

As the distinguished Senator from Massachusetts has just said, this resolution makes it possible for the Senate to work its will; and achieve legislative goals; it only makes it possible. We, the Members on both sides of the aisle, have to make it work. I am constrained to hope—yea, even believe—that we are going to make it work. The things I have heard said on this floor today make me believe that.

I thank the distinguished Senator. I have known him for a long time. I thank him for his contribution today.

Mr. President, if I may speak just for a few minutes, I ask unanimous consent I may address the Senate on another matter for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN CRANSTON

Mr. BYRD. Mr. President, on December 31st the Nation lost a remarkable man.

At his home in Los Altos, California, lands-end of the Nation and State he served, Alan Cranston did not witness the beginning of the new millennium.

It has been said that death is the great leveler. But Alan Cranston's accomplishments in life have clearly set him apart.

Nearly seven decades ago, a young American journalist from California published an unexpurgated version of Adolf Hitler's "Mein Kampf" "My Struggle"—revealing, as few had previously done, the true depth of the danger and the evil that Hitler embodied. Hitler successfully sued for copyright violation, and Alan Cranston wore that loss as a proud badge throughout his life.

After a career in journalism, service in the U.S. Army during World War II, business, and local politics, Alan Cranston joined the members of this U.S. Senate in 1969 by virtue of his election in the previous November.

Here, Senator Cranston's vision and rich composition of experiences, talents, and wisdom enriched our Senate deliberations.

In 1977, when I was elected Senate Democratic Leader, Senator Cranston won election as Assistant Democratic Leader, or "whip." In all his years of working, first as my proverbial "right hand" and, subsequently, as a close colleague in the Senate leadership when I became President pro tempore, Senator Cranston was a conscientious adjutant and a congenial friend and partner in numerous legislative efforts. Unfortunately, words alone cannot adequately convey the respect in which I held Senator Cranston, nor the solid appreciation that I felt for Senator Cranston and for his loyalty, his supreme dedication, his high purpose, his contributions to the Senate's work through many years.

He was a fine lieutenant, if I may use that term. He was always there when I needed him. And many times I said that he was absolutely the best nose counter that I had ever seen in the Senate.

But friendship and respect are not always easily forged. Tragedy makes a bond. In 1980, Senator Cranston was dealt Fate's glancing blow with the death of a child, a loss of a promise to the future, when, his son, Robin Cranston, died in a traffic accident in 1980, at the age of 33. Two years later, my wife, Erma, and I were dealt a similar blow with the death of our grandson, John Michael Moore, in a traffic accident.

Mr. President, a valedictory is not always sad and it is fitting that Senator Cranston's final words on this Floor regarding his career be repeated here. On October 8, 1992, he made these short and poignant remarks:

> Mr. President, a Senator from California gets involved in myriad issues. Just about every issue that exists has an impact, somehow, in the remarkable State of 30 million people that I represent. So I have been involved in countless issues over my time in the Senate.
>
> Most of all, I have dedicated myself to the cause of peace, and to the environment. In many a sense I believe that my work on the environment is probably the longest-lasting work I have accomplished here.
>
> When you deal with a social issue, or a war and peace issue, or an economic issue, or whatever the results, the consequences are fleeting. Whatever you accomplish is soon changed, and often what you have done leads to new problems that then have to be dealt with.
>
> But when you preserve a wild river, or a wilderness, or help create a national park, that is forever. That part of your State, our Nation, is then destined to be there forever after, as God created it.
>
> I worked with particular dedication over these years, too, on issues of justice, equal rights, human rights, civil rights, voting rights, equal opportunity. I worked for democracy and freedom in my country and in all countries. I focused particularly on housing, and transportation, and veterans.
>
> I thank the people of California for the remarkable opportunity I have had to serve them in the Senate for almost a quarter of a century.

Today, I along with millions of Americans, thank my friend, Alan Cranston, for his work, his life, and his vision.

> No man is an island, entire of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as if a manor of thy friends or of thine own were; any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.

I yield the floor.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to speak for up to 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COMPREHENSIVE TEST BAN TREATY

Mr. LEVIN. Mr. President, I want to comment briefly on an issue that is important to our national security: the Comprehensive Test Ban Treaty, or CTBT, that would ban all nuclear weapon tests. This is an issue that the new President and the new Senate should think about carefully and deliberately during the 107th Congress.

Today General John Shalikashvili, former Chairman of the Joint Chiefs of Staff, presented a report to President Clinton on his findings and recommendations on the CTBT. President Clinton had asked General Shalikashvili to conduct a comprehensive and independent study of the CTBT after the Senate voted against a resolution of ratification in October of 1999.

The CTBT negotiations were completed in 1996, and the United States was the first nation to sign the Treaty. To date, 160 nations have signed it and 69 have ratified it, including all our NATO allies, Japan, South Korea and Russia. However, to enter into force, it must be ratified by 44 specified nations that have nuclear reactors, including the United States.

The Treaty would prohibit all nuclear explosive tests. In so doing, it would make it much harder for nations to develop nuclear weapons, thus putting in place an important roadblock to nuclear weapon proliferation. The treaty provides for an expanded and improved international monitoring system that would improve our ability to detect and deter nuclear tests by other nations—but only if we ratify the treaty and it enters into force.

Secretary of Defense Cohen and the Joint Chiefs of Staff all support ratification of the CTBT, as do four former Chairmen of the Joint Chiefs of Staff, including General Shalikashvili and Gen. Colin Powell.

When the Senate took up the CTBT in October 1999, it did so in haste and without the traditional bipartisan deliberation we have accorded other arms control treaties. On the eve of the vote, 62 Senators signed a letter urging the Senate leadership to delay that vote and to postpone final consideration of the CTBT until the 107th Congress. Unfortunately, that request, which was made by nearly two-thirds of the Members of the Senate, to delay the vote, was not heeded, and the result was that the resolution of ratification was defeated by a vote of 51–48, with one Senator voting present.

Again, General Shalikashvili was asked to review the entire situation, and in conducting his review, he met with a number of Senators from both sides of the aisle to discuss their concerns and their suggestions. He also met with many other experts on this issue, and he visited the nuclear weapons labs.

General Shalikashvili's report is a valuable contribution to this important topic. This report, which was just filed today, places the CTBT in the broader context of our nuclear nonproliferation goals and efforts and points out that the CTBT is an important component of this enduring national security priority of nuclear nonproliferation. He concludes that the CTBT remains in our national interest and that the Senate should reconsider the treaty in a bipartisan manner, hopefully with the result that ratification is approved by the Senate.

General Shalikashvili's report reviews the major concerns which were expressed about the CTBT during our debate, and it offers recommendations in each of these areas, including ways to improve our monitoring and verification of foreign nuclear testing efforts and ways to improve our nuclear weapons Stockpile Stewardship Program. These recommendations address concerns raised about the CTBT and provide some commonsense and balanced steps to improve our security while bringing the CTBT into force.

Specifically, General Shalikashvili's report examines the larger nonproliferation context of the CTBT and concludes that the CTBT has a genuine nonproliferation value for our national security. His report studies the question of monitoring and verification and concludes that the monitoring system under the treaty will significantly enhance U.S. national monitoring capabilities and that cheating will be much harder and less useful than some fear. He evaluates our ability to maintain the safety and reliability of our nuclear weapons and determines that we can do so without nuclear testing if we fully support the Stockpile Stewardship Program and manage it prudently.

Finally, General Shalikashvili's report looks at the question of whether CTBT should be of indefinite duration and recommends that in addition to the safeguards accompanying the treaty, the Senate and the executive branch should conduct a joint review of the treaty 10 years after ratification and at 10-year intervals thereafter.

One of the key points made by General Shalikashvili is that the CTBT is conditioned on a safeguard that will assure our ability to maintain a safe and reliable stockpile. Under safeguard F, the United States would maintain the right and the ability to withdraw from the treaty and to conduct any testing necessary if that were required to certify the safety and reliability of a nuclear weapon type critical to our nuclear deterrent. General Shalikashvili's recommendation on the joint review would strengthen this safeguard by saying that if, after that joint review, grave doubts remained about the treaty's value for our national security, the President would be prepared to withdraw from the treaty.

I know General Shalikashvili's report will be considered carefully and seriously by the Senate and by the new administration. I hope we and the new administration will review his report and think through our CTBT position in a deliberate manner, and I will be making this point personally to President-elect Bush next Monday at a meeting in Austin for congressional defense and security leaders.

We owe General Shalikashvili a national debt of gratitude for serving our Nation and its security once again. He has taken a great deal of his time since retiring to review the CTBT and to craft recommendations that I hope we will implement. I recommend his report to all Senators and to the new administration, and I hope we will reconsider the treaty in the best bipartisan spirit of the Senate as his report recommends.

I ask unanimous consent that General Shalikashvili's letter to the President, accompanying his report, and his introduction and recommendations from the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPECIAL ADVISOR TO THE PRESIDENT
AND THE SECRETARY OF STATE FOR
THE COMPREHENSIVE TEST BAN
TREATY

January 4, 2001.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House.

DEAR MR. PRESIDENT: Last year, you and the Secretary of State requested that I serve as your Special Advisor for the Comprehensive Test Ban Treaty. In this capacity, I met with senators from both sides of the aisle to discuss their concerns and suggestions for any additional steps that could be taken to build bipartisan support for ratification. I was deeply appreciative of their willingness to engage in serious, substantive discussions about the Test Ban Treaty.

In addition to talking with senators, I have also discussed the Treaty with senior members of your administration, leading national security experts from former administrations, representatives of non-governmental organizations, and numerous scientific and diplomatic experts. I have visited the three nuclear weapon laboratories, met with their directors, and talked with a number of senior nuclear designers. My representatives have traveled to the Air Force Technical Applications Center, which operates U.S. national technical means for monitoring compliance with nuclear test ban treaties, and to Vienna, where work is underway on the international verification system. I asked several think tanks to provide a "second opinion" about verification and the Treaty's impact on other countries' nuclear ambitions. I have also reviewed numerous reports by external expert groups.

At the end of my review of the Treaty's potential impact on U.S. national security, I support the Treaty, just as I did when I served as Chairman of the Joint Chiefs of Staff. My discussions over the last ten months have only strengthened my view that the Treaty is a very important part of global non-proliferation efforts and is compatible with keeping a safe, reliable U.S. nuclear deterrent. I believe that an objective and thorough net assessment shows convincingly that U.S. interests, as well as those of friends and allies, will be served by the Treaty's entry into force.

The nation's nuclear arsenal is safe, reliable, and able to meet all stated military requirements. For as far into the future as we can see, the U.S. nuclear deterrent can remain effective under the Test Ban Treaty, assuming prudent stockpile stewardship—including the ability to remanufacture aging components. While there are steps that should be taken to better manage the long-term risks associated with stockpile stewardship, I believe that there is no good reason to delay ratification of the Treaty pending further advances in the Stockpile Stewardship Program as long as we have a credible mechanism to leave the Treaty should a serious problem with the deterrent make that necessary. I fear that the longer entry into force is delayed, the more likely it is that other countries will move irrevocably to acquire nuclear weapons or significantly improve their current nuclear arsenal, and the less likely it is that we could mobilize a strong international coalition against such activities.

In my consultations with senators, I have found broad bipartisan support for strengthened U.S. leadership of a comprehensive international response to the dangers posed by the proliferation of nuclear weapons. The overarching question has been whether the contributions that the Test Ban Treaty can make to national and international security outweigh any potential risks. I have recommended a number of steps that do not involve renegotiating the Treaty and that would go a long way toward addressing specific concerns. I am confident that there would be broad bipartisan support for those of my recommendations that deal with developing a more integrated non-proliferation policy, enhancing U.S. capabilities to track nuclear proliferation and monitor nuclear testing, and strengthening stockpile stewardship. I urge their early implementation because these actions are important for national security without regard to the immediate fate of the Test Ban Treaty. Since these steps would also strengthen the U.S. position under the Treaty, I hope that the next Administration and the Senate will reevaluate the Test Ban Treaty as part of a bipartisan effort to forge an integrated nonproliferation strategy for the new century.

I hope that the attacked report will prove useful in charting a course for future reconsideration and eventual ratification of the Test Ban Treaty. Should developments at home or abroad ever cast doubt on our ability to maintain a safe, reliable, and effective nuclear deterrent, however, we should withdraw from the Treaty if a resumption of nuclear testing would make us more secure. My recommendations would reduce the likelihood of such problems and provide additional reassurances that, if they did occur, the United States would take the appropriate actions. As additional insurance, I am also recommending a joint ten-year Executive-Legislative review of the full range of issues bearing on the Treaty's net value for national security in response to concerns about the Treaty's indefinite duration.

The rest of the world is looking to us for continued leadership of global efforts to stop proliferation and strengthen the nuclear restraint regime. Nothing could be more important to national security and international stability.

Very respectfully,
JOHN M. SHALIKASHVILI,
General, USA (Ret.).

FINDINGS AND RECOMMENDATIONS CONCERNING THE COMPREHENSIVE NUCLEAR TEST BAN TREATY

(By General John M. Shalikashvili (USA, Ret.), Special Advisor to the President and Secretary of State, January 2001)

I. INTRODUCTION

A decade after the end of the Cold War, nuclear weapons are still important to U.S. and allied security, a silent giant guarding against a catastrophic miscalculation by a potential adversary. The United States has the safest, most reliable, most capable arsenal of nuclear weapons in the world. It will need a credible deterrent as long as nuclear weapons exist.

Equally important to our security are global non-proliferation efforts. For the past half century, the United States has led the campaign to prevent the spread of nuclear weapons to additional countries or terrorist groups, and to reduce the chances that such weapons would ever be used.

The Comprehensive Nuclear Test Ban Treaty places obstacles in the path of nuclear weapon development by states that could some day threaten the United States or its allies. The question associated with Treaty ratification is whether the security benefits from the Treaty outweigh any risks that a ban on all nuclear explosions could pose to the U.S. deterrent.

Four types of concerns have been most prominent in the debate on advice and consent to ratification in October 1999 and in my subsequent investigations:

1. Whether the Test Ban Treaty has genuine non-proliferation value;
2. Whether cheating could threaten U.S. security;
3. Whether we can maintain the safety and reliability of the U.S. nuclear deterrent without nuclear explosive testing; and
4. Whether it is wise to endorse a Test Ban Treaty of indefinite duration.

After examining these issues, I remain convinced that the advantages of the Test Ban Treaty outweigh any disadvantages, and thus that ratification would increase national security. In each area, though, I am recommending additional actions to address concerns and further strengthen the U.S. position under the Treaty. I believe that we can go a long way toward bridging differences on these issues if they receive a level of sustained bipartisan attention equal to their high importance for national security.

The broad objectives of my specific recommendations are to:

1. Increase bipartisan and allied support for a carefully coordinated comprehensive non-proliferation;
2. Enhance U.S. capabilities to detect and deter nuclear testing and other aspects of nuclear proliferation;
3. Improve the management of potential risks associated with the long-term reliability and safety of the U.S. nuclear deterrent; and
4. Address concerns about the Test Ban Treaty's indefinite duration through a joint Executive-Legislative review of the Treaty's net value for national security to be held ten years after ratification and at regular intervals thereafter.

Test Ban Treaty supporters, skeptics, and opponents all agree that the United States needs to revitalize support for an integrated non-proliferation strategy, enhance its monitoring capabilities, and develop a bipartisan consensus on stewardship of the U.S. nuclear deterrent. I urge early implementation of my recommendations on these issues because they would strengthen U.S. security regardless of the immediate fate of the Test Ban Treaty. Action on these steps would also go a long way toward addressing concerns that have been voiced about the Treaty. Together with my recommendation on the ten-year joint review procedure, these steps offer a way to build bipartisan support for Test Ban Treaty ratification as an integral component of an overarching strategy to stop nuclear proliferation and strengthen the nuclear restraint regime.

VIII. COMPILATION OF RECOMMENDATIONS

Nuclear Weapons, Non-Proliferation, and the Test Ban Treaty

A. Working closely with the Congress and with U.S. friends and allies, the next Administration should implement on an urgent basis an integrated non-proliferation policy targeted on, but not limited to, countries and groups believed to have an active interest in acquiring nuclear weapons.

B. To increase high level attention and policy coherence, the next Administration should appoint a Deputy National Security Advisor for Non-Proliferation, with the authority and resources needed to coordinate and oversee implementation of U.S. non-proliferation policy.

C. As part of its effort to build bipartisan and allied support for an integrated non-proliferation policy, the next Administration should review at the highest level issues related to the Test Ban Treaty. There should be a sustained interagency effort to address senators' questions and concerns on these issues of great importance to national security.

D. The United States should continue its testing moratorium and take other concrete actions to demonstrate its commitment to a world without nuclear explosions, such as continuing leadership in building up the International Monitoring System (IMS) being established for the Treaty.

Monitoring, Verification, and Foreign Nuclear Programs

A. Higher funding and intelligence collection priorities should be assigned to monitoring nuclear test activities and other aspects of nuclear weapon acquisition or development by other states.

B. Collaboration should be increased among U.S. government officials and other experts to ensure that national intelligence, the Treaty's international verification regime, and other scientific stations are used as complementary components of an all-source approach to verification.

C. The transition from research to operational use should be accelerated for new verification technologies and analytical techniques.

D. The United States should continue working with other Test Ban Treaty signatories to prepare for inspections and develop confidence-building measures.

E. Additional steps should be taken unilaterally or bilaterally to increase transparency regarding the nature and purpose of activities at known nuclear test sites.

Stewardship of the U.S. Nuclear Stockpile

A. Working with the Department of Defense, other Executive Branch agencies, and the Congress, the Administrator of the NNSA should complete as soon as possible his comprehensive review of the Stockpile Stewardship Program. The review will clarify objectives and requirements, set priorities, assess progress, identify needs, and develop an overarching program plan with broad-based support.

Highest priority should be given to aspects of stockpile stewardship that are most urgently needed to assure the near-term reliability of the U.S. nuclear deterrent, i.e. surveillance, refurbishment, and infrastructure revitalization.

Enhance surveillance and monitoring activities should receive full support and not be squeezed by higher profile aspects of the SSP.

The NNSA should make a decision about the need for a large-scale plutonium pit remanufacturing facility as soon as possible after the next Administration has determined the appropriate size and composition of the enduring stockpile, including reserves.

A dedicated infrastructure revitalization fund should be established after the NNSA has completed a revitalization plan for its production facilities and laboratories.

B. The NNSA, working with Congress and the Office of Management and Budget, should place the SSP on a multi-year budget cycle like the Department of Defense's Future Years Defense Program. Some increase in funds for the SSP is likely to be necessary

C. Steps to improve interagency management of stockpile stewardship matters, such as the revitalization of the Nuclear Weapons Council, are essential and should be continued.

D. Appropriate steps should be taken to ensure that the performance margins of various weapon types are adequate when conservatively evaluated.

E. Strict discipline should be exercised over changes to existing nuclear weapon designs to ensure that neither an individual change nor the cumulative effect of small modifications would make it difficult to certify weapons realiability or safety without a nuclear explosion.

F. The Administrator of the NNSA should establish an on-going high level external advisory mechanism, such as a panel of outstanding and independent scientists.

Minimizing Uncertainty with a Treaty of Indefinite Duration

A. The Administration and the Senate should commit to conducting an intensive joint review of the Test Ban Treaty's net value for national security ten years after U.S. ratification, and at ten-year intervals thereafter. This review should consider the Stockpile Stewardship Program's priorities, accomplishments, and challenges; current and planned verification capabilities; and the Treaty's adherence, implementation, compliance, and enforcement record. Recommendations to address concerns should be formulated for domestic use and to inform the U.S. position at the Treaty's ten-year review conference. If, after these steps, grave doubts remain about the Treaty's net value for U.S. national security, the President, in consultation with Congress, would be prepared to withdraw from the Test Ban Treaty under the "supreme national interests" clause.

Mr. LEVIN. I thank the Chair. I yield the floor.

COMPREHENSIVE TEST BAN TREATY REPORT

Mr. BINGAMAN. Mr. President, today, former Chairman of the Joint Chiefs of Staff, General John M. Shalikashvili, released his report reviewing the major issues regarding ratification of the Comprehensive Test Ban Treaty (CTBT) which was rejected by the Senate in a vote last fall. His review of the brief debate in the Senate over this critical matter of national security is thorough in its scope and balanced in its recommendations I urge President Bush and his national security advisory team to review General Shalikashvili's report closely and undertake to address his observations and recommendations immediately.

When it comes to the proliferation or improvement of nuclear weapons, time is NOT on our side. The CTBT, when ratified and in force, will discourage non-nuclear weapons states from creating their own nuclear arsenals and prevent current nuclear states from building new capabilities that can endanger American and international security. The hearings held in the Senate last fall, although not nearly as comprehensive as they should have been, did serve to articulate issues of greatest concern to those who are uncertain or opposed to the treaty.

Those issues must be addressed head-on in order for the nation to proceed in a bipartisan way regarding further consideration of the Treaty. The international community of nations is watching us closely to see what direction the United States will choose to take. In his report, General Shalikashvili has identified the key controversial issues and calls for specific actions to meet primary concerns before the President and the Senate reconsider the Treaty.

President-elect Bush has clearly stated that he seeks to unify the country and is committed to enhancing our national security. Given the divisions in the electorate and in the Congress itself, the challenge of gaining bipartisan support on key legislative matters including defense matters is a daunting one for the new administration. Given the outstanding work of General Shalikashvili in reviewing last year's debate on the CTBT, President-elect Bush has a very important opportunity to pursue bipartisan national security policy by committing to review General Shalikashvili's thoughtful assessment and to undertaking the recommendations he has put forward. As a member of the bipartisan Senate working group that has been examining the Comprehensive Test Ban Treaty, I urge my colleagues on both sides of the aisle to support General Shalikashvili's effort on this critical national security matter.

ADDITIONAL STATEMENTS

JOSH HEUPEL RECOGNIZED FOR LEADING TEAM TO NATIONAL COLLEGE FOOTBALL CHAMPIONSHIP

• Mr. JOHNSON. Mr. President, I rise today to congratulate Josh Heupel, a native of Aberdeen, South Dakota who led the undefeated Oklahoma Sooners to the National Championship January 3, 2001. Josh and the number one ranked Sooners beat the Florida State Seminoles 13–2 in the FedEx Orange Bowl in Miami.

Although the game was a defensive struggle, Josh was able to complete 25 passes for 214 yards and also ran for another 24 yards. In the third quarter, Josh may have made the biggest play of the game when he made a crucial, 39-yard completion that kept the drive going to set up the second field goal of the game. That field goal gave the Sooners a 6–0 advantage.

Josh showed his true character after finishing second in the Heisman Trophy race. He explained that while he was disappointed, the only trophy he truly wanted was the National Championship because that represented the accomplishments of his team, not an individual. On Wednesday night he was able to accomplish his dream. That selfless attitude is charactistic of Josh, not only on the gridiron, but in life as well. He is well known for his devotion to his family, particularly as a role model for his younger sister, Andrea. He gives his time freely to charities and to work in his church. In fact, the televised Orange Bowl game itself was transformed into a community-wide charity fundraising event in Josh's hometown of Aberdeen by his friends and family.

Ken and Cindy Heupel are Josh's parents and they can be very proud of their son's accomplishments, both as a football player and as a caring member of society. Ken is the head football coach at Northern State and Cindy is the principal at Aberdeen Central High School.

From all South Dakotans, I want to wish Josh a heart felt congratulations. Although you have already proven that you are a true champion with the volunteer work and the community service, I am sure it is nice to take home the championship hardware.•

TRIBUTE TO MICHAEL CAREY

• Mr. LEAHY. Mr. President, Vermont is fortunate that it still has at least one major radio station that has not forgotten its connection to the community. This station is WDEV from the town of Waterbury. It is only a few miles from where I was born and raised and I have known the Squire family who owns the station throughout my life. It is presently owned and run by Ken Squire, who carries on the family tradition of representing Vermont first and foremost. Part of that tradition has been the long running "Wake Up Vermont" program I heard each morning with the great team of "Michael and Michaels." The program was done by Michael Carey and Eric Michaels and was one of the finest radio programs in Vermont. Eric Michaels has a great ability as an interviewer on even the most complex of subjects, and Michael Carey added a sense of continuity and comfort to the program. Between the two of them one had an enjoyable way to start the day.

I was saddened, as were most Vermonters, to hear that Michael Carey is retiring. I have known Mike for years and always enjoyed meeting with him, either at the studio in Waterbury or over the phone when I would be on their program from Washington, D.C. Eric Michaels said he will be devastated by the loss of his radio partner and I can well imagine he is, but I am thankful that Eric will remain.

I just wanted to take this opportunity to say how much Michael Carey has meant to Vermonters and how his sacrifice in getting up in the wee hours of the morning made it possible for rest of us to face the day.

I want to wish my Washington County neighbor the very best, and to thank him for the years of pleasure he has given all of us in central Vermont, and I ask that an article about this radio legend by Robin Palmer in the Times Argus be printed in the RECORD.

The article follows:

[From the Times Argus, Dec. 30, 2000]

Vermont Radio Legend Retires

(By Robin Palmer)

WATERBURY.—A radio personality whose reliability co-workers say was unmatched, ended a nearly 40-year career today with a final "Wake Up, Vermont" program on WDEV.

Michael Carey, 53, is retiring because of health reasons and, despite a last show dedicated to Carey and his many attributes, it was a sad day for him and for central Vermont radio.

"It's a retirement that's been forced upon me and not one that I'm looking forward to. I loved the profession and that's what makes it doubly hard," said Carey, who shirked at the attention surrounding him, calling his "just a profession."

Carey's profession began at an early age, and one he said he never expected to have.

At age 13, from his parents' apartment on Elm Street in Waterbury, Carey had an illegal radio station. He played records and read the weather, until a WDEV employee, Norman James, heard Carey's pirate station and thought he'd put the illegal endeavor to some good use, Carey said.

James got Carey a job answering phones for a WDEV Saturday night request program called "The Green Mountain Ballroom."

"Norm James got my foot in the door," said Carey, whose name was already familiar to those at the Waterbury radio station.

Carey's late parents, guitarist Morton "Smokey" Carey and singer Lois Carey, used to perform each morning on WDEV, said radio station owner Ken Squier.

Carey himself was later well known as the drummer in the popular "Carey Brothers Band" that entertained throughout the area in the 1970s.

In 1965, the radio pirate turned student worker was hired as a full-time announcer at WDEV by legendary Vermont radio personality and former "Wake Up, Vermont" host Rusty Parker, who died on the air in 1982 while reading the news.

Since his start in the 60s, Carey said, "I've done every shift here at the radio station except a Sunday night shift."

During that time, "there have been memories both very good and very bad ones," Carey said, listing Parker's death and the death of "Cousin" Harold Grout as two of the worst.

Two years after Parker's death, in 1984, Carey was promoted to sign-on the station and host the morning program, including "Once Around the Clock" from 5 to 6 a.m. and "The Morning News Service" from 7 to 8 a.m.

When Grout died, Carey became the voice of the long-running "Trading Post" program. And in April 1994, Carey was teamed with radio group Vice President and General Manager Eric Michaels for a 6 to 9 a.m. morning news program that quickly became know as "Wake Up, Vermont with Michael and Michaels."

"From the first day we were in the studio together we felt like we had worked with each other for a long time," said Michaels. "He can read me like a book.

"So I'm devastated (that Carey's retiring), if you want to put it in a single word. It's like getting a divorce," Michaels said.

Michaels praised Carey as one of the most competent broadcasters he's ever met. Carey can technically run a show while not missing a beat as an announcer.

"He's an absolutely wonderful news reader," said Michaels of his co-host.

Carey was rarely flustered.

"Doesn't matter if it was a snowstorm and floods, he could always rise to the occasion. Squier said, "That is his strength."

Bad weather and flooding once closed the Waterbury station and after a 20-minute delay, Michael and Michaels went on-air at a nearby studio that was so cold their lips stuck to the microphones. Carey was unfazed, said Michaels.

And one stormy day, it took Michaels over two hours to drive from Barre to Waterbury.

"I called the whole program in by phone," said Michaels, who all the while was guided by reliable Carey, sitting comfortably at the station and casually chatting with Michaels over the phone.

With Carey's retirement, Michaels will continue on with "Wake Up, Vermont." The "Michael and Michaels" portion of the name will be dropped, and another WDEV radio announcer will fill in for Carey while the radio station searches for a replacement.

"It's been the most reluctant job search that I've ever had to do," Michaels said.

While the job search will stretch beyond Vermont's borders, Squier said he is committed to keeping the morning broadcast a "Vermont sound."

And Carey is invited back anytime he feels up to it, Squier said."We were terribly sorry to lose him," said Squier.

"I think all of central Vermont will miss him." Squier said. "He was a steady hand for listeners in the morning."

Carey said he may come back at some point and do part-time work but, for now, that's not possible.

The Duxbury resident and father of three who for decades has awoken at 3 a.m., said he will be "trying to get back to a normal life."

"Just some R and R, rest and relaxation, getting on the computer and trying to do some things. Just keeping active and doing stuff," said Carey of his plans.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 8. A resolution relative to Senate procedure in the 107th Congress; considered and agreed to.

SENATE RESOLUTION 8—RELATIVE TO SENATE PROCEDURE IN THE 107TH CONGRESS

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 8

Resolved, That, notwithstanding the provisions of Rule XXV, or any other provision of the Standing Rules or Standing Orders of the Senate, the committees of the Senate, including Joint and Special Committees, for the 107th Congress shall be composed equally of members of both parties, to be appointed at a later time by the two Leaders; that the budgets and office space for such committees, and all other subgroups, shall likewise be equal, with up to an additional 10% to be allocated for administrative expenses to be determined by the Rules Committee, with the total administrative expenses allocation for all committees not to exceed historic levels; and that the Chairman of a full committee may discharge a subcommittee of any legislative or Executive Calendar item which has not been reported because of a tie vote and place it on the full committee's agenda.

SEC. 2. *Provided*, That such committee ratios shall remain in effect for the remainder of the 107th Congress, except that if at any time during the 107th Congress either party attains a majority of the whole number of Senators, then each committee ratio shall be adjusted to reflect the ratio of the parties in the Senate, and the provisions of this resolution shall have no further effect, except that the members appointed by the two Leaders, pursuant to this resolution, shall no longer be members of the committees, and the committee chairmanships shall be held by the party which has attained a majority of the whole number of Senators.

SEC. 3. Pursuant to the provisions and exceptions listed above, the following additional Standing Orders shall be in effect for the 107th Congress:

(1) If a committee has not reported out a legislative item or nomination because of a tie vote, then, after notice of such tie vote has been transmitted to the Senate by that committee and printed in the Record, the Majority Leader or the Minority Leader may, only after consultation with the Chairman and Ranking Member of the committee, make a motion to discharge such legislative item or nomination, and time for debate on such motion shall be limited to 4 hours, to be equally divided between the two Leaders, with no other motions, points of order, or amendments in order: *Provided*, That following the use or yielding back of time, a vote occur on the motion to discharge, without any intervening action, motion, or debate, and if agreed to it be placed immediately on the Calendar of Business (in the case of legislation) or the Executive Calendar (in the case of a nomination).

(2) Notwithstanding the provisions of Rule XXII, to insure that any cloture motion shall be offered for the purpose of bringing to a close debate, in no case shall it be in order for any cloture motion to be made on an amendable item during its first 12 hours of Senate debate: *Provided*, That all other provisions of Rule XXII remain in status quo.

(3) Both Leaders shall seek to attain an equal balance of the interest of the two parties when scheduling and debating legislative and executive business generally, and in keeping with the present Senate precedents, a motion to proceed to any Legislative or Executive Calendar item shall continue to be considered the prerogative of the Majority Leader, although the Senate Rules do not prohibit the right of the Democratic Leader, or any other Senator, to move to proceed to any item.

AUTHORITY FOR PRINTING OF TRIBUTES

Mr. REID. Mr. President, I ask unanimous consent that the tributes to Alan Cranston, late Senator of the State of California, be printed as a Senate document and that Senators have until Friday, February 9, 2001, to submit said tributes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF NOMINATIONS

Mr. REID. Mr. President, I ask unanimous consent that nominations to the Office of Inspector General, except the Office of Inspector General of the Central Intelligence Agency, be referred in each case to the committee having primary jurisdiction over the department, agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 calendar days.

Finally, I ask unanimous consent that if the nomination is not reported after that 20-day period, the nomination be automatically discharged and placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR SATURDAY, JANUARY 6, AND MONDAY, JANUARY 8, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 12:45 p.m. Saturday, January 6; that immediately following the prayer and pledge, the Senate proceed as a body to the Hall of the House of Representatives for the joint session; that at the close of the joint session, the Senate stand in adjournment until 12 noon Monday, January 8, 2001; that at the close of business Monday, the Senate stand in recess until 3:00 p.m. Saturday, January 20, as provided under the provisions of H. Con. Res. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:45 P.M. TOMORROW

Mr. REID. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:17 p.m., recessed until Saturday, January 6, 2001, at 12:45 p.m.

NOMINATIONS

Executive nominations received by the Senate January 5, 2001:

DEPARTMENT OF AGRICULTURE

ISLAM A. SIDDIQUI, OF CALIFORNIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS, VICE MICHAEL V. DUNN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FARM CREDIT ADMINISTRATION

MICHAEL V. DUNN, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING OCTOBER 13, 2006, VICE MARSHA P. MARTIN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL HOUSING FINANCE BOARD

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007, VICE BRUCE A. MORRISON, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

GEOFF BACINO, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF SIX YEARS EXPIRING AUGUST 2, 2005, VICE NORMAN E. D'AMOURS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF COMMERCE

JAMES A. DORSKIND, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE, VICE ANDREW J. PINCUS, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ELWOOD HOLSTEIN, JR., OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE TERRY D. GARCIA, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST SESSION OF THE SENATE.

FEDERAL COMMUNICATIONS COMMISSION

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1999, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL

DAVID Z. PLAVIN, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL FOR A TERM OF ONE YEAR (NEW POSITION), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ARTHENIA L. JOYNER, OF FLORIDA, TO BE A MEMBER OF THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL FOR A TERM OF ONE YEAR (NEW POSITION), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

GREGORY M. FRAZIER, OF KANSAS, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

UNITED STATES INTERNATIONAL TRADE COMMISSION

DENNIS M. DEVANEY, OF MICHIGAN, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2009, VICE THELMA J. ASKEY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF STATE

PETER F. ROMERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (INTER-AMERICAN AFFAIRS), VICE JEFFREY DAVIDOW, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES F. DOBBINS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (EUROPEAN AFFAIRS), VICE MARC GROSSMAN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

OVERSEAS PRIVATE INVESTMENT CORPORATION

ROBERT MAYS LYFORD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2002, VICE HARVEY SIGELBAUM, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MIGUEL D. LAUSELL, OF PUERTO RICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003, VICE JOHN CRYSTAL, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GEORGE DARDEN, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR THE TERM EXPIRING DECEMBER 17, 2003, VICE ZELL MILLER, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

INTER-AMERICAN FOUNDATION

ANITA PEREZ FERGUSON, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006, VICE MARIA OTERO, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FRED P. DUVAL, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2002, VICE ANN BROWNELL SLOANE, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MERIT SYSTEMS PROTECTION BOARD

BETH SUSAN SLAVET, OF MASSACHUSETTS, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD, VICE BENJAMIN LEADER ERDREICH, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BARBARA J. SAPIN, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, VICE BENJAMIN LEADER ERDREICH, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL THRIFT INVESTMENT BOARD

JAMES H. ATKINS, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2004, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SHERYL R. MARSHALL, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2002, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF EDUCATION

JUDITH A. WINSTON, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF EDUCATION, VICE MARSHALL S. SMITH, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

UNITED STATES INSTITUTE OF PEACE

SHIBLEY TELHAMI, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2004, VICE SARAH MCCRACKEN FOX, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL COUNCIL ON DISABILITY

EDWARD CORREIA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE MICHAEL B. UNHJEM, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GERALD S. SEGAL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE SHIRLEY W. RYAN, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ROSS EDWARD EISENBREY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2005, VICE STUART E. WEISBERG, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

TONI G. FAY, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2001, VICE JOHN ROTHER, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PAULETTE H. HOLAHAN, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE MARY S. FURLONG, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARILYN GELL MASON, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2003, VICE JOEL DAVID VALDEZ, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DONALD L. ROBINSON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2002, VICE GARY N. SUDDUTH, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HSIN-MING FUNG, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE SPEIGHT JENKINS, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NINA M. ARCHABAL, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE NICHOLAS KANELLOS, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BETTY G. BENGTSON, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE RAMON A. GUTIERREZ, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

RON CHEW, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE ROBERT I. ROTBERG, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BILL DUKE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE CHARLES PATRICK HENRY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DONALD L. FIXICO, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE ALAN CHARLES KORS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HENRY GLASSIE, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE MARTHA CONGLETON HOWELL, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARY D. HUBBARD, OF ALABAMA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004, VICE THEODORE S. HAMEROW, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NAOMI SHIHAB NYE, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE BEV LINDSEY, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

VICKI L. RUIZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE HAROLD K. SKRAMSTAD, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ISABEL CARTER STEWART, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE DAVID FINN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

ALLEN E. CARRIER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2004, VICE DUANE H. KING, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAYNE G. FAWCETT, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2006, VICE ALFRED H. QOYAWAYMA, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

UNITED STATES PAROLE COMMISSION

TIMOTHY EARL JONES, SR., OF GEORGIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE MARIE F. RAGGHIANTI, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF JUSTICE

JOHN R. LACEY, OF CONNECTICUT, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2003, VICE DELISSA A. RIDGWAY, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

LARAMIE FAITH MCNAMARA, OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2001, VICE JOHN R. LACEY, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ENVIRONMENTAL PROTECTION AGENCY

EDWIN A. LEVINE, OF FLORIDA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE DAVID GARDINER, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES V. AIDALA, OF VIRGINIA, TO BE ASSISTANT ADMINISTRATOR FOR TOXIC SUBSTANCES OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE LYNN R. GOLDMAN, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF THE INTERIOR

KENNETH LEE SMITH, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR, VICE DONALD J. BARRY, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF ENERGY

JAMES JOHN HOECKER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2005, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SENATE—*Saturday, January 6, 2001*

(Legislative day of Friday, January 5, 2001)

The Senate met at 12:45 p.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, we thank You that we have the privilege of living in this land of freedom. This afternoon, as we go to meet in the Chamber of the House of Representatives to count the Electoral College votes, give us a renewed sense of patriotism for our Nation and our Constitution. We ask Your blessing of wisdom and strength on President-elect George W. Bush and Vice President CHENEY as they are confirmed in this historic meeting according to the 12th amendment. God, continue to bless America. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER J. DODD, a Senator from the State of Connecticut, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 6, 2001.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

JOINT SESSION OF THE TWO HOUSES FOR COUNTING OF ELECTORAL VOTES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed as a body to the Hall of the House of Representatives.

Thereupon, the Senate, preceded by the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms, James W. Ziglar, proceeded to the Hall of the House of Representatives for the counting of electoral votes.

(The proceedings of the counting of electoral votes before the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

MESSAGE FROM THE PRESIDENT

REPORT OF PROPOSED LEGISLATION ENTITLED "UNITED STATES-JORDAN FREE TRADE AREA IMPLEMENTATION ACT OF 2001"—MESSAGE FROM THE PRESIDENT—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am pleased to transmit a legislative proposal to implement the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area. Also transmitted is a section-by-section analysis.

The U.S.-Jordan Free Trade Agreement (FTA) provides critical support for a pivotal regional partner for U.S. efforts in the Middle East peace process. Jordan has taken extraordinary steps on behalf of peace and has served as a moderating and progressive force in the region. This Agreement not only sends a strong and concrete message to Jordanians and Jordan's neighbors about the economic benefits of peace, but significantly contributes to stability throughout the region. This Agreement is the capstone of our economic partnership with Jordan, which has also included U.S.-Jordanian cooperation on Jordan's accession to the World Trade Organization (WTO), our joint Trade and Investment Framework Agreement, and our Bilateral Investment Treaty. This Agreement is a vote of confidence in Jordan's economic reform program, which should serve as a source of growth and opportunity for Jordanians in the coming years.

The U.S.-Jordan Free Trade Agreement achieves the highest possible commitments from Jordan on behalf of U.S. business on key trade issues, providing significant and extensive liberalization across a wide spectrum of trade issues. For example, it will eliminate all tariffs on industrial goods and agricultural products within 10 years. The FTA covers all agriculture without exception. The Agreement will also eliminate commercial barriers to bilateral trade in services originating in the United States and Jordan. Specific liberalization has been achieved in many key services sectors, including energy distribution, convention, printing and publishing, courier, audiovisual, education, environmental, financial, health, tourism, and transport services.

In the area of intellectual property rights, the U.S.-Jordan Free Trade Agreement builds on the strong commitments Jordan made in acceding to the WTO. The provisions of the FTA incorporate the most up-to-date international standards for copyright protection, as well as protection for confidential test data for pharmaceuticals and agricultural chemicals and stepped-up commitments on enforcement. Among other things, Jordan has undertaken to ratify and implement the World Intellectual Property Organization's (WIPO) Copyright Treaty and WIPO Performance and Phonograms Treaty within 2 years.

The FTA also includes, for the first time ever in the text of a trade agreement, a set of substantive provisions on electronic commerce. Both countries agreed to seek to avoid imposing customs duties on electronic transmissions, imposing unnecessary barriers to market access for digitized products, and impeding the ability to deliver services through electronic means. These provisions also tie in with commitments in the services area that, taken together, aim at encouraging investment in new technologies and stimulating the innovative uses of networks to deliver products and services.

The FTA joins free trade and open markets with civic responsibilities. In this Agreement, the United States and Jordan affirm the importance of not relaxing labor or environmental laws in order to increase trade. It is important to note that the FTA does not require either country to adopt any new laws in these areas, but rather includes commitments that each country enforce its own labor and environmental laws.

The U.S.-Jordan Free Trade Agreement will help advance the long-term

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

U.S. objective of fostering greater Middle East regional economic integration in support of the establishment of a just, comprehensive, and lasting peace, while providing greater market access for U.S. goods, services, and investment. I urge the prompt and favorable consideration of this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 6, 2001.*

MESSAGE FROM THE HOUSE

At 12:48 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the provisions of Senate Concurrent Resolution 1, 107th Congress, the Speaker appoints as tellers on the part of the House to count the electoral votes: Mr. THOMAS of California and Mr. FATTAH of Pennsylvania.

The message also announced that pursuant to the provisions of Senate Concurrent Resolution 2, 107th Congress, the Chair reappoints as members of the joint committee to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States on the 20th day of January 2001, the following Members of the House: Mr. HASTERT of Illinois, Mr. ARMEY of Texas, and Mr. GEPHARDT of Missouri.

ADJOURNMENT UNTIL MONDAY, JANUARY 8, 2001

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, the Senate adjourned until Monday, January 8, 2001, at 12 noon.

HOUSE OF REPRESENTATIVES—*Saturday, January 6, 2001*

The House met at 11 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, in your scriptures "to be elected" is "to be among the chosen."

Down through the years, You have chosen people and given them specific tasks and great responsibilities to accomplish before the world, marvelous deeds in Your Holy Name.

Although all are equal in Your sight, at certain times, You call for certain people. No one is ever rejected by You, but You alone know who should be called to serve You at a particular time to achieve Your purpose, whether it is to correct, affirm, admonish or teach.

As Your people, we are truly blessed. As a people any of us may feel called to lead. But because of Your care for Your people at any given moment, You alone know the ones who should serve. This Nation has come to trust in Your guidance in the unfolding of its history. This Nation turns to You again and seeks Your Spirit that it may be true to all Your commands, learn from its past and be a sign of promise for the future.

As this Chamber hosts the Joint Session of Congress for the counting of the electoral votes for President and Vice President of the United States, be with us. Be with us as before. Be with us as never before.

May those who are elected be received by the people of this Nation with prayer that they may be open to Your power and their leadership in the years ahead. Before You we all stand humbly as servants now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. COMBEST) come forward and lead the House in the Pledge of Allegiance.

Mr. COMBEST led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. Will the gentleman from California (Mr. STARK) and the gentleman from Illinois (Mr. GUTIERREZ) kindly come to the well of the House and take the oath of office at this time.

Mr. STARK and Mr. GUTIERREZ appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 4, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 4, 2001, at 3:53 p.m.

Appointments:
Senate National Security Working Group
NATO Parliamentary Assembly
Tellers to count electoral votes

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 5, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 5, 2001 at 9:49 a.m.

That the Senate PASSED without amendment H. Con. Res. 1.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT OF MEMBERS TO THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to the provisions of clause 11, rule X, and clause 11 of rule I, the Chair appoints the following Members of the House to the Permanent Select Committee on Intelligence:

Mr. GOSS of Florida, chairman,
Ms. PELOSI of California.

APPOINTMENT OF TELLERS ON THE PART OF THE HOUSE TO COUNT ELECTORAL VOTES

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 1, the 107th Congress, the Chair appoints as tellers on the part of the House to count the electoral votes the gentleman from California (Mr. THOMAS) and the gentleman from Pennsylvania (Mr. FATTAH).

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore (Mr. COMBEST). The Chair will entertain five 1-minutes on each side.

JOYOUS REALIZATION IN REACHING AN END TO A TORTUOUS POLITICAL CAMPAIGN

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, my friends, I join you in the joyous realization that we have reached the end of a very tortuous political campaign, and today is the final act in choosing our national leader.

The United States Supreme Court very unusually had an important role in bringing this to its stated finality. But it did, among several things, one very important thing, and that is reassert the primacy of the legislative branch, the elected legislature, rather than the appointed judicial branch. That is very important.

Today, we can approach this as Americans, not as Republicans, not as

Democrats, not as conservatives, not as liberals, but as Americans. We can serve the public good, the common good. We are elected to do that. Let us put the bitterness and rancor behind us, and let us move forward to do the job we are sworn to do. God bless America.

OBJECTING TO THE ELECTORAL VOTE COUNT FOR THE STATE OF FLORIDA

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, let the RECORD show that on today, Saturday, January 6, I am present on the floor of the House of Representatives prepared to object to the electoral vote count for the State of Florida at the proceedings that will take place at 1 o'clock.

Let the RECORD show that the rules require all objections to be submitted in writing and signed by a Member of the House and a Member of the Senate. As of 11:00 today, I have not been able to identify any U.S. Senator prepared to sign any objections; therefore, all attempts to object may be denied. However, I am voicing my objections to the electoral votes submitted by Florida.

Mr. Speaker, I believe these electoral votes to be illegitimate and unrepresentative of the true popular vote in Florida. Vice President GORE is leading in popular votes in excess of 500,000 votes in this country, and all of Florida's vote recounts are not yet tabulated. The recounts will document that GORE won Florida, despite voter fraud, despite voter intimidation, despite the butterfly ballots, despite the criminal recording of ID numbers on absentee ballots. History will record what really took place in this election.

HOPING TO HEAL WOUNDS AND PUT PEOPLE BEFORE POLITICS

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute.)

Mr. WATTS of Oklahoma. Mr. Speaker, for the most part, it is a quiet and peaceful day here in Washington.

There is a light dusting of snow outside, and the sun is shining brightly.

This place that the world calls America, but all of us call home, is a special place. There is a good reason for this. We are a peaceful Nation. We are a Nation of laws. We are a Nation that takes pride from the rule of law.

Mr. Speaker, I recognize the frustration from the past election; I often feel the same frustration, but now is the time to move forward, to work together, to work in good faith.

I want to work with my Democrat friends to do what is best for America in areas of education, national security, Social Security, Medicare.

Mr. Speaker, I hope we can heal the wounds and put people before politics today and throughout the coming weeks and the coming months.

EXPRESSING OUTRAGE AND EXASPERATION OF CONSTITUENTS IN MIAMI, FLORIDA

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute.)

Mrs. MEEK of Florida. Mr. Speaker, I am a born and raised resident of the State of Florida. I do not stand today before this Congress with great pride, because I must object to the way the votes were handled in the State of Florida.

Mr. Speaker, I am here to express the outrage and exasperation of my constituents in Miami, Florida, over the failure of our government and our electoral system in the 2000 Presidential election; 20,000 votes or more were not counted in Miami, Dade County, Florida.

I am standing so that history will show and record my words so that people might better understand what has happened to us in Miami.

We are outraged because African American voters in Florida did everything they were supposed to do, studied the issues. We did our civic duty. We lined up at the polls and we voted; and yet massive numbers of our votes were not counted. We cannot be silent, even though we would like to. First, the importance of this election is important throughout the country. We exercised what we thought was our legal right, only to have it nullified by faulty and defective voting machines distributed discriminatorily, targeted in our neighborhoods, nullified by purge of voting lists, and on and on.

Mr. Speaker, I want America to understand that African Americans were not given process in this election.

TODAY IS A DAY OF STATESMANSHIP, CIVILITY, AND RESPECT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, just 24 days ago, an agonizingly close, long Presidential election came to a close. Regardless of partisanship or ideology, Americans were touched by Vice President GORE's gracious and heartfelt concession speech. That night he recalled the words of Senator Steven Douglas from nearly a century and a half ago. Following his loss to Abraham Lincoln, Douglass said partisan feeling must yield to patriotism. I am with you, Mr. President, and God bless.

Those words were spoken at a time when divisions in the United States were so severe that the next 5 years saw nearly 700,000 Americans give their lives in a great Civil War. Certainly today, even with the partisan rancor that accompanies such a close election, we can stand together.

The traditions of our forefathers, the honor of our constitutional democracy, and the spirit of the words of Vice President GORE call for this to be a day of statesmanship, civility, and respect.

VOICING OBJECTION TO TALLY ON PREMISE OF SELF-EVIDENT TRUTH THAT WE ALL ARE CREATED EQUAL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, Alexander Hamilton said the sacred rights of mankind can never be erased or obscured by mortal power. Today is a solemn day, a day to affirm the votes of the American people; yet thousands of Americans' votes were not counted.

□ 1115

I went to Florida and saw thousands of Floridian votes thrown out. After marches in Selma, Alabama and a dream that was enunciated at the Lincoln Memorial, it is imperative that the self-evident truth is that every vote must count.

Therefore, at the tallying of the electoral votes, the voice of the voiceless will be heard as I intend to make a formal objection to the tally on the premise of the self-evident truth that we all are created equal.

I will formally object to the electoral votes of the State of Florida, for the Supreme Court's decision must not substitute for the will of the people. I do believe, as the Declaration of Independence has said, we all are created equal with certain inalienable rights of life, liberty, and, of course, freedom and justice, as I paraphrase.

HOUSE OF REPRESENTATIVES WILL UPHOLD AND DEFEND CONSTITUTION THROUGH ELECTORAL VOTE COUNTING

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, a few short moments ago, the gentleman from California (Mr. STARK) and the gentleman from Illinois (Mr. GUTIERREZ) stood in the well of this Chamber, raised their right hands, and, as over 400 of us did earlier this week, swore to uphold and defend the Constitution of the United States.

Mr. Speaker, the American people will see us again today uphold and defend that Constitution through the electoral vote count.

Mr. Speaker, some preceding speakers have voiced their displeasure with the process. It is my hope, Mr. Speaker, that, while passions run high, we never let those passions overtake our purpose, that we remain men and women of high principle and purpose. Though we will have disagreements that may be played out later today, we attempt to restore civility and forsake the vicious and vituperative name calling that taint so many.

BETRAYAL OF DEMOCRACY

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise today in total outrage over the disenfranchisement of thousands of voters and the real betrayal of our democracy.

I rise today because we will not go gentle into that night. We will not stand silently by to seal the results of an electoral system that is separate and unequal.

We will not stand silently by while African American voters are dismissed from polling places, forced to use antiquated machines, and denied their rightful voice.

I went to Florida to work to get out the vote for the same reason that I have gone overseas as an election observer, because free and fair elections are the very lifeblood of our democracy, because the principle of one person, one vote, must be more than empty rhetoric.

This is not a dispute about chads; this is about fairness.

Martin Luther King, Jr. fought for the right to vote. Medgar Evers died for the right to vote. Today, we stand here in their memory. The right to vote is meaningless if every vote is not counted.

So let the world know that we failed in upholding our democratic principles, and that it was the Reagan-Bush Supreme Court, not the people of the United States, who decided the outcome of this election.

I object to the tallying and to accepting the electoral votes and will formally do so.

CONGRESS READY TO GOVERN AND LEAD IN A BIPARTISAN WAY

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, we should rejoice today in the beginning of the 107th Congress. We have an opportunity to lead and to govern; and in that, we should take pride in that responsibility.

I noted that friends from the other side of the aisle indicated they will file an objection today to certain electors. I support the right of them to do that under the Constitution of the United States.

But the fact that no Senator has indicated a willingness to join in that objection indicates that that body, and the vast majority of those in this body, say we are ready to move on and accept the results of the election that has been approved under our rule of law.

So today we are ready to govern, to lead in a bipartisan way; and I think that we should rejoice in that. If there has been problems in the election system, we should review that. If there has been a disenfranchisement of any minority voter or any member of the Armed Forces, that should be reviewed. But we should work together in a positive way in this session of Congress.

GROSS VIOLATIONS OF VOTING RIGHTS ACT

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, we had our problems in Georgia, but the Florida elections were marred by gross violations of the Voting Rights Act.

Voters who had never been to jail were listed as felons and then were not able to vote. Translators were not provided. A second ID was requested of immigrants even though it was not required.

But while Floridians pored over hanging chads and dimpled ballots, one-third of Florida's African American males were unable to vote because of felony convictions.

The Congress today will rubber stamp these gross violations of the Violating Rights Act. For black voters, these egregious insults must be addressed. It is not the act of voting that is democracy, but the counting of those votes; and that is what measures a true democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COMBEST). The Chair desires to make a statement.

The Chair desires to defer further unanimous consent requests and 1-minute speeches until after the formal ceremony of the day, which is the counting of the electoral votes for President and Vice President.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 12:55 p.m.

Accordingly (at 11 o'clock and 21 minutes a.m.), the House stood in recess until approximately 12:55 p.m.

□ 1301

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 1 o'clock and 1 minute p.m.

COUNTING ELECTORAL VOTES—JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1

At 1:02 p.m. the Sergeant at Arms, Wilson Livingood, announced the Vice President and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the Vice President and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The Vice President took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left. Senators took seats to the right of the rostrum as prescribed by law.

The joint session was called to order by the Vice President.

The VICE PRESIDENT. Mr. Speaker and Members of Congress, the Senate and the House or Representatives, pursuant to the requirements of the Constitution and the laws of the United States, are meeting in joint session for the purpose of opening the certificates and ascertaining and counting the votes of the electors of the several States for President and Vice President.

After ascertainment has been had that the certificates are authentic and correct in form, the tellers will count and make a list of the votes cast by the electors of the several States.

The tellers on the part of the two Houses will take their places at the Clerk's desk.

The tellers, Senator DODD and Senator MCCONNELL on the part of the Senate, and Mr. THOMAS and Mr. FATTAH on the part of the House, took their places at the desk.

The VICE PRESIDENT. The Chair will open the certificates in alphabetical order and pass to the tellers the certificates showing the votes of the electors in each State, and the tellers will then read, count, and announce the result in each State.

POINT OF ORDER

Mr. DEUTSCH. Mr. Vice President, I make a point of order.

The VICE PRESIDENT. The gentleman will state his point of order.

Mr. DEUTSCH. Mr. Vice President, we have just completed the closest election in American history.

The VICE PRESIDENT. The gentleman will suspend.

The Chair is advised by the Parliamentarian that, under section 18 of title 3, United States Code, no debate is allowed in the joint session.

If the gentleman has a point of order, please present the point of order.

Mr. DEUTSCH. Mr. Vice President, there are many Americans who still believe that the results we are going to certify today are illegitimate.

The VICE PRESIDENT. The gentleman will suspend.

If the gentleman from Florida has a point of order, he may present the point of order at this time. Otherwise, the gentleman will suspend.

Mr. DEUTSCH. Mr. Vice President, I will note the absence of a quorum and respectfully request that we delay the proceedings until a quorum is present.

The VICE PRESIDENT. The Chair is advised by the Parliamentarian that section 17 of title 3, United States Code, prescribes a single procedure for resolution of either an objection to a certificate or other questions arising in the matter. That includes a point of order that a quorum is not present.

The Chair rules, on the advice of the Parliamentarian, that the point of order that a quorum is not present is subject to the requirement that it be in writing and signed by both a Member of the House of Representatives and a Senator.

Is the point of order in writing and signed not only by a Member of the House of Representatives but also by a Senator?

Mr. DEUTSCH. It is in writing, but I do not have a Senator.

The VICE PRESIDENT. The point of order may not be received.

The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Alabama, and they will read the certificate and will count and make a list of the votes cast by that State.

(The certificates being in varying forms, each was read in part sufficient to justify the findings that it was signed by the pertinent electors, duly attested, regular in form, and authentic, and that it reflected the votes announced.)

Senator DODD (one of the tellers). Mr. President, we, the undersigned, being duly elected electors for President and Vice President of the United States of America, for the State of Alabama, at the general election held on Tuesday, November 7, 2000, pursuant to the Constitution and laws of the United States, and of this State, certify that the following candidates for President and Vice President received the following number of votes, by ballot, at the meeting of electors held December 18, 2000, at the State capitol in Montgomery, Alabama.

☐ 1315

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 9 votes for President and Dick Cheney of the State of Wyoming received 9 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Alaska, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). We, the undersigned, being duly elected electors for the State of Alaska, do hereby certify that on the 18th day of December, 2000, A.D., in the Municipality of Anchorage, State of Alaska, duly and regularly met and by authority of law vested in us, voted for President of the United States of America with the following result: For President, George W. Bush, 3 votes.

We, the undersigned, being the duly elected electors for the State of Alaska, do hereby certify that on the 18th day of December, 2000, A.D., in the Municipality of Anchorage, State of Alaska, duly and regularly met and by authority of law vested in us, voted for Vice President of the United States of America with the following result: for Vice President, Dick Cheney, 3 votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Alaska seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and Dick Cheney of the State of Wyoming received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Arizona, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator McCONNELL (one of the tellers). We, the undersigned, being the duly elected, qualified and acting presidential electors for the State of Arizona, do hereby certify that on the 18th day of December, 2000, A.D., at and within the City of Phoenix, County of Maricopa, State of Arizona, duly and regularly met and convened, and then and there, by authority of law in us vested, voted for President of the United States of America, with the following result: for President, George W. Bush, 8 votes.

We, the undersigned, being the duly elected, qualified and acting presidential electors for the State of Arizona, do hereby certify that on the 18th day of December, 2000, A.D., at and within the City of Phoenix, County of Maricopa, State of Arizona, duly and regularly met and convened and then and there, by authority of law in us vested, voted for Vice President of the United States of America, with the following result: for Vice President, Dick Cheney, 8 votes.

Mr. President, the certificate of the electoral vote of the State of Arizona seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President, and Dick Cheney of the State of Wyoming received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Arkansas, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). Mr. President, we, the undersigned, duly elected and qualified Presidential Electors for the State of Arkansas for the year 2000, hereby certify that we have met at the State Capitol, Old Supreme Court Chamber, in Little Rock, Arkansas, on December 18, 2000, as provided by law, and have cast our ballot for the President of the United States. We hereby certify that we have cast our separate ballots for the President of the United States as follows: for George W. Bush, in witness whereof, we have hereunto subscribed our names this 18th day of December 2000.

We, the undersigned, duly elected and qualified Presidential Electors for the State of Arkansas, for the year 2000, hereby certify that we have met at the State Capitol, Old Supreme Court Chamber, Little Rock, Arkansas, on December 18, 2000, as provided by law, and have cast our ballot for the Vice President of the United States. We hereby certify that we have cast our separate ballots for the Vice President of the United States as follows: For Dick Cheney, in witness whereof, we have hereunto subscribed this 18th day of December 2000.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Arkansas seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 6 votes for President, and Dick Cheney of the State of Wyoming received 6 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair now hands to the gentleman from California and the other tellers the certificate of the electors for President and

Vice President of the State of California, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). We, the undersigned Electors of President and Vice President of the United States of America (for the respective terms of President and Vice President beginning on the twentieth day of January, in the year of our Lord two thousand and one), being Electors, duly and legally elected, appointed and qualified in and for the State of California, as appears by the annexed list of Electors made, certified and delivered to us by Governor Gray Davis of the State and having the signature of the Governor of said State affixed thereto, having met and convened at the Capitol, in the city of Sacramento, in the State of California, in pursuance of the statutes of the State of California and of the United States, at the hour of 2 o'clock in the afternoon, on the first Monday after the second Wednesday in December, being the eighteenth day of December, in the year of our Lord two thousand, do hereby certify that being so assembled and duly organized, we proceeded to vote by ballot and balloted, first for such President, and then for such Vice President, by distinct ballots.

And we further certify, that the following are two distinct lists, one of the votes for President and the other of the votes for Vice President, so given as aforesaid: AL GORE of Tennessee, 54 votes; JOE LIEBERMAN of Connecticut, 54 votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of California seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 54 votes for President and JOE LIEBERMAN of the State of Connecticut received 54 votes for Vice President.

The VICE PRESIDENT. Is there objection to the count just made?

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Colorado, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). I, Donetta Davidson, Secretary of State of the State of Colorado, do hereby certify on the Eighteenth Day of December 2000, The Following Qualified Presidential Electors Met In The Office Of The Governor At Twelve Noon, And Cast Their Votes (8) For The Candidates Of Their Party; Said Candidates Being George W. Bush For President, And Dick Cheney For Vice President.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote for the State of Colorado seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President and Dick Cheney of the State of Wyoming received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection to the certificate just counted?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the Senator from Connecticut, Mr. DODD, the certificate of the electors for President and Vice President of the State of Connecticut, and he will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, the undersigned, Electors of President and Vice President of the United States of America, for the respective terms beginning on the twentieth day of January, in the year of our Lord two thousand and one, being electors duly and legally appointed and qualified by and for the State of Connecticut, as appears by the annexed list of electors, made, certified, and delivered to us by the Executive of the State, having met and convened at the Capitol, in Hartford, in said State, in pursuance of the Constitution and laws of the United States, and in the manner provided by the laws of the State of Connecticut, on the first Monday after the second Wednesday, being the eighteenth day of December, in the year of our Lord two thousand do hereby certify that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for such President and then for such Vice President, by distinct ballots. And we further certify, that, the following are two distinct lists: One of the votes for President, and the other, of the votes for Vice President so cast as aforesaid: List of all persons voted for as President, with the number of votes for each, AL GORE of Tennessee, 8. Lists of all persons for as Vice President with the number of votes for each, JOE LIEBERMAN of Connecticut, 8.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Connecticut seems to be regular in form and authentic, and it appears therefrom that AL GORE for the State of Tennessee received 8 votes for President and JOE LIEBERMAN of the State of Connecticut received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection to the certificate just counted?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Delaware, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). To all persons to whom these presents shall come, greetings. Whereas, an election was held in the State of Delaware, on Tuesday, the seventh day of November, in the year of our Lord 2000, that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Constitution and Laws of the State of Delaware, in that behalf, for the purpose of choosing by ballot 3 electors for the election of a President and Vice President of the United States, and whereas, the official certificates or returns of said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of said State, by the Superior Court of said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for as one of such Electors, the result appears as follows, to wit.

This one is different than all the others.

The VICE PRESIDENT. I can tell you where they went if it is not on there.

Mr. THOMAS. For President, AL GORE, 3 votes, and for Vice President JOE LIEBERMAN, 3 votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Delaware seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 3 votes for President and JOE LIEBERMAN of the State of Connecticut received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection to the certificate just counted?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the District of Columbia, and they will read the certificate and will count and make a list of the votes cast by the District of Columbia.

Senator MCCONNELL (one of the tellers). We, the undersigned, Electors of President and Vice President of the United State of America for terms beginning at noon on the twentieth day of January two thousand and one, being electors duly and legally appointed and qualified by and for the District of Columbia, as appears by the annexed certificate made and delivered to us by the Mayor of the District of Columbia, in accordance with the Act of Congress of June 25, 1948, c. 644, section 1, 62 Stat. 672, do hereby certify, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots. And we further certify that the following are two distinct lists, one of the votes for President and the other of the votes for Vice President, so cast as aforesaid.

List of all the persons voted for as President, with the number of votes for each: ALBERT GORE, two. List of all the persons voted for as Vice President, with the number of votes for each: JOSEPH I. LIEBERMAN, two.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the District of Columbia seems to be regular in form and authentic, and it appears therefrom that Al Gore from the State of Tennessee received 2 votes for President and JOE LIEBERMAN of the State of Connecticut received 2 votes for Vice President.

The VICE PRESIDENT. Is there objection to the certificate just counted? The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair now hands to the tellers the certificate of the electors for President and Vice President of the State of Florida, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). This is the one we have all been waiting for.

We, the undersigned duly elected and serving Electors for President and Vice-President hereby certify that we have this day met in the Executive Offices of the Capitol at Tallahassee, Florida, and cast our votes for President of the United States and our votes for Vice-President of the United States, and that the results are as follows: Those receiving votes for President of the United States and the number of such votes were: George W. Bush, 25. Those receiving votes for Vice-President of the United States and the number of such votes were: Dick Cheney, 25. Done at Tallahassee, the Capitol, this 18th day of December, A.D., 2000.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Florida seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 25 votes for President and Dick Cheney of the State of Wyoming received 25 votes for Vice President.

□ 1330

The VICE PRESIDENT. Is there objection?

Mr. HASTINGS of Florida. Mr. President, I object to the certificate from Florida.

The VICE PRESIDENT. The gentleman from Florida (Mr. HASTINGS) will present his objection. Is the gentleman's objection in writing and signed by a Member of the House of Representatives and by a Senator?

Mr. HASTINGS of Florida. Mr. President, and I take great pride in calling you that, I must object because of the overwhelming evidence of official misconduct, deliberate fraud, and an attempt to suppress voter turnout.

The VICE PRESIDENT. The Chair must remind Members that under section 18, title 3, United States Code, no debate is allowed in the joint session.

Mr. HASTINGS of Florida. Thank you, Mr. President. To answer your question, Mr. President, the objection is in writing, signed by a number of Members of the House of Representatives, but not by a Member of the Senate.

Thank you, Mr. President.

The VICE PRESIDENT. The Chair thanks the gentleman from Florida for his courtesy. Since the present objection lacks the signature of a Senator, accordingly, the objection may not be received.

Are there other objections?

Mrs. MEEK of Florida. Mr. President, I have an objection.

The VICE PRESIDENT. For what purpose does the gentlewoman from Florida (Mrs. MEEK) rise?

Mrs. MEEK of Florida. Mr. President, I have an objection.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House and by a Senator?

Mrs. MEEK of Florida. Mr. President, it is in writing and signed by myself and several of my constituents from Florida. A Senator is needed, but missing.

The VICE PRESIDENT. On the basis previously stated, the objection may not be received. The Chair thanks the gentlewoman from Florida for her courtesy.

For what purpose does the gentlewoman from Florida, Ms. BROWN, rise?

Ms. BROWN of Florida. Mr. President, I stand for the purpose of objecting to the counting of the vote from the State of Florida as read.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House of Representatives and a Senator?

Ms. BROWN of Florida. Mr. President, it is in writing and signed by several House colleagues on behalf of, and myself, the 27,000 voters of Duval County, of which 16,000 of them are African Americans that were disenfranchised in this last election.

The VICE PRESIDENT. The gentlewoman will suspend. The part of the question that the Chair will put again is, is the objection signed by a Member of the Senate?

Ms. BROWN of Florida. It is not signed by a Member of the Senate. The Senate is missing.

The VICE PRESIDENT. The Chair thanks the gentlewoman. The objection, on the basis previously stated, may not be received.

For what purpose does the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) rise?

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. President, I rise on behalf of the Congressional Black Caucus to object to the 25 electoral votes from Florida.

The VICE PRESIDENT. Does the gentlewoman state an objection, and is it in writing and signed by a Member of the House of Representatives and a Senator?

Ms. EDDIE BERNICE JOHNSON of Texas. It is in writing, signed by a number of Members of Congress, and because we received hundreds of thousands of telegrams and e-mails and telephone calls, but we do not have a Senator.

The VICE PRESIDENT. Is the objection signed by a Senator?

Ms. EDDIE BERNICE JOHNSON of Texas. It is not signed by a Senator, Mr. President.

The VICE PRESIDENT. The Chair thanks the gentlewoman from Texas. On the previous basis stated, the objection may not be received.

For what purpose does the gentleman from Maryland (Mr. CUMMINGS) rise?

Mr. CUMMINGS. I have an objection.

The VICE PRESIDENT. The gentleman will state his objection. Is the objection in writing and signed by a Member of the House and a Senator?

Mr. CUMMINGS. Mr. President, it is in writing and signed by myself on behalf of the many disenfranchised people in the State of Florida, and it is signed along with many of my other colleagues from the House.

The VICE PRESIDENT. Is it signed by a Senator?

Mr. CUMMINGS. No, it is not.

The VICE PRESIDENT. The Chair thanks the gentleman from Maryland. On the basis previously stated, the objection may not be received.

Mr. CUMMINGS. Thank you very much, Mr. President.

The VICE PRESIDENT. For what purpose does the gentlewoman from Texas (Ms. JACKSON-LEE) rise?

Ms. JACKSON-LEE of Texas. Mr. President, I have an objection.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House of Representatives and a Senator?

Ms. JACKSON-LEE of Texas. Mr. President, thank you for your inquiry. It is in writing, it is signed by myself on behalf of my diverse constituents and the millions of Americans who have been disenfranchised by Florida's inaccurate vote count, along with my House colleagues, Mr. President.

The VICE PRESIDENT. Is the objection signed by a Senator?

Ms. JACKSON-LEE of Texas. Mr. President, I do not have a Senator who has signed this objection.

The VICE PRESIDENT. The Chair thanks the gentlewoman from Texas. On the basis previously stated, the objection may not be received.

Ms. JACKSON-LEE of Texas. Thank you, Mr. President.

The VICE PRESIDENT. For what purpose does the gentlewoman from California (Ms. WATERS) rise?

Ms. WATERS. Mr. Vice President, I rise to object to the fraudulent 25 Florida electorial votes.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House and a Senator?

Ms. WATERS. The objection is in writing, and I do not care that it is not signed by a Member of the Senate.

The VICE PRESIDENT. The Chair will advise that the rules do care, and the signature of a Senator is required. The Chair will again put that part of the question: Is the objection signed by a Senator?

Ms. WATERS. Mr. Vice President, there are gross violations of the Voting Rights Act from Florida, and I object; and it is not signed by a Senator.

The VICE PRESIDENT. The Chair thanks the gentlewoman from California. On the basis previously stated, the objection may not be received.

For what purpose does the gentlewoman from California (Ms. LEE) rise?

Ms. LEE. Mr. President, I have an objection.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House of Representatives and a Senator?

Ms. LEE. Mr. President, it is in writing and signed by myself on behalf of many of the diverse constituents in our country, especially those in the Ninth Congressional District and all American voters who recognize that the Supreme Court, not the people of the United States, decided this election.

The VICE PRESIDENT. Is the objection signed by a Senator?

Ms. LEE. Unfortunately, Mr. President, it is not signed by one single Senator.

The VICE PRESIDENT. On the basis previously stated, the objection may not be received. The Chair thanks the gentlewoman from California.

For what purpose does the gentlewoman from Georgia (Ms. MCKINNEY) rise?

Ms. MCKINNEY. Mr. President, I have an objection at the desk to Florida's 25 electoral votes.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House of Representatives and a Senator?

Ms. MCKINNEY. Mr. President, it is in writing and it is signed by my Congressional Black Caucus colleagues, my House colleagues and myself; but it is not signed by one single Senator.

The VICE PRESIDENT. The Chair thanks the gentlewoman from Georgia. On the basis previously stated, the objection may not be received.

For what purpose does the gentlewoman from Hawaii (Mrs. MINK) rise?

Mrs. MINK of Hawaii. Mr. President, I want to voice my objection.

The VICE PRESIDENT. Is the objection in writing and signed by a Member of the House of Representatives and a Senator?

Mrs. MINK of Hawaii. Mr. President, it is in writing, and I have signed it on behalf of not only myself and other colleagues of the House but my constituents. Unfortunately, I have no authority over the United States Senate and no Senator has signed.

The VICE PRESIDENT. The Chair thanks the gentlewoman from Hawaii. On the basis previously stated, the objection may not be received.

For what purpose does the gentlewoman from North Carolina (Mrs. CLAYTON) rise?

Mrs. CLAYTON. Mr. President, I rise in objection to the Florida electoral votes, and I rise to object to the process that, indeed, that voters do count, the essence of democracy demands that we speak to it.

The VICE PRESIDENT. Is the objection in writing and is it signed by a Member of the House of Representatives and a Senator?

Mrs. CLAYTON. Mr. President, it is in writing and it is signed by more than 10 of my Members in the House.

The VICE PRESIDENT. Is the objection signed by a Senator?

Mrs. CLAYTON. Unfortunately, it is not.

The VICE PRESIDENT. On the basis previously stated, the objection may not be received. The Chair thanks the gentlewoman from North Carolina.

Are there any other objections?

For what purpose does the gentlewoman from Georgia (Ms. MCKINNEY) rise?

Ms. MCKINNEY. Mr. President, I object to Florida's electors, and in view of the fact that debate is not permitted in joint session and pursuant to title 3, I move that the House withdraw from the joint session in order to allow consideration of the facts surrounding the slate of electors from Florida.

The VICE PRESIDENT. The Chair will remind the Members of the joint session that even though a Member's motion may affect only one House, the statutory principle of bicameral signatures must, nevertheless, be applied. The gentlewoman will suspend.

Reading sections 15 through 18 of title 3, United States Code, as a coherent whole, the Chair holds that no procedural question is to be recognized by the presiding officer in the joint session unless presented in writing and signed by both a Representative and a Senator.

Is the gentlewoman's motion in writing and signed by a Member and a Senator?

Ms. MCKINNEY. Mr. President, the motion is in writing, it is at the desk, and because it involves the prerogatives of the House, therefore Senate assent is not required.

The VICE PRESIDENT. The Chair will advise the gentlewoman respectfully that reading sections 15 through 18 of title 3, U.S. Code, as a whole, the Chair holds that no procedural question, even if involving only one House of Congress, is to be recognized by the presiding officer in the joint session, unless presented in writing and signed by both a Representative and a Senator.

Because the gentlewoman's motion is not signed by a Senator, on the basis previously stated, the motion may not be received. The Chair thanks the gentlewoman from Georgia.

For what purpose does the gentleman from California rise?

Mr. FILNER. I have an objection to the electoral votes from Florida.

The VICE PRESIDENT. Is the objection in writing; is it signed by a Member of the House of Representatives and a Senator?

Mr. FILNER. No, it is not in writing, but I rise in solidarity with my colleagues who have previously expressed their objection.

The VICE PRESIDENT. The objection will not be allowed on the previous basis.

Mr. FILNER. I thank the President.

The VICE PRESIDENT. For what purpose does the gentlewoman from California (Ms. WATERS) rise?

Ms. WATERS. I have a motion of objection.

The VICE PRESIDENT. Is the motion in writing, and is it signed by a Member of the House of Representatives and a Member of the Senate?

Ms. WATERS. The motion is in writing, Mr. President, and I rise to offer a motion to withdraw from the joint session. There is no reference to the section that you have referenced to quorum or withdrawal.

The VICE PRESIDENT. The Chair will respectfully advise the gentlewoman from California that sections 15 through 18 of title 3, as previously stated, in the opinion of the Chair and the Parliamentarians require the Chair to rule that no procedural question is to be recognized by the Presiding Officer in the joint session, even if it applies to only one House, unless presented in writing and signed by both a Representative and a Senator.

Since the Chair has been advised that the gentlewoman's motion is not signed by a Senator, on the basis previously stated, the motion may not be received.

Ms. WATERS. Let the RECORD show that is an opinion. It is not written in that section in reference to quorum or withdrawal.

The VICE PRESIDENT. The Chair thanks the gentlewoman from California.

Are there any further objections to the certificate just counted?

Ms. JACKSON-LEE of Texas. Mr. President, I rise to make a point of order.

The VICE PRESIDENT. Is the point of order in writing, and is it signed by a Member of the House of Representatives and a Senator?

Ms. JACKSON-LEE of Texas. Mr. President, being that this is a solemn day and a day that we are affirming the voices of the American people, we wish to delay this until a quorum has been maintained.

The VICE PRESIDENT. The gentlewoman will be advised, as all Members of the joint session will be advised, that a motion for the presence of a quorum is not in order unless it is signed by a Member of the House of Representatives and a Senator.

Since the Chair is advised that the gentlewoman's motion is not signed by a Senator, it is not received.

Ms. JACKSON-LEE of Texas. Thank you, Mr. President. It is signed by me, but I do not have a Senator.

The VICE PRESIDENT. The Chair thanks the gentlewoman from Texas.

For what purpose does the gentleman from Illinois (Mr. JACKSON) rise?

Mr. JACKSON of Illinois. Mr. President, I have an objection.

The VICE PRESIDENT. Is the gentleman's objection in writing and signed by a Member of the House of Representatives and a Senator?

Mr. JACKSON of Illinois. Yes, sir, I have signed it.

The VICE PRESIDENT. Is the objection signed by a Senator?

Mr. JACKSON of Illinois. Mr. President, I am objecting to the idea that votes in Florida were not counted; and it is a sad day in America, Mr. President, when we cannot find a Senator to sign these objections. New Democratic Senators will not sign the objection, Mr. President. I object.

The VICE PRESIDENT. The gentleman will suspend. The Chair thanks the gentleman from Illinois, but, on the basis previously stated, the objection is not in order.

For what purpose does the gentleman from Florida (Mr. HASTINGS) rise?

Mr. HASTINGS of Florida. Mr. President, point of order. Would the President advise whether or not there is an opportunity to appeal the ruling of the Chair?

□ 1345

The VICE PRESIDENT. This is going to sound familiar to you, to all of us.

The Chair finds that section 17 of title 3, United States Code, prescribes a single procedure for resolution of either an objection to a certificate or other questions arising in the matter. The Chair rules that the appeal is subject to the requirement that it be in writing and signed by both a Member of the House of Representatives and a Senator. Since the Chair presumes that it is not signed by a Senator, it is not received on the basis previously stated.

Mr. HASTINGS of Florida. We did all we could, Mr. President.

The VICE PRESIDENT. The Chair thanks the gentleman from Florida.

Are there further objections?

Ms. WATERS. Further objection, Mr. President.

The VICE PRESIDENT. For what purpose does the gentlewoman from California (Ms. WATERS) rise?

Ms. WATERS. Mr. President, I rise to ask unanimous consent that the debate on this issue go forward.

The VICE PRESIDENT. Notwithstanding the fact that objections were heard, the Chair is advised that that request should not even be entertained.

For what purpose does the gentleman from Illinois (Mr. JACKSON) rise?

Mr. JACKSON of Illinois. Mr. President, is it possible to ask at this hour for a Democratic Senator to sign one of these Democratic objections by unanimous consent? Is that within the House rules?

The VICE PRESIDENT. The Chair will advise the gentleman from Illinois that any Member of either Chamber may do as he or she wishes, so long as it is within the rules of the joint session. So it is possible, as long as it does not violate the rules, but the Chair will not entertain debate, because that is a violation of the rules of the joint session.

If there is no further objection, the Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Georgia, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). Certificate of Ascertainment. On November 7, 2000, the following people were appointed electors of President and Vice President of the United States, each receiving 1,419,720 votes:

Certificate of Vote of the 2000 Electors From Georgia. We, the undersigned, being the duly elected and qualified electors of President and Vice President of the United States of America from the State of Georgia, and hereinafter referred in this Certificate as the 2000 Electors from the State of Georgia, do hereby certify the following:

That the undersigned 2000 electors from the State of Georgia convened and organized at the State Capitol, in the City of Atlanta, County of Fulton, Georgia, at 12 o'clock noon, on the 18th day of December 2000, to perform the duties enjoined upon them:

That Frederick E. Cooper presided and Eric J. Tanenblatt served as Secretary for the meeting.

That the undersigned 2000 Electors from the State of Georgia cast each of their respective ballots for President of the United States of America, as follows, Signed by the pertinent Electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Georgia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 13 votes for President, and Dick Cheney of the State of Wyoming received 13 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Hawaii, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). WE, the undersigned, Electors of President and Vice President of the United States of America, for the respective terms beginning on the twentieth day of January, in the year of our Lord two thousand, being electors duly and legally appointed and qualified by and for the State of Hawaii, as appears by the annexed list of electors, made certified and delivered to us by the Executive of the State, having met and convened at the Capitol, in Honolulu, in said State, in pursuance of the Constitution and laws of the United States, and in the manner provided by the laws of the State of Hawaii, on the first Monday after the second Wednesday, being the eighteenth day of December, in the year of our Lord two thousand.

Do Hereby Certify, That the following are two distinct lists, one of the votes for President and the other of the votes for Vice President. For President, AL GORE of Tennessee; for Vice President, JOE LIEBERMAN of Connecticut.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Hawaii seems to be regular in form and authentic, and it appears therefrom, 4 votes for President and 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Idaho and they will read the certificate and will count and make a list of the votes cast by that State.

Senator McCONNELL (one of the tellers). We, the undersigned electors of President and Vice President of the United States for the respective terms beginning on the twentieth day of January, two thousand and one, being Electors duly and legally appointed and qualified by and for the State of the Idaho, as appears by the annexed certificate made and delivered to us by the Executive of said State, having met agreeably to the provisions of law at Boise, in the State of Idaho, on the first Monday after the second Wednesday in December of the year two thousand, being the eighteenth day of said month, do hereby certify that being so assembled and duly organized, we proceeded to vote by ballot and balloted first for President and then for Vice President by distinct ballots.

Mr. President, the certificate of the electoral vote the State of Idaho seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 4 votes for President and Dick Cheney of the State of Wyoming received 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Illinois, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). Thank you, Mr. Speaker, and Mr. President.

From the State of Illinois, Certificate of Vote.

KNOW ALL BY THESE PRESENT: That we, the undersigned, electors of the President and Vice President of the United States of America, duly and legally elected and appointed as such on the Seventh day of November, 2000, or chosen as provided by law for the filling of vacancies of Presidential Electors by and for the State of Illinois, as appears by annexed certificates made and delivered to us by the Illinois State Board of Elections.

DO HEREBY CERTIFY that we met and convened, as provided by law, at ten o'clock in the forenoon, in the Capitol, in the City of Springfield, in the State of Illinois, on the Eighteenth day of December, 2000, being the first Monday after the second Wednesday in December next following our appointment, and organized, by electing Michael J. Madigan Chairman and Constance A. Howard, Secretary of the College of Electors of the State of Illinois; and we further certify that we then proceeded to vote by ballot and voted first for President of the United States and then for Vice President of the United States by distinct ballots; and that the following are the two distinct lists, one of the votes for President and the other the votes for Vice President, so cast as aforesaid:

Al Gore, 22, for President; Joe Lieberman, 22, for Vice President.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Illinois seems to be regular in form and authentic, and it appears therefrom that Al Gore of the State of Tennessee received 22 votes for President and Joe Lieberman of the State of Connecticut received 22 votes for Vice President.

THE VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Indiana, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, the undersigned, duly elected and qualified as electors for President and Vice President of the United States of America, for the respective terms beginning on the twentieth day of January 2001, and for the State of Indiana, as appears by the annexed certificates mailed and delivered to us by the Governor of this State, its chief executive officer, having met and convened agreeably to the provisions of the law in the chamber of the Indiana House of Representatives at Indianapolis, Indiana on the first Monday after the second Wednesday in December, 2000, being the eighteenth day of this month.

Do hereby certify, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots.

We further certify that the following are 2 distinct lists, one of the votes for President and the other of votes for Vice President, so cast as aforesaid:

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Indiana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 12 votes for President and Dick Cheney of the State of Wyoming received 12 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the Certificate of the Electors' for President and Vice President of the State of Iowa. They will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). The State of Iowa, Executive Department in the Name and By The Authority of The State of Iowa. CERTIFICATE OF VOTE OF ELECTORS FOR THE STATE OF IOWA.

We, the undersigned, the duly elected Electors for the State of Iowa for President and Vice President of the United States, meeting at the State Capitol in the City of Des Moines, Iowa, on this 18th day of December, 2000, in accordance with law, do hereby certify that on this date we have given our votes for President and Vice President of the United States for the term commencing January 20, 2001, and that all of the votes given by us for the said offices are as follows:

FOR PRESIDENT OF THE UNITED STATES, Al Gore, 7 votes; FOR VICE PRESIDENT OF THE UNITED STATES, Joe Lieberman, 7 votes.

Mr. President, signed by the pertinent electors and duly attested.

The certificate of the electoral vote of the State of Iowa seems to be in regular form and authentic, and it appears therefrom that Al Gore of the State of Tennessee received 7 votes for President, and Joe Lieberman of the State of Connecticut received 7 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Kansas, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator McCONNELL (one of the tellers). We, the undersigned, electors of President and Vice President of the United States of America for the respective terms beginning on the twentieth day of January, A.D., two thousand and one, being electors duly and legally appointed and qualified by and for the State of Kansas, as appears by the annexed certificate made and delivered to us by the executive of said State, having met and convened, agreeably to the provisions of law, at Topeka in said State of Kansas on the first Monday after the second Wednesday of December of the year two thousand, being the eighteenth of said month,

DO HEREBY CERTIFY, That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots;

AND WE FURTHER CERTIFY, That the following are two distinct lists, one of the votes for President and the other of the votes for Vice President, so cast as aforesaid:

Mr. President, the certificate of the electoral vote of the State of Kansas seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 6 votes for President, and Dick Cheney of the State of Wyoming received 6 votes for Vice President.

THE VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice

President of the commonwealth of Kentucky, and they will read the certificates and will count and make a list of the votes cast by that State.

□ 1400

Senator MCCONNELL (one of the tellers). Pursuant to the 12th Amendment of the United States Constitution in section 7 through 11 of title III of the United States Code, we, the undersigned electors for the Republican party in the Commonwealth of Kentucky, do provide you with this certificate of votes for President and Vice President of the United States of America.

Attached to the certificate is the ballot for President and the ballot for Vice President and a list of the electors furnished to us at the direction of the Governor of the Commonwealth of Kentucky.

Mr. President, the certificate of the electoral vote of the Commonwealth of Kentucky seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President, and Dick Cheney of the State of Wyoming received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Louisiana, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). The State of Louisiana, pursuant to the laws of the United States of America, I, M.J. "Mike" Foster, Jr., Governor of Louisiana, do hereby certify that Mike Foster and Suzanne Haik Terrell for the State at Large, Patricia Brister for the First District, Donald Ensenat, for the Second District, Al Lippman for the Third District, Michael Woods, Sr. for the Fourth District, Elizabeth Levy for the Fifth District, Heulette Fontenot, Jr. for the Sixth District, and Steve Jordan for the Seventh District were duly elected Electors for President and Vice President of the United States, on the part of the State of Louisiana, agreeable to the provisions of the laws of the State of Louisiana, and in conformity with the Constitution of the United States of America, for the purpose of giving their votes for President and Vice President of the United States for the term prescribed by the Constitution of the United States, to begin on the 20th day of January, A.D., 2001.

It is signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Louisiana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 9 votes for President, and Dick Cheney of the State of Wyoming received 9 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Maine, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). The State of Maine. We, the undersigned, having been duly appointed and qualified by and for the State of Maine to be Electors of President and Vice President of the United States for the respective terms commencing on the twentieth day of January in the year two thousand and one, having met in convention in the Chamber of the House of Representatives at Augusta, in the State of Maine, in pursuance of the directions of the Congress of the United States, on the first Monday after the second Wednesday in December, being the eighteenth day of December, in the year two thousand; Hereby Certify, That, a vote by two distinct ballots was held; first, for President of the United States, and, then, for Vice President of the United States; and We further Certify, That, the following are two distinct lists; one, of the votes for President, and the other, of the votes for Vice President, so cast as aforesaid, signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Maine seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 4 votes for President, and JOE LIEBERMAN of the State of Connecticut received 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Maryland, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). STATE OF MARYLAND, CITY OF ANNAPOLIS, MEETING OF PRESIDENTIAL ELECTORS, WE, the undersigned, Mary Ann E. Love, Ina Taylor, Howard Friedman, Beatrice P. Tignor, Mary Butler Murphy, Gregory Pecoraro, Clarence W. Blount, Gene W. Counihan, Mary Jo Neville, and Thomas V. Mike Miller, being Electors of President and Vice President of the United States of America for the respective terms beginning on the 18th day of December, 2000, duly and legally appointed and qualified by and for the State of Maryland, as appears by the annexed certificate made and delivered to us by his excellency, Honorable Parris N. Glendening, the Executive of said State, having met pursuant to the provisions of law, in the State House at Annapolis, in said State of Maryland, on the first Monday after the second Wednesday in December 2000, being the 18th day of said month, do hereby certify that after being so assembled and duly organized, we proceeded to vote by ballot and balloted first for President of the United States and then for Vice President of the United States by distinct ballots and that the following are two distinct lists, one of the votes for President and the other of the votes for Vice President, so cast as aforesaid:

LIST NO. 1 VOTES FOR PRESIDENT OF THE UNITED STATES. RESULT: AL GORE, 10 VOTES.

LIST NO. 2 VOTES FOR VICE PRESIDENT OF UNITED STATES OF AMERICA. RESULT: JOE LIEBERMAN 10 VOTES.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Maryland seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 10 votes for President, and JOE LIEBERMAN of the State of Connecticut received 10 votes for President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the Commonwealth of Massachusetts, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). WE, the undersigned, ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES, for the respective terms beginning at noon on the twentieth day of January, in the year two thousand and one, being Electors duly and legally appointed and qualified by and for the Commonwealth of Massachusetts as appears by the annexed certificate, made and delivered to us by the Executive of the Commonwealth, having met and convened, agreeably to the provisions of law, at the State House, in Boston, in the Commonwealth of Massachusetts, on the first Monday after the second Wednesday in December next following our appointment, being the eighteenth day of December, in the year two thousand.

DO HEREBY CERTIFY, That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for such President, and then for such Vice President, by distinct ballots, AND WE FURTHER CERTIFY, That the following are two distinct lists, one of the votes for President, and the other of the votes for Vice President, so cast, as aforesaid.

Mr. President, the certificate of the electoral vote of the Commonwealth of Massachusetts seems to be regular in form and authentic, and it appears therefrom that AL GORE from the State of Tennessee received 12 votes for President, and JOE LIEBERMAN of the State of Connecticut received 12 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Michigan, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). Mr. President, we, the undersigned Electors of the State of Michigan for President and Vice President, elected in the General Election held in the State of Michigan on November 7, 2000, and duly convened at the State Capitol in Lansing, Michigan, this 18th day of December, A.D. 2000, due hereby certify that the following are lists of all votes given by us for the office of President and Vice President, respectively, of the United States:

1. Votes cast for AL GORE for President of the United States . . . Eighteen . . . 18.
2. Votes cast for JOE LIEBERMAN for Vice President of the United States . . . Eighteen . . . 18.

In witness whereof, signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Michigan seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 18 votes for President, and JOE LIEBERMAN of the State of Connecticut received 18 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Minnesota, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, the undersigned, duly elected and qualified as electors for President and Vice President of the United States of America for the respective terms beginning on the twentieth day of January 2001 in and for the State of Minnesota, as appears by the annexed certificates mailed and delivered to us by the Governor of this State, its chief executive officer, having met and convened agreeable to the provisions of the law, in the executive chamber at the State Capitol at Saint Paul, Minnesota, on the first Monday after the second Wednesday in December 2000, being the eighteenth day of this month, Do hereby certify, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots.

And we further certify that the following are two distinct lists, one of the votes for President and the other of the votes for Vice President, so cast as aforesaid.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote for the State of Minnesota seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 10 votes for President, and JOE LIEBERMAN of the State of Connecticut received 10 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Mississippi, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). Certificate of Vote.

We, the seven (7) presidential electors elected in Mississippi at the November 7, 2000, General Election, assembled in Jackson, Mississippi on December 18, 2000, hereby certify that we have cast our seven (7) electoral votes for the Office of President of the United States for George W. Bush.

We, the seven (7) Presidential electors elected in Mississippi at the November 7, 2000, General Election, assembled in Jackson, Mississippi, on December 18, 2000, hereby certify that we have cast our seven (7) electoral votes for the Office of Vice-President of the United States for Dick Cheney.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Mississippi seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 7 votes for President, and Dick Cheney of the State of Wyoming received 7 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Missouri, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). BE IT KNOWN, that we, the undersigned electors for President and Vice-President, do hereby certify that all of the votes of the State of Missouri given for President and all of the votes of the State of Missouri given for Vice President are contained herein.

IN WITNESS WHEREOF, we, the undersigned electors for President and Vice-President, hereunto set our hands and caused the Great Seal of the State of Missouri to be affixed at the City of Jefferson, State of Missouri, this 18th day of December, in the year of our Lord Two Thousand.

Mr. President, the certificate of the electoral vote of the State of Missouri seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 11 votes for President, and Dick Cheney of the State of Wyoming received 11 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Montana, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). The State of Montana, Mr. President, the certificate reads:

WE, the undersigned, Electors of President and Vice President of the United States of America for the respective terms beginning on the twentieth day of January, 2001, being the electors duly appointed or elected as replacements and qualified by and for the State of Montana, as appears on the annexed certificate made and delivered to us by the Executive of the said state and annexed copy of our certificate of election of replacements, having met, agreeable to the provisions of law, at Helena, the Capital of said State of Montana, on the first Monday after the second Wednesday in December, in the year 2000, being the eighteenth day of said month.

DO HEREBY CERTIFY, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots.

AND WE FURTHER CERTIFY, that the following are the two distinct lists, one of the votes for President and the other of the votes for Vice President, so cast as aforesaid:

For George W. Bush of Texas, 3 votes, and for Vice President, Dick Cheney of Wyoming, 3 votes, signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral votes of the State of Montana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and Dick Cheney of the State of Wyoming received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Nebraska, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, do hereby certify that the attached document contains the list of electoral votes from the State of Nebraska, the office of President of the United States and Vice President of the United States, signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Nebraska seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President, and Dick Cheney of the State of Wyoming received 5 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Nevada, and they will read the certificate and will count and make a list of the votes cast by that State.

□ 1415

Mr. THOMAS (one of the tellers). State of Nevada, Executive Department, State of Nevada, Certificate of Vote, WE THE UNDERSIGNED, Electors for President and Vice President of the United States of America for the respective terms beginning at noon on the twentieth day of January, 2001, being Electors duly and legally appointed and qualified by and for the State of Nevada, as appears by the annexed Certificate of Ascertainment, having met and convened, agreeably to the provision of law, at Carson City, in said state of Nevada at 2 o'clock p.m. on the first Monday after the second Wednesday in December of the year two thousand, being the eighteenth day of said month:

DO HEREBY CERTIFY, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then Vice President by distinct ballots;

AND WE FURTHER CERTIFY, that the following are the votes for President and Vice President, so cast as aforesaid:

GEORGE W. BUSH received four (4) votes. DICK CHENEY received four (4) votes.

Signed by the pertinent electors and duly attested, Mr. President, the certificate of the electoral vote of the State of Nevada seems to be regular in form and authentic; and it appears therefrom that George W. Bush of the State of Texas received 4 votes for President, and Dick Cheney of the State of Wyoming received 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President for the State of New Hampshire. They will read the certificate and will count and make a list of the votes cast by that State.

Senator McCONNELL (one of the tellers). We the undersigned, Electors of President and Vice President of the United States of America for the term beginning on the twentieth day of January, 2001, being electors duly elected and qualified by and for the State of New Hampshire, as appears by the annexed certificate, having met and organized at the State House in Concord in said State in accordance with the Act of Congress approved February 3, 1887, and acts supplementary thereto, approved October 19, 1888, May 29, 1928, and June 5, 1934, on the first Monday after the second Wednesday in December 2000, being the eighteenth day of said month, then and there proceeded to vote by ballot for such President by distinct ballots and for such Vice President by distinct ballots.

We hereby certify that the following person received votes for President of the United States:

George W. Bush of Austin, Texas had four votes.

We hereby certify that the following person received votes for Vice President of the United States:

Dick Cheney of Wilson, Wyoming had four votes.

Mr. President, the certificate of the electoral vote of the State of New Hampshire seems to be regular in form and authentic. It appears, therefrom, that George W. Bush of the State of Texas received 4 votes for President and Dick Cheney of the State of Wyoming received 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of New Jersey, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). State of New Jersey, Certification of Electors. We, the undersigned, Paul M. Bangiola, Angelo R. Bianchi, Mamie Bridgeforth, Dennis P. Collins, John Garrett, Deborah Lynch, Patricia McCullough, John P. McGreevey, June B. Montag, W. Michael Murphy, Jeffrey L. Nash, Barbara A. Plumeri, Julia Valdivia, Stephen S. Weinstein, and Charles Wowkanech;

Electors of President and Vice President for the State of New Jersey do hereby certify that the annex hereto is an original certificate of ascertainment and an original certificate of vote which lists the electoral votes of the State of New Jersey for President and Vice President.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral votes of the State of New Jersey seem to be regular in form and authentic; and it appears therefrom that AL GORE from the State of Tennessee received 15 votes for President and that JOE LIEBERMAN of the State of Connecticut received 15 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of New Mexico, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). Mr. President, STATE OF NEW MEXICO, OFFICE OF THE SECRETARY OF STATE, CERTIFICATE OF VOTE.

Pursuant to the Constitution and laws of the United States of America and the laws of the State of New Mexico, we, the undersigned, being the five duly elected presidential electors of New Mexico, do hereby certify that, at the meeting held on December 18, 2000, in the Office of the Secretary of State in the Capitol, the ballots cast for President and Vice President of the United States of America were as follows:

For AL GORE as President of the United States, five votes;

For JOE LIEBERMAN as Vice President of the United States, five votes.

In testimony whereof, we have hereunto set our hands and caused to be affixed the Great Seal of the State of New Mexico, this 18th day of December, A.D. 2000.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of New Mexico seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 5 votes for President, and JOE LIEBERMAN of the State of Connecticut received 5 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of New York. They will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). State of New York: We, the undersigned, Electors of President and Vice President of the United States of America, being Electors duly and legally appointed and qualified in and for the State of New York, as appears by the annexed list of Electors, made, certified and delivered to us by the Executive of the said State, and having the signature of the Governor of said State affixed thereto; and the annexed certificate as to filling of vacancies made and certified by the president and secretaries of the Electoral College;

Do hereby Certify, That the said Electors of President and Vice President of the United States for the State of New York, as by law required, convened at the Capitol of the said State, in the City of Albany, on the eighteenth day of December, 2000, at twelve o'clock noon of that day;

And we do hereby further Certify, That, being so assembled and duly organized, we proceeded to vote by ballot, first for such President, and then for such Vice President, by distinct ballots.

And we further Certify, That the following are two distinct lists, one of the votes for President, and the other of the votes for Vice President, so given as aforesaid:

NAMES OF PERSONS VOTED FOR: AL GORE of the State of Tennessee, 33.

NAMES OF PERSONS VOTED FOR: JOE LIEBERMAN of the State of Connecticut, 33.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of New York seems to be regular in form and authentic; and it appears therefrom that AL GORE of the State of Tennessee received 33 votes for President and JOE LIEBERMAN of the State of Connecticut received 33 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of North Carolina, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). We, the undersigned, being the duly elected, qualified and acting presidential electors for the State of North Carolina, do hereby certify that on the 18th day of December, 2000, in the City of Raleigh, State of North Carolina, duly and regularly met and convened and then and there, by authority of law in us vested, voted for President and Vice President of the United States of America, with the following results:

For President: George W. Bush, 14 votes.

For Vice President: Dick Cheney, 14 votes.

Mr. President, the certificate of the electoral vote of the State of North Carolina seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 14 votes for President, and Dick Cheney of the State of Wyoming received 14 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of North Dakota, and they will read the certificate and count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). We, the undersigned electors for President and Vice President of the United States of America, as chosen by the voters of North Dakota on November 7, 2000, and as listed on the attached Certificate of Ascertainment made and delivered to us by the Executive of said state, having met according to the provisions of federal and state law at Bismarck, in said state of North Dakota, on the first Monday after the second Wednesday of December of year 2000, being the eighteen day of the said month;

Do hereby certify, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots;

And, we further certify that the following are two distinct lists, one showing the votes cast for President and the other showing the votes cast for Vice President, so cast as aforesaid:

For President: George W. Bush, 3 votes.

For Vice President, Dick Cheney, 3 votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of North Dakota seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and Dick Cheney from the State of Wyoming received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Ohio, and they will read the certificate and will count and make a list of votes cast by that State.

Senator DODD (one of the tellers). State of Ohio. We the undersigned, Electors of President and Vice-President of the United States of America for the respective terms of four years beginning on the Twentieth day of January, in the year of our Lord two thousand one, being electors duly and legally appointed and qualified by and for the State of Ohio, as appears by the annexed list of Electors, made, certified and delivered to us by the Executive of the State, having met and convened at the Statehouse, in the City of Columbus, in the State of Ohio, in pursuance of the direction of the Legislature of said State, on the First Monday after the Second Wednesday in December, being the Eighteenth day of December, in the year of our Lord two thousand;

Do hereby certify, That, being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for such President, and then for such Vice-President, by distinct ballots;

And We Further Certify, That the following are two distinct lists; one, of the votes cast for President, and the other of the votes for Vice-President, so cast as aforesaid.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Ohio seems to be regular in form and authentic; and it appears therefrom that George W. Bush of the State of Texas received 21 votes for President, and Dick Cheney of the State of Wyoming received 21 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Oklahoma, and they will read the certificate and will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). State of Oklahoma. For President of the United States of America, the Electors duly chosen for the State of Oklahoma cast their votes as follows:

George W. Bush, Eight (8) votes.

For Vice President of the United States, the Electors duly chosen for the State of Oklahoma cast their votes as follows:

Dick Cheney, Eight (8) votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Oklahoma seems to be regular in form and authentic; and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President, and Dick Cheney of the State of Wyoming received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Oregon, and they will read the certificate and will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). We, the undersigned electors of President and Vice President of the United States of America for the respective terms beginning at noon on January 20, 2001, being electors legally elected and qualified in and for the State of Oregon, appears by the attached certificate made and delivered to us by the executive of the said State, having met, in accordance with law, at Salem, Oregon on December 18, 2000, the first Monday after the second Wednesday of the month:

Do hereby certify, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President by distinct ballots:

And we further certify, that the following are two distinct lists; one, of the votes for President, and the other, of the votes for Vice President.

Mr. President, the certificate of the electoral vote of the State of Oregon seems to be regular in form and authentic; and it appears therefrom that AL GORE of the State of Tennessee received 7 votes for President, and JOE LIEBERMAN of the State of Connecticut received 7 votes for Vice President.

The VICE PRESIDENT. Is there objection?

There was no objection.

The VICE PRESIDENT. Hearing none, the Chair hands to the gentleman from Pennsylvania (Mr. FATTAH) and the other tellers the certificate of electors for President and Vice President of the Commonwealth of Pennsylvania. They will read the certificate and will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). It is a great pleasure that I read the certificate of the votes for President and Vice President from the Commonwealth of Pennsylvania.

WE THE UNDERSIGNED, Electors of President and Vice-President of the United States of America for the respective terms beginning the twentieth day of January, A.D. 2001, being electors duly and legally appointed and qualified by and for the Commonwealth of Pennsylvania, as appears by the annexed certificate of ascertainment made and delivered to us by the executive of said Commonwealth, and as appears by the annexed certificate made by us filling vacancies occasioned by the failure of electors to appear to perform their duties, having met, agreeably to the provisions of law, at Harrisburg, in said Commonwealth of Pennsylvania, on the first Monday after the second Wednesday in December in the year 2000, being the eighteenth day of said month:

DO HEREBY CERTIFY, that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice-President by distinct ballots.

AND WE DO FURTHER CERTIFY, that the following are two distinct lists, one, of all the votes for President; and the other of all the votes for Vice President, so cast as aforesaid.

LIST OF ALL PERSONS VOTED UPON FOR PRESIDENT:

AL GORE received 23 votes.

LIST OF ALL PERSONS VOTED UPON FOR VICE-PRESIDENT:

JOE LIEBERMAN received 23 votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the Commonwealth of Pennsylvania seems to be regular in form and authentic; and it appears therefrom that AL GORE of the State of Tennessee received 23 votes for President, and JOE LIEBERMAN of the State of Connecticut received 23 votes for Vice President.

□ 1430

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Rhode Island, and they will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, the undersigned Electors of President and Vice President for the State of Rhode Island, Providence Plantations, do certify, in pursuance of law, that the lists of the votes of the said State cast by us as the Electors thereof for President and of all the votes of the said State cast by us as the Electors thereof of Vice President for respective terms beginning on the 20th day of January A.D. 2001, and herein contained witness our hands at Providence this first Monday after the second Wednesday, the same being the 18th day of December A.D. 2000.

Signed by the pertinent Electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Rhode Island seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 4 votes for President and JOE LIEBERMAN of the State of Connecticut received 4 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of South Carolina, and they will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). The State of South Carolina, Office of Secretary of State Jim Miles. 2000 Electoral College Certificate of vote.

We, the undersigned, being duly elected Electors for President and Vice President of the United States for the State of South Carolina, at the General Election held on Tuesday, November 7, 2000, pursuant to the Constitution and the laws of the United States and this State, certify that the following candidates for President and Vice President received the following number of votes by ballot at the meeting of electors held on Monday, December 18 in Columbia:

FOR PRESIDENT OF THE UNITED STATES: George W. Bush. Number of electoral votes 8.

FOR VICE PRESIDENT OF THE UNITED STATES: DICK CHENEY. Number of electoral votes 8.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of South Carolina seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President and DICK CHENEY of the State of Wyoming received 8 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of South Dakota, and they will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). We, the undersigned Electors of President and Vice President of the United States of America for the respective terms of President and Vice President, beginning on the 20th day of January, in the year of our Lord, 2001, being Electors duly and legally elected and qualified and in and for the State of South Dakota, as appears by the annexed Certificate of Ascertainment of Election made, certified, and delivered to us by the Governor of said State and having the signature of the Governor of said State, affixed thereto, having met and convened at the Capitol, in the City of Pierre, in the State of South Dakota, in pursuance of the statutes of the State of South Dakota and of the United States on the first Monday after the second Wednesday in December, being the 18th day of December in the year of our Lord, 2000, do hereby certify that being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for such President and then for such Vice President, by distinct ballots.

Mr. President, the certificate of the electoral vote of the State of South Dakota seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President and DICK CHENEY of the State of Wyoming received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Tennessee, and they will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). We, the undersigned, being duly elected Electors for President and Vice President of the United States of America for the State of Tennessee at the General Election held on Tuesday, November 7, 2000, pursuant to the Constitution and the laws of the United States and of this State, certify that the following candidates for President and Vice President received the following number of votes, by ballot, at the meeting of Electors, held December 18, 2000, at the State Capitol of Tennessee. President of the United States of America, George W. Bush 11. Vice President of the United States of America, DICK CHENEY 11.

Signed by pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Tennessee seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 11 votes for President and DICK CHENEY from the State of Wyoming received 11 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Texas, and they will count and make a list of the votes cast by that State.

Senator DODD (one of the tellers). We, the duly elected and qualified Presidential Electors of the State of Texas, HEREBY CERTIFY that we did convene in the State Capitol, Austin, Texas, on the 18th day of December 2000, for the purpose of voting for President and Vice President of the United States.

We FURTHER CERTIFY that the persons whose names are listed herein voted by individual ballot for President of the United States and for Vice President of the United States, and the number of votes cast for each office numbered thirty-two (32).

FOR PRESIDENT: George W. Bush received thirty-two votes; and no votes were cast for any other person for President of the United States.

For VICE PRESIDENT: DICK CHENEY received thirty-two votes; and no votes were cast for any other person for Vice President of the United States.

IN TESTIMONY WHEREOF, we have hereunto signed our names officially this 18th day of December, 2000.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Texas seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 32 votes for President and DICK CHENEY of the State of Wyoming received 32 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Utah, and they will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). State of Utah, Executive Department, Certificate of Vote.

We, the legally elected and qualified Electors of President and Vice President of the United States of America for the State of Utah, as appears on the attached Certificate of Ascertainment, as certified by the Governor of said State with the Great Seal affixed thereto, having met in the Office of the Lieutenant Governor at 12:00 noon on Monday, December 18, 2000, and reported ourselves to the Governor of said State as in attendance, in pursuance of the statutes of the United States and of the statutes of the State of Utah, for the purpose of voting for President and Vice President of the United States of America.

We do hereby certify, that being so convened and duly organized, we proceeded to vote by separate ballot, first for President and secondly for Vice President, that the following two distinct lists are a true statement of the votes given as aforesaid, one of the votes for President and the other of the votes for Vice President.

List of all persons voted for as President with the numbers of votes given for each.

Name of person voted for: George W. Bush of the State of Texas. Number of votes received five.

List of all persons voted for as Vice President with the number of votes given for each.

Name of person voted for: DICK CHENEY of the State of Wyoming. Number of votes received five.

Signed by the pertinent electors and duly attested to.

Mr. President, the certificate of the electoral vote of the State of Utah seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas has received five votes for President and DICK CHENEY of the State of Wyoming received five votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of electors for President and Vice President of the State of Vermont, and they will count and make a list of the votes cast by that State.

Senator MCCONNELL (one of the tellers). We hereby certify that the attached are of the Certificate of Ascertainment listing all Electors, candidates for Electors, and number of votes received and the Certificate of Vote listing all persons who received electoral votes for President with the number of votes received and all persons who received votes for Vice President and the number of votes received, as signed and certified by the Electors at the December 18, 2000, meeting at the State House in Montpelier, Vermont.

Mr. President, the certificate of the electoral vote of the State of Vermont seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received three votes for President and JOE LIEBERMAN of the State of Connecticut received three votes as Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the Commonwealth of Virginia, and they will count and make a list of the votes cast by that Commonwealth.

Mr. FATTAH (one of the tellers). Commonwealth of Virginia.

We, the undersigned Electors of President and Vice President of the United States of America for the next ensuing regular term of the respective offices thereof being Electors duly and legally appointed by the Commonwealth of Virginia, as appears by the annexed list of Electors in the Certificate of the Executive, made, certified and delivered to us by the direction of the Executive of the State, having met and convened in the City of Richmond, Virginia, in the seat of Government, at the Capitol, in pursuance of the Constitution and laws of the United States, and also in pursuance of the Constitution and laws of the Commonwealth of Virginia, on the 18th day of December, in the year of our Lord, two thousand, do hereby certify, that, being so assembled, we duly qualified and organized and that all the Electors duly and legally appointed by and for the Commonwealth of Virginia, appeared and answered to their names and that thereupon, being duly in session at said Capitol on the 18th day of December, in the year of our Lord, two thousand, we proceeded to vote by ballot, and balloted first for such President, and then for such Vice President, by distinct ballots. And we further certify that the following are two distinct lists, one of the votes for such President and the other of the votes for such Vice President.

George W. Bush, of the State of Texas, received 13 votes.

DICK CHENEY, of the State of Wyoming, received 13 votes for Vice President.

Signed by the pertinent Electors and duly attested.

Mr. President, the certificate of the electoral vote of the Commonwealth of Virginia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 13 votes for President and DICK CHENEY of the State of Wyoming received 13 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Washington, and they will count and make a list of the votes cast by that State.

Senator DODD (one of the electors). Certificate of the Electoral College of the State of Washington.

We, the undersigned Presidential Electors of the State of Washington, being duly elected and qualified as evidenced by the accompanying Certificate of Ascertainment made and delivered to us by the Governor of the State of Washington, and having met pursuant to the provisions of Federal and state law, at the State Capitol in Olympia, in the state of Washington, twelve o'clock noon, on the first Monday after the second Wednesday in December, 2000, do certify, that we have voted, by ballot, separately for the offices of President of the United States and Vice President of the United States for the respective terms which begin on the 20th day of January, 2001, and that the following are the names of all the persons who received votes for these offices, respectively.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Washington seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 11 votes for President and JOE LIEBERMAN of the State of Connecticut received 11 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of West Virginia, and they will count and make a list of the votes cast by that State.

Mr. THOMAS (one of the tellers). Certificate of Vote.

We, the electors for President and Vice President of the United States, chosen by the people of West Virginia at the general election held on November 7, 2000, certify that we assembled in the Office of the Governor, State Capitol, Charleston, West Virginia, on December 18, 2000, and voted as follows:

FOR PRESIDENT: George W. Bush five votes.

FOR VICE PRESIDENT: DICK CHENEY five votes.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of West Virginia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors of the State of Wisconsin, and they will count and make a list of the votes cast by that State.

Mr. MCCONNELL (one of the tellers). WE, THE UNDERSIGNED, ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES OF AMERICA, being duly elected, qualified and acting Presidential Electors of the State of Wisconsin, pursuant to the attached certificate of the designee of the Chairperson of the state Elections Board, certified by Kevin J. Kennedy, Executive Director of the State Elections Board and exemplified by, Governor Tommy G. Thompson and Secretary of State Douglas La Follette; respectively; having met and convened at the State Capitol, in the city of Madison, in the State of Wisconsin, at 12:00 noon on December 18, 2000, pursuant to Section 7, Title 3 of the United States Code, and Section 7.75 of the Wisconsin Statutes, for the purpose of casting our votes for President and Vice President of the United States, and the transmitting of the results of our determination, in accordance with Sections 9 and 11, Title 3 of the United States Code, DO HEREBY CERTIFY: That all of such Presidential Electors, so elected and so certified to this meeting of the Electoral College answered present and were present in person.

WE FURTHER CERTIFY that the following distinct lists contain a correct abstract of the votes cast for the election of President and Vice President of the United States, respectively:

For President, AL GORE of the State of Tennessee.

For Vice President, JOE LIEBERMAN, of the State of Connecticut.

Mr. President, the certificate of the electoral vote of the State of Wisconsin seems to be regular in form and authentic, and it appears therefrom that AL GORE of the State of Tennessee received 11 votes for President and JOE LIEBERMAN of the State of Connecticut received 11 vote for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. The Chair hands to the tellers the certificate of the electors for President and Vice President of the State of Wyoming, and they will count and make a list of the votes cast by that State.

Mr. FATTAH (one of the tellers). For the State of Wyoming, Secretary of State, Certificate of Votes for President and Vice President.

Whereas, according to the official returns of the General Election held in the State of Wyoming, on the 7th day of November, 2000, as duly canvassed by the Wyoming State Canvassing Board, a list is hereby given of the votes cast for President and Vice President of the United States.

Signed by the pertinent electors and duly attested.

Mr. President, the certificate of the electoral vote of the State of Wyoming seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President and DICK CHENEY of the State of Wyoming received 3 votes for Vice President.

The VICE PRESIDENT. Is there objection?

The Chair hears no objection.

There was no objection.

The VICE PRESIDENT. Gentlemen and gentlewomen of the Congress, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and deliver the same to the President of the Senate.

The tellers delivered to the President of the Senate the following statement of results:

JOINT SESSION OF CONGRESS FOR THE COUNTING OF THE ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES: OFFICIAL TALLY, JANUARY 6, 2001

The undersigned, CHRISTOPHER J. DODD and MITCH MCCONNELL, tellers on the part of the Senate, WILLIAM M. THOMAS and CHAKA FATTAH, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, two thousand and one.

Electoral Votes of Each State	For President		For Vice President	
	George W. Bush	Al Gore	Dick Cheney	Joe Lieberman
Alabama—9	9		9	
Alaska—3	3		3	
Arizona—8	8		8	
Arkansas—6	6		6	
California—54		54		54
Colorado—8	8		8	
Connecticut—8		8		8
Delaware—3		3		3
District of Columbia—3		2		2
Florida—25	25		25	
Georgia—13	13		13	
Hawaii—4		4		4
Idaho—4	4		4	
Illinois—22		22		22
Indiana—12	12		12	
Iowa—7		7		7
Kansas—6	6		6	
Kentucky—8	8		8	
Louisiana—9	9		9	
Maine—4		4		4
Maryland—10		10		10
Massachusetts—12		12		12
Michigan—18		18		18
Minnesota—10		10		10
Mississippi—7	7		7	
Missouri—11	11		11	
Montana—3	3		3	
Nebraska—5	5		5	
Nevada—4	4		4	
New Hampshire—4	4		4	
New Jersey—15		15		15
New Mexico—5		5		5
New York—33		33		33
North Carolina—14	14		14	
North Dakota—3	3		3	
Ohio—21	21		21	
Oklahoma—8	8		8	
Oregon—7		7		7
Pennsylvania—23		23		23
Rhode Island—4		4		4
South Carolina—8	8		8	
South Dakota—3	3		3	
Tennessee—11	11		11	
Texas—32	32		32	
Utah—5	5		5	
Vermont—3		3		3
Virginia—13	13		13	
Washington—11		11		11
West Virginia—5	5		5	
Wisconsin—11		11		11
Wyoming—3	3		3	
Total—538	271	266	271	266

Christopher J. Dodd,
Mitch McConnell,
Tellers on the part of the Senate.
William M. Thomas,
Chaka Fattah,
Tellers on the part of the House of Representatives.

The VICE PRESIDENT. The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for President of the United States is 538, of which a majority is 270.

George W. Bush, of the State of Texas, has received for President of the United States 271 votes.

Al Gore, of the State of Tennessee, has received 266 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

Dick Cheney, of the State of Wyoming, has received for Vice President of the United States 271 votes.

Joe Lieberman, of the State of Connecticut, has received 266 votes.

This announcement on the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th of January 2001, and shall be entered, together with a list of the votes, on the Journals of the Senate and the House of Representatives.

May God bless our new President and our new Vice President, and may God bless the United States of America.

Members of the Congress, the purpose for which the joint session of the two Houses of Congress has been called having been accomplished, pursuant to Senate Concurrent Resolution 1, 107th Congress, the Chair thanks the Speaker and the Members of the House of Representatives and the Senate here assembled and declares the joint session dissolved.

(Thereupon, at 2 o'clock and 50 minutes p.m. the joint session of the two Houses of Congress was dissolved.)

The SPEAKER. Pursuant to Senate Concurrent Resolution 1, 107th Congress, the Chair directs that the electoral vote will be spread at large upon the Journal.

RECESS

The SPEAKER. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 3:05 p.m.

Accordingly (at 2 o'clock and 52 minutes p.m.), the House stood in recess until 3:05 p.m.

□ 1508

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LaHood) at 3 o'clock and 8 minutes p.m.

COMPOSITION OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that, notwithstanding the requirement of clause 11(a)1 of rule X, the Permanent Select Committee on Intelligence be composed of not more than 20 Members, Delegates, or the Resident Commissioner, of whom not more than 11 be from the same party.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. GOSS. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 19) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 19

Resolved, That the following named Members be, and are hereby, elected to the following standing committees for the House of Representatives:

Committee on Agriculture: Mr. Combest, Chairman; Mr. Boehner; Mr. Goodlatte; Mr. Pombo; Mr. Smith of Michigan; Mr. Everett; Mr. Lucas of Oklahoma; Mr. Chambliss; Mr. Moran of Kansas; Mr. Schaffer; Mr. Thune; Mr. Jenkins; Mr. Cooksey; Mr. Gutknecht; Mr. Riley; Mr. Simpson; Mr. Ose; Mr. Hayes; Mr. Fletcher; Mr. Pickering; Mr. Johnson of Illinois; Mr. Osborne; Mr. Pence; Mr. Rehberg; Mr. Graves; Mr. Putnam and Mr. Kennedy of Minnesota.

Committee on Appropriations: Mr. Young of Florida, Chairman; Mr. Regula; Mr. Lewis of California; Mr. Rogers of Kentucky; Mr. Skeen; Mr. Wolf; Mr. DeLay; Mr. Kolbe; Mr. Callahan; Mr. Walsh; Mr. Taylor of North Carolina; Mr. Hobson; Mr. Istook; Mr. Bonilla; Mr. Knollenberg; Mr. Miller of Florida; Mr. Kingston; Mr. Frelinghuysen; Mr. Wicker; Mr. Nethercutt; Mr. Cunningham; Mr. Tiahrt; Mr. Wamp; Mr. Latham; Mrs. Northup; Mr. Aderholt; Mrs. Emerson; Mr. Sununu; Ms. Granger; Mr. Peterson of Pennsylvania; Mr. Doolittle; Mr. LaHood; Mr. Sweeney and Mr. Vitter.

Committee on Armed Services: Mr. Stump, Chairman; Mr. Spence; Mr. Hunter; Mr. Hansen; Mr. Weldon of Pennsylvania; Mr. Hefley; Mr. Saxton; Mr. McHugh; Mr. Everett; Mr. Bartlett; Mr. McKeon; Mr. Watts; Mr. Thornberry; Mr. Hostettler; Mr. Chambliss; Mr. Hilleary; Mr. Scarborough; Mr. Jones of North Carolina; Mr. Graham; Mr. Ryun of Kansas; Mr. Riley; Mr. Gibbons; Mr. Hayes; Mr. Sherwood; Mrs. Wilson; Mr. Calvert; Mr. Simmons; Mr. Crenshaw; Mr. Kirk; Ms. Jo Ann Davis of Virginia; Mr. Schrock and Mr. Akin.

Committee on Budget: Mr. Nussle, Chairman; Mr. Hoekstra; Mr. Bass; Mr. Gutknecht; Mr. Hilleary; Mr. Sununu; Mr. Knollenberg; Mr. Thornberry; Mr. Ryun of Kansas; Mr. Collins; Mr. Wamp; Mr. Fletcher; Mr. Gary Miller of California; Mr. Toomey; Mr. Watkins; Mr. Hastings of Washington; Mr. Portman; Mr. Schrock; Mr. Culberson; Mr. Brown of South Carolina; Mr. Crenshaw and Mr. Putnam.

Committee on Education and the Workforce: Mr. Boehner, Chairman; Mr. Petri; Mrs. Roukema; Mr. Ballenger; Mr. Hoekstra; Mr. McKeon; Mr. Castle; Mr. Johnson of Texas; Mr. Greenwood; Mr. Graham; Mr. Souder; Mr. Norwood; Mr. Schaffer; Mr. Upton; Mr. Hilleary; Mr. Ehlers; Mr. Tancredo; Mr. Fletcher; Mr. DeMint; Mr. Isakson; Mrs. Biggert; Mr. Platts; Mr. Tiberi; Mr. Keller; Mr. Osborne and Mr. Culberson.

Committee on Energy and Commerce: Mr. Tauzin, Chairman; Mr. Bilirakis; Mr. Barton; Mr. Upton; Mr. Stearns; Mr. Gillmor; Mr. Greenwood; Mr. Cox; Mr. Deal; Mr. Largent; Mr. Burr; Mr. Whitfield; Mr. Ganske; Mr. Norwood; Mrs. Cubin; Mr. Shimkus; Mrs. Wilson; Mr. Shadegg; Mr. Pickering; Mr. Fossela; Mr. Blunt; Mr. Thomas Davis of Virginia; Mr. Bryant; Mr. Ehrlich; Mr. Buyer; Mr. Radanovich; Mr. Pitts; Mrs. Bono; Mr. Walden of Oregon and Mr. Terry.

Committee on Financial Services: Mr. Oxley, Chairman; Mr. Leach; Mrs. Roukema; Mr. Bereuter; Mr. Baker; Mr. Bachus; Mr. Castle; Mr. King; Mr. Royce; Mr. Lucas of Oklahoma; Mr. Ney; Mr. Barr of Georgia; Mrs. Kelly; Mr. Paul; Mr. Gillmor; Mr. Cox; Mr. Weldon of Florida; Mr. Ryun of Kansas; Mr. Riley; Mr. LaTourette; Mr. Manzullo; Mr. Jones of North Carolina; Mr. Ose; Mrs. Biggert; Mr. Green of Wisconsin; Mr.

Toomey; Mr. Shays; Mr. Shadegg; Mr. Fossella; Mr. Gary Miller of California; Mr. Cantor; Mr. Grucci; Ms. Hart; Ms. Capito; Mr. Ferguson; Mr. Rogers of Michigan and Mr. Tiberi.

Committee on Government Reform: Mr. Burton of Indiana, Chairman; Mr. Gilman; Mrs. Morella; Mr. Shays; Ms. Ros-Lehtinen; Mr. McHugh; Mr. Horn; Mr. Mica; Mr. Thomas Davis of Virginia; Mr. Souder; Mr. Scarborough; Mr. LaTourette; Mr. Barr; Mr. Miller of Florida; Mr. Hutchinson; Mr. Ose; Mr. Lewis of Kentucky; Mr. Flake; Ms. Jo Ann Davis of Virginia and Mr. Platts.

Committee on International Relations: Mr. Hyde, Chairman; Mr. Gilman; Mr. Leach; Mr. Bereuter; Mr. Smith of New Jersey; Mr. Burton of Indiana; Mr. Gallegly; Ms. Ros-Lehtinen; Mr. Ballenger; Mr. Rohrabacher; Mr. Royce; Mr. King; Mr. Chabot; Mr. Houghton; Mr. McHugh; Mr. Burr; Mr. Cooksey; Mr. Tancredo; Mr. Paul; Mr. Smith of Michigan; Mr. Pitts; Mr. Issa; Mr. Cantor; Mr. Flake; Mr. Kerns and Ms. Jo Ann Davis of Virginia.

Committee on the Judiciary: Mr. Sensenbrenner, Chairman; Mr. Hyde; Mr. Gekas; Mr. Coble; Mr. Smith of Texas; Mr. Gallegly; Mr. Goodlatte; Mr. Chabot; Mr. Barr; Mr. Jenkins; Mr. Hutchinson; Mr. Cannon; Mr. Graham; Mr. Bachus; Mr. Scarborough; Mr. Hostettler; Mr. Green of Wisconsin; Mr. Keller; Mr. Issa; Ms. Hart and Mr. Flake.

Committee on Resources: Mr. Hansen, Chairman; Mr. Young of Alaska; Mr. Tauzin; Mr. Saxton; Mr. Gallegly; Mr. Duncan; Mr. Hefley; Mr. Gilchrest; Mr. Calvert; Mr. McInnis; Mr. Pombo; Mrs. Cubin; Mr. Radanovich; Mr. Jones of North Carolina; Mr. Thornberry; Mr. Cannon; Mr. Brady of Texas; Mr. Peterson of Pennsylvania; Mr. Schaffer; Mr. Gibbons; Mr. Souder; Mr. Walden of Oregon; Mr. Sherwood; Mr. Hayes; Mr. Simpson; Mr. Tancredo; Mr. Otter and Mr. Osborne.

Committee on Science: Mr. Boehlert, Chairman; Mr. Sensenbrenner; Mr. Smith of Texas; Mrs. Morella; Mr. Weldon of Pennsylvania; Mr. Rohrabacher; Mr. Barton; Mr. Calvert; Mr. Smith of Michigan; Mr. Bartlett; Mr. Ehlers; Mr. Weldon of Florida; Mr. Gutknecht; Mr. Cannon; Mr. Nethercutt; Mr. Lucas of Oklahoma; Mr. Gary Miller of California; Mr. Biggert; Mr. Culberson; Mr. Akin; Mr. Johnson of Illinois; Mr. Pence; Mr. Grucci and Ms. Hart.

Committee on Small Business: Mr. Manzullo, Chairman; Mr. Combest; Mr. Hefley; Mr. Bartlett; Mr. LoBiondo; Mrs. Kelly; Mr. Chabot; Mr. English; Mr. Toomey; Mr. DeMint; Mr. Thune; Mr. Pence; Mr. Ferguson; Mr. Issa; Mr. Graves; Mr. Schrock; Mr. Grucci and Mr. Akin.

Committee on Transportation and Infrastructure: Mr. Young of Alaska, Chairman; Mr. Shuster; Mr. Petri; Mr. Boehlert; Mr. Coble; Mr. Duncan; Mr. Gilchrest; Mr. Horn; Mr. Mica; Mr. Quinn; Mr. Ehlers; Mr. Bachus; Mr. LaTourette; Mrs. Kelly; Mr. Baker; Mr. Bass; Mr. Ney; Mr. Hutchinson; Mr. Cooksey; Mr. Thune; Mr. LoBiondo; Mr. Moran of Kansas; Mr. Sherwood; Mr. DeMint; Mr. Bereuter; Mr. Simpson; Mr. Isakson; Mr. Simmons; Mr. Rogers of Michigan; Ms. Capito; Mr. Kirk; Mr. Brown of South Carolina; Mr. Johnson of Illinois; Mr. Kerns; Mr. Rehberg; Mr. Platts; Mr. Ferguson; Mr. Graves; Mr. Otter; Mr. Kennedy of Minnesota.

Committee on Veterans' Affairs: Mr. Smith of New Jersey, Chairman; Mr. Stump; Mr. Bilirakis; Mr. Spence; Mr. Everett; Mr. Buyer; Mr. Quinn; Mr. Stearns; Mr. Moran of Kansas; Mr. Hayworth; Mr. McKeon; Mr. Gibbons; Mr. Simpson; Mr. Baker; Mr. Simmons and Mr. Crenshaw.

Committee on Ways and Means: Mr. Thomas, Chairman; Mr. Crane; Mr. Shaw; Mrs. Johnson of Connecticut; Mr. Houghton; Mr. Herger; Mr. McCrery; Mr. Camp; Mr. Ramstad; Mr. Nussle; Mr. Johnson of Texas; Ms. Dunn; Mr. Collins; Mr. Portman; Mr. English; Mr. Watkins; Mr. Hayworth; Mr. Weller; Mr. Hulshof; Mr. McInnis; Mr. Lewis of Kentucky; Mr. Foley; Mr. Brady of Texas and Mr. Ryan of Wisconsin.

Mr. GOSS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. GOSS. Mr. Speaker, by direction of the Republican conference, I offer a privileged resolution (H. Res. 20) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 20

Resolved, That the following Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Appropriations: Mr. Goode.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF COMMISSION ON CIVIL RIGHTS

The SPEAKER pro tempore. Without objection, and pursuant to clause 2(b) of Public Law 98-183, the Chair announces the Speaker's appointment of the following member to the Commission on Civil Rights on the part of the House to fill the existing vacancy thereon:

Dr. Abigail N. Thernstrom, Lexington, Massachusetts.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXPLANATION OF PROCEEDINGS OCCURRING DURING JOINT SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I rise to address the House for 5 minutes to speak about what took place here in joint session today and to talk about what has led us to this point.

Today, here in this Chamber, we had a joint session to count the electoral votes; and, of course, there were some of us, mostly represented by Members from the Congressional Black Caucus, who chose to come to the floor in an attempt to object to the acceptance of the electoral votes from Florida. We did that, despite the fact we understood the rules. We knew that in order to object, we had to have in writing the objection, signed by both a House Member and a Member of the Senate.

We did not have one Member of the Senate who had signed any objection, but we came to the floor of this House and we said to the Vice President, who presided over the joint session, each time that we objected we said that, no, we did not have a signature from a United States Senator, that we only had our signature, we had the signatures of some of our colleagues, and we had the support of our constituents.

It was important for us to do this. It was important because we have just experienced one of the most traumatizing and devastating elections, particularly as it played out in Florida, that this country has ever been involved with.

□ 1345

I would like to cite to you some of what happened in Florida that has caused us so much concern. I am going to quote from an article that was done by Laura Flanders. I will not be quoting all of the article, but I will be submitting the rest of this for inclusion in the RECORD.

On day one after the election, there was a story in the Florida papers about an unauthorized police roadblock, stopping cars not a mile from a black church-turned-polling-booth. NAACP volunteers reported being swamped with complaints from registered voters who found it impossible to vote. They heard stories of intimidation at and around polling places; demands for superfluous ID; people complained about a pattern of singling out black men and youth for criminal background checks, and in call after call, would-be voters complained they had been denied language interpretation and other help at the polls.

By now it is clear that overwhelmed election workers made a mass of mistakes, but those mistakes were laced through with some clear intent to suppress some votes.

A full 3 weeks after the election, The New York Times finally took a serious look and reported that, anticipating a large turnout in a tight race, Florida election officials had given laptop computers to precinct workers so they would have direct access to the State's voter rolls, but the computers only went to some precincts and only one went to a precinct whose people were predominantly black. The technology gap in the no-laptop precincts forced the workers there to rely on a few phone lines to the head office. Voters whose names did not appear on the rolls were held up, while workers tried to get through on the phone, for hours, or until they gave up.

For those who voted, there was another technology glitch. Mr. Speaker, 185,000 Floridians cast votes that did not count. Theirs were the ballots that had been punched too few or too many times, or were otherwise flawed. Flaws too, seem to have followed race lines. In an election that turned on a few hundred votes, Floridians whose ballots failed to register a mark for President were much more likely to have voted with computer punch cards than optical scanning machines. In Miami Dade, the county with the most votes cast, predominantly black precincts saw their votes thrown out at 4 times the rate of white precincts. According to the Times, one out of 11 ballots in predominantly black precincts were rejected, a total of 9,904.

Urban, multi-racial Palm Beach, home of the infamous butterfly ballot and Duval, where candidates' names were spread across 2 pages despite what the published ballot had shown, produced 31 percent of Florida's discarded ballots, but only 12 percent of the total votes cast in Duval, which has one of the highest illiteracy rates in the Nation, more than 26,000 votes were rejected, 9,000 from precincts that were predominantly black.

Many Floridians who found themselves "scrubbed" off the voting rolls were not purged accidentally, reports Gregory Palast for Salon.com. Florida Secretary of State Katherine Harris paid a private firm, ChoicePoint, $4 million to cleanse the voting rolls, and the firm used the State's felon-ban to exclude 8,000 voters who had never committed a felony. ChoicePoint is a Republican outfit. Board members include former New York Police Commissioner Howard Safir, and billionaire Ken Langone, chair of the fundraising committee for Mayor Giuliani's aborted New York Senate bid.

I cannot complete all of what I would like to share, but I will be submitting this for the RECORD. Let the record show that we were here today, that we participated and we voiced our objection, and the fight will continue for justice and equality. People were disenfranchised, and that must be stopped and corrected.

The erroneous data wasn't their doing, ChoicePoint complains, the names came, raw, from the state of Texas. They were supposed to be reviewed locally, but they were distributed un-reviewed. African Americans dominate. (The 8,000 wrong names were "a minor glitch" ChoicePoint told Palast; a glitch fifteen times the size of the Texas Governor's lead.)

As for that election morning police checkpoint, near Tallahassee, Robert Chamber, a Black resident, told the Guardian UK he knew what it was about: "putting fear in people's hearts. . . . " The Florida panhandle is home to the largest concentration of neo-confederate white supremacist groups in the US. But this problem is no neo-nazi plot—it's racism of the institutional, not the exceptional kind, and even more devastating than the statistics has been Democratic leadership's silence. While African Americans in huge numbers know there was massive voter fraud, harassment and intimidation a la Jim Crow, the Democratic Party's white top-dogs have resolutely refused to talk about voting rights, race or racism—Why? For fear it will hurt them in the court of public opinion? Among white swing voters and southern Democrats? Already hurting in all of those places, they're trifling with one of the few solid voting blocks they've got left, (Blacks, Latinos, Jews.)

The NAACP came out strong, the weekend after the election, holding public hearings and gathering 300 pages of legally sworn testimony from 486 people who say they were denied their right to vote. With the Congressional Black Caucus the NAACP wrote to Janet Reno seeking a Justice Department investigation into possible violations of the Voting Rights Act. That was back on November 14th. Since then, the Gore campaign has filed dozens of lawsuits—not one deals with violations of voting rights. The Justice Department has initiated what officials go out of their way to characterize as a preliminary inquiry, not an investigation. (Alligator-wrestler Reno is scared to stir the waters in her home-state, where she's hoping to retire any day now, some say.)

The Gore team has chosen to try to eke some votes out of three counties with manual counts, and to make much of butterflies and chards, but nothing of race. (Recently, Gore told a reporter he was "very troubled" by the "serious allegations." That's it.) His racist denial of the seriousness of racism makes nonsense out of US politics.

The Electoral College is a tool of racism. As Yale's Akhil Reed Amar wrote in the New York Times, "the College was designed at the founding of the country to help one group—white Southern males—and this year, it has apparently done just that."

In the years after the forced-end of slavery, former slave states like Florida imposed those felon-disenfranchisement laws, precisely to disempower freed-but-impoverished Blacks. The political parties crafted the statewide primary system into what amounted to a white-man's private club to keep the newly enfranchised under the old establishment's control. Then came literacy tests and poll taxes—voters had to keep their tax-receipts on file—anything to keep electoral power in white hands. For an idea of what those tackling literacy tests faced, consider: under Jim Crow, Florida required that textbooks used by the public school children of one race be kept separate from those used by the other—even in storage.

After the 1965 Act was passed, states did everything they could to dilute Black influence. Winner-take-all systems, or absolute majority vote requirements were embraced to keep black candidates from winning over split fields of white candidates in local races—in just the same way as winner-take-all works in the presidential contest. More offices were filled by appointment. Legislative and congressional district lines were redrawn to keep black voting strength submerged.

None of this requires looking back very far: the same House Speaker, Tim Feeney, who wants the Florida legislature to select a Bush slate of Electors no matter what the vote-counters count, suggested reintroducing literacy tests just two weeks ago: "Voter confusion is not a reason for whining or crying or having a revote," said Feeney. "It may be a reason to require literacy tests." (Palm Beach Post, 11/16.)

The Chief Justice of the Supreme Court, who may well be the final arbiter of which votes get counted and which (white) man gets the White House, is William Rehnquist, a segregationist from way back.

In 1962, Republican activist William (then "Bill") Rehnquist was the leader of Operation Eagle Eye, a flying squad of GOP lawyers that swept through polling places in south Phoenix to question the right of minority voters to cast their ballots. As Dave Wagner reported in the Arizona Republic last year, Rehnquist defended keeping African Americans out of stores and restaurants in Phoenix. In 1964, at the Bethune Precinct, (which was 40 percent Hispanic and 90 percent Democratic) Rehnquist and Operation Eagle Eye activists challenged every Black and Mexican voter's ability to read the Constitution of the United States in the English language (then a requirement.)

The result, according to one witness, was "a line a half-block long, four abreast . . . They wanted people to become frustrated and leave." In his testimony to a US Senate hearing on his appointment to the Supreme Court, Rehnquist denied that he officially challenged anyone's right to vote. Just as today's defenders of Bush, argue that voter error, not bias, disproportionately shrank the counted vote, Rehnquist argued that he broke no rules, he was just following the law.

Trying to wage politics in the US while tiptoing around racism is like sidestepping an elephant. It's dangerous, it's not smart, and it won't work. What suppresses the Black and minority vote suppresses the Democratic and liberal-progressive vote. The majority of white male voters haven't pooled Democratic since 1964 and only women of color create the gender gap for Gore. Yet the unequal distribution of resources and bias that created a practically apartheid voting system in Florida was sustained by the Democratic Party—who approved of the process, try as they might to blame the Governor's cronies. And Democratic pro-drug war, pro-death penalty, pro-felon disenfranchisement policies stoked the racist atmosphere in which this election was held.

The conditions are ripe for a pro-democracy movement. A moment, at least: this is it. Some things have changed in the nation since 1964, and when the pubic has heard (or seen on CSPAN) the witnesses who gave the NAACP testimony, they have been shocked. Voter protests in Florida have built a multiracial coalition, that is advocating the kind of electoral reform the whole nation could get behind. Among their demands: a non-partisan election commission, standardized voting procedures and federal enforcement of the Voting Rights Act. Add to that, the longer-term structural changes some advocate: instant run off voting, or some form of proportional representation, so that small parties (and minority constituencies) could build support for their issues without throwing elections to their foes.

The public has seen the Electoral College in its worst light: for the first time, the tyranny of a minority may contradict the popular will. Perhaps something will come of the shared experience of disenfranchisement. But not if we don't talk about what's at the root of it: racism. Not "the system," but this particular, racist one. And those who've been marginalized must occupy the center. People of color are central to why our electoral system is set up this way; likewise, they must be at the heart of any movement for real democracy. We can get rid of the racism, but only if we all shove that elephant out at once.

[IMPORTANT NOTE: The views and opinions expressed on this list are solely those of the authors and/or publications, and do not necessarily represent or reflect the official political positions of the Black Radical Congress (BRC). Official BRC statements, position papers, press releases, action alerts, and announcements are distributed exclusively via the BRC-PRESS list. As a subscriber to this list, you have been added to the BRC-PRESS list automatically.]

RECEIVING OF THE PRESIDENTIAL ELECTORAL BALLOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I follow my colleague, because I believe it is important to speak to the real authority of this Nation, and that is the people of the United States of America, as I as well speak to my colleagues. I believe that this day should be further enlightened with an explanation of the reason of the objection in opposition of some reasons of the House of Representatives.

First, let me acknowledge something that is very dear to me: my choice to be a member of the United States Congress and the people's House is a purposeful choice. That choice is because it is, in fact, the people's House, the body closest to the American people, to touch and feel them and to understand them. For that reason, as a Texan, I went to Florida and spent almost the entire month of November interacting with Floridians, young people, minorities, working people, and the elderly. And to a one, they expressed to me their consternation, their concern, their fear, that they had not voted correctly, or that they were thwarted and prohibited from voting.

So as I reflected on this very important day; in fact, January 6, 2001, a day in years past that most Americans never realized in presidential elections that on this day, as ordered by statute, we are to come here and to affirm the electoral college.

But as I rummaged, if you will, or ran my fingers through the Constitution of the United States, I found the words of Alexander Hamilton, and they say, "The sacred rights of mankind are not to be rummaged, for among old parchments or musty records, they are written as with a sunbeam in the whole volume of human nature by the hand of the divinity itself, and can never be erased or obscured by mortal power."

So I felt obligated passionately, without regard for political reprimand, to come forward and to voice my opposition to the inaccurate and the unjust count in the State of Florida. There are voiceless people throughout this Nation in States all across this country who believe that their votes were not accurately counted. Today, in order to do that, I presented to this body a letter signed by Members of the House without a Senator to suggest that I would object to the inaccurate count in Florida, as well as the violations of the Voter Rights Act of 1965.

Additionally, I submitted a motion to delay, because what is required, or what we should have, is a quorum. That means that all of my colleagues should have been able to secure the appropriate time to be able to be here. I respect them. I know that they have responsibilities in their districts. So my motion would have delayed this vote, until a quorum could have been achieved, for both the House and the Senate. Because I would remind my colleagues that in this place, it is the people's House and every single American should have had the right of having their representative here. I wanted to give my colleagues the chance to do that.

Mr. Speaker, I appreciate the diplomacy and the decorum of the President in this instance, the Vice President of the United States, AL GORE. I cannot thank him enough for the way he presided over these proceedings, and I understand his overruling my objections. But in so doing, I must say to my colleagues that even as he overruled it because of the Rules of the House, I stand here today to put on record the fact that it is important that we acknowledge the existence of the Voter Rights Act of 1965, which affirms the right of every U.S. citizen to cast their ballot and have that ballot counted and be protected without compromise and without regard to the voter's race.

Mr. Speaker, this is a task for the Federal Government, because Federal guarantees and Federal elections are at stake. That is why on the very first day of this new body, I put into the record H.R. 60 and H.R. 62. I am serious about my criticism, and that is a major piece of legislation to reform the electoral system, to ensure that in Federal elections that new technology be used across this Nation.

Let me say to those of us who are Americans, I appreciate the challenges that we have. Therefore, I say to my colleagues, do we not think a country that prides itself in democracy, prides itself in the recognition of the 3 bodies of government, that we should have a national Federal holiday so that we can vote, so that the doors of the work places are closed, so that everyone, no matter what one's party affiliation or what one's view is, be able to go. That is what H.R. 62 is, to declare every 4 years a national holiday so that all Americans might vote.

Many of my colleagues may not be aware that the numbers of allegations of voter irregularities that occurred in the State of Florida are revealed to have been that a total 180,000 ballots were not counted in Florida's presidential election. In four counties it is found, where the hand count was sought, all heavily democratic areas, over 73,000 ballots were not counted in the presidential tally. Might I share with my colleagues a personal view. I actually believe that after November 7, we should have recounted the entire State. I have no problem in finding out the truth. The Declaration of Independence has indicated that there is a self-evident truth, and why not find out whether or not all of these votes were accurately counted. We did not do that. But the Florida Supreme Court on November 21st attempted to allow us to count the votes.

My great disappointment was that the Florida Supreme Court oversaw State law, as is rightly so, the separation of States from the Federal Government, and what happened? The interjection of 5 partisan Supreme Court justices who, in their own right, suggested that this was a unanimous decision on December 12 at 10 p.m., way after the time we could have gone into the count, after having stopped the counting over the weekend, indicated that they would make the decision who would be the President of the United States: President-elect George Bush and Mr. CHENEY.

I am not here to thwart the transfer of power on January 20, 2001. I will abide by the laws of this Nation, and so will the rest of America. But might I say, it does not behoove a country that believes in freedom, that projects itself as a leader of the free world, where other nations look to us to tell how they can vote and be free, the Bosnias, the Kosovos, the South Africas, that we too not stand up and be counted and remain steadfast on the question that every precious vote counts and the will of the people, no matter what it be, that one agrees or disagrees, be the deciding factor.

So I say to my colleagues, the court, as Justice Breyer said, is not acting to vindicate a fundamental constitutional principle, but such as the need to protect a basic human liberty. What Justice Breyer said is that the Supreme Court was denying us our liberty, denying us our right, and that the Supreme Court ruled incorrectly on December 12, 2001.

I leave my colleagues simply with the understanding that freedom is not free, and that all of us might fight within the laws of this Nation and the right to protest, the First Amendment right to speak, to be able to protect, and yes, to be able to speak on behalf of voiceless Americans who voted their conscience.

Mr. President-elect, I look forward to working with you. I hope that you will draw us into your chambers, into the White House, and I ask that we sit down and talk about the issues. I hope you will hear our voices on John Ashcroft and Linda Chavez, because if we are to heal this Nation, we must heal it together.

Mr. Speaker, I rise today to object to the receiving of this years presidential electoral ballots, specifically, those electoral votes from the state of Florida, in what was the closest and most contested presidential election in the history of our great nation.

I have been raised to tell the truth. I also have been raised to respect our flag, the freedom of our democracy and the right to express our fundamental beliefs.

While I realize that the transfer of power will occur on January 20, 2001, barring a different decision today, I believe it is imperative that I attempt to register an objection on the grounds of the inaccurate count and undercount in Florida resulting in the election being won for Mr. Bush and Mr. Cheney and not Mr. GORE and Mr. LIEBERMAN.

I believe if the results remain the same today, then at least this Congress should promptly engage in a serious review and reform of the election process in this nation as a recognition of the disenfranchisement of voters, not only in Florida but around the country.

FACTS

On November 7th 2000, I was in Nashville, Tennessee, watching the election results when about 3 a.m. in the morning, the votes that were originally called for Governor Bush deteriorated to just a difference of 569 votes or less than 1 percent between Vice President GORE and Governor Bush, thus, triggering an automatic recount.

On Tuesday, November 14, 2000, Florida's Republican Secretary of State Katherine Harris gave a 5 p.m. for countries to report their election returns. Also, on that day, Broward County granted Vice President GORE's request for a full hand recount, however, Circuit Judge Terry Lewis ruled that Harris could enforce the deadline but required her to use flexibility in her decision.

On Wednesday, November 15, 2000 Secretary Harris announced that the official Bush lead over GORE was 300 votes and gave a 2 p.m. deadline for countries to justify late returns. Florida's Supreme Court rejected Bush's bid to block the recount and a federal appeals court in Atlanta agreed to hear Bush's request to block all Florida hand recounts. Palm Beach County also got the green light for its recount with a ruling that the canvassing board could decide how to review the votes.

On Thursday, November 16, 2000, Secretary Harris refused counties' justifications for submitting late returns, however, the Florida Supreme Court gave the green light to Florida counties to go ahead with ballot hand recounts.

On Friday, November 17, 2000, Circuit Judge Lewis ruled that Harris could reject returns filed after the November 14th deadline. Vice President GORE appealed Lewis's decision to the Florida Supreme Court and the Florida Supreme Court ruled that Secretary Harris could not certify the results on Saturday; the Court set hearings on the issue for Monday, November 20. Also on that day, thousands of Florida absentee ballots from overseas are due by midnight which would be included in the state total. In addition, a hearing is held on the constitutionality of a revote in Palm Beach.

On Saturday, November 18th, 2000, States had a noon deadline to submit overseas ballot counts. Hand recounts proceed in Broward and Palm Beach counties and Miami-Dade County officials meet again to consider a full recount of more than 600,000 votes.

On Monday, November 20 the Florida Supreme Court heard arguments on whether Harris had final authority to certify ballots as to the Nov. 14 deadline and the Florida Attorney General said that overseas ballots, mostly from military bases, that were rejected because they lacked postmarks should be counted.

On Tuesday, November 21st, 2000, them Florida Supreme Court ruled that hand-recounted votes could be accepted for six more days.

On Wednesday, November 22nd, 2000, Miami-Dade County halted its unfinished recount amid dispute over standards for counting ballots due to heated protests by a hysterical pro-Bush crowd. On that same day Bush appealed to the U.S. Supreme Court to halt the recount.

On Thursday, November 23rd, 2000 the Florida Supreme Court rejected GORE's appeal to force Miami-Dade to reconvene their recount. On Friday, November, 24, 2000 the U.S. Supreme Court agreed to hear Bush's appeal and on Saturday, November 25, Bush dropped his lawsuit on counting military absentee ballots, but filed suits in five individual counties.

On Sunday, November 26, 2000, the Florida Supreme Court set 5 p.m. deadline for the Secretary of State's office to accept all recounts. Florida certified the election results, declaring Bush the winner by 537 of the nearly 6 million votes cast. The Palm Beach hand recounts are not included in the total.

On Monday, November 27, 2000, GORE went on national television to defend his call for recounts and filed suit in local count contesting Florida the results.

On Tuesday, November 28, 2000, GORE called for a seven-day plan to recount Florida votes to begin immediately. The Leon County Circuit Court Judge agreed to consider the recount but held off on hearings until December 2nd. Also, GORE and Bush lawyers delivered briefs to the U.S. Supreme Court for their December 1st hearing.

On Thursday, November 30, 2000 Palm Beach shipped ballots to Tallahassee for a December 2nd hearing and GORE appealed Leon County's refusal to begin immediate recount to the U.S. Supreme Court.

On Friday, December 1st, 2000, the U.S. Supreme Court Justices heard the Gore-Bush case. Also on that day, the Florida Supreme Court rejected GORE's appeal for expedited recount also ruling the "butterfly ballot" constitutional.

On Saturday, December 2nd, 2000, the Leon County Circuit Court considered recounts of 1 million ballots from Miami-Dade and Palm Beach counties.

On Monday, December 4, 2000, the U.S. Supreme Court sets aside the Florida Supreme Court decision extending deadline for recounts, and sent it back to the state court for further clarification of its ruling.

On Tuesday, December 5, 2000 the Florida Supreme Court scheduled oral arguments for Thursday for GORE's appeal of Monday's ruling rejecting his challenge to the certification of Bush as Florida's winner and the 11th U.S. Circuit Court of Appeals also heard arguments on Bush's effort to have the manual recounts declared unconstitutional.

On Wednesday, December 6, 2000, the Federal appeals court in Atlanta refused to throw out recounted votes in three Florida counties. On Thursday, December 7th, Gore lawyers argued for recounts before Florida Supreme Court. Also, trials on absentee ballots in Seminole and Martin counties ended.

On Friday, December 8th, 2000 the Florida Supreme Court ordered immediate manual recounts of ballots from Miami-Dade and other counties. The 4–3 vote gave GORE another 383 votes from earlier partial recounts. Also on that day, the Circuit courts in Seminole and Martin counties rule that absentee ballots did not violate the law though Republican workers filled in missing ID numbers.

On Saturday, December 9th, 2000 the U.S. Supreme Court agreed to Bush's appeal for a halt to recount and scheduled oral arguments from both sides for Monday, December 11th.

On Monday, December 11, 2000 the U.S. Supreme Court heard oral arguments on Bush's appeal to halt the Florida vote recount.

On Tuesday, December 12th, 2000 Florida designated 25 electors pledged to Bush for the Electoral College vote. The Florida Supreme Court rejected Democrats' bid to throw out absentee ballots they charged that Republicans tampered with.

On Wednesday, December 13, 2000, Bush declared victory, and GORE conceded.

ANALYSIS

Mr. Speaker, upon my recital of this past elections events, I rise today to express concern for the health of our democracy. I am an American. These words are the mantra of our nation. These words express our unity of purpose to create a different form of government that will allow for all to be heard equally without prejudice or favor.

Mr. Speaker, I am an American. I say this with pride for my country and its heritage and prejudice toward other forms of governance and community that do not embrace liberty and freedom for all.

I am an American and therefore it goes without saying that I truly believe that all men, the species human both male and female, are equal, that they are endowed by their creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed, which is expressed by our nation's founders in the Constitution of the United States.

While I have accepted and will abide by the decision of our nation's highest court which resulted in President-Elect Bush's winning Florida States electoral votes which were in heavy contest, I have risen today to speak on the need for election reform; and to lift my voice on behalf of the thousands of disenfranchised voters in Florida and states throughout the nation who were silenced.

Mr. Speaker, on November 7th, 2000, only some of the citizens of the United States were able to exercise their right to vote and have it counted. It is inescapable that critical mistakes were made and there were serious allegations of violations of Voter Rights Act of 1965 that have been made during and after the November 7, elections and throughout the nation.

Victims and witnesses to Election Day irregularities and discriminatory practices at voting precincts came forward in significant numbers to tell their stories of how their votes were discarded and their votes silenced which resulted in their disenfranchisement. In fact, many disenfranchised voters did ask, "could I get another ballot," but were told they could not.

On November 11, the NAACP conducted a hearing in Florida regarding the election. After reviewing allegations made at the NAACP hearing and hearing numerous other allegations from constituents and citizens throughout the country, I and members of the CBC met and also held press conferences to announce that there was substantial evidence indicating that many African-Americans and other minorities were denied their fundamental rights as citizens of the United States.

Mr. Speaker, we must do all that we can today, to stop these political partisan games from being played in the future to usurp the right given to all American citizens, the right to vote. We should look to being a government of the people that is governed by the people. We must listen to the voices of the people spoken through their votes, which is guaranteed by the United States Constitution.

Thomas Paine's work titled the "Rights of Man," said this regarding constitutions; "That men mean distinct and separate things when they speak of constitutions and of governments. . . . A constitution is not the act of a government, but of a people constituting a government without a constitution, is power without a right."

The people of this nation at its inception said, "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

Mr. Speaker, dear colleagues, as the elected representative for all the people, we need to find a remedy to ensure that every citizen's vote counts. The information presented in the Florida State Legislature hearings and NAACP hearings in Florida included first-hand accounts from victims and eyewitnesses of the following:

1. That citizens who were properly registered were denied the right to vote because election officials could not find their names on the precinct rolls and that some of these voters went to their polling place with registration identification cards but still were denied the right to vote;

2. That registered voters were denied the right to vote because of minor discrepancies between the name appearing on the registration lists and the name on their identification;

3. The first-time voters who sent in voter registration forms prior to the state's deadline for registration were denied the right to vote because their registration forms were not processed and their names did not appear on the precinct rolls;

4. That African-American voters were singled out for criminal background checks at some precincts and that one voter who had never been arrested was denied the right to vote after being told that he had a prior felony conviction;

5. That African-American voters were required to show photo ID while white voters at the same precincts were not subjected to the same requirement;

6. That voters who requested absentee ballots did not receive them but were denied the right to vote when they went to the precinct in person on election day;

7. That hundreds of absentee ballots of registered voters in Hillsborough County (a county covered by Section 5 of the Voting Rights Act) were improperly rejected by the Supervisor of Elections and not counted;

8. That African-American voters who requested assistance at the polls were denied assistance;

9. That African-American voters who requested the assistance of a volunteer Creole/English speaker who were willing to translate the ballot for limited proficient voters were denied such assistance;

10. That police stopped African-American voters as they entered and exited a polling place in Progress Village Center; and

11. That election officials failed to notify voters in a predominantly African American precinct that their polling place, a school, was closed and failed to direct them by signs or other means to the proper polling location.

There were also an unprecedented number of complaints of similar problems in other parts of the nation. Calls flooded the NAACP offices and other agencies seeking to lodge complaints about registered voters who were turned away from the polls because their names mysteriously did not appear in the precinct books.

In Virginia, there were numerous complaints of voters who registered in social services offices under the provisions of the National Voter Rights Act of 1965 who were not allowed to vote because their registrations were not recorded. Among other examples, there were numerous reports in New York city that minority voters were denied the right to vote and in St. Louis, eyewitnesses say that at some precincts African-American voters were asked to show ID, while white voters in the same line were not asked to produce any identification.

These allegations raise potential violations of Sections 2 and 5 of the Voter Rights Act of 1965, 42 U.S.C. 1973, as well as several provisions of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg–5(a) which affirms the right of every U.S. citizen to cast a ballot and have that ballot be counted and be protected without compromise and without regard to the voter's race. This is a task for the federal government because federal guarantees in federal elections are at stake.

Mr. Speaker, this was truly a time in which justice delayed was justice denied. In addition to the number of allegations of voting irregularities that occurred in the state of Florida, it was revealed that a total of 180,000 ballots were not counted in Florida's presidential vote. The Gore Campaign, members of the Congressional Black Caucus, civil rights attorney's and the disenfranchised voters themselves sought for every Floridian's vote to be counted by requesting a hand count in the four counties that demonstrated voting irregularities. In these four counties in which the hand count was sought—all heavily Democratic areas—over 73,000 ballots were not counted in the presidential tally.

The Florida State Supreme Court attempted to remedy the disenfranchisement of its voters on November 21, 2000, by holding in a unanimous decision to allow for a recount. It was a victory for the people and a victory for democracy. However, this decision was ultimately overturned by the U.S. Supreme Court in a curium decision (unanimous decision), and remanded back to the Florida State Supreme Court for clarification of the authority the Florida Supreme Courts decision was relied upon.

Mr. Speaker, from day one, all that I have wanted is for the will of the people of Florida to be completely and accurately reflected. It is evident by the laws of the state of Florida and the judicial history of election law in this country that a recount was a matter for the State, and not Federal Courts to decide.

Mr. Speaker I come from a county of about 1 million. 995,000 people voted in Harris County. We discarded 6,000 votes in Harris County, Texas. However, in one Palm Beach County in Florida, approximately 19,000 ballots were discarded. In that one county 19,000 citizen's voices were silenced. Florida Secretary of State, Katherine Harris, a strong Bush supporter who campaigned for him gave a short deadline for the electoral votes to be delivered to her which would not allow adequate time for a recount, thus, ensuring the disenfranchisement of the Florida citizens and delivering that state's electoral votes to Bush. This in violation of the state of Florida's own election laws which in Florida, as in most states, the will of the people is determined by a hand recount.

The Florida Supreme Court, the highest court of that state, in a unanimous ruling agreed that this was indeed the law of Florida and overruled the Florida Secretary of States deadline, thus, calling on a recount by the four counties with the highest volume of disenfranchised votes. In reaching its holding the Florida State Supreme Court cited the Illinois Supreme Court who made it clear that the vote intent standard ought to be the standard used in determining the will of the people. The Illinois Supreme Court had dealt specifically with the dimpled chad issue.

The Bush campaign argued against the Florida State Supreme Court ruling stating that this process would cause disruption and instability and yet it was their campaign that went to court in the first place and it was their campaign that suggested that the rule of law and our Constitutional processes be circumvented in favor of a partisan political solution.

I have always believed that more people went to the polls in Florida to vote for AL GORE than went to vote for George W. Bush. I believe that the hand recount would have shown that to be the case. And the fact that the Bush campaign fought this so strenuously shows that they knew this to be the case also.

We are a nation of laws. We have been one for over 200 years. The Florida State Supreme Court is the highest court of the state. Their job was to resolve legal questions, such as the one they looked at on November 21.

I had faith in the people of Florida. However, Republicans ignored the will of the people by stalling and ultimately defeating the recount process. Assertions had been made during the Florida Electoral Vote contest that Republicans had made efforts to try and stall the recount effort in Florida. In fact, Republicans involved in the recount process had even admitted that they used delaying tactics. They continued to object to as many ballots as they could to slow down the recount process. In one Palm Beach County precinct alone, they objected to over 200 ballots to force a slowdown of the recount process. However, when those ballots went in front of the county canvassing commission, only 3 were called into question.

Mr. Speaker, on December 8, 2000 the Florida State Supreme Court again took up the issue remanded to them by the U.S. Supreme Court on whether to allow for a recount, and again the Florida State Supreme Court held in favor of an immediate manual recount of the presidential election under-votes in Miami-Dade Counties and all Florida counties.

I believe that this was the right decision. Floridians just wanted to have a fair process for the counting of their votes and this was granted by the Florida State Supreme Court. As American citizens they are entitled to that. The Florida Supreme Court's ruling was delivered a critical juncture in the face of the recount process and would have resolved much of the legal ambiguity regarding recounts that haunts this country today.

The Florida Supreme Court's decision should have been implemented as ordered without hesitation. We would have then been able to come together as Americans, thus, ensuring that the 43rd President of the United States was elected by the people. However, on December 9, 2000, the U.S. Supreme Court ordered an injunction to stop the manual recount of the under-votes in Miami-Dade County and all the Florida counties ordered by the Florida Supreme Court.

On the night of December 12, 2000, the U.S. Supreme Court, in a controversial 5–4 decision delivered the court holding which prohibited all the legal votes in Florida from being counted, thus, ensuring then-Governor Bush receiving Florida's electoral votes to win the presidential election. As I stated at the beginning of my statement; while I was disappointed with the U.S. Supreme Courts ruling, as a member of the United States Congress sworn to uphold the laws and Constitution of the United States, I accepted and will abide by the decision of our nation's highest court as the supreme legal and constitutional authority of our great country. However, I concur with Justice Ginsburg's statement when she said "the Court's conclusion that a constitutionally adequate recount is impractical is a prophecy the Court's own judgement will not allow to be tested. Such an untested prophecy should not decide the Presidency of the United States."

Furthermore, Justice Stevens assessment that this nation will never know with certainty the true identity of the winner of this years presidential election. If we have learned anything from the Justices of the Supreme Court, however, is that it is up to this nation, through the United States Congress, state legislatures, and local communities to correct the problems highlighted in the past year's presidential election to correct the problems to ensure that the will of all the people in future elections is not thwarted.

In addition, Justice Breyer, like three other justices, found an alternative constitutional analysis that would have permitted a recount of counting process in Florida stating ". . . [T]here is no justification for the majority's remedy, which is simply to reverse the lower court and halt the recount entirely. An appropriate remedy would be, instead, to remand this case with instructions that, even at this late date, would permit the Florida Supreme Court to require all undercounted votes in Florida, including those from Broward, Volusia, Palm Beach, and Miami-Dade Counties, whether or not previously recounted prior to the end of the protest period, and to do so with a single-uniform substandard."

Justice Breyer emphasized that "by halting the manual recount, and thus ensuring that the uncounted legal votes would not be counted under any standard, the Court crafted a remedy out of proportion to the asserted harm. And that remedy harms the very fairness interests the Court is attempting to protect. The manual recount would itself redress a problem of unequal treatment of ballots."

Justice Breyer also added: ". . . [The] Court is not acting to vindicate a fundamental constitutional principle, such as the need to protect a basic human liberty. No other strong reason to act is present. Congressional statutes tend to obviate the need. And, above all, in this highly politicized matter, the appearance of a split decision runs the risk of undermining the public's confidence in the Court itself. That confidence is a public treasure. It has been built slowly over many years, some of which were marked by Civil War and the tragedy of segregation. It is a vitally necessary ingredient of any successful effort to protect basic liberty and indeed, the rule of law itself. We run no risk of returning to the days when a President (responding to this Court's effort to protect the Cherokee Indians) might have said, "John Marshall has made his decision; now let him enforce it! Loth, Chief John Justice Marshall and The Growth of the American Republic 365 (1948). But we do risk a self-inflicted wound—wound that may harm not just the Court, but the Nation."

Mr. Speaker, the basic right to have your voted counted is a basic right guaranteed and protected by the United States Constitution. It is understood that the preamble to the Constitution of the United States is not a source of power for any department of the Federal Government, however, the Supreme Court has often referred to it as evidence of the origin, scope, and purpose of the Constitution. In Jacobson vs. Massachusetts, Justice Harlan wrote in 1905, "Although that preamble indicates the general purposes for which the people ordained and established the Constitution, it has never been regarded as the source of any substantive power conferred on the government of the United States, or on any of its departments. Such powers embrace only those expressly granted in the body of the Constitution, and such as may be implied from those so granted."

This constitution like all constitutions is the property of a nation, and not of those who exercise the government. It is our belief, as Americans, that this democracy—our democracy was and continues under the direct authority of the people of this nation.

All power exercised over a nation, must have some beginning. In the United States the beginning of power is found in the Constitution, but in the history of mankind power has found two sources it may either be delegated, or assumed. There are no other sources of power other than the consent of the governed. All delegated power is trust, and all assumed power is usurpation. Time does not alter truth of this statement it only makes its truth clearer to those who can see and to those who are enlightened history.

The Constitution of the United States does not provide an explicit language to preserve the boundaries nor does it provide checks and balances between the legislative, executive and judicial branches of government that it establishes. However, it does grant to these branches of federal government separately the power to legislate, to execute, and to adjudicate, and it provides throughout the document the means to accomplish those ends in a manner that would allow each of the branches of government to avoid "blandishments and incursions of the others." The beauty of this document is its goals, which was to order to system of federal government by conferring sufficient power to govern while withholding the ability to abridge the liberties of the governed. To this reason, I share Henry David Thoreau's view that "Government does not keep the country free."

The long standing theory of elaborated and implemented constitutional power is grounded on several principles chief of which are: the conception that each branch performs unique and identifiable functions that are appropriate to each; and the limitation of the personnel of each branch to that branch, so that no one person or group should be able to serve in more than one branch simultaneously.

Paine offered that Government is not a trade which any man or body of men has a right to set and exercise for his own emolument, but is altogether a trust, in right of those by whom that trust is delegated, and by who it is always presumable.

Unfortunately in the evidence of the resolution of the election that very thing has occurred. The United States Supreme Court who is sworn to protect and defend the Constitution of the United States may in fact have issued a ruling that will erode the Constitution.

The Supreme Court has more cases presented than it can possibly review and for this reason has over time applied two rules to judge the appropriateness of review the Standing Doctrine and the Ripeness Doctrine.

Standing as a doctrine is composed of both constitutional and prudential restraints on the power of the federal courts to render decisions. In Valley Forge Christian College vs. Americans United, decided in 1982, Renquist wrote that the exercise of judicial power under Art. III is restricted to litigants who can show "injury in fact" resulting from the action that they seek to have the court adjudicate. Doctrine of "standing" has a core constitutional component that a plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief. The concepts of the standing doctrine present questions that must be answered by reference to the Article III notion that federal courts may exercise power only in the last resort and as a necessity, and only when adjudication is consistent with a system of separated powers and the dispute is one traditionally thought to be capable of resolution through the judicial process.

Justice O'Connor wrote in the Court's majority opinion in Allen vs. Wright, 468 US 73, "All of the doctrines that cluster about Article III—not only standing but mootness, ripeness, political question, and the like—relate in part, and in different though overlapping ways, to an idea, which is more than an intuition but less than a rigorous and explicit theory, about the constitutional and prudential limits to the powers of an unelected, unrepresentative judiciary in our kind of government."

The case brought before the Court titled Bush vs. Gore did not establish the fine points of standing because no injury had been incurred by Bush. It was only the presumption of impending injury that prompted the Court's action. Bush anticipated losing the electors apportioned to the State of Florida, which would have decided the national election in Vice President GORE's favor.

Just as the question of standing has weight and breath in the life of Judicial Review so does the Ripeness Doctrine, which defines when a case may be brought before the Supreme Court for review. In the case of United Public Workers vs. Mitchell, the Court ruled that it could not rule in the matter because the plaintiffs "where not threatened with actual interference with their interest," there was only a potential threat of interference of their interest. The Court viewed the threat hypothetical and not established in the realm of reality where squarely their purview had effect. It had been well established and excepted that preenforcement challenges to criminal and regulatory legislation will often be unripe for judicial consideration because of uncertainty of enforcement.

The Court when it ordered a stop to the counting of ballots ordered by the Florida Supreme Court ended any possible light being shown on the issue of injury to presidential candidate Bush.

The dissenting view offered by Justice Stevens and joined by Justice Ginsburg and Justice Breyer, Stevens stated that the issue presented to the Court had been assigned to the States by the Constitution. Article II, Section 1 of the Constitution defines that each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the state may be entitled for the purpose of choosing the President and Vice President of the United States.

There is inherent in the arcane and disjointed method of local state, and national elections disparity of treatment in that all voters do not use the same method of voting. The condition of the Florida election was the fruit of this disparity in that the variations in the methods voting lead to different methods of tallying votes and different success or failure rates in the accuracy of those tallies. The more modern pencil mark to fill an oval on a paper ballot that is fed into a computer to tally votes was found to only hold a three percent error rate while the punch card method of tallying votes had a fifteen percent error rate.

It is clear that the injured party in this matter are the voters of Florida who had to suffer through the biased actions of a Secretary of State who acted as the Co-Florida State Chair for the Bush for President effort. The voters struggled to be heard in the face of repeated challenges and disruptions designed to end an order process of discerning voter intent when the machine failed in that determination. A constitution is the property of a nation, and not of those who exercise the government. All the constitutions of America are declared to be established on the authority of the people.

Aristotle in his work titled "Politics" stated that "democracy is the form of government in which the free are rulers." With the Supreme Court choosing by a one vote majority to rule in favor of the hand counting of ballots, as long as the method is uniform and did not violate the Safe Harbor Provision of the Constitution seemed in its reading to be an affirmation of the free ballot. However, history will not blur the directive of this decision, because it was delivered with only one hour and forty minutes left for the Florida Supreme Court to digest, implement and complete.

Over the course of the weeks leading to the decision it had been established that the process of counting ballots by hand was laborious and very time consuming. The force of the decision was an affront to the spirit and life of our nation's democracy. It was an act of treason to all of those who have fought, lost eye, limb or life in the effort to keep themselves and their progeny free to exercise those precious values of America's brand of democracy.

In the words of "Freedom," a poem by Langston Hughes we hear the threat to our national existence, "freedom will not come today, this year nor ever, through compromise and fear. I have as much right as the other fellow has to stand on my two feet and own the land. I tire so of hearing people say, let things take their course. Tomorrow is another day. I do not need my freedom when I'm dead. I cannot live on tomorrow's bread. Freedom is a strong seed planted in the soil. I live here too. I want freedom just as you."

I fear that our nation has lapsed into a world of "Orwellian double speak." Prior to the U.S. Supreme Court decision the double-speak of the Republican Party was that very open public process of hand counting ballots was the casting of votes. In the aftermath of the Supreme Court decision to in effect select the 43rd President of the United States the Republican leadership engaged in a display of double-speak. "The president-elect was chosen by a constitutional method, and "President-elect Bush won the State of Florida," are only two of the double-speak phrases which have resulted.

The result of this infamous decision is that thousands of people were shunned by the country we have known, slaved and died for on and off its blooded battlefields. Exposed naked and raw before the public stage as being of no consequence worth mentioning. I do remember the cries from Republicans and Democrats after it was learned that military service men and women votes cast by absentee ballot were under threat of not being counted. The cry that we should not disenfranchise these Americans was shared by all who appreciate their dedication and service to our nation. My pain was the lack of concern that those who were veterans of past conflicts were not given the same level of concern that their votes not go uncounted because they resided in Palm Beach County, and Miami County, Florida.

CONCLUSION

The principle of equality died a public death the day that the Supreme Court acted under the one vote majorities interest in rescuing the failed presidential bid of their fellow Republican by acting in a perverse manner cloaked in judicial ease.

Niccolo Machiavelli would be very proud of the Republican Party's success at gainning the Presidency of the United States. It is a tragedy that the will of the people was ignored and the right to be counted was not adhered to. What occurred during the past election was "modern day Jim Crowism," which was erected from the burial grounds of statutes passed by the legislatures of the Southern states to prevent African Americans from voting after the Reconstruction era.

While statutes were not enacted during this past election to prevent minorities from voting, affirmative actions were taken that prevented minorities, women, the elderly and thousands of Democrats from invoking their constitutional right to vote.

Mr. Speaker, we must not let these "Jim Crow" actions to revive itself from the burial ground of this country's segregationist past. To do so would wash away the blood stains, and tears of our ancestors, parents and even ourselves who fought for the right of every citizen's voice to be heard legless of race, ethnicity, gander, age, and yes, even political affilation.

ELECTION EVENTS

Tuesday, November 7—Voters across the United States cast their ballots.

Wednesday, November 8—The races in Florida, New Mexico and Oregon are too close to call.

Tuesday, November 14—5 PM deadline for counties to report elections returns imposed by Florida's Republican Secretary of State Katherine Harris.

Broward County reverses course and grants Gore's request for a full hand recount.

Circuit Judge Terry Lewis rules that Harris could enforce the deadline but requires her to use flexibility in her decision.

Wednesday, November 15—Harris announces official Bush lead of 300 votes and gives a 2 p.m. deadline for counties to justify late returns.

Florida's Supreme Court rejects Bush's bid to block the recount.

A federal appeals court in Atlanta agrees to hear Bush's request to block all Florida hand recounts.

Palm Beach County gets a green light for its recount with a ruling that the canvassing board could decide how to review the votes.

Thursday, November 16—Harris refuses counties' justifications for submitting late returns.

Florida Supreme Court gives the green light to Florida counties to go ahead with ballot hand recounts.

Bush decides against contesting Iowa results, which give Gore a narrow lead.

Friday, November 17—Circuit Judge Lewis rules that Harris can reject returns filed after Nov. 14 deadline.

Gore appeals Lewis decision to Florida Supreme Court, Florida Supreme Court rules Harris may not certify results on Saturday; sets hearings on issue for Monday, Nov. 20.

Thousands of Florida absentee ballots from overseas are due by midnight Friday and will be added to the state total.

Hearing is held on the constitutionality of a re-vote in Palm Beach.

Saturday, November 18—States have noon deadline to submit overseas ballot counts.

Hand recounts proceed in Broward and Palm Beach counties.

Miami-Dade County officials meet again to consider a full hand recount of more than 600,000 votes.

Monday, November 20—Florida Supreme Court hears arguments on whether Harris has final authority to certify ballots as of Nov. 14 deadline.

Florida Attorney General says overseas ballots, mostly from military bases, that were rejected because they lacked postmarks should be counted.

Tuesday, November 12—Florida Supreme Court rules that hand-recounted votes can be accepted for six more days.

Wednesday, November 22—Republican Vice Presidential Candidate Dick Cheney is hospitalized for chest pains.

Miami-Dade County halts unfinished recount amid dispute over standards for counting ballots.

Bush appeals to the U.S. Supreme Court.

Thursday, November 23—Florida Supreme Court rejects Gore appeal to force Miami-Dade to reconvene their recount.

Friday, November, 24—U.S. Supreme Court agrees to hear Bush appeal.

Saturday, November 25—Bush drops lawsuit on counting military absentee ballots, but files suits in five individual counties.

Sunday, November 26—Florida Supreme Court sets 5 pm deadline for the Secretary of State's office to accept all recounts.

Florida certifies election results, declaring Bush the winner by 537 of the nearly 6 million votes cast. Palm Beach hand recounts are not included in the total.

Monday, November 27—Gore goes on national television to defend his call for recounts and files suit in local court contesting Florida results.

Bush team calls for private donations to finance White House transition after the Clinton administration refuses to release funds traditionally provided for the hand-over.

Tuesday, November 28—Gore calls for seven-day plan to recount Florida votes to begin immediately. Leon County Circuit Court Judge agrees to consider the recount but holds off on hearing until December 2.

Gore, Bush lawyers deliver briefs to U.S. Supreme Court for December 1 hearing.

Wednesday, November 29—Bush opens transition office in McLean, VA. Gore vows to fight on until mid-December.

Thursday, November 30—Palm Beach ships ballots to Tallahassee for December 2 hearing.

Gore appeals Leon County refusal to begin immediate recount to the U.S. Supreme Court.

Friday, December 1—U.S. Supreme Court Justices hears case.

Florida Supreme Court rejects Gore's appeal for expedited recount. Florida Supreme Court rules "butterfly ballot" constitutional.

Saturday, December 2—Leon County Circuit Court considers recounts of one million ballots from Miami-Dade and Palm Beach counties.

Monday, December 4—U.S. Supreme Court sets aside Florida Supreme Court decision extending deadline for recounts, sending it back to state court for further clarification of its ruling.

Tuesday, December 5—The Florida Supreme Court schedules oral arguments for Thursday for Gore's appeal of Monday's ruling rejecting his challenge to the certification of Bush as Florida's winner.

The 11th U.S. Circuit Court of Appeals hears arguments on Bush's effort to have the manual recounts declared unconstitutional.

Wednesday, December 6—Fed appeals court in Atlanta refuses to throw out recounted votes in three Florida counties.

Thursday, December 7—Gore lawyers argue for recounts before Florida Supreme Court.

Trials on absentee ballots in Seminole and Martin counties end.

Friday, December 8—Florida supreme court orders immediate manual recounts of ballots from Miami-Dade and other counties. The 4-3 vote gives Gore another 383 votes from earlier partial recounts.

Circuit courts in Seminole and Martin counties rule that absentee ballots did not violate the law though Republican workers filled in missing ID numbers.

Saturday, December 9—U.S. Supreme Court agrees to Bush's appeal for a halt to recount and schedules oral arguments from both sides for Monday.

Monday, December 11—U.S. Supreme Court hears oral arguments on Bush's appeal to halt the Florida vote recount.

Tuesday, December 12—Florida designates 25 electors pledged to Bush for Electoral College vote.

Florida Supreme Court rejects Democrats' bid to throw out absentee ballots they charge Republicans tampered with.

Wednesday, December 13—Bush declares victory, Gore concedes.

Monday, December 18—Members of the Electoral College cast their votes.

Saturday, January 20, 2001—Inauguration Day.

Congress of the United States,
House of Representatives,
Washington, DC, January 6, 2001.
Hon. Albert Gore, Jr.,
Vice President of the United States and Senate President, Washington, DC.

Dear Vice President Gore: We object to the 25 votes from the State of Florida for George W. Bush for President and Richard Cheney for Vice President. Notwithstanding the certification by the Governor of the State of Florida, it is the opinion of the undersigned that these 25 votes were not regularly given in that the plurality of votes in the State of Florida were in fact cast for Albert Gore, Jr. for President and Joseph I. Lieberman for Vice President. Further, certain violations of the Voter Rights Act of 1965 disenfranchised many voters prohibiting them from casting their vote which impacted the electoral vote. Therefore, no electoral vote of the State of Florida should be counted for George W. Bush for President or for Richard Cheney for Vice President.

Respectfully,
Sheila Jackson-Lee.
Carrie P. Meek.
Eddie Bernice Johnson.
Elijah E. Cummings.

Motion to Delay Offered by Ms. Jackson-Lee of Texas

Ms. Jackson-Lee of Texas moves that the House delay the counting of the electoral votes until a quorum of both chambers is present.

This is a solemn day. This is a solemn day because it is a day when Congress will affirm the voice of the American people and procedural statutes dictated by 3 USC 15, 16 & 17.

Therefore, any proceeding should not be done in the absence of a quorum, especially, where more than 1/2 million people have a different opinion of the electoral result that will be affirmed today.

Therefore, all members of Congress should be allowed to go on the record to be heard on the issue.

Sheila Jackson-Lee.

Congressional Black Caucus
of the United States Congress,
Washington, DC, January 6, 2001.
Hon. Albert Gore, Jr.,
Vice President of the United States and Senate President,
The Capital, Washington, DC.

Dear Vice President Gore: We object to the 25 votes from the State of Florida for George W. Bush for President and Richard Cheney for Vice President. Notwithstanding the certification by the Governor of the State of Florida, it is the opinion of the undersigned that these 25 votes were not regularly given in that the plurality of votes in the State of Florida were in fact cast for Albert Gore, Jr. for President and Joseph I. Lieberman for Vice President. Therefore, no electoral vote of Florida should be counted for George W. Bush for President or for Richard Cheney for Vice President.

Respectfully,
Eddie Bernice Johnson; Alcee L. Hastings; Carrie P. Meek; Corrine Brown; Sheila Jackson-Lee; Barbara Lee; Elijah E. Cummings; Maxine Waters; Cynthia McKinney; Eva M. Clayton.

LEGISLATIVE PROPOSAL TO IMPLEMENT AGREEMENT BETWEEN THE UNITED STATES AND THE HASHEMITE KINGDOM OF JORDAN ON ESTABLISHMENT OF FREE TRADE AREA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–15)

The SPEAKER pro tempore (Mr. LaHood) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit a legislative proposal to implement the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area. Also transmitted is a section-by-section analysis.

The U.S.-Jordan Free Trade Agreement (FTA) provides critical support for a pivotal regional partner for U.S. efforts in the Middle East peace process. Jordan has taken extraordinary steps on behalf of peace and has served as a moderating and progressive force in the region. This Agreement not only sends a strong and concrete message to Jordanians and Jordan's neighbors about the economic benefits of peace, but significantly contributes to stability throughout the region. This Agreement is the capstone of our economic partnership with Jordan, which has also included U.S.-Jordanian cooperation on Jordan's accession to the World Trade Organization (WTO), our joint Trade and Investment Framework Agreement, and our Bilateral Investment Treaty. This Agreement is a vote of confidence in Jordan's economic reform program, which should serve as a source of growth and opportunity for Jordanians in the coming years.

The U.S.-Jordan Free Trade Agreement achieves the highest possible commitments from Jordan on behalf of U.S. business on key trade issues, providing significant and extensive liberalization across a wide spectrum of trade issues. For example, it will eliminate all tariffs on industrial goods and agricultural products within 10 years. The FTA covers all agriculture without exception. The Agreement will also eliminate commercial barriers to bilateral trade in services originating in the United States and Jordan. Specific liberalization has been achieved in many key services sectors, including energy distribution, convention, printing and publishing, courier, audiovisual, education, environmental, financial, health, tourism, and transport services.

In the area of intellectual property rights, the U.S.-Jordan Free Trade Agreement builds on the strong commitments Jordan made in acceding to the WTO. The provisions of the FTA incorporate the most up-to-date international standards for copyright protection, as well as protection for confidential test data for pharmaceuticals and agricultural chemicals and stepped-up commitments on enforcement. Among other things, Jordan has undertaken to ratify and implement the World Intellectual Property Organization's (WIPO) Copyright Treaty and WIPO Performances and Phonograms Treaty within 2 years.

The FTA also includes, for the first time ever in the text of a trade agreement, a set of substantive provisions on electronic commerce. Both countries agreed to seek to avoid imposing customs duties on electronic transmissions, imposing unnecessary barriers to market access for digitized products, and impeding the ability to deliver services through electronic means. These provisions also tie in with commitments in the services area that, taken together, aim at encouraging investment in new technologies and stimulating the innovative uses of networks to deliver products and services.

The FTA joins free trade and open markets with civic responsibilities. In this Agreement, the United States and Jordan affirm the importance of not relaxing labor or environmental laws in order to increase trade. It is important to note that the FTA does not require either country to adopt any new laws in these areas, but rather includes commitments that each country enforce its own labor and environmental laws.

The U.S.-Jordan Free Trade Agreement will help advance the long-term U.S. objective of fostering greater Middle East regional economic integration in support of the establishment of a just, comprehensive, and lasting peace, while providing greater market access for U.S. goods, services, and investment. I urge the prompt and favorable consideration of this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 6, 2001.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Mr. GEPHARDT) for January 3 on account of official business.

Mrs. BONO (at the request of Mr. Armey) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 1 of the 107th Congress, the House stands adjourned until Saturday, January 20, 2001, at 10 a.m.

Thereupon (at 3 o'clock and 27 minutes p.m.), pursuant to House Concurrent Resolution 1, the House adjourned until Saturday, January 20, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

19. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Authorization of Japan as an Eligible Export Outlet for Diversion and Exemption Purposes [Docket No. FV00-930-4 FIR] received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

20. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of Provisions in the Rules and Regulations [Docket No. FV00-929-6 FIR] received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

21. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced from Grapes Grown in California; Decreased Assessment Rate [Docket No. FV00-989-5 FIR] received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

22. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Certification of Beef from Argentina [Docket No. 00-079-1] received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

23. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clopyralid; Extension of Tolerance for Emergency Exemptions [OPP-301086; FRL-6759-1] (RIN: 2070-AB78) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

24. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Extension of Tolerances for Emergency Exemptions [OPP-301098; FRL-6762-7] (RIN: 2070-AB78) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

25. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Spinosad; Pesticide Tolerances for Emergency Exemptions [OPP-301097; FRL-6760-2] (RIN: 2070-6760-2) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

26. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerances for Emergency Exemptions [OPP-301085; FRL-6757-9] (RIN: 2070-AB78) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

27. A letter from the Secretary of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period ending September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Armed Services.

28. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Rule to Deconcentrate Poverty and Promote Integration in Public Housing [Docket No. FR-4420-F-10] (RIN: 2577-AB89) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

29. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the annual report to Congress on the operations of the Export-Import Bank of the United States for Fiscal Year 2000, pursuant to 12 U.S.C. 635g(a); to the Committee on Financial Services.

30. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations—received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

31. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Final Flood Elevation Determinations—received January

3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

32. A letter from the Assistant Secretary for Postsecondary Education, Department of Education, transmitting Final Regulations—Developing Hispanic-Serving Institutions Program, Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, and Strengthening Historically Black Colleges and Universities Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

33. A letter from the Deputy Assistant Secretary, Department of Education, transmitting Final Priority—Traumatic Brain Injury Data Center, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

34. A letter from the Acting Administrator, Food and Nutrition Service, Department of Agriculture, transmitting the Department's final rule—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Final Rule-WIC Nondiscretionary Funding Modifications of P.L. 106–224 (RIN: 0584–AC93) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

35. A letter from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting the Department's final rule—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Certification Integrity (RIN: 0584–AC76) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

36. A letter from the Associate Administrator, Food and Nutrition Service, Department of Agriculture, transmitting the Department's final rule—Summer Food Service Program Implementation of Legislative Reforms (RIN: 0584–AC23) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

37. A letter from the Acting Assistant General Counsel for Regulation, Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—National Institute on Disability and Rehabilitation Research—received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

38. A letter from the Assistant Director for Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's final rule—Waivers of Rights and Claims: Tender Back of Consideration (RIN: 3046–AA68) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

39. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans—received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

40. A letter from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting the, Department's final rule—Implementation of Fiscal Year 2001 Legislative Provisions—received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

41. A letter from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting the Department's final rule—2000 Executive Compensation—received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

42. A letter from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting the Department's final rule—Implementation of Fiscal Year 2001 Legislative Provisions—received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

43. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Animal Drug Availability Act; Veterinary Feed Directive [Docket No. 99N–1591] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

44. A letter from the Deputy Associate Administrator, Enviromental Protection Agency, transmitting the Agency's final rule—Clean Air Act Reclassification; Nevada—Reno Planning Area; Particulate Matter of 10 microns or less (PM–10) [NV 032–FON; FRL–6927–7] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

45. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Florida: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6926–8] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

46. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of the Clean Air Act (CAA), Section 112(1) Program and Delegation of Authority to the State of Oklahoma [FRL–6928–4] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

47. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permits Program in Washington [FRL–6925–5] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

48. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Florida: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6926–7] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

49. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions, to the Interim Enhanced Surface Water Treatment Rule (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1DBPR), and Revisions to State Primacy Requirements to Implement the Safe Drinking Water Act (SDWA) [FRL–6925–7] (RIN: 2040–AD43) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

50. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Montana: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6921–9] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

51. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Final Rule Making Findings of Failure to Submit Required State Implementation Plans for the NO_X SIP Call [FRL–6922–5] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

52. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Primary and Secondary Ambient Air Quality Standards for Particulate Matter [FRL–6919–5] (RIN: 2060–AJ05) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

53. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department [AZ 004–0033; FRL–6896–8] received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

54. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen Oxides Budget and Allowance Trading Program [R1–7218a; A–1–FRL–6894–6] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

55. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [Region 7 Tracking No. 113–1113a; FRL–6923–2] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

56. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Standards For Business Practices Of Interstate Natural Gas Pipelines [Docket No. RM96–1–015] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

57. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to Libya that was declared in Executive Order 12543 of January 7, 1986, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 107–13); to the Committee on International Relations and ordered to be printed.

58. A communication from the President of the United States, transmitting notification that the emergency declared with Libya is to continue in effect beyond January 7, 2001, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 107–14); to the Committee on International Relations and ordered to be printed.

59. A communication from the President of the United States, transmitting a report of the participation of the United States in the United Nations and its affiliated agencies during the calendar year 1999, pursuant to 22 U.S.C. 287b; to the Committee on International Relations.

60. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

61. A letter from the Assistant Secretary for Export Administration, Department of

Commerce, transmitting the Department's final rule—General Order Concerning Shaykh Hamad bin Ali bin Jaber Al-Thani, Gulf Falcon Group, Ltd., and related entities [Docket No. 001128335-0335-01] (RIN: 0694-AC38) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

62. A communication from the President of the United States, transmitting the 1999 Department of State Annual Report on Activities in Arms Control, Nonproliferation, and Disarmament; to the Committee on International Relations.

63. A letter from the Secretary, Department of Education, transmitting the semiannual report to Congress on Audit Followup for the period April 1, 2000, to September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

64. A letter from the Secretary, Department of Health and Human Services, transmitting the semiannual report of the Inspector General for the period April 1, 2000, through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

65. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Cost of Care for the District's Mentally Retarded and Developmentally Disabled Exceeded $300 Million Over a Three-Year Period," pursuant to D.C. Code section 47-117(d); to the Committee on Government Reform.

66. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in October 2000, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

67. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List Additions and Deletions—received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

68. A letter from the Chairman, Consumer Product Safety Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

69. A letter from the Management Analyst, Department of Justice, transmitting the semiannual report on activities of the Inspector General for the period April 1, 2000, through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

70. A letter from the Chairwoman, Equal Employment Opportunity Commission, transmitting the semiannual report on activities of the Inspector General for the period April 1, 2000, through September 30, 2000 and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

71. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on activities of the Inspector General for the period of April 1, 2000 through September 30, 2000 and the Management Response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

72. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Approval of Tungsten-Nickel-Iron Shot as Nontoxic for Hunting Waterfowl and Coots (RIN: 1018-AH64) received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

73. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Rule to List Nine Bexar County, Texas Invertebrate Species as Endangered (RIN: 1018-AF33) received December 20, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

74. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Big Island Contract Section of the Wilmington Harbor Deepening Project, Wilmington, NC [CGD05-00-051] (RIN: 2115-AA97) received December .22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

75. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone; Potential Explosive Atmosphere, Vessel Highland Faith, Port of New York/New Jersey [CGD01-00-253] (RIN: 2115-AA97) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

76. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes [Docket No. FAA-2000-7471; Amendment No. 25-101] (RIN: 2120-AH00) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

77. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: BellSouth Winterfest Boat Parade, Broward County Fort Lauderdale, Florida [CGD 07-00-116] (RIN: 2115-AE46) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

78. A letter from the Associate Administrator for Space Flight, National Aeronautics and Space Administration, transmitting the Administration's final rule—Space Shuttle (RIN: 2700-AC39) received December 27, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

79. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department's final rule—Refund Of Duties Paid On Imports Of Certain Wool Products [T.D.01-01] (RIN: 1515-AC79) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

80. A letter from the Administrator, Office of Workforce Security, Department of Labor, transmitting the Department's final rule—Outsourcing of Unemployment Compensation Administrative Functions—received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

81. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Zone Academy Bonds Allocations 2001 [Rev. Proc. 2001-14] received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

82. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Zone Academy Bonds Allocations 2001 [Rev. Proc 2001-14] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

83. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Removal of Federal Reserve Banks as Federal Depositaries [TD 8918] (RIN: 1545-AY11) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

84. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Information Reporting for Discharges of Indebtedness [Notice 2001-8] received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

85. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Reporting of Gross Proceeds Payments to Attorneys [Notice 2001-7] received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

86. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Generation-skipping Transfer Issues [TD 8912] (RIN: 1545-AX08) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

87. A letter from the General Counsel, Office of Compliance, transmitting Report on Inspections for Compliance with the Public Access Provisions in the Americans with Disabilities Act Under Section 210 of the Congressional Accountability Act, pursuant to Public Law 104-1, section 210(f) (109 Stat. 15); jointly to the Committees on House Administration and Education and the Workforce.

88. A communication from the President of the United States, transmitting his report on the apportionment population for each State as of April 1, 2000, and the number of Representatives to which each State would be entitled, pursuant to 2 U.S.C. 2a(a) and 13 U.S.C. 141(b); (H. Doc. No. 107-12); jointly to the Committees on the Judiciary and Government Reform, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on January 2, 2001]

Mr. SENSENBRENNER: Committee on Science. Summary of Activities of the Committee on Science for the 106th Congress (Rept. 106-1052). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LEACH:

H.R. 11. A bill to revise the banking and bankruptcy insolvency laws with respect to the termination and netting of financial contracts, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY (for himself, Mr. Foley, Mr. Herger, and Mr. Hayworth):

H.R. 12. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on contributions to individual retirement accounts; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself and Mr. Foley):

H.R. 13. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself and Mr. Condit):

H.R. 14. A bill to establish a Bipartisan Commission on Social Security Reform; to the Committee on Ways and Means.

By Mr. DREIER (for himself, Ms. McCarthy of Missouri, Mr. English, Mr. Deutsch, and Mr. Sessions):

H.R. 15. A bill to amend the Internal Revenue Code of 1986 to provide maximum rates of tax on capital gains of 15 percent for individuals and 28 percent for corporations and to index the basis of assets of individuals for purposes of determining gains and losses; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. George Miller of California (for himself, Mrs. Roukema, Mr. Gilman, Mr. Quinn, and Mr. Clement):

H.R. 17. A bill to provide assistance to mobilize and support United States communities in carrying out youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens; to the Committee on Education and the Workforce.

By Mrs. BIGGERT:

H.R. 18. A bill to amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 19. A bill to nullify the effect of certain provisions of various Executive orders; to the Committee on International Relations.

By Mr. GREENWOOD:

H.R. 20. A bill to amend section 211 of the Clean Air Act to modify the provisions regarding the oxygen content of reformulated gasoline and to improve the regulation of the fuel additive, methyl tertiary butyl ether (MTBE), and for other purposes; to the Committee on Energy and Commerce.

By Mr. BARR of Georgia:

H.R. 21. A bill to amend title 18, United States Code, to provide that the firearms prohibitions applicable by reason of a domestic violence misdemeanor conviction do not apply if the conviction occurred before the prohibitions became law; to the Committee on the Judiciary.

By Mr. LATOURETTE:

H.R. 22. A bill to delay any legal effect or implementation of a notice of rights and request for disposition form of the Immigration and Naturalization Service if an alien admits to being in the United States illegally, gives up the right to a hearing before departure, and requests to return to his country without a hearing; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H.R. 23. A bill to permit congressional review of certain Presidential orders; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H.R. 24. A bill to amend title 18, United States Code, with respect to the authority of probation officers and pretrial services officers to carry firearms; to the Committee on the Judiciary.

By Mr. SWEENEY (for himself, Mr. Boehlert, and Mr. McHugh):

H.R. 25. A bill to reduce acid deposition under the Clean Air Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SERRANO:

H.R. 26. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTLETT of Maryland:

H.R. 27. A bill to amend the Internal Revenue Code of 1986 to prohibit the use of public funds for political party conventions; to the Committee on House Administration.

By Ms. SLAUGHTER (for herself and Mrs. Morella):

H.R. 28. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

By Mr. GEKAS:

H.R. 29. A bill to prevent Government shutdowns; to the Committee on Appropriations.

By Mr. GEKAS (for himself and Mr. Young of Alaska):

H.R. 30. A bill to establish a commission to review and explore ways for the United States to become energy self-sufficient by 2011; to the Committee on Energy and Commerce.

By Mr. BARTLETT of Maryland (for himself, Mr. Stearns, Mr. Brady of Texas, Mr. Hall of Texas, Mr. Schaffer, Mr. Hilleary, Mr. Callahan, Mr. Hayworth, Mrs. Emerson, Mr. Nethercutt, Mr. Barcia, Mr. Stump, and Mr. Simpson):

H.R. 31. A bill to protect the right to obtain firearms for security, and to use firearms in defense of self, family, or home, and to provide for the enforcement of such right; to the Committee on the Judiciary.

By Mr. BEREUTER (for himself and Mr. Schaffer):

H.R. 32. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture.

By Mr. BEREUTER:

H.R. 33. A bill to amend the Agricultural Market Transition Act to authorize a program to encourage agricultural producers to rest and rehabilitate croplands while enhancing soil and water conservation and wildlife habitat; to the Committee on Agriculture.

By Mr. BEREUTER:

H.R. 34. A bill to amend the Agricultural Market Transition Act to provide for the payment of special loan deficiency payments to producers who are eligible for loan deficiency payments, but who suffered yield losses due to damaging weather or related condition in a federally declared disaster area; to the Committee on Agriculture.

By Mr. BEREUTER:

H.R. 35. A bill to amend the Federal Election Campaign Act of 1971 to prohibit all individuals who are not citizens or nationals of the United States from making contributions or expenditures in connection with elections for Federal office; to the Committee on House Administration.

By Mr. BEREUTER:

H.R. 36. A bill to amend the National Trails System Act to authorize an additional category of national trail known as a national discovery trail, to provide special requirements for the establishment and administration of national discovery trails, and to designate the cross country American Discovery Trail as the first national discovery trail; to the Committee on Resources.

By Mr. BEREUTER:

H.R. 37. A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Resources.

By Mr. BEREUTER:

H.R. 38. A bill to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 39. A bill to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound and job creating program for the exploration, development, and production of the oil and gas resources of the Coastal Plain, and for other purposes; to the Committee on Resources.

By Mr. CONYERS (for himself, Mr. Fattah, Mr. Hastings of Florida, Mr. Hilliard, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Meek of Florida, Mr. Owens, Mr. Rush, and Mr. Towns):

H.R. 40. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequently de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself and Mr. Matsui):

H.R. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Mr. LaHood, Mr. Cooksey, Mr. Barr of Georgia, Mr. Thune, Mr. Bilirakis, Mr. Moran of Kansas, and Mrs. Biggert):

H.R. 42. A bill to amend the Internal Revenue Code of 1986 to reduce estate and gift tax rates, and for other purposes; to the Committee on Ways and Means.

By Mr. BEREUTER (for himself, Ms. Dunn, Mr. Thomas M. Davis of Virginia, and Mr. Ramstad):

H.R. 43. A bill to amend the Internal Revenue Code of 1986 to provide a higher purchase price limitation applicable to mortgage subsidy bonds based on median family income; to the Committee on Ways and Means.

By Mrs. BIGGERT:

H.R. 44. A bill to amend the Inspector General Act of 1978 to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes; to the Committee on Government Reform.

By Mrs. BIGGERT:

H.R. 45. A bill to amend title 18, United States Code, with regard to prison commissaries, and for other purposes; to the Committee on the Judiciary.

By Mrs. BIGGERT:

H.R. 46. A bill to amend title VI of the Elementary and Secondary Education Act of 1965 to raise awareness of eating disorders and to create educational programs concerning the same, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. Upton, Mr. Ehlers, Mr. Hoekstra, and Mr. Smith of Michigan):

H.R. 47. A bill to require any amounts appropriated for Members' Representational Allowances for the House of Representatives for a fiscal year that remain after all payments are made from such Allowances for the year to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on House Administration.

By Mrs. CHRISTENSEN (for herself, Mr. Faleomavaega, Mr. Underwood, and Mr. Acevedo-Vila):

H.R. 48. A bill to amend titles XI and XIX of the Social Security Act to remove the cap on Medicaid payments for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa and to adjust the Medicaid statutory matching rate for those territories; to the Committee on Energy and Commerce.

By Mr. CLYBURN:

H.R. 49. A bill to establish the United States Commission on Election Law Reform to study election procedures used in the United States and issue a report and recommendations on revisions to such procedures, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself, Mr. Tauzin, Mr. Dingell, Mr. LaTourette, Ms. Eshoo, Mr. Frost, Mr. Cox, Ms. Eddie Bernice Johnson of Texas, Mr. Burr of North Carolina, Mr. McGovern, Mr. Olver, Mr. Hastings of Florida, Mr. Horn, Mr. Phelps, Mr. George Miller of California, Mr. Clyburn, Mr. Boehlert, Mr. Deal of Georgia, Mr. Barton of Texas, Mr. Udall of Colorado, Mr. Riley, and Mr. Burton of Indiana):

H.R. 50. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time for Presidential general elections; to the Committee on House Administration, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 51. A bill to amend title 10, United States Code, to provide that persons retiring from the Armed Forces shall be entitled to all benefits which were promised them when they entered the Armed Forces; to the Committee on Armed Services.

By Mr. CONDIT (for himself and Mr. Cox):

H.R. 52. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gas in certain areas within the State; to the Committee on Energy and Commerce.

By Mr. CONDIT:

H.R. 53. A bill to amend title 18, United States Code, to provide criminal penalties for the harassment of victims of Federal offenses by the convicted offenders; to the Committee on the Judiciary.

By Mr. CONDIT (for himself and Mr. Portman):

H.R. 54. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; to the Committee on Rules.

By Mr. DREIER:

H.R. 55. A bill to make the Federal employees health benefits program available to individuals age 55 to 65 who would not otherwise have health insurance, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT:

H.R. 56. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of agricultural water conservation systems; to the Committee on Ways and Means.

By Mr. DeFAZIO (for himself, Mr. Leach, Mr. Lampson, Mr. McGovern, Mr. Frost, Mr. McNulty, Mr. Olver, Mr. Clement, Ms. Rivers, Mr. Sanders, Ms. McKinney, Ms. Lee, Mr. Cardin, Mr. Costello, Mr. Wu, Ms. Slaughter, Mr. Oberstar, Mr. Kucinich, Mr. Udall of Colorado, Mr. Baldacci, Ms. Pelosi, Mr. Blumenauer, Mr. Filner, Mr. Serrano, Mr. Evans, Mr. Farr of California, Ms. Hooley of Oregon, Mr. Inslee, Mr. Isakson, and Mr. Gillmor):

H.R. 57. A bill to establish a commission to study and make recommendations with respect to the Federal electoral process; to the Committee on House Administration.

By Mr. DEUTSCH:

H.R. 58. A bill to amend section 804 of the Federal Food, Drug, and Cosmetic Act to correct impediments in the implementation of the Medicine Equity and Drug Safety Act of 2000; to the Committee on Energy and Commerce.

By Mr. DREIER:

H.R. 59. A bill to establish a program of grants for supplemental assistance for elementary and secondary school students of limited English proficiency to ensure that they rapidly develop proficiency in English while not falling behind in their academic studies; to the Committee on Education and the Workforce.

By Ms. JACKSON-LEE of Texas (for herself, Mr. Langevin, and Mr. Hinojosa):

H.R. 60. A bill to establish a commission to develop uniform standards which may be adopted by the States for the administration of elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER (for himself and Mr. Pomeroy):

H.R. 61. A bill to promote youth financial education; to the Committee on Education and the Workforce.

By Ms. JACKSON-LEE of Texas:

H.R. 62. A bill to amend title 5, United States Code, to establish election day in Presidential election years as a legal public holiday by moving the legal public holiday known as Veterans Day to election day in such years, and for other purposes; to the Committee on Government Reform.

By Mr. DREIER (for himself and Mr. Royce):

H.R. 63. A bill to amend the Internal Revenue Code of 1986 to allow unused benefits under cafeteria plans and flexible spending arrangements to be distributed; to the Committee on Ways and Means.

By Mr. EHLERS:

H.R. 64. A bill to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

By Mr. BILIRAKIS (for himself, Mr. Condit, and Mr. Kolbe):

H.R. 65. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive a portion of their military retired pay concurrently with veterans' disability compensation; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 66. A bill to amend the Metric Conversion Act of 1975 to require Federal agencies to impose certain requirements on recipients of awards for scientific and engineering research; to the Committee on Science.

By Mrs. EMERSON:

H.R. 67. A bill to establish the Medicare Eligible Military Retiree Health Care Consensus Task Force; to the Committee on Armed Services.

By Mrs. EMERSON (for herself and Mr. Berry):

H.R. 68. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Energy and Commerce.

By Mrs. EMERSON:

H.R. 69. A bill proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Ms. JACKSON-LEE of Texas:

H.R. 70. A bill to prevent children's access to firearms; to the Committee on the Judiciary.

By Ms. JACKSON-LEE of Texas:

H.R. 71. A bill to provide for the establishment of a task force within the Bureau of Justice Statistics to gather information about, study, and report to the Congress regarding, incidents of abandonment of infant children; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas:

H.R. 72. A bill to amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas:

H.R. 73. A bill to require the Secretary of Education to conduct a study and submit a report to the Congress on methods for identifying and treating children with dyslexia in kindergarten through 3rd grade; to the Committee on Education and the Workforce.

By Ms. JACKSON-LEE of Texas:

H.R. 74. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

By Ms. JACKSON-LEE of Texas:

H.R. 75. A bill to amend the Public Health Service Act with respect to mental health services for children, adolescents and their families; to the Committee on Energy and Commerce.

By Ms. JACKSON-LEE of Texas:

H.R. 76. A bill to allow postal patrons to contribute to funding for emergency food relief within the United States through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Government Reform.

By Mrs. EMERSON:

H.R. 77. A bill proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.R. 78. A bill proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.R. 79. A bill proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.R. 80. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mrs. EMERSON:

H.R. 81. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to military retirees for premiums paid for coverage under Medicare part B; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. EMERSON:

H.R. 82. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to certain senior citizens for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. TRAFICANT):

H.R. 83. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to provide for cost-of-living adjustments to guaranteed benefit payments paid by the Pension Benefit Guaranty Corporation; to the Committee on Education and the Workforce.

By Mr. ENGLISH (for himself and Mr. PAUL):

H.R. 84. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for education; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 85. A bill to reauthorize the Trade Adjustment Assistance program through fiscal year 2006, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 86. A bill to amend the Internal Revenue Code of 1986 to restructure and replace the income tax system of the United States to meet national priorities, and for other purposes; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 87. A bill to amend the Immigration and Nationality Act to restore certain provisions relating to the definition of aggravated felony and other provisions as they were before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mr. FOLEY:

H.R. 88. A bill to amend the Internal Revenue Code of 1986 to increase the unified credit against estate and gift taxes to the equivalent of a $5,000,000 exclusion and to increase the annual gift exclusion to $30,000; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 89. A bill to require the Federal Trade Commission to prescribe regulations to protect the privacy of personal information collected from and about individuals who are not covered by the Children's Online Privacy Protection Act of 1998 on the Internet, to provide greater individual control over the collection and use of that information, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRELINGHUYSEN:

H.R. 90. A bill to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRELINGHUYSEN:

H.R. 91. A bill to regulate the use by interactive computer services of Social Security account numbers and related personally identifiable information; to the Committee on Energy and Commerce.

By Mr. FRELINGHUYSEN:

H.R. 92. A bill to ensure the efficient allocation of telephone numbers; to the Committee on Energy and Commerce.

By Mr. GALLEGLY (for himself, Mr. HORN, Mr. CONDIT, Mr. LATOURETTE, Mr. KENNEDY of Rhode Island, and Mr. BERMAN):

H.R. 93. A bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Government Reform.

By Mr. GREEN of Texas:

H.R. 94. A bill to provide Capitol-flown flags to the families of deceased law enforcement officers; to the Committee on the Judiciary.

By Mr. GREEN of Texas:

H.R. 95. A bill to protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HALL of Texas:

H.R. 96. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by requiring the Managing Trustee to invest the annual surplus of such trust funds in marketable interest-bearing obligations of the United States and certificates of deposit in depository institutions insured by the Federal Deposit Insurance Corporation, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

By Mr. HALL of Texas (for himself, Mr. CONDIT, Ms. DELAURO, Mr. BARCIA, Mr. GREEN of Wisconsin, Mr. ENGEL, Mr. HORN, Mr. WEINER, Mr. NEY, Mr. QUINN, Mr. HILLIARD, Mr. ADERHOLT, Mr. CRAMER, Ms. BERKLEY, Mr. SMITH of Washington, Mr. BALDACCI, Mr. GREEN of Texas, Mr. WEXLER, Mr. FILNER, Mr. TAYLOR of North Carolina, Mr. FROST, Mr. RILEY, Mr. LAMPSON, and Mr. RYAN of Wisconsin):

H.R. 97. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington (for himself and Mr. Boyd):

H.R. 98. A bill to amend the Agricultural Trade Act of 1978 to increase the amount of funds available for certain agricultural trade programs; to the Committee on Agriculture.

By Mr. HAYWORTH:

H.R. 99. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Education and the Workforce.

By Mr. EHLERS (for himself, Mr. Kolbe, Mr. Horn, Mr. Baca, Mr. Sandlin, Mr. Camp, Mr. Filner, and Mr. Gibbons):

H.R. 100. A bill to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. Kolbe, Mr. Horn, Mr. Baca, Mr. Sandlin, Mr. Camp, Mr. Filner, and Mr. Gibbons):

H.R. 101. A bill to amend the Elementary and Secondary Education Act of 1965 to establish and expand programs relating to science, mathematics, engineering, and technology education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. EHLERS (for himself, Mr. Kolbe, Mr. Horn, Mr. Baca, Mr. Sandlin, Mr. Camp, Mr. Filner, and Mr. Gibbons):

H.R. 102. A bill to amend the Internal Revenue Code of 1986 to encourage stronger math and science programs at elementary and secondary schools; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 103. A bill to amend the Indian Gaming Regulatory Act to protect Indian tribes from coerced labor agreements; to the Committee on Resources.

[Omitted from the Record of January 3, 2001]

By Mr. HAYWORTH:

H.R. 104. A bill to repeal the Bennet Freeze thus ending a gross treaty violation with the Navajo Nation and allowing the Navajo Nation to live in habitable dwellings and raise their living conditions, and for other purposes; to the Committee on Resources.

By Mr. HAYWORTH:

H.R. 105. A bill to require Congress and the President to fulfill their constitutional duty to take personal responsibility for Federal laws; to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H.R. 106. A bill to amend title 28, United States Code, to provide for an additional place of holding court in the District of Colorado; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 107. A bill to require that the Secretary of the Interior conduct a study to identify sites and resources, to recommend alternatives for commemorating and interpreting the Cold War, and for other purposes; to the Committee on Resources.

By Mr. HEFLEY:

H.R. 108. A bill to establish a moratorium on bottom trawling and use of other mobile fishing gear on the seabed in certain areas off the coast of the United States; to the Committee on Resources.

By Mr. HEFLEY:

H.R. 109. A bill to amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, municipal separate storm sewer systems, and municipal combined sewer overflows, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 110. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for certain charitable conservation contributions of land by small farmers and ranchers, and for other purposes; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 111. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture.

By Mr. HOLT:

H.R. 112. A bill to prohibit the making, importation, exportation, distribution, sale, offer for sale, installation, or use of an information collection device without proper labeling or notice and consent; to the Committee on Energy and Commerce.

By Mr. HOLT:

H.R. 113. A bill to amend section 227 of the Communications Act of 1934 to prohibit the use of the text, graphic, or image messaging systems of wireless telephone systems to transmit unsolicited commercial messages; to the Committee on Energy and Commerce.

By Mr. HOLT:

H.R. 114. A bill to provide for the mandatory licensing and registration of handguns; to the Committee on the Judiciary.

By Mr. HOLT:

H.R. 115. A bill to provide for a program to educate the public regarding the use of biotechnology in producing food for human consumption, to support additional scientific research regarding the potential economic and environmental risks and benefits of using biotechnology to produce food, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 116. A bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 117. A bill to improve the quality and scope of science and mathematics education; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 118. A bill to establish a program to provide grants to States to test innovative ways to increase nursing home staff levels, reduce turnover, and improve quality of care for residents in nursing homes, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 119. A bill to establish a Commission to study and make recommendations on the implementation of standardized voting procedures in the Federal, State, and local electoral process, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 120. A bill to amend the Congressional Budget Act of 1974 to preserve all budget surpluses until legislation is enacted significantly extending the solvency of the Social Security and Medicare trust funds; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 121. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of oral drugs to treat low blood calcium levels or elevated parathyroid hormone levels for patients with end stage renal disease; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAM JOHNSON of Texas:

H.R. 122. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Ways and Means.

By Mr. BARR of Georgia:

H.R. 123. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

By Mr. KELLER:

H.R. 124. A bill to provide for the full funding of Federal Pell Grants; to the Committee on Education and the Workforce.

By Mr. LUTHER (for himself and Mr. Norwood):

H.R. 125. A bill to amend title 10, United States Code, to temporarily expand the Department of Defense program by which State and local law enforcement agencies may procure certain law enforcement equipment through the Department; to the Committee on Armed Services.

By Mr. LUTHER (for himself and Mr. Ramstad):

H.R. 126. A bill to limit further production of the Trident II (D-5) missile; to the Committee on Armed Services.

By Mr. LUTHER:

H.R. 127. A bill to limit the total number of political appointees in the executive branch of the Government; to the Committee on Government Reform.

By Mr. LUTHER:

H.R. 128. A bill to amend the National Voter Registration Act of 1993 to require States to permit individuals to register to vote in an election for Federal office on the date of the election; to the Committee on House Administration.

By Mr. LUTHER:

H.R. 129. A bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget, and in addition to the Committees on Rules, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINNIS:

H.R. 130. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift taxes; to the Committee on Ways and Means.

By Mr. GARY MILLER of California:

H.R. 131. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional water recycling project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project; to the Committee on Resources.

By Mrs. MINK of Hawaii:

H.R. 132. A bill to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building"; to the Committee on Government Reform.

By Mrs. MINK of Hawaii:

H.R. 133. A bill to amend the Immigration and Nationality Act to assure that immigrants do not have to wait longer for an immigrant visa as a result of a reclassification from family second preference to family first preference because of the naturalization of a parent or spouse; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 134. A bill to amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service; to the Committee on Veterans' Affairs.

By Mr. MORAN of Virginia (for himself, Mr. CUMMINGS, Mr. THOMAS M. DAVIS of Virginia, Mr. HOYER, Mrs. MORELLA, Ms. NORTON, Mr. WOLF, and Mr. WYNN):

H.R. 135. A bill to require that the same transit pass transportation fringe benefits that are currently being offered to certain executive branch employees in the National Capital Region be extended to other similarly situated Federal employees; to the Committee on Government Reform.

By Mr. MORAN of Virginia (for himself, Mr. THOMAS M. DAVIS of Virginia, Mr. GILMAN, Mrs. MORELLA, Ms. NORTON, Mr. WOLF, and Mr. WYNN):

H.R. 136. A bill to amend section 8339(p) of title 5, United States Code, to clarify the method for computing certain annuities under the Civil Service Retirement System which are based (in whole or in part) on part-time service, and for other purposes; to the Committee on Government Reform.

By Mr. NADLER:

H.R. 137. A bill to repeal the per-State limitation applicable to grants made by the National Endowment for the Arts from funds made available for fiscal year 2001; to the Committee on Education and the Workforce.

By Mr. NADLER (for himself, Mr. WEINER, Mrs. JONES of Ohio, Ms. LEE, Mr. ENGEL, Mr. CROWLEY, and Ms. SCHAKOWSKY):

H.R. 138. A bill to amend title 18, United States Code, to require persons to obtain a State license before receiving a handgun or handgun ammunition; to the Committee on the Judiciary.

By Mr. NADLER (for himself, Mr. WEINER, Mrs. JONES of Ohio, Ms. LEE, Mr. ENGEL, Mr. CROWLEY, and Ms. SCHAKOWSKY):

H.R. 139. A bill to provide incentive funds to States that have in effect a certain law; to the Committee on the Judiciary.

By Mr. NADLER:

H.R. 140. A bill to eliminate a limitation with respect to the collection of tolls for use of the Verrazano Narrows Bridge, New York; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR:

H.R. 141. A bill to authorize appropriations for the Surface Transporation Board, to enhance railroad competition, to protect collective bargaining agreements, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR:

H.R. 142. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to oversee the competitive activities of air carriers following a concentration in the airline industry, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR:

H.R. 143. A bill to authorize the United States to enter into an executive agreement with Canada relating to the establishment and operation of a binational corporation to operate, maintain, and improve facilities on the Saint Lawrence Seaway, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (for himself, Mr. DINGELL, Mr. INSLEE, Mr. LARSEN of Washington, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Mr. McDERMOTT, Mr. PALLONE, Mr. PASCRELL, Mr. SMITH of Washington, Mr. TIERNEY, and Mr. UDALL of New Mexico):

H.R. 144. A bill to amend title 49, United States Code, to require periodic inspections of pipelines and improve the safety of our Nation's pipeline system; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL (for himself, Mr. FROST, Mrs. McCARTHY of New York, and Mr. GRAHAM):

H.R. 145. A bill to amend titles XVIII and XIX of the Social Security Act to assure the financial solvency of Medicare+Choice organizations and Medicaid managed care organizations; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL:

H.R. 146. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in Paterson, New Jersey, as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. PASCRELL:

H.R. 147. A bill to amend the Internal Revenue Code of 1986 to exclude certain severance payment amounts from income; to the Committee on Ways and Means.

By Mr. PASCRELL (for himself and Mr. HINCHEY):

H.R. 148. A bill to amend title XVIII of the Social Security Act to prevent sudden disruption of Medicare beneficiary enrollment in MedicareChoice plans; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL:

H.R. 149. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on private mortgage insurance; to the Committee on Ways and Means.

By Mr. PETRI (for himself, Mr. SHAYS, and Ms. SLAUGHTER):

H.R. 150. A bill to amend the Federal Election Campaign Act of 1971 to require certain disclosure and reports relating to polling by telephone or electronic device; to the Committee on House Administration.

By Mr. PETRI:

H.R. 151. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing and conduct of campaigns for elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PITTS (for himself, Mr. McGOVERN, Mr. CONYERS, Mr. BARTLETT of Maryland, and Mr. HANSEN):

H.R. 152. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made under Federal Government programs for the repayment of student loans of members of the Armed Forces of the United States; to the Committee on Ways and Means.

By Mr. PITTS:

H.R. 153. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Mr. McHUGH):

H.R. 154. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Mr. KOLBE):

H.R. 155. A bill to amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of North Carolina (for himself and Mr. Horn):

H.R. 156. A bill to amend the Federal Election Campaign Act of 1971 to require that communications advocating the election or defeat of a candidate for election for Federal office contain specific information regarding the sponsor of the communication and whether or not the communication is authorized by the candidate involved; to the Committee on House Administration.

By Mr. QUINN:

H.R. 157. A bill to provide that December 7 each year shall be treated for all purposes related to Federal employment in the same manner as November 11; to the Committee on Government Reform.

By Mr. REGULA:

H.R. 158. A bill to provide for the retention of the name of Mount McKinley; to the Committee on Resources.

By Mr. RILEY:

H.R. 159. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud, and for other purposes; to the Committee on House Administration.

By Ms. ROS-LEHTINEN (for herself, Mr. Goss, Mr. Gilman, Mr. DeLay, Mr. Smith of New Jersey, and Mr. Diaz-Balart):

H.R. 160. A bill to prohibit the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by the Government of the Russian Federation until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba; to the Committee on International Relations.

By Mrs. ROUKEMA (for herself, Mr. Shays, Mr. Bentsen, Mr. Kolbe, Ms. McCarthy of Missouri, Mr. King, Mr. McHugh, Mr. Barr of Georgia, Mrs. Kelly, Mrs. Morella, Mr. Bachus, Mr. Tancredo, and Mr. Horn):

H.R. 161. A bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of gain on the sale of a principal residence shall apply to certain sales by a surviving spouse; to the Committee on Ways and Means.

By Mrs. ROUKEMA (for herself, Mr. DeFazio, Mr. Strickland, Ms. Kaptur, Mr. George Miller of California, Mr. Andrews, Ms. DeLauro, Mrs. Morella, Mr. Shays, Mrs. Kelly, Mr. Sanders, Mr. Leach, Mr. Boehlert, Mr. Farr of California, Mr. McNulty, Mr. Hinchey, Mr. Ramstad, Mr. Kleczka, Ms. McCarthy of Missouri, Mr. Stark, Mr. Rush, Mr. Nadler, Mr. Kucinich, Mr. Price of North Carolina, Mr. Baldacci, Mr. Gilman, Mrs. Capps, and Mr. Tierney):

H.R. 162. A bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit group and individual health plans from imposing treatment limitations or financial requirements on the coverage of mental health benefits and on the coverage of substance abuse and chemical dependency benefits if similar limitations or requirements are not imposed on medical and surgical benefits; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE (for himself, Mr. Bentsen, Mr. Maloney of Connecticut, Mr. Jones of North Carolina, Mr. Sessions, Mr. Meeks of New York, Mr. Sherman, Mr. Kanjorski, and Mrs. Jones of Ohio):

H.R. 163. A bill to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes; to the Committee on Financial Services.

By Mr. ROYCE (for himself, Mr. Bachus, Mr. Bartlett of Maryland, Mr. Calvert, Mr. Dreier, Mr. Gibbons, Mr. Lewis of California, Mr. Sherman, Mr. Filner, Ms. Lee, Mr. Thompson of California, Ms. Berkley, Mrs. Jones of Ohio, Mr. Herger, Mr. LaTourette, and Ms. Roybal-Allard):

H.R. 164. A bill to amend the Federal Credit Union Act with respect to the definition of a member business loan; to the Committee on Financial Services.

By Mr. ROYCE:

H.R. 165. A bill to amend the Internal Revenue Code of 1986 to adjust the exclusion amount on the gain from the sale of a principal residence for inflation; to the Committee on Ways and Means.

By Mr. ROYCE:

H.R. 166. A bill to strengthen and protect Social Security; to the Committee on Ways and Means.

By Mr. ROYCE (for himself and Mr. Dreier):

H.R. 167. A bill to amend the Internal Revenue Code of 1986 to allow unused benefits from cafeteria plans to be carried over into later years and used for health care reimbursement rollover accounts and certain other plans, arrangements, or accounts; to the Committee on Ways and Means.

By Mr. SAXTON (for himself, Mr. Armey, Mr. DeLay, Mr. Andrews, Mr. Cox, Mr. Oxley, Mr. Ballenger, Mrs. Johnson of Connecticut, Mr. Jones of North Carolina, Mr. Kingston, Mr. Kolbe, Mr. Nethercutt, Mr. Shays, Mr. Weldon of Florida, Mr. Gilchrest, Mr. Schaffer, and Mr. Fossella):

H.R. 168. A bill to amend the Internal Revenue Code of 1986 to allow individuals an exclusion from gross income for certain amounts of capital gains distributions from regulated investment companies; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 169. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 170. A bill to permit members of the House of Representatives to donate used computer equipment to public elementary and secondary schools designated by the members; to the Committee on House Administration.

By Mr. SERRANO:

H.R. 171. A bill to amend the Immigration and Nationality Act to ensure that veterans of the United States Armed Forces are eligible for discretionary relief from detention, deportation, exclusion, and removal, and for other purposes; to the Committee on the Judiciary.

By Mr. SERRANO:

H.R. 172. A bill to amend the Food, Drug, and Cosmetic Act and the egg, meat, and poultry inspection laws to ensure that consumers receive notification regarding food products produced from crops, livestock, or poultry raised on land on which sewage sludge was applied; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 173. A bill to amend the Trade Sanctions Reform and Export Enhancement Act of 2000 to allow for the financing of agricultural sales to Cuba; to the Committee on Financial Services, and in addition to the Committees on International Relations, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 174. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Financial Services, Government Reform, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 175. A bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

By Mr. SHADEGG:

H.R. 176. A bill to provide for the implementation of the agreement between the Secretary of the Interior and the Governor of Arizona to facilitate a land exchange of Federal and State lands between the United States and the State of Arizona pending a State referendum regarding the agreement in 2002; to the Committee on Resources.

By Mr. SHADEGG:

H.R. 177. A bill to amend the Internal Revenue Code of 1986 to provide tax credits for Indian investment and employment, and for other purposes; to the Committee on Ways and Means.

By Mr. SHADEGG:

H.R. 178. A bill to amend the Internal Revenue Code of 1986 to provide for the issuance of tax-exempt bonds by Indian tribal governments, and for other purposes; to the Committee on Ways and Means.

By Mr. SHOWS (for himself and Mr. Norwood):

H.R. 179. A bill to restore health care coverage to retired members of the uniformed services; to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER:

H.R. 180. A bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, and Mr. YOUNG of Alaska):

H.R. 181. A bill to provide off-budget treatment for the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMMONS (for himself, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. LARSON of Connecticut, Mr. MALONEY of Connecticut, and Ms. DELAURO):

H.R. 182. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Eight Mile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Resources.

By Ms. SLAUGHTER (for herself, Mrs. KELLY, and Mr. PRICE of North Carolina):

H.R. 183. A bill to amend the Public Health Service Act to provide for awards by the National Institute of Environmental Health Sciences to develop and operate multidisciplinary research centers regarding the impact of environmental factors on women's health and disease prevention; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER (for herself and Mr. DUNCAN):

H.R. 184. A bill to amend the Consumer Credit Protection Act to prevent credit card issuers from taking unfair advantage of full-time, traditional-aged, college students, to protect parents of traditional college student credit card holders, and for other purposes; to the Committee on Financial Services.

By Ms. SLAUGHTER:

H.R. 185. A bill to amend the Civil Rights Act of 1964 to protect first amendment rights, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself and Mr. HOUGHTON):

H.R. 186. A bill to amend title XVIII of the Social Security Act to require universal product numbers on claims forms submitted for reimbursement for durable medical equipment and other items under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER (for herself and Mr. BOEHLERT):

H.R. 187. A bill to enhance the services provided by the Environmental Protection Agency to small communities that are attempting to comply with national, State, and local environmental regulations; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan:

H.R. 188. A bill to permanently reenact chapter 12 of title 11 of the United States Code, relating to family farmers; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 189. A bill to repeal the National Voter Registration Act of 1993; to the Committee on House Administration.

By Mr. STUMP:

H.R. 190. A bill to clarify the effect on the citizenship of an individual of the individual's birth in the United States; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 191. A bill to amend the Internal Revenue Code of 1986 to terminate taxpayer financing of presidential election campaigns; to the Committee on Ways and Means.

By Mr. STUMP:

H.R. 192. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in income taxes on Social Security benefits; to the Committee on Ways and Means.

By Mr. STUMP:

H.R. 193. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 194. A bill to require States that receive funds under the Elementary and Secondary Education Act of 1965 to enact a law that requires the expulsion of students who are convicted of a crime of violence; to the Committee on Education and the Workforce.

By Mr. SWEENEY:

H.R. 195. A bill to amend the vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Energy and Commerce.

By Mr. SWEENEY:

H.R. 196. A bill to prohibit federally sponsored research pertaining to the legalization of drugs; to the Committee on Government Reform.

By Mr. SWEENEY:

H.R. 197. A bill to require preemployment drug testing with respect to applicants for Federal employment; to the Committee on Government Reform.

By Mr. SWEENEY:

H.R. 198. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on United States persons or continues to develop or promote proposals for such taxes or fees; to the Committee on International Relations.

By Mr. SWEENEY:

H.R. 199. A bill to amend rule 26 of the Federal Rules of Civil Procedure to provide for the confidentiality of a personnel record or personal information of a law enforcement officer; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 200. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for host families of foreign exchange and other students from $50 per month to $200 per month; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 201. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce funding if States do not enact legislation that requires the death penalty in certain cases; to the Committee on the Judiciary.

By Mr. SWEENEY:

H.R. 202. A bill to amend the Crime Control Act of 1990 to prohibit law enforcement agencies from imposing a waiting period before accepting reports of missing children less than 21 years of age; to the Committee on the Judiciary.

By Mr. SWEENEY:

H.R. 203. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. SWEENEY:

H.R. 204. A bill to amend title 49, United States Code, to require the Secretary of Transportation to initiate investigations of unfair methods of competition by major air carriers against new entrant air carriers; to the Committee on Transportation and Infrastructure.

By Mr. SWEENEY:

H.R. 205. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 206. A bill to amend the Internal Revenue Code of 1986 to increase the child care credit for lower-income working parents, and for other purposes; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 207. A bill to prohibit retroactive Federal income tax rate increases; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 208. A bill to direct the Secretary of the Treasury to determine and report to Congress an appropriate tax incentive to encourage individuals other than members of the Armed Forces to participate as members of honor guards at funerals for veterans; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 209. A bill to amend the Internal Revenue Code of 1986 to provide that tax-exempt interest shall not be taken into account in determining the amount of Social Security benefits included in gross income; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 210. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month) and that such individual's benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of such individual's death; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 211. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 212. A bill to ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SWEENEY:

H.R. 213. A bill to provide a sentence of death for certain importations of significant quantities of controlled substances; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO:

H.R. 214. A bill to authorize appropriations for part B of the individuals with Disabilities Education Act to achieve full funding for part B of that Act by 2006; to the Committee on Education and the Workforce.

By Mr. TOWNS:

H.R. 215. A bill to require the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns; to the Committee on Energy and Commerce.

By Mr. TOWNS:

H.R. 216. A bill to amend the Internal Revenue Code of 1986 to deny the exemption from income tax for social clubs found to be practicing prohibited discrimination; to the Committee on Ways and Means.

By Mr. TOWNS:

H.R. 217. A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUNNINGHAM:

H.R. 218. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 219. A bill to amend title II of the Social Security Act to ensure the integrity of the Social Security trust funds by requiring the Managing Trustee to invest the annual surplus of such trust funds in marketable interest-bearing obligations of the United States and certificates of deposit in depository institutions insured by the Federal Deposit Insurance Corporation, and to protect such trust funds from the public debt limit; to the Committee on Ways and Means.

By Mr. PAUL (for himself and Mr. BARTLETT of Maryland):

H.R. 220. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to protect the integrity and confidentiality of Social Security account numbers issued under such title, to prohibit the establishment in the Federal Government of any uniform national identifying number, and to prohibit Federal agencies from imposing standards for identification of individuals on other agencies or persons; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS:

H.R. 221. A bill to amend the Internal Revenue Code of 1986 to designate educational empowerment zones in certain low-income areas and to give a tax incentive to attract teachers to work in such areas; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 222. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage by $1 over 2 years; to the Committee on Education and the Workforce.

By Mr. UDALL of Colorado:

H.R. 223. A bill to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act; to the Committee on Resources.

By Mr. WATKINS (for himself, Mr. KILDEE, Mr. HAYWORTH, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. REHBERG, and Mr. YOUNG of Alaska):

H.R. 224. A bill to amend the Internal Revenue Code of 1986 to permanently extend the Indian employment credit and the depreciation rules for property used predominantly within an Indian reservation; to the Committee on Ways and Means.

By Mr. WEXLER (for himself, Mr. NADLER, and Mr. MORAN of Virginia):

H.R. 225. A bill to prevent handgun violence and illegal commerce in handguns; to the Committee on the Judiciary.

By Ms. WOOLSEY:

H.R. 226. A bill to establish demonstration projects to provide family income to respond to significant transitions, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CLYBURN:

H.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to provide for the appointment by the States of Electors for the election of the President and Vice President on the basis of the popular vote of each Congressional district of the State and for the appointment of two electors by each State on the basis of the total popular vote of the State; to the Committee on the Judiciary.

By Mr. DINGELL:

H.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. GREEN of Texas:

H.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. SERRANO:

H.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States to repeal the twenty-second article of amendment, thereby removing the limitation on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 1. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. ENGLISH:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued in honor of the United States Masters Swimming program; to the Committee on Government Reform.

By Mr. FILNER:

H. Con. Res. 3. Concurrent resolution expressing the sense of the Congress regarding a Federal holiday to commemorate the birthday of Cesar E. Chavez; to the Committee on Government Reform.

By Mr. PASCRELL:

H. Con. Res. 4. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero; to the Committee on Government Reform.

By Ms. JACKSON-LEE of Texas:

H. Con. Res. 5. Concurrent resolution expressing the sense of the Congress that the States should adopt uniform voting procedures to carry out the election of the President and Vice President; to the Committee on House Administration.

By Ms. JACKSON-LEE of Texas:

H. Con. Res. 6. Concurrent resolution expressing the sense of the Congress regarding the need to pass legislation to increase penalties on perpetrators of hate crimes; to the Committee on the Judiciary.

By Ms. JACKSON-LEE of Texas:

H. Con. Res. 7. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the late George Thomas "Mickey" Leland; to the Committee on Government Reform.

By Mrs. ROUKEMA (for herself, Mr. LATOURETTE, Mr. MCHUGH, Mr. FARR of California, Mr. ABERCROMBIE, Mr. BOEHLERT, Mrs. MORELLA, Mr. WHITFIELD, Mr. BENTSEN, Mr. BARRETT, and Mr. HORN):

H. Con. Res. 8. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Mr. SERRANO:

H. Con. Res. 9. Concurrent resolution entitled the "English Plus Resolution"; to the Committee on Education and the Workforce.

By Mr. SWEENEY:

H. Con. Res. 10. Concurrent resolution expressing the sense of the Congress that State earnings limitations on retired law enforcement officers be lifted to enhance school safety; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATTS of Oklahoma:

H. Res. 1. A resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. ARMEY:

H. Res. 2. A resolution to inform the Senate that a quorum of the House has assembled and of the election of the Speaker and the Clerk; considered and agreed to.

By Mr. ARMEY:

H. Res. 3. A resolution authorizing the Speaker to appoint a committee to notify the President of the assembly of the Congress; considered and agreed to.

By Mr. ARMEY:

H. Res. 4. A resolution authorizing the Clerk to inform the President of the election of the Speaker and the Clerk; considered and agreed to.

By Mr. ARMEY:

H. Res. 5. A resolution adopting rules for the One Hundred Seventh Congress; considered and agreed to.

By Ms. PRYCE of Ohio:

H. Res. 6. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FROST:

H. Res. 7. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. FROST:

H. Res. 8. A resolution providing for the designation of certain minority employees; considered and agreed to.

By Mr. ARMEY:

H. Res. 9. A resolution fixing the daily hour of meeting of the First Session of the One Hundred Seventh Congress; considered and agreed to.

By Mr. ARMEY:

H. Res. 10. A resolution providing for the attendance of the House at the Inaugural Ceremonies of the President and Vice President of the United States; considered and agreed to.

By Mr. CONDIT:

H. Res. 11. A resolution expressing the sense of the House of Representatives that oversight hearings should be held immediately to determine the causes and outcomes surrounding this influenza season's vaccine shortage; to the Committee on Energy and Commerce.

By Mr. DREIER:

H. Res. 12. A resolution opposing the imposition of criminal liability on Internet service providers based on the actions of their users; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KELLER:

H. Res. 13. A resolution to express the intention of the House of Representatives to fully fund The Federal Pell Grant Program; to the Committee on Education and the Workforce.

By Mrs. ROUKEMA:

H. Res. 14. A resolution expressing the sense of the House of Representatives with respect to the seriousness of the national problems associated with mental illness and with respect to congressional intent to establish a "Mental Health Advisory Committee"; to the Committee on Energy and Commerce.

By Mr. SHOWS:

H. Res. 15. A resolution supporting the national motto of the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT (for himself, Mr. Regula, Mr. English, Mr. Ney, Mr. LaTourette, Mr. Collins, Ms. Hart, Mr. Quinn, Mr. Peterson of Pennsylvania, Mr. Hobson, and Mr. Sherwood):

H. Res. 16. A resolution calling on the President to take all necessary measures to respond to the surge of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself, Mr. Filner, Mr. Hinchey, Ms. Lee, Mr. Kucinich, Mr. McGovern, and Ms. Pelosi):

H. Res. 17. A resolution recognizing the security interests of the United States in furthering complete nuclear disarmament; to the Committee on International Relations.

By Ms. WOOLSEY (for herself, Mr. Sanders, Mr. Shays, Mr. Waxman, Ms. Eshoo, Ms. Roybal-Allard, Mr. Hastings of Florida, and Ms. Slaughter):

H. Res. 18. A resolution expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on International Relations.

[Submitted January 6, 2001]

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DINGELL (for himself and Mr. Young of Alaska):

H.R. 227. A bill to abolish the Council on Environmental Quality; to the Committee on Resources.

By Mr. ETHERIDGE (for himself and Mr. Wamp):

H.R. 228. A bill to improve character education programs; to the Committee on Education and the Workforce.

By Ms. KAPTUR:

H.R. 229. A bill to provide needed flexibility to the United States Department of Agriculture to help developing countries and move surplus commodities from the United States; to the Committee on Agriculture.

By Ms. KAPTUR (for herself, Mr. Hinchey, Mr. Lewis of Georgia, and Mr. Boswell):

H.R. 230. A bill to amend the Agricultural Fair Practices Act of 1967 to provide for the accreditation of associations of agricultural producers, to promote good faith bargaining between such accredited associations and the handlers of agricultural products, and to strengthen the enforcement authorities to respond to violations of the Act; to the Committee on Agriculture.

By Ms. KAPTUR (for herself, Mrs. Emerson, Mr. Hinchey, Mrs. Clayton, and Mr. Bishop):

H.R. 231. A bill to amend the Packers and Stockyards Act, 1921, to provide the Secretary of Agriculture with administrative authority to investigate live poultry dealers, and for other purposes; to the Committee on Agriculture.

By Mr. KING (for himself, Mr. Oxley, Mr. LaTourette, Mr. Holden, Mr. Kleczka, Mr. Gilchrest, Mr. Horn, Mrs. Thurman, Mrs. McCarthy of New York, and Mr. Sherman):

H.R. 232. A bill to amend the Telemarketing and Consumer Fraud and Abuse Prevention Act to authorize the Federal Trade Commission to issue new rules regulating telemarketing firms, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MILLENDER-McDONALD:

H.R. 233. A bill to improve the safety of firearms; to the Committee on the Judiciary.

By Mr. ORTIZ:

H.R. 234. A bill to provide for the establishment of a new Department of Veterans Affairs medical facility for veterans in south Texas; to the Committee on Veterans' Affairs.

By Mr. OXLEY (for himself and Mr. Hall of Texas):

H.R. 235. A bill to require the Federal Communications Commission to eliminate from its regulations the restrictions on the cross-ownership of broadcasting stations and newspapers; to the Committee on Energy and Commerce.

By Mr. PORTMAN (for himself, Mr. Matsui, Mr. Gary Miller of California, Mr. Dreier, Mr. Becerra, Mr. Watts of Oklahoma, Mr. Frost, Ms. Dunn, Mr. Snyder, Mr. McInnis, Mr. Bentsen, Mr. Terry, Mr. Smith of Washington, Mr. Shaw, Mr. Cardin, Mr. Weller, Mr. McDermott, Mr. Herger, Mr. Condit, Mr. Foley, Mr. Jefferson, Mr. Ramstad, Mr. Gonzalez, Mrs. Johnson of Connecticut, Mr. Hayworth, Ms. Lofgren, Mr. English, Mr. Sam Johnson of Texas, Mr. Neal of Massachusetts, Mr. Camp, and Mr. McNulty):

H.R. 236. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services; to the Committee on Ways and Means.

By Mr. GILLMOR:

H. Con. Res. 11. Concurrent resolution honoring Konrad Adenauer on the occasion of his birthday; to the Committee on International Relations.

By Ms. KAPTUR:

H. Con. Res. 12. Concurrent resolution expressing the sense of Congress with respect to the power of agricultural humanitarian assistance, in the form of a millenium good will food aid initiative, to help guide developing countries down the path to self sufficiency; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS:

H. Res. 19. A resolution electing Members to serve on standing committees of the House of Representatives; considered and agreed to.

By Mr. GOSS:

H. Res. 20. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. Goode.

H.R. 31: Mr. Paul, Mr. Doolittle, Mr. Cunningham, Mr. Pickering, and Mr. Holden.

H.R. 57: Mr. Bentsen, Mr. Lantos, Mr. Petri, Mr. LaHood, Ms. Eshoo, and Mr. Lewis of Georgia.

H.R. 163: Mr. Gonzalez.

EXTENSIONS OF REMARKS

TIME TO REEXAMINE ELECTORAL PROCESS AND PROCEDURES

HON. MIKE HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. HONDA. Mr. Speaker, today I express my concerns over the difficulties that arose during our voting and ballot counting process in this most recent presidential election. It is undisputed that the presidential candidate who received more popular votes on Election Day, November 7, 2000, was not elected to the nation's highest office. However, our Constitution allows for this anomalous result. While the Electoral College system may need to be reviewed, I believe the most troubling aspect of this result was that the voting process and procedure failed a great number of American voters. From allegations of voter intimidation, voter confusion, to the now infamous Votomatic punch systems, process and procedural problems abounded. We are now in the 21st Century, and as a Representative from the Silicon Valley, I know that the technological creativity and innovation exist to solve these problems. We must be willing to research, test and implement reliable technologies to the way in which we conduct elections.

The right to vote is one of the most cherished and fundamental rights we have in our great nation. There are a myriad of ways in which a voter may become disenfranchised and the passage of the Voting Rights Act of 1965 was a milestone in the protection of this right. Now, 35 years later we have learned that even more is needed to protect our right to vote and have our vote counted. Mr. Speaker, as has been stated by many of my colleagues who are concerned about this issue it is nothing less than the integrity of the vote in America that we in Congress must now work together to protect.

IN RECOGNITION OF MR. DAVID M. LANEY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. DELAY. Mr. Speaker, today I recognize Mr. David M. Laney, who will soon complete his term as a member of the Texas Transportation Commission. Governor George W. Bush appointed Mr. Laney to the commission in April 1995, designating him its chairman and Commissioner of Transportation. In April 2000, he stepped down as Commissioner of Transportation, serving the remainder of his term as a member of the commission.

During his term on the commission, Mr. Laney has been the champion of the State's efforts to increase the state's share of federal transportation dollars returning to Texas. He was instrumental in promoting the STEP 21 Coalition's successful efforts to guarantee that every state receive a fairer return on its contributions to the Highway Trust Fund. As a result, the Transportation Equity Act for the 21st Century (TEA 21) provides a guarantee of at least a 90.5 percent return. When this guarantee was combined with a significant increase in national highway program funding and the use of more real world funding formula factors, Texas received an increase of more than $700 million annually in federal highway funds. In addition, he promoted increased federal funding for the nation's general aviation and reliever airports, which Congress provided in the historic Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21). Finally, Mr. Laney has been a strong advocate for the state's small urban and rural transit systems, working with Congress to provide much needed discretionary funding to address the vehicle replacement needs of these vital transportation systems, the most extensive in the nation. With these additional funds for Texas transportation programs, the commission will be better able to meet the tremendous transportation demands of the growing regional and international trade traffic in Texas.

With a look to the future, as Commissioner of Transportation Mr. Laney led the Texas Department of Transportation in its efforts to obtain the flexible financing tools it needs to help address the multitude of transportation needs in Texas. He was successful in working with the Texas Legislature to create the Texas Turnpike Authority Division of the department, which provides toll-funding options for the state's major transportation projects. With this strong support and encouragement, the division has applied for and expects to receive an $800 million loan under the federal Transportation Infrastructure Finance and Innovation Act for a major Central Texas turnpike project. Under Mr. Laney's leadership, the commission has used the Texas State Infrastructure Bank, authorized under the National Highway System Designation Act of 1995, to provide needed assistance to localities to help move forward important transportation projects. Mr. Laney also initiated a major Texas border strategy, which provides more than $1.8 billion in priority highway funding to the state's border region to address the demands of international trade traffic.

Throughout his tenure on the commission, Mr. Laney has provided strong, confident, and visionary leadership to the Texas Department of Transportation, promoting the development of a first-class Texas transportation system. His legacy is a transportation agency with a menu of solid financial and operational tools to provide a safe, effective, and environmentally sensitive transportation system for the people of Texas and the nation. His dedication to transportation and his strong leadership on the commission will be missed.

Mr. Speaker, I know my fellow Texans join me in this expression of appreciation to David Laney for his exemplary leadership. I urge my colleagues to join me in congratulating him and wishing him the best in his future endeavors.

PERSONAL EXPLANATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. THOMAS. Mr. Speaker, I was absent for rollcall vote Nos. 3 and 4 on January 3, 2000. Had I been present, I would have voted "no" on rollcall No. 3 and "yes" on rollcall No. 4.

INTRODUCTION OF THE BINATIONAL GREAT LAKES-SEAWAY ENHANCEMENT ACT OF 2001

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. OBERSTAR. Mr. Speaker, on January 3, I introduced legislation, the Binational Great Lakes-Seaway Enhancement Act of 2001, to improve the competitiveness of the Great Lakes-St. Lawrence Seaway system and restore its vitality.

Since the opening of the St. Lawrence Seaway more than 40 years ago, the Great Lakes-St. Lawrence Seaway system has become a vital transportation corridor for the United States. The Seaway connects the Great Lakes with the Atlantic Ocean and makes it possible to ship manufactured products from our industrial Midwest and grains from the Upper Plains directly to overseas markets. Benefits of efficient operations of this transportation route are not limited to the Great Lakes region but extend throughout the United States. Congress recognized the broader impacts and, accordingly, designated the Great Lakes as America's fourth seacoast in 1970.

The Great Lakes region and the international markets recognized the system's potential, as evidenced by the sharp rise in vessel and cargo traffic through the Seaway after its opening in 1959. Unfortunately, that potential was never fulfilled. The upward trend in cargo traffic peaked around 1977–79. It then went into a long decline, precipitated in part by a nationwide economic recession that hit the manufacturing sector particularly hard, and prolonged in part because of capacity constraints imposed by the Seaway.

Locks on the Seaway and the Great Lakes were built as long ago as 1895. New locks

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

constructed for the Seaway between the mid- and late-1950s, as authorized by Congress in 1954, were built to the same size as those completed in 1932. Locks and connecting channels were limited to 27 feet of draft. Because vessel size had grown over time, Seaway facilities were too small on opening day to serve the commercial fleet then in existence. Today, they are capable of accommodating no more than 30% of the world's commercial fleet. An undersized Seaway that denies large, specialized, and efficient vessels access to the system will prevent U.S. products, especially those from the Great Lakes region, from competing effectively in the global economy.

In addition to declining traffic, inadequate investment in Seaway infrastructure caused the mix of cargoes shipped through the system to be transformed from one that was diverse to one composed largely of low-value commodities. Although the trend of cargo tonnage through the system turned up once again in 1993, current cargo mix consists of essentially steel coming to the Great Lakes region from abroad, grains going overseas, and iron ore and coal moving from one port to another within the region. Since the late 1980s, industrial manufacturing in the United States has recovered through investment in technology and corporate restructuring. Industrial production is flourishing once more in the Great Lakes region; Midwest economies are booming. Yet, only a small volume of high-value finished goods is shipped through the system. The Great Lakes region, therefore, has not been able to participate fully in this resurgence of economic strength due to limitations in the Seaway's capacity.

As we enter a new millennium, it is fitting that the Great Lakes-Seaway system is given an opportunity to modernize its structure and facilities so that it can compete on an equal footing with other transportation routes such as coastal ports and the Mississippi River. The United States has great seaports on its Atlantic, Pacific, and Gulf Coasts. The Mississippi River, likewise, is an extremely vital inland maritime transportation artery in the mid-section of the country. A competitive and successful Great Lakes-Seaway system would complement these other major transportation routes. The United States would greatly benefit in global competition by such a balanced national maritime transportation system.

The Seaway differs from the other transportation routes in one crucial aspect, however. Whereas the coastal seaports and the Mississippi River navigation channel were developed with substantial assistance from the federal government, the Seaway was required initially to repay the costs of its construction with interest. The Seaway, therefore, was hampered in its ability to compete successfully from the start. Not only was it built undersized, it was also saddled with great debts. Years later when Congress forgave the debts, the damage has already been done.

Throughout my service in the Congress, I have tried to help the Great Lakes-Seaway system better position itself in competition for commercial transportation. For more than 4 years, I have been working closely with interested parties in the Great Lakes maritime transportation community and the infrastructure investment finance sector in the United States and Canada to develop a proposal to allow the Seaway to reach its full potential, to guarantee the future viability of the Seaway, and to continue economic development of the Great Lakes region.

The bill I introduced on the first day of this Congress, the Binational Great Lakes-Seaway Enhancement Act of 2001, was developed in concert with the Honorable Joe Comuzzi, a close friend of mine and a member of the Canadian Parliament whose Thunder Bay, Ontario Riding (district) is adjacent to mine. It would establish the foundation, create the conditions, and provide the resources to permit the system to achieve its full potential. The bill would authorize the creation of a binational authority to operate and maintain the Seaway. It would also provide for the establishment of a non-federal credit facility to offer financial and other assistance to the Seaway and Great Lakes maritime communities for transportation-related capital investments.

Specifically, the legislation would establish a binational governmental St. Lawrence Seaway Corporation by combining the existing, separate U.S. and Canadian agencies that operate each country's Seaway facilities. It would require the Corporation's top management to run the Seaway in a business-like manner. It would transfer Seaway employees and the operating authority of Seaway assets to the Corporation. It would provide significant labor protection for current U.S. Seaway employees, whether or not they transfer to the Corporation. It would offer incentives for employment and pay based on job performance. It would set forth a process for the Corporation to become financially sustainable. At the same time, it would provide the United States with ample oversight authority over the Corporation.

Through merger of the two national Seaway agencies into a single binational authority, we could eliminate duplication and streamline operations. Improved efficiency would reduce government's cost of operating the Seaway. Moreover, a unified Seaway agency would reduce regulatory burden and help cut the sailing time of ships through the system. This latter efficiency improvement would positively affect the bottom line of Seaway users. All of these efficiencies would make the system a more competitive and viable transportation route for international commerce.

The Great Lakes and the Seaway should be considered as an integrated system in maritime transportation. Improvements to the Seaway infrastructure alone would not be sufficient to deal with the efficiency and competitiveness problems facing the Great Lakes-Seaway system. Quite the opposite, improvements to the Seaway could stress the capacity of ports on the Great Lakes. A comprehensive approach is necessary to address the system's investment needs.

My legislation would provide for the establishment of a Great Lakes Development Bank. It would outline in broad terms the structure of Bank membership. To ensure no taxpayer liability, this legislation would prohibit the United States and the St. Lawrence Seaway Corporation from becoming members of the Bank. It would specify eligible projects for financial and other assistance from the Bank. It would define the forms of such assistance. It would require recipients of Bank assistance, states or provinces in which such recipients are located, contractors for projects financed with Bank assistance, and localities in which such contractors are located to become Bank members to broaden the Bank's membership base. It would establish an initial capitalization level for the Bank, and would provide as U.S. contributions $100 million in direct loan and up to $500 million in loan commitments that could be drawn upon to meet the Bank's credit obligations. It would set interest on U.S. loans to the Bank at rates equal to the current average yield on outstanding Treasury debts of similar maturity plus administrative costs to preclude taxpayer subsidy to the Bank. It would allow the United States to call loans to the Bank if the Bank is not complying with the objectives of this legislation, and would provide specific limitations on United States' liability to protect our interests.

Mr. Speaker, my legislation is intended to make the Great Lakes-Seaway system a more efficient, competitive, and viable transportation route. Such a system will enable our manufacturers to bring their goods to the world market at reduced cost, making U.S. products more competitive in the global economy. This is a sensible bill; it is a good-government bill. A similar bill was introduced in the last Congress. The Committee on Transportation and Infrastructure has held one hearing on that bill. Changes have been made to the proposal to reflect suggestions made by witnesses at the hearing. As a result, this is an improved bill. We should all support it. I hope Members will join me in co-sponsoring this legislation and moving it forward. This bill should be enacted this year to help prepare the Great Lakes-Seaway system for competition and trade in the 21st century.

TRIBUTE TO REVEREND DR. MARTIN LUTHER KING, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. GILMAN. Mr. Speaker, in just a few days we Americans will be commemorating the birthday of one of the outstanding citizens of the 20th century. I was pleased many years ago to be one of the original sponsors of the legislation making his birthday a national holiday, and I urge all Americans to commemorate January 15th with appropriate ceremonies.

We should all avail ourselves of this opportunity to once again honor the legacy of the Rev. Dr. Martin Luther King Jr. With it now being nearly 33 years since his life was senselessly snuffed out by an assassin in Memphis, Tennessee, it is more important than ever that all Americans, especially our young people who have no personal recollection of Dr. King's moral leadership, are reminded of his significant contributions and his message.

Regrettably, many Americans view Martin Luther King Day as a holiday just for African-Americans. Reverend King would have been the first person to repudiate that attitude, for his message was for all people, of all races, creeds, colors and backgrounds. His message is universal and should be heeded by all citizens of America and, in fact, all citizens of the world.

Dr. King contributed more to the causes of national freedom and equality than any other individual of the 20th century. His achievements as an author and as a minister were surpassed only by his leadership, which transformed a torn people into a beacon of strength and solidarity, and united a divided nation under a common creed of brotherhood and mutual prosperity.

It was Dr. King's policy of nonviolent protest which served to open the eyes of our Nation to the horrors of discrimination and police brutality. This policy revealed the Jim Crow laws of the South as hypocritical and unfair, and forced civil rights issues into the national dialectic. It is due to the increased scope and salience of the national civil rights discussion that the movement achieved so much during its decade of our greatest accomplishment, from 1957 to 1968.

It was in 1955 that Dr. King made his first mark on our nation, when he organized the black community of Montgomery, Alabama during a 382-day boycott of the city's bus lines. The boycott saw Dr. King and many other civil rights activists incarcerated as "agitators," but their efforts were rewarded in 1956, when the U.S. Supreme Court declared that the segregation practices of the Alabama bus system were unconstitutional, and demanded that blacks be allowed to ride with equal and indistinguishable rights. The result proved the theory of nonviolent protest in practice, and roused our Nation to the possibilities to be found through peace and perseverance.

In 1963, Dr. King and his followers faced their most ferocious test, when they set a massive civil rights protest in motion in Birmingham, Alabama. The protest was met with brute force by the local police, and many innocent men and women were injured through the violent response. However, the strength of the police department worked against the forces of discrimination in the nation, as many Americans came to sympathize with the plight of the blacks through the sight of their irrational and inhumane treatment.

By August of 1963 the civil rights movement had achieved epic proportions, and it was in a triumphant and universal air that Dr. King gave his memorable "I Have a Dream" speech on the steps of the Lincoln Memorial. In the next year, Dr. King was distinguished as Time magazine's Man of the Year for 1963, and he would later be awarded the Nobel Peace Prize for 1964.

Throughout his remaining years, Dr. King continued to lead our nation toward increased peace and unity. He spoke out against the Vietnam war, and led our Nation's War on Poverty. To Dr. King the international situation was inextricably linked to the domestic, and thus it was only through increased peace and prosperity at home that tranquility would be ensured abroad.

When Dr. King was gunned down in 1968 he had already established himself as a national hero and pioneer. As the years passed his message continued to gather strength and direction, and it is only in the light of his multigenerational influence that the true effects of his ideas can be measured. Dr. King was a man who lacked neither vision nor the means and courage to express it. His image of a strong and united nation overcoming the obstacles of poverty and inequality continues to provide us with an ideal picture of the "United" states which still fills the hearts of Americans with feelings of brotherhood and a common purpose for years to come.

Accordingly, Mr. Speaker, I urge my colleagues to bear in mind the courageous, dedicated deeds of Rev. Dr. Martin Luther King Jr., and to join together on Monday, January 15, 2001, in solemn recollection of his significant contributions for enhancing human rights throughout our nation and throughout the world.

BUD SHUSTER ANNOUNCES RETIREMENT

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. SHUSTER. Mr. Speaker, twenty-eight years ago it was my great privilege to win my first nomination to the United States Congress from the 9th District of Pennsylvania. Since that memorable moment, it has been an even greater privilege to receive both the Republican and Democratic nominations nine times, a record never before achieved in Pennsylvania's history. For that opportunity to serve my country and the people of our region, I shall be forever grateful.

In recent months, both my wife, Patty, and I have been in hospitals with different health scares. While we remain optimistic, these experiences have caused me to re-evaluate my priorities and responsibilities.

On April 6th, when the President signed my AIR–21 aviation act for the 21st century, I realized I had reached the pinnacle of my Congressional career. That landmark legislation, coupled with my TEA–21 highway, transit and safety Act, which became law the previous year, is the realization of my long and sometimes lonely battle to unlock America's major transportation trust funds so we could re-build the nation's transportation systems for the 21st century. And last month we finally got our Water Resources bill signed into law, including the Everglades, the largest environmental restoration project in the world.

Having achieved these goals, after meeting with my family, we have decided now is the time for me to retire from Congress, as my Chairmanship of the largest and most productive committee in Congress comes to a close. While the scars of a hundred battles have taken a toll on both my family and me, in perspective, they are insignificant compared to the opportunities to do good things for people, or the broken neck I sustained in the course of my Congressional duties. All things considered, we decided now is the time to smell the roses while we still can.

Like my boyhood baseball idol, Lou Gehrig, I consider myself the luckiest man on the face of the earth—to have realized my dream of becoming a U.S. Congressman. The opportunities to help thousands of people, to author major legislation to re-build America, to serve as the Chairman of the largest Committee in the history of Congress, and to have served as the Ranking Member of the Intelligence Committee during our historic victory in the Cold War, all have exceeded my fondest expectations.

Having decided to retire, it is neither in the best interests of my constituents, nor in my nature, for me to linger on as a "lame duck". By retiring at the end of this month, effective January 31st, the Governor can call a special election to quickly elect my successor for the new Congress. During the interim, our Congressional offices will continue to be staffed by the current employees to serve our District.

To paraphrase Thomas Jefferson, now is the time for me to return to that higher station in life—that of a private citizen. My prayer is that God may bless America and the wonderful people who have supported me and my family through these many years.

INTRODUCTION OF A BILL TO DESIGNATE THE EIGHTMILE RIVER IN THE STATE OF CONNECTICUT FOR STUDY FOR POTENTIAL ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. SIMMONS. Mr. Speaker, today I introduce my first legislative initiative—a bill to study the inclusion of Connecticut's Eightmile River as part of the National Wild & Scenic Rivers System.

Eastern Connecticut is fortunate to have a wealth of natural beauty, such as the Eightmile River. The Eightmile River and the watershed it supports is an outstanding ecological system. The river has been identified as an exemplary occurrence of one of Connecticut's most imperiled natural communities. Its streams are free-flowing, contain excellent water quality and a diversity of aquatic habitats and fish species, including native and stocked trout. The Eightmile River is also an important recreational resource and figures prominently in the character of the communities in which it flows.

Unfortunately, the Eightmile River is not likely to remain in outstanding condition without a concerted community effort to protect it.

That's why on my very first day in Congress, I am introducing a bill authorizing the National Park Service to study and determine whether the Eightmile River is eligible for designation as a National Wild and Scenic River—beginning the process of achieving some of the strongest river protection possible while also meeting community and landowner needs.

For more than 30 years, the National Wild and Scenic Rivers Act has safeguarded some of the nation's most precious rivers. The Wild and Scenic Rivers Act pronounced that certain select rivers of the nation that possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they shall be protected for the benefit and enjoyment of present and future generations. Designated rivers receive protection to preserve their-free-flowing condition, to protect the water quality and to fulfill other vital national conservation purposes. I believe Connecticut's Eightmile River possesses all of these qualities, deserves all of these protections and should be looked at by the National Park Service as a important addition to the National Wild and Scenic River System.

I am very proud to submit this legislation at the request of my constituents in East Haddam, Salem and Lyme and honored to have the strong support of my colleagues from Connecticut.

THE SCIENCE AND TECHNOLOGY EDUCATION PARTNERSHIP AND THE STEP ONE CONFERENCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. CALVERT. Mr. Speaker, today I speak not only as a member of the House of Representatives, but as a proud member of a very important organization that is making a difference in my district. The Science and Technology Education Partnership (STEP) was recently established to inspire students to pursue careers in science, math, engineering and technology throughout the Riverside community, the state of California and the nation.

On November 3, 2000, STEP sponsored "STEP One: The Congressional Conference on Science and Technology Education." This wonderful conference allowed local students, teachers, community and civic leaders, scientists and high-tech entrepreneurs an opportunity to meet and discover the importance of math and science education.

It was inspiring to see the faces of nearly 1,000 students light up with excitement during the conference's student program which included NASA Astronaut Vance Brand, chemical experiments and a 'life in space' space science presentation.

I was honored to present National Teachers Hall of Fame inductee, Jaime Escalante, with the inaugural STEP Award. The panel discussion focusing on the gap between math and science education and the needs of the high-tech sector was an enlightening finale to the conference.

On behalf of everyone involved in the STEP Conference, I would like to give a special thanks to those who sponsored the event including: Complas, The Business-Press, Bourns, DynCorp, Naval Warfare Assessment Station, General Atomics, California Space and Technology Alliance, The Gas Company and Vertigo.

Lastly, Mr. Speaker, I would like to give praise to those who volunteered their time and energy to get the STEP foundation up and running. My fellow board members of the STEP foundation have all greatly contributed to this effort, they include: Steve Berry, Dave Bernal, Linda Burk, Dr. Damon Castillo, Troy Clarke, Dr. James Erickson, Dr. Susan Hackwood, Dr. Joseph Norbeck and Brian Wagner.

ANNOUNCEMENT OF THE 2001 CONGRESS-BUNDESTAG/BUNDESRAT EXCHANGE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. REGULA. Mr. Speaker, since 1983, the U.S. Congress and the German Bundestag and Bundesrat has conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and interact on issues of mutual interest.

A staff delegation from the United States Congress will be selected to visit Germany during April 1 to April 15 of this year. During the two week exchange, the delegation will attend meetings with Bundestag Members, Bundestag party staff members, and representatives of numerous political, business, academic, and media agencies. Participants also will be hosted by a Bundestag Member for a district visit.

A comparable delegation of German staff members will visit the United States for two weeks in July. They will attend similar meetings here in Washington and visit the districts of Congressional Members.

The Congress-Bundestag Exchange is highly regarded in Germany and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. This exchange is funded by the U.S. Department of State's Bureau of Educational and Cultural Affairs.

The U.S. delegation should consist of experienced and accomplished Hill staff who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag reciprocates by sending senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern in Germany and the United States such as, but not limited to, trade, security, the environment, immigration, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two Bundestag staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants are selected by a committee composed of personnel from the Bureau of Educational and Cultural Affairs of the Department of State and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state their qualifications, the contributions they can make to a successful program and some assurances of their ability to participate during the time stated. Applications may be sent to Connie Veillette in Congressman REGULA'S office, 2306 Rayburn House Building by noon on Thursday, February 15.

IN TRIBUTE TO DAVID E. NESBITT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. GALLEGLY. Mr. Speaker, I wish to pay tribute to David E. Nesbitt, a personal friend who has retired from the Federal Bureau of Investigation after 31 years of dedicated service, the last 2½ of which he served as supervisor of the Ventura Resident Agency, in my district.

Supervisory Special Agent Nesbitt became a special agent in 1969 and was assigned to San Antonio and Austin, Texas. At the end of 1970, he was transferred to the Los Angeles Field Office, where he handled a variety of white collar crime investigations for much of the next 10 years.

In 1980, he was assigned to the San Fernando Valley Resident Agency, where he specialized in major financial institution fraud investigations. He then returned to the Los Angeles Field Office in 1985 to join the Financial Institution Fraud Squad.

David's success in bringing white collar criminals to justice was rewarded in 1990, when he was promoted to supervise a new squad designed to handle investigations into failed financial institutions. During the next eight years, David coordinated investigations into more than 130 financial institutions that failed within the Central District of California.

In June of 1998, he arrived in Ventura County. As supervisor of the Ventura Resident Agency, David initiated a new Ventura County Crime Task Force composed of nine federal, state and local agencies. He coordinated the FBI portion of the investigation into the January 31, 2000, tragic crash of Alaska Airlines Flight 261 off the Ventura County coast.

David is a longstanding member of the Southern California Fraud Investigators Association and a contributor to the Western League of Savings Annual Training Seminar. He initiated the annual FBI Fraud Seminar to benefit the financial community and, last year, was recognized as the Construction Battalion Center Summerfest 2000 Honoree for Community Service.

There is one aspect of David's life to which he has devoted more years than to the FBI—his marriage to Larane. David and Larane married in September of 1967. They are the proud parents of four adult children: twins Amy and David; Lara; and Shannon.

Mr. Speaker, I know my colleagues will join me in thanking David for more than three decades of service dedicated to protecting our neighbors, and in wishing him and his family many joyous years ahead.

SALUTE TO FIREFIGHTER STEVE HALL

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. BACA. Mr. Speaker, I would like to salute Steve Hall, the Montclair Fire Department Firefighter of the Year.

Our brave firefighters do a hero's work, exposing themselves to danger, in acts of selfless heroism.

Steve was nominated by his peers for his exemplary work, both within and outside the Department. Steve has been employed by the Montclair Fire Department for 22 years, presently holding the rank of Firefighter, and a certification to act as a Fire Engineer.

Steve has been involved in a number of volunteer efforts. This past summer, Steve served on a mission to Thailand, to aid the victims of land mines and military conflict. When Steve was in the Army, over 22 years ago, he worked in an orthopedic shop making prosthetic limbs. Steve contacted a former army colleague, Richard Fite, who owns the Brace Place. Richard aided Steve in learning and teaching proven techniques to provide amputees in Third World Countries with new prosthetic limbs. Steve raised the funds to go to Thailand on his own and donated his time, including taking his personal time off to go and help the unfortunate in Thailand.

Steve has also served on the Executive Board of the Montclair Firefighters' Association. He is quick to volunteer his time for Association matters, from staffing the cooking trailer to working for members to allow them to attend a class sponsored by the International Association of Fire Fighters or the California Professional Firefighters. Steve is always there, and can always be counted on.

Happily married for twenty years to his lovely wife, Theresa, together they are blessed with two fine children, Andrew Joseph and Kathryn Rose. We in the Congress salute him for his selfless efforts and achievements.

TRIBUTE TO BRIGADIER GENERAL HOMER A. BOUSHEY, USAF (RETIRED)

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Ms. ESHOO. Mr. Speaker, I wish today to celebrate the life of a distinguished American and a beloved Californian, Brigadier General Homer A. Boushey, USAF (Retired).

Brigadier General Boushey died on December 22, 2000, at the age of 91. He was a native of San Francisco and a graduate of Stanford University. He enlisted as a flying cadet at Randolph Field, Texas, where he became interested in Robert H. Goddard's studies of extreme altitude flying. He flew a postal route between Cleveland and Newark in an open cockpit bi-plane, and then returned to San Francisco where he flew bi-planes from Crissy Field. He was awarded the Distinguished Flying Cross for his heroism in bringing in a Douglas 0–46 with damage to both ailerons and the main wing spar. With the outbreak of World War II, Boushey was assigned to a P–40 Pursuit Group, but was soon transferred to Research and Development to work on the development of jet engines and was instrumental in the development of the revolutionary Lockheed P–80.

His life history is a litany of "firsts" and of honors bestowed. He commanded the first U.S. jet fighter group, and held briefly the "over-water" air speed record. He was listed in the Aerospace Museum's 1959 Laureates Hall of Fame for his efforts on behalf of a military space program and he was invited to the President's Astronauts' Dinner after the successful moon landing.

Brigadier General Boushey, an ardent advocate of a strong national defense, was an early opponent to U.S. involvement in Vietnam, the arms race and nuclear proliferation. He sponsored California's Nuclear Freeze Initiative in 1982 and in June 2000, he was a signatory to the Global Security Institute's Joint Nuclear Reduction/Disarmament Statement.

After his retirement, in addition to pursuing his hobbies of tennis and inventing, he supported his wife in her career as a Councilwoman and Mayor of Portola Valley.

Mr. Speaker, I ask my colleagues to join me in honoring this great and good man whom I was proud to represent and to call my friend. I ask my colleagues to also join me in extending my deepest sympathy to Homer's beloved wife, Eleanor, and his children Annette, Helen, Boyd and Homer, Jr. We are indeed a better nation and a better people because of him.

HONORING BARBARA ANN RIEDER, DEPUTY DIRECTOR OF OPERATIONS

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Ms. LOFGREN. Mr. Speaker, today I recognize the achievements of Barbara Ann Rieder, Deputy Director of Operations for the Public Health Department of Santa Clara County. Ms. Rieder is retiring after over 35 years of dedicated service to the people of Santa Clara County.

Barbara Rieder began serving in the Department of Public Health in 1963 as a staff Public Health Nurse after graduating from the University of California at San Francisco. She was consistently commended for her dedication and the quality of her nursing care, and was promoted to Supervising Public Health Nurse and then Director of Public Health Nursing. Inspiring others with her tireless work for the health of the community, in 1980 Ms. Rieder became the Deputy Director of Operations for the Public Health Department she had joined 34 years earlier.

Working through the Public Health Department, Barbara Rieder addressed public health crises such as AIDS and the effects of substance abuse on infants. Her work on behalf of children led to commendations from such diverse groups as the California Nurses Association, San Jose State University and the Women of Achievement Organization. Ms. Rieder's example has led many nurses to take a stronger role in legislative advocacy and public health. In her many articles and presentations, Ms. Rieder brought her compassion for the community to the often arcane matters of health policy.

Barbara Rieder expanded her service to the entire state during her tenure as the cofounder and president of the California Association of Public Health Nursing Directors, and as the president of the California Conference of Local Health Department Nursing Directors.

Barbara Rieder has been a role model and a leader in her community and in the county. After 35 years of service, her passionate concern for the health of the community is undiminished; her leadership and visionary approach have left their mark on both the Public Health Department and all of Santa Clara County.

I wish to thank Barbara Rieder for her compassionate and dedicated service to the County and wish her the best in her future endeavors. Furthermore, she has my personal thanks for our years of friendship. Her integrity, vision and strength will be sorely missed, but our lives are the richer for having had the chance to know her.

COMMENDING LT. GENERAL WILLIAM F. PITTS, AND REAR ADMIRAL ALLEN E. HILL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. CALVERT. Mr. Speaker, today I speak with great pride to commend and praise two magnificent Americans—men who unselfishly made a career of serving their country, in times of peace and war, one in the United States Air Force and the other in the United States Navy. On November 20, 2000 I had the honor of emceeing an event where the names of these native sons—both born in my Congressional district of Riverside, California—were inscribed on the Mission Inn Fliers' Wall. The men of whom I speak so highly and hold in such esteem are Lieutenant General William F. Pitts, U.S. Air Force, and Rear Admiral Allen E. Hill, U.S. Navy.

On March 26, 1934, the first wing ceremony of the Mission Inn Fliers' Wall took place and established a tradition that recognizes great aviators and contributors of aviation. For the ceremony a pair of copper wings, bearing the name of the date that the flier visited the Mission Inn, is attached to the wall of the St. Francis Chapel—The International Shrine of Aviators. A 20th century phenomenon, man's taking to the sky can be recognized by any visitor to the Fliers' Wall today, we have all seen incredible events in air or space in our individual lifetimes. I was proud to witness Lt. General William F. Pitts and Rear Admiral Allen E. Hill place their wings among the 141 presently on the wall—the wings of pioneers and heros—taking their place of honor among the great birdmen of history.

Lt. General William Pitts gave over 36 years to his country in the United States Air Force commanding a broad array of units from a bombardment squadron to the sixth Allied Tactical Air Force in NATO at Izmir, Turkey. In World War II he flew B–29 aircraft striking at the Japanese Empire from Pacific bases on 25 missions. He completed his service at March Air Force Base (now March Air Reserve Base) in 1975 as the Commanding General of the Fifteenth Air Force, Strategic Air Command. The Fifteenth Air Force was responsible for the Strategic Air Command operations in the Western United States and Alaska with a mixed force of reconnaissance, bomber aircraft and missiles that supported the national strategic deterrence mission.

Lt. General William Pitts has received numerous decorations and awards during his service that include the Distinguished Service Medal, Legion of Merit with one oak leaf cluster, Distinguished Flying Cross with one oak leaf cluster, Air Medal with three oak leaf clusters, Air Force Commendation Medal, Purple Heart and others.

Rear Admiral Allen E. Hill made a career in the United States Navy serving as a carrier aviator, where he participated in five combat cruises and flew over 400 combat missions. In fact, he was twice deployed to Korea flying F–9/F–2 Panthers and, during his first combat cruise, he and three other pilots participated in the first all jet and highest aerial engagement in the history of air warfare. He retired only after accomplishing his objective of institutionalizing the tactical training of Naval officers responsible for Battle Group operations, through his opportunity to establish in Washington, DC, an office of Director of Tactical Readiness. In that position he was the first Admiral to be completely responsible for Naval Warfare Doctrine, the tactical training of Fleet Commanders and Battle Group Commanders, and the Assessment of Warfare Readiness.

Rear Admiral Allen E. Hill has been awarded over fifty personal combat decorations, including the Distinguished Service Medal, Four Distinguished Flying Crosses, the Purple Heart, three Legion of Merit awards, the Korean War Presidential Commendation, two Bronze Stars with "V" clasps for valor in combat and many others.

Mr. Speaker, it is with pride that I bring the story of these two men to my colleagues. The Mission Inn Fliers' Wall recognizes the role aviation has had in America's fight for freedom and democracy. To Lt. General William Pitts and Rear Admiral Allen Hill I would like to say "God Bless You" and "God Bless America"—without them, and all of our service men and women, America would not be the strong and healthy democracy it is today.

A SPECIAL TRIBUTE TO WILLIAM D. HOOPER, D.D.S. FOR HIS DEDICATED SERVICE TO COLUMBUS, OHIO

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. GILLMOR. Mr. Speaker, it is with great pride that I today pay special tribute to an outstanding individual from the State of Ohio. Dr. William D. Hooper, a general dentist, is celebrating more than twenty-five years of distinguished service to his community in Columbus, OH.

Dr. Hooper, originally a Tennessee native, attended Lambuth College prior to entering the University of Tennessee, College of Dentistry. After graduation, he served the North Carolina Department of Human Resources as a practicing dentist. In 1975, he moved to the Columbus area where he has resided ever since.

Setting up his practice more than 25 years ago in Upper Arlington, Dr. Hooper and his staff have embodied the practice's motto, "Excellence by Choice." Dr. Hooper has constantly sought to hone his skills at the prestigious L.D. Pankey Institute for Dental Education. Throughout his career, Dr. Hooper has trained under some of the most recognized names in dentistry, such as Dr. Frank Spear of Seattle, WA, Dr. Peter Dawson of St. Petersburg, FL, and Dr. Mark Piper also of St. Petersburg, FL. He has mastered many techniques in cosmetic dentistry as well as focused on determining the many causes of Temporal Mandibular Joint Dysfunction and how to treat the problems associated with it.

Mr. Speaker, Dr. Hooper's dedication and service have earned him the highest regard for his character and abilities as a dentist. At this time, I would ask my colleagues of the 107th Congress to join me in paying special tribute to Dr. William D. Hooper. His professionalism and service to his community are an example for all citizens of Ohio and across the country. We thank him, and wish him the very best in all of his future endeavors.

VOTING DISENFRANCHISEMENT

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mrs. CHRISTENSEN. Mr. Speaker, today this body meets in a joint session to certify the Electoral College votes for the 43rd President of our nation.

As an African American, a member of a "so called" minority and a person of Caribbean descent, while I accept the decision of the Supreme Court and will also accept the results of this process today, I do so with a strong resolve born out of the hurt and disappointment in the events of the past two months.

The disenfranchisement of many citizens of our country whose legally cast votes were not counted has left a dark cloud over the country—a cloud which will not easily clear with the inauguration and the administering of the oath of office. We cannot turn back the hands of time, however, nor change what is past. But we can determine to shape and direct our future.

And so I pledge to work with my colleagues in the Congressional Black Caucus, other members of Congress and national leaders to put in place whatever policies and introduce and support whatever legislation which will ensure that a travesty such as this never happens again. We must commit ourselves to restoring the integrity of the election process in this country.

As we return to work later this month, we must include among our first priority items addressing the many unmet needs in the Territories, in other districts of color, in our rural areas and poor communities.

The Congressional Black Caucus have in the past been referred to as the "conscience of the Congress" and the "Fairness Cops of the Nation." As such, we will take the lead on these issues on behalf of those we proudly represent. It is incumbent on all of us though—the president-elect and his Cabinet, as well as the leadership in Congress—to be our full partners in this effort to lift up all Americans and make sure that no one is left behind.

We have the wherewithal to do it, now as never before. A time of plenty like this is not promised again. And so, if not now, when!! And if not us, who!!

Let us seize this time to make America the great country it is destined to be.

HONORING HARRY E. JOHNSON, SR.

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. BENTSEN. Mr. Speaker, I honor today my fellow Texan Harry E. Johnson, Sr. for his upcoming inauguration as the 31st General President of Alpha Phi Alpha Fraternity, Inc. in Houston, Texas, January 12–14, 2001.

It is fitting that as the world focuses on the election of the first American President for the 21st Century, Alpha members direct their time and attention to welcoming General President-Elect Johnson as a rising community leader. Throughout his career—and, as a loving husband to Karen and father to their children Jennifer, Harry Jr., and Nicholas—Harry Johnson has exemplified and advanced the Alpha Phi Alpha motto . . . "manly deeds, scholarship and love for all mankind."

General President-Elect Johnson, a native of St. Louis, Missouri, was elected to the position of General President after serving as the fraternity's Legal Counsel, Johnson practices law in Houston and serves as adjunct professor of Law at Texas Southern University's Thurgood Marshall School of Law. Honoring the legacy of past presidents, Johnson plans to fulfill many of the commitments started by his predecessors, including building a national memorial to Dr. Martin Luther King Jr. Alpha Phi Alpha was given the sole authority by the United States Congress to design and build a memorial to Dr. King. The winning design was unveiled during this past September's Congressional Black Caucus meeting in Washington, D.C. Johnson has made it clear that he will not waver from the fraternity's commitment to stand in the forefront of the civil rights movement. The national memorial to Dr. King for which Johnson is working to bring to fruition is a symbol of that commitment.

Included in Johnson's agenda for the next four years is an Economic Development plan that will allow Alpha Phi Alpha members the opportunity to infuse their local economies by bringing in National franchise into inner cities. He will also continue planning for the Centennial Celebration of the fraternity's founding. Rich with history, Alpha Phi Alpha Fraternity, Inc. is the first intercollegiate Greek-letter fraternity founded for African-Americans. In 1906, the fraternity's founders had two motives in starting the organization: empowering African-Americans through their continuance of their education and promoting fellowship and unity among college men in their continuous fight for African-American civil rights. Among those who have led the fight are distinguished Alpha Phi Alpha members such as W.E.B. DuBois, Adam Clayton Powell, Jr., Edward Brooke, Martin Luther King, Jr., Thurgood Marshall, Andrew Young, William Gray, Paul Robeson, and many others.

The inaugural event Harry Johnson is hosting in Houston sets the stage for a continuation of Alpha's dedication to public service. The theme for this unprecedented event, "Commitment, Excellence & Achievement . . . A New Generation of Leadership," will help Alpha Phi Alpha Fraternity to move forward with vigor, dedication and vision.

Mr. Speaker, Harry Johnson believes that regardless of our socio-economic backgrounds, in some capacity, we are all affected by the hardships that institutionalized racism has placed on African-American men. As the new General President of Alpha Phi Alpha, his commitment to education and mentorship will serve the communities of his fraternity well. I congratulate Alpha Phi Alpha and my fellow Texan and friend, Harry E. Johnson, Sr.

RECOGNIZE REVEREND RONALD I. SCHUPP FOR HIS DEDICATION TOWARDS A FREE TIBET

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. GUTIERREZ. Mr. Speaker, I wish today to give my full support once again to the work of Chicago civil and human rights leader Reverend Ronald I. Schupp, who is embarking on his fifth annual peaceful twenty-four hour fast and vigil outside of the Chinese Consulate in Chicago. Reverend Schupp is calling upon the government of the People's Republic of China to grant independence to Tibet and its people.

His vigil will be held on March 10, the day that is known each year as Tibetan National Day. This day recognizes the ongoing efforts and continuing struggle of the Tibetan people to gain their freedom.

I fully support Reverend Schupp and the vigil he is undertaking once again.

OBJECTION

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. PAYNE. Mr. Speaker, in a short while we will gather in a joint session to count the electoral vote from November's Presidential contest. We will count these votes even though the Republican appointees on the Supreme Court slammed the door in the face of thousands of Florida voters by refusing to allow their votes to be counted. Ironically, Republican legal advisors used the "equal protection" clause of the 14th amendment to argue their case while denying equal protection to thousands whose votes were never counted. The message calls to mind George Orwell's famous words that "some are more equal than others."

One fact is not in dispute: that Vice President AL GORE won over 539,000 more votes nationwide than George W. Bush. That makes it even more important that we get an accurate vote in Florida.

As a member of the House International Relations Committee, I have had the privilege of monitoring elections around the world. Never have I seen a case like this—where one candidate's first cousin was hired by a major news network to call the election results; where that same candidate's campaign co-chair had the authority to certify the election results and rushed to do so before all ballots had been counted; where the certification was signed by the candidate's brother, the Governor, and where Supreme Court members appointed by the candidate's father halted a vote count. Is this the model of democracy we want to hold up to the rest of the world? I urge my colleagues to refuse to be a part of this undemocratic process.

IN MEMORY OF PAUL STANLEY EBENSTEINER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. GALLEGLY. Mr. Speaker, I wish to pay tribute to Paul Stanley Ebensteiner, a decorated patriot, a successful businessman, a loving family man, a philanthropist, and a good friend.

Paul passed away Sunday, leaving behind a legacy of living, achieving and sharing the American dream.

He joined the Marines during the Korean War, where he served with distinction. An excerpt from his official service record book reads: "Combat operations against North Korean Forces; assault and seizure of Inchon, Korea; capture and securing of Seoul, Korea; operations against enemy forces in south and central Korea; is authorized to wear the Bronze Star, Good Conduct Medal, Korean Service with three stars, Presidential Unit Citation with one star, Purple Heart, and the United Nations Service ribbons." Paul retired from the Marines at the rank of Technical Sergeant.

In 1970, he founded the Ebensteiner Company, one of the largest general engineering contractors in California. He was named Contractor of the Year in 1999, and was a member in good standing with the Southern California Contractors Association.

At about the same time as he founded Ebensteiner Company, he married June. Together they raised seven children: Paul George, Rebecca, Pennie, Debra, Suzanne, Therese, and Christine. Paul and June are also blessed with 10 grandchildren.

Paul Stanley Ebensteiner was a successful family man and businessman, and he believed in sharing his blessings with the community. Among the philanthropic organizations he and June supported were Mary Health for the Sick, the building of the Los Angeles Cathedral, the United States Hospice Foundation, and the June Ebensteiner Hospice Foundation.

Mr. Speaker, Paul realized his dream and then shared his dream with many, many more. He was, to me, the definition of a Great American. I know my colleagues will join me in sending condolences to his family and in paying tribute to his memory.

SALUTE TO FIRE ENGINEER CHRIS ALTEN

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. BACA. Mr. Speaker, I would like to salute Fire Engineer Chris Alten, the Montclair Fire Department Employee of the Year.

Our brave firefighters do a hero's work, exposing themselves to danger, in acts of selfless heroism. As Fire Engineer, Chris ensures that the Montclair Fire Department is in top condition to meet these challenges, contribution to excellent quality and livability of fire stations.

Chris joined the Montclair Fire Department as a Comprehensive Employment Training Act (C.E.T.A.) Firefighter in October 1976. Chris was hired as a regular Firefighter in October 1979. Chris' mechanical abilities and skills contributed to his quick promotion to Fire Engineer in July 1980.

It is a combination of Chris' mechanical abilities, his "can do" attitude and his steady and extremely dependable contribution to his crew and to the Montclair Fire Department that led to his selection as the Montclair Fire Department Employee of the Year.

During his employment, Chris has saved the City thousands of dollars in both time and material through a variety of construction projects that would have otherwise been done by outside vendors. Examples include: the replacement of all of the sinks and faucets in the fire stations, several remodeling projects that included framing, drywall and the installation of windows and doors in both stations and innumerable small projects.

Chris is a multi-talented and valued employee of the Montclair Fire Department. We in the Congress salute him for his selfless efforts and achievements.

A TRIBUTE TO HENRY SCIARONI ON THE OCCASION OF BEING AWARDED THE BRONZE STAR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Ms. ESHOO. Mr. Speaker, 56 years ago Lt. Hank Sciaroni led a group of U.S. troops through hostile Nazi territory after his bomber crash-landed on an Italian beach. His heroics went unrecognized until December 18, 2000 when he was finally honored for his valor with the Bronze Star.

On October 20, 1944, when Lt. Sciaroni realized that his B–24 Liberator bomber wasn't going to make it back, he told his pilot to crash land on the Italian beach below because he knew that the B–24 was a heavy plane that would sink before the crew could get out.

It was not the only time Lt. Sciaroni would have to think quickly. After the wheels-up crash landing, Lt. Sciaroni took command of one of the three groups created by the downed crew members. For the next two weeks Lt. Sciaroni used his training, his quick thinking and his ability to speak Italian not only to evade capture and get his group back to safety, but to collect vital intelligence along the way. The other two groups of crew members were captured by German forces. Lt. Sciaroni would have been recommended for a medal, but by the time he made it back to his squadron his commanding officer who would have nominated him had been killed in action. Lt. Sciaroni went back into action and served out the War.

When I became aware of this war time story, I committed myself to secure the honor which had evaded this young and brave Lieutenant for 56 years. While it is extremely rare for medals to be awarded so long after an episode has occurred, we searched the military archives for crew reports. Fortunately, Hank Sciaroni had saved a copy of a report the frontline unit made when he reached friendly forces. After petitioning the U.S. Army, they granted our request and Hank Sciaroni was finally honored.

Mr. Speaker, it is a great privilege to honor Hank Sciaroni with the Bronze Star. He represents the collective courage many of our soldiers displayed during WWII and we are a grateful and better nation because of him.

COMMEMORATING THE COMPLETION OF THE 103-MILE ADOPTED REGIONAL METRORAIL SYSTEM

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 6, 2001

Mr. HOYER. Mr. Speaker, this region, and indeed this Nation, can take great pride in the fact that on Saturday, January 13, 2001, the final rail transit segment of the planned 103-mile Adopted Regional Metrorail System will be put into service. This most significant milestone represents the culmination of a great dream of a visionary group of people in the 1960's that our Nation's Capital would join other great capital cities in having a rapid transit system.

Congress was a full partner in the creation of WMATA, beginning in 1952 when Congress passed the National Capital Planning Act mandating that plans be developed to facilitate movement throughout the region. In 1967, the Washington Metropolitan Area Transit Authority was created by Congress to build and operate a premier subway system worthy of the Nation's Capital. Every Congress and Administration since has recognized and confirmed the Federal commitment to the Metrorail and Metrobus system.

From the outset, construction of the Metrorail system was a monumental undertaking. As directed by President Lyndon Johnson, it was monumental in design, befitting the beauty and dignity of our Nation's Capital. Metro's designers used architecture that is aesthetically compatible with the history and symbolism of the capital city. Architects sought simplicity, durability, and a sense of timelessness that would serve future generations.

On January 13th, we will gather at the Branch Avenue Station in Prince George's County Maryland to symbolically drive the last spike in the 103-mile Metrorail System. We can only marvel at the handsome return on investment on the public's $10 billion investment and remember that in today's dollars the 103-mile system would have cost $22 billion.

Since opening day in March of 1976, more than two billion transit rides have been taken. We have revitalized communities in the vicinity of rail stations. Engineers and contractors from throughout the nation have benefitted from jobs and construction contracts. We have reduced energy consumption, improved air quality and enhanced mobility for the transit dependent. Everyday the Metrorail and Metrobus system take thousands of people to jobs, schools, hospitals, family and other pursuits. It is virtually impossible to truly quantify the unlimited contributions our world acclaimed Metro system has made to the quality of life in the national capital region.

Metrorail ridership has been topping records over the past year. Of the top twenty-five weekday ridership records in Metrorail history, twenty-two have occurred in the last year, as Metrorail carried well over 600,000 trips on those days.

We in Congress, the region, and the Nation can be proud that we have created such a fine public transit system, worthy of our capital. The success of the beautiful Metrorail system is testament to the vision and federal-regional cooperation over the past fifty years, as well as the profound dedication of the people that designed, built and now operate the finest transit system in the world. Please join me in congratulating WMATA on achieving this awesome milestone.

SENATE—*Monday, January 8, 2001*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by guest Chaplain Dr. Craig Barnes, National Presbyterian Church, Washington, DC.

Dr. Barnes, please.

PRAYER

The guest Chaplain, Rev. Craig Barnes, offered the following prayer:

Lord God, as the Senators of our land begin their deliberations this day, we would be careful to ensure that the first words we speak remind us of our complete dependency upon You. We ask that You would bless these Senators as Your servants. They have come with their hearts and minds filled with great agendas, but even these, our leaders, are never more than mortals on a journey from dust to dust. So it is to you that we look for sacred visions that are greater than party visions and certainly greater than the visions any one of us could carry into this Chamber. By Your Holy Spirit, accommodate Your will to our political process, that it may be used to lead this Nation to Your own future filled with hope. And when the day is done and this Chamber is again empty, may all who have come here to serve the Republic know that their work has not been in vain. Encourage them in the certain conviction that they will one day hear from You: Well, done, good and faithful servants. This we ask in the name of the Lord whose way we prepare. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE JOURNAL

The PRESIDENT pro tempore. The Journal will now be read.

Without objection, the further reading of the Journal will be dispensed with and the Journal will stand approved to date.

The Chair recognizes the Senator from Nevada.

PRINTING OF MATERIAL

Mr. REID. Mr. President, I ask unanimous consent that a colloquy between Senators DASCHLE and LOTT regarding S. Res. 8, the organizing resolution passed by the Senate last Friday, be printed in today's RECORD, and that the permanent RECORD be corrected to provide for its inclusion with the resolution when it passed the Senate last Friday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The material ordered to be printed in the RECORD is as follows:

SENATE ORGANIZATION

Mr. DASCHLE. The resolution just agreed to represents an honorable compromise between the two parties on how best to organize the Senate in the 107th Congress. It was agreed to only after extensive negotiations between the two leaders, and after thorough consultation with all Senators. Although there were difficult issues presented, and the two sides approached those issues from very different points of view, in the end we were able to reach an agreement that, we hope, will allow the Senate to take up and act on the Nation's business in a bipartisan manner. In the meantime, we both agree that this situation is new ground and some things may have been overlooked in the crafting of this resolution. I would therefore acknowledge that there may be an additional need to revisit this issue at a later date.

Mr. LOTT. I concur with the assessment of the majority leader, Senator DASCHLE. The unique circumstances presented by this historic 50–50 Senate created significant challenges in organizing the Senate, and those circumstances required both sides to compromise. Having both met with our respective conferences, we both have discovered the potential need in the future to revisit some of the items contained in this agreement. I think it is fair to say that we will deal with the new issues in good faith as they arise. After a great deal of effort, Senator DASCHLE and I have found a way to, in essence, meet half way. That is what this resolution does.

Mr. DASCHLE. I will briefly describe the provisions of the resolution.

First, it provides that the membership of Senate committees will be equally divided between the two parties, and that, consistent with a separate resolution passed on January 3, 2001, all committees will be chaired by Republican Senators beginning at noon on January 20.

Second, the resolution provides that committee budgets and office space will be divided equally, subject to the customary set-asides for administrative expenses and so-called non-designated staff. It is our expectation that the details of those arrangements will be negotiated and agreed to by the respective chairman and ranking members of the committee, in consultation with other members of each committee. It will also be left to the committees, as is customary at the beginning of each new Congress, to agree to committee rules of procedure.

Further, the resolution provides that committee administrative expenses may be increased where necessary, but that the total administrative expense allocation for all committees shall not exceed historic levels. I would add that my understanding of this provision is that it will result in little or no net increase in the total amounts spent by committees on administrative expenses.

Third, it provides, in the case of a tie vote in committee on a bill or nomination, that either leader may move to discharge the committee, and that after 4 hours of debate, equally divided, the Senate proceed to vote on the motion to discharge. If the motion is agreed to, the bill or nomination would be placed on the calendar. Similarly, in the case of a tie vote in a subcommittee on a legislative item or nomination, the resolution authorizes the committee chairman to discharge the subcommittee and place the legislative item or nomination on the full committee agenda.

Fourth, the resolution provides that no cloture motion shall be filed by either party except to bring to a close debate, and that in no case shall cloture be filed before the expiration of 12 hours of debate.

Fifth, it stipulates that it shall continue to be considered the prerogative of the majority leader to make motions to proceed—although the resolution does not affect the existing right of every Senator to make a motion to proceed if he or she chooses to do so.

Sixth, it provides that in scheduling and debating all legislative and executive business in the Senate, both leaders shall seek to attain an equal balance of the interests of the two parties.

Finally, it provides that should either party attain a majority of the whole number of Senators during the 107th Congress, a new organizing resolution would be required. I would add that it is the expectation of the two leaders that if the ratio in the full Senate changes to 51–49, then a resolution instituting one-seat margins in all committees would be necessary.

That summarizes the basic provisions of the resolution. Does the distinguished Republican leader wish to comment?

Mr. LOTT. The majority leader has described the resolution accurately. I would add only that it is my hope and expectation that tie votes in committee will be the exception and not the norm in this Congress, and that the discharge provisions of the resolution will rarely if ever have to be used. Given the unique nature of this 50–50 Senate, and the closely-divided nature of the country, it is my hope that committee chairmen and ranking members will strive to achieve strong, bipartisan majorities for all legislation and nominations considered in their committees, and that all Senators will work together in that spirit. Senator DASCHLE and I agree that this represents the wisest approach and will give us the best chance of success in addressing the needs of the American people.

With respect to the ratios of members on conferences, we both understand that under previous Senate practices, those ratios are suggested by the majority party and if not acceptable by the minority party, their right to amend and debate is in order. We both agree that the intention of this resolution is not to alter that practice and this resolution does not serve to set into motion any action that would alter that practice in any way. The two leaders agree to work together to ensure that conferees are appointed in a fair and bipartisan manner.

Mr. DASCHLE. In addition to the provisions just discussed, the distinguished Republican leader and I have reached understandings on several related matters, which I believe he would like to describe.

Mr. LOTT. The Senator is correct; we have reached understandings on the following related issues.

First, I have discussed with the majority leader concerns that have been raised about the floor procedure known as "filling the amendment tree." Senator DASCHLE and I appreciate and understand those concerns, and we wish to assure Senators that it is our intention that the Senate have full and vigorous debates in this 107th Congress, and that the right of all Senators to have their amendments considered will be honored. We have therefore jointly agreed that neither leader, nor their designees in the absence of the leader, will offer consecutive amendments to fill the amendment tree so as to deprive either side of the right to offer an amendment. We both agree that nothing in this resolution or colloquy limits the majority leader's right to amend a nonrelevant amendment nor does it limit the sponsor of that nonrelevant amendment from responding with a further amendment after the majority leader's amendment or amendments are disposed of.

Second, we have agreed that the two parties will have equal access to common space in the Capitol complex for purposes of holding meetings, press conferences, and other events.

Finally, we have agreed that henceforth the duties of presiding officer of the Senate, now under the control of the majority party, will be shared in part by the minority party.

Mr. DASCHLE. I appreciate the remarks of the distinguished Republican leader. I also want to assure him that during the 17 days in which Democrats will hold the majority, we intend to operate in the most bipartisan manner possible. As I have said before, in a 50–50 Senate, bipartisanship is not just an option, it's a requirement. This resolution enables the Senate to get to work immediately on the Nation's business—including nomination hearings, some of which have already begun. I thank my friend the Republican leader, and all Members of the Senate, for their cooperation and good faith in allowing us to reach agreement on this important measure. I yield the floor.

REMOVAL OF INJUNCTION OF SECRECY

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 8, 2001, by the President of the United States: Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission (Treaty Document 107-2).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil, June 11, 1999, and signed by the United States, subject to ratification, in Guayaquil, Ecuador, on the same date. In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Protocol. The Protocol will not require implementing legislation.

The Protocol amends the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington May 31, 1949, and entered into force March 3, 1950 (the "Convention"), to allow the European Union to become a member of the Inter-American Tropical Tuna Commission (IATTC) created under the Convention. Presently, the Convention is only open to governments of states. The Protocol will, upon entry into force, allow regional economic integration organizations like the European Union to become a party to the Convention and a full member of the IATTC provided all parties to the Convention give their consent to such adherence. The Protocol also provides that the Member States of any regional economic integration organization that is allowed to adhere to the Protocol are barred from joining or continuing as a party to the Convention except with respect to the Member States' territories that are outside the territorial scope of the treaty establishing the regional economic integration organization.

Allowing the European Union to accede to the Convention is important to the United States because it would mean that the vessels operating under the jurisdiction of the European Union and its Member States would be bound by the conservation and management measures adopted by the IATTC for the fishery resources of the eastern Pacific Ocean.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 8, 2001.*

Mr. REID. Mr. President, I ask unanimous consent that two notices of hearings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, January 18, 2000, at 2:30 p.m., in room SD–106 of the Dirksen Senate Office Building in Washington, DC, and will continue, if necessary, on Friday, January 19, 2000, at 9 a.m., in room SH–216 of the Hart Senate Office Building in Washington, DC.

The purpose of the hearing is to consider the intent to nominate Gale A. Norton to be the Secretary of the Interior.

Those wishing to submit written statements on the nomination should address them to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150.

For further information, please contact Vicki Thorne at (202) 224–4103.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, January 18, 2000, at 9 a.m., in room SD-106 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to consider the intent to nominate Spencer Abraham to be the Secretary of Energy.

Those wishing to submit written statements on the nomination should address them to the Committee on Natural Resources, U.S. Senate, Washington, DC 20510-6150.

For further information, please contact Vicki Thorne at (202) 224-4103.

MORNING BUSINESS

PRESENTATION OF PETITIONS AND MEMORIALS

The PRESIDENT pro tempore. The Chair calls for the presentation of petitions and memorials.

REPORTS OF COMMITTEES

There being none, reports of committees are now in order.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

There being no reports, the introduction of bills and joint resolutions is now in order.

SUBMISSION OF RESOLUTIONS

The PRESIDENT pro tempore. The Chair calls for the submission of resolutions.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no resolutions to come over under the rule, morning business is now closed.

CALL OF THE CALENDAR

The PRESIDENT pro tempore. The call of the calendar under Rule VIII will now occur, but there are no items on the calendar. Therefore, the call of the calendar of general orders is dispensed with.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the Committee on Health, Education, Labor, and Pensions.

(The nominations received today are printed at the end of the Senate proceedings.)

RECESS UNTIL SATURDAY, JANUARY 20, 2001, at 3 P.M.

The PRESIDENT pro tempore. The Senate will now stand in recess under the provisions of House Concurrent Resolution No. 1 until 3 post meridian on Saturday, January 20, in the year of our Lord 2001.

Thereupon, the Senate, at 12:05 p.m., recessed until Saturday, January 20, 2001, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate January 8, 2001:

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

ROBERT F. ANDA
RICHARD T. CALDWELL
RUTH A. ETZEL
JOHN T. FRIEDRICH
SCOTT D. HOLMBERG
JONATHAN E. KAPLAN
NEIL J. MAKELA
THOMAS R. NAVIN
FRANK O. RICHARDS JR.
MARY K. SERDULA
PHILLIP L. SMITH
HUGH K. TYSON
RONALD J. WALDMAN
ALLEN J. WILCOX
RAY YIP

To be senior surgeon

RICHARD J. CALVERT
GRANT L. CAMPBELL
ROBERT L. DANNER JR.
LUIS G. ESCOBEDO
ARTHUR J. FRENCH III
STEVEN K. GALSON
MARTA L. GWINN
DAVID M. HARLAN
CLARE HELMINIAK
PAUL J. HIGGINS
KATHLEEN L. IRWIN
WILLIAM J. KASSLER
VIRGINIA B. KOPELMAN
SANDRA L. KWEDER
WILLIAM C. LEVINE
JAMES A. LEWIS
FRANK J. MAHONEY
WILLIAM J. MARX JR.
PHUC NGUYEN-DINH
ROGER D. PROCK
ROBERT E. QUICK III
STEPHEN J. RITH-NAJARIAN
LISA S. ROSENBLUM
ANNE SCHUCHAT
MITCHELL SINGAL
DANIEL M. SOSIN
THOMAS K. STEMPEL
JORDAN W. TAPPERO
JUDITH THIERRY
WALTER W. WILLIAMS

To be surgeon

D. W. CHEN
SCOTT F. DOWELL
KAREN L. PARKO

To be senior assistant surgeon

WILLIAM H. DUNN JR.
DIANA L. DUNNIGAN
DAVID R. GAHN
JOHN M. HARDIN
TANIA A. HURLBUTT
DOROTHY A. JENSEN
PAUL D. MAHER
MARIE A. RUSSELL
JOHN W. VANDERHOOF
JULIA C. WATKINS

To be dental director

BARBARA B. BEACH
M. ANN DRUM
RICHARD T. HIGHAM
MICHAEL L. MARK
GENE J. MCELHINNEY
STEVEN R. NEWMAN
MIGUEL RICO
JOHN L.M. ROBINSON
BARRY H. WATERMAN
RICHARD H. WHITE
RUSSELL C. WILLIAMS JR.

To be senior dental surgeon

THOMAS L. BERMEL
MITCHEL J. BERNSTEIN
SAMUEL L. BUNDRANT
APRIL C. BUTTS
WILLIAM L. CANADA
ROGER L. CHO
DAVID L. CLEMENS
MICHAEL E. CRUTCHER
MARGARET L. LAMY
JAMES E. LEONARD
STEVE J. MESCHER
LYNN G. PRICE
JOSEPH P. ROSE JR.
LEE S. SHACKELFORD
WILLIAM D. WOOD
JOHN T. ZIMMER

To be dental surgeon

ANITA L. BRIGHT

To be nurse director

MELISSA M. ADAMS
BRUCE C. BAGGETT
MARTINA P. CALLAGHAN
NANCY E. MILLER-KORTH
CRISTIN O. RODRIGUEZ
CAROL A. ROMANO

To be senior nurse officer

FAY E. BAIER
MICHAEL D. BROWN
JOANN G. BURTON
BETTY L. CHERN-HUGHES
GAYLE N. CLARK
MARY P. COUIG
PETER L. CUEVA
DAVID A. FORSYTHE
KAREN D. HENCH
BYRON N. HOMER JR.
ROY C. LOPEZ
HELEN L. MYERS
MELVA V. OWENS
NANETTE H. PEPPER
BONITA S. PYLER
NADINE M. SIMONS
CYNTHIA G. WARK
HARLEN D. WHITLING

To be nurse officer

VICTORIA L. ANDERSON
DOLORES J. ATKINSON
BUCKY M. FROST
BRADLEY J. HUSBERG
THERESA B. WADE

To be senior assistant nurse officer

MICHAEL J. LACKEY
JUDY L. PEARCE

To be engineer director

GERALD V. BABIGIAN
CURTIS C. BOSSERT
JOSEPH C. COCALIS
ROBERT M. HAYES
WILLIAM A. HEITBRINK
GARY A. MCFARLAND
RANDY N. WILLARD

To be senior engineer officer

TIMOTHY G. AMSTUTZ
EZIO E. BORCHINI
THOMAS A. BURNS
STEVEN J. FORTHUN
KENNITH O. GREEN
DANIEL L. HEINTZMAN
JEFFREY B. MASHBURN
RUSSEL D. PEDERSON
STEVEN H. RUBIN
KELLY R. TITENSOR

To be engineer officer

BRADLEY K. HARRIS
ANTHONY T. ZIMMER

To be senior assistant engineer officer

MICHAEL S. COENE

To be scientist director

GREGORY M. CHRISTENSON
ALAN C. SCHROEDER
CHUNG-YUI B. TAI
RICHARD W. TRUMAN

To be senior scientist

LEMYRA M. DEBRUYN
MICHELE R. EVANS
DAVID HUSSONG
ROBERT W. LINKINS
JACQUELINE M. MULLER
MARK L. PARIS
ROGER R. ROSA
JOHN M. RUSSO
GLENN D. TODD

To be scientist

RICHARD P. TROIANO

To be sanitarian director

RANDY E. GRINNELL

RICHARD W. HARTLE
GREGORY M. HECK
GARY P. NOONAN

To be senior sanitarian

STEVEN M. BREITHAUPT
BRUCE W. HILLS
BRENDA J. HOLMAN
KATHY L. MORRING
DAVID H. PEDERSEN
ALAN R. SCHROEDER
PETER P. WALLIS

To be sanitarian

DEBRA M. FLAGG
JOE L. MALONEY
KELLY M. TAYLOR

To be veterinary director

MARGUERITE PAPPAIOANOU

To be senior veterinary officer

RONALD B. LANDY
WILLIAM S. STOKES
AXEL V. WOLFF

To be veterinary officer

TRACEY C. BOURKE

To be pharmacist director

RUSSELL E. ALGER
ANTHONY J. BROOKS
ROGER D. EASTEP
PAUL L. HEPP
WILLIAM A. HESS
ALLAN S. JIO
RICHARD S. LIPOV
JON A. MCARTHUR
THOMAS J. MCGINNIS
NICHOLAS P. PROVOST
STEPHEN W. WICKIZER

To be senior pharmacist

MICHAEL F. BRECKINRIDGE
RANDY W. BURDEN
GEORGE B. CARPENTER
MARK L. DEMONTIGNY
DARYL A. DEWOSKIN
JOHN A. ELTERMANN JR.
THOMAS J. FISCHBACH
JAMES R. HUNTER
ALVIN J. LEE
SHEILA M. OKEEFE
RICHARD R. POTTER
DANIEL P. RILEY
WILLIAM M. SINGLETON JR.
TIMOTHY P. UTKE

To be pharmacist

WESLEY G. COX
DOUGLAS P. HEROLD
JILL D. MAYES
DONNA A. SHRINER

To be senior assistant pharmacist

DAVID A. BATES
STEVEN D. DITTERT
ELIZABETH A. D. GIRARD
DANA L. HALL
SHARON L. OESTEREICH
ERIC J. POLCZYNSKI

To be dietitian director

SHIRLEY R. BLAKELY

To be senior dietitian

KAREN M. BACHMAN-CARTER
LAURA A. MCNALLY

To be dietitian

SILVIA BENINCASO

To be therapist director

CHARLES L. MCGARVEY

To be senior therapist

MARK W. DARDIS
MICHAEL P. FLYZIK
JOHN T. HURLEY
FRANCES M. OAKLEY

To be therapist

NANCY J. BALASH

To be health services director

THOMAS F. CARRATO
VIVIAN T. CHEN
ROBERT L. DAVIDSON
JEAN D. DOONG
JOHN D. DUPRE
JOHN M. GARBER
JESSE L. GLIDEWELL
TERENCE M. GRADY
ELLEN M. HUTCHINS
DEBRA Y. LEWIS
MARY S. PASTEL
CAROL REST-MINCBERG

To be senior health services officer

RONDA A. BALHAM
REGINA A. BRONSON
CHARLES J. BRYANT
ELEANOR A. CROCKER
PETER A. DEMONTE, JR.
MICHELE M. DOODY
JOHN D. FUGATE, JR.
LAWRENCE E. KUCKEN
CHERYL A. LAPOINTE
STEVEN A. LEE
LAWRENCE F. MAZZUCKELLI
LAWRENCE C. MCMURTRY
JAMES C. PORTT
THOMAS R. TAHSUDA
ALBERT R. TALLANT
ROBERT G. TONSBERG
RICHARD C. VAUSE, JR.
RICHARD C. WHITMIRE

To be health services officer

NANCY A. NICHOLS
LARRY E. RICHARDSON

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 9, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 10

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings on the nomination of Roderick Paige, to be Secretary of Education.
SD–430

JANUARY 16

9 a.m.
Environment and Public Works
To hold hearings on the nomination of Christine Todd Whitman, of New Jersey, to be Administrator of the Environmental Protection Agency.
SD–406

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Colin L. Powell, to be Secretary of State.
SH–216

JANUARY 17

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Colin L. Powell, to be Secretary of State.
SH–216

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Saturday, January 20, 2001*

(Legislative day of Monday, January 8, 2001)

The Senate met at 3:02 p.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of our Nation and Lord of our lives, we begin this 107th Senate with a renewed commitment of our lives to You. The Senators and all of us who are privileged to work with them turn over to You the control of our lives with fresh dedication. Remind us that we are here by Your choice and permission and that You will provide exactly what is needed to meet the challenges and opportunities of each new day. We thank You for our new President and Vice President and their families. Give George W. Bush and DICK CHENEY Your power to lead wisely, the guidance to know and follow Your will, the courage to call all of us to servant leadership, and the desire to forge strong ties between the executive and legislative branches of our Government. May a bond of mutual trust enable creative dialog and constructive debate that move us forward in dealing with the crucial issues before our Nation.

Lord, there is no limit to what we are able to do through women and men who love You and whose hearts have been galvanized into unity and devotion for America. May it be so now, Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will now read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 20, 2001.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. REID thereupon assumed the chair as the Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is now recognized.

NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES

Mr. ROBERTS. Mr. President, I send a resolution to the desk concerning the appointment of a new President pro tempore of the Senate.

The ACTING PRESIDENT pro tempore. This resolution is privileged. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 9) notifying the President of the United States of the election of a new President pro tempore.

Mr. ROBERTS. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 9) was agreed to.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. ROBERTS. I now send a second resolution to the desk also concerning the President pro tempore and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. This resolution is also privileged. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 10) notifying the House of Representatives of the election of a new President pro tempore of the Senate.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 10) was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina, Mr. THURMOND, will be escorted by SENATOR HOLLINGS.

ADMINISTRATION OF OATH OF OFFICE

The Senator, escorted by Senator HOLLINGS, advanced to the desk of the Acting President pro tempore; the oath prescribed by law was administered to Senator THURMOND by the Acting President pro tempore.

(Applause, Senators rising.)

EXECUTIVE CALENDAR

Mr. ROBERTS. Mr. President, in executive session, I ask unanimous consent that the following nominations be placed directly on the Executive Calendar, that of Colin L. Powell, Paul H. O'Neill, Donald H. Rumsfeld, Donald L. Evans, Spencer Abraham, Rod Paige, Anthony Principi, Ann Veneman, and Mitch Daniels.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERTS. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the nominations of Donald H. Rumsfeld to be Secretary of Defense, Colin L. Powell to be Secretary of State, Paul H. O'Neill to be Secretary of the Treasury, Ann Veneman to be Secretary of Agriculture, Donald L. Evans to be Secretary of Commerce, Rod Paige to be Secretary of Education, and Spencer Abraham to be Secretary of Energy.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERTS. I further ask unanimous consent, Mr. President, that the nominations be considered en bloc and disposed of en bloc, that each nomination be considered separately in the RECORD, and following the confirmations the motion to reconsider be laid upon the table, that the President be immediately notified that the Senate has given its consent to these nominations, and the Senate then return to legislative session.

Mr. REID. Reserving the right to object, Mr. President,

I wish the RECORD to reflect that with regard to the nomination of Spencer Abraham to be Secretary of Energy, I am voting in the negative. I appreciate the fact that we need a Secretary of Energy immediately because of the dire energy crisis in the State of California. My objection to Secretary designee Abraham's nomination is based on the troubling record Mr.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Abraham has established on nuclear waste. This objection is based on a difference of opinion over this matter. Indeed, I had the honor of serving in this body with Spencer Abraham in his capacity as a Senator from Michigan. I know him to be a decent and honorable man who served with distinction.

As a Senator from Michigan, however, he voted repeatedly to ship nuclear waste to the State of Nevada despite the overwhelming evidence that such a move was being made without regard for sound science and public health and safety. He voted to ship nuclear waste to Nevada notwithstanding the fact that there is no safe route for the transportation of high level nuclear waste through the states and cities and towns of America. He supported an industry backed bill that would have expedited delivery of nuclear waste to Nevada on an "interim" basis. He even supported overriding President Clinton's veto of a bill which would have greatly weakened the EPA's role in establishing the appropriate radiation standards at Yucca Mountain.

The decision on the designation of a permanent nuclear waste repository rests with the Secretary of Energy. This decision, and others relating to Yucca Mountain, must be made absent bias. Regrettably, Secretary designee Abraham's record as a Senator and his testimony before the Energy Committee as a nominee lead me to believe that he may not be capable of such impartiality on this very important issue.

I withdraw my reservation.

Mr. WARNER. Mr. President, I rise today to give my strongest recommendation for the confirmation of the nomination of Donald H. Rumsfeld to be Secretary of Defense.

On December 28, 2000, then President-elect Bush announced his intention to nominate former-Secretary of Defense Rumsfeld, a man I have known for more than 20 years, to be his Secretary of Defense. I support this nomination, and I am pleased that the President decided to recommend him for this important position.

Don Rumsfeld served as Secretary of Defense for President Ford from 1975 to 1977. I am confident that he will, once again, be a competent, trustworthy, effective Secretary of Defense. He has the experience, knowledge, skill and ability to oversee the best—the largest—military force in the world. His challenge will be to prepare that force for missions in the ever-growing, increasingly complex threat environment of the 21st century. He must "jump start" the pace of transition from cold war thinking to new thinking.

Don Rumsfeld has been extremely successful in the business world in the years since he last served as Secretary of Defense. He has served as the chief executive officer of G.D. Searle and Company, a worldwide pharmaceutical company, and as chairman and chief executive officer of General Instrument Corporation, a leader in broadband and digital, high-definition television technology. While leading these major private-sector businesses, he continued his public service by serving in a variety of Federal posts and as a member of several commissions.

Many Senators are familiar with the excellent work Secretary Rumsfeld has done on both the Commission to Assess the Ballistic Missile Threat to the United States, which issued its report in 1998, and the Commission to Assess United States National Security Space Management and Organization, which issued its report on January 11, 2001.

President Bush has articulated a vision for the U.S. military and has set three broad goals for national defense: first, to renew the bond of trust between the President and the military; second, to defend the American people against missiles and terror; and third, to begin creating the military of the next century. I know that Don Rumsfeld is committed to these goals as well.

In a speech at the Citadel in September 1999, then-Governor Bush said, "Those who want to lead America accept two obligations. One is to use our military power wisely, remembering the costs of war. The other is to honor our commitments to veterans who have paid those costs." I doubt that any Member of the Senate would take exception with those obligations. Don Rumsfeld will certainly accept these obligations with enthusiasm.

Public service is a demanding vocation for the family as well as the nominee. I want to express my personal appreciation to Mrs. Joyce Rumsfeld for rededicating herself to public service as well. The Nation will never fully appreciate the sacrifices spouses, such as Joyce Rumsfeld, make supporting those who serve our country.

Mr. President, I want to commend my friend and colleague, Senator LEVIN, for the manner in which, as the chairman of the Armed Services Committee, he dealt with this nomination. Chairman LEVIN and I worked together very closely as the committee considered the nomination in a deliberate and timely manner.

I support this nomination. I urge my colleagues to support the nomination as well. Secretary Rumsfeld will be a crucial part of the great national security team that President Bush has assembled.

The nominations were considered and confirmed, as follows:

DEPARTMENT OF AGRICULTURE

Ann Margaret Veneman, of California, to be Secretary of Agriculture.

DEPARTMENT OF DEFENSE

Donald Henry Rumsfeld, of Illinois, to be Secretary of Defense.

DEPARTMENT OF COMMERCE

Donald Louis Evans, of Texas, to be Secretary of Commerce.

DEPARTMENT OF ENERGY

Spencer Abraham, of Michigan, to be Secretary of Energy.

DEPARTMENT OF THE TREASURY

Paul Henry O'Neill, of Pennsylvania, to be Secretary of the Treasury.

DEPARTMENT OF STATE

Colin Luther Powell, of Virginia, to be Secretary of State.

DEPARTMENT OF EDUCATION

Roderick R. Paige, of Texas, to be Secretary of Education.

NOMINATIONS

Mr. DASCHLE. Mr. President, I said on January 3 that I intended to savor every one of the next 17 days. And I am pleased to tell you, I did.

In fact, I called my office this morning just to hear the receptionist say—one last time—"Majority Leader's Office." I did it again this morning.

It was an honor to serve as majority leader of this Senate—even if only for 17 days.

In the spirit of bipartisanship, I want to say to my friend, Senator LOTT that if he every needs to take a day off—for any reason—I'll be happy to fill in for him.

I also want to thank my fellow Democratic Senators—particularly our committee chairs.

It's been a while since a Democratic Senator had banged a chairman's gavel around here.

But you never would have known it to see them in action.

One measure of their dedication is the fact that we are here today to confirm the first seven of President Bush's Cabinet nominees.

Every other Cabinet nominee has gotten, or is getting, a fair hearing.

Something else happened during these last 17 days: We reached a historic agreement to share responsibility in America's first-ever 50/50 Senate.

I want to thank Senator LOTT again, and commend him for having the faith and the courage to do the right and fair thing.

Today, I hand the title of Majority Leader back to him.

And that's just fine.

As Thomas Jefferson said: "I like the dream of the future better than the history of the past."

Today, as President Bush begins his Presidency, we wish him well. We want to work with him to make a better future—for all Americans.

To the cynics who say that's not possible, let me point out seven reasons for hope: Colin Powell, Donald Rumsfeld, Paul O'Neill, Don Evans, Spence Abraham, Ann Veneman, and Rod Paige.

I'd like to say a few words about each of these extraordinary men and women.

Colin Powell:

I told Colin Powell earlier this week that he has lots of admirers on both sides of the aisle here, and I consider myself one of the biggest. America is fortunate to have him as our ambassador to the world.

General Powell has spent his entire adult life serving this nation. He started in the Army as a second lieutenant in June 1958 and spent the next 35 years as a professional soldier. He eventually rose to become Chairman of the Joint Chiefs of Staff—the highest military assignment at the Pentagon—and National Security Adviser to President Reagan. He received many awards, including: the Defense Distinguished Service Medal with 3 oak leaf clusters, the Army Distinguished Service Medal with Oak Leaf Cluster, the Defense Superior Service Medal, the Legion of Merit with Oak Leaf Cluster, the Soldier's Medal, the Bronze Star, and the Purple Heart.

In 1993, General Powell retired from the Army and found a new way to serve his country: as chairman of America's Promise—The Alliance for Youth.

The world has changed dramatically since Colin Powell first put on an Army uniform. I was reminded of that again a few days ago when I read a newspaper article about police officer in Sioux Falls by the name of Greg Schmit. Officer Schmit and 10 other police officers throughout America recently returned from Russia.

They went to Russia as part of a State Department program to train Russian police in Western policing methods. They didn't go out of some misguided idealism. They went because it is in America's national security interest to help foster the rule of law and a professional police force in Russia.

I mention this because I believe there are parallels between what Officer Schmit and his colleagues did, and what Secretary Powell can, and must, do as Secretary of State.

The threats to world peace are different today than when Colin Powell first joined the Army—but they are no less dangerous.

The proliferation of weapons of mass destruction has turned what used to be regional conflicts into potential global catastrophies.

New technologies and more open societies have enabled drug traffickers and other criminals to expand their activities—threatening American citizens and democratic advances worldwide.

Abandoning our responsibilities as a world leader will not protect us from the threats in today's world. But it would deprive us of the benefits.

We must not fall for the false security of isolationism.

We must remain engaged in the world.

Protecting America's interests and promoting the causes of peace and democracy throughout the world will require a team effort.

I can think of no one better-suited to head that team than Colin Powell.

Donald Rumsfeld:

Joining Secretary Powell on that team is an outstanding leader who has also had a long and distinguished career inside and outside of government: Donald Rumsfeld.

As Secretary of Defense, Don Rumsfeld will lead 1.5 million active duty personnel, nearly 1 million reserve personnel and more than 800,000 full-time civilian employees. And he will encounter new and unconventional threats that defy conventional solutions.

Clearly, these are daunting challenges. But Don Rumsfeld is well-qualified to meet them.

A graduate of Princeton University, he served three years as a U.S. Navy aviator before being elected in 1962—at the age of 30—to the House of Representatives.

In 1969, he resigned from Congress to work for President Nixon, and stayed to work for President Ford.

In 1975 he was confirmed by the Senate to serve as our 13th and youngest Secretary of Defense.

Two years later, he began a 20-year career in the private sector. But he continued to answer the call of public duty, serving as President Reagan's Special Envoy for the Middle East and chairman of the Commission to Assess the Ballistic Missile Threat to the United States.

I look forward to working with both Secretary Powell and Secretary Rumsfeld.

There are five areas in particular where I hope we can build bipartisan support:

First: In recent years, the U.S. has worked with NATO to end ethnic cleansing in the former Yugoslavia and restore stability to southeastern Europe. In East Asia, we worked with our Korean and Japanese allies to diminish North Korea's nuclear threat and come within striking distance of an agreement to halt that country's missile program. We must not threaten these and other critical alliances by rushing to disengage from successful efforts in the Balkans and elsewhere.

Second: We must also avoid threatening our friends—and our enemies—unnecessarily by rushing too quickly to deploy a national missile defense. President Bush has said he is committed to deploying such a system, and Secretaries Powell and Rumsfeld also have expressed support for it.

Let me be clear: Democrats also support ballistic missile defense system—as long as it meets four essential criteria. It must be affordable and effective, it must meet the threat, and it must not damage relations with our allies. In short, it must make us more secure, not less.

Third: We want to work with Secretaries Powell and Rumsfeld, and with President Bush, to build bipartisan support for the Comprehensive Test Ban Treaty.

I will not dwell here on the lengths to which CTBT opponents went in the last Congress to tilt the playing field—both procedurally and substantively. Suffice it to say that this important treaty did not get the fair and full hearing it should have, and the Senate failed to ratify it.

General John Shalikashvili, former chairman of the Joint Chiefs of Staff, said recently: "(t)he advantages of the Test Ban Treaty outweigh any disadvantages, and thus . . . ratification would increase national security." I hope the Bush administration will pay close attention.

Fourth: We must maintain our support for efforts to control the spread of weapons of mass destruction, such as the Cooperative Threat Reduction program—better known as "the Nunn-Lugar program." This program enables us to work with Russia to reduce its nuclear arsenal. It has led to the destruction of thousands of Russian nuclear weapons and weapons platforms. It has also resulted in tighter security at Russian nuclear weapons development and production facilities.

It is hard to imagine a better investment in our national security. We must maintain it.

Fifth: Our diplomatic corps will always be our first line of defense. We must make sure it has the resources it needs to do its job well.

At the same time, we must make it clear to our friends and our enemies alike that, if America's values and interests are threatened, and if diplomacy fails, we will use force.

We must maintain America's role as a global leader.

Paul O'Neill:

To do that, we must maintain our fiscal discipline.

Paul O'Neill, our next Secretary of the Treasury, understands that.

Like Secretaries Powell and Rumsfeld, he comes to his post with a long and impressive record of achievement in both the private and public sectors.

He has been a tremendously successful CEO of a major American corporation, Alcoa, which operates worldwide and has thrived in the global economy under his leadership.

He has earned the respect of Wall Street—and Alcoa employees.

George Becker is president of the Steelworkers Union. Listen to what he had to say about Paul O'Neill—quote: "Most of our relationships with employers are confrontational by nature, but we found that Paul had very keen interest on the side of working people."

His predecessors in the current Administration—Lloyd Bentsen, Bob Rubin, and Larry Summers—played critical roles in restoring the fiscal strength of the United States and in responding to financial crises around the globe. As a result—in significant measure—of their insight and actions, the new Treasury Secretary will inherit a remarkably strong fiscal situation.

In his new office, I hope Secretary O'Neill will remember how hobbled our economy was a decade ago, and how hard Americans worked to put our economy back on sound financial footing. I also hope he will look to the future.

In less than a decade, the first Baby Boomers will retire. We want to work with Secretary O'Neill, President Bush, and our Republican colleagues to prepare for the Baby Boomers' retirement now, while we still have the time, so we can avoid a crisis down the road.

We can afford to cut taxes. We can afford to provide to add a prescription drug benefit to Medicare. But we must not go too far. We cannot afford to return to fiscal irresponsibility and weakness. There's a better way. Together, we can find it.

Don Evans:

Maintaining fiscal discipline is the key to keeping our economy strong.

We must also continue to help American businesses and entrepreneurs grow and create new jobs, and continue to seek out new markets for American good and services—at home and abroad.

That will be the job of President Bush's new Commerce Secretary. And he is well-prepared to take it on.

Mr. Evans understands that we live in a global economy, and that erecting trade barriers between countries is the wrong approach.

As someone from a rural state, I particularly appreciate his commitment to promote access to the newest technologies in rural America.

We are ready to work with Secretary Evans on all of these priorities.

We also want to work with him to keep politics out of the census, so that we can get an accurate count of America's population.

Spencer Abraham:

These last couple of weeks have provided dramatic reminders of how essential affordable, reliable energy supplies are to our nation.

In California, rolling energy blackouts have forced temporary shutdowns of Silicon Valley computer giants, and turned off traffic lights at the height of rush-hour.

In South Dakota and many other states, soaring oil and natural gas prices are making it harder for families to heat their homes, and eating into business profits.

As Secretary of Energy, Spence Abraham is the person to whom America will look for solutions to our nation's pressing energy needs.

He is also the person most responsible for ensuring the safety and security of our nation's nuclear stockpile, storing and cleaning up nuclear waste, and overseeing critical research at our national energy labs.

I am confident that Secretary Abraham is ready for these difficult tasks.

He showed during his six years in the Senate that he is willing to work in a bipartisan fashion. I look forward to continuing to work with him in his new capacity.

I am especially interested in working with him to promote the use of renewable energy sources such as wind and ethanol, and providing incentives for improved energy efficiency.

By using our resources wisely, we can reduce our dependence on foreign oil and ensure the stability of our economy.

Ann Veneman:

The Department of Agriculture is charge with the oversight of a wide range of policy areas—from commodity programs and trade to food safety, from natural resources and forestry management to nutrition programs.

I am confident that Ann Veneman has the breadth of experience and knowledge to ensure Americans are very well served in all of these areas.

Ms. Veneman has a long history of public service.

In 1991, Agriculture Secretary Madigan tapped her to be Deputy Secretary at USDA. She was the first women ever to be appointed to that position. But what people know her for was her significant contributions to the GATT Uruguay round negotiations on agriculture, from which we continue to benefit.

In 1995, Governor Wilson appointed her to be Secretary of Agriculture in California.

She was the first woman to serve as Agriculture Secretary in California. While there, she pursued a strong and varied agenda that included opening new markets for trade and making significant improvements in California's food safety system.

With this nomination, Ms. Veneman will be the first woman United States Secretary of Agriculture. She brings considerable strengths to this post, and we are confident that we will take major strides in farm policy with her at the helm.

Roderick Paige:

Finally, I want to commend President Bus for choosing Dr. Roderick Paige as his Secretary of Education. As superintendent of the Houston Independent School District and before that, as a member of Houston's school board, Dr. Paige has shown that he believes every child deserves an opportunity to attend a good public school.

During his nearly seven years as superintendent, Houston saw significant gains in the numbers of 10th graders passing Texas' basic skills test—especially among minority students.

Dr. Paige understands from personal experience the many challenges facing America's public schools, the men and women who work in them, and the children who depend on them.

He has earned the support and admiration of a wide variety of education professionals. He has earned this nomination. I look forward to working closely with him to help President Bush fulfill his pledge to leave no child behind.

Again, I commend President Bush for sending us seven such strong nominees. I urge my colleagues to support all of them. And I look forward to working with each of them to make that dream of a better future, that Thomas Jefferson wrote about, a reality.

NOMINATION OF COLIN POWELL

Mr. DOMENICI. Mr. President I rise today to offer my unequivocal support for the nomination of General Colin Powell as our Secretary of State. Colin Powell's experience as a soldier, a public servant, and a civilian leader will serve him well in overcoming the challenges ahead.

Americans should know that we could not ask for any person with better preparation, more knowledge, or greater skills to take the helm of U.S. foreign policy and its diplomatic corps at this time in our history.

As a former Chairman of the Joint Chiefs of Staff, General Powell fully understands the role of the military in the implementation of foreign policy. He also understands that a powerful military can be eroded through misuse. The use of force should be the last resort, not the first best solution to failed diplomacy.

As General Powell stated in his testimony before the Foreign Relations Committee, the United States' challenge is one of leadership. U.S. power—military, economic, and diplomatic—is unparalleled. We must use such power judiciously. And we must apply the appropriate type of power in the right situations to shape a more peaceful and prosperous world.

But first we must know and clearly define our objectives.

President Bush stated that U.S. foreign policy was "like a cork in a current being swept from crisis to crisis. I believe this image accurately depicts the struggle over the last several years with the lack of a clearly formulated and executed foreign policy.

Many recognize, and General Powell addressed this also in his testimony, that the world we live in has radically changed in the last decade. We no longer face an ideological foe. We no longer live with the threat of annihilation from Soviet nuclear forces.

But the world today is not peaceful. The end of the Cold War stalemate unleashed forces of change. These forces of change couple with unprecedented technological advances have fundamentally altered the global landscape. The threats we face are diffuse, and many tools of the Cold War era prove insufficient in countering these new threats.

These new challenges—from cyberterrorism to AIDS in Africa to proliferation of weapons of mass destruction—will require new approaches and better coordination between our federal agencies. The Bush Administration is bringing together the most talented and experienced Cabinet in recent years to tackle these problems.

Colin Powell brings the leadership skills and commands the respect necessary to initiate needed changes, renew our diplomatic corps, clearly define our national interests and implement policies to achieve U.S. objectives. I look forward to working with Secretary Powell in my role as Chairman of the Budget Committee to give him the means necessary to address the State Department's needs.

Mr. President, in closing I would like to thank General Powell for his willingness to, once again, serve the American people.

Mr. DODD. Mr. President, I rise today to add my enthusiastic support for the nomination of Colin L. Powell to be the next United States Secretary of State—a view that I believe is unanimous in this body. The reasons are obvious. General Powell is a distinguished American who will bring credit to the Bush administration and our country over the next four years. He is without doubt extremely well qualified by experience and temperament to represent our nation as its chief diplomat and foreign policy spokesman.

I know a number of my colleagues have already gone on at length about the distinguished record of public service that General Powell has performed during his thirty-five years of military service before retiring, in 1993, from his post as Chairman of the Joint Chiefs of Staff. In the interest of time, I will simply associate myself with their remarks in noting that General Powell's record of public service is truly impressive. I would point out, however that the various positions he has held over the years have prepared him well to assume his new responsibilities as Secretary of State.

And, as if his years of public service were not enough, General Powell continued to serve his country and community in "retirement." He agreed to chair President Clinton's Summit for America's Future in 1997 and founded and chaired America's Promise—The Alliance for Youth, a non-profit organization dedicated to strengthening the character and competence of America's young people. General Powell's efforts to raise the profile of such an important issue, one that goes to the very fabric of our society, have clearly begun to bear fruit. As a Senator with a particular interest in the welfare of our children, I hope that America's Promise will continue its important work now that General Powell has a new "day job."

General Powell has now agreed to take on yet another assignment for the American people, this time as our country's chief diplomat and international spokesman. There is no doubt in my mind that he will do a superb job as Secretary of State. While some of President Bush's recent appointments have provoked controversy, the Rumsfeld/Powell—Defense/Foreign Policy team has strong bipartisan support in Congress and has been welcomed by the American people. I want to commend President Bush for his wise choice in asking General Powell to join his administration, and I want to personally thank General Powell for his willingness to once again answer the call of public service to his country. No one would have begrudged him had he said, "thanks but no thanks." His commitment and service to our country is truly extraordinary.

Let me also say for the record that General Powell's recent predecessors, Madeleine Albright and Warren Christopher have also distinguished themselves during their tenures and have left the world a better place for their efforts. I want to thank them for their service to our country and wish them well in their future endeavors.

On Thursday, I had the privilege of questioning General Powell at his nomination hearing before the Foreign Relations Committee. While we did not agree on every topic discussed, it was clear to me that General Powell has taken his nomination seriously and has educated himself on all aspects of foreign policy. He listened to every question attentively and answered every query thoughtfully. I was heartened in particular by the high priority he has placed on ensuring that adequate resources are made available to the State Department to make it possible for our diplomatic responsibilities to be effectively discharged around the world. In his prepared statement, General Powell also outlined his view of the world and emphasized that the United States cannot suddenly isolate itself from the global community. Moreover, he reiterated the necessity of the United States remaining engaged internationally in order to build upon the successes of previous administrations.

I took the opportunity to question General Powell at length on issues of special concern to me. He pledged to continue to monitor the Irish and Middle East peace processes, and while I know we have a difference of opinion on this issue, he did not reject outright the idea of an International Criminal Court, although he made clear his concerns with the treaty as currently drafted. Furthermore, I was extremely pleased to hear that President Bush has pledged to take a more active role in foreign policy with respect to strengthening our relations with countries in our own hemisphere. Many of my colleagues know of my interest in this region. I had numerous questions for General Powell on a wide range of topics of interest in Latin America—Mexico, Plan Colombia, our complex relationship with Cuba, the political chaos in Peru, and how best to spur democratization in Haiti. While we did not discuss any of these topics in great depth, it was clear to me that General Powell has a clear grasp of the problems extant in this region of the world, and I look forward to working with him over the next four years on issues of mutual concern.

General Powell demonstrated a willingness to listen to Senators thoughts and concerns over the six hours that his hearing lasted. Such an attitude can only serve to forge a strong and productive relationship between the State Department and the Senate. At the end of the day, dialogue between the Secretary and the Congress will ensure that the United States foreign policy agenda has strong bipartisan support here at home. U.S. foreign policy and national security interests will be best served if this proves to be so. If anyone can foster a spirit of bipartisanship in foreign policy, I believe that General Powell can. I look forward to working with him on issues of mutual interest and concern, and urge my colleagues to support his nomination.

NOMINATION OF DONALD H. RUMSFELD

Mr. LEVIN. Mr. President, I support the nomination of Donald Rumsfeld to be Secretary of Defense, and I urge my colleagues to support this nomination. It is important for the Senate confirm Mr. Rumsfeld today, the first day of the new administration, so that the new Secretary of Defense can assume his position in the chain of command of our armed forces.

Mr. Rumsfeld is well qualified to serve as Secretary of Defense. He has a distinguished record of public service, and in fact served as Secretary of Defense in the last 14 months of President Ford's administration. Since then, he has led several large private sector companies, while still remaining active in national security policy issues. Most recently, he served as Chairman of the U.S. Ballistic Missile Threat Commission and the Commission to Assess the United States National Security Space Management and Organization.

President Bush announced his intent to nominate Mr. Rumsfeld to be Secretary of Defense on December 28. Since then, the Armed Services Committee has conducted the same thorough review of this nomination that we apply to every nomination that comes before the committee. The nominee has submitted the required paperwork to the committee, met applicable financial disclosure requirements, and pledged to comply with the conflict of interest standards of the executive branch and the committee.

Mr. Rumsfeld has completed the detailed Armed Services Committee questionnaire that we require of all nominees. He has also responded in writing to an extensive series of policy questions which were circulated to all members of the committee and released to the public.

On February 11, the committee conducted a lengthy hearing with the nominee. A number of members of the committee submitted additional questions in writing to the nominee at the end of the confirmation hearing, and Mr. Rumsfeld has responded to all of those questions.

Finally, Senator WARNER and I have reviewed the summary of the FBI background investigation of Mr. Rumsfeld.

Yesterday, the Armed Services Committee met and voted unanimously to recommend that the full Senate give its advice and consent to this nomination. I ask unanimous consent that a memo that Senator WARNER and I sent to Senator DASCHLE and Senator LOTT informing them of the committee's action be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore: Without objection it is so ordered.

(See exhibit 1.)

Mr. LEVIN. As Secretary of Defense, Mr. Rumsfeld will inherit the most dominant military force in the history of the world. Over the last two decades, our military has incorporated a series of technological improvements that have revolutionized their military capability—from precision-guided munitions and stealth technology to satellite reconnaissance and electronic warfare capabilities. Today, each of our military services is more lethal, more maneuverable, more versatile and has greater situational awareness on the battlefield than at any time in our history.

But this is not a time for us to rest on our past accomplishments. The next administration and the Congress must work together to make sure our military is prepared to deal with the new threats to our security—particularly the terrorist threat—with new technologies, more mobile forces and improved intelligence capabilities. It is also essential that we devote a great deal of energy to combating what I believe is the greatest single threat to our security in the future—the proliferation of weapons of mass destruction.

Mr. President, Donald Rumsfeld has a strong commitment to the national security of our country and to the wellbeing of the men and women of our armed forces and their families. He is well-qualified to lead the Department of Defense. I look forward to working with him in his new position, and I urge the Senate to confirm his nomination.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, January 19, 2001.

Memorandum to: Senator Daschle and Senator Lott.

From: Senator Levin and Senator Warner.

Subject: Nomination of Donald H. Rumsfeld to be Secretary of Defense.

On December 28, 2000, President-elect Bush announced his intention to nominate Donald H. Rumsfeld to be Secretary of Defense.

On January 3, 2001, the Committee on Armed Services forwarded the Committee's nomination questionnaire to Secretary-designate Rumsfeld. The Committee requires each nominee to complete a questionnaire relating to the nominee's qualifications and potential conflicts of interest. Mr. Rumsfeld's responses to the questionnaire provided basic biographical and financial information.

Pursuant to its normal practice, on January 3, 2001, the Committee submitted a number of advance policy questions to the nominee. Secretary-designate Rumsfeld provided his responses to these questions on January 9, 2001. The questions and Secretary-designate Rumsfeld's responses were made a part of the record of the Committee's nomination hearing.

In anticipation of the nomination, the Committee conducted a hearing on January 11, 2001, in public session, to carefully review the credentials of Secretary-designate Rumsfeld. Secretary-designate Rumsfeld was the only witness at this hearing.

As part of the confirmation process, the Committee received the nominee's Public Financial Disclosure Report and appended ethics agreement, as well as letters on conflict of interest and related matters from the Director of the Office of Government Ethics and the General Counsel of the Department of Defense. Based on this information, the Committee concludes that the nominee has agreed, upon appointment, to initiate the necessary actions to comply with all applicable laws and regulations regarding conflict of interest.

The Committee on Armed Services found Donald H. Rumsfeld to be highly qualified for the position of Secretary of Defense. In an Executive Session on January 19, 2001, the Committee voted unanimously to recommend the Senate provide its advice and consent to the nomination of Mr. Rumsfeld.

JOHN WARNER,
Ranking Member.
CARL LEVIN,
Chairman.

Mr. DOMENICI. Mr. President, I rise today to offer my support to the nomination of Donald Rumsfeld as our Secretary of Defense. He will bring unparalleled experience, tremendous knowledge, and tactics of no fear to a daunting task.

Let me briefly describe his task: As Secretary of Defense, Donald Rumsfeld will be charged with leading the world's most powerful military. The U.S. military is the most technologically advanced and best trained in the world. Today, no other nation would take us on head-to-head.

But this is also a military machine that suffered years of neglect and misuse.

Donald Rumsfeld will take charge after the peace dividend has long expired. The motto of doing "more with less" is no longer feasible. The fabric of our military forces is stretched so thin as to begin unraveling.

While U.S. forces have continued to shrink in size, increased deployments and the corresponding operational tempo has eaten away at moral. Plummeting retention and recruitment appears to have been arrested for the time being, but without acknowledging this situation and turning the tide, our military might will wither.

In 1975 Donald Rumsfeld had only 14 months to turn the tide before Jimmy Carter took the election in 1976. In reviewing his achievements in that short period, I believe the next four years hold great promise.

I would also like to mention some of Donald Rumsfeld's most recent contributions to important national security issues. The Rumsfeld Commission's report in the summer of 1999 underscored the heightened threat and accelerated pace of missile programs in nations hostile to the United States. Within a month of the Report's release, North Korea proved Rumsfeld right.

Donald Rumsfeld also headed the Commission to Assess United States National Security Space Management and Organization. The unanimous report of the Commission was released on January 11—just nine days ago. The Commission's findings will help inform and guide our national space policy in the coming years.

On a more parochial note, Donald Rumsfeld also has a working cattle ranch in northern New Mexico. He and his wife, Joyce, spend many months a year there. He is known and admired by many in the local community. Knowing the beauty of El Prado as I do, I must say that he is sacrificing a great deal to take this job. But knowing Donald Rumsfeld also as I do, he's never shirked in performing his duty to this great nation.

Donald Rumsfeld brings the necessary experience, leadership ability, and esteem to initiate needed changes, reinvigorate our military forces, and prepare them for the 21st century. As chairman of the Budget Committee and a member of the Defense Appropriations Subcommittee, I look forward to working with Secretary Rumsfeld in meeting these challenges.

Mr. DODD. Mr. President, I am pleased to have the opportunity on this historic inauguration day to rise in strong support of the Honorable Donald Rumsfeld, President Bush's nominee for Secretary of Defense. In my judgment, Secretary Rumsfeld is eminently qualified for the post, a position he previously held some 25 years ago, and the decisive action I believe will be taken on the Senate floor today is a clear indication of the strong bipartisan support he has rightfully earned.

Secretary Rumsfeld has long been a prominent and positive figure in American public life. Most recently, he chaired the U.S. Ballistic Missile Threat Commission and served as a member of the U.S. Trade Deficit Review Commission, positions that both inform his understanding and expertise, and demonstrate his diverse broad-ranging talents. A former naval aviator, Mr. Rumsfeld ably represented the people of Illinois in the House of Representatives for four terms before joining President Nixon's Cabinet in 1969. He faithfully served this country in a number of capacities, including United States Ambassador to NATO, White House Chief of Staff and, as I noted, the 13th Secretary of Defense under President Ford from 1975 through 1977.

The Pentagon Mr. Rumsfeld presided over in the 1970s was very different from the one he will inherit today. Then, the world was divided by cold war and our nation was divided by the Vietnam war. Stung by the lessons of Vietnam, the efficacy of our military was in question. Today, the United States stands as the fortress of democracy and a compassionate champion of peace and freedom in an evolving global environment. Our military is the best equipped, the best trained and the most capable fighting force in the world. The difference between the two eras is profound, but let there be no question: this Secretary of Defense is the right person for today and the days to come.

We face the world with strength and confidence, ever mindful of the challenges ahead. The proliferation of weapons of mass destruction, the threat of cyber-terrorism, the potential vulnerability of our space-based assets, and the future of theater-wide and global missile defense are among our present and future challenges that will require innovative solutions. The health and well-being of our troops and their families, and our ability to train and retain the brightest and most talented personnel are persistent concerns that deserve close attention. Our commitment to maintaining a technological advantage on the battlefield and equipping our troops with the most advanced, reliable, and effective weaponry available must never waver. And we must achieve these objectives while providing the Navy with the resources to carry out its expanding and accelerating mission, transforming the Army into a more lethal and mobile force, building the Air Force's next generation air-superiority fighter and air-lift capacity, and maintaining the budgetary responsibility that has yielded America's strongest fiscal footing in a generation.

At this moment of transition, I would also like to commend the outgoing Secretary of Defense, William Cohen, on a job well done. He was called "the right person to secure the bipartisan support America's armed forces must have and clearly deserve," by President Clinton in 1997, and I believe his record of service confirms those remarks. Secretary Cohen focused on force modernization and troop readiness, and he made improving conditions for the fighting men and women of this nation the touchstone of his tenure.

Secretary Rumsfeld will have a difficult act to follow. The challenges ahead are many. The course laid out by President Bush is neither quickly achieved nor easily traversed, but it gives me confidence to know that Donald Rumsfeld has answered the call to serve this nation once more.

I would also like to express my appreciation to his wife, Joyce, and the Rumsfeld family for the countless sacrifices they will make in course of his term.

In Secretary Rumsfeld, we have found the right person for the job. I look forward to working with him.

Mr. DURBIN. Mr. President, I had the honor of introducing my distinguished colleague from the Land of Lincoln, Donald Rumsfeld, to the Armed Services Committee for his confirmation hearing just a little over a week ago.

I know that Presidents have often complained about the Senate confirmation process. Herbert Hoover, upon the birth of his granddaughter, said "Thank God she doesn't have to be confirmed by the Senate." Donald Rumsfeld has so much experience, I am sure he will secure even more votes for his confirmation today than President Hoover's granddaughter would have if she had required the Senate's blessing.

Don Rumsfeld's resume is impressive: 4-term Congressman from Illinois, Director of the Office of Economic Opportunity, US Ambassador to NATO, White House Chief of Staff, the youngest-ever Secretary of Defense, CEO of several major companies, and a Special Envoy for President Reagan.

We've heard a lot about bipartisanship lately. When Donald Rumsfeld represented Illinois in the House of Representatives, it was before Supreme Court cases that applied the one-person one-vote standard to the drawing of congressional districts. His district was enormous; he represented 1.1 million people, whereas Sam Rayburn only represented 89,000. In the Congress that followed his departure to serve in the Nixon administration, his district was split into two, with one district represented by a conservative Republican and one by a liberal Democrat. His ability to serve such a diverse district speaks well of his ability to bridge a Congress and a country almost equally divided.

While all Senators may not agree with Mr. Rumsfeld on every issue, he has earned our respect. I may disagree with him on the deployment of a national missile defense system, depending on the plan he supports. I certainly disagree with him about the importance of continuing to adhere to the Anti-Ballistic Missile Treaty. I believe the treaty remains the cornerstone of strategic stability, where he dismisses it as "ancient history." However, I am certain that he will conduct a thorough and fair review of these issues as Secretary of Defense. It is my hope that we can keep the lines of communication open on these and other important defense issues as we address them in the Senate.

In fact, Senators may be reluctant to "go to the mat" with Mr. Rumsfeld. Not only was he captain of Princeton University's wrestling team and All Navy Wrestling Champion, he was also inducted into the National Wrestling Hall of Fame and Museum. He joins Speaker HASTERT as another famous wrestler who hails from Illinois. I, for one, plan to keep in mind that wrestling depends on strategy and making the right move at the right time as much as it does on strength and power.

Some of his critics have complained that Mr. Rumsfeld's experience with defense issues is from the bygone cold war era. Those critics ignore Mr. Rumsfeld's valuable contributions chairing several commissions, including the Ballistic Missile Threat Commission, and underestimate the value of his experience managing major corporations in this new economy. Mr. Rumsfeld has kept up and I would challenge his critics to try to keep up with him.

In 1775, in our revolutionary era, Patrick Henry said: "I have but one lamp by which my feet are guided, and that is the lamp of experience. I know no way of judging of the future but by the past."

It is only because the United States was so steadfast in fighting for freedom and democracy that the world enjoys an unprecedented era of freedom and prosperity today.

Mr. President, Mr. Rumsfeld carries the lamp of experience. I wish him, for our country's sake, every success as he travels by its light. It is with pride that I cast my vote to support the nomination of one of Illinois' favorite and most distinguished sons.

NOMINATION OF RODERICK PAIGE

Mr. KENNEDY. Mr. President, all of us are pleased that the nominee for Secretary of Education, Dr. Roderick Paige, will be confirmed with unanimous bipartisan support. I'm optimistic that his bipartisan confirmation will set a high standard for bipartisan cooperation on education in the coming years.

The issue is of profound importance for the future of our country. Education is a continuum that begins at birth and continues through college and in the larger working society. States and communities are making significant progress in improving their public schools, and that is evident in the city of Houston under the leadership of Dr. Paige. But we know that more needs to be done. Public schools across the nation are facing ever greater challenges. This year, elementary and secondary schools confront record enrollments of 53 million students, and by all estimates, the number of school-age children will continue to increase steadily over the next decade and beyond.

As schools and communities struggle to educate millions more children, they also face the difficult challenges of achieving higher standards of learning, and dealing with other problems such as overcrowded classrooms, a shortage of qualified teachers, increased safety concerns, and a lack of adequate after-school programs. Schools cannot face these challenges alone. They need the help of their communities, their States, and the Federal Government to provide the best possible opportunities for all children. We must invest in critical national priorities and target funds to the neediest students. That means investing in better teachers, smaller classes, safe and modern facilities, better after-school programs, and programs to help children obtain the literacy skills they need. And that literacy training needs to begin in the very early years, long before a child first walks through the schoolhouse door.

As we increase support for proven effective reform in each of these areas, we must also increase accountability. At the same time, we can't afford to undermine the Federal investment in education by adopting block grants to States in ways that would undermine local control, reduce targeting to the neediest children, put too little emphasis on what works, or eliminate accountability for results. Above all, we must not undermine public schools through private school vouchers. Block grants and vouchers have not been proven effective. They are divisive issues that lead to needless partisan conflict.

Genuine reform of public schools requires bipartisan consensus on targeted top priorities. At his confirmation hearing, Dr. Paige testified that if a strategy had been proven effective in helping to improve public schools and student achievement, he will consider it as a potential Federal investment. I hope that all of us in Congress hold ourselves to the same standard. We know what works to help children do well in school. We need to do more to help schools implement these strategies.

When President Bush submits the details of his education proposals, I am hopeful that we will find many areas of strong bipartisan agreement on reforms such as increased accountability, better targeting of resources to the neediest students, placing a qualified teacher in every classroom, improving children's reading skills, making each school a safe learning environment for students and teachers, and ensuring that all children with disabilities get a good education too. We can also strengthen our commitment to make college affordable for every qualified student in America. With over 15 million students enrolled in higher education today, we must continue to invest in student loans, and ensure that students continue to obtain the low cost loans they deserve.

But for the neediest students, loans are often not enough. The prospect of a mountain of debt is often impossibly intimidating. We need to focus on grants as well as loans, so that we can open the doors of college to millions more students. In 1980, the proportion of grants to loans in Federal college aid was 60–40. But today, it is jut the reverse—40–60. Pell grants, supplemental educational opportunity grants, and campus-based aid offer students and institutions the flexibility they need to help every student make college a reality. But by shortchanging these grants, we are shortchanging students—and shortchanging America too. I am hopeful that we will continue to support college opportunity programs in the Nation's public schools—to make sure that all children can see college as a realistic possibility for their own future. We need to give more students the tools and the will to rise out of poverty, and to enter the workforce with the ability that comes from a good education.

Dr. Paige has an impressive background to help the nation meet all these challenges. He currently serves as superintendent of the Houston Independent School District. He has often been credited for turning the Houston schools around and raising education standards in the city. He was also dean of the College of Education at South Texas University, and he knows firsthand what it takes to bring qualified teachers into every classroom. He comes from a family of educators who share a deep commitment to helping all children do well. I look forward to working closely with Dr. Paige and President Bush in the coming years to meet these high priorities. I congratulate Dr. Paige on his nomination, and I urge the Senate to support his confirmation.

Mr. DODD. Mr. President. I rise to support the nomination of Dr. Roderick Paige as Secretary of Education. Education is "the hub of the wheel" of our society, founded as it is on the principle of equal opportunity. If we succeed in making our education system as good as it can be, there is no national priority that will not benefit. If we do not succeed, we leave things to change. So, I believe that Secretary of Education is one of the most, if not the most, important positions in the President's cabinet. Dr. Paige will succeed Secretary Riley, a remarkable man who has done a remarkable job promoting and improving education for eight years. I was happy to learn at Dr. Paige's hearing before the Health, Education, Labor, and Pensions Committee of his close friendship with Secretary Riley, and also was happy, though not surprised, to read in the Washington Post on January 19, that Secretary Riley welcomed President Bush's choice of Dr. Paige.

Dr. Paige comes to the Department of Education with outstanding credentials. He has extensive experience in elementary, secondary, and higher education. From 1994 until his selection as Secretary, Dr. Paige served as Superintendent of the Houston Independent School District. Prior to that, he served as the Dean of the College of Education at Texas Southern University. In recognition of his work in Houston, Dr. Paige was the 2000 National Alliance of Black School Educators' national Superintendent of the Year and is the Texas Association of School Administrators' nominee for 2001 National Superintendent of the Year. In 1999, he was one of the Council of Great City Schools' two Outstanding Urban Educators. To me, what is equally as heartening as all of Dr. Paige's experience and awards is his background. His father was a principal, his mother was a teacher and librarian, and all three of his sisters are educators. I also come from a family of educators. Three of my aunts, my sister, and my brother have devoted decades of their lives to teaching.

As Dr. Paige said at his hearing, the virtues of faith and hard work, love of country, and the importance of the American dream that his parents instilled in their five children gave him the confidence to graduate from a segregated high school, to pursue higher education, and to serve his country in the Navy. When a person grows up in that kind of environment, I know that his commitment to education is heartfelt and deep. Finally, Dr. Paige's experience and commitment to education showed in his statement and answers to questions at his hearing. I was impressed by the breadth of his knowledge and his ability to respond on the spot to such a wide range of questions on so many aspects of education policy.

Of course, my great respect for Dr. Paige's integrity and dedication does not mean that I have no concerns about positions that he has taken during his distinguished career. For example, Dr. Paige supported the use of public funds to pay private school tuition in Huston and supported that at his hearing, as well. There are approximately 53 million children in elementary and secondary schools in the United States—approximately 48 million of those attend public schools. I think that voucher programs, although Dr. Paige chose not to use that term, divert much needed funds from our public schools. I also want to work with Dr. Paige to ensure that Federal funds continue to benefit low-income children. I don't question that most education decisions are and should be made at the State and local level, but excellence in education also is a national priority and the Federal government has a role to play. We provide only about seven percent of elementary and secondary school funding, but we play a very significant role in ensuring that groups that may have less of a voice in funding decisions, such as underprivileged students and their families, receive the resources they need, and I believe that we need to continue doing that.

And I am concerned about President Bush's proposal to move Head Start from the Department of Health and Human Services to the Department of Education and change the program's focus to reading. I'm not out to defend anyone's bureaucratic turf. I'm interested in helping low-income children and their families, not from which building in Washington the program is administered. Since 1965, Head Start programs have provided comprehensive early childhood development, educational, health, nutritional, social, and other services to more than 17 million low-income pre-school children and their families. Dr. Edward Zigler, one of Head Start's founders, said in the December 23, 2000 New York Times that the vast majority of three or four-year olds do not have the cognitive ability to "attribute meaning to abstract symbols, like written words." He added that even the few three or four-year olds who do have that ability are better off spending their time in the Head Start learning behaviors needed in school, like listening, taking turns, and getting along with other children.

Dr. Zigler said that what children need to be prepared to succeed in school are good health, the early involvement of their parents, and relief from the complications of poverty. That's exactly what Head Start provides. Of course, literacy is important, and Congress recognized that when we reauthorized Head Start in 1998—which we did in a very bipartisan manner. No one questions the importance of teaching children to read, but it's not as simple as providing more reading classes. A child won't benefit from reading classes alone is she hasn't eaten breakfast, or has an undiagnosed vision problem, or hasn't learned how to socialize with other children. Those kinds of benefits, which Head Start provides, are not "add-ons" to preparing a child to succeed in school, they are essential to it. As Dr. Zigler said, Head Start's job then, is to lay a foundation for literacy. So, I think we need to be cautious about changing a program that does so much good for so many children and families.

But, that said, I have every confidence in Dr. Paige's qualifications and commitment to America's children. President Bush has spoken often of the need for bipartisanship in Washington. I have worked with many of my Republican colleagues for many years on education policy; for example, with Senator DEWINE on the Safe and Drug-Free Schools Program, with Senator DOMENICI on character education, with Senator JEFFORDS on 21st Century Community Learning Centers, and with Senator SHELBY on commercialism in schools. I hope and expect that Dr. Paige and the Senate will be able to work together to build on the education accomplishments of the past 8 years, and to work toward the goal that we all share—that our children receive the education they need and deserve.

NOMINATION OF PAUL O'NEILL

Mr. GRASSLEY. Mr. President, I rise to comment on the Senate's procedure for consideration of the nomination of Paul O'Neill for Secretary of the Treasury. Under regular order, the nomination for Secretary of the Treasury, which is under the jurisdiction of the Senate Finance Committee would be considered by the committee after referral to the committee. The process usually involves a hearing and a vote on the nomination. In this case, a hearing in anticipation of the nomination was held. The nomination, however, was not fully considered by the committee. The committee agreed to be discharged only because of highly unusual circumstance. The circumstances arise from the fact that all Senate committees, including the Finance Committee, are not yet composed and organized. Moreover, the Secretary of the Treasury is a critical Cabinet position and expeditious consideration of the nomination is in the best interests of the Nation.

Mr. President, I want to make it clear that the Finance Committee will insist on its jurisdictional prerogatives. This nomination presents a highly unusual and compelling procedural exception.

Mr. BAUCUS. Mr. President, I rise today to enthusiastically support the nomination of Mr. Paul Henry O'Neill to be the 72d Secretary of the Treasury. Mr. O'Neill is no stranger to policymaking, having served a number of years at the Office of Management and Budget. He has impressive credentials, both in and out of government, and an unchallenged reputation for hard work, straight talk and tough-mindedness. He is an extremely strong candidate and a very able individual.

I am also pleased that the Senate will vote today to confirm his nomination. I believe it is important for our country to have a Treasury Secretary in place as the new administration takes over. The next administration will inherit the strongest economy in a generation, and the Treasury Department will face extraordinary challenges in keeping the economy going. Eight years ago, the nation's economic growth was low, interest rates and unemployment were high, and Federal budget deficit and national debt was growing at an unfathomable rate.

Today, we have experienced the longest economic expansion in history, with record low unemployment, low interest rates, higher family incomes, and record budget surpluses. Inflation is in check, and we are beginning to pay down the national debt—something I know Mr. O'Neill has advocated. Putting the nation's fiscal house in order didn't happen overnight. Nor did it happen by chance—tough decisions were made and difficult votes taken.

In light of this, I am concerned about how we handle the upcoming debate about the budget and taxes. We should proceed carefully, and make certain that our decisions do not put in jeopardy the accomplishments made over the past 8 years. In any event, with Mr. O'Neill, the President and the country have found the right person for the job. Mr. O'Neill has my support, and he has my vote. I look forward to working with Secretary O'Neill, and the new administration, to address the many challenges that lie ahead.

Mr. DOMENICI. Mr. President, the American economy has changed dramatically in the past decade. International economic policy now has a direct effect on our domestic economy. The information age has transformed America's economic future. Budget surpluses now suggest the very real possibility of paying down the national debt. This new economy requires a new kind of Treasury secretary. It requires someone who is experienced and knowledgeable in both the domestic and the international marketplace. It requires someone who has demonstrated exemplary leadership in both government and private enterprise. Experience and leadership Paul O'Neill will bring these vital skills to the Department of Treasury.

Paul O'Neill's outstanding career in both the public and private sectors has clearly demonstrated his ability to serve as our Nation's next Treasury Secretary. In 1967, he stated as a policy analyst for the Office of Management and Budget. However, his skill and intelligence were quickly noted by OMB Director George Shultz, who promoted him to serve as Associate Director with responsibility for social programs. At OMB, Paul O'Neill gained a reputation for his sharp analysis and his keen understanding of a wide variety of issues. In fact, he displayed such strong leadership and gained such respect from both parties that in 1976, President Jimmy Carter asked him to serve as his Deputy Treasury Secretary. However, Paul O'Neill decided to continue his career in the private sector. He went to work for the International Paper Company, a global paper corporation, of which he eventually became President. In 1987, he became the chairman and chief executive of the Alcoa Corporation, where he has worked since.

Paul O'Neill's service to Alcoa is a shining symbol of his outstanding abilities. His vision and hard work transformed the troubled industrial company into a profitable international enterprise. As chief executive, he embraced new technologies and gave Alcoa the ability to prosper in the new economy, even as the national aluminum industry was facing economic troubles. Most importantly, Paul O'Neill demonstrated his leadership at Alcoa by garnering the respect and trust of his employees. In fact, the President of the Untied Steelworkers of America praised his nomination and called him "a man you can trust and believe." I am certain that his integrity and leadership will earn Paul O'Neill the trust of the American people and of the world's economic leaders.

In recent years, Paul O'Neill dedicated his time to leading several commissions on improving health care, education, and the local government of his hometown, Pittsburgh. Our nation will be fortunate to have a Treasury Secretary with such board and varied expertise, and these experiences will prove vital in leading a progressively diverse economy. I believe that Paul O'Neill will be an exemplary Treasury Secretary. He has already spoken of his dedication to paying down our national debt, fundamentally reforming the tax code, and ensuring that America's industries can compete in the new global economy. I am certain that his experience and leadership will be great assets in achieving these important goals.

Mr. President, it is my great honor to support Paul O'Neill to head the Department of the Treasury.

Mr. DODD. Mr. President, I would like to take a few brief moments to comment on the nomination of Paul O'Neill to be the Treasury Secretary of the United States. I first want to commend President Bush on choosing such a highly qualified candidate to take over the many responsibilities demanded of the United States Treasury Secretary. I fully support Mr. O'Neill's nomination, and I look forward to working with him in the new administration.

Mr. O'Neill brings to the position of Treasury Secretary a broad range of experience both in the public and private sector. He began his career as an engineer with Morrison-Knudsen, Inc. in Anchorage, Alaska and then went on to serve as Deputy Director of the Office of Management and Budget under the Ford administration. In 1977, Mr. O'Neill became the vice president of International Paper and in 1985 assumed the position of President. This path ultimately led him to aluminum giant Alcoa where, as chairman, he has been credited with the company's revival in the face of the industry's struggles nationwide. Based on his past accomplishments, I believe Mr. O'Neill will bring valuable insights to the critically important post to which he has been nominated.

I noted with interest Mr. O'Neill's comments during his confirmation hearing about the role tax cuts should play in our economy, namely, that they are not the sole means by which to stimulate a slowing economy. This is an important cautionary note that we all should heed as we move forward on the issue of tax cuts. While I support tax relief and reform, I also believe that our Nation's tax policy should be guided by three main principals. First, it should be fair. Those who need tax relief the most should receive the most relief. Second, any tax reform must be consistent with our commitment to maintain a balanced budget and reduce our national debt. In my opinion, this is the best gift we can give to future generations of Americans. And finally, we must leave room to meet our existing obligations, like defense, education, law enforcement, Medicare, and Social Security, as well as the new challenges that most certainly lie ahead.

The goal of this new Congress and administration must be to maintain and build upon the prosperity achieved over the past eight years. We now have the lowest unemployment rate in 30 years. The national poverty rate is at its lowest mark in 20 years. The economy has created 22 million new jobs since 1993. We have moved from record deficits to record surpluses. And October 2000 marked this country's 115th consecutive month of economic expansion—the longest period of economic growth in our nation's history. Our future policy decisions should reflect a commitment to foster this progress and growth in the coming years.

And while Mr. O'Neill will be inheriting a strong economy, there still remain a number of challenges that I believe will deserve special attention so as to keep our economy moving in a positive direction. One of the most critical tasks to be faced is the aging of America, and specifically, the stability of Social Security. As new levels of demand are placed on Social Security, we must look to reasonable and balanced proposals that will ensure a financially secure foundation for current and future retirees.

We must also strive to maintain the United States position as a trade leader in an ever-increasing global marketplace. It is in our best long-term economic interests to remain an active trading partner with our allies and to be open to the opportunities that exist in emerging markets. At the same time, we must remain aware of the needs and job security of American workers and the goods they produce. Furthermore, emphasis should be placed on maintaining the competitiveness of our financial institutions.

And one of the biggest challenges will be how to expand our nation's prosperity to more Americans—Americans who have yet to reap the benefits of our dynamic economy and who strive to achieve more financial security for themselves and their families.

In closing, I once again wish to express my support for Mr. O'Neill's nomination. He has presented himself as a fair and honest candidate who has expressed a willingness to work with all Members of Congress on our nation's most important priorities. I remain hopeful that we will be able to do so, and urge my colleagues to support this nominee.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

FAREWELL TO THE FALL PAGES

Mr. DASCHLE. Mr. President, I rise today to say goodbye to those young men and women who served in the United States Senate as pages during the fall of 2000. When they arrived in Washington in September, no one would have guessed that their term as a Senate page would be at such a historical time in the history of the United States. These dedicated young people were eyewitnesses to a presidential election which remained undecided for weeks after the votes were cast. In addition, they saw the Senate become an evenly divided body for the first time in decades.

As I have mentioned on numerous occasions when saluting the young people who serve as Senate pages, the life of a page is quite challenging. The school day begins at 6 a.m. After classes, the pages report to work at the U.S. Senate. When the Senate convenes, the pages are at their post and ready for the day's activities. Pages are called upon to assist Senators and staff in the daily operations of the Senate. Their tasks include providing Senators with copies of the appropriate bills and resolutions under consideration. They may be asked to secure documents from a Senator's office and rush over to the Senate floor for that Senator's use in debate on an issue. During rollcall votes, pages are often asked to notify relevant staff of the arrival of Senators to the floor.

Throughout the day, the page is called upon to perform any number of duties vital to the smooth operation of the Senate. They do so with a smile. This group of young men and women have had an extraordinary opportunity to serve as a Senate page. They are among a very select group to do so, and they did a great job. It is my hope that their experience here has served them well as they return home. Public service is an admirable profession. These young people are our public servants and leaders of tomorrow. Perhaps in the not too distant future, some of these young pages will return to Washington to serve as a Congressman or a Senator, or perhaps even as President of the United States.

I know all of my colleagues join me in wishing the pages well and good luck as they continue with their education, and I hope that they now have a greater understanding of our Government and its importance to all the people of the United States. Mr. President, at this time, I ask unanimous consent that the names of those young people who served as fall pages be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FALL PAGES

DEMOCRATIC PAGES

Ashley Alvarado (Montana); Mathew Mandel (Wisconsin); Amber Lopez (Vermont); Christina Kielsmeier (Minnesota); Kyle Sapkiewiez (Michigan); Bram Geller (Massachusetts); Peter Koziol (Illinois); Milena Caraballo (New Jersey); and Andrea Halverson (South Dakota).

REPUBLICAN PAGES

Sabrina Byrd (Arkansas); Kenneth Donahue (Vermont); Grant Gibson (Idaho); Sam Gladney (Missouri); Frances Griffin (Alabama); Travis Kavulla (Montana); Emily Nuse (Missouri); Laila Ouhamou (Virginia); Amy Pennington (Washington); Mathew Wigginton (Virginia); and Daniel Zoller (Indiana).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees except for those confirmed by unanimous consent.

(The nominations received today are printed at the end of the Senate proceedings.)

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBERTS (for (Mr. LOTT (for himself and Mr. DASCHLE)):

S. Res. 9. A resolution notifying the President of the United States of the election of a President pro tempore; considered and agreed to.

By Mr. ROBERTS (for Mr. LOTT (for himself and Mr. DASCHLE)):

S. Res. 10. A resolution notifying the House of Representatives of the election of a President pro tempore of the Senate; considered and agreed to.

SENATE RESOLUTION 9—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. ROBERTS (for Mr. LOTT (for himself and Mr. DASCHLE)) submitted the following resolution which was considered and agreed to:

S. RES. 9

Resolved, That the President of the United States be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

SENATE RESOLUTION 10—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE OF THE SENATE

Mr. ROBERTS (for Mr. LOTT (for himself and Mr. DASCHLE)) submitted the following resolution which was considered and agreed to:

S. RES. 10

Resolved, That the House of Representatives be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

NOTICE OF HEARING

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet on Wednesday, January 17, 2001, to conduct a hearing on the nomination of the Honorable Mel Martinez, of Florida, to serve as Secretary of the Department of Housing and Urban Development.

ORDERS FOR MONDAY, JANUARY 22, 2001

Mr. ROBERTS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Monday, January 22. I further ask unanimous consent that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then be in a period of morning business until 3 p.m., with Senators speaking for up to 10 minutes each, and that the time be equally divided in the usual form with the following exceptions:

Senator LOTT, or his designee, the first 30 minutes; Senator DASCHLE, or his designee, the second 30 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. ROBERTS. For the information of all Senators, the Senate will convene at 10 a.m. on Monday. There will be a period of morning business until 3 p.m. for statements and for bill introductions.

As a reminder, Monday is the first day for bill introductions. There will be no rollcall votes on Monday. However, Senators can expect votes throughout the remainder of the week, if necessary. This is in regard to the confirmation of the President's nominees for his Cabinet.

ADJOURNMENT UNTIL MONDAY, JANUARY 22, 2001

Mr. ROBERTS. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:13 p.m., adjourned until Monday, January 22, 2001.

NOMINATIONS

Executive nominations received by the Senate January 20, 2001:

DEPARTMENT OF AGRICULTURE

ANN MARGARET VENEMAN, OF CALIFORNIA, TO BE SECRETARY OF AGRICULTURE.

DEPARTMENT OF DEFENSE

DONALD HENRY RUMSFELD, OF ILLINOIS, TO BE SECRETARY OF DEFENSE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MELQUIADES RAFAEL MARTINEZ, OF FLORIDA, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF COMMERCE

DONALD LOUIS EVANS, OF TEXAS, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF ENERGY

SPENCER ABRAHAM, OF MICHIGAN, TO BE SECRETARY OF ENERGY.

DEPARTMENT OF THE INTERIOR

GALE ANN NORTON, OF COLORADO, TO BE SECRETARY OF THE INTERIOR.

ENVIRONMENTAL PROTECTION AGENCY

CHRISTINE TODD WHITMAN, OF NEW JERSEY, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

TOMMY G. THOMPSON, OF WISCONSIN, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

PAUL HENRY O'NEILL, OF PENNSYLVANIA, TO BE SECRETARY OF THE TREASURY.

DEPARTMENT OF STATE

COLIN LUTHER POWELL, OF VIRGINIA, TO BE SECRETARY OF STATE

EXECUTIVE OFFICE OF THE PRESIDENT

MITCHELL E. DANIELS, JR., OF INDIANA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF VETERANS AFFAIRS

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE SECRETARY OF VETERANS AFFAIRS.

DEPARTMENT OF EDUCATION

RODERICK R. PAIGE, OF TEXAS, TO BE SECRETARY OF EDUCATION.

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE JANUARY 20, 2001:

DEPARTMENT OF AGRICULTURE

ANN MARGARET VENEMAN, OF CALIFORNIA, TO BE SECRETARY OF AGRICULTURE.

DEPARTMENT OF DEFENSE

DONALD HENRY RUMSFELD, OF ILLINOIS, TO BE SECRETARY OF DEFENSE.

DEPARTMENT OF COMMERCE

DONALD LOUIS EVANS, OF TEXAS, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF ENERGY

SPENCER ABRAHAM, OF MICHIGAN, TO BE SECRETARY OF ENERGY.

DEPARTMENT OF THE TREASURY

PAUL HENRY O'NEILL, OF PENNSYLVANIA, TO BE SECRETARY OF THE TREASURY.

DEPARTMENT OF STATE

COLIN LUTHER POWELL, OF VIRGINIA, TO BE SECRETARY OF STATE.

DEPARTMENT OF EDUCATION

RODERICK R. PAIGE, OF TEXAS, TO BE SECRETARY OF EDUCATION.

HOUSE OF REPRESENTATIVES—*Saturday, January 20, 2001*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of Heaven and Earth, Your Word charges our human actions so that they may have lasting value. Your spirit transforms human words so that hearts and attitudes change and You alter the course of human events.

Be with us today as we are drawn into the inauguration of George W. Bush as the 43rd President of the United States of America. By Your grace, may the peaceful transition of government today so touch the soul of this Nation that all Your people may stand with confidence, grateful for all the blessings You have brought upon this Nation.

May all of us, from the highest office in this Nation to the weakest hidden in our midst, prove responsible and be renewed in life, liberty and the pursuit of happiness as our Constitution promises. May You choose us as Your peaceful and powerful instrument in this world because we choose You to be our Lord and God now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan (Mr. KILDEE) come forward and lead the House in the Pledge of Allegiance.

Mr. KILDEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. HANSEN. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 21) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 21

Resolved, That the following named Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Budget: Mr. Sununu to rank after Mr. Nussle.

House Administration: Mr. Ney, Chairman.

Standards of Official Conduct: Mr. Hefley, Chairman.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 22) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 22

Resolved, That the following named Members be, and are hereby, elected to the following standing Committees of the House of Representatives:

Committee on House Administration: Mr. Hoyer of Maryland;

Committee on Standards of Official Conduct: Mr. Berman of California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, DC, January 16, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to 31 U.S.C. 1105, attached is the Budget of the United States Government for Fiscal Year 2002.

Sincerely,

WILLIAM J. CLINTON.

FY 2002 ECONOMIC OUTLOOK—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–4)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

I am pleased to submit my *FY 2002 Economic Outlook, Highlights from FY 1994 to FY 2001, FY 2002 Baseline Projections*. For the benefit of the new Administration and the public, this document includes an economic overview, a technical presentation of current services projections, a programmatic review of the Federal Government that details my Administration's actions over the last eight years, and pending policy proposals that I believe should be the starting point for a new Administration.

THE OUTLOOK IN 1993

To appreciate what we have accomplished in the past eight years, we must take stock of where we were in 1993. When I took office in 1993, economic growth had averaged only 1.7 percent in the four previous years. In 1992, unemployment surged to 7.8 percent. In 1992, the budget deficit was $290 billion, the largest in the history of our Nation. The debt held by the public quadrupled between 1980 and 1992 and threatened to keep mounting. The deficit was projected to reach $390 billion by 1998 and $639 billion by 2003.

I believed that by exercising fiscal responsibility and making strategic investments in our future, we could reverse this trend and spur the economy to robust growth. Eight years later, with deficits turned to surplus, with the mountain of debt receding, and with sustained economic growth at record level, we can say that we were able to achieve this goal through a steadfast commitment to fiscal discipline.

THE CLINTON-GORE RECORD

Over the eight years of my Administration, our total deficit reduction totals $1.2 trillion, more than double our original estimates. We have experienced four straight years of surplus, a stretch of prosperity last seen following World War I. For three years in a row, we have actually been able to pay off $363 billion of this debt and expect to pay off $600 billion by the end of this year. With a sustained commitment to fiscal discipline by continuing to use the surplus to pay down the debt, this Nation can be fully debt-free in this decade for the first time since 1835. We can eliminate the publicly held debt by the end of the decade and, by doing so, we can strengthen our economy and our Nation's prospects for the future.

FY 2002 Economic Outlook, Highlights from FY 1994 to FY 2001, FY 2002 Baseline Projections continue to project that the Federal budget will remain in surplus for many decades to come, if a responsible fiscal policy prevails and realistic assumptions and projections are used.

The Federal Government must continue to meet the needs of the American people in a Nation with a growing economy and a growing population. We take for granted the need to maintain critical functions like air traffic safety, law enforcement, the administration of Social Security and Medicare, and national security—both defense and diplomacy. Because I firmly believe that the American people demand and deserve a Government that meets their needs, this document reflects the progress we have made in serving the American people. These accomplishments include:

- Improving education, with initiatives focusing on accountability and school-system reforms; increased funding for Pell Grants and Work-Study Programs; and, initiatives to reduce class size, establish after-school programs, improve reading ability, expand mentoring and education technology, and renovate crumbling schools. The results are significant. For example, 29,000 teachers have been hired, on our way to the goal of hiring 100,000 new teachers to reduce class size, and there has been a six-fold increase in the number of title I elementary schools with after-school programs. We have doubled funding for Head Start, and increased funding for higher education programs—the biggest increase since the G.I. Bill.
- Rewarding work and "ending welfare as we know it," with incentives to States for moving welfare recipients into jobs, encouraging businesses to hire people from welfare rolls, expanding the Earned Income Tax Credit, tripling funding for dislocated worker training, and increasing funding for child care. Since January 1993, the welfare rolls have decreased from 14.1 million to 6.3 million, the fewest number of people on welfare since 1968.
- Making Social Security solvency a national priority, with the challenge to "save Social Security first," ensuring that Social Security funds are used to pay for Social Security and strengthen our economic health.
- Achieving the longest Medicare Trust Fund solvency in a quarter century while improving Medicare's benefits.
- Reversing the increase in the number of uninsured Americans through the Children's Health Insurance Program (CHIP) and other policies. Over 3.3 million children have received health insurance through the CHIP.
- Setting the highest level of environmental standards ever. More land in the lower 48 States has been protected under the Antiquities Act than by any other Administration; 58.5 million acres of national forest will be protected from road building and logging; unprecedented legislation will provide $12 billion over six years in dedicated funding for the conservation of America's land and coastal resources; climate change and clean water funding was increased; and, efforts to fight budget riders that would have sacrificed hard-won environmental safeguards to special-interests succeeded.
- Increasing investments in science and technology, as the keys to economic growth. Funding for medical research at the National Institutes of Health doubled, allowing for breakthroughs such as the complete sequencing of the human genome and new therapies to prevent breast cancer.
- Securing funding to hire over 100,000 additional community police officers, making our streets safer. My Administration's initiatives to reduce crime contributed to the lowest annual serious crime count since 1985.
- Giving Americans confidence that when natural disasters occur, such as the Northridge Earthquake, Hurricane Floyd, and the Midwest Floods, their Government will help them return to prosperity.
- Implementing the Uruguay Round, the North American Free Trade Agreement, and other major agreements, to liberalize trade and financial markets, aid construction of a new global economic architecture, and promote growth.
- Fighting transnational threats, such as HIV/AIDS, terrorism, and environmental destruction, as well as securing historic debt relief for countries in crisis and resources to fight child abuse at home and abroad.
- Improving the security of Americans at home and abroad, through increased funding for embassy security.
- Strengthening our national security by promoting stability in responding to natural disasters in Central America and Africa, as well as manmade crises in Kosovo, Bosnia, and Indonesia.
- Maintaining the Nation's security, with the best-equipped, best-trained, and best-prepared military in the world.

This document also highlights the dramatic improvements in the management of the Federal Government we have made over the last eight years. We have used information technology to create a Government that is more accessible and responsive to citizens. The Federal Government has reinvented the way it buys goods and services, focusing on customer satisfaction and results. We have transformed the Federal financial management system. Eight years ago, only a few agencies routinely prepared and issued audited financial statements. Now virtually all agencies issue annual audited financial statements. More than half of the 24 largest agencies received clean audits in 1999. In addition, significant strides have been made to advance the transparency and underpinnings of the regulatory process and improve the Nation's statistics. These management functions are the essentials of governmental operations. Doing them very well rarely garners attention. Failing to do them can undermine program and policy effectiveness as certainly as bad policy decisions or inadequate program implementation.

As the Nation looks to the future, there are several important areas where additional work is needed. Examples include:

- Providing prescription drug coverage for Medicare beneficiaries;
- Passing legislation to stiffen penalties for hate crimes;
- Ensuring equity for legal immigrants;
- Increasing the minimum wage to sport millions of working families;
- Providing a Medicaid buy-in option for children with disabilities in working families;
- Ensuring stability in the Middle East peace process;
- Increasing our embassy security;
- Funding diplomacy as an alternative to crises and violence;
- Striving to hire 100,000 new teachers to reduce class size;
- Helping school districts to obtain financing to construct and modernize schools; and,
- Expanding and improving the quality of the Head Start program.

MY HOPES FOR THE NATION

This is a rare moment in American history. Never before has our Nation enjoyed so much prosperity, at a time when social progress continues to advance and our position as the global leader is secure. Today, we are well prepared to make the choices that will shape the future of our Nation for decades to come.

By reversing the earlier trend of fiscal irresponsibility, using conservative economic estimates, balancing the budget, and producing an historic surplus, we have helped restore our national spirit and produced the resources to help opportunity and prosperity reach all corners of this Nation. We have it within our reach today, by making the right choices, to offer the promise of prosperity to generations of Americans to come. If we keep to the path of fiscal discipline, we can build a foundation of prosperity for the future of the Nation.

Over the last eight years, I have sought to provide the fiscal discipline necessary to ensure the continuing growth of our economy while making essential investments in the future of our people—especially those who are less fortunate. The results are evident. I present this document with pride in our accomplishments, and the hope that this progress will continue and grow for all Americans.

In the past eight years, we have enjoyed extraordinary economic performance because our fiscal policy was responsible and sound. To continue the Nation's strong economic performance, we must maintain our commitment to a sound fiscal policy. Experience over the last twenty years clearly shows how periolous it is to create conditions for budgetary problems. We are now enjoying the benefits of a virtuous cycle of surplus and debt reduction and must not return to the vicious cycle of red ink.

The challenge now, in this era of surplus, is to make balanced choices to use our resources to meet both the evident, pressing needs of today, and the more distant, but no less crucial, needs of generations to come.

WILLIAM J. CLINTON.
January 16, 2001.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HYDE). The Chair desires to announce that sitting Members are being delivered their official pins in order to be seated on the platform. There are no extra seats available, so former Members cannot join the procession. The same holds true for children. They can neither go with the procession nor be seated on the platform.

The area where Members of the House are to be seated is not covered. Members should keep this fact in mind in deciding whether to wear overcoats and hats.

The Sergeant at Arms will precede the procession bearing the mace. The Clerk will escort the Members to the west front of the Capitol. The procession will be led by the dean of the House, followed by the House leadership, committee chairmen, ranking minority Members, and then other Members in order of seniority.

The House leadership, committee chairmen, and ranking minority Members shall retire to H–208 upon leaving the Chamber.

The Chair would encourage Members, as they gather in order of seniority, to congregate by classes in the well.

PERMISSION FOR MEMBER TO REVISE AND EXTEND REMARKS

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. HASTERT) be allowed to revise and extend his remarks today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

MEMORANDUM OF UNDERSTANDING BETWEEN ENERGY AND COMMERCE COMMITTEE AND FINANCIAL SERVICES COMMITTEE

Mr. HASTERT. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD the following memorandum of understanding:

JANUARY 20, 2001.

On January 3, 2001, the House agreed to H.Res. 5, establishing the rules of the House for the 107th Congress. Section 2(d) of H.Res. 5 contained a provision renaming the Banking Committee as the Financial Services Committee and transferring jurisdiction over securities and exchanges and insurance from the Commerce Committee to the Financial Services Committee. The Commerce Committee was also renamed the Energy and Commerce Committee.

The Committee on Energy and Commerce and the Committee on Financial Services jointly acknowledge as the authoritative source of legislative history concerning section 2(d) of H.Res. 5 the following statement of Rules Committee Chairman David Dreier during floor consideration of the resolution:

"In what is obviously one of our most significant changes, Mr. Speaker, section 2(d) of the resolution establishes a new Committee on Financial Services, which will have jurisdiction over the following matters:

(1) banks and banking, including deposit insurance and Federal monetary policy;

(2) economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services;

(3) financial aid to commerce and industry (other than transportation);

(4) insurance generally;

(5) international finance;

(6) international financial and monetary organizations;

(7) money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar;

(8) public and private housing;

(9) securities and exchanges; and

(10) urban development.

"Mr. Speaker, jurisdiction over matters relating to securities and exchanges is transferred in its entirety from the Committee on Commerce, which will be redesignated under this rules change to the Committee on Energy and Commerce, and it will not be transferred from the new Committee on Energy and Commerce to this new Committee on Financial Services. This transfer is not intended to convey to the Committee on Financial Services jurisdiction currently in the Committee on Agriculture regarding commodity exchanges.

"Furthermore, this change is not intended to convey to the Committee on Financial Services jurisdiction over matters relating to regulation and SEC oversight of multistate public utility holding companies and their subsidiaries, which remain essentially matters of energy policy.

"Mr. Speaker, as a result of the transfer of jurisdiction over matters relating to securities and exchanges, redundant jurisdiction over matters relating to bank capital markets' activities generally and depository institutions securities activities, which were formerly matters in the jurisdiction of the Committee on Banking and Financial Services, have been removed from clause 1 of rule X.

"Matters relating to insurance generally, formerly within the jurisdiction of the redesignated Committee on Energy and Commerce, are transferred to the jurisdiction of the Committee on Financial Services.

"The transfer of any jurisdiction to the Committee on Financial Services is not intended to limit the Committee on Energy and Commerce's jurisdiction over consumer affairs and consumer protection matters.

"Likewise, existing health insurance jurisdiction is not transferred as a result of this change.

"Furthermore, the existing jurisdictions of other committees with respect to matters relating to crop insurance, Workers' Compensation, insurance anti-trust matters, disaster insurance, veterans' life and health insurance, and national social security policy are not affected by this change.

"Finally, Mr. Speaker, the changes and legislative history involving the Committee on Financial Services and the Committee on Energy and Commerce do not preclude future memorandum of understanding between the chairmen of these respective committees."

By this memorandum the two committees undertake to record their further mutual understandings in this matter, which will supplement the statement quoted above.

It is agreed that the Committee on Energy and Commerce will retain jurisdiction over bills dealing broadly with electronic commerce, including electronic communications networks (ECNs). However, a bill amending the securities laws to address the specific type of electronic securities transaction currently governed by a special SEC regulation as an Alternative Trading System (ATS) would be referred to the Committee on Financial Services.

While it is agreed that the jurisdiction of the Committee on Financial Services over securities and exchanges includes anti-fraud authorities under the securities laws, the Committee on Energy and Commerce will retain jurisdiction only over the issue of setting of accounting standards by the Financial Accounting Standards Board.

W.J. "BILLY" TAUZIN,
Chairman, Committee on Energy and Commerce.
MICHAEL G. OXLEY,
Chairman, Committee on Financial Services.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10:15 a.m.

Accordingly (at 10 o'clock and 8 minutes a.m.), the House stood in recess until 10:15 a.m.

□ 1015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HYDE) at 10 o'clock and 15 minutes a.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to House Resolution 10, the Members of the House will now proceed to the west front to attend the inaugural ceremonies for the President and Vice President of the United States.

Upon completion of the ceremony, pursuant to House Resolution 10, the House will stand adjourned. Pursuant to House Concurrent Resolution 1, that adjournment will be until 2 p.m. on Tuesday, January 30, 2001.

Thereupon, at 10 o'clock and 17 minutes a.m., the Members of the House, preceded by the Sergeant at Arms and the Speaker pro tempore, proceeded to the west front of the Capitol.

CORRECTED PROCEEDINGS OF THE JOINT SESSION OF SATURDAY, JANUARY 6, 2001 AT PAGE H44

A notation concerning the District of Columbia was inadvertently omitted from the CONGRESSIONAL RECORD *of Saturday, January 6, 2001.*

The VICE PRESIDENT. Gentlemen and gentlewomen of the Congress, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and deliver the same to the President of the Senate.

The tellers delivered to the President of the Senate the following statement of results:

JOINT SESSION OF CONGRESS FOR THE COUNTING OF THE ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES: OFFICIAL TALLY, JANUARY 6, 2001

The undersigned, CHRISTOPHER J. DODD and MITCH MCCONNELL, tellers on the part of the Senate, WILLIAM M. THOMAS and CHAKA FATTAH, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, two thousand and one.

Electoral Votes of Each State	For President		For Vice President	
	George W. Bush	Al Gore	Dick Cheney	Joe Lieberman
Alabama—9	9	....	9	....
Alaska—3	3	....	3	....
Arizona—8	8	....	8	....
Arkansas—6	6	....	6	....
California—54	....	54	....	54
Colorado—8	8	....	8	....
Connecticut—8	....	8	....	8
Delaware—3	....	3	....	3
District of Columbia—3	....	2	....	2
Florida—25	25	....	25	....
Georgia—13	13	....	13	....
Hawaii—4	....	4	....	4
Idaho—4	4	....	4	....
Illinois—22	....	22	....	22
Indiana—12	12	....	12	....
Iowa—7	....	7	....	7
Kansas—6	6	....	6	....
Kentucky—8	8	....	8	....
Louisiana—9	9	....	9	....
Maine—4	....	4	....	4
Maryland—10	....	10	....	10
Massachusetts—12	....	12	....	12
Michigan—18	....	18	....	18
Minnesota—10	....	10	....	10
Mississippi—7	7	....	7	....
Missouri—11	11	....	11	....
Montana—3	3	....	3	....
Nebraska—5	5	....	5	....
Nevada—4	4	....	4	....
New Hampshire—4	4	....	4	....
New Jersey—15	....	15	....	15
New Mexico—5	....	5	....	5
New York—33	....	33	....	33
North Carolina—14	14	....	14	....
North Dakota—3	3	....	3	....
Ohio—21	21	....	21	....
Oklahoma—8	8	....	8	....
Oregon—7	....	7	....	7
Pennsylvania—23	....	23	....	23
Rhode Island—4	....	4	....	4
South Carolina—8	8	....	8	....
South Dakota—3	3	....	3	....
Tennessee—11	11	....	11	....
Texas—32	32	....	32	....
Utah—5	5	....	5	....
Vermont—3	....	3	....	3
Virginia—13	13	....	13	....
Washington—11	....	11	....	11
West Virginia—5	5	....	5	....
Wisconsin—11	....	11	....	11
Wyoming—3	3	....	3	....
Total—538	271	266	271	266

Note: One elector from the District of Columbia cast 2 blank ballots.

CHRISTOPHER J. DODD,
MITCH MCCONNELL,
Tellers on the part of the Senate.
WILLIAM M. THOMAS,
CHAKA FATTAH,
Tellers on the part of the House of Representatives.

The VICE PRESIDENT. The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for President of the United States is 538, of which a majority is 270.

George W. Bush, of the State of Texas, has received for President of the United States 271 votes.

AL GORE, of the State of Tennessee, has received 266 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

DICK CHENEY, of the State of Wyoming, has received for Vice President of the United States 271 votes.

JOE LIEBERMAN, of the State of Connecticut, has received 266 votes.

This announcement on the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th of January 2001, and shall be entered, together with a list of the votes, on the Journals of the Senate and the House of Representatives.

ADJOURNMENT

At the conclusion of the inaugural ceremonies (at 12 o'clock and 25 minutes p.m.), the House, without returning to its Chamber, pursuant to House Resolution 10, stood adjourned, and pursuant to House Concurrent Resolution 1, until Tuesday, January 30, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

89. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Extension of Time To File Annual Reports for Commodity Pools—received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

90. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Animal Welfare; Marine Mammals [Docket No. 93-076-15] (RIN: 0579-AA59) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

91. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Animal Welfare; Confiscation of Animals [Docket No. 98-065-2] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

92. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—Implementation of Low-Documentation Direct Operating Loan (Lo-Doc) Regulations (RIN: 0560-AF71) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

93. A letter from the Associate Chief for Natural Resources, Forest Service, Department of Agriculture, transmitting the Department's final rule—Special Areas: Roadless Area Conservation (RIN: 0596-AB77) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

94. A letter from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (RIN: 0584-AC39) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

95. A letter from the Chief, Forest Service, Department of Agriculture, transmitting the Department's final rule—National Forest System Land and Resource Management Planning; Review of Decisions to Amend or Revise Plans—received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

96. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—West Indian Fruit Fly [Docket No. 00-110-1] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

97. A letter from the Administrator, Rural Utilities Services, Department of Agriculture, transmitting the Department's final rule—Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS) (RIN: 0572-AB62) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

98. A letter from the Administrator, Price Support Division, Department of Agriculture, transmitting the Department's final rule—Farm Storage Facility Loan Program (RIN: 0560-AG00) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

99. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Pesticide Tolerances for Emergency Exemptions [OPP-301091; FRL-6760-3] (RIN: 2070-AB78) received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

100. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Methyl Parathion; Notice of Pesticide Tolerance Revocations [OPP-301076; FRL-6752-6] (RIN: 2070-AB78) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

101. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Cyprodinil; Extension of Tolerance for Emergency Exemptions [OPP-301089; FRL-6756-4] (RIN: 2070-AB78) received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

102. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Desmedipham; Extension of Tolerances for Emergency Exemption [OPP-301090; FRL-6756-5] (RIN: 2070-AB78) received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

103. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fludioxonil; Pesticide Tolerance [OPP-301093; FRL-6760-9] (RIN: 2070-AB78) received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

104. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Thiamethoxam; Pesticide Tolerance [OPP-301087; FRL-6758-1] (RIN: 2070-AB78) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

105. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clomazone; Pesticide Tolerance [OPP-301095; FRL-6761-7] (RIN: 2070-AB78) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

106. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin B1; Pesticide Tolerance [OPP-301082; FRL-6755-9] (RIN: 2070-78AB) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

107. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin; Extension of Tolerance for Emergency Exemptions [OPP-301092; FRL-6760-7] (RIN: 2070-AB78) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

108. A communication from the President of the United States, transmitting His report on two deferrals of budgetary resources affecting the Department of State and International Security Assistance, pursuant to 2 U.S.C. 684(a); (H. Doc. No. 107-4); to the Committee on Appropriations and ordered to be printed.

109. A letter from the Secretary, Department of Defense, transmitting a report on the retirement of Lieutenant General Thomas N. Burnette, Jr., United States Army, and his advancement to the grade of lieutenant general on the retirement list; to the Committee on Armed Services.

110. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness [Docket No. R-1073] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

111. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Home Mortgage Disclosure [Regulation C; Docket No. R-1093] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

112. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Bank Holding Companies and Change in Bank Control [Regulation Y; Docket No. R-1078] received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

113. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Bank Holding Companies and Change in Bank Control [Regulation Y; Docket No. R-1065] received January 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

114. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Bank Holding Companies and Change in Bank Control [Regulation Y; Docket Nos. R-1057 and R-1062] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

115. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Disclosure and Reporting of CRA-Related Agreements [Regulation G; Docket No. R-1069] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

116. A letter from the Senior Banking Counsel, Office of the General Counsel, Department of the Treasury, transmitting the Department's final rule—Bank Holding Companies and Change in Bank Control (RIN: 1505-AA85) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

117. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule—Disclosure and Reporting of CRA-Related Agreements [Docket No. 2000-107] (RIN: 1550-AB32) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

118. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting the Department's final rule—Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness [Docket No. 2000-112] (RIN: 1550-AB36) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

119. A letter from the Senior Banking Counsel, Office of General Counsel, Department of the Treasury, transmitting the Department's final rule—Bank Holding Companies and Change in Bank Control (RIN: 1505-AA78) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

120. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—50th Percentile and 40th Percentile Fair Market Rents for Fiscal Year 2001 [Docket No. FR-4589-N-04] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

121. A letter from the President and Chairman, Export-Import Bank, transmitting a report on a transaction involving U.S. exports to South Africa pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

122. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Removal of Asset and Liability Backup Program—received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

123. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Activities and Investments of Insured State Banks (RIN: 3064-AC38) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

124. A letter from the Director, Office of Management and Budget, transmitting appropriations reports, as required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on the Budget.

125. A letter from the Director, Office of Management and Budget, transmitting a report on OMB Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

126. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems (RIN: 0584-AA80) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

127. A letter from the Acting Assistant General Counsel, Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—Assistance to States for the Education of Children with Disabilities (RIN: 1820-AB51) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

128. A letter from the Acting Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting the Department's final rule—Developing Hispanic-Serving Institutions Program—received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

129. A letter from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—National Institute on Disability and Rehabilitation Research—received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

130. A letter from the Office of Enforcement Policy, Government Contracts Team, Wage and Hour Division, Department of Labor, transmitting the Department's final rule—Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act) (RIN: 1215-AB21) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

131. A letter from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule—National Medical Support Notice (RIN: 1210-

AA72) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

132. A letter from the Secretary, Department of Labor, transmitting a report on the Department of Labor's Advisory Council for Employee Welfare and Pension Benefit Plans; to the Committee on Education and the Workforce.

133. A letter from the Director, Office of Congressional Affairs, Office of Small Business and Civil Rights, Nuclear Regulatory Commission, transmitting the Commission's final rule—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (RIN: 3150–AG68) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

134. A letter from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting the Department's final rule—Department of Energy Acquistion Regulation; Rewrite of Regulations Governing Management and Operating Contracts (RIN: 1991–AB46; 1991–AB49) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

135. A letter from the Secretary, Department of Transportation, transmitting an annual report on progress in conducting environmental remedial action at Federally owned or operated facilities, pursuant to 42 U.S.C. 9620; to the Committee on Energy and Commerce.

136. A letter from the Trial Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule—Motor Vehicle Safety; Reporting the Sale or Lease of Defective or Non-Compliant Tires [Docket No. NHTSA–2000–8509] (RIN: 2127–AI23) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

137. A letter from the Trial Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule—Motor Vehicle Safety: Criminal Penalty Safe Harbor Provision [Docket No. NHTSA–2000–8510] (RIN: 2127–AI24) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

138. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Outer Continental Shelf Air Regulations Consistency Update for Alaska [Alaska 001; FRL–6919–3] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

139. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Vehicle Inspection and Maintenance Program; Restructuring OTR Requirements [NH036–7136A; A–1–FRL–6928–7] received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

140. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Reduction and Trading Program [MD104–3060; FRL–6920–9] received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

141. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maine; Vehicle Inspection and Maintenance Program; Restructuring OTR Requirements [ME059–7008A; A–1–FRL–6928–6] received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

142. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program—Permits Rule Revision, Industrial Utility-Units Exemption [FRL–6930–9] received January 4, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

143. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2001: Allocation for Metered Dose Inhalers and the Space Shuttle and Titan Rockets [FRL–6929–6] (RIN: 2060–AJ33) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

144. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations [AD–FRL–6928–2] (RIN: 2060–AH96) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

145. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Environmental Program Grants for Tribes [FRL–6929–5] (RIN: 2030–AA56) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

146. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Environmental Program Grants—State, Interstate, and Local Government Agencies [FRL–6929–4] (RIN: 2030–AA55) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

147. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Lead; Identification of Dangerous Levels of Lead [OPPTS–62156H; FRL–6763–5] (RIN: 2070–AC63) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

148. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Finding of Failure to Submit a Required State Implementation Plan for Particulate Matter, Nevada-Clark County [NV033–FON; FRL–6929–1] received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

149. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of VOC and NOx RACT Determinations [VA 5056; FRL–6922–6] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

150. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions [FRL–6923–6] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

151. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions [FRL–6923–5] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

152. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Indiana: Final Authorization of State Hazardous Waste Management Program Revision [FRL–6925–1] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

153. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills [FRL–6919–9] (RIN: 2060–AI34) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

154. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District [AZ063–0034; FRL–6916–4] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

155. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Full Approval of Operating Permit Program; State of Montana [MT–001a; FRL–6920–4] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

156. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program [DC048–2023; FRL–6921–1] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

157. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Available Control Technology for Oxides of Nitrogen [DC047–2024; FRL–6921–3] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

158. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Deferral of Phase IV Standards for PCB's as a Constituent Subject to Treatment in Soil [FRL–6921–5] (RIN: 2050–AE76) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

159. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Significant New Uses of Certain Chemical Substances [OPPTS–50638; FRL–6592–8] (RIN: 2070–AB27) received December 19. 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

160. A letter from the Deputy Associate Administrator, Environmental Protection

Agency, transmitting the Agency's final rule—Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting [OPPTS-400140D; FRL-6722-4] (RIN: 2070-AD38) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

161. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of the Clean Air Act, Section 112(1), Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of Washington; Puget Sound Clean Air Agency [FRL-6882-2] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

162. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring [WH-FRL-6934-9] (RIN: 2040-AB75) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

163. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dayton, Incline Village and Reno, Nevada) [MM Docket No. 99-229; RM-9479] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

164. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material (RIN: 3150-AG03) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

165. A letter from the Director, Office of Congressional Affairs, Office of Enforcement, Nuclear Regulatory Commission, transmitting the Commission's final rule—Base Civil Penalties for Loss, Abandonment, or Improper Transfer or Disposal of Sources; Policy Statement—received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

166. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 107-16); to the Committee on International Relations and ordered to be printed.

167. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000, pursuant to 50 U.S.C. 1703(c); (H. Doc. No. 107-19); to the Committee on International Relations and ordered to be printed.

168. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 24-00 which constitutes a Request for Final Approval for the Memorandum of Agreement between the U.S. and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

169. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 28-00 informing of a planned signature of the Memorandum of Understanding between Canada and the U.S. concerning the North American Technology and Industrial Base Activities, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

170. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 22-00 regarding project certification for the agreement between the Department of Defense of the United States of America and the Ministry of Defense of the State of Israel for the Arrow System Improvement program agreement, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

171. A letter from the Director, International Coorporation, Department of Defense, transmitting a copy of Transmittal No. 23-00 regarding project certification for the fourth amendment to the agreement between the Department of Defense of the United States of America and the Ministry of Defense of Israel for the Arrow Deployability Program (ADP), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

172. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

173. A communication from the President of the United States, transmitting His report to terminate the suspension on the obligation of funds for any new activities of the Trade and Development Agency with respect to the People's Republic of China; (H. Doc. No. 107-21); to the Committee on International Relations and ordered to be printed.

174. A communication from the President of the United States, transmitting His certification that the export to the People's Republic of China of a beam centerline (linear accelerator), in accordance with the provisions of section 1512 of the National Defense Authorization Act for Fiscal Year 1999; (H. Doc. No. 107-22); to the Committee on International Relations and ordered to be printed.

175. A communication from the President of the United States, transmitting His report issuing a new Executive Order to lift, with respect to future transactions, the economic sanctions imposed pursuant to Executive Order 13088 and expanded by Executive Order 13121; (H. Doc. No. 107-23); to the Committee on International Relations and ordered to be printed.

176. A communication from the President of the United States, transmitting His report issuing an Executive Order that prohibits the importation of rough diamonds from Sierra Leone; (H. Doc. No. 107-24); to the Committee on International Relations and ordered to be printed.

177. A communication from the President of the United States, transmitting His report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the United Nations Security Council; (H. Doc. No. 107-25); to the Committee on International Relations and ordered to be printed.

178. A communication from the President of the United States, transmitting His 6-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; (H. Doc. No. 107-26); to the Committee on International Relations and ordered to be printed.

179. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 01-01 regarding project certification for project arrangement concerning development of an electro-optical sensor component of an infrared search and track (IRST) system and launcher location simulation to the U.S.-Israel technology research and development projects agreement between the U.S. Department of Defense and the Israeli Ministry of Defense, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

180. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a certification pursuant to Section 578 of Foreign Operations, Export Financing and Related Programs Appropriations Act; to the Committee on International Relations.

181. A letter from the Acting Chief Counsel, Office of Foreign Assets Control, Department of Treasury, transmitting the Department's final rule—HEU Agreement Assets Control Regulations—received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

182. A letter from the Acting Chief Counsel, Office of Foreign Assets Control, Department of Treasury, transmitting the Department's final rule—Reporting and Procedures Regulations; Sudanese Sanctions Regulations; Taliban (Afghanistan) Sanctions Regulations—received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

183. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletion from the Procurement list—received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

184. A letter from the Director, Office of Personnel Policy, Department of the Treasury, transmitting the Department's final rule—Federal Benefit Payments Under Certain District of Columbia Retirement Plans—received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

185. A letter from the Director, Office of Personnel Policy, Department of the Treasury, transmitting the Department's final rule—Federal Benefit Payments Under Certain District of Columbia Retirement Plans—received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

186. A letter from the Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy, transmitting a report on the Strategic Plan entitled, "Strength Through Science Powering the 21st Century"; to the Committee on Government Reform.

187. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the Federal Activities Inventory Reforn Act Inventory; to the Committee on Government Reform.

188. A letter from the Secretary, Department of Transportation, transmitting the FY 2000 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

189. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acquisition Regulation [FRL-6920-7] received December 18, 2000, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

190. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—The Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings and the Privacy Act—received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

191. A letter from the Office of Independent Counsel, transmitting a Consolidated Annual Report on Audit and Investigative Activities and Management Control Systems; to the Committee on Government Reform.

192. A letter from the Director, Office of Personnel Management, transmitting the FY 2000 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

193. A letter from the Deputy Special Counsel, Planning and Advice Division, Office of Special Counsel, transmitting the Counsel's final rule—Technical Amendments to 5 CFR Parts 1800, 1820, 1830, and 1850—received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

194. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Testimony By Employees and the Production of Records and Information in Legal Proceedings (RIN: 0960–AE95) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

195. A letter from the President, United States Institute of Peace, transmitting a report in compliance with the Inspector General Act and the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

196. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule—General Public Political Communications Coordinated with Candidates and Parties; Independent Expenditures [Notice 2000–21] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

197. A communication from the President of the United States, transmitting an Agreement between the United States of America and the Government of the Republic of Estonia extending the Agreement of June 1, 1992, Concerning Fisheries Off the Coasts of the United States, with annex, as extended (the 1992 Agreement). The present Agreement, which was effected by an exchange of notes at Tallinn on September 7 and September 12, 2000, extends the 1992 Agreement to June 30, 2003, pursuant to 16 U.S.C. 1823(a); (H. Doc. No. 107–18); to the Committee on Resources and ordered to be printed.

198. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil and Gas Leasing: Onshore Oil and Gas Operations [WO–310–1310–01–24 1A–PB] (RIN: 1004–AC54) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

199. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Boating Infrastructure Grant Program (RIN: 1018–AF38) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

200. A letter from the Regulatory Analyst, Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule—Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust (RIN: 1076–AE00) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

201. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Spectacled Eider (RIN: 1018–AF92) received January 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

202. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Alaska-Breeding Population of the Steller's Eider (RIN: 1018–AF95) received January 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

203. A letter from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule—Acquisition of Title to Land in Trust (RIN: 1076–AD90) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

204. A letter from the Chief, Division of Management Authority, Department of the Interior, transmitting the Department's final rule—Import of Polar Bear Trophies from Canada: Change in the Finding for the M'Clintock Channel Population and Revision of Regulations in 50 CFR 18.30 (RIN: 1018–AH72) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

205. A letter from the Acting Secretary, Bureau of Indian Affairs, Department of Interior, transmitting the Department's final rule—Loan Guaranty, Insurance, and Interest Subsidy (RIN: 1076–AD73) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

206. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administation's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Removal of Groundfish Closure [Docket No. 001213348–0366–02; I.D. 121100A] (RIN: 0648–AO44) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

207. A letter from the Deputy Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications [Docket No. 001215358–0358–01; 113000A] (RIN: 0648–AN78) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

208. A letter from the Deputy Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures [Docket No. 001226367–0367–01; I.D. 121500E] (RIN: 0648–AN82) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

209. A letter from the Deputy Assistant, Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 12 [Docket No. 000927275–0347–02; I.D. 082800F] (RIN: 0648–AO31) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

210. A letter from the Deputy Assistant Administrator for Fisheries, NMFS, National Oceanic Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Removal of Groundfish Closure [Docket No. 001213348–0348–01; I.D. 121100A] (RIN: 0648–AO44) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

211. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Detention of Aliens Ordered Removed [INS No. 2029–00; AG Order No. 2349–2000] (RIN: 1115–AF82) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

212. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Aliens ineligible to transit without visas (TWOV) (RIN: 1400–AA48) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation Of Immigrants and Nonimmigrants Under The Immigration And Nationality Act, As Amended—Refusal Of Individual Visas—received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Documentation of Immigrants—International Broadcasters—received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

215. A letter from the Clerk, United States Court of Federal Claims, transmitting the court's report for the year ended September 30, 2000, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

216. A letter from the Administrator, FAA, Department of Transportation, transmitting Progress of the aircraft cabin air quality research program, pursuant to 49 U.S.C. 40101nt; to the Committee on Transportation and Infrastructure.

217. A letter from the Assistant Secretary of the Army, Civil Works, Department of Defense, transmitting a report on the Oakwood Beach, New Jersey Feasibility Study; to the Committee on Transportation and Infrastructure.

218. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transporatation, transmitting the Department's final rule—Drawbridge Operation Regulations; Memorial Bridge, across the Intracoastal Waterway, mile 830.6, Volusia County, Daytona Beach, FL [CGD07–00–135] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

219. A letter from the Program Analyst, FAA, Department of Transporation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Beech Model 58 Airplanes [Docket No. 2000–CE–42–AD; Amendment 39–11965; AD

2000-22-18] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

220. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30220; Amdt. No. 2027] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

221. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30219; Amdt. No. 2026] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

222. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30218; Amdt. No. 2025] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

223. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule—Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—2000 Update received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

224. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zones, Security Zones, Drawbridges and Special Local Regulations [USCG-2000-7757] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

225. A letter from the Regulations Officer, FHA, Department of Transportation, transmitting the Department's final rule—National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices for Streets and Highways [FHWA Docket Nos. 97-2295 (Formerly 96-47), 97-3032, 98-3644, 98-4720, 99-5704, 99-6298, 99-6575, and 99-6576] (RIN: 2125-AE11, AE25, AE38, AE50, AE58, AE66, AE71 and AE72) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

226. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class E5 Airspace; Columbus, GA [Airspace Docket No. 00-ASO-42] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

227. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of VOR Federal Airway; AK [Airspace Docket No. 00-AAL-02] (RIN: 2120-AA66) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

228. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Restricted Area, ID [Airspace Docket No. 99-ANM-16] (RIN: 2120-AA66) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

229. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Dexter, MO; Correction [Airspace Docket No. 00-ACE-31] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

230. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Moberly, MO [Airspace Docket No. 00-ACE-30] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

231. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace, Fayetteville, AR [Airspace Docket No. 2000-ASW-17] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

232. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Alteration of VOR Federal Airway; CO [Airspace Docket No. 99-ANM-14] (RIN: 2120-AA66) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

233. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Class D and Class E5 Airspace; Vero Beach, FL [Airspace Docket No. 00-ASO-43] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

234. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-82 (MD-82) and DC-9-83 (MD-83) Series Airplanes, and Model MD-88 Airplanes [Docket No. 2000-NM-356-AD; Amendment 39-12004; AD 2000-23-31] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

235. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2000-NM-131-AD; Amendment 39-12003; AD 2000-23-30] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

236. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777 Series Airplanes [Docket No. 99-NM-163-AD; Amendment 39-12001; AD 2000-23-28] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

237. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 2000-NM-76-AD; Amendment 39-11992; AD 2000-23-19] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

238. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and EMB-145 Series Airplanes [Docket No. 2000-NM-384-AD; Amendment 39-12039; AD 2000-25-05] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

239. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes [Docket No. 2000-NM-152-AD; Amendment 39-11963; AD 2000-22-16] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

240. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 99-NM-374-AD; Amendment 39-11957; AD 2000-22-11] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

241. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Teledyne Continental Motors IO-360, TSIO-360, LTSIO-360, O-470, IO-470, TSIO-470, IO-520, TSIO-520, LTSIO-520, IO-550, TSIO-550, and TSIOL-550 Series Reciprocating Engines [Docket No. 2000-NE-16-AD; Amendment 39-11994; AD 2000-23-21] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

242. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes [Docket No. 2000-NM-28-AD; Amendment 39-12016; AD 2000-24-09] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

243. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon (Beech) Model MU-300, MU-300-10, 400, 400A, and 400T Series Airplanes [Docket No. 2000-NM-60-AD; Amendment 39-12038; AD 2000-25-04] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

244. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211 Trent 768-60, Trent 772-60, and Trent 772B-60 Series Turbofan Engines [Docket No. 2000-NE-37-AD; Amendment 39-12031; AD 2000-24-24] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

245. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines [Docket No. 98-ANE-33-AD; Amendment 39-12033; AD 2000-24-26] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

246. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Model HH-1K, TH-1F,

TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A-1 Helicopters Manufactured by Bell Helicopter Textron Inc. for the Armed Forces of the United States [Docket No. 2000-SW-42-AD; Amendment 39-12034; AD 2000-22-51] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

247. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-100, -200, and -200C Series Airplanes [Docket No. 2000-NM-365-AD; Amendment 39-12041; AD 2000-25-07] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

248. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes Powered By Pratt & Whitney JT9D-3 and -7 Series Engines [Docket No. 2000-NM-329-AD; Amendment 39-11988; AD 2000-23-16] (RIN: 2120-AA64) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

249. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Emergency Locator Transmitters [Docket No. FAA-2000-8552; Amendment No. 91-265] (RIN: 2120-AH16) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

250. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Service Difficulty Reports [Docket No. FAA-2000-7952; Amendment Nos. 121-279, 125-35, 135-77, and 145-23] (RIN: 2120-AF71) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

251. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: Fireworks Display, SMITH Bay, Saint THOMAS, USVI [CGD07 00-131] (RIN: 2115-AE46) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

252. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department,'s final rule—Airworthiness Directives; Boeing Model 747-100, 747-200, 747-300, 747SP, and 747SR Series Airplanes Powered by Pratt & Whitney JT9D-3 and JT9D-7 Series Engines [Docket No. 2000-NM-353-AD; Amendment 39-11998; AD 2000-23-25] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

253. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Siam Hiller Holdings, Inc. Model UH-12, UH-12A, UH-12B, UH-12C, UH-12D, UH-12E, UH-12E-L, UH-12L, and UH-12L4 Helicopters [Docket No. 2000-SW-27-AD; Amendment 39-12028; AD 2000-24-21] (RIN: 2120-AA64) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

254. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule—Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices [FRA Docket No. PB-9; Notice No. 17] (RIN: 2130-AB16) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

255. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Time of Use for Restricted Areas R-4501A, B, C, D, and E, Fort Leonard Wood; MO [Airspace Docket No. 00-ACE-23] (RIN: 2120-AA66) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

256. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision to the Legal Description of the Laughlin/Bullhead International Airport Class D Airspace Área, AZ [Airspace Docket No. 00-AWP-11] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

257. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois [CGD08-00-029] (RIN: 2115-AE47) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

258. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Lower Grand River, LA [CGD08-00-032] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

259. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Intelligent Transportation System Architecture and Standards [FHWA Docket No. FHWA-99-5899] (RIN: 2125-AE65) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

260. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Learjet Model 60 Airplanes [Docket No. 2000-NM-52-AD; Amendment 39-11991; AD 2000-23-18] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

261. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A-1, 205B, and 212 Helicopters [Docket No. 2000-SW-28-AD; Amendment 39-12042; AD 2000-15-52] (RIN: 2120-AA64) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

262. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30221; Amdt. No. 426] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

263. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30223; Amdt. No. 2029] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

264. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30212; Amdt. No. 2019] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

265. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30213; Amdt. No. 2020] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

266. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30217; Amdt. No. 2024] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

267. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30215; Amdt. No. 2022] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

268. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30222; Amdt. No. 2028] received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

269. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Effluent Limitations Guidelines and New Source Performance Standards for the Oil and Gas Extraction Point Source Category; OMB Approval Under the Paperwork Reduction Act: Technical Amendment [FRL-6929-8] (RIN: 2040-AD14) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

270. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—FY 2001-2002 Great Lakes National Program Office Request for Preproposals—received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

271. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities [FRL-6933-4] (RIN: 2050-AC62) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

272. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Further Revisions to the Clean Water

Act Regulatory Definition of "Discharge of Dredged Material" [FRL-6933-2] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

273. A letter from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Miscellaneous Changes—received December 27, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

274. A letter from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting the Department's final rule—New Criteria for Approving Courses for VA Educational Assistance Programs (RIN: 2900-AI67) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

275. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 107-17); to the Committee on Ways and Means and ordered to be printed.

276. A letter from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting the Department's final rule—Interim Final Rules for Nondiscrimination in Health Coverage in the Group Market (RIN: 1210-AA77) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

277. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Section 467 Rental Agreements Involving Payments of $2,000,000 or Less [TD 8917] (RIN: 1545-AW75) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

278. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Lifetime Charitable Lead Trusts [TD 8923] (RIN: 1545-AX74) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

279. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Inflation-adjusted Amounts for 2001 [Notice 2001-12] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

280. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context [TD 8919] (RIN: 1545-AY57) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

281. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Partnership Mergers and Divisions [TD 8925] (RIN: 1545-AX32) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

282. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Prevention of Abuse of Charitable Remainder Trusts [TD 8926] (RIN: 1545-AX62) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

283. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-7] received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

284. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Awards of attorney's fees and other costs based upon qualified offers [TD 8922] (RIN: 1545-AX00) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

285. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 2001-2] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

286. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definition of Hyperinflationary Currency for Purposes of Section 988 [TD 8914] (RIN: 1545-AX67) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

287. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-4] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

288. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tax forms and instructions [Rev. Proc. 2001-13] received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

289. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Credit for Increasing Research Activities [TD 8930] (RIN: 1545-AV14; 1545-A051) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

290. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tiered Structures-Electing Small Business Trusts [TD 8915] (RIN: 1545-AX71) received December 29, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

291. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Extension of Test of Mediation Procedure for Appeals—received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

292. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 2001-3] received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

293. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Extension of Relief Relating to Application of Nondiscrimination Rules for Certain Governmental Plans and Church Plans [Notice 2001-9] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

294. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—2001 Limitations Adjusted As Provided In Section 415(d), Etc. [Notice 2000-66] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

295. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Withholding and Information Reporting on Payments to Financial Institution in U.S. Possessions [Notice 2001-11] received December 28, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

296. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Air Transportation Excise Tax; Amount Paid for the Right to Award Miles [Notice 2001-6] received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

297. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance Under Section 355(d); Recognition of Gain on Certain Distributions of Stock or Securities [TD 8913] (RIN: 1545-AW71) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

298. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-5] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

299. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-8] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

300. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2001-3] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

301. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories [Rev. Rul. 2001-5] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

302. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules [TD 8916] (RIN: 1545-AY29) received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

303. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-6] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

304. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-1] received January 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

305. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tax forms and instructions [Rev. Proc. 2001-9] received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

306. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Interim Final Rules for Nondiscrimination in Health Coverage in the Group Market [TD 8931] (RIN: 1545–AW02) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

307. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit—received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

308. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Qualified Transportation Fringe Benefits [TD 8933] (RIN: 1545–AX33) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

309. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definition of Last Known Address [TD 8939] (RIN: 1545–AX13) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

310. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—The GUST Remedial Amendment Period for Employers Who Use M&P or Volume Submitter Specimen Plans—received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

311. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Reopenings of Treasury Securities and Other Debt Instruments; Original Issue Discount [TD 8934] (RIN: 1545–AX60) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

312. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Excise Taxes on Excess Benefit Transactions [TD 8920] (RIN: 1545–AY64) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

313. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Continuation Coverage Requirements Applicable to Group Health Plans [TD 8928] (RIN: 1545–AW94) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

314. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Tax Treatment of Cafeteria Plans [TD 8921] (RIN: 1545–AY23) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

315. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Definition of Contribution in Aid of Construction Under Section 118(c) [TD 8936] (RIN: 1545–AW17) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

316. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts; "Services" for Trial Work Peroid Purposes—Monthly Amounts; Student Child Earned Income Exclusion (RIN: 0960–AF12) received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

317. A letter from the Secretary, Department of Transportation, transmitting a report on importing noncomplying motor vehicles, pursuant to 49 U.S.C. 30169(b); jointly to the Committees on Energy and Commerce and Ways and Means.

318. A letter from the Secretary, Department of Health and Human Services, transmitting notification that the Department of Health and Human Services is allotting emergency funds made available under section 2606(e) of the Low-Income Home Energy Assistance Act of 1981 to all States, Tribes, and Territories; jointly to the Committees on Energy and Commerce and Education and the Workforce.

319. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report pursuant to section 7(a) of the Jerusalem Embassy Act of 1995; jointly to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on January 2, 2001]

Mr. BURTON: Committee on Government Reform. Report on the Activities of the House Committee on Government Reform for the 106th Congress (Rept. 106–1053). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Permanent Select Committee on Intelligence. Report of the Activities of the Permanent Select Committee on Intelligence for the 106th Congress (Rept. 106–1054). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. ESHOO (for herself and Mr. Cannon):

H.R. 237. A bill to protect the privacy of consumers who use the Internet; to the Committee on Energy and Commerce.

By Mr. HUNTER (for himself, Ms. Eshoo, Mr. Cunningham, Mr. Issa, Mrs. Capps, and Ms. Lee):

H.R. 238. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Commerce.

By Ms. LEE (for herself, Mr. Capuano, Mr. Conyers, Ms. Carson of Indiana, Mrs. Morella, Mr. Frost, Mr. McGovern, and Mr. Payne):

H.R. 239. A bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries; to the Committee on Energy and Commerce.

By Mr. RILEY (for himself and Mr. Everett):

H.R. 240. A bill to ensure that certain property which was taken into trust by the United States for the benefit of the Poarch Band of Creek Indians of Alabama shall be protected and shall not be used for gaming; to the Committee on Resources.

By Mr. RILEY:

H.R. 241. A bill to eliminate automatic pay adjustments for Members of Congress; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN:

H. Res. 21. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FROST:

H. Res. 22. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. WEXLER:

H.R. 242. A bill for the relief of Rigaud Moise, Cinette Dorlus Moise, Jean Rigaud Moise, and Phara Moise; to the Committee on the Judiciary.

By Mr. WEXLER:

H.R. 243. A bill for the relief of Akintomide Apara; to the Committee on the Judiciary.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Ms. Rivers.

H.R. 80: Mr. Sherwood and Mr. Kanjorski.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

1. The SPEAKER presented a petition of the National Assembly, Republic of Korea, relative to a Resolution petitioning the United States House of Representatives to Oppose the Conclusion of a Treaty Containing a Provision in Conflict with the Current Screen Quota System; to the Committee on International Relations.

2. Also, a petition of the National Assembly, Republic of Korea, relative to a Resolution petitioning the United States House of Representatives to Call for Settlement of the Nogun-ri Incident; to the Committee on International Relations.

3. Also, a petition of the Board of Supervisors of Essex County, New York, relative to Resolution No. 278 petitioning the United States Congress to Oppose The Proposed EPA Plan To Dredge 40 Miles Of The Upper Hudson River From Fort Edward To Troy; to the Committee on Transportation and Infrastructure.

EXTENSIONS OF REMARKS

REGARDING THE PRESENTATION OF THE CONGRESSIONAL GOLD MEDAL TO POPE JOHN PAUL II INCLUDING REMARKS OF CONGRESSMAN JOE MOAKLEY AND REMARKS OF POPE JOHN PAUL II

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. HASTERT. Mr. Speaker, I rise today to let my colleagues know that last week, on January 8, 2001, I had the opportunity to present the Congressional Gold Medal to Pope John Paul II. I was joined by my colleagues JOE MOAKLEY of Massachusetts, JIM LEACH of Iowa, CHRIS COX of California, SHERWOOD BOEHLERT of New York, CHRIS SMITH of New Jersey, BUD CRAMER of Alabama, CHRIS JOHN of Louisiana and DON SHERWOOD of Pennsylvania. Members of the other body, led by Senator SAM BROWNBACK and Senator BARBARA MIKULSKI, also joined us.

Pope John Paul II still possesses great strength in spirit and he was quite generous with his time with the Congressional delegation. As he was leaving the end of the meeting, he waved good-bye to us and said, "God Bless America." It was a moment that touched the hearts of all who were in the room. John Paul II, the man who has done so much to spread good will across the world as he worked tirelessly to bring down communism in Eastern Europe, is a hero to millions of Americans, whether they are Catholic or non-Catholic.

Inserted below, you will find the remarks I made at the ceremony and the remarks the Pope made in response. Also included below are remarks made by my colleague, JOE MOAKLEY, who traveled with us on the trip. It was a magical day and I thank the House for allowing me to make this special presentation to Pope John Paul II.

"Today, I'm pleased that the Congress has bestowed this honor to you, John Paul II, and that you have agreed to accept it. This award celebrates your life not only as a spiritual leader of a billion Catholics, but also as a peacemaker, healer and beacon of light to the whole world.

"For your more than 20 years as Pope, you have tirelessly traveled this globe preaching a message of love and truth. You have delivered your message in different languages, to different cultures, to people of different ages, economic backgrounds and political persuasions.

"You are a pillar of morality, an advocate for the poor and the oppressed and a voice for the unborn and the aged. Your strong words inspire the 1 billion Catholics you lead and impress people of various faiths all over the world. You have helped to bring down barriers that threaten our world's unity. You have played a pivotal role in the downfall of Communism in Eastern Europe and you have expanded dialogue with political and religious leaders in the Holy Land.

"In this past year—the Jubilee year—you worked harder than ever to make sure your reconciling message was heard. While the holy year is now over, the beauty of your Jubilee message continues to resonate in the hearts of the world's people."

VATICAN TRIP

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. MOAKLEY. Mr. Speaker, last week I had the great honor of traveling to the Vatican with Speaker J. DENNIS HASTERT and several of our House colleagues to present the Congressional Gold Medal of Freedom to Pope John Paul II. To put it simply, being in the presence of the Pope was by far one of the most moving and important experiences of my career. The Holy Father was tremendously generous with the time he gave to our group, and his words to us were powerful and inspiring.

Pope John Paul II has done more for children, women and men, to eliminate poverty, to stimulate freedom and more for peace than anyone in our generation—and quite possibly in history. As I read through his biography I recalled the many trips the Holy Father has taken over the years to the greater ends of the Earth. They weren't easy trips, nor did he confront easy problems. His kindness, his words of wisdom, his humanitarian nature, and his willingness to live a life based on principle and faith has changed the world more than any of us can imagine.

Of particular note was his diplomatic effort to end authoritarian rule throughout Eastern Europe which originally was a task that many of us considered impossible. But who among us will ever forget the day that the Berlin Wall came down.

The Pope's trips have often taken him to the poorest parts of the world where he gave great comfort to the sick and downtrodden. I remember his trips to India and Mexico to name a few. These were areas and people that many of us knew little about, and the Holy Father shed light on them, humanized them.

This is a Pope that has been seen by more people around the world than any other. Often, just the fact that he chose to stop in a country and visit has produced lasting change. I'll always remember standing in the plaza in Havana, Cuba, listening to the Pope talk critically about freedom and human rights. These were words that many of those standing in the crowd had never heard spoken publicly. The faces of the Cuban people and the joy they felt in seeing the Holy Father was a moment I'll never forget. Today, the Holy Father's visit has created a greater role for the Catholic Church in Cuban society, and made a better life for many Cubans.

I want to thank Speaker HASTERT for including me on this memorable trip to present the Congressional Gold Medal to the Pope. As a member of the House, I was proud that our institution has chosen to honor one of the great individuals in history.

Pope John Paul II

Saluto del Santo Padre in occasione della consegna della "Congressional Gold Medal"

Mr. Speaker, Members of Congress, Distinguished Guests, I am pleased to welcome you to the Vatican this morning, and I am honored by the gracious gesture which has brought you here. It is not for the Successor of the Apostle Peter to seek honors, but I gladly accept the Congressional Gold Medal as a recognition that in my ministry there has echoed a word that can touch every human heart. It has been my endeavor to proclaim the word of God, which on the very first page of the Bible tells us that man and woman have been created in his very image and likeness (cf. Gen 1:26).

From this great truth there flows all that the Church says and does to defend human dignity and to promote human life. This is a truth which we contemplate in the glory of Jesus Christ, the Son of God, crucified and risen from the dead. In the years of my ministry, but especially in the Jubilee Year just ended, I have invited all to turn to Jesus in order to discover in new and deeper ways the truth of man. For it is Christ alone who fully reveals man to himself and makes known his sublime destiny (cf. Gaudium et Spes, 22). To see the truth of Christ is to experience with deep amazement the worth and dignity of every human being, which is the Good News of the Gospel and the heart of Christianity (cf. Redemptor Hominis, 10).

I accept this award as a sign that you, as legislators, recognize the importance of defending human dignity without compromise, so that your nation may not fail to live up to its high responsibilities in a world where human rights are so often disregarded. Therefore, Ladies and Gentlemen, I thank you for this Congressional Gold Medal. In offering my good wishes for the New Year, I invoke upon you, your families and all whom you represent "the peace of God which is beyond understanding" (Phil 4:7). May God bless you all!

CONSUMER INTERNET PRIVACY ENHANCEMENT ACT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Ms. ESHOO. Mr. Speaker, today as we inaugurate a new President, we inaugurate a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

critical beginning by introducing legislation which will protect what is a core value of every American—privacy. When any of us provide an institution with personal information, we expect the information to be used in the narrowest sense. Representative CANNON and I strongly believe that while the Internet has opened up an entirely new world, it has also created problems we have never before encountered. Information about Internet users can now be accessed in an instant, and often times with the user being completely unaware that his or her information is moving down the information superhighway at lightning speed. The bipartisan legislation we've introduced today will help to assure the security Americans expect when it comes to their privacy.

The legislation requires Web sites to conspicuously post clear and concise information about their policies relative to how personal information collected from online users is used. Companies will be required to disclose exactly who is collecting the information, how it will be used, the types of data being collected and whether consumers have to provide personal information in order to use a Web site. Companies also would have to take steps to secure personal information once it is in their databases.

Perhaps most importantly, Internet users will be able to assess a company's privacy policy before registering at a Web site, or purchasing merchandise over the Internet, and then control the extent to which their personal information can be used by the company. Companies that violate the requirements could face civil penalties of $22,000 per violation, up to a maximum fine of $500,000. The U.S. Federal Trade Commission (FTC) would enforce the provisions.

Mr. Speaker, I want to thank my colleague, Representative CHRIS CANNON, our colleague, who joins me in introducing this bill today. Representative CANNON is a leader in protecting the civil rights of Americans. His work on this bill has been critical and he once again demonstrates his leadership on the issue of privacy. I'd also like to acknowledge the original authors of this legislation in the Senate—Senators KERRY of Massachusetts and MCCAIN of Arizona.

Mr. Speaker, Representative CANNON and I believe this legislation can become the backbone of a new law in privacy for America. We look forward to working with the entire House to move this bill through the 107th Congress.

THE LIFE AND TIMES OF OBRA QUAVE

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. SHOWS. Mr. Speaker, I would like to take a minute to tell my fellow colleagues and the American People about Obra Quave. Mr. Quave is a gentleman and scholar whose dedication to education over the past 40 years has inspired youths to pursue excellence in the arts. On January 26th Mr. Quave will be honored by his colleagues at William Carey College in Hattiesburg, Mississippi for lifetime contributions to the greatness of that institution in communications and theater. Because of his many sacrifices, William Carey College has produced numerous teachers in public and private schools and colleges throughout the nation as well as scores of professionals who have achieved success on Broadway and other comparable venues. Mr. Quave's contributions to the great State of Mississippi have not gone unnoticed.

Let this remind us all of the sacrifice and dedication that America's teachers have given so that others might fulfill their dreams. Also, let us not forget the sacred trust imparted in the Congress to ensure that all Americans are given the opportunity that a quality education affords. To all the teachers like Mr. Quave who have blessed the lives of so many we thank you and America thanks you as well.

A TRIBUTE TO DET. SGT. WILLIAM HOLT

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. HOEFFEL. Mr. Speaker, I rise to congratulate Det. Sgt. William Holt on his induction into the Police Chief's Hall of Fame. William A. Holt, Jr. was born and raised in the Crestmont section of Willow Grove, Pennsylvania and attended Abington public schools. Upon graduation he entered the the U.S. Army where he served 3 years and did a full tour of Vietnam. In July 1968 he joined the Abington Police Department and was promoted to patrol sergeant in 1987 and to the prestigious ranking of detective sergeant in 1995.

Detective Sergeant Holt is an active member of the First Baptist Church of Crestmont. He is the cofounder and president of the Montgomery County Black Law Enforcement Officers Association. He is a past president of the Abington Township Police Association, a State certified instructor at the Police Municipal Training School, Scout Master of Boy Scouts of America Troop #712, and a life member of the VFW Post 3398 Corporal William Sydnor.

Detective Sergeant Holt has received numerous awards and citations over the years from local civic organizations. Some of those awards include: Law Enforcement Office of the Year, Induction into the American Police Hall of Fame, Martin Luther King, Jr. Day award for community service, Recognition for Unselfish Devotion, Outstanding Contribution to Law Enforcement and the NAACP Recognition Award. It is an honor and privilege to acknowledge Det. Sgt. William A. Holt on this momentous occasion. The citizens of Montgomery County, Pennsylvania are fortunate to have benefited from the outstanding service he has provided to our community.

A TRIBUTE TO THE HOMEFIRST CHARITABLE CORPORATION'S BOARD OF DIRECTORS

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. CAPUANO. Mr. Speaker, I rise today to recognize eleven extraordinary members of the HomeFirst Charitable Corporation's Board of Directors and one extra-special friend of the organization. HomeFirst was founded in 1990 for the sole purpose of raising funds for other non-profits in the city of Somerville, Massachusetts. At that time, the economy was in dire straits and contributions to non-profit organizations was at its lowest.

HomeFirst is run by a Board of Directors, which includes local attorneys, community organizers, and business people. There is also a ten member Advisory Board that reviews and comments upon every funding request. These dedicated people deserve recognition for raising over $550,000. Every member of this Board volunteers their time and energy; no one receives a single penny for the important and generous work they do. Furthermore, funds raised by HomeFirst go directly to other, unaffiliated non-profits; not a single penny is spent or distributed by HomeFirst itself.

Volunteerism is of great importance to America. Honoring dedicated volunteers, such as the Board of Directors of the HomeFirst Charitable Corporation, helps express society's immense appreciation of a job well done to these individuals and to all Americans who volunteer to make our world a little better place.

In conclusion, I express the heartfelt appreciation of a grateful nation to HomeFirst Board members Mr. Robert Arnold, Mr. James Brennan, Ms Barbara T. Capuano, Ms Anna Ciccariello, Mr. Richard DiGirolamo, Ms Mary Doherty, Mr. Michael Foley, Ms Francine Mello, Mr. Frank Scimone, Ms Joyce Shallah, and Mr. John L. Sullivan. I also express similar appreciation to Mr. David Doherty, who generously gave of his time and energy to help HomeFirst with every event it ever conducted.

A SPECIAL TRIBUTE TO COL. PAULA E. KOUGEAS, AIR NATIONAL GUARD FOR HER DEDICATED SERVICE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to an outstanding officer in the Air National Guard. Col. Paula E. Kougeas is retiring after a distinguished career in the United States Armed Forces, most recently with the National Guard Bureau's Office of Policy and Liaison. Throughout her career, Paula Kougeas has distinguished herself as articulate spokesperson, able administrator and extraordinary innovator. She began her service to her country as an Air Force ROTC cadet at the University of Massachusetts. Upon graduation from graduate school, she was commissioned as a Second Lieutenant in December, 1978. Her first duty assignment took her to Peterson Air Force Base, Colorado, where she worked as the Public Affairs Officer for the 46th Aerospace Defense Wing. Upon the activation of the United States Space Command, she became the first Public Affairs Officer for the 1st Space Wing.

During her first tour of duty with the National Guard Bureau, she was instrumental in telling the story of the National Guard's road building exercise in Central America, deploying to Panama for three months to oversee the Public Affairs Detachment training program. Col. Kougeas also helped with the administrative establishment of the first office of the Vice Chief of the National Guard Bureau.

While on active duty, Paula Kougeas worked as a key member of the hostage repatriation media team at Ramstein Air Force Base, Germany with the return of the American hostages from Lebanon. She also served as part of the Joint Information Bureau for Operation Provide Hope, which consisted of 52 humanitarian airlift missions into the former Soviet Union.

Leaving active duty to become a member of the Massachusetts Air National Guard, Col. Kougeas served as the Air National Guard Advisor to the Secretary of Air Force Office of Legislative Liaison and as Deputy Chief and as Chief of the National Guard Bureau's Office of Policy and Liaison. She has received numerous well-deserved, military awards and decorations for her service to the nation. No award is more appropriate, nor more fulfilling for her, than the knowledge that her efforts helped give America a clearer understanding of the important work of America's men and women in uniform.

Mr. Speaker, I ask each of my colleagues to join me in extending Paula Kougeas our very best wishes as she begins this exciting new chapter in her life's story. Paula Kougeas has earned, many times over, the title of citizen-airman and patriot. May she fully enjoy the blessings of very freedom she has so ably defended as an officer in the Air National Guard.

A TRIBUTE TO MINNESOTA'S C. CHARLES JACKSON, JR., A GREAT CIVIC AND CHARITABLE LEADER ON HIS 80TH BIRTHDAY

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Mr. RAMSTAD. Mr. Speaker, I rise to pay tribute to a great Minnesotan, a true patriot and a long-time friend who represents the greatness and goodness that is America. C. Charles Jackson, Jr., celebrates his 80th birthday on Thursday, January 11, 2001. All who know him call him Charley. We are proud to call him our friend. And we also call him remarkable in so many ways.

Mr. Speaker, there are few institutions in Minnesota which have not been touched by Charley's brilliant leadership, his generosity and his time, energy and talent. Charley Jackson is one of those people who works behind the scenes, one of those people who is responsible for getting things done. He has helped countless people in need, sick children, young students and many others. Whenever his community has needed him for a civic or charitable endeavor, Charley Jackson has answered the call.

From his early years as a U.S. Navy officer during World War II—to his years as head of a major Minnesota corporation—to his more recent years as a philanthropist, Charley Jackson has performed public service of the highest order. He has worked tirelessly as a board member of numerous Minnesota organizations and charities, ranging from Children's Heartlink and the Boys and Girls Clubs of Minneapolis to the University of Minnesota's Williams Fund, Gustavus Aldophus College and Dunwoody Institute. He is also a national trustee of Ducks Unlimited.

Over the past 25 years, I have personally seen Charley Jackson give so generously of himself, without any desire for recognition. Charley is truly one of the most generous and selfless individuals Minnesota has known. When the organ at our Wayzata Community Church needed replacing, Charley was the first member who stepped forward, just as he did to construct our new church sanctuary. One of the finest liberal arts colleges in the Midwest, Gustavus Adolphus College has benefited greatly from Charley's generosity, which provided its new student center and numerous scholarships. Charles Jackson has also been a very special friend and key advisor to me. It is hard to find the words to adequately convey my appreciation for Charley's wise counsel and friendship from my very beginning in public office.

Mr. Speaker, all of us whose lives have been touched by Charley Jackson wish him well on his 80th birthday, and we thank him for his long record of service and legendary contributions.

A TRIBUTE TO WILLIAM R. HEWLETT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, January 20, 2001

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to an extraordinary American, and a highly distinguished constituent of California's 14th Congressional District—Bill Hewlett, who will forever be remembered as a pioneer of high technology and the co-founder of one of the most influential companies of all time—Hewlett-Packard. Bill Hewlett passed away January 12, 2001, leaving a legacy of unparalleled and extraordinary achievement. Bill Hewlett created a business style and formula for success that became a prototype for Silicon Valley and American business. Armed with little more than an idea and $538, he and his partner David Packard, created what would grow to become a multimillion dollar enterprise. Together, they fashioned a revolutionary management style that has served as a model for companies both small and large.

Bill Hewlett was also a great philanthropist, giving tens of millions of dollars to environmental, educational and humanitarian causes. In 1966, he began the foundation which bears his name, helping to support charitable endeavors in the performing arts, education, the environment, conflict resolution and many other areas.

In 1985, President Reagan awarded Bill Hewlett the National Medal of Science, the highest science honor in our nation. He served on many Boards, including the Stanford Medical Center, Kaiser Foundation Hospital, the Drug Abuse Council in Washington, D.C. and the Carnegie Institution of Washington. History will elevate Bill Hewlett to the pantheon of American inventors that include Thomas Edison and Henry Ford. His vision, his unparalleled creativity, and his unique leadership will forever distinguish him as one of the foremost technological icons of all time.

Mr. Speaker, I ask my colleagues to join me in paying tribute to a great and good man, and offer the condolences of the entire House of Representatives to the Hewlett family.

SENATE—*Monday, January 22, 2001*

The Senate met at 10:00 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O God of new beginnings, give us minds open to Your fresh vision and hearts ready to be warmed by the glow of Your presence. Open our ears to hear Your admonition, *Not by might nor by power, but by My Spirit*—Zechariah 4:6.

Remind us all that it is not by human strategies or clever powerbrokering that Your work is done but by the grace, guidance, and gifts of Your Spirit. Help the Senators to humbly ask for and to willingly receive the supernatural endowments of Your wisdom, discernment, insight, and courage. You alone can make good leaders great leaders. May You grant the Senators such lodestar magnetism that there can be no other explanation for their dynamic words and lives than that they have been with You and have decided to live in the flow of Your Spirit.

Free them from the limits of self-reliance. Surprise them with what You can do with leaders who are totally reliant on Your spiritual reinforcement and resilience. Fill this Chamber with Your glory and the Senators with Your grace. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JUDD GREGG, a Senator from the State of New Hampshire, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

BEGINNING OF THE 107TH CONGRESS

Mr. LOTT. Mr. President, as always, it is good to see you present and ready for a new beginning. I think we have a new opportunity in this 107th Congress. Again, I extend appreciation to our Chaplain for the spiritual leadership he provides to the Senate, all Senators and our Senate family.

I see the distinguished Democratic whip, Senator REID from Nevada, is on the floor also ready to go to work. I appreciate the work he did in the last Congress and look forward to working with him this year. We are now at a stage in our country's history where we will be able to take a new look at what we want to do for the benefit of all of our people. We have completed the election, we have completed the inauguration, and now we begin to get down to business.

I am pleased today that we will have an opportunity to go down with leaders of both parties from both the House and the Senate to meet with the new President to begin to discuss the agenda and how he would like to proceed and how we would like to proceed in our own way.

SCHEDULE

This is the first day for bills to be introduced. The Senate will then have a period of morning business until 3 p.m. for the purpose of general statements, most of them, of course, with respect to the bills introduced.

As previously announced, there will be no rollcall votes today. Votes, if necessary can be expected during this week's session regarding the confirmation of the President's Cabinet nominees. Senators will be notified as votes are scheduled. I expect there could be a vote or two scheduled on Tuesday, perhaps also on Wednesday, but we will give Members specifics on that once we have had an opportunity to consult with leaders on the Democratic side of the aisle.

I also thank all the Senators for their willingness to allow us to move seven of the President's nominees through confirmation on Saturday. There had been some indication that perhaps recorded votes would be necessary, but after a great deal of working back and forth and the fact that Senator DASCHLE was willing to be supportive of moving the nominees through quickly, we were able to get that done. I think that was a wise decision on behalf of myself and I know the new President is glad six members of his team have already been sworn in and the seventh will probably be sworn in today, especially those dealing with national security issues, economic issues, and even the new Energy Secretary who will have to immediately begin to address some of the energy needs in this country. I think we are off to a good start.

We will have the first 30 minutes I believe on this side of the aisle, and then the second 30 minutes goes to the Democratic side. Traditionally, we introduce the first five, the majority party introduces the first five, and then the other side does the next five, and back on this side for five more, and back to the other side. Then any Senators who wish would be able to offer their bills after that.

I notice the Senator standing. Before I go further, I am happy to yield to Senator REID.

Mr. REID. If the majority leader would yield for a brief statement, I say to the leader I hope during this coming year, he will look at what happens here that is positive in nature. I was very happy to hear the majority leader talk about what we did last Saturday, in one fell swoop, approving seven of the Cabinet positions given to us by the President.

There will be times during this year that we won't be approving seven major nominations or doing anything that is that large of a step. I think there is a spirit of bipartisanship. I have to say it was generated and improved by the work of the two leaders in allowing us to have the committee structure as indicated.

I think there is a good feeling on both sides of the aisle that we can get things done. As the year proceeds, when there are things that don't go the way of the majority, with Vice President CHENEY making that majority, I hope he would reflect on those things we do that are positive in nature.

This is a legislative body. To get things done we have to compromise. Legislation is the art of compromise. I hope we can maintain this feeling of bipartisanship that we now have. There is no reason we cannot do that, especially if we look at things done here as the glass being half full rather than half empty.

I have told the leader personally how much I appreciate what he has done. I look forward to a very fruitful legislative year for our country.

Mr. LOTT. Mr. President, I thank the Senator from Nevada for his comments. That is why I did make specific mention of the fact that we confirmed seven of the nominees on Saturday. That was a very good gesture, very positive gesture. I had noted earlier that 8 years ago we had confirmed three of then-President Clinton's nominees the first day and all of the rest of his nominees the second day except one, which we did have a recorded vote on subsequently. But I thought in this case the fact that we moved seven was very good. I think as long as we can, and as many times as we can find a bipartisan way to work together, we should do that and we will do our best to do that.

Back to the schedule today of introducing bills, the leadership may opt in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

some instances to go ahead and introduce a bill that is fully prepared, fully vetted and properly drafted or they may decide to have what we call place holders for their bills—S. 1 through S. 5 on our side or S. 6 through S. 10 on the other side.

We will probably have place holders today because we would like to have an opportunity to honestly have more consultation with leaders on both sides of the Capitol in the majority party, but also to have input from the President. This week, the President will go forward with his commitment to make education his highest priority, and he, as I understand it, will speak to different aspects of his proposal each day, or two or three times during this week. We would like to make sure we have a bill that has been worked through and we will have an opportunity to work with our new chairman of the Senate Republican Conference, the distinguished Senator from Pennsylvania, Senator SANTORUM. So, within a couple of weeks we will have the specifics of this legislation.

Again, without saying these are the order of priorities, I do think I should at least touch on the issues we are going to be focusing on in these early bills. Education, as the President has indicated—I think everybody in America is in agreement, regardless of region or party or financial background—has to be addressed. We have lost some ground in comparison to previous generations, compared to other countries. We can do a better job in education. No child should be left behind in America. We are going to focus on accountability and reading. I feel very strongly about this whole issue.

I am the son of a schoolteacher who taught school for 19 years. I went to public schools all my life, as did my wife and both of our children. It really pains me to see what is happening in some of our schools. The quality has deteriorated. The accountability has left. The schools are dangerous. The schools are not safe from drugs. So we have work to do there.

Also, clearly we need to continue to try to address the Tax Code. The Tax Code is unfair. It is too complicated; it is too long—it is endless. But even beyond that, now, we see there is some softening in the economy. Without trying to predict what might happen in that area—we always look for a way, in America, to have more. But when you look at the surplus we have and look at what can be done with the Tax Code to make it more fair and also to encourage economic growth. I think that should be one of our high priorities.

I believe it will be. The President has said he is going to seek that, and I believe there are Members of Congress, again, on both sides of the aisle in both Chambers, who are going to try their best to achieve that goal. Will there be arguments over some of the details? Surely. This is a legislative body and different Senators and different House Members will have different approaches. But we should get this done and do it as quickly as possible because we need to start having some impact. That is why I do support the ideas that have been suggested, that it be across-the-board rate cuts and that we look at retroactivity and other ways to really affect the economy.

Over the past week, in various settings, I did also have the opportunity to talk to some of our leaders in defense. I spent some time with the new Secretary of Defense, Don Rumsfeld. I had the opportunity to talk to a number of Members of the Joint Chiefs of Staff but, more important, to individual military men and women. I believe there are more problems in our military and greater needs there than we have acknowledged or that people are prepared to recognize at this point. It does go to morale, the quality of the facilities for our military personnel: readiness and modernization. So defense has to be at the very top of any agenda we discuss.

Then you start looking to your grandparents and your parents, to your own future and that of your children and grandchildren. We have to go ahead and address the issues that are difficult politically but essential for the future security of all of us; that is, Social Security and Medicare, and how do you provide prescription drugs to our needy elderly. It will not be easy, but as the President said in his Inaugural Address at his swearing in on Saturday: We cannot just pass these issues on to the next generation because it is tough for us to deal with them.

That is not exactly what he said, but that was the gist of it. That is what he meant. So I think we have to find a way to do these things, and we can do them. There are a lot of different ways to approach this. Again, the substance will be hotly debated. I really think that Social Security can be dealt with, with just a few changes that would protect it for 90 years or more. Medicare has more moving parts, and I think it has more difficulty right now, but we should start early to try to find a way to work on those.

On Medicare, I think a good place to begin would be where the Medicare Commission left off. We had a bipartisan Medicare Commission with some of the most thoughtful Members of the Congress serving on that Commission, chaired by Senator JOHN BREAUX. They did a lot of good work. Have we learned more? Surely. But that would be good place to start because unfortunately that Commission's recommendation never had a good airing by the Senate committee or the House Ways and Means Committee.

In the case of Social Security, I think a good idea would be to consider a commission somewhat similar to the commission we had in the 1980s, sort of a base closure-type commission, where we have a distinguished blue ribbon commission that would look at this area and make recommendations. Then Congress would have to review it and then vote it up or down. But these are just some ideas, ideas I am not advocating on behalf of any group of Senators and not the new President, but just some thoughts that we can work on.

Another area—and this goes beyond five categories but is something we have to look at very quickly—is energy. We have ignored this energy problem. We don't have a national energy policy. How many times are we going to have to be shaken to wake up and realize that we do not have a national energy policy; we are not making use of the resources we have in America, we are not properly providing the right incentives for conservation; we are dependent on foreign oil? This makes no sense.

Then we have the situation in California where they say they have deregulation but it is not deregulation, or it is half deregulation which is worse than no deregulation. They deregulated at one end and not at the other, and we see there are real problems. But we should not protest and damn the darkness. We should prepare for the light. We should find a way to have a broad policy in this area.

On Sunday, I spoke to the distinguished chairman of the Energy and Natural Resources Committee, Senator MURKOWSKI. I thought that issue was so important that I took some time to give him a ring and talk about what he has in mind and the preparation he is doing to have a bill ready within the next few days. It can be introduced in our first grouping of bills.

We have a lot of work to do, but I am excited about the possibilities. This is by no means a complete list. There will be issues we will be working on beyond the first five or first six bills, things that are left over from last year that I know we are going to need to address.

We will have to address them. It will be in a variety of areas all the way from transportation to housing to health care, obviously, that is still pending. So we will have plenty of other things that will be moving.

But as Winston Churchill would say, I think, and as he said, you do need to give the people a few really big ideas.

You do need to step up to the difficult issues. You need to stretch people to reach beyond their own comfort and try to think about the next generation. So the issues I have addressed here are big issues, issues that we need to speak to quickly. With the leadership of our new President, one who is going to be very aggressive in promoting ideas but also very willing to listen, to reach out to Members of both parties and Americans of all stages in life, I think he is set up now in such a way, with his own efforts and also some things that have happened here in the Senate, that give us an opportunity to achieve some really wonderful things for the American people.

So I look forward to this opportunity, working with Senators on both sides of the aisle. I thank the distinguished Senator from Pennsylvania for being willing to be here this morning and go over this list, perhaps in some more specificity. I yield the floor at this time, Mr. President.

Mr. SANTORUM. Mr. President, I thank the leader for his opening remarks and for setting the stage for what we all hope to be a very productive session of Congress. It is like the first day of a football season or baseball season. Everybody is even right now. Nobody has lost a game yet. Everybody has high expectations and high hopes for a good season.

I believe we have a good team here. We have a good team here in the U.S. Senate. We have a good team in the House, a good team in the White House. I am very optimistic that we can work together and really produce for the American public, because that is really what it is all about. It is about delivering and meeting the concerns that the American public have with how we here in Washington, D.C. interact with them.

There are certain issues that are very important to average Americans—I always use the term kitchen table. What are people talking about at their kitchen table, and what is relevant in their daily lives and how do we react to that and intersect with that here in Washington, D.C. I think it is vitally important for us to approach what we do here in part based on that.

Obviously, there are great issues of national security and foreign diplomacy that may not be kitchen-table conversations on a daily basis to which we obviously have to pay attention. Making sure Government runs efficiently and effectively may not be on the front burner of the American people but certainly is the responsibility of Congress. But when it comes to the agenda of changing to improve our system to reflect the concerns of the American public, I think that is what we really want to focus on today.

Senator LOTT did a good job of running through those items that he believes and I believe are on the minds of millions of Americans, where they see problems and they see ways in which the Federal Government can, by some level of involvement, make a positive difference in making their lives better and America better. I want to walk through those.

We, as a Republican Conference, a few weeks ago met across the street in the Library of Congress. We had a discussion about what we thought were the issues of importance to the people of America where Congress could make a difference, where Congress could improve the quality of life in America and improve the prospects for future generations of Americans to live free and to have opportunities.

The six we came up with are these: Improving our national defense. Obviously, a big concern with this new administration and I think with the entire Congress on both sides of the aisle is the low level of morale in many areas of our military and the fact that we have not faced up to the challenges we have in national security. I will go through those.

First, morale. Let's make no mistake about it; we have the best fighting force ever seen on the face of the Earth. We have outstanding young men and women who are serving this country and serving it well, but we have not provided leadership in two ways: No. 1, providing basic care for them as people, whether it is the military health care system which has an inordinate amount of problems or whether it is simply pay, salary. We gave a pay increase, but it is still lagging far behind the private sector. We ask our people to serve and put their lives on the line, and yet the compensation is such that most of our people in the military live hand to mouth, paycheck to paycheck.

We need to do something to improve quality of life in housing. We need to improve quality of life in another area, and that is deployment. Our front-line troops in particular are stretched out, even several members of a family and friends who are in the Reserves and Guard and are being asked to do much more and many more deployments. That is stretching them at home and at their work, all because of our inability to focus our resources in America appropriately.

I am hopeful with this new President that we will reduce the number of deployments, and not just because we should not be involved in a lot of the areas in which we have been involved, but certainly because of the strain it takes on our military in morale and readiness. That is another area in which I am looking forward to doing some work.

The final area in defense I want to talk about today is we have not prepared our military for the next generation, the new threats that are out there, whether it is missile defense and the threat of terroristic missile attacks on this country and our allies or cyberwarfare. There are 20 countries around the world developing offensive capability to attack not just our military installations and our military computers, but our commercial computer systems through cyberwarfare. We have to do a better job of responding to that and chemical and biological weaponry and other types of terroristic attacks—homeland defense.

We have to do a better job in this new millennium to respond to the threats of the new millennium. Frankly, we just have not put forth the resources we need and have not given it thought. I am hoping to work on that on a bipartisan basis in the Congress.

We all recognize—many on the other side of the aisle have worked in these areas—we need to work in these areas and move this country forward.

I am doing these items in alphabetical order.

Education: I do not know of anything President Bush has focused on more than providing a quality education for every child. We heard over and over that no child should be left behind. I am excited to see he already has a growing volume of information, suggestions, and ideas for the Congress to improve the quality of education by insisting on accountability through testing and setting goals, but ensuring and, in a sense, restoring local control where, yes, there are goals and, yes, there is testing, but there has to be local control and flexibility for the schools to be able to accomplish that. We have to do something to improve education overall. One way to do that is by improving safety in our schools. I know President Bush is very sincere about that, as we all are. One way is to ensure that people who are going to a school where they do not feel safe is to give them a choice to go to another school that is safe.

There are schools in this country—I have been to a few. I remember going to a school in Philadelphia and asking a group of kids, of whom a very small percentage are going on to college, what is the No. 1 concern they have at school. Was it not enough computers? Quality of teachers? Classroom size? Their No. 1 concern was getting to school alive every day. That was the consensus in the room.

If one's first concern is getting to school alive every day, how well can one learn when they get there? We have to do something to provide the opportunity, for people who want to learn, to go to school where they feel safe. Obviously, we need to improve safety in every school, but we need to give choices to people who do not feel safe in their school.

One of the things President Bush did when he was Governor of Texas was close the gap between those schools that were "advantaged" and those schools that were in poor neighborhoods, focusing on getting more resources into our disadvantaged schools to help kids. Yes, parental choice and giving parents the choice to send their kids to another school is one aspect, but obviously bringing up the standards in those poorer schools is another way to do that. That has to be a big focus of our education agenda.

Third is energy. Senator LOTT spoke very eloquently to the fact we simply have not had a national energy strategy. We have been able to get away with it. OPEC and the rest of the world were allowing oil to flow very freely, and we had relatively cheap oil for some time in this country. The result of that is we have seen our dependence on foreign oil go up to 56 percent.

One of the objectives of this Congress and this administration should be to get back to the level of dependency on foreign oil that we had 8 years ago, which was 50 percent. We are talking about a 10-percent reduction in our dependency on foreign oil. It is vitally important we do that, and we can do that through a variety of ways. Developing alternative sources of energy is one. It is vitally important we use renewables but also use the fossil fuels we have in our country.

I come from coal country. I can tell you, the poorest counties in my State are counties in which coal used to be king. We need to do something—and we can—to use our coal resources—and we have literally hundreds and hundreds of years of coal reserves in our country to use our coal resources to create power and to do it in a clean way. We can do it in a clean way if we are willing to invest in it. We have to invest in using our domestic capability, but do it in a way that is clean, and we can do it by investing in technology to burn coal cleanly. It can be done.

We have to have a comprehensive strategy; we have to come together as a nation and say what our agenda is going to be for energy and do it in a bipartisan way, and we need leadership from the White House. We did not have that leadership. We did not have any real effort made. I am excited our former colleague, Secretary Spence Abraham, will be leading that charge, and I am very excited about the opportunities we will have in the area of energy strategy.

Third is Medicare. Medicare is probably one of the most popular programs in the United States. It is popular because it provides much needed health care to those who are the most vulnerable to illness, and they are our seniors. But the problem with Medicare is that it simply doesn't do the job of providing enough benefits, enough services in an efficient way to a population that is ever increasing in need and in size. So it is vitally important for the Congress to do something to improve the quality of Medicare and to improve the expanse of Medicare. In other words, we need to expand it.

I think everybody in this Chamber would agree, we have to have a prescription drug component for Medicare. I think everyone would also agree that the only reason we don't have a prescription drug component of Medicare—I am talking about an outpatient prescription drug benefit—is because Medicare is a Government-run health care system. For many years, while every private plan in America had a prescription drug program to it, Medicare didn't for probably 10 to 15 years. The reason it didn't is because the Government had to change it. We were running big deficits at the time and we simply didn't have the money. We didn't have the money to add a benefit onto an existing system as other programs did, to change their insurance policies—to change theirs from less utilized care to more utilized care, to respond to what the public wanted and the changes in Medicare.

We are stuck with a one-size-fits-all Government program that would not do that. So now millions of people in America don't have prescription drug coverage as seniors. We need to change the Medicare system so it can change as medicine changes, not as Congress changes because Congress doesn't move as quickly as medicine does. So we need to do something to make sure Medicare is responsive to the changes in medicine, and to the changes people who are on Medicare want, with the kind of medicine they want to have provided to them.

So it is vitally important for us to change Medicare to be patient friendly, to respond to the needs of the American public. That includes a prescription drug program, but it also includes choices for people. It includes changing the system to allow it to evolve as the needs and wants of seniors in this country change and as medicine changes.

So that is what we are going to be focusing on with the Medicare Program. It is vital for us to do so right now because we have too many people who are not getting the kind of services they need under Medicare. We need to give them those choices. We need to give them the chance to get quality health care the way they want it delivered, on a timely basis.

Next is Social Security. I can't think of any Member of either the House or the Senate who has done more work on Social Security than the Presiding Officer, the Senator from New Hampshire, Mr. GREGG. But he and I, and several of us here, have been working to try to communicate to the American public: If you think there are problems in Medicare—and there are, as shown in the reasons as I laid them out before—the same problems really exist in Social Security. I know there are probably people listening whose sole income comes from their Social Security check. They are living hand to mouth. They are probably not even surviving simply with their Social Security. They are probably having to get supportive services like Meals on Wheels or other food support from charitable organizations. They are probably getting help from relatives or friends because the Social Security check alone isn't enough anymore.

The fact is, the Social Security system is not enough. It is not going to be adequate for future generations. We have to do a better job to improve it because as much as we encourage people to save and invest, there will always be those who either don't or can't—and in most cases can't—so we have to make sure that basic level of security is there, and we have to improve that system.

No. 1, we have to improve the system. No. 2, we have to make sure it is not a system that is going to have to be dramatically cut in the future because of demographic changes, such as the mass retirement of the baby boom generation. If we do not improve Social Security now, and in the appropriate manner, we will have tremendous tax increases as a result of this demographic shift that I mentioned.

I love the people who say, well, just leave Social Security alone and it will be fine. If we do nothing, we will either have to cut benefits by 30 percent, or increase taxes by 50 percent within 20 years for this system to survive. Let me repeat that. We will either have to cut benefits by 30 percent or increase taxes by 50 percent, or some combination thereof, if we keep the system the old way, which is a completely Government-operated system, where all the money comes in and just goes straight back out in the form of benefits.

The only way we can change the system and improve it is to add a third component. Instead of cutting benefits or raising taxes, we can add investment. Every other retirement system in America is funded through investment. It is good enough for those who have the choice as to how they want to create a retirement system, and I don't know of anybody out there who would trade their retirement system at work, whether it is a 401(k) or whether it is a defined benefit plan, whether they would take that contribution they make, that is invested—that money they give is invested—that they would trade that for the current Social Security system. Instead of investing their money, we just take it, we just use it, and then we promise, 20 years from now, when they retire, we will pay them.

How many people would trade the ability to see that investment—see it grow, manage that investment or have someone help them manage that investment, and then get that return when they retire—how many would trade that for a promise of the company, 20 years from now, to pay them a benefit? I don't know of one person who would do that. But that is what Social Security is. Instead of taking the money we now put in as 12.4 percent of every dollar most people earn, instead of taking some of that money and putting it in an investment and managing it and seeing it grow, to use that to provide for retirement, we say: Just trust us. It will be there.

The problem is, it won't be there. It won't be there in the sense that we are going to have to make dramatic changes to either the benefit structure or the tax structure.

If we make big changes to the tax structure—that is, increasing taxes to 18 percent or 19 percent instead of the now 12.4 percent——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. Seeing no one else on the floor, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. So we really do have a real choice here. And the choice is between preparing for what we know is to come, preparing for the demographic cliff we are going to fall off, which is the baby boom generation, where we are going to go right now from 3½ workers for every retiree to 2 workers for every retiree, we can prepare for that, allowing for a voluntary contribution for existing workers, allowing them to put money aside to be able to invest that money and grow that money and use it to help pay their benefits, or we can sit back and wait.

The Senator from New Hampshire and I probably aren't going to be around then. We are not going to be around 20 years from now. We can very casually say: Hey, we tried. Let someone else worry about it. We are not going to be here. We will not be blamed for it. Someone else is going to have to raise those taxes and someone else is going to have to make those benefit cuts.

I think it would be unconscionable in a time of record prosperity and in a time when I think most people would argue there is no great pressing issue facing the American public, that we can't look forward and say we know there is a problem out there, and it is a major problem. It is not a little problem; it is a big problem. We can't just look forward a few years. We can prevent a big problem right now by just a little courage and a little consensus.

So I am hopeful. I think, with the leadership out of the White House, and with people of good faith, we can look forward, and we can do something we have not done in Social Security ever before. I underscore this. We have a tremendous challenge before us. We have always fixed Social Security when the disaster was on the doorstep—the checks were not going to be written, there wasn't enough money in the fund. It was only then that we mustered the "courage"—I put that in quotations—we mustered the "courage" to act. That is not leadership. In fact, it has resulted in a system that, as I mentioned before, is not the best system for retirement for our seniors. Had we done it, looking forward, back in the 1960s and 1970s—particularly in the 1970s—had we looked forward and seen the baby boom generation projected out which we, of course, knew of then, and had said, we know this problem is going to be ahead of us, so why don't we begin new investment now—instead of raising taxes, let's create the opportunity for investment—we would not be in the situation we are in today.

We were at the point where the checks were not going to get paid so we blinked. We did the old, safe thing. We just increased taxes or reduced benefits.

I am hopeful we will have more courage than that this time around, and we will be better public stewards. That is what it is really about. It is about stewardship for future generations.

Finally, turning to tax relief, aside from education I don't know of any issue on which President Bush is more focused than the issue of tax relief. This conference, as with all these issues, is going to support the President in reducing taxes.

I remember my good friend, Paul Coverdell, used to give a talk—and I heard it many times—where he would discuss taxes and how paying taxes to Washington really equated to freedom. The more taxes you paid, the less free you were. Someone who would pay 40 percent of their taxes to Government was less free than someone who only paid 10 percent.

There are a lot of economic reasons why we should reduce taxes. There are a lot of reasons from the point of view of not providing more money to Washington, letting the Government grow. It really is a fundamental issue of personal freedom. When we can say to a family of four making $35,000 a year that we are going to reduce your taxes by $1,500, which is basically eliminating your tax liability, that certainly, for a family of four at $35,000 a year, creates more economic freedom and more opportunity for them to provide for themselves, not to look to Washington but to be able to do more for themselves. It provides opportunity and freedom. For a family of four making $50,000, it provides a $2,000 tax cut. That is a 50 percent reduction in their taxes. It is not a tax break for the wealthy. It is a tax break predominantly focused on average working Americans who need that tax relief.

We do provide across-the-board tax relief, but even with the reduction the President has suggested, the top rate of taxation will still be higher than it was 8 years ago. So it won't even go back to the level it was under former President Bush. It is, in fact, a modest reduction in taxes, but it is important—in the top rate particularly—because it provides, at a time when the economy seems to be slowing down somewhat, the opportunity for more available capital and investment to keep the economy chugging along.

There are good economic reasons for doing this. There are good policy reasons for doing this. The fundamental issue is freedom.

When we get down to it, people who have more of their own resources are simply more free to provide for themselves and are less dependent upon Washington to do things for them.

That is our agenda. It directly impacts every American—whether it is the bill you pay at the utility or the school you send your children to, your parents, your grandparents, providing them with a stable Social Security system as well as quality Medicare coverage that is appropriate for the medicine being practiced at the time—it changes as medicine changes; it changes as your needs change—finally, tax relief that affects all of us who are taxpayers and says that Washington, in a time of surplus, can do with less. We don't need to grow the size of Government. We need to grow the opportunity of the American people.

This is our agenda. We are very excited about it. I am hopeful there will be bipartisan support for each of these because I know there are many of these items on our list that our colleagues on the other side of the aisle care as deeply about. We need to find that common ground and we need to share our conviction that America can do better and that its best days are ahead. We can do that in a bipartisan way, with strong leadership from the White House.

As we start the season, everybody without any wins and losses, let us set our sights high and, in so doing, provide a great vision and great opportunity for America and its citizens.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I understand that time is reserved for the Democratic side. I ask unanimous consent that I be allowed to proceed in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, those of us who had the opportunity—and I think most of America did, I hope—to listen to President Bush's inaugural address were tremendously impressed by the tone of it and its purpose, which was to bring civility back to politics and governance in Washington and to call us to a higher purpose beyond partisanship, beyond pettiness and rather to move into trying to bring back the dreams, in essence, that have made this country great. Part of this initiative is to direct a significant amount of energy at our educational system in an attempt to make sure no child is left behind, and by doing that we give every American citizen the opportunity to obtain the American dream.

We all recognize that education is the first and most important element of success in our society. It is not only important for the individual, but it is important for our Nation because we are a Nation which clearly thrives and expands and grows and prospers on the basis of a well-educated people, and our capacity to compete in the international community is tied directly to our capacity to have a well-educated people who can lead us on the cutting edge in areas of technology and other areas that are necessary for the productivity of our Nation. Thus, focusing on education is the appropriate thing to do as we move forward as a government, and it is truly appropriate that the President has chosen this to be his first and most significant initiative. I understand that either later today or tomorrow he is going to outline the principles upon which he intends to move on the issue of education policy here at the Federal level.

Let me outline quickly some of the things we as a Republican Congress and as a Republican Senate have been focusing on, which I presume and expect to be part of the essence of what the President also wants. Last year, we passed out of the Senate Committee on Health, Education, Labor, and Pensions of the Health Committee a truly significant step in the area of trying to improve education, the ESEA bill, Elementary and Secondary Education Act, in a form which was different than it had been passed out in prior years. We took the basic act which is directed at low-achieving, low-income children and tried to rewrite it in a way that would assist those children and keep them from being left behind.

We discovered that after 20 years of spending literally billions of dollars on elementary and secondary education for low-income children—in fact, I think it is approximately $137 billion or $127 billion over that period—that those children were still being left behind; that low-income children in grade 4, for example, were reading at a level two grades behind their peers who were not from those backgrounds; that especially in a minority community children were simply not obtaining the academic levels to be competitive in society; that the children were not only coming to school not ready to read but once in school were not able to learn to read because the educational system was leaving them behind; that failed schools are being allowed to continue to be failed schools year in and year out; that children were being put through a system where failure had been identified but nothing was done to change the fact that failure was occurring.

So we decided to change and adjust the approach. Rather than being a system that was based on institutions which funded the institution, the educational building or the educational bureaucracy, we decided to change to a procedure where we actually funded the child. We decided to take a child-centered approach to education. That is what one presumes is the logical approach under any scenario, but it has been in the last 20 years the approach of the use of Federal dollars. Instead, we have thrown them at the education bureaucracy. We have thrown them into school buildings, but we have not said let's have the dollars fund the child who is being left behind, especially the low-income children.

So the first element of our bill was to have it be child centered. The second element of our bill was to give flexibility to local schools because they understand how to educate the child, to say to the local school districts, the local teachers and principals, local school boards, and especially to the parents of the children: You shall have the opportunity to use Federal dollars in a more flexible way. We will not categorize how you must use those dollars. We will not control the decisions at the front end. We will not say how many desks you must have and books you must have in a classroom, or how many hours you must teach a child. Rather, we will give you flexibility over the use of dollars, but in exchange for that flexibility, we also, as a third element, require accountability.

We said the local schools are going to have to achieve, that they could no longer leave the low-income child behind; that that low-income child's academic ability was going to have to be maintained at the level at which his or her peers were being maintained; that the schools could no longer ignore a failing school. For example, they could no longer keep in their school system a failing school year after year and expect to continue to get funds for that failing school; that instead we were going to expect that children not be shuffled through the system but rather the children be allowed to excel and achieve within the system. Those were the elements of our bill: First, that it was child centered; second, there be flexibility for local communities to make the decisions as to how to educate the children; but, third, there would be an expectation of results. There would be academic accountability so low-income children would not be left behind.

Three of the elements that made up this package were reasonably controversial, at least in the sense that the educational lobby here in Washington was opposed to them. The educational lobby here in Washington is strong, and it has an iron hold over this city, or has traditionally had an iron hold. They do not like change. They don't like to be held accountable. They do not like things that require them to produce results. Rather, they are more interested in teaching to a standard which, unfortunately, has been the least common denominator, and not requiring that they be held accountable for the use of dollars which have been sent to them. But we felt those dollars should be accountable. So we said, first, there should be portability. In other words, if a child is in a school that has failed year in and year out, we said, rather than having the money to continue to go to that school, we will allow the parent of that child to get dollars and allow the parent of that child to take those dollars with the child either to another school or to a tutorial program so that the child has the opportunity to get out of the failing school.

This idea of portability of funds, of attaching the dollars to the child, attaching the dollars to the school, has been controversial, but it is an idea which has worked and is working in places such as Arizona.

We are not saying the school district has to pursue this activity, but rather we are saying a school district will have the option of pursuing this activity. We are not saying the school must undertake portability. We are saying if the school wishes to use Federal dollars in a portable way, they can. So we are making it, again, an option to the local school district as to whether or not they pursue this.

This has been stamped a voucher program by the forces that do not wish to see it succeed or don't wish to try anything else. It is simply a statement to the local district that if they feel that attaching the dollars to the child so that the child and the child's parents can take advantage of dollars to improve the child's education, makes sense if the local public entity which manages that school district—be it a public school board or be it a public education authority that decides that you want to use portability, you can. So it is not a federally-mandated program. It is a Federal option given to the local school districts.

We said to school districts what we need are teachers who can teach their subjects best. You—the local school districts—understood, and, fortunately, have been told that what you need are more teachers. The Federal program as it presently exists says you must hire teachers even if you do not need more teachers. Forty-two of the States already meet the teacher-student ratio which is required under federal law. But to get Federal dollars, you have to hire more teachers. We said that doesn't make much sense. We said let's let the local community decide whether they need more teachers or better trained teachers.

So we passed something called the Teacher Empowerment Act which said to local school districts here are the Federal dollars for teaching. So we will put them in a bundle and give them to you. You can use them for any of a variety of things. You can use them to hire more teachers in your classroom. You don't have to use it for that but you can. You can use them to educate your teachers so they teach better, or you can use them to give technical support to your teachers so they have better tools with which to teach. It is the local school districts that have the flexibility to do that. But if you get that flexibility, you also have to have accountability and you have to show us the teaching of the students has improved over a 5-year period: that the students are actually learning more; that they are doing better. So, once again, we gave local flexibility to the community and we did it in the context of an accountability system.

This, again, was opposed and is opposed aggressively by the Federal lobby here in Washington because it gives the local community the decision power over how to use the Federal dollars, and the community here in Washington doesn't like it. They want to be able to manage those dollars from Washington so it is a Washington-driven event versus a local event. This, in essence, is where the battle will once again join if there is a battle in this Congress as we move forward with educational reform.

There are many people on the other side of the aisle who see the need for flexibility and for accountability proposals that came from the Senator from Colorado last year and the Senator from Indiana. Democratic Senators had ideas and initiatives in many ways similar to the initiatives we had on our side of the aisle that represent a positive step toward a bipartisan compromise in these areas. I am hopeful as we move further down the road on educational reform we can come together in this Congress and especially in this Senate on a whole series of initiatives which will accomplish this fundamental goal that we aren't leaving children behind or allowing failing schools to continue to function, that we are expecting that our educational system will deliver to our children the opportunity to participate in the American dream.

There is great room for compromise, there is great room for bipartisan initiative. I congratulate the President on making this his first order of business. This is the essence of how we as a nation continue to remain strong and vibrant.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I said on January 3 that I intended to savor every one of the next 17 days. And I am happy to report that I did.

It was a great honor to serve as Majority Leader of the United States Senate—however briefly.

At noon on Saturday, I handed that title back to my friend, Senator LOTT. Today, in the spirit of bipartisanship, I want to tell Senator LOTT that, if he ever needs to take a day off—for whatever reason—I'll be happy to pinch hit for him.

I learned a few things about the Senate these past two and a half weeks that I had not known before.

One of my favorite bits of new knowledge has to do with a former member of this Senate, David Rice Atchison, of Missouri.

Senator Atchison was president pro tem of the Senate in 1849. Back then, new Presidents were sworn in on March 4, not January 20.

But, in 1849, March 4 fell on a Sunday. And the new President-elect, Zachary Taylor, didn't think it was appropriate to conduct official business on the Sabbath. So he chose to wait until the next day to take oath of office.

Back then, the President pro tem was third in the line of presidential succession, not fourth.

So, from noon on Sunday, March 4, when President Polk's term ended—until noon on Monday, March 5—when President Taylor was sworn in—Senator Atchison was President. Or so he and his friends claimed.

Today, we know that President Taylor automatically became President as soon as President Polk stepped down.

But for the rest of his life, Senator Atchison loved to say that he had been "President for a day"—and that his presidency was the "honest-est administration this country ever had."

I do not know that Senate Democrats' brief time in the majority will make as interesting an historical footnote as the Atchison presidency. But I do believe the Senate accomplished some things during these last 17 days that bode well for this Congress.

I particularly want to thank Senator LOTT for the fairness he showed in agreeing to a distribution of responsibility that accurately reflects the composition of this first-ever 50–50 Senate. I also thank my fellow Democrats—particularly those who chaired committees.

On Saturday, after a week of fair and thorough hearings, we confirmed the first seven of President Bush's cabinet officers.

On Saturday, too, we saw, once again, one of the great miracles of American democracy: the peaceful transfer of power from one President to the next.

I was moved by much of what President Bush said in his inaugural address, especially his conviction that there is no such thing as an "insignificant" person. I also believe there is no such thing as an insoluble problem. My colleagues and I are ready and willing to work with President Bush and Vice President Cheney, and with our Republican colleagues in Congress, to move America forward.

Tomorrow, we understand the President will send us his ideas on education. We are anxious to see them. We will give them, and all of the President's proposals, careful and respectful consideration. We want to make this 50/50 Senate something to be proud of.

Today, we are introducing our first proposals—our first priorities—for this Congress.

Many of them will sound familiar. That is because we have been working to pass them for a good long while. They are things like: a real, enforceable Patients' Bill of Rights; a reliable, affordable Medicare prescription drug benefit; middle-class tax cuts, and help for our children's schools.

They all lead our list of priorities—for two reasons.

First, and most important, because the American people have made it clear, these are their top priorities. Second: Because bipartisan majorities in Congress support them.

The challenges we address affect all Americans, but they effect rural Americans in ways that are often different and more pressing. That is why I am also developing a separate package of bills called "South Dakota First." But it won't help just my State. Instead, it will help people in small towns and rural communities throughout America.

As we move ahead, we cannot leave rural America behind.

Over the past several years, relations between our parties have become increasingly strained. By starting with the issues on which most of us do agree, we can strengthen our bonds of trust. And that will make it easier for us to solve the next challenges.

Under President Clinton, we experienced the longest, strongest economic expansion in our Nation's history. We went from the biggest deficits ever, to the biggest surpluses ever.

The question now is: What should we do with that surplus?

One of our top priorities this year will be to deliver tax relief to hard-working families across the country.

The debate over how we structure that tax cut is likely to be the most consequential debate we have all year.

Our ability to achieve a strong, bipartisan compromise on taxes will be the biggest test of our 50–50 Senate.

I am confident we can pass that test.

We are willing to negotiate. At the same time, we are committed to two fundamental principles:

First: The bulk of the tax relief must go to middle-class working families because they are the people who need tax relief most.

Second, any tax cut must be affordable and fiscally responsible.

The efforts we have made to restore fiscal discipline these last 8 years have resulted in lower interest rates, record-high job creation, and record-low unemployment. We must protect those gains. We cannot squander them by going back to the old days of deficit spending.

President Bush has indicated that he will be sending us his recommendations for cutting taxes in late February. We look forward to working with him, and with our Republican friends, to pass a fair, fiscally responsible tax cut this year.

Today, we are taking our first step. We are introducing a package of targeted tax cuts to help working families at the key junctures in their lives.

Our tax cuts will help families pay for college; save for retirement; care for disabled and elderly family members; and pay for long-term care.

We want to eliminate the marriage-penalty tax and eliminate the estate tax on more than 99 percent of estates—to help keep small businesses and family farms in families.

We also want to expand the earned income tax credit for low-income working parents so they do not have to raise their children in poverty.

And, we want to significantly expand child care tax credits for middle-class families; and extend them, for the first time, to stay-at-home parents of infants.

Next, we must pass a real, enforceable Patients' Bill of Rights this year.

The Norwood-Dingell Patients' Bill of Rights passed the House more than a year ago with strong bipartisan support.

In the Senate, it was supported by every Democrat, and four Republicans.

The bill we offer today mirrors it.

It guarantees that you can go to an emergency room when you need to.

It gives women direct access to OB-GYNs.

It guarantees parents the right to choose a pediatrician for their children, and a pediatric specialist if they need one.

It guarantees people the right to see qualified specialists when necessary, and to continue with the same doctor if they are pregnant or being treated for a serious illness.

It guarantees that you will get the medicines your doctor says you need.

It prohibits HMOs and insurance companies from gagging doctors to prevent them from telling patients all of their treatment options.

It also prohibits them from providing doctors and hospitals with financial incentives for denying needed care.

Finally, our bill holds insurers accountable. It gives patients the right to appeal denials of care to an independent board.

If an insurer ignores the board, and its denial or delay of care results in serious injury or death, our bill allows victims to seek justice in a State court.

Employers that provide health coverage cannot be sued under our plan unless they make the actual medical decisions that result in injury or death.

Every week we delay, 350,000 Americans are denied needed health care—health care for which they have already paid. It is time for those delays to end. It is time to pass a real Patients' Bill of Rights.

Next, we propose an affordable, voluntary Medicare prescription drug benefit.

We all know the terrible financial—and emotional—strain paying for prescription drugs places on many older Americans and their families. Prescription drugs are an essential part of modern medicine. They ought to be part of Medicare, too.

Our plan is universal. Every Medicare beneficiary is eligible, whether they are in traditional Medicare or Medicare+Choice.

Our plan is voluntary. If you already have private prescription coverage you like, you can keep it. It is up to you.

Our plan is affordable, and comprehensive. There is a $250 deductible, no caps on benefits and no gaps in coverage. The most anyone would pay out-of-pocket is $4,000 a year.

It is absolutely wrong that seniors pay, on average, twice as much as HMOs and big insurance companies for the exact same medications.

By combining the purchasing power of 40 million Medicare recipients, our plan gives seniors real bargaining power—so they will not have to pay the highest prices at the drugstore anymore.

We are not talking about Government-run medicine. Medicare will contract with private companies to offer the prescription benefit. Seniors will be able to choose the company they like best, and they will be guaranteed convenient access to local pharmacies, whether they live in big cities or small rural communities.

Next: Someone once said that education is the soul of a generation as it passes from one generation to the next.

We need to work together to ensure the next generation of Americans learns the skills and knowledge necessary to be good parents, good workers, and good citizens.

The quality of our future will be determined by the quality of our schools. It is as simple as that.

We agree with President Bush: No child should be left behind. Every child deserves the chance to go to a good public school.

The education bill we are introducing today gives more to local schools and asks more of schools.

It includes incentives for States to set higher standards for everyone—students, teachers, and administrators—because the stakes are higher. But it lets local communities decide the best way to meet those standards.

Our plan gives parents more information about how their children's schools are performing—and more of a say in how those schools are run.

It also gives parents more choices about the public schools their children attend.

Our bill targets special attention and help to struggling schools. At the same time, if a school cannot or will not fix its chronic problems, our plan contains real consequences. We will not allow children to be trapped in chronically failing schools.

Much of what we are proposing won bipartisan support in Congress last year.

Our bill reduces class sizes by keeping our commitment to help communities hire 100,000 qualified new teachers.

It helps communities recruit good new teachers and principals, and it ensures that teachers, and principals, have the opportunity to update their skills and knowledge.

Our plan includes grants to help schools repair leaking roofs and burst pipes and other urgent safety hazards, and reduced-rate bonds that will enable communities to cut the costs of new school construction by up to 50 percent.

It also includes assistance to make sure that all schools have up-to-date technology and all teachers know how to use technology so all of our children are ready for the new economy.

In addition, we propose to expand Head Start, so more children can start school ready to learn; and provide more and better child care, and before- and after-school programs, so children have a safe place to go when parents are at work.

Our plan expands the Reading Excellence Act, to make sure every child can read by the end of the third grade.

And it puts us on track to fund the Federal Government's full share for IDEA, the Individuals with Disabilities Education Act, to help students with disabilities develop to their fullest potential.

In addition, our plan makes college more affordable for more families by increasing Pell grants and extending college tuition tax credits.

And it strengthens training and other lifelong learning programs so workers can learn new skills and move into better-paying jobs.

In the long run, investing in education is the surest way to increase a family's financial security. But, as someone once pointed out, people don't eat in the long run. They eat every day.

It has been more than four years since the last time we raised the minimum wage. Inflation has since wiped out that entire increase. Too many low-income parents who work full time don't earn enough to feed their families and pay for other basic necessities.

Two years ago, we introduced a bill to raise the minimum wage $1 an hour.

This year, we are proposing a $1.50 an hour over 25 months—to make up for Congress's inaction. We need to raise the minimum wage. This year—no more delays.

We also need to close the wage gap between men and women. It has been 38 years since President KENNEDY signed the Equal Pay Act. And American women still earn only 77 cents for every dollar men earn for doing the same work. This wage gap costs America's families $200 billion a year, more than $4,000 for each working woman's family. It is time to close it once and for all by better enforcing the law, and giving victims of wage discrimination new options for fighting it.

We are also proposing new ways to help parents balance family and work without sacrificing part of their income.

For instance, our bill expands the Family and Medical Leave Act to cover more work places, to fund workplace demonstration projects to provide paid family leave, and allow parents to use the leave to attend parent-teacher conferences and other important school functions.

We also give States and communities more resources to develop more and better child care opportunities for working families.

One necessity that too many low-income working families try to get by without is health insurance. Two years ago, we created the Children's Health Insurance Program to help low-income parents obtain health insurance for their children.

Today, we are proposing to expand the CHIP program to include parents of eligible children, and to give States the option of expanding coverage to 19- and 20-year-olds, and to legal immigrant women and children.

These are important first steps. But we will be offering additional ideas in coming months to make sure more Americans have access to good, affordable health coverage.

We also intend to offer ideas for strengthening our Nation's unemployment insurance system. We expect those proposals to look much like the reforms suggested last year by a blue ribbon commission made up of business, workers and Government representatives.

It is not just low-income families; nearly every American family relies on Social Security and Medicare for economic security.

We have a responsibility to make sure Social Security and Medicare are always there not just for the current generation of retirees, but for every generation.

When Bill Clinton was first elected President, Medicare was expected to run out of money in 1999. But we didn't let that happen. Instead, we extended the life of the Medicare trust fund to 2025. And we improved Medicare coverage by adding important new preventive benefits. We also extended the solvency of the Social Security trust fund to 2034. This year, we are proposing to further protect both programs by taking both Medicare and Social Security off budget; putting the surpluses from both programs in a real lockbox, and making it harder to use the money in the lockbox for anything other than Social Security or Medicare.

This administration, and this Congress, must work together to modernize Social Security and Medicare so they will be there for the baby boomers and beyond. Locking away the surpluses now must be the first step.

People ought to be able to feel secure in their retirement. They also ought to be able to feel safe and secure in their own homes and communities. In the last several years, we have seen major crime go down in almost all categories. We need to keep those trends moving in the right direction.

We know community policing works. We are proposing to help communities hire more community police and prosecutors as a result of that knowledge.

We also know that kids and convicted criminals have no business possessing guns. So we are proposing to extend Project Exile and other successful efforts to reduce gun violence.

We are also proposing to pass the Juvenile Brady bill to make sure that juveniles who commit serious drug or violent crimes are not allowed to possess guns ever, and close the gun show loophole—once and for all.

We want to strengthen the Violence Against Women Act, including increased support for shelters. We want tougher punishments for criminals who prey on seniors. We want to expand drug courts and drug treatment. We want to expand delinquency prevention programs, so kids who are at risk, or who have already had scrapes with the law, can turn their lives around.

In addition—and this is very important—we want to ensure that crime victims are treated with fairness and respect. We are proposing that crime victims be notified about court proceedings involving their case, and have an opportunity to have their opinions heard on these matters. These things are just basic decency. They ought to be basic rights as well.

There is another right every American deserves—the right to vote, and to have his or her vote count—that is a right that should never be compromised. And we believe that there are times when it is compromised. Then our entire system of Government is jeopardized.

We have just come through the most difficult Presidential election in our lifetime. We are seeing the peaceful transition of power to a new administration. Now, we need to make sure we never see another election like this last one.

We are proposing that Congress create a blue ribbon commission on election reforms. Do all Americans have equal access to vote? If not, what should the Federal Government do to help? We need to hear from experts on these and other matters.

We are also proposing a grant program to help states and communities update antiquated voting equipment. No American should be forced to overcome unreasonable obstacles to vote. In my mind, that is doubly true for members of our armed services.

So, as part of our election reform package, we want to make it absolutely clear that military personnel retain their rights to vote at home—even when they are stationed abroad. This is not a change. This is the law now. We need to make sure everybody knows it.

Also, before the next election, we must pass real campaign finance reform. The average winning Senator spent $6.4 million in the last election, 530 percent more than in 1980. In all, candidates and political parties spent more than $3 billion on Federal elections in 2000. An additional $400 million was spent on "issue ads" to try to influence races.

More and more, special-interest money influences who runs for office, who wins, and what they do and don't do once they get here. We can—and must—change that.

We are offering a plan based on the bipartisan Shays-Meehan plan that passed the House last year and won 52 votes in the Senate. Our plan is fair. It does not place one party or another at an advantage. It treats incumbents and challengers in both parties fairly.

Most importantly, our plan is comprehensive. It bans unregulated "soft money" to political parties—the biggest loophole in the current system. It also prevents soft money from being rechanneled to outside groups for phony "issue ads."

We know Senators MCCAIN and FEINGOLD are also committed to passing campaign finance reform. We look forward to working with them to pass a workable, comprehensive plan this year.

For many Americans, these past 8 years have been a time of unprecedented prosperity. But that is not true for most rural Americans.

There is a quiet depression in many rural communities in South Dakota and throughout our Nation. Many small producers are being forced to sell farms and ranches that have been in their families for generations. Others are barely holding on.

As small farms disappear, so do the small towns and businesses that depend on them. Sixty-five percent of the counties in my State lost population last year.

Since 1996, farm income has dropped more than 20 percent. If you take away Government payments, it is down more than 40 percent. It is expected to drop another 10 percent this year.

We don't need another year to know that the Freedom to Farm has not worked, and will not work. We must enact a new farm bill this year to restore the agriculture safety net.

In addition, we must ensure fair competition for family farmers and ranchers at home and abroad, by prohibiting agribusiness giants from participating in anti-competitive practices that harm family farmers and rural communities; and by making agriculture a top trading priority.

We must also continue to invest in ethanol. And we must strengthen America's commitment to food safety.

Family farms don't just produce commodities. They produce communities. We can't afford to lose them.

Finally, we must take new steps to protect the basic civil rights of all Americans, because we agree with President Bush that civil rights enforcement is critical to assuring that all Americans have equal access to schools, workplaces, and the courts.

We are proposing a modest and necessary increase in funding for the Equal Employment Opportunity Commission and other Federal agencies charged with enforcing our nation's civil rights laws, and for the Legal Services Commission.

In addition, we seek to end racial and other types of unreasonable and unconstitutional "profiling"—whenever and wherever it occurs.

As a first step toward that goal, we are directing the Attorney General to analyze the investigatory practices of all Federal law enforcement agencies.

If there is evidence of Federal law enforcement agencies using racial, ethnic, or gender profiling, we want to find it.

We want to know what should be done about it.

We need to know.

Beyond that, we propose to expand Federal hate crime laws to include gender, sexual orientation and disability and provide greater protections against crimes motivated by racial or religious bias.

Our bill also prohibits employers from discriminating on the basis of sexual orientation.

Last year, 57 Senators, including 13 Republicans, voted for our hate crimes bill. In the House, 232 members, 41 of them Republican, voted for it.

Some people think of it as "the Matthew Shephard bill" or "the James Byrd" bill. We think of it as a matter of basic civil rights.

Finally, in addition to preventing people from using old stereotypes as a basis for discrimination, we must also prevent people from using new technologies to discriminate.

Our bill prohibits both employers and health insurers from using genetic test results as a basis for discrimination.

It also prevents disclosure of genetic information to health insurers, data banks, employers, and anyone else who has no legitimate need for the information.

We need to make sure that the new knowledge scientists are learning through the Human Genome Project—research funded largely by American taxpayers—is used to help America's families, not hurt them.

In closing, Mr. President, 169 years ago this month the French political and social observer, Alexis De Toqueville, visited the Senate in session.

Afterward, he wrote that the 1832 Senate was "composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose arguments would do honor to the most remarkable parliamentary debates of Europe."

Honorable debate and compromise has been in rather short supply in the Senate these last few years. Its absence has prevented us from doing many things we ought to do.

The power has been transferred now to a new Congress, and a new Administration.

Let's use that power to move America forward, together.

Like "President-for-a-day" David Rice Atchison we are already assured a footnote in the history books simply by being members of the first 50/50 Senate.

As we begin the work of this Congress, let us resolve that we will be more than a footnote. Let us agree that we will work together to write a new chapter of progress for the American people.

I thank my fellow Democratic Senators—as well as some of our Republican friends—for helping to shape our first leadership bills of the 107th Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I applaud and commend our leader for his brilliant statement. I acknowledge that the things that we do on a national level have direct impact on our States. I appreciate very much the Senator from South Dakota talking about the need to take care of the rural America.

Ninety percent of the people in Nevada live in the Las Vegas and Reno metropolitan areas, but rural Nevada is in real need of help. I appreciate his directing our attention to the needs of rural Nevada.

His comments about taxes also are so important. I remind all of my friends in the Chamber and those within the sound of my voice, these are not election conversion statements. We badly wanted to do tax measures last year. We tried very hard to get rid of all 64 provisions of the marriage penalty. We were unable to vote on that. We hope that something can be done this year to take care of penalties that married couples have in America. Also we were willing to do something dealing with the inheritances taxes. Again, we were unable to vote on our version, which I think clearly would have passed.

On health care issues our leader talked about a prescription drug benefit, a Patients' Bill of Rights—these matters we also could have taken care of last year.

Today there is a new spirit of bipartisanship in this body. I am confident, with the leadership of the Senator from Iowa on the Finance Committee, that we will be able to do a lot of the things we were unable to do last year. I have worked with the Senator from Iowa on a number of issues over the years. He is a reasonable man.

We now have the Senate divided 50/50, and it is time that we join together and did something regarding taxes. It is time we did something on health care other than just talk about it.

In addition, the issues the Senator from South Dakota spoke about on education are important for the people of South Dakota, the people of Nevada and everyone in the country. When we pass some of these bills that appear to be national in scope, our individual States benefit greatly.

With regards to school construction, the State of Nevada needs it badly. In Las Vegas, we have the sixth largest school district in America. We have to build one school every month to keep up with the growth there. We need help. This legislation which our leader spoke of would give us that help.

On issues dealing with individual worker rights, the minimum wage issue is really important. It is important for all kinds of reasons, not the least of which is 60 percent of the people who work for minimum wage are women; for 40 percent of those women, that is the only money they get for them and their families. It is important that we bring this up today. Equal pay is also important. We have women who are working very hard. They work just as hard as men. They are entitled to 100 percent of what men make for doing the same kind of work. This legislation is way past due.

What we have done these last 8 years dealing with crime has been effective. Violent crime in America is down? Why? I believe one of the principal reasons is because of what we have done with providing more police officers. The 100,000 new police officers in Nevada and the rest of the country has made a tremendous impact.

We on this side of the aisle seem to talk a lot about the need to do something about gun safety. We do that with every thought in mind that our legislation has no impact upon the sportsmen of America, no impact upon law enforcement officers of America, and no impact upon those people who shoot for recreation purposes. We believe the loopholes need to be closed—that is, dealing with pawnshops, dealing with gun shows—we need to close these. That is what we are talking about.

Finally, what the Democratic leader said regarding campaign finance is so important. I am reminded that 2 years ago, in the race for the Senate, Senator ENSIGN and Senator REID spent $20 million in the State of Nevada. I am not making a misstatement. The State of Nevada has about a million and a half people. We spent $20 million. That is really too much money. That doesn't take into consideration the independent expenditures involved.

So with JOHN McCAIN on the floor of the Senate now, I throw bouquets to JOHN McCAIN for the leadership he has shown. He has not backed down, and I appreciate that.

I also see present my friend, the Senator from Wisconsin, RUSS FEINGOLD. He has been a leader. I have admired the work he has done with Senator McCAIN. I have said it privately, but I say it publicly how much I appreciate the work he has done. He has truly been a leader of this country with his partner Senator McCAIN. I am glad my friend, the Democratic leader, talked about campaign finance.

We want to work together. The Senate is divided 50/50. There is no reason in the world we can't pass legislation. When we pass legislation, there is credit to go around. There is credit to go to Republicans and credit to go to the Democrats. There is credit to go to the President. We can all walk out of here recognizing we have done something for the common good. I hope we can do that.

The last 2 years have not been constructive or good. I hope we can reflect in the future on the good work we have done for our States and our country.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Arizona is recognized.

CAMPAIGN FINANCE REFORM

Mr. McCAIN. I thank my colleagues, the Democrat leader and Senator HARRY REID, for their comments and their willingness to work together on all issues, including campaign finance reform. I am grateful for their continued cooperation and constructive comments.

I send a bill to the desk on behalf of myself, Senator FEINGOLD, Senator COCHRAN, and others.

(The remarks of Mr. McCAIN, Mr. FEINGOLD, and Mr. COCHRAN pertaining to the introduction of S. 27 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

FAREWELL TO A TRUE PUBLIC SERVANT

Mr. GRASSLEY. Mr. President, I address the Senate because of a very trusted and longtime staffer of mine, Kris Kolesnik, who is leaving my staff to work in the private sector and to continue some very good work. He served the taxpayers effectively for 18 years and has moved to the private sector, where I think he will not only do the work of the association with which he works, but he is also going to be working to save the taxpayers money, which is something he did very well for me during that 18-year period of time.

Kris started in January of 1982. He began as a budget analyst working for me on the Budget Committee. That year, I proposed what would become the first of several yearly across-the-board budget freezes of the Federal budget. Kris worked on those proposals for me.

Among my Republican colleagues, the freeze proved popular because it would make a big impact on slowing down the Federal deficits which, at that time, were about $100 billion as far as the eye could see.

The only problem was, Republicans wanted to exempt defense spending from that freeze. All other programs were appropriate to freeze, they said, and at that time the defense budget under President Reagan was increasing by double digits even after inflation was calculated. My reaction was that even if one program—even the defense program—were exempt, that would defeat the purpose of an across-the-board freeze which had the purpose of fairness and shared sacrifice.

Today, after 4 years of paying down the national debt, we might forget that maybe a freeze was not something that did much in particular. But if you looked at that particular time, we were in the middle of what was going to be 28 years of unbalanced Federal budgets before we finally got our house in order. An across-the-board freeze might not have seemed like much, but it was really revolutionary for that particular time. So that year I didn't receive much support among my Republican colleagues on this freeze. They all said the defense budget could not be frozen and that even one penny would cause our defense plan to fall apart.

At the end of the year, I asked Kris Kolesnik to spend the winter determining whether a case could be made for freezing the defense budget while not harming national security. If it could not, then I needed to know because I would have to abandon my attempts to freeze across the board. When I returned to the Senate in January of 1983, I asked Kris what progress had been made during that 3-week interim. He said he had discussions with advocates on both sides of the issue and he determined that those in favor of a defense freeze were more persuasive.

Those against a freeze seemed to rely on an argument of "just trust us." As a first step in unraveling the truth of the defense budget, Kris suggested that I call up then-Secretary of Defense Cap Weinberger and ask to speak to a relatively obscure Pentagon budget analyst by the name of Franklin Chuck Spinney. The rumor was that Chuck Spinney had an explosive new report that showed the defense budget was bloated with new programs which far exceeded the already huge projected costs. Fitting all those programs and their costs within even President Reagan's growing defense budget would eventually mean skyrocketing costs, plummeting defense capability, or perhaps both. Only a freeze in defense spending, coupled with management reforms, could save the defense plan from imploding.

Kris predicted Pentagon officials would not let me talk to Chuck Spinney.

So, I picked up the phone right away and called Cap Weinberger. It was a Thursday evening. He told me there was no problem, that I could have Spinney come over to my office the following Monday at 2 p.m. I left that night for Iowa, expecting a full briefing by Spinney in 4 days.

Beginning Friday, however, Kris began to get phone calls from the Pentagon saying that Spinney would not be available to brief me, that they would send someone named Dr. Chu instead. It turned out that Dr. David Chu was Spinney's boss, and a political appointee.

My reaction was, it's okay to send Dr. Chu, but I want Spinney there as well. It didn't happen. I had an inkling that I had to go see Chuck Spinney in his office if I wanted to talk to him. I told Kris to go warm up my orange Chevette, that we were going to the Pentagon to find out why Cap Weinberger had reneged on his promise to me.

It's not every day that a United States Senator shows up at the Pentagon unannounced and in a disturbed mood. Cap Weinberger was at the White House, and Dr. Chu was called to persuade me that Spinney's briefing was just a bunch of chicken scratches on pieces of paper. My suspicions were really heightened. We left the Pentagon unsatisfied but resolved. My last words to Dr. Chu were, one way or another, I will get that briefing.

When I got back to my office, I got a phone call from Cap Weinberger. It is hard to remember 18 years later just exactly what that conversation was, but it was something to the effect that if we Republicans could not trust the civil servants that we ought to listen to the political appointees of the Reagan administration; that it might be good in some instances—but it didn't satisfy me—that Chuck Spinney was a civil servant; that he was somebody to whom I should listen.

Six weeks later, Mr. Spinney appeared before a joint hearing of the Senate Budget and Armed Services Committees in the ornate Russell Caucus Room, with a dozen TV cameras, a room full of reporters, and standing room only for the public. Instead of a briefing in the privacy of my office, Spinney briefed the entire country maybe for the good of the country. That was on a Friday afternoon. On Monday, he was on the cover of TIME magazine. Kris and his underground allies had orchestrated the whole thing.

That episode marked the beginning of the end for the Reagan defense budget buildup. In just two short years, in large part due to Kris' leadership as a staffer, the defense budget was frozen, and remained so until 2 years ago—a span of 14 years.

We had a vote. It was 50–49 on the floor of the Senate when we adopted that as part of the budget of 1985.

During those 2 years, Kris helped uncover the infamous over-priced spare parts, such as a $500 hammer and a $7,600 coffee maker purchased by the military. He did so by working with whistleblowers throughout the defense community, such as Ernie Fitzgerald, Tom Amlie, Colin Parfitt, and many others. Their work exposed tens of billions of dollars of waste and mismanagement of the taxpayers' defense dollars.

Through the inspector general community, Kris discovered that the Justice Department rarely prosecuted defense contractors. By 1986, eight out of the top ten defense contractors were under criminal indictment or criminal investigation for contract fraud. In that year, he was named in Esquire magazine as one of the top eight staffers in Washington to watch.

In the late 1980's and early 1990's Kris investigated the POW/MIA issue. His work, which uncovered many unanswered questions about missing soldiers from the Vietnam War, went toward establishing a Senate Select Committee on POW/MIA Affairs. I was a member of that Committee, and Kris staffed it for me. The Committee was able to find answers for many of the families who, up until then, had none. And millions of pages of POW/MIA records were declassified for the public to see.

In 1995, after Republicans took control of the Congress, House and Senate Republican leaders asked Kris and a small group of staffers to share their oversight skills with the new majority staff. Having performed oversight over the Defense and Justice Departments for a dozen years, Kris with his colleagues, now began to apply their oversight experience to the rest of the federal government. The result has been increased and systematic oversight by Congress across the board.

During that time, Kris focused on overseeing the FBI. Such systematic oversight of the FBI, on a committee that has always been reluctant to investigate the bureau, has not been successfully done in recent times in the Senate. Because of Kris' staff work, much has been done to help restore the public's confidence in federal law enforcement.

Among the celebrated cases Kris investigated or helped investigate were: the FBI crime lab scandal; the FBI's poor investigation of the TWA Flight 800 crash; the incidents at Waco and Ruby Ridge; Chinese espionage cases, including the FBI's botched case against Wen Ho Lee; and the campaign finance scandals of the 1996 election.

Kris's legacies will be the tens of billions of dollars he helped to save the taxpayers through his work, as well as his work on behalf of whistleblowers. After all, without the whistleblowers, there would be no savings. He depended on them, from the staff level, for information. And so he fiercely defended their right, through legislation he helped draft on my behalf, to share information with Congress. He assisted in the drafting and/or passing of major whistleblower statutes including: the False Claims Act Amendments of 1986; the Whistleblower Protection Act; and, the yearly-passed anti-gag appropriations rider for federal employees.

Appropriately, Kris is leaving Capitol Hill to become the executive director of the National Whistleblower Center, an organization that supports and protects whistleblowers throughout government. There, he can continue his work on behalf of the taxpayers, and fighting for those who dare to speak the truth and risk their jobs.

The taxpayers will indeed be missing a trusted ally with Kris's departure. But the impact of his accomplishments will be with us a long time. He'll still work to save the taxpayers money, but he won't be on the public payroll. That's the principled crusader he is!

One additional thought that just came to my mind as I was going through what I prepared today about Kris: Going back to the budget freeze of 1980 and the fact that the spending on defense needed to be ramped up, it was ramped up too fast. There was a lot of money wasted.

We are going to spend money on defense because we have to. But we ought to learn from the lessons of the 1980's, and hopefully our new President, President Bush, will move fairly slowly in that area so that the money will be invested wisely and spent wisely and so we don't have a situation such as we had in 1982 where one assistant Defense Department secretary said we put the money bags on the steps of the Pentagon and said come and get it. We want to keep our hands on those money bags that we set before the Pentagon as we spend money on defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. COLLINS on the introduction of S. 27 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW DIRECTIONS

Mr. THOMAS. Mr. President, it is a good day to begin a new session. It is a good day to begin, of course, the new year with many challenges before Members. I think all Members have enjoyed the last several days with many folks visiting from home, particularly from Wyoming, because of the new Vice President. We had a great turnout. We were very pleased and are all very proud of our new Vice President.

We have a great deal to do, as is always the case. I think particularly this year we are faced with seeking to accomplish many things. We talked about many of them last year but did not in every case succeed in getting them finished, so we are back at it again. Hopefully, we will see some new directions; we will see some new directions from the White House certainly. I was pleased with the President's talk on Inauguration Day and his defining the goals that he has set forth. Certainly during the next couple of weeks we will see a great deal more defining of that. Our first obligation, obviously, is to finish the nominations so this administration can be in place.

We will see some new directions, and hopefully they will be the kinds of things upon which we can agree. I believe we will see more emphasis in the private sector, trying to encourage and cause things to happen that need to be done for the country in terms of individuals doing them, in terms of local governments doing them, as well as the contribution of the Federal Government.

I think we will be inclined to move toward reduction in taxes. I certainly hope so. We have the highest tax rates now being paid of anytime since World War II. This is a time, of course, when there are lots of things we need to do. One of them is paying off the debt; another is certainly to be able to fund and finance those things that we want to strengthen, such as education, such as health care.

On the other hand, the fact that we have a very healthy economy which has produced a surplus doesn't mean we necessarily need to grow the role of the Federal Government. On the contrary, I think each time we do something in the Federal Government, we ought to analyze the extent to which we are able to do that at the State or local level, or that it is more efficient to do it here simply because we have more money.

That does not mean we need to increase the role of government. We will allow States and local governments to have more of a role in the decisionmaking process. We have talked about it already in education, certainly strength in education. We will look for more flexibility so local schools can use the dollars as they need them. There is a great deal of difference, often, in the needs between Wheatland, WY, and Philadelphia. We should have the flexibility to use those dollars locally as is appropriate.

We will certainly be seeking to balance resource development. I live in a State that is 50 percent owned by the Federal Government. We are very heavy in resources—oil, gas, coal. We are the largest producer of coal in the United States. We need to be able to increase our efforts in the area of energy, at the same time protecting the environment. We can do that. We have to increase the opportunity for access to things such as Yellowstone Park and at the same time keep the principle of the parks there, to protect the resource. We can do those things with some more flexibility, I believe.

Obviously, we need to strengthen the military. We have had a time, a peaceful time, with a tendency to not emphasize the military as much as I think we should. Our best opportunity for peace in the future is to have a strong military and to keep it that way, to have national preparedness. Certainly we need to do that.

We need more emphasis on opportunity for everyone to do well in this country. Opportunity is what we need to seek.

We need to strengthen the economy. Hopefully in some of our tax activities we can leave more dollars in the private sector, to be invested to create jobs. These are the things I think will be paramount for us.

Will there be differences in view? Of course. I hope we have moved to a situation where we will be less partisan in our approaches, where we recognize there finally has to be a solution. But will we agree on everything? Of course not. We have different ideas. We represent different areas of the country. But in large we represent the United States and we need to understand that there are things we need to accomplish.

I think there will be agreement on general topics such as education, health care, and military. At the same time, of course, there will be disagreements on the details of how those things are implemented—but that is OK. That is the system. We all have different views. We all have different reasons to be putting forward our views. They are legitimate. And the system does work.

I suspect we will certainly be looking at education, we will be looking at strengthening the military, we will be looking at Social Security to ensure young people paying into their first job will have the opportunity to reap benefits 40 years from now. I think that is our obligation.

Energy has been a problem for some time, but it was not recognized, of course, until we started having blackouts in California and started having increases in gasoline and natural gas prices. Now, it is a problem that more people recognize as a problem.

I hope in our tax relief efforts we also have some tax simplification so we do not have to go through all these things with every little tax reduction being oriented at affecting behavior. That really is not the purpose of taxes. Taxes are to raise the amount of revenues necessary to conduct the Government, not necessarily to direct everyone's behavior.

Education is a legitimate concern. The first responsibility, of course, for education is that of the States and local governments. We want to keep it that way. The Federal Government's contribution is about 7 percent of the total expenditures. So we need to assist and to make sure there are opportunities available for all children everywhere, but we need to have local control and we need to have flexibility. And, of course, we need accountability, not only for the Federal Government's contribution but to all taxpayers to ensure those dollars are being used to produce the kind of product each of us wants.

Sometimes we find ourselves with an excessive amount of paperwork. I hear about it quite often since my wife is a special education teacher and spends a good deal of her time on paperwork, which detracts a little from her other work.

I believe a powerful military is our best hope for the future. We need modern equipment. We also need to reorganize the military. As times change, things are different than they were 50 years ago. Of course when you have no draft in place, it is voluntarily, we need to make it attractive, not only for people to come but hopefully for people to stay. What we have now is people come to the military, they are trained to fly airplanes or be mechanics or whatever but then leave to go to more attractive places in the private sector. We will need to go to that. I think one of the alternatives is to allow young people to have individual accounts that can be invested in the private sector to create a much higher return to ensure there will be benefits. I understand that is not something everybody agrees to. Certainly we all agree we should be setting aside those dollars that come in for Social Security for Social Security and not spend them on other things. So I am sure we can do a great deal there.

In energy, we have gone a long time without a real energy policy, a policy that will direct where the resources go, how we encourage production of domestic resources and not allow ourselves to become a total captive of OPEC and foreign nations. That is not only oil and gas, but we have various ways of producing energy, of course, hydro, wind, and nuclear—things that can be used. With a policy of that kind, certainly we can do some things.

We are also now looking at some short-term problems. California has a real problem. Regardless of how they got there, they have one, and there is some peeling off of that in other places. So hopefully we will have a longer term policy in addition to that and certainly be able to do something on the short term.

So I think we have a great opportunity as always to serve this country. That is why we are here. I hope we can agree upon the role of the Federal Government and how we strengthen that and how we finance that and how we will be able to leave people's money in their hands. How we do that will turn a lot on how we work together here and work with the administration during these next at least 2 years.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, let me congratulate the Presiding Officer, my new colleague from the State of Nebraska, for his eloquence and leadership and his direction as he presides over this body. I want him to know—and I think I speak on behalf of all of us—we appreciate his being here and presiding.

(The remarks of Mr. HAGEL pertaining to introduction of S. 22 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HAGEL. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. The Senate is in morning business?

The PRESIDING OFFICER. Senators have 10 minutes.

THE SENATE AGENDA

Mr. WELLSTONE. Mr. President, Democrats have introduced some of our legislation. George W. Bush is now President Bush. His administration is coming in. We will have votes on nominees.

I think the important word here is civility. I also point out—not that I am opposed to civility—I think when people in the country—in Minnesota, Nebraska, and around the Nation—say they want us to be bipartisan, what they are not saying is, we don't want any debate. People expect debate on issues and they expect us to have differences that make a difference, especially in their lives.

But I think what people are saying is two things: No. 1, we want to have civility, we want to see civility; and the second thing that people are saying is we want you to govern at the center. But, colleagues, they are not talking about the center that I think pundits in D.C. talk about, or too many of us talk about. I think what people are talking about is not the usual labels but, rather, we want you, Democrats and Republicans, to govern at the center of our lives. That is what people are talking about, the center of their lives.

So if, in fact, we have legislation on the floor and have amendments and debate about amendments that deal with making sure people are able to have a standard of living where they can support their families and give their children the care they need and deserve, we are governing at the center of their lives. If we are talking about legislation that provides more resources to enable States and school districts to do a better job of providing the best education for all the children in this country, we are governing at the center of people's lives.

If we are going to speak, as the President did with considerable eloquence, about leaving no child behind, let us make sure this is not symbolic politics. This cannot be done on a tin cup budget. If we want to leave no child behind, the best thing we can do is make a real investment in early childhood development so these children, when they come to kindergarten, are ready to learn. They are not already way behind.

If we are going to talk about governing at the center of people's lives then we are going to have to talk about the health insecurity that so many Americans experience. I am not talking just about elderly people who cannot pay prescription drug bills. I am also talking about people toward the end of their lives who are worried they are going to go to a nursing home and then lose everything before they get any help.

What about how people can stay at home and live in dignity as long as possible? I am talking about, not just the 42, 43, 44 million people who have no health insurance at all, but the people who are underinsured. I am talking about people who are paying more in copays and deductibles than they can afford to pay. I am also speaking about the people who right now have plans but plans that do not provide anywhere near as good coverage as we have.

It would seem to me that what is good enough for Senators and Representatives should be good enough for the people we represent. If we are going to talk about jobs and decent wages, economic development and economic growth—which is critically important, whatever ways we can contribute to that—and education and affordable child care and affordable health care, then we are governing at the center of people's lives and I think there can be real bipartisanship.

But I also want to point out I don't see how we do it with a $1.3 trillion tax cut over the next 10 years. I don't see how we do it if that tax cut is all the way at the level of $1.3 trillion. I certainly do not see how we do it if it is too targeted to people at the top of the income ladder. I ask my colleagues this question: How can we give all the speeches and talk about the children and talk about education and talk about health care and talk about veterans and talk about our commitment to all these issues and all these people and at the same time have no revenue? You cannot do both.

Let's have some balance here. Let's have some tax cuts that are targeted at middle-income working families and let's also not rob ourselves of the capacity to make the investments in the very areas we say we care so much about.

I also say to colleagues that I think Speaker Gingrich found this out: Don't assume there can be an assault on basic environmental protections and protections at the workplace, health and safety protections, and that will go without a fight. There will be a real fight on those issues. I hope we can find middle ground, but I do not believe it is an agenda that speaks to the center of people's lives because the vast majority of people in our country believe we are all strangers and guests on this land and we should make the environment better; we should leave it better.

I also believe we will have a healthy debate—again with civility—over the question of whether or not there is such a thing as a workable star wars, a workable missile defense which ultimately could cost hundreds of billions of dollars. This was, at first glance, a good idea, starting in the late 1950s. But every time we look at it and realize the ways offensive weaponry overwhelms defensive weaponry, and we consider the danger of chemical and biological warfare being brought in by suitcases, there is no evidence this is technologically feasible, much less the way this puts the arms control regime in jeopardy.

So I say to my colleagues on the first day: I look forward to the debate. I look forward to passionate politics. I look forward to politics focused on peoples' lives. I look forward to civil debate, civil politics. I think we can have that. But I believe so much has changed in the country, so much is at stake, the Senate is 50–50—we can agree on some important legislation that will help people. Let's move forward. Then when we do not agree, there will be major, major debate on the floor of the Senate.

For my part, I look forward to working with my Republican colleagues whenever we can and wherever we can and to be honest. With a twinkle in my eye, I just as much look forward to the debate and disagreement. As a Senator from Minnesota, I am in profound disagreement with the direction on some things I think the President is going to go forward with. But that is what the Senate is all about, to have debate, to do your best for people, and I look forward to the Senate functioning at its very best. I hope we can make amendments on the floor to legislation that should not be closed off again. We can start early in the morning, work late at night, we can do the work and then I think the Senate will be at its best as an institution and give all of us a chance to be good Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON relating to the introduction of S. 11 and S. 40 are found in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. HUTCHISON. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTING HUMAN RIGHTS IN COLOMBIA

Mr. KENNEDY. Mr. President, I would like to call my colleagues' attention to the brave and persistent efforts of the Association of the Families of the Detained and Disappeared on behalf of human rights in Colombia.

One of the most pressing human rights emergencies in our hemisphere has been taking place in Colombia, where the government, paramilitary groups, and guerrillas remain locked in fierce struggles. Thousands of innocent civilians have been caught in the crossfire, and human rights abuses have been rampant. Throughout Colombia, members of ASFADDES have responded to this crisis by seeking justice for their relatives who have been killed or disappeared.

Members of ASFADDES ask that cases of forced disappearances be properly investigated and prosecuted. They have worked for the last twelve years to make forced disappearances an official crime in Colombia, and a law was finally passed last year to do so, because of their work and dedication.

Because of their calls for justice, members of ASFADDES are at tremendous personal risk. Since 1993, their members have received numerous threats. According to ASFADDES, members have been harassed, and have been the subject of intelligence-gathering by Colombian police and military personnel.

The members are under particular threat, because they are one of the few organizations to bring cases against members of Colombia's security forces at the local, national, and international levels—including the Inter-american Commission on Human Rights—often raising the issue of collusion between Colombia's security forces and the paramilitary. ASFADDES is the only nation-wide organization in Colombia that represents families of human rights victims. Attacks are carried out against the staff of the organization and against the family members who seek the organization's help.

Regrettably, serious acts of violence against members increased in 2000. Elizabeth Cañas of Barrancabermeja chapter was murdered on July 11; one day after the forced disappearance law was passed. On October 6, two members of the Medellin chapter, Angel Quintero and Claudia Patricia Monsalve, were disappeared. Members of the Popayan and Bogota chapters were harassed and followed, and escalating death threats were received by ASFADDES members throughout the country. The severity of the threats and attacks led the organization to temporarily close its offices last year. Sadly, a systematic campaign of terror against the organization appears to be underway.

The Interamerican Commission on Human Rights has ordered the Colombian government to provide special protective measures to ASFADDES members to ensure their safety. While certain measures have been taken by the government, ASFADDES asserts that they are not always carried out expeditiously. Moreover, the organization is extremely concerned that the Colombian government has not taken adequate measures to investigate and prosecute the multiple cases of threats, harassment, murder and disappearance directed against its members.

I commend the courageous members of ASFADDES, and all of the other men and women in Colombia who have shown great bravery in risking their careers, and their very lives, for the cause of human rights. I urge the Colombian Government to ensure that ASFADDES members and offices receive full protection, and to keep the organization informed about progress on cases it raises. I also urge the government to ensure the effectiveness of the new commission established to search for disappeared persons, under the new law against forced disappearances, and to prosecute such cases vigorously.

SECRETARY OF DEFENSE, WILLIAM S. COHEN

Mr. INOUYE. Mr. President, our Nation has been most pleased with the extraordinary leadership of Secretary William S. Cohen at the helm of our Armed Forces for the past 4 years. On January 17, 2001, the Chairman and members of the Joint Chiefs of Staff honored Secretary Cohen and his lady, the First Lady of our military, Janet Cohen, with a spectacular ceremony at Fort Myer. Although the ceremony was to officially honor Secretary Cohen, it made all in attendance most pleased that Mrs. Cohen, Janet, as she is known to men and women in the Armed Forces, was also honored. I believe it was the first time in history when our troops were officially reviewed by the Secretary and his lady. Janet Cohen was most deserving of this high honor. As the remarks eloquently note, she was, indeed, the First Lady of the United States Armed Forces.

The pomp and ceremony, the colors and the parade were memorable, but the remarks made by the Chairman of the Joint Chiefs of Staff, General Henry S. Shelton, and the response by Secretary Cohen will be long remembered. I respectfully believe that these speeches are worthy of the attention of my colleagues. Accordingly, I ask unanimous consent that a copy of the remarks by General Henry S. Shelton, Chairman of the Joint Chiefs of Staff, and the responding remarks of the Secretary of the Department of Defense, the Honorable William S. Cohen, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Remarks of General Henry H. Shelton, USA, at the Farewell Ceremony in Honor of Secretary Cohen

Secretary and Mrs. Cohen, Mr. Kevin Cohen, Members of the Cabinet, Designated Members of the Cabinet, Members of the Diplomatic Corps, Distinguished Members of Congress, Service secretaries, Fellow members of the Joint Chiefs, Commanders-In-Chief, Unified and Functional Commands, Distinguished guests, Fellow members of the Armed Forces, Ladies and Gentlemen:

Thanks to each of you for coming to this special event as we, the members of the Armed Forces and the Department of Defense, pause to honor and salute a truly great American couple.

But first, let me, once again, thank the outstanding men and women standing in front of you today and representing hundreds of thousands of soldiers, sailors, airmen, marines and coastguardsmen. They are truly our Nation's treasure . . . they serve with honor and courage . . . and they are committed to keeping America strong and free.

Let's give them a hand!

We are all here this morning to honor and pay tribute to Secretary and Mrs. Cohen. And while it is always difficult to say farewell . . . the task is particularly difficult today because the Secretary and Janet have served the department . . . and indeed this Nation . . . with such distinction and so unselfishly over the past 4 years.

Of course, Secretary Cohen's outstanding service to the Nation encompasses much more than his tenure as Secretary of Defense. For nearly a quarter century, first as a Congressman and later as a Senator from the great State of Maine, he served his constituents and, indeed, all Americans well . . . as a skillful legislator and powerful advocate.

In the Senate, he was known as an influential voice on defense and international security. He was admired for his commitment to the principle that the security of our Nation is not, and should never be, a partisan matter. His focus, always, was on what was best for America and what was best for the men and women of our Armed Forces.

All of us here today recognize it is a great honor to be asked by the President to serve in the Cabinet . . . especially if it's the first time in American history when an elected official of the other party was selected to be a senior member of the cabinet.

But, 25 years in this town as a dedicated public servant is a long time . . . and Senator Cohen had certainly "earned his parole." Why then, you might ask, would this great Senator from Maine want to voluntarily extend his sentence and take on such a position?

Well, I don't presume to speak for the Secretary, nor can I know for certain why he willingly accepted the enormous demands that come with the 24 hour-a-day/7 days per week job of Secretary of Defense . . . and the "scrutiny"—I mean "help"—of his former colleagues on the Hill.

But, from almost daily observation for the last 3 years and 4 months, I know that the Secretary took the job out of a deep love for our country . . . and an equally strong devotion and respect for those who serve. And those of us in the Armed Forces are fortunate that he did!

For the past four years, America has successfully navigated the often dangerous waters of international security affairs with Secretary Cohen at the helm. The department . . . and indeed the Nation . . . have been well served having him in charge during the many storms we have weathered over these unpredictable years.

It was Joshua Chamberlain . . . another great leader from the State of Maine . . . who once said that, in times of great struggle, "it is character that tells." Chamberlain then defined character as a "firm seasoned substance of soul . . . [including] such qualities as intelligence, thoughtfulness, conscientiousness, right-mindedness, patience, fortitude, and unconquerable resolve."

Those who know Secretary Cohen, know that he personifies the qualities of character that Chamberlain, a fellow Bowdoin College graduate, talked about over a century ago. And we also understand that as a result we are a stronger, better military today.

Throughout Secretary Cohen's tenure, America has operated in and been successfully engaged in a dangerous and untidy world. He has been a great coach . . . a "players coach" who cared deeply for his soldiers, sailors, airmen, and marines . . . and a visionary leader who executed a winning game plan . . . a game plan we call our strategy of shape, respond, and prepare:

The first piece of the strategy is shaping . . . and we have shaped the international security environment in many ways: From NATO enlargement, to the more recent and indeed on-going negotiations on the EU-NATO relationship. From Bosnia, to Kosovo and the indispensable role we have played, along with our allies, in promoting peace. And, from the no-fly zones, to the Persian Gulf, where U.S. forces have ensured the free flow of oil and prevented Saddam Hussein from threatening his people or neighbors.

The second element of our strategy is responding . . . and we, along with our allies and friends, have responded to a wide range of crises.

From the December 1998 air campaign to degrade Iraq's ability to deliver WMD and threaten its neighbors, to the 78-day air campaign that succeeded in reversing Slobodan Milosevic's reign of terror in Kosovo.

From our presence during the turmoil in East Timor to the evacuation of noncombatants from life-threatening civil unrest in West Africa.

From providing humanitarian assistance in Central America, to fighting raging forest fires in the Western U.S.

The third and final element of our strategy is preparing . . . that is, getting ready now for the demands of the future. Under Secretary Cohen's leadership we have seen the largest increase in military spending in over a decade and restructured the department to confront the emerging threats of this new century. Under his leadership we pursued and achieved—with the great support of Congress and the administration—the largest increase in pay and benefits in a generation . . . and recognized that quality of force, in part, reflects the level of public support for the military. We are attracting and retaining the best-qualified people for our military, and making sure we provide them with the best equipment and training.

In all these areas, and many others Mr. Secretary, our successes have been due to your outstanding leadership and vision. Of course, you have been helped along the way by the fantastic team you built within OSD . . . and, from one other very "special assistant" as well. Indeed, over the past four years you have had a great partner at your side. And so, today, we say goodbye as well to your partner, the First Lady of the Department . . . Janet Cohen.

Janet, on behalf of our men and women in uniform, let me say a special thank you . . . for your tireless efforts to improve the quality of life of our people in uniform and their families. And for your efforts to help the Secretary reconnect the military to the America we serve. Those of us here today who have grown to know you well, will miss you greatly. But, so too will the families of those who serve . . . the very families that you have served so compassionately. Finally, on a very personal note Mr. Secretary, let me thank you for the tremendous opportunity to serve as your, and President Clinton's, principal military advisor and to represent our great soldiers, sailors, airmen, and marines here in Washington—there can be no greater honor and for that I am forever indebted to you.

You embody those attributes and values that the members of our Armed Forces try to live by—you're a person of great character . . . the "character" that Chamberlain eloquently defined. You are a person of absolute integrity and of tremendous vision. I have watched you work tirelessly on behalf or our men and women in uniform, watched you travel over 750,000 miles to foster peace and stability around the globe with Allies, partners and friends and fight the tough fights at home and abroad for what was best for America and for America's Armed Forces. For that, we are all indebted to you.

In closing . . . thank you, Mr. Secretary . . . and thank you Janet . . . for all that you have done. We are a stronger, better-prepared, and prouder military for your efforts. The Nation has been truly blessed by your service. All of us wish you and Janet life's best in all your future endeavors. Thank You.

REMARKS BY SECRETARY OF DEFENSE WILLIAM S. COHEN

General Shelton, thank you for your overly generous remarks. Carolyn Shelton. When I recommended that Hugh Shelton be selected as Chairman of the Joint Chiefs, I was approached by a reporter who asked, "What's our reaction to him? How do you size him up?" I answered, "About 6′6″." I'd say he's a combination of Randolph Scott, John Wayne, and a little bit of Clint Eastwood. He's a man of few words, but who's silence tells you all you really need to know about him. You don't want to make his day.

One of the first things he did after his confirmation was to give me and the other members of the Joint Chiefs a copy of a book entitled Dereliction of Duty. He was sending a very strong signal in passing out that book—he was saying that under my watch I'm never going to tailor my judgment or advice to fit a particular objective that I think is unwise. It's a book that I keep very much at eye-level on my shelf, Mr. Chairman.

The second thing you gave me was a fountain pen, and a note that went with it. It was a statement from General William Tecumseh Sherman to Grant. He said, "I always knew that if I was in trouble you'd come for me if alive." Mr. Chairman, I always knew that if I were ever in trouble, that you would always be there for me as you've been there for all of the men and women who wear our uniform. You are a warrior and you carry the warrior's code not on your sleeve, but in your soul. I am deeply grateful that I had the chance to work beside you and to have you as a principal advisor.

General Joe Ralston and Dede, I believe you're here, but if you're not I will say a few words anyway. I want to thank you for all that you have given to our country and what you continue to give as commander of our forces in the European theater, and as Supreme Allied Commander, Europe. You have carried on the great work of your predecessors and the tradition established by Generals George Joulwan and Wes Clark, and you have been succeeded as Vice Chairman of the Joint Chiefs by a truly able officer and friend, Dick Myers.

So I want to take this occasion to thank General Myers and Mary Jo; and to thank General Mike Ryan Chief of Staff, U.S. Air Force and Jane; to thank General Ric Shinseki Chief of Staff, U.S. Army and Patty; to thank Jim Jones Commandant, U.S. Marine Corps, a friend and companion for so many years and Diane; and Admiral James Loy Commandant, U.S. Coast Guard who played basketball against me so many years ago, and unfortunately was the winner.

I am told that former Secretary of Defense Caspar Weinberger may be in the audience. I want to say that I enjoyed my friendship and service with you over the years. I don't think anyone other than Mel Laird ever served longer as Secretary of Defense than Cap Weinberger. You helped to rebuild our military and our morale at a time when we needed that boost, and I will never forget how you used to come before a skeptical Congress with your two very sharp pencils in your hand, ready to answer any question that we had.

Secretary, Bill Perry, what an opportunity it was for me to know you when I served in the Senate and what an honor to follow you as Secretary of Defense. You are known and you're revered for your brilliance, your leadership and your quiet strength, but you're also respected and loved for your civility and your kindness. You, along with Cap, are regarded as two of our finest public servants, and I am truly grateful that you could be here to observe my farewell.

Deputy Secretary Rudy de Leon, when John Hamre left to take over the presidency of CSIS, Center for Stratégic International Studies, I asked you to step into some very big shoes, and you took up the challenge without hesitation. You more than lived up to our high expectations. And no matter how difficult the issue, you never lost your composure and you never lost your focus. And if ever there's going to be another story made of Cool Hand Luke, you'll be the man.

Members of the Cabinet and diplomatic corps, Members of Congress, Secretary of the Army Louis Caldera, Secretary of the Air Force, F. Whitten Peters, Secretary of the Navy, Richard Danzig, leaders from across this great institution, Janet, of course, and my son Kevin, thank you for being here on such a special occasion. Distinguished guests, ladies and gentlemen, and most importantly, the men and women of the United States Armed Forces—the finest fighting force on the face of the Earth.

Twenty-four years ago another Secretary bid farewell to this institution. In the coming days, the 13th Secretary of Defense will return as the 21st Secretary of Defense. Don Rumsfeld has been an enduring public servant to this country, and he's going to be an outstanding leader of this department. But I must tell you, even if Senator Strom Thurmon is in the audience—and what an inspiring example of service he is—I have no illusions. I am not returning in the year 2025.

But I do want to take this occasion to thank you for honoring me and Janet with your presence and to use this final occasion to address the ranks among you—those who wear the nation's uniform.

During these final days—which somehow have become the most demanding in the last four years—I've been afflicted by a multitude of emotions and thoughts. Late last night, early this morning, I was complaining to Janet that I didn't have enough time to even begin to contemplate what I might say to you today, knowing that my words would have no more lasting effect than those words written in sand. She replied. "Just tell them what you feel." That's always what Janet would say. "Tell them what you feel."

I thought years back to when I was in college and I used to read the French existentialists. And I think it was Gide, or it could have been Camus, who once said that it's the foreknowledge of the finality of things that destroys bliss at its very apex. In other words, everything that is mortal must come to an end, and therefore we can take no joy in the experience.

I used to dabble with such thoughts as a young college student, but 40 years of experience have taught me differently. We have loved this job, knowing that this day would one day have to come. We have loved not this job, but this opportunity to be in the presence of heroes—to walk and to sail and to soar with eagles.

So what do I feel? I feel honor, to be sure, but most of all, an unqualified sense of awe. When I'm in the presence of men and women who serve and sacrifice themselves and their families for our freedom, I am in awe. I've had the privilege of meeting with kings and queens, and presidents and prime ministers, and princes and sultans and emirs, and yes, parliamentarians the world over. But nothing has ever been more rewarding than to visit our troops in Bosnia, in Kosovo, Korea, Kuwait, or Saudi Arabia; to land on a carrier in the Persian Gulf where the temperatures can run 120, 130, 140 degrees, and to see our sailors and Marines carrying out their duties in that heat; to watch our Air Force put steel on target or deliver humanitarian relief to helpless victims of hurricanes, earthquakes or other natural disasters; to witness our Coast Guardsmen protect our shores or rescue those who are caught up in those perfect storms.

I marvel at your raw courage and your willingness to constantly train and prepare to fight the wars that can't be prevented. And I am touched to the core when I visit you at Christmas time, knowing what a special moment it is for you, how far away you are from your families, what spirit you show in your very loneliness as you're surrounded by your comrades, what pride you take in knowing that you save lives, that you've touched hearts of total strangers, and that you've given them something more precious than gold.

And as I reflect on the swift passage of time these past four years, all of these moments and memories come rushing at me with a terrifying velocity. But I'd like to share one of my earliest with you.

On our visit to Eagle Base in Bosnia on Christmas Eve three years ago—as we have done every holiday since that time—we joined hundreds of soldiers to share songs and love and levity and laughter, and to bring them just a touch of home. As we left around midnight, we passed along the perimeter and came across three young soldiers for whom Christmas Eve meant manning a security post that was fashioned from wood. They were out there in the mud, in the cold, in the darkness, standing guard in the night.

As we expressed our gratitude for their service and conveyed our sorrow they couldn't be home with their families, one of these soldiers looked at Janet and he offered a response that we will never forget, so eloquent in its simplicity, so profound in its sincerity, "That's all right, ma'am. Somebody has to do it. And besides, I think we're making a difference here."

Men and women of the United States Armed Forces for the past four years, we've been blessed to serve with you as you stand guard in the night, and as you continue to make an extraordinary difference the world over. Because of your patriotism and professionalism, because of your dedication and your daring, more people today sleep under the flag of freedom than at any time in history.

So the poet asks, "How should we presume?" I was recently asked, "What's your legacy? What can you point to with pride that you've helped to make happen on your watch?" Well, I'd never really given any thought to legacies. I simply tried to keep the faith of all who have come before me and those who come after.

The Chairman stole my thunder here, because I was going to engage in just a touch of immodesty, but he already outlined everything we've done. We have managed to secure an additional $227 billion for future years defense spending. Four years ago we were told there wouldn't be any increases. We now have an additional $227 billion coming to our armed forces. That's a remarkable achievement that this team has produced.

We've had the largest defense spending increase in 15 years, the largest pay raise in a generation, retirement benefits back up to 50 percent, the elimination of housing inequities for those who live off-base, overhauling the health care system to make sure that we give decent health care for the men and women who are serving us and those who have retired and their families-care that's worthy of this nation.

We conducted the most successful air campaign in the history of warfare. We drove Milosevic out of Kosovo, and hopefully into oblivion, or at least to The Hague where he can stand trial. We kept Saddam Hussein in his box and out of his neighbors' oil fields and homes. We've enlarged the NATO family with three new democracies. We've strengthened our relationships in South America, in Africa, the Gulf States, South Korea, Japan, and all of the Southeast Asian countries. We've reduced nuclear weapons in Russia. We have established military to military ties with China.

We created the Joint Forces Command, preparing to deter and counter those who plot our destruction with weapons of mass destruction. We have reoriented the Space Command to ensure that we remain as dominant in space and cyberspace as we are on the battlefields. We've accelerated that Revolution in Military Affairs, transforming our forces so we can marshal and match the power of our technology with the force of our ideals.

And I want to mention one other thing—we've kept our promise to help reconnect America to its military, to remind the American people that we must take care of those who take care of us and that freedom can be lost just as easily through indifference and neglect as it can through warfare.

In his wonderful book, On the Origins of War and the Preservation of Peace, Donald Kagan talked about Athenian democracy. He said that in the end, more than they wanted freedom, they wanted security. And when the Athenians finally wanted not to give to society, but for society to give to them, when the freedom that they wished for was freedom from responsibility, then Athens ceased to be free. We should never let that happen to the United States of America.

General Shelton, you quoted Chamberlain, one of my heroes. And I would suggest that no words better describe those that we serve. On countless occasions I've been asked by foreign leaders, "How can our military be more like America's?" I'll repeat here today what I've said time and time again. It's not our training, although our training is the most rigorous in the world. It's not our technology, although ours is the most advanced in the world. And it's not our tactics, although ours in the most revolutionary in the world. We have the finest military on Earth because we have the finest people on Earth, because we recruit and we retain the best that America has to offer.

So as I prepare to leave public office, I want to take this final occasion to remind all of America: take a look at the leadership that we have, take a look at what you see arrayed before you here. Be inspired by their character and their devotion to duty. Stand in awe of their courage and their professionalism and their ability to maintain bravery in the midst of tragedy and loss.

When we stood on the tarmac at Andrews Air Force Base to welcome home the flag-draped coffins of those that we lost in our embassies in East Africa, when we stood on the pier in Norfolk with the wounded sailors and the families of those who perished in the Cole, when we learned of those who were lost aboard the Osprey, and whenever the phone rang at midnight or in the early morning hours telling me of an accident that would not make the headlines, but that would rip a hole in the hearts of the families who were affected, then we understand why these brave men and women and their families truly are patriots among us—the pride of America, the envy of the world.

Finally, I'd like to pay special tribute to the most remarkable person in my life. When you think of Janet Langhart Cohen, you think of passion, of fire, of spirit. Creative ideas spring from her like the cherry blossoms around the Tidal Basin, only it's not just in the spring time, they're always springing forward. And it's not just the creativity, it's moving from the creation of the idea to the actuality of the event.

I think of all she has been able to do—creating that first Family Forum or the Pentagon Pops, helping to organize those holiday tours overseas, creating the new USO Corridor in the Pentagon and a new liaison office in the Pentagon, hosting that Special Assignment television program that goes worldwide to our troops, receiving the VFW Award, then just last week the Zach Fisher Award, being recognized by the United States Chamber of Commerce for her work on behalf of all of those in uniform, and yes, named the First Lady of the USO. But I would say most of all, she has loved our men and women in uniform with a zeal that transcends any ability of mine to describe. I have never felt more alive—or more ignored—than when she's out there with the troops. Lou Gehrig was wrong, I'm the luckiest man alive.

So it's time for the two of us to take our leave. We have a new President who has assembled a great new national security team and they will, with your help and God's help, continue to make the United States of America the greatest force for freedom in the world.

I'd like to close with the paraphrased words of the poet Tagore. "When one comes and whispers to me, 'Thy days are ended,' let me say to him, 'I have lived and loved and not in mere time.' And he will ask, 'Will thy songs remain?' And I shall say, 'I know not, but this I know. That often when I sang, I found my eternity.' " Thank you.

TRIBUTE TO THE LATE VICTOR BORGE

Mr. LIEBERMAN. Mr. President, one of the great joys of being a United States Senator from Connecticut is the privilege of counting so many extraordinary individuals as my constituents. One of the most extraordinary of them—Victor Borge—passed away quietly in his Greenwich, Connecticut, home last month at the age of 91. He will be missed by millions of fans the world over, including me.

Victor Borge often famously told his audiences that "the shortest distance between two people is a smile." Indeed, the entertainer known the world over as the Clown Prince of Denmark was singularly responsible for millions of upturned lips—and untold bouts of hysterical laughter—during a magnificent career as a comedian and musician that spanned almost a century.

I'd like to take a few minutes today to remember the remarkable life and laughter inspired by Victor Borge, an entertainer who gave new meaning to the expression "tickling the ivories" by combining comedy and classical piano as no one else ever has. He was a one-of-a-kind keyboard ham who enjoyed making his audiences laugh as much as he enjoyed making music.

He was a classically trained concert pianist who could be in the middle of a breathtaking rendition of Strauss' "Die Fledermaus" and suddenly fall right off the side of his piano bench, sending his audience into hysterics. Or in a similar stunt, while in the middle of conducting an aria, a soprano's high note might blast him right off his stool, and he would stoically climb back on, only this time wielding a safety belt to bolt himself to his seat. Sometimes Victor would intentionally strike the wrong pitch at the piano, only to brandish the sheet music and a pair of scissors and literally cut out the offending note.

He's the only musician I know who could begin a solemn rendering of Beethoven's "Moonlight Sonata," then seamlessly slide into Cole Porter's "Night and Day." To say nothing of his ability to morph Mozart into "Happy Birthday." Sight gags and musical quirks were only part of the act. Borge always had a stable of rhetorical flourishes at the ready, such as, "Mozart wrote this piece in four flats, because he moved three times while composing it."

I felt lucky to count Victor as my friend. I'll never forget the many times I tried to give a speech to a roomful of people, only to find myself drawn into the role of his straight man as he joked with the droopy-faced delivery that made everyone laugh until in hurt.

His comic genius hid the life story of a European Jew who narrowly escaped Nazi persecution. Borge was born in Copenhagen, Denmark, to a father who was a violinist in the Royal Danish Philharmonic. The younger Borge was a child prodigy concert pianist, debuting at age 8, and a Scandinavian star by his early 20s. By 1940, he was at the top of the Nazis' extermination list because he poked fun at Hitler and the Third Reich in his act. Ultimately, though, his music helped save his life when two Russian diplomats who were fans of his show helped smuggle him on a ship bound for Finland, where Borge found his way onto the S.S. *American Legion*, one of the last boats out of Europe.

Victor Borge arrived in New York penniless and speaking no English. But he quickly learned the language by watching 10-cent movies in midtown Manhattan theaters. In less than two years, he had adapted his act to the English language and debuted on the Bing Crosby radio show. Within a decade he had appeared on Ed Sullivan and been offered his own radio program. By the end of his career, Borge's one-man Broadway show, "Comedy in Music," had logged 849 performances, which is still a record today.

Over the last half-century, he also developed credentials as an orchestra conductor, directing the London and New York Philharmonics, the Philadelphia Orchestra, and the Boston Pops. He also raised millions of dollars for worthy causes such as Thanks to Scandinavia, a scholarship fund to commemorate efforts to help victims of Nazi persecution. Victor was knighted by all five Scandinavian countries for his life's work, and was honored by the United Nations as well as the U.S. Congress.

I will never forget the night of December 29, 1999, right here in Washington, when Victor received the prestigious Kennedy Center Honors along with Jason Robards, Sean Connery, and Stevie Wonder. President Clinton hung a medal around his neck that night in recognition of his life achievements, and Borge—clowning around into his 90s—showed up at the reception afterward in a red clown nose.

Years ago, on the occasion of his 75th birthday, the New York Times wrote an editorial calling Victor Borge, simply, "the funniest man on earth." To me, he was also eloquently warm, gifted, and brilliant—a bright and irrepressible star who lit the world around him. We shall miss him.

ADDITIONAL STATEMENTS

TRIBUTE TO RICHARD METREY

• Mr. SARBANES. Mr. President, today I want to pay tribute to an outstanding public servant, Mr. Richard Metrey, who retired last week after 41 years of Government service in the United States Navy.

Throughout his career, Richard Metrey has distinguished himself through his leadership, commitment and dedication to public service, and by making government work better and more efficiently. Beginning as a project engineer in the Ships Machinery Division of the former Bureau of Ships, he swiftly worked his way up through the ranks into positions in senior management, including Head of the Combat Systems Branch in the Naval Sea Systems Command and Program Manager for the Navy Advanced Prototyping Program.

For the last fifteen years, Mr. Metrey has served as Technical Director of the Naval Surface Warfare Center, Carderock Division, where he has had a profound impact on the Navy's approach to researching, developing, testing and evaluating naval vehicles. During this time, Richard was directly responsible for the Division's entire technical program—its planning, execution, and staffing of current programs, as well as strategic planning and new starts. Prior to that, Mr. Metrey also served in the Navy Secretariat in a range of important responsibilities from Deputy Assistant Secretary of the Navy for Surface Warfare to principal advisor to the Assistant Secretary of the Navy for Surface Warfare Research and Development and Acquisition.

Mr. Metrey's colleagues attest to the ingenuity and integrity he has brought to the positions in which he has served. His contributions and accomplishments have been recognized through many prestigious awards, including the Presidential Rank Meritorious Executive Award, the Navy Superior Civilian Service Award and numerous Outstanding Performance Awards—to name only a few. He has also been selected to serve as the United States representative on several international forums, and on high level committees, including the Congressionally established Advanced Submarine Advisory Panel.

I came to know Richard Metrey in the early 1990s during the Base Closure and Realignment (BRAC) process. Having had the opportunity to work with him during the BRAC and on other matters, I can also attest firsthand to his professionalism and deep commitment to our Navy and its mission. It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career, Richard Metrey's commitment and remarkable talent have enabled him to go beyond meeting this demand. So I want to extend my personal gratitude to Richard for these many years of hard work and dedication and I wish him well in whatever endeavors he seeks to undertake in the years ahead.•

ROBIN COMSTOCK

• Mr. SMITH of New Hampshire. Mr. Chairman, I rise today to honor Robin Comstock of Nottingham, New Hampshire, the newly appointed President and CEO of the Greater Manchester Chamber of Commerce, whose enthusiasm, leadership, and dedication have earned her the respect of her peers and the admiration of this state.

Robin has served for the past six years as President and CEO of the

Portsmouth Chamber. She has an extensive background in running, managing and developing chambers, and has demonstrated success in a number of key areas including economic and community development, technology and tourism initiatives and government affairs. Her success in developing a highly visible seacoast regional hospitality and tourism program, her skill and her record of accomplishment are a tribute to her state and community.

If the accolades of peers are any measure of achievement, Robin is at the top of her game. Her energy, enthusiasm and skill have allowed her to accomplish great things for the Granite State, and I have no doubt that she will be a tremendous asset in her new position. It is an honor and a privilege to serve Robin Comstock in the United States Senate, and I wish her all the best.•

DEAN KAMEN

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Dean Kamen of Bedford, New Hampshire, whose dedication to the field of technology has earned him the admiration and gratitude of his state and nation. As a testament to his many extraordinary achievements, Dean was awarded the National Medal of Technology by President Clinton in 2000 for inventions that have advanced medical care worldwide. His innovative spirit and imaginative leadership have awakened America to the excitement of science and technology.

Dean's remarkable career as an inventor began while he was still a college undergraduate, when he invented the first wearable infusion pump. This device rapidly found uses in such diverse medical specialties as chemotherapy, neonatology, and endocrinology. Since then Dean has played a leading role in many major advances in healthcare, such as the insulin pump for diabetics. He was also instrumental in the development of IBOT, a personal transporter developed for the disabled community, which is capable of climbing stairs, traversing sandy and rocky terrain and raise its user to eye-level with a standing person.

Nearly a decade ago, Dean founded FIRST (For Inspiration and Recognition of Science and Technology) to motivate America's youth to learn about science and technology, and has personally recruited many of the top leaders of industry, education and government in this mission. He has been recognized for his efforts by prestigious publications such as Smithsonian Magazine and the New York Times, which labeled him a "New Kind of Hero for American Youth."

Dean's passion for technology and its practical uses has changed the face of healthcare and inspired a love of science in a generation of American children. Because of his extraordinary achievements, we have a new understanding of ourselves and the world, as well as a renewed hope for the future. It is an honor to represent Dean in the United States Senate, and I wish him all the best in his endeavors.•

TRIBUTE TO ALYSSA SPELLMAN

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Alyssa Spellman of Bow, New Hampshire, a young woman whose poise, hard work, and intelligence have earned her the respect and admiration of her state and community. At the age of seventeen, Alyssa has dedicated much of her young life to serving others. This service was recognized publicly when she was recently awarded the Governor's Award for Volunteerism.

An accomplished musician and artist, Alyssa has been nominated to Art, Classical Music and Jazz Music All-State. She was also chosen as Female Youth Entertainer, Traditional Entertainer and Rising New Start Vocalist of 1999 by the New Hampshire Country Music Association. After winning these titles, Alyssa continued in her tradition of helping others by performing at benefit concerts to raise money for diabetes and cancer research.

Graceful and accomplished, Alyssa recently competed for and won the title of Miss Bedford 2001. She will go on to compete for the title of Miss New Hampshire, with the ultimate goal of winning the Miss America crown. In competition, Alyssa promotes her platform of prevention of teen violence, an issue to which she devotes a considerable amount of her free time. Alyssa is a tribute to her community, and I wish her all the best in her future endeavors. I know that Alyssa will continue to be a fine New Hampshire representative. It is an honor to serve her in the United States Senate.•

SUZANNE LULL

• Mr. SMITH of New Hampshire. Mr. Chairman, I rise today to honor Suzanne Lull, a teacher whose devotion to education and literacy serves as an inspiration for her colleagues and students alike. Recently named New Hampshire's Teacher of the Year, Ms. Lull is credited with a special ability to involve both parents and the community in her students education.

Ms. Lull began her career in private education, then moved to her current position at Washington elementary school. Starting out as a fourth grade teacher, she initiated a balanced literacy program that integrates reading and writing into all areas of the curriculum. Her passion for literacy continued to be evident as she moved to teaching younger students with the hopes of inspiring reading education early in their academic career.

Ms. Lull claims she always knew she would be a teacher. Ever the educator, she spends her free time working along side her husband in his ministry, giving religious instruction to Sunday school children of all ages. Suzanne Lull is a tribute to her community and profession, and it is an honor and a privilege to serve her in the United States Senate.•

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1. A communication from the Director of the Federal Register, National Archives, transmitting, pursuant to law, a report relative to the Certificates of Ascertainment of the electors of the President and Vice President of the United States; ordered to lie on the table.

EC–2. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–3. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "New Criteria for Approving Courses for VA Educational Assistance Programs" (RIN2900–AI67) received on January 4, 2001; to the Committee on Veterans' Affairs.

EC–4. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Weatherization Assistance Program for Low-Income Persons" (RIN1904–AB05) received on December 19, 2000; to the Committee on Energy and Natural Resources.

EC–5. A communication from the Acting Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the Pharmacy Benefits Program; to the Committee on Armed Services.

EC–6. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the High Altitude Endurance Unmanned Aerial Vehicle (now Global Hawk) Program; to the Committee on Armed Services.

EC–7. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "General Public Political Communications Coordinated with Candidates and Party Committees, and Independent Expenditures" received on January 4, 2001; to the Committee on Rules and Administration.

EC–8. A communication from the Director of Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Detention of Aliens Ordered Removed" ((RIN1115–AF82) (INS2029–00)) received on December 20, 2000; to the Committee on the Judiciary.

EC–9. A communication from the from the Clerk of the United States Court of Federal Claims, transmitted, pursuant to law, a report of all judgments rendered for the court year October 1, 1999 and ending September 30, 2000; to the Committee on the Judiciary.

EC–10. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report entitled "Fiscal Year 1999 Accounting of Drug Control Funds"; to the Committee on the Judiciary.

EC–11. A communication from the President of the United States, transmitting, pursuant to law, a report entitled "United States Participation in the United Nations" for calendar year 1999; to the Committee on Foreign Relations.

EC–12. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report on United States assistance for the Economic Support Funding of the West Bank and Gaza program; to the Committee on Foreign Relations.

EC–13. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the promulgation of an interim rule adding various recent legislative provisions to the regulations governing the refusal of visas; to the Committee on Foreign Relations.

EC–14. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitted, pursuant to law, the Departments revision of the report on approvals for military hardware; to the Committee on Foreign Relations.

EC–15. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of five rules (RIN2070–AB78) entitled "Methyl Parathion; Notice of Pesticide Tolerance Revocations" (FRL6752–6), "Avermectin B1; Pesticide Tolerance" (FRL6755–9), "Avermectin; Extension of Tolerance for Emergency Exemptions" (FRL 6760–7), "Clomazone; Pesticide Tolerance" (FRL6761–7), "Thiamethoxam; Pesticide Tolerance" (FRL6758–1) received December 18, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–16. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced From Grapes Grown In California; Decreased Assessment Rate" (Docket Number: FV00–989–5FIR) received on January 4, 2001; to the Committee on Agriculture, Nutrition and Forestry.

EC–17. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Implementation of Low-Documentation Direct Operating Loan (Lo-Doc) Regulations" (RIN0560–AF71) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–18. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan, et al.; Authorization of Japan as an Eligible Export Outlet for Diversion and Exemption Purposes" (Docket Number: FV00–930–4FIR) received on January 4, 2001; to the Committee on Agriculture, Nutrition and Forestry.

EC–19. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of Provisions in the Rules and Regulations" (Docket Number: FV00–929–6–FIR) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–20. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Certification of Beef from Argentina" (Docket Number: 00–079–1) received on January 4, 2001; to the Committee on Agriculture, Nutrition and Forestry.

EC–21. A communication from the Deputy Associate Administrator of the Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the four rules entitled "Final Authorization of State Hazardous Waste Management Program Revision" (FRL6560–50), "Myclobutanil; Pesticide Tolerances for Emergency Exemption" (FRL6757–9), "Clopyralid; Extension of Tolerance for Emergency Exemptions" (FRL6759–1), "Spinosad; Pesticide Tolerances for Emergency Exemptions" (FRL6760–2), "Extension of Tolerances for Emergency Exemptions" (FRL6762–1) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–22. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation" (FAC97–21) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–23. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Office of Inspector General for the period of April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–24. A communication from the Chairwoman, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–25. A communication from the Director of the Employment Service/Staffing Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Excepted Service; Career and Career-Conditional Employment" (RIN3206–AJ28) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–26. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate System; Redefinition of the Los Angeles, CA, Appropriated Fund Federal Wage System Wage Area" (RIN3206–AJ23) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–27. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual management report; to the Committee on Governmental Affairs.

EC–28. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report on a rule entitled "Prevailing Rate Systems; Abolishment of the St. Louis, MO, Special Wage Schedule for Printing Positions" (RIN3206–AJ24) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–29. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report on a rule entitled "Prevailing Rate Systems; Abolishment of the Philadelphia, PA, Special Wage Schedule for Printing Positions" (RIN3206–AJ22) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–30. A communication from the Associate Administrator of the Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Summer Food Service Program: Implementation of Legislative Reforms" (RIN0584–AC23) received on January 5, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–31. A communication from the Deputy Associate Administrator of the Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of three rules (RIN2070–AB78) entitled "Fludioxonil; Pesticide Tolerance" (FRL6760–9), "Desimedipham; Extension of Tolerances for Emergency Exemption" (FRL6756–5), "Cyprodinil; Extension of Tolerance for Emergency Exemptions" (FRL6756–4) received on January 5, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–32. A communication from the Director of the Office of Small and Disadvantaged Business Utilization (Acquisition and Technology), Office of the Under Secretary of Defense, transmitting, pursuant to law, a report on Efforts to Achieve the 5% Women-Owned Small Business Goal for fiscal year 2000; to the Committee on Armed Services.

EC–33. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Implementation of Fiscal Year 2001 Legislative Provisions" (RINAL2000–11) received January 5, 2001; to the Committee on Energy and Natural Resources.

EC–34. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "2000 Executive Compensation" (RINAL2000–12) received January 5, 2001; to the Committee on Energy and Natural Resources.

EC–35. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Implementation of Fiscal Year 2001 Legislative Provisions" (RINFAL2000–02) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC–36. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Federal Managers' Financial Integrity Act Report for the fiscal year 2000; to the Committee on Governmental Affairs.

EC–37. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on January 5, 2001; to the Committee on Governmental Affairs.

EC–38. A communication from the Acting Chairman of the National Transportation

Safety Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC-39. A communication from the Office of the Inspector General, General Services Administration, transmitting, pursuant to law, the report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-40. A communication from the Secretary of Education, transmitting, pursuant to the Inspector General Act, the twenty-third Semiannual Report on Audit Follow-Up, covering the period from April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-41. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report relative to October 2000; to the Committee on Governmental Affairs.

EC-42. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to the Inspector General Act, the semiannual report for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-43. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-44. A communication from the President of the United States, transmitting, pursuant to law, a notification stating that the Libya emergency is to continue in effect beyond January 7, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-45. A communication from the Acting Chief Counsel (Foreign Assets Control), Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Additional Designations and Supplementary Information on Specially Designated Narcotics Traffickers" (appendix A to 31 CFR chapter V) received on December 19, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-46. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to South Africa; to the Committee on Banking, Housing, and Urban Affairs.

EC-47. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Regulation Y—Bank Holding Companies and Change in Bank Control" (Docket No. R-1078) received on December 19, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-48. A communication from the Deputy Secretary of the Division of Investment Management (Office of Investment Adviser Regulation), Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Electronic Filing by Investment Advisers; Amendments to Form ADV; Technical Amendments" (RIN3235-AI04) received on December 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-49. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Home Mortgage Disclosure Act; Final Rule; Staff Commentary" (RINR-1093) received on December 22, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-50. A communication from the Deputy Secretary of the Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Role of Independent Directors of Investment Companies" (RIN3235-AH75) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-51. A communication from the President of the United States, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC-52. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to modifications to the Bureau of Reclamation facilities for safety concerns; to the Committee on Energy and Natural Resources.

EC-53. A communication from the Director of Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling, Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution" (RIN0910-AB30) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-54. A communication from the Director of Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Polydextrose" (Docket No. 95F-0305) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-55. A communication from the Acting Assistant General Counsel of the Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Assistance to States for the Education of Children with Disabilities" received on January 4, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-56. A communication from the Acting Assistant General Counsel for Regulation, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—Developing Hispanic-Serving Institutions" received on January 4, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-57. A communication from the Director of the Safety STDS Programs, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Occupational Exposure to Cotton Dust" (RIN1218-AB90) received on December 19, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-58. A communication from the Acting Assistant General Counsel for Regulation, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—Developing Hispanic-Serving Institutions Program, Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, and Strengthening Historically Black Colleges and Universities Program" received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-59. A communication from the Acting Assistant General Council, Special Education and Rehabilitation Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "National Institute on Disability and Rehabilitation Research—Traumatic Brain Injury Data Collection Center" received on December 19 , 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-60. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age" received December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-61. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans" received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-62. A communication from the Acting Director of the Office of Workers' Compensation Programs, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Regulations implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended" (RIN1215-AA99) received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-63. A communication from the Office of Enforcement Policy, Government Contracts Team (Wage and Hour Division), Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Labor Standards Provisions to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)" (RIN1215-AB21) received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-64. A communication from the Acting General Counsel, Corporation for National and Community Service, transmitting, pursuant to law, the report of a rule entitled "AmeriCorps Education Awards" (RIN3045-AA09) received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-65. A communication from the Acting Assistant General Counsel for Regulation, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "National Institute on Disability and Rehabilitation Research" received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-66. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination in Health Coverage in the Group Market" (RIN1545-AW02) received on January 5, 2001; to the Committee on Finance.

EC-67. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Refund of Duties Paid on Imports of Certain Wool Products" (RIN1515–AC79) received on December 20, 2000; to the Committee on Finance.

EC–68. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2001–9 Form e-file Program" (Rev Proc. 2001–9) received on December 20, 2000; to the Committee on Finance.

EC–69. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Rul. 2001–4—Deductibility of Aircraft Maintenance Costs" (Rev. Rul. 2001–4) received on December 20, 2000; to the Committee on Finance.

EC–70. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Generation-skipping Transfer Issues" (RIN1545–AX08) received on December 19, 2000; to the Committee on Finance.

EC–71. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 355(d); Recognition of Gain on Certain Distributions of Stock or Securities" (RIN1545–AW71) received on December 19, 2000; to the Committee on Finance.

EC–72. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Qualified Zone Academy Bonds Allocations 2001" (Revenue Procedure 2001–14) received on December 19, 2000; to the Committee on Finance.

EC–73. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2001–13—Inflation-adjusted items for 2001" (Rev. Proc. 2001–13) received on December 19, 2000; to the Committee on Finance.

EC–74. A communication from the President of the United States, transmitting, pursuant to law, a report to Implement Title V of the Trade and Development Act of 2000 and to Modify the Generalized System of Preferences; to the Committee on Finance.

EC–75. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Test of Mediation Procedure for Appeals" (Announcement 2001–9, 2001–3 I.R.B.) received on December 19, 2000; to the Committee on Finance.

EC–76. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—January 2001" (Revenue Ruling 2001–3) received on December 19, 2000; to the Committee on Finance.

EC–77. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001–6; Mileage Awards" (OGI–119482–99) received on December 19, 2000; to the Committee on Finance.

EC–78. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Time for Filing Form 1139 by a Consolidated Group" (RIN1545–AY57) received on January 4, 2001; to the Committee on Finance.

EC–79. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Partnership Mergers and Divisions" (RIN1545–AX25) received on January 4, 2001; to the Committee on Finance.

EC–80. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Awards of Attorney's Fees and Other Costs Based Upon Qualified Offers" (RIN1545–AX00) received on January 4, 2001; to the Committee on Finance.

EC–81. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001–12—Annual Inflation Adjustments for 2001" (Notice 2001–12) received on January 4, 2001; to the Committee on Finance.

EC–82. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Lifetime Charitable Leads Trusts" (RIN1545–AX74) received on January 4, 2001; to the Committee on Finance.

EC–83. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 467 Rental Agreements Involving Payments of $2,000,000 or Less" (RIN1545–AW75) received on January 4, 2001; to the Committee on Finance.

EC–84. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "T.D.: Prevention of Abuse of Charitable Remainder Trusts" (RIN1545–AX62) received on January 5, 2001; to the Committee on Finance.

EC–85. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure 2001–7" (RP–125543–00) received on January 5, 2001; to the Committee on Finance.

EC–86. A communication from the Chairman of the Surface Transportation Board, Office of Economics, Environmental Analysis and Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "STB Ex Parte No. 542 (Sub-No. 5) Regulations Governing Fees For Services Performed In Connection With Licensing and Related Service—2000 Update" received on January 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–87. A communication from the Deputy Assistant Administrator for Fisheries National Marine Service; Office of Substainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Donation Program" (RIN 0648–AN98) received on December 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC–88. A communication from the Deputy Assistant Administrator for National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program for the Scallop Fishery" (RIN0648–AM42) received on December 19, 2000; to the Committee on Commerce, Science, and Transportation.

EC–89. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closure for Pacific Cod by Catcher Processor Vessels Using Hook-and-Line Gear in the BSAI Management Area" received on December 19, 2000; to the Committee on Commerce, Science, and Transportation.

EC–90. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.101(b), Table of Allotments, FM Broadcast Stations (Dayton, Incline Village and Reno, Nevada)" (Docket No. 99–229) received on December 19, 2000; to the Committee on Commerce, Science, and Transportation.

EC–91. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes [12–19/12–22]" (RIN2120–AH00) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–92. A communication from the Deputy Chief Counsel of the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Areas Unusually Sensitive to Environmental Damage (USAs)" (RIN2137–AC34) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–93. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Big Island Contract Section of the Wilmington Harbor Deepening Project, Wilmington, NC (CGD05–00–051)" (RIN2115–AA97) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–94. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Potential Explosive Atmosphere, Vessel Highland Faith, Port of New York/New Jersey (CGD01–00–253)" ((RIN2115–AA97)(2000–0095)) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–95. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Bellsouth Winterfest Boat Parade, Broward County, Fort Lauderdale, Florida (CGD07–00–116)" (RIN2115–AE46) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–96. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled

"Regatta Regulations; SLR; Fireworks Display, Smith Bay, Saint Thomas, USVI (CGD07–00–131)" ((RIN2115–AE45)(2000–0019)) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–97. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Emergency Labor Transmitters [12–22/12–21]" (RIN2120–AH16) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC–98. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Intercostal Waterway, mile 1062.6 and 1064.0, Fort Lauderdale, Broward County, FL (CGD08–00–028)" ((RIN2115–AE47)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–99. A communication from the Deputy Assistant Administrator for the National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Final Rule (removal of groundfish closure; closure for Pacific cod)" (RIN0648–A044) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–100. A communication from the Program Analyst for the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by PRatt* Whitney JT9D–3 and –7 Series Engines; docket no. 2000–NM–129 [12–21/1–4]" (RIN2120–AA64] received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–101. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; (Including 4 regulations)" ((RIN2115–AE46)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–102. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; (Including 58 regulations)" ((RIN2115–AA97)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–103. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E5 Airspace; Columbus, GA; docket no. 00–ASO–42 [12–13/1–4]" (RIN2120–AA66) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–104. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Moberly, MO; docket no. 00–AC–30 [1–2/1–4]" ((RIN2120–AA66)(2001–0006)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–105. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (8); amdt. no. 2027 [12–14/1–4]" ((RIN2120–AA65)(2001–0004)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–106. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (58), Amdt. No. 2026; [12–14/1–4]" ((RIN2120AA65)(2001–0003)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–107. A communication from the Program Analyst of .the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (58); Amdt. No. 2025 [12–14/1–4]" ((RIN2120–AA65)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–108. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives:McDonnell Douglas Model DC–9–82 and DC–9–83 Series Airplanes and Model MD–88 Airplanes; docket no. 2000–NM–356 [11–28/1–4]" ((RIN2120–AA64)(2001–0013)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–109. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF340A and 340B Series Airplanes; Docket no. 2000–NM–76 [11–27/1–4]" ((RIN2120–AA64)(2001–0009)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–110. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives:Boeing Model 777 Series Airplanes; docket no. 99–NM–163 [11–28/1–4]" ((RIN2120–AA64)(2001–0011)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–111. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 120 Series Airplanes; docket no. 2000–NM–131 [11–28/1–4]" ((RIN2120–AA64)(2001–0012)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–112. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 135 and 145 Series Airplanes; docket no. 2000–NM–384 [12–13/1–4]" ((RIN 2120–AA64)(2001–0010)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–113. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Restricted Area, ID; docket no. 99–ANM–16 [12–18/1–4]" ((RIN2120–AA66)(2001–0009)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–114. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model 4101; docket no. 2000–NM–152 [11–8/1–4]" ((RIN2120–AA64)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–115. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767 Series Airplanes; docket no. 99–NM–347 [11–8/1–4]" ((RIN2120–AA64)(2001–0002)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–116. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Teledyne Continental Motors, IO 360, TSIO–360, LTSIO–360, IO–470, 520; SIO–520, LTSIO–520, IO, 550, TSIO–550, and TSIOL–500 Series Reciprocating Engines; docket no. 2000–NE–16 [11–27/1–4]" ((RIN2120–AA64)(2001–0003)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–117. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Beech Model 58 Airplanes; docket no. 2000–CE–42 [12–4/1–4]" ((RIN2120–AA64)(2001–0004)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–118. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11; Docket nc. 2000–28 [12–4/1–4]" ((RIN2120–AA64)(2001–0005)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–119. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model MD–300, MD–300–10, 400, 400A, and 400T Series Airplanes; docket no. 2000–NM–60 [12–13/1–4]" ((RIN2120–AA64)(2001–0006)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–120. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc RB211 Trent 768–60, 772–60, and 772B–60 Series Turbofan Engines docket no. 2000–NE–37 [12–13/1–4]" ((RIN2120–AA64)(2001–0007)) received on January 4, 2001: to the Committee on Commerce, Science, and Transportation.

EC–121. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines; docket no. 98–ANE–33" ((RIN2120–AA64)(2001–0008)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–122. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Dexter, MO; Correction; docket no. 00–ACE–31; [12–24/1–4]" ((RIN2120–AA66)(2001–0008)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–123. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of VOR Federal Airway; AK; docket no, 00–AAL–02 [11–22/1–4]" ((RIN2120–AA66)(2001–0004)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–124. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Fayetteville, AR; docket no. 2000–ASW–17 [11–3/1–4]" ((RIN2120–AA66)(2001–0005)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–125. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Alteration of VOR Federal Airways; CO; docket no. 99–ANM–14 [11–20/1–4–01]" ((RIN2120–AA66)(2001–0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–126. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and Class E5 Airspace; Vero Beach; FL; docket no. 00–ASO–43 [12–13/1–4]" ((RIN2120–AA66)(2001–0002)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–127. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Model HH–1k, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P and SW Fla. Av. SW204, 204HP, 205, and 205A–1 Helicopters Manufactured by Bell for the Armed Forces: Docket no. 2000–SW–12 [12–11/4–1]" ((RIN2120–AA64)(2001–0016)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–128. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, 200C Series Airplanes; docket no. 2000–NM–365 [12–18/1–4]" ((RIN2120–AA64)(2001–0015)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–129. A communication from the Associate Administrator for Space Flight, Office of Space Flight, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Space Shuttle—Use of Small Self-Contained Payloads" (RIN2700–AC39) received on January 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–130. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on Aircraft Cabin Air Quality; to the Committee on Commerce, Science, and Transportation.

EC–131. A communication from the Assistant Secretary of the Office Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Title 151, Acquisition of Title to Land in Trust" (RIN1076–AD90) received on January 9, 2001; to the Committee on Indian Affairs.

EC–132. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Funding Priorities for Fiscal Years 2001–2002 for a National Center on Accessible Education-Based Information Technology and the Disability and Business Technical Assistance Center" received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–133. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relating to the State Contengency Allotments of the Low Income Home Energy Assistance Program for fiscal year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–134. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report to increase the State Contengency Allotments for the Low Income Home Energy Assistance Program as of December 30, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–135. A communication from the Secretary of Labor, transmitting, pursuant to law, a report of the Department's Advisory Council for Employee Welfare and Pension Benefit Plans for the year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–136. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Status Report on the Pediatric Exclusivity Provision; to the Committee on Health, Education, Labor, and Pensions.

EC–137. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Unemployment Insurance Program Letter 12–01—Outsourcing of Unemployment Compensation Administrative Functions" received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–138. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administrations, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Animal Drug Availability Act; Veterinary Feed Directive" (Docket No. 99N–1591) received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–139. A communication from the Assistant Secretary of Land and Minerals Management, Regulatory Affairs Group, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas Leasing: Onshore Oil and Gas Operations" (RIN1004–AC54) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC–140. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relating to the Annual Energy Outlook for the year 2001; to the Committee on Energy and Natural Resources.

EC–141. A communication from the Director of Congressional Affairs, U.S. Trade and Development Agency, transmitting, pursuant to law, a report on the review of commercial activities; to the Committee on Governmental Affairs.

EC–142. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, a report of the Internal Controls Evaluation which contains the Management Control Plan, Statistical Summary of Performance, and Conduct of the Internal Control Evaluation Process for fiscal year 2000; to the Committee on Governmental Affairs.

EC–143. A communication from the President of the United States, transmitting, pursuant to law, a report relating to the apportionment population and number of representatives by State as of April 1, 2000; to the Committee on Governmental Affairs.

EC–144. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, a report of commercial activities for fiscal year 2000; to the Committee on Governmental Affairs.

EC–145, A communication from the Secretary of Agriculture, transmitting, pursuant to [Inspector General Act Amendments of 1988], the semiannual Management Report for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–146. A communication from the Acting General Counsel of the General Accounting Office, transmitting, pursuant to law, a report relating to suspensions of contract awards and performances as a result of bid protests for fiscal year 2000; to the Committee on Governmental Affairs.

EC–147. A communication from the Director, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to Office of Government Ethics Freedom of Information Act Regulation: Change in Decisional Officials" received on January 10, 2001; to the Committee on Governmental Affairs.

EC–148. A communication from the Executive Director of Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on January 10, 2001; to the Committee on Governmental Affairs.

EC–149. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, report of additions to the procurement list received on January 10, 2001; to the Committee on Governmental Affairs.

EC–150. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Inspector General and management's report on final action for Inspector General Audits for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–151. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 12, 2000; to the Committee on Appropriations.

EC–152. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 7, 2000; to the Committee on Appropriations.

EC–153. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 7, 2000; to the Committee on Appropriations.

EC–154. A communication from the Administrator of the Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Women, Infants and Children Certification Integrity Rule" (RIN0584–AC76) received December 20, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–155. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Animal Welfare; Marine Mammals" (RIN0579–AA59) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–156. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Animal Welfare; Confiscation of Animals" (Docket No. 98–065–2) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–157. A communication from the Associate Administrator of the Office of Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the State of Michigan, et al.; Suspension of Provisions under the Federal Marketing Order for Tart Cherries" (Docket No. FV00–930–6IFR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–158. A communication from the Under Secretary of Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems" (RIN0854–AA80) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–159. A communication from the Associate Administrator of Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Northeast and Other Marketing Areas; Interim Amendment of Orders Raisins Produced from Grapes Grown in California" (Docket No. DA–00–03 IFR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–160. A communication from the Associate Administrator of Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the State of Michigan, et al.; Decreased Assessment Rates" (Docket No. FV01–930–1 IFR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–161. A communication from the Associate Administrator of the Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Livestock and Poultry Products" (RIN0581–AB69) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–162. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Clarification of Inspection Requirements" (Docket No. FV99–905–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–163. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program" (Docket No. FV01–989–1 IFRA) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–164. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "District of Columbia; Movement of Plants and Plant Products" (Docket No. 00–085–1) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–165. A communication from the Associate Administrator of Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California: Decreased Assessment Rate" (Docket No. FV–00–989–5 FIR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–166. A communication from the Executive Vice President, Tobacco and Peanuts Division, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cleaning and Reinspection of Farmers Stock Peanuts" (RIN0560–AF56) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–167. A communication from the Acting Assistant Secretary, Health Affairs, Department of Defense, transmitting, pursuant to law, a report entitled "Evaluation of the TRICARE Program" for fiscal year 2000; to the Committee on Armed Services.

EC–168. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, a report of a final rule amending the NASA Federal Acquisition Regulation Supplement to make miscellaneous administrative and editorial changes received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–169. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "The ARGO Project: Global Ocean Observations for Understanding and Prediction of Climate Variability" received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–170. A communication from the Secretary of Transportation, transmitting, a report entitled "Revisions to the Final DOT FY 2001 Performance Plan"; to the Committee on Commerce, Science, and Transportation.

EC–171. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the annual report on the provision of services to minority and diverse audiences for the fiscal year 2000; to the Committee on Commerce, Science, and Transportation.

EC–172. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Siam Hiller Holdings, Inc. Model UH12, UH12a, UH12b, UH12c, UH12d, UH12e-1, UH121, UH1214 Helicopters; docket no. 2000–SW–27 [12–6/1–8]" ((RIN2120–AA64)(2001–0033)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–173. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 430 Helicopters; docket no. 2000–SW–1 [11–7/1–8]" ((RIN2120–AA64)(2001–0032)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–174. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330 and A340 Series Airplanes; docket no. 2000–NM–79 [11–28/1–8]" ((RIN2120–AA64)(2001–0034)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–175. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca Arriel 1 Series Turboshaft Engines; CORRECTION; docket no. 2000–NE–11 [11–27/1–8]" ((RIN2120–AA64)(2001–0031)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–176. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopters Model 204B, 205A, 205A1, 205B, and 212 Helicopter; docket no. 2000–SW–28 [12–13/1–8]" ((RIN2120–AA64)(2001–0030)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–177. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–29 [12–4/1–8]" ((RIN2120–AA64)(2001–0029)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–178. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–34 [12–4/1–8]" ((RIN2120–AA64)(2001–0027)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–179. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–35 [12–4/1–8]" ((RIN2120–AA64)(2001–0026)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–180. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–36 [12–4/1–8]" ((RIN2120–AA64)(2001–0025)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–181. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–37 [12–4/1–8]" ((RIN2120–AA64)(2001–0024)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–182. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–38 [12–4/1–8]" ((RIN2120–AA64)(2001–0023)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–183. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes; docket no. 2000–NM–28 [12–4/1–8]" ((RIN2120–AA64)(2001–0022)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–184. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes and Model A300 B4–600, A300–BR–600R and A300 FR–600R Series Airplanes; docket no. 2000–NM–96 [12–4/1–8]" ((RIN2120–AA64)(2001–0021)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–185. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes; docket no. 2000–NM–107 [12–4/1–8]" ((RIN2120–AA64)(2001–0020)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–186. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707, 727–C, and 727–100C Series Airplanes; docket no. 99–NM–363 [12–4/1–8]" ((RIN2120–AA64)(2001–0019)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–187. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes; docket no. 99–NM–377 [12–4/1–8]" ((RIN2120–AA64)(2001–0018)) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–188. A communication from the Trial Attorney of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Track Safety Standards Amendment To Address Gage Restraint Measurement Systems" (RIN2130–AB32) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–189. A communication from the Federal Motor Carrier Safety Administration Regulations Officer, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Sanctions Against Motor Carriers, Brokers, and Freight Forwarders for Failure to Pay Civil Penalties" (RIN2126–AA54) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC–190. A communication from the Chairman of the Office of Economics, Environmental Analysis, and Administration, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "STB Ex Parte No. 583, Modification of the Class I Reporting Regulations" received on January 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–191. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications" (RIN0648–AN78) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–192. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for North Carolina" received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC–193. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, a report on progress in investigating a death; to the Committee on Foreign Relations.

EC–194. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Registration Notice 2000–9" received on December 19, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–195. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Registration Notice 2000–8" received on December 19, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–196. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Harmonization of Regulation of Pesticide Seed Treatment in Canada and the United States" received on December 19, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–197. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clopyralid; Pesticide Tolerance" (FRL6762–5) received on January 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–198. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebufenozide; Pesticide Tolerances for Emergency Exemptions" (FRL6760–3) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–199. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–200. A communicating from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–201. A communication from the Acting Assistant General Counsel for Special Education and Rehabilitation Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "National Institute on Disability and Rehabilitation Research—Traumatic Brain Injury Data Collection Center" received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–202. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001–7—Information Reporting on Payments of Gross Proceeds to Attorneys" received on December 22, 2000; to the Committee on Finance.

EC–203. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001–8—Information Reporting on Discharges of Indebtedness" received on December 22, 2000; to the Committee on Finance.

EC–204. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Removal of the Federal Reserve Banks as Federal Depositaries" (RIN1545–AY11) received on December 22, 2000; to the Committee on Finance.

EC–205. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Qualified Zone Academy Bonds Allocations 2001" (Revenue Procedure 2001–14) received on December 22, 2000; to the Committee on Finance.

EC–206. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts; "Services" for Trial Work Period Purposes—Monthly Amounts; Student Child Earned Income Exclusion" (RIN0960AF12) received on January 4, 2001; to the Committee on Finance.

EC-207. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tiered Structures—ESBTs and ESOPs" (RIN1545-AX71) received on January 5, 2001; to the Committee on Finance.

EC-208. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Credit for Increasing Research Activities" ((RINs1545-AV14 and 1545-AO51))TD 8930)) received on January 5, 2001; to the Committee on Finance.

EC-209. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Comprehensive Case Resolution Pilot Program" (Notice 2001-13, 2001-6) received on January 9, 2001; to the Committee on Finance.

EC-210. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Continuation Coverage Requirements Applicable to Group Health Plans" (RIN1545-AW94) received on January 9, 2001; to the Committee on Finance.

EC-211. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Treatment of Cafeteria Plans" (RIN1545-AY23) received on January 9, 2001; to the Committee on Finance.

EC-212. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Split-Dollar Insurance Arrangements" (Notice 2001-10) received on January 9, 2001; to the Committee on Finance.

EC-213. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Stock Transfer Rules: Transition Rules" ((RIN1545-AY53)(TD 8937)) received on January 9, 2001; to the Committee on Finance.

EC-214. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Excise Taxes on Excess Benefit Transactions" ((RIN1545AY64)(TD 8920)) received on January 9, 2001; to the Committee on Finance.

EC-215. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Qualified Transportation Fringe Benefits" ((RIN1545-AX33)(TD 8933)) received on January 10, 2001; to the Committee on Finance.

EC-216. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Timely Mailing Treated as Timely Filing/Electronic Postmark" ((RIN1545-AW81)(TD 8932)) received on January 10, 2001; to the Committee on Finance.

EC-217. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of Contribution in Aid of Construction Under Section 118(c)" ((RIN1545-AW17)(TD 8936)) received on January 10, 2001; to the Committee on Finance.

EC-218. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Disclosure of Returns and Return Information to Designee of Taxpayer" (RIN154-AY59) received on January 10, 2001; to the Committee on Finance.

EC-219. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Accounting for Long-Term Contracts" (RIN1545-AQ30) received on January 10, 2001; to the Committee on Finance.

EC-220. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Conversion to the Euro" ((RIN1545-AW34)(TD 8927)) received on January 10, 2001; to the Committee on Finance.

EC-221. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relating to the termination of the fifteen percent danger pay allowance for Kampala; to the Committee on Foreign Relations.

EC-222. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Regulation Y—Bank Holding Companies and Change in Bank Control" (Docket Nos. 1057 and 1062) received on December 22, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-223. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Docket No. FEMA-7749) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-224. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Rule to Deconcentrate Poverty and Promote Integration in Public Housing" (RIN2577-AB89) received on December 22, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-225. A communication from the Assistant to the Federal Reserve Board; transmitting, pursuant to law, the report of a rule entitled "Regulation G (Disclosure and Reporting of CRA-Related Agreements)" (Docket No. R-1069) received on December 22, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-226. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "The Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings and the Privacy Act" received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-227. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Notice of Fair Market Rents (FMRS) for Fiscal Year 2001—50th Percentile and 40th Percentile Fair Market Rents for Fiscal Year 2001" (FR-4589-N-04) received January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-228. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, the annual report relating to operations for fiscal year 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-229. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "HEU Agreement Assets Control Regulations" received on January 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-230. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Taliban (Afghanistan) Sanctions Regulations" received on January 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-231. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Rules Regarding Equal Opportunity (12 CFR part 268)" (Docket No. R-1096) received on January 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-232. A communication from the Assistant to the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Recession of Year 2000 Standards for Safety and Soundness" (Docket No. R-1073) received on January 10, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-233. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Gasoline Sulfur Rule Questions and Answers"; to the Committee on Environment and Public Works.

EC-234. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "1999/2000 PCB Question and Answers Manual—Part 4"; to the Committee on Environment and Public Works.

EC-235. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Protocol for Testing the Efficacy of Disinfectants Used to Inactivate Duck Hepatitis B Virus and to Support Corresponding Label Claims"; to the Committee on Environment and Public Works.

EC-236. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL6923-2) received on December 20, 2000; to the Committee on Environment and Public Works.

EC-237. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post 1996 Rate-of-Progress Plans, One-Hour Ozone Attainment Demonstrations and Attainment Date Extension for the Metropolitan Washington, DC Ozone Nonattainment Area" (FRL6922-9) received on December 20, 2000; to the Committee on Environment and Public Works.

EC-238. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Deferral of Phase IV Standards for PCB's as a Constituent Subject to Treatment in Soil"

(FRL6921-5) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-239. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary and Secondary Ambient Air Quality Standards for Particulate Matter" (FRL6919-5) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-240. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses of Certain Chemical Substances" (FRL6592-8) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-241. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Unregulated Contaminant Monitoring Regulation for Public Water Systems; Analytical Methods for List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Regulation" (FRL6920-6) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-242. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implication Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen Oxides Budget and Allowance Trading Program" (FRL6894-6) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-243. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Rule Making Findings of Failure to Submit Required State Implementation Plans for the NOx SIP Call" (FRL6922-5) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-244. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Montana: Final Authorization of State Hazardous Waste Management Program Revision" (FRL6921-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-245. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation" (FRL6920-7) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-246. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program" (FRL6921-1) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-247. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Control Technology for Oxides of Nitrogen" (FRL6921-3) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-248. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permit Program; State of Montana" (FRL6920-4) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-249. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Source at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills" (FRL6919-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-250. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District" (FRL6916-4) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-251. A communication from the Director of the Fish and Wildlife Service, Department of Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to List Nine Bexar County, Texas Invertebrate Species as Endangered" (RIN1018-AF33) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-252. A communication from the Chief Financial Officer of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relating to mixed waste activities at the Ames Research Center in Sunnyvale, California; to the Committee on Environment and Public Works.

EC-253. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lead; Identification of Dangerous Levels of Lead" (FRL6763-5) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-254. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Failure to Submit a Required State Implementation Plan for Particulate Matter, Nevada-Clark County" (FRL6929-1) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-255. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Environmental Program Grants—State, Interstate, and Local Government Agencies" (FRL6929-4) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-256. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Environmental Program Grants for Tribes" (FRL6929-5) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-257. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acid Rain Program—Permits Rule Revision, Industrial Utility-Units Exemption" (FRL6930-9) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-258. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; Vehicle Inspection and Maintenance Program; Restructuring OTR Requirements" (FRL6928-6) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-259. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Reduction and Trading Program" (FRL6920-9) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-260. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Vehicle Inspection and Maintenance Program, Restructuring OTR Requirements" (6928-7) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-261. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relating to the EPA studies on sensitive subpopulations and drinking water contaminants; to the Committee on Environment and Public Works.

EC-262. A communication from the Regulations Officer of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Administration" (RIN2125-AE11, AE25, AE38, AE50, AE66, AE71, AE72) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-263. A communication from the Director of the Office of Congressional Affairs, Office of Enforcement, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "NRC Enforcement Policy" received on January 4, 2001; to the Committee on Environment and Public Works.

EC-264. A communication from the Director of the Office of Congressional Affairs, Office of Small Business and Civil Rights, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance" (RIN3150-AG68) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-265. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled

"Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material" (RIN3150–AG03) received on January 4, 2001; to the Committee on Environment and Public Works.

EC–266. A communication from the Assistant Secretary of Civil Works, Department of the Army, Department of Defense, transmitting, pursuant to law, a report relating to the hurricane and storm damage reduction project for Oakwood Beach, Salem County, New Jersey; to the Committee on Environment and Public Works.

EC–267. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Further Revisions to the Clean Water Act Regulatory Definition of 'Discharge of Dredged Material'" (FRL6933–2) received on January 10, 2001; to the Committee on Environment and Public Works.

EC–268. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Lead-Based Paint Activities in Target Housing and Child Occupied facilities; State of Michigan Approval of Lead-Based Paint Activities Program" (FRL6751–5); to the Committee on Environment and Public Works.

EC–269. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Type of Contracts" (FRL6932–7) received on January 9, 2001; to the Committee on Environment and Public Works.

EC–270. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2001: Allocation for Metered Dose Inhalers and the Space Shuttle and Titan Rockets" (FRL6929–6) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–271. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines and New Source Performance Standards for the Oil and Gas Extraction Point Source Category; OMB Approval Under the Paperwork Reduction Act: Technical Amendment" (FRL6929–8) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–272. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "FY 2001–2002 Request for Preproposals" received on January 5, 2001; to the Committee on Environment and Public Works.

EC–273. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations" (FRL6928–2) received on January 10, 2001; to the Committee on Environment and Public Works.

EC–274. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revision" (FRL6560–50) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–275. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act (CAA), Section 112(1) Program and Delegation of Authority to the State of Oaklahoma" (FRL6928–4) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–276. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Full Approval of Operating Permits Program in Washington" (FRL6925–5) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–277. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions of Hazardous Air Pollutants from Mobile Sources" (FRL6924–1) received on January 10, 2001; to the Committee on Environment and Public Works.

EC–278. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Interim Enhanced Surface Water Treatment (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1DBPR), and Revisions to State Primacy Requirements to Implement the Safe Drinking Water Act (SDWA) Amendment" (FRL6925–7) received on January 10, 2001; to the Committee on Environment and Public Works.

EC–279. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Florida: Final Authorization of State Hazardous Waste Management Program Revision" (FRL6926–7) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–280. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Reclassification; Nevada—Reno Planning Area; Particulate Matter of 10 microns or less (PM–10)" (FRL6927–7) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–281. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department" (FRL6896–8) received on January 10, 2001; to the Committee on Environment and Public Works.

EC–282. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Region 2 Interim Environmental Justice Policy"; to the Committee on Environment and Public Works.

EC–283. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "EPA's Draft Involvement Policy"; to the Committee on Environment and Public Works.

EC–284. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting" (FRL6722–4) received on January 9, 2001; to the Committee on Environment and Public Works.

EC–285. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Outer Continental Shelf Air Regulations Consistency Update for Alaska" (FRL6919–3) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–286. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6923–6) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–287. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of VOC and NO_x RACT Determinations" (FRL6922–6) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–288. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Connecticut; One-Hour Ozone Attainment Demonstration and Attainment Date Extension for the Greater Connecticut Ozone Nonattainment Area" (FRL6924–5) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–289. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks" (FRL6923–8) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–290. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6923–5) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–291. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; One-Hour Ozone Attainment Demonstration and Attainment Date Extension for the Springfield (Western Massachusetts) Ozone Nonattainment Area" (FRL6927–6) received on

January 5, 2001; to the Committee on Environment and Public Works.

EC-292. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revision" (FRL6925-1) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-293. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements" (FRL293) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-294. A communication from the Chief of the Division of Management Authority, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Import of Polar Bear Trophies from Canada: Change in the Finding for the M'Clintock Channel Population and Revision of Regulations in 50 CFR 18.30" (RIN1018-AH72) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-295. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting; Approval of Tungsten-Nickel-Iron Shot as Nontoxic for Hunting Waterfowl and Coots" (RIN1018-AH64) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-296. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relating to the progress toward implementing Superfund for fiscal years 1995 through 1997; to the Committee on Environment and Public Works.

EC-297. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report concerning the progress in conducting environmental remedial action at federally owned or operated facilities for fiscal year 2000; to the Committee on Environment and Public Works.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

Mr. GRAMM. Mr. President, for the Committee on Banking, Housing, and Urban Affairs.

Melquiades Rafael Martinez, of Florida, to be Secretary of Housing and Urban Development

(The above nomination was reported with the recommendation that it be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Akaka, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Mr. Byrd, Mrs. Carnahan, Mr. Carper, Mr. Cleland, Mrs. Clinton, Mr. Conrad, Mr. Corzine, Mr. Dayton, Mr. Dodd, Mr. Dorgan, Mr. Durbin, Mr. Edwards, Mr. Graham, Mr. Harkin, Mr. Hollings, Mr. Inouye, Mr. Johnson, Mr. Kerry, Ms. Landrieu, Mr. Leahy, Mr. Levin, Ms. Mikulski, Mrs. Murray, Mr. Nelson of Florida, Mr. Reed, Mr. Reid, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, Ms. Stabenow, Mr. Torricelli, Mr. Wellstone, and Mr. Wyden):

S. 6. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Dodd, Mr. Bingaman, Mrs. Murray, Mr. Wellstone, Mr. Dorgan, Ms. Mikulski, Mr. Levin, Mrs. Clinton, Mr. Schumer, Mr. Rockefeller, Mr. Johnson, Mr. Corzine, Mr. Biden, Mr. Kerry, Mr. Reed, Mr. Dayton, Mr. Durbin, and Mr. Akaka):

S. 7. A bill to improve public education for all children and support lifelong learning; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Dodd, Ms. Mikulski, Mr. Wellstone, Mrs. Murray, Mrs. Clinton, Mr. Akaka, Mr. Breaux, Mrs. Boxer, Mr. Corzine, Mr. Dayton, Mr. Durbin, Mr. Kerry, Mr. Leahy, Mr. Lieberman, Mr. Rockefeller, Mr. Schumer, Mr. Wyden, and Mr. Johnson):

S. 8. A bill to improve the economic security of workers, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Baucus, Mr. Dorgan, Mr. Reid, Mr. Durbin, Mr. Rockefeller, Mrs. Clinton, Mr. Kerry, Mr. Schumer, Mr. Dodd, and Mr. Conrad):

S. 9. A bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Baucus, Mr. Graham, Mr. Kennedy, Mr. Akaka, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Mr. Byrd, Mrs. Carnahan, Mr. Cleland, Mrs. Clinton, Mr. Corzine, Mr. Dayton, Mr. Dodd, Mr. Dorgan, Mr. Durbin, Mr. Hollings, Mr. Inouye, Mr. Johnson, Mr. Kerry, Mr. Leahy, Mr. Levin, Mrs. Lincoln, Ms. Mikulski, Mrs. Murray, Mr. Nelson of Florida, Mr. Reed, Mr. Reid, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, and Ms. Stabenow):

S. 10. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. Lott, Mr. Brownback, Mr. Nickles, Mr. Kyl, Mr. Murkowski, Mr. Allen, Mr. Gramm, Mr. Crapo, Mr. Warner, Mr. Hagel, Mr. Bunning, Mr. Frist, Mr. McConnell, Mr. Burns, Mr. Ensign, Mr. Helms, and Mr. Craig):

S. 11. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. Leahy, Mr. Schumer, Mr. Durbin, Mrs. Boxer, Mr. Breaux, Mrs. Clinton, Mr. Corzine, Mr. Rockefeller, Mr. Levin, Mr. Johnson, Mr. Biden, Mr. Kerry, and Mr. Kennedy):

S. 16. A bill to improve law enforcement, crime prevention, and victim assistance in the 21st century; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Dodd, Mr. Lieberman, Mr. Dorgan, Mr. Durbin, Mr. Biden, Mrs. Boxer, Mrs. Clinton, Mr. Corzine, Mr. Harkin, Mr. Johnson, Mr. Kennedy, Mr. Leahy, Ms. Mikulski, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, Mr. Akaka, Mr. Kerry, and Ms. Stabenow):

S. 17. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. Dodd, Mr. Kennedy, Mrs. Murray, Mr. Wellstone, Mrs. Clinton, Mr. Sarbanes, Mr. Rockefeller, Mr. Schumer, Mrs. Boxer, Mr. Johnson, Mr. Corzine, Mr. Breaux, Mr. Durbin, Mr. Levin, Mr. Dorgan, Mr. Reed, Mr. Kerry, and Mr. Akaka):

S. 18. A bill to increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Lieberman, Mr. Leahy, Mr. Biden, Mr. Feingold, Mr. Schumer, Mr. Durbin, Mr. Akaka, Mrs. Boxer, Mr. Breaux, Mrs. Clinton, Mr. Corzine, Mr. Dayton, Mr. Edwards, Mr. Harkin, Mr. Levin, Ms. Mikulski, Mr. Rockefeller, Mr. Wyden, Mr. Kerry, and Ms. Stabenow):

S. 19. A bill to protect the civil rights of all Americans, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. Harkin, Mr. Leahy, Mr. Johnson, Mr. Baucus, Mr. Rockefeller, Mr. Kohl, Mr. Sarbanes, Mr. Wellstone, Mr. Dorgan, Mr. Durbin, Mr. Conrad, Mr. Kerry, Mrs. Carnahan, Mr. Dayton, Mr. Kennedy, and Mr. Akaka):

S. 20. A bill to enhance fair and open competition in the production and sale of agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mrs. Feinstein, Mr. Conrad, Mr. Feingold, Ms. Stabenow, Mr. Dorgan, Mr. Wyden, Mrs. Lincoln, Mrs. Clinton, Mrs. Murray, Mr. Sarbanes, Mrs. Boxer, Mr. Carper, Mr. Durbin, Mr. Johnson, Mr. Rockefeller, Mr. Schumer, Mr. Biden, Mr. Nelson of Florida, Mr. Levin, Mr. Akaka, Mr. Corzine, Mr. Dayton, Mr. Kerry, Mr. Kennedy, and Ms. Mikulski):

S. 21. A bill to establish an off-budget lockbox to strengthen Social Security and Medicare; to the Committee on Finance.

By Mr. HAGEL (for himself, Ms. Landrieu, Mr. Breaux, Mr. DeWine, Mrs. Hutchison, Mr. Nelson of Nebraska, Mr. Smith of Oregon, and Mr. Thomas):

S. 22. A bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. SPECTER):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. SPECTER):

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. Schumer, and Mrs. Boxer):

S. 25. A bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. Boxer):

S. 26. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. Feingold, Mr. Cochran, Mr. Levin, Mr. Thompson, Mr. Lieberman, Ms. Collins, Mr. Schumer, Ms. Snowe, Mr. Wellstone, Mr. Jeffords, Mr. Reed, Mr. Durbin, Mr. Wyden, Mr. Kohl, Mrs. Boxer, Mr. Harkin, Ms. Stabenow, Ms. Cantwell, Mr. Kerry, Mr. Dayton, and Mr. Corzine):

S. 27. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

By Mr. GRAMM (for himself and Mrs. Hutchison):

S. 28. A bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections; to the Committee on Rules and Administration.

By Mr. BOND (for himself, Mr. Durbin, Mr. Baucus, Ms. Snowe, Mr. Kerry, Mr. Jeffords, Mr. Kyl, Mr. Burns, Mr. Dorgan, Mr. Harkin, Mrs. Lincoln, Mr. Leahy, Mr. Johnson, Mr. Fitzgerald, Mr. Wellstone, Mr. Bingaman, Mr. Enzi, Mr. Lugar, Mr. Roberts, Ms. Collins, Mr. Specter, and Mr. Kohl):

S. 29. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. Leahy, Mr. Dodd, Mr. Reed, Mr. Kerry, Mr. Harkin, and Mr. Edwards):

S. 30. A bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL:

S. 31. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

By Mr. THURMOND:

S. 32. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. Helms):

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THURMOND:

S. 34. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. Miller):

S. 35. A bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it; to the Committee on Finance.

By Mr. THURMOND:

S. 36. A bill to amend title 1, United States Code, to clarify the effect and application of legislation; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. Leahy, Mr. Fitzgerald, Mr. Harkin, Mr. Roberts, Mr. Dodd, Mr. DeWine, Mr. Reid, Mr. Santorum, Mr. Bayh, and Mr. Johnson):

S. 37. A bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory; to the Committee on Finance.

By Mr. INOUYE:

S. 38. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. Frist, and Mr. Crapo):

S. 40. A bill entitled "The Careers to Classrooms Act of 2001"; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself, Mr. Baucus, Mr. Murkowski, Mr. Jeffords, Ms. Snowe, Mr. Kyl, Mr. Rockefeller, Mr. Breaux, Mr. Conrad, Mr. Graham, Mr. Daschle, Mr. Kerry, Mr. Bingaman, Mr. Torricelli, and Mrs. Lincoln):

S. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit; to the Committee on Finance.

By Mr. INOUYE:

S. 42. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. INOUYE:

S. 43. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

By Mr. INOUYE:

S. 44. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

By Mr. INOUYE:

S. 45. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 46. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 47. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

By Mr. INOUYE:

S. 48. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

By Mr. STEVENS:

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mr. Inouye, and Mr. Murkowski):

S. 50. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time for Presidential general elections; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. 51. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under care of a physician; to the Committee on Finance.

By Mr. INOUYE:

S. 52. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program; to the Committee on Finance.

By Mr. INOUYE:

S. 53. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

By Mr. INOUYE:

S. 54. A bill to provide for a special application of section 1034 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. INOUYE:

S. 55. A bill for the relief of Ricke Kaname Fujino; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 56. A bill to amend the Immigration and Nationality Act to facilitate the immigration to the United States of certain aliens born in the Philippines or Japan who were fathered by United States citizens; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 57. A bill to convert a temporary Federal judgeship in the district of Hawaii to a permanent judgeship, authorize an additional permanent judgeship in the district of Hawaii, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 58. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 59. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

By Mr. BYRD:

S. 60. A bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity; to the Committee on Finance.

By Mr. INOUYE:

S. 61. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 62. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. INOUYE:

S. 63. A bill for the relief of Donald C. Pence; to the Committee on Veterans' Affairs.

By Mr. INOUYE:

S. 64. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 67. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 68. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 69. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 70. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAIG:

S. 71. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 72. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

By Mr. HELMS:

S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

By Mr. HELMS:

S. 75. A bill to protect the lives of unborn human beings; read the first time.

By Mr. HELMS:

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

By Mr. DASCHLE (for himself, Ms. Mikulski, Mr. Kennedy, Mr. Harkin, Mr. Wellstone, Ms. Landrieu, Mrs. Lincoln, Mr. Akaka, Mr. Breaux, Mr. Cleland, Mr. Durbin, Mr. Inouye, Mr. Kerry, Mr. Leahy, Mr. Reid, Mr. Sarbanes, Mr. Schumer, and Mr. Johnson):

S. 77. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS:

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

By Mr. HELMS:

S. 79. A bill to encourage drug-free and safe schools; read the first time.

By Mrs. BOXER (for herself and Mrs. Feinstein):

S. 80. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates or charges for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 81. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

By Mr. LUGAR:

S. 82. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. LUGAR:

S. 83. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. LUGAR:

S. 84. A bill to increase the unified estate and gift taxes and the tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance.

By Mr. LUGAR:

S. 85. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 86. A bill to amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 87. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER (for himself, Ms. Snowe, Mr. Kerry, Mr. Hatch, Mr. Baucus, Mr. Burns, Mr. Hollings, Mr. Bayh, Mrs. Boxer, Mr. Brownback, Mr. Cleland, Mrs. Clinton, Mr. Craig, Mr. Daschle, Mr. DeWine, Mr. Dodd, Mr. Edwards, Mr. Enzi, Mr. Johnson, Mr. Kennedy, Ms. Landrieu, Mrs. Lincoln, Mr. Miller, Mrs. Murray, Mr. Roberts, Mr. Schumer, Mr. Thomas, Mr. Wyden, Mr. Helms, Mr. Leahy, Mr. Conrad, Mr. Reid, and Mr. Harkin):

S. 88. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mr. GRASSLEY:

S. 89. A bill to enhance the illegal narcotics control activities of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 90. A bill authorizing funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. Akaka):

S. 91. A bill to amend the Native American Languages Act to provide for the support of

Native American Language Survival Schools, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRAMM (for himself, Mrs. Hutchison, Mr. Bingaman, Mr. Domenici, Mr. Kyl, Mr. McCain, and Mrs. Boxer):

S. 92. A bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. Jeffords):

S. 93. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

By Mr. DORGAN:

S. 94. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced form wind; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. Feingold):

S. 95. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL:

S. 96. A bill to ensure that employees of traveling sales crews are protected under there Fair Labor Standards Act of 1938 and under other provisions of law; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:

S. 97. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

By Mr. CARPER:

S. 98. A bill to amend the Elementary and Secondary Education Act of 1965 to promote parental involvement and parental empowerment in public education through greater competition and choice, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. Graham):

S. 99. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:

S. 100. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift taxes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 101. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. Reid):

S. 102. A bill to provide assistance to address school dropout problems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mrs. Hutchison, and Ms. Collins):

S. 103. A bill to provide for advanced placement programs; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. Reid, Mr. Warner, Ms. Mikulski, Mr. Jeffords, Mrs. Boxer, Mr. Specter, Mrs. Murray, Ms. Collins, Mr. Johnson, Mr. Wellstone, Mr. Leahy, Mr. Kerry, Mr. Durbin, Mr. Inouye, Mr. Akaka, Mr. Sarbanes, Mr. Schumer, Mr. Harkin, Mrs. Clinton, and Mr. Corzine):

S. 104. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 105. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. Hutchinson):

S. 106. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers' recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 107. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD:

S. 108. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

By Mr. FEINGOLD (for himself, Mr. Jeffords, and Mr. Kohl):

S. 109. A bill to establish the Dairy Farmer Viability Commission; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD:

S. 110. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs.

By Mr. FEINGOLD (for himself and Mr. Kohl):

S. 111. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself, Mr. Kohl, and Mr. Wyden):

S. 112. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. Harkin, Mr. Wellstone, and Mr. Wyden):

S. 113. A bill to terminate production under the D5 submarine-launched ballistic missile program and to prohibit the backfit of certain Trident I ballistic missile submarines to carry D5 submarine-launched ballistic missiles; to the Committee on Armed Services.

By Mr. FEINGOLD:

S. 114. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. Leahy, and Mr. Jeffords):

S. 115. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD:

S. 116. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself and Mr. Jeffords):

S. 117. A bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:

S. 118. A bill to strengthen the penalties for violations of plant quarantine laws; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself and Mr. Chafee):

S. 119. A bill to provide States with funds to support State, regional, and local school construction; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 120. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. Graham):

S. 121. A bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 122. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN (for herself and Mr. Voinovich):

S. 123. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LOTT (for Mr. BROWNBACK (for himself, Mr. DeWine, Mr. Kohl, and Mr. Dorgan)):

S. 124. A bill to exempt agreements relating to voluntary guidelines governing telecast material, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. Kennedy, Mr. Dorgan, Mr. Bingaman, Mr. Feingold, Mr. Leahy, Mr. Inouye, Mr. Kerry, and Mr. Daschle):

S. 125. A bill to provide substantial reductions in the price of prescription drugs for medicare beneficiaries; to the Committee on Finance.

By Mr. CLELAND (for himself, Mr. Miller, Mr. Inouye, Mr. Torricelli, Mr. Bingaman, and Mr. Harkin):

S. 126. A bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCAIN (for himself, Mr. Cleland, Mrs. Hutchison, and Mr. Murkowski):

S. 127. A bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. HAGEL, Mr. DASCHLE, Mr. FEINGOLD, Mr. BINGAMAN, Mr. CONRAD, and Mr. ROBERTS):

S. 128. A bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CLELAND:

S. 129. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as "Gold Star Parents") of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

By Mr. JOHNSON:

S. 130. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idle a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Ms. COLLINS):

S. 131. A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE, and Mr. CONRAD):

S. 132. A bill to amend the International Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

By Mr. BAUCUS:

S. 133. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):

S. 135. A bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the medicare program; to the Committee on Finance.

By Mr. GRAMM:

S. 136. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to extend trade negotiating and trade agreement implementing authority; to the Committee on Finance.

By Mr. GRAMM:

S. 137. A bill to authorize negotiation of free trade agreements with countries of the Americas, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 138. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. BENNETT:

S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

By Mr. GRAMM:

S. 140. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mrs. MURRAY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, and Mr. BREAUX):

S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE):

S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for a packer to own, feed, or control livestock intended for slaughter; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, Mr. BOND, Mr. TORRICELLI, Mr. ALLARD, and Mr. CRAPO):

S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. GRAMM:

S.J. Res. 2. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE:

S. Res. 11. A resolution expressing the sense of the Senate reaffirming the cargo the cargo preference policy of the United States; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 12. A resolution relative to the death of Alan Cranston, former United States Senator for the State of California; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, Ms. STABENOW, and Mr. SCHUMER):

S. Res. 13. A resolution expressing the sense of the Senate regarding the need for Congress to enact a new farm bill during the 1st session of the 107th Congress; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mrs. MURRAY, Mr. WELLSTONE, Mr. DORGAN, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. SCHUMER, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. CORZINE, Mr. BIDEN, Mr. KERRY, and Mr. REED):

S. 6. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

PATIENTS' BILL OF RIGHTS ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patients' Bill of Rights Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

Sec. 101. Utilization review activities.
Sec. 102. Internal appeals procedures.
Sec. 103. External appeals procedures.
Sec. 104. Establishment of a grievance process.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Access to specialty care.
Sec. 115. Access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.

Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. ERISA preemption not to apply to certain actions involving health insurance policyholders.
Sec. 303. Limitations on actions.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Amendments to the Internal Revenue Code of 1986.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Health care paperwork simplification.
Sec. 602. No impact on social security trust fund.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

(1) In general.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) Use of outside agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) Utilization review defined.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) Written Policies and Criteria.—

(1) Written policies.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) Use of written criteria.—

(A) In general.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) Continuing use of standards in retrospective review.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) Review of sample of claims denials.—Such a program shall provide for an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) Conduct of Program Activities.—

(1) Administration by health care professionals.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) Use of qualified, independent personnel.—

(A) In general.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) Prohibition of conflicts.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(d) Deadline for Determinations.—

(1) Prior authorization services.—

(A) In general.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than the deadline specified in subparagraph (B).

(B) Deadline.—

(i) In general.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for prior authorization.

(ii) Extension permitted where notice of additional information required.—If a utilization review program—

(I) receives a request for a prior authorization;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the program receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the prior authorization. This clause shall not apply if the deadline is specified in clause (iii).

(iii) Expedited cases.—In the case of a situation described in section 102(c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for prior authorization.

(2) Ongoing care.—

(A) Concurrent review.—

(i) In general.—Subject to subparagraph (B), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider as soon as possible in accordance with the medical exigencies of the case, with sufficient time prior to the termination or reduction to allow for an appeal under section 102(c)(1)(A) to be completed before the termination or reduction takes effect.

(ii) Contents of notice.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(B) Exception.—Subparagraph (A) shall not be interpreted as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(3) Previously provided services.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of

the date of receipt of information that is reasonably necessary to make such determination, but in no case later than 60 days after the date of receipt of the claim for benefits.

(4) Failure to meet deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), (2)(A), or (3) by the applicable deadline established under the respective paragraph, the failure shall be treated under this subtitle as a denial of the claim as of the date of the deadline.

(5) Reference to special rules for emergency services, maintenance care, and post-stabilization care.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 113, respectively.

(e) Notice of Denials of Claims for Benefits.—

(1) In general.—Notice of a denial of claims for benefits under a utilization review program shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the reasons for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 102; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such denial.

(2) Specification of any additional information.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the denial in order to make a decision on such an appeal.

(f) Claim for Benefits and Denial of Claim for Benefits Defined.—For purposes of this subtitle:

(1) Claim for benefits.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(2) Denial of claim for benefits.—The term "denial" means, with respect to a claim for benefits, a denial, or a failure to act on a timely basis upon, in whole or in part, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

SEC. 102. INTERNAL APPEALS PROCEDURES.

(a) Right of Review.—

(1) In general.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 101(f)(2)), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if the individual is medically unable to provide such consent) who is dissatisfied with such a denial of claim for benefits a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) Treatment of oral requests.—The request for review under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) Internal Review Process.—

(1) Conduct of review.—

(A) In general.—A review of a denial of claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B)), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internally appealable decision.

(B) Limited scope coverage defined.—For purposes of subparagraph (A), the term "limited scope coverage" means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-91(c)(2)).

(2) Time limits for internal reviews.—

(A) In general.—Having received such a request for review of a denial of claim, the plan or issuer shall, in accordance with the medical exigencies of the case but not later than the deadline specified in subparagraph (B), complete the review on the denial and transmit to the participant, beneficiary, enrollee, or other person involved a decision that affirms, reverses, or modifies the denial. If the decision does not reverse the denial, the plan or issuer shall transmit, in printed form, a notice that sets forth the grounds for such decision and that includes a description of rights to any further appeal. Such decision shall be treated as the final decision of the plan. Failure to issue such a decision by such deadline shall be treated as a final decision affirming the denial of claim.

(B) Deadline.—

(i) In general.—Subject to clauses (ii) and (iii), the deadline specified in this subparagraph is 14 days after the date of receipt of the request for internal review.

(ii) Extension permitted where notice of additional information required.—If a group health plan or health insurance issuer—

(I) receives a request for internal review;

(II) determines that additional information is necessary to complete the review and make the determination on the request; and

(III) notifies the requester, not later than five business days after the date of receiving the request, of the need for such specified additional information,

the deadline specified in this subparagraph is 14 days after the date the plan or issuer receives the specified additional information, but in no case later than 28 days after the date of receipt of the request for the internal review. This clause shall not apply if the deadline is specified in clause (iii).

(iii) Expedited cases.—In the case of a situation described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of the request for review.

(c) Expedited Review Process.—

(1) In general.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of requests for review under subsection (b) in situations—

(A) in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function; or

(B) described in section 101(d)(2) (relating to requests for continuation of ongoing care which would otherwise be reduced or terminated).

(2) Process.—Under such procedures—

(A) the request for expedited review may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the review;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the review in the case of any of the situations described in subparagraph (A) or (B) of paragraph (1).

(3) Deadline for decision.—The decision on the expedited review must be made and communicated to the parties as soon as possible in accordance with the medical exigencies of the case, and in no event later than 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of care.

(d) Waiver of Process.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any designee or provider involved) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 103. EXTERNAL APPEALS PROCEDURES.

(a) Right to External Appeal.—

(1) In general.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual with the individual's consent or without such consent if such an individual is medically unable to provide such consent). The appropriate Secretary shall establish standards to carry out such requirements.

(2) Externally appealable decision defined.—

(A) In general.—For purposes of this section, the term "externally appealable decision" means a denial of claim for benefits (as defined in section 101(f)(2))—

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) Inclusion.—Such term also includes a failure to meet an applicable deadline for internal review under section 102.

(C) Exclusions.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment; or

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(3) Exhaustion of internal review process.—Except as provided under section 102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 102, but only if the decision is made in a timely basis consistent with the deadlines provided under this subtitle.

(4) Filing fee requirement.—

(A) In general.—Subject to subparagraph (B), a plan or issuer may condition the use of an external appeal process upon payment to the plan or issuer of a filing fee that does not exceed $25.

(B) Exception for indigency.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(C) Refunding fee in case of successful appeals.—The plan or issuer shall refund payment of the filing fee under this paragraph if the recommendation of the external appeal entity is to reverse or modify the denial of a claim for benefits which is the subject of the appeal.

(b) General Elements of External Appeals Process.—

(1) Contract with qualified external appeal entity.—

(A) Contract requirement.—Except as provided in subparagraph (D), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) Limitation on plan or issuer selection.—

(i) In general.—The applicable authority shall implement procedures—

(I) to assure that the selection process among qualified external appeal entities will not create any incentives for external appeal entities to make a decision in a biased manner; and

(II) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(ii) Limitation on ability to influence selection.—No selection process established by the applicable authority under this subsection shall provide the participant, beneficiary, or enrollee or the plan or issuer with the ability to determine or influence the selection of a qualified external appeal entity to review the appeal of the participant, beneficiary, or enrollee.

(C) Other terms and conditions.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that all costs of the process (except those incurred by the participant, beneficiary, enrollee, or treating professional in support of the appeal) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee. The previous sentence shall not be construed as applying to the imposition of a filing fee under subsection (a)(4).

(D) State authority with respect qualified external appeal entity for health insurance issuers.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) Elements of process.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) Fair and de novo determination.—The process shall provide for a fair, de novo determination. However, nothing in this paragraph shall be construed as providing for coverage of items and services for which benefits are specifically excluded under the plan or coverage.

(B) Standard of review.—An external appeal entity shall determine whether the plan's or issuer's decision is in accordance with the medical needs of the patient involved (as determined by the entity) taking into account, as of the time of the entity's determination, the patient's medical condition and any relevant and reliable evidence the entity obtains under subparagraph (D). If the entity determines the decision is in accordance with such needs, the entity shall affirm the decision and to the extent that the entity determines the decision is not in accordance with such needs, the entity shall reverse or modify the decision.

(C) Consideration of plan or coverage definitions.—In making such determination, the external appeal entity shall consider (but not be bound by) any language in the plan or coverage document relating to the definitions of the terms medical necessity, medically necessary or appropriate, or experimental, investigational, or related terms.

(D) Evidence.—

(i) In general.—An external appeal entity shall include, among the evidence taken into consideration—

(I) the decision made by the plan or issuer upon internal review under section 102 and any guidelines or standards used by the plan or issuer in reaching such decision;

(II) any personal health and medical information supplied with respect to the individual whose denial of claim for benefits has been appealed; and

(III) the opinion of the individual's treating physician or health care professional.

(ii) Additional evidence.—Such entity may also take into consideration but not be limited to the following evidence (to the extent available):

(I) The results of studies that meet professionally recognized standards of validity and replicability or that have been published in peer-reviewed journals.

(II) The results of professional consensus conferences conducted or financed in whole or in part by one or more Government agencies.

(III) Practice and treatment guidelines prepared or financed in whole or in part by Government agencies.

(IV) Government-issued coverage and treatment policies.

(V) Community standard of care and generally accepted principles of professional medical practice.

(VI) To the extent that the entity determines it to be free of any conflict of interest, the opinions of individuals who are qualified as experts in one or more fields of health care which are directly related to the matters under appeal.

(VII) To the extent that the entity determines it to be free of any conflict of interest, the results of peer reviews conducted by the plan or issuer involved.

(E) Determination concerning externally appealable decisions.—A qualified external appeal entity shall determine—

(i) whether a denial of claim for benefits is an externally appealable decision (within the meaning of subsection (a)(2));

(ii) whether an externally appealable decision involves an expedited appeal; and

(iii) for purposes of initiating an external review, whether the internal review process has been completed.

(F) Opportunity to submit evidence.—Each party to an externally appealable decision may submit evidence related to the issues in dispute.

(G) Provision of information.—The plan or issuer involved shall provide timely access to the external appeal entity to information and to provisions of the plan or health insurance coverage relating to the matter of the externally appealable decision, as determined by the entity.

(H) Timely decisions.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be made in accordance with the medical exigencies of the case involved, but in no event later than 21 days after the date (or, in the case of an expedited appeal, 72 hours after the time) of requesting an external appeal of the decision;

(iii) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(iv) inform the participant, beneficiary, or enrollee of the individual's rights (including any limitation on such rights) to seek further review by the courts (or other process) of the external appeal determination.

(I) Compliance with determination.—If the external appeal entity reverses or modifies the denial of a claim for benefits, the plan or issuer shall—

(i) upon the receipt of the determination, authorize benefits in accordance with such determination;

(ii) take such actions as may be necessary to provide benefits (including items or services) in a timely manner consistent with such determination; and

(iii) submit information to the entity documenting compliance with the entity's determination and this subparagraph.

(c) Qualifications of External Appeal Entities.—

(1) In general.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity that is certified under paragraph (2) as meeting the following requirements:

(A) The entity meets the independence requirements of paragraph (3).

(B) The entity conducts external appeal activities through a panel of not fewer than three clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(2)(G).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) Initial certification of external appeal entities.—

(A) In general.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1)—

(I) by the Secretary of Labor;

(II) under a process recognized or approved by the Secretary of Labor; or

(III) to the extent provided in subparagraph (C)(i), by a qualified private standard-setting organization (certified under such subparagraph); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements—

(I) by the applicable State authority (or under a process recognized or approved by such authority); or

(II) if the State has not established a certification and recertification process for such entities, by the Secretary of Health and Human Services, under a process recognized or approved by such Secretary, or to the extent provided in subparagraph (C)(ii), by a qualified private standard-setting organization (certified under such subparagraph).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those cases;

(iii) the length of time in making determinations on those cases;

(iv) updated information of what was required to be submitted as a condition of certification for the entity's performance of external appeal activities; and

(v) such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(C) CERTIFICATION OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(i) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (A)(i)(III), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(ii) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(ii)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external review entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(ii)(II).

(D) REQUIREMENT OF SUFFICIENT NUMBER OF CERTIFIED ENTITIES.—The appropriate Secretary shall certify and recertify a sufficient number of external appeal entities under this paragraph to ensure the timely and efficient provision of external review services.

(3) INDEPENDENCE REQUIREMENTS.—

(A) IN GENERAL.—A clinical peer or other entity meets the independence requirements of this paragraph if—

(i) the peer or entity does not have a familial, financial, or professional relationship with any related party;

(ii) any compensation received by such peer or entity in connection with the external review is reasonable and not contingent on any decision rendered by the peer or entity;

(iii) except as provided in paragraph (4), the plan and the issuer have no recourse against the peer or entity in connection with the external review; and

(iv) the peer or entity does not otherwise have a conflict of interest with a related party as determined under any regulations which the Secretary may prescribe.

(B) RELATED PARTY.—For purposes of this paragraph, the term "related party" means—

(i) with respect to—

(I) a group health plan or health insurance coverage offered in connection with such a plan, the plan or the health insurance issuer offering such coverage; or

(II) individual health insurance coverage, the health insurance issuer offering such coverage,

or any plan sponsor, fiduciary, officer, director, or management employee of such plan or issuer;

(ii) the health care professional that provided the health care involved in the coverage decision;

(iii) the institution at which the health care involved in the coverage decision is provided;

(iv) the manufacturer of any drug or other item that was included in the health care involved in the coverage decision; or

(v) any other party determined under any regulations which the Secretary may prescribe to have a substantial interest in the coverage decision.

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by any such entity or who furnishes professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due care was exercised in the performance of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external appeal entity under this section is binding on the plan and issuer involved in the determination.

(e) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(1) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(2) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under the plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(A) to cease and desist from the alleged action or failure to act; and

(B) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(3) ADDITIONAL CIVIL PENALTIES.—

(A) IN GENERAL.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity in violation of the terms of such a plan, coverage, or this title; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or plans or coverage.

(B) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(i) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(ii) $500,000.

(4) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(f) PROTECTION OF LEGAL RIGHTS.—Nothing in this subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

SEC. 104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or

other individuals acting on behalf of an individual and with the individual's consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan's or issuer's services.

(2) Grievance defined.—In this section, the term "grievance" means any question, complaint, or concern brought by a participant, beneficiary or enrollee that is not a claim for benefits (as defined in section 101(f)(1)).

(b) Grievance System.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) In General.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) Additional Costs.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) Open Season.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) Primary Care.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) Specialists.—

(1) In general.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) Limitation.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) Construction.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) Coverage of Emergency Services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization; or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) Definitions.—In this section:

(A) Emergency medical condition based on prudent layperson standard.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) Emergency services.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)); and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) Stabilize.—The term "to stabilize" means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. 114. ACCESS TO SPECIALTY CARE.

(a) Specialty Care for Covered Services.—

(1) In general.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer;

(B) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist; and

(C) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(2) Specialist defined.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) Care under referral.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee); and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) SPECIALISTS AS GATEKEEPER FOR TREATMENT OF ONGOING SPECIAL CONDITIONS.—

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's care with respect to the condition. Under such procedures if such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A)) with respect to the ongoing special condition.

(3) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(A) is life-threatening, degenerative, or disabling; and

(B) requires specialized medical care over a prolonged period of time.

(4) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

(c) STANDING REFERRALS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(2) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SEC. 115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care health care professional, the plan or issuer—

(1) may not require authorization or a referral by the individual's primary care health care professional or otherwise for coverage of gynecological care (including preventive women's health examinations) and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered; and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional as the authorization of the primary care health care professional with respect to such care under the plan or coverage.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child's primary care provider.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)(B)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing treatment from the provider for an ongoing special condition (as defined in paragraph (3)(A)) at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(B) subject to subsection (c), permit the individual to elect to continue to be covered with respect to treatment by the provider of such condition during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) DEFINITIONS.—For purposes of this section:

(A) ONGOING SPECIAL CONDITION.—The term "ongoing special condition" has the meaning given such term in section 114(b)(3), and also includes pregnancy.

(B) TERMINATION.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend up to 90 days (as determined by the treating health care professional) after the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) SCHEDULED SURGERY AND ORGAN TRANSPLANTATION.—If surgery or organ transplantation was scheduled for an individual before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such surgery or transplantation, the transitional period under this subsection with respect to the surgery or transplantation shall extend beyond the period under paragraph (1) and until the date of discharge of the individual after completion of the surgery or transplantation.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee was determined to be pregnant at the time of a provider's termination of participation; and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation; and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the election of continued coverage and upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start

of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) Construction.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) In General.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) Coverage of Approved Drugs and Medical Devices.—

(1) In general.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) Construction.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) Coverage.—

(1) In general.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) Qualified Individual Defined.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) Payment.—

(1) In general.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) Payment rate.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) Approved Clinical Trial Defined.—

(1) In general.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) Conditions for departments.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) Construction.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) Disclosure Requirement.—

(1) Group health plans.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) Health insurance issuers.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) Information Provided.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) Service area.—The service area of the plan or issuer.

(2) Benefits.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) Access.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 112(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals.

(4) Out-of-area coverage.—Out-of-area coverage provided by the plan or issuer.

(5) Emergency coverage.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) Percentage of premiums used for benefits (loss-ratios).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) Prior authorization rules.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) Grievance and appeals procedures.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer.

(9) Quality assurance.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer or any additional quality indicators the plan or issuer makes available.

(10) Information on issuer.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(11) Notice of requirements.—Notice of the requirements of this title.

(12) Availability of information on request.—Notice that the information described in subsection (c) is available upon request.

(c) Information Made Available Upon Request.—The information described in this subsection is the following:

(1) Utilization review activities.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 101, including under any drug formulary program under section 118.

(2) Grievance and appeals information.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) Method of physician compensation.—A general description by category (including salary, fee-for-service, capitation, and such other categories as may be specified in regulations of the Secretary) of the applicable method by which a specified prospective or treating health care professional is (or would be) compensated in connection with the provision of health care under the plan or coverage.

(4) Specific information on credentials of participating providers.—In the case of each participating provider, a description of the credentials of the provider.

(5) Formulary restrictions.—A description of the nature of any drug formula restrictions.

(6) Participating provider list.—A list of current participating health care providers.

(d) Construction.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) General Rule.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) In General.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) In General.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) Construction.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of sections 1816(c)(2) and 1842(c)(2) of the Social Security Act (42 U.S.C. 1395h(c)(2) and 42 U.S.C. 1395u(c)(2)), except that for purposes of this section, subparagraph (C) of section 1816(c)(2) of the Social Security Act shall be treated as applying to claims received from a participant, beneficiary, or enrollee as well as claims referred to in such subparagraph.

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) Protection for Use of Utilization Review and Grievance Process.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) ACTIVELY PRACTICING.—The term "actively practicing" means, with respect to a physician or other health care professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds a nonrestricted license, and who is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) ENROLLEE.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) GROUP HEALTH PLAN.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) HEALTH CARE PROFESSIONAL.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(7) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(8) NETWORK.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(9) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health

care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(10) PARTICIPATING.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(11) PRIOR AUTHORIZATION.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those that are provided for under the terms of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on the basis of a rate determined by the plan or issuer on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) does not restrict the selection of providers among those who are lawfully authorized to provide the covered services and agree to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing coverage for any services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such title as if such section applied to such issuer and such issuer were a group health plan.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 112 (relating to choice of providers).

"(B) Section 113 (relating to access to emergency care).

"(C) Section 114 (relating to access to specialty care).

"(D) Section 115 (relating to access to obstetrical and gynecological care).

"(E) Section 116 (relating to access to pediatric care).

"(F) Section 117(a)(1) (relating to continuity in case of termination of provider contract) and section 117(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(G) Section 118 (relating to access to needed prescription drugs).

"(H) Section 119 (relating to coverage for individuals participating in approved clinical trials.)

"(I) Section 134 (relating to payment of claims).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the internal appeals process and the grievance system required to be established under sections 102 and 104, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

"(4) External appeals.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 103, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) Application to prohibitions.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 131 (relating to prohibition of interference with certain medical communications).

"(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

"(C) Section 133 (relating to prohibition against improper incentive arrangements).

"(D) Section 135 (relating to protection for patient advocacy).

"(6) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) Application to certain prohibitions against retaliation.—With respect to compliance with the requirements of section 135(b)(1) of the Patients' Bill of Rights Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) Enforcement of Certain Requirements.—

"(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) Conforming Regulations.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Patients Bill of Rights Act in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) In General.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) (as amended by section 301(b)) is amended further by adding at the end the following subsections:

"(f) Preemption Not To Apply to Certain Actions Arising Out of Provision of Health Benefits.—

"(1) Non-preemption of certain causes of action.—

"(A) In general.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

"(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

"(B) Limitation on punitive damages.—

"(i) In general.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

"(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 103 of the Patients' Bill of Rights Act);

"(II) an external appeal with respect to such decision was completed under such section 103;

"(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the 'request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

"(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

"(ii) Exception.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

"(C) Personal injury defined.—For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) Exception for group health plans, employers, and other plan sponsors.—

"(A) In general.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

"(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) Special rule.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

"(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(C) Exception.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

"(i) the decision to include or exclude from the plan any specific benefit;

"(ii) any decision to provide extra-contractual benefits; or

"(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

"(3) Futility of exhaustion.—An individual bringing an action under this subsection is required to exhaust administrative processes under sections 102 and 103 of the Patients' Bill of Rights Act, unless the injury to or death of such individual has occurred before the completion of such processes.

"(4) Construction.—Nothing in this subsection shall be construed as—

"(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

"(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

"(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

"(g) Rules of Construction Relating to Health Care.—Nothing in this title shall be construed as—

"(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

"(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of enactment of this Act, from which a cause of action arises.

SEC. 303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended further by adding at the end the following new subsection:

"(n)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Patients' Bill of Rights Act (as incorporated under section 714).

"(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 119, or 118(3) of the Patients' Bill of Rights Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

"(A) such an action may not be brought or maintained as a class action; and

"(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

"(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.".

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice.";

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) Group Health Coverage.—

(1) In general.—Subject to paragraph (2), the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2002 (in this section referred to as the "general effective date") and also shall apply to portions of plan years occurring on and after such date.

(2) Treatment of collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) Individual Health Insurance Coverage.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) Establishment of Panel.—

(1) Establishment.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the "Panel").

(2) Duties of panel.—

(A) In general.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) Definition.—For purposes of this section, the term "third-party health care payer" means any entity that contractually pays health care bills for an individual.

(3) Membership.—

(A) Size and composition.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, State insurance commissioners, State medical societies, State hospital associations, and State medical specialty societies.

(B) Terms of appointment.—The members of the Panel shall serve for the life of the Panel.

(C) Vacancies.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) Procedures.—

(A) Meetings.—The Panel shall meet at the call of a majority of its members.

(B) First meeting.—The Panel shall convene not later than 60 days after the date of the enactment of the Patients' Bill of Rights Act.

(C) Quorum.—A quorum shall consist of a majority of the members of the Panel.

(D) Hearings.—For the purpose of carrying out its duties, the Panel may hold such hearings and undertake such other activities as the Panel determines to be necessary to carry out its duties.

(5) Administration.—

(A) Compensation.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) Travel expenses and per diem.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) Contract authority.—The Panel may contract with and compensate Government and private agencies or persons for items and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) Use of mails.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) Administrative support services.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(6) Submission of form.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(7) Termination.—The Panel shall terminate on the day after submitting the form under paragraph (6).

(b) Requirement for Use of Form by Third-Party Care Payers.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

SEC. 602. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) In General.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) Transfers.—

(1) Estimate of secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) Transfer of funds.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Dodd, Mr. Bingaman, Mrs. Murray, Mr. Wellstone, Mr. Dorgan, Ms. Mikulski, Mr. Levin, Mrs. Clinton, Mr. Schumer, Mr. Rockefeller, Mr. Johnson, Mr.

CORZINE, Mr. BIDEN, Mr. KERRY, and Mr. REED)

S. 7. A bill to improve public education for all children and support lifelong learning; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL EXCELLENCE FOR ALL LEARNERS ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Educational Excellence for All Learners Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—HOLDING SCHOOLS ACCOUNTABLE

Sec. 100. Short title.

Subtitle A—Helping Disadvantaged Children

Sec. 101. Reservations for accountability.
Sec. 102. Improved accountability.
Sec. 103. Comprehensive school reform.

Subtitle B—Teachers

Sec. 121. State applications.

Subtitle C—Innovative Education

Sec. 131. Requirements for State plans.
Sec. 132. Performance objectives.
Sec. 133. Report cards.
Sec. 134. Additional accountability provisions.

TITLE II—CLOSING THE ACHIEVEMENT GAP

Subtitle A—Reauthorization of Programs

Sec. 201. Authorization of appropriations.

Subtitle B—Options: Opportunities to Improve our Nation's Schools

Sec. 211. Options: Opportunities to Improve our Nation's Schools.

Subtitle C—Parental Involvement

Sec. 221. State plans.
Sec. 222. Parental assistance.

TITLE III—NATIONAL PRIORITIES WITH PROVEN EFFECTIVENESS

Subtitle A—Qualified Teacher in Every Classroom

Sec. 301. Teacher quality.

Subtitle B—Safe, Healthy Schools and Communities

CHAPTER 1—GRANTS FOR SCHOOL RENOVATION

Sec. 311. Grants for school renovation.
Sec. 312. Charter school credit enhancement initiative.

CHAPTER 2—SCHOOL CONSTRUCTION

Sec. 321. Short title.
Sec. 322. Expansion of incentives for public schools.
Sec. 323. Application of certain labor standards on construction projects financed under public school modernization program.
Sec. 324. Employment and training activities relating to construction or reconstruction of public school facilities.
Sec. 325. Indian school construction.

CHAPTER 3—21ST CENTURY COMMUNITY LEARNING CENTERS

Sec. 331. Reauthorization.

CHAPTER 4—ENHANCEMENT OF BASIC LEARNING SKILLS

Sec. 341. Reducing class size.
Sec. 342. Reading excellence.
Sec. 343. Tutorial assistance grants.

CHAPTER 5—INTEGRATION OF TECHNOLOGY INTO THE CLASSROOM

Sec. 351. Short title.
Sec. 352. Local applications for school technology resource grants.
Sec. 353. Teacher preparation.
Sec. 354. Professional development.

TITLE IV—INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Sec. 401. Full funding of IDEA.

TITLE V—MAKING HIGHER EDUCATION MORE AFFORDABLE

Sec. 501. Increase in maximum Pell grant.
Sec. 502. Deduction for higher education expenses.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

TITLE I—HOLDING SCHOOLS ACCOUNTABLE

SEC. 100. SHORT TITLE.

This title may be cited as the "School Improvement Accountability Act".

Subtitle A—Helping Disadvantaged Children

SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.

Section 1003 (20 U.S.C. 6303) is amended to read as follows:

"SEC. 1003. RESERVATION FOR ACCOUNTABILITY AND SCHOOL IMPROVEMENT.

"(a) STATE RESERVATION.—

"(1) IN GENERAL.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

"(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall allocate at least 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies, and agencies serving schools, identified for corrective action or improvement under section 1116(c).

"(3) USE OF FUNDS.—Each local educational agency receiving an allotment under paragraph (2) shall use the allotment to—

"(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

"(B) achieve substantial improvement in the performance of those schools.

"(b) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.30 percent to conduct evaluations and studies and to collect data.".

SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking "AND ASSESSMENTS" and inserting ", ASSESSMENTS, AND ACCOUNTABILITY";

(2) by amending paragraph (2) to read as follows:

"(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State's accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

"(B) The specification of adequate yearly progress in the State plan for schools—

"(i) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3);

"(ii) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this section within 10 years after the effective date of the School Improvement Accountability Act;

"(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the inclusion of such indicators shall not decrease the number of schools or local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

"(iv) shall compare separately data for the State as a whole, for each local educational agency, and for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such disaggregation shall not be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal individually identifiable information about individual students); and

"(v) shall compare the proportion of students at the basic, proficient, and advanced levels of performance in a grade for a year with the proportion of students at each of the 3 levels in the same grade in the previous year.

"(C)(i) Adequate yearly progress for a local educational agency shall be based upon both—

"(I) the number or percentage of schools identified for school improvement or corrective action; and

"(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

"(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

"(D)(i) Adequate yearly progress for a State shall be based upon both—

"(I) the number or percentage of local educational agencies identified for improvement or corrective action; and

"(II) the progress of the State in reducing the number or length of time local educational agencies are identified for improvement or corrective action.

"(ii) The State plan shall provide that the State shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are greater than the State average of such concentrations shall not be less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.";

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "developed or adopted" and inserting "in place"; and

(ii) by inserting ", not later than the school year 2000–2001," after "will be used";

(B) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J);

(C) in subparagraph (F)—

(i) in clause (ii), by striking "and" after the semicolon; and

(ii) by adding at the end the following:

"(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

"(v) notwithstanding clauses (iii) and (iv), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability;";

(D) by inserting after subparagraph (F) the following:

"(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student."; and

(E) by amending subparagraph (I) (as so redesignated) to read as follows:

"(I) provide individual student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning such as measures of student coursework over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and";

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

(6) by inserting after paragraph (3) the following:

"(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers and percentages of all students, including the lowest performing students, economically disadvantaged students, and students with limited proficiency in English, who meet the State's proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

"(i) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

"(ii) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

"(iii) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).

"(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

"(i) complies with sections 1116 and 1117, including the provision of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

"(ii) includes rigorous criteria for identifying those agencies and schools based upon failure to make adequate yearly progress in student achievement in accordance with paragraph (2).

"(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—

"(A) in developing the State plan provisions relating to adequate yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

"(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, and is provided in a widely read or distributed medium.

"(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State's consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement and corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

"(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance standards and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

"(B)(i) The State plan shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

"(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than ⅕ of the funds made available under this part for administrative expenses for the fiscal year.

"(C) The State plan shall provide that, if the State has not developed challenging State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments."; and

(7) by adding at the end the following:

"(12) SCHOOL REPORTS.—The State plan shall provide that individual school reports publicized and disseminated under section 1116(a)(2) shall include information on the total number of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with paragraph (3)(J), and shall include information on why such students were excluded from the assessment. In issuing this report, a local educational agency may not provide any information that would violate the privacy or reveal the identity of any individual student.".

(b) ASSURANCES.—Section 1112(c)(1) (20 U.S.C. 6312(c)(1)) is amended—

(1) in subparagraph (G), by striking "; and" and inserting a semicolon;

(2) in subparagraph (H), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(I) ensure, through incentives for voluntary transfers, the provision of professional development, and recruitment programs, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers.".

(c) ASSESSMENT AND IMPROVEMENT.—Section 1116 (20 U.S.C. 6317) is amended—

(1) by amending subsection (a) to read as follows:

"(a) STATE AND LOCAL REVIEW.—

"(1) IN GENERAL.—Each local educational agency receiving funds under this part shall use the State assessments and other academic indicators described in the State plan or in a State-approved local educational agency plan to review annually the progress of each school served under this part by the agency to determine whether the school is making the adequate yearly progress specified in section 1111(b)(2) toward enabling all students to meet the State's student performance standards described in the State plan.

"(2) PUBLICATION AND DISSEMINATION; RESULTS.—Each local educational agency receiving funds under this part shall—

"(A) publicize and disseminate in individual school reports that include statistically sound results disaggregated in the same manner as results are disaggregated under section 1111(b)(3)(J), to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (1) and (if not already included in the review), graduation rates, attendance rates, retention rates, and rates of participation in advanced level courses, for all schools served under this part; and

"(B) provide the results of the annual review to schools served by the agency under this part so that the schools can continually refine their programs of instruction to help all students served under this part in those schools to meet the State's student performance standards.";

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

"(i) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111, except that in the case of a school participating in a targeted assistance program under section 1115, a local educational agency may review the progress of only those students in such school who are served under this part; or

"(ii) was identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

"(B) The 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which a school did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.";

(B) by amending paragraph (2) to read as follows:

"(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

"(I) the reasons for such identification; and

"(II) information about opportunities for parents to participate in the school improvement process.

"(ii) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

"(B)(i) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the school that the agency proposes to identify the school for school improvement and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding identification is based.

"(ii) If the school believes that the proposed identification is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

"(iii) The review period under this subparagraph shall not exceed 30 days. At the end of the period, the agency shall make public a final determination regarding indentification of the school.

"(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

"(i) addresses the fundamental teaching and learning needs in the school;

"(ii) describes the specific achievement problems to be solved;

"(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards;

"(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

"(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

"(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school under this part on professional development that—

"(I) does not supplant professional development services that the instructional staff would otherwise receive; and

"(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels of performance;

"(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

"(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school's obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

"(D)(i) The school shall submit the plan (including a revised plan) to the local educational agency for approval.

"(ii) The local educational agency shall promptly subject the plan to a peer review process, work with the school to revise the plan as necessary, and approve the plan.

"(iii) The school shall implement the plan as soon as the plan is approved.";

(C) by amending paragraph (4) to read as follows:

"(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school's plan.

"(B) Such technical assistance—

"(i) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

"(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in section 1118, implementing the professional development provisions in section 1119, and carrying out the responsibilities of the school and local educational agency under the plan; and

"(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency's approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 207 of the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.";

(D) by amending paragraph (5) to read as follows:

"(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

"(A) In this paragraph, the term 'corrective action' means action, consistent with State and local law, that—

"(i) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

"(ii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

"(B) After providing technical assistance under paragraph (4), the local educational agency—

"(i) may take corrective action at any time with respect to a school that has been identified under paragraph (i)(A);

"(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the

State, for 2 consecutive years following the school's identification under paragraph (1)(A), at the end of the second year; and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(C) In the case of a school described in subparagraph (B)(ii), the local educational agency—

"(i) shall take corrective action that changes the school's administration or governance by—

"(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

"(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as the creation of a public charter school);

"(III) redesigning the school by reconstituting all or part of the school staff;

"(IV) eliminating the use of noncredentialed teachers; or

"(V) closing the school;

"(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving student educational achievement and is directly related to the content area in which each teacher is providing instruction and the State's content and performance standards in that content area; and

"(iii) may defer, reduce, or withhold funds provided to carry out this title.

"(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

"(I) Such transfer must be consistent with State or local law.

"(II) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

"(III) The local educational agency may use not more than 10 percent of the funds the local educational agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

"(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

"(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

"(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

"(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding corrective action is based.

"(ii) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

"(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action for the school.";

(E) by amending paragraph (6) to read as follows:

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section."; and

(F) by amending paragraph (7) to read as follows:

"(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school's improvement plan."; and

(3) by amending subsection (d) to read as follows:

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

"(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

"(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

"(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

"(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.

"(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served under this part.

"(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

"(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

"(C) The review period under this paragraph shall not exceed 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

"(6) NOTIFICATION TO PARENTS.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

(i) the reasons for the agency's identification; and

(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

"(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

"(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

"(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students within the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

"(C) The plan shall—

"(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including stating a determination of why the local educational agency's prior plan, if any, failed to bring about increased achievement;

“(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

“(iii) identify specific annual academic achievement goals and objectives that will—

“(I) have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards; and

“(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(B)(iv);

“(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds received by the schools under this part on professional development that—

“(I) does not supplant professional development services that the instructional staff would otherwise receive; and

“(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

“(v) identify measures the local educational agency will undertake to make adequate yearly progress;

“(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language the parents can understand;

“(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

“(viii) include strategies to promote effective parental involvement in the schools.

“(D) The local educational agency shall submit the plan (including a revised plan) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to a peer review process, work with the local educational agency to revise the plan as necessary, and approve the plan.

“(E) The local educational agency shall implement the plan (including a revised plan) as soon as the plan is approved.

“(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

“(i) to develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

“(ii) to work with schools identified for improvement.

“(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

“(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State educational agency shall implement a system of corrective action in accordance with the following:

“(A) In this paragraph, the term ‘corrective action’ means action, consistent with State law, that—

“(i) substantially and directly responds to the consistent academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

“(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

“(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

“(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

“(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

“(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

“(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

“(i) Withholding funds from the local educational agency.

“(ii) Reconstituting school district personnel.

“(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

“(iv) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

“(v) Abolishing or restructuring the local educational agency.

“(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(ii), the State educational agency shall provide all students enrolled in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

“(i) The provision of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

“(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

“(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under this subparagraph.

“(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

“(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

“(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

“(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency's improvement plan.”.

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) (20 U.S.C. 6318(a)) is amended to read as follows:

“(a) SYSTEM FOR SUPPORT.—

“(1) IN GENERAL.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's content standards and student performance standards.

“(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

“(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

“(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116; and

“(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty equals or exceeds 75 percent of the total number of students enrolled in such school.

“(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall provide technical assistance and support through approaches such as—

“(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

“(B) the designation and use of ‘Distinguished Educators’, chosen from schools served under this part that have been especially successful in improving academic achievement;

“(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

“(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

“(4) FUNDS.—Each State educational agency—

“(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

"(B) may use State administrative funds authorized for such purpose.

"(5) ALTERNATIVES.—The State educational agency may devise additional approaches to providing the assistance described in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.".

(e) CONFORMING AMENDMENTS.—The 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking "paragraph (6)" and inserting "paragraph (10)";

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking "section 1116(c)(4)" and inserting "section 1116(c)(5)";

(3) in section 1117(c)(2)(A) (20 U.S.C. 6318(c)(2)(A)), by striking "section 1111(b)(2)(A)(i)" and inserting "section 1111(b)(2)(A)";

(4) in section 1118(c)(4)(B) (20 U.S.C. 6319(c)(4)(B)), by striking "school performance profiles required under section 1116(a)(3)" and inserting "individual school reports required under section 1116(a)(2)(A)";

(5) in section 1118(e)(1) (20 U.S.C. 6319(e)(1)), by striking "section 1111(b)(8)" and inserting "section 1111(b)(11)"; and

(6) in section 1119(h)(3) (20 U.S.C. 6320(h)(3)), by striking "section 1116(d)(6)" and inserting "section 1116(d)(9)".

SEC. 103. COMPREHENSIVE SCHOOL REFORM.

Title I (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

"PART F—COMPREHENSIVE SCHOOL REFORM

"SEC. 1551. PURPOSE.

"The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

"SEC. 1552. PROGRAM AUTHORIZATION.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

"(2) ALLOTMENTS.—

"(A) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

"(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

"(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

"(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

"(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallot such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

"SEC. 1553. STATE APPLICATIONS.

"(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each such application shall describe—

"(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

"(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

"(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

"(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

"(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

"SEC. 1554. STATE USE OF FUNDS.

"(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

"(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency shall be—

"(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

"(2) in an amount not less than $50,000 for each participating school; and

"(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

"(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

"(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

"(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

"(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

"(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

"(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

"(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

"SEC. 1555. LOCAL APPLICATIONS.

"(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"(b) CONTENTS.—Each such application shall—

"(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

"(2) describe the promising and effective practices and research-based programs that such schools will implement;

"(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

"(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

"SEC. 1556. LOCAL USE OF FUNDS.

"(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

"(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

"(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

"(3) providing high quality and continuous teacher and staff professional development;

"(4) including measurable goals for student performance;

“(5) providing support to teachers, principals, administrators, and other school personnel staff;

“(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

“(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

“(8) evaluating school reform implementation and student performance; and

“(9) identifying other resources, including Federal, State, local, and private resources, that will be used to coordinate services supporting and sustaining the school reform effort.

“(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

“SEC. 1557. NATIONAL EVALUATION AND REPORTS.

“(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

“(b) EVALUATION.—The national evaluation shall—

“(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

“(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

“(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations, of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

“SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

Subtitle B—Teachers

SEC. 121. STATE APPLICATIONS.

(a) CONTENTS OF STATE PLAN.—Section 2205(b)(2) (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

“(N) set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;”;

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

“(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than December 1, 2005; and”.

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II (20 U.S.C. 6641 et seq.) is amended—

(1) by redesignating section 2211 as section 2215;

(2) by inserting after section 2210 the following:

“SEC. 2211. LOCAL CONTINUATION OF FUNDING.

“(a) AGENCIES.—If a local educational agency applies for funds from a State under this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the agency has demonstrated that, in carrying out activities under this part during the past fiscal year, the agency has annual numerical performance objectives consisting of—

“(1) improved student performance for all groups identified in section 1111;

“(2) an increased percentage of teachers participating in sustained professional development activities;

“(3) a reduction in the beginning teacher attrition rate for the agency; and

“(4) a reduction in the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers, for the agency.

“(b) SCHOOLS.—If a local educational agency applies for funds under this part on behalf of a school for a fourth or subsequent fiscal year (including applying for funds as part of a partnership), the agency may not receive the funds for the school for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

“SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

“(a) PARENTS' RIGHT TO KNOW INFORMATION.—

“(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending any school served by the agency, information regarding the professional qualifications of each of the student's classroom teachers.

“(2) CONTENTS.—The agency shall provide, at a minimum, information on—

“(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

“(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

“(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.

“(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

“SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

“Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States' compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

“SEC. 2214. DEFINITION OF FULLY QUALIFIED.

“(a) IN GENERAL.—In this part, the term ‘fully qualified’, used with respect to a teacher, means a teacher who—

“(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

“(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

“(2) meets the standards set by the National Board for Professional Teaching Standards.

“(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor's degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

“(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

“(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

“(2) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

“(A) achievement of a high level of performance on rigorous academic subject area tests;

“(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

“(C) in the case of teachers hired before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches.”; and

(3) by amending section 2215 (as so redesignated)—

(A) in subsection (a)(3), by adding after “agency” the following: “for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act”; and

(B) by inserting after subsection (a)(4) the following:

“(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.”.

(c) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2203(2) (20 U.S.C. 6643(2)), by striking “section 2211” and inserting “section 2215”; and

(2) in section 2205(c)(2) (20 U.S.C. 6645(c)(2)), by striking “section 2211” and inserting “section 2215”.

Subtitle C—Innovative Education

SEC. 131. REQUIREMENTS FOR STATE PLANS.

Part B of title VI (20 U.S.C. 7331 et seq.) is amended by adding at the end the following:

"SEC. 6203. REQUIREMENTS FOR STATE PLANS.

"(a) State Plans.—In addition to requirements relating to State applications under this part, the State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(b) Consolidated Plan.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State application described in section 6202.

"(c) Contents.—Each plan submitted under subsection (a) shall—

"(1) describe how the funds made available through the grant will be used to increase student academic performance;

"(2) describe annual, quantifiable, and measurable performance goals that will be used to measure the impact of those funds on student performance;

"(3) describe the methods the State will use to measure the annual impact of programs described in the plan and the extent to which such goals are aligned with State standards;

"(4) certify that the State has in place the standards and assessments required under section 1111;

"(5) certify that the State educational agency has a system, as required under section 1111, for—

"(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

"(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

"(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

"(D) providing technical assistance, professional development, and other capacity building as needed to get such agencies and schools out of improvement status;

"(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators available, to review annually the progress of each local educational agency and school served under this title to determine whether each such agency and school is making adequate yearly progress as required under section 1111(b)(2);

"(7) certify that the State educational agency will take action against a local educational agency that is identified for corrective action and receiving funds under this title;

"(8) describe what, if any, State and other non-Federal resources will be provided to local educational agencies and schools served under this title to carry out activities consistent with this title; and

"(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

"(d) Approval.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

"(e) Duration of the Plan.—Each State plan shall remain in effect for the duration of the State's participation under this title.

"(f) Requirement.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

"(g) Public Review.—Each State educational agency will make publicly available the plan approved under subsection (d).

"SEC. 6204. SANCTIONS.

"(a) Third Fiscal Year.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

"(b) Fourth Fiscal Year.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

"(c) Technical Assistance.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

"(d) Local Sanctions.—

"(1) In general.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

"(2) Sanctions.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

"SEC. 6205. STATE REPORTS.

"Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

"(1) the use of such funds;

"(2) the impact of programs conducted with such funds and an assessment of such programs' effectiveness; and

"(3) the progress of the State toward attaining the performance goals established under section 6203(c)(2), and the extent to which the programs have increased student achievement.

"SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.

"Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6201(a)(1)(C), to—

"(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

"(2) provide for the establishment of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

"(3) develop and implement value-added assessments.".

SEC. 132. PERFORMANCE OBJECTIVES.

Title VII (20 U.S.C. 7401 et seq.) is amended by inserting after section 7105 the following:

"SEC. 7106. PERFORMANCE OBJECTIVES.

"(a) In General.—Each State educational agency or local educational agency receiving a grant under this part shall develop annual numerical performance objectives that are age-appropriate and developmentally-appropriate with respect to helping limited English proficient students become proficient in English and improve overall academic performance based upon State and local content and performance standards. The objectives shall include incremental percentage increases for each fiscal year a State educational agency or local educational agency receives a grant under this title, including increases from the preceding fiscal year in the number of limited English proficient students demonstrating an increase in performance on annual assessments concerning reading, writing, speaking, and listening comprehension.

"(b) Accountability.—Each State educational agency or local educational agency receiving a grant under this title shall be held accountable for meeting the annual numerical performance objectives under this title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 14515.

"(c) Parental Notification.—

"(1) In general.—Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program under this title, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

"(A) the student's level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

"(B) what programs are available to meet the student's educational strengths and needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such available programs meet the objectives of the individualized education program of such a student; and

"(C) the instructional goals of the language instruction educational program, and how the program will specifically help the limited English proficient student learn English and meet State and local content and performance standards, including—

"(i) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

"(ii) the reasons the student was identified as being in need of a language instruction educational program.

"(2) Option to decline.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of a student in a language instruction educational program, and shall be given an opportunity to decline such enrollment if the parent so chooses.

"(3) Special rule.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.".

SEC. 133. REPORT CARDS.

Title XIV (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

“PART I—REPORT CARDS

“SEC. 14901. REPORT CARDS.

“(a) Grants Authorized.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State report card meeting the requirements described in subsection (e), to enable the State, and local educational agencies and schools in the State, annually to publish report cards for each elementary school and secondary school that receives funding under this Act and is served by the State.

“(b) Reservations and Allotments.—

“(1) Reservations.—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall reserve—

“(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

“(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

“(2) State allotments.—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

“(c) State Reservation of Funds.—Each State educational agency receiving a grant under subsection (a) may reserve—

“(1) not more than 10 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

“(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

“(d) Within-State Allocations.—Each State educational agency receiving a grant under subsection (a) shall allocate the grant funds that remain after making the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by local educational agencies within the State.

“(e) Annual State Report Card.—

“(1) Report cards required.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for parents, the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

“(2) Required information.—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information regarding—

“(A) student performance on statewide assessments for the year for which the annual State report card is prepared and the preceding year, in at least English language arts and mathematics, including—

“(i) a comparison of the proportions of students who performed at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions in each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

“(ii) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I; and

“(iii) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

“(B) student retention rates in each grade, the number of students completing advanced placement courses, annual school dropout rates as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data, and 4-year graduation rates; and

“(C) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional credentials, the percentage of class sections not taught by fully qualified teachers, and the percentage of teachers who are fully qualified.

“(3) Student data.—Student data in each report card shall contain disaggregated results for the following categories:

“(A) Racial and ethnic groups.

“(B) Gender groups.

“(C) Economically disadvantaged students, as compared with students who are not economically disadvantaged.

“(D) Students with limited English proficiency, as compared with students who are proficient in English.

“(E) Migrant status groups.

“(F) Students with disabilities, as compared with students who are not disabled.

“(4) Optional information.—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

“(A) Average class size.

“(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

“(C) The incidence of student suspensions and expulsions.

“(D) Student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

“(E) Parental involvement, as determined by such measures as the extent of parental participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

“(f) Local Educational Agency and School Report Cards.—

“(1) In general.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

“(2) Required information.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

“(A) the information described in paragraphs (2) and (3) of subsection (e) for each local educational agency and school;

“(B) in the case of a local educational agency—

“(i) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

“(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

“(iii) information on how students in the schools served by the local educational agency performed on the statewide assessment compared with students in the State as a whole;

“(C) in the case of an elementary school or a secondary school—

“(i) information regarding whether the school has been identified for school improvement;

“(ii) information on how the school's students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

“(iii) information about the enrollment of students compared with the rated capacity of the schools; and

“(D) other appropriate information, regardless of whether the information is included in the annual State report.

“(g) Dissemination and Accessibility of Report Cards.—

“(1) Report card format.—Annual report cards under this part shall be—

“(A) concise; and

“(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

“(2) State report cards.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(3) Local report cards.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(4) School report cards.—Elementary school and secondary school report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

“(h) Coordination of State Plan Content.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

“(i) Privacy.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

“(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

"SEC. 14911. REWARDING HIGH PERFORMANCE.

"(a) STATE REWARDS.—

"(1) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

"(A) for 3 consecutive years have—

"(i) exceeded the State performance goals and objectives established for any title under this Act;

"(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

"(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

"(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

"(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

"(B) by not later than fiscal year 2005, ensure that all teachers teaching in the State public elementary schools and secondary schools are fully qualified.

"(2) STATE USE OF FUNDS.—

"(A) DEMONSTRATION SITES.—Each State receiving an award under paragraph (1) shall use a portion of the award funds that are not distributed under subsection (b) to establish demonstration sites with respect to high-performing schools (based upon achievement, or performance levels and adequate yearly progress) in order to help low-performing schools.

"(B) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall use the portion of the award funds that are not used pursuant to subparagraph (A) or (C) and are not distributed under subsection (b) for the purpose of improving the level of performance of all elementary school and secondary school students in the State, based upon State content and performance standards.

"(C) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each State receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to local educational agencies.

"(b) LOCAL EDUCATIONAL AGENCY AWARDS.—

"(1) IN GENERAL.—Each State receiving an award under subsection (a)(1) shall distribute 80 percent of the award funds to local educational agencies in the State that—

"(A) for 3 consecutive years have—

"(i) exceeded the State-established local educational agency performance goals and objectives established for any title under this Act;

"(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

"(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

"(iv) raised all students enrolled in schools served by the local educational agency to the proficient standard level prior to 10 years from the date of enactment of the School Improvement Accountability Act; or

"(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I;

"(B) not later than December 31, 2005, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

"(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

"(2) SCHOOL-BASED PERFORMANCE AWARDS.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

"(3) RESERVATION FOR ADMINISTRATIVE EXPENSES.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to eligible elementary schools and secondary schools, teachers, and principals.

"(c) SCHOOL REWARDS.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

"(1) to reward individual schools that demonstrate high performance with respect to—

"(A) increasing the academic achievement of all students;

"(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

"(C) improving teacher quality;

"(D) increasing high-quality professional development for teachers, principals, and administrators; or

"(E) improving the English proficiency of limited English proficient students;

"(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

"(A) significantly increase the annual performance of low-performing students; or

"(B) significantly improve in a fiscal year the English proficiency of limited English proficient students;

"(3) to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels;

"(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

"(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section **$200,000,000** for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(e) DEFINITION.—The term 'low-performing student' means a student who is below a basic State standard level.".

SEC. 134. ADDITIONAL ACCOUNTABILITY PROVISIONS.

Part E of title XIV (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

"SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

"(1) in the plans or applications required under such part or title—

"(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which each such program will increase student academic achievement;

"(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the program's performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

"(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

"(2) in the reports required under such part or title, a report for the preceding fiscal year regarding how the plan or application submitted for such fiscal year under such part or title was implemented, the recipient's progress toward attaining the performance goals and objectives identified in the plan or application for such year, and, if applicable, the extent to which programs funded in whole or in part with funds provided under such part or title increased student achievement.

"(b) PENALTIES.—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

"(1) withhold not less than 50 percent of the funds made available under the relevant program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

"(2) in the case of—

"(A) a competitive grant (as determined by the Secretary), consider the recipient ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

"(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

"(c) OTHER PENALTIES.—A State that has not met the requirements of subsection (a)(1)(B) with respect to a fiscal year—

"(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

"(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

"(d) SPECIAL RULE FOR SECRETARY AWARDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary, or a contract or cooperative agreement entered into with the Secretary, for a program shall include the following information in any application or plan required for such program:

"(A) How funds provided under the program will be used and how such use will increase student academic achievement.

"(B) The goals and objectives to be met, including goals for dissemination and use of the information or materials produced, where applicable.

“(C) If the grant requires dissemination of information or materials, how the recipient will track and report annually to the Secretary—

“(i) the successful dissemination of information or materials produced;

“(ii) where information or materials produced are being used; and

“(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

“(2) Requirement.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

“(3) Failure to achieve goals and objectives.—

“(A) In general.—The Secretary shall evaluate the information submitted under this subsection to determine whether the recipient has met the goals and objectives described in paragraph (1)(B), where applicable, assess the magnitude of dissemination described in paragraph (1)(C), and, where applicable, assess the effectiveness of the activity funded in raising student academic achievement in places where information or materials produced with such funds are used.

“(B) Ineligibility.—The Secretary shall consider the recipient ineligible for grants, contracts, or cooperative agreements under the program described in paragraph (1) if—

“(i) the goals and objectives described in paragraph (1)(B) have not been met;

“(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

“(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.”.

TITLE II—CLOSING THE ACHIEVEMENT GAP

Subtitle A—Reauthorization of Programs

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Section 1002(a) (20 U.S.C. 6302(a)) is amended by striking “appropriated $7,400,000,000 for fiscal year 1995” and all that follows through the period and inserting the following: “appropriated—

“(1) $11,000,000,000 for fiscal year 2002;

“(2) $13,000,000,000 for fiscal year 2003;

“(3) $15,000,000,000 for fiscal year 2004;

“(4) $15,000,000,000 for fiscal year 2005; and

“(5) $15,000,000,000 for fiscal year 2006.”.

(b) Review of Allocations.—The Secretary of Education shall annually review the manner in which funds are allocated under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) to ensure that local education agencies with the highest need are receiving funds in proportion to that need as compared to other local education agencies.

Subtitle B—Options: Opportunities to Improve our Nation's Schools

SEC. 211. OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS.

Title V (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

“PART D—OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS

“SEC. 5401. PURPOSE.

“It is the purpose of this part to identify and support innovative approaches to high-quality public school choice by providing financial assistance for the demonstration, development, implementation, and evaluation of, and the dissemination of information about, public school choice programs that stimulate educational innovation for all public schools and contribute to standards-based school reform efforts.

“SEC. 5402. GRANTS.

“(a) In General.—From funds appropriated under section 5405(a) and not reserved under section 5405(b), the Secretary is authorized to make grants to State and local educational agencies to support programs that promote innovative approaches to high-quality public school choice.

“(b) Duration.—A grant under this part shall not be awarded for a period that exceeds 3 years.

“SEC. 5403. USES OF FUNDS.

“(a) Uses of Funds.—

“(1) In general.—Funds under this part may be used to demonstrate, develop, implement, and evaluate, and to disseminate information about, innovative approaches to broaden public elementary school and secondary school choice, including the design and development of new public school choice options, the development of new strategies for overcoming barriers to effective public school choice, and the design and development of public school choice systems that promote high standards for all students and the continuous improvement of all such public schools.

“(2) Examples.—The approaches described in paragraph (1) at the school, school district, and State levels may include—

“(A) inter school district approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools;

“(B) public elementary and secondary programs that involve partnerships with institutions of higher education and that are located on the campuses of the institutions;

“(C) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary academic credit;

“(D) worksite satellite schools, in which State or local educational agencies form partnerships with public or private employers, to create public schools at parents' places of employment; and

“(E) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

“(b) Limitations.—Funds under this part—

“(1) shall supplement, and not supplant, non-Federal funds expended for existing programs;

“(2) may be used for providing transportation services or costs, except that not more than 10 percent of the funds received under this part may be used by the local educational agency to provide such services or costs;

“(3) may be used for improving low performing schools that lose students as a result of school choice plans, except that not more than 10 percent of the funds under this part may be used by the local educational agency for the improvement of low performing schools; and

“(4) shall not be used to fund programs that are authorized under part C, D, or E.

“SEC. 5404. GRANT APPLICATION; PRIORITIES.

“(a) Application Required.—A State or local educational agency desiring to receive a grant under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

“(b) Application Contents.—Each application shall include—

“(1) a description of the program for which funds are sought and the goals for such program;

“(2) a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-Federal programs;

“(3) if the program includes partners, the name of each partner and a description of the partner's responsibilities; and

“(4) a description of the policies and procedures the agency will use to ensure—

“(A) that priority is provided to parents of students attending schools identified for school improvement under section 1116 in exercising choice among schools;

“(B) that priority is provided to parents of students who want to stay enrolled at a school;

“(C) the agency's accountability for results, including the agency's goals and performance indicators;

“(D) that the program is open and accessible to, and will promote high academic standards for, all students regardless of the achievement level or disability of the students and the family income of the families of the students;

“(E) that all parents are provided with easily comprehensible information about various school options, including information on instructional approaches at different schools, resources, and transportation that will be provided at or for the schools on an annual basis;

“(F) that all parents are given timely notice about opportunities to choose which school their child will attend the following year and the period during which the choice may be made;

“(G) that limitations on transfers between schools only occur because of facilities constraints, statutory class size limits, and local efforts to ensure that schools reflect the diversity of the communities in which the schools are located;

“(H) that a lottery or other random system be established for parents of students wishing to attend a school that cannot receive all students wishing to attend; and

“(I) that the program is carried out in a manner consistent with Federal law, including court orders, such as desegregation orders, issued to enforce Federal law.

“(c) Priorities.—

“(1) In general.—The Secretary shall give a priority to applications for programs that will serve high-poverty local educational agencies.

“(2) Permissive.—The Secretary may give a priority to applications demonstrating that the State or local educational agency will carry out the agency's program in partnership with one or more public or private agencies, organizations, or institutions, including institutions of higher education and public or private employers.

“SEC. 5405. AUTHORIZATION OF APPROPRIATIONS; RESERVATION; EVALUATIONS.

“(a) Authorization of Appropriations.—For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for each of fiscal years 2002 through 2006.

“(b) Reservation for Evaluation, Technical Assistance, and Dissemination.—From the amount appropriated under subsection (a) for any fiscal year, the Secretary may reserve not more than 5 percent to carry out evaluations under subsection (c), to provide technical assistance, and to disseminate information.

“(c) Evaluations.—The Secretary may use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part, which, at a minimum, shall address—

“(1) how, and the extent to which, the programs supported with funds under this part promote educational equity and excellence; and

“(2) the extent to which public schools of choice supported with funds under this part are—

“(A) held accountable to the public;

“(B) effective in improving public education; and

“(C) open and accessible to all students.”.

Subtitle C—Parental Involvement

SEC. 221. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following:

“(d) Parental Involvement.—Each State plan shall demonstrate that the State will support, in collaboration with the regional educational laboratories, the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

“(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

“(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.”.

SEC. 222. PARENTAL ASSISTANCE.

Part D of title I (20 U.S.C. 6421 et seq.) is amended to read as follows:

“PART D—PARENTAL ASSISTANCE AND CHILD OPPORTUNITY

“Subpart I—Parental Assistance”.

“SEC. 1401. PARENTAL INFORMATION AND RESOURCE CENTERS.

“(a) Purpose.—The purpose of this part is—

“(1) to provide leadership, technical assistance, and financial support to nonprofit organizations and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student performance;

“(2) to strengthen partnerships among parents (including parents of preschool age children), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

“(3) to develop and strengthen the relationship between parents and the school;

“(4) to further the developmental progress primarily of children assisted under this part; and

“(5) to coordinate activities funded under this part with parental involvement initiatives funded under section 1118 and other provisions of this Act.

“(b) Grants Authorized.—

“(1) In general.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish school-linked or school-based parental information and resource centers that provide training, information, and support to—

“(A) parents of children enrolled in elementary schools and secondary schools;

“(B) individuals who work with the parents described in subparagraph (A); and

“(C) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations), and other organizations that carry out parent education and family involvement programs.

“(2) Award rule.—In awarding grants under this part, the Secretary shall ensure that such grants are distributed in all geographic regions of the United States.

“SEC. 1402. APPLICATIONS.

“(a) Grants Applications.—

“(1) In general.—Each nonprofit organization or nonprofit organization in consortium with a local educational agency that desires a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

“(2) Contents.—Each application submitted under paragraph (1), at a minimum, shall include assurances that the organization or consortium will—

“(A)(i) be governed by a board of directors the membership of which includes parents; or

“(ii) be an organization or consortium that represents the interests of parents;

“(B) establish a special advisory committee the membership of which includes—

“(i) parents described in section 1401(b)(1)(A);

“(ii) representatives of education professionals with expertise in improving services for disadvantaged children; and

“(iii) representatives of local elementary schools and secondary schools who may include students and representatives from local youth organizations;

“(C) use at least ½ of the funds provided under this part in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

“(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

“(E) serve both urban and rural areas;

“(F) design a center that meets the unique training, information, and support needs of parents described in section 1401(b)(1)(A), particularly such parents who are educationally or economically disadvantaged;

“(G) demonstrate the capacity and expertise to conduct the effective training, information and support activities for which assistance is sought;

“(H) network with—

“(i) local educational agencies and schools;

“(ii) parents of children enrolled in elementary schools and secondary schools;

“(iii) parent training and information centers assisted under section 682 of the Individuals with Disabilities Education Act;

“(iv) clearinghouses; and

“(v) other organizations and agencies;

“(I) focus on serving parents described in section 1401(b)(1)(A) who are parents of low-income, minority, and limited English proficient, children;

“(J) use part of the funds received under this part to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters programs;

“(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance; and

“(L) work with State and local educational agencies to determine parental needs and delivery of services.

“(b) Grant Renewal.—For each fiscal year after the first fiscal year an organization or consortium receives assistance under this part, the organization or consortium shall demonstrate in the application submitted for such fiscal year after the first fiscal year that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

“SEC. 1403. USES OF FUNDS.

“(a) In General.—Grant funds received under this part shall be used—

“(1) to assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

“(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational performance in comparison to State and local standards;

“(B) to provide followup support for their children's educational achievement;

“(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

“(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

“(E) to participate in the design and provision of assistance to students who are not making adequate educational progress;

“(F) to participate in State and local decisionmaking; and

“(G) to train other parents;

“(2) to obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents;

“(3) to help the parents learn and use the technology applied in their children's education;

“(4) to plan, implement, and fund activities for parents that coordinate the education of their children with other Federal programs that serve their children or their families; and

“(5) to provide support for State or local educational personnel if the participation of such personnel will further the activities assisted under the grant.

“(b) Permissive Activities.—Grant funds received under this part may be used to assist schools with activities such as—

“(1) developing and implementing their plans or activities under sections 1118 and 1119; and

“(2) developing and implementing school improvement plans, including addressing problems that develop in the implementation of sections 1118 and 1119.

“(3) providing information about assessment and individual results to parents in a manner and a language the family can understand;

“(4) coordinating the efforts of Federal, State, and local parent education and family involvement initiatives; and

“(5) providing training, information, and support to—

“(A) State educational agencies;

“(B) local educational agencies and schools, especially those local educational agencies and schools that are low performing; and

"(C) organizations that support family-school partnerships.

"(c) GRANDFATHER CLAUSE.—The Secretary shall use funds made available under this part to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the Educational Excellence for All Learners Act of 2001) for the duration of the grant or contract award.

"SEC. 1403A. LOCAL FAMILY INFORMATION CENTERS.

"(a) CENTERS AUTHORIZED.—The Secretary shall award grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in schools assisted under part A have the training, information, and support the parents need to enable the parents to participate effectively in helping their children to meet challenging State standards.

"(b) DEFINITION OF LOCAL NONPROFIT PARENT ORGANIZATION.—In this section, the term 'local nonprofit parent organization' means a private nonprofit organization (other than an institution of higher education) that—

"(1) has a demonstrated record of working with low-income individuals and parents;

"(2)(A) has a board of directors the majority of whom are parents of students in schools that are assisted under part A and located in the geographic area to be served by the center; or

"(B) has a special governing committee to direct and implement the center, a majority of the members of whom are parents of students in schools assisted under part A; and

"(3) is located in a community with schools that receive funds under part A, and is accessible to the families of students in those schools.

"(c) REQUIRED CENTER ACTIVITIES.—Each center assisted under this section shall be exempt from the uses of funds requirements under section 1403 and shall instead—

"(1) provide training, information, and support that meets the needs of parents of children in schools assisted under part A who are served through the grant, contract, or cooperative agreement, particularly underserved parents, low-income parents, parents of students with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action under section 1116(c);

"(2) help families of students enrolled in a school assisted under part A to understand and participate in all of the provisions of this Act designed to improve the achievement of students in the school;

"(3) provide information in a language and form that parents understand, including taking steps to ensure that underserved parents, low-income parents, parents with limited English proficiency, parents of students with disabilities, or parents of students in schools identified for school improvement or corrective action, are effectively informed and assisted;

"(4) assist parents to—

"(A) understand what their child's school is doing to enable students at the school to meet the State and local standards, including understanding the curriculum and instructional methods the school is using to help the students meet the standards;

"(B) better understand their child's educational needs, where their child stands with respect to State standards, how the school is addressing the child's education needs, and how they can work with their child to increase the child's academic achievement;

"(C) participate in the decisionmaking processes at the school, school district, and State levels;

"(D) understand and benefit from the provisions of other Federal education programs; and

"(E) understand public school choice options available in the local community, including magnet schools, charter schools, and alternative schools;

"(5) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support; and

"(6) report annually to the Secretary regarding measures, determined by the Secretary, that indicate the program's effectiveness in reaching underserved parents and developing meaningful parent involvement in schools assisted under part A.

"(c) APPLICATION REQUIREMENTS.—Each local nonprofit parent organization desiring assistance under this section shall submit to the Secretary an application (in place of the application required under section 1402) at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

"(1) describe how the organization will use the assistance to help families under this section;

"(2) describe what steps the organization has taken to meet with school district or school personnel in the geographic area to be served by the center in order to inform the personnel of the plan and application for the assistance; and

"(3) identify with specificity the special efforts that the organization will take—

"(A) to ensure that the needs for training, information, and support for parents of students in schools assisted under part A, particularly underserved parents, low-income parents, parents with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action, are effectively met; and

"(B) to work with community-based organizations.

"(d) DISTRIBUTION OF FUNDS.—

"(1) ALLOCATION OF FUNDS.—The Secretary shall make at least 2 awards of assistance under this section to a local nonprofit parent organization in each State, unless the Secretary does not receive at least 2 applications from such organizations in a State of sufficient quality to warrant providing the assistance in the State.

"(2) SELECTION REQUIREMENT FOR LOCAL FAMILY INFORMATION CENTERS.—

"(A) IN GENERAL.—The Secretary shall select local nonprofit parent organizations in a State to receive assistance under this section in a manner that ensures the provision of the most effective assistance to low-income parents of students in schools assisted under part A.

"(B) PRIORITY.—The Secretary shall give priority to—

"(i) non-profit parent organizations that are located in rural and urban areas in the State where the percentage of students from families at or below the poverty line is greater than the median, as determined by the State; and

"(ii) areas with high school dropout rates, high percentages of limited English proficient students, or schools identified for school improvement or corrective action under section 1116(c).

"SEC. 1404. TECHNICAL ASSISTANCE.

"The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

"SEC. 1405. REPORTS.

"(a) INFORMATION.—Each organization or consortium receiving assistance under this part shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this part, including—

"(1) the number of parents (including the number of minority and limited English proficient parents) who receive information and training;

"(2) the types and modes of training, information, and support provided under this part;

"(3) the strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this part;

"(4) the parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student achievement, student and school performance, and parental involvement in school planning, review, and improvement; and

"(5) the effectiveness of the activities that local educational agencies and schools are carrying out with regard to parental involvement and other activities assisted under this Act that lead to improved student achievement and improved student and school performance.

"(b) DISSEMINATION.—The Secretary annually shall disseminate, widely to the public and to Congress, the information that each organization or consortium submits under subsection (a) to the Secretary.

"SEC. 1406. GENERAL PROVISIONS.

"Notwithstanding any other provision of this part—

"(1) no person, including a parent who educates a child at home, a public school parent, or a private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this part; and

"(2) no program or center assisted under this part shall take any action that infringes in any manner on the right of a parent to direct the education of their children.".

TITLE III—NATIONAL PRIORITIES WITH PROVEN EFFECTIVENESS

Subtitle A—Qualified Teacher in Every Classroom

SEC. 301. TEACHER QUALITY.

(a) IN GENERAL.—Title II (20 U.S.C. 6601 et seq.) is amended by striking the title heading and all that follows through the end of part A and inserting the following:

"TITLE II—QUALIFIED TEACHER IN EVERY CLASSROOM

"PART A—TEACHER QUALITY

"SEC. 2001. PURPOSES.

"The purposes of this part are the following:

"(1) To improve student achievement in order to help every student meet State content and student performance standards.

"(2) To—

"(A) enable States, local educational agencies, and schools to improve the quality and success of the teaching force by providing all teachers, including beginning and veteran teachers, with the support those teachers need to succeed and stay in teaching, by providing professional development and mentoring programs for teachers, by offering incentives for additional qualified individuals to go into teaching, by reducing out-of-field placement of teachers, and by reducing the number of teachers with emergency credentials; and

"(B) hold the States, agencies, and schools accountable for such improvements.

"(3) To support State and local efforts to recruit qualified teachers to address teacher shortages, particularly in communities with the greatest need.

"(4) To ensure that underqualified and inexperienced teachers do not teach higher percentages of low-income students and minority students than other students.

"SEC. 2002. DEFINITIONS.

"In this part:

"(1) Beginning teacher.—The term 'beginning teacher' means a fully qualified teacher who has taught for 3 years or less.

"(2) Core academic subjects.—The term 'core academic subjects' means—

"(A) mathematics;

"(B) science;

"(C) reading (or language arts) and English;

"(D) social studies (consisting of history, civics, government, geography, and economics);

"(E) foreign languages; and

"(F) fine arts (consisting of music, dance, drama, and the visual arts).

"(3) Covered recruitment.—The term 'covered recruitment' means activities described in section 2017(c).

"(4) Fully qualified.—

"(A) In general.—The term 'fully qualified', used with respect to a teacher, means a teacher who—

"(i)(I) is certified or licensed and has demonstrated the academic subject knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the academic subject in which the teacher teaches, according to the standards described in subparagraph (B) or (C), as appropriate; and

"(II) shall not be a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency; or

"(ii) meets the standards of the National Board for Professional Teaching Standards.

"(B) Elementary school instructional staff.—For purposes of complying with subparagraph (A)(i), each elementary school teacher (other than a middle school teacher) in the State shall, at a minimum—

"(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

"(ii) hold a bachelor's degree and demonstrate the academic subject knowledge, teaching knowledge, and teaching skills required to teach effectively in reading, writing, mathematics, social studies, science, and other academic subjects.

"(C) Middle school and secondary school instructional staff.—For purposes of complying with subparagraph (A)(i), each middle school or secondary school teacher in the State shall, at a minimum—

"(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

"(ii) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

"(I) achievement of a high level of performance on rigorous academic subject tests;

"(II) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

"(III) for a teacher hired prior to the date of enactment of the Educational Opportunities Act, completion of appropriate coursework for mastery of such academic subjects.

"(5) High-poverty.—The term 'high-poverty', used with respect to a school, means a school that serves a high number or percentage of children from families with incomes below the poverty line, as determined by the State in which the school is located.

"(6) High-poverty local educational agency.—The term 'high-poverty local educational agency' means a local educational agency for which the number of children served by the agency who are age 5 through 17, and from families with incomes below the poverty line—

"(A) is not less than 20 percent of the number of all children served by the agency; or

"(B) is more than 10,000.

"(7) Institution of higher education.—The term 'institution of higher education'—

"(A) has the meaning given the term in section 101(a) of the Higher Education Act of 1965; and

"(B) if such an institution prepares teachers and receives Federal funds, means such an institution that—

"(i) is in full compliance with the requirements of section 207 of the Higher Education Act of 1965; and

"(ii) does not have a teacher preparation program identified by a State as low-performing.

"(8) Low-performing school.—The term 'low-performing school' means—

"(A) a school identified by a local educational agency for school improvement under section 1116(c); or

"(B) a school in which the great majority of students, as determined by the State in which the school is located, fail to meet State student performance standards based on assessments the local educational agency is using under part A of title I.

"(9) Mentoring.—The term 'mentoring' means activities that—

"(A) consist of structured guidance and regular and ongoing support for beginning teachers, that—

"(i) is designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

"(ii)(I) as part of a multiyear, developmental induction process;

"(II) involves the assistance of a mentor teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

"(III) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

"(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, teacher organization, or another organization, for the purpose of carrying out the activities described in subparagraph (A).

"(10) Mentor teacher.—The term 'mentor teacher' means a fully qualified teacher who—

"(A) is a highly competent classroom teacher who is formally selected and trained to work effectively with beginning teachers (including corps members described in section 2018);

"(B) is full-time, and is assigned and qualified to teach in the content area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach;

"(C) has been consistently effective in helping diverse groups of students make substantial achievement gains; and

"(D) has been selected to provide mentoring through a peer review process that uses, as the primary selection criterion for the process, the teacher's ability to help students achieve academic gains.

"(11) Poverty line.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

"(12) Professional development.—The term 'professional development' means activities that are—

"(A)(i) an integral part of broad schoolwide and districtwide educational improvement plans and enhance the ability of teachers and other staff to help all students, including females, students with disabilities, students with limited English proficiency, and students who have economic and educational disadvantages, meet high State and local content and student performance standards;

"(ii) sustained, intensive, school-embedded, tied to State standards, and of high quality and sufficient duration to have a positive and lasting impact on classroom instruction (not one-time workshops); and

"(iii) based on the best available research on teaching and learning; and

"(B) described in subparagraphs (A) through (F) of section 2017(a)(1).

"(13) Recruitment activities.—The term 'recruitment activities' means activities carried out through a teacher corps program as described in section 2018 to attract highly qualified individuals, including individuals taking nontraditional routes to teaching, to enter teaching and support the individuals during necessary certification and licensure activities.

"(14) Recruitment partnership.—The term 'recruitment partnership' means a partnership described in section 2015(b)(2).

"SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part—

"(1) $2,000,000,000 for fiscal year 2001, of which—

"(A) $1,730,000,000 shall be made available to carry out subpart 1; and

"(B) $270,000,000 shall be made available to carry out subpart 2, of which—

"(i) $120,000,000 shall be made available to carry out chapter 1 of subpart 2;

"(ii) $25,000,000 shall be made available to carry out chapter 2 of subpart 2;

"(iii) $75,000,000 shall be made available to carry out chapter 3 of subpart 2; and

"(iv) $50,000,000 shall be made available to carry out chapter 4 of subpart 2; and

"(2) such sums as may be necessary for each of fiscal years 2002 through 2005.

"Subpart 1—Grants to States and Local Educational Agencies

"Chapter 1—Grants and Activities

"SEC. 2011. ALLOTMENTS TO STATES.

"(a) In General.—The Secretary is authorized to make grants to eligible State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development, mentoring, and recruitment activities (and covered recruitment, at the election of a local educational agency) at the State and local levels. Each grant shall consist of the allotment determined for the State under subsection (b).

"(b) DETERMINATION OF AMOUNT OF ALLOTMENT.—

"(1) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—From the total amount made available to carry out this subpart under section 2003(1) for any fiscal year, the Secretary shall reserve—

"(i) ½ of 1 percent for allotments for the outlying areas to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, for professional development and mentoring and recruitment activities carried out in accordance with the purposes of this part; and

"(ii) ½ of 1 percent for the Secretary of the Interior for programs carried out in accordance with the purposes of this part to provide professional development and mentoring and recruitment activities for teachers and other staff in schools operated or funded by the Bureau of Indian Affairs.

"(B) LIMITATION.—Notwithstanding subparagraph (A), the Secretary shall not reserve, for either the outlying areas under subparagraph (A)(i) or the schools operated or funded by the Bureau of Indian Affairs under subparagraph (A)(ii), more than the amount reserved for those areas or schools for fiscal year 2000 under the authority described in paragraph (2)(A)(i).

"(2) STATE ALLOTMENTS.—

"(A) HOLD HARMLESS.—

"(i) IN GENERAL.—Subject to subparagraph (B), from the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the amount that the State received for fiscal year 2000 under section 2202(b) of this Act (as in effect on the day before the date of enactment of the Educational Opportunities Act).

"(ii) RATABLE REDUCTION.—If the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1) is insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce such amounts for such fiscal year.

"(B) ALLOTMENT OF ADDITIONAL FUNDS.—

"(i) IN GENERAL.—Subject to clause (ii), for any fiscal year for which the total amount made available to carry out this subpart and not reserved under paragraph (1) exceeds the total amount made available to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico for fiscal year 2000 under the authority described in subparagraph (A)(i), the Secretary shall allot to each of those States the sum of—

"(I) an amount that bears the same relationship to 40 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

"(II) an amount that bears the same relationship to 60 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

"(ii) EXCEPTION.—No State receiving an allotment under clause (i) may receive less than ½ of 1 percent of the total excess amount allotted under clause (i) for a fiscal year.

"(3) REALLOTMENT.—If any State described in paragraph (2) does not apply for an allotment under paragraph (2) for any fiscal year, the Secretary shall reallot such amount to the remaining such States in accordance with paragraph (2).

"SEC. 2012. STATE APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—

"(1) IN GENERAL.—Each State desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) DEVELOPMENT.—The State educational agency shall develop the State application—

"(A) in consultation with the State agency for higher education, community-based and other nonprofit organizations, and institutions of higher education; and

"(B) with the extensive participation of teachers, teacher educators, school administrators, and content specialists.

"(b) CONTENTS.—Each such application shall include—

"(1) a description of the State's shortages of fully qualified teachers relating to high-poverty school districts and high-need academic subjects (as such districts or subjects are determined by the State);

"(2) an assessment of the need for professional development for veteran teachers in the State and the need for strong mentoring programs for beginning teachers that is—

"(A) developed with the involvement of teachers; and

"(B) based on student achievement data in the core academic subjects and other indicators of the need for professional development and mentoring programs;

"(3) a description of how the State educational agency will use funds made available under this part to improve the quality of the State's teaching force, eliminate the use of out-of-field placement of teachers, and eliminate the use of teachers hired with emergency or other provisional credentials by setting numerical, annual improvement goals, and meet the requirements of this section;

"(4) a description of how the State educational agency will align activities assisted under this subpart with State content and student performance standards, and State assessments by setting numerical, annual improvement goals;

"(5) a description of how the State educational agency will coordinate activities funded under this subpart with professional development and mentoring and recruitment activities that are supported with funds from other relevant Federal and non-Federal programs;

"(6) a plan, developed with the extensive participation of teachers, for addressing long-term teacher recruitment, retention, and professional development and mentoring needs, which may include—

"(A) providing technical assistance to help school districts reform hiring and employment practices to improve the recruitment and retention of fully qualified teachers, especially with respect to high-poverty schools; or

"(B) establishing State or regional partnerships to address teacher shortages;

"(7) a description of how the State educational agency will assist local educational agencies in implementing effective and sustained professional development and mentoring activities and high-quality recruitment activities under this part;

"(8) an assurance that the State will consistently monitor the progress of each local educational agency and school in the State in achieving the goals specified in the information submitted under paragraphs (1) through (7);

"(9) a description of how the State educational agency will work with recipients of grants awarded for recruitment activities under section 2015(b) to ensure that recruits who successfully complete a teacher corps program will be certified or licensed; and

"(10) the assurances and description referred to in section 2021.

"(c) APPROVAL.—The Secretary shall, using a peer-review process, approve a State application if the application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"SEC. 2013. STATE USE OF FUNDS.

"(a) IN GENERAL.—Of the funds allotted to a State under section 2011 for a fiscal year—

"(1) not more than 6 percent shall be used by the State educational agency to carry out State activities described in section 2014, or for the administration of this subpart (other than the administration of section 2019 but including the administration of State activities under chapter 2), except that not more than 3 percent of the allotted funds may be used for the administration of this subpart;

"(2) 60 percent shall be used by the State educational agency to provide grants to local educational agencies under section 2015(a) for professional development and mentoring (except as provided in section 2017(c));

"(3) 30 percent shall be used by the State educational agency—

"(A) except as provided in subparagraph (B), to provide grants to recruitment partnerships under section 2015(b) for recruitment activities; or

"(B) if the State educational agency determines that all elementary school and secondary school teachers in the State that are teaching core academic subjects are fully qualified, to provide the grants described in paragraph (2); and

"(4) 4 percent (or 4 percent of the amount the State would have been allotted if the appropriation for this subpart were $1,730,000,000, whichever is greater) shall be used by the State agency for higher education to provide grants to partnerships under section 2019.

"(b) PRIORITY FOR PROFESSIONAL DEVELOPMENT AND MENTORING IN MATHEMATICS AND SCIENCE.—

"(1) PRIORITY.—

"(A) APPROPRIATIONS OF NOT MORE THAN $300,000,000.—Except as provided in section 2017(c), for any fiscal year for which the appropriation for this subpart is $300,000,000 or less, each State educational agency that receives funds under this subpart, working jointly with the State agency for higher education, shall ensure that all funds received under this subpart are used for—

"(i) professional development and mentoring in mathematics and science that is aligned with State content and student performance standards; and

"(ii) recruitment activities to attract fully qualified math and science teachers to high-poverty schools.

"(B) APPROPRIATION OF MORE THAN $300,000,000.—Except as provided in section 2017(c), for any fiscal year for which the appropriation for this subpart is greater than $300,000,000, the State educational agency and the State agency for higher education shall jointly ensure that the total amount of funds that the agencies receive under this subpart and that the agencies use for activities described in subparagraph (A) is at least as great as the allotment the State would have received if that appropriation had been $300,000,000.

"(2) INTERDISCIPLINARY ACTIVITIES.—A State may use funds received under this subpart for activities that focus on more than 1 core academic subject, and apply the funds toward meeting the requirements of paragraph (1), if the activities include a strong focus on improving instruction in mathematics or science.

"(3) ADDITIONAL FUNDS.—Except as provided in section 2017(c), each State educational agency that receives funds under this subpart and the State agency for higher education shall jointly ensure that any portion of the funds that exceeds the amount required by paragraph (1) to be spent on activities described in paragraph (1)(A) is used to provide—

"(A) professional development and mentoring in 1 or more of the core academic subjects that is aligned with State content and student performance standards; and

"(B) recruitment activities involving teachers of 1 or more of the core academic subjects.

"SEC. 2014. STATE LEVEL ACTIVITIES.

"(a) ACTIVITIES.—Each State educational agency that receives a grant described in section 2011 shall use the funds made available under section 2013(a)(1) to carry out statewide strategies and activities to improve teacher quality, including—

"(1) establishing, expanding, or improving alternative routes to State certification or licensing of teachers, for highly qualified individuals with a baccalaureate degree, mid-career professionals from other occupations, or paraprofessionals, that are at least as rigorous as the State's standards for initial certification or licensing of teachers;

"(2) developing or improving evaluation systems to evaluate the effectiveness of professional development and mentoring and recruitment activities in improving teacher quality, skills, and content knowledge, and the impact of the professional development and mentoring and recruitment activities on increasing student academic achievement and student performance with performance measures drawn from assessments that objectively measure student achievement against State performance standards;

"(3) funding projects to promote reciprocity of teacher certification or licensure between or among States;

"(4) providing assistance to local educational agencies to reduce out-of-field placements and the use of emergency credentials;

"(5) supporting certification by the National Board for Professional Teaching Standards of teachers who are teaching or will teach in high-poverty schools;

"(6) providing assistance to local educational agencies in implementing effective programs of recruitment activities, and professional development and mentoring, including supporting efforts to encourage and train teachers to become mentor teachers;

"(7) increasing the rigor and quality of State certification and licensure tests for individuals entering the field of teaching, including subject matter tests for elementary, middle and secondary school teachers; and

"(8) implementing teacher recognition programs.

"(b) COORDINATION.—A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this section and the activities carried out under that section 202.

"SEC. 2015. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) GRANTS FOR PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES.—

"(1) IN GENERAL.—The State educational agency of a State that receives a grant described in section 2011 shall use the funds made available under section 2013(a)(2) (and any funds made available under section 2013(a)(3)(B)) to make grants to eligible local educational agencies, from allocations made under paragraph (2), to carry out the activities described in section 2017(a) (except as provided in section 2017(c)).

"(2) ALLOCATIONS.—The State educational agency shall allocate to each eligible local educational agency the sum of—

"(A) an amount that bears the same relationship to 20 percent of the funds described in paragraph (1) as the number of individuals enrolled in public and private nonprofit elementary schools and secondary schools in the geographic area served by the agency bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State; and

"(B) an amount that bears the same relationship to 80 percent of the funds as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

"(3) ELIGIBILITY.—To be eligible to receive a grant from a State educational agency under this subsection, a local educational agency shall serve schools that include—

"(A) high-poverty schools;

"(B) schools that need support for improving teacher quality based on low achievement of students served;

"(C) schools that have low teacher retention rates;

"(D) schools that need to improve or expand the knowledge and skills of new and veteran teachers in high-priority content areas;

"(E) schools that have high out-of-field placement rates; or

"(F) high-poverty schools that have been identified for improvement in accordance with section 1116.

"(4) EQUITABLE GEOGRAPHIC DISTRIBUTION.—A State educational agency shall ensure an equitable distribution of grants under this subsection among eligible local educational agencies serving urban and rural areas.

"(b) GRANTS FOR RECRUITMENT ACTIVITIES.—

"(1) IN GENERAL.—The State educational agency of a State that receives a grant under section 2011 shall use the funds made available under section 2013(a)(3)(A) to make grants to eligible recruitment partnerships, on a competitive basis, to carry out the recruitment activities and meet requirements described in section 2017(b).

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible to receive a grant from a State educational agency under this subsection, a recruitment partnership—

"(i) shall include an eligible local educational agency, or a consortium of eligible local educational agencies;

"(ii) shall include an institution of higher education, a tribal college, or a community college; and

"(iii) may include other members, such as a nonprofit organization or professional education organization.

"(B) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In subparagraph (A), the term 'eligible local educational agency' means a local educational agency that receives assistance under part A of title I, and meets any additional eligibility criteria that the appropriate State educational agency may establish.

"(3) EQUITABLE GEOGRAPHIC DISTRIBUTION.—A State educational agency shall ensure an equitable distribution of grants under this subsection among eligible recruitment partnerships serving urban and rural areas.

"SEC. 2016. LOCAL APPLICATIONS.

"(a) IN GENERAL.—A local educational agency or a recruitment partnership seeking to receive a grant from a State under section 2015 to carry out activities described in section 2017 shall submit an application to the State at such time, in such manner, and containing such information as the State may reasonably require.

"(b) CONTENTS RELATING TO PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES.—If the local educational agency seeks a grant under section 2015(a) to carry out activities described in section 2017(a), the local application described in subsection (a) shall include, at a minimum, the following:

"(1) A description of how the local educational agency intends to use the funds provided through the grant to carry out activities that meet requirements described in section 2017(a).

"(2) An assurance that the local educational agency will target the funds to high-poverty, low-performing schools served by the local educational agency that—

"(A) have the lowest proportions of qualified teachers;

"(B) are identified for school improvement and corrective action under section 1116; or

"(C) are identified for school improvement in accordance with other measures of school quality as determined and documented by the local educational agency.

"(3) A description of how the local educational agency will coordinate professional development and mentoring activities described in section 2017(a) with professional development and mentoring activities provided through other Federal, State, and local programs, including programs authorized under—

"(A) titles I, IV, and V, and part A of title VII; and

"(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

"(4) A description of how the local educational agency will integrate funds received to carry out activities described in section 2017(a) with funds received under title V that are used for professional development and mentoring in order to carry out professional development and mentoring activities that—

"(A) train teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists, in how to use technology to improve learning and teaching; and

"(B) take into special consideration the different learning needs for, and exposures to, technology for all students, including females, students with disabilities, students with limited English proficiency, and students who have economic and educational disadvantages.

"(5) A description of how the local application was developed with extensive participation of teachers, paraprofessionals, principals, and parents.

"(6) A description of how the professional development and mentoring activities described in section 2017(a) will address the ongoing professional development and mentoring of teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists.

"(7) A description of how the professional development and mentoring activities described in section 2017(a) will have a substantial, measurable, and positive impact on student achievement and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority student from other students.

"(8) A description of how the local educational agency will address the needs of teachers of students with disabilities, students with limited English proficiency, and other students with special needs.

"(9) A description of how the local educational agency will provide training to teachers to enable the teachers to work with parents, involve parents in their child's education, and encourage parents to become collaborators with schools in promoting their child's education.

"(10) The assurances and description referred to in section 2023, with respect to professional development and mentoring activities.

"(c) Development and Contents Relating to Recruitment Activities.—If an eligible local educational agency (as defined in section 2015(b)) seeks a grant under section 2015(b) to carry out activities described in section 2017(b)—

"(1) the eligible local educational agency shall enter into a recruitment partnership, which shall jointly prepare and submit the local application described in subsection (a); and

"(2) at a minimum, the application shall include—

"(A) a description of how the recruitment partnership will meet the teacher corps program requirements described in section 2018;

"(B) a description of the individual and collective responsibilities of members of the recruitment partnership in meeting the requirements and goals of a teacher corps program described in section 2018;

"(C) information demonstrating that the State agency responsible for teacher licensure or certification in the State in which a recruitment partnership is established will—

"(i) ensure that a corps member who successfully completes a teacher corps program will have the academic requirements necessary for initial certification or licensure as a teacher in the State; and

"(ii) work with the recruitment partnership to ensure the partnership uses high-quality methods and establishes high-quality requirements concerning alternative routes to certification or licensing, in order to meet State requirements for certification or licensure; and

"(D) the assurances and description referred to in section 2023, with respect to recruitment activities.

"(d) Contents Relating to Covered Recruitment.—If the local educational agency seeks a grant under section 2015(a) to carry out activities described in section 2017(c), the local application described in subsection (a) shall include, at a minimum, a description of the activities and the manner in which the activities will contribute to accomplishing the objectives of section 2023, and how the activities are in compliance with the requirements of this Act.

"(e) Approval.—A State educational agency shall approve a local educational agency's or recruitment partnership's application under this section only if the State educational agency determines that the application is of high quality and holds reasonable promise of achieving the purposes of this part.

"SEC. 2017. LOCAL ACTIVITIES.

"(a) Professional Development and Mentoring Activities.—Except as provided in subsection (c), each local educational agency receiving a grant under section 2015(a) shall use the funds made available through the grant to carry out activities (and only activities) that—

"(1) are professional development activities (as defined in section 2002(12)(A)) that—

"(A) improve teacher knowledge of—

"(i) 1 or more of the core academic subjects;

"(ii) effective instructional strategies, methods, and skills for improving student achievement in core academic subjects, including strategies for identifying and eliminating gender and racial bias;

"(iii) the use of data and assessments to inform teachers about and thereby help teachers to improve classroom practice; and

"(iv) innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies that integrate academic and technical skills and applied learning (such as service learning), methodologies for interactive and interdisciplinary team teaching, and other alternative teaching strategies, such as strategies for experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(B) provide teachers and paraprofessionals (and other staff as appropriate) with information on recent research findings on how children learn to read and with staff development on research-based instructional strategies for the teaching of reading;

"(C) replicate effective instructional practices that involve collaborative groups of teachers and administrators from the same school or district, using strategies such as—

"(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

"(ii) provision of collaborative professional development experiences for veteran teachers based on the standards in the core academic subjects of the National Board for Professional Teaching Standards;

"(iii) consultation with exemplary teachers;

"(iv) provision of short-term and long-term visits to classrooms and schools;

"(v) participation of teams of teachers in summer institutes and summer immersion activities that are focused on preparing teachers to enable all students to meet high standards in 1 or more of the core academic subjects; and

"(vi) establishment and maintenance of local professional networks that provide a forum for interaction among teachers and administrators and that allow for the exchange of information on advances in content knowledge and teaching skills;

"(D) provide for the participation of paraprofessionals, pupil services personnel, and other school staff;

"(E) include strategies for fostering meaningful parental involvement and relations with parents to encourage parents to become collaborators in their children's education, for improving classroom management and discipline, and for integrating technology into a curriculum;

"(F) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with the findings of the evaluations used to improve the quality of activities described in this paragraph;

"(G) include, to the extent practicable, the establishment of a partnership with an institution of higher education, another local educational agency, a teacher organization, or another organization, for the purpose of carrying out activities described in this paragraph; and

"(H) include ongoing and school-based support for activities described in this paragraph, such as support for peer review, coaching, or study groups, and the provision of release time as needed for the activities;

"(2) are mentoring activities; and

"(3) include local activities carried out under chapter 2.

"(b) Recruitment Activities.—Each recruitment partnership receiving a grant under section 2015(b) shall use the funds made available through the grant to carry out recruitment activities (and only recruitment activities) described in section 2018.

"(c) Covered Recruitment.—A local educational agency receiving a grant under section 2015(a) for a fiscal year may elect to use a portion of the funds made available through the grant, but not more than the agency's share of 10 percent of the funds allotted to the State involved under section 2011 for the fiscal year, to carry out recruitment (including recruitment through the use of signing bonuses and other financial incentives) and hiring of fully qualified teachers.

"SEC. 2018. RECRUITMENT ACTIVITIES THROUGH A TEACHER CORPS PROGRAM.

"(a) Teacher Corps Program Requirements.—

"(1) Recruitment.—A recruitment partnership that receives a grant under section 2015(b) shall broadly recruit and screen for a teacher corps a highly qualified pool of candidates who demonstrate the potential to become effective teachers. Each candidate shall meet—

"(A) standards to ensure that—

"(i) each corps member possesses appropriate, high-level credentials and presents the likelihood of becoming an effective teacher; and

"(ii) each group of corps members includes people who have expertise in academic subjects and otherwise meet the specific needs of the district to be served; and

"(B) any additional standard that the recruitment partnership establishes to enhance the quality and diversity of candidates and to meet the academic and grade level needs of the partnership.

"(2) Required curriculum and placement.—Members of the recruitment partnership shall work together to plan and develop a program that includes—

"(A) a rigorous curriculum that includes a preservice training program (incorporating innovative approaches to preservice training, such as distance learning), for a period not to exceed 1 year, that provides corps members with the skills and knowledge necessary to become effective teachers, by—

"(i) requiring completed course work in basic areas of teaching, such as principles of learning and child development, effective teaching strategies, assessments, and classroom management, and in the pedagogy related to the academic subjects in which a corps member intends to teach;

‘‘(ii) providing extensive preparation in the pedagogy of reading to corps members, including preparation components that focus on—

‘‘(I) understanding the psychology of reading, and human growth and development;

‘‘(II) understanding the structure of the English language; and

‘‘(III) learning and applying the best teaching methods to all aspects of reading instruction;

‘‘(iii) providing training in the use of technology as a tool to enhance a corps member's effectiveness as a teacher and improve the achievement of the corps member's students; and

‘‘(iv) focusing on the teaching skills and knowledge that corps members need to enable all students to meet the State's highest challenging content and student performance standards;

‘‘(B) placement of a corps member with the local educational agency participating in the recruitment partnership, in a teaching internship that—

‘‘(i) includes intensive mentoring;

‘‘(ii) provides a reduced teaching load; and

‘‘(iii) provides regular opportunities for the corps member to co-teach with a mentor teacher, observe other teachers, and be observed and coached by other teachers;

‘‘(C) individualized inservice training over the course of the corps member's first 2 years of full-time teaching that provides—

‘‘(i) high-quality professional development, coordinated jointly by members of the recruitment partnership, and the course work necessary to provide additional or supplementary knowledge to meet the specific needs of the corps member; and

‘‘(ii) ongoing mentoring by a teacher who meets the criteria for a mentor teacher described in paragraph (4)(B), including the requirements of section 2002(10); and

‘‘(D) collaboration between the recruitment partnership, and local community student and parent groups, to assist corps members in enhancing their understanding of the community in which the members are placed.

‘‘(3) EVALUATION.—A recruitment partnership shall evaluate a corps member's progress in course study and classroom practice at regular intervals. Each recruitment partnership shall have a formal process to identify corps members who seem unlikely to become effective teachers and terminate their participation in the program.

‘‘(4) MENTOR TEACHERS.—

‘‘(A) IN GENERAL.—A recruitment partnership shall develop a plan for the program, which shall include strategies for identifying, recruiting, training, and providing ongoing support to individuals who will serve as mentor teachers to corps members.

‘‘(B) MENTOR TEACHER REQUIREMENTS.—The plan described in subparagraph (A) shall specify the criteria that the recruitment partnership will use to identify and select mentor teachers and, at a minimum, shall—

‘‘(i) require a mentor teacher to meet the requirements of section 2002(10); and

‘‘(ii) require that consideration be given to teachers with national board certification.

‘‘(C) COMPENSATION.—The plan shall specify the compensation—

‘‘(i) for mentor teachers, including monetary compensation, release time, or a reduced work load to ensure that mentor teachers can provide ongoing support for corps members; and

‘‘(ii) for corps members, including salary levels and the stipends, if any, that will be provided during a corps member's preservice training.

‘‘(5) ASSURANCES.—The plan shall include assurances that—

‘‘(A) a corps member will be assigned to teach only academic subjects and grade levels for which the member is fully qualified;

‘‘(B) corps members, to the extent practicable, will be placed in schools with teams of corps members; and

‘‘(C) every mentor teacher will be provided sufficient time to meet the needs of the corps members assigned to the mentor teacher.

‘‘(b) CORPS MEMBER QUALIFICATIONS.—

‘‘(1) CANDIDATES INTENDING TO TEACH IN ELEMENTARY SCHOOLS.—At a minimum, to be accepted by a teacher corps program, a candidate who intends to teach at the elementary school level shall—

‘‘(A) have a bachelor's degree;

‘‘(B) possess an outstanding commitment to working with children and youth;

‘‘(C) possess a strong professional or postsecondary record of achievement; and

‘‘(D) pass all basic skills and subject matter tests required by the State for teacher certification or licensure.

‘‘(2) CANDIDATES INTENDING TO TEACH IN SECONDARY SCHOOLS.—At a minimum, to be accepted by a teacher corps program, a candidate who intends to teach at the secondary school level shall—

‘‘(A) meet the requirements described in paragraph (1); and

‘‘(B)(i) possess at least an academic major or postsecondary degree in each academic subject in which the candidate intends to teach; or

‘‘(ii) if the candidate did not major or earn a postsecondary degree in an academic subject in which the candidate intends to teach, have completed a rigorous course of instruction in that subject that is equivalent to having majored in the subject.

‘‘(3) SPECIAL RULE.—Notwithstanding paragraph (2)(B), the recruitment partnership may consider the candidate to be an eligible corps member and accept the candidate for a teacher corps program if the candidate has worked successfully and directly in a field and in a position that provided the candidate with direct and substantive knowledge in the academic subject in which the candidate intends to teach.

‘‘(c) THREE-YEAR COMMITMENT TO TEACHING IN ELIGIBLE DISTRICTS.—

‘‘(1) IN GENERAL.—In return for acceptance to a teacher corps program, a corps member shall commit to 3 years of full-time teaching in a school or district served by a local educational agency participating in a recruitment partnership receiving funds under this subpart.

‘‘(2) REIMBURSEMENT.—

‘‘(A) IN GENERAL.—If a corps member leaves the school district to which the corps member has been assigned prior to the end of the 3-year period described in paragraph (1), the corps member shall be required to reimburse the Secretary for the amount of the Federal share of the cost of the corps member's participation in the teacher corps program.

‘‘(B) PARTNERSHIP CLAIMS.—A recruitment partnership that provides a teacher corps program to a corps member who leaves the school district, as discussed in subparagraph (A), may submit a claim to the corps member requiring the corps member to reimburse the recruitment partnership for the amount of the partnership's share of the cost described in subparagraph (A).

‘‘(C) REDUCTION.—Reimbursements required under this paragraph may be reduced proportionally based on the amount of time a corps member remained in the teacher corps program beyond the corps member's initial 2 years of service.

‘‘(D) WAIVER.—The Secretary may waive reimbursements required under subparagraph (A) in the case of severe hardship to a corps member who leaves the school district, as described in subparagraph (A).

‘‘(d) FEDERAL SHARE; NON-FEDERAL SHARE.—

‘‘(1) PAYMENT OF FEDERAL SHARE.—The Secretary shall pay to each recruitment partnership carrying out a teacher corps program under this section the Federal share of the cost of the activities described in the partnership's application under section 2016(c).

‘‘(2) NON-FEDERAL SHARE.—A recruitment partnership's share of the cost of the activities described in the partnership's application under section 2016(c)—

‘‘(A) may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services; and

‘‘(B)(i) for the first year for which the partnership receives assistance under this subpart, shall be not less than 10 percent;

‘‘(ii) for the second such year, shall be not less than 20 percent;

‘‘(iii) for the third year such year, shall be not less than 30 percent;

‘‘(iv) for the fourth such year, shall be not less than 40 percent; and

‘‘(v) for the fifth such year, shall be not less than 50 percent.

“SEC. 2019. GRANTS TO PARTNERSHIPS OF INSTITUTIONS OF HIGHER EDUCATION AND LOCAL EDUCATIONAL AGENCIES.

‘‘(a) ADMINISTRATION.—A State agency for higher education may use, from the funds made available to the agency under section 2013(a)(4) for any fiscal year, not more than 3⅓ percent for the expenses of the agency in administering this section, including conducting evaluations of activities on the performance measures described in section 2014(a)(2).

‘‘(b) GRANTS TO PARTNERSHIPS.—

‘‘(1) IN GENERAL.—The State agency for higher education shall use the remainder of the funds, in cooperation with the State educational agency, to make grants to (including entering into contracts or cooperative agreements with) partnerships of—

‘‘(A) institutions of higher education that are in full compliance with all reporting requirements of title II of the Higher Education Act of 1965 or nonprofit organizations of demonstrated effectiveness in providing professional development and mentoring in the core academic subjects; and

‘‘(B) eligible local educational agencies (as defined in section 2015(b)(2)),

to carry out activities (and only activities) described in subsection (e).

‘‘(2) SIZE; DURATION.—Each grant made under this section shall be—

‘‘(A) in a sufficient amount to carry out the objectives of this section effectively; and

‘‘(B) for a period of 3 years, which the State agency for higher education may extend for an additional 2 years if the agency determines that the partnership is making substantial progress toward meeting the specific goals set out in the written agreement required in subsection (c) and on the performance measures described in section 2014(a)(2).

‘‘(3) APPLICATIONS.—To be eligible to receive a grant under this section, a partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may reasonably require.

“(4) AWARD PROCESS AND BASIS.—The State agency for higher education shall make the grants on a competitive basis, using a peer review process.

“(5) PRIORITY.—In making the grants, the State agency for higher education shall give priority to partnerships submitting applications for projects that focus on mentoring programs for beginning teachers.

“(6) CONSIDERATIONS.—In making such a grant for a partnership, the State agency for higher education shall consider—

“(A) the need of the local educational agency involved for the professional development and mentoring activities proposed in the application;

“(B) the quality of the program proposed in the application and the likelihood of success of the program in improving classroom instruction and student academic achievement; and

“(C) such other criteria as the agency finds to be appropriate.

“(c) AGREEMENTS.—

“(1) IN GENERAL.—No partnership may receive a grant under this section unless the institution of higher education or nonprofit organization involved enters into a written agreement with at least 1 eligible local educational agency (as defined in section 2015(b)(2)) to provide professional development and mentoring for elementary and secondary school teachers in the schools served by that agency in the core academic subjects.

“(2) GOALS.—Each such agreement shall identify specific measurable annual goals concerning how the professional development and mentoring that the partnership provides will enhance the ability of the teachers to prepare all students to meet challenging State and local content and student performance standards.

“(d) JOINT EFFORTS WITHIN INSTITUTIONS OF HIGHER EDUCATION.—Each professional development and mentoring activity assisted under this section by a partnership containing an institution of higher education shall involve the joint effort of the institution of higher education's school or department of education and the schools or departments of the institution in the specific disciplines in which the professional development and mentoring will be provided.

“(e) USES OF FUNDS.—A partnership that receives funds under this section shall use the funds for activities (and only for activities) that consist of—

“(1) professional development and mentoring in the core academic subjects, aligned with State or local content standards, for teams of teachers from a school or school district and, where appropriate, administrators and paraprofessionals;

“(2) research-based professional development and mentoring programs to assist beginning teachers, which may include—

“(A) mentoring and coaching by trained mentor teachers that lasts at least 2 years;

“(B) team teaching with veteran teachers who have a consistent record of helping their students make substantial academic gains;

“(C) provision of time for observation of, and consultation with, veteran teachers;

“(D) provision of reduced teaching loads; and

“(E) provision of additional time for preparation;

“(3) the provision of technical assistance to school and agency staff for planning, implementing, and evaluating professional development and mentoring;

“(4) the provision of training for teachers to help the teachers develop the skills necessary to work most effectively with parents; and

“(5) in appropriate cases, the provision of training to address areas of teacher and administrator shortages.

“(f) COORDINATION.—Any partnership that carries out professional development and mentoring activities under this section shall coordinate the activities with activities carried out under title II of the Higher Education Act of 1965, if a local educational agency or institution of higher education in the partnership is participating in programs funded under that title.

“(g) ANNUAL REPORTS.—

“(1) IN GENERAL.—Beginning with fiscal year 2002, each partnership that receives a grant under this section shall prepare and submit to the appropriate State agency for higher education, by a date set by that agency, an annual report on the progress of the partnership on the performance measures described in section 2014(a)(2).

“(2) CONTENTS.—Each such report shall—

“(A) include a copy of each written agreement required by subsection (c) that is entered into by the partnership; and

“(B) describe how the members of the partnership have collaborated to achieve the specific goals set out in the agreement, and the results of that collaboration.

“(3) COPY.—The State agency for higher education shall provide the State educational agency with a copy of each such report.

“Chapter 2—Accountability

“SEC. 2021. STATE APPLICATION ACCOUNTABILITY PROVISIONS.

“(a) ASSURANCES.—Each State application submitted under section 2012 shall contain assurances that—

“(1) beginning on the date of enactment of the Educational Opportunities Act, no school in the State that is served under this subpart will use funds received under this subpart to hire a teacher who is not a fully qualified teacher; and

“(2) not later than 4 years after the date of enactment of the Educational Opportunities Act, each teacher in the State who provides services to students served under this subpart shall be a fully qualified teacher.

“(b) WITHHOLDING.—If a State fails to meet the requirements described in subsection (a)(2) for a fiscal year in which the requirements apply—

“(1) the Secretary shall withhold, for the following fiscal year, a portion of the funds that would otherwise be available to the State under section 2013(a)(1) for the administration of this subpart; and

“(2) the State shall be subject to such other penalties as are provided by law for a violation of this Act.

“(c) ASSISTANCE BY STATE EDUCATIONAL AGENCY.—Each State application submitted under section 2012 shall describe how the State educational agency will help each local educational agency and school in the State develop the capacity to comply with the requirements of this section.

“SEC. 2022. STATE REPORTS.

“(a) REPORT TO SECRETARY.—

“(1) IN GENERAL.—Each State that receives funds under this subpart shall annually prepare and submit to the Secretary a report containing—

“(A) information on the activities of the State under this subpart, including statewide information, and information on the activities of each grant recipient in the State;

“(B) information on the effectiveness of the activities, and the progress of recipients of grants under this subpart, on performance measures, including measures described in section 2014(a)(2) and goals described in paragraphs (3) and (4) of section 2012(b); and

“(C) such other information as the Secretary may reasonably require.

“(2) DEADLINES.—The State shall submit the reports described in paragraph (1) by such deadlines as the Secretary may establish.

“(b) PUBLIC ACCOUNTABILITY.—

“(1) IN GENERAL.—Each State that receives funds under this subpart—

“(A) in the event the State provides public State report cards on education, shall include in such report cards—

“(i) the percentage of middle school and other secondary school classes in core academic subjects that are taught by out-of-field teachers;

“(ii) the percentage of middle school, other elementary school, and other secondary school classes taught by individuals holding only emergency credentials, or for whom any State certification or licensing standards for teachers have been waived;

“(iii) the average statewide class size; or

“(B) in the event the State provides no such report card, shall disseminate to the public the information described in clauses (i) through (iii) of subparagraph (A) through other means.

“(2) PUBLIC AVAILABILITY.—Such information shall be made widely available to the public, including parents and students, throughout the State.

“(c) GENERAL ACCOUNTING OFFICE.—Not later than September 30, 2004, the Comptroller General of the United States shall—

“(1) conduct a study of the progress of the States in increasing the percentage of teachers who are fully qualified teachers for fiscal years 2001 through 2003; and

“(2) prepare and submit to the Committee on Education and Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the study.

“SEC. 2023. LOCAL APPLICATION ACCOUNTABILITY PROVISIONS.

“Each local application submitted under section 2016 shall contain assurances that—

“(1) the agency will not hire a teacher with funds made available to the agency under this subpart, unless the teacher is a fully qualified teacher;

“(2) the local educational agency and schools served by the agency will work to ensure, through voluntary agreements and incentive programs, that elementary school and secondary school teachers in high-poverty schools served by the local educational agency will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the same local educational agency that are not high-poverty schools;

“(3) any teacher who receives certification from the National Board for Professional Teaching Standards will be considered fully qualified to teach, in the academic subjects in which the teacher is certified, in high-poverty schools in any school district or community served by the local educational agency; and

“(4) the agency will—

“(A) make available, on request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the professional qualifications of the student's classroom teachers with regard to—

“(i) whether the teacher has met State certification or licensing criteria for the academic subjects and grade level in which the teacher teaches the student;

“(ii) whether the teacher is teaching with emergency or whether any State certification or licensing standard has been waived for the teacher; and

“(iii) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches; and

“(B) inform parents that the parents are entitled to receive the information upon request.

“SEC. 2024. LOCAL CONTINUATION OF FUNDING.

“(a) AGENCIES.—If a local educational agency applies for funds under this subpart for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for that fiscal year only if the State determines that the agency has demonstrated that the agency, in carrying out activities under this subpart during the past fiscal year, has met annual numerical performance objectives for—

“(1) improved student performance for all groups described in section 1111(b)(2);

“(2) increased participation in sustained professional development and mentoring programs;

“(3) reduced the beginning teacher attrition rate for the agency; and

“(4) reduced the number of teachers who are not certified or licensed, and the number who are out-of-field teachers, for the agency.

“(b) SCHOOLS.—If a local educational agency applies for funds under this subpart on behalf of a school for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for the school for that fiscal year only if the State determines that the school has demonstrated that the school, in carrying out activities under this subpart during the past fiscal year, has met the requirements of paragraphs (1) through (4) of subsection (a).

“(c) RECRUITMENT PARTNERSHIPS.—

“(1) IN GENERAL.—If not more than 90 percent of the graduates of a teacher corps program assisted under this subpart for a fiscal year pass applicable State or local initial teacher licensing or certification examinations, the recruitment partnership providing the teacher corps program shall be ineligible to receive grant funds for the succeeding fiscal year.

“(2) WAIVER.—The State in which the partnership is located may waive the requirement described in paragraph (1) for a recruitment partnership serving a school district that has special circumstances, such as a district with a small number of corps members.

“SEC. 2025. LOCAL REPORTS.

“(a) IN GENERAL.—Each local educational agency that receives funds under this subpart (including funds received through a partnership) shall prepare, make publicly available, and submit to the State educational agency, every year, beginning in fiscal year 2002, a report on the activities of the agency under this subpart, in such form and containing such information as the State educational agency may reasonably require.

“(b) CONTENTS.—The report shall contain, at a minimum—

“(1) information on progress throughout the schools served by the local educational agency on the performance measures described in section 2014(a)(2) and goals described in paragraphs (3) and (4) of section 2012(b);

“(2) information on progress throughout the schools served by the local educational agency toward achieving the objectives of, and carrying out the activities described in, this subpart;

“(3) data on the progress described in paragraphs (1) and (2), disaggregated by school poverty level, as defined by the State; and

“(4) a description of the methodology used to gather the information and data described in paragraphs (1) through (3).

“Subpart 2—National Activities for the Improvement of Teaching and School Leadership

“Chapter 1—National Activities and Clearinghouse

“SEC. 2031. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Secretary is authorized to make grants to, and to enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private nonprofit agencies, organizations, and institutions to carry out subsection (b).

“(b) ACTIVITIES.—In making the grants, and entering into the contracts and cooperative agreements, the Secretary—

“(1) may support activities of national significance that are not supported through other sources and that the Secretary determines will contribute to the improvement of teaching and school leadership in the Nation's schools, such as—

“(A) supporting collaborative efforts by States, or consortia of States, to review and measure the quality, rigor, and alignment of State standards and assessments;

“(B) supporting State and local efforts to develop curricula aligned with State standards and assessments;

“(C) supporting collaborative efforts by States, or consortia of States, to review and measure the quality and rigor of standards for entry into the field of teaching, including the alignment of such standards with State standards for students in elementary school and secondary school, and the alignment of initial teacher licensing and certification assessments with State standards for entry into the field of teaching;

“(D) supporting the development of models, at the State and local levels, of innovative compensation systems that—

“(i) provide incentives for talented individuals who have a strong knowledge of academic content to enter teaching; and

“(ii) reward veteran teachers who acquire new knowledge and skills that are needed in the schools and districts in which the teachers teach; and

“(E) supporting collaborative efforts by States, or consortia of States, to develop performance-based systems for assessing content knowledge and teaching skills of teachers prior to initial certification or licensure of the teachers;

“(2) may support activities of national significance that the Secretary determines will contribute to the recruitment and retention of highly qualified teachers and principals in schools served by high-poverty local educational agencies, such as—

“(A) the development and implementation of a national teacher recruitment clearinghouse and job bank, which shall be coordinated and, to the extent feasible, integrated with the America's Job Bank administered by the Secretary of Labor, to—

“(i) disseminate information and resources nationwide on entering the teaching profession, to persons interested in becoming teachers;

“(ii) serve as a national resource center regarding effective practices for teacher professional development and mentoring, recruitment, and retention;

“(iii) link prospective teachers to local educational agencies and training resources;

“(iv) provide information and technical assistance to prospective teachers about certification and licensing and other State and local requirements related to teaching; and

“(v) provide data projections concerning teacher and administrator supply and demand and available teaching and administrator opportunities;

“(B) the development and implementation, or expansion, of programs that recruit talented individuals to become principals, including such programs that employ alternative routes to State certification or licensing that are at least as rigorous as the State's standards for initial certification or licensing of teachers, and that prepare both new and experienced principals to serve as instructional leaders, which may include the creation and operation of a national center or regional centers for the preparation and support of principals as leaders of school reform;

“(C) efforts to increase the portability of teacher pensions and reciprocity of teaching credentials across State lines;

“(D) research, evaluation, and dissemination activities related to effective strategies for increasing the portability of teachers' credited years of experience across State and school district lines;

“(E) the development and implementation of national or regional programs to—

“(i) recruit highly talented individuals to become teachers, through alternative routes to certification or licensing that are at least as rigorous as the State's standards for initial certification or licensing of teachers, in schools served by high-poverty local educational agencies; and

“(ii) help retain the individuals for more than 3 years as classroom teachers in schools served by the local educational agencies; and

“(F) the establishment of partnerships of high-poverty local educational agencies,. teacher organizations, and local businesses, in order to help the agencies attract and retain high-quality teachers and principals through provision of increased pay, combined with reforms to raise teacher performance including use of regular, rigorous peer evaluations and (where appropriate) student evaluations of every teacher;

“(3) may support the National Board for Professional Teaching Standards;

“(4)(A) shall carry out a national evaluation, not sooner than 3 years and not later than 4 years after the date of enactment of the Educational Opportunities Act, of the effect of activities carried out under this title, including an assessment of changes in instructional practice and objective measures of student achievement; and

“(B) shall submit a report containing the results of the evaluation to Congress; and

“(5) shall annually submit to Congress a report on the information contained in the State reports described in section 2022.

“SEC. 2032. EISENHOWER NATIONAL CLEARINGHOUSE FOR MATHEMATICS AND SCIENCE EDUCATION.

“(a) ESTABLISHMENT OF CLEARINGHOUSE.—The Secretary shall award a grant or contract, on a competitive basis, to an entity to establish and operate an Eisenhower National Clearinghouse for Mathematics and Science Education (referred to in this section as ‘the Clearinghouse’).

“(b) AUTHORIZED ACTIVITIES.—

“(1) APPLICATION AND AWARD BASIS.—

“(A) IN GENERAL.—An entity desiring to establish and operate the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(B) PEER REVIEW.—The Secretary shall establish a peer review panel to make recommendations on the recipient of the award for the Clearinghouse.

"(C) BASIS.—The Secretary shall make the award for the Clearinghouse on the basis of merit.

"(2) DURATION.—The Secretary shall award the grant or contract for the Clearinghouse for a period of 5 years.

"(3) ACTIVITIES.—The award recipient shall use the award funds to—

"(A) maintain a permanent collection of such mathematics and science education instructional materials and programs for elementary schools and secondary schools as the Secretary finds appropriate, and give priority to maintaining such materials and programs that have been identified as promising or exemplary, through a systematic approach such as the use of expert panels required under the Educational Research, Development, Dissemination, and Improvement Act of 1994;

"(B) disseminate the materials and programs described in subparagraph (A) to the public, State educational agencies, local educational agencies, and schools (particularly high-poverty, low-performing schools), including dissemination through the maintenance of an interactive national electronic information management and retrieval system accessible through the World Wide Web and other advanced communications technologies;

"(C) coordinate activities with entities operating other databases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international databases;

"(D) using not more than 10 percent of the amount awarded under this section for any fiscal year, participate in collaborative meetings of representatives of the Clearinghouse and regional mathematics and science education consortia to—

"(i) discuss issues of common interest and concern;

"(ii) foster effective collaboration and cooperation in acquiring and distributing instructional materials and programs; and

"(iii) coordinate and enhance computer network access to the Clearinghouse and the resources of the regional consortia;

"(E) support the development and dissemination of model professional development and mentoring materials for mathematics and science education;

"(F) contribute materials or information, as appropriate, to other national repositories or networks; and

"(G) gather qualitative and evaluative data on submissions to the Clearinghouse, and disseminate that data widely, including through the use of electronic dissemination networks.

"(4) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops mathematics or science education instructional materials or programs, including the National Science Foundation and the Department, shall submit copies of that materials or those programs to the Clearinghouse.

"(5) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(6) APPLICATION OF COPYRIGHT LAWS.—

"(A) CONSTRUCTION.—Nothing in this section shall be construed to allow the use or copying, in any medium, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the Clearinghouse obtains the permission of the owner of the copyright.

"(B) COMPLIANCE.—In carrying out this section, the Clearinghouse shall ensure compliance with title 17, United States Code.

"Chapter 2—Transition to Teaching

"SEC. 2041. PURPOSE.

"The purpose of this chapter is to address the need of high-poverty local educational agencies for highly qualified teachers in particular academic subjects, such as mathematics, science, foreign languages, bilingual education, and special education needed by the agencies, by—

"(1) continuing and enhancing the Troops to Teachers model for recruiting and supporting the placement of such teachers; and

"(2) recruiting, preparing, placing, and supporting career-changing professionals who have knowledge and experience that will help the professionals become such teachers.

"SEC. 2042. DEFINITIONS.

"In this chapter:

"(1) PROGRAM PARTICIPANT.—The term 'program participant' means a career-changing professional who—

"(A) demonstrates interest in, and commitment to, becoming a teacher; and

"(B) has knowledge and experience that is relevant to teaching a high-need academic subject for a high-poverty local educational agency.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Education, except as otherwise determined in accordance with the agreements described in section 2043(b).

"SEC. 2043. PROGRAM AUTHORIZED.

"(a) AUTHORITY.—Subject to subsection (b), using funds made available to carry out this chapter under section 2003(2)(A) for each fiscal year, the Secretary may award grants, contracts, or cooperative agreements to institutions of higher education and public and private nonprofit agencies or organizations to carry out programs authorized under this chapter.

"(b) IMPLEMENTATION.—

"(1) CONSULTATION.—Before making awards under subsection (a) for any fiscal year, the Secretary of Education shall—

"(A) consult with the Secretary of Defense and the Secretary of Transportation regarding the appropriate amount of funding needed to carry out this chapter; and

"(B) upon agreement, transfer that amount to the Department of Defense to carry out this chapter.

"(2) AGREEMENT.—The Secretary of Education may enter into a written agreement with the Secretary of Defense and the Secretary of Transportation, or take such other steps as the Secretary of Education determines are appropriate, to ensure effective implementation of this chapter.

"SEC. 2044. APPLICATION.

"Each entity that desires an award under section 2043(a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the target group of career-changing professionals on which the entity will focus in carrying out a program under this chapter, including a description of the characteristics of that target group that shows how the knowledge and experience of the members of the group are relevant to meeting the purpose of this chapter;

"(2) a description of how the entity will identify and recruit program participants;

"(3) a description of the training that program participants will receive and how that training will relate to their certification or licensing as teachers;

"(4) a description of how the entity will ensure that program participants are placed with, and teach for, high-poverty local educational agencies;

"(5) a description of the teacher induction services (which may be provided through induction programs in existence on the date of submission of the application) the program participants will receive throughout at least their first year of teaching;

"(6) a description of how the entity will collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this chapter, including evidence of the commitment of the institutions, agencies, or organizations to the entity's program;

"(7) a description of how the entity will evaluate the progress and effectiveness of the entity's program, including a description of—

"(A) the program's goals and objectives;

"(B) the performance indicators the entity will use to measure the program's progress; and

"(C) the outcome measures that the entity will use to determine the program's effectiveness; and

"(8) an assurance that the entity will provide to the Secretary such information as the Secretary determines to be necessary to determine the overall effectiveness of programs carried out under this chapter.

"SEC. 2045. USES OF FUNDS AND PERIOD OF SERVICE.

"(a) AUTHORIZED ACTIVITIES.—Funds made available under this chapter may be used for—

"(1) recruiting program participants, including informing individuals who are potential participants of opportunities available under the program and putting the individuals in contact with other institutions, agencies, or organizations that would train, place, and support the individuals;

"(2) providing training stipends and other financial incentives for program participants, such as paying for moving expenses, not to exceed $5,000, in the aggregate, per participant;

"(3) assisting institutions of higher education or other providers of teacher training to tailor their training to meet the particular needs of professionals who are changing their careers to teaching;

"(4) providing placement activities, including identifying high-poverty local educational agencies with needs for the particular skills and characteristics of the newly trained program participants and assisting the participants to obtain employment with the local educational agencies; and

"(5) providing post-placement induction or support activities for program participants.

"(b) PERIOD OF SERVICE.—A program participant in a program under carried out under this chapter who completes the participant's training shall serve in a high-poverty local educational agency for at least 3 years.

"(c) REPAYMENT.—The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that program participants who receive a training stipend or other financial incentive under subsection (a)(2), but fail to complete their service obligation under subsection (b), repay all or a portion of such stipend or other incentive.

“SEC. 2046. EQUITABLE DISTRIBUTION.

“To the extent practicable, the Secretary shall make awards under this chapter that support programs in different geographic regions of the Nation.

“Chapter 3—Hometown Teachers

“SEC. 2051. PURPOSE.

“The purpose of this chapter is to support the efforts of high-need local educational agencies to develop and implement comprehensive approaches to recruiting and retaining highly qualified teachers, including recruiting such teachers through Hometown Teacher programs that carry out long-term strategies to expand the capacity of the communities served by the agencies to produce local teachers.

“SEC. 2052. DEFINITION.

“The term ‘high-need local educational agency’ means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

“(1) a high percentage (as determined by the State in which the agency is located) of individuals from families with incomes below the poverty line;

“(2) a high percentage (as determined by the State in which the agency is located) of secondary school teachers not teaching in the core academic subjects in which the teachers were trained to teach; or

“(3) a high percentage (as determined by the State in which the agency is located) of elementary school and secondary school teachers who are not fully qualified teachers.

“SEC. 2053. PROGRAM AUTHORIZED.

“From funds made available to carry out this chapter under section 2003(2)(B) for each fiscal year, the Secretary may award grants to high-need local educational agencies to carry out Hometown Teacher programs and other activities described in this chapter.

“SEC. 2054. APPLICATIONS.

“Each high-need local educational agency that desires to receive a grant under section 2053 shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) a description of the local educational agency's assessment of the agency's needs for teachers, such as the agency's projected shortage of qualified teachers and the percentage of teachers serving the agency who lack certification or licensure or who are teaching out of field;

“(2) a description of a Hometown Teacher program that the local educational agency plans to develop and implement with the funds made available through the grant, including a description of—

“(A) strategies the agency will use to—

“(i) encourage secondary school and middle school students in schools served by the local educational agency to consider pursuing careers in the teaching profession; and

“(ii) provide support at the undergraduate level to those students who intend to become teachers; and

“(B) the agency's plans to streamline the hiring timelines in the hiring policies and practices of the agency for participants in the Hometown Teacher program;

“(3) a description of the long-term strategies that the agency will use, if any, to reduce the agency's teacher attrition rate, including providing mentoring programs and making efforts to raise teacher salaries and create more desirable working conditions for teachers;

“(4) a description of the agency's strategy for ensuring that all secondary school teachers and middle school teachers in the school district are fully certified or licensed in an academic subject and are teaching the majority of their classes in the subject in which the teachers are certified or licensed;

“(5) a description of the short-term strategies the agency will use, if any, to address the agency's teacher shortage problem, including the strategies the agency will use to ensure that the teachers that the local educational agency is targeting for employment are fully certified or licensed;

“(6) a description of the agency's long-term plan for ensuring that the agency's teachers have opportunities for sustained, high-quality professional development;

“(7) a description of the ways in which the activities proposed to be carried out through the grant are part of the agency's overall plan for improving the quality of teaching and student achievement;

“(8) a description of how the agency will collaborate, as needed, with other institutions, agencies, or organizations to develop and implement the strategies the agency proposes in the application, including evidence of the commitment of the institutions, agencies, or organizations to the agency's activities;

“(9) a description of the strategies the agency will use to coordinate activities funded under the program carried out under this chapter with activities funded through other Federal programs that address teacher shortages, including programs carried out through grants to local educational agencies under title I or this title, including chapter 2, if the applicant receives funds from the programs;

“(10) a description of how the agency will evaluate the progress and effectiveness of the Hometown Teacher program, including a description of—

“(A) the agency's goals and objectives for the program;

“(B) the performance indicators that the agency will use to measure the program's effectiveness; and

“(C) the measurable outcome measures, such as increased percentages of fully certified or licensed teachers, that the agency will use to determine the program's effectiveness; and

“(11) an assurance that the agency will provide to the Secretary such information as the Secretary determines to be necessary to determine the overall effectiveness of programs carried out under this chapter.

“SEC. 2055. PRIORITY.

“In awarding grants under this chapter, the Secretary may give priority to agencies submitting applications that—

“(1) focus on increasing the percentage of qualified teachers in particular teaching fields, such as mathematics, science, and bilingual education; and

“(2) focus on recruiting qualified teachers for certain types of communities, such as urban and rural communities.

“SEC. 2056. USE OF FUNDS.

“(a) Mandatory Use of Funds.—A local educational agency that receives a grant under this chapter shall use the funds made available through the grant to develop and implement long-term strategies to address the agency's teacher shortage, including carrying out Hometown Teacher programs such as the programs described in section 2051.

“(b) Permissible Use of Funds.—A local educational agency that receives a grant under this chapter may use the funds made available through the grant to—

“(1) develop and implement strategies to reduce the local educational agency's teacher attrition rate, including providing mentoring programs, increasing teacher salaries, and creating more desirable working conditions for teachers; and

“(2) develop and implement short-term strategies to address the agency's teacher shortage, including providing scholarships to undergraduates who agree to teach in the school district served by the agency for a certain number of years, providing signing bonuses for teachers, and implementing streamlined hiring practices.

“(c) Supplement, Not Supplant.—Funds made available under this chapter shall be used to supplement, and shall not supplant, State and local funds expended to carry out programs and activities authorized under this chapter.

“SEC. 2057. SERVICE REQUIREMENTS.

“(a) In General.—The Secretary shall establish such requirements as the Secretary finds to be necessary to ensure that a recipient of a scholarship under this chapter who completes a teacher education program subsequently—

“(1) teaches in a school district served by a high-need local educational agency, for a period of time equivalent to the period for which the recipient received the scholarship; or

“(2) repays the amount of the funds provided through the scholarship.

“(b) Use of Repaid Funds.—The Secretary shall deposit any such repaid funds in an account, and use the funds to carry out additional activities under this chapter.

“Chapter 4—Early Childhood Educator Professional Development

“SEC. 2061. PURPOSE.

“In support of the national effort to attain the first of America's Education Goals, the purpose of this chapter is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent them from encountering reading difficulties once they enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

“SEC. 2062. PROGRAM AUTHORIZED.

“(a) Grants to Partnerships.—The Secretary shall carry out the purpose of this chapter by awarding grants, on a competitive basis, to partnerships consisting of—

“(1)(A) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

“(B) another public or private, nonprofit entity that provides such professional development;

“(2) one or more public agencies (including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990), Head Start agencies, or private, nonprofit organizations; and

“(3) to the extent feasible, an entity with demonstrated experience in providing violence prevention education training to educators in early childhood education programs.

“(b) Priority.—In awarding grants under this chapter, the Secretary shall give priority to partnerships that include 1 or more local educational agencies which operate early childhood education programs for children from low-income families in high-need communities.

“(c) Duration and Number of Grants.—

"(1) Duration.—Each grant under this chapter shall be awarded for not more than 4 years.

"(2) Number.—No partnership may receive more than 1 grant under this chapter.

"SEC. 2063. APPLICATIONS.

"(a) Applications Required.—Any partnership that desires to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(b) Contents.—Each such application shall include—

"(1) a description of the high-need community to be served by the project, including such demographic and socioeconomic information as the Secretary may request;

"(2) information on the quality of the early childhood educator professional development program currently conducted by the institution of higher education or other provider in the partnership;

"(3) the results of the assessment that the entities in the partnership have undertaken to determine the most critical professional development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

"(4) a description of how the proposed project will be carried out, including—

"(A) how individuals will be selected to participate;

"(B) the types of research-based professional development activities that will be carried out;

"(C) how research on effective professional development and on adult learning will be used to design and deliver project activities;

"(D) how the project will coordinate with and build on, and will not supplant or duplicate, early childhood education professional development activities that exist in the community;

"(E) how the project will train early childhood educators to provide services that are based on developmentally appropriate practices and the best available research on child, language, and literacy development and on early childhood pedagogy;

"(F) how the program will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English proficiency, disabilities, or other special needs; and

"(G) how the project will train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;

"(5) a description of—

"(A) the specific objectives that the partnership will seek to attain through the project, and how the partnership will measure progress toward attainment of those objectives; and

"(B) how the objectives and the measurement activities align with the performance indicators established by the Secretary under section 2066(a);

"(6) a description of the partnership's plan for institutionalizing the activities carried out under the project, so that the activities continue once Federal funding ceases;

"(7) an assurance that, where applicable, the project will provide appropriate professional development to volunteer staff, as well as to paid staff; and

"(8) an assurance that, in developing its application and in carrying out its project, the partnership has consulted with, and will consult with, relevant agencies and early childhood educator organizations described in section 2062(a)(2) that are not members of the partnership.

"SEC. 2064. SELECTION OF GRANTEES.

"(a) Criteria.—The Secretary shall select partnerships to receive funding on the basis of the community's need for assistance and the quality of the applications.

"(b) Geographic Distribution.—In selecting partnerships, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

"SEC. 2065. USES OF FUNDS.

"(a) In General.—Each partnership receiving a grant under this chapter shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.

"(b) Allowable Activities.—Such activities may include—

"(1) professional development for individuals working as early childhood educators, particularly to familiarize those individuals with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

"(2) professional development for early childhood educators in working with parents, based on the best current research on child, language, and literacy development and parent involvement, so that the educators can prepare their children to succeed in school;

"(3) professional development for early childhood educators to work with children who have limited English proficiency, disabilities, and other special needs;

"(4) professional development to train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;

"(5) activities that assist and support early childhood educators during their first three years in the field;

"(6) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

"(7) professional development activities related to the selection and use of research-based diagnostic assessments to improve teaching and learning; and

"(8) data collection, evaluation, and reporting needed to meet the requirements of this chapter relating to accountability.

"SEC. 2066. ACCOUNTABILITY.

"(a) Performance Indicators.—Simultaneously with the publication of any application notice for grants under this chapter, the Secretary shall announce performance indicators for this chapter, which shall be designed to measure—

"(1) the quality and assessability of the professional development provided;

"(2) the impact of that professional development on the early childhood education provided by the individuals who are trained; and

"(3) such other measures of program impact as the Secretary determines appropriate.

"(b) Annual Reports; Termination.—

"(1) Annual reports.—Each partnership receiving a grant under this chapter shall report annually to the Secretary on the partnership's progress against the performance indicators.

"(2) Termination.—The Secretary may terminate a grant under this chapter at any time if the Secretary determines that the partnership is not making satisfactory progress against the indicators.

"SEC. 2067. COST-SHARING.

"(a) In General.—Each partnership shall provide, from other sources, which may include other Federal sources—

"(1) at least 50 percent of the total cost of its project for the grant period; and

"(2) at least 20 percent of the project cost in each year.

"(b) Acceptable Contributions.—A partnership may meet the requirement of subsection (a) through cash or in-kind contributions, fairly valued.

"(c) Waivers.—The Secretary may waive or modify the requirements of subsection (a) in cases of demonstrated financial hardship.

"SEC. 2068. FEDERAL COORDINATION.

"The Secretary and the Secretary of Health and Human Services shall coordinate activities under this chapter and other early childhood programs administered by the two Secretaries.

"SEC. 2069. DEFINITIONS.

"In this chapter:

"(1) High-need community.—

"(A) In general.—The term 'high-need community' means—

"(i) a municipality, or a portion of a municipality, in which at least 50 percent of the children are from low-income families; or

"(ii) a municipality that is one of the 10 percent of municipalities within the State having the greatest numbers of such children.

"(B) Determination.—In determining which communities are described in subparagraph (A), the Secretary shall use such data as the Secretary determines are most accurate and appropriate.

"(2) Low-income family.—The term 'low-income family' means a family with an income below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available.

"(3) Early childhood educator.—The term 'early childhood educator' means a person who provides care and education to children at any age from birth through kindergarten.".

(b) Conforming Amendment.—The Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.) is repealed.

Subtitle B—Safe, Healthy Schools and Communities

CHAPTER 1—GRANTS FOR SCHOOL RENOVATION

SEC. 311. GRANTS FOR SCHOOL RENOVATION.

Title X (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART L—SCHOOL RENOVATION

"SEC. 10995. GRANTS FOR SCHOOL RENOVATION.

"(a) In General.—

"(1) Allocation of funds.—Of the amount appropriated for each fiscal year under subsection (k), the Secretary of Education shall allocate—

"(A) 6.0 percent of such amount for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

"(B) 0.25 percent of such amount for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

"(C) 2 percent of such amount for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of this title X; and

"(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I for fiscal year 2001, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

"(2) DETERMINATION OF GRANT AMOUNT.—

"(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

"(i) for each impacted local educational agency that receives funds under this section; and

"(ii) for all such agencies together.

"(B) COMPUTATION OF PAYMENT.—For fiscal year 2002, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—

"(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

"(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

"(3) DEFINITION.—For purposes of this section, the term 'impacted local educational agency' means, for fiscal year 2001—

"(A) a local educational agency that receives a basic support payment under section 8003(b) for such fiscal year; and

"(B) with respect to which the number of children determined under section 8003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

"(b) WITHIN-STATE ALLOCATIONS.—

"(1) ADMINISTRATIVE COSTS.—

"(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

"(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

"(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the 'State entity') for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

"(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

"(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I for fiscal year 2002 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

"(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I for fiscal year 2001 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

"(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

"(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

"(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

"(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

"(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

"(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

"(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

"(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

"(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

"(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

"(D) POSSIBLE MATCHING REQUIREMENT.—

"(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

"(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

"(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

"(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(ii) For technology activities that are carried out in connection with school repair and renovation, including—

"(I) wiring;

"(II) acquiring hardware and software;

"(III) acquiring connectivity linkages and resources; and

"(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

"(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

"(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 14101(2)).

"(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

"(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

"(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

"(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

"(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

"(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, or sewage systems;

“(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

“(iii) bringing public schools into compliance with fire and safety codes.

“(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

“(D) Asbestos abatement or removal from public school facilities.

“(E) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

“(2) Impermissible uses of funds.—No funds received under this section may be used for—

“(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

“(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

“(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

“(3) Charter schools.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency (as defined in section 14101(18)).

“(4) Supplement, not supplant.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

“(d) Special Rule.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

“(e) Public Comment.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

“(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

“(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

“(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public.

“(f) Reporting.—

“(1) Local reporting.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

“(2) State reporting.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2003, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

“(3) Additional reports.—Each entity receiving funds allocated under subsection (a)(1) (A) of (B) shall submit to the Secretary, not later than December 31, 2003, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

“(g) Applicability of Part B of IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

“(h) Reallocation.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for fiscal year 2002, or does not use its entire allocation for such fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

“(i) Participation of Private Schools.—

“(1) In general.—Section 6402 shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI, except that—

“(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

“(B) the term ‘services’ as used in section 6402 with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

“(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

“(iii) asbestos abatement or removal from school facilities; and

“(C) notwithstanding the requirements of section 6402(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

“(2) Remaining funds.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

“(3) Application.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

“(j) Definitions.—For purposes of this section:

“(1) Charter school.—The term ‘charter school’ has the meaning given such term in section 10310(1).

“(2) Poor children and child poverty.—The terms ‘poor children’ and ‘child poverty’ refer to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

“(3) Rural local educational agency.—The term ‘rural local educational agency’ means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ‘rural’.

“(4) State.—The term ‘State’ means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

“(k) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $1,600,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

SEC. 312. CHARTER SCHOOL CREDIT ENHANCEMENT INITIATIVE.

Section 10331, as added by section 322 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554) is amended by inserting before the period the following: “, and such sums as may be necessary for each of fiscal years 2002 through 2006”.

CHAPTER 2—SCHOOL CONSTRUCTION

SEC. 321. SHORT TITLE.

This chapter may be cited as the “America's Better Classrooms Act of 2001”.

SEC. 322. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) In General.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter X—Public School Modernization Provisions

“Sec. 1400F. Credit to holders of qualified public school modernization bonds.

“Sec. 1400G. Qualified school construction bonds.

“Sec. 1400H. Qualified zone academy bonds.

“SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

“(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

“(b) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified public school modernization bond is 25 percent of the annual credit determined with respect to such bond.

“(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified public school modernization bond is the product of—

“(A) the applicable credit rate, multiplied by

“(B) the outstanding face amount of the bond.

“(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

“(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

“(c) LIMITATION BASED ON AMOUNT OF TAX.—

“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

“(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

“(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term ‘qualified public school modernization bond’ means—

“(A) a qualified zone academy bond, and

“(B) a qualified school construction bond.

“(2) CREDIT ALLOWANCE DATE.—The term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term includes the last day on which the bond is outstanding.

“(e) OTHER DEFINITIONS.—For purposes of this subchapter—

“(1) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

“(2) BOND.—The term ‘bond’ includes any obligation.

“(3) STATE.—The term ‘State’ includes the District of Columbia and any possession of the United States.

“(4) PUBLIC SCHOOL FACILITY.—The term ‘public school facility’ shall not include—

“(A) any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or

“(B) any facility which is not owned by a State or local government or any agency or instrumentality of a State or local government.

“(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(g) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(h) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

“(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

“(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified public school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

“(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified public school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

“(j) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

“(k) REPORTING.—Issuers of qualified public school modernization bonds shall submit reports similar to the reports required under section 149(e).

“(l) TERMINATION.—This section shall not apply to any bond issued after September 30, 2006.

“SEC. 1400G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

“(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term ‘qualified school construction bond’ means any bond issued as part of an issue if—

“(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

“(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

“(3) the issuer designates such bond for purposes of this section, and

“(4) the term of each bond which is part of such issue does not exceed 15 years.

“(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

“(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

“(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

“(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

“(1) $11,000,000,000 for 2002,

“(2) $11,000,000,000 for 2003, and

“(3) except as provided in subsection (f), zero after 2003.

“(d) 60 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

“(1) IN GENERAL.—60 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State and such allocations may be made only if there is an approved State application.

“(2) MINIMUM ALLOCATIONS TO STATES.—

“(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

“(i) the amount allocated to such State under this subsection for such year, and

“(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

“(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

“(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

“(4) ALLOCATIONS FOR INDIAN SCHOOLS.—The provisions of section 1400J shall apply with respect to the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. No funds may be allocated under this section for such schools.

“(5) APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term ‘approved State application’ means an application which is approved by the Secretary of Education and which includes—

“(A) the results of a recent publicly-available survey (undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction and management) of such State's needs for public school facilities, including descriptions of—

“(i) health and safety problems at such facilities,

“(ii) the capacity of public schools in the State to house projected enrollments, and

“(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

“(B) a description of how the State will allocate to local educational agencies, or otherwise use, its allocation under this subsection to address the needs identified under subparagraph (A), including a description of how it will—

“(i) ensure that the needs of both rural and urban areas will be recognized,

“(ii) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

“(iii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, and

“(iv) ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such allocation.

Any allocation under paragraph (1) by a State shall be binding if such State reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

“(e) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

“(1) IN GENERAL.—40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year. No qualified school construction bond may be issued by reason of an allocation to a large local educational agency under the preceding sentence unless such agency has an approved local application.

“(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

“(3) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the preceding sentence may be allocated as provided in subsection (d)(1).

“(4) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term ‘large local educational agency’ means, with respect to a calendar year, any local educational agency if such agency is—

“(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

“(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

“(5) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term ‘approved local application’ means an application which is approved by the Secretary of Education and which includes—

“(A) the results of a recent publicly-available survey (undertaken by the local educational agency or the State with the involvement of school officials, members of the public, and experts in school construction and management) of such agency's needs for public school facilities, including descriptions of—

“(i) the overall condition of the local educational agency's school facilities, including health and safety problems,

“(ii) the capacity of the agency's schools to house projected enrollments, and

“(iii) the extent to which the agency's schools offer the physical infrastructure needed to provide a high-quality education to all students,

“(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

“(C) a description of how the local educational agency will ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, or repair in the locality that would have occurred in the absence of such allocation.

A rule similar to the rule of the last sentence of subsection (d)(6) shall apply for purposes of this paragraph.

“(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

“(1) the amount allocated under subsection (d) to any State, exceeds

“(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(5) or (e).

“(g) SPECIAL RULES RELATING TO ARBITRAGE.—

“(1) IN GENERAL.—A bond shall not be treated as failing to meet the requirement of subsection (a)(1) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued.

“(2) BINDING COMMITMENT REQUIREMENT.—Paragraph (1) shall apply to an issue only if, as of the date of issuance, there is a reasonable expectation that—

“(A) at least 10 percent of the proceeds of the issue will be spent within the 6-month period beginning on such date for the purpose for which such issue was issued, and

“(B) the remaining proceeds of the issue will be spent with due diligence for such purpose.

“(3) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the temporary period shall be treated as proceeds of the issue for purposes of applying subsection (a)(1) and paragraph (1) of this subsection.

“SEC. 1400H. QUALIFIED ZONE ACADEMY BONDS.

“(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this subchapter—

“(1) IN GENERAL.—The term ‘qualified zone academy bond’ means any bond issued as part of an issue if—

“(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

“(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

“(C) the issuer—

“(i) designates such bond for purposes of this section,

“(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

“(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

“(D) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1400G(g) shall apply for purposes of paragraph (1).

“(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

“(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

“(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term ‘qualified contribution’ means any contribution (of a type and quality acceptable to the local educational agency) of—

“(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

“(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

“(iii) services of employees as volunteer mentors,

“(iv) internships, field trips, or other educational opportunities outside the academy for students, or

“(v) any other property or service specified by the local educational agency.

“(3) QUALIFIED ZONE ACADEMY.—The term ‘qualified zone academy’ means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

“(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

"(C) the comprehensive education plan of such public school or program is approved by the local educational agency, and

"(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

"(B) acquiring the land on which such facility is to be constructed with part of the proceeds of such issue,

"(C) providing equipment for use at such academy,

"(D) developing course materials for education to be provided at such academy, and

"(E) training teachers and other school personnel in such academy.

"(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

"(A) $400,000,000 for 1999,

"(B) $400,000,000 for 2000,

"(C) $400,000,000 for 2001,

"(D) $1,400,000,000 for 2002,

"(E) $1,400,000,000 for 2003, and

"(F) except as provided in paragraph (3), zero after 2003.

"(2) ALLOCATION OF LIMITATION.—

"(A) ALLOCATION AMONG STATES.—

"(i) 1999, 2000, and 2001 LIMITATIONS.—The national zone academy bond limitations for calendar years 1999, 2000, and 2001 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

"(ii) LIMITATION AFTER 2001.—The national zone academy bond limitation for any calendar year after 2001 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

"(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.

"(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

"(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(A) the limitation amount under this subsection for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (a) (or the corresponding provisions of prior law) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess."

(b) REPORTING.—Subsection (d) of section 6049 of such Code (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 1400F(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400F(d)(2)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting."

(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 of such Code is amended by striking part IV, by redesignating part V as part IV, and by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 of such Code is amended by adding at the end the following new item:

"Subchapter X. Public school modernization provisions."

(3) The table of parts of subchapter U of chapter 1 of such Code is amended by striking the last 2 items and inserting the following item:

"Part IV. Regulations."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2001.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.

SEC. 323. APPLICATION OF CERTAIN LABOR STANDARDS ON CONSTRUCTION PROJECTS FINANCED UNDER PUBLIC SCHOOL MODERNIZATION PROGRAM.

Section 439 of the General Education Provisions Act (relating to labor standards) is amended—

(1) by inserting "(a)" before "All laborers and mechanics", and

(2) by adding at the end the following:

"(b)(1) For purposes of this section, the term 'applicable program' also includes the qualified zone academy bond provisions enacted by section 226 of the Taxpayer Relief Act of 1997 and the program established by section 322 of the America's Better Classroom Act of 2001.

"(2) A State or local government participating in a program described in paragraph (1) shall—

"(A) in the awarding of contracts, give priority to contractors with substantial numbers of employees residing in the local education area to be served by the school being constructed; and

"(B) include in the construction contract for such school a requirement that the contractor give priority in hiring new workers to individuals residing in such local education area.

"(3) In the case of a program described in paragraph (1), nothing in this subsection or subsection (a) shall be construed to deny any tax credit allowed under such program. If amounts are required to be withheld from contractors to pay wages to which workers are entitled, such amounts shall be treated as expended for construction purposes in determining whether the requirements of such program are met.".

SEC. 324. EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.

(a) IN GENERAL.—Section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864) is amended by adding at the end the following:

"(f) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.—

"(1) IN GENERAL.—In order to provide training services related to construction or reconstruction of public school facilities receiving funding assistance under an applicable program, each State shall establish a specialized program of training meeting the following requirements:

"(A) The specialized program provides training for jobs in the construction industry.

"(B) The program provides trained workers for projects for the construction or reconstruction of public school facilities receiving funding assistance under an applicable program.

"(C) The program ensures that skilled workers (residing in the area to be served by the school facilities) will be available for the construction or reconstruction work.

"(2) COORDINATION.—The specialized program established under paragraph (1) shall be integrated with other activities under this Act, with the activities carried out under the National Apprenticeship Act of 1937 by the State Apprenticeship Council or through the Bureau of Apprenticeship and Training in the Department of Labor, as appropriate, and with activities carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998. Nothing in this subsection shall be construed to require services duplicative of those referred to in the preceding sentence.

"(3) APPLICABLE PROGRAM.—In this subsection, the term 'applicable program' has the meaning given the term in section 439(b) of the General Education Provisions Act (relating to labor standards).".

(b) STATE PLAN.—Section 112(b)(17)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(17)(A)) is amended—

(1) in clause (iii), by striking "and" at the end;

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following:

"(iv) how the State will establish and carry out a specialized program of training under section 134(f); and".

SEC. 325. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) INDIAN.—The term "Indian" means any individual who is a member of a tribe.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRIBAL SCHOOL.—The term "tribal school" means an elementary school, secondary school, or dormitory that is operated by a tribal organization or the Bureau for the education of Indian children and that receives financial assistance for its operation under an appropriation for the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) under a contract, a grant, or an agreement, or for a Bureau-operated school.

(5) TRIBE.—The term "tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40) of the Internal Revenue Code of 1986, including the application of section 7871(d) of such Code. Such term includes any consortium of tribes approved by the Secretary.

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible tribes have the authority to issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools, including the advance planning and design thereof.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), a tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by such bond will be used primarily for elementary and secondary educational purposes for not less than the period such bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction meets the requirements of this subparagraph if such plan—

(i) contains a description of the construction to be undertaken with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been undertaken concerning the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined appropriate by the Secretary.

(C) PRIORITY.—In determining whether a tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to tribes that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List as of FY 2000 of the Bureau of Indian Affairs (65 Fed. Reg. 4623-4624);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) which meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—A tribe may propose in its plan of construction to receive advance planning and design funding from the tribal school modernization escrow account established under paragraph (6)(B). Before advance planning and design funds are allocated from the escrow account, the tribe shall agree to issue qualified tribal school modernization bonds after the receipt of such funds and agree as a condition of each bond issuance that the tribe will deposit into such account or a fund managed by the trustee as described in paragraph (4)(C) an amount equal to the amount of such funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), a tribe may use amounts received through the issuance of a qualified tribal school modernization bond to—

(A) enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms in order to determine the needs of the tribal school and for the design and engineering of the school;

(B) enter into and make payments under contracts with financial advisors, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the tribe in issuing bonds; and

(C) carry out other activities determined appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by a tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of such bond, a transfer of funds from the tribal school modernization escrow account established under paragraph (6)(B) or from other funds furnished by or on behalf of the tribe in an amount, which together with interest earnings from the investment of such funds in obligations of or fully guaranteed by the United States or from other investments authorized by paragraph (10), will produce moneys sufficient to timely pay in full the entire principal amount of such bond on the stated maturity date therefore;

(iv) invest the funds received pursuant to clause (iii) as provided by such clause; and

(v) hold and invest the funds in a segregated fund or account under the agreement, which fund or account shall be applied solely to the payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with requirements that the tribe shall prescribe in the trust agreement entered into under subparagraph (C). Before making a payment to a contractor under subparagraph (C)(v), the trustee shall require an inspection of the project by a local financial institution or an independent inspecting architect or engineer, to ensure the completion of the project.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—No principal payments on any qualified tribal school modernization bond shall be required until the final, stated maturity of such bond, which stated maturity shall be within 15 years from the date of issuance. Upon the expiration of such period, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—In lieu of interest on a qualified tribal school modernization bond there shall be awarded a tax credit under section 1400F of the Internal Revenue Code of 1986.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, beginning in fiscal year 2002, from amounts made available for school replacement under the construction account of the Bureau, the Secretary is authorized to deposit not more than $30,000,000 each fiscal year into a tribal school modernization escrow account.

(ii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (iii) to make payments to trustees appointed and acting pursuant to paragraph (4) or to make payments described in paragraph (2)(D).

(iii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the tribal school modernization escrow account.

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds furnished under paragraph (4)(C)(iii). No qualified tribal school modernization bond issued by a tribe shall be an obligation of, nor shall payment of the principal thereof be guaranteed by, the United States.

(B) LAND AND FACILITIES.—Any land or facilities purchased or improved with amounts derived from qualified tribal school modernization bonds issued under this subsection shall not be mortgaged or used as collateral for such bonds.

(8) SALE OF BONDS.—Qualified tribal school modernization bonds may be sold at a purchase price equal to, in excess of, or at a discount from the par amount thereof.

(9) Treatment of trust agreement earnings.—Any amounts earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall not be subject to Federal income tax.

(10) Investment of sinking funds.—Any sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond shall be invested in obligations issued by or guaranteed by the United States or in such other assets as the Secretary of the Treasury may by regulation allow.

(c) Expansion of Incentives for Tribal Schools.—Chapter 1 of the Internal Revenue Code of 1986 (as amended by section 322) is further amended by adding at the end the following new subchapter:

"Subchapter XI—Tribal School Modernization Provisions

"Sec. 1400J. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400J. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Tribal School Modernization Bond; Other Definitions.—For purposes of this section—

"(1) Qualified tribal school modernization bond.—

"(A) In general.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 2(c) of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by a tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) National limitation on amount of bonds designated.—

"(i) National limitation.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2002,

"(II) $200,000,000 for 2003, and

"(III) zero after 2003.

"(ii) Allocation of limitation.—The national qualified tribal school modernization bond limitation shall be allocated to tribes by the Secretary of the Interior subject to the provisions of section 2 of the Indian School Construction Act, as in effect on the date of the enactment of this section.

"(iii) Designation subject to limitation amount.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) Carryover of unused limitation.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2010.

"(2) Credit allowance date.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) Bond.—The term 'bond' includes any obligation.

"(4) Tribe.—The term "tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) Bonds Held by Regulated Investment Companies.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) Credits May Be Stripped.—Under regulations prescribed by the Secretary—

"(1) In general.—There may be a separation (including at issuance) of the ownership of a qualified tribal school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) Certain rules to apply.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tribal school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(h) Treatment for Estimated Tax Purposes.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(i) Credit May Be Transferred.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

"(j) Credit Treated as Allowed Under Part IV of Subchapter A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

"(k) Reporting.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).".

(d) Additional Provisions.—

(1) Sovereign immunity.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) Application.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2001, regardless of the status of regulations promulgated thereunder.

CHAPTER 3—21ST CENTURY COMMUNITY LEARNING CENTERS

SEC. 331. REAUTHORIZATION.

Section 10907 (20 U.S.C. 8247) is amended by striking "$20,000,000 for fiscal year 1995" and all that follows through the period and inserting "$1,000,000,000 for each of fiscal years 2002 through 2006, to carry out this part.".

CHAPTER 4—ENHANCEMENT OF BASIC LEARNING SKILLS

SEC. 341. REDUCING CLASS SIZE.

Title X (20 U.S.C. 8001 et seq.), as amended by section 311, is further amended by adding at the end the following:

"PART M—CLASS SIZE REDUCTION

"SEC. 10998. GRANTS FOR CLASS SIZE REDUCTION.

"(a) In General.—From the amount appropriated for a fiscal year under subsection (i), the Secretary of Education—

"(1) shall make available 1 percent of such amount to the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities under this section; and

"(2) shall allocate the remainder by providing each State the same percentage of that remainder as it received of the funds allocated to States under section 307(a)(2) of the Department of Education Appropriations Act, 1999.

"(b) Allocation of Funds.—

"(1) In general.—Each State that receives funds under this section shall distribute 100 percent of such funds to local educational agencies, of which—

"(A) 80 percent of such amount shall be allocated to such local educational agencies in proportion to the number of children, aged 5 to 17, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for that fiscal year; and

"(B) 20 percent of such amount shall be allocated to such local educational agencies in accordance with the relative enrollments of children, aged 5 to 17, in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

"(2) Exception.—Notwithstanding paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher in that agency, who is certified within the State (which may include certification through State or local alternative routes), has a baccalaureate degree, and demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section to—

"(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds; or

"(B) pay for activities described in subsection (c)(2)(A)(iii) which may be related to teaching in smaller classes.

"(c) Use of Funds.—

"(1) Purpose, intent, and general use.—The basic purpose and intent of this section is to reduce class size with fully qualified teachers. Each local educational agency that receives funds under this section shall use such funds to carry out effective approaches to reducing class size with fully qualified teachers who are certified within the State, including teachers certified through State or local alternative routes, and who demonstrate competency in the areas in which they teach, to improve educational achievement for both regular and special needs children, with particular consideration given to reducing class size in the early elementary grades for which some research has shown class size reduction is most effective.

"(2) Specific uses.—

"(A) In general.—Each such local educational agency may use funds under this section for—

"(i) recruiting (including through the use of signing bonuses, and other financial incentives), hiring, and training fully qualified regular and special education teachers (which may include hiring special education teachers to team-teach with regular teachers in classrooms that contain both children with disabilities and non-disabled children) and teachers of special-needs children who are certified within the State, including teachers certified through State or local alternative routes, have a baccalaureate degree and demonstrate the general knowledge, teaching skills, and subject matter knowledge required to teach in their content areas;

"(ii) testing new teachers for academic content knowledge and to meet State certification requirements that are consistent with title II of the Higher Education Act of 1965; and

"(iii) providing professional development (which may include such activities as those described in section 2210, opportunities for teachers to attend multi-week institutes, such as those made available during the summer months that provide intensive professional development in partnership with local educational agencies and initiatives that promote retention and mentoring), to teachers, including special education teachers and teachers of special-needs children, in order to meet the goal of ensuring that all instructional staff have the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or areas in which they provide instruction, consistent with title II of the Higher Education Act of 1965.

"(B) Limitation.—

"(i) In general.—Except as provided under clause (ii), a local educational agency may use not more than a total of 25 percent of the award received under this section for activities described in clauses (ii) and (iii) of subparagraph (A).

(ii) Exception.—A local educational agency in which 10 percent or more of teachers in elementary schools, as defined by section 14101(14), have not met applicable State and local certification requirements (including certification through State or local alternative routes), or if such requirements have been waived, may use more than 25 percent of the funds it receives under this section for activities described in subparagraph (A)(iii) to help teachers who are not certified by the State become certified, including through State or local alternative routes, or to help teachers affected by class size reduction who lack sufficient content knowledge to teach effectively in the areas they teach to obtain that knowledge, if the local educational agency notifies the State educational agency of the percentage of the funds that it will use for the purpose described in this clause.

"(C) Use for further reductions.—A local educational agency that has already reduced class size in the early grades to 18 or less children (or has already reduced class size to a State or local class size reduction goal that was in effect on the day before the enactment of the Department of Education Appropriations Act, 2000, if that State or local educational agency goal is 20 or fewer children) may use funds received under this section—

"(i) to make further class size reductions in grades kindergarten through 3;

"(ii) to reduce class size in other grades; or

"(iii) to carry out activities to improve teacher quality including professional development.

"(D) Professional development.—If a local educational agency has already reduced class size in the early grades to 18 or fewer children and intends to use funds provided under this section to carry out professional development activities, including activities to improve teacher quality, then the State shall make the award under subsection (b) to the local educational agency.

"(3) Supplement not supplant.—Each such agency shall use funds under this section only to supplement, and not to supplant, State and local funds that, in the absence of such funds, would otherwise be spent for activities under this section.

"(4) Limitation.—No funds made available under this section may be used to increase the salaries or provide benefits, other than participation in professional development and enrichment programs, to teachers who are not hired under this section. Funds under this section may be used to pay the salary of teachers hired under section 307 of the Department of Education Appropriations Act, 1999, or under section 310 of the Department of Education Appropriations Act, 2000.

"(d) Reporting.—

"(1) In general.—Each State receiving funds under this section shall report on activities in the State under this section, consistent with section 6202(a)(2).

"(2) Reporting to parents.—Each State and local educational agency receiving funds under this section shall publicly report to parents on its progress in reducing class size, increasing the percentage of classes in core academic areas taught by fully qualified teachers who are certified within the State and demonstrate competency in the content areas in which they teach, and on the impact that hiring additional highly qualified teachers and reducing class size, has had, if any, on increasing student academic achievement.

"(3) Provision of qualification to parents.—Each school receiving funds under this section shall provide to parents, upon request, the professional qualifications of their child's teacher.

"(e) Professional Development.—If a local educational agency uses funds made available under this section for professional development activities, the agency shall ensure for the equitable participation of private nonprofit elementary and secondary schools in such activities. Section 6402 shall not apply to other activities under this section.

"(f) Limitation on Administrative Costs.—A local educational agency that receives funds under this section may use not more than 3 percent of such funds for local administrative costs.

"(g) Application.—Each local educational agency that desires to receive funds under this section shall include in the application required under section 6303 a description of the agency's program to reduce class size by hiring additional highly qualified teachers.

"(h) No use of Funds for Payments to Certain Teachers.—No funds under this section may be used to pay the salary of any teacher hired with funds under section 307 of the Department of Education Appropriations Act, 1999, unless, by the start of the 2001–2002 school year, the teacher is certified within the State (which may include certification through State or local alternative routes) and demonstrates competency in the subject areas in which he or she teaches.

"(i) Notification.—Not later than 30 days after the date of the enactment of this section, the Secretary shall provide specific notification to each local educational agency eligible to receive funds under this part regarding the flexibility provided under subsection (c)(2)(B)(ii) and the ability to use such funds to carry out activities described in subsection (c)(2)(A)(iii).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

"(1) $2,317,507,723 for fiscal year 2002;

"(2) $3,012,015,447 for fiscal year 2003;

"(3) $3,706,523,170 for fiscal year 2004; and

"(4) $4,401,030,983 for fiscal year 2005.".

SEC. 342. READING EXCELLENCE.

Part C of title II (20 U.S.C. 6661 et seq.) is amended—

(1) by inserting after the part heading the following:

"SEC. 2250. SHORT TITLE.

"This part may be cited as the 'Reading Excellence Act'.";

(2) in section 2253(a) (20 U.S.C. 6661b(a)) by adding at the end the following:

"(3) AMOUNT OF GRANTS.—From the amount appropriated for each fiscal year under section 2260(a), the Secretary shall award to each State educational agency a grant under this part in an amount that is in proportion to the amount the State received under part A of title I for the previous fiscal year.";

(3) in section 2255 (20 U.S.C. 6661d) by adding at the end the following:

"(f) OTHER USES.—With respect to a State educational agency that has used amounts received under a grant under section 2253 in a previous fiscal year to sufficiently serve schools described in subsection (a)(1), such State agency may use amounts received under such a grant in succeeding fiscal years to provide subgrants to local educational agencies to assist other schools that may receive assistance under title I."; and

(4) in section 2260(a) (20 U.S.C. 6661i(a)) by adding at the end the following:

"(3) OTHER FISCAL YEARS.—There are authorized to be appropriated to carry out this part and section 1202(c)—

"(A) $500,000,000 for fiscal year 2002;

"(B) $600,000,000 for fiscal year 2003;

"(C) $700,000,000 for fiscal year 2004;

"(D) $850,000,000 for fiscal year 2005; and

"(E) $1,000,000,000 for fiscal year 2006.".

SEC. 343. TUTORIAL ASSISTANCE GRANTS.

(a) IN GENERAL.—Section 2256 (20 U.S.C. 6661e) is repealed.

(b) CONFORMING AMENDMENTS.—Part C of title II (20 U.S.C. 6661 et seq.) is amended—

(1) in section 2253 (20 U.S.C. 6661b)—

(A) in subsection (a)(1), by striking "sections 2254 through 2256" and inserting "sections 2254 and 2255"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A)(ii), by striking "sections 2255 and 2256" and inserting "section 2255";

(ii) in subparagraph (B)—

(I) in clause (ii), by striking "section 2255 and 2256" and inserting "section 2255"; and

(II) in clause (vi), , by striking "sections 2255 and 2256" and inserting "section 2255"; and

(iii) in subparagraph (E)(iii)—

(I) by striking "sections 2255(a)(1) and 2256(a)(1)" and inserting "section 2255(a)(1)"; and

(II) by striking "sections 2255 and 2256" and inserting "section 2255";

(2) in section 2254 (20 U.S.C. 6661c)—

(A) in paragraph (1)—

(i) by striking "(excluding section 2256)"; and

(ii) by striking "; and" and inserting a period;

(B) by striking "2253—" and all that follows through "shall use" in paragraph (1) and inserting "2253 shall use"; and

(C) by striking in paragraph (2); and

(3) in section 2258(a) (20 U.S.C. 6661h(a)), by striking "or 2256".

CHAPTER 5—INTEGRATION OF TECHNOLOGY INTO THE CLASSROOM

SEC. 351. SHORT TITLE.

This chapter may be cited as the "Training for Technology Act of 2001".

SEC. 352. LOCAL APPLICATIONS FOR SCHOOL TECHNOLOGY RESOURCE GRANTS.

Section 3135 (20 U.S.C. 6845) is amended—

(1) in the first sentence, by inserting "(a) IN GENERAL.—" before "Each local educational agency";

(2) in subsection (a) (as so redesignated)—

(A) in paragraph (3)(B), by striking "; and" and inserting a semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) demonstrate the manner in which the local educational agency will utilize at least 30 percent of the amounts provided to the agency under this subpart in each fiscal year to provide for in-service teacher training, or that the agency is using at least 30 percent of its total technology funding available to the agency from all sources (including Federal, State, and local sources) to provide in-service teacher training.";

(3) by redesignating subsections (d) and (e) as subsections (b) and (c) respectively; and

(4) in subsection (c) (as so redesignated), by striking "subsection (e)" and inserting "subsection (a)".

SEC. 353. TEACHER PREPARATION.

Part A of title III (20 U.S.C. 6811 et seq.) is amended by adding at the end the following:

"Subpart 5—Preparing Tomorrow's Teachers To Use Technology

"SEC. 3161. PURPOSE; PROGRAM AUTHORITY.

"(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards.

"(b) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist them in developing or redesigning teacher preparation programs to enable prospective teachers to use technology effectively in their classrooms.

"(2) PERIOD OF AWARD.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years.

"SEC. 3162. ELIGIBILITY.

"(a) ELIGIBLE APPLICANTS.—In order to receive an award under this subpart, an applicant shall be a consortium that includes—

"(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;

"(2) at least 1 State educational agency or local educational agency; and

"(3) 1 or more of the following entities:

"(A) an institution of higher education (other than the institution described in paragraph (1));

"(B) a school or department of education at an institution of higher education;

"(C) a school or college of arts and sciences at an institution of higher education;

"(D) a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.

"(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—

"(1) a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards;

"(2) a demonstration of—

"(A) the commitment, including the financial commitment, of each of the members of the consortium; and

"(B) the active support of the leadership of each member of the consortium for the proposed project;

"(3) a description of how each member of the consortium would be included in project activities;

"(4) a description of how the proposed project would be continued once the Federal funds awarded under this subpart end; and

"(5) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

"(c) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

"(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be in cash.

"SEC. 3163. USE OF FUNDS.

"(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

"(1) creating programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards; and

"(2) evaluating the effectiveness of the project.

"(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

"(1) developing and implementing high-quality teacher preparation programs that enable educators to—

"(A) learn the full range of resources that can be accessed through the use of technology;

"(B) integrate a variety of technologies into the classroom in order to expand students' knowledge;

"(C) evaluate educational technologies and their potential for use in instruction; and

"(D) help students develop their own technical skills and digital learning environments;

"(2) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;

"(3) developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms;

"(4) providing technical assistance to other teacher preparation programs;

"(5) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and

"(6) subject to section 3162(c)(2), acquiring equipment, networking capabilities, and infrastructure to carry out the project.

"SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.

"For purposes of carrying out this subpart, there is authorized to be appropriated **$150,000,000** for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 354. PROFESSIONAL DEVELOPMENT.

Section 3141(b)(2)(A) (20 U.S.C. 6861(b)(2)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii)(V), by adding "and" after the semicolon; and

(2) by adding at the end the following:

"(iii) the provision of incentives, including bonus payments, to recognized educators who achieve the National Education Technology Standards, or an information technology certification that is directly related to the curriculum or content area in which the teacher provides instruction;".

TITLE IV—INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 401. FULL FUNDING OF IDEA.

(a) Full Funding.—In additional to any amounts otherwise appropriated, there are appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), **$2,000,000,000** for fiscal year 2002.

(b) Sense of the Senate.—

(1) Findings.—The Senate makes the following findings:

(A) Before the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (referred to in this subsection as "IDEA") was enacted in 1975, as many as 4,000,000 children were denied appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.

(B) States asked the Federal Government to help them fund educational services to disabled children. Congress responded by enacting IDEA to ensure that disabled children received appropriate services and to provide financial support to the States for providing these services.

(C) Since the enactment of IDEA, schools have been serving disabled children, helping them develop their skills and abilities and go on to lead productive and independent lives. Today, IDEA serves 5,400,000 children with disabilities from birth through age 21. Every State offers public education and early intervention services for children with disabilities. Fewer than 6,000 disabled children now live in institutional settings away from their families, compared to 95,000 such children in 1969. The number of disabled students completing high school with a diploma or certificate has increased by 10 percent in the last decade. The number of students with disabilities entering higher education has more than tripled since the implementation of IDEA.

(D) When IDEA was enacted, the legislation included a goal to provide 40 percent of the cost of providing services for these students.

(E) The cost of providing special education has increased significantly for school districts across the country. The Federal Government currently provides about 15 percent of the national average per pupil expenditure for IDEA students.

(F) IDEA'will be up for reauthorization for fiscal year 2003.

(2) Sense of the Senate.—It is the sense of the Senate that—

(A) when Congress reauthorizes the IDEA program, it should ensure that the Federal Government will reach the goal of providing 40 percent of the national average per pupil expenditure under IDEA; and

(B) disabled children will benefit from efforts to help schools hire and train high quality teachers and principals, reduce class size, renovate overcrowded and crumbling buildings, integrate technology into the classroom, strengthen early literacy programs, and increase the availability of after-school learning opportunities.

TITLE V—MAKING HIGHER EDUCATION MORE AFFORDABLE

SEC. 501. INCREASE IN MAXIMUM PELL GRANT.

(a) Findings.—Congress makes the following findings:

(1) A college education has become increasingly important, not just to the individual beneficiary, but to the nation as a whole. The growth and continued expansion of the nation's economy is heavily dependent on an educated and highly skilled workforce.

(2) The opportunity to gain a college education also is important to the nation as a means to help advance the American ideals of progress and equality.

(3) The Federal Government plays an invaluable role in making student financial aid available to ensure that qualified students are able to attend college, regardless of their financial means. Since the inception of the Pell Grant program in 1973, nearly 80,000,000 grants have helped low- and middle-income students go to college, enrich their lives, and become productive members of society.

(4) Nationwide, almost 70 percent of high school graduates continue on to higher education. This degree of college participation would not exist without the Federal investment in student aid, especially the Pell Grant program. Nearly 25 percent of low- and middle-income students receive some amount of Pell Grant funding.

(5) In the next 10 years, the number of undergraduate students enrolled in the nation's colleges and universities will increase by 11 percent to more than 11,000,000 students. Many of these students will be the first in their families to attend college. One in 5 of these students will be from families with incomes below the poverty level. The continued investment in the Pell Grant program is essential if college is to remain an achievable part of the American dream.

(6) Increasing the maximum Pell Grant to $4,700 would allow approximately 430,000 additional students to benefit from the program.

(7) Increasing the maximum Pell Grant to $4,700 would result in an $800 increase in the average grant award.

(8) Because Pell Grant recipients are more likely to graduate with student loan debt and to amass more debt than other student borrowers,. increasing the maximum Pell Grant to $4,700 by fiscal year 2004 will help remedy this disparity.

(b) Sense of the Senate.—It is the sense of the Senate the maximum Pell Grant should be increased to $4,700.

SEC. 502. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) Deduction Allowed.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

"SEC. 222. HIGHER EDUCATION EXPENSES.

"(a) Allowance of Deduction.—

"(1) In general.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount of the qualified higher education expenses paid by the taxpayer during the taxable year.

"(2) Applicable dollar amount.—The applicable dollar amount for any taxable year shall be determined as follows:

"Taxable year:	Applicable dollar amount:
2002	$4,000
2003	$8,000
2004 and thereafter	$12,000.

"(b) Limitation Based on Modified Adjusted Gross Income.—

"(1) In general.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) Amount of reduction.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $62,450 ($104,050 in the case of a joint return, $89,150 in the case of a return filed by a head of household, and $52,025 in the case of a return by a married individual filing separately), bears to

"(B) $15,000.

"(3) Modified adjusted gross income.—For purposes of this subsection, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 219, 220, and 469.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(c) Qualified Higher Education Expenses.—For purposes of this section—

"(1) Qualified higher education expenses.—

"(A) In general.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse,

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

"(iv) any grandchild of the taxpayer,

as an eligible student at an institution of higher education.

"(B) Eligible courses.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

"(i) are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

"(ii) are not attributable to any graduate program of such individual.

"(C) Exception for nonacademic fees.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(D) Eligible student.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

"(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

"(E) Identification requirement.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(2) Institution of higher education.—The term 'institution of higher education' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) is eligible to participate in programs under title IV of such Act.

"(d) Special Rules.—

"(1) No double benefit.—

"(A) In general.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expense under such other provision.

"(B) Denial of deduction if credit elected.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the taxpayer elects to have section 25A apply with respect to such individual for such year.

"(C) Dependents.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(D) Coordination with exclusions.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 or 530(d)(2) for the taxable year.

"(2) Limitation on taxable year of deduction.—

"(A) In general.—A deduction shall be allowed under subsection (a) for qualified higher education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

"(B) Certain prepayments allowed.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

"(3) Adjustment for certain scholarships and veterans benefits.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(4) No deduction for married individuals filing separate returns.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(5) Nonresident aliens.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(6) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.".

(b) Deduction Allowed in Computing Adjusted Gross Income.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following:

"(18) Higher education expenses.—The deduction allowed by section 222.".

(c) Conforming Amendment.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 222 and inserting the following:

"Sec. 222. Higher education expenses.

"Sec. 223. Cross reference.".

(d) Effective Date.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

By Mr. DASCHLE (for himself, Mr. Baucus, Mr. Dorgan, Mr. Reid, Mr. Durbin, Mr. Rockefeller, Mrs. Clinton, Mr. Kerry, Mr. Schumer, Mr. Dodd, and Mr. Conrad):

S. 9. A bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes; to the Committee on Finance.

WORKING FAMILY TAX RELIEF ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the "Working Family Tax Relief Act of 2001".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—MARRIAGE PENALTY TAX RELIEF

Sec. 101. Optional separate calculations.

TITLE II—ESTATE TAX RELIEF

Sec. 201. Increase in amount of unified credit against estate and gift taxes.

Sec. 202. Increase in qualified family-owned business interest deduction amount.

TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

Sec. 301. Deduction for higher education expenses.

TITLE IV—TAX RELIEF FOR FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

Sec. 401. Expanding the dependent care tax credit.

Sec. 402. Minimum credit allowed for stay-at-home parents.

Sec. 403. Credit made refundable.

Subtitle B—Incentives for Employer-Provided Child Care

Sec. 411. Allowance of credit for employer expenses for child care assistance.

TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS

Sec. 501. Long-term care tax credit.

TITLE VI—TAX RELIEF FOR WORKING FAMILIES

Sec. 601. Increased earned income tax credit for 2 or more qualifying children.

Sec. 602. Simplification of definition of earned income.

Sec. 603. Simplification of definition of child dependent.

Sec. 604. Other modifications to earned income tax credit.

TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

Sec. 701. Deduction for health insurance costs of self-employed individuals increased.

TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

Sec. 801. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.

Sec. 802. Credit for qualified pension plan contributions of small employers.

Sec. 803. Credit for pension plan startup costs of small employers.

TITLE IX—TAX RELIEF FOR ADOPTIVE PARENTS

Sec. 901. Expansion of adoption credit.

TITLE I—MARRIAGE PENALTY TAX RELIEF

SEC. 101. OPTIONAL SEPARATE CALCULATIONS.

(a) In General.—Subpart B of part II of subchapter A of chapter 61 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

"(a) General Rule.—A husband and wife may make a combined return of income taxes under subtitle A under which—

‘‘(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

‘‘(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

‘‘(b) Treatment of Income.—For purposes of this section—

‘‘(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services,

‘‘(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property (equally in the case of property held jointly by the spouses), and

‘‘(3) any exclusion from income shall be allowable to the spouse with respect to whom the income would be otherwise includible.

‘‘(c) Treatment of Deductions.—For purposes of this section—

‘‘(1) except as otherwise provided in this subsection, the deductions described in section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

‘‘(2) the deductions allowable by section 151(b) (relating to personal exemptions for taxpayer and spouse) shall be determined by allocating 1 personal exemption to each spouse,

‘‘(3) section 63 shall be applied as if such spouses were not married, except that the election whether or not to itemize deductions shall be made jointly by both spouses and apply to each, and

‘‘(4) each spouse's share of all other deductions shall be determined by multiplying the aggregate amount thereof by the fraction—

‘‘(A) the numerator of which is such spouse's gross income, and

‘‘(B) the denominator of which is the combined gross incomes of the 2 spouses.

Any fraction determined under paragraph (4) shall be rounded to the nearest percentage point.

‘‘(d) Treatment of Credits.—For purposes of this section—

‘‘(1) In general.—Except as provided in paragraph (2), each spouse's share of credits allowed to both spouses shall be determined by multiplying the aggregate amount of the credits by the fraction determined under subsection (c)(4).

‘‘(2) Earned income credit.—The earned income credit under section 32 shall be determined as if each spouse were a separate taxpayer, except that—

‘‘(A) the earned income and the modified adjusted gross income of each spouse shall be determined under the rules of subsections (b), (c), and (e), and

‘‘(B) qualifying children shall be allocated between spouses proportionate to the earned income of each spouse (rounded to the nearest whole number).

‘‘(e) Special Rules Regarding Income Limitations.—

‘‘(1) Exclusions and deductions.—For purposes of making a determination under subsection (b) or (c), any eligibility limitation with respect to each spouse shall be determined by taking into account the limitation applicable to a single individual.

‘‘(2) Credits.—For purposes of making a determination under subsection (d)(1), in no event shall an eligibility limitation for any credit allowable to both spouses be less than twice such limitation applicable to a single individual.

‘‘(f) Special Rules for Alternative Minimum Tax.—If a husband and wife elect the application of this section—

‘‘(1) the tax imposed by section 55 shall be computed separately for each spouse, and

‘‘(2) for purposes of applying section 55—

‘‘(A) the rules under this section for allocating items of income, deduction, and credit shall apply, and

‘‘(B) the exemption amount for each spouse shall be the amount determined under section 55(d)(1)(B).

‘‘(g) Treatment as Joint Return.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

‘‘(h) Limitations.—

‘‘(1) Phase-in of benefit.—

‘‘(A) In general.—In the case of any taxable year beginning before January 1, 2005, the tax imposed by section 1 or 55 shall in no event be less than the sum of—

‘‘(i) the tax determined after the application of this section, plus

‘‘(ii) the applicable percentage of the excess of—

‘‘(I) the tax determined without the application of this section, over

‘‘(II) the amount determined under clause (i).

‘‘(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

“For taxable years beginning in:	**The applicable percentage is:**
2003	50
2004	10.

‘‘(2) Limitation of benefit based on combined adjusted gross income.—With respect to spouses electing the treatment of this section for any taxable year, the tax under section 1 or 55 shall be increased by an amount which bears the same ratio to the excess of the tax determined without the application of this section over the tax determined after the application of this section as the ratio (but not over 100 percent) of the excess of the combined adjusted gross income of the spouses over $100,000 bears to $50,000.

‘‘(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.’’.

(b) Unmarried Rate Made Applicable.—So much of subsection (c) of section 1 as precedes the table is amended to read as follows:

‘‘(c) Separate or Unmarried Return Rate.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a return which is not a combined return under section 6013A, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:’’.

(c) Penalty for Substantial Understatement of Income From Property.—Section 6662 (relating to imposition of accuracy-related penalty) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

‘‘(6) Any substantial understatement of income from property under section 6013A.’’, and

(2) by adding at the end the following new subsection:

‘‘(i) Substantial Understatement of Income From Property Under Section 6013A.—For purposes of this section, there is a substantial understatement of income from property under section 6013A if—

‘‘(1) the spouses electing the treatment of such section for any taxable year transfer property from 1 spouse to the other spouse in such year,

‘‘(2) such transfer results in reduced tax liability under such section, and

‘‘(3) the significant purpose of such transfer is the avoidance or evasion of Federal income tax.’’.

(d) Protection of Social Security and Medicare Trust Funds.—

(1) In general.—Nothing in this section shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(2) Transfers.—

(A) Estimate of secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this section has on the income and balances of the trust funds established under sections 201 and 1817 of the Social Security Act (42 U.S.C. 401 and 1395i).

(B) Transfer of funds.—If, under subparagraph (A), the Secretary of the Treasury estimates that the enactment of this section has a negative impact on the income and balances of such trust funds, the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this section.

(e) Clerical Amendment.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6013 the following new item:

‘‘Sec. 6013A. Combined return with separate rates.’’.

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

TITLE II—ESTATE TAX RELIEF

SEC. 201. INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.

(a) In General.—The table contained in section 2010(c) (relating to applicable credit amount) is amended to read as follows:

“In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
2002, 2003, 2004, 2005, and 2006	$1,000,000
2007 and 2008	$1,125,000
2009	$1,500,000
2010 or thereafter	$2,000,000.’’.

(b) Effective Date.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

SEC. 202. INCREASE IN QUALIFIED FAMILY-OWNED BUSINESS INTEREST DEDUCTION AMOUNT.

(a) In General.—Paragraph (2) of section 2057(a) (relating to family-owned business interests) is amended to read as follows:

‘‘(2) Maximum deduction.—

‘‘(A) In general.—The deduction allowed by this section shall not exceed the sum of—

‘‘(i) the applicable deduction amount, plus

‘‘(ii) in the case of a decedent described in subparagraph (C), the applicable unused spousal deduction amount.

‘‘(B) Applicable deduction amount.—For purposes of this subparagraph (A)(i), the applicable deduction amount is determined in accordance with the following table:

"In the case of estates of decedents dying during:	**The applicable deduction amount is:**
2002, 2003, 2004, 2005, and 2006	$1,375,000
2007 and 2008	$1,625,000
2009	$2,375,000
2010 or thereafter	$3,375,000.

"(C) APPLICABLE UNUSED SPOUSAL DEDUCTION AMOUNT.—With respect to a decedent whose immediately predeceased spouse died after December 31, 2001, and the estate of such immediately predeceased spouse met the requirements of subsection (b)(1), the applicable unused spousal deduction amount for such decedent is equal to the excess of—

"(i) the applicable deduction amount allowable under this section to the estate of such immediately predeceased spouse, over

"(ii) the sum of—

"(I) the applicable deduction amount allowed under this section to the estate of such immediately predeceased spouse, plus

"(II) the amount of any increase in such estate's unified credit under paragraph (3)(B) which was allowed to such estate.".

(b) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) is amended—

(1) by striking "$675,000" both places it appears and inserting "the applicable deduction amount", and

(2) by striking "$675,000" in the heading and inserting "APPLICABLE DEDUCTION AMOUNT".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

SEC. 301. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. HIGHER EDUCATION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount of the qualified higher education expenses paid by the taxpayer during the taxable year.

"(2) APPLICABLE DOLLAR AMOUNT.—The applicable dollar amount for any taxable year shall be determined as follows:

"Taxable year:	**Applicable dollar amount:**
2002	$4,000
2003	$8,000
2004 and thereafter	$12,000.

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $62,450 ($104,050 in the case of a joint return, $89,150 in the case of a return filed by a head of household, and $52,025 in the case of a return by a married individual filing separately), bears to

"(B) $15,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 219, 220, and 469.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse,

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

"(iv) any grandchild of the taxpayer,

as an eligible student at an institution of higher education.

"(B) ELIGIBLE COURSES.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

"(i) are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

"(ii) are not attributable to any graduate program of such individual.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

"(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

"(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) is eligible to participate in programs under title IV of such Act.

"(d) SPECIAL RULES.—

"(1) NO DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expense under such other provision.

"(B) DENIAL OF DEDUCTION IF CREDIT ELECTED.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the taxpayer elects to have section 25A apply with respect to such individual for such year.

"(C) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(D) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 or 530(d)(2) for the taxable year.

"(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

"(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

"(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (17) the following new paragraph:

"(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by section 222.".

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Higher education expenses.

"Sec. 223. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

TITLE IV—TAX RELIEF FOR FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000, and

"(B) in the case of employment-related expenses described in subsection (e)(11), 50 percent reduced (but not below zero) by 1 percentage point for each $800, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.".

(b) INFLATION ADJUSTMENT FOR ALLOWABLE EXPENSES.—Section 21(c) (relating to dollar limit on amount creditable) is amended by striking "The amount determined" and inserting "In the case of any taxable year beginning after 2002, each dollar amount referred to in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) IN GENERAL.—Section 21(e) (relating to special rules) is amended by adding at the end the following new paragraph:

"(11) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 1 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the sum of—

"(A) $90 for each month in such taxable year during which at least one of such qualifying individuals is under the age of 1, and

"(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).".

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 403. CREDIT MADE REFUNDABLE.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses for the calendar year.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) DEFINITIONS.—For purposes of this section, terms used in this section which are defined in section 35 shall have the respective meanings given such terms by section 35.".

(c) CONFORMING AMENDMENTS.—

(1) Section 35(a)(1), as redesignated by subsection (a)(1), is amended by striking "chapter" and inserting "subtitle".

(2) Section 35(e), as so redesignated and amended by section 402(a), is amended by adding at the end the following new paragraph:

"(12) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.".

(3) Sections 23(f)(1) and 129(a)(2)(C) are each amended by striking "section 21(e)" and inserting "section 35(e)".

(4) Section 129(b)(2) is amended by striking "section 21(d)(2)" and inserting "section 35(d)(2)".

(5) Section 129(e)(1) is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

(6) Section 213(e) is amended by striking "section 21" and inserting "section 35".

(7) Section 995(f)(2)(C) is amended by striking "and 34" and inserting "34, and 35".

(8) Section 6211(b)(4)(A) is amended by striking "and 34" and inserting ", 34, and 35".

(9) Section 6213(g)(2)(H) is amended by striking "section 21" and inserting "section 35".

(10) Section 6213(g)(2)(L) is amended by striking "section 21, 24, or 32" and inserting "section 24, 32, or 35".

(11) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of dependent care credit.".

(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or" before "enacted" and by inserting before the period at the end ", or from section 35 of such Code".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) 25 percent of the qualified child care expenditures, and

"(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(i) to acquire, construct, rehabilitate, or expand property—

"(I) which is to be used as part of a qualified child care facility of the taxpayer, "(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

"(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

"(I) day care and before and after school care,

"(II) transportation associated with such care, and

"(III) before and after school and holiday programs including educational and recreational programs and camp programs.

"(B) Fair market value.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

"(2) Qualified child care facility.—

"(A) In general.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

"(B) Special rules with respect to a taxpayer.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(3) Qualified child care resource and referral expenditure.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

"(d) Recapture of Acquisition and Construction Credit.—

"(1) In general.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) Applicable recapture percentage.—

"(A) In general.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) Years.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) Recapture event defined.—For purposes of this subsection, the term 'recapture event' means—

"(A) Cessation of operation.—The cessation of the operation of the facility as a qualified child care facility.

"(B) Change in ownership.—

"(i) In general.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) Agreement to assume recapture liability.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) No recapture by reason of casualty loss.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) Special Rules.—For purposes of this section—

"(1) Aggregation rules.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) Allocation in the case of partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) No Double Benefit.—

"(1) Reduction in basis.—For purposes of this subtitle—

"(A) In general.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) Certain dispositions.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) Other deductions and credits.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.".

(b) Conforming Amendments.—

(1) Section 38(b) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following new paragraph:

"(14) the employer-provided child care credit determined under section 45E.".

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(10) No carryback of employer-provided child care credit before January 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2002.".

(3) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ", and", and by adding at the end the following new paragraph:

"(10) the employer-provided child care credit determined under section 45E(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45E. Employer-provided child care credit.".

(5) Section 1016(a) is amended by striking "and" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", and", and by adding at the end the following new paragraph:

"(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS

SEC. 501. LONG-TERM CARE TAX CREDIT.

(a) Allowance of Credit.—

(1) In general.—Section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) $500 multiplied by the number of qualifying children of the taxpayer, plus

"(2) $3,000 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.".

(2) ADDITIONAL CREDIT FOR TAXPAYER WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much of section 24(d) as precedes paragraph (1)(A) thereof is amended to read as follows:

"(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—

"(1) IN GENERAL.—If the sum of the number of qualifying children of the taxpayer and the number of applicable individuals with respect to which the taxpayer is an eligible caregiver is 3 or more for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—".

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 32(n) is amended by striking "CHILD" and inserting "FAMILY CARE".

(B) The heading for section 24 is amended to read as follows:

"SEC. 24. FAMILY CARE CREDIT.".

(C) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 24 and inserting the following new item:

"Sec. 24. Family care credit.".

(b) DEFINITIONS.—Section 24(c) (defining qualifying child) is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means any individual if—

"(i) the taxpayer is allowed a deduction under section 151 with respect to such individual for the taxable year,

"(ii) such individual has not attained the age of 17 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

"(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(2) APPLICABLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

"(i) which is at least 180 consecutive days, and

"(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

"(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

"(i) The individual is at least 6 years of age and—

"(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

"(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

"(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

"(3) ELIGIBLE CAREGIVER.—

"(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

"(i) The taxpayer.

"(ii) The taxpayer's spouse.

"(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151 for the taxable year.

"(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c)(1)(A) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

"(v) An individual who would be described in clause (iii) for the taxable year if—

"(I) the requirements of clause (iv) are met with respect to the individual, and

"(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

"(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

"(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

"(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

"(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

"(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

"(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

"(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).".

(c) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(e) is amended by adding at the end the following new sentence: "No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.".

(2) ASSESSMENT.—Section 6213(g)(2)(I) is amended—

(A) by inserting "or physician identification" after "correct TIN", and

(B) by striking "child" and inserting "family care".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VI—TAX RELIEF FOR WORKING FAMILIES

SEC. 601. INCREASED EARNED INCOME TAX CREDIT FOR 2 OR MORE QUALIFYING CHILDREN.

(a) IN GENERAL.—The table in section 32(b)(1)(A) (relating to percentages) is amended—

(1) in the second item—

(A) by striking "or more", and

(B) by striking "21.06" and inserting "19.06", and

(2) by inserting after the second item the following new item:

"3 or more qualifying children 45 19.06"

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 602. SIMPLIFICATION OF DEFINITION OF EARNED INCOME.

(a) IN GENERAL.—Section 32(c)(2)(A)(i) (defining earned income) is amended by inserting ", but only if such amounts are includible in gross income for the taxable year" after "other employee compensation".

(b) CONFORMING AMENDMENT.—Section 32(c)(2)(B) is amended by striking "and" at the end of clause (iv), by striking the period at the end of clause (v) and inserting ", and", and by adding at the end the following new clause:

"(vi) the requirement under subparagraph (A)(i) that an amount be includible in gross income shall not apply if such amount is exempt from tax under section 7873 or is derived directly from restricted and allotted land under the Act of February 8, 1887 (commonly known as the Indian General Allotment Act) (25 U.S.C. 331 et seq.) or from land held under Acts or treaties containing an exception provision similar to the Indian General Allotment Act.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2001.

SEC. 603. SIMPLIFICATION OF DEFINITION OF CHILD DEPENDENT.

(a) REMOVAL OF SUPPORT TEST FOR CERTAIN INDIVIDUALS.—Section 152(a) (relating to definition of dependent) is amended to read as follows:

"(a) GENERAL DEFINITION.—For purposes of this subtitle—

"(1) DEPENDENT.—The term 'dependent' means—

“(A) any individual described in paragraph (2) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) as received from the taxpayer), or

“(B) any individual described in subsection (f).

“(2) Individuals.—An individual is described in this paragraph if such individual is—

“(A) a brother, sister, stepbrother, or stepsister of the taxpayer,

“(B) the father or mother of the taxpayer, or an ancestor of either,

“(C) a stepfather or stepmother of the taxpayer,

“(D) a son or daughter of a brother or sister of the taxpayer,

“(E) a brother or sister of the father or mother of the taxpayer,

“(F) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer, or

“(G) an individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as their principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.”.

(b) Other Modifications.—Section 152 is amended by adding at the end the following new subsection:

“(f) Subsection (f) Dependents.—

“(1) In general.—An individual is described in this subsection for the taxable year if such individual—

“(A) bears a relationship to the taxpayer described in paragraph (2),

“(B) except in the case of an eligible foster child or as provided in subsection (e), has the same principal place of abode as the taxpayer for more than one-half of such taxable year, and

“(C)(i) has not attained the age of 19 at the close of the calendar year in which the taxable year begins, or

“(ii) is a student (within the meaning of section 151(c)(4)) who has not attained the age of 24 at the close of such calendar year.

“(2) Relationship test.—An individual bears a relationship to the taxpayer described in this paragraph if such individual is—

“(A) a son or daughter of the taxpayer, or a descendant of either, or

“(B) a stepson or stepdaughter of the taxpayer.

“(3) Special rules.—

“(A) 2 or more claiming dependent.—Except as provided in subparagraph (B), if an individual may be claimed as a dependent by 2 or more taxpayers (but for this subparagraph) for a taxable year beginning in the same calendar year, only the taxpayer with the highest adjusted gross income for such taxable year shall be allowed the deduction with respect to such individual.

“(B) Release of claim to exemption.—Subparagraph (A) shall not apply with respect to an individual if—

“(i) the taxpayer with the highest adjusted gross income under subparagraph (A), for any calendar year signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such taxpayer will not claim such individual as a dependent for any taxable year beginning in such calendar year,

“(ii) the other taxpayer provides over half of such individual’s support for the calendar year in which the taxable year of such other taxpayer begins, and

“(iii) such other taxpayer attaches such written declaration to such taxpayer’s return for the taxable year beginning during such calendar year.”.

(c) Rules Relating to Foster Child.—Section 152(b)(2) (relating to rules relating to general definition) is amended by striking “a foster child” and all that follows through “individual)” and inserting “an eligible foster child (as defined in section 32(c)(3)(B)(iii)) of an individual”.

(d) Exemption From Gross Income Test.—Section 151(c)(3) (relating to definition of child) is amended by striking “or stepdaughter” and inserting “stepdaughter, or a descendant of such individual”.

(e) Waiver of Deduction for Divorced Parents.—

(1) In general.—So much of section 152(e) as precedes paragraph (4) (relating to support test in case of child of divorced parents, etc.) is amended to read as follows:

“(e) Special Rules for Child of Divorced Parents.—

“(1) Release of claim to exemption.—In the case of a child (as defined in section 151(c)(3)) of parents—

“(A) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(B) who are separated under a written separation agreement, or

“(C) who live apart at all times during the last 6 months of the calendar year,

the custodial parent who is entitled to the deduction under section 151 for a taxable year with respect to such child may release such deduction to the noncustodial parent.

“(2) Procedure.—The noncustodial parent may claim a child described in paragraph (1) as a dependent for the taxable year if—

“(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year,

“(B) the custodial parent and the noncustodial parent provide over half of such child’s support for the calendar year in which the taxable years of such parents begin, and

“(C) the noncustodial parent attaches such written declaration to such noncustodial parent’s return for the taxable year beginning during such calendar year.

“(3) Definitions.—For purposes of this subsection—

“(A) Custodial parent.—The term ‘custodial parent’ means, with regard to an individual, a parent who has custody of such individual for a greater portion of the calendar year than the noncustodial parent.

“(B) Noncustodial parent.—The term ‘noncustodial parent’ means the parent who is not the custodial parent.”.

(2) Pre-1985 instruments.—Section 152(e)(4)(A) is amended by striking “A child” and all that follows through “noncustodial parent” and inserting “A noncustodial parent described in paragraph (1) shall be entitled to the deduction under section 151 for a taxable year with respect to a child if”.

(f) Conforming Amendments.—

(1) Section 1(g)(5)(A) is amended by inserting “as in effect on the day before the date of the enactment of the Working Family Tax Relief Act of 2001” after “152(e)”.

(2) Section 2(b)(1)(A)(i) is amended by striking “paragraph (2) or (4) of”.

(3) Section 2(b)(3)(B)(i) is amended by striking “paragraph (9)” and inserting “paragraph (2)(G)”.

(4) Section 21(e)(5)(A) is amended by striking “paragraph (2) or (4) of”.

(5) Section 21(e)(5) is amended in the matter following subclause (B) by inserting “as in effect on the day before the date of the enactment of the Working Family Tax Relief Act of 2001” after “152(e)(1)”.

(6) Section 32(c)(1)(G) is amended by striking “(3)(D).” and inserting “(1)(C). An individual whose qualifying child or qualifying children are not taken into account under subsection (b) solely by reason of paragraph (3)(D) shall be treated as an eligible individual if such individual otherwise meets the requirements of subparagraph (A)(ii).”.

(7) Section 32(c)(3)(B)(ii) is amended by striking “paragraph (2) or (4) of”.

(8) Section 51(i)(1)(C) is amended by striking “152(a)(9)” and inserting “152(a)(2)(G)”.

(9) Section 152(b) is amended by striking “specified in subsection (a)” and inserting “specified in subsection (a)(2) or (f)(2)”.

(10) Section 152(c) is amended by striking “(a)” and inserting “(a)(1)”.

(11) Section 7703(b)(1) is amended by striking “paragraph (2) or (4) of”.

(12) The following provisions of are each amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (F) of subsection (a)(2) or subsection (f)(2) of section 152”:

(A) Section 170(g)(3).

(B) Subparagraphs (A) and (B) of section 51(i)(1).

(C) The second sentence of section 213(d)(11).

(D) Section 529(e)(2)(B).

(E) Section 7702B(f)(2)(C)(iii).

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 604. OTHER MODIFICATIONS TO EARNED INCOME TAX CREDIT.

(a) Modification of Joint Return Requirement.—Subsection (d) of section 32 is amended to read as follows:

“(d) Married Individuals.—

“(1) In general.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

“(2) Marital status.—For purposes of paragraph (1), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

“(3) Certain married individuals living apart.—For purposes of paragraph (1), if—

“(A) an individual —

“(i) is married and files a separate return, and

“(ii) has a qualifying child who is a son, daughter, stepson, or stepdaughter of such individual, and

“(B) during the last 6 months of such taxable year, such individual and such individual’s spouse do not have the same principal place of abode,

such individual shall not be considered as married.”.

(b) Modification of Rule Where There Are 2 or More Eligible Individuals.—Subparagraph (C) of section 32(c)(1) is amended to read as follows:

“(C) 2 or more eligible individuals.—

“(i) In general.—Except as provided in clause (ii), if 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest modified adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(ii) Exception for certain parents.—An otherwise eligible individual who is not treated under clause (i) as the only eligible individual with respect to any qualifying child shall be treated as an eligible individual with respect to such child if—

"(I) such child is the son, daughter, stepson, or stepdaughter of such individual,

"(II) such child is not taken into account under subsection (b) by any other individual, and

"(III) the limitation under subsection (a)(2) for the individual who would (but for this clause) be treated under clause (i) as the only eligible individual with respect to such child would be greater than zero (determined as if such individual had 2 qualifying children).".

(c) Expansion of Mathematical Error Authority.—Paragraph (2) of section 6213(g) is amended by striking "and" at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting ", and", and by inserting after subparagraph (L) the following new subparagraph:

"(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

SEC. 701. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) In General.—Section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) Allowance of deduction.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.".

(b) Clarification of Limitations on Other Coverage.—The first sentence of section 162(l)(2)(B) is amended to read as follows: "Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

SEC. 801. NONREFUNDABLE CREDIT TO CERTAIN INDIVIDUALS FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 302(a), is amended by inserting after section 25B the following new section:

"SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

"(a) Allowance of Credit.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed $2,000.

"(b) Applicable Percentage.—For purposes of this section, the applicable percentage is the percentage determined in accordance with the following table:

Adjusted Gross Income						Applicable percentage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
$0	$35,000	$0	$26,250	$0	$17,500	50
35,000	40,000	26,250	30,000	17,500	20,000	40
40,000	45,000	30,000	33,750	20,000	22,500	30
45,000	50,000	33,750	37,500	22,500	25,000	15

"(c) Eligible Individual.—For purposes of this section—

"(1) In general.—The term 'eligible individual' means any individual if such individual has attained the age of 18 as of the close of the taxable year.

"(2) Dependents and full-time students not eligible.—The term 'eligible individual' shall not include—

"(A) any individual with respect to whom a deduction under section 151 is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, and

"(B) any individual who is a student (as defined in section 151(c)(4)).

"(d) Qualified Retirement Savings Contributions.—For purposes of this section—

"(1) In general.—The term 'qualified retirement savings contributions' means, with respect to any taxable year, the sum of—

"(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

"(B) the amount of—

"(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

"(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)).

"(2) Reduction for certain distributions.—

"(A) In general.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the sum of—

"(i) any distribution from a qualified retirement plan (as defined in section 4974(c)), or from an eligible deferred compensation plan (as defined in section 457(b)), received by the individual during the testing period which is includible in gross income, and

"(ii) any distribution from a Roth IRA received by the individual during the testing period which is not a qualified rollover contribution (as defined in section 408A(e)) to a Roth IRA.

"(B) Testing period.—For purposes of subparagraph (A), the testing period, with respect to a taxable year, is the period which includes—

"(i) such taxable year,

"(ii) the 2 preceding taxable years, and

"(iii) the period after such taxable year and before the due date (including extensions) for filing the return of tax for such taxable year.

"(C) Excepted distributions.—There shall not be taken into account under subparagraph (A)—

"(i) any distribution referred to in section 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4), and

"(ii) any distribution to which section 408A(d)(3) applies.

"(D) Treatment of distributions received by spouse of individual.—For purposes of determining distributions received by an individual under subparagraph (A) for any taxable year, any distribution received by the spouse of such individual shall be treated as received by such individual if such individual and spouse file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution.

"(e) Adjusted Gross Income.—For purposes of this section, adjusted gross income shall be determined without regard to sections 911, 931, and 933.

"(f) Investment in the Contract.—Notwithstanding any other provision of law, a qualified retirement savings contribution shall not fail to be included in determining the investment in the contract for purposes of section 72 by reason of the credit under this section.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Subsection (a) of section 26 is amended by inserting "(other than the credit allowed by section 25C)" after "credits allowed by this subpart".

(2) Conforming amendment.—Section 25C, as added by subsection (a), is amended by inserting after subsection (f) the following new subsection:

"(g) Limitation Based on Amount of Tax.—The aggregate credit allowed by this section for the taxable year shall not exceed the sum of—

"(1) the taxpayer's regular tax liability for the taxable year reduced by the sum of the credits allowed by sections 21, 22, 23, 24, 25, 25A, and 25B, plus

"(2) the tax imposed by section 55 for such taxable year.".

(c) Annual Report.—The Comptroller General of the United States shall submit a report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the number of taxpayers receiving the credit allowed under section 25C of the Internal Revenue Code of 1986, as added by subsection (a).

(d) Conforming Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 302(b), is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Elective deferrals and IRA contributions by certain individuals.".

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 802. CREDIT FOR QUALIFIED PENSION PLAN CONTRIBUTIONS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 411(a), is amended by adding at the end the following new section:

"SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for subsection (f)(1)) be allowed as a deduction under section 404 for such taxable year for qualified employer contributions made to any qualified retirement plan on behalf of any employee who is not a highly compensated employee.

"(b) CREDIT LIMITED TO 3 YEARS.—The credit allowable by this section shall be allowed only with respect to the period of 3 taxable years beginning with the first taxable year for which a credit is allowable with respect to a plan under this section.

"(c) QUALIFIED EMPLOYER CONTRIBUTION.—For purposes of this section—

"(1) DEFINED CONTRIBUTION PLANS.—In the case of a defined contribution plan, the term 'qualified employer contribution' means the amount of nonelective and matching contributions to the plan made by the employer on behalf of any employee who is not a highly compensated employee to the extent such amount does not exceed 3 percent of such employee's compensation from the employer for the year.

"(2) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the term 'qualified employer contribution' means the amount of employer contributions to the plan made on behalf of any employee who is not a highly compensated employee to the extent that the accrued benefit of such employee derived from employer contributions for the year does not exceed the equivalent (as determined under regulations prescribed by the Secretary and without regard to contributions and benefits under the Social Security Act) of 3 percent of such employee's compensation from the employer for the year.

"(d) QUALIFIED RETIREMENT PLAN.—

"(1) IN GENERAL.—The term 'qualified retirement plan' means any plan described in section 401(a) which includes a trust exempt from tax under section 501(a) if the plan meets—

"(A) the contribution requirements of paragraph (2),

"(B) the vesting requirements of paragraph (3), and

"(C) the distributions requirements of paragraph (4).

"(2) CONTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

"(i) the employer is required to make nonelective contributions of at least 1 percent of compensation (or the equivalent thereof in the case of a defined benefit plan) for each employee who is not a highly compensated employee who is eligible to participate in the plan, and

"(ii) allocations of nonelective employer contributions are either in equal dollar amounts for all employees covered by the plan or bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

"(B) COMPENSATION LIMITATION.—The compensation taken into account under subparagraph (A) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met if the plan satisfies the requirements of subparagraph (A) or (B).

"(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) 5-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	**The nonforfeitable percentage is:**
1	20
2	40
3	60
4	80
5	100.

"(4) DISTRIBUTION REQUIREMENTS.—In the case of a profit-sharing or stock bonus plan, the requirements of this paragraph are met if, under the plan, qualified employer contributions are distributable only as provided in section 401(k)(2)(B).

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which has no more than 50 employees who received at least $5,000 of compensation from the employer for the preceding year.

"(B) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

"(2) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q) (determined without regard to section 414(q)(1)(B)(ii)).

"(f) SPECIAL RULES.—

"(1) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified employer contributions paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

"(2) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

"(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

"(g) RECAPTURE OF CREDIT ON FORFEITED CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any accrued benefit which is forfeitable by reason of subsection (d)(3) is forfeited, the employer's tax imposed by this chapter for the taxable year in which the forfeiture occurs shall be increased by 35 percent of the employer contributions from which such benefit is derived to the extent such contributions were taken into account in determining the credit under this section.

"(2) REALLOCATED CONTRIBUTIONS.—Paragraph (1) shall not apply to any contribution which is reallocated by the employer under the plan to employees who are not highly compensated employees.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit), as amended by section 411(b)(1), is amended by striking "plus" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ", plus", and by adding at the end the following new paragraph:

"(15) in the case of an eligible employer (as defined in section 45F(e)), the small employer pension plan contribution credit determined under section 45F(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 411(b)(2), is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN CONTRIBUTION CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan contribution credit determined under section 45F may be carried back to a taxable year beginning before January 1, 2002.".

(2) Subsection (c) of section 196, as amended by section 411(b)(3), is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the small employer pension plan contribution credit determined under section 45F(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 411(b)(4), is amended by adding at the end the following new item:

"Sec. 45F. Small employer pension plan contributions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or incurred in taxable years beginning after December 31, 2001.

SEC. 803. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 802(a), is amended by adding at the end the following new section:

"SEC. 45G. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

"(b) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

"(1) $500 for the first credit year and each of the 2 taxable years immediately following the first credit year, and

"(2) zero for any other taxable year.

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' has the meaning given such term by section 408(p)(2)(C)(i).

"(2) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED STARTUP COSTS.—

"(A) IN GENERAL.—The term 'qualified startup costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

"(i) the establishment or administration of an eligible employer plan, or

"(ii) the retirement-related education of employees with respect to such plan.

"(B) PLAN MUST HAVE AT LEAST 1 PARTICIPANT.—Such term shall not include any expense in connection with a plan that does not have at least 1 employee eligible to participate who is not a highly compensated employee.

"(2) ELIGIBLE EMPLOYER PLAN.—The term 'eligible employer plan' means a qualified employer plan within the meaning of section 4972(d).

"(3) FIRST CREDIT YEAR.—The term 'first credit year' means—

"(A) the taxable year which includes the date that the eligible employer plan to which such costs relate becomes effective, or

"(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

"(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit), as amended by section 802(b), is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) in the case of an eligible employer (as defined in section 45G(c)), the small employer pension plan startup cost credit determined under section 45G(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 802(c)(1), is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN STARTUP COST CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45G may be carried back to a taxable year beginning before January 1, 2002.".

(2) Subsection (c) of section 196, as amended by section 802(c)(2), is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding at the end the following new paragraph:

"(12) the small employer pension plan startup cost credit determined under section 45G(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 802(c)(3), is amended by adding at the end the following new item:

"Sec. 45G. Small employer pension plan startup costs.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001, with respect to qualified employer plans established after such date.

TITLE IX—TAX RELIEF FOR ADOPTIVE PARENTS

SEC. 901. EXPANSION OF ADOPTION CREDIT.

(a) IN GENERAL.—

(1) ADOPTION CREDIT.—Section 23(a)(1) (relating to allowance of credit) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter—

"(A) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

"(B) in the case of an adoption of a child with special needs, $10,000.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(a) (relating to adoption assistance programs) is amended to read as follows:

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished purusant to an adoption assistance program. The amount of the exclusion shall be—

"(1) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

"(2) in the case of an adoption of a child with special needs, $10,000.".

(b) DOLLAR LIMITATIONS.—

(1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

(A) ADOPTION EXPENSES.—Section 23(b)(1) (relating to allowance of credit) is amended—

(i) by striking "$5,000" and inserting "$10,000",

(ii) by striking "($6,000, in the case of a child with special needs)", and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)(A)".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended—

(i) by striking "$5,000" and inserting "$10,000", and

(ii) by striking "($6,000, in the case of a child with special needs)", and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)".

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(c) YEAR CREDIT ALLOWED.—Section 23(a)(2) is amended by adding at the end the following new flush sentence:

"In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.".

(d) REPEAL OF SUNSET PROVISIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) (relating to definition of eligible child) is amended to read as follows:

"(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual who—

"(A) has not attained age 18, or

"(B) is physically or mentally incapable of caring for himself.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 (relating to adoption assistance programs) is amended by striking subsection (f).

(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION CREDIT.—Section 23 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(1)(B) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(f) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.".

(f) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—Subsection (c) of section 23 is amended by striking "the limitation imposed" and all that follows through "1400C)" and inserting "the applicable tax limitation".

(2) APPLICABLE TAX LIMITATION.—Subsection (d) of section 23 is amended by adding at the end the following new paragraph:

"(4) APPLICABLE TAX LIMITATION.—The term 'applicable tax limitation' means the sum of—

"(A) the taxpayer's regular tax liability for the taxable year, reduced (but not below zero) by the sum of the credits allowed by sections 21, 22, 24 (other than the amount of the increase under subsection (d) thereof), 25, and 25A, and

"(B) the tax imposed by section 55 for such taxable year.".

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended by inserting "(other than section 23)" after "allowed by this subpart".

(B) Paragraph (1) of section 53(b) (relating to minimum tax credit) is amended by inserting "reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years," after "1986,".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. GRAHAM, Mr. KENNEDY, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BYRD, Mrs. CARNAHAN, Mr. CLELAND, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES and, Mr. SCHUMER):

S. 10. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Finance.

MEDICARE PRESCRIPTION DRUG COVERAGE ACT OF 2001

Mr. BAUCUS. Mr. President, today I introduce legislation, along with Senator DASCHLE and our colleagues, to establish a universal prescription drug benefit program in Medicare. I am pleased to be part of this effort, because I believe Congress should enact a drug benefit this year. The lack of coverage for outpatient prescription drugs in Medicare has become a glaring gap in the program.

The practice of medicine has changed dramatically since Medicare was created in 1965. Today, more often than not, a trip to the doctor results in a trip to the pharmacy, to fill a prescription as part of the therapy. In many cases, prescription drugs allow patients to avoid more expensive and invasive therapies such as hospitalization and surgery.

Our increasing reliance on pharmaceutical products has also fueled drug spending. Pharmaceuticals are the fastest growing segment of national health expenditures. In 2000, national drug spending increased by an estimated 11 percent, compared with 7 percent for physician services and 6 percent for hospital care. Since 1990, national spending for prescription drugs has tripled.

And as the role and expense of prescription drugs have grown, their absence from Medicare's outpatient benefit package has become increasingly problematic for beneficiaries. An estimated 35 percent of Medicare beneficiaries currently lack coverage for outpatient prescription drugs. But that figure may understate the problem. One study has shown that only about 50 percent of seniors have drug coverage throughout the year, and for many who do have coverage, it is often limited or inadequate.

In my home state of Montana, Medicare beneficiaries are even less likely to have coverage for prescription drugs than those living in other parts of the country. A National Economic Council study that I requested last year showed that rural Medicare beneficiaries are 50 percent less likely than their urban counterparts to have prescription drug coverage. And although rural Medicare beneficiaries use 10 percent more prescriptions than urban folks, they pay 25 percent more out-of-pocket for their drugs.

These factors underscore the importance of this issue to folks back home. I intend to work hard this year to pass a Medicare drug bill for them and for the millions of other Medicare beneficiaries who lack coverage or are at risk of losing the coverage they currently have. It is time for Congress to act on this issue and pass legislation to provide prescription drugs for America's seniors.

The Medicare Prescription Drug Coverage Act of 2001 is a good place to start. This legislation builds on the excellent work of Senator GRAHAM and other members of the Finance Committee, including Senators CONRAD, JEFFORDS, and ROCKEFELLER. The benefit is universal, it is part of the Medicare program, it includes a deductible, and patient coinsurance decreases as drug expenditures increase. The proposal provides subsidies for low-income seniors to help them with their premiums and cost sharing. And the proposal relies on private sector entities to administer the benefit.

Let me add—by no means does this legislation represent the end of the debate. Rather, it represents a beginning, a starting point. For example, the bill does not address many of the elements of Medicare reform that are currently on the table and, quite frankly, should be included. President Bush and others have emphasized that a new drug benefit must be added in the context of overall Medicare reform. As Senator BREAUX is fond of saying, a prescription drug benefit is the dessert that we get when we take the medicine of reform.

I expect that any prescription drug legislation we pass, and the President signs, will include provisions addressing solvency, competition, HCFA reform, and fee-for-service modernizations. These are areas, in addition to adding a drug benefit, where Medicare could also be updated and improved, and the bipartisan Medicare Commission has gone a long way toward putting these issues on the national agenda.

I am encouraged that the new administration also recognizes that prescription drugs is an important issue. President Bush campaigned on a promise to address this issue early on, and I sincerely appreciate that it is one of the top priorities of the new administration. Likewise, I know that Senator GRASSLEY also cares deeply about this issue.

In closing, I want to reiterate that I am committed to working with Senator GRASSLEY, with the other members of the Finance Committee, and with the new Administration to come up with a compromise solution. It is truly my hope that we can work together, build consensus, and forge compromise solutions on this issue. If we're creative, and if we listen to each other, I am confident that we can find balanced and bipartisan solution.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Prescription Drug Coverage Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Medicare outpatient prescription drug benefit program.

"PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"Sec. 1860. Definitions.

"SUBPART 1—ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"Sec. 1860A. Establishment of outpatient prescription drug benefit program.
"Sec. 1860B. Enrollment.
"Sec. 1860C. Providing information to beneficiaries.
"Sec. 1860D. Premiums.
"Sec. 1860E. Cost-sharing.
"Sec. 1860F. Selection of entities to provide outpatient drug benefit.
"Sec. 1860G. Conditions for awarding contract.
"Sec. 1860H. Payments.
"Sec. 1860I. Employer incentive program for employment-based retiree drug coverage.
"Sec. 1860J. Procedures for partial year implementation.
"Sec. 1860K. Appropriations.

"SUBPART 2—MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

"Sec. 1860M. Medicare Pharmacy and Therapeutics (P&T) Advisory Committee.".
Sec. 4. Part D benefits under Medicare+Choice plans.
Sec. 5. Exclusion of part D costs from determination of part B monthly premium.
Sec. 6. Additional assistance for low-income beneficiaries.

Sec. 7. Medigap revisions.
Sec. 8. Comprehensive immunosuppressive drug coverage for transplant patients.
Sec. 9. HHS studies and report to Congress regarding outpatient prescription drug benefit program.
Sec. 10. GAO study and biennial reports on competition and savings.
Sec. 11. MedPAC study and annual reports on the pharmaceutical market, pharmacies, and beneficiary access.
Sec. 12. Appropriations.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Prescription drug coverage was not a standard part of health insurance when the medicare program under title XVIII of the Social Security Act was enacted in 1965. Since 1965, however, drug coverage has become a key component of most private and public health insurance coverage, except for the medicare program.

(2) At least ⅔ of medicare beneficiaries have unreliable, inadequate, or no drug coverage at all.

(3) Seniors who do not have drug coverage typically pay 15 percent more for prescription drugs than individuals that have such coverage pay for such drugs, and often pay 2 times the best available price for such drugs.

(4) Although many medicare beneficiaries who lack prescription drug coverage have low incomes, more than ½ of such beneficiaries have incomes greater than 150 percent of the poverty line.

(5) The number of private firms offering retiree health coverage is declining.

(6) The premiums for medicare supplemental policies (medigap policies) that provide prescription drug coverage are too expensive for most medicare beneficiaries and are highest for older senior citizens who need prescription drug coverage the most and typically have the lowest incomes.

(7) The management of a medicare prescription drug benefit should mirror the practices employed by private entities in delivering prescription drugs. Discounts should be achieved through competition.

(8) All medicare beneficiaries should have access to a voluntary, reliable, affordable outpatient drug benefit as part of the medicare program that assists with the high cost of prescription drugs and protects them against excessive out-of-pocket costs.

(9) The addition of a medicare drug benefit should be consistent with an overall plan to strengthen and modernize the medicare program.

SEC. 3. MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) Establishment.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

"Part D—Outpatient Prescription Drug Benefit Program

"DEFINITIONS

"Sec. 1860. In this part:

"(1) Covered outpatient drug.—

"(A) In general.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

"(i) A drug which may be dispensed only upon prescription, and—

"(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

"(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

"(ii) A biological product which—

"(I) may only be dispensed upon prescription;

"(II) is licensed under section 351 of the Public Health Service Act; and

"(III) is produced at an establishment licensed under such section to produce such product.

"(iii) Insulin approved under appropriate Federal law, including needles, syringes, and disposable pumps for the administration of such insulin.

"(iv) A prescribed drug or biological product that would meet the requirements of clause (i) or (ii) but that it is available over-the-counter in addition to being available upon prescription.

"(B) Exclusion.—The term 'covered outpatient drug' does not include any product—

"(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

"(ii) that is covered under part A or B (unless coverage of such product is not available because benefits under part A or B have been exhausted); or

"(iii) except for agents used to promote smoking cessation, for which coverage may be excluded or restricted under section 1927(d)(2).

"(2) Eligible beneficiary.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A or enrolled under part B.

"(3) Eligible entity.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate to provide eligible beneficiaries with covered outpatient drugs under a contract entered into under this part, including—

"(A) a pharmacy benefit management company;

"(B) a retail pharmacy delivery system;

"(C) a health plan or insurer;

"(D) a State (through mechanisms established under a State plan under title XIX);

"(E) any other entity approved by the Secretary; or

"(F) any combination of the entities described in subparagraphs (A) through (E) if the Secretary determines that such combination—

"(i) increases the scope or efficiency of the provision of benefits under this part; and

"(ii) is not anticompetitive.

"Subpart 1—Establishment of Outpatient Prescription Drug Benefit Program

"ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

"Sec. 1860A. (a) Provision of Benefit.—Beginning on the date that is 1 year after the date of enactment of this Act, the Secretary shall provide for an outpatient prescription drug benefit program under which an eligible beneficiary shall be provided covered outpatient drugs.

"(b) Voluntary Nature of Program.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program established under this part.

"(c) Scope of Benefits.—The program established under this part shall provide for coverage of all therapeutic classes of covered outpatient drugs.

"(d) Financing.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"ENROLLMENT

"Sec. 1860B. (a) Enrollment Under Part D.—

"(1) Establishment of process.—

"(A) In general.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837.

"(B) Requirement of enrollment.—An eligible beneficiary must enroll under this part in order to be eligible to receive covered outpatient drugs under this title.

"(2) Enrollment procedures.—

"(A) Late enrollment penalty.—

"(i) In general.—Subject to the succeeding provisions of this subparagraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in subparagraph (B), the Secretary shall establish procedures for increasing the amount of the monthly premium under section 1860D applicable to such beneficiary—

"(I) by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled; or

"(II) if determined appropriate by the Secretary, by an amount that the Secretary determines is actuarily sound for each such period.

"(ii) Periods taken into account.—For purposes of calculating any 12-month period under clause (i), there shall be taken into account—

"(I) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

"(II) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

"(iii) Periods not taken into account.—

“(I) IN GENERAL.—For purposes of calculating any 12-month period under clause (i), subject to subclause (II), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary was covered under a group health plan, including a qualified retiree prescription drug plan (as defined in section 1860I(e)(3)) for which an incentive payment was paid under section 1860I, that provides coverage of the cost of prescription drugs whose actuarial value (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

“(II) APPLICATION.—This clause shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes the date on which the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the value of the coverage provided under the program under this part.

“(iv) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly premium under clause (i) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

“(v) CONTINUOUS PERIOD OF ELIGIBILITY.—

“(I) IN GENERAL.—Subject to subclause (II), for purposes of this subparagraph, an eligible beneficiary's ‘continuous period of eligibility’ is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

“(II) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate ‘continuous period of eligibility’ with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

“(B) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under subparagraph (A)(i).

“(3) PERIOD OF COVERAGE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

“(B) OPEN ENROLLMENT.—An eligible beneficiary who enrolls under the program under this part pursuant to paragraph (2)(B) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

“(C) LIMITATION.—Coverage under this part shall not begin prior to the date that is 1 year after the date of enactment of this Act.

“(4) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

“(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or part B.

“(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) under part B.

“(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

“(1) PROCESS.—

“(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall make an annual election to enroll with any eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

“(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall use rules similar to the rules for enrollment and disenrollment with a Medicare+Choice plan under section 1851 (including special election periods under subsection (e)(4) of such section).

“(2) MEDICARE+CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of covered outpatient drugs under this part through such plan.

“(c) FIRST ENROLLMENT PERIOD.—The processes developed under subsections (a) and (b) shall ensure that eligible beneficiaries are permitted to enroll under this part and with an eligible entity prior to the date that is 1 year after the date of enactment of this Act, in order to ensure that coverage under this part is effective as of such date.

“PROVIDING INFORMATION TO BENEFICIARIES

“SEC. 1860C. (a) ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

“(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860B(c).

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—The activities described in subsection (a) shall—

“(A) be similar to the activities performed by the Secretary under section 1851(d);

“(B) be coordinated with the activities performed by the Secretary under such section and under section 1804; and

“(C) provide for the dissemination of information comparing the eligible entities that are available to eligible beneficiaries residing in an area under this part.

“(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(B) shall include the following:

“(A) BENEFITS.—A comparison of the benefits provided by each eligible entity, including a comparison of the pharmacy networks used by each eligible entity and the formularies and appeals processes implemented by each entity.

“(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of each eligible entity.

“(C) BENEFICIARY COSTS.—The cost-sharing required of eligible beneficiaries enrolled in each eligible entity.

“(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding each eligible entity.

“(E) ADDITIONAL INFORMATION.—Such additional information as the Secretary may prescribe.

“(3) INFORMATION STANDARDS.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and uniform.

“(c) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

“(1) IN GENERAL.—The Secretary may contract with Medicare Consumer Coalitions to conduct the informational activities—

“(A) under this section;

“(B) under section 1851(d); and

“(C) under section 1804.

“(2) SELECTION OF COALITIONS.—If the Secretary determines the use of Medicare Consumer Coalitions to be appropriate, the Secretary shall—

“(A) develop and disseminate, in such areas as the Secretary determines appropriate, a request for proposals for Medicare Consumer Coalitions to contract with the Secretary in order to conduct any of the informational activities described in paragraph (1); and

“(B) select a proposal of a Medicare Consumer Coalition to conduct the informational activities in each such area, with a preference for broad participation by organizations with experience in providing information to beneficiaries under this title.

“(3) PAYMENT TO MEDICARE CONSUMER COALITIONS.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to contract with Medicare Consumer Coalitions under this section.

“(5) MEDICARE CONSUMER COALITION DEFINED.—In this subsection, the term ‘Medicare Consumer Coalition’ means an entity that is a nonprofit organization operated under the direction of a board of directors that is primarily composed of beneficiaries under this title.

“PREMIUMS

“SEC. 1860D. (a) ANNUAL ESTABLISHMENT OF MONTHLY PREMIUM RATES.—

“(1) PREMIUM.—The Secretary shall, during September of each year (beginning with the first September after the day that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001), determine and promulgate a monthly premium rate for the succeeding year in accordance with the provisions of this subsection.

“(2) ACTUARIAL DETERMINATIONS.—

“(A) DETERMINATION OF ANNUAL BENEFIT AND ADMINISTRATIVE COSTS.—The Secretary shall estimate annually for the succeeding year the amount equal to the total of the benefits and administrative costs that will be payable from the Federal Supplementary Medical Insurance Trust Fund for providing covered outpatient drugs in such calendar year with respect to enrollees in the program under this part.

“(B) DETERMINATION OF MONTHLY PREMIUM RATES.—

“(i) IN GENERAL.—The Secretary shall determine the monthly premium rate with respect to such enrollees for such succeeding year, which shall be 1/12 of the applicable percent of the amount determined under subparagraph (A), divided by the total number of such enrollees, and rounded (if such rate is not a multiple of 10 cents) to the nearest multiple of 10 cents.

“(ii) DEFINITION OF APPLICABLE PERCENT.—For purposes of clause (i), the term ‘applicable percent’ means—

“(I) 45 percent, in the case of premiums paid by an eligible beneficiary enrolled in the program under this part; and

“(II) 66.66 percent, in the case of premiums paid for such a beneficiary by an employer (as defined in section 1860I(e)(2)) that the beneficiary formerly worked for.

“(3) PUBLICATION OF ASSUMPTIONS.—The Secretary shall publish, together with the promulgation of the monthly premium rates for the succeeding year, a statement setting forth the actuarial assumptions and bases employed in arriving at the amounts and rates determined under paragraphs (1) and (2).

“(b) COLLECTION OF PREMIUM.—The monthly premium applicable to an eligible beneficiary under this part shall be collected and credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

“COST-SHARING

“SEC. 1860E. (a) DEDUCTIBLE.—

“(1) IN GENERAL.—Subject to paragraph (2), no payments shall be made under this part on behalf of an eligible beneficiary until the beneficiary has met a $250 deductible.

“(2) WAIVER OF DEDUCTIBLE FOR GENERIC DRUGS.—

“(A) IN GENERAL.—An eligible entity may provide that generic drugs are not subject to the deductible described in paragraph (1) if the Secretary determines that the waiver of the deductible—

“(i) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

“(ii) will not result in an increase in the expenditures made from the Federal Supplementary Medical Insurance Trust Fund.

“(B) CREDIT FOR AMOUNTS PAID.—If the deductible is waived pursuant to subparagraph (A), any coinsurance paid by an eligible beneficiary for the generic drug shall be credited toward the annual deductible.

“(b) COINSURANCE.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—Subject to paragraph (2), if any covered outpatient drug is provided to an eligible beneficiary in a year after the beneficiary has met any deductible requirement under subsection (a) for the year, the beneficiary shall be responsible for making payments for the drug in an amount equal to the applicable percentage of the cost of the drug.

“(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A), the ‘applicable percentage’ means, with respect to any covered outpatient drug provided to an eligible beneficiary in a year—

“(i) 50 percent to the extent the out-of-pocket expenses of the beneficiary for such drug, when added to the out-of-pocket expenses of the beneficiary for covered outpatient drugs previously provided in the year, do not exceed $3,500;

“(ii) 25 percent to the extent such expenses, when so added, exceed $3,500 but do not exceed $4,000; and

“(iii) 0 percent to the extent such expenses, when so added, would exceed $4,000.

“(C) OUT-OF-POCKET EXPENSES DEFINED.—For purposes of subparagraph (B), the term ‘out-of-pocket expenses’ means expenses incurred as a result of the application of the deductible under subsection (a) and the coinsurance required under this subsection.

“(2) REDUCTION BY ELIGIBLE ENTITY.—An eligible entity may reduce the applicable percentage that an eligible beneficiary is subject to under paragraph (1) if the Secretary determines that such reduction—

“(A) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

“(B) will not result in an increase in the expenditures made from the Federal Supplementary Medical Insurance Trust Fund.

“(c) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any calendar year beginning after 2004, each of the dollar amounts in subsections (a)(1) and (b)(1)(B) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the percentage (if any) by which the amount of average per capita expenditures under this part in the preceding calendar year exceeds the amount of such expenditures in 2003.

“(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $5, such dollar amount shall be rounded to the nearest multiple of $5.

“SELECTION OF ENTITIES TO PROVIDE OUTPATIENT DRUG BENEFIT

“SEC. 1860F. (a) ESTABLISHMENT OF BIDDING PROCESS.—

“(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary accepts bids submitted by eligible entities and awards contracts to such entities in order to administer and deliver the benefits provided under this part to eligible beneficiaries in an area.

“(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

“(b) AREA FOR CONTRACTS.—

“(1) REGIONAL BASIS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to paragraph (2), the contract entered into between the Secretary and an eligible entity shall require the eligible entity to provide covered outpatient drugs on a regional basis.

“(B) PARTIAL REGIONAL BASIS.—

“(i) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the coverage described in subparagraph (A) to be provided on a partial regional basis.

“(ii) REQUIREMENTS.—If the Secretary permits coverage pursuant to clause (i), the Secretary shall ensure that the partial region in which coverage is provided is—

“(I) at least the size of the commercial service area of the eligible entity for that area; and

“(II) not smaller than a State.

“(2) DETERMINATION.—

“(A) IN GENERAL.—In determining coverage areas under this part, the Secretary shall—

“(i) take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities; and

“(ii) ensure that there are at least 10 different coverage areas in the United States.

“(B) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of coverage areas under this part shall not be subject to administrative or judicial review.

“(c) SUBMISSION OF BIDS.—

“(1) IN GENERAL.—Each eligible entity desiring to provide covered outpatient drugs under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“(2) REQUIRED INFORMATION.—The bids described in paragraph (1) shall include—

“(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

“(B) the amount that the entity will charge the Secretary for administering and delivering the benefits under such contract;

“(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860E(a)(2);

“(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and if so, the amount of such reduction;

“(E) a detailed description of—

“(i) the risk corridors tied to performance measures and other incentives that the entity will accept under the contract; and

“(ii) how the entity will meet such measures and incentives;

“(F) a detailed description of proposed contracts with local pharmacy providers designed to ensure access, including compensation for local pharmacists' services;

“(G) a detailed description of any ownership or shared financial interests with other entities involved in the delivery of the benefit as proposed;

“(H) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

“(I) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

“(d) ACCESS.—

“(1) IN GENERAL.—The Secretary shall ensure that an eligible entity—

“(A) complies with the access requirements described in section 1860G(a)(4)(A); and

“(B) makes available to each beneficiary covered under the contract the full scope of the benefits required under this part.

“(2) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary that resides in an area that is not covered by any contract under this part.

“(3) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary that resides in different areas in a year is provided the benefits under this part throughout the entire year.

“(4) SPECIAL ATTENTION TO RURAL AND HARD-TO-SERVE AREAS.—

“(A) IN GENERAL.—The Secretary shall ensure that all eligible beneficiaries have access to the full range of benefits under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas (as the Secretary may define by regulation).

“(B) SPECIAL ATTENTION DEFINED.—For purposes of subparagraph (A), the term ‘special attention’ may include bonus payments to retail pharmacists in rural areas, extra payments to eligible entities for the cost of rapid delivery of pharmaceuticals, and any other actions the Secretary determines are necessary to ensure full access to benefits under this part by eligible beneficiaries residing in rural and hard-to-serve areas.

“(C) GAO REPORT.—Not later than 2 years after the date of enactment of the Medicare

Prescription Drug Coverage Act of 2001, the Comptroller General of the United States shall submit to Congress a report on the access to benefits under this part by eligible beneficiaries residing in rural and hard-to-serve areas, together with any recommendations of the Comptroller General regarding any additional steps the Secretary may need to take to ensure the access of medicare beneficiaries to such benefits.

"(e) Awarding of Contracts.—

"(1) Number of contracts.—The Secretary shall, consistent with the requirements of this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless only 1 bidding entity meets the minimum standards specified under this part and by the Secretary.

"(2) Determination.—In determining which of the eligible entities that submitted bids that meet the minimum standards specified under this part and by the Secretary (including the terms and conditions described in section 1860G) to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of the past performance of the entity and other relevant factors, with respect to—

"(A) how well the entity meets such minimum standards;

"(B) the amount that the entity will charge the Secretary for administering and delivering the benefits under the contract;

"(C) the proposed prices of covered outpatient drugs and annual increases in such prices;

"(D) the proposed risk corridors tied to performance measures and other incentives that the entity will be subject to under the contract;

"(E) the factors described in section 1860C(b)(2);

"(F) prior experience in administering a prescription drug benefit program;

"(G) effectiveness in containing costs through pricing incentives and utilization management; and

"(H) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

"(3) Exception to conflict of interest rules.—In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

"(A) is not inconsistent with the—

"(i) purposes of the programs under this title; or

"(ii) best interests of enrolled individuals; and

"(B) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

"(4) No administrative or judicial review.—The determination of the Secretary to award or not award a contract to an eligible entity under this part shall not be subject to administrative or judicial review.

"(f) Approval of Marketing Material and Application Forms.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

"(g) Duration of Contracts.—Each contract under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

"CONDITIONS FOR AWARDING CONTRACT

"Sec. 1860G. (a) In General.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

"(1) Quality and financial standards.—The eligible entity meets the quality and financial standards specified by the Secretary.

"(2) Procedures to ensure proper utilization, compliance, and avoidance of adverse drug reactions.—The eligible entity has in place drug utilization review procedures to ensure—

"(A) the appropriate utilization by eligible beneficiaries of the benefits to be provided under the contract; and

"(B) the avoidance of adverse drug reactions among eligible beneficiaries enrolled with the entity, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse.

"(3) Cost-effective provision of benefits.—

"(A) In general.—In providing the benefits under a contract under this part, an eligible entity may—

"(i) employ mechanisms to provide the benefits economically, including the use of—

"(I) formularies (pursuant to subparagraph (B));

"(II) alternative methods of distribution; and

"(III) generic drug substitution;

"(ii) use mechanisms to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs, including the use of pharmacy incentive programs, therapeutic interchange programs, and disease management programs; and

"(iii) encourage pharmacy providers to—

"(I) inform beneficiaries of the differentials in price between generic and nongeneric drug equivalents; and

"(II) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications.

"(B) Formularies.—If an eligible entity uses a formulary under this part, such formulary shall comply with standards established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M. Such standards shall require that the eligible entity—

"(i) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M) to develop and implement the formulary;

"(ii) include in the formulary—

"(I) at least 1 drug from each therapeutic class (as defined by the entity's pharmacy and therapeutic committee in accordance with standards established by the Secretary in consultation with the Medicare Pharmacy and Therapeutics Advisory Committee established under section 1860M);

"(II) if there is more than 1 drug available in a therapeutic class, at least 2 drugs from such class; and

"(III) if there are more than 2 drugs available in a therapeutic class, at least 2 drugs from such class and a generic drug substitute if available;

"(iii) develop procedures for the—

"(I) addition of new therapeutic classes to the formulary;

"(II) addition of new drugs to an existing therapeutic class; and

"(III) modification of the formulary;

"(iv) provide for coverage of otherwise covered non-formulary drugs when recommended by a prescribing provider; and

"(v) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary, coinsurance, and any difference in the cost-sharing for different types of drugs.

"(C) Construction.—Nothing in this paragraph shall be construed as precluding an eligible entity from—

"(i) requiring cost-sharing for nonformulary drugs that is higher than the cost-sharing established in section 1860E(b), except that such entity shall provide for coverage of a nonformulary drug at the same cost-sharing level as a drug within the formulary if such nonformulary drug is recommended by a prescribing provider;

"(ii) educating prescribing providers, pharmacists, and beneficiaries about the medical and cost benefits of formulary drugs (including generic drugs); or

"(iii) requiring prescribing providers to consider a formulary drug prior to dispensing of a nonformulary drug, as long as such requirement does not unduly delay the provision of the drug.

"(4) Patient protections.—

"(A) Access.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries covered under the contract, including by doing the following:

"(i) Services during emergencies.—Offering services 24 hours a day and 7 days a week for emergencies.

"(ii) Agreements with pharmacies.—Entering into participation agreements under subsection (b) with pharmacies, that include terms that—

"(I) secure the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access); and

"(II) permit the participation of any pharmacy in the service area that meets the participation requirements described in subsection (b).

"(B) Continuity of care.—

"(i) In general.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1860B(b)), the entity will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part.

"(ii) Limited period.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

"(C) Procedures regarding denials of care.—The eligible entity has in place procedures to ensure—

"(i) a timely internal and external review and resolution of denials of coverage (in whole or in part) and complaints (including those regarding the use of formularies under paragraph (3)) by eligible beneficiaries, or by providers, pharmacists, and other individuals acting on behalf of each such beneficiary (with the beneficiary's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C; and

"(ii) that beneficiaries are provided with information regarding the appeals procedures under this part at the time of enrollment.

"(D) Procedures regarding patient confidentiality.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries under a contract entered into under this part, the entity has in place procedures to—

"(i) safeguard the privacy of any individually identifiable beneficiary information;

"(ii) maintain such records and information in a manner that is accurate and timely;

"(iii) ensure timely access by such beneficiaries to such records and information; and

"(iv) otherwise comply with applicable laws relating to patient confidentiality.

"(E) Procedures regarding transfer of medical records.—

"(i) In general.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (D) (with respect to a beneficiary who loses coverage under this part with the entity and enrolls with another entity under this part) to such other entity.

"(ii) Patient confidentiality.—The procedures described in clause (i) shall comply with the patient confidentiality procedures described in subparagraph (D).

"(F) Procedures regarding medical errors.—The eligible entity has in place procedures for working with the Secretary to deter medical errors related to the provision of covered outpatient drugs.

"(5) Procedures to control fraud, abuse, and waste.—The eligible entity has in place procedures to control fraud, abuse, and waste.

"(6) Reporting requirements.—

"(A) In general.—The eligible entity provides the Secretary with reports containing information regarding the following:

"(i) The prices that the eligible entity is paying for covered outpatient drugs.

"(ii) The prices that eligible beneficiaries enrolled with the entity will be charged for covered outpatient drugs.

"(iii) The administrative costs of providing such benefits.

"(iv) Utilization of such benefits.

"(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

"(B) Timeframe for submitting reports.—

"(i) In general.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity has a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

"(ii) Last year of contract.—In the case of the last year of a contract under this section, the Secretary may require that a report described in subparagraph (A) be submitted 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under this subparagraph and the date that a report is submitted under this clause.

"(C) Confidentiality of information.—

"(i) In general.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

"(ii) Utilization data.—Subject to patient confidentiality laws, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) (regarding utilization data) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

"(7) Approval of marketing material and application forms.—The eligible entity will comply with the requirements described in section 1860F(f).

"(8) Records and audits.—The eligible entity maintains adequate records related to the administration of the benefit under this part and affords the Secretary access to such records for auditing purposes.

"(b) Pharmacy Participation Agreements.—

"(1) In general.—A pharmacy that meets the requirements of this subsection shall be eligible to enter an agreement with an eligible entity to furnish covered outpatient drugs and pharmacists' services to eligible beneficiaries enrolled with such entity and residing in the service area.

"(2) Terms of agreement.—An agreement under this subsection shall include the following terms and requirements:

"(A) Licensing.—The pharmacy and pharmacists shall meet (and throughout the contract period will continue to meet) all applicable State and local licensing requirements.

"(B) Limitation on charges.—Pharmacies participating under this part shall not charge an eligible beneficiary enrolled with the eligible entity more than—

"(i) the negotiated price for an individual drug (as reported to the Secretary pursuant to subsection (a)(6)(A)); or

"(ii) the amount of the beneficiary's obligation (as determined in accordance with the provisions of this part) of the negotiated price of such drug.

"(C) Performance standards.—The pharmacy shall comply with performance standards relating to—

"(i) measures for quality assurance, reduction of medical errors, and compliance with the drug utilization review procedures described in subsection (a)(2);

"(ii) systems to ensure compliance with the patient confidentiality standards applicable under subsection (a)(4)(D); and

"(iii) other requirements as the Secretary may impose to ensure integrity, efficiency, and the quality of the program under this part.

"PAYMENTS

"Sec. 1860H. (a) Payments to Eligible Entities.—

"(1) Procedures.—

"(A) In general.—The Secretary shall establish procedures for making payments to an eligible entity under a contract entered into under this part for the administration and delivery of the benefits under this part.

"(B) Entities only subject to limited risk.—Under the procedures established under subparagraph (A), an eligible entity shall only be at risk to the extent that the entity is at risk under paragraph (2).

"(2) Risk corridors tied to performance measures and other incentives.—

"(A) In general.—The procedures established under paragraph (1) may include the use of—

"(i) risk corridors tied to performance measures that have been agreed to between the eligible entity and the Secretary under the contract; and

"(ii) any other incentives that the Secretary determines appropriate.

"(B) Phase-in of risk corridors tied to performance measures.—The Secretary may phase-in the use of risk corridors tied to performance measures if the Secretary determines such phase-in to be appropriate.

"(C) Payments subject to incentives.—If a contract under this part includes the use of risk corridors tied to performance measures or other incentives pursuant to subparagraph (A), payments to eligible entities under such contract shall be subject to such risk corridors tied to performance measures and other incentives.

"(3) Risk adjustment.—To the extent that eligible entities are at risk because of the risk corridors or other incentives described in paragraph (2)(A), the procedures established under paragraph (1) may include a methodology for adjusting the payments made to such entities based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

"(b) Secondary Payer Provisions.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

"EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

"Sec. 1860I. (a) Program Authority.—The Secretary is authorized to develop and implement a program under this section called the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

"(b) Sponsor Requirements.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (f)(3)), a sponsor shall meet the following requirements:

"(1) Assurances.—The sponsor shall—

"(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

"(B) guarantee that it will give notice to the Secretary and covered retirees—

"(i) at least 120 days before terminating its plan; and

"(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

"(2) Beneficiary information.—The sponsor shall report to the Secretary, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

"(3) Audits.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

"(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

"(c) INCENTIVE PAYMENTS.—

"(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse) who—

"(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

"(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

"(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to ⅔ of the monthly premium amount payable by an eligible beneficiary enrolled under this part, as set for the calendar year pursuant to section 1860D(a)(2).

"(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

"(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

"(e) DEFINITIONS.—In this section:

"(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

"(2) EMPLOYER.—The term 'employer' has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

"(3) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' means health insurance coverage included in employment-based retiree health coverage that—

"(A) provides coverage of the cost of prescription drugs whose actuarial value (as defined by the Secretary) to each retired beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part; and

"(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.

"PROCEDURES FOR PARTIAL YEAR IMPLEMENTATION

"SEC. 1860J. If the Secretary first implements the program under this part on a day other that January 1 of a year, the Secretary shall establish procedures for implementing the program during the period between the date of implementation and December 31 of such year, including procedures—

"(1) for prorating premiums, deductibles, and coinsurance under the program during such period; and

"(2) relating to requirements and payments under the Medicare+Choice program during such period.

"APPROPRIATIONS

"SEC. 1860K. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the premiums collected under section 1860D.

"SUBPART 2—MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

"MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

"SEC. 1860M. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Pharmacy and Therapeutics Advisory Committee (in this section referred to as the 'Committee').

"(b) FUNCTIONS OF COMMITTEE.—On and after January 1, 2002, the Committee shall advise the Secretary on policies related to—

"(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

"(2) the development of—

"(A) standards for a pharmacy and therapeutics committee required of eligible entities under section 1860G(a)(3)(B)(i);

"(B) standards for—

"(i) defining therapeutic classes;

"(ii) adding new therapeutic classes to a formulary;

"(iii) adding new drugs to a therapeutic class within a formulary; and

"(iv) when and how often a formulary should be modified;

"(C) procedures to evaluate the bids submitted by eligible entities under this part; and

"(D) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

"(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

"(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Committee.

"(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

"(i) eleven shall be chosen to represent physicians;

"(ii) four shall be chosen to represent pharmacists;

"(iii) one shall be chosen to represent the Health Care Financing Administration;

"(iv) two shall be chosen to represent actuaries and pharmacoeconomists; and

"(v) one shall be chosen to represent emerging drug technologies.

"(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2002.

"(e) CHAIRMAN.—The Secretary shall designate a member of the Committee as Chairman. The term as Chairman shall be for a 1-year period.

"(f) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION OF MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

"(g) OPERATION OF THE COMMITTEE.—

"(1) MEETINGS.—The Committee shall meet at the call of the Chairman (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairman after such consultation.

"(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

"(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

"(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services, and such resources and assets of the Department used in carrying out this title, as the Committee requires.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

(b) EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a))

is amended in the matter preceding paragraph (1) by striking "part A or part B" and inserting "part A, B, or D".

(2) Prescription drugs not excluded from coverage if appropriately prescribed.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking "and" at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) in the case of prescription drugs covered under part D, which are not prescribed in accordance with such part;".

(c) Conforming References to Previous Part D.—

(1) In general.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) Secretarial submission of legislative proposal.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 4. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) Eligibility, Election, and Enrollment.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking "parts A and B" and inserting "parts A, B, and D"; and

(2) in subsection (i)(1), by striking "parts A and B" and inserting "parts A, B, and D".

(b) Voluntary Beneficiary Enrollment for Drug Coverage.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting "(and under part D to individuals also enrolled under that part)" after "parts A and B".

(c) Access to Services.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) in the case of covered outpatient drugs provided to individuals enrolled under part D (as defined in section 1860(1)), the organization complies with the access requirements applicable under part D.".

(d) Payments to Organizations.—Section 1853(a)(1)(A) of such Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(1) by inserting "determined separately for the benefits under parts A and B and under part D (for individuals enrolled under that part)" after "as calculated under subsection (c)";

(2) by striking "that area, adjusted for such risk factors" and inserting "that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as"; and

(3) by inserting before the last sentence the following: "In the case of the payments for the benefits under part D, such payment shall initially be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence. By 2006, the adjustments to payments for benefits under part D shall be for the same risk factors used to adjust payments for the benefits under parts A and B.".

(e) Calculation of Annual Medicare+Choice Capitation Rates.—Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting "for benefits under parts A and B" after "capitation rate"; and

(2) by adding at the end the following new paragraph:

"(8) Payment for part D benefits.—The Secretary shall determine a capitation rate for part D benefits (for individuals enrolled under such part) as follows:

"(A) Drugs dispensed before 2004.—In the case of prescription drugs dispensed on or after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001 and before January 1, 2004, the capitation rate shall be based on the projected national per capita costs for prescription drug benefits under part D and associated claims processing costs for beneficiaries enrolled under part D and not enrolled with a Medicare+Choice organization under this part.

"(B) Drugs dispensed in subsequent years.—In the case of prescription drugs dispensed in 2004 or a subsequent year, the capitation rate shall be equal to the capitation rate for the preceding year increased by the Secretary's estimate of the projected per capita rate of growth in expenditures under this title for an individual enrolled under part D for such subsequent year.".

(f) Limitation on Enrollee Liability.—Section 1854(e) of such Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

"(5) Special rule for part D benefits.—With respect to outpatient prescription drug benefits under part D, a Medicare+Choice organization may not require that an enrollee pay a deductible or a coinsurance percentage that exceeds the deductible or coinsurance percentage applicable for such benefits for an eligible beneficiary under part D.".

(g) Requirement for Additional Benefits.—Section 1854(f)(1) of such Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: "Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.".

(h) Effective Date.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after the date that is 1 year after the date of enactment of this Act.

SEC. 5. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking "attributable to the application of section" and inserting "attributable to—

"(1) the application of section";

(2) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(2) the program under part D providing payment for covered outpatient drugs (including costs associated with making payments to employers and other sponsors of employment-based health care coverage under the Employer Incentive Program under section 1860I).".

SEC. 6. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) Inclusion in Medicare Cost-Sharing.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by inserting "and" at the end; and

(C) by adding at the end the following new clause:

"(iii) premiums under section 1860D.";

(2) in subparagraph (B), by striking "section 1813" and inserting "sections 1813 and 1860E(b)"; and

(3) in subparagraph (C), by striking "section 1813 and section 1833(b)" and inserting "sections 1813, 1833(b), and 1860E(a)".

(b) Expansion of Medical Assistance.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (iii)—

(A) by striking "section 1905(p)(3)(A)(ii)" and inserting "clauses (ii) and (iii) of section 1905(p)(3)(A), for the coinsurance described in section 1860E(b), and for the deductible described in section 1860E(a)"; and

(B) by striking "and" at the end;

(2) by redesignating clause (iv) as clause (vi); and

(3) by inserting after clause (iii) the following new clauses:

"(iv) for making medical assistance available for Medicare cost-sharing described in section 1905(p)(3)(A)(iii), for the coinsurance described in section 1860E(b), and for the deductible described in section 1860E(a) for individuals who would be qualified Medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 120 percent but does not exceed 135 percent of such official poverty line for a family of the size involved;

"(v) for making medical assistance available for Medicare cost-sharing described in section 1905(p)(3)(A)(iii) on a linear sliding scale based on the income of such individuals for individuals who would be qualified Medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 135 percent but does not exceed 175 percent of such official poverty line for a family of the size involved; and".

(c) Nonapplicability of Resource Requirements to Medicare Part D Cost-Sharing.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by adding at the end the following flush sentence:

"In determining if an individual is a qualified medicare beneficiary under this paragraph, subparagraph (C) shall not be applied for purposes of providing the individual with medicare cost-sharing that consists of premiums under section 1860D, coinsurance described in section 1860E(b), or deductibles described in section 1860E(a).".

(d) Nonapplicability of Payment Differential Requirements to Medicare Part D Cost-Sharing.—Section 1902(n)(2) of the Social Security Act (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to coinsurance described in section 1860E(b) or deductibles described in section 1860E(a).".

(e) 100 Percent Federal Medical Assistance Percentage.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking "and" before "(3)"; and

(2) by inserting before the period at the end the following: ", and (4) the Federal medical assistance percentage shall be 100 percent

with respect to medical assistance provided under clauses (iv) and (v) of section 1902(a)(10)(E)".

(f) TREATMENT OF TERRITORIES.—Section 1108(g) of such Act (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding the preceding provisions of this subsection, with respect to the first fiscal quarter that begins on or after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001 and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (f)) for the fiscal year for a Commonwealth or territory shall be increased by the ratio (as estimated by the Secretary) of—

"(A) the aggregate amount of payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of Medicare cost-sharing that consists of premiums under section 1860D, coinsurance described in section 1860E(b), or deductibles described in section 1860E(a); to

"(B) the aggregate amount of total payments made to such States and District for the fiscal year under such title.".

(g) CONFORMING AMENDMENTS.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended—

(1) in subsection (a), by striking "section 1902(a)(10)(E)(iv)" and inserting "section 1902(a)(10)(E)(vi)";

(2) in subsection (c)(2)(A)—

(A) in clause (i), by striking "section 1902(a)(10)(E)(iv)(I)" and inserting "section 1902(a)(10)(E)(vi)(I)"; and

(B) in clause (ii), by striking "section 1902(a)(10)(E)(iv)(II)" and inserting "section 1902(a)(10)(E)(vi)(II)";

(3) in subsection (d), by striking "section 1902(a)(10)(E)(iv)" and inserting "section 1902(a)(10)(E)(vi)"; and

(4) in subsection (e), by striking "section 1902(a)(10)(E)(iv)" and inserting "section 1902(a)(10)(E)(vi)".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after the date that is 1 year after the date of enactment of this Act.

SEC. 7. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

"(v) MODERNIZED BENEFIT PACKAGES FOR MEDICARE SUPPLEMENTAL POLICIES.—

"(1) PROMULGATION OF MODEL REGULATION.—

"(A) NAIC MODEL REGULATION.—If, within 6 months after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, the National Association of Insurance Commissioners (in this subsection referred to as the 'NAIC') changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit packages classified as 'H', 'I', and 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) so that—

"(i) the coverage for outpatient prescription drugs available under such benefit packages is replaced with coverage for outpatient prescription drugs that compliments but does not duplicate the benefits for outpatient prescription drugs that beneficiaries are otherwise entitled to under this title;

"(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for—

"(I) the deductible under section 1860E(a); or

"(II) more than 90 percent of the coinsurance applicable to an individual under section 1860E(b);

"(iii) uniform language and definitions are used with respect to such revised benefits;

"(iv) uniform format is used in the policy with respect to such revised benefits; and

"(v) such revised standards meet any additional requirements imposed by the Medicare Prescription Drug Coverage Act of 2001; subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2002 NAIC Model Regulation').

"(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 6-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 6 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2002 Federal Regulation').

"(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

"(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits (including deductibles and coinsurance) under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2002 NAIC Model Regulation or 2002 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'G' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

"(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

"(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

"(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2002 NAIC Model Regulation or 2002 Federal Regulation; and

"(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

"(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.".

SEC. 8. COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG COVERAGE FOR TRANSPLANT PATIENTS.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)), as amended by section 113(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by striking ", to an individual who receives" and all that follows before the semicolon at the end and inserting "to an individual who has received an organ transplant".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs furnished on or after the date of enactment of this Act.

SEC. 9. HHS STUDIES AND REPORT TO CONGRESS REGARDING OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct a study on the following:

(1) WAIVER OR REDUCTION OF LATE ENROLLMENT PENALTY.—The feasibility and advisability of establishing an annual open enrollment period under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) in which the late enrollment penalty under section 1860B(a)(2)(A) of the Social Security Act (as so added) would be reduced or would not be applied. Such study shall include a projection of the costs if open enrollment was allowed with a reduced penalty or without a penalty.

(2) UNIFORM FORMAT FOR PHARMACY BENEFIT CARDS.—The feasibility and advisability of establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under such outpatient prescription drug benefit program.

(3) DEVELOPMENT OF SYSTEMS TO ELECTRONICALLY TRANSFER PRESCRIPTIONS.—The feasibility and advisability of developing systems to electronically transfer prescriptions under such outpatient prescription drug benefit program from the prescriber to the pharmacist.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the results of the studies conducted under subsection (a), together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such studies.

SEC. 10. GAO STUDY AND BIENNIAL REPORTS ON COMPETITION AND SAVINGS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3), including an analysis of—

(1) the extent to which the competitive bidding process under such program fosters maximum competition and efficiency; and

(2) the savings to the medicare program resulting from such outpatient prescription drug benefit program, including the reduction in the number or length of hospital visits.

(b) INITIAL REPORT ON COMPETITIVE BIDDING PROCESS.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the extent to which the competitive bidding process under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) is expected to foster maximum competition and efficiency.

(c) BIENNIAL REPORTS.—Not later than January 1, 2004, and biennially thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study.

SEC. 11. MEDPAC STUDY AND ANNUAL REPORTS ON THE PHARMACEUTICAL MARKET, PHARMACIES, AND BENEFICIARY ACCESS.

(a) ONGOING STUDY.—The Medicare Payment Advisory Commission shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3), including an analysis of the impact of such program on—

(1) the pharmaceutical market, including costs and pricing of pharmaceuticals, beneficiary access to such pharmaceuticals, and trends in research and development;

(2) franchise, independent, and rural pharmacies; and

(3) beneficiary access to outpatient prescription drugs, including an assessment of—

(A) out-of-pocket spending;

(B) generic and brand-name utilization; and

(C) pharmacists' services.

(b) REPORT.—Not later than January 1, 2004, and annually thereafter, the Medicare Payment Advisory Commission shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that such Commission determines to be appropriate as a result of such study.

SEC. 12. APPROPRIATIONS.

In addition to amounts otherwise appropriated to the Secretary of Health and Human Services, there are authorized to be appropriated to the Secretary for fiscal year 2002 and each subsequent fiscal year such sums as may be necessary to administer the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3).

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BROWNBACK, Mr. NICKLES, Mr. KYL, Mr. MURKOWSKI, Mr. ALLEN, Mr. GRAMM, Mr. CRAPO, Mr. WARNER, Mr. HAGEL, Mr. BUNNING, Mr. FRIST, Mr. MCCONNELL, Mr. BURNS, Mr. ENSIGN, Mr. HELMS, and Mr. CRAIG):

S. 11. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes; to the Committee on Finance.

MARRIAGE PENALTY LEGISLATION

Mrs. HUTCHISON. Mr. President, for 4 years now, I have introduced a bill to eliminate the marriage penalty tax. I have said all of these years that I do not think Americans should have to choose between love and money. They should be able to get married and not be penalized because they do. But in fact 25 million married couples in America today do pay a penalty just because they got married. The sad thing is; the average penalty they pay is about $1,400. That is $1,400 that a young couple would like to have as they are starting their lives together, for the things they want: Like the down payment on the new house or the new car or the expenses associated with having children. We want them to be able to have the money they earn to make their choices rather than having Uncle Sam take $1,400 more just because of what amounts to a glitch in the Tax Code that requires these married couples to pay this penalty.

The bill I have just introduced today, S. 11, is cosponsored by Senators BROWNBACK, LOTT, NICKLES, ALLEN, BUNNING, BURNS, CRAPO, FRIST, GRAMM, HAGEL, KYL, ENSIGN, MCCONNELL, MURKOWSKI and WARNER.

This is a bill that I hope will have broad bipartisan support because, in fact, we have passed it twice and sent it to the President with bipartisan majorities in the past. The President has chose to veto the bills before, but today we have a new President who I believe will sign marriage penalty relief. It was part of President Bush's campaign. When we send him Marriage penalty relief for the third time in a bipartisan way in Congress, I believe President Bush will sign it.

I am very pleased this bill will double the standard deduction for married couples. Today, if you get married the standard deduction that two single people would have is not double. We want to double the standard deduction. Two people getting married who have two incomes but do not itemize would receive a increase of $1,500 in their standard deduction. That is what we want to do.

Secondly, we will double each tax bracket for married couples filing a joint return. For example, if a couple is in the 15-percent income tax bracket but they get married and are thrown into the 30-percent bracket, we want to provide them relief such that they will effectively remain in the 15 percent bracket. This bill would widen the 15-percent bracket by $9,000 for married couples.

Congress passed this legislation, and it was vetoed. Today, I am introducing this bill. I know we are going to pass it in this Congress, and I know it will be signed. This is the beginning of a new day in our United States of America, and we are going to eliminate the marriage penalty this year. I will count on it.

Mr. BURNS. Mr. President, I rise in support of legislation my colleague from Texas introduced today that will put an end to the "marriage penalty" tax. Mr. President, we've been fighting this tax inequity for several years now. The people of Montana have spoken to me either through letters or conversation—they think this tax is unfair.

When we first started working to resolve this issue, I was contacted by Joshua and Jody Hayes of Billings, Montana. The Hayes paid $971 more in taxes because they were married than they would have paid if they remained single.

In Montana, it is estimated that nearly 90,000 couples are penalized by this tax to the tune of $51.5 million—solely for being married. Making a living—supporting a family—is a difficult task in today's fast paced economy. A young couple married today is immediately subject to an additional financial burden because they want to share their lives together. The federal tax system penalizes these young couples. These are not wealthy people—this effort to provide tax relief does not discriminate—this effort does not single out a specific income group. It is a tax on families.

I, along with my Republican colleagues, have made it clear that continued tax reform and tax relief is necessary, but I can think of no other tax that has such a dramatic impact on so many people.

If ever there was a disincentive to be married, this penalty would be it. I believe this, along with the estate tax, is one of the most unfair taxes on Americans. It is not right for people to be penalized with higher taxes simply because they choose to get married.

According to the Congressional Budget Office (CBO), almost half of all married couples pay higher taxes due to their marital status. Cumulatively, the marriage penalty increases taxes on affected couples by $29 billion per year. Currently, this tax penalty imposes an average additional tax of $1400 on 21 million married couples nationwide.

Mr. President, the marriage penalty can have significantly negative economic implications for the country as a whole as well. Not only does this penalty within the tax system stand as a likely obstacle to marriage, it can actually discourage a spouse from entering the workforce.

By adding together husband and wife under the rate schedule, tax laws both encourage families to identify a primary and secondary worker and then place an extra burden on the secondary worker because his or her wages come on top of the primary earner's wages.

As the American family realizes lower income levels, the nation realizes lower economic output. From a strictly economic perspective, the fact that potential workers would avoid the labor force as a result of a tax penalty is a clear sign of a failure to maximize true economic output. As a result, the nation as a whole fails to reach its economic potential, which is demonstrated by decreased earnings and international competitiveness.

Whereas I am very disappointed President Clinton has vetoed this initiative in the past, I am confident our new President will support America's families.

Congress has momentum considering this body has already passed this legislation to correct this inequity. I encourage my colleagues to support this legislation to repeal the marriage penalty.

By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. ROCKEFELLER, Mr. LEVIN, and Mr. JOHNSON):

S. 16. A bill to improve law enforcement, crime prevention, and victim assistance in the 21st century; to the Committee on the Judiciary.

21ST CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIMS ASSISTANCE ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill and an analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 16

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A—Support for Community Personnel

Sec. 1101. 21st Century Community Policing Initiative.

Subtitle B—Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

Sec. 1201. Expansion of protection of Federal officers and employees from murder due to their status.
Sec. 1202. Assaulting, resisting, or impeding certain officers or employees.
Sec. 1203. Influencing, impeding, or retaliating against a Federal official by threatening a family member.
Sec. 1204. Mailing threatening communications.
Sec. 1205. Amendment of the sentencing guidelines for assaults and threats against Federal judges and certain other Federal officials and employees.
Sec. 1206. Killing persons aiding Federal investigations or State correctional officers.
Sec. 1207. Killing State correctional officers.
Sec. 1208. Establishment of protective function privilege.

Subtitle C—Disarming Felons and Protecting Children From Violence

PART 1—EXTENSION OF PROJECT EXILE

Sec. 1311. Authorization of funding for additional State and local gun prosecutors.
Sec. 1312. Authorization of funding for additional Federal firearms prosecutors and gun enforcement teams.

PART 2—EXPANSION OF THE YOUTH CRIME GUN INTERDICTION INITIATIVE

Sec. 1321. Youth Crime Gun Interdiction Initiative.

PART 3—GUN OFFENSES

Sec. 1331. Gun ban for dangerous juvenile offenders.
Sec. 1332. Improving firearms safety.
Sec. 1333. Juvenile handgun safety.
Sec. 1334. Serious juvenile drug offenses as armed career criminal predicates.
Sec. 1335. Increased penalty for transferring a firearm to a minor for use in crime of violence or drug trafficking crime.
Sec. 1336. Increased penalty for firearms conspiracy.

PART 4—CLOSING THE GUN SHOW LOOPHOLE

Sec. 1341. Extension of Brady background checks to gun shows.

Subtitle D—Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

Sec. 1401. Juvenile and violent offender incarceration grants.
Sec. 1402. Certain punishment and graduated sanctions for youth offenders.
Sec. 1403. Pilot program to promote replication of recent successful juvenile crime reduction strategies.
Sec. 1404. Reimbursement of States for costs of incarcerating juvenile alien offenders.

Subtitle E—Ballistics, Law Assistance, and Safety Technology

Sec. 1501. Short title.
Sec. 1502. Purposes.
Sec. 1503. Definition of ballistics.
Sec. 1504. Test firing and automated storage of ballistics records.
Sec. 1505. Privacy rights of law abiding citizens.
Sec. 1506. Demonstration firearm crime reduction strategy.

Subtitle F—Offender Reentry and Community Safety

Sec. 1601. Short title.
Sec. 1602. Findings.
Sec. 1603. Purposes.

PART 1—FEDERAL REENTRY DEMONSTRATION PROJECTS

Sec. 1611. Federal reentry center demonstration.
Sec. 1612. Federal high-risk offender reentry demonstration.
Sec. 1613. District of Columbia Intensive Supervision, Tracking, and Reentry Training (DC iSTART) Demonstration.
Sec. 1614. Federal Intensive Supervision, Tracking, and Reentry Training (FED iSTART) Demonstration.
Sec. 1615. Federal enhanced in-prison vocational assessment and training and demonstration.
Sec. 1616. Research and reports to Congress.
Sec. 1617. Definitions.
Sec. 1618. Authorization of appropriations.

PART 2—STATE REENTRY GRANT PROGRAMS

Sec. 1621. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

TITLE II—STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A—Combating Gang Violence

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

Sec. 2101. Gang franchising.
Sec. 2102. Enhanced penalty for use or recruitment of minors in gangs.
Sec. 2103. Gang franchising as a RICO predicate.
Sec. 2104. Increase in offense level for participation in crime as gang member.
Sec. 2105. Enhanced penalty for discharge of firearms in relation to counts of violence or drug trafficking crimes.
Sec. 2106. Punishment of arson or bombing at facilities receiving Federal financial assistance.
Sec. 2107. Elimination of statute of limitations for murder.
Sec. 2108. Extension of statute of limitations for violent and drug trafficking crimes.
Sec. 2109. Increased penalties under the RICO law for gang and violent crimes.
Sec. 2110. Increased penalty and broadened scope of statute against violent crimes in aid of racketeering.
Sec. 2111. Facilitating the prosecution of carjacking offenses.
Sec. 2112. Facilitation of RICO prosecutions.
Sec. 2113. Assault as a RICO predicate.
Sec. 2114. Expansion of definition of "racketeering activity" to affect gangs in Indian country.
Sec. 2115. Increased penalties for violence in the course of riot offenses.
Sec. 2116. Expansion of Federal jurisdiction over crimes occurring in private penal facilities housing Federal prisoners or prisoners from other States.

PART 2—TARGETING GANG-RELATED GUN OFFENSES

Sec. 2121. Transfer of firearm to commit a crime of violence.
Sec. 2122. Increased penalty for knowingly receiving firearm with obliterated serial number.
Sec. 2123. Amendment of the sentencing guidelines for transfers of firearms to prohibited persons.

PART 3—USING AND PROTECTING WITNESSES TO HELP PROSECUTE GANGS AND OTHER VIOLENT CRIMINALS

Sec. 2131. Interstate travel to engage in witness intimidation or obstruction of justice.
Sec. 2132. Expanding pretrial detention eligibility for serious gang and other violent criminals.
Sec. 2133. Conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants.
Sec. 2134. Allowing a reduction of sentence for providing useful investigative information although not regarding a particular individual.
Sec. 2135. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.

Sec. 2136. Expansion of Federal kidnapping offense to cover when death of victim occurs before crossing State line and when facility in interstate commerce or the mails are used.
Sec. 2137. Assaults or other crimes of violence for hire.
Sec. 2138. Clarification of interstate threat statute to cover threats to kill.
Sec. 2139. Conforming amendment to law punishing obstruction of justice by notification of existence of a subpoena for records in certain types of investigations.

PART 4—GANG PARAPHERNALIA

Sec. 2141. Streamlining procedures for law enforcement access to clone numeric pagers.
Sec. 2142. Sentencing enhancement for using body armor in commission of a felony.
Sec. 2143. Sentencing enhancement for using laser sighting devices in commission of a felony.
Sec. 2144. Government access to location information.
Sec. 2145. Limitation on obtaining transactional information from pen registers or trap and trace devices.

Subtitle B—Combating Money Laundering

Sec. 2201. Short title.
Sec. 2202. Illegal money transmitting businesses.
Sec. 2203. Restraint of assets of persons arrested abroad.
Sec. 2204. Civil money laundering jurisdiction over foreign persons.
Sec. 2205. Punishment of laundering money through foreign banks.
Sec. 2206. Addition of serious foreign crimes to list of money laundering predicates.
Sec. 2207. Criminal forfeiture for money laundering conspiracies.
Sec. 2208. Fungible property in foreign bank accounts.
Sec. 2209. Admissibility of foreign business records.
Sec. 2210. Charging money laundering as a course of conduct.
Sec. 2211. Venue in money laundering cases.
Sec. 2212. Technical amendment to restore wiretap authority for certain money laundering offenses.
Sec. 2213. Criminal penalties for violations of anti-money laundering orders.
Sec. 2214. Encouraging financial institutions to notify law enforcement authorities of suspicious financial transactions.
Sec. 2215. Coverage of foreign bank branches in the territories.
Sec. 2216. Conforming statute of limitations amendment for certain bank fraud offenses.
Sec. 2217. Jurisdiction over certain financial crimes committed abroad.
Sec. 2218. Knowledge that the property is the proceeds of a felony.
Sec. 2219. Money laundering transactions; commingled accounts.
Sec. 2220. Laundering the proceeds of terrorism.
Sec. 2221. Violations of section 6050i.
Sec. 2222. Including agencies of tribal governments in the definition of a financial institution.
Sec. 2223. Penalties for violations of geographic targeting orders and certain recordkeeping requirements.

Subtitle C—Antidrug Provisions

Sec. 2301. Amendments concerning temporary emergency scheduling.
Sec. 2302. Amendment to reporting requirement for transactions involving certain listed chemicals.
Sec. 2303. Drug paraphernalia.
Sec. 2304. Counterfeit substances/imitation controlled substances.
Sec. 2305. Conforming amendment concerning marijuana plants.
Sec. 2306. Serious juvenile drug trafficking offenses as armed career criminal act predicates.
Sec. 2307. Increased penalties for using Federal property to grow or manufacture controlled substances.
Sec. 2308. Clarification of length of supervised release terms in controlled substance cases.
Sec. 2309. Supervised release period after conviction for continuing criminal enterprise.
Sec. 2310. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes.
Sec. 2311. Import and export of chemicals used to produce illicit drugs.

Subtitle D—Deterring Cargo Theft

Sec. 2351. Punishment of cargo theft.
Sec. 2352. Reports to Congress on cargo theft.
Sec. 2353. Establishment of Advisory Committee on Cargo Theft.
Sec. 2354. Addition of attempted theft and counterfeiting offenses to eliminate gaps and inconsistencies in coverage.
Sec. 2355. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization.
Sec. 2356. Larceny involving post office boxes and postal stamp vending machines.
Sec. 2357. Expansion of Federal theft offenses to cover theft of vessels.

Subtitle E—Improvements to Federal Criminal Law

PART 1—SENTENCING IMPROVEMENTS

Sec. 2411. Application of sentencing guidelines to all pertinent statutes.
Sec. 2412. Doubling maximum penalty for voluntary manslaughter.
Sec. 2413. Authorization of imposition of both a fine and imprisonment rather than only either penalty in certain offenses.
Sec. 2414. Addition of supervised release violation as predicates for certain offenses.
Sec. 2415. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 2416. Elimination of proof of value requirement for felony theft or conversion of grand jury material.
Sec. 2417. Increased maximum corporate penalty for antitrust violations.
Sec. 2418. Amendment of Federal sentencing guidelines for counterfeit bearer obligations of the United States.

PART 2—ADDITIONAL IMPROVEMENTS TO FEDERAL CRIMINAL LAW

Sec. 2421. Violence directed at dwellings in Indian country.
Sec. 2422. Corrections to Amber Hagerman Child Protection Act.
Sec. 2423. Elimination of "bodily harm" element in assault with a dangerous weapon offense.
Sec. 2424. Appeals from certain dismissals.
Sec. 2425. Authority for injunction against disposal of ill-gotten gains from violations of fraud statutes.
Sec. 2426. Expansion of interstate travel fraud statute to cover interstate travel by perpetrator.
Sec. 2427. Clarification of scope of unauthorized selling of military medals or decorations.
Sec. 2428. Amendment to section 669 to conform to Public Law 104-294.
Sec. 2429. Expansion of jurisdiction over child buying and selling offenses.
Sec. 2430. Limits on disclosure of wiretap orders.
Sec. 2431. Prison credit and aging prisoner reform.
Sec. 2432. Miranda reaffirmation.

TITLE III—PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A—Crime Victims Assistance

Sec. 3101. Short title.

PART 1—VICTIM RIGHTS

Sec. 3111. Right to notice and to be heard concerning detention.
Sec. 3112. Right to a speedy trial.
Sec. 3113. Right to notice and to be heard concerning plea.
Sec. 3114. Enhanced participatory rights at trial.
Sec. 3115. Right to notice and to be heard concerning sentence.
Sec. 3116. Right to notice and to be heard concerning sentence adjustment.
Sec. 3117. Right to notice of release or escape.
Sec. 3118. Right to notice and to be heard concerning executive clemency.
Sec. 3119. Remedies for noncompliance.

PART 2—VICTIM ASSISTANCE INITIATIVES

Sec. 3121. Pilot programs to establish ombudsman programs for crime victims.
Sec. 3122. Amendments to Victims of Crime Act of 1984.
Sec. 3123. Increased training for law enforcement officers and court personnel to respond to the needs of crime victims.
Sec. 3124. Increased resources to develop State-of-the-art systems for notifying crime victims of important dates and developments.

PART 3—VICTIM-OFFENDER PROGRAMS: "RESTORATIVE JUSTICE"

Sec. 3131. Pilot program and study on effectiveness of restorative justice approach on behalf of victims of crime.

Subtitle B—Violence Against Women Act Enhancements

Sec. 3201. Shelter services for battered women and children.
Sec. 3202. Transitional housing assistance for victims of domestic violence.
Sec. 3203. Family unity demonstration project.

Subtitle C—Senior Safety

Sec. 3301. Short title.
Sec. 3302. Findings and purposes.
Sec. 3303. Definitions.

PART 1—COMBATING CRIMES AGAINST SENIORS

Sec. 3311. Enhanced sentencing penalties based on age of victim.

Sec. 3312. Study and report on health care fraud sentences.
Sec. 3313. Increased penalties for fraud resulting in serious injury or death.
Sec. 3314. Safeguarding pension plans from fraud and theft.
Sec. 3315. Additional civil penalties for defrauding pension plans.
Sec. 3316. Punishing bribery and graft in connection with employee benefit plans.

PART 2—PREVENTING TELEMARKETING FRAUD

Sec. 3321. Centralized complaint and consumer education service for victims of telemarketing fraud.
Sec. 3322. Blocking of telemarketing scams.

PART 3—PREVENTING HEALTH CARE FRAUD

Sec. 3331. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.
Sec. 3332. Authorized investigative demand procedures.
Sec. 3333. Extending antifraud safeguards to the Federal employee health benefits program.
Sec. 3334. Grand jury disclosure.
Sec. 3335. Increasing the effectiveness of civil investigative demands in false claims investigations.

PART 4—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

Sec. 3341. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.
Sec. 3342. Victim restitution.
Sec. 3343. Bankruptcy proceedings not used to shield illegal gains from false claims.
Sec. 3344. Forfeiture for retirement offenses.

Subtitle D—Violent Crime Reduction Trust Fund

Sec. 3401. Extension of violent crime reduction trust fund.

TITLE IV—BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A—Drug Courts, Drug Treatment, and Alternative Sentencing

PART 1—EXPANSION OF DRUG COURTS

Sec. 4111. Reauthorization of drug courts program.
Sec. 4112. Juvenile drug courts.

PART 2—ZERO TOLERANCE DRUG TESTING

Sec. 4121. Grant authority.
Sec. 4122. Administration.
Sec. 4123. Applications.
Sec. 4124. Federal share.
Sec. 4125. Geographic distribution.
Sec. 4126. Technical assistance, training, and evaluation.
Sec. 4127. Authorization of appropriations.
Sec. 4128. Permanent set-aside for research and evaluation.
Sec. 4129. Additional requirements for the use of funds under the violent offender incarceration and truth-in-sentencing grant programs.

PART 3—DRUG TREATMENT

Sec. 4131. Drug treatment alternative to prison programs administered by State or local prosecutors.
Sec. 4132. Substance abuse treatment in Federal prisons reauthorization.
Sec. 4133. Residential substance abuse treatment for State prisoners reauthorization
Sec. 4134. Drug treatment for juveniles.

PART 4—FUNDING FOR DRUG FREE COMMUNITY PROGRAMS

Sec. 4141. Extension of safe and drug-free schools and communities program.
Sec. 4142. Say No to Drugs community centers.
Sec. 4143. Drug education and prevention relating to youth gangs.
Sec. 4144. Drug education and prevention program for runaway and homeless youth.

Subtitle B—Youth Crime Prevention and Juvenile Courts

PART 1—GRANTS TO YOUTH ORGANIZATIONS

Sec. 4211. Grant program.
Sec. 4212. Grants to national organizations.
Sec. 4213. Grants to States.
Sec. 4214. Allocation; grant limitation.
Sec. 4215. Report and evaluation.
Sec. 4216. Authorization of appropriations.
Sec. 4217. Grants to public and private agencies.

PART 2—REAUTHORIZATION OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

Sec. 4221. Incentive grants for local delinquency prevention programs.
Sec. 4222. Research, evaluation, and training.

PART 3—JUMP AHEAD

Sec. 4231. Short title.
Sec. 4232. Findings.
Sec. 4233. Juvenile mentoring grants.
Sec. 4234. Implementation and evaluation grants.
Sec. 4235. Evaluations; reports.

PART 4—TRUANCY PREVENTION

Sec. 4241. Short title.
Sec. 4242. Findings.
Sec. 4243. Grants.

PART 5—JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION ACT

Sec. 4251. Short title.
Sec. 4252. Findings.
Sec. 4253. Purpose.
Sec. 4254. Definitions.
Sec. 4255. Name of office.
Sec. 4256. Concentration of Federal effort.
Sec. 4257. Allocation.
Sec. 4258. State plans.
Sec. 4259. Juvenile delinquency prevention block grant program.
Sec. 4260. Research; evaluation; technical assistance; training.
Sec. 4261. Demonstration projects.
Sec. 4262. Authorization of appropriations.
Sec. 4263. Administrative authority.
Sec. 4264. Use of funds.
Sec. 4265. Limitation on use of funds.
Sec. 4266. Rules of construction.
Sec. 4267. Leasing surplus Federal property.
Sec. 4268. Issuance of rules.
Sec. 4269. Technical and conforming amendments.
Sec. 4270. References.

PART 6—LOCAL GUN VIOLENCE PREVENTION PROGRAMS

Sec. 4271. Competitive grants for children's firearm safety education.
Sec. 4272. Dissemination of best practices via the Internet.
Sec. 4273. Grant priority for tracing of guns used in crimes by juveniles.

TITLE I—SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A—Support for Community Personnel

SEC. 1101. 21ST CENTURY COMMUNITY POLICING INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting "and prosecutor" after "increase police"; and

(2) inserting "to enhance law enforcement access to new technologies, and" after "presence,".

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (B) and inserting after "Nation," "or pay overtime to existing career law enforcement officers;";

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following:

"(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education."; and

(2) in paragraph (2), by striking all that follows "SUPPORT SYSTEMS.—" and inserting "Grants pursuant to paragraph (1)(A) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year; grants pursuant to paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year, and grants pursuant to paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.".

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "integrity and ethics" after "specialized"; and

(B) by inserting "and" after "enforcement officers";

(2) in paragraph (7), by inserting "school officials, religiously affiliated organizations," after "enforcement officers";

(3) by striking paragraph (8) and inserting the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol and illegal possession, use, and distribution of drugs;";

(4) in paragraph (10), by striking "and" at the end;

(5) in paragraph (11), by striking the period that appears at the end and inserting a semicolon; and

(6) by adding at the end the following:

"(12) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens; and

"(13) assist State, local, or tribal prosecutors' offices in the implementation of community-based programs that build on local community efforts through the—

"(A) hiring of additional indigent defense attorneys to be assigned to community programs; and

"(B) establishment of programs to assist local indigent defense offices in the implementation of programs that help them identify and respond to priority needs of a community with specifically tailored solutions.".

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "use up to 5 percent of the funds appropriated under subsection (a) to" after "The Attorney General may";

(B) by inserting at the end the following: "In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes,";

(2) in paragraph (2), by inserting "under subsection (a)" after "the Attorney General"; and

(3) in paragraph (3)—

(A) by striking "the Attorney General may" and inserting "the Attorney General shall";

(B) by inserting "regional community policing institutes" after "operation of"; and

(C) by inserting "representatives of police labor and management organizations, community residents," after "supervisors,".

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(3) striking subsection (e) and inserting the following:

"(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

"(1) improve police communications through the use of wireless communications, computers, software, videocams, databases, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

"(2) develop and improve access to crime-solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

"(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information, including non-criminal justice data, to improve their ability to analyze, predict, and respond proactively to local crime and disorder problems, as well as to engage in regional crime analysis.

"(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local, or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

"(1) hire additional prosecutors who will be assigned to community prosecution programs, including (but not limited to) programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun, and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

"(2) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

"(3) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.".

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended by inserting at the end the following:

"(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).".

(g) HIRING COSTS.—Section 1704(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-3(c)) is amended by striking "$75,000" and inserting "$125,000".

(h) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended by inserting after "criminal laws" the following: "including sheriffs' deputies charged with supervising offenders who are released into the community but also engaged in local community policing efforts.".

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;";

(B) by striking subparagraph (E) and inserting the following:

"(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;"; and

(C) by adding at the end the following:

"(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

"(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

"(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

"(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,150,000,000 for fiscal year 2002;

"(ii) $1,150,000,000 for fiscal year 2003;

"(iii) $1,150,000,000 for fiscal year 2004;

"(iv) $1,150,000,000 for fiscal year 2005;

"(v) $1,150,000,000 for fiscal year 2006; and

"(vi) $1,150,000,000 for fiscal year 2007."; and

(2) in subparagraph (B)—

(A) by striking "3 percent" and inserting "5 percent";

(B) by striking "85 percent" and inserting "$600,000,000"; and

(C) by striking "1701(b)," and all that follows through "of part Q" and inserting the following: "1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(f), and $200,000,000 to grants for the purposes specified in section 1701(g).".

Subtitle B—Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

SEC. 1201. EXPANSION OF PROTECTION OF FEDERAL OFFICERS AND EMPLOYEES FROM MURDER DUE TO THEIR STATUS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting "or because of the status of the victim as such an officer or employee," after "on account of the performance of official duties,"; and

(2) by inserting "or, if the person assisting is an officer or employee of a State or local government, because of the status of the victim as such an officer or employee," after "on account of that assistance,".

SEC. 1202. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "12"; and

(2) in subsection (b), by striking "ten" and inserting "20".

SEC. 1203. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

SEC. 1204. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 1205. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

SEC. 1206. KILLING PERSONS AIDING FEDERAL INVESTIGATIONS OR STATE CORRECTIONAL OFFICERS.

Section 1121(a)(1) of title 18, United States Code, is amended in the matter preceding subparagraph (A), by inserting ", State, or joint Federal-State" after "a Federal".

SEC. 1207. KILLING STATE CORRECTIONAL OFFICERS.

Section 1121(b)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the incarcerated person is incarcerated pending an initial appearance, arraignment, trial, or appeal for an offense against the United States.".

SEC. 1208. ESTABLISHMENT OF PROTECTIVE FUNCTION PRIVILEGE.

(a) FINDINGS.—Congress makes the following findings:

(1) The physical safety of the Nation's top elected officials is a public good of transcendent importance.

(2) By virtue of the critical importance of the Office of the President, the President and those in direct line of the Presidency are subject to unique and mortal jeopardy—jeopardy that in turn threatens profound disruption to our system of representative government and to the security and future of the Nation.

(3) The physical safety of visiting heads of foreign states and foreign governments is also a matter of paramount importance. The assassination of such a person while on American soil could have calamitous consequences for our foreign relations and national security.

(4) Given these grave concerns, Congress has provided for the Secret Service to protect the President and those in direct line of the Presidency, and has directed that these officials may not waive such protection. Congress has also provided for the Secret Service to protect visiting heads of foreign states and foreign governments.

(5) The protective strategy of the Secret Service depends critically on the ability of its personnel to maintain close and unremitting physical proximity to the protectee.

(6) Secret Service personnel must remain at the side of the protectee on occasions of confidential conversations and, as a result, may overhear top secret discussions, diplomatic exchanges, sensitive conversations, and matters of personal privacy.

(7) The necessary level of proximity can be maintained only in an atmosphere of complete trust and confidence between the protectee and his or her protectors.

(8) If a protectee has reason to doubt the confidentiality of actions or conversations taken in sight or hearing of Secret Service personnel, the protectee may seek to push the protective envelope away or undermine it to the point at which it could no longer be fully effective.

(9) The possibility that Secret Service personnel might be compelled to testify against their protectees could induce foreign nations to refuse Secret Service protection in future state visits, making it impossible for the Secret Service to fulfill its important statutory mission of protecting the life and safety of foreign dignitaries.

(10) A privilege protecting information acquired by Secret Service personnel while performing their protective function in physical proximity to a protectee will preserve the security of the protectee by lessening the incentive of the protectee to distance Secret Service personnel in situations in which there is some risk to the safety of the protectee.

(11) Recognition of a protective function privilege for the President and those in direct line of the Presidency, and for visiting heads of foreign states and foreign governments, will promote sufficiently important interests to outweigh the need for probative evidence.

(12) Because Secret Service personnel retain law enforcement responsibility even while engaged in their protective function, the privilege must be subject to a crime/treason exception.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the relationship of trust and confidence between Secret Service personnel and certain protected officials that is essential to the ability of the Secret Service to protect these officials, and the Nation, from the risk of assassination; and

(2) to ensure that Secret Service personnel are not precluded from testifying in a criminal investigation or prosecution about unlawful activity committed within their view or hearing.

(c) ADMISSIBILITY OF INFORMATION ACQUIRED BY SECRET SERVICE PERSONNEL WHILE PERFORMING THEIR PROTECTIVE FUNCTION.—

(1) PROTECTIVE FUNCTION PRIVILEGE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

"§ 3056A. Testimony by Secret Service personnel; protective function privilege

"(a) DEFINITIONS.—In this section:

"(1) PROTECTEE.—The term 'protectee' means—

"(A) the President;

"(B) the Vice President (or other officer next in the order of succession to the Office of President);

"(C) the President-elect;

"(D) the Vice President-elect; and

"(E) visiting heads of foreign states or foreign governments who, at the time and place concerned, are being provided protection by the United States Secret Service.

"(2) SECRET SERVICE PERSONNEL.—The term 'Secret Service personnel' means any officer or agent of the United States Secret Service.

"(b) GENERAL RULE OF PRIVILEGE.—Subject to subsection (c), testimony by Secret Service personnel or former Secret Service personnel regarding information affecting a protectee that was acquired during the performance of a protective function in physical proximity to the protectee shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof.

"(c) EXCEPTIONS.—There is no privilege under this section—

"(1) with respect to information that, at the time the information was acquired by Secret Service personnel, was sufficient to provide reasonable grounds to believe that a crime had been, was being, or would be committed; or

"(2) if the privilege is waived by the protectee or the legal representative of a protectee or deceased protectee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3056 the following:

"3056A. Testimony by Secret Service personnel; protective function privilege.".

(3) APPLICATION.—This section and the amendments made by this section shall apply to any proceeding commenced on or after the date of enactment of this section.

Subtitle C—Disarming Felons and Protecting Children From Violence

PART 1—EXTENSION OF PROJECT EXILE

SEC. 1311. AUTHORIZATION OF FUNDING FOR ADDITIONAL STATE AND LOCAL GUN PROSECUTORS.

(a) GRANTS FOR STATE AND LOCAL GUN PROSECUTORS.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by adding at the end the following:

"Subtitle Y—Grants for State and Local Gun Prosecutors

"SEC. 32501. GRANT AUTHORIZATION.

"The Attorney General may award grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs for the prosecution of firearm-related crimes.

"SEC. 32502. USE OF FUNDS.

"Grants awarded by the Attorney General under this subtitle shall be used to fund programs for the hiring of prosecutors and related personnel under which those prosecutors and personnel shall utilize an interdisciplinary team approach to prevent, reduce, and respond to firearm-related crimes in partnership with communities.

"SEC. 32503. APPLICATIONS.

"(a) ELIGIBILITY.—To be eligible to receive a grant award under this subtitle for a fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require.

"(b) REQUIREMENTS.—Each application submitted under this section shall include—

"(1) a request for funds for the purposes described in section 32502;

"(2) a description of the communities to be served by the grant, including the nature of the firearm-related crime in such communities; and

"(3) assurances that Federal funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section.

"SEC. 32504. MATCHING REQUIREMENT.

"The Federal share of a grant awarded under this subtitle may not exceed 50 percent of the total cost of the program described in the application submitted under section 32503 for the fiscal year for which the program receives assistance under this subtitle.

"SEC. 32505. AWARD OF GRANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), in awarding grants under this subtitle, the Attorney General shall consider—

"(1) the demonstrated need for, and the evidence of the ability of the applicant to provide, the services described in section 32503(b)(2), as described in the application submitted under section 32503;

"(2) the extent to which, as reflected in the 1998 Uniform Crime Report of the Federal Bureau of Investigation, there is a high rate of firearm-related crime in the jurisdiction of the applicant, measured either in total or per capita;

"(3) the extent to which the jurisdiction of the applicant has experienced an increase in the total or per capita rate of firearm-related crime, as reported in the 3 most recent annual Uniform Crime Reports of the Federal Bureau of Investigation;

"(4) the extent to which State and local law enforcement agencies in the jurisdiction of the applicant have pledged to cooperate with Federal officials in responding to the illegal acquisition, distribution, possession, and use of firearms within the jurisdiction; and

"(5) The extent to which the jurisdiction of the applicant participates in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Ceasefire.

"(b) INDIAN TRIBES.—

"(1) FEDERAL GRANTS.—Not less than 5 percent of the amount made available for grants under this subtitle for each fiscal year shall be awarded as grants to Indian tribes.

"(2) GRANT CRITERIA.—In awarding grants to Indian tribes in accordance with this subsection, the Attorney General shall consider, to the extent practicable, the factors for consideration set forth in subsection (a).

"(c) RESEARCH AND EVALUATION.—Of the amount made available for grants under this subtitle for each fiscal year, the Attorney General shall use not less than 1 percent and not more than 3 percent for research and evaluation of the activities carried out with grants awarded under this subtitle.

"SEC. 32506. REPORTS.

"(a) REPORT TO ATTORNEY GENERAL.—Not later than March 1 of each fiscal year, each law enforcement agency that receives funds from a grant awarded under this subtitle for that fiscal year shall submit to the Attorney General a report describing the progress achieved in carrying out the grant program for which those funds were received.

"(b) REPORT TO CONGRESS.—Beginning not later than October 1 of the first fiscal year following the initial fiscal year during which grants are awarded under this subtitle, and not later than October 1 of each fiscal year thereafter, the Attorney General shall submit to Congress a report, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established with amounts from grants awarded under this subtitle during the preceding fiscal year.

"SEC. 32507. DEFINITIONS.

"In this subtitle—

"(1) the term 'firearm' has the meaning given the term in section 921(a) of title 18, United States Code;

"(2) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(3) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"SEC. 32508. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 2 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting after the item relating to subtitle X the following:

"Subtitle Y—Grants for State and Local Gun Prosecutors

"Sec. 32501. Grant authorization.
"Sec. 32502. Use of funds.
"Sec. 32503. Applications.
"Sec. 32504. Matching requirement.
"Sec. 32505. Award of grants.
"Sec. 32506. Reports.
"Sec. 32507. Definitions.
"Sec. 32508. Authorization of appropriations.".

SEC. 1312. AUTHORIZATION OF FUNDING FOR ADDITIONAL FEDERAL FIREARMS PROSECUTORS AND GUN ENFORCEMENT TEAMS.

(a) ADDITIONAL FEDERAL FIREARMS PROSECUTORS.—The Attorney General shall hire 114 additional Federal prosecutors to prosecute violations of Federal firearms laws.

(b) GUN ENFORCEMENT TEAMS.—

(1) ESTABLISHMENT.—The Attorney General shall establish in each of the jurisdictions specified in paragraph (3) a gun enforcement team.

(2) GUN ENFORCEMENT TEAM REQUIREMENTS.—Each gun enforcement team established under this subsection shall be composed of—

(A) 1 coordinator, who shall be responsible, with respect to the jurisdiction concerned, for coordinating among Federal, State, and local law enforcement—

(i) the appropriate forum for the prosecution of crimes relating to firearms; and

(ii) efforts for the prevention of such crimes; and

(B) 1 analyst, who shall be responsible, with respect to the jurisdiction concerned, for analyzing data relating to such crimes and recommending law enforcement strategies to reduce such crimes.

(3) COVERED JURISDICTIONS.—The jurisdictions specified in this subsection are not more than 20 jurisdictions designated by the Attorney General for purposes of this subsection as areas having high rates of crimes relating to firearms.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated that may be used for such purpose, there is authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2002.

PART 2—EXPANSION OF THE YOUTH CRIME GUN INTERDICTION INITIATIVE

SEC. 1321. YOUTH CRIME GUN INTERDICTION INITIATIVE.

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF CITIES.—The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the "YCGII") to 75 cities or counties by October 1, 2002, to 150 cities or counties by October 1, 2004, and to 250 cities or counties by October 1, 2005.

(2) SELECTION.—Cities and counties selected for participation in the YCGII shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement officials.

(b) IDENTIFICATION OF INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, utilizing the information provided by the YCGII, facilitate the identification and prosecution of individuals illegally trafficking firearms to prohibited individuals.

(2) SHARING OF INFORMATION.—The Secretary of the Treasury shall share information derived from the YCCII with State and local law enforcement agencies through online computer access, as soon as such capability is available.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCGII.

(2) USE OF GRANT FUNDS.—Grants made under this part shall be used to—

(A) hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCGII;

(B) hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

PART 3—GUN OFFENSES

SEC. 1331. GUN BAN FOR DANGEROUS JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting "(A)" after "(20)";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting after subparagraph (A) the following:

"(B) For purposes of subsections (d), (g), and (s) of section 922, the term 'act of juvenile delinquency' means an adjudication of delinquency based on a finding of the commission of an act by a person prior to his or her eighteenth birthday that, if committed by an adult, would be a serious drug offense or violent felony (as defined in section 3559(c)(2) of this title), on or after the date of enactment of this paragraph."; and

(4) by striking "What constitutes" through the end and inserting the following: "What constitutes a conviction of such a crime or an adjudication of juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of delinquency which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored by the jurisdiction in which the conviction or adjudication of delinquency occurred shall not be considered a conviction or adjudication of delinquency.

(b) PROHIBITION.—Section 922 of title 18, United States Code is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; or"; and

(C) by inserting after paragraph (9) the following:

"(10) who has committed an act of juvenile delinquency.";

(2) in subsection (g)—

(A) by striking "or" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; or"; and

(C) by inserting after paragraph (9) the following:

"(10) who has committed an act of juvenile delinquency."; and

(3) in subsection (s)(3)(B)—

(A) by striking "and" at the end of clause (vi);

(B) by inserting "and" after the semicolon at the end of clause (vii); and

(C) by inserting after clause (vii) the following:

"(viii) has not committed an act of juvenile delinquency.".

SEC. 1332. IMPROVING FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) SECURE GUN STORAGE OR SAFETY DEVICE.—The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(1) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(2) as establishing any standard of care.

SEC. 1333. JUVENILE HANDGUN SAFETY.

(a) JUVENILE HANDGUN SAFETY.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A); and

(3) in subparagraph (A), as redesignated—

(A) by striking "A person other than a juvenile who knowingly" and inserting "A person who knowingly"; and

(B) in clause (i), by striking "not more than 1 year" and inserting "not more than 5 years".

SEC. 1334. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by adding "or" at the end; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in this paragraph;".

SEC. 1335. INCREASED PENALTY FOR TRANSFERRING A FIREARM TO A MINOR FOR USE IN CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(h) of title 18, United States Code, is amended by striking "10 years, fined in accordance with this title, or both" and inserting "10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not more than 15 years, fined in accordance with this title, or both".

SEC. 1336. INCREASED PENALTY FOR FIREARMS CONSPIRACY.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy.".

Part 4—CLOSING THE GUN SHOW LOOPHOLE

SEC. 1341. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) FINDINGS.—Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

(b) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) GUN SHOW.—The term 'gun show' means any event—

“(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

“(B) at which—

“(i) not less than 20 percent of the exhibitors are firearm exhibitors;

“(ii) there are not less than 10 firearm exhibitors; or

“(iii) 50 or more firearms are offered for sale, transfer, or exchange.

“(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

“(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.”

(c) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“§ 931. Regulation of firearms transfers at gun shows

“(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

“(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

“(2) pays a registration fee, in an amount determined by the Secretary.

“(b) RESPONSIBILITIES OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

“(1) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

“(2) before commencement of the gun show, requires each gun show vendor to sign—

“(A) a ledger with identifying information concerning the vendor; and

“(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

“(3) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe; and

“(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

“(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

“(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

“(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

“(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

“(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

“(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Secretary to impose recordkeeping requirements on any nonlicensed vendor.

“(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

“(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

“(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

“(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

“(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

“(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

“(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

“(2) record the transfer on a form specified by the Secretary;

“(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

“(A) of such compliance; and

“(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

“(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

“(A) shall be on a form specified by the Secretary by regulation; and

“(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

“(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

“(A) prepared on a form specified by the Secretary; and

“(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

“(i) the office specified on the form described in subparagraph (A); and

“(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

“(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

“(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

“(1) shall be in a form specified by the Secretary by regulation;

“(2) shall not include the name of or other identifying information relating to the transferee; and

“(3) shall not duplicate information provided in any report required under subsection (e)(4).

“(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction'—

“(1) includes the offer for sale, sale, transfer, or exchange of a firearm; and

“(2) does not include the mere exhibition of a firearm.”.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

“(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

“(i) fined under this title, imprisoned not more than 2 years, or both; and "(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(C) Whoever willfully violates section 931(d), shall be—

"(i) fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

"(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

"(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

"(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

"(ii) impose a civil fine in an amount equal to not more than $10,000.".

(2) Technical and Conforming Amendments.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

"931. Regulation of firearms transfers at gun shows.";

and

(B) in the first sentence of section 923(j), by striking "a gun show or event" and inserting "an event"; and

(d) Inspection Authority.—Section 923(g)(1) is amended by adding at the end the following:

"(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.".

(e) Increased Penalties for Serious Recordkeeping Violations by Licensees.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense—

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

(f) Increased Penalties for Violations of Criminal Background Check Requirements.—

(1) Penalties.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "subsection (s) or (t) of section 922" and inserting "section 922(s)"; and

(B) by adding at the end the following:

"(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) Elimination of Certain Elements of Offense.—Section 922(t)(5) of title 18, United States Code, is amended by striking "and, at the time" and all that follows through "State law".

(g) Gun Owner Privacy and Prevention of Fraud and Abuse of System Information.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting before the period at the end the following: ", as soon as possible, consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer".

(h) Effective Date.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Subtitle D—Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

SEC. 1401. JUVENILE AND VIOLENT OFFENDER INCARCERATION GRANTS.

(a) Grants for Violent and Chronic Juvenile Facilities.—

(1) Definitions.—In this subsection:

(A) Co-located facility.—The term "co-located facility" means the location of adult and juvenile facilities on the same property in a manner consistent with regulations issued by the Attorney General to ensure that adults and juveniles are substantially segregated.

(B) Substantially segregated.—The term "substantially segregated" means—

(i) complete sight and sound separation in residential confinement;

(ii) use of shared direct care and management staff, properly trained and certified by the State to interact with juvenile offenders, if the staff does not interact with adult and juvenile offenders during the same shift; and

(iii) incidental contact during transportation to court proceedings and other activities in accordance with regulations issued by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles.

(C) Violent juvenile offender.—The term "violent juvenile offender" means a person under the age of majority pursuant to State law who has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 924(e)(2)(B) of title 18, United States Code.

(D) Qualifying state.—The term "qualifying State" means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of paragraphs (3) and (5).

(2) Authority.—

(A) In general.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

(B) Use of amounts.—Grants under this subsection may be used—

(i) for co-located facilities for adult prisoners and violent juvenile offenders; and

(ii) only for the construction or operation of facilities in which violent juvenile offenders are substantially segregated from non-violent juvenile offenders.

(3) Applications.—

(A) In general.—The chief executive officer of a State or unit of local government that seeks to receive a grant under this subsection shall submit to the Attorney General an application, in such form and in such manner as the Attorney General may prescribe.

(B) Contents.—Each application submitted under subparagraph (A) shall provide written assurances that each facility or program funded with a grant under this subsection—

(i) will provide appropriate educational and vocational training, appropriate mental health services, a program of substance abuse testing, and substance abuse treatment for appropriate juvenile offenders; and

(ii) will afford juvenile offenders intensive post-release supervision and services.

(4) Minimum amount.—

(A) In general.—Except as provided in subparagraph (B), each qualifying State, together with units of local government within the State, shall be allocated for each fiscal year not less than 1.0 percent of the total amount made available in each fiscal year for grants under this subsection.

(B) Exception.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.2 percent of the total amount made available in each fiscal year for grants under this subsection.

(5) Performance evaluation.—

(A) Evaluation components.—

(i) In general.—Each facility or program funded under this subsection shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(ii) Outcome measures.—The evaluations required by this subsection shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism, and other outcome measures.

(B) Periodic review and reports.—

(i) Review.—The Attorney General shall review the performance of each grant recipient under this subsection.

(ii) Reports.—The Attorney General may require a grant recipient to submit to the Office of Justice Programs, Corrections Programs Office the results of the evaluations required under subparagraph (A) and such other data and information as are reasonably necessary to carry out the responsibilities of the Attorney General under this subsection.

(6) Technical assistance and training.—The Attorney General shall provide technical assistance and training to grant recipients under this subsection to achieve the purposes of this subsection.

(b) Juvenile Facilities on Tribal Lands.—

(1) Reservation of funds.—Of amounts made available to carry out this section under section 20108(a)(2)(A) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(a)(2)(A)), the Attorney General shall reserve, to carry out this subsection, 0.75 percent for each of fiscal years 2002 through 2005.

(2) Grants to Indian tribes.—Of amounts reserved under paragraph (1), the Attorney

General may make grants to Indian tribes or to regional groups of Indian tribes for the purpose of constructing secure facilities, staff-secure facilities, detention centers, and other correctional programs for incarceration of juvenile offenders subject to tribal jurisdiction.

(3) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

(4) REGIONAL GROUPS.—Individual Indian tribes from a geographic region may apply for grants under paragraph (2) jointly for the purpose of building regional facilities.

(c) REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(2) CONTENTS.—The report required under this subsection shall include an analysis of—

(A) the range of performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in facilities or have participated in correctional programs;

(B) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of a program or facility);

(C) whether, and to what extent, the data necessary for the Attorney General to utilize performance-based criteria in the Attorney General's administration of juvenile corrections programs are collected and reported nationally; and

(D) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating juvenile corrections programs and facilities and administering Federal juvenile corrections funds.

SEC. 1402. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follows a progression, beginning with aggressive behavior in school, truancy, and vandalism, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are ill-equipped to provide meaningful sanctions to minor, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the severity of the sanctions increase along with the seriousness of the offense.

(2) PURPOSES.—The purposes of this section are to provide—

(A) assistance to State and local juvenile courts to expand the range of sentencing options for first time, nonviolent offenders; and

(B) a selection of graduated sanctions for more serious offenses.

(b) DEFINITIONS.—In this section:

(1) FIRST TIME OFFENDER.—The term "first time offender" means a juvenile against whom formal charges have not previously been filed in any Federal or State judicial proceeding.

(2) NONVIOLENT OFFENDER.—The term "nonviolent offender" means a juvenile who is charged with an offense that does not involve the use of force against the person of another.

(3) STATUS OFFENDER.—The term "status offender" means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code (or similar State law)).

(c) GRANT AUTHORIZATION.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purposes of—

(1) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(2) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(A) as the seriousness of their unlawful conduct increases; and

(B) for each additional offense.

(d) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief executive of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) (in this section referred to as the "comprehensive plan"); and

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the applicant will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan for evaluating the impact of the grant on the jurisdiction's juvenile justice system.

(e) GRANT AWARDS.—

(1) CONSIDERATIONS.—In awarding grants under this section, the Attorney General shall consider—

(A) the ability of the applicant to provide the stated services;

(B) the level of youth crime, violence, and drug use in the community; and

(C) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(2) ALLOCATIONS.—

(A) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants in each State from which applicants have applied for grants under this section.

(B) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to Indian tribes.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Each grant made under this section shall be used to establish programs that—

(A) expand the number of judges, prosecutors, and public defenders for the purpose of imposing sanctions on first time juvenile offenders and status offenders and for establishing restorative justice boards involving members of the community;

(B) provide expanded sentencing options, such as restitution, community service, drug testing and treatment, mandatory job training, curfews, house arrest, mandatory work projects, and boot camps, for status offenders and nonviolent offenders;

(C) increase staffing for probation officers to supervise status offenders and nonviolent offenders to ensure that sanctions are enforced;

(D) provide aftercare and supervision for status and nonviolent offenders, such as drug education and drug treatment, vocational training, job placement, and family counseling;

(E) encourage private sector employees to provide training and work opportunities for status offenders and nonviolent offenders; and

(F) provide services and interventions for status and nonviolent offenders designed, in tandem with criminal sanctions, to reduce the likelihood of further criminal behavior.

(2) PROHIBITION ON USE OF AMOUNTS.—

(A) DEFINITIONS.—In this paragraph:

(i) ALIEN.—The term "alien" has the same meaning as in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(ii) SECURE DETENTION FACILITY; SECURE CORRECTIONAL FACILITY.—The terms "secure detention facility" and "secure correctional facility" have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(B) Prohibition.—No amounts made available under this subtitle may be used for any program that permits the placement of status offenders, alien juveniles in custody, or nonoffender juveniles (such as dependent, abused, or neglected children) in secure detention facilities or secure correctional facilities.

(g) Grant Limitations.—Not more than 3 percent of the amounts made available to the Attorney General or a grant recipient under this section may be used for administrative purposes.

(h) Federal Share.—

(1) In general.—Subject to paragraphs (2) and (3), the Federal share of a grant made under this section may not exceed 90 percent of the total estimated costs of the program described in the comprehensive plan submitted under subsection (d)(3) for the fiscal year for which the program receives assistance under this section.

(2) Waiver.—The Attorney General may waive, in whole or in part, the requirements of paragraph (1).

(3) In-kind contributions.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(i) Report and Evaluation.—

(1) Report to the attorney general.—Not later than October 1, 2002, and October 1 of each year thereafter, each grant recipient under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) Evaluation and report to congress.—Not later than March 1, 2003, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) Criteria.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) a comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those who do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient; and

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient.

(4) Documents and information.—Each grant recipient under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of fiscal years 2002 and 2003; and

(2) $175,000,000 for each of fiscal years 2004 and 2005.

SEC. 1403. PILOT PROGRAM TO PROMOTE REPLICATION OF RECENT SUCCESSFUL JUVENILE CRIME REDUCTION STRATEGIES.

(a) Pilot Program To Promote Replication of Recent Successful Juvenile Crime Reduction Strategies.—

(1) Establishment.—The Attorney General (or a designee of the Attorney General), in conjunction with the Secretary of the Treasury (or the designee of the Secretary), shall establish a pilot program (in this section referred to as the "program") to encourage and support communities that adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after successful State juvenile crime reduction strategies.

(2) Program.—In carrying out the program, the Attorney General shall—

(A) make and track grants to grant recipients (in this section referred to as "coalitions");

(B) in conjunction with the Secretary of the Treasury, provide for technical assistance and training, data collection, and dissemination of relevant information; and

(C) provide for the general administration of the program.

(3) Administration.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the "Administrator") to carry out the program.

(4) Program authorization.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(A) Composition.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious affiliated or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups; and

(x) social service agencies involved in crime prevention.

(B) Other participants.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

(ii) researchers who have studied criminal justice and can offer technical or other assistance.

(C) Coordinated strategy.—A coalition shall submit to the Attorney General, or the Attorney General's designee, a comprehensive plan for reducing violent juvenile crime. To be eligible for consideration, a plan shall—

(i) ensure close collaboration among all members of the coalition in suppressing and preventing juvenile crime;

(ii) place heavy emphasis on coordinated enforcement initiatives, such as Federal and State programs that coordinate local police departments, prosecutors, and local community leaders to focus on the suppression of violent juvenile crime involving gangs;

(iii) ensure that there is close collaboration between police and probation officers in the supervision of juvenile offenders, such as initiatives that coordinate the efforts of parents, school officials, and police and probation officers to patrol the streets and make home visits to ensure that offenders comply with the terms of their probation;

(iv) ensure that a program is in place to trace all firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers; and

(v) ensure that effective crime prevention programs are in place, such as programs that provide after-school safe havens and other opportunities for at-risk youth to escape or avoid gang or other criminal activity, and to reduce recidivism.

(D) Accountability.—A coalition shall—

(i) establish a system to measure and report outcomes consistent with common indicators and evaluation protocols established by the Administrator and which receives the approval of the Administrator; and

(ii) devise a detailed model for measuring and evaluating the success of the plan of the coalition in reducing violent juvenile crime, and provide assurances that the plan will be evaluated on a regular basis to assess progress in reducing violent juvenile crime.

(5) Grant amounts.—

(A) In general.—The Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

(B) Nonsupplanting requirement.—A coalition seeking funds shall provide reasonable assurances that funds made available under this program to States or units of local government shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for programs described in this section, and shall in no event replace such State, local, or other non-Federal funds.

(C) Suspension of grants.—If a coalition fails to continue to meet the criteria set forth in this section, the Administrator may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

(D) Renewal grants.—Subject to subparagraph (E), the Administrator may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year, during the 4-year period following the period of the initial grant.

(E) Limitation.—The amount of a grant award under this section may not exceed $300,000 for a fiscal year.

(6) Permitted use of funds.—A coalition receiving funds under this section may expend such Federal funds on any use or program that is contained in the plan submitted to the Administrator.

(7) Congressional consultation.—Two years after the date of implementation of the program established in this section, the General Accounting Office shall submit a report to Congress reviewing the effectiveness of the program in suppressing and reducing violent juvenile crime in the participating communities. The report shall contain an analysis of each community participating in the

program, along with information regarding the plan undertaken in the community, and the effectiveness of the plan in reducing violent juvenile crime. The report shall contain recommendations regarding the efficacy of continuing the program.

(b) Information Collection and Dissemination With Respect to Coalitions.—

(1) Coalition information.—For the purpose of audit and examination, the Administrator—

(A) shall have access to any books, documents, papers, and records that are pertinent to any grant or grant renewal request under this section; and

(B) may periodically request information from a coalition to ensure that the coalition meets the applicable criteria.

(2) Reporting.—The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a coalition and expedite any application for a renewal grant made under this section.

(c) Authorization of Appropriations.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section, $3,000,000 in each of fiscal years 2002, 2003, and 2004.

SEC. 1404. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIEN OFFENDERS.

(a) In General.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a), by inserting “or illegal juvenile alien who has been adjudicated delinquent and committed to a juvenile correctional facility by such State or locality” before the period;

(2) in subsection (b), by inserting “(including any juvenile alien who has been adjudicated delinquent and has been committed to a correctional facility)” before “who is in the United States unlawfully”; and

(3) by adding at the end the following:

“(f) Juvenile Alien Defined.—In this section, the term ‘juvenile alien’ means an alien (as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1103)) who has been adjudicated delinquent and committed to a correctional facility by a State or locality as a juvenile offender.”.

Subtitle E—Ballistics, Law Assistance, and Safety Technology

SEC. 1501. SHORT TITLE.

This subtitle may be cited as the “Ballistics, Law Assistance, and Safety Technology Act” (“BLAST”).

SEC. 1502. PURPOSES.

The purposes of this subtitle are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 1503. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) Ballistics.—The term ‘ballistics’ means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.”.

SEC. 1504. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) Amendment.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

“(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

“(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

“(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

“(C) make the records available to the Secretary for entry in a computerized database; and

“(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

“(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

“(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

“(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

“(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

“(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

“(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

“(v) any other steps necessary to make ballistics testing effective.

“(B) The Attorney General and the Secretary shall—

“(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics' records stored under this subsection, as soon as such a capability is available; and

“(ii) encourage training for all ballistics examiners.

“(4) Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

“(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool;

“(B) the extent to which ballistics records are accessible across jurisdictions; and

“(C) a statistical evaluation of the test programs conducted pursuant to section 1506 of the Ballistics, Law Assistance, and State Technology Act.

“(5) There is authorized to be appropriated to the Department of Justice and the Department of the Treasury for each of fiscal years 2002 through 2005, $20,000,000 to carry out this subsection, including—

“(A) installation of ballistics equipment and bullet recovery equipment;

“(B) establishment of sites for ballistics testing;

“(C) salaries and expenses of necessary personnel; and

“(D) research and evaluation.

“(6) The Secretary and the Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.”.

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) Effective on date of enactment.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 1505. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for—

(1) prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime; or

(2) the creation of a national firearms registry of gun owners.

SEC. 1506. DEMONSTRATION FIREARM CRIME REDUCTION STRATEGY.

(a) In General.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury and the Attorney General shall establish in the jurisdictions selected under subsection (c), a comprehensive firearm crime reduction strategy that meets the requirements of subsection (b).

(b) Program Elements.—Each program established under subsection (a) shall, for the jurisdiction concerned—

(1) provide for ballistics testing, in accordance with criteria set forth by the National Integrated Ballistics Information Network, of all firearms recovered during criminal investigations, in order to—

(A) identify the types and origins of the firearms;

(B) identify suspects; and

(C) link multiple crimes involving the same firearm;

(2) require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury, in order to identify the types and origins of the firearms and to identify illegal firearms traffickers;

(3) provide for coordination among Federal, State, and local law enforcement officials, firearm examiners, technicians, laboratory personnel, investigators, and prosecutors in the tracing and ballistics testing of firearms and the investigation and prosecution of firearms-related crimes including illegal firearms trafficking; and

(4) require analysis of firearm tracing and ballistics data in order to establish trends in firearm-related crime and firearm trafficking.

(c) Participating Jurisdictions.—

(1) IN GENERAL.—The Secretary of the Treasury and the Attorney General shall select not fewer than 10 jurisdictions for participation in the program under this section.

(2) CONSIDERATIONS.—In selecting jurisdictions under this subsection, the Secretary of the Treasury and the Attorney General shall give priority to jurisdictions that—

(A) participate in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Ceasefire;

(B) draft a plan to share ballistics records with nearby jurisdictions that require ballistics testing of firearms recovered during criminal investigations; and

(C) pledge to match Federal funds for the expansion of ballistics testing on a one-on-one basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2002 through 2005, $20,000,000 to carry out this section, including—

(1) installation of ballistics equipment; and

(2) salaries and expenses for personnel (including personnel from the Department of Justice and the Bureau of Alcohol, Tobacco, and Firearms).

Subtitle F—Offender Reentry and Community Safety

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the "Offender Reentry and Community Safety Act of 2001".

SEC. 1602. FINDINGS.

Congress finds the following:

(1) There are now nearly 1,900,000 individuals in our country's prisons and jails, including over 140,000 individuals under the jurisdiction of the Federal Bureau of Prisons.

(2) Enforcement of offender violations of conditions of releases has sharply increased the number of offenders who return to prison—while revocations comprised 17 percent of State prison admissions in 1980, they rose to 36 percent in 1998.

(3) Although prisoners generally are serving longer sentences than they did a decade ago, most eventually reenter communities; for example, in 1999, approximately 538,000 State prisoners and over 50,000 Federal prisoners, a record number, were returned to American communities. Approximately 100,000 State offenders who returned to communities received no supervision whatsoever.

(4) Historically, two-thirds of returning State prisoners have been rearrested for new crimes within three years, so these individuals pose a significant public safety risk and a continuing financial burden to society.

(5) A key element to effective post-incarceration supervision is an immediate, predetermined, and appropriate response to violations of the conditions of supervision.

(6) An estimated 187,000 State and Federal prison inmates have been diagnosed with mental health problems; about 70 percent of State prisoners and 57 percent of Federal prisoners have a history of drug use or abuse; and nearly 75 percent of released offenders with heroin or cocaine problems return to using drugs within three months if untreated; however, few States link prison mental health treatment programs with those in the return community.

(7) Between 1987 and 1997, the volume of juvenile adjudicated cases resulting in court-ordered residential placements rose 56 percent. In 1997 alone, there were a total of 163,200 juvenile court-ordered residential placements. The steady increase of youth exiting residential placement has strained the juvenile justice aftercare system, however, without adequate supervision and services, youth are likely to relapse, recidivate, and return to confinement at the public's expense.

(8) Emerging technologies and multidisciplinary community-based strategies present new opportunities to alleviate the public safety risk posed by released prisoners while helping offenders to reenter their communities successfully.

SEC. 1603. PURPOSES.

The purposes of this subtitle are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, using new strategies and emerging technologies that alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into the community;

(2) establish court-based programs to monitor the return of offenders into communities, using court sanctions to promote positive behavior;

(3) establish offender reentry demonstration projects in the states using government and community partnerships to coordinate cost efficient strategies that ensure public safety and enhance the successful reentry into communities of offenders who have completed their prison sentences;

(4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders by coordinating the resources of juvenile correctional agencies, juvenile courts, juvenile parole agencies, law enforcement agencies, social service providers, and local Workforce Investment Boards; and

(5) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

PART 1—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 1611. FEDERAL REENTRY CENTER DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) a Reentry Review Team for each prisoner, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and incorporating victim impact information, and will thereafter meet regularly to monitor the prisoner's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) regular drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner's minor or technical violation of the conditions of participation in the project;

(4) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as advisers and mentors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of offenders' reentry plan.

(c) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign one or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(d) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participant prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Attorney General, in consultation with the Judicial Conference of the United States, shall select an appropriate number of Federal judicial districts in which to carry out the Reentry Center Demonstration project.

(f) COORDINATION OF PROJECTS.—The Attorney General, may, if appropriate, include in the Reentry Center Demonstration project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 1615 of this Act.

SEC. 1612. FEDERAL HIGH-RISK OFFENDER REENTRY DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, shall establish the Federal High-Risk Offender Reentry Demonstration project. The project shall involve Federal offenders under supervised release who have previously violated the terms of their release following a term of imprisonment and shall utilize, as appropriate and indicated, community corrections facilities, home confinement, appropriate monitoring technologies, and treatment and programming to promote more effective reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by Federal prisoners who have previously violated the terms of their release following a term of imprisonment;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5),

will be part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programming to promote effective reintegration into the community as appropriate;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim(s), especially in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated a previously imposed term of supervised release and who will be subject to some additional term of supervised release, shall be designated to participate in the demonstration project. With respect to these offenders, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in the project.

(d) PROJECT DURATION.—The Federal High-Risk Offender Reentry Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to six months to enable participating prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal High-Risk Offender Reentry Demonstration project.

SEC. 1613. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105–33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. The project shall involve high risk District of Columbia parolees who would otherwise be released into the community without a period of confinement in a community corrections facility and shall utilize intensive supervision, monitoring, and programming to promote such parolees' successful reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement;

(3) a Reentry Review Team that includes a victim witness professional for each parolee which shall meet with the parolee—by video conference or other means as appropriate—before the parolee's release from the custody of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereafter meet regularly to monitor the parolee's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(4) regular drug testing, as appropriate;

(5) a system of graduated levels of supervision within the community corrections facility to promote community safety, encourage victim restitution, provide incentives for prisoners to complete the reentry plan, and provide a reasonable method for immediately sanctioning a prisoner's minor or technical violation of the conditions of participation in the project;

(6) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed and indicated;

(7) the use of monitoring technologies, as appropriate;

(8) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based communities, to serve as advisers and mentors to prisoners being released into the community; and

(9) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF PAROLE.—For those offenders eligible to participate in the demonstration project, the United States Parole Commission shall impose additional mandatory conditions of parole such that the offender when on parole shall, as directed by the community supervision officer, reside at a community corrections facility or participate in a program of home confinement, or both, submit to electronic and other remote monitoring, and otherwise participate in the project.

(d) PROGRAM DURATION.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Trustee of the Court Services and Offender Supervision Agency of the District of Columbia may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 1614. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall establish the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED iSTART) project. The project shall involve appropriate high risk Federal offenders who are being released into the community without a period of confinement in a community corrections facility.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a prisoner's reentry plan.

(c) PROGRAM DURATION.—The Federal Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to six months to enable participating prisoners to complete their involvement in the project.

(d) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 1615. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project in selected institutions. The project shall provide in-prison assessments of prisoners' vocational needs and aptitudes, enhanced work skills development, enhanced release readiness programming, and other components as appropriate to prepare Federal prisoners for release and reentry into the community.

(b) PROGRAM DURATION.—The Enhanced In-Prison Vocational Assessment and Training Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 1616. RESEARCH AND REPORTS TO CONGRESS.

(a) ATTORNEY GENERAL.—Not later than 2 years after the enactment of this Act, the Attorney General shall report to Congress on the progress of the demonstration projects authorized by sections 1611 and 1615. Not later than 1 year after the end of the demonstration projects authorized by sections 1611 and 1615, the Director of the Federal Bureau of Prisons shall report to Congress on the effectiveness of the reentry projects authorized by sections 1611 and 1615 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 2 years after the enactment of this Act, Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the demonstration projects authorized by sections 1612 and 1614. Not later than 180 days after the end of the demonstration projects authorized by sections 1612 and 1614, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 1612 and 1614 on post-release outcomes and recidivism. The report should address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(c) DC ISTART.—Not later than 2 years after the enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105-33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 1613 of this Act. Not later than 1 year after the end of the demonstration project authorized by section 1613, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105-33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 1613 of this Act on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of three years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate. In the event that the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105-33; 111 Stat. 712) is not in operation 1 year after the enactment of this Act, the Director of the National Institute of Justice shall prepare and submit the reports required by this section and may do so from funds made available to the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105-33; 111 Stat. 712).

SEC. 1617. DEFINITIONS.

In this part—

(1) the term "appropriate prisoner" means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community, and

(B) to lack the skills and family support network that facilitate successful reintegration into the community; and

(2) the term "appropriate high risk parolees" means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 1618. AUTHORIZATION OF APPROPRIATIONS.

To carry out this part, there are authorized to be appropriated, to remain available until expended, the following amounts:

(1) To the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2002;

(B) $1,110,000 for fiscal year 2003;

(C) $1,130,000 for fiscal year 2004;

(D) $1,155,000 for fiscal year 2005; and

(E) $1,230,000 for fiscal year 2006.

(2) To the Federal Judiciary—

(A) $3,380,000 for fiscal year 2002;

(B) $3,540,000 for fiscal year 2003;

(C) $3,720,000 for fiscal year 2004;

(D) $3,910,000 for fiscal year 2005; and

(E) $4,100,000 for fiscal year 2006.

(3) To the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105-33; 111 Stat. 712)—

(A) $4,860,000 for fiscal year 2002;

(B) $4,510,000 for fiscal year 2003;

(C) $4,620,000 for fiscal year 2004;

(D) $4,740,000 for fiscal year 2005; and

(E) $4,860,000 for fiscal year 2006.

PART 2—STATE REENTRY GRANT PROGRAMS

SEC. 1621. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended, is amended by inserting after part CC the following new part:

"PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2951. ADULT OFFENDER STATE AND LOCAL REENTRY PARTNERSHIPS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Funds may be expended by the projects for the following purposes:

"(1) oversight/monitoring of released offenders;

"(2) providing returning offenders with drug and alcohol testing and treatment and mental health assessment and services;

"(3) convening community impact panels, victim impact panels or victim impact educational classes;

"(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

"(5) establishing and implementing graduated sanctions and incentives.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under subsection (a)—

"(1) shall prepare the application as required under subsection (b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $40,000,000 in fiscal years 2002 and 2003; and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2952. STATE AND LOCAL REENTRY COURTS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $500,000 to State and local courts or state agencies, municipalities, public agencies, nonprofit organizations, and tribes that have agreements with courts to take the lead in establishing a reentry court. Funds may be expended by the projects for the following purposes:

"(1) monitoring offenders returning to the community;

"(2) providing returning offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(3) convening community impact panels, victim impact panels, or victim impact educational classes;

"(4) providing and coordinating the delivery of other community services to offenders, such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

"(5) establishing and implementing graduated sanctions and incentives.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies, including existing community corrections and parole, and there will be appropriate coordination with all affected agencies in the implementation of the program;

"(4) describe the methodology and outcome measures that will be used in evaluation of the program.

"(c) APPLICANTS.—The applicants as designated under subsection (a)—

"(1) shall prepare the application as required under subsection (b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2953. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the projects for—

"(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

"(3) oversight/monitoring of released juvenile offenders; and

"(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, conflict resolution skills training, batterer intervention programs, employment training and placement, efforts to identify suitable living arrangements, family involvement and support, and other services.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies, including existing community corrections and parole, in the implementation of the program;

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under subsection (a)—

"(1) shall prepare the application as required under subsection (b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2954. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and approaches, selected evaluation of projects authorized in the preceding sections, and dissemination of information to the field.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary to carry out this section in fiscal years 2004, 2005, and 2006.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after the matter relating to part CC the following:

"PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

"Sec. 2951. Adult Offender State and Local Reentry Partnerships.
"Sec. 2952. State and Local Reentry Courts.
"Sec. 2953. Juvenile Offender State and Local Reentry Programs.
"Sec. 2954. State Reentry Program Research and Evaluation.".

TITLE II—STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A—Combating Gang Violence

PART 1—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 2101. GANG FRANCHISING.

Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.

"(a) PROHIBITED ACT.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (c).

"(b) DEFINITIONS.—In this section:

"(1) CRIMINAL STREET GANG.—The term 'criminal street gang' has the meaning given that term in section 521.

"(2) FRANCHISE.—The term 'franchise' means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce with a criminal street gang in another State.

"(c) PENALTIES.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 2102. ENHANCED PENALTY FOR USE OR RECRUITMENT OF MINORS IN GANGS.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, as amended by section 2101 of this title, is amended by adding at the end the following:

"§ 523. Sentencing enhancement for use or recruitment of minors

"Pursuant to its authority under section 994(p) of title 28, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the use of minors in a criminal street gang and the recruitment of minors in furtherance of the creation of a criminal street gang franchise.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"522. Interstate franchising of criminal street gangs..
"523. Sentencing enhancement fo. use or recruitment of minors.".

SEC. 2103. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(F)"; and

(2) by inserting ", or (G) an offense under section 522 of this title" before the semicolon at the end.

SEC. 2104. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) DEFINITION OF CRIMINAL STREET GANG.—In this section, the term "criminal street gang" has the same meaning as in section 521(a) of title 18, United States Code.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement with respect to any offense committed in connection with, or in furtherance of, the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2105. ENHANCED PENALTY FOR DISCHARGE OF FIREARMS IN RELATION TO COUNTS OF VIOLENCE OR DRUG TRAFFICKING CRIMES.

(a) Definitions.—In this section, the terms "crime of violence" and "drug trafficking crime" have the same meanings as in section 924(c) of title 18, United States Code.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentence enhancement with respect to any defendant who discharges a firearm during or in relation to any crime of violence or any drug trafficking crime.

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2106. PUNISHMENT OF ARSON OR BOMBING AT FACILITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting "or any institution or organization receiving Federal financial assistance" after "or agency thereof,".

SEC. 2107. ELIMINATION OF STATUTE OF LIMITATIONS FOR MURDER.

(a) In General.—Section 3281 of title 18, United States Code, is amended to read as follows:

"§3281. Capital offenses and Class A felonies involving murder

"An indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1963(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.".

(b) Applicability.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

SEC. 2108. EXTENSION OF STATUTE OF LIMITATIONS FOR VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3296. Class A violent and drug trafficking offenses

"Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.".

(b) Applicability.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

(c) Conforming Amendments.—The chapter analysis for chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting "and Class A felonies involving murder" before the period; and

(2) by adding at the end the following:

"3296. Class A violent and drug trafficking offenses.".

SEC. 2109. INCREASED PENALTIES UNDER THE RICO LAW FOR GANG AND VIOLENT CRIMES.

Section 1963(a) of title 18, United States Code, is amended by striking "or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both," and inserting "or imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (other than the penalty of death) applicable to a racketeering activity on which the violation is based, or both,".

SEC. 2110. INCREASED PENALTY AND BROADENED SCOPE OF STATUTE AGAINST VIOLENT CRIMES IN AID OF RACKETEERING.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting "or commits any other crime of violence" before "or threatens to commit a crime of violence";

(2) in paragraph (4), by inserting "committing any other crime of violence or for" before "threatening to commit a crime of violence", and by striking "five" and inserting "ten";

(3) in paragraph (5), by striking "for not more than ten years" and inserting "for any term of years or for life";

(4) in paragraph (6), by—

(A) striking "or" before "assault resulting in serious bodily injury";

(B) inserting "or any other crime of violence" after "assault resulting in serious bodily injury"; and

(C) striking "three" and inserting "10"; and

(5) by inserting "(as defined in section 1365 of this title)" after "serious bodily injury" the first place that term appears.

SEC. 2111. FACILITATING THE PROSECUTION OF CARJACKING OFFENSES.

Section 2119 of title 18, United States Code, is amended by striking ", with the intent to cause death or serious bodily harm".

SEC. 2112. FACILITATION OF RICO PROSECUTIONS.

Section 1962(d) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, it is not necessary to establish that the defendant personally committed an act of racketeering activity.".

SEC. 2113. ASSAULT AS A RICO PREDICATE.

Section 1961(1)(A) of title 18, United States Code, is amended by adding after "extortion," "assault".

SEC. 2114. EXPANSION OF DEFINITION OF "RACKETEERING ACTIVITY" TO AFFECT GANGS IN INDIAN COUNTRY.

Section 1961(1)(A) of title 18, United States Code, is amended by inserting "or, with respect to an act or threat occurring solely in Indian country, as defined in section 1151 of this title, Federal" after "chargeable under State".

SEC. 2115. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENSES.

Section 2101(a) of title 18, United States Code, is amended by striking "paragraph—" and all that follows through the end of the subsection and inserting "shall be fined under this title—

"(i) if death results from such act, be imprisoned for any term of years or for life, or both;

"(ii) if serious bodily injury (as defined in section 1365 of this title) results from such act, be imprisoned for not more than 20 years, or both; or

"(iii) in any other case, be imprisoned for not more than 5 years, or both".

SEC. 2116. EXPANSION OF FEDERAL JURISDICTION OVER CRIMES OCCURRING IN PRIVATE PENAL FACILITIES HOUSING FEDERAL PRISONERS OR PRISONERS FROM OTHER STATES.

Section 1791(d)(4) of title 18, United States Code, is amended by inserting before the period at the end the following: ", including privately owned facilities housing Federal prisoners or prisoners who are serving a term of imprisonment under a commitment order from a State other than the State in which the penal facility is located".

PART 2—TARGETING GANG-RELATED GUN OFFENSES

SEC. 2121. TRANSFER OF FIREARM TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by inserting "or having reasonable cause to believe" after "knowing".

SEC. 2122. INCREASED PENALTY FOR KNOWINGLY RECEIVING FIREARM WITH OBLITERATED SERIAL NUMBER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking "(k),"; and

(2) in paragraph (2), by inserting "(k)," after "(j),".

SEC. 2123. AMENDMENT OF THE SENTENCING GUIDELINES FOR TRANSFERS OF FIREARMS TO PROHIBITED PERSONS.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to increase the base offense level for offenses subject to section 2K2.1 of those guidelines (Unlawful Receipt, Possession, or Firearms or Ammunitions) to assume that a person who transferred a firearm or ammunition and who knew or had reasonable cause to believe that the transferee was a prohibited person is subject to the same base offense level as the transferee. The amended guidelines shall not require the same offense level for the transferor and transferee to the extent that the transferee's base offense level is subject to an additional increase on the basis of a past criminal conviction of either a crime of violence or a controlled substance offense.

PART 3—USING AND PROTECTING WITNESSES TO HELP PROSECUTE GANGS AND OTHER VIOLENT CRIMINALS

SEC. 2131. INTERSTATE TRAVEL TO ENGAGE IN WITNESS INTIMIDATION OR OBSTRUCTION OF JUSTICE.

Section 1952 of title 18, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Whoever travels in interstate or foreign commerce with intent by bribery, force, intimidation, or threat, directed against any person, to delay or influence the testimony of or prevent from testifying a witness in a State criminal proceeding or by any such means to cause any person to destroy, alter, or conceal a record, document, or other object, with intent to impair the object's integrity or availability for use in such a proceeding, and thereafter engages or endeavors to engage in such conduct, shall—

"(1) be fined under this title or imprisoned not more than 10 years, or both;

"(2) if serious bodily injury (as defined in section 1365) results, be so fined or imprisoned for not more than 20 years, or both; and

"(3) if death results, be so fined and imprisoned for any term of years or for life, or both, and may be sentenced to death.".

SEC. 2132. EXPANDING PRETRIAL DETENTION ELIGIBILITY FOR SERIOUS GANG AND OTHER VIOLENT CRIMINALS.

(a) IN GENERAL.—Section 3142(f)(1) of title 18, United States Code, is amended by adding at the end the following:

"For purposes of subparagraph (D), the term 'convicted' includes a finding, under Federal or State law, that a person has committed an act of juvenile delinquency;".

(b) OFFENSES.—Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following:

"(D) an offense that is a violation of section 842(i)(1) or 922(g)(1) of this title (relating to possession of explosives or firearms by convicted felons).".

(c) FACTORS.—Section 3142(g)(3)(B) of title 18, United States Code, is amended—

(1) by striking "the person was on probation" and inserting "the person was—

"(i) on probation";

(2) by striking "local law; and" and inserting "local law; or"; and

(3) by adding at the end the following:

"(ii) was a member of or participated in a criminal street gang or racketeering enterprise; and".

SEC. 2133. CONSPIRACY PENALTY FOR OBSTRUCTION OF JUSTICE OFFENSES INVOLVING VICTIMS, WITNESSES, AND INFORMANTS.

Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever conspires to commit any offense defined in this section or section 1513 of this title shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 2134. ALLOWING A REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION ALTHOUGH NOT REGARDING A PARTICULAR INDIVIDUAL.

(a) TITLE 18.—Section 3553(e) of title 18, United States Code, is amended by striking "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense".

(b) TITLE 28.—Section 994(n) of title 28, United States Code, is amended by striking "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense".

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 35(b) of the Federal Rules of Criminal Procedure is amended by striking "substantial assistance in the investigation or prosecution of another person who has committed an offense" and inserting "substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense".

SEC. 2135. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; and

"(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3)."; and

(D) by striking paragraph (3)(B), as redesignated, and inserting the following:

"(B) an attempt to murder, the use of physical force, the threat of physical force, or an attempt to do so, imprisonment for not more than 20 years."; and

(2) in subsection (b), by striking "or physical force".

SEC. 2136. EXPANSION OF FEDERAL KIDNAPPING OFFENSE TO COVER WHEN DEATH OF VICTIM OCCURS BEFORE CROSSING STATE LINE AND WHEN FACILITY IN INTERSTATE COMMERCE OR THE MAILS ARE USED.

Section 1201(a) of title 18, United States Code, is amended—

(1) by inserting before the semicolon at the end of paragraph (1) the following: ", without regard to whether such person was alive when transported across a State boundary if the person was alive when the transportation began";

(2) by striking "or" at the end of paragraph (4); and

(3) by inserting after paragraph (5) the following:

"(6) an individual travels in interstate or foreign commerce in furtherance of the offense; or

"(7) the mail or a facility in interstate or foreign commerce is used in furtherance of the offense;".

SEC. 2137. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or other felony crime of violence against the person" after "murder".

SEC. 2138. CLARIFICATION OF INTERSTATE THREAT STATUTE TO COVER THREATS TO KILL.

Subsections (b) and (c) of section 875 of title 18, United States Code, and the second and third undesignated paragraphs of sections 876 and 877 of title 18, United States Code, are each amended by striking "any threat to injure" and inserting "any threat to kill or injure".

SEC. 2139. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA FOR RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(iii) the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 6050I of the Internal Revenue Code of 1986; and

"(iv) section 286, 287, 669, 1001, 1027, 1035, 1341, 1343, 1347, 1518, or 1954 relating to a Federal health care offense.".

PART 4—GANG PARAPHERNALIA

SEC. 2141. STREAMLINING PROCEDURES FOR LAW ENFORCEMENT ACCESS TO CLONE NUMERIC PAGERS.

(a) AMENDMENT TO CHAPTER 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking "AND TRAP AND TRACE DEVICES" and inserting: "TRAP AND TRACE DEVICES, AND CLONE NUMERIC PAGERS";

(2) in section 3121—

(A) in the section heading, by striking "and trap and trace device" and inserting ", trap and trace device, and clone pager";

(B) in subsection (a)—

(i) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(ii) after "3123" by inserting "or section 3129"; and

(C) in subsections (b) and (c), by striking "or trap and trace device" each place that term appears and inserting ", a trap and trade device or a cone pager";

(3) in section 3124—

(A) in the section heading, by striking "or a trap and trace device" and inserting ", a trap and trace device, or a clone pager";

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

"(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to use a clone pager under this chapter, a provider of a paging service or electronic communication service shall furnish such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court provides to the subscriber, if such assistance is directed by a court order as provided in section 3129(b)(2) of this chapter.";

(4) in section 3125—

(A) in the section heading, by striking "and trap and trace device" and inserting ", trap and trace device, and clone pager";

(B) in subsection (a)—

(i) by striking "or trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager"; and

(ii) by striking "an order approving the installation or use is issued in accordance with section 3123 of this title" and inserting "an application is made for an order approving the installation or use in accordance with section 3123 or section 3128 of this title"; and

(C) in subsection (b), by adding at the end the following: "In the event such application for the use of a clone pager is denied, or in any other case where the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in section 3129(e).";

(5) in section 3126—

(A) in the section heading, by striking "and trap and trace devices" and inserting ", trap and trace devices, and clone pagers"; and

(B) by striking "pen register orders and orders for trap and trace devices" and inserting "orders for pen registers, trap and trace devices, and clone pagers"; and

(6) in section 3127—

(A) in paragraph (2), by striking "pen register or a trap and trace device" and inserting "pen register, a trap and trace device, or a clone pager";

(B) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(C) by inserting after paragraph (4) the following:

"(5) the term 'clone pager' means a numeric display device that receives transmissions intended for another numeric display paging device.".

(b) Applications for Orders.—Chapter 206 of title 18, United States Code, is amended by adding at the end the following:

"§3128. Application for an order for use of a clone pager

"(a) Application.—(1) An attorney for the Government may apply to a court of competent jurisdiction for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

"(2) A State investigative or law enforcement officer may, if authorized by State law, apply to a court of competent jurisdiction of such State for an order or an extension of an order under section 3129 of this title authorizing the use of a clone pager.

"(b) Contents of Application.—An application under subsection (a) of this section shall include—

"(1) the identify of the attorney for the Government or the State law enforcement or investigative officer making the application and the identify of the law enforcement agency conducting the investigation;

"(2) the identify, if known, of the person using the numeric display paging device to be cloned;

"(3) a description of the numeric display paging device to be cloned;

"(4) the identify, if known, of the person who is the subject of the criminal investigation; and

"(5) an affidavit, sworn to before the court of competent jurisdiction, establishing probable cause for belief that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

"§3129. Issuance of an order for use of a clone pager

"(a) In General.—Upon an application made under section 3128 of this title, the court shall enter an ex parte order authorizing the use of a clone pager within the jurisdiction of the court if the court finds that the application has established probable cause to believe that information relevant to an ongoing criminal investigation being conducted by that agency will be obtained through use of the clone pager.

"(b) Contents of an Order.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of each individual using the numeric display paging device to be cloned;

"(B) the numeric display paging device to be cloned;

"(C) the identity, if known, of the person who is the subject of the criminal investigation; and

"(D) the offense to which the information likely to be obtained by the clone pager relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to use the clone pager under section 3124 of this title.

"(c) Time Period and Extensions.—(1) An order issued under this section shall authorize the use of a clone pager for a period not to exceed 30 days.

"(2) Extensions of an order referred to in paragraph (1) may be granted, but only upon an application for an order under section 3128 of this title and upon the judicial finding required by subsection (a). The period of extension shall be for a period not to exceed 30 days.

"(3) Within a reasonable time after the termination of the period of a clone pager order or any extensions thereof, the applicant shall report to the issuing judge the number of numeric pager messages acquired through the use of the clone pager during such period.

"(d) Nondisclosure of Existence of Clone Pager.—An order authorizing the use of a clone pager shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person who has been ordered by the court to provide assistance to the applicant not disclose the existence of the clone pager or the existence of the investigation to the listed subscriber, or to any other person, until otherwise ordered by the court.

"(e) Notification.—Within a reasonable time but not later than 90 days after the termination of the period of a clone pager order or any extensions thereof, the issuing judge shall cause to be served, on each individual using the numeric display paging device which was cloned, an inventory including notice of—

"(1) the fact of the entry of the order or the application;

"(2) the date of the entry and the period of clone pager use authorized, or the denial of the application; and

"(3) whether or not information was obtained through the use of the clone pager.

Upon an ex parte showing of good cause, a court of competent jurisdiction may in its discretion postpone the serving of the notice required by this section.".

(c) Conforming Amendment.—The analysis for chapter 206 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3121 and inserting the following:

"3121. General prohibition on pen register, trap and trace device, and clone pager use; exception.";

(2) by striking the item relating to section 3124 and inserting the following:

"3124. Assistance in installation and use of a pen register, a trap and trace device, or clone pager.";

(3) by striking the item relating to section 3125 and inserting the following:

"3125. Emergency pen register, trap and trace device, and clone pager installation and use.";

(4) by striking the item relating to section 3126 and inserting the following:

"3126. Reports concerning pen registers, trap and trace devices, and clone pagers.";

and

(5) by adding at the end the following:

"3128. Application for an order for use of a clone pager.

"3129. Issuance of an order for use of a clone pager.".

(d) Conforming Amendments.—

(1) Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

"(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title); or".

(2) Section 2510(12) of title 18, United States Code, is amended—

(A) in subparagraph (C), by striking "or" at the end;

(B) by inserting "or" after subparagraph (D); and

(C) by adding at the end the following:

"(E) any transmission made through a clone pager (as defined in section 3127(5) of this title).".

(3) Section 705(a) of the Communications Act of 1934 (47 U.S.C. 605(a)) is amended by striking "chapter 119" and inserting "chapters 119 and 206".

SEC. 2142. SENTENCING ENHANCEMENT FOR USING BODY ARMOR IN COMMISSION OF A FELONY.

(a) Definitions.—In this section:

(1) Body armor.—The term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) Law enforcement officer.—The term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant used body armor.

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

(d) Applicability.—No Federal sentencing guideline amendment made under this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 2143. SENTENCING ENHANCEMENT FOR USING LASER SIGHTING DEVICES IN COMMISSION OF A FELONY.

(a) Definitions.—In this section—

(1) the term "firearm" has the same meaning as in section 921 of title 18, United States Code; and

(2) the term "laser-sighting device" includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sighting, telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any serious violent felony or serious drug offense, as defined in section 3559 of title 18, United States Code, in which the defendant—

(1) possessed a firearm equipped with a laser-sighting device; or

(2) possessed a firearm and the defendant possessed a laser-sighting device (capable of being readily attached to the firearm).

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 2144. GOVERNMENT ACCESS TO LOCATION INFORMATION.

(a) Court Order Required.—Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(g) Requirements for Disclosure of Location Information.—A provider of mobile electronic communication service shall provide to a governmental entity information generated by and disclosing, on a real time basis, the physical location of a subscriber's equipment only if the governmental entity obtains a court order issued upon a finding that there is probable cause to believe that an individual using or possessing the subscriber equipment is committing, has committed, or is about to commit a felony offense.".

(b) Conforming Amendment.—Section 2703(c)(1)(B) of title 18, United States Code, is amended by inserting "or wireless location information covered by subsection (g) of this section" after "(b) of this section".

SEC. 2145. LIMITATION ON OBTAINING TRANSACTIONAL INFORMATION FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.

Subsection 3123(a) of title 18, United States Code, is amended to read as follows:

"(a) In General.—Upon an application made under section 3122, the court may enter an ex parte order—

"(1) authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds, based on the certification by the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation; and

"(2) directing that the use of the pen register or trap and trace device be conducted in such a way as to minimize the recording or decoding of any electronic or other impulses that are not related to the dialing and signaling information utilized in call processing.".

Subtitle B—Combating Money Laundering

SEC. 2201. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Enforcement Act of 2001".

SEC. 2202. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Civil Forfeiture for Money Transmitting Violation.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(b) Scienter Requirement for Section 1960 Violation.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) Scienter Requirement.—For the purposes of proving a violation of this section involving an illegal money transmitting business—

"(1) it shall be sufficient for the Government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and

"(2) it shall not be necessary to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.".

SEC. 2203. RESTRAINT OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

"(3) Restraint of Assets.—

"(A) In general.—If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure.

"(B) Application.—An application for a restraining order under subparagraph (A) shall—

"(i) set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture; and

"(ii) contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.".

SEC. 2204. CIVIL MONEY LAUNDERING JURISDICTION OVER FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each subparagraph appropriately;

(2) by striking "(b) Whoever" and inserting the following:

"(b) Civil Penalties.—

"(1) In general.—Whoever"; and

(3) by adding at the end the following:

"(2) Jurisdiction.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts of the United States shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, that commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States, if service of process upon such foreign person is made in accordance with the Federal Rules of Civil Procedure or the laws of the foreign country in which the foreign person is found.

"(3) Satisfaction of judgment.—In any action described in paragraph (2), the court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.".

SEC. 2205. PUNISHMENT OF LAUNDERING MONEY THROUGH FOREIGN BANKS.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

"(6) the term 'financial institution' includes—

"(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder; and

"(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));".

SEC. 2206. ADDITION OF SERIOUS FOREIGN CRIMES TO LIST OF MONEY LAUNDERING PREDICATES.

(a) In General.—Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking clause (ii) and inserting the following:

"(ii) any act or acts constituting a crime of violence;"; and

(B) by adding at the end the following:

"(iv) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity;

"(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

"(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications as defined in the Commerce Control List of the Export Administration Regulations; or

"(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States;";

(2) in subparagraph (D)—

(A) by inserting "section 541 (relating to goods falsely classified)," before "section 542";

(B) by inserting "section 922(l) (relating to the unlawful importation of firearms), section 924(m) (relating to firearms trafficking)," before "section 956";

(C) by inserting "section 1030 (relating to computer fraud and abuse)," before "1032"; and

(D) by inserting "any felony violation of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)," before "or any felony violation of the Foreign Corrupt Practices Act"; and

(3) in subparagraph (E), by inserting "the Clean Air Act (42 U.S.C. 6901 et seq.)," after "the Safe Drinking Water Act (42 U.S.C. 300f et seq.),".

SEC. 2207. CRIMINAL FORFEITURE FOR MONEY LAUNDERING CONSPIRACIES.

Section 982(a)(1) of title 18, United States Code, is amended by inserting "or a conspiracy to commit any such offense," after "of this title,".

SEC. 2208. FUNGIBLE PROPERTY IN FOREIGN BANK ACCOUNTS.

Section 984(d) of title 18, United States Code, is amended by adding at the end the following:

"(3) In this subsection, the term 'financial institution' includes a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).".

SEC. 2209. ADMISSIBILITY OF FOREIGN BUSINESS RECORDS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§2467. Foreign records

"(a) DEFINITIONS.—In this section—

"(1) the term 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit;

"(2) the term 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country;

"(3) the term 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country; and

"(4) the term 'official request' means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibility, to a court or other authority of a foreign country.

"(b) ADMISSIBILITY.—In a civil proceeding in a court of the United States, including a civil forfeiture proceeding and a proceeding in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity (or a duplicate of such record), obtained pursuant to an official request, shall not be excluded as evidence by the hearsay rule if a foreign certification, also obtained pursuant to the same official request or subsequent official request that adequately identifies such foreign record, attests that—

"(1) the foreign record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(2) the foreign record was kept in the course of a regularly conducted business activity;

"(3) the business activity made such a record as a regular practice; and

"(4) if the foreign record is not the original, the record is a duplicate of the original.

"(c) FOREIGN CERTIFICATION.—A foreign certification under this section shall authenticate a record or duplicate described in subsection (b).

"(d) NOTICE.—

"(1) IN GENERAL.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

"(2) OPPOSITION.—A motion opposing admission in evidence of a record under paragraph (1) shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record, except that the court for cause shown may grant relief from the waiver.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2467. Foreign records.".

SEC. 2210. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956(h) of title 18, United States Code, is amended—

(1) by striking "(h) Any person" and inserting the following:

"(h) CONSPIRACY; MULTIPLE VIOLATIONS.—

"(1) CONSPIRACY.—Any person"; and

(2) by adding at the end the following:

"(2) MULTIPLE VIOLATIONS.—Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.".

SEC. 2211. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

"(i) VENUE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in any district in which the financial or monetary transaction is conducted, or in which a prosecution for the underlying specified unlawful activity could be brought, if the defendant participates in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

"(2) EXCEPTION.—A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district in which venue would lie for the completed offense under paragraph (1), or in any other district in which an act in furtherance of the attempt or conspiracy took place.".

SEC. 2212. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN MONEY LAUNDERING OFFENSES.

Section 2516(1)(g) of title 18, United States Code, is amended by striking "of title 31, United States Code (dealing with the reporting of currency transactions)" and inserting "or 5324 of title 31 (dealing with the reporting and illegal structuring of currency transactions)".

SEC. 2213. CRIMINAL PENALTIES FOR VIOLATIONS OF ANTI-MONEY LAUNDERING ORDERS.

(a) REPORTING VIOLATIONS.—Section 5324(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ", or the reporting requirements imposed by an order issued pursuant to section 5326" after "any such section"; and

(2) in each of paragraphs (1) and (2), by inserting ", or a report required under any order issued pursuant to section 5326" before the semicolon.

(b) PENALTIES.—Sections 5321(a)(1), 5322(a), and 5322(b) of title 31, United States Code, are each amended by inserting "or order issued" after "or a regulation prescribed" each place that term appears.

SEC. 2214. ENCOURAGING FINANCIAL INSTITUTIONS TO NOTIFY LAW ENFORCEMENT AUTHORITIES OF SUSPICIOUS FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—Section 2702(b)(6) of title 18, United States Code, is amended—

(1) by inserting "or supervisory agency" after "a law enforcement agency";

(2) in subparagraph (A), by striking "; and" and inserting "and appear to pertain to the commission of the crime; or"; and

(3) in subparagraph (B), by striking "appear to pertain to the commission of the crime." and inserting "appear to reveal a suspicious transaction relevant to a possible violation of law or regulation."

(b) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the terms 'suspicious transaction' and 'relevant to a possible violation of the law or regulation' shall be interpreted in the same manner as those terms have been interpreted for purposes of section 5318(g) of title 31; and

"(4) the term 'supervisory agency' has the meaning given the term in section 1101(7) of the Right to Financial Privacy Act of 1978.".

SEC. 2215. COVERAGE OF FOREIGN BANK BRANCHES IN THE TERRITORIES.

Section 20(9) of title 18, United States Code, is amended by inserting before the period the following: ", except that for purposes of this section the definition of the term 'State' in such Act shall be deemed to include a commonwealth, territory, or possession of the United States".

SEC. 2216. CONFORMING STATUTE OF LIMITATIONS AMENDMENT FOR CERTAIN BANK FRAUD OFFENSES.

Section 3293 of title 18, United States Code, is amended—

(1) by inserting "225," after "215,"; and

(2) by inserting "1032," before "1033".

SEC. 2217. JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(h) JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.—Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b), shall be subject to the same penalties as if that offense had been committed in the United States, if the act—

"(1) involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

"(2) causes, or if completed would have caused, a transfer of funds from or a loss to an entity listed in paragraph (1).".

SEC. 2218. KNOWLEDGE THAT THE PROPERTY IS THE PROCEEDS OF A FELONY.

Section 1956(c)(1) of title 18, United States Code, is amended by inserting ", and regardless of whether or not the person knew that the activity constituted a felony" before the semicolon at the end.

SEC. 2219. MONEY LAUNDERING TRANSACTIONS; COMMINGLED ACCOUNTS.

(a) SECTION 1956.—Section 1956 of title 18, United States Code, is amended by adding at the end the following:

"(i) A transaction, transportation, transmission, or transfer of funds shall be considered for the purposes of this section to be one involving the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer involves—

"(1) funds directly traceable to the specified unlawful activity, or represented to be directly traceable to the specified unlawful activity;

“(2) a bank account in which the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, have been commingled with other funds; or

“(3) 2 or more bank accounts, where the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, are deposited into 1 bank account and there is a contemporaneous, related withdrawal from, or debit to, another bank account controlled by the same person, or by a person acting in concert with that person.”.

(b) SECTION 1957.—Section 1957(f) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

“(4) the term ‘monetary transaction in criminally derived property that is of a value greater than $10,000’ includes—

“(A) a monetary transaction involving the transfer, withdrawal, encumbrance or other disposition of more than $10,000 from a bank account in which more than $10,000 in proceeds of specified unlawful activity have been commingled with other funds;

“(B) a series of monetary transactions in amounts under $10,000 that exceed $10,000 in the aggregate and that are closely related to each other in terms of time, the identity of the parties involved, the nature of the transactions and the manner in which they are conducted; and

“(C) any financial transaction described in section 1956(i)(3) that involves more than $10,000 in proceeds of specified unlawful activity.”.

(c) TECHNICAL AMENDMENT.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting “, as defined in section 24” before the period.

SEC. 2220. LAUNDERING THE PROCEEDS OF TERRORISM.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “or 2339B” after “2339A”.

SEC. 2221. VIOLATIONS OF SECTION 6050I.

Sections 981(a)(1)(A) and 982(a)(1) of title 18, United States Code, are amended by inserting “, or of section 6050I of the Internal Revenue Code of 1986 (26 U.S.C. §6050I)” after “of title 31”.

SEC. 2222. INCLUDING AGENCIES OF TRIBAL GOVERNMENTS IN THE DEFINITION OF A FINANCIAL INSTITUTION.

Section 5312(a)(2)(W) of title 31, United States Code, is amended by striking “State or local” and inserting “State, local or tribal”.

SEC. 2223. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS.

(a) CIVIL PENALTY FOR VIOLATION OF TARGETING ORDER.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by inserting “or order issued” after “subchapter or a regulation prescribed”; and

(2) by inserting A, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “section 5314 and 5315)”.

(b) CRIMINAL PENALTIES FOR VIOLATION OF TARGETING ORDER.—Section 5322 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “under section 5315 or 5324),”;

(2) in subsection (b)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “under section 5315 or 5324),”;

(c) STRUCTURING TRANSACTIONS TO EVADE TARGETING ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.—Section 5324 of title 31, United States Code, is amended—

(1) in the title by inserting “or recordkeeping” after “reporting”.

(2) in subsection (a)—

(A) by inserting a comma after “shall”;

(B) by striking “section—” and inserting “section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—”;

(C) in paragraphs (1) and (2), by inserting “, to file a report or maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508” after “regulation prescribed under any such section” each place that term appears.

Subtitle C—Antidrug Provisions

SEC. 2301. AMENDMENTS CONCERNING TEMPORARY EMERGENCY SCHEDULING.

Section 201(h) of the Controlled Substances Act (21 U.S.C. 811(h)) is amended to read as follows:

“(h) TEMPORARY SCHEDULING TO AVOID IMMINENT HAZARDS TO PUBLIC SAFETY.—

“(1) IN GENERAL.—If the Attorney General finds that the control of a substance on a temporary basis is necessary to avoid an imminent hazard to the public safety, the Attorney General may, by order and without regard to the requirements of subsection (b) of this section relating to the Secretary of Health and Human Services, and without regard to the findings required under section 202(b) (21 U.S.C. 812(b)), temporarily schedule such substance in accordance with this subsection if no approval is in effect for the substance under section 505(i) of the Federal Food, Drug, and Cosmetic Act (hereafter in this subsection referred to as the FDC Act) (21 U.S.C. 355(i)).

“(A) If the substance is not contained in a drug for which an investigational new drug exemption is in effect under section 505(i) of the FDC Act, the temporary scheduling order shall place such substance in schedule I.

“(B) If the substance is contained in a drug for which an investigational new drug exemption is in effect under section 505(i) of the FDC Act, the temporary scheduling order shall place such substance in schedule II, subject to the conditions set forth in paragraph (6) of this subsection.

“(C) A temporary scheduling order, or order renewing such order, may not take effect before the expiration of thirty days from—

“(i) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued; and

“(ii) the date the Attorney General has transmitted the notice required by paragraph (4).

“(2) DURATION OF TEMPORARY SCHEDULING; RENEWAL OF ORDERS.—

“(A) A temporary scheduling order issued under subparagraph (1)(A) of this subsection shall expire at the end of one year from the effective date of the order, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section with respect to the substance, extend the temporary scheduling order for up to six months.

“(B) A temporary scheduling order issued under subparagraph (1)(B) of this subsection shall expire at the end of 18 months from the effective date of the order, except that, if the Attorney General determines that continuation of the temporary scheduling order is necessary to avoid an imminent hazard to the public safety, the Attorney General may issue a renewal order, 30 days prior to expiration of the temporary scheduling order, extending the original order for an additional 18 months, provided the following conditions are met—

“(i) an exemption with respect to such substance remains in effect under section 505(i) of the FDC Act; and—

“(ii) the holder of such exemption is actively pursuing the clinical investigation of the substance.

The Secretary shall certify to the Attorney General whether or not each of conditions (i) and (ii) continue to be met no later than 90 days prior to the date on which the temporary scheduling order is scheduled to a expire. As long as both conditions continue to be met, the Attorney General may, every 18 months, continue to issue orders renewing the temporary scheduling of a particular substance. If either of the foregoing conditions are no longer met for a particular substance, the temporary scheduling of that substance may not be renewed and shall expire 12 months after the date on which such condition fails to be met, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section with respect to the substance, extend the temporary scheduling for an additional six months.

“(3) FACTORS DETERMINATIVE OF TEMPORARY SCHEDULING.—When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c) of this section, including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

“(4) CONSULTATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

“(5) EFFECT OF PERMANENT SCHEDULING PROCEEDINGS.—An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rule making proceeding initiated under subsection (a) of this section with respect to such substance.

“(6) SPECIAL RULES APPLICABLE TO TEMPORARILY SCHEDULED INVESTIGATIONAL DRUGS.—

(A) In the case of a substance that is temporarily scheduled under subparagraph (1)(B) of this subsection that was controlled under this subchapter prior to its temporary scheduling, any person who manufactures, distributes, dispenses, possesses, or uses such substance within the scope of the exemption under section 505(i) of the FDC Act shall be subject to the same requirements of this subchapter that were in effect prior to the temporary scheduling.

"(B) In the case of a substance that is temporarily scheduled under subparagraph (1)(B) of this subsection that was not controlled under this subchapter prior to its temporary scheduling, any person who manufactures, distributes, dispenses, possesses, or uses such substance within the scope of the exemption under section 505(i) of the FDC Act shall not be required to comply with the requirements of part C of this subchapter, except as provided in this paragraph—

"(i) Such person shall be subject to sections 302, 303, and 304 (21 U.S.C. 822, 823, and 824), relating to registration.

"(ii) Compliance with applicable record keeping and reporting requirements of the FDC Act, as determined by the Secretary, shall constitute compliance with section 307 (21 U.S.C. 827). A violation of such requirements shall constitute a violation of section 307 and shall subject a violator to applicable penalties under Part D of this subchapter, in addition to any other penalties provided by law. Records or documents required to be kept for such purposes under the FDC Act shall be deemed records or documents required under this subchapter, and places where such records or documents are kept or required to be kept shall be deemed controlled premises for purposes of administrative inspections and warrants under section 510 (21 U.S.C. 880).

"(iii) A registrant handling an investigational drug that has been temporarily scheduled under this section shall be subject to the requirements established under section 307(f), relating to procedures necessary to insure the security and accountability of controlled substances used in research and to prevent theft or diversion of the drug into illegal channels of distribution.

"(C) Each person that is a sponsor of an investigation of a new drug for which a research exemption is in effect under section 505(i) of the FDC Act with respect to such substance shall be required to certify to the Secretary of Health and Human Services, by one month after the effective date of the temporary scheduling order with respect to the substance, and by the end of each succeeding six month period, that such person is able to account for the location and use of all quantities of such substance that are or have been manufactured, distributed, dispensed, possessed, or used under such exemption on or before the date of such certification.

"(D) In the case of a substance that is temporarily scheduled under subparagraph (1)(B) of this subsection, the disclosure of the existence of an exemption under section 505(i) of the FDC Act with respect to such substance shall not be considered to be disclosure prohibited by section 301(j) of the FDC Act or section 1905 of title 18 of the United States Code.

"(E) The manufacture, possession, distribution, or use of such substance within the scope of such exception shall not be subject to any requirements or penalty under State or local law more stringent than the provisions of this chapter or other applicable Federal law.

"(7) JUDICIAL REVIEW.—An order issued under paragraph (1) is not subject to judicial review, except that a renewal order issued under subparagraph (2)(B) of this subsection is subject to judicial review in accordance with section 507 (21 U.S.C. 877).".

SEC. 2302. AMENDMENT TO REPORTING REQUIREMENT FOR TRANSACTIONS INVOLVING CERTAIN LISTED CHEMICALS.

Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended by—

(1) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C);

(2) inserting a new subparagraph (A) as follows:

"(A) As used in this section, the term 'drug product' means a pharmaceutical substance in dosage form that has been approved under the Food, Drug and Cosmetic Act for distribution in the United States.";

(3) in the redesignated (B) by inserting "or who engages in an export transaction" after "nonregulated person"; and

(4) adding at the end the following—

"(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person and the following export transactions shall not be subject to the reporting requirement established in subparagraph (B):

"(i) distributions of sample packages of drug products when such packages contain not more than 2 solid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day time period;

"(ii) distributions of drug products by retail distributors to the extent that such distributions are consistent with the activities authorized for a retail distributor as set out in section 102(46) of this title;

"(iii) distributions of drug products to a resident of a Long Term Care Facility (as that term is defined in the regulations of the Attorney General) or distributions of drug products to a Long Term Care Facility for dispensing to or for use by a resident of that facility;

"(iv) distributions of drug products pursuant to a valid prescription (as used in this section, the term 'valid prescription' is one which is issued for a legitimate medical purpose by individual practitioner licensed by law to administer and prescribe such drugs and acting in the usual course of his/her professional practice);

"(v) exports which have been reported to the Attorney General pursuant to section 1004 or 1018 of title III or which are subject to a waiver granted under section 1018(e)(2) of title III; and

"(vi) any quantity, method or type of distribution or any quantity, method or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from this reporting requirement on the basis that such reporting is not necessary to the enforcement of this title or title III.

"(E) The Attorney General may revoke any or all of the exemptions listed in (C) for an individual regulated person if he finds that drug products distributed by that person are being used in violation of this title or title III. The regulated person shall be notified of this revocation, which will be effective upon receipt by the regulated person of such notice, as provided in section 1018(c)(1) of title III and has the right to an expedited hearing as provided in section 1018(c)(2) of title III.".

SEC. 2303. DRUG PARAPHERNALIA.

(a) IN GENERAL.—Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended by inserting "packaging," after "concealing,".

(b) DETERMINATION OF DRUG PARAPHERNALIA.—Section 422(e)(4) of the Controlled Substances Act (21 U.S.C. 863(e)(4)) is amended by adding the following after "sale": "including, but not limited to, whether the item displays any name brand, insignia or other indicator which is associated with illegal drugs or which is used to advertise or identify an illegal drug".

(c) CLERICAL AMENDMENTS.—(1) Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking all after "as defined in" and inserting "section 422 of this title.".

(2) Section 422 of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended—

(A) by deleting subsection (c); and

(B) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

SEC. 2304. COUNTERFEIT SUBSTANCES/IMITATION CONTROLLED SUBSTANCES.

(a) Section 102(7) of the Controlled Substances Act (21 U.S.C. 802(7)) is amended by—

(1) inserting "(A)" after "(7)";

(2) designating the text after "a controlled substance" as clause (i);

(3) inserting "characteristic," after "number,";

(4) striking the period at the end and inserting a semicolon; and

(5) adding at the end the following:

"(ii) which falsely purports or is represented to be a different controlled substance; or

"(iii) which is manufactured or designed in such a manner, or is distributed, dispensed, or otherwise transferred under such circumstances, such that a reasonable person would believe that the substance is a different controlled substance.

"(B) The term 'imitation controlled substance' means a substance, which is not a controlled substance, that is represented (expressly or by implication) to be a controlled substance.

"(C) The term 'imitation controlled substance' does not include a placebo which is directly applied to the body of a research subject or a patient or which is delivered to a research subject or a person for his own use, by, or pursuant to the order of, a practitioner for a lawful purpose.".

(b) Section 102(8) of the Controlled Substances Act (21 U.S.C. 802(8)) is amended by inserting ", an imitation controlled substance," after "controlled substance".

(c) Section 102(11) of the Controlled Substances Act (21 U.S.C. 802(11)) is amended by—

(1) inserting "to deliver an imitation controlled substance or" after "controlled substance or" in the first sentence; and

(2) inserting ", an imitation controlled substance," after "controlled substance" in the second sentence.

(d) Section 102(44) of the Controlled Substances Act (21 U.S.C. 802(44)) is amended by—

(1) striking "or" after "marihuana,"; and

(2) inserting ", anabolic agents, or listed chemicals, or an offense that is punishable by imprisonment for more than one year under any provision of this title or title III" after "stimulant substances".

(e) Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) is amended by—

(1) striking "or" at the end of paragraph (1);

(2) striking "create" in paragraph (2) and inserting "manufacture";

(3) inserting "manufacture," after "intent to" in paragraph (2);

(4) striking the period at the end of paragraph (2) and inserting "; or" ; and

(5) adding at the end the following paragraph:

"(3) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, an imitation controlled substance.".

(f) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b) is amended by redesignating paragraphs (4) through (7) as paragraphs (6) through (9) and inserting after paragraph (3) the following:

"(4)(A) In the case of a counterfeit substance, such person shall be sentenced in accordance with this section based on the controlled substance which the counterfeit substance is represented to be or based on the controlled substance which is actually contained in the counterfeit substance, whichever provides the greater sentence.

"(B) Paragraph (5)(B) of this subsection may be applied to make a determination that a controlled substance is a counterfeit substance.

"(5)(A) In the case of an imitation controlled substance, such person shall be sentenced to a term of imprisonment or a fine, or both, which does not exceed one-half of the maximum term of imprisonment and fine which would apply under this section to the controlled substance which the imitation controlled substance is represented to be. The minimum period of supervised release for such person shall be one-half of that which would apply under this section to the controlled substance which the imitation controlled substance is represented to be.

"(B) In the case of a violation of this title or title III involving an imitation controlled substance, the following provisions shall apply:

"(i) The trier of fact may consider the following factors in addition to any other factor that may be relevant for purposes of determining whether a substance was an imitation controlled substance. The presence of any two of the following factors shall be prima facie evidence that the substance was an imitation controlled substance; however, the presence of two factors is not required for a determination that a substance is an imitation controlled substance:

"(I) The person in control of the substance expressly or impliedly represents that the substance is a controlled substance or has the effect of a controlled substance;

"(II) The person in control of the substance expressly or impliedly represents that the substance because of its nature or appearance can be sold, delivered or used as a controlled substance or as a substitute for a controlled substance;

"(III) The person in control of the substance utilizes evasive tactics or actions to avoid detection by law enforcement authorities or other authorities such as school authorities;

"(IV) The physical appearance of the substance is, or is designed to be, substantially identical to a specific controlled substance. This may be determined by such factors as color, shape, size, markings, taste, odor, consistency, packaging, labeling, or other identifying characteristics;

"(V) The substance is packaged or distributed in a manner normally used for the illegal distribution of controlled substances; or

"(VI) The distribution or attempted distribution includes an exchange or demand for money or other property as consideration, and the amount of the consideration is substantially greater than the reasonable retail market value of the substance.

"(ii) It shall not constitute a defense that the accused believed the imitation controlled substance to actually be a controlled substance.".

(g) Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in paragraph (a)(2), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in paragraph (a)(3), by inserting "or a laboratory supply (as defined in section 402(a) of this title)" after "controlled substance"; and

(3) in paragraph (a)(5) by—

(A) inserting "or substance" after "drug" both places it appears; and

(B) inserting "or an imitation controlled substance" after "counterfeit substance".

(h) Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting ", imitation controlled substances," after "controlled substances".

(i) Section 509 of the Controlled Substances Act (21 U.S.C. 879) is amended by inserting "imitation controlled substances, or listed chemicals" after "controlled substances".

(j)(1) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(A) in paragraph (1), by inserting "and imitation controlled substances" after "controlled substances";

(B) in paragraph (2), by inserting ", imitation controlled substance," after "controlled substance";

(C) in paragraph (6), by inserting ", imitation controlled substance," after "controlled substance"; and

(D) in paragraph (8), by inserting "and imitation controlled substances" after "controlled substances".

(2) Section 607(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1607(a)(3)) is amended by inserting ", imitation controlled substance," after "controlled substance".

(3) Section 607(b) of the Tariff Act of 1930 (19 U.S.C. 1607(b)) is amended by inserting ", 'imitation controlled substance'," after "'controlled substance'".

(k) Section 1010(a) of the Controlled Substances Act (21 U.S.C. 960(a)) is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by inserting "or" after "substance,"; and

(3) by inserting after paragraph (3) the following:

"(4) knowingly or intentionally imports or exports a counterfeit substance or an imitation controlled substance,".

(l) Section 2516(1)(e) of title 18, United States Code, is amended by inserting "or a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 851, et seq.)" after "United States".

SEC. 2305. CONFORMING AMENDMENT CONCERNING MARIJUANA PLANTS.

Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marijuana plants" and inserting "except in the case of 50 or more marijuana plants".

SEC. 2306. SERIOUS JUVENILE DRUG TRAFFICKING OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(C) of title 18, United States Code, is amended by inserting "or serious drug offense" after "violent felony".

SEC. 2307. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) In General.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.".

(b) Sentencing Enhancement.—

(1) In general.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense under section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) that occurs on Federal property.

(2) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishment for substantially the same offense.

SEC. 2308. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Subparagraphs (A) through (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are each amended by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence".

SEC. 2309. SUPERVISED RELEASE PERIOD AFTER CONVICTION FOR CONTINUING CRIMINAL ENTERPRISE.

Section 848(a) of title 21, United States Code, is amended by adding to the end of the following: "Any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of not less than 10 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of not less than 15 years in addition to such term of imprisonment.".

SEC. 2310. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of any Federal statute".

SEC. 2311. IMPORT AND EXPORT OF CHEMICALS USED TO PRODUCE ILLICIT DRUGS.

(a) Notification Requirements.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Each person who proposes to engage in a transaction involving the importation or exportation of a listed chemical which requires advance notification pursuant to the regulations of the Attorney General or the importation or exportation of a tableting machine or an encapsulating machine shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place in such form and supplying such information as the

Attorney General shall require by regulation; in the case of an importation for transfer or transshipment pursuant to section 1004 of this title, such notice will be made as provided in that section.";

(2) in subsection (c)(1)—

(A) by striking the phrase "(other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section)";

(B) by inserting ", a tableting machine or an encapsulating machine" after "a listed chemical"; and

(C) by inserting ", tableting machine, or encapsulating machine" after "the chemical"; and

(3) in subsection (e)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5);

(B) by inserting after paragraph (1) new paragraphs (2) and (3) as follows:

"(2) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all imports of a listed chemical, regardless of the status of certain importers of that listed chemical as regular importers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(3) The Attorney General may require that the notification requirement of subsection (a) for certain importations or exportations, including those subject to section 1004 of this title, include additional information to enable a determination to be made that the listed chemical being imported or exported will be used for a legitimate purpose or when such information is needed to satisfy requirements of the importing or exporting country. The Attorney General will provide notice of these additional requirements specifically identifying the listed chemicals and countries involved.".

(b) TRANSSHIPMENT.—Section 1004 of the Controlled Substances Import and Export Act (21 U.S.C. 954) is amended to read as follows:

"§954. Transshipment and in-transit shipment of controlled substances

"(a) Notwithstanding sections 952, 953, 957 and 971 of this title, except as provided below—

"(1) A controlled substance in schedule I may be imported into the United States—

"(A) for transshipment to another country, or

"(B) for transference or transshipment from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation, if and only if (i) evidence is furnished which enables the Attorney General to determine that the substance being so imported, transferred, or transshipped will be used for scientific, medical, or other legitimate purposes in the country of destination, and (ii) it is so imported, transferred, or transshipped with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request) based on a determination that the requirements of this section and the applicable subsections of sections 952 and 953 have been satisfied.

"(2) A controlled substance in schedule II, III, or IV or a listed chemical may be so imported, transferred, or transshipped if and only evidence is furnished which enables the Attorney General to determine that the substance or chemical being so imported, transferred, or transshipped will be used for scientific, medical, or other legitimate purposes in the country of destination and (ii) advance notification is given to the Attorney General not later than 15 days prior to the exportation of the substance or chemical from the foreign port of embarkation (the notification period for imports other than for transfer or transshipment pursuant to section 1002 or 1018 of this title is not affected by this subsection). Such notification shall be in such form and contain such information as the Attorney General may require by regulation.

"(b)(1) Any such importation, transfer or transshipment of a controlled substance shall be subject to the applicable subsections of sections 1002 and 1003 of this title. The importation, transfer, transshipment or exportation of any controlled substance may be suspended on the ground that the controlled substance may be diverted to other than scientific, medical or other legitimate purposes.

"(2) Any such importation, transfer or transshipment of a listed chemical shall be subject to all the requirements of section 1018 of this title, except that in no case shall the 15-day advance notification requirement be waived. The importation, transfer, transshipment or exportation of a listed chemical may be suspended on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance.

"(3) Any such importation, transfer or transshipment of a controlled substance or listed chemical may be suspended if any requirement of subsection (a) is not satisfied. The Attorney General may withdraw a suspension order issued under this paragraph if (A) the requirements of subsection (a) are ultimately satisfied and (B) no grounds exist under paragraphs (1) or (2) of this subsection to suspend the shipment.

"(c) The suspension of any exportation of a controlled substance or listed chemical will be subject to the procedures and requirements established in section 1018(c) of this title.

"(d) Any shipment of a controlled substance or listed chemical which has been imported or is subject to the jurisdiction of the United States whose importation, transfer, transshipment or exportation has been suspended may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any such controlled substance or listed chemical until the suspension order becomes final. However, a court, upon application therefor, may at any time order the sale of a perishable controlled substance or listed chemical. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a suspension order becoming final, the shipment may be disposed of as follows, at the discretion of the Attorney General and subject to such conditions as the Attorney General may impose:

"(1) The title holder may be allowed to return the shipment to any of the original exporter's facilities in the country of exportation;

"(2) The shipment may be exported, subject to the requirements of section 1003 or 1018 of this title, as appropriate, to a new consignee;

"(3) The shipment may be surrendered to the Attorney General for appropriate disposition; all costs associated with this disposition will be the responsibility of the title holder, however if there are any proceeds from the disposition, these will be applied to the repayment of the costs and any excess proceeds will be returned to the titleholder;

"(4) If sufficient cause exists, the shipment of controlled substances or listed chemicals (or proceeds of sale deposited in court) may be forfeited to the United States pursuant to section 511 of title II and may be disposed of in accordance with that section.

"(e) Nothing in this section may be used by any party to defend against a forfeiture action against a shipment of controlled substances or listed chemicals initiated by the United States or by any state. This section does not affect the liability of any party for storage and transportation costs incurred by the Government as a result of the suspension of a shipment.".

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) by redesignating paragraphs (5), (6) and (7) as paragraphs (6), (7) and (8);

(2) in the redesignated paragraph (6), by striking "1018(e)(2) or (3)" and inserting "1018(e)(4) or (5)";

(3) in the redesignated paragraph (7), by inserting "or violates section 1004 of this title," after "1007 or 1018 of this title"; and

(4) by inserting after paragraph (4) a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation is not subject to the 15-day advance notification required by section 1018(a) or to any reporting requirements established by the Attorney General pursuant to section 1018(e) (1), (2) or (3) by misrepresenting the actual country of final destination of the listed chemical, or the actual listed chemical being imported or exported; or".

(d) Section 1011 of the Controlled Substances Import and Export Act (21 U.S.C. 961) is amended to read as follows:

"§1011. Injunctions

"In addition to any other applicable penalty, any person convicted of a felony violation of this title or title II relating to the receipt, distribution, manufacture, importation or exportation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.".

Subtitle D—Deterring Cargo Theft

SEC. 2351. PUNISHMENT OF CARGO THEFT.

(a) IN GENERAL.—Section 659 of title 18, United States Code, is amended—

(1) by striking "with intent to convert to his own use" each place that term appears;

(2) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(3) in the fifth undesignated paragraph, by striking "one year" and inserting "3 years";

(4) in the penultimate undesignated paragraph, by inserting after the first sentence the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise."; and

(5) by adding at the end the following:

"It shall be an affirmative defense (on which the defendant bears the burden of persuasion by a preponderance of the evidence) to an offense under this section that the defendant bought, received, or possessed the goods, chattels, money, or baggage at issue with the sole intent to report the matter to an appropriate law enforcement officer or to the owner of the goods, chattels, money, or baggage.".

(b) Federal Sentencing Guidelines.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal sentencing guidelines under section 659 of title 18, United States Code, as amended by this section and, upon completion of the review, promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement of the applicable guidelines.

SEC. 2352. REPORTS TO CONGRESS ON CARGO THEFT.

The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this subtitle.

SEC. 2353. ESTABLISHMENT OF ADVISORY COMMITTEE ON CARGO THEFT.

(a) Establishment.—

(1) In general.—There is established a Committee to be known as the Advisory Committee on Cargo Theft (in this section referred to as the "Committee").

(2) Membership.—

(A) Composition.—The Committee shall be composed of 6 members, who shall be appointed by the President, of whom—

(i) 1 shall be an officer or employee of the Department of Justice;

(ii) 1 shall be an officer or employee of the Department of Transportation;

(iii) 1 shall be an officer or employee of the Department of the Treasury; and

(iv) 3 shall be individuals from the private sector who are experts in cargo security.

(B) Date.—The appointments of the initial members of the Committee shall be made not later than 30 days after the date of enactment of this Act.

(3) Period of appointment; vacancies.—Each member of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) Initial meeting.—Not later than 15 days after the date on which all initial members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) Meetings.—The Committee shall meet, not less frequently than quarterly, at the call of the Chairperson.

(6) Quorum.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) Chairperson.—The President shall select 1 member of the Committee to serve as the Chairperson of the Committee.

(b) Duties.—

(1) Study.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as added by section 3801(a) of this title); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of the study and the recommendations of the Committee under paragraph (1).

(c) Powers.—

(1) Hearings.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the purposes of this section.

(2) Information from federal agencies.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) Postal services.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) Gifts.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) Personnel Matters.—

(1) Compensation of members.—

(A) Non-federal members.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) Federal members.—Each member of the Committee who is an officer or employee of the United States shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(2) Travel expenses.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) Staff.—

(A) In general.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) Compensation.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Detail of government employees.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) Procurement of temporary and intermittent services.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) Termination.—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(2).

(f) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) Availability.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SEC. 2354. ADDITION OF ATTEMPTED THEFT AND COUNTERFEITING OFFENSES TO ELIMINATE GAPS AND INCONSISTENCIES IN COVERAGE.

(a) In General.—

(1) Embezzlement against estate.—Section 153(a) of title 18, United States Code, is amended by inserting ", or attempts so to appropriate, embezzle, spend, or transfer," before "any property".

(2) Public money.—Section 641 of title 18, United States Code, is amended by striking "or" at the end of the first paragraph and by inserting after such paragraph the following:

"Whoever attempts to commit an offense described in the preceding paragraph; or".

(3) Theft by bank examiner.—Section 655 of title 18, United States Code, is amended by inserting "or attempts to steal or so take," after "unlawfully takes,".

(4) Theft, embezzlement, or misapplication by bank officer or employee.—Sections 656 and 657 of title 18, United States Code, are each amended—

(A) by inserting ", or attempts to embezzle, abstract, purloin, or willfully misapply," after "willfully misapplies"; and

(B) by inserting "or attempted to be embezzled, abstracted, purloined, or misapplied" after "misapplied".

(5) Property mortgaged or pledged to farm credit agencies.—Section 658 of title 18, United States Code, is amended by inserting "or attempts so to remove, dispose of, or convert," before "any property".

(6) Interstate or foreign shipments.—Section 659 of title 18, United States Code, is amended—

(A) in the first and third paragraphs, by inserting "or attempts to embezzle, steal, or so take or carry away," after "carries away,"; and

(B) in the fourth paragraph by inserting "or attempts to embezzle, steal, or so take," before "from any railroad car".

(7) Within special maritime and territorial jurisdiction.—Section 661 of title 18, United States Code, is amended—

(A) by inserting "or attempts so to take and carry away," before "any personal property"; and

(B) by inserting "or attempted to be taken" after "taken" each place it appears.

(8) Theft or embezzlement from employee benefit plans.—Section 664 of title 18, United States Code, is amended by inserting "or attempts to embezzle, steal, or so abstract or convert," before "any of the moneys".

(9) Theft or embezzlement from employment and training funds.—Section 665(a) of title 18, United States Code, is amended—

(A) by inserting ", or attempts to embezzle, so misapply, steal, or obtain by fraud," before "any of the moneys"; and

(B) by inserting "or attempted to be embezzled, misapplied, stolen, or obtained by fraud" after "obtained by fraud".

(10) Theft or bribery concerning programs receiving Federal funds.—Section 666(a)(1)(A) of title 18, United States Code, is amended by inserting "or attempts to embezzle, steal, obtain by fraud, or so convert or misapply," before "property".

(11) False pretenses on high seas.—Section 1025 of title 18, United States Code, is amended—

(A) by inserting "or attempts to obtain" after "obtains"; and

(B) by inserting "or attempted to be obtained" after "obtained".

(12) Embezzlement and theft from Indian tribal organizations.—Section 1163 of title 18, United States Code, is amended by inserting "attempts so to embezzle, steal, convert, or misapply," after "willfully misapplies,".

(13) Theft from group establishments on Indian lands.—Section 1167 (a) and (b) of title 18, United States Code, are each amended by inserting "or attempts so to abstract, purloin, misapply, or take and carry away," before "any money".

(14) Theft by officers and employees of gaming establishments on Indian lands.—Section 1168 (a) and (b) of title 18, United States Code, are each amended by inserting "or attempts so to embezzle, abstract, purloin, misapply, or take and carry away," before "any moneys,".

(15) Theft of property used by the Postal Service.—Section 1707 of title 18, United States Code, is amended by inserting ", or attempts to steal, purloin, or embezzle," before "any property" and by inserting "or attempts to appropriate" after "appropriates".

(16) Theft in receipt of stolen mail matter.—Section 1708 of title 18, United States Code, is amended in the second paragraph by inserting "or attempts to steal, take, or abstract," after "abstracts," and by inserting ", or attempts so to obtain," after "obtains".

(17) Theft of mail matter by officer or employee.—Section 1709 of title 18, United States Code, is amended—

(A) by inserting "or attempts to embezzle" after "embezzles"; and

(B) by inserting ", or attempts to steal, abstract, or remove," after "removes".

(18) Misappropriation of postal funds.—Section 1711 of title 18, United States Code, is amended by inserting "or attempts to loan, use, pledge, hypothecate, or convert to his own use," after "use".

(19) Bank robbery and incidental crimes.—Section 2113(b) of title 18, United States Code, is amended by inserting "or attempts so to take and carry away," before "any property" each place it appears.

(b) Securities Crimes.—

(1) Possession of tools.—Section 477 of title 18, United States Code, is amended by inserting ", or attempts so to sell, give, or deliver," before "any such imprint".

(2) Uttering counterfeit foreign obligations or securities.—Section 479 of title 18, United States Code, is amended by inserting "or attempts to utter or pass," after "passes,".

(3) Minor coins.—Section 490 of title 18, United States Code, is amended by inserting "attempts to pass, utter, or sell," before "or possesses".

(4) Securities of States and private entities.—Section 513(a) of title 18, United States Code, is amended by inserting "or attempts to utter," after "utters".

SEC. 2355. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking "so".

SEC. 2356. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking "or" before "any building";

(2) by inserting "or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service," after "used in whole or in part as a post office,"; and

(3) by inserting "or in such box or machine," after "so used".

SEC. 2357. EXPANSION OF FEDERAL THEFT OFFENSES TO COVER THEFT OF VESSELS.

(a) Vessel Defined.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(b) Transportation of Stolen Vehicles; Sale or Receipt of Stolen Vehicles.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

Subtitle E—Improvements to Federal Criminal Law

PART 1—SENTENCING IMPROVEMENTS

SEC. 2411. APPLICATION OF SENTENCING GUIDELINES TO ALL PERTINENT STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of any Federal statute".

SEC. 2412. DOUBLING MAXIMUM PENALTY FOR VOLUNTARY MANSLAUGHTER.

Section 1112(b) of title 18, United States Code, is amended by striking "ten years" and inserting "20 years".

SEC. 2413. AUTHORIZATION OF IMPOSITION OF BOTH A FINE AND IMPRISONMENT RATHER THAN ONLY EITHER PENALTY IN CERTAIN OFFENSES.

(a) Power of Court.—Section 401 of title 18, United States Code, is amended by inserting "or both," after "fine or imprisonment,".

(b) Destruction of Letter Boxes or Mail.—Section 1705 of title 18, United States Code, is amended by inserting ", or both" after "years".

(c) Other Sections.—Sections 1916, 2234, and 2235 of title 18, United States Code, are each amended by inserting ", or both" after "year".

SEC. 2414. ADDITION OF SUPERVISED RELEASE VIOLATION AS PREDICATES FOR CERTAIN OFFENSES.

(a) In General.—Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b)(2) are each amended by striking "violation of conditions of probation, parole or release pending judicial proceedings" and inserting "violation of conditions of probation, supervised release, parole, or release pending judicial proceedings".

(b) Release or Detention of Defendant Pending Trial.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1)(A)(iii), by inserting ", supervised release," after "probation"; and

(2) in subsection (g)(3)(B), by inserting "or supervised release" after "probation".

SEC. 2415. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting "(and may impose a sentence of probation or supervised release with or without conditions)" after "may reduce the term of imprisonment".

SEC. 2416. ELIMINATION OF PROOF OF VALUE REQUIREMENT FOR FELONY THEFT OR CONVERSION OF GRAND JURY MATERIAL.

Section 641 of title 18, United States Code, is amended by striking "but if the value of such property does not exceed the sum of $1,000, he" and inserting "but if the value of such property, other than property constituting 'matters occurring before the grand jury' within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure, does not exceed the sum of $1,000,".

SEC. 2417. INCREASED MAXIMUM CORPORATE PENALTY FOR ANTITRUST VIOLATIONS.

(a) Restraint of Trade Among the States.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by striking "$10,000,000" and inserting "$100,000,000".

(b) Monopolizing Trade.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by striking "$10,000,000" and inserting "$100,000,000".

(c) Other Restraints.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by striking "$10,000,000" and inserting "$100,000,000".

SEC. 2418. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR COUNTERFEIT BEARER OBLIGATIONS OF THE UNITED STATES.

(a) In General.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and if appropriate, amend the Federal sentencing guidelines generally to enhance the penalty for offenses involving counterfeit bearer obligation of the United States.

(b) Factors for Consideration.—In carrying out this section, the Commission shall consider, with respect to the offenses described in subsection (a)—

(1) whether the base offense level in the current guidelines is adequate to address the serious nature of these offenses and the public interest in protecting the integrity of United States currency, especially in light of recent technological advancements in counterfeiting methods that decrease the cost and increase the availability of such counterfeiting methods to criminals;

(2) whether the current specific offense characteristic applicable to manufacturing counterfeit obligations fails to take into account the range of offenses in this category; and

(3) any other factor that the Commission considers to be appropriate.

(c) Emergency Authority to Sentencing Commission.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as is practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

PART 2—ADDITIONAL IMPROVEMENTS TO FEDERAL CRIMINAL LAW

SEC. 2421. VIOLENCE DIRECTED AT DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting "or 1363" after "section 661".

SEC. 2422. CORRECTIONS TO AMBER HAGERMAN CHILD PROTECTION ACT.

(a) AGGRAVATED SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(b) SEXUAL ABUSE OF A MINOR OR WARD.—Section 2243(a) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "Except as provided in section 2241(c) of this title, whoever"; and

(2) by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(c) DEFINITIONS.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the period and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.".

SEC. 2423. ELIMINATION OF "BODILY HARM" ELEMENT IN ASSAULT WITH A DANGEROUS WEAPON OFFENSE.

Section 113(a)(3) of title 18, United States Code, is amended by striking "with intent to do bodily harm, and".

SEC. 2424. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting "or any part thereof" after "as to any one or more counts".

SEC. 2425. AUTHORITY FOR INJUNCTION AGAINST DISPOSAL OF ILL-GOTTEN GAINS FROM VIOLATIONS OF FRAUD STATUTES.

Section 1345(a)(2) of title 18, United States Code, is amended by inserting "violation of this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title or of a" after "as a result of a".

SEC. 2426. EXPANSION OF INTERSTATE TRAVEL FRAUD STATUTE TO COVER INTERSTATE TRAVEL BY PERPETRATOR.

Section 2314 of title 18, United States Code, is amended in the second undesignated paragraph—

(1) by inserting "travels in," before "transports or causes to be transported, or induce any person or persons to travel in"; and

(2) by inserting a comma after "transports".

SEC. 2427. CLARIFICATION OF SCOPE OF UNAUTHORIZED SELLING OF MILITARY MEDALS OR DECORATIONS.

Section 704(b)(2) of title 18, United States Code, is amended by striking "with respect to a Congressional Medal of Honor".

SEC. 2428. AMENDMENT TO SECTION 669 TO CONFORM TO PUBLIC LAW 104-294.

Section 669 of title 18, United States Code, is amended by striking "$100" and inserting "$1,000".

SEC. 2429. EXPANSION OF JURISDICTION OVER CHILD BUYING AND SELLING OFFENSES.

Section 2251A(c)(3) of title 18, United States Code, is amended by striking "in any territory or possession of the United States" and inserting "in the special maritime and territorial jurisdiction of the United States or in any commonwealth, territory, or possession of the United States".

SEC. 2430. LIMITS ON DISCLOSURE OF WIRETAP ORDERS.

Section 2518(9) of title 18, United States Code, is amended by inserting "aggrieved" before the word "party" wherever it appears.

SEC. 2431. PRISON CREDIT AND AGING PRISONER REFORM.

(a) PRISON CREDITS IN GENERAL.—Section 3585(b) of title 18, United States Code, is amended to read as follows:

"(b) CREDIT FOR PRIOR CUSTODY.—A defendant shall be given credit toward the service of a term of imprisonment for any time spent in official detention prior to the date the sentence commences only if that official detention is as a result of the offense for which the sentence was imposed and has not been—

"(1) credited toward another sentence; or

"(2) applied in any manner to an undischarged concurrent term of imprisonment.".

(b) GOOD TIME CREDITS FOR FOREIGN PRISONERS TRANSFERRED TO THE UNITED STATES.—Section 4105(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "by the Bureau of Prisons and deducted from the sentence imposed by the foreign court" after "These credits shall be combined";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) If the term of imprisonment under section 4106A(b)(1)(A) is less than or equal to the total sentence imposed and certified by the foreign authorities on the basis of considerations other than the limitation arising under section 4106A(b)(1)(C), the Bureau of Prisons shall calculate credits for satisfactory behavior at the rate provided in section 3624(b) and computed on the basis of the term of imprisonment under section 4106A(b)(1)(A). If the credits calculated under this paragraph produce a release date that is earlier than the release date otherwise determined under this section, the release date calculated under this paragraph shall apply to the transferred offender.

"(4) Upon release from imprisonment, the offender shall commence service of any period of supervised release established pursuant to section 4106A(b)(1)(A), and the balance of the foreign sentence remaining at the time of release from prison shall not be reduced by credits for satisfactory behavior, or labor, or any other credit that has been applied to establish the offender's release date.".

(c) CONFORMING AMENDMENT.—Section 4106A(b)(1)(A) of title 18, United States Code, is amended by striking "release date" and inserting "term of imprisonment".

(d) EXPANSION OF PROVISION ALLOWING FOR RELEASE OF NONDANGEROUS OFFENDERS WHO HAVE SERVED AT LEAST 30 YEARS IN PRISON AND ARE AT LEAST 70 YEARS OLD.—Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) by inserting "(and may impose a sentence of probation or supervised release with or without conditions)" after "may reduce the term of imprisonment";

(2) in subparagraph (ii), by inserting "(other than an offense or offenses under chapter 109A of this title)" after "the offense or offenses"; and

(3) in subparagraph (ii), by striking ", pursuant to a sentence imposed under section 3559(c),".

SEC. 2432. MIRANDA REAFFIRMATION.

Section 3501 of title 18, United States Code, is amended—

(1) by striking subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

TITLE III—PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A—Crime Victims Assistance

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Crime Victims Assistance Act of 2001".

PART 1—VICTIM RIGHTS

SEC. 3111. RIGHT TO NOTICE AND TO BE HEARD CONCERNING DETENTION.

(a) IN GENERAL.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (g)—

(A) in paragraph (3), by striking "and" at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

"(4) the views of the victim; and"; and

(2) by adding at the end the following:

"(k) NOTICE AND RIGHT TO BE HEARD.—

"(1) IN GENERAL.—Subject to paragraph (2), with respect to each hearing under subsection (f)—

"(A) before the hearing, the Government shall make reasonable efforts to notify the victim of—

"(i) the date and time of the hearing; and

"(ii) the right of the victim to be heard on the issue of detention; and

"(B) at the hearing, the court shall inquire of the Government whether the victim wishes to be heard on the issue of detention and, if so, shall afford the victim such an opportunity.

"(2) EXCEPTIONS.—The requirements of paragraph (1) shall not apply to any case in which the Government or the court reasonably believes—

"(A) available evidence raises a significant expectation of physical violence or other retaliation by the victim against the defendant; or

"(B) identification of the defendant by the victim is a fact in dispute, and no means of verification has been attempted.".

(b) VICTIM DEFINED.—Section 3156(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'victim'—

"(A) means an individual harmed as a result of a commission of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault; and

"(B) includes—

"(i) in the case of a victim who is less than 18 years of age or incompetent, the parent or legal guardian of the victim;

"(ii) in the case of a victim who is deceased or incapacitated, 1 or more family members designated by the court; and

"(iii) any other person appointed by the court to represent the victim.".

SEC. 3112. RIGHT TO A SPEEDY TRIAL.

Section 3161(h)(8)(B) of title 18, United States Code, is amended by adding at the end the following:

"(v) The interests of the victim (or the family of a victim who is deceased or incapacitated) in the prompt and appropriate disposition of the case, free from unreasonable delay.".

SEC. 3113. RIGHT TO NOTICE AND TO BE HEARD CONCERNING PLEA.

(a) In General.—Rule 11 of the Federal Rules of Criminal Procedure is amended—

(1) by redesignating subdivision (h) as subdivision (i); and

(2) by inserting after subdivision (g) the following:

"(h) Rights of Victims.—

"(1) Victim defined.—In this subdivision, the term 'victim' means an individual harmed as a result of a commission of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, and also includes—

"(A) in the case of a victim who is less than 18 years of age or incompetent, the parent or legal guardian of the victim;

"(B) in the case of a victim who is deceased or incapacitated, 1 or more family members designated by the court; and

"(C) any other person appointed by the court to represent the victim.

"(2) Notice.—The Government, before a proceeding at which a plea of guilty or nolo contendere is entered, shall make reasonable efforts to notify the victim of—

"(A) the date and time of the proceeding;

"(B) the elements of the proposed plea or plea agreement;

"(C) the right of the victim to attend the proceeding; and

"(D) the right of the victim to address the court personally, through counsel, or in writing on the issue of the proposed plea or plea agreement.

"(3) Opportunity to be heard.—The court, before accepting a plea of guilty or nolo contendere, shall afford the victim an opportunity to be heard, personally, through counsel, or in writing, on the proposed plea or plea agreement.

"(4) Exceptions.—Notwithstanding any other provision of this subdivision—

"(A) in any case in which a victim is a defendant in the same or a related case, or in which the Government certifies to the court under seal that affording such victim any right provided under this rule will jeopardize an ongoing investigation, the victim shall not have such right;

"(B) a victim who, at the time of a proceeding at which a plea of guilty or nolo contendere is entered, is incarcerated in any Federal, State, or local correctional or detention facility, shall not have the right to appear in person, but, subject to subparagraph (A), shall be afforded a reasonable opportunity to present views or participate by alternate means; and

"(C) in any case involving more than 15 victims, the court, after consultation with the Government and the victims, may appoint a number of victims to represent the interests of the victims, except that all victims shall retain the right to submit a written statement under paragraph (2).".

(b) Effective Date.—

(1) In general.—The amendments made by subsection (a) shall become effective as provided in paragraph (3).

(2) Action by judicial conference.—

(A) Recommendations.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to be heard on the issue of whether or not the court should accept a plea of guilty or nolo contendere.

(B) Inapplicability of other law.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) Congressional action.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (a), then the amendments made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) Application.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3114. ENHANCED PARTICIPATORY RIGHTS AT TRIAL.

(a) Amendment to Victim Rights Clarification Act.—Section 3510 of title 18, United States Code, is amended by adding at the end the following:

"(d) Application to Televised Proceedings.—This section applies to any victim viewing proceedings pursuant to section 235 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608), or any rule issued thereunder.".

(b) Amendment to Victims' Rights and Restitution Act of 1990.—Section 502(b) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606(b)) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim at trial would be materially affected if the victim heard the testimony of other witnesses."; and

(2) in paragraph (5), by striking "attorney" and inserting "the attorney".

SEC. 3115. RIGHT TO NOTICE AND TO BE HEARD CONCERNING SENTENCE.

(a) Enhanced Notice and Consideration of Victims' Views.—

(1) Imposition of sentence.—Section 3553(a) of title 18, United States Code, is amended—

(A) in paragraph (6), by striking "and" at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

"(7) the views of any victims of the offense, if such views are presented to the court; and".

(2) Issuance and enforcement of order of restitution.—Section 3664(d)(2)(A) of title 18, United States Code is amended—

(A) by redesignating clauses (v) and (vi) as clauses (vii) and (viii) respectively; and

(B) by inserting after clause (iv) the following:

"(v) the opportunity of the victim to attend the sentencing hearing;

"(vi) the opportunity of the victim, personally or through counsel, to make a statement or present any information to the court in relation to the sentence;".

(b) Enhanced Participatory Rights.—Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (b)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(B) by inserting after paragraph (3) the following:

"(4) Notice to victim.—The probation officer must, before submitting the presentence report, provide notice to the victim as provided by section 3664(d)(2)(A) of title 18, United States Code."; and

(C) in paragraph (5), as redesignated—

(i) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(ii) by inserting after subparagraph (D) the following:

"(E) any victim impact statement submitted by a victim to the probation officer;";

(2) in subdivision (c)(3), by striking subparagraph (E) and inserting the following:

"(E) afford the victim, personally or through counsel, an opportunity to make a statement or present any information in relation to the sentence, including information concerning the extent and scope of the victim's injury or loss, and the impact of the offense on the victim or the family of the victim, except that the court may reasonably limit the number of victims permitted to address the court if the number is so large that affording each victim such right would result in cumulative victim impact information or would unreasonably prolong the sentencing process."; and

(3) in subdivision (f)(1)—

(A) by striking "the right of allocution under subdivision (c)(3)(E)" and inserting "the notice and participatory rights under subdivisions (b)(4) and (c)(3)(E)"; and

(B) by striking "if such person or persons are present at the sentencing hearing, regardless of whether the victim is present;".

(c) Effective Date.—

(1) In general.—The amendments made by subsection (b) shall become effective as provided in paragraph (3).

(2) Action by judicial conference.—

(A) Recommendations.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to participate during the presentencing and sentencing phase of the criminal process.

(B) Inapplicability of other law.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) Congressional action.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendments made by subsection (b), then the amendments made by subsection (b) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendments made by subsection (b), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendments made by subsection (b) shall become effective 360 days after the date of enactment of this Act.

(4) Application.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3116. RIGHT TO NOTICE AND TO BE HEARD CONCERNING SENTENCE ADJUSTMENT.

(a) In General.—Rule 32.1(a) of the Federal Rules of Criminal Procedure is amended by adding at the end the following:

"(3) Notice to victim.—At any hearing pursuant to paragraph (2) involving 1 or more persons who have been convicted of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault, the Government shall make reasonable efforts to notify the victim of the offense (and the victim of any new charges giving rise to the hearing), of—

"(A) the date and time of the hearing; and

"(B) the right of the victim to attend the hearing and to address the court regarding whether the terms or conditions of probation or supervised release should be modified.".

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall become effective as provided in paragraph (3).

(2) Action by judicial conference.—

(A) Recommendations.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall submit to Congress a report containing recommendations for amending the Federal Rules of Criminal Procedure to ensure that reasonable efforts are made to notify victims of violent offenses of any revocation hearing held pursuant to Rule 32.1(a)(2), and to afford such victims an opportunity to participate.

(B) Inapplicability of other law.—Chapter 131 of title 28, United States Code, does not apply to any recommendation made by the Judicial Conference of the United States under this paragraph.

(3) Congressional action.—Except as otherwise provided by law, if the Judicial Conference of the United States—

(A) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are the same as the amendment made by subsection (a), then the amendment made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2);

(B) submits a report in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the amendment made by subsection (a), the recommendations made pursuant to paragraph (2) shall become effective 180 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and

(C) fails to comply with paragraph (2), the amendment made by subsection (a) shall become effective 360 days after the date of enactment of this Act.

(4) Application.—Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment.

SEC. 3117. RIGHT TO NOTICE OF RELEASE OR ESCAPE.

(a) In General.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"§ 3627. Notice to victims of release or escape of defendants

"(a) In General.—The Bureau of Prisons shall ensure that reasonable notice is provided to each victim of an offense for which a person is in custody pursuant to this subchapter—

"(1) not less than 30 days before the release of such person under section 3624, assignment of such person to pre-release custody under section 3624(c), or transfer of such person under section 3623;

"(2) not less than 10 days before the temporary release of such person under section 3622;

"(3) not later than 12 hours after discovery that such person has escaped;

"(4) not later than 12 hours after the return to custody of such person after an escape; and

"(5) at such other times as may be reasonable before any other form of release of such person as may occur.

"(b) Applicability.—This section applies to any escape, work release, furlough, or any other form of release from a psychiatric institution or other facility that provides mental or other health services to persons in the custody of the Bureau of Prisons.

"(c) Victim Contact Information.—It shall be the responsibility of a victim to notify the Bureau of Prisons, by means of a form to be provided by the Attorney General, of any change in the mailing address of the victim, or other means of contacting the victim, while the defendant is in the custody of the Bureau of Prisons. The Bureau of Prisons shall ensure the confidentiality of any information relating to a victim.".

(b) Technical and Conforming Amendment.—The analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3627. Notice to victims of release or escape of defendants.".

SEC. 3118. RIGHT TO NOTICE AND TO BE HEARD CONCERNING EXECUTIVE CLEMENCY.

(a) Notification.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding after section 3627, as added by section 3117, the following:

"§ 3628. Notice to victims concerning grant of executive clemency

"(a) Definitions.—In this section—

"(1) the term 'executive clemency'—

"(A) means any exercise by the President of the power to grant reprieves and pardons under clause 1 of section 2 of article II of the Constitution of the United States; and

"(B) includes any pardon, reprieve, commutation of sentence, or remission of fine; and

"(2) the term 'victim' has the same meaning given that term in section 503(e) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)).

"(b) Notice of Grant of Executive Clemency.—

"(1) If a petition for executive clemency is granted, the Attorney General shall make reasonable efforts to notify any victim of any offense that is the subject of the grant of executive clemency that such grant has been made as soon as practicable after that grant is made.

"(2) If a grant of executive clemency will result in the release of any person from custody, notice under paragraph (1) shall be prior to that release from custody, if practicable.".

(b) Technical and Conforming Amendment.—The analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3628. Notice to victims concerning grant of executive clemency.".

(c) Reporting Requirements.—The Attorney General shall submit biannually to the Committees on the Judiciary of the House of Representatives and the Senate a report on executive clemency matters or cases delegated for review or investigation to the Attorney General by the President, including for each year—

(1) the number of petitions so delegated;

(2) the number of reports submitted to the President;

(3) the number of petitions for executive clemency granted and the number denied;

(4) the name of each person whose petition for executive clemency was granted or denied and the offenses of conviction of that person for which executive clemency was granted or denied; and

(5) with respect to any person granted executive clemency, the date that any victim of an offense that was the subject of that grant of executive clemency was notified, pursuant to Department of Justice regulations, of a petition for executive clemency, and whether such victim submitted a statement concerning the petition.

(d) Sense of Congress Concerning the Right of Victims To Notice and To Be Heard Concerning Executive Clemency.—It is the sense of Congress that—

(1) victims of a crime should be notified about any petition for executive clemency filed by the perpetrators of that crime and provided an opportunity to submit a statement concerning the petition to the President; and

(2) the Attorney General should promulgate regulations or internal guidelines to ensure that such notification and opportunity to submit a statement are provided.

SEC. 3119. REMEDIES FOR NONCOMPLIANCE.

(a) General Limitation.—Any failure to comply with any amendment made by this part shall not give rise to a claim for damages, or any other action against the United States, or any employee of the United States, any court official or officer of the court, or an entity contracting with the United States, or any action seeking a rehearing or other reconsideration of action taken in connection with a defendant.

(b) Regulations To Ensure Compliance.—

(1) In general.—Notwithstanding subsection (a), not later than 1 year after the date of enactment of this Act, the Attorney

General of the United States and the Chairman of the United States Parole Commission shall promulgate regulations to implement and enforce the amendments made by this title.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice (including employees of the United States Parole Commission) who willfully or repeatedly violate the amendments made by this title, or willfully or repeatedly refuse or fail to comply with provisions of Federal law pertaining to the treatment of victims of crime;

(B) include an administrative procedure through which parties can file formal complaints with the Department of Justice alleging violations of the amendments made by this title;

(C) provide that a complainant is prohibited from recovering monetary damages against the United States, or any employee of the United States, either in his official or personal capacity; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and there shall be no judicial review of the final decision of the Attorney General by a complainant.

PART 2—VICTIM ASSISTANCE INITIATIVES

SEC. 3121. PILOT PROGRAMS TO ESTABLISH OMBUDSMAN PROGRAMS FOR CRIME VICTIMS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Victims of Crime.

(2) OFFICE.—The term "Office" means the Office for Victims of Crime.

(3) QUALIFIED PRIVATE ENTITY.—The term "qualified private entity" means a private entity that meets such requirements as the Attorney General, acting through the Director, may establish.

(4) QUALIFIED UNIT OF STATE OR LOCAL GOVERNMENT.—The term "local government" means a unit of a State or local government, including a State court, that meets such requirements as the Attorney General, acting through the Director, may establish.

(5) VOICE CENTERS.—The term "VOICE Centers" means the Victim Ombudsman Information Centers established under the program under subsection (b).

(b) PILOT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Attorney General, acting through the Director, shall establish and carry out a program to provide for pilot programs to establish and operate Victim Ombudsman Information Centers in each of the following States:

(A) Iowa.

(B) Massachusetts.

(C) Maryland.

(D) Vermont.

(E) Virginia.

(F) Washington.

(G) Wisconsin.

(2) AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, acting through the Director, shall enter into an agreement with a qualified private entity or unit of State or local government to conduct a pilot program referred to in paragraph (1). Under the agreement, the Attorney General, acting through the Director, shall provide for a grant to assist the qualified private entity or unit of State or local government in carrying out the pilot program.

(B) CONTENTS OF AGREEMENT.—The agreement referred to in subparagraph (A) shall specify that—

(i) the VOICE Center shall be established in accordance with this section; and

(ii) except with respect to meeting applicable requirements of this section concerning carrying out the duties of a VOICE Center under this section (including the applicable reporting duties under subsection (c) and the terms of the agreement) each VOICE Center shall operate independently of the Office.

(C) NO AUTHORITY OVER DAILY OPERATIONS.—The Office shall have no supervisory or decisionmaking authority over the day-to-day operations of a VOICE Center.

(c) OBJECTIVES.—

(1) MISSION.—The mission of each VOICE Center established under a pilot program under this section shall be to assist a victim of a Federal or State crime to ensure that the victim—

(A) is fully apprised of the rights of that victim under applicable Federal or State law; and

(B) is provided the opportunity to participate in the criminal justice process to the fullest extent of the law.

(2) DUTIES.—The duties of a VOICE Center shall include—

(A) providing information to victims of Federal or State crime regarding the right of those victims to participate in the criminal justice process (including information concerning any right that exists under applicable Federal or State law);

(B) identifying and responding to situations in which the rights of victims of crime under applicable Federal or State law may have been violated;

(C) attempting to facilitate compliance with Federal or State law referred to in subparagraph (B);

(D) educating police, prosecutors, Federal and State judges, officers of the court, and employees of jails and prisons concerning the rights of victims under applicable Federal or State law; and

(E) taking measures that are necessary to ensure that victims of crime are treated with fairness, dignity, and compassion throughout the criminal justice process.

(d) OVERSIGHT.—

(1) TECHNICAL ASSISTANCE.—The Office may provide technical assistance to each VOICE Center.

(2) ANNUAL REPORT.—Each qualified private entity or qualified unit of State or local government that carries out a pilot program to establish and operate a VOICE Center under this section shall prepare and submit to the Director, not later than 1 year after the VOICE Center is established, and annually thereafter, a report that—

(A) describes in detail the activities of the VOICE Center during the preceding year; and

(B) outlines a strategic plan for the year following the year covered under subparagraph (A).

(e) REVIEW OF PROGRAM EFFECTIVENESS.—

(1) GAO STUDY.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Comptroller General of the United States shall conduct a review of each pilot program carried out under this section to determine the effectiveness of the VOICE Center that is the subject of the pilot program in carrying out the mission and duties described in subsection (c).

(2) OTHER STUDIES.—Not later than 2 years after the date on which each VOICE Center established under a pilot program under this section is fully operational, the Attorney General, acting through the Director, shall enter into an agreement with 1 or more private entities that meet such requirements that the Attorney General, acting through the Director, may establish, to study the effectiveness of each VOICE Center established by a pilot program under this section in carrying out the mission and duties described in subsection (c).

(f) TERMINATION DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a pilot program established under this section shall terminate on the date that is 4 years after the date of enactment of this Act.

(2) RENEWAL.—If the Attorney General determines that any of the pilot programs established under this section should be renewed for an additional period, the Attorney General may renew that pilot program for a period not to exceed 2 years.

(g) FUNDING.—Notwithstanding any other provision of law, an aggregate amount not to exceed $5,000,000 of the amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act"), may be used by the Director to make grants under subsection (b).

SEC. 3122. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) CRIME VICTIMS FUND.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(5) any gifts, bequests, or donations from private entities or individuals."; and

(2) in subsection (d)—

(A) in paragraph (4)—

(i) in subparagraph (A), by striking "48.5" and inserting "47.5";

(ii) in subparagraph (B), by striking "48.5" and inserting "47.5"; and

(iii) in subparagraph (C), by striking "3" and inserting "5"; and

(B) in paragraph (5), by adding at the end the following:

"(C) Any State that receives supplemental funding to respond to incidents or terrorism or mass violence under this section shall be required to return to the Crime Victims Fund for deposit in the reserve fund, amounts subrogated to the State as a result of third-party payments to victims.".

(b) CRIME VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended—

(1) in subsection (a)—

(A) in each of paragraphs (1) and (2), by striking "40" and inserting "60"; and

(B) in paragraph (3)—

(i) by striking "5" and inserting "10"; and

(ii) by inserting "and evaluation" after "administration"; and

(2) in subsection (b)—

(A) in paragraph (7), by inserting "because the identity of the offender was not determined beyond a reasonable doubt in a criminal trial, because criminal charges were not brought against the offender, or" after "deny compensation to any victim";

(B) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(C) by inserting after paragraph (7) the following:

"(8) such program does not discriminate against victims because they oppose the death penalty or disagree with the way the State is prosecuting the criminal case.".

(c) CRIME VICTIM ASSISTANCE.—Section 1404 of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended—

(1) in subsection (b)(3), by striking "5" and inserting "10";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "or enter into cooperative agreements" after "make grants";

(ii) by striking subparagraph (A) and inserting the following:

"(A) for demonstration projects, evaluation, training, and technical assistance services to eligible organizations;";

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(C) training and technical assistance that address the significance of and effective delivery strategies for providing long-term psychological care."; and

(B) in paragraph (3)—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(E) use funds made available to the Director under this subsection—

"(i) for fellowships and clinical internships; and

"(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects."; and

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) the term 'State' includes—

"(A) the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other territory or possession of the United States; and

"(B) for purposes of a subgrant under subsection (a)(1) or a grant or cooperative agreement under subsection (c)(1), the United States Virgin Islands and any agency of the Government of the District of Columbia or the Federal Government performing law enforcement functions in and on behalf of the District of Columbia.";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking "and" at the end; and

(ii) by adding at the end the following:

"(E) public awareness and education and crime prevention activities that promote, and are conducted in conjunction with, the provision of victim assistance; and

"(F) for purposes of an award under subsection (c)(1)(A), preparation, publication, and distribution of informational materials and resources for victims of crime and crime victims organizations.";

(C) by striking paragraph (4) and inserting the following:

"(4) the term 'crisis intervention services' means counseling and emotional support including mental health counseling, provided as a result of crisis situations for individuals, couples, or family members following and related to the occurrence of crime;";

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(6) for purposes of an award under subsection (c)(1), the term 'eligible organization' includes any—

"(A) national or State organization with a commitment to developing, implementing, evaluating, or enforcing victims' rights and the delivery of services;

"(B) State agency or unit of local government;

"(C) State court;

"(D) tribal organization;

"(E) organization—

"(i) described in section 501(c) of the Internal Revenue Code of 1986; and

"(ii) exempt from taxation under section 501(a) of such Code; or

"(F) other entity that the Director determines to be appropriate.".

SEC. 3123. INCREASED TRAINING FOR LAW ENFORCEMENT OFFICERS AND COURT PERSONNEL TO RESPOND TO THE NEEDS OF CRIME VICTIMS.

Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act") may be used by the Office for Victims of Crime to make grants to States, State courts, units of local government, and qualified private entities, to provide training and information to prosecutors, judges, law enforcement officers, probation officers, and other officers and employees of Federal and State courts to assist them in responding effectively to the needs of victims of crime.

SEC. 3124. INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

(a) IN GENERAL.—Subtitle A of title XXIII of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2077) is amended by adding at the end the following:

"SEC. 230103. STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office for Victims of Crime of the Department of Justice such sums as may be necessary for grants to Federal, State, and local prosecutors' offices and law enforcement agencies, Federal and State courts, county jails, Federal and State correctional institutions, and qualified private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue.

"(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section.".

(b) VIOLENT CRIME REDUCTION TRUST FUND.—Section 310004(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14214(d)) is amended—

(1) in the first paragraph designated as paragraph (15) (relating to the definition of the term "Federal law enforcement program"), by striking "and" at the end;

(2) in the first paragraph designated as paragraph (16) (relating to the definition of the term "Federal law enforcement program"), by striking the period at the end and inserting "; and"; and

(3) by inserting after the first paragraph designated as paragraph (16) (relating to the definition of the term "Federal law enforcement program") the following:

"(17) section 230103.".

PART 3—VICTIM-OFFENDER PROGRAMS: "RESTORATIVE JUSTICE"

SEC. 3131. PILOT PROGRAM AND STUDY ON EFFECTIVENESS OF RESTORATIVE JUSTICE APPROACH ON BEHALF OF VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the "False Claims Act") and amounts available in the Crime Victims Fund (42 U.S.C. 10601 et seq.), may be used by the Office of Justice Programs of the Department of Justice to make grants to States, State courts, units of local government, tribal governments, and qualified private entities for the establishment of pilot programs that implement balanced and restorative justice models in juvenile court settings.

(b) STUDY.—The Office of Justice Programs of the Department of Justice shall conduct a study and report to Congress not later than 2 years after the date of enactment of this Act on the effectiveness of restorative justice models utilized as a part of grants made pursuant to this section.

(c) CRITERIA.—The study shall—

(1) evaluate the success of models already implemented in the States;

(2) examine such factors as community restoration, victim restoration, offender accountability, offender training, and treatment; and

(3) contain recommendations of best practices.

(d) VOLUNTARY PROGRAMS.—Any program funded under this section shall be fully voluntary by both the victim and the offender, once the prosecuting agency has determined that the case is appropriate.

(e) DEFINITION OF BALANCED AND RESTORATIVE JUSTICE MODEL.—In this section, the term "balanced and restorative justice model" means programs served by the criminal justice system that utilize alternatives to incarceration where the purposes are to—

(1) protect the community served by the system and agencies;

(2) ensure accountability of the offender and the system;

(3) obligate the offender to pay restitution to the victim and/or the community; and

(4) equip juvenile offenders with the skills needed to live responsibly and productively.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Violence Against Women Act Enhancements

SEC. 3201. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.

(a) STATE SHELTER GRANTS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking "populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" and inserting "populations underserved because of race, ethnicity, age, disability, religion, alienage status, geographic location (including rural isolation), or language barriers, and any other populations determined by the Secretary to be underserved".

(b) SECRETARIAL RESPONSIBILITIES.—Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking "an employee" and inserting "1 or more employees";

(2) by striking "of this title." and inserting "of this title, including carrying out evaluation and monitoring under this title."; and

(3) by striking "The individual" and inserting "Any individual".

(c) RESOURCE CENTERS.—Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended—

(1) in subsection (a)(2), by inserting "on providing information, training, and technical assistance" after "focusing"; and

(2) in subsection (c), by adding at the end the following:

"(8) Providing technical assistance and training to local entities carrying out domestic violence programs that provide shelter, related assistance, or transitional housing assistance.

"(9) Improving access to services, information, and training, concerning family violence, within Indian tribes and Indian tribal agencies.

"(10) Providing technical assistance and training to appropriate entities to improve access to services, information, and training concerning family violence occurring in underserved populations.".

(d) CONFORMING AMENDMENT.—Section 309(6) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(6)) is amended by striking "the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the combined Freely Associated States".

(e) REAUTHORIZATION.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title **$175,000,000** for each of fiscal years 2002 through 2005.

"(2) SOURCE OF FUNDS.—Amounts made available under paragraph (1) may be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211).";

(2) in subsection (b), by striking "under subsection 303(a)" and inserting "under section 303(a)";

(3) in subsection (c), by inserting "not more than the lesser of **$7,500,000** or" before "5"; and

(4) by adding at the end the following:

"(f) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amounts appropriated under subsection (a) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this title.".

(f) STATE DOMESTIC VIOLENCE COALITION GRANT ACTIVITIES.—Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) in subsection (a)(4), by striking "underserved racial, ethnic or language-minority populations" and inserting "underserved populations described in section 303(a)(2)(C)"; and

(2) in subsection (c), by striking "the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States".

SEC. 3202. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents—

"(1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

"(2) for whom emergency shelter services are unavailable or insufficient.

"(b) ASSISTANCE DESCRIBED.—Assistance provided under this section may include—

"(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

"(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

"(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

"(d) REPORTS.—

"(1) REPORT TO SECRETARY.—

"(A) IN GENERAL.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

"(B) CONTENTS.—Each report shall include information on—

"(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

"(ii) the number of months each individual or dependent received the assistance;

"(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

"(iv) the type of support services provided to each individual or dependent assisted under this section.

"(2) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund established under section 310001 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

"(1) **$25,000,000** for each of fiscal years 2002 through 2003; and

"(2) **$30,000,000** for each of fiscal years 2004 and 2005.".

SEC. 3203. FAMILY UNITY DEMONSTRATION PROJECT.

Section 31904(a) of the Family Unity Demonstration Project Act (42 U.S.C. 13883(a)) is amended—

(1) by striking "1997" and inserting "2002";

(2) by striking "1998" and inserting "2003";

(3) by striking "1999" and inserting "2004"; and

(4) by striking "2000" and inserting "2005".

Subtitle C—Senior Safety

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Seniors Safety Act of 2001".

SEC. 3302. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The number of older Americans is growing both numerically and proportionally in the United States. Since 1990, the population of seniors has increased by almost 5,000,000, and is now 20.2 percent of the United States population.

(2) In 1997, 7 percent of victims of serious violent crime were age 50 or older.

(3) In 1997, 17.7 percent of murder victims were age 55 or older.

(4) According to the National Crime Victimization Survey, persons aged 50 and older experienced approximately 673,460 incidents of violent crime, including rape and sexual assaults, robberies and general assaults, during 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of Americans who are 50 years old or older feel afraid to walk alone at night in their own neighborhoods.

(7) Seniors over the age of 50 reportedly account for 37 percent of the estimated **$40,000,000,000** in losses each year due to telemarketing fraud.

(8) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(9) There has not been a comprehensive study of crimes committed against seniors since 1994.

(10) It has been estimated that approximately 43 percent of those turning 65 can expect to spend some time in a long-term care facility, and approximately 20 percent can expect to spend 5 years or longer in a such a facility.

(11) In 1997, approximately **$82,800,000,000** was spent on nursing home care in the United States and over half of this amount was spent by the medicaid and medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated **$100,000,000,000** in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about **$12,600,000,000** in improper medicare benefit payments, due to inadvertent mistake, fraud and abuse, were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain high despite awareness of the problem.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data to measure the extent of crimes committed against seniors and determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors and ensure appropriate restitution.

SEC. 3303. DEFINITIONS.

In this subtitle—

(1) the term "crime" means any criminal offense under Federal or State law;

(2) the term "nursing home" means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)); and

(3) the term "senior" means an individual who is more than 55 years of age.

PART 1—COMBATING CRIMES AGAINST SENIORS

SEC. 3311. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) Directive to the United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as 1 of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) Requirements.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary, as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) Report.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 3312. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) Directive to the United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) Requirements.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) Report.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 3313. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: "If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.".

SEC. 3314. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) In General.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Fraud in relation to retirement arrangements

"(a) Retirement Arrangement Defined.—In this section—

"(1) In general.—The term 'retirement arrangement' means—

"(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

"(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

"(D) fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

"(2) Exception for governmental plan.—Such term does not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))), except as provided in paragraph (1)(D).

"(3) Certain arrangements included.—Such term shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

"(b) Prohibition and Penalties.—Whoever executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Enforcement.—

"(1) In general.—Subject to paragraph (2), the Attorney General may investigate any violation of and otherwise enforce this section.

"(2) Effect on other authority.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.".

(b) Technical Amendment.—Section 24(a)(1) of title 18, United States Code, is amended by inserting "1348," after "1347,".

(c) Conforming Amendment.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Fraud in relation to retirement arrangements.".

SEC. 3315. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) In General.—

(1) Action by attorney general.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1348 of title 18, United States Code, or conspiracy to violate such section 1348; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each violation in the case of a person other than an individual.

(2) No effect on other remedies.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) Exception.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) Determination of Penalty Amount.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.''.

SEC. 3316. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

Section 1954 of title 18, United State Code, is amended to read as follows:

"§1954. Bribery and graft in connection with employee benefit plans

"(a) DEFINITIONS.—In this section—

"(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

"(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

"(3) the term 'applicable person' means a person who is—

"(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

"(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

"(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

"(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

"(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

"(b) BRIBERY AND GRAFT.—Whoever—

"(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

"(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

"(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this subsection;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) EXCEPTIONS.—Nothing in this section may be construed to apply to any—

"(1) payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

"(2) payment to or acceptance in good faith by any employee benefit plan sponsor, or person acting on the sponsor's behalf, of any thing of value relating to the sponsor's decision or action to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate title I of the Employee Retirement Income Security Act of 1974, or any regulation or order promulgated thereunder, or any other provision of law governing the plan.''.

PART 2—PREVENTING TELEMARKETING FRAUD

SEC. 3321. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 3322(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on the number of complaints of telemarketing fraud against particular companies and any record of convictions for telemarketing fraud by particular companies for which a specific request has been made; and

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) CENTRAL LOCATION.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

(3) COMMENCEMENT.—The Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) CREATION OF FRAUD CONVICTION DATABASE.—

(1) REQUIREMENT.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law. The database shall include a description of the type and method of the fraud scheme for which each corporation or company covered by the database was convicted.

(2) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3322. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking "telephone calls'' and inserting "wire communications utilizing a telephone service''.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

"§2328. Blocking or termination of telephone service

"(a) IN GENERAL.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the Attorney General's jurisdiction, that any wire communications facility furnished by such common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

"(b) PROHIBITION ON DAMAGES.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

"(c) RELIEF.—

"(1) IN GENERAL.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

"(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

"(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

"(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (a) to which such action relates.

"(d) DEFINITIONS.—In this section:

"(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

"(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

"(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

"(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

"(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

"(2) WIRE COMMUNICATION.—The term 'wire communication' has the meaning given that term in section 2510(1) of this title.

"(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.".

(2) CONFORMING AMENDMENT.—The analysis for that chapter is amended by adding at the end the following:

"2328. Blocking or termination of telephone service.".

PART 3—PREVENTING HEALTH CARE FRAUD

SEC. 3331. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ", or" and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by inserting after subparagraph (C) the following:

"(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);"; and

(2) in paragraph (2), by inserting "a violation of paragraph (1)(D) or" before "a banking".

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

"(g) CIVIL ACTIONS.—

"(1) IN GENERAL.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

"(2) EXISTENCE OF VIOLATION.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

"(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

"(B) the Federal Rules of Civil Procedure.

"(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

"(h) INJUNCTIVE RELIEF.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.".

(2) CONFORMING AMENDMENT.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting "**AND CIVIL**" after "**CRIMINAL**".

SEC. 3332. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ", or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)))," after "Federal health care offense,"; and

(2) by adding at the end the following:

"(f) PRIVACY PROTECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

"(2) EXCEPTIONS.—A record described in paragraph (1) may be disclosed—

"(A) to an attorney for the government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

"(B) to such government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist an attorney for the government in the performance of the official duty of that attorney to enforce Federal criminal law;

"(C) as directed by a court preliminarily to or in connection with a judicial proceeding; and

"(D) as permitted by a court—

"(i) at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

"(E) at the request of an attorney for the government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

"(3) MANNER OF COURT ORDERED DISCLOSURES.—If a court orders the disclosure of any record described in paragraph (1), the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct and shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record, unless disclosure is required by the nature of the proceedings, in which event the attorney for the government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

"(4) DESTRUCTION OF RECORDS.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic) shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

"(5) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

"(g) PERSONALLY IDENTIFIABLE HEALTH INFORMATION DEFINED.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

"(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

"(2) either—

"(A) identifies an individual; or

"(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.".

SEC. 3333. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking "(other than the health insurance program under chapter 89 of title 5, United States Code)".

SEC. 3334. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) GRAND JURY DISCLOSURE.—Subject to section 3486(f), upon ex parte motion of an attorney for the government showing that such disclosure would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).".

SEC. 3335. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting ", except to the Deputy Attorney General or to an Assistant Attorney General" before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: "Disclosure of information to a person who brings a civil action under section 3730, or such person's counsel, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.".

PART 4—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 3341. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking "in the case of property referred to in subsection (a)(1)(C)" and inserting "in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency";

(2) by striking paragraph (6) and inserting the following:

"(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or"; and

(3) in paragraph (7), by striking "in the case of property referred to in subsection (a)(1)(D)" and inserting "in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for an financial institution".

SEC. 3342. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(r) VICTIM RESTITUTION.—

"(1) SATISFACTION OF ORDER OF RESTITUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

"(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

"(2) RESTORATION OF FORFEITED PROPERTY.—

"(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

"(B) DISTRIBUTION OF PROPERTY.—On motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

"(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

"(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

"(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.".

SEC. 3343. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking "or" at the end;

(B) in paragraph (18), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(19) the commencement or continuation of an action under section 3729 of title 31.".

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.".

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. False claims

"No transfer on account of a debt owed to the United States for violating 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. False claims.".

SEC. 3344. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

"(9) CRIMINAL FORFEITURE.—

"(A) IN GENERAL.—The court, in imposing sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, the term 'retirement offense' means a violation of any of the following provisions of law, if the violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code):

"(i) Section 664, 1001, 1027, 1341, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code.

"(ii) Sections 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).".

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(G) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of a violation of, a criminal conspiracy to violated or solicitation to commit a crime of violence involving a retirement offense (as defined in section 982(a)(9)(B)).".

Subtitle D—Violent Crime Reduction Trust Fund

SEC. 3401. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by striking paragraphs (1) through (5) and inserting the following:

"(1) for fiscal year 2002, $6,169,000,000;

"(2) for fiscal year 2003, $6,316,000,000;

"(3) for fiscal year 2004, $6,458,000,000; and

"(4) for fiscal year 2005, $6,616,000,000.".

(b) DISCRETIONARY LIMITS.—Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

"SEC. 310002. DISCRETIONARY LIMITS.

"For the purposes of allocations made for the discretionary category under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term 'discretionary spending limit' means—

"(1) with respect to fiscal year 2002—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

"(B) for the violent crime reduction category, $6,169,000,000 in new budget authority and $6,020,000,000 in outlays;

"(2) with respect to fiscal year 2003—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

"(B) for the violent crime reduction category, $6,316,000,000 in new budget authority and $6,161,000,000 in outlays;

"(3) with respect to fiscal year 2004—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

"(B) for the violent crime reduction category, $6,459,000,000 in new budget authority and $6,303,000,000 in outlays; and

"(4) with respect to fiscal year 2005—

"(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

"(B) for the violent crime reduction category, $6,616,000 in new budget authority and $6,452,000,000 in outlays;

as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974.".

TITLE IV—BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A—Drug Courts, Drug Treatment, and Alternative Sentencing

PART 1—EXPANSION OF DRUG COURTS

SEC. 4111. REAUTHORIZATION OF DRUG COURTS PROGRAM.

(a) REPEAL.—Section 114(b)(1)(A) of title I of Public Law 104–134 is repealed.

(b) REAUTHORIZATION.—Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $400,000,000 for fiscal year 2002; and

"(H) $400,000,000 for fiscal year 2003.".

SEC. 4112. JUVENILE DRUG COURTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part BB the following:

"PART Z—JUVENILE DRUG COURTS

"SEC. 2976. GRANT AUTHORITY.

"(a) APPROPRIATE DRUG COURT PROGRAMS.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribes to establish programs that—

"(1) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

"(2) integrate administration of other sanctions and services, including—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

"(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support service for each participant who requires such services;

"(E) payment by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; or

"(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

"(b) CONTINUED AVAILABILITY OF GRANT FUNDS.—Amounts made available under this part shall remain available until expended.

"SEC. 2977. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

"The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

"SEC. 2978. DEFINITION.

"In this part, the term 'violent offender' means an individual charged with an offense during the course of which—

"(1) the individual carried, possessed, or used a firearm or dangerous weapon;

"(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

"(3) the individual used force against the person of another.

"SEC. 2979. ADMINISTRATION.

"(a) REGULATORY AUTHORITY.—The Attorney General shall issue any regulations and guidelines necessary to carry out this part.

"(b) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long term strategy and detailed implementation plan;

"(2) explain the inability of the applicant to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, tribal, or local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2980. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2981. FEDERAL SHARE.

"(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2605 for the fiscal year for which the program receives assistance under this part.

"(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

"(c) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

"SEC. 2982. DISTRIBUTION OF FUNDS.

"(a) GEOGRAPHICAL DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) INDIAN TRIBES.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

"SEC. 2983. REPORT.

"A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following receipt of a grant under this part, a report regarding the effectiveness of programs established pursuant to this part.

"SEC. 2984. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

"SEC. 2985. UNAWARDED FUNDS.

"The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

"SEC. 2986. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

"(1) such sums as may be necessary for each of fiscal years 2002 and 2003;

"(2) $50,000,000 for fiscal year 2004; and

"(3) $50,000,000 for fiscal year 2005.".

PART 2—ZERO TOLERANCE DRUG TESTING

SEC. 4121. GRANT AUTHORITY.

The Attorney General may make grants to States and units of local government, State courts, local courts, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that support—

(1) developing and/or implementing comprehensive drug testing policies and practices with regard to criminal justice populations; and

(2) establishing appropriate interventions to illegal drug use for offender populations. Applicants may choose to submit joint proposals with other eligible criminal justice/court agencies for systemic drug testing and intervention programs; in this case, one organization must be designated as the primary applicant.

SEC. 4122. ADMINISTRATION.

(a) CONSULTATION/COORDINATION.—In carrying out section 4121, the Attorney General shall coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

(b) GUIDELINES.—The Attorney General may issue guidelines necessary to carry out section 4121.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under section 4121 shall—

(1) reflect a comprehensive approach that recognizes the importance of collaboration and a continuum of testing, treatment, and other interventions;

(2) include a long-term strategy and detailed implementation plan;

(3) address the applicant's capability to continue the proposed program following the conclusion of Federal support;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with affected agencies and key stakeholders throughout the criminal justice system and that there will be continued coordination throughout the implementation of the program; and

(6) describe the methodology that will be used in evaluating the program.

SEC. 4123. APPLICATIONS.

To request funds under section 4121, interested applicants shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require. Federal funding shall be awarded on a competitive basis based on criteria established by the Attorney General and specified in program guidelines.

SEC. 4124. FEDERAL SHARE.

The Federal share of a grant made under section 4121 may not exceed 75 percent of the total cost of the program described in the application submitted for the fiscal year for which the program receives assistance under section 4121, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-federal share of a grant.

SEC. 4125. GEOGRAPHIC DISTRIBUTION.

The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards under section 4121 is made, with rural and tribal jurisdiction representation.

SEC. 4126. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training in furtherance of the purposes of section 4121.

(b) EVALUATION.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for a rigorous evaluation of the programs that receive support under section 4121.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General or through grants, contracts, or cooperative agreements with other entities.

SEC. 4127. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out sections 4122 through 4126 $75,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.

SEC. 4128. PERMANENT SET-ASIDE FOR RESEARCH AND EVALUATION.

The Attorney General shall reserve not less than 1 percent and no more than 3 percent of the sums appropriated under section 4127 in each fiscal year for research and evaluation of this program.

SEC. 4129. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANT PROGRAMS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or section 20104, a State shall—

"(A) provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights of crime victims; and

"(B) no later than September 1, 2002, have a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive drug tests, consistent with guidelines issued by the Attorney General.

"(2) USE OF FUNDS.—Funds provided under section 20103 or section 20104 of this subtitle may be applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, consistent with guidelines issued by the Attorney General. Further, such funds may be used by the States to pay the costs of providing to the Attorney General a baseline study on their prison drug abuse problem. Such studies shall be consistent with guidelines issued by the Attorney General.

"(3) SYSTEM OF SANCTIONS AND PENALTIES.—Beginning in fiscal year 2002, and thereafter, States receiving funds pursuant to section 20103 or section 20104 of this subtitle shall have a system of sanctions and penalties that address drug trafficking within and into correctional facilities under their jurisdiction. Such systems shall be in accordance with guidelines issued by the Attorney General. Beginning in fiscal year 2002, and each year thereafter, any State that the Attorney General determines not to be in compliance with the provisions of this paragraph shall have the funds it would have otherwise been eligible to receive under section 20103 or section 20104 reduced by 10 percent for each fiscal year for which the Attorney General determines it does not comply. Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.".

PART 3—DRUG TREATMENT

SEC. 4131. DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS ADMINISTERED BY STATE OR LOCAL PROSECUTORS.

(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

"PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS

"SEC. 2901. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

"(b) USE OF FUNDS.—A State or local prosecutor who receives a grant under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

"(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

"(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement.

"(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

"(c) FEDERAL SHARE.—The Federal share of a grant under this part shall not exceed 75 percent of the cost of the program.

"(d) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"SEC. 2902. PROGRAM REQUIREMENTS.

"A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

"(1) A State or local prosecutor shall administer the program.

"(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

"(3) Each eligible offender who participates in the program shall, as an alternative to incarceration, be sentenced to or placed with a long term, drug free residential substance abuse treatment provider that is licensed under State or local law.

"(4) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

"(5) Each residential substance abuse provider treating an offender under the program shall—

"(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and to the appropriate court in which the defendant was convicted; and

"(B) notify that prosecutor and that court if that offender absconds from the facility of the treatment provider or otherwise violates the terms and conditions of the program.

"(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor carrying out the program, the duties of which shall include verifying an offender's addresses and other contacts, and, if necessary, locating, apprehending, and arresting an offender who has absconded from the facility of a residential substance abuse treatment provider or otherwise violated the terms and conditions of the program, and returning such offender to court for sentence on the underlying crime.

"SEC. 2903. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(b) CERTIFICATIONS.—Each such application shall contain the certification of the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

"SEC. 2904. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, the distribution of grant awards is equitable and includes State or local prosecutors—

"(1) in each State; and

"(2) in rural, suburban, and urban jurisdictions.

"SEC. 2905. REPORTS AND EVALUATIONS.

"For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a report regarding the effectiveness of activities carried out using that grant. Each report shall include an evaluation in such form and containing such information as the Attorney General may reasonably require. The Attorney General shall specify the dates on which such reports shall be submitted.

"SEC. 2906. DEFINITIONS.

"In this part:

"(1) ELIGIBLE OFFENDER.—The term 'eligible offender' means an individual who—

"(A) has been convicted of, or pled guilty to, or admitted guilt with respect to a crime for which a sentence of imprisonment is required and has not completed such sentence;

"(B) has never been convicted of, or pled guilty to, or admitted guilt with respect to, and is not presently charged with, a felony crime of violence or a major drug offense or a crime that is considered a violent felony under State or local law; and

"(C) has been found by a professional substance abuse screener to be in need of substance abuse treatment because that offender has a history of substance abuse that is a significant contributing factor to that offender's criminal conduct.

"(2) FELONY CRIME OF VIOLENCE.—The term 'felony crime of violence' has the meaning given such term in section 924(c)(3) of title 18, United States Code.

"(3) MAJOR DRUG OFFENSE.—The term 'major drug offense' has the meaning given such term in section 36(a) of title 18, United States Code.

"(4) STATE OR LOCAL PROSECUTOR.—The term 'State or local prosecutor' means any district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.”.

(b) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

“(24) There are authorized to be appropriated to carry out part CC—

“(A) $75,000,000 for fiscal year 2002;

“(B) $85,000,000 for fiscal year 2003;

“(C) $95,000,000 for fiscal year 2004;

“(D) $105,000,000 for fiscal year 2005; and

“(E) $125,000,000 for fiscal year 2006.”.

SEC. 4132. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.

Section 3621(e)(4) of title 18, United States Code, is amended by striking subparagraph (E) and inserting the following:

“(E) $31,000,000 for fiscal year 2002; and

“(F) $38,000,000 for fiscal year 2003.”.

SEC. 4133. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS REAUTHORIZATION

(a) Reauthorization.—Paragraph (17) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(17)) is amended to read as follows:

“(17) There are authorized to be appropriated to carry out part S $100,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2007.”.

(b) Use of Residential Substance Abuse Treatment Grants to Provide For Services During and After Incarceration.—Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

“(c) Additional Use of Funds.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.”.

SEC. 4134. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

“PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

“SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

“(a) In General.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse through programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

“(b) Availability of Services for Each Participant.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

“(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

“(2) the services will be made available to each person admitted to the program.

“(c) Individualized Plan of Services.—A funding agreement for an award under subsection (a) for an applicant is that—

“(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individualized plan for the provision to the juvenile or young adult of the services; and

“(2) treatment services under the plan will include—

“(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

“(B) followup services to assist the juvenile or young adult in preventing a relapse into such abuse.

“(d) Eligible Supplemental Services.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

“(1) Hospital referrals.—Referrals for necessary hospital services.

“(2) HIV and AIDS counseling.—Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

“(3) Domestic violence and sexual abuse counseling.—Counseling on domestic violence and sexual abuse.

“(4) Preparation for reentry into society.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the juvenile.

“(e) Minimum Qualifications for Receipt of Award.—

“(1) Certification by relevant state agency.—With respect to the principal agency of a State or Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, an applicant only if the agency or Indian tribe has certified to the Director that—

“(A) the applicant has the capacity to carry out a program described in subsection (a);

“(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

“(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

“(2) Status as medicaid provider.—

“(A) In general.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

“(i) the applicant for the grant, cooperative agreement, or contract will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

“(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

“(B) Services.—

“(i) In general.—In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

“(ii) Voluntary donations.—A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

“(C) Mental diseases.—

“(i) In general.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age.

“(ii) Definition of institution for mental diseases.—In this subparagraph, the term ‘institution for mental diseases’ has the same meaning as in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

“(f) Requirements for Matching Funds.—

“(1) In general.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

“(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

“(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

“(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

“(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(g) Outreach.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

“(h) Accessibility of Program.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

“(i) Continuing Education.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

“(j) Imposition of Charges.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the economic condition of the juvenile involved; and

"(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

"(1) describing the utilization and costs of services provided under the award;

"(2) specifying the number of juveniles served, and the type and costs of services provided; and

"(3) providing such other information as the Director determines to be appropriate.

"(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

"(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

"(n) DURATION OF AWARD.—

"(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

"(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

"(A) annual approval by the Director of the payments; and

"(B) the availability of appropriations for the fiscal year at issue to make the payments.

"(3) NO LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

"(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

"(p) REPORTS TO CONGRESS.—

"(1) INITIAL REPORT.—Not later than October 1, 2002, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

"(2) PERIODIC REPORTS.—

"(A) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

"(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

"(q) DEFINITIONS.—In this section:

"(1) AUTHORIZED SERVICES.—The term 'authorized services' means treatment services and supplemental services.

"(2) JUVENILE.—The term 'juvenile' means anyone 18 years of age or younger at the time that of admission to a program operated pursuant to subsection (a).

"(3) ELIGIBLE JUVENILE.—The term 'eligible juvenile' means a juvenile who has been admitted to a program operated pursuant to subsection (a).

"(4) FUNDING AGREEMENT UNDER SUBSECTION (A).—The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

"(5) TREATMENT SERVICES.—The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

"(6) SUPPLEMENTAL SERVICES.—The term 'supplemental services' means the services described in subsection (d).

"(r) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 2002 and 2003. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $300,000,000 in each of fiscal years 2004 and 2005.

"(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

"(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

"SEC. 576. OUTPATIENT TREATMENT PROGRAMS FOR JUVENILES.

"(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

"(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

"(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.".

PART 4—FUNDING FOR DRUG-FREE COMMUNITY PROGRAMS

SEC. 4141. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

Title IV of the Elementary and Secondary Education Act (20 U.S.C. 7104) is amended to read as follows:

"TITLE IV—AUTHORIZATIONS

"SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for State grants under subpart 1 and national programs under subpart 2, $655,000,000 for fiscal years 2002 and 2003, and $955,000,000 for fiscal years 2004 through 2005, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

"(1) $300,000,000 for fiscal year 2004; and

"(2) $300,000,000 for fiscal year 2005.".

SEC. 4142. SAY NO TO DRUGS COMMUNITY CENTERS.

(a) SHORT TITLE.—This section may be cited as the "Say No to Drugs Community Centers Act of 2001".

(b) DEFINITIONS.—In this section—

(1) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties.

(2) ELIGIBLE COMMUNITY.—The term "eligible community" means a community—

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime.

(3) ELIGIBLE RECIPIENT.—The term "eligible recipient" means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with subsection (e); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families.

(4) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(5) PUBLIC SCHOOL.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act (42 U.S.C. 1141(d)).

(c) GRANT REQUIREMENTS.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:

(1) Rigorous drug prevention education.

(2) Drug counseling and treatment.

(3) Academic tutoring and mentoring.

(4) Activities promoting interaction between youth and law enforcement officials.

(5) Vaccinations and other basic preventive health care.

(6) Sexual abstinence education.

(7) Other activities and instruction to reduce youth violence and substance abuse.

(d) Location and Use of Amounts.—An eligible recipient that receives a grant under this section—

(1) shall ensure that the stated program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility that is—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full day programs (to the extent available resources permit) or as part day programs, during the summer months;

(3) shall use not more than 5 percent of the amounts to pay for the administrative costs of the program;

(4) shall not use such amounts to provide sectarian worship or sectarian instruction; and

(5) may not use the amounts for the general operating costs of public schools.

(e) Applications.—

(1) In general.—Each application to become an eligible recipient shall be submitted to the Attorney General at such time, in such manner, and accompanied by such information, as the Attorney General may reasonably require.

(2) Contents of application.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain a comprehensive plan for the program that is designed to achieve identifiable goals for youth in the eligible community;

(C) describe in detail the drug education and drug prevention programs that will be implemented;

(D) specify measurable goals and outcomes for the program that will include—

(i) reducing the percentage of youth in the eligible community that enter the juvenile justice system or become addicted to drugs;

(ii) increasing the graduation rates, school attendance, and academic success of youth in the eligible community; and

(iii) improving the skills of program participants;

(E) contain an assurance that the applicant will use grant amounts received under this subtitle to provide youth in the eligible community with activities and services consistent with subsection (c);

(F) demonstrate the manner in which the applicant will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(G) include an estimate of the number of youth in the eligible community expected to be served under the program;

(H) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(I) contain an assurance that the applicant will comply with any research effort authorized under Federal law, and any investigation by the Attorney General;

(J) contain an assurance that the applicant will prepare and submit to the Attorney General an annual report regarding any program conducted under this subtitle;

(K) contain an assurance that the program for which the grant is sought will, to the maximum extent practicable, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(L) contain an assurance that the applicant will maintain separate accounting records for the program for which the grant is sought.

(3) Priority.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.

(f) Payments; Federal Share; Non-Federal Share.—

(1) Payments.—The Attorney General shall, subject to the availability of appropriations, provide to each eligible recipient the Federal share of the costs of developing and carrying out programs described in this section.

(2) Federal share.—The Federal share of the cost of a program under this subtitle shall be not more than—

(A) 75 percent of the total cost of the program for each of the first 2 years of the duration of a grant;

(B) 70 percent of the total cost of the program for the third year of the duration of a grant; and

(C) 60 percent of the total cost of the program for each year thereafter.

(3) Non-federal share.—

(A) In general.—The non-Federal share of the cost of a program under this subtitle may be in cash or in kind, fairly evaluated, including plant, equipment, and services. Federal funds made available for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) Special rule.—Not less than 15 percent of the non-Federal share of the costs of a program under this subtitle shall be provided from private or nonprofit sources.

(g) Program Authority.—

(1) In general.—

(A) Allocations for states and indian tribes.—

(i) In general.—In any fiscal year in which the total amount made available to carry out this subtitle is equal to or greater than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) Indian tribes.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

(B) Grants to community-based organizations and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(C) Reallocation.—If, at the end of a fiscal year described in subparagraph (A), the Attorney General determines that amounts allocated for a particular State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such amounts to award grants to eligible recipients in another State or Indian tribe to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle. In awarding such grants, the Attorney General shall consider the need to maintain geographic diversity among eligible recipients.

(D) Availability of amounts.—Amounts made available under this paragraph shall remain available until expended.

(2) Other fiscal years.—In any fiscal year in which the amount made available to carry out this subtitle is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(3) Administrative costs.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this subtitle in any fiscal year for administrative costs, including training and technical assistance.

(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(1) for fiscal year 2002, $125,000,000; and

(2) for fiscal year 2003, $125,000,000.

SEC. 4143. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended to read as follows:

"SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.".

SEC. 4144. DRUG EDUCATION AND PREVENTION PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended to read as follows:

"SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.".

Subtitle B—Youth Crime Prevention and Juvenile Courts

PART 1—GRANTS TO YOUTH ORGANIZATIONS

SEC. 4211. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national or statewide nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4–H Clubs, YMCA Big Brothers and Big Sisters, and Kids 'N Kops programs, for the purpose of—

(1) providing constructive activities to youth during after school hours, weekends, and school vacations;

(2) providing supervised activities in safe environments to youth in crime prone areas;

(3) providing antidrug education to prevent drug abuse among youth;

(4) supporting police officer training and salaries and educational materials to expand D.A.R.E. America's middle school campaign; or

(5) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 4212. GRANTS TO NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national or statewide community-based organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and

(F) any additional statistical or financial information that the Attorney General may reasonably require.

(b) GRANT AWARDS.—In awarding grants under this section, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in providing youth activities on a national or statewide basis; and

(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

SEC. 4213. GRANTS TO STATES.

(a) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government and community-based organizations for the purposes set forth in section 4211.

(2) GRANTS.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(3) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;

(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(D) written assurances that all activities will be supervised by an appropriate number of responsible adults; and

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs.

(b) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the history and establishment of the applicant in the community to be served;

(3) the level of juvenile crime, violence, and drug use in the community;

(4) the extent to which structured extracurricular activities for youth are otherwise unavailable in the community;

(5) the need in the community for secure environments for youth to avoid criminal victimization and exposure to crime and illegal drugs;

(6) to the extent practicable, achievement of an equitable geographic distribution of the grant awards; and

(7) whether the applicant has an established record of providing extracurricular activities that are generally not otherwise available to youth in the community.

(c) ALLOCATION.—

(1) STATE ALLOCATIONS.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(3) REMAINING AMOUNTS.—Of the amount remaining after the allocations under paragraphs (1) and (2), the Attorney General shall allocate to each State an amount that bears the same ratio to the total amount of remaining funds as the population of the State bears to the total population of all States.

SEC. 4214. ALLOCATION; GRANT LIMITATION.

(a) ALLOCATION.—Of amounts made available to carry out this part—

(1) 20 percent shall be for grants to national or statewide organizations under section 4212; and

(2) 80 percent shall be for grants to States under section 4213.

(b) GRANT LIMITATION.—Not more than 3 percent of the funds made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 4215. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 2002 and October 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;

(2) the number of youth participating;

(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and

(4) any other information that the Attorney General requires for evaluating the effectiveness of the program.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 2003, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this part, and an evaluation of programs established by grant recipients under this part.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this part, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;

(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large;

(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large;

(4) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large; and

(5) the truancy rates of youth participating in the program compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this part shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this part.

SEC. 4216. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part from the Violent Crime Reduction Trust Fund—

(1) such sums as may be necessary for each of fiscal years 2002 and 2003; and

(2) $125,000,000 for each of fiscal years 2004 and 2005.

(b) CONTINUED AVAILABILITY.—Amounts made available under this part shall remain available until expended.

SEC. 4217. GRANTS TO PUBLIC AND PRIVATE AGENCIES.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking the first part designated as part I;

(2) by redesignating the second part designated as part I as part M; and

(3) by inserting after part H the following:

"PART I—AFTER SCHOOL CRIME PREVENTION

"SEC. 291. GRANTS TO PUBLIC AND PRIVATE AGENCIES FOR EFFECTIVE AFTER SCHOOL CRIME PREVENTION PROGRAMS.

"(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make grants in accordance with this section to public and private agencies to fund effective after school juvenile crime prevention programs.

"(b) MATCHING REQUIREMENT.—The Administrator may not make a grant to a public or private agency under this section unless that agency agrees that, with respect to the costs to be incurred by the agency in carrying out the program for which the grant is to be awarded, the agency will make available non-Federal contributions in an amount that is not less than a specific percentage of Federal funds provided under the grant, as determined by the Administrator.

"(c) PRIORITY.—In making grants under this section, the Administrator shall give priority to funding programs that—

"(1) are targeted to high crime neighborhoods or at-risk juveniles;

"(2) operate during the period immediately following normal school hours;

"(3) provide educational or recreational activities designed to encourage law-abiding conduct, reduce the incidence of criminal activity, and teach juveniles alternatives to crime; and

"(4) coordinate with State or local juvenile crime control and juvenile offender accountability programs.

"(d) FUNDING.—There are authorized to be appropriated for grants under this section

$250,000,000 for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

PART 2—REAUTHORIZATION OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

SEC. 4221. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

Section 506 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5785) is amended to read as follows:

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.''.

SEC. 4222. RESEARCH, EVALUATION, AND TRAINING.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is amended by adding at the end the following:

"SEC. 507. RESEARCH, EVALUATION, AND TRAINING.

"Of the amounts made available by appropriations pursuant to section 506—

"(1) 2 percent shall be used by the Administrator for providing training and technical assistance under this title; and

"(2) 10 percent shall be used by the Administrator for research, statistics, and evaluation activities carried out in conjunction with the grant programs under this title.''.

PART 3—JUMP AHEAD

SEC. 4231. SHORT TITLE.

This part may be cited as the "JUMP Ahead Act of 2001''.

SEC. 4232. FINDINGS.

Congress finds that—

(1) millions of young people in America live in areas in which drug use and violent and property crimes are pervasive;

(2) unfortunately, many of these same young people come from single parent homes, or from environments in which there is no responsible, caring adult supervision;

(3) all children and adolescents need caring adults in their lives, and mentoring is an effective way to fill this special need for at-risk children;

(4) the special bond of commitment fostered by the mutual respect inherent in effective mentoring can be the tie that binds a young person to a better future;

(5) through a mentoring relationship, adult volunteers and participating youth make a significant commitment of time and energy to develop relationships devoted to personal, academic, or career development and social, artistic, or athletic growth;

(6) rigorous independent studies have confirmed that effective mentoring programs can significantly reduce and prevent the use of alcohol and drugs by young people, improve school attendance and performance, improve peer and family and peer relationships, and reduce violent behavior;

(7) since the inception of the Federal JUMP program, dozens of innovative, effective mentoring programs have received funding grants;

(8) unfortunately, despite the recent growth in public and private mentoring initiatives, it is reported that between 5,000,000 and 15,000,000 additional children in the United States could benefit from being matched with a mentor; and

(9) although great strides have been made in reaching at-risk youth since the inception of the JUMP program, millions of vulnerable American children are not being reached, and without an increased commitment to connect these young people to responsible adult role models, our country risks losing an entire generation to drugs, crime, and unproductive lives.

SEC. 4233. JUVENILE MENTORING GRANTS.

(a) In General.—Section 288B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) is amended—

(1) by inserting "(a) In General.—'' before "The Administrator shall'';

(2) by striking paragraph (2) and inserting the following:

"(2) are intended to achieve 1 or more of the following goals:

"(A) Discourage at-risk youth from—

"(i) using illegal drugs and alcohol;

"(ii) engaging in violence;

"(iii) using guns and other dangerous weapons;

"(iv) engaging in other criminal and antisocial behavior; and

"(v) becoming involved in gangs.

"(B) Promote personal and social responsibility among at-risk youth.

"(C) Increase at-risk youth's participation in, and enhance the ability of those youth to benefit from, elementary and secondary education.

"(D) Encourage at-risk youth participation in community service and community activities.

"(E) Provide general guidance to at-risk youth.''; and

(3) by adding at the end the following:

"(b) Amount and Duration.—Each grant under this part shall be awarded in an amount not to exceed a total of $200,000 over a period of not more than 3 years.

"(c) Authorization of Appropriations.—There is authorized to be appropriated $50,000,000 for each of fiscal years 2002, 2003, 2004, and 2005 to carry out this part.''.

SEC. 4234. IMPLEMENTATION AND EVALUATION GRANTS.

(a) In General.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice may make grants to national organizations or agencies serving youth, in order to enable those organizations or agencies—

(1) to conduct a multisite demonstration project, involving between 5 and 10 project sites, that—

(A) provides an opportunity to compare various mentoring models for the purpose of evaluating the effectiveness and efficiency of those models;

(B) allows for innovative programs designed under the oversight of a national organization or agency serving youth, which programs may include—

(i) technical assistance;

(ii) training; and

(iii) research and evaluation; and

(C) disseminates the results of such demonstration project to allow for the determination of the best practices for various mentoring programs;

(2) to develop and evaluate screening standards for mentoring programs; and

(3) to develop and evaluate volunteer recruitment techniques and activities for mentoring programs.

(b) Authorization of Appropriations.—There is authorized to be appropriated $5,000,000 for each of fiscal years 2002, 2003, 2004, and 2005 to carry out this section.

SEC. 4235. EVALUATIONS; REPORTS.

(a) Evaluations.—

(1) In general.—The Attorney General shall enter into a contract with an evaluating organization that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title).

(2) Criteria.—The Attorney General shall establish a minimum criteria for evaluating the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title), which shall provide for a description of the implementation of the program or activity, and the effect of the program or activity on participants, schools, communities, and youth served by the program or activity.

(3) Mentoring program of the year.—The Attorney General shall, on an annual basis, based on the most recent evaluation under this subsection and such other criteria as the Attorney General shall establish by regulation—

(A) designate 1 program or activity assisted under this Act as the "Juvenile Mentoring Program of the Year''; and

(B) publish notice of such designation in the Federal Register.

(b) Reports.—

(1) Grant recipients.—Each entity receiving a grant under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title) shall submit to the evaluating organization entering into the contract under subsection (a)(1), an annual report regarding any program or activity assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title). Each report under this paragraph shall be submitted at such time, in such a manner, and shall be accompanied by such information, as the evaluating organization may reasonably require.

(2) Comptroller general.—Not later than 4 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report evaluating the effectiveness of grants awarded under this Act and under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–2) (as amended by this title), in—

(A) reducing juvenile delinquency and gang participation;

(B) reducing the school dropout rate; and

(C) improving academic performance of juveniles.

PART 4—TRUANCY PREVENTION

SEC. 4241. SHORT TITLE.

This part may be cited as the "Truancy Prevention and Juvenile Crime Reduction Act of 2001''.

SEC. 4242. FINDINGS.

Congress makes the following findings:

(1) Truancy is often the first sign of trouble—the first indicator that a young person is giving up and losing his or her way.

(2) Many students who become truant eventually drop out of school, and high school drop outs are two and a half times more likely to be on welfare than high school graduates, twice as likely to be unemployed, or if employed, earn lower salaries.

(3) Truancy is the top-ranking characteristic of criminals—more common than such factors as coming from single-parent families and being abused as children.

(4) High rates of truancy are linked to high daytime burglary rates and high vandalism.

(5) As much as 44 percent of violent juvenile crime takes place during school hours.

(6) As many as 75 percent of children ages 13 to 16 who are arrested and prosecuted for crimes are truants.

(7) Some cities report as many as 70 percent of daily student absences are unexcused, and the total number of absences in a single city can reach 4,000 per day.

(8) Society pays a significant social and economic cost due to truancy: only 34 percent of inmates have completed high school education; 17 percent of youth under age 18 entering adult prisons have not completed grade school (8th grade or less), 25 percent completed 10th grade, and 2 percent completed high school.

(9) Truants and later high school drop outs cost the Nation $240,000,000,000 in lost earnings and foregone taxes over their lifetimes, and the cost of crime control is staggering.

(10) In many instances, parents are unaware a child is truant.

(11) Effective truancy prevention, early intervention, and accountability programs can improve school attendance and reduce daytime crime rates.

(12) There is a lack of targeted funding for effective truancy prevention programs in current law.

SEC. 4243. GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTNERSHIP.—The term "eligible partnership" means a partnership between 1 or more qualified units of local government and 1 or more local educational agencies.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) QUALIFIED UNIT OF LOCAL GOVERNMENT.—The term "qualified unit of local government" means a unit of local government that has in effect, as of the date on which the eligible partnership submits an application for a grant under this section, a statute or regulation that meets the requirements of section 223(a)(14) of the Juvenile Justice and Delinquency and Prevention Act of 1974 (42 U.S.C. 5633(a)(14)).

(4) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or any Indian tribe.

(b) GRANT AUTHORITY.—The Attorney General, in consultation with the Secretary of Education, shall make grants in accordance with this section on a competitive basis to eligible partnerships to reduce truancy and the incidence of daytime juvenile crime.

(c) MAXIMUM AMOUNT; ALLOCATION; RENEWAL.—

(1) MAXIMUM AMOUNT.—The total amount awarded to an eligible partnership under this section in any fiscal year shall not exceed $100,000.

(2) ALLOCATION.—Not less than 25 percent of each grant awarded to an eligible partnership under this section shall be allocated for use by the local educational agency or agencies participating in the partnership.

(3) RENEWAL.—A grant awarded under this section for a fiscal year may be renewed for an additional period of not more than 2 fiscal years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Grant amounts made available under this section may be used by an eligible partnership to comprehensively address truancy through the use of—

(A) parental involvement in prevention activities, including meaningful incentives for parental responsibility;

(B) sanctions, including community service, or drivers' license suspension for students who are habitually truant;

(C) parental accountability, including fines, teacher-aid duty, or community service;

(D) in-school truancy prevention programs, including alternative education and in-school suspension;

(E) involvement of the local law enforcement, social services, judicial, business, and religious communities, and nonprofit organizations;

(F) technology, including automated telephone notice to parents and computerized attendance system; or

(G) elimination of 40-day count and other unintended incentives to allow students to be truant after a certain time of school year.

(2) MODEL PROGRAMS.—In carrying out this section, the Attorney General may give priority to funding the following programs and programs that attempt to replicate one or more of the following model programs:

(A) The Truancy Intervention Project of the Fulton County, Georgia, Juvenile Court.

(B) The TABS (Truancy Abatement and Burglary Suppression) program of Milwaukee, Wisconsin.

(C) The Roswell Daytime Curfew Program of Roswell, New Mexico.

(D) The Stop, Cite and Return Program of Rohnert Park, California.

(E) The Stay in School Program of New Haven, Connecticut.

(F) The Atlantic County Project Helping Hand of Atlantic County, New Jersey.

(G) The THRIVE (Truancy Habits Reduced Increasing Valuable Education) initiative of Oklahoma City, Oklahoma.

(H) The Norfolk, Virginia project using computer software and data collection.

(I) The Community Service Early Intervention Program of Marion, Ohio.

(J) The Truancy Reduction Program of Bakersfield, California.

(K) The Grade Court program of Farmington, New Mexico.

(L) Any other model program that the Attorney General determines to be appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2002, 2003, and 2004.

PART 5—JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION ACT

SEC. 4251. SHORT TITLE.

This part may be cited as the "Juvenile Crime Control and Delinquency Prevention Act of 2001".

SEC. 4252. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

"SEC. 101. FINDINGS.

"(a) Congress finds that the juvenile crime problem should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

"(1) quality prevention programs that—

"(A) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether juveniles have ever been the victims of family violence (including child abuse and neglect); and

"(B) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

"(2) programs that assist in holding juveniles accountable for their actions, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

"(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts.".

SEC. 4253. PURPOSE.

Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

"SEC. 102. PURPOSES.

"The purposes of this title are—

"(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

"(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

"(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.".

SEC. 4254. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by striking "to help prevent juvenile delinquency" and inserting "designed to reduce known risk factors for juvenile delinquent behavior, provide activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior",

(2) in paragraph (4), by inserting "title I of" before "the Omnibus" each place it appears,

(3) in paragraph (7), by striking "the Trust Territory of the Pacific Islands,",

(4) in paragraph (9), by striking "justice" and inserting "crime control",

(5) in paragraph (12)(B), by striking ", of any nonoffender,",

(6) in paragraph (13)(B), by striking ", any nonoffender,",

(7) in paragraph (14), by inserting "drug trafficking," after "assault,",

(8) in paragraph (16)—

(A) in subparagraph (A), by adding "and" at the end, and

(B) by striking subparagraph (C),

(9) by striking paragraph (17),

(10) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking "and" at the end,

(11) in paragraph (23), by striking the period at the end and inserting a semicolon,

(12) by redesignating paragraphs (18), (19), (20), (21), (22), and (23) as paragraphs (17) through (22), respectively, and

(13) by adding at the end the following:

"(23) the term 'boot camp' means a residential facility (excluding a private residence) at which there are provided—

"(A) a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training.

"(B) regular, remedial, special, and vocational education; and

"(C) counseling and treatment for substance abuse and other health and mental health problems;

"(24) the term 'graduated sanctions' means an accountability-based, graduated series of sanctions (including incentives and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

"(25) the term 'violent crime' means—

"(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

"(B) aggravated assault committed with the use of a firearm;

"(26) the term 'co-located facilities' means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

"(27) the term 'related complex of buildings' means 2 or more buildings that share—

"(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

"(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.".

SEC. 4255. NAME OF OFFICE.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part A, by striking the part heading and inserting the following:

"PART A—OFFICE OF JUVENILE CRIME
CONTROL AND DELINQUENCY PREVENTION";

(2) in section 201(a), by striking "Justice and Delinquency Prevention" and inserting "Crime Control and Delinquency Prevention"; and

(3) in section 299A(c)(2) by striking "Justice and Delinquency Prevention" and inserting "Crime Control and Delinquency Prevention".

SEC. 4256. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (3), by striking "and of the prospective" and all that follows through "administered";

(B) by striking paragraph (5); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(3) in subsection (c), by striking "and reports" and all that follows through "this part", and inserting "as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency";

(4) by striking subsection (i); and

(5) by redesignating subsection (h) as subsection (f).

SEC. 4257. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "amount, up to $400,000," and inserting "amount up to $400,000";

(II) by inserting a comma after "1992" the first place it appears;

(III) by striking "the Trust Territory of the Pacific Islands,"; and

(IV) by striking "amount, up to $100,000," and inserting "amount up to $100,000";

(ii) in subparagraph (B)—

(I) by striking "(other than part D)";

(II) by striking "or such greater amount, up to $600,000" and all that follows through "section 299(a) (1) and (3)";

(III) by striking "the Trust Territory of the Pacific Islands,";

(IV) by striking "amount, up to $100,000," and inserting "amount up to $100,000"; and

(V) by inserting a comma after "1992";

(B) in paragraph (3) by striking "allot" and inserting "allocate"; and

(2) in subsection (b) by striking "the Trust Territory of the Pacific Islands,".

SEC. 4258. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking "challenge" and all that follows through "part E", and inserting ", projects, and activities";

(B) in paragraph (3)—

(i) by striking ", which—" and inserting "that—";

(ii) in subparagraph (A)—

(I) by striking "not less" and all that follows through "33", and inserting "the attorney general of the State or such other State official who has primary responsibility for overseeing the enforcement of State criminal laws, and";

(II) by inserting ", in consultation with the attorney general of the State or such other State official who has primary responsibility for overseeing the enforcement of State criminal laws" after "State";

(III) in clause (i), by striking "or the administration of juvenile justice" and inserting ", the administration of juvenile justice, or the reduction of juvenile delinquency";

(IV) in clause (ii), by striking "include—" and all that follows through the semicolon at the end of subclause (VIII), and inserting the following:

"represent a multidisciplinary approach to addressing juvenile delinquency and may include—

"(I) individuals who represent units of general local government, law enforcement and juvenile justice agencies, public agencies concerned with the prevention and treatment of juvenile delinquency and with the adjudication of juveniles, representatives of juveniles, or nonprofit private organizations, particularly such organizations that serve juveniles; and

"(II) such other individuals as the chief executive officer considers to be appropriate; and"; and

(V) by striking clauses (iv) and (v);

(iii) in subparagraph (C), by striking "justice" and inserting "crime control";

(iv) in subparagraph (D)—

(I) in clause (i), by inserting "and" at the end; and

(II) in clause (ii), by striking "paragraphs" and all that follows through "part E", and inserting "paragraphs (11), (12), and (13)"; and

(v) in subparagraph (E), by striking "title—" and all that follows through "(ii)" and inserting "title,";

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking ", other than" and inserting "reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding" after "section 222"; and

(ii) in subparagraph (C), by striking "paragraphs (12)(A), (13), and (14)" and inserting "paragraphs (11), (12), and (13)";

(D) by striking paragraph (6);

(E) in paragraph (7), by inserting ", including in rural areas" before the semicolon at the end;

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking "for (i)" and all that follows through "relevant jurisdiction", and inserting "for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State";

(II) by striking "justice" the second place it appears and inserting "crime control"; and

(III) by striking "of the jurisdiction; (ii)" and all that follows through the semicolon at the end, and inserting "of the State; and";

(ii) by striking subparagraph (B) and inserting the following:

"(B) contain—

"(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system;"; and

(iii) by striking subparagraphs (C) and (D);

(G) by striking paragraph (9) and inserting the following:

"(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;";

(H) in paragraph (10)—

(i) in subparagraph (A), by striking ", specifically" and inserting "including"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) programs that assist in holding juveniles accountable for their actions, including the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution for the damage caused by their delinquent behavior;";

(iii) in subparagraph (C), by striking "juvenile justice" and inserting "juvenile crime control";

(iv) by striking subparagraph (D) and inserting the following:

"(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;";

(v) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii); and

(II) by striking "juveniles, provided" and all that follows through "provides; and", and inserting the following:

"juveniles—

"(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

"(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and";

(vi) by striking subparagraph (F) and inserting the following:

"(F) expanding the use of probation officers—

"(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

"(ii) to ensure that juveniles follow the terms of their probation;";

(vii) by striking subparagraph (G) and inserting the following:

"(G) one-on-one mentoring programs that are designed to link at-risk juveniles and juvenile offenders, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working with community-based organizations and agencies) who are properly screened and trained;";

(viii) in subparagraph (H) by striking "handicapped youth" and inserting "juveniles with disabilities";

(ix) by striking subparagraph (K) and inserting the following:

"(K) boot camps for juvenile offenders;";

(x) by striking subparagraph (L) and inserting the following:

"(L) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;";

(xi) by striking subparagraph (M) and inserting the following:

"(M) other activities (such as court-appointed advocates) that the State determines will hold juveniles accountable for their acts and decrease juvenile involvement in delinquent activities;";

(xii) in subparagraph (O)—

(I) in striking "cultural" and inserting "other"; and

(II) by striking the period at the end and inserting a semicolon; and

(xiii) by adding at the end the following:

"(P) programs that utilize multidisciplinary interagency case management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit violent or serious delinquent acts; and

"(Q) programs designed to prevent and reduce hate crimes committed by juveniles.";

(I) by striking paragraph (12) and inserting the following:

"(12) shall, in accordance with rules issued by the Administrator, provide that—

"(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

"(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

"(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

"(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles, as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

"(B) juveniles—

"(i) who are not charged with any offense; and

"(ii) who are—

"(I) aliens; or

"(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;";

(J) by striking paragraph (13) and inserting the following:

"(13) provide that—

"(A) juveniles alleged to be or found to be delinquent, and juveniles within the purview of paragraph (11), will not be detained or confined in any institution in which they have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;

"(B) to the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles;

"(C) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in co-located facilities have been trained and certified to work with juveniles;

"(D) the term 'prohibited physical contact'—

"(i) means—

"(I) any physical contact between a juvenile and an adult inmate; and

"(II) proximity that provides an opportunity for physical contact between a juvenile and an adult inmate; and

"(ii) does not include—

"(I) communication that is accidental or incidental;

"(II) sounds or noises that cannot reasonably be considered to be speech; or

"(III) does not include supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental; and

"(E) the term 'sustained oral communication' means the imparting or interchange of speech by or between an adult inmate and a juvenile;".

(K) by striking paragraph (14) and inserting the following:

"(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

"(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

"(i) for processing or release;

"(ii) while awaiting transfer to a juvenile facility; or

"(iii) in which period such juveniles make a court appearance;

"(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained or confined in a jail or lockup—

"(i) in which—

"(I) such juveniles do not have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E) of paragraph (13)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;

"(II) to the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles; and

"(III) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in co-located facilities have been trained and certified to work with juveniles; and

"(ii) that—

"(I) is located outside a metropolitan statistical area (as defined by the Director of the Office of Management and Budget) and has no existing acceptable alternative placement available; or

"(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

"(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;";

(L) in paragraph (15)—

(i) by striking "paragraph (12)(A), paragraph (13), and paragraph (14)" and inserting "paragraphs (11), (12), and (13)"; and

(ii) by striking "paragraph (12)(A) and paragraph (13)" and inserting "paragraphs (11) and (12)";

(M) in paragraph (16) by striking "mentally, emotionally, or physically handicapping conditions" and inserting "disability";

(N) by striking paragraph (19) and inserting the following:

"(19) provide assurances that—

"(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

"(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

"(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;";

(O) by striking paragraph (23) and inserting the following:

"(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;";

(P) by striking paragraph (24) and inserting the following:

"(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

"(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

"(B) not later than 24 hours after the juvenile is taken into custody and during which the juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

"(C) not later than 48 hours after the juvenile is taken into custody and during which the juvenile is so held—

"(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

"(ii) such court shall conduct a hearing to determine—

"(I) whether there is reasonable cause to believe that such juvenile violated such order; and

"(II) the appropriate placement of such juvenile pending disposition of the violation alleged;";

(Q) in paragraph (25) by striking the period at the end and inserting a semicolon;

(R) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively; and

(S) by adding at the end the following:

"(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the state advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units."; and

(2) by striking subsection (c) and inserting the following:

"(c) If a State fails to comply with any applicable requirement of paragraph (11), (12), (13), or (22) of subsection (a) in any fiscal year beginning after September 30, 1999, then the amount allocated to such State for the subsequent fiscal year shall be reduced by not to exceed 12.5 percent for each such paragraph with respect to which the failure occurs, unless the Administrator determines that the State—

"(1) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

"(2) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time."; and

(3) in subsection (d)—

(A) by striking "allotment" and inserting "allocation"; and

(B) by striking "subsection (a) (12)(A), (13), (14) and (23)" each place it appears and inserting "paragraphs (11), (12), (13), and (22) of subsection (a)".

SEC. 4259. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part I, as added by section 4217 of this title, the following:

"PART J—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

"SEC. 292. AUTHORITY TO MAKE GRANTS.

"The Administrator may make grants to eligible States, from funds allocated under section 292A, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

"(1) projects that assist in holding juveniles accountable for their actions, including the use of neighborhood courts or panels that increase victim satisfaction and require juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts;

"(2) projects that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

"(3) educational projects or supportive services for delinquent or other juveniles—

"(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

"(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

"(C) to assist in identifying learning difficulties (including learning disabilities);

"(D) to prevent unwarranted and arbitrary suspensions and expulsions;

"(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other disabled juveniles; or

"(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies;

"(4) projects which expand the use of probation officers—

"(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

"(B) to ensure that juveniles follow the terms of their probation;

"(5) one-on-one mentoring projects that are designed to link at-risk juveniles and juvenile offenders who did not commit serious crime, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working for community-based organizations and agencies) who are properly screened and trained;

"(6) community-based projects and services (including literacy and social service programs) which work with juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

"(7) projects designed to provide for the treatment of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

"(8) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

"(9) projects which provide for an initial intake screening of each juvenile taken into custody—

"(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

"(B) to provide appropriate interventions, including mental health services and substance abuse treatment, to prevent such juvenile from committing subsequent offenses;

"(10) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

"(11) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering services to juveniles;

"(12) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

"(13) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

"(14) family strengthening activities, such as mutual support groups for parents and their children;

"(15) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

"(16) programs that focus on the needs of young girls at-risk of delinquency or status offenses; and

"(17) other activities that are likely to prevent juvenile delinquency.

"SEC. 292A. ALLOCATION.

"Funds appropriated to carry out this part shall be allocated among eligible States as follows:

"(1) 0.75 percent shall be allocated to each State.

"(2) Of the total amount remaining after the allocation under paragraph (1), there shall be allocated to each State as follows:

"(A) 50 percent of such amount shall be allocated proportionately based on the population that is less than 18 years of age in the eligible States.

"(B) 50 percent of such amount shall be allocated proportionately based on the annual average number of arrests for serious crimes committed in the eligible States by juveniles during the then most recently completed period of 3 consecutive calendar years for which sufficient information is available to the Administrator.

"SEC. 292B. ELIGIBILITY OF STATES.

"(a) APPLICATION.—To be eligible to receive a grant under section 292, a State shall submit to the Administrator an application that contains the following:

"(1) An assurance that the State will use—

"(A) not more than 5 percent of such grant, in the aggregate, for—

"(i) the costs incurred by the State to carry out this part; and

"(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

"(B) the remainder of such grant to make grants under section 292C.

"(2) An assurance that, and a detailed description of how, such grant will support, and not supplant State and local efforts to prevent juvenile delinquency.

"(3) An assurance that such application was prepared after consultation with and participation by community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

"(4) An assurance that each eligible entity described in section 292C(a) that receives an initial grant under section 292 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 292 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

"(5) Such other information and assurances as the Administrator may reasonably require by rule.

"(b) Approval of Applications.—

"(1) Approval required.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

"(2) Limitation.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

"(A)(i) the State submitted a plan under section 223 for such fiscal year; and

"(ii) such plan is approved by the Administrator for such fiscal year; or

"(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

"SEC. 292C. GRANTS FOR LOCAL PROJECTS.

"(a) Selection From Among Applications.—

"(1) In general.—Using a grant received under section 292, a State may make grants to eligible entities whose applications are received by the State in accordance with subsection (b) to carry out projects and activities described in section 292.

"(2) For purposes of making grants under this section, the State shall give special consideration to eligible entities that—

"(A) propose to carry out such projects in geographical areas in which there is—

"(i) a disproportionately high level of serious crime committed by juveniles; or

"(ii) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

"(B)(i) agreed to carry out such projects or activities that are multidisciplinary and involve 2 or more eligible entities; or

"(ii) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

"(C) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

"(b) Receipt of Applications.—

"(1) In general.—Subject to paragraph (2), a unit of general local government shall submit to the State simultaneously all applications that are—

"(A) timely received by such unit from eligible entities; and

"(B) determined by such unit to be consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

"(2) Direct submission to state.—If an application submitted to such unit by an eligible entity satisfies the requirements specified in subparagraphs (A) and (B) of paragraph (1), such entity may submit such application directly to the State.

"SEC. 292D. ELIGIBILITY OF ENTITIES.

"(a) Eligibility.—Subject to subsections (b) and except as provided in subsection (c), to be eligible to receive a grant under section 292C, a community-based organization, local juvenile justice system officials (including prosecutors, police officers, judges, probation officers, parole officers, and public defenders), local education authority (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 and including a school within such authority), nonprofit private organization, unit of general local government, or social service provider, and or other entity with a demonstrated history of involvement in the prevention of juvenile delinquency, shall submit to a unit of general local government an application that contains the following:

"(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in 1 or more of paragraphs (1) through (14) of section 292 as specified in, such application.

"(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

"(3) A statement identifying the research (if any) such entity relied on in preparing such application.

"(b) Review and Submission of Applications.—Except as provided in subsection (c), an entity shall not be eligible to receive a grant under section 292C unless—

"(1) such entity submits to a unit of general local government an application that—

"(A) satisfies the requirements specified in subsection (a); and

"(B) describes a project or activity to be carried out in the geographical area under the jurisdiction of such unit; and

"(2) such unit determines that such project or activity is consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

"(c) Limitation.—If an entity that receives a grant under section 292C to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.".

SEC. 4260. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part J, as added by section 4259 of this title, the following:

"PART K—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

"SEC. 293. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

"(a) Research and Evaluation.—(1) The Administrator may—

"(A) plan and identify, after consultation with the Director of the National Institute of Justice, the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(B) make agreements with the National Institute of Justice or, subject to the approval of the Assistant Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

"(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

"(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

"(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

"(iv) successful efforts to prevent recidivism;

"(v) the juvenile justice system;

"(vi) juvenile violence; and

"(vii) other purposes consistent with the purposes of this title and title I.

"(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

"(b) Statistical Analyses.—The Administrator may—

"(1) plan and identify, after consultation with the Director of the Bureau of Justice Statistics, the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(2) make agreements with the Bureau of Justice Statistics, or subject to the approval of the Assistant Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

"(c) Competitive Selection Process.—The Administrator shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

"(d) Implementation of Agreements.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

"(e) Information Dissemination.—The Administrator may—

"(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

"(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

"(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

"SEC. 293A. TRAINING AND TECHNICAL ASSISTANCE.

"(a) TRAINING.—The Administrator may—

"(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, to carry out the purposes specified in section 102; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, to carry out the purposes specified in section 102.

"(b) TECHNICAL ASSISTANCE.—The Administrator may—

"(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.".

SEC. 4261. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part K, as added by section 4260 of this title, the following:

"PART L—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

"SEC. 294. GRANTS AND PROJECTS.

"(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

"(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

"SEC. 294A. GRANTS FOR TECHNICAL ASSISTANCE.

"The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

"SEC. 294B. ELIGIBILITY.

"To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonable require by rule.

"SEC. 294C. REPORTS.

"Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying the projects for which such grants are made.".

SEC. 4262. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e); and

(2) by striking subsections (a) and (b), and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2002, 2003, and 2004.

"(2) ALLOCATION.—Of the amount made available for each fiscal year to carry out this title not more than 5 percent shall be available to carry out part A.

SEC. 4263. ADMINISTRATIVE AUTHORITY.

Section 299A(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended by striking "as are consistent with the purpose of this Act" and inserting "only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance".

SEC. 4264. USE OF FUNDS.

Section 299C of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674) is amended—

(1) in subsection (a)—

(A) by striking "may be used for";

(B) in paragraph (1), by inserting "may be used for" after "(1)"; and

(C) by striking paragraph (2) and inserting the following:

"(2) may not be used for the cost of construction of any short- or long-term facilities for adult or juvenile offenders, except not more than 15 percent of the funds received under this title by a State for a fiscal year may be used for the purpose of renovating or replacing juvenile facilities.";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 4265. LIMITATION ON USE OF FUNDS.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as redesignated by section 4217 of this title, is amended by adding at the end the following:

"SEC. 299F. LIMITATION ON USE OF FUNDS.

"None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.".

SEC. 4266. RULES OF CONSTRUCTION.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4265 of this title, is amended by adding at the end the following:

"SEC. 299G. RULES OF CONSTRUCTION.

"Nothing in this title or title I may be construed—

"(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

"(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.".

SEC. 4267. LEASING SURPLUS FEDERAL PROPERTY.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4266 of this title, is amended by adding at the end the following:

"SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

"The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.".

SEC. 4268. ISSUANCE OF RULES.

Part M of title II or the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4267 of this title, is amended by adding at the end the following:

"SEC. 299I. ISSUANCE OF RULES.

"The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.".

SEC. 4269. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in section 202(b), by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376";

(2) in section 221(b)(2), by striking the last sentence; and

(3) in section 299D, by striking subsection (d).

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Delinquency Prevention".

(2) TITLE 18.—Section 4351(b) of title 18, United States Code, is amended by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Delinquency Prevention".

(3) TITLE 39.—Subsections (a)(1) and (c) of section 3220 of title 39, United States Code, is amended by striking "Office of Juvenile Justice and Delinquency Prevention" each place it appears and inserting "Office of Juvenile Crime Control and Delinquency Prevention".

(4) SOCIAL SECURITY ACT.—Section 463(f) of the Social Security Act (42 U.S.C. 663(f)) is amended by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Delinquency Prevention".

(5) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Sections 801(a), 804, 805, and 813 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(a), 3782, 3785, 3786, 3789i) are each amended by striking "Office of Juvenile Justice and Delinquency Prevention" each place it appears and inserting "Office of Juvenile Crime Control and Delinquency Prevention".

(6) VICTIMS OF CHILD ABUSE ACT OF 1990.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 214(b)(1), by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E";

(B) in section 214A(c)(1), by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E";

(C) in sections 217 and 222, by striking "Office of Juvenile Justice and Delinquency Prevention" each place it appears and inserting "Office of Juvenile Crime Control and Delinquency Prevention"; and

(D) in section 223(c), by striking "section 262, 293, and 296" and inserting "sections 262, 299B, and 299E".

(7) MISSING CHILDREN'S ASSISTANCE.—The Missing Children's Assistance Act (42 U.S.C. 5771 et seq.) is amended—

(A) in section 403(2), by striking "Justice and Delinquency Prevention" and inserting "Crime Control and Delinquency Prevention"; and

(B) in subsections (a)(5)(E) and (b)(1)(B) of section 404, by striking "section 313" and inserting "section 331".

(8) CRIME CONTROL ACT OF 1990.—The Crime Control Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 217(c)(1), by striking "sections 262, 293, and 296 of subpart II of title II" and inserting "sections 299B and 299E"; and

(B) in section 223(c), by striking "section 262, 293, and 296 of title II" and inserting "sections 299B and 299E".

SEC. 4270. REFERENCES.

In any Federal law (excluding this Act and the Acts amended by this Act), Executive order, rule, regulation, order, delegation of authority, grant, contract, suit, or document—

(1) a reference to the Office of Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to the Office of Juvenile Crime Control and Delinquency Prevention, and

(2) a reference to the National Institute for Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to Office of Juvenile Crime Control and Delinquency Prevention.

PART 6—LOCAL GUN VIOLENCE PREVENTION PROGRAMS

SEC. 4271. COMPETITIVE GRANTS FOR CHILDREN'S FIREARM SAFETY EDUCATION.

(a) PURPOSES.—The purposes of this section are—

(1) to award grants to assist local educational agencies, in consultation with community groups and law enforcement agencies, to educate children about preventing gun violence; and

(2) to assist communities in developing partnerships between public schools, community organizations, law enforcement, and parents in educating children about preventing gun violence.

(b) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

(3) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(c) ALLOCATION OF COMPETITIVE GRANTS.—

(1) GRANTS BY THE SECRETARY.—For any fiscal year in which the amount appropriated to carry out this section does not equal or exceed $50,000,000, the Secretary of Education may award competitive grants described under subsection (d).

(2) GRANTS BY THE STATES.—For any fiscal year in which the amount appropriated to carry out this section exceeds $50,000,000, the Secretary shall make allotments to State educational agencies pursuant to paragraph (3) to award competitive grants described in subsection (d).

(3) FORMULA.—Except as provided in paragraph (4), funds appropriated to carry out this section shall be allocated among the States as follows:

(A) MINORS.—75 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State.

(B) INCARCERATED MINORS.—25 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State that is incarcerated.

(4) MINIMUM ALLOTMENT.—Of the amounts appropriated to carry out this section, 0.50 percent shall be allocated to each State.

(d) AUTHORIZATION OF COMPETITIVE GRANTS.—The Secretary or the State educational agency, as the case may be, may award grants to eligible local educational agencies for the purposes of educating children about preventing gun violence, in accordance with the following:

(1) ASSURANCES.—

(A) AMOUNT OF FUNDS DISTRIBUTED.—The Secretary or the State educational agency, as the case may be, shall ensure that not less than 90 percent of the funds allotted under this section are distributed to local educational agencies.

(B) DISTRIBUTION.—In awarding the grants, the Secretary or the State educational agency, as the case may be, shall ensure, to the maximum extent practicable—

(i) an equitable geographic distribution of grant awards;

(ii) an equitable distribution of grant awards among programs that serve public elementary school students, public secondary school students, and a combination of both; and

(iii) that urban, rural and suburban areas are represented within the grants that are awarded.

(2) PRIORITY.—In awarding grants under this section, the Secretary or the State educational agency, as the case may be, shall give priority to a local educational agency that—

(A) coordinates with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(B) serves a population with a high incidence of students found in possession of a weapon on school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds; and

(C) forms a partnership that includes not less than 1 local educational agency working in consultation with not less than 1 public or private nonprofit agency or organization with experience in violence prevention or 1 local law enforcement agency.

(3) PEER REVIEW; CONSULTATION.—

(A) IN GENERAL.—

(i) PEER REVIEW BY PANEL.—Before grants are awarded, the Secretary shall submit grant applications to a peer review panel for evaluation.

(ii) COMPOSITION OF PANEL.—The panel shall be composed of not less than 1 representative from a local educational agency, State educational agency, a local law enforcement agency, and a public or private nonprofit organization with experience in violence prevention.

(B) CONSULTATION.—The Secretary shall submit grant applications to the Attorney General for consultation.

(e) ELIGIBLE GRANT RECIPIENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible grant recipient is a local educational agency that may work in partnership with 1 or more of the following:

(A) A public or private nonprofit agency or organization with experience in violence prevention.

(B) A local law enforcement agency.

(C) An institution of higher education.

(2) EXCEPTION.—A State educational agency may, with the approval of a local educational agency, submit an application on behalf of such local educational agency or a consortium of such agencies.

(f) LOCAL APPLICATIONS; REPORTS.—

(1) APPLICATIONS.—Each local educational agency that wishes to receive a grant under this section shall submit an application to the Secretary and the State educational agency that includes—

(A) a description of the proposed activities to be funded by the grant and how each activity will further the goal of educating children about preventing gun violence;

(B) how the program will be coordinated with other programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.); and

(C) the age and number of children that the programs will serve.

(2) REPORTS.—Each local educational agency that receives a grant under this section shall submit a report to the Secretary and to the State educational agency not later than 18 months after the grant is awarded and submit an additional report to the Secretary and to the State not later than 36 months after the grant is awarded. Each report shall include information regarding—

(A) the activities conducted to educate children about gun violence;

(B) how the program will continue to educate children about gun violence in the future; and

(C) how the grant is being coordinated with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(g) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grants authorized under subsection (d) shall be used for the following activities:

(A) Supporting existing programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(B) Educating children about the effects of gun violence.

(C) Educating children to identify dangerous situations in which guns are involved and how to avoid and prevent such situations.

(D) Educating children how to identify threats and other indications that their peers are in possession of a gun and may use a gun, and what steps they can take in such situations.

(E) Developing programs to give children access to adults to whom they can report, in a confidential manner, any problems relating to guns.

(2) PERMISSIBLE ACTIVITIES.—Grants authorized under subsection (d) may be used for the following:

(A) Encouraging schoolwide programs and partnerships that involve teachers, students, parents, administrators, other staff, and members of the community in reducing gun incidents in public elementary and secondary schools.

(B) Establishing programs that assist parents in helping educate their children about firearm safety and the prevention of gun violence.

(C) Providing ongoing professional development for public school staff and administrators to identify the causes and effects of gun violence and risk factors and student behavior that may result in gun violence, including training sessions to review and update school crisis response plans and school policies for preventing the presence of guns on school grounds and facilities.

(D) Providing technical assistance for school psychologists and counselors to provide timely counseling and evaluations, in accordance with State and local laws, of students who possess a weapon on school grounds.

(E) Improving security on public elementary and secondary school campuses to prevent outside persons from entering school grounds with firearms.

(F) Assisting public schools and communities in developing crisis response plans when firearms are found on school campuses and when gun-related incidents occur.

(h) STATE APPLICATIONS; ACTIVITIES AND REPORTS.—

(1) STATE APPLICATIONS.—

(A) CONTENTS.—Each State desiring to receive funds under this section shall, through its State educational agency, submit an application to the Secretary of Education at such time and in such manner as the Secretary shall require. Such application shall describe—

(i) the manner in which funds under this section for State activities and competitive grants will be used to fulfill the purposes of this section;

(ii) the manner in which the activities and projects supported by this section will be coordinated with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(iii) the manner in which States will ensure an equitable geographic distribution of grant awards; and

(iv) the criteria which will be used to determine the impact and effectiveness of the funds used pursuant to this section.

(B) FORM.—A State educational agency may submit an application to receive a grant under this section under paragraph (1) or as an amendment to the application the State educational agency submits under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(2) STATE ACTIVITIES.—Of appropriated amounts allocated to the States under subsection (c)(2), the State educational agency may reserve not more than 10 percent for activities to further the goals of this section, including—

(A) providing technical assistance to eligible grant recipients in the State;

(B) performing ongoing research into the causes of gun violence among children and methods to prevent gun violence among children; and

(C) providing ongoing professional development for public school staff and administrators to identify the causes and indications of gun violence.

(3) STATE REPORTS.—Each State receiving an allotment under this section shall submit a report to the Secretary and to the Committees on Health, Education, Labor, and Pensions and the Judiciary of the Senate and the Committees on Education and the Workforce and the Judiciary of the House of Representatives, not later than 12 months after receipt of the grant award and shall submit an additional report to those committees not later than 36 months after receipt of the grant award. Each report shall include information regarding—

(A) the progress of local educational agencies that received a grant award under this section in the State in educating children about firearms;

(B) the progress of State activities under paragraph (1) to advance the goals of this section; and

(C) how the State is coordinating funds allocated under this section with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(i) SUPPLEMENT NOT SUPPLANT.—A State or local educational agency shall use funds received under this section only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for reducing gun violence among children and educating children about firearms, and not to supplant such funds.

(j) DISPLACEMENT.—A local educational agency that receives a grant award under this section shall ensure that persons hired to carry out the activities under this section do not displace persons already employed.

(k) HOME SCHOOLS.—Nothing in this section shall be construed to affect home schools.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section $60,000,000 for each of fiscal years 2002, 2003, and 2004.

SEC. 4272. DISSEMINATION OF BEST PRACTICES VIA THE INTERNET.

(a) MODEL DISSEMINATION.—The Secretary of Education shall include on the Internet site of the Department of Education a description of programs that receive grants under section 4271.

(b) GRANT PROGRAM NOTIFICATION.—The Secretary shall publicize the competitive grant program through its Internet site, publications, and public service announcements.

SEC. 4273. GRANT PRIORITY FOR TRACING OF GUNS USED IN CRIMES BY JUVENILES.

Section 517 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3763) is amended by adding at the end the following:

"(c) PRIORITY.—In awarding discretionary grants under section 511 to public agencies to undertake law enforcement initiatives relating to gangs, or relating to juveniles who are involved or at risk of involvement in gangs, the Director shall give priority to a public agency that includes in its application a description of strategies or programs of that public agency (either in effect or proposed) that provide cooperation between Federal, State, and local law enforcement authorities, through the use of firearms and ballistics identification systems, to disrupt illegal sale or transfer of firearms to or between juveniles through tracing the sources of guns used in crime that were provided to juveniles.".

21ST CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIM ASSISTANCE ACT—SECTION-BY-SECTION ANALYSIS

TITLE I: SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A. Support for Community Personnel

Sec. 1101. 21st century community policing initiative. Extends COPS program through FY2007. Authorizes funds for up to 50,000 police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys. Authorizes $350 million annually for new law enforcement technology designed to improve police communications and promote comprehensive crime analysis.

Subtitle B. Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

Sec. 1201. Expansion of protection of Federal officers and employees from murder due to their status. Clarifies that it is a crime to murder a Federal employee because of his or her status, as well as because of his or her performance of official duties, and that the same protection applies to a State or local government employee who is assisting a Federal official.

Sec. 1202. Assaulting, resisting, or impeding certain officers or employees. Increases the maximum penalties for simple assault (from 1 to 3 years) and other assaults (from 10 to 20 years) on Federal officials acting in performance of their official duties, or persons acting in concert with a Federal employee.

Sec. 1203. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member. Increases the maximum penalties for actual or attempted influencing, impeding, or retaliating against a Federal official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

Sec. 1204. Mailing threatening communications. Increases the maximum penalties from 5 to 10 years for threats of injury or kidnaping of any person mailed to a Federal judge, and from 3 to 6 years for extortionate threats to Federal judges.

Sec. 1205. Amendment of the sentencing guidelines for assaults and threats against Federal judges and certain other Federal officials and employees. Directs the United States Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for assaults and threats against Federal judges and other Federal officials and employees engaged in their official duties.

Sec. 1206. Killing persons aiding Federal investigations or State correctional officers. Provides that the killing of a person working with Federal officials in a State or joint Federal-State investigation shall be a crime, just as is a killing in conjunction with a Federal investigation.

Sec. 1207. Killing State correctional officers. Clarifies that Federal criminal penalties regarding assaults by prisoners apply where the person committing the offense was incarcerated prior to a finding of guilt, including pending an initial appearance, arraignment, trial, or appeal.

Sec. 1208. Establishment of protective function privilege. Establishes a privilege against testimony by Secret Service officers charged with protecting the President, those in direct line for the Presidency, and visiting foreign heads of state.

Part 1. Extension of Project Exile

Sec. 1311. Authorization of funding for additional State and local gun prosecutors. Authorizes $150,000,000 in FY2002 to hire additional local and State prosecutors to expand the Project Exile program in high gun-crime areas. Requires interdisciplinary team approach to prevent, reduce, and respond to firearm related crimes in partnership with communities.

Sec. 1312. Authorization of funding for additional Federal firearms prosecutors and gun enforcement teams. Authorizes the Attorney General to hire 114 additional Federal prosecutors to prosecute violations of Federal firearms in up to 20 jurisdictions designated as high crime areas. Authorizes $15,000,000 for FY2002.

Part 2. Expansion of the Youth Crime Gun Interdiction Initiative

Sec. 1321. Youth Crime Gun Interdiction Initiative. Directs the Secretary of the Treasury to expand participation in the Youth Crime Gun Interdiction Initiative ("YCGII"). Authorizes grants to States and localities for purposes of assisting them in the tracing of firearms and participation in the YCGII.

Part 3. Gun Offenses

Sec. 1331. Gun ban for dangerous juvenile offenders. Prohibits juveniles adjudged delinquent for serious drug offenses or violent felonies from receiving or possessing a firearm, and makes it a crime for any person to sell or provide a firearm to someone they have reason to believe has been adjudged delinquent. This section applies only prospectively, and access to firearms may be restored under State restoration of rights provisions, but only if such restoration is on a case-by-case, rather than automatic basis.

Sec. 1332. Improving firearms safety. Requires gun dealers to have secure gun storage devices available for sale, including any device or attachment to prevent a gun's use by one not having regular access to the firearm, or a lockable safe or storage box.

Sec. 1333. Juvenile handgun safety. Increases the maximum penalty for transferring a handgun to a juvenile or for a juvenile to unlawfully possess a handgun from 1 to 5 years.

Sec. 1334. Serious juvenile drug offenses as armed career criminal predicates. Permits the use of an adjudication of juvenile delinquency for a serious drug trafficking offense as a predicate offense for determining whether a defendant falls within the Armed Career Criminal Act. That act provides additional penalties for armed criminals with a proven record of serious crimes involving drugs and violence.

Sec. 1335. Increased penalty for transferring a firearm to a minor for use in crime of violence or drug trafficking crime. Increases the maximum penalty for providing a firearm to a juvenile that one knows will be used in a serious crime from 10 to 15 years.

Sec. 1336. Increased penalty for firearms conspiracy. Subjects conspirators to the same penalties as are provided for the underlying firearm offenses in 18 U.S.C. §924.

Part 4. Closing the Gun Show Loophole

Sec. 1341. Extension of Brady background checks to gun shows. Eliminates the gun show loopholes by requiring criminal background checks on all gun sales at gun shows; clarifies that gun sellers and buyers are not subject to penalties unless they knowingly attempt to circumvent the background checks; and amends the Brady law to prevent the Federal government from keeping records on qualified purchasers for more than 90 days.

Subtitle D. Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

Sec. 1401. Juvenile and violent offender incarceration grants. Authorizes the Attorney General to make grants to States, local governments, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, staff-secure facilities, detention centers, and other correctional programs for violent juvenile offenders.

Sec. 1402. Certain punishment and graduated sanctions for youth offenders. Authorizes the Attorney General to make grants for the purposes of: (1) providing juvenile courts with a range of sentencing options such that first time juvenile offenders face some level of punishment as a result of their initial contact with the juvenile justice system; and (2) increasing the sentencing options available to juvenile court judges. Authorizes appropriations through FY2005.

Sec. 1403. Pilot program to promote replication of recent successful juvenile crime reduction strategies. Directs the Attorney General to establish a pilot program to encourage and support communities that adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after successful State juvenile crime reduction strategies. Authorities appropriations through FY2004.

Sec. 1404. Reimbursement of States for costs of incarcerating juvenile alien offenders. Amends: (1) the Immigration Reform and Control Act of 1986 to provide for the reimbursement of States for the costs of incarcerating juvenile alien offenders; and (2) the Illegal Immigration Reform and Immigrant Reform and Immigrant Responsibility Act of 1996 to require that the annual report on criminal aliens include additional details on illegal juvenile aliens.

Subtitle E. Ballistics, Law Assistance, and Safety Technology

Sec. 1501. Short title. This subtitle may be cited as the "Ballistics, Law Assistance, and Safety Technology Act" ("BLAST").

Sec. 1502. Purposes. Statement of legislative purposes.

Sec. 1511. Definition of ballistics. Defines terms used in this subtitle.

Sec. 1512. Test firing and automated storage of ballistics records. Requires a licensed manufacturer or importer to test fire firearms, prepare ballistics images, make records available to the Secretary of the Treasury for entry in a computerized database, and store the fired bullet and cartridge casings. Directs the Attorney General and the Secretary to assist firearm manufacturers and importers in complying. Specifies that nothing herein creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

Sec. 1513. Privacy rights of law abiding citizens. Prohibits the use of ballistics information of individual guns for (1) prosecutorial purposes, unless law enforcement officials have a reasonable belief that crime has been committed and that ballistics information would assist in the investigation of that crime, or (2) the creation of a national firearms registry of gun owners.

Sec. 1514. Demonstration firearm crime reduction strategy. Directs the Secretary and the Attorney General to establish in the jurisdiction selected a comprehensive firearm crime reduction strategy. Requires the Secretary and the Attorney General to select not fewer than ten jurisdictions for participation in the program. Sets forth provisions regarding selection criteria.

Subtitle F. Offender Reentry and Community Safety

Section 1601. Short title. This subtitle may be cited as the "Offender Reentry and Community Safety Act of 2001."

Section 1602. Findings. Legislative findings in support of this subtitle.

Section 1603. Purposes. Statement of legislative purposes.

Part 1. Federal Reentry Demonstration Projects

Section 1611. Federal Reentry Center Demonstration. Establishes the Federal Reentry Center Demonstration project to assist participating prisoners, under close monitoring, in preparing for and adjusting to reentry into the community; details project duration and selection of districts in which to carry out programs.

Section 1612. Federal High-Risk Offender Reentry Demonstration. Establishes the Federal High-Risk Offender Reentry Demonstration project. Uses community corrections facilities and appropriate monitoring technologies to promote effective reentry into the community; notifies victims of prisoner reentry; details project duration and selection of districts in which to carry out programs.

Section 1613. District of Columbia Intensive Supervision, Tracking, and Reentry Training (DC iSTART) Demonstration. Establishes the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC iSTART) project. Uses intensive supervision to promote high risk parolees' successful reentry into the community.

Section 1614. Federal Intensive Supervision, Tracking, and Reentry Training (FED iSTART) Demonstration. Establishes the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED iSTART) project. Uses intensive supervision to promote high risk parolees' successful reentry into the community.

Section 1615. Federal Enhanced In-Prison Vocational Assessment and Training Demonstration. Establishes Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project to provide in-prison assessment of prisoners' vocational needs, development, and release readiness, and other programs to prepare Federal prisoners for reentry into the community.

Section 1616. Research and reports to Congress. Defines requirements for reporting on the effectiveness of the programs established in this subtitle.

Section 1617., Definitions. Defines terms used in this subtitle.

Section 1618. Authorization of appropriations. Authorizes appropriations through FY2006.

Part 2. State Reentry Grant Programs

Section 1621. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Establishes adult offender reentry demonstration projects; State and local reentry courts; juvenile offender State and local reentry programs; and State reentry program research, development, and evaluation.

TITLE II: STRENGTHENING THE FEDERAL CRIMINAL LAWS

Subtitle A. Combating Gang Violence

Part 1. Enhanced Penalties for Gang Related Activities

Sec. 2101. Gang franchising. Prohibits travel in interstate commerce to create or promote a franchise of a criminal street gang, with penalty of up to 10 years in prison for a violation.

Sec. 2102. Enhanced penalties for use or recruitment of minors in gangs. Requires the United States Sentencing Commission to provide for enhanced penalties for those who use or recruit minors in a criminal street gang franchise.

Sec. 2103. Gang franchising as a RICO predicate. Makes gang franchising a predicate crime for a RICO prosecution.

Sec. 2104. Increase in offense level for participating in crime as a gang member. Requires the United States Sentencing Commission to provide an enhanced penalty for street gang members who commit crimes as a member of the gang.

Sec. 2105. Enhanced penalty for discharge of a firearm in relation to counts of violence or drug trafficking crimes. Requires the United States Sentencing Commission to provide for an enhanced penalty for any defendant who discharges a firearm during the course of a crime of violence or a drug offense.

Sec. 2106. Punishment of arson or bombings at facilities receiving Federal financial assistance. Sets penalties for arson or bombings a facilities of any institution or organization receiving Federal financial assistance.

Sec. 2107. Elimination of statute of limitations for murder. Eliminates the Federal statute of limitations for Federal crimes involving murder regardless of whether the crime carries the death penalty. Lifts the statute of limitation, for example, on RICO offenses involving murder.

Sec. 2108. Extension of statute of limitations for violent and drug trafficking crimes. Extends to 10 years the statute of limitations for Class A felonies involving drug trafficking and crimes of violence.

Sec. 2109. Increased penalties under the RICO law for gang and violent crimes. Raises the maximum term of imprisonment for a violation of RICO to 20 years or life imprisonment.

Sec. 2110. Increased penalty and broadened scope of statute against violent crimes in aid of racketeering. Expands the scope of anti-racketeering laws by including as violations not only threats of violence in aid of racketeering, but also actual acts of violence. Increases maximum penalty for conspiracy to kidnap or murder in aid of racketeering from 10 years to life imprisonment; raises maximum penalty for other actual or attempted crimes of violence in aid of racketeering from 5 to 10 years.

Sec. 2111. Facilitating the prosecution of carjacking offenses. Eliminates requirement that prosecutors prove that a defendant actually intended to cause death or serious bodily injury, as opposed, for example, to using a firearm "merely" to threaten the car owner.

Sec. 2112. Facilitation of RICO prosecutions. Eliminates requirement that prosecutors prove that each defendant committed two specific acts of racketeering activity. Brings RICO conspiracy law into line with general conspiracy law.

Sec. 2113. Assault as a RICO predicate. Makes an assault a predicate offense for purposes of the RICO statute

Sec. 2114. Expansion of definition of "racketeering activity" to affect gangs in Indian country. Expands the definition of racketeering activity to include acts or threats committed solely in Indian Country.

Sec. 2115. Increased penalties for violence in the course of riot offenses. Changes the current 5 year maximum penalty for violence in the course of a riot to a maximum of life imprisonment where death results, or 20 years where serious bodily injury results.

Sec. 2116. Expansion of Federal jurisdiction over crimes occurring in private penal facilities housing Federal prisoners or prisoners from other States. Expands the definition of prisons under chapter 87 of Title 18 to include, in addition to Federal prisons, private facilities used to house Federal prisoners or for interstate housing of prisoners.

Part 2. Targeting Gang-Related Gun Offenses

Sec. 2121. Transfer of firearm to commit a crime of violence. Increases the ability of prosecutors to punish those who facilitate crimes of violence by providing firearms to criminals. Specifies that it is a crime for a person to transfer a weapon to another when the person has "reason to know", or actual knowledge, that the recipient of the weapon will use it to commit a crime of violence.

Sec. 2122. Increased penalty for knowingly receiving firearm with obliterated serial number. Increases from 5 to 10 years the maximum penalty for receiving a firearm with an obliterated serial number, makes the maximum penalty the same as for receiving a firearm known to be stolen.

Sec. 2123. Amendment of sentencing guidelines for transfers of firearms to prohibited persons. Directs the United States Sentencing commission to enhance penalties for the transfer of a firearm to a person whom the defendant has reasonable cause to believe is prohibited from possessing the firearm.

Part 3. Using and Protecting Witnesses to Help Prosecute Gangs and Other Violent Criminals

Sec. 2131. Interstate travel to engage in witness intimidation or obstruction of justice. Adds witness bribery, witness intimidation, obstruction of justice, and related conduct in State criminal proceedings to the list of predicates under the Travel Act.

Sec. 2132. Expanding pretrial detention eligibility for serious gang and other violent criminals. Protects witnesses by expanding eligibility for pretrial detention of gang members likely to harm or intimidate a witness. Allows a court to (1) consider any adjudication of juvenile delinquency in determining the number of prior convictions of a defendant; (2) treat prior convictions for crimes of possession of explosives or firearms as "crimes of violence"; and (3) consider membership in a criminal street gang as a factor.

Sec. 2133. Conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. Makes a conspiracy to intimidate a witness or to obstruct justice a separate crime punishable by up to the amount of the contemplated crime, as opposed to the five year maximum under the existing general conspiracy statute.

Sec. 2134. Allowing a reduction in sentence for providing useful investigative information although not regarding a particular individual. Clarifies the criminal code and the Federal Rules of Criminal Procedure provisions dealing with reduced sentences in return for cooperation investigation, as opposed to an investigation focused on a particular person.

Sec. 2135. Increasing the penalty for using physical force to tamper with witnesses, victims or informants. Amends the witness tampering statute to include not only killing or attempting to kill a witness, but also any use or attempted use of physical force to deter a witness, and efforts to delay testimony by witnesses or to alter or destroy documents.

Sec. 2136. Expansion of Federal kidnaping offense to cover when death of victim occurs before crossing State line and when facility in interstate commerce or the mails are used. Expands the Federal kidnaping offense to cover situations where the death of the victim occurs before the crossing of any State line, and situations where a facility in interstate commerce or the mails is used, to make clear that the Federal courts have jurisdiction over such cases.

Sec. 2137. Assaults or other crimes of violence for hire. Includes, in addition to murder for hire connected to interstate commerce, all felony crimes of violence against persons under such circumstances as Federal crimes.

Sec. 2138. Clarification of interstate threats statute to cover threats to kill. Clarifies the interstate threats statute covers threats to kill as well as threats merely to injure.

Sec. 2139. Conforming amendment to law punishing obstruction of justice by notification of existence of subpoena for records in certain types of investigations. Expands the list of predicate crimes under the Federal obstruction of justice statute to include the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Internal Revenue Code.

Part 4. Gang Paraphernalia

Sec. 2141. Streamlining procedures for law enforcement access to clone numeric pagers. Allows the use of clone pagers (devices used to capture numbers sent to another pager) with consent or on application to a court.

Sec. 2142. Sentencing enhancement for using body armor in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for crimes committed by persons wearing body armor, and provides an exception where the crime is committed by a police officer, who often wears such armor in the course of official duties.

Sec. 2143. Sentencing enhancement for using laser sighting devices in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for the use or possession of a laser sighting device in the commission of a felony.

Sec. 2144. Government access to location information. Provides that a mobile electronic communications service is to provide the real-time physical location of a customer's cell phone only upon a court order finding probable cause connecting the subscriber to a felony.

Sec. 2145. Limitation on obtaining transactional information from pen registers or trap and trace devices. Provides that ex parte orders for the use of pen registers or trap and trace devices are to direct that the devices be used so as to minimize the interception of information other than that involved in processing the call (i.e. telephone numbers).

Subtitle B. Combating Money Laundering

Sec. 2201. Short title. This subtitle may be cited as the "Money Laundering Enforcement Act of 2001".

Sec. 2202. Illegal money transmitting businesses. Provides that a defendant need only know that a money transmitting business lacked a license required by the State law, not that the operation of the business without the license was a criminal violation of State law. Therefore, a prosecutor does not have to provide actual knowledge of State law.

Sec. 2203. Restraint of assets of persons arrested a abroad. Responds to the ease with which money can be transferred from country to country by electronic means, and provides for temporary seizure of property held within the Unites States when a person has been arrested or charged in a foreign country.

Sec. 2204. Civil money laundering jurisdiction over foreign persons.. Provides "long arm" jurisdiction over foreign banks engaged in money laundering that have accounts in the United States, so that the foreign bank cannot claim that it lacks the minimum contacts with the United States for in personam jurisdiction.

Sec. 2205. Punishment of laundering money through foreign banks. Amends civil money laundering provisions to include foreign as well as domestic banks in the definition of "financial institutions".

Sec. 2206. Addition of serious foreign crimes to list of money laundering predicates. Expands the list of money laundering "specified unlawful activity," or crimes for which money laundering prosecutions can be brought. Includes the following foreign crimes as predictes for a money laundering prosecution: (1) all crimes of violence not currently covered; (2) fraud against a foreign government; (3) bribery of or theft by a foreign official; (4) smuggling weapons; and (5) any other offense for which the United States would extradite the defendant.

Sec. 2207. Criminal forfeiture for money laundering conspiracies.. Makes a conspiracy to commit an existing forfeiture crime a separate criminal violation.

Sec. 2208. Fungible property in foreign bank accounts. Amends fungible property provisions to make them applicable to all forfeitures (e.g., drug violations as well as money laundering violations) and to foreign and domestic banks. Extends the term for bringing fungible property actions from one year to two years. Makes clear that the time runs from the arrest or seizure.

Sec. 2209. Admissibility of foreign business records. Provides that foreign records are admissible in civil proceedings in the same way that they currently are admissible in criminal proceedings.

Sec. 2210. Charging money laundering as a course of conduct. Allows prosecutors to charge a continuing scheme to violate the money laundering statutes as a single count in an indictment, as an alternative to the present requirement that prosecutors charge each transaction as a separate count.

Sec. 2211. Venue in money laundering cases. Establishes that a money laundering prosecution can be brought in any district in which the transaction is conducted, where a prosecution for the underlying specified unlawful activity could be brought, or where an act in any conspiracy took place.

Sec. 2212. Technical amendment to restore wiretap authority for certain money laundering offenses. Restores Federal authority to obtain wiretaps in cases involving illegal structuring of currency transactions.

Sec. 2213. Criminal penalties for violations of anti-money laundering orders. Clarifies that criminal penalties apply to violations of Department of Treasury "geographic targeting orders" (temporary orders in enforcement of the Bank Secrecy Act). Violations occur where there are false reports or failures to make required reports.

Sec. 2214. Encouraging financial institution to notify law enforcement of suspicious financial transactions. Expands the definition of financial institutions which may, without civil liability, report suspicious financial transactions to law enforcement officials. Expanded definition includes electronics communications services that facilitate international transfer.

Sec. 2215. Coverage of foreign bank branches in the territories. Expands the definition of "State" to include commonwealths, territories, and possessions of the United States for purposes of the International Banking Act of 1978.

Sec. 2216. Conforming statute of limitations amendment for certain bank fraud offenses. Technical amendment to conform section number references.

Sec. 2217. Jurisdiction over certain financial crimes committee abroad. Clarifies United States' jurisdiction over access device fraud (credit card, debit card and telecommunications fraud) where the fraud has an effect on an entity within the United States.

Sec. 2218. Knowledge that property is the process of a felony. Clarifies the law regarding a defendant's knowledge of the source of money in a money laundering transactions. Although the offense must in fact be a felony, it is not necessary that the defendant be aware that the legislature has so classified the offense.

Sec. 2219. Money laundering transactions; commingled accounts. Clarifies the requirement in 18 U.S.A. §1957 that the monetary transaction involve more than $10,000 in criminally derived property. Discusses the impact on money laundering cases of commingled accounts which contain clean money and money in criminally derived property.

Sec. 2220. Laundering the process of terrorism. Corrects an omission in the Antiterrorism and Effective Death Penalty Act of 1996 by making it an offense to launder money which was raised for the material support of a foreign terrorist organization. Current law makes it an offense to raise such funds but not to launder the same.

Sec. 2221. Violations of sections 6050I. Requires any trade or business receiving more than $10,000 in cash to report the transaction to the IRS on Form 8300. Violations of the Form 8300 requirement will be treated the same as CTR and CMIR violations for forfeiture purposes.

Sec. 2222. Including agencies of tribal governments in the definition of a financial institution. Prevent tribes from offering "offshore banking" on Indian reservations by forming tribal banks that may conceal deposit records from the Federal Government. Clarifies present law to state that the BSA and money laundering statues apply to banks owned or operated by Indian tribes.

Sec. 2223. Penalties for violations of geographic targeting orders and certain record keeping requirements. Correct ambiguity regarding reporting under the Bank Secrecy Act (BSA). Eliminates doubt concerning the applicability of reporting provisions in reports required by GTOs issued under 31 U.S.C. §5326.

Subtitle C. Antidrug Provisions

Sec. 2301. Amendments concerning temporary emergency scheduling. Authorizes the Attorney General to schedule controlled substances on an emergency basis when that substance proses an immediate threat to health and/or public safety. Provides protections for legitimate researchers.

Sec. 2302. Amendment to reporting requirement for transactions involving certain listed chemicals. Allows reporting of certain transactions involving ephedrine, pseudoephedrine and phenylpropanolamine to be exempted from reporting requirements with no negative impact on law enforcement goals.

Sec. 2303. Drug paraphernalia. Adds "packaging" to the list of uses included in the definition of "drug paraphernalia" in the Controlled Substances Act (21 U.S.C. §863(d)). Facilitates prosecution of those who manufacture packaging materials, sell them, and possess them.

Sec. 2304. Counterfeit substances/imitation controlled substances. Expands the definition of counterfeit substance. "Counterfeit substance" applies to any controlled substance which is represented to be or which imitates another controlled substance regardless of whether that controlled substance is of licit or illicit origin. Adds a new definition for imitation controlled substances.

Sec. 2305. Conforming amendment concerning marijuana plants. Corrects an inconsistency in the penalties relating to marijuana plants that exists between 21 U.S.C. §841(b) and 21 U.S.C. §960(b). The former statute applies to domestic controlled substance trafficking violations and the latter to controlled substance importation offenses. The correction would make identical the number of marijuana plants cited in the provisions.

Sec. 2306. Serious juvenile drug trafficking offenses as armed career criminal act predicates. Permits the use of an adjudication of juvenile delinquency based on a serious drug trafficking offense as a predicate offense under the Armed Career Criminal Act (ACCA), 18 U.S.C. §924(c)(2)(A). The ACCA targets for a lengthy period of at least 15 years' imprisonment those felons found in unlawful possession of a firearm who have proven records of involvement in serious acts of misconduct involving drugs or violence.

Sec. 2307. Increased penalties for using Federal property to grow or manufacture controlled substances. Increases the penalty for cultivating or manufacturing a controlled substance on Federally owned or leased land. Federal law enforcement agencies believe that the use of Federal lands for cultivating and manufacturing controlled substances has increased because there is no possibility that the land will be forfeited as is the case if the cultivation or manufacture took place on private property.

Sec. 2308. Clarification of length of supervised release terms in controlled substance cases. Resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases.

Sec. 2309. Supervised release period after conviction for continuing criminal enterprise. Provides a mandatory minimum period of 10 years of supervised release after a conviction for participation in a continuing criminal enterprise where there is no prior conviction, and a minimum of 15 years where there has been a prior conviction.

Sec. 2310. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes. Ensures that sentencing guidelines promulgated by the United States Sentencing Commission are consistent with the provisions of all Federal statutes.

Sec. 2311. Import and export of chemicals used to produce illicit drugs. Authorizes the Drug Enforcement Administration to require that exporters of certain listed chemicals to drug producing areas of the world document to DEA the ultimate consignee and use of the listed chemical Clarifies DEA's authority to require advance notification of imports and exports including identifying the importer in the country of destination.

Subtitle D. Deterring Cargo Theft

Sec. 2351. Punishment of cargo theft. Clarifies Federal statute governing thefts of vehicles normally used in interstate commerce to include trailers, motortrucks, and air cargo containers; and freight warehouses and transfer stations. Makes such a theft a felony punishable by three (not one) years in prison. Provides for appropriate amendments to the Sentencing Guidelines.

Sec. 2352. Reports to Congress on cargo theft. Mandates annual reports by the Attorney General to evaluate and identify further means of combating cargo theft.

Sec. 2353. Establishment of Advisory Committee on cargo theft. Establishes a six-member Advisory Committee on Cargo Theft with representatives of the Departments of Justice, Treasury and Transportation, and three experts from the private sector. Committee will hold hearing and submit a report within one year with detailed recommendations on cargo security.

Sec. 2354. Addition of attempted theft and counterfeiting offenses to eliminate gaps and inconsistencies in coverage. Amends 22 statutes to clarify that attempt to embezzle funds or counterfeit is a crime, just as is actual embezzlement or counterfeiting.

Sec. 2355. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization. Provides that it is a crime to receive, conceal or retain property stolen from a tribal organization if one knows that the property has been stolen, even if one did not know that it had been stolen from a tribal organization.

Sec. 2356. Larceny involving post office boxes and postal stamp vending machines. Clarifies that it is a crime to steal from a post office box or stamp vending machine irrespective of whether it is in a building used by the Postal Service.

Sec. 2357. Expansion of Federal theft offenses to cover theft of vessels. Expands Federal law covering the transportation of stolen vehicles to include watercraft.

Subtitle E. Improvements to Federal Criminal Law

Part 1. Sentencing Improvements

Sec. 2411. Application of sentencing guidelines to all pertinent statutes. Clarifies that the rules and regulations promulgated by the United States Sentencing Commission are required to be consistent with all pertinent Federal statutes, not just the Federal criminal statues within titles 18 and 28 of the United States Code.

Sec. 2412. Doubling maximum penalty for voluntary manslaughter. Increases the maximum penalty for voluntary manslaughter within the special maritime and territorial jurisdiction of the United States from 10 to 20 years. Brings it in line with related Federal penalties and the higher penalty for voluntary manslaughter in many States.

Sec. 2413. Authorization of imposition of both a fine and imprisonment rather than only either penalty in certain offenses. Provides a uniform rule allowing both fine and imprisonment in all criminal statutes. Addresses drafting errors that have resulted in five Federal criminal statues, 18 U.S.C. §401 (criminal contempt), 18 U.S.C. §1705 (destruction of letter boxes), 18 U.S.C. §1916 (unauthorized employment or disposition of lapsed appropriations), 18 U.S.C. §2234 (willfully exceeding search warrant) and 18 U.S.C. §2235 (maliciously procuring search warrant), where the court can impose either a fine or imprisonment, but not both.

Sec. 2414. Addition of supervised release violation as predicate for certain offenses. Adds supervised release to various statutes which now relate only to probation or parole. Violation of supervised release could serve as a predicate offense in the same ways a violation of probation or parole currently does.

Sec. 2415. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases. Allows a court to impose conditions of parole or supervised release (such as home confinement) where a prisoner has a terminal illness that is contagious.

Sec. 2416. Elimination of proof of value requirement for felony theft or conversion of grand jury material. Eliminates the $1,000 felony threshold for thefts of government property under 18 U.S.C. §641 where the material stolen is grand jury material.

Sec. 2417. Increased maximum corporate penalty for antitrust violations. Increases the maximum statutory fine for corporations convicted of criminal antitrust violations from the current Sherman Act maximum of $10,000,000 to a new maximum of $100,000,000.

Sec. 2418. Amendment of Federal sentencing guidelines for counterfeit bearer obligations of the United States. Directs the United States Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for counterfeiting offenses, to address the recent increase of computer-generated counterfeit U.S. currency produced by inkjet printers and color copiers.

Part 2. Additional Improvements to Federal Criminal Law

Sec. 2421. Violence directed at dwellings in Indian country. Allows the prosecution of Indians as well as non-Indians who commit acts of violence directed against dwellings on Indian reservations. Such crimes currently are not among those specifically listed as prosecutable in the Major Crimes Act.

Sec. 2422. Correction to Amber Hagerman Child Protection Act. Corrects drafting errors in the Amber Hagerman Child Protection Act (a bill regarding the crossing of State lines to engage in sex with a child under 12). Expands penalties for engaging in forcible sex with children ages 12 to 16.

Sec. 2423. Elimination of "bodily harm" element in assault with a dangerous weapon offense. Eliminates voluntary intoxication as a defense in the case of a person accused of committing assault with a deadly weapon in the special maritime and territorial jurisdiction of the United States.

Sec. 2424. Appeals from certain dismissals. Clarifies that the government appeal statute authorizes appeal by the United States whenever a court dismisses any part of an indictment or information, so long as the appeal is consistent with the Double Jeopardy Clause. The decision to appeal is to be made by the Solicitor General.

Sec. 2425. Authority for injunction against disposal of ill-gotten gains from violations of fraud statutes. Allows injunctions for fraud when a person is disposing of or about to dispose of property obtained not only as a result of bank fraud, but also as a result of violations of general anti-fraud statutes: a false statement under 18 U.S.C. §1001, a false claim under 18 U.S.C. §287, or a conspiracy to defraud the United States or violate the law under 18 U.S.C. §371.

Sec. 2426. Expansion of interstate travel fraud statute to cover interstate travel by perpetrator. Closes a gap in the interstate travel fraud statute to cover situations where the perpetrator travels in interstate commerce, in addition to situations where the perpetrator transports or causes others to travel in interstate commerce.

Sec. 2427. Clarification scope of unauthorized selling of military medals or decorations. Clarifies that the prohibition against the unauthorized selling of military decorations also covers a person who "trades, barters or exchanges for ... value."

Sec. 2428. Amendment to section 669 to conform to Public Law 104–294. Changes the threshold amount for a felony involving health care fraud from $100 to $1,000.

Sec. 2429. Expansion of jurisdiction over child buying and selling offenses. Expands Federal jurisdiction over child buying and selling statutes to cover, in addition to any territory or possession of the United States, the special maritime and territorial jurisdiction of the United States, and commonwealths and possessions of the United States.

Sec. 2430. Limits on disclosure of wiretap orders. Provides that only an "aggrieved party" may have access to Title III applications and orders for wiretaps. Only such aggrieved persons have standing to seek suppression of the resulting intercepted communications.

Sec. 2431. Prison credit and aging prisoner reform. Eliminates inappropriate accrual of custody credit and avoids the resulting unwarranted disparities in time served by Federal offenders. Eliminates disparities in the treatment of foreign and domestic prisoners with respect to "good time credits". Permits certain non-dangerous Federal prisoners over the age of 70 to be released after they have served at least 30 years in custody, upon approval of the Bureau of Prisons and a Federal court.

Sec. 2432. Miranda reaffirmation. Repeals 18 U.S.C. §3501, which purported to overturn the Supreme Court's Miranda decision; the Court has held §3501 to be unconstitutional.

TITLE III: PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A. Crime Victims Assistance

Sec. 3101. Short title. This subtitle may be cited as the "Crime Victims Assistance Act of 2001".

Part 1. Victim Rights

Sec. 3111. Right to notice and to be heard concerning detention. Require the government to make reasonable efforts to notify victims of upcoming detention hearings and of their right to attend and address the court. Where identification of the defendant remains at issue, provides flexibility to the presiding judge to protect the integrity of the identification.

Sec. 3112. Right to a speedy trial. Require courts to take into account the interests of the victim in the prompt and appropriate disposition of the case.

Sec. 3113. Right to notice and to be heard concerning plea. Require the government to make reasonable efforts to notify victims of upcoming plea hearings and of their right to attend and address the court.

Sec. 3114. Enhanced participatory rights at trial. Extends the Victim Rights Clarification Act to apply to televised proceedings. Amends the Victims' Rights and Restitution Act of 1990 to strengthen the right of crime victims to be present at court proceedings, including trials.

Sec. 3115. Right to notice and to be heard concerning sentence. Directs courts to consider the views of victims in imposing sentence, and requires probation officers to notify victims of their right to attend sentencing proceedings and address the court.

Sec. 3116. Right to notice and to be heard concerning sentence adjustment. Directs the government to make reasonable efforts to notify victims of upcoming hearings concerning revocation or modification of probation or supervised release and of their right to attend and address the court.

Sec. 3117. Right to notice of release or escape. Requires the Bureau of Prisons to ensure victims reasonable notice of an offender's release or escape from custody. Specifically clarifies victim's rights to notification of an offender's release or escape from a psychiatric institution.

Sec. 3118. Right to notice and to be heard concerning executive clemency. Requires the Attorney General to make reasonable efforts to notify victims of the grant of executive clemency, and to report to Congress concerning executive clemency matters delegated for review or investigation to the Attorney General.

Sec. 3119. Remedies for noncompliance. Establishes a mechanism for addressing violations of the newly created statutory rights of crime victims.

Part 2. Victim Assistance Initiatives

Sec. 3121. Pilot programs to establish ombudsman programs for crime victims. Authorizes the establishment of pilot programs to operate Victim Ombudsman Information Centers in seven States, which would provide information to victims concerning their right to participate in the criminal justice process, identify and respond to violations of victims' rights, and educate public officials concerning the rights of victims. Authorizes the use of up to $5 million of False Claims Act funds to make grants for these pilot programs.

Sec. 3122. Amendments to Victims of Crime Act of 1984. Provides for improvements in Federal support for victim assistance and compensation under the Victims of Crime Act. Includes changes in the sources of funding to the Crime Victims Fund and increases the minimum threshold for the annual grant to victim compensation programs.

Sec. 3123. Increased training for law enforcement and court personnel to respond to the needs of crime victims. Authorizes the use of False Claims Act funds to make grants to provide victim-related training.

Sec. 3124. Increased resources to develop state-of-the-art systems for notifying crime victims of important dates and developments. Authorizes grants for the development of crime victim notification systems, using False Claims Act funds and amounts available in the Violent Crime Reduction Trust Fund.

Part 3. Victim-Offender Programs:
"Restorative Justice"

Sec. 3131. Pilot program and study of restorative justice approach on behalf of victims of crime. Authorizes grants for pilot programs in restorative justice in juvenile court settings. Includes a study of existing programs. Requires that participation in pilot programs be voluntary.

Subtitle B. Violence Against Women Act
Enhancements

Sec. 3201. Shelter services for battered women and children. Provides assistance to local entities that provide shelter or transitional housing assistance to victims of domestic violence. Provides means to improve access to information on family violence within underserved populations. Reauthorizes funding for the Family Violence Prevention and Services Act at a level of $175,000,000 through FY 2005.

Sec. 3202. Transitional housing assistance for victims of domestic violence. Provides grants to those in need of housing assistance as a result of fleeing a family violence situation. Funding includes assistance with rent, utilities, transportation, and child care.

Sec. 3203. Family unity demonstration project. Extends the Family Unity Demonstration Project through FY 2005.

Subtitle C. Senior Safety

Sec. 3301. Short title. This subtitle may be cited as the "Seniors Safety Act of 2001".

Sec. 3302. Finding and purposes. Legislative findings in support of this subtitle, and statement of legislative purposes.

Sec. 3303. Definitions. Defines terms used in this subtitle.

Part 1. Combating Crimes Against Seniors

Sec. 3311. Enhanced sentencing penalties based on age of victim. Directs the U.S. Sentencing Commission to review and, if appropriate, amend the sentencing guidelines to include age as one of the criteria for determining whether a sentencing enhancement is appropriate. Encourages such review to reflect the economic and physical harms associated with criminal activity targeted at seniors and consider providing increased penalties for offenses where the victim was a senior.

Sec. 3312. Study and report on health care fraud sentences. Directs the U.S. Sentencing Commission to review and, if appropriate, amend the sentencing guidelines applicable to health care fraud offenses. Encourages such review to reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud, and to consider enhanced penalties for persons convicted of health care fraud.

Sec. 3313. Increased penalties for fraud resulting in serious injury or death. Increases the penalties under the mail fraud statute and the wire fraud statute for fraudulent schemes that result in serious injury or death. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

Sec. 3314 Safeguarding pension plans from fraud and theft. Punishes, with up to 10 years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement.

Sec. 3315. Additional civil penalties for defrauding pension plans. Authorizes the Attorney General to bring a civil action for retirement fraud, with penalties up to $50,000 for an individual or $100,000 for an organization, or the amount of the gain to the offender or loss to the victim, whichever is greatest.

Sec. 3316. Punishing bribery and graft in connection with employee benefit plans. Increases the maximum penalty for bribery and graft in connection with the operation of an employee benefit plan from 3 to 5 years' imprisonment. Broadens existing law to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans.

Part 2. Preventing Telemarketing Crime

Sec. 3321. Centralized complaint and consumer education service for victims of telemarketing fraud. Directs the Federal Trade Commission (FTC) to establish a central information clearinghouse for victims of telemarketing fraud and procedures for logging in complaints of telemarketing fraud victims, providing information on telemarketing fraud schemes, referring complaints to appropriate law enforcement officials, and providing complaint or prior conviction information. Directs the Attorney General to establish a database of telemarketing fraud convictions secured against corporations or companies, for uses described above.

Sec. 3322. Blocking of telemarketing scams. Clarifies that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §2326. Authorizes termination of telephone service used to carry on telemarketing fraud. Requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service.

Part 3. Preventing Health Care Fraud

Sec. 3331. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs. Authorizes the Attorney General to take immediate action to halt illegal health care fraud kickback schemes under the Social Security Act. Attorney General may seek a civil penalty of up to $50,000 per violation, or three times the remuneration, whichever is greater, for each offense under this section with respect to a Federal health care program.

Sec. 3332. Authorized investigative demand procedures. Authorizes the Attorney General to issue administrative subpoenas to investigate civil health care fraud cases. Provides privacy safeguards for personally identifiable health information that may be obtained in response to an administrative subpoena and divulged in the course of a Federal investigation.

Sec. 3333. Extending antifraud safeguards to the Federal employees health benefits program. Removes the anti-fraud exemption for the Federal Employee Health Benefits Act (FEHB), thereby extending anti-fraud and anti-kickback safeguards applicable to the Medicare and Medicaid program to the FEHB. Allows the Attorney General to use the same civil enforcement tools to fight fraud perpetrated against the FEHB program as are available to other Federal health care programs, and to recover civil penalties against persons or entities engaged in illegal kickback schemes.

Sec. 3334. Grand jury disclosure. Authorizes Federal prosecutors to seek a court order to share grand jury information regarding health care offenses with other Federal prosecutors for use in civil proceedings or investigations relating to fraud or false claims in connection with any Federal health care program. Permits grand jury information regarding health care offenses to be shared with Federal civil prosecutors, only after ex parte court review and a finding that the information would assist in enforcement of Federal laws or regulations.

Sec. 3335. Increasing the effectiveness of civil investigative demands in false claims investigations. Authorizes the Attorney General to delegate authority to issue civil investigative demands to the Deputy Attorney General or an Assistant Attorney General. Authorizes whistle-blowers who have brought qui tam actions under the False Claims Act to seek permission from a district court to obtain information disclosed to the Justice Department in response to civil investigative demands.

Part 4. Protecting the Rights of Elderly
Crime Victims

Sec. 3341. Use of forfeited funds to pay restitution to crime victims and regulatory agencies. Authorizes the use of forfeited funds to pay restitution to crime victims and regulatory agencies.

Sec. 3342. Victim restitution. Allows the government to move to dismiss forfeiture proceedings to allow the defendant to use the property subject to forfeiture for the payment of restitution to victims. If forfeiture proceedings are complete, Government may return the forfeited property so it may be used for restitution.

Sec. 3343. Bankruptcy proceedings not used to shield illegal gains from false claims. Allows an action under the False Claims Act despite concurrent bankruptcy proceedings. Prohibits discharge of debts resulting from judgments or settlements in Medicare and Medicaid fraud cases. Provides that no debt owed for a violation of the False Claims Act or other agreement may be avoided under bankruptcy provisions.

Sec. 3344. Forfeiture for retirement offenses. Requires the forfeiture of proceeds of a criminal retirement offense. Permits the civil forfeiture of proceeds from a criminal retirement offense.

Subtitle D. Violent Crime Reduction Trust Fund

Sec. 3401. Extension of Violent Crime Reduction Trust Fund. Extends funding for the Violent Crime Control and Law Enforcement Act of 1994 through FY2005.

TITLE IV: BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A. Drug Courts, Drug Treatment, and Alternative sentencing

Part 1. Expansion of Drug Courts

Sec. 4111. Reauthorization of drug courts program. Authorizes appropriations for the Drug Courts Program for FY2002 and FY2003 at $400,000,000 each year.

Sec. 4112. Juvenile drug courts. Authorizes grants to States, State and local courts, and Indian tribes, to establish programs for juveniles adjudicated delinquent for non-violent crimes who have substance abuse problems. Programs must include drug testing, drug treatment, and aftercare services such as relapse prevention and vocational training. Authorizes appropriations through FY2005 from the Violent Crime Reduction Trust Fund.

Part 2. Zero Tolerance Drug Testing

Sec. 4121. Grant authority. Authorizes grants to States and localities for programs supporting comprehensive drug testing of criminal justice populations, and to establish appropriate interventions to illegal drug use for offender populations.

Sec. 4122. Administration. Instructs Attorney General to coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

Sec. 4123. Applications. Instructs potential applicants on the process of requesting such grants, which are to be awarded on a competitive basis.

Sec. 4124. Federal share. The Federal share of a grant made under this part may not exceed 75 percent of the total cost of the program.

Sec. 4125. Geographic distribution. The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made, with rural and tribal jurisdiction representation.

Sec. 4126. Technical assistance, training, and evaluation. The Attorney General shall provide technical assistance and training in furtherance of the purposes of this part.

Sec. 4127. Authorization of appropriations. Authorizes $75,000,000 for FY2002 and such sums as are necessary for FY2003 through FY2006.

Sec. 4128. Permanent set-aside for research and evaluation. The Attorney General shall set aside between 1 and 3 percent of the sums appropriated under section 4127 for research and evaluation of this program.

Sec. 4129. Additional requirements for the use of funds under the violent offender incarceration and truth-in-sentencing grant programs. Requires that States receiving grants under the Violent Offender Incarceration and Truth-In-Sentencing grant programs (VOI/TIS) adopt a system of controlled substance testing and interventions. Permits use of VOI/TIS funds for such testing. Adds other conditions for receipt of funding under the VOI/TIS program.

Part 3. Drug Treatment

Sec. 4131. Drug treatment alternative to prison programs administered by State or local prosecutors. Authorizes the Attorney General to make grants to State or local prosecutors to implement or expand drug treatment alternative to prison programs. Authorizes appropriations through FY2006.

Sec. 4132. Substance abuse treatment in Federal prisons reauthorization. Authorizes funding for substance abuse treatment in Federal prisons for FY2002 and FY2003.

Sec. 4133. Residential substance abuse treatment for State prisoners reauthorization. Authorizes appropriations for residential substance abuse treatment for State prisoners through FY2007. Allows States to offer treatment during incarceration and after release.

Sec. 4134. Drug treatment for juveniles. Allows the Director of the Center for Substance Abuse to make grants to public and private nonprofit entities to provide residential drug treatment programs for juveniles. Authorizes appropriations through FY2005.

Part 4. Funding for Drug Free Community Programs

Sec. 4141. Extension of safe and drug-free schools and community programs. Extends funding for the Safe and Drug-Free Schools and Communities Program through FY2005, at $655,000,000 for FY2002 and FY2003, and $955,000,000 for FY2004 and FY2005.

Sec. 4142. Say No to Drugs community centers. Authorizes grants for the provision of drug prevention services to youth living in eligible communities during after-school hours or summer vacations. Authorizes $125,000,000 for each of FY2002 and FY2003 from the Violent Crime Reduction Trust Fund.

Sec. 4143. Drug education and prevention relating to youth gangs. Extends funding under the Anti-Drug Abuse Act of 1988 through FY2006.

Sec. 4144. Drug education and prevention program for runaway and homeless youth. Extends funding under the Anti-Drug Abuse Act of 1988 through FY2006.

Subtitle B—Youth Crime Prevention and Juvenile Courts

Part 1—Grants to Youth Organizations

Sec. 4211. Grant program. Establishes a grant program for provision of (1) constructive activities for youth during critical time periods; (2) supervised activities in a safe environment; (3) anti-drug education; (4) anti-drug police efforts; or (5) a safe environment for activities in parks and other public recreation areas.

Sec. 4212. Grants to national organizations. Establishes application requirements and evaluation criteria for awarding grants to national and statewide organizations.

Sec. 4213. Grants to States. Establishes application requirements and evaluation criteria for awarding grants to States.

Sec. 4214. Allocation; grant limitation. Allocates funds under this subtitle: 20 percent shall go to national and statewide organizations; 80 percent shall go to States.

Sec. 4215. Report and evaluation. Defines reporting requirements and establishes criteria by which the Attorney General shall evaluate the funded programs.

Sec. 4216. Authorization of appropriations. Authorizes appropriation of such sums as may be necessary for FY2002 and FY2003, and $125,000,000 for each of FY2004 and FY2005.

Sec. 4217. Grants to public and private agencies. Authorizes grants to public and private agencies to fund effective after school juvenile crime prevention programs.

Part 2. Reauthorization of Incentive Grants for Local Delinquency Prevention Programs

Sec. 4221. Incentive grants for local delinquency prevention programs. Reauthorizes incentive grants for local delinquency prevention programs through FY2006.

Sec. 4222. Research, evaluation, and training. Allocates a portion of the amounts appropriated for incentive grants for local delinquency programs to research, evaluation and training.

Part 3. JUMP Ahead

Sec. 4231. Short title. This part may be cited as the "JUMP Ahead Act of 2001".

Sec. 4232. Findings. Legislative findings in support of this part.

Sec. 4233. Juvenile mentoring grants. Amends the Juvenile Justice and Delinquency Prevention Act of 1973 (JJDPA) to include a list of the intended goals of mentoring grants. Each grant is limited to a total of $200,000 over a period not more than three years. Authorizes $50,000,000 for each of FY2002 through FY2005.

Sec. 4234. Implementation and evaluation grants. Authorizes grants to national organizations or agencies to improve youth mentoring programs. Authorizes $5,000,000 for each of FY2002 through FY2005.

Sec. 4235. Evaluations; reports. Directs the Attorney General to evaluate the programs and activities assisted under this part or under the JJDPA. Requires each grant recipient to report annually to the evaluating organization on any program or activity so assisted.

Part 4. Truancy Prevention

Sec. 4241. Short title. This part may be cited as the "Truancy Prevention and Juvenile Crime Reduction Act of 2001".

Sec. 4242. Findings. Legislative findings in support of this part.

Sec. 4243. Grants. Authorizes grants to eligible partnerships to reduce truancy and daytime juvenile crime. Authorizes $25,000,000 for each of FY2002 through FY2004.

Part 5. Juvenile Crime Control and Delinquency Prevention Act

Sec. 4251. Short title. This part may be cited as the "Juvenile Crime Control and Delinquency Prevention Act of 2001".

Sec. 4252. Findings. Legislative findings in support of this part.

Sec. 4253. Purpose. Statement of legislative purpose.

Sec. 4254. Definitions. Defines terms used in this part.

Sec. 4255. Name of office. Redesignated the Office of Juvenile and Delinquency Prevention as the Office of Juvenile Crime Control and Delinquency Prevention.

Sec. 4256. Concentration of Federal effort. Modifies provisions of the JJDPA regarding annual submission of juvenile delinquency development statements and the contents of such reports.

Sec. 4257. Allocation. Makes certain technical amendments to the allocation formulas.

Sec. 4258. State plans. Modifies JJDPA requirements regarding State plans. Defines who shall serve on State advisory groups. Requires State plans to provide services in rural areas, offer mental health services, and address gender-specific needs. Defines projects to which funds may be applied. Revises State plan requirements regarding limits on the placement of juveniles in secure detention or correctional facilities.

Sec. 4259. Juvenile delinquency prevention block grant program. Authorizes grants to eligible States to carry out projects designed to prevent juvenile delinquency. Delineates the manner in which funding shall be allocated between States. Defines requirements under which States must consider applications.

Sec. 4260. Research; evaluation; technical assistance; training. Authorizes the Administrator to undertake specified activities regarding research, evaluation, technical assistance, and training. Permits Federal agencies to carry out projects directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

Sec. 4261. Demonstration projects. Authorizes the Administrator to fund initiatives for the prevention, control, or reduction of juvenile delinquency.

Sec. 4262. Authorization of appropriations. Authorizes appropriations for specified programs under the JJDPA for FY2002 through FY2004.

Sec. 4263. Administrative authority. Limits the Administrator's authority to establish rules, regulations and procedures to those necessary for the exercise of the function of the office and to ensure compliance with the requirements of the title.

Sec. 4264. Use of funds. Prohibits the use of funds for the construction of short or long-term juvenile or adult offender facilities; allows up to 15 percent of funds from a State's allocation for replacement or renovation of juvenile facilities.

Sec. 4265. Limitation on use of funds. Prohibits the use of funds under this part for advocacy or support for the unsecured release of juvenile charged with violent crimes.

Sec. 4266. Rules of construction. The JJDPA shall not be construed (1) to prevent financial assistance from being awarded through grants under the JJDPA to any otherwise eligible organization, or (2) to modify or affect any Federal or State law relating to collective bargaining rights.

Sec. 4267. Leasing surplus Federal property. Authorizes the Administrator to lease surplus Federal property to States and localities for use as facilities for juveniles offenders; issues rules for making grants and contracts, and distributing funds available, to carry out the JJDPA.

Sec. 4268. Issuance of rules. Authorizes the Administrator to issue such rules as are necessary to carry out this part.

Sec. 4269. Technical and conforming amendments. Makes technical and conforming amendments to the JJDPA and other laws.

Sec. 4270. References. Any reference to the Office of Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to the Office of Juvenile Crime Control and Delinquency Prevention.

Part 6. Local Gun Violence Prevention Program

Sec. 4271. Competitive grants for children's firearm safety education. Authorizes competitive grants to eligible local educational agencies to educate children about prevention violence. Authorizes $60,000,000 for each of FY2002 and FY2004.

Sec. 4272. Dissemination of best practices via the Internet. Requires the Secretary of Education to post details of programs that receive grants on the Department's Internet site, and to publicize the program on its Internet site and in its publications.

Sec. 4273. Grant priority for tracing guns used in crimes by juveniles. Requires the Bureau of Justice Assistance to give priority to grant applications that include coordinated enforcement strategies to trace firearms and disrupt illegal firearms sales to or among juveniles.

Mr. LEAHY. I am pleased today to join Senator DASCHLE and other Democratic Senators in introducing the 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act. This comprehensive crime bill builds on prior Democratic crime initiatives, including the landmark Violent Crime Control and Law Enforcement Act of 1994, that have substantially reduced the Nations' serious crime rates.

Our current Attorney General, Janet Reno, has helped us all make unprecedented strides in combating violent crime, protecting women's rights, protecting crime victims rights and reducing violence against women. The Nation's serious crime rates have declined for an unprecedented eight straight years. Murder rates have fallen to their lowest levels in three decades, and since 1994, violent crimes by juveniles and the juvenile arrest rates for serious crimes have also declined. Our outgoing Attorney General must be commended for greatly improving the effectiveness of our law enforcement coordination efforts, federal law enforcement assistance efforts and for extending the reach of those efforts into rural areas.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is designed to keep our Nation's crime rates moving in the right direction—downward. The Nation's serious crime rates are now at their lowest level since 1973, the first year the national crime victimization survey was conducted. We are proud of the significant reduction in crime rates, but we must not become complacent. Too many Americans still encounter violence in their neighborhoods, workplaces, and unfortunately, even in their homes. This bill would ensure that the crime rates continue their downward trend next year, the year after, and beyond.

We should be able to enact this bill, without partisan or ideological controversy. We have tried to avoid the easy rhetoric about crime that some have to offer in this crucial area of public policy. Instead, we have crafted a bill that could actually make a difference.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act targets violent crime in our schools, combats gang violence, cracks down on the sale and use of illegal drugs, enhances the rights of crime victims, fights crime against America's senior citizens, and provides meaningful assistance to law enforcement officers in the battle against street crime. The bill represents an important next step in the continuing effort by Senate Democrats to enact tough yet balanced reforms to our criminal justice system.

I should note that the bill contains no new death penalties and no new or increased mandatory minimum sentences. We can be tough without imposing the death penalty, and we can ensure swift and certain punishment without removing all discretion from the judge at sentencing.

Title I of the bill deals with proposals for supporting Federal, State and local law enforcement and promoting the effective administration of justice. this title extends the COPS program through fiscal year 2007, authorizing funding to deploy up to 50,000 additional police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys in the coming years. The bill also extends Project Exile, the Department of Justice's gun violence reduction initiative designed to prosecute felons who unlawfully possess firearms, and the Youth Crime Gun Interdiction Initiative, the national program to disrupt the illegal supply of firearms to juveniles by tracing the guns that are used in crimes, and it includes a provision sponsored by Senator BIDEN to authorize grants to alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into society.

Other important initiatives are included to protect children from violence, including violence resulting from the misuse of guns. Americans want concrete proposals to reduce the risk of such incidents recurring. At the same time, we must preserve adults' rights to use guns for legitimate purposes, such as home protection, hunting and for sport. Title I of the bill imposes a prospective gun ban for juveniles convicted or adjudicated delinquent for violent crimes. It also requires revocation of a firearms dealer's license for failing to have secure gun storage or safety devices available for sale with firearms. The bill enhances the penalties for certain firearm laws involving juveniles. In addition, the bill would close the gun show loophole by requiring criminal background checks on all gun sales at gun shows.

This title of the bill also recognizes that law enforcement officers put their lives on the line every day. According to the FBI, over 1,000 officers have been killed in the line of duty since 1980. The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act establishes new crimes and increases penalties for killing Federal officers and persons working with Federal officers, including in their work with Federal prisoners, and for retaliation against Federal officials by threatening or injuring their family members. The bill enhances the penalty for assaults and threats against Federal judges and other federal officials engaged in their official duties.

A significant problem that arose during Special Prosecutor Kenneth Starr's investigation of president Clinton was the loss of confidentiality that had previously attached to the important work of the U.S. Secret Service. The Departments of Justice and Treasury and even a former Republican President advise that the safety of future Presidents may be jeopardized by forcing U.S. Secret Service agents to breach the confidentiality they need to do their job by testifying before a grant jury. I trust the Secret Service on this issue; they are the experts with the mission of protecting the lives of the President and other high-level official and visiting dignitaries. I also have confidence in the judgment of former President Bush, who has written, "I feel very strongly that [Secret Service] agents should not be made to appear in court to discuss that which they might or might not have seen or heard."

Title I of the 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act provides a reasonable and limited protective function privilege so future Secret Service agents are able to maintain the confidentiality they say they need to protect the lives of the President, Vice President and visiting heads of state.

Title II of the bill is aimed at strengthening the Federal criminal laws. This part of the bill cracks down on gangs by making the interstate "franchising" of street gangs a crime. It would also increase penalties for crimes during which the convicted felon wears protective body armor or uses "laser-sighting" devices to commit the crime, and doubles the maximum criminal penalties for using or threatening physical violence against witnesses and contains other provisions designed to facilitate the use and protection of witnesses to help prosecute gangs and other violent criminals.

Title II of the bill also details provisions for combating money laundering. Crime increasingly has an international face, from drug kingpins to millionaire terrorists, like Osama bin Laden. The money laundering provisions of this bill hit these international criminals where it hurts most—in the pocketbook.

These provisions would provide important tools not just to combat international terrorism but drug trafficking as well. We must have interdiction, we must have treatment programs; we must tell kids to say "No" to drugs. But we have to do more, and taking the profit away from international drug lords is an effective weapon. This Democratic crime bill would strengthen these laws.

Title II also contains important initiatives to deter cargo thefts, enhance the maximum penalties for voluntary manslaughter, felony theft or conversion of grand jury material, counterfeiting, and certain antitrust violations committed by corporations.

Title III of the bill is intended to increase the rights of victims within the criminal justice system. The criminal is only half of the equation. This bill guarantees the rights of crime victims. All States recognize victims' rights in some form, but they often lack the training and resources to make those rights a reality. This title provides a model Bill of Rights for crime victims in the Federal system, and makes available to the States grants for victim-related training and state-of-the art notification systems. In addition, this title would authorize grants for pilot programs to operate Victim Ombudsman Information Centers in seven States, and to study the effectiveness of the restorative justice approach for victims. It would also provide assistance for shelters and transitional housing for victims of domestic violence. In short, this title would help make victims' rights a reality.

This title of the bill also includes a number of provisions to improve the safety and security of older Americans. During the 1990s, while overall crime rates dropped throughout the nation, the rate of crime against seniors remained constant. In addition to the increased vulnerability of some seniors to violent crime, older Americans are increasingly targeted by swindlers looking to take advantage of them through telemarketing schemes, pension fraud, and health care fraud. We must strengthen the hand of law enforcement to combat those criminals who plunder the savings that older Americans have worked their lifetimes to earn. The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act tries to do exactly that, through a comprehensive package of proposals to establish new protections and increase penalties for a wide variety of crimes against seniors.

Title IV of the bill outlines a number of prevention and alternative sentencing programs that are critical to further reducing juvenile crime. These programs include grants to youth organizations and "Say No to Drugs" Community Centers, and grants to promote drug testing and drug treatment, as well as reauthorization of the Safe and Drug-Free Schools and Communities Program, the Anti-Drug Abuse Programs, and the Local Deliquency Prevention Programs. Additional sections include a program suggested by Senator BINGAMAN to establish a competitive grant program to reduce truancy, with priority given to efforts to replicate successful programs.

The bill would also reauthorize the Juvenile Justice and Deliquency Prevention Act and create a new juvenile justice block grant program, retaining the four core protections for youth in the juvenile justice system while adopting greater flexibility for rural areas.

In recent years, the Senate Republicans have tried to gut these core protections in their juvenile crime bills. This Democratic crime bill puts ideology aside, and follows the advice of numerous child advocacy experts—including the Children's Defense Fund, National Collaboration for Youth, Youth Law Center and National Network for Youth—who believe these key protections must be preserved in order to protect juveniles who have been arrested or detained. These core protections ensure that juveniles are not housed with adults, do not have verbal or physical contact with adult inmates, and any disproportionate confinement of minority youth is addressed by the States. If these protections are abolished, many more youth may end up committing suicide or being released with serious physical or emotional scars.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is a comprehensive and realistic set of proposals for assisting local enforcement, preventing crime, protecting our children and senior citizens, and assisting the victims of crime. I look forward to working on a bipartisan basis for passage of as much of this bill as possible during the 107th Congress.

By Mr. DASCHLE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. DORGAN, Mr. DURBIN, Mr. BIDEN, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. HARKIN, Mr. JOHNSON, Mr. KENNEDY, Mr. LEAHY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. SCHUMER):

S. 17. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

FEDERAL ELECTIONS REFORM ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Elections Reform Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Express advocacy determined without regard to background music.
Sec. 203. Civil penalty.
Sec. 204. Reporting requirements for certain independent expenditures.
Sec. 205. Independent versus coordinated expenditures by party.
Sec. 206. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Audits.
Sec. 302. Reporting requirements for contributions of $50 or more.
Sec. 303. Use of candidates' names.
Sec. 304. Prohibition of false representation to solicit contributions.
Sec. 305. Campaign advertising.

TITLE IV—MISCELLANEOUS

Sec. 401. Codification of Beck decision.
Sec. 402. Use of contributed amounts for certain purposes.
Sec. 403. Limit on congressional use of the franking privilege.
Sec. 404. Prohibition of fundraising on Federal property.
Sec. 405. Penalties for violations.
Sec. 406. Strengthening foreign money ban.
Sec. 407. Prohibition of contributions by minors.
Sec. 408. Expedited procedures.
Sec. 409. Initiation of enforcement proceeding.
Sec. 410. Protecting equal participation of eligible voters in campaigns and elections.
Sec. 411. Penalty for violation of prohibition against foreign contributions.
Sec. 412. Expedited court review of certain alleged violations of Federal Election Campaign Act of 1971.
Sec. 413. Conspiracy to violate presidential campaign spending limits.
Sec. 414. Deposit of certain contributions and donations in Treasury account.
Sec. 415. Establishment of a clearinghouse of information on political activities within the Federal Election Commission.
Sec. 416. Enforcement of spending limit on presidential and vice presidential candidates who receive public financing.
Sec. 417. Clarification of right of nationals of the United States to make political contributions.
Sec. 418. Prohibiting use of White House meals and accommodations for political fundraising.
Sec. 419. Prohibition against acceptance or solicitation to obtain access to certain Federal government property.
Sec. 420. Requiring national parties to reimburse at cost for use of Air Force One for political fundraising.
Sec. 421. Enhancing enforcement of campaign finance law.
Sec. 422. Ban on coordination of soft money for issue advocacy by presidential candidates receiving public financing.
Sec. 423. Requirement that names of passengers on Air Force One and Air Force Two be made available through the Internet.

TITLE V—ELECTION ADMINISTRATION AND TECHNOLOGY

Sec. 501. Findings.

Subtitle A—Establishment of Commission on Voting Rights and Procedures

Sec. 511. Establishment.
Sec. 512. Membership of the Commission.
Sec. 513. Duties of the Commission.
Sec. 514. Powers of the Commission.
Sec. 515. Personnel matters.
Sec. 516. Termination of the Commission.
Sec. 517. Authorization of appropriations for the Commission.

Subtitle B—Grant Program

Sec. 521. Establishment of grant program.
Sec. 522. Authorized activities.
Sec. 523. General policies and criteria.
Sec. 524. Submission of State plans.
Sec. 525. Approval of State plans.
Sec. 526. Federal matching funds.
Sec. 527. Audits and examinations.
Sec. 528. Reports.
Sec. 529. State defined.
Sec. 530. Authorization of appropriations.

Subtitle C—Miscellaneous

Sec. 541. Relationship to other laws.

TITLE VI—MILITARY VOTING

Sec. 601. Short title.
Sec. 602. Guarantee of residency.
Sec. 603. State responsibility to guarantee military voting rights.

TITLE VII—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 701. Severability.
Sec. 702. Review of constitutional issues.
Sec. 703. Effective date.
Sec. 704. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) FEDERAL ELECTION ACTIVITY.—

"(A) IN GENERAL.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) Candidates.—

"(1) In general.—A candidate, individual holding Federal office, agent of a candidate or individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more candidates or individuals holding Federal office, shall not—

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

"(2) State law.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual who is a candidate for a State or local office in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law for any activity other than a Federal election activity.

"(3) Fundraising events.—Notwithstanding paragraph (1), a candidate may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.".

(b) Definition of Generic Campaign Activity.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

"(21) Generic campaign activity.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) Contribution Limit for State Committees of Political Parties.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed **$10,000**.".

(b) Aggregate Contribution Limit for Individual.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "**$25,000**" and inserting "**$30,000**".

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 204, is amended by inserting after subsection (f) the following:

"(g) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) Other political committees to which section . 323 applies.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (2)(B)(v) of section 323(b).

"(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of **$200** for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not coordinated activity or is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates;

"(ii) referring to one or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) Voting record and voting guide exception.—The term 'express advocacy' does not include a communication which is in printed form or posted on the Internet that—

"(i) presents information solely about the voting record or position on a campaign issue of one or more candidates (including any statement by the sponsor of the voting record or voting guide of its agreement or disagreement with the record or position of a candidate), so long as the voting record or voting guide when taken as a whole does not express unmistakable and unambiguous support for or opposition to one or more clearly identified candidates;

"(ii) is not coordinated activity or is not made in coordination with a candidate, political party, or agent of the candidate or party, or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent, except that nothing in this clause may be construed to prevent the sponsor of the voting guide from directing questions in writing to a candidate about the candidate's position on issues for purposes of preparing a voter guide or to prevent the candidate from responding in writing to such questions; and

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in (year)', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.".

(c) Definition of Expenditure.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment made by a political committee for a communication that—

"(I) refers to a clearly identified candidate; and

"(II) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. EXPRESS ADVOCACY DETERMINED WITHOUT REGARD TO BACKGROUND MUSIC.

Section 301(20) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(20)), as added by section 201(b), is amended by adding at the end the following new subparagraph:

"(C) Background music.—In determining whether any communication by television or radio broadcast constitutes express advocacy for purposes of this Act, there shall not be taken into account any background music not including lyrics used in such broadcast.".

SEC. 203. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 204. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (e); and

(3) by inserting after subsection (e), as redesignated by paragraph (2), the following:

"(f) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating **$1,000** or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional **$1,000** with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating **$10,000** or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional **$10,000** with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 205. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 206. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) coordinated activity (as defined in subparagraph (C))."; and

(B) by adding at the end the following:

"(C) COORDINATED ACTIVITY.—The term 'coordinated activity' means anything of value provided by a person in coordination with a candidate, an agent of the candidate, or the political party of the candidate or its agent for the purpose of influencing a Federal election (regardless of whether the value being provided is a communication that is express advocacy) in which such candidate seeks nomination or election to Federal office, and includes any of the following:

"(i) A payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, the political party of the candidate, or an agent acting on behalf of a candidate, authorized committee, or the political party of the candidate.

"(ii) A payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat).

"(iii) A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made.

"(iv) A payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position.

"(v) A payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions (other than any discussion treated as a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or as a similar lobbying activity in the case of a candidate holding State or other elective office) with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made.

"(vi) A payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate (including services provided through a political committee of the candidate's political party) in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign.

"(vii) A payment made by a person who has directly participated in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate.

"(viii) A payment made by a person who has communicated with the candidate or an agent of the candidate (including a communication through a political committee of the candidate's political party) after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member acting on behalf of the candidate), about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy.

"(ix) The provision of in-kind professional services or polling data (including services or data provided through a political committee of the candidate's political party) to the candidate or candidate's agent.

"(x) A payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (ix) for a communication that clearly refers to the candidate or the candidate's opponent and is for the purpose of influencing that candidates's election (regardless of whether the communication is express advocacy).

"(D) PROFESSIONAL SERVICES.—For purposes of subparagraph (C), the term 'professional services' means polling, media advice, fundraising, campaign research or direct mail (except for mailhouse services solely for the distribution of voter guides as defined in section 301(20)(B)) services in support of a candidate's pursuit of nomination for election, or election, to Federal office.

"(E) AGGREGATION.—For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) SECTION 315(a)(7).—Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a coordinated activity, as described in section 301(8)(C), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate; and".

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—DISCLOSURE

SEC. 301. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by striking "(b) The Commission" and inserting the following:

"(b) AUDITS.—

"(1) IN GENERAL.—The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least four members of the Commission.

"(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 302. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 303. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4) NAME OF COMMITTEE.—

"(A) AUTHORIZED COMMITTEE.—The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) OTHER POLITICAL COMMITTEES.—A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 304. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 305. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION.— Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) AUDIO STATEMENT.—

"(A) CANDIDATE.—Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) OTHER PERSONS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '   is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

"(2) TELEVISION.—If a communication described in paragraph (1)(A) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.".

TITLE IV—MISCELLANEOUS

SEC. 401. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

"(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

"(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

"(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

"(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

"(i) reasonable personal notice of the objection procedure, a list of the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

"(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

"(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

"(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures; and

"(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

"(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.".

SEC. 402. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

“(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

“(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

“(4) for transfers to a national, State, or local committee of a political party.

“(b) Prohibited Use.—

“(1) In general.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

“(2) Conversion.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

“(A) a home mortgage, rent, or utility payment;

“(B) a clothing purchase;

“(C) a noncampaign-related automobile expense;

“(D) a country club membership;

“(E) a vacation or other noncampaign-related trip;

“(F) a household food item;

“(G) a tuition payment;

“(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

“(I) dues, fees, and other payments to a health club or recreational facility.”.

SEC. 403. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

“(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.”.

SEC. 404. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) Prohibition.—

“(1) In general.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value in connection with a Federal, State, or local election while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

“(2) Penalty.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both.”; and

(2) in subsection (b), by inserting “or Executive Office of the President” after “Congress”.

SEC. 405. PENALTIES FOR VIOLATIONS.

(a) Increased Penalties.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking “$5,000” and inserting “$10,000”; and

(2) in paragraphs (5)(B) and (6)(C), by striking “$10,000 or an amount equal to 200 percent” and inserting “$20,000 or an amount equal to 300 percent”.

(b) Equitable Remedies.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting “, and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).”.

SEC. 406. STRENGTHENING FOREIGN MONEY BAN.

(a) In General.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: “CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS”; and

(2) by striking subsection (a) and inserting the following:

“(a) Prohibition.—It shall be unlawful for—

“(1) a foreign national, directly or indirectly, to make—

“(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election; or

“(B) a contribution or donation to a committee of a political party; or

“(2) a person to solicit, accept, or receive such a contribution or donation from a foreign national.”.

(b) Prohibiting Use of Willful Blindness as Defense Against Charge of Violating Foreign Contribution Ban.—

(1) In general.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

“(b) Prohibiting Use of Willful Blindness Defense.—It shall not be a defense to a violation of subsection (a) that the defendant did not know that the contribution originated from a foreign national if the defendant should have known that the contribution originated from a foreign national, except that the trier of fact may not find that the defendant should have known that the contribution originated from a foreign national solely because of the name of the contributor.”.

(2) Effective date.—The amendments made by this subsection shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 407. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

“SEC. 324. PROHIBITION OF CONTRIBUTIONS BY MINORS.

“An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.”.

SEC. 408. EXPEDITED PROCEDURES.

(a) In General.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by adding at the end the following:

“(13) Expedited procedure.—

“(A) In general.—If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

“(B) Clear and convincing evidence exists.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

“(C) Complaint without merit.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

“(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

“(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.”.

(b) Referral to Attorney General.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

“(C) Referral to attorney general.—The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.”.

SEC. 409. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking “reason to believe that” and inserting “reason to investigate whether”.

SEC. 410. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101 and 407, is amended by adding at the end the following:

“SEC. 325. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

“(a) In General.—Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.

“(b) No Effect on Geographic Restrictions on Contributions.—Subsection (a) may not be construed to affect any restriction under this title regarding the portion of contributions accepted by a candidate from persons residing in a particular geographic area.".

SEC. 411. PENALTY FOR VIOLATION OF PROHIBITION AGAINST FOREIGN CONTRIBUTIONS.

(a) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e), as amended by section 406(b), is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this title, any person who violates subsection (a) shall be sentenced to a term of imprisonment which may not be more than 10 years, fined in an amount not to exceed **$1,000,000**, or both.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any violation of subsection (a) arising from a contribution or donation made by an individual who is lawfully admitted for permanent residence (as defined in section 101(a)(22) of the Immigration and Nationality Act).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 412. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) PRIVATE ACTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

"(2) VIOLATIONS.—A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

"(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

"(B) whether an expenditure is an independent expenditure under section 301(17).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after the date of enactment of this Act.

SEC. 413. CONSPIRACY TO VIOLATE PRESIDENTIAL CAMPAIGN SPENDING LIMITS.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility for payments) is amended by adding at the end the following:

"(f) PROHIBITING CONSPIRACY TO VIOLATE LIMITS.—

"(1) VIOLATION OF LIMITS DESCRIBED.—If a candidate for election to the office of President or Vice President who receives amounts from the Presidential Election Campaign Fund under chapter 95 or 96 of the Internal Revenue Code of 1986, or the agent of such a candidate, seeks to avoid the spending limits applicable to the candidate under such chapter or under the Federal Election Campaign Act of 1971 by soliciting, receiving, transferring, or directing funds from any source other than such Fund for the direct or indirect benefit of such candidate's campaign, such candidate or agent shall be fined not more than **$1,000,000**, or imprisoned for a term of not more than 3 years, or both.

"(2) CONSPIRACY TO VIOLATE LIMITS DEFINED.—If two or more persons conspire to commit a violation described in paragraph (1), and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than **$1,000,000**, or imprisoned for a term of not more than 3 years, or both.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections occurring on or after the date of enactment of this Act.

SEC. 414. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 407, and 410, is amended by adding at the end the following:

"SEC. 326. TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS RETURNED TO DONORS.

"(a) TRANSFER TO COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

"(A) the contribution or donation is in an amount equal to or greater than **$500** (other than a contribution or donation returned within 60 days of receipt by the committee); or

"(B) the contribution or donation was made in violation of section 315, 316, 317, 319, 320, or 325 (other than a contribution or donation returned within 30 days of receipt by the committee).

"(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

"(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

"(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

"(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

"(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

"(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

"(i) deposit the amount in the escrow account established under subparagraph (A); and

"(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

"(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

"(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

"(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

"(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

"(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

"(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to investigate whether that the making of the contribution or donation was made in violation of this Act; or

"(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

"(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

"(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.".

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following:

"(10) AMOUNT OF DONATION.—For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.".

(c) DISGORGEMENT AUTHORITY.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g), as amended by section 412(a), is amended by adding at the end the following:

"(f) DEPOSIT IN ESCROW.—Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contributions or donations refunded on or after the date of enactment of this Act, without regard to whether the Federal Election

Commission or Attorney General has issued regulations to carry out section 326 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

SEC. 415. ESTABLISHMENT OF A CLEARINGHOUSE OF INFORMATION ON POLITICAL ACTIVITIES WITHIN THE FEDERAL ELECTION COMMISSION.

(a) Establishment.—There shall be established within the Federal Election Commission a clearinghouse of public information regarding the political activities of foreign principals and agents of foreign principals. The information comprising this clearinghouse shall include only the following:

(1) All registrations and reports filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) during the preceding 5-year period.

(2) All registrations and reports filed pursuant to the Foreign Agents Registration Act (22 U.S.C. 611 et seq.) during the preceding 5-year period.

(3) The listings of public hearings, hearing witnesses, and witness affiliations printed in the Congressional Record during the preceding 5-year period.

(4) Public information disclosed pursuant to the rules of the Senate or the House of Representatives regarding honoraria, the receipt of gifts, travel, and earned and unearned income.

(5) All reports filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) during the preceding 5-year period.

(6) All public information filed with the Federal Election Commission pursuant to the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) during the preceding 5-year period.

(b) Disclosure of Other Information Prohibited.—The disclosure by the clearinghouse, or any officer or employee thereof, of any information other than that set forth in subsection (a) is prohibited, except as otherwise provided by law.

(c) Director of Clearinghouse.—

(1) Duties.—The clearinghouse shall have a Director, who shall administer and manage the responsibilities and all activities of the clearinghouse. In carrying out such duties, the Director shall—

(A) develop a filing, coding, and cross-indexing system to carry out the purposes of this section (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

(B) notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the information is first available to the public, and permit copying of any such registration, report, or other information by hand or by copying machine or, at the request of any person, furnish a copy of any such registration, report, or other information upon payment of the cost of making and furnishing such copy, except that no information contained in such registration or report and no such other information shall be sold or used by any person for the purpose of soliciting contributions or for any profit-making purpose; and

(C) not later than 150 days after the date of enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General, such rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this section in the most effective and efficient manner.

(2) Appointment.—The Director shall be appointed by the Federal Election Commission.

(3) Term of service.—The Director shall serve a single term of a period of time determined by the Commission, but not to exceed 5 years.

(d) Penalties for Disclosure of Information.—Any person who discloses information in violation of subsection (b), and any person who sells or uses information for the purpose of soliciting contributions or for any profit-making purpose in violation of subsection (c)(1)(B), shall be imprisoned for a period of not more than 1 year, or fined in the amount provided in title 18, United States Code, or both.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to conduct the activities of the clearinghouse.

(f) Foreign Principal.—In this section, the term "foreign principal" shall have the same meaning given the term "foreign national" under section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e), as in effect as of the date of enactment of this Act.

SEC. 416. ENFORCEMENT OF SPENDING LIMIT ON PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES WHO RECEIVE PUBLIC FINANCING.

(a) In General.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 413, is amended by adding at the end the following:

"(g) Illegal Solicitation of Soft Money.—No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless the candidate certifies that the candidate shall not solicit any funds for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.".

(b) Effective Date.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

SEC. 417. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(d)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(d)(2)), as amended by sections 506(b) and 511(a), is further amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 418. PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING.

(a) In General.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 612. Prohibiting use of meals and accommodations at White House for political fundraising

"(a) It shall be unlawful for any person to provide or offer to provide any meals or accommodations at the White House in exchange for any money or other thing of value, or as a reward for the provision of any money or other thing of value, in support of any political party or the campaign for electoral office of any candidate.

"(b) Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.

"(c) For purposes of this section, any official residence or retreat of the President (including private residential areas and the grounds of such a residence or retreat) shall be treated as part of the White House.".

(b) Clerical Amendment.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following new item:

"612. Prohibiting use of meals and accommodations at White House for political fundraising.".

SEC. 419. PROHIBITION AGAINST ACCEPTANCE OR SOLICITATION TO OBTAIN ACCESS TO CERTAIN FEDERAL GOVERNMENT PROPERTY.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Acceptance or solicitation to obtain access to certain Federal Government property

"Whoever solicits or receives anything of value in consideration of providing a person with access to Air Force One, Marine One, Air Force Two, Marine Two, the White House, or the Vice President's residence, shall be fined under this title, or imprisoned not more than one year, or both.".

(b) Clerical Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Acceptance or solicitation to obtain access to certain Federal Government property.".

SEC. 420. REQUIRING NATIONAL PARTIES TO REIMBURSE AT COST FOR USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 407, 410, and 415, is amended by adding at the end the following:

"SEC. 327. REIMBURSEMENT BY POLITICAL PARTIES FOR USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING.

"(a) In General.—If the President, Vice President, or the head of any executive department (as defined in section 101 of title 5, United States Code) uses Air Force One for transportation for any travel which includes a fundraising event for the benefit of any political committee of a national political party, such political committee shall reimburse the Federal Government for the fair market value of the transportation of the individual involved, based on the cost of an equivalent commercial chartered flight.

"(b) Air Force One Defined.—In subsection (a), the term 'Air Force One' means the airplane operated by the Air Force which has been specially configured to carry out the mission of transporting the President.".

SEC. 421. ENHANCING ENFORCEMENT OF CAMPAIGN FINANCE LAW.

(a) Mandatory Imprisonment for Criminal Conduct.—Section 309(e)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(e)(1)(A)), as redesignated by section 412, is amended—

(1) in the first sentence, by striking "shall be fined, or imprisoned for not more than one year, or both" and inserting "shall be imprisoned for not fewer than 1 year and not more than 10 years"; and

(2) by striking the second sentence.

(b) Concurrent Authority of Attorney General To Bring Criminal Actions.—Section 309(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)), as so redesignated, is amended by adding at the end the following:

"(4) Attorney general action.—In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(c) Effective Date.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 2001.

SEC. 422. BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY BY PRESIDENTIAL CANDIDATES RECEIVING PUBLIC FINANCING.

(a) In General.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 416, is amended by adding at the end the following:

"(h) Ban on Coordination of Soft Money for Issue Advocacy.—

"(1) In general.—No candidate for election to the office of President or Vice President who is certified to receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 may coordinate the expenditure of any funds for issue advocacy with any political party unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

"(2) Issue advocacy defined.—In this section, the term 'issue advocacy' means any activity carried out for the purpose of influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations (without regard to whether the activity is carried out for the purpose of influencing any election for Federal office).".

(b) Effective Date.—The amendment made by this section shall apply with respect to elections occurring on or after the date of the enactment of this Act.

SEC. 423. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) In General.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) Exception.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) Definition of Person.—As used in this section, the term "non-Government person" means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

TITLE V—ELECTION ADMINISTRATION AND TECHNOLOGY

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental and incontrovertible right under the Constitution.

(2) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the right to vote is a fundamental right under the Constitution.

(3) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the United States is a democratic government "of the people, by the people and for the people" where every vote counts.

(4) There is a need for Congress to encourage and enable every eligible American to vote by eliminating procedural and technological obstacles to voting.

(5) State governments have already begun to examine ways to improve the administration of elections and to modernize mechanisms and machinery for voting.

(6) Congress has authority under section 5 of the Fourteenth Amendment to the Constitution of the United States to enact legislation to address the equal protection violations that may be caused by our current, outdated voting system.

(7) Congress has an obligation to ensure that the necessary resources are available to States and localities to improve election technology and election administration and to ensure the integrity of the democratic elections process.

Subtitle A—Establishment of Commission on Voting Rights and Procedures

SEC. 511. ESTABLISHMENT.

There is established the Commission on Voting Rights and Procedures (in this subtitle referred to as the "Commission").

SEC. 512. MEMBERSHIP OF THE COMMISSION.

(a) Number and Appointment.—The Commission shall be composed of 12 members of whom—

(1) 6 members shall be appointed by the President;

(2) 3 members shall be appointed by the Minority Leader of the Senate (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the Senate); and

(3) 3 members shall be appointed by the Minority Leader of the House of Representatives (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the House of Representatives).

(b) Qualifications.—Each member appointed under subsection (a) shall be chosen on the basis of—

(1) experience with, and knowledge of—

(A) election law;

(B) election technology;

(C) Federal, State, or local election administration;

(D) the United States Constitution; or

(E) the history of the United States; and

(2) integrity, impartiality, and good judgment.

(c) Period of Appointment; Vacancies.—

(1) Period of appointment.—Each member shall be appointed for the life of the Commission.

(2) Vacancies.—

(A) In general.—A vacancy in the Commission shall not affect its powers.

(B) Manner of replacement.—A vacancy on the Commission shall be filled in the same manner which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment not later than 60 days after the date of the vacancy.

(d) Chairperson; Vice Chairperson.—

(1) In general.—The Commission shall elect a chairperson and vice chairperson from among its members.

(2) Political affiliation.—The chairperson and vice chairperson may not be affiliated with the same political party.

(e) Date of Appointment.—The appointments of the members of the Commission shall be made not later than 45 days after the date of enactment of this Act.

(f) Meetings.—

(1) In general.—The Commission shall meet at the call of the chairperson.

(2) Initial meeting.—Not later than 20 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(3) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Voting.—Each action of the Commission shall be approved by a majority vote of members. Each member shall have 1 vote.

SEC. 513. DUTIES OF THE COMMISSION.

(a) Study.—

(1) In general.—The Commission shall conduct a thorough study of—

(A) election technology and systems;

(B) designs of ballots and the uniformity of ballots;

(C) access to polling places, including matters relating to access for individuals with disabilities and other individuals with particular needs;

(D) voter registration and maintenance of voter rolls, including the use of provisional voting and standards for reenfranchisement of voters;

(E) alternative voting methods;

(F) accuracy of voting, election procedures, and election technology;

(G) voter education;

(H) training election personnel and volunteers;

(I)(i) implementation of title I of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff et seq.), and the amendments made by title II of that Act, by—

(I) the Secretary of Defense;

(II) each other Federal Government official having a responsibility under that Act; and

(III) each State; and

(ii) whether any legislative or administrative action is necessary to provide a meaningful opportunity to register to vote in, and vote in, elections for Federal office (as defined in paragraph (3) of section 107 of that Act (42 U.S.C. 1973ff–6)) for—

(I) each absent uniformed services voter (as defined in paragraph (1) of such section); and

(II) each overseas voter (as defined in paragraph (5) of such section) to register to vote and vote in elections for Federal office);

(J) the feasibility and advisability of establishing the date on which elections for Federal office (as so defined) are held as a Federal or State holiday; and

(K)(i) how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections; and

(ii) whether an existing or a new Federal agency should provide such assistance.

(2) Website.—For purposes of conducting the study under this subsection, the Commission shall establish an Internet website to facilitate public comment and participation.

(b) Recommendations.—

(1) Recommendations of best practices in voting and election administration.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) that identify those methods of

voting and administering elections studied by the Commission that would—

(A) be most convenient, accessible, and easy to use for voters in Federal elections, including voters with disabilities, absent uniformed services voters, overseas voters, and other voters with special needs;

(B) yield the broadest participation and most accurate results in Federal elections;

(C) be the most resource-efficient and cost-effective for use in Federal elections; and

(D) be the most effective means of ensuring security in Federal elections.

(2) RECOMMENDATIONS FOR PROVIDING ASSISTANCE IN FEDERAL ELECTIONS.—The Commission shall develop recommendations with respect to the matters studied under subsection (a)(1)(K) on how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections, and identify whether an existing or a new Federal agency should provide such assistance.

(3) RECOMMENDATIONS FOR VOTER PARTICIPATION IN FEDERAL ELECTIONS.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) on methods—

(A) to increase voter registration;

(B) to increase the accuracy of voter rolls;

(C) to improve voter education; and

(D) to improve the training of election personnel and volunteers.

(c) REPORTS.—

(1) INTERIM REPORTS.—Not later than the date on which the Commission submits the final report under paragraph (2), the Commission may submit to the President and Congress such interim reports as a majority of the members of the Commission determine appropriate.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Commission shall submit to the President and Congress a final report that has received the approval of a majority of the members of the Commission.

(B) CONTENT.—The final report shall contain—

(i) a detailed statement of the findings and conclusions of the Commission on the matters studied under subsection (a);

(ii) a detailed statement of the recommendations developed under subsection (b); and

(iii) any dissenting or minority opinions of the members of the Commission.

SEC. 514. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Any subpoena issued under subsection (a) shall be issued by the chairperson and vice chairperson of the Commission acting jointly. Each subpoena shall bear the signature of the chairperson of the Commission and shall be served by any person or class of persons designated by the chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the chairperson and vice chairperson of the Commission acting jointly, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the chairperson and vice chairperson of the Commission acting jointly, the Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this subtitle.

(g) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this subtitle.

SEC. 515. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The chairperson and vice chairperson of the Commission, acting jointly, may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairperson and vice chairperson of the Commission, acting jointly, may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson and vice chairperson of the Commission, acting jointly, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 516. TERMINATION OF THE COMMISSION.

The Commission shall terminate 45 days after the date on which the Commission submits its final report under section 513(c)(2).

SEC. 517. AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle B—Grant Program

SEC. 521. ESTABLISHMENT OF GRANT PROGRAM.

The Attorney General, subject to the general policies and criteria established under section 523, in consultation with the Federal Election Commission, is authorized to make grants to States to pay the Federal share of the costs of the activities described in section 522.

SEC. 522. AUTHORIZED ACTIVITIES.

A State may use payments received under this subtitle to—

(1) improve or replace voting equipment or technology;

(2) implement new election administration procedures, such as "same-day" voter registration procedures;

(3) educate voters concerning voting procedures, voting rights, or voting technology and train election personnel; and

(4) upon completion of the final report under section 513(c), implement recommendations contained in such report.

SEC. 523. GENERAL POLICIES AND CRITERIA.

(a) GENERAL POLICIES.—The Attorney General shall establish general policies with respect to the approval of State plans, awarding of grants, and the use of assistance made available under this subtitle.

(b) CRITERIA.—

(1) IN GENERAL.—The Attorney General shall establish criteria with respect to the approval of State plans submitted under section 524, including the requirements under paragraph (2).

(2) REQUIREMENTS FOR APPROVAL.—The Attorney General shall not approve a State plan unless the plan provides for each of the following:

(A) Uniform standards within the State for election administration and technology.

(B) Accuracy of the records of eligible voters in the State to ensure that legally registered voters appear in such records and prevent any purging of such records to remove illegal voters that results in the elimination of legal voters as well.

(C) Voting accessibility standards that ensure—

(i) compliance with the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.);

(ii) compliance with the Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.); and

(iii) that absent uniformed service voters and their dependents have a meaningful opportunity to exercise their voting rights as citizens of the United States.

(D) Voter education programs regarding methodology and procedures for participating in elections and training programs for election personnel and volunteers.

(c) Consultation.—In establishing the general policies and criteria under this section, the Attorney General shall consult with the Federal Election Commission.

SEC. 524. SUBMISSION OF STATE PLANS.

(a) In General.—Subject to subsection (c), the chief executive officer of each State that desires to receive a grant under this subtitle shall submit a State plan to the Attorney General at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Federal Election Commission, may reasonably require.

(b) Contents.—Each State plan submitted under subsection (a) shall—

(1) describe the activities for which assistance under this subtitle is sought;

(2) provide evidence that the State meets the general policies and criteria established by the Attorney General under section 523;

(3) provide assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General, in consultation with the Federal Election Commission, determines to be essential to ensure compliance with the requirements of this subtitle.

(c) Available for Review and Comment.—A State submitting a State plan under this section shall make such State plan publicly available for review and comment prior to submission.

SEC. 525. APPROVAL OF STATE PLANS.

The Attorney General, in consultation with the Federal Election Commission, shall approve State plans in accordance with the general policies and criteria established under section 523.

SEC. 526. FEDERAL MATCHING FUNDS.

(a) Payments.—The Attorney General shall pay to each State having a State plan approved under section 525 the Federal share of the cost of the activities described in the State plan.

(b) Federal Share.—

(1) In general.—Subject to paragraph (2), for purposes of subsection (a), the Federal share shall be 80 percent.

(2) Waiver.—The Attorney General may specify a Federal share greater than 80 percent if the State agrees to comply with such terms and conditions as the Attorney General may prescribe.

(c) Non-Federal Share.—The non-Federal share of payments under this subtitle may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 527. AUDITS AND EXAMINATIONS.

(a) Recordkeeping Requirement.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) Audit and Examination.—

(1) Authority.—Subject to paragraph (2), the Attorney General and the Comptroller General of the United States, or any authorized representative of the Attorney General or the Comptroller General, shall have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to a grant received under this subtitle for the purpose of conducting an audit or examination.

(2) Expiration of authority.—The authority of the Attorney General and the Comptroller General to conduct an audit or examination under this subsection with respect to the recipient of a grant under this subtitle shall expire on the date that is 3 years after the date on which the activity for which a State plan is approved under section 524 concludes.

SEC. 528. REPORTS.

(a) Reports to Congress.—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the program under this subtitle for the preceding year. Each report shall set forth the following:

(1) A description and analysis of any activities funded by a grant awarded under this subtitle.

(2) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) Reports to the Attorney General.—The Attorney General shall require in each grant awarded under this subtitle that the recipient of such grant submit to the Attorney General, under a schedule established by the Attorney General, such information as the Attorney General considers appropriate to submit reports under subsection (a).

SEC. 529. STATE DEFINED.

In this subtitle, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands.

SEC. 530. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—

(1) In general.—There are authorized to be appropriated to the Department of Justice—

(A) $500,000,000 for fiscal year 2002;

(B) such amounts as necessary for each of fiscal years 2003, 2004, 2005, and 2006.

(2) Use of amounts.—Amounts appropriated under paragraph (1) shall be for the purpose of—

(A) awarding grants under this subtitle; and

(B) paying for the costs of administering the program to award such grants.

(3) Federal election commission.—There are authorized to be appropriated for each of fiscal years 2002, 2003, 2004, 2005, and 2006 such amounts as necessary to the Federal Election Commission for the purpose of consultation with the Attorney General under this subtitle.

(b) Limitation.—Not more than 1 percent of any sums appropriated under paragraph (1) of subsection (a) may be used to pay for the administrative costs described in paragraph (2)(B) of such subsection.

(c) Supplemental Appropriations.—There are authorized to be appropriated as supplemental appropriations for fiscal year 2001 such sums as the Department of Justice and the Federal Election Commission consider necessary to carry out the provisions of this subtitle.

Subtitle C—Miscellaneous

SEC. 541. RELATIONSHIP TO OTHER LAWS.

Nothing in this title may be construed to authorize, require, or supersede conduct prohibited under the following laws, or otherwise affect such laws:

(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(2) The Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.).

(3) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(4) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(5) The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

TITLE VI—MILITARY VOTING

SEC. 601. SHORT TITLE.

This title may be cited as the "Military Voting Rights Act of 2001".

SEC. 602. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 590 et seq.) is amended by adding at the end the following:

"Sec. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

SEC. 603. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) Registration and Balloting.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by inserting "(a) Elections for Federal Offices.—" before "Each State shall—"; and

(2) by adding at the end the following:

"(b) Elections for State and Local Offices.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(b) Conforming Amendment.—The heading for title I of such Act is amended by striking out "**FOR FEDERAL OFFICE**".

TITLE VII—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 702. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 703. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect upon the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 704. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 45 days after the date of the enactment of this Act.

Mr. DASCHLE (for himself, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, Mr. WELLSTONE, Mrs. CLINTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. BOXER, Mr. JOHNSON, Mr. CORZINE, and Mr. BREAUX):

S. 18. A bill to increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RIGHT START ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Right Start Act of 2001".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—INVESTING IN HEAD START PROGRAMS
Sec. 101. Authorization of appropriations.
TITLE II—INVESTING IN QUALITY CHILD CARE
Sec. 201. Authorization of appropriations.
TITLE III—PROMOTING EARLY LEARNING OPPORTUNITIES
Sec. 301. Amendments to the Early Learning Opportunities Act.
TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE
Subtitle A—Dependent Care Tax Credit
Sec. 401. Expanding the dependent care tax credit.
Sec. 402. Minimum credit allowed for stay-at-home parents.
Sec. 403. Credit made refundable.
Subtitle B—Incentives for Employer-Provided Child Care
Sec. 411. Allowance of credit for employer expenses for child care assistance.
TITLE V—EXPANDING FAMILY AND MEDICAL LEAVE
Subtitle A—Family Income to Respond to Significant Transitions
Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Demonstration projects.
Sec. 505. Evaluations and reports.
Sec. 506. Authorization of appropriations.
Subtitle B—Family Friendly Workplaces
Sec. 511. Short title.
Sec. 512. Coverage of employees.
Subtitle C—Time for Schools
Sec. 521. Short title.
Sec. 522. General requirements for leave.
Sec. 523. School involvement leave for civil service employees.
Sec. 524. Effective date.
Subtitle D—Employment Protection for Battered Women
Sec. 531. Entitlement to leave for addressing domestic violence for non-Federal employees.
Sec. 532. Entitlement to leave for addressing domestic violence for Federal employees.
Sec. 533. Existing leave usable for domestic violence.

TITLE I—INVESTING IN HEAD START PROGRAMS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by striking "such sums" and all that follows and inserting the following: "$6,500,000,000 for fiscal year 2002, $7,000,000,000 for fiscal year 2003, $7,750,000,000 for fiscal year 2004, $8,500,000,000 for fiscal year 2005, and $9,750,000,000 for fiscal year 2006.".

(b) CONFORMING AMENDMENTS.—

(1) RESERVATIONS.—Paragraphs (1) and (3) of section 639(b) of the Head Start Act (42 U.S.C. 9834(b)) are amended by striking "2003" and inserting "2006".

(2) DISTRIBUTION.—Paragraphs (3)(A)(i)(I) and (6)(A) of section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) are amended by striking "fiscal year 2003" and inserting "each of fiscal years 2003 through 2006".

TITLE II—INVESTING IN QUALITY CHILD CARE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by striking "$1,000,000,000" and all that follows and inserting "$2,076,000,000 for fiscal year 2002, $2,109,000,000 for fiscal year 2003, $2,571,000,000 for fiscal year 2004, $3,051,000,000 for fiscal year 2005, and $3,766,000,000 for fiscal year 2006.".

(b) SOCIAL SECURITY ACT FUNDING FOR CHILD CARE.—Section 418(a)(3) of the Social Security Act (42 U.S.C. 618(a)(3)) is amended—

(1) in subparagraph (E), by striking "; and";

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $2,870,000,000 for fiscal year 2002;

"(H) $2,936,000,000 for fiscal year 2003;

"(I) $3,861,000,000 for fiscal year 2004;

"(J) $4,821,000,000 for fiscal year 2005; and

"(K) $3,766,000,000 for fiscal year 2006.".

TITLE III—PROMOTING EARLY LEARNING OPPORTUNITIES

SEC. 301. AMENDMENTS TO THE EARLY LEARNING OPPORTUNITIES ACT.

Section 805 of the Early Learning Opportunities Act, as enacted by title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106-554) is amended—

(1) in the matter preceding paragraph (1), by inserting ", and there are appropriated,"; and

(2) by striking paragraphs (1) through (4) and inserting the following:

"(1) $750,000,000 for fiscal year 2002;

"(2) $1,000,000,000 for fiscal year 2003;

"(3) $1,500,000,000 for fiscal year 2004;

"(4) $2,000,000,000 for fiscal year 2005; and

"(5) $2,500,000,000 for fiscal year 2006.".

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.

(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000, and

"(B) in the case of employment-related expenses described in subsection (e)(11), 50 percent reduced (but not below zero) by 1 percentage point for each $800, or fraction thereof, by which the taxpayers's adjusted gross income for the taxable year exceeds $30,000.".

(b) INFLATION ADJUSTMENT FOR ALLOWABLE EXPENSES.—Section 21(c) of the Internal Revenue Code of 1986 (relating to dollar limit on amount creditable) is amended by striking "The amount determined" and inserting "In the case of any taxable year beginning after 2002, each dollar amount referred to in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.

(a) IN GENERAL.—Section 21(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

"(11) MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME PARENTS.—Notwithstanding subsection (d), in the case of any taxpayer with one or more qualifying individuals described in subsection (b)(1)(A) under the age of 1 at any time during the taxable year, such taxpayer shall be deemed to have employment-related expenses with respect to such qualifying individuals in an amount equal to the sum of—

"(A) $90 for each month in such taxable year during which at least one of such qualifying individuals is under the age of 1, and

"(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).".

(b) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 403. CREDIT MADE REFUNDABLE.

(a) In General.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) Advance Payment of Credit.—Chapter 25 of such Code (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) General Rule.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's dependent care advance amount.

"(b) Dependent Care Eligibility Certificate.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee's spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses for the calendar year.

"(c) Dependent Care Advance Amount.—

"(1) In general.—For purposes of this title, the term 'dependent care advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated employment-related expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) Advance amount tables.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) Other Rules.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) Definitions.—For purposes of this section, terms used in this section which are defined in section 35 shall have the respective meanings given such terms by section 35.".

(c) Conforming Amendments.—

(1) Section 35(a)(1) of such Code, as redesignated by paragraph (1), is amended by striking "chapter" and inserting "subtitle".

(2) Section 35(e) of such Code, as so redesignated and amended by subsection (c), is amended by adding at the end the following:

"(12) Coordination with advance payments and minimum tax.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.".

(3) Sections 23(f)(1) and 129(a)(2)(C) of such Code are each amended by striking "section 21(e)" and inserting "section 35(e)".

(4) Section 129(b)(2) of such Code is amended by striking "section 21(d)(2)" and inserting "section 35(d)(2)".

(5) Section 129(e)(1) of such Code is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

(6) Section 213(e) of such Code is amended by striking "section 21" and inserting "section 35".

(7) Section 995(f)(2)(C) of such Code is amended by striking "and 34" and inserting "34, and 35".

(8) Section 6211(b)(4)(A) of such Code is amended by striking "and 34" and inserting ", 34, and 35".

(9) Section 6213(g)(2)(H) of such Code is amended by striking "section 21" and inserting "section 35".

(10) Section 6213(g)(2)(L) of such Code is amended by striking "section 21, 24, or 32" and inserting "section 24, 32, or 35".

(11) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following:

"Sec. 3507A. Advance payment of dependent care credit.".

(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or" before "enacted" and by inserting before the period at the end ", or from section 35 of such Code".

(d) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) In General.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) 25 percent of the qualified child care expenditures, and

"(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

"(b) Dollar Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) Definitions.—For purposes of this section—

"(1) Qualified child care expenditure.—

"(A) In general.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(i) to acquire, construct, rehabilitate, or expand property—

"(I) which is to be used as part of a qualified child care facility of the taxpayer,

"(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

"(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

"(I) day care and before and after school care,

"(II) transportation associated with such care, and

"(III) before and after school and holiday programs including educational and recreational programs and camp programs.

"(B) Fair market value.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

"(2) Qualified child care facility.—

"(A) In general.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

"(B) Special rules with respect to a taxpayer.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(3) Qualified child care resource and referral expenditure.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

"(d) Recapture of Acquisition and Construction Credit.—

"(1) In general.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following:

"(14) the employer-provided child care credit determined under section 45E.".

(2) Subsection (d) of section 39 of such Code is amended by adding at the end the following new paragraph:

"(10) NO CARRYBACK OF EMPLOYER-PROVIDED CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2002.".

(3) Subsection (c) of section 196 of such Code is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ", and", and by adding at the end the following new paragraph:

"(10) the employer-provided child care credit determined under section 45E(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45E. Employer-provided child care credit.".

(5) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", and", and by adding at the end the following:

"(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE V—EXPANDING FAMILY AND MEDICAL LEAVE

Subtitle A—Family Income to Respond to Significant Transitions

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Family Income to Respond to Significant Transitions Insurance Act".

SEC. 502. PURPOSES.

The purposes of this subtitle are—

(1) to establish a demonstration program that supports the efforts of States and political subdivisions to provide partial or full wage replacement, often referred to as FIRST insurance, to new parents so that the new parents are able to spend time with a new infant or newly adopted child, and to other employees; and

(2) to learn about the most effective mechanisms for providing the wage replacement assistance.

SEC. 503. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor, acting after consultation with the Secretary of Health and Human Services.

(2) SON OR DAUGHTER; STATE.—The terms "son or daughter" and "State" have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

SEC. 504. DEMONSTRATION PROJECTS.

(a) GRANTS.—The Secretary shall make grants to eligible entities to pay for the Federal share of the cost of carrying out projects that assist families by providing, through various mechanisms, wage replacement for eligible individuals that are responding to caregiving needs resulting from the birth or adoption of a son or daughter or other family caregiving needs. The Secretary shall make the grants for periods of 5 years.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a State or political subdivision of a State.

(c) USE OF FUNDS.—

(1) IN GENERAL.—An entity that receives a grant under this section may use the funds made available through the grant to provide partial or full wage replacement as described in subsection (a) to eligible individuals—

(A) directly;

(B) through an insurance program, such as a State temporary disability insurance program or the State unemployment compensation benefit program;

(C) through a private disability or other insurance plan, or another mechanism provided by a private employer; or

(D) through another mechanism.

(2) ADMINISTRATIVE COSTS.—No entity may use more than 10 percent of the total funds made available through the grant during the 5-year period of the grant to pay for the administrative costs relating to a project described in subsection (a).

(d) ELIGIBLE INDIVIDUALS.—To be eligible to receive wage replacement under subsection (a), an individual shall—

(1) meet such eligibility criteria as the eligible entity providing the wage replacement may specify in an application described in subsection (e); and

(2) be—

(A) an individual who is taking leave, under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), other Federal, State, or local law, or a private plan, for a reason described in subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1));

(B) at the option of the eligible entity, an individual who—

(i) is taking leave, under that Act, other Federal, State, or local law, or a private plan, for a reason described in subparagraph (C) or (D) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)); or

(ii) leaves employment because the individual has elected to care for a son or daughter under age 1; or

(C) at the option of the eligible entity, an individual with other characteristics specified by the eligible entity in an application described in subsection (e).

(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

(1) a plan for the project to be carried out with the grant;

(2) information demonstrating that the applicant consulted representatives of employers and employees, including labor organizations, in developing the plan;

(3) estimates of the costs and benefits of the project;

(4)(A) information on the number and type of families to be covered by the project, and the extent of such coverage in the area served under the grant; and

(B) information on any criteria or characteristics that the entity will use to determine whether an individual is eligible for wage replacement under subsection (a), as described in paragraphs (1) and (2)(C) of subsection (d);

(5) if the project will expand on State and private systems of wage replacement for eligible individuals, information on the manner in which the project will expand on the systems;

(6) information demonstrating the manner in which the wage replacement assistance provided through the project will assist families in which an individual takes leave as described in subsection (d)(1); and

(7) an assurance that the applicant will participate in efforts to evaluate the effectiveness of the project.

(f) SELECTION CRITERIA.—In selecting entities to receive grants for projects under this section, the Secretary shall—

(1) take into consideration—

(A) the scope of the proposed projects;

(B) the cost-effectiveness, feasibility, and financial soundness of the proposed projects;

(C) the extent to which the proposed projects would expand access to wage replacement in response to family caregiving needs, particularly for low-wage employees, in the area served by the grant; and

(D) the benefits that would be offered to families and children through the proposed projects; and

(2) to the extent feasible, select entities proposing projects that utilize diverse mechanisms, including expansion of State unemployment compensation benefit programs, and establishment or expansion of State temporary disability insurance programs, to provide the wage replacement.

(g) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 50 percent for the first year of the grant period;

(B) 40 percent for the second year of that period;

(C) 30 percent for the third year of that period; and

(D) 20 percent for each subsequent year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be in cash or in kind, fairly evaluated, including plant, equipment, and services and may be provided from State, local, or private sources, or Federal sources other than this subtitle.

(h) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of this subtitle shall be used to supplement and not supplant other Federal, State, and local public funds and private funds expended to provide wage replacement.

(i) EFFECT ON EXISTING RIGHTS.—Nothing in this subtitle shall be construed to supersede, preempt, or otherwise infringe on the provisions of any collective bargaining agreement or any employment benefit program or plan that provides greater rights to employees than the rights established under this subtitle.

SEC. 505. EVALUATIONS AND REPORTS.

(a) AVAILABLE FUNDS.—The Secretary shall use not more than 2 percent of the funds made available under section 5 to carry out this section.

(b) EVALUATIONS.—The Secretary shall, directly or by contract, evaluate the effectiveness of projects carried out with grants made under section 5, including conducting—

(1) research relating to the projects, including research comparing—

(A) the scope of the projects, including the type of insurance or other wage replacement mechanism used, the method of financing used, the eligibility requirements, the level of the wage replacement benefit provided (such as the percentage of salary replaced), and the length of the benefit provided, for the projects;

(B) the utilization of the projects, including the characteristics of individuals who benefit from the projects, particularly low-wage workers, and factors that determine the ability of eligible individuals to obtain wage replacement through the projects; and

(C) the costs of and savings achieved by the projects, including the cost-effectiveness of the projects and their benefits for children and families;

(2) analysis of the overall need for wage replacement; and

(3) analysis of the impact of the projects on the overall availability of wage replacement.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 3 years after the beginning of the grant period for the first grant made under section 5, the Secretary shall prepare and submit to Congress a report that contains information resulting from the evaluations conducted under subsection (b).

(2) SUBSEQUENT REPORTS.—Not later than 4 years after the beginning of that grant period, and annually thereafter, the Secretary shall prepare and submit to Congress a report that contains—

(A) information resulting from the evaluations conducted under subsection (b); and

(B) usage data for the demonstration projects, for the most recent year for which data are available.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.

Subtitle B—Family Friendly Workplaces

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Family and Medical Leave Fairness Act of 2001".

SEC. 512. COVERAGE OF EMPLOYEES.

Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii) and (4)(A)(i)) are amended by striking "50" each place it appears and inserting "25".

Subtitle C—Time for Schools

SEC. 521. SHORT TITLE.

This subtitle may be cited as the "Time for Schools Act of 2001".

SEC. 522. GENERAL REQUIREMENTS FOR LEAVE.

(a) ENTITLEMENT TO LEAVE.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

"(3) ENTITLEMENT TO SCHOOL INVOLVEMENT LEAVE.—

"(A) IN GENERAL.—Subject to section 103(f), an eligible employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an academic activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

"(B) DEFINITIONS.—In this paragraph:

"(i) FAMILY LITERACY PROGRAM.—The term 'family literacy program' means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

"(I) Interactive literacy activities between parents and their sons and daughters.

"(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

"(III) Parent literacy training.

"(IV) An age-appropriate education program for sons and daughters.

"(ii) LITERACY.—The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

"(I) to function on the job, in the family of the individual, and in society;

"(II) to achieve the goals of the individual; and

"(III) to develop the knowledge potential of the individual.

"(iii) SCHOOL.—The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

"(4) LIMITATION.—No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.".

(b) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: "Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.".

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by inserting before the period the following: ", or for leave provided under subsection (a)(3) for any part of the 24-hour period of such leave under such subsection".

(d) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

"(3) NOTICE FOR SCHOOL INVOLVEMENT LEAVE.—In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employee shall provide the employer with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.”.

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

“(f) CERTIFICATION FOR SCHOOL INVOLVEMENT LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.”.

SEC. 523. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERVICE EMPLOYEES.

(a) ENTITLEMENT TO LEAVE.—Section 6382(a) of title 5, United States Code, is amended by adding at the end the following:

“(3)(A) Subject to section 6383(f), an employee shall be entitled to a total of 24 hours of leave during any 12-month period to participate in an academic activity of a school of a son or daughter of the employee, such as a parent-teacher conference or an interview for a school, or to participate in literacy training under a family literacy program.

“(B) In this paragraph:

“(i) The term ‘family literacy program’ means a program of services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

“(I) Interactive literacy activities between parents and their sons and daughters.

“(II) Training for parents on how to be the primary teacher for their sons and daughters and full partners in the education of their sons and daughters.

“(III) Parent literacy training.

“(IV) An age-appropriate education program for sons and daughters.

“(ii) The term ‘literacy’, used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

“(I) to function on the job, in the family of the individual, and in society;

“(II) to achieve the goals of the individual; and

“(III) to develop the knowledge potential of the individual.

“(iii) The term ‘school’ means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility operated by a provider who meets the applicable State or local government licensing, certification, approval, or registration requirements, if any.

“(4) No employee may take more than a total of 12 workweeks of leave under paragraphs (1) and (3) during any 12-month period.”.

(b) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: “Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.”.

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by inserting before “, except” the following: “, or for leave provided under subsection (a)(3) any of the employee's accrued or accumulated annual leave under subchapter I for any part of the 24-hour period of such leave under such subsection”.

(d) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

“(3) In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employee shall provide the employing agency with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employee shall provide such notice as is practicable.”.

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

“(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.”.

SEC. 524. EFFECTIVE DATE.

This subtitle takes effect 120 days after the date of enactment of this Act.

Subtitle D—Employment Protection for Battered Women

SEC. 531. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR NON-FEDERAL EMPLOYEES.

(a) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

“(14) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term ‘addressing domestic violence and its effects’ means—

“(A) being unable to attend or perform work due to an incident of domestic violence;

“(B) seeking medical attention for or recovering from injuries caused by domestic violence;

“(C) seeking legal assistance or remedies, including communicating with the police or an attorney, or participating in any legal proceeding, related to domestic violence;

“(D) obtaining services from a domestic violence shelter or program or rape crisis center as a result of domestic violence;

“(E) obtaining psychological counseling related to experiences of domestic violence;

“(F) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

“(G) participating in any other activity necessitated by domestic violence that must be undertaken during the hours of employment involved.

“(15) DOMESTIC VIOLENCE.—The term ‘domestic violence’ means domestic violence, and dating violence, as such terms are defined in section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-4).”.

(b) LEAVE REQUIREMENT.—Section 102 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612) is amended—

(1) in subsection (a)(1), by adding at the end the following:

“(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

“(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.”;

(2) in subsection (b), by adding at the end the following:

“(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an eligible employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.”; and

(3) in subsection (d)(2)(B), by striking “(C) or (D)” and inserting “(C), (D), (E), or (F)”.

(c) CERTIFICATION.—Section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613), as amended by section 522(e), is further amended—

(1) in the title of the section, by inserting before the period the following: “**; CONFIDENTIALITY**”; and

(2) by adding at the end the following:

“(g) DOMESTIC VIOLENCE.—In determining if an employee meets the requirements of subparagraph (E) or (F) of section 102(a)(1), the employer of an employee may require the employee to provide—

“(1) a written statement describing the domestic violence and its effects;

“(2) documentation of the domestic violence involved, such as a police or court record, or documentation from a shelter worker, an employee of a domestic violence program, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic violence and its effects; or

“(3) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or physical evidence of domestic violence, such as a photograph, torn or bloody clothing, or any other damaged property.

“(h) CONFIDENTIALITY.—All evidence provided to the employer under subsection (g) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

“(1) protecting the safety of the employee or a family member or co-worker of the employee; or

“(2) assisting in documenting domestic violence for a court or agency.”.

SEC. 532. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR FEDERAL EMPLOYEES.

(a) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(1) at the end of paragraph (5), by striking “and”;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(7) the term ‘addressing domestic violence and its effects’ has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611); and

“(8) the term ‘domestic violence’ means domestic violence, and dating violence, as such terms are defined in section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-4).”.

(b) LEAVE REQUIREMENT.—Section 6382 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following:

“(E) In order to care for the son, daughter, or parent of the employee, if such son, daughter, or parent is addressing domestic violence and its effects.

"(F) Because the employee is addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee.";

(2) in subsection (b), by adding at the end the following:

"(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (a)(1) may be taken by an employee intermittently or on a reduced leave schedule. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken."; and

(3) in subsection (d), by striking "(C), or (D)" and inserting "(C), (D), (E), or (F)".

(c) CERTIFICATION.—Section 6383 of title 5, United States Code, as amended by section 523(e), is further amended—

(1) in the title of the section, by adding at the end the following: "; **CONFIDENTIALITY**"; and

(2) by adding at the end the following:

"(g) In determining if an employee meets the requirements of subparagraph (E) or (F) of section 6382(a)(1), the employing agency of an employee may require the employee to provide—

"(1) a written statement describing the domestic violence and its effects;

"(2) documentation of the domestic violence involved, such as a police or court record, or documentation from a shelter worker, an employee of a domestic violence program, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic violence and its effects; or

"(3) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or physical evidence of domestic violence, such as a photograph, torn or bloody clothing, or other damaged property.

"(h) All evidence provided to the employing agency under subsection (g) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employing agency, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

"(1) protecting the safety of the employee or a family member or co-worker of the employee; or

"(2) assisting in documenting domestic violence for a court or agency.".

SEC. 533. EXISTING LEAVE USABLE FOR DOMESTIC VIOLENCE.

(a) DEFINITIONS.—In this section:

(1) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term "addressing domestic violence and its effects" has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611), as amended in section 531(a).

(2) EMPLOYEE.—The term "employee" means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(3) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs individuals, if such person is also subject to the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or to any provision of a State or local law, collective bargaining agreement, or employment benefits program or plan, addressing paid or unpaid leave from employment (including family, medical, sick, annual, personal, or similar leave); and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to any employee, and includes a public agency, who is subject to a law, agreement, program, or plan described in subparagraph (A), but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(4) EMPLOYMENT BENEFITS.—The term "employment benefits" has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) PARENT; SON OR DAUGHTER.—The terms "parent" and "son or daughter" have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(6) PUBLIC AGENCY.—The term "public agency" has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(b) USE OF EXISTING LEAVE.—An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, shall be permitted to use such leave for the purpose of addressing domestic violence and its effects, or for the purpose of caring for a son or daughter or parent of the employee, if such son or daughter or parent is addressing domestic violence and its effects.

(c) CERTIFICATION.—In determining whether an employee qualifies to use leave as described in subsection (b), an employer may require a written statement, documentation of domestic violence, or corroborating evidence consistent with section 103(g) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(g)), as amended by section 531(c).

(d) CONFIDENTIALITY.—All evidence provided to the employer under subsection (c) of domestic violence experienced by an employee or the son or daughter or parent of the employee, including a statement of an employee, any other documentation or corroborating evidence, and the fact that an employee has requested leave for the purpose of addressing, or caring for a son or daughter or parent who is addressing, domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

(1) protecting the safety of the employee or a family member or co-worker of the employee; or

(2) assisting in documenting domestic violence for a court or agency.

(e) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against an individual for opposing any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(A) has filed any charge, or had instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(f) ENFORCEMENT.—

(1) PUBLIC ENFORCEMENT.—The Secretary of Labor shall have the powers set forth in subsections (b), (c), (d), and (e) of section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) for the purpose of public agency enforcement of any alleged violation of subsection (e) against any employer.

(2) PRIVATE ENFORCEMENT.—The remedies and procedures set forth in section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)) shall be the remedies and procedures pursuant to which an employee may initiate a legal action against an employer for alleged violations of subsection (e).

(3) REFERENCES.—For purposes of paragraph (1) and (2), references in section 107 of the Family and Medical Leave Act of 1993 to section 105 of such Act shall be considered to be references to subsection (e).

(4) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer to an employee for harm suffered relating to the employee's experience of domestic violence pursuant to any other Federal or State law, including a law providing for a legal remedy.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. LEAHY, Mr. BIDEN, Mr. FEINGOLD, Mr. SCHUMER, Mr. DURBIN, Mr. AKAKA, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. EDWARDS, Mr. HARKIN, Mr. LEVIN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 19. A bill to protect the civil rights of all Americans, and for other purposes; to the Committee on the Judiciary.

PROTECTING CIVIL RIGHTS FOR ALL AMERICANS ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD as follows:

S. 19

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Protecting Civil Rights for All Americans Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2001

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Definition of hate crime.
Sec. 104. Support for criminal investigations and prosecutions by State and local law enforcement officials.
Sec. 105. Grant program.
Sec. 106. Authorization for additional personnel to assist State and local law enforcement.
Sec. 107. Prohibition of certain hate crime acts.
Sec. 108. Duties of Federal sentencing commission.
Sec. 109. Statistics.
Sec. 110. Severability.

TITLE II—TRAFFIC STOPS STATISTICS STUDY

Sec. 201. Short title.
Sec. 202. Attorney General to conduct study.
Sec. 203. Grant program.
Sec. 204. Limitation on use of data.
Sec. 205. Definitions.
Sec. 206. Authorization of appropriations.

TITLE III—SUPPORTING INDIGENT REPRESENTATION

Sec. 301. Findings.
Sec. 302. Authorization of appropriations.

TITLE IV—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

Sec. 401. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 402. Amendments to the Public Health Service Act.
Sec. 403. Amendments to Internal Revenue Code of 1986.
Sec. 404. Amendments to title XVIII of the Social Security Act relating to medigap.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

Sec. 411. Definitions.
Sec. 412. Employer practices.
Sec. 413. Employment agency practices.
Sec. 414. Labor organization practices.
Sec. 415. Training programs.
Sec. 416. Maintenance and disclosure of predictive genetic information.
Sec. 417. Civil action.
Sec. 418. Construction.
Sec. 419. Authorization of appropriations.
Sec. 420. Effective date.

TITLE V—EMPLOYMENT NONDISCRIMINATION

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Discrimination prohibited.
Sec. 505. Retaliation and coercion prohibited.
Sec. 506. Benefits.
Sec. 507. Collection of statistics prohibited.
Sec. 508. Quotas and preferential treatment prohibited.
Sec. 509. Religious exemption.
Sec. 510. Nonapplication to members of the Armed Forces; veterans' preferences.
Sec. 511. Construction.
Sec. 512. Enforcement.
Sec. 513. State and Federal immunity.
Sec. 514. Attorneys' fees.
Sec. 515. Posting notices.
Sec. 516. Regulations.
Sec. 517. Relationship to other laws.
Sec. 518. Severability.
Sec. 519. Effective date.

TITLE VI—PROMOTING CIVIL RIGHTS ENFORCEMENT

Sec. 601. Establishment of the National Task Force on Violence Against Health Care Providers.
Sec. 602. Increase in funding for enforcing civil rights laws.

TITLE I—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2001

SEC. 101. SHORT TITLE.

This title may be cited as the "Local Law Enforcement Enhancement Act of 2001".

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the victim's family and friends, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct "races". Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 103. DEFINITION OF HATE CRIME.

In this title, the term "hate crime" has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 104. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the victim's race, color, religion, national origin, gender, sexual orientation, or disability or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes. In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(2) APPLICATION.—

(A) IN GENERAL.—Each State desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(3) Deadline.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(4) Grant amount.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(5) Report.—Not later than December 31, 2002, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(6) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2002 and 2003.

SEC. 105. GRANT PROGRAM.

(a) Authority To Make Grants.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 106. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2002, 2003, and 2004 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code (as added by this title).

SEC. 107. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) In General.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

"(a) In General.—

"(1) Offenses involving actual or perceived race, color, religion, or national origin.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

"(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(i) death results from the offense; or

"(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(2) Offenses involving actual or perceived religion, national origin, gender, sexual orientation, or disability.—

"(A) In general.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

"(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(I) death results from the offense; or

"(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(B) Circumstances described.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

"(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(I) across a State line or national border; or

"(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

"(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

"(iii) in connection with the conduct described in subparagraph (A): the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

"(iv) the conduct described in subparagraph (A)—

"(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

"(II) otherwise affects interstate or foreign commerce.

"(b) Certification Requirement.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

"(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

"(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

"(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

"(B) the State has requested that the Federal Government assume jurisdiction;

"(C) the State does not object to the Federal Government assuming jurisdiction; or

"(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

"(c) Definitions.—In this section—

"(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

"(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.".

(b) Technical and Conforming Amendment.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"249. Hate crime acts.".

SEC. 108. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) Amendment of Federal Sentencing Guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) Consistency With Other Guidelines.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 109. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting "gender," after "race,".

SEC. 110. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—TRAFFIC STOPS STATISTICS STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Traffic Stops Statistics Study Act of 2001".

SEC. 202. ATTORNEY GENERAL TO CONDUCT STUDY.

(a) Study.—

(1) In general.—The Attorney General shall conduct a nationwide study of stops for traffic violations by law enforcement officers.

(2) Initial analysis.—The Attorney General shall perform an initial analysis of existing data, including complaints alleging and other information concerning traffic stops motivated by race and other bias.

(3) Data collection.—After completion of the initial analysis under paragraph (2), the Attorney General shall then gather the following data on traffic stops from a nationwide sample of jurisdictions, including jurisdictions identified in the initial analysis:

(A) The traffic infraction alleged to have been committed that led to the stop.

(B) Identifying characteristics of the driver stopped, including the race, gender, ethnicity, and approximate age of the driver.

(C) Whether immigration status was questioned, immigration documents were requested, or an inquiry was made to the Immigration and Naturalization Service with regard to any person in the vehicle.

(D) The number of individuals in the stopped vehicle.

(E) Whether a search was instituted as a result of the stop and whether consent was requested for the search.

(F) Any alleged criminal behavior by the driver that justified the search.

(G) Any items seized, including contraband or money.

(H) Whether any warning or citation was issued as a result of the stop.

(I) Whether an arrest was made as a result of either the stop or the search and the justification for the arrest.

(J) The duration of the stop.

(b) REPORTING.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall report the results of its initial analysis to Congress, and make such report available to the public, and identify the jurisdictions for which the study is to be conducted. Not later than 2 years after the date of the enactment of this Act, the Attorney General shall report the results of the data collected under this title to Congress, a copy of which shall also be published in the Federal Register.

SEC. 203. GRANT PROGRAM.

In order to complete the study described in section 202, the Attorney General may provide grants to law enforcement agencies to collect and submit the data described in section 202 to the appropriate agency as designated by the Attorney General.

SEC. 204. LIMITATION ON USE OF DATA.

Information released pursuant to section 202 shall not reveal the identity of any individual who is stopped or any law enforcement officer involved in a traffic stop.

SEC. 205. DEFINITIONS.

In this title:

(1) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an agency of a State or political subdivision of a State, authorized by law or by a Federal, State, or local government agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws, or a federally recognized Indian tribe.

(2) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE III—SUPPORTING INDIGENT REPRESENTATION

SEC. 301. FINDINGS.

Congress finds the following:

(1) There is a need to encourage equal access for individuals to the system of justice in the United States.

(2) There is a need to encourage the provision of high quality legal assistance for persons who would otherwise be unable to afford legal counsel.

(3) Legal Services Corporation programs serve clients with cases concerning housing, family law, income maintenance, consumer issues, and employment.

(4) For years the Federal resources available to the Legal Services Corporation have eroded. Nearly half of all people who applied for assistance from local Legal Services Corporation programs have been turned away in recent years.

(5) Congress must adequately fund Legal Services Corporation programs to preserve the strength of the programs.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $400,000,000 for fiscal year 2002.".

TITLE IV—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

SEC. 401. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF GENETIC SERVICES OR PREDICTIVE GENETIC INFORMATION.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period "(or information about a request for or the receipt of genetic services by such individual or family member of such individual)".

(2) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—Subpart B of Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).".

(B) CONFORMING AMENDMENTS.—

(i) Section 702(b)(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended to read as follows:

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 714; or".

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 702, section 711 and section 714".

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

"(c) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

"(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (f) and (g), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(e) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

"(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

"(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

"(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

"(4) the individual's employer or any plan sponsor; or

"(5) any other person the Secretary may specify in regulations.

"(f) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

"(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

"(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

"(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

"(g) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

"(1) is used solely for the payment of a claim;

"(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

"(h) Rules of Construction.—

"(1) Collection or disclosure authorized by individual.—The provisions of subsections (d) (regarding collection) and (e) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

"(2) Disclosure for health care treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

"(i) Definitions.—In this section:

"(1) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

"(2) Group health plan, health insurance issuer.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.".

(c) Enforcement.—Section 502 (29 U.S.C. 1132) is amended by adding at the end the following:

"(n) Violation of Genetic Discrimination or Genetic Disclosure Provisions.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 702, or section 714, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

"(o) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (n), except that any such relief awarded shall be paid only into the general fund of the Treasury.".

(d) Preemption.—Section 731 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by inserting "or (e)" after "subsection (b)"; and

(2) by adding at the end the following:

"(e) Special Rule in Case of Genetic Information.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) than does this part; or

"(2) prohibits discrimination on the basis of genetic information than does this part.".

(e) Definitions.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

"(5) Family member.—The term 'family member' means with respect to an individual—

"(A) the spouse of the individual;

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

"(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

"(6) Genetic information.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(7) Genetic services.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(8) Genetic test.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

"(9) Predictive genetic information.—

"(A) In general.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests;

"(ii) information about genetic tests of family members of the individual; or

"(iii) information about the occurrence of a disease or disorder in family members.

"(B) Limitations.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual;

"(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

"(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.".

(f) Amendment Concerning Supplemental Excepted Benefits.—Section 732(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(c)(3)) is amended by inserting ", other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual), (c), (d), (e), (f) and (g) of section 702 and section 714," after "The requirements of this part".

(g) Effective Date.—

(1) In general.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after October 1, 2002.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 402. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) Amendments Relating to the Group Market.—

(1) Prohibition of health insurance discrimination on the basis of predictive genetic information or genetic services.—

(A) No enrollment restriction for genetic services.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg-1(a)(1)(F)) is amended by inserting before the period the following: "(or information about a request for or the receipt of genetic services by an individual or a family member of such individual)".

(B) No discrimination in group rate based on predictive genetic information.—

(i) In general.—Subpart 2 of part A of title XXVII of the Public Health Service (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

"SEC. 2707. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).".

(ii) Conforming amendments.—

(I) Section 2702(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-1(b)(2)(A)) is amended to read as follows:

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 2707; or".

(II) Section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)) is amended by inserting "(other than subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707)" after "subparts 1 and 3".

(2) Limitations on genetic testing and on collection and disclosure of predictive genetic information.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg-1) is amended by adding at the end the following:

"(c) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

"(d) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (f) and (g), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(e) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

"(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

"(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

"(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

"(4) the individual's employer or any plan sponsor; or

"(5) any other person the Secretary may specify in regulations.

"(f) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

"(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

"(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

"(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

"(g) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

"(1) is used solely for the payment of a claim;

"(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

"(h) RULES OF CONSTRUCTION.—

"(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (d) (regarding collection) and (e) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

"(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

"(i) DEFINITIONS.—In this section:

"(1) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

"(2) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.".

(3) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following new paragraphs:

"(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

"(A) the spouse of the individual;

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

"(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

"(16) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(17) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counselling.

"(18) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

"(19) PREDICTIVE GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests;

"(ii) information about genetic tests of family members of the individual; or

"(iii) information about the occurrence of a disease or disorder in family members.

"(B) LIMITATIONS.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual;

"(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

"(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.".

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

"SEC. 2753. PROHIBITION OF HEALTH INSURANCE DISCRIMINATION AGAINST INDIVIDUALS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"(a) IN ELIGIBILITY TO ENROLL.—A health insurance issuer offering health insurance coverage in the individual market shall not establish rules for eligibility to enroll in individual health insurance coverage that are based on predictive genetic information concerning the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(b) IN PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates on the basis of predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"SEC. 2754. LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

"(a) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

"(b) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (d) and (e), a health insurance issuer offering health insurance coverage in the individual market shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(c) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A health insurance issuer offering health insurance coverage in the individual market shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

"(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

"(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

"(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

"(4) the individual's employer or any plan sponsor; or

"(5) any other person the Secretary may specify in regulations.

"(d) Information for Payment for Genetic Services.—

"(1) In general.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a health insurance issuer offering health insurance coverage in the individual market may request that the individual provide the plan or issuer with evidence that such services were performed.

"(2) Rule of construction.—Nothing in paragraph (1) shall be construed to—

"(A) permit a health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

"(B) require that a health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

"(e) Information for Payment of Other Claims.—With respect to the payment of claims for benefits other than genetic services, a health insurance issuer offering health insurance coverage in the individual market may request that an individual provide predictive genetic information so long as such information—

"(1) is used solely for the payment of a claim;

"(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

"(f) Rules of Construction.—

"(1) Collection or disclosure authorized by individual.—The provisions of subsections (c) (regarding collection) and (d) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

"(2) Disclosure for health care treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

"(g) Definitions.—In this section:

"(1) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

"(2) Group health plan, health insurance issuer.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.".

(c) Enforcement.—

(1) Group plans.—Section 2722 of the Public Health Service Act (42 U.S.C. 300gg–22) is amended by adding at the end the following:

"(c) Violation of Genetic Discrimination or Genetic Disclosure Provisions.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), or (g) of section 2702 and section 2707 the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

"(d) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.".

(2) Individual plans.—Section 2761 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended by adding at the end the following:

"(c) Violation of Genetic Discrimination or Genetic Disclosure Provisions.—In any action under this section against any health insurance issuer offering health insurance coverage in the individual market (including any other person acting for or on behalf of such issuer) alleging a violation of sections 2753 and 2754 the court in which the action is commenced may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

"(d) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.".

(d) Preemption.—

(1) Group market.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg–23) is amended—

(A) in subsection (a)(1), by inserting "or (e)" after "subsection (b)"; and

(B) by adding at the end the following:

"(e) Special Rule in Case of Genetic Information.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual); or

"(2) prohibits discrimination on the basis of genetic information than does this part.".

(2) Individual market.—Section 2762 of the Public Health Service Act (42 U.S.C. 300gg–46) is amended—

(A) in subsection (a), by inserting "and except as provided in subsection (c)," after "Subject to subsection (b),"; and

(B) by adding at the end the following:

"(c) Special Rule in Case of Genetic Information.—With respect to individual health insurance coverage offered by a health insurance issuer, the provisions of this part (or part C insofar as it applies to this part) relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law (as defined in section 2723(d)) which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services of an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) than does this part (or part C insofar as it applies to this part); or

"(2) prohibits discrimination on the basis of genetic information than does this part (or part C insofar as it applies to this part).".

(e) Elimination of Option of Non-Federal Governmental Plans To Be Excepted From Requirements Concerning Genetic Information.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end the following:

"(D) Election not applicable to requirements concerning genetic information.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (c), (d), (e), (f), and (g) of section 2702 and section 2707, and the provisions of section 2702(b) to the extent that they apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).".

(f) Amendment Concerning Supplemental Excepted Benefits.—

(1) Group market.—Section 2721(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–23(d)(3)) is amended by inserting ", other than the requirements of subsections (a)(1)(F), (b) (in cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual)), (c), (d), (e), (f) and (g) of section 2702 and section 2707," after "The requirements of this part".

(2) Individual market.—Section 2763(b) of the Public Health Service Act (42 U.S.C. 300gg–47(b)) is amended—

(A) by striking "The requirements of this part" and inserting the following:

"(1) In general.—Except as provided in paragraph (2), the requirements of this part"; and

(B) by adding at the end the following:

"(2) Limitation.—The requirements of sections 2753 and 2754 shall apply to excepted benefits described in section 2791(c)(4).".

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to—

(A) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning; and

(B) health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market, after;

October 1, 2002.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 403. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.

(a) Prohibition of Health Insurance Discrimination on the Basis of Genetic Services or Predictive Genetic Information.—

(1) No enrollment restriction for genetic services.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 (relating to eligibility to enroll) is amended by inserting before the period "(or information about a request for or the receipt of genetic services by such individual or family member of such individual)".

(2) No-discrimination in group rate based on predictive genetic information.—

(A) In general.—Subchapter B of chapter 100 of such Code (relating to other requirements) is amended by adding at the end the following:

"SEC. 9813. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual).".

(B) Conforming amendments.—

(i) Section 9802(b)(2)(A) of such Code is amended to read as follows:

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 9813; or".

(ii) Section 9831(a) of such Code (relating to exception for certain plans) is amended by inserting "(other than subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request for or receipt of genetic services by an individual or family member of such individual), (d) (e), (f), (g) or (h) of section 9802 or section 9813)" after "chapter".

(iii) The table of sections for subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

"Sec. 9813. Prohibiting discrimination against groups on the basis of predictive genetic information.".

(b) Limitations on Genetic Testing and on Collection and Disclosure of Predictive Genetic Information.—Section 9802 of the Internal Revenue Code of 1986 (relating to prohibiting discrimination against individual participants and beneficiaries based on health status) is amended by adding at the end the following new subsections:

"(d) Genetic Testing.—

"(1) Limitation on requesting or requiring genetic testing.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(2) Rule of construction.—Nothing in this chapter shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

"(e) Collection of Predictive Genetic Information.—Except as provided in subsections (g) and (h), a group health plan shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(f) Disclosure of Predictive Genetic Information.—A group health plan shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

"(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan,

"(2) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws,

"(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information,

"(4) the individual's employer or any plan sponsor, or

"(5) any other person the Secretary may specify in regulations.

"(g) Information for Payment for Genetic Services.—

"(1) In general.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan may request that the individual provide the plan with evidence that such services were performed.

"(2) Rule of construction.—Nothing in paragraph (1) shall be construed to—

"(A) permit a group health plan to request (or require) the results of the services referred to in such paragraph, or

"(B) require that a group health plan make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan in accordance with such paragraph.

"(h) Information for Payment of Other Claims.—With respect to the payment of claims for benefits other than genetic services, a group health plan may request that an individual provide predictive genetic information so long as such information—

"(1) is used solely for the payment of a claim,

"(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information, and

"(3) is used only by an individual within such plan or issuer who needs access to such information for purposes of payment of a claim.

"(i) Rules of Construction.—

"(1) Collection or disclosure authorized by individual.—The provisions of subsections (e) (regarding collection) and (f) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

"(2) Disclosure for health care treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

"(j) Definitions.—In this section:

"(1) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), or (o) of section 414.

"(2) Group health plan, health insurance issuer.—The terms 'group health plan' and 'health insurance issuer' include a third party administrator or other person acting for or on behalf of such plan or issuer.

"(k) Violation of Genetic Discrimination or Genetic Disclosure Provisions.—In any action under this section against any administrator of a group health plan (including any third party administrator or other person acting for or on behalf of such plan) alleging a violation of subsection (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (d), (e), (f), (g) or (h) or section 9813, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

"(l) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (k), except that any such relief awarded shall be paid only into the general fund of the Treasury.".

(c) Definitions.—Section 9832(d) of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraphs:

"(6) Family member.—The term 'family member' means with respect to an individual—

"(A) the spouse of the individual,

"(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual, or

"(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

"(7) Genetic information.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(8) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

"(10) PREDICTIVE GENETIC INFORMATION.—

"(A) IN GENERAL.—The term 'predictive genetic information' means—

"(i) information about an individual's genetic tests,

"(ii) information about genetic tests of family members of the individual, or

"(iii) information about the occurrence of a disease or disorder in family members.

"(B) LIMITATIONS.—The term 'predictive genetic information' shall not include—

"(i) information about the sex or age of the individual,

"(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests, or

"(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after October 1, 2002.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, this section and the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 404. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

"(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of predictive genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

"(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'predictive genetic information' shall have the meanings given such terms in subsection (v).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after October 1, 2002.

(b) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

"(v) LIMITATIONS ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—

"(1) GENETIC TESTING.—

"(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

"(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by an issuer of a medicare supplemental policy, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

"(2) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in paragraphs (4) and (5), an issuer of a medicare supplemental policy shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

"(3) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An issuer of a medicare supplemental policy shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) to—

"(A) any entity that is a member of the same controlled group as such issuer;

"(B) any issuer of a medicare supplemental policy, group health plan or health insurance issuer, or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

"(C) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

"(D) the individual's employer or any plan sponsor; or

"(E) any other person the Secretary may specify in regulations.

"(4) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

"(A) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, an issuer of a medicare supplemental policy may request that the individual provide the issuer with evidence that such services were performed.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to—

"(i) permit an issuer to request (or require) the results of the services referred to in such subparagraph; or

"(ii) require that an issuer make payment for services described in such subparagraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the issuer in accordance with such subparagraph.

"(5) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, an issuer of a medicare supplemental policy may request that an individual provide predictive genetic information so long as such information—

"(A) is used solely for the payment of a claim;

"(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(C) is used only by an individual (or individuals) within such issuer who needs access to such information for purposes of payment of a claim.

"(6) RULES OF CONSTRUCTION.—

"(A) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of paragraphs (2) (regarding collection) and (3) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

"(B) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

"(7) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this subsection against any administrator of a medicare supplemental policy (including any third party administrator or other person acting for or on behalf of such policy) alleging a violation of this subsection, the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

"(8) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions of this subsection, except that any such relief awarded shall be paid only into the general fund of the Treasury.

"(9) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—This subsection (relating to genetic information or information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(A) protects the confidentiality of genetic information (including information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for, or the receipt of, genetic services by an individual or a family member of such individual) than does this subsection; or

"(B) prohibits discrimination on the basis of genetic information than does this subsection.

"(10) DEFINITIONS.—In this subsection:

"(A) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

"(B) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

"(i) the spouse of the individual;

"(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

"(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

"(C) GENETIC INFORMATION.—The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

"(D) GENETIC SERVICES.—The term 'genetic services' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

"(E) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

"(F) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.

"(G) PREDICTIVE GENETIC INFORMATION.—

"(i) IN GENERAL.—The term 'predictive genetic information' means—

"(I) information about an individual's genetic tests;

"(II) information about genetic tests of family members of the individual; or

"(III) information about the occurrence of a disease or disorder in family members.

"(ii) LIMITATIONS.—The term 'predictive genetic information' shall not include—

"(I) information about the sex or age of the individual;

"(II) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

"(III) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.".

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

"(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning after October 1, 2002.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2002, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2002.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

SEC. 411. DEFINITIONS.

In this subtitle:

(1) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—The terms "employee", "employer", "employment agency", and "labor organization" have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e), except that the terms "employee" and "employer" shall also include the meanings given such terms in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The terms "employee" and "member" include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) FAMILY MEMBER.—The term "family member" means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

(3) GENETIC MONITORING.—The term "genetic monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(4) GENETIC SERVICES.—The term "genetic services" means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) GENETIC TEST.—The term "genetic test" means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—The term "predictive genetic information" means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term "predictive genetic information" shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

SEC. 412. EMPLOYER PRACTICES.

(a) IN GENERAL.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual;

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual, or information about a request for or the receipt of genetic services by such individual or family member of such individual; or

(3) to request, require, collect or purchase predictive genetic information with respect to an individual or a family member of the individual except—

(A) where used for genetic monitoring of biological effects of toxic substances in the workplace, but only if—

(i) the employee has provided prior, knowing, voluntary, and written authorization;

(ii) the employee is informed of individual monitoring results;

(iii) the monitoring conforms to any genetic monitoring regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.); and

(iv) the employer, excluding any licensed health care professional that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(B) where genetic services are offered by the employer and the employee provides prior, knowing, voluntary, and written authorization, and only the employee or family member of such employee receives the results of such services.

(b) LIMITATION.—In the case of predictive genetic information to which subparagraph

(A) or (B) of subsection (a)(3) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a).

SEC. 413. EMPLOYMENT AGENCY PRACTICES.

It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 414. LABOR ORGANIZATION PRACTICES.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 415. TRAINING PROGRAMS.

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual), in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual);

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 416. MAINTENANCE AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

(a) MAINTENANCE OF PREDICTIVE GENETIC INFORMATION.—If an employer possesses predictive genetic information about an employee (or information about a request for or receipt of genetic services by such employee or family member of such employee), such information shall be treated or maintained as part of the employee's confidential medical records.

(b) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An employer shall not disclose predictive genetic information (or information about a request for or receipt of genetic services by such employee or family member of such employee) except—

(1) to the employee who is the subject of the information at the request of the employee;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) under legal compulsion of a Federal court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order unless the court order also imposes confidentiality requirements; and

(4) to government officials who are investigating compliance with this Act if the information is relevant to the investigation.

SEC. 417. CIVIL ACTION.

(a) IN GENERAL.—One or more employees, members of a labor organization, or participants in training programs may bring an action in a Federal or State court of competent jurisdiction against an employer, employment agency, labor organization, or joint labor-management committee or training program who commits a violation of this subtitle.

(b) ENFORCEMENT BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, 710, and 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, 2000e–9, and 2000e–16) shall be the powers, remedies, and procedures provided to the Equal Employment Opportunity Commission to enforce this subtitle. The Commission may promulgate regulations to implement these powers, remedies, and procedures.

(c) REMEDY.—A Federal or State court may award any appropriate legal or equitable relief under this section. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of experts.

SEC. 418. CONSTRUCTION.

Nothing in this subtitle shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act;

(2) limit the rights or protections of an individual under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights accorded under this Act;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains; or

(5) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 419. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 420. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 2002.

TITLE V—EMPLOYMENT NONDISCRIMINATION

SEC. 501. SHORT TITLE.

This title may be cited as the "Employment Non-Discrimination Act of 2001".

SEC. 502. PURPOSES.

The purposes of this title are—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 503. DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) EMPLOYER.—The term "employer" means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h))) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 401 of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(4) EMPLOYMENT AGENCY.—The term "employment agency" has the meaning given the term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—Except as provided in section 510(a)(1), the term "employment or an employment opportunity" includes job application procedures, referral for employment, hiring, advancement, discharge, compensation, job training, a term, condition, or privilege of union membership, or any other term, condition, or privilege of employment, but does not include the service of a volunteer for which the volunteer receives no compensation.

(6) LABOR ORGANIZATION.—The term "labor organization" has the meaning given the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) PERSON.—The term "person" has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) RELIGIOUS ORGANIZATION.—The term "religious organization" means—

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if—

(i) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(9) SEXUAL ORIENTATION.—The term "sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

(10) STATE.—The term "State" has the meaning given the term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

SEC. 504. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's sexual orientation; or

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of such individual's sexual orientation.

(b) EMPLOYMENT AGENCY PRACTICES.—It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the sexual orientation of the individual or to classify or refer for employment any individual on the basis of the sexual orientation of the individual.

(c) LABOR ORGANIZATION PRACTICES.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the sexual orientation of the individual;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status of the individual as an employee or as an applicant for employment, because of such individual's sexual orientation; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) TRAINING PROGRAMS.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the sexual orientation of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) ASSOCIATION.—An unlawful employment practice described in any of subsections (a) through (d) shall be considered to include an action described in that subsection, taken against an individual based on the sexual orientation of a person with whom the individual associates or has associated.

(f) DISPARATE IMPACT.—Notwithstanding any other provision of this title, the fact that an employment practice has a disparate impact, as the term "disparate impact" is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(k)), on the basis of sexual orientation does not establish a prima facie violation of this title.

SEC. 505. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this title or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual's having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this title.

SEC. 506. BENEFITS.

This title does not apply to the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

SEC. 507. COLLECTION OF STATISTICS PROHIBITED.

The Commission shall not collect statistics on sexual orientation from covered entities, or compel the collection of such statistics by covered entities.

SEC. 508. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) ORDERS AND CONSENT DECREES.—Notwithstanding any other provision of this title, an order or consent decree entered for a violation of this title may not include a quota, or preferential treatment to an individual, based on sexual orientation.

SEC. 509. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall not apply to a religious organization.

(b) UNRELATED BUSINESS TAXABLE INCOME.—This title shall apply to employment or an employment opportunity for an employment position of a covered entity that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 510. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.—In this title, the term "employment or an employment opportunity" does not apply to the relationship between the United States and members of the Armed Forces.

(2) ARMED FORCES.—In paragraph (1), the term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This title does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

SEC. 511. CONSTRUCTION.

Nothing in this title shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

SEC. 512. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this title in the case of a claim alleged by an individual for a violation of this title—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220);

in the case of a claim alleged by such individual for a violation of such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have

the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title;

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202 and 1220) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (2 U.S.C. 1202(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) Procedures and Remedies.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this title are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures and remedies applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) Other Applicable Provisions.—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this title, title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleged by such a covered employee for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) Prohibition of Affirmative Action—Notwithstanding any other provision of this section, affirmative action for a violation of this title may not be imposed. Nothing in this section shall prevent the granting of relief to any individual who suffers a violation of such individual's rights provided in this title.

SEC. 513. STATE AND FEDERAL IMMUNITY.

(a) State Immunity.—A State shall not be immune under the 11th amendment to the Constitution from an action in a Federal court of competent jurisdiction for a violation of this title.

(b) Remedies Against the United States and the States.—Notwithstanding any other provision of this title, in an action or administrative proceeding against the United States or a State for a violation of this title, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies are available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977A(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

SEC. 514. ATTORNEYS' FEES.

Notwithstanding any other provision of this title, in an action or administrative proceeding for a violation of this title, an entity described in section 512(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs. The Commission and the United States shall be liable for the costs to the same extent as a private person.

SEC. 515. POSTING NOTICES.

A covered entity who is required to post notices described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10) shall post notices for employees, applicants for employment, and members, to whom the provisions specified in section 512(b) apply, that describe the applicable provisions of this title in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964.

SEC. 516. REGULATIONS.

(a) In General.—Except as provided in subsections (b), (c), and (d), the Commission shall have authority to issue regulations to carry out this title.

(b) Librarian of Congress.—The Librarian of Congress shall have authority to issue regulations to carry out this title with respect to employees of the Library of Congress.

(c) Board.—The Board referred to in section 512(a)(3) shall have authority to issue regulations to carry out this title, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) President.—The President shall have authority to issue regulations to carry out this title with respect to covered employees, as defined in section 401 of title 3, United States Code.

SEC. 517. RELATIONSHIP TO OTHER LAWS.

This title shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 518. SEVERABILITY.

If any provision of this title, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

SEC. 519. EFFECTIVE DATE.

This title shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

TITLE VI—PROMOTING CIVIL RIGHTS ENFORCEMENT

SEC. 601. ESTABLISHMENT OF THE NATIONAL TASK FORCE ON VIOLENCE AGAINST HEALTH CARE PROVIDERS.

(a) Establishment.—There is established in the Department of Justice a National Task Force on Violence Against Health Care Providers (referred to in this section as the "task force").

(b) Composition.—The task force shall be composed on one or more individuals from—

(1) the Department of Justice;

(2) the Federal Bureau of Investigation;

(3) the United States Marshals Service;

(4) the Bureau of Alcohol, Tobacco, and Firearms; and

(5) the United States Postal Inspection Service.

(c) Chairman.—The task force shall be chaired by the Assistant Attorney General for Civil Rights.

(d) Powers and Duties.—The task force shall—

(1) coordinate the national investigation and prosecution of incidents of violence and other unlawful acts directed against reproductive health care providers, with a focus on connections that may exist between individuals involved in such unlawful activity;

(2) serve as a clearinghouse of information, for use by investigators and prosecutors, relating to acts of violence against reproductive health care providers;

(3) make available security information and recommendations to enhance the safety and protection of reproductive health care providers;

(4) provide training to Federal, State, and local law enforcement on issues relating to clinic violence; and

(5) support Federal civil investigation and litigation of violence and other unlawful acts directed at reproductive health care providers.

(e) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this section.

SEC. 602. INCREASE IN FUNDING FOR ENFORCING CIVIL RIGHTS LAWS.

(a) Increase in Funding.—There are authorized to be appropriated for fiscal year 2002 for each of the agencies described in subsection (b) an amount equal to 105 percent of the amount appropriated for fiscal year 2001.

(b) Agencies.—The agencies referred to in subsection (a) (with the increase and total amount authorized for fiscal year 2002) are as follows:

(1) Equal Employment Opportunity Commission (an increase of $15,200,000 from fiscal year 2001 to $319,200,000 for fiscal year 2002).

(2) Department of Justice: Civil Rights Division (an increase of $4,600,000 from fiscal year 2001 to $96,600,000 for fiscal year 2002).

(3) Education: Office of Civil Rights (an increase of $3,800,000 from fiscal year 2001 to $79,800,000 for fiscal year 2002).

(4) Department of Labor: Office of Federal Contract Compliance (an increase of $3,800,000 from fiscal year 2001 to $79,800,000 for fiscal year 2002).

(5) Department of Labor: Civil Rights Center (an increase of $300,000 from fiscal year 2001 to $6,300,000 for fiscal year 2002).

(6) Housing and Urban Development: Fair Housing Activities Grants (an increase of $2,300,000 from fiscal year 2001 to $48,300,000 for fiscal year 2002).

(7) Health and Human Services: Office for Civil Rights (an increase of $1,400,000 from fiscal year 2001 to $29,400,000 for fiscal year 2002).

(8) Agriculture: Civil Rights Programs (an increase of $1,000,000 from fiscal year 2001 to $21,000,000 for fiscal year 2002).

(9) Transportation: Office of Civil Rights (an increase of $400,000 from fiscal year 2001 to $8,400,000 for fiscal year 2002).

(10) Environmental Protection Agency: Office of Civil Rights (an increase of $250,000

from fiscal year 2001 to $5,250,000 for fiscal year 2002).

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, and Mr. AKAKA):

S. 20. A bill to enhance fair and open competition in the production and sale of agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SECURING A FUTURE FOR INDEPENDENT AGRICULTURE ACT OF 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Securing a Future for Independent Agriculture Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
TITLE I—PROTECTION FROM ANTI-COMPETITIVE PRACTICES; CONTRACT FAIRNESS
Subtitle A—Definitions
Sec. 101. Definitions.
Subtitle B—Protection from Anticompetitive Practices
Sec. 111. Prohibitions against unfair practices in transactions involving agricultural commodities.
Sec. 112. Reports of the Secretary on potential unfair practices.
Sec. 113. Report on corporate structure.
Sec. 114. Mandatory funding for staff.
Sec. 115. General Accounting Office study.
Subtitle C—Contract Fairness
Sec. 121. Obligation of good faith.
Sec. 122. Disclosure of risks and readability requirements under agricultural contracts.
Sec. 123. Right of contract producers to cancel production contracts.
Sec. 124. Prohibition of confidentiality provisions.
Sec. 125. Production contract liens.
Sec. 126. Production contracts involving investment requirements.
Sec. 127. Producer rights.
Sec. 128. Mediation.
Subtitle D—Agricultural Fair Practices
Sec. 131. Agricultural fair practices.
Subtitle E—Implementation
Sec. 141. Relationship to State law.
Sec. 142. Regulations.
Sec. 143. Implementation plan.
Sec. 144. Effective date.
TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND
Sec. 201. National Rural Cooperative and Business Equity Fund.
TITLE III—COUNTRY OF ORIGIN LABELING
Sec. 301. Country of origin labeling.
TITLE IV—MARKETING ASSISTANCE LOAN RATE EQUALIZATION
Sec. 401. Loan rates for marketing assistance loans.
Sec. 402. Term of loans.
Sec. 403. Application.
TITLE V—FARMLAND PROTECTION
Sec. 501. Farmland protection program.
TITLE VI—CIVIL RIGHTS
Sec. 601. Sense of Congress on participation of socially disadvantaged groups in Department of Agriculture programs.

TITLE I—PROTECTION FROM ANTI-COMPETITIVE PRACTICES; CONTRACT FAIRNESS

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

In this title:

(1) ACTIVE CONTRACTOR.—The term "active contractor" means a person (including a processor) that (in accordance with a production contract) owns, or will own, an agricultural commodity that is produced by a contract producer.

(2) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(3) AGRICULTURAL CONTRACT.—The term "agricultural contract" means a marketing contract or a production contract.

(4) AGRICULTURAL COOPERATIVE.—The term "agricultural cooperative" means an association of persons engaged in the production, marketing, or processing of an agricultural commodity that meets the requirements of the Act entitled "An Act to authorize association of producers of agricultural products" (commonly known as the "Capper-Volstead Act") (7 U.S.C. 291 et seq).

(5) BROKER.—The term "broker" means any person engaged in the business of negotiating sales and purchases of any agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, except that no person shall be considered a broker if the person's sales of such agricultural commodities are not in excess of $1,000,000 per year.

(6) CAPITAL INVESTMENT.—The term "capital investment" means an investment in—

(A) a structure, such as a building or manure storage structure; or

(B) machinery or equipment associated with producing an agricultural commodity that has a useful life of more than 1 year.

(7) COMMISSION MERCHANT.—The term "commission merchant" means any person engaged in the business of receiving in interstate or foreign commerce any agricultural commodity for sale, on commission, or for or on behalf of another person, except that no person shall be considered a commission merchant if the person's sales of such agricultural commodities are not in excess of $1,000,000 per year.

(8) CONTRACT INPUT.—

(A) IN GENERAL.—The term "contract input" means an agricultural commodity or an organic or synthetic substance or compound that is used to produce an agricultural commodity.

(B) INCLUSIONS.—The term "contract input" includes livestock, plants, agricultural seeds, semen or eggs for breeding stock, fertilizers, soil conditioners, and pesticides.

(9) CONTRACT LIVESTOCK FACILITY.—The term "contract livestock facility" means a facility in which livestock or a product of live livestock is produced under a production contract by a contract producer.

(10) CONTRACT PRODUCER.—The term "contract producer" means a producer that produces an agricultural commodity under a production contract.

(11) CONTRACTOR.—The term "contractor" means a person that is an active contractor or a passive contractor.

(12) COVERED PERSON.—The term "covered person" means a dealer, processor, commission merchant, and broker.

(13) CROP.—The term "crop" means an agricultural commodity produced from a plant.

(14) DEALER.—The term "dealer" means—

(A) any person (except an agricultural cooperative) engaged in the business of buying, selling, or marketing agricultural commodities in wholesale or jobbing quantities, as determined by the Secretary, in interstate or foreign commerce, except that—

(i) no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person's own production if the sales or marketing of such agricultural commodities do not exceed $10,000,000 per year; and

(ii) no person shall be considered a dealer who buys, sells, or markets less than $1,000,000 per year of such agricultural commodities; and

(B) an agricultural cooperative that sells or markets agricultural commodities of its members' own production if the agricultural cooperative sells or markets more than $1,000,000 of its members' production per year of such agricultural commodities.

(15) INVESTMENT REQUIREMENT.—The term "investment requirement" means a provision in a production contract that requires a contract producer to make a capital investment associated with producing an agricultural commodity subject to the production contract.

(16) LIVESTOCK.—The term "livestock" means beef cattle, dairy cattle, swine, sheep, or poultry.

(17) MARKETING CONTRACT.—The term "marketing contract" means a written agreement between a processor and a producer for the purchase of an agricultural commodity grown or raised by the producer.

(18) PASSIVE CONTRACTOR.—The term "passive contractor" means a person that—

(A) provides a management service to a contract producer; and

(B) does not own an agricultural commodity that is produced by the contract producer under a production contract.

(19) PROCESSOR.—

(A) IN GENERAL.—The term "processor" means—

(i) any person (other than an agricultural cooperative) engaged in the business of handling, preparing, or manufacturing (including slaughtering) an agricultural commodity or the products of an agricultural commodity for sale or marketing in interstate or foreign commerce for human consumption; and

(ii) an agricultural cooperative that handles, prepares, or manufactures (including slaughtering) agricultural commodities of its members' own production.

(B) EXCLUSIONS.—The term "processor" does not include—

(i) any person (other than an agricultural cooperative) with respect to the handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity that was produced by the person if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $10,000,000 per year; and

(ii) any agricultural cooperative that handles, prepares, or manufactures (including slaughtering) an agricultural commodity if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $1,000,000 per year.

(20) Produce.—The term "produce" means—

(A) to provide feed or services relating to the care and feeding of livestock, including milking dairy cattle and storing raw milk; and

(B) to provide for planting, raising, harvesting, and storing a crop, including preparing soil for planting and applying a fertilizer, soil conditioner, or pesticide to a crop.

(21) Producer.—

(A) In general.—The term "producer" means a person that produces an agricultural commodity.

(B) Exclusions.—The term "producer" does not include—

(i) a commercial fertilizer or pesticide applicator;

(ii) a feed supplier; or

(iii) a veterinarian.

(22) Production contract.—

(A) In general.—The term "production contract" means a written agreement that provides for—

(i) the production of an agricultural commodity by a contract producer; or

(ii) the provision of a management service relating to the production of an agricultural commodity by a contract producer.

(B) Inclusions.—The term "production contract" includes—

(i) a contract between an active contractor and a contract producer for the production of an agricultural commodity;

(ii) a contract between an active contractor and a passive contractor for the provision of a management service to a contract producer in the production of an agricultural commodity; and

(iii) a contract between a passive contractor and a contract producer if—

(I) the production contract provides for a management service furnished by the passive contractor to the contract producer in the production of an agricultural commodity; and

(II) the passive contractor has a contractual relationship with the active contractor involving the production of the agricultural commodity.

(23) Secretary.—The term "Secretary" means the Secretary of Agriculture.

Subtitle B—Protection from Anticompetitive Practices

SEC. 111. PROHIBITIONS AGAINST UNFAIR PRACTICES IN TRANSACTIONS INVOLVING AGRICULTURAL COMMODITIES.

(a) Prohibitions.—It shall be unlawful in, or in connection with, any transaction in interstate or foreign commerce for any covered person or contractor—

(1) to engage in or use any unfair, unreasonable, unjustly discriminatory, or deceptive practice or device in the marketing, receiving, purchasing, sale, or contracting for the production of any agricultural commodity;

(2) to make or give any undue or unreasonable preference or advantage to any particular person or locality or subject any particular person or locality to any undue or unreasonable disadvantage in connection with any transaction involving any agricultural commodity;

(3) to make any false or misleading statement in connection with any transaction involving any agricultural commodity that is purchased or received in interstate or foreign commerce, or involving any production contract, or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction or production contract;

(4) to retaliate against or disadvantage, or to conspire to retaliate against or disadvantage, any person because of statements or information lawfully provided by the person to any person (including to the Secretary or to a law enforcement agency) regarding alleged improper actions or violations of law by the covered person or contractor (unless the statements or information are determined to be libelous or slanderous under applicable State law) involving any agricultural commodity;

(5) to include as part of any new or renewed agreement or contract a right of first refusal, or to make any sale or transaction contingent on the granting of a right of first refusal, involving any agricultural commodity, before the date that is 180 days after the study required under section 115 is complete; or

(6) to offer different prices contemporaneously for agricultural commodities of like grade and quality (except agricultural commodities covered by the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)), unless—

(A) the agricultural commodity is purchased in a public market through a competitive bidding process or under similar conditions that provide opportunities for multiple competitors to seek to acquire the agricultural commodity;

(B) the premium or discount reflects the actual cost of acquiring an agricultural commodity prior to processing; or

(C) the Secretary has determined that such types of offers do not have a discriminatory impact against small volume producers of agricultural commodities.

(b) Violations.—

(1) Complaints.—Whenever the Secretary has reason to believe that any covered person or contractor has violated subsection (a), the Secretary shall cause a complaint in writing to be served on the covered person or contractor, stating the charges in that respect, and requiring the covered person or contractor to attend and testify at a hearing to be held not earlier than 30 days after the service of the complaint.

(2) Hearing.—

(A) In general.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary, for the determination of the existence of any violation of this section.

(B) Right to hearing.—A covered person or contractor may request a hearing if the covered person or contractor is subject to penalty for unfair conduct under this section.

(C) Respondents rights.—During a hearing, the covered person or contractor shall be given, pursuant to regulations promulgated by the Secretary, the opportunity—

(i) to be informed of the evidence against the covered person or contractor;

(ii) to cross-examine witnesses; and

(iii) to present evidence.

(D) Hearing limitation.—The issues of any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which the hearing was held or requested.

(3) Report of finding and penalties.—

(A) In general.—If, after a hearing, the Secretary finds that the covered person or contractor has violated subsection (a), the Secretary shall make a report in writing that states the findings of fact and includes an order requiring the covered person or contractor to cease and desist from continuing the violation.

(B) Civil penalty.—The Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation of subsection (a).

(4) Temporary injunction and finality and appealability of an order.—

(A) Temporary injunction.—At any time after a complaint is filed under paragraph (1), the court, on application of the Secretary, may issue a temporary injunction, restraining to the extent the court considers proper, the covered person or contractor and the officers, directors, agents, and employees of the covered person or contractor from violating subsection (a).

(B) Appealability of an order.—An order issued pursuant to this subsection shall be final and conclusive unless within 30 days after service of the order, the covered person or contractor petitions to appeal the order to the court of appeals for the circuit in which the covered person or contractor resides or has its principal place of business or the District of Columbia Circuit Court of Appeals.

(C) Delivery of petition.—

(i) In general.—The clerk of the court shall immediately cause a copy of the petition filed under subparagraph (B) to be delivered to the Secretary.

(ii) Record.—On receipt of the petition, the Secretary shall file in the court the record of the proceedings under this subsection.

(D) Penalty for failure to obey an order.—

(i) In general.—Any covered person or contractor that fails to obey any order of the Secretary issued under this section after the order, or the order as modified, has been sustained by the court or has otherwise become final, shall be fined not less than $5,000 and not more than $100,000 for each offense.

(ii) Separate offenses.—Each day during which the failure continues shall be considered a separate offense.

(5) Records.—

(A) In general.—Each covered person or contractor shall maintain for a period of not less than 5 years accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) that fully and correctly disclose all transactions involved in the business of the covered person or contractor, including the true ownership of the business.

(B) Failure to keep records or allow the Secretary to inspect records.—Failure to keep, or allow the Secretary to inspect records as required by this paragraph shall constitute an unfair practice in violation of subsection (a)(1).

(C) Inspection of records.—The Secretary shall have the right to inspect such accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) of any covered person or contractor as may be material to the investigation of any alleged violation of this section or for the purpose of investigating the business conduct or practices of an organization with respect to the covered person or contractor.

(c) Compensation for Injury.—

(1) Establishment of the family farmer and rancher claims commission.—

(A) In general.—The Secretary shall appoint 3 individuals to a commission to be known as the "Family Farmer and Rancher Claims Commission" (referred to in this subsection as the "Commission") to review claims of family farmers and ranchers that have suffered financial damages as a result of any violation of this section as determined by the Secretary pursuant to subsection (b)(3).

(B) TERM OF SERVICE.—

(i) IN GENERAL.—Each member of the Commission shall serve 3-year terms which may be renewed.

(ii) INITIAL MEMBERS.—The initial members of the Commission may be appointed for a period of less than 3 years, as determined by the Secretary.

(2) REVIEW OF CLAIMS.—

(A) SUBMISSION OF CLAIMS.—A family farmer or rancher damaged as a result of a violation of this section, as determined by the Secretary pursuant to subsection (b)(3), may preserve the right to claim financial damages under this section by filing a claim pursuant to regulations promulgated by the Secretary.

(B) DETERMINATION.—Based on a review of the claim, the Commission shall determine the amount of damages to be paid, if any, as a result of the violation.

(C) REVIEW.—The decisions of the Commission under this paragraph shall not be subject to judicial review except to determine that the amount of damages to be paid is consistent with the published regulations of the Secretary that establish the criteria for implementing this subsection.

(3) FUNDING.—

(A) IN GENERAL.—Funds collected from civil penalties pursuant to this section shall—

(i) be transferred to a special fund in the Treasury;

(ii) be made available to the Secretary without further Act of appropriation; and

(iii) remain available until expended to pay the expenses of the Commission and claims described in this subsection.

(B) AUTHORIZATION OF APPROPRIATION.—In addition to the funds described in subparagraph (A), there are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 112. REPORTS OF THE SECRETARY ON POTENTIAL UNFAIR PRACTICES.

(a) FILING PREMERGER NOTICES WITH THE SECRETARY.—No covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business shall merge or acquire, directly or indirectly, any voting securities or assets of any other covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules promulgated by the Secretary, if—

(1) any voting securities or assets of the covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business with annual net sales or total assets of $10,000,000 or more are being acquired by a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business that has total assets or annual net sales of $100,000,000 or more; or

(2) any voting securities or assets of a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business with annual net sales, or total assets, of $100,000,000 or more are being acquired by any covered person, operator of a warehouse used to store agricultural commodities, or agriculture-related business with annual net sales or total assets of $10,000,000 or more, if, as a result of the acquisition, the acquiring person would hold an aggregate total amount of the voting securities and assets of the acquired person in excess of $50,000,000.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may conduct a review of any merger or acquisition described in subsection (a).

(2) EXCEPTION.—The Secretary shall conduct a review of any merger or acquisition described in subsection (a) on a request from a member of Congress.

(c) ACCESS TO RECORDS.—The Secretary may request any information, including any testimony, documentary material, or related information, from a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business, pertaining to any merger or acquisition of any covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business.

(d) PURPOSE OF REVIEW.—

(1) FINDINGS.—In conducting the review under subsection (a), the Secretary shall make findings concerning whether the merger or acquisition could—

(A) be significantly detrimental to the present or future viability of family farms or ranches or rural communities in the areas affected by the merger or acquisition, pursuant to standards established by the Secretary; or

(B) lead to a violation of section 111(a).

(2) REMEDIES.—The review may include a determination of possible remedies regarding how the parties of the merger or acquisition may take steps to modify their operations to address the findings described in paragraph (1).

(e) REPORT OF REVIEW.—

(1) PRELIMINARY REPORT.—After conducting the review required under subsection (b), the Secretary shall issue a preliminary report to the parties of the merger or acquisition and the Attorney General or the Federal Trade Commission, as appropriate, which shall include findings and a description of any remedies described in subsection (d)(2).

(2) FINAL REPORT.—After affording the parties described in paragraph (1) an opportunity for a hearing regarding the findings and any proposed remedies in the preliminary report, the Secretary shall issue a final report to the President and the Attorney General or the Federal Trade Commission, as appropriate, with respect to the merger or acquisition.

(f) IMPLEMENTATION OF THE REPORT.—Not later than 120 days after the issuance of a final report described in subsection (e)(2), the parties to the merger or acquisition affected by the report shall—

(1) make changes to their operations or structure to comply with the findings and implement any suggested remedy; or any agreed-on alternative remedy; and

(2) file a response demonstrating the compliance or implementation.

(g) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2), information used by the Secretary to conduct the review required under this section provided by a party to the merger or acquisition under review or by a government agency shall be treated by the Secretary as confidential information pursuant to section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276).

(2) PARTY TO HEARING.—The Secretary may share any such information with the Attorney General, the Federal Trade Commission, and a party seeking a hearing pursuant to subsection (e)(2) with respect to information relating to the party.

(3) REPORT.—Subject to paragraph (1), the report issued under subsection (e) shall be available to the public.

(h) CIVIL PENALTIES.—

(1) ORIGINAL PENALTY.—

(A) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty in an amount not to exceed $300,000 for the failure of a person to comply with the requirements of subsection (a) or (f).

(B) ISSUE.—Any such hearing shall be limited to the issue of the amount of the civil penalty.

(2) ADDITIONAL PENALTY.—

(A) IN GENERAL.—If after being assessed a civil penalty under paragraph (1) a person continues to fail to meet the requirements of subsection (a) or (f), the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty in an amount not to exceed $100,000 for each day the person continues the violation.

(B) ISSUE.—Any such hearing shall be limited to the issue of the additional civil penalty assessed under this paragraph.

SEC. 113. REPORT ON CORPORATE STRUCTURE.

(a) IN GENERAL.—

(1) REPORT.—A covered person with annual sales in excess of $100,000,000 shall annually file with the Secretary a report that describes, with respect to both domestic and foreign activities, the strategic alliances, ownership in other agribusiness firms or agribusiness-related firms, joint ventures, subsidiaries, brand names, and interlocking boards of directors with other corporations, representatives, and agents that lobby Congress on behalf of the covered person, as determined by the Secretary.

(2) CONTRACTS.—Paragraph (1) shall not apply to a contract.

(b) CIVIL PENALTIES.—

(1) ORIGINAL PENALTY.—

(A) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for the failure of a person to comply with this section.

(B) ISSUE.—Any such hearing shall be limited to the issue of the amount of the civil penalty

(2) ADDITIONAL PENALTY.—

(A) IN GENERAL.—If after being assessed a civil penalty in accordance with paragraph (1) a person continues to fail to meet the requirements of this section, the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty in an amount not to exceed $100,000 for each day the person continues the violation.

(B) ISSUE.—Any such hearing shall be limited to the amount of the additional civil penalty assessed under this paragraph.

SEC. 114. MANDATORY FUNDING FOR STAFF.

(a) IN GENERAL.—Out of the funds in the Treasury not otherwise appropriated, the Secretary of Treasury shall provide to the Secretary of Agriculture $7,000,000 for each of fiscal years 2002 through 2006, to hire, train, and provide for additional staff to carry out additional responsibilities under this subtitle, including a Special Counsel on Fair Markets and Rural Opportunity, additional attorneys for the Office of General Counsel, investigators, economists, and support staff.

(b) AVAILABILITY.—The sums shall be—

(1) made available to the Secretary without further Act of appropriation; and

(2) in addition to funds otherwise made available to the Secretary for the purposes described in subsection (a).

SEC. 115. GENERAL ACCOUNTING OFFICE STUDY.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Attorney General, the Secretary, the Federal Trade Commission, the National Association of Attorney's General, and other persons, shall—

(1) study competition in the domestic farm economy with a special focus on—

(A) protecting family farms and ranches and rural communities; and

(B) the potential for monopsony and oligopsony nationally and regionally; and

(2) provide a report to the appropriate committees of Congress on—

(A) the correlation between increases in the gap between—

(i) retail consumer food prices;

(ii) the prices paid to farmers and ranchers; and

(iii) any increases in concentration among processors, manufacturers, or other firms that buy from farmers and ranchers;

(B) the extent to which the use of formula pricing, marketing agreements, forward contracting, and production contracts tend to give processors, agribusinesses, and other buyers of agricultural commodities unreasonable market power over producers or suppliers in local markets;

(C) whether the granting of process patents relating to biotechnology research affecting agriculture during the past 20 years has tended to overly restrict related biotechnology research or has tended to overly limit competition in the biotechnology industries that affect agriculture in a manner that is contrary to the public interest, or could do so in the future;

(D) whether acquisitions of companies that own biotechnology patents and seed patents by multinational companies have the potential for reducing competition in the United States and unduly increasing the market power of the multinational companies;

(E) whether existing processors or agribusinesses have disproportionate market power and if competition could be increased if the processors or agribusinesses were required to divest assets to ensure that they do not exert the disproportionate market power over local markets;

(F) the extent of increase in concentration in milk processing, procurement and handling, and the potential risks from that increase in concentration on—

(i) the economic well-being of dairy farmers;

(ii) the school lunch program; and

(iii) other Federal nutrition programs;

(G) the impact of mergers, acquisitions, and joint ventures among dairy cooperatives on dairy farmers, including impacts on both members and nonmembers of the merging cooperatives;

(H) the impact of the significant increase in the use of stock as the primary means of effectuating mergers and acquisitions by large companies;

(I) the increase in the number and size of mergers or acquisitions in the United States and whether some of the mergers or acquisitions would have taken place if the merger or acquisition had to be consummated primarily with cash, other assets, or borrowing; and

(J) whether agricultural producers typically appear to derive any benefits (such as higher prices for their products or any other advantages) from right-of-first-refusal provisions contained in purchase contracts or other deals with agribusiness purchasers of the products.

Subtitle C—Contract Fairness

SEC. 121. OBLIGATION OF GOOD FAITH.

An agricultural contract shall carry an obligation of good faith (as defined in applicable State law provisions of the Uniform Commercial Code) on all parties to the agricultural contract with respect to the performance and enforcement of the agricultural contract.

SEC. 122. DISCLOSURE OF RISKS AND READABILITY REQUIREMENTS UNDER AGRICULTURAL CONTRACTS.

(a) Readability and Understandability.—

(1) In general.—An agricultural contract shall be readable and understandable, in that the agricultural contract—

(A) shall be printed in legible type;

(B) shall be appropriately divided into captioned sections; and

(C) shall be written in clear and coherent language using words and grammar that are understandable by a person of average intelligence, education, and experience within the agricultural industry.

(2) Effect.—Paragraph (1) does not preclude the use of—

(A) a particular word, phrase, provision, or form of agreement that is specifically required, recommended, or endorsed by a Federal or State law (including a regulation); or

(B) a technical term that is used to describe the service or property that is the subject of the agricultural contract, if the term is customarily used by producers in the ordinary course of business in connection with the service or property described.

(b) Disclosure Statement Requirement.—An agricultural contract shall—

(1) be accompanied by a clear written disclosure statement describing the material risks faced by the producer if the producer enters into the agricultural contract; and

(2) disclose (in a manner consistent with subsection (a)), provisions of the agricultural contract relating to—

(A) duration;

(B) termination;

(C) renegotiation standards;

(D) responsibility for environmental damage;

(E) factors to be used in determining payment;

(F) responsibility for obtaining and complying with Federal, State, and local permits;

(G) in the case of a production contract, the right of the producer to cancel the production contract in accordance with section 123; and

(H) any other terms that the Secretary determines are appropriate for disclosure.

(c) Cover Sheet Requirement.—An agricultural contract entered into, amended, or renewed after the date of enactment of this Act shall contain as the first page, or first page of text if it is preceded by a title page, a cover sheet that complies with subsection (a) and contains the following:

(1) A brief statement that the agricultural contract is a legal contract between the parties to the agricultural contract.

(2) The following statement: "READ YOUR CONTRACT CAREFULLY. This cover sheet provides only a brief summary of your contract. This cover sheet is not the contract, and only the terms of the actual contract are legally binding. The contract itself sets forth, in detail, the rights and obligations of both you and the contractor or processor. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY.".

(3) A written disclosure of risks in accordance with subsection (b).

(4) In the case of a production contract, a statement describing, in plain language, the right of the producer to cancel the production contract in accordance with section 123.

(5) An index of the major provisions of the agricultural contract and the pages on which the provisions appear, including—

(A) the name of each party to the agricultural contract;

(B) the definitions section of the agricultural contract;

(C) the provisions governing termination, cancellation, renewal, and amendment of the agricultural contract by either party;

(D) the duties and obligations of each party; and

(E) provisions subject to change in the agricultural contract.

(d) Review by Secretary.—

(1) Submission to secretary.—A contractor may submit an agricultural contract to the Secretary for review to determine whether the agricultural contract complies with this section.

(2) Action by secretary.—The Secretary shall—

(A) in determining whether an agricultural contract or cover sheet is readable, in accordance with subsection (a), consider—

(i) the simplicity of the sentence structure;

(ii) the extent to which commonly used and understood words are employed;

(iii) the extent to which esoteric legal terms are avoided;

(iv) the extent to which references to other sections or provisions of the agricultural contract are minimized;

(v) the extent to which clear definitions are used; and

(vi) any additional factors relevant to the readability or understandability of the agricultural contract; and

(B) after reviewing the agricultural contract—

(i) certify that the agricultural contract complies with this section;

(ii) decline to certify that the agricultural contract complies with this section and provide specific reasons for declining to certify the agricultural contract; or

(iii) decline to review the agricultural contract because—

(I) the compliance of the agricultural contract with this section is subject to pending litigation; or

(II) the agricultural contract is not subject to this section.

(3) Judicial review.—An action of the Secretary under this subsection shall not be subject to judicial review.

(4) Certification.—

(A) In general.—An agricultural contract certified under this subsection shall be considered to comply with subsections (a), (b), and (c).

(B) No approval of legality or legal effect.—Certification of an agricultural contract under this subsection shall not constitute an approval of the legality or legal effect of the agricultural contract.

(C) Effect of approval; constructive approval.—If the Secretary certifies an agricultural contract under this subsection—

(i) the agricultural contract shall be considered to be in compliance with subsections (a), (b), and (c); and

(ii) the remedies provided under subsection (e) shall not be available.

(D) Timing.—To the maximum extent practicable, the Secretary shall make a decision on the certification of an agricultural contract not later than 30 days after receipt of the agricultural contract.

(5) Effect of disapproval.—If the Secretary disapproves the certification of an agricultural contract, the agricultural contract shall be void.

(6) Effect of failure to submit agricultural contract.—The failure to submit an agricultural contract to the Secretary for review under this subsection shall not be considered to be a lack of good faith or to raise a presumption that the agricultural contract violates this section.

(e) Remedies for Violations.—In addition to applicable remedies provided under State law, a court reviewing an agricultural contract that is not certified under subsection (d) may change the terms of the agricultural contract, or limit a provision of the agricultural contract, to avoid an unfair result if—

(1) the court finds—

(A) a material provision of the agricultural contract violates subsection (a), (b), or (c);

(B) the violation reasonably caused the producer to be substantially confused about any of the rights, obligations, or remedies of any party to the agricultural contract; and

(C) the violation has caused or is likely to cause financial detriment to the producer; and

(2) the claim is brought before the obligations of any party to the agricultural contract have been fully performed.

(f) Limitations on Producer Actions.—

(1) In general.—A violation of this section—

(A) shall not entitle a producer to withhold performance of an otherwise valid contractual obligation when bringing a claim for relief under this section; and

(B) is not a defense to a claim arising from the breach of an agricultural contract by a producer.

(2) Actual damages.—A producer may recover actual damages caused by a violation of this section only if the violation reasonably caused the producer to fail to understand a right, obligation, or remedy under the agricultural contract.

(g) Statute of Limitations.—A claim that an agricultural contract violates this section shall be made not later than 6 years after the date on which the agricultural contract is executed by the producer.

SEC. 123. RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.

(a) In General.—A contract producer may cancel a production contract by mailing a cancellation notice to the contractor not later than the later of—

(1) the date that is 3 business days after the date on which the production contract is executed; or

(2) any cancellation date specified in the production contract.

(b) Disclosure.—A production contract shall clearly disclose—

(1) the right of the contract producer to cancel the production contract;

(2) the method by which the contract producer may cancel the production contract; and

(3) the deadline for canceling the production contract.

SEC. 124. PROHIBITION OF CONFIDENTIALITY PROVISIONS.

(a) Prohibition.—Any provision of an agricultural contract that provides that information contained in the agricultural contract (other than a trade secret to which section 552 of title 5, United States Code, applies) is confidential shall be void.

(b) Form.—A confidentiality provision described in subsection (a) shall be void regardless of whether the provision is—

(1) express or implied;

(2) oral or written;

(3) required or conditional; or

(4) contained in the agricultural contract, another agricultural contract, or in a related document, policy, or agreement.

(c) Other Provisions.—This section shall not affect other provisions of an agricultural contract or a related document, policy, or agreement that can be given effect without the voided provision.

(d) Disclosure of Information.—This subsection does not require a party to an agricultural contract to disclose information in the agricultural contract to any other person.

SEC. 125. PRODUCTION CONTRACT LIENS.

(a) Definition of Lien Starting Date.—In this section, the term "lien starting date" means—

(1) in the case of an annual crop, the date on which the annual crop is planted;

(2) in the case of a perennial crop, the starting date on which the perennial crop is subject to a production contract;

(3) in the case of livestock, the date on which the livestock arrive at the contract livestock facility; and

(4) in the case of milk or any other product of live livestock, the date on which the milk or other product is produced.

(b) Liens.—In the case of a production contract that provides for producing an agricultural commodity by a contract producer, the contract producer shall have a lien in the amount owed to the contract producer under the production contract on—

(1)(A) the agricultural commodity until the agricultural commodity is sold or processed (including slaughtered) by the contractor; and

(B) the cash proceeds of the sale of the agricultural commodity, including any cash provided as part of the sale; and

(2) any property of the contractor that may be subject to a security interest as provided in applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(c) Lien Period.—A lien for the production of an agricultural commodity under this section shall apply during the period—

(1) beginning on the lien starting date; and

(2) ending 1 year after the agricultural commodity is no longer under the control of the contract producer.

(d) Central Filing System.—The Secretary shall establish a central filing system for the purposes of perfecting liens under this section and providing notice of the liens to the public.

(e) Perfecting Liens.—To perfect a lien for the production of an agricultural commodity under this section, a contract producer shall—

(1) not later than 45 days after the lien starting date, file with the Secretary a lien statement on a form prescribed by the Secretary that includes—

(A) an estimate of the amount owed under the production contract;

(B) the lien starting date;

(C) the estimated duration of the period during which the agricultural commodity will be under the control of the contract producer;

(D) the name of the party to the production contract whose agricultural commodity is produced under the production contract;

(E) a description of the location of the contract operation, by State, county, and township; and

(F) the printed name and signature of the person filing the form; and

(2) pay a filing fee in an amount determined by the Secretary, not to exceed $10.00.

(f) Priority of Lien.—A lien created under this section shall be superior to, and have priority over, any conflicting lien or security interest in the agricultural commodity, including a lien or security interest that was perfected prior to the creation of the lien under this section.

(g) Enforcement.—

(1) Control.—Before an agricultural commodity leaves the control of a contract producer, the contract producer may foreclose a lien created under this section in the manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(2) Post-control.—After an agricultural commodity leaves the control of the contract producer, the contract producer may enforce the lien in the manner provided under applicable State law provisions based Article 9 of the Uniform Commercial Code.

(h) Election of Other Remedies.—In lieu of obtaining a lien under this section, a contract producer described in subsection (b) may seek to collect funds due under a production contract in accordance with—

(1) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.); or

(2) the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.).

SEC. 126. PRODUCTION CONTRACTS INVOLVING INVESTMENT REQUIREMENTS.

(a) Applicability.—This section applies only to a production contract between a contract producer and a contractor if the production contract requires the contract producer, together with any other production contract between the same parties, to make a capital investment of $100,000 or more.

(b) Restrictions on Contract Termination.—Except as provided in subsection (d), a contractor shall not terminate or fail to renew a production contract until the contractor—

(1) provides the contract producer with written notice of the intention of the contractor to terminate or not renew the production contract at least 90 days before the effective date of the termination or nonrenewal; and

(2) reimburses the contract producer for damages (based on the value of the remaining useful life of the structures, machinery, equipment, or other capital investment items) incurred due to the termination, cancellation, or nonrenewal of the production contract.

(c) Breach of Investment Requirements.—

(1) In general.—Except as provided in subsection (d), a contractor shall not terminate or fail to renew a production contract with a contract producer that materially breaches a production contract, including the investment requirements of a production contract, until—

(A) the contractor provides the contract producer with a written notice of termination or nonrenewal, including a list of complaints alleging causes for the breach, at least 45 days before the effective date of the termination or nonrenewal; and

(B) the contract producer fails to remedy each cause of the breach alleged in the list of complaints provided in the notice not later than 30 days after receipt of the notice.

(2) Civil actions.—An effort by a contract producer to remedy a cause of an alleged breach shall not be considered to be an admission of a breach in a civil action.

(d) EXCEPTIONS.—A contractor may terminate or decline to renew a production contract in accordance with applicable law without notice or remedy as required in subsections (b) and (c) if the basis for the termination or nonrenewal is—

(1) a voluntary abandonment of the contractual relationship by the contract producer, such as a complete failure of the performance of a contract producer under the production contract; or

(2) the conviction of a contract producer of an offense of fraud or theft committed against the contractor.

(e) PENALTY.—If a contractor terminates or fails to renew a production contract other than as provided in this section, the contractor shall pay the contract producer the value of the remaining useful life of the structures, machinery, equipment, or other capital investment items.

SEC. 127. PRODUCER RIGHTS.

(a) IN GENERAL.—It shall be unlawful, in or in connection with any transaction in interstate or foreign commerce, for any covered person or contractor to take an action to coerce, intimidate, disadvantage, retaliate against, or discriminate against any producer because the producer exercises, or attempts to exercise, the right of the producer—

(1)(A) to enter into a membership agreement or marketing contract with an agricultural cooperative, a processor, or another producer; and

(B) to exercise contractual rights under the membership agreement or marketing contract;

(2) to lawfully provide statements or information to the Secretary, a Federal or State law enforcement agency, or any other entity or person regarding improper actions or violations of law by a covered person or contractor under this subtitle, unless the statements or information are determined to be libelous or slanderous under applicable State law;

(3) to cancel a production contract in accordance with section 123;

(4) to disclose the terms of an agricultural contract under section 124;

(5) to file, continue, terminate, or enforce a lien under section 125; and

(6) to enforce other protections provided by this subtitle or other Federal or State law (including regulations).

(b) WAIVERS.—Any provision of an agricultural contract that waives a producer's right described in subsection (a), or an obligation of a covered person or contractor established by this subtitle, shall be void and unenforceable.

(c) VIOLATIONS.—Section 111(b) shall apply to a violation of this section.

SEC. 128. MEDIATION.

(a) MEDIATION.—

(1) IN GENERAL.—An agricultural contract shall provide for resolution of disputes concerning the agricultural contract by mediation.

(2) MEDIATION BY SECRETARY OR STATE MEDIATION SERVICE.—If there is a dispute involving an agricultural contract, either party to the agricultural contract may make a written request to the Secretary for mediation services by the Secretary or by a designated State mediation service to facilitate resolution of the dispute.

(3) HEARING.—The parties to the agricultural contract shall receive a release from the mediation services described in paragraph (2) before the dispute may be heard by a court.

(b) NO ARBITRATION OF FUTURE CONTROVERSY.—A provision in an agricultural contract submitting to arbitration a future controversy arising between a producer and a covered person or contractor shall be void.

Subtitle D—Agricultural Fair Practices

SEC. 131. AGRICULTURAL FAIR PRACTICES.

The Agricultural Fair Practices Act of 1967 (7 U.S.C. 2301 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Agricultural Fair Practices Act of 1967'.

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds that—

"(1) agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States of the United States;

"(2) agricultural products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and agricultural products that do not move in the channels directly burden or affect interstate commerce;

"(3) the efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to the welfare of farmers and ranchers and to the general economy of the United States;

"(4) because agricultural products are produced by numerous individual farmers and ranchers, the marketing and bargaining position of individual farmers and ranchers will be adversely affected unless farmers and ranchers are free to join together voluntarily in cooperative organizations as authorized by law; and

"(5) interference with the right described in paragraph (4) is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

"(b) PURPOSE.—The purpose of this Act is to establish standards of fair practices required of handlers for dealings in agricultural products.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) ACCREDITED ASSOCIATION.—The term 'accredited association' means an association of producers accredited by the Secretary in accordance with section 6.

"(2) ASSOCIATION OF PRODUCERS.—

"(A) IN GENERAL.—The term 'association of producers' means an association of producers of agricultural products that engages in the marketing of agricultural products or of agricultural services described in paragraph (6)(B).

"(B) INCLUSIONS.—The term 'association of producers' includes—

"(i) a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)); and

"(ii) an association described in the first section of the Act entitled 'An Act to authorize association of producers of agricultural products' (commonly known as the 'Capper-Volstead Act') (7 U.S.C. 291).

"(3) BARGAIN; BARGAINING.—The terms 'bargain' and 'bargaining' refers to the performance of the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced or services rendered under contract, or other provisions relating to the products marketed, or the services rendered, by the members of the accredited association or by the accredited association as agent for the members.

"(4) DESIGNATED HANDLER.—The term 'designated handler' means a handler that is designated in accordance with section 6.

"(5) HANDLER.—

"(A) IN GENERAL.—The term 'handler' means any person engaged in the business or practice of—

"(i) acquiring agricultural products from producers or associations of producers for processing or sale;

"(ii) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers;

"(iii) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or

"(iv) acting as an agent or broker for a handler in the performance of any function or act described in clause (i), (ii), or (iii).

"(B) EXCLUSIONS.—The term "handler" does not include—

"(i) any person (other than an agricultural cooperative) engaged in a business or practice described in subparagraph (A) if the gross revenue derived by the person from the business or activity is less than $10,000,000 per year; or

"(ii) any agricultural cooperative engaged in a business or practice described in subparagraph (A) if the gross revenue derived by the person from the business or activity is less than $1,000,000 per year.

"(6) PRODUCER.—

"(A) IN GENERAL.—The term 'producer' means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, poultryman, or fruit, vegetable, or nut grower.

"(B) INCLUSIONS.—The term 'producer' includes a person that contributes labor, production management, facilities, or other services for the production of an agricultural product.

"(7) PERSON.—The term 'person' includes an individual, partnership, corporation, and association.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 4. PROHIBITED PRACTICES.

"It shall be unlawful for any handler knowingly to, or knowingly to permit any employee or agent to—

"(1) interfere with, restrain, or coerce any producer in the exercise of the right of the producer to join and belong to, or to refrain from joining or belonging to, an association of producers, or to refuse to deal with any producer because of the exercise of the right of the producer to join and belong to the association;

"(2) discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of an agricultural product because of the membership of the producer in, or the contract of the producer with, an association of producers;

"(3) coerce or intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler;

"(4) pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers;

"(5) make false reports about the finances, management, or activities of an association of producers or handlers;

"(6) conspire, combine, agree, or arrange with any other person to do, or aid or abet the performance of, any act made unlawful by this Act;

"(7) refuse to bargain in good faith with an accredited association, if the handler is a designated handler; or

"(8) dominate or interfere with the formation or administration of any association of producers or to contribute financial or other support to an association of producers.

"SEC. 5. BARGAINING IN GOOD FAITH.

"(a) Clarification of Obligation.—

"(1) In general.—The obligation of a designated handler to bargain in good faith shall apply with respect to an accredited association and the products or services for which the accredited association is accredited to bargain.

"(2) Agreements or concessions.—The good faith bargaining required between a handler and an accredited association shall not require either party to agree to a proposal or to make a concession.

"(b) Extension of Same Terms to Accredited Association.—

"(1) In general.—If a designated handler purchases a product or service from producers under terms more favorable to the producers than the terms negotiated with an accredited association for the same type of product or service, the handler shall offer the same terms to the accredited association.

"(2) Violations.—Failure to extend the same terms to the accredited association shall be considered to be a violation of section 4(g).

"(3) Factors.—In comparing terms, the Secretary shall consider—

"(A) the stipulated purchase price;

"(B) any bonuses, premiums, hauling, or loading allowances;

"(C) reimbursement of expenses;

"(D) payment for special services of any character that may be paid by the handler; and

"(E) any amounts paid or agreed to be paid by the handler for any designated purpose other than payment of the purchase price.

"(c) Mediation.—The Secretary may provide mediation services with respect to bargaining between an accredited association and a designated handler at the request of the accredited association or designated handler.

"SEC. 6. ACCREDITATION OF ASSOCIATIONS AND DESIGNATION OF HANDLERS.

"(a) Accreditation Petition.—

"(1) In general.—An association of producers seeking accreditation to bargain on behalf of producers of an agricultural product or service shall submit to the Secretary a petition for accreditation.

"(2) Content.—The petition shall—

"(A) specify each agricultural product or service for which the association seeks accreditation to bargain on behalf of producers;

"(B) designate the handlers, individually, by production or marketing area, or by some other appropriate general classification, with whom the association seeks to be accredited to bargain; and

"(C) contain such other information and documents as may be required by the Secretary.

"(b) Notice of Petition; Proceedings.—

"(1) In general.—On receiving a petition under subsection (a) and any supporting material, the Secretary shall provide notice of the petition to all handlers designated in the petition under subsection (a)(2)(B).

"(2) Individual handlers.—The Secretary shall provide personal notice under this subsection to a handler that has been designated individually.

"(3) General classifications.—The Secretary shall provide notice through the Federal Register to handlers that have been designated by production or marketing area or by some other general classification.

"(4) Opportunity to respond.—The association of producers seeking accreditation and the handlers shall have an opportunity to submit written evidence, views, and arguments to the Secretary.

"(5) Proceedings.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary may conduct an informal proceeding on the petition.

"(B) Formal hearings.—The Secretary shall hold a formal hearing for the reception of testimony and evidence if the Secretary finds that there are substantial unresolved issues of material fact.

"(c) Issuance of Accreditation Order.—On the petition of an association of producers, the Secretary may issue an order designating the association for the producers as an accredited association for the purposes of this Act if the Secretary determines that—

"(1) under the charter documents or bylaws of the association, the accredited association is owned and controlled by producers;

"(2) the association has contracts, binding under State law, with the members of the association empowering the association to sell or negotiate terms of sale of the products or services of the members;

"(3) the association represents a sufficient number of producers, or the members of the association produce a sufficient quantity of agricultural products or render a sufficient level of services, to enable the association to function as an effective agent for producers in bargaining with designated handlers;

"(4) the functions of the association include acting as principal or agent for the members of the association in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of products or services of the members; and

"(5) the association is acting in good faith with respect to the members of the association and is complying with this Act.

"(d) Notification of Accreditation Order.—

"(1) In general.—The Secretary shall notify the petitioning association of producers, and each handler to be designated as part of the petition, of the decision of the Secretary regarding the petition and provide a concise statement of the basis for the decision.

"(2) Other associations.—The Secretary shall provide notice of an accreditation of an association to all other associations that have been accredited to bargain with respect to the product or service with any of the designated handlers of the association.

"(e) Annual Report.—Each accredited association shall submit to the Secretary an annual report in such form and including such information as the Secretary by regulation may require to enable the Secretary to determine whether the association is meeting the standards for accreditation.

"(f) Loss of Accreditation.—

"(1) In general.—If the Secretary determines that an accredited association has ceased to meet the standards for accreditation under subsection (c), the Secretary shall—

"(A) notify the association of the manner in which the association is deficient in maintaining the standards for accreditation; and

"(B) allow the association a reasonable period of time to answer or correct the deficiencies.

"(2) Hearing.—After providing notice and a corrective period in accordance with paragraph (1), if the Secretary is not satisfied that the association is in compliance with subsection (c), the Secretary shall—

"(A) notify the association of the continued deficiencies; and

"(B) hold a hearing to consider the revocation of accreditation.

"(3) Revocation.—If, based on the evidence submitted at the hearing, the Secretary finds that the association has ceased to maintain the standards for accreditation, the Secretary shall revoke the accreditation of the association.

"(g) Amendment.—

"(1) In general.—At the option of the Secretary or on the petition of an accredited association or a designated handler, the Secretary may amend an accreditation order with respect to the product or service specified in the accreditation order.

"(2) Notice.—The Secretary shall provide—

"(A) notice of any proposed amendment and the reasons for the amendment to all accredited associations and handlers that would be directly affected by the amendment; and

"(B) an opportunity for a public hearing.

"(3) Authority.—After providing notice and an opportunity for a hearing in accordance with paragraph (2), the Secretary may amend the accreditation order if the Secretary finds that the amendment will be conducive to more effective bargaining and orderly marketing by the accredited association of the product or services of the members of the accredited association.

"SEC. 7. ASSIGNMENT OF ASSOCIATION DUES AND FEES.

"(a) In General.—A producer of an agricultural product or service may execute, as a clause in a sales contract or in another written instrument, an assignment of dues or fees to, or the deduction of a sum to be retained by, an association of producers authorized by contract to represent the producer, under which assignment a handler shall—

"(1) deduct a portion of the amount to be paid for products or services of the producer under a growing contract; and

"(2) pay, on behalf of the producer, the portion over to the association as dues or fees or a sum to be retained by the association.

"(b) Duty of Handler.—After a handler receives notice from a producer of an assignment under subsection (a), the handler shall—

"(1) deduct the amount authorized by the assignment from the amount paid for any agricultural product sold by the producer or for any service rendered under any growing contract; and

"(2) on payment to producers for the product or service, pay the amount over to the association or the assignee of the association.

"SEC. 8. POWERS OF SECRETARY.

"(a) Records and Information.—

"(1) Maintenance.—The Secretary may require any person covered by this Act to establish and maintain such records, make such reports, and provide such other information as the Secretary may reasonably require to carry out this Act.

"(2) Access.—The Secretary and any officer or employee of the Department of Agriculture, on presentation of credentials and a warrant or such other order of a court—

"(A) shall have a right of entry to, on, or through any premises in which records required to be maintained under paragraph (1) are located; and

"(B) may at reasonable times have access to and copy any records that any person is required to maintain or that relate to any matter under this Act under investigation or in question.

"(b) COMPLAINTS.—If the Secretary has reason to believe (whether through investigation or petition by any person) that any person has violated this Act, the Secretary shall cause a complaint to be served on the person—

"(1) stating the reasons for the alleged violation of this Act; and

"(2) requiring the person to attend and testify at a hearing to be held not earlier than 30 days after the date of service of the complaint.

"(c) HEARING.—

"(1) IN GENERAL.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary to determine whether a violation of this Act has occurred.

"(2) RIGHT TO HEARING.—A person may request a hearing if the person is subject to a penalty under this Act.

"(3) RESPONDENTS' RIGHTS.—During a hearing, the person complained of shall be given, in accordance with regulations promulgated by the Secretary, the opportunity—

"(A) to be informed of the evidence against the person;

"(B) to cross-examine witnesses; and

"(C) to present evidence.

"(4) HEARING LIMITATION.—The issues at any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which the hearing was held or requested.

"(d) REPORT OF FINDING AND PENALTIES.—

"(1) IN GENERAL.—If, after a hearing, the Secretary finds that a person has violated this Act, the Secretary shall make, and provide to the person, a written report that states the findings of fact and includes an order requiring the person to cease and desist from committing the violation.

"(2) CIVIL PENALTY.—The Secretary may assess a civil penalty not to exceed $100,000 for each violation of this Act.

"(e) INJUNCTIONS; FINALITY AND APPEALABILITY OF AN ORDER.—

"(1) INJUNCTIONS.—At any time after a complaint is served on a person under subsection (b), the court, on application of the Secretary, may issue an injunction, restraining to the extent the court determines to be appropriate, the person and the officers, directors, agents, and employees of the person from violating this Act.

"(2) APPEALABILITY OF AN ORDER.—An order issued under this section shall be final and conclusive unless, within 30 days after service of the order, the affected handler petitions to appeal the order to the United States court of appeals for the circuit in which the handler resides or has its principal place of business or the United States Court of Appeals for the District of Columbia Circuit.

"(3) DELIVERY OF PETITION.—

"(A) IN GENERAL.—The clerk of the court shall immediately cause a copy of any petition filed under paragraph (2) to be delivered to the Secretary.

"(B) RECORD.—On receipt of the petition, the Secretary shall file in the court the record of the proceedings under this section.

"(4) PENALTY FOR FAILURE TO OBEY AN ORDER.—

"(A) IN GENERAL.—Any person that fails to obey an order of the Secretary issued under this section after the order becomes final shall be fined not less than $5,000 and not more than $100,000 for each offense.

"(B) SEPARATE OFFENSES.—Each day during which the failure continues shall be considered to be a separate offense.

"SEC. 9. ENFORCEMENT.

"(a) CIVIL ACTIONS BY AGGRIEVED PERSONS.—

"(1) PREVENTIVE RELIEF.—Whenever any handler has engaged or there are reasonable grounds to believe that any handler is about to engage in any act or practice prohibited by this Act, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved.

"(2) ATTORNEY'S FEES.—In any action commenced under paragraph (1), the court may allow the prevailing party a reasonable attorney's fee as part of the costs.

"(3) SECURITY.—The court may provide that no restraining order or preliminary injunction shall issue unless security is provided by the applicant, in such sum as the court determines to be appropriate, for the payment of such costs and damages as may be incurred or suffered by any party that is found to have been wrongfully enjoined or restrained.

"(b) CIVIL ACTIONS BY INJURED PERSONS.—

"(1) IN GENERAL.—Any person injured in the business or property of the person by reason of any violation of, or combination or conspiracy to violate, this Act may—

"(A) sue for the violation in the appropriate United States district court without respect to the amount in controversy; and

"(B) recover damages sustained.

"(2) ATTORNEY'S FEES.—In any action commenced under paragraph (1), the court may allow the prevailing party a reasonable attorney's fee as part of the costs.

"(3) LIMITATION ON ACTIONS.—Any action to enforce any cause of action under this subsection shall be barred unless commenced within 2 years after the cause of action occurred.

"(c) JURISDICTION OF DISTRICT COURTS.—

"(1) IN GENERAL.—A United States district court shall have jurisdiction over an action brought under this section.

"(2) LIMITATIONS.—No action may be commenced under subsection (a) or (b)—

"(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary through a petition under section 8(b); or

"(B) if the Secretary has commenced and is diligently prosecuting an action (administrative or judicial) dealing with the same violation to require compliance with the Act.

"(d) JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under section 8(e)(2) shall not be subject to judicial review in any proceeding for enforcement under this section.

"SEC. 10. PREEMPTION.

"(a) IN GENERAL.—Except as expressly provided in this Act, this Act does not invalidate the provisions of any State law dealing with the same subject as this Act.

"(b) STATE COURTS.—This Act shall not deprive a State court of jurisdiction under a State law dealing with the same subject as this Act.".

Subtitle E—Implementation

SEC. 141. RELATIONSHIP TO STATE LAW.

(a) IN GENERAL.—Except as expressly provided in this title, this title does not invalidate any provision of State law dealing with the same subject as this title.

(b) STATE COURTS.—This title does not deprive a State court of jurisdiction under a State law dealing with the same subject as this title.

SEC. 142. REGULATIONS.

The Secretary shall promulgate such regulations as are appropriate to carry out this title and the amendments made by this title.

SEC. 143. IMPLEMENTATION PLAN.

Not later than 180 days after the date of enactment of this Act, the Secretary and the Attorney General shall develop and implement a plan to enable the Secretary, where appropriate, to file civil actions, including temporary injunctions, to enforce orders issued by the Secretary under this title and the Agricultural Fair Practices Act of 1967 (as amended by section 131).

SEC. 144. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title take effect on the date of enactment of this Act.

(b) AGRICULTURAL CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subtitle C applies to an agricultural contract in force on or after the date of enactment of this Act, regardless of the date on which the agricultural contract is executed.

(2) EXCEPTIONS.—Sections 122, 123, 126, 127(a)(5), and 128(a) shall apply only to an agricultural contract that is executed or substantively amended after the date of enactment of this Act.

TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND

SEC. 201. NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle F—National Rural Cooperative and Business Equity Fund

"SEC. 391A. SHORT TITLE.

"This subtitle may be cited as the 'National Rural Cooperative and Business Equity Fund Act'.

"SEC. 391B. PURPOSE.

"The purpose of this subtitle is to revitalize rural communities and enhance farm income through sustainable rural business development by providing Federal funds and credit enhancements to a private equity fund in order to encourage investments by institutional and noninstitutional investors for the benefit of rural America.

"SEC. 391C. DEFINITIONS.

"In this subtitle:

"(1) AUTHORIZED PRIVATE INVESTOR.—The term 'authorized private investor' means an individual, legal entity, or affiliate or subsidiary of an individual or legal entity that—

"(A) is eligible to receive a loan guarantee under this title;

"(B) is eligible to receive a loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

"(C) is created under the National Consumer Cooperative Bank Act (12 U.S.C. 3011 et seq.);

"(D) is an insured depository institution; or

"(E) is determined by the Fund to be an appropriate investor in the Fund.

"(2) BOARD.—The term 'Board' means the board of directors of the Fund established under section 391G.

"(3) FUND.—The term 'Fund' means the National Rural Cooperative and Business Equity Fund established under section 391D.

"(4) GROUP OF SIMILAR INVESTORS.—The term 'group of similar investors' means any 1 of the following:

"(A) Insured depository institutions with total assets of more than $250,000,000.

"(B) Insured depository institutions with total assets equal to or less than $250,000,000.

"(C) Farm Credit System institutions under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

"(D) Cooperative financial institutions (other than Farm Credit System institutions).

"(E) Authorized private investors, other than those described in subparagraphs (A) through (D).

"(F) Other nonprofit organizations, including credit unions.

"(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

"(6) RURAL AREA.—The term 'rural area' means an area that is located—

"(A) outside a standard metropolitan statistical area; or

"(B) within a community that has a population of 50,000 individuals or fewer.

"(7) RURAL BUSINESS.—The term 'rural business' means a rural cooperative, a value-added agricultural enterprise, or any other business located or locating in a rural area.

"SEC. 391D. ESTABLISHMENT OF THE FUND.

"(a) IN GENERAL.—

"(1) AUTHORITY TO ESTABLISH.—A group of authorized private investors may establish, as a non-Federal entity under State law, and manage a fund to be known as the 'National Rural Cooperative and Business Equity Fund', to raise and provide equity capital to rural businesses.

"(2) COMPOSITION OF GROUP.—The group of authorized private investors referred to in paragraph (1) shall be composed, to the maximum extent practicable, of representatives of a majority of groups of similar investors.

"(b) PURPOSES.—The purposes of the Fund shall be—

"(1) to strengthen the economy of rural areas;

"(2) to further sustainable rural business development;

"(3) to encourage start-up rural businesses, increased opportunities for small and minority-owned rural businesses, and the formation of new rural businesses;

"(4) to enhance rural employment opportunities;

"(5) to provide equity capital to rural businesses that have been unable to obtain equity capital; and

"(6) to leverage non-Federal funds for rural businesses.

"(c) ARTICLES OF INCORPORATION AND BY-LAWS.—The articles of incorporation and bylaws of the Fund shall set forth purposes of the Fund that are consistent with subsection (b).

"SEC. 391E. INVESTMENT IN THE FUND.

"(a) IN GENERAL.—The Secretary, using funds of the Commodity Credit Corporation, shall—

"(1) subject to subsection (b)(1), make available to the Fund $50,000,000 for each of fiscal years 2001 through 2003;

"(2) subject to subsection (c), guarantee 50 percent of each investment made by an authorized private investor in the Fund; and

"(3) subject to subsection (d), guarantee the repayment of principal to authorized private investors in debentures issued by the Fund.

"(b) PRIVATE INVESTMENT.—

"(1) MATCHING REQUIREMENT.—Under subsection (a)(1), the Secretary shall make an amount available to the Fund only after an equal amount has been invested in the Fund by authorized private investors in accordance with this subtitle and the terms and conditions set forth in the by-laws of the Fund.

"(2) INVESTMENTS BY INSURED DEPOSITORY INSTITUTIONS.—Investments in the Fund by an insured depository institution shall be considered part of the record of the insured depository institution for meeting the credit needs of its entire community for the purposes of Federal law.

"(c) GUARANTEE OF PRIVATE INVESTMENTS.—

"(1) IN GENERAL.—The Secretary shall guarantee, under terms and conditions determined by the Secretary, 50 percent of any loss of the principal of an investment made in the Fund by an authorized private investor.

"(2) MAXIMUM TOTAL GUARANTEE.—The aggregate liability of the Secretary with respect to all guarantees under paragraph (1) shall not apply to more than $300,000,000 in private investments.

"(3) REDEMPTION OF GUARANTEE.—

"(A) DATE.—An authorized private investor in the Fund may redeem a guarantee under paragraph (1), with respect to the total investments in the Fund and the total losses of the authorized private investor as of the date of redemption—

"(i) on the date that is 5 years after the date of incorporation of the Fund; or

"(ii) annually thereafter.

"(B) EFFECT OF REDEMPTION.—On redemption of a guarantee under subparagraph (A)—

"(i) the shares in the Fund of the authorized private investor shall be redeemed; and

"(ii) the authorized private investor shall be prohibited from making any future investment in the Fund.

"(d) DEBT.—

"(1) IN GENERAL.—The Fund may, at the discretion of the Board, raise additional capital through the issuance of debentures and through other means determined to be appropriate by the Board.

"(2) GUARANTEE OF DEBT BY SECRETARY.—

"(A) IN GENERAL.—The Secretary may guarantee 100 percent of the principal of, and accrued interest on, debentures issued by the Fund that are approved by the Secretary.

"(B) MAXIMUM DEBT GUARANTEED BY SECRETARY.—The outstanding value of debentures issued by the Fund and guaranteed by the Secretary shall not exceed the lesser of—

"(i) the amount equal to twice the value of the assets held by the Fund; or

"(ii) $500,000,000.

"(C) RECAPTURE OF GUARANTEE PAYMENTS.—If the Secretary makes a payment on a debenture issued by the Fund as a result of a guarantee of the Secretary under this paragraph, the Secretary shall have priority over other creditors for repayment of the debenture.

"(3) AUTHORIZED PRIVATE INVESTORS.—An authorized private investor may purchase debentures and other securities issued by the Fund.

"SEC. 391F. INVESTMENTS AND OTHER ACTIVITIES OF THE FUND.

"(a) INVESTMENTS.—

"(1) IN GENERAL.—

"(A) TYPES.—Subject to subparagraphs (B) and (C), the Fund may—

"(i) make equity investments in an entity that meets the requirements of paragraph (6) and such other requirements as the Board may establish; and

"(ii) extend credit to such an entity in—

"(I) the form of mezzanine debt or subordinated debt; or

"(II) any other form of quasi-equity.

"(B) LIMITATION ON EQUITY INVESTMENTS.—After the initial equity investment in an entity described in subparagraph (A)(i), the Fund may not make additional equity investments in the entity if the additional equity investments would result in the Fund owning more than 30 percent of the equity of the entity.

"(C) LIMITATION ON NONEQUITY INVESTMENTS.—Except in the case of a project to assist a rural cooperative, the total amount of nonequity investments described in subparagraph (A)(ii) that may be provided by the Fund shall not exceed 20 percent of the total investments of the Fund in the project.

"(2) PROCEDURES.—The Fund shall implement procedures to ensure that—

"(A) the financing arrangements of the Fund meet the Fund's primary focus of providing equity capital; and

"(B) the Fund does not compete with conventional sources of credit.

"(3) DIVERSITY OF PROJECTS.—The Fund—

"(A) shall seek to make equity investments in a variety of viable projects, with a significant share of investments—

"(i) in smaller projects in rural communities of diverse sizes; and

"(ii) in cooperative and noncooperative enterprises; and

"(B) shall be managed in such a way as to diversify the risks to the Fund among a variety of projects.

"(4) LIMITATION ON RURAL BUSINESSES ASSISTED.—The Fund shall not invest in any rural business that is primarily retail in nature (as determined by the Board), other than a purchasing cooperative.

"(5) INTEREST RATE LIMITATIONS.—Returns on investments in and by the Fund and returns on the extension of credit by participants in projects assisted by the Fund, shall not be subject to any State or Federal law establishing a maximum allowable interest rate.

"(6) REQUIREMENTS FOR RECIPIENTS.—

"(A) OTHER INVESTMENTS.—Any recipient of amounts from the Fund shall make or obtain a significant investment from a source of capital other than the Fund.

"(B) SPONSORSHIP.—Rural business investment projects to be considered for an equity investment from the Fund shall be sponsored by a regional, State, or local sponsoring or endorsing organization such as—

"(i) a financial institution;

"(ii) a development organization; or

"(iii) any other established entity engaging or assisting in rural business development, including a rural cooperative.

"(b) TECHNICAL ASSISTANCE.—The Board shall use not less than 1 percent of the net earnings of the Fund to provide technical assistance to rural businesses seeking an equity investment from the Fund.

"(c) ANNUAL AUDIT.—

"(1) IN GENERAL.—The Board shall authorize an annual audit of the financial statements of the Fund by a nationally recognized auditing firm using generally accepted auditing procedures.

"(2) AVAILABILITY OF AUDIT RESULTS.—The results of the audit required by paragraph (1) shall be made available to investors in the Fund.

"(d) ANNUAL REPORT.—The Board shall prepare and make available to the public an annual report that—

"(1) describes the projects funded with amounts from the Fund;

"(2) specifies the recipients of amounts from the Fund;

"(3) specifies the co-investors in all projects that receive amounts from the Fund; and

“(4) meets the reporting requirements, if any, of the State under the law of which the Fund is established.

“(e) Other Authorities.—The Board may exercise such other authorities as are necessary to carry out this subtitle.

“SEC. 391G. GOVERNANCE OF THE FUND.

“(a) In General.—The Fund shall be governed by a board of directors that represents all of the authorized private investors in the Fund and the Federal Government and that consists of—

“(1) the Secretary or a designee;

“(2) 2 members who are appointed by the Secretary and are not Federal employees, including—

“(A) 1 member with expertise in venture capital investment; and

“(B) 1 member with expertise in cooperative development;

“(3) 8 members who are elected by the authorized private investors with investments in the Fund; and

“(4) 1 member who is appointed by the Board and who is a community banker from an insured depository institution with total assets equal to or less than $250,000,000.

“(b) Limitation on Voting Control.—No individual investor or group of similar investors may control more than 25 percent of the votes on the Board.”.

TITLE III—COUNTRY OF ORIGIN LABELING

SEC. 301. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

“Subtitle C—Country of Origin Labeling

“SEC. 271. DEFINITIONS.

“In this subtitle:

“(1) Beef.—The term ‘beef’ means meat produced from cattle (including veal).

“(2) Covered commodity.—The term ‘covered commodity’ means—

“(A) muscle cuts of beef, lamb, and pork;

“(B) ground beef, ground lamb, and ground pork; and

“(C) a perishable agricultural commodity.

“(3) Food service establishment.—The term ‘food service establishment’ means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

“(4) Lamb.—The term ‘lamb’ means meat, other than mutton, produced from sheep.

“(5) Packer.—The term ‘packer’ has the meaning given the term in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191).

“(6) Perishable agricultural commodity; retailer.—The terms ‘perishable agricultural commodity’ and ‘retailer’ have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

“(7) Pork.—The term ‘pork’ means meat produced from hogs.

“(8) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

“SEC. 272. NOTICE OF COUNTRY OF ORIGIN.

“(a) In General.—

“(1) Requirement.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

“(2) United states country of origin.—A retailer of a covered commodity (other than a perishable agricultural commodity) may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States.

“(b) Exemption for Food Service Establishments.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

“(1) prepared or served in a food service establishment; and

“(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

“(B) served to consumers at the food service establishment.

“(c) Method of Notification.—

“(1) In general.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

“(2) Labeled commodities.—If the covered commodity is already individually labeled for retail sale regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information to comply with this section.

“(d) Audit Verification System.—The Secretary may require by regulation that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section 274.

“(e) Information.—A packer and any other person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

“SEC. 273. ENFORCEMENT.

“Section 253 shall apply to a violation of this subtitle.

“SEC. 274. REGULATIONS.

“(a) In General.—The Secretary shall promulgate such regulations as are necessary to carry out this subtitle.

“(b) Partnerships With States.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this subtitle.

“SEC. 275. APPLICATION.

“This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.”.

TITLE IV—MARKETING ASSISTANCE LOAN RATE EQUALIZATION

SEC. 401. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended to read as follows:

“SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

“(a) Wheat.—The loan rate for a marketing assistance loan under section 131 for wheat shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of wheat.

“(b) Feed Grains.—

“(1) Corn.—The loan rate for a marketing assistance loan under section 131 for corn shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of corn.

“(2) Other feed grains.—

“(A) In general.—Subject to subparagraph (B), the loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

“(B) Basis.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of grain sorghum, barley, and oats, respectively.

“(c) Upland Cotton.—The loan rate for a marketing assistance loan under section 131 for upland cotton shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of upland cotton.

“(d) Extra Long Staple Cotton.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of extra long staple cotton.

“(e) Rice.—The loan rate for a marketing assistance loan under section 131 for rice shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of rice.

“(f) Oilseeds.—

“(1) Soybeans.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of soybeans.

“(2) Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively.

“(3) Other oilseeds.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.”.

SEC. 402. TERM OF LOANS.

Section 133 of the Agriculture Market Transition Act (7 U.S.C. 7233) is amended to read as follows:

“SEC. 133. TERM OF LOANS.

“(a) Term of Loan.—In the case of each loan commodity, a marketing assistance loan under section 131 shall have a term of 20 months beginning on the first day of the first month after the month in which the loan is made.

"(b) EXTENSIONS AUTHORIZED.—The Secretary may extend the term of a marketing assistance loan for any loan commodity.".

SEC. 403. APPLICATION.

This title and the amendments made by this title shall apply to each of the 2001 and 2002 crops of a loan commodity (as defined in section 102 of the Agricultural Market Transition Act (7 U.S.C. 7202).

TITLE V—FARMLAND PROTECTION

SEC. 501. FARMLAND PROTECTION PROGRAM.

Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104-127) is amended to read as follows:

"SEC. 388. FARMLAND PROTECTION PROGRAM.

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) any agency of any State or local government, or federally recognized Indian tribe; and

"(2) any organization that—

"(A) is organized for, and at all times since its formation has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(B) is an organization described in section 501(c)(3) of the Code that is exempt from taxation under section 501(a) of the Code; and

"(C)(i) is described in section 509(a)(2) of the Code of; or

"(ii) is described in section 509(a)(3) of the Code and is controlled by an organization described in section 509(a)(2) of the Code.

"(b) AUTHORITY.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall provide grants to eligible entities, to provide the Federal share of the cost of purchasing conservation easements or other interests in land with prime, unique, or other productive soil for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

"(c) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement or other interest described in subsection (b) shall be not more than 50 percent.

"(d) TITLE; ENFORCEMENT.—Title to a conservation easement or other interest described in subsection (b) may be held, and the conservation requirements of the easement or interest enforced, by any eligible entity.

"(e) STATE CERTIFICATION.—The attorney general of the State in which land is located shall take such actions as are necessary to ensure that a conservation easement or other interest under this section is in a form that is sufficient to achieve the conservation purpose of the farmland protection program established under this section, the law of the State, and the terms and conditions of any grant made by the Secretary under this section.

"(f) CONSERVATION PLAN.—Any land for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan to the extent that the plan does not negate or adversely affect the restrictions contained in any easement.

"(g) TECHNICAL ASSISTANCE.—The Secretary may use not more than 10 percent of the amount that is made available for a fiscal year under subsection (h) to provide technical assistance to carry out this section.

"(h) FUNDING.—For each fiscal year, the Secretary shall use not more than $250,000,000 of the funds of the Commodity Credit Corporation to carry out this section.".

TITLE VI—CIVIL RIGHTS

SEC. 601. SENSE OF CONGRESS ON PARTICIPATION OF SOCIALLY DISADVANTAGED GROUPS IN DEPARTMENT OF AGRICULTURE PROGRAMS.

It is the sense of Congress that the Secretary of Agriculture should take such actions as are necessary to ensure, to the maximum extent practicable, that members of socially disadvantaged groups (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e))—

(1) are informed of the eligibility requirements to participate in programs of the Department of Agriculture; and

(2) receive technical support and assistance from the Department to participate in the programs.

Mr. HARKIN. I am pleased to cosponsor this legislation introduced by the Democratic leader, Senator DASCHLE. The bill contains a number of important features that constitute a strong start for our work toward a new farm bill.

In particular, I want to call attention to the provisions in this bill that will address directly the rapid changes occurring in the structure of our food and agriculture industry and the impact those changes are having on America's farm and ranch families and rural communities. This bill will give USDA new authority to deal with economic concentration and consolidation in agriculture: to prevent mergers and acquisitions that damage farmers and rural communities and to prevent and take enforcement action against anti-competitive and unfair practices in dealings by agribusinesses with farmers.

The legislation also incorporates legislation I introduced in the previous Congress to establish new protections for agricultural producers who are involved in contracting arrangements with agribusiness processors and to establish new protections that will enhance the ability of agricultural producers to form associations to bargain effectively with processors and buyers of agricultural products.

I am also pleased that this bill incorporates my legislation to create a new fund that will spur new equity capital investment in rural areas. The legislation has the support of a wide range of the key interested parties in providing and boosting financing and business investment in rural America. Clearly, if rural America is to grow, and if agricultural producers are to develop new value-added businesses, there will have to be increased levels of equity capital investment in agricultural processing and other businesses. This bill will go a long way in putting more investment capital into rural communities.

This bill also makes a strong start toward improving the shortcomings of the commodity program provisions of the current farm bill. We have all observed the critical need for emergency assistance packages to shore up the Freedom to Farm bill over the past several years. But our farm families and rural communities need a predictable and dependable system of farm income protection. This bill would provide for loan rates that are more realistic in light of current production costs in order to improve the farm income protection. It focuses on providing better assistance when it is needed, rather than simply making additional fixed payments regardless of actual market conditions.

As I said, I believe the marketing assistance loan rate provisions in this bill are a strong start. We recognize that under the current formula, even without the existing loan rate caps, the marketing loan rates would have declined quite substantially as market prices suffered in recent years. That means a less effective system of farm income protection. However, further work and discussion on loan rate formulas and program details will be necessary as we work further on the next farm bill. In particular, it is important that the relative loan rates among the various commodities are in balance. Of course, that is the main objective of these provisions: to bring other loan rates into reasonable equivalence with the loan rates for oilseeds. But we do not want to create any new inequality while trying to address what is now felt to be an imbalance.

It is also important for us to contemplate the consequences of any changes in loan rates that we may ultimately enact, including any impacts on production levels and patterns, and impacts on the relative benefits under the program for family-size farms in comparison with those for much larger operations. For that reason I believe that there must be some restriction or limitation on the quantity of production that is eligible for higher loan rates. Otherwise, I am concerned that we are providing only a small amount of help to family-size farms, but far more to their larger and already better capitalized neighbors simply because those larger farms are producing larger quantities of loan-eligible commodities. Similarly, if the loan rate is increased for every unit of production of a given commodity on every farm, no matter how large, we must consider the incentives for higher production that will be put into markets that are in surplus.

The commodity provisions are, of course, only one part of a comprehensive approach to a new farm bill. I very strongly believe that the next farm bill should include a new program of incentives for farm and ranch conservation practices. In this way we will improve farm income while also enhancing conservation of natural resources for our children and succeeding generations. I am not proposing a substitute for existing conservation programs, nor am I proposing to abandon commodity and farm income protection programs. But I believe that we can accomplish a great deal by adding to our farm policy a new conservation incentive program.

Again, I am pleased to cosponsor this bill and look forward to working with my colleagues to work further together on crafting a new farm bill.

By Mr. HAGEL (for himself, Ms. LANDRIEU, Mr. BREAUX, Mr. DEWINE, Mrs. HUTCHISON, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, and Mr. THOMAS):

S. 22. A bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes; to the Committee on Rules and Administration.

OPEN AND ACCOUNTABLE CAMPAIGN FINANCING ACT OF 2001

Mr. HAGEL. Mr. President, today, I join several of my colleagues, including the Presiding Officer, in introducing the Open and Accountable Campaign Financing Act of 2001, S. 22. I am pleased to be joined by not only the Presiding Officer, my new colleague from Nebraska, but also by Senators LANDRIEU, BREAUX, DEWINE, HUTCHISON, SMITH of Oregon, and THOMAS, in introducing this legislation today.

I also want to acknowledge the two Senators who have led the fight on campaign finance reform over the years—JOHN MCCAIN and RUSS FEINGOLD. Their commitment to this issue and leadership has elevated the debate on this very important part of our democratic system. They deserve recognition and they deserve credit.

Mr. President, S. 22 has three primary components, as you know. First, it expands and codifies disclosure for candidates, political parties and all organizations and individuals who participate in the political process.

Second, it caps and regulates soft money donations to the National political parties.

Third, it increases hard money contribution limits and then indexes these limits to inflation for future years.

Our Federal campaign finance system is broken. As all of us know, in politics, as in life, perception is an important dynamic of reality. The American people's perception of the integrity of our political system is directly connected to their confidence in the system. Americans see a political system controlled by special interests and those able to pump in millions of unaccountable dollars.

As our citizens become demoralized and detached because they feel they are powerless, they lower their expectations and standards for government and our officeholders. As a result, the American people are losing confidence in our system. They are losing trust in their elected officials. We need to fix the system.

The Senate will engage in an open, honest and wide-ranging debate on campaign finance reform this year, as it should be.

The debate must be thoughtful, factual and deliberate. Any legislative action will have immense consequences for our political system and all who participate in it. S. 22 represents a strong, bipartisan foundation from which consensus can be built and real campaign finance reform can be established.

Our bill is imperfect. It does not address all of the issues. It does not have all of the answers. But it is a genuine attempt to bring about real reforms, including greater disclosure and more accountability. Greater disclosure, I believe, is the heart of campaign finance reform. We should not fear an educated and informed body politic. We should encourage it.

In recent years, so-called independent groups and individuals have played an increasingly dominant role in the political process launching late TV blitzes, moving poll numbers in the final weeks and days of a campaign, and then disappearing without the public ever knowing who they were and how much they spent for or against the candidate.

There are several provisions in S. 22 that will increase the disclosure of campaign financing and election activity. But the most significant is the provision affecting what information is made public regarding political broadcast ads, especially ads referred to as issue advocacy ads.

Issue advocacy adds generally refer to a Federal candidate and his or her positions on issues, but since the ads do not expressly advocate the election or defeat of a Federal candidate, they don't trigger the reporting and disclosure requirements of the Federal Election Campaign Act. Even though these ads don't expressly advocate for or against any candidate, many people consider the clear intent of these ads, which is to influence the outcome of elections.

Our legislation addresses the problems associated with the disclosure of these issue ads by requiring disclosure of the relevant information at the broadcast stations who broadcast these ads both on radio and TV.

Currently, broadcast stations must comply with Federal communications regulations requiring them to place in their public file information on ads run by Federal candidates and political parties. This includes a record of the times the spots are scheduled to air, the overall amount of time purchased, and at what rates, and the names of the officers of the organization placing the ad.

However, presently, there is no requirement that any of this information be placed in the public file for political ads run by independent organizations or individuals. Our legislation will codify these regulations and expand them to cover all political broadcast ads without violating anyone's constitutional rights. Under this bill, the American public and the media will know who is buying these ads and how much they are spending for the ads.

Also, let me make clear one thing this provision does not do. It does not require organizations to identify individual donors or provide membership lists. It preserves a reasonable balance between the public's right to know and the privacy rights of members and donors.

In addition to increased disclosure, this legislation regulates and caps soft money donations. It limits individuals, independent organizations, corporations, and unions, to an aggregate of $60,000 per year in soft money contributions to the national political parties. These donations are disclosed at the Federal Election Commission.

We already have constitutionally tested limits on hard money. Political parties have to deal with this. These contributions are reported from the political parties and from the candidates and their campaigns. We should look at placing limits on soft money contributions as well.

This legislation also adjusts the hard money, or Federal contributions, that are already fully disclosed to and regulated by the Federal Election Commission.

Currently, an individual contribution limit is now set at $1,000. That limit was originally set in 1974. Our legislation would move that current $1,000 limit to $3,000 per candidate per election. Indexed to inflation, today a 1974 $1,000 contribution is worth $3,000. In future years, all individual limits would be indexed to inflation. This would have a positive effect on the system because more campaign money would go directly to the candidates, where there is the most disclosure and accountability.

Any legislation to reform America's campaign finance system needs to reverse the sharply rising trend of moneys going outside the reportable system toward unaccountable, independent groups and individuals who do not report, who are not required to report or disclose. That trend has been more and more away from the candidates in the political parties.

We must also ensure that any campaign finance reform genuinely improves the system and doesn't result in unintended consequences that actually make it worse. The challenge in reforming our campaign finance system to do so without infringing upon the constitutional rights of Americans to freely express themselves under the first amendment and the guarantees of equal protection under the law in the fifth amendment.

Any effort, no matter how well-intentioned, that doesn't pass constitutional muster will be an effort in futility, adding further to the erosion of public confidence in our system. Congress has an opportunity this year to pass a relevant and responsible campaign finance reform bill that the President will sign.

My colleagues and I will be fully engaged in this debate this year with the ultimate goal of making our campaign finance system more open and accountable—the essence of any reform.

Mr. LOTT (for Mr. SPECTER):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

THE NEW URBAN AGENDA ACT OF 2001

Mr. SPECTER. Mr. President. I have sought recognition to introduce legislation that will address the plight of our nation's cities. With 80 percent of the U.S. population living in metropolitan areas, there is an urgent need to improve our urban economies and the quality of life for the millions of Americans who live and work in cities. By simply making our cities an appealing place to live, work, and visit, urban areas can rebound to the vibrant economic centers they once were.

There is a common perception that most urban areas are abandoned and stripped of their resources, burdened with poverty and crime. However, cities have a wealth of resources available to not only the urban dweller, but to cultural centers, business hubs, and some of the finest educational and medical institutions. The real problem is that we do not draw upon these riches or strive to better coordinate them to serve people, especially those in need.

My proposal, the "New Urban Agenda Act of 2001," is based on legislation which I have endeavored to enact into law since the 103rd Congress. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budgetary constraints which govern our actions in Congress. This bill, based in significant part on suggestions by Former Philadelphia Mayor Edward G. Rendell and the League of Cities as well as current Philadelphia Mayor John Street and Pittsburgh Mayor Tom Murphy, offers aid to the cities while containing federal expenditures and re-instituting important cost-effective tax breaks.

Urban areas remain integral to America's greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation's poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

With that in mind, I am pleased that Congress recognized and included an initiative to aid our cities in the fiscal year 2001 Omnibus Appropriations Act. This initiative provides important incentives for businesses to invest and locate in our nation's cities by stimulating new private capital investments in economically distressed communities, expanding empowerment zones, increasing the low income housing tax credit, creating new market venture capital firms, and creating 40 Renewal Communities, which will provide additional key incentives to spur investment. I am particularly pleased that a close variation of a provision from my Urban Agenda bill was included as part of this initiative, which will provide a 60 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. A targeted capital gain will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas. While all of these initiatives are an important first step in assisting our cities, I believe that there is still more that needs to be accomplished to revitalize America's metropolitan areas.

If we are to address many of the serious social issues that we face—unemployment, drug abuse, juvenile violence, welfare dependency, and other pressing issues—we cannot give up on our cities. We must continue to develop new strategies for dealing with the problems of urban America. The days of creating "Great Society" federal aid programs are clearly past, but that is no excuse for the national government to ignore the problems of the cities.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. I have long supported a variety of programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had discovered few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods. What my Republican colleagues saw in Philadelphia is the urban rule across our country, not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, where there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to many in America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation as a whole and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America prospers and vice-versa. For example, if cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

There is indeed a domino effect from our cities to rural communities throughout the country. Lately, we have witnessed this in the violent behavior of adolescents. School violence, juvenile crime and drug abuse are no longer endemic to urban living. Take the Bloods and the Crips gangs from Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi, Racine, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike. Additionally, while drug abuse among teens has historically been viewed solely as an inner city problem, recent statistics indicate that teen drug abuse in the suburbs is an increasing epidemic. According to an October 10, 1999 Philadelphia Inquirer article, in the seven county Philadelphia suburbs, the rate of youths in treatment for heroin jumped from 77 to 84 per 100,000 people between 1995 and 1998. In the Baltimore suburbs, 25 percent of teens admitted to drug treatment centers used heroin compared to 17 percent in inner city Baltimore.

In the U.S. Department of Housing and Urban Development's 2000 report on the "State of the Cities," findings show that large urban schools still deal with a higher concentration of violence, and the data only represents crimes which were serious enough to report to the police. An estimated 3 million crimes each year are committed in or near the nation's 85,000 public schools. During the 1996–97 school year alone, one-fifth of public high schools and middle schools reported at least one violent crime, such as murder, rape or robbery. More than half reported less serious crimes. Homicide is now the third leading cause of death for children age 10 to 14. For more than a decade it has been the leading cause of death among minority youth between the ages of 15 and 24. The School District of Philadelphia's most recent report on school violence shows that in the 1994–1995 academic year, students, teachers and administrators were the victims of 2,147 reported criminal incidents, up by almost 100% from the previous year. These included assault, robbery, rape, and students being stabbed or even shot. The school district also reported troubling news about abysmal attendance rates. On any given day, more than one in every four students are absent.

In an effort to seriously address the problem of youth violence, during the summer of 1999, I convened three extensive roundtable discussions with experts from the Department of Education, Health and Human Services, Labor and Justice, who administer programs targeted at children from prenatal to age seventeen. On June 7, 1999, I chaired a discussion session on at-risk youth as part of the White House Conference on Mental Health. As a result of these meeting, $911 million in fiscal year 2000 and $1.6 billion in fiscal year 2001 have been reallocated across government agencies to tackle the problem of youth violence, focusing on the Safe and Drug Free Schools Program, mental health services for children, character education, and literacy programs. These programs pick up on the conclusion that Surgeon General Koop made in 1982—that juvenile violence is a national health problem.

I am pleased to note that the HUD 2000 "State of the cities" report found that the national poverty rate declined from 13.7% in 1996 to 12.7% in 1998. Encouragingly, the poverty rate also decreased in central cities during this same period from 19.6% to 18.5%. However, despite the dramatic record of job gains, one in eight cities still faces high unemployment and significant population loss or high poverty rates. The report further found that the overall poverty rate in the cities remains twice that of the suburbs. In fact, there are 67 large cities that have an unemployment rate of 50% or higher than the U.S. rate. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter with several Senators to then-Majority Leader Dole and Speaker Gingrich which recommended several new urban initiatives to spur job creation and economic growth in our cities such as a targeted capital gains exclusion, commercial revitalization tax credit, historic rehabilitation tax credit, and child care credit. In 1998, I introduced the "Job Preparation and Retention Training Act," which was included in the Workforce Development act of 1998. My legislation authorized funding for States to enroll long-term welfare dependents into a training program to provide the necessary skills to locate and maintain gainful and unsubsidized employment.

A number of jobs are becoming available in the high tech industry and high tech growth is a substantial contributor to recent economic gains in cities. According to the HUD 2000 "State of the Cities" report, high tech jobs account for 27% of new employment in cities. However, there is anew digital divide in high tech jobs between cities and suburbs. High tech job growth in suburbs is 30% faster than that of cities. In effort to bridge the digital divide, I was an original cosponsor with Senator Biden of the "Kids 2000" legislation, which would authorize $120 million to build computer technology centers in Boys and Girls Clubs nationwide and allow the funds to be used to pay for computer teachers, who are crucial to the success of this initiative. The federal funds would be complemented by donations from private sources. I have also been supportive of collaborative efforts like PowerUp, founded by America Online (AOL) Chief Executive Steve Case, which joins non-profit organizations, major corporations, and Federal agencies to help close the digital divide. The goal of this initiative is to help ensure that America's underserved youth acquire the skills, experiences, and resources they need to succeed in the digital age. Initiatives like Kids 2000 and PowerUp are steps in the right direction to provide American children with the skills necessary to compete in an increasingly technologically-advanced workforce. These initiatives offer training for those segments of the American population which currently have no opportunity to learn these technology-based skills, and thus offer extraordinary employment and earning possibilities.

Each day, small business owners question whether they should remain in the city because they fear for the safety of their children, their employees, and, ultimately, their businesses. I have personally met and spoken with shop owners in the University City section of Philadelphia who tell me that they look desperately for reasons to stay, but it gets harder and harder.

I have long supported efforts to encourage the growth of small business, as small businesses provide the bulk of the jobs in this country. To that end, I am again introducing legislation to provide targeted tax incentives for investing in small minority or women-owned businesses called "Minority and Women Capital Formation Act." Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to continue to provide employment opportunities, but continue to face difficulty in obtaining the necessary capital. My legislation would help remove the capital access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

The economic problems our cities are facing are not easy to deal with or answer. Municipal leaders stress many of the same concerns that business people have voiced. Additionally, in a report by the National League of Cities entitled "City Fiscal Conditions in 1996," municipal officials from 381 cities answered questions on the economic state of their cities. The report found that 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment due to state budgetary problems. Nearly six out of ten cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy, and it often counteracts municipal efforts to retain residents or businesses.

One issue in particular that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Waiters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee, stated that in 1950, 23 percent of Americans lived outside central cities; by 1998, that number rose to 46 percent. The District of Columbia's population loss is among the worst in the nation, with a quarter of its population relocating to the suburbs since the 1970s. This trend of shrinking urban populations gives no sign of ending. Middle-class families continue to leave for the suburbs where there are typically better public services. According to the September 2000 General Accounting Office Report on Community Development, over 50 percent of U.S. cities reported that an inadequate tax base for supporting schools and services was among their top four growth related challenges. As America's cities struggle with the exodus of residents, businesses and industry, city, residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance.

The September 2000 General Accounting Office Report on Community Development also found that of the 2000 cities surveyed, 83 percent reported that revitalizing their downtown areas was their top priority. The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. As a member of the Transportation Appropriations Subcommittee, I have been a strong supporter of public transit, which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the nation's deficit and debt. Therefore, we must find alternatives to reinvigorate out nation's cities so they can once again become economically productive areas providing promising opportunities for residents and neighboring areas. To address the need for reliable transportation systems in our nation's cities and to provide access to jobs for city residents, I introduced reverse commute and jobs access legislation, which was successfully included in the 1998 "TEA-21" highway and transit reauthorization bill. The bill authorized over five years access-to-jobs transit grants targeted at low-income individuals. Up to $10 million per year may be used for reverse commute projects to move individuals from cities to suburban job centers.

In addition to support for infrastructure, I believe there are many other opportunities for Congress to assist America's urban areas. Over the past few years, I have worked with Former Mayor Ed Rendell to develop a legislative package which contains many good ideas. I have taken many of these suggestions and have since added and revised provisions to take into account new developments at the federal, state and local levels to create the "New Urban Agenda Act of 2001."

First, recognizing that the federal government is the nation's largest purchaser of goods and services, my legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones, Enterprise Communities and Renewal Communities. Similarly, my bill would require that no less than 15 percent of foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones, Enterprise Communities and Renewal Communities. The General Services Administration would be required to submit to Congress its assessment of the extent to which federal agencies are committed to this policy, and in general, economic revitalization in distressed urban areas.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of all federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Relief Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to businesses to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit which supports inner city revitalization projects. According to the September 2000 GAO Report on Community Development, 32 percent of cities and 22 percent of counties surveyed strongly supported the extension of federal tax benefits to the rehabilitation of historic residential properties. The City of Philadelphia reports that there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the Historic Rehabilitation Tax Credit, which was eliminated in 1986. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs. Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the Historic Rehabilitation Tax Credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low and moderate income housing units. The 1986 Tax Act dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool is to expand the authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986, authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to the City of Philadelphia, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city-supported projects in Philadelphia was reduced by more than half.

Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector and industrial parks. My bill would also increase the small issue exemption, which provides a way to help finance private activity in the building of manufacturing facilities from $10 million to $50 million to allow increased private investment in our cities.

A minor change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I understand that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government. This bill would allow cities to keep the arbitrage earned so that they can use it to fund city projects and for other necessary purposes.

A fourth provision of this legislation provides needed reforms to regulations and the financial challenges to obtaining affordable housing. My proposal provides language to study streamlining federal housing program assistance to urban areas into a block grant form so that municipal agencies can better serve local residents. Safe, clean, and affordable housing is not widely available to most low income families. According to the National Housing Law Project, in 1996, only one in four families was eligible to receive HUD assistance with a waiting period up to five years. This provision of the bill steers the Secretary of Housing and Urban Development to take a hard look at these conditions and determine what works and what does not in federally-subsidized housing and to consider alternatives that will provide suitable homes for America's families.

I believe that as a nation we should work toward providing individuals and their families with more opportunities for home ownership which stabilizes a community and restores our cities. Urban home ownership, including middle-income home ownership, lags behind the suburbs. According to the Harvard University Joint Center for Housing Studies, city residents of all income levels are less likely to own a home than suburban residents with similar incomes. I hear time and time again from families starting out that they move out to the suburbs for better schools, because central cities lack the property tax base to provide a quality education. Home ownership is key to saving our cities, both socially and economically. A 1998 Fannie Mae national housing survey indicated that even though home ownership rates continued to increase in the late 1990s, six in every ten renters said that buying a home was a very important priority, if not their number-one priority in life. Yet for so many families financial barriers make that dream unattainable. That is why my legislation includes two provisions to restore the American dream of home ownership.

First, my bill would amend the National Affordable Housing Act and the Community Development Block Act of 1974 to make municipal employees such as policemen, firemen, maintenance workers and teachers eligible for home ownership assistance. Municipal employees and teachers contribute to the health, safety and vitality of the communities in which they serve. However, escalating rent and housing prices due to the booming technology market and rising salaries have made it particularly difficult for teachers, police officers and city workers to live where they work. In a growing number of metropolitan areas, home buyers who make the median income in their region cannot afford its median-priced housing, and therefore, must live outside the community in which they work, resulting in longer commutes. According to the September 2000 GAO Report, the shortage of funding for affordable housing in urban areas has forced people to move to the fringes of metropolitan areas, where housing is typically less expensive. This provision would seek to remedy this situation by providing communities with the tools needed to increase home ownership opportunities for those who form the backbone of our cities and who are an integral component of our commitment to revitalize our urban areas.

Second, my bill would provide a tax credit for income-eligible individuals and families to purchase homes in distressed areas. In the 1999 Taxpayer Relief Act, Congress approved such a tax credit for home buyers in the District of Columbia. While single family home sales can be attributed to a multitude of factors, such as historically low interest rates and a strong economy, it is important to note some interesting statistics related to home ownership since enactment of the tax credit in the District of Columbia. The Home Purchase Assistance Program through the District of Columbia's Office of Housing and Community Development helped 410 families purchase homes. Further, a group called the "Washington Partners for Home ownership," a collaboration of realtors, banks, community and faith-based organizations, set a goal last year to create 1,000 new homeowners in the District of Columbia for each of the next three years. Remarkably, the Washington Partners reached that goal before the end of the first year. I believe that this country will reap extraordinary benefits if we expand such a credit on a national basis, as I propose in the "New Urban Agenda Act of 2001."

I believe that the revitalization of cities will require social and economic facets, but is also imperative that our cities are safe and clean. This last component of my bill helps urban areas to address their unique environmental challenges and reforms Superfund law. First, the legislation authorizes a federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban and other areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List. The Environmental Protection Agency currently operates this pilot program under general authority provided by the Superfund law. My legislation would make this a permanent program and substantially increase the funding levels to a $100 million authorized level for Fiscal Year 2002, $105 million for Fiscal Year 2003, and $110 million for Fiscal Year 2004. The EPA could expend funds to identify and examine potential idle or underused Brownfield sites and to provide grants to States and local governments of up to $200,000 per site to put them back to productive use. One such grant has been used to great success to Pittsburgh Mayor Tom Murphy, and I hope this provision will generate additional success stories of redeveloping urban brownfields.

The Brownfields Program allows sites with minor levels of toxic waste to be cleaned up by State and local governments with federal and other funding sources. Companies and individuals who are interested in developing land into industrial, commercial, recreational, or residential use are often reluctant to purchase property with any level of toxic waste because of a fear of being saddled with cleanup liability under the Superfund law. Through expanded Brownfields grants, cleanup at such sites will be expedited and will encourage redevelopment of otherwise unusable property.

My bill would also waive federal liability for persons who fully comply with a state cleanup plan to clean sites in urban or other areas pursuant to state law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on sound science by returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania are often stifled because the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who fully comply with the procedures and standards of the state cleanup, the federal government impedes the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation's urban areas.

Mr. President, we must take a comprehensive approach to reversing urban decay. My bill seeks to accomplish this by requiring increased federal and foreign aid purchases operating in urban zones, a restoring of the issuance of tax free industrial development bonds, facilitating home ownership in urban areas, and providing regulatory relief to redevelop brownfield sites. As one of a handful of United States Senators who lives in a big city, I have a special understanding of both the problems and the promise of urban America. I am committed to a new urban agenda which relies on market forces, not a welfare state, for urban revitalization. While the issues facing our nation's cities are indeed difficult, working together with my colleagues I believe we can fashion a strong plan of action to help cities face their pressing problems.

I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 23

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Urban Agenda Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

Sec. 101. Federal purchases from businesses in empowerment zones, enterprise communities, and renewal communities.
Sec. 102. Minimum allocation of foreign assistance for purchase of certain United States goods.
Sec. 103. Preference for location of manufacturing outreach centers in urban areas.
Sec. 104. Preference for construction and improvement of Federal facilities in distressed urban areas.
Sec. 105. Definitions.

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

Sec. 201. Treatment of rehabilitation credit under passive activity limitations.
Sec. 202. Rehabilitation credit allowed to offset portion of alternative minimum tax.
Sec. 203. Commercial industrial development bonds.
Sec. 204. Increase in amount of qualified small issue bonds permitted for facilities to be used by related principal users.
Sec. 205. Simplification of arbitrage interest rebate waiver.
Sec. 206. Qualified residential rental project bonds partially exempt from State volume cap.
Sec. 207. Expansion of qualified wages subject to work opportunity credit.
Sec. 208. Homebuyer credit for empowerment zones, enterprise communities, and renewal communities.

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

Sec. 301. Block grant study.
Sec. 302. Homeownership for municipal employees.
Sec. 303. Community development.

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Sec. 401. Release from liability of persons that fulfill requirements of State and local law.
Sec. 402. Brownfield program.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide various incentives for the economic growth of cities in the United States;

(2) provide an economic agenda designed to reverse current urban economic trends; and

(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES

"SEC. 40. (a) MINIMUM PURCHASE REQUIREMENT.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or renewal communities.

"(b) RECYCLED PRODUCTS.—To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or renewal communities.

"(c) REGULATIONS.—The Federal Acquisition Regulation shall include provisions that ensure the attainment of the minimum purchase requirement set out in subsection (a).

"(d) DEFINITIONS.—In this section:

"(1) The term 'empowerment zone' means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

"(2) The term 'enterprise community' means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

"(3) The term 'renewal community' means a community designated as a renewal community pursuant to subchapter X of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1400E et seq.).".

(b) GSA ASSESSMENT.—(1) Not later than December 31, 2001, the Administrator of General Services shall submit to Congress, in writing, the Administrator's assessment of the extent to which executive agencies are committed, by policy and practice, to encouraging and supporting economic renewal in empowerment zones, enterprise communities, and renewal communities.

(2) In this subsection, the term "executive agency" has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(c) EFFECTIVE DATE.—Section 40 of the Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 2001.

(d) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 40. Purchases from businesses in empowerment zones, enterprise communities, and renewal communities.".

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE FOR PURCHASE OF CERTAIN UNITED STATES GOODS.

(a) ALLOCATION OF ASSISTANCE.—Notwithstanding any other provision of law, effective beginning with fiscal year 2002, not less than 15 percent of United States assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or renewal communities within the United States.

(b) UNITED STATES ASSISTANCE.—As used in this section, the term "United States assistance" means—

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);

(2) sales or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center under subsection (c)(11) of section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or renewal communities.

(b) FINANCIAL ASSISTANCE.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under such section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and renewal communities as the Secretary determines appropriate in order to ensure the continuing existence of such centers in such zones and communities.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) DEFINITIONS.—In this section:

(1) DISTRESSED URBAN AREA.—The term "distressed urban area" means a city having a population of more than 100,000 that, as determined by the Secretary of Housing and Urban Development, meets the qualifications for making an urban development action grant to a community experiencing severe economic distress established for large cities and urban counties under subpart G of part 570 of title 24, Code of Federal Regulations (as in effect on April 1, 1998).

(2) EXECUTIVE AGENCY.—The term "Federal agency" means an Executive agency (as defined in section 105 of title 5, United States Code).

(3) FACILITY.—The term "facility" means any place where employees of a Federal agency are regularly employed.

(b) PREFERENCE.—Notwithstanding any other provision of law, in determining the location for the construction of a new facility of an Executive agency, in determining to improve an existing facility, or in determining the location to which to relocate functions of an Executive agency, the head of the Federal agency making the determination shall make best efforts to construct or improve the facility or to relocate the functions in a distressed urban area.

(c) URBAN IMPACT STATEMENT.—A determination to construct a new facility of an Executive agency, to improve an existing facility, or to relocate the functions of an Executive agency shall not be made until the head of the Executive agency making the determination submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least 1 distressed urban area that would be an appropriate location for the facility;

(B) describes the costs and benefits arising from the construction and use of the facility in the distressed urban area, including the effects of the construction and use on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least 1 facility located in a distressed urban area that would serve as an appropriate alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and use of the facility located in the distressed urban area as an alternative location for the facility to be improved, including the effect of the improvement and use of the facility on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and continuing use of the facility in the distressed urban area, including the effect of the improvement and continuing use on the rate of unemployment in the distressed urban area; and

(B) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation; or

(4) in the case of a relocation of functions—

(A) identifies at least 1 distressed urban area that would serve as an appropriate location for the carrying out of the functions;

(B) describes the costs and benefits arising from carrying out the functions in the distressed urban area, including the effect of carrying out the functions on the rate of unemployment in the distressed urban area; and

(C) describes the effect on the economy of the distressed urban area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of such closure or consolidation.

(d) Applicability to Department of Defense Facilities.—The requirements set forth in subsections (b) and (c) shall not apply to a determination to construct or improve a facility of the Department of Defense, or to relocate any functions of the Department of Defense, if the President determines that the waiver of the application of the requirements to that facility or relocation is in the national interest.

SEC. 105. DEFINITIONS.

As used in this title:

(1) The term "empowerment zone" means a zone designated as an empowerment zone pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) The term "enterprise community" means a community designated as an enterprise community pursuant to subchapter U of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) The term "renewal community" means a community designated as a renewal community pursuant to subchapter X of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1400E et seq.).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT UNDER PASSIVE ACTIVITY LIMITATIONS.

(a) General Rule.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

"(2) Dollar limitations.—

"(A) In general.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

"(B) Phaseout not applicable to low-income housing credit.—In the case of the portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42—

"(i) subparagraph (A) shall not apply, and

"(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

"(I) $25,000, reduced by

"(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable and is not attributable to the rehabilitation credit determined under section 47) to which paragraph (1) applies after the application of subparagraph (A).

"(C) $55,500 limit for rehabilitation credits.—In the case of the portion of the passive activity credit for any taxable year which is attributable to the rehabilitation credit determined under section 47—

"(i) subparagraph (A) shall not apply, and

"(ii) paragraph (1) shall not apply to the extent that the deduction equivalent of such portion exceeds—

"(I) $55,500, reduced by

"(II) the aggregate amount of the passive activity loss (and the deduction equivalent of any passive activity credit which is not so attributable) to which paragraph (1) applies for the taxable year after the application of subparagraphs (A) and (B).

"(3) Adjusted gross income.—For purposes of paragraph (2)(A), adjusted gross income shall be determined without regard to—

"(A) any amount includable in gross income under section 86,

"(B) any amount excludable from gross income under section 135, 911, 931, or 933,

"(C) any amount allowable as a deduction under section 219, and

"(D) any passive activity loss.".

(b) Conforming Amendments.—

(1) Subparagraph (B) of section 469(i)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) Reduction for surviving spouse's exemption.—For purposes of subparagraph (A), the $25,000 amounts under paragraphs (2)(A) and (2)(B)(ii) and the $55,500 amount under paragraph (2)(C)(ii) shall each be reduced by the amount of the exemption under paragraph (1) (determined without regard to the reduction contained in paragraph (2)(A)) which is allowable to the surviving spouse of the decedent for the taxable year ending with or within the taxable year of the estate.".

(2) Subparagraph (A) of section 469(i)(5) of such Code is amended by striking clauses (i), (ii), and (iii) and inserting the following new clauses:

"(i) '$12,500' for '$25,000' in subparagraphs (A) and (B)(ii) of paragraph (2),

"(ii) '$50,000' for '$100,000' in paragraph (2)(A)", and

"(iii) '$27,750' for '$55,500' in paragraph (2)(C)(ii).".

(3) The subsection heading for subsection (i) of section 469 of such Code is amended by striking "$25,000".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service on or after the date of enactment of this Act, in taxable years ending on or after such date.

SEC. 202. REHABILITATION CREDIT ALLOWED TO OFFSET PORTION OF ALTERNATIVE MINIMUM TAX.

(a) In General.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Rehabilitation investment credit may offset portion of minimum tax.—

"(A) In general.—In the case of the rehabilitation investment tax credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the rehabilitation investment tax credit).

"(B) Minimum tax offset amount.—For purposes of subparagraph (A)(ii)(I), the minimum tax offset amount is an amount equal to—

"(i) in the case of a taxpayer not described in clause (ii), the lesser of—

"(I) 25 percent of the tentative minimum tax for the taxable year, or

"(II) $20,000, or

"(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(j)(1)), 5 percent of the tentative minimum tax for the taxable year.

"(C) Rehabilitation investment tax credit.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 47.".

(b) Conforming Amendment.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

"(4) Special rule for rehabilitation credit.—Notwithstanding paragraphs (1) and

(2), the rehabilitation investment tax credit (as defined in subsection (c)(2)(C)) shall be treated as used last.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 203. COMMERCIAL INDUSTRIAL DEVELOPMENT BONDS.

(a) FACILITY BONDS.—

(1) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a comma, and by adding at the end the following new paragraphs:

"(13) sports facilities,

"(14) convention or trade show facilities,

"(15) freestanding parking facilities,

"(16) air or water pollution control facilities, or

"(17) industrial parks.".

(2) INDUSTRIAL PARKS DEFINED.—Section 142 of such Code is amended by adding at the end the following new subsection:

"(k) INDUSTRIAL PARKS.—A facility shall be treated as described in subsection (a)(17) only if all of the property to be financed by the net proceeds of the issue—

"(1) is—

"(A) land, and

"(B) water, sewage, drainage, or similar facilities, or transportation, power, or communication facilities incidental to the use of such land as an industrial park, and

"(2) is not structures or buildings (other than with respect to facilities described in paragraph (1)(B)).".

(3) CONFORMING AMENDMENTS.—

(A) Section 147(c) of such Code (relating to limitation on use for land acquisition) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR INDUSTRIAL PARKS.—In the case of a bond described in section 142(a)(17), paragraph (1)(A) shall be applied by substituting '50 percent' for '25 percent'.".

(B) Section 147(e) of such Code (relating to no portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.) is amended by striking "A private activity bond" and inserting "Except in the case of a bond described in section 142(a)(13), a private activity bond".

(b) SMALL ISSUE BONDS.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination of qualified small issue bonds) is amended—

(1) by striking "any bond" in subparagraph (A)(i) and inserting "any bond described in subparagraph (B)",

(2) by striking "a bond" in subparagraph (A)(ii) and inserting "a bond described in subparagraph (B)", and

(3) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) BONDS FOR FARMING PURPOSES.—A bond is described in this subparagraph if it is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property not in accordance with section 147(c)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2000.

SEC. 204. INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.

(a) IN GENERAL.—Clause (i) of section 144(a)(4)(A) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by striking "$10,000,000" and inserting "$50,000,000".

(b) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) of the Internal Revenue Code of 1986 is amended by striking "$10,000,000" and inserting "$50,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) obligations issued after the date of enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST REBATE WAIVER.

(a) IN GENERAL.—Clause (ii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) is amended to read as follows:

"(ii) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retainage) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code (relating to available construction proceeds) is amended by striking "2-year period" and inserting "3-year period".

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code (relating to election to pay penalty in lieu of rebate) is amended by striking ", with respect to each 6-month period after the date the bonds were issued," and ", as of the close of such 6-month period,".

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking "to any 6-month period" in the matter preceding subclause (I).

(5) Clause (ii) of section 148(c)(2)(C) of such Code (relating to bonds used to provide construction financing) is amended by striking "2 years" and inserting "3 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 206. QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS PARTIALLY EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following new paragraph:

"(5) 75 percent of any exempt facility bond issued as part of an issue described in section 142(a)(7) (relating to qualified residential rental projects).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 207. EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.

(a) INCREASE IN PERCENTAGE.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking "40 percent" and inserting "50 percent".

(b) FIRST 3 YEARS OF WAGES SUBJECT TO CREDIT.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended—

(1) in subsections (a) and (b)(3), by striking "first-year"; and

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year—

"(A) with respect to an individual who is a member of a targeted group, and

"(B) attributable to service rendered by such individual during the 3-year period beginning with the day the individual begins work for the employer."; and

(B) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of enactment of this Act.

SEC. 208. HOMEBUYER CREDIT FOR EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) IN GENERAL.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 1395. HOMEBUYER CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who purchases a principal residence in an empowerment zone or enterprise community during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

"(b) LIMITATIONS.—

"(1) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this subsection and subsection (d)) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the credit so allowable as—

"(i) the excess (if any) of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $70,000 ($110,000 in the case of a joint return), bears to

"(ii) $20,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) PURCHASE PRICE LIMITATION.—A credit shall not be allowed under subsection (a) with respect to the purchase of a residence the purchase price of which exceeds $225,000.

"(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

"(d) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) ALLOCATION OF DOLLAR LIMITATION.—

"(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting '$2,500' for '$5,000'.

"(B) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

"(2) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

"(i) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(ii) the basis of the property in the hands of the person acquiring it is not determined—

"(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(II) under section 1014(a) (relating to property acquired from a decedent).

"(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

"(3) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date such residence is purchased.

"(f) REPORTING.—If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e)(5) shall not apply.

"(g) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of this chapter.

"(h) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

"(i) APPLICATION OF SECTION.—This section shall apply to property purchased after December 31, 2001, and before January 1, 2005.".

(b) APPLICATION TO RENEWAL COMMUNITIES.—Part III of subchapter X of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 1400K. HOMEBUYER CREDIT.

"For purposes of section 1395, a renewal community shall be treated as an empowerment zone.".

(c) CONFORMING AMENDMENTS.—

(1) Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended to read as follows:

"PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.".

(2) The table of parts of subchapter U of chapter 1 of such Code is amended to read as follows:

"Part II. Incentives for empowerment zones and enterprise communities.".

(3) The table of sections of part II of subchapter U of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1395. Homebuyer credit.".

(4) The table of sections of part III of subchapter X of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1400K. Homebuyer credit.".

TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding—

(A) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—

(i) provides assistance on an annual basis;

(ii) maximizes funding certainty and flexibility; and

(iii) minimizes paperwork and delay; and

(B) the possibility of administering future public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(2) PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall consider data from and assessments of the demonstration program conducted under section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, 110 Stat. 1321).

(b) REPORT TO COMPTROLLER GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Comptroller General of the United States a report that includes—

(1) the results of the study conducted under subsection (a); and

(2) any recommendations for legislation.

(c) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report that includes—

(1) an analysis of the report submitted under subsection (b); and

(2) any recommendations for legislation.

SEC. 302. HOMEOWNERSHIP FOR MUNICIPAL EMPLOYEES.

(a) ELIGIBLE ACTIVITIES.—Section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)) is amended to read as follows:

"(2) is the principal residence of an owner who—

"(A) is a member of a family that qualifies as a low-income family—

"(i) in the case of a contract to purchase existing housing, at the time of purchase;

"(ii) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

"(iii) in the case of a contract to purchase housing to be constructed, at the time the contract is signed; or

"(B)(i) is a uniformed employee (which shall include policemen, firemen, and sanitation and other maintenance workers) or a teacher who is an employee of the participating jurisdiction (or an agency or school district serving such jurisdiction) that is investing funds made available under this subtitle to support homeownership of the residence; and

"(ii) is a member of a family whose income, at the time referred to in clause (i), (ii), or (iii) of subparagraph (A), as appropriate, and as determined by the Secretary with adjustments for smaller and larger families, does not exceed 115 percent of the median income of the area;".

(b) INCOME TARGETING.—Section 214(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(2)) is amended by inserting before the semicolon the following: "or families described in section 215(b)(2)(B)".

(c) ELIGIBLE INVESTMENTS.—Section 212(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(b)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, in the case of homeownership assistance for residences of owners described in section 215(b)(2)(B), funds made available under this subtitle may only be invested (A) to provide amounts for downpayments on mortgages, (B) to pay reasonable closing costs normally associated with the purchase of a residence, (C) to obtain pre- or post-purchase counseling relating to the financial and other obligations of homeownership, or (D) to subsidize mortgage interest rates.".

SEC. 303. COMMUNITY DEVELOPMENT.

(a) ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)), is amended—

(1) in paragraph (22)(C), by striking "and" at the end;

(2) in paragraph (23), by striking the period at the end and inserting a semicolon;

(3) in paragraph (24), by striking "and" at the end;

(4) in paragraph (25), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(26) provision of direct assistance to facilitate and expand homeownership among uniformed employees (including policemen, firemen, and sanitation and other maintenance workers) of, and teachers who are employees of, the metropolitan city or urban county (or an agency or school district serving such city or county) receiving grant amounts under this title pursuant to section 106(b), or the unit of general local government (or an agency or school district serving such unit) receiving such grant amounts pursuant to section 106(d), except that, notwithstanding section 102(a)(20)(B) or any other provision of this title, such assistance may be provided on behalf of such employees whose family incomes do not exceed 115 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, and except that such assistance shall be used only for acquiring principal residences for such employees by—

"(A) providing amounts for downpayments on mortgages;

"(B) paying reasonable closing costs normally associated with the purchase of a residence;

"(C) obtaining pre- or post-purchase counseling relating to the financial and other obligations of homeownership; or

"(D) subsidizing mortgage interest rates.".

(b) PRIMARY OBJECTIVES.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following:

"(5) HOMEOWNERSHIP ASSISTANCE FOR MUNICIPAL EMPLOYEES.—Notwithstanding any other provision of this title, any assisted activity described in subsection (a)(26) shall be considered, for purposes of this title, to benefit persons of low and moderate income and shall be directed toward the objective under section 101(c)(3).".

TITLE IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

SEC. 401. RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(o) RELEASE FROM LIABILITY OF PERSONS THAT FULFILL REQUIREMENTS OF STATE AND LOCAL LAW.—

"(1) DEFINITION OF URBAN NONLISTED FACILITY.—In this subsection, the term 'urban nonlisted facility' means a facility that is not listed or proposed for listing on the National Priorities List.

"(2) ENFORCEMENT AUTHORITY.—Neither the President nor any other person may bring an administrative or judicial enforcement action under this Act with respect to an urban nonlisted facility against a person that has fulfilled all requirements applicable to the person under State and local law to conduct a response action at the urban nonlisted facility, as evidenced by a release from liability issued by authorized State and local officials, to the extent that the administrative or judicial action would seek to require response action that is within the scope of the response action conducted in accordance with State and local law.".

SEC. 402. BROWNFIELD PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 128. BROWNFIELD PROGRAM.

"(a) DEFINITION OF BROWNFIELD FACILITY.—

"(1) IN GENERAL.—In this section, the term 'brownfield facility' means a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance.

"(2) EXCLUSIONS.—The term 'brownfield facility' does not include—

"(A) a facility that is the subject of a removal or planned removal under this title;

"(B) a facility that is listed or has been proposed for listing on the National Priorities List or that has been removed from the National Priorities List;

"(C) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

"(D) a land disposal unit with respect to which—

"(i) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(ii) closure requirements have been specified in a closure plan or permit;

"(E) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under—

"(i) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(ii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(iii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(iv) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

"(v) this Act;

"(F) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(G) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(b) BROWNFIELD PROGRAM.—

"(1) IN GENERAL.—There is established within the Environmental Protection Agency a brownfield program.

"(2) COMPONENTS.—Under the brownfield program, the Administrator may—

"(A) expend funds to examine, identify as brownfield facilities, and include in the brownfield program, idle or underused industrial and commercial facilities; and

"(B) provide grants to State and local governments to clean up brownfield facilities and return brownfield facilities to. productive use.

"(c) MAINTENANCE OF PREEXISTING BROWNFIELD PROGRAM.—In carrying out subsection (b), the Administrator shall maintain any brownfield program established by the Administrator before the date of enactment of this section.

"(d) MAXIMUM GRANT AMOUNT.—A grant under subsection (b)(2)(B) shall not exceed $200,000 with respect to any brownfield facility.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

"(1) $100,000,000 for fiscal year 2002;

"(2) $105,000,000 for fiscal year 2003; and

"(3) $110,000,000 for fiscal year 2004.".

By Mr. LOTT (for Mr. SPECTER):

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 2001

Mr. SPECTER. Mr. President, as the 107th Congress commences, those of us elected to serve in the most evenly divided Senate and House in history recognize that whatever our parties' differences may be, we have a new opportunity to make a positive impact on the lives of the American people. The narrow margins in both legislative bodies offer us a chance to learn from the past, determine how best to respond to the challenges that are before us, and forge important alliances which will enable us to pass legislation important to this nation. I believe it is clear that one of our first priorities must be additional incremental reforms of our health care system.

There is no time to waste. Many of our nation's health care problems are getting worse, not better. In its April 2000 report, the Employee Benefit Research Institute (EBRI) analyzed the March 1999 Current Population Survey, a document generated yearly by the U.S. Census Bureau. EBRI's analysis tells us that in 1998, about 194.7 million working-age Americans derived their health insurance coverage as follows: approximately 65 percent from employer plans; 10.4 percent from Medicare and Medicaid within a total of 14.0 percent from public sources of coverage; and 7 percent from other private insurance. While this survey shows us where the insured are obtaining their coverage, it also details a troubling statistic: 43.9 million Americans, or 18 percent of Americans aged 18–64, were uninsured. While the rate of growth of the number of uninsured is slowing, our goal of actually reducing the number of people without access to health coverage and services remains clear.

As I have said many times, we can fix the problems felt by uninsured Americans without resorting to big government and without completely overhauling our current system, one that works well for most Americans—serving 81.6 percent of our non-elderly citizens. We must enact reforms that improve upon our current market-based health care system, as it is clearly the best health care system in the world.

Accordingly, today I am introducing the Health Care Assurance Act of 2001, which, if enacted, will take us further down the path of the incremental reforms started by the Health Insurance Portability and Accountability Act of 1996 (Kassebaum-Kennedy) and various health care provisions enacted during the 105th and 106th Congresses. I would note that the final version of Kassebaum-Kennedy contained many elements which were in S. 18, the incremental health care reform bill I introduced when the 104th Congress began on January 4, 1995.

The bill I am introducing today is distinct from my longstanding efforts regarding managed care reform. During the 105th and 106th Congresses, I joined a bipartisan group of Senators to introduce the Promoting Responsible Managed Care Act of 1998 and 1999, balanced proposals which would ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care.

The managed care debate, which aims to improve insurance coverage for those who already have it, stands in stark contrast to the Health Care Assurance Act of 2001. My bill is intended to provide access to insurance coverage for those who have never even had the option to purchase it—or who simply could not afford it—due to market constraints.

Given the importance of enacting this type of legislation, it is worth reviewing recent history which has taught us that bipartisanship is crucial in accomplishing any goal. In particular, the debate over President Clinton's Health Security Act during the 103rd Congress is replete with lessons concerning the pitfalls that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed to be the wisest course—

to pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate's Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated in April 1993, during my attempts to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session. This bill incorporated moderate, consensus principles in a reasonable reform package. First, I attempted to offer the bill as an amendment to legislation dealing with debt ceilings. Subsequently, I was informed that the floor consideration of this bill would be structured in a way that precluded my offering an amendment. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 Emergency Supplemental Appropriations bill. To my dismay, then Majority Leader Mitchell, and Senator BYRD, then Chairman of the Appropriations Committee, worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the behemoth Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill, which I was pleased to cosponsor. When enough Senators sensed the growing frustration of the American people, we achieved a breakthrough in August 1996, and Kassebaum-Kennedy's vital health insurance market reforms were finally passed. There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care—such as increasing the ease of portability of health insurance coverage—but I continue to recognize that there is much more to be done. That bill's incremental approach to health care reform is what allowed it to generate bipartisan, consensus support in the Senate. We knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

I urge my colleagues to note a most important fact: the Kassebaum-Kennedy bill was enacted only after Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and Republicans abandoned their position that access to health care is not really a major problem in the United States that demands Federal action.

Perhaps the greatest recent example of the power of bipartisanship took place during the 105th Congress, with the passage of the Balanced Budget Act of 1997. This historic bipartisan agreement between Congress and the White House to balance the budget by 2002 extended the life of the vital Medicare hospital trust fund by ten years, while expanding needed benefits for seniors. The new law created a National Bipartisan Commission on the Future of Medicare to address the implications of the retirement of the Baby Boom generation, and marked the first balanced Federal budget in thirty years. This landmark accomplishment clearly would not have occurred without all members of Congress and the Administration crossing party lines, compromising, and doing what was right for the American people regardless of political affiliations.

Despite the historic nature of the Balanced Budget Act of 1997, however, many providers, hospitals, home health agencies, and insurers argued that the cuts went too deep, and that patient access and care were being compromised. In both the 105th and 106th Congresses, I supported bipartisan efforts to carefully relieve and infuse additional dollars into areas which suffered too greatly from Medicare cuts, without upsetting the delicate balance of the budget.

We must realize that if we are to continue to be successful in meeting the nation's health care needs, the solutions to the system's problems must come from the political center, not from the extremes.

I have advocated health care reform in one form or another throughout my 18 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored S. 811, the Health Care for Displaced Workers Act of 1983, and S. 2051, the Health Care Cost Containment Act of 1983, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 31 health care bills that I have sponsored since 1983 is included for the RECORD.

During the 102nd Congress, I pressed the Senate to take action on the health care market issue. On July 29, 1992, I offered an amendment to legislation then pending on the Senate floor, which included a change from 25 percent to 100 percent deductibility for health insurance purchased by self-employed individuals, and small business insurance market reforms to make health coverage more affordable for small businesses. Included in this amendment were provisions from a bill introduced by the late Senator John Chafee, legislation which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. When then-Majority Leader Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, similar to an arrangement made on product liability legislation, which had been placed on the calendar for September 8, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102nd Congress. My July 29, 1992 amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992, when it was included in a Bentsen/Durenberger amendment which I cosponsored to broader tax legislation (H.R. 11). This amendment, which included essentially the same self-employed tax deductibility and small group reforms I had proposed on July 29th of that year, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, would have lowered the cost of health care through use of the most appropriate provider, and would have improved the quality of health care.

On January 21, 1993, the first day of the 103rd Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation was comprised of reforms that our health care system could have adopted immediately. These initiatives would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18 is the principal basis of the legislation I introduced in the last three Congresses as well as this one.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators Cohen, Kassebaum, BOND, and MCCAIN, and included pieces of my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a starting point for debate. As I noted earlier, I was precluded by Majority Leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of the Environment Act (S. 171) in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy legislation, including insurance market reforms, an extension of the tax deductibility of health insurance for the self employed, and tax deductibility of long term care insurance.

I continued these efforts in the 105th Congress, with the introduction of Health Care Assurance Act of 1997 (S. 24), which included market reforms similar to my previous proposals with the addition of a new Title I, an innovative program to provide vouchers to States to cover children who lack health insurance coverage. I also introduced Title I of this legislation as a stand-alone bill, the Healthy Children's Pilot Program of 1997 (S. 435) on March 13, 1997. This proposal targeted the approximately 4.2 million children of the working poor who lacked health insurance at that time. These are children whose parents earn too much to be eligible for Medicaid, but do not earn enough to afford private health care coverage for their families. This legislation would have established a $10 billion/5 year discretionary pilot program to cover these uninsured children by providing grants to States. Modeled after Pennsylvania's extraordinarily successful Caring and BlueCHIP programs, this legislation was the first Republican-sponsored child health insurance bill during the 105th Congress.

I was encouraged that the Balanced Budget Act of 1997, signed into law on August 5, 1997, included a combination of the best provisions from many of the child health insurance proposals throughout this Congress. The new legislation allocated $24 billion over five years to establish State Child Health Insurance Programs, funded in part by a slight increase in the cigarette tax.

On the first day of the 106th Congress, I again introduced the Health Care Assurance Act of 1999, also designated S. 24. This bill contained similar insurance market reforms, as well as new provisions to augment the new State Child Health Insurance Program, to assist individuals with disabilities in maintaining quality health care coverage, and to establish a National Fund for Health Research to supplement the funding of the National Institutes of Health. All these new initiatives, as well as the market reforms that I supported previously, work toward the goals of covering more individuals and stemming the tide of rising health costs.

My commitment to the issue of health care reform across all populations has been consistently evident during my tenure in the Senate, as I have taken to this floor and offered health care reform bills and amendments on countless occasions. I will continue to stress the importance of the Federal government's investment in and attention to the system's future.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Seven and one half years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation using a remarkable device called the "Gamma Knife." I entered the hospital on the morning of October 11, 1996, and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent innovation, coming into widespread use only in the past decade.

In July 1998, I was pleased to return to the Senate after a relatively brief period of convalescence following heart bypass surgery. This experience again led me to marvel at our health care system and made me more determined than ever to support Federal funding for biomedical research and to support legislation which will incrementally make health care available to all Americans.

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. As I have previously discussed, my concern about health care began many years ago and has been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I now have the honor to chair.

My own experience as a patient has given me deeper insights into the American health care system beyond my perspective from the U.S. Senate. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; (4) our system has the resources to treat the 43.9 million Americans currently uninsured, but we must find the way to pay for it; and (5) all Americans deserve the access to health care from which I and others with coverage have benefitted.

I have long been convinced that our Federal budget of $1.8 trillion could provide sufficient funding for America's needs if we establish our real priorities. Over the past eight years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal government. The message we heard loudest was that Americans do not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed at a slower pace and to target what is not working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I had been willing to cooperate with the Clinton Administration in solving the health care problems facing our country. However, I found many important areas where I differed with President Clinton's approach to solutions and I did so because I believed that the proposals would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system as a whole. Most importantly, as the President proposed in 1993, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant, Sharon Helfant, to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy; I still receive requests for the chart nearly eight years later. Groups and associations, such as United We Stand America, the American Small Business Association, the

National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

With the history of the health care reform debate in mind and building on my previous efforts, I am again introducing an incremental bill which would provide quality health care without adversely affecting the many positive aspects of our health care system. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this trial and modification. We must be careful not to damage the positive aspects of our health care system upon which more than 194.7 million Americans justifiably rely.

The legislation I am introducing today has three objectives: (1) to provide affordable health insurance for those now not covered; (2) to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals, families, and children.

This bill includes provisions to expand the Medicaid program to cover higher income individuals than currently allowed, to encourage the formation of small group insurance purchasing arrangements, to expand access to health insurance for children, to improve health benefits for individuals with disabilities, to strengthen preventive health benefits under the Medicare program, to increase access to prenatal care and outreach for the prevention of low birth weight babies, to strengthen patients' rights regarding medical care at the end of life, to expand access to primary and preventive health services, to reform the COBRA law, to enhance our investment in outcomes research, to reduce the incidence of medical errors, and to establish a national fund for health research as a supplement to the National Institutes of Health budget.

Taken together, I believe the reforms proposed in the Health Care Assurance Act of 2001 will both improve the quality of health care delivery and will help ease the escalating costs of health care in this country.

This new initiative, which was not contained in my previous version of this legislation, would guarantee coverage for individuals earning up to 133 percent of the Federal poverty level ($11,105 for a single/$22,676 for a family of four) and would give states the option to cover individuals earning up to 200 percent of poverty ($16,700 for a single/$34,100 for a family of four). This population is generally deemed undesirable by private insurers, and since these low-income individuals are ineligible for Medicaid, they currently remain uninsured.

The provisions in this title advance the recent joint proposal by the Health Insurance Association of America and Families USA, two groups which have traditionally been on opposing ends of health policy debates. Recognizing the rising number of Americans who lack health insurance, these groups took the unprecedented step in crafting a set of basic policy goals on which Congress may build consensus and get something done for the uninsured. Currently, Medicaid only guarantees coverage for pregnant women and infants who earn up to 133 percent of the poverty level. Beyond that population, the Federal mandate varies across age, income, and disability status; for instance, there are different federal mandates for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal contributions for coverage of people ages 16–18 or for adults with children. I recognize that states may certainly choose to establish programs to cover these and other categories of low-income people, but usually will not do so without Federal help.

Title II of the bill builds on the State Child Health Insurance Program (SCHIP), the program established in the Balanced Budget Act of 1997, which allocated $24 billion over five years to increase health insurance coverage for children. The SCHIP program gives States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. This title would increase the income eligibility to families with incomes at or below 235 percent of the Federal poverty level ($40,067 annually for a family of four). The Health Care Financing Administration reported that nearly two million children were enrolled in the SCHIP program during fiscal year 1999. The Administration's goal is to enroll five million more children in the program by the end of fiscal year 2002. This provision would allow eligibility for approximately another 850,000 uninsured children.

Title III assists another of our Nation's most vulnerable populations by improving the delivery of care for individuals with long-term disabilities. This title would allow for Medicaid reimbursement for community-based attendant care services, as an alternative to institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 6.64 million individuals receive care for disabilities under the Medicaid program.

This title builds on S. 1935, legislation I introduced during the 106th Congress with Senator TOM HARKIN of Iowa. Such a change in Medicaid law is desperately needed given the Supreme Court's recent ruling in *Olmstead* v. *L.C.*, 119 S. Ct. 2176 (1999): the Americans with Disabilities Act (ADA) requires States, in some circumstances, to provide community-based treatment to persons with mental disabilities rather than placement in institutions. This decision and several lower court decisions have pointed to the need for a structured Medicaid attendant-care services benefit in order to meet obligations under the ADA.

I am pleased to report that my fiscal year 2001 Labor, HHS, and Education Appropriations bill provided $50 million for "Real Choice, Systems Change" grants for states to fund initiatives for systems improvements and to provide long term services and supports, including community-based attendant care. In addition, $20 million was provided to continue demonstration projects on Medicaid coverage of community-based attendant care services. Title III of this bill expands and authorizes the programs we have been funding as demonstration projects in order to establish a permanent infrastructure for the new benefit.

The next title contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meet a standard minimum benefits package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

Specifically, Title IV extends the COBRA benefit option from 18 months to 24 months. COBRA refers to a measure which was enacted in 1985 as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA '85) to allow employees who leave their job, either through a lay-off or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options, particularly when compared to what they would be able to buy in the individual insurance market.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductibles of either $1,000 or $3,000. This provision is incorporated from legislation introduced in the 103rd Congress by Senator PHIL GRAMM and will provide an extra cushion of coverage options for people in transition. According to Senator GRAMM, with these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

This title also includes a provision which would extend to 36 months the time period for COBRA coverage for a child who is no longer a dependent under a parent's health insurance policy. Uninsured workers tend to be concentrated among those under age 35, although the average age of uninsured workers is increasing. EBRI statistics indicate that 24 percent of young adults between the ages of 18 and 24 were without coverage in 1998. This provision would allow those who are no longer dependents on their parents' plan to have a more secure safety net.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits.

My bill would also create health insurance purchasing groups for individuals wishing to purchase health insurance on their own. In today's market, such individuals often face a market where coverage options are not affordable. Purchasing groups will allow small businesses and individuals to buy coverage by pooling together to form purchasing groups, and choose from insurance plans that provide comprehensive benefits, with guaranteed enrollment, renewability, and equal pricing through community rating, adjusted by age and family size.

Title IV of my bill also includes an important provision to give the self employed 100 percent deductibility of their health insurance premiums. The Kassebaum-Kennedy bill extended the deductibility of health insurance for the self employed to 80 percent by 2006. The Balanced Budget Act of 1997 and the Omnibus Appropriations Act for fiscal year 1999 both contained new phase-in scales for health insurance deductibility for the self-employed. Currently, self-employed persons may deduct 60 percent of their health insurance costs through 2002, to be fully deductible in 2003. My bill would speed up the phase-in: health insurance costs would be 70 percent deductible in 2001 and fully deductible in 2002, thereby giving the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.

The provisions contained in this portion of my bill are vital, as EBRI statistics tell us that 60 percent of all uninsured workers in 1998 were either self-employed or were working in small private-sector firms. The disparity is further demonstrated by the fact that 31 percent of workers in private-sector firms with fewer than 25 employees were uninsured, compared with only 13 percent of workers in private-sector firms with 1000 or more employees.

It is anticipated that the increased costs to employers electing to cover their employees as provided under Title IV in my bill would be offset by the administrative savings generated by development of the small employer purchasing groups. Such savings have been estimated at levels as high as $9 billion annually. In addition, by addressing some of the areas within the health care system that have exacerbated costs, significant savings can be achieved and then redirected toward direct health care services.

Although our existing health care system suffers from serious structural problems, common sense steps can be taken to head off the remaining problems before they reach crisis proportions. Title V of my bill includes initiatives which will enhance primary and preventive care services aimed at preventing disease.

Each year about 7.6 percent of babies born in the United States are born with a low birth weight, multiplying their risk of death and disability. Most of the deaths which do occur are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1989, and the rate decreased by 28 percent between 1988 and 1998, too many babies continue to be born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality put it this way: "More babies are being born at risk and all we are doing is saving them with expensive technology."

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw one pound babies in 1984 when I was astounded to learn that Pittsburgh, Pennsylvania, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one pound baby, about as big as my hand. However, I am pleased to report that as a result of successful prevention initiatives like the federal Healthy Start program, Pittsburgh's infant mortality has decreased 20 percent.

The Department of Health and Human Services has estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births. We know that in most instances, prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. The short and long-term costs of saving and caring for infants of low birth weight is staggering. In the most recent available study on the costs of low birth weight babies, the Office of Technology Assessment in 1988 concluded that $8 billion was expended in 1987 for the care of 262,000 low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal birth weight, averted by earlier or more frequent prenatal care.

To improve pregnancy outcomes for women at risk of delivering babies of low birth weight, my legislation would strengthen the Healthy Start program to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. Funds are awarded under this program with the goal of developing and coordinating effective health care and social support services for women and their babies.

I initiated action that led to the creation of the Healthy Start program in 1991, working with the Bush Administration and Senator HARKIN. As Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of 15 demonstration projects. This number grew to 22 in 1994, to 75 projects in 1998, and the Health Resources and Services Administration expects this number to continue to increase. For both fiscal years 2000 and 2001, we secured $90 million for this vital program.

Title V also provides increased support to local educational agencies to develop and strengthen comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers. Many studies indicate that poor health and social habits are carried into adulthood and often passed on to the next generation. To interrupt this tragic cycle, our nation must invest in proven preventive health education programs.

Title V also expands the authorization of a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As Chairman of the Labor, HHS and Education Appropriations Subcommittee, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention (CDC) increased $2.92 billion or 290 percent since 1989, for a fiscal year 2001 total of $3.92 billion. We have also worked to increase funding for CDC's breast and cervical cancer early detection program to $176 million in fiscal year 2001, almost one and a half times its 1993 total.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2 year olds are vaccinated. The CDC also continues to educate parents and caregivers on the importance of immunization for children under two years. Along with my colleagues on the Appropriations Committee, I have helped ensure that funding for this important program totaled $532.5 million for fiscal year 2001. The CDC's lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents the amount of lead in children's blood from reaching dangerous levels and is currently funded at $36 million.

In recent years, we have also strengthened funding for Community Health Centers, which provide immunizations, health advice, and health professions training. These Centers, administered by the Health Resources and Services Administration, provide a critical primary care safety net to rural and medically underserved communities, as well as uninsured individuals, migrant workers, the homeless, residents of public housing, and Medicaid recipients. For fiscal year 2001, these Centers received over $1.2 billion.

As former Chairman of the Select Committee on Intelligence and current Chairman of the Appropriations Subcommittee with jurisdiction over nondefense biomedical research, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for a research consortium led by the University of Pennsylvania to perform the first clinical trials testing the use of intelligence technology for breast cancer detection. My Appropriations Subcommittee has continued to provide funds to continue these clinical trials.

I have also been a strong supporter of funding for AIDS research, education, and prevention programs. Funding for Ryan White AIDS programs has increased from $757.4 million in 1996 to $1.6 billion for fiscal year 2001. Within the fiscal year 2001 funding, $65 million was included for pediatric AIDS programs and $589 million for the AIDS Drug Assistance Program (ADAP). AIDS research at the NIH totaled $742.4 million in 1989, and has increased to an estimated $2.1 billion in fiscal year 2001.

The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. The Balanced Budget Act of 1997 and the Consolidated Omnibus Appropriations Act of fiscal year 2001 established new and enhanced preventive benefits within the Medicare program, such as flu shots, bone mass measurements, yearly mammograms, biennial pap smears and pelvic exams, and coverage of colonoscopy for high risk patients. However, some of these "wellness" benefits have cost obligations, such as copayments or deductibles. In this bill, I have also included provisions which refine and strengthen preventive benefits within the Medicare program, including coverage of yearly pap smears, pelvic exams, and screening and diagnostic mammography with no copayment or Part B deductible; and coverage of insulin pumps for certain Type I Diabetics.

The proposed expansions in preventive health services included in Title V of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over five years. It is clearly difficult to quantify today the savings that will surely be achieved when future generations of children are truly educated in a range of health-related subjects.

Title VI of my bill would establish a federal standard and create uniform national forms concerning a patient's right to decline medical treatment. Nothing in my bill mandates the use of uniform forms. Rather, the purpose of this provision is to make it easier for individuals to make their own choices and determination regarding their treatment during this vulnerable and highly personal time. Studies have also indicated that advance directives do not increase health care costs. Data indicate that end-of-life costs account for 10 percent of total health expenditures and 28 percent of total Medicare expenditures. Loose projections indicate that a 10 percent savings made in the final days of life would result in approximately $10 billion of savings in medical costs per year, and about $4.7 billion in savings for Medicare alone.

However, economic considerations are not and should not be the primary reasons for using advance directives. They provide a means for patients to exercise their autonomy over end-of-life decisions. A study done at the Thomas Jefferson University Medical College in Philadelphia cited research which found that about 90 percent of the American population has expressed interest in discussing advance directives. However, even more recent studies indicate that living wills would be used by many more Americans if they were better understood. My bill would provide information on an individual's rights regarding living wills and advanced directives, and would make it easier for people to have their wishes known and honored. In my view, no one has the right to decide for anyone else what constitutes appropriate medical treatment to prolong a person's life. Encouraging the use of advance directives will ensure that patients are not needlessly and unlawfully treated against their will. No health care provider would be permitted to treat an adult contrary to the adult's wishes as outlined in an advance directive. However, in no way would the use of advance directives condone assisted suicide or any affirmative act to end human life.

The next title addresses the unique barriers to coverage which exist in both rural and urban medically underserved areas. Within Pennsylvania, such barriers result from a lack of health care providers in rural areas, and other problems associated with the lack of coverage for indigent populations living in inner cities. Title VII of my bill improves access to health care services for these populations by: (1) expanding Public Health Service programs and training more primary care providers to serve in such areas; (2) increasing the utilization of nonphysician providers, including nurse practitioners, clinical nurse specialists and physician assistants, through increased reimbursements under the Medicare and Medicaid programs; and (3) increasing support for education and outreach.

I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of Canada, it may not be unreasonable to project annual savings of five percent, or $57.5 billion, from an increased number of primary care providers in our system. Again, experience will raise or lower this projection.

Outcomes research is another area where we can achieve considerable long term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary.

I joined my colleagues in recognizing this important area of research by supporting passage of legislation reauthorizing the Agency for Healthcare Research and Quality (formerly the Agency for Health Care Policy and Research. The renamed agency, dubbed "AHRQ," is authorized to expand outcomes research necessary for the development of medical practice guidelines and for increased access to consumer information. In order to boost funding for this vital area of research, title VIII of my bill would establish a trust fund for medical treatment outcomes research, capitalized by a .001 cent tax on total U.S. health insurance premiums collected. This trust fund would be specifically authorized for use by AHRQ to supplement its outcomes research mission. Based on the Health Care Financing Administration's 1998 health spending review, private health insurance premiums totaled $375 billion. As provided in my bill, a surcharge would generate $375 million for an outcomes research fund.

Also included in this title is my "Medical Errors Reduction Act," which I introduced in the 106th Congress with Senators HARKIN and INOUYE, in response to the November 29, 1999, Institute of Medicine (IOM) report, "To Err Is Human: Building a Safer Health System." The report concluded that medical mistakes have led to numerous injuries and deaths, affecting an estimated three to four percent of all hospital patients. The IOM report also concluded that health care is a decade or more behind other high-risk industries in its attention to ensuring basic safety.

According to the IOM, at least 44,000 Americans die each year as a result of medical errors, and the number may be as high as 98,000—which catapults medical errors to the fifth leading cause of death nationwide. This total outnumbers deaths from motor vehicle accidents, breast cancer, and AIDS. Further, medical errors resulting in injury are estimated to cost the nation between $17 billion and $29 billion including additional health care costs, lost income, lost household production, and disability costs.

The IOM findings are startling and beg for national attention to determine ways to reduce the number of medical errors. On December 13, 1999, I chaired a hearing of the Labor, HHS, Education Appropriations Subcommittee to hear details of IOM's report findings. On January 25, 2000, I chaired a joint Labor, HHS, and Education Appropriations Subcommittee/Veterans' Affairs Committee hearing to consider mandatory and voluntary reporting requirements and to begin to determine ways to reduce medical errors.

Specifically, my proposal would make grants available to states so they can establish their own error reporting systems and would establish 15 competitively-awarded research demonstration projects in rural and urban areas throughout the country. These projects would employ new and proven technologies and enhance staff training to determine ways to reduce errors. The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by Federal health plans.

I am pleased to report that my Appropriations Subcommittee has already taken some critical first steps to reduce the incidence of deaths and injuries related to medical errors. In fiscal year 2001, $50 million has been provided to explore opportunities for a better understanding of the systemic problems in health care, in the hope that we can dramatically reduce the incidence of medical errors. The research initiatives include a focus on developing guidance to assist in States' development of data collection systems so that national trends can be determined and analyzed. In addition, the Committee has encouraged health care providers to explore the use of technologies and other methods in reducing medical errors.

Nursing home care is another significant issue which must be addressed. Spending on long term care totaled $115 billion in 1997, and over 40 percent of that cost was borne by the Medicaid program. Despite these large public expenditures, the elderly face significant uncovered liability for long term care. Title IX of my bill would provide a tax credit for premiums paid to purchase private long-term care insurance. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding from income tax the life insurance savings used to pay for long term care; and (3) setting standards for long term care insurance that reduce the bias that currently favors institutional care over community and home-based alternatives.

The final title of my bill would create a national fund for health research within the Department of the Treasury, to supplement the monies appropriated for the National Institutes of Health. To capitalize this fund, health insurance companies would be required to contribute 1 percent of all health insurance premiums received. This creative proposal was first developed by my distinguished colleagues, Senators MARK HATFIELD and TOM HARKIN. Their idea is a sound one and ought to be adopted. To this end, Senator HARKIN and I introduced the National Fund for Health Research Act on March 13, 1997 (S. 441) and August 5, 1999 (S. 1504). I look forward to continuing to work with Senator HARKIN to enact a biomedical research fund this Congress.

While precision is again impossible, my proposal could conceivably achieve a net annual savings of between $74 billion to $86 billion. The savings are totaled as follows: $9 billion in small employer market reforms coupled with employer purchasing groups; $2.5 billion for preventive health services; $17 to $29 billion for reducing costs associated with reducing medical errors; $10 billion from advanced directives; $57.5 billion from increasing primary care providers; and $2.9 billion by reducing administrative costs. The costs would be conservatively estimated to be $2.8 billion for long term care tax credits, approximately $15 billion for community-based attendant care services under Medicaid, and $7 billion for general Medicaid expansion. Experience and more detailed analysis of the affected populations will require modification of these projections, and I am prepared to work with my colleagues to develop implementing legislation and to press for further action in the important area of health care reform.

The provisions which I have outlined today contain my ideas for a framework to provide affordable, high quality health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. In my judgment, we should not scrap, but rather we should build upon our current health delivery system. We do not need the overwhelming bureaucracy that President Clinton and other Democratic leaders proposed in 1993 to accomplish this. I believe we can provide care for the 43.9 million Americans who are now not covered and reduce health care costs for those who are covered within the currently growing $1.15 trillion in health care spending. Mr. President, the time has come for concerted action in this arena.

I urge the Congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly. I ask unanimous consent that the full text of the bill, a summary, and a list of my health reform bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Assurance Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS

Sec. 101. Expanded medicaid coverage for low-income individuals.

TITLE II—EXPANSION OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Sec. 201. Increase in income eligibility.

TITLE III—EXPANDED HEALTH SERVICES FOR DISABLED INDIVIDUALS

Sec. 301. Coverage of community-based attendant services and supports under the medicaid program.
Sec. 302. Grants to develop and establish real choice systems change initiatives.
Sec. 303. State option for eligibility for individuals.
Sec. 304. Studies and reports.
Sec. 305. Task force on financing of long-term care services.

TITLE IV—HEALTH CARE INSURANCE COVERAGE

Subtitle A—General Provisions

Sec. 401. Amendments to the Employee Retirement Income Security Act of 1974.
Sec. 402. Amendments to the Public Health Service Act relating to the group market.
Sec. 403. Amendment to the Public Health Service Act relating to the individual market.
Sec. 404. Effective date.

Subtitle B—Tax Provisions

Sec. 411. Enforcement with respect to health insurance issuers.
Sec. 412. Enforcement with respect to small employers.
Sec. 413. Enforcement by excise tax on qualified associations.
Sec. 414. Deduction for health insurance costs of self-employed individuals.
Sec. 415. Amendments to COBRA.

TITLE V—PRIMARY AND PREVENTIVE CARE SERVICES

Sec. 501. Improvement of medicare preventive care services.
Sec. 502. Authorization of appropriations for healthy start program.
Sec. 503. Reauthorization of certain programs providing primary and preventive care.
Sec. 504. Comprehensive school health education program.
Sec. 505. Comprehensive early childhood health education program.
Sec. 506. Adolescent family life and abstinence.

TITLE VI—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

Sec. 601. Patient's right to decline medical treatment.

TITLE VII—PRIMARY AND PREVENTIVE CARE PROVIDERS

Sec. 701. Increased medicare reimbursement for physician assistants, nurse practitioners, and clinical nurse specialists.
Sec. 702. Requiring coverage of certain nonphysician providers under the medicaid program.
Sec. 703. Medical student tutorial program grants.
Sec. 704. General medical practice grants.

TITLE VIII—SAFE AND COST-EFFECTIVE MEDICAL TREATMENT

Sec. 801. Enhancing investment in cost-effective methods of health care.
Sec. 802. Medical Errors Reduction.

TITLE IX—TAX INCENTIVES FOR PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE

Sec. 901. Credit for qualified long-term care premiums.
Sec. 902. Inclusion of qualified long-term care insurance in cafeteria plans and flexible spending arrangements.
Sec. 903. Exclusion from gross income for amounts received on cancellation of life insurance policies and used for qualified long-term care insurance contracts.
Sec. 904. Use of gain from sale of principal residence for purchase of qualified long-term health care insurance.

TITLE X—NATIONAL FUND FOR HEALTH RESEARCH

Sec. 1001. Establishment of Fund.

TITLE I—EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS

SEC. 101. EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS.

(a) REQUIRED COVERAGE OF INDIVIDUALS UP TO 133 PERCENT OF POVERTY.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(1) by striking "or" at the end of subclause (VI);

(2) by inserting "or" after the semicolon at the end of subclause (VII); and

(3) by adding at the end the following:

"(VIII) whose family income does not exceed 133 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;".

(b) OPTIONAL COVERAGE OF INDIVIDUALS UP TO 200 PERCENT OF POVERTY.—Section 1902(a)(10)(A)(i)(VIII) of the Social Security Act, as added by subsection (a)(3), is amended by inserting "(200 percent, at State option)" after "133 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section take effect on October 1, 2001.

(2) EXTENSION IF STATE LAW AMENDMENT REQUIRED.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE II—EXPANSION OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SEC. 201. INCREASE IN INCOME ELIGIBILITY.

(a) DEFINITION OF LOW-INCOME CHILD.—Section 2110(c)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1397jj(c)(4)) is amended by striking "200" and inserting "235".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2001.

TITLE III—EXPANDED HEALTH SERVICES FOR DISABLED INDIVIDUALS

SEC. 301. COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) REQUIRED COVERAGE FOR INDIVIDUALS ENTITLED TO NURSING FACILITY SERVICES OR ELIGIBLE FOR INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting "(i)" after "(D)";

(2) by adding "and" after the semicolon; and

(3) by adding at the end the following:

"(ii) subject to section 1935, for the inclusion of community attendant services and supports for any individual who is eligible for medical assistance under the State plan and with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan) and who requires such community attendant services and supports based on functional need and without regard to age or disability;".

(b) MEDICAID COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following:

"community attendant services and supports

"SEC. 1935. (a) DEFINITIONS.—In this title:

"(1) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

"(A) IN GENERAL.—The term 'community attendant services and supports' means attendant services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

"(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

"(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility, an intermediate care facility for the mentally retarded, or other congregate facility;

"(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

"(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative.

"(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

"(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

"(ii) acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

"(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

"(iv) voluntary training on how to select, manage, and dismiss attendants.

"(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

"(i) provision of room and board for the individual;

"(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

"(iii) assistive technology devices and assistive technology services;

"(iv) durable medical equipment; or

"(v) home modifications.

"(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first months's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

"(2) ADDITIONAL DEFINITIONS.—

"(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

"(B) CONSUMER DIRECTED.—The term 'consumer directed' means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community attendant services and supports, regardless of who acts as the employer of record.

"(C) DELIVERY MODELS.—

"(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community attendant services and supports for an individual, a method of providing consumer-directed services and supports under which entities contract for the provision of such services and supports.

"(ii) OTHER MODELS.—The term 'other models' means methods, other than an agency-provider model, for the provision of consumer-directed services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

"(D) HEALTH-RELATED FUNCTIONS.—The term 'health-related functions' means functions that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

"(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes meal planning and preparation, managing finances, shopping for food, clothing and other essential items, performing essential household chores, communicating by phone and other media, and getting around and participating in the community.

"(F) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.

"(b) LIMITATION ON AMOUNTS OF EXPENDITURES UNDER THIS TITLE.—In carrying out section 1902(a)(10)(D)(ii), a State shall permit an individual who has a level of severity of physical or mental impairment that entitles such individual to medical assistance with respect to nursing facility services or qualifies the individual for intermediate care facility services for the mentally retarded to choose to receive medical assistance for community attendant services and supports (rather than medical assistance for such institutional services and supports), in the most integrated setting appropriate to the needs of the individual, so long as the aggregate amount of the Federal expenditures for community attendant services and supports for all such individuals in a fiscal year does not exceed the total that would have been expended for such individuals to receive such institutional services and supports in the year.

"(c) MAINTENANCE OF EFFORT.—With respect to a fiscal year quarter, no Federal funds may be paid to a State for medical assistance provided to individuals described in section 1902(a)(10)(D)(ii) for such fiscal year quarter if the Secretary determines that the total of the State expenditures for programs to enable such individuals with disabilities to receive community attendant services and supports (or services and supports that are similar to such services and supports) under other provisions of this title for the preceding fiscal year quarter is less than the total of such expenditures for the same fiscal year quarter for the preceding fiscal year.

"(d) STATE QUALITY ASSURANCE PROGRAM.—In order to continue to receive Federal financial participation for providing community attendant services and supports under this section, a State shall, at a minimum, establish and maintain a quality assurance program that provides for the following:

"(1) The State shall establish requirements, as appropriate, for agency-based and other models that include—

"(A) minimum qualifications and training requirements, as appropriate for agency-based and other models;

"(B) financial operating standards; and

"(C) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

"(2) The State shall modify the quality assurance program, where appropriate, to maximize consumer independence and consumer direction in both agency-provided and other models.

"(3) The State shall provide a system that allows for the external monitoring of the quality of services by entities consisting of consumers and their representatives, disability organizations, providers, family, members of the community, and others.

"(4) The State provides ongoing monitoring of the health and well-being of each recipient.

"(5) The State shall require that quality assurance mechanisms appropriate for the individual should be included in the individual's written plan.

"(6) The State shall establish a process for mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation.

"(7) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which a participant receives the services and supports described in the individual's plan and the participant's satisfaction with such services and supports.

"(8) The State shall make available to the public the findings of the quality assurance program.

"(9) The State shall establish an on-going public process for the development, implementation, and review of the State's quality assurance program.

"(10) The State shall develop and implement a program of sanctions.

"(e) FEDERAL ROLE IN QUALITY ASSURANCE.—The Secretary shall conduct a periodic sample review of outcomes for individuals based upon the individual's plan of support and based upon the quality assurance program of the State. The Secretary may conduct targeted reviews upon receipt of allegations of neglect, abuse, or exploitation. The Secretary shall develop guidelines for States to use in developing sanctions.

"(f) REQUIREMENT TO EXPAND ELIGIBILITY.—Effective October 1, 2002, a State may not exercise the option of coverage of individuals under section 1902(a)(10)(A)(ii)(V) without providing coverage under section 1902(a)(10)(A)(ii)(VI).

"(g) REPORT ON IMPACT OF SECTION.—The Secretary shall submit to Congress periodic reports on the impact of this section on beneficiaries, States, and the Federal Government.".

(c) INCLUSION IN OPTIONAL ELIGIBILITY CLASSIFICATION.—Section 1902(a)(10)(A)(ii)(VI) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by inserting "or community attendant services and supports described in section 1935" after "section 1915" each place such term appears.

(d) COVERAGE AS MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking "and" at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

"(27) community attendant services and supports (to the extent allowed and as defined in section 1935); and".

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting "and (27)" after "(24)".

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2001, and apply to medical assistance provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

SEC. 302. GRANTS TO DEVELOP AND ESTABLISH REAL CHOICE SYSTEMS CHANGE INITIATIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall award grants described in subsection (b) to States for a fiscal year to support real choice systems change initiatives that establish specific action steps and specific timetables to provide consumer-responsive long term services and supports to eligible individuals in the most integrated setting appropriate based on the unique strengths and needs of the individual and the priorities and concerns of the individual (or, as appropriate, the individual's representative).

(2) ELIGIBILITY.—To be eligible for a grant under this section, a State shall—

(A) establish the Consumer Task Force in accordance with subsection (d); and

(B) submit an application at such time, in such manner, and containing such information as the Secretary may determine. The application shall be jointly developed and signed by the designated State official and the chairperson of such Task Force, acting on behalf of and at the direction of the Task Force.

(3) DEFINITION OF STATE.—In this section, the term "State" means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) GRANTS FOR REAL CHOICE SYSTEMS CHANGE INITIATIVES.—

(1) In general.—From funds appropriated under subsection (g), the Secretary shall award grants to States for a fiscal year to—

(A) support the establishment, implementation, and operation of the State real choice systems change initiatives described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such initiatives.

(2) Determination of awards; state allotments.—The Secretary shall develop a formula for the distribution of funds to States for each fiscal year under subsection (a). Such formula shall give preference to States that have a relatively higher proportion of long-term services and supports furnished to individuals in an institutional setting but who have a plan described in an application submitted under subsection (a)(2).

(c) Authorized Activities.—A State that receives a grant under this section shall use the funds made available through the grant to accomplish the purposes described in subsection (a) and, in accomplishing such purposes, may carry out any of the following systems change activities:

(1) Needs assessment and data gathering.—The State may use funds to conduct a statewide needs assessment that may be based on data in existence on the date on which the assessment is initiated and may include information about the number of individuals within the State who are receiving long-term services and supports in unnecessarily segregated settings, the nature and extent to which current programs respond to the preferences of individuals with disabilities to receive services in home and community-based settings as well as in institutional settings, and the expected change in demand for services provided in home and community settings as well as institutional settings.

(2) Institutional bias.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings, including policies, practices, and procedures governing statewideness, comparability in amount, duration, and scope of services, financial eligibility, individualized functional assessments and screenings (including individual and family involvement), and knowledge about service options.

(3) Over medicalization of services.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports by health care professionals to the extent that quality services and supports can be provided by other qualified individuals, including policies, practices, and procedures governing service authorization, case management, and service coordination, service delivery options, quality controls, and supervision and training.

(4) Interagency coordination; single point of entry.—The State may support activities to identify and coordinate Federal and State policies, resources, and services, relating to the provision of long-term services and supports, including the convening of interagency work groups and the entering into of interagency agreements that provide for a single point of entry and the design and implementation of a coordinated screening and assessment system for all persons eligible for long-term services and supports.

(5) Training and technical assistance.—The State may carry out directly, or may provide support to a public or private entity to carry out training and technical assistance activities that are provided for individuals with disabilities, and, as appropriate, their representatives, attendants, and other personnel (including professionals, paraprofessionals, volunteers, and other members of the community).

(6) Public awareness.—The State may support a public awareness program that is designed to provide information relating to the availability of choices available to individuals with disabilities for receiving long-term services and support in the most integrated setting appropriate.

(7) Downsizing of large institutions.—The State may use funds to support the per capita increased fixed costs in institutional settings directly related to the movement of individuals with disabilities out of specific facilities and into community-based settings.

(8) Transitional costs.—The State may use funds to provide transitional costs described in section 1935(a)(1)(D) of the Social Security Act, as added by section 301(b) of this Act.

(9) Task force.—The State may use funds to support the operation of the Consumer Task Force established under subsection (d).

(10) Demonstrations of new approaches.—The State may use funds to conduct, on a time-limited basis, the demonstration of new approaches to accomplishing the purposes described in subsection (a).

(11) Other activities.—The State may use funds for any systems change activities that are not described in any of the preceding paragraphs of this subsection and that are necessary for developing, implementing, or evaluating the comprehensive statewide system of long term services and supports.

(d) Consumer Task Force.—

(1) Establishment and duties.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this section as the "Task Force") to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) Appointment.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(3) Composition.—

(A) In general.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, State Independent Living Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) Individuals with disabilities.—A majority of the members of the Task Force shall be individuals with disabilities or the representatives of such individuals.

(C) Limitation.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of agencies described in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

(e) Availability of Funds.—

(1) Funds allotted to states.—Funds allotted to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) Funds not allotted to states.—Funds not allotted to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allotment by the Secretary using the allotment formula established by the Secretary under subsection (b)(2).

(f) Annual Report.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of eligible individuals in the State who receive long-term services and supports in the most integrated setting appropriate, including through community attendant services and supports and other community-based settings.

(g) Appropriation.—Out of any funds in the Treasury not otherwise appropriated, there is authorized to be appropriated and there is appropriated to make grants under this section for—

(1) fiscal year 2002, $25,000,000; and

(2) for fiscal year 2003 and each fiscal year thereafter, such sums as may be necessary to carry out this section.

SEC. 303. STATE OPTION FOR ELIGIBILITY FOR INDIVIDUALS.

(a) In General.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)) is amended—

(1) in paragraph (4)(C), by inserting "subject to paragraph (5)," after "does not exceed", and

(2) by adding at the end the following:

"(5)(A) A State may waive the income, resources, and deeming limitations described in paragraph (4)(C) in such cases as the State finds the potential for employment opportunities would be enhanced through the provision of medical assistance for community attendant services and supports in accordance with section 1935.

"(B) In the case of an individual who is eligible for medical assistance described in subparagraph (A) only as a result of the application of such subparagraph, the State may, notwithstanding section 1916(b), impose a premium based on a sliding scale related to income.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to medical assistance provided for community attendant services and supports described in section 1935 of the Social Security Act, as added by section 301(b) of this Act, furnished on or after October 1, 2001.

SEC. 304. STUDIES AND REPORTS.

(a) Review of, and Report on, Regulations.—The National Council on Disability established under title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) shall review regulations in existence under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on the date of enactment of this Act insofar as such regulations regulate the provision of home health services, personal care services, and other services in home and community-based settings and, not later than 1 year after such date, submit a report to Congress on the results of such study, together with any recommendations for legislation that the Council determines to be appropriate as a result of the study.

(b) Report on Reduced Title XIX Expenditures.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on how expenditures under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)

can be reduced by the furnishing of community attendant services and supports in accordance with section 1935 of the Social Security Act (as added by section 301(b) of this Act).

SEC. 305. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

The Secretary of Health and Human Services shall establish a task force to examine appropriate methods for financing long-term services and supports. The task force shall include significant representation of individuals (and representatives of individuals) who receive such services and supports.

TITLE IV—HEALTH CARE INSURANCE COVERAGE

Subtitle A—General Provisions

SEC. 401. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B, the following:

"Subpart C—General Insurance Coverage Reforms

"CHAPTER 1—INCREASED AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE

"SEC. 721. DEFINITION.

"As used in this subpart, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 721A(b)).

"SEC. 721A. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

"(a) Set of Rules of Actuarial Equivalence.—

"(1) Initial determination.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this subpart, a set of rules which the NAIC determines is sufficient for determining, in the case of any group health plan, or a health insurance issuer offering group health insurance coverage, and for purposes of this section, the actuarial value of the coverage offered by the plan or coverage.

"(2) Certification.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this subpart. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

"(b) Standard Coverage.—

"(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall be considered to provide standard coverage consistent with this subsection if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

"(2) Initial determination of target actuarial value for standard coverage.—

"(A) Initial determination.—

"(i) In general.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this subpart, a target actuarial value for standard coverage equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be considered in such determination by this subpart or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors.

"(ii) Coverage described.—The coverage described in this clause is coverage for medically necessary and appropriate services consisting of medical and surgical services, medical equipment, preventive services, and emergency transportation in frontier areas. No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this subpart or through regulations.

"(B) Certification.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such value for use under this chapter. If the Secretary determines that a target actuarial value has not been submitted or does not comply with the requirements of subparagraph (A), the Secretary shall promptly determine a target actuarial value that meets such requirements.

"(c) Subsequent Revisions.—

"(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The provisions of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

"(2) Secretary.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

"SEC. 721B. ESTABLISHMENT OF PLAN STANDARDS.

"(a) Establishment of General Standards.—

"(1) Role of naic.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this subpart, model regulations that specify standards for making qualified group health plans available to small employers. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary. Such standards shall be nonbinding (except as provided in chapter 4).

"(2) Contingency.—If the NAIC does not develop such model regulations within the period described in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this subpart, model regulations that specify standards for insurers with regard to making qualified group health plans available to small employers. Such standards shall be nonbinding (except as provided in chapter 4).

"(3) Effective date.—The standards specified in the model regulations shall apply to group health plans and health insurance issuers offering group health insurance coverage in a State on or after the respective date the standards are implemented in the State.

"(b) No Preemption of State Law.—A State may implement standards for group health plans available, and health insurance issuers offering group health insurance coverage offered, to small employers that are more stringent than the standards under this section, except that a State may not implement standards that prevent the offering of at least one group health plan that provides standard coverage (as described in section 721A(b)).

"SEC. 721C. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

"(a) Standard Premiums With Respect to Community-Rated Eligible Employees and Eligible Individuals.—

"(1) In general.—Each group health plan offered, and each health insurance issuer offering group health insurance coverage, to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 721A(b)).

"(2) Establishment of community rating area.—

"(A) In general.—Not later than January 1, 2002, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

"(B) Geographic area variations.—For purposes of subparagraph (A), a State—

"(i) may not identify an area that divides a 3-digit zip code, a county, or all portions of a metropolitan statistical area;

"(ii) shall not permit premium rates for coverage offered in a portion of an interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

"(iii) may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

"(3) Eligible individuals.—For purposes of this section, the term 'eligible individuals' includes certain uninsured individuals (as described in section 721G).

"(b) Uniform Premiums Within Community Rating Areas.—

"(1) In general.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

"(2) Application to enrollees.—

"(A) In general.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

"(i) the standard premium (established under paragraph (1));

"(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

"(iii) the age adjustment factor (specified under subparagraph (C)).

"(B) Family adjustment factor.—

“(i) In general.—The standards established under section 721B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

“(ii) Classes of enrollment.—For purposes of this subpart, there are 4 classes of enrollment:

“(I) Coverage only of an individual (referred to in this subpart as the ‘individual’ enrollment or class of enrollment).

“(II) Coverage of a married couple without children (referred to in this subpart as the ‘couple-only’ enrollment or class of enrollment).

“(III) Coverage of an individual and one or more children (referred to in this subpart as the ‘single parent’ enrollment or class of enrollment).

“(IV) Coverage of a married couple and one or more children (referred to in this subpart as the ‘dual parent’ enrollment or class of enrollment).

“(iii) References to family and couple classes of enrollment.—In this subpart:

“(I) Family.—The terms ‘family enrollment’ and ‘family class of enrollment’ refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

“(II) Couple.—The term ‘couple class of enrollment’ refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

“(iv) Spouse; married; couple.—

“(I) In general.—In this subpart, the terms ‘spouse’ and ‘married’ mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

“(II) Couple.—The term ‘couple’ means an individual and the individual’s spouse.

“(C) Age adjustment factor.—The Secretary, in consultation with the NAIC, shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

“(3) Administrative charges.—

“(A) In general.—In accordance with the standards established under section 721B, a group health plan which covers eligible employees and eligible individuals may add a separately-stated administrative charge which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the same method of enrollment. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a group health plan.

“(B) Enrollment through a qualified small employer purchasing group.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge of such plan for enrollment other than through a qualified small employer purchasing group in such area.

“(c) Treatment of Negotiated Rate as Community Rate.—Notwithstanding any other provision of this section, a group health plan and a health insurance issuer offering health insurance coverage that negotiates a premium rate (exclusive of any administrative charge described in subsection (b)(3)) with a qualified small employer purchasing group in a community rating area shall charge the same premium rate to all eligible employees and eligible individuals.

“SEC. 721D. RATING PRACTICES AND PAYMENT OF PREMIUMS.

“(a) Full Disclosure of Rating Practices.—

“(1) In general.—A group health plan and a health insurance issuer offering health insurance coverage shall fully disclose rating practices for the plan to the appropriate certifying authority.

“(2) Notice on expiration.—A group health plan and a health insurance issuer offering health insurance coverage shall provide for notice of the terms for renewal of a plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

“(3) Actuarial certification.—Each group health plan and health insurance issuer offering health insurance coverage shall file annually with the appropriate certifying authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the group health plan or issuer certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such plan or insurer and methods used by the plan or insurer in establishing premium rates and administrative charges for group health plans—

“(A) such plan or insurer is in compliance with the applicable provisions of this subpart; and

“(B) the rating methods are actuarially sound.

Each plan and insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

“(b) Payment of Premiums.—

“(1) In general.—With respect to a new enrollee in a group health plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

“(2) Notification of failure to receive premium.—If a group health plan or a health insurance issuer offering health insurance coverage fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan involved, the plan or issuer shall provide notice of such failure to the employee or individual within the 20-day period after the date on which such premium payment was due. A plan or issuer may not terminate the enrollment of an eligible employee or eligible individual unless such employee or individual has been notified of any overdue premiums and has been provided a reasonable opportunity to respond to such notice.

“SEC. 721E. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

“(a) Qualified Small Employer Purchasing Groups Described.—

“(1) In general.—A qualified small employer purchasing group is an entity that—

“(A) is a nonprofit entity certified under State law;

“(B) has a membership consisting solely of small employers;

“(C) is administered solely under the authority and control of its member employers;

“(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as appropriate for such a group;

“(E) offers a program under which qualified group health plans are offered to eligible employees and eligible individuals through its member employers and to certain uninsured individuals in accordance with section 721D; and

“(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

“(i) does not form or underwrite; and

“(ii) does not hold or control any right to vote with respect to.

“(2) State certification.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certification and otherwise ensure compliance with the requirements of this subpart.

“(3) Special rule.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State as meeting the requirements of paragraph (1) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

“(b) Board of Directors.—Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

“(c) Domiciliary State.—For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

“(d) Membership.—

“(1) In general.—A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

“(2) Voting.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

“(e) Duties of Qualified Small Employer Purchasing Groups.—Each qualified small employer purchasing group shall—

“(1) enter into agreements with insurers offering qualified group health plans;

“(2) enter into agreements with small employers under section 721F;

“(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 721G;

“(4) provide enrollee information to the State;

“(5) meet the marketing requirements under section 721I; and

“(6) carry out other functions provided for under this subpart.

“(f) Limitation on Activities.—A qualified small employer purchasing group shall not—

“(1) perform any activity involving approval or enforcement of payment rates for providers;

“(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified group health plans with the requirements of this subpart;

“(3) assume financial risk in relation to any such health plan; or

“(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this subpart.

“(g) Rules of Construction.—

"(1) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

"(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

"(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

"(2) SINGLE ORGANIZATION SERVING MULTIPLE AREAS AND STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

"(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified group health plan exclusively through a qualified small employer purchasing group.

"SEC. 721F. AGREEMENTS WITH SMALL EMPLOYERS.

"(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

"(b) PAYROLL DEDUCTION.—

"(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee's wages.

"(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

"SEC. 721G. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED GROUP HEALTH PLANS.

"(a) IN GENERAL.—Each qualified small employer purchasing group shall offer—

"(1) eligible employees,

"(2) eligible individuals, and

"(3) certain uninsured individuals,

the opportunity to enroll in any qualified group health plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

"(b) UNINSURED INDIVIDUALS.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

"SEC. 721H. RECEIPT OF PREMIUMS.

"(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified group health plan shall be equal to the sum of—

"(1) the premium rate offered by such health plan;

"(2) the administrative charge for such health plan; and

"(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

"(b) DISCLOSURE OF PREMIUM RATES AND ADMINISTRATIVE CHARGES.—Each qualified small employer purchasing group shall, prior to the time of enrollment, disclose to enrollees and other interested parties the premium rate for a qualified group health plan, the administrative charge for such plan, and the administrative charge of the group, separately.

"SEC. 721I. MARKETING ACTIVITIES.

"Each qualified small employer purchasing group shall market qualified group health plans to members through the entire community rating area served by the purchasing group.

"SEC. 721J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

"(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

"(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

"(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating a qualified small employer purchasing group. Such costs may include the costs associated with—

"(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

"(2) soliciting bids and negotiating with insurers to make available group health plans;

"(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

"(4) such other activities determined appropriate by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this section such sums as may be necessary.

"SEC. 721K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

"A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

"SEC. 721L. EFFECTIVE DATES.

"(a) IN GENERAL.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this subpart.

"(b) EXCEPTION.—The provisions of section 721C(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this subpart.

"CHAPTER 2—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES AND DEPENDENTS OF SMALL EMPLOYERS

"SEC. 722. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

"(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

"(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

"(2) coverage is provided for at least the standard coverage specified in section 721A(b); and

"(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

"(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

"(c) SPECIAL RULES.—

"(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

"(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

"(B) such employer has no more than 2 eligible employees; or

"(C) no more than 2 eligible employees are not covered under any group health plan.

"(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

"(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

"(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

"SEC. 722A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

"(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 722(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

"(b) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if—

"(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

"(2) coverage is provided for at least the standard coverage specified in section 721A(b);

"(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction; and

``(4) in the case of a plan to which part 1 does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) in the form and manner and at such times as are required under such part 1 with respect to employee welfare benefit plans.

“CHAPTER 3—REQUIRED COVERAGE OPTIONS FOR INDIVIDUALS INSURED THROUGH ASSOCIATION PLANS

“Subchapter A—Qualified Association Plans

“SEC. 723. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

``(a) GENERAL RULE.—For purposes of this chapter, in the case of a qualified association plan—

``(1) except as otherwise provided in this subchapter, the plan shall meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

``(2) if such plan is certified as meeting such requirements and the requirements of this subchapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

``(3) any individual who is a member of the association not enrolling in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

``(b) ELECTION TO BE TREATED AS PURCHASING COOPERATIVE.—Subsection (a) shall not apply to a qualified association plan if—

``(1) the health insurance issuer makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of section 721D; and

``(2) such sponsor meets all requirements of this subpart applicable to a purchasing cooperative.

“SEC. 723A. QUALIFIED ASSOCIATION PLAN DEFINED.

``(a) GENERAL RULE.—For purposes of this chapter, a plan is a qualified association plan if the plan is a multiple employer welfare arrangement or similar arrangement—

``(1) which is maintained by a qualified association;

``(2) which has at least 500 participants in the United States;

``(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

``(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;

``(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

``(6) which notifies each participant or provider that it is certified as meeting the requirements of this chapter applicable to it.

``(b) SELF-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

``(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

``(2) the plan provides an annual funding report (certified by an independent actuary) and annual financial statements to the Secretary and other interested parties; and

``(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

``(c) CERTIFICATION.—

``(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

``(2) FEE.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

``(3) EXPEDITED PROCEDURES.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

``(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

``(d) AVAILABILITY.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

``(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 2001—

``(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

``(2) no original certification shall be required under this subchapter; and

``(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall file with the Secretary a description of the plan and the name of the health insurance issuer.

“SEC. 723B. DEFINITIONS AND SPECIAL RULES.

``(a) QUALIFIED ASSOCIATION.—For purposes of this subchapter, the term 'qualified association' means any organization which—

``(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

``(2) is organized and maintained for substantial purposes other than to provide a health plan;

``(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

``(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

``(b) COORDINATION.—The term 'qualified association plan' shall not include a plan to which subchapter B applies.

“Subchapter B—Special Rule for Church, Multiemployer, and Cooperative Plans

“SEC. 723F. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

``(a) GENERAL RULE.—For purposes of this chapter, in the case of a group health plan to which this section applies—

``(1) except as otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

``(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

``(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

``(b) MODIFIED STANDARDS.—

``(1) CERTIFYING AUTHORITY.—For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

``(2) AVAILABILITY.—Rules similar to the rules of subsection (e) of section 723A shall apply to a plan to which this section applies.

``(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

``(4) TREATMENT UNDER STATE LAWS.—A church plan described in subsection (c)(1) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

``(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which—

``(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

``(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 3(16)(B)(iii) and which has at least 500 participants in the United States; or

``(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association and which has at least 500 participants in the United States.''.

(b) CONFORMING AMENDMENTS.—Section 731(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1186(d)) is amended by adding at the end the following:

``(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

``(4) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to an eligible employee, such employee, and any dependent of such employee.

``(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

``(6) QUALIFIED GROUP HEALTH PLAN.—The term 'qualified group health plan' shall have the meaning given the term in section 721.''.

SEC. 402. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended—

(1) by inserting after the subpart heading the following:

“CHAPTER 1—MISCELLANEOUS REQUIREMENTS”;

and

(2) by adding at the end the following:

"CHAPTER 2—GENERAL INSURANCE COVERAGE REFORMS

"Subchapter A—Increased Availability and Continuity of Health Coverage

"SEC. 2707. DEFINITION.

"As used in this chapter, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 2707A(b)).

"SEC. 2707A. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

"(a) Set of Rules of Actuarial Equivalence.—

"(1) Initial determination.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this chapter, a set of rules which the NAIC determines is sufficient for determining, in the case of any group health plan, or a health insurance issuer offering group health insurance coverage, and for purposes of this section, the actuarial value of the coverage offered by the plan or coverage.

"(2) Certification.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this chapter. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

"(b) Standard Coverage.—

"(1) In general.—A a group health plan, and a health insurance issuer offering group health insurance coverage, shall be considered to provide standard coverage consistent with this subsection if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percentage points of the target actuarial value for standard coverage established under paragraph (2).

"(2) Initial determination of target actuarial value for standard coverage.—

"(A) Initial determination.—

"(i) In general.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this chapter, a target actuarial value for standard coverage equal to the average actuarial value of the coverage described in clause (ii). No specific procedure or treatment, or classes thereof, is required to be considered in such determination by this chapter or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors.

"(ii) Coverage described.—The coverage described in this clause is coverage for medically necessary and appropriate services consisting of medical and surgical services, medical equipment, preventive services, and emergency transportation in frontier areas. No specific procedure or treatment, or classes thereof, is required to be covered in such a plan, by this chapter or through regulations.

"(B) Certification.—If the Secretary determines that the NAIC has submitted a target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such value for use under this chapter. If the Secretary determines that a target actuarial value has not been submitted or does not comply with the requirements of subparagraph (A), the Secretary shall promptly determine a target actuarial value that meets such requirements.

"(c) Subsequent Revisions.—

"(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values previously established or determined under this section if the NAIC determines that revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The provisions of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

"(2) Secretary.—The Secretary may by regulation revise the set of rules of actuarial equivalence and target actuarial values from time to time if the Secretary determines such revisions are necessary to take into account changes described in paragraph (1).

"SEC. 2707B. ESTABLISHMENT OF PLAN STANDARDS.

"(a) Establishment of General Standards.—

"(1) Role of NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this chapter, model regulations that specify standards for making qualified group health plans available to small employers. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary. Such standards shall be nonbinding (except as provided in chapter 4).

"(2) Contingency.—If the NAIC does not develop such model regulations within the period described in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this chapter, model regulations that specify standards for insurers with regard to making qualified group health plans available to small employers. Such standards shall be nonbinding (except as provided in chapter 4).

"(3) Effective date.—The standards specified in the model regulations shall apply to group health plans and health insurance issuers offering group health insurance coverage in a State on or after the respective date the standards are implemented in the State.

"(b) No Preemption of State Law.—A State may implement standards for group health plans available, and health insurance issuers offering group health insurance coverage offered, to small employers that are more stringent than the standards under this section, except that a State may not implement standards that prevent the offering of at least one group health plan that provides standard coverage (as described in section 2707A(b)).

"SEC. 2707C. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

"(a) Standard Premiums With Respect to Community-Rated Eligible Employees and Eligible Individuals.—

"(1) In general.—Each group health plan offered, and each health insurance issuer offering group health insurance coverage, to a small employer shall establish within each community rating area in which the plan is to be offered, a standard premium for enrollment of eligible employees and eligible individuals for the standard coverage (as defined under section 2707A(b)).

"(2) Establishment of community rating area.—

"(A) In general.—Not later than January 1, 2002, each State shall, in accordance with subparagraph (B), provide for the division of the State into 1 or more community rating areas. The State may revise the boundaries of such areas from time to time consistent with this paragraph.

"(B) Geographic area variations.—For purposes of subparagraph (A), a State—

"(i) may not identify an area that divides a 3-digit zip code, a county, or all portions of a metropolitan statistical area;

"(ii) shall not permit premium rates for coverage offered in a portion of an interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

"(iii) may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

"(3) Eligible individuals.—For purposes of this section, the term 'eligible individuals' includes certain uninsured individuals (as described in section 2707G).

"(b) Uniform Premiums Within Community Rating Areas.—

"(1) In general.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment that may vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

"(2) Application to enrollees.—

"(A) In general.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

"(i) the standard premium (established under paragraph (1));

"(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

"(iii) the age adjustment factor (specified under subparagraph (C)).

"(B) Family adjustment factor.—

"(i) In general.—The standards established under section 2707B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

"(ii) Classes of enrollment.—For purposes of this chapter, there are 4 classes of enrollment:

"(I) Coverage only of an individual (referred to in this chapter as the 'individual' enrollment or class of enrollment).

"(II) Coverage of a married couple without children (referred to in this chapter as the 'couple-only' enrollment or class of enrollment).

"(III) Coverage of an individual and one or more children (referred to in this chapter as the 'single parent' enrollment or class of enrollment).

"(IV) Coverage of a married couple and one or more children (referred to in this chapter as the 'dual parent' enrollment or class of enrollment).

"(iii) References to family and couple classes of enrollment.—In this chapter:

"(I) Family.—The terms 'family enrollment' and 'family class of enrollment' refer to enrollment in a class of enrollment described in any subclause of clause (ii) (other than subclause (I)).

"(II) Couple.—The term 'couple class of enrollment' refers to enrollment in a class of enrollment described in subclause (II) or (IV) of clause (ii).

"(iv) Spouse; married; couple.—

"(I) In general.—In this chapter, the terms 'spouse' and 'married' mean, with respect to an individual, another individual who is the spouse of, or is married to, the individual, as determined under applicable State law.

"(II) Couple.—The term 'couple' means an individual and the individual's spouse.

"(C) Age adjustment factor.—The Secretary, in consultation with the NAIC, shall specify uniform age categories and maximum rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. For individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

"(3) Administrative charges.—

"(A) In general.—In accordance with the standards established under section 2707B, a group health plan which covers eligible employees and eligible individuals may add a separately-stated administrative charge which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the same method of enrollment. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a group health plan.

"(B) Enrollment through a qualified small employer purchasing group.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge of such plan for enrollment other than through a qualified small employer purchasing group in such area.

"(c) Treatment of Negotiated Rate as Community Rate.—Notwithstanding any other provision of this section, a group health plan and a health insurance issuer offering health insurance coverage that negotiates a premium rate (exclusive of any administrative charge described in subsection (b)(3)) with a qualified small employer purchasing group in a community rating area shall charge the same premium rate to all eligible employees and eligible individuals.

"SEC. 2707D. RATING PRACTICES AND PAYMENT OF PREMIUMS.

"(a) Full Disclosure of Rating Practices.—

"(1) In general.—A group health plan and a health insurance issuer offering health insurance coverage shall fully disclose rating practices for the plan to the appropriate certifying authority.

"(2) Notice on expiration.—A group health plan and a health insurance issuer offering health insurance coverage shall provide for notice of the terms for renewal of a plan at the time of the offering of the plan and at least 90 days before the date of expiration of the plan.

"(3) Actuarial certification.—Each group health plan and health insurance issuer offering health insurance coverage shall file annually with the appropriate certifying authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) who is not an employee of the group health plan or issuer certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such plan or insurer and methods used by the plan or insurer in establishing premium rates and administrative charges for group health plans—

"(A) such plan or insurer is in compliance with the applicable provisions of this chapter; and

"(B) the rating methods are actuarially sound.

Each plan and insurer shall retain a copy of such statement at its principal place of business for examination by any individual.

"(b) Payment of Premiums.—

"(1) In general.—With respect to a new enrollee in a group health plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

"(2) Notification of failure to receive premium.—If a group health plan or a health insurance issuer offering health insurance coverage fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan involved, the plan or issuer shall provide notice of such failure to the employee or individual within the 20-day period after the date on which such premium payment was due. A plan or issuer may not terminate the enrollment of an eligible employee or eligible individual unless such employee or individual has been notified of any overdue premiums and has been provided a reasonable opportunity to respond to such notice.

"SEC. 2707E. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

"(a) Qualified Small Employer Purchasing Groups Described.—

"(1) In general.—A qualified small employer purchasing group is an entity that—

"(A) is a nonprofit entity certified under State law;

"(B) has a membership consisting solely of small employers;

"(C) is administered solely under the authority and control of its member employers;

"(D) with respect to each State in which its members are located, consists of not fewer than the number of small employers established by the State as appropriate for such a group;

"(E) offers a program under which qualified group health plans are offered to eligible employees and eligible individuals through its member employers and to certain uninsured individuals in accordance with section 2707D; and

"(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

"(i) does not form or underwrite; and

"(ii) does not hold or control any right to vote with respect to.

"(2) State certification.—A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certification and otherwise ensure compliance with the requirements of this chapter.

"(3) Special rule.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State as meeting the requirements of paragraph (1) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

"(b) Board of Directors.—Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

"(c) Domiciliary State.—For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

"(d) Membership.—

"(1) In general.—A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

"(2) Voting.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

"(e) Duties of Qualified Small Employer Purchasing Groups.—Each qualified small employer purchasing group shall—

"(1) enter into agreements with insurers offering qualified group health plans;

"(2) enter into agreements with small employers under section 2707F;

"(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 2707G;

"(4) provide enrollee information to the State;

"(5) meet the marketing requirements under section 2707I; and

"(6) carry out other functions provided for under this chapter.

"(f) Limitation on Activities.—A qualified small employer purchasing group shall not—

"(1) perform any activity involving approval or enforcement of payment rates for providers;

"(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified group health plans with the requirements of this chapter;

"(3) assume financial risk in relation to any such health plan; or

"(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this chapter.

"(g) Rules of Construction.—

"(1) Establishment not required.—Nothing in this section shall be construed as requiring—

"(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

"(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

"(2) Single organization serving multiple areas and states.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

"(3) Voluntary participation.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified group health plan exclusively through a qualified small employer purchasing group.

"SEC. 2707F. AGREEMENTS WITH SMALL EMPLOYERS.

"(a) In General.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

"(b) PAYROLL DEDUCTION.—

"(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee's wages.

"(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount of such premiums and the amount withheld.

"SEC. 2707G. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED GROUP HEALTH PLANS.

"(a) IN GENERAL.—Each qualified small employer purchasing group shall offer—

"(1) eligible employees,

"(2) eligible individuals, and

"(3) certain uninsured individuals,

the opportunity to enroll in any qualified group health plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

"(b) UNINSURED INDIVIDUALS.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

"SEC. 2707H. RECEIPT OF PREMIUMS.

"(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified group health plan shall be equal to the sum of—

"(1) the premium rate offered by such health plan;

"(2) the administrative charge for such health plan; and

"(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

"(b) DISCLOSURE OF PREMIUM RATES AND ADMINISTRATIVE CHARGES.—Each qualified small employer purchasing group shall, prior to the time of enrollment, disclose to enrollees and other interested parties the premium rate for a qualified group health plan, the administrative charge for such plan, and the administrative charge of the group, separately.

"SEC. 2707I. MARKETING ACTIVITIES.

"Each qualified small employer purchasing group shall market qualified group health plans to members through the entire community rating area served by the purchasing group.

"SEC. 2707J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

"(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

"(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

"(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating a qualified small employer purchasing group. Such costs may include the costs associated with—

"(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

"(2) soliciting bids and negotiating with insurers to make available group health plans;

"(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

"(4) such other activities determined appropriate by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this section such sums as may be necessary.

"SEC. 2707K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

"A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

"SEC. 2707L. EFFECTIVE DATES.

"(a) IN GENERAL.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this chapter.

"(b) EXCEPTION.—The provisions of section 2707C(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this chapter.

"Subchapter B—Required Coverage Options for Eligible Employees and Dependents of Small Employers

"SEC. 2708. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

"(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

"(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

"(2) coverage is provided for at least the standard coverage specified in section 2707A(b); and

"(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

"(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

"(c) SPECIAL RULES.—

"(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

"(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

"(B) such employer has no more than 2 eligible employees; or

"(C) no more than 2 eligible employees are not covered under any group health plan.

"(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

"(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

"(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

"SEC. 2708A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

"(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 2722(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

"(b) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if—

"(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

"(2) coverage is provided for at least the standard coverage specified in section 2707A(b);

"(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction; and

"(4) in the case of a plan to which subchapter A does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) of the Employee Retirement Income Security Act of 1974 in the form and manner and at such times as are required under such subchapter A with respect to employee welfare benefit plans.

"Subchapter C—Required Coverage Options for Individuals Insured Through Association Plans

"SEC. 2709. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

"(a) GENERAL RULE.—For purposes of this chapter, in the case of a qualified association plan—

"(1) except as otherwise provided in this subchapter, the plan shall meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

"(2) if such plan is certified as meeting such requirements and the requirements of this subchapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

"(3) any individual who is a member of the association not enrolling in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

"(b) Election To Be Treated as Purchasing Cooperative.—Subsection (a) shall not apply to a qualified association plan if—

"(1) the health insurance issuer makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of section 2707D; and

"(2) such sponsor meets all requirements of this chapter applicable to a purchasing cooperative.

"SEC. 2709A. QUALIFIED ASSOCIATION PLAN DEFINED.

"(a) General Rule.—For purposes of this chapter, a plan is a qualified association plan if the plan is a multiple employer welfare arrangement or similar arrangement—

"(1) which is maintained by a qualified association;

"(2) which has at least 500 participants in the United States;

"(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

"(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependent of either;

"(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

"(6) which notifies each participant or provider that it is certified as meeting the requirements of this chapter applicable to it.

"(b) Self-Insured Plans.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

"(1) the plan meets minimum financial solvency and cash reserve requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

"(2) the plan provides an annual funding report (certified by an independent actuary) and annual financial statements to the Secretary and other interested parties; and

"(3) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

"(c) Certification.—

"(1) In general.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

"(2) Fee.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

"(3) Expedited procedures.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

"(4) Agreements.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

"(d) Availability.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

"(e) Special Rules for Existing Plans.—In the case of a plan in existence on January 1, 2001—

"(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

"(2) no original certification shall be required under this subchapter; and

"(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall file with the Secretary a description of the plan and the name of the health insurance issuer.

"SEC. 2709B. DEFINITIONS AND SPECIAL RULES.

"(a) Qualified Association.—For purposes of this subchapter, the term 'qualified association' means any organization which—

"(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

"(2) is organized and maintained for substantial purposes other than to provide a health plan;

"(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

"(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

"(b) Coordination.—The term 'qualified association plan' shall not include a plan to which subchapter B applies.

"SEC. 2709C. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

"(a) General Rule.—For purposes of this chapter, in the case of a group health plan to which this section applies—

"(1) except as otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of subchapter A and subchapter B for group health plans offered to and by small employers;

"(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

"(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

"(b) Modified Standards.—

"(1) Certifying authority.—For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

"(2) Availability.—Rules similar to the rules of subsection (e) of section 2709A shall apply to a plan to which this section applies.

"(3) Access.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

"(4) Treatment under State laws.—A church plan described in subsection (c)(1) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

"(c) Plans to Which Section Applies.—This section shall apply to a health plan which—

"(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

"(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 3(16)(B)(iii) of the Employee Retirement Income Security Act of 1974 and which has at least 500 participants in the United States; or

"(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association and which has at least 500 participants in the United States.".

(b) Conforming Amendments.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg-91(d)) is amended by adding at the end the following:

"(15) Eligible employee.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(16) Eligible individual.—The term 'eligible individual' means, with respect to an eligible employee, such employee, and any dependent of such employee.

"(17) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(18) Qualified group health plan.—The term 'qualified group health plan' shall have the meaning given the term in section 2707.".

SEC. 403. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended—

(1) by redesignating such subpart as subpart 2; and

(2) by adding at the end the following:

"SEC. 2753. APPLICABILITY OF GENERAL INSURANCE MARKET REFORMS.

"The provisions of chapter 2 of subpart 2 of part A shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.".

SEC. 404. EFFECTIVE DATE.

The amendments made by this subtitle shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated on or after January 1, 2002.

Subtitle B—Tax Provisions

SEC. 411. ENFORCEMENT WITH RESPECT TO HEALTH INSURANCE ISSUERS.

(a) In General.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following:

"SEC. 4980F. FAILURE OF INSURER TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE COVERAGE.

"(a) Imposition of Tax.—

"(1) In general.—There is hereby imposed a tax on the failure of a health insurance issuer to comply with the requirements applicable to such issuer under—

"(A) chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

"(B) section 2753 of the Public Health Service Act; and

"(C) subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(2) Exception.—Paragraph (1) shall not apply to a failure by a health insurance issuer in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an issuer.

"(b) Amount of Tax.—

"(1) In general.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980D(b)(3) shall apply for purposes of this section.

"(2) Limitation.—The amount of the tax imposed by subsection (a) for a health insurance issuer with respect to health insurance coverage shall not exceed 25 percent of the amounts received under the coverage for coverage during the period such failure persists.

"(c) Liability for Tax.—The tax imposed by this section shall be paid by the health insurance issuer.

"(d) Limitations on Amount of Tax.—

"(1) Tax not to apply to failures corrected within 30 days.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the health insurance issuer knows, or exercising reasonable diligence could have known, that such failure existed.

"(2) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(e) Definitions.—For purposes of this section, the terms 'health insurance coverage' and 'health insurance issuer' have the meanings given such terms in section 2791 of the Public Health Service Act and section 733 of the Employee Retirement Income Security Act of 1974.".

(b) Conforming Amendment.—The table of sections for such chapter 43 is amended by adding at the end the following new item:

"Sec. 4980F. Failure of insurer to comply with certain standards for health insurance coverage.".

SEC. 412. ENFORCEMENT WITH RESPECT TO SMALL EMPLOYERS.

(a) In General.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on certain group health plans) is amended by inserting after section 5000 the following new section:

"SEC. 5000A. SMALL EMPLOYER REQUIREMENTS.

"(a) General Rule.—There is hereby imposed a tax on the failure of any small employer to comply with the requirements applicable to such employer under—

"(1) subchapter C of chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

"(2) section 2753 of the Public Health Service Act; and

"(3) chapter 2 of subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(b) Amount of Tax.—The amount of tax imposed by subsection (a) shall be equal to $100 for each day for each individual for which such a failure occurs.

"(c) Limitation on Tax.—

"(1) Tax not to apply where failures corrected within 30 days.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the 1st date any of the individuals on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) Conforming Amendment.—The table of sections for such chapter 47 is amended by adding at the end the following new item:

"Sec. 5000A. Small employer requirements.".

SEC. 413. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS.

(a) In General.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans), as amended by section 411, is amended by adding at the end the following new section:

"SEC. 4980G. FAILURE OF QUALIFIED ASSOCIATIONS, ETC., TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE COVERAGE.

"(a) Imposition of Tax.—

"(1) In general.—There is hereby imposed a tax on the failure of a qualified association (as defined in section 2709A of the Public Health Service Act and section 723A of the Employee Retirement Income Security Act of 1974), church plan (as defined in section 414(e)), multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of the Employee Retirement Income Security Act of 1974) to comply with the requirements applicable to such association or plans under—

"(A) subchapter C of chapter 2 of subpart 2 of part A of title XXVII of the Public Health Service Act;

"(B) section 2753 of the Public Health Service Act; and

"(C) subchapters A and B of chapter 3 of subpart C of part 7 of the Employee Retirement Income Security Act of 1974.

"(2) Exception.—Paragraph (1) shall not apply to a failure by a qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such a qualified association or plan.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to which such failure relates. A rule similar to the rule of section 4980D(b)(3) shall apply for purposes of this section.

"(c) Liability for Tax.—The tax imposed by this section shall be paid by the qualified association or plan.

"(d) Limitations on Amount of Tax.—

"(1) Tax not to apply to failures corrected within 30 days.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the qualified association, church plan, multiemployer plan, or plan maintained by a rural electric cooperative or a rural telephone cooperative association knows, or exercising reasonable diligence could have known, that such failure existed.

"(2) Waiver by secretary.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) Conforming Amendment.—The table of sections for such chapter 43, as amended by section 411, is amended by adding at the end the following new item:

"Sec. 4980G. Failure of qualified associations, etc., to comply with certain standards for health insurance plans.".

SEC. 414. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) Full Deduction in 2002.—The table contained in section 162(*l*)(1)(B) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "2001" and inserting "2000";

(2) by striking "2002" and all that follows; and

(3) by adding at the end the following:

"2001	70
"2002 and thereafter	100.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 415. AMENDMENTS TO COBRA.

(a) Amendments to Internal Revenue Code of 1986.—

(1) Lower cost coverage options.—Subparagraph (A) of section 4980B(f)(2) of the Internal Revenue Code of 1986 (relating to continuation coverage requirements of group health plans) is amended to read as follows:

"(A) Type of benefit coverage.—The coverage must consist of coverage which, as of the time the coverage is being provided—

"(i) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

"(ii) is so identical, except such coverage is offered with an annual $1,000 deductible, and

"(iii) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.".

(2) Termination of cobra coverage after eligible for employer-based coverage for 90 days.—Clause (iv) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended—

(A) by striking "or" at the end of subclause (I);

(B) by redesignating subclause (II) as subclause (III); and

(C) by inserting after subclause (I) the following:

"(II) eligible for such employer-based coverage for more than 90 days, or".

(3) REDUCTION OF PERIOD OF COVERAGE.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by striking "18 months" each place it appears and inserting "24 months".

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(VI) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in paragraph (3)(E), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) LOWER COST COVERAGE OPTIONS.—Paragraph (1) of section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1)) (relating to continuation coverage requirements of group health plans) is amended to read as follows:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

"(A) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

"(B) is so identical, except such coverage is offered with an annual $1,000 deductible, and

"(C) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.".

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Subparagraph (D) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)) (relating to period of coverage) is amended—

(A) by striking "or" at the end of clause (i);

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) eligible for such employer-based coverage for more than 90 days, or".

(3) REDUCTION OF PERIOD OF COVERAGE.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) (relating to period of coverage) is amended by striking "18 months" each place it appears and inserting "24 months".

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following:

"(vi) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in section 603(5), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.".

(c) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—

(1) LOWER COST COVERAGE OPTIONS.—Paragraph (1) of section 2202 of the Public Health Service Act (42 U.S.C. 300bb–2(1)) (relating to continuation coverage requirements of group health plans) is amended to read as follows:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

"(A) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

"(B) is so identical, except such coverage is offered with an annual $1,000 deductible, and

"(C) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.".

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Subparagraph (D) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)) (relating to period of coverage) is amended—

(A) by striking "or" at the end of clause (i);

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) eligible for such employer-based coverage for more than 90 days, or".

(3) REDUCTION OF PERIOD OF COVERAGE.—Subparagraph (A) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) (relating to period of coverage) is amended by striking "18 months" each place it appears and inserting "24 months".

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Subparagraph (A) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) is amended by adding at the end the following:

"(vi) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in section 2203(5), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

TITLE V—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 501. IMPROVEMENT OF MEDICARE PREVENTIVE CARE SERVICES.

(a) WAIVER OF COINSURANCE FOR SCREENING AND DIAGNOSTIC MAMMOGRAPHY.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended—

(A) by striking "and (U)" and inserting "(U)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (V) with respect to screening mammography (as defined in section 1861(jj)) and diagnostic mammography, 100 percent of the payment basis determined under section 1848;".

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to screening mammography (as defined in section 1861(jj)) and diagnostic mammography,".

(b) COVERAGE OF INSULIN PUMPS.—

(1) INCLUSION AS ITEM OF DURABLE MEDICAL EQUIPMENT.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes insulin infusion pumps (as defined in subsection (ww)) prescribed by the physician of an individual with Type I diabetes who is experiencing severe swings of high and low blood glucose levels and has successfully completed a training program that meets standards established by the Secretary or who has used such a pump without interruption for at least 18 months immediately before enrollment under part B".

(2) DEFINITION OF INSULIN INFUSION PUMP.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 105(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended by adding at the end the following:

"Insulin Infusion Pump

"(ww) The term 'insulin infusion pump' means an infusion pump, approved by the Federal Food and Drug Administration, that provides for the computerized delivery of insulin for individuals with diabetes in lieu of multiple daily manual insulin injections.".

(3) PAYMENT FOR SUPPLIES RELATING TO INFUSION PUMPS.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by inserting "or" at the end; and

(C) by inserting after clause (iii) the following:

"(iv) which is an accessory used in conjunction with an insulin infusion pump (as defined in section 1861(ww)),".

(c) ANNUAL SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) IN GENERAL.—Section 1861(nn) of the Social Security Act (42 U.S.C. 1395x(nn), as amended by section 101(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended to read as follows:

"Screening Pap Smear; Screening Pelvic Exam

"(nn)(1) The term 'screening pap smear' means a diagnostic laboratory test consisting of a routine exfoliative cytology test (Papanicolaou test) provided to a woman for the purpose of early detection of cervical or vaginal cancer and includes a physician's interpretation of the results of the test, if the individual involved has not had such a test during the preceding year.

"(2) The term 'screening pelvic exam' means a pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding year, and includes a clinical breast examination, relevant history-taking, medical decision-making, and patient counseling.".

(2) WAIVER OF COINSURANCE FOR PELVIC EXAMS.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (a)(1) and section 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended—

(A) by striking "and (V)" and inserting "(V)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (W) with respect to services described in section 1861(nn)(2), 100 percent of the payment basis determined under section 1848;".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the first day of the first calendar quarter beginning on or after the date that is 6 months after the date of enactment of this Act.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS FOR HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $115,000,000 for fiscal year 2002, $150,000,000 for fiscal year 2003, $250,000,000 for fiscal year 2004, and $300,000,000 for each of the fiscal years 2005 through 2007.

(b) MODEL PROJECTS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $50,000,000 for such fiscal year to be distributed to model projects determined to be eligible under paragraph (2).

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), a model project shall—

(A) have been one of the original 15 Healthy Start projects; and

(B) be determined by Secretary of Health and Human Services to have been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A model project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(4) PROVISION OF MATCHING FUNDS.—In providing assistance to a project under this subsection, the Secretary of Health and Human Services shall ensure that—

(A) with respect to fiscal year 2002, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 20 percent of such costs;

(B) with respect to fiscal year 2003, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 30 percent of such costs;

(C) with respect to fiscal year 2004, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 40 percent of such costs; and

(D) with respect to each of the fiscal years 2005 through 2007, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 50 percent of such costs for each such fiscal year

(c) NEW PROJECTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate amounts remaining after the reservation under subsection (b) for such fiscal year among new demonstration projects and existing special projects that have proven to be successful as determined by the Secretary of Health and Human Services. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

SEC. 503. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247b(j)(1)), as amended by section 1711 of the Children's Health Act of 2000 (Public Law 106-310), is amended by striking "2005" and inserting "2007".

(b) SEXUALLY TRANSMITTED DISEASES.—Section 318(e)(1) of the Public Health Service Act (42 U.S.C. 247c(e)(1)) is amended—

(1) by striking "and such sums" and inserting "such sums";

(2) by striking "1998" and inserting "2001"; and

(3) by inserting before the period the following: ", $130,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006".

(c) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking "and $158,400,000" .and inserting "$158,400,000"; and

(2) by inserting before the period the following: "; $430,000,000 for fiscal year 2002; and such sums as may be necessary for each of the fiscal years 2003 through 2005".

(d) BREAST AND CERVICAL CANCER PREVENTION.—Section 1510(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by inserting before the period the following: ", $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2005".

(e) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "$205,000,000" and inserting "$235,000,000".

(f) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "fiscal year 2001 and each fiscal year thereafter" and inserting "each of fiscal years 2001 and 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2005".

SEC. 504. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive school health education and prevention program for elementary and secondary school students.

(b) PROGRAM AUTHORIZED.—The Secretary of Education (referred to in this section as the "Secretary"), through the Office of Comprehensive School Health Education established in subsection (e), shall award grants to States from allotments under subsection (c) to enable such States to—

(1) award grants to local or intermediate educational agencies, and consortia thereof, to enable such agencies or consortia to establish, operate, and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

(2) develop training, technical assistance, and coordination activities for the programs assisted pursuant to paragraph (1).

(c) RESERVATIONS AND STATE ALLOTMENTS.—

(1) RESERVATIONS.—From the sums appropriated pursuant to the authority of subsection (f) for any fiscal year, the Secretary shall reserve—

(A) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Northern Mariana Islands, and the Republic of Palau, to be allotted in accordance with their respective needs; and

(B) 1 percent for payments to the Bureau of Indian Affairs.

(2) STATE ALLOTMENTS.—From the remainder of the sums not reserved under paragraph (1), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (2).

(d) USE OF FUNDS.—Grant funds provided to local or intermediate educational agencies, or consortia thereof, under this section may be used to improve elementary and secondary education in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) nutrition;

(5) substance use and abuse;

(6) accident prevention and safety;

(7) community and environmental health;

(8) mental and emotional health;

(9) parenting and the challenges of raising children; and

(10) the effective use of the health services delivery system.

(e) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary shall establish within the Office of the Secretary an Office of Comprehensive School Health Education which shall have the following responsibilities:

(1) To recommend mechanisms for the coordination of school health education programs conducted by the various departments and agencies of the Federal Government.

(2) To advise the Secretary on formulation of school health education policy within the Department of Education.

(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) in any fiscal year shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

SEC. 505. COMPREHENSIVE EARLY CHILDHOOD HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive early childhood health education program.

(b) PROGRAM.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall conduct a program of awarding grants to agencies conducting Head Start training to enable such agencies to provide training and technical assistance to Head Start teachers and other child care providers. Such program shall—

(1) establish a training system through the Head Start agencies and organizations conducting Head Start training for the purpose of enhancing teacher skills and providing comprehensive early childhood health education curriculum;

(2) enable such agencies and organizations to provide training to day care providers in

order to strengthen the skills of the early childhood workforce in providing health education;

(3) provide technical support for health education programs and curricula; and

(4) provide cooperation with other early childhood providers to ensure coordination of such programs and the transition of students into the public school environment.

(c) Use of Funds.—Grant funds under this section may be used to provide training and technical assistance in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) dental health;

(5) nutrition;

(6) substance use and abuse;

(7) accident prevention and safety;

(8) community and environmental health;

(9) mental and emotional health; and

(10) strengthening the role of parent involvement.

(d) Reservation for Innovative Programs.—The Secretary shall reserve 5 percent of the funds appropriated pursuant to the authority of subsection (e) in each fiscal year for the development of innovative model health education programs or curricula.

(e) Authorization of Appropriations.—There are authorized to be appropriated $40,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

SEC. 506. ADOLESCENT FAMILY LIFE AND ABSTINENCE.

(a) Definitions.—Section 2002(a)(4)(G)(i) of the Public Health Service Act (42 U.S.C. 300z-1(a)(4)(G)(i)) is amended by inserting "and abstinence" after "adoption".

(b) Geographic Diversity.—Section 2005 of the Public Health Service Act (42 U.S.C. 300z-4) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In approving applications for grants for demonstration projects for services under this title, the Secretary shall, to the maximum extent practicable, ensure adequate representation of both urban and rural areas.".

(c) Simplified Application Process.—Section 2006 of the Public Health Service Act (42 U.S.C. 300z-5) is amended by adding at the end following:

"(g) The Secretary shall develop and implement a simplified and expedited application process for applicants seeking less than $15,000 of funds available under this title for a demonstration project.".

(d) Authorization of Appropriations.—Section 2010(a) of the Public Health Service Act (42 U.S.C. 300z-9) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $75,000,000 for each of the fiscal years 2002 through 2006.".

TITLE VI—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

SEC. 601. PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT.

(a) Right To Decline Medical Treatment.—

(1) Rights of competent adults.—

(A) In general.—Except as provided in subparagraph (B), a State may not restrict the right of a competent adult to consent to, or to decline, medical treatment.

(B) Limitations.—

(i) Affect on third parties.—A State may impose limitations on the right of a competent adult to decline treatment if such limitations protect third parties (including minor children) from harm.

(ii) Treatment which is not medically indicated.—Nothing in this subsection shall be construed to require that any individual be offered, or to state that any individual may demand, medical treatment which the health care provider does not have available, or which is, under prevailing medical standards, either futile or otherwise not medically indicated.

(2) Rights of incapacitated adults.—

(A) In general.—Except as provided in subparagraph (B)(i) of paragraph (1), States may not restrict the right of an incapacitated adult to consent to, or to decline, medical treatment as exercised through the documents specified in this paragraph, or through similar documents or other written methods of directive which evidence the adult's treatment choices.

(B) Advance directives and powers of attorney.—

(i) In general.—In order to facilitate the communication, despite incapacity, of an adult's treatment choices, the Secretary of Health and Human Services (referred to in this section as the "Secretary"), in consultation with the Attorney General, shall develop a national advance directive form that—

(I) shall not limit or otherwise restrict, except as provided in subparagraph (B)(i) of paragraph (1), an adult's right to consent to, or to decline, medical treatment; and

(II) shall, at minimum—

(aa) provide the means for an adult to declare such adult's own treatment choices in the event of a terminal condition;

(bb) provide the means for an adult to declare, at such adult's option, treatment choices in the event of other conditions which are medically incurable, and from which such adult likely will not recover; and

(cc) provide the means by which an adult may, at such adult's option, declare such adult's wishes with respect to all forms of medical treatment, including forms of medical treatment such as the provision of nutrition and hydration by artificial means which may be, in some circumstances, relatively nonburdensome.

(ii) National durable power of attorney form.—The Secretary, in consultation with the Attorney General, shall develop a national durable power of attorney form for health care decisionmaking. The form shall provide a means for any adult to designate another adult or adults to exercise the same decisionmaking powers which would otherwise be exercised by the patient if the patient were competent.

(iii) Honored by all health care providers.—The national advance directive and durable power of attorney forms developed by the Secretary shall be honored by all health care providers.

(iv) Limitations.—No individual shall be required to execute an advance directive. This section makes no presumption concerning the intention of an individual who has not executed an advance directive. An advance directive shall be sufficient, but not necessary, proof of an adult's treatment choices with respect to the circumstances addressed in the advance directive.

(C) Definition.—For purposes of this paragraph, the term "incapacity" means the inability to understand or to communicate concerning the nature and consequences of a health care decision (including the intended benefits and foreseeable risks of, and alternatives to, proposed treatment options), and to reach an informed decision concerning health care.

(3) Health care providers.—

(A) In general.—No health care provider may provide treatment to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices. A health care provider who acts in good faith pursuant to the preceding sentence shall be immune from criminal or civil liability or discipline for professional misconduct.

(B) Health care providers under the Medicare and Medicaid programs.—Any health care provider who knowingly provides services to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in paragraph (2)(B), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices, shall be denied payment for such services under titles XVIII and XIX of the Social Security Act.

(C) Transfers.—Health care providers who object to the provision of medical care in accordance with an adult's wishes shall transfer the adult to the care of another health care provider.

(4) Definition.—For purposes of this subsection, the term "adult" means—

(A) an individual who is 18 years of age or older; or

(B) an emancipated minor.

(b) Federal Right Enforceable in Federal Courts.—The rights recognized in this section may be enforced by filing a civil action in an appropriate district court of the United States.

(c) Suicide and Homicide.—Nothing in this section shall be construed to permit, condone, authorize, or approve suicide or mercy killing, or any affirmative act to end a human life.

(d) Rights Granted by States.—Nothing in this section shall impair or supersede rights granted by State law which exceed the rights recognized by this section.

(e) Effect on Other Laws.—

(1) In general.—Except as specified in paragraph (2), written policies and written information adopted by health care providers pursuant to sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), shall be modified within 6 months after the enactment of this section to conform to the provisions of this section.

(2) Delay period for uniform forms.—Health care providers shall modify any written forms distributed as written information under sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) not later than 6 months after promulgation of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B) by the Secretary.

(f) Information Provided to Certain Individuals.—The Secretary shall provide on a periodic basis written information regarding an individual's right to consent to, or to decline, medical treatment as provided in this section to individuals who are beneficiaries under titles II, XVI, XVIII, and XIX of the Social Security Act.

(g) Recommendations to Congress on Issues Relating to a Patient's Right of Self-Determination.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for a period of 3 years, the Secretary shall provide recommendations to Congress concerning the medical, legal, ethical, social, and educational issues related to in this section. In developing recommendations under this subsection the Secretary shall address the following issues:

(1) The contents of the forms referred to in clauses (i) and (ii) of subsection (a)(2)(B).

(2) Issues pertaining to the education and training of health care professionals concerning patients' self-determination rights.

(3) Issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options.

(4) Issues pertaining to the education of patients concerning their rights to consent to, and decline, treatment, including how individuals might best be informed of such rights prior to hospitalization and how uninsured individuals, and individuals not under the regular care of a physician or another provider, might best be informed of their rights.

(5) Issues relating to appropriate standards to be adopted concerning decisionmaking by incapacitated adult patients whose treatment choices are not known.

(6) Such other issues as the Secretary may identify.

(h) Effective Date.—

(1) In general.—Except as provided in paragraph (2), this section shall take effect on the date that is 6 months after the date of enactment of this Act.

(2) Subsection (g).—The provisions of subsection (g) shall take effect on the date of enactment of this Act.

TITLE VII—PRIMARY AND PREVENTIVE CARE PROVIDERS

SEC. 701. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.

(a) Fee Schedule Amount.—Section 1833(a)(1)(O) of the Social Security Act (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "85 percent" and inserting "90 percent" each place it appears.

(b) Technical Amendment.—Section 1833(a)(1)(O) of the Social Security Act (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "clinic" and inserting "clinical".

(c) Effective Date.—The amendments made by this section shall apply with respect to services furnished and supplies provided on and after January 1, 2002.

SEC. 702. REQUIRING COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

(a) In General.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 301(c)(1), is amended—

(1) in paragraph (27), by striking "and" at the end;

(2) by redesignating paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27) the following:

"(28) services furnished by a physician, assistant, nurse practitioner, clinical nurse specialist (as defined in section 1861(aa)(5)), or certified registered nurse anesthetist (as defined in section 1861(bb)(2)); and".

(b) Conforming Amendment.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 301(c)(3), is amended by striking "and (27)" and inserting ", (27), and (28)".

(c) Effective Date.—The amendments made by this section shall apply to medical assistance furnished under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) beginning with the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 703. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293j et seq.) is amended by adding at the end thereof the following:

"SEC. 749. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

"(a) Establishment.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical students for tutorial programs or as participants in clinics designed to interest high school or college students in careers in general medical practice.

"(b) Application.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c).

"(c) Use of Funds.—

"(1) In general.—Amounts received under a grant awarded under this section shall be used to—

"(A) fund programs under which students of the grantee are provided as tutors for high school and college students in the areas of mathematics, science, health promotion and prevention, first aide, nutrition and prenatal care;

"(B) fund programs under which students of the grantee are provided as participants in clinics and seminars in the areas described in paragraph (1); and

"(C) conduct summer institutes for high school and college students to promote careers in medicine.

"(2) Design of programs.—The programs, institutes, and other activities conducted by grantees under paragraph (1) shall be designed to—

"(A) give medical students desiring to practice general medicine access to the local community;

"(B) provide information to high school and college students concerning medical school and the general practice of medicine; and

"(C) promote careers in general medicine.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal year 2003.".

SEC. 704. GENERAL MEDICAL PRACTICE GRANTS.

Part C of title VII of the Public Health Service Act (as amended by section 703) is further amended by adding at the end thereof the following:

"SEC. 749A. GENERAL MEDICAL PRACTICE GRANTS.

"(a) Establishment.—The Secretary shall establish a program to award grants to eligible public or private nonprofit schools of medicine or osteopathic medicine, hospitals, residency programs in family medicine or pediatrics, or to a consortium of such entities, to enable such entities to develop effective strategies for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

"(b) Application.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the entity will use amounts received under the grant in accordance with subsection (c).

"(c) Use of Funds.—Amounts received under a grant awarded under this section shall be used to fund programs under which effective strategies are developed and implemented for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of the fiscal years 2002 through 2004, and such sums as may be necessary for fiscal years thereafter.".

TITLE VIII—SAFE AND COST-EFFECTIVE MEDICAL TREATMENT

SEC. 801. ENHANCING INVESTMENT IN COST-EFFECTIVE METHODS OF HEALTH CARE.

(a) Establishment of Trust Fund for Medical Treatment Outcomes Research.—

(1) In general.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

"SEC. 9511. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Medical Treatment Outcomes Research' (referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4491 (relating to tax on health insurance policies).

"(c) Distribution of Amounts in Trust Fund.—On an annual basis and without further appropriation the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services for use by the Agency for Healthcare Research and Quality. Such amounts shall be available to pay for research activities related to medical treatment outcomes and shall be in addition to any other amounts appropriated for such purposes.".

(2) Conforming amendment.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following:

"Sec. 9511. Trust Fund for Medical Treatment Outcomes Research.".

(b) Imposition of Tax on Health Insurance Policies.—

(1) In general.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end the following:

"Subchapter F—Tax on Health Insurance Policies

"Sec. 4491. Imposition of tax.

"Sec. 4492. Liability for tax.

"SEC. 4491. IMPOSITION OF TAX.

"(a) General Rule.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

"(b) Definition.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

"SEC. 4492. LIABILITY FOR TAX.

"The tax imposed by this subchapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax.".

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end the following:

"SUBCHAPTER F. Tax on health insurance policies.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued after December 31, 2001.

SEC. 802. MEDICAL ERRORS REDUCTION.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(3) in section 938(1) (as so redesignated), by striking "921" and inserting "931"; and

(4) by inserting after part B the following:

"PART C—REDUCING ERRORS IN HEALTH CARE

"SEC. 921. DEFINITIONS.

"In this part:

"(1) ADVERSE EVENT.—The term 'adverse event' means an injury resulting from medical management rather than the underlying condition of the patient.

"(2) ERROR.—The term 'error' means the failure of a planned action to be completed as intended or the use of a wrong plan to achieve the desired outcome.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or entity that provides medical services and is a participant in a demonstration program under this part.

"(4) HEALTH CARE-RELATED ERROR.—The term "health care-related error" means a preventable adverse event related to a health care intervention or a failure to intervene appropriately.

"(5) MEDICATION-RELATED ERROR.—The term 'medication-related error' means a preventable adverse event related to the administration of a medication.

"(6) SAFETY.—The term 'safety' with respect to an individual means that such individual has a right to be free from preventable serious injury.

"(7) SENTINEL EVENT.—The term 'sentinel event' means an unexpected occurrence involving an individual that results in death or serious physical injury that is unrelated to the natural course of the individual's illness or underlying condition.

"SEC. 922. ESTABLISHMENT OF STATE-BASED MEDICAL ERROR REPORTING SYSTEMS.

"(a) IN GENERAL.—The Secretary shall make grants available to States to enable such States to establish reporting systems designed to reduce medical errors and improve health care quality.

"(b) REQUIREMENT.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), the State involved shall provide assurances to the Secretary that amounts received under the grant will be used to establish and implement a medical error reporting system using guidelines (including guidelines relating to the confidentiality of the reporting system) developed by the Agency for Healthcare Research and Quality with input from interested, non-governmental parties including patient, consumer and health care provider groups.

"(2) GUIDELINES.—Not later than 90 days after the date of enactment of this part, the Agency for Healthcare Research and Quality shall develop and publish the guidelines described in paragraph (1).

"(c) DATA.—

"(1) AVAILABILITY.—A State that receives a grant under subsection (a) shall make the data provided to the medical error reporting system involved available only to the Agency for Healthcare Research and Quality and may not otherwise disclose such information.

"(2) CONFIDENTIALITY.—Nothing in this part shall be construed to supersede any State law that is inconsistent with this part.

"(d) APPLICATION.—To be eligible for a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner and containing, such information as the Secretary shall require.

"SEC. 923. DEMONSTRATION PROJECTS TO REDUCE MEDICAL ERRORS, IMPROVE PATIENT SAFETY, AND EVALUATE REPORTING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality and in conjunction with the Administrator of the Health Care Financing Administration, may establish a program under which funding will be provided for not less than 15 demonstration projects, to be competitively awarded, in health care facilities and organizations in geographically diverse locations, including rural and urban areas (as determined by the Secretary), to determine the causes of medical errors and to—

"(1) use technology, staff training, and other methods to reduce such errors;

"(2) develop replicable models that minimize the frequency and severity of medical errors;

"(3) develop mechanisms that encourage reporting, prompt review, and corrective action with respect to medical errors; and

"(4) develop methods to minimize any additional paperwork burden on health care professionals.

"(b) ACTIVITIES.—

"(1) IN GENERAL.—A health care, provider participating in a demonstration project under subsection (a) shall—

"(A) utilize all available and appropriate technologies to reduce the probability of future medical errors; and

"(B) carry out other activities consistent with subsection (a).

"(2) REPORTING TO PATIENTS.—In carrying out this section, the Secretary shall ensure that—

"(A) 5 of the demonstration projects permit the voluntary reporting by participating health care providers of any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary;

"(B) 5 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary; and

"(C) 5 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary and to the patient involved and a family member or guardian of the patient.

"(3) CONFIDENTIALITY.—

"(A) IN GENERAL.—The Secretary and the participating grantee organization shall ensure that information reported under this section remains confidential.

"(B) USE.—The Secretary may use the information reported under this section only for the purpose of evaluating the ability to reduce errors in the delivery of care. Such information shall not be used for enforcement purposes.

"(C) DISCLOSURE.—The Secretary may not disclose the information reported under this section.

"(D) NONADMISSIBILITY.—Information reported under this section shall be privileged, confidential, shall not be admissible as evidence or discoverable in any civil or criminal action or proceeding or subject to disclosure, and shall not be subject to the Freedom of Information Act (5 U.S.C. App). This paragraph shall apply to all information maintained by the reporting entity and the entities who receive such reports.

"(c) USE OF TECHNOLOGIES.—The Secretary shall encourage, as part of the demonstration projects conducted under subsection (a), the use of appropriate technologies to reduce medical errors, such as hand-held electronic prescription pads, training simulators for medical education, and bar-coding of prescription drugs and patient bracelets.

"(d) DATABASE.—The Secretary shall provide for the establishment and operation of a national database of medical errors to be used as provided for by the Secretary. The information provided to the Secretary under subsection (b)(2) shall be contained in the database.

"(e) EVALUATION.—The Secretary shall evaluate the progress of each demonstration project established under this section in reducing the incidence of medical errors and submit the results of such evaluations as part of the reports under section 926(b).

"(f) REPORTING.—Prior to October 1, of the third fiscal year for which funds are made available under this section, the Secretary shall prepare and submit to the appropriate committees of Congress an interim report concerning the results of such demonstration projects.

"SEC. 924. PATIENT SAFETY IMPROVEMENT.

"(a) IN GENERAL.—The Secretary shall provide information to educate patients and family members about their role in reducing medical errors. Such information shall be provided to all individuals who participate in Federally-funded health care programs.

"(b) DEVELOPMENT OF PROGRAMS.—The Secretary shall develop programs that encourage patients to take a more active role in their medical treatment, including encouraging patients to provide information to health care providers concerning pre-existing conditions and medications.

"SEC. 925. PRIVATE, NONPROFIT EFFORTS TO REDUCE MEDICAL ERRORS.

"(a) IN GENERAL.—The Secretary shall make grants to health professional associations and other organizations to provide training in ways to reduce medical errors, including curriculum development, technology training, and continuing medical education.

"(b) APPLICATION.—To be eligible for a grant under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing, such information as the Secretary shall require.

"SEC. 926. REPORT TO CONGRESS.

"(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs associated with implementing a program that identifies factors that contribute to errors and which includes upgrading the health care computer systems and other technologies in the United States in order to reduce medical errors, including computerizing hospital systems for the coordination of prescription drugs and handling of laboratory specimens, and contains recommendation on ways in which to reduce those factors.

“(b) Other Reports.—Not later than 180 days after the completion of all demonstration projects under section 923, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

“(1) how successful each demonstration project was in reducing medical errors;

“(2) the data submitted by States under section 922(c);

“(3) the best methods for reducing medical errors;

“(4) the costs associated with applying such best methods on a nationwide basis; and

“(5) the manner in which other Federal agencies can share information on best practices in order to reduce medical errors in all Federal health care programs.

“SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated such sums as may be necessary to carry out this part.”.

TITLE IX—TAX INCENTIVES FOR PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE

SEC. 901. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) General Rule.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following:

“SEC. 35. LONG-TERM CARE INSURANCE CREDIT.

“(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) paid during such taxable year for such individual or the spouse of such individual.

“(b) Applicable Percentage.—

“(1) In general.—For purposes of this section, the term ‘applicable percentage’ means 28 percent reduced (but not below zero) by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the base amount.

“(2) Base amount.—For purposes of paragraph (1) the term ‘base amount’ means—

“(A) except as otherwise provided in this paragraph, $25,000,

“(B) $40,000 in the case of a joint return, and

“(C) zero in the case of a taxpayer who—

“(i) is married at the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such taxable year, and

“(ii) does not live apart from the taxpayer's spouse at all times during the taxable year.

“(c) Coordination With Medical Expense Deduction.—Any amount allowed as a credit under this section shall not be taken into account under section 213.”.

(b) Conforming Amendment.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following:

“Sec. 35. Long-term care insurance credit.

“Sec. 36. Overpayments of tax.”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 902. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) Cafeteria Plans.—The last sentence of section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking “shall not” and inserting “shall”.

(b) Flexible Spending Arrangements.—Section 106(c) of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended—

(1) in paragraph (1), by striking “include” and inserting “shall not”; and

(2) in the heading, by striking “Inclusion” and inserting “Exclusion”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 903. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION OF LIFE INSURANCE POLICIES AND USED FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) In General.—

(1) Exclusion from gross income.—

(A) In general.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

“SEC. 139. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

“No amount (which but for this section would be includible in the gross income of an individual) shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

“(1) such individual has attained age 59½ on or before the date of the transaction, and

“(2) the amount otherwise includible in gross income is used during such year to pay for any qualified long-term care insurance contract (as defined in section 7702B(b)) which—

“(A) is for the benefit of such individual or the spouse of such individual if such spouse has attained age 59½ on or before the date of the transaction, and

“(B) may not be surrendered for cash.”.

(B) Conforming amendment.—The table of sections for such part III is amended by striking the item relating to section 139 and inserting the following:

“Sec. 139. Amounts received on cancellation, etc. of life insurance contracts and used to pay premiums for qualified long-term care insurance.

“Sec. 140. Cross references to other Acts.”.

(2) Certain exchanges not taxable.—Section 1035(a) of such Code (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting “; or”, and by adding at the end the following:

“(4) in the case of an individual who has attained age 59½, a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b)), if the qualified long-term care insurance contract may not be surrendered for cash.”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 904. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE.

(a) In General.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal) is amended by adding at the end the following:

“(9) Eligibility of home equity conversion sale-leaseback transaction for exclusion.—

“(A) In general.—For purposes of this section, the term ‘sale or exchange’ includes a home equity conversion sale-leaseback transaction.

“(B) Home equity conversion sale-leaseback transaction.—For purposes of subparagraph (A), the term ‘home equity conversion sale-leaseback’ means a transaction in which—

“(i) the seller-lessee—

“(I) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 2 years or more,

“(II) uses a portion of the proceeds from such sale to purchase a qualified long-term care insurance contract (as defined in section 7702B(b)), which contract may not be surrendered for cash,

“(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

“(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

“(ii) the purchaser-lessor—

“(I) is a person,

“(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

“(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

“(C) Additional definitions.—For purposes of subparagraph (B)—

“(i) Occupancy rights.—The term ‘occupancy rights’ means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly held occupancy rights).

“(ii) Fair rental.—The term ‘fair rental’ means a rental for any subsequent year which equals or exceeds the rental for the 1st year of a sale-leaseback transaction.”.

(b) Effective Date.—The amendment made by this section shall apply to sales after December 31, 2001, in taxable years beginning after such date.

TITLE X—NATIONAL FUND FOR HEALTH RESEARCH

SEC. 1001. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the "National Fund for Health Research" (in this section referred to as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b) and any interest earned on investment of amounts in the Fund.

(b) TRANSFERS TO FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Fund amounts equivalent to amounts designated under paragraph (2) and received in the Treasury.

(2) AMOUNTS.—

(A) HEALTH PLAN SET ASIDE.—With respect to each calendar year beginning with the first full calendar year after the date of enactment of this Act, each health plan shall set aside and transfer to the Treasury of the United States an amount equal to—

(i) for the first full calendar year, 0.25 percent of all health premiums received with respect to the plan for such year;

(ii) for the second full calendar year, 0.5 percent of all health premiums received with respect to the plan for such year;

(iii) for the third full calendar year, 0.75 percent of all health premiums received with respect to the plan for such year; and

(iv) for the fourth and each succeeding full calendar year, 1 percent of all health premiums received with respect to the plan for such year.

(3) TRANSFERS BASED ON ESTIMATES.—The amounts transferred by paragraph (1) shall annually be transferred to the Fund within 30 days after the President signs an appropriations Act for the Departments of Labor, Health and Human Services, and Education, and related agencies, or by the end of the first quarter of the fiscal year. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(4) DEFINITION.—As used in this subsection, the term "health plan" means a group health plan (as defined in section 2791(a) of the Public Health Service Act and any individual health insurance (as defined in section 2791(b)(5) of such Act) operated by a health insurance issuer.

(c) OBLIGATIONS FROM FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Fund in a fiscal year, the Secretary of Health and Human Services shall distribute—

(A) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

(ii) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

(C) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV of the Public Health Service Act with respect to health information communications; and

(D) the remainder of such amounts during any fiscal year to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES AND PHASE-IN.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(B) PHASE-IN.—The Secretary of Health and Human Services shall phase-in the distributions required under paragraph (1) so that—

(i) 25 percent of the amount in the Fund is distributed in the first fiscal year for which funds are available;

(ii) 50 percent of the amount in the Fund is distributed in the second fiscal year for which funds are available;

(iii) 75 percent of the amount in the Fund is distributed in the third fiscal year for which funds are available; and

(iv) 100 percent of the amount in the Fund is distributed in the fourth and each succeeding fiscal year for which funds are available.

(d) BUDGET TREATMENT OF AMOUNTS IN FUND.—The amounts in the Fund shall be excluded from, and shall not be taken into account, for purposes of any budget enforcement procedure under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

HEALTH CARE ASSURANCE ACT OF 2001—SUMMARY

Title I: Expanded Medicaid Coverage for Low-Income Individuals

Current law only guarantees coverage for pregnant women and infants who earn up to 133% of the Federal level poverty ($11,105 for a single/$22,676 for a family of four). Beyond that population, the Federal mandate varies across age, income, and disability status; for instance, there are different federal mandates for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal contributions for coverage for individuals who earn up to 133% of the federal poverty line, regardless of age or other status. States would then have the option, as they have under the State Child Health Insurance Programs (SCHIP), to cover individuals all the way up to 200% of the federal poverty level ($16,700 for a single/$34,100 for a family of four). Unlike SCHIP, however, the states will not receive an enhanced Federal match.

Title II: Expanded State Child Health Insurance Program

This title will expand upon the State Child Health Insurance Program (SCHIP), the new program established in the Balanced Budget Act of 1997 which allocates $24 billion/five years to increase health insurance coverage for children. The SCHIP program gives States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. These grants are distributed to participating States based on the number of uninsured children residing there. This title would increase the income eligibility to families with incomes at or below 235% of the Federal poverty level ($40,067 annually for a family of four).

Title III: Expanded Health Services for Disabled Individuals

Expansion of Community-Based Attendant Care Services and Supports: Medicaid currently covers the costs associated with institutional care for disabled individuals. In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this section would allow for reimbursement for community-based attendant care services and supports, instead of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability.

Title IV: General Health Insurance Coverage Provisions

Tax Equity for the Self-Employed: Under current law, self-employed persons may deduct 60% of their health insurance costs through 2002, and those costs would be fully deductible in 2003. However, all other employees may already deduct 100% of such costs. Title III would speed up the phase-in: health insurance costs would be 70% deductible in 2001 and fully deductible in 2002, thereby giving the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.

Small Employer and Individual Purchasing Groups: Establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard, actuarially equivalent health benefits package; (2) adjust community rated premiums by age and family size in order to spread risk and provide price equity to all; and (3) meet certain other guidelines involving marketing practices.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

COBRA Portability Reform: For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, Title III reforms the existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA may cover individuals through their former employers' plan, and extending to 36 months the time period in which a child who is no longer a dependent under a parent's health insurance policy may receive coverage; (2) expanding coverage options to include plans with a lower premium and a $1,000 deductible—saving a typical family of four 20% in monthly premiums—and plans with a lower premium and a $3,000 deductible—saving a family of four 52% in monthly premiums.

Title V: Primary and Preventive Care Services

New Medicare preventive Care Services: The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. This provision institutes new preventive benefits within the Medicare program, and refines and strengthens existing ones. Under this provision, Medicare would cover yearly pap smears, pelvic exams, and screening and diagnostic mammography for women, with no copayment of part B deductible; and cover insulin pumps for certain Type I Diabetics.

Primary Health and Education Assistance Programs: The Department of Health and Human Service administers many programs designed to increase access to primary and preventive care. This provision provides increased authorization for several existing preventive health programs such as breast and cervical cancer prevention, Healthy Start project grants aimed at reducing infant mortality and low weight births and to improve the health and well-being of mothers and their families, pregnant women and infants, and childhood immunizations. This section also authorizes a new grant program for local education agencies and pre-school programs to provide comprehensive health education, and reauthorizes the Adolescent Family Life (AFL) program (Title XX) for the first time since 1984. The AFL program provides funding for initiatives focusing directly on abstinence education.

Title VI: Patient's Right to Decline Medical Treatment

Improves the effectiveness and portability of advance directives by strengthening the federal law regarding patient self-determination and establishing uniform federal forms with regard to self-determination.

Title VII: Primary and Preventive Care Providers

Encourages use of non-physician providers such as nurse practitioners, physician assistants, and clinical nurse specialists by increasing direct reimbursement under Medicare and Medicaid without regard to the setting where services are provided. Title VI also seeks to encourage students early on in their medical training to pursue a career in primary care and it provides assistance to medical training programs to recruit such students.

Title VIII: Cost Containment

Investment in Outcomes Research: The recently renamed Agency for Healthcare Research and Quality (formerly the Agency for Health Care Policy and Research) is authorized to expand outcomes research necessary for the development of medical practice guidelines and for increased access to consumer information. In order to boost funding for this vital area of research, title VIII of my bill would establish a trust fund for medical treatment outcomes research, capitalized by a .001 cent tax on total U.S. health insurance premiums collected. This trust fund would be specifically authorized for use by the Agency for Healthcare Research and Quality to supplement its currently authorized outcomes research mission.

Reducing Medical Errors: A recently released Institute of Medicine (IOM) report, "To Err Is Human: Building a Safer Health System," concluded that medical mistakes have led to numerous injuries and deaths, affecting an estimated three to four percent of all hospital patients. The IOM report also concluded that health care is a decade or more behind other high-risk industries in its attention to ensuring basic safety. This provision would make grants available to states so they can establish their own error reporting systems and would establish 15 competitively-awarded research demonstration projects in rural and urban areas throughout the country. Of the 15 facilities participating in the demonstrations: 5 will be required to inform HHS of any medical errors, 5 will not be required to inform HHS of medical errors, and 5 will be required to inform HHS as well as the patient and/or his family of any medical errors.

The Secretary of HHS would be required to report to the Congress on the results of the demonstration projects, focusing on best practices and costs/benefits of applying these practices nationwide. These projects would employ new and proven technologies and enhance staff training to determine ways to reduce errors. The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by Federal health plans.

Title IX: Tax Incentives for Purchase of Qualified Long-Term Care Insurance

Increases access to long-term care by: (1) establishing a tax credit for amounts paid toward long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) setting standards that require long-term care to eliminate the current bias that favors institutional care over community and home-based alternatives.

Title X: National Fund for Health Research

Authorizes the establishment of a National Fund for Health Research to supplement biomedical research through the contributions of 1% of premiums collected by health insurers. Funds will be distributed to the National Institutes of Health's member institutes and centers in the same proportion as the amount of appropriations they receive for the fiscal year.

---

31 HEALTH CARE BILLS INTRODUCED BY SENATOR ARLEN SPECTER

98TH CONGRESS 1/3/83 THROUGH 1/2/85

(1) S. 811: The Health Care for Displaced Workers Act of 1983 (3/15/83)

(2) S. 2051: The Health Care Cost Containment Act of 1983 (11/4/83)

99TH CONGRESS 1/3/85 THROUGH 1/2/87

(3) S. 379: The Health Care Cost Containment Act of 1985 (2/5/85)

(4) S. 1873: The Community Based Disease Prevention and Health Promotion Projects Act of 1985 (11/21/85)

100TH CONGRESS 1/3/87 THROUGH 1/2/89

(5) S. 281: The Aid to Families and Employment Transition Act (1/6/87)

(6) S. 1871: The Pediatric Acquired Immunodeficiency Syndrome (AIDS) Resource Centers Act (11/17/87)

(7) S. 1872: The Minority Acquired Immunodeficiency Syndrome (AIDS) Awareness and Prevention Projects Act (11/17/87)

101ST CONGRESS 1/3/89 THROUGH 1/2/91

(8) S. 896: The Pediatric AIDS Resource Centers Act (5/2/89)

(9) S. 1607: Authorization of the Office of Minority Health (9/12/89)

102ND CONGRESS 1/3/91 THROUGH 1/5/93

(10) S. 1122: The Long-Term Care Incentives Act of 1991 (5/22/91)

(11) S. 1214: The Change in Designation of Lancaster County, PA, for Purposes of Medicare Services (6/4/91)

(12) S. 1864: The Children's Hospital of Philadelphia Medical Research Facility Act (10/23/91)

(13) S. 1995: The Health Care Access and Affordability Act of 1991 (11/20/91)

(14) S. 2028: The Women Veteran's Health Equity Act of 1991 (11/22/91)

(15) S. 2029: Self-Funding of Veteran's Administrative Health Care Act (11/22/91)

(16) S. 2188: Rural Veterans Health Care Facilities Act (2/5/92)

(17) S. 3176: The Health Care Affordability and Quality Improvement Act of 1992 (8/12/92)

(18) S. 3353: The Deferred Acquisition Cost Act (10/6/92)

103RD CONGRESS 1/5/93 THROUGH 12/11/94

(19) S. 18: The Comprehensive Health Care Act of 1993 (1/21/93)

(20) S. 631: The Comprehensive Access and Affordability Health Care (3/23/93)

104TH CONGRESS 1/4/95 THROUGH 10/3/96

(21) S. 18: The Health Care Assurance Act of 1995 (1/4/95)

(22) S. 1716: The Adolescent Family Life and Abstinence Education Act of 1996 (4/29/96)

105TH CONGRESS 1/7/97 THROUGH 10/21/98

(23) S. 24: The Health Care Assurance Act of 1997 (1/21/97)

(24) S. 435: The Healthy Children's Pilot Program Act of 1997 (3/13/97)

(25) S. 934: The Adolescent Family Life and Abstinence Education Act of 1997 (6/18/97)

(26) S. 999: Authorizing the Department of Veteran's Affairs to Specify the Frequency of Screening Mammograms (7/9/97)

106TH CONGRESS 1/19/99 THROUGH 12/15/00

(27) S. 24: The Health Care Assurance Act of 1999 (1/19/99)

(28) S. 836: The Access to Women's Health Care Act of 1999 (4/20/99)

(29) S. 1402: The Veterans Benefits and Health Care Improvement Act of 2000 (7/20/99)

(30) S. 2015: The Stem Cell Research Act of 2000 (1/31/00)

(31) S. 2038: The Medical Error Reduction Act of 2000 (2/8/00)

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, and Mrs. BOXER):

S. 25. A bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes; to the Committee on the Judiciary.

FIREARM LICENSING AND RECORD OF SALE ACT OF 2001

Mrs. FEINSTEIN. Mr. President, last year on Mother's Day, supporters of sensible gun laws came together by the hundreds of thousands to participate in the Million Mom March and say to Congress: "Enough is Enough."

Those women, men and children all shared a common purpose: The passage of sensible gun laws—laws that will hopefully help save lives.

The primary stated goal of the Million Mom March was to push for legislation to license gun owners and keep track of guns. We know it will be a long process of educating the Congress and the public on this issue. But we will not give in until we succeed. So today I rise, along with Senators SCHUMER and BOXER, to reintroduce the "Firearm Licensing and Record of Sale Act," which I believe represents a common-sense approach to guns and gun violence in America.

Mr. President, in this country, when you want to hunt, you get a hunting license; when you want to fish, you get a fishing license. But when you want to buy a gun, no license is necessary. That makes no sense.

We register cars and license drivers. We register pesticides and license exterminators. We register animal carriers and researchers, we register gambling devices. And we register a whole host of other goods and activities—even "international expositions" must be registered with the Bureau of International Expositions!

But when it comes to guns and gun owners—no license and no registration, despite the loss of more than 32,000 lives a year from gun violence.

To this end, my staff and I worked for months with law enforcement officials and other experts in drafting the bill we introduced last year. And since that time, we have refined the bill, corrected some vague sections, and made it even more clear what the bill would do, and what it would not do.

Upon enactment of this legislation, anyone purchasing a handgun or semi-automatic weapon that takes detachable ammunition magazines will be required to have a license. Shotguns and a large number of common hunting guns are not covered by the requirements of this bill.

Current owners of these weapons will have up to 10 years to obtain a license, on a rolling basis, much like many states now handle drivers licenses.

The bill sets up a federal system, but allows states to opt out if they adopt a system at least as effective as the federal program.

Under this bill, anyone wishing to obtain a firearm license will need to go to a federally licensed firearms dealer.. There are currently more than 100,000 such dealers across the country—to put that in some perspective, there are four times more gun dealers in America than there are McDonald's restaurants in the entire world. Operating the federal licensing system through these licensed dealers will minimize the burden on those wishing to obtain a license.

If a state opts-out of the federal program, an individual will go to a State-designated entity, like a local sheriff, local police department, or even Department of Motor Vehicles. It will all depend on where the state feels is best.

Either way, the purchaser will then need to:

Provide information as to date and place of birth and name and address;

Submit a thumb print;

Submit a current photograph;

Sign, under penalty of perjury, that all of the submitted information is true and that the applicant is qualified under Federal law to possess a firearm; Pass a written firearms safety test, requiring knowledge of the safe storage and handling of firearms, the legal responsibilities of firearm ownership, and other factors as determined by the state or federal authority;

Sign a pledge to keep any firearm safely stored and out of the hands of juveniles (this pledge will be backed up by criminal penalties of up to three years in jail for anyone failing to do so);

Undergo state and federal background checks.

Licenses will be renewable every five years, and can be revoked at any time if the licensee becomes disqualified under federal law from owning or possessing a gun.

And Mr. President, the fee for a license cannot exceed $25.

Once the bill takes effect, all future sales and transfers of firearms falling within the scope of the bill will have to be recorded through a federally licensed firearms dealer, with an accompanying NICS background check. That way, law enforcement agencies will have easier access to information leading to the arrest of persons who use guns in crime.

The bill covers both handguns and other guns that are semi-automatic and can accept detachable magazines.

The legislation covers handguns because statistically, these guns are used in more crimes than any other. In fact, approximately 85 percent of all firearm homicides involve a handgun.

And the legislation also covers semi-automatic firearms that can accept detachable magazines, because these are the kind of assault weapons that have the potential to destroy the largest number of lives in the shortest period of time.

A gun that can take a detachable magazine can also take a large capacity magazine. Combine that with semi-automatic, rapid fire, and you have a deadly combination—as we have seen time and again in recent years.

Put simply, this legislation will cover those firearms that represent the greatest threat to the safety of innocent men, women and children in this nation.

Common hunting rifles, shotguns and other firearms that cannot accept detachable magazines will remain exempt.

Penalties will vary depending on the severity of the violation. But in no case will gun owners face jail time simply because they forgot to get a license:

Those who fail to get a license will face fines of between $500 (for a first offense) and $5,000 for subsequent offenses.

Failing to report a change of address or the loss of a firearm will also result in penalties between $500 and $5.000, because this system works best for law enforcement when the perpetrators of gun crime can be quickly traced and arrested;

Dealers who fail to maintain adequate records will face up to 2 years in prison—dealers know their responsibilities, and this will give law enforcement the tools necessary to root out bad dealers and prevent the straw purchases and other violations of law that allow criminals easy access to a continuing flow of guns;

And adults who recklessly or knowingly allow a child access to a firearm face up to three years in prison if the child uses the gun to kill or seriously injure another person. In this way, the bill truly puts a new sense of responsibility onto gun owners in America.

Mr. President, law enforcement in California tells me that a licensing and record of sale system like the one I am introducing today will help law enforcement, upon recovery of a firearm used in crime, to track the gun down to the person who sold it, and then to the person who bought it.

And this legislation also sets in place a method through which we can better attempt to ensure that gun owners are responsible and trained in the use and care of their dangerous possessions.

We have tried to minimize the burden of this bill at every turn:

The licensing process will take place through federally licensed firearms dealers—as I mentioned earlier, there are currently more than 100,000 in this country;

The fee for a license will be only $25;

Current gun owners will have as many as ten years to get a license, on a rolling basis, and guns now in homes will not have to be registered;

Future gun transfers will simply be recorded by licensed dealers—as they are now—and a system will be put in place to allow the quick tracing of guns used in crime. Gun owners themselves will not have to register their old guns or send any paperwork to the government.

This nation is awash in guns—there are more than 200 million of them in the United States. The problem of gun violence is not going away, and accidental deaths from firearms rob us of countless innocents each year.

Too many lives are lost every year simply because gun owners do not know how to use or store their firearms—particularly around children. In fact, according to a study released in 1999, in 1996 alone there were more than 1,100 unintentional shooting deaths and more than 18,000 firearm suicides—many of which might have been prevented if the person intent on suicide did not have easy access to a gun owned by somebody else. It is my hope that the provisions of this bill, particularly with regard to child access prevention, will begin the process of making it harder for children and others to gain easy access to firearms.

As I said, I know that this bill will not pass overnight. We have a long process of education ahead of us. But the American people are with us. The facts are with us. And common sense is with us.

I thank the Senate for its consideration of this measure, and I look forward to working with each of my colleagues to move this bill forward in the coming months.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 25

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Firearm Licensing and Record of Sale Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—LICENSING

Sec. 101. Licensing requirement.
Sec. 102. Application requirements.
Sec. 103. Issuance of license.
Sec. 104. Renewal of license.
Sec. 105. Revocation of license.

TITLE II—RECORD OF SALE OR TRANSFER

Sec. 201. Sale and transfer requirements for qualifying firearms.
Sec. 202. Firearm records.

TITLE III—ADDITIONAL PROHIBITIONS

Sec. 301. Universal background check requirement.
Sec. 302. Failure to maintain or permit inspection of records.
Sec. 303. Failure to report loss or theft of firearm.
Sec. 304. Failure to provide notice of change of address.
Sec. 305. Child access prevention.

TITLE IV—ENFORCEMENT

Sec. 401. Criminal penalties.
Sec. 402. Regulations.
Sec. 403. Inspections.
Sec. 404. Orders.
Sec. 405. Injunctive enforcement.

TITLE V—FIREARM INJURY INFORMATION AND RESEARCH

Sec. 501. Duties of the Secretary.

TITLE VI—EFFECT ON STATE LAW

Sec. 601. Effect on State law.
Sec. 602. Certification of State firearm licensing and record of sale systems.

TITLE VII—RELATIONSHIP TO OTHER LAW

Sec. 701. Subordination to Arms Export Control Act.

TITLE VIII—INAPPLICABILITY

Sec. 801. Inapplicability to governmental authorities.

TITLE IX—EFFECTIVE DATE

Sec. 901. Effective date of amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the manufacture, distribution, and importation of firearms is inherently commercial in nature;

(2) firearms regularly move in interstate commerce;

(3) firearms trafficking is so prevalent and widespread in and among the States that it is usually impossible to distinguish between intrastate trafficking and interstate trafficking;

(4) to the extent that firearms trafficking is intrastate in nature, it arises out of and is substantially connected with a commercial transaction, which, when viewed in the aggregate, substantially affects interstate commerce;

(5) because the intrastate and interstate trafficking of firearms are so commingled, full regulation of interstate commerce requires the incidental regulation of intrastate commerce; and

(6) it is in the national interest and within the role of the Federal Government to ensure that the regulation of firearms is uniform among the States, that law enforcement can quickly and effectively trace firearms used in crime, and that firearms owners know how to use and safely store their firearms.

(b) PURPOSES.—The purposes of this Act and the amendments made by this Act are—

(1) to protect the public against the unreasonable risk of injury and death associated with the unrecorded sale or transfer of qualifying firearms to criminals and youth;

(2) to ensure that owners of qualifying firearms are knowledgeable in the safe use, handling, and storage of those firearms;

(3) to restrict the availability of qualifying firearms to criminals, youth, and other persons prohibited by Federal law from receiving firearms; and

(4) to facilitate the tracing of qualifying firearms used in crime by Federal and State law enforcement agencies.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) FIREARM; LICENSED DEALER; LICENSED MANUFACTURER.—The terms "firearm", "licensed dealer", and "licensed manufacturer" have the meanings given those terms in section 921(a) of title 18, United States Code.

(2) QUALIFYING FIREARM.—The term "qualifying firearm" has the meaning given the term in section 921(a) of title 18, United States Code, as amended by subsection (b) of this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

(b) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'qualifying firearm'—

"(A) means—

"(i) any handgun ; or

"(ii) any semiautomatic firearm that can accept any detachable ammunition feeding device; and

"(B) does not include any antique.".

TITLE I—LICENSING

SEC. 101. LICENSING REQUIREMENT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z) FIREARM LICENSING REQUIREMENT.—

"(1) IN GENERAL.—It shall be unlawful for any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to possess a qualifying firearm on or after the applicable date, unless that person has been issued a firearm license—

"(A) under title I of the Firearm Licensing and Record of Sale Act of 2001, which license has not been invalidated or revoked under that title; or

"(B) pursuant to a State firearm licensing and record of sale system certified under section 602 of the Firearm Licensing and Record of Sale Act of 2001, which license has not been invalidated or revoked under State law.

"(2) APPLICABLE DATE.—In this subsection, the term 'applicable date' means—

"(A) with respect to a qualifying firearm that is acquired by the person before the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 10 years after such date of enactment; and

"(B) with respect to a qualifying firearm that is acquired by the person on or after the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 1 year after such date of enactment.".

SEC. 102. APPLICATION REQUIREMENTS.

(a) IN GENERAL.—In order to be issued a firearm license under this title, an individual shall submit to the Secretary (in accordance with the regulations promulgated under subsection (b)) an application, which shall include—

(1) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;

(2) the name, address, and date and place of birth of the applicant;

(3) any other name that the applicant has ever used or by which the applicant has ever been known;

(4) a clear thumb print of the applicant, which shall be made when, and in the presence of the entity to whom, the application is submitted;

(5) with respect to each category of person prohibited by Federal law, or by the law of the State of residence of the applicant, from obtaining a firearm, a statement that the individual is not a person prohibited from obtaining a firearm;

(6) a certification by the applicant that the applicant will keep any firearm owned by the applicant safely stored and out of the possession of persons who have not attained 18 years of age;

(7) a certificate attesting to the completion at the time of application of a written firearms examination, which shall test the knowledge and ability of the applicant regarding—

(A) the safe storage of firearms, particularly in the vicinity of persons who have not attained 18 years of age;

(B) the safe handling of firearms;

(C) the use of firearms in the home and the risks associated with such use;

(D) the legal responsibilities of firearms owners, including Federal, State, and local laws relating to requirements for the possession and storage of firearms, and relating to reporting requirements with respect to firearms; and

(E) any other subjects, as the Secretary determines to be appropriate;

(8) the date on which the application was submitted; and

(9) the signature of the applicant.

(b) Regulations Governing Submission.—The Secretary shall promulgate regulations specifying procedures for the submission of applications to the Secretary under this section, which regulations shall—

(1) provide for submission of the application through a licensed dealer or an office or agency of the Federal Government designated by the Secretary;

(2) require the applicant to provide a valid identification document (as defined in section 1028(d)(2) of title 18, United States Code) of the applicant, containing a photograph of the applicant, to the licensed dealer or to the office or agency of the Federal Government, as applicable, at the time of submission of the application to that dealer, office, or agency; and

(3) require that a completed application be forwarded to the Secretary not later than 48 hours after the application is submitted to the licensed dealer or office or agency of the Federal Government, as applicable.

(c) Fees.—

(1) In general.—The Secretary shall charge and collect from each applicant for a license under this title a fee in an amount determined in accordance with paragraph (2).

(2) Fee amount.—The amount of the fee collected under this subsection shall be not less than the amount determined by the Secretary to be necessary to ensure that the total amount of all fees collected under this subsection during a fiscal year is sufficient to cover the costs of carrying out this title during that fiscal year, except that such amount shall not exceed $25.

SEC. 103. ISSUANCE OF LICENSE.

(a) In General.—The Secretary shall issue a firearm license to an applicant who has submitted an application that meets the requirements of section 102, if the Secretary ascertains that the individual is not prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm.

(b) Effect of Issuance to Prohibited Person.—A firearm license issued under this section shall be null and void if issued to a person who is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm.

(c) Form of License.—A firearm license issued under this section shall be in the form of a tamper-resistant card, and shall include—

(1) the photograph of the licensed individual submitted with the application;

(2) the address of the licensed individual;

(3) the date of birth of the licensed individual;

(4) a license number, unique to each licensed individual;

(5) the expiration date of the license, which shall be the date that is 5 years after the initial anniversary of the date of birth of the licensed individual following the date on which the license is issued (or in the case of a license renewal, following the date on which the license is renewed under section 104);

(6) the signature of the licensed individual provided on the application, or a facsimile of the application; and

(7) centered at the top of the license, capitalized, and in bold-face type, the following statement:

"FIREARM LICENSE—NOT VALID FOR ANY OTHER PURPOSE".

SEC. 104. RENEWAL OF LICENSE.

(a) Application for Renewal.—

(1) In general.—In order to renew a firearm license issued under this title, not later than 30 days before the expiration date of the license, the licensed individual shall submit to the Secretary (in accordance with the regulations promulgated under paragraph (3)), in a form approved by the Secretary, an application for renewal of the license.

(2) Contents.—An application submitted under paragraph (1) shall include—

(A) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;

(B) current proof of identity of the licensed individual; and

(C) the address of the licensed individual.

(3) Regulations governing submission.—The Secretary shall promulgate regulations specifying procedures for the submission of applications under this subsection.

(b) Issuance of Renewed License.—Upon approval of an application submitted under subsection (a), the Secretary shall issue a renewed license, which shall meet the requirements of section 103(c), except that the license shall include the current photograph and address of the licensed individual, as provided in the application submitted under this section, and the expiration date of the renewed license, as provided in section 103(c)(5).

SEC. 105. REVOCATION OF LICENSE.

(a) In General.—If an individual to whom a license has been issued under this title subsequently becomes a person who is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm—

(1) the license is revoked; and

(2) the individual shall promptly return the license to the Secretary.

(b) Administrative Action.—Upon receipt by the Secretary of notice that an individual to whom a license has been issued under this title has become a person described in subsection (a), the Secretary shall ensure that the individual promptly returns the license to the Secretary.

TITLE II—RECORD OF SALE OR TRANSFER

SEC. 201. SALE OR TRANSFER REQUIREMENTS FOR QUALIFYING FIREARMS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (z) (as added by section 101 of this Act) the following:

"(aa) Unauthorized Sale or Transfer of a Qualifying Firearm.—It shall be unlawful for any person to sell, deliver, or otherwise transfer a qualifying firearm to, or for, any person who is not a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, or to receive a qualifying firearm from a person who is not a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, unless, at the time and place of the transfer or receipt—

"(1) the transferee presents to a licensed dealer a valid firearm license issued to the transferee—

"(A) under title I of the Firearm Licensing and Record of Sale Act of 2001; or

"(B) pursuant to a State firearm licensing and record of sale system certified under section 602 of the Firearm Licensing and Record of Sale Act of 2001 established by the State in which the transfer or receipt occurs;

"(2) the licensed dealer contacts the Secretary or the head of the State agency that administers the certified system described in paragraph (1)(B), as applicable, and receives notice that the transferee has been issued a firearm license described in paragraph (1) and that the license remains valid; and

"(3) the licensed dealer records on a document (which, in the case of a sale, shall be the sales receipt) a tracking authorization number provided by the Secretary or the head of the State agency, as applicable, as evidence that the licensed dealer has verified the validity of the license.".

SEC. 202. FIREARM RECORDS.

(a) Submission of Sale or Transfer Reports.—Not later than 14 days after the date on which the transfer of qualifying firearm is processed by a licensed dealer under section 922(aa) of title 18, United States Code (as added by section 201 of this title), the licensed dealer shall submit to the Secretary (or, in the case of a licensed dealer located in a State that has a State firearm licensing and record of sale system certified under section 602, to the head of the State agency that administers that system) a report of that transfer, which shall include information relating to—

(1) the manufacturer of the firearm;

(2) the model name or number of the firearm;

(3) the serial number of the firearm:

(4) the date on which the firearm was received by the transferee;

(5) the number of a valid firearm license issued to the transferee under title I: and

(6) the name and address of the individual who transferred the firearm to the transferee.

(b) Federal Record of Sale System.—Not later than 9 months after the date of enactment of this Act, the Secretary shall establish and maintain a Federal record of sale system, which shall include the information included in each report submitted to the Secretary under subsection (a).

(c) Elimination of Prohibition on Establishment of System of Registration.—Section 926(a) of title 18, United States Code, is amended by striking the second sentence.

TITLE III—ADDITIONAL PROHIBITIONS

SEC. 301. UNIVERSAL BACKGROUND CHECK REQUIREMENT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (aa) (as added by section 201 of this Act) the following:

"(bb) Universal Background Check Requirement.—

"(1) Requirement.—Except as provided in paragraph (2), it shall be unlawful for any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell, deliver, or otherwise transfer a firearm to any person other than such a licensee, unless the transfer is processed through a licensed dealer in accordance with subsection (t).

"(2) Exception.—Paragraph (1) shall not apply to the infrequent transfer of a firearm by gift, bequest, intestate succession or other means by an individual to a parent, child, grandparent, or grandchild of the individual, or to any loan of a firearm for any lawful purpose for not more than 30 days between persons who are personally known to each other.".

SEC. 302. FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (bb) (as added by section 301 of this title) the following:

"(cc) Failure To Maintain or Permit Inspection of Records.—It shall be unlawful for a licensed manufacturer or a licensed dealer to fail to comply with section 202 of the Handgun Licensing and Record of Sale Act of 2001, or to maintain such records or supply such information as the Secretary may require in order to ascertain compliance with such Act and the regulations and orders issued under such Act.".

SEC. 303. FAILURE TO REPORT LOSS OR THEFT OF FIREARM.

Section 922 of title 18, United States Code, is amended by inserting after subsection (cc) (as added by section 302 of this title) the following:

"(dd) Failure To Report Loss or Theft of Firearm.—It shall be unlawful for any person who owns a qualifying firearm to fail to report the loss or theft of the firearm to the Secretary within 72 hours after the loss or theft is discovered.".

SEC. 304. FAILURE TO PROVIDE NOTICE OF CHANGE OF ADDRESS.

Section 922 of title 18, United States Code, is amended by inserting after subsection (dd) (as added by section 303 of this title) the following:

"(ee) Failure To Provide Notice of Change of Address.—It shall be unlawful for any individual to whom a firearm license has been issued under title I of the Firearm Licensing and Record of Sale Act of 2001 to fail to report to the Secretary a change in the address of that individual within 60 days of that change of address.".

SEC. 305. CHILD ACCESS PREVENTION.

Section 922 of title 18, United States Code, is amended by inserting after subsection (ee) (as added by section 304 of this title) the following:

"(ff) Child Access Prevention.—

"(1) Definition of child.—In this subsection, the term 'child' means an individual who has not attained the age of 18 years.

"(2) Prohibition and penalties.—Except as provided in paragraph (3), it shall be unlawful for any person to keep a loaded firearm, or an unloaded firearm and ammunition for the firearm, any 1 of which has been shipped or transported in interstate or foreign commerce, within any premises that is under the custody or control of that person, if—

"(A) that person—

"(i) knows, or recklessly disregards the risk, that a child is capable of gaining access to the firearm; and

"(ii) either—

"(I) knows, or recklessly disregards the risk, that a child will use the firearm to cause the death of, or serious bodily injury (as defined in section 1365 of this title) to, the child or any other person; or

"(II) knows, or reasonably should know, that possession of the firearm by a child is unlawful under Federal or State law; and

"(B) a child uses the firearm and the use of that firearm causes the death of, or serious bodily injury to, the child or any other person.

"(3) Exceptions.—Paragraph (2) does not apply if—

"(A) at the time the child obtained access, the firearm was secured with a secure gun storage or safety device;

"(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the child obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

"(C) the child uses the firearm in a lawful act of self-defense or defense of 1 or more other persons; or

"(D) the person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises on which the firearm is kept.".

TITLE IV—ENFORCEMENT

SEC. 401. CRIMINAL PENALTIES.

(a) Failure To Possess Firearm License; Failure To Comply With Qualifying Firearm Sale or Transfer Requirements; Failure To Maintain or Permit Inspection of Records.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(7) Whoever knowingly violates subsection (z), (aa), or (cc) of section 922 shall be fined under this title, imprisoned not more than 2 years, or both.".

(b) Failure To Comply With Universal Background Checks; Failure To Timely Report Loss or Theft of a Qualifying Firearm; Failure To Provide Notice of Change of Address.—Section 924(a)(5) of title 18, United States Code, is amended by striking "(s) or (t)" and inserting "(s), (t), (bb), (dd), or (ee)".

(c) Child Access Prevention.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(8) Whoever violates section 105(a)(2) of the Handgun Licensing and Record of Sale Act of 2001, knowingly or having reason to believe that the person is prohibited by subsection (g) or (n) of section 922 of title 18, United States Code, from receiving a firearm, shall be fined under this title, imprisoned not more than 2 years, or both.

"(9) Whoever violates section 922(ff) shall be fined under this title, imprisoned not more than 3 years, or both.".

SEC. 402. REGULATIONS.

(a) In General.—The Secretary shall issue regulations governing the licensing of possessors of qualifying firearms and the recorded sale of qualifying firearms, consistent with this Act and the amendments made by this Act, as the Secretary determines to be reasonably necessary to reduce or prevent deaths or injuries resulting from qualifying firearms, and to assist law enforcement in the apprehension of owners or users of qualifying firearms used in criminal activity.

(b) Maximum Interval Between Issuance of Proposed and Final Regulation.—Not later than 120 days after the date on which the Secretary issues a proposed regulation under subsection (a) with respect to a matter, the Secretary shall issue a final regulation with respect to the matter.

SEC. 403. INSPECTIONS.

In order to ascertain compliance with this Act, the amendments made by this Act, and the regulations and orders issued under this Act, the Secretary may, during regular business hours, enter any place in which firearms or firearm products are manufactured, stored, or held, for distribution in commerce, and inspect those areas where the products are so manufactured, stored, or held.

SEC. 404. ORDERS.

The Secretary may issue an order prohibiting the sale or transfer of any firearm that the Secretary finds has been transferred or distributed in violation of this Act, an amendment made by this Act, or a regulation issued under this Act.

SEC. 405. INJUNCTIVE ENFORCEMENT.

Upon the request of the Secretary, the Attorney General may bring an action to restrain any violation of this Act or an amendment made by this Act in the district court of the United States for any district in which the violation has occurred, or in which the defendant is found or transacts business.

TITLE V—FIREARM INJURY INFORMATION AND RESEARCH

SEC. 501. DUTIES OF THE SECRETARY.

(a) In General.—The Secretary shall—

(1) establish and maintain a firearm injury information clearinghouse to collect, investigate, analyze, and disseminate data and information relating to the causes and prevention of death and injury associated with firearms;

(2) conduct continuing studies and investigations of firearm-related deaths and injuries; and

(3) collect and maintain current production and sales figures for each licensed manufacturer.

(b) Availability of Information.—Periodically, but not less frequently than annually, the Secretary shall make available to the public a report on the activities of the Secretary under subsection (a).

TITLE VI—EFFECT ON STATE LAW

SEC. 601. EFFECT ON STATE LAW.

(a) In General.—This Act and the amendments made by this Act may not be construed to preempt any provision of the law of any State or political subdivision of that State, or prevent a State or political subdivision of that State from enacting any provision of law regulating or prohibiting conduct with respect to firearms, except to the extent that the provision of law is inconsistent with any provision of this Act or an amendment made by this Act, and then only to the extent of the inconsistency.

(b) Rule of Interpretation.—A provision of State law is not inconsistent with this Act or an amendment made by this Act if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than a corresponding prohibition or penalty imposed by this Act or an amendment made by this Act.

SEC. 602. CERTIFICATION OF STATE FIREARM LICENSING SYSTEMS AND STATE FIREARM RECORD OF SALE SYSTEMS.

Upon a written request of the chief executive officer of a State, the Secretary may certify—

(1) a firearm licensing system established by a State, if State law requires the system to satisfy the requirements applicable to the Federal firearm licensing system established under title I; or

(2) a firearm record of sale system established by a State, if State law requires the head of the State agency that administers the system to submit to the Federal firearm record of sale system established under section 202(b) a copy of each report submitted to the head of the agency under section 202(a), within 7 days after receipt of the report.

TITLE VII—RELATIONSHIP TO OTHER LAW

SEC. 701. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

In the event of any conflict between any provision of this Act or an amendment made by this Act, and any provision of the Arms Export Control Act (22 U.S.C. 2751), the provision of the Arms Export Control Act shall control.

TITLE VIII—INAPPLICABILITY

SEC. 801. INAPPLICABILITY TO GOVERNMENTAL AUTHORITIES.

This Act and the amendments made by this Act do not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE OF AMENDMENTS.

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mrs. Boxer):

S. 26. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Natural Resources.

AMENDING THE DEPARTMENT OF ENERGY AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce this bill today to address problems with the California energy market and the unwillingness of the Federal Energy Regulatory Commission to take the necessary action.

Last week, the lights went off in California and the Governor declared a state of emergency. More than 1 million businesses and homeowners throughout the state lost power. Computers shut off, ATMs stopped dispensing cash, traffic lights went dark and heaters went cold, jeopardizing public safety, the economy, and people's lives.

The situation continues to worsen, and the prognosis for the future is dire. Unfortunately, the problem is not just limited to California. PG&E and Southern California Edison, our two largest blue chip utilities are on the brink of bankruptcy and have lost billions. The state's economy has also lost billions from work stoppages that seem to occur every single workday.

As goes California so goes the rest of the country, I believe. California is the 6th largest economy in the world. Already financial institutions and banks that have underwritten the debts of our utilities are being saddled with their own problems due to the uncertainty over whether they will be paid.

Those who believe that California deserves its present plight because of the state's deregulation bill are near-sighted. California passed a very flawed deregulation bill in 1996. It was flawed because it relied almost entirely on a free market and assumed that there will always be adequate energy supply. What has resulted is an uncompetitive market and an absence of adequate supply.

I believe California shares a major responsibility here and I am encouraged that the state legislature is beginning to take action. However, the federal government also has a major responsibility because the Federal Energy Regulatory Commission under the Federal Power Act holds the only authority over energy generators and marketers. The state cannot address this.

Unfortunately, the FERC, even after concluding that rates in California are "unjust and unreasonable," has failed to take the necessary action to solve the crisis. I am thus proposing legislation today to empower the Secretary of Energy to take the same action available to the FERC in instances when FERC has failed to take decisive action. Individual states would be able to opt out of any order from the Secretary as this bill is aimed at helping those states that need and want help.

I urge the Senate to take up and pass this bill as soon as possible.

By Mr. McCAIN (for himself, Mr. FEINGOLD, Mr. COCHRAN, Mr. LEVIN, Mr. THOMPSON, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. WELLSTONE, Mr. JEFFORDS, Mr. REED, Mr. DURBIN, Mr. WYDEN, Mr. KOHL, Mrs. BOXER, Mr. HARKIN, Ms. STABENOW, and Ms. CANTWELL):

S. 27. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

CAMPAIGN REFORM LEGISLATION

Mr. McCAIN. Mr. President, today we confront yet again a very serious challenge to our political system, as dangerous in its debasing effect on our democracy as war and depression have been in the past. And it will take the best efforts of every public-spirited American to defeat it. We must overcome the cynicism that is growing rampant in our society. We must pass campaign reform legislation.

That is why first I want to thank our cosponsors for being here today. They are proof that momentum is on our side and that we will pass campaign reform legislation and finally follow the American people's will. Action on this issue is long overdue and I am hopeful that this year will present us with our best opportunity yet to achieve passage of meaningful campaign reform.

Our legislation is simple, bi-partisan, and achieves three primary objectives that will go far to reform our electoral system.

The bill: Bans soft money for usage in federal elections; Requires increased disclosure of electioneering communications by so-called independent organizations in a constitutional and clear manner (the Snowe-Jeffords language); and Codifies the Supreme Court's *Beck* decision, a court decision effectively ignored by the previous Clinton Administration and now, under this Act, a decision which would be strictly enforced.

After one of the closest elections in our nation's history, there's one thing the American people are unanimous about—they want their government back. We can to that by ridding politics of large, unregulated contributions that give special interests a seat at the table while average Americans are stuck in the back of the room. The Senate needs to act early on campaign finance reform so we can achieve meaningful reform and restore the public's faith in their government.

This is not a perfect bill. It does not attempt to solve all the evils that plague our campaign system. But we will not let perfect be the enemy of progress. We expect amendments to be offered to this legislation and we fully expect that many of those amendments will be constructive and add to our efforts. We look forward to that kind of positive debate.

Second, whatever bill passes, it must treat our corporate and union constituencies alike. We must resist any measures that skew this bill in favor of any one group. The soft money ban in this bill affects both corporations and unions.

And for my Republican friends, I want to emphasize again, if this bill passes, the **$100,000-plus** union soft money checks to the Democratic Party will no longer exist. According to the Washington Post, the "biggest donor of soft money in the (last) campaign was the American Federal of State, County, and Municipal Employees (which) gave the Democratic National Committee $1.27 million in last October and early November. AFSCME's soft money total for the election cycle was $6.3 million." Passage of this bill will end this practice once and for all.

The key to our success now lies with a fair and open debate on this subject. In the past, we have been denied any constructive debate on this matter. I am hopeful that Senators LOTT and DASCHLE and the co-sponsors of the bill can construct a fair unanimous consent agreement that will allow the Senate to take up and consider numerous amendments, work its will, and craft legislation that can and will be signed into law by the President. That is now our singular goal. And I am confident it can be achieved.

Mr. President, I hope we can soon take up and pass this crucial legislation.

Mr. FEINGOLD. Mr. President, I am very pleased to once again introduce a campaign reform bill with my friend and colleague, the Senator from Arizona. This year we have an important new cosponsor, the senior Senator from Mississippi, Senator THAD COCHRAN, so this bill will be known as the McCain-Feingold-Cochran campaign reform bill.

This is the fourth Congress in which Senator McCAIN and I have introduced a bill. We have made progress each year, and now we are closer than ever to finishing the job for the American people. The time for campaign finance reform to pass the Congress and become law has now come Mr. President. And Senator McCAIN and I are going to dedicate ourselves to this issue like never before to make it happen.

The bill we are introducing today is broader than S. 1593, the bill we took to the floor in October 1999, but narrower than S. 26, the McCain-Feingold bill that was introduced in the beginning of the last Congress. Our bill this year consists of a soft money ban, the Snowe-Jeffords language on issue ads, the Beck provision on union dues, and a few other provisions that will provide credibility to this reform bill as it's passed into law. Very significant in my mind is a clear prohibition on political fundraising in federal office buildings. This is a strong base bill for reform, but we are ready and willing to entertain the suggestions and proposals of all 98 other Senators. Each of us in this body is an expert on this issue, and I know that many of my colleagues have innovative ideas on how to improve our election laws. Any amendment that adds to this bill in a positive way and and doesn't undercut its basic principles will be given every consideration.

One provision on which we will not compromise is the ban on soft money. The bill here is as tough and comprehensive as possible, leaving no room for the soft money abuses we have seen in the last decade. Obviously, loopholes will develop over time, but I am satisfied that this bill closes the soft money system down and anticipates at least some of the clever schemes that might be developed to avoid the ban. In the last election cycle, we saw over $500 million in soft money raised by the political parties. This system is a scandal that we must eliminate now.

The bill includes the Snowe-Jeffords language on issue ads. This provision will have a major impact on labor union ads, but it is fair and balanced between unions and corporations. It will have minimal impact on established advocacy groups like National Right to Life and the Sierra Club because they have a significant small donor base, but it will prevent corporations and unions from laundering money through such groups. It allows groups to continue to run these ads as long as they use only individual money and disclose the large donors to the effort. The provision covers only phony issue ads on radio and TV, not direct mail, phone banks, or newspapers, or the Internet, but we are open to working with all sides to work out a fair and balanced way to broaden its coverage if that is what the Senate wants to do.

Similarly, we are open to proposals that will require additional disclosure of election related spending by unions, corporations, and advocacy groups. But they must treat all players in this system evenly and fairly.

That brings me to the issue that has received a lot of attention in recent weeks, so called "paycheck protection." In the past, this has been a poison pill to reform, but with the changes in the Senate, we clearly have the votes to defeat the extreme and one-sided "paycheck protection proposals that have been offered in the past. We will hold the President and those working with him to the standard that he himself has enunciated any proposal has to be fair and balanced. Our bill is currently fair and balanced. It treats unions and corporations equally. The paycheck protection proposals we have seen in the past are not fair and balanced. They attack only one player in the election system labor unions.

Mr. President, I look forward to a real debate early this year, not only on our bill but on amendments that my colleagues want to offer. I am happy to meet with any Senator who wants to discuss a reform proposal. If we all work together, this process can yield a campaign reform bill that we will be proud of, and we can start out this new Congress by cleaning up our elections and ridding our system of the corrupting of soft money.

Mr. McCAIN. Mr. President, Senator FEINGOLD and I and others—a bipartisan group of Senators and friends from the House, Congressman SHAYS and Congressman MEEHAN—just had a press conference announcing our intentions. I don't intend to make a statement, except to express my deep and sincere appreciation for my partner, Senator FEINGOLD, who someday will be written about in another book called profiles in courage for his willingness to stand up to the special interests at a time when his own candidacy was at risk if he did not do so.

I thank Senator FEINGOLD, and I look forward to continuing to work together on this issue. I believe we see a light at the end of the tunnel, which is an old phrase from the Vietnam war, uttered by one of our civilian leaders during that war. I remind Senator FEINGOLD that when told of that, a soldier in the field said, "Yes, the light at the end of the tunnel is a train." We hope that is not the case in this particular scenario.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona for his kind remarks. I am happy to be back with him on this effort. As JOHN McCAIN has said many times, we know that every Member of the Senate is an expert on this issue. Every Member has ideas about how we should reform the campaign finance system. What we want out of this is an opportunity for an open amending process so the Senate as a whole can fashion a bill to send to the President.

Mr. McCAIN. I ask unanimous consent that the bill be left open for further cosponsors throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin has the floor.

Mr. FEINGOLD. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased to join my friends from Arizona and from Wisconsin in introducing the McCain-Feingold-Cochran bill today. They have worked very hard and very effectively to bring the attention of not only the Senate but the American people to bear on this issue and this important need for reform. I am convinced that we are well advised to take this legislation up at an early date in this session of the Congress.

The impressions of the last election are fresh on everybody's mind. One that sticks with me very strongly is that candidates were overwhelmed in this process by the expenditures of soft money by groups buying ads, some attacking candidates, supporting others, without the American public knowing who these groups were, what their goals and intentions were, where the money was coming from, or how it was being spent. That has to be corrected, and it ought to be corrected.

The purpose of the campaign finance laws was to let the American people know from where the money was coming, how it was being used, how much money was being raised by the candidates and spent by the candidates. We have now lost the right to know because of the loopholes that have been developed and perfected by those who are involving themselves in the election process.

I am not against freedom of speech. We want everybody to be able to have their say, but we have a right to know how much they are spending and from where the money is coming. I think that is a fundamental part of this legislation, and I hope the Senate will take it up and pass it in the near future.

Ms. COLLINS. Mr. President, I rise in support of the McCain-Feingold bipartisan campaign finance reform bill of 2001. I am very proud to be an original cosponsor of this legislation which goes a long way towards reforming our campaign system.

I have long supported campaign finance reform. When I ran for the Senate from Maine in 1996 I promised my constituents that I would be a strong advocate for campaign finance reform. That pledge led to my decision to cosponsor the campaign finance reform that was introduced in 1997 by Senators McCAIN and FEINGOLD.

Unfortunately, comprehensive campaign finance reform efforts have been thwarted in the past two Congresses. This time, though, we have reason for optimism due to new and renewed support.

The Bipartisan Campaign Reform Act of 2001 takes a number of important steps towards fixing a broken system. First and foremost, the bill closes the most glaring loophole in our campaign finance laws by banning the unlimited, unregulated contributions known as "soft money." "Soft money" has made the current law's restrictions and contributions from individuals, corporations, and unions essentially meaningless. Second, the bill requires disclosure by the sponsors of certain issue ads that corporations and labor unions run in the period leading up to an election. Third, the bill codifies the Supreme Court's decision in *Communication Workers of America v. Beck* to ensure that nonunion members are not obligated to subsidize the political activities of labor unions. And finally, the bill makes it clear that foreign nationals may not contribute any funds—hard or soft—to federal, state, or local elections.

My home State of Maine has a deep commitment to preserving the integrity of the electoral system and ensuring that all Mainers have an equal political voice. Mainers have backed their commitment to an open political process in both word and deed. In many regions of Maine, town meetings in which all citizens are invited to debate issues and make decisions are still prevalent. This is unvarnished, direct democracy. Maine's tradition of town meetings and equal participation rejects the notion that wealth dictates political discourse. Maine citizens feel strongly about reforming our federal campaign laws, as do I.

The problem with soft money was painfully evident during the 1997 hearings by the Senate Committee on Governmental Affairs, chaired by my good friend, Senator THOMPSON. During those investigations, we heard from one individual who gave $325,000 to the Democratic National Committee in order to secure a picture with the President of the United States. We also heard from the infamous Roger Tamraz who testified that the $300,000 he spend to gain access to the White House was not enough and that, next time, he would spend $600,000. And we heard of individuals, such as Chinese cigarette magnate Ted Sioeng, who orchestrated nearly $600,000 in political contributions during the 1996 election cycle. Sioeng, we later discovered, was a self-described agent of the Chinese government.

Soft money donations soared in the 2000 presidential election cycle, nearly doubling from $262 million in 1996 to $488 million in 2000. At the same time, regulated, hard money donations increased a little more than 10-percent. Soft money, then, is the crest of the wave that has swamped our campaign finance system and shaken public confidence in our government. I applaud the bipartisan efforts of Senators MCCAIN and FEINGOLD and pledge my continued support to see this legislation become law this year.

Mr. JEFFORDS. Mr. President, I rise today as a proud cosponsor of the Bipartisan Campaign Reform Act of 2001 to discuss my thoughts and hopes on the actions the Senate will hopefully be taking in the coming months on this important issue.

First, let me thank the sponsors of the legislation, Senators MCCAIN and FEINGOLD, for their tireless perseverance to enact campaign finance reform. Without their hard work and vast knowledge, we would not be at this important point. The time has come to schedule a full and open debate on this important issue. I look forward to hearing and debating the many ideas of my colleagues and believe the Senate should strive to show why we are considered the greatest deliberative body in the world by fully debating this important topic.

Mr. President, I was first elected to Congress following the Watergate scandal, right around the time Congress last enacted comprehensive reform of our campaign finance system. I have watched with growing dismay during my over twenty-five years in Congress as the number of troubling examples of problems in our current campaign finance system have increased. These problems have led to a perception by the public that a disconnect exists between themselves and the people that they have elected. I believe that this perception is a pivotal factor behind the disturbingly low voter turnouts that have plagued national elections.

While some may point to surveys that list campaign finance reform as a low priority for the electorate, I believe that the public actually strongly supports Congress debating and enacting comprehensive reform. It is important to reverse the trend of shrinking voter turnout by re-establishing the connection between the public and us, their elected representatives, by passing comprehensive campaign finance reform.

It is time to restore the public's confidence in our political system.

It is time to increase disclosure requirements and ban soft money.

It is time to work together to pass meaningful campaign finance reform.

As I said earlier, I look forward to a full and open debate on the issue of campaign finance reform including the amendments that will be offered. At the end of this debate, the Senate should be able to pass comprehensive campaign finance reform. That to me is the most important aspect of any bill the Senate may pass, it must be comprehensive. If we fail to address the problems facing our campaign finance system with a comprehensive balanced package we will ultimately fail in our mission of reforming the system. Closing one loophole, without addressing the others in a systematic way, will not do enough to correct the current deficiencies, and may in fact create new and unintended consequences.

Mr. President, we have all seen first-hand the problems with the current state of the law as it relates to sham issue advertisements. I have focused much time and effort on developing a legislative solution on this topic with my colleague Senator OLYMPIA SNOWE, and was pleased that this solution was adopted by the Senate during the 1998 debate on campaign finance reform. I was also proud to cosponsor the comprehensive campaign finance bill Senators MCCAIN and FEINGOLD introduced last Congress that included this legislative solution.

I feel strongly that the legislation the Senate must ultimately vote on include some kind of changes to the current law concerning sham issue advertisements. I feel that we have crafted a reasonable, constitutional approach to this problem and am extremely pleased that this legislative solution is again included in the bill we introduce today.

That does not mean, though, that we will stop working with our colleagues to craft additional, and perhaps different, ideas to address the problems with the current law on sham issue advertisements. My ultimate goal is to create a comprehensive campaign finance bill that will garner the support of at least 60 Senators, and hopefully more.

Mr. President, I look forward to a full and open debate on this important issue, and pledge to continue working with my colleagues to enact comprehensive campaign finance reform into law this year.

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 28. A bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections; to the Committee on Rules and Administration and the Committee on Rules and Administration, jointly.

MILITARY VOTING RIGHTS ACT OF 2001

Mr. GRAMM. Mr. President, along with Senator KAY BAILEY HUTCHISON, I am introducing legislation today which will ensure that active duty military personnel and their dependents will never lose their right to vote in Federal, State, and local elections. The Military Voting Rights Act of 2001 will guarantee that those men and women who protect our freedom are not denied one of the basic rights upon which that freedom is based.

I initially introduced this legislation in response to an outrageous case in my home state of Texas in which a federal district court, in a suit brought under federal law and supported by federal tax dollars, threw out 800 absentee ballots cast by military personnel in two closely-contested local elections in Val Verde County. While a state court ultimately restored the military votes, the case clearly demonstrated that military personnel who are away from their legal residence on official orders are at risk of losing their right to vote. In fact, based upon current statistics compiled by the Congressional Research Service and the Department of Defense, over 40 percent of our troops on active duty are residents of states that have no specific legislative provisions protecting their fundamental right to vote in state and local elections.

As the Val Verde County case demonstrates, absent specific legislative protection, valid absentee votes cast by military personnel will be ripe targets for attack by those seeking to overturn the results of close elections. I find it unconscionable that American military personnel, who stand ready to fight and die for our nation, risk losing their right to vote as a consequence of their military service. To protect our military personnel from any such injustice, I again introduce this legislation in the Senate and ask my colleagues to support its immediate passage. Those Americans who volunteer to protect our freedom by serving in our Armed Forces should not be denied the right to vote in any election.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 28

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Voting Rights Act of 2001".

SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—";

and

(2) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out **"FOR FEDERAL OFFICE"**.

By Mr. BOND (for himself, Mr. DURBIN, Mr. BAUCUS, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. KYL, Mr. BURNS, Mr. DORGAN, Mr. HARKIN, Mrs. LINCOLN, Mr. LEAHY, Mr. JOHNSON, Mr. FITZGERALD, Mr. WELLSTONE, and Mr. BINGAMAN):

S. 29. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.

SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001

Mr. BOND. Mr. President, I rise today to discuss a measure that has broad bipartisan support. Today, with my colleague from Illinois, Senator DURBIN, I am introducing legislation addressing what is a top concern of small business owners in this country. That is the availability of health care.

For the past three Congresses, we have worked to level the playing field for America's self-employed by ensuring that they can deduct 100 percent of their health insurance premiums. Large corporations, businesses, and other organizations can deduct 100 percent of what they pay, but small businesses, up until recently, have been severely limited in what they can deduct.

The legislation Senator DURBIN and I are introducing today, the Self-Employed Health Insurance Act of 2001, will end finally one of the most glaring inequities that has existed in our tax law.

I have had the pleasure of serving for over 4 years now as chairman of the Senate Committee on Small Business. Throughout, one of my top priorities has been to ensure full deductibility of health insurance for the self-employed. We have made some progress. Most notably, in the Taxpayer Relief Act of 1997, we broke through the long-standing cap on the deduction to provide 100-percent deductibility. In 1998, we passed legislation to speed up the date that self-employed can fully deduct their health insurance costs to 2003 and increase the deductible amounts in the intervening years.

We realize the problem with budget scoring has postponed the effective date of this measure, but I have talked to too many small business people who tell us they cannot wait until 2003 to get sick or to go to 2003 without having coverage for themselves and their employees. The self-employed still cannot afford, in many instances, health insurance without 100-percent deductibility. They should not have to wait any longer. It is time for us to unite behind this bipartisan issue and get this job done.

Let me give you a fact, Mr. President. With a self-employed able to deduct only 60 percent of their health insurance costs today and only 70 percent next year, it probably will come as no surprise to any of us that almost a quarter, 24.2 percent, of the self-employed business owners in Missouri do not have health insurance. In fact, 4.8 million Americans live in families headed by a self-employed individual and have no health insurance. Those families include more than 1 million children who lack adequate health care insurance coverage.

The bill Senator DURBIN and I are introducing today addresses this situation by making 100-percent deductibility begin this year. Full deductibility will make health insurance affordable to the self-employed and help them get themselves and their families the kind of health insurance coverage they should have.

This measure also corrects another inequity in the law affecting self-employed who try to provide health insurance for themselves, their families, and their employees. It deals with an issue I raised in the last Congress.

Under the current law, the self-employed lose all the health insurance deduction if they are eligible to participate in another plan, whether or not they actually participate. This provision affects self-employed individuals such as Steve Hagan in my hometown of Mexico, MO. Steve is a financial planner who runs his own small business. Although he has a group medical plan for his employees, Steve cannot deduct the medical cost of covering himself or his family simply because his wife is eligible for health insurance through her employer.

The inequity is clear. Why should he be able to deduct the cost of health insurance for his employees but not for himself and his family? What if the insurance available through his wife's employer does not meet the needs of their family?

Besides being patently unfair, this is also an enormous trap for the unwary. Imagine the small business owner who learns that she can now deduct 60 percent of her health insurance costs this year, and with the extra deduction, she can finally afford a group medical plan for herself and her employees.

Then later in the year, her husband gets a new job that offers health insurance. Suddenly, her self-employed health insurance deduction is gone. Sadly, she is left with two choices. She can bear the entire burden of her family's coverage, or she can terminate the insurance coverage for all her employees, which will likely increase due to coverage of fewer employees under the plan. The Tax Code should not force small business owners into this kind of "no win" situation when they try to provide insurance coverage for their employees and themselves.

This bill eliminates this problem by clarifying that the self-employed health insurance deduction is limited only if the self-employed person actually participates in a subsidized health insurance plan offered by a spouse's employer or through a second job. It is simply a matter of fairness. It makes common sense. We ought to take this step right now.

It is a commonsense measure that answers the urgent plea of small businesses for fairness in the Tax Code. It has been on the "must do" list of the national small business groups for too long. And when I hosted the National Women's Small Business Summit this past summer, in Kansas City, it was at the top of the list among the recommendations we received.

We have a tremendous opportunity to work together. Let's take this opportunity and finish the job.

I had initially offered a list of 21 original cosponsors. I ask unanimous consent that, in addition to those cosponsors, the following Senators be added: The Senator from Wyoming, Mr. ENZI; the Senator from Indiana, Mr. LUGAR; the Senator from Kansas, Mr. ROBERTS; the Senator from Maine, Ms. COLLINS; the Senator from Pennsylvania, Mr. SPECTER; and the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent the bill and a description of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Self-Employed Health Insurance Fairness Act of 2001".

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents."

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows: "Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

S. 29—SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001—DESCRIPTION OF PROVISIONS

The bill amends section 162(*l*)(1) of the Internal Revenue Code to increase the deduction for health-insurance costs for self-employed individuals to 100% beginning on January 1, 2001. Currently the self-employed can only deduct 60% of these costs. The deduction is not scheduled to reach 100% until 2003, under the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, which was signed into law in October 1998. The bill is designed to place self-employed individuals on an equal footing with large businesses, which can currently deduct 100% of the health-insurance costs for all of their employees.

The bill also corrects a disparity under current law that bars a self-employed individual from deducting any of his or her health-insurance costs if the individual is eligible to participate in another health-insurance plan. This provision affects self-employed individuals who are eligible for, but do not participate in, a health-insurance plan offered through a second job or through a spouse's employer. That insurance plan may not be adequate for the self-employed business owner, and this provision prevents the self-employed from deducting the costs of insurance policies that do meet the specific needs of their families. In addition, this provision provides a significant disincentive for self-employed business owners to provide group health insurance for their employees. The bill ends this disparity by clarifying that a self-employed person loses the deduction only if he or she actually participates in another health-insurance plan.

Mr. DURBIN. Mr. President, I rise today with my colleague from Missouri, to introduce "The Self-Employed Health Insurance Fairness Act of 2001", as our first order of business for the new Congress. We have both been working on this issue for many years now and are hopeful that we can finally get the bill fully enacted this year. In past years, we have each introduced very similar bills and this year we are combining our efforts by introducing this bipartisan bill, which we intend to pursue vigorously throughout this Congress.

This bill would allow the self-employed to take a full tax deduction for their health insurance premiums as of December 31, 2000. Corporations already can take a full deduction for these expenses and this bill would level the playing field by allowing the self-employed to take the same full deduction. This bill would mean that the farmer and the agribusiness would be treated the same.

Under current law, the self-employed may only deduct 60 percent of their health insurance premiums this year. The deductibility will increase to 70 percent in 2002 and 100 percent in 2003. I am committed to seeing the self-employed receive equal treatment sooner rather than later.

The self-employed pay over 30 percent more for their health insurance than those insured by group health plans. This makes it much harder for them to afford health insurance. More than 22 percent of the self-employed were without health insurance in 1999, compared to 17.5 percent of other workers. That means that 4.8 million self-employed Americans went without health insurance in 1999.

In Illinois, 17 percent of the self-employed were without health insurance in 1999, up from 14 percent in 1996. The vast majority of these individuals are members of low-income working families. Fifty-three percent of the self-employed living on less than $20,000 in Illinois are without health insurance. This compares with 34 percent of other Illinois working families with the same low income level. Almost 50 percent of those self-employed individuals who were without health insurance at some time during 1995, went without health insurance for the entire year. In comparison, 62 percent of government workers saw their lack of coverage end within 4 months or less.

Overall, the self-employed pay more for health insurance and are therefore more likely to be uninsured, and they remain uninsured longer than other workers. This is exacerbated by their unequal treatment by the tax code. Congress should move expeditiously to level the playing field and help more hard-working, self-employed individuals and their families to afford the health insurance that they need and deserve.

Mr. BAUCUS. Mr. President, I rise today, as an original cosponsor of S. 29, the Self-Employed Health Insurance Fairness Act of 2001, to speak about the importance of making health insurance a more affordable option for self-employed Americans. The legislation moves forward—by two years—the effective date for making health insurance fully deductible for self-employed taxpayers. In the early 1990s, I authored bills to ensure that the deduction—then 25 percent—would not expire. We won that battle, and throughout the 1990s I consistently fought for increases in the deductible amount. Finally, in 1997, we enacted legislation to allow full, 100 percent deductibility of health insurance for the self-employed, phased in by 2003.

Mr. President, in these times of surpluses, as we reap the benefits of our fiscal discipline, the self-employed farmers, ranchers, and entrepreneurs in Montana and across the country deserve this important tax relief today. My small business and self-employed constituents constantly tell me that purchasing health insurance is one of the things they would most like to be able to do at their business. It is simply unfair that large businesses are allowed to deduct 100 percent of their employees' health insurance costs, while the self-employed must wait until 2003 for this privilege. In this country, we have a system of health insurance that encourages Americans to purchase health insurance through their employer. Allowing self-employed purchasers of health insurance the same deduction permitted to large employers adheres to those concepts and adds a measure of tax equity.

I thank Senators DURBIN and BOND for so actively pursuing enactment of this legislation. I believe the time is right to allow full deductibility of health insurance for the hard-working self-employed.

By Mr. SARBANES (for himself, Mr. LEAHY, Mr. DODD, Mr. REED, Mr. KERRY, Mr. HARKIN, and Mr. EDWARDS):

S. 30. A bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INFORMATION PRIVACY PROTECTION ACT

Mr. SARBANES.

Mr. President, I rise today to address a very important issue: the protection of every American's personal, sensitive, financial information that is held by their financial institutions.

Few Americans understand that, under Federal law, a financial institution could take information it obtains about a customer through his or her transactions, and sell or transfer that information to an affiliated company without the customer being able to object. And the customer has no right to get access to or correct that information.

The amount of information that could be disclosed is enormous. It includes: savings and checking account balances; certificate of deposit maturity dates and balances; any check an individual writes; any check that is deposited into a customer's account; stock and mutual fund purchases and sales; and life insurance payouts.

In considering this issue, I start with the threshold question: whose information is it? Is it the individual's or the institution's? I believe this information belongs to the individual.

To help alleviate the concerns of American consumers, I am introducing legislation that would give customers the right to choose whether their financial institutions should be allowed to transfer this date for unintended uses. I am pleased that Senators LEAHY, DODD, REED, KERRY, HARKIN and EDWARDS are joining me in cosponsoring the Financial Information Privacy Protection Act of 2001. I want to particularly recognize Senator LEAHY, chairman of the Democratic Privacy Caucus, for his strong leadership on the privacy issue over the years.

This bill seeks to protect a fundamental right of privacy for every American who entrusts his or her highly sensitive and confidential financial information to a financial institution. Every American should at least have the opportunity to say "no" if he or she does not want that nonpublic information disclosed. Every American should have the right to have especially sensitive information held by his or her financial institution kept confidential unless consent is given. Every American should be allowed to make certain that the information is accurate and, if it is not, have it corrected. And, put quite simply, these rights should be enforced.

The Financial Information Privacy Protection Act of 2001 would accomplish these objectives.

Today's technology makes it easier, faster, and less costly than ever for institutions to have immediate access to large amounts of customer information; to analyze that data; and to send that data to others. With the passage of financial services modernization legislation in 1999, banks, securities firms and insurance firms are now allowed to affiliate and offer their multiple products to each other's customers. As a result, many financial institutions are warehousing large amounts of sensitive information and sharing it throughout the affiliate structure without the customer being fully informed of what financial information is being disclosed or the purposes for which it will be used. While cross-marketing can bring new and beneficial products to receptive consumers, it can also result in unwanted invasions of personal privacy.

Surveys have consistently shown that the public is widely concerned about its privacy. For example, a recent AARP survey found that 96% of respondents were unwilling to let a company freely share their financial information with other financial companies. The survey also asked, "[w]ho owns financial information provided in a business transaction?" and 93% of respondents answered that the information belongs to the "customer" while only 4% answered that it belongs to the "business" (and 3% said they did not know).

Congress has already protected citizens' privacy on prior occasions. In response to public concerns, Congress passed privacy laws restricting companies' disclosure of customer information without customer consent, such as in the Cable Communications Policy Act and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans cannot object to disclosure of their financial transactions to their financial institutions' affiliates and certain other financial companies for purposes inconsistent with those for which they gave their data.

Other important privacy concerns, such as the privacy of bankruptcy court records, fall outside of this bill. Last week, the Clinton administration published a study "Financial Privacy in Bankruptcy" with important recommendations that should be carefully considered. I commend the Administration for its many efforts to protect individuals' right to privacy.

Along with medical records, financial records rank among the kinds of personal data Americans most expect will be kept confidential. However, the privacy of even highly sensitive financial information has been increasingly put at risk with the move to an economy in which the selling or sharing of consumers' personal information is highly profitable—and legal.

The Financial Information Privacy Protection Act of 2001 contains key financial privacy protections that are consistent with the expectations of Americans and good business practices.

The Act would provide consumers with:

An "opt out" for affiliate sharing, allowing customers to object to financial institutions sharing their financial data with all affiliated firms.

An "opt in" for sharing some types of sensitive financial or medical information. A financial institution would need to have a consumer's affirmative consent before releasing his or her medical information or personal spending habits (e.g., credit card charges, check payees) to either an affiliate or an unaffiliated third party.

Rights of access and correction. A consumer would be able to see the information to be released and correct material errors. To preclude abuse of this protection, the bill allows the institution to charge for access to this information.

The Gramm-Leach-Bliley Act, enacted in November 1999, contains some limited Federal financial privacy protections for consumers. While an important beginning, these protections fail to meet the expectations of Americans. It does not contain the important protections that I have just referred to. Many groups have criticized the current law as inadequate. I agree.

This bill would not affect Section 507 of the Gramm-Leach-Bliley Act, which I authored, which provides that these Federal privacy protections do not preempt stronger State privacy laws. States with citizens who want stronger privacy protections than contained in Federal law would still be able to enact such laws.

A number of consumer groups, including Consumers Union, Consumer Federation of America, Consumer Action, Privacy Times, United Auto Workers and U.S. Public Interest Research Group, have stated their support of this bill. Mr. President, I would ask that their letter of endorsement be included at the end of my remarks.

Professor Peter Swire, Professor of Law at Ohio State University and formerly the Clinton Administration's Chief Counselor for Privacy, has said: "The bill is carefully crafted to provide the greatest protections for the most sensitive financial information. At the same time, the bill helps create an efficient financial system by allowing the use of information in situations where the risk to privacy is minimal."

The issue of financial privacy cuts across philosophical lines.

For example, Mrs. Phyllis Schlafly and the Eagle Forum have spoken out for financial privacy protections even stronger than those contained in this bill. She has written, "Some banks shamelessly admit they profile their customers so the bank can advise telemarketers which products a customer might like. But why should banks be able to make secret profits off of customers' personal information such as deposits, checks, phone numbers or credit card numbers? Many of us don't want to be solicited by any telemarketers."

Columnist William Safire has written frequently about the need for stronger privacy protections. For instance, in an editorial in the New York times of October 30, 2000, Mr. Safire pointed out that many people are concerned about financial records, and other records, "being passed around by conglomerated banks, insurance companies and H.M.O.'s. Personal freedom is diminished when the most intimate secrets can be monitored by employers and merchants."

As we proceed in an age of technological advances and cross-industry marketing of financial services, we need to be mindful of the privacy concerns of the American public. Consumers who wish to keep their sensitive financial information private should be given a right to do so. The passage of the financial information Privacy Protection Act of 2001 would be a major step toward that goal. Congress can and should provide that privacy protection by giving consumers, at a minimum, the rights of consent and access.

I ask unanimous consent that the bill and a letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 30

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Information Privacy Protection Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Opt-out requirement for disclosure to affiliates and nonaffiliated third parties.
Sec. 3. Restricting the transfer of information about personal spending habits.
Sec. 4. Restricting the use of health information in making credit and other financial decisions.
Sec. 5. Limits on redisclosure and reuse of information.
Sec. 6. Consumer rights to access and correct information.
Sec. 7. Improved enforcement authority.
Sec. 8. Enhanced disclosure of privacy policies.
Sec. 9. Limit on disclosure of account numbers.
Sec. 10. General exceptions.
Sec. 11. Definitions.
Sec. 12. Issuance of implementing regulations.
Sec. 13. FTC rulemaking authority under the Fair Credit Reporting Act.

SEC. 2. OPT-OUT REQUIREMENT FOR DISCLOSURE TO AFFILIATES AND NONAFFILIATED THIRD PARTIES.

Section 502(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(a)) is amended to read as follows:

"(a) DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION.—Except as otherwise provided in this subtitle, a financial institution may not disclose any nonpublic personal information to an affiliate or a nonaffiliated third party unless the financial institution—

"(1) has provided to the consumer a clear and conspicuous notice, in writing or electronic form or other form permitted by the regulations implementing this subtitle, of the categories of information that may be disclosed to the—

"(A) affiliate; or

"(B) nonaffiliated third party;

"(2) has given the consumer an opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such—

"(A) affiliate; or

"(B) nonaffiliated third party; and

"(3) has given the consumer the ability to exercise the nondisclosure option described in paragraph (2) through the same method of communication by which the consumer received the notice described in paragraph (1) or another method at least as convenient to the consumer, and an explanation of how the consumer can exercise such option.".

SEC. 3. RESTRICTING THE TRANSFER OF INFORMATION ABOUT PERSONAL SPENDING HABITS.

Section 502(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(b)) is amended to read as follows:

"(b) RESTRICTION ON THE TRANSFER OF INFORMATION ABOUT PERSONAL SPENDING HABITS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), if a financial institution provides a service to a consumer through which the consumer makes or receives payments or transfers by check, debit card, credit card, or other similar instrument, the financial institution shall not transfer to an affiliate or a nonaffiliated third party—

"(A) an individualized list of that consumer's transactions or an individualized description of that consumer's interests, preferences, or other characteristics; or

"(B) any such list or description constructed in response to an inquiry about a specific, named individual;

if the list or description is derived from information collected in the course of providing that service.

"(2) RESTRICTION ON TRANSFER OF AGGREGATE LISTS CONTAINING CERTAIN HEALTH INFORMATION.—Notwithstanding subsection (a), a financial institution shall not transfer to an affiliate or a nonaffiliated third party any aggregate list of consumers containing or derived from individually identifiable health information.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—The financial institution may disclose the information described in paragraph (1) or (2) to an affiliate or a nonaffiliated third party if such financial institution—

"(i) has clearly and conspicuously requested in writing or in electronic form or other form permitted by the regulations implementing this subtitle, that the consumer affirmatively consent to such disclosure; and

"(ii) has obtained from the consumer such affirmative consent and such consent has not been withdrawn.

"(B) RULE OF CONSTRUCTION.—This subsection shall not be construed as preventing a financial institution from transferring the information described in paragraph (1) or (2) to an affiliate or a nonaffiliated third party for the purposes described in paragraph (1), (2), (3), (5), (7), (8), (9), or (10) of subsection (f).

"(C) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to the transfer of aggregate lists of consumers.".

SEC. 4. RESTRICTING THE USE OF HEALTH INFORMATION IN MAKING CREDIT AND OTHER FINANCIAL DECISIONS.

(a) RESTRICTION ON USE OF CONSUMER HEALTH INFORMATION.—Section 502(c) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(c)) is amended to read as follows:

"(c) USE OF CONSUMER HEALTH INFORMATION AVAILABLE FROM AFFILIATES AND NONAFFILIATED THIRD PARTIES.—In deciding whether, or on what terms, to offer, provide, or continue to provide a financial product or service to a consumer, a financial institution shall not obtain or receive individually identifiable health information about the consumer from an affiliate or nonaffiliated third party, or evaluate or otherwise consider any such information, unless the financial institution—

"(1) has clearly and conspicuously requested in writing or in electronic form or other form permitted by the regulations implementing this subtitle, that the consumer affirmatively consent to the transfer and use of that information with respect to a particular financial product or service;

"(2) has obtained from the consumer such affirmative consent and such consent has not been withdrawn; and

"(3) requires the same health information about all consumers as a condition for receiving the financial product or service.".

(b) EXISTING PROTECTIONS FOR HEALTH INFORMATION NOT AFFECTED.—Subtitle A of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) by redesignating section 510 as section 512; and

(2) by inserting after section 509 the following new section:

"SEC. 510. RELATION TO STANDARDS ESTABLISHED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

"Nothing in this subtitle shall be construed as—

"(1) modifying, limiting, or superseding standards governing the privacy and security of individually identifiable health information promulgated by the Secretary of Health and Human Services under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996; or

"(2) authorizing the use or disclosure of individually identifiable health information in a manner other than as permitted by other applicable law.".

(c) Definition of Individually Identifiable Health Information.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following new paragraph:

"(12) Individually identifiable health information.—The term 'individually identifiable health information' means any information, including demographic information obtained from or about an individual, that is described in section 1171(6)(B) of the Social Security Act.".

(d) Technical and Conforming Amendment.—Section 505(a)(6) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)(6)) is amended by inserting before the period at the end "to the extent that the provisions of such section are not inconsistent with the provisions of this subtitle".

SEC. 5. LIMITS ON REDISCLOSURE AND REUSE OF INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) Limits on Redisclosure and Reuse of Information.—

"(1) In general.—An affiliate or a nonaffiliated third party that receives nonpublic personal information from a financial institution shall not disclose such information to any other person unless such disclosure would be lawful if made directly to such other person by the financial institution.

"(2) Disclosure under a general exception.—Notwithstanding paragraph (1), any person that receives nonpublic personal information from a financial institution in accordance with one of the general exceptions in subsection (f) may use or disclose such information only—

"(A) as permitted under that general exception; or

"(B) under another general exception in subsection (f), if necessary to carry out the purpose for which the information was disclosed by the financial institution.".

SEC.6.CONSUMERRIGHTSTOACCESSAND CORRECT INFORMATION.

Subtitle A of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended by inserting after section 510 (as added by section 4(b) of this Act), the following new section:

"SEC. 511. ACCESS TO AND CORRECTION OF INFORMATION.

"(a) Access.—

(1) In general.—Upon the request of a consumer, a financial institution shall make available to the consumer information about the consumer that is under the control of, and reasonably available to, the financial institution.

"(2) Exceptions.—Notwithstanding paragraph (1), a financial institution—

"(A) shall not be required to disclose to a consumer any confidential commercial information, such as an algorithm used to derive credit scores or other risk scores or predictors;

"(B) shall not be required to create new records in order to comply with the consumer's request;

"(C) shall not be required to disclose to a consumer any information assembled by the financial institution, in a particular matter, as part of the financial institution's efforts to comply with laws preventing fraud, money laundering, or other unlawful conduct; and

"(D) shall not disclose any information required to be kept confidential by any other Federal law.

"(b) Correction.—A financial institution shall provide a consumer the opportunity to dispute the accuracy of any information disclosed to the consumer pursuant to subsection (a), and to present evidence thereon. A financial institution shall correct or delete material information identified by a consumer that is materially incomplete or inaccurate.

"(c) Coordination and Consultation.—In prescribing regulations implementing this section, the Federal agencies specified in section 504(a) shall consult with one another to ensure that the rules—

"(1) impose consistent requirements on the financial institutions under their respective jurisdictions;

"(2) take into account conditions under which financial institutions do business both in the United States and in other countries; and

"(3) are consistent with the principle of technology neutrality.

"(d) Charges for Disclosures.—A financial institution may impose a reasonable charge for making a disclosure under this section, which charge must be disclosed to the consumer before making the disclosure. ".

SEC. 7. IMPROVED ENFORCEMENT AUTHORITY.

(a) Compliance With Privacy Policy.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following new subsection:

"(c) Compliance With Privacy Policy.—A financial institution's failure to comply with any of its policies or practices disclosed to a consumer under this section constitutes a violation of the requirements of this section.".

(b) Unfair and Deceptive Trade Practice.—Section 505(a)(7) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)(7)) is amended by adding at the end the following new sentence: "A violation of any requirement of this subtitle, or the regulations of the Federal Trade Commission prescribed under this subtitle, by a financial institution or other person described in this paragraph shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.".

(c) Supplemental State Enforcement for FTC Regulated Entities.—Section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) is amended by adding at the end the following new subsection:

"(e) State Action for Violations.—

"(1) Authority of the states.—In addition to such other remedies as are provided under State law, if the attorney general of a State, or an officer authorized by the State, has reason to believe that any financial institution or other person described in section 505(a)(7) has violated or is violating this subtitle or the regulations prescribed thereunder by the Federal Trade Commission, the State may—

"(A) bring an action on behalf of the residents of the State to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction; and

"(B) bring an action on behalf of the residents of the State to enforce compliance with this subtitle and the regulations prescribed thereunder by the Federal Trade Commission, to obtain damages, restitution, or other compensation on behalf of the residents of such State, or to obtain such further and other relief as the court may deem appropriate.

"(2) Rights of the Federal Trade Commission.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and shall provide the Commission with a copy of its complaint; provided that, if such prior notice is not feasible, the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission shall have the right—

"(A) to move to stay the action, pending the final disposition of a pending Federal matter as described in paragraph (4);

"(B) to intervene in an action under paragraph (1);

"(C) upon so intervening, to be heard on all matters arising therein;

"(D) to remove the action to the appropriate United States district court; and

"(E) to file petitions for appeal.

"(3) Investigatory powers.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the attorney general, or officers of such State who are authorized by such State to bring such actions, from exercising the powers conferred on the attorney general or such officers by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) Limitation on state action while federal action is pending.—If the Federal Trade Commission has instituted an action for a violation of this subtitle, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this subtitle that is alleged in that complaint.".

(d) State Action for Violations of Ban on Pretext Calling.—Section 522 of the Gramm-Leach-Bliley Act (15 U.S.C. 6822) is amended by adding at the end the following new subsection:

"(c) State Action for Violations.—

"(1) Authority of the states.—In addition to such other remedies as are provided under State law, if the attorney general of a State, or an officer authorized by the State, has reason to believe that any person (other than a person described in subsection (b)(1)) has violated or is violating this subtitle, the State may—

"(A) bring an action on behalf of the residents of the State to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction; and

"(B) bring an action on behalf of the residents of the State to enforce compliance with this subtitle, to obtain damages, restitution, or other compensation on behalf of the residents of such State, or to obtain such further and other relief as the court may deem appropriate.

"(2) Rights of federal agencies.—The State shall serve prior written notice of any action commenced under paragraph (1) upon the Attorney General and the Federal Trade Commission, and shall provide the Attorney General and the Commission with a copy of the complaint; provided that, if such prior notice is not feasible, the State shall serve such notice immediately upon instituting such action. The Attorney General and the Federal Trade Commission shall have the right—

"(A) to move to stay the action, pending the final disposition of a pending Federal matter as described in paragraph (4);

"(B) to intervene in an action under paragraph (1);

"(C) upon so intervening, to be heard on all matters arising therein;

"(D) to remove the action to the appropriate United States district court; and

"(E) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the attorney general, or officers of such State who are authorized by such State to bring such actions, from exercising the powers conferred on the attorney general or such officers by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Attorney General has instituted a criminal proceeding or the Federal Trade Commission has instituted a civil action for a violation of this subtitle, no State may, during the pendency of such proceeding or action, bring an action under this section against any defendant named in the criminal proceeding or civil action for any violation of this subtitle that is alleged in that proceeding or action.".

SEC. 8. ENHANCED DISCLOSURE OF PRIVACY POLICIES.

(a) TIMING OF NOTICE TO CONSUMERS.—Section 503(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(a)) is amended to read as follows:

"(a) DISCLOSURE REQUIRED.—

"(1) TIME OF DISCLOSURE.—A financial institution shall provide a disclosure that complies with paragraph (2)—

"(A) to an individual upon the individual's request;

"(B) as part of an application for a financial product or service from the financial institution; and

"(C) to a consumer, prior to establishing a customer relationship with the consumer and not less frequently than annually during the continuation of such relationship.

"(2) DISCLOSURE FORMAT.—The disclosure required by paragraph (1) shall be a clear and conspicuous notice, in writing or in electronic form or other form permitted by the regulations implementing this subtitle, of such financial institution's policies and practices with respect to—

"(A) disclosing nonpublic personal information to affiliates and nonaffiliated third parties, consistent with section 502, including the categories of information that may be disclosed;

"(B) disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution; and

"(C) protecting the nonpublic personal information of consumers.

Such disclosure shall be made in accordance with the regulations implementing this subtitle.".

(b) NOTICE OF RIGHTS TO ACCESS AND CORRECT INFORMATION.—Section 503(b)(2) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)(2)) is amended by inserting ", and a statement of the consumer's right to access and correct such information, consistent with section 511" after "institution".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 503(b)(1)(A) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)(1)(A)) is amended by striking "502(e)" and inserting "502(f)".

SEC. 9. LIMIT ON DISCLOSURE OF ACCOUNT NUMBERS.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended in subsection (e) (as so redesignated by section 5) by inserting "affiliate or" before "nonaffiliated third party".

SEC. 10. GENERAL EXCEPTIONS.

Section 502(f) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802)) (as so redesignated by section 5 of this Act) is amended—

(1) in the matter preceding paragraph (1), by striking "Subsections (a) and (b)" and inserting "Subsection (a)";

(2) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" after the semicolon at the end of subparagraph (C); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) performing services for or functions solely on behalf of the financial institution with respect to the financial institution's own customers, including marketing of the financial institution's own products or services to the financial institution's customers;";

(3) in paragraph (4), by striking ", and the institution's attorneys, accountants, and auditors";

(4) in paragraph (5), by inserting "section 21 of the Federal Deposit Insurance Act," after "title 31, United States Code,";

(5) in paragraph (7), by striking "or" at the end;

(6) in paragraph (8), by striking the period and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

"(9) in order to facilitate customer service, such as maintenance and operation of consolidated customer call centers or the use of consolidated customer account statements; or

"(10) to the institution's attorneys, accountants, and auditors.".

SEC. 11. DEFINITIONS.

Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended—

(1) in paragraph (3)—

(A) by striking "(3) FINANCIAL INSTITUTION" and all that follows through "The term 'financial institution'" and inserting "(3) FINANCIAL INSTITUTION.—The term 'financial institution'"; and

(B) by striking subparagraphs (B), (C), and (D);

(2) by amending paragraph (4) to read as follows:

"(4) NONPUBLIC PERSONAL INFORMATION.—The term 'nonpublic personal information' means—

"(A) any personally identifiable information, including a Social Security number—

"(i) provided by a consumer to a financial institution, in an application or otherwise, to obtain a financial product or service from the financial institution;

"(ii) resulting from any transaction between a financial institution and a consumer involving a financial product or service; or

"(iii) obtained by the financial institution about a consumer in connection with providing a financial product or service to that consumer, other than publicly available information, as such term is defined by the regulations prescribed under section 504; and

"(B) any list, description or other grouping of one or more consumers of the financial institution and publicly available information pertaining to them."; and

(3) in paragraph (9), by inserting "applies for or" before "obtains".

SEC. 12. ISSUANCE OF IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—The Federal agencies specified in section 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)) shall prescribe regulations implementing the amendments to subtitle A of title V of the Gramm-Leach-Bliley Act made by this Act, and shall include such requirements determined to be appropriate to prevent their circumvention or evasion.

(b) COORDINATION, CONSISTENCY, AND COMPARABILITY.—The regulations issued under subsection (a) shall be issued in accordance with the requirements of section 504(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)), except that the deadline in section 504(a)(3) shall not apply.

SEC. 13. FTC RULEMAKING AUTHORITY UNDER THE FAIR CREDIT REPORTING ACT.

Section 621(e) of the Fair Credit Reporting Act (15 U.S.C. 1681s(e)) is amended by adding at the end the following new paragraph:

"(3) REGULATIONS.—The Federal Trade Commission shall prescribe such regulations as necessary to carry out the provisions of this title with respect to any persons identified under paragraph (1) of subsection (a). Prior to prescribing such regulations, the Federal Trade Commission shall consult with the Federal banking agencies referred to in paragraph (1) of this subsection in order to ensure, to the extent possible, comparability and consistency with the regulations issued by the Federal banking agencies under that paragraph.".

JANUARY 22, 2001.

DEAR SENATOR SARBANES: We are writing in support of the introduction of the Financial Information Privacy Act of 2001. If passed this legislation will correct many of the shortcomings of the Gramm-Leach-Biley Act. The Financial Privacy Act will be a significant improvement for consumers by requiring financial institutions to obtain a consumer's consent before sensitive financial and medical data is shared, extending privacy protections to the sharing of information among affiliated companies, and allowing consumers to have access to the information about them that is held by financial institutions.

The GLB's privacy provisions are grossly inadequate. Mere notice that data is being collected with a limited ability of consumers to prevent the sharing of personal data—one that is riddled with loopholes—fail to provide the privacy protections that American consumers want and deserve. Instead of protecting personal privacy, GLB protects the ability of the financial services industry to collect and use personal information about their customers with virtually no restrictions.

As personal privacy continues to erode, it is vital that consumers be given strong privacy protections. The current trend of favoring the appetite of business interests over the privacy of individuals must be reversed. If a financial institution cannot convince its customers that the sharing of their personal information will be safe and beneficial to them, then the financial institution should not be allowed to share that information.

The Financial Privacy Act is a step in advancing some of the Fair Information Principles supported by our organizations in the context of financial services. We will continue to seek the strongest possible privacy safeguards for Americans, including expanded medical privacy protections, limitations on initial collection practices, and increased enforcement mechanisms. Those protections may even go beyond those in this bill.

We appreciate your introducing this important legislation and look forward to working with you on future legislative efforts to protect the privacy of all Americans.

Ken McEldowney, Consumer Action.
Travis Plunkett, Consumer Federation of America.
Frank Torres, Consumers Union.
Jason Catlett, Junkbusters.
Even Hendricks, Privacy Times.
Mary Rouleau, United Auto Workers.
Edmund Mierzwinski, US Public Interest Research Group.

Mr. LEAHY. Mr. President, I am pleased today to be a original cosponsor of the Financial Information Privacy Protection Act of 2001. I am delighted to join Senator SARBANES, the ranking member of the Senate Banking Committee, who is a real leader in the Senate on protecting personal financial information.

In November 1999, President Clinton signed into law the landmark Financial Modernization Act, which updated our financial laws and opens up the financial services industry to become more competitive, both at home and abroad. Many of my colleagues and I supported that legislation because we believe it will benefit businesses and consumers. It is already making it easier for banking, securities, and insurance firms to consolidate their services, cut expenses and offer more products at a lower cost to all. But this consolidation also raises new concern about our financial privacy.

New conglomerates in the financial services industry are offering a widening variety of services, each of which may require a customer to provide financial, medical or other personal information. Nothing in the new law prevents these new subsidiaries or affiliates of financial conglomerates from sharing this information for uses beyond those the customer thought he or she was providing it. For example, the new law has no requirement for the consumer to control whether these new financial subsidiaries or affiliates sell, share, or publish information on savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts or health insurance claims. That is wrong

I believe the Financial Information Privacy Protection Act of 2001 should serve as the foundation for model financial privacy legislation that Congress enacts into law this year. This bill is a common sense approach that can attract both consumers and the industry.

Privacy is one of our most vulnerable rights in the information age. Digitalization of information offers tremendous benefits but also new threats. Some in Congress are content to punt the privacy issue down the field for another year. The public disagrees. People know that the longer we dawdle, the harder it will be to halt the erosion of privacy. A year is an eternity in the digital age.

The right of privacy is a personal and fundamental right protected by the Constitution of the United States. But today, the American people are growing more and more concerned over encroachments on their personal privacy. To return personal financial privacy to the control of the consumer, this legislation would create the following rights in Federal law.

New Right To Opt-out of Information Sharing By Affiliates. The new financial modernization law permits consumers to say no to information sharing, selling or publishing among third parties in many cases, but not among affiliated firms. The Financial Information Privacy Act of 2001 would require financial conglomerates, which will only grow under the new modernization law, to expand this protection to give consumers the right to notify it (opt-out) to stop all information sharing, selling or publishing of personal financial information among all third parties and affiliates.

New Right For Consumers To Opt-In For Sharing of Medical Information and Personal Spending Habits. The Financial Information Privacy Protection Act of 2001 would require financial firms to get the affirmative consent (opt-in) of consumers before a firm could gain access to medical information within a financial conglomerate or share detailed information about a consumer's personal spending habits.

New Right To Access and Correct Financial Information. The Financial Information Privacy Protection Act of 2001 would give consumers the right to review and correct their financial records, just like consumers today may review and correct their credit reports.

New Right To Privacy Policy Up Front. The Financial Information Privacy Protection Act of 2001 would require financial firms to provide their privacy policies to consumers before committing to a customer relationship, not after. In addition, the bill's new rights would be enforced by federal banking regulators, the Federal Trade Commission and state attorney generals.

Unfortunately, if you have a checking account, you may have a financial privacy problem. Your bank may sell or share with business allies information about who you are writing checks to, when, and for how much. And even if you tell your bank to stop, it can ignore you under current law. This legislation returns to consumers the power to stop the selling or sharing of personal financial information.

Americans ought to be able to enjoy the exciting innovations of this burgeoning information era without losing control over the use of their financial information. The Financial Information Privacy Protection Act of 2001 updates United States privacy laws to provide these fundamentals protections of personal financial information in the evolving financial services industry. I urge my colleagues to support it.

By Mr. CAMPBELL:

S. 31. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

ESTATE AND GIFT TAX RATE REDUCTION ACT OF 2001

Mr. CAMPBELL. Mr. President, today I reintroduce a bill that I feel is of vital importance to farmers and family business owners, the Estate and Gift Tax Rate Reduction Act of 2001.

This bill is based on legislation I introduced in the 105th Congress and the 106th Congress. Unfortunately, the 105th Congress adjourned before we could debate and pass this bill and President Clinton vetoed similar legislation during the 106th Congress. Since then, I have heard from numerous Coloradans and National organizations and am fully aware that the problems the bill would correct still exist. In fact, I have heard from hundreds of Coloradans and constituents from other states regarding this burdensome and overreaching tax. I believe that eliminating this tax is a fundamental issue of fairness. Death should not be an event government prospers from.

Estate and gift taxes remain a burden on American families, particularly those who pursue the American dream of owning their own business. That is because family-owned businesses and farms are hit with the highest tax rate when they are handed down to descendants—often immediately following the death of a loved one. Families ought to be encouraged, not discouraged, from building successful farms, ranches and businesses and keeping the ownership of those enterprises within the families that worked to make them successful.

These taxes, and the financial burdens and difficulties they create come at the worst possible time. Making a terrible situation worse is the fact that the rate of this estate tax is crushing, reaching as high as 55 percent for the highest bracket. That's higher than even the highest income tax rate bracket of 39 percent. Furthermore, the tax is due as soon as the business is turned over to the heir, allowing no time for financial planning or the setting aside of money to pay the tax bills. Estate and gift taxes right now are one of the leading reasons why the number of family-owned farms and businesses are declining; the burden of this tax is just too much to bear.

This tax sends the troubling message that families should either sell the business while they are still alive, in order to spare their descendants this huge tax after their passing, or rundown the value of the business, so that it won't make it into the higher tax brackets. This is not how America was built. Private investment and initiative have historically been a strong part of our American heritage and we should encourage those values, not tax successful family businesses into submission.

That is why I again introduce this bill and will fight for its passage during the 107th Congress. It will gradually eliminate this tax by phasing it out—reducing the amount of the tax 5% each year, beginning with the highest rate bracket of 55%, until the tax rate reaches zero. Several states have already adopted similar plans, and I believe we ought to follow their example. We need to change the message we are sending to farmers and family business owners. Leading organizations agree, and have continuously endorsed this legislation. In fact, over 100 organizations, like the National Federation of Independent Business and the Farm Bureau, have joined together to form the Family Business Estate Tax Coalition, which strongly endorsed this bill during the 106th Congress.

Mr. President, this tax should be eliminated across the board, and I ask my colleagues to help in working to achieve that goal.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Rate Reduction Act of 2001".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) estate and gift tax rates, which reach as high as 55 percent of a decedent's taxable estate, are in most cases substantially in excess of the tax rates imposed on the same amount of regular income and capital gains income; and

(2) a reduction in estate and gift tax rates to a level more comparable with the rates of tax imposed on regular income and capital gains income will make the estate and gift tax less confiscatory and mitigate its negative impacts on American families and businesses.

SEC. 3. PHASEOUT OF ESTATE AND GIFT TAXES.

(a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2011.

(b) PHASEOUT OF TAX.—Subsection (c) of section 2001 of such Code (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

"(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2001 and before 2012—

"(A) IN GENERAL.—The tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

"(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

"(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

"(B) PERCENTAGE POINTS OF REDUCTION.—

"For calendar year:	The number of percentage points is:
2002	5
2003	10
2004	15
2005	20
2006	25
2007	30
2008	35
2009	40
2010	45
2011	50.

"(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) shall be applied by reducing the 55 percent percentage contained therein by the number of percentage points determined for such calendar year under subparagraph (B).

"(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the number of percentage points referred to in subparagraph (A)(i) shall be determined under the following table:

"For calendar year:	The number of percentage points is:
2002	1½
2003	3
2004	4½
2005	6
2006	7½
2007	9
2008	10½
2009	12
2010	13½
2011	15."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2001.

By Mr. THURMOND:

S. 32. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from imposing a tax increase as a judicial remedy.

It has always been my firm belief that Federal judges exceed the boundaries of their limited jurisdiction under the Constitution when they order new taxes or order increases in existing tax rates.

The Founding Fathers clearly understood that taxation was a role for the legislative branch and not the judicial branch. Article I of the Constitution lists the legislative powers, one of which is that "the Congress shall have the power to lay and collect taxes." Article III establishes the judicial powers, and the power to tax is nowhere contained in Article III.

The Federalist Papers are also clear in this regard. in Federalist No. 48, James Madison explained that "the legislative branch alone has access to the pockets of the people." In Federalist No. 78, Alexander Hamilton stated, "The judiciary . . . has no influence over . . . the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever."

In 1990, in the case of Missouri v. Jenkins, five members of the Supreme Court stated in dicta that although a Federal judge could not directly raise taxes, he could order the local government to raise taxes. There is no difference between a judge raising taxes and a judge ordering a legislative official to raise taxes. I am hopeful that, if the issue were directly before the Court today, a majority of the current membership of the Court would reject that dicta and hold that Federal judges do not have the power to order that taxes be raised. However, in the event the Court does not correct this error, I am introducing the Judicial Taxation Prohibition Act, which would prohibit judges from raising taxes. I have introduced it in every Congress since the Supreme Court's misguided decision was issued, and I intend to do so until it is corrected. This legislation is essential to affirm the separation of powers.

There is a simple reason why this distinction between the branches of government is so important and must remain clear. The legislative branch is responsible to the people through the democratic process. However, the judicial branch is composed of individuals who are not elected and have life tenure. By design, the members of the judicial branch do not depend on the popular will for their offices. They are not accountable to the people. They simply have no business setting the rate of taxes the people must pay. For a judge to order that taxes be increased amounts to taxation without representation. It is entirely contrary to the understanding of the Founding Fathers.

The phrase "taxation without representation" recalls an important time in American history that is worth repeating in some detail. The Constitution can best be understood by referencing the era in which it was adopted.

Not since Great Britain's ministry of George Grenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision. As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, and linens.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the parliament did not have power to tax the colonies because Americans had no representation in that body. Mr. Otis had been attributed with the statement in 1761 that "taxation without representation is tyranny."

In October 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act, "we have always understood it to be a grand and fundamental principle * * * that no free man shall be subject to any tax to which he has not given his own consent, in person or by proxy." A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, "It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives." The resolutions concluded that the Stamp Act had a "manifest tendency to subvert the rights and liberties of the colonists."

Opposition to the Stamp Act was vehement throughout the colonies. While Grenville's successor was determined to repeal the law, the social, economic, and political climate in the colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution of 1787.

I recognize that some say this legislation is unconstitutional. They argue that the Congress does not have the authority under Article III to limit and regulate the jurisdiction of the inferior Federal courts. This argument has no basis in the Constitution or common sense.

Article III, Section 1, of the Constitution provides jurisdiction to the lower Federal courts as the "Congress may from time to time ordain and establish." There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to "ordain and establish" the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lawcourt v. Phillips, Lauf v. E.G. Skinner and Co., Kline v. Burke Construction Co., and Sheldon v. Sill.

In other words, the Congress was expressly granted the authority to establish lower Federal courts, which it did. What the Congress has been given the power to do, it can certainly decide to stop doing. By passing this bill, the Congress would simply be limiting the jurisdiction of the lower Federal courts in a small area.

It is also important to note that this legislation would not restrict the power of the Federal courts to remedy Constitutional wrongs. Clearly, the Court has the power to order a remedy for a Constitutional violation that may include expenditures of money by Federal, State, or local governments. This bill simply requires that if the Court orders that money be spent, it is for the legislative body to decide how to comply with that order. The legislative body may choose to raise taxes, but it also may choose to cut spending or sell assets. That choice of how to come up with the money should always be for the legislature to decide. I believe it is clear under Article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal Courts in this fashion.

Mr. President, the dispositive issue presented by the *Jenkins* decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government.

Judicial activism is a matter of great concern to me and has been for many years. I have always felt that Federal judges must strictly adhere to the principle that it is their role to interpret the law and not make the law. This simple principle is fundamental to our system of government.

The American people deserve a response to the *Jenkins* decision. We must provide protection against the imposition of taxes by an unelected, unaccountable judiciary. We must not permit this blatant violation of the separation of powers. We have a duty to right this wrong.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Taxation Prohibition Act".

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law; and

(B) the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the imposition or increase of taxes by judicial order—

(A) constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States; and

(B) is incompatible with traditional principles of law and government of the United States and the basic principle of the United States that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts that Congress has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. JUDICIAL TAXATION PROHIBITION.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1341 the following:

"§ 1341A. Prohibition of judicial imposition or increase of taxes

"(a) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

"(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within the jurisdiction of those courts, that may require expenditures by a Federal, State, or local government in any case in which those expenditures are necessary to effectuate those remedies.

"(c) In this section, the term 'tax' includes—

"(1) personal income taxes;

"(2) real and personal property taxes;

"(3) sales and transfer taxes;

"(4) estate and gift taxes;

"(5) excise taxes;

"(6) user taxes;

"(7) corporate and business income taxes; and

"(8) licensing fees or taxes.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1341 the following:

"1341A. Prohibition of judicial imposition or increase of taxes.".

SEC. 4. APPLICABILITY.

This Act and the amendments made by this Act shall apply to cases pending or commenced in a Federal court on or after the date of enactment of this Act.

By Mr. THURMOND (for himself and Mr. HELMS):

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

Mr. THURMOND. Mr. President. I rise today to introduce legislation to address an undue burden that has arisen out of the Americans with Disabilities Act.

The purpose of the ADA was to give disabled Americans the opportunity to fully participate in society and contribute to it. This was a worthy goal. But even legislation with the best of intentions often has unintended consequences. I submit that one of those is the application of the ADA to state and local prisoners throughout America.

In 1998, the Supreme Court ruled in *Pennsylvania Department of Corrections* v. *Yeskey* [118 S.Ct. 1952 (1998)] that the ADA applies to every state prison and local jail in this country. To no avail, the Attorneys General of most states, as well as numerous state and local organizations, had joined with Pennsylvania in court filings to oppose the ADA applying to prisoners.

Prior to the Supreme Court ruling, the circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, had forcefully concluded that the ADA, as well as its predecessor and companion law, the Rehabilitation Act, did not apply to state prisoners. The decision focused on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the states.

However, the Supreme Court did not agree, holding that the language of the Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress's powers under the Commerce Clause or the Fourteenth Amendment, but we should not wait on the Supreme Court to consider this argument before acting. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the application of this sweeping new social legislation in the prison environment.

The Seventh Circuit has recognized that the "failure to exclude prisoners may well have been an oversight." The findings and purpose of the law seem to support this. The introductory language of the ADA states, "The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency" to allow "people with disabilities * * * to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous." Of course, a prison is not a free society, as the findings and purpose of the Act envisioned. Indeed, it is quite the opposite. In short, as the Ninth Circuit explained, "The Act was not designed to deal specifically with the prison environment; it was intended for general societal application."

In any event, now that the Supreme Court has spoken, it is time for the Congress to confront this issue. The Congress should act now to exempt state and local prisons from the ADA. That is why I am again introducing the State and Local Prison Relief Act, as I did soon after the Supreme Court decided the Yeskey case in 1998.

The State and Local Prison Relief Act would exempt prisons from the requirements of the ADA and the Rehabilitation Act for prisoners. More specifically, it exempts any services, accommodations, programs, activities or treatment of any kind regarding prisoners that may otherwise be required by the Acts. Through this language, I wish to make entirely clear that the bill is not intended to exempt prisons from having to accommodate disabled legal counsel, visitors, or others who are not inmates. Also, the fact that the bill applies to Title II of the ADA should make clear that it is not intended to exempt prison hiring practices for non-inmate employees. The bill is intended only to apply to prisoners.

I firmly believe that if we do not act, the ADA will have broad adverse implications for the management of penal institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judges in the intricate details of running our state and local prisons.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers not delegated to the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, "the powers delegated to the Federal government are few and definite. . . . [The powers] which are to remain in the State governments are numerous and indefinite." The Federal government should avoid intrusion into matters traditionally reserved for the states. We must respect this delicate balance of power. Unfortunately, federalism is more often spoken about than respected.

Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved for the states than crime. The criminal laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house Federal prisoners in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of the Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated, "Maintenance of penal institutions is an essential part of one of government's primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures."

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations, the daily schedules, the living and working arrangements—these all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA essentially is to take away any barrier to anyone with any disability. Accommodating inmates in the manner required by the ADA will interfere with the ability of prison administrators to keep safety and security their overriding concern.

For example, a federal court in Pennsylvania ruled that a prisoner who disobeyed a direct order could not be punished because of the ADA. The judge said it was okay for a prisoner to return to his cell after he was told not to by a guard, saying the prisoner was justified in refusing to comply because he was doing so to relieve stress built up due to his Tourette's Syndrome.

The practical effect of the ADA will be that prison officials will have to grant special privileges to certain inmates and to excuse others from complying with generally-applicable prison rules. For example, a federal judge ordered an Iowa prison to install cable television in a disabled inmate's cell because the man had difficulty going to the common areas to watch TV. After much public protest, the ruling was eventually reversed.

The ADA presents a perfect opportunity for prisoners to try to beat the system, and use the courts to do it. There are over 1.7 million inmates in state prisons and local jails, and the numbers are rising every year. Indeed, the total prison population has grown about 6.5% per year since 1990. Prisons have a substantially greater percentage of persons with disabilities that are covered by the ADA than the general population, including AIDS, mental retardation, psychological disorders, learning disabilities, drug addiction, and alcoholism. Further, administrators control every aspect of prisoners' lives, such as assigning educational opportunities, recreation, and jobs in prison industries. Combine these facts, and the possibilities for lawsuits are endless.

For example, in most state prison systems, inmates are classified and assigned based in part on their disabilities. This helps administrators meet the disabled inmates' needs in a cost-effective manner. However, under the ADA, prisoners probably will be able to claim that they must be assigned to a prison without regard to their disability. Were it not for their disability, they may have been assigned to the prison closest to their home, and in that case, every prison would have to be able to accommodate every disability. That could mean every prison having, for example, mental health treatment centers, services for hearing-impaired inmates, and dialysis treatment. The cost is potentially enormous.

A related expense is attorney's fees. The ADA has incentives to encourage private litigants to vindicate their rights in court. Any plaintiff, including an inmate, who is only partially successful can get generous attorney's fees and monetary damages, possibly including even punitive damages. In one ADA class action lawsuit in California, the state has paid the prisoners' attorneys over $2 million, with hourly fees as high as $300.

Applying the ADA to prisons is the latest unfunded Federal mandate that we are imposing on the states.

Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money must be spent to house prisoners. Even with prison populations rising, the people do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's Yeskey case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program has to be changed to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others get in a world where privileges are relatively few. Some have irrational suspicions and phobias. An inmate who is not disabled may be angry if he believes a disabled prisoner is getting special treatment, without rationally accepting that the law requires it, and could take out his anger on others around him, including the disabled prisoner.

We must keep in mind that it is judges who will be making these policy decisions. To apply the Act and determine what phrases like "qualified individual with a disability" mean, judges must involved themselves in intricate, fact-intensive issues. Essentially, the ADA requires judges to micromanage prisons. Judges are not qualified to second-guess prison administrators and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

In applying Constitutional rights to prisoners, the Supreme Court has tried to get away from micromanagement and has viewed prisoner claims deferentially in favor of the expertise of prison officials. It has stated that we will not "substitute our judgment on difficult and sensitive matters of institutional administration for the determinations of those charged with the formidable task of running a prison. This approach ensures the ability of corrections officials to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration, and avoids unnecessary intrusion of the judiciary into problems particularly ill suited to resolution by decree."

Take for example a case from the Fourth Circuit, my home circuit, from 1995. The Court explained that a morbidly obese inmate presented corrections officials "with a lengthy and ever-increasing list of modifications which he insisted were necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid matting in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods." It is not workable for judges to resolve all of these questions.

It is noteworthy that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recognized last year, the PLRA is having some success. However, this most recent Supreme Court decision will hamper that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. In response, the Federal bureaucracy has created extremely specific and detailed mandates. Regarding facilities, they dictate everything from the number of water fountains to the flash rates of visual alarms. State and local correctional authorities must fall in line behind these regulations. In yet another way, we have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The list goes on.

The public is tired of special privileges for prisoners. Applying the ADA to prisons is a giant step in the wrong direction. Prisoners will abuse the ADA to get privileges they were previously denied, and the reason will be the overreaching hand of the Federal government. We should not let this happen.

Mr. President, the National Government has gone full circle. We have gone from asking the states to house Federal prisoners to dictating to the states how they house their own prisoners. There must be some end to the powers of the Federal government, and to the privileges it grants the inmates of this Nation. I propose that we start by passing this important legislation.

I ask unanimous consent that following my remarks a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF PRISONERS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)) is amended by adding at the end the following: "The term shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to services, programs, activities, and treatment (including accommodations) relating to the prison.".

(b) REHABILITATION ACT OF 1973.—Section 7(20) of the Rehabilitation Act of 1973 (29 U.S.C. 705(20)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following:

"(G) PRISON PROGRAMS AND ACTIVITIES; EXCLUSION OF PRISONERS.—For purposes of section 504, the term 'individual with a disability' shall not include a prisoner in a prison, as such terms are defined in section 3626(g) of title 18, United States Code, with respect to programs and activities (including accommodations) relating to the prison.".

By Mr. THURMOND:

S. 34. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

LEGISLATION TO ALLOW FEDERAL CRIMINAL CONVICTION ON A 10–2 JURY VOTE

Mr. THURMOND. Mr. President, I rise today to introduce legislation to allow juries to convict criminals on a 10–2 jury vote rather than a unanimous vote.

It is my belief that this change to the Federal Rules of Criminal Procedure will bring about increased efficiency and finality in our Nation's Federal court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity in jury verdicts, specifically in *Apodaca* v. *Oregon* [406 U.S. 404 (1972)]. In that case, the Supreme Court ruled that the Sixth Amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon law that permitted what I am proposing—a 10–2 conviction in criminal prosecutions.

Mr. President, clearly there is no constitutional mandate for the current requirement under the Federal Rules of a jury verdict by a unanimous vote. The origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted towards the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

It is interesting that a unanimity requirement was considered by our Founding Fathers as part of the Sixth Amendment to the Constitution, but it was rejected. The proposed language for the Sixth Amendment, as introduced by James Madison in the House of Representatives, provided for trial by jury as well as a "requisite of unanimity for conviction." The language eventually adopted by the Congress and the States in the Sixth Amendment provides "the right to a speedy and public trial, by an impartial jury," but does not specify any requirement on conviction. This was a wise decision.

It is clear that "trial by jury in criminal cases is fundamental to the American scheme of justice," as the Supreme Court has stated. Juries are representative of the community and their solemn duty is to hear the evidence, deliberate, and decide the case after careful review of the facts and the law. As the Supreme Court has noted, a jury can responsibly perform this function if allowed to decide the case by a margin that is less than unanimous.

This change for jury verdicts in the Federal courts will reduce the likelihood of a single juror corrupting an otherwise thoughtful and reasonable deliberation of the evidence. It is not easy to adequately screen a juror for potential bias before they are selected to serve on a jury. This cannot be done with absolute certainty. We should work to prevent one such juror from having the power to prevent justice from being served.

One juror should not have the power to allow a criminal to go free in the face of considerable opposition from his peers on the jury. Even if a defendant is tried again after one or two jurors hold out against conviction, a new trial is very costly and time-consuming. Most importantly, a new trial substantially delays justice for the victims and society.

It is important to note that this new rule could also work to the advantage of someone on trial. Currently, if there is a hung jury, a prosecutor has the power to retry a defendant. This is true even if only one juror believed the defendant was guilty. Under this new rule, if at least ten jurors concluded that the defendant was not guilty, he would be acquitted and could not be forced to endure a new trial. This rule has the potential to benefit either side as it brings finality to a criminal case.

In other words, there are cases where a requirement of unanimity produced a hung jury where, had there been a non-unanimous allowance, the jury would have voted to convict or acquit. Yet, in either instance, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

Moreover, I believe the American people will strongly support this reform to allow a 10–2 decision. This is one way the Congress can help fight crime and promote criminal justice.

Mr. President, I hope the Congress will support this important proposal. I ask unanimous consent that the bill be printed in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 34

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF RULE 31 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) IN GENERAL.—Rule 31(a) of the Federal Rules of Criminal Procedure is amended by striking "unanimous" and inserting "by five-sixths of the jury".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to cases pending or commenced on or after the date of enactment of this Act.

By Mr. GRAMM (for himself and Mr. MILLER):

S. 35. A bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it; to the Committee on Finance.

TAX CUT WITH A PURPOSE ACT OF 2001

Sen. GRAMM. Mr. President, I am introducing legislation today with my colleague, Senator MILLER of Georgia, to provide tax relief for America's families by returning a portion of the tax surplus to the working men and women who are responsible for creating it.

Our proposal consists of the core elements of the plan that President Bush outlined during his campaign for the Presidency. There are three principal components: Lower income tax rates for all Americans, relief from the marriage tax penalty, and repeal of the death tax. The bill replaces the current tax rate structure with rates of 10, 15, 25, and 33 percent. Lower income Americans get a larger percentage cut in rates, higher income Americans get a smaller reduction, but obviously this is a tax cut for taxpayers.

The next provision of the bill begins the effort to repeal the marriage penalty. There is no reason in America that people who meet and fall in love should have to pay $1,400 a year in additional taxes as the price of getting married. Senator MILLER and I are for love and marriage, and we don't think they ought to be taxed.

The final major provision of the bill is repeal of the death tax. A death tax is double taxation in which people work their whole lives, build up a business or a family farm, and pay taxes on every penny they earn. Yet when they die, their children have to sell the business or the family farm in order to give the government up to 55 cents out of every dollar of its value. This is fundamentally unfair.

Finally, since our President was elected three things have happened, and every one of them argues for this package of tax cuts. No. 1, the economy is weaker and investment is falling off. Secondly, our estimates of the budget surplus have gone up, not down. And lastly, that surplus is being spent at an unprecedented rate.

We believe that Congress should enact the Bush tax plan, continue to pay down the debt, and resist the urge to spend the tax surplus so that we can return a portion of it to the working men and women who produced it.

Mr. MILLER. Mr. President, I am very pleased to join with Senator GRAMM as a sponsor of this important piece of legislation, first because it is an opportunity to reach across party lines and really practice bipartisanship, not just talk about it. But I'm even more pleased to be a cosponsor because of the far-reaching consequences of this bill.

Right now, our taxes have never been higher. Right now, our surplus has never been greater. To me, it's just common sense you deal with the first by using the second.

Remember that old Elvis Presley song, "Return to Sender." Well, that's what we want to do with this overpayment of taxes.

As some of you know, I've been in politics for a long time, and I thought I had seen it all. But when I came to Washington last year I was not prepared for the shock of just how matter of factly Congress ate into the surplus, gobbled it up indiscriminately and without hesitation on both sides of the aisle.

I couldn't believe it and it became clear to me that if we don't send this overpayment of taxes back to those who paid it, much of it will be frittered away, and I think most Americans have enjoyed as much of that as they can stand.

Some of my colleagues talk of "targeted" tax cuts, and I respect their opinion, I respect them. But here's how I think about that: who are we to pick and choose and cull and select and single out among our taxpayers.

Who are we to play "eeny, meany, miney, mo," with them. All of them combined have paid more than it takes to run this government. And all of them combined should get a break from this oppressive tax structure of ours.

This plan would make our tax code more progressive by cutting federal income taxes for people all across the income spectrum, and the largest percentage cuts would go to those Americans who earn the least. Under this proposal, six million families will no longer pay any federal income taxes at all. That's one out of five families with children.

Any time I look at a tax cut, I always apply it to the family I grew up in: a single parent with two children. Under the current rate, that single parent begins paying taxes when she earns $21,300. Under this plan, she would not become a taxpayer until her earnings reach $31,300.

Lower taxes gives Americans a better chance at a better standard of living. It can mean the difference between renting or buying a home. Today, it can be the difference between being able, or not being able, to pay your heating bill.

No one in America should have to work more than four months out of a year to pay the IRS, and in peacetime, the federal government should never take more than 33% out of anyone's pay check.

I also believe this tax cut could help provide some needed insurance against a long-lasting economic slow down. But most importantly, and why I'm here, is that I agree with President Bush that the taxpayers are much better judges of how to spend their own money than we are.

When I was governor of Georgia, I was proud that in my state we cut taxes by more than a billion dollars. As a U.S. Senator, I'm looking forward to cutting taxes in this nation by more than a trillion dollars.

Mr. THURMOND:

S. 36. A bill to amend title 1, United States Code, to clarify the effect and application of legislation; to the Committee on the Judiciary.

AN ACT TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill to clarify the application and effect of legislation which the Congress enacts.

My act is simple and straightforward. It provides that unless future legislation expressly states otherwise, new enactments shall be applied prospectively and shall not create private rights of action. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is to tackle a persistent problem that is easy to prevent. When Congress enacts a bill, the legislation often does not indicate whether it is to be applied retroactively or whether it creates private rights of action. The failure of the Congress to address these issues in each piece of legislation results in unnecessary confusion and uncertainty. This uncertainty leads to lawsuits, thereby contributing to the high cost of litigation and the congestion of our courts.

In the absence of clear action by the Congress on its intent regarding these critical threshold questions, the outcome is left up to the courts. Whether a law applies to conduct that occurred before the effective date of the Act and whether a private person has been granted the right to sue on their own behalf in civil court under an Act can be critical or even dispositive of a case. Even if the issue is only one aspect of a case and it is raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Currently, courts attempt to determine the intent of the Congress in deciding the effect and application of legislation in this regard. Thus, courts look first and foremost to the statutory language. If a statute expressly provides that it is retroactive or creates a private cause of action, that dictate is followed. Further, courts apply a presumption that legislation is not retroactive. This is an entirely appropriate, longstanding rule because, absent mistake or an emergency, fundamental fairness generally dictates that conduct should be assessed under the rules that existed at the time the conduct took place. There is a similar presumption that the Congress did not intend to create rights beyond those that it expressly includes in its legislation.

If the intent of Congress is not clear from the statute, courts generally look to legislative history, statutory structure, and possibly other sources of Congressional intent. This is where the unnecessary complexity and confusion is created. Sources other than statutory language are to varying degrees less reliable in predicting Congressional intent. They are much more difficult to interpret and may even be contradictory. The more sources for the course to analyze and the more vague the standard for review, the more likely courts will reach different results. Under current practice, trial courts around the country reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed.

The problem of whether legislation is retroactive was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over the country were required to resolve whether the 1991 Act should be applied retroactively, and the issue ultimately was considered by the Supreme Court. However, by the time the Court resolved the issue in 1994, well over 100 lower courts had ruled on this question and, although most had not found retroactivity, their decisions were inconsistent. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

All this litigation arose from a statute that contained no language providing that it be retroactive. To conclude that the provision of the statute in issue in the case was not to be applied retroactively, the majority opinion of the Court took 39 pages in the United States Reporter to explain why. It undertook a detailed analysis that demonstrates the unnecessary complexity of the current standard. It is no wonder that some Supreme Court justices argued in this case that a court should look only to whether the language of the statute expressly provides for retroactivity. That is what I propose. If my law had been in effect, the litigation would have been averted, while the outcome would have been exactly the same as the Supreme Court decided.

Under my bill, newly enacted laws are not to be applied retroactively and do not create a private right of action, unless the legislation expressly provides otherwise. It is important to note that my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply stating when it wishes legislation to be retroactive or create new private rights of action.

It is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding a great deal of uncertainty and litigation. The Administrative Office of the Courts has expressed support for this important clarification to the law.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should help our judicial system to focus its limited time and resources on resolving the merits of disputes, rather than deciding these preliminary matters. We hear numerous complaints about overworked judges and crowded dockets. This is a simple and straightforward way to do something about it. The Congress can help reduce the Federal caseload and help simplify the law. We should act on this important reform promptly.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code is amended by adding at the end the following:

"§ 7. Rules for application and effect of legislation

"Any Act of Congress enacted after the effective date of this section—

"(1) shall be prospective in application only;

"(2) shall not create a private claim or cause of action; and

"(3) shall be presumed not to preempt the law of any State,

unless a provision of the Act expressly specifies otherwise.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"7. Rules for application and effect of legislation.".

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

By Mr. LUGAR (for himself, Mr. LEAHY, Mr. FITZGERALD, Mr. HARKIN, Mr. ROBERTS, Mr. DODD, Mr. DEWINE, Mr. REID, Mr. SANTORUM, Mr. BAYH, and Mr. JOHNSON):

S. 37. A bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory; to the Committee on Finance.

THE GOOD SAMARITAN HUNGER RELIEF TAX INCENTIVE ACT

Mr. LUGAR. Mr. President, I rise today with Senators LEAHY, FITZGERALD, HARKIN, ROBERTS, DODD, DEWINE, REID, SANTORUM, and BAYH to introduce the Good Samaritan Hunger Relief Tax Incentive Act, bipartisan legislation aimed at increasing food donations to our nation's food banks. Next week, Congressman TONY HALL, who has been a leader in Congress in the fight against hunger, will introduce companion legislation in the House of Representatives. This bill would provide important incentives for farmers, restaurant owners, and corporations to donate food to front-line organizations that serve the hungry.

The demand on our nation's food banks, church pantries, soup kitchens and shelters continues to rise. According to an August 2000 report on Hunger Security by the U.S. Department of Agriculture, 31 million Americans (around 10 percent of our citizens) are living on the edge of hunger. One segment of our population—families with incomes between 50 and 130 percent of the poverty level—has experienced an increase in the number of households that are food insecure since 1995. This study confirms what food bank managers and workers have been telling me—while many families are moving from welfare to work, these families are still vulnerable to hunger and are using food banks to supplement their nutritional needs.

Unfortunately, many food banks cannot meet this increased demand for food. A December 1999 study by the U.S. Conference of Mayors found that requests for emergency food assistance increased by an average of 18 percent in American cities over the previous year and that 21 percent of emergency food requests could not be met.

These figures are troubling because of the enormous amount of food that goes unused annually. The United States Department of Agriculture estimates that up to 96 billion pounds of food goes to waste each year in the United States. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger.

In many ways, current law is a hindrance to food donations. The tax code provides corporations with a special deduction for donations to food banks, but it excludes farmers, ranchers, and restaurant owners from the same tax incentive. For many of these businesses, it is more cost effective to throw away food than to donate it to charity.

The Good Samaritan Hunger Relief Tax Incentive Act would address this inequity by extending the special deduction to all business taxpayers and by increasing it to the fair market value of the donation. The hunger relief community believes that these changes will markedly increase food donations. One Hoosier food bank, Second Helpings of Indianapolis, estimates that this legislation will cause an additional 400,000 pounds of food to be donated to its coffers.

This bipartisan legislation, which enjoys the support of Republicans and Democrats alike, has been endorsed by a diverse set of organizations, including America's Second Harvest Food Banks, the Salvation Army, the American Farm Bureau Federation, the National Farmers Union, the National Restaurant Association, the Grocery Manufacturers of America, At-Sea Processors Association, California Emergency Foodlink, Council of Chain Restaurants, National Cattlemen's Beef Association, National Fisheries Association, and the National Milk Producers Federation.

Last year, this legislation unanimously passed the Senate as part of an agricultural tax amendment offered by Senator GRASSLEY to H.R. 8, the Death Tax Elimination Act. Although the measure was ultimately stripped from the underlying legislation, the vote indicated strong support for this legislation in the Senate.

I am hopeful that Congress will thoughtfully address the hunger problem in the U.S. by passing this bill into law.

By Mr. INOUYE:

S. 38. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

EXTEND TRAVEL ON MILITARY AIRCRAFT TO DISABLED MILITARY RETIREES

Mr. INOUYE. Mr. President today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

"§1060b. Travel on military aircraft: certain disabled former members of the armed forces

"The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

"1060b. Travel on military aircraft: certain disabled former members of the armed forces.".

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes; to the Committee on the Judiciary.

PUBLIC SAFETY MEDAL OF VALOR ACT

Mr. STEVENS. Mr. President, today I am honored to introduce the Public Safety Medal of Valor Act.

It is a bill intended to enhance recognition of an important segment of our public servants.

These are the men and women who engage in the law enforcement and public safety duties that benefit our communities every day.

I introduced this bill early in the 106th Congress, and the Senate passed it unanimously in May 1999.

The Senate Judiciary Committee deliberated on a similar piece of legislation, H.R. 46, and reported a version with amendments. Unfortunately, after the Senate passed H.R. 46 in the last days of the 106th Congress, there was not time for the House to act.

Today I submit the bill as introduced in the 106th Congress, and hope my colleagues will join me again in seeking its passage.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CRAPO):

S. 40. A bill entitled "The Careers to Classrooms Act of 2001"; to the Committee on Health, Education, Labor, and Pensions.

CAREERS TO CLASSROOMS ACT OF 2001

Mrs. HUTCHISON. Mr. President, I have another bill to introduce. This is cosponsored by Senators FRIST and CRAPO. It is the Careers to Classrooms Act of 2001. Once again, this is a bill that has already been passed by Congress, but it has never made it into law. I am very hopeful that this President will sign a comprehensive reauthorization of the Elementary and Secondary Education Act, and included in that I hope will be Careers to Classrooms.

There is no question that many, if not most, of our States are facing huge teacher shortages. This is one of the most critical needs in our public schools today. It is most pressing in our inner-city and rural communities.

Ironically, the biggest enemy to hiring a sufficient number of teachers is our booming economy. A recent college graduate with a degree in math might expect to make $25,000 to $35,000 in a starting position as a high school math teacher. That same graduate could easily make twice that much in the private sector, especially in the red hot computer field. We have some issues we have to deal with—increasing teacher salaries, increasing teacher benefits—and we know that, but there is more we can do.

What we need in our public school systems in America is more creativity. What we want to do with our reauthorization of the Elementary and Secondary Education Act is to put more incentives for creativity in our public schools.

I am a total product of public education. I grew up in La Marque, TX, a small town of about 15,000 in Galveston County, and attended and graduated from its public schools. Then I attended the University of Texas and the University of Texas Law School. You will find no bigger advocate for public education than this Senator. I owe so much of what I am to the teachers who took the time to help me become the best that I could be.

Teachers are the backbone of our schools. You can design a state-of-the-art, fully computerized school connected to the Internet 24 hours a day with every modern textbook and piece of science equipment, but at the end of the day, if you do not have quality teachers, all of that equipment really does not mean that much.

Adding to the growth in the population of our public schools is an effort in many public school systems to hire more teachers to reduce class size. The approach I am putting forth today will ensure that more teachers are available, more can be hired, and that they are better teachers, qualified teachers, teachers with real world experience and knowledge that can be taken into the classroom.

Careers to Classrooms builds upon a tremendously successful Department of Defense program that takes experienced, qualified military service men and women and helps them transition into the classroom as teachers. That program is known as Troops to Teachers. it has placed over 4,000 qualified, certified teachers in our Nation's public schools, including over 600 in my home State of Texas.

The Troops to Teachers Program seeks out and helps place into schools members of the military with at least 10 years of military service and skills in high-need areas, such as math, science, computers, and languages. Typically, these experienced service personnel obtain their certification in a year or less utilizing one of the many different alternative certification programs now in place in over 40 States.

My provision essentially builds upon this proven model and extends it to the application in the context of civilian professionals and others with skills. What we want to do in Careers to Classrooms is take individuals with demonstrable skills in high-need areas and give them a chance to go into the teaching profession, especially midlevel professionals who would like to change careers and go into teaching.

The program would provide limited stipend assistance for individuals enrolled in State alternative certification programs, and those who agreed to teach in rural schools, schools with the most pressing teacher shortages and schools with the highest percentages of students from low-income families, would also get stipends to help them with this alternative certification to get them in the classroom faster than if they were going through the whole college course and curriculum that includes all of the teacher education courses.

High-need schools would also receive funding assistance to help compensate for the added teacher mentoring, training, and other costs associated with bringing-in prospective teachers under an alternative certification process.

Our legislation specifies priority disciplines in which we want to focus to recruit teachers. In particular, the proposal emphasizes sciences, math, computer literacy, and foreign languages. These are where our teacher shortages are most acute.

I particularly thank my colleague from Tennessee, Senator FRIST, who suggested adding outstanding recent college graduates to be eligible to participate in the Careers to Classrooms proposal. Senator FRIST correctly pointed out that in addition to encouraging midlevel career professionals, we want to have these young, top-flight college graduates who did not go through their college's education degree program but who do have the academic achievement and the mastery of these skills to be able to become excellent teachers.

I also thank Senator CRAPO of Idaho who has also been helpful in adding the provision that encourages individuals to go into our rural areas with this Careers-to-Classrooms-added incentive to become teaching professionals.

Our Nation's parents and teachers do not need more Federal control, they do not need more bureaucracy, they do not need more red tape. What they need is to be empowered with greater choices and options to find the education path that is best for them. We need to make those options available to them, to do so in a way that is new, that is innovative, that is flexible. Simply heaping more money on failed systems and programs has been exhaustively proven to lead to failure. The policies of the past have failed.

No. What we need to do is work with our new Secretary of Education, Rod Paige, who has made creativity the benchmark of his success in the public schools in Houston, TX. We need to go forward in a bipartisan Congress, with President Bush, to make public education the best education in our country.

Careers to Classrooms will put our qualified teachers in the classroom. It will give them the ability to be certified in an alternative certification program very quickly so that they will be a resource to our young people.

We want to encourage more people to go into the teaching profession because if we do not have good teachers, we are not going to have a successful country. We will not have young people able to go into our great economy and the opportunities that our economy would offer if they do not have the basic skills that are given by good teachers.

I hope this year Careers to Classrooms will become law. I hope we will see more and more of the qualified people in our country decide to take up the teaching profession and be mentors and role models and teachers to our young people.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MURKOWSKI, Mr. JEFFORDS, Ms. SNOWE, Mr. KYL, Mr. ROCKFELLER, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM, Mr. DASCHLE, Mr. KERRY, Mr. BINGAMAN, Mr. TORRICELLI, and Mrs. LINCOLN):

S. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit; to the Committee on Finance.

LEGISLATION TO PERMANENTLY EXTEND THE R&E TAX CREDIT

Mr. HATCH. Mr. President, I am very pleased to join with my friend Senator BAUCUS and many of our Finance Committee colleagues today in introducing legislation that would permanently extend the research and experimentation tax credit.

Over the past 10 years, our nation has experienced the longest and strongest peacetime period of economic expansion in our history. Over this past decade, the standard of living for all Americans has increased markedly while millions of new jobs have been created. At the same time, our federal budget outlook has been transformed from one of large and increasing deficits into the indefinite future to one of multitrillion dollar surpluses for at least the next ten years.

Much of the cause of this economic expansion that has so blessed the United States is due to a strong surge in our productivity rate. This increase in productivity has allowed the economy to continue to grow at a rapid pace without the increase in inflation that usually accompanies such growth.

The Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, and dozens of leading economists have all heralded the increase in our productivity as a key to our economic good times—and to their continuance. A major factor of this increase in productivity, Mr. President, is spending on research and development. This is what our bill today is all about.

An August 1999 study commissioned by the National Association of Manufacturers concluded that as much as two-thirds of productivity gains is due to technological advances. These advances, in turn, fuel economic growth. The standard model of economic growth argues that one-third of growth in private-sector output is attributable to advances in technology. In the manufacturing sector, as much as two-thirds of growth can be attributed to technological advances. Moreover, this contribution is expected to increase over the next decade.

It seems clear to me that if we want to keep our economy strong and growing, it is vital that we keep up and even increase these advances in technology. How do we do this? The answer is simple. Our nation must continue to invest in research and development, both at the public level, and especially in the private sector.

I believe the best way to ensure that private-sector investment in research and development continues at the healthy rate needed to fuel the productivity gains of the future is to permanently extend the current-law research and experimentation credit. This tax provision is a proven and a cost-effective incentive to increase private-sector R&D spending.

Studies have shown that the R&E tax credit significantly increases research and development expenditures. The marginal effect of one dollar of the R&E credit stimulates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra investment over the long-run.

Congress has recognized the vital role the R&E credit has played in spurring increased research spending by extending the credit ten times since its inception in 1981. For most of those years, Congress was never able to find the funds to pay for a permanent extension of the credit, due to budget constraints. Fortunately, Congress passed a five-year extension in 1999 that will keep the credit alive until 2004.

However, Mr. President, permanence is essential to the effectiveness of this credit. Research and development projects typically take a number of years and may even last longer than a decade. As our business leaders plan these projects, they need to know whether or not they can count on the R&E tax credit. The continual uncertainty surrounding the credit has induced businesses to allocate significantly less to research than they otherwise would if they were assured the tax credit would be available. This uncertainty undermines the entire purpose of the credit and has stifled its full potential for inducing research spending. For the government and the American people to maximize the return on their investment in U.S.-based research spending, this credit must be made permanent.

In the business community, the development of new products, technologies, medicines, and ideas can result in either success or failure. Investments carry a risk. The R&E tax credit helps ease the cost of incurring these risks. Whereas foreign nations heavily subsidize research with public dollars, the United States has typically relied less on direct public funds and more on private sector incentives. The R&E tax credit has the potential to be an even more effective incentive if it were made permanent.

I am aware that not every company that invests in research and development in the U.S. can take advantage of the regular R&E tax credit. As the credit's base period recedes and business cycles change, the current credit is out of reach for some companies that still incur significant research expenditures. To help solve this problem Congress enacted the Alternative Incremental Research Credit to help businesses that do not qualify for the R&E tax credit. To improve the effectiveness of this alternative credit, we have included a proposal to slightly increase each of its three incentive levels.

A permanent extension of this credit may seem costly in terms of lost revenue. However, when you consider the value that this investment will create for our economy, it is a bargain. In fact, one study estimates that a permanent R&E credit would result in our Gross Domestic Product increasing by $10 billion after five years and by $31 billion after 20 years.

Moreover, making the credit permanent will encourage more companies to locate their research activities within the United States. This will lead to more jobs and higher wages for U.S. workers. We must recognize that international competition is fierce. Many other countries offer significant enticements to prompt companies to move research activities within their borders. If we fail to ensure at least a level playing field, many companies will begin to consider moving their research activities abroad and we could lose thousands of precious high-paying jobs.

Findings from a study conducted by Coopers & Lybrand show that workers in every state will benefit from higher wages if the R&E tax credit is made permanent. Payroll increases as a result of gains in productivity stemming from the credit have been estimated to exceed $60 billion over the next 12 years. Furthermore, greater productivity from additional R&E will increase overall economic growth in every state in the Union.

My home state of Utah is a good example of how state economies benefit from the research tax credit. Utah is home to a large number of firms who invest a high percentage of their revenue on research and development.

For example, between Salt Lake City and Provo lies one of the world's biggest stretches of software and computer engineering firms. This area, which was named "Software Valley" by Business Week, is a significant example of one of a growing number of thriving high tech commercial regions outside California's Silicon Valley. Newsweek magazine included Utah among the top ten information technology centers in the world. The Utah Information Technologies Association estimates that Utah's IT industry consists of more than 2,500 IT vendor enterprises and more than 1,000 eBusiness enterprises, employing tens of thousands and bringing billions of dollars to Utah's economy.

In addition, Utah is home to about 700 biotechnology and biomedical firms that employ nearly 9,000 workers. Research and development are the reasons these companies exist. Not only do these companies need to continue conducting a high quality level of research, but this research feeds other industries and, ultimately, consumers. Just ask the patients who have benefitted from new drugs or therapies.

In all, Mr. President there are more than 80,000 employees working in Utah's thousands of technology based companies. Many other states have experienced similar growth in high technology businesses. Research and development is the lifeblood of these firms and hundreds of thousands like them throughout the nation.

During the ten times in the past 20 years that Congress has extended the R&E credit for a short time, the ostensible reason has been a lack of revenue. The excuse we give to constituents is that we didn't have the money to extend the bill permanently. Ironically, it costs at least as much in terms of lost revenue, in the long run, to enact short-term extensions as it does to extend it permanently.

With the latest projections of the on-budget surplus, for one year, for five years, and for ten years, this excuse is gone. There is simply no valid reason that this credit should not be extended on a permanent basis.

Moreover, now is the time to extend the provision permanently. By making the research credit permanent now, we will send a strong signal to the business community that a new era of stronger support for research has dawned.

The timing could not be better because, as I mentioned, many research projects, especially those in pharmaceuticals and biotechnology, must be planned and budgeted for months and even years in advance. The more uncertain the long-term future of the research credit is, the smaller the potential of the credit to stimulate increased research. Simply knowing of the reliability of a permanent research credit will give a boost to the amount of research performed, even before the current credit expires in 2004.

A permanent R&E credit has wide support in both the Senate and the House. Last year, this body passed by a vote of 98–1 an amendment that would have permanently extended the credit. Unfortunately, all amendments were ultimately stripped from the underlying bill. The bill we are introducing today is identical to legislation introduced earlier this month by Representatives NANCY JOHNSON and ROBERT MATSUI. The identical bill in the 106th Congress was cosponsored by 164 other members of that body. Moreover, the permanent extension of the credit is a major provision in President Bush's tax cut plan, and was supported by both former President Clinton and by Al Gore.

In conclusion Mr. President, if we fail to make the R&E tax credit permanent, we are limiting the potential growth of our economy. How can we expect the American economy to hold its lead in the global economic race if we allow other countries to take the edge in innovation? Making the tax credit permanent will keep American business ahead of the pack. It will speed economic growth. New technology resulting from American research and development will continue to improve the standard of living for every person in the U.S. and also worldwide.

Simply put, the costs of not making the R&E tax credit permanent are far greater than the costs of making it permanent. As we begin the new millennium, we cannot afford to let the American economy slow down. Now is the time to send a strong message to our companies and to the world that America intends to retain its position as the world's foremost innovator.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 2. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, and my other colleagues on the Senate Finance Committee, to introduce this bill, which is so vitally important to American businesses competing in the global marketplace. I am particularly pleased that this bill includes as original cosponsors a majority of members of the Senate Finance Committee. This legislation is bipartisan and bicameral. A companion bill was introduced—on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressman ROBERT MATSUI.

Our nation is the world's undisputed leader in technological innovation, a position that would not be possible absent U.S. companies' commitment to research and development. Investment in research is an investment in our Nation's economic future, and it is appropriate that both the public and private sector share the costs involved, as we share in the benefits. The credit provided through the tax code for research and experimentation expenses provides a modest but critical incentive for companies to conduct their research in the United States, thus creating high-skilled, high-paying jobs for American workers.

The R&D credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Every dollar that the Federal government spends on the R&D tax credit is matched by another dollar of spending on research over the short run by private companies, and two dollars of spending over the long run. Our global competitors are well aware of the importance of providing incentives for research, and many provide more generous tax treatment for research and experimentation expenses than does the United States. As a result, Japanese and German spending on non-defense R&D as a percentage of GDP has grown, while U.S. spending has remained relatively flat since 1985. The R&D credit is instrumental in keeping research dollars in the United States and we must do all we can to make sure it remains an effective incentive by eliminating the on-again, off-again treatment.

The benefits of the credit, though certainly significant, have been limited over the years by the fact that the credit has been temporary. In addition to the numerous times that the credit has been allowed to lapse only to be extended retroactively, the 1996 extension left a 12-month gap during which the credit was not available. This unprecedented lapse sent a troubling signal to the U.S. companies and universities that have come to rely on the government's longstanding commitment to the credit. Let me be clear: companies are under-investing in research because there has been continued uncertainty about the credit's life. Much of the economic gains we enjoy now is the direct result of research, technology and innovation undertaken in prior decades. If current indicators are accurate in their warning of a slowdown in our economy, then now is appropriate time to send a strong signal to our research-intensive industries. We must demonstrate our long-term commitment to U.S.-based research by finally putting an end to all uncertainty and making the R&D credit permanent.

Much research and development takes years to mature. Companies must make their commitment to research projects often five or ten years into the future. The more uncertain the future of the credit, the fewer additional research projects will be started. If companies evaluating research projects cannot rely on the seamless continuation of the credit, then they are less likely to invest on research in this country and less likely to put money into cutting-edge technological innovation that is critical to keeping us in the forefront of global competition.

Our country is locked in a fierce battle for high-paying technological jobs in the global economy. As more nations succeed in creating educationally advanced workforces and join the U.S. as high-technology manufacturing centers, they become more attractive to companies trying to penetrate foreign markets. Multinational companies sometimes find that moving both manufacturing and basic research activities overseas is necessary if they are to remain competitive. The uncertainty of the R&D credit factors into their economic calculations, and makes keeping these jobs in the U.S. more difficult.

According to a 1998 study conducted by Coopers & Lybrand, making the R&D credit permanent will provide a substantial positive stimulus to investment, wage-growth, productivity, and overall economic activity for this country. Payroll increases from gains in productivity are estimated to total $64 over the period 1998 through 2010. In the year 2010 alone, the payroll increase is estimated to total nearly $12 billion.

Also according to the study, Gross State Product, which is the basic measure of economic activity in a state, will rise overall by nearly $58 billion between 1998 and 2010 as a result of a permanent credit. Nearly three-fifths of this increase nationally is attributable to additional value added by industries that generally do not perform R&D themselves, but benefit from the R&D done by companies in other industries.

Gains in payroll and in Gross State Product are not limited to states regarded as centers for technological innovation. Although such regions of the country certainly benefit from the credit, each and every state will profit in some measurable way from the credit since all sectors of the economy—agriculture, mining, basic manufacturing, and high-tech services—benefit from productivity improvements resulting from the additional research and development caused by the credit.

My own state of Montana is an excellent example of this economic activity. According to the 1998 study, the total increase in payroll due to the R&D credit for the years 1998–2010 is estimated to be just over $250 million. Neither of these increases place Montana in the top tier of states benefitting from the credit. However, looking beyond these numbers, the impact of the credit in Montana is substantial. In 1995, 12 of every 1,000 private sector workers were employed directly by high-tech firms in Montana. Almost 400 establishments provided high-technology services, at an average wage of $34,500 per year. These jobs paid 77 percent more than the average private sector wage in 1995 of $19,500 per year. Many of these jobs would never have been created without the assistance of the R&D credit. And many more jobs in Montana are dependent upon the growth and stability of the high-tech sector. Although the cumulative numbers may not be high in comparison with other states, the impact of the R&D credit on Montana's economy is clear.

The American Bar Association Section of Taxation, the American Institute of Certified Public Accountants Tax Division, and the Tax Executives Institute urge making the credit permanent. In their view, uncertainty in the tax law breeds complexity. The constant need to extend the R&D credit and other Code provisions adds confusion to the law and, in many cases, undermines the policy reasons for enacting the incentives in the first place. This is so because the provisions are intended to encourage particular activities but uncertainty surrounding whether the provisions will be extended leaves taxpayers unable to plan for those activities. The on-again, off-again nature of these provisions, coupled in some cases with retroactive enactment (which often necessitates the filing of an amended return), contributes mightily to the complexity of the law.

Senator HATCH and I are not newcomers to this issue. We have jointly introduced bills to make the R&D credit permanent in previous Congresses only to end up with short-term extensions. Last year, we came close. During consideration of the bill to repeal the estate tax (H.R. 8) last July, the Senate voted 98 to 1 in favor of making the R&D tax credit permanent.

This year, we hope to be successful. The hard work we have done to bring our budget into balance is finally beginning to pay off, and the projected budget surpluses gives us an opportunity to think carefully about how best to allocate our resources. Making the R&D credit permanent is a wise use of budget dollars because of the direct positive impact on economic growth and productivity. This is not just a corporate issue. The real winners from past research investments have been the American people—in higher wage jobs, higher standards of living, and better health and lifestyle. This is a use of tax dollars that benefits all of us who are working to expand employment, increase wages and keep our Nation at the cutting edge of technological development. We were gratified to see that a permanent R&D credit was included in the tax plan on which President Bush campaigned, and I sincerely hope we can work together to finally make this year the year we fulfill our commitment to long-term, U.S.-based research.

I urge my colleagues to support this important piece of legislation.

By Mr. INOUYE:

S. 43. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

MILITARY COMMISSARY AND POST EXCHANGE PRIVILEGES FOR FORMER POWS

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our nation's enemies, I do feel this gesture is both meaningful and important to those concerned. It also serves as a reminder that our nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 43

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"§1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

"(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

"(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

"(1) separated from active duty in the armed forces under honorable conditions; and

"(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

"(c) DEFINITIONS.—In this section:

"(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

"(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

"1064a. Use of commissary and exchange stores by certain disabled former prisoners of war.".

By Mr. INOUYE:

S. 44. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, today I introduce an amendment that would change the existing law regarding the designated position and grade for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of these three branches of the military are only one-star general officer grades: this law would change the current grade to Major General in the Army and Air Force, and Rear Admiral (upper half) in the Navy.

Our military Chief Nurses have a tremendous responsibility—their scope of duties include peacetime and wartime health care doctrine, and standards and policy for all nursing personnel within their respective branches. They are responsible for thousands of Army, Navy, and Air Force officer and enlisted nursing personnel in the active, reserve, and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses, which would ensure that they have an appropriate voice in Defense Health Program executive management.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—bring their unique talents to the policy setting and decision-making process. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 44

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking "brigadier general" in the second sentence and inserting "major general".

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting "rear admiral (upper half) in the case of an officer in the Nurse Corps or" after "for promotion to the grade of"; and

(2) by inserting "in the case of an officer in the Medical Service Corps" after "rear admiral (lower half)".

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking "brigadier general" in the second sentence and inserting "major general".

By Mr. INOUYE:

S. 45. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detailed or interred by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

PRISONER OF WAR MEDAL

Mr. INOUYE. Mr. President, all too often we find that our nation's civilian employees of our federal government who have been forcibly detained or interred by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner of war medal for such citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 45

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

"CHAPTER 25—MISCELLANEOUS AWARDS

"Sec.

"2501. Prisoner-of-war medal: issue.

"§2501. Prisoner-of-war medal: issue

"(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of the willful misconduct of such person—

"(1) by an enemy government or its agents, or a hostile force, during a period of war; or

"(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances that the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

"(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

"(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

"(d) For a person to be eligible for issuance of a prisoner-of-war medal, the conduct of the person must have been honorable for the period of captivity that serves as the basis for the issuance.

"(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

"(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(g) In this section, the term 'period of war' has the meaning given that term in section 101(11) of title 38.".

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

"25. Miscellaneous Awards .... 2501".

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of that section.

By Mr. INOUYE:

S. 46. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

CLINICAL SOCIAL WORKERS' RECOGNITION ACT OF 2001

Mr. INOUYE. Mr. President, today I rise to introduce the Clinical Social Workers' Recognition Act of 2001 to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V, United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by federal employees. The bill I am introducing corrects this problem.

It is a sad irony that federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on federal employees where clinical social workers are the only available providers of mental health care.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 46

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Social Workers' Recognition Act of 2001".

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and osteopathic practitioners" and inserting "osteopathic practitioners, and clinical social workers"; and

(2) in paragraph (3) by striking "osteopathic practitioners" and inserting "osteopathic practitioners, clinical social workers,".

By Mr. INOUYE:

S. 47. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

AIRPORT AND AIRWAY TRUST FUND LEGISLATION

Mr. INOUYE. Mr. President, I rise to introduce legislation that would exempt from the Airport and Airway Trust Fund excise taxes air transportation by helicopters of individuals and cargo for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance on the island of Kahoolawe.

The Kahoolawe Island Unexploded Ordnance Clearance and Environmental Restoration Project is authorized under Title X of the Fiscal Year 1994 Department of Defense Appropriations Act. The island of Kahoolawe is uninhabited, and it served as a bombing range for the Department of Defense until 1990. The Department of Defense is currently in the process of cleaning up and restoring Kahoolawe for its eventual return to the State of Hawaii by 2003.

The Airport and Airway Trust Fund excise taxes help support our nation's air traffic systems and airport infrastructures. However, there are no airports or landing zones on Kahoolawe that receive benefits from the Trust Fund. In addition, the taxes place an undue burden on the air transportation services provided to the Kahoolawe Clearance Project. Compared to a normal airline whose aircraft make fewer trips per day over much longer distances, the services provided to the project are very frequent, with many trips over very short distances. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 47

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from sites for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance.".

(b) CONFORMING AMENDMENT.—Section 4041(l) of the Internal Revenue Code of 1986 is amended by striking "(f) or (g)" and inserting "(f), (g), or (i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after June 30, 1997, and before August 1, 2005.

By Mr. INOUYE:

S. 48. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

TAX RELIEF FOR THE CONVERSION OF COOPERATIVE HOUSING CORPORATIONS INTO CONDOMINIUMS

Mr. INOUYE. Mr. President, today I rise to introduce legislation that would amend the Internal Revenue Code of 1986 to allow Cooperative Housing Corporations (Co-ops) to convert to condominium forms of ownership without any immediate tax consequences.

Under current law, a conversion from cooperative shareholding to condominium ownership is taxable at a corporate level as well as an individual level. The conversion is treated as a corporate liquidation, and therefore taxed accordingly. In addition, a capital gains tax is levied on any increase between the owner's basis in the co-op share pre-conversion and the market value of the condominium conversion because the owner is being taxed on a transaction that is nothing more than a change in the form of ownership. While the Internal Revenue Service concedes that there are no discernible advantages to society from the cooperative form of ownership, it does not view federal tax statutes as having the flexibility to allow co-ops to reorganize freely as condominiums.

In cooperative housing, real property ownership is vested in a corporation, with shares of stock for each apartment unit, that are sold to buyers. The corporation then issues a proprietary lease entitling the owner of the stock to the use of the unit in perpetuity. Because the investment is in the form of a share of stock, investors sometimes lose their entire investment as a result of debt incurred by the corporation in construction and development. In addition, due to the structure of a cooperative housing corporation, a prospective purchaser of shares in the corporation from an existing tenant-stockholder has difficulty obtaining a mortgage financing for the purchase. Furthermore, tenant-stockholders of cooperative housing also encounter difficulties in securing bank loans for the full value of their investment.

As a result, owners of cooperative housing are increasingly looking toward conversion to condominium ownership regimes. Condominium ownership permits each owner of a unit to directly own the unit itself, eliminating the cooperative housing dilemmas of corporate debt that supersedes the investment of cooperative housing share owners, and other financial concerns.

The legislation I introduce today will remove the penalty of double taxation of the conversion from the cooperative housing to condominium ownership, and will greatly benefit co-op owners across the nation. I urge my colleagues to consider and support this measure.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 48

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONRECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.

(a) In General.—Section 216(e) of the Internal Revenue Code of 1986 (relating to distributions by cooperative housing corporations) is amended to read as follows:

"(e) Distributions by Cooperative Housing Corporations.—

"(1) In general.—Except as provided in regulations—

"(A) no gain or loss shall be recognized to a cooperative housing corporation on the distribution by such corporation of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder's stock in such corporation, and

"(B) no gain or loss shall be recognized to a stockholder of such corporation on the transfer of such stockholder's stock in an exchange described in subparagraph (A).

"(2) Basis.—The basis of a dwelling unit acquired in a distribution to which paragraph (1) applies shall be the same as the basis of the stock in the cooperative housing corporation for which it is exchanged, decreased in the amount of any money received by the taxpayer in such exchange.".

(b) Effective Date.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

By Mr. STEVENS:

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

ALASKA WETLANDS CONSERVATION ACT

Mr. STEVENS. Mr. President, I am proud to introduce a piece of legislation important to my State, the "Alaska Wetlands Conservation Act."

The legislation I submit today is identical to that introduced in the 106th Congress, except for a minor addition relative to silviculture. The new language simply clarifies the existing exemption for normal silviculture activities as applied to lands owned by Alaska Native corporations established pursuant to the Alaska Native Claims Settlement Act ("ANCSA").

Congress in enacting the ANCSA intended and expected that Native timber holdings would be subject to harvesting. In fact, most Native timber lands are former national forest lands that, at the time of the enactment of ANCSA in 1971, were part of an "established" or "ongoing" silviculture program for that forest.

I hope my colleagues will support my State and its Native peoples as we pursue this legislation.

By Mr. INOUYE:

S. 51. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under care of a physician; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHOLOGISTS AND SOCIAL WORKERS UNDER MEDICARE

Mr. INOUYE. Mr. President, today, I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the full extent of their state practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition under Medicare comprehensive outpatient rehabilitation facility program.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) In General.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking "physician" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2002.

By Mr. INOUYE:

S. 52. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare Program; to the Committee on Finance.

CLINICAL SOCIAL WORKER ACT OF 2001

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. I believe it is time to correct the disparate reimbursement treatment of this profession under Medicare.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) In General.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: "(ii) the amount determined by a fee schedule established by the Secretary,".

(b) Definition of Clinical Social Worker Services Expanded.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking "services performed by a clinical social worker (as defined in paragraph (1))" and inserting "such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))".

(c) Clinical Social Worker Services Not To Be Included in Inpatient Hospital Services.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(d) Treatment of Services Furnished in Inpatient Setting.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "and services" and inserting "clinical social worker services, and services".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2002.

By Mr. INOUYE:

S. 53. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

NURSING SCHOOL CLINICS ACT OF 2001

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 2001. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit entity primary care centers developed mainly in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act of 2001 recognizes the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 53

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (26), by striking "and" at the end;

(2) by redesignating paragraph (27) as paragraph (28); and

(3) by inserting after paragraph (26), the following new paragraph:

"(27) nursing school clinic services (as defined in subsection (x)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and".

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(x) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.".

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting "and (27)" after "(24)".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:

S. 58. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

NATIONAL ACADEMIES OF PRACTICE RECOGNITION ACT OF 2001

Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinary body of health care practitioners.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 58

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.

In this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 15. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 59. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

PSYCHIATRIC AND PSYCHOLOGICAL EXAMINATIONS ACT OF 2001

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our nation's clinical social workers to use their mental health expertise on behalf of the federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation's best interest.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.

Section 4247(b) of title 18, United States Code, is amended, in the first sentence, by striking "psychiatrist or psychologist" and inserting "psychiatrist, psychologist, or clinical social worker".

By Mr. INOUYE:

S. 61. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

RESTORATION OF MEMORIAL DAY TO MAY 30

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended in the item relating to Memorial Day by striking "the last Monday in May." and inserting "May 30.".

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking "The last Monday in May" and inserting "May 30"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies for showing respect for American veterans of wars and other military conflicts; and".

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking "the last Monday in May;" and inserting "May 30;".

By Mr. INOUYE:

S. 62. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

VETERAN'S HEALTH ADMINISTRATION ACT OF 2001

Mr. INOUYE. Mr. President, I introduce legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans Health Administration (VHA). The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a distressing situation regarding the care of our veterans has come to my attention: the recruiting and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions afflicting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder (PTSD) have received funding from the Congress in recent years.

Psychologists, as behavioral science experts, are essential to the successful implementation of these programs. Consequently, the high vacancy and turnover rates for psychologists in the VHA might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale that is not commensurate with private sector rates together with a low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management (OPM). Most new hires have no post-doctoral experience, and are hired immediately after a VHA internship. Recruitment, when successful, takes up to six months or longer.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels for salary and professional advancement. Under the present system, psychologists cannot be recognized, or appropriately compensated, for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral and mental health disorders deserve better psychological care from more experienced professionals than they are now receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties that I have mentioned. Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems. The length of time needed to recruit psychologists could be shortened by eliminating the requirement for applicants to be rated by the OPM. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated by the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The addition of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our veterans and their families.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 62

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF AUTHORITY RELATING TO APPOINTMENT OF PROFESSIONAL PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking "who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary".

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking "Certified or" and inserting "Professional psychologists, certified or"; and

(2) in paragraph (2)(B), by striking "Certified or" and inserting "Professional psychologists, certified or".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of professional psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.

By Mr. INOUYE:

S. 63. A bill for the relief of Donald C. Pence; to the Committee on Veterans' Affairs.

FOR THE RELIEF OF DONALD C. PENCE

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Donald C. Pence of Stanford, North Carolina, for compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence. It is rare that a federal agency admits a mistake. In this case, the Department of Veterans Affairs has admitted that a mistake was made and explored ways to permit payment under the law, including equitable relief, but has found no provisions authorizing the Department to release the remaining benefits that were unpaid to Mrs. Box at the time of her death. My bill would correct this injustice, and I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD; as follows:

S. 63

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of the Department of Veterans Affairs to pay dependency and indemnity compensation to Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993.

(b) LIMITATION ON FEES.—Not more than a total of 10 percent of the payment authorized by subsection (a) may be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, an to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

AMENDMENT TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Mr. INOUYE. Mr. President, on behalf of our nation's clinical social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would (1) establish a new social work training program; (2) ensure that social work students are eligible for support under the Health Careers Opportunity Program; (3) provide social work schools with eligibility for support under the Minority Centers of Excellence programs; (4) permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and (5) ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to people of this national, few federal programs exit to the provide opportunities for social work training in health and mental health care. This legislation would (1) provide funding for existing social work training programs or fellowships for individuals who plan to specialize in, practice, or teach social work; (2) help disadvantaged students earn graduate degrees in social work with a concentration in health or mental health; (3) provide new resources and opportunities in social work training for minorities; and (4) encourage schools of social work to expand programs in geriatrics.

Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to service our disadvantaged populations. I believe it is important to ensure that the special expertise social workers posses continue to be available to the citizens of this nation. This bill, by providing financial assistance to schools of social work and social work students, acknowledges the long historic and critical importance of the services provided by social work professionals. I believe it is time to provide them with the cognition they deserve.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOL.—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293(g)(1)(A)) is amended by striking "graduate program in behavioral or mental health" and inserting "graduate program in behavioral or mental health including a school offering graduate programs in clinical social work, or programs in social work".

(b) SCHOLARSHIPS, GENERALLY.—Section 737(d)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(d)(1)(A)) is amended by striking "mental health practice" and inserting "mental health practice including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

(c) FACULTY POSITIONS.—Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293b(a)(3)) is amended by striking "offering graduate programs in behavioral and mental health" and inserting "offering graduate programs in behavioral and mental health including graduate programs in clinical psychology, graduate programs in clinical social work, or programs in social work".

SEC. 2. GERIATRICS TRAINING PROJECTS.

Section 753(b)(1) of the Public Health Service Act (42 U.S.C. 294c(b)(1)) is amended by inserting "schools offering degrees in social work," after "teaching hospitals,".

SEC. 3. SOCIAL WORK TRAINING PROGRAM.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

"SEC. 770. SOCIAL WORK TRAINING PROGRAM.

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school offering programs in social work, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of social work;

"(3) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in social work.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in social work; or

"(B) substantially expanding the programs of such a unit.

"(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2002 through 2004.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b)."; and

(3) in section 770A (as so redesignated) by inserting "other than section 770," after "carrying out this subpart,".

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–1) is amended—

(1) in paragraphs (1) and (2), by inserting "clinical social worker," after "psychologist," each place it appears;

(2) in paragraph (4)(A), by striking "and psychologists" and inserting "psychologists, and clinical social workers"; and

(3) in paragraph (5), by inserting "clinical social work," after "psychology,".

By Mr. INOUYE:

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 2001

Mr. INOUYE. Mr. President, today I rise to introduce the Physical and Occupational Therapy Education Act of 2001. This legislation will increase educational opportunities for physical therapy and occupational therapy practitioners in order to meet the growing demand for the valuable services they provide in our communities.

Several factors contribute to the present need for federal support in this area. The rapid aging of our nation's population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapy services. This demand has exceeded our ability to educate an adequate number of physical therapists and occupational therapists. In addition, technological advances are allowing injured and disabled individuals to survive conditions that would have proven fatal in past years.

An inadequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant temporary workers (H–1B visa holders). The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H–1B visa holders in the United States, second only to computer specialists.

In addition to the shortage of practitioners, a shortage of faculty impedes the expansion of established education programs. The critical shortage of doctoral-prepared occupational therapists and physical therapists has resulted in a depleted pool of potential faculty. This bill would assist in the development of qualified faculty by giving preference to grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. The investment we make will help reduce America's dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Physical Therapy and Occupational Therapy Education Act of 2001".

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended by inserting after section 769, the following:

"SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy for the purpose of planning and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

"(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

"(c) PEER REVIEW.—Each peer review group under section 799(f) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall prepare a report that—

"(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

"(B) specifies the identity of entities receiving the grants or contracts; and

"(C) evaluates the effectiveness of the program based upon the objectives established by the entities receiving the grants or contracts.

"(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2003, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2002 through 2005.".

By Mr. INOUYE:

S. 67. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PUBLIC HEALTH SERVICE ACT OF 2001

Mr. INOUYE. Mr. President, I am introducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program.

Psychologists have made a unique contribution in reaching out to the nation's medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation's underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended by adding at the end the following:

"SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—

"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or 'medically unserved populations'.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2002 through 2004.".

By Mr. INOUYE:

S. 68. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusions of behavioral science expertise into our community of public health, providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 68

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting ", or any public or nonprofit school that offers a graduate program in professional psychology" after "veterinary medicine";

(2) in subsection (b)(4), by inserting ", or to a graduate degree in professional psychology" after "or doctor of veterinary medicine or an equivalent degree"; and

(3) in subsection (c)(1), by inserting ", or schools that offer graduate programs in professional psychology" after "veterinary medicine".

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting ", or to a graduate degree in professional psychology" after "or doctor of veterinary medicine or an equivalent degree";

(2) in subsection (c), in the matter preceding paragraph (1), by inserting ", or at a school that offers a graduate program in professional psychology" after "veterinary medicine"; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking "or podiatry" and inserting "podiatry, or professional psychology"; and

(B) in paragraph (4), by striking "or podiatric medicine" and inserting "podiatric medicine, or professional psychology".

SEC. 2. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking "clinical" and inserting "professional".

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking "clinical" and inserting "professional".

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (42 U.S.C. 295p(1)(B)) is amended by striking "clinical" each place it appears and inserting "professional".

By Mr. INOUYE:

S. 69. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RURAL PREVENTIVE HEALTH CARE TRAINING ACT OF 2001

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 2001, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine (IOM) report entitled, "Reducing Risks for Mental Disorders; Frontiers for Preventive Intervention Research," highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through such training, rural health care providers can build a strong educational foundation from the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 2001 would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 2001".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

"SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

"(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

"(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

"(3) to provide training in appropriate research and program evaluation skills in rural communities;

"(4) to create and implement innovative programs and curricula with a specific prevention component; and

"(5) for other purposes as the Secretary determines to be appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2002 through 2004.".

By Mr. INOUYE:

S. 70. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL CENTER FOR SOCIAL WORK RESEARCH

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information about basic and clinical social work research, and training, with emphasis on service to underserved and rural populations.

While the federal government provides funding for various social work research activities through the National Institutes of Health and other federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation's children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based, quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating their work.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Center for Social Work Research Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) IN GENERAL.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(G) The National Center for Social Work Research.".

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

"Subpart 6—National Center for Social Work Research

"SEC. 485G. PURPOSE OF CENTER.

"The general purpose of the National Center for Social Work Research (referred to in this subpart as the 'Center') is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

"(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

"(2) provide policymakers with empirically-based research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

"SEC. 485H. SPECIFIC AUTHORITIES.

"(a) IN GENERAL.—To carry out the purpose described in section 485G, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

"(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

"(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

"SEC. 485I. ADVISORY COUNCIL.

"(a) DUTIES.—

"(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

"(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment,, or maintenance of facilities for the Center.

"(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

"(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

"(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

"(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country and, with the approval of the Director of the Center, make such information available through appropriate publications; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

"(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

"(A) the Secretary of Health and Human Services, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designees of such officers); and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

"(A) not more than two-thirds of such individuals shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

"(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

"(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive. for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for an individual at grade GS–18 of the General Schedule.

"(c) TERMS.—

"(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

"(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

"(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

"(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

"(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

"(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

"(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485J—

"(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

"(2) comments on the progress of the Center in meeting its objectives; and

"(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

"SEC. 485J. BIENNIAL REPORT.

"The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485I(g).

"SEC. 485K. QUARTERLY REPORT.

"The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.".

Mr. CRAIG:

S. 71. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 2001

Mr. CRAIG. Mr. President, I rise to introduce a bill, and I send it to the desk.

Mr. President, the bill I introduce is the Hydroelectric Licensing Process Improvement Act of 2001. As its title suggests, the purpose of the bill is to improve the process by which non-federal hydroelectric projects are licensed by the Federal Energy Regulatory Commission.

I introduced an identical bill early in the 106th Congress. Several hearings were held on the bill in both the Senate and House. I introduce this bill today with the full understanding that the bill may undergo some changes as a result of collaboration with my colleague Senator BINGAMAN and others on the Senate Energy and Natural Resources Committee. At the end of the last Congress, Senator BINGAMAN offered to work with me in a bipartisan fashion to successfully report this bill out of Committee in the 107th Congress. I enthusiastically look forward to working with him to ensure that this bill gets the necessary attention to move smoothly and with appropriate speed through the Committee process.

Mr. President, hydropower represents ten percent of the energy produced in the United States, and approximately 85% of all renewable energy generation. This is a significant portion of our nation's electricity, produced without air pollution or greenhouse gas emissions, and it is accomplished at relatively low cost.

The Commission for many years since its creation in 1920, controlled our nation's water power potential with uncompromising authority. However, over the years, a number of environmental statutes, amendments to the Federal Power Act, Commission regulations, licensing and policy decisions, and several critical court decisions, has made the Commission's licensing process extremely costly, time consuming, and, at times, arbitrary. Indeed, the current Commission licensing program is burdened with mixed mandates and redundant bureaucracy and prone to gridlock and litigation.

Under current law, several federal agencies are required to set conditions for licenses without regard to the effects those conditions have on project economics, energy benefits, impacts on greenhouse gas emissions and values protected by other statutes and regulations. Far too often we have agencies fighting agencies and issuing inconsistent demands.

The consequent delays in processing hydropower applications result in significant business costs and lost capacity. For example, according to a September 1997 study of the U.S. Department of Energy, since 1987, of 52 peaking projects relicensed by the Commission, four projects increased capacity, and 48 decreased capacity. In simple terms, those 48 projects became less productive as a result of the relicensing process at the Commission than they were prior to relicensing. Ninety-two percent of the peaking projects since 1987 lost capacity.

In addition, faced with the uncertainties currently plaguing the relicensing process, some existing licensees are contemplating abandonment of their projects. This is of concern to the nation because two-thirds of all non-federal hydropower capacity is up for relicensing in the next fifteen years. This concern has been exacerbated in the last several months by the catastrophic energy supply crisis experienced by California and the rest of the West. By the year 2010, 220 projects will be subject to the relicensing process.

Publicly owned hydropower projects constitute nearly 50% of the total capacity that will be up for renewal. The problems resulting in lost capacity, coupled with the momentous changes occurring in the electricity industry and the increasing need for emission free sources of power, all underscore the need for Congressional action to reform hydroelectric licensing.

Moreover, the loss of a hydropower project means more than the loss of clean, efficient, renewable electric power. Hydropower projects provide drinking water, flood control, fish and wildlife habitat, irrigation, transportation, environmental enhancement funding and recreation benefits. Also, due to its unique load-following capability, peaking capacity and voltage stability attributes, hydropower plays a critical role in maintaining our nation's reliable electric service.

My bill will help remedy the inefficient and complex Commission licensing process by ensuring that federal agencies involved in the process act in a timely and accountable manner.

My bill does not change or modify any existing environmental laws, nor remove regulatory authority from various agencies. It does not call for the repeal of mandatory conditioning authority of appropriate federal agencies. Rather, it requires participating agencies to consider, and be accountable for, the full effects of their actions before imposing mandatory conditions on a Commission issued license.

It is clear to me and many of my colleagues here in the Senate that hydropower is at risk. Clearly, one of the most important tasks for energy policymakers in the 21st Century is to develop an energy strategy that will ensure an adequate supply of reasonably priced, reliable energy to all American consumers in an environmentally responsible manner. The relicensing of non-federal hydropower can and should continue be an important and viable element in this strategy.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis appear in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 71

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hydroelectric Licensing Process Improvement Act of 2001”.

SEC. 2. FINDINGS.

Congress finds that—

(1) hydroelectric power is an irreplaceable source of clean, economic, renewable energy with the unique capability of supporting reliable electric service while maintaining environmental quality;

(2) hydroelectric power is the leading renewable energy resource of the United States;

(3) hydroelectric power projects provide multiple benefits to the United States, including recreation, irrigation, flood control, water supply, and fish and wildlife benefits;

(4) in the next 15 years, the bulk of all non-Federal hydroelectric power capacity in the United States is due to be relicensed by the Federal Energy Regulatory Commission;

(5) the process of licensing hydroelectric projects by the Commission—

(A) does not produce optimal decisions, because the agencies that participate in the process are not required to consider the full effects of their mandatory and recommended conditions on a license;

(B) is inefficient, in part because agencies do not always submit their mandatory and recommended conditions by a time certain;

(C) is burdened by uncoordinated environmental reviews and duplicative permitting authority; and

(D) is burdensome for all participants and too often results in litigation; and

(6) while the alternative licensing procedures available to applicants for hydroelectric project licenses provide important opportunities for the collaborative resolution of many of the issues in hydroelectric project licensing, those procedures are not appropriate in every case and cannot substitute for statutory reforms of the hydroelectric licensing process.

SEC. 3. PURPOSE.

The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power by—

(1) requiring agencies to consider the full effects of their mandatory and recommended conditions on a hydroelectric power license and to document the consideration of a broad range of factors;

(2) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license; and

(3) making other improvements in the licensing process.

SEC. 4. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

(a) In General.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding at the end the following:

“SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

“(a) Definitions.—In this section:

“(1) Condition.—The term ‘condition’ means—

“(A) a condition to a license for a project on a Federal reservation determined by a consulting agency for the purpose of the first proviso of section 4(e); and

“(B) a prescription relating to the construction, maintenance, or operation of a fishway determined by a consulting agency for the purpose of the first sentence of section 18.

“(2) Consulting agency.—The term ‘consulting agency’ means—

“(A) in relation to a condition described in paragraph (1)(A), the Federal agency with responsibility for supervising the reservation; and

“(B) in relation to a condition described in paragraph (1)(B), the Secretary of the Interior or the Secretary of Commerce, as appropriate.

“(b) Factors To Be Considered.—

“(1) In general.—In determining a condition, a consulting agency shall take into consideration—

“(A) the impacts of the condition on—

“(i) economic and power values;

“(ii) electric generation capacity and system reliability;

“(iii) air quality (including consideration of the impacts on greenhouse gas emissions); and

“(iv) drinking, flood control, irrigation, navigation, or recreation water supply;

“(B) compatibility with other conditions to be included in the license, including mandatory conditions of other agencies, when available; and

“(C) means to ensure that the condition addresses only direct project environmental impacts, and does so at the lowest project cost.

“(2) Documentation.—

“(A) In general.—In the course of the consideration of factors under paragraph (1) and before any review under subsection (e), a consulting agency shall create written documentation detailing, among other pertinent matters, all proposals made, comments received, facts considered, and analyses made regarding each of those factors sufficient to demonstrate that each of the factors was given full consideration in determining the condition to be submitted to the Commission.

“(B) Submission to the commission.—A consulting agency shall include the documentation under subparagraph (A) in its submission of a condition to the Commission.

“(c) Scientific Review.—

“(1) In general.—Each condition determined by a consulting agency shall be subjected to appropriately substantiated scientific review.

“(2) Data.—For the purpose of paragraph (1), a condition shall be considered to have been subjected to appropriately substantiated scientific review if the review—

“(A) was based on current empirical data or field-tested data; and

“(B) was subjected to peer review.

“(d) Relationship to Impacts on Federal Reservation.—In the case of a condition for the purpose of the first proviso of section 4(e), each condition determined by a consulting agency shall be directly and reasonably related to the impacts of the project within the Federal reservation.

“(e) Administrative Review.—

“(1) Opportunity for review.—Before submitting to the Commission a proposed condition, and at least 90 days before a license applicant is required to file a license application with the Commission, a consulting agency shall provide the proposed condition to the license applicant and offer the license applicant an opportunity to obtain expedited review before an administrative law judge or other independent reviewing body of—

“(A) the reasonableness of the proposed condition in light of the effect that implementation of the condition will have on the energy and economic values of a project; and

“(B) compliance by the consulting agency with the requirements of this section, including the requirement to consider the factors described in subsection (b)(1).

“(2) Completion of review.—

“(A) In general.—A review under paragraph (1) shall be completed not more than 180 days after the license applicant notifies the consulting agency of the request for review.

“(B) Failure to make timely completion of review.—If review of a proposed condition is not completed within the time specified by subparagraph (A), the Commission may treat a condition submitted by the consulting agency as a recommendation is treated under section 10(j).

“(3) Remand.—If the administrative law judge or reviewing body finds that a proposed condition is unreasonable or that the consulting agency failed to comply with any of the requirements of this section, the administrative law judge or reviewing body shall—

“(A) render a decision that—

“(i) explains the reasons for a finding that the condition is unreasonable and may make recommendations that the administrative law judge or reviewing body may have for the formulation of a condition that would not be found unreasonable; or

“(ii) explains the reasons for a finding that a requirement was not met and may describe any action that the consulting agency should take to meet the requirement; and

“(B) remand the matter to the consulting agency for further action.

“(4) Submission to the commission.—Following administrative review under this subsection, a consulting agency shall—

“(A) take such action as is necessary to—

“(i) withdraw the condition;

“(ii) formulate a condition that follows the recommendation of the administrative law judge or reviewing body; or

“(iii) otherwise comply with this section; and

“(B) include with its submission to the Commission of a proposed condition—

“(i) the record on administrative review; and

“(ii) documentation of any action taken following administrative review.

“(f) Submission of Final Condition.—

“(1) In general.—After an applicant files with the Commission an application for a license, the Commission shall set a date by which a consulting agency shall submit to the Commission a final condition.

“(2) Limitation.—Except as provided in paragraph (3), the date for submission of a final condition shall be not later than 1 year after the date on which the Commission gives the consulting agency notice that a license application is ready for environmental review.

“(3) Default.—If a consulting agency does not submit a final condition to a license by the date set under paragraph (1)—

“(A) the consulting agency shall not thereafter have authority to recommend or establish a condition to the license; and

"(B) the Commission may, but shall not be required to, recommend or establish an appropriate condition to the license that—

"(i) furthers the interest sought to be protected by the provision of law that authorizes the consulting agency to propose or establish a condition to the license; and

"(ii) conforms to the requirements of this Act.

"(4) EXTENSION.—The Commission may make 1 extension, of not more than 30 days, of a deadline set under paragraph (1).

"(g) ANALYSIS BY THE COMMISSION.—

"(1) ECONOMIC ANALYSIS.—The Commission shall conduct an economic analysis of each condition submitted by a consulting agency to determine whether the condition would render the project uneconomic.

"(2) CONSISTENCY WITH THIS SECTION.—In exercising authority under section 10(j)(2), the Commission shall consider whether any recommendation submitted under section 10(j)(1) is consistent with the purposes and requirements of subsections (b) and (c) of this section.

"(h) COMMISSION DETERMINATION ON EFFECT OF CONDITIONS.—When requested by a license applicant in a request for rehearing, the Commission shall make a written determination on whether a condition submitted by a consulting agency—

"(1) is in the public interest, as measured by the impact of the condition on the factors described in subsection (b)(1);

"(2) was subjected to scientific review in accordance with subsection (c);

"(3) relates to direct project impacts within the reservation, in the case of a condition for the first proviso of section 4(e);

"(4) is reasonable;

"(5) is supported by substantial evidence; and

"(6) is consistent with this Act and other terms and conditions to be included in the license.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECTION 4.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(A) in the first proviso of the first sentence by inserting after "conditions" the following: ", determined in accordance with section 32,"; and

(B) in the last sentence, by striking the period and inserting "(including consideration of the impacts on greenhouse gas emissions)".

(2) SECTION 18.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended in the first sentence by striking "prescribed by the Secretary of Commerce" and inserting "prescribed, in accordance with section 32, by the Secretary of the Interior or the Secretary of Commerce, as appropriate".

SEC. 5. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

Part I of the Federal Power Act (16 U.S.C. 791a et seq.) (as amended by section 4) is amended by adding at the end the following:

"SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

"(a) LEAD AGENCY RESPONSIBILITY.—The Commission, as the lead agency for environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects licensed under this part, shall conduct a single consolidated environmental review—

"(1) for each such project; or

"(2) if appropriate, for multiple projects located in the same area

"(b) CONSULTING AGENCIES.—In connection with the formulation of a condition in accordance with section 32, a consulting agency shall not perform any environmental review in addition to any environmental review performed by the Commission in connection with the action to which the condition relates.

"(c) DEADLINES.—

"(1) IN GENERAL.—The Commission shall set a deadline for the submission of comments by Federal, State, and local government agencies in connection with the preparation of any environmental impact statement or environmental assessment required for a project.

"(2) CONSIDERATIONS.—In setting a deadline under paragraph (1), the Commission shall take into consideration—

"(A) the need of the license applicant for a prompt and reasonable decision;

"(B) the resources of interested Federal, State, and local government agencies; and

"(C) applicable statutory requirements.".

SEC. 6. STUDY OF SMALL HYDROELECTRIC PROJECTS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects.

(b) DEFINITION OF SMALL HYDROELECTRIC PROJECT.—The Commission may by regulation define the term "small hydroelectric project" for the purpose of subsection (a), except that the term shall include at a minimum a hydroelectric project that has a generating capacity of 5 megawatts or less.

SECTION-BY-SECTION ANALYSIS OF THE HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 2001

Section 1: Short Title. The legislation may be referred to as the Hydroelectric Licensing Process Improvement Act of 2001.

Section 2: Findings. Hydropower is a vital renewable energy resource, providing clean, economic and reliable electricity. Hydropower projects also provide recreation, irrigation, flood control, water supply and fish and wildlife benefits. The bulk of all non-Federal hydro projects are coming up for relicensing by the Federal Energy Regulatory Commission (FERC) in the next 15 years. The hydroelectric licensing process does not produce optimal decisions, because agencies participating in the process fail to consider the full effects of mandatory and recommended license conditions. The process is inefficient, in part because of delays in the submission of mandatory and recommended conditions, and environmental reviews are uncoordinated. As a result, the process is burdensome for all participants, and prone to litigation. While alternative licensing procedures are available and can lead to the collaborative resolution of issues in some relicensings, they are not appropriate in all circumstances, and are not a substitute for needed statutory reform.

Section 3: Purpose. The purpose of the legislation is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power. This purpose will be achieved through statutory reforms to improve the licensing process by (1) requiring agencies to consider key factors, and document their consideration of those factors, when developing mandatory and recommended license conditions; (2) requiring FERC to set deadlines for the submission of agency conditions; and (3) making other process improvements.

Section 4(a): Process for Consideration by Federal Agencies of Conditions to Licenses. The legislation would create a new section 32 of the Federal Power Act (FPA), specifying the process for consideration by Federal agencies of conditions to hydroelectric project licenses.

Definitions: New FPA section 32(a) would define "condition" and "consulting agency" as used in section 32. "Condition" refers to conditions for projects on Federal reservations determined under FPA section 4(e) and fishway prescriptions determined under FPA section 18. "Consulting agencies" are the agencies with authority to determine conditions under sections 4(e) and 18.

Factors to be Considered: New FPA section 32(b) would require consulting agencies to consider the impact of conditions on: economic and power values; electric generating capacity and system reliability; air quality, including impacts on greenhouse gas emissions; and drinking, flood control, irrigation, navigation or recreation water supply. In addition, agencies would be required to consider the compatibility of their conditions with other conditions that will be included in the license, including, if available, mandatory conditions of other agencies. Further, agencies would be required to consider means to ensure that conditions address only direct project environmental impacts, and do so at the lowest cost to the project. Agencies must create written documentation of their consideration of these issues, and submit the documentation to FERC along with the condition.

Scientific Review: New FPA section 32(c) would require that each condition be subjected to appropriately substantiated scientific review based on current empirical data or field-tested data and subjected to peer review.

Relationship to Impacts on Federal Reservation: New FPA section 32(d) would require that conditions determined under FPA section 4(e) be directly and reasonably related to the impacts of the project within the Federal reservation.

Administrative Review: New FPA section 32(e) would require that proposed conditions be provided to applicants at least 90 days prior to the deadline for filing a license application. Prior to submitting proposed conditions to the Commission, consulting agencies must offer the license applicant an opportunity to obtain administrative review of the condition before an administrative law judge or other independent reviewing body. The administrative review would consider the reasonableness of the proposed condition, in light of its effects on the energy and economic values of the project, and the agency's compliance with the requirements imposed in section 32. Administrative review must be completed within 180 days of a request for review from the applicant. If it is not, the Commission is authorized to treat the condition as a recommendation is treated under FPA section 10(j). If an agency reviewing body decides that a proposed condition is unreasonable or that the requirements of the new FPA section 32 are not met, it must explain its decision and remand the matter to the agency for further action. The reviewing body may recommend curative actions. Finally, the consulting agency, following administrative review, would be required to either withdraw the condition, formulate a condition that follows the recommendations of the administrative review body, or otherwise comply with section 32. When the condition is submitted to the Commission, the consulting agency would be required to include any record on administrative review and documentation of any action taken after administrative review.

Submission of Final Condition: After a license application is filed, new FPA section 32(f) would require FERC to establish a deadline for the submission to the Commission of final conditions. The deadline would be no later than one year after the date on which the Commission gives notice that the license application is ready for environmental review (subject to one 30 day extension by FERC). If the consulting agency fails to comply with the deadline, the agency would not have authority to recommend or establish a condition. The legislative language restates FERC's current authority under its regulations to propose or establish license conditions in place of the defaulting agency in such a situation.

Analysis by the Commission: New section 32(g) would require FERC to conduct an economic analysis of conditions to determine whether a condition would render the project uneconomic. In addition, in exercising its authority under section 10(j) to reject a recommendation that is inconsistent with the Federal Power Act, the Commission would be required to consider whether 10(j) recommendations are consistent with the provisions of sections 32 (b) and (c) (consideration of factors and scientific review).

Commission Determination on Effect of Conditions: New section 32(h) would require the Commission, if requested on rehearing by a license applicant, to make a written determination on whether a condition (1) is in the public interest (measured by the impact of the condition on the energy, economic and resource considerations enumerated in section 32(b); (2) was subject to scientific review as required in section 32(c); (3) relates to direct project impacts within the reservation (if applicable); (4) is reasonable; (5) is supported by substantial evidence; and (6) is consistent with the Federal Power Act and other license terms and conditions.

Section 4(b): Conforming and Technical Amendments: This section makes certain technical changes in FPA sections 4(e) and 18 to reflect the new requirements of section 32.

Section 5: Coordinated Environmental Review Process: A new section 33 would be added to the Federal Power Act to confirm the FERC's responsibilities as the lead agency for environmental reviews of hydroelectric projects under the National Environmental Policy Act.

Lead Agency Responsibility: New FPA section 33(a) would confirm FERC's responsibility to conduct a single, consolidated environmental review for each project or, if appropriate, for multiple projects located in the same area. This language assures that the legislation does not preclude a single environmental review being done for multiple projects.

Consulting Agencies: New FPA section 33(b) would impose a limitation on consulting agencies seeking to perform a separate environmental review for conditions submitted in accordance with new FPA section 32. This language is designed to avert agency reviews that would duplicate the consolidated environmental review conducted by FERC.

Deadlines: New FPA section 33(c) would require the Commission to set deadlines that provide opportunity for input on environmental reviews by federal, state and local agencies.

Section 6: Study of Small Hydroelectric Projects. Within 18 months of the date of enactment, FERC must complete a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects. The study would be submitted to the Senate Energy and Natural Resources and House Commerce Committees. The term "small hydroelectric project" would be defined by FERC, and shall include projects with generating capacity of 5 megawatts or less.

Mr. BINGAMAN:

S. 72. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

EXPANDING ESPC AUTHORITY

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, to amend the National Energy Conservation Policy Act of 1986. This legislation, the "Energy Efficient Cost Savings Improvement Act of 2001," which I previously introduced on December 14, 2000 as S. 3277 and was accepted by unanimous consent, will improve the current law by enhancing and extending the authority relating to energy savings performance contracts of the Federal Government. The benefit to the taxpayer will be not only the realization of greater cost savings as they pertain to older, inefficient Federal buildings but, more importantly, the reduction in the waste of monies spent trying to improve these buildings when other, more cost effective alternatives are available.

The National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992, established a mandate for energy savings in Federal buildings and facilities. Aggressive energy conservation goals were subsequently established by Executive Order 12902, stating that, by 2005, Federal agencies must reduce their energy consumption in their buildings by 30 percent per square foot when compared to 1985 levels. Executive Order 13123 increased this goal to 35 percent by 2010.

To help attain these objectives, the Energy Policy Act of 1992 created Energy Savings Performance Contracting (ESPC), which offered a means of achieving this energy reduction goal at no capital cost to the government. That's right—no capital cost to the government, since ESPC is an alternative to the traditional method of Federal appropriations to finance these types of improvements in Federal buildings. Under the ESPC authority, Federal agencies contract with energy service companies (ESCO), which pay all the up-front costs. These costs relate to evaluation, design, financing, acquisition, installation, and maintenance of energy efficient equipment; altered operation and maintenance improvements; and technical services. The ESCO guarantees a fixed amount of energy cost savings throughout the life of the contract and is paid directly from those cost savings. Agencies retain the remainder of the cost savings for themselves and, at the end of the contract, ownership of all property, along with the additional cost savings, reverts to the Federal government. Currently, contracts may range up to 25 years. Over the entire contract period, Federal monies are neither required nor appropriated for the improvements.

But, as innovative as the ESPC alternative may be, there is one area in which it falls short—and that is, how to avoid wasting valuable funds improving energy efficiency in a building that has long since passed its useful life. How do you justify energy conservation measures in buildings that are in constant need of maintenance or repair? Facilities that, no matter how much money is invested for renovation, will never meet existing building code requirements? You may save money by improving energy efficiency, but then turn around and reinvest even larger amounts in operating and maintaining a very old facility. Somewhere there has to be a point where we decide there must be other alternatives—and that is exactly what my legislation offers.

Mr. President, the most important element of my legislation is in the way it proposes to fund the construction of replacement Federal facilities. The legislation builds upon the existing Energy Savings Performance Contracting and takes it one logical step further—to include savings anticipated from operation and maintenance efficiencies of a new replacement Federal building. Perhaps the easiest way to explain the benefits of this change is by citing an example. In my home state of New Mexico, the Department of Energy Albuquerque Operations office resides in a complex of buildings constructed originally as Army barracks during the Korean War. Although these facilities have been renovated and modified throughout the years, they remain energy inefficient and require high maintenance and operation costs when compared to more contemporary buildings. What's more, over the next seven years, the Operations office will institute additional modifications to meet compliance requirements for seismic, energy savings, and other facility infrastructure concerns (maintenance, environmental, safety and health, etc.) at a cost of $34.2 million. Even with these modifications, we end up with a modernized 50-year old building that will continue to require expensive maintenance dollars. The estimate to replace the office complex with a new facility, by the way, is $35.3 million. While Congress cannot afford to appropriate funds to build a new facility, we're willing to spend—no, we're forced to waste—almost as much in maintaining an old one.

As requested by the National Defense Authorization Act for FY2000, the Department of Energy conducted a feasibility study for replacing the Albuquerque Operations office using an

ESPC. The results of the study are enlightening, for it demonstrated that by using anticipated energy, operations, and maintenance efficiencies of a new replacement building over the old one, the cost savings alone pay for the new facility. What's more, the analysis forecasts that after the annual ESPC loan payment is made to the contractor, there is a $1 million per year surplus. Over a 25-year contract, the savings to the taxpayer is $25 million.

Finally, Mr. President, I want to draw your attention to the broader implications that this legislation has for Federal agencies and taxpayers alike. The application of authority created by this legislation in the replacement of other Federal buildings could result in billions of dollars of avoided waste. Simply by considering operation and maintenance cost savings, we would reap a double benefit of newer facilities and much needed improvements to the Federal infrastructure at a fraction of the cost. And, since ESCOs typically use local companies to provide construction services, this type of program would have a very beneficial effect on local economies.

There is certainly enough work within the Federal government to move forward on this ESPC legislation. To this end, I urge my colleagues to support the bill.

I ask for unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 72

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Efficient Cost Savings Improvement Act of 2001".

SEC. 2. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO ENERGY SAVINGS PERFORMANCE CONTRACTS OF THE FEDERAL GOVERNMENT.

(a) ENERGY SAVINGS THROUGH CONSTRUCTION OF REPLACEMENT FACILITIES.—Section 804 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) The term also means a reduction in the cost of energy, from such a base cost, that would otherwise be utilized in a federally owned building or buildings or other federally owned facilities by reason of the construction and operation of one or more buildings or facilities to replace such federally owned building or buildings or other federally owned facilities."; and

(2) in paragraph (3), by inserting after the first sentence the following new sentence: "The terms also mean a contract that provides for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.".

(b) COST SAVINGS FROM OPERATION AND MAINTENANCE EFFICIENCIES IN REPLACEMENT FACILITIES.—Section 801(a) of that Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

"(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.".

(c) FIVE-YEAR EXTENSION OF AUTHORITY.—Section 801(c) of that Act (42 U.S.C. 8287(c)) is amended by striking "October 1, 2003" and inserting "October 1, 2008".

By Mr. HELMS:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

S. 75. A bill to protect the lives of unborn human beings; read the first time.

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

LEGISLATION TO CORRECT PERMISSIVE SOCIAL POLICIES

Mr. HELMS. Mr. President, it is customary for me to introduce legislation on the first day of a new Congress that addresses what countless Americans believe are our Nation's most serious social problems. These problems are not new—and the solutions are familiar—but I shall nonetheless devote a few moments to explaining the importance of these bills, and why, more than ever, it is so crucial to correct a number of permissive social policies that are creating a moral and spiritual crisis in our country.

During the past several years, Mr. President, I have been delighted that the responsible fiscal policies of the Republican Congress, coupled with strong and stable monetary policy engineered by the Federal Reserve, has proved a successful combination for the economy. The resulting expansion—fueled not by government but by the limitless entrepreneurial energy of the American people—has been highly gratifying.

But while the American people have been largely optimistic about the state of the economy, there is a curious dichotomy between those positive feelings and their unease about the state of American society. Because for every positive report Americans read on the financial page, there seems to be utterly horrifying stories elsewhere, stories which detail a moral sickness at the heart of our culture, stories which chronicle the devaluation of human life in our society, symbolized by the tragic 1973 Supreme Court decision, Roe v. Wade.

Two years ago, I told the story of the young New Jersey woman who in May of 1997 gave birth to an infant in a public bathroom stall during her senior prom. She promptly strangled her newborn baby boy, placed his little body in a trash can, adjusted her makeup, and returned to the dance floor.

The American people were justly shocked by such callousness, and I was even more stunned to learn that stories of a similar nature are common.

Consider the following examples reported in the media in December of the year 2000.

Portland Oregonian, December 5, 2000: "A teen-ager accused of drowning her newborn baby in the bathtub at a family gathering in July in Eagle Creek pleaded guilty on Monday to second-degree manslaughter."

Chicago Tribune, December 9, 2000: "A 21-year-old Fox Lake man pleaded guilty Friday to first-degree murder in the death of his girlfriend's 2-month-old daughter, who authorities said was brutally shaken and thrown during the last days of her life.

Orlando Sentinel, December 24, 2000: "A 17-month-old baby has died after his stepfather beat the infant in the head with his fists.

News Tribune (Tacoma, Washington), December 1, 2000: "A Lakewood mother and her live-in boyfriend have been charged with homicide-by-abuse in the mid-September death of the woman's 2-month-old son."

Salt Lake Tribune, December 5, 2000: The mother of a newborn boy found dead after being abandoned in a shed at a St. George amusement park was bound over Monday for trial on a charge of first-degree murder.

Should we really be surprised, Mr. President, that a Nation that not only tolerates, but actively defends the practice of partial birth abortion would produce these gruesome headlines? And should we be surprised that the extraordinary level of disrespect for human life to which America has fallen has not been limited to infant abuse on the part of caregivers, but now pervades every part of our society?

In fact, Mr. President, the abortion-on-demand zealots holding sway over the media and much of the intellectual and political establishment are becoming ever more brazen in their assault on the unborn. Just this month, the National Abortion Rights Action League, known as NARAL, began an outrageously offensive television advertising campaign seeking to cloak the divisive practice of abortion under the guise of patriotism. Amidst images of families and children, and accompanied by stirring music, the text of the advertisement falsely treats this painful procedure as a cause for celebration. "What's life," the commercial asks, "without choice?"

The deliberate destruction of the most innocent, most helpless human beings imaginable has nothing whatsoever to do with "life."

We have a moral crisis in our country. But too often, the mainstream media doesn't seek to remedy our decaying culture; they actually celebrate it. During the past two years, the FOX network has become notorious for trivializing our most cherished institutions with so-called "reality entertainment" programs like "Who Wants to Marry a Multi-Millionaire" and its most recent assault on good taste, "Temptation Island".

On this program, which debuted just weeks ago, contestants—or perhaps I should say exhibitionists—exchange their real-life relationships for promiscuous affairs, solely to divert the viewing public. And instead of responding with outrage—or at the very least, indifference—a sizeable portion of the American public rewarded the program with high ratings.

It is increasingly apparent that American society has lost its moorings. But too many politicians blithely suggest that government and morality are not and should not be related; too many producers in Hollywood claim that the filth that passes for entertainment does not corrupt our culture; and too many educators claim the academy does not have a place in addressing the difference between right and wrong.

Mr. President, they are the ones who are wrong. We fool ourselves and we fool the public if we suggest that there is no connection between the business we do in Congress and the state of public morality in our society. We are the caretakers of our own culture. And we must not shrink from the responsibility of passing laws that promote what is right and prevent what is wrong in our society.

When we make good choices, such as passing comprehensive welfare reform, the American people are rewarded with declining welfare caseloads with a corresponding decrease in crime and poverty. When Congress pursues responsible fiscal policy and balances the budget, it is possible to return to the American people more of their hard-earned money in the form of a tax cut.

In short, Mr. President, good laws help make good societies. And that is the reason I continue to introduce bills in each and every Congress that limit the modern tragedy of abortion and its insidious effects; that allow for voluntary prayer in schools; that take steps to end the scourge of drug use among our children; and that make sure our civil rights laws treat Americans as individuals rather than faceless members of racial groups, religious groups, or of a certain gender.

Mr. President, I ask unanimous consent that these six bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voluntary School Prayer Protection Act".

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONAL SCHOOL PRAYER.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutional prayer in public schools by individuals on a voluntary basis.

(b) LIMITATION.—No person shall be required to participate in prayer, or shall influence the form or content of any constitutional prayer, in a public school.

S. 74

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Schoolchildren's Health Protection Act".

SEC. 2. SCHOOLCHILDREN'S HEALTH PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the specific provisions described in subsection (b)), no funds made available through the Department of Education shall be provided to any State or local educational agency that distributes or provides postcoital emergency contraception, or distributes or provides a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school.

(b) SPECIFIC PROVISIONS.—The specific provisions referred to in subsection (a) are section 330 and title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.) and title V and XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.).

(c) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms "elementary school" and "secondary school" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) UNEMANCIPATED MINOR.—The term "unemancipated minor" means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

S. 75

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Children's Civil Rights Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution;

(3) in the cases of Roe v. Wade (410 U.S. 113 (1973)) and Doe v. Bolton (410 U.S. 179 (1973)) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEYS' FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Chapter 81 of title 28, United States Code, is amended by inserting after section 1251, the following:

"§ 1252. Appeals of certain cases

"Notwithstanding the absence of the United States as a party, if any State or any subdivision of any State enforces or enacts a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the Supreme Court, notwithstanding any other provision of law.".

S. 76

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights of Infants Act".

SEC. 2. DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting "(a)" before "Every person"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a), it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely because of the gender of the fetus shall be liable for such abortion in any manner under this section.".

S. 78

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 2001".

SEC. 2. PREFERENTIAL TREATMENT.

(a) Unlawful Employment Practice.—Section 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(j)) is amended to read as follows:

"(j)(1) It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) or paragraph (2).

"(2) It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity."

(b) Construction.—Nothing in the amendment made by subsection (a) shall be construed to limit the authority of courts to remedy, under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)), intentional discrimination under title VII of such Act (42 U.S.C. 2000e et seq.).

S. 79

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Schools Act of 2001".

SEC. 2. SAFE SCHOOLS.

(a) Amendments to the Gun-Free Schools Act of 1994.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended—

(1) in section 14601 (20 U.S.C. 8921)—

(A) in subsection (a)—

(i) by striking "Gun-Free" and inserting "Safe"; and

(ii) by striking "1994" and inserting "2001";

(B) in subsection (b)(1), by inserting after "determined" the following: "to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or"; and

(C) in subsection (b)(4)—

(i) by striking "Definitions.—For the purpose of this section, the" and inserting the following: "Definitions.—For purposes of this section:

"(1) Weapon.—The"; and

(ii) by adding at the end the following:

"(2) Illegal drug.—The term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under such Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not include a controlled substance used pursuant to a valid prescription or as authorized by law.

(3) Illegal drug paraphernalia.—The term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)' before the period.

"(4) Felonious quantities of an illegal drug.—The term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—

"(A) possession of which (quantity) would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

"(B) that is possessed with an intent to distribute.";

(D) in subsection (d)(2)(C), by inserting "illegal drugs or" before "weapons"; and

(E) by striking subsection (f);(2) in section 14602(a) (20 U.S.C. 8922(a))—

(A) by inserting after "who" the following: "is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who"; and

(B) by striking "served by" and inserting "under the jurisdiction of"; and

(3) in section 14603 (20 U.S.C. 8923)—

(A) in paragraph (1)—

(i) by striking "policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994" and inserting "policy in effect on the date of enactment of the Safe Schools Act of 2001"; and

(ii) by adding "and" at the end; (B) in paragraph (2)—

(i) by striking "engaging" and inserting "possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or engaging"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(b) Compliance Date Reporting.—

(1) Compliance date.—A State shall have 2 years from the date of enactment of this Act to comply with the requirements established under the amendments made by subsection (a).

(2) Reports.—

(A) On approaches for discipline.—Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.

(B) On compliance.—Not later than 3 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.

VOLUNTARY SCHOOL PRAYER PROTECTION ACT

Mr. HELMS. Mr. President, the voluntary School Prayer Protection Act will make sure that student-initiated prayer is treated the same as all other student-initiated free speech—which the U.S. Supreme Court has upheld as constitutionally protected so long as it is done in an appropriate time, place and manner such that it "does not materially disrupt the school day." [Tinker v. Des Moines School District, 393 U.S. 503.]

Under this bill, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students' rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making uninformed and unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to make sure that school districts do not shortchange their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to the contrary are simply in error. Nor does it require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.

SCHOOLCHILDREN'S HEALTH PROTECTION ACT

Mr. President, there is a significant question pending before the Senate: should schools receiving federal funds be able to distribute "morning after pills"—also identified as abortion pills—to schoolchildren? The answer is unequivocally no. Which is why I am introducing the Schoolchildren's Health Protection Act. This pivotal legislation will put an end to elementary and secondary schools receiving federal funds from distributing "morning after pills" to schoolchildren as young as 12 years old.

The Congressional Research Service (CRS) has not only confirmed that Federal law permits school-based health clinics receiving federal family planning money to distribute "Morning-after pills," but CRS has also reported that at least 180 schools in America are in fact distributing these abortion pills to schoolchildren. Obviously, Mr. President, we are no longer just talking about condoms being handed out at school.

What's more is that federal law currently allows schools to provide these abortion-inducing drugs to children behind the backs of parents. In a handful of cases, the federal courts have struck down parental consent laws, ruling that any federal family planning program trumps a state or county parental consent statute because federal law prohibits parental consent requirements.

Just as disturbing, if not more so, Mr. President, is that schools distributing "morning after pills" are placing the health of these young children in jeopardy. In fact, the manufacturer—PREVEN—warns that "Morning after pills" can cause severe health risks, such as: blood clots; liver tumors; elevated blood pressure; heart attacks and strokes.

It is well worth noting that the current policy in the majority of U.S. public schools prohibits the distribution of aspirin to schoolchildren unless parental consent is given. Yet, here we are legally permitting schools to secretly provide these dangerous abortion pills to minors without the knowledge of parents.

Under this bill, this unethical practice will no longer continue. Planned Parenthood and its cronies will no longer be able to use public school facilities to covertly get abortion pills into the mouths of children.

As Americans may recall, I offered a similar bill in amendment form last Congress to the Labor-HHS appropriations bill, which rightfully passed both the Senate and the House. Even though this language was not included in the final budget deal struck last year, I am hopeful Congress will revisit this issue once more, and put a complete end to the unthinkable practice of giving children abortion pills at school.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. President, the Unborn Children's Civil Rights Act has several goals. First, it puts the Senate on record as declaring that one, every abortion destroys deliberately the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe v. Wade was incorrectly decided.

Second, this legislation will prohibit Federal funding to pay for, or promote, abortion. Further, this legislation proposes to de-fund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children's Civil Rights Act proposes to end indirect Federal funding for abortions by one, prohibiting discrimination, at all federally funded institutions, against citizens who as a matter of conscience object to abortion and two, curtailing attorney fees in abortion-related cases.

Fourth, this bill proposes that appeals to the Supreme Court be provided as a right if and when any lower Federal court declares restrictions on abortion unconstitutional, thus effectively assuring Supreme Court reconsideration of the abortion issue.

Mr. President, I believe this bill begins to remedy some of the damage done to America by the Supreme Court's decision in Roe v. Wade. I continue to believe that a majority of my colleagues will one day agree, and I will never give up doing everything in my power to protect the most vulnerable Americans of all: the unborn.

CIVIL RIGHTS OF INFANTS ACT

In 1989, our distinguished colleague from New Hampshire, Senator Gordon Humphrey, first called attention to the incredibly brutal practice of abortions performed solely because prospective parents prefer a child of a gender different from that of the baby in the mother's womb.

The Civil Rights in Infants Act makes sure nobody could ever act upon this unthinkable decision by specifically amending title 42 of the United States Code governing civil rights. Anyone who administers an abortion for the purpose of choosing the gender of the infant will be subject to the same laws which protects any other citizen who is a victim of discrimination.

Nobody—even the most radical feminists—can ignore the absurdity of denying a child the right to life simply because the parents happened to prefer a child of the opposite gender. I hope the 106th Congress will swiftly act to fulfill the desires of the American people, who rightfully believe it is immoral to destroy unborn babies simply because the parents demand a child of a different gender.

CIVIL RIGHTS RESTORATION ACT

Mr. President, the last of these bills is entitled the Civil Rights Restoration Act. Specifically, this legislation prevents Federal agencies, and the Federal courts, from interpreting title VII of the Civil Rights Act of 1964 to allow an employer to grant preferential treatment in employment to any group or individual on account of race.

This proposal prohibits the use of racial quotas once and for all. During the past several years, almost every Member of the Senate—and the President of the United States—have proclaimed that they are opposed to quotas. This bill will give Senators an opportunity to reinforce their statements by voting in a rollcall vote against quotas.

Mr. President, this legislation emphasizes that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged and they can even have businesses with 80 percent or 90 percent minority workforces as long as the motivating factor in employment is not race.

This bill clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

> It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any person, except as provided in subsection (e) or paragraph (2).
>
> It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an under-represented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.

Specifically, this bill proposes to make part (j) of Section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race (that is, quotas) an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 37 years since the passage of the Civil Rights Act, the Federal Government and the courts have combined to corrupt the spirit of the Act as enumerated by both Hubert Humphrey and Everett Dirksen, who made clear that they were unalterably opposed to racial quotas. Yet in spite of the clear intent of Congress, businesses large and small must adhere to hiring quotas in order to keep the all-powerful federal government off their backs. This bill puts an end to that sort of nonsense once and for all.

SAFE SCHOOLS ACT OF 2001

Mr. President, the protection of the most vulnerable among us—our children—is the highest responsibility of government. Government's obligation to protect our children from harm is nowhere more important than while they are in the care of public employees at school. Tragically, in too many of America's classrooms, this fundamental responsibility is not being met.

That is why I have worked with other concerned Senators in recent years to introduce and promote the Safe Schools Act. During the 106th Congress, the Senate passed the Act as an amendment to other legislation. Regrettably, neither of the bills it was attached to successfully navigated both the conference and final floor consideration processes.

The Safe Schools Act directly confronts the issue of illegal drug use and juvenile violence by equalizing the treatment of students who choose to carry either felonious quantities of illegal drugs or firearms to a public school. When enacted, this legislation will provide a consistent federal policy with respect to the possession of both firearms and illegal drugs in America's public school classrooms.

For students and parents, the message of the Safe Schools Act is that there are serious consequences for anyone willingly choosing to violate the law and to jeopardize the safety and security of their fellow students, teachers, and school personnel.

Mr. President, by enacting the Gun-Free Schools Act in 1994, the federal government encouraged states to adopt a stringent uniform standard with respect to students who willingly chose to carry a firearm to school. The act did this by conditioning eligibility for federal education dollars on state adoption of a policy requiring the expulsion for not less than one year of any student who brought a firearm to school. The Safe Schools Act extends this same common sense policy to any student who willingly takes a felonious quantity of illegal drugs to school.

Recently, some authorities have reported a modest reduction in criminal activity at our schools. While this news is encouraging, we can not satisfy ourselves with modest reductions. Instead, we should demand that every student be educated in a safe and crime-free classroom. Achieving this goal requires that we do more to eliminate drug-related activity from our nation's classrooms.

Anyone who doubts this need only review the latest results from the National Parents' Resource Institute for Drug Education survey, or PRIDE survey as it is called, which found that:

Gun-toting students were twenty-four times more likely to use cocaine than those who didn't bring a gun to school;

Gang members were nineteen times more likely to use cocaine than non-gang members;

Students who threatened others were six times more likely to be cocaine users than others.

Faced with the clear relationship between school violence and drugs in our classrooms, it should be evident that we must do more to protect America's school children.

In deciding what to do, I believe that we should respect the advice of those who are daily confronted with the variety of evils that result from the increasing availability of drugs in our classrooms—our students, teachers and school administrators. When surveyed, these groups have reported overwhelming support for the approach embodied in the Safe Schools Act.

Mr. President, students consistently say that the number one problem they face is the scourge of illegal drugs. Perhaps even more disturbing is the fact that students of all ages, including elementary ages, report that drugs are readily available to them.

The Center on Addiction and Substance Abuse (CASA) at Columbia University has documented the extent of this national tragedy by documenting that two-thirds (66%) of students report going to schools where students keep, use and sell drugs and that over half (51%) of high school students believe that the drug problem is getting worse.

Mr. President, I invite my colleagues to join with me and build on the progress that we made last Congress in addressing this vital issue. It is undeniable that reducing drug activity at schools will result in a better learning environment, increased discipline, and a reduction in violence. It is long past time to take action to restore schools that are secure and conducive to the education of the vast majority of students who are eager to learn. America's students and teachers deserve nothing less.

Mr. President, I do not pretend that enacting this legislation will solve all of the pathologies of modern society. But taken as a whole, they seek to turn the tide of the increasing apathy—and in some cases, outright hostility—toward moral and spiritual principles that have marked social policy at the turn of the century.

The Founding Fathers knew what would become of a society that ignores traditional morality. I have often quoted the parting words of advice our first President, George Washington, left his beloved new Nation. He reminded his fellow citizens:

> Of all the dispensations and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute to patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, that distinguished world leader, Margaret Thatcher, highlighted for us the words of Washington's successor, John Adams, who said "our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other."

Our Founding Fathers understood well the intricate relationship between freedom of responsibility. They knew that the blessings of liberty engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

By Mr. DASCHLE (for himself, Ms. Mikulski, Mr. Kennedy, Mr. Harkin, Mr. Wellstone, Ms. Landrieu, Mrs. Lincoln, Mr. Akaka, Mr. Breaux, Mr. Cleland, Mr. Durbin, Mr. Inouye, Mr. Kerry, Mr. Leahy, Mr. Reid, Mr. Sarbanes, Mr. Schumer, and Mr. Johnson):

S. 77. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAYCHECK FAIRNESS ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 77

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paycheck Fairness Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Women have entered the workforce in record numbers.

(2) Even today, women earn significantly lower pay than men for work on jobs that require equal skill, effort, and responsibility

and that are performed under similar working conditions. These pay disparities exist in both the private and governmental sectors. In many instances, the pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination.

(3) The existence of such pay disparities—

(A) depresses the wages of working families who rely on the wages of all members of the family to make ends meet;

(B) prevents the optimum utilization of available labor resources;

(C) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of the several States;

(D) burdens commerce and the free flow of goods in commerce;

(E) constitutes an unfair method of competition in commerce;

(F) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce;

(G) interferes with the orderly and fair marketing of goods in commerce; and

(H) in many instances, may deprive workers of equal protection on the basis of sex in violation of the 5th and 14th amendments.

(4)(A) Artificial barriers to the elimination of discrimination in the payment of wages on the basis of sex continue to exist more than 3 decades after the enactment of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.).

(B) Elimination of such barriers would have positive effects, including—

(i) providing a solution to problems in the economy created by unfair pay disparities;

(ii) substantially reducing the number of working women earning unfairly low wages, thereby reducing the dependence on public assistance; and

(iii) promoting stable families by enabling all family members to earn a fair rate of pay;

(iv) remedying the effects of past discrimination on the basis of sex and ensuring that in the future workers are afforded equal protection on the basis of sex; and

(v) ensuring equal protection pursuant to Congress' power to enforce the 5th and 14th amendments.

(5) With increased information about the provisions added by the Equal Pay Act of 1963 and wage data, along with more effective remedies, women will be better able to recognize and enforce their rights to equal pay for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

(6) Certain employers have already made great strides in eradicating unfair pay disparities in the workplace and their achievements should be recognized.

SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) REQUIRED DEMONSTRATION FOR AFFIRMATIVE DEFENSE.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by striking "(iv) a differential" and all that follows through the period and inserting the following: "(iv) a differential based on a bona fide factor other than sex, such as education, training or experience, except that this clause shall apply only if—

"(I) the employer demonstrates that—

"(aa) such factor—

"(AA) is job-related with respect to the position in question; or

"(BB) furthers a legitimate business purpose, except that this item shall not apply where the employee demonstrates that an alternative employment practice exists that would serve the same business purpose without producing such differential and that the employer has refused to adopt such alternative practice; and

"(bb) such factor was actually applied and used reasonably in light of the asserted justification; and

"(II) upon the employer succeeding under subclause I, the employee fails to demonstrate that the differential produced by the reliance of the employer on such factor is itself the result of discrimination on the basis of sex by the employer.

"An employer that is not otherwise in compliance with this paragraph may not reduce the wages of any employee in order to achieve such compliance.".

(b) APPLICATION OF PROVISIONS.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by adding at the end the following: "The provisions of this subsection shall apply to applicants for employment if such applicants, upon employment by the employer, would be subject to any provisions of this section.".

(c) ELIMINATION OF ESTABLISHMENT REQUIREMENT.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended—

(1) by striking ", within any establishment in which such employees are employed,"; and

(2) by striking "in such establishment" each place it appears.

(d) NONRETALIATION PROVISION.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(1) by striking "or has" each place it appears and inserting "has"; and

(2) by inserting before the semicolon the following: ", or has inquired about, discussed, or otherwise disclosed the wages of the employee or another employee, or because the employee (or applicant) has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or action under section 6(d)".

(e) ENHANCED PENALTIES.—Section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: "Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate, except that the United States shall not be liable for punitive damages.";

(2) in the sentence beginning "An action to", by striking "either of the preceding sentences" and inserting "any of the preceding sentences of this subsection";

(3) in the sentence beginning "No employees shall", by striking "No employees" and inserting "Except with respect to class actions brought to enforce section 6(d), no employee";

(4) by inserting after the sentence referred to in paragraph (3), the following: "Notwithstanding any other provision of Federal law, any action brought to enforce section 6(d) may be maintained as a class action as provided by the Federal Rules of Civil Procedure."; and

(5) in the sentence beginning "The court in"—

(A) by striking "in such action" and inserting "in any action brought to recover the liability prescribed in any of the preceding sentences of this subsection"; and

(B) by inserting before the period the following: ", including expert fees".

(f) ACTION BY SECRETARY.—Section 16(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting "or, in the case of a violation of section 6(d), additional compensatory or punitive damages," before "and the agreement"; and

(B) by inserting before the period the following: ", or such compensatory or punitive damages, as appropriate";

(2) in the second sentence, by inserting before the period the following: "and, in the case of a violation of section 6(d), additional compensatory or punitive damages";

(3) in the third sentence, by striking "the first sentence" and inserting "the first or second sentence"; and

(4) in the last sentence—

(A) by striking "commenced in the case" and inserting "commenced—

"(1) in the case";

(B) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(2) in the case of a class action brought to enforce section 6(d), on the date on which the individual becomes a party plaintiff to the class action".

SEC. 4. TRAINING.

The Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs, subject to the availability of funds appropriated under section 9(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages.

SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the media, and the general public the findings resulting from studies and other materials, relating to eliminating the pay disparities;

(3) sponsoring and assisting State and community informational and educational programs;

(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;

(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities; and

(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 6. TECHNICAL ASSISTANCE AND EMPLOYER RECOGNITION PROGRAM.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility, including decisionmaking responsibility and de facto supervisory responsibility.

(2) USE.—The guidelines developed under paragraph (1) shall be designed to enable employers voluntarily to compare wages paid for different jobs to determine if the pay scales involved adequately and fairly reflect the educational requirements, skill requirements, independence, working conditions,

and responsibility for each such job with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women.

(3) PUBLICATION.—The guidelines shall be developed under paragraph (1) and published in the Federal Register not later than 180 days after the date of enactment of this Act.

(b) EMPLOYER RECOGNITION.—

(1) PURPOSE.—It is the purpose of this subsection to emphasize the importance of, encourage the improvement of, and recognize the excellence of employer efforts to pay wages to women that reflect the real value of the contributions of such women to the workplace.

(2) IN GENERAL.—To carry out the purpose of this subsection, the Secretary of Labor shall establish a program under which the Secretary shall provide for the recognition of employers who, pursuant to a voluntary job evaluation conducted by the employer, adjust their wage scales (such adjustments shall not include the lowering of wages paid to men) using the guidelines developed under subsection (a) to ensure that women are paid fairly in comparison to men.

(3) TECHNICAL ASSISTANCE.—The Secretary of Labor may provide technical assistance to assist an employer in carrying out an evaluation under paragraph (2).

(c) REGULATIONS.—The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out this section.

SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR PAY EQUITY IN THE WORKPLACE.

(a) IN GENERAL.—There is established the Alexis Herman National Award for Pay Equity in the Workplace, which shall be evidenced by a medal bearing the inscription "Alexis Herman National Award for Pay Equity in the Workplace". The medal shall be of such design and materials, and bear such additional inscriptions, as the Secretary of Labor may prescribe.

(b) CRITERIA FOR QUALIFICATION.—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Secretary of Labor, at such time, in such manner, and containing such information as the Secretary may require, including at a minimum information that demonstrates that the business has made substantial effort to eliminate pay disparities between men and women, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Secretary of Labor determines to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—

(1) AWARD.—After receiving recommendations from the Secretary of Labor, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall present the award under this section with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(d) BUSINESS.—In this section, the term "business" includes—

(1)(A) a corporation, including a nonprofit corporation;

(B) a partnership;

(C) a professional association;

(D) a labor organization; and

(E) a business entity similar to an entity described in any of subparagraphs (A) through (D);

(2) an entity carrying out an education referral program, a training program, such as an apprenticeship or management training program, or a similar program; and

(3) an entity carrying out a joint program, formed by a combination of any entities described in paragraph (1) or (2).

SEC. 8. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–8) is amended by adding at the end the following:

"(f)(1) Not later than 18 months after the date of enactment of this subsection, the Commission shall—

"(A) complete a survey of the data that is currently available to the Federal Government relating to employee pay information for use in the enforcement of Federal laws prohibiting pay discrimination and, in consultation with other relevant Federal agencies, identify additional data collections that will enhance the enforcement of such laws; and

"(B) based on the results of the survey and consultations under subparagraph (A), issue regulations to provide for the collection of pay information data from employers as described by the sex, race, and national origin of employees.

"(2) In implementing paragraph (1), the Commission shall have as its primary consideration the most effective and efficient means for enhancing the enforcement of Federal laws prohibiting pay discrimination. For this purpose, the Commission shall consider factors including the imposition of burdens on employers, the frequency of required reports (including which employers should be required to prepare reports), appropriate protections for maintaining data confidentiality, and the most effective format for the data collection reports.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 80. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates or changes for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA ELECTRICITY CRISIS LEGISLATION

Mrs. BOXER. Mr. President, today I am introducing a bill relating to the electricity crisis in California. As a result of deregulation, Californians are confronting higher electricity prices and an unreliable supply

Last week, Northern California experienced rolling blackouts. Children were trapped in elevators. Manufacturing plans had to shut down, costing millions of dollars. Entire agricultural crops can be destroyed with a blackout. Obviously, this situation does not just affect Californians but can impact the entire nation's economy.

The bill I am introducing today is similar to legislation I introduced last fall with Representative BOB FILNER. The California Electricity Consumers Relief Act would establish a Western Regional Cap for electricity rates.

The electricity shortage experienced by California in recent months, clearly demonstrates that a price cap must be imposed on the entire Western United States to be effective. If the price for electricity is higher in other Western states than California, then a generator chooses to sell power outside of California. A regional price cap will being some stability to the market by ensuring a reliable supply for the entire Western region, so that no state will confront a shortage.

I urge Congress to bring an end to this crisis. We must now act to bring Californians and other Western states what they need—an adequate supply of electricity at a fair and reasonable price. By implementing this region-wide cap, we can address a major cause of California's energy crisis.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 81. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

NATIVE HAWAIIANS LEGISLATION

Mr. AKAKA. Mr. President, I rise today to introduce a bill on behalf of myself and my friend and colleague, Senator INOUYE. This measure is of significant importance to the people of Hawaii, particularly to the indigenous peoples of Hawaii, Native Hawaiians. This measure clarifies the political relationship between Native Hawaiians and the United States by extending the federal policy of self-determination and self-governance to Native Hawaiians.

The United States has declared a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians. Congress has recognized Native Hawaiians as the aboriginal, indigenous, native peoples of Hawaii and has passed over 150 statutes addressing the conditions of Native Hawaiians. The measure that we are introducing today extends the federal policy of self-determination and self-governance to Native Hawaiians by authorizing a process of reorganization of a Native Hawaiian government for the purposes of a federally recognized government-to-government relationship with the United States. This measure establishes parity in federal policies towards American Indians, Alaska Natives and Native Hawaiians.

The political relationship between Native Hawaiians and the United States has been a topic of discussion in Hawaii for many, many years. A significant portion of the discussion has centered around the history of Hawaii's indigenous peoples and the role of the United States in that history. In 1993, Congress passed Public Law 103-150, the Apology Resolution, which extended an apology on behalf of the United States to Native Hawaiians for the United States' role in the overthrow of the Kingdom of Hawaii. The Apology Resolution also expressed the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians.

Mr. President, I am pleased to inform you that the reconciliation process is ongoing. The reconciliation process is an incremental process of dialogue between Native Hawaiians and the United States to address a number of longstanding issues arising out of the overthrow of the Kingdom of Hawaii. I look forward to working with the Bush Administration as we continue this important process.

On October 23, 2000, a joint report was issued by the Departments of the Interior and Justice on the reconciliation process. The report was based on public consultations held in Hawaii in December 1999 between officials from the Interior and Justice Departments and Native Hawaiians. The report recommends that Native Hawaiians have self-determination over their own affairs within the framework of federal law, as do Native American tribes. The measure we are introducing today, Mr. President is consistent with this recommendation.

This measure does not create a political relationship between Native Hawaiians and the United States. The political relationship has existed since Hawaii's inception as a territory. Rather, the measure we introduce today clarifies the existing political relationship between Hawaii's indigenous peoples and the United States.

This measure authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally recognized government-to-government relationship. The measure authorizes Native Hawaiians to resolve many issues in developing the organic governing documents, including the issue of membership or citizenship in the reorganized government. This bill also establishes an office within the Department of the Interior to focus on Native Hawaiian issues. The office would serve as a liaison between Native Hawaiians and the United States during the reconciliation process and would provide assistance during the process of reorganization of the Native Hawaiian government. Federal programs currently administered with other federal agencies would remain with those agencies.

An identical version of the measure was introduced during the 106th Congress. The House of Representatives passed the measure with bipartisan support. The Senate Committee on Indian Affairs reported the measure favorably. Unfortunately, the Senate did not consider the measure prior to the adjournment of the last Congress.

Mr. President, I would like to clarify some misconceptions regarding this important measure. First, this measure is not being introduced to circumvent the 1999 United States Supreme Court decision in the case of Rice v. Cayetano. The Rice case was a voting rights case whereby the Supreme Court held that the State of Hawaii must allow all citizens of Hawaii to vote for the Board of Trustees of a quasi-state agency, the Office of Hawaiian Affairs.

The Office of Hawaiian Affairs was established by citizens of the State of Hawaii as part of the 1978 State of Hawaii Constitutional Convention. The State constitution was amended to create the Office of Hawaiian Affairs as a means to give expression to the right of self-determination and self-governance for Hawaii's indigenous peoples, Native Hawaiians. The Office of Hawaiian Affairs administers programs and services for Native Hawaiians. The State constitution provided for 9 trustees who were Native Hawaiian to be elected by Native Hawaiians. Following the Supreme court's ruling in Rice v. Cayetano, the elections were not only open to all citizens in the State of Hawaii, but non-Hawaiians were deemed eligible to serve on the Board of Trustees. Whereas the Rice case dealt with voting rights and the State of Hawaii, the measure we introduce today addresses the federal policy of self-determination and self-governance and does not involve the Office of Hawaiian Affairs.

This measure does not establish entitlements or special treatment for Native Hawaiians based on race. This measure focuses on the political relationship afforded to Native Hawaiians based on the United States' recognition of Native Hawaiians as the aboriginal, indigenous peoples of Hawaii. As we all know, the United States' history with its indigenous peoples has been dismal. In recent decades, however, the United States has engaged in a policy of self-determination and self-governance with its indigenous peoples. Government-to-government relationships provide indigenous peoples with the opportunity to work directly with the federal government on policies affecting their lands, natural resources and many other aspects of their well-being. While federal policies towards Native Hawaiians have paralleled that of Native American Indians and Alaska Natives, the federal policy of self-determination and self-governance, has not yet been extended to Native Hawaiians. This measure extends this policy to Native Hawaiians, thus furthering the process of reconciliation between Native Hawaiians and the United States.

This measure does not impact program funding for American Indians and Alaska Natives. Federal programs for Native Hawaiian health, education and housing are already administered by the Departments of Health and Human Services, Education, and Housing and Urban Development.

In addition, this measure has strong support from indigenous peoples within the United States. The National Congress of American Indians and Alaska Federation of Natives have both passed resolutions in support of a government-to-government relationship between Native Hawaiians and the United States. Similar resolutions have been passed by the Japanese American Citizens' League and the National Education Association. The measure is also supported by the Hawaii State Legislature, which passed a resolution supporting a federally recognized government-to-government relationship.

This measure does not preclude Native Hawaiians from seeking alternatives in the international arena. Instead, this measure focuses on self-determination within the framework of federal law and seeks to establish equality in the federal policies extended towards American Indians, Alaska Natives and Native Hawaiians.

This measure is critical to the people in Hawaii because it begins a process to address many longstanding issues facing Hawaii's indigenous peoples and the State of Hawaii. By resolving these matters, we begin a process of healing, a process of reconciliation not only within the United States, but within the State of Hawaii. These issues are deeply rooted in the history of Hawaii. The time has come for us to begin to resolve these differences in order to be able to move forward together as one.

Mr. President, I cannot emphasize enough how significant this measure is for the State of Hawaii. I look forward to working with my colleagues to enact this critical measure for the State of Hawaii and indigenous peoples in the United States.

Mr. President, I request unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 81

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.

(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

(19) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that—

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86–3; 73 Stat. 4) by—

(i) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(ii) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

(22) The United States continually has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.

SEC. 2. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term "aboriginal, indigenous, native people" means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.

(2) ADULT MEMBERS.—The term "adult members" means those Native Hawaiians who have attained the age of 18 at the time the Secretary publishes the final roll, as provided in section 7(a)(3) of this Act.

(3) APOLOGY RESOLUTION.—The term "Apology Resolution" means Public Law 103–150 (107 Stat. 1510), a joint resolution offering an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) CEDED LANDS.—The term "ceded lands" means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union" approved March 18, 1959 (Public Law 86–3; 73 Stat. 4).

(5) COMMISSION.—The term "Commission" means the commission established in section 7 of this Act to certify that the adult members of the Native Hawaiian community contained on the roll developed under that section meet the definition of Native Hawaiian, as defined in paragraph (7)(A).

(6) INDIGENOUS, NATIVE PEOPLE.—The term "indigenous, native people" means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) NATIVE HAWAIIAN.—

(A) Prior to the recognition by the United States of a Native Hawaiian government under the authority of section 7(d)(2) of this Act, the term "Native Hawaiian" means the indigenous, native people of Hawaii who are the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in

1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(B) Following the recognition by the United States of the Native Hawaiian government under section 7(d)(2) of this Act, the term "Native Hawaiian" shall have the meaning given to such term in the organic governing documents of the Native Hawaiian government.

(8) NATIVE HAWAIIAN GOVERNMENT.—The term "Native Hawaiian government" means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(d)(2) of this Act.

(9) NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—The term "Native Hawaiian Interim Governing Council" means the interim governing council that is organized under section 7(c) of this Act.

(10) ROLL.—The term "roll" means the roll that is developed under the authority of section 7(a) of this Act.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(12) TASK FORCE.—The term "Task Force" means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) IN GENERAL.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) DUTIES OF THE OFFICE.—The United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by providing timely notice to, and consulting with the Native Hawaiian people prior to taking any actions that may affect traditional or current Native Hawaiian practices and matters that may have the potential to significantly or uniquely affect Native Hawaiian resources, rights, or lands, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian government by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian people and the Native Hawaiian government and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) assist the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance in the development of the roll under section 7(a) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the "Native Hawaiian Interagency Task Force".

(b) COMPOSITION.—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs established under the authority of section 4 of this Act and the Attorney General's designee under the authority of section 5 of this Act shall serve as cochairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the—

(A) adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—

(i) the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago; or

(ii) Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or their lineal descendants; and

(B) the children of the adult members listed on the roll prepared under this subsection.

(2) Certification and submission.—

(A) Commission.—

(i) In general.—There is authorized to be established a Commission to be composed of 9 members for the purpose of certifying that the adult members of the Native Hawaiian community on the roll meet the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act.

(ii) Membership.—

(I) Appointment.—The Secretary shall appoint the members of the Commission in accordance with subclause (II). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(II) Requirements.—The members of the Commission shall be Native Hawaiian, as defined in section 2(7)(A) of this Act, and shall have expertise in the certification of Native Hawaiian ancestry.

(III) Congressional submission of suggested candidates.—In appointing members of the Commission, the Secretary may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) Expenses.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) Certification.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(3) Secretary.—

(A) Certification.—The Secretary shall review the Commission's certification of the membership roll and determine whether it is consistent with applicable Federal law, including the special trust relationship between the United States and the indigenous, native people of the United States.

(B) Publication.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(C) Appeal.—

(i) Establishment of mechanism.—The Secretary is authorized to establish a mechanism for an appeal of the Commission's determination as it concerns—

(I) the exclusion of the name of a person who meets the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act, from the roll; or

(II) a challenge to the inclusion of the name of a person on the roll on the grounds that the person does not meet the definition of Native Hawaiian, as so defined.

(ii) Publication; update.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) Failure to act.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Commission submits the membership roll to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) Effect of publication.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections associated with the organization of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) Recognition of Rights.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) Organization of the Native Hawaiian Interim Governing Council.—

(1) Organization.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to—

(A) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(B) determine the structure of the Native Hawaiian Interim Governing Council; and

(C) elect members to the Native Hawaiian Interim Governing Council.

(2) Election.—Upon the request of the adult members listed on the roll developed under the authority of subsection (a), the United States Office for Native Hawaiian Affairs may assist the Native Hawaiian community in holding an election by secret ballot (absentee and mail balloting permitted), to elect the membership of the Native Hawaiian Interim Governing Council.

(3) Powers.—

(A) In general.—The Native Hawaiian Interim Governing Council is authorized to represent those on the roll in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(B) Funding.—The Native Hawaiian Interim Governing Council is authorized to enter into a contract or grant with any Federal agency, including but not limited to, the United States Office for Native Hawaiian Affairs within the Department of the Interior and the Administration for Native Americans within the Department of Health and Human Services, to carry out the activities set forth in subparagraph (C).

(C) Activities.—

(i) In general.—The Native Hawaiian Interim Governing Council is authorized to conduct a referendum of the adult members listed on the roll developed under the authority of subsection (a) for the purpose of determining (but not limited to) the following:

(I) The proposed elements of the organic governing documents of a Native Hawaiian government.

(II) The proposed powers and authorities to be exercised by a Native Hawaiian government, as well as the proposed privileges and immunities of a Native Hawaiian government.

(III) The proposed civil rights and protection of such rights of the citizens of a Native Hawaiian government and all persons subject to the authority of a Native Hawaiian government.

(ii) Development of organic governing documents.—Based upon the referendum, the Native Hawaiian Interim Governing Council is authorized to develop proposed organic governing documents for a Native Hawaiian government.

(iii) Distribution.—The Native Hawaiian Interim Governing Council is authorized to distribute to all adult members of those listed on the roll, a copy of the proposed organic governing documents, as drafted by the Native Hawaiian Interim Governing Council, along with a brief impartial description of the proposed organic governing documents.

(iv) Consultation.—The Native Hawaiian Interim Governing Council is authorized to freely consult with those members listed on the roll concerning the text and description of the proposed organic governing documents.

(D) Elections.—

(i) In general.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) Assistance.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) Termination.—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) Recognition of the Native Hawaiian Government.—

(1) Process for recognition.—

(A) Submittal of organic governing documents.—The duly elected officers of the Native Hawaiian government shall submit the organic governing documents of the Native Hawaiian government to the Secretary.

(B) Certifications.—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a);

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States;

(iii) provide for the exercise of those governmental authorities that are recognized by the United States as the powers and authorities that are exercised by other governments representing the indigenous, native people of the United States;

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government, and to assure that the Native Hawaiian government exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302);

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian government without the consent of the Native Hawaiian government;

(vi) establish the criteria for citizenship in the Native Hawaiian government; and

(vii) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) Failure to act.—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government to the Secretary, the certifications authorized in subparagraph (B) shall be deemed to have been made.

(D) Resubmission in case of noncompliance with federal law.—

(i) Resubmission by the Secretary.—If the Secretary determines that the organic governing documents, or any part thereof, are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) Amendment and resubmission by the Native Hawaiian government.—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government by the Secretary under clause (i), the duly elected officers of the Native Hawaiian government shall—

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law; and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with subparagraphs (B) and (C).

(2) Federal recognition.—

(A) Recognition.—Notwithstanding any other provision of law, upon the election of the officers of the Native Hawaiian government and the certifications (or deemed certifications) by the Secretary authorized in paragraph (1), Federal recognition is hereby extended to the Native Hawaiian government as the representative governing body of the Native Hawaiian people.

(B) No diminishment of rights or privileges.—Nothing contained in this Act shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people which are not inconsistent with the provisions of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.

(a) Reaffirmation.—The delegation by the United States of authority to the State of Hawaii to address the conditions of Native Hawaiians contained in the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union" approved March 18, 1959 (Public Law 86-3; 73 Stat. 5) is hereby reaffirmed.

(b) Negotiations.—Upon the Federal recognition of the Native Hawaiian government pursuant to section 7(d)(2) of this Act, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian government regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use under existing law as in effect on the date of enactment of this Act to the Native Hawaiian government.

SEC. 10. DISCLAIMER.

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

SEC. 11. REGULATIONS.

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

SEC. 12. SEVERABILITY.

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the amendments made by this Act, shall continue in full force and effect.

By Mr. LUGAR:

S. 82. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Commitee on Finance.

S. 83. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 84. A bill to increase the unified estate and gift taxes and the tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance

S. 85. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

ESTATE TAXES

Mr. LUGAR. Mr. President, I am pleased to introduce a series of bills intended to address the burden that estate taxes place on our economy. The estate tax hinders entrepreneurial activity and job creation in many economic sectors.

As Chairman of the Senate Agriculture Committee, I have held hearings on the impact of the estate tax on farmers, ranchers, and rural communities. The effects of inheritance taxes are far reaching in the agricultural community. Citing personal experiences, witnesses described how the estate tax discourages savings, capital investment, and job formation.

One such story came from a Hoosier, Mr. Woody Barton. He is a fifth generation tree farmer living in the house his great grandparents built in 1885. I visited his 300 acres of forested property recently and can attest to their beauty. Typical of many farmers, Mr. Barton is over 65 years old and wants to leave this legacy to his four children. But he fears that the estate tax may cause his children to strip the timber and then sell the land in order to pay the estate tax bill. His grandmother logged a portion of the land in 1939 to pay the debts that came from the death of her husband. In essence, each generation must buy back the hard work and dedication of their ancestors from the federal government. Mr. Barton believes, and I agree, that the actions of Congress have more impact on the outcome of his family's land than his own planning and investment. This should not be the case.

The estate tax falls disproportionately on our agricultural producers. Ninety-five percent of farms and ranch operations are sold proprietorships or family partnerships, subjecting a vast majority of these businesses to the threat of inheritance taxes. According to USDA figures farmers are six times more likely to face inheritance taxes than other Americans. And commercial farm estates—those core farms that produce 85 percent of our nation's agricultural products-are fifteen times more likely to pay inheritance taxes than other individuals.

The threat of estate taxes to family farms will become even more prevalent if nothing is done. With the average farmer approaching 60 years of age, farm families throughout the country are about to confront the burden of estate taxes as they prepare to pass their farm onto the next generation. Recently, the USDA estimated that between 1992 and 2002, more than 500,000 farmers will have retired. Demographic studies indicate that a quarter of all farmers could confront the inheritance tax during the next 20 years.

In light of this problem, today I offer several bills to provide relief to those impacted by the estate tax. This is the third consecutive Congress that I have offered this series of bills on the first day of bill introduction. I am optimistic that this will be the Congress that will finally repeal the estate tax.

My first bill would repeal the estate and gift taxes outright. My second bill would phase out the estate tax over five years by gradually raising the unified credit each year until the tax is repealed after the fifth year. My third bill would immediately raise the effective unified credit to $5 million. My last bill would raise the gift tax exemption from $10,000 to $25,000.

I believe that the best option is a simple repeal of the estate tax. However, even if the estate tax is not repealed, the unified credit must be raised significantly. Despite our most recent success in raising the exemption level, inflation has caused a growing percentage of estates to be subjected to the estate tax. My second bill is intended to highlight this point and provide a gradual path to repeal. My third bill focuses on relieving the estate tax burden that falls disproportionately on farmers and small business owners. By raising the exemption amount to $5 million, 96 percent of estates with farm assets and 90 percent of estates with non-corporate business assets would not have to pay estate taxes, according to the IRS. The final bill raising the gift tax exemption from $10,000 to $25,000 would provide Americans with an additional tool for passing productive assets to the next generation. This level has not been adjusted since 1982.

Despite its modest beginnings in 1916, the estate tax has mushroomed into an exorbitant tax on death that discourages savings, economic growth, and job formation by blocking the accumulation of entrepreneurial capital and by breaking up family businesses and farms. With the highest marginal rate at 55 percent, more than half of an estate can go directly to the government. By the time the inheritance tax is levied on families, their assets have already been taxed at least once. This form of double taxation violates perceptions of fairness in our tax system.

If we are sincere about boosting economic growth, we must consider what effect the estate tax has on a business owner deciding whether to invest in new capital goods or hire a new employee. The Heritage Foundation estimates that repealing the estate tax would annually boost our economic output by $11 billion, create 145,000 new jobs and raise personal income by $8 billion. These figures underscore the current weight of this tax on our economy.

One might expect that for all the economic disincentives caused by the estate tax, it must at least provide a sizable contribution to the U.S. Treasury. But in reality, the estate tax only accounts for about 1 percent of federal taxes. It cannot be justified as an indispensable revenue raiser. Given the blow delivered to job formation and economic growth, the estate tax may even cost the Treasury money. Our nation's ability to crease new jobs, new opportunities, and new wealth is damaged as a result of our insistence on collecting a tax that earns less than 1 percent of our revenue.

But this tax affects more than just the national economy. It affects how we as a nation think about community, family, and work. Small businesses and farms represent much more than assets. They represent years of toil and entrepreneurial risk taking. They also represent the hopes that families have for their children. Part of the American Dream has always been to build up a business, farm, or ranch so that economic opportunities and a way of life can be passed on to one's children and grandchildren.

I know first-hand about the dangers of this tax to agriculture. My father died when I was 24, leaving his 604-acre farm in Marion County, Indiana, to his family. I helped manage the farm, which had built up considerable debts during my father's illness. Fortunately, after a number of years, we were successful in working out the financial problems and repaying the money. We were lucky; that farm remains in our family. But many of today's farmers and small business owners are not so fortunate. Only about 30 percent of businesses are transferred from parent to child, and only about 12 percent of businesses make it to a grandchild.

Mr. President, I was delighted that during the last Congress we were able to pass the Death Tax Elimination Act. Despite its ultimate veto, this legislative step was an important one and will hopefully carry over momentum to this congress. As we take up this issue again in the coming months, the bills that I have introduced will provide policymakers with a range of options as they seek to mitigate the burdens of the estate tax. Doing so will lead to expanded investment incentives and job creation and will reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms, and our economy from this counterproductive tax. I ask unanimous consent that my four bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Repeal Act of 2001".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings and eliminate double taxation.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(7) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 83

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate and Gift Tax Phase-Out Act of 2001".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth.

(5) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(6) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. PHASE-OUT OF ESTATE AND GIFT TAXES THROUGH INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended to read as follows:

"In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
2002	$1,000,000
2003	$1,500,000
2004	$2,000,000
2005	$2,500,000
2006	$5,000,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

SEC. 4. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2006.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall not later than 90 days after the effective date of this section, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmer and Entrepreneur Estate Tax Relief Act of 2001".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) These anemic savings levels have contributed to the country's long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth. The estate tax is harmful to the economy because of its high marginal rates and its multiple taxation of income.

(6) The repeal of the estate tax would increase the growth of the small business sector, which creates a majority of new jobs in our Nation. Estimates indicate that as many as 70 percent of small businesses do not make it to a second generation and nearly 90 percent do not make it to a third.

(7) Eliminating the estate tax would lift the compliance burden from farmers and family businesses. On average, family-owned businesses spent over $33,000 on accountants, lawyers, and financial experts in complying with the estate tax laws over a 6.5-year period.

(8) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(9) As the average age of farmers approaches 60 years, it is estimated that a quarter of all farmers could confront the estate tax over the next 20 years. The auctioning of these productive assets to finance tax liabilities destroys jobs and harms the economy.

(10) Abolishing the estate taxes would restore a measure of fairness to our Federal tax system. Families should be able to pass on the fruits of the labor to the next generation without realizing a taxable event.

(11) Despite this heavy burden on entrepreneurs, farmers, and our entire economy, estate and gift taxes collect only about 1 percent of our Federal tax revenues. In fact, the estate tax may not raise any revenue at all, because more income tax is lost from individuals attempting to avoid estate taxes than is ultimately collected at death.

(12) Repealing estate and gift taxes is supported by the White House Conference on Small, Business, the Kemp Commission on Tax Reform, and 60 small business advocacy organizations.

SEC. 3. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended—

(1) by striking "2002 and 2003" and inserting "2002 or thereafter",

(2) by striking "$700,000" and inserting "$5,000,000", and

(3) by striking all matter beginning with the item relating to 2004 through the end of the table.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN GIFT TAX EXCLUSION.

(a) IN GENERAL.—Section 2503(b) of the Internal Revenue Code of 1986 (relating to exclusions from gifts) is amended—

(1) by striking "$10,000" each place it appears and inserting "$25,000",

(2) by striking "1998" in paragraph (2) and inserting "2002", and

(3) by striking "1997" in paragraph (2)(B) and inserting "2001".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 2001.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. KERRY, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. HOLLINGS, Mr. BAYH, Mrs. BOXER, Mr. BROWNBACK, Mr. CLELAND, Mrs. CLINTON, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. EDWARDS, Mr. ENZI, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. LINCOLN, Mr. MILLER, Mrs. MURRAY, Mr. ROBERTS, Mr. SCHUMER, Mr. THOMAS, Mr. WYDEN, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. HARKIN):

S. 88. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

BROADBAND TAX CREDIT LEGISLATION

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Broadband Internet Access Act of 2001. The convergence of computing and communications has changed the way America interacts and does business. Individuals, businesses, schools, libraries, hospitals, and many others, reap the benefits of networked communications more and more each year. However, where in the past access to low bandwidth telephone facilities met our communications needs, today many people and organizations need the ability to transmit and receive large amounts of data quickly—as part of electronic commerce, distance learning, telemedicine, and even for mere access to many web sites.

In some areas of the country companies are building networks that meet today's broadband need as fast as they can. Technology companies are fighting to roll out the current generation of broadband facilities as quickly as they can in urban and suburban areas. They are tearing up streets to install fiber optics, converting cable TV facilities to broadband telecom applications, developing incredible new DSL technologies that convert regular copper telephone wires into broadband powerhouses.

Other areas are not as fortunate. In rural and inner city areas access to even the current generation of broadband communications is harder to come by. In fact, there are only a few broadband providers outside the prosperous areas of big cities and suburban areas nationwide. This is because in many cases rural areas are more expensive to serve. Terrain is difficult. Populations are widely dispersed. Importantly, many of our current broadband technologies cannot serve people who live more than eighteen thousand feet from a phone company's central office—which is the case for most rural Americans. In inner cities, companies may believe that lower household income levels will not support a market for their services, so they chose not to invest in these communities.

The implications for the country if we allow this broadband disparity to continue are alarming. Organizations in traditional robust communications and computing regions, often located in prosperous urban and suburban communities, will be able to reap the rewards of a networked economy. Organizations in other areas, often in rural areas as in inner cities, including many areas in my State of West Virginia, will suffer the consequences of being unable to take advantage of the astounding power of broadband networked computing.

Just as companies that employ technological advances are decimating their less technologically savvy competitors, businesses in infrastructure-rich areas may soon decimate competitors in infrastructure-poor areas. This is just as true as rural and inner city students, workers trying to gain new skills, and regular individuals who want to participate in the New Economy in other ways compete against their non-rural peers. The result could be disastrous for Americans who live in rural areas or in our inner cities: job loss, tax revenue loss, brain drain, and business failure concentrated in their communities.

Denying Americans who live in rural areas and inner cities a chance to participate in the New Economy is also bad for the national economy. Businesses will be forced to locate their operations and hire their employees in urban locations that have adequate broadband infrastructure, rather than in rural or inner city locations that are otherwise more efficient due to the location of their customers or suppliers, a stable or better workforce, and cheaper production environments. Additionally, without adequate infrastructure, the businesses and individuals in these communications infrastructure poor areas are less likely to be integrated into the national electronic marketplace. Their absence would put a damper on the growth of the digital economy for everyone—not just for those in rural areas.

Therefore, we must do everything we can to ensure that broadband communications are available to all areas of the country—rural and inner city as well as the prosperous urban and suburban communities. The Broadband Internet Access Act of 2001 addresses this problem.

The Act would give companies the incentive to build current generation broadband facilities in rural areas by using a very focused tax credit. It would offer any company that invests in broadband facilities in rural or inner city areas a ten percent tax credit over the next five years. This tax credit will help fight the growing disparity in technology I just described.

The credit is also restricted to investments needed for high-speed broadband telecommunications services. This means that only powerful broadband services are covered. Companies cannot claim that inferior services qualify for the credit. Only facilities that can download data at a rate of speed of 1.5 megabytes per second, and upload data at 200 kilobytes per second qualify.

In addition, the bill provides a 20 percent tax credit for companies that invest in next generation broadband services. These powerful new services, that can deliver data capacities of 22 megabytes per second download and 5 megabytes per second upload will be the infrastructure the new economy depends as the digital economy matures. We need to reward the companies who have the foresight to invest in these next generation broadband services—they will benefit the whole country.

The Broadband Internet Access Act of 2000 is part of the solution to the critically important digital divide problem. Rural Americans and Americans living in inner cities deserve the chance to participate in the New Economy. Without access to broadband services they will not have this chance. I hope that the Members of this body will support this important bill.

For those who want even more details, I ask unanimous consent that Attachment One to this statement, titled Broadband Internet Access Tax Credit, be made part of the RECORD. This attachment is a detailed explanation of the tax credit based on an analysis of the similar Broadband Internet Access Act of 2000, from the 106th Congress. We will hopefully have a more updated explanation that reflects changes to the bill for the 107th Congress very soon.

There being no objection, the attachment ordered to be printed in the RECORD, as follows:

BROADBAND INTERNET ACCESS TAX CREDIT

(New sec. 48A of the Code)

PRESENT LAW

Present law does not provide a credit for investments in telecommunications infrastructure.

EXPLANATION OF PROVISION

The bill provides a credit to 10 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which "current generation" broadband services are delivered to subscribers in rural and underserved areas. In the addition, the bill provides a credit equal to 20 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which "next generation" broadband services are delivered to subscribers in rural areas, underserved areas, and to residential subscribers.

Current generation broadband services is defined as the transmission of signals at a rate of at least 1.5 million bits per second to the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services is defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber. Taxpayers will be permitted to substantiate their satisfaction of the required transmission rates through statistically significant test data demonstrating satisfaction of the required transmission rates, by providing evidence that all relevant subscribers were provided with a written guarantee that the required transmission rates would be satisfied, or through any other reasonable method. For this purpose, the fact that certain subscribers are not able to access such services at the required transmission rates due to limitations in equipment outside of the control of the provider, or in equipment other than qualified equipment, shall not be taken into account.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area is any census tract which is located in an empowerment zone, enterprise community, renewal zone or low-income community. A residential subscriber is any individual who purchases broadband services to be delivered to his or her dwelling.

Qualified expenditures

Qualified expenditures are those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. Qualified expenditures are those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2006.

The expenditures are taken into account for purposes of claiming the credit in the first taxable year in which broadband service is delivered to at least 10 percent of the specified type of subscribers which the qualified equipment is capable of serving in an area in which the provider has legal or contractual area access rights or obligations. For this purpose, it is intended that the subscribers which the equipment is capable of serving will be determined by the least capable link in the system. For example, if a system has a packet switch capable of serving 10,000 subscribers, followed by a digital subscriber line access multiplexer ("DSLAM") capable of serving only 2,000 subscribers, then the area which the equipment is capable of serving is the area served by the 2,000 DSLAM lines.

Although the credit only applies with respect to qualified expenditures incurred during specified periods, the fact that the expenditures are not taken into account until a later period will not affect the taxpayer's eligibility for the credit. For example, if a taxpayer incurs qualified expenditures with respect to equipment providing next generation broadband services in 2004, but the taxpayer does not satisfy the 10 percent subscription threshold until 2005, the taxpayer will be eligible for the credit in 2005 (assuming the other requirements of the bill are satisfied). To substantiate their satisfaction of the 10 percent subscription threshold, taxpayers will be required to provide such information as is required by the Secretary, which may include relevant customer date or evidence of independent certification.

In the case of a taxpayer that incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualified expenditures are determined by multiplying otherwise qualified expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualified equipment would be capable of serving, as determined by the least capable link in the system. Taxpayers may use any reasonable method to determine the relevant total potential subscriber population, based on the most recently published census data. In addition, for purposes of substantiating the total potential subscriber population which equipment is capable of serving, taxpayers will be required to provide such information as is required by the Secretary, which may include manufacturer's equipment ratings or evidence of independent certification.

Qualified equipment

Qualified equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. It is intended that this standard would be satisfied if a subscriber utilizing broadband services through the equipment is able to receive the specified transmission rates in at least 99 out of 100 attempts.

In the case of a telecommunications carrier, qualified equipment is equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualified equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualified equipment is equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualified equipment is equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. In addition, any packet switching equipment deployed in connection with other qualified equipment is qualified equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Finally, multiplexing and demultiplexing equipment and other equipment making associated applications deployed in connection with other qualified equipment is qualified equipment only if it is located between qualified packet switching equipment and the subscriber's premises.

Although a taxpayer must incur the expenditures directly in order to qualify for the credit, the taxpayer may provide the requisite broadband services either directly or indirectly. For example, if a partnership constructs qualified equipment or otherwise incurs expenditures, but the requisite services are provided by one or more of its partners, the partnership will be eligible for the credit (assuming the other requirements of the bill are satisfied). It is anticipated that the Secretary will issue regulations or other published guidance demonstrating how the requirements of the bill are satisfied in such situations.

EFFECTIVE DATE

The provision is effective for expenditures incurred after December 31, 2001.

Mr. BURNS. Mr. President, I rise today in support of a bill I supported last Congress along with over half of the members in this body. The bill, the Broadband Internet Access Act of 2001, creates tax incentives for the deployment of broadband (high-speed) Internet services to rural, low-income, and residential areas.

This bill will ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

The legislation provides graduated tax credits to companies that bring qualified telecommunication capabilities to targeted areas. It grants a 10-percent credit for expenditures on equipment that provide current generation bandwidth of 1.5 million bits per second (mbps) downstream and .2 mbps upstream to subscribers in rural and low-income areas, and a 20-percent credit for delivery of next generation 22 mbps downstream and 5 mbps upstream to these customers and other residential subscribers.

This bill has been endorsed by a number of organizations, including Bell Atlantic, MCI/Worldcom, Corning Incorporated, the National Telephone Cooperative Association, the Association for Local Telecommunications Services, the United States Distance Learning Association, and the Imaging Science and Information Systems Center at Georgetown University Medical Center.

Mr. President, in a few short years, the Internet has grown exponentially to become a mass medium used daily by over 100 million people worldwide. The explosion of information technology has created opportunities undreamed of by previous generations. In my home state of Montana, companies such as Healthdirectory.com and Vanns.com are taking advantage of the global markets made possible by the stunning reach of the Internet.

The pace of broadband deployment to rural America must be accelerated for electronic commerce to meet its full potential however. Broadband access is as important to our small businesses in Montana as water is to agribusiness.

I am aware of all of the recent discussion regarding the "digital divide" and I am very concerned that the pace of broadband deployment is greater in urban than rural areas. However, there is some positive and exciting news on this front as well. The reality on the ground shows that some of the "gloom and doom" scenarios are far from the case. By pooling their limited resources, Montana's independent and cooperative telephone companies are doing great things. I encourage my colleagues to support this bill.

Mr. GRASSLEY:

S. 89. A bill to enhance the illegal narcotics control activities of the United States, and for other purposes; to the Committee on the Judiciary.

DRUG-FREE AMERICA ACT OF 2001

Mr. GRASSLEY. Mr. President. I rise today to introduce the "Drug-Free America Act of 2001." As many of my colleagues know, drug use by the children in our country continues to be a serious concern of mine. The "Drug-Free America Act" offers a series of initiatives that I believe will support efforts across the board to discourage drug use at all levels in America.

Mr. President, I've said it before, but it bears repeating. Somewhere along the way, we lost the clear, consistent message that the only proper response to drugs is to say an emphatic "no." We're supposed to be more sophisticated. More tolerant. More willing to listen to notions of making dangerous drugs more available. What all of this "more" has meant is that we have more young people using more drugs at younger ages. Today we are competing with a drug culture that tells our children "drugs are cool," that "drug are safe." Drugs are being more aggressively marketed, and are presented as being "user friendly".

We cannot remain silent. I look forward with working with President Bush in providing the resources and message necessary to let everyone know that drugs are bad, that drugs will damage your brain and your body, and that drug use will hurt you, your friends, your family, your community, and your future.

The drug problem confronting our country is not static. Methamphetamine, Ecstasy, and other new drugs pose different challenges and require different solutions than the heroin and cocaine epidemics. Treatment, education, prevention, and law enforcement efforts must all be strengthened and updated. The National Institutes of Health have some exciting research efforts underway that could reaily make a difference as we try to reclaim the lives of our fellow citizens who have been seduced by the false pleasures of drug use. There are several education and prevention initiatives that we can strengthen to support the educators, counselors, community activists, and parents who work hard every day to keep our children and our communities drug free. We should support ongoing efforts by the National Guard Counterdrug Directorate, and re-authorize the U.S. Customs Service, our Nation's oldest law enforcement agency. We need to believe in our future. I believe that by working together, we can, we will make a difference. I hope my colleagues will join me in working to address this important problem before it becomes any worse.

Left unanswered, we will see another generation of young lives blighted. We will see families torn up by a widening circle of hurt from drug use. We saw what a similar wave of drug use did to us and to a generation of young people in the 1960s and 1970s. We are smarter now, we have better tools and better knowledge. We cannot afford to go through this again. I hope we can begin today to renew our commitment to a drug free future for our young people. I have said this in numerous town meetings, and I now say it here, "working together, we can make a difference."

I urge my colleagues to join me in supporting the Drug-Free America Act, and look forward to working with my colleagues on these important initiatives.

Mr. President, I send this bill to the desk, and request that it be printed in the appropriate place in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 89

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Drug-Free America Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—DOMESTIC DEMAND REDUCTION

Sec. 101. Short title.

Subtitle A—Drug Treatment and Research

Sec. 111. Short title.
Sec. 112. Amendments to the Public Health Service Act.

Sec. 113. Adolescent therapeutic community treatment programs.
Sec. 114. Residential treatment program in Federal prisons.
Sec. 115. Counter-Drug Technology Assessment Center.
Sec. 116. Sense of Congress on research by the National Institutes of Health.

Subtitle B—Drug-Free Communities

Sec. 121. Findings.
Sec. 122. Drug-free communities support program.

Subtitle C—Drug-Free Families

Sec. 131. Short title.
Sec. 132. Findings.
Sec. 133. Purposes.
Sec. 134. Definitions.
Sec. 135. Establishment of drug-free families support program.
Sec. 136. Authorization of appropriations.

Subtitle D—National Community Antidrug Coalition Institute

Sec. 141. Short title.
Sec. 142. Establishment.
Sec. 143. Authorization of appropriations.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—National Guard Matters

Sec. 201. Minimum number of members of the National Guard on duty to perform drug interdiction or counter-drug activities.
Sec. 202. National Guard counterdrug schools.

Subtitle B—Customs Matters

Sec. 211. Short title.

PART I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

Sec. 221. Authorization of appropriations.
Sec. 222. Cargo inspection and narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and Gulf Coast seaports; internal management improvements.
Sec. 223. Peak hours and investigative resource enhancement for the United States-Mexico and United States-Canada borders, Florida and Gulf Coast seaports, and the Bahamas.
Sec. 224. Agent rotations; elimination of backlog of background investigations.
Sec. 225. Air and marine operation and maintenance funding.
Sec. 226. Compliance with performance plan requirements.
Sec. 227. Report on intelligence requirements.

PART II—CUSTOMS MANAGEMENT

Sec. 231. Term and salary of the Commissioner of Customs.
Sec. 232. Internal compliance.
Sec. 233. Report on personnel flexibility.
Sec. 234. Report on personnel allocation model.
Sec. 235. Report on detection and monitoring requirements along the southern tier and northern border.

PART III—MARKING VIOLATIONS

Sec. 241. Civil penalties for marking violations.

Subtitle C—Miscellaneous

Sec. 251. Tethered Aerostat Radar System.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Illegal drugs cost America more than $70,000,000,000 annually. These costs include lost productivity, as well as money spent for drug treatment, illnesses related to drug use, crime prevention and enforcement, and welfare.

(2) Federal, State, and local governments spend more than $30,000,000,000 annually to combat illegal drugs and the consequences of illegal drugs.

(3) The estimated total expenditure by Americans on illicit drugs in 1993 was $48,700,000,000. The vast majority of these illegal drugs are produced overseas and then smuggled into the United States by major criminal organizations.

(4) The estimated worldwide potential of coca net production in 1996 was 303,600 metric tons, and in the same year, the worldwide coca cultivation was 209,700 hectares.

(5) The production of opium has also been increasing for at least the past 10 years, and reached a new high in 1996 of 4,212 metric tons. Production throughout the world has led to an increase in the heroin addict population of the United States, bringing it to a new high of more than 600,000 people.

(6) Money laundering constitutes a serious challenge to the maintenance of law and order throughout the hemisphere and poses a threat to stability, reliability, and the integrity of governments, financial systems, and commerce.

(7) Money laundering of illegal drug profits is an integral part of the drug trafficking process, creating an obstacle in fighting drugs. It is estimated that $100,000,000,000 to $300,000,000,000 in United States currency is laundered each year.

(8) Certification pursuant to the Foreign Assistance Act of 1961 is an essential tool in United States foreign policy. Through the certification process there has been improvement in cooperation levels that demonstrates the importance of holding countries responsible for being major producing, transit, and money laundering countries.

(9) The major criminal organizations that traffic in illegal narcotics are international in scope and extremely flexible in their activities, and are becoming increasingly sophisticated in their methods of operation. Their influence reaches to the highest levels of some foreign governments.

(10) The threat of corruption at all levels of government remains a significant concern when dealing with many nations. Explosive corruption in a number of countries is undermining domestic processes and the rule of law. United States assistance and the pressure of decertification have encouraged many countries to take corruption seriously.

(11) The production and trafficking of illegal narcotics presents a threat to United States interests, both domestic and foreign. Drugs are a corrosive influence on our children, our values, and our Government.

TITLE I—DOMESTIC DEMAND REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Domestic Narcotic Demand Reduction Act of 2001".

Subtitle A—Drug Treatment and Research

SEC. 111. SHORT TITLE.

This subtitle may be cited as the "Drug Treatment and Research Enhancement Act of 2001".

SEC. 112. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) SHORT TITLE.—This section may be cited as the "Key Professionals Education Act".

(b) CORE COMPETENCIES.—Subpart 2 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-21 et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106-310), is amended by adding at the end the following:

"SEC. 519F. CORE COMPETENCIES.

"(a) FINDINGS.—Congress makes the following findings:

"(1) According to a 1999 Monitoring the Future Report, heroin use doubled among youth in the United States between 1991 and 1995. Since that time, such heroin use among such youth has remained at the high level reached in 1995.

"(2) The sharp increase in heroin use during the 1990's may be a result of the introduction into the market of heroin of a higher purity.

"(3) According to the National Center on Addiction and Substance Abuse, 29.9 percent of the population living in rural areas, 32.4 percent of the population living in small cities, and 30.2 percent of the population living in big cities found heroin very easy or fairly easy to procure.

"(4) Studies show a high correlation between drug use, availability of drugs, and violence.

"(5) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 persons using illegal drugs were 16 times more likely than nonusers to be arrested for larceny or theft, at least 14 times more likely to be arrested for driving under the influence, drunkenness, and liquor law violations, and at least 9 times more likely to be arrested for assault.

"(b) PURPOSE.—The purpose of this section is—

"(1) to educate, train, motivate, and engage key professionals to identify and intervene with children in families affected by substance abuse and to refer members of such families to appropriate programs and services in the communities of such families;

"(2) to encourage professionals to collaborate with key professional organizations representing the targeted professional groups, such as groups of educators, social workers, faith community members, and probation officers, for the purposes of developing and implementing relevant core competencies; and

"(3) to encourage professionals to develop networks to coordinate local substance abuse prevention coalitions.

"(c) PROGRAM AUTHORIZED.—The Secretary shall award grants to leading nongovernmental organizations with an expertise in aiding children of substance abusing parents or experience with community antidrug coalitions to help professionals participate in such coalitions and identify and help youth affected by familial substance abuse.

"(d) DURATION OF GRANTS.—No organization shall receive a grant under subsection (c) for more than 5 consecutive years.

"(e) APPLICATION.—Any organization desiring a grant under subsection (c) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a plan for the evaluation of the project involved, including both process and outcome evaluation, and the submission of the evaluation at the end of the project period.

"(f) USE OF FUNDS.—Grants awarded under subsection (c) shall be used to—

"(1) develop core competencies with various professional groups that the professionals can use in identifying and referring children affected by substance abuse;

"(2) widely disseminate the competencies to professionals and professional organizations through publications and journals that are widely read and respected;

"(3) develop training modules around the competencies; and

"(4) develop training modules for community coalition leaders to enable such leaders to engage professionals from identified groups at the local level in community-wide prevention and intervention efforts.

"(g) DEFINITION.—In this section, the term 'professional' includes a physician, student assistance professional, social worker, youth and family social service agency counselor, Head Start teacher, clergy, elementary and secondary school teacher, school counselor, juvenile justice worker, child care provider, or a member of any other professional group in which the members provide services to or interact with children, youth, or families.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

(c) NATIONAL INSTITUTE ON DRUG ABUSE.—Subpart 15 of part C of title IV of the Public Health Service Act (42 U.S.C. 285o et seq.) is amended by adding at the end the following:

"SEC. 464Q. NATIONAL DRUG ABUSE TREATMENT CLINICAL TRIALS NETWORK.

"(a) PROGRAM AUTHORIZED.—The Director of the Institute shall establish a National Drug Abuse Treatment Clinical Trials Network (referred to in this section as the 'Network'), and provide support to such Network, to conduct large scale drug abuse treatment studies in community settings using broadly diverse patient populations.

"(b) ACTIVITIES OF NETWORK.—The Network described in subsection (a) shall use the support provided under subsection (a) to—

"(1) conduct coordinated, multisite, clinical trials of behavioral and pharmacological approaches and combined therapies for drug abuse and addiction;

"(2) conduct a research practice initiative to—

"(A) identify factors that affect successful adoption of new treatments in order to transport research findings into real-life practice; and

"(B) rapidly and efficiently disseminate scientific findings to the field and to communities in need.

"(c) MEMBERS OF NETWORK.—The Network described in subsection (a) shall consist of research and training centers that are linked with community-based treatment programs that represent a diversity of treatment settings and patient populations in the regions of such centers.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.".

(d) SURVEY.—Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

"SEC. 247. SURVEYS.

"The results of any federally funded survey under this Act shall be made available in at least a preliminary format to the public not later than 1 year after the date on which any such survey is complete.".

(e) PRACTICE/RESEARCH COLLABORATIVES.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106-310), is amended by adding the following:

"SEC. 506C. PRACTICE/RESEARCH COLLABORATIVES.

"(a) IN GENERAL.—The Secretary shall award grants, cooperative agreements, or contracts to public or private nonprofit entities for the purpose of assisting local communities and regions within States in improving the quality of substance abuse treatment and clinical preventive services provided in such communities and regions by increasing interaction and knowledge exchange among key community-based stakeholders, including substance abuse treatment providers, community-based organizations that provide support services to substance abusers, researchers, and policymakers including managed care plan managers and purchasers of substance abuse treatment services.

"(b) ELIGIBILITY.—To be eligible to receive a grant, contract, or cooperative agreement under this section an entity shall—

"(1) be a public or private nonprofit entity;

"(2) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

"(3) demonstrate that the entity has developed a full partnership among—

"(A) community-based treatment and prevention service providers that provide treatment services representing a variety of modalities and including both for profit and nonprofit private entities and programs that serve diverse populations;

"(B) researchers on substance abuse prevention and treatment issues;

"(C) government officials from the community involved in the grant application;

"(D) State officials involved in the funding of substance abuse prevention and treatment services;

"(E) service organizations that serve substance abusers including organizations providing health and mental health services, child welfare, law enforcement, social services, education, and other such services; and

"(F) policymakers.

"(c) USE OF FUNDS.—Amounts awarded under a grant, contract, or cooperative agreement under subsection (a) may be used to—

"(1) develop ongoing communications for the entities described in subsection (b)(3) to support the establishment of an infrastructure for community-based studies and knowledge transfer;

"(2) share evaluation and applied research results in seminars and publications;

"(3) identify areas of particularly local concern for further study;

"(4) determine, in consultation with appropriate agencies (including the National Institutes of Health), public policy issues of interest to be included in an applied research agenda;

"(5) identify and describe existing prevention and intervention strategies;

"(6) improve methods for evaluating prevention and treatment strategies;

"(7) recruit or retain substance abuse educators and practitioners to participate in specialized training programs to improve knowledge exchange and transfer;

"(8) provide for the implementation of training programs to sustain the adoption of community-based treatment study findings; and

"(9) provide public policymakers and State officials with appropriate information.

"(d) CONDITIONS.—The Secretary shall ensure that awards made under subsection (a) are distributed among urban and rural areas and address the needs of vulnerable populations including ethnic and racial minorities, women of childbearing age, individuals with sexually transmitted diseases or HIV.

"(e) DURATION OF AWARDS.—With respect to grants, cooperative agreements, or contracts awarded under this section, the period during which payments under such awards are made to the recipient may not exceed 5 years.

"(f) REPORT.—A recipient of a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary a report for each year under the grant, contract, or cooperative agreement of the grant a report that details the activities of the recipient under the grant, contract, or cooperative agreement, and makes recommendations for a research agenda for future years based on the information received from those assisted under the grant, contract, or cooperative agreement.

"(g) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 and 2004.".

SEC. 113. ADOLESCENT THERAPEUTIC COMMUNITY TREATMENT PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the "Adolescent Therapeutic Community Treatment Programs Act".

(b) FINDINGS.—Congress makes the following findings:

(1) Of the adolescents that currently need substance abuse treatment services, only 20 percent of such adolescents are receiving such services.

(2) Providing alcohol and drug treatment services reduces health care, welfare, and criminal justice costs.

(3) Studies have found that completion of substance abuse treatment services produces sustained reductions in drug use, welfare dependency, crime, and unemployment.

(4) The National Institute of Justice Arrestee Drug Abuse Monitoring drug testing program found that more than half of juvenile male arrestees tested positive for at least 1 drug in 1998.

(5) The 1999 Monitoring the Future study showed that more than half of the teenagers in the United States have tried an illicit drug by the time such teenagers finish high school, and more than 28 percent of such teenagers have tried an illicit drug by the time such teenagers are in eighth grade.

(6) According to the 1999 National Household Survey on Drug Abuse, the average age of new heroin users has dropped from 26.0 years of age in 1992 to 21.3 years of age in 1998.

(7) Studies have shown that intervention at an early stage of addiction is essential in stopping an increasingly frequent drug user from becoming an addict. Whether voluntarily or through legal or parental pressure, the sooner a drug user enters into a well-designed treatment program, the more likely such treatment is to be effective. Voluntary participation in substance abuse programs is not necessary in order to successfully treat a drug user.

(c) PROGRAM AUTHORIZED.—The Secretary shall award competitive grants to treatment providers who administer treatment programs to enable such providers to establish adolescent residential substance abuse treatment programs that provide services for individuals who are between the ages of 14 and 21.

(d) PREFERENCE.—In awarding grants under subsection (c), the Secretary shall consider the geographic location of each treatment provider and give preference to such treatment providers that are geographically located in such a manner as to provide services to addicts from non-metropolitan areas.

(e) DURATION OF GRANTS.—For awards made under subsection (c), the period during which payments are made may not exceed 5 years.

(f) RESTRICTIONS.—A treatment provider receiving a grant under subsection (c) shall not use any amount of the grant under this section for land acquisition or a construction project.

(g) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude qualifying faith-based treatment providers from receiving a grant under subsection (c).

(h) APPLICATION.—A treatment provider that desires a grant under subsection (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(i) USE OF FUNDS.—A treatment provider that receives a grant under subsection (c) shall use funds received under such grant to provide substance abuse services for adolescents, including—

(1) a thorough psychosocial assessment;

(2) individual treatment planning;

(3) a strong education component integral to the treatment regimen;

(4) life skills training;

(5) individual and group counseling;

(6) family services;

(7) daily work responsibilities; and

(8) community-based aftercare, providing 6 months of treatment following discharge from a residential facility.

(j) TREATMENT TYPE.—The Therapeutic Community model shall be used as a basis for all adolescent residential substance abuse treatment programs established under this section, which shall be characterized by—

(1) the self-help dynamic, requiring youth to participate actively in their own treatment;

(2) the role of mutual support and the therapeutic importance of the peer therapy group;

(3) a strong focus on family involvement and family strengthening;

(4) a clearly articulated value system emphasizing both individual responsibility and responsibility for the community; and

(5) an emphasis on development of positive social skills.

(k) REPORT BY PROVIDER.—Not later than 1 year after receiving a grant under this section, and annually thereafter, a treatment provider shall prepare and submit to the Secretary a report describing the services provided pursuant to this section.

(l) REPORT BY SECRETARY.—

(1) IN GENERAL.—Not later than 3 months after receiving all reports by providers under subsection (k), and annually thereafter, the Secretary shall prepare and submit a report containing information described in paragraph (2) to—

(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the United States Senate Caucus on International Narcotics Control;

(D) the Committee on Commerce of the House of Representatives;

(E) the Committee on Appropriations of the House of Representatives; and

(F) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The report described in paragraph (1) shall—

(A) outline the services provided by providers pursuant to this section;

(B) evaluate the effectiveness of such services;

(C) identify the geographic distribution of all treatment centers provided pursuant to this section, and evaluate the accessibility of such centers for addicts from rural areas and small towns; and

(D) make recommendations to improve the programs carried out pursuant to this section.

(m) DEFINITIONS.—In this section:

(1) ADOLESCENT RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM.—The term "adolescent residential substance abuse treatment program" means a program that provides a regimen of individual and group activities, lasting ideally not less than 12 months, in a community-based residential facility that provides comprehensive services tailored to meet the needs of adolescents and designed to return youth to their families in order that such youth may become capable of enjoying and supporting positive, productive, drug-free lives.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) THERAPEUTIC COMMUNITY.—The term "Therapeutic Community" means a highly structured residential treatment facility that—

(A) employs a treatment methodology;

(B) relies on self-help methods and group process, a view of drug abuse as a disorder affecting the whole person, and a comprehensive approach to recovery;

(C) maintains a strong educational component; and

(D) carries out activities that are designed to help youths address alcohol or other drug abuse issues and learn to act in their own best interests, as well as in the best interests of their peers and families.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized be appropriated to carry out this section—

(1) $21,000,000 for fiscal year 2002;

(2) $42,000,000 for fiscal year 2003;

(3) $63,000,000 for fiscal year 2004;

(4) $84,000,000 for fiscal year 2005; and

(5) $105,000,000 for fiscal year 2006.

SEC. 114. RESIDENTIAL TREATMENT PROGRAM IN FEDERAL PRISONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In April 2000, there were more than 140,000 inmates in the Federal prison system.

(2) In April 2000, nearly 30 percent of Federal inmates were serving sentences ranging between 5 and 10 years, and just over 58 percent of such inmates, or 61,547 persons, were serving time for a drug related offense.

(3) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 illicit drug users—

(A) were 16 times more likely than nonusers to be arrested and booked for larceny or theft;

(B) were more than 14 times more likely to be arrested and booked for driving under the influence, drunkenness, and liquor law violations; and

(C) were more than 9 times more likely to be arrested and booked for assault.

(4) According to the Federal Bureau of Investigation's Uniform Crime Reports, drugs are one of the main factors leading to the total number of all homicides.

(5) In a 1999 study, the Bureau of Prisons reported that—

(A) offenders who completed a residential drug abuse treatment program and had been released for a minimum of 6 months were less likely to be arrested and use illegal drugs than inmates who did not participate in such program; and

(B) only 3.3 percent of such offenders who completed such program were likely to be arrested within the first 6 months that such offenders were in the community.

(b) PURPOSE.—The purpose of this section is to increase residential drug abuse treatment units in Federal prisons to reduce the number of criminal offenders who are rearrested or who use illegal drugs after release from prison.

(c) PROGRAM AUTHORIZED.—The Director of the Federal Bureau of Prisons shall use funds made available under this section to establish residential drug abuse treatment units in Federal prisons.

(d) REQUIREMENTS.—A residential drug abuse treatment unit that receives funds under this section shall—

(1) maintain not less than 1,000 hours of activities during a 1-year period;

(2) maintain a staff of such unit in which there is not more than 1 staff member per 12 inmates;

(3) provide intensive treatment activities for all inmates in the residential drug treatment program, including individual and group therapy, specialty seminars, self improvement group counseling, and education, work skills training, and other programs; and

(4) have frequent, regular, and random drug testing for inmates and staff.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2002 and 2003.

SEC. 115. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) STUDY OF HEROIN USE IN THE UNITED STATES.—

(1) IN GENERAL.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Counter-Drug Technology Assessment Center (CTAC) of the Office of National Drug Control Policy shall carry out a study on the number of individuals in the United States who engaged in sustained use of heroin.

(2) BASIS FOR STUDY.—The study under paragraph (1) shall be based on the study entitled "A Plan for Estimated the Number of 'Hardcore' Drug Users in the United States".

(b) COUNTER-DRUG TECHNOLOGY INITIATIVES.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy shall—

(1) conduct outreach for purposes of reducing duplication of activities among Federal, State, and local entities regarding counterdrug technologies;

(2) develop and implement mechanisms for monitoring and coordinating such activities; and

(3) assist in the transfer of such technologies to State and local law enforcement agencies under the Technology Transfer Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy for fiscal year 2002 the following:

(1) $15,000,000 for purposes of the study required by subsection (a).

(2) $15,000,000 for purposes of activities under subsection (b).

SEC. 116. SENSE OF CONGRESS ON RESEARCH BY THE NATIONAL INSTITUTES OF HEALTH.

It is the sense of Congress that the National Institutes of Health should work with or collaborate with experts from private industry to promote research regarding pharmacological options that may be employed to support drug treatment efforts.

Subtitle B—Drug-Free Communities

SEC. 121. FINDINGS.

Congress makes the following findings:

(1) A child that has a positive relationship with both parents is less likely to use illegal drugs.

(2) Family activities, such as eating dinners together and spending quality time together, can reduce the risk that a child engaged by such activities will use illegal drugs.

(3) Most parents today work and have little opportunity to spend quality time with their children.

(4) Many families are headed by single parents who work all day and do not have enough time to spend with their children.

(5) The 1999 Parent's Resource Institute for Drug Education study (referred to in this section as the "PRIDE study") reported that more than 4,000,000 students who are between the ages 11 and 18 used drugs regularly, and more than 1,000,000 of such students used an illegal drug every day.

(6) The PRIDE study found that students with parents who talked to them about drug use had a 37 percent lower drug use rate than students with parents who did not talk to them about drug use.

(7) The 1999 Monitoring the Future study found that nearly 55 percent of high school seniors in the United States had used an illicit drug in the past month.

(8) A 1999 Mellman Group study found that—

(A) 56 percent of the population in the United States believed that drug use was increasing in 1999;

(B) 92 percent of the population viewed illegal drug use as a serious problem in the United States; and

(C) 73 percent of the population viewed illegal drug use as a serious problem in their communities.

SEC. 122. DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

(a) Extension and Increase of Program.—Section 1024(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1524(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) $46,000,000 for fiscal year 2003;

"(7) $48,500,000 for fiscal year 2004;

"(8) $51,000,000 for fiscal year 2005;

"(9) $53,500,000 for fiscal year 2006; and

"(10) $56,000,000 for fiscal year 2007.".

(b) Extension of Limitation on Administrative Costs.—Section 1024(b) of that Act (21 U.S.C. 1524(b)) is amended by adding at the end the following new paragraph:

"(6) 8 percent for each of fiscal years 2003 through 2007.".

(c) Modification of Eligibility Criteria or Amount for Grant Renewals.—Section 1032 of that Act (21 U.S.C. 1532) is amended by adding at the end the following new subsection:

"(c) Modification of Eligibility Criteria or Amount for Grant Renewals.—The Administrator may not implement any modification in the criteria for eligibility for the renewal of a grant under this section, or any modification in grant amount upon renewal of a grant under this section, until one year after the date on which the Administrator notifies the recipient of the grant concerned of such modification.".

(d) Source of Funds for Evaluation of Program by Administrator.—Section 1033(b) of that Act (21 U.S.C. 1533(b)) is amended by adding at the end the following new paragraph:

"(3) Source of funds for evaluation of program.—Amounts for activities under paragraph (2)(B) shall be derived from amounts under section 1024(a) that are available under section 1024(b) for administrative costs.".

Subtitle C—Drug-Free Families

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Families Act of 2001".

SEC. 132. FINDINGS.

Congress makes the following findings:

(1) The National Institute on Drug Abuse estimates that in 1962, less than 1 percent of the nation's adolescents had ever tried an illicit drug. By 1979, drug use among young people had escalated to the highest levels in history: 34 percent of adolescents (ages 12–17), 65 percent of high school seniors (age 18), and 70 percent of young adults (ages 18–25) had used an illicit drug in their lifetime.

(2) Drug use among young people was not confined to initial trials. By 1979, 16 percent of adolescents, 39 percent of high school seniors, and 38 percent of young adults had used an illicit drug in the past month. Moreover, 1 in 9 high school seniors used marijuana daily.

(3) In 1979, the year the largest number of seniors used marijuana, their belief that marijuana could hurt them was at its lowest (35 percent) since surveys have tracked these measures.

(4) Three forces appeared to be driving this escalation in drug use among children and young adults. Between 1972 and 1978, a nationwide political campaign conducted by drug legalization advocates persuaded 11 State legislatures to "decriminalize" marijuana. (Many of those States have subsequently "recriminalized" the drug.) Such legislative action reinforced advocates' assertion that marijuana was "relatively harmless."

(5) The decriminalization effort gave rise to the emergence of "head shops" (shops for "heads," or drug users—"coke heads," "pot heads," "acid heads," etc.) which sold drug paraphernalia—an array of toys, implements, and instructional pamphlets and booklets to enhance the use of illicit drugs. Some 30,000 such shops were estimated to be doing business throughout the nation by 1978.

(6) In the absence of Federal funding for drug education then, most of the drug education materials that were available proclaimed that few illicit drugs were addictive and most were "less harmful" than alcohol and tobacco and therefore taught young people how to use marijuana, cocaine, and other illicit drugs "responsibly".

(7) Between 1977 and 1980, 3 national parent drug-prevention organizations—National Families in Action, PRIDE, and the National Federation of Parents for Drug-Free Youth (now called the National Family Partnership)—emerged to help concerned parents form some 4,000 local parent prevention groups across the nation to reverse all of these trends in order to prevent children from using drugs. Their work created what has come to be known as the parent drug-prevention movement, or more simply, the parent movement. This movement set 3 goals: to prevent the use of any illegal drug, to persuade those who had started using drugs to stop, and to obtain treatment for those who had become addicted so that they could return to drug-free lives.

(8) The parent movement pursued a number of objectives to achieve these goals. First, it helped parents educate themselves about the harmful effects of drugs, teach that information to their children, communicate that they expected their children not to use drugs, and establish consequences if children failed to meet that expectation. Second, it helped parents form groups with other parents to set common age-appropriate social and behavioral guidelines to protect their children from exposure to drugs. Third, it encouraged parents to insist that their communities reinforce parents' commitment to protect children from drug use.

(9) The parent movement stopped further efforts to decriminalize marijuana, both in the States and at the Federal level.

(10) The parent movement worked for laws to ban the sale of drug paraphernalia. If drugs were illegal, it made no sense to condone the sale of toys and implements to enhance the use of illegal drugs, particularly when those products targeted children. As town, cities, counties, and States passed anti-paraphernalia laws, drug legalization organizations challenged their Constitutionality in Federal courts until the early 1980's, when the United States Supreme Court upheld Nebraska's law and established the right of communities to ban the sale of drug paraphernalia.

(11) The parent movement insisted that drug-education materials convey a strong no-use message in compliance with both the law and with medical and scientific information that demonstrates that drugs are harmful, particularly to young people.

(12) The parent movement encouraged others in society to join the drug prevention effort and many did, from First Lady Nancy Reagan to the entertainment industry, the business community, the media, the medical community, the educational community, the criminal justice community, the faith community, and local, State, and national political leaders.

(13) The parent movement helped to cause drug use among young people to peak in 1979. As its efforts continued throughout the next decade, and as others joined parents to expand the drug-prevention movement, between 1979 and 1992 these collaborative prevention efforts contributed to reducing monthly illicit drug use by two-thirds among adolescents and young adults and reduced daily marijuana use among high-school seniors from 10.7 percent to 1.9 percent. Concurrently, both the parent movement and the larger prevention movement that evolved throughout the 1980's, working together, increased high school seniors' belief that marijuana could hurt them, from 35 percent in 1979 to 79 percent in 1991.

(14) Unfortunately, as drug use declined, most of the 4,000 volunteer parents groups that contributed to the reduction in drug use disbanded, having accomplished the job they set out to do. But the absence of active parent groups left a vacuum that was soon filled by a revitalized drug-legalization movement. Proponents began advocating for the legalization of marijuana for medicine, the legalization of all Schedule I drugs for medicine, the legalization of hemp for medicinal, industrial and recreational use, and a variety

of other proposals, all designed to ultimately attack, weaken, and eventually repeal the nation's drug laws.

(15) Furthermore, legalization proponents are also beginning to advocate for treatment that maintains addicts on the drugs to which they are addicted (heroin maintenance for heroin addicts, controlled drinking for alcoholics, etc.), for teaching school children to use drugs "responsibly," and for other measures similar to those that produced the drug epidemic among young people in the 1970's.

(16) During the 1990's, the message embodied in all of this activity has once again driven down young people's belief that drugs can hurt them. As a result, the reductions in drug use that occurred over 13 years reversed in 1992, and adolescent drug use has more than doubled.

(17) In 1970, 40.5 percent of women in the workforce were married. By 1997, that percentage has climbed to 61.6 percent, meaning fewer parents have time to volunteer. Many families are headed by single parents. In some families no parents are available, and grandparents, aunts, uncles, or foster parents are raising the family's children.

(18) Recognizing that these challenges make it much more difficult to reach parents today, several national parent and family drug-prevention organizations have formed the Parent Collaboration to address these issues in order to build a new parent and family movement to prevent drug use among children.

(19) Motivating parents and parent groups to coordinate with local community anti-drug coalitions is a key goal of the Parent Collaboration, as well as coordinating parent and family drug-prevention efforts with Federal, State, and local governmental and private agencies and political, business, medical and scientific, educational, criminal justice, religious, and media and entertainment industry leaders.

SEC. 133. PURPOSES.

The purposes of this subtitle are to—

(1) build a movement to help parents and families prevent drug use among their children and adolescents;

(2) help parents and families reduce drug abuse and drug addiction among adolescents who are already using drugs, and return them to drug-free lives;

(3) increase young people's perception that drugs are harmful to their health, well-being, and ability to function successfully in life;

(4) help parents and families educate society that the best way to protect children from drug use and all of its related problems is to convey a clear, consistent, no-use message;

(5) strengthen coordination, cooperation, and collaboration between parents and families and all others who are interested in protecting children from drug use and all of its related problems;

(6) help parents strengthen their families, neighborhoods, and school communities to reduce risk factors and increase protective factors to ensure the healthy growth of children; and

(7) provide resources in the fiscal year 2002 Federal drug control budget for a grant to the Parent Collaboration to conduct a national campaign to mobilize today's parents and families through the provision of information, training, technical assistance, and other services to help parents and families prevent drug use among their children and to build a new parent and family drug-prevention movement.

SEC. 134. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATIVE COSTS.—The term "administrative costs" means those costs that the assigned Federal agency will incur to administer the grant to the Parent Collaboration.

(2) NO-USE MESSAGE.—The term "no-use message" means a message advocating no use of any illegal drug and no illegal use of any legal drug or substance that is sometimes used illegally, such as prescription drugs, inhalants, and alcohol and tobacco for children and adolescents under the legal purchase age.

(3) PARENT COLLABORATION.—The term "Parent Collaboration" means a legal entity, that is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and is created by 3 or more groups that—

(A) have a primary mission of helping parents prevent drug use, drug abuse, and drug addiction among their children, their families, and their communities;

(B) have carried out this mission for a minimum of 5 consecutive years; and

(C) base their drug-prevention missions on the foundation of a strong, no-use message in compliance with international, Federal, State, and local treaties and laws that prohibit the possession, production, cultivation, distribution, sale, and trafficking in illegal drugs;

in order to build a new parent and family movement to prevent drug use among children and adolescents.

SEC. 135. ESTABLISHMENT OF DRUG-FREE FAMILIES SUPPORT PROGRAM.

(a) IN GENERAL.—The Attorney General shall make a grant to the Parents Collaboration to conduct a national campaign to build a new parent and family movement to help parents and families prevent drug abuse among their children.

(b) TERMINATION.—The period of the grant under this section shall be 5 years.

SEC. 136. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle, $5,000,000 for each of fiscal years 2002 through 2006 for a grant to the Parent Collaboration to conduct the national campaign to mobilize parents and families.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of the total amount made available under subsection (a) in each fiscal year may be used to pay administrative costs of the Parent Collaboration.

Subtitle D—National Community Antidrug Coalition Institute

SEC. 141. SHORT TITLE.

This subtitle may be cited as the "National Community Antidrug Coalition Institute Act of 2001".

SEC. 142. ESTABLISHMENT.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy may make grants to an organization to provide for the establishment of a National Community Antidrug Coalition Institute.

(b) REQUIREMENTS.—The organization receiving a grant under subsection (a) shall—

(1) be a national nonprofit organization that represents, provides technical assistance and training to, and has special expertise and broad, national-level experience in community anti-drug coalitions; and

(2) establish a National Community Anti-drug Coalition Institute that will—

(A) provide education, training, and technical assistance for coalition leaders and community teams;

(B) conduct evaluation, testing, and diffusion of tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes; and

(C) bridge the gap between research and practice by translating knowledge from research into practical information.

(c) DISCHARGE OF RESPONSIBILITIES.—The Director may employ such staff and enter into such contracts and agreements, including agreements or memoranda of understanding with other governmental agencies, as the Director considers appropriate for purposes of making grants under this section and otherwise carrying out the responsibilities of the Director under this subtitle.

SEC. 143. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $2,000,000 for each of fiscal years 2002 and 2003 for purposes of making grants as provided in section 142.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—National Guard Matters

SEC. 201. MINIMUM NUMBER OF MEMBERS OF THE NATIONAL GUARD ON DUTY TO PERFORM DRUG INTERDICTION OR COUNTER-DRUG ACTIVITIES.

(a) FINDINGS.—Congress makes the following findings regarding members of the National Guard who participate in drug interdiction and counter-drug activities of the National Guard:

(1) Such members have significantly higher rates of attendance at inactive duty training and annual training than members of the National Guard who do not participate in such activities.

(2) Such members attend significantly more military training than members of the National Guard who do not participate in such activities, thereby putting such members at a higher state of military readiness.

(3) Such members attend significantly more non-military training designed to enhance support of law enforcement and community-based agencies than members of the National Guard who do not participate in such activities.

(4) Such members are above-average soldiers and airmen who maintain a high level of individual combat readiness.

(5) This high level of individual combat readiness has a positive effect on individual combat readiness in the National Guard as a whole and contributes to the success of unit training and evaluations and unit readiness.

(6) Such members evoke positive comments regarding their qualifications and performance in the National Guard.

(b) MINIMUM NUMBER OF MEMBERS ON DUTY.—Section 112(f) of title 32, United States Code, is amended—

(1) by striking "END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members" and inserting "MINIMUM NUMBER OF MEMBERS ON DUTY PERFORMING ACTIVITIES.—(1) At the end of a fiscal year there may not be less than 4,000 members";

(2) by striking paragraph (2); and

(3) by adding at the end the following new paragraph (2):

"(2) The President may waive the minimum in paragraph (1) in the event that the armed forces are involved in hostilities or that imminent involvement by the armed forces in hostilities is clearly indicated by the circumstances.".

(c) APPLICABILITY.—The amendments made by subsection (b) shall take effect on October 1, 2001, and shall apply with respect to fiscal years ending after that date.

SEC. 202. NATIONAL GUARD COUNTERDRUG SCHOOLS.

(a) AUTHORITY TO OPERATE.—Under such regulations as the Secretary of Defense may prescribe, the Chief of the National Guard Bureau may establish and operate not more than five schools (to be known generally as "National Guard counterdrug schools") for the provision by the National Guard of training in drug interdiction and counter-drug activities, and drug demand reduction activities, to the personnel of the following:

(1) Federal agencies.

(2) State and local law enforcement agencies.

(3) Community-based organizations engaged in such activities.

(4) Other non-Federal governmental and private entities and organizations engaged in such activities.

(b) COUNTERDRUG SCHOOLS SPECIFIED.—The National Guard counterdrug schools operated under the authority in subsection (a) are as follows:

(1) The National Interagency Civil-Military Institute (NICI), San Luis Obispo, California.

(2) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT), St. Petersburg, Florida.

(3) The Midwest Counterdrug Training Center (MCTC), to be established in Johnston, Iowa.

(4) The Regional Counterdrug Training Academy (RCTA), Meridian, Mississippi.

(5) The Northeast Regional Counterdrug Training Center (NCTC), Fort Indiantown Gap, Pennsylvania.

(c) USE OF NATIONAL GUARD PERSONNEL.—(1) To the extent provided for in the State drug interdiction and counter-drug activities plan of a State in which a National Guard counterdrug school is located, personnel of the National Guard of that State who are ordered to perform full-time National Guard duty authorized under section 112(b) of that title 32, United States Code, may provide training referred to in subsection (a) at that school.

(2) In this subsection, the term "State drug interdiction and counter-drug activities plan", in the case of a State, means the current plan submitted by the Governor of the State to the Secretary of Defense under section 112 of title 32, United States Code.

(d) ANNUAL REPORTS ON ACTIVITIES.—(1) Not later than February 1, 2002, and annually thereafter, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools.

(2) Each report under paragraph (1) shall set forth the following:

(A) The amount made available for each National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

(B) A description of the activities of each National Guard counterdrug school during the year preceding the year in which such report is submitted.

(3) The report under paragraph (1) in 2002 shall set forth, in addition to the matters described in paragraph (2), a description of the activities relating to the establishment of the Midwest Counterdrug Training Center in Johnston, Iowa.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated for the Department of Defense for the National Guard for fiscal year 2002, $25,000,000 for purposes of the National Guard counterdrug schools in that fiscal year.

(2) The amount authorized to be appropriated by paragraph (1) is in addition to any other amount authorized to be appropriated for the Department of Defense for the National Guard for fiscal year 2002.

(f) AVAILABILITY OF FUNDS.—(1) Of the amount authorized to be appropriated by subsection (e)(1)—

(A) $4,000,000 shall be available for the National Interagency Civil-Military Institute, San Luis Obispo, California;

(B) $8,000,000 shall be available for the Multi-Jurisdictional Counterdrug Task Force Training, St. Petersburg, Florida;

(C) $3,000,000 shall be available for the Midwest Counterdrug Training Center, Johnston, Iowa;

(D) $5,000,000 shall be available for the Regional Counterdrug Training Academy, Meridian, Mississippi; and

(E) $5,000,000 shall be available for the Northeast Regional Counterdrug Training Center, Fort Indiantown Gap, Pennsylvania.

(2) Amounts available under paragraph (1) shall remain available until expended.

(g) FUNDING FOR FISCAL YEARS AFTER FISCAL YEAR 2002.—(1) The budget of the President that is submitted to Congress under section 1105 of title 31, United States Code, for any fiscal year after fiscal year 2002 shall set forth as a separate budget item the amount requested for such fiscal year for the National Guard counterdrug schools.

(2) It is the sense of Congress that—

(A) the amount authorized to appropriated for the National Guard counterdrug schools for any fiscal year after fiscal year 2002 should not be less than the amount authorized to be appropriated for those schools for fiscal year 2002 by subsection (e)(1), in constant fiscal year 2002 dollars; and

(B) the amount made available to each National Guard counterdrug school for any fiscal year after fiscal year 2002 should not be less than the amount made available for such school for fiscal year 2002 by subsection (f)(1), in constant fiscal year 2002 dollars, except that the amount made available for the Midwest Counterdrug Training School should not be less than $5,000,000, in constant fiscal year 2002 dollars.

Subtitle B—Customs Matters

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Customs Authorization Act of 2001".

PART I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) are amended to read as follows:

"(A) $1,029,608,384 for fiscal year 2002.

"(B) $1,111,450,668 for fiscal year 2003.".

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)) are amended to read as follows:

"(i) $1,251,794,435 for fiscal year 2002.

"(ii) $1,348,676,435 for fiscal year 2003.".

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)) are amended to read as follows:

"(A) $229,001,000 for fiscal year 2002.

"(B) $176,967,000 for fiscal year 2003.".

(d) SUBMISSION OF BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

"(3) By no later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate the budget request submitted to the Secretary of the Treasury estimating the amount of funds for that fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).".

(e) AUTHORIZATION OF APPROPRIATIONS FOR MODERNIZING CUSTOMS SERVICE COMPUTER SYSTEMS.—

(1) ESTABLISHMENT OF AUTOMATION MODERNIZATION WORKING CAPITAL FUND.—There is established within the United States Customs Service an Automation Modernization Working Capital Fund (in this section referred to as the "Fund"). The Fund shall consist of the amounts authorized to be appropriated under paragraph (2) and shall be available as follows:

(A) To implement a program for modernizing the Customs Service computer systems.

(B) To maintain the existing computer systems of the Customs Service until a modernized computer system is fully implemented.

(C)For related computer system modernization activities of the Customs Service.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Fund $242,000,000 for fiscal year 2002 and $336,000,000 for fiscal year 2003. The amounts authorized to be appropriated under this paragraph shall remain available until expended.

(3) REPORT AND AUDIT.—

(A) REPORT.—The Commissioner of Customs shall, not later than March 31 and September 30 of each year, submit to the Comptroller General of the United States, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate a report on the progress being made in the modernization of the Customs Service computer systems. Each such report shall—

(i) include explicit criteria used to identify, evaluate, and prioritize investments for computer systems modernization planned for the Customs Service for each of fiscal years 2002 through 2006;

(ii) provide a schedule for mitigating any deficiencies identified by the Comptroller General and for developing and implementing all computer systems modernization projects;

(iii) provide a plan for expanding the utilization of private sector sources for the development and integration of computer systems; and

(iv) contain timely schedules and resource allocations for implementing the modernization of the Customs Service computer systems.

(B) AUDIT.—Not later than 30 days after a report described in subparagraph (A) is received, the Comptroller General shall audit the report and shall provide the results of the audit to the Commissioner of Customs, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and the Committee on Appropriations and the Committee on Finance of the Senate.

(C) CESSATION OF REPORT.—No report is required under this paragraph after September 30, 2006.

SEC. 222. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS; INTERNAL MANAGEMENT IMPROVEMENTS.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, $118,936,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, and for internal management improvements as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following amounts shall be available:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(T) $2,500,000 for a demonstration project for passive detection technology.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following amounts shall be available:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following amounts shall be available:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(4) INTERNAL MANAGEMENT IMPROVEMENTS.—For internal management improvements, the following amounts shall be available:

(A) $2,500,000 for automated systems for management of internal affairs functions.

(B) $700,000 for enhanced internal affairs file management systems.

(C) $2,700,000 for enhanced financial asset management systems.

(D) $6,100,000 for enhanced human resources information system to improve personnel management.

(E) $2,700,000 for new data management systems for improved performance analysis, internal and external reporting, and data analysis.

(F) $1,700,000 for automation of the collection of key export data as part of the implementation of the Automated Export system.

(b) TEXTILE TRANSSHIPMENT.—Of the amounts made available for fiscal years 2002 and 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 221(a) of this Act, $3,364,435 shall be available for each such fiscal year for textile transshipment enforcement.

(c) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 221(a) of this Act, $9,923,500 shall be available for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(d) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) is technologically equivalent to the equipment described in subsection (a) and can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 25 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 223. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.

(a) IN GENERAL.—Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)), as amended by section 221(a) of this Act, $181,864,800 for fiscal year 2002 (including $5,673,600 until expended for investigative equipment) and $230,983,340 for fiscal year 2003 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border, and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized under paragraphs (1) and (2).

(4) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(5) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff positions, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(6) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(7) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(8) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(9) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(10) The costs incurred as a result of the increase in personnel hired pursuant to this section.

(b) Relocation of Personnel.—Notwithstanding any other provision of this section, the Commissioner of Customs may reduce the amount of additional personnel provided for in any of paragraphs (1) through (9) of subsection (a) by not more than 25 percent, if the Commissioner of Customs makes a corresponding increase in the personnel provided for in one or more of such paragraphs (1) through (9).

(c) Net Increase.—In this section, the term "net increase" means an increase in the number of employees in each position described in this section over the number of employees in each such position that was provided for in fiscal year 2000.

SEC. 224. AGENT ROTATIONS; ELIMINATION OF BACKLOG OF BACKGROUND INVESTIGATIONS.

Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)), as amended by section 221(a) of this Act, $16,000,000 for fiscal year 2002 (including $10,000,000 until expended) and $6,000,000 for fiscal year 2003 shall be available to—

(1) provide additional funding to clear the backlog of existing background investigations and to provide for background investigations during extraordinary recruitment activities of the agency; and

(2) provide for the interoffice transfer of up to 100 special agents, including costs related to relocations, between the Office of Investigations and Office of Internal Affairs, at the discretion of the Commissioner of Customs.

SEC. 225. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) Fiscal Year 2002.—Of the amounts made available for fiscal year 2002 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)), as amended by section 221(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs Service aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) Fiscal Year 2003.—Of the amounts made available for fiscal year 2003 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) as amended by section 221(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 226. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

(a) In General.—As part of the annual performance plan for each of fiscal years 2002 and 2003, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall evaluate the benefits of the activities authorized to be carried out pursuant to sections 222 through 225 of this Act.

(b) Enforcement Performance Measures.—The Commissioner of Customs is authorized to contract for the review and assessment of enforcement performance goals and indicators required by section 1115 of title 31, United States Code, with experts in the field of law enforcement, from academia, and from the research community. Any contract for review or assessment conducted pursuant to this subsection shall provide for recommendations of additional measures that would improve the enforcement strategy and activities of the Customs Service.

(c) Report to Congress.—The Commissioner of Customs shall submit any assessment, review, or report provided for under this section to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 227. REPORT ON INTELLIGENCE REQUIREMENTS.

The Commissioner of Customs shall, not later than one year of the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the following:

(1) An assessment of the intelligence-gathering and information-gathering capabilities and needs of the Customs Service.

(2) An assessment of the impact of any limitations on the intelligence-gathering and information-gathering capabilities necessary for adequate enforcement of the customs laws of the United States and other laws enforced by the Customs Service.

(3) The Commissioner's recommendations for improving the intelligence-gathering and information-gathering capabilities of the Customs Service.

PART II—CUSTOMS MANAGEMENT

SEC. 231. TERM AND SALARY OF THE COMMISSIONER OF CUSTOMS.

(a) Term.—

(1) General requirements.—The first section of the Act entitled "An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury", approved March 3, 1927 (19 U.S.C. 2071), is amended—

(A) by striking "There shall be" and inserting "(a) In General.—There shall be";

(B) in the second sentence—

(i) by inserting "for a term of 5 years" after "Senate";

(ii) by striking "and" at the end of paragraph (2);

(iii) by striking the period at the end of paragraph (3) and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(4) have demonstrated ability in management."; and

(C) by adding at the end the following:

"(b) Vacancy.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed only for the remainder of that term.

"(c) Removal.—The Commissioner may be removed at the will of the President.

"(d) Reappointment.—The Commissioner may be appointed to more than one 5-year term.".

(2) Current office holder.— In the case of an individual serving as the Commissioner of Customs on the date of the enactment of this Act, who was appointed to such position before such date, the 5-year term required by the first section of the Act entitled "An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury", as amended by this section, shall begin as of the date of such appointment.

(b) Salary.—

(1) In general.—

(A) Section 5315 of title 5, United States Code, is amended by striking the following item:

"Commissioner of Customs, Department of the Treasury.".

(B) Section 5314 of title 5, United States Code, is amended by inserting at the end the following item:

"Commissioner of Customs, Department of the Treasury.".

(2) Effective date.—The amendments made by this subsection shall take effect on October 1, 2001.

SEC. 232. INTERNAL COMPLIANCE.

(a) Establishment of Internal Compliance Program.—The Commissioner of Customs shall—

(1) establish, within the Office of Internal Affairs, a program of internal compliance designed to enhance the performance of the basic mission of the Customs Service to ensure compliance with all applicable laws and, in particular, with the implementation of title VI of the North American Free Trade Agreement Implementation Act (commonly referred to as the "Customs Modernization Act");

(2) institute a program of ongoing self-assessment and conduct a review on an annual basis of the performance of all core functions of the Customs Service;

(3) identify deficiencies in the current performance of the Customs Service with respect to commercial operations, enforcement, and internal management and propose specific corrective measures to address such concerns; and

(4) not later than 6 months after the date of the enactment of this Act, and annually thereafter, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the programs and reviews conducted under this subsection.

(b) Evaluation and Report on Best Practices.—The Commissioner of Customs shall, as part of the development of an improved system of internal compliance, initiate a review of current best practices in internal compliance programs among government agencies and private sector organizations and, not later than 18 months after the date of the enactment of this Act, report on the results of the review to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives.

(c) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of the Treasury shall review and audit the implementation of the programs described in subsection (a) as part of the Inspector General's report required under the Inspector General Act of 1978 (5 U.S.C. App).

SEC. 233. REPORT ON PERSONNEL FLEXIBILITY.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representatives a report on the Commissioner's recommendations for modifying existing personnel rules to permit more effective management of the resources of the Customs Service and for improving the ability of the Customs Service to fulfill its mission. The report shall also include an analysis of why the flexibility provided under existing personnel rules is insufficient to meet the needs of the Customs Service.

SEC. 234. REPORT ON PERSONNEL ALLOCATION MODEL.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the following:

(1) The resources and personnel requirements under the personnel allocation model under development in the Customs Service.

(2) The implementation of the personnel allocation model.

SEC. 235. REPORT ON DETECTION AND MONITORING REQUIREMENTS ALONG THE SOUTHERN TIER AND NORTHERN BORDER.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the requirements of the Customs Service for counterdrug detection and monitoring of the arrival zones along the southern tier and northern border of the United States. The report shall include an assessment of—

(1) the performance of existing detection and monitoring equipment, technology, and personnel;

(2) any gaps in radar coverage of the arrival zones along the southern tier and northern border of the United States; and

(3) any limitations imposed on the enforcement activities of the Customs Service as a result of the reliance on detection and monitoring equipment, technology, and personnel operated under the auspices of the Department of Defense.

PART III—MARKING VIOLATIONS

SEC. 241. CIVIL PENALTIES FOR MARKING VIOLATIONS.

Section 304(l) of the Tariff Act of 1930 (19 U.S.C. 1304(l)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "Any person" and inserting "(1) IN GENERAL.—Any person";

(3) by moving the remaining text 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) CIVIL PENALTIES.—Any person who defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under this section shall be liable for a civil penalty of not more than $10,000 for each violation. The civil penalty imposed under this subsection shall be in addition to any marking duties owed under subsection (i).".

Subtitle C—Miscellaneous

SEC. 251. TETHERED AEROSTAT RADAR SYSTEM.

(a) FINDINGS.—Congress makes the following findings:

(1) Drug traffickers exploit openings in the United States detection and monitoring network. Tethered Aerostat Radar Systems (TARS) are a critical element in closing potential routes for drug smuggling.

(2) The Tethered Aerostat Radar System, a network of 11 radar sites, serves as an important component of the counterdrug mission of the United States by providing low altitude radar surveillance, detection, and monitoring capabilities to military and law enforcement entities. Failure to operate the TARS system results in a degraded counterdrug capability for the United States.

(3) Most of the illicit drugs consumed in the United States enter the country over the Southwest, Gulf of Mexico, or Florida borders. The United States will not have complete coastal radar coverage to combat counterdrug threats unless the entire Tethered Aerostat Radar System network is standardized and maintained, including the Tethered Aerostat Radar System sites in Matagorda, Texas, Morgan City, Louisiana, and Horseshoe Beach, Florida.

(4) The Department of Defense, the lead Federal agency for detection and monitoring, is responsible for fulfilling the surveillance, detection, and monitoring mission in support of counterdrug operations.

(5) The Department of Defense's current budget allocation for the Tethered Aerostat Radar System is inadequate. At present, 3 sites are not in operation because of the expiration of their life cycle.

(b) RESPONSIBILITY FOR TETHERED AEROSTAT RADAR SYSTEM.—The Secretary of Defense shall take all necessary actions to ensure that the 11 sites that comprise the Tethered Aerostat Radar System network are placed under the policy direction of the Drug Enforcement Policy and Support office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

(c) LIMITATION ON TRANSFER.—The Secretary shall cease all activities relating to the transfer of responsibility for the Tethered Aerostat Radar System program to any entity outside the Department of Defense.

(d) REPORT ON STATUS.—(1) The Secretary shall annually submit to the congressional defense committees and the United States Senate Caucus on International Narcotics Control a report on the status of the Tethered Aerostat Radar System network.

(2) In this subsection, the term "congressional defense committees" means the following:

(A) The Committees on Armed Services and Appropriations of the Senate.

(B) The Committees on Armed Services and Appropriations of the House of Representatives.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated for the requirements of the 11-site network of the Tethered Aerostat Radar System, including standardization of the sites located along the Gulf of Mexico of the United States, amounts as follows:

(1) For fiscal year 2002, $76,000,000.
(2) For fiscal year 2003, $48,500,000.
(2) For fiscal year 2004, $40,500,000.
(3) For fiscal year 2005, $44,700,000.

By Mr. BINGAMAN:

S. 90. A bill authorizing funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

NANOSCIENCE AND NANOENGINEERING

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for a long term commitment in its Office of Science to the area of nanoscience and nanoengineering. This new area is of fundamental importance for maintaining our global economic leadership in energy technology as well in areas such as microchip design, space and transportation, medicines and biomedical devices. The fields of nanoscience and nanoengineering as so new and broad in their reach that no one industry can support them. They are a perfect example how we in Congress can make a difference to support our nation's technological leadership, a key element of the 21st century global economy.

The fields of nanoscience and engineering encompass the ability to create new states of matter by prepositioning the atoms that make up their structure. The physical features that nanoscale R&D will develop are on the order of about 10 nanometers or 1000 times smaller than the diameter of a human hair. What we are talking about is making materials and devices not be miniaturization, which is a top down approach. Nanoscience is the bottom up fabrication of materials, atom by atom. When you build materials at this level, amazing things begin to happen. We are talking about microchips whose features will shrink by a factor of 100 below where industry projects they will be in the year 2010. These chip features will lead to radical breakthroughs in speed, cost and density of information storage. In the field of medicine and health, we are talking about drugs whose routes of delivery are literally at the molecular level. It will be possible to custom build proteins and other biological materials for future biomedical devices. In the field of energy efficiency, batteries and fuel cells can be built with storage capacities far exceeding our current state of the art. In the transportation industry, it will be possible to make ultra strong and light materials reducing the weight in airplanes, cars and space vehicles. All these breakthroughs in the diverse industries I have discussed will keep the United States' as a global leader in the 21st century economy.

The Department of Energy and its Office of Science are uniquely suited to support this critical research. The Office of Science has been at the forefront of conducting nanotechnology research for the past decade through its broad array of materials, physics, chemistry and biology programs. This authorization bill will carry forth four broad objectives of the Office of Science's existing nanotechnology effort, (1) attain a fundamental understanding of nanoscale phenomena, (2) achieve the ability to design bulk materials with desired properties using nanoscale manipulation, (3) study how living organisms produce materials naturally by arranging their atomic structure and implement it into the design process for nanomaterials, (4) develop experimental and computer tools with a national infrastructure to carry out nanoscience. Let me briefly comment on the fourth area in this list. The Office of Science is the nation's leader in developing and managing national user facilities across the broad range of physical sciences. It would be a natural progression for the Office of Science to develop similar user facilities to advance nanoscience. These facilities, located across the United States, will contain unique equipment and computers which will be accessible to individuals as well as multi-disciplinary teams. In the past, Office of Science national user facilities have served as crossing points between the transition from fundamental science to industrial capability. I expect that these nanoscience user facilities will serve as a similar transition point from long term fundamental research into applied industrial know-how. Accordingly, in this authorization bill I have allotted portions of the yearly budget towards developing these unique user facilities.

This bill is an important first step in a combined national nanoscience effort which will help to maintain the technological edge of our U.S. industry. I encourage my House colleagues in the Science Committee to also consider this bill with the possibility of joint hearings so that we may be enlightened on nanoscience's full potential. I also hope that the other federal R&D agencies will make similar commitments in their areas of expertise. Maintaining this edge, by promoting these long term and high risk investigations is something which we cannot expect in the short time frame world of today's industry. It is critical that our U.S. government step into this void, particularly in the area of nanoscience, and provide the necessary intellectual capital to propel our national economy as a leader in the 21st century.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. KYL, Mr. MCCAIN, and Mrs. BOXER):

S. 92. A bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes; to the Committee on Finance.

PROTECTION OF U.S. BORDERS

Mr. GRAMM. Mr. President, on behalf of Senators HUTCHISON, BINGAMAN, DOMENICI, KYL, MCCAIN, and BOXER, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada to no more than 20 minutes, while strengthening our commitment to interdict illegal narcotics and other contraband.

This bill represents the progress that we made in this regard in the last Congress, and it builds on efforts that we first initiated in the 105th Congress. This legislation passed the Senate unanimously on August 5, 1999, and a similar bill passed the House of Representatives on May 25, 1999, by a vote of 410–2. In addition to the resources dedicated to our nation's land borders, this bill also incorporates the efforts of Senators GRASSLEY and GRAHAM in adding resources for interdiction efforts in the air and along our coastline, provisions that were passed by the Senate in last year's bill.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology, and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. Customs staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the Southwestern and Northern borders, and these additional personnel need the modern technology that will allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico. I will be speaking further to my colleagues about this initiative and urge their support for this bill.

By Ms. SNOWE (for herself and Mr. JEFFORDS):

S. 93. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN REFORM

Ms. SNOWE. Mr. President, I rise to introduce a bill along with my friend and colleague from Vermont, Senator JEFFORDS, to ensure that we will have balanced, comprehensive campaign finance reform that doesn't close one loophole while leaving another open. It is a bipartisan approach to a burgeoning segment of undisclosed and unregulated campaign activity that will only get worse if left unchecked.

Mr. President, the bill I am offering is based on a provision this body added to the McCain-Feingold bill three years ago, and a bill we introduced in the 106th Congress. With that amendment, the Senate finally went on record as having a majority in support of campaign finance reform. In fact, 53 senators cast a vote supporting the combined approach of a soft money ban and a sound, constitutional approach to addressing a veritable explosion in unregulated, so-called "issue ads".

Senator JEFFORDS and I crafted this measure because we wanted campaign finance reform; we wanted a bill that represented the best possible policy; and we wanted a package that could bridge the political gap that had opened between supporters and opponents.

On the one hand, we had Republicans concerned that McCain-Feingold, as it stood, might not have done enough to focus on the use of the union dues for political purposes. On the other hand, we had Democrats who didn't want unions signaled out and wanted corporate money to be addressed as well.

That's the context in which we set out to carefully construct a measure that would withstand constitutional scrutiny, address some of the most egregious abuses, and focus on areas where we know the Supreme Court has already allowed us to go—disclosure, and a prohibition on union and corporation money for electioneering. Indeed, the compromise language eventually adopted was supported by groups like Common Cause and Public Citizen, and by the bill's sponsors themselves.

I would also like to enter into the record a portion of a March 1, 1998 Washington Post editorial that said," The (Snowe-Jeffords) amendment was a reminder of how good a bill might be in reach if only there were the political will, and willing leadership, to write it." The editorial went on to say that "that's the sort of compromise that the legislative process at its best produces."

I am pleased that a provision based directly on that amendment is now included in the McCain-Feingold bill being introduced today, and of which I am an original cosponsor. I think the provision strengthens the McCain-Feingold bill in terms of providing balance and more comprehensive approach to reform.

Mr. President, I have stood on the Senate floor and spoken of the burgeoning problem this bill seeks to address. And I have said that, if we do nothing, the situation will only get worse. Well, it has gotten worse, and let me just take a moment before describing what the bill will do to detail why this bill is necessary in the first place.

What I'm talking about here are broadcast advertisements the sole purpose of which is to influence federal elections, but that require no disclosure and have none of the restrictions that for decades have been placed on other forms of campaigning. These are broadcast ads that masquerade as informational or educational, but are really "stealth advocacy" ads for or against candidates.

According to estimates by the Annenberg Public Policy center which has been extensively studying this trend, in the 2000 elections over $400 million was spent on these so-called "issue ads"—many of which are blatant attempts to influence federal elections, and everyone knows it. And that number—which is four times what was estimated for the last presidential election cycle, I might add, may be just the tip of the iceberg. Because we simply don't know all the money that's being spent.

So how do we address the problem?

The Snowe-Jeffords approach is simple and straightforward. First, we require disclosure on all groups and individuals running broadcast ads within 30 days of a primary and 60 days of any election that mention the name of a federal candidate. And second, a ban on the use of union or corporate treasury money to pay for these ads.

That's what this boils down to, Mr. President. Disclosure, disclosure, disclosure. In fact, nothing in this bill prevents anyone from running any ads at any time saying anything they want.

All we say is, if you spend more than $10,000 per year on these broadcast ads you can't use union or corporation money. That's the only ban on anything in this bill. And we require you to disclose who is bankrolling the ads if they give $500 or more.

We developed this approach in consultation with noted constitutional scholars and reformers such as Norm Ornstein of the American Enterprise Institute, Joshua Rosenkrantz, Director of the Brennan Center for Justice at NYU, and Daniel Ortiz, John Allan Love Professor of Law at the University of Virginia School of Law. The bill is narrowly and carefully crafted, and based on the precept that the Supreme Court has made clear that, for constitutional purposes, campaigning—which make no mistake, these ads do—is different from other speech.

Corporations have been banned from direct involvement in campaigns since the Tillman Act of 1907—unions were first addressed in the Smith-Connally Act of 1943 and the prohibition was finally made permanent in 1947 with the Taft-Hartley Act.

Under Snowe-Jeffords, unions and corporations still have a voice in federal elections through the appropriate avenue—a political action committee to which individuals voluntarily contribute up to the amount allowed by law. They just can't use unlimited shareholder monies or money from union coffers to fund the ads—a logical extension of current law.

As for disclosure, the Brennan Center analysis has concluded that, "Congress is permitted to demand that the sponsor of an electioneering message disclose the amount spent on the message and the sources of the funds."

It has been said in the past that this measure prohibits running these ads altogether. In point of fact, anyone can run any ad saying anything they want at any time. They simply must not use union or corporate treasury money within 30 days of a primary or 60 days before a general election, and they must let us know who paid for them. Is that too much to ask?

The fact is, Mr. President, we are burying our heads in the sand if we do nothing about this problem. It is clearly taking elections out of the hands of individuals and of candidates.

Certainly, there are some legitimate issue ads out there. They are truly designed to inform the public, or advocate a particular position. We don't effect these ads one iota. We don't want to effect these ads.

And certainly, people have a right to disagree with candidates, and even attack their positions. That is why nothing in this bill prevents people from doing so. All we say is that we ought to know who is paying for these ads, and that they should not be paid for with union or corporation money—like any other activity that is influencing a federal election.

Again, the bill only requires disclosure for large donors to all groups spending more than $10,000 on ads running 30 days before a primary and 60 days before a general election. And it only bans union and corporation treasury money from funding such ads, based on the 1907 and 1947 laws I mentioned earlier.

This approach has garnered majority support from the Senate in the past and in light of the previous elections it deserves even greater support today. We need balanced, meaningful, and comprehensive campaign finance reform, and this bill is a vital component. I urge its consideration.

Mr. JEFFORDS. Mr. President, I rise today to express my strong support for the bill Senator SNOWE and I are introducing and urge my Senate colleagues to join as cosponsors of this important legislation.

Throughout the last Congress the Senate spent many legislative hours debating campaign finance reform. In fact, since my election to the House in the wake of the Watergate scandal, I have spent many long hours working with my colleagues to craft campaign finance reform legislation that could ensure the legislative process and survive a constitutional challenge. We have come close in the past, and I believe circumstances still remain right for enactment of meaningful campaign finance reform during this Congress.

I believe that the irregularities associated with our recent campaigns point out the fact that current election laws are not being strongly enforced or working to achieve the goals that we all have for campaign finance reform. Without action, these abuses will become more pronounced and widespread as we go from election to election.

The Snowe-Jeffords bill, the Advancing Truth and Accountability of Campaign Communications Act (ATACC), will boost disclosure requirements and tighten the rules on expenditures of corporate and union treasury funds in the weeks preceding a primary and general election.

I would like to begin with a story that may help my colleagues understand the need for this legislation, and that many of my colleagues may understand from their own campaigns. Two individuals are running for the Senate and have spent the last few months holding debates, talking to the voters and traveling around the state. Both candidates feel that they have informed the voters of their thoughts, views and opinions on the issues, and that the voters can use this information to decide on which candidate they will support.

Two weeks before the day of the election a group called the People for the Truth and the American Way, let's say, begins to run television advertisements which include the picture of one of the candidates and that candidate's name. However, these advertisements do not use the express terms of "vote for" or "vote against." These advertisements discuss personal and family issues.

The voters do not know who this group is, who are its financial backers and why they have an interest in this specific election, and under our current election law the voters will not find out. Thus, even though the candidates have attempted to provide the voters with all the information concerning the candidate's views on the issues, they will be casting their vote lacking critical information concerning these advertisements.

Some people may say that voters do not need this information. But as James Madison said, "A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

Mr. President, the ATACC act will arm the people with the knowledge they need in order to sustain our popular government. And the need to arm the people with this knowledge is becoming greater every year. The amount of money spent on issue advocacy advertising is increasing over time at an alarming rate. In the 1995–1996 election cycle an estimated $135–150 million was spent on issue advocacy, while in the 1997–1998 cycle an estimated $275–340 million was expended on these types of advertisements. There appears to have been no slowing of expenditures during the 1999–2000 election cycle as the most recent estimates show the previous election cycle's total being surpassed with the final two months of campaigning, where a large proportion of these advertisements are run, remaining.

I have long believed in Justice Brandeis' statement that, "Sunlight is said to be the best of disinfectants." The disclosure requirements in the ATACC act are narrow and tailored to provide the electorate with the important pertinent information they will need to make an informed decision. Information included on the disclosure statement includes the sponsor of the advertisement, amount spent, and the identity of the contributors who donated more than $500. Getting the public this information will greatly help the electorate evaluate those who are seeking federal office.

Additionally, this disclosure, or disinfectant as Justice Brandeis puts it, will also help deter actual corruption and avoid the appearance of corruption that many already feel pervades our campaign finance system. This, too, is an important outcome of the disclosure requirements of this bill. Getting this information into the public purview would enable the press, the FEC and interest groups to help ensure that our federal campaign finance laws are obeyed. If the public doesn't feel that the laws Congress passes in this area are being followed, this will lead to a greater level of disillusionment in their elected representatives. Exposure to the light of day of any corruption by this required disclosure will help reassure our public that the laws will be followed and enforced.

While our bill focuses on disclosure, it will also prohibit corporations and unions from using general treasury monies to fund these types of electioneering communications in a defined period close to an election. Since 1907, federal law has banned corporations from engaging in electioneering. In 1947, that ban was extended to prohibit unions from electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. By treating both corporations and unions similarly we extend current regulation cautiously and fairly. I feel that this prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised with regards to our current campaign finance laws.

Mr. President, I think it is important to clarify at this time some of the things that this bill will not do. It will not prevent grass-roots lobbying communications, it does not cover printed material, nor require the text or a copy of the advertisement to be disclosed. Finally, it does not restrict how much money can be spent on ads, nor restrict how much money a group raises. These points must be expressed early on to ensure that my colleagues can clearly understand what we are and are not attempting to do with our legislation.

We have taken great care with our bill to avoid violating the important principles in the First Amendment of our Constitution. This has required us to review the seminal cases in this areas, including Buckley v. Valeo. Limiting corporate and union spending and disclosure rules has been an area that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth.

Mr. President, I wish I could guarantee to my colleagues that these provisions would be held constitutional, but as we found out with the Religious Freedom Restoration Act, even with near unanimous support, it is difficult to gauge what the Supreme Court will decide on constitutional issues. However, I feel that the provisions we have created follow closely the constitutional roadmap established by the Supreme Court by the decisions in this area, and that it would be upheld.

I know that campaign finance reform is an area of diverse viewpoints and beliefs. However, I feel that the ATACC act offers a constructive and constitutional solution that addresses some of the problems that have been expressed concerning our current campaign finance system. The American people are watching and hoping that we will have a fair, informative and productive debate on campaign finance reform. I know that the proposal that Senator SNOWE and I have put forward will do just that.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and this disappointment is reflected in the low number of people that actually participate in what makes this country and democracy great, voting. I feel that giving the voters the additional information required by our legislation will help dispel some of the disillusionment the electorate feels with our campaign system and reinvigorate people to participate again in our democratic system.

In conclusion, the very basis of our democracy requires that an informed electorate participate by going to the polls and voting. The ATACC act will through its disclosure requirements inform our electorate and lead people to again participate in our democratic system.

By Mr. DORGAN:

S. 94. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Commission on Finance.

EXTENDING WIND POWER INCENTIVES

• Mr. DORGAN. Mr. President, today I am introducing a bill that would extend for five additional years the Federal tax incentive that is currently available for facilities that produce electricity from wind.

Despite all of its promise, wind energy is still a relatively untapped clean source of energy in our region and across the country. U.S. wind energy capacity in today's electricity marketplace is about 2,600 megawatts. That's enough to serve about 600,000 typical American households. In 1999, the Administration committed our country to a goal of producing five percent of our total electricity needs—about 80,000 megawatts—from wind power by the year 2020.

Wind energy is one of the world's fastest growing energy technologies. As a result, wind energy can—and should—play a larger role in helping this country move toward greater energy independence. Soaring energy prices over the past year provide a stark reminder of the importance of reducing our reliance on foreign energy sources and keeping a diverse energy supply here at home. In addition, for states like North Dakota, wind energy offers needed economic opportunities for farmers and other rural landowners.

North Dakota is the top-ranked state for wind energy potential and is often referred to as the "Saudi Arabia" of wind by industry experts. Together, North and South Dakota could supply two-thirds of the nation's current electricity supply with their wind energy capacity, according to a Department of Energy analysis.

Greater wind development would also bring new jobs to many rural communities. Moreover, struggling family farmers could earn an extra $2,000-$3,000 annually for each 750 kilowatt wind turbine placed on the farm, while removing only a small fraction of land from the farmer's overall operation.

Congress and the Administration have made some important progress in the effort to promote greater wind energy development. Congress has increased federal funding for wind and other renewable energy research and development at the Department of Energy over the past several years. It also has provided a substantial federal income tax credit that is vital for continued private sector investment in wind generation facilities. Most recently, the U.S. Department of Agriculture's Rural Utilities Service awarded its first-ever wind energy loan a rural electric cooperative serving the Upper Midwest will use to finance the construction of wind turbine generators and power lines to help distribute wind-generated power to rural communities.

Regrettably, Congress and the Administration have undermined their very own efforts by failing to ensure that the federal income tax credit provided to facilities producing electricity from wind is available over the long term.

I recently cosponsored a wind energy conference in North Dakota. It was attended by more than five hundred people, including developers, industry experts, utility executives, rural landowners, public officials and others. This was double the number of expected participants, which demonstrates the growing interest in this renewable energy resource.

Among other things, I heard from wind energy developers who emphasized that one of the major obstacles to greater deployment of new wind technologies is the continued uncertainty surrounding the availability of the wind energy production tax credit. This credit is now scheduled to expire at the end of the year. Industry experts tell me that financial lenders will soon stop providing needed capital to new wind initiatives. As a result, projects already underway will quickly come to a halt. Many developers will simply be unable to build and purchase equipment, secure financing, obtain the required environmental permits and bring wind turbine generators on-line by year's end.

One of the best ways to give developers the certainty and help they need to bring new state-of-the-art wind turbines to the marketplace at a competitive rate is to provide a sufficiently long period of time for them to access the credit. That's exactly what the bill I'm introducing today would do. Specifically, my bill would extend the current production tax credit for qualifying wind facilities that are placed in service on or before December 31, 2006.

The wind energy production tax credit has had broad bipartisan support in the Senate and the House of Representatives in previous years, so I am optimistic that we can pass this legislation quickly in this new Congress. I urge my Senate colleagues to cosponsor this legislation and work with me to get it enacted into law as soon as possible. If we don't, many new wind energy initiatives will come to a standstill at a time when this country can least afford it.●

Mr. KOHL (for himself and Mr. FEINGOLD):

S. 95. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL ENERGY BANK LEGISLATION

Mr. KOHL. Mr. President, I rise today to introduce legislation entitled "The Federal Energy Bank Act." The purpose of this legislation is to provide a stable long term source of funding for energy efficiency projects throughout the Federal Government. If we are to start the Nation on the road toward increased energy conservation we must begin with the Federal Government. This bill will help provide the necessary investments to make this first step toward long term energy conservation possible.

Energy policy is a raging issue for our country at this time. Natural gas prices are at all time highs at a time when we are becoming more and more dependent on gas because of its minimal impact on the environment. Gas has become of victim of its own success, as our demand for the commodity has outstripped our ability in the short term to bring the supply to market.

While I do not oppose continuing fossil fuel exploration and extraction, we cannot drill our way out of the tight energy market. We must also consider other options including conservation. Conservation often gets a bad rap as people think politicians are simply telling them to turn down the heat and shut off the lights they aren't using. Conservation doesn't necessarily mean hardship and darkness, it can. also mean new technologies that do not require us to change our habits. It means using energy smarter, using it when we need it, and only as much as we need. Conservation means holding on to the energy we have, and not wasting it.

Conservation is the compliment to production. If we do a better job of saving energy, that means megawatts of generation that will not need to be built. That does not mean we do not need additional generation, the situation in California makes the clear the danger of not keeping up with the demand, it just means that less capacity will be necessary. Anyone who has ever grappled with the siting issues involved with a power plant knows it will be difficult to build even the bare minimum of power generation and transmission.

I have long believed that our Nation must implement a sensible national energy policy which emphasizes greater energy conservation and efficiency, as well as the development of renewable resources. This bill is just one step of many that need to be taken to reduce our energy consumption problems. The events in the Middle East, coupled with the environmental problems associated with the use of fossil fuels, have only increased the need for improved energy conservation. Simply put, we cannot continue to rely on imported oil to meet such a large part of our Nation's energy needs. This dependence places our economic security at great risk. In addition, the use of oil and other fossil fuels contributes to global climate change, air pollution, and acid rain.

Mr. President out attempts to remedy this situation are nothing new. In fact, the laws requiring significant energy use reductions are already in place. The Energy Policy Act of 1992 mandated that Federal agencies use cost-effective measures, with less than a 10-year payback, to reduce energy consumption in their facilities. President Clinton, with Executive Order 13123, extended the mandate by requiring Federal agencies to reduce energy consumption by 35 percent by the year 2010 compared to 1985 energy uses. If accomplished, this would save the American taxpayer millions in annual energy costs and in turn put us on the road to future energy savings. This would also improve our environment, our balance of trade, and our national security.

Mr. President, my business background has taught me that most large paybacks come from positive long-term investments. Unfortunately, the Federal Government does not traditionally take this approach. More often than not, it seeks short-term savings and cuts which do not address the problem of energy consumption or encourage future energy conservation.

Mr. President, my bill will help address this funding shortfall. The bill creates a bank to fund the purchase of energy efficiency projects by Federal agencies and in the long run will reduce the overall amount of money spent on energy consumption by the Federal Government. For each of the fiscal years 1999, 2000, 2001, each Federal agency will contribute an amount equal to 5 percent of its previous year's utility costs into a fund or bank managed by the Secretary of the Treasury.

The Secretary of Energy will authorize loans from the bank to any Federal agency for use toward investment in energy efficiency projects. The agency will then repay the loan, making the bank self-supporting after a few years. The Secretary of Energy will also establish selection criteria for each energy efficiency project, determining the project is cost-effective and produces a payback in 3 years or less. Agencies will be required to report the progress of each project with a cost of more than $1 million to the Secretary 1 year after installation. The Secretary will then report to Congress each year on all the operations of the bank.

Mr. President, this bill will provide the real dollars required to make the Executive order goals a reality.

Mr. President, in closing I would like to thank Johnson Controls, the largest public company in Wisconsin, for their continued leadership and input on this bill. As a maker of energy conservation systems, Johnson has provided me with the real world insights that have helped me draft a bill that attempts to address our energy conservation needs.

Mr. President, I ask unanimous consent the full text of the bill be printed in full in the Record. I urge my colleagues to support this bill and will push for its early enactment.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 95

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Bank Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) energy conservation is a cornerstone of national energy security policy;

(2) the Federal Government is the largest consumer of energy in the economy of the United States;

(3) many opportunities exist for significant energy cost savings within the Federal Government; and

(4) to achieve the energy savings required by Executive Order, the Federal Government must make significant investments in energy savings systems and products, including energy management control systems.

(b) Purpose.—The purpose of this Act is to promote energy conservation investments in Federal facilities.

SEC. 3. DEFINITIONS.

In this Act:

(1) Agency.—The term "agency" means—

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service);

(B) Congress and any other entity in the legislative branch; and

(C) a court and any other entity in the judicial branch.

(2) Bank.—The term "Bank" means the Federal Energy Bank established by section 4.

(3) Energy efficiency project.—The term "energy efficiency project" means a project that assists an agency in meeting or exceeding the energy efficiency requirements of—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.);

(B) subtitle F of title I of the Energy Policy Act of 1992 and the amendments made by that subtitle (106 Stat. 2843); and

(C) applicable Executive orders, including Executive Order Nos. 12759 and 12902.

(4) Secretary.—The term "Secretary" means the Secretary of Energy.

(5) Total utility payments.—The term "total utility payments" means payments made to supply electricity, natural gas, and any other form of energy to provide the heating, ventilation, air conditioning, lighting, and other energy needs of an agency facility.

SEC. 4. ESTABLISHMENT OF BANK.

(a) In General.—There is established in the Treasury of the United States a trust fund to be known as the "Federal Energy Bank", consisting of—

(1) such amounts as are appropriated to the Bank under section 8;

(2) such amounts as are transferred to the Bank under subsection (b);

(3) such amounts as are repaid to the Bank under section 5(b)(4); and

(4) any interest earned on investment of amounts in the Bank under subsection (c).

(b) Transfers to Bank.—

(1) In general.—At the beginning of each of fiscal years 2002, 2003, and 2004, each agency shall transfer to the Secretary of the Treasury, for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(2) Utilities paid for as part of rental payments.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of paragraph (1).

(c) Investment of Funds.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

SEC. 5. LOANS FROM THE BANK.

(a) In General.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under subsection (b).

(b) Loan Program.—

(1) In general.—In accordance with section 6, the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(2) Performance contracting funding.—To the extent practicable, an agency shall not submit a project for which performance contracting funding is available.

(3) Purposes of loan.—

(A) In general.—A loan under this section may be made to pay the costs of—

(i) an energy efficiency project; or

(ii) development and administration of a performance contract.

(B) Limitation.—An agency may use not more than 15 percent of the amount of a loan under subparagraph (A)(i) to pay the costs of administration and proposal development (including data collection and energy surveys).

(4) Repayments.—

(A) In general.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(B) Waiver.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines that payment of interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project loans.

(5) Agency energy budgets.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measure implemented with funds from the Bank.

(6) Availability of funds.—An agency shall not rescind or reprogram funds made available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

SEC. 6. SELECTION CRITERIA.

(a) In General.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with subsection (b).

(b) Selection Criteria.—The Secretary may make loans only for energy efficiency projects that—

(1) are technically feasible;

(2) are determined to be cost-effective using life cycle cost methods established by the Secretary by regulation;

(3) include a measurement and management component to—

(A) commission energy savings for new Federal facilities; and

(B) monitor and improve energy efficiency management at existing Federal facilities; and

(4) have a project payback period of 3 years or less.

SEC. 7. REPORTS AND AUDITS.

(a) Reports to the Secretary.—Not later than 1 year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(1) states whether the project meets or fails to meet the energy savings projections for the project; and

(2) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(b) Audits.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(c) Reports to Congress.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. FEINGOLD. Mr. President, I am delighted to join with my colleague, the Senior Senator from Wisconsin (Mr. Kohl) as an original cosponsor of the Federal Energy Bank Act.

As a politician, the idea of the federal government "leading by example" in the area of energy efficiency has made sense to me for a long time, so much so, in fact, that in campaigning for the Senate in 1992, I included energy efficiency in my campaign platform. I proposed an 82-point plan to reduce the deficit, a series of specific spending reductions and revenue changes which, if enacted in sum total, would have eliminated the deficit.

Among those items, as I was a candidate for office after the passage of the 1992 Energy Policy Act and after the United States' signing of the Framework Convention on Climate Change in Rio De Janeiro, Brazil, was one to encourage the federal government to implement a comprehensive energy savings program for the federal government through energy efficiency investments.

After all, I believe that if Wisconsin consumers and business have been converted to the wisdom of compact fluorescent light bulbs, efficient heating and cooling systems, weatherization, and energy saving computers, among the wide range of potential efficiency improvements, that the federal government promoting those actions should also make the same investments to the taxpayers' benefit.

Section 152 of the Energy Policy Act mandated that Federal agencies use all cost-effective measures that could be implemented with less than a 10-year payback to reduce energy consumption in their facilities by 20 percent by the year 2000 compared to 1985 consumption levels. Both of the two previous Administrations have been committed to these types of common sense "no-regrets" energy savings strategies. After taking office, I have learned that among the most significant constraints to implementing more energy efficient practices in the federal government is the lack of sufficient funds to invest in energy efficient equipment.

Section 162 of the Energy Policy Act of 1992 directed the Secretary of Energy to conduct a detailed study of options for financing energy and water conservation measures in Federal facilities as required under the Act and by subsequent Executive Orders. On June 3, 1997, the then Secretary of Energy (Mr. Peña) released that study. It documented a need for a $5.7 billion financial investment between 1996 and 2005 to meet the Energy Policy Act and Executive Order goals, a value which could vary from a low of $4.4 billion to a high of $7.1 billion given variability in both energy and water investment requirements.

The best estimate, according to the same study of the total federal funding available to spend on energy and water efficiency improvements from various sources, including direct agency appropriations, energy savings performance contracts, and utility demand-side management programs, and appropriations to the Federal Energy Efficiency Fund, to the federal government to meet those needs over the same time period is $3.7 billion. Thus, under DOE's best estimate, at the federal level we face a potential shortfall of funds necessary to achieve our federal energy and water conservation objectives of $2 billion.

In order to address this shortfall, I am pleased to join as a co-sponsor of this legislation to create a federal energy revolving fund or "energy bank." I hope this legislation can be one of the items on which we can reach bipartisan consensus in our efforts to develop a national energy strategy this Congress.

Some in this body may be concerned that the existence of the current Federal Energy Efficiency Fund alleviates the need for additional federal conservation investment. The problem with the current fund, which operates as a grant program for agencies to make efficiency improvements, is that it does not contribute to the replenishment of capital resources because it does not have to be paid back and is therefore dependent upon appropriations.

Under the legislation I join in cosponsoring with my colleague from Wisconsin today, federal agencies will be required to deposit 5 percent of their total utility payments in the proceeding fiscal year to capitalize the fund. After 2001, the Secretary of Energy will determine an amount necessary to ensure that the fund meets its obligations.

Agencies will then be able to get a loan from the fund to finance efficiency projects, which they will be responsible for repaying with interest. The projects must use off-the-shelf technologies and must be cost effective. The best part of this approach is that the technologies are required to have a three-year pay back period, and, therefore, this legislation achieves some modest savings for the taxpayer. CBO scores this measure as saving $3 million over 5 years.

There is a need to improve federal procurement of energy efficient technologies, and this measure is a positive, proactive measure to ensure that federal agencies specifically set aside funds to achieve this goal. The Senior Senator from Wisconsin (Mr. KOHL) and I look forward to working with the administration to advance this legislation as a piece of the country's overall greenhouse gas reductions strategy.

In conclusion, I look forward to working with my Senior Senator on this issue. I believe that this is a unique opportunity for Senate colleagues to support legislation that is both fiscally responsible and environmentally sound.

By Mr. KOHL:

S. 96. A bill to ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law; to the Committee on Health, Education, Labor, and Pensions.

TRAVELING SALES CREW PROTECTION ACT

Mr. KOHL. Mr. President, almost two years have gone by since the tragic accident in Janesville, WI, that brought to light the abuse of workers in the magazine sales industry. Since 1992, forty-two sales people have been killed or injured in similar crashes. Unfortunately deaths and injuries still occur. Parents are still separated from their children without knowing where they are or whether they are safe. Young people are not being paid for their work, and are being falsely listed as independent contractors. Roving sweatshops continue to travel our highways and solicit unlicensed in our neighborhoods.

My legislation would go a long way toward ending this sad state of affairs.

Today I have introduced legislation to crack down on abuses in the traveling sales crew industry. These companies employ crews who travel from city to city selling products door to door. Often times, however, these companies mistreat their workers and violate local, state, and federal labor law. Because they rapidly move from state to state, enforcement efforts are difficult if not impossible for local authorities.

In 1987 former Senator Roth, as part of the Permanent Subcommittee on Investigations, looked into this industry, and was appalled at what he found. Incidents of verbal and physical abuse of workers were widespread. Young people were coerced into continuing to sell long after they wanted to leave through threats and taunts from their employers. When sellers were able to get free they were often unpaid or denied the bus ticket home they were promised when they signed up.

The compensation system for the workers was also rigged to ensure that workers could not leave. Prospective sellers were promised big bucks when they were recruited, but soon found that decent pay was difficult to come by. Sellers were paid on a commission basis according to their sales, but they were also charged by the company for their accommodations and fined for small infractions like showing up late to meetings or sleeping on the van. Salespeople were not paid in a timely manner, but their earnings were kept on "paper" and the employees only drew a daily allowance to pay for food. Employees were seldom allowed to see the paper work that tracked their earnings so they had little idea about how much they are entitled. Many found that they were not able to keep up with the sales and fell in debt to the company. After working 12 hour days, six days a week for months, employees actually owed the company money! These young people became indentured servants, working long hours for only room and board.

In the thirteen years since Senator Roth's investigation, nothing has changed. These abuses continue, and Congress should act.

I am not one to frivolously engage in regulating business, but in this case the need for federal involvement is clear. Because of the mobility of these companies, states cannot crack down on these groups alone. They need federal help to eliminate the unscrupulous actors in the industry.

The Traveling Sales Crew Protection Act would take important steps to eliminate employers who abuse their workers. First, it would no longer allow minors to be employed in this line of work. Door to door sales can be dangerous work and combined with the long hours and hazardous travel, creates a job too dangerous for children. Second, the bill would narrowly eliminate the exemption under the Fair Labor Standards Act for these specific kinds of operations. Covering these employees with minimum wages laws and overtime requirements protects them from becoming indentured servants to their employers through complex compensation systems. This provision is carefully crafted to cover only traveling sales crews; individuals who sell over the road or at trade shows would be unaffected. Lastly, the bill creates a licensing procedure through the Department of Labor to monitor those engaged in supervising and running these operations.

These measures are important steps forward in a nationwide effort to eliminate this particularly abusive form of worker exploitation. I hope I will have my colleagues' support as I try to make the painful crash in Janesville, the last chapter in this shameful story.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 96

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Traveling Sales Crew Protection Act".

TITLE I—FAIR LABOR STANDARDS ACT OF 1938

SEC. 101. APPLICATION OF PROVISIONS TO CERTAIN OUTSIDE SALESMAN.

(a) IN GENERAL.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) For purposes of subsection (a)(1), and notwithstanding any other provision of law, the term 'outside salesman' shall not include any individual employed in the position of a salesman where the individual travels with a group of salespeople, including a supervisor, team leader or crew leader, and the employees in the group do not return to their permanent residences at the end of the work day.".

(b) LIMITATION ON CHILD LABOR.—Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

"(e) No individual under 18 years of age may be employed in a position requiring the individual to engaged in door to door sales or in related support work in a manner that requires the individual to remain away from his or her permanent residence for more than 24 hours.".

(c) RULES AND REGULATIONS.—The Secretary of Labor may issue such rules and regulations as are necessary to carry out the amendments made by this section, consistent with the requirements of chapter 5 of title 5, United States Code.

TITLE II—PROTECTION OF TRAVELING SALES CREWS

SEC. 201. PURPOSE.

It is the purpose of this title—

(1) to remove the restraints on interstate commerce caused by activities detrimental to traveling sales crew workers;

(2) to require the employers of such workers to register under this Act; and

(3) to assure necessary protections for such employees.

SEC. 202. DEFINITIONS.

In this title:

(1) CERTIFICATE OF REGISTRATION.—The term "Certificate of Registration" means a Certificate issued by the Secretary under section 203(c)(1).

(2) EMPLOY.—The term "employ" has the meaning given such term by section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 201(g)).

(3) GOODS.—The term "goods" means wares, products, commodities, merchandise, or articles or subjects of interstate commerce of any character, or any part or ingredient thereof.

(4) PERSON.—The term "person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(5) SALE, SELL.—The terms "sale" or "sell" include any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition of goods.

(6) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(7) TRAVELING SALES CREW WORKER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "traveling sales crew worker" means an individual who—

(i) is employed as a salesperson or in related support work;

(ii) travels with a group of salespersons, including a supervisor; and

(iii) is required to be absent overnight from his or her permanent place of residence.

(B) LIMITATION.—The term "traveling sales crew worker" does not include—

(i) any individual who meets the requirements of subparagraph (A) if such individual is traveling to a trade show or convention; or

(ii) any immediate family member of a traveling sales crew employer.

SEC. 203. REGISTRATION OF EMPLOYERS AND SUPERVISORS OF TRAVELING SALES CREW WORKERS.

(a) REGISTRATION REQUIREMENT.—

(1) IN GENERAL.—No person shall engage in any form of employment of traveling sales crew workers, unless such person has a Certificate of Registration from the Secretary.

(2) SUPERVISORS.—A traveling sales crew employer shall not hire, employ, or use any individual as a supervisor of a traveling sales crew, unless such individual has a Certificate of Registration from the Secretary.

(3) DISPLAY OF CERTIFICATE OF REGISTRATION.—Each registered traveling sales crew employer and each registered traveling sales crew supervisor shall carry at all times while engaging in traveling sales crew activities a Certificate of Registration from the Secretary and, upon request, shall exhibit that certificate to all persons with whom they intend to deal.

(b) APPLICATION FOR REGISTRATION.—Any person desiring to be issued a Certificate of Registration from the Secretary, as either a traveling sales crew employer or traveling sales crew supervisor, shall file with the Secretary a written application that contains the following:

(1) A declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the type or types of sales activities to be performed, and such other relevant information as the Secretary may require.

(2) A statement identifying each vehicle to be used to transport any member of any traveling sales crew and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 204(d) with respect to each such vehicle.

(3) A statement identifying, with as much specificity as the Secretary may require, each facility or real property to be used to house any member of any traveling sales crew and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 204(e) with respect to each such facility or real property.

(4) A set of fingerprints of the applicant.

(5) A declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(c) ISSUANCE OF CERTIFICATE OF REGISTRATION.—

(1) IN GENERAL.—In accordance with regulations, and after any investigation which the Secretary may deem appropriate, the Secretary shall issue a Certificate of Registration, as either a traveling sales crew employer or traveling sales crew supervisor, to any person who meets the standards for such registration.

(2) REFUSAL TO ISSUE OR RENEW, SUSPENSION AND REVOCATION.—The Secretary may refuse to issue or renew, or may suspend or revoke, a Certificate of Registration if the applicant for or holder or the Certificate—

(1) has knowingly made any misrepresentation in the application for such Certificate of Registration;

(2) is not the real party in interest with respect to the application or Certificate of Registration and the real party in interest is a person who—

(A) has been refused issuance or renewal of a Certificate;

(B) has had a Certificate suspended or revoked; or

(C) does not qualify for a Certificate under this section;

(3) has failed to comply with this title or any regulation promulgated under this title;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this title or any regulation promulgated under this title; or

(B) to comply with any final order issued by the Secretary as a result of a violation of this title or any regulation promulgated under this title;

(5) has been convicted within the 5 years preceding the date on which the application was filed or the Certificate was issued—

(A) of any crime under Federal or State law relating to the sale, distribution or possession of alcoholic beverages or narcotics, in connection with or incident to any traveling sales crew activities;

(B) of any crime under Federal or State law relating to child abuse, neglect, or endangerment; or

(C) of any felony under Federal or State law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally;

(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1) or (2));

(7) has failed to comply with any bonding or security requirements as the Secretary may establish; or

(8) has failed to satisfy any other requirement which the Secretary may by regulation establish.

(d) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW.—

(1) IN GENERAL.—A person who is refused the issuance or renewal of a Certificate or Registration, or whose Certificate of Registration is suspended or revoked, shall be afforded an opportunity for an agency hearing, upon a request made within 30 days after the date of issuance of the notice of refusal, suspension, or revocation. If no hearing is requested as provided for in this subsection, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) HEARING.—If a hearing is requested under paragraph (1), the initial agency decision shall be made by an administrative law judge, with all issues to be determined on the record pursuant to section 554 of title 5, United States Code, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under paragraph (3).

(3) REVIEW BY COURT.—Any person against whom an order has been entered after an agency hearing under this subsection may obtain review by the United States district court for any district in which the person is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such agency order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the agency order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) TRANSFER OR ASSIGNMENT OF CERTIFICATE; EXPIRATION; RENEWAL.—

(1) LIMITATION.—A Certificate of Registration may not be transferred or assigned.

(2) EXPIRATION AND EXTENSION.—

(A) EXPIRATION.—Unless earlier suspended or revoked, a Certificate of Registration shall expire 12 months from the date of issuance.

(B) EXTENSION.—A Certificate of Registration may be temporarily extended, at the Secretary's discretion, by the filing of an application with the Secretary at least 30 days prior to the Certificate's expiration date.

(3) RENEWAL.—A Certificate of Registration may be renewed through the application process provided for in subsections (b) and (c).

(f) NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION.—During the period for which a Certificate of Registration is in effect, the traveling sales crew employer or supervisor named on the Certificate shall—

(1) provide to the Secretary within 30 days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the Certificate of Registration whenever the person intends to—

(A) engage in any form of traveling sales crew activity not identified on the Certificate;

(B) use or cause to be used any vehicle not covered by the Certificate to transport any traveling sales crew worker; or

(C) use or cause to be used any facility or real property not covered by the Certificate to house any traveling sales crew worker.

(g) FILING FEE.—The Secretary shall require the payment of a fee by an employer filing an application for the issuance or renewal of a Certificate of Registration. The amount of the fee shall be $500 for a Certificate for an employer and $50 for a Certificate for a supervisor. Sums collected pursuant to this section shall be applied by the Secretary toward reimbursement of the costs of administering this title.

SEC. 204. OBLIGATIONS OF EMPLOYERS OF TRAVELING SALES CREW WORKERS.

(a) DISCLOSURE OF TERMS AND CONDITIONS OF EMPLOYMENT.—

(1) WRITTEN DISCLOSURE.—At the time of recruitment, each traveling sales crew worker shall be provided with a written disclosure of the following information, which shall be accurate and complete to the best of the employer's knowledge:

(A) The place or places of employment, stated with as much specificity as possible.

(B) The wage rate or rates to be paid.

(C) The type or types of work on which the worker may be employed.

(D) The period of employment.

(E) The transportation, housing, and any other employee benefit to be provided, and any costs to be charged to the worker for each such benefit.

(F) The existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment.

(G) Whether State workers' compensation insurance is provided and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

(2) RECORDS AND STATEMENTS.—Each employer of traveling sales crew workers shall—

(A) with respect to each such worker, make, keep, and preserve records for 3 years of the—

(i) basis on which wages are paid;

(ii) number of piecework units earned, if paid on a piecework basis;

(iii) number of hours worked;

(iv) total pay period earnings;

(v) specific sums withheld and the purpose of each sum withheld; and

(vi) net pay; and

(B) provide to each worker for each pay period, an itemized written statement of the information required under subparagraph (A).

(b) PAYMENT OF WAGES WHEN DUE.—Each traveling sales crew worker shall be paid the wages owed that worker when due. The payment of wages shall be in United States currency or in a negotiable instrument such as a bank check. The payment of wages shall be accompanied by the written disclosure required by subsection (a)(2)(B).

(c) COSTS OF GOODS, SERVICES, AND BUSINESS EXPENSES.—

(1) PROHIBITION.—No employer of traveling sales crew workers shall—

(A) require any worker to purchase any goods or services solely from such employer; or

(B) impose on any worker any of the employer's business expenses, such as the cost of maintaining and operating a vehicle used to transport the traveling sales crew.

(2) INCLUSION AS PART OF WAGES.—An employer may include as part of the wages paid to a traveling sales crew worker the reasonable cost to the employer of furnishing board, lodging, or other facilities to such worker, so long as—

(A) such facilities are customarily furnished by such employer to the employees of the employer; and

(B) such cost does not exceed the fair market value of such facility and does not include any profit to the employer.

(d) SAFETY AND HEALTH IN TRANSPORTATION.—

(1) STANDARDS.—An employer of traveling sales crew workers shall provide transportation for such workers in a manner that is consistent with the following standards:

(A) The employer shall ensure that each vehicle which the employer uses or causes to be used for such transportation conforms to the standards prescribed by the Secretary under paragraph (2) and conforms to other applicable Federal and State safety standards.

(B) The employer shall ensure that each driver of each such vehicle has a valid and appropriate license, as provided by State law, to operate the vehicle.

(C) The employer shall have an insurance policy or fidelity bond in accordance with subsection (c).

(2) PROMULGATION BY SECRETARY.—The Secretary shall prescribe, by regulation, such safety and health standards as may be appropriate for vehicles used to transport traveling sales crew workers. In establishing such standards, the Secretary shall consider—

(A) the type of vehicle used;

(B) the passenger capacity of the vehicle;

(C) the distance which such workers will be carried in the vehicle;

(D) the type of roads and highways on which such workers will be carried in the vehicle;

(E) the extent to which a proposed standard would cause an undue burden on an employer of traveling sales crew workers; and

(F) any standard prescribed by the Secretary of Transportation under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) or any successor provision of subtitle IV of title 49, United States Code.

(e) SAFETY AND HEALTH IN HOUSING.—An employer of traveling sales crew workers shall provide housing for such workers in a manner that is consistent with the following standards:

(1) If the employer owns or controls the facility or real property which is used for

housing traveling sales crew workers, the employer shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Prior to occupancy by such workers, the facility or real property shall be certified by a State or local health authority or other appropriate agency as meeting applicable safety and health standards. Written notice shall be posted in the facility or real property, prior to and throughout the occupancy by such workers, informing such workers that the applicable safety and health standards are met.

(2) If the employer does not own or control the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the owner or operator of such facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Such assurance by the employer shall include the verification that the owner or operator of such facility or real property is licensed and insured in accordance with all applicable State and local laws. The employer shall obtain such assurance prior to housing any workers in the facility or real property.

(f) Insurance of Vehicles; Workers' Compensation Insurance.—

(1) Insurance.—An employer of traveling sales crew workers shall ensure that there is in effect, for each vehicle used to transport such workers, an insurance policy or a liability bond which insures the employer against liability for damage to persons and property arising from the ownership, operation, or the causing to be operated of such vehicle for such purpose. The level of insurance or liability bond required shall be determined by the Secretary considering at least the factors set forth in subsection (d)(2) and any relevant State law.

(2) Workers' compensation.—If an employer of traveling sales crew workers is the employer of such workers for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such workers as provided for by such State law, the following modifications to the requirements of paragraph (1) shall apply:

(A) No insurance policy or liability bond shall be required of the employer if such workers are transported only under circumstances for which there is workers' compensation coverage under such State law.

(B) An insurance policy or liability bond shall be required of the employer for all circumstances under which workers' compensation coverage for the transportation of such workers is not provided under such State law.

SEC. 205. ENFORCEMENT PROVISIONS.

(a) Criminal Sanctions.—An employer who willfully and knowingly violates this title, or any regulation promulgated under this title, shall be fined not more than $10,000 or imprisoned for not to exceed 1 year, or both. Upon conviction for any subsequent violation of this title, or any such regulation, an employer shall be fined not more than $50,000 or imprisoned for not to exceed 3 years, or both.

(b) Judicial Enforcement.—

(1) Injunctive relief.—The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this title, or any regulation promulgated under this title, has been violated.

(2) Solicitor of labor.—Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this title, but all such litigation shall be subject to the direction and control of the Attorney General.

(c) Administrative Sanctions; Proceedings.—

(1) Civil money penalty.—Subject to paragraph (2), an employer that violates this title, or any regulation promulgated under this title, may be assessed a civil money penalty of not more than $10,000 for each such violation.

(2) Determination of penalty.—In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account—

(A) the previous record of the employer in terms of compliance with this title and the regulations promulgated under this title; and

(B) the gravity of the violation.

(3) Proceedings.—

(A) In general.—An employer that is assessed a civil money penalty under this subsection shall be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as provided for in this paragraph, the assessment shall constitute a final and unappealable order.

(B) Administrative law judge.—If a hearing is requested under subparagraph (A), the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates this decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided for under subparagraph (C).

(C) Review.—An employer against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which the employer is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(D) Failure to pay.—If any person fails to pay an assessment after it has become a final and unappealable order under this paragraph, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(E) Payment of penalties.—All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(d) Private Right of Action.—

(1) in general.—Any traveling sales crew worker aggrieved by a violation of this title, or any regulation promulgated under this title, by an employer may file suit in any district court of the United States having jurisdiction over the parties, without respect to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided for in this title.

(2) Damages.—

(A) In general.—If the court in an action under paragraph (1) finds that the defendant intentionally violated a provision of this Act, or a regulation promulgated under this Act, the court may award—

(i) damages up to and including an amount equal to the amount of actual damages;

(ii) statutory damages of not more than $1,000 per plaintiff per violation or, if such complaint is certified as a class action, not more than $1,000,000 for all plaintiffs in the class; or

(iii) other equitable relief.

(B) Determination of amount.—In determining the amount of damages to be awarded under subparagraph (A), the court may consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(C) Workers' compensation.—

(i) In general.—Notwithstanding any other provision of this title, where a State workers' compensation law is applicable and coverage is provided for a traveling sales crew worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this title in the case of bodily injury or death in accordance with such State's workers' compensation law.

(ii) Limitation.—The exclusive remedy provided for under clause (i) precludes the recovery under subparagraph (A) of actual damages for loss from an injury or death but does not preclude recovery under such subparagraph for statutory damages (as provided for in clause (iii)) or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

(I) a recovery under a State workers' compensation law; or

(II) rights conferred under a State workers' compensation law.

(iii) Statutory damages.—In an action in which a claim for actual damages is precluded as provided for in clause (ii), the court shall award statutory damages of not more than $20,000 per plaintiff per violation or, in the case of a class action, not more than $1,000,000 for all plaintiffs in the class, if the court finds any of the following:

(I) The defendant violated section 204(d) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of the plaintiff or plaintiffs while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), the defendant had actual knowledge of the driver's condition, such violation resulted in the injury or death of the plaintiff or plaintiffs, and such injury or death arose out of and in the course of employment as defined under the State worker's compensation law.

(II) The defendant was found by the court or was determined in a previous administrative or judicial proceeding to have violated a safety standard prescribed by the Secretary under section 204 and such violation resulted in the injury or death of the plaintiff or plaintiffs.

(III) The defendant willfully disabled or removed a safety device prescribed by the Secretary under section 204, or the defendant in conscious disregard of the requirements of such section failed to provide a safety device required by the Secretary, and such disablement, removal, or failure to provide a safety device resulted in the injury or death of the plaintiff or plaintiffs.

(IV) At the time of the violation of section 204, which resulted in the injury or death of the plaintiff or plaintiffs, the employer or the supervisor of the traveling sales crew did not have a Certificate of Registration in accordance with section 203.

(iv) DETERMINATION OF AMOUNT.—For purposes of determining the amount of statutory damages due to a plaintiff under this subparagraph, multiple infractions of a single provision of this title, or of regulations promulgated under this title, shall constitute a single violation.

(D) ATTORNEY'S FEE.—The court shall, in addition to any judgment awarded to the plaintiff or plaintiffs under this paragraph, allow a reasonable attorney's fee to be paid by the defendant or defendants, and costs of the action.

(E) APPEALS.—Any civil action brought under this subsection shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any traveling sales crew worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this title, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of the worker or others of any right or protection afforded by this title.

(2) COMPLAINT.—

(A) IN GENERAL.—A traveling sales crew worker who believes, with just cause, that such worker has been discriminated against in violation of this subsection may, within 12 months of the date of such violation, file a complaint with the Secretary alleging such discrimination.

(B) INVESTIGATION.—Upon receipt of a complaint under subparagraph (A), the Secretary shall cause such investigation to be made as the determines to be appropriate.

(C) ACTIONS.—If upon an investigation under subparagraph (B), the Secretary determines that the provisions of this subsection have been violated, the Secretary shall bring an action in any appropriate United States district court against the person involved.

(D) RELIEF.—In any action under subparagraph (C), the United States district court shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

(f) WAIVER OF RIGHTS.—Agreements by workers purporting to waive or to modify their rights under this title shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this title.

(g) AUTHORITY TO OBTAIN INFORMATION.—

(1) IN GENERAL.—To carry out this title, the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection with such investigation, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this title, or regulations promulgated under this title.

(2) PRODUCTION AND RECEIPT OF EVIDENCE.—The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with investigations under paragraph (1). The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this title, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary.

(3) CONFIDENTIALITY.—The Secretary shall conduct investigations under paragraph (1) in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(4) VIOLATION.—It shall be violation of this title for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform any investigation, inspection, or law enforcement function pursuant to this title during the performance of such duties.

(h) STATE LAWS AND REGULATIONS; GOVERNMENT AGENCIES.—

(1) RELATION TO STATE LAWS.—This title is intended to supplement State law, and compliance with this title shall not be construed to excuse any person from compliance with appropriate State laws and regulations.

(2) AGREEMENTS.—The Secretary may enter into agreements with Federal and State agencies—

(A) to use their facilities and services;

(B) to delegate to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this title; and

(C) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under this paragraph.

(i) RULES AND REGULATIONS.—The Secretary may issue such rules and regulations as may be necessary to carry out this title, consistent with the requirements of chapter 5 of title 5, United States Code.

By Mr. KOHL:

S. 97. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Commission on Finance.

VETERANS HOME LOAN BILL

Mr. KOHL. Mr. President, I rise today to introduce legislation that will help Wisconsin and several other States, including Oregon, Texas, Alaska, and California, extend one of our most successful veterans programs to Persian Gulf war participants and others. This bill will amend the eligibility requirements for mortgage revenue bond financing for State veterans housing programs.

State run plans do an excellent job of helping vets bridge the gap to home ownership, and are often more successful than our own federal plan. This bill gives states the tools they need to help veterans.

Wisconsin uses this tax-exempt bond authority to assist veterans in purchasing their first home. Under rules adopted by Congress in 1984, this program excluded from eligibility veterans who served after 1977. This bill would simply remove that restriction.

At a time when everyone is looking for ways to make military service more appealing, we should not overlook the role state sponsored benefits, like home loan programs, can reward our veterans. Wisconsin and the other eligible States simply want to maintain a principle that we in the Senate have also strived to uphold—that veterans of the Persian Gulf war should not be treated less generously than those of past wars. This bill meets a commitment to our service members and levels the benefits between Persian Gulf vets and the vets of the Cold War era.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 97

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF VETERANS FOR MORTGAGE REVENUE BONDS DETERMINED BY STATES.

(a) IN GENERAL.—Paragraph (4) of section 143(*l*) of the Internal Revenue Code of 1986 (defining qualified veteran) is redesignated as paragraph (6) of such section and amended to read as follows:

"(6) QUALIFIED VETERAN.—For purposes of this subsection, the term "qualified veteran" means any veteran—

"(A) who meets such requirements as may be imposed by the State law pursuant to which qualified veterans' mortgage bonds are issued,

"(B) who applied for the financing before the date 30 years after the last date on which such veteran left active service, and

"(C) in the case of financing provided by the proceeds of bonds issued during the period beginning July 19, 1984, and ending June 30, 2001, who served on active duty at some time before January 1, 1977.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 2. STATE CAP RESTRICTIONS.

(a) IN GENERAL.—Section 143(*l*) of the Internal Revenue Code of 1986 (relating to additional requirements for qualified veterans' mortgage bonds), as amended by section 1(a), is amended by inserting after paragraph (3) the following new paragraph:

"(4) SUBCAP RESTRICTION.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if the amount of bonds issued pursuant thereto that is to be used to provide financing to mortgagors who have not served on active duty at some time before January 1, 1977, when added to the amount of the aggregate qualified veterans' mortgage bonds previously issued by the State during the calendar year that is to be so used, does not exceed the subcap amount.

"(B) SUBCAP AMOUNT.—

"(i) IN GENERAL.—The subcap amount for any calendar year is an amount equal to the applicable percentage of the State veterans limit for such year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

"Calendar year:	**Applicable Percentage:**
2002	10
2003	20
2004	30
2005	40
2006 and thereafter	50.".

(b) RESTRICTION ON OVERALL STATE CAP.—Paragraph (3)(B) of section 143(*l*) of such Code (relating to State veterans limit) is amended by adding at the end the following flush sentence:

"But in no event shall the State veterans limit exceed $340,000,000 for any calendar year after 2002.".

(c) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 143(*l*) of such Code is amended by striking "and (3)" and inserting ", (3), and (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

Mr. KOHL (for himself and Mr. GRAHAM):

S. 99. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

CHILD CARE INFRASTRUCTURE ACT OF 2001.

Mr. KOHL. Mr. President, I rise today to reintroduce the Child Care Infrastructure Act, along with Senator GRAHAM of Florida. Senator GRAHAM and I have both worked on child care issues for many years, and I am pleased that we have combined our efforts to introduce this bill together.

Mr. President, we have talked a great deal in recent years, as well as in the recent campaign, about giving working families the tools they need to succeed. And while some of us may disagree on the details, I think we can all agree upon one basic premise: Working couples who decide to have a family should not be penalized because they both also choose to keep working. But unfortunately today, many working parents do not have access to one of the critical tools they need to succeed at work: quality child care.

Working families spend a large proportion of their income on child care—from 8 percent for families above the poverty line to 18 percent for those below. And nothing adds more to these high costs than the dramatic shortage of quality child care in this country. The Children's Defense Fund states in a recent report that "parents and experts report that child care is in short supply—particularly for some age groups and for certain types of care—and that some communities have little or no licensed care."

This shortage of quality child care is not just inconvenient. It is dangerous, and could jeopardize the ability of children to succeed later in life. Research on the brain has confirmed that the most significant period in a child's development and education is between the years 0–3. Good early childhood programs can improve children's chances of long-term success in school, higher earnings as adults, and decreased involvement with the criminal justice system.

But the lack of quality child care is not only harmful to children. It places a tremendous strain on parents. Full-time child care can cost $4,000 to $6,000 per year, and many working families simply cannot find affordable, quality child care for their young children.

And make no mistake: the lack of reliable child care has a direct impact on businesses and our economy. Parents who can't find reliable child care are more likely to miss work, and the lack of stable child care makes it more difficult for parents to be productive while at work.

Clearly, we all have a stake in increasing the supply of quality child care for families. It will take a sustained effort from families, from government—and yes, from businesses too—to build the child care infrastructure necessary to make sure children, parents, and businesses succeed.

My legislation brings all these players together in a simple, common-sense way. We provide a tax credit to businesses who are willing to take action to increase the supply of quality child care. The credit is available for child care activities such as:

Expenses related to the acquisition, expansion, or repair of an on- or near-site day care center, after-hours care facility, or sick-child facility. This credit would also be available for a consortium of businesses that joined together to create a child care center.

Direct company subsidization of the operating costs of a child care facility.

Direct company payments or reimbursements to employees for their child care expenses.

A company's reservation for their employees of child care slots in a licensed child care facility.

Company expenditures on training and continuing education for child care workers.

The credit would be 25 percent for these activities, and 10 percent for the cost of a company's contract with a non-profit Child Care Resource and Referral service, which help parents locate child care in their communities. The credit is capped at $150,000 per year. Safeguards in the legislation ensure that the companies receive the tax credits for capital expenditures that go toward facilities that stay in operation for several years.

In 1997, the Senate passed a similar proposal by a bipartisan vote of 72–28. Versions of this tax credit have been included in most major child care legislation introduced by Democrats and Republicans in the 106th Congress, including the tax bill passed by the Senate in July of 1999.

This bill makes us all partners in ensuring we have enough quality child care for working families. I hope my colleagues will continue their long-time support of the child care infrastructure tax credit, and I look forward to working with all of you to pass it this year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Infrastructure Act of 2001".

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) 25 percent of the qualified child care expenditures, and

"(2) 10 percent of the qualified child care resource and referral expenditures,

of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(i) to acquire, construct, rehabilitate, or expand property—

"(I) which is to be used as part of a qualified child care facility of the taxpayer,

"(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(III) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

"(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

"(I) day care and before and after school care,

"(II) transportation associated with such care, and

"(III) before and after school and holiday programs including educational and recreational programs and camp programs.

"(B) FAIR MARKET VALUE.—The term 'qualified child care expenditures' shall not include expenses in excess of the fair market value of such care.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified child care resource and referral expenditure' means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

"(B) NONDISCRIMINATION.—The services shall not be treated as qualified unless the provision of such services (or the eligibility to use such services) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following:

"(14) the employer-provided child care credit determined under section 45E.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45E. Employer-provided child care credit."

(3) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", and", and by adding at the end the following:

"(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. GRAHAM. Mr. President, I am extremely pleased to join my colleague Senator KOHL in introducing the Child Care Infrastructure Act of 2001. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation grants tax credits to employers who assist their employees with child care expenses, either by providing child care on-site, reimbursing employees for the cost of child care, or establishing a referral service to help employees locate a child care provider.

An employer is eligible for an income tax credit equal to 25 percent of its child care expenses. Expenses eligible for the credit include:

The cost of acquiring, constructing, rehabilitating or expanding employer property used to provide employees with child care;

the cost of operating an employer child care facility;

costs incurred under a contract with a qualified child care facility to provide child care services to employees; and

to reimburse employees for the cost of child care.

Employers may also be eligible for a separate credit equal to 10 percent of child care resource and referral expenses.

The bill establishes an overall limit on the amount of child care credits an employer can qualify to receive. That limit is $150,000 per year.

Why is this legislation important?

First, the workplace has changed over the years. In 1947, one in four mothers with children between the ages of 6 and 17 were in the labor force. By 1996, their labor force participation rate had tripled to nearly three in four.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family, rich or poor.

In June of 1998, I hosted a Florida statewide summit on child care where over 500 residents of my State shared with me their concerns and frustrations on child care issues. They told me that quality child care is either unavailable or unaffordable.

Those who had found affordable child care often were faced with long waiting lists.

They told me that working parents struggle to cope with the often conflicting time demands of work and child care.

They told me of their concerns with school-age children who often are at risk because before and after-school supervised care programs are not readily available.

Mr. President, quality child care should be a concern to all Americans. The care and nurturing that children receive early in life has a profound influence on their future—and their future is our future.

In the 21st century, women will comprise more than 60 percent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of 6.

The implications for employers are clear. They understand the rapidly changing nature of our Nation's work force and that those employers who can help their employees with child care will have a competitive advantage.

Many smaller businesses would like to join them, but do not have the resources to offer child care to their employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important legislation.

By Mr. ALLARD:

S. 100. A bill to amend the Internal Revenue Code of 1986 to repeal the state and gift taxes; to the Committee on Finance.

TIME TO END THE DEATH TAX

Mr. ALLARD. Mr. President, today I am introducing legislation to immediately eliminate the estate tax. I fundamentally oppose the estate tax. I call it the "death tax." This unfair tax has been a concern of mine for some time now.

Congress has clearly demonstrated its support for easing this burden. The Taxpayer Relief Act of 1997 gradually increases the exemption. Last year, Congress decided that further action was needed and passed a bill that would have eliminated the federal estate tax. Unfortunately, President Clinton chose to veto that bill. I look forward to the opportunity to work with the new Administration to repeal this unfair tax by passing my bill.

The United States has one of the highest estate taxes in the world. While income tax rates have declined in recent decades, estate taxes have remained high. Today, the death tax is imposed on estates with assets of more than $675,000. The rates begin at 37% and very rapidly rise to 55%. Some estates even pay a marginal rate of 60%.

This issue really hits home for me. Family farms and small businesses are two of the groups most affected by the estate tax. I grew up on my family's farm in Colorado, and I owned a small business before I came to Washington. So, I truly understand the concerns of those who live in fear of the impact that this tax will have on their legacy to their children.

The estate tax has resulted in the loss of family farms and family businesses across the nation. Many people work their entire lives to build a business that they can pass on to their children. When these hard-working businessmen and farmers pass away, their families are often forced to sell off the business to pay the estate tax. I see this as an affront to those who try to pass on the fruits of their lives' work to their children.

The people affected by this tax are not necessarily wealthy. Many small business people are cash poor, but asset rich. For example, the owner of a small restaurant might have $800,000 of assets, but not much cash on hand. Her children will still have to pay an excessive tax on the assets. The beer wholesaler, who has invested all of his revenue in trucks and storage, might have more than $675,000 in assets. That does not make him a cash-wealthy man. Yet, he is still subject to this so-called "tax on the wealthy."

The death tax also impacts employment and the economy. When a family-owned farm or a small business closes, the workers lose their jobs. Conversely, leaving resources in the economy can create jobs. A recent George Mason study found that if the estate tax were phased out over five years, the economy would create 198,895 more jobs, and grow by an additional $509 billion over a ten-year period.

Additionally, the estate tax is a disincentive for Americans to save their earnings. The government has created a number of tax breaks and other incentives for those who save their money: 401(k)s and IRAs—to name a few. Yet, the estate tax sends a contradictory message. Basically, it says, "If you don't spend all your savings by the time you die, the government will penalize you." This tax is no small penalty, either. We are talking about some very high tax rates.

The death tax also represents an unjust double taxation. The savings were taxed initially when they were earned. Then, when the saver passes away, the government comes along and takes a second cut. There is no good reason for the current system—other than the government's desire to make a profit at the already trying time of the death of a dear one.

The current death tax law has a greater effect on the lower end of the scale than the higher. Wealthy people can afford lawyers and planners to help them plan their estate. Those at the lower end of the estate tax scale are often unable to afford sophisticated estate planning. So the current law also makes the tax somewhat regressive, which is not fair.

Planning and compliance with the estate tax can consume substantial resources. In 1995, the Gallup organization surveyed family firms. Twenty-three percent of owners of companies valued over $10 million said that they pay more than $50,000 per year in insurance premiums on policies to help them pay the eventual bill. To plan for the estate tax, the firms also spent an average of $33,000 on lawyers, accountants and financial planners, over a period of several years. This is money that could have been better spent to expand the business and create new jobs—rather than dealing with the death tax.

The estate tax only raises one percent of federal revenue, yet it costs farms, businesses and jobs. No American family should lose their farm or business because of the federal government. I support full repeal of the federal estate tax.

Mr. President, I ask unanimous consent that the text of my bill, as well as an article that I recently wrote, be entered into the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 100

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Death Tax Termination Act of 2001."

SEC. 2. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate, gift, and generation-skipping taxes) is repealed effective with respect to estates of decedents dying, and gifts made, after December 31, 2000.

[From the Roll Call, Apr. 27, 1998]

ESTATE TAX REFORM MUST BE FIRST STEP TO FIXING SYSTEM

(By Sen. Wayne Allard)

As we approach the new millennium, a consensus has emerged in favor of significant tax reform. Some prefer the flat tax; others advocate the sales tax. A third camp argues that Congress should avoid a complete overhaul and instead work to improve the existing system.

Whatever path is chosen, it should include elimination of the federal estate tax. Repeal of the estate tax is the first step toward a fairer and flatter tax system.

Congress has levied estate taxes at various times throughout US history, particularly during war. The current estate tax dates back to 1916, a time when many in Congress were looking for ways to redistribute some of the wealth held by a small number of super-rich families. This first permanent estate tax had a top rate of only 10 percent, and the threshold was high enough to ensure that the tax affected only a tiny fraction of the population.

Like the rest of our tax code, it did not take long for this limited tax to evolve into a more substantial burden. In only the second year of the tax, the top rate was increased to 25 percent. By 1935, the top rate was 70 percent, and in 1941, it reached an all-time high of 77 percent.

While income tax rates have declined in recent decades, estate taxes have remained high. Today, the top estate tax rate is 55 percent (a top marginal rate of 60 percent is paid by some estates), and the tax is imposed on amounts above the 1998 exemption level of $625,000 (value above $625,000 is taxed at an initial rate of 37 percent).

Generally, the value of all assets held at death is included in the estate for purposes of assessing the tax—this includes residences, business assets, stocks, bonds, savings, personal property, etc. Estate tax returns are due within nine months of the decedent's death (a six-month extension is available), and with the exception of certain closely held businesses, the tax is due when the return is filed. The tax is paid by the estate rather than by the beneficiary (in contrast to an inheritance tax).

Last year's tax bill increased the unified estate and gift tax exemption from $600,000 to $1 million. However, this is done very gradually and does not reach the $1 million level until 2006. The bill also increased the exemption amount for a qualified family-owned business to $1.3 million.

While both actions are a good first step, they barely compensate for the effects of inflation. The $600,000 exemption level was last set in 1987; just to keep pace with inflation the exemption should have risen to $850,000 by 1997. Incremental improvements help, but we need more substantial reform.

The United States retains among the highest estate taxes in the world. Among industrial nations, only Japan has a higher top rate than we do. But Japan's 70 percent rate applies to an inheritance of $16 million or more. The US top rate of 55 percent kicks in on estates of $3 million or more. France, the United Kingdom and Ireland all have top rates of 40 percent, and the average top rate of Organization for Economic Cooperation and Development countries is only 29 percent. Australia, Canada and Mexico presently have no estate taxes.

The strongest argument that supporters of the estate tax make is that most American families will never have to pay an estate tax. While this is true, it does not justify retention of a tax that causes great harm to family businesses and farms, often constitutes double taxation, limits economic growth consumes significant resources in unproductive tax compliance activities and raises only a tiny portion of federal tax revenues. In other words, the estate tax is not worth all the trouble.

The estate tax can destroy a family business. This is the most disturbing aspect of the tax. No American family should lose its business or farm because of the estate tax. Current estimates are that more than 70 percent of family businesses do not survive the second generation, and 87 percent do not survive the third generation.

While there are many reasons for these high numbers, the estate tax is certainly one of them. The estate tax fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets in order to pay the tax. This practice can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized.

Similarly, more and more large ranches and farms are facing the prospect of breakup and sale to developers in order to pay the estate tax. In addition to destroying a family business, this harms the environment.

The accounting firm Price Waterhouse recently calculated the taxable components of 1995 estates. While 21 percent of assets were corporate stocks and bonds, and another 21 percent were mutual fund assets, fully 32 percent of gross estates consisted of "business assets" such as stock in closely held businesses, interests in non-corporate businesses and farms and interests, in limited partnerships. In larger estates, this portion rose to 55 percent. Clearly, a substantial portion of taxable estates consists of family businesses.

The National Center for Policy Analysis reports that a 1995 survey by Travis Research Associates found that 51 percent of family businesses would have significant difficulty surviving the estate tax, and 30 percent of respondents said they would have to sell part or all of their business. This is supported by a 1995 Family Business Survey conducted by Matthew Greenwald and Associates which found that 33 percent of family businesses anticipate having to liquidate or sell part of their business to pay the estate tax.

While some businesses are destroyed by the estate tax, many more expend substantial resources in tax planning and compliance. Those that survive the estate tax often do so by purchasing expensive insurance. A 1995 Gallup survey of family firms found that 23 percent of the owners of companies valued at more than $10 million pay $50,000 or more per year in insurance premiums on policies designed to help them pay the eventual tax bill. The same survey found that family firms estimated they had spent on average more than $33,000 on lawyers, accountants and financial planners over a period of six and a half years in order to prepare for the estate tax.

In fact, one of the great ironies of the estate tax is that an extensive amount of tax planning can very nearly eliminate the tax. This results in a situation in which the very wealthy can end up paying less estate tax than those of more modest means.

As noted above, life insurance can play a big role in estate planning, but there are also mechanisms such as qualified personal residence trusts, charitable remainder trusts, charitable lead trusts, generation-skipping trusts and the effective use of annual gifts. While these mechanisms may reduce the tax, they waste resources that could be put to much better use growing businesses and creating jobs.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized; it should not be repeatedly retaxed by government. The estate tax violates this tenet. At the time of a person's death, much of his or her savings, business assets or farm assets have already been subjected to federal, state and local tax. These same assets are then taxed again under the estate tax. Price Waterhouse has calculated that those families who will be liable for the estate tax face the prospect of nearly 73 percent of every dollar being taxed away.

Repeal of the estate tax would benefit the economy. Without the estate tax, greater business resources could be put toward productive economic activities. Recently, the Center for the Study of Taxation commissioned George Mason University professor Richard Wagner to estimate the economic impact of a phase-out of the estate tax.

Wagner estimated that if the tax is phased out over five years beginning in 1999, the economy would create 189,900 more jobs and would grow by an additional $509 billion over a ten-year-period. Similarly, a recent Heritage Foundation study simulated the results of an estate tax repeal under two respected economic models, the Washington University Macro Model, and the Wharton Econometric Model. Under both models, a repeal of the tax is forecast to increase jobs and gross domestic product, as well as reduce the cost of capital.

One might expect that with all the economic dislocation associated with the estate tax that it raises a significant amount of revenue or accomplishes a redistributionist social policy. In fact, the revenue take is quite modest—approximately one percent of federal revenue or $14.7 billion in 1995. And as for social policy, the ability of the federal government to equalize wealth through the estate tax may be quite limited. A 1995 study published by the Rand Corporation found that for the very wealthiest Americans, only 7.5 percent of their wealth is attributable to inheritance—the other 92.5 percent is from earnings.

America is a nation of tremendous economic opportunity. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth.

The estate tax is a relic. It damages family businesses, harms the economy and constitutes double taxation. It is time for the estate tax to go.

By Mr. BINGAMAN:

S. 101. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

QUALITY TEACHERS FOR ALL ACT

Mr. BINGAMAN. Mr President, today I am pleased to introduce a package of bills related to education for consideration in the context of the reauthorization of the Elementary and Secondary Education Act ("ESEA"). I believe the issue of accountability for results will be at the center of our debate this year so I will introduce and speak about that bill separately. Nevertheless, I believe that we need to increase our investment in education while increasing our expectations for results from our schools. In that context, we should be sure to target that investment on problems with national implications and strategies and programs that we know work. At this time, I am introducing three bills that I believe meet that criteria: The Quality Teachers for All Act, The National Dropout Prevention Act and the Access to High Standards Act. All of these bills provide support for efforts on the local level to raise standards for our schools, our teachers and our students.

Improving teacher quality continues to be one of my top priorities in the Senate because research indicates that teacher quality is one of the most important factors in student achievement. The Quality Teachers for All Act addresses the fact that, although the vast majority of our teacher's are dedicated, professional and competent, far too many schools in America allow classrooms to be lead by teachers with insufficient training and qualifications. Unfortunately, it is the schools and classrooms with the neediest children who have the largest number of unqualified teachers. While we are demanding increased levels of performance for our schools and our children, we must also set high standards for all our teachers, including those who instruct student who must overcome the greatest barriers to learning.

The Quality Teachers for All Act requires that all teachers in schools that receive Title 1 funds be fully qualified. This means that they possess necessary teaching skills and demonstrate mastery in the subjects that they teach. It provides that an elementary school teacher must have state certification, hold a bachelor's degree and demonstrate subject matter knowledge, teaching knowledge and teaching skills required to teach effectively in reading, writing, mathematics, social studies, science and other elements of a liberal arts education. Middle and secondary school teachers must have state certification, hold a bachelor's degree, and demonstrate competence in all subject areas that they teach. This demonstration of competence may be achieved by a high level of performance on a rigorous academic subject area test, completion of an academic major (or an equal number of courses). The bill ensures that low income students are not disproportionately impacted by low teaching standards by requiring that teachers in high poverty schools be at least as well-qualified, in terms of experience and credentials as the instructional staff in schools served by the same local educational agency that are not high poverty schools.

In order to help states and LEAs meet these requirements, the bill will provide grants to assist states and LEAs in providing the necessary education or training for individuals who are teaching without full qualifications. In addition, recognizing that some communities have difficulty attracting qualified teachers, the bill allows funds to be used to provide financial incentives (i.e., signing bonuses) for fully qualified teachers. In addition, the bill supports efforts to recruit new teachers by providing allowing funds to be used to develop alternative means of certification for highly qualified individuals with college degrees wishing to teach, including mid-career professionals and former military personnel. The bill also authorizes funds to support State efforts to increase the portability of teacher's pensions, certification and years of experience so that teachers have greater mobility and school districts can fill vacant teaching positions with teachers who are fully-qualified. The funds may also be used for programs of support for new teachers to ensure that they are more likely to remain in the nation's teaching force.

In order to make parents our partners in our efforts to raise teaching standards, this bill requires districts and schools to provide parents with information about the qualifications of their child's teacher. These provisions build on legislation I authored that became part of the Higher Education Act of 1998 requiring a national report card on teacher training programs. The parental right to know provision in the Quality Teachers for All Act will empower parents by informing them of the strengths and weaknesses of their children's teachers, helping them to support the push for fully-qualified teachers in every classroom.

The National Dropout Prevention Act is a bill designed to reduce the dropout rate in our nation's schools through the use and dissemination of effective dropout prevention programs. While much progress has been made in encouraging all student to complete high school, the nation remains far from its goal of a 90 percent graduation rate for students, a goal that was to be attained in the year 2000. In fact, none of the states with large and diverse populations have yet come close to this goal and dropout rates approaching 50 percent between ninth grade and the senior year are commonplace in some of the most disadvantaged of our nation's communities. This bill is based on many of the findings of the National Hispanic Dropout Project, a group of nationally recognized experts assembled in 1996–97 to help find ways of reducing the high dropout rates among Hispanic and other at-risk students. The group pointed out that there are widespread misconceptions about why so many student drop out of school and that there is little familiarity with proven drop out prevention programs. Most problematic is the fact that there is currently no concerted federal effort to provide or coordinate effective and proven dropout prevention programs or oversee the multitude of programs that include dropout prevention as a component.

The Act makes lowering the dropout rate a national priority. A national clearinghouse on effective school drop out prevention, intervention and reentry programs would be created and efforts to prevent students from dropping out would be identified and disseminated. The bill provides support and recognition for schools engaged in effective dropout prevention efforts. In addition, this bill provides funds to pay the startup and implementation costs of effective, sustainable, coordinated and whole school dropout prevention programs. Funds can be used to implement comprehensive school wide reforms, create alternative school programs or create smaller learning communities. In addition, grant recipients could contract with community-based organizations to assist them in implementing necessary services.

The Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United states, serving over 1.5 million students last year. Many states that have advanced placement incentive programs have already had tremendous success in increasing participation rates, raising achievement and increasing the involvement of low-income and under served students. Nevertheless, students, especially low-income students, continue to be denied or have limited access to this important educational resource. Over forty percent of our nation's public schools still do not offer any Advanced Placement courses. As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making it difficult for many students to afford the high costs of obtaining a college education. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico and the credits granted to AP students nationwide are worth billions of dollars in savings each year.

By promoting AP courses, we also address the need to raise academic standards. AP courses provide schools with high academic standards and standardized achievement measures. Participating in AP courses helps student prepare for college as they serve to connect curriculum between high school and post secondary institutions. And, because the vast majority of AP teachers teach several non-AP courses as well, AP programs have the effect of raising school wide standards and achievement. Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement of our students. However, I believe that high college costs and low academic standards deserve our close attention and I am confident that expansion of advanced placement programs will help states address these issues effectively.

In order to ensure that our children are well-prepared to meet the challenges of an increasingly complex and challenging world, it is critical to address improving our nation's school with a comprehensive effort. The bills I introduce today are designed to build on the progress we have made in the past few years to raise standards and increase accountability in America's schools. I ask unanimous consent to have the bills printed in the RECORD at the conclusion of my remarks. I urge my colleagues to carefully consider supporting passage of these bills.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Teachers for All Act".

TITLE I—PARENTAL RIGHTS

SEC. 101. PARENTAL RIGHT TO KNOW.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

"SEC. 14515. TEACHER QUALIFICATIONS.

"Any public elementary school or secondary school that receives funds under this Act shall provide to the parents of each student enrolled in the school information regarding—

"(1) the professional qualifications of each of the student's teachers, both generally and with respect to the subject area in which the teacher provides instruction; and

"(2) the minimum professional qualifications required by the State for teacher certification or licensure.".

TITLE II—TEACHER QUALITY

SEC. 201. TEACHER QUALITY.

(a) IN GENERAL.—Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(1) by redesignating subsections (c) through (g) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (b) the following:

"(c) TEACHER QUALITY.—

"(1) STATE STANDARDS AND POLICIES.—Each State plan shall contain assurances, with respect to schools served under this part, that—

"(A) no student in those schools in the State will be taught for more than 1 year by an elementary school teacher, or for more than 2 consecutive years in the same subject by a secondary school teacher, who has not demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the teacher provides instruction;

"(B) the State provides incentives for teachers in those schools to pursue and achieve advanced teaching and subject area content standards;

"(C) the State has in place effective mechanisms to ensure that local educational agencies and schools served under this part are able—

"(i) to recruit effectively fully qualified teachers;

"(ii) to reward financially those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators; and

"(iii) to remove expeditiously incompetent or unqualified teachers consistent with procedures to ensure due process for teachers;

"(D) the State aggressively helps those schools, particularly in high need areas, recruit and retain fully qualified teachers;

"(E) during the period that begins on the date of enactment of the Quality Teachers for All Act and ends 4 years after such date, elementary school and secondary school teachers in those schools will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the same local educational agency that are not schools served under this part; and

"(F) any teacher who meets the standards set by the National Board for Professional Teaching Standards will be considered fully qualified to teach in those schools in any school district or community in the State.

"(2) QUALIFICATIONS OF CERTAIN INSTRUCTIONAL STAFF.—

"(A) IN GENERAL.—Each State plan shall contain assurances that, not later than 4 years after the date of enactment of the Quality Teachers for All Act—

"(i) all instructional staff who provide services to students under section 1114 or 1115 will have demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, according to the criteria described in this paragraph; and

"(ii) funds provided under this part will not be used to support instructional staff—

"(I) who provide services to students under section 1114 or 1115; and

"(II) for whom State qualification or licensing requirements have been waived or who are teaching under an emergency or other provisional credential.

"(B) ELEMENTARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of making the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches elementary school students shall, at a minimum—

"(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

"(ii) hold a bachelor's degree and demonstrate subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

"(C) MIDDLE SCHOOL AND SECONDARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of making the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches in middle schools and secondary schools shall, at a minimum—

"(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

"(ii) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all subject areas in which the staff member teaches through—

"(I) achievement of a high level of performance on rigorous academic subject area tests;

"(II) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the subject areas in which the staff member provides instruction; or

"(III) achievement of a high level of performance in relevant subject areas through other professional employment experience.

"(D) TEACHER AIDES AND OTHER PARAPROFESSIONALS.—For purposes of subparagraph (A) funds provided under this part may be used to employ teacher aides or other paraprofessionals who do not meet the requirements under subparagraphs (B) and (C) only if such aides or paraprofessionals—

"(i) provide instruction only when under the direct and immediate supervision, and in the immediate presence, of instructional staff who meet the criteria of this paragraph; and

"(ii) possess particular skills necessary to assist instructional staff in providing services to students served under this Act.

"(E) USE OF FUNDS.—Each State plan shall contain assurances that, beginning on the date of enactment of the Quality Teachers for All Act, no school served under this part will use funds received under this Act to hire instructional staff who do not fully meet all the criteria for instructional staff described in this paragraph.

"(F) DEFINITION.—In this paragraph, the term 'instructional staff' includes any individual who has responsibility for providing any student or group of students with instruction in any of the core academic subject areas, including reading, writing, language arts, mathematics, science, and social studies.

"(d) ASSISTANCE BY STATE EDUCATIONAL AGENCY.—Each State plan shall describe how the State educational agency will help each local educational agency and school in the State develop the capacity to comply with the requirements of this section.

"(e) CORRECTIVE ACTION.—The appropriate State educational agency shall take corrective action consistent with section 1116(c)(5)(B)(i), against any local educational agency that does not make sufficient effort to comply with subsection (c). Such corrective action shall be taken regardless of the conditions set forth in section 1116(c)(5)(B)(ii). In a case in which the State fails to take the corrective action, the Secretary shall withhold funds from such State up to an amount equal to that reserved under sections 1003(a) and 1603(c).".

(b) INSTRUCTIONAL AIDES.—Section 1119 of Elementary and Secondary Education Act of

1965 (20 U.S.C. 6320) is amended by striking subsection (i).

SEC. 202. FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

Title I of the Elementary and Secondary Education Act of 1965 is amended by inserting after section 1119 (20 U.S.C. 6320) the following new sections:

"SEC. 1119A. A FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants, on a competitive basis, to States or local educational agencies, to assist schools that receive assistance under this part by carrying out the activities described in paragraph (3).

"(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State or local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(3) USES OF FUNDS.—

"(A) STATES.—In order to meet the goal under section 1111(c)(2) of ensuring that all instructional staff in schools served under this part have the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, a State may use funds received under this section—

"(i) to collaborate with programs that recruit, place, and train fully qualified teachers;

"(ii) to provide the necessary education and training, including establishing continuing education programs and paying the costs of tuition at an institution of higher education and other student fees (for programs that meet the criteria under section 203(b)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1023(b)(2)(A)(i))), to help teachers or other school personnel who do not meet the necessary qualifications and licensing requirements to meet the requirements, except that in order to qualify for a payment of tuition or fees under this clause an individual shall agree to teach for each of at least 2 subsequent academic years after receiving such degree in a school that—

"(I) is located in a school district served by a local educational agency that is eligible in that academic year for assistance under this title; and

"(II) for that academic year, has been determined by the Secretary to be a school in which the enrollment of children counted under section 1124(c) exceeds 50 percent of the total enrollment of that school;

"(iii) to establish, expand, or improve alternative means of State certification of teachers for highly qualified individuals with a minimum of a baccalaureate degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent graduates of an institution of higher education with records of academic distinction who demonstrate the potential to become highly effective teachers;

"(iv) for projects to increase the portability of teacher pensions or credited years of experience or to promote reciprocity of teacher certification or licensure between or among States, except that no reciprocity agreement developed under this clause or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement; or

"(v) to establish, expand, or improve induction programs designed to support new teachers and promote retention of new teachers in schools served under this part.

"(B) LOCAL EDUCATIONAL AGENCIES.—In order to meet the goal described in subparagraph (A), a local educational agency may use funds received under this section—

"(i) to recruit fully qualified teachers, including through the use of signing bonuses or other financial incentives; and

"(ii) to carry out the activities described in clauses (i), (ii), and (v) of subparagraph (A).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection **$500,000,000** for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.

"(b) OTHER ASSISTANCE.—Notwithstanding any other provision of law, in order to meet the goal described in subsection (a)(3)(A)—

"(1) a State receiving assistance under title II, title VI, title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), or the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) may use such assistance for the activities described in subsection (a)(3)(A); and

"(2) a local educational agency receiving assistance under an authority described in paragraph (1) may use such assistance for the activities described in subsection (a)(3)(B).

"SEC. 1119B. CERTIFICATION GRANTS.

"(a) GRANTS.—The Secretary may make grants to State educational agencies, local educational agencies, or schools that receive assistance under this part to pay for the Federal share of the cost of providing financial assistance to teachers in such schools who obtain certification from the National Board of Professional Teaching Standards.

"(b) APPLICATION.—To be eligible to receive a grant under this section an agency or school shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) ELIGIBLE TEACHERS.—To be eligible to receive financial assistance under subsection (a), a teacher shall obtain the certification described in subsection (a).

"(d) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section **$10,000,000** for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.".

SEC. 203. LIMITATION.

Part E of title XIV of the Elementary and Secondary Education Act of 1965, as amended in section 101, is further amended by adding at the end the following:

"SEC. 14516. PROHIBITION REGARDING PROFESSIONAL DEVELOPMENT SERVICES.

"None of the funds provided under this Act may be used for any professional development services for a teacher that are not directly related to the curriculum and subjects in which the teacher provides or will provide instruction.".

By Mr. BINGAMAN (for himself and Mr. REID):

S. 102. A bill to provide assistance to address school dropout problems; to the Committee on Health, Education, Labor, and Pensions.

DROPOUT PREVENTION LEGISLATION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS.

Part D of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6421 et seq.) is amended by adding at the end the following:

"Subpart 4—Assistance to Address School Dropout Problems

"SEC. 1441. SHORT TITLE.

"This subpart may be cited as the 'Dropout Prevention Act'.

"SEC. 1442. PURPOSE.

"The purpose of this subpart is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants, to schools through State educational agencies, that—

"(1) challenge all children to attain their highest academic potential; and

"(2) ensure that all students have substantial and ongoing opportunities to do so through schoolwide programs proven effective in school dropout prevention.

"Chapter 1—Coordinated National Strategy

"SEC. 1451. NATIONAL ACTIVITIES.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to collect systematic data on the participation in the programs described in paragraph (2)(C) of individuals disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(2) to establish and to consult with an interagency working group which shall—

"(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention;

"(B) describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under title I and the School-to-Work Opportunities Act of 1994; and

"(C) address all Federal programs with school dropout prevention or school reentry elements or objectives, programs under title I of this Act, the School-to-Work Opportunities Act of 1994, subtitle C of title I of the Workforce Investment Act of 1998, and other programs; and

"(3) carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized.

"(b) RECOGNITION PROGRAM.—

"(1) NATIONAL GUIDELINES.—The Secretary shall develop uniform national guidelines for the recognition program which shall be used to recognize schools from nominations submitted by State educational agencies.

"(2) ELIGIBLE SCHOOLS.—The Secretary may recognize under the recognition program any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

“(3) Support.—The Secretary may make monetary awards to schools recognized under the recognition program in amounts determined by the Secretary. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

“(c) Capacity Building.—

“(1) In general.—The Secretary, through a contract with a non-Federal entity, may conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

“(2) Number and duration.—

“(A) Number.—The Secretary may award not more than 5 contracts under this subsection.

“(B) Duration.—The Secretary may award a contract under this subsection for a period of not more than 5 years.

“(d) Support for Existing Reform Networks.—

“(1) In general.—The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this chapter.

“(2) Definition of eligible entity.—In this subsection, the term ‘eligible entity’ means an entity that, prior to the date of enactment of the Dropout Prevention Act—

“(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

“(B) developed and published a specific educational program or design for use by the schools.

“Chapter 2—National School Dropout Prevention Initiative

“SEC. 1461. PROGRAM AUTHORIZED.

“(a) Grants.—

“(1) Discretionary grants.—If the sum appropriated under section 1472 for a fiscal year is less than **$250,000,000**, then the Secretary shall use such sum to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award grants under subsection (b).

“(2) Formula.—If the sum appropriated under section 1472 for a fiscal year equals or exceeds **$250,000,000**, then the Secretary shall use such sum to make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under part A of title I for the preceding fiscal year bears to the amount received by all States under such part for the preceding fiscal year.

“(3) Definition of state.—In this chapter, the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(b) Grants.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public middle schools or secondary schools that serve students in grades 6 through 12, that have school dropout rates which are the highest of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

“(1) professional development;

“(2) obtaining curricular materials;

“(3) release time for professional staff;

“(4) planning and research;

“(5) remedial education;

“(6) reduction in pupil-to-teacher ratios;

“(7) efforts to meet State student achievement standards;

“(8) counseling and mentoring for at-risk students; and

“(9) comprehensive school reform models.

“(c) Amount.—

“(1) In general.—Subject to subsection (d) and except as provided in paragraph (2), a grant under this chapter shall be awarded—

“(A) in the first year that a school receives a grant payment under this chapter, based on factors such as—

“(i) school size;

“(ii) costs of the model or set of prevention and reentry strategies being implemented; and

“(iii) local cost factors such as poverty rates;

“(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this chapter in the first such year;

“(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this chapter in the first such year; and

“(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this chapter in the first such year.

“(2) Increases.—The Secretary shall increase the amount awarded to a school under this chapter by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

“(d) Duration.—A grant under this chapter shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 1467(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this chapter compared to students at similar schools who are not participating in the program.

“SEC. 1462. STRATEGIES AND CAPACITY BUILDING.

“Each school receiving a grant under this chapter shall implement research-based, sustainable, and widely replicated, strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

“(1) specific strategies for targeted purposes, such as effective early intervention programs designed to identify at-risk students, effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school, and effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

“(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

“SEC. 1463. SELECTION OF SCHOOLS.

“(a) School Application.—

“(1) In general.—Each school desiring a grant under this chapter shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

“(2) Contents.—Each application submitted under paragraph (1) shall—

“(A) contain a certification from the local educational agency serving the school that—

“(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

“(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

“(iii) the local educational agency will support the plan, including—

“(I) release time for teacher training;

“(II) efforts to coordinate activities for feeder schools; and

“(III) encouraging other schools served by the local educational agency to participate in the plan;

“(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this chapter, and provide evidence of the school's willingness and ability to use the funds under this chapter, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

“(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

“(D) describe a budget and timeline for implementing the strategies;

“(E) contain evidence of coordination with existing resources;

“(F) provide an assurance that funds provided under this chapter will supplement and not supplant other Federal, State, and local funds;

“(G) describe how the activities to be assisted conform with research-based knowledge about school dropout prevention and reentry; and

“(H) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under section 1114.

“(b) State Agency Review and Award.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

“(c) Eligibility.—A school is eligible to receive a grant under this chapter if the school is—

“(1) a public school (including a public alternative school)—

“(A) that is eligible to receive assistance under part A of title I, including a comprehensive secondary school, a vocational or technical secondary school, or a charter school; and

“(B)(i) that serves students 50 percent or more of whom are low-income individuals; or

“(ii) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

“(2) participating in a schoolwide program under section 1114 during the grant period.

"(d) Community-Based Organizations.—A school that receives a grant under this chapter may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

"(1) the school approves the use;

"(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

"(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 122 of the Workforce Investment Act of 1998.

"(e) Coordination.—Each school that receives a grant under this chapter shall coordinate the activities assisted under this chapter with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 and the School-to-Work Opportunities Act of 1994.

"SEC. 1464. DISSEMINATION ACTIVITIES.

"Each school that receives a grant under this chapter shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

"SEC. 1465. PROGRESS INCENTIVES.

"Notwithstanding any other provision of law, each local educational agency that receives funds under title I shall use such funding to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this chapter for 2 fiscal years.

"SEC. 1466. SCHOOL DROPOUT RATE CALCULATION.

"For purposes of calculating a school dropout rate under this chapter, a school shall use—

"(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

"(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

"SEC. 1467. REPORTING AND ACCOUNTABILITY.

"(a) Reporting.—In order to receive funding under this chapter for a fiscal year after the first fiscal year a school receives funding under this chapter, the school shall provide, on an annual basis, to the Secretary and the State educational agency a report regarding the status of the implementation of activities funded under this chapter, the outcome data for students at schools assisted under this chapter disaggregated in the same manner as information under section 1451(a) (such as dropout rates), and certification of progress from the eligible entity whose strategies the school is implementing.

"(b) Accountability.—On the basis of the reports submitted under subsection (a), the Secretary shall evaluate the effect of the activities assisted under this chapter on school dropout prevention compared to a control group.

"SEC. 1468. STATE RESPONSIBILITIES.

"(a) Uniform Data Collection.—Within 1 year after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State disaggregated in the same manner as information under section 1451(a), according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

"(b) Attendance-Neutral Funding Policies.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

"(1) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

"(2) specific incentives for retaining enrolled students throughout each year.

"(c) Suspension and Expulsion Policies.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall develop uniform, long-term suspension and expulsion policies (that in the case of a child with a disability are consistent with the suspension and expulsion policies under the Individuals with Disabilities Education Act) for serious infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.

"(d) Regulations.—The Secretary shall promulgate regulations implementing subsections (a) through (c).

"Chapter 3—Definitions; Authorization of Appropriations

"SEC. 1471. DEFINITIONS.

"In this subpart:

"(1) Low-income.—The term 'low-income', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5).

"(2) School dropout.—The term 'school dropout' has the meaning given the term in section 4(17) of the School-to-Work Opportunities Act of 1994.

"SEC. 1472. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $250,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

"(1) 10 percent shall be available to carry out chapter 1; and

"(2) 90 percent shall be available to carry out chapter 2.".

By Mr. BINGAMAN (for himself, Mrs. Hutchison, and Ms. Collins):

S. 103. A bill to provide for advanced placement programs; to the Committee on Health, Education, Labor, and Pensions.

ADVANCED PLACEMENT PROGRAMS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCED PLACEMENT PROGRAMS.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART L—ADVANCED PLACEMENT PROGRAMS

"SEC. 10995A. SHORT TITLE.

"This part may be cited as the 'Access to High Standards Act'.

"SEC. 10995B. FINDINGS AND PURPOSES.

"(a) Findings.—Congress finds that—

"(1) far too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities, college dropout rates of over 25 percent for the first year of college, and remediation for almost one-third of incoming college freshmen;

"(2) there is a growing consensus that raising academic standards, establishing high academic expectations, and showing concrete results are at the core of improving public education;

"(3) modeling academic standards on the well-known program of advanced placement courses is an approach that many education leaders and almost half of all States have endorsed;

"(4) advanced placement programs already are providing 30 different college-level courses, serving almost 60 percent of all secondary schools, reaching over 1,000,000 students (of whom 80 percent attend public schools, 55 percent are females, and 30 percent are minorities), and providing test scores that are accepted for college credit at over 3,000 colleges and universities, every university in Germany, France, and Austria, and most institutions in Canada and the United Kingdom;

"(5) 24 States are now funding programs to increase participation in advanced placement programs, including 19 States that provide funds for advanced placement teacher professional development, 3 States that require that all public secondary schools offer advanced placement courses, 10 States that pay the fees for advanced placement tests for some or all students, and 4 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests; and

"(6) the State programs described in paragraph (5) have shown the responsiveness of schools and students to such programs, raised the academic standards for both students participating in such programs and other children taught by teachers who are involved in advanced placement courses, and shown tremendous success in increasing enrollment, achievement, and minority participation in advanced placement programs.

"(b) Purposes.—The purposes of this part are—

"(1) to encourage more of the 600,000 students who take advanced placement courses but do not take advanced placement exams each year to demonstrate their achievements through taking the exams;

"(2) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Tests (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

"(3) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

"(4) to increase the availability and broaden the range of schools that have advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

“(5) to build on the State programs described in subsection (a)(5) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

“(6) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

“(7) to provide access to advanced placement courses for secondary school juniors at schools that do not offer advanced placement programs, increase the rate of secondary school juniors and seniors who participate in advanced placement courses to 25 percent of the secondary school student population, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded; and

“(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees.

“SEC. 10995C. FUNDING DISTRIBUTION RULE.

“From amounts appropriated under section 10995H for a fiscal year, the Secretary shall give first priority to funding activities under section 10995F, and shall distribute any remaining funds not so applied according to the following ratio:

“(1) Seventy percent of the remaining funds shall be available to carry out section 10995D.

“(2) Thirty percent of the remaining funds shall be available to carry out section 10995E.

“SEC. 10995D. ADVANCED PLACEMENT PROGRAM GRANTS.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—From amounts appropriated under section 10995H and made available under section 10995C(1) for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (c).

“(2) DURATION AND PAYMENTS.—

“(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

“(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

“(3) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means a State educational agency, or a local educational agency, in the State.

“(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to eligible entities submitting applications under subsection (d) that demonstrate—

“(1) a pervasive need for access to advanced placement incentive programs;

“(2) the involvement of business and community organizations in the activities to be assisted;

“(3) the availability of matching funds from State or local sources to pay for the cost of activities to be assisted;

“(4) a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science; and

“(5)(A) in the case of an eligible entity that is a State educational agency, the State educational agency carries out programs in the State that target—

“(i) local educational agencies serving schools with a high concentration of low-income students; or

“(ii) schools with a high concentration of low-income students; or

“(B) in the case of an eligible entity that is a local educational agency, the local educational agency serves schools with a high concentration of low-income students.

“(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

“(1) teacher training;

“(2) preadvanced placement course development;

“(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

“(4) curriculum development;

“(5) books and supplies; and

“(6) any other activity directly related to expanding access to and participation in advanced placement incentive programs particularly for low-income individuals.

“(d) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(e) DATA COLLECTION AND REPORTING.—

“(1) DATA COLLECTION.—Each eligible entity receiving a grant under this section shall annually report to the Secretary—

“(A) the number of students taking advanced placement courses who are served by the eligible entity;

“(B) the number of advanced placement tests taken by students served by the eligible entity;

“(C) the scores on the advanced placement tests; and

“(D) demographic information regarding individuals taking the advanced placement courses and tests disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

“(2) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

“SEC. 10995E. ONLINE ADVANCED PLACEMENT COURSES.

“(a) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C(2) for a fiscal year, the Secretary shall award grants to State educational agencies to enable such agencies to award grants to local educational agencies to provide students with online advanced placement courses.

“(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

“(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

“(c) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant award under subsection (b) shall award grants to local educational agencies within the State to carry out activities described in subsection (e). In awarding grants under this subsection, the State educational agency shall give priority to local educational agencies that—

“(1) serve high concentrations of low-income students;

“(2) serve rural areas; and

“(3) the State educational agency determines will not have access to online advanced placement courses without assistance provided under this section.

“(d) CONTRACTS.—A local educational agency that receives a grant under this section may enter into a contract with a nonprofit or for-profit organization to provide the online advanced placement courses, including contracting for necessary support services.

“(e) USES.—Grant funds provided under this section may be used to purchase the online curriculum, to train teachers with respect to the use of online curriculum, or to purchase course materials.

“SEC. 10995F. ADVANCED PLACEMENT INCENTIVE PROGRAM.

“(a) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under subsection (c) to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

“(1) are enrolled in an advanced placement class; and

“(2) plan to take an advanced placement test.

“(b) AWARD BASIS.—In determining the amount of the grant awarded to each State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 1124(c) in the State in relation to the number of such children so counted in all the States.

“(c) INFORMATION DISSEMINATION.—A State educational agency shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

“(d) APPLICATIONS.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

“(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds made available under this section;

“(2) provide an assurance that any grant funds received under this section, other than funds used in accordance with subsection (e), shall be used only to pay for advanced placement test fees; and

“(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

“(e) ADDITIONAL USES OF FUNDS.—If each eligible low-income individual in a State pays not more than a nominal fee to take an advanced placement test in a core subject, then a State educational agency may use grant funds made available under this section that remain after advanced placement test fees have been paid on behalf of all eligible low-income individuals in the State, for activities directly related to increasing—

“(1) the enrollment of low-income individuals in advanced placement courses;

“(2) the participation of low-income individuals in advanced placement courses; and

"(3) the availability of advanced placement courses in schools serving high-poverty areas.

"(f) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this section shall supplement, and not supplant, other non-federal funds that are available to assist low-income individuals in paying for the cost of advanced placement test fees.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

"(h) REPORT.—Each State educational agency annually shall report to the Secretary information regarding—

"(1) the number of low-income individuals in the State who received assistance under this section; and

"(2) any activities carried out pursuant to subsection (e).

"(i) DEFINITIONS.—In this section:

"(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

"SEC. 10995G. DEFINITIONS.

"In this part:

"(1) ADVANCED PLACEMENT INCENTIVE PROGRAM.—The term 'advanced placement incentive program' means a program that provides advanced placement activities and services to low-income individuals.

"(2) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' means an advanced placement test administered by the College Board or approved by the Secretary.

"(3) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term 'high concentration of low-income students', used with respect to a State educational agency, local educational agency or school, means an agency or school, as the case may be, that serves a student population 40 percent or more of whom are from families with incomes below the poverty level, as determined in the same manner as the determination is made under section 1124(c)(2).

"(4) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means, other than for purposes of section 10995F, a low-income individual (as defined in section 402A(g)(2) of the Higher Education Act of 1965 who is academically prepared to take successfully an advanced placement test as determined by a school teacher or advanced placement coordinator taking into consideration factors such as enrollment and performance in an advanced placement course or superior academic ability.

"(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965.

"(6) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"SEC. 10995H. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. BOXER, Mr. SPECTER, Mrs. MURRAY, Ms. COLLINS, Mr. JOHNSON, Mr. WELLSTONE, Mr. LEAHY, Mr. KERRY, Mr. DURBIN, Mr. INOUYE, Mr. AKAKA, Mr. SARBANES, Mr. SCHUMER, Mr. HARKIN, Mrs. CLINTON, and Mr. CORZINE):

S. 104. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Health, Education, Labor, and Pensions.

EQUITABLE COVERAGE UNDER HEALTH PLANS

Mr. REID. Mr. President, I am proud to introduce today, with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 2001 (EPICC).

Our legislation would require insurers, HMOs and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and deductibles for prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

Our bill gives Americans on both sides of the abortion debate the opportunity to join together in the common goal of preventing unintended pregnancies. I am pleased that we have support from both pro-life and pro-choice Senators for this bill.

We are introducing EPICC today—the first legislative day of the 107th Congress—because equity in prescription contraception coverage is long overdue. Senator SNOWE and I first introduced this bill in 1997. Since this time, the Viagra pill went on the market, and one month later was covered by most indemnity policies. Birth control pills, which have been on the market since 1960, are covered by only thirty-three percent of insurance plans.

Most recently, the U.S. Equal Employment Opportunity Commission (EEOC) issued a decision finding that an employer's failure to include insurance coverage for prescription contraceptives in an employee health benefits plan, when it covers other prescription drugs and devices, constitutes unlawful sex discrimination under Title VII of the Civil Rights Act of 1964.

The EEOC ruling is an important step toward ensuring that women have access to affordable contraceptives. At the same time, it highlights the importance of our legislation because title VII applies only to employers; it does not cover insurance providers. An estimated 16 million Americans obtain health insurance from private insurance other than employer-provided plans. Only the enactment of EPICC will ensure that contraceptive coverage is offered by insurance providers.

Our efforts have not been entirely without results. For the past three consecutive years, we have passed a provision in the Treasury-Postal Appropriations bill that requires Federal health plans to cover prescription contraceptives. It is time to pass EPICC and extend this law to all Americans.

It is time to pass EPICC because EPICC is about equality for women. For all the advances women have made, they still earn 74 cents for every dollar a man makes and on top of that, they pay 68 percent more in out-of-pocket costs for health care than men. Reproductive health care services account for much of this 68 percent difference. You can be sure, if men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

It is time to pass EPICC because the health industry has done a poor job of responding to women's health needs. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive method at all, and only 15 percent cover all five of the most common contraceptive methods. Women are forced to use disposable income to pay for family planning services not covered by their health insurance. "The Pill"—one of the most common birth control methods, can cost over $300 a year. Women who lack disposable income are forced to use less reliable methods of contraception.

It is time to pass EPICC because each year approximately 3 million pregnancies, or 50 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, about half end in abortion. Reliable family planning methods must be made available if we wish to reduce this disturbing number.

It is time to pass EPICC because insurance companies routinely cover more expensive services, including abortions, sterilizations and tubal ligations. Yet according to one study in the American Journal of Public Health, health plans would accrue enough savings in pregnancy care costs to cover oral contraceptives for all users under the plan by increasing the number of women who use oral contraceptives by 15 percent. Studies indicate that for every dollar of public funds invested in family planning, four to fourteen dollars of public funds is saved in pregnancy and health care-related costs. Not only will a reduction in unintended pregnancies reduce abortion rates, it will also lead to a reduction in low-birth weight, infant mortality and maternal morbidity.

It is time to pass EPICC because access to contraception will bring down the unintended pregnancy rate, ensure good reproductive health for women, and reduce the number of abortions. It is vitally important to the health of our country that quality contraception is not beyond the financial reach of women. Regardless of where you stand on the abortion issue, prevention is the common ground on which we can all stand. I urge you to join me in supporting EPICC.

Ms. SNOWE. Mr. President, I rise today with my colleague from Nevada, Senator HARRY REID, to reintroduce the Equity in Prescription Insurance and Contraceptive Coverage Act.

Today is the 28th anniversary of the landmark *Roe* v. *Wade* decision—an anniversary which makes it especially poignant to reintroduce EPICC today. There are three million unintended pregnancies every year—half of all pregnancies that occur every year in this country. And frighteningly, approximately half of all unintended pregnancies end in abortion.

I am firmly pro-choice and I believe in a woman's right to a safe and legal abortion when she needs this procedure. But I want abortion to be an option that a woman rarely needs.

The simplest and most effective means of reducing the number of abortions is to reduce the number of unintended pregnancies in America. And the safest and most effective means of preventing unintended pregnancies are with prescription contraceptives. Unfortunately, while the vast majority of insurers cover prescription drugs, they treat prescription contraceptives very differently. In fact, half of large group plans exclude coverage of contraceptives. And only one-third cover oral contraceptives—the most popular form of reversible birth control.

When one realizes the insurance "carve-out" for these prescriptions and related outpatient treatments, it is no longer a mystery why women spend 68 percent more than men in out-of-pocket health care costs. No woman should have to forgo or rely on inexpensive and less effective contraceptives for purely economic reasons, knowing that she risks an unintended pregnancy.

For the last three years Congress has required the health plans participating in the Federal Employees Health Benefit Program—the largest employer-sponsored health insurance plan in the country—to provide prescription contraceptive coverage if they cover prescription drugs as a part of their benefits package. The protections we afford to Members of Congress, their staff, other federal employees and annuitants, and to the approximately two million women of reproductive age who are participating in FEHBP need and deserve to be extended to the rest of the country.

Last December 13, the Equal Employment Opportunity Commission ruled that excluding contraceptives from health insurance plans is a violation of the 1978 Pregnancy Discrimination Act, which requires equal treatment of women "affected by pregnancy, childbirth or related medical conditions," in all aspects of employment, including fringe benefits.

The EEOC said that the Act also protects women against discrimination because they have the ability to become pregnant, not just because they are already pregnant. According to the EEOC's ruling, excluding contraceptives also amounts to sex discrimination because these prescriptions are available only for women. Furthermore, excluding contraceptives due to possible increased costs is not valid—under the Pregnancy Discrimination Act Congress specifically rejected costs as a defense.

Unfortunately, the ruling only applies to the two cases examined by the EEOC and is not a general "policy guidance" that would apply to all employers. These two particular health plans must cover contraceptives, the ruling said, because they already cover a wide range of preventive services, including vaccinations, drugs to control blood pressure, weight loss medication and preventive dental care.

Another health plan—one that doesn't cover these services—might not be in violation of the law. But most health plans cover similar services, and the decision announced in December could be used by other women who seek coverage from their employers.

The Pregnancy Discrimination Act—and this EEOC decision—only reaches employers of 15 people or more. The Equity in Prescription Insurance Contraceptive Coverage Act reaches all insurance plans, no matter the size, and includes individual insurance—not just employer-sponsored insurance plans.

The time has come for Congress to act, once and for all, to ensure equity in prescription insurance coverage. The EEOC's decision provides a powerful impetus for action in Congress, and demonstrates the degree of concern through the nation about unfair and discriminatory prescription practices. The EEOC decision highlights the problem; I believe passage of our legislation in Congress is the solution.

Unfortunately, the lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescription drugs which are equally valuable to their lives are routinely covered. Less than half—49 percent—of all large-group health care plans cover any contraceptive method at all and only 15 percent cover the five most common reversible birth control methods. HMOs are more likely to cover contraceptives, but only 39 percent cover all five reversible methods. And ironically, 86 percent of large group plans, preferred provider organizations, and HMOs cover sterilization and between 66 and 70 percent of these different plans do cover abortion.

Thirteen states require their state-regulated health plans to coverage prescription contraceptive: Maryland, Connecticut, Georgia, Hawaii, New Hampshire, Nevada, North Carolina, Vermont, California, Delaware, Iowa, Rhode Island, and my home state of Maine. We need to ensure that this protection is expanded to all states.

The concept underlying EPICC is simple. This legislation says that if insurers cover prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. And in conjunction with this, EPICC requires health plans which already cover basic health care services to also cover outpatient services related to prescription contraceptives.

The bill does not require insurance companies to cover prescription drugs. What the bill does say is that if insurers cover prescription drugs, they cannot carve prescription contraceptives out of their formularies. And it says that insurers which cover outpatient health care services cannot limit or exclude coverage of the medical and counseling services necessary for effective contraceptive use.

This bill is good health policy. By helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reduce rates of maternal complications, and reduces the possibility of low-birthweight births.

Furthermore, the Equity in Prescription Insurance and Contraceptive Coverage Act makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every dollar invested in family planning, $4 to $14 is saved in health care and related costs. And all methods of reversible contraceptives are cost-effective when compared to the cost of unintended pregnancy. A sexually active woman who uses no contraception costs the health care provider an average of $3,225 in a given year. The average cost of an uncomplicated vaginal delivery in 1993 was approximately $6,400. and for every 100 women who do not use contraceptives in a given year, 85 percent will become pregnant.

Why do insurance companies exclude prescription contraceptive coverage from their list of covered benefits—especially when they cover other prescription drugs? The tendency of insurance plans to cover sterilization and abortion reflects, in part, their long-standing tendency to cover surgery and treatment over prevention. But insurers do not feel compelled to cover prescription contraceptives because they know that most women who lack contraceptive coverage will simply pay for them out of pocket. And in order to prevent an unintended pregnancy, a woman needs to be on some form of birth control for almost 30 years of her life.

The Equity in Prescription Insurance and Contraceptive Coverage Act tells insurance companies that we can no longer tolerate policies that disadvantage women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services. And America's unacceptably high rates of unintended pregnancies and abortions will be reduced in the process.

The philosophy behind the bill is that contraceptives should be treated no differently than any other prescription drug or device. It does not give contraceptives any type of special insurance coverage, but instead seeks to achieve equity of treatment and parity of coverage. For that reason, the bill specifies that if a plan imposes a deductible or cost-sharing requirement on prescription drugs or devices, it can impose the same deductible or cost-sharing requirement on prescription contraception. But it cannot charge a higher cost-sharing requirement or deductible on contraceptives. Outpatient contraceptive services must also be treated similarly to general outpatient health care services.

Time and time again Americans have expressed the desire for their leaders to come together to work on the problems that face us. This bill exemplifies that spirit of cooperation. It crosses some very wide gulfs and makes some very meaningful changes in policy that will benefit countless Americans.

By Mr. FEINGOLD:

S. 105. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which will serve as a first step towards eliminating the inequities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system.

The Federal Milk Marketing Order system, created nearly 60 years ago, establishes minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a high price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

This legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it.

Under the current archaic law, the price for fluid milk increases depending on the distance from Eau Claire, Wisconsin, even though most milk marketing orders do not receive any milk from Wisconsin.

The bill I introduce today will prohibit the Secretary of Agriculture from using distance or transportation costs from any location as the basis for pricing milk, unless significant quantities of milk are actually transported from that location into the recipient market. The Secretary will have to comply with the statutory requirement that supply and demand factors be considered as specified in the Agricultural Marketing Agreement Act when setting milk prices in marketing orders. The fact remains that single-basing-point pricing simply cannot be justified based on supply and demand for milk both in local and national markets.

This bill also requires the Secretary to report to Congress on specifically which criteria are used to set milk prices. Finally, the Secretary will have to certify to Congress that the criteria used by the Department do not in any way attempt to circumvent the prohibition on using distance or transportation cost as basis for pricing milk.

This one change is so crucial to Upper Midwest producers, because the current system has penalized them for many years. By providing disparate profits for producers in other parts of the country and creating artificial economic incentives for milk production, Wisconsin producers have seen national surpluses rise, and milk prices fall. Rather than providing adequate supplies of fluid milk in some parts of the country, the prices have led to excess production.

The prices have provided production incentives beyond those needed to ensure a local supply of fluid milk in some regions, leading to an increase in manufactured products in those marketing orders. Those manufactured products directly compete with Wisconsin's processed products, eroding our markets and driving national prices down.

The perverse nature of this system is further illustrated by the fact that since 1995 some regions of the U.S., notably the Central states and the Southwest, are producing so much milk that they are actually shipping fluid milk north to the Upper Midwest. The high fluid milk prices have generated so much excess production, that these markets distant from Eau Claire are now encroaching upon not only our manufactured markets, but also our markets for fluid milk, further eroding prices in Wisconsin.

The market distorting effects of the fluid price differentials in federal orders are manifest in the Congressional Budget Office estimate that eliminating the orders would save $669 million over five years. Government outlays would fall, CBO concludes, because production would fall in response to lower milk prices and there would be fewer government purchases of surplus milk. The regions which would gain and lose in this scenario illustrate the discrimination inherent to the current system. Economic analyses show that farm revenues in a market undisturbed by Federal Orders would actually increase in the Upper Midwest and fall in most other milk-producing regions.

While this system has been around since 1937, the practice of basing fluid milk price differentials on the distance from Eau Claire was formalized in the 1960's, when the Upper Midwest arguably was the primary reserve for additional supplies of milk. The idea was to encourage local supplies of fluid milk in areas of the country that did not traditionally produce enough fluid milk to meet their own needs.

Mr. President, that is no longer the case. The Upper Midwest is neither the lowest cost production area nor a primary source of reserve supplies of milk. In many of the markets with higher fluid milk differentials, milk is produced efficiently, and in some cases, at lower cost than the upper Midwest. Unfortunately, the prices didn't adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, specifically California, which now leads the nation in milk production.

Fluid milk prices should have been lowered to reflect that trend. Instead, in 1985, the prices were increased for markets distant from Eau Claire. USDA has refused to use the administrative authority provided by Congress to make the appropriate adjustments to reflect economic realities. They continue to stand behind single-basing-point pricing.

The result has been a decline in the Upper Midwest dairy industry, not because they can't produce a product that can compete in the market place, but because the system discriminates against them. Today, Wisconsin loses dairy farmers at a rate of more than 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Other regions with higher fluid milk prices are growing rapidly.

In an unregulated market with a level playing field, these shifts in production might be fair. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

I urge my colleagues to do the right thing and bring reform to this outdated system and work to eliminate the inequities in the current milk marketing order pricing system. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after "the locations" the following: "within a marketing area subject to the order"; and

(B) by striking the last 2 sentences and inserting the following: "Notwithstanding subsection (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence."; and

(2) in paragraph (B)(c), by inserting after "the locations" the following: "within a marketing area subject to the order".

By Mr. FEINGOLD (for himself and Mr. HUTCHINSON):

S. 106. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers' recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO JUSTICE REFORM LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce the Equal Access to Justice Reform Amendments of 2001. This legislation contains adjustments to the Equal Access to Justice Act (EAJA) that will streamline and improve the process of awarding attorney's fees to private parties who prevail in litigation against the Federal government. This is the now the fourth Congress in which I have introduced this legislation. I believe these reforms are an important step in reducing the burden of defending government litigation for many individuals and small businesses.

I am very pleased to be joined in introducing this legislation once again this year by my friend from Arkansas, Sen. TIM HUTCHINSON. We hope that by working on a bipartisan basis on this important project we can improve the chances that it can become law.

Over the years, members of Congress often speak of "getting government off the backs of the American people." Sometimes we disagree about when government is a burden and when it is giving a helping hand. But all of us in the Senate want to reform government in ways that will improve the lives of people all across this nation. The legislation we are proposing today deals directly with a problem that affects everyday Americans who face legal battles with the federal government and prevail. Even if they win in court, they may still lose financially because of the expense of paying their attorneys.

At the outset, it is important to understand what the Equal Access to Justice Act is, and why it exists. The premise of this statute is very simple. EAJA places individuals and small businesses who face the United States Government in litigation on more equal footing with the government by establishing guidelines for the award of attorney's fees when the individual or small business prevails. Quite simply, EAJA acknowledges that the resources available to the federal government in a legal dispute far outweigh those available to most Americans. This disparity is lessened by requiring the government in certain instances to pay the attorneys' fees of successful private parties. By giving successful parties the right to seek attorneys' fees from the United States, EAJA seeks to prevent small business owners and individuals from having to risk their companies or their family savings in order to seek justice.

My interest in this issue predates my election to the Senate. It arises from my experience both as a private attorney and a Member of the state Senate in my home state of Wisconsin. While in private practice, I became aware of how the ability to recoup attorney's fees is a significant factor, and often one of the first considered, when deciding whether or not to seek redress in the courts or to defend a case. Upon entering the Wisconsin State Senate, I authored legislation modeled on the federal law, which had been championed by one of my predecessors in this body from Wisconsin, Senator Gaylord Nelson. Today, section 814.246 of the Wisconsin statutes contains provisions similar to the federal EAJA statute.

It seemed to me then, as it does now, that we should do all that we can to help ease the financial burdens on people who need to have their claims reviewed and decided by impartial decision makers. To this end, I have reviewed the existing federal statutes with an eye toward improving them and making them work better. The bill Sen. HUTCHINSON and I are introducing today does a number of things to make EAJA more effective for individuals and small business men and women all across this country.

First and most important, this legislation eliminates the provision in current law that allows the government to avoid paying attorneys' fees when it loses a suit if it can show that its position was substantially justified. I believe that this high threshold for obtaining attorneys' fees is unfair. If an individual or small business battles the federal government in an adversarial proceeding and prevails, the government should simply pay the fees incurred. Imagine the scenario of a small business that spends time and money dueling with the government and wins, only to find out that it must now undertake the additional step of litigating the justification of government's litigation position. For the government, with its vast resources, this second litigation over fees poses little difficulty, but for the citizen or small business it may simply not be financially feasible.

Not only is this additional step a financial burden on the private litigant, but a 1992 study also reveals that it is unnecessary and a waste of government resources. University of Virginia Professor Harold Krent on behalf of the Administrative Conference of the United States found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of subtantial justification, it is Prof. Krent's opinion, based upon review of cases in 1989 and 1990, that while the substantial justification defense may save some money, it was not enough to justify the cost of the additional litigation. In short, eliminating this often burdensome second step is a cost effective step which will streamline recovery under EAJA and may very well save the government money in the long run.

The second part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to the attorneys' fees and costs incurred after the date of the government's offer. Again, this will encourage settlement, speed the claims process, and thereby reduce the time and expense of the litigation.

The final improvement to EAJA included in this legislation is the removal of the carve out of cases where the prevailing party is eligible to get attorneys fees under section 7430 of the Internal Revenue Code. Under current law, EAJA is inapplicable in cases where a taxpayer prevails against the government. I was an original cosponsor of a bill that suggested a similar reform introduced by Senator LEAHY of Vermont in the 105th Congress. This provision helps to level the playing field between the IRS and everyday citizens. There is no reason that taxpayers should be treated differently than any other party that prevails in a case against the government. They deserve to have their fees paid if they win.

We all know that the American small business owner has a difficult road to make ends meet and that unnecessary or overly burdensome government regulation can be a formidable obstacle to doing business. It can be the difference between success or failure. The Equal Access to Justice Act was conceived and implemented to help balance the formidable power of the federal government. It has already helped many Americans. The legislation we are offering today will make EAJA more effective for more Americans while at the same time helping to deter the government from acting in an indefensible and unwarranted manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This Act may be cited as the "Equal Access to Justice Reform Amendments of 2001".

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after "(2)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after "(B)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(c) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

(d) TAXPAYERS' RECOVERY OF COSTS, FEES, AND EXPENSES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended by striking subsection (f).

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended by striking subsection (e).

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code (as amended by subsection (d) of this section), is amended by adding at the end the following:

"(f)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code (as amended by subsection (d) of this section), is amended by inserting after subsection (d) the following:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.".

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking all beginning with ", unless the adjudicative officer" through "expenses are sought"; and

(B) in subsection (a)(2), by striking "The party shall also allege that the position of the agency was not substantially justified.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking ", unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust";

(B) in paragraph (1)(B), by striking "The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought."; and

(C) in paragraph (3), by striking ", unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust".

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

Mr. HUTCHINSON. Mr. President, I rise today, with my colleague Senator FEINGOLD, to introduce the Equal Access to Justice (EAJA) Reform Amendments of 2001. I do so because it is my sincere hope that the 107th Congress will work in a bi-partisan manner to provide small business owners and individuals who prevail in court against the federal government with automatic reimbursement for their legal expenses—thereby fulfilling the true intent of EAJA when passed in 1980.

EAJA's initial premise was to reduce the vast disparity in resources and expertise which exists between small business owners or individuals and federal agencies and to encourage the government to ensure that the claims it pursues are worthy of its efforts. Twenty years ago, former Senator Gaylord Nelson, the author of the original, bipartisan EAJA bill, clearly explained EAJA's intent when he stated, "All I can say is the taxpayer is injured, and if the taxpayer was correct, and that is the finding, then we ought to make the taxpayer whole." I commend former Senator Nelson. His steadfast commitment to our nation's businesses as Chairman of the Senate Small Business Committee is worthy of admiration. As a result of a political compromise, however, the final version of EAJA does not provide for an automatic award of attorneys' fees. Rather, it provides for an award of attorneys' fees only when an agency or a court determines that the government's position was not "substantially justified" or that "special circumstances" exist which would make an award unjust.

Agencies and courts have strayed far from the original intent of EAJA by repeatedly using these provisions to avoid awarding attorneys' fees to small businesses and individuals who have successfully defended themselves. The bill that Senator FEINGOLD and I are introducing today, the Equal Access to Justice Reform Amendments of 2001, would amend EAJA to provide that a small business owner or individual prevailing against the government will be automatically entitled to recover their attorneys' fees and expenses incurred in their defense.

Unfortunately, EAJA is not making the taxpayers of this nation whole after they defend themselves against government action. Thus, I ask that my colleagues join Senator FEINGOLD and myself in our effort to make these American taxpayers whole by cosponsoring and supporting the Equal Access to Justice Reform Amendments of 2001.

By Mr. FEINGOLD:

S. 107. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

DEMOCRACY FOR DAIRY PRODUCERS ACT OF 2001

Mr. FEINGOLD. Mr. President, I rise to introduce a measure that will begin to restore to many dairy farmers throughout the nation, part of the market power they have lost in recent years.

Mr. President, when dairy farmers across the country voted on a referendum two years ago—perhaps the most significant change in dairy policy in sixty years—they didn't actually get to vote. Instead, their dairy marketing cooperatives will cast their votes for them.

This procedure is called bloc voting and it is used all the time. Basically, a Cooperative's Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. In the interest of time, but not always in the interest of their producer owner-members.

Mr. President, I do think that bloc voting can be a useful tool in some circumstances, but I have serious concerns about its use in every circumstance. Farmers in Wisconsin and in other states tell me that they do not agree with their Cooperative's view on every vote. Yet, they have no way to preserve their right to make their single vote count.

After speaking to farmers and officials at USDA, I have learned that if a Cooperative bloc votes, individual members simply have no opportunity to voice opinions separately. That seems unfair when you consider what a monumental issue is at stake. Coops and their members do not always have identical interests. We shouldn't ask farmers to ignore that fact.

Mr. President, the Democracy for Dairy Producers Act of 2001 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot if one or two or ten or all of the members chose to vote on their own.

This will in no way slow down the process at USDA; implementation of any rule or regulation would be able to proceed on schedule. Also, I do not expect that this would change the final outcome of any given vote. Coops could still cast votes for their members who do not exercise their right to vote individually. And to the extent that coops represent farmers interest, farmers are likely to vote along with the coops, but whether they join the coops or not, farmers deserve the right to vote according to their own views.

I urge my colleagues to return just a little bit of power to America's farmers, and a little bit of pure democracy to the vote on issues that have such an impact on their future.

I urge my colleagues to support the Democracy for Dairy Producers Act, a dairy bill without regional bias.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Democracy for Dairy Producers Act of 2001".

SEC. 2. MODIFIED BLOC VOTING.

(a) IN GENERAL.—Notwithstanding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in the case of the referendum conducted as part of the consolidation of Federal milk marketing orders and related reforms under section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), if a cooperative association of milk producers elects to hold a vote on behalf of its members as authorized by that paragraph, the cooperative association shall provide to each producer, on behalf of which the cooperative association is expressing approval or disapproval, written notice containing—

(1) a description of the questions presented in the referendum;

(2) a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership; and

(3) information regarding the procedures by which a producer may cast an individual ballot.

(b) TABULATION OF BALLOTS.—At the time at which ballots from a vote under subsection (a) are tabulated by the Secretary of Agriculture, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of, stockholders in, or under contract with, the cooperative association.

By Mr. FEINGOLD:

S. 108. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

LEGISLATION TO REDUCE THE NUMBER OF EXECUTIVE BRANCH POLITICAL APPOINTMENTS

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The most recent Congressional Budget Office (CBO) estimates of this measure is that it would save $382 million over the next five years, and $872 million over the next 10 years.

The bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO's annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker.

Between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees, and looking back to 1960 their growth is even more dramatic. In his book Thickening Government: Federal Government and the Diffusion of Accountability, author Paul Light reports a startling 430 percent increase in the number of political appointees and senior executives in Federal government between 1960 and 1992.

Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or more responsive to political leadership. Indeed, in their report, the Volcker Commission argued that the growing number of presidential appointees may "actually undermine effective presidential control of the executive branch." The report went on to note that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The Commission argued that this lack of control and political focus "may actually dilute the

President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable."

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

In commenting on this problem, author Light noted, "As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them." Light added that "Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively. . ."

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in government service or even pursuing a career in government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type - a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, the report of the Twentieth Century Fund Task Force on the Presidential Appointment Process identified another problem aggravated by the excessive number of political appointees, namely the increasingly lengthy process of filling these thousands of positions. As the Task Force reported, both President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that "on average, appointees in both administrations were confirmed more than eight months after the inauguration—one-sixth of an entire presidential term." By contrast, the report noted that in the presidential transition of 1960, "KENNEDY appointees were confirmed, on average, two and a half months after the inauguration."

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a detrimental effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can "wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sector."

Mr. President, as we reduce the number of government employees, streamline agencies, and make government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—In this section, the term "political appointee" means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 2001.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, and Mr. KOHL):

S. 109. A bill to establish the Dairy Farmer Viability Commission, to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY FARMER VIABILITY ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce the Dairy Farmers Viability Act, legislation to establish a Commission to provide Congress with legislative and administrative recommendations to address dairy farming prices, stability, and marketplace competition and concentration.

As Congress moves to revise the 1996 farm bill, it is of paramount importance that we fashion dairy policies to meet the needs of all dairy farmers. I have taken the floor a number of times to talk about the challenges facing Wisconsin's dairy farmers, and many of those challenges are a result of inequities in the current pricing structure of milk. While I may disagree on many levels with my friend from Vermont, Senator JEFFORDS, there are a number of issues that face all dairy farmers, whether they are in Vermont, Idaho or Wisconsin.

This commission will help Congress address many of these common concerns, such as reducing the concentration in the marketplace, increasing competition in rural America, and improving farm-gate prices. I hope my colleagues will work with us to move this commission forward quickly and help to address the concerns of dairy farmers nationwide.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dairy Farmer Viability Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the farm-retail price spread (the difference between farm and retail values) for dairy products has doubled since the early 1980's;

(2) the price of raw milk sent to the market by dairy producers has fallen to levels received in 1978; and

(3) the number of family-sized dairy operations has decreased by almost 75 percent in the last 2 decades, with some States losing nearly 10 percent of their dairy farmers in recent months.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Dairy Farmer Viability Commission" (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed by the Secretary.

(2) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—A member of the Commission appointed under paragraph (1) shall not be an employee or former employee of the Federal Government.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made as soon as practicable after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed. the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum. but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

SEC. 4. DUTIES.

(a) STUDY.—The Commission shall conduct a study on matters relating to improving the viability of dairy farming.

(b) Recommendations.—The Commission shall develop recommendations to improve the viability of dairy farming after considering, with respect to dairy industry—

(1) farm prices;

(2) competition;

(3) leverage;

(4) stability; and

(5) concentration in the marketplace.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the Commission; and

(2) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Information From Federal Agencies.—

(1) In general.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) Provision of information.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(b) Travel Expenses.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) Confirmation of executive director.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) Compensation.—

(A) In general.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) Maximum rate of pay.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detail of Federal Government Employees.—

(1) In general.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) Civil service status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 7. FUNDING.

The Secretary of Agriculture shall provide to the Commission for each fiscal year such sums as are necessary to carry out this Act, to be derived by transfer of a proportionate amount of funds for administrative expenses from each other account for which funds are made available to the Department of Agriculture for administrative expenses for the fiscal year.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under section 4(c).

By Mr. FEINGOLD:

S. 110. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs.

ELIMINATING THE AUTOMATIC PAY RAISE FOR CONGRESS

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce legislation that would put an end to automatic cost-of-living adjustments for Congressional pay.

As my colleagues are aware, it is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the Record.

Last year, the Senate initially voted down the conference report on the Legislative Branch Appropriations bill. As I noted during the debate on that bill, by considering the Treasury-Postal appropriations bill as part of that conference report, shielded as it was from amendment, the Senate blocked any opportunity to force an open debate of a $3,800 pay raise for every Member of the Senate and the House of Representatives. This process of pay raises without accountability must end.

The stealth pay raise technique began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation. Many times, Congress has voted to deny itself the raise, and Congress traditionally does that on the Treasury-Postal Appropriations bill.

And by bringing the Treasury-Postal Appropriations bill to the Senate floor for the first time last year in a conference report, without Senate floor consideration, the majority leadership prevented anyone from offering an amendment on that bill to block the pay raise. The majority leadership tried to make it impossible even to put Senators on record in an up-or-down vote directly for or against the pay raise, nearly perfecting the technique of the stealth pay raise.

The question of how and whether Members of Congress can raise their own pay was one that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. Almost exactly 211 years ago, on September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the states.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin state Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the states.

The 27th Amendment to the Constitution now states: "No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened."

I try to honor that limitation in my own practices. In my own case, throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The stealth pay raises like the one that Congress allowed last year, at a minimum, certainly violate the spirit of that amendment.

Mr. President, this practice must end. To address it, I am re-introducing this bill to end the automatic cost-of-living adjustment for Congressional pay. Senators and Congressmen should have to vote up-or-down to raise Congressional pay. My bill would simply require us to vote in the open. We owe our constituents no less.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking "as adjusted by paragraph (2) of this subsection" and inserting "adjusted as provided by law".

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2003.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 111. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PROMOTION FAIRNESS ACT

Mr. FEINGOLD. Mr. President, I rise today with my colleague Senator KOHL to introduce the "Dairy Promotion Fairness Act." This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride. Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

This bill supports the dairy marketing board's efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly—by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike. We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dairy Promotion Fairness Act".

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DECLARATION OF POLICY.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended in the first sentence—

(1) by inserting after "commercial use" the following: "and on imported dairy products"; and

(2) by striking "products produced in the United States." and inserting "products.".

(b) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking "and" at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(m) the term 'imported dairy product' means any dairy product that is imported into the United States, including dairy products imported into the United States in the form of—

"(1) milk and cream and fresh and dried dairy products;

"(2) butter and butterfat mixtures;

"(3) cheese; and

"(4) casein and mixtures; and

"(n) the term 'importer' means a person that imports an imported dairy product into the United States.".

(c) CONTINGENT REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by inserting "NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—" after "(b)";

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting appropriately;

(3) in paragraph (2) (as so designated), by striking "Members" and inserting "Except as provided in paragraph (6), the members"; and

(4) by inserting after paragraph (5) (as so designated) the following:

"(6) IMPORTERS.—

"(A) IN GENERAL.—If representation of importers of imported dairy products is required on the Board by another law or a treaty to which the United States is a party, the Secretary shall appoint not more than 2 members who are representatives of importers.

"(B) ADDITIONAL MEMBERS; PROCEDURES.—The members appointed under this paragraph—

"(i) shall be in addition to the members appointed under paragraph (2); and

"(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.".

(d) IMPORTER ASSESSMENT.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting "ASSESSMENTS.—" after "(g)";

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately; and

(3) by adding at the end the following:

"(6) IMPORTERS.—

"(A) IN GENERAL.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

"(B) RATE.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

"(C) VALUE OF PRODUCTS.—For the purpose of determining the assessment on imported dairy products under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.".

(e) RECORDS.—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking "person receiving" and inserting "importer of imported dairy products, each person receiving".

By Mr. FEINGOLD (for himself, Mr. KOHL, and Mr. WYDEN):

S. 112. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN):

S. 113. A bill to terminate production under the D5 submarine-launched ballistic missile program and to prohibit the backfit of certain Trident I ballistic missile submarines to carry D5 submarine-launched ballistic missiles; to the Committee on Armed Services.

DEFENSE LEGISLATION

Mr. FEINGOLD. Mr. President, today I am introducing two bills that I hope will be a first step in helping to change fundamentally the way we think about our national defense.

As I have said time and again, I strongly support our Armed Forces and the excellent work they are doing to combat the new threats of the 21st century and beyond. I am concerned, however, that we are not giving our forces the tools they need to combat these emerging threats. Instead, a Cold War mentality continues to permeate the United States defense establishment and we still cling to the strategies and weapons that we used to fight—and win—the Cold War.

We have an historic opportunity, Mr. President. There is a new President, a new Congress, and a pending Quadrennial Defense Review—all at the dawn of a new millennium. We should take advantage of this opportunity by restructuring our national defense policy to combat the threats of the new century instead of continuing to guard against the long-defeated perils of the last one.

In the coming months, I will introduce and support a number of initiatives that I hope will help to turn the focus of our national defense policy away from the Cold War that has already been won and toward fielding a strong, agile force that can meet the emerging threats of the new century head on.

The two bills I am introducing today are a first step toward this goal. One of these bills would terminate the operation of the Navy's Extremely Low Frequency communications system (Project ELF). The other would end production of the Navy's Trident II submarine-launched ballistic missile and would prohibit certain back-fits of Trident I submarines.

Both of these systems were designed to protect the United States against an attack by the Soviet Union. Trident submarines, and the deadly submarine-launched ballistic missiles they carry, were designed specifically to attack targets inside the Soviet Union from waters off the continental United States. Project ELF was designed to send short one-way messages to ballistic and attack submarines that are submerged in deep waters.

The first bill I am introducing today would terminate operations under Project ELF, which is located in Clam Lake, Wisconsin, and Republic, Michigan. I would like to thank the senior Senator from Wisconsin [Mr. KOHL] and the Senator from Oregon [Mr. WYDEN] for cosponsoring this bill.

This bill would terminate operations at Project ELF, while maintaining the infrastructure in Wisconsin and Michigan in the event that a resumption in operations becomes necessary. If enacted, this bill would save taxpayers nearly $14 million per year.

Project ELF is ineffective and unnecessary in the post-Cold War era. Since ELF cannot transmit detailed messages, it serves as an expensive "beeper" system to tell submarines to come to the surface to receive messages from other sources, and the subs cannot send a return message to ELF in the event of an emergency. It takes ELF four minutes to send a three-letter message to a deeply submerged submarine.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Our submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency (VLF) radio waves or lengthier messages through satellite systems. It is hard to understand why the taxpayers continue to be asked to pay $14 million a year for what amounts to a beeper system that tells our submarines to come to the surface to receive orders from another, more sophisticated source.

Further, continued operation of this facility is opposed by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation during each Congress since taking office in 1993 to terminate it; and I have even recommended it for closure to the Defense Base Closure and Realignment Commission.

Project ELF has had a turbulent history. Since the idea for ELF was first proposed in 1958, the project has been changed or canceled several times. Residents of Wisconsin have opposed ELF since its inception, but for years we were told that the national security considerations of the Cold War outweighed our concerns about this installation in our state. Ironically, this system became fully operational in 1989—the same year the tide of democracy began to sweep across Eastern Europe and the Soviet Union. Now, twelve years later, the hammer and sickle has fallen and the Russian submarine fleet is in disarray. But Project ELF still remains as a constant, expensive reminder to the people of my state that the Department of Defense remains focused on the past.

There also continue to be a number of public health and environmental concerns associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. District Court ordered that ELF be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

Numerous medical studies point to a possible link between exposure to extremely low frequency electromagnetic fields and a variety of human health effects and abnormalities in both animal and plant species.

In 1999, after six years of research, the National Institute of Environmental Health Sciences released a report that did not prove conclusively a link between electromagnetic fields and cancer, but the report did not disprove it, either. Serious questions remain, Mr. President, and many of my constituents are rightly concerned about this issue.

In addition, I have heard from a number of dairy farmers who are convinced that the stray voltage associated with ELF transmitters has demonstrably reduced milk production. As we continue our efforts to produce a sustainable balanced federal budget and reduce the national debt, and as the Department of Defense continues to struggle to address readiness and other concerns, it is clear that outdated programs such as Project ELF should be closed down.

The second bill I am introducing today would terminate production under the Navy's Trident II submarine-launched ballistic missile program. It would also prohibit the Navy from moving forward with the planned back-fits of two Trident I submarines to carry Trident II missiles, which are currently scheduled for 2005 and 2006.

I am pleased to be joined in this effort by the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Oregon [Mr. WYDEN].

Let me say at the outset that my bill will in no way prevent the Navy from maintaining the current arsenal of Trident II missiles. Nor will it affect those Trident II missiles that are currently in production.

Mr. President, the Navy currently has ten Trident II submarines, each of which carries 24 Trident II (D5) missiles. Each of these missiles contains eight independently targetable nuclear warheads, for a total of 192 warheads per submarine. Each warhead packs between 300 to 450 kilotons of explosive power.

By comparison, the first atomic bomb that the United States dropped on Hiroshima generated 15 kilotons of force. Let's do the math for just one fully-equipped Trident II submarine.

Each warhead can generate up to 450 kilotons of force.

Each missile has eight warheads, and each submarine has 24 missiles.

That equals 86.4 megatons of force per submarine. That means that each Trident II submarine carries the power to deliver devastation which is the equivalent of 5,760 Hiroshimas.

And that is just one fully equipped submarine. As I noted earlier, the Navy currently has ten such submarines.

Through fiscal year 2001, the Navy will have been authorized to purchase 384 Trident II missiles for these submarines. Even taking into account the 78 Trident II missiles that have been expended through testing through calendar year 2000 and the four more that are scheduled to be expended this year, the Navy will still have 302 missiles in stock once those authorized to be purchased during FY2001 are completed.

The Navy needs 240 missiles to fully equip ten Trident II submarines with 24 missiles each. That leaves 62 "extra" missiles in the Navy's inventory. And the Navy still plans to buy 41 more missiles over the next four years, for a total purchase of 425 missiles. My bill would terminate production of these missiles after the currently authorized 384.

In addition to the ten Trident II submarines, the Navy also has eight Trident I submarines. The Navy plans to remove four of these submarines (the Ohio, the Florida, the Michigan, and the Georgia) from strategic service in 2003 and 2004 in order to comply with the provisions of the START II treaty. Current plans call for the other four Trident I submarines to be back-fitted to carry Trident II missiles. One of these back-fits began in May 2000 (the Alaska); another is scheduled to begin in February 2001 (the Nevada). The Navy wants to back-fit the last two Trident I submarines (the Henry M. Jackson and the Alabama) in 2005 and 2006. My bill would prohibit those last two back-fits. It would not affect the back-fits of the Alaska and the Nevada.

Thus, once the back-fits of the Alaska and the Nevada are completed, the Navy will have a fleet of twelve submarines capable of carrying Trident II missiles. This is more than enough firepower to be an effective deterrent against the moth-balled Russian submarine fleet and against the ballistic missile aspirations of rogue states including China and North Korea.

I recognize that there is still a potential threat from rogue states and from independent operators who seek to acquire ballistic missiles and other weapons of mass destruction. I also recognize that our submarine fleet and our arsenal of strategic nuclear weapons still have an important role to play in warding off these threats. Their role, however, has diminished dramatically from what it was at the height of the Cold War. Our missile procurement and equipment upgrade decisions should reflect that change and should reflect the realities of the post-Cold War world.

Our current ballistic missile capability is far superior to that of any other country on the globe. And the capability of the Russian military—the very force which these missiles were designed to counter—is seriously degraded.

I cannot understand the need for more Trident II missiles and more submarines to carry them at a time when the Governments of the United States and Russia are in negotiations to implement START II and are also discussing a framework for START III. These agreements call for reductions in our nuclear arsenal, not increases. To spend scarce resources on building more missiles now and on back-fitting two more submarines to carry them in the coming years is short-sighted and could seriously undermine our efforts to negotiate further arms reductions with Russia.

In conclusion, Mr. President, we should reexamine our national defense policy at the earliest possible date. The forthcoming Quadrennial Defense Review presents an excellent opportunity to do just that. We should not miss this opportunity to begin to transform our Armed Forces from the structure and strategies that won the Cold War to a fiscally responsible force that is adequately trained and equipped to combat the new challenges of the 21st century and beyond. The legislation I am introducing today is a step in that direction.

Mr. President, I ask unanimous consent that both of these bills be printed in the Record at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) Termination Required.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) Maintenance of Infrastructure.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

S. 113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF D5 SUBMARINE-LAUNCHED BALLISTIC MISSILE PROGRAM.

(a) Termination of Program.—The Secretary of Defense shall terminate production of D5 submarine-launched ballistic missiles under the D5 submarine-launched ballistic missile program.

(b) Payment of Termination Costs.—Funds available on or after the date of the enactment of this Act for obligation for the D5 submarine-launched ballistic missile program may be obligated for production under that program only for payment of the costs associated with the termination of production under this Act.

SEC. 2. PROHIBITION ON D5 TRIDENT II BACKFIT SCHEDULED TO COMMENCE IN 2005 AND 2006.

(a) Prohibition on Backfit of Certain Submarines.—The Secretary of Defense may not carry out the modifications of two Trident I submarines to enable such submarines to be deployed with Trident II D5 submarine-launched ballistic missiles that are currently scheduled to commence in 2005 and 2006, respectively.

(b) Prohibition on Use of Funds.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for purposes of carrying out the modifications of Trident I submarines described in subsection (a).

SEC. 3. CURRENT PROGRAM ACTIVITIES.

Nothing in sections 1 and 2 shall be construed to prohibit or otherwise affect the availability of funds for the following:

(1) Production of D5 submarine-launched ballistic missiles in production on the date of the enactment of this Act.

(2) Maintenance after the date of the enactment of this Act of the arsenal of D5 submarine-launched ballistic missiles in existence on such date, including the missiles described in paragraph (1).

By Mr. FEINGOLD:

S. 114. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, I am today re-introducing legislation terminating the Uniformed Services University of the Health Sciences (USUHS), a medical school run by the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office (CBO) project that terminating the school would save $273 million over the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military's new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military's scholarship program which provided over 80 percent of the military's new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that based on figures from 1995, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO has noted, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of training physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO's estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The House of Representatives has voted to terminate this program on several occasions, and the Vice President's National Performance Review joined others, ranging from the Grace Commission to the CBO, in raising the question of whether this medical school, which graduated its first class in 1980, should be closed because it is so much more costly than alternative sources of physicians for the military.

Mr. President, the real issue we must address is whether USUHS is essential to the needs of today's military structure, or if we can do without this costly program. The proponents of USUHS frequently cite the higher retention rates of USUHS graduates over physicians obtained from other sources as a justification for continuation of this program, but while a greater percentage of USUHS trained physicians may remain in the military longer than those from other sources, the Pentagon indicates that the alternative sources already provide an appropriate mix of retention rates. Testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel noted that the military's scholarship program meets the retention needs of the services.

And while USUHS only provides a small fraction of the military's new physicians, it is important to note that relying primarily on these other sources has not compromised the ability of military physicians to meet the needs of the Pentagon. According to the Office of Management and Budget, of the approximately 2,000 physicians serving in Desert Storm, only 103, about 5%, were USUHS trained.

Mr. President, let me conclude by recognizing that USUHS has some dedicated supporters in the U.S. Senate, and I realize that there are legitimate arguments that those supporters have made in defense of this institution. The problem, however, is that the federal government cannot afford to continue every program that provides some useful function.

This is especially true in the area of defense spending. Many in this body argue that the Defense budget is too tight, that a significant increase in spending is needed to address concerns about shortfalls in recruitment and retention, maintenance backlogs, and other indicators of a lower level of readiness.

Mr. President, the debate over our level of readiness is certainly important, and it may well be that more Defense funding should be channeled to these specific areas of concern. But before advocates of an increased Defense budget ask taxpayers to foot the bill for hundreds of billions more in spending, they owe it to those taxpayers to trim Defense programs that are not justified.

In the face of our staggering national debt, we must prioritize and eliminate programs that can no longer be sustained with limited federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The future of USUHS continues to be debated precisely because it does not appear to pass the higher threshold tests which must be applied to all federal spending programs.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 2001".

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION.—

(1) IN GENERAL.—The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS.—

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATES.—

(1) TERMINATION.—The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the graduation from the university of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

(2) AMENDMENTS.—The amendments made by subsection (a)(2) shall take effect on the date of the enactment of this Act, except that the provisions of chapter 104 of title 10, United States Code, as in effect on the day before such date, shall continue to apply with respect to the Uniformed Services University of the Health Sciences until the termination of the university under this section.

By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. 115. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

LEGISLATION TO ELIMINATE PERCENTAGE DEPLETION ALLOWANCES ON PUBLIC LANDS

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation to eliminate from the federal tax code percentage depletion allowances for hardrock minerals mined on federal public lands. I am joined in introducing this legislation by my colleagues from Vermont, the senior Senator (Mr. LEAHY) and the junior Senator (Mr. JEFFORDS).

President Clinton proposes the elimination of the percentage depletion allowance on public lands in his FY 2001 budget. The President's FY 2001 budget estimated that, under this legislation, income to the federal treasury from the elimination of percentage depletion allowances for hardrock mining on public lands would total $410 million over five years, and $823 million over ten years. These savings are calculated as the excess amount of federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. Percentage depletion allowances are contained in the tax code for extracted fuel, minerals, metal and other mined commodities. These allowances have a combined value, according to estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, these percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That's right, Mr. President, initiated in 1909. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration and output. However, percentage depletion also makes it possible to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion for the recovery of the actual capital investment—the costs of discovery, purchasing, and developing a mineral reserve—over the period during which the reserve produces income. Using cost depletion, a company would deduct a portion of its original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of "gross income"—namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, Mr. President, exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 percent to 22 percent.

In addition to repealing the percentage depletion allowances for minerals mined on public lands, Mr. President, my bill also creates a new fund, called the Abandoned Mine Reclamation Fund. One fourth of the revenue raised by the bill, or approximately $120 million dollars, will be deposited into an interest bearing fund in the Treasury to be used to clean up abandoned hardrock mines in states that are subject to the 1872 Mining Law. The Mineral Policy Center estimates that there are 557,650 hardrock abandoned mine sites nationwide and the cost of cleaning them up will range from $32.7 billion to $71.5 billion.

There are currently no comprehensive federal or state programs to address the need to clean up old mine sites. Reclaiming these sites requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

Mr. President, in today's budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are adding to the nation's environmental and financial burdens. We face serious budget choices this fiscal year, yet these subsidies remain a persistent tax expenditure that raise the deficit for all citizens or shift a greater tax burden to other taxpayers to compensate for the special tax breaks provided to the mining industry.

Mr. President, the measure I am introducing is fairly straightforward. It eliminates the percentage depletion allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with those given to other businesses.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business. We can no longer afford its costs in dollars or its cost to the health of our citizens. This legislation is one step toward the goal of ending these corporate welfare subsidies.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2001".

SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting "(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)" after "In the case of the mines".

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 3. ABANDONED MINE RECLAMATION FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

"SEC. 9511. ABANDONED MINE RECLAMATION FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Abandoned Mine Reclamation Trust Fund' (in this section referred to as 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to 25 percent of the additional revenues received in the Treasury by reason of the amendments made by section 2 of the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2001.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, to the Secretary of the Interior for—

"(A) the reclamation and restoration of lands and water resources described in paragraph (2) adversely affected by mineral (other than coal and fluid minerals) and mineral material mining, including—

"(i) reclamation and restoration of abandoned surface mine areas and abandoned milling and processing areas,

"(ii) sealing, filling, and grading abandoned deep mine entries,

"(iii) planting on lands adversely affected by mining to prevent erosion and sedimentation,

"(iv) prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage, and

"(v) control of surface subsidence due to abandoned deep mines, and

"(B) the expenses necessary to accomplish the purposes of this section.

"(2) LANDS AND WATER RESOURCES.—

"(A) IN GENERAL.—The lands and water resources described in this paragraph are lands within States that have land and water resources subject to the general mining laws or lands patented under the general mining laws—

"(i) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status before the date of the enactment of this section,

"(ii) for which the Secretary of the Interior makes a determination that there is no continuing reclamation responsibility under State or Federal law, and

"(iii) for which it can be established to the satisfaction of the Secretary of the Interior that such lands or resources do not contain minerals which could economically be extracted through remining of such lands or resources.

"(B) CERTAIN SITES AND AREAS EXCLUDED.—The lands and water resources described in this paragraph shall not include sites and areas which are designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.) or which are listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

"(3) GENERAL MINING LAWS.—For purposes of paragraph (2), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 9511. Abandoned Mine Reclamation Trust Fund.".

By Mr. FEINGOLD:

S. 116. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Energy and Natural Resources.

IRRIGATION SUBSIDY REDUCTION ACT OF 2001

Mr. FEINGOLD. Mr. President, today I am reintroducing a measure that I sponsored in the 106th Congress to reduce the amount of federal irrigation subsidies received by large agribusiness interests. I believe that reforming federal water pricing policy by reducing subsidies is important as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms—those no larger than 160 acres—a chance, with a helping hand from the federal government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the federal government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the federal government, some of the beneficiaries of federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share—$7.1 billion—is allocated to irrigators. As of September 30, 1994 irrigators have repaid only $941 million of the $7.1 billion they owe. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by irrigators to other users of the water projects for repayment.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

In a 1989 GAO report, the activities of six agribusiness trusts were fully explored. According to GAO, one 12,345 acre cotton farm (roughly 20 square miles), operating under a single partnership, was reorganized to avoid the 960 acre limitation into 15 separate land holdings through 18 partnerships, 24 corporations, and 11 trusts which were all operated as one large unit. A seventh very large trust was the sole topic of a 1990 GAO report. The Westhaven trust is a 23,238 acre farming operation in California's Central Valley. It was formed for the benefit of 326 salaried employees of the J.G. Boswell Company. Boswell, GAO found, had taken advantage of section 214 of the RRA, which exempts from its 960 acre limit land held for beneficiaries by a trustee in a fiduciary capacity, as long as no single beneficiary's interest exceeds the law's ownership limits. The RRA, as I have mentioned, does not preclude multiple land holdings from being operated collectively under a trust as one farm while qualifying individually for federally subsidized water. Accordingly, the J.G. Boswell Company re-organized 23,238 acres it held as the Boston Ranch by selling them to the Westhaven Trust, with the land holdings attributed to each beneficiary being eligible to receive federally subsidized water.

Before the land was sold to Westhaven Trust, the J.G. Boswell Company operated the acreage as one large farm and paid full cost for the federal irrigation water delivered for the 18-month period ending in May 1989. When the trust bought the land, due to the loopholes in the law, the entire acreage became eligible to receive federally subsidized water because the land holding attributed to the 326 trust beneficiaries range from 21 acres to 547 acres—all well under the 960 acre limit.

In the six cases the GAO reviewed in 1989, owners or lessees paid a total of about $1.3 million less in 1987 for federal water than they would have paid if their collective land holdings were considered as large farms subject to the Reclamation Act acreage limits. Had Westhaven Trust been required to pay full cost, GAO estimated in 1990, it would have paid $2 million more for its water. The GAO also found, in all seven of these cases, that reduced revenues are likely to continue unless Congress amends the Reclamation Act to close the loopholes allowing benefits for trusts.

The Department of the Interior has acknowledged that these problems do exist. Interior published a final rulemaking in 1998 to require farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities to submit RRA forms to the district(s) where such land is located. Water districts are now required to provide specific information about farm operators to Interior annually. This information is an important step toward enforcing the legislation that I am reintroducing today.

This legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means-test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit which claimed $500,000 or more in gross income, as reported on their most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million, a ratio of $500,000 (the means-test value) divided by their gross income would determine the full cost rate, thus the water user would pay the full cost rate on half of their acreage and the below cost rate on the remaining half.

This means-testing proposal was featured, for the fifth year in a row, in the 2000 Green Scissors report. This report is compiled annually by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. This report underscores what I and many others in the Senate have long known: we must eliminate practices that can no longer be justified in light of our effort to achieve a truly balanced budget and eliminate our national debt. The Green Scissors recommendation on means-testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10% of farms, then the federal government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over five years.

When countless federal programs are subjected to various types of means-test to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard earned tax dollars are being expended to assist large corporate interests in select regions of the country who benefit from these loopholes, particularly in tight budgetary times. Other users of federal water projects, such as the power recipients, should also be concerned when they learn that they will be expected to pick up the tab for a portion of the funds that irrigators' were supposed to pay back. The federal water program was simply never intended to benefit these large interests, and I hope that legislative efforts, such as the measure I am introducing today, will prompt Congress to fully reevaluate our federal water pricing policy.

In conclusion, Mr. President, it is clear that the conflicting policies of the federal government in this area are in need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should pay their fair share. We should act to close these loopholes and increase the return to the treasury from irrigators as soon as possible. I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irrigation Subsidy Reduction Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are increasing and competing demands;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but this purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program's acreage limitations that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of carrying out the family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking "owned or operated under a lease which" and inserting "that is owned, leased, or operated by an individual or legal entity and that";

(3) by inserting after paragraph (6) the following:

"(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

"(8) OPERATOR.—

"(A) IN GENERAL.—The term 'operator'—

"(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcel) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

"(ii) if the individual or legal entity—

"(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

"(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

"(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water."; and

(4) by adding at the end the following:

"(14) SINGLE FARM OPERATION.—

"(A) IN GENERAL.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

"(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION.—

"(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

"(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.".

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

"SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

"(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

"(b) SHARED DECISIONMAKING AND SUPERVISION.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

"(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

"(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1).

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

"(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

"(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

"(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

"(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

"(3) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2000 shall be equal to the product of—

"(i) $500,000, multiplied by

"(ii) the inflation adjustment factor for the taxable year.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 2000. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(C) GDP IMPLICIT PRICE DEFLATOR.—For purposes of subparagraph (B), the term 'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

"(D) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.".

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

"SEC. 206. CERTIFICATION OF COMPLIANCE.

"(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

"(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

"(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

"(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.".

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

"(1) REGULATIONS; DATA COLLECTION.—The Secretary"; and

(B) by adding at the end the following:

"(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.".

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: "The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).".

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting "operator or" before "contracting entity" each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

"SEC. 229. MEMORANDUM OF UNDERSTANDING.

"The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.".

By Mr. FEINGOLD (for himself and Mr. JEFFORDS):

S. 117. A bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

QUALITY CHEESE ACT

Mr. FEINGOLD. Mr. President, I am pleased to introduce the Quality Cheese Act of 2000. This legislation will protect the consumer, save taxpayer dollars and provide support to America's dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese, but the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) may change current law, and consumers won't know whether cheese is really all natural or not.

If the federal government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, cheese bearing the labels "domestic" and "natural" will no longer be truly accurate.

If USDA and FDA allow a change in federal rules, imitation milk proteins known as milk protein concentrate or casein, could be used to make cheese in place of the wholesome natural milk produced by cows in Wisconsin or other part of the U.S.

Mr. President, I am deeply concerned by recent efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein into natural cheese products flies in the face of logic and could create a loophole for unlimited amounts of substandard imported milk proteins to enter U.S. cheese vats.

My legislation will close this loophole and ensure that consumers can be confident that they are buying natural cheese when they see the natural label.

Our dairy farmers have invested heavily in processes that make the best quality cheese ingredients, and I am concerned about recent efforts to change the law that would penalize them for those efforts by allowing lower quality ingredients to flood the U.S. market.

Over the past decade, cheese consumption has risen at a strong pace due to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

Back in the 1980's, when I served in the Wisconsin State Senate, cheese consumption topped 20 pounds per person. During the 1990s consumption increased by over 25 percent, and passed 25 pounds per person. Last year we saw an even more dramatic increase when per capita cheese consumption rose an amazing 1.5 pounds to reach 29.8 pounds.

This one-year increase amounts to the largest expansion since 1982! I am proud to say that my home state of Wisconsin, America's dairyland, was one of the main engines behind this growth. After all, when consumers see the label "Wisconsin Cheese," they know that it is synonymous with quality.

Over the past two decades consumers have increased their cheese consumption due to their understanding, and taste for the quality natural cheese produced by America's dairy industry.

Recent proposals to change to our natural cheese standard could decrease consumption of natural cheese. These declines could result from concerns about the origin of casein and other forms of dry UF milk.

The vast majority of dry ultra filtered milk originates from countries with State Trading Enterprises. Many of these countries subsidize their dairy exports through these trading mechanisms, and have quality standards that are well below those of the United States.

While it is difficult to obtain specific numbers about the amount of dry UF milk produced in foreign countries, I have heard disturbing stories about the conditions under which the casein and milk proteins are sometimes produced.

For the most part, dry UF milk is not produced in the US. In fact, it is, for the most part, produced in countries where sanitary standards are well below those of the United States.

These products are sold on the international market, and under the proposed rule they could be labeled as natural cheese. This cheap, low quality dry UF milk tends to leave cheese greasy and increases separation problems.

The addition of this kind of milk will certainly leave the wholesome reputation of "natural cheese" significantly tarnished in the eyes of the consumer.

This change would seriously compromise decades of work by America's dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America's farmers!

Mr. President, consumers have a right to know if the cheese they buy is unnatural. And by allowing unnatural dry UF milk into cheese, we are denying consumers the entire picture.

This legislation will paint the entire picture for the consumer, and allow them enough information to select cheese made from truly natural ingredients.

Allowing dry Ultra-Filtered milk into cheeses will have a significant adverse impact on dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer.

If we allow dry UF milk to be used in cheese we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily subsidized products will displace natural domestic dairy ingredients.

These unnatural domestic dairy products will enter our domestic cheese market and may further depress dairy prices paid to American dairy producers.

Low dairy prices result in increased costs to the dairy price support program. So, at the same time that U.S. dairy farmers are receiving lower prices, the U.S. taxpayer will be paying more for the dairy price support program.

Mr. President, this change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

The obvious answer is nobody.

America's farmers have invested a tremendous amount of time and effort to create the best cheese industry in the world. They should not be penalized for their efforts.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk from being included in America's natural cheese standard.

Congress must shut the door on any backdoor efforts to stack the deck against America's dairy farmers. And we must pass my legislation that prevents a loophole that would allow changes that hurt the consumer, taxpayer and dairy farmer.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Cheese Act of 2001".

SEC. 2. NATURAL CHEESE STANDARD.

(a) FINDINGS.—Congress finds that—

(1)(A) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would result in increased costs to the dairy price support program; and

(B) that change would be unfair to taxpayers, who would be forced to pay more program costs;

(2) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would result in lower revenues for dairy farmers;

(3) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would cause dairy products containing dry ultra-filtered milk or casein to become vulnerable to contamination and would compromise the sanitation, hydrosanitary, and phytosanitary standards of the United States dairy industry; and

(4) changing the labeling standard for domestic natural cheese would be misleading to the consumer.

(b) PROHIBITION.—Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended—

(1) by striking "Whenever" and inserting "(a) Whenever"; and

(2) by adding at the end the following:

"(b) The Commissioner may not use any Federal funds to amend section 133.3 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling), to include dry ultra-filtered milk or casein in the definition of the term 'milk' or 'nonfat milk', as specified in the standards of identity for cheese and cheese products published at part 133 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling).".

By Mrs. FEINSTEIN:

S. 118. A bill to strengthen the penalties for violations of plant quarantine laws; to the Committee on Agriculture, Nutrition, and Forestry.

FRUIT, VEGETABLE, AND PLANT SMUGGLING PREVENTION ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to strengthen the penalties for organized smuggling of fruits, plants, and vegetables into the United States. A felony statute for agriculture product smuggling is needed to reflect the serious impact these crimes have on our farmers and the entire agriculture industry.

Recent breaches of the agriculture safeguarding system have proven the need for strong criminal penalties for organized smuggling: multiple exotic fruit fly infestations have decimated California and Florida; the Asian longhorn beetle has been found in New York and Illinois; the Asian gypsy moth has been introduced in North Carolina and Oregon; and plum pox from Western Europe has devastated peach production in Pennsylvania.

This widespread invasion of foreign species requires a strong federal response. The consequences of failing to adequately combat agriculture smuggling are clear.

Until recently, a 72 square mile area of San Diego was under quarantine due to an infestation of Mexican Fruit Flies. The quarantine effected 1,470 growers of at least 20 specialty crops. The Department of Agriculture has encouraged California producers to grow specialty fruits and vegetables in an effort to reduce the risk of exotic pest introduction from smuggled fruit. Yet, no pre or post harvest treatment for many of these crops has been provided by the USDA. As a result of 2 fruit flies, roughly 150 growers lost virtually their entire harvest—estimated more than $3 million.

PROBLEMS WITH EXISTING LAWS

The current system that charges low fines and encourages few prosecutions is not a meaningful deterrent for violators. The USDA can assess a maximum fine of $1,000 for passenger and cargo violations. For an illegal shipper, this is simply a minor cost of doing business and not an effective deterrent.

In addition, the lack of serious penalties for such crimes has resulted in a reduced number of criminal investigations, violators prosecuted, and sentences given to those convicted.

The Office of the Inspector General (OIG) of the USDA, the law enforcement arm of the Department, has placed a low priority on agriculture smuggling violations because they are only misdemeanors and the OIG is forced to devote the bulk of its resources to felony violations. Of the 4,400 investigations completed since October 1, 1994, fewer than 50 involved smuggling.

The sentences given to the relatively few convicted smugglers is also effected by the attitude that this is not a serious crime.

In the State of Washington, two people were caught smuggling agricultural products into the country on numerous occasions. Their third arrest came after 400 pounds of illegal and infested fruit was found in the walls of their station wagon. Despite their repeated crimes, the smugglers received only two days of jail time and a fine of $1,000.

PENALTIES FOR VIOLATIONS

This legislation would make it a felony to knowingly and willfully smuggle large amounts of agriculture products into the country. Persons caught smuggling foreign plant pests, more than 50 pounds of plants, more than 5 pounds of plant products, more than 50 pounds of noxious weeds, or possession with intent to distribute these products, would be punished with imprisonment for up to 5 years, a fine of as much as $25,000, or both. Repeat violators would face 10 years of jail time and/or a fine of $50,000.

The legislation would also make smuggling lesser amounts of products a misdemeanor crime punishable by one year in jail and/or a $1,000 fine. Subsequent violations would result in three years of jail time and/or a fine of $10,000.

These penalties will provide law enforcement with the needed tools to investigate, arrest, and prosecute individuals and organizations engaged in the organized smuggling of agriculture products.

PROPERTY FORFEITURES

Another inadequacy in current law is the lack of a specific forfeiture provision for agriculture product smuggling. I have been told of cases at the San Diego border in which a person has been caught smuggling fruits or vegetables across the border. After receiving a slap on the wrist from the judicial system, his truck was returned to him, and he was allowed to return to his criminal occupation with the tools of his trade intact. It is astonishing to me that, not only is the government incapable of punishing illegal traffickers of agriculture products, but we are unable to take even modest steps to prevent recurrences of the same crime.

According to this legislation, anyone convicted of violating the law would forfeit any property used to commit or facilitate the violation. They would also forfeit any money acquired through a violation of the law. The proceeds of the sale of forfeited property would be used to reimburse the costs of the prosecution. Any additional funds would go towards the USDA's interdiction efforts.

I believe that Congress must send a message to our farmers and growers that the federal government is committed to protecting the agriculture sector from invasive species. We can do this by passing this legislation as quickly as possible.

Mr. President, I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fruit, Vegetable, and Plant Smuggling Prevention Act of 2001".

SEC. 2. DEFINITIONS.

In this Act:

(1) PLANT QUARANTINE LAW.—The term "plant quarantine law" means any of the following provisions of law:

(A) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(B) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(C) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(D) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(E) The Joint Resolution of April 6, 1937 (56 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(F) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(G) The Act of August 20, 1912 (commonly known as the "Plant Quarantine Act") (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(H) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(I) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(J) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section and section 15 of that Act (7 U.S.C. 2801 note, 2814).

(2) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. PENALTIES FOR VIOLATION.

(a) Criminal Penalties.—

(1) In general.—A person that knowingly violates a plant quarantine law shall be subject to criminal penalties in accordance with this subsection.

(2) Felonies.—

(A) In general.—Subject to subparagraphs (B) and (C), a person shall be imprisoned not more than 5 years, fined not more than $25,000, or both, in the case of a violation of a plant quarantine law involving—

(i) plant pests;

(ii) more than 50 pounds of plants;

(iii) more than 5 pounds of plant products;

(iv) more than 50 pounds of noxious weeds;

(v) possession with intent to distribute or sell items described in clause (i), (ii), (iii), or (iv), knowing the items have been involved in a violation of a plant quarantine law; or

(vi) forging, counterfeiting, or without authority from the Secretary, using, altering, defacing, or destroying a certificate, permit, or other document provided under a plant quarantine law.

(B) Multiple violations.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 10 years or fined not more than $50,000, or both.

(C) Intent to harm agriculture of United States.—In the case of a knowing movement in violation of a plant quarantine law by a person of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance into, out of, or within the United States, with the intent to harm the agriculture of the United States by introduction into the United States or dissemination of a plant pest or noxious weed within the United States, the person shall be imprisoned not less than 10 nor more than 20 years, fined not more than $500,000, or both.

(3) Misdemeanors.—

(A) In general.—Subject to subparagraph (B), a person shall be imprisoned not more than 1 year, fined not more than $1,000, or both, in the case of a violation of a plant quarantine law involving—

(i) 50 pounds or less of plants;

(ii) 5 pounds or less of plant products; or

(iii) 50 pounds or less of noxious weeds.

(B) Multiple violations.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 3 years, fined not more than $10,000, or both.

(b) Criminal Forfeiture.—

(1) In general.—In imposing a sentence on a person convicted of a violation of a plant quarantine law, in addition to any other penalty imposed under this section and irrespective of any provision of State law, a court shall order that the person forfeit to the United States—

(A) any of the property of the person used to commit or to facilitate the commission of the violation (other than a misdemeanor); and

(B) any property, real or personal, constituting, derived from, or traceable to any proceeds that the person obtained directly or indirectly as a result of the violation.

(2) Procedures.—All property subject to forfeiture under this subsection, any seizure and disposition of the property, and any proceeding relating to the forfeiture shall be subject to the procedures of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (d) and (q).

(3) Proceeds.—The proceeds from the sale of any forfeited property, and any funds forfeited, under this subsection shall be used—

(A) first, to reimburse the Department of Justice, the United States Postal Service, and the Department of the Treasury for any costs incurred by the Departments and the Service to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the Secretary to carry out the functions of the Secretary under a plant quarantine law.

(c) Civil Penalties.—

(1) In general.—A person that violates a plant quarantine law, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under a plant quarantine law may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) $50,000 in the case of an individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of the plant quarantine law by an individual moving regulated articles not for monetary gain), or $250,000 in the case of any other person for each violation, except the amount of penalties assessed under this subparagraph in a single proceeding shall not exceed $500,000; or

(B) twice the gross gain or gross loss for a violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in the plant quarantine law that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) Factors in determining civil penalty.—In determining the amount of a civil penalty, the Secretary—

(A) shall take into account the nature, circumstance, extent, and gravity of the violation; and

(B) may take into account the ability to pay, the effect on ability to continue to do business, any history of prior violations, the degree of culpability of the violator, and any other factors the Secretary considers appropriate.

(3) Settlement of civil penalties.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(4) Finality of orders.—

(A) In general.—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) Collection action.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) Interest.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of the courts of the United States.

(5) Guidelines for civil penalties.—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of a plant quarantine law.

(d) Civil Forfeiture.—

(1) In general.—There shall be subject to forfeiture to the United States any property, real or personal—

(A) used to commit or to facilitate the commission of a violation (other than a misdemeanor) described in subsection (a); or

(B) constituting, derived from, or traceable to proceeds of a violation described in subsection (a).

(2) Procedures.—

(A) In general.—Subject to subparagraph (B), the procedures of chapter 46 of title 18, United States Code, relating to civil forfeitures shall apply to a seizure or forfeiture under this subsection, to the extent that the procedures are applicable and consistent with this subsection.

(B) Performance of duties.—Duties imposed on the Secretary of the Treasury under chapter 46 of title 18, United States Code, shall be performed with respect to seizures and forfeitures under this subsection by officers, employees, agents, and other persons designated by the Secretary of Agriculture.

(e) Liability for Acts of an Agent.—For the purposes of a plant quarantine law, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment or office of the officer, agent, or person, shall be considered to be the act, omission, or failure of the other person.

By Ms. SNOWE (for herself and Mr. Chafee):

S. 119. A bill to provide States with funds to support State, regional, and local school construction; to the Committee on Health, Education, Labor, and Pensions.

BUILDING, RENOVATING, AND CONSTRUCTING KIDS' SCHOOLS ACT

Ms. SNOWE. Mr. President, I rise today with my friend and colleague, Senator Chafee, to introduce the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act—legislation that would address our nation's burgeoning need for K–12 school construction, renovation, and repair.

The legislation—which is endorsed by the National Education Association and National PTA, and the National Association of State Boards of Education—would accomplish this in a fiscally-responsible manner while seeking to find the middle ground between those who support a very direct, active federal role in school construction, and those who are concerned about an expanded federal role in what has been—and remains—a state and local responsibility.

Mr. President, the condition of many of our nation's existing public schools is abysmal even as the need for additional schools and classroom space grows. Specifically according to reports issued by the General Accounting Office in 1995 and 1996, fully one-third of all public schools need extensive repair or replacement.

As further evidence of this problem, an issue brief prepared by the National Center for Education Statistics (NCES) in 1999 stated that the average public school in America is 42 years old, with school buildings beginning rapid deterioration after 40 years. In addition, the NCES brief found that 29 percent of all public schools are in the "oldest condition," which means that they were build prior to 1970 and have either never been renovated or were renovated prior to 1980.

Not only are our nation's schools in need of repair and renovation, but there is a growing demand for additional schools and classrooms due to an ongoing surge in student enrollment. Specifically, according to the NCES, at least 2,400 new public schools will need to be built by the year 2003 to accommodate our nation's burgeoning school rolls, which will grow from a record 52.7 million children today to 54.3 million by 2008.

Needless to say, the cost of addressing our nation's need for school renovations and construction is enormous. In fact, according to the General Accounting Office (GAO), it will cost $112 billion just to bring our nation's schools into good overall condition, and a recent report by the NEA identified $322 billion in unmet school modernization needs. Nowhere is this cost better understood than in my home state of Maine, where a 1996 study by the Maine Department of Education and the State Board of Education determined that the cost of addressing the state's school building and construction needs stood at $637 million.

Mr. President, we simply cannot allow our nation's schools to fall into utter disrepair and obsolescence with children sitting in classrooms that have leaky ceilings or rotting walls. We cannot ignore the need for new schools as the record number of children enrolled in K–12 schools continues to grow.

Accordingly, because the cost of repairing and building these facilities may prove to be more than many state and local governments can bear in a short period of time, I believe the federal government can and should assist Maine and other state and local governments in addressing this growing national crisis.

Admittedly, not all members support strong federal intervention in what has been historically a state and local responsibility. In fact, many argue with merit that the best form of federal assistance for school construction or other local educational needs would be for the federal government to fulfill its commitment to fund 40 percent of the cost of special education. This longstanding commitment was made when the Individuals with Disabilities Education (IDEA) Act was signed into law more than 20 years ago, but the federal government has fallen woefully short in upholding its end of the bargain, only recently increasing its share above 10 percent.

Needless to say, I strongly agree with those who argue that the federal government's failure to fulfill this mandate represents nothing less than a raid on the pocketbook of every state and local government. Accordingly, I am pleased that recent efforts in the Congress have increased federal funding for IDEA by approximately $3.8 billion over the past five years, and I support ongoing efforts to achieve the 40 percent federal commitment in the near future.

Yet, even as we work to fulfill this long-standing commitment and thereby free-up local resources to address local needs, I believe the federal government can do more to assist state and local governments in addressing their school construction needs without infringing on local control.

Mr. President, the legislation we are offering today—the "BRICKS Act"—will do just that. Specifically, it addresses our nation's school construction needs in a responsible fiscal manner while bridging the gap between those who advocate a more activist federal role in school construction and those who do not.

First, our legislation will provide $20 billion in federal loans to support school construction, renovation, and repair at the local level. By designating that at least one-half of these loan monies must be used to pay the interest owed to bondholders on new school construction bonds that are issued through the year 2003, the federal government will leverage the issuing of new bonds by states and localities that would not otherwise be made. In addition, by providing that up to one-half of the monies may be used for state-wide school construction initiatives, the bill provides needed flexibility to ensure that unique state and local approaches to school construction will also be supported, such as revolving loan funds.

Of importance, these loan monies—which will be distributed on an annual basis using the Title I distribution formula—will become available to each state at the request of a Governor. While the federal loans can only be used to support bond issues that will supplement, and not supplant, the amount of school construction that would have occurred in the absence of the loans, there will be no requirement that states engage in a lengthy application process that does not even assure them of their rightful share of the $20 billion pot.

Second, our bill ensures that these loans are made by the federal government in a fiscally responsible manner that does not cut into the Social Security surplus or claim a portion of non-Social Security surpluses that may prove ephemeral in the future.

Specifically, our bill would make these loans to states from the Exchange Stabilization Fund (ESF)—a fund that was created through the Gold Reserve Act of 1934 and has grown to hold more than $40 billion in assets. The principal activity of the fund—which is controlled solely by the Secretary of the Treasury—is foreign exchange intervention that is intended to limit fluctuations in exchange rates. However, the fund has also been used to provide stabilization loans to foreign countries, including a $20 billion line of credit to Mexico in 1995 to support the peso.

In light of the controversial manner in which the ESF has been used, some have argued that additional constraints should be placed on the fund. Still others—including former Federal Reserve Board Governor Lawrence B. Lindsey—have stated that, for various reasons, the fund should be liquidated.

Regardless of how one feels about exercising greater constraint over the ESF or liquidating it, I believe that if this $40 billion fund can be used to bailout foreign currencies, it certainly can be used to help America's schools.

Accordingly, I believe it is appropriate that the $20 billion in loans provided by my legislation will be made from the ESF—an amount identical to the line of credit that was extended to Mexico by the Secretary of the Treasury in 1995. Of importance, these loans will be made from the ESF on a progressive, annual basis—not in a sudden or immediate manner. Furthermore, these monies will be repaid to the fund to ensure that the ESF is compensated for the loans it makes.

Although the ESF will recoup all of the monies it lends, it should also be noted that my proposal ensures that states and local governments will not be forced to pay excessive interest, or that they will be forced to repay over an unreasonable period of time. In fact, if the federal government fails to substantially increase its share of IDEA funding, states will incur no interest at all!

Specifically, to encourage the federal government to meet its funding commitment for IDEA—and to compensate states for the fact that every dollar in forgone IDEA funding is a dollar less that they have for school construction or other local needs—our bill would impose no interest on BRICKS loans during the first five years provided the 40 percent funding commitment is not met.

Thereafter, the interest rate is pegged to the federal share of IDEA:

zero in any year that the federal government fails to fund at least 20 percent of the cost of IDEA; 2.5 percent—the long-term projected inflation rate—in years that the federal share falls between 20 and 30 percent; 3.5 percent in years the federal share is 30 to 40 percent; and 4.5 percent in years the full 40 percent share is achieved.

Combined, these provisions will minimize the cost of these loans to the states, and maximize the utilization of these loans for school construction, renovation, and repair.

Mr. President, by providing low-interest loans to states and local governments to support school construction, I believe that our bill represents a fiscally-responsible, centrist solution to a national problem.

For those who support a direct, active federal role in school construction, our bill provides substantial federal assistance by dedicating $20 billion to leverage a significant amount of new school construction bonds. For those who are concerned about the federal government becoming overly-engaged in an historically state and local responsibility—and thereby stepping on local control—my bill directs that the monies provided to states will be repaid, and that no onerous applications or demands are placed on states to receive their share of these monies.

Mr. President, I urge that my colleagues support the "BRICKS Act"—legislation that is intended to bridge the gap between competing philosophies on the federal role in school construction. Ultimately, if we work together, we can make a tangible difference in the condition of America's schools without turning it into a partisan or ideological battle that is better suited to sound bites than actual solutions.

Thank you, Mr. President. I ask unanimous consent that the letters of support from the NEA, PTA, NASBE, and Jim Rier, the Chairman of the Maine State Board of Education, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Education Association,
Washington, DC, July 13, 2000.
Sen. Olympia Snowe,
U.S. Senate, Washington, DC.

Dear Senator Snowe: On behalf of the National Education Association's (NEA) 2.5 million members, we would like to thank you for your leadership in introducing a revised version of the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act.

As you known, our nation's schools are in desperate need of repair and renovation. Too many students attend classes in overcrowded buildings with leaky roofs, faulty wiring, and outdated plumbing. A recently-released NEA study documents more than $300 billion in unmet infrastructure and technology needs, nearly three times the level estimated in previous research by the General Accounting Office.

NEA believes the revised BRICKS Act offers a meaningful avenue for assisting schools. The bill would make available $20 billion in guaranteed funding over 15 years to provide low-interest—and in many cases zero interest—school modernization loans to states and schools. According to a preliminary Department of Education analysis, the BRICKS Act would provide schools with a benefit of $465 for each $1,000 in bonds.

We are pleased that the BRICKS Act would allow up to 50 percent of federal funds to be used for payment of actual construction costs or the principal portion of loans, as well as the interest costs. We also appreciate the provision allowing those states with laws that prohibit borrowing to pay the interest costs on school bonds to use 100 percent of their BRICKS loans for state revolving loan funds or other state administered school modernization programs.

NEA believes it is essential to enact meaningful school modernization assistance this year. We thank you for your leadership in this area and look forward to continuing to work with you toward passage of bipartisan school modernization legislation.

Sincerely,
Mary Elizabeth Teasley,
Director of Government Relations.

National PTA®,
Chicago, IL, July 7, 2000.
Hon. Lincoln D. Chafee,
U.S. Senate, Washington, DC.
Hon. Olympia J. Snowe,
U.S. Senate, Washington, DC.

Dear Senators Chafee and Snowe: On behalf of the 6.5 million parents, teachers, students, and other child advocates who are members of the National PTA, I am writing to support the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act, which you plan to introduce next week.

We thank you for your leadership in proposing this initiative, which acknowledges the federal government's responsibility to help schools repair and renovate their facilities. As you are aware, the U.S. General Accounting Office has estimated that the cost of fixing the structural problems in schools across the nation will cost more than $112 billion. If new schools are built to accommodate overcrowding, and if schools's technology, wiring, and infrastructure needs are added in, this estimate would exceed $200 billion dollars.

This is a problem schools cannot address without a partnership with the federal government, and National PTA supports a variety of approaches to address this growing crisis. In addition to endorsing the BRICKS bill, National PTA is supporting the Public School Repair and Renovation Act, which would provide tax credits to pay the interest on school modernization bonds and create a grant and loan program for emergency repairs in high-need districts; and also the America's Better Classrooms Act, which would provide $22 billion over two years in zero interest school construction and modernization bonds.

Under BRICKS, nearly $20 billion would be available over 15 years to provide low interest, and in many cases zero interest, loans to States for interest payments on their school modernization bonds. We are pleased that the proposal will allow increased flexibility in using the federal funds for interest payments, as well as for other state-administered programs that assist state entities or local governments pay for the construction or repair of schools.

National PTA is committed to helping enact a federal school modernization proposal this Congress. We believe the BRICKS Act should be promoted as one of the ways the federal government can assist schools, and we thank you for your leadership in this area. We look forward to continuing to work with you toward formulation and passage of bipartisan school modernization legislation.

Sincerely,
Vicki Rafel,
Vice President for Legislation.

National Association of State
Boards of Education,
Alexandria, VA, July 18, 2000.
Hon. Olympia Snowe,
U.S. Senate, Washington, DC.

Dear Senator Snowe: The National Association of State Boards of Education (NASBE) is a private nonprofit association representing state and territorial boards of education. Our principal objectives are to strengthen state leadership in education policy-making, promote excellence in the education of all students, advocate equality of access to educational opportunity, and assure responsible governance of public education.

We are writing to applaud your efforts to provide federal assistance to states for school construction. The deterioration of America's school infrastructure has reached crisis proportions. At least one-third of all U.S. schools are in need of extensive repairs or replacement and 60% have at least one major building deficiency such as cracked foundations, leaky roofs, or crumbling walls. We cannot expect our children to learn much less excel in such decrepit and unsafe environments.

The more than $112 billion needed to renovate and/or repair existing school facilities has simply overwhelmed state and local resources. This national problem demands federal attention and we are encouraged that your office is attempting to address this need by proposing a $20 billion federal loan program.

Your legislation, the Building, Renovating, Improving, and Constructing Kids' Schools Act (BRICKS), will leverage new school construction expenditures at the state and local levels and provides flexibility to integrate this assistance with the variety of solutions states have already undertaken, such as revolving funds, to enhance the financing of school construction.

We appreciate your efforts and attention to address this critical situation. NASBE is encouraged by your actions and we look forward to working with your office to foster a partnership between federal, state and local entities to improve the learning conditions of American children.

Sincerely,
Brenda Lilienthal Welburn,
Executive Director.

State Board of Education,
Augusta, ME, April 29, 2000.
Sen. Olympia J. Snowe,
U.S. Senate, Washington, DC.

Dear Senator Snowe: The age and condition of our nation's public schools are an expanding crisis and should be of great concern to all. Decades of neglect, unfunded maintenance programs, constrained state and municipal budgets, shifting populations, technology requirements, and programmatic changes have combined to weaken the infrastructure of public education. As you are well aware, a 1995 GAO report estimated that just repairing existing school facilities would cost $112 billion. In addition, building new facilities to meet the demands of program and increased enrollments could cost another $73 billion. We have allowed the condition of our schools to deteriorate to a point that there are now critical implications for the health and safety of our students and staff who occupy those buildings. A number of states have launched major efforts to address their school facilities needs. The task is huge and beyond the ability of most local and even state resources.

Unfortunately, Maine mirrors the nation. A Facilities Inventory Study, conducted in 1996 by the Department of Education and the University of Maine's Center for Research and Evaluation, identified approximately $650 million in needed facility improvements. Of particular concern was the need for over $60 million in serious health and safety related improvements as well as an additional $150 million in other renovation and upgrades required.

In response to Maine's survey of over 700 buildings, Governor King appointed a Commission to develop a plan to address the needs identified. Their report was delivered to the Maine Legislature in February 1998, and the recommendations were enacted in April 1998. Maine has responded to address the identified needs with significant state and local resources. However, even as we develop policy and resources to aggressively address those needs, our concern grows.

Progressing from the condition survey to a detailed engineering and environmental analysis of the conditions causes even greater alarm. Roofs that were reported as leaking in the survey are found to have serious structural integrity problems with greater safety risks for occupants as well as more complex and costly solutions. Indoor air quality problems in the survey grow from increased air exchange solutions to more complex ones due to mold and microbial growth in the interior walls. Again, this poses increased health risk for students and staff. As we learn more about the problems, our concerns grow and the necessary resources increase. The critical health and safety needs from the 1996 survey ($60 million) have grown to over $86 million in our latest project estimates. Many more projects are yet to be identified.

Applications for Major Capital Construction projects were received in August of 1999 from over 100 buildings throughout Maine. Even with a major new commitment of over $200 million from this Session of the Maine Legislature we will only be able to address approximately 20 of those projects over the next two years. More will be applying in the next two-year cycle that begins in July 2001.

Although school construction and modernization is and should remain primarily a state and local responsibility, states and school districts cannot meet the current urgent needs alone. Federal assistance in the form of reduced or low interest loans as you have included in S1992, the BRICKS ACT, responds to the urgent need and could provide a critical component to a comprehensive but flexible approach to address Maine's, as well as the nation's, school facilities needs. As currently proposed, your legislation would allow the flexibility to address the renovation and upgrade of existing facilities as well as provide relief for overcrowding and insufficient program space where major capital construction is required. It creates an effective local/state/federal partnership, while leaving decisions about which schools to build or repair up to states and local school units. In Maine, that would allow us to strengthen our Revolving Renovation Fund (created to aid local units in the upgrade and renovation of existing buildings), and it would enhance our bonding capacity for long term debt commitment to major capital construction projects.

Structurally unfit, environmentally deficient, or overcrowded classrooms impair student achievement, diminish student discipline, and compromise student safety. Although not cited often, the learning environment does affect the quality of education and our ability to help students achieve high standards.

The National Association of State Boards of Education has identified school construction as one of its priority issues. I serve as Vice-Chair of their Governmental Affairs Committee and would be happy to enlist their help in focusing the nation's attention on the poor condition of our schools and the need for comprehensive federal assistance. If you have questions or need information from NASBE please contact David Griffith, Director of Governmental Affairs at 703-684-4000. As Chairman of the Maine State Board of Education and the Governor's School Facilities Commission I am available and would be pleased to participate in any way you think appropriate to outline Maine's innovative and comprehensive school facilities program, and to elaborate on how federal assistance could best complement state and local efforts to address our school construction needs.

It was an honor to meet you in March during NASBE's Legislative Conference. I look forward to working with you in support of a federal partnership with state and local school units to provide a safe, healthy, and effective learning environment for all.

Sincerely,

JAMES E. RIER, Jr., *Chair,*
Maine State Board of Education.

By Mrs. FEINSTEIN:

S. 120. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

MASTER TEACHER BILL

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to create a demonstration grant program to help school districts create master teacher positions.

The bill authorizes $100 million for a five-year demonstration program under which the Secretary of Education would award competitive grants to school districts to create master teacher positions. Federal funds would be equally matched by states and local governments so that $200 million total would be available. Under the bill, 6,600 master teacher positions could be created if each master teacher were paid $30,000 on top of the current average teacher's salary.

As defined in this bill, a master teacher is one who is credentialed; has at least five years of teaching experience; is judged to be an excellent teacher by administrators and teachers who are knowledgeable about the individual's performance; is currently teaching; and enters into a contract and agrees to serve at least five more years.

The master teacher would help other teachers to improve instruction, strengthen other teachers' skills, mentor less experienced teachers, develop curriculum, and provide other professional development.

The goal of this bill is for districts to pay each master teacher up to $30,000 on top of his or her regular salary. Nationally, the average teacher salary is $40,574. In California, it is $45,317. School principals receive $76,768 on average nationally and $72,805 in California. School superintendents nationally earn $106,122 and in California, $102,054. The purpose of the master teacher concept in this bill is to pay teachers a salary closer to that of an administrator to keep good teachers in teaching.

The bill requires State and/or local districts to match federal funds dollar for dollar. It requires the U.S. Department of Education to give priority to school districts with a high proportion of economically disadvantaged students and to ensure that grants are awarded to a wide range of districts in terms of the size and location of the school district, the ethnic and economic composition of students, and the experience of the districts' teachers.

There are several reasons we need this bill.

Beginning teachers face overwhelming challenges in their first year, but in the real world, they get little guidance or support, in a year that will have a profound impact on the rest of their professional career. They often feel "out there" and "alone," thrown into an unfamiliar school and classroom with a room full of new faces. By the current sink-or-swim method, new teachers often find themselves ill equipped to deal with the educational and disciplinary tasks of their first year.

A new teacher can get experienced guidance from a master teacher who is paired with the new teacher. The master teacher can help plan lessons, improve instructional methods, and deal with discipline problems. Having this kind of professional support can give these new teachers the skills and confidence to stay in teaching.

Second, master teacher programs can bring more prestige to teaching as a profession, by increasing the teacher's salary, by rewarding experience, and by giving teachers opportunities to supervise others. A master teacher designation is a way to recognize outstanding ability and performance, and to reward the good teachers. A master teacher position can give teachers a professional goal, a higher level to pursue. A 1996 report by the National Commission for Teaching and American's Future said that creating new career paths for teachers is one of the best ways to give educators the respect they deserve and to ensure that proven teaching methods spread quickly and broadly.

In one survey of teachers which asked which factors make teachers stay in teaching, 79 percent of teachers said that respect for the teaching profession is needed in order to retain qualified teachers. Eighty percent said that formal mentoring programs for beginning teachers is key (Scholastic/Chief State School Officers' Teacher Voices Survey, 2000). Over 70 percent of teachers said that more planning time with peers is needed to keep teachers in the classroom. This amendment should help.

Because of the higher pay and enhanced prestige, a master teacher program can help to recruit and retain teachers. Mentor systems provide new teachers with a support network, someone to turn to. Studies indicate higher retention rates among new teachers who participate in mentoring programs. According to Yvonne Gold of California State University-Long Beach, 25 percent of beginning teachers do not teach more than two years and nearly 40 percent leave in the first five years. In the Rochester, New York, system, the teacher retention rate was nearly double the national average five years after establishing a mentoring program.

As Jay Matthews wrote in the May 16, 2000, Washington Post, programs like this "can provide a large boost to the profession's image for a relatively small amount of money." These programs can keep good teachers in the classroom, instead of losing them to school administration or industry.

Higher salaries and prestige for master teachers could deter the drain from the classrooms.

Another reason for this bill is that teacher mentoring programs can make teacher performance more accountable. A master teacher can help novice teachers improve their teaching and get better student achievement. "Teachers cannot be held accountable for knowledge based, client-oriented decisions if they do not have access to knowledge, as well as opportunities for consultation and evaluation of their work," said Adam Urbanski, President of the Rochester, New York, Teachers Association. He went on: "Unsatisfactory teacher performance often stems from inadequate and incompetent supervision. Administrators often lack the training and the resources to supervise teachers and improve the performance of those who are in serious trouble."

Good teachers are key to learning. Lower math test scores have been correlated with the percentage of math teachers on emergency permits and higher math test scores were linked both to the teachers' qualifications and to their years of teaching experience, according to "Professional Development for Teachers, 2000."

This bill could be very helpful in California where one-fifth of our teachers will leave the profession in three years, according to an article in the February 9, 2000, Los Angeles Times. One-half of our teachers are over age 44.

California will need 300,000 new teachers by 2010. "More students to teach, smaller classes, and teachers leaving or retiring means that California school districts are now having to hire a record 26,000 new teachers each year," says the report, "Teaching and California's Future, 2000." California's enrollment is growing at three times the national rate. With these kinds of demands, understaffing often leads to under qualified and new teachers entering the classroom. We have to do all we can to attract and retain good teachers.

The true beneficiaries of master teacher programs are the students and that is, of course, my fundamental goal. As stated in Rochester's teaching manual, the goal is "to improve student outcomes by developing and maintaining the highest quality of teaching, providing teachers with career options that do not require them to leave teaching to assume additional responsibilities and leadership roles."

I believe this bill can begin to provide teachers the real professional support they need, can attract and retain teachers and can bring to the teaching profession the prestige it deserves.

I urge my colleagues to join us in support of this bill.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Master Teacher Act of 2001".

SEC. 2. MASTER TEACHER DEMONSTRATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) MASTER TEACHER.—The term "master teacher" means a teacher who—

(A) is licensed or credentialed under State law;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is selected upon application, is judged to be an excellent teacher, and is recommended by administrators and other teachers who are knowledgeable of the individual's performance;

(D) at the time of submission of such application, is teaching and based in a public school;

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development; and

(F) enters into a contract with the local educational agency to continue to teach and serve as a master teacher for at least 5 additional years.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(b) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Not later than July 1, 2002, the Secretary shall conduct a demonstration project under which the Secretary shall award competitive grants to local educational agencies to increase teacher salaries and employee benefits for teachers who enter into contracts with the local educational agencies to serve as master teachers.

(2) REQUIREMENTS.—In awarding grants under the demonstration project, the Secretary shall—

(A) ensure that grants are awarded under the demonstration project to a diversity of local educational agencies in terms of size of school district, location of school district, ethnic and economic composition of students, and experience of teachers; and

(B) give priority to local educational agencies in school districts that have schools with a high proportion of economically disadvantaged students.

(c) APPLICATIONS.—In order to receive a grant under the demonstration project, a local educational agency shall submit an application to the Secretary that contains—

(1) an assurance that funds received under the grant will be used in accordance with this section; and

(2) a detailed description of how the local educational agency will use the grant funds to pay the salaries and employee benefits for positions designated by the local educational agency as master teacher positions.

(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a local educational agency under the demonstration project unless the local educational agency agrees that, with respect to costs to be incurred by the agency in carrying out activities for which the grant was awarded, the agency shall provide (directly, through the State, or through a combination thereof) in non-Federal contributions an amount equal to the amount of the grant awarded to the agency.

(e) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than July 1, 2005, the Secretary shall conduct a study and transmit a report to Congress analyzing the results of the demonstration project conducted under this section.

(2) CONTENTS OF REPORT.—The report shall include—

(A) an analysis of the results of the project on—

(i) the recruitment and retention of experienced teachers;

(ii) the effect of master teachers on teaching by less experienced teachers;

(iii) the impact of mentoring new teachers by master teachers; and

(iv) the impact of master teachers on student achievement; and

(B) recommendations regarding—

(i) continuing or terminating the demonstration project; and

(ii) establishing a grant program to expand the project to additional local educational agencies and school districts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000, for the period of fiscal years 2002 through 2006.

By Mrs. FEINSTEIN (for herself and Mr. GRAHAM):

S. 121. A bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

UNACCOMPANIED ALIEN CHILD PROTECTION ACT

Mrs. FEINSTEIN. Mr. President. I rise today to introduce legislation to change the way unaccompanied immigrant children are treated while in the custody of the Immigration and Naturalization Service (INS). If enacted, the Unaccompanied Alien Child Protection Act of 2001 would ensure that the federal government addresses the special needs of thousands of unaccompanied alien children who enter the U.S. It will ensure that these children have a fair opportunity to obtain humanitarian relief.

Central throughout this legislation are two concepts: The United States government has a fundamental responsibility to protect unaccompanied children in its custody; and in all proceedings and actions, the government's ultimate priority should be to protect the best interests of children.

The Unaccompanied Alien Child Protection Act of 2001 would ensure that children who are apprehended by the INS are treated humanely and appropriately by transferring jurisdiction over their welfare from the INS Detention and Deportation division to a newly created Office of Children's Services within the Department of Justice.

This legislation would also centralize responsibility for the care and custody of unaccompanied children in this new Office of Children's Services. By doing so, it would resolve the conflict of interest inherent in the current system—that is, the INS retains custody of children and is charged with their care while, at the same time, it seeks their deportation.

Under this bill, the Office of Children's Services would be required to establish standards for the custody, release, and detention of children, ensuring that children are housed in appropriate shelters or foster care rather than juvenile jails. In 1999, the INS held some 2,000 children in juvenile jails even though they had never committed a crime. Equally as important, the bill would require the Office to establish clear guidelines and uniformity for detention alternatives such as shelter care, foster care, and other child custody arrangements.

The bill would improve unaccompanied aliens' access to existing options for permanent protection when U.S. immigration and child welfare authorities believe such protection is warranted.

Finally, the Unaccompanied Alien Child Protection Act would provide unaccompanied minors with access to legal counsel, who would ensure that the children appear at all immigration proceedings and assist them as the INS and immigration court consider their cases. The bill would also provide the children with access to a guardian ad litem to ensure that they are properly placed in a safe and caring environment. The guardian ad litem would also work to ensure that each child's best interests are protected throughout the process.

Let me turn for a moment to the issue of access to counsel. Children, even more than adults, have incredible difficulty understanding the complexities of the asylum system without the assistance of counsel. Despite this reality, most children in INS detention are overlooked and unrepresented. Without legal representation, children are at risk of being returned to their home countries where they may face further human rights abuses.

I am aware of two cases that demonstrate the compelling need for counsel on behalf of these children. The first case involves two 17-year old boys from China. Li and Wang, who were apprehended on an island near Guam and had been in INS custody for almost two years. During their detention in Guam, the two boys testified in federal court against the smugglers who brought them to Guam. In their testimony, they described being beaten by the smugglers even before leaving China, and stated that others were beaten during the trip to Guam. In the spring of 2000, the two boys were brought to a corrections facility in Los Angeles and detained in the INS section of that facility. This is where the similarity in their cases end.

Mr. President, while both of the boys would face danger from the smugglers if they returned to China because of their testimony, only one was granted asylum. Li applied for asylum and was denied. He was not represented by counsel at his hearing. Despite the fact that the INS trial attorney mentioned that Li had testified in federal court against the smugglers, the judge did not include this information in her decision on the claim. Luckily for Li, an attorney overheard the hearing, and after speaking with Li, agreed to appeal his asylum claim. Li is still being held in a Los Angeles corrections facility. The story is different for Wang. Wang had an attorney and won his asylum hearing. But INS is appealing the decision so Wang remains in a Los Angeles corrections facility, as well.

Mr. President, these cases demonstrate the pressing need for legal representation of children. Had he been represented by counsel and if his testimony would have been incorporated into his case, Li may have won his asylum claim. Instead, a 17-year-old boy unfamiliar with our immigration system and our language was forced to navigate the complex court system alone.

According to Human Rights Watch, children detained by the INS, whether in secure detention or less restrictive settings, often have great difficulty obtaining information about their legal rights. On a 1998 visit to the Berks County Juvenile Detention Center in Reading, Pennsylvania, Human Rights Watch staff found that none of the children they interviewed had received information from the INS or the facility's staff about their rights or the legal services available to them.

Unaccompanied alien children are among the most vulnerable of the immigrant population; many have often entered the country under traumatic circumstances. They are young and alone, subject to abuse and exploitation. These unaccompanied children are unable to articulate their fears, their views, or testify to their needs as accurately as adults can.

Despite these facts, U.S. immigration laws and policies have been developed and implemented without caring about their effect on children, particularly on unaccompanied alien children.

Sadly, the INS detains more than 5,000 children nationwide each year. They are apprehended for not having proper documentation at ports-of-entry into the United States. Their detention may last for months—or sometimes for years—as they undergo complex and arduous immigration proceedings.

Under current immigration law, these children are forced to struggle through a system designed primarily for adults, even though they lack the capacity to understand nuanced legal principles and procedures. Children who may very well be eligible for relief are often vulnerable to being deported back to the very abusive situations from which they fled before they are able to make their case before the INS or an immigration judge.

Under current law, the INS is responsible for the apprehension, detention, care, placement, legal protection, and deportation of unaccompanied children. I believe that these are conflicting responsibilities that undercut the best interests of the child. Too often, the INS has fallen short in fulfilling the protection side of these responsibilities.

The INS uses a variety of facilities to house children. Some are held in children's shelters in which children are offered some of the services they need but still may experience prolonged detention, lack of access to counsel, and other troubling conditions.

The INS relies on juvenile correctional facilities to house many children, even in the absence of any criminal wrongdoing. Today, one out of every three children in INS custody is detained in secure, jail-like facilities. These facilities are highly inappropriate, particularly for children who have already experienced painful trauma in their homelands.

There is currently no provision of federal law providing guidance for the placement of unaccompanied alien children. In 1987, the Flores v. Reno settlement agreement on behalf of minors in INS detention established the nationwide policy for the detention, release, and treatment of children in the custody of INS. The Flores agreement requires that the INS treat minors with dignity, respect, and special concern for their particular vulnerability. It also requires the INS to place each detained minor in the least restrictive setting appropriate to the child's age and special needs.

In response to Flores, the INS issued regulations that permitted its officers to detain children in secure facilities only in limited circumstances. The INS officers were required to provide written notice to the child of the reasons for such placement. More importantly, the regulations required the INS to segregate immigration detainees from juvenile criminal offenders.

Although INS officials have contended that these children are placed in these facilities largely because they are charged with other offenses, the INS statistics do not bear out this claim. In fiscal year 1999, only 19 percent of the children placed in secure detention were chargeable or adjudicated as delinquents.

According to non-governmental organizations (NGOs) such as Human Rights Watch and the Women's Commission on Refugee Women and Children, the INS regularly violates these regulations. The NGOs contend that all too often children are placed in jail-like facilities for seemingly arbitrary reasons, seldom notified of the reasons why, and forced to share rooms and have extensive contact with convicted juvenile offenders.

I was also astonished to learn that many of these children, some as young as four and five years old, are placed behind multiple layers of locked doors, surrounded by walls and barbed wire. They are strip searched, patted down, placed in solitary confinement for punishment, forced to wear prison uniforms and shackles, and are forbidden to keep personal objects. Often they have no one to speak with because of the language barrier.

The Unaccompanied Alien Child Protection Act of 2001 would ensure that the particular needs of the thousands of unaccompanied alien children who enter INS custody each year are met and that these children have a fair opportunity to obtain immigration relief when eligible.

In 1999, the INS held approximately 4,600 children under the age of 18 in its custody. Some of these children fled human rights abuses or armed conflict in their home countries, some were victims of child abuse or had otherwise lost the support and protection of their families, some came to the United States to join family members, and some came to escape economic deprivation.

Many of these children came from troubled and war-torn countries around the world, including the Peoples Republic of China, Honduras, Afghanistan, Somalia, Sierra Leone, Colombia, Guatemala, Cuba, former Yugoslavia, and others. They range in age from toddlers to teenagers. Some traveled to the United States alone, while others were accompanied by unrelated adults.

Sadly, a significant number are victims of smuggling or trafficking rings. In one recent instance, Phanupong Khaisri, a two-year old Thai child, was brought to the U.S. by two individuals falsely claiming to be his parents, but who were actually part of a major alien trafficking ring. The INS was prepared to deport the child back to Thailand. It was not until Members of Congress and the local Thai community had intervened, however, that the INS decided to allow the child to remain in the U.S. until the agency could provide proper medical attention and determine what course of action would be in his best interest. Now his case is before a federal district court judge who will determine whether he should be eligible to apply for asylum.

The Unaccompanied Alien Child Protection Act aims to prevent situations like this from recurring by centralizing the care and custody of unaccompanied children into a new Office of Children's Services within the INS, but outside the jurisdiction of the District Directors. By doing so, the Act resolves the conflict of interest inherent in the current system—that is, the INS retains custody of children and is charged with their care while, at the same time, it seeks their deportation.

Mr. President, I would like to take a moment to share with you a few other examples of how the federal government has fallen short in the manner in which we handle vulnerable unaccompanied minors. One would think that our country would treat unaccompanied minors with the sensitivity and care their situations demand. Unfortunately, in too many instances, that has not been the case. Too often, these children are often treated like adults and, under the worst circumstances, like criminals.

Xaio Ling, a young girl from China who spoke no English, was detained by the INS at the Berks County Juvenile Detention Center. The INS placed her among children guilty of violent crimes, including rape and murder. Xaio was never guilty of any crime, and yet she slept in a small concrete cell, was subjected to humiliating strip searches, and forced to wear handcuffs. She was forbidden to keep any of her clothes or possessions and, under the policies of the Berks Center, Xaio was not allowed to laugh—not that she had anything to laugh about.

Imagine the fear this child had to endure: thrust into a system she did not understand, given no legal aid, placed in jail that housed juveniles with serious criminal convictions, including murder, car jacking, rape, and drug trafficking. She did not speak English and was unable to speak to any staff who knew her language, and she had to submit to strip searches. It is hard to believe that our country would have allowed this innocent child to be treated in such a horrible manner.

Situations like that of this young Chinese girl make a compelling case for changes in the way our nation treats unaccompanied alien children. Under the legislation I have introduced today, this youngster never would have been placed in a detention center with criminal offenders. Rather, she would have immediately been placed in shelter care, foster care, or a home more appropriate for her situation. She would have been provided an attorney for her immigration proceedings and a social worker would have been appointed as guardian ad litem to ensure that her needs were being met. Sadly, this young girl was given none of these options.

Neither was a 16 year-old boy from Colombia, who fled Colombia to escape a life of violence on the streets of Bogota, where FARC guerillas attempted to recruit him and the F-2 branch of the Colombian government harassed him in its attempt to get rid of street children. Fearing for his life, he fled Colombia for Venezuela where he lived without shelter or sufficient food. In search of a safer life, he sneaked into the machine room of a cargo ship bound for the United States. He was lucky to survive; many other stowaways were thrown overboard when discovered by the ship's crew.

The boy remained on the ship from November 1998 until March 1999, when he arrived in Philadelphia. He was soon turned over to the INS and placed into the same detention center in which the young Chinese girl was held. He, too, was kept with criminal offenders. He did not understand English, which created a myriad of problems because he was unable to understand what was expected of him in the detention center. He was held in an inappropriately punitive environment for six months.

I have one last story to share with you today. Placed on a boat bound for the United States by her very own parents, a 15-year-old girl fled China's rigid family planning laws. Under these laws she was denied citizenship, education, and medical care. She came to this country alone and desperate. And what did our immigration authorities do when they found her? They held her in a juvenile jail in Portland, Oregon. She was held for eight months and was detained for an additional four months after being granted political asylum. At her asylum hearing, the young girl could not wipe away the tears from her face because her hands were chained to her waist. According to her lawyer, "her only crime was that her parents had put her on a boat so she could get a better life over here."

Mr. President, for years children's rights and human rights activists have implored Congress to improve the way our immigration system handles unaccompanied minors—just like the ones whose stories I have just told. I believe my bill would do just that.

We cannot continue to allow children, who come to our country, often traumatized and guilty of no crime, to be held in jails and treated like criminals. We cannot continue to allow children, scared and helpless, to be thrown into a system they do not understand without sufficient legal aid and a guardian to look after their best interests. We must adhere to the principles of our justice system. What kind of message do we send when we deprive children who come to our country seeking refuge of their basic rights and protections?

As a nation that holds our democratic ideals and constitutional rights paramount, how then can we continue to avert our attention from repeated violations of some of the most basic human rights against children who have no voice in the immigration system? We should be outraged that children who come to the U.S. alone, many against their will, are subjected to such inhumane, excessive conditions.

I am proud to have the support of the United States Catholic Conference and the Women's Commission on Refugee Women and Children, with whom I have worked closely to develop this legislation.

I urge my colleagues to join with me by cosponsoring this important measure.

Mr. CAMPBELL:

S. 122. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes; to the Committee on Rules and Administration.

ARMED SERVICES VOTING RIGHTS PROTECTION ACT

Mr. CAMPBELL. Mr. President, today I introduce the "Armed Services Voting Rights Protection Act of 2001."

This important legislation takes a two pronged approach to help address the technical problems that resulted in far too many of the ballots cast by those serving in our nation's Armed Services being thrown out in the last election.

The first part of the bill would amend the Uniformed and Overseas Citizens Absentee Voting Act of 1986 to help protect the voting rights of our armed services members. This first part is companion language to a bill, H.R. 159, that has been introduced in the 107th Congress by Representative BOB RILEY of Alabama.

Specifically, this part of the bill would prohibit a state from determining that an absentee ballot submitted by a uniformed services voter has been improperly cast unless the state finds clear and convincing evidence of fraud. It states that the lack of a witness signature, address, postmark, or other identifying information cannot not be considered clear and convincing evidence of fraud unless there is other evidence or information. Further, it is designed to have no effect on filing deadlines as determined by the states.

The second part of the Armed Services Voting Rights Protection Act directs the United States Postal Service to conduct joint studies with each of the branches of our Armed Services to examine what went wrong during the last election that caused so many of the ballots cast by our nation's Soldiers, Sailors, Airmen and Marines to be thrown out, often for minor technical reasons. It directs the U.S. Postal Service and the Armed Services to report back to congress within 120 days of the enactment of this Act with recommendations about how to improve the U.S. Post Office's interface with the Armed Services and help prevent a repeat performance where so many overseas military ballots were thrown out. It also directs them to implement the changes that can be done without changing current law and recommend further changes in law that Congress may want to consider. These efforts should also help improve the overall day-to-day relationship between the Armed Services and Postal Service.

The need for this bill is clear. While ballots were being counted during the most recent presidential election, an army of trial lawyers was sent out in a coordinated effort to systematically eliminate many of the votes cast by Americans serving in our nation's Armed Services overseas. These efforts to throw out ballots, usually for minor technical reasons, were all too successful. We need to do what we can to make sure it does not happen again.

As a veteran and a member of the Senate Veterans Affairs Committee, I believe throwing out votes cast by those serving in the Armed Services over technicalities is simply wrong on the most fundamental level. Our nation's Marines, Sailors, Airmen and Soldiers serve on the front lines in the defense of our great nation and constitutional democracy. To toss out so many of their ballots, and especially those cast by those serving at the forefront of our defense by being underway at sea or serving in remote hardship posts, is no way to show appreciation for their service.

Many Americans, myself included, are deeply concerned that the last election sent a clear signal to those serving in the Armed Forces that even though they may be putting their very lives on the line in the defense of our nation, and are duty bound to obey orders issued by their Commander in Chief, the President of the United States, there is a good chance that their right to have a voice, through a vote, in the selection of that President may be eliminated by the most minor of technicalities. This situation is made even worse by the fact that the very technical problems that may disqualify their ballots, like lack of access to postal marks, are often well beyond the control of individual Sailors, Soldiers, Marines and Airmen.

In order to vote, most of our fellow Americans serving in the Armed Services already have to jump through more hoops that the average citizen. We must do what we can to make it easier for them to jump through those hoops, rather that using these hoops as a way to trip up their right to vote.

Late last year, our nation witnessed an unprecedented assault on votes cast by our nation's Soldiers, Sailors, Airmen and Marines, and especially those serving overseas. The Armed Services Voting Rights Protection Act would be an important step in making sure that it does not happen again. I urge my colleagues to support this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Armed Services Voting Rights Protection Act of 2001".

SEC. 2. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by striking "Each State" and inserting "(a) IN GENERAL.—Each State"; and

(2) by adding at the end the following new subsection:

"(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

"(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter on the grounds that the ballot was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud in the preparation or casting of the ballot by the voter.

"(2) CLEAR AND CONVINCING EVIDENCE.—For purposes of this subsection, the lack of a witness signature, address, postmark, or other identifying information may not be considered clear and convincing evidence of fraud (absent any other information or evidence).

"(3) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 3. STUDY AND REPORT BY THE POSTAL SERVICE ON IMPROVING THE SUBMISSION OF ABSENTEE BALLOTS BY ABSENT UNIFORMED SERVICES VOTERS IN ELECTIONS FOR FEDERAL OFFICE.

(a) STUDY.—

(1) IN GENERAL.—The Postal Service shall conduct a study to determine each reason for which an absentee ballot of an absent uniformed services voter (as defined in paragraph (1) of section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6)) was not counted in the general election for Federal office (as defined in paragraph (3) of such section) held in 2000.

(2) CONSULTATION.—In conducting the study under this subsection, the Postal Service shall consult with the head of the executive department designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff), and the Secretaries of Defense, Transportation, Commerce, and Health and Human Services.

(b) UNPOSTMARKED BALLOTS.—In conducting the study under subsection (a), if the Postal Service finds that a reason for which an absentee ballot was not counted is that the ballot was not postmarked, then the Postal Service shall—

(1) determine the reason that the ballot was not postmarked: and

(2) develop recommendations on ways to ensure that such ballots will be postmarked in the future.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Postal Service shall submit to Congress a report on the study conducted under subsection (a) that contains—

(1) any reason determined under paragraph (1) of subsection (b) and any recommendations developed under paragraph (2) of such subsection; and

(2) such recommendations for legislative or administrative action as the Postal Service determines appropriate.

Mrs. FEINSTEIN (for herself and Mr. VOINOVICH):

S. 123. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

HEAD START TEACHERS ACT OF 2001

Mrs. FEINSTEIN. Mr. President: I rise today with my colleague from Ohio, Senator VOINOVICH, to introduce legislation to expand the federal loan forgiveness program to include Head Start teachers.

Head Start is one of the most important federal programs because it has the potential to reach children early in their formative years when their cognitive skills are just developing. We know that poor children disproportionately start school behind their peers—they are less likely to count to 10 or to recite the alphabet.

Providing low-income children with access to programs that encourage cognitive learning and prepare them to enter school ready to learn is important. Head Start is one example of a Federal program that has the potential to reach every low-income child; to help every eligible child learn to count to ten and begin to recite the alphabet.

Many of our Nation's youngsters, however, enter elementary school without the basic skills necessary to succeed. Often these children lag behind their peers throughout their academic career.

As taxpayers, we will spend millions on efforts to help these children catch up. Many of these children will never catch up.

Several studies confirm the importance of providing low-income children with the opportunity early on to gain basic cognitive skills:

A study conducted on a preschool program in Chicago showed that for every dollar invested, $8 was saved by society in projected costs. Additionally, 26 percent more children were likely to finish high school and 40 percent were less likely to repeat a grade.

The National Head Start Association found that for every dollar invested in Head Start, at least $2.50 is saved because these children need less remedial education and are less likely to be on welfare programs or involved with the juvenile justice system than non-Head Start peers.

The Rand Corporation found that for every dollar invested in early childhood learning programs, taxpayers save between $4 and $7 later by reducing the need for alcohol and drug treatment programs, special education programs, mental health services, and the likelihood of incarceration.

We can save millions by providing low-income children with access to quality preschool where they will gain the necessary cognitive skills to succeed in school and life.

In order to give every child a head start in life, we must continue to recruit qualified teachers to the Head Start field who have demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of the preschool curriculum with a particular focus on cognitive learning. Obtaining and maintaining teachers with such qualifications is the only way to jump-start cognitive learning and to ensure that our youngsters start elementary school ready to learn.

Several recent studies confirm the importance of investing in the education and training of those who work with preschoolers.

A study conducted by the National Research Council at the request of the U.S. Department of Education recommends that:

> Each group of children in an early childhood education and care program should be assigned a teacher who has a bachelor's degree with specialized education related to early childhood. . . . Progress toward a high-quality teaching force will require substantial public and private support and incentive programs, including innovative education programs, scholarship and loan programs, and compensation commensurate with the expectations of college graduates.

The Head Start 2010 National Advisory Panel presided over fifteen national hearings and open forums. The panel found:

> There was a tremendous amount of testimony about the fact that, despite increases resulting from Federal quality set-aside funding, relatively low salaries and poor or non-existent benefits make it difficult to attract and retain qualified staff over the long term. Witnesses stated that many staff positions remain vacant and turnover is likely to worsen if compensation does not improve significantly . . . comments included passionate exhortations for greater investment in staff, observing that, in Head Start . . . the quality of the program is tied directly to the quality of the staff.

Many Head Start programs are losing qualified teachers to local school districts because the pay is better, and working in an elementary or secondary school assists these teachers in qualifying to receive up to $5,000 of their federal loans forgiven. Every teacher Head Start loses impacts access to services for our nation's most vulnerable youngsters.

I believe that leveling the playing field by offering Head Start teachers the same loan forgiveness benefit currently afforded to elementary and secondary school teachers could encourage more college graduates to enter the field.

Following the recommendations of the Head Start 2010 National Advisory Panel and the National Research Council, I believe we must create programs to encourage highly educated and trained individuals to commit to long-term careers in the Head Start arena.

To encourage recent graduates, current Head Start teachers without a degree, and college students to enter and remain in the Head Start field, I am introducing legislation that will expand the federal loan forgiveness program to include Head Start teachers. In exchange for 5 years of service, a Head Start teacher could receive up to $5,000 of their federal Stafford loan forgiven.

I believe we must continue to improve the Head Start program such that children leave the program able to count to ten, to recognize sizes and colors, and can begin to recite the alphabet, to name a few indicators of cognitive learning. To ensure cognitive learning, we must also continue to raise the standards for Head Start teachers. Offering Head Start teachers similar compensation for their educational achievements and expenses afforded to other teachers should be a priority of this Congress.

Mr. President, I ask unanimous consent that the text of the bill now appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the "Loan Forgiveness for Head Start Teachers Act of 2001".

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C 1078–10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

"(1)(A) has been employed—

"(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

"(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

"(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

"(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

"(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and";

(2) in subsection (g), by adding at the end the following:

"(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001."; and

(3) by adding at the end the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A).".

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078–10) is amended—

(1) in subsection (c)(1), by inserting "or fifth complete program year" after "fifth complete school year of teaching";

(2) in subsection (f), by striking "subsection (b)" and inserting "subsection (b)(1)(A)(i)";

(3) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)"; and

(4) in subsection (h), by inserting "except as part of the term 'program year'," before "where".

Mr. VOINOVICH. Mr. President, I rise today to join my friend and colleague, Senator FEINSTEIN, in introducing legislation which will encourage young teachers to go into early childhood education, encourage further learning and credentialing of early learning educators, and lead to better education for our nation's youngest children.

There is no more important time in a child's life than their earliest years. Scientific research tells us that babies are born with 100 billion neurons, or brain cells, that are waiting to make connections, or synapses, with one another. These synapses empower the brain and dictate healthy development and future learning. By the time a baby is three, 1,000 trillion connections have been made—twice as many synapses as most adults have.

However, at age 11, children start eliminating those brain connections that have not been used, thus decreasing their potential for learning and development.

To maximize their learning potential, we must begin to teach our children the necessary skills before they reach kindergarten. Researchers have found that focusing on these earliest years can make the greatest difference in a child's development and learning, and I know of few other programs that provide the same focus as Head Start.

Our bill, the Loan Forgiveness for Head Start Teachers Act of 2001, is designed to encourage currently enrolled and incoming college students working on a Bachelor's or a Master's degree to pursue a career as a Head Start teacher. In exchange for a 5-year teaching commitment in a qualified Head Start program, a college graduate with a minimum of a bachelor's degree could receive up to $5,000 in forgiveness for their federal Stafford student loan.

When I was Governor of Ohio, we invested heavily in Head Start so that there was room for every eligible child in Ohio. Because of our efforts, Ohio is 4th in the nation in terms of children served by Head Start with nearly 38,000 students served in the year 2000.

I have carried my passion for early childhood education with me to the U.S. Senate. I continue to believe that it is absolutely critical that we do more to help our young people prepare to begin school and it is why I was pleased to work with Senators JEFFORDS and STEVENS to help pass the Early Learning Opportunities Act of 2000. Still, we must now do more to help those teachers who educate our youngest children.

The results of a survey undertaken by the U.S. Department of Health and Human Services over the past two years has shown a significant correlation between the quality of education a child receives and the amount of education that child's teacher possesses. That is, the more education a teacher has, the more effectively they teach their students cognitive skills, and the more likely that students are to act upon those skills.

Current federal law requires that 50 percent of all Head Start teachers must have an associate, bachelor's, or advanced degree in early childhood education or a related field with teaching experience by 2003. Under Ohio law, by 2007, all Head Start teachers must have at least an associates degree. The more education our teachers have, the better off our children will be. Unfortunately, as we all know, education is expensive.

In Ohio today, only 11.3 percent (242) of the 2,126 Head Start teachers employed in the state have a bachelor's degree. Additionally, less than one percent (20) of Ohio's Head Start teachers have a graduate degree. We must do more to help our teachers afford the education that will be used to help educate our children.

Recruiting and retaining Head Start and early childhood teachers continues to be a challenge for Ohio and other states. The Loan Forgiveness for Head Start Teachers Act of 2001 will help communities, schools and other funded Head Start providers to meet the challenge of recruiting and retaining high quality teachers. It is one of the best ways that I know of where we can make a real difference in the lives of our most precious resource—our children.

I am pleased to have been able to work with the National Head Start Association and Ohio Head Start Association, and my colleague Senator FEINSTEIN, on this legislation, and I urge my colleagues to join as co-sponsors of this bill.

By Mr. JOHNSON (for himself, Mr. KENNEDY, Mr. DORGAN, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEAHY, Mr. INOUYE, Mr. KERRY, and Mr. DASCHLE):

S. 125. A bill to provide substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the "Prescription Drug Fairness for Seniors Act of 2001", legislation that addresses the critical issue facing our older Americans—the cost of their prescription drugs. Studies have shown that older Americans spend almost three times as much of their income on health care than those under the age of 65, and more than three-quarters of Americans aged 65 and over are taking prescription drugs. Even more alarming is the fact that seniors and others who buy their own prescription drugs, are forced to pay over twice as much for their drugs as are the drug manufactures' most favored customers, such as the federal government and large HMOs.

The "Prescription Drug Fairness for Seniors Act" will protect senior citizens and disabled individuals from drug price discrimination and make prescription drugs available to Medicare beneficiaries at substantially reduced prices. The legislation achieves these goals by allowing pharmacies that serve Medicare beneficiaries to purchase prescription drugs at prices equal to those of the pharmaceutical companies' most favored customers. Estimated to reduce prescription drug prices for seniors by over 40%, this bill will help those seniors who often times have to make devastating choices between buying food or medications. Choices that no human being should have to make.

Research and development of new drug therapies is an important and necessary tool towards improving a person's quality of life. But due to the high price tag that often accompanies the latest drug therapies, seniors are often left without access to these new therapies, and ultimately, in far too many instances, without access to medication at all. This legislation is an important step towards restoring the access to affordable medications for our Medicare beneficiaries.

While this may not be the magic bullet that meets all of the long term needs of providing Medicare prescription drug coverage, it does provide a mechanism for immediate relief from rising drug costs. Working together, reaching across the aisle, we can use this time of unparalleled prosperity to do the right thing by our seniors. We should do it this year for their sake, and for the sake of the future of Medicare.

I look forward to working on this important issue in the months to come and hope that Congress will work swiftly in a bipartisan manner to enact legislation that will benefit millions of senior citizens and disabled individuals across our nation.

By Mr. CLELAND (for himself, Mr. MILLER, Mr. INOUYE, Mr. TORRICELLI, Mr. BINGAMAN, and Mr. HARKIN):

S. 126. A bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

AUTHORIZING THE PRESIDENT TO PRESENT THE GOLD MEDAL ON BEHALF OF CONGRESS TO FORMER PRESIDENT JIMMY CARTER AND FORMER FIRST LADY ROSALYNN CARTER

Mr. CLELAND. Mr. President, I rise today to introduce a bill that would authorize the President to present a Gold Medal on behalf of Congress to former President Jimmy Carter and former First Lady Rosalynn Carter in recognition of their service to the Nation. I would like to thank Senators MILLER, INOUYE, TORRICELLI, BINGAMAN and HARKIN for co-sponsoring this bill and extend an invitation to all our other colleagues to join us in supporting this legislation to award these two great Americans with Congress' highest honor.

It is widely agreed that President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and the international community. Internationally, the Carters have been involved in a number of public service initiatives ranging from combating famine in Sub-Sahara Africa and encouraging better health care in Third World nations to serving as mediators in an effort to end civil wars in half a dozen countries. President Carter has monitored numerous foreign elections in an effort to spread democracy throughout the world.

A Congressional Gold Medal awarded by Congress will show the appreciation of the American public for the many contributions that President and Mrs. Carter have made, including service in public office from the state legislature to the White House. Jimmy and Rosalynn continue to promote human rights worldwide due to their active involvement in the nonprofit Carter Center in Atlanta that has initiated projects in more than 65 countries to resolve conflicts, promote human rights, build democracy, improve health care worldwide, and revitalize urban areas. In addition, the Carters serve as volunteers for Habitat for Humanity, which helps low income families build their own homes.

I hope that other members of Congress will join me and Senators MILLER, INOUYE, TORRICELLI, BINGAMAN, and HARKIN in recognizing President and Mrs. Carter for their distinguished records of public service by awarding them the Congressional Gold Medal. Thank you, Mr. President.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) both former President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and to the international community;

(2) the peacemaking efforts of President Jimmy Carter as a mediator in the Arab-Israeli dispute culminated in the Camp David Accords signed by Egypt and Israel, which provided the foundation for a settlement of the Middle East dispute that had eluded peacemakers for more than 3 decades;

(3) President Jimmy Carter was instrumental in the passage of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), one of the most significant pieces of environmental legislation ever approved by Congress;

(4) in establishing his presidential library, President Jimmy Carter sought to create a center for the service of humanity in areas as diverse as politics, health care, human rights, and democracy;

(5) Jimmy and Rosalynn Carter epitomize the American quality of voluntarism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

(6) together, Jimmy and Rosalynn Carter have dedicated their lives to promoting national pride and to bettering the quality of life in the United States and throughout the world.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present at the Capitol, on behalf of the Congress, a gold medal of appropriate design to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) SUBSEQUENT ARRANGEMENTS FOR PRESENTATION.—Subsection (a) shall not be construed as providing the consent of the House of Representatives or the Senate for the use of any particular part of the Capitol or the grounds of the Capitol for purposes of the presentation referred to in subsection (a).

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 at a price sufficient to cover the costs of the medals (including labor, materials, dies, use of machinery, and overhead expenses) and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING AND PROCEEDS OF SALE.

(a) AUTHORIZATION.—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Mr. MCCAIN (for himself, Mr. CLELAND, Mrs. HUTCHISON, and Mr. MURKOWSKI):

S. 127. A bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

THE UNITED STATES SHIP CRUISE VESSEL ACT

Mr. MCCAIN. Mr. President, today Senators HUTCHISON, CLELAND, MURKOWSKI, and I are introducing the United States Cruise Vessel Act. The purpose of this bill is to provide increased domestic cruise opportunities for the American cruising public by temporarily reducing barriers to operation in the domestic cruise market. I want to start by thanking Senators HUTCHISON, CLELAND, and MURKOWSKI for once again joining me in an effort to rebuild our nation's cruise ship industry.

While we made great progress in advancing our goals during the last Congress, our efforts were blocked by the special interests of a small group of shipbuilders who prefer the status quo that allows them to dominate the small market for large U.S.-built cruise ships without the fear of competition. The bill that we are introducing today was passed out of the Senate Commerce Committee unanimously during the last Congress. It represents months, if not years, of work by a large cross section of our nation's maritime industry to reach agreement on how best to jump-start our nation's fleet of U.S. flagged cruise vessels and provide them the tools they need to compete in the world market.

The measure we are introducing today would allow for the immediate expansion of the domestic fleet by allowing operators to bring existing cruise ships under the U.S. flag as long as they agree to build additional vessels in the United States. The measure would also provide increased opportunities for U.S. mariners to serve at sea. This becomes more critical annually, as we face greater difficulties in meeting our national defense sealift need for qualified merchant mariners. We need to provide more opportunities for U.S. merchant mariners to serve at sea and this measure can lead to those opportunities. Finally, the measure would lead to increased work for our nation's shipyards and build on the limited construction plans for large cruise ships currently underway.

I want to highlight some of the major provisions of the bill in order to ensure that the legislation we are introducing today is not confused with previous measures that allowed for the operation of foreign flagged vessels in the U.S. domestic market. The bill we are introducing today provides a two-year window of opportunity to encourage the immediate reflagging of large cruise vessels under the United States flag for operation in the domestic cruise trades. The bill would allow the Secretary of Transportation to issue permits for the limited operation of foreign-built cruise vessels in the domestic trades if applications are received within two years of the date of enactment of this legislation.

To be eligible for reflagging and operation in the U.S. domestic cruise trades, a cruise vessel must have been delivered after January 1, 1980, and be at least 20,000 gross registered tons, have no fewer than 800 passenger berths, provide a full range of overnight accommodations, dining, and entertainment services, comply with the Safety of Life at Sea requirements for a fixed smoke detection and sprinkler system in the accommodation areas, and be constructed according to internationally accepted construction standards. This will help ensure that any foreign flag vessels reflagged to take advantage of the bill are modern and safe.

To be eligible to enter the domestic market, the vessel must be owned by a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. 802) or section 12106(e) of title 46 United States Code.

The bill would assist the U.S. ship repair industry and would require foreign built cruise vessels entering the domestic market to have all repair, maintenance, alteration and other work required for operation under the U.S. flag, as well as regular repair and maintenance work, performed in a U.S. shipyard.

Prior to allowing a foreign built vessel to be reflagged and utilized in the domestic market, the bill would require the operator of a reflagged vessel to enter into a binding contract with U.S. shipyards for the construction of at least one more vessel than the total number of vessels they will operate in the domestic cruise market. The contract must provide for a total number of passenger berths equal to or greater than the number operated in the domestic market by that operator. Additionally, the replacement vessels must be at least 20,000 gross registered tons and have no fewer than 800 passenger berths.

The bill would require the first replacement vessel to be delivered within five years of the date the foreign-built vessel commences operation in the domestic trade and that each additional vessel be delivered within two years of the preceding vessel. Foreign built vessels are required to leave the domestic market two years after the replacement vessel or vessels are delivered.

The bill would require the Secretary to Transportation to insure that the coastwise business of a U.S. built vessel operator is not harmed by the operation of a foreign-built vessel in the domestic market. The Secretary, after reviewing the proposed itineraries of foreign-built vessels in the domestic market, as well as taking into consideration public comments, is required to determine if there will be an adverse impact on the operation of a U.S.-built vessel. The Secretary is required to consider the scope of the vessel's itineraries, the duration of the cruise, the size of the vessel and the retail per diem of the vessel. If there is a conflict, the operator of a foreign-built vessel must change the vessel's itinerary in order to remove the conflict to the satisfaction of the Secretary.

The slow and limited growth of the U.S. domestic cruise market demands that we put aside special interests and pass this measure at the first available opportunity. I can assure my colleagues that as Chairman, the Senate Committee will continue to work with all members interested in the future of a U.S. flagged cruise fleet to further address any concerns with the bill. But I would also ask all members to compare the limited growth of our domestic fleet to the dynamic growth in the international cruise market in hopes that they will realize that without actions soon, the U.S. fleet will be left behind.

The bill we are introducing today will stimulate growth and opportunity within the domestic cruise ship trade with the beneficiaries being U.S. port cities and business, and as I have often said, the millions of American citizens who want to be able to enjoy cruising between U.S. ports.

I hope my colleagues will join Senators HUTCHISON, CLELAND, MURKOWSKI, and me to help advance this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the "United States Cruise Vessel Act".

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Definitions.

TITLE I—OPERATIONS UNDER CERTIFICATE OF DOCUMENTATION

Sec. 101. Domestic cruise vessel.
Sec. 102. Repairs requirement.
Sec. 103. Construction requirement.
Sec. 104. Certain operations prohibited.
Sec. 105. Priorities within domestic markets.
Sec. 106. Report.
Sec. 107. Enforcement

TITLE II—OTHER PROVISIONS

Sec. 201. Application with Jones Act and other Acts.
Sec. 202. Glacier Bay and other National Park Service area permits.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE CRUISE VESSEL.—The term "eligible cruise vessel" means a cruise vessel that—

(A) was delivered after January 1, 1980;

(B) is at least 20,000 gross registered tons;

(C) has no fewer than 800 passenger berths;

(D) is owned by a person that is a citizen of the United States for the purpose of operating a vessel in the coastwise trade within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) or section 12106(e) of title 46, United States Code;

(E) provides a full range of overnight accommodations, entertainment, dining, and other services for its passengers;

(F) has a fixed smoke detection and sprinkler system installed throughout the accommodation and service spaces, or will have such a system installed within the time period required by the 1992 Amendments to the Safety of Life at Sea Convention of 1974; and

(G) meets the eligibility requirements for a certificate of inspection under section 1137(a) of the Coast Guard Authorization Act of 1996 (46 U.S.C. App. 1187 nt.), and complies with the applicable international agreements and associated guidelines referred to in section 1137(a)(2) of that Act (46 U.S.C. 1187 nt.).

(2) Itinerary.—The term "itinerary" means the route travelled by a cruise vessel on a single voyage that begins at the first port at which passengers on that voyage embark, includes each port at which the vessel calls before the last port at which passengers on that voyage disembark, and ends at that last port of disembarkation. For purposes of this paragraph, the term "embark" and "disembark" have the meaning given those terms in section 4.80a(a)(4) of title 19, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act).

(3) Operator.—The term "operator" means the owner, operator, or charterer.

(4) Secretary.—The term "Secretary" means the Secretary of Transportation.

(5) United States shipyard.—The term "United States shipyard" means a shipyard located in the United States.

(6) United States.—The term "United States" has the meaning given that term in section 2101(44) of title 46, United States Code.

TITLE I—OPERATIONS UNDER CERTIFICATE OF DOCUMENTATION

SEC. 101. DOMESTIC CRUISE VESSEL.

(a) In General.—Notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), section 27 of the Act of June 5, 1920, commonly known as the Jones Act, (46 U.S.C. App. 883), section 27A of that Act, (46 U.S.C. App. 883-1), and section 12106 of title 46, United States Code, the Secretary shall issue a certificate of documentation with a temporary coastwise endorsement for an eligible cruise vessel not built in the United States to operate in domestic itineraries in the transportation of passengers in the coastwise trade between ports in the United States if the vessel meets the requirements of this title.

(b) Termination of Authority.—The authority of the Secretary to issue a certificate of documentation under subsection (a) begins on the day after the date of enactment of this Act and terminates on the day that is 24 months after that date.

(c) Application Only Required.—Notwithstanding subsection (b), the Secretary may issue a certificate of documentation under subsection (a) more than 24 months after the date of enactment of this Act if—

(1) the Secretary received the application for the certificate of documentation before the end of that 24-month period; and

(2) the vessel otherwise meets the requirements of this title.

(d) Rights under Application Not Transferrable.—The right to receive a certification of documentation pursuant to an application described in subsection (c) may not be transferred by the applicant to any other person. For purposes of this subsection, the transfer of that right to a successor in interest to the applicant in connection with the reorganization, restructuring, acquisition, or sale of the applicant's business shall not be considered another person.

SEC. 102. REPAIRS REQUIREMENT.

(a) In General.—The Secretary may not issue a certificate of documentation under section 101(a) for an eligible cruise vessel unless the operator establishes to the satisfaction of the Secretary that—

(1) any repair, maintenance, alteration, or other preparation of the vessel for operation under a certificate of documentation issued under section 101(a) have been, or will be, performed in a United States shipyard; and

(2) any repair, maintenance, or alteration of the vessel after a certificate of documentation is issued under that section will be performed in a United States shipyard.

(b) Waiver.—The Secretary may waive the requirements of subsection (a) if the Secretary finds that the repair, maintenance, alterations, or other preparation services are not available in the United States or if an emergency dictates that the vessel proceed to a foreign port.

SEC. 103. CONSTRUCTION REQUIREMENT.

(a) Construction Contract Required.—

(1) In general.—Except as provided in paragraph (2), a vessel for which a certificate of documentation has been issued under section 101(a) may not commence operations in the coastwise trade until the operator of that vessel executes a contract with one or more United States shipyards for the construction of a total of 2 or more cruise vessels with a total combined berth or stateroom capacity equal to at least the total combined berth or stateroom capacity of that vessel. If certificates of documentation are issued under section 101(a) for more than 1 vessel for an operator, the construction contract required by the preceding sentence shall provide for the construction of 1 more vessel than the number of vessels for which certificates of documentation are issued with a total combined berth or stateroom capacity equal to at least the total combined berth or stateroom capacity of the vessels for which the certificates of documentation are issued.

(2) Demonstration of capability required.—For purposes of this subsection, a construction contract for which financing is not provided under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1101 et seq.) shall not be recognized as meeting the requirements of paragraph (1) unless both the operator and the shipyard are capable of completing the contract. For purposes of this paragraph—

(A) an operator shall be considered to be capable of completing such a contract if the operator meets the standards set forth in sections 298.12, 298.13, and 298.14 of title 46, Code of Federal Regulations; and

(B) a shipyard shall be considered to be capable of completing such a contract if the shipyard meets the standards set forth in section 298.32(a) of that title.

(b) Minimum Size Requirement.—For purposes of this section, a contract for the construction of a vessel shall be disregarded if that vessel—

(1) will be less than 20,000 gross registered tons; or

(2) will have fewer than 800 passenger berths.

(c) Contract Terms.—

(1) In general.—The contract required by subsection (a) shall provide for delivery of the first such vessel not later than 60 months after the date on which operations of the vessel for which the certificate of documentation was issued commence, and shall contain any other provisions required by the Secretary for purposes of this subsection. If the contract provides for the construction of more than 1 vessel, it shall provide for delivery of each vessel subsequent to the first not later than 24 months after delivery of the immediately preceding vessel.

(2) Extension of time periods for impossibility of performance.—If the commencement of construction or the completion of construction is prevented or delayed by circumstances that would be recognized as providing a defense of impossibility-of-performance by the shipyard under applicable contract law, each time period in this Act related to delivery of a vessel by that shipyard shall be extended for whatever period of time the circumstance on which the defense is predicated continues to exist.

(d) Expiration of Coastwise Endorsement.—The coastwise endorsement for an eligible cruise vessel under section 101(a) shall expire 24 months after the delivery date for the replacement vessel or vessels for that eligible cruise vessel. For purposes of this subsection, the term "replacement vessel or vessels" means 1 or more vessels the operator of the eligible cruise vessel is obligated to construct in the United States under the contract described in subsection (a) with respect to the eligible cruise vessel that have at least the same number of passenger berths as the eligible cruise vessel, or they, replace.

(e) Reflagging Under Foreign Registry.—Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), the operator of an eligible cruise vessel issued a certificate of documentation with a temporary coastwise endorsement under section 101(a), or a cruise vessel constructed under a contract described in subsection (a) of this section, may place that vessel under foreign registry.

SEC. 104. CERTAIN OPERATIONS PROHIBITED.

Neither an eligible cruise vessel operating in domestic itineraries under a certificate of documentation issued under section 101(a) nor a vessel constructed under a contract described in section 103(a) may—

(1) operate as a ferry;

(2) regularly carry for hire both passengers and vehicles or other cargo; or

(3) operate between or among the islands of Hawaii.

SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.

(a) Notification of Secretary.—

(1) New vessels.—Any person eligible under section 12102 of title 46, United States Code, to document a vessel under chapter 121 of that title that enters into a contract with a United States shipyard for the construction of a cruise vessel that—

(A) will be at least 20,000 gross registered tons,

(B) will have no fewer than 800 passenger berths, and

(C) is otherwise eligible for a certificate of documentation and a coastwise trade endorsement,

shall notify the Secretary, at such time and in such manner and form as the Secretary may require, of the construction of that vessel not less than 2 full calendar years before the earliest date on which the vessel is intended to commence operations.

(2) Reconstruction.—The notification requirement of paragraph (1) also applies to any such person that enters into a contract with a United States shipyard for the reconstruction of any vessel, including a vessel that has a certificate of documentation under chapter 121 of title 46, United States Code, will, after reconstruction, will be that size and capacity and be eligible for such an endorsement.

(b) Priority to U.S.-Built Vessels.—The Secretary shall give priority to any cruise vessel described in subsection (a) over any other cruise vessel of comparable operations in a comparable market under a certificate of documentation issued under section 101(a) if the Secretary, after notice and an opportunity for public comment, determines that the employment in the coastwise trade of the vessel issued a certificate of documentation under section 101(a) will adversely affect the coastwise trade business of any person operating a vessel not documented under section 101(a) in the coastwise trade.

(c) Factors Considered.—In determining and assigning priorities, the Secretary shall consider, among other factors determined by the Secretary to be appropriate—

(A) the scope of a vessel's itinerary, including—

(i) the ports between which it operates; and

(ii) the duration of the cruise;

(B) the time frame within which the vessel will serve a particular itinerary;

(C) the size of the vessel; and

(D) the retail per diem of the vessel.

(d) Implementation.—

(1) Intinerary submission required.—The Secretary shall require the operator of each vessel issued a certificate of documentation under section 101(a) to submit, in April of each year, a proposed itinerary for that vessel for cruise itineraries for the calendar year beginning 20 months after the date on which the itinerary is required to be submitted.

(2) Publication and Comment.—

(A) Publication.—The Secretary shall cause any itinerary submitted under paragraph (1), and any late submission or revision submitted under paragraph (3), to be published in the Federal Register.

(B) Comment period.—The Secretary shall receive and consider comments from the public on any itinerary published under subparagraph (A) for a period of 30 days after the date on which the itinerary is published.

(3) Revisions and later submissions.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C)(iii) and before the start date of a requested itinerary.

(4) Scheduling.—

(A) Action by secretary.—Within 30 days after the close of the comment period on an itinerary published under paragraph (2)(A), the Secretary shall—

(i) review the itineraries submitted to the Secretary for compliance with the priorities established by this section;

(ii) advise affected cruise vessel operators of any specific itinerary that is not available and the reason it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) Operators' appeals.—The operator of any eligible cruise vessel may appeal the Secretary's decision under subparagraph (A)(ii) within 30 days after the Secretary advises the operator of the decision.

(C) Resolution of conflicts.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise vessel operators who responded under subparagraph (B) of the Secretary's decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

SEC. 106. REPORT.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentations granted under section 101(a), and on the progress of construction on vessels to replace those vessels under section 103.

SEC. 107. ENFORCEMENT.

(a) Breach of Construction Contract by Operator.—The Secretary shall revoke a temporary coastwise endorsement issued under section 101(a)(2) for a vessel if the operator of that vessel commits a serious breach of the construction contract required by section 103(a). The revocation shall take effect at the conclusion of the last voyage on the last cruise itinerary approved by the Secretary before the Secretary made the determination to revoke the endorsement.

(b) Breach of Construction Contract by Shipyard.—

(1) In general.—If a shipyard commits a serious breach of a construction contract required by section 103(a) with an operator of a vessel for which a certificate of documentation granted under section 101(a)—

(A) the operator shall notify the Secretary immediately of the breach; and

(B) the operator may continue to operate that vessel as if the contract were in effect for a period of 24 months after notification of the Secretary on the condition that the operator will make good faith efforts during that 24-month period to execute a contract with a United States shipyard for the construction of the vessels that were to have been constructed under that contract.

(2) Good faith effort required.—If the Secretary determines at any time during that 24-month period that the operator has ceased to make good faith efforts to execute such a contract, then the Secretary shall immediately terminate the operator's authority to continue operations under this paragraph.

(c) Substantial Breaches Only.—For purposes of subsections (a) and (b), the term "serious breach of contract" means a breach of contract for which an appropriate remedy under section 2-703 or 2-711 of the Uniform Commercial Code, as promulgated by the National Conference of Commissioners on Uniform State Law, is cancellation by the seller or buyer, respectively.

TITLE II—OTHER PROVISIONS

SEC. 201. APPLICATION WITH JONES ACT AND OTHER ACTS.

(a) In General.—Nothing in this Act affects or otherwise modifies the authority contained in—

(1) Public Law 87-77 (46 U.S.C. App. 289b) authorizing the transportation of passengers and merchandise in Canadian vessels between ports in Alaska and the United States; or

(2) Public Law 98-563 (46 U.S.C. App. 289c) permitting the transportation of passengers between Puerto Rico and other United States ports.

(3) Section 27A of the Act of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1).

(4) Section 8109 of the Department of Defense Appropriations Act, 1998.

(b) Jones Act.—Except as in section 101(a), nothing in this Act affects or modifies the Merchant Marine Act, 1920 (46 U.S.C. App. 861 et seq.).

SEC. 202. GLACIER BAY AND OTHER NATIONAL PARK SERVICE AREA PERMITS.

(a) In General.—The Secretary of the Interior, after consultation with the Secretary of Transportation, shall issue new or otherwise available permits to United States-flag vessels carrying passengers for hire to enter Glacier Bay or any other area within the jurisdiction of the National Park Service. Any such permit shall not affect the rights of any person that, on the date of enactment of this Act, holds a valid permit to enter Glacier Bay or such other area.

(b) New Permits Not Authorized.—Subsection (a) does not authorize the Secretary of the Interior to issue new permits, but, if new permits are authorized under any other provision of law, they shall be awarded in accordance with subsection (a).

By Mr. CLELAND:

S. 129. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as "Gold Star Parents") of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

GOLD STAR PARENTS ANNUITY ACT

Mr. CLELAND. Mr. President, I rise today to introduce the Gold Star Parents Annuity Act. The use of the Gold Star to denote the death of a service member or members in a family was started during World War I by President Woodrow Wilson. The idea behind the Gold Star was that it could symbolize the family's devotion and pride in the ultimate sacrifice for their country made by their family member instead of the sense of personal loss that is represented by the traditional mourning symbols.

The Gold Star Parents Annuity Act provides for an annuity of $125 a month payable to each individual who has received a Gold Star Lapel pin, which is awarded to parents who have had a child die honorably in service to our country. Payments are to be divided equally among parents when there is more than one surviving parent. The receipt of this pension will not deprive anyone of the right to any other pensions, benefit, right or privilege that they are entitled to under any existing or future law. Furthermore, these special pension payments will not be subject to any attachment, execution, levy, tax lien or detention under any process. I believe this measure would provide a needed increase in income for many parents who have lost children in service to our country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gold Star Parents Annuity Act".

SEC. 2. SPECIAL PENSION FOR GOLD STAR PARENTS.

(a) In General.—(1) Chapter 15 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

"§ 1571. Gold Star parents

"(a) The Secretary shall pay monthly to each person who has received a Gold Star lapel button under section 1126 of title 10 as a parent of a person who died in a manner described in subsection (a) of that section a special pension in an amount determined under subsection (b).

"(b) The amount of special pension payable under this section with respect to the death of any person shall be $125 per month. In any case in which there is more than one parent eligible for special pension under this section with respect to the death of a person, the Secretary shall divide the payment equally among those eligible parents.

"(c) The receipt of special pension under this section shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension under this section shall be paid in addition to all other payments under laws of the United States.

"(d) Special pension under this section shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

"(e) For purposes of this section, the term 'parent' has the meaning provided in section 1126(d)(2) of title 10.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

"1571. Gold Star parents.".

(b) EFFECTIVE DATE.—Section 1571 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2001.

By Mr. JOHNSON (for himself and Ms. COLLINS):

S. 131. A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' HIGHER EDUCATION OPPORTUNITIES ACT

Mr. JOHNSON. Mr. President, I am pleased today to join Senator SUSAN COLLINS (R-ME) in introducing the Veterans' Higher Education Opportunities Act. Last year, Senator COLLINS and I introduced similar legislation, S. 2419, that received broad, bipartisan support in Congress and among the veterans and higher education communities. Our goal with this year's legislation remains the same: to modernize the Montgomery GI Bill and help veterans achieve their goals of higher education.

The 1944 GI Bill of Rights is one of the most important pieces of legislation ever passed by Congress. No program has been more successful in increasing educational opportunities for our country's veterans while also providing a valuable incentive for the best and brightest to make a career out of military service. This bill has allowed eight million veterans to finish high school and 2.3 million service members to attend college.

Unfortunately, the current GI Bill can no longer deliver these results and fails in its promise to veterans, new recruits and the men and women of the armed services. The Veterans' Higher Education Opportunities Act will modernize the GI Bill and ensure its viability as education costs continue to increase.

Over 96 percent of recruits currently sign up for the Montgomery GI Bill and pay $1,200 out of their first year's pay to guarantee eligibility. But only one-half of these military personnel use any of the current Montgomery GI Bill benefits. This is evidence that the current GI Bill simply does not meet their needs. The main reason why military personnel no longer use the GI Bill is because GI Bill benefits have not kept pace with increased costs of education.

There is consensus among national higher education and veterans associations that at a minimum, the GI Bill should pay the costs of attending the average four-year public institution as a commuter student. The current Montgomery GI Bill benefit pays a little more than half of that cost.

The Veterans' Higher Education Opportunities Act creates that benchmark by indexing the GI Bill to the costs of attending the average four-year public institution as a commuter student. This benchmark cost will be updated annually by the College Board in order for the GI Bill to keep pace with increasing costs of education.

The Veterans' Higher Education Opportunities Act is truly a bipartisan effort to address recruitment and retention in the armed forces. In addition, the Veterans' Higher Education Opportunities Act has the overwhelming support of the Partnership for Veterans' Education—a coalition of the nation's leading veterans groups and higher education organizations including the VFW, the American Council on Education, the Non Commissioned Officers Association, the National Association of State Universities and Land Grant Colleges, and The Retired Officers Association.

As the parent of a son who serves in the Army, these military "quality of life" issues are of particular concern to me. Making the GI Bill pay for viable educational opportunity makes as much sense today as it did following World War II. In fact, a study conducted on beneficiaries of the original GI Bill shows that the cost to benefit ratio of the GI Bill was an astounding 12.5 to 1. That means that our nation gained more than $12.50 in benefits for every dollar invested in college or graduate education for veterans.

Congress and the President took an important step last year toward improving the Montgomery GI Bill by passing into law the Veterans Benefits and Health Care Improvement Act of 2000. This law increases the monthly education benefit to $650 and increases educational benefits of veterans survivors and dependents. These changes are long overdue, and the next step in restoring the effectiveness of the Montgomery GI Bill is through the Veterans' Higher Education Opportunities Act and the creation of a true benchmark for veterans educational benefits.

The very modest cost of improving the GI Bill will help our military and our society. I look forward to working with incoming Veterans Administration Secretary Anthony Principi, Senator COLLINS and my colleagues in the Senate, and interested Members of the House of Representatives on passage of the Veterans' Higher Education Opportunities Act.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Higher Education Opportunities Act of 2001".

SEC. 2. MODIFICATION OF ANNUAL DETERMINATION OF BASIC BENEFIT OF ACTIVE DUTY EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) BASIC BENEFIT.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking "of $650 (as increased from time to time under subsection (h))" and inserting "equal to the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))"; and

(2) in subsection (b)(1) by striking "of $528 (as increased from time to time under subsection (h))" and inserting "equal to 75 percent of the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))".

(b) DETERMINATION OF AVERAGE MONTHLY COSTS.—Subsection (h) of that section is amended to read as follows:

"(h)(1) Not later than September 30 each year, the Secretary shall determine the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees for purposes of subsections (a)(1) and (b)(1) for the succeeding fiscal year. The Secretary shall determine such costs utilizing information obtained from the College Board or information provided annually by the College Board in its annual survey of institutions of higher education.

"(2) In determining the costs of tuition and expenses under paragraph (1), the Secretary shall take into account the following:

"(A) Tuition and fees.

"(B) The cost of books and supplies.

"(C) The cost of board.

"(D) Transportation costs.

"(E) Other nonfixed educational expenses.

"(3) A determination made under paragraph (1) in a year shall take effect on October 1 of that year and apply with respect to basic educational assistance allowances payable under this section for the fiscal year beginning in that year.

"(4) Not later than September 30 each year, the Secretary shall publish in the Federal Register the average monthly costs of tuition and expenses as determined under paragraph (1) in that year.

"(5) For purposes of this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

(c) STYLISTIC AMENDMENT.—Subsection (b) of that section is further amended in the matter preceding paragraph (1) by striking "as provided in the succeeding subsections of this section" and inserting "as otherwise provided in this section".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2001.

(2) The Secretary of Veterans Affairs shall make the determination required by subsection (h) of section 3015 of title 38, United States Code (as amended by subsection (b) of this section), and such determination shall go into effect, for fiscal year 2002.

Ms. COLLINS. Mr. President, I am delighted to join with my friend and colleague, Senator JOHNSON, in introducing the Veterans' Higher Education Opportunities Act of 2001. This legislation, which is an updated version of the measure we introduced in the 106th Congress, will provide our veterans with expanded educational opportunities at a reasonable cost. Endorsed by the Partnership for Veterans Education, a broad coalition including over 40 veterans service organizations and education associations, our legislation provides a new model for today's G.I. Bill that is logical, fair, and worthy of a nation that values both higher education and our veterans.

The original G.I. Bill was enacted in 1944. As a result of this initiative, 7.8 million World War II veterans were able to take advantage of post-service education and training opportunities, including more than 2 million veterans who went on to college. My own father was among those veterans who served bravely in World War II and then came back home to resume his education with assistance from the G.I. Bill.

Since that time, the G.I. Bill has seen a number of changes but has continued to assist millions of veterans in taking advantage of the educational opportunities they put on hold in order to serve their country. New laws were enacted to provide educational assistance to those who served in Korea and Vietnam, as well as to those who served during the period in between. Since the change to an all-volunteer service, additional adjustments to these programs were made, leading up to the enactment of the Montgomery G.I. Bill in 1985.

The Montgomery G.I. Bill has served our country well over the past 15 years. However, the value of the educational benefit assistance it provides has greatly eroded over time due to inflation and the escalating cost of higher education. Military recruiters indicate that the program's benefits no longer serve as a strong incentive to join the military; nor do they serve as a retention tool valuable enough to persuade men and women to stay in the military and defer the full or part-time pursuit of their higher education until a later date. Perhaps most important, the program is losing its value as a means to help our men and women in uniform readjust to civilian life after military service.

This point really hit home for me when I met last year with representatives of the Maine State Approving Agency (SAA) for Veterans Education Programs. They told me of the ever-increasing difficulties that service members are facing in using the G.I. Bill's benefits for education and training.

For example, the Maine representatives told me that the majority of today's veterans are married and have children. Yet, the Montgomery G.I. Bill often does not cover the cost of tuition to attend a public institution, let alone the other costs associated with the pursuit of higher education and those required to help support a family.

The basic benefit program of the Vietnam era G.I. Bill provided $493 per month in 1981 to a veteran with a spouse and two children. Before the reforms of last year, a veteran in identical circumstances received only $43 more, a mere 8% increase over a time period when inflation has nearly doubled, and a dollar buys only half of what it once purchased. In constant dollars, the amount was the second-lowest level of assistance ever extended under the G.I. Bill to those who served in the defense of our country.

While we made progress last year in increasing stipend levels under the G.I. Bill, the reforms fell drastically short of allocating sufficient funds to cover the current cost of higher education. Moreover, the increase failed to address the structural reforms needed to ensure that the G.I. Bill provides sufficient funds for the education of our nation's veterans long into the 21st Century.

To address these problems, we are offering a modern version of the Montgomery G.I. Bill. Our new model establishes a sensible, easily understood benchmark for G.I. Bill benefits. The benchmark sets G.I. Bill benefits at "the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees." This common sense provision would serve as the foundation upon which future education stipends for all veterans would be based and would set benefits at a level sufficient to provide veterans the education promised to them at recruitment.

The current G.I. Bill now provides nine monthly $650 stipends per year for four years. The total benefit is $23,400. Under the new benchmark established by this legislation, the monthly stipend for this academic year would be $1025, producing a new total benefit of $36,900 for the four academic years. By using our benchmark, which is updated annually by the College Board, the G.I. Bill benefits will truly reflect the current cost of higher education.

Mr. President, today's G.I. Bill is woefully under-funded and does not provide the financial support necessary for our veterans to meet their educational goals. The legislation that we are proposing would fulfill the promise made to our nation's veterans, help with recruiting and retention of men and women in our military, and reflect current costs of higher education. Now is the time to enact these modest improvements to the basic benefit program of the Montgomery G.I. Bill. I urge all Members of the Senate to join Senator JOHNSON and myself in support of the Veterans' Higher Education Opportunities Act.

Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE and Mr. CONRAD):

S. 132. A bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

LOW INCOME HOUSING TAX CREDITS

Mr. JOHNSON. Mr. President, I rise today to introduce legislation which will correct an unintended oversight in the federal administration of Native American housing programs, allowing Indian tribes to once again access Low-Income Housing Tax Credits (LIHTCs) for housing development in some of this nation's most under-served communities.

In the 104th Congress, the Native American Housing Assistance and Self-Determination Act (NAHASDA) was signed into law, separating Indian housing from public housing and providing block grants to tribes and their tribally designated housing authorities. Prior to passage of NAHASDA, Indian tribes receiving HOME block grant funds were able to use those funds to leverage the Low Income Housing Tax Credits distributed by states on a competitive basis. Unfortunately, unlike HOME funds, block grants to tribes under the new NAHASDA are defined as federal funds and cannot be used for accessing LIHTCs.

The fact that tribes cannot use their new block grant funds to access a program (LIHTC) which they formerly could access is an unintended consequence of taking Indian Housing out of Public Housing at HUD and setting up the otherwise productive and much needed NAHASDA system. The legislation I am introducing today is limited in scope and redefines NAHASDA funds, restoring tribal eligibility for the LIHTC by putting NAHASDA funds on the same footing as HOME funds. With this technical correction, there would be no change to the LIHTC programs—tribes would compete for LIHTCs with all other entities at the state level, just as they did prior to NAHASDA.

This technical corrections legislation is a minor but much needed fix to a valuable program that will restore equity to housing development across the country. The South Dakota Housing Development Authority has enthusiastically endorsed this legislation out of concern for equitable treatment of every resident of our state and to reinforce the proven success of the LIHTC program for housing development in rural and lower income communities.

I have joined many of my colleagues in past efforts to preserve and increase the Low-Income Housing Tax Credit program which benefits every state, and I ask my colleagues to recognize the importance of maintaining fairness in access to this program emphasized through this legislation and encourage my colleagues to support passage of this vital legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Low Income Housing Tax Credit for Native Americans Act".

SEC. 2. CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(i)(2) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting "or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on the date of the enactment of the Low Income Housing Tax Credit for Native Americans Act)" after "this subparagraph)", and

(2) in the subparagraph heading, by inserting "OR NATIVE AMERICAN HOUSING ASSISTANCE" after "HOME ASSISTANCE".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. BAUCUS:

S. 133. A bill to amend the Internal Revenue code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to make permanent a temporary tax code provision that permits employers to pay for their employees' college tuition costs without the employee having to pay tax on the amount of the assistance. Senator GRASSLEY joins me as an original co-sponsor of the legislation.

Since its inception in 1979, section 127 of the tax code has enabled thousands of employers to promote continuing education among their employees and enabled millions of workers to advance their job skills without incurring additional taxes.

Under current law, an employer may provide up to $5,250 per year in tuition assistance to its employees without any reduction in the employee's take-home pay. This simple rule applies regardless of whether the classes undertaken are necessary to maintain an employee's job or to qualify for a new job. Without section 127, only those courses that directly relate to the employee's current job can be subsidized without additional taxes.

Section 127 has increased upward mobility for workers in an efficient manner that is supported by workers, educators and business. Workers can improve their job skills and prepare themselves for increased responsibility. Businesses can maintain qualified employees and help them advance within the organization. Educators and other students benefit from having students with real world experience participating in the classroom.

Congress has recognized the strength of section 127. In 1997 the Senate voted to make the provision permanent. In the 106th Congress, all 20 members of the Finance Committee sponsored legislation to make section 127 permanent. So why hasn't the legislation been enacted? While it is difficult to be sure, bills including permanent extension always come back from a conference with the House of Representatives as a short extension with no coverage for graduate courses. Our hope is that this year will be different.

There are two principal flaws in section 127. First, the benefit is scheduled to expire on December 31, 2001. The provision has been extended ten times since it original enactment. During 1995, the provision was expired and, even though reenacted in 1996, employers were not sure at the end of 1995 whether or not to report as income their employee-assistance program. We have had this provision in the Code long enough to know that it works and we should make it permanent. The bill Senator GRASSLEY and I introduce today would do just that.

The second flaw is that the program is limited to employer assistance for undergraduate courses. If an employer wants to provide funds for its employees to attend graduate school, then the employee has to increase his or her wages income and tax liability. For example, suppose a bank has an employee who wants to pursue an MBA. The employee earns $30,000 per year and pays $3,000 in federal income taxes. If the tuition costs $4,000, all of which is paid by the employer, then the worker has to pay 15 percent of the value of the assistance, or $600 in income taxes. This can be a strong disincentive for low and moderate income workers to accept an employer-sponsored tuition assistance offer.

The importance of graduate education has increased dramatically in the past two decades. For an increasing number of positions, graduate coursework is essential. For an increasing number of employers, providing graduate education is necessary to retain employees who are capable of doing work at higher levels, for more compensation. The bill would permit exclusion of employer-provided tuition benefits for undergraduate and graduate education.

Section 127 is one of the most successful education programs the federal government has ever undertaken. The legislation I am introducing today expands the program to graduate education and makes the provision permanent. I urge my colleagues to work with Senator GRASSLEY and me as we seek to enact this legislation.

Mr. GRASSLEY: Mr. President, today I am joining with Senator MAX BAUCUS in introducing a bill that would make permanent the exclusion for employer-provided educational assistance under §127 of the Internal Revenue Code. Section 127 allows public or private employers to provide up to $5,250 per year to each of their employees in tax-free reimbursement for tuition, books and fees for job or non-job related education. Section 127 is a purely private-sector initiative and the one vehicle that encourages employer investment and assistance in providing educational assistance to its workers. There is no bureaucracy administering this program—it is run through the generosity of private sector employers who provide educational opportunities to their employees in the interest of raising workforce productivity and making their businesses more competitive. Like other types of benefits, §127 employer-provided educational assistance must be provided on a nondiscriminatory basis and may not favor highly-compensated employees.

The Revenue Act of 1978 created §127 and established employer-provided educational assistance as excludable for any type of course, other than a hobby or a sport. Prior to 1978, only specific "job-related" education was excludable from taxable income. The provision has been extended numerous times since its inception. It is time for the exclusion to become permanent.

I commend the leadership of Senator MAX BAUCUS for bringing this bill before the Senate and I am proud to be a cosponsor of the bill. I hope the rest of our colleagues in the Senate will join in supporting the enactment of this bill.

By Mrs. FEINSTEIN:

S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

LARGE CAPACITY AMMUNITION MAGAZINE IMPORT BAN ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise to re-introduce the same ban on importing large capacity ammunition magazines that passed both Houses of Congress in 1999 during the Juvenile Justice debate.

That amendment passed the Senate by voice vote after a Motion to Table failed 59–39.

The same provision, offered by then-Judiciary Chairman Henry Hyde on the House floor, passed by voice vote as an amendment to the House Juvenile Justice Gun Bill.

Nevertheless, these clips continue to flood into the country, because the Juvenile Justice bill became stalled in Conference, and never got to the President's desk.

It is time to take care of this once and for all—outside of politics, and outside of partisan bickering over other provisions. We simply cannot stand by and watch millions of these killer clips flood our shores.

Large-capacity ammunition clips are ammunition feeding devices, such as clips, magazines, drums and belts, which hold more than ten rounds of ammunition.

The 1994 assault weapons ban prohibited the domestic manufacture of these devices, but foreign companies are still sending them to our shores by the hundreds of thousands.

As the author of the 1994 provision, I can assure you that this was not our intent. We intended to ban the future manufacture of all high capacity clips, leaving only a narrow clause allowing for the importation of clips already on their way to this country.

Instead, due to the grandfather clause inserted into the 1994 legislation, BATF has allowed millions of foreign clips into this country, with no true method of determining date of manufacture. Between March 1998 and March 1999, BATF approved more than 11.4 million large-capacity clips for importation into America.

By voting for the amendment to the Juvenile Justice bill in 1999, a significant majority of this body has already agreed that it is both illogical and irresponsible to permit foreign companies to sell items to the American public—particularly items that are so often used for deadly purposes—that U.S. companies are prohibited from selling.

Supporting this legislation once again will simply finish what we already started during the juvenile justice debate, and bring foreign companies into greater compliance with the original intent of the 1994 law.

Opposing this bill would effectively allow foreign companies to continue to flout our laws, while domestic companies remain in compliance.

Let me just outline a bit of the history behind this issue.

Because of strong NRA opposition to the 1994 assault weapons ban and fears that businesses with inventories of the newly illegal products would be adversely impacted, we carved out a clause during negotiations to allow pre-existing guns and clips to remain on the shelves of stores across this country.

This so-called "grandfather clause" was also meant to allow guns and clips already on their way to this country to get here. Some Senators did not want to penalize companies that already had shipments in transit.

But it has now been more than six years, and these companies have had more than enough time to ship their pre-existing supplies of clips to the United States. Without question, many of these clips now flooding this country were made after the 1994 ban took effect. But because the ATF cannot tell when the clips were made, they must allow their import.

In 1998, President Clinton stopped the importation of most copycat assault weapons to this country with an Executive Order. However, the Justice Department advised us that the President does not have the authority to ban importation of big clips. As a result, millions of high capacity ammunition magazines continue to flow onto our shores and into the hands of criminals and, indeed, our children.

These clips come from at least 17 different countries, from Austria to Zimbabwe.

They come in sizes ranging from 15 rounds per clip to 30, 75, 90, or even 250 rounds per clip. In one recent one-year period:

20,000 clips of 250-rounds came from England;

Two million 15-round magazines came from Italy;

5,000 clips of 70-rounds came from the Czech Republic.

And the list goes on, and on, and on.

Mr. President, 75, 90 and even 250-round clips have no sporting purpose. They are not used for self defense. They have only one use—the purposeful killing of other men, women and children.

The legislation I re-introduce today will stop the flow of these clips into this country. I know that we cannot eliminate these clips from existence. But we can make them harder to obtain and, over time, dry up their supply.

These big clips allow disgruntled workers, angry children and psychopathic killers to exponentially increase the damage of their crimes. Let me give you just two examples.

In the now famous Springfield, Oregon shooting, a 15 year-old gunman with a 30-round clip killed two people and injured 22 more. Two dead, 22 wounded, all from one ammunition clip. It was only when his clip was finally empty and he had to pause to change clips that a fellow student was able to tackle and subdue him. Just imagine if the clip had held 75 rounds. Or 90. Or 250.

In the Jonesboro, Arkansas shooting, the two boys were armed with ten guns, one of which was a Universal carbine equipped with a 15-round killer clip. All 15 of the bullets in the killer clip were fired—more rounds than in all of the other nine guns combined. Five people were killed, ten other wounded.

Mr. President, in passing this legislation, we will not put an end to all incidents of gun violence now or in the near future. But we will begin to limit the destructive power of that violence. It will not stop every troubled child or adult who decides to commit an act of violence from doing so, but we can limit the tools used to carry out that act.

Passing this bill will not infringe on the legitimate rights of any adult gun owner or prevent a son or daughter from protecting the family from harm. It will not create a new category of banned guns.

But it will save some lives. It is just that simple. So let us do our best to ensure that the next time a troubled or vengeful child decides to strike out at his classmates, he cannot so easily find a gun that fires a hundred rounds a minute, or holds dozens of armor-piercing bullets.

Mr. President, I urge any of my colleagues who remain skeptical to look beyond the opposition rhetoric and into the heart of this legislation. And I urge them to look into their own hearts, and to realize that there are some things we can do to keep future Littletons from happening. This legislation is one of them.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following the statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Large Capacity Ammunition Magazine Import Ban Act of 2001".

SEC. 2. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(1) Except as provided in paragraph (2)" and inserting "(1)(A) Except as provided in subparagraph (B)";

(2) in paragraph (2), by striking "(2) Paragraph (1)" and inserting "(B) Subparagraph (A)";

(3) by inserting before paragraph (3) the following new paragraph:

"(2) It shall be unlawful for any person to import a large capacity ammunition feeding device."; and

(4) in paragraph (4)—

(A) by striking "(1)" each place it appears and inserting "(1)(A)"; and

(B) by striking "(2)" and inserting "(1)(B)".

SEC. 3. CONFORMING AMENDMENT.

Section 921(a)(31) of title 18, United States Code, is amended by striking "manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994".

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):

S. 135. A bill to amend title XVIII of the Social Security Act to improve payments for direct graduate, medical education under the medicare program; to the Committee on Finance.

CORRECTING THE DIRECT GRADUATE MEDICAL EDUCATION FORMULA

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to reform the longstanding inequity in the Medicare Direct Graduate Medical Education (DGME) formula that has unfairly compensated many teaching hospitals across the country in the past 15 years.

The Medicare DGME payment compensates teaching hospitals for many of the costs related to the graduate training of physicians.

This legislation is timely as many of our nation's 400 teaching hospitals are in the midst of a serious financial crisis.

Over 72 percent of all teaching hospitals are currently operating with negative margins, according to the Association of American Medical Colleges. Approximately 42 percent of the 100 major teaching hospitals could be operating at a loss by 2002.

Teaching hospitals are losing millions of dollars annually.

The University of Pennsylvania reported a $200 million deficit in 1999.

In Massachusetts, Beth Israel Deaconess Medical Center, Brigham and Women's Hospital, Massachusetts General Hospital, and the New England Medical Center posted operating losses for the six month period of October 1998 to March 1999 totaling more than $63 million.

The University of Minnesota sold its hospital to a private company in 1997 because "it was bleeding red ink," according to the university's senior Vice-President for health sciences.

Wayne State University in Michigan lost nearly $200 million in 1998 and 1999.

Georgetown University lost $83 million in 1999, $62 million in 1998, and $57 million in 1997.

In my State, the University of California Los Angeles (UCLA) has seen its net income plunge $50 million and bottom out close to zero.

The University of California San Francisco faces a $25 million loss over the next year.

Excluding the University of California San Francisco, all University of California teaching hospitals collectively lost $90 million in net income since 1997.

Many factors are to blame for the financial crisis of our nation's teaching hospitals.

Balanced Budget Act of 1997:

The Balanced Budget Act (BBA) of 1997 took a major blow at teaching hospitals, significantly cutting federal Medicare payments.

The cuts included in BBA 1997, for example, have meant a loss of $25 million over three years to UCLA.

Penetration of Managed Care:

Managed care payments to many teaching hospitals barely cover costs. Twenty-eight percent of all privately insured Americans are enrolled in an HMO. In California, this number is 88 percent.

For example, California's capitation rate is one of the lowest in the nation. The average capitation rate in the State reached its peak in 1993 at $45 per month. Last year, the rate sunk to $29, while the cost of living jumped 25.2 percent.

Increasing Number of Uninsured:

The number of uninsured has exploded. Today, 44 million Americans are without health insurance, California alone has 7 million uninsured residents.

The high rate of uninsured impacts teaching hospitals because they are a major safety net provider—teaching hospitals provide approximately 44 percent of all care to the indigent. This means that when our nation's uninsured require medical care for complicated and complex pathologies, they find their way to teaching hospitals.

Academic medical centers affiliated with the University of California, for example, are the second largest safety net for a State that has the fourth highest uninsured rate in the country.

These are three examples of the forces behind the financial crisis of our nation's teaching hospitals. Low DGME payments further erode and destabilize the health care system.

Academic medical centers have three major responsibilities and missions—teaching, research, and patient care—which cause them to incur costs unique to such facilities. "If just one leg of that three-legged stool is weak, it [academic medical centers] becomes destabilized," said Dr. Gerald Levey, UCLA's provost for health sciences. Low DGME payments are weakening teaching hospitals' ability to train future physicians.

Teaching hospitals account for only 6 percent of the nation's 5,000 hospitals. Despite the small number of teaching hospitals, they are a major provider of care. Teaching hospitals house: Forty percent of all neonatal intensive care units; fifty-three percent of pediatric intensive care units; and seventy percent of all burn units.

Teaching hospitals also handle: Twenty percent of all inpatient admissions; twenty-two percent of outpatient visits; nineteen percent of surgical operations, including 82 percent of all open heart surgeries; sixteen percent of emergency visits; and nineteen percent of all births.

The bottom line is that the financial crisis faced by teaching hospitals is impacting patient access to and quality of care.

California has been particularly impacted by this financial crisis.

Let me tell you how an outpatient eye clinic at the University of California, San Francisco has been impacted by the financial crisis facing teaching hospitals.

The clinic has a patient mix that is approximately 70 percent Medicare and 30 percent Medi-Cal. Due in part to historically low DGME payments, the clinic has had to decrease the number of staff, increase patient load, and cut faculty salaries by 15 percent. The number of patients seen on an average day, for example, has increased from 12 per half day to 18. Less time with each patient compromises quality of care.

According to a 1965 Medicare rule, Medicare paid for its share of DGME costs based on each hospital's "Medicare allowable costs." This allowed for open-ended reimbursement.

Congress changed the methodology used to determine payments in 1986, and retroactively established Fiscal Year 1985 as the base year for all future calculations for DGME payments. The problem, which created this disparity in payments, is that some teaching hospitals narrowly interpreted the law and did not claim such expenses as faculty costs and benefits in 1985.

Submitted claims for 1985 were then used to determine a "base formula" for each teaching hospital. The base formula determined for each teaching hospital in 1985 has been used to determine all DGME payments since 1985 and disadvantages many teaching hospitals.

To give you an idea of the large variation in payments, 10 percent of teaching hospitals had per-resident payments of more than $98,800 in 1995, whereas the average payment for another 10 percent was below $37,400. The national mean in 1995 was $62,700.

A study conducted last year based on data from the Health Care Financing Administration (HCFA) further highlights the variations among teaching hospitals. The study shows that: Beth Israel Medical Center in Manhattan received an average Medicare payment of $57,010 a year for each resident it trains. In comparison, Columbia-Presbyterian Medical Center in Manhattan received an average of $24,444 per resident.

Even when cost-of-living and training expenses are presumably similar (both hospitals are in Manhattan), there is great variation in the payment received by hospitals for training residents.

Additional examples of variations in payments include: Montefiore Medicare

Center in the Bronx received an average of $55,073 per resident; Massachusetts General Hospital in Boston received an average of $29,843 per resident; Cleveland Clinic Hospital received an average of $16,118 per resident, and the University of California, Los Angeles Medical Center received an average of $11,908 per resident.

In an attempt to level the playing field, the Balanced Budget Refinement Act of 1999 (BRA) contained provision that created a 70 floor and a 140 percent ceiling for Medicare DGME payments. The Medicare, Medicaid, and SCHIP Improvement Act of 2000 also contained provision to increase the floor to 85 percent in 2002.

While Congress has begun to address the issue of variations in DGME payments by implementing a floor and a ceiling for payments in 1999 and 2000, more must be done.

I believe all teaching hospitals should receive reimbursement from Medicare that equal the national average. Bringing all teaching hospitals up to the national average, without undermining the financial stability of those teaching hospitals currently receiving payments above the national average, could help stabilize our nation's health care system.

The legislation that I am introducing today takes good steps to reduce variations in DGME and restore stability to the system.

As established in current law, the floor for Medicare reimbursements for teaching hospitals would equal 85 percent by Fiscal Year 2002. Over a period of four years (from FY 2003–2006), this legislation would bring teaching hospitals that are currently reimbursed by Medicare below the national average up to the national average.

The phase in is as follows:

Beginning in Fiscal Year 2003 and 2004, the floor would be increased to 90 percent.

In Fiscal Year 2005 the floor would be increased to 95 percent.

By Fiscal Year 2006, all teaching hospitals would be receiving per resident payments that equal at least 100 percent of the national average. Those teaching hospitals receiving payments above the national average would be held harmless.

Approximately thirty-eight States benefit under the proposed legislation. Teaching hospitals in several states will benefit over the next several years due in combination to the proposed legislation and the changes made in both 1999 and 2000 to increase the floor for DGME payments.

California to Benefit:

California will gain approximately $61.5 million over the next 6 years as a result of this legislation and the changes made to the DGME floor in 1999 and 2000.

For example, the University of California Medical Centers will gain $16.3 million over six years. The medical center at the University of Davis will gain $3.2 million; the medical center at the University of Irvine will gain $1.6 million; UCLA's medical center will gain $5.8 million; the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of State impact under the proposed legislation. These numbers are significant. Many of our nation's teaching hospitals would greatly benefit under the proposed legislation.

The proposed legislation would use new money to move teaching hospitals below the national average up to the average. Less than $500 million over 4 years would be borrowed from the Medicare Part A Trust fund to pay for the increase in Medicare payments to direct graduate medical education. So as to keep the Medicare Part A Trust Fund solvent beyond 2025, this legislation authorizes the Senate to appropriate to the Trust Fund annually an amount equal to what is taken out to reimburse teaching hospitals at this higher rate.

Teaching hospitals rely heavily on DGME payments to train and support their medical students and faculty.

For example, medical education funding in California helps support 108 hospitals that train more than 6,700 residents over three-to-five year periods. California received $75.1 million in DGME payments in 1997.

Many of the nation's teaching hospitals will be forced to close down beds and lower the quality of care they provide. UCLA has had to lay off 300 employees in the past few years due to budget constraints.

In a statement issued April 2000 by the Association of American Medical Colleges (AMC), the association said that:

> To enhance the credibility of the payment system and to eliminate inequities in payment levels, the AMC believes that payments to any hospital whose per resident DGME amount is below the national average per resident DGME payment levels (adjusted for local variability in cost of living wages) should be raised closer to the national average; additional funding resources should be used to accomplish this adjustment.

This legislation does just that—over a period of four years, teaching hospitals receiving payments below the national average will be brought up to the national average using new money. It is that simple.

"Teaching hospitals are a national resource," says Albert Carnesale, Chancellor of UCLA. I agree with Chancellor Carnesale. I believe that the vitality of our nation's teaching hospitals should be of highest concern to Congress.

As our nation's uninsured rate continues to grow and the population continues to explode, we must work to ensure that we have an adequate supply of physicians to provide medical care. Training physicians and providing teaching hospitals with the funds necessary to offer this training should be of highest priority.

I believe that a teaching hospital's ability to serve their communities and train physicians will be further compromised if we do not enact this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Direct Graduate Medical Education Improvement Act of 2001".

SEC. 2. ESTABLISHMENT OF A FLOOR FOR THE LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT DURING FISCAL YEARS 2003 THROUGH 2006.

(a) In General.—Section 1886(h)(2)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(h)(2)(D)(iii)), as amended by section 511 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), is amended to read as follows:

"(iii) Floor for locality adjusted national average per resident amount.—

"(I) In general.—The approved FTE resident amount for a hospital for a cost reporting period beginning during a fiscal year shall not be less than the applicable percentage of the locality adjusted national average per resident amount computed under subparagraph (E) for the hospital for that period.

"(II) Applicable percentage.—In this clause, the term 'applicable percentage' means, in the case of a cost reporting period beginning during—

"(aa) fiscal year 2001, 70 percent;

"(bb) fiscal year 2002, 85 percent;

"(cc) fiscal year 2003 or 2004, 90 percent;

"(dd) fiscal year 2005, 95 percent; and

"(ee) fiscal year 2006, 100 percent.".

(b) Authorization of Appropriations.—For each fiscal year (beginning with fiscal year 2003), there are authorized to be appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) an amount equal to the amount by which expenditures under such Trust Fund are increased for the fiscal year by reason of the enactment of items (cc), (dd), and (ee) of section 1886(h)(2)(D)(iii)(II) of such Act (42 U.S.C. 1395ww(h)(2)(D)(iii)(II)), as added by subsection (a).

By Mr. GRAMM:

S. 136. A bill to amend the Omnibus trade and Competitiveness Act of 1988 to extend trade negotiating and trade agreement implementing authority; to the Committee on Finance.

S. 137. A bill to authorize negotiation of free trade agreements with countries of the Americas, and for other purposes; to the Committee on Finance.

S. 138. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

S. 140. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

FOUR TRADE POLICY INITIATIVES

Mr. GRAMM. Mr. President, trade has been very good for America and her people. Trade is our game, and we excel at it. In 1999, Americans exported a record $956 billion in goods and services. No other country even came close.

Trade has brought untold benefits to our people not the least of which are high-paying jobs, increased consumer choice, increased economic competitiveness. When Pericles spoke of Athens in his Funeral Oration, he might well have been speaking of us: "The magnitude of our city draws the produce of the world into our harbor, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own." Those who peddle defeatism as they clamor for protectionist measures are subverting our best means of growth. As President Reagan warned in 1988, "protectionism is destructionism."

Let me point out to my colleagues that it is not just the United States that profits. The whole world has benefitted from the expansion of trade among nations. Trade has been a wealth-generating machine the likes of which the world has never seen. By committing ourselves to an open world trade system, the US and its partners unleashed increasing economic growth and prosperity and brought hope and freedom to more people than any victory in any war in history. It is no wonder that the world trading system we know of as the WTO—formerly the GATT—has gone from a handful of nations in 1948 to some 140 nations today.

My fervent goal has been to keep world trade expanding so that more people in more nations can enjoy what Pericles aptly called the "fruits" of trade. We in America have been at the vanguard of trade liberalization efforts, both globally and regionally. We must continue that trend. Unfortunately, over recent years this nation has slid into an unwise hiatus in moving new global or regional trade liberalization initiatives. But this year, with a new President, committed to trade, we have a new opportunity before us. Now is the time for us to reassert our leadership, to set the pace for trade expansion throughout our hemisphere and throughout the world.

Today I am introducing four pieces of legislation intended to get us started. The first bill, the Fast-Track Trade Negotiating Authority Act, would provide the President with much-needed fast track authority, so that he may expand trade by entering into trade agreements with our partners around the world. Fast track is key to unleashing the wealth-generating machine of trade still further, to all corners of the world. It is long past time to reauthorize this critical provision.

The second measure, the Americas Free Trade Act, would lead to the extension of free trade from Alaska to Cape Horn in our own hemisphere. It would provide the President with fast track authority for implementation of free trade agreements with any or all of the 33 other nations of the Western Hemisphere, for the benefit of its more than 800 million residents. According to the 1994 agreement among the leaders of the Western Hemisphere, the Free Trade Agreement of the Americas should be concluded by 2005. Having fast track authority in hand will give our President the ability to move the FTAA talks forward dramatically and successfully.

Both the third bill, the Chile NAFTA Accession Act, and the fourth bill, the United Kingdom NAFTA Accession Act, seek to build bridges with key trading partners in order to spur larger trade liberalization efforts. Chile is a critical trading partner in South America who has been knocking at the NAFTA door for some time. The United Kingdom is a key partner in Western Europe who by joining NAFTA can help keep Europe from erecting protectionist walls against the rest of the world. Agreements with these two important nations can keep trade liberalization moving forward.

Mr. President, my commitment to this cause is longstanding. In 1986 I introduced legislation to begin negotiations for a free trade agreement with Mexico. In 1987, I introduced a bill that laid out a framework for negotiating a North American free trade area—a bill which later served as the basis for an amendment I offered to the 1988 trade bill and adopted by the Senate that authorized the negotiation of the NAFTA. In 1989, I once again introduced trade legislation and called for a free agreement encompassing the entire Western Hemisphere. I have introduced similar legislation in each Congress since then. It is my hope that the bills I am introducing today will serve as the basis for successful trade legislation in the 107th Congress.

I ask unanimous consent that the text of the Fast Track Trade Negotiating Authority Act, the Americas Free Trade Act, the Chile NAFTA Accession Act, and the United Kingdom NAFTA Accession Act, together with a summary of these bills, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fast Track Trade Negotiating Authority Act".

SEC 2. AMENDMENTS TO TRADE NEGOTIATING AUTHORITY.

(a) EXTENSION.—Section 1102(a)(1)(A), (b)(1), and (c)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(1)(A), (b)(1), and (c)(1)) are amended by striking "June 1, 1993" each place it appears and inserting "December 31, 2004".

(b) CONFORMING AMENDMENT.—

(1) Section 1102(a)(1) and (b)(1) of such Act are amended by striking "purposes, policies, and objectives of this title" each place it appears and inserting "policies and objectives of the United States".

(2) Section 1102(a)(2)(A) of such Act is amended by striking "August 23, 1988" each place it appears and inserting "January 22, 2001".

(3) Subsections (b)(2) and (c)(3)(A) of section 1102 of such Act are amended by striking "applicable objectives described in section 1101 of this title" each place it appears and inserting "policies and objectives of the United States".

(4) Subsection (d)(2)(B) of section 1102 of such Act is amended by striking "applicable purposes, policies, and objectives of this title" and inserting "policies and objectives of the United States".

(5) Section 1103(b)(1)(A) of such Act is amended by striking "June 1, 1991" and inserting "December 31, 2004".

(6) Subsection (a)(2)(B)(i) of section 1103 of such Act is amended by striking "applicable purposes, policies, and objectives of this title" and inserting "policies and objectives of the United States".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Americas Free Trade Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the twentieth century in the peaceful conduct of their relations among themselves than have the countries in the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the Western Hemisphere, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and

minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. FREE TRADE WITH FREE CUBA.

(a) RESTRICTIONS PRIOR TO RESTORATION OF FREEDOM IN CUBA.—The provisions of this Act shall not apply to Cuba unless the President certifies to Congress that—

(1) freedom has been restored in Cuba; and

(2) the claims of United States citizens for compensation for expropriated property have been appropriately addressed.

(b) STANDARDS FOR THE RESTORATION OF FREEDOM IN CUBA.—The President shall not make the certification that freedom has been restored in Cuba, for purpose of subsection (a), unless the President determines that—

(1) a constitutionally guaranteed democratic government has been established in Cuba with leaders chosen through free and fair elections;

(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba;

(3) Cuba has a currency that is fully convertible domestically and internationally;

(4) all political prisoners have been released in Cuba; and

(5) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.

(c) PRIORITY FOR FREE TRADE WITH FREE CUBA.—Upon making the certification described in subsection (a), the President shall give priority to the negotiation of a free trade agreement with Cuba.

SEC 5 INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 3, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 3—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor. .

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting "section 5 of the Americas Free Trade Act," after "the Omnibus Trade and Competitiveness Act of 1988,"; and

(B) by amending subparagraph (C) to read as follows:

"(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority."; and

(2) in subsection (c)(1), in inserting "or under section 5 of the Americas Free Trade Act," after "the Uruguay Round Agreements Act,".

S. 138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chile-NAFTA Accession Act".

SEC. 2. ACCESSION OF CHILE TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) IN GENERAL.—Subject to section 3, the President is authorized to enter into an agreement described in subsection (b) and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 2002.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection means an agreement that—

(1) provides for the accession of Chile to the North American Free Trade Agreement; or

(2) is a bilateral agreement between the United States and Chile that provides for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade and the eventual establishment of a free trade area between the United States and Chile.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting "section 3 of the Chile-NAFTA Accession Act," after "the Omnibus Trade and Competitiveness Act of 1988."; and

(B) by amending subparagraph (C) to read as follows:

"(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority."; and

(2) in subsection (c)(1), by inserting "or under section 3 of the Chile-NAFTA Accession Act," after "the Uruguay Round Agreements Act,".

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United Kingdom-NAFTA Accession Act".

SEC. 2. ACCESSION OF UNITED KINGDOM TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) IN GENERAL.—Subject to section 3, the President is authorized to enter into an agreement described in subsection (b) and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 2003.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection means an agreement that—

(1) provides for the accession of United Kingdom to the North American Free Trade Agreement; or

(2) is a bilateral agreement between the United States and United Kingdom that provides for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade and the eventual establishment of a free trade area between the United States and United Kingdom.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits to Congress a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE—

(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term "implementing bill" means the following:

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(3) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—

(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—

(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—

(i) WAIVERS.—A point of order under this subsection is waived only by the affirmative vote of at least the requisite majority.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting "section 3 of the United Kingdom-NAFTA Accession Act," after "the Omnibus Trade and Competitiveness Act of 1988,"; and

(B) by amending subparagraph (C) to read as follows:

"(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority."; and

(2) in subsection (c)(1), by inserting "or under section 3 of the United Kingdom-NAFTA Accession Act," after "the Uruguay Round Agreements Act,".

SUMMARY OF FOUR TRADE POLICY INITIATIVES

FAST TRACK TRADE NEGOTIATING AUTHORITY ACT

Authorizes the President to enter into bilateral or multilateral trade agreements.

Reauthorizes traditional fast track authority procedures for implementing legislation for such agreements as long as agreements are entered into by December 31, 2004.

Updates existing outdated negotiating objectives to encompass policies and objectives of the United States.

AMERICAS FREE TRADE ACT

Directs the President to initiate negotiations for trade agreements with the nations of the Western Hemisphere to promote a free trade area for the Hemisphere.

Bars the application of the Act to Cuba until the President certifies that freedom has been restored in Cuba and US expropriation claims have been addressed, at which time priority is given to a trade agreement with Cuba.

Applies fast-track procedures to implementing legislation for such agreements.

Limits implementing legislation to those provisions necessary to implement an agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

CHILE NAFTA ACCESSION ACT

Authorizes the President to enter into an agreement with Chile that provides for Chile's accession into NAFTA, or consists of a US/Chile bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2002.

Limits implementing legislation to those provisions necessary to implement the agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

UNITED KINGDOM NAFTA ACCESSION ACT

Authorizes the President to enter into an agreement with the United Kingdom that provides for the United Kingdom's accession into NAFTA, or consists of a US/UK bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2003.

Limits implementing legislation to those provisions necessary to implement the agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

By Mr. BENNETT:

S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

UTAH PUBLIC LANDS ARTIFACT PRESERVATION ACT OF 2001

Mr. **BENNETT**. Mr. President, I rise today to introduce my first bill of the 107th Congress, the "Utah Public Lands Artifact Preservation Act of 2001."

Utah's public lands are a treasure trove of the natural and cultural history of the west. Over a century of scientific exploration and research of these public lands have unearthed Native American artifacts, fossilized remains of prehistoric life-forms, and other objects of botanical and geological significance. Fortunately, these unique and remarkable finds now comprise a substantial portion of the collection of the University of Utah Museum of Natural History.

The University of Utah Museum of Natural History collection contains more than one million objects and artifacts from the field of archaeology, botany, geology, paleontology, and zoology. It is one of the largest and most comprehensive collections in the region and is internationally significant. Over 75 percent of the collection was recovered from lands managed by the Bureau of Land Management, Bureau of Reclamation, National Park Service, United States Fish and Wildlife Service, and United States Forest Service.

Currently the home of the Museum of Natural History is the library where I studied while I was a student at the University of Utah. Although I have fond memories of the time I spent in the library, it is an unfit home for the museum. As we all know, the needs of a library and the needs of a museum are very different. The current facility is not large enough to accommodate the museum's annual level of visitation. Additionally, space to display the collection is severely limited and the facilities to store the collection are unsuitable for a museum. Clearly, the Museum of Natural History needs an appropriate structure to exhibit, research, and house its collection.

This legislation will result in an enhanced museum experience that will be more meaningful, educational, and accessible to the public and scientific researchers. Furthermore, the collection will no longer be jeopardized by inadequate facilities. The new museum will contain proper facilities for storage and research.

I believe the strength of this project lies in the fact that its success will rely upon a public-private partnership among the state of Utah, the federal government, and hundreds of private individuals and foundations. Already, unprecedented support has been given by the Emma Eccles Jones Foundation for this project. I expect there will be many generous offers of support in the near future to make this project a success.

I believe that this legislation is an exciting opportunity to showcase the many treasures that Utah's public lands contain. I look forward to working with my colleagues in the Senate and the new administration to pass this legislation this session.

By Mr. McCAIN:

S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PIPELINE SAFETY IMPROVEMENT ACT

Mr. **McCAIN**. Mr. President, today I am introducing the Pipeline Safety Improvement Act of 2001. I am very pleased to be joined in sponsoring this important transportation safety legislation by Senators MURRAY, HOLLINGS, HUTCHISON, BINGAMAN, DOMENICI, and BREAUX. This bill, which is identical to the measure approved unanimously by the Senate last year but which failed to be sent to the President, is being introduced today to demonstrate our strong, continued commitment to improving pipeline transportation safety. We urge our colleagues to join us in our efforts to help remedy identified safety problems and improve pipeline safety for all Americans.

As most of my colleagues well know, the Senate worked long and hard during the last Congress to produce comprehensive pipeline safety legislation. As a result of our bipartisan efforts, we unanimously approved pipeline safety improvement legislation last September. Unfortunately, the House failed to approve a pipeline safety measure and the Congress thus failed in its efforts to improve pipeline safety. As a result, the unacceptable status quo under which at least 16 fatalities have occurred remains the law of the land. I am hopeful that this new Congress will act quickly to take the overdue action necessary to improve pipeline safety before any more lives are lost.

Mr. President, let me be clear from the outset that I continue to support passage of the strongest pipeline safety bill possible. As such, I will be very eager to receive safety improvement recommendations from the new Administration. Indeed, I look forward to working with the Administration, the House of Representatives, safety advocates, industry and other concerned citizens to advance a sound legislative proposal that can be signed into law.

Although pipeline safety legislation was not enacted last year as we had hoped, the President did issue an executive order requiring a number of safety actions by pipeline operators. Further, the Department of Transportation (DOT) also issued a number of regulations during the past few months. The Administration's actions will be carefully considered by the Commerce Committee and we will work to ensure our legislation reflects the Administration's actions, as appropriate, as we advance the legislation to the full Senate.

The following highlights some of the major provisions of the legislation we are reintroducing today:

The bill would require the implementation of pipeline safety recommendations issued last March by the Department of Transportation Inspector General to the Research and Special Programs Administration (RSPA). The legislation would statutorily require the Secretary of Transportation, the RSPA Administrator and the Director of the Office of Pipeline Safety to respond to NTSB pipeline safety recommendations within 90 days of receipt. The bill would require pipeline operators to submit to the Secretary of Transportation a plan designed to improve the qualifications for pipeline personnel. At a minimum, the qualification plan would have to demonstrate that pipeline employees have the necessary knowledge to safely and properly perform their assigned duties and would require testing and periodic reexamination of the employees' qualifications.

The legislation would require DOT to issue regulations mandating pipeline operators to periodically determine the adequacy of their pipelines to safely operate and to implement integrity management programs to reduce those identified risks. The regulations would, at a minimum, require operators to: base their integrity management plans on risk assessments that they conduct; periodically assess the integrity of their pipelines; and, take steps to prevent and mitigate unintended releases, such as improving leak detection capabilities or installing restrictive flow devices.

The bill also would require pipeline operators to carry out a continuing public education program that would include activities to advise municipalities, school districts, businesses, and residents of pipeline facility locations on a variety of pipeline safety-related matters. It would also direct pipeline operators to initiate and maintain communication with State emergency response commissions and local emergency planning committees and to share with these entities information critical to addressing pipeline safety issues, including information on the types of product transported and efforts by the operator to mitigate safety risks.

The legislation directs the Secretary to develop and implement a comprehensive plan for the collection and use of pipeline data in a manner that would enable incident trend analysis and evaluations of operator performance. Operators would be required to report incident releases greater than five gallons, compared to the current reporting requirement of 42 gallons. In addition, the Secretary would be directed to establish a national depository of data to be administered by the Bureau of Transportation Statistics in cooperation with RSPA.

Given the critical importance of technology applications in promoting transportation safety across all modes of transportation, the legislation directs the Secretary to include as part of the Department's research and development (R&D) efforts a focus on technologies to improve pipelines safety, such as through internal inspection devices and leak detection. Further, the legislation includes provisions advanced last year by Senator Bingaman, myself, and others, to provide for a collaborative R&D effort directed by the Department of Transportation with the assistance of the Department of Energy and the National Academy of Sciences.

The bill provides for a three year authorization in funding for federal pipeline safety activities and the pipeline state grant program. The authorization levels in particular will be carefully reviewed as the bill proceeds through the legislation process. We must ensure sufficient funding is authorized to carry out critical pipeline safety activities and to advance research and development efforts.

The legislation requires operators, in the event of an accident, to make available to the DOT or NTSB all records and information pertaining to the accident and to assist in the investigation to the extent reasonable. It also includes provisions to ensure that if an accident occurs, a review is carried out to ensure the operator's employees can safely perform their duties.

Finally, to ensure pipeline employees are afforded the same whistle-blower protections as are provided to employees in other modes of transportation, the legislation includes protections for pipeline personnel, similar to those protections provided to aviation-related employees last year in the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century, P.L. 106-181.

Again Mr. President, I will be interested in receiving additional recommendations to further strengthen federal pipeline safety policy. I hope this Congress can act expeditiously to approve comprehensive pipeline safety legislation. We simply cannot afford another missed opportunity to address identified pipeline safety shortcomings.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Improvement Act of 2001".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT-2000-069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the Committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 3. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 4. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) Requirements.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(c) Report to Congress.—

(1) In general.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—

(A) actions taken by inspectors;

(B) recommendations made by inspectors for changes to operator qualification and training programs; and

(C) industry responses to those actions and recommendations.

(2) Criteria.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) Due date.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 5. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

"(c) Integrity Management.—

"(1) General requirement.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than one year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2002, whichever is sooner.

"(2) Standards for program.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

"(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods;

"(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and

"(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

"(3) Criteria for program standards.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.

"(4) State role.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.

"(5) Monitoring implementation.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.

"(6) Opportunity for local input on integrity management.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—

"(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

"(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

"(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;

"(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and

"(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.".

SEC. 6. ENFORCEMENT.

(a) In General.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Authority.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is, or would be, constructed or operated, or a component of the facility is, or would be, constructed or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment."; and

(2) by striking "is hazardous," in subsection (d) and inserting "is, or would be, hazardous,".

SEC. 7. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT TO KNOW.

(a) Section 60116 is amended to read as follows:

"§ 60116. Public education, emergency preparedness, and community right to know

"(a) Public Education Programs.—

"(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

"(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

"(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

"(b) Emergency Preparedness.—

"(1) Operator liaison.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

"(2) Information.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

"(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;

"(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;

"(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

"(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

"(E) a point of contact to respond to questions from emergency response representative.

"(3) Smaller communities.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

"(4) Public access.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

"(c) Community Right To Know.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2001, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.

"(d) Public Availability of Reports.—The Secretary shall—

"(1) make available to the public—

"(A) a safety-related condition report filed by an operator under section 60102(h);

"(B) a report of a pipeline incident filed by an operator;

"(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and

"(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and

"(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.".

(b) Safety Condition Reports.—Section 60102(h)(2) is amended by striking "authorities." and inserting "officials, including the local emergency responders.".

(c) Conforming Amendment.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

"60116. Public education, emergency preparedness, community right to know.".

SEC. 8. PENALTIES.

(a) Civil Penalties.—Section 60122 is amended—

(1) by striking "$25,000" in subsection (a)(1) and inserting "$500,000";

(2) by striking "$500,000" in subsection (a)(1) and inserting "$1,000,000";

(3) by adding at the end of subsection (a)(1) the following: "The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121."; and

(4) by striking subsection (b) and inserting the following:

"(b) Penalty Considerations.—In determining the amount of a civil penalty under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

"(B) other matters that justice requires.".

(b) Excavator Damage.—Section 60123(d) is amended—

(1) by striking "knowingly and willfully";

(2) by inserting "knowingly and willfully" before "engages" in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

(c) Civil Actions.—Section 60120(a)(1) is amended to read as follows:

"(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.".

SEC. 9. STATE OVERSIGHT ROLE.

(a) State Agreements With Certification.—Section 60106 is amended—

(1) by striking "General Authority.—" in subsection (a) and inserting "Agreements Without Certification.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

"(b) Agreements With Certification.—

"(1) In general.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

"(2) Determinations required.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) Existing agreements.—If requested by the State Authority, the Secretary shall authorize a State Authority which had an interstate agreement in effect after January, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2002, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2001 if—

"(A) the State Authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State Authority; or

"(C) continued participation by the State Authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) Ending Agreements.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:

"(e) Ending Agreements.—

"(1) Permissive termination.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) Mandatory termination of agreement.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

"(3) Procedural requirements.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

SEC. 10. IMPROVED DATA AND DATA AVAILABILITY.

(a) In General.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.

(b) Report of Releases Exceeding 5 Gallons.—Section 60117(b) is amended—

(1) by inserting "(1)" before "To";

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

"(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

"(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request."; and

(4) indenting the first word of the last sentence and inserting "(4)" before "The Secretary" in that sentence.

(c) Penalty Authorities.—(1) Section 60122(a) is amended by striking "60114(c)" and inserting "60117(b)(3)".

(2) Section 60123(a) is amended by striking "60114(c)," and inserting "60117(b)(3),".

(d) Establishment of National Depository.—Section 60117 is amended by adding at the end the following:

"(l) National Depository.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.".

SEC. 11. RESEARCH AND DEVELOPMENT.

(a) Innovative Technology Development.—

(1) In general.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—

(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) to develop innovative techniques measuring the structural integrity of pipelines;

(D) to improve the capability, reliability, and practicality of external leak detection devices; and

(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) Cooperative.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) Pipeline Safety and Reliability Research and Development.—

(1) In General.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.

(2) Purpose.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability and service life for existing pipelines;

(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

(F) improve the capability, reliability, and practicality of external leak detection devices;

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) Areas.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and set back management along pipeline rights-of-way for communities;

(D) internal corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials;

(J) assessing the remaining strength of existing pipes;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

(4) Points of contact.—

(A) In general.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(B) Duties.—

(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).

(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(5) Research and development program plan.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) Implementation.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of

agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) Reports to Congress.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 12. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) Establishment.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 11(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.

(b) Membership.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) Gas and Hazardous Liquids.—Section 60125(a) is amended to read as follows:

"(a) Gas and Hazardous Liquid.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

"(1) $26,000,000 for fiscal year 2002, of which $20,000,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title; and

"(2) $30,000,000 for each of the fiscal years 2003 and 2004 of which $23,000,000 is to be derived from user fees for fiscal year 2003 and fiscal year 2004 collected under section 60301 of this title.".

(b) Grants to States.—Section 60125(c) is amended to read as follows:

"(c) State Grants.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—

"(1) $17,000,000 for fiscal year 2002, of which $15,000,000 is to be derived from user fees for fiscal year 2002 collected under section 60301 of this title; and

"(2) $20,000,000 for the fiscal years 2003 and 2004 of which $18,000,000 is to be derived from user fees for fiscal year 2003 and fiscal year 2004 collected under section 60301 of this title.".

(c) Oil Spills.—Sections 60525 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:

"(d) Oil Spill Liability Trust Fund.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to carry out programs authorized in this Act for fiscal year 2002, fiscal year 2003, and fiscal year 2004.".

(d) Pipeline Integrity Program.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 11(b) and 12 of this Act $3,000,000, to be derived from user fees under section 60125 of title 49, United States Code, for each of the fiscal years 2002 through 2006.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation to carry out programs for detection, prevention and mitigation of oil spills under sections 11(b) and 12 of this Act for each of the fiscal years 2002 through 2006.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 11(b) and 12 of this Act such sums as may be necessary for each of the fiscal years 2002 through 2006.

SEC. 14. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) In General.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(b) Corrective Action Orders.—Section 60112(d) is amended—

(1) by inserting "(1)" after "Corrective Action Orders.—"; and

(2) by adding at the end the following:

"(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until—

"(A) the Secretary determines that the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

"(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 4 of the Pipeline Safety Improvement Act of 2001 and can safely perform those activities.

"(3) Disciplinary action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.".

SEC. 15. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) In General.—Chapter 601 is amended by adding at the end the following:

"§ 60129. Protection of employees providing pipeline safety information

"(a) Discrimination Against Pipeline Employees.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

"(3) testified or is about to testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) Department of Labor Complaint Procedure.—

"(1) Filing and notification.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) Investigation; preliminary order.—

"(A) In general.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) Requirements.—

"(i) Required showing by complainant.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) Showing by employer.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

SEC. 16. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 17. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 18. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE)

S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for a packer to own, feed, or control livestock intended for slaughter, to the Committee on Agriculture, Nutrition, and Forestry.

AMENDING THE PACKERS AND STOCKYARDS ACT

S. 142

Mr. JOHNSON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

"(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to—

"(1) a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

"(A) own, feed, or control livestock; and

"(B) provide the livestock to the cooperative for slaughter; or

"(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or"; and

(3) in subsection (h) (as so redesignated), by striking "or (e)" and inserting "(e), or (f)".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this

Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. BUNNING, Mr. BOND, Mr. TORRICELLI, Mr. ALLARD, and Mr. CRAPO):

S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those requires to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

COMPETITIVE MARKET SUPERVISION ACT OF 2001

Mr. GRAMM. Mr. President, today I am joined by Senator SCHUMER, together with Senators HAGEL, ENZI, BENNETT, BUNNING, BOND, TORRICELLI, ALLARD, and CRAPO in introducing the Competitive Market Supervision Act of 2001. This important legislation will reduce the excess fees collected by the Securities and Exchange Commission (SEC). At the same time, the legislation will guarantee that the SEC is fully funded by fee collections, allowing fee adjustments to meet appropriated amounts. This legislation, moreover, will level unaffected the funds available for appropriations purposes by walling off the offsetting fee collections that are expected under current law.

Under current budget estimates this legislation will result in a reduction of fee collections by more than $1 billion in the first year and by about $8 billion over the next 5 years.

A second key element of the bill is that it will extend to the SEC the same salary authority for its employees as is exercised by the Federal banking agencies.

A similar bill, S. 2107, which included the identical provisions of the bill I am introducing today, was approved by the Senate Banking, Housing, and Urban Affairs Committee last year.

REDUCTION OF SECURITIES USER FEES

The original objective of the user fees collected by the Commission was to provide a funding source for the agency's operations. However, increases in stock market volume and valuation have spawned revenues that far surpass what is needed to operate the agency. In fiscal year 2000, to fund a budget of $375 million, the SEC collected $2.27 billion. According to the most recent Congressional Budget Office (CBO) projections, the savings to investors and issuers from this legislation will be approximately $8 billion over 5 years, and nearly $14 billion over ten years, without reducing funds available for the SEC or for necessary appropriations.

Rather than user fees, these revenues have become taxes on savings and investment, taxes that lower the returns of every investor who buys stock, owns a mutual fund, or plans to use Individual Retirement Accounts, 401(k) plans, or pensions to fund retirement. Furthermore, excess Section 6(b) fees are particularly harmful since these taxes are imposed at the beginning of the investment cycle, subtracting from the economy monies that could be leveraged into several times their value to finance efforts to create jobs, develop new products, and build America.

Section 2 of the bill amends Section 6(b) of the Securities Act of 1933 to lower registration fee rates. In addition, this section eliminates the general revenue portion of the registration fee. The offsetting collection rate is set at $67 per $1 million of securities registered for FY 2002–06, and at $33 per $1 million for FY 2007 and thereafter. Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 from one fiftieth percent under current law to $67 per $1 million of securities involved for the period FY 2002–06, and reduces rates further to $33 per $1 million for FY 2007 and thereafter, and all fees are also reclassified from general revenues to offsetting collections. It is important to harmonize the fee registration, and merger and tender fee rates so as to provide no distortions or inject any unintended incentives into the managerial decision as to when a merger should occur.

Under Section 4, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with the same fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set in Section 4 for that year. The target dollar amount is calculated to approximate the amount of transaction fees required so that, when combined with anticipated registration and merger/tender fees, total offsetting collections will approximately equal the offsetting collections anticipated under current law. If the most recent projections prove accurate, this will reduce transaction fee rates by as much as two-thirds.

I would note that the fee targets established under Section 4 are based upon the most recent budget estimates available. It is my intention to adjust those targets prior to Committee action on the bill as new budget estimates become available in the next few weeks.

AUTHORITY OF SEC TO ADJUST TO FEE RATES

Given the difficulty in predicting fee revenues, it is also important to provide a framework that ensures full funding for the SEC. Therefore, Section 5 of this legislation provides the Commission with the authority to adjust fee rates to ensure that the agency is fully funded in the event that reductions in market valuations or volume produce revenues below the legislated targets. In addition, Section 5 requires the agency to lower fee rates when fees are projected to bring in revenues that are in excess of the cap on fee collections laid out in the bill. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

SEC PAY COMPARABILITY

Section 6 of the bill amends the Securities Exchange Act of 1934 to extend to the SEC the same authority provided to the federal bank regulators to adjust base rates of compensation for all of its employees. Under existing law, the Commission may do this only for its economists. The provisions allow parity among the Commission and Federal banking agency compensation programs. This change is particularly timely since under the terms of the Gramm-Leach-Bliley Act, in many institutions, examiners from the SEC will be working along side examiners from the federal banking regulators. Without this pay comparability, we could witness a drain of talent from the SEC toward the other examiners. An amendment also is made to the Federal Deposit Insurance Act to bring the SEC within the consultation and information-sharing requirements of other agencies mentioned at 12 U.S.C. 1833b with respect to rates of employee compensation. A further technical amendment to section 1833b deletes references to entities that have been abolished.

The legislation assures that reductions, if any, in the base pay of a Commission employee represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organization and Commission management, rather than by reason of the enactment of this amendment.

Mr. President, I look forward to early and favorable consideration of the Competitive Market Supervision Act of 2001. I ask that a summary of the provisions of the bill and bill text be included in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Competitive Market Supervision Act of 2001".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reduction in registration fee rates; elimination of general revenue component.
Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.
Sec. 4. Reduction in transaction fees; elimination of general revenue component.
Sec. 5. Adjustments to fee rates.
Sec. 6. Comparability provisions.
Sec. 7. Effective date.

SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) Fee payment required.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.";

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

"(A) In general.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per $1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

"(i) $67 for each of fiscal years 2002 through 2006.

"(ii) $33 for fiscal year 2007 and each fiscal year thereafter."; and

(B) in subparagraph (B), by striking "this paragraph (4)" and inserting "this paragraph"; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

"(4) Pro rata application of rate.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.".

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) Section 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

"(3) Fees.—

"(A) In general.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

"(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

"(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

"(B) Reduction.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

"(C) Limitation; deposit of fees.—

"(i) Limitation.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

"(ii) Deposit of fees.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(D) Lapse of appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(E) Pro rata application of rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.".

(b) Section 14.—

(1) Preliminary proxy solicitations.—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking "Commission the following fees" and all that follows through the end of the subparagraph and inserting "Commission—

"(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

"(I) $67 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

"(II) $33 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

"(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

"(I) $67 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

"(II) $33 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.";

(B) in subparagraph (B), by inserting "Reduction.—" before "The fee"; and

(C) by adding at the end the following:

"(C) Limitation; deposit of fees.—

"(i) Limitation.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

"(ii) Deposit of fees.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(D) Lapse of appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(E) Pro rata application of rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.".

(2) Other filings.—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking "At the time" and inserting the following: "Other filings.—

"(A) Fee rate.—At the time";

(B) by striking "the Commission a fee of" and all that follows through "The fee" and inserting the following: "the Commission a fee equal to—

"(i) $67 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

"(ii) $33 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

"(B) Reduction.—The fee required under subparagraph (A)"; and

(C) by adding at the end the following:

"(C) Limitation; deposit of fees.—

"(i) Limitation.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

"(ii) Deposit of fees.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(D) Lapse of appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(E) Pro rata application of rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.".

SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

"(b) Transaction Fees.—

"(1) In general.—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness)—

"(A) transacted on such national securities exchange;

"(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange; and

"(C) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subparagraph (B).

"(2) Fee rate.—

"(A) Transaction offsetting collection rate.—For purposes of this subsection, the 'transaction offsetting collection rate' for a fiscal year—

"(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

"(ii) shall become effective on the later of the beginning of that fiscal year or the date of enactment of appropriations legislation setting such rate.

"(B) TRANSACTION FEE CAP.—For purposes of this paragraph, the 'transaction fee cap' shall be equal to—

"(i) $497,000,000 for fiscal year 2002;

"(ii) $607,000,000 for fiscal year 2003;

"(iii) $706,000,000 for fiscal year 2004;

"(iv) $896,000,000 for fiscal year 2005;

"(v) $1,094,000,000 for fiscal year 2006;

"(vi) $554,000,000 for fiscal year 2007;

"(vii) $580,000,000 for fiscal year 2008;

"(viii) $719,000,000 for fiscal year 2009; and

"(ix) $884,000,000 for fiscal year 2010 and each fiscal year thereafter.

"(c) LIMITATION; DEPOSIT OF FEES.—

"(1) LIMITATION.—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) for any fiscal year, except to the extent provided in advance in appropriation Acts.

"(2) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(d) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this section at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act), until such a regular appropriation is enacted.";

(2) in subsection (e), by striking "subsections (b), (c), and (d)" and inserting "subsection (b)"; and

(3) in subsection (g), by striking "rates" and inserting "rate".

SEC. 5. ADJUSTMENTS TO FEE RATES.

(a) ESTIMATES OF COLLECTIONS.—

(1) FEE PROJECTIONS.—The Securities and Exchange Commission (hereafter in this Act referred to as the "Commission") shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees from all sources likely to be collected by the Commission during the current fiscal year.

(2) SUBMISSION OF INFORMATION.—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during such month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees pursuant to paragraph (1).

(b) FLOOR FOR TOTAL FEE COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee collections, the Commission may by order, subject to subsection (e), increase the fee rate established under section 31 of the Securities Exchange Act of 1934 to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay the Commission the fee required by section 31 of the Securities Exchange Act of 1934 at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) CAP ON TOTAL FEE COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees collected by the Commission will exceed the cap on total fee collections by more than 5 percent during any fiscal year, the Commission shall by order, subject to subsection (e), decrease the fee rate or suspend collection of fees under section 31 of the Securities Exchange Act of 1934 to the extent necessary to bring estimated collections to an amount equal to the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay the Commission the fee required by section 31 of the Securities Exchange Act of 1934 at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "floor for total fee collections" means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term "cap on total fee collections" means—

(A) for fiscal years 2002 through 2010, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2011 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under subsection (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) NOTICE.—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

SEC. 6. COMPARABILITY PROVISIONS.

(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.—

(1) IN GENERAL.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) APPOINTMENT AND COMPENSATION.—

"(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under this Act.

"(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(C) COMPARABILITY.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b)."; and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this subsection.

(b) REPORTING ON INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Federal Deposit";

(2) by striking "the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation"; and

(3) by adding at the end the following:

"(b) In establishing and adjusting schedules of compensation and benefits for employees of the Securities and Exchange Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under subsection (a) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking "or" after the semicolon;

(B) in subparagraph (D), by inserting "or" after the semicolon; and

(C) by adding at the end the following:

"(E) the Securities and Exchange Commission.".

(2) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "or" after the semicolon;

(B) in paragraph (3), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(4) section 4(b) of the Securities Exchange Act of 1934.".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

SECTION-BY-SECTION ANALYSIS OF THE COMPETITIVE MARKET SUPERVISION ACT OF 2001

Section 1. Short title

Designates this title as the "Competitive Market Supervision Act of 2001."

Section 2. Reduction in registration fees; elimination of general revenue component

Registration fee rates in Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) are reduced. The general revenue portion of the registration fee is eliminated. The offsetting collection rate is set at $67 per $1 million of securities registered for FY 2002–2006, and at $33 per $1 million for FY 2007 and thereafter.

Section 3. Reduction in merger and tender fees; reclassification as offsetting collections

Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3) and 78n(g), respectively) from one fiftieth percent under current law, to $67 per $1 million of securities involved for the period FY 2002–2006, and reduces rates further to $33 per $1 million for FY 2007 and thereafter. All fees are reclassified from general revenues to offsetting collections.

Section 4. Reduction in transaction fees; elimination of general revenue component

Under this section, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with the same fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set for that year. The target dollar amount is calculated to appropriate the amount, when combined with anticipated registration and merger/tender fees, that will approximately equal the offsetting collections anticipated to be produced under current law.

Section 5. Adjustment to fee rates

The Commission is given authority to increase or decrease transaction fee rates after the first half of the fiscal year if projections show that either the cap or floor for total fee collections will be breached. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

Section 6. Comparability provisions

Section 6(a) amends Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) to authorize, but not require, the SEC to compensate its employees according to a scale outside the Federal Government's General Schedule (GS) rates. Pursuant to this authority, the SEC may provide additional compensation and benefits to its employees on the same comparable basis as do the agencies referred to under Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b). Such agencies include the Federal banking agencies, the National Credit Union Administration, the Federal Housing Finance Board, and the Farm Credit Administration. The amendment ensures that reductions, if any, in base pay for an employee of the SEC represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organizations and SEC management, as opposed to by reason of the enactment of this amendment.

In establishing and adjusting schedules of compensation and benefits for its employees, Section 6(b) requires the SEC to inform the heads of the agencies mentioned above and must seek to maintain comparability with such agencies regarding compensation and benefits. A technical change is made to strike from Section 1206(a) the reference to the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation, which was abolished on December 31, 1995. Section 6(c) provides certain conforming amendments to Title 5 of the United States Code to reflect changes made under subsection (a).

Section 7. Effective date

In general, the effective date is October 1, 2001. However, certain fee reductions will not become effective until October 1, 2002.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to S.J. Res. 73, which I introduced in the 98th Congress at the request of then-President Reagan and have reintroduced every Congress since.

This proposal has received strong support from both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide "a period of silence . . . for meditation or voluntary prayer" at the beginning of each day. As I stated when that opinion was issued and repeat again: the Supreme Court has too broadly interpreted the Establishment Clause of the First Amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the Free Exercise Clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation "under God." Our currency is inscribed with the motto, "In God We Trust". In this Body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers. I would note that this practice has been upheld as constitutional by the Supreme Court.

It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this legislation during this Congress.

I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.".

SENATE RESOLUTION 11—EXPRESSING THE SENSE OF THE SENATE REAFFIRMING THE CARGO PREFERENCE POLICY OF THE UNITED STATES

Mr. INOUYE submitted the following resolution; which was referred to the committee on Commerce, Science, and Transportation:

S. RES. 11

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to carry a substantial portion of the international waterborne commerce of the United States;

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to serve as a fourth arm of defense in time of war and national emergency;

Whereas the Federal Government has expressly recognized the vital role of the United States merchant marine during Operation Desert Shield and Operation Desert Storm;

Whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States-flag merchant marine by requiring a certain percentage of government-impelled cargo to be carried on United States-flag vessels;

Whereas when Congress enacted the cargo reservation laws, Congress contemplated that Federal agencies would incur higher program costs to use the United States-flag vessels required under those laws;

Whereas section 2631 of title 10, United States Code, requires that all United States military cargo be carried on United States-flag vessels;

Whereas Federal law requires that cargo purchased with loan funds and guarantees from the Export-Import Bank of the United States established under section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635), be carried on United States-flag vessels;

Whereas section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), requires that at least 50 percent of the gross tonnage of ocean-borne cargo generated directly or indirectly by the Federal Government be carried on United States-flag vessels, and section 901b of that Act (46 U.S.C. App. 1241f) requires that, in the case of such cargoes of certain agricultural commodities that are the subject of an export activity of the Commodity Credit Corporation or the Secretary of Agriculture, an additional 25 percent of the gross tonnage be carried on United States-flag vessels;

Whereas cargo reservation programs are very important for the shipowners of the United States, which require compensation for maintaining a United States-flag fleet;

Whereas the United States-flag vessels that carry reserved cargo provide high-quality jobs for seafarers of the United States;

Whereas, according to the most recent statistics from the Maritime Administration, in 1997, cargo reservation programs generated $900,000,000 in revenue to the United States-flag fleet and accounted for one-third of all revenue from United States-flag foreign trade cargo;

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to the cargo reservation laws is declining and will continue to decline;

Whereas, in 1970, Congress found that the degree of compliance by Federal agencies with the requirements of the cargo reservation laws was chaotic and uneven, and that it varied from agency to agency;

Whereas, to ensure maximum compliance by all agencies with Federal cargo reservation laws, Congress enacted the Merchant Marine Act of 1970 (84 Stat. 1018), amending the Merchant Marine Act, 1936, to centralize monitoring and compliance authority for all cargo reservation programs in the Maritime Administration;

Whereas, notwithstanding section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)), and the purpose and policy of the cargo reservation programs, compliance by Federal agencies with Federal cargo reservation laws continues to be inadequate;

Whereas the Maritime Administrator cited the limited enforcement powers of the Maritime Administration with respect to Federal agencies that fail to comply with section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)) and other Federal cargo reservation laws; and

Whereas the Maritime Administrator recommended that Congress grant the Maritime Administration the authority to settle any cargo reservation disputes that may arise between a ship operator and a Federal agency: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) each Federal agency should administer programs of the Federal agency that are subject to the cargo reservation laws (including regulations of the Maritime Administration) to ensure that the programs are in compliance with the intent and purpose of the cargo reservation laws; and

(2) the Maritime Administrator should—

(A) closely and strictly monitor any cargo that is subject to the cargo reservation laws; and

(B) provide such directions and decisions to Federal agencies as will ensure maximum compliance with the cargo preference laws.

SENATE RESOLUTION 12—RELATIVE TO THE DEATH OF ALAN CRANSTON, FORMER UNITED STATES SENATOR FOR THE STATE OF CALIFORNIA

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 12

Whereas Alan MacGregor Cranston had a long and distinguished career, beginning with service as a foreign correspondent and continuing with service in the United States Office of War Information and in the United States Army;

Whereas Alan Cranston was a leader in his State before coming to the Congress, serving as State Controller of California for eight years;

Whereas Alan Cranston served the people of California with distinction for 24 years in the United States Senate;

Whereas Senator Cranston was a lifelong advocate for world peace and the defense of democratic institutions;

Whereas Senator Cranston was an unwavering friend of the environment and California's remarkable natural resources;

Whereas Senator Cranston was a leader in the United States Senate in many areas, including the fields of affordable housing, mass transit, veterans affairs, civil rights, and education; and

Whereas Senator Cranston left a lasting legacy in his post-Senate career through his efforts to curb the spread of nuclear weapons and to eliminate the scourge of nuclear weapons from the planet, efforts which continued until the day he died: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Alan Cranston, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the Honorable Alan Cranston.

Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate my thoughts on the life of a friend and former member of this body, Senator Alan Cranston.

Alan passed away on December 31, 2000 at 86 at home in California. It was a quiet end for a man who throughout his career raised his voice for so many. Alan enjoyed a long life and was blessed with a keen mind, a strong spirit and simple common sense. In return for these gifts he worked to his last days to make this world a more peaceful and humane place. I will miss him and his example very much.

Alan was first elected to the Senate in 1968. He served the people of California in this Chamber for four terms, eventually retiring in 1993. It was my honor to have been elected to the seat he vacated.

Prior to his Senate service he was Controller for the State of California. He served his country in World War II, first in the Office of War Information and then in the U.S. Army. After graduating from Stanford University and before the onset of the war, Alan was an overseas correspondent for the International News Service covering such places as England, Germany, Italy and Ethiopia.

While a correspondent he saw an English language version of Mein Kampf, sanitized to hide the truth from Americans. He published his own version highlighting the "worst of Hitler" and was sued by Hitler's publisher. While he lost the suit, a half a million copies had already been distributed helping to educate many about the true nature of Nazism and Hitler.

As United States Senator he stood out as a tireless and effective advocate for his constituents. No matter how he grew in stature and influence within this institution, he never forgot those who sent him to Washington and why. Alan cared deeply for people. He pursued policies that reflected his unwavering belief in the fundamental dignity and worth of others.

As Chairman of the Committee on Veterans' Affairs, Alan played an invaluable role in America's efforts to assist our service men and women and their families. In addition, he was a national leader on the environment, civil rights, workers' rights, education and so much more. A consensus builder, he achieved success through a firm understanding of the issues and a finely developed sense of not only what was needed, but what was possible.

Alan left his mark on many issues, but his true passion was world peace. As a witness to the horror and devastation of World War II, he committed himself to creating a world where conflicts between nations could be resolved without bloodshed. He was an outspoken opponent of the war in Vietnam and made the abolition of nuclear weapons a central part of his agenda in the Senate. Upon his retirement, he devoted himself to the latter cause almost exclusively.

Encouraged by the end of the Cold War, after leaving the Senate he became chairman of the Gorbachev Foundation, which later changed its name to the State of the World Forum. Based in San Francisco, the Forum has developed into a widely respected organization for the discussion of global issues. In recent years, the Forum has hosted multi-day gatherings attended by world leaders. This year's gathering occurred in New York and coincided with the U.N.'s Millennial Summit. As an authority on nonproliferation, Alan Cranston prepared the program on the subject for participants who included former heads of state, and some of the most influential minds in foreign affairs, business, the arts and the media.

Alan also formed the Global Security Institute. There he and others conceived of Project Abolition, the Responsible Security Appeal. The purpose of this coalition is to rally people, politicians and governments to support policies that lead to a world safe from the nuclear threat. I am sure Alan would be pleased that this effort will continue even without him.

Recently, CNN founder Ted Turner and former Senator Sam Nunn announced that they were forming a foundation with an annual budget of $50 million dedicated to the elimination of weapons of mass destruction. This is great news, and further evidence that Alan's message of peace continues to resonate. In many ways, this foundation is a tribute to him and his legacy.

Senator Alan Cranston was a leader and citizen that California, the United States and the world could be proud of. Although we are all a little poorer today at his passing, in the final tally we are all much richer for having known him and benefited from this time among us.

I yield the floor.

SENATE RESOLUTION 13—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED FOR CONGRESS TO ENACT A NEW FARM BILL DURING THE 1ST SESSION OF THE 107TH CONGRESS

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, and Ms. STABENOW submitted the following resolution; which was referred to the committee on Agriculture, Nutrition, and Forestry:

S. RES. 13

Whereas in contrast to the economic prosperity enjoyed by Americans over the past several years, many agriculture-dependent rural economies have continued to experience serious economic hardship;

Whereas independently owned and operated farms and ranches that are integral to the economic and social stability of rural America, but that are relatively less able to withstand economic shock, have suffered disproportionately during this period of ongoing economic distress;

Whereas the contract payments authorized by the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) increasingly are considered by producers to be inequitable because—

(1) the contract payments are not based on current production, but are instead based on 85 percent of program yields established in 1986 and frozen in 1990;

(2) the contract payments are provided to owners and producers that may no longer be producing the crop on which the contract payments are calculated;

(3) the contract payments are not available to producers of nonprogram crops, including soybeans and other oilseeds, resulting in further inequities and arbitrariness in making emergency farm payments;

(4) the contract payments are not available to owners and producers that did not enter into production flexibility contracts under the Agricultural Market Transition Act; and

(5) the contract payments are made for crops regardless of whether the crops are experiencing low prices;

Whereas despite being promoted as a means of limiting farm program spending, current farm policy necessitated record levels of program spending and emergency assistance packages;

Whereas the previous record of $26,000,000,000 in direct payments through the Commodity Credit Corporation for fiscal year 1986 during the heart of the farm crisis in the 1980's was eclipsed by direct payments made for fiscal year 2000 by nearly $6,300,000,000;

Whereas even at these high levels of farm program and emergency spending, the farm economy and the financial condition of farm and ranch families and rural communities continues to decline;

Whereas agricultural producers are extremely frustrated and dissatisfied with the inconsistent criteria for receipt of disaster payments, the unpredictability of the payments, and the inequity of the payments across producers, regions, and agricultural commodities; and

Whereas over the past 3 years, Congress has waited until well into the legislative year before considering and responding to the need for disaster payments and then has justified the use of unnecessarily simplistic and fiscally wasteful payment formulas by claiming that there was inadequate time to devise superior alternatives: Now, therefore, be it

Resolved, That Congress should—

(1) enact a new farm bill during the 1st session of the 107th Congress;

(2) include in the budget resolution for fiscal year 2002 sufficient funds to provide an adequate farm income safety net and eliminate the need for off-budget, emergency spending;

(3) ensure that all farm-related payments are allocated fairly and reasonably and in relation to need; and

(4) provide such additional sums as are necessary to fund other farm bill priorities, such as priorities involving rural development and telecommunication, conservation, research, nutrition, and food safety.

AUTHORITY FOR COMMITTEES TO MEET

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet on Monday, January 22, 2001, to conduct a mark-up on the nomination of the Honorable Mel Martinez, of Florida, to serve as Secretary of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2000 fourth quarter mass mailings is January 25, 2001. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232

Hart Building, Washington, D.C. 20510–7116.

The Public Records office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

NOTICE—2000 YEAR END REPORT

The mailing and filing date of the 2000 Year End Report required by the Federal Election Campaign Act, as amended, is Wednesday, January 31, 2001. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.

The Public Records office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

INAUGURAL CEREMONY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the proceedings of Saturday's Inaugural Ceremony be printed in today's RECORD.

There being no objection, the proceedings of the Inaugural Ceremony were ordered to be printed in the RECORD, as follows:

INAUGURATION CEREMONY, SATURDAY, JANUARY 20, 2001, 11:47 A.M.

Members of the House of Representatives, Members of the Senate, Justices of the Supreme Court, nominees to the Cabinet, the Governors of the States, and the Mayor of the District of Columbia, the Joint Chiefs of Staff, and other distinguished guests assembled on the West Front.

Mr. Martin Paone, Senate Secretary for the Majority, escorted Senator Clinton and Mrs. Gore, accompanied by Mrs. Clegg Dodd, Mrs. Gephardt, and Mrs. Daschle, to the President's platform.

Mrs. Elizabeth Letchworth, Senate Secretary for the Minority, escorted Mrs. Bush and Mrs. Cheney, accompanied by Mrs. McConnell (Elaine Chao), Mrs. Lott, Mrs. Hastert, and Mrs. Armey, to the President's platform.

Mr. Jay Eagen, House CAO, Mr. Gary Sisco, Secretary of the Senate, and Mr. Jeff Trandahl, Clerk of the House, escorted President Clinton and Vice President Gore, accompanied by Senator Dodd, Representative Gephardt, and Senator Daschle, to the President's platform.

Ms. Lani Gerst, Executive Director, JCCIC, Mrs. Loretta Symms, Senate Deputy Sergeant at Arms, and Ms. Kerri Hanley, House Deputy Sergeant at Arms, escorted Vice President-elect Cheney, accompanied by Senator Lott and Representative Armey, to the President's platform.

Ms. Tamara Somerville, Chief of Staff, JCCIC, Mr. Jim Ziglar, Senate Sergeant at Arms, and Mr. Bill Livingood, House Sergeant at Arms, escorted President-elect Bush, accompanied by Senator McConnell, Senator Dodd, Speaker Hastert, and Senator Lott, to the President's platform.

Mr. McCONNELL. Everyone, please be seated so we can begin.

Welcome to the 54th inauguration of the President and the Vice President of the United States of America. Today we honor the past in commemorating two centuries of inaugurations in Washington, DC. As well, we embrace the future, this day marking the first inauguration of the 21st century and the new millennium.

America has now spanned four centuries, her promise still shining bright—beginning and present—linked by timeless ideals and faith. The enduring strength of our Constitution, which brings us to the West Front of the Capitol today, attests to the wisdom of America's founders and the heroism of generations of Americans who fought wars and toiled in peace to preserve this legacy of liberty. In becoming the 43rd President of the United States, George W. Bush will assume the sacred trust as guardian of our Constitution. Dick Cheney will be sworn in as our new Vice President. Witnessed by the Congress, Supreme Court, Governors, and Presidents past, the current President will stand by as the new President peacefully takes office. This is a triumph of our democratic Republic, a ceremony befitting a great nation.

In his father's stead, the Rev. Franklin Graham is with us today to lead the Nation in prayer. Please stand for the invocation.

Reverend Graham.

Reverend GRAHAM. Let us pray:

Blessed are You, O Lord our God. Yours, O God, is the greatness and the power and the glory and the majesty and the splendor, for everything in heaven and Earth is Yours. Yours, O Lord, is the kingdom. You are exalted as head over all. Wealth and honor come from You. You are the ruler of all things. In Your hands are strength and power to exalt and to give strength to all.

As President Lincoln once said, we have been the recipients of the choicest bounties of heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power, as no other nation has ever grown, but we have forgotten God. It behooves us then to humble ourselves before the offended powers, to confess our national sins, and to pray for clemency and forgiveness.

O Lord, as we come together on this historic and solemn occasion to inaugurate once again a President and Vice President, teach us afresh that power, wisdom, and salvation come only from Your hand.

We pray, O Lord, for President-elect George W. Bush and Vice President-elect Richard B. Cheney to whom You have entrusted leadership of this Nation at this moment in history. We pray that You will help them bring our country together so that we may rise above partisan politics and seek the larger vision of Your will for our Nation. Use them to bring reconciliation between the races, healing to political wounds, that we may truly become one nation under God.

Give our new President, and all who advise him, calmness in the face of storms, encouragement in the face of frustration, and humility in the face of success. Give them the wisdom to know and to do what is right and the courage to say no to all that is contrary to Your statutes and holy law.

Lord, we pray for their families, and especially their wives, Laura Bush and Lynne Cheney, that they may sense Your presence and know Your love.

Today we entrust to You President and Senator Clinton and Vice President and Mrs. Gore. Lead them as they journey through new doors of opportunity to serve others.

Now, O Lord, we dedicate this Presidential inaugural ceremony to You. May this be the beginning of a new dawn for America as we humble ourselves before You and acknowledge You alone as our Lord, our Saviour, and our Redeemer.

We pray this in the name of the Father and of the Son, the Lord Jesus Christ, and of the Holy Spirit. Amen.

Mr. McCONNELL. Thank you, Reverend Graham.

It is my distinct pleasure to introduce the Dupont Manual Choir of Louisville, KY.

(Performance by the Dupont Manual Choir of Louisville, KY.)

Mr. McCONNELL. I now call on Senator Christopher J. Dodd of Connecticut to introduce the Chief Justice of the United States.

Mr. DODD. Thank you, Senator McConnell.

President and Senator Clinton, Vice President and Mrs. Gore, President-elect and Mrs. Bush, and fellow citizens, the Vice President-elect will now take the oath of office. His wife, Lynne, and their daughters, Elizabeth Cheney Perry and Mary Cheney, will hold the family Bible. I have the honor and privilege to now present the Chief Justice of the United States Supreme Court, the Hon. William Hobbs Rehnquist, to administer the oath of office to the Vice President-elect, Richard Bruce Cheney.

(Applause.)

Mr. Chief Justice REHNQUIST. Mr. Cheney, are you ready to take the oath?

Vice President-elect CHENEY. I am.

Mr. Chief Justice REHNQUIST. Please raise your right hand and repeat after me.

The Chief Justice of the United States, William Hobbs Rehnquist, administered to the Vice President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, Richard Bruce Cheney, do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of which I am about to enter. So help me God."

Mr. Chief Justice REHNQUIST. Congratulations.

(The Marine Band performed "Hail Columbia.")

(Applause.)

Mr. McCONNELL. Ladies and gentlemen, Staff Sergeant Alec T. Maly of the United States Army Band will now perform an American medley.

(Staff Sergeant Alec T. Maly sang a medley of American music.)

Mr. McCONNELL. It is now my high honor to again present the Chief Justice of the United States who will administer the Presidential oath of office. Everyone, please stand.

(Applause.)

Mr. Chief Justice REHNQUIST. Governor Bush, are you ready to take the oath?

President-elect BUSH. Yes, sir.

Mr. Chief Justice REHNQUIST. Please raise your right hand and repeat after me.

The Chief Justice of the United States, William Hobbs Rehnquist, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, George Walker Bush, do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So help me God."

Mr. Chief Justice REHNQUIST. Congratulations.

(Applause.)

Mr. McCONNELL. Ladies and gentlemen, the President of the United States, George W. Bush.

(Applause.)

(Herald Trumpets play "Ruffles and Flourishes" and "Hail to the Chief," and 21-gun salute.)

President BUSH. Thank you all.

Chief Justice Rehnquist, President Carter, President Bush——

(Laughter, applause.)

President Clinton, distinguished guests, and my fellow citizens:

This peaceful transfer of authority is rare in history, yet common in our country. With a simple oath, we affirm old traditions and make new beginnings.

As I begin, I thank President Clinton for his service to our Nation.

(Applause.)

And I thank Vice President Gore for a contest conducted with spirit and ended with grace.

(Applause.)

I am honored and humbled to stand here, where so many of America's leaders have come before me and so many will follow.

We have a place, all of us, in a long story; a story we continue, but whose end we will not see. It is the story of a new world that became a friend and liberator of the old, the story of a slave-holding society that became a servant of freedom, the story of a power that went into the world to protect but not possess, to defend but not to conquer. It is the American story; a story of flawed and fallible people, united across the generations by grand and enduring ideals.

The grandest of these ideals is an unfolding American promise: that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born.

Americans are called to enact this promise in our lives and in our laws. And though our Nation has sometimes halted, and sometimes delayed, we must follow no other course.

Through much of the last century, America's faith in freedom and democracy was a rock in a raging sea. Now it is a seed upon the wind, taking root in many nations.

Our democratic faith is more than the creed of our country, it is the inborn hope of our humanity; an ideal we carry but do not own, a trust we bear and pass along. And even after nearly 225 years, we have a long way yet to travel.

While many of our citizens prosper, others doubt the promise—even the justice—of our own country. The ambitions of some Americans are limited by failing schools, and hidden prejudice, and the circumstances of their birth. And sometimes our differences run so deep, it seems we share a continent, but not a country.

We do not accept this, and we will not allow it. Our unity, our union, is the serious work of leaders and citizens in every generation. And this is my solemn pledge: I will work to build a single nation of justice and opportunity.

(Applause.)

I know this is within our reach, because we are guided by a power larger than ourselves who creates us equal in His image.

And we are confident in principles that unite and lead us onward.

America has never been united by blood or birth or soil. We are bound by ideals that move us beyond our backgrounds, lift us above our interests, and teach us what it means to be citizens. Every child must be taught these principles. Every citizen must uphold them. And every immigrant, by embracing these ideals, makes our country more, not less, American.

(Applause.)

Today we affirm a new commitment to live out our Nation's promise through civility, courage, compassion, and character.

America, at its best, matches a commitment to principle with a concern for civility.

A civil society demands from each of us good will and respect, fair dealing and forgiveness.

Some seem to believe that our politics can afford to be petty because, in a time of peace, the stakes of our debates appear small. But the stakes, for America, are never small. If our country does not lead the cause of freedom, it will not be led. If we do not turn the hearts of children toward knowledge and character, we will lose their gifts and undermine their idealism. If we permit our economy to drift and decline, the vulnerable will suffer most.

We must live up to the calling we share. Civility is not a tactic or a sentiment. It is the determined choice of trust over cynicism, of community over chaos. And this commitment, if we keep it, is a way to shared accomplishment.

America, at its best, is also courageous.

Our national courage has been clear in times of depression and war, when defeating common dangers defined our common good. Now we must choose if the example of our fathers and mothers will inspire us or condemn us. We must show courage in a time of blessing by confronting problems instead of passing them on to future generations.

(Applause.)

Together we will reclaim America's schools, before ignorance and apathy claim more young lives. We will reform Social Security and Medicare, sparing our children from struggles we have the power to prevent. And we will reduce taxes, to recover the momentum of our economy and reward the efforts and enterprise of working Americans.

(Applause.)

We will build our defenses beyond challenge, lest weakness invite challenge.

(Applause.)

We will confront weapons of mass destruction, so that a new century is spared new horrors.

The enemies of liberty and our country should make no mistake, America remains engaged in the world, by history and by choice, shaping a balance of power that favors freedom. We will defend our allies and our interests. We will show purpose without arrogance. We will meet aggression and bad faith with resolve and strength. And to all nations, we will speak for the values that gave our Nation birth.

(Applause.)

America, at its best, is compassionate.

In the quiet of American conscience, we know that deep, persistent poverty is unworthy of our Nation's promise. And whatever our views of its cause, we can agree that children at risk are not at fault. Abandonment and abuse are not acts of God; they are failures of love.

(Applause.)

And the proliferation of prisons, however necessary, is no substitute for hope and order in our souls.

Where there is suffering, there is duty. Americans in need are not strangers, they are citizens; not problems, but priorities. And all of us are diminished when any are hopeless.

(Applause.)

Government has great responsibilities, for public safety and public health, for civil rights and common schools. Yet compassion is the work of a nation, not just a government. And some needs and hurts are so deep, they will only respond to a mentor's touch or a pastor's prayer. Church and charity, synagogue and mosque lend our communities their humanity, and they will have an honored place in our plans and in our laws.

(Applause.)

Many in our country do not know the pain of poverty. But we can listen to those who do. And I can pledge our Nation to a goal. When we see that wounded traveler on the road to Jericho, we will not pass to the other side.

(Applause.)

America, at its best, is a place where personal responsibility is valued and expected.

Encouraging responsibility is not a search for scapegoats; it is a call to conscience. And though it requires sacrifice, it brings a deeper fulfillment. We find the fullness of life, not only in options, but in commitments. And we find that children and community are the commitments that set us free.

Our public interest depends on private character; on civic duty and family bonds and basic fairness; on uncounted, unhonored acts of decency which give direction to our freedom. Sometimes in life we are called to do great things. But as a saint of our times has said, every day we are called to do small things with great love. The most important tasks of a democracy are done by everyone.

I will live and lead by these principles: to advance my convictions with civility; to pursue the public interest with courage; to speak for greater justice and compassion; to call for responsibility, and try to live it as well. In all these ways, I will bring the values of our history to the care of our times.

What you do is as important as anything government does. I ask you to seek a common good beyond your comfort; to defend needed reforms against easy attacks; to serve your Nation, beginning with your neighbor. I ask you to be citizens—citizens, not spectators; citizens, not subjects; responsible citizens building communities of service and a nation of character.

(Applause.)

Americans are generous and strong and decent, not because we believe in ourselves, but because we hold beliefs beyond ourselves. When this spirit of citizenship is missing, no government program can replace it. When this spirit is present, no wrong can stand against it.

(Applause.)

After the Declaration of Independence was signed, Virginia statesman John Page wrote to Thomas Jefferson:

We know the race is not to the swift nor the Battle to the Strong. Do you not think an Angel rides in the Whirlwind and directs this Storm?

Much time has passed since Jefferson arrived for his inauguration. The years and changes accumulate, but the themes of this day he would know: our Nation's grand story of courage and its simple dream of dignity.

We are not the story's author, who fills time and eternity with His purpose. Yet His purpose is achieved in our duty; and our duty is fulfilled in service to one another.

Never tiring, never yielding, never finishing, we renew that purpose today: to make our country more just and generous; to affirm the dignity of our lives and every life.

This work continues. This story goes on. And an angel still rides in the whirlwind and directs this storm.

God bless you all, and God bless America.

(Applause.)

Mr. MCCONNELL. Please stand now as Pastor Kribyjon H. Caldwell will now deliver the benediction, and afterward, please remain standing for the singing of our National Anthem, after which the ceremony will be concluded. I call upon Senator Dodd to organize the Presidential party after the ceremony has ended to depart the platform.

Pastor Caldwell.

Pastor CALDWELL. Thank you, Senator McConnell.

Let us pray, please:

Almighty God, the supply and supplier of peace, prudent policy, and nonpartisanship, we bless Your holy and righteous name. Thank You, O God, for blessing us with forgiveness, with faith, and with favor. Forgive us for choosing pride over purpose. Forgive us for choosing popularity over principles. And forgive us for choosing materialism over morals. Deliver us from these and all other evils, and cast our sins into Your sea of forgetfulness to be remembered no more. And Lord, not only do we thank You for our forgiveness, we thank You for faith, faith to believe that every child can learn and no child will be left behind and no youth will be left out.

Thank You for blessing us with the faith to believe that all of Your leaders can sit down and reason with one another so that each American is blessed.

Thank You for blessing us with the faith to believe that the walls of inequity can be torn down and the gaps between the rich and the poor, the haves and the have-nots, the uneducated and the educated, can and will be closed.

And, Lord, lastly, we thank You for favor. We thank You for Your divine favor. Let Your favor be upon President Clinton and the outgoing administration. May they go forth in spiritual grace and civic greatness. And, of course, O Lord, let Your divine favor be upon President George W. Bush and First Lady Laura Welch Bush and their family. We decree and declare that no weapon formed against them shall prosper. Let Your divine favor be upon the Bush team and all Americans with the rising of the Sun and the going down of the same. May we grow in our willingness and ability to bless You and bless one another.

We respectfully submit this humble prayer in the name that is above all other names, Jesus the Christ. Let all who agree say "Amen."

(Staff Sergeant Maly performed the National Anthem with accompaniment.)

(Applause.)

The inaugural ceremonies were concluded at 12:24 p.m.

MEASURES READ THE FIRST TIME—S. 73, S. 74, S. 75, S. 76, S. 78, and S. 79

Mrs. HUTCHISON. Mr. President, on behalf of Senator HELMS, I ask unanimous consent that six bills that are at the desk be considered read the first time with an objection to the request for their second reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the RECORD remain open until 5 o'clock today for the purpose of adding original cosponsors to those bills introduced during today's session and, further, that Senators have until 5 o'clock to submit legislation and for committees to report executive matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIVE TO THE DEATH OF ALAN CRANSTON

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 12 introduced earlier today by Senators BOXER and FEINSTEIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 12) relative to the death of Alan Cranston, former United States Senator from the State of California.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 12) was agreed to.

The preamble was agreed to.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, appoints the Senator from Vermont (Mr. LEAHY) as a member of the Board of Regents of the Smithsonian Institution, vice the former Senator from New York (Mr. Moynihan).

The Chair, on behalf of the Democratic leader, pursuant to Public Law 106–398, announces the appointment of John J. Hamre, of Maryland, to serve as a member of the Commission on the Future of the United States Aerospace Industry.

ORDERS FOR TUESDAY, JANUARY 23, 2001

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11:30 a.m. on Tuesday, January 23. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12:30 p.m. with Senators speaking for up to 10 minutes each with the time equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mrs. HUTCHISON. For the information of all Senators, the Senate will be in a period of morning business until 12:30 p.m. tomorrow. Following morning business, the Senate will recess for the weekly party conference lunches. In the afternoon the Senate is expected to begin consideration of several cabinet nominations. Senators therefore can expect votes with respect to these cabinet nominations during tomorrow afternoon's session of the Senate.

ORDER FOR ADJOURNMENT

Mrs. HUTCHISON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of S. Res. 12, following the remarks of Senator STABENOW and Senator REID.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

(The remarks of Mr. REID pertaining to the introduction of S. 104 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Senator NELSON of Florida assumed the chair.)

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I ask unanimous consent to speak as in morning business for as much time as I desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANTIQUITIES ACT

Mr. NICKLES. Mr. President, I rise to be critical of President Clinton's recent actions dealing with the Antiquities Act in declaring millions of lands national monuments. He did this without consulting with the Governors, without consulting with elected officials, without consulting Congress. I believe that to be almost an act of contempt of Congress and certainly in defiance of what is considered the Antiquities Act and the purpose of the Antiquities Act.

The Antiquities Act was written in 1906. It was established at that time to protect very special historic, beautiful lands from development. It is a short act, and I will have it printed in the RECORD at the conclusion of my speech.

The whole purpose of the act President Clinton has defied. It does not say he is King or that he can take an unlimited amount of lands without consulting Congress or elected officials or local officials and say, we declare this a national monument so you cannot touch it and we don't care what you think.

I was amused when I noticed the Washington Post and other media said President Clinton was being active in the final days as President of the United States. He was more than active when acting in a way I believe certainly exceeded the statutory language of the Antiquities Act. Certainly he was being more than active when he defied logic and did not consult elected officials. I think he abused the Antiquities Act and his actions prove that it needs to be reformed.

When I read it, I wonder where he gets this authority. I think he exceeded the authority of the act. The authority of the act says:

> The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

And it continues.

The media reported that President Clinton has created more national monuments than any other President going back to Theodore Roosevelt. I looked back and Theodore Roosevelt didn't do as much as President Clinton in the last month or certainly since the last election. Theodore Roosevelt, through his actions, did a total of 1.5 million acres. President Clinton did 2 million acres after the election. Why did he do it after the election? Is it because there were hundreds of thousands of acres he did not consult with people? He didn't ask the elected officials. He said: This is what we will do; we will declare a national acres monument. All together he has declared 5.7 million in national monuments.

I mention the elections because obviously President Clinton used this act for election purposes. He did it in September of 1996 right before the election, I might mention, and it dealt with the Grand Staircase-Escalante National Monument, 1.7 million acres, right before the election in 1996. He announced it in Arizona, overlooking the Grand Canyon. That is interesting, but the Grand Escalante is not in Arizona; it is in Utah. Utah officials were outraged because they were not consulted. The resources involved mineral deposits and coal, the value of which were billions of dollars and thousands of jobs. He did not consult with anybody in Utah. There was public outrage, but nothing happened. President Clinton did not declare any national monuments in 1997, not in 1998, not in 1999.

Then we come to election year 2000 and President Clinton used a lot of declarations of national monuments in the year 2000 and particularly in the last couple of months. In the year 2000, all together he has done a total of over 4 million acres. Since the election, over 2 million acres. In the last week, on January 17, he made eight more designations, just a few days ago, in his last week of office, of over 1 million acres. He didn't consult with anybody.

In the House, we have a committee that deals with lands issues, and in the Senate we have a committee that deals with land and national resources, the Energy and Natural Resources Committee, a bipartisan committee, working on land issues all the time. We pass literally hundreds of bills through the committee. That committee passes more bills than any other committee in the Senate. We deal with the bills, particularly land issues, on a bipartisan basis. Most of the time on land issues we listen to the home State Senators. If they recommend a parcel of land be designated as a wilderness or national monument, we listen to the Senators and we know they are held accountable in their States. So we give them great respect and deference.

President Clinton didn't consult with Members of the Senate, and didn't consult with the Energy and Natural Resources Committee; didn't consult with the House Resources committee. He just designated a national monument. Maybe he did it right and maybe he didn't do it right. My guess is he is bound to have made mistakes trying to appease groups, perhaps environmental activists—I don't know.

I may well agree with many of these. I happen to be a preservationist. I happen to be a conservationist. I love the outdoors. I have been in the Colorado River. I love to hike. I love to camp. I love to be outdoors as much as anybody. I love to hike on trails. I love our natural resources.

What I don't like is a dictator. What I don't like is an emperor. What I don't like is to have a Presidential fiat, saying we will designate, and we don't care what the public thinks. We don't care what the elected officials think. We don't care what the Governors think. That is what I really object to.

I make the statements in great dissatisfaction with former President Clinton because he showed contempt of Congress, contempt of the Constitution, contempt of the people who live in those districts.

I think Congress should look at some of these recent declarations and have hearings. Did he draft these declarations correctly? Are the boundaries right? Are they too big? Are they too restrictive? Do they make sense? What is the economic consequences on the local city and towns and communities? What does this mean for their taxes? What does this mean for future royalties? What does this mean to Indian tribes? What does it mean for him to take these millions of acres and designate them a national monument? I may agree with each one. I disagree with the process.

Again, I think it is very much in violation of the Antiquities Act, very much in violation of the intentions of the Antiquities Act, very much an abuse of his office as President of the United States. There is no comparison to previous Presidents and what they have done.

I will have printed in the RECORD a list of all Presidents since the inception of the Antiquities Act, starting with Theodore Roosevelt, all the way through listing every President and the number of acres they had designated during their terms of office as national monuments. It shows no President has done as much as President Clinton, with the exception of President Carter when there was an enormous amount of land in the State of Alaska that was declared a national monument.

Other than that one act, President Clinton had exceeded any other President by multiples of at least two, three, four, or many times more. President George Herbert Walker Bush had zero acres. President Ronald Reagan had zero acres. President Jimmy Carter, I mentioned Alaska lands issued, so that was different. Gerald Ford had 86 acres. Richard Nixon had zero acres. Lyndon Johnson had 344,000 acres. President Clinton did more than 10 times L.B.J. John Kennedy did 26,000 acres; President Clinton did almost 5.7 million acres. John Kennedy did 26,000 acres. This was a Land grab, a power grab, but more than that, I believe it was an unconstitutional expansion of the Antiquities Act.

I think he exceeded his constitutional power and I regret it. I think it was a mistake. I think it shows contempt of Congress. Why did he wait until after the election? Possibly because there would be a real significant uproar in these States for failing to consult them.

Under the way President Clinton has misused and, I believe, abused the act, he has acted more like a emperor than President of the United States.

I ask unanimous consent a list showing President Clinton's use of the 1906 Antiquities Act and other Presidents and their use of the Antiquities Act in addition to copies of the Antiquities Act and the limitations and the situation dealing with Alaska and Wyoming be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT CLINTON'S USE OF 1906 ANTIQUITIES ACT

William Jefferson Clinton (1993-Present)	Estimated acreage	Date established
Grand Staircase-Escalante National Monument	1,700,000	09-18-96
Aquafria National Monument	71,100	01-11-00
California Coastal National Monument	7,000	01-11-00
Grand Canyon-Parashant National Monument	1,014,000	01-11-00
Pinnacles National Monument	7,900	01-11-00
Giant Sequoia National Monument	327,769	04-15-00
Canyon of the Ancients	164,000	06-09-00
Cascade-Siskiyou National Monument	52,000	06-09-00
Hanford Reach National Monument	195,000	06-09-00
Ironwood Forest National Monument	129,000	06-09-00
President Lincoln National Monument	2	07-07-00
Vermilion Cliffs National Monument	293,000	11-09-00
Craters of the Moon National Monument	661,000	11-09-00
Upper Missouri River Breaks	337,000	01-17-01
Pompeys Pillar	51	01-17-01
Carrizo Plain	204,000	01-17-01
Sonoran Desert	486,000	01-17-01
Kasha-Katuwe Tent Rocks	4,100	01-17-01
Minidoka Internment National Monument	73	01-17-01
U.S. Virgin Island Coral Reef National Monument	12,708	01-17-01
Buck Island Reef National Monument	18,135	01-17-01
Total	5,683,838	

PRESIDENTS AND THE ANTIQUITIES ACT

President	Total acreage
Theodore Roosevelt	1,529,418
William H. Taft	32,631
Woodrow Wilson	1,202,913
W.G. Harding	9,555
Cavin Coolidge	2,634,226
Herbert Hoover	2,125,720
Franklin Delano Roosevelt	2,626,559
Harry S. Truman	27,954
Dwight D. Eisenhower	– 22,530
John F. Kennedy	26,128
Lyndon B. Johnson	344,674
Richard M. Nixon	0
Gerald R. Ford	86
Jimmy Carter	55,975,000
Ronald W. Reagan	0
George Herbert Walker Bush	0
William Jefferson Clinton	5,683,838

ANTIQUITIES ACT

16 USC Sec. 431

TITLE 16—CONSERVATION

CHAPTER 1—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

Subchapter LXI—National and International Monuments and Memorials

Sec. 431. National monuments; reservation of lands; relinquishment of private claims

The President of the United States is authorized in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.—(June 8, 1906, ch. 3060, Sec. 2, 34 Stat. 225.)

LIMITATION ON FURTHER EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS IN WYOMING

16 USC Sec. 431a

TITLE 16—CONSERVATION

CHAPTER 1—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

Subchapter LXI—National and International Monuments and Memorials

Sec. 431a. Limitation on further extension or establishment of national monuments in Wyoming

No further extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress.—(Sept. 14, 1950, ch. 950, Sec. 1, 64 Stat. 849.)

ALASKA NATIONAL INTEREST LANDS CONSERVATION

16 USC Sec. 3213

TITLE 16—CONSERVATION

CHAPTER 51—ALASKA NATIONAL INTEREST LANDS CONSERVATION

Subchapter VI—Administrative Provisions

Sec. 3213. Future executive branch actions

(a) No further executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.—(Pub. L. 96-487, title XIII, Sec. 1326, Dec. 2, 1980, 94 Stat. 2488.)

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

PATIENTS' BILL OF RIGHTS

Ms. STABENOW. Mr. President, it is a great honor and privilege for me to be standing before the Senate to speak for the first time since becoming a Senator from the State of Michigan. I also am very humbled to be only the 40th Senator from our great State to ever serve in this institution. I am very proud of that.

I wish to speak about an important health care issue today and reference the fact that I have been involved in health care issues for over 20 years, starting, in fact, with my public service and involvement in politics, having been involved in an effort in my community, in Lansing, MI, to save a nursing home. We brought citizens together from all across the community, spoke out, and were able to keep that nursing home open that had been slated for closure. It was that beginning that got me involved in the important issues of health care that affect our families.

As we begin the 107th Congress, I think we have a great opportunity to get things done for the people we represent. We have a 50/50 Senate, a divided House, and one of the closest elections we have seen in our history. Now is the time for us to reach across the aisle to colleagues on the other side, to work together on behalf of the families all of us represent.

I come to the floor today to talk about one of the most important issues confronting us as a Congress and one of the best ways for us to start the new year providing health care for the families we represent and that is the enactment of a strong Patients' Bill of Rights. I strongly believe that every one of our citizens, child to senior, has the right to quality, affordable health care. Whether we are talking about access to nursing homes and home health care or lowering the cost of prescription drugs for seniors and our families or a Patients' Bill of Rights, I am pleased to have been involved in those efforts, and will continue to be so, with my colleagues here in the Senate. In fact, health care is one of the top priorities because this is what I have heard from the people I represent in Michigan.

I would like to share a story with you, Mr. President, about the Luker family and their daughter, Jessica, of Royal Oak, MI. The Lukers' experience is a compelling example of the need for a strong Patients' Bill of Rights. I want to point to a replica of a picture of Jessica that I have with me here today.

Jessica was born in 1975 with a rare metabolic disorder that required vigilant medical care. In the spring of 1999, Jessica's condition had worsened and she was having an average of 60 seizures a month. Her doctor recommended surgery to prevent further seizures, and on May 12, 1999, she had this successful surgery. Her seizures were once again under control.

Unfortunately, a week later, on May 17, Jessica's family received a letter saying her insurance had been changed retroactively. The insurance company refused to cover the surgery because the Lukers had not received preapproval.

Jessica's mom, Tricia Luker, spent hours on the phone with the insurance company explaining the situation. They, in fact, did not find out about the change that had occurred May 1 until May 17. It was not possible for them to get preapproval for the surgery.

After hours and hours on the phone, unfortunately, the Lukers were forced to pay for the surgery out of their own pocket. And they are still paying today in 2001.

How could the Lukers know their insurance would change without receiving any advanced notice? How could the insurance company refuse to pay, using the bureaucracy to stand in the way of common sense?

The insurance change meant more difficulties for the Lukers. Jessica's specialist, who had been treating her for 14 years, was not a part of the HMO and was not allowed to continue to serve her. Again, the Lukers were forced to deal with the insurance company, to try to find a new doctor, and Mr. And Mrs. Luker spent hours on the phone, page by page, name by name, going through, calling doctors, hearing: No, no, no, to serving and treating Jessica.

Jessica's parents continued with her regular doctor and paid for the appointments out of their own pocket, while having insurance under an HMO.

On September 10, 1999, Jessica passed away. In the final days of her life, Tricia Luker talks about the fact that she wanted to be on the front porch, blowing bubbles and reading books to Jessica, which she loved, but instead she was fighting the insurance company bureaucracy to get her the treatment from the doctor who had been with her for 14 years.

Today, Tricia Luker's daughter Jessica is gone, but they are still paying the bills from the insurance company that refused to cover the treatment that Jessica needed. Jessica's tragic story demonstrates why we need a strong Patients' Bill of Rights, a bill that will help patients like Jessica who have complicated medical problems with access to specialists.

The bill would make insurance companies accountable for their decisions. It would afford the Lukers the opportunity to appeal what on its face seems unreasonable and lacking in common sense.

Throughout my campaign for the Senate, I shared Jessica's story with the people of Michigan. I pledged to bring a picture with me to the Senate and to keep my promise to Jessica's family, and to all of the families of Michigan, to do everything I can to pass a Patients' Bill of Rights.

Today I am taking my fight for Jessica to the Senate floor, and I hold great hope that this Congress, that this Senate, will do what others have failed to do—pass a strong Patients' Bill of Rights.

A small version of this picture of Jessica sits on my desk in my Senate office. It will remain there with me until, in fact, we pass a Patients' Bill of Rights. No family should ever have to go through what Calvin and Tricia Luker went through, trying to get their daughter care. In the memory of Jessica, I call on my Senate colleagues to make passing a strong Patients' Bill of Rights one of our top priorities.

I am very proud today to join with my colleagues, with our leader, Senator DASCHLE, to cosponsor the Patients' Bill of Rights and, in fact, this is the first bill that I am cosponsoring as a new United States Senator.

The bill today is the same legislation commonly known as the Dingell-Norwood bill that was passed overwhelmingly in a bipartisan way in the House of Representatives. I was proud to be a cosponsor in my service in the House of Representatives last session, and I am proud to be an original cosponsor of this bill in the 107th Congress.

The legislation provides basic rights for patients to ensure access to care. Again, these are basic rights so that, regardless of your insurance, you know what the basic protections are for your family: Guaranteed access to emergency room care at the nearest facility; direct access for women to OB/GYN care; direct access to pediatricians; a guaranteed option for patients to select doctors outside of their plan, if necessary; coverage for clinical trials; access to medically necessary prescription drugs; and the right to an independent appeal for any denied claim.

Most importantly, this legislation will hold insurance companies accountable for decisions they make regarding patient care, and this is the most critical point.

I have spoken with families throughout Michigan and received countless letters, e-mails, and phone calls from people pleading with us to help them and to pass this bill. Jessica's is just one of the many tragic stories I have heard.

I want to mention just a couple of other names of people with whom I have worked in the State of Michigan who have been struggling with their families to get the care they have paid for and they deserve. Ardath and Frank Reagan of Holly, MI. Mr. Reagan became paralyzed from the waist down from a rare disease. His insurance company refused to pay for his surgery, saying he was not a good candidate. They told Ardath to put her husband in a nursing home. The insurance company's foot dragging forced her husband to wait before starting treatment and severely aggravated the situation. Today, fortunately, Mr. Reagan is making a full recovery after intense work on his behalf by his family.

Michael Pesendorfer from the Metro Detroit area—Michael's mother died of cancer. He has joined me on a number of occasions as well to speak out for a Patients' Bill of Rights. The insurance company delayed approval for treatment. They finally did get the approval for the procedure, but it was too late, and she died shortly after.

Susan and Sam Yamen from Birmingham, MI—I read their story on the floor of the House of Representatives last year—are an example of why we need the commonsense policy of saying you go to the nearest emergency room in a medical emergency.

Sam cut his leg with a chain saw from a business he operated. He had a severe leg injury and went to the nearest emergency room. The doctors were ready to operate to save his leg. They called the HMO, which said: Stop, you are in the wrong emergency room. They would not approve the surgery. The doctors said it was critical that it be done immediately to save the nerve endings in his leg. They would not approve the surgery in this emergency room and he, unfortunately, had to be placed into an ambulance and taken across town to another emergency room where he sat for 9 hours before he could get any care and did not receive the surgery he needed. In fact, Mr. Yamen has lost his tree trimming business and much of the nerve endings and feeling in his leg. His family has been in great economic struggle as a result of this.

What these stories tell me is that patients enrolled in an HMO need basic protections and guarantees of adequate coverage. Our families are paying for the insurance. They need to get the care, and they need to know it is going to be there in an emergency.

I believe a strong Patients' Bill of Rights provides those protections and guarantees for coverage. Certainly, Jessica and her family and the families I mentioned and all of the others I talked to all across Michigan have stories that need to be addressed because they are not just stories; they are reality for too many people.

I am committed to reaching across the aisle to work with our colleagues to pass this critical health care legislation. I know that in order to keep my promise to Jessica's family, we have to get to work and we have to work together. I am ready to work with everyone who shares my goals and the goals and the needs of the families whom I represent. I look forward to working on the legislation that has been introduced today and the opportunity for us to show clearly that we intend to work together for the people of our country by passing a strong Patients' Bill of Rights as quickly as possible.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, first, on behalf of my colleagues, permit me to extend a warm welcome to our new Senator from Michigan. It was an honor to be on the floor as she made her first speech. I appreciate very much her dedication and enthusiasm and her expressed commitment and interest in working together. I assure her we will have many opportunities in the months to come. All of us are going to have to work together if we are going to make the kind of progress we wish.

(The remarks of Mr. BOND pertaining to the introduction of S. 29 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. BOND. Mr. President, is there further business to come before the Senate at this time?

The PRESIDING OFFICER. Under the previous order, if there is no further business to come before the Senate, the Senate stands adjourned until 11:30 a.m. tomorrow.

Thereupon, the Senate, at 3:03 p.m., adjourned until Tuesday, January 23, 2001, at 11:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 23, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 24

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Norman Mineta, to be Secretary of Transportation.

SR-253

Health, Education, Labor, and Pensions

To hold hearings on the nomination of Elaine Chao, to be Secretary of Labor.

SD-430

10 a.m.

Judiciary

Business meeting to consider pending calendar business.

SD-226

JANUARY 25

10 a.m.

Budget

To hold hearings to examine evolving fiscal challenges.

SD-216

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, January 23, 2001*

The Senate met at 11:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, who has graciously made each of us a never-to-be-repeated miracle of uniqueness, we praise You that we can be ourselves because You love us, we can use our gifts because You gave them to us, and we can grasp the opportunities You provide because You want to surprise us with Your goodness. All that we possess and have become is because of Your providence. The wonder of it all is that it is Your nature to go beyond what You have done or given before. This gives the zest of expectation and excitement to our lives. It also helps us to know that we can come to You with our worries and anxieties, our fears and frustrations, our hopes and hurts.

You know us as we really are and see beneath the shining armor of pretended sufficiency. You know when we are at the end of our tethers and need Your strength; You understand our discouragements and disappointments and renew our hope; You feel our physical and emotional pain and heal us. You have told us that to whom much is given, much will be required. Thank You that You have taught us that of whom much is required, much shall be given. Help us not to be stingy receivers today. You are our Saviour and Lord. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE ENZI, a Senator from the State of Wyoming, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each and with the time being equally divided in the usual form.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

SCHEDULE

Mr. NICKLES. Mr. President, today, we will be in a period of morning business until 12:30 p.m. At 12:30, the Senate will recess for the weekly party conferences until 2:15 p.m. It is my hope that prior to the recess, we will reach a consent agreement for the consideration of four of the President's Cabinet nominations. That agreement would allow for a vote or votes shortly after we reconvene at 2:15 today.

Senators can therefore expect rollcall votes later in the day. Additional nominations are scheduled for hearings during Wednesday's session. It is hoped that we can expedite those nominations for full Senate action.

I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 73, S. 74, S. 75, S. 76, S. 78, AND S. 79

Mr. NICKLES. Mr. President, I understand there are six bills at the desk due for their second reading. I ask that they be read consecutively.

The legislative clerk read as follows:

> A bill (S. 73) to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.
>
> A bill (S. 74) to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren.
>
> A bill (S. 75) to protect the lives of unborn human beings.
>
> A bill (S. 76) to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus.
>
> A bill (S. 78) to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.
>
> A bill (S. 79) to encourage Drug-Free Schools and Safe Schools.

Mr. NICKLES. Mr. President, I object en bloc to further proceedings on these bills at this particular time.

The PRESIDING OFFICER. Under the rules, the bills will be placed on the calendar.

The Chair recognizes the Senator from Vermont.

EDUCATION

Mr. JEFFORDS. Mr. President, this morning, I, Senator KENNEDY, Congressman BOEHNER, the Chairman of the House Education and Workforce Committee, and Congressman MILLER, the ranking Democrat of that committee, met with President Bush to discuss his very ambitious education initiative.

The package the President is putting forward today contains several areas where there is general, bipartisan agreement for providing the tools necessary for every child to receive a quality education.

These areas include: strengthening accountability to improve student performance; providing the funds necessary to prepare, recruit, and train high quality teachers; developing reading initiatives to ensure that all students will be able to read by the third grade; strengthening early childhood programs; creating a math/science partnership for states, colleges, and universities to strengthen K through twelve math and science education; providing activities related to technology as a means to boost student achievement; and giving school districts the flexibility to be innovative in implementing reform.

All Americans agree that every child in this country deserves a high quality education. We at the federal level must remember that we do not necessarily have all the answers for making high quality education accessible to all students. It is parents, teachers, principals, superintendents, school personnel, state and local school board officials, and students that have many of the answers.

The proposal outlined by President Bush is a very good framework which will go a long way in providing the assistance that is needed at the state and local level to have a first-rate elementary and secondary educational system.

It is critical that all of us in the Senate and in the House join with the President in making comprehensive education reform our top priority. It is essential to our economic survival.

Almost half of all adults have neither completed high school nor have pursued any type of postsecondary education. Approximately twenty percent of all eighteen year olds do not graduate from high school.

The most recent Third International Mathematics and Science Study indicates that fourth graders performed well in both math and science in comparison to students in other nations. U.S. eighth graders performed near the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

international average in both math and science, and U.S. twelfth graders scored below the international average and among the lowest of the participating nations in general science knowledge.

It is perhaps this last statistic which has contributed to the fact that half of all college students must take at least one remedial course at an annual cost of one billion dollars to the nation's public universities.

Last fall, Congress passed the American Competitiveness in the 21st Century Act. This initiative raises the cap on the number of H-1B visas to 195,000 a year for the next three years.

The H-1B bill, which passed the Senate by a vote of 96-1, was needed because this nation is lacking a skilled workforce in the areas of high tech and health care.

I hope that the sense of urgency that prevailed regarding the passage of the H-1B bill will lead all of us to pass an education reform package that will help create a workforce with the skills to meet the needs of our local, regional, national, and international economies.

I look forward to working with the President, Secretary of Education, Rod Paige, all members of the Health and Education Committee, all members of this body and our counterparts in the House to develop a bipartisan bill that passes the Congress with a final vote tally similar to the final vote cast on the H-1B bill.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, so Members have some idea of what is going to happen, I ask unanimous consent that the Senator from Maine be recognized for 5 minutes, the Senator from New Hampshire, Mr. GREGG, for 5 minutes, and the Senator from Illinois for 15 minutes, and the floor would be obtained by the Senator from Texas, Mrs. HUTCHISON.

Mrs. HUTCHISON. Mr. President, I amend that by asking unanimous consent that the majority leader be recognized immediately following Senator DURBIN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Chair recognizes the Senator from Maine.

EDUCATION REFORM

Ms. COLLINS. Mr. President, I am very pleased that President Bush today has sent forth to the Congress a package of education reforms that carries through on his promise to make improving the education of our children his top priority. I believe the program he has proposed sets forth the basis for a bipartisan reform bill that I hope we will very shortly consider.

Last August, President Bush traveled to Maine with, Roderick Paige, now his Secretary of Education, and met with educators from my State. I was extremely impressed with his heartfelt commitment to improving the education of all the children in America, and with the progress that he has made in the State of Texas on what is perhaps the greatest challenge our country faces; that is, narrowing the achievement gap between disadvantaged, low-income children and their more advantaged peers.

We know today that 70 percent of the fourth graders in the highest poverty schools cannot read at the basic level. That is both shameful and unacceptable, and it is a compelling reason why I so strongly support the President's pledge to leave no child behind. I am particularly pleased that his education package contains two provisions that will be very helpful to my home State of Maine.

I am very proud of Maine's public schools. We do very well in providing a quality education for all of our children. But we, like the Presiding Officer, have many school districts that are very small. They find it very difficult to cope with the rules, redtape and paperwork that apply to literally hundreds of Federal programs. The President's proposal would allow school districts to consolidate many of these programs and use the money for their most pressing needs. One school may need to hire more math and science teachers. Another may need to have computers in the classroom. Still another may need to provide a new program for gifted and talented programs. Yet another may have new construction needs. By allowing more flexibility in the use of Federal funds, President Bush has sent a strong signal that he trusts parents, teachers, and local school boards to know what is best for their students and give them the flexibility they need while holding them strictly accountable for improved student achievement. Isn't that what really counts?

We want to be certain that our children are learning. What we don't need is too much or our educators' attention diverted to whether or not they filled out some Federal form correctly. I am very pleased that is an important focus of President Bush's election package.

I am also delighted that he has included legislation authored by Senator KYL of Arizona and myself that will allow teachers to have a tax deduction of up to $400 to help defray the costs when teachers, out of their own pockets, buy supplies for their classrooms. We all know teachers do this every day. Indeed, according to a study by the National Education Association, the average K-12 teacher spends $408 annually on classroom materials. By enacting our proposal, we can send a message of appreciation to teachers who are so dedicated to their students that they reach deep into their own pockets to buy supplies to enhance their classrooms. We ought to help these dedicated professionals defray the costs associated with such classroom expenses.

I would like to see that bill broadened to allow all teachers to deduct the costs of professional development courses they undertake at their own expense. I know in the State of Maine we have many dedicated teachers who, at their own expense, pursue their education to make them even better teachers. I think we should help defray those expenses as well.

I look forward to working as a member of the Health, Education, Labor, and Pensions Committee, with the Presiding Officer, Senator JUDD GREGG who has been such a leader on this issue, our distinguished chairman, JIM JEFFORDS, and with many on both sides of the aisle who are committed to the goals and the challenges the President has set forth for us today. The President has challenged us to ensure that every child in America, no matter where she lives or the income level of her family, will have the very best public education possible. I intend to answer the President's challenge.

Thank you, Mr. President. I yield any remaining time of my 5 minutes to Mr. GREGG, the Senator from New Hampshire.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Maine for her courtesy. I also wish to thank the Senator from Illinois for his courtesy in allowing us to go in front of him even though he has been waiting.

I want to join in congratulations of the President for putting forward his education package and fulfilling a promise he made during the election, which was that education would be the President's first legislative initiative. As such, he has put together a package which has many very strong points which will significantly improve our educational system in this country. The package, as I would describe it, can be divided into four elements.

First, it focuses on children. It sees children as the fundamental element of our educational system, which seems only logical but regrettably has not been true over the last few years. In fact, over the past 20 years we have spent over $127 billion on title I, but rather than spending it on children and having it be child focused, it has been institution focused or it has been bureaucracy focused. The President is shifting that title I money towards the child.

Second, the President is proposing much more flexibility to local school districts, to the teachers, to the principals, and, most importantly, flexibility to the parents because they are the folks on the front line who are most concerned about the child's education and who understand how best to do that.

The educational system changes from not only State to State, not only community to community but literally classroom to classroom. The needs within a classroom are different. The needs in one first grade classroom in the community are different from the needs in the first grade classroom in another town in New Hampshire. Flexibility is extremely important. That is a major element of their initiative.

Third, the President has focused on academic achievement. What an important goal. But it is, unfortunately, a goal we have forgotten. In fact, we have forgotten it in such a way that today our low-income children aren't achieving at all. As I mentioned yesterday on the floor, the average fourth grader from a low-income family is reading at a second-grade level, below his peers, even though we have spent literally billions of dollars focused on that low-income child. Academic achievement is critical.

He has pointed to the fact that the academic achievement of the child begins by having the child reach school ready to read. He has committed a huge amount of resources and a number of new programmatic initiatives to make sure that when our children get to school they are ready to read because, as he has pointed out, if you leave a child behind in the first grade, that child never catches up; they fall further behind.

The fourth element is one of the core elements of his proposal. He has talked about accountability. We are no longer going to send funds out to the communities without expecting results. We are no longer going to tolerate a system which leaves children behind, which says to children: We are simply going to shuffle you through the system; we are going to use the money for whatever happens to be the need for the day; but if it doesn't improve the results, we are not going to be held accountable. We will teach new math, and if you don't learn any math, that doesn't matter. If we teach you any methods of reading, and if you don't learn, that doesn't matter; you will shuffle through the system.

The President has said that from now on we are going to expect academic achievement and we are going to hold the systems accountable to results in academic achievement.

Those four goals are the right goals: Focusing the effort on the child, giving flexibility to the people who know how to educate so they can educate well, expecting academic achievement, and holding the school systems and the administrators accountable for academic achievement. I congratulate all those initiatives. This is a huge conceptual package with a lot of different initiatives performed in a variety of different ways.

I also hope we focus on moving down the educational road, the issue of special education, and the fact that we as a Republican Congress have committed our effort to try to fully fund special education. Certainly I hope that will be carried forward. I know this President is committed to that approach, also.

Nothing will free up local dollars more effectively and make more dollars genuinely available for good education than if the Federal Government pays its fair share of special education so the local tax dollars can be used where the local community thinks they can most effective be used.

This package is a call to arms for an improvement in our educational system. It lays out specific guideposts of how to get there. I congratulate the President for putting it forward.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois for up to 15 minutes.

Mr. DURBIN. How much time is remaining on the other side of the 30 minutes they were allocated?

The PRESIDING OFFICER. Eleven and one-half minutes.

Mr. DURBIN. It is my understanding I have been recognized for 15 minutes and at the conclusion of the 15 minutes the majority leader will be recognized; then I would like to ask that Senator BINGAMAN be recognized after the majority leader. I make that request.

The PRESIDING OFFICER. Under the previous order, Senator HUTCHISON follows the majority leader.

Following that, Senator BINGAMAN will be recognized.

Mrs. HUTCHISON. I will yield to Senator BINGAMAN in the spirit of going back and forth, but I would like to ask that Senator CRAIG be able to follow Senator BINGAMAN.

The PRESIDING OFFICER. Does the Senator amend his unanimous consent request?

Mr. DURBIN. I want to make sure I understand it. After I speak and the majority leaders speaks, Senator CRAIG would be recognized.

The PRESIDING OFFICER. Senator BINGAMAN would be recognized, then Senator CRAIG.

Mr. DURBIN. After the time for majority leader, Senator HUTCHISON and Senator CRAIG would be within the 11 minutes allocated?

The PRESIDING OFFICER. The majority leader's time is extra.

Mr. DURBIN. Understood.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW PRIORITIES

Mr. DURBIN. Mr. President, I thank my colleagues for coming together on the floor this morning. All Members who were present on Saturday for the inauguration of the new President realize it was an exciting and historic moment for our Nation. The weather did not cooperate; it was pretty miserable outside. We all felt honored to be there, to see once again this unique part of American history where we transfer power peacefully, even when we have been fighting like cats and dogs between the political parties leading up to the election.

I wish the new President the very best, even from this side of the aisle. We are hopeful his leadership will be successful and that he will bring our Nation together as he has promised.

We on the Democratic side have tried to be cooperative. There was a brief moment which we affectionately refer to as the "age of enlightenment" where the Democrats were in charge of the Senate for about 17 days and then the leadership was transferred again on Saturday back to the Republican side.

The President has sent us 13 nominations for the Cabinet which, of course, is his effort to bring his team together as quickly as he can. On Saturday, immediately after the President was sworn in, we approved 7 of those 13. To put that in context, when last we had a Democratic President and a Democratic Congress, on the first day after the swearing in, only three members of the Cabinet were approved.

We are doing our very best on a bipartisan basis to give the President his team. There will be several other nominees for the Cabinet positions who will be considered this week. I assume most of them will be approved by the Senate. There are two or three who are controversial that may take a little longer. We are going to try to move, I am sure, in a reasonable manner to engage any floor debate and to reach a point where the President knows his team will be in place at some close date.

I am happy that President Bush has made education the first issue. I think that was the right choice, the right issue. Time and again when you ask Americans, rich and poor alike, what is the most important issue facing America, the answer is always education. I think it is because the term "education" embodies so many ideas and concepts which we value in America. Education means opportunity. Education means giving a person a chance to improve themselves, Education in our culture and economy means that a person of very humble origins can rise to a position where they can be successful in so many different ways. That is why education should be the first issue that we debate.

I am hoping, after listening to the description of the President's education package, there will be a lot of bipartisan agreement when it comes to education. Some of the concepts that have been mentioned this morning are certainly concepts I endorse. I think about my own home State of Illinois and the Chicago public school system. This is a public school system which only a few years ago was written off by the Secretary of Education, Bill Bennett, as the worst in America.

I daresay today what is happening in Chicago is exciting, and in terms of big city school districts, may be one of the most promising programs in the United States of America. The leadership of Mayor Richard Daley, the leadership of the President of the school board, Gary Chico, and the CEO of Chicago schools, Paul Vallas, really took on a major challenge. In the Chicago public school system, 95 percent of the students are minority, 85 percent are below the poverty level. Imagine, if you will, that as your student enrollment.

Consider that you inherit a school system that is almost dead last in America in achievement. In a very short period of time, a few years, they have turned that system around, and they have come a long way by just addressing a few basic principles. The principles are fairly obvious to all of us as parents who have had children who have gone to school.

First is accountability at all levels so the administrators and principals are held responsible for bringing a team of teachers together, and the parents and students, in creating a successful learning environment; accountability for the teachers so they come to the class prepared and are good teachers; accountability for the students and their parents. All of these have come together. They have conceded that at times these experiments have failed.

There have been several occasions now when the Chicago public school system has announced a school has failed and they have basically taken the team of administrators and teachers, brought them in and said: You are finished. You had your chance. We are not going to leave kids in this classroom if they are not learning. This group is disbanded. We will start over. They didn't tear the school down. They didn't close the school. They said: We are going to bring a new group of teachers and administrators to give these kids a chance.

If I am the parent of a student in one of those classrooms, that is exactly what I want to see. It does me no good as a parent to know that the school system is doing well. If my child is not doing well, I have a responsibility as a parent to be part of that, too. So they bring the parents in to be part of this learning process.

So when I hear the question of accountability and President Bush's education package, I endorse it. I think it is a sound idea. It is one that we should include.

I might also say the idea of testing is one that I think is important. I hated tests as a student. Don't most? Most students would rather not take a test. A test is the only objective way in many respects to measure progress. It is not the only way. Some students may not test well but may be learning. We have to make that accommodation. But using testing to measure the progress of a student makes sense.

The big debate around here is whether we have national testing. That is voluntary now in the United States and will probably continue to be. I invite those school districts that believe they are doing the right thing to voluntarily sign up for those tests that Chicago has. We as a nation shouldn't take any comfort in the fact that some school districts are doing well and some not so well. All those students are going to be our citizens and leaders of tomorrow. If they are not equipped and skilled, our Nation will suffer. When we have national testing to determine whether or not the students in Oregon and the students in Oregon, IL, are learning math and learning science, and learning what they need to succeed, I think it gives us a good idea as to whether our approach to education is succeeding as well.

We also, I hope, in the course of this bill, will address some fundamental changes in our vision of a schoolday. Why in the world do we start a schoolday at 8:30 in the morning and end it at 3 in the afternoon? There might have been a time when that made sense, but it doesn't today. The vast majority of kids have their parents working, so these kids get off school at 3 in the afternoon, in many cases without any adult supervision. Ask the police chief in your hometown what happens at 3:30 at the mall or at the shopping center. Ask the people who keep statistics at what period of time are teenage girls most likely to become pregnant. Don't be surprised; it is in that period between 3 o'clock and when the parents finally get home from work.

So when we talk about afterschool programs, it is to provide positive adult supervision so kids can continue their learning experience. It might not be the same learning experience as sitting in a classroom. Perhaps it will be music or art or sports or developing skills on computers. Perhaps it is just supervised time so they can do their homework. But I think afterschool programs should be part of modern America, to make sure parents can be confident their kids are using their time well.

The same thing with the summer school programs. Why do we still have 3 months off in the summer? It is hard to explain. There was a time when kids had to get out of school to go help on the farm. That isn't the big challenge today in most families. I think we ought to have summer school, enrichment programs and tutorial programs so kids can use that time as well.

So I think there are many things we can do in order to make our educational system better. I am glad the President has brought this issue to us. I believe he will find bipartisan support for many of his proposals on education.

There is one thing that was not mentioned on the other side in describing the President's plan, and I hope we can consider it. When the American Society of Civil Engineers assessed the infrastructure of America last year, the schools came in dead last. Our school buildings are old and crumbling. In many respects the schools are in worse shape than our water treatment systems and our sewage treatment systems in America. It suggests to me that school construction is a important part of a challenge to local property taxpayers in school districts and I hope we can include it in this debate.

The other issue that is going to be brought before us very quickly is the whole question of a tax cut. There is nothing more popular for a politician to suggest than: I am going to cut your taxes. Frankly, I believe there should be a tax cut in light of the enormous surpluses which our good economy, as well as the policies and programs of the last few years, is generating. We have created a system where, for the first time, we are paying down the national debt. That has not happened for 30 years. We are dealing with balanced budgets and paying down the debt. But make no mistake, we are still at this point in time dealing with a huge national debt.

I called this morning to the Department of the Treasury to ask them what is our current debt. They gave me the debt of America as of today. When you add that debt together here is what it comes to: $5,728,195,796,181. That is the accumulated debt of America that we currently have to pay off.

How do we pay it off? We reduce it as long as we are running surpluses and don't spend them on something else. But each day in America we collect $1 billion in taxes from wage earners, from families, from businesses, from farmers, and that money is used exclusively to pay interest on the old debt. It does not build a new school. It doesn't educate a child. It does not buy us any tanks or guns or planes. It is used to pay interest on old debt.

Many of us believe, in the discussion of what to do with the surplus, we should not lose sight of the most important single thing we can do, and that is eliminate this debt burden which we are passing on to the next generation. To celebrate a tax cut and ignore this, I think is to ignore the reality of what our children and grandchildren will face. I hope we can have a balanced approach with this surplus.

First be sensible. Don't assume, because some economists can think ahead 4 and 5 years, or even 10, and say, oh, you are going to have a surplus forever, that that is gospel truth. These economists tend to disagree all of the time. We have to be careful that we do not overestimate the projected surplus, be careful in how much money we think we will have. Then, once we have that money, we have to allocate at least a third of it to reducing the national debt so we do not have to collect all these taxes to pay interest on old debts which previous generations have incurred.

Second, we have to make sure we invest enough in Social Security and Medicare so that these systems will not go bankrupt. Mr. President, 40 million-plus Americans depend on these systems to sustain them, and Social Security payments, to make sure they have quality health care—seniors and disabled Americans. If we have a surplus lets make sure we invest from our surplus into Social Security and Medicare for that purpose.

Finally, of course, I support a tax cut. The Democrats and Republicans both support tax cuts. My take on it may be a little different than that of some of my colleagues. I do not believe the tax cuts should go to the wealthiest people in America. I happen to think we ought to focus on struggling working families. I listen to the telephone calls coming into my office in Chicago and Springfield and Marion, IL. I can tell you right now with what families are struggling. They are struggling to pay heating bills. Families have seen a dramatic increase in their heating bills in the Midwest. They have seen a dramatic increase over the last several years in the costs of college education. They are facing ongoing increases in the costs of child care. Any working parent wants to leave that son or daughter in the hands of qualified people. Yet it becomes increasingly expensive for them to pay for day care.

I receive telephone calls and read letters where people say: Senator, I have reached a point where my family is doing well but my parent now is reaching a point where he—or she—needs more and more attention and care. We are glad to give it, but it is expensive. Can you help us with that?

When you are talking about long-term care, when you are talking about child care, when you are talking about the expenses to put someone through college or even the expenses of heating your home, the average working family is struggling to make ends meet. When we talk about a tax cut, let us focus on helping those families first. The wealthiest in America are doing OK. They will continue to do fine. They may have a tax cut but it should not be at the expense of working families.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New Mexico.

IMPROVING SCHOOL ACCOUNTABILITY

Mr. BINGAMAN. Mr. President, I rise first to speak about one of the critical pieces of education legislation that the Congress is scheduled to consider this year. I believe we have wide agreement, now, on the need to increase school accountability, with new systems that will put real teeth into improving school performance for all students, and school districts, and for each State.

I have spoken for several years, now, about the need to improve school accountability. I introduced school accountability legislation in 1999. President Bush has spoken frequently about it. His new Secretary of Education, Rod Paige, whom we confirmed on Saturday, has spoken about its importance.

I believe there is strong support from those colleagues, both Democrat and Republican, on the HELP committee. The provisions that we developed this last year to ensure accountability are included in S. 7, which Senator DASCHLE introduced yesterday.

In addition, I am introducing later today a bipartisan bill which contains those same accountability provisions. I am very pleased that my colleague and friend, Senator LUGAR from Indiana, has joined me as a cosponsor of that bill. This will be a bipartisan effort which will demonstrate the bipartisan nature of these proposals.

These accountability provisions demand results of all students so the existing achievement gaps between minority and nonminority students, between poor and wealthier students, between limited English and English-speaking students, are eliminated and they are eliminated at the individual school level, at the school district level, and at the State level.

Mr. President, I do believe there is now widespread consensus on the need for rigorous school accountability in key areas that are addressed in this bill that Senator LUGAR and I are introducing.

The bill establishes aggressive performance objectives for all students that are linked to each school's standards and assessments. It directs resources to the students and objectives most in need. It provides for significant consequences for failure so that States and school districts must take full responsibility for turning around those schools that have chronically failed to adequately educate the students in the schools.

Our bill provides maximum flexibility for educators to develop strategies to meet the basic goals of school improvement, and it ensures that every class have a fully qualified teacher. The bill provides an expanded role for parents. Finally, the bill provides new funding for school improvement strategies that have been proven to work. These are strategies such as the Success for All Program, which Senator LUGAR and I strongly support.

I am very pleased that school accountability is finally getting the attention it deserves in Congress from both sides of the aisle. With widespread agreement now on the need for strong school accountability legislation—and sanctions for schools that do not live up to basic standards—I am very optimistic that this Congress can move quickly to develop a consensus package. I believe this bipartisan bill I referred to can serve as a starting point for working with the White House and with all colleagues on this vital area of meeting the needs of our schoolchildren.

Mr. President, I yield the floor, but I indicate I do want to speak as in morning business at some time after the majority leader speaks to pay tribute to our former colleague, Senator Cranston.

Mrs. HUTCHISON. Mr. President, point of clarification: Senator BINGAMAN was not suggesting that he would speak immediately after Senator LOTT; is that correct?

Mr. BINGAMAN. Mr. President, in deference to the other people who are here and waiting, I will certainly wait until they conclude their statements.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. LOTT. I thank the Senator from New Mexico for offering to yield time earlier.

Mr. President, I ask that my time be taken from my leader time so it will not count against the time that was made available for this debate.

The PRESIDING OFFICER. The Senator has that right.

EDUCATION

Mr. LOTT. Mr. President, we have a new President of the United States who has proven in his own State of Texas and in his life—and with the encouragement of his wife—that he really cares about education and that he means it when he says we should leave no child behind.

We need an education system in America that is focused on one thing, and that is children learning. I am convinced he means that. I have had occasion to hear him talk about that in

Texas, on the campaign trail, after the election, and even yesterday in the first meeting, when the bicameral Republican leadership met with the President, that was his focus. He made it clear he was going to reach out to the Congress, both Republicans and Democrats, and to outsiders to try to get a consensus as to how we want to move our country. But the issue he focused on was education.

I believe that is going to be well received by the American people. People of all backgrounds, races, creeds, color, regions know that for continued advancement for the American culture, education and improving education is absolutely critical.

He continues to focus on this issue. This morning he met with the leaders of the appropriate committees to talk about his proposal that he is going to send to us today. I have spoken to a couple of those who attended that meeting, including Senator JEFFORDS. A moment ago, when the Senator from Vermont, the chairman of the Health, Education, Labor, and Pensions Committee, spoke, I felt there was an exuberance in him about the fact that this President is opening his administration the way he said he would, and in the Senate we are picking up that mantle. The bill that will carry the number S. 1 is going to be about education.

Today the President of the United States will keep his promise to America's schoolchildren. He will articulate for the Nation a vision of America, a public school system that serves the children and leaves no child behind.

I think it is important also that he is not going to send us a bill drafted with every word, every dot and comma, but he is going to lay out the provisions, the major points he intends to pursue, and he is asking us to pursue it legislatively in the Congress.

Under President Bush, our public schools can and will be doorways to opportunity. In Texas, he has proven that every child, particularly our disadvantaged children, can excel. As President, he will bring that same determination to all of our Nation's children.

The President proposed we apply commonsense principles to promote results. He also has picked an outstanding nominee to be Secretary of Education, and now he is the Secretary of Education, Dr. Rod Paige. By the way, I should note he is a native Mississippian. He grew up with a very blue-collar upbringing. He attended public schools. He got a good education. He was the head coach at Jackson State University in Jackson, MS, a university that has produced some outstanding academic leaders and athletic leaders in this country. Some of the most outstanding football players in the history of this country came out of Jackson State University.

He went beyond that. He got his postgraduate degrees. He got his doctorate, and then he went to the Houston, TX, school system, a school system that had all kinds of problems, that was deteriorating, declining, and he said: We are going to make this place work. We are going to provide different ideas, innovative ideas, and he produced results. Now he is going to be the Nation's Secretary of Education. Here again is a man who has shown the American dream is alive and well. When you look at his humble beginnings and what he did in terms of getting an education in public schools, at Jackson State University, and then getting his postdoctorate degrees and now is Secretary of Education, it is a tremendous testament to what can be done.

Our schools should be measured by what our children learn. I have said on this floor many times that I am the son of a schoolteacher, a lady who taught school for 19 years. I am very proud of it. She still corrects my grammar when I use the wrong word, the wrong tense in my weekly columns or when she hears me speak. If I speak improperly, she will mark my paper in red or chastise me. I am proud of that.

Unfortunately, like a lot of teachers, after 14 years she left and went into bookkeeping and even radio announcing because she could make more money. That is a tragedy, too. At the local and State level, we have to make sure we pay our people a livable wage so they will stay in teaching and not go out into other places and get more money but maybe not much reward in terms of what they actually produce.

I went to public schools all my life. So did my wife and so did my children. I remember distinctly the best teachers I ever had in my life were my teachers in the second, third, and fourth grades at Duck Hill, MS. Those teachers affected my life. They taught me the basics. They taught me to read.

By the way, I stayed in touch with two of the three all my life. One of them now is deceased. One of them I still hear from every now and then. They came from a small poor school, but they made a difference in my whole life, more than my college professors, more than my high school teachers.

We have to make sure we have that for every child in America.

No child—no child—in America should be trapped in failing schools just because they lack the economic means to have a choice or to make sure they do get a good education.

We have to be prepared to think outside the box. What we have been doing is not working in every school. Some schools are fantastic. In my own State, we have some great schools. We have students who make tremendous test scores on the ACT and SAT, and yet we have schools where children are just not getting a quality education. They are not learning. They are not safe. They are in danger from all kinds of things in these schools. So we have to keep the good ones good and make them even better, but we have to make sure those other schools can be brought up. That is a local responsibility, a State responsibility.

But, yes, the Federal Government has a role to play. There are many things we can do to be helpful in that area. The President's proposals will help us address that. The fact that he is willing to put money—and a significant amount of money—into children learning to read, that is a beginning, that is where it all starts.

We have one couple in my State of Mississippi who have been remarkably successful in their lives: Jim Barksdale and his wife Sally, from Jackson, MS. They went to the University of Mississippi. Jim Barksdale worked with FedEx. He worked with McCaw Telephone in Washington State. He is one of the founders of Netscape who made a lot of money, and now he is on the board of AOL Time Warner. He and his wife just gave $100 million—$100 million—of personal money, the two of them, for one thing, and only one thing, in my State—4th grade reading. The State said, OK, can we join in on this? And others said, no, we want this to be focused on teaching those 4th grade students to read. That is the kind of thing happening with individuals in the private sector. They have a responsibility to help with education, too.

So we need to really build on that. Parents have a right to hold schools to high standards and know that their schools are meeting those high standards. Our children excel when they are exposed to basics, going back to the points I made about reading. Our early childhood programs should focus on reading first, and we should not be afraid to measure those programs to make sure they are succeeding and not merely just good-intentioned programs that do not produce results.

Also, character counts. There is a program called Character Counts in America. I think we need to incorporate that in how we teach. We should never shy away from teaching that basic lesson to our students.

These basic principles work. They have worked in Texas, they have worked in other parts of the country, and they have formed the cornerstone of the President's education initiatives.

Under Governor Bush, African American 4th grade students have made the largest gains in the country in math and science. In fact, they had the highest test scores in their peer group of any State in the Nation. Hispanic students have made similar gains, scoring second highest of Hispanics in all States. We can and should do the same thing for all of America's children.

The President's education plan is based on a simple premise: Those who know our children best—parents, teachers, and principals—should determine how to prioritize our education dollars. The needs in rural America are often left out, and they are quite different from those in our cities. It makes sense that local schools have the freedom to design programs that meet individual needs. The compulsion in Washington has always been to have one size that fits all which they dictate from Washington.

What is needed in Pascagoula, my hometown, is obviously, on its face, different from what they need in Pittsburgh, PA. So we need that local flexibility, that local control, and with accountability that goes along with it. In exchange for that freedom, the President proposes to hold States accountable for the one thing that matters, and that is to make sure our children are learning.

There are many special interests in education. Many of them will raise their voices against the President's plan. They will use tactics to try to distract from what we are trying to accomplish by advocating other things and new programs. I think we need to go with what works and to make sure the only interests that matter are the interests of our children and that they are learning.

I believe this commonsense approach will form the kind of principles that can improve our education in America. I believe we can, in this area, reach bipartisan agreement. We tried mightily last year, and there was a lot of effort across the aisle from our education leaders, good men such as Paul Coverdell, who is not with us, and Slade Gorton, who will not be serving in the Senate. JOE LIEBERMAN was involved in that effort. We can have Republicans and Democrats who can come together on this because what President Bush is proposing is not Republican or Democrat; it is what has worked and what will work.

So I invite my colleagues on both sides of the aisle, let's engage in this issue. Let's move this bill. I hope the HELP Committee will have the necessary hearings to think about what we are going to do, but do not delay. Do not delay. Every day that goes by that we do not act in this area, another child is not getting the education he or she needs. They are in a school that is not safe or a school that is drug infested.

This could be one of the most exciting things we do in the next 2 years. I appreciate the fact that the President has shown his commitment. He is going do be dogged. He is going to be focused. We are going to get this done. And the children will be the beneficiaries now, and the country will be the beneficiaries for years to come.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, let me join in the bipartisan chorus of voices here on the floor this morning speaking about education reform and the package that President Bush will be sending us for our examination and consideration in the coming days. I say a chorus of bipartisan voices. Every Senator who serves in the Senate recognizes and is willing to dedicate time to the importance of education in our Nation, and especially to the improvement of our public educational system.

Are there differences? Sure, there are differences. Historically, many of our colleagues simply wanted to send money, wanted to send it down from the Federal level, arguing that money was the problem; that if enough was sent, it would resolve the issue. A good many of us have said: Now, wait a moment. There has to be some control and some measurement, some evaluation of achievement. Or is the money being spent in the right way? Is enough control being given at the State and local level?

Over the years, while the Federal Government has participated, it really has participated in a fairly limited way in the public education systems of our country. For every dollar that is spent on the ground in Idaho or Mississippi or Texas or Illinois, only about 7 or 8 cents of that dollar has been a Federal amount.

What George Bush brings to us today is an attempt to recognize what most Americans have already recognized and spoke to him about in the campaign. That is that our educational system is in need of improvement and in need of reform. And probably out of opinions from that side of the aisle and this side of the aisle, there is a strong common ground to allow that kind of improvement and reform to go forward.

For the last decade, the chorus has not necessarily been here, but it has been broad and across America where our citizens have been saying: Something is wrong; our children are not achieving at the levels they should. They are not safe in their schools. There is a level of disruption that does not produce the kind of environment where quality education can go forward.

Hopefully, in the days to come, we will be able to craft a package, working with our President, to achieve what most Americans want for their children, recognizing, as all of us do, that in the absence of a high-quality public education system, the very character of our Nation, that must be perpetuated and brought forward from generation to generation, begins to lose. If that happens, America loses. In the end, we are a lesser nation because our children—our young people and our future leaders—are simply not as prepared as they must be to compete amongst themselves and to compete in the world as we know it.

That is the issue George Bush challenges us with today. He speaks of putting money in for reading, but he also speaks of accountability. He turns that accountability back to the States and to the local communities and says: Prove your worth and we will help you. Good schools will improve and bad schools will work to improve, but for bad schools that will not recognize their failing, we will give parents and students the option to move elsewhere.

Now, public education is a monopoly. It always has been one. Many of the educators within that system want to keep it just that way. They do not want to have to measure up against the private sector or another school down the road. If you live in that school district, you are required to attend that school. What George Bush is saying is, not necessarily. So you do not have to be a prisoner within the educational system. If the educational system is going to educate, then the parent and the student—if they are not getting the quality of education they want—ought to be allowed and ought to be given the means to move to another school where that quality education exists.

Of course, there will also be consequences for success, not just for failure. If schools improve overall student achievement, they will be rewarded with special grants and bonuses.

Other key components of this plan will go a long way towards improving our schools. These components include increases in federal funding for literacy programs, the strengthening of math and science education, and the cutting of bureaucracy to make it easier for schools to upgrade their technology.

This bill would also help the States improve education by giving them more freedom in administering federal education dollars.

Federal education programs will be consolidated, thus reducing the red tape and allowing more flexibility at the local level.

President Bush's proposal also expands the amount of money that can be put into tax-free education savings accounts. Parents are a key component of any education reform, and President Bush realizes that without empowering them, little can be done.

In short, the President's plan provides the right blend of parental empowerment, local flexibility, federal funding, and accountability.

If enacted, this plan will go a long way towards giving every child in America a chance to truly succeed.

There are a lot of issues to be dealt with in the coming days. A good deal of compromise is to be made. But I am extremely excited that our President, President Bush, is leading with this issue. Clearly, there is no question in our country it is a major issue, and a major issue of importance for all of us, but most importantly for the future of our country.

Mr. President, other colleagues have come to the floor and wish to speak, and we are operating under a unanimous consent agreement. So let me, with that, conclude my remarks and, in so doing, say I am excited that we have the opportunity to work together on this issue and to prove to Americans that education is the No. 1 priority of the Congress.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield 5 minutes to the Senator from Arkansas, who has the great name Senator HUTCHINSON.

PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas for 5 minutes, under the previous order.

Mr. HUTCHINSON. I thank the Chair, and thank the Senator from Texas for her leadership on education, and for having a good name, and for me having a name similar to it.

I applaud President Bush for his commitment to education in unveiling a very serious and comprehensive education reform program today. It is an education package that, if enacted in its entirety, I believe, will ensure that no child in America will be left behind . . . That should be our goal.

One of the wonderful aspects of what President Bush is now doing is to help us redefine what success is in education. For too long, success has been defined by: How much do we spend? President Bush wants to redefine that as to how much children are learning. That should be the criteria for whether or not we are succeeding in education.

His proposals represent an excellent framework for moving forward, and moving forward quickly, on a bipartisan basis, with legislation in Congress. I call on my colleagues to have an open mind on this education package and allow us to work together to achieve these goals.

Among other things, he seeks to address the problem of failing schools. Federal support, under his plan, will be provided, augmenting State funds, to help schools that need improvement. States and districts will be expected to implement serious reforms in schools that continue to fail.

All children in America deserve to have the chance for a quality education. In order to achieve that, there must be real consequences for schools that are persistently dangerous or are not improving after serious reform efforts for 3 years.

Under the Bush plan, if a school cannot achieve success in 3 years, with additional help from the Federal Government, then we ought to give those parents the chance to get those children out of the failing school. No child should be left behind because of where he or she lives or because of the financial standing of his or her parents. So I think this is a wonderful hallmark of the Bush plan.

Under the Bush plan, success is rewarded; failure is sanctioned. States, districts, and schools that narrow the achievement gap and improve overall student achievement will be rewarded, and States that fail to make progress may lose a portion of their administrative funds.

If we are to change education in this country, there must be consequences to failure. We must close that gap between the high achieving and the low achieving. That was the goal of the Elementary and Secondary Education Act. The Bush plan provides a whole new area of flexibility, much less of the prescriptive, top-down categorical grant programs—over 60 of them—that tie the hands of local educators. The Bush plan would reduce that to a few streams of funds and provide new flexibility for local educators.

As you can tell, Mr. President, I am quite enthused about what we have the opportunity to do for the education of American children. As a member of the Senate Health, Education, Labor, and Pensions Committee, I look forward to working with President Bush and with my colleagues in the Senate to pass meaningful education legislation.

This issue is a priority. It is President Bush who deserves the credit for making it a priority. It is time to put partisan politics aside and to work to ensure that every child in America receives a quality education, and that no child is left behind.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be recognized for up to 5 minutes.

The PRESIDING OFFICER. The Chair has been and will be very protective of the time on Tuesdays, but since the Senator has been here the entire morning, I will not object.

Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I know this is a difficult time to be presiding, but I did want to finish the discussion of the education proposal that is being put forth by President Bush.

We have had several speakers this morning talk about the importance of addressing education as the first priority of our new President, George W. Bush. I think you can tell from the debate that Congress is ready to go on this issue.

We have been looking for accountability and flexibility in the Federal role in education since I came to Congress, and probably since STROM THURMOND came to Congress, because we know the difference between America and most other countries in the world is that we value every child getting a quality education. So we know that public education is the route that every child must take to succeed in life.

If we fall down in public education, we will see the crumbling of the foundation of democracy in America. That is why President Bush is putting this as a first priority, and why Congress is going to work with him to do it.

I think what President Bush is talking about is exactly the right approach—that we are going to give incentives for creativity, for flexibility, that we are going to go for every child to have the best education that we can potentially give that child.

But we are not going to sit back and say that year after year after year, if a public school fails, we are going to keep pouring money into that failing school and leave those children at risk. That is what we are saying. We are saying if a school fails for 3 straight years, we are going to empower parents and school districts and States to say there is an alternative and we are going to let you look at the options and select another alternative for your child.

That is the bottom line of what we are talking about today. So we are going to put a lot more money from the Federal level into public education. We are going to give our schools every chance to succeed, and we are going to help them succeed. But, Mr. President, this is accountability that we are going to put into the system because we are not going to let a child be left behind because all the bureaucrats and the politicians in Washington are talking about accountability but not deciding what it is. We are going to decide in the next few months what it is and we are going to set a standard and we are going to require that standard be kept.

That is what President Bush is doing. Congress is going to work with him to do it. I applaud the President, and I am anxious to work with him to make sure that every child has the ability to reach his or her full potential with a public education in our country.

Thank you, Mr. President. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 a.m. having arrived, the Senate stands in recess until the hour of 2:18 p.m.

Thereupon, the Senate, at 12:39 p.m. recessed until 2:18; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from North Dakota is recognized.

THE NOMINATION OF MITCHELL E. DANIELS, JR.

Mr. CONRAD. Mr. President, I want to speak briefly about the nomination of Mitch Daniels to be the head of the Office of Management and Budget. First of all, I want to say Mr. Daniels called me when he had been named and we had a brief, frank visit about the responsibilities of the Director of the Office of Management and Budget. I want to indicate that I will vote for his confirmation.

That is not the reason I rose to speak on his nomination. At his confirmation hearing Mr. Daniels indicated, in response to a question, that he would not support giving the same protection to the Medicare trust fund surpluses that we have agreed, on a bipartisan basis, to give to the Social Security trust fund surpluses. I want to indicate my strong disagreement with Mr. Daniels on that position. I think that is the entirely wrong position to take.

In fact, in the U.S. Senate, on a bipartisan basis, we voted overwhelmingly, last year, on a provision I offered to protect both the Social Security trust fund and the Medicare trust fund surpluses, to protect them against raids for other purposes.

Now Mr. Daniels has announced a policy of being willing to protect the Social Security trust fund but not the Medicare trust fund. I hope he will rethink that issue. I hope he will agree with what was a strong bipartisan vote here in the U.S. Senate last year to protect both the Social Security trust fund and the Medicare trust fund surpluses. We should not permit raids of either one of them. We should not allow those funds to be used for any other purpose. Social Security funds should not be used for other spending. They should not be used for a tax cut. The Medicare trust funds should not be used for other spending. They should not be used for a tax cut. Those funds ought to be reserved for the purposes for which they were raised, which is to support the Social Security Program and the Medicare program.

I was disappointed when Mr. Daniels indicated he would not support protection of the Medicare trust fund. I think that is a profoundly wrong position to take. I hope he will rethink it. I certainly hope he was not speaking for this administration.

Again, I remind him and remind this administration that, on a bipartisan basis, last year on the floor of the Senate, we had 60 votes for the proposition that we ought to protect both the Social Security trust fund and Medicare trust fund. That is a policy supported by the American people that ought to be supported by the Office of Management and Budget. It was supported here on the floor of the Senate and I hope this administration will think very carefully about its position before they conclude they are going to adopt the position of Mr. Daniels.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. The Senator from North Dakota and I, I think the ranking member of the Banking Committee, and others, were part of a debate that took place just a few years ago, where the then majority, the Republicans, were trying to use Social Security surpluses to offset the deficit. Does the Senator recall that?

Mr. CONRAD. I remember it very well. In fact they had what they called a balanced budget amendment to the Constitution but what they were doing to balance the budget was to raid the Social Security trust funds to achieve balance. That would have been an entirely phony balancing of the budget, I believe.

Mr. REID. So, as I hear what the Senator is saying, what he is afraid of is they are trying to use, now, the surpluses from Medicare to spend for other programs. Is that what the Senator is afraid of?

Mr. CONRAD. That is exactly what the new head of the Office of Management and Budget has announced in a hearing before Members of the United States Senate in the Government Affairs Committee. He said he is willing to protect the Social Security trust fund but he is not willing to protect the Medicare trust fund. They both ought to be protected. Neither one of them should be raided.

Mr. REID. I say to my friend from North Dakota, who is the Democrats' leader on the Budget Committee, that, as usual, when it deals with matters of finance—this is my personal opinion—there is no one better than the Senator from North Dakota. I appreciate very much his bringing this to the attention, not only of the Senate but the American people. We cannot let the Social Security trust fund moneys be used for anything other than Social Security. And we cannot let moneys set aside for Medicare be used for anything other than working to solve the terrible problem we have with seniors paying for their medical programs, including that which we want to do dealing with prescription drugs. So I personally appreciate the statement made by the Senator of North Dakota, focusing on this very vital interest.

Mr. CONRAD. I appreciate the comments of my colleague. I want to say we are talking about real money here. The forecast of the Social Security trust fund surpluses over the next 10 years is $2.7 trillion. The forecast of the Medicare trust fund surplus over the next 10 years is $400 billion. We ought to protect them. We ought to wall them off. We ought to prevent anyone from using those funds for any other purpose.

That is why I was so disappointed in the statement of Mr. Daniels, the designee to head the Office of Management and Budget, when he indicated in response to a direct question that he would be willing to protect the Social Security trust fund but he would not be willing to protect the Medicare trust fund. What is the difference? It is just a difference in programs. They are both trust funds. It is not very trustworthy if you raid them and we should not permit any raid on them.

I just want Mr. Daniels and the administration to know that if they have an idea they are going to raid the Medicare trust fund, we on this side are going to oppose them every step of the way.

Mr. REID. I say to my friend, these should be trust funds, not slush funds. I know, being the person he is, monitoring the money for the Democrats in the budget process, and where it should go and should not go, he will be vigilant because he is, in effect, protecting not only the Senate, but the American people.

The PRESIDING OFFICER. The distinguished Senator from Maryland.

THE NOMINATION OF MELQUIADES RAFAEL MARTINEZ

Mr. SARBANES. Mr. President, I understand shortly the nomination of Mel Martinez to be Secretary of the Department of Housing and Urban Development will be before us. I rise in support of this nomination.

Mr. Martinez appeared before the Committee on Banking, Housing and Urban Affairs on January 17, where he made clear his commitment to providing affordable housing and economic opportunity for all Americans, both in his oral testimony and in his response to questions. His nomination was brought to the Senate floor with a recommendation for approval—a unanimous recommendation for approval in the committee.

Mr. Martinez has a compelling life story. His parents sent him to this country at the age of 15, with thousands of other Cuban children, as part of the "Pedro Pan" operation, in an effort to security the liberty and opportunity that we enjoy as Americans.

He lived with a foster family, learned English, went to college and law school, practiced law for 25 years, and became deeply committed to serving his community. I believe this history has instilled in Mr. Martinez an understanding of and empathy for the less fortunate that will serve him well in his new role as Secretary of HUD.

Mr. Martinez most recently served as the county chairman of Orange County, FL. Prior to that, he served on the Orlando Housing Authority Board of Directors for 4 years, including 2 years as its chair in the mid-1980s. He served as vice president of Catholic Social Services in the Diocese in Orlando throughout the 1980s and as president of the Orlando Utilities Commission from 1994 to 1997 and as a lawyer in his own firm. He has served his community in many ways as a volunteer member of numerous organizations.

As chairman of the Orlando Housing Authority, Mr. Martinez worked with his colleagues on the board to pass a measure that took about $1 million of reserve funds to build affordable housing for the elderly, as well as transitional housing for low-income single mothers. He consistently showed a willingness to meet and work with residents of public housing and other low-income residents of distressed neighborhoods in Orlando.

These efforts lead me to believe that as Secretary, Mr. Martinez will make every effort to make good on his promise "to work hard to ensure that every American has every opportunity to have affordable housing."

Last year, a number of bipartisan proposals providing for funding the construction of affordable housing were offered in the Congress. I look forward to working with the new Secretary on legislation that will help us achieve the lofty goal he has set out.

As many of my colleagues know, HUD has had a history of being a troubled agency. While many of its programs do a good job of providing decent homes to millions of poor and working families, it has proven to be a difficult department to manage.

In 1994, in fact, HUD was placed on the General Accounting Office's high-risk list, the only agency to be so listed. However, as a result of concentrated efforts by Secretary Cuomo and his top staff, the GAO announced last week that HUD is now off the high-risk list. HUD achieved this result by working tirelessly to correct the problems in financial oversight and procurement systems. It is widely recognized that Secretary Cuomo has devoted significant time and effort to address these managerial issues, and I commend him for his success.

This is by no means to say all of HUD's problems have been solved, but it does mean that Mr. Martinez will take over the Department with a management system in place that is moving HUD in the right direction. In his confirmation hearing, Mr. Martinez made it clear that he understood the progress that has been made while committing himself to continue the efforts to improve the operations of the Department.

I was also encouraged that Mr. Martinez recognized the importance of the Community Reinvestment Act in making housing opportunities more available to all Americans. Several committee hearings have established the fact that CRA is a crucial tool that is needed to make a number of other housing programs effective. The low-income housing tax credit, the community development block grant, and the HOME program all depend, to some extent, on bank credit made available largely because of the CRA.

Finally, I note that this nomination has the support of a wide range of housing groups. A number of letters of support have been sent to the committee which are part of the hearing record. Included among these supporters are a number of industry groups, public housing organizations, and others. I note in particular a very strong letter of support sent to us by our former colleague, Senator Mack, who has high praise for the nominee.

Mr. President, I ask unanimous consent that Senator Mack's letter be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SARBANES. Mr. President, Mel Martinez understands the job ahead of him. He has committed to expanding housing opportunities for all Americans. I look forward to working with him, and I commend his nomination to my colleagues for their approval.

Mr. President, I yield the floor.

EXHIBIT 1

WASHINGTON, DC,
January 16, 2001.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs, Dirksen Building, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SARBANES: As a former member of this committee, it is an honor and privilege to introduce my friend Mel Martinez, Secretary-designee of the United States Department of Housing and Urban Development.

As a fellow Floridian, I have had the opportunity to know and personally work with Chairman Martinez in his various roles in local county government since the early days of my Senate career. I have found him to be an exceptional individual who has the intelligence, integrity and compassion to guide this agency and serve its constituents.

The Secretary-designee through his life experiences understands the courage, drive and determination it takes to achieve the American dream. As you and I know, very difficult problems can be overcome when individuals work together. Mel Martinez understands what is takes to bring people together with a deep concern for those who are less fortunate and striving for a better future. With his personal perspective and insight, I am sure you could not find a better person to improve the lives of those that look to us for assistance.

Therefore, with complete confidence, I strongly recommend Mel Martinez and urge your favorable consideration of him for Secretary of Housing and Urban Development.

Sincerely,

CONNIE MACK.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. I thank the Chair.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE NOMINATIONS

Mr. LOTT. Mr. President, in executive session, I ask unanimous consent that the Senate now proceed en bloc to the consideration of the following nominations: Executive Calendar No. 7, Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Executive Calendar No. 8, Anthony Principi to be Secretary of Veterans Affairs; Executive Calendar No. 9, Melquiades Rafael Martinez to be Secretary of the Department of Housing and Urban Development.

I also ask unanimous consent that at 2:45 p.m. the Senate proceed to a vote on the nominations en bloc, and further, that one rollcall count for three votes with respect to the nominations. I further ask unanimous consent that the motions to reconsider be laid upon the table and the President be notified of the Senate's action.

I further ask unanimous consent that the Finance Committee be discharged from further consideration of the nomination of Gov. Tommy Thompson, to be Secretary of Health and Human Services, and the Senate proceed to the immediate consideration of the nomination, with the time on the nomination as follows: 60 minutes under the control of Senator WELLSTONE; 40 minutes for the chairman and ranking member of the Finance Committee; 10 minutes under the control of Senator FEINGOLD; 10 minutes under the control of Senator KENNEDY; and that following the use or yielding back of time, the nomination be laid aside and the Senate proceed to a vote on the nomination at 11:30 a.m. on Wednesday, and following the confirmation, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, will the majority leader allow 10 minutes under my control, which may or may not be used, following that of Senator KENNEDY?

Mr. LOTT. I amend the UC to that effect: 10 minutes under the control of Senator REID following Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, let me reiterate, we will have the one vote now for the three nominees en bloc. We will then have time for debate on the nomination of Gov. Tommy Thompson to be Secretary of HHS. The next recorded vote will be at 11:30 a.m. on Wednesday.

and we could have another vote or votes at that time on three additional nominees that will be ready to go at that time.

EXECUTIVE SESSION

NOMINATIONS OF MITCHELL E. DANIELS, JR., TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET; ANTHONY JOSEPH PRINCIPI, TO BE SECRETARY OF VETERANS AFFAIRS; AND MELQUIADES RAFAEL MARTINEZ, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

The legislative clerk read the nominations of Mitchell E. Daniels, Jr., of Indiana, to be Director of the Office of Management and Budget; Anthony Joseph Principi, of California, to be Secretary of Veterans Affairs; and Melquiades Rafael Martinez, of Florida, to be Secretary of Housing and Urban Development.

Mr. DOMENICI. Mr. President, Mel Martinez has a great story. He is a self-made man who is destined to do great things. At age 15 he fled Cuba during the airlift of children known as Operation Pedro Pan. Although, he was alone, he would soon begin his American Dream.

A graduate of Florida State University College of Law in 1973, Martinez joined an Orlando firm and practiced personal injury law. During his 25 years of law practice in Orlando, he was very involved in a variety of community activities. In 1984, he was appointed chairman of the Orlando Housing Authority by the mayor. He held this post for two years, later serving as president of the Orlando Utilities Commission.

He also served as Chairman of Governor Jeb Bush's Growth Management Commission, declaring a moratorium on new residential projects in already-crowded school districts.

In 1998, he was elected Orange County chairman. As the Chief Executive of a government, he was responsible for providing complete urban services to over 860,000 people. In this mayoral-like role, he advocated home ownership programs for low-income families and lowered property taxes. He concentrated on programs emphasizing public safety, growth management, the needs of children and families, clean neighborhoods, improved transportation, and the streamlining of government.

As Secretary of HUD, Mr. Martinez, assumes the $30 billion budget, which faces a critical shortage of low-income properties and mid-income rentals. According to a recent HUD report, 5.4 million families pay more than 50 percent of their gross income for rent.

Mr. President, I believe that Mel Martinez will be a great asset for HUD. Because of his life story, he will be able to handle the sensitive issues faced by this department. His story speaks for itself. From a child fleeing from Cuba, to a successful Chairman, he has created his success.

Mr. President, it is with honor that I support Mel Martinez as Secretary of Housing and Urban Development.

Mr. DODD. Mr. President, I rise today to voice my strong support for the confirmation of Mel Martinez to be Secretary of the Department of Housing and Urban Development. I am impressed by his background and his commitment to providing safe, affordable housing to all Americans. Based on my review of the Mr. Martinez's record as a public official in Orlando and Orange County and his expressed dedication to the mission of the Department of Housing and Urban Development, I believe he will make a superb Secretary of Housing and Urban Development. I support his nomination and urge my colleagues to do the same.

Mel Martinez has an extraordinary story. At the age of 15, he fled Castro's Cuba to come to the United States without his family. He stayed with a foster family for four years before the rest of his family could join him in Orlando. After earning a law degree from Florida State University, Mr. Martinez entered private practice, but also served on numerous public boards and committees. He served on the Board of Directors for the Orlando Public Housing Authority from 1982 to 1986. He was the Chair of the Orlando Affordable Housing Task Force in 1984, and President of the Orlando Utilities Commission from 1994 to 1997.

Since 1998, Mr. Martinez has served as the Chief Elected Official of Orange County, Florida. He has a reputation for championing "Smart Growth" and for understanding the need to ensure affordable housing for all citizens. He even established a commission to identify new ways to provide affordable housing.

Assuming that Mr. Martinez will be confirmed, he comes to HUD at a good time. Clearly, the nadir of HUD's existence was during the 1980s when the Department was riven by mismanagement and even worse. Jack Kemp deserves credit for his commitment to reform and improving housing opportunities for the people served by HUD. He worked hard and achieved significant progress.

The last eight years have seen a continuation of reform and a realization of many of the goals of reform. The homeownership rate is now the highest in history—67.7% of all American families, nearly seven out of every ten families, own their own home. Nine million households have been added to the ranks of homeowners since 1993. We've also seen record high levels of homeownership for urban-center African-American and Hispanic families. The volume of Federal Housing Administration (FHA) loans has doubled in recent years. FHA now has about 6.7 million mortgages in its portfolio. FHA has gone from a $2.7 billion deficit to a current value of more than $16 billion. HUD has also recognized the changing needs of our aging population by producing a Housing Security Plan for Older Americans.

HUD has made progress, but there is still much work to be done. There is still a pressing need to meet the continuing challenge of helping all Americans achieve the dream of homeownership and the promise first made over half a century ago in the National Housing Act: a safe and affordable place to live for all Americans.

One of the most troubling paradoxes of our recent prosperity is that despite the fact that incomes have risen for people in every income category, safe and affordable housing is more elusive than ever for many low- and moderate-income families. That is because the cost of housing has outpaced the increase in wages in many of our urban centers, including areas of Connecticut that now rank among some of the most expensive housing markets in the country.

We are losing public housing units in our country at an alarming rate. In some parts of the country, like the Northeast, the age of public housing units has necessitated the demolition of many units that have become too deteriorated to be rehabilitated. Federal policy has tried to provide public housing residents with housing vouchers, but frankly, there just aren't enough of those vouchers to go around. Further, in high-cost housing markets vouchers haven't always been useful to low-income families because they can't always find landlords who are willing to accept the vouchers. And even with vouchers, many find rent to be all but out of reach.

We need more vouchers. We also need to invest in capital maintenance, and rehabilitation funding to ensure that public housing units remain habitable. And if we have dilapidated public housing, then we need to put money into building replacement units. While vouchers work in some places under some circumstances, they don't work everywhere under all circumstances.

I also believe that the Federal government needs to think ahead to address issues that will arise as our elderly population continues to grow. We should consider creating tax and other incentives for construction of privately-owned assisted living units. The time has also come for HUD to consider developing new standards or approaches to ensure that senior citizens who live in public housing can stay in their homes and not be forced prematurely into expensive and less independent institutional care facilities.

These are not trivial matters. They are tough problems. But from what I have been able to discern, Mel Martinez is up to the task. He has the knowledge, the energy, and the commitment to lead HUD as the agency begins to address these matters.

I look forward to working with Mr. Martinez. I have already invited Mr. Martinez up to Connecticut. Connecticut has some of the oldest housing in the country, but we also have some of the country's most successful affordable housing projects. I welcome the opportunity to show him our state and, again, to work with him on behalf of all Americans seeking a good home for themselves and their families.

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. I am pleased that President Bush has selected a person of experience and ability for this important position.

Mr. Principi has a strong background and association with the military community. He is a veteran of the United States Navy, a graduate from the U.S. Naval Academy, and a highly decorated Vietnam veteran. He also served in the Navy's Judge Advocate General Corps.

Mr. Principi is well qualified for this position, having previously served as Acting Secretary of Veterans Affairs and Deputy Secretary of the VA. I personally know him to be a capable and dedicated public servant. In 1993, I called upon Mr. Principi to be my Staff Director for the Senate Armed Services Committee. Later, as Chairman, I appointed him to a Congressional Commission on Military Servicemembers and Veterans Transition. He subsequently was elected by his colleagues as Chairman of that Commission. In each of these instances, his performance was exceptional.

There are a number of important issues facing the Department of Veterans Affairs which affect veterans, their families, and employees of the Department. I will mention a few of these issues to emphasize my own concern and to stress to Mr. Principi that he must aggressively address these matters.

The first issue I hope Secretary Principi strongly addresses is that of Veterans Benefits. It takes too long now to get initial decisions and the review process can take years. I hope Secretary Principi will work with the Under Secretary for Benefits to improve the VA benefit review process.

Second, I am concerned about the status of veterans health care. The Congress and the VA have enacted and implemented a number of reforms. The challenge now is to ensure that the availability, delivery and quality of health care improves.

A third concern I have relates to the Veterans Equitable Resource Allocation, VERA, process. A few years ago, Congress passed a bill that requires the VA to allocate resources according to veteran population and use of VA medical facilities. This legislation generally has shifted some resources from the Northeast to the South and West. I trust Secretary Principi will continue to support this important reform despite political pressures to do otherwise.

I congratulate Mr. Principi on his nomination. As a member of the Senate Committee on Veterans' Affairs, I look forward to working with the Secretary as we address the needs and concerns of the men and women who have given much for our Nation.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am pleased to support the nomination of Anthony J. Principi to be Secretary of Veterans Affairs. If confirmed, Mr. Principi will have the responsibility of steering the Department of Veterans Affairs through a period of great transformation.

I recently had the chance to meet with Mr. Principi and to discuss the many challenges he will face in guiding the VA through this critical period. I have also had the opportunity to read his answers to prehearing questions and to hear his testimony at the January 18, 2001, hearing of the Senate Committee on Veterans' Affairs on his nomination. Mr. Principi has expressed his belief that our veterans deserve access to quality health care and swift and accurate decisions about disability benefits. I wholeheartedly agree and believe feel that Mr. Principi has the experience and the commitment to maintain this special obligation to our Nation's veterans.

I know that with his years of service to veterans—at VA, here in the Senate, and as chair of the Commission on Servicemembers and Veterans Transition (the so-called Transition Commission)—Mr. Principi is familiar with the importance of the leadership role he will soon assume at the VA. Because of his long history and experience, we have great expectations for his success, and we expect him to hit the ground running to tackle the VA's many challenges.

We have all heard the President speak about the need to revamp the VA health care system. But what exactly does that mean to veterans who depend upon the VA? Yes, we have made many sweeping changes in the delivery of VA health care. Veterans' health care is now very often provided in different settings, which are frequently not the traditional hospital site. Outpatient clinics cover the VA landscape and provide new access points to many veterans. And veterans—unlike many other groups—now have improved coverage of their long-term care needs, although VA has been embarrassingly slow in implementing some of these programs.

But while the past decade has brought tremendous transformation to the VA health care system, we may be approaching the most challenging period of all. The VA medical system offers programs of enormous value, especially for veterans who are blind or have spinal cord injuries, who need prosthetic devices or dependable mental health care. We must retain these specialized services, offered nowhere else in the U.S. healthcare landscape, which have made the VA great.

Mr. Principi understands that, if confirmed, he will be expected to be a steward and protector of this very special health care system. America's veterans will accept no less.

The Veterans Benefits Administration is in crisis. Last year, Chairman SPECTER chaired a hearing on the benefits adjudication system, and we were greatly disturbed by what we heard about the lack of quality and timeliness in VBA decisionmaking. At that hearing, a Vietnam combat veteran from my state of West Virginia, suffering with post-traumatic stress disorder, testified that it took a full five years for his VA disability claim to be approved. The documented chronology of events over that five-year period paints a clear picture of a benefits system that needs a great deal of work. This is just one example of the many cases my staff hear about daily.

We continue to be dismayed by the delays in making eligibility determinations. And despite efforts by hardworking, dedicated VBA employees, which have yielded some gains in customer service, the problems with VA claims' processing seem to be getting worse. In fact, the backlog has increased by 50,000 claims just since we held that hearing last July.

You know the old saying: "Justice delayed is justice denied." Our aging veterans population cannot afford to wait. We look to Mr. Principi for innovative approaches so that VBA can absorb changes in law and new business processes without always going into a tailspin. We must do better than this.

Mr. President, in my view, Mr. Principi is well qualified for this important position. He would bring to it his many experiences as an advocate for veterans' needs, as well as his sincere commitment to their well-being. I urge my colleagues to approve this nomination.

Mr. WARNER. Mr. President, I rise today to give my strongest recommendation for the confirmation of the nomination of Anthony Principi to be Secretary of Veterans Affairs.

On January 5, 2001, then President-elect Bush announced his intention to nominate former-Deputy Secretary of Veterans Affairs Tony Principi, a man I have known for more than 20 years, to be his Secretary of Veterans Affairs. I support this nomination, and I am pleased that the President decided to recommend him for this important position.

Tony Principi served as Deputy Secretary of Veterans Affairs and as Acting Secretary of Veterans Affairs for President Bush from 1989 to 1993. I am confident that he will, once again, be a competent, trustworthy, effective Secretary of Veterans Affairs.

Tony Principi is a graduate of the United States Naval Academy and a decorated Vietnam Veteran. He earned a law degree from Seton Hall University in 1975. He was a professional staff member, Counsel and later Staff Director for both the Senate Armed Services Committee and the Senate Veterans Affairs Committee.

In 1996, Tony was named as the Chairman of the Military Servicemembers and Veterans Transition Assistance Commission. This Congressional Commission reviewed the adequacy and effectiveness of the services and benefits available to active duty service members and veterans. A number of the Commission's recommendations fall under the cognizance of the Armed Services Committee. I have carefully reviewed the recommendations and have initiated action to implement many of the improvements and efficiencies recommended by the Commission. As Chairman of this important Congressional Commission, Tony did a superb job with a very difficult task.

Tony's father is a veteran of World War II. His wife, Elizabeth is a veteran of 30 years of service as a Naval officer and his two sons are serving on active duty in the Air Force today.

Tony's personal experiences in a family of veterans as well as a midshipman, Naval officer give him an excellent perspective on the issues facing veterans. His experience as a staff member on the Armed Services and Veterans Affairs Committees and as a Cabinet official in the Department of Veterans Affairs makes Tony uniquely qualified to address the many issues he will face as the Secretary of Veterans Affairs.

Mr. President, I had the opportunity to meet with Tony in my office the day prior to his confirmation hearing before the Veterans Affairs Committee. During our discussions, he assured me that he would take timely and positive action to ensure that employees of the Department of Veterans Affairs will assist veterans in applying for benefits and filing claims for reimbursement and payments. This was an important issue on which the Armed Services Committee took a leading role during consideration of the National Defense Authorization Act for Fiscal Year 2001. I was pleased that Tony agreed that it is a duty of the Department of Veterans Affairs personnel to assist veterans in successfully navigating the difficult claims processes. We also discussed opportunities for increased cooperation between the Department of Defense and the Department of Veterans Affairs in the health care arena. I look forward to working with Tony on these and other important issues concerning active duty military personnel and veterans.

I support this nomination. I urge my colleagues to support the nomination as well. Secretary Principi will be a crucial part of the great team that President Bush has assembled.

Mr. DOMENICI. Mr. President, I rise today in strong support of M. Anthony Principi as Secretary of Veterans Affairs.

Our Nation's veterans are important to all of us. From time and memorial, the men and women of our country's Armed Services have dedicated themselves to freedom and democracy. They have done far more than representing freedom, they have given themselves to the cause, fighting for those inalienable rights that many of us take for granted.

There are 24.8 million veterans in the United States, 165,000 of which are in my own state of New Mexico. This means that all of us know a veteran. In fact, one out of every four men in the United States is a veteran, and there are 1.2 million female veterans. We must continue to work for the continued well-being of our veterans, as they are our mothers, fathers, grandmothers, and sons.

Health care is important to all of us, and veterans are no exception. I have worked with other members of Congress to dramatically increase funding for veterans' health care. I know that more needs to be done for veterans and pledge myself to work for their interests.

The head of the Department of Veterans Affairs will be presented with unique challenges. The Secretary must be pro-active and must have a comprehensive understanding of veterans' issues.

In that vein, I am confident that Mr. Principi is the best person for the job. As a decorated Vietnam War veteran, Mr. Principi can intimately relate to veterans' special needs.

Furthermore, he can fully appreciate the Department of Veterans Affairs after serving as Secretary and Deputy Secretary of the Department under the previous Bush Administration. Mr. Principi applied his pro-active attitude and experience when he ordered the creation of a registry to track medical conditions of Gulf War veterans.

Furthermore, Mr. Principi chaired the bipartisan Congressional Commission on Military Service Members and Veterans Assistance under the previous Administration.

The Department of Veterans Affairs has put forth significant effort in moving towards a "One V–A" in attempting to deliver seamless service to veterans. Yet, coordinating VA's various missions as technology advances remains just one challenge that Mr. Principi must address.

Mr. Principi is a veteran. He has spent his life working for veterans. Mr. President, Anthony Principi is the best person to head the Department of Veterans Affairs.

As Secretary of the Department of Veterans Affairs, Mr. Principi will surely be tested. I am confident that he will ace the test.

Mr. MURKOWSKI. Mr. President, I rise in strong support of Tony Principi's confirmation as Secretary of Veterans Affairs. I have known him for many years both as a staffer and a friend. He was my staff director when I was chairman of the Veterans' Affairs Committee many years ago. Since then I have come to value his advice and expertise about our nation's veterans as much as I have come to value his friendship. His experience both within the government and the private sector, along with his desire to give veterans the kind of services they deserve, makes Tony the best man for the job. I support his confirmation and urge my colleagues to do the same.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nominations of Mitchell E. Daniels, Jr., to be Director of the Office of Management and Budget; Anthony Joseph Principi, to be Secretary of Veterans Affairs; and Melquiades Rafael Martinez, to be Secretary of Housing and Urban Development?

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote Nos. 1, 2, 3 Ex.]

YEAS—100

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson

Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The nominations were confirmed.

NOMINATION OF TOMMY G. THOMPSON, OF WISCONSIN, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER (Mr. KYL). The clerk will report the next nomination.

The legislative clerk read the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services.

The PRESIDING OFFICER. Under the previous order, the debate will include 60 minutes of time under the control of Senator WELLSTONE, with 40 minutes for the chairman and ranking minority member of the Finance Committee and 10 minutes each for Senators FEINGOLD, KENNEDY, and REID of Nevada.

Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I had the privilege of hearing Gov. Tommy Thompson, the designee for Secretary of Health and Human Services, when he came before our committee which the distinguished Senator from Montana chaired last week. We had a very good hearing.

I want to compliment Senator BAUCUS for putting together a good hearing and, more importantly, for his cooperation in helping President Bush move many of his nominees through the Senate as quickly as possible, and Senator BAUCUS was responsible for doing that in the case of Secretary of the Treasury O'Neill, and now Secretary of Health and Human Services Governor Thompson.

Last week, we invited then-Governor Thompson to testify. I have to say it was a very refreshing hearing. It became so apparent that the qualities that have made Governor Thompson so successful in Wisconsin are what will also make him very successful as a Secretary of the Department of Health and Human Services. This is a very ideal choice that President Bush has made.

First and foremost, Governor Thompson is a problem solver, focused on improving the lives of real people. As Senators of both parties noted during our hearing last week, Governor Thompson has made remarkable progress in addressing the health care needs of families in Wisconsin. Successful programs such as Badger Care and family care reflect his ability to reach consensus and implement concrete solutions. In addition, Governor Thompson is a true innovator. On issues such as welfare reform he has shown that he is willing to cast away old, tired approaches. He reaches out for new ideas and develops creative solutions to tough problems.

Governor Thompson has also been an effective administrator and manager of his State, expertise that will be critical as he oversees important programs such as Medicare, Medicaid and the State children's health insurance program. Coming from being a Governor of a State, I think he has appreciation that one size doesn't fit all in our great country. A mold poured in Washington, DC, doesn't necessarily solve the problems of New York City or Madison, WI, with the same effectiveness as if we would give some leeway to the Governor of the State of New York and the Governor of the State of Wisconsin leeway in solving those problems that are unique to their respective States and, hence, deserve a unique solution.

I can say from the standpoint of his work on welfare reform that he did not wait for the Federal Government to pass welfare reform before he started working within Federal law with what he could do to improve the system. When we were working on this in 1996, he was able to come to Washington and discuss the expenses and what needed to be done with Federal law to allow each State to have some leeway to help people move from welfare to work, to give people a chance, to move people from the fringe of our society to the mainstream of our society in order to be in that mainstream and to have the opportunities for advancement and progress as those in the mainstream.

I think he is flexible. That flexibility that he has will serve well not only our Federal policies, but it will also help Governors and State and local administrators do a better job as they have some leeway. Also, as there are some changes in programs that will be suggested by President Bush we in the Congress will work on, as well. It gives citizens an opportunity to have right here in this town, full time, a person who has had the experience of being a Governor—where the rubber meets the road—on Federal programs to make sure that we are able to make the best policy to fit a country that is as geographically vast as ours, with heterogenous population.

Lastly—and I hope this responds to some of the cynicism of people about Washington being too partisan sometimes—I am pleased to report, as Governor Thompson has been successful in his State, he has done it because he has been able to reach across party lines because he himself has followed the same principle of bipartisanship to find successful solutions in his home State by reaching across party lines. That bipartisanship and how it has been successful is shown in the fact he was warmly introduced to our committee by Senator Dole, a Republican, Senator KOHL and Senator FEINGOLD, who are Democrats, and by Secretary Shalala from the present administration, who worked closely with Governor Thompson when she was chancellor of the University of Wisconsin.

This support from party leaders on both sides of the aisle speaks for itself. I hope we in Washington will apply the Governor's bipartisan approach in Congress. I think we will.

As I noted at the hearing, we are in a unique situation in the Senate. Bipartisanship can no longer be a hobby for a few; instead, it needs to be a way of life for all. The American people demand it. We must respond. I think hopefully when we look back at this year and even more so after 2 years of this 107th Congress, we will be able to say that the fact that the Senate was split 50/50 was good because it brought people closer together.

For my part, I respond to the initiatives and the ideas that Governor Thompson brings and to an evenly divided Finance Committee, hoping we will seize the opportunity to solve the real problems we face—modernizing Medicare and improving access to prescription drugs for seniors, reducing the number of 43.5 million uninsured, improving health care in rural communities. That is something that Senator BAUCUS and I have worked closely on over a long period of time, improving long-term care. These are priorities for me, but I am sure they are not just my priorities. They are priorities for many in this Congress, and particularly those that serve on the Senate Finance Committee.

I look forward to working closely on these priorities, not only with my colleagues, but with Governor Thompson in his new position as Secretary of HHS. Governor Thompson deserves not only our votes but our thanks for his willingness to serve our country even though it means leaving both a job and a State he loves. I am also grateful to President Bush for choosing such a qualified Secretary. He sends a clear signal for his desire for problem solving, effective management, and bipartisanship.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I note the presence of the new Finance Committee chairman. This is the first appearance of our new chairman of the Senate Finance Committee. I know all Senators agree with me in saying we look forward to a very long, prosperous, productive period, and eagerly seek to work with the chairman in a bipartisan nature, noting the 50/50 composition of the Senate. It is a terrific opportunity we have. I know I speak for the chairman in saying he also shares my desire to do the same.

I rise to give my enthusiastic support to the nomination of Governor Tommy Thompson of Wisconsin to be our nation's 19th Secretary of Health and

Human Services. I think he will be a great Secretary. He has the energy, the spirit, creativity, enthusiasm, and he takes a bipartisanship approach. He is quite a guy. He has the spirit of his predecessor, another Badger, if I can use that term. Secretary Shalala also had a lot of energy and spirit. I think Governor Thompson, when he does retire from that job and looks back upon his term, will find that he feels good about his achievements, and the rest of the country will as well.

In saying so, I do not mean to imply that I expect to agree with every position of our about-to-be-Secretary. There are clearly going to be some issues on which we disagree—for example, a woman's right to choose and some aspects of the upcoming Medicare debate.

With that said, I think Mr. Thompson is the right person for a very tough job. It is not an easy job. But he is more than up to the task. He is known for many things, probably best of all for his work on welfare reform. He is the nation's leader on this issue, as Governor of Wisconsin where he took the lead on their welfare reform. In many ways, his efforts helped the Senate pass welfare reform legislation. And I was an early supporter of these efforts. Welfare reform has affected our nation very significantly, most particularly in my State of Montana. I credit Governor Thompson. I salute him for taking that initiative.

Just as important, he has provided resources to the programs that are necessary to make Federal reform work for needy families. If we are going to have welfare reform, certainly the families on welfare need these resources. And he didn't call it welfare reform, but a workfare program. It was obviously the correct approach.

Governor Thompson has also been a leader on health care issues. He has found innovative ways to ensure health care coverage for the working poor. We have heard reference to BadgerCare, a combination of increases in Medicaid and the CHIP program. I teased him a bit in the hearing when I was talking about the BadgerCare program. It is obviously named after the mascot of the University of Wisconsin. The mascot of the University of Montana is the grizzly. I am not so sure "grizzly care" makes much sense in Montana, but I mentioned that to him. Frankly, I am not sure BadgerCare really is that warm and comfortable either, but it gives Wisconsin a deep sense of pride.

Governor Thompson has a reputation for work in other areas: Expanded job training, reform of Wisconsin law to allow women on welfare to keep more of the child support payments they receive. Those of us who know Governor Thompson and who are getting to know him better see him as someone with a reputation who is very honest, who tells you where he stands. An innovator, a risk taker. Perhaps most important of all, as my good friend Chairman GRASSLEY said, he is someone who worked with both Republicans and Democrats to find bipartisan solutions. As the chairman mentioned during the confirmation hearings last week when Governor Thompson appeared before the Finance Committee, he was introduced not only by former majority leader Bob Dole, but also by his two Senators and by Secretary Shalala.

Senator KOHL told us that Governor Thompson's "methods reach across the aisle and his successes reach across the board."

Senator FEINGOLD said that he "values innovation above partisan gridlock."

And outgoing Secretary Shalala said that Thompson is a "consensus builder" rather than an ideologue.

That, to my mind, is precisely what we need. A consensus builder, because the next Secretary faces challenges that defy partisan solutions.

First and foremost, Congress must address the pressing need for Medicare to cover prescription drugs. The practice of medicine has changed dramatically since Medicare was created in 1965. Today, prescription drug therapies play a vital role in medical care.

As we all know, drug prices are rising fast, and our seniors who do not have insurance coverage for prescription drugs pay the highest prices of anyone in the world.

We need to fill this glaring gap in the Medicare program.

Accordingly, it is my sincere hope that we can work together to enact a prescription drug program for all seniors, not just low-income seniors, and that we can do so quickly.

In addition, we need to improve the Medicaid program and the CHIP program for low-income kids. We need to find ways to lend a hand to the 43 million Americans who do not have health insurance. We all call that a national disgrace, that so many Americans do not have health insurance. There is no other country in the modern industrialized world that has such a large percentage of people uninsured. We Americans have to fill that gap quickly.

On each of these issues, I look forward to working with Secretary Thompson to find innovative and bipartisan solutions that improve the delivery of health and human services.

He has my full support, and I urge colleagues to vote to confirm his nomination.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota? The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask my good friend from Minnesota if this is a time he wishes to make his longer statement or to withhold. I ask that because the Senator from Delaware asked me some time ago to speak for about 5 minutes.

Mr. WELLSTONE. Mr. President, as it turns out, I will be brief, too. It turns out I will take only about 10 minutes, 15 at the most.

Mr. BAUCUS. I might say, if that is all right with the Senator from Delaware because he did ask me earlier if he could speak next.

Mr. WELLSTONE. I apologize. I thought I had some time reserved.

The PRESIDING OFFICER. The Senator from Minnesota does have 60 minutes. Without objection, he is recognized.

Mr. WELLSTONE. Mr. President, first let me make it clear I am going to support Governor Thompson to be Secretary of Health and Human Services. I do not intend to oppose him, and I look forward to working with him.

When he appeared before the HELP Committee, we had a spirited discussion. I think there are many areas where we can work together. The Secretary of Health and Human Services is very important and there are a lot of areas that are critical to the lives of people in Minnesota where this Secretary is going to be in a key role.

I talked to Governor Thompson, soon to be Secretary Thompson, about having some parity in ending the discrimination in mental health coverage. We talked also about trying to end discrimination when it comes to substance abuse coverage. We talked about the importance of the strong support that Secretary Shalala showed for the Violence Against Women Act and the steps we need to take to reduce that violence.

I think Senator HARKIN asked the question about stem cell research, how important it is not only for people struggling with Parkinson's but for people struggling with other diseases. I thought we covered a lot of issues that are extremely important. I believe Secretary-to-be Thompson will be an important leader in these areas.

I want to talk about one area of disagreement, though not a lot, which is why I want to take some time on the floor. It is an appeal to Governor Thompson. It is an appeal to colleagues. It is something I intend to be vigilant about as a Senator from Minnesota. It has to do with TANF or what we call welfare reform.

As my colleague pointed out, Montana has been viewed as a State which is a leader in welfare reform—as a model, by some, for welfare reform. But what troubles me is that all too often we define reform as reduction of the caseload. None of us ever intended that welfare reform should be equated, ipso facto, with just the number of people who no longer receive welfare. The question was whether or not these families, almost all of them headed by women with children, all of them low-income, were able to move from welfare to economic self-sufficiency.

It just does not suffice to say that in Wisconsin or Minnesota or Delaware or

Montana or anywhere in the country, TANF has been a huge success because we have cut the rolls by 50, 70, or 80 percent. The question is whether or not we have reduced the poverty. I raised these figures during our hearing. It is not really just about Wisconsin, which is a State I dearly love, and not to talk about a Governor in the negative who, frankly, has put more investment into child care and job training and health coverage than many Governors have, but it is interesting and important and I asked the Governor about this.

When it comes to infant mortality, in 1996–1998 Wisconsin had the highest Hispanic infant mortality rate in the country and the fourth highest black infant mortality rate in the United States of America.

I believe the figures in the early 1990s were different. Wisconsin really ranked well. They did well compared with other States in the country. When it comes to neonatal mortality rates, in 1989–1991 Wisconsin had the seventh best black infant neonatality rate. By 1997–1998, it had the fifth worst neonatal infant mortality rate in the United States. Wisconsin lagged dead last in the country for Hispanic neonatal infant mortality—double the U.S. average in 1996–1998.

Why do I say this? Not to bash away at this Governor, who has been one of the leaders and has been willing to make more of the up-front investment, but to point out to colleagues that when you ask this Governor and other Governors—there is at least one former Governor here who might disagree with me—about welfare reform, they will say it has been a great success. Then you ask: Do you have the empirical data? Can you tell me where are these families? Do the mothers have jobs? Are they living wage jobs? What is the child care situation? Or, in the United States of America post-1996, do you know that there has been a 30-percent decline in food stamp participation, which is the major safety net program for poor children in America, to make sure they do not go without food? Ask what has happened.

What has happened is we have become so anti-welfare that we are neglecting to tell people they are eligible for some of these benefits.

So I want to make the case today not against Governor Thompson, but that even in Wisconsin, which is recognized as a State where you had a Governor who was willing to make more of the up-front investment, you have had a situation where there is some troubling data when it comes to the infant mortality rate, especially for children of color.

I will tell you something. I believe all of us have been guilty of not wanting to look at the data. Sometimes we do not know what we do not want to know. What I want to know and what I want to know from this administration is, as the TANF bill, welfare, comes up to reauthorization: Have we just dramatically reduced the rolls or have we really reduced the poverty?

I can go through studies that will tell you that, in the majority of cases, these women do not have living-wage jobs. I can tell you too many of these families have lost medical assistance. I can tell you, based upon a Berkeley-Yale study, that the child care situation is really quite dangerous and inadequate. And I can tell you that just because you have single parents and just because they have children and just because they are scapegoated and just because it is easy to be anti-welfare, we better make sure in this reauthorization that we do it right.

That is why I speak because this Governor, this Secretary to be, is going to be playing a critical role.

I will just conclude, since I do not have a lot of time, by showing a couple of charts which I have which make my point. I asked the Governor about this, I say to my colleague from Montana, during the hearing. If you look at President Bush's proposed tax cut, which ultimately we are talking about $1.6 trillion in tax cuts over the next 10 years, and you add to that interest, and you add to that Pentagon expenditures, and you add to that what we must put into the Social Security trust fund, and you add to that what we must spend for Medicare, do you know how much money you are going to have for children, for job training, for child care, for education and all the rest? Zero dollars.

So I would say to Governor Thompson, and I say to this administration: How are we going to do welfare reform right so we do make sure that women and poor children do not pay the price? Where is the investment in child care going to be? Where is the investment in education going to be? Where is the investment in job training going to be? I do not see any dollars for it. That is what I am worried about.

We all say we care so much about the elderly. I have two parents I desperately wanted to stay at home and not be in a nursing home. They both had Parkinson's disease. Where is the money going to come from for the investment to make sure our parents and grandparents can live at home in normal circumstances with dignity, with $1.6 trillion in tax cuts.

Finally—and this goes way beyond Governor Thompson—no child left behind? This is President Bush's education reform. I have heard some language about this on the floor today. Here is where we are heading in my not, I will admit, so humble opinion.

Putting vouchers aside, which is a nonstarter, you are going to have mandatory testing in every State when it comes to title I children, low-income children, low-income neighborhoods, low-income schools. In the school districts, they are going to hire consultants to teach teachers how to teach for the tests. The kids are going to have consultants to teach them how to take the tests. It is going to be drill education. It is going to be educationally deadening. That is what is going on in the country. And do you know something else? We are setting up all these kids and all these teachers—I have two children to teach—and we are going to set up all these schools for failure because the accountability does not stop at the school door. What about us, Democrats and Republicans, and what about President Bush? How can you leave no child behind when you have $1.6 trillion in tax cuts which erodes the revenue base and makes it impossible to expand funding for Head Start, child care, the title I program, and the IDEA program, which is nowhere fully funded.

This is not a step forward. It is a great leap sideways. This is a great leap backwards. Fannie Lou Hamer, a great civil rights leader, once uttered the immortal words:

> I'm sick and tired of being sick and tired.

I am going to make a fairly angry statement today: I am sick and tired of playing symbolic politics with children's lives. If you want to have children pass these tests, first, do not rely on one standardized test; have multiple measures. Then you make the investment in these children so every child has an opportunity to achieve, do well, and pass tests.

This cannot be done. You cannot "leave no child behind" on a tin-cup budget. I want to know whether this administration is serious about these investments. I will wait to see the budget, and I hope Democrats, if this administration wants to govern at the center of children's lives, and it wants to make this investment so these kids come to kindergarten ready to learn, I say to the Presiding Officer, I am willing to work together. If this administration does not do that and just have these tests, then all we have done is set these children, these teachers, and these schools up for failure.

It will be cynical, it will be counterproductive, and as a Senator from Minnesota, I will draw the line, and I hope other Senators will as well. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield now to a new Senator. I look forward to hearing from the former Governor of the State of Delaware, Mr. Carper.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator for yielding and for the opportunity to speak today.

For the last 8 years, I served as Governor of Delaware and a colleague of Governor Thompson. During that period of time, my family was fortunate enough to be a guest in his home. We have eaten at his table. There were times over the last 8 years when we crossed swords—rarely. But there have been many more times when we found there was common ground and the opportunity to work together for the good of Wisconsin, Delaware, and the other 48 States.

He was chairman of the National Governors' Association for a year. He was also the chairman for our Center for Best Practices within the National Governors' Association. In those roles, I found him to be, first of all, pragmatic; secondly, I found him to be innovative.

I found Governor Thompson to be someone who is civil, who really does not just talk about bipartisanship, but he actually means it and lives it. I found in Governor Thompson someone who really tries to treat his colleagues the way he would want to be treated.

I want to pause for a moment and direct my thoughts and attention to welfare reform. Some people think it is possible to do welfare reform on the cheap and we simply set time limits and push people off a cliff at the end of that period of time. Governor Thompson does not approach welfare reform that way, nor do I, nor do most of our Governors.

When welfare was actually created over 60 years ago, we set up a system with the best of intentions, but a system that unwittingly turned out to encourage people to get on welfare and have children out of wedlock, have them early, and for fathers to walk away from those responsibilities and for people to be better off by staying on welfare.

What Governor Thompson has done and what Governors across the country have done is to say maybe we should change the incentives we set up over the last 60 years so people are better off when they go to work, not by staying on welfare.

For Gov. Tommy Thompson, it has meant spending more money on child care, not less.

For Gov. Tommy Thompson, it has been spending more money on health care to make sure when people leave welfare they do not also lose health care for themselves and their families.

For Gov. Tommy Thompson, it has been providing transportation so people have the opportunity to take a job and actually have a way of getting there.

For Gov. Tommy Thompson, and for the rest of us, it has meant changing our tax policies as well so people are not penalized for the first dollar they make when they go to work but actually are able to realize and keep that purchasing power they have earned.

He does not believe in welfare reform on the cheap. He has a good, realistic, tough-love approach. Sure, there is a toughness to it, but there is also real love and compassion, and I believe he will take those same qualities to his new post as Secretary if we confirm him, which I hope we will.

Another way I got to know him, believe it or not, is through Amtrak. The President historically appoints one Governor to serve on the Amtrak board. He was on the Amtrak board before me. President Clinton appointed me to serve for 4 years, and at the end of my service, I recommended the President appoint Governor Thompson again. Not only that, he ended up serving as the chairman of the board for Amtrak. In that capacity, he has helped to focus, spread, and expand passenger rail service, to improve the quality of that passenger rail service, to find ways to reduce Amtrak's operating budget deficit, to invest in the infrastructure of passenger rail service, and to try to be fair to not just the customers but the folks who work for Amtrak.

In closing, I am delighted to be able to stand here before you today to say this is somebody I know, somebody I have known for a long time. This is someone of whom the people of Wisconsin can be proud. This is someone I am proud to express my support for today and to encourage my colleagues to support his nomination.

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank Senator CARPER for those warm remarks about the Secretary-to-be, Governor Thompson. I say to the Senator—he may not know this—when Governor Thompson and the Amtrak board were trying to negotiate further funding for Amtrak, there was a proposal to take certain funds out of the highway trust fund. I had a somewhat tense meeting in the office of the Senator's predecessor, Senator Roth, with Governor Thompson and many others on how to handle all this.

Frankly, I was adamant that money not come out of the trust fund. My point being, very much to his credit and to the Senator from Delaware, we worked out another solution as the bonding authority to provide resources to Amtrak. I am very grateful and appreciative of the way in which Governor Thompson handled that issue; that is, we both wanted to accomplish the same goals and objectives: Further funding for Amtrak, but not at the expense of the highway trust fund, money motorists paid in gasoline taxes which should go back to the States for highways. Rather, we saw another way and both sides were happy. I commend the Senator from Delaware, as well as Governor Thompson. This is an early example of this is a guy with whom we can work, who is straight, pragmatic, and looks for solutions. That made a positive impression upon me.

Mr. President, I reserve the remainder of my time. The Senator from Wisconsin seeks the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Wisconsin is recognized for 10 minutes.

Mr. FEINGOLD. Mr. President, while the distinguished Senator certainly has it right, he knows what it is like to watch Tommy Thompson in action and to watch him try to solve a problem. His assessment is right and so is the assessment of the former Governor and now new Senator from Delaware who, as so many other Governors, has told me how much they have enjoyed and benefitted from working with Governor Thompson. It is uniform.

That is also the experience we have had in Wisconsin. I think I speak for myself, as well as for the senior Senator, Mr. KOHL. We are the two Senators who have worked with Tommy Thompson throughout the 14 years he has been the Governor of our State. No one in the long history of our great State has served as Governor longer, and he is a very popular Governor.

For me, I marvel at him. I used to listen to older legislators talk about having known a person for many years and worked with them for many years. I am getting there with this one. I started working with Governor Thompson, then State representative Tommy Thompson, when I was in my twenties. Now 18 years later, I can tell you it has been an excellent relationship. Our roles have changed over the years, but consistently I have found it a pleasure to work with Governor Thompson, and I think you will find it the same when he becomes Secretary.

We worked together on a wide range of issues—increasing access to home- and community-based services for the elderly and the disabled, and expanding health care for children and their families.

I want to mention a couple things.

Everybody talks about, of course, the signature issue of Governor Thompson—welfare reform. It is probably the most well-known example of his can-do attitude.

We in Wisconsin can be proud that our State was the first in the Nation to submit a welfare plan under the 1996 law that created the temporary services to needy families, or the TANF program. In fact, I am very proud of our Governor on this. The Wisconsin plan was submitted on the very day that President Clinton signed the TANF program into law.

Tommy Thompson has also been very devoted to the issue of child care. Because of his record, Wisconsin is also proud of its rating among the top 10 States in the Nation for the quality of child care by Working Mother magazine. The national recognition is a testament to the unprecedented investments Wisconsin continues to make in safe, affordable child care.

In the area of research, which is so very important across the country, and especially to those of us in Wisconsin and those of us who take such pride in our great university and its research abilities, this man, as Governor, has been a great supporter of medical research. He has been a vocal advocate of funding research at the University of Wisconsin, setting up an incubator for transferring that technology to the private sector. The Governor proposed a $317 million initiative to build a series of state-of-the-art research centers at the University of Wisconsin, Madison campus.

With regard to what we like to call BadgerCare, Tommy Thompson has worked with both Republicans and Democrats in Wisconsin to enact BadgerCare, Wisconsin's program to expand health care coverage opportunities to children and their families. He has tirelessly promoted BadgerCare's ideals—the idea that children have a much better chance of being healthy and doing well in school when they have a chance to live in a healthy family.

When BadgerCare took effect on July 1, 1999, again, as has been so often the case under Governor Thompson, Wisconsin became the first State in the Nation with a health insurance program that supports parents as well as children. This program has had a number of successes. According to the most recent statistics, more than 74,000 children and their families are now covered under BadgerCare.

Finally, I want to say a word about something on which Tommy Thompson and I worked together for many years, and that is our so-called Community Options Program in Wisconsin. We worked together, on a bipartisan basis, to support efforts to expand what we call the Community Options Program, which, better than any other State in the country, in my view, provides cost-effective home- and community-based, long-term care alternatives to institutions and nursing homes.

Wisconsin was already on this issue and working effectively to find alternatives in the late 1970s, but there has been significant growth, on a bipartisan basis, on this issue ever since Governor Thompson became Governor in 1986. I think we all recognize that a lot more needs to be done to reform our long-term care system. It is one of my highest priorities.

I noticed, when I had the honor of introducing Governor Thompson to the HELP Committee, that many of the members mentioned long-term care. Perhaps the most mentioned issue was either home- and community-based care or home health care. Governor Thompson is the right person to work on this issue. I believe he will use his experience as an innovator to make it easier for States such as Wisconsin to pursue their own reforms, such as making Federal long-term waivers more flexible and making it easier for States to apply for those waivers.

So after 18 years, I can talk about a lot of other very positive reasons we are lucky to have Tommy Thompson as our new Secretary of Health and Human Services. But let me say, all of us in Wisconsin are very proud, and it will take some getting used to having a different Governor just because it seems as though Tommy Thompson has been our Governor forever. Of course, he has been very popular in that regard. But I think it will be a good opportunity for the country to see firsthand what it is like to have a person who has a "can-do" attitude, a person who really enjoys simply solving problems rather than trying to divide people. I think that has been a hallmark of his role as our Governor. I think it will be a hallmark of his role as the Secretary of Health and Human Services.

I thank the ranking member and thank the Chair.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I do not know of any others on our side who wish to speak on this nomination. It is my understanding that there are no other Senators on the other side of the aisle who wish to speak on this nomination as well. I do not see other Senators who have special orders to speak.

The PRESIDING OFFICER. The Chair would advise the Senator from Montana, both Senator KENNEDY and Senator REID also asked to speak for 10 minutes pursuant to the agreement.

Mr. BAUCUS. Right.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 149 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I ask to speak as in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. HOLLINGS. Mr. President, I am worried. I expressed this concern before the inauguration, and I hoped that cooler heads would prevail after the inauguration. Specifically, as I said at that time, surplus, surplus, everywhere a man cries surplus, and there is no surplus.

Right to the point, I have been looking for a surplus since we had one in 1968 and 1969, almost 32 years ago. I worked with George Mahon, then chairman of the Appropriations Committee. We called over to the Capitol, and we asked Marvin Watson to check with President Johnson to see if we could cut another $5 billion from the budget. I think it was around December of 1968, and, at that particular time, there was no Budget Committee. The fiscal year used to run from July to the end of June the following year. We were given permission. We cut the budget. The entire budget amounted to some $178 billion. Now remember, that was guns and butter, the war in Vietnam, and domestic needs.

Now, here we are, facing $362 billion just in interest costs—almost $1 billion a day. The government is spending more in interest costs than it spent for the entire budget in 1968 and 69—far more, more than double the amount, for nothing. Then I look at the record, and I follow it very closely because back in 1997, when we passed the so-called Balanced Budget Act, I was on the floor with my distinguished colleague from New Mexico, the chairman of the Budget Committee. I said if that Balanced Budget Act works, I will jump off the Capitol dome.

Mr. President, around the fall of last year, I was looking up the price of a parachute because we were getting pretty close to a surplus. When President George Bush left town, the deficit was $403.6 billion. In other words, we were spending over $400 billion more than we were taking in. Of course, we have done that for 30 years. There has been no surplus in the entire 30-year-period since our last surplus. We ended fiscal year 2000 with a deficit of $23 billion. As of September 30th, the year 2000, almost 4 months ago, it was $23 billion.

I carry around, in a similar fashion as my distinguished friend from West Virginia—he carries around the Constitution, and I carry around a little sheet, as much as I can keep it up to date, called "The Public Debt To The Penny."

Mr. President, I ask unanimous consent to have this sheet printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PUBLIC DEBT TO THE PENNY

	Amount
Current: January 22, 2001	$5,728,195,796,181.57
Current month:	
January 19, 2001	5,727,776,738,304.64
January 18, 2001	5,725,695,166,475.90
January 17, 2001	5,718,517,343,351.92
January 16, 2001	5,711,790,291,567.40
January 12, 2001	5,735,197,779,458.19
January 11, 2001	5,734,110,648,665.41
January 10, 2001	5,724,315,917,828.49
January 9, 2001	5,725,066,298,944.04
January 8, 2001	5,719,910,230,364.19
January 5, 2001	5,722,338,254,319.31
January 4, 2001	5,719,452,925,490.54
January 3, 2001	5,723,237,439,563.59
January 2, 2001	5,728,739,508,558.96
Prior months:	
December 29, 2000	5,662,216,013,697.37
November 30, 2000	5,709,669,281,427.00
October 31, 2000	5,657,327,531,667.14
Prior fiscal years:	
September 29, 2000	5,674,178,209,886.86
September 30, 1999	5,656,270,901,615.43
September 30, 1998	5,526,193,008,897.62
September 30, 1997	5,413,146,011,397.34
September 30, 1996	5,224,810,939,135.73
September 29, 1995	4,973,982,900,709.39
September 30, 1994	4,692,749,910,013.32
September 30, 1993	4,411,488,883,139.38
September 30, 1992	4,064,620,655,521.66
September 30, 1991	3,665,303,351,697.03
September 28, 1990	3,233,313,451,777.25
September 29, 1989	2,857,430,960,187.32
September 30, 1988	2,602,337,712,041.16
September 30, 1987	2,350,276,890,953.00

Source: Bureau of the Public Debt.

Mr. HOLLINGS. Mr. President, everyone in this land and those out in China and anywhere else can look up the public debt to the penny on the Internet.

Yes, if the deficit or debt went up some $23 billion in fiscal year 2000, and they are claiming a surplus, let's see where it was cut in the last 3½ months. I look and, instead, to my dismay but not to my surprise, the debt ended up at some $5.674 trillion in the last fiscal year. I look today, and, as of 1/22/2001, the public debt was $5.728 trillion. So you can subtract these two figures, and you can see that the debt has gone up some $54 billion.

While we are heading toward enlarging deficits and debts, everywhere man cries "Surplus!"—even those with the best of credibility. I worked with the distinguished Senator from Texas, Mr. GRAMM, on Gramm-Rudman-Hollings. Incidentally, if you want to have political anonymity, cosponsor a bill with my distinguished friend from Texas. They've called it Gramm-Rudman from then on—which suits me.

Today, I picked up the morning paper. And right down on page A2, it says, "right now our surplus has never been greater." He thinks the surplus has never been greater, yet we still have rising debt.

Instead, I wish everybody would turn to the "Tax-Cut Mania" article on page A17 of today's Washington Post.

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAX-CUT MANIA

(By Steven Rattner)

With the economy visibly weakening, the preelection debate over the Bush tax cut has nearly turned into a post-election stampede. But even if the economy tips modestly into recession, that still shouldn't panic us into full-sized tax cuts.

Haven't we learned anything about economic policy in the past eight years? Nothing has contributed more to our current prosperity than having gotten our fiscal house in order.

Bringing down the deficit allowed the Federal Reserve to lower interest rates, and lower interest rates played a key role in creating the greatest investment boom in history. Even after adjusting for inflation, investment has risen from $630 billion in 1992 to nearly $1.5 trillion last year, and that investment has, in turn, been a critical part of the productivity surge associated with the New Economy (which remains very much with us, recession or no recession).

Meanwhile, consumers have stopped saving. Without those savings available as investment capital for business, the size of the federal deficit or surplus becomes even more important. Whatever the federal government doesn't borrow to finance deficits (or produces as surplus) becomes available for business investment.

Tax cuts also bring international repercussions. The lack of savings has contributed meaningfully to our massively negative current account position as we ingest foreign capital to finance the investment boom. A tax cut compounds this problem.

While we've made progress with the federal budget, voting a sizable tax cut today would mean committing to spend money we may not have, a significant step backward in the march toward fiscal order. In truth, we're only just balancing the budget. Don't forget that the current year's projected surplus of $256 billion consists mostly of surpluses in the Social Security and Medicare trust funds, surpluses that both presidential candidates agreed should go into a lockbox.

And even the $71 billion of true surplus must be viewed in the proper framework: the understandable desire of the Bush administration to propose new spending initiatives for education, defense and other pressing needs, the propensity of Congress to spend on its own agenda (and pork), the eventual adverse impact of slower growth on tax revenues, and the fact that even with the lockbox we haven't truly saved Social Security and Medicare, which will both still run out of money sometime before mid-century.

Kept within our means, tax cuts are an important part of holding the size of government to sensible proportions and of redressing inequities, such as the marriage penalty. To paraphrase President Bush's original justification for the tax cut: Genuine surpluses should be returned to the people. So, less tax relief now but perhaps more later as significant surpluses begin to kick in.

In the meantime, we need to develop a plan that we can afford and also one less oriented toward helping the wealthy through rate cuts and an end to the estate tax, probably the most progressive tax in our system.

But what about the "recession"? At least until there's evidence of a truly dramatic slowdown, leave that to the Federal Reserve, which has already signaled that still lower rates may be forthcoming. Interest rate cuts can be the quickest and most effective form of tax reduction, particularly when much of the ailment is weak capital markets. Indeed, the Fed's half-point reduction three weeks ago has already succeeded in stabilizing nervous financial markets.

Apart from a more quiescent Nasdaq, important indicators such as the interest rate difference between corporate and government borrowings have begun to turn down—a positive signal—after relentlessly rising through the fall. Some, particularly in the Bush camp, have chosen to read the Fed's dramatic action on Jan. 3 as another vote for a quick and large tax cut. Just the opposite. If the Fed is prepared to move quickly and aggressively to combat slowdown, that's all the more reason why we shouldn't abandon our fiscal discipline.

Under more extreme circumstances, a tax cut to fight recession can make economic sense, but the slowdown we're experiencing is hardly of Great Depression scale. Even Morgan Stanley Dean Witter, whose early January recession call set off a particularly loud alarm bell, projects the mildest of recessions, and positive economic growth for this year as a whole. The recession may be over while Congress is still chewing over the tax cut.

Part of today's tax-cut mania is politics—a new administration eager to paint its economic inheritance in negative terms and to justify an ill-advised campaign platform—and part is the fact that after a decade of unbroken prosperity, we've become too easily traumatized by the occasional bump in the economic road. In fact, recessions are not only inevitable but necessary to cleanse the economy of imbalances that have built up.

That's particularly true with today's stresses, particularly in the financial markets. We've seen this movie before. In late stages of an economic expansion, lenders relax their guard and investors fall in love with all manner of the next new thing. Before we wheel out too much anti-recession artillery, bear in mind that no tax cut can help the fact that at 5000, the Nasdaq was wildly overvalued and that we have many companies—not just dot-coms but companies in telecom and other sectors—with truly bad business plans that need to be allowed to disappear quietly into the night.

Nor can a tax cut help the fact that one cause of this slowdown and cleansing is a reversal of the "wealth effect," the propensity of consumers to spend and business to invest when markets are robust. An injection of reality into irrational and unrequited optimism about corporate profits brought down the stock market; what should we do—pump the Nasdaq back up to 5000?

When the Clinton administration arrived in 1993, it too proposed a short-term stimulus package. Happily for the economy, cooler heads prevailed. The stimulus was abandoned, deficit reduction was passed, and we've had the longest economic boom in American history. Sounds like a pretty good plan.

Mr. HOLLINGS. I'd like you to read Steven Rattner, and if you read the Financial Times, the article by John Plender—I ask unanimous consent that his article, "A Sharp Adjustment" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A SHARP ADJUSTMENT

(By John Plender)

*Bond markets have rallied since the Federal Reserve's surprise interest rate cut. But there are plenty of other directions a financial shock could come from * * **

For several months, the tightness of credit in global markets has suggested that the current economic cycle could end in financial crisis. A financial stress index devised by the Montreal-based Bank Credit Analyst

Research Group—based on factors such as the degree of leverage in financial markets, bank share prices and the shape of yield curves—has dropped into dangerous territory.

Yet the Federal Reserve's half-point cut in interest rates on January 3 has put a dramatically different complexion on events. The question is whether this surprise move will take the financial sting out of the slowdown in the US and the world economy.

Confidence has returned triumphantly to the US bond market. In spite of warnings from rating agencies of a big rise in defaults, junk bonds have been selling like hot cakes since the start of the year. January has also seen an exceptionally high volume of investment-grade bond issues.

In Europe the successful sale last week of nearly £10bn ($9.5bn) of bonds by British Telecommunications was reckoned by some analysts to be a turning point for telecom debt. Credit conditions generally have eased. And financial flashpoints in emerging market economies such as Argentina and Turkey have been successfully addressed by the International Monetary Fund. To those who responded to the rate cut by asking "what does Alan Greenspan, the Fed chairman, know that we don't?" the bond markets are saying "who cares?".

Yet it is possible, that the doubters were looking for the wrong kind of financial crisis. The last economic cycle came to an end with a banking debacle followed by recession. In the U.S., Japan and much of Europe, commercial banks had over-extended themselves in property. In the present cycle bankerly exuberance threatened to unleash a downturn when the over-borrowed Long-Term Capital Management hedge fund came close to collapse in 1998.

The Fed's efforts to head off a systemic disaster by cutting interest rates had the effect of prolonging the economic cycle. It also provided a friendly environment for a high-technology bubble. The result is that the cycle is ending untypically, although in a way that would have looked familiar to a 19th-century businessman. Over-investment prompted by an artificially low cost of capital, together with increased global competition, have prevented businesses from passing on rising labour and energy costs in higher prices.

There is thus a shock to the real economy that is reflected in an autonomous slowdown and a profits squeeze instead of a full-scale financial shock. The high-tech bubble was, after all, substantially financed by equity, not debt. And in place of the overheating in junk bonds that characterised the end of the 1980s, we have seen manic investment in venture capital.

The banking system has a number of discrete problems—the Californian energy crisis, bad debts in telecoms, financial fragility in emerging market economies and the rest. So far they remain non-contagious. But there must be a risk that the cumulative impact could start to pose systemic problems.

This, says a central banker, could be difficult to manage. When a crisis has a single focus as with property or Latin American debt, he points out, "you can put someone in charge of the hospital ship and then focus on strategy to get out of the mess. If the problems are spread across the whole loan portfolio, it's harder to do this."

U.S. commercial banks have greatly enlarged their capital since the last seizure in 1990. So while asset quality has deteriorated and charge-offs have risen Alan Greenspan felt able to argue last month that the problems "remain historically modest relative to assets and capital".

Yet the economy does remain vulnerable to financial shocks, of which the most worrying concerns the link between the stock market and the U.S. private sector's balance sheet. One consequence of the Fed's interest rate cuts after the LTCM crisis was that it gave the private sector an opportunity to spend and accumulate more debt. Since the start of the bull market, U.S. household debt has gone from less than 65 per cent to more than 95 per cent of personal disposable income, while the savings ratio has fallen to zero.

When households are already so heavily indebted they may respond less readily to the Fed's interest-rate invitation to go on another spending binge. But the debt also needs to be seen in the context of the overall household balance sheet, in which the asset side carries an unprecedented amount of stock market investments. About 45 per cent of the population is reckoned to have exposure to equities either directly or via defined contribution pension plans.

Stock market capitalization has fallen from about 180 percent of gross domestic product at its peak last March to 164 percent last week. There has been no collapse in residential property. But if that sounds reassuring, note that the stock market's earlier peaks in August 1929 and December 1972 were well below these levels, at 81 percent and 78 percent of GDP.

The scope for an adverse valuation adjustment on the basis of changing expectations is far from negligible. The Bank Credit Analyst argues that the era of super-normal equity returns is over. Between 1982 and 1999, it points out, the Standard & Poor's 500 index generated average annual total returns after inflation of 16 percent, or twice the average during the previous half-century. The average returns in future, it argues, are likely to be no more than 8 percent before inflation.

If that is right and if private individuals have yet to downgrade their expectations fully, there would be room for a very sharp balance sheet adjustment as disillusioned households rebuilt their depleted savings by investing in non-equity assets.

Also relevant is the distribution of household debt. A lesson of the late 1980s boom in the US and the UK was that only a small proportion of the borrowing population has to be in difficulty to put big downward pressure on asset prices and create a bust.

Nor would the impact of a stock market shock be restricted to negative wealth effects, as people responded to falling asset values by spending less. It could exacerbate problems in banking.

If overstretched telecoms operators find that sliding equity and bond markets are no longer willing to offer them fresh funds, the banks may be asked to increase their exposure to their least creditworthy customers, causing a decline in asset quality.

And any weaknesses among the investment banks, which have enormous leverage on and off the balance sheet, both through borrowing and exposure to derivatives, would be ruthlessly exposed.

There are other possible shocks. In the bond market, investors' perceptions may become more cautious, with fallout for equities. The risk, says David Hale of Zurich Financial Services, is that the new Bush administration may forge consensus by embracing more of the Democrats' spending proposals. If the economy is weak, he adds, Republicans will feel even less inhibited as they worry about the mid-term elections in 2002.

The dollar is another source of vulnerability, given the financing challenge of a current account deficit of 4 percent of GDP. Weakness against the euro would be helpful in rebalancing global economic growth. But a collapse would be another matter given the inflationary consequences.

Whether these vulnerabilities turn into shocks is inherently unpredictable. But as Barton Biggs, Morgan Stanley Dean Witter's investment guru, told Barron's magazine last week, "it still boggles my imagination that everybody thinks we can come through the biggest bubble in the history of the world and certainly the longest boom the US has ever had, and get out of it with a very, very mild recession".

His is not the only imagination that remains boggled.

Mr. HOLLINGS. That is Tuesday, January 23—today. You will understand my grave misgivings about all of these tax cuts. Everybody loves a tax cut. But we have to act responsibly and look at whether or not, in essence, instead of cutting taxes, we are increasing taxes, namely, increasing interest costs on the national debt.

One of my colleagues, in cosponsoring President Bush's tax cut package, said, "You have to starve the beast." We heard about starving the beast from President Ronald Reagan. It was first Kemp-Roth; and Senator Dole, then the head of our Finance Committee, had his comments about that. Better than all of them was former President Bush. He called it voodoo economics. President Reagan turned Kemp-Roth into Reaganomics, and we are supposed to starve the beast, to cut all the taxes.

What did we do? We increased the biggest waste in the history of Government; namely, the interest cost that is gone, where it was at the time we balanced the budget at $16 billion, it has now increased to $362 billion—$362 billion for absolutely nothing, just for past profligacy, just for "starving the beast."

Come on, there is no education in the second kick of a mule. Don't come around here saying, "We are going to starve the beast and reduce the taxes of the people. You know those Washington folks, they are going to spend it. Get it out of the hands of the politicians." That is big political nonsense.

You talk about campaign finance, the biggest campaign finance abuse is not soft money. Oh no, the biggest abuse is how the politicians—namely we Senators and Congressmen—use the Federal budget to get ourselves reelected. If we can run around and give tax cuts, then, as President Reagan said, "The government is not the solution to the problem, the government is the problem."

We have had 20 years of that nonsense. We have to sober up, and we have to start paying our bills. I am going to be coming from time to time to explain that we do not have a surplus—I wish we did—and I am going to caution the Members that when they start giving tax cuts, they are only increasing the interest costs of the debt. We know President Bush is going to increase defense. He has already said we ought to have an increase in military pay. We gave a pay raise last year, but we are going to give another increase, he says.

We know, according to Secretary Colin Powell, we are going to increase funding for the State Department.

We know we are going to increase funding for the Department of Agriculture. If he doesn't increase agriculture funding, Bush will be the first President who has not.

We know we are going to increase energy funding. Look at the situation out on the west coast.

We know we are going to increase education funding. President Bush has a proposal in right now. If you are going to test everybody, you are going to have accountability. I hear it costs $10 just at the elementary level and $50 at the higher levels for testing. This is going to cost into the millions, perhaps billions.

So everybody is talking about increasing spending or increasing the debt and cutting out the revenues, increasing the debt. Somewhere, somehow, somebody will stand in front of this stampede and talk sense to the American people. Hopefully, the message will come through.

How is this even called a surplus with any face whatever? There is another little sheet that is put out that says, "Who Holds The Public Debt?"

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO HOLDS THE PUBLIC DEBT?

	Held by the Government	Owed to the Public	Total
January 22, 2001	2,360,076,279,493.13	3,368,119,516,688.44	5,728,195,796,181
Current month:			
January 19, 2001	2,357,882,242,116.78	3,369,894,496,187.86	5,727,776,738,304
January 18, 2001	2,355,790,659,744.32	3,369,904,506,731.58	5,725,695,166,475
January 17, 2001	2,353,911,893,744.32	3,364,605,449,607.60	5,718,517,343,351
January 16, 2001	2,347,016,197,744.32	3,364,774,093,823.08	5,711,790,291,567
January 12, 2001	2,345,618,832,394.32	3,389,578,947,063.87	5,735,197,779,458
January 11, 2001	2,344,827,431,394.32	3,389,283,217,271.09	5,734,110,648,665
January 10, 2001	2,339,375,524,394.32	3,384,940,393,434.17	5,724,315,917,828
January 9, 2001	2,340,337,733,394.32	3,384,728,565,549.72	5,725,066,298,944
January 8, 2001	2,335,546,095,679.32	3,384,364,134,684.87	5,719,910,230,364
January 5, 2001	2,338,430,377,679.32	3,383,907,876,639.99	5,722,338,254,319
January 4, 2001	2,335,477,560,394.32	3,383,975,365,096.22	5,719,452,925,490
January 3, 2001	2,334,486,285,394.32	3,388,751,154,169.27	5,723,237,439,563
January 2, 2001	2,339,900,249,630.66	3,388,839,258,928.30	5,728,739,508,558
Prior months:			
December 29, 2000	2,281,817,734,158.99	3,380,398,279,538.38	5,662,216,013,697
November 30, 2000	2,292,297,737,420.18	3,417,401,544,006.82	5,709,699,281,427
October 31, 2000	2,282,350,804,469.35	3,374,976,727,197.79	5,657,327,531,667
September 29, 2000	2,268,874,719,665.66	3,405,303,490,221.20	5,674,178,209,886
September 30, 1999	2,020,166,307,134.62	3,636,104,594,501.81	5,656,270,901,633
September 30, 1998	1,792,328,536,734.09	3,733,864,472,163.53	5,526,193,008,897
September 30, 1997	1,623,478,464,547.74	3,789,667,546,849.60	5,413,146,011,397

Mr. HOLLINGS. Mr. President, that sheet breaks down the deficit and debt as debt held by the Government and debt owed to the public. You can see the debt owed to the public has been reduced $37 billion. But then the debt held by the Government has gone up $91 billion. So what happens? Yes, we have now an increase in the debt of $54 billion.

This accounting is like using your Visa card to pay off your MasterCard. You still owe the same amount of money under the Visa card; the debt is on the Visa rather than on the MasterCard. It is tomfoolery. It is outrageous nonsense. We only have one Government, and it is public. That is why they call it the public debt. So let's not get that "owe the public." We are the custodians of the public. And we are spending Social Security, Medicare, Civil Service retirement, military retirement, unemployment compensation, all of these other funds, and saying we are balancing the budget.

Now they are into a mumbo-jumbo, saving Social Security mode. All you have to do to save Social Security is not spend it. They continue to spend it.

If you did not spend the Social Security moneys, you would have between $2.4 and $2.7 trillion in the next 10 years. How about putting $2.7 trillion back into the Social Security kitty rather than taking it out, whereby we owe $1.9 trillion to Social Security alone this minute.

The same case applies with Medicare. We have been using those moneys. We talk and say we are not going to do it. In fact, we passed a law, section 13-301 of the Budget Act: Thou shalt not, you Congress, or you President—calculate Social Security moneys in your budget. But they do. They do. And they separate it out, and then they spend it later on. If they have a lockbox and somebody says they put in a bill on the lockbox—I am going to put in a true lockbox. Ken Apfel, the Administrator of Social Security, helped me draft it, whereby each month we remit the amount of T-bills we purchase or give to the public. So we will keep that in the fund and have a true lockbox and not a section 201 as the Social Security Act requires, just put it in Treasury bills.

There it is. We have this sheet. That is the game being played. Yes, campaign finance, McCain-Feingold. I voted for that bill five times already; I will vote for it again. That bill deals with soft money. Aspects of this bill are constitutionally questionable, and I have, in the past, introduced a constitutional amendment that says the Congress is hereby allowed to regulate or control spending in Federal elections. My bill received a majority vote in the Senate but never did get the 67 votes needed to send it to the States. They would ratify it in a snap. I can tell my colleagues that right now.

We play games with the American public, and the people who keep us honest play the games along with us; namely, the free press of America. They are the only ones who can stop this game. I cannot do it. No one Senator or Congressman or group of them can do it. We have tried.

I will put a budget freeze in the budget again this year: Just take this year's budget for next year. That is the kind of economic situation described by Rattner and Plender in their articles. We not only have a fiscal deficit, but we have a current account deficit in the balance of trade of some $366 billion.

As those dollars continue to go overseas and decrease in value, we are going to have to raise interest rates in order to attract foreign investment. And if we raise that interest rate to get that foreign investment, we are going in the opposite direction of Chairman Greenspan's recommendations.

Chairman Greenspan needs to come forth the day after tomorrow, as he is scheduled to testify before the Budget Committee, and say categorically—without being political about it—but say that what we did in 1993 needs to be done: Proceed very cautiously; do not rely on these ten-year projected surpluses.

The ten-year budget projection has been the evil in trying to balance the budget. When we had just the Appropriations Committee and not the Budget Committee, we had a one year budget. Then we got three year budget projections. Then with Gramm-Rudman-

Hollings, we got 5-year budget projections. Recently, we played the game of 10-year budget projections until President Clinton said we could do away with the public debt in twelve years. He neglected to say, however, that in those 12 years we could transfer the public debt all back into the Government account and still owe the same amount of money. In fact, we can do that tomorrow morning. Just put in a little bill and say that the public debt shall be paid, and we will transfer it all over to the Government debt and all go home and get reelected. That nonsense has to stop.

If anybody can find a surplus in the Government account, namely, in the national debt owed by the United States of America, please tell me, and I will be glad to jump off that dome. But unless and until that happens, Mr. President, old HOLLINGS is going to stand here and berate them and nag them and fuss at them.

This whole charade is just totally irresponsible. Senator THURMOND and I are going to get on; we are not going to have to pay for this, but our children and grandchildren are going to have to pay for it. Some of these esteemed Senators who are voting so boldly and introducing bills to "starve the beast" are going to learn the hard way that they are going to be spending nothing but interest costs. They are really going to be increasing the worst kind of tax on the American people—interest costs for which they get absolutely nothing.

We are spending that amount of money. When President Clinton gave his State of the Union Address last January, it was said by one distinguished Senator that that gentleman is costing us $1 billion a minute. President Clinton then talked for 90 minutes, an hour and a half. President Bush now wants to give a $90 billion-a-year tax cut. Those two equal $180 billion. If we really had been paying the bill and had a true surplus, we could give both President Bush and President Clinton their programs of either spending increases or tax cuts and still have $182 billion. The truth is, instead of spending $362 billion, $1 billion a day, on carrying charges, we would have another $182 billion from the $180 billion with which we could easily increase research at the National Institutes of Health, pay for the military, State Department—all of these other budgets.

We would be tickled to death to increase all of them. We are spending the money but not getting anything for it. Somewhere, sometime we all have to start talking out of the same book, and that is the book put out by the U.S. Treasury itself. Every day they put out the public debt to the penny. When we pay down the public debt, rather than increasing it by some $54 billion, then let's all get together and talk about tax cuts.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

GERARD LOUGEE MEMORIAL

Mr. LOTT. Mr. President, earlier this month the U.S. Senate lost another member of its family. Gerard Lougee passed away on January 6th at the Washington Hospital Center. Gerard worked in the Senate post office as a mail carrier for the past eighteen years. He was a graduate of Cardoza High School and attended the National Presbyterian Church in Washington D.C. He began work in the Senate in 1982 after working in the White House mail room. During his career in the Senate post office Gerard was recognized for his perfect attendance record, as well as numerous other performance awards. Many of our Senate staff will remember Gerard as he traveled the corridors of Congress delivering the mail with diligence and pride. He will be sorely missed not only by his mail room colleagues but by all of the Senate family. On behalf of the Senate I thank Gerard for his service and dedication and express our condolences to his family.

BUSH ADMINISTRATION DECISION ON INTERNATIONAL FAMILY PLANNING

Mrs. FEINSTEIN. Mr. President, I rise today to express my disappointment that President Bush chose yesterday to announce that as his first major policy action since becoming President he is reinstating the "global gag rule" restricting United States assistance to international family planning organizations.

There have been few issues in recent years that have been more debated, with people of good intention on both sides of the issue, and I am dismayed that the President has opted to start his Administration with such a divisive action.

The world now has more than 6 billion people. The United Nations estimates this figure could be 12 billion by the year 2050. Almost all of this growth will occur in the places least able to bear up under the pressures of massive population increases. The brunt of this decision will be felt not in the United States but in developing countries lacking the resources needed to provide basic health or education services.

If women are to be able to better their own lives and the lives of their families, they must have access to the educational and medical resources needed to control their reproductive destinies and their health.

In fact, international family planning programs reduce poverty, improve health and raise living standards around the world; they enhance the ability of couples and individuals to determine the number and spacing of their children.

Under the leadership of both Democratic and Republican Presidents, and under Congresses controlled by Democrats and Republicans alike, the United States has established a long and distinguished record of world leadership on international family planning and reproductive health issues.

Unfortunately, in recent years these programs have come under increasing partisan attack by the anti-choice wing of the Republican party—despite the fact that no U.S. international family planning funds are spent on international abortion.

I do not expect President Bush to change his mind. He is the President, and, under legislation passed by the last Congress it is now his prerogative to determine how U.S. international family planning assistance will be used.

But I would ask him, and his advisors, to think long and hard about this decision, about how this decision squares with "humble" U.S. leadership of the international community and our commitment to help those around the world who need and want our help and assistance.

I would ask the women of America, as they consider their own reproductive rights, to consider the aim and intent of a policy in which the reproductive rights of American women are approached one way, and those of women in the developing world another.

And I would ask my colleagues on both sides of the aisle who feel as strongly about this issue as I do to consider what legislative remedies and options we may have available to address this decision.

Mr. President, it had been my sincere hope that under President Bush international family planning would have been an issue that Republicans and Democrats, the Administration and Congress, could have worked on together, in a bipartisan fashion.

It is with no small amount of regret that I say that that no longer appears to be the case.

TRIBUTE TO MARY NIELSEN

Mr. BURNS. Mr. President, I rise today in tribute to the memory of a lady who lived in northeastern Montana who just passed away. She was a reliable adviser to me and a wonderful person, although not being born of the land or even in that part of the country. She was a native of England and had moved to northeastern Montana many years ago.

Mary Nielsen was one of those unique persons, living in a very remote end of this country, the northeastern corner of Montana, isolated and 150 miles from the nearest major airport—which is not really major. And for those of us who enjoy pasta—affordable pasta, that is, nowadays—the main crop in that part of the world is durum wheat.

She served in a group called WIFE, Women Involved In Farm Economics. She took those responsibilities very seriously and, of course, with great purpose. She became a valuable resource to me and my staff on transportation issues.

When I first met her, I was a farm broadcaster. My programs were aired on the radio station in Plentywood, MT. This was at a time when the big railroads were in the business of abandonments, wanting to close the spur lines that were not very profitable to the big railroads. And that was the case on the Opheim spur up in that part of the country that was originally a part of the Great Northern Railway. We fought hard on that issue because we did not want to see that line abandoned, because up there rail transportation is very important in moving our crops to market.

So she took it on. It was one of those unselfish things people do, leaders do. And you find out that in these small places, in some of these remote places, we have great minds and great leadership.

She and others formed an organization called ABLE, the Association for Branch Line Equity, which became a model in this country for opposing abandonments of railway lines in agricultural country.

She was also a shining star in the political arena. She was passionate and articulate. In fact, she received international recognition when she was elected to the office of Sheridan County Assessor. She ran on a campaign slogan of "If elected, I will resign" in an effort to save taxpayers the cost of paying for a county officer after the office was left on the ballot even though all duties had been absorbed by the State of Montana. She was elected and she resigned, and the office went with her.

Mary was a great vocal advocate for agriculture. That is what she will be remembered as. She was politically informed and active. She was a mentor to all who knew her. She was one of those rare people who, as an activist, fought with grace and dignity for what she really believed in.

It is with great sadness that we see her slip into history. Our prayers go out to her and her husband Ove and, of course, their family. She was a great lady, with grace, who represented a great, great industry.

Mr. President, I yield the floor.

NOMINATIONS

NOMINATION OF SPENCER ABRAHAM

Mr. DOMENICI. Mr. President, I'm very pleased to have strongly supported the nomination of Senator Spencer Abraham as Secretary of the Department of Energy.

As all my colleagues are well aware, Senator Abraham has a distinguished record of leadership here in the Senate. He has demonstrated his initiative and willingness to pursue complex issues on countless occasions during his years of service in this body.

Senator Abraham and I served together on the Senate Budget Committee, and I came to appreciate his insightful approach to the challenging tasks we faced in crafting the nation's budget. Through his work on the Budget Committee, Senator Abraham deserves a share of the credit for the wonderful progress towards balancing the federal budgets.

From his public service in the State of Michigan, Senator Abraham has an in-depth understanding of the issues facing manufacturers and consumers, including their dependence on reliable, clean energy sources. He appreciates the immense role of the transportation sector in influencing significant parts of our energy policy. He has been one of the Senate's most knowledgeable members on subjects related to high-technology policies and the contributions that this important sector makes to America's economy and global success.

While Senator Abraham has expressed concerns about the role of the Department of Energy in the past, I'm pleased to note that he carefully addressed his current views in his statement to the Energy and Natural Resources Committee. In that statement, he emphasized his support for the many important missions that comprise the portfolio of the Department of Energy.

Service as the nation's Secretary of the Department of Energy is a challenge for any individual. The Department has a diverse set of missions, that sometimes seem to lack a coordinating thread. Management of this Department is truly a daunting assignment.

National security and energy policy will present some of his largest challenges. In the national security area, he and Undersecretary John Gordon, Administrator of the National Nuclear Security Administration are responsible for all aspects of our nuclear stockpile and a wide range of non-proliferation programs. These two dimensions represent the two different major approaches to improved national security, minimizing threats that could jeopardize our peace and prosperity and insuring our ability to protect ourselves if necessary.

Among many important areas, the NNSA must strive to rebuild morale at the weapons laboratories, develop a major infrastructure improvement initiative across the weapons complex, and address serious congressional concerns associated with faulty program management that has led in the recent past to large construction overruns such as the experience on the National Ignition Facility. In the non-proliferation area, transparency and accountability will remain serious issues as Congress evaluates the advisability of future funding for these vital programs.

A comprehensive energy policy is urgently needed, although recovery from our current energy crisis will be anything but overnight. First we need the policy, then we need years of careful support to implement that policy—only then can we approach a greater degree of energy security than we face today. As I've outlined now on several occasions, I urge the President to create a multi-Agency approach to national energy policy, so that several key agencies evaluate their decisions in light of assuring our nation of energy security.

And finally, the Secretary is responsible for a large fraction of the federal support for science and technology. The nation's scientific and engineering talents, and the high technology advances they've generated, are responsible for a large fraction of our economic strength. In recent years, Congress has started to increase funding in key areas of science and technology. The Secretary of the Department of Energy must organize his scientific programs to maximize their outputs and their contributions to our scientific understanding and economic security.

His past experiences have prepared him very well for these fresh challenges. I look forward to working with Senator Spencer Abraham in this new role as Secretary of the Department of Energy and encourage all of my colleagues to do likewise.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Spencer Abraham to be Secretary of Energy.

As Secretary, Senator Abraham will face a number of important and difficult challenges. Clearly, we must address our dependence on foreign sources of energy and the current spike in fuel prices that is driving transportation and heating costs to unacceptably high levels. In my state of North Dakota, home heating costs are painfully high for many families. And this spring farmers will face high input costs as they head into their fields. I do not think developing a comprehensive and effective long-term answer will be easy, but the strength of our economy will depend, in part, on our success in controlling energy price hikes.

In addition, our most populous state, California, is in the middle of an electricity crisis. Again, this has potential implications for our economy. Finally, the security problems at our national labs will present a difficult challenge for our next Secretary of Energy.

Senator Abraham has been a capable and dedicated colleague for the past six years. As he noted in his confirmation hearing, his views have evolved since he was first elected to this body. Then, he called for the abolition of the Department of Energy. Now he looks forward to service as our next Secretary of Energy. As one who believes the Energy Department plays a critical role in setting policies that profoundly impact our economy and our national security, I welcome this change of heart and wish him well as he enters into this next chapter in his service to our Nation.

NOMINATION OF DR. ROD PAIGE

Mr. DOMENICI. Mr. President, I rise today in strong support of Dr. Rod Paige, Secretary of Education.

President George W. Bush has repeatedly emphasized the importance of education being a linchpin of America's future. Moreover, he has linked increased spending on education with real accountability that actually produces results.

I think Ben Franklin may have put it best when he said, "An investment in knowledge always pays the best interest." I believe this because even on its best day the Federal government can never be a replacement for local administrators, educators, and parents.

It is with this in mind that I am so pleased the nomination of Dr. Rod Paige is before us to be the next Secretary of Education. Dr. Paige is not a Washington bureaucrat, rather he is an accomplished educator and administrator who has actually served in the education trenches.

Dr. Paige's recent tenure as the Superintendent of the Houston Independent School District provides him with the unique perspective of what is actually involved in running a local school district. Unfortunately, that is all too often not the case because Washington bureaucrats make the decisions affecting our students instead of local administrators.

However, I would submit the practice of implementing a Washington based one size fits all approach is about to come to an end.

As a former Superintendent, Dr. Paige, actually understands that every school district does not face the same set of problems and Washington does not know what is best. Rather it is the local parents, teachers, and administrators who know what the problems are as well as the solutions.

I think it also interesting to note the breadth of Dr. Paige's experience in the field of education. Not only was he a school superintendent, but prior to assuming that role he served as a member and then later the president of the Houston School Board.

Lest we forget the importance of higher education, Dr. Paige has also spent time as an administrator and teacher at Utica Junior College, Jackson State, and Texas Southern University. In fact, Dr. Paige served as the dean of the College of Education at Texas Southern prior to serving on the Houston School Board.

I would also like to touch upon one final aspect of Dr. Paige's career and that is his time as a football coach. While the head football coach at Utica Junior College and Jackson State he was still a teacher of students, but instead of desks and a chalkboard he used the gridiron as his classroom.

In closing, I think we all begin the 107th Congress with unlimited opportunities to improve our nation's educational system and among those opportunities is the reauthorization of the Elementary and Secondary Education Act (ESEA).

I think there is a lot of agreement on the need for education reform conditioned upon accountability and I look forward to working with Secretary Paige to achieve those goals.

Mr. CONRAD. Mr. President, I am pleased to have supported the nomination of Dr. Roderick Paige to be Secretary of Education. I believe that his commitment to the improvement of public schools and his diverse education experience will bring him success in this challenging and rewarding position. I am looking forward to working with him to address the critical issues associated with our nation's educational system.

I am encouraged by Dr. Paige's accomplishments in Houston. The Houston Independent School District has seen dramatic changes under the leadership of Dr. Paige, including a decrease in the dropout rate and an increase in test scores. He has worked hard to foster partnerships between public schools and businesses and to encourage community involvement. Dr. Paige's seven year tenure as superintendent has shown him to be capable, creative, and committed to his students.

As we enter a new Administration, it is important that we make the greatest effort to secure our public schools by providing them with the support they need. Whether it be through school modernization and class size reduction programs, or through increased financial aid for higher education, it is critical that we recognize the role of affordable, high quality public education for our children.

Dr. Paige said, "I think the public is where we need to begin our work. This is a public system, it is for the public's benefit, it is a public good, and the public must bring itself together and work hard to achieve it." I agree with him and believe that through hard work together, we will be able to achieve many good things for our schools, our children, and our Nation.

NOMINATION OF DONALD RUMSFELD

Mr. CONRAD. Mr. President, as was apparent to all who attended Mr. Rumsfeld's confirmation hearing before the Senate Armed Services Committee, our new President has made a good choice for Secretary of Defense, one of the nations most important offices. Mr. Rumsfeld held this senior position during the Ford administration, a time when some Members of Congress were just getting their start in public service. Decades of experience, respect from both sides of the aisle, thoughtfulness, and a strong commitment to this nation make Donald Rumsfeld well qualified to again serve as Secretary of Defense.

As ranking member of the Budget Committee in this equally divided Senate, I look forward to working closely with Mr. Rumsfeld to craft a defense budget that strengthens our nation's defense and makes sense in the context of our national fiscal priorities. In light of the fact that both the status quo within our armed forces and massive increases in defense spending are untenable, I am interested in talking with the new Secretary about a sustainable defense budget and making policy and procedural changes at the Pentagon that might enable us to retool for the information age and get more for our defense dollar.

As the new administration begins to review our nation's approach to arms control, missile defense, and proliferation of weapons of mass destruction, I would urge Mr. Rumsfeld to avoid preoccupation with specific numbers and keep efforts focused on a central objective: increasing strategic stability and nuclear safety. Toward that end, I hope the new Defense Secretary will support and expand the Nunn-Lugar Cooperative Threat Reduction program, broaden shared early warning initiatives, encourage more military-to-military contacts with Russia, address the particular threats associated with Russia's enormous tactical nuclear stockpile, resist de-alerting initiatives which could increase strategic uncertainty in a crisis, and ensure that the U.S. retains a robust and balanced triad of strategic nuclear forces.

I want the record to reflect that I have been concerned by some of this nominee's statements regarding arms control. As my colleagues are aware, Mr. Rumsfeld suggested during his confirmation hearing that the ABM Treaty is an outdated relic of the cold war, and has discussed abandoning the process of arms control and sizing our strategic forces unilaterally. I urge Mr. Rumsfeld to reconsider these views. No arms accord is perfect, but over the past several decades the arms control process has produced momentum toward more inspections, transparency, reciprocity, and confidence-building between former cold war rivals.

This momentum toward greater stability and trust was hard-won and should not be abandoned. One need look no farther than Russia's failure to fully implement the 1991 Bush-Gorbachev handshake agreement on tactical nuclear reductions to see the folly of unilateralism in arms control. In the view of this Senator, any further strategic force reductions would best be undertaken in the context of a new START accord, one built upon recognition that the ABM Treaty is the cornerstone of strategic stability and can allow the limited, effective, affordable national missile defense we need to counter emerging rogue-state threats.

Finally, I look forward to talking with the new Defense Secretary about the importance of Defense Department compliance with statutes directing that the entire B-52H bomber force be funded. Billions of dollars of upgrades and the world's most advanced precision weapons have transformed these airframes into airborne arsenal ships which today represent the fast, sharp end of the spear in our conventional deterrent force.

Mr. President, Donald Rumsfeld has an impressive record. He is qualified to be Secretary of Defense. I congratulate him on his confirmation and wish him the very best.

NOMINATION OF COLIN L. POWELL

Mr. CONRAD. Mr. President, I am honored to have supported the nomination of Colin Powell to be our next Secretary of State. Few individuals submitted to the Senate for confirmation have the credentials, experience, values, and respect of the Nation that Colin Powell has.

Colin Powell has served our Nation with distinction in both civilian and military capacities. Powell served the Carter Administration as an executive assistant in both the Energy and Defense Departments. During the Reagan Administration, Powell was chosen as a senior adviser to Defense Secretary Caspar Weinberger, and later held his first Cabinet post as National Security Advisor to President Reagan. During the Bush Administration, Colin Powell was nominated to serve as Chairman of the Joint Chiefs of Staff. Most Americans, however, remember Colin Powell's role as the architect of Operation Desert Storm, and his unique skills in developing critical global alliances to defeat the Iraqis forces in 1991.

Colin Powell, however, represents more than a distinguished military leader. His life and those values that he has encouraged our young citizens to follow, are an inspiration to us all. During the decade since Operation Desert Storm, I have admired Colin Powell's efforts to reach out to America's youth, encouraging our younger citizens to continue their education, and to aspire to higher goals in life. For Powell, the challenge was to make sure that every child in America understands that he or she is important, and that we, as leaders and parents, are going to make certain that every one of them achieves success in life. To achieve this goal, Colin Powell urged Americans to step forward as mentors for our youth, and to make certain that young people have access to computers and the Internet. In my opinion, no challenge, and no effort is more important than the education of our youth.

Few individuals that have served in this capacity have faced the extraordinary challenges and threats around the world. Relations with China, Russia, the Balkans and the Middle East, as well as the continued nuclear threat and terrorism will demand his immediate attention and skills. I am confident of his abilities to handle these challenges, and I am honored to work with Secretary of State Powell on these most difficult issues.

Not long ago, Colin Powell was asked during an interview on Scholastic.com "what do you believe history will say about you?" His response: "my only request of history is that history books say that I was a good soldier and served the nation well." Mr. President, Colin Powell has already achieved that goal. I am confident of his continued outstanding service to our Nation during the next four years, and perhaps most importantly, as a wonderful example to the youth of America.

NOMINATION OF DONALD EVANS

Mr. CONRAD. Mr. President, I supported the nomination of Donald Evans to be Secretary of Commerce. Don Evans has a distinguished background in private business as head of a large, independent energy firm. In addition, his experience as chairman of the Bush campaign and as Chairman of the Board of Regents of the University of Texas system have helped prepare him for overseeing the wide-ranging programs of the Department of Commerce.

As Secretary, Don Evans' first mission will be to promote U.S. exports. With a record trade deficit of more than $300 billion last year, I can think of few tasks more urgent than this one. As he takes on this responsibility, I urge him to remember the critical role that small businesses and agriculture play in our export successes and not concentrate solely on the role of the largest corporations. We also cannot forget the other side of the ledger. Mr. Evans will also be charged with enforcing our trade laws, another vital task to ensure that U.S. farmers and businesses are not competing against unfair imports.

I am also very concerned about the so-called digital divide in the development of the communications infrastructure and the new e-economy. As Senator for one of the most rural states in the nation, it is critically important to me that our next Secretary aggressively work to close this digital divide to make sure rural North Dakotans get full access to the benefits of information technology.

Finally, I would note that the Department of Commerce is responsible for collecting a range of statistics on our population and economy that are critical to informing the choices that we, as elected officials must make. The accuracy and accessibility of this data are essential to making the right choices for America's future.

In short, Don Evans faces a host of challenges. I am confident that he will approach them with the same vigor and success with which he ran the Bush campaign, and I look forward to working with him in the months and years ahead.

NOMINATION OF ANN VENEMAN

Mr. CONRAD. Mr. President, I look forward to working with Ann Veneman as Secretary of Agriculture. For North Dakota, there is no Cabinet position more important than this one.

American agriculture faces a serious crisis that threatens the economic livelihood of North Dakota farmers and rural communities. Our next Secretary of Agriculture faces the challenge and responsibility of coming up with a new farm policy that addresses this crisis as well as the competitive challenges we face from overseas. Ms. Veneman has a long record on agricultural issues and will bring a depth of experience and commitment to the leadership of the Department of Agriculture.

However, I must say her track record causes me some concern. Ms. Veneman was a cheerleader for the failed Freedom to Farm policy that has been such a disaster for North Dakota farmers. In fact, we've had to write economic disaster bills in each of the last three years to deal with the consequences of that disastrous legislation. Beyond that, Ms. Veneman was heavily involved in negotiating the Canadian Free Trade Agreement, which was another disaster for North Dakota. Nevertheless, I wish her well, and I'll do everything I can to work with her to change these policies.

I think the first priority must be to rewrite the current federal farm policy. This is not working and it's very clear to everyone that it's not working. Prices are at record lows. Farmers are leaving the land. And rural main street businesses are suffering.

Next, we must re-invigorate our agricultural trade policy. We've got to be engaged in world trade but it's got to be on a fair, competitive basis. I think we've got to level the playing field with our major competitors—the Europeans—who are outspending us 10 to one in terms of providing support for their producers. Leveling the playing field is one of my highest priorities, so we get farm income up and so our farmers have a fair chance to succeed.

As a senior member of the Agriculture Committee, I look forward to working with Ms. Veneman as we take on these challenges.

ADDITIONAL STATEMENTS

THE PASSING OF JOHN C. "JACK" RENNIE

• Mr. KERRY. Mr. President, I speak today to pay tribute to the life of one of Massachusetts most prominent citizens and small business advocates, John C. "Jack" Rennie, who passed away last Monday, January 15th, at the age of 63. Jack was truly an extraordinary figure who changed the way American business looked at education, and the way education worked in Massachusetts.

Born in Boston in May of 1937, Jack attended and graduated from the U.S. Naval Academy and Harvard School of Business. He later went on to earn a master's degree from Northeastern University.

Using the skills he learned while serving in the Navy as a test pilot, and putting his business education and experience to good use, he founded Pacer Systems in 1968. Pacer Systems provided systems integration and product services for the Department of Defense (DoD). Pacer was later to become AverStar and expand its systems integration work beyond DoD to other Federal agencies. Jack served as Vice Chairman of AverStar from 1998 until his retirement in June of last year.

His entrepreneurial spirit was not limited to his own company. In the mid-1970s, Jack was the driving force behind the creation of National Small Business United (NSBU), the nation's oldest bipartisan trade association for small businesses. In the early 1980s, Jack served as the President of the Small Business Association of New England (SBANE), and in 1983, he led the first all small business trade mission to the People's Republic of China. In 1983, he was also named the Small Business Person of the Year for Massachusetts and New England by then President Ronald Reagan.

But despite all of these noteworthy accomplishments, Jack's most lasting achievements came in the area of education reform.

As a business leader and entrepreneur, Jack was alarmed at the problems facing the public education system in Massachusetts and the nation. He knew that the businesses of tomorrow would demand a higher caliber of education from its employees, and that education was an integral part of America's future prosperity.

Not one to sit on the sidelines, Jack combined his business expertise with his natural leadership abilities to found the Massachusetts Business Alliance for Education in 1988, which successfully led a five-year effort to reform Massachusetts' K-12 education system. His organization's 1991 report, "Every Child a Winner," was the impetus for the Massachusetts Education and Reform Act in 1993. This legislation led to new state-wide testing and accountability standards, as well as increased funding for education.

Prominent small businessman, and executive, Navy veteran, education reformer and community leader, Jack Rennie's passing leaves a void few people are qualified to fill, and even fewer would attempt to try. On behalf of the citizens of Massachusetts, I would like to express our sincere condolences to Jack's family and friends.●

RECOGNIZING FRANK HEMINGWAY

• Mr. DOMENICI. Mr. President, recently Frank Hemingway came to Washington, D.C. to be a part of the 2001 Inaugural activities. A student from Onate High School in Las Cruces, New Mexico, he was the winner of the Character Counts Task Force Contest for area high school students. To win this contest, Mr. Hemingway was required to write an essay dealing with his experience with one of the Pillars of Character Counts.

Character Counts is a grassroots effort in New Mexico and on the national front. The Character Counts initiative strives to promote, in all aspects of American life, six basic pillars of good character: Trustworthiness, Respect, Responsibility, Fairness, Caring, and Citizenship. I have actively worked to support New Mexico schools and communities that have embraced this initiative.

Mr. Hemingway chose to write his on the Responsibility Pillar, and how being responsible has changed his life. I commend Frank for his smart choices and hard work.

Mr. President, I ask that his essay be printed in the RECORD following my remarks.

The material was ordered to be printed in the RECORD.

HOW RESPONSIBILITY CHANGED MY LIFE

(By Frank Hemingway)

"Hey bud! want to go to the movies tonight? I've got some girls from across town going—I know I can get you a date.".

"No, maybe later," I answered to a typical offer from one of my closest friends, "It's a school night and I've got a report that I need to do before the big meet this weekend," I replied.

Being responsible isn't always easy, but anything that's worth while rarely is. However, I know from experience that responsibility pays off.

Responsibility is an active character trait—it is something that must be demonstrated rather than just an attribute that a person possesses. Being responsible means putting impulsive actions on hold and making good decisions based on sound judgment while keeping one's long term goals in mind and acting accordingly. Following this approach to responsibility has helped me maintain outstanding grades and become an emerging leader to my team and classmates. Everyone can and should be responsible to a certain degree and accountable for their actions. A responsible person is dependable, reliable, and trustworthy. Living with these traits has opened up numerous possibilities for me and helped me to further mature and become even more responsible.

As a captain of my cross country team, I am responsible for my teammates to a certain extent although they are still responsible for themselves and we are all held accountable by our coach. For example, I am responsible for locking up the locker room and making sure that everyone knows about all practice times. I must be dependable and reliable to fulfill these duties and trustworthy so as not to abuse my authority. These actions, in turn, allow me to set a good example and be looked up to by my teammates as a positive role model. I have become confident in myself as a result of being responsible and have become able to handle additional responsibilities.

I have increased my responsibility in my community resulting from my experiences in a team setting. I am often asked by my neighbors to take care of their houses and pets while they are on vacation. I have done this for time periods of up to five weeks! Doing this task takes discipline and self control in making sure that the necessary duties are completed without fail and whether or not I am in the mood for the job.

Successful instances of responsibility within my community have led me to seek responsibility to my country. Having recently turned eighteen years old, I upheld my national responsibility to register with the Selective Service System and was eager in becoming a registered voter. I have learned that the significance of responsibility is that it grows proportionally in that small responsibilities soon lead to larger responsibilities, which is an essential part of growing up. The circumstances in life are always changing, responsibility is always a good choice and responsibility has continually changed my life for the better.●

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

S. 75. A bill to protect the lives of unborn human beings; read the first time.

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–298. A communication from the Under Secretary of Policy, Department of Defense, transmitting, pursuant to law, a report related to the Taiwan Relations Act and PRC-Taiwan military balance; to the Committee on Armed Services.

EC–299. A communication from the Under Secretary of Acquisition, Technology and Logistics, Department of Defense, transmitting, pursuant to law, a report related to outsourcing and privatization initiatives; to the Committee on Armed Services.

EC–300. A communication from the Assistant Secretary of Legislative Affairs, Department of Defense, transmitting, pursuant to law, the annual report for the year 2001; to the Committee on Armed Services.

EC–301. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Department of Energy Acquisition Regulation; Rewrite of Regulations Governing Management and Operating Contracts" ((RIN1991–AB46)(1991–AB49)) received on January 10, 2001; to the Committee on Energy and Natural Resources.

EC–302. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "New Mexico Regulatory Program" (NM–041–FOR) received on January 12, 2001; to the Committee on Energy and Natural Resources.

EC–303. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2001 Subsistence Taking of Fish and Wildlife Regulations" (RIN1018–AF91) received on January 17, 2001; to the Committee on Energy and Natural Resources.

EC–304. A communication from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedule II Control of Dihydroetorphine Under the Controlled Substances Act (CSA)" received on January 10, 2001; to the Committee on the Judiciary.

EC–305. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relating to cost estimate for pay-as-you-go calculations dated January 8, 2001; to the Committee on Appropriations.

EC–306. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination 2001–06 regarding a six-month suspension of limitations; to the Committee on Foreign Relations.

EC–307. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report for the period July 1 through September 30, 2000; to the Committee on Foreign Relations.

EC–308. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report relating to contributions to international organizations for fiscal year 2000; to the Committee on Foreign Relations.

EC–309. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–310. A communication from the Public Printer, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–311. A communication from the Director of the Office of Transition Administration, Panama Canal Commission, transmitting, pursuant to law, a report relative to accounting systems and administrative controls for calander year 2000; to the Committee on Governmental Affairs.

EC–312. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report relating to internal accounting and administrative systems for the fiscal year 2000; to the Committee on Governmental Affairs.

EC–313. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–314. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–315. A communication from the Chair and Chief Executive Officer of the Armed Forces Retirement Home Board, transmitting, a report on commercial activities inventory for the year 2000; to the Committee on Governmental Affairs.

EC–316. A communication from the President of the Institute of Peace, transmitting, pursuant to law, a report relating to financial statements and additional information for the fiscal years 1998 and 1999; to the Committee on Governmental Affairs.

EC–317. A communication from the Chairman of the African Development Foundation, transmitting, pursuant to law, the annual report on the internal controls and accounting system for the calander year 2000; to the Committee on Governmental Affairs.

EC–318. A communication from the Director of Investigations Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Suitability" (RIN3206–AC19) received on January 10, 2001; to the Committee on Governmental Affairs.

EC–319. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to the Inspector General Act Amendments of 1988, the report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–320. A communication from the President's Pay Agent, Office of Personnel Management, transmitting, pursuant to law, a report related to the extension of locality-based comparability payments; to the Committee on Governmental Affairs.

EC–321. A communication from the Attorney General, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–322. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relating to the cost of care for the mentally retarded and disabled; to the Committee on Governmental Affairs.

EC–323. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC–324. A communication from the Chairman of the Board of Governors, United States Postal Service, transmitting, pursuant to law , the annual report under the Government in the Sunshine Act for calender year 2000; to the Committee on Governmental Affairs.

EC–325. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report relating to the commercial activities inventory for the year 1999; to the Committee on Governmental Affairs.

EC–326. A communication from the Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "National Medical Support Notice" (RIN1210–AA72) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–327. A communication from the Director of the Office of Wage Determinations, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Service Contract Act; Labor Standards for Federal Service Contracts" (RIN1215–AB26) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–328. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "State Vocational Rehabilitation Services Program" (RIN1820–AB50) received on January 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–329. A communication from the Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Trust Management Reform: Leasing/Permitting, Grazing, Probate and Funds Held in Trust" (RIN1076–AE00) received on January 12, 2001; to the Committee on Indian Affairs.

EC–330. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Revision to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages" (RIN2557–AC22) received on January 17, 2001; to the Committee on Indian Affairs.

EC–331. A communication from the President of the United States, transmitting, pursuant to law, a report relating to the modification of duty-free treatment under the generalized system of preferences for Sub-Saharan African Countries; to the Committee on Finance.

EC–332. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "EP/EO user fees" (Revenue Procedure 2001–8) received on January 5, 2001; to the Committee on Finance.

EC–333. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "BLS—LIFO Department Store Indexes—November 2000" (Rev. Rul. 2001-5) received on January 5, 2001; to the Committee on Finance.

EC–334. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 2001-3) received on January 5, 2001; to the Committee on Finance.

EC–335. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "EP/EO Letter Rulings" (Revenue Procedure 2001-4) received on January 5, 2001; to the Committee on Finance.

EC–336. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annual Section 415(d) Cost-of-Living Adjustments" (Notice 2000-66) received on January 5, 2001; to the Committee on Finance.

EC–337. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Relief from Nondiscrimination Rules to Certain Governmental Plans and Church Plans" (Notice 2001-9) received on January 5, 2001; to the Committee on Finance.

EC–338. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2001-11" (SPR-131860-00) received on January 5, 2001; to the Committee on Finance.

EC–339. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure 2001-2: Technical Advice" (RP-116164-00) received on January 5, 2001; to the Committee on Finance.

EC–340. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure 2001-1: Letter Rulings, Determination Letters, and Information Letters" (RP-116162-00) received on January 5, 2001; to the Committee on Finance.

EC–341. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of Hyperinflationary Currency for Purposes of Section 988" ((RIN1545-AX67)(TD8914)) received on January 5, 2001; to the Committee on Finance.

EC–342. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules" ((RIN1545-AY29)(TD8916)) received on January 5, 2001; to the Committee on Finance.

EC–343. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "EP Determination Letters" (Revenue Procedure 2001-6) received on January 5, 2001; to the Committee on Finance.

EC–344. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "EP/EO Technical Advice Procedures" (Revenue Procedure 2001-5) received on January 5, 2001; to the Committee on Finance.

EC–345. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Liabilities Assumed in Certain Corporate Transaction" (RIN1545–AY63) received on January 8, 2001; to the Committee on Finance.

EC–346. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "October—December 2000 Bond Factor Amounts" (Revenue Ruling 2001-2) received on January 8, 2001; to the Committee on Finance.

EC–347. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Testimony By Employees and the Production of Records—Information in Legal Proceedings" (RIN0960–AE95) received on January 11, 2001; to the Committee on Finance.

EC–348. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "The GUST Remedial Amendment Period for Employers Who Use M&P or Volume Submitter Specimen Plans" (Announcement 2001-6) received on January 12, 2001; to the Committee on Finance.

EC–349. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of Last Known Address" ((RIN1545-AX13)(TD8939)) received on January 12, 2001; to the Committee on Finance.

EC–350. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Reopenings of Treasury Securities and Other Debt Instruments; Original Issue Discount" ((RIN1545-AX60)(TD8934)) received on January 12, 2001; to the Committee on Finance.

EC–351. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annual Update of the Service's No-Rule Revenue Procedures" (Revenue Procedures 2001-3 and 2001-1) received on January 12, 2001; to the Committee on Finance.

EC–352. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Change of Address Request" (Revenue Procedure 2001-18) received on January 17, 2001; to the Committee on Finance.

EC–353. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Obligations of States and Political Subdivisions" ((RIN1545-AX87)(TD8941)) received on January 17, 2001; to the Committee on Finance.

EC–354. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice to Interested Parties" (RIN1545-AY68) received on January 17, 2001; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CLELAND:

S. 144. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 145. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LUGAR:

S. 146. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. KYL, Mr. BINGAMAN, Mrs. BOXER, and Mr. DOMENICI):

S. 147. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Ms. LANDRIEU, Mr. JOHNSON, and Mr. STEVENS):

S. 148. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. GRAMM, Mr. SARBANES, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):

S. 149. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 151. A bill for the Relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

By Mr. HATCH:

S. 153. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the medicare program; to the Committee on Finance.

By Mr. SHELBY:

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGAMAN:

S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. BOXER:

S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CLELAND (for himself and Mr. MILLER):

S. Res. 14. A resolution commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA football championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND:

S. 144. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CLELAND. Mr. President, today I am re-introducing the Peanut Labeling Act. This bill will require country of origin labeling for all peanut and peanut products sold in the United States; specifically, it will require consumers to be notified whether the peanuts are grown in the United States or in another country. The main purpose of this bill is to provide American consumers with information about where the peanuts they purchase are grown. This bill will allow consumers to make informed food choices and support American farmers in the best way that they can—with their food dollar.

By providing country of origin labels, consumers can determine if peanuts are from a country that has had pesticide or other problems which may be harmful to their health. This is true particularly during a period when food imports are increasing, and will continue to increase in the wake of new trade agreements such as the WTO and GATT.

The growth of biotechnology in the food arena necessitates more information in the marketplace. Research is being conducted today on new peanut varieties. These research efforts include seeds that might deter peanut allergies, tolerate more drought, and be more resistant to disease. As various countries use differing technologies, consumers need to be made aware of the source of the product they are purchasing. GAO recently pointed out that FDA only inspected 1.7 percent of 2.7 million shipments of fruit, vegetables, seafood and processed foods under its jurisdiction. Inspections for peanuts can be assumed to be in this range or less. This lack of inspection does not provide consumers of these products with a great deal of assurance.

Polls have shown that consumers in America want to know the origin of the products they buy. And, contrary to the arguments given by opponents of labeling measures that such requirements would drive prices up, consumers have indicated that they would be willing to pay extra for easy access to such information. I believe that this is a pro-consumer bill that will have wide support.

I am also very pleased that peanut growers in America strongly support my proposal. In fact, the Peanut Labeling Act has been endorsed by the Georgia Peanut Commission, the National Peanut Growers Group, the Southern Peanut Farmers Federation, the Alabama Peanut Producers Association, and the Florida Peanut Producers Association.

In conclusion, as my colleagues know, we live in a global economy which creates an international marketplace for our food products. I strongly believe that by providing country of origin labeling for agricultural products, such as peanuts, we not only provide consumers with information they need to make informed choices about the quality of food being served to their family but we also allow American farmers to showcase the time and effort they put into producing the safest and finest food products in the world. I believe this bill represents these principles and I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peanut Labeling Act of 2001".

SEC. 2. INDICATION OF COUNTRY OF ORIGIN OF PEANUTS AND PEANUT PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) PEANUT PRODUCT.—The term "peanut product" means any product more than 3 percent of the retail value of which is derived from peanuts contained in the product.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) NOTICE OF COUNTRY OF ORIGIN REQUIRED.—

(1) IN GENERAL.—Subject to paragraph (2), a retailer of peanuts or peanut products produced in, or imported into, the United States (including any peanut product that contains peanuts that are not produced in the United States) shall inform consumers, at the final point of sale to consumers, of the country of origin of the peanuts or peanut products.

(2) WAIVER.—The Secretary may waive the application of paragraph (1) to a retailer of peanuts or peanut products if the retailer demonstrates to the Secretary it is impracticable for the retailer to determine the country of origin of the peanuts or peanut products.

(c) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the peanuts or peanut products or on the package, display, holding unit, or bin containing the peanuts or peanut products at the final point of sale to consumers.

(2) EXISTING LABELING.—If the peanuts or peanut products are already labeled regarding country of origin by the packer, importer, or another person, the retailer shall not be required to provide any additional information in order to comply with this section.

(d) VIOLATIONS.—If a retailer fails to indicate the country of origin of peanuts or peanut products as required by subsection (b), the Secretary may impose a civil penalty on the retailer in an amount not to exceed—

(1) $1,000 for the first day on which the violation occurs; and

(2) $250 for each day on which the violation continues.

(e) DEPOSIT OF FUNDS.—Amounts collected under subsection (d) shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) APPLICATION.—This section shall apply with respect to peanuts and peanut products produced in, or imported into, the United States after the date that is 180 days after the date of enactment of this Act.

By Mr. THURMOND:

S. 145. A bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age; and for other purposes; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today, I am again introducing legislation that would correct the long-standing injustice to the widows or widowers of our military retirees. The proposed legislation would immediately increase for surviving spouses over the age 62 the minimum Survivor Benefit Plan (SBP) annuity from 35 percent to 40 percent of the SBP covered retired pay. The bill would provide a further increase to 45 percent of covered retired pay as of October 1, 2004 and to 55 percent as of September 2011.

As I outlined in my many statements in support of this important legislation the Survivor Benefit Plan advertises, that if the service member elects to join the Plan, his survivor will receive 55 percent of the member's retirement pay. Unfortunately, that is not so. The reason that they do not receive the 55 percent of retired pay is that current law mandates that at age 62 this amount be reduced either by the amount of the survivor's Social Security benefit or to 35 percent of the SBP. This law is especially irksome to those retirees who joined the plan when it was first offered in 1972. These service members were never informed of the age-62 reduction until they had made an irrevocable decision to participate. Many retirees and their spouses, as our constituent mail attests, believed their premium payments would guarantee 55 percent of retired pay for the life of the survivor. It is not hard to imagine the shock and financial disadvantage these men and women who so loyally served the Nation for many years experience when they learn of the annuity reduction.

Uniformed services retirees pay too much for the available SBP benefit both, compared to what we promised and what we offer other federal retirees. When the Survivor Benefit Plan was enacted in 1972, the Congress intended that the government would pay 40 percent of the cost to parallel the government subsidy of the Federal civilian survivor benefit plan. That was short-lived. Over time, the government's cost sharing has declined to about 26 percent. In other words, the retiree's premiums now cover 74 percent of expected long-term program costs versus the intended 60 percent. Contrast this with the federal civilian SBP, which has a 42 percent subsidy for those personnel under the Federal Employees Retirement System and a 50 percent subsidy for those under the Civil Service Retirement System. Further, Federal civilian survivors receive 50 percent of retired pay with no offset at age 62. Although Federal civilian premiums are 10 percent retired pay compared to 6.5 percent for military retirees, the difference in the percent of contribution is offset by the fact that our service personnel retire at a much younger age than the civil servant and, therefore pay premiums much longer than the federal civilian retiree.

Mr. President, although the House conferees thwarted my previous efforts to enact this legislation into law, I am ever optimistic that this year we will prevail. I base my optimism on the fact that the National Defense Authorization Act for Fiscal Year 2001 included a Sense of the Congress on increasing Survivor Benefit Plan annuities for surviving spouses age 62 or older. The sense of the Congress reflects the concern addressed by the legislation I am introducing again today. I urge my colleagues to support this bill and now ask that the bill be sent to the desk.

By Mr. LUGAR:

S. 146. A bill to amend part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to permit the use of certain amounts for assistance to jail-based substance treatment programs, and for other purposes; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today to offer legislation amending the Residential Substance Abuse Treatment program, known as R-SAT, to enable jurisdictions below the state level to realize greater benefits from the program. The R-SAT program allows the Attorney General to make grants for the establishment of treatment programs within local correctional facilities, but only a few jurisdictions have been able to take advantage of these grants.

The legislation that I am offering today will address this problem by establishing a separate Jail-Based Substance Abuse Treatment Program, or J-SAT. Under this new program, states will be explicitly authorized to devote up to 10 percent of the funds they receive under R-SAT to qualifying J-SAT programs.

This legislation will provide matching funds to jail-based treatment programs that meet several criteria. First, the program must be at least three months in length. This is the minimum amount of time for a treatment program to have the desired effect. To qualify for funding, a program must also have been in existence for at least two years. This criterion is intended to ensure that jurisdictions that already have demonstrated a commitment to treatment programs at the local level receive first priority for funding. It also ensures that scarce treatment resources are allocated to programs with a demonstrated track record of success. The third criterion for programs seeking J-SAT funding is that the treatment regimen must include regular drug testing. This is necessary to ensure that an objective measure of the program's success is available. Grant recipients also are encouraged to provide the widest range of aftercare services possible, including job training, education and self-help programs. These steps are necessary to leverage the resources devoted to solving the problem of substance abuse, and to give individuals involved in treatment the best possible chance for successful rehabilitation.

This legislation passed the Senate during the 106th Congress, and I am offering the J-SAT bill again because substance abuse and problems arising from it continue to put a severe strain on the resources of local jurisdictions throughout the nation. The Office of National Drug Control Policy indicates that approximately three-fourths of prison inmates—and over half of those in jails or on probation—are substance abusers, yet only a small percentage of inmates participate in treatment programs while they are incarcerated. The time during which drug-using offenders are in custody or under post-release correctional supervision—whether at a state or local level—presents a unique opportunity to reduce drug use and crime through effective drug testing and treatment programs.

Research indicates that programs like J-SAT can help to reduce the strain on our communities by cutting drug use in half, by reducing the criminal activity that results from drug habits, and by reducing arrests for all crimes by up to 64 percent.

Jail-based treatment programs are cost effective. The Office of National Drug Control Policy states that treatment while in prison and under post-incarceration supervision can reduce recidivism by roughly 50 percent. Moreover, former Assistant Health Secretary Philip Lee has estimated that every dollar invested in treatment can save $7 in social and medical costs.

For these reasons, I ask my colleagues to support the Jail-Based Substance Abuse Treatment legislation that I am introducing today. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

(a) USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE AFTERCARE SERVICES.—Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff-1) is amended by adding at the end the following:

"(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.".

(b) JAIL-BASED SUBSTANCE ABUSE TREATMENT.—Part S of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff et seq.) is amended by adding at the end the following:

"SEC. 1906. JAIL-BASED SUBSTANCE ABUSE TREATMENT.

"(a) DEFINITIONS.—In this section:

"(1) JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAM.—The term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

"(A) directed at the substance abuse problems of prisoners; and

"(B) intended to develop the cognitive, behavioral, social, vocational, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.

"(2) LOCAL CORRECTIONAL FACILITY.—The term 'local correctional facility' means any correctional facility operated by a unit of local government.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—Not less than 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year may be used by the State to make grants to local correctional facilities in the State for the purpose of assisting jail-based substance abuse treatment programs established by those local correctional facilities.

"(2) FEDERAL SHARE.—The Federal share of a grant made by a State under this section to a local correctional facility may not exceed 75 percent of the total cost of the jail-based substance abuse treatment program described in the application submitted under subsection (c) for the fiscal year for which the program receives assistance under this section.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—To be eligible to receive a grant from a State under this section for a jail-based substance abuse treatment program, the chief executive of a local correctional facility shall submit to the State, in such form and containing such information as the State may reasonably require, an application that meets the requirements of paragraph (2).

"(2) APPLICATION REQUIREMENTS.—Each application submitted under paragraph (1) shall include—

"(A) with respect to the jail-based substance abuse treatment program for which assistance is sought, a description of the program and a written certification that—

"(i) the program has been in effect for not less than 2 consecutive years before the date on which the application is submitted; and

"(ii) the local correctional facility will—

"(I) coordinate the design and implementation of the program between local correctional facility representatives and the appropriate State and local alcohol and substance abuse agencies;

"(II) implement (or continue to require) urinalysis or other proven reliable forms of substance abuse testing of individuals participating in the program, including the testing of individuals released from the jail-based substance abuse treatment program who remain in the custody of the local correctional facility; and

"(III) carry out the program in accordance with guidelines, which shall be established by the State, in order to guarantee each participant in the program access to consistent, continual care if transferred to a different local correctional facility within the State;

"(B) written assurances that Federal funds received by the local correctional facility from the State under this section will be used to supplement, and not to supplant, non-Federal funds that would otherwise be available for jail-based substance abuse treatment programs assisted with amounts made available to the local correctional facility under this section; and

"(C) a description of the manner in which amounts received by the local correctional facility from the State under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services provided to the local correctional facility by the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

"(d) REVIEW OF APPLICATIONS.—

"(1) IN GENERAL.—Upon receipt of an application under subsection (c), the State shall—

"(A) review the application to ensure that the application, and the jail-based residential substance abuse treatment program for which a grant under this section is sought, meet the requirements of this section; and

"(B) if the requirements of this section are met, make an affirmative finding in writing that the jail-based substance abuse treatment program for which assistance is sought meets the requirements of this section.

"(2) APPROVAL.—Based on the review conducted under paragraph (1), not later than 90 days after the date on which an application is submitted under subsection (c), the State shall—

"(A) approve the application, disapprove the application, or request a continued evaluation of the application for an additional period of 90 days; and

"(B) notify the applicant of the action taken under subparagraph (A) and, with respect to any denial of an application under subparagraph (A), afford the applicant an opportunity for reconsideration.

"(3) ELIGIBILITY FOR PREFERENCE WITH AFTERCARE COMPONENT.—

"(A) IN GENERAL.—In making grants under this section, a State shall give preference to applications from local correctional facilities that ensure that each participant in the jail-based substance abuse treatment program for which a grant under this section is sought, is required to participate in an aftercare services program that meets the requirements of subparagraph (B), for a period of not less than 1 year following the earlier of—

"(i) the date on which the participant completes the jail-based substance abuse treatment program; or

"(ii) the date on which the participant is released from the correctional facility at the end of the sentence of the participant or is released on parole.

"(B) AFTERCARE SERVICES PROGRAM REQUIREMENTS.—For purposes of subparagraph (A), an aftercare services program meets the requirements of this paragraph if the program—

"(i) in selecting individuals for participation in the program, gives priority to individuals who have completed a jail-based substance abuse treatment program;

"(ii) requires each participant in the program to submit to periodic substance abuse testing; and

"(iii) involves the coordination between the jail-based substance abuse treatment program and other human service and rehabilitation programs that may assist in the rehabilitation of program participants, such as—

"(I) educational and job training programs;

"(II) parole supervision programs;

"(III) half-way house programs; and

"(IV) participation in self-help and peer group programs; and

"(iv) assists in placing jail-based substance abuse treatment program participants with appropriate community substance abuse treatment facilities upon release from the correctional facility at the end of a sentence or on parole.

"(e) COORDINATION AND CONSULTATION.—

"(1) COORDINATION.—Each State that makes 1 or more grants under this section in any fiscal year shall, to the maximum extent practicable, implement a statewide communications network with the capacity to track the participants in jail-based substance abuse treatment programs established by local correctional facilities in the State as those participants move between local correctional facilities within the State.

"(2) CONSULTATION.—Each State described in paragraph (1) shall consult with the Attorney General and the Secretary of Health and Human Services to ensure that each jail-based substance abuse treatment program assisted with a grant made by the State under this section incorporates applicable components of comprehensive approaches, including relapse prevention and aftercare services.

"(f) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Each local correctional facility that receives a grant under this section shall use the grant amount solely for the purpose of carrying out the jail-based substance abuse treatment program described in the application submitted under subsection (c).

"(2) ADMINISTRATION.—Each local correctional facility that receives a grant under this section shall carry out all activities relating to the administration of the grant amount, including reviewing the manner in which the amount is expended, processing, monitoring the progress of the program assisted, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"(3) RESTRICTION.—A local correctional facility may not use any amount of a grant under this section for land acquisition or a construction project.

"(g) REPORTING REQUIREMENT; PERFORMANCE REVIEW.—

"(1) REPORTING REQUIREMENT.—Not later than March 1 of each year, each local correctional facility that receives a grant under this section shall submit to the Attorney General, through the State, a description and evaluation of the jail-based substance abuse treatment program carried out by the local correctional facility with the grant amount, in such form and containing such information as the Attorney General may reasonably require.

"(2) PERFORMANCE REVIEW.—The Attorney General shall conduct an annual review of each jail-based substance abuse treatment program assisted under this section, in order to verify the compliance of local correctional facilities with the requirements of this section.

"(h) NO EFFECT ON STATE ALLOCATION.—Nothing in this section shall be construed to affect the allocation of amounts to States under section 1904(a).".

(c) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended, in the matter relating to part S, by adding at the end the following:

"1906. Jail-based substance abuse treatment.".

Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. KYL, Mr. BINGAMAN, Mrs. BOXER, AND Mr. DOMENICI):

S. 147. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President. I rise, along with Senator HUTCHISON of Texas, Senator KYL of Arizona, and Senator BINGAMAN of New Mexico, to introduce the Southwest Border Judgeship Act of 2001.

This legislation would enact the United States Judicial Conference recommendation of nine permanent and nine temporary judgeships for the five Southwestern border districts of Southern California, Arizona, New Mexico, Western Texas, and Southern Texas.

The judicial districts on the Southwestern Border are facing an unparaleled surge of cases, and lack the resources to handle them.

From March 1994 through March 1999, criminal case filings in Southwestern border courts increased by 125 percent (from 6,460 to 14,517), drug prosecutions in these same districts increased by 189 percent (from 2,864 to 5,414), and immigration prosecutions by 431 percent (from 1,056 to 5,614).

The five "Border Courts" (Southern California, Arizona, New Mexico, West Texas, Southern Texas) now handle 26 percent of all federal court criminal filings in the United States, and are projected to handle one-third within two years. The 89 other district courts handle the other 74 percent of criminal filings.

All five border courts currently are among the top ten most burdened districts in the country in terms of weighted caseload.

While these courts have faced an ever rising caseload, their resources have remained stagnant. The Southern District of California, for example, has not been authorized a new judgeship since 1990.

Nowhere is the judicial crisis greater than in the Southern District of California. On October 30, 2000, the district took the unprecedented step of declaring a "judicial emergency." The Southern district had a weighted caseload of 978 cases per judgeship in Fiscal year 2000. That's nearly two and a half times the national standard of 430 cases per judgeship.

The court's criminal caseload is the heaviest in the nation, with 55 trials per judge for the year 2000. In civil case, many judges no longer hear oral arguments; they base their opinions solely on written briefs.

The Chief Judge in San Diego, Marilyn Huff, has resorted to desperate measures to hold back this tide of cases, including asking seven retired judges to return to the bench. Two of these judges, Judge Edward Schwartz and Judge Leland Nielsen, have recently died.

The Southern District of California and other border districts cannot continue to function effectively with a skeleton crew of judges. The crisis in San Diego, in particular, has reached a point where citizen access to justice is being threatened. It is imperative that Congress act proactively to address this shortage of resources.

The Southwest Border Judges Act would authorize nine permanent judgeships (5 judgeships for the Southern District of California, 1 judgeship for the District of New Mexico, 1 judgeship for the Southern District of Texas, and 2 judgeships for the Western District of Texas) and nine temporary judgeships (four for Arizona, 3 for the Southern District of California, 1 for New Mexico, and 1 for the Western District of Texas).

I look forward to working with my colleagues to enact this urgent legislation.

Mr. KYL. Mr. President, I rise in support of Senator FEINSTEIN's bill to add judgeships to the states along U.S.-Mexico border. I agree with Senator FEINSTEIN that, due to the growing population and caseload, additional judgeships are solely needed.

This bill seeks to enact a recommendation of the Judicial Conference of the United States. The bill would authorize nine permanent and nine temporary judgeships. I favor a different approach. I believe that all the judgeships in the bill should be permanent judgeships because the growth in population and resulting caseload is expected to continue. I have agreed to cosponsor the bill because I agree that additional judgeships are needed and I believe that the bill provides a sound basis for discussions.

I look forward to working with Senator FEINSTEIN and the other Senators along the southwest border, as well as Senators HATCH and LEAHY and the chair and ranking member of the Subcommittee on Courts and Administrative Oversight.

Mr. CRAIG (for himself, Ms. LANDRIEU, Mr. JOHNSON, and Mr. STEVENS):

S. 148. A bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; to the Committee on Finance.

Mr. CRAIG. Mr. President, there is some very important unfinished business from the last Congress that requires our early attention this year: renewing the adoption tax credit.

As many of our colleagues know, this credit was enacted in 1996 to help families with the extraordinary costs of adoption. Forming a family through adoption is challenging for a number of reasons, but the financial burden puts it out of reach altogether for too many Americans. Legal fees, medical bills, travel, and other expenses can push the cost into the tens of thousands of dollars, over and above the normal cost of raising a child. Congress enacted the adoption tax credit to enable families to keep a little more of their own hard-earned dollars to use for these expenses, on a one-time basis.

That tax credit has been very helpful to the families who have opened their homes and hearts to children in need. However, it is due to expire at the end of this year, along with another adoption-related tax provision that excludes employer-provided adoption benefits from income, for tax purposes.

We cannot wait until the end of the year to renew these tax measures. Today, families are making decisions about whether they can afford to embark on the long journey to bring a child home through adoption. Today, they cannot count on those tax benefits being available. This Congress must move swiftly to reassure America's adoptive families that we will continue to support this modest assistance.

That is why I am reintroducing the Hope For Children Act, which many of my colleagues will remember from the last Congress. I am delighted to be joined in this effort by Senator MARY LANDRIEU, who with me co-chairs the bicameral, nonpartisan Congressional Coalition on Adoption, as well as our colleagues, the Senator from Alaska Mr. STEVENS, and the Senator from South Dakota Mr. JOHNSON.

Our legislation will extend, increase, and simplify these important tax measures. Specifically, the Hope For Children Act would remove the current sunset on both the adoption tax credit and the exclusion for employer-provided adoption benefits. It would also increase the benefit and exclusion from $5,000 (or in the case of an adoption of a child with special needs, $6,000) to $10,000, and adjust them for inflation. It would lift the cap on income eligibility for receiving the full benefit of these tax measures from $75,000 gross income to $150,000.

Also, the bill includes a provision that the Senate has passed more than once, liberalizing the tax credit for families adopting children with special needs. It would also make a similar adjustment in the exclusion as it relates to these families. Instead of being limited to the adoption expenses that the Internal Revenue Service decides are allowable, these families would be entitled to the full credit and exclusion. This change is necessary, because the financial challenges facing these families tend to fall outside or after the adoption process itself—for instance, they may include a wheelchair or special van for an adopted child with a physical disability, or home construction work to make it possible to adopt a sibling group, or counseling services for the family to cope with the extraordinary challenges of a child with special needs.

It is important to remember that the costs involved in such adoptions are truly staggering. Even with the increases we want to provide through the Hope For Children Act, the adoption tax credit and exclusion only offer a boost, not a subsidy, to families who are willing to open their hearts and homes to a child with special needs.

Mr. President, there are thousands and thousands of children in America who are waiting to be adopted. The adoption tax credit and exclusion are humane, measured, effective policies that truly help these children find safe, loving, permanent homes. Let's send a strong message of support to these children and their families by renewing these policies, through early passage of the Hope For Children Act.

I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hope for Children Act".

SEC. 2. EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—

(1) ADOPTION CREDIT.—Section 23(a)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended to read as follows:

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter—

"(A) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

"(B) in the case of an adoption of a child with special needs, $10,000.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137(a) of such Code (relating to adoption assistance programs) is amended to read as follows:

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program. The amount of the exclusion shall be—

"(1) in the case of an adoption of a child other than a child with special needs, the amount of the qualified adoption expenses paid or incurred by the taxpayer, and

"(2) in the case of an adoption of a child with special needs, $10,000.".

(b) DOLLAR LIMITATIONS.—

(1) DOLLAR AMOUNT OF ALLOWED EXPENSES.—

(A) ADOPTION EXPENSES.—Section 23(b)(1) of the Internal Revenue Code of 1986 (relating to allowance of credit) is amended—

(i) by striking "$5,000" and inserting "$10,000",

(ii) by striking "($6,000, in the case of a child with special needs)", and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)(A)".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) of such Code (relating to dollar limitations for adoption assistance programs) is amended—

(i) by striking "$5,000" and inserting "$10,000", and

(ii) by striking "($6,000, in the case of a child with special needs)", and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)".

(2) PHASE-OUT LIMITATION.—

(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) of such Code (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) of such Code (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(c) YEAR CREDIT ALLOWED.—Section 23(a)(2) of the Internal Revenue Code of 1986 (relating to year credit allowed) is amended by adding at the end the following new flush sentence:

"In the case of the adoption of a child with special needs, the credit allowed under paragraph (1) shall be allowed for the taxable year in which the adoption becomes final.".

(d) REPEAL OF SUNSET PROVISIONS.—

(1) CHILDREN WITHOUT SPECIAL NEEDS.—Paragraph (2) of section 23(d) of the Internal Revenue Code of 1986 (relating to definition of eligible child) is amended to read as follows:

"(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual who—

"(A) has not attained age 18, or

"(B) is physically or mentally incapable of caring for himself.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs) is amended by striking subsection (f).

(e) ADJUSTMENT OF DOLLAR AND INCOME LIMITATIONS FOR INFLATION.—

(1) ADOPTION CREDIT.—Section 23 of the Internal Revenue Code of 1986 (relating to adoption expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(1)(B) and paragraphs (1) and (2)(A)(i) of subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.".

(2) ADOPTION ASSISTANCE PROGRAMS.—Section 137 of such Code (relating to adoption assistance programs), as amended by subsection (d), is amended by adding at the end the following new subsection:

"(f) ADJUSTMENTS FOR INFLATION.—In the case of a taxable year beginning after December 31, 2002, each of the dollar amounts in subsection (a)(2) and paragraphs (1) and (2)(A) of subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.".

(f) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—Section 23(c) of the Internal Revenue Code of 1986 (relating to carryforwards of unused credit) is amended by striking "the limitation imposed" and all that follows through "1400C)" and inserting "the applicable tax limitation".

(2) APPLICABLE TAX LIMITATION.—Section 23(d) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

"(4) APPLICABLE TAX LIMITATION.—The term 'applicable tax limitation' means the sum of—

"(A) the taxpayer's regular tax liability for the taxable year, reduced (but not below zero) by the sum of the credits allowed by sections 21, 22, 24 (other than the amount of the increase under subsection (d) thereof), 25, and 25A, and

"(B) the tax imposed by section 55 for such taxable year.".

(3) CONFORMING AMENDMENTS.—

(A) Section 26(a) of such Code (relating to limitation based on amount of tax) is amended by inserting "(other than section 23)" after "allowed by this subpart".

(B) Section 53(b)(1) of such Code (relating to minimum tax credit) is amended by inserting "reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years," after "1986,".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By Mr. ENZI (for himself, Mr. GRAMM, Mr. SARBANES, Mr. JOHNSON, Mr. HAGEL, Mr. ROBERTS, and Ms. STABENOW):

S. 149. A bill to provide authority to control exports, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today to introduce the Export Administration Act of 2001. I am joined by my distinguished colleagues, Senator GRAMM of Texas, Senator SARBANES of Maryland, Senator JOHNSON of South Dakota, Senator HAGEL of Nebraska, and Senator ROBERTS of Kansas. I thank each of them for their help in drafting and supporting this bipartisan bill. I believe it can be one of the first bipartisan accomplishments of the 107th Congress and President Bush. The EAA of 2001 would eliminate trade barriers while focusing control on those items most sensitive to our national security.

Let me begin by emphasizing the need to reauthorize and reform the EAA of 1979.

The EAA provides export control authority for commercial or dual-use items—things that can be used in more than one way. For 6 years the Congress has failed to update and reauthorize this important act, with the exception of a 1-year reauthorization of the outdated Export Administration Act of 1979. As a result, our export control laws have been inadequately governed by either the EAA of 1979 or, more often than not, by emergency Presidential authority under the International Emergency Economic Powers

Act. This situation has effectively allowed the administration, instead of Congress, to set the export control policies of the United States.

The bill introduced today would place our export control system on firm statutory grounds and establish a modernized framework to recognize the rapid pace of economic innovation and the realities of globalization.

The Export Administration Act of 2001 is a reasonable and balanced bill that will put up higher fences around the most sensitive areas and focus our enforcement efforts on restricting all technology exports to all the true bad actors. At the same time, it takes into account the realities of today's economy, incorporating the concept that items such as computers are very difficult to control.

The bill recognizes that items available from foreign sources or available in mass market quantities cannot be effectively controlled. At the same time, we recognize that the President may, in exceptional cases, want to control a very sensitive item even when that item is available from the foreign source or in mass marketed quantities. Therefore, we include a provision to provide the President with this authority.

The Export Administration Act of 2001 also strengthens national security in other areas. It enhances the role of the Department of Defense and other agencies by requiring the concurrence of the Secretary of Defense for items included on the control list as well as allowing licensing decisions to be appealed to the next level of review at the request of any participating agency representative. Licensing decisions would be made in part through the use of "country-tiering", grouping countries and items according to their assessed risk. The bill would also target end-use checks on those items that pose the greatest risk to national security.

The EAA of 2001 provides tough new criminal and civil penalties for export control violations. For example, criminal penalties for individuals could be up to $1 million, or ten times the value of the export per violation. Criminal penalties for corporations could be up to $10 million or ten times the export value of the export per violation. It also authorizes awarding of up to 25 percent of the penalties imposed to a person providing information concerning an export control violation. The increase in penalties, which also include potential jail time and enhancement of enforcement provisions, will provide an effective deterrent to the violations of the act.

A number of reviews of technology transfer and export controls were unanimous in their statements that an important requirement for an effective export control program is appropriate authorizing legislation.

The Cox committee on technology transfer to China, the joint Inspector General's interagency review of the export licensing processes for dual-use commodities and munitions, and the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction, have all strongly recommended the authorization of the EAA. The bipartisan Export Administration Act of 2001 would accomplish this while balancing the national security and economic interests of the United States.

S. 1712, which was the EAA reauthorization bill of last session that unanimously passed the Senate Banking Committee last year, was strongly supported by Republicans and Democrats, as well as both large and small exporters.

The Clinton administration supported the bill. Even President Bush endorsed the bill in campaign statements that he made. It was prevented from coming up last year because of a crowded floor agenda, but now is the time to replace the current outdated export control system and pass the Export Administration Act of 2001. We have an opportunity. We have an obligation to make sure that we increase exports while we protect national security.

The bill was expired for six years. There have been 12 attempts to reauthorize the bill. The biggest reason that it has not been reauthorized is the complexity of detail of the licensing and appeal process. Fortunately, the Cox commission brought to light the need to reauthorize this important piece of legislation.

Last year, we passed it through committee by a 20–0 vote. After 12 failures, that is fairly significant. In fact, it is always significant around here when you have something Bipartisan enough that it passes on a unanimous vote.

We have worked hard on the bill. We have listened to industry. We have listened to our colleagues. We have listened to the administration. We have listened to those people over past administrations who have worked on the same issue. We have a bill that updates the process for the post-cold war so that the provisions in this will work today and into the future. This is the new version that needs to be passed in this session of Congress. It needs to be passed early.

The current extension we got on the bill only extended it until August 20. That is coming up soon, particularly with our legislative calendar needs. I ask my colleagues to work promptly on this bill. We will be talking to everyone who has an interest in it, and coming back to the floor with debate and discussion and a vote that will put this in front of the President for signature so we can have the proper national security and increase in national exports.

I thank my colleagues for their support of this most important piece of legislation and look forward to working with my colleagues to reauthorize the EAA during the coming months.

I ask unanimous consent that the bill be printed.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export Administration Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—GENERAL AUTHORITY

Sec. 101. Commerce Control List.
Sec. 102. Delegation of authority.
Sec. 103. Public information; consultation requirements.
Sec. 104. Right of export.
Sec. 105. Export control advisory committees.
Sec. 106. President's Technology Export Council.
Sec. 107. Prohibition on charging fees.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

Sec. 201. Authority for national security export controls.
Sec. 202. National Security Control List.
Sec. 203. Country tiers.
Sec. 204. Incorporated parts and components.
Sec. 205. Petition process for modifying export status.

Subtitle B—Foreign Availability and Mass-Market Status

Sec. 211. Determination of foreign availability and mass-market status.
Sec. 212. Presidential set-aside of foreign availability determination.
Sec. 213. Presidential set-aside of mass-market status determination.
Sec. 214. Office of Technology Evaluation.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

Sec. 301. Authority for foreign policy export controls.
Sec. 302. Procedures for imposing controls.
Sec. 303. Criteria for foreign policy export controls.
Sec. 304. Presidential report before imposition of control.
Sec. 305. Imposition of controls.
Sec. 306. Deferral authority.
Sec. 307. Review, renewal, and termination.
Sec. 308. Termination of controls under this title.
Sec. 309. Compliance with international obligations.
Sec. 310. Designation of countries supporting international terrorism.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

Sec. 401. Exemption for agricultural commodities, medicine, and medical supplies.
Sec. 402. Termination of export controls required by law.
Sec. 403. Exclusions.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION
Sec. 501. Export license procedures.
Sec. 502. Interagency dispute resolution process.
TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT
Sec. 601. International arrangements.
Sec. 602. Foreign boycotts.
Sec. 603. Penalties.
Sec. 604. Multilateral export control regime violation sanctions.
Sec. 605. Missile proliferation control violations.
Sec. 606. Chemical and biological weapons proliferation sanctions.
Sec. 607. Enforcement.
Sec. 608. Administrative procedure.
TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS
Sec. 701. Export control authority and regulations.
Sec. 702. Confidentiality of information.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Annual and periodic reports.
Sec. 802. Technical and conforming amendments.
Sec. 803. Savings provisions.

SEC. 2. DEFINITIONS.

In this Act:

(1) Affiliate.—The term "affiliate" includes both governmental entities and commercial entities that are controlled in fact by the government of a country.

(2) Agriculture commodity.—The term "agriculture commodity" means any agricultural commodity, food, fiber, or livestock (including livestock, as defined in section 602(2) of the Emergency Livestock Feed Assistance Act of 1988 (title VI of the Agricultural Act of 1949 (7 U.S.C. 1471(2))), and including insects), and any product thereof.

(3) Control or controlled.—The terms "control" and "controlled" mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.

(4) Control list.—The term "Control List" means the Commerce Control List established under section 101.

(5) Controlled country.—The term "controlled country" means a country with respect to which exports are controlled under section 201 or 301.

(6) Controlled item.—The term "controlled item" means an item the export of which is controlled under this Act.

(7) Country.—The term "country" means a sovereign country or an autonomous customs territory.

(8) Country supporting international terrorism.—The term "country supporting international terrorism" means a country designated by the Secretary of State pursuant to section 310.

(9) Department.—The term "Department" means the Department of Commerce.

(10) Export.—

(A) The term "export" means—

(i) an actual shipment, transfer, or transmission of an item out of the United States;

(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; or

(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.

(B) The term includes a reexport.

(11) Foreign availability status.—The term "foreign availability status" means the status described in section 211(d)(1).

(12) Foreign person.—The term "foreign person" means—

(A) an individual who is not—

(i) a United States citizen;

(ii) an alien lawfully admitted for permanent residence to the United States; or

(iii) a protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act. (8 U.S.C. 1324b(a)(3));

(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and

(C) any governmental entity of a foreign country.

(13) Item.—

(A) In general.—The term "item" means any good, technology, or service.

(B) Other definitions.—In this paragraph:

(i) Good.—The term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.

(ii) Technology.—The term "technology" means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.

(iii) Service.—The term "service" means any act of assistance, help or aid.

(14) Mass-market status.—The term "mass-market status" means the status described in section 211(d)(2).

(15) Multilateral export control regime.—The term "multilateral export control regime" means an international agreement or arrangement among two or more countries, including the United States, a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.

(16) National security control list.—The term "National Security Control List" means the list established under section 202(a).

(17) Person.—The term "person" includes—

(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and

(B) any government, or any governmental entity, including any governmental entity operating as a business enterprise.

(18) Reexport.—The term "reexport" means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.

(19) Secretary.—The term "Secretary" means the Secretary of Commerce.

(20) United states.—The term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).

(21) United states person.—The term "United States person" means—

(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);

(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and

(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the President.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.

(a) In General.—Under such conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the "Control List") consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require any type of license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List or otherwise subject to control under title II or III of this Act.

(b) Types of License or Other Authorization.—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) Specific exports.—A license that authorizes a specific export.

(2) Multiple exports.—A license that authorizes multiple exports in lieu of a license for each such export.

(3) Notification in lieu of license.— A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the exporter file with the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) License exception.—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(c) After-Market Service and Replacement Parts.—A license to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts, to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license is required to export such parts; or

(2) the after-market service or replacement parts would materially enhance the capability of an item which was the basis for the item being controlled.

(d) Incidental Technology.—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

(e) Regulations.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.

SEC. 102. DELEGATION OF AUTHORITY.

(a) In General.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.

(b) Exceptions.—

(1) Delegation to appointees confirmed by senate.—No authority delegated to the

President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President's power, authority, or discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in export control policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States export control policy and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary's own initiative or upon the written request of representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or under the International Emergency Economic Powers Act, or being considered for such controls, the Secretary may appoint export control advisory committees with respect to any such items. Each such committee shall consist of representatives of United States industry and Government officials, including officials from the Departments of Commerce, Defense, and State, and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were appointed.

(2) OTHER CONSULTATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with any person representing an industry or the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present information to such committees.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees appointed under subsection (a), the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the export control advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

SEC. 106. PRESIDENT'S TECHNOLOGY EXPORT COUNCIL.

The President may establish a President's Technology Export Council to advise the President on the implementation, operation, and effectiveness of this Act.

SEC. 107. PROHIBITION ON CHARGING FEES.

No fee may be charged in connection with the submission or processing of an application for an export license under this Act.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States, its allies or countries sharing common strategic objectives with the United States.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by—

(A) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities;

(B) controlling involvement of United States persons in, and contributions by United States persons to, foreign programs intended to develop weapons of mass destruction, missiles, and other significant military capabilities, and the means to design, test, develop, produce, stockpile, or use them; and

(C) implementing international treaties or other agreements or arrangements concerning controls on exports of designated items, reports on the production, processing, consumption, and exports and imports of such items, and compliance with verification programs.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that could materially contribute to the proliferation of weapons of mass destruction or the means to deliver them.

(d) ENHANCED CONTROLS.—Notwithstanding any other provisions of this title, the President may determine that applying the provisions of section 204(b) or section 211 with respect to an item on the National Security Control List would constitute a significant threat to the national security of the United States and that such item requires enhanced control. If the President determines that enhanced control should apply to such item, it shall be excluded from the provisions of section 204(b), section 211, or both, until such time as the President shall determine that such enhanced control should no longer apply to such item. The President may not delegate the authority provided for in this subsection.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(2) CONTENTS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

(3) IDENTIFICATION OF ITEMS FOR NATIONAL SECURITY CONTROL LIST.—The Secretary, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, shall identify the items to be included on the National Security Control List provided that the National Security Control List shall, on the date of enactment of this Act, include all of the items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism. The Secretary shall periodically review and, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, adjust the National Security Control List to add items that require control under this section and to remove items that no longer warrant control under this section.

(b) RISK ASSESSMENT.—

(1) REQUIREMENT.—In establishing and maintaining the National Security Control List, the risk factors set forth in paragraph (2) shall be considered, weighing national security concerns and economic costs.

(2) RISK FACTORS.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:

(A) The characteristics of the item.

(B) The threat, if any, to the United States or the national security interest of the United States from the misuse or diversion of such item.

(C) The effectiveness of controlling the item for national security purposes of the United States, taking into account mass-market status, foreign availability, and other relevant factors.

(D) The threat to the national security interests of the United States if the item is not controlled.

(E) Any other appropriate risk factors.

(c) REPORT ON CONTROL LIST.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to Congress which lists all items on the Commerce Control List controlled on the day before the date of enactment of this Act to protect the national security of the United States, to prevent the proliferation of weapons of mass destruction and the means to deliver them, and to deter acts of international terrorism, not included on the National Security Control List pursuant to the provisions of this Act.

SEC. 203. COUNTRY TIERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT AND ASSIGNMENT.—In administering export controls for national security purposes under this title, the President shall, not later than 120 days after the date of enactment of this Act—

(A) establish and maintain a country tiering system in accordance with subsection (b); and

(B) based on the assessments required under subsection (c), assign each country to an appropriate tier for each item or group of items the export of which is controlled for national security purposes under this title.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may redetermine the assignment of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an on-going basis. The Secretary shall provide notice of any such reassignment to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of 5 tiers for purposes of this section, ranging from tier 1 through tier 5.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 1. Countries that represent the highest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 5.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 2, 3, or 4, respectively, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration risk factors including the following:

(1) The present and potential relationship of the country with the United States.

(2) The present and potential relationship of the country with countries friendly to the United States and with countries hostile to the United States.

(3) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's capabilities regarding missile systems and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) Whether the country, if a NATO or major non-NATO ally with whom the United States has entered into a free trade agreement as of January 1, 1986, controls exports in accordance with the criteria and standards of a multilateral export control regime as defined in section 2(15) pursuant to an international agreement to which the United States is a party.

(6) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(7) The effectiveness of the country's export control system.

(8) The level of the country's cooperation with United States export control enforcement and other efforts.

(9) The risk of export diversion by the country to a higher tier country.

(10) The designation of the country as a country supporting international terrorism under section 310.

(d) TIER APPLICATION.—The country tiering system shall be used in the determination of license requirements pursuant to section 201(a)(1).

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other provision of law on an item solely because the item contains parts or components subject to export controls under this title, if the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the item,

unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States, or unless failure to control the item would be contrary to the provisions of section 201(c), section 201(d), or section 309 of this Act.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.—

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country (other than a country designated as a country supporting international terrorism pursuant to section 310) an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item.

(2) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this paragraph, the term "controlled United States content" of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT STATUS.

(a) ESTABLISHMENT.—The Secretary shall establish a process for interested persons to petition the Secretary to change the status of an item on the National Security Control List.

(b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed pursuant to this section shall be made in accordance with section 202.

Subtitle B—Foreign Availability and Mass-Market Status

SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(a) IN GENERAL.—The Secretary shall—

(1) on a continuing basis,

(2) upon a request from the Office of Technology Evaluation, or

(3) upon receipt of a petition filed by an interested party,

review and determine the foreign availability and the mass-market status of any item the export of which is controlled under this title.

(b) PETITION AND CONSULTATION.—

(1) IN GENERAL.—The Secretary shall establish a process for an interested party to petition the Secretary for a determination that an item has a foreign availability or mass-market status. In evaluating and making a determination with respect to a petition filed under this section, the Secretary shall consult with the Secretary of Defense, Secretary of State, and other appropriate Government agencies and with the Office of Technology Evaluation (established pursuant to section 214).

(2) TIME FOR MAKING DETERMINATION.—The Secretary shall, within 6 months after receiving a petition described in subsection (a)(3), determine whether the item that is the subject of the petition has foreign availability or mass-market status and shall notify the petitioner of the determination.

(c) RESULT OF DETERMINATION.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(1) a foreign availability status, or

(2) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determination shall become final 30 days after the date the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required under this title or under section 1211 of the National Defense Authorization Act of Fiscal Year 1998 with respect to the item, unless the President makes a determination described in section

212 or 213, or takes action under section 309, with respect to the item in that 30-day period.

(d) Criteria for Determining Foreign Availability and Mass-Market Status.—

(1) Foreign availability status.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such item from sources within the United States in the absence of export controls; and

(C) is available in sufficient quantity so that the requirement of a license or other authorization with respect to the export of such item is or would be ineffective.

(2) Mass-market status.—

(A) In general.—In determining whether an item has mass-market status under this subtitle, the Secretary shall consider the following criteria with respect to the item (or a substantially identical or directly competitive item):

(i) The production and availability for sale in a large volume to multiple potential purchasers.

(ii) The widespread distribution through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels.

(iii) The conduciveness to shipment and delivery by generally accepted commercial means of transport.

(iv) The use for the item's normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(B) Determination by secretary.—If the Secretary finds that the item (or a substantially identical or directly competitive item) meets the criteria set forth in subparagraph (A), the Secretary shall determine that the item has mass-market status.

(3) Special rules.—For purposes of this subtitle—

(A) Substantially identical item.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the item.

(B) Directly competitive item.—

(i) In general.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, although not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) Exception.—An item is not directly competitive with a controlled item if the item is substantially inferior to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY DETERMINATION.

(a) Criteria for Presidential Set-Aside.—

(1) General criteria.—

(A) In general.—If the President determines that—

(i)(I) decontrolling or failing to control an item constitutes a threat to the national security of the United States, and export controls on the item would advance the national security interests of the United States, and

(II) there is a high probability that the foreign availability of an item will be eliminated through international negotiations within a reasonable period of time taking into account the characteristics of the item, or

(ii) failure to control an item would be contrary to the provisions of section 309,

the President may set aside the Secretary's determination of foreign availability status with respect to the item.

(B) Nondelegation.—The President may not delegate the authority provided for in this paragraph.

(2) Report to congress.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1), along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) Presidential Action in Case of Set-Aside.—

(1) In general.—

(A) Negotiations.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(B) Report to congress.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be maintained.

(2) Periodic review of determination.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit to the committees of Congress referred to in paragraph (1)(B) a report on the results of the review, together with the status of international negotiations to eliminate the foreign availability of the item.

(3) Expiration of presidential set-aside.—A determination by the President described in subsection (a)(1)(A) shall cease to apply with respect to an item on the earlier of—

(A) the date that is 6 months after the date on which the determination is made under subsection (a), if the President has not commenced international negotiations to eliminate the foreign availability of the item within that 6-month period;

(B) the date on which the negotiations described in paragraph (1) have terminated without achieving an agreement to eliminate foreign availability;

(C) the date on which the President determines that there is not a high probability of eliminating foreign availability of the item through negotiation; or

(D) the date that is 18 months after the date on which the determination described in subsection (a)(1)(A) is made if the President has been unable to achieve an agreement to eliminate foreign availability within that 18-month period.

(4) Action on expiration of presidential set-aside.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STATUS DETERMINATION.

(a) Criteria for Presidential Set-Aside.—

(1) General criteria.—If the President determines that—

(A)(i) decontrolling or failing to control an item constitutes a serious threat to the national security of the United States, and

(ii) export controls on the item would advance the national security interests of the United States, or

(B) failure to control an item would be contrary to the provisions of section 309,

the President may set aside the Secretary's determination of mass-market status with respect to the item.

(2) Nondelegation.—The President may not delegate the authority provided for in this subsection.

(b) Presidential Action in Case of Set-Aside.—

(1) In general.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall report the determination, along with the specific reasons why the determination was made, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, and shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary's determination that an item has mass-market status.

(2) Periodic review of determination.—The President shall review a determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(a) In General.—

(1) Establishment of office.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this subtitle referred to as the "Office"), which shall be under the direction of the Secretary. The Office shall be responsible for gathering, coordinating, and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(2) Staff.—The Secretary shall ensure that the Office include persons with the training, expertise and experience in economic analysis, the defense industrial base, technological developments, national security, and foreign policy export controls to carry out the responsibilities set forth in subsection (b) of this section. In addition to employees of the Department of Commerce, the Secretary may accept on nonreimbursable detail to the Office, employees of the Departments of Defense, State, and Energy and other departments and agencies as appropriate.

(b) Responsibilities.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled

item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item, is or would be ineffective;

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of the item;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States to determine foreign availability and mass-market status of controlled items;

(4) monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States;

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how the sectors are affected by technological developments, technology transfers, and foreign competition; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) Reports to Congress.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary's annual report required under section 801 information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability and mass-market status, during the fiscal year preceding the report, including information on the training of personnel, and the use of Commercial Service Officers of the United States and Foreign Commercial Service to assist in making determinations. The information shall also include a description of determinations made under this Act during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) Sharing of Information.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, consistent with the need to protect intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) Authority.—

(1) In general.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, other authorization, recordkeeping, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) Exercise of authority.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) Purposes.—The purposes of foreign policy export controls are the following:

(1) To promote the foreign policy objectives of the United States, consistent with the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

(c) Exception.—The President may not control under this title the export from a foreign country (whether or not by a United States person) of any item produced or originating in a foreign country that contains parts or components produced or originating in the United States.

(d) Contract Sanctity.—

(1) In general.—The President may not prohibit the export of any item under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into before the date on which the President reports to Congress the President's intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President's intention to impose controls under this title.

(2) Exception.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) Notice.—

(1) Intent to impose foreign policy export control.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) Purposes of notice.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy under this title that advances United States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) Negotiations.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) Consultation.—

(1) Requirement.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) Classified consultation.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated and specific United States foreign policy objectives;

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control outweighs any potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted narrowly; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in the country subject to the export control.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) Requirement.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) Content.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain a description and assessment of—

(1) any diplomatic and other steps that the United States has taken to accomplish the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objectives and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) the likelihood that the proposed export control could lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on the United States economy, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United

States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control.

SEC. 306. DEFERRAL AUTHORITY.

(a) Authority.—The President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(2) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.

(b) Termination of Control.—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) Renewal and Termination.—

(1) In general.—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before such date. For purposes of this section, the term "renewal year" means 2003 and every 2 years thereafter.

(2) Exception.—This section shall not apply to an export control imposed under this title that—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

(b) Review.—

(1) In general.—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(2) Consultation.—

(A) Requirement.—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representative regarding each export control that is being reviewed.

(B) Classified consultation.—The consultations may be conducted on a classified basis if the Secretary considers it necessary.

(3) Public comment.—In conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(c) Report to Congress.—

(1) Requirement.—Before renewing an export control imposed under this title, the President shall submit to the committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(2) Form and content of report.—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific United States foreign policy objective that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303; and

(ii) each matter required to be reported under section 304(b) (1) through (8).

(3) Renewal of export control.—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.

(a) In General.—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that the control has substantially achieved the objective for which it was imposed; and

(2) may terminate any export control imposed under this title that is not required by law at any time.

(b) Exception.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed under this title that is targeted against any country designated as a country supporting international terrorism pursuant to section 310.

(c) Effective Date of Termination.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries in order to fulfill obligations or commitments of the United States under resolutions of the United Nations and under treaties, or other international agreements and arrangements, to which the United States is a party.

SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) License Required.—A license shall be required for the export of an item to a country if the Secretary of State has determined that—

(1) the government of such country has repeatedly provided support for acts of international terrorism; and

(2) the export of the item could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(b) Notification.—The Secretary and the Secretary of State shall notify the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by subsection (a).

(c) Determinations Regarding Repeated Support.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(d) Limitations on Rescinding Determination.—A determination made by the Secretary of State under subsection (a)(1) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(e) Information To Be Included in Notification.—The Secretary and the Secretary of State shall include in the notification required by subsection (b)—

(1) a detailed description of the item to be offered, including a brief description of the capabilities of any item for which a license to export is sought;

(2) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the item which is the subject of such export or transfer and a description of the manner in which such country or organization intends to use the item;

(3) the reasons why the proposed export or transfer is in the national interest of the United States;

(4) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(5) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item: and

(6) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the item which is the subject of such export would be delivered.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

SEC. 401. EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES.

Notwithstanding any other provision of law, the export controls imposed on items under title III shall not apply to agricultural commodities, medicine, and medical supplies.

SEC. 402. TERMINATION OF EXPORT CONTROLS REQUIRED BY LAW.

Notwithstanding any other provision of law, the President shall terminate any export control mandated by law on agricultural commodities, medicine, and medical supplies upon the date of enactment of this Act except for a control that is specifically reimposed by law.

SEC. 403. EXCLUSIONS.

Sections 401 and 402 do not apply to the following:

(1) The export of agricultural commodities, medicine, and medical supplies that are subject to national security export controls under title II or are listed on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(2) The export of agricultural commodities, medicine, and medical supplies to a country against which an embargo is in effect under the Trading With the Enemy Act.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

SEC. 501. EXPORT LICENSE PROCEDURES.

(a) Responsibility of the Secretary.—

(1) In General.—All applications for a license or other authorization to export a controlled item shall be filed in such manner and include such information as the Secretary may, by regulation, prescribe.

(2) Procedures.—In guidance and regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and other relevant matters affecting the review of license applications.

(3) Calculation of processing times.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) Criteria for evaluating applications.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item.

(B) The threat to—

(i) the national security interests of the United States from items controlled under title II of this Act; or

(ii) the foreign policy of the United States from items controlled under title III of this Act.

(C) The country tier designation of the country to which a controlled item is to be exported pursuant to section 203.

(D) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(E) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) Initial Screening.—

(1) Upon receipt of application.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) Initial procedures.—

(A) In general.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title;

(ii) refer the application, through the use of a common data base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Secretary of Defense, the Secretary of State, and the heads of and other departments and agencies the Secretary considers appropriate;

(iii) ensure that the classification stated on the application for the export items is correct; and

(iv) return the application if a license is not required.

(B) Referral not required.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) Withdrawal of application.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) Action by Other Departments and Agencies.—

(1) Referral to other agencies.—The Secretary shall promptly refer a license application to the departments and agencies under subsection (b) to make recommendations and provide information to the Secretary.

(2) Responsibility of referral departments and agencies.—The Secretary of Defense, the Secretary of State, and the heads of other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application. Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(3) Additional information requests.—Each department or agency to which a license application is referred shall specify to the Secretary any information that is not in the application that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(4) Time period for action by referral departments and agencies.—Within 30 days after the Secretary refers an application under this section, each department or agency to which an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation that are consistent with the provisions of this title, and shall cite both the specific statutory and regulatory basis for the recommendation. A department or agency that fails to provide a recommendation in accordance with this paragraph within that 30-day period shall be deemed to have no objection to the decision of the Secretary on the application.

(d) Action by the Secretary.—Not later than 30 days after the date the application is referred, the Secretary shall—

(1) if there is agreement among the referral departments and agencies to issue or deny the license—

(A) issue the license and ensure all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the license; or

(2) if there is no agreement among the referral departments and agencies, notify the applicant that the application is subject to the interagency dispute resolution process provided for in section 502.

(e) Consequences of Application Denial.—

(1) In general.—If a determination is made to deny a license, the applicant shall be informed in writing by the Secretary of—

(A) the determination;

(B) the specific statutory and regulatory bases for the proposed denial;

(C) what, if any, modifications to, or restrictions on, the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department would be in a position to discuss modifications or restrictions with the applicant and the specific statutory and regulatory bases for imposing such modifications or restrictions;

(D) to the extent consistent with the national security and foreign policy interests of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

(2) Period for applicant to respond.—The applicant shall have 20 days from the date of the notice of intent to deny the application to respond in a manner that addresses and corrects the reasons for the denial. If the applicant does not adequately address or correct the reasons for denial or does not respond, the license shall be denied. If the applicant does address or correct the reasons for denial, the application shall receive consideration in a timely manner.

(f) Appeals and Other Actions by Applicant.—

(1) In general.—The Secretary shall establish appropriate procedures for an applicant to appeal to the Secretary the denial of an application or other administrative action under this Act. In any case in which the Secretary proposes to reverse the decision with respect to the application, the appeal under this subsection shall be handled in accordance with the interagency dispute resolution process provided for in section 502(b)(3).

(2) Enforcement of time limits.—

(A) In general.—In any case in which an action prescribed in this section is not taken on an application within the time period established by this section (except in the case of a time period extended under subsection

(g) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(B) Bringing court action.—If, within 20 days after a petition is filed under subparagraph (A), the processing of the application has not been brought into conformity with the requirements of this section, or the processing of the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the time periods required by this section.

(g) Exceptions From Required Time Periods.—The following actions related to processing an application shall not be included in calculating the time periods prescribed in this section:

(1) Agreement of the applicant.—Delays upon which the Secretary and the applicant mutually agree.

(2) Prelicense checks.—A prelicense check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(A) the need for the prelicense check is determined by the Secretary or by another department or agency in any case in which the request for the prelicense check is made by such department or agency;

(B) the request for the prelicense check is initiated by the Secretary within 5 days after the determination that the prelicense check is required; and

(C) the analysis of the result of the prelicense check is completed by the Secretary within 5 days.

(3) Requests for government-to-government assurances.—Any request by the Secretary or another department or agency for government-to-government assurances of suitable end-uses of items approved for export, when failure to obtain such assurances would result in rejection of the application, if—

(A) the request for such assurances is sent to the Secretary of State within 5 days after the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days after the Secretary receives the requested assurances.

(4) Exception.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods set forth therein, then the time expended for such prelicense check or assurances shall be included in calculating the time periods established by this section.

(5) Multilateral review.—Multilateral review of a license application to the extent that such multilateral review is required by a relevant multilateral regime.

(6) Congressional notification.—Such time as is required for mandatory congressional notifications under this Act.

(7) Consultations.—Consultation with foreign governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(h) Classification Requests and Other Inquiries.—

(1) Classification requests.—In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List or the applicability of licensing requirements under this title, the Secretary shall promptly notify the Secretary of Defense and other departments and agencies the Secretary considers appropriate. The Secretary shall, within 14 days after receiving the request, inform the person, making the request of the proper classification.

(2) Other inquiries.—In any case in which the Secretary receives a written request for information under this Act, the Secretary shall, within 30 days after receiving the request, reply with that information to the person making the request.

SEC. 502. INTERAGENCY DISPUTE RESOLUTION PROCESS.

(a) In General.—All license applications on which agreement cannot be reached shall be referred to the interagency dispute resolution process for decision.

(b) Interagency Dispute Resolution Process.—

(1) Initial resolution.—The Secretary shall establish, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Secretary and any of the referral departments and agencies are not in agreement. The chairperson shall consider the positions of all the referral departments and agencies (which shall be included in the minutes described subsection (c)(2)) and make a decision on the license application, including appropriate revisions or conditions thereto.

(2) Intelligence community.—The analytic product of the intelligence community should be fully considered with respect to any proposed license under this title.

(3) Further resolution.—The President shall establish additional levels for review or appeal of any matter that cannot be resolved pursuant to the process described in paragraph (1). Each such review shall—

(A) provide for decision-making based on the majority vote of the participating departments and agencies;

(B) provide that a department or agency that fails to take a timely position, citing the specific statutory and regulatory bases for a denial, shall be deemed to have no objection to the pending decision;

(C) provide that any decision of an interagency committee established under paragraph (1) or interagency dispute resolution process established under this paragraph may be escalated to the next higher level of review at the request of any representative of a department or agency that participated in the interagency committee or dispute resolution process that made the decision; and

(D) ensure that matters are resolved or referred to the President not later than 90 days after the date the completed license application is referred by the Secretary.

(c) Final Action.—

(1) In general.—Once a final decision is made under subsection (b), the Secretary shall promptly—

(A) issue the license and ensure that all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the application.

(2) Minutes.—The interagency committee and each level of the interagency dispute resolution process shall keep reasonably detailed minutes of all meetings. On each matter before the interagency committee or before any other level of the interagency dispute resolution process in which members disagree, each member shall clearly state the reasons for the member's position and the reasons shall be entered in the minutes.

TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

SEC. 601. INTERNATIONAL ARRANGEMENTS.

(a) Multilateral Export Control Regimes.—

(1) Policy.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable competitive opportunities for United States exporters.

(2) Participation in existing regimes.—Congress encourages the United States to continue its active participation in and to strengthen existing multilateral export control regimes.

(3) Participation in new regimes.—It is the policy of the United States to participate in additional multilateral export control regimes if such participation would serve the national security interests of the United States.

(b) Annual Report on Multilateral Export Control Regimes.—Not later than February 1 of each year, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report evaluating the effectiveness of each multilateral export control regime, including an assessment of the steps undertaken pursuant to subsections (c) and (d). The report, or any part of this report, may be submitted in classified form to the extent the Secretary considers necessary.

(c) Standards for Multilateral Export Control Regimes.—The President shall take steps to establish the following features in any multilateral export control regime in which the United States is participating or may participate:

(1) Full membership.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(2) Effective enforcement and compliance.—The regime promotes enforcement and compliance with the regime's rules and guidelines.

(3) Public understanding.—The regime makes an effort to enhance public understanding of the purpose and procedures of the multilateral export control regime.

(4) Effective implementation procedures.—The multilateral export control regime has procedures for the implementation of its rules and guidelines through uniform and consistent interpretations of its export controls.

(5) Enhanced cooperation with regime nonmembers.—There is agreement among the members of the multilateral export control regime to—

(A) cooperate with governments outside the regime to restrict the export of items controlled by such regime; and

(B) establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(6) Periodic high-level meetings.—There are regular periodic meetings of high-level

representatives of the governments of members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(7) COMMON LIST OF CONTROLLED ITEMS.—There is agreement on a common list of items controlled by the multilateral export control regime.

(8) REGULAR UPDATES OF COMMON LIST.—There is a procedure for removing items from the list of controlled items when the control of such items no longer serves the objectives of the members of the multilateral export control regime.

(9) TREATMENT OF CERTAIN COUNTRIES.—There is agreement to prevent the export or diversion of the most sensitive items to countries whose activities are threatening to the national security of the United States or its allies.

(10) HARMONIZATION OF LICENSE APPROVAL PROCEDURES.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(11) UNDERCUTTING.—There is a limit with respect to when members of a multilateral export control regime—

(A) grant export licenses for any item that is substantially identical to or directly competitive with an item controlled pursuant to the regime, where the United States has denied an export license for such item, or

(B) approve exports to a particular end user to which the United States has denied export license for a similar item.

(d) STANDARDS FOR NATIONAL EXPORT CONTROL SYSTEMS.—The President shall take steps to attain the cooperation of members of each regime in implementing effective national export control systems containing the following features:

(1) EXPORT CONTROL LAW.—Enforcement authority, civil and criminal penalties, and statutes of limitations are sufficient to deter potential violations and punish violators under the member's export control law.

(2) LICENSE APPROVAL PROCESS.—The system for evaluating export license applications includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users.

(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) DOCUMENTATION.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The member has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthen existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among members before a member approves an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with other members, taking into account—

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENCOURAGE COMPLIANCE BY NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export control regimes and improve enforcement;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(f) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(1) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, for each multilateral export control regime (to the extent that it is not inconsistent with the arrangements of that regime or with the national interest), publish in the Federal Register and post on the Department of Commerce website the following information with respect to the regime:

(A) The purposes of the regime.

(B) The members of the regime.

(C) The export licensing policy of the regime.

(D) The items that are subject to export controls under the regime, together with all public notes, understandings, and other aspects of the agreement of the regime, and all changes thereto.

(E) Any countries, end uses, or end users that are subject to the export controls of the regime.

(F) Rules of interpretation.

(G) Major policy actions.

(H) The rules and procedures of the regime for establishing and modifying any matter described in subparagraphs (A) through (G) and for reviewing export license applications.

(2) NEW REGIMES.—Not later than 60 days after the United States joins or organizes a new multilateral export control regime, the Secretary shall, to the extent not inconsistent with arrangements under the regime or with the national interest, publish in the Federal Register and post on the Department of Commerce website the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(3) PUBLICATION OF CHANGES.—Not later than 60 days after a multilateral export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements under the regime or the national interest, publish such changes in the Federal Register and post such changes on the Department of Commerce website.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in any such training provided by other departments and agencies of the United States.

SEC. 602. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons engaged in the export of items to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(b) PROHIBITIONS AND EXCEPTIONS.—

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person's activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, or requirement of, or a request from or on behalf of the boycotting country (subject to the condition that the intent required to be associated with such an act in order to constitute a violation of the prohibition is not indicated solely by the mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person).

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminate against any United States person on the basis of the race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information (other than furnishing normal business information in a commercial context, as defined by the Secretary) about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person that is known or believed to be restricted from having any business relationship with or in the boycotting country.

(E) Furnishing information about whether any person is a member of, has made a contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement the compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Exceptions.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) compliance, or agreement to comply, with requirements—

(i) prohibiting the import of items from the boycotted country or items produced or provided, by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of items to the boycotting country on a carrier of the boycotted country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, or carriers, insurers, suppliers of services to be performed within the boycotting country, or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) compliance, or agreement to comply, with export requirements of the boycotting country relating to shipment or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual, or agreement by an individual to comply, with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country, or agreement by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products, or components of products for such person's own use, including the performance of contractual services within that country.

(3) Limitation on exceptions.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Antitrust and civil rights laws not affected.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Evasion.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraph (2) do not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) that are otherwise prohibited, pursuant to the intent of such exceptions.

(c) Additional Regulations and Reports.—

(1) Regulations.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) Reports by United States persons.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person has complied, with the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) Preemption.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 603. PENALTIES.

(a) Criminal Penalties.—

(1) Violations by an individual.—Any individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation, except that the term of imprisonment may be increased to life for multiple violations or aggravated circumstances.

(2) Violations by a person other than an individual.—Any person other than an individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $10,000,000, whichever is greater, for each violation.

(b) Forfeiture of Property Interest and Proceeds.—

(1) Forfeiture.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) Procedures.—The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code, to the same extent as property subject to forfeiture under that chapter.

(c) Civil Penalties; Administrative Sanctions.—

(1) Civil penalties.—The Secretary may impose a civil penalty of up to $1,000,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this paragraph may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) Denial of export privileges.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or receive United States-origin items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) Exclusion from practice.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) Payment of Civil Penalties.—

(1) Payment as condition of further export privileges.—The payment of a civil penalty imposed under subsection (c) may be made a condition for the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment of a penalty may be made such a condition may not exceed 1 year after the date on which the payment is due.

(2) Deferral or suspension.—

(A) In general.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period no longer than any probation period (which may exceed 1 year) that may be imposed upon the person on whom the penalty is imposed.

(B) No bar to collection of penalty.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(3) TREATMENT OF PAYMENTS.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts except as set forth in section 607(h).

(e) REFUNDS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) LIMITATION.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(2) PROHIBITION ON ACTIONS FOR REFUND.—Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(f) EFFECT OF OTHER CONVICTIONS.—

(1) DENIAL OF EXPORT PRIVILEGES.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979,

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),

(C) section 793, 794, or 798 of title 18, United States Code,

(D) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778),

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(G) any regulation, license, or order issued under any provision of law listed in subparagraph (A), (B), (C), (D), (E), or (F),

(H) section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act,

(I) section 175 of title 18, United States Code,

(J) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.),

(K) section 831 of title 18, United States Code, or

(L) section 2332a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges under this Act for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(g) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a proceeding in which a civil penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) for bringing a proceeding to impose a civil penalty or other administrative sanction under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(1) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to any such violation; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 604. MULTILATERAL EXPORT CONTROL REGIME VIOLATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(A) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to a multilateral export control regime; and

(B) such violation has substantially aided a country in—

(i) acquiring military significant capabilities or weapons, if the country is an actual or potential adversary of the United States;

(ii) acquiring nuclear weapons provided such country is other than the declared nuclear states of the People's Republic China, the Republic of France, the Russian Federation, the United Kingdom, and the United States;

(iii) acquiring biological or chemical weapons; or

(iv) acquiring missiles.

(2) NOTIFICATION OF CONGRESS.—The President shall notify Congress of each action taken under this section.

(b) APPLICABILITY AND FORMS OF SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) A prohibition on contracting with, and the procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government.

(2) A prohibition on the importation into the United States of all items produced by a sanctioned person.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense items—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense items and no alternative supplier can be identified; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would violate United States international obligations including treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies Congress of the intention to impose the sanctions;

(B) after-market service and replacement parts including upgrades;

(C) component parts, but not finished products, essential to United States products or productions; or

(D) information and technology.

(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person; and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles set forth in section 601(b)(2).

(e) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed, if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of evidence available to the United States, itself violated the export control regulation involved, either directly or through a course of conduct;

(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in section 601(b)(2); and

(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the multilateral export control regime.

SEC. 605. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 603.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—

(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE.—The term "missile" means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems.

(2) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term "MTCR adherent" means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term "MTCR Annex" means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms "missile equipment or technology" and "MTCR equipment or technology" mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term "foreign person" means any person other than a United States person.

(7) PERSON.—

(A) IN GENERAL.—The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term "person" means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term "otherwise engaged in the trade of" means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of enactment of this section, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would be, if it were a United States item, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following the consultations, the President shall impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to Congress that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 607. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies that the Secretary considers appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers or employees of the Department designated by the Secretary, officers and employees of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of a department or agency exercising functions under this Act, may exercise the enforcement authority under paragraph (3).

(B) CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Services designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service, pursuant to agreement or other arrangement with other countries, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the Secretary and officers and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-license and post-shipment verifications of controlled items and investigations in the enforcement of section 602. The Secretary and officers and employees of the Department designated by the Secretary are authorized to search, detain (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) SPECIFIC AUTHORITIES.—

(A) ACTIONS BY ANY DESIGNATED PERSONNEL.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:

(i) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.

(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(B) ACTIONS BY OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—

(i) OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the Office of Export Enforcement of the Department of Commerce (in this Act referred to as "OEE") who is designated by the Secretary under paragraph (2), and any officer or employee of the United States Customs Service who is designated by the Commissioner of Customs under paragraph (2), may do the following in carrying out the enforcement authority under this Act:

(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.

(II) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(III) Carry firearms.

(ii) OEE PERSONNEL.—Any officer and employee of the OEE designated by the Secretary under paragraph (2) shall exercise the authority set forth in clause (i) pursuant to guidelines approved by the Attorney General.

(C) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by the Commissioner of Customs under paragraph (2) may do the following in carrying out the enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—

(1) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(2) APPLICABLE LAWS.—Those provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures; and

(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 603 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATION OPERATIONS.—

(1) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading "miscellaneous" of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c)), and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the action authorized by subparagraph (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director of the OEE (or the Director's designee) determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this subsection are no longer needed for the conduct of such operation the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an undercover operation is closed, the Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall submit annually to Congress a report, which may be included in the annual report under section 801, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term "closed", with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal proceedings (other than appeals) pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation conducted by the OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).

(e) WIRETAPS.—

(1) AUTHORITY.—Interceptions of communications in accordance with section 2516 of title 18, United States Code, are authorized to further the enforcement of this Act.

(2) CONFORMING AMENDMENT.—Section 2516(1) of title 18, United States Code, is amended by adding at the end the following:

"(q)(i) any violation of, or conspiracy to violate, the Export Administration Act of 2001 or the Export Administration Act of 1979.".

(f) POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—The Secretary shall target post-shipment verifications to exports involving the greatest risk to national security including, but not limited to, exports of high performance computers.

(2) REPEAL.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 is repealed.

(g) REFUSAL TO ALLOW POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—If an end-user refuses to allow post-shipment verification of a controlled item, the Secretary shall deny a license for the export of any controlled item to such end-user until such post-shipment verification occurs.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility, to any end-user refusing to allow post-shipment verification of a controlled item.

(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item or any substantially identical or directly competitive item or class of items to all end-users in that country until such post-shipment verification is allowed.

(h) AWARD OF COMPENSATION; PATRIOT PROVISION.—

(1) IN GENERAL.—If—

(A) any person, who is not an employee or officer of the United States, furnishes to a United States attorney, to the Secretary of the Treasury or the Secretary, or to appropriate officials in the Department of the Treasury or the Department of Commerce, original information concerning a violation of this Act or any regulation, order, or license issued under this Act, which is being, or has been, perpetrated or contemplated by any other person and in which the person furnishing the information has not participated, and

(B) such information leads to the recovery of any criminal fine, civil penalty, or forfeiture,

the Secretary and the Commissioner of Customs, may, in the sole discretion of the Secretary or the Commissioner, award and pay an amount that does not exceed 25 percent of the net amount recovered.

(2) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

(3) SOURCE OF PAYMENT.—The amount paid under this section shall be paid out of any penalties, forfeitures, or appropriated funds.

(i) FREIGHT FORWARDERS BEST PRACTICES PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $3,500,000 and such sums as may be necessary to hire 20 additional employees to assist United States freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a "best practices" program to ensure that exports of controlled items are undertaken in compliance with this Act.

(j) END-USE VERIFICATION AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Commerce $4,500,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high risk, dual-use goods and technologies.

(3) ENHANCEMENTS.—In addition to the authorization provided in paragraph (1), there is authorized to be appropriated for the Department of Commerce $5,000,000 to enhance its program for verifying the end use of items subject to controls under this Act.

(k) ENHANCED COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—Consistent with the purposes of this Act, the Secretary is authorized to undertake, in cooperation with the United States Customs Service, such measures as may be necessary or required to enhance the ability of the United States to detect unlawful exports and to enforce violations of this Act.

(l) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

(m) AUTHORIZATION FOR EXPORT LICENSING AND ENFORCEMENT COMPUTER SYSTEM.—There is authorized to be appropriated for the Department $5,000,000 and such other sums as may be necessary for planning, design, and procurement of a computer system to replace the Department's primary export licensing and computer enforcement system.

(n) AUTHORIZATION FOR BUREAU OF EXPORT ADMINISTRATION.—The Secretary may authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement in accordance with section 9703 of title 31, United States Code (as added by Public Law 102-393). The Secretary may also authorize, without fiscal year limitation, the expenditure of funds transferred to, paid to, received by, or made available to the Bureau of Export Administration as a reimbursement from the Department of Justice Assets Forfeiture Fund in accordance with section 524 of title 28, United States Code.

(o) AMENDMENTS TO TITLE 31.—

(1) Section 9703(a) of title 31, United States Code (as added by Public Law 102-393) is amended by striking "or the United States Coast Guard" and inserting ", the United States Coast Guard, or the Bureau of Export Administration of the Department of Commerce".

(2) Section 9703(a)(2)(B)(i) of title 31, United States Code is amended (as added by Public Law 102-393)—

(A) by striking "or" at the end of subclause (I);

(B) by inserting "or" at the end of subclause (II); and

(C) by inserting at the end, the following new subclause:

"(III) a violation of the Export Administration Act of 1979, the Export Administration Act of 2001, or any regulation, license, or order issued under those Acts;".

(3) Section 9703(p)(1) of title 31, United States Code (as added by Public Law 102-393) is amended by adding at the end the following: "In addition, for purposes of this section, the Bureau of Export Administration of the Department of Commerce shall be considered to be a Department of the Treasury law enforcement organization.".

(p) AUTHORIZATION FOR LICENSE REVIEW OFFICERS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to hire additional license review officers.

(2) TRAINING.—There is authorized to be appropriated to the Department of Commerce $2,000,000 to conduct professional training of license review officers, auditors, and investigators conducting post-shipment verification checks. These funds shall be used to—

(A) train and certify, through a formal program, new employees entering these positions for the first time; and

(B) the ongoing professional training of experienced employees on an as needed basis.

(q) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(1) $72,000,000 for the fiscal year 2002, of which no less than $27,701,000 shall be used for compliance and enforcement activities;

(2) $73,000,000 for the fiscal year 2003, of which no less than $28,312,000 shall be used for compliance and enforcement activities;

(3) $74,000,000 for the fiscal year 2004, of which no less than $28,939,000 shall be used for compliance and enforcement activities;

(4) $76,000,000 for the fiscal year 2005, of which no less than $29,582,000 shall be used for compliance and enforcement activities; and

(5) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

SEC. 608. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in this section, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURES.—Any administrative sanction imposed under section 603 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued under section 602 shall be made available for public inspection and copying.

(c) COLLECTION.—If any person fails to pay a civil penalty imposed under section 603, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an authorized end use or end user, and in any case in which a criminal indictment has been returned against a person alleging a violation of this Act or any of the statutes listed in section 603, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a "temporary denial order"). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice that constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 603.

The decision of the administrative law judge shall be final unless, within 10 working days after the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3). The materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have the jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 603. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) LIMITATIONS ON REVIEW OF CLASSIFIED INFORMATION.—Any classified information that is included in the administrative record that is subject to review pursuant to subsection (b)(1) or (d)(3) may be reviewed by the court only on an ex parte basis and in camera.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 701. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.—

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this section referred to as the "Under Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review to such departments or agencies as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 105(f) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 105(f) in amending regulations issued under this Act.

SEC. 702. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 602(c)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with respect to which a request for confidential treatment is made by the person furnishing such information,

shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) Information obtained after June 30, 1980.—Except as otherwise provided by the third sentence of section 13(b)(2) of the Export Administration Act of 1979, information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with an application for an export license or other export authorization (or recordkeeping or reporting requirement) under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself,

(B) classification requests described in section 501(h),

(C) information or evidence obtained in the course of any investigation,

(D) information obtained or furnished under title VII in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act,

and information obtained in any investigation of an alleged violation of section 602 of this Act except for information required to be disclosed by section 602(c)(2) or 606(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) Information to Congress and GAO.—

(1) In general.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) Availability to the congress—

(A) In general.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the request of the chairman or ranking minority member of such committee or subcommittee.

(B) Prohibition on further disclosure.—No committee, subcommittee, or Member of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress under subparagraph (A) unless the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) Availability to the GAO.—

(A) In general.—Notwithstanding subsection (a), information described in paragraph (2) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) Prohibition on further disclosures.—No officer or employee of the General Accounting Office shall disclose, except to Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) Information Exchange.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate enforcement efforts and effective license decisions.

(d) Penalties for Disclosure of Confidential Information.—

(1) Disclosure prohibited.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) Criminal penalties.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office or employment.

(3) Civil penalties; administrative sanctions.—The Secretary may impose a civil penalty of not more than $5,000 for each violation of paragraph (1). Any officer or employee who commits such violation may also be removed from office or employment for the violation of paragraph (1). Subsections 603 (e), (g), (h), and (i) and 606 (a), (b), and (c) shall apply to violations described in this paragraph.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. ANNUAL AND PERIODIC REPORTS.

(a) Annual Report.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of this Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for each such report.

(b) Report Elements.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) a description of the petitions filed and the determinations made with respect to foreign availability and mass-market status, the set-asides of foreign availability and mass-market status determinations, and negotiations to eliminate foreign availability;

(4) a description of the regulations issued under this Act;

(5) a description of organizational and procedural changes undertaken in furtherance of this Act;

(6) a description of the enforcement activities, violations, and sanctions imposed under section 604;

(7) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required;

(D) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(E) the number of applications and notifications pending review at the end of the fiscal year;

(8) summary of export license data by export identification code and dollar value by country;

(9) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(10) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(11) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, the specific differences between United States requirements and those of other significant supplier countries, and a description of the extent to which the executive branch intends to address the differences;

(12) an assessment of the costs of export controls;

(13) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act; and

(14) any other reports required by this Act to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) Congressional Notification.—Whenever the Secretary determines, in consultation with other appropriate departments and agencies, that a significant violation of this Act poses a direct and imminent threat to United States national security interests, the Secretary, in consultation with other appropriate departments and agencies, shall advise the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives of such violation consistent with the protection of law enforcement sources, methods, and activities.

(d) Federal Register Publication Requirements.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be made available on the appropriate Internet website of the Department.

SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Repeal.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) Energy Policy and Conservation Act.—

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271(d)) is repealed.

(c) Alaska Natural Gas Transportation Act.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719j) is repealed.

(d) Mineral Leasing Act.—Section 28(u) of the Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

(e) Exports of Alaskan North Slope Oil.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(f) Disposition of Certain Naval Petroleum Reserve Products.—Section 7430(e) of title 10, United States Code, is repealed.

(g) Outer Continental Shelf Lands Act.—Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) Arms Export Control Act.—

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking "subsections (c)" and all that follows through "12 of such Act," and inserting "subsections (b), (c), (d) and (e) of section 603 of the Export Administration Act of 2001, by subsections (a) and (b) of section 607 of such Act, and by section 702 of such Act,"; and

(ii) in the third sentence, by striking "11(c) of the Export Administration Act of 1979" and inserting "603(c) of the Export Administration Act of 2001"; and

(B) in subsection (g)(1)(A)(ii), by inserting "or section 603 of the Export Administration Act of 2001" after "1979".

(2) Section 39A(c) of the Arms Export Control Act is amended—

(A) by striking "subsections (c)," and all that follows through "12(a) of such Act" and inserting "subsections (c), (d), and (e) of section 603, section 608(c), and subsections (a) and (b) of section 607, of the Export Administration Act of 2001"; and

(B) by striking "11(c)" and inserting "603(c)".

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking "11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979" and inserting "603(b), 603(c), 603(e), 607(a), and 607(b) of the Export Administration Act of 2001"; and

(B) by striking "11(c)" and inserting "603(c)".

(i) Other Provisions of Law.—

(1) Section 5(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking "section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States" and inserting "titles II and III of the Export Administration Act of 2001".

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking "Export Administration Act of 1979" the first place it appears and inserting "Export Administration Act of 2001"; and

(B) by striking "Act of 1979)" and inserting "Act of 2001)".

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) is amended—

(A) in paragraph (1)(B), by inserting "or section 310 of the Export Administration Act of 2001" after "Act of 1979"; and

(B) in paragraph (2), by inserting "or 310 of the Export Administration Act of 2001" after "6(j) of the Export Administration Act of 1979".

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2712(e)(1)) is amended by striking "section 6(j)(1) of the Export Administration Act of 1979" and inserting "section 310 of the Export Administration Act of 2001".

(5) Section 205(d)(4)(B) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 305(d)(4)(B)) is amended by striking "section 6(j) of the Export Administration Act of 1979" and inserting "section 310 of the Export Administration Act of 2001".

(6) Section 110 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2778a) is amended by striking "Act of 1979" and inserting "Act of 2001".

(7) Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended by striking "section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States" and inserting "the Export Administration Act of 2001".

(8) Section 1605(a)(7)(A) of title 28, United States Code, is amended by striking "section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))" and inserting "section 310 of the Export Administration Act of 2001".

(9) Section 2332d(a) of title 18, United States Code, is amended by striking "section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)" and inserting "section 310 of the Export Administration Act of 2001".

(10) Section 620H(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2378(a)(1)) is amended by striking "section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))" and inserting "section 310 of the Export Administration Act of 2001".

(11) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p-4q(a)) is amended by striking "section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))" and inserting "section 310 of the Export Administration Act of 2001".

(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 11 (relating to violations) of the Export Administration of 1979" and inserting "section 603 (relating to penalties) of the Export Administration Act of 2001".

SEC. 803. SAVINGS PROVISIONS.

(a) In General.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under— .

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act when invoked to maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are amended by section 802,

and are in effect on the date of enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) Administrative and Judicial Proceedings.—

(1) Export administration act.—This Act shall not affect any administrative or judicial proceedings commenced or any application for a license made, under the Export Administration Act of 1979 or pursuant to Executive Order 12924, which is pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under the Export Administration Act of 1979 as if that Act had not been repealed.

(2) Other provisions of law.—This Act shall not affect any administrative or judicial proceeding commenced or any application for a license made, under those provisions of the Arms Export Control Act which are amended by section 802, if such proceeding or application is pending at the time this Act takes effect. Any such proceeding, and any action on such application, shall continue under those provisions as if those provisions had not been amended by section 802.

(c) Treatment of Certain Determinations.—Any determination with respect to the government of a foreign country under section 6(j) of the Export Administration Act of 1979, or Executive Order 12924, that is in effect on the day before the date of enactment of this Act, shall, for purposes of this title or any other provision of law, be deemed to be made under section 310 of this Act until superseded by a determination under such section 310.

(d) Lawful Intelligence Activities.—The prohibitions otherwise applicable under this Act do not apply with respect to any transaction subject to the reporting requirements of title V of the National Security Act of 1947.

(e) Implementation.—The Secretary shall make any revisions to the Export Administration regulations required by this Act no later than 180 days after the date of enactment of this Act.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues Senator ENZI, Senator JOHNSON, and Senator GRAMM to introduce the Export Administration Act of 2001. The legislation we are introducing today is very similar to the legislation that was reported out of the Senate Banking Committee in the last Congress by an unanimous 20–0 vote.

The Export Administration Act provides the President authority to control exports for reasons of national security and foreign policy. Let me begin by saying that I believe there is a very strong national interest in Congress reauthorizing the Export Administration Act.

The EAA has not been reauthorized since 1990 except for temporary extensions in 1993, 1994, and last year. At the end of the last Congress we passed a temporary extension of the EAA that expires on August 20 of this year. Prior to this most recent temporary extension, the authority of the President to impose export controls had been exercised pursuant to the International Economic Emergency Powers Act (IEEPA). In my view, Congress should put in place a permanent statutory framework for the imposition of export controls. They should not be imposed in effect on a permanent basis pursuant to an emergency economic authority of the President. Just one example of the implications of depending on IEEPA is that the penalties that may be imposed for violations of export controls under IEEPA are significantly less than those imposed under the EAA.

I believe this legislation is a carefully balanced effort to provide the

President authority to control exports for reasons of national security and foreign policy, while also responding to the need of U.S. exporters to compete in the global marketplace.

Extensive consultation took place with representatives of the previous Administration, including the Commerce Department, the Defense Department, the intelligence agencies and the National Security Council, as well as representatives of the different industry groups. I also understand that during the campaign then-Governor Bush also endorsed this legislation, and we would hope to work closely with the new Administration on this bill.

I would like to commend Senator ENZI (who was the chairman of the International Trade and Finance Subcommittee of the Banking Committee in the last Congress), Senator JOHNSON (who was the ranking member of the Subcommittee), and Senator GRAMM, as well as their staffs, for their efforts to develop a bipartisan consensus on this legislation.

The legislation generally tracks the authorities provided the President under the Export Administration Act which expired in 1990. However a significant effort was made, with the assistance of the Legislative Counsel's Office, to provide these authorities in a more clear and straightforward manner. We believe this will make the statute both easier for the executive branch agencies to administer and for exporters to comply with.

The bill also makes a number of significant improvements to the EAA. I would like to mention just a few. The legislation provides for the first time a statutory basis for the resolution of interagency disputes over export license applications. The intent is to provide an orderly process for the timely resolution of disputes, while allowing all interested agencies a full opportunity to express their views. This was an issue of great concern to the Administration, the national security community, and industry. I believe we have reached a reasonable resolution of this issue in the bill.

The bill significantly increases both criminal and civil penalties for violations of the Export Administration Act, reflecting the seriousness of such violations.

The bill provides new authority to the President to determine that a good has mass market status in the United States and should therefore be decontrolled. The President retains authority to set aside a mass market determination if he determines it would constitute a serious threat to national security and continued export controls would be likely to advance the national security interests of the United States. This was a provision of great importance to U.S. exporters.

At the urging of Senator ENZI, the bill contains a provision that would require the President to establish a system of tiers to which countries would be assigned based on their perceived threat to U.S. national security. The intent is to provide exporters a clear guide as to the licensing requirements of an export of a particular item to a particular country.

The bill would also require that any foreign company that declined a U.S. request for a post-shipment verification of an export would be denied licenses for future exports. The President would have authority to deny licenses to affiliates of the company, and to the country in which the company is located as well.

On balance, I believe this bill is a very balanced piece of work. It commanded unanimous bipartisan support in the Banking Committee in the last Congress. It is my belief that it will receive broad bipartisan support in the Banking Committee and in the full Senate in this Congress. I believe it will be the first bill the Banking Committee will act on this year, and I would hope we could move it quickly to consideration by the full Senate. Early action by the full Senate would, in turn, give the House more time to act on the bill. I am hopeful that this will be the Congress in which the Export Administration Act is enacted back into law.

By Mr. KERRY:

S. 150. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

HEALTH INSURANCE FOR SMALL BUSINESS

Mr. KERRY. Mr. President, I am proud to be an original cosponsor of the Self-Employed Health Insurance Fairness Act. As the Ranking Democratic Member on the Senate Committee on Small Business, I know how important access to health insurance is for small businesses. Today, approximately 42.5 million Americans lack health insurance. Unfortunately, employees of small businesses are much more likely to be uninsured than employees of large firms.

Current law allows qualified small businesses to deduct 60 percent of their health insurance payments. The cost of health insurance and the lack of a full deduction has kept many small businesses from obtaining health insurance for their employees. In 1998, an estimated 12.5 million workers were self-employed but only about 3.2 million tax returns claimed the self-employed health insurance deduction. In 1998, 34 percent of workers in firms with fewer than 10 employees lacked health insurance compared with only 13 percent of workers in firms with more than 1,000 employees. Clearly, the cost of health insurance has kept many small businesses from offering health insurance. Many small businesses simply cannot afford to pick up the difference between the deduction and the total cost of health insurance.

Unfortunately, due to an inequity within our current tax law, big businesses are currently allowed to deduct 100 percent of their health insurance costs. While small businesses are slated to have their health insurance deduction increase to 100 percent in 2003, I believe this is far too long for many small businesses to wait to obtain health insurance.

That is why I am proud to cosponsor the legislation introduced yesterday by Senators BOND and DURBIN, which will finally end the inequity in current tax law and allow small businesses to deduct the same amount of their health insurance costs as big businesses. For many small businesses, this increase in the deduction will make it possible for them to obtain health insurance for the first time.

No one in the United States should be without adequate health care because he or she cannot afford it. Access to affordable health insurance is crucial to increase the quality of life for working families across this nation. That is why we must enact this legislation during the 107th Congress.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 152. A bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing legislation to expand the tax deduction for student loan interest. I am proud to have as my original cosponsor Senator MAX BAUCUS of Montana.

Under the Tax Reform Act of 1986, the tax deduction for student loan interest was eliminated. This action, done in the name of fiscal responsibility, disregarded the duty we have to the education of our nation's students. This struck me and many of my colleagues as wrong. Since 1987, I have spearheaded the bipartisan effort to reinstate the tax deduction for student loan interest. In 1992, we succeeded in passing the legislation only to have it vetoed as part of a larger bill with tax increases. Finally, after ten long years our determination and perseverance paid off. Under the Taxpayer Relief Act of 1997 we reinstated the deduction. In our success, we sent a message to the students and their families of this nation that the Congress of the United States understands the financial hardships they face, and that we are willing to assist them in easing those hardships so they can continue to receive the education they need to become productive members of society and of their place of work.

In 1997, our steps were in the right direction. We did what needed to be done. Regrettably, due to fiscal constraints, we were not able to go as far as we wanted. The nation was still struggling to eliminate the deficit. In order to control costs, we were forced to limit the deductibility of student loan interest to only sixty payments, which is five years' worth plus the time spent in forbearance or deferment.

This restriction hurts some of the most needy borrowers. Many of these borrowers are students who, due to limited means, have borrowed most heavily. The restriction discriminates against those who have the highest debt loads and the lowest incomes. It makes the American dream of self-improvement harder to achieve for those struggling to pull themselves up—but who started with less. It is simply unjust.

Today, our situation is vastly different. In these times of economic surplus, we have a responsibility to do what we were unable to do before. Student debt is rising to alarming levels and additional relief is needed. We must eliminate the sixty month restriction on the deductibility of student loan interest and adjust the income limits to show that the United States Congress stands behind our nation's students in their endeavors to better themselves.

In addition, the removal of the sixty-month limit on deductibility of student loan interest will bring most needed relief to some of the most deserving borrowers. The restriction weighs most heavily on those who, despite lower pay have decided to dedicate themselves to public service. Thus this change will have the added benefit of rewarding civic virtue of these admirable citizens.

Additionally, eliminating this restriction will remove difficult and costly reporting requirements that are currently required for both the borrower and lender. By supporting our nation's students, we will also be reducing costly and unnecessary regulatory requirements.

Currently, to claim the deduction, the taxpayer must have an adjusted gross income of $40,000 or less or $60,000 for married couples. The amount of the deduction is gradually phased out for those with incomes between $40,000 and $55,000, or $60,000 and $75,000 for married couples. The deduction was phased in at $1,000 and will cap out at $2,500 in 2002. This bill will adjust those limits.

Many students in our country are suffering from heavy education-related debt. More can and must be done to help them. In these times of relative budget surplus, it is our duty to invest in our students' education. Doing so is an investment in America's future. To maintain our competitive edge in the global marketplace, America must have a well-educated workforce. By making it easier for students to take out the loans they need to obtain the highest level of education they can, we recommit ourselves to education and maintaining our competitive advantage in technology and in world trade.

I urge members to join me and Senator BAUCUS in our effort to relieve these excessive burdens on those trying to better themselves and their futures through education, by expanding the tax deduction for student loan interest payments. I now ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 of the Internal Revenue Code of 1986 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) CONFORMING AMENDMENT.—Section 6050S(e) of such Code is amended by striking "section 221(e)(1)" and inserting "section 221(d)(1)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2000, in taxable years ending after such date.

(b) INCREASE IN INCOME LIMITATION.—

(1) IN GENERAL.—Section 221(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amount of reduction) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $50,000 (twice such dollar amount in the case of a joint return), bears to

"(ii) $15,000.".

(2) CONFORMING AMENDMENT.—Section 221(g)(1) of such Code is amended by striking "$40,000 and $60,000 amounts" and inserting "$50,000 amount".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2000.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator GRASSLEY, in introducing legislation to expand the tax deduction for student loan interest.

Under current law, student loan interest is only deductible for the first sixty loan repayments, which is equivalent to five years in addition to any deferrals. While this limitation was originally imposed due to revenue constraints, it has had unanticipated consequences.

Most importantly, the limitation hurts some of our neediest borrowers. Students with the most limited means often are forced to borrow most heavily in order to afford a higher education. These are precisely the students who need the most help to succeed.

The restriction also makes it more difficult for students who would like to pursue a career in public service, where loan repayment is made more challenging by salaries that tend to be lower than the private sector. We should not punish those who sacrifice in order to serve the greater good.

Finally, the current sixty month limitation imposes costly and time-consuming reporting requirements on both borrowers and lenders. In supporting our nation's students, we will also be cutting costly bureaucracy.

Mr. President, we currently are enjoying unprecedented budget surpluses, which allows us the luxury of deciding how best to allocate our nation's revenues. I believe there are some priorities we must emphasize, and one important one is our children's education.

Investing in education is investing in our nation's future.

Our best tool for ensuring long-term economic growth is to make sure our workforce is the most educated in the world. Eliminating this artificial restriction on student loan interest deductibility keeps us one small step closer to our goal.

I urge my colleagues to support this effort.

By Mr. HATCH:

S. 153. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the Medicare Program; to the Committee on Finance.

Mr. HATCH. Mr. President, today, I am introducing legislation that will allow all state accredited diabetes education programs to be reimbursed by the Medicare program. Currently, diabetes education programs that have state certification, as an alternative to being certified by the American Diabetes Association (ADA), are not eligible to receive Medicare reimbursement for their services. As a result, these deserving patients have more limited access to the important medical education that they need to control their diabetes effectively and to improve the quality of their health.

This important health issue was brought to my attention by the Program Director of the Utah Diabetes Control Program. There are over 30 diabetes education programs in Utah that are either Utah certified or recognized by the American Diabetes Association. The majority of the education programs have only state certification; several are located in rural communities of Utah.

It is important to emphasize, that in Utah, our state certification program meets or exceeds all national standards. These stringent state requirements include the submission of a detailed application, with the appropriate documentation that the diabetes education programs meet the various national standards.

The Utah Diabetes Control Program staff also conduct on-site visits to all applying programs. After the completion of this extensive application process, the state staff collects follow-up data through the annual report process in order to assess program quality and diabetic patient outcomes.

One notable concern that has been brought to my attention by the Utah Department of Health is that the American Diabetes Association charges $850 for state programs to apply for their ADA certification. The smaller and rural state diabetes education programs, which provide services to their patients, have indicated that the ADA fee is cost-prohibitive for them. It does not seem right to me that Medicare reimbursement for such programs is contingent on the ability of the program sponsor to pay a fee to the only accepted certifying entity.

I understand that this problem is not unique to Utah, but is a significant issue across the country. All Medicare beneficiaries, regardless of where they live in America, should have access to these diabetes education programs that ultimately improve the quality of their lives. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE ACCREDITATION OF DIABETES SELF-MANAGEMENT TRAINING PROGRAMS.

Section 1861(qq)(2) of the Social Security Act (42 U.S.C. 1395x(qq)(2)) is amended—

(1) in the matter preceding subparagraph (A) by striking "paragraph (1)—" and inserting "paragraph (1):";

(2) in subparagraph (A)—

(A) by striking "a 'certified provider' " and inserting "A 'certified provider' "; and

(B) by striking "; and" at the end and inserting a period; and

(3) in subparagraph (B)—

(A) by striking "a physician, or such other individual" and inserting "(i) A physician, or such other individual";

(B) by inserting "(I)" before "meets applicable standards";

(C) by inserting "(II)" before "is recognized";

(D) by inserting ", or by a program described in clause (ii)," after "recognized by an organization that represents individuals (including individuals under this title) with diabetes"; and

(E) by adding at the end the following new clause:

"(ii) Notwithstanding any reference to 'a national accreditation body' in section 1865(b), for purposes of clause (i), a program described in this clause is a program operated by a State for the purposes of accrediting diabetes self-management training programs, if the Secretary determines that such State program has established quality standards that meet or exceed the standards established by the Secretary under clause (i) or the standards originally established by the National Diabetes Advisory Board and subsequently revised as described in clause (i).".

By Mr. SHELBY:

S. 154. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure uniform treatment by States of Federal overseas absentee ballots, to amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State, and elections for public office, and for other purposes; to the Committee on Rules and Administration.

Mr. SHELBY. Mr. President, I rise today to introduce the Military and Overseas Citizens Voting Fairness Act of 2001. This bill ensures that the men and women of the military who go into harm's way and bravely serve our country will have their vote counted. Given the great sacrifice these men and women make to defend our country, it is essential that we as lawmakers do all that we can to have their voices heard.

Although military mail is technically supposed to carry a postmark, the reality of the situation is that exigent circumstances aboard Navy ships and in foreign theaters can result in mail being sent without a postmark. Because several states require a postmark for an absentee ballot to be counted, the unfortunate outcome is that many military persons who went through the timely process of registering, applying for and sending in a ballot are disenfranchised through no fault of their own.

My bill provides that lack of a postmark does not result in automatic rejection of an overseas ballots in states that require a postmark. Specifically, the bill states that as long as there is conclusive proof of timely sending and the ballot is received by a state within 10 days after a federal election, mere lack of a postmark will not prevent the ballot from being counted.

My bill lists two ways in which conclusive proof of timely sending may be established, although any conclusive evidence could establish timely sending. If a ballot is received on or before election day, logic dictates that the ballot was sent in a timely manner. Also, timely sending would be conclusively established by examining the date of signature and witness on the outside of the ballot envelope. Fraudulently misstating the date would be punishable by civil and criminal penalties.

In addition to creating a uniform absentee voting law, my bill includes provisions to allow polling places on domestic military bases. These provisions will make it easier for military personnel located on remote bases to be able to participate in the voting process. Voting is one of the most important civic duties in a democracy. By allowing voting to take place on-base, we as the Senate, will guarantee that the men and women of our military will have every opportunity to exercise their important right to vote.

Mr. President, confidence, clarity, and participation in our voting process are vital to the continuation of our great democracy. The election of this past year illustrates the need for change in our voting procedures. While more reform will be needed, my bill is a crucial step in that direction. For this and all the above reasons, I urge you and all my other colleagues to support the passage of this all important bill.

By Mr. BINGAMAN:

S. 155. A bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill that I put forward last year to remove the inequity that continues to exist in retirement pay benefits for critical personnel, referred to as "Dual Status Technicians," who serve in our National Guard and Reserve. The Senate approved my proposed legislation last year by including it in the FY 2001 Defense Authorization bill. This year, I urge my colleagues in the Senate and House to join with me to see that this important initiative is enacted into law.

There are about 40,000 Dual Status Technicians covered by retirement requirements and restrictions contained in Title 32 of the United States Code. The designation "Dual Status", Mr. President, refers to the fact that these technicians serve the government simultaneously both as military and civilian employees. These men and women are the backbone of our National Guard and Reserve structure. They are the mechanics, pilots engineers, equipment operators, supply and support technicians who keep things running so that the Guard is able to respond to natural disasters and national emergencies, as well as serve on active duty in accordance with the "total force concept" that integrates active and reserve forces in the military. These hardworking men and women are often the first called to duty in an emergency. They played on essential role, for example, in the major firefighting efforts that took place in New Mexican and throughout western states last summer.

As essential as Dual Status Technicians are, they suffer from the worst of two employment worlds. These technicians are by statute both military and civilian employees. Guard technicians must maintain their military job and grade in order to keep their technician status and remain a federal employee. In the event of separation from military service, however, under existing law they are denied the retirement benefit options extended to those who serve in the same grade and time in service in the active military. Frequently, Dual Status Technicians who are separated from the Guard and Reserve must wait years to qualify to receive their Federal Service retirement benefits.

The bill I am introducing in the Senate today corresponds to a companion bill being introduced on the House side by Representative ABERCROMBIE. It seeks to eliminate retirement inequities—a problem we just addressed head on in the Armed Services Committee when we include a provision in the FY 2000 Defense Authorization Bill eliminating retirement inequities between active duty personnel who retire before or after 1986. We voted by that provision to effectively eliminate the "Redux" retirement benefit program because of the lower benefits it offered to personnel who retired after 1986. The action I am proposing in this legislation is similar.

The bill will permit Dual Status Technicians to retire at any age with 25 years of service or at age 50 with 20 years of service. Those criteria reflect benefit options now extended to Federal police and fire employees. They also replicate those offered to federal employees who retire from the Congress.

Last year, I was pleased to see, Mr. President, that the FY 2000 Defense Authorization Act took a step to extend more equitable retirement benefits to Dual Status Technicians. In doing so, however, the Congress created an inequity within the Technician community itself. A provision in that Act authorized early retirement after 25 years at any age, or at age 50 with 20 years of service—but only for those employed as Dual Status Technicians after 1996. Those same benefits are withheld from those employed before 1996. In other words, Mr. President, we created a situation similar to the one the Senate dealt with regarding the "Redux" retirement program in the FY 2001 Defense Authorization Act. The bill I offer today would remove that inequity in the same way the Congress voted to remove the inequity for active duty personnel who retired under the "Redux" program.

Mr. President, the cost of achieving retirement equity for Dual Status Technicians would not be high. Last year, the Congressional Budget Office estimated that this bill could cost about $74 million over a five year period. That estimate may be on the high side, I believe, since it is based on the assumption that nearly all technicians eligible for retirement under those criteria would choose to do so. The actual number who would choose to retire would vary, of course, depending on individual circumstances. It is important to note, Mr. President, that we're not only providing for equity here. We're authorizing appropriate compensation, well deserved, to the men and women who have devoted their careers to service for the nation both at home and abroad—the men and women of our National Guard and Reserve.

I urge my colleagues to support this bill and urge my fellow members to support this effort through cosponsorship. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIREMENTS TO MILITARY RESERVE TECHNICIANS.

(a) TECHNICIANS COVERED BY FERS.—Paragraph (1) of section 8414(c) of title 5, United States Code, is amended by striking "after becoming 50 years of age and completing 25 years of service" and inserting "after completing 25 years of service or after becoming 50 years of age and completing 20 years of service".

(b) TECHNICIANS COVERED BY CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p) Section 8414(c) of this title applies—

"(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this subchapter; and

"(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of determining entitlement to an annuity under this subchapter.".

(c) APPLICABILITY.—Subsection (c) of section 8414 of title 5, United States Code (as amended by subsection (a)), and subsection (p) of section 8336 of such title (as added by subsection (b)), shall apply according to the provisions thereof with respect to separations from service referred to in such subsections that occur on or after October 5, 1999.

By Mrs BOXER:

S. 156. A bill to improve academic and social outcomes for students and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities during after school hours; to the Committee on Health, Education, Labor, and Pensions.

S. 157. A bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, there have been many positive steps taken to support quality early education and afterschool programs, yet they still represent token steps when giant leaps are needed. America must commit to ensuring a comprehensive education system beginning with early education programs and continuing with afterschool programs. This is why I am reintroducing my two bills, the "Early Education Act of 2001," and the "After School Education and Anti-Crime Act of 2001."

Every day, millions of working parents are forced with the prospect of leaving their children unsupervised after school because they either cannot afford quality afterschool programs or the programs simply are unavailable in their surrounding area. Children need a place to go after school. An empty house should not be an option. It can be especially frightening for many students today because of the increase in crime and drug related incidents in their neighborhoods.

There are anywhere from 8 to 15 million children without accessible afterschool opportunities. Only 33 percent of schools in low-income neighborhoods offer before and afterschool programs compared to over 50 percent of schools in affluent neighborhoods. Yet, unlike what most may believe, this tragic situation cuts across both racial and economic lines. Affluent, non-minority workers also leave their children home alone.

According to a recent report from the Urban Institute, one in five children ages 6 to 12 are regularly left without adult supervision after school. The FBI reports that the after school hours between 2 p.m. and 8 p.m. are the times when latchkey children are most likely to be involved in crimes and other delinquent behavior, and this is precisely the time period when juvenile crime peaks across the nation.

According to the Departments of Education and Health and Human Services, extracurricular activities, like those provided by afterschool programs, have proven to reduce the number of students likely to use drugs by 50 percent and the number of students likely to become teen parents by 33 percent. Statistics like these prove that after school programs are essential to ensuring the safety of our children in the critical hours after school.

We made great progress in the last 5 years. Through the 21st Century Community Learning Center program, federal support for local afterschool programs increased from $1 million in fiscal year 1997 to $845 million in fiscal year 2001. As a result, over 900 communities across the nation are now providing their children with a positive alternative to unsupervised care.

But a gap still exists. While eight out of ten voters in America indicate they strongly support afterschool programs and would welcome them in their community, fewer than 4 out of 10 voters say that their community provides afterschool programs.

My bill, the After Education and Anti-Crime Act of 2001, would help close this gap. It would provide $1 billion in grants for afterschool programs and incrementally increase that funding over the next five years to $1.5 billion in the year 2006. This funding would help provide afterschool programs for 1.5 million youth in the year 2002 with the potential to assist nearly 2.5 million in the year 2006.

While afterschool programs continue the learning process during after school hours, we also must support initiatives that ensure our young children receive quality educational experiences in their early, formative years.

In 1989, the Nation's governors established a goal that all children would have access to high quality prekindergarten programs by the year 2000. It is now the year 2001, and this goal still has not been met.

Importantly, researchers have discovered that children have a learning capacity that can and should be developed at a much earlier age than was previously thought. The National Research Council reported that prekindergarten educational opportunities are necessary if children are going to develop the language and literacy skills needed to read.

Furthermore, studies have shown that children who participate in prekindergarten programs are less likely to be held back a grade, show greater learning retention and initiative, have better social skills, are more enthusiastic about school, and more likely to have good attendance records. Yet, of the nearly 8 million 3- and 4-year-olds that could be in early education, fewer than half are enrolled.

My bill, the Early Education Act of 2001, would create a demonstration project in at least 10 States that want to provide one year of prekindergarten early education in the public schools. There is a 50 percent matching requirement, and the $300 million authorized under this bill would be used by States to supplement—not supplant—other Federal, State or local funds.

Our children need a solid foundation that builds on our current education system by providing them with early learning skills and the opportunity to further develop these skills during the afterschool hours. My bills will help create such a positive environment for our Nation's youth.

By Mr. BINGAMAN (for himself and Mr. LUGAR):

S. 158. A bill to improve schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to re-introduce legislation that I first introduced in 1999. This bill will establish much needed accountability for our education system so that the taxpayers' investment in education is adequately protected and our children receive the best possible education. I am pleased to offer this bipartisan bill on behalf of myself and my colleague Senator LUGAR. The provisions of this bill are also included in S. 7, introduced yesterday by Senator DASCHLE and 18 other senators.

I think that we can all agree that greater accountability in our public schools is an imperative. I am encouraged that President Bush and our new Secretary of Education, Rod Paige, have both expressed a strong commitment to increased accountability and have implemented strong school accountability standards in Texas. I understand accountability is a central piece of the administration's proposal being released today.

In 1994, we made some important changes to the Elementary and Secondary Education Act. We created an accountability system for the program receiving most of the ESEA funds—the program, for disadvantaged students called the Title I program. This accountability framework—along with the Goals 2000 program—have driven the standards-based reform efforts across the nation. During the last 5 years, however, experience in many States has demonstrated that we must do more. At this point, only 11 states have fully approved assessment systems in place as required under Title I.

The federal government has succeeded in targeting funds on those most in need better than any state or local government. And over the last three decades we have had success—albeit only partial success—in closing the achievement gap between economically disadvantaged students and their peers.

Our bill builds on the existing strengths of the accountability structure in the current Title I programs and also establishes accountability for teacher quality and other federal education programs encompassed in the Elementary and Secondary Education Act. In particular, our bill (1) establishes aggressive but achievable performance objectives for all students linked to each state's own standards and assessments; (2) directs resources to the students and objectives most in need and (3) provides maximum flexibility for educators in devising strategies that meet our shared goals, but ultimately having real consequences and sanctions for states, districts, and schools that do not meet agreed-upon performance objectives for student achievement.

Through amendments to Title I and Title VI of the Elementary and Secondary Education Act, our bill establishes aggressive but achievable performance objectives for all students.

We require rigorous statewide accountability systems based on each state's standards and assessments holding states, districts, and schools accountable for real achievement progress for all students, by requiring states, districts and schools to set specific, numerical goals for improvement which will ensure that all students will be proficient on state standards within 10 years. We also require public reporting of not just the results of the assessment but also the number of students excluded from assessments.

Most importantly, Mr. President, this bill demands results for all students, by no longer tolerating existing achievement gaps between minority and non-minority students, poor and non-poor students, and LEP and English-speaking students. The achievement gap between low-income students and their more advantaged peers has narrowed significantly from 1970 until the mid-1980's. This was a central goal of the Title I program and its success in this regard is underrated.

But we have not done enough to accelerate those results. Accountability systems that depend upon average student achievement data—data in the aggregate—will not close the achievement gaps that separate low-income students from more affluent students or minority students from white students.

For example, in my home State of New Mexico, in 1994 4th grade reading data show that an average of 21 percent of the 4th graders in my state were reading at the proficient level. This is distressing enough, but the disaggregated data tells an even more depressing story. In New Mexico only 11 percent of the African American 4th graders and just 15 percent of the Latino 4th graders were reading at the proficient level. The 1996 4th grade NAEP data show that 13 percent of all students in New Mexico were proficient in math while only 3 percent of African American students and 6 percent of Latino students were proficient.

The fact that these students are in the minority means that their performance data is swamped by data of the majority when an accountability system that depends on averages is used.

To remedy this—to close the gaps and to make good on the promises of Title I—our bill would demand that states use disaggregated data and goals to hold schools and school districts accountable for the use of Title I funds.

Mr. President, recognizing that increased accountability and increased results will not be easy to accomplish, our bill also directs additional resources to the students and objectives most in need.

First, our bill would set aside a pot of funds (3 percent of Title I funds—about $250 million at current funding levels—

and 5 percent after three years) for school improvement. 80 percent of these funds would be sent to the local level to support efforts to turn around failing schools. Schools can use these funds to implement research-based comprehensive school reform programs.

An example of a comprehensive school reform model used widely in my State and throughout the nation with great results is Success for All. This program is a proven early grade reading program, which if implemented properly can ensure results. At the end of the first grade, Success for All schools have average reading scores almost three months ahead of those in matching control schools, and by the end of the 5th grade, students read more than one year ahead of control peers. The program can reduce the need for special education placements by more than 50 percent and virtually eliminate retention. Our bill provides new funding of $500 million per year to states and school districts to implement comprehensive, research-based school reform programs, such as Success for All, that have proven effectiveness.

Second, the state may use the remaining State funds to provide assistance to districts and schools as they implement their accountability system and develop school improvement plans.

Finally, we also support an increased authorization level for Title I—$15 billion—and will continue to fight for substantial increases in the appropriations process.

Mr. President, the bill does not provide additional resources without asking for something in return. The bill would ensure that if states, districts or schools fail to demonstrate returns on the federal investment through increased student performance, real consequences and sanctions will result.

On the school and district level, if grant recipients do not meet required performance standards, changes in the governance structure of the school or district must be implemented; and students must be allowed to transfer to higher performing schools. The states and districts must provide the necessary resources for transportation with state and local funds; state administrative funds will be withheld; and Title VI funding (current block grant program) will be reduced and States will be ineligible for the Ed-Flex program.

This bill also would establish aggressive but achievable performance objectives to ensure that every class has a qualified teacher. Our bill does this by first, requiring states receiving federal funds to ensure that all teachers are fully qualified by December 2005; second, requiring states and districts receiving federal teacher quality funds to set specific numerical performance goals and targets for reducing the number of unqualified and out-of-field teachers; and third, ensuring that low income and minority students are not taught by unqualified teachers at higher rates than other students.

The bill would ensure that resources are directed to these objectives first, by ensuring that federal funds are not used to hire unqualified teachers and second, by ensuring that resources are provided for, and school improvement plans incorporate, high-quality, research-based professional development for instructional staff.

Again, in exchange for increased resources, our bill would provide consequences for failing to meet performance objectives. States failing to meet their performance objectives would lose State administrative funding. Districts and schools failing to meet performance objectives would be ineligible for continuing grants.

This bill also ensures that the other Federal Education Programs in the ESEA incorporate performance-based accountability measures by: First, requiring that all plans submitted with grant applications incorporate performance-based objectives for increased student performance or other relevant program objectives. Second, providing additional funding through the Title VI block grant program in the ESEA to achieve performance-based objectives. Third, providing consequences for failing to meet performance-based objectives, including ineligibility for continuing grants in the case of competitive programs and in the case of formula programs, reductions in administrative funds and Title VI, and fourth, mandating that states failing to meet goals would also be ineligible for flexible funding programs in current law ("Ed Flex").

In addition, this bill recognizes the critical role played by parents in improving performance and ensuring accountability. The bill provides parents the right to know their child's teachers' qualifications; it requires that parents be notified when their child's school is failing; it requires school improvement plans be published and parents be included in their development; and it requires school report cards to inform parents about the quality of their schools and their programs in meeting student achievement goals.

Finally, our bill authorizes $200 million dollars for States to reward high performing schools and districts so that these schools and districts are recognized and encouraged to strive for high performance.

Mr. President, our bill would use an output-based rather than an input-based system of accountability for the various programs authorized by this bill. A shift that my colleagues on the both sides of the aisle have repeatedly endorsed.

Indeed, Both President Bush and Secretary Paige have expressed support for the measures incorporated in this bill and implemented many of them with some success in Texas. Both have endorsed closing the achievement gap at the school level with real consequences for failure—the key component for accountability under Title I. They have indicated support for report cards, a rewards program for successful schools, and using performance-based accountability for all education programs. At his confirmation hearing, Secretary Paige also endorsed providing additional resources to struggling schools to help them turn around before corrective actions are taken. So I am very hopeful that this will be a bill that receives strong bipartisan support and I look forward to working with my colleagues on both sides of the aisle on it.

In conclusion, Mr. President, many schools that educate hard-to-serve students have shown success by setting high standards for staff and students and mobilizing educators and the community around a clear set of educational goals.

In fact, there are successful schools all over the country, in every type of community, that are living proof that all children have the ability to achieve beyond our wildest expectations, no matter what their economic or social background.

Success is not yet the rule in all of our schools. Our job, in this Congress, is to support parents and educators in every community as they apply these lessons and leverage federal funds so that they create change in areas where success continues to lag. We know what works. Now we must dedicate the resources needed to apply what works and hold the system accountable for real results. Again, I want to thank my colleague, Senator LUGAR, for his cosponsorship of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Improvement Accountability Act".

TITLE I—HELPING DISADVANTAGED CHILDREN

SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.

Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended to read as follows:

"SEC. 1003. RESERVATION FOR ACCOUNTABILITY AND SCHOOL IMPROVEMENT.

"(a) STATE RESERVATION.—

"(1) IN GENERAL.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

"(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall allocate at least 80 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies, and agencies serving schools, identified for corrective action or improvement under section 1116(c).

"(3) USE OF FUNDS.—Each local educational agency receiving an allotment under paragraph (2) shall use the allotment to—

"(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

"(B) achieve substantial improvement in the performance of those schools.

"(b) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.30 percent to conduct evaluations and studies and to collect data.

SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking "AND ASSESSMENTS" and inserting ", ASSESSMENTS, AND ACCOUNTABILITY";

(2) by amending paragraph (2) to read as follows:

"(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State's accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

"(B) The specification of adequate yearly progress in the State plan for schools—

"(i) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3);

"(ii) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this section within 10 years after the effective date of the School Improvement Accountability Act;

"(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the inclusion of such indicators shall not decrease the number of schools or local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

"(iv) shall compare separately data for the State as a whole, for each local educational agency, and for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such disaggregation shall not be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal individually identifiable information about individual students); and

"(v) shall compare the proportion of students at the basic, proficient, and advanced levels of performance in a grade for a year with the proportion of students at each of the 3 levels in the same grade in the previous year.

"(C)(i) Adequate yearly progress for a local educational agency shall be based upon both—

"(I) the number or percentage of schools identified for school improvement or corrective action; and

"(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

"(ii) The State plan shall provide that each local educational agency shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are greater than the average concentration of such children served by the local educational agency shall not be less than the percentage of schools making adequate yearly progress among schools whose concentrations of poor children are less than the average concentration of such children served by the local educational agency.

"(D)(i) Adequate yearly progress for a State shall be based upon both—

"(I) the number or percentage of local educational agencies identified for improvement or corrective action; and

"(II) the progress of the State in reducing the number or length of time local educational agencies are identified for improvement or corrective action.

"(ii) The State plan shall provide that the State shall ensure that, not later than the end of the fourth academic year after the effective date of the School Improvement Accountability Act, the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are greater than the State average of such concentrations shall not be less than the percentage of local educational agencies making adequate yearly progress among local educational agencies whose concentrations of poor children are less than the State average.";

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "developed or adopted" and inserting "in place"; and

(ii) by inserting ", not later than the school year 2000–2001," after "will be used";

(B) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J);

(C) in subparagraph (F)—

(i) in clause (ii), by striking "and" after the semicolon; and

(ii) by adding at the end the following:

"(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with limited English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what those students know and can do in content areas other than English; and

"(v) notwithstanding clauses (iii) and (iv), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive years, for purposes of school accountability;";

(D) by inserting after subparagraph (F) the following:

"(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student."; and

(E) by amending subparagraph (I) (as so redesignated) to read as follows:

"(I) provide individual student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning such as measures of student coursework over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and";

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

(6) by inserting after paragraph (3) the following:

"(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers and percentages of all students, including the lowest performing students, economically disadvantaged students, and students with limited proficiency in English, who meet the State's proficient and advanced levels of performance within 10 years after the date of enactment of the School Improvement Accountability Act. The State accountability system shall—

"(i) be the same accountability system the State uses for all schools or all local educational agencies in the State, if the State has an accountability system for all schools or all local educational agencies in the State;

"(ii) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

"(iii) identify schools and local educational agencies for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).

"(B) The accountability system described in subparagraph (A) and described in the State plan shall also include a procedure for identifying for improvement a school or local educational agency, intervening in that school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

"(i) complies with sections 1116 and 1117, including the provision of technical assistance, professional development, and other capacity-building as needed, to ensure that schools and local educational agencies so identified have the resources, skills, and knowledge needed to carry out their obligations under sections 1114 and 1115 and to meet the requirements for adequate yearly progress described in paragraph (2); and

"(ii) includes rigorous criteria for identifying those agencies and schools based upon failure to make adequate yearly progress in student achievement in accordance with paragraph (2).

"(5) PUBLIC NOTICE AND COMMENT.—Each State plan shall contain assurances that—

"(A) in developing the State plan provisions relating to adequate yearly progress, the State diligently sought public comment from a range of institutions and individuals in the State with an interest in improved student achievement; and

"(B) the State will continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school administrators throughout the State, and is provided in a widely read or distributed medium.

"(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State's consolidated plan under section 14302, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement and corrective action under section 1116, the steps taken to address the performance problems of such schools and local educational agencies, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

"(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place high-quality State content and student performance standards and aligned assessments, or if the State fails to establish a system for measuring and monitoring adequate yearly progress, for a fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section at the State, local educational agency, and school levels, then the State shall be ineligible to reserve a greater amount of administrative funds under section 1003 for the succeeding fiscal year than the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

"(B)(i) The State plan shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate.

"(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for the succeeding fiscal year or a subsequent fiscal year, the Secretary shall withhold not less than ⅕ of the funds made available under this part for administrative expenses for the fiscal year.

"(C) The State plan shall provide that, if the State has not developed challenging State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall be subject to such other penalties as are provided in this Act for failure to develop the assessments."; and

(7) by adding at the end the following:

"(12) SCHOOL REPORTS.—The State plan shall provide that individual school reports publicized and disseminated under section 1116(a)(2) shall include information on the total number of students excluded from each assessment at each school, including, where statistically sound, data disaggregated in accordance with paragraph (3)(J), and shall include information on why such students were excluded from the assessment. In issuing this report, a local educational agency may not provide any information that would violate the privacy or reveal the identity of any individual student.".

(b) ASSURANCES.—Section 1112(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(c)(1)) is amended—

(1) in subparagraph (G), by striking "; and" and inserting a semicolon;

(2) in subparagraph (H), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(I) ensure, through incentives for voluntary transfers, the provision of professional development, and recruitment programs, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers.".

(c) ASSESSMENT AND IMPROVEMENT.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317) is amended—

(1) by amending subsection (a) to read as follows:

"(a) STATE AND LOCAL REVIEW.—

"(1) IN GENERAL.—Each local educational agency receiving funds under this part shall use the State assessments and other academic indicators described in the State plan or in a State-approved local educational agency plan to review annually the progress of each school served under this part by the agency to determine whether the school is making the adequate yearly progress specified in section 1111(b)(2) toward enabling all students to meet the State's student performance standards described in the State plan.

"(2) PUBLICATION AND DISSEMINATION; RESULTS.—Each local educational agency receiving funds under this part shall—

"(A) publicize and disseminate in individual school reports that include statistically sound results disaggregated in the same manner as results are disaggregated under section 1111(b)(3)(J), to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (1) and (if not already included in the review), graduation rates, attendance rates, retention rates, and rates of participation in advanced level courses, for all schools served under this part; and

"(B) provide the results of the annual review to schools served by the agency under this part so that the schools can continually refine their programs of instruction to help all students served under this part in those schools to meet the State's student performance standards.";

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

"(i) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111, except that in the case of a school participating in a targeted assistance program under section 1115, a local educational agency may review the progress of only those students in such school who are served under this part; or

"(ii) was identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

"(B) The 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which a school did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.";

(B) by amending paragraph (2) to read as follows:

"(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

"(I) the reasons for such identification; and

"(II) information about opportunities for parents to participate in the school improvement process.

"(ii) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

"(B)(i) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the school that the agency proposes to identify the school for school improvement and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding identification is based.

"(ii) If the school believes that the proposed identification is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

"(iii) The review period under this subparagraph shall not exceed 30 days. At the end of the period, the agency shall make public a final determination regarding identification of the school.

"(C) Each school identified under paragraph (1)(A) shall, within 3 months after being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

"(i) addresses the fundamental teaching and learning needs in the school;

"(ii) describes the specific achievement problems to be solved;

"(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards;

"(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of student achievement after implementation of those strategies in other schools;

"(v) addresses the need for high-quality staff by ensuring that all new teachers in the school in programs supported with funds provided under this part are fully qualified;

"(vi) addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school under this part on professional development that—

"(I) does not supplant professional development services that the instructional staff would otherwise receive; and

"(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the school to proficient or advanced levels of performance;

"(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that are high enough to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

"(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school's obligations to provide enriched and accelerated curricula, effective instructional methods, highly qualified professional development, and timely and effective individual assistance, in partnership with parents.

"(D)(i) The school shall submit the plan (including a revised plan) to the local educational agency for approval.

"(ii) The local educational agency shall promptly subject the plan to a peer review process, work with the school to revise the plan as necessary, and approve the plan.

"(iii) The school shall implement the plan as soon as the plan is approved.";

(C) by amending paragraph (4) to read as follows:

"(4) TECHNICAL ASSISTANCE.—(A) For each school identified for school improvement under paragraph (1)(A), the local educational agency shall provide technical assistance as the school develops and implements the school's plan.

"(B) Such technical assistance—

"(i) shall include information on effective methods and instructional strategies that are supported by valid and reliable evidence of effectiveness;

"(ii) shall be designed to strengthen the core academic program for the students served under this part, address specific elements of student performance problems, and address problems, if any, in implementing the parental involvement requirements in section 1118, implementing the professional development provisions in section 1119, and carrying out the responsibilities of the school and local educational agency under the plan; and

"(iii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency's approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 207 of the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(C) Technical assistance provided under this section by the local educational agency or an entity approved by such agency shall be supported by valid and reliable evidence of effectiveness.";

(D) by amending paragraph (5) to read as follows:

"(5) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each local educational agency shall implement a system of corrective action in accordance with the following:

"(A) In this paragraph, the term 'corrective action' means action, consistent with State and local law, that—

"(i) substantially and directly responds to the consistent academic failure that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

"(ii) is designed to substantially increase the likelihood that students will perform at the proficient and advanced performance levels.

"(B) After providing technical assistance under paragraph (4), the local educational agency—

"(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A);

"(ii) shall take corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school's identification under paragraph (1)(A), at the end of the second year; and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(C) In the case of a school described in subparagraph (B)(ii), the local educational agency—

(i) shall take corrective action that changes the school's administration or governance by—

(I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as the creation of a public charter school);

(III) redesigning the school by reconstituting all or part of the school staff;

(IV) eliminating the use of noncredentialed teachers; or

(V) closing the school;

(ii) shall provide professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and that offers substantial promise of improving student educational achievement and is directly related to the content area in which each teacher is providing instruction and the State's content and performance standards in that content area; and

(iii) may defer, reduce, or withhold funds provided to carry out this title.

"(D)(i) When a local educational agency has identified a school for corrective action under subparagraph (B)(ii), the agency shall provide all students enrolled in the school with the option to transfer to another public school that is within the area served by the local educational agency that has not been identified for school improvement and provide such students with transportation (or the costs of transportation) to such school, subject to the following requirements:

"(I) Such transfer must be consistent with State or local law.

"(II) If the local educational agency cannot accommodate the request of every student from the identified school, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

"(III) The local educational agency may use not more than 10 percent of the funds the local educational agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer the students to a different school under this subparagraph.

"(ii) If all public schools served by the local educational agency are identified for corrective action, the agency shall, to the extent practicable, establish a cooperative agreement with another local educational agency in the area to enable students served by the agency to transfer to a school served by that other agency.

"(E) A local educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

"(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

"(G)(i) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, upon which the proposed determination regarding corrective action is based.

"(ii) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

"(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the period, the local educational agency shall make public a final determination regarding corrective action for the school.";

(E) by amending paragraph (6) to read as follows:

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section."; and

(F) by amending paragraph (7) to read as follows:

"(7) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress toward meeting the goals, objectives, and performance targets in the school's improvement plan."; and

(3) by amending subsection (d) to read as follows:

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

"(2) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.—A State educational agency shall identify for improvement any local educational agency that—

"(A) for 2 consecutive years failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

"(B) was identified for improvement under this section as this section was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

"(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment.

"(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served under this part.

"(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

"(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

"(C) The review period under this paragraph shall not exceed 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

"(6) NOTIFICATION TO PARENTS.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

(i) the reasons for the agency's identification; and

(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

"(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

"(7) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

"(B) ACHIEVEMENT GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students within the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency will meet or exceed the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

"(C) The plan shall—

"(i) address the fundamental teaching and learning needs in the schools served by that agency, and the specific academic problems of low-performing students, including stating a determination of why the local educational agency's prior plan, if any, failed to bring about increased achievement;

"(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and that strengthen the core academic program in the local educational agency;

"(iii) identify specific annual academic achievement goals and objectives that will—

"(I) have the greatest likelihood of improving the performance of participating students in meeting the State's student performance standards; and

"(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to section 1111(b)(2)(B)(iv);

"(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the funds received by the schools under this part on professional development that—

"(I) does not supplant professional development services that the instructional staff would otherwise receive; and

"(II) is designed to increase the content knowledge of teachers, build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

"(v) identify measures the local educational agency will undertake to make adequate yearly progress;

"(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language the parents can understand;

"(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

"(viii) include strategies to promote effective parental involvement in the schools.

"(D) The local educational agency shall submit the plan (including a revised plan) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to a peer review process, work with the local educational agency to revise the plan as necessary, and approve the plan.

"(E) The local educational agency shall implement the plan (including a revised plan) as soon as the plan is approved.

"(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency—

"(i) to develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

"(ii) to work with schools identified for improvement.

"(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

"(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenging State standards, each State educational agency shall implement a system of corrective action in accordance with the following:

"(A) In this paragraph, the term 'corrective action' means action, consistent with State law, that—

"(i) substantially and directly responds to the consistent academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

"(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

"(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

"(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

"(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

"(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

"(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

"(i) Withholding funds from the local educational agency.

"(ii) Reconstituting school district personnel.

"(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

"(iv) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

"(v) Abolishing or restructuring the local educational agency.

"(D) When a State educational agency has identified a local educational agency for corrective action under subparagraph (B)(ii), the State educational agency shall provide all students enrolled in a school served by the local educational agency with a plan to transfer to a higher performing public school served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

"(i) The provision of the transfer shall be done in conjunction with at least 1 additional action described in this paragraph.

"(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, the agency shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

"(iii) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reservation under section 1003(a)(2) to provide transportation to students whose parents choose to transfer their child to a different school under this subparagraph.

"(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency, if State law provides for such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

"(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

"(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency's improvement plan.".

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.—Section 1117(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6318(a)) is amended to read as follows:

"(a) SYSTEM FOR SUPPORT.—

"(1) IN GENERAL.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's content standards and student performance standards.

"(2) PRIORITIES.—In carrying out this section, a State educational agency shall—

"(A) provide support and assistance to local educational agencies and schools identified for corrective action under section 1116;

"(B) provide support and assistance to other local educational agencies and schools identified for improvement under section 1116; and

"(C) provide support and assistance to each school receiving funds under this part in which the number of students in poverty equals or exceeds 75 percent of the total number of students enrolled in such school.

"(3) APPROACHES.—In order to achieve the objectives of this subsection, each statewide system shall provide technical assistance and support through approaches such as—

"(A) use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

"(B) the designation and use of 'Distinguished Educators', chosen from schools served under this part that have been especially successful in improving academic achievement;

"(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models; and

"(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

"(4) FUNDS.—Each State educational agency—

"(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

"(B) may use State administrative funds authorized for such purpose.

"(5) ALTERNATIVES.—The State educational agency may devise additional approaches to providing the assistance described in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through institutions of higher education, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.".

(e) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking "paragraph (6)" and inserting "paragraph (10)";

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking "section 1116(c)(4)" and inserting "section 1116(c)(5)";

(3) in section 1117(c)(2)(A) (20 U.S.C. 6318(c)(2)(A)), by striking "section 1111(b)(2)(A)(i)" and inserting "section 1111(b)(2)(A)";

(4) in section 1118(c)(4)(B) (20 U.S.C. 6319(c)(4)(B)), by striking "school performance profiles required under section 1116(a)(3)" and inserting "individual school reports required under section 1116(a)(2)(A)";

(5) in section 1118(e)(1) (20 U.S.C. 6319(e)(1)), by striking "section 1111(b)(8)" and inserting "section 1111(b)(11)"; and

(6) in section 1119(h)(3) (20 U.S.C. 6320(h)(3)), by striking "section 1116(d)(6)" and inserting "section 1116(d)(9)".

SEC. 103. COMPREHENSIVE SCHOOL REFORM.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

"PART F—COMPREHENSIVE SCHOOL REFORM

"SEC. 1551. PURPOSE.

"The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that emphasize basic academics and parental involvement so that all children can meet challenging State content and student performance standards.

"SEC. 1552. PROGRAM AUTHORIZATION.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

"(2) ALLOTMENTS.—

"(A) RESERVATIONS.—Of the amount appropriated under section 1558 for a fiscal year, the Secretary may reserve—

"(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part; and

"(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

"(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 1124 to the State for the preceding fiscal year bears to the total amount made available under section 1124 to all States for the preceding fiscal year.

"(C) REALLOTMENT.—If a State does not apply for funds under this part, the Secretary shall reallot such funds to other States in proportion to the amount allotted to such other States under subparagraph (B).

"SEC. 1553. STATE APPLICATIONS.

"(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each such application shall describe—

"(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

"(2) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

"(3) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

"(4) how the State educational agency will evaluate the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic performance; and

"(5) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

"SEC. 1554. STATE USE OF FUNDS.

"(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

“(b) SUBGRANT REQUIREMENTS.—A subgrant to a local educational agency shall be—

“(1) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

“(2) in an amount not less than $50,000 for each participating school; and

“(3) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

“(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

“(1) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

“(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure that comprehensive school reforms are properly implemented and are sustained in the future.

“(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

“(e) ADMINISTRATIVE COSTS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

“(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

“(g) REPORTING.—Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

“SEC. 1555. LOCAL APPLICATIONS.

“(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

“(b) CONTENTS.—Each such application shall—

“(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

“(2) describe the promising and effective practices and research-based programs that such schools will implement;

“(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

“(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

“SEC. 1556. LOCAL USE OF FUNDS.

“(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

“(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

“(2) integrating a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet challenging State content and student performance standards and addresses needs identified through a school needs assessment;

“(3) providing high quality and continuous teacher and staff professional development;

“(4) including measurable goals for student performance;

“(5) providing support to teachers, principals, administrators, and other school personnel staff;

“(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

“(7) using high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

“(8) evaluating school reform implementation and student performance; and

“(9) identifying other resources, including Federal, State, local, and private resources, that will be used to coordinate services supporting and sustaining the school reform effort.

“(b) SPECIAL RULE.—A school that receives funds to develop a comprehensive school reform program shall not be limited to using the approaches identified or developed by the Secretary, but may develop the school's own comprehensive school reform programs for schoolwide change as described in subsection (a).

“SEC. 1557. NATIONAL EVALUATION AND REPORTS.

“(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

“(b) EVALUATION.—The national evaluation shall—

“(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

“(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

“(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations, of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

“SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

TITLE II—TEACHERS

SEC. 201. STATE APPLICATIONS.

(a) CONTENTS OF STATE PLAN.—Section 2205(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

“(N) set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;”;

(2) by redesignating subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

“(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than December 1, 2005; and”.

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II of the Elementary and Secondary Education Act (20 U.S.C. 6641 et seq.) is amended—

(1) by redesignating section 2211 as section 2215;

(2) by inserting after section 2210 the following:

“SEC. 2211. LOCAL CONTINUATION OF FUNDING.

“(a) AGENCIES.—If a local educational agency applies for funds from a State under this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the agency has demonstrated that, in carrying out activities under this part during the past fiscal year, the agency has annual numerical performance objectives consisting of—

“(1) improved student performance for all groups identified in section 1111;

“(2) an increased percentage of teachers participating in sustained professional development activities;

“(3) a reduction in the beginning teacher attrition rate for the agency; and

“(4) a reduction in the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers, for the agency.

“(b) SCHOOLS.—If a local educational agency applies for funds under this part on behalf of a school for a fourth or subsequent fiscal year (including applying for funds as part of a partnership), the agency may not receive the funds for the school for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

“SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

“(a) PARENTS' RIGHT TO KNOW INFORMATION.—

“(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending any school served by the agency, information regarding the professional qualifications of each of the student's classroom teachers.

“(2) CONTENTS.—The agency shall provide, at a minimum, information on—

"(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

"(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

"(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches.

"(b) NOTICE.—In addition to providing the information described in subsection (a), if a school that receives funds under this title assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

"SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

"Not later than September 30, 2005, the Comptroller General of the United States shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a study setting forth information regarding the progress of States' compliance in increasing the percentage of fully qualified teachers for fiscal years 2001 through 2004.

"SEC. 2214. DEFINITION OF FULLY QUALIFIED.

"(a) IN GENERAL.—In this part, the term 'fully qualified', used with respect to a teacher, means a teacher who—

"(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the academic subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and

"(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

"(2) meets the standards set by the National Board for Professional Teaching Standards.

"(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

"(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

"(2) hold a bachelor's degree and demonstrate the subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, social studies, science, and other elements of a liberal arts education.

"(c) MIDDLE SCHOOL AND SECONDARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches middle school students or secondary school students shall, at a minimum—

"(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

"(2) hold a bachelor's degree or higher degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

"(A) achievement of a high level of performance on rigorous academic subject area tests;

"(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

"(C) in the case of teachers hired before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches."; and

(3) by amending section 2215 (as so redesignated)—

(A) in subsection (a)(3), by adding after "agency" the following: "for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act"; and

(B) by inserting after subsection (a)(4) the following:

"(5) REPORTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.".

(c) CONFORMING AMENDMENTS.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 2203(2) (20 U.S.C. 6643(2)), by striking "section 2211" and inserting "section 2215"; and

(2) in section 2205(c)(2) (20 U.S.C. 6645(c)(2)), by striking "section 2211" and inserting "section 2215".

TITLE III—INNOVATIVE EDUCATION

SEC. 301. REQUIREMENTS FOR STATE PLANS.

Part B of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7331 et seq.) is amended by adding at the end the following:

"SEC. 6203. REQUIREMENTS FOR STATE PLANS.

"(a) STATE PLANS.—In addition to requirements relating to State applications under this part, the State educational agency for each State desiring a grant under this title shall submit a State plan that meets the requirements of this section to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(b) CONSOLIDATED PLAN.—A State plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 14302, and as part of a State application described in section 6202.

"(c) CONTENTS.—Each plan submitted under subsection (a) shall—

"(1) describe how the funds made available through the grant will be used to increase student academic performance;

"(2) describe annual, quantifiable, and measurable performance goals that will be used to measure the impact of those funds on student performance;

"(3) describe the methods the State will use to measure the annual impact of programs described in the plan and the extent to which such goals are aligned with State standards;

"(4) certify that the State has in place the standards and assessments required under section 1111;

"(5) certify that the State educational agency has a system, as required under section 1111, for—

"(A) holding each local educational agency and school accountable for adequate yearly progress (as described in section 1111(b)(2));

"(B) identifying local educational agencies and schools for improvement and corrective action (as required in sections 1116 and 1117);

"(C) assisting local educational agencies and schools that are identified for improvement with the development of improvement plans; and

"(D) providing technical assistance, professional development, and other capacity building as needed to get such agencies and schools out of improvement status;

"(6) certify that the State educational agency will use the disaggregated results of student assessments required under section 1111(b)(3), and other measures or indicators available, to review annually the progress of each local educational agency and school served under this title to determine whether each such agency and school is making adequate yearly progress as required under section 1111(b)(2);

"(7) certify that the State educational agency will take action against a local educational agency that is identified for corrective action and receiving funds under this title;

"(8) describe what, if any, State and other non-Federal resources will be provided to local educational agencies and schools served under this title to carry out activities consistent with this title; and

"(9) certify that the State educational agency has a system to hold local educational agencies accountable for meeting the annual performance goals required under paragraph (2).

"(d) APPROVAL.—The Secretary, using a peer review process, shall approve a State plan submitted under this section if the State plan meets the requirements of this section.

"(e) DURATION OF THE PLAN.—Each State plan shall remain in effect for the duration of the State's participation under this title.

"(f) REQUIREMENT.—A State shall not be eligible to receive funds under this title unless the State has established the standards and assessments required under section 1111.

"(g) PUBLIC REVIEW.—Each State educational agency will make publicly available the plan approved under subsection (d).

"SEC. 6204. SANCTIONS.

"(a) THIRD FISCAL YEAR.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year for which the State receives such grant funds, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

"(b) FOURTH FISCAL YEAR.—If the State fails to meet such performance goals by the end of the fourth fiscal year for which the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, at the request of a State subjected to sanctions under subsection (a) or (b).

"(d) LOCAL SANCTIONS.—

"(1) IN GENERAL.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

"(2) SANCTIONS.—A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

"SEC. 6205. STATE REPORTS.

"Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

"(1) the use of such funds;

"(2) the impact of programs conducted with such funds and an assessment of such programs' effectiveness; and

"(3) the progress of the State toward attaining the performance goals established under section 6203(c)(2), and the extent to which the programs have increased student achievement.

"SEC. 6206. STANDARDS; ASSESSMENTS ENHANCEMENT.

"Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6201(a)(1)(C), to—

"(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

"(2) provide for the establishment of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

"(3) develop and implement value-added assessments.".

SEC. 302. PERFORMANCE OBJECTIVES.

Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.) is amended by inserting after section 7105 the following:

"SEC. 7106. PERFORMANCE OBJECTIVES.

"(a) In General.—Each State educational agency or local educational agency receiving a grant under this part shall develop annual numerical performance objectives that are age-appropriate and developmentally-appropriate with respect to helping limited English proficient students become proficient in English and improve overall academic performance based upon State and local content and performance standards. The objectives shall include incremental percentage increases for each fiscal year a State educational agency or local educational agency receives a grant under this title, including increases from the preceding fiscal year in the number of limited English proficient students demonstrating an increase in performance on annual assessments concerning reading, writing, speaking, and listening comprehension.

"(b) Accountability.—Each State educational agency or local educational agency receiving a grant under this title shall be held accountable for meeting the annual numerical performance objectives under this title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 14515.

"(c) Parental Notification.—

"(1) In general.—Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program under this title, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

"(A) the student's level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

"(B) what programs are available to meet the student's educational strengths and needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such available programs meet the objectives of the individualized education program of such a student; and

"(C) the instructional goals of the language instruction educational program, and how the program will specifically help the limited English proficient student learn English and meet State and local content and performance standards, including—

"(i) the characteristics, benefits, and past academic results of the language instruction educational program and of instructional alternatives; and

"(ii) the reasons the student was identified as being in need of a language instruction educational program.

"(2) Option to decline.—Each parent described in paragraph (1) shall also be informed that the parent has the option of declining the enrollment of a student in a language instruction educational program, and shall be given an opportunity to decline such enrollment if the parent so chooses.

"(3) Special rule.—A student shall not be admitted to, or excluded from, any federally assisted language instruction educational program solely on the basis of a surname or language-minority status.".

SEC. 303. REPORT CARDS.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

"PART I—REPORT CARDS

"SEC. 14901. REPORT CARDS.

"(a) Grants Authorized.—The Secretary shall award a grant, from allotments under subsection (b), to each State having a State report card meeting the requirements described in subsection (e), to enable the State, and local educational agencies and schools in the State, annually to publish report cards for each elementary school and secondary school that receives funding under this Act and is served by the State.

"(b) Reservations and Allotments.—

"(1) Reservations.—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall reserve—

"(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education, consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

"(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

"(2) State allotments.—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

"(c) State Reservation of Funds.—Each State educational agency receiving a grant under subsection (a) may reserve—

"(1) not more than 10 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

"(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

"(d) Within-State Allocations.—Each State educational agency receiving a grant under subsection (a) shall allocate the grant funds that remain after making the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder as the number of public school students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by local educational agencies within the State.

"(e) Annual State Report Card.—

"(1) Report cards required.—Not later than the beginning of the 2002–2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for parents, the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

"(2) Required information.—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information regarding—

"(A) student performance on statewide assessments for the year for which the annual State report card is prepared and the preceding year, in at least English language arts and mathematics, including—

"(i) a comparison of the proportions of students who performed at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions in each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

"(ii) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level for which assessments are required under title I; and

"(iii) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

"(B) student retention rates in each grade, the number of students completing advanced placement courses, annual school dropout rates as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data, and 4-year graduation rates; and

"(C) the professional qualifications of teachers in the aggregate, including the percentage of teachers teaching with emergency or provisional credentials, the percentage of class sections not taught by fully qualified teachers, and the percentage of teachers who are fully qualified.

"(3) Student data.—Student data in each report card shall contain disaggregated results for the following categories:

"(A) Racial and ethnic groups.

"(B) Gender groups.

"(C) Economically disadvantaged students, as compared with students who are not economically disadvantaged.

"(D) Students with limited English proficiency, as compared with students who are proficient in English.

"(E) Migrant status groups.

"(F) Students with disabilities, as compared with students who are not disabled.

"(4) Optional information.—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

"(A) Average class size.

"(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

"(C) The incidence of student suspensions and expulsions.

"(D) Student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

"(E) Parental involvement, as determined by such measures as the extent of parental participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

"(f) Local Educational Agency and School Report Cards.—

"(1) In general.—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

"(2) Required information.—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

"(A) the information described in paragraphs (2) and (3) of subsection (e) for each local educational agency and school;

"(B) in the case of a local educational agency—

"(i) information regarding the number and percentage of schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

"(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement; and

"(iii) information on how students in the schools served by the local educational agency performed on the statewide assessment compared with students in the State as a whole;

"(C) in the case of an elementary school or a secondary school—

"(i) information regarding whether the school has been identified for school improvement;

"(ii) information on how the school's students performed on the statewide assessment compared with students in schools served by the same local educational agency and with all students in the State; and

"(iii) information about the enrollment of students compared with the rated capacity of the schools; and

"(D) other appropriate information, regardless of whether the information is included in the annual State report.

"(g) Dissemination and Accessibility of Report Cards.—

"(1) Report card format.—Annual report cards under this part shall be—

"(A) concise; and

"(B) presented in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

"(2) State report cards.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

"(3) Local report cards.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

"(4) School report cards.—Elementary school and secondary school report cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

"(h) Coordination of State Plan Content.—A State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

"(i) Privacy.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

"(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

"SEC. 14911. REWARDING HIGH PERFORMANCE.

"(a) State Rewards.—

"(1) In general.—From amounts appropriated under subsection (d), the Secretary shall make awards to States that—

"(A) for 3 consecutive years have—

"(i) exceeded the State performance goals and objectives established for any title under this Act;

"(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

"(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

"(iv) raised all students to the proficient standard level prior to 10 years after the date of enactment of the School Improvement Accountability Act; or

"(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I; or

"(B) by not later than fiscal year 2005, ensure that all teachers teaching in the State public elementary schools and secondary schools are fully qualified.

"(2) State use of funds.—

"(A) Demonstration sites.—Each State receiving an award under paragraph (1) shall use a portion of the award funds that are not distributed under subsection (b) to establish demonstration sites with respect to high-performing schools (based upon achievement, or performance levels and adequate yearly progress) in order to help low-performing schools.

"(B) Improvement of performance.—Each State receiving an award under paragraph (1) shall use the portion of the award funds that are not used pursuant to subparagraph (A) or (C) and are not distributed under subsection (b) for the purpose of improving the level of performance of all elementary school and secondary school students in the State, based upon State content and performance standards.

"(C) Reservation for administrative expenses.—Each State receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to local educational agencies.

"(b) Local Educational Agency Awards.—

"(1) In general.—Each State receiving an award under subsection (a)(1) shall distribute 80 percent of the award funds to local educational agencies in the State that—

"(A) for 3 consecutive years have—

"(i) exceeded the State-established local educational agency performance goals and objectives established for any title under this Act;

"(ii) exceeded the adequate yearly progress levels established under section 1111(b)(2);

"(iii) significantly narrowed the gaps between minority and nonminority students, and between economically disadvantaged students and students who are not economically disadvantaged;

"(iv) raised all students enrolled in schools served by the local educational agency to the proficient standard level prior to 10 years from the date of enactment of the School Improvement Accountability Act; or

"(v) significantly increased the percentage of core classes being taught by fully qualified teachers, in schools receiving funds under part A of title I;

"(B) not later than December 31, 2005, ensure that all teachers teaching in the elementary schools and secondary schools served by the local educational agency are fully qualified; or

"(C) have attained consistently high achievement in another area that the State determines appropriate to reward.

"(2) School-based performance awards.—A local educational agency shall use funds made available under paragraph (1) for activities described in subsection (c) such as school-based performance awards.

"(3) Reservation for administrative expenses.—Each local educational agency receiving an award under paragraph (1) may set aside not more than ½ of 1 percent of the award funds for the planning and administrative costs of carrying out this section, including the costs of distributing awards to eligible elementary schools and secondary schools, teachers, and principals.

"(c) School Rewards.—Each local educational agency receiving an award under subsection (b) shall consult with teachers and principals to develop a reward system, and shall use the award funds—

"(1) to reward individual schools that demonstrate high performance with respect to—

"(A) increasing the academic achievement of all students;

"(B) narrowing the academic achievement gap described in section 1111(b)(2)(B)(iv);

"(C) improving teacher quality;

"(D) increasing high-quality professional development for teachers, principals, and administrators; or

"(E) improving the English proficiency of limited English proficient students;

"(2) to reward collaborative teams of teachers, or teams of teachers and principals, that—

"(A) significantly increase the annual performance of low-performing students; or

"(B) significantly improve in a fiscal year the English proficiency of limited English proficient students;

"(3) to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels;

"(4) to develop or implement school district-wide programs or policies to increase the level of student performance on State assessments that are aligned with State content standards; and

"(5) to reward schools for consistently high achievement in another area that the local educational agency determines appropriate to reward.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $200,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(e) Definition.—The term 'low-performing student' means a student who is below a basic State standard level.".

SEC. 304. ADDITIONAL ACCOUNTABILITY PROVISIONS.

Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8891 et seq.) is amended by adding at the end the following:

"SEC. 14515. ADDITIONAL ACCOUNTABILITY PROVISIONS.

"(a) In General.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which each such program will increase student academic achievement;

(B) the annual, quantifiable, and measurable performance goals and objectives for each such program, and the extent to which, if applicable, the program's performance goals and objectives align with State content standards and State student performance standards established under section 1111(b)(1)(A); and

(C) if the recipient is a local educational agency, assurances that the local educational agency consulted, at a minimum, with parents, school board members, teachers, administrators, business partners, education organizations, and community groups to develop the plan or application submitted and that such consultation will continue on a regular basis; and

"(2) in the reports required under such part or title, a report for the preceding fiscal year regarding how the plan or application submitted for such fiscal year under such part or title was implemented, the recipient's progress toward attaining the performance goals and objectives identified in the plan or application for such year, and, if applicable, the extent to which programs funded in whole or in part with funds provided under such part or title increased student achievement.

"(b) Penalties.—If a recipient of funds under a part or title described in subsection (a) fails to meet the performance goals and objectives of the part or title for 3 consecutive fiscal years, the Secretary shall—

"(1) withhold not less than 50 percent of the funds made available under the relevant program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

"(2) in the case of—

"(A) a competitive grant (as determined by the Secretary), consider the recipient ineligible for grants under the part or title until the recipient meets such performance goals and objectives; and

"(B) a formula grant (as determined by the Secretary), withhold not less than 20 percent of the total amount of funds provided under title VI for the succeeding fiscal year and each consecutive fiscal year until the recipient meets such goals and objectives.

"(c) Other Penalties.—A State that has not met the requirements of subsection (a)(1)(B) with respect to a fiscal year—

"(1) shall not be eligible for designation as an Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State meets the requirements of subsection (a)(1)(B); and

"(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B).

"(d) Special Rule for Secretary Awards.—

"(1) In general.—Notwithstanding any other provision of this Act, a recipient of funds provided under a direct award made by the Secretary, or a contract or cooperative agreement entered into with the Secretary, for a program shall include the following information in any application or plan required for such program:

"(A) How funds provided under the program will be used and how such use will increase student academic achievement.

"(B) The goals and objectives to be met, including goals for dissemination and use of the information or materials produced, where applicable.

"(C) If the grant requires dissemination of information or materials, how the recipient will track and report annually to the Secretary—

"(i) the successful dissemination of information or materials produced;

"(ii) where information or materials produced are being used; and

"(iii) the impact of such use and, if applicable, the extent to which such use increased student academic achievement or contributed to the stated goal of the program.

"(2) Requirement.—If no application or plan is required under a program described in paragraph (1), the Secretary shall require the recipient of funds to submit a plan containing the information required under paragraph (1).

"(3) Failure to achieve goals and objectives.—

"(A) In general.—The Secretary shall evaluate the information submitted under this subsection to determine whether the recipient has met the goals and objectives described in paragraph (1)(B), where applicable, assess the magnitude of dissemination described in paragraph (1)(C), and, where applicable, assess the effectiveness of the activity funded in raising student academic achievement in places where information or materials produced with such funds are used.

"(B) Ineligibility.—The Secretary shall consider the recipient ineligible for grants, contracts, or cooperative agreements under the program described in paragraph (1) if—

"(i) the goals and objectives described in paragraph (1)(B) have not been met;

"(ii) where applicable, the dissemination has not been of a magnitude to ensure goals and objectives are being addressed; and

"(iii) where applicable, the information or materials produced have not made a significant impact on raising student achievement in places where such information or materials are used.".

By Mrs. BOXER.

S. 159. A bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am pleased to introduce the Department of Environmental Protection Affairs Act of 2001. The bill redesignates the Environmental Protection Agency (EPA) as the Department of Environmental Protection Affairs and makes the Department part of the president's cabinet.

As most of my colleagues know, President Nixon established EPA in 1970 as a response, in part, to water too polluted to drink and air too dirty to breathe. It had become clear by that time that air, waste and water pollution problems did not respect state boundaries, and that public health and environmental protections varied widely from state to state.

In the 30 years since its founding, EPA has played a critical role in ensuring that all Americans enjoy the same basic level of public health and environmental protection.

The Department of Environmental Protection Affairs Act of 2001 recognizes that fact. The bill reflects that today most Americans view protection of the public health and environment as duties of at least equal importance as our national programs for education, energy, defense, commerce and agriculture.

The impact of this bill, however, goes beyond the very important symbolic statement it makes.

First, elevating the EPA to the cabinet will ensure that the president is directly involved in setting environmental policies. While past presidents have chosen to make the EPA Administrator part of cabinet-level discussions, this bill expresses Congress' will that environmental protection is given its place among the other national issues which occupy the president and his cabinet.

Second, this bill will ensure that the EPA Administrator is on equal footing with her colleagues in the rest of the cabinet. This is important because some of the worst polluters in the nation are departments of the federal government. For example, Department of Defense and Department of Energy facilities are some of the most polluted toxic waste sites in the nation.

EPA must be on equal footing with those departments if it is to ensure that the environment is restored and that the public health is protected at those sites.

Third, this bill will strengthen EPA's role in negotiating international agreements with foreign nations. Protection of public health and the environment has increasingly become an important part of foreign relations. Most of the industrialized nations have afforded top status to their environmental officials. This bill will afford that status to our top environmental official.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of this important legislation. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Affairs Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) protection of public health and the environment is a mission of at least equal importance to the duties carried out by cabinet-level departments;

(2) the Federal Government should ensure that all Americans enjoy the same basic level of public health and environmental protection regardless of where they live;

(3) protection of public health and the environment increasingly involves negotiations with foreign nations, including the most highly industrialized nations all of whose top environmental officials have ministerial status; and

(4) a cabinet-level Department of Environmental Protection Affairs should be established.

SEC. 3. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AFFAIRS.

(a) Redesignation.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection Affairs (in this Act referred to as the "Department") and shall be an executive department in the executive branch of the Government.

(b) Secretary of Environmental Protection Affairs.—

(1) In general.—There shall be at the head of the Department a Secretary of Environmental Protection Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) Nondelegation.—The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) Delegations.—Except as described under paragraph (2) of this section and section 4(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) Deputy Secretary.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) Office of the Secretary.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) Regional Offices.—The regional offices of the Environmental Protection Agency are redesignated as regional offices of the Department of Environmental Protection Affairs.

(f) International Responsibilities of the Secretary.—

(1) In general.—In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing, and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) Consultation.—The Secretary of State shall consult with the Secretary of Environmental Protection Affairs and such other persons as he determines appropriate on such negotiations, implementation, and participation described under paragraph (1)(A).

(g) Authority of the Secretary Within the Department.—Nothing in this Act—

(1) authorizes the Secretary of Environmental Protection Affairs to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection Affairs, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection Affairs to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection Affairs any authority exercised by any other Federal executive department or agency before the effective date of this Act, except the authority exercised by the Environmental Protection Agency.

(h) Application to the Department of Environmental Protection Affairs.—This Act applies only to activities of the Department of Environmental Protection Affairs, except where expressly provided otherwise.

SEC. 4. ASSISTANT SECRETARIES.

(a) Establishment of Positions.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities of Assistant Secretaries.—

(1) In general.—The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including—

(A) enforcement and compliance monitoring;

(B) research and development;

(C) air and radiation;

(D) water;

(E) pesticides and toxic substances;

(F) solid waste;

(G) hazardous waste;

(H) hazardous waste cleanup;

(I) emergency response;

(J) international affairs;

(K) policy, planning, and evaluation;

(L) pollution prevention;

(M) congressional, intergovernmental, and public affairs; and

(N) administration and resources management, including financial and budget management, information resources management, procurement and assistance management, and personnel and labor relations.

(2) Assignment of responsibilities.—The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without substantial prior written notification of such modification to the appropriate committees of the Senate and the House of Representatives.

(c) Designation of Responsibilities Before Confirmation.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) Continuing Performance of Functions.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of Environmental Protection Affairs, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, and the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, without renomination or reconfirmation.

(e) Chief Information Resources Officer.—

(1) In general.—The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) Responsibilities.—The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) Establishment of Positions.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) Appointments.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) Functions.—Functions assigned to an Assistant Secretary under section 4(b) may be performed by 1 or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 6. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department, the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 7. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection Affairs.

SEC. 8. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) Acceptance of Money and Property.—

(1) In general.—The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) Regulations.—The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(b) Seal of the Department.—

(1) In general.—On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of Environmental Protection Affairs, until such time as the Secretary may cause a seal of office to be made for the Department of Environmental Protection Affairs of such design as the Secretary shall approve.

(2) Criminal penalty for unauthorized use of seal.—

(A) In general.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following:

"§ 716. Department of Environmental Protection Affairs Seal

"(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of Environmental Protection Affairs, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the Secretary of Environmental Protection Affairs and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of Environmental Protection Affairs, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of Environmental Protection Affairs.".

(B) Technical and conforming amendment.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end:

"716. Department of Environmental Protection Affairs Seal.".

(c) Acquisition of Copyrights and Patents.—The Secretary is authorized to acquire any of the following described rights if the related property acquired is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(d) Advisory Committee Standards of Conduct and Compensation.—The Secretary may promulgate regulations, no less stringent than any other applicable provision of law, regarding standards of conduct for members of advisory committees (and consultants to advisory committees), including requirements regarding conflicts of interest or disclosure of past and present financial and employment interests. The Secretary may pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 10. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) Government Officers and Employees.—

(1) In general.—Any inherently governmental function of the Department shall be performed only by officers and employees of the United States.

(2) Definition.—In this section, the term "inherently governmental function"—

(A) means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees; and

(B) includes—

(i) activities which require either the exercise of discretion in applying Government authority or the use of value of judgment in making decisions for the Government; and

(ii) work of a policy, decisionmaking, or managerial nature which is the direct responsibility of Department officials.

(b) Conflicts of Interest.—

(1) In general.—The Secretary shall by regulation require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, for the conduct of research, development, evaluation activities, or for advisory and assistance services, to provide the Secretary, before entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) Subcontractors.—Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(c) Require Affirmative Finding; Conflicts of Interest Which Cannot Be Avoided; Mitigation of Conflicts.—

(1) In general.—Subject to paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) Mitigation of conflicts.—If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if he—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) Public Notice Regarding Conflicts of Interest.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) DISCLAIMER.—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) RULES.—Not later than 60 days after the effective date of this Act, the Secretary shall publish rules for the implementation of this section.

(g) CENTRAL FILE.—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(h) DEFINITIONS.—In this section, the term "advisory and assistance services" includes—

(1) management and professional support services;

(2) the conduct of studies, analyses, and evaluations; and

(3) engineering and technical services, excluding routine technical services.

SEC. 11. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to—

(1) the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection Affairs;

(2) the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection Affairs;

(3) the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection Affairs; or

(4) any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection Affairs.

SEC. 12. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection Affairs, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of Environmental Protection Affairs and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end the following: ", Secretary of Environmental Protection Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end the following: "The Department of Environmental Protection Affairs".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end the following: "Secretary of Environmental Protection Affairs".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking "Administrator of Environmental Protection Agency" and inserting "Deputy Secretary of Environmental Protection Affairs".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Inspector General, Environmental Protection Agency" and inserting "Inspector General, Department of Environmental Protection Affairs"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end the following:

"Assistant Secretaries, Department of Environmental Protection Affairs (10).

"General Counsel, Department of Environmental Protection Affairs.".

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 2(1)—

(A) by inserting "the Department of Environmental Protection Affairs," after "Veterans Affairs,"; and

(B) by striking "The Environmental Protection Agency,";

(2) in section 11(1) by striking "or Veterans Affairs" and inserting "Veterans Affairs, or Environmental Protection Affairs,"; and

(3) in section 11(2) by striking "or Veterans Affairs" and inserting "Veterans Affairs, or Environmental Protection Affairs,".

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of enactment of this Act.

By Mrs. BOXER:

S. 160. A bill to provide assistance to States to expand and establish drug abuse treatment programs to enable such programs to provide services to individuals who voluntarily seek treatment for drug abuse; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am introducing the Drug Abuse Treatment on Demand Assistance Act to help ensure that substance abuse treatment is available to all substance abusers who seek it.

According to the Department of Health and Human Services, each year drug and alcohol related abuse kills more than 120,000 Americans. In 1999, an estimated 14.8 million Americans were illicit drug users, with nearly 5 million of them addicted to drugs.

Drugs and alcohol abuse costs taxpayers nearly $276 billion annually in preventable health care costs, extra law enforcement, auto crashes, crime and lost productivity.

In his final report before stepping down as America's Drug Czar, General Barry McCaffrey outlined the prescription for solving America's drug problem: "prevention coupled with treatment accompanied by research." And drug treatment is now one of the goals of the National Drug Control Strategy.

To meet that goal, however, will require additional investment. Through the Substance Abuse Mental Health

Services Administration (SAMHSA), the federal government currently provides over $2 billion to states and local entities for drug treatment programs, and total federal spending in this area is just over $3 billion. But, fewer than half of America's nearly 5 million substance abusers are receiving treatment for their addiction.

While some substance abusers are not seeking treatment, many are—and are being turned away. In California, for example, 60 percent of all facilities that maintain a waiting list have an average of 23 people on their list on any given day. Nationwide, an estimated 2.7 million substance abusers are in need of treatment.

Current treatment on demand programs focus on the specific drug abuse needs of the local community. For instance, in San Francisco, methamphetamine abuse is especially problematic and continues to be on the rise. In other cities, cocaine abuse or marijuana is the drug of choice. Treatment programs should be targeted to address these local epidemics, but there is a funding shortfall.

The Drug Abuse Treatment on Demand Assistance Act would more than double SAMHSA's funding for drug treatment over five years—to $6 billion in fiscal year 2006. This is an increase of $600 million each year for five years. The additional funding is provided through SAMHSA's Center for Substance Abuse Treatment and it provides SAMHSA with flexibility to target funds where they are needed most.

The Drug Abuse Treatment on Demand Assistance Act would also reward states that have instituted a policy of providing substance abuse treatment to non-violent drug offenders as an alternative to prison, as California recently did with the enactment of Proposition 36. The bill authorizes $125 million per year for five years to provide matching grants to states. These funds could be used to help pay for treatment as well as to provide other elements of a comprehensive anti-drug abuse program for non-violent offenders, including drug testing and probation services.

Mr. President, recent studies indicate that every additional dollar invested in substance abuse treatment saves taxpayers $7.46 in societal costs. Clearly, such an investment is very worthwhile, and I urge my colleagues to support treatment on demand.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 21, a bill to establish an off-budget lockbox to strengthen Social Security and Medicare.

S. 22

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 29

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. SARBANES), the Senator from Washington (Mrs. MURRAY), the Senator from California (Mrs. BOXER), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 30

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 30, a bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes.

S. 35

At the request of Mr. GRAMM, the names of the Senator from Arizona (Mr. KYL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 35, a bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

SENATE RESOLUTION 14—COMMENDING THE GEORGIA SOUTHERN UNIVERSITY EAGLES FOOTBALL TEAM FOR WINNING THE 2000 NCAA DIVISION I–AA FOOTBALL CHAMPIONSHIP

Mr. CLELAND (for himself, and Mr. MILLER) submitted the following resolution; which was considered and agreed to:

S. RES. 14

Whereas Georgia Southern University is a member of the Southern Conference of the National Collegiate Athletic Association Division I–AA and the Conference's champion for 4 consecutive years;

Whereas in 2000, Georgia Southern captured its second consecutive and a record-setting sixth overall Division I–AA national title;

Whereas Head Coach, Paul Johnson, has won numerous Coach of the Year awards during his career; has a 50–8 win-loss record at Georgia Southern, which is one of the best records in college football; and had 13 first-year starters in the 2000 season but was still able to win 13 games on the way to another national championship;

Whereas junior running back, Adrian Peterson, ran for 148 yards in the championship game, which marked the 43rd consecutive game in which he rushed for 100 or more yards;

Whereas the students, alumni, and supporters of Georgia Southern University, as well as the community of Statesboro, are to be congratulated for their unshakable commitment to the Georgia Southern University football team; and

Whereas their Division I–AA national championships in 1985, 1986, 1989, 1990, 1999, and 2000, as well as their place as runner-up in 1988 and 1998, make the Georgia Southern University program the most successful college football program in Division I–AA football history: Now, therefore, be it

Resolved, that the Senate—

(1) commends the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I–AA collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping Georgia Southern University win the 2000 NCAA Division I-AA collegiate football national championship and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the accomplishments and achievements of the 2000 Georgia Southern football team and invite them to Washington, D.C. for a White House ceremony for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to Georgia Southern University for appropriate display and to transmit an enrolled copy of the resolution to each coach and member of the 2000 NCAA Division I-AA collegiate national championship football team.

Mr. CLELAND. Mr. President, I rise to pay tribute to the Georgia Southern University football team for their second consecutive and sixth overall NCAA's Division I–AA football national championship. In addition to the record number of National Championships, Georgia Southern has captured four consecutive Southern Conference titles. Never in the history of Division

I-AA has there been such a successful football program and I see no end to their success in the future. Among the many players and coaches who were honored this year was Coach Paul Johnson who was recognized as the American Football Coaches Association's 2000 Regional Coach of the Year. Another notable performance was that of junior running back Adrian Peterson who completed his 43rd consecutive game rushing for more than 100 yards—including 152 yards against the much larger school, the University of Georgia and 148 yards against Montana in the National Championship game. Much credit is due to all the players—offense, defense and special teams—who made this wonderful season possible.

While the Eagles had just two losses this season—one to rival Furman and the other to the Division I-A opponent the University of Georgia—they had an impressive list of victories this season, including: a 57-12 victory over Johnson C. Smith; a 24-17 victory over Wofford; a 31-10 victor over Chattanooga; a 56-3 victory over VMI; a 42-24 victory over Western Carolina; a 34-28 victory over Appalachian State; a 27-10 victory over the Citadel; a 42-7 victory over East Tennessee State; and a 32-9 victory over Elon. Additionally, in the post season, Georgia Southern defeated: McNeese State 42-17; Hofstra 48-20; Delaware 27-18; and finally, Montana 27-25 for the National Championship.

Mr. President, at this time, I would like to recognize all the 2000 Georgia Southern football team for their dedication to the team and their commitment to the hard work it takes to win a national championship: Derek Adams, T.J. Anderson, Mike Anderson, Brad Bird, Rob Bironas, Chris Blount, Bubba Brantley, James Burchett, Travis Burkett, Victor Cabral, P.J. Cantrell, Charles Clarke, Edmund Coley, Paul Collins, Dreck Cooper, Reggie Cordy, Melvin Cox, Leonard Daggett, Devin Danridge, Kevin Davis, Dietrich Everett, Hakim Ford, Nate Gates, Justin Godsey, Ryan Hadden, Eric Hadley, Travis Hames, Winston Hardison, Kevin Heard, Nick Heuman, Sean Holland, Dallas Horne, Donte Hunter, Trey Hunter, Eric Irby, Chris Johnson, Titus Johnson, Willie Johnson, Jamar Jones, Josh Jones, Nick Kearns, Tom LaRocco, Robert LeBlanc, Robert Locke, Basail Mack, James McCoy, Jim McCullough, Chad McDonald, Eric McIntire, Jesse McMillan, Corey Middlebrooks, Steven Moore, Phillip Mouzon, Mark Myers, Jason Neese, Derrick Nobles, Chris O'Neil, Carlton Oglesby, Terry Owens, Kevin Patterson, Freddy Pesqueira, Adrian Peterson, Lavar Rainey, J.R. Revere, Matt Rio, Aundra Robinson, Elliott Rogers, Darryl Rountree, Anthony Scott, Joe Scott, Scott Shelton, Mike Stewart, Dion Stokes, Taqua Thrasher, Gino Tutera, Zzream Walden, Michael Ward, Andre Weathers, Sid Wildes, Anthony Williams, Chaz Williams, Derrick Williams, Tyrie Williams, Verge Williams, Justin Wright, Brian Young, David Young, James Young and Mike Youngblood.

Finally, I would like to offer my thanks and congratulations to the people of Georgia Southern—the students, alumni, supporters, faculty, staff as well as the community of Statesboro. As you well know, this championship could not have been accomplished without your unshakable commitment to the football program last year and the many previous years. I am proud of all the Eagle players and coaches and I am proud to say the most successful football team in Division I-AA is still in Statesboro, Georgia.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

COMMENDING GEORGIA SOUTHERN UNIVERSITY EAGLES FOOTBALL TEAM

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. Res. 14, introduced earlier today by Senators CLELAND and MILLER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 14) commending the Georgia Southern University Eagles football team for winning the 2000 NCAA Division I-AA football championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. THOMAS. I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, any statements relating to the resolution shall be placed in the appropriate place as if read, with the above occuring with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 14) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Senate Resolutions.")

ORDERS FOR WEDNESDAY, JANUARY 24, 2001

Mr. THOMAS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, January 24. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11 a.m. with Senators speaking for up to 10 minutes each, with the following exceptions: Senator DURBIN or his designee, 10 o'clock to 10:30; Senator MURKOWSKI, 10:30 to 10:50; Senator COLLINS, 10:50 to 11 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Further, I ask consent at 11 a.m. the Senate resume consideration of the Thompson nomination and Senators GRASSLEY, BAUCUS, and KENNEDY be in control of 10 minutes each prior to the vote on the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THOMAS. For the information of all Senators, the Senate will be in a period of morning business until 11 a.m. tomorrow. Following morning business, the Senate will resume consideration of the Thompson nomination for approximately 30 minutes. A vote has been scheduled to occur on the nomination at 11:30 by previous consent. Senators should be aware that the Senate may also consider other nominations during tomorrow's session of the Senate.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. THOMAS. If there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:26 p.m., adjourned until Wednesday, January 24, 2001, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 23, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

MITCHELL E. DANIELS, JR., OF INDIANA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF VETERANS AFFAIRS

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE SECRETARY OF VETERANS AFFAIRS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MELQUIADES RAFAEL MARTINEZ, OF FLORIDA, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

SENATE—*Wednesday, January 24, 2001*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Omnipotent God, who hung the stars in their place, put planets in their orbits, and created humankind on this planet in this universe among universes, You are our Creator, Redeemer, and Lord. Everything within us rallies to express our praise. You have created us to love You, and when love for You is the motive of all we do, all of life is worshiped. Today we want our work to be our way of telling You how much we love You. What a privilege You have given us to serve You out of love in this Senate of this Nation You love and have blessed so bountifully!

Therefore, we commit this day to glorify You so that even mundane duties will serve as a magnificent praise to You. Help us to love and care for the people with whom we work as if in them we meet You dressed in the manifold variety of human personalities. May our constant goal be to do our work with excellence as devotion to You. "Oh Yahweh, our Adonai, how excellent is Your name in all the earth. For You have created us a little lower than Elohim, Yourself, and crowned us with glory and honor to assume dominion over the works of Your hands."—Psalm 8: 1, 5–6. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. ENSIGN. Mr. President, today the Senate will be in a period for morning business until 11 a.m. with Senators DURBIN, MURKOWSKI, and COLLINS in control of the time. At 11 a.m., the Senate will resume consideration of Governor Thompson's nomination to be Secretary of HHS. There will be up to 30 minutes of debate on the nomination with a vote scheduled to occur at 11:30 a.m. Additional nominations are scheduled for hearings during today's session, and it is hoped that we can expedite those nominations for full Senate action as early as this afternoon. I thank my colleagues for their attention.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there now will be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak for up to 10 minutes each. Under the previous order, the time between 10:30 a.m. and 10:50 a.m. shall be under the control of the Senator from Alaska.

The Senator from Alaska is recognized.

NOMINATION OF GALE NORTON

Mr. MURKOWSKI. Mr. President, for the benefit of all Members, I want to advise them that the Committee on Energy and Natural Resources just concluded reporting out favorably the nomination of Gale Norton as the President's nominee for Secretary of the Interior. The committee vote was 18–2. I don't think there is any question that the nominee, in effect, received a mandate from our committee.

It is interesting to note the thoroughness under which the Energy and Natural Resources Committee conducted 2 days of hearings. I particularly thank Senator BINGAMAN, who chaired the committee during the time under which control of the Senate was under the other party, and all those on both sides who worked to expedite the material necessary to determine the inquiries that came in.

There were 224 questions submitted to the nominee for response. All those questions were answered over a matter of a day and a half. Looking at many of the written questions, I did note that she had answered in the open hearing most of the questions. In any event, it is interesting that in the case of the former Secretary of the Interior, Bruce Babbitt, the committee reported him out the same day after concluding its hearings. All the questions, of course, were not in on that particular occasion. I point this out for the benefit of those who are students of history and procedure in the Senate.

I join with all our colleagues in congratulating the nominee, Gale Norton. She will be a fine Secretary of the Interior. She is extraordinarily qualified in public lands and will bring back a balance to the assessment of science and technology, as we look to the development of resources on our public lands.

ENERGY CRISIS IN CALIFORNIA

Mr. MURKOWSKI. I rise today to address the situation in California. I want to make sure there is no misunderstanding. We all have a very legitimate concern for the plight of California from the standpoint of the energy crisis that is underway.

Yesterday the Secretary of Energy extended the order which requires that outside providers of power provide power to the State of California for a period of about 2 weeks. This has serious consequences because there may be some in California who see this as relief, which it is, and believe that relief can continue without any significant correction internally within California.

I do not want to mislead anybody because I am convinced that the administration, in issuing this order of 2 weeks, stands firm in its statement that it will not extend that beyond 2 weeks, which means California is going to have to address a procedure to ensure that payment is made for electricity coming into that State.

I am concerned that the Federal Government has assumed a contingent liability by this order because it has ordered the generators to move that power into California. It did not address how it was going to be paid for. So if the State of California can't pay for it, then there is potentially a cost to the Federal Government. By taking this step, the Government may well have picked up a liability, perhaps a contingent liability. Nevertheless, it is a reality.

This morning at the Energy and Natural Resources Committee business meeting, after discussion with Senator BINGAMAN and other members, we agreed we would hold a hearing next week on the California situation. It would bring in the surrounding

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

States—Oregon, Washington, Idaho, perhaps Arizona and Nevada—that are kind of interconnected and affected.

We will talk about the Bonneville Power Administration and its role. We will talk about Seattle City Light. And we will talk about short-term and long-term contracts.

We are going to talk about take-or-pay contracts. We are going to talk about the reservoirs at Bonneville's hydroelectric dams are at an all-time low, and prospects for adequate power in the Northwest this summer when there is a heavy load for air conditioning. We are going to talk about the situation of aluminum companies that are now reselling their Bonneville power. We will talk about a situation that came about as a consequence of the Forest Service's inability to provide sales to some of the companies that were generating power from biomass that suddenly find they have no biomass, so the powerplants are shut down.

It is a grave responsibility, and it has come out of a policy of ignorance. When I say ignorance, I don't mean to belittle those who are responsible for the direction of California's energy, but ignorance in the sense that you cannot continue a growing economy, such as California has had—it is equivalent to the sixth largest economy in the world—where you have increased demands for power without increasing generation.

So California consumers face unprecedented problems, zooming electric rates, power shortages. We have two major investor owned utilities on the brink of bankruptcy. Some have suggested they have been guilty of having price structures that are unrealistic. On the other hand, it is hard to believe that they would drive themselves into bankruptcy. I am sure that the Governor of California, Governor Davis, wants cheap rates in California. The question is, are some of those rates going to be underwritten by taxpayers in other parts of the country? Again, we have to help California, but California has to help itself.

Now, in my view, the activities so far in California to correct this have been kind of like shifting the deck chairs around on the *Titanic*—perhaps for a better view or a more comfortable position. But if they don't take real corrective action, the ship is going to sink. The question is, what is it going to take with them? The stockholders and bondholders in Pacific Gas and Electric and Southern California Edison—various teacher unions, and people throughout California who have invested in what previously were the highest rated utilities in the country—suddenly find themselves questioning whether those investments are going to be made good. For all practical purposes, one corrective action may be, if indeed the utilities go into bankruptcy, is that a Federal bankruptcy judge will dictate the price that California consumers are going to have to pay. Now, that is hard ball, but that is not too far away from happening. In my own opinion, to a large degree California's problems are self-created. They started out with a program that they called deregulation, but really wasn't. It is kind of interesting to reflect on that because they called it the California competition program—a competition enacted by the State legislature in 1996, and the implementation of that law really came into effect January 1, 1998. What they did, they made a mandatory program for California's investor owned utilities, Pacific Gas & Electric, Southern California Edison and San Diego Gas and Electric. Two-thirds of California consumers are served by these three utilities.

But the interesting thing is that California made it voluntary for its publicly owned utilities to join the State's competition program—but none of them joined. So the law and the wisdom of the California legislature said it is voluntary for the publicly owned utilities, but mandatory for the investor owned utilities.

I am not here to discuss the issue of equity. But the essence of California's competition program was to create a vigorous deregulated wholesale power market. And once there was a vigorous wholesale power market, it would create a deregulated retail power market. That sounds good, but the problem is that it never happened on the retail side.

The key elements of the California program were, a rate freeze on the retail price of electricity to consumers until the year 2002, or until the stranded costs were paid off. Those are costs associated with, say, a nuclear plant that shut down, never paid for, and you have to pay for it in the rate structure.

Now, the Federal Energy Regulatory Commission has the authority to regulate wholesale rates. They have seen fit not to put a hard cap on wholesale rates. They say it will harm competition. It is kind of interesting to note that we have seen a bill introduced that would give the authority of FERC to put caps on wholesale rates to the Secretary of Energy. My first reaction to that is you are taking the problem from an objective group that has some expertise in this area and moving it into the political spectrum. I don't know what you really accomplish on that. My first inclination is that that is not a solution to the problem. That is simply transferring the problem into the political realm.

Now, it is kind of interesting because under the California competition program investor owned utilities are required to purchase from the wholesale spot market all of the electricity they sell at retail to consumers. No long-term contracts. The investor owned utilities were not allowed to enter into electricity contracts to hedge on electric prices. The investor owned utilities were directed to divest their fossil fuel fired powered plants, but allowed to retain their nuclear and hydro facilities. So they did not sell their hydro and nuclear facilities. They were mandated to do this under the California program. The investor owned utilities were directed to divest the fossil fuel, but allowed to keep the nuclear and hydro.

But now some are suggesting that the State of California ought to take over the hydro facilities and, in turn, accept the debt associated, which is somewhere in the area of $11 billion to $12 billion. What are you going to do then, have the state run those facilities? Can the State do it better than the private sector? I don't know. But it is another Band-Aid, in my estimation, that doesn't really address the problem.

One, there is a credit problem in California because you can't pay for the power and, B, there is a shortage of generation because the demand has exceeded substantially the generating capacity. California relied on that power company from outside the State, which is fine up to a point; but when the other States' prosperity and economy increases and their demand increases, they suddenly look to the old adage that charity begins at home. They want to take care of the people around them. As a consequence, to depend on outside power is very risky, just like it is very dangerous for this Nation to depend so much on outside oil. We are now 56 percent foreign-oil dependent in this country. By the year 2004, we will be 64 percent dependent on foreign oil, according to the Department of Energy. In 1973–74, we had an oil embargo. Some people are old enough to remember that. We had lines around the block at gas stations. People were outraged, that this should not happen. Congress set up the Strategic Petroleum Reserve. We were 36 percent dependent on imported foreign oil at that time. The parallel is, to what point, what percentage, do you want to be dependent on imported energy?

I ask unanimous consent that I be allowed another 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I also ask unanimous consent that when morning business is due to expire at 11 a.m., it be extended until 11:15.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MURKOWSKI. I appreciate my colleague from Maine accommodating me.

As I indicated, it is a credit problem. It is also a supply problem.

It is kind of interesting to see what is happening. People are rushing out in

California to buy generators to generate their own power. I don't blame them. What does that do to air quality? There is no clean air restriction on that kind of generation, unlike utility-owned generation. We are seeing a situation where there is a threat of bankruptcy. You have the threat of bankruptcy just in determining what the rates are going to be in California. You have convoluted non-workable deregulation in California. The question is: What is California going to do to correct the situation? Action that is overdue because this 2-week order has some significant ramifications which are going to end.

I think there are high hopes that California will have addressed the problem before the end of the two week period.

Now we can point fingers. This is not a partisan issue, it is a bipartisan issue. The question is, How can we put an end to the problem? I think we all learned in Economics 101 that when demand exceeds supply, you get shortages and price increases.

The answer to why California doesn't have enough generation is fairly simple. They have gone out of their way to discourage construction of new powerplants. The permitting of new powerplants has taken forever. They have a severe case of "not in my backyard" when it comes to new electric powerplants and transmission lines.

Remember last summer when Pacific Gas & Electric tried to bring barge-mounted generators into San Francisco—but environmentalists objected?

And right now a major consumer of electricity in California—the high-tech firm called Cisco—is fighting the construction of a new powerplant nearby its office building near San Jose.

For some time now, California has relied on out-of-State generation to meet its growing needs.

As I have said, they did not have to build any new powerplants in the State.

According to the California Public Utility Commission, between 1996 and 1999, only 672 megawatts of new generation were added to California's system.

But during the same period peak demand increased 5,500 megawatts—more than 7 times as much.

You can see this happening. California should have reacted. But the political realities obviously dictated to a large degree the lack of action, because if had they reacted they would have passed these increases, from the standpoint of the purchase price of the generation, on to the California consumer—the taxpayer. There is a political fallout associated with that.

Today California's powerplants within the State are capable of satisfying only three-quarters of the State's hot day peak demand. The remaining one-quarter of California's electricity must be imported from outside the State. That is a very dangerous situation. As they say, the chickens have finally come home to roost, and California's situation is not going to get better anytime soon.

If California's electrical demand grows at only 5 percent annually, as some have projected, California will have to add three 1,000-megawatt powerplant's every single year just to stay even—the equivalent of two Diablo Canyon nuclear plants every 6 years. But according to the California Energy Commission, no major powerplants have been built in California for more than a decade and very little is now under construction.

What is the solution? Is it more regulation? Should we try to turn back the clock? The answer is clearly no. Experience has proven that government regulation cannot stop the forces of supply and demand. To have reasonably priced electricity, you have to have more generation, you have to have transmission. The State will probably have to provide eminent domain for transmission lines, and we must free the market from unnecessary Federal interference.

Consumers in the State of California, this administration, and the FERC must provide the necessary incentives for new generation and transmission to be built. Consumers in the State of California, FERC, this administration, and Congress must help. We must all be part of the solution. And, hopefully, from our hearing in the Energy Committee next week we will begin to get some of the answers and recommendations.

Consumers in California are going to have to shed their "not in my backyard" mentality. If consumers want power, new powerplants have to be built somewhere. The power isn't going to appear magically. New transmission lines have to be built. It is unfair for California to ask people in other States to build powerplants necessarily to satisfy California's demand.

Consumers are also going to have to pay for the power they need. Somebody has to pay for it. We are going to have to do a better job encouraging conservation. But there has to be, if you will, some kind of a carrot and stick. If the consumers are encouraged to conserve and buy a new refrigerator that uses less energy, they have to be motivated to do that because of the increased costs to the consumer. It has to be made worth his or her while, whether it be an air-conditioning unit or some other item.

The government of California is going to have to take leadership in building new generation of transmission facilities, expediting permits, and so forth. They need to expedite those permits and the siting so that the power will be there when it is needed.

In California, for example, 67 percent of the electric powerplants are more than 20 years old, and 37 percent are more than 40 years old.

California must also allow consumer prices to rise to reflect the cost of the power they are consuming. I think California must also allow consumer prices to rise to reflect the costs of the power they are consuming.

FERC must provide the necessary incentives for new generation and transmission to be built and act more quickly than they have under the previous administration. They have to make decisions to get the facts, and to protect the public. But you have to make the decision.

This administration must support new generation of transmission and make sure that existing generation continues and is not prematurely shut down.

There are impediments to competition. For example, it is high time that PUHCA and PURPA are repealed. We need to find ways to allow construction of new transmission lines. We need to enact legislation to protect the reliability of the grid.

Finally, the State of California made systematic decisions over a 10-year period not to build new powerplants in California while at the same time they watched their power consumption grow. The State made deregulation decisions that didn't remove regulations, it simply changed the regulations, and now, in the face of mounting debt and possibly utility bankruptcy, the State refuses to allow rate increases to pay for expensive non-utility power.

While it would be unrealistic for the State of California to ask the rest of the Nation to pay for its power, notwithstanding the fact that California consumers enjoy—this is a fact—California consumers today enjoy some of the lowest monthly bills in the United States, California needs to make a good-faith effort to accept responsibility in this crisis. It needs to address its credit problems. It must not pursue policies that appear to be intended to bankrupt utilities rather than solve those problems. Then the Federal Government can look at its role in providing assistance. But it is not up to the Federal Government to bail out California from a series of bad decisions. And for the long term, the State needs to be looking at building powerplants and transmission facilities to meet its power needs. The situation in California demonstrates that our energy future is in our hands collectively—the State of California first.

We can take the path of least resistance, as California did, and we can suffer the consequences. Or we can take the actions necessary to ensure our energy future—oil and natural gas as well as electricity.

That is why President Bush and we are seeking to revitalize our energy industry and to formulate a long-term energy strategy that will ensure that the United States has the energy we need to fuel our economy.

I thank the Chair. I thank my friend from Maine for allowing me additional time.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS and Mr. KERRY pertaining to the introduction of S. 162 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A REPORT ON FOREIGN TRAVEL

Mr. SPECTER. Mr. President, in the absence of any other Senator on the floor, I think this would be an appropriate time to report on some foreign travel which I recently undertook for a 2-week period in late December and early January, accompanied on part of the trip by Senator VOINOVICH. Our trip took us to the Mideast, where we had the opportunity to confer with Egyptian President Mubarak, and then in Israel, Prime Minister Barak, and Minister Ariel Sharon, who was contesting for the post of Prime Minister in an election to be held in Israel on February 6; and also former Foreign Minister Shimon Peres.

I then continued on to Aqaba in Jordan and had the opportunity to meet with King Abdullah in Jordan.

We found the Mideast to be very tense, with the exacerbation of violence inspired by Palestinian youth. The Palestinian Authority has not observed their obligation under the Oslo accords to have an educational system which omits the traditional incitement to violence of youngsters. Their educational materials in the sixth grade, seventh grade, ninth grade and beyond, urges the young people to engage in violence—a holy jihad for the glory of Allah—encouraging acts which result in their own deaths as martyrs. That has set into motion a sequence of events in the area where the violence has just been extraordinary.

I think we are really looking at a generational problem—perhaps more than a generational problem—until there is some recognition that the Israelis and Palestinians can live side by side under the terms of the Oslo accords and the implementation, as may be worked out.

When we were there, and to this day, the atmosphere was heavy with doubts as to whether a peace treaty could be reached.

I have complimented President Clinton privately and publicly, and I do so again today, for the efforts he maintained right to the end of his term in office. Now the new administration, I know, will pick up this very difficult issue and will work as best they can to implement the peace process and try to bring stability to that region.

Before traveling to Egypt and Israel, Senator VOINOVICH and I visited Belgrade in Yugoslavia and made a trip into Bosnia. We were enormously impressed with the U.S. military presence in Bosnia, and U.S. soldiers helping to maintain a very fragile peace in that area of the world.

In Yugoslavia, we met the new leaders, who are very impressive men who are carrying forward.

The problem of former President Milosevic is a very big issue in Yugoslavia. The new Yugoslav leaders say they want to try him in Yugoslavia, as he has committed horrendous crimes against the people of Yugoslavia—embezzlement which is estimated as high as $1 billion, and stealing the election on election fraud. But at the same time, there are competing demands from the War Crimes Tribunal at The Hague.

On my return trip, after Senator VOINOVICH had departed in Israel, I had the chance to meet with the chief prosecutor of the International Criminal Tribunal for the former Yugoslavia, Carla del Ponte, at The Hague. She is insistent on bringing Milosevic to trial at The Hague.

Under the U.N. resolution, there is a priority status accorded to The Hague to try Milosevic.

Perhaps these interests can be reconciled by trying Milosevic first in Yugoslavia, but before he serves a sentence if one is imposed, he goes to The Hague for trial. Ms. del Ponte was concerned that there not be a long interval because the War Crimes Tribunal is a temporary institution. There have been some suggestions that Milosevic be tried by the War Crimes Tribunal in Belgrade, Yugoslavia, but that remains to be worked out.

One thing which must be accomplished, in my judgment, is that Milosevic must be tried and brought to justice. It is enormously important that a head of state be tried.

I note my distinguished colleague, Senator GRASSLEY, has arrived on the floor, so I will conclude these remarks with a comment or two on the discussions which were held with the leaders in India and in Pakistan where there has been a problem of nuclear confrontation and the dispute in Kashmir. There were also discussions on the persecution of Christians, which is a very rampant problem.

Mr. President, on December 28, Senator VOINOVICH and I departed from Andrews Air Force Base and flew across the Atlantic landing late in the evening in Munich, Germany. Consul General Bob Boehme and Economic Officer John McCaslin met us in Munich. The two shared with us their thoughts on a wide variety of subjects ranging from a potential U.S. missile defense system to the current refugee situation in Germany. The next morning we had a working breakfast with representatives of the German/American business community. Our discussions ranged form lack of an educated workforce in Germany resulting in the need for skilled immigrants to staff many of their high-tech companies to harmonization of a European defense force with NATO to the ever-evolving situation in the Balkans. After our breakfast we departed Munich and arrived in Belgrade, Yugoslavia on Friday December 29.

My first visit to Yugoslavia was in 1986, when I visited with then President Moisev. I was last in Belgrade in August 1998 in an attempt to visit then President Slobodan Milosevic to urge him to turn over indicted war criminals. Yugoslavia today is a country undergoing dramatic changes. Recently and most notably is the formation of a democratic form of government. The greatest political achievement of the Serbian people was a peaceful democratic revolution. Public protests usually happen before elections are held when the political tensions are at their greatest. In Yugoslavia, the opposite happened. Mass protests were the only way to guarantee that the popular will expressed at the polls was to be respected by former President Milosevic.

The transfer of power following the electoral victory has not been simple, primarily because of Mr. Milosevic's attempts to falsify obvious electoral results. With widespread support from the citizens, the Democratic Opposition of Serbia secured the recognition of the electoral results and Dr. Kostunica was declared head of state on October 5, 2000. However, full legal transfer of power was not fully accomplished by this proclamation. President Kostunica has insisted on a strict observance of the rule of law. The immediate challenge ahead for President Kostunica and the Federal Government includes dealing in a clear and transparent way with relations in the Yugoslav federation and, in Serbia, resolving the political and security issues related to Kosovo. After my discussions with the various officials from the Serbian and Yugoslav Government, it was clear there is a strong desire for Mr. Milosevic to be tried by the Serbian government and be held to pay for what he has done to the Serbian people before they were willing to turn him over to the officials at The Hague.

We were met at the airport by U.S. Ambassador Bill Montgomery and proceeded to our first meeting with Mr. Vojislav Kostunica, President of the Federal Republic of Yugoslavia. Sen. VOINOVICH and I were the first Congressional leaders to meet with the newly elected President and we congratulated him on his monumental victory. President Kostunica proudly told us that after the recent December 23 elections, democratic party candidates won 176 out of 250 seats in Parliament, Yugoslavia was now ready to push forward with reform. Unfortunately, the new democratic Yugoslavia is now having to pay for ten years of corruption and mismanagement under the Milosevic regime. Basic public services and health care are lacking as well as energy production resulting in rolling blackouts in Belgrade during the time of our visit. Another internal problem facing the Federal Republic of Yugoslavia is a political problem—dealing with the integration of Serbia and Montenegro. President Djukanovic of Montenegro has declared that Montenegro should be a separate state loosely aligned with Yugoslavia while Mr. Zoran Djindjic of Serbia, expected to be Prime Minister, desires a more traditional federal alliance with the Federal Republic of Yugoslavia.

During our discussion, I told President Kostunica that I thought Slobodan Milosevic should be turned over to the prosecutors at the International Criminal Tribunal for the former Yugoslavia at The Hague for prosecution. President Kostunica told me that while he agreed that Slobodan Milosevic should be held accountable, the Serbian people should first be given the opportunity to prosecute Mr. Milosevic for his many transgressions against them, such as stealing the September elections and stealing approximately $1 billion from the coffers of the Yugoslav government. President Kostunica was quick to point out that he welcomed the office of The Hague Tribunal, which had recently reopened in Belgrade, as the first step in the eventual investigation and prosecution of Mr. Milosevic and also other indicted war criminals who were seeking safe harbor in Yugoslavia.

We then met with Professor Miroljub Labus, the Federal Deputy Prime Minister in charge of economic policy as well as Mr. Bozidar Djelic, the Serbian Minister of Finance. Professor Labus as well as Minister Djelic, both were emphatic in their desire to bring pro market, transparent transactions to the economy of both the federal republic of Yugoslavia as well as Serbia. Two of the major moves the federal government had undertaken that week was to cut defense spending in order to direct more money into infrastructure repairs which had been badly neglected under the Milosevic regime and deregulate foreign trade in order to attract more overseas investment. Both felt that while the new democratic government had a good deal of support of the people behind them, they only had about 3 to 6 months to help get the government on the right track since the people were expecting to demand results soon.

We next met Mr. Zoran Djindic who won his election only 6 days prior to our arrival. He told us that while he had won the political battle, the battle to undertake the reforms the people of Serbia demanded was just beginning. He said that for the past 50 years the government of Serbia had been a facade and that he intended to have a transparent, functioning democratic government. When we discussed Mr. Milosevic being tried at The Hague, he said Mr. Milosevic was merely a small time criminal but had been in the position to have the opportunity to commit big time crimes. He further said the will of the Serbian people was to try Mr. Milosevic in the Serbian courts first. On the topic of Montenegro, he said that integration into the Federal Republic of Yugoslavia was imperative for the establishment of joint institution of government so that Yugoslavia could begin to slowly move towards gaining membership into the EU.

On the morning of December 30, we met with His Holiness Paul, Patriarch of the Serbian Orthodox Church. The elderly Patriarch was a distinguished looking gentleman who served as a priest in Kosovo for 34 years. The Patriarch felt that while the Serbians had done many things wrong during the recent conflicts, others did as well, and the unfortunate result was that many ancient churches and mosques were senselessly and unnecessarily destroyed. The Patriarch stated that he felt that the Church had assisted in highlighting moral issues during the elections and the Church had always advocated peaceful solutions and a peaceful transfer of power.

After our meeting with the Patriarch we flew to Bosnia to meet soldiers from the multinational peace keeping force in Tuzla. Major General Sharp, Commander of the 3rd Infantry Division, headquartered in Tuzla, Bosnia met us at the airport. General Sharp commands over 3900 American soldiers, which help constitute a combined force of over 6700 soldiers including those from Russia, Denmark, Poland, Estonia, Finland, Latvia, Lithuania, Sweden and Turkey. We discussed his soldier's mission, which was supporting implementation of the Dayton Peace Accords and maintaining force protection awareness in the region. We discussed the problem of war criminals and he said that he knew of no indicted war criminals in his area of responsibility but that the orders for his division were to detain and hold any of the personnel that had been indicted for war crimes. We also discussed the increasing role of the National Guard in the peacekeeping role in the Balkans and the fact that Pennsylvania's 29th Infantry Division will be taking over that critical peace keeping mission there in 2002.

We then flew by UH-60 Blackhawk helicopters from Tuzla to Camp Dobol to visit with some of the soldiers who are stationed there. During lunch we discussed many issues with the soldiers ranging from the need to continue to reform Tri-Care to the transferability of a soldiers GI bill to his family members. After having lunch we departed in Humvee's and went on a patrol through the towns of Flipovici and Katonovici with the soldiers of the 3rd Infantry Division.

Upon returning from Tuzla late in the afternoon, we met with Yugoslav Minister of Justice Momcilo Grubac who told us that the new Yugoslav state would be formed under the rule of law and the massive legal reform was just beginning. The Minister told us that they were working on harmonizing existing Yugoslav law with EU law in order to comply with international standards and to attract overseas investment and provide legal and economic stability. When we discussed the trial of Mr. Milosevic, the Minister of Justice felt strongly that Milosevic should first be tried and held accountable in the Federal Republic of Yugoslavia before being turned over and tried in The Hague. The Minister of Justice said a new prosecutor for the City of Belgrade would be responsible for trying Milosevic. The current DA was a holdover from a Milosevic government and until December parliamentary elections could not have been removed. The Minister anticipated that in late January or early February the DA would be replaced with one that would be able to prosecute Milosevic.

Later that evening we met with Professor Dragoljub Micunovic, the President of the Federal Parliaments Chamber of Citizens "the Republic's Upper Body" and his colleagues. We met in the same Parliament building that we all saw on CNN only a few months earlier being stormed by citizens demanding fair counting of the elected results. These same citizens then were hanging out of windows waving the Yugoslav flag after they were successful in forcing Mr. Milosevic to declare President Kostunica the rightful winner of the federal elections. The Parliamentarians told us that they felt they had laid a successful groundwork for reform and that now it was time for them to deliver. They, like all the other officials we talked to in Yugoslavia, felt that Mr. Milosevic should be first tried in Yugoslavia. We were told that they were sure that the prisons in Serbia were much less comfortable that those in The Hague and thus Mr. Milosevic would face a much harsher sentence in Serbia. After serving his time in Serbia, they agreed it would be possible for him to go to The Hague to be tried.

On New Years Eve we departed Belgrade for Cairo, Egypt. In Cairo that evening, we met with Ambassador Daniel Kurtzer to discuss the status of the negotiations between Israel and the Palestinians. My first meeting with Ambassador Kurtzer occurred on January 7, 1998, his second day in Egypt.

On New Years Day we visited with President Mubarak at Itihadiya Palace in Heiliopolis. As always, the President was gracious as he rearranged his busy schedule in order to meet with our delegation. President Mubarak and I discussed the negotiations between Chairman Arafat, Prime Minister Barak and President Clinton. When we asked President Mubarak when the Egyptian Ambassador would be returned to Israel, he said the withdrawal of his did not lessen diplomatic contacts between Egypt and Israel and should not be construed as his lack of support for comprehensive peace between the Palestinians and the Israelis.

President Mubarak said he felt that there was no pressure to conclude talks because of President Clinton's departure or because of Prime Minister Barak's upcoming election. I asked President Mubarak if he would be willing to participate at the negotiations in Washington. President Mubarak said that he did not feel that it would be helpful to negotiate along-side Chairman Arafat, Prime Minister Barak and President Clinton as the issues really need to be resolved between Barak and Arafat on their own.

President Mubarak said that the younger leaders in the region—The King of Jordan, the King of Morocco, and Crown-prince of Bahrain—were all bright stars on the horizon in the region and could be counted on to be supportive of the peace process.

We discussed the problem of persecution of religious minorities with President Mubarak. Egypt, a Muslim country, also has a large vocal Christian community which is comprised of Copts and Evangelicals. I had previously discussed the plight of religious minorities with President Mubarak in February of 1998, in January of 1999, and again in September of 1999. I was informed on my previous trips as well as back in Washington that both the Copts and other religious minorities faced wide-spread discrimination and persecution sometimes rising to the level of violence. President Mubarak assured Senator VOINOVICH and me that the Egyptian government would not tolerate such activity. We discussed the International Religious Freedom Act of 1998 with President Mubarak who downplayed the significance of the Act in Egypt. He said there was no need for its application because his government would not tolerate religious persecution and that any incidents that did occur were undertaken on an isolated basis and investigated by the government.

At mid morning on New Years day, we departed from Cairo and flew to Tel Aviv. Upon reaching Jerusalem, we were briefed by Ambassador Martin Indyk and headed off to our first meeting at the Kennesset with former Prime Minister Shimon Peres. Former Prime Minister Peres was under the impression that there was not sufficient time to conclude the compressive negotiations between the Palestinians and Israelis before the upcoming elections in Israel on February 6 and the end of President Clinton's term. In Prime Minister Peres' opinion, there was not enough focus on the economic issues surrounding a comprehensive peace plan. The former Prime Minister held the common opinion that the major stumbling blocks to the current negotiations were Jerusalem, the holy sites and the Palestinian claim to a right of return. He emphasized that there could be no Israeli concession on the right of return without endangering the continuation of a "Jewish state" which was the fundamental reason for the creation of Israel after the Holocaust.

Our next meeting was with Prime Minister Barak whose frustration with negotiations was palpable. Barak stated that he had been very flexible in his negotiations with Arafat and that Arafat had taken no risks in the positions he was articulating. He stated that the continuing violence between the Palestinians and Israeli's lead to unrest in the region and did not help the current peace with Egypt and Jordan. The Prime Minister reminded us that last year was the best year in the history of Israel for Israel's economy. Prime Minister Barak stated that the only reason he had not already ended his negotiations with Arafat was to give President Clinton, who had personally invested so much in the negotiations, one last chance to broker peace in the region.

Our final meeting on New Years day was with Minister Ariel Sharon. Minister Sharon said that his much maligned visit to the Temple Mount served only as an excuse for the Palestinians by which to mount violence against the Israeli people. He stated that he had visited the Temple Mount a number of times in the past without incident. Minister Sharon told us, if elected as Prime Minister on February 6, he would be willing to immediately talk to Arafat about continued negotiations. Minister Sharon said he was astounded that Prime Minister Barak was willing to "give away" Jerusalem and the holy sites without any debate or discussion with the people of Israel.

He felt that the problems of Jerusalem, ensuring there are adequate security zones inside Israel, and the return of refugees were the major stumbling blocks to peace. Minister Sharon said although he was a General, he was committed to peace, not war. He recounted how he started as a young private in the Israeli Defense Force and rose to the level of General, fighting in every battle in the history of the State of Israel. He said that he had experienced all the horrors of war that he had seen many of his friends killed and wounded and was in fact twice wounded himself and therefore he understood, perhaps more than most, the importance of peace. However, he said, negotiating peace for Israel was almost as painful as war because peace means security for Israel and it was something that he was not going to undertake lightly.

At the conclusion of that day after meeting with President Mubarak, Prime Minister Barak, former Prime Minister Peres and Minister Sharon, Senator VOINOVICH and I decided to send telefaxes to the leaders of Jordan, Saudi Arabia, Morocco and Tunisia, as well as President Mubarak, urging them to publicly express their support for President Clinton's proposal. The letter stated:

> We are advised that you think President Clinton's suggested parameters for the Israeli–Palestinian peace negotiation is a reasonable proposal and should be accepted by both sides. If that is true, we urge you to say so publicly to demonstrate there is support in the Arab world to encourage Chairman Arafat to give President Clinton an affirmative reply promptly.

Later that evening I departed Tel Aviv and flew to Aqaba, Jordan. Senator VOINOVICH stayed in Israel and had a separate schedule for the balance of his trip.

I met with King Abdullah in his summer palace on January 2. I had previously met with the King's father for many years. King Abdullah said that he had found President Clinton's peace proposals to be very reasonable and that he had encouraged Chairman Arafat to use the proposal as a framework from which to build a comprehensive peace. The King and I discussed whether or not he believed that Chairman Arafat had control of the street violence and protest in Israel, and King Abdullah opined that he believed that at the outset of the Intifada, Arafat had more control but recently the influence of the Islamic Jihad and Hamas were on the rise. I discussed with the King the possibility of other Arab countries using their influence to publicly persuade Arafat that the Clinton peace proposal was something that should be seriously considered. King Abdullah stated that President Mubarak had by far the most influence on Chairman Arafat. King Abdullah thought that he along with the Crown Prince of Bahrain, President Ben-Ali of Tunisia, President Mubarak of Egypt, and King Mohamed of Morocco would consider publicly supporting the Clinton peace proposal.

Later that afternoon we departed for New Delhi. We arrived in New Delhi at 10:15 p.m. and Albert Thibault, the Deputy Chief of Mission and Paul Mailhot, First Secretary, met us at the airport. The following morning we had a working breakfast meeting with members from the U.S. Embassy. At the briefing, we discussed the current issues that were of concern to India including the signing of the Comprehensive Test Ban Treaty (CTBT), India-Pakistan relations, and the future of U.S.-India relations under the Bush Administration. President Clinton's visit in March of 2000 was the first Presidential visit since President Carter's visit to India. The main focus of our discussions was the relationship between India and Pakistan.

My first meeting that morning was with Foreign Secretary Lalit Mansingh. I congratulated Foreign Secretary Mansingh on his designation as the next Indian ambassador to the U.S. We spoke briefly about the elections in the U.S. and the Foreign Secretary asked me if I thought that the election would result in some momentum for reform of our system of voting. I responded that reform was on the horizon but that the electoral college would not be eliminated. On the issue of the CTBT, the Foreign Secretary expressed his sentiment that the U.S. should not expect India to sign a Treaty that the U.S. itself perceives as flawed. He went on to state that the Indian neighborhood was getting more dangerous and that India had no choice but to "go nuclear" to protect itself against both China and Pakistan "but we want to convince you that India is a responsible country." I then posed the question to him of what his assessment was of the likelihood was that a nation, excepting those classified as so-called rogue nations, would launch an attack against another country. The foreign secretary promptly responded that unless there was an "act of madness", one does not anticipate nuclear attacks from democratic regime. India, he said, is producing thousands of graduates every year, whereas Pakistan is producing thousands of terrorists each year. He went onto expressed his concern about the role of Pakistan in fostering religious fervor, which manifested themselves into acts of terrorism.

The Foreign Secretary stressed that India shared the United States commitment to reducing nuclear weapons, but have not always agreed in how to reach this common goal. The United States believes that India should forego nuclear weapons. India believes that it needs to maintain a credible minimum nuclear deterrent in keeping with its own assessment of its security needs. Nonetheless, he said, India would be prepared to work with the U.S. to build upon the bilateral dialogue already underway.

Next, I asked the Foreign Secretary the impact of the religious persecution legislation that was enacted in law in 1998. He responded that the legislation had no impact because there is no real problem with discrimination in India. When I asked him what steps the Indian government had taken to protect minority communities and prosecute offenders, the Foreign Secretary responded that there had been isolated incidences in the remote tribal areas of Orissa and Gujarat and that the Government had strongly condemned these murders. Prime Minister Vajpayee had committed that reducing communal violence was one of the main goals of his government and in that light he had spent last week in the state of Kerala focuses on the issue. He went onto note that many religious minorities held seats in Parliament including Defense Minister George Fernandes.

That afternoon, Ambassador Celeste hosted a luncheon at his residence with leaders from the business, civil, political and philanthropic communities. We discussed a wide range of issues ranging from brain drain in India to the middle-east peace process.

My next meeting that afternoon was with the Leader of the Opposition in the Upper House of Parliament Dr. Manmohan Singh. Dr. Manmohan Singh was also Finance Minister under former Prime Minister Narashima Rao and the architect of India's economic reform program in the early 1990's. We discussed topics ranging from the continued strengthening of U.S.-India ties under the Bush Administration to the perseverance of India's economic liberalization. When Dr. Singh asked me about my general views on South Asia, I told him that I believed that with a population of over 1 billion, one fifth of the world's population, India has a lot of unrealized potential. I told him that I applauded India's move from a socialist economy to a free market economy and its achievements in science and technology. He said that India is committed to economic expansion and reform—especially in the emerging knowledge-based industries and high-technology areas, and it is determined to bring the benefits of economic growth to all its people.

My final meeting that evening was with K. Natwar Singh, who is the chief foreign policy advisor to Congress Party President Sonia Gandhi. Mr. Singh also served as foreign minister under Prime Minister Rajiv Gandhi, Sonia Gandhi's late husband. We met in the room that used to serve as the late Prime Minister Indira Gandhi's office. Mr. Singh took me to the memorial, which marked the spot that on October 31, 1984, while walking to her office from her nearby residence, Indira Gandhi was assassinated.

We discussed issues ranging from the middle east peace process to the balance of power in the newly elect 50-50 Senate to India-Pakistan relationship. Mr. Singh expressed the belief of his party that reestablishing a bilateral dialogue with Pakistan is critical if any progress is to be made in the Kashmir region. I told him that following my visit to the subcontinent in 1995, I wrote a letter to President Clinton summarizing my meetings with then Prime Minister Rao and Prime Minister Bhutto and suggesting that it would be very productive for the United States to initiate and broker discussions between India and Pakistan regarding nuclear weapons and missile delivery systems.

When I raised the issue of persecution of religious minorities, he responded that there is no state sponsored discrimination, but there had been isolated case by case incidents. Mr. Singh expressed to me that these were isolated incidents and that the government had strongly condemned the attacks. He informed me that Prime Minister Vajpayee personally was distressed over these attacks and had just returned from meeting with a group of Christian Bishops in the state of Kerala.

The following day I attended a luncheon meeting with the Confederation of Indian Industry. Approximately 40 business leaders participated in a lively question and answer session where I responded to wide array of questions about from bipartisanship in the newly elected Senate, the U.S. economy, China PNTR and the Comprehensive Test Ban Treaty.

I left the luncheon and arrived at the Mother Child Welfare Center in Chanakyapuri, New Delhi. This Welfare Center also serves as the local polio immunization clinic. Launched in 1988, the global Polio Eradication Initiative is spearheaded by the U.S. Center for Disease Control and Prevention, WHO, Rotary International, National Governments and UNICEF. The Governments of the United States, Denmark, Germany, Italy, Japan, UK, the European Commission, Bill & Melinda Gates Foundation, and the UN Foundation and the World Bank have all been supporting the effort to eradicate polio in India by 2002. This would be only the second disease to be eradicated after small pox. Here, I had the opportunity to hold and administer the polio vaccine drops to the infants at the clinic.

Later that afternoon, I met with Foreign Minister Jaswant Singh. We discussed India signing the CTBT. FMCT—Fissile Material Production Treaty which would end the production of nuclear materials—India's nuclear weapons program, Kashmir, the problems in Afghanistan with the Taliban. He told me that India was committed towards any hostility in the region and that the CTBT was a meaningless Treaty in their eyes because they have already taken on a voluntary moratorium. He went on to stress that India recently signed a treaty with Pakistan that recently no aggressive use of nuclear weapons.

The next morning we departed for Udaipur. That afternoon I met with Professor P.C. Bordia, an expert on India's licit opium production program. India is the world's largest source of opium for pharmaceutical use. However, located between Afghanistan and Burma, the two main world sources of illicitly grown opium, India is a transit point for heroin. Opium is produced legally in India under strict licensing and control, and the Government of India tries to extract every gram from the cultivators. The United States and India signed an agreement in June 2000 to jointly survey and study samples of licit opium poppy crop. Professor Bordia explained to me the methodology of the three year study. This collaborative DEA funded project seeks to produce reliable data on the yields of opium gum from India's poppy cultivation, which would help the Government of India to maintain tight control over its licit poppy production to prevent diversion and ensure an adequate supply to meet the international medical and scientific needs. The project is scheduled to begin in mid-January 2001 with the visit of two U.S. scientists, Drs. Basil and Mary Acock.

Later that afternoon, my staff toured the Udaipur Solar Observatory GONG project—Global Oscillation Network Group—which has been funded by the National Science Foundation for the last nine years. The GONG project is an international project conducting a detailed study of the internal structure and motions of the Sun using helioseismology. The U.S. National Observatory developed GONG stations in six stations all over the world. These are in Hawaii, California, Chile, Canary Island, India and Australia, and the National Solar Observatory in Tucson, Arizona. Dr. Arvind Bhatnagar and Dr. S.C. Tripathy explained that this project enables surveillance of the Sun 24 hours a day. My staff saw first hand the working of the sophisticated $1.5 million state of the art telescope that has been installed in Udaipur under this project. This telescope monitors the Sun automatically, and takes digital velocity images of the sun every minute. This data is then combined with the data from the other five sites at the central facility located in Tucson. Dr. Bhatnagar explained to my staff with tremendous enthusiasm that the GONG project promises to unravel several fundamental problems of solar interior and general astrophysics.

On Sunday, January 7, prior to departing for Islamabad from New Delhi, I met with the Station Chief and agents in-charge of the FBI and DEA in New Delhi.

That same morning I also met with Dr. John Fitzsimmons and Dr. Gary Hlady to discuss the National Polio Surveillance Project and to see what might be done to expand that program to cover other illnesses such as measles, rubella, tetanus etc. They told me that polio eradication within Asia was within reach by the year 2002 and that measles was on the horizon. We also discussed ways in which Congress could assist the CDC and NIH to develop programs targeted at eradicating these diseases.

It was apparent by comments in both India and Pakistan that the Senate's 1999 vote against ratifying the CTBT was closely watched and that the vote diluted our power to persuade nations like India and Pakistan to support the CTBT. In my discussions with officials, it became evident that securing compliance with the CTBT by these two nations without U.S. ratification would be problematic.

We departed New Delhi on the morning of January 7 traveled to Islamabad, Pakistan. I last visited Pakistan in 1995 meeting with then Prime Minister Benezir Bhutto who is now living abroad in exile and facing corruption charges in Pakistan. Upon our arrival, the Charge, Michele Sison, met me at the airport and we departed for our first meeting. General Musharraf, the Chief Executive and current political leader of Pakistan as well as the foreign minister, were out of the country on foreign travel.

Our first meeting was with the Foreign Secretary, Inam ul-Haq. Secretary Ul-Haq is Pakistan's highest-ranking career diplomat having previously been posted as Pakistan's Ambassador to the United Nations and as Pakistan's Ambassador to China. Our meeting began with a discussion of Pakistan's nuclear tests and the Comprehensive Test Ban Treaty (CTBT). The Foreign Secretary told me that General Musharraf and the current government was in favor of ratification of the CTBT. However, I was told that there was a very vocal group in Pakistan which was opposed to Pakistan's ratification of the Treaty and that the Foreign Minister was personally working on persuading opponents of the Treaty and its benefits. The foreign secretary informed me that the Pakistani government closely followed the limited debate and vote in the U.S. Senate regarding the CTBT and that ratification by the U.S. would be very helpful in Pakistan's internal debate on the issue.

I next discussed the procedure by which General Musharraf came to be the current political leader of Pakistan. I was told that after the General's ouster of Prime Minister Nawaz Sharif and ascension to power, a lawsuit was filed against the General in the Supreme Court challenging the legitimacy of his actions. When I asked if the outcome of that suit was predetermined, the foreign secretary informed me that there was a similar situation when a previous General had ousted a previous Prime Minister and a lawsuit was filed challenging the legitimacy of the action. The Supreme Court in that case found the General's actions to be unjustified and returned the Prime Minister to power. I told the Foreign Secretary of the great concern in the United States Congress regarding the return of democracy to Pakistan and that I was hopeful General Musharraf would honor the October 2002 Supreme Court deadline for restoring democracy.

Our discussion then turned to Kashmir and the ongoing conflict there. The Foreign Secretary stated that his government was pleased with the easing of tensions and was hopeful, but not optimistic, that the Indian government would engage in dialogue regarding Kashmir.

I asked the Foreign Secretary what could or should be done with the Taliban and Osama Bin Laden in Afghanistan. The Foreign Secretary told me that Undersecretary of State Pickering had conducted meetings with officials from the Taliban and that they were very grateful for the support of the U.S. provided during their war with the former Soviet Union. The Foreign Secretary felt that the U.S. should continue to provide humanitarian aid to Afghanistan and that perhaps through dialogue with the Taliban some solution regarding Osama Bin Laden could be reached. The Foreign Secretary thought that more sanctions would do more harm than good. The Foreign Secretary told me that Pakistan suffered from more terrorist attacks than any other country and that combating terrorism in Afghanistan worked to Pakistan's benefit as well.

Finally, we discussed the situation facing religious minorities in Pakistan. Pakistan is a predominately Muslim country with roughly 90 percent of its population belonging to that religion. The remaining religious minorities are roughly 3 percent Hindu, 6 percent Christian and 1 percent Sikh. The major problem facing non-Muslims in Pakistan is the blasphemy law, which allows for the death of anyone who blasphemes the Prophet Mohammed. I was told that the interpretation of the law is very liberal and mere attendance of mass by Catholics is a sufficient basis on which to charge someone for the crime. I urged the Foreign Secretary to have his government repeal this law and play a more active role in the protection of religious minorities.

After my meeting with the foreign secretary, we attended a working reception at the Charge's home in Islamabad. The attendee's at the reception were leaders from the Government, the Academy, various NGOs, religious and American communities. During the course of the evening, we engaged in spirited debate on topics such as the CTBT, missile defense, religious tolerance and the importance of democracy.

The next morning I had the opportunity to sit down with Mr. Shahbaz Bhatti, Founder and President of the Christian Liberation Front of Pakistan whom I had met in Philadelphia earlier this year. His group is an umbrella organization whose self described mission is the "liberation of the oppressed from social subjugation, economic deprivation, religious discrimination, religious intolerance and expression." Mr. Bhatti and I discussed Pakistan's blasphemy law, which he told me is broadly interpreted, and states that anyone who blasphemes the Prophet Mohammed is to be sentenced to death. Mr. Bhatti told me that there were many individuals currently being detained in Pakistani jails under the law and he provided me with a list of names. I asked Mr. Bhatti if he thought that the religious persecution act the Congress had passed had any effect on his situation in Pakistan.

He told me that he thought the Act was a useful instrument for the enhancement of interfaith harmony and religious tolerance, not only in Pakistan, but also all over the world. Mr. Bhatti told me that he felt that the U.S. State Department needed to be more focused on persecution in Pakistan in the coming year. Mr. Bhatti said that while he had met with the U.S. Ambassador when he had visited Pakistan and that he had met with the Ambassador again in Washington, he felt that Pakistan should be elevated to a country of special concern in the State Department's annual report. Mr. Bhatti felt that Islamic militants inside Pakistan were pressuring the government to be even less tolerant of religious minorities. Mr. Bhatti told me that he had received telephonic threats at his home and that vandals had done property damage to his office. He told me that he had a meeting with General Musharraf to discuss religious tolerance and while the General seemed to be genuinely concerned about the plight of the religious minorities, he told Mr. Bhatti that he had to deal with a constituency, which did not share his tolerant views.

After my discussion with Mr. Bhatti I called the Foreign Secretary to discuss the plight of the religious minorities and the detention of certain individuals under the blasphemy law. The Foreign Secretary told me that he would look into the matter and I told him I would send him a list of those imprisoned because of their religion which Mr. Bhatti provided me.

We departed Islamabad and arrived into Istanbul on the night of January 8. The next morning we had a working breakfast with the Ambassador, his wife, Station Chief and the regional head of the DEA. Our discussions at breakfast covered a wide range of issues from resolution of Turkey's long-standing conflict with Cyprus, Syrian-Turkish relations, Turkey's entry into the European Union, and the strong political and military ties between Turkey and the United States.

After departing Istanbul, we traveled to Mons, Belgium to meet with General Ralston, the Supreme Allied Commander of all NATO forces in Europe. General Ralston and I discussed the United State's proposed National Missile Defense System and the views our European allies had of that plan. General Ralston told me that he felt that the European's felt vulnerable to strategic missile attack under the U.S. plan which just proposed to protect the United States. We discussed the stand-alone European Defense force in addition to NATO. General Ralston had high praise for NATO's new members, Czech Republic, Poland and Hungary and in fact was headed to the Czech Republic that afternoon.

General Ralston told me that his forces were ready, willing and able to assist the International Criminal Tribunal for the former Yugoslavia (ICTY) in effectuating the arrest and return to The Hague of persons indicted for war crimes as soon as his political leadership instructed him to do so.

After our meeting with General Ralston, we traveled to The Hague to meet with the Chief Prosecutor of the ICTY, Carla del Ponte, and some of her staff. She expressed her strong sentiment to me that Slobodan Milosevic must be returned to The Hague for trial at the ICTY before standing trial in Belgrade. Madam del Ponte felt very strongly about Milosevic being brought to trial in Belgrade for a number of reasons. First of all, she said, the ICTY had a clear mandate and enjoyed primacy over domestic courts—this was a Security Council mandate. Secondly, she expressed her fear that the Milosevic regime would still retain some power—even behind the scenes—for a long time: Further, she stressed that The Federal Republic of Yugoslavia must first establish its credibility before it takes on the daunting task of judging a former President. She said that the whole basis of the ICTY was to tackle those difficult, painful cases for which domestic courts are ill-equipped. I told the Chief Prosecutor that I shared her desire to have Mr. Milosevic prosecuted at The Hague but was doubtful that Mr. Milosevic would be turned over to The Hague after my recent meeting in Belgrade.

The Chief Prosecutor and I also discussed the ongoing negotiations to establish an International Criminal Court and the concerns surrounding such a body. I told her that there were concerns in the United States Congress regarding the vulnerability of U.S. servicemen of being subjected to charges that are purely politically motivated and had no basis in fact. We discussed her consideration of requests by Russia and Yugoslavia under Milosevic to charge NATO officials with war crimes. Madam del Ponte told me that as a prosecutor she had no discretion in the matter and that, as a matter of course, she had to investigate the charges which she eventually deemed to be without merit.

I asked Madam del Ponte if the ICTY needed any additional resources. She told me that resources continued to be tight—stressing that there was a great deal of work to do collecting evidence of the war crimes and that additional resources would be beneficial.

My next meeting was with ICTY Judge Patricia Wald who resigned from the federal judiciary to serve at The Hague. We discussed the functioning and legal rules of the ICTY. Judge Wald informed me that the ICTY bench consists of members from the U.S., England, France, Australia, Portugal, Italy, China, Vienna, Malaysia, Zambia, Colombia, Jamaica and Egypt.

My meetings with Chief Prosecutor Carla del Ponte and Judge Pat Wald, following on my earlier meetings in Belgrade, supported my notion that bringing Milosevic to justice at The Hague rather than in Yugoslavia would prove to be complicated. The new Yugoslavian democratic government's persistence on trying Milosevic in Serbia and the ICTY's insistence that it had primacy over Milosevic established the complexity of the issue. The concept on an International Criminal Court arose because of the failure of national courts to bring individuals like Milosevic to trial. On the one hand, to permit Yugoslavia to try Milosevic, at least first, would encourage national courts to deal with such issues. On the other hand, Madam del Ponte's adamance that the ICTY had primacy granted under U.N. Resolutions and should not have to negotiate. She further expressed her concern that Yugoslavia could not be trusted to prosecute Milosevic due to problems of witness intimidation and the Milosevic regime still retaining influence in the Justice system. It is a difficult problem with no easy solution.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

EXECUTIVE SESSION

NOMINATION OF TOMMY G. THOMPSON TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of the nomination of Tommy G. Thompson, which the clerk will report.

The legislative clerk read the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of the Department of Health and Human Services.

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes each under the control of the Senator from Iowa, Mr. GRASSLEY; the Senator from Montana, Mr. BAUCUS; and the Senator from Massachusetts, Mr. KENNEDY.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

Mr. President, I, as I did yesterday, urge my colleagues to vote to confirm President Bush's nominee for Secretary of Health and Human Services, the outstanding Governor of the State of Wisconsin, Tommy Thompson.

Statements made during yesterday's session by Senators from both sides of the aisle made it apparent that the qualities that have made Governor Thompson so successful in Wisconsin also make him an ideal choice to lead this very all-encompassing Department of Health and Human Services.

Governor Thompson is a problem solver. He is an innovator and really is a leader with a record of success, particularly during the 14 years he has served as Governor of the State of Wisconsin.

His record as Governor of the State of Wisconsin should show everybody that he is a person committed to improving the lives of real people. The impressive results he has brought about in his great State should inspire all of us. In fact, his success in welfare reform there inspired Congress to pass the Welfare Reform Act of 1996. He was, even while Governor, an advisor to many Members of the Congress who felt we ought to move people from welfare to work, move people from the fringe of our economic society to the center, to the mainstream of that society so they can benefit, as others do, from the dynamics of our economy.

Most Wisconsinites—94 percent—have health insurance because of his leadership. The disabled and elderly persons needing long-term care have a state-of-the-art support system to turn to, thanks to Governor Thompson's leadership.

Programs such as Pathways to Independence and Family Care are efficient and effective and are part of a reliable safety net program. They call the program he instituted in Wisconsin the Wisconsin Works Welfare Reform Program. It has helped the State reduce its welfare caseload by nearly 95 percent. Think of that: reducing the welfare caseload by 95 percent. This is good for government, but, most important, we do not have welfare reform to help government; we have welfare reform to help people.

The program that has been before the country for the last 4 years is not doing everything we want it to do. It is not good to have people on the fringe of our society, people who know no other life than a public check coming from the welfare office. That is not a humane way to treat people. It is humane in our society to help people who cannot help themselves, but for those people who can help themselves—and people generally, if given the incentive, do want to help themselves—we have the responsibility to move them from the edge of society into the mainstream of society. That is exactly what happened in Wisconsin.

More specifically, there was a program in place in Wisconsin before we adopted ours in Washington, DC, for the entire nation, and that program reduced the caseload by 95 percent.

Governor Thompson's record in Wisconsin is, indeed, impressive, and we are prepared, I believe, to confirm his nomination. He will bring a wealth of knowledge, a very positive outlook, and an innovative style to the national debate on welfare reform and to Medicare improvements, including prescription drugs.

Governor Thompson made it clear during his nomination hearings that he welcomes the opportunity to work with any Member, Republican or Democrat, who has a special interest or special concern. One only needs to listen to the glowing recommendations from the distinguished Senators from Wisconsin, both Democrats, to be assured of his commitment to bipartisanship. Such bipartisanship, if anything is going to get done, is dictated by the makeup of the Senate and the closeness of the Presidential election.

More importantly, it is the way that Governor Thompson has worked in Wisconsin. Obviously, it is the way he is going to work with us.

I look forward to his collaborative approach to getting the job done and urge my colleagues to join me in approving this nomination.

I yield the floor and reserve the remainder of my time. Just in case there is an interest in speeding this nomination along, I am prepared to yield back any time I have left.

Before I sit down, Mr. President, I have this request from the leader.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF NORMAN MINETA

Mr. GRASSLEY. Mr. President, I ask unanimous consent that following the 11:30 a.m. vote today, the nomination of Norman Mineta, to be Secretary of Transportation, be placed on the calendar. I further ask unanimous consent that the Senate immediately proceed to its consideration and a vote on the confirmation of the nomination. Finally, I ask unanimous consent that following the vote, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Therefore, Mr. President, I am announcing for the leader, there will then be two back-to-back votes beginning at 11:30 a.m. today.

Mr. President, I ask unanimous consent that the yeas and nays be in order en bloc on both nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

NOMINATION OF TOMMY THOMPSON TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the nomination of Governor Tommy Thompson to be Secretary of Health and Human Services. Governor Thompson brings an extraordinary record to Washington, DC, and he has accomplished a great deal as Governor of the State of Wisconsin.

He began his political life in the Wisconsin State Assembly in 1966. He was elected to an unprecedented third term in Wisconsin, and then he broke his own record by being elected to a fourth term—of course again unprecedented. He has had remarkable accomplishments in the field of education, and tax cuts, where the tax rolls in Wisconsin have been very substantially reduced, in crime control, and perhaps his greatest achievement has been in welfare reform in Wisconsin. While Governor, Wisconsin got more waivers from the Department of Health and Human Services than any other State. Now it will be interesting to see how, in his capacity as Secretary of the Department, he will function to create policies in a climate where the Federal Government can articulate and implement policies which will not require States to seek waivers, as he was so successful at doing.

His reform of the welfare system in Wisconsin has received national acclaim. He initiated the program called "Learnfare." He was able to change the approach in Wisconsin to have work instead of welfare—all enormous accomplishments.

When I looked at the record of Governor Thompson, candidly, I wondered why he did not run for President with those accomplishments behind him. I know some consideration had been given by Governor Thompson to that. It is an onerous road, considering all the difficulties. Perhaps foremost was the formidable candidacy of Gov. George Bush of Texas, who is now our President. So we have done very well indeed on the Presidency, and on the designation of Secretary Thompson for Health and Human Services.

He will be facing some very difficult problems. One of the problems he will be facing is the controversial issue of stem cells, where I and others have introduced legislation to remove the ban on Federal funding for the extraction of stem cells from embryos. This has been a controversial matter because I think it is really not understood that the embryos from which the stem cells are extracted are to be discarded. They had been created for in vitro fertilization and are not to be used. So, instead of discarding them, it seems most appropriate to use them to save lives.

The stem cells are a veritable Fountain of Youth, with stem cells already having been very useful in efforts to cure Parkinson's and spinal cord injuries. There is great promise for stem cells on Alzheimer's, perhaps in heart ailments to replace cells in the circulatory system and in the heart, and perhaps even on cancer. That is an issue which Senator LOTT, our distinguished majority leader, has promised listing on a free-standing bill.

Governor Thompson will also be a key player in implementing the distribution of organ transplants. We will, perhaps, call on him to implement a system which has been put into effect that he personally disagreed with as Governor of Wisconsin but now, as a national officeholder looking after the interests of 50 States, there is obviously going to be a different perspective.

In Wisconsin, there had been great success in encouraging people to donate organs so there was an abundance of organs. Perhaps those techniques can be implemented by the new Secretary of Health and Human Services to create a national response, to have more organs donated so we need not have the controversy we have on the distribution of organs. As the chairman, for the past two Congresses, of the subcommittee on Labor, Health, Human Services and Education, I have had the role of working on the legislation of organ transplants, which we finally have worked out. It is my hope we will retain the policy which we have in effect.

Mr. DOMENICI. Mr. President, I rise today in strong support of Governor Tommy G. Thompson, the nominee for Secretary of Health and Human Services.

I am extremely pleased with President Bush's choice to be the next Secretary of Health and Human Services because I believe Governor Thompson's extensive background will bring a fresh approach to an agency that has a history of underachievement.

Unfortunately, the Department of Health and Human Services, HHS, has far too often operated with a Washington knows best mentality, instead of taking into account what a state or local community might actually need.

As a former Governor, Secretary Thompson will bring an invaluable wealth of experience to HHS and more importantly the practical experience of having confronted and addressed the unique problems and needs that arise at the local level.

Governor Thompson has gained a reputation for his innovative approaches to implementing Welfare and Medicaid reform during his tenure as the Governor of Wisconsin. Moreover, during that time he dealt with the Health Care Financing Administration, HCFA, on a regular basis and I believe that experience will serve him well, as he also knows first hand the frustrations shared by many Members of Congress in dealing with HCFA.

While Governor, he completely overhauled Wisconsin's Welfare system and reduced welfare rolls by 93 percent and additionally, he attempted to provide individuals with the tools to succeed by increasing subsidies for child care, health insurance, and job training.

Governor Thompson also created Wisconsin's State Children's Health Insurance Program, SCHIP, "BadgerCare" and eighteen months ago the program became the first state in the nation to offer health coverage to the parents of eligible children.

I also believe that New Mexico stands to benefit from the leadership of Secretary Thompson. For instance, HCFA has previously denied several waiver requests by the New Mexico Department of Human Services to obtain greater flexibility regarding the use of unspent SCHIP funds, and I am hopeful Secretary Thompson will review any similar request submitted by New Mexico.

I am also looking forward to working with Secretary Thompson on the issue of Medicare reimbursement disparity between states like New Mexico and the remainder of the country. Just last year Congress took a first step to address the issue by passing the "Medicare Geographic Fair Payment Act of 2000." Specifically, the law raises the reimbursement rates for historically underpaid areas under the Medicare+Choice program.

In closing, I think we all begin the 107th Congress with unlimited opportunities to improve our nation's health through a prescription drug benefit for Medicare, Medicare reform, and a continued commitment to medical research.

I believe there is a lot of agreement on the need to emphasize these issues and I look forward to working with Secretary Thompson to address these important issues for not only New Mexico, but our country.

Mr. KENNEDY. Mr. President, few appointees in the Cabinet are more important than the Secretary of Health and Human Services. The agency's 63,000 dedicated employees serve America well. With its budget of $427 billion, if it were a country, HHS would have a GNP larger than all but 14 of the nations in the world.

But the vast importance of the Department cannot be measured by numbers of employees or dollars of spending. As the HHS motto itself states, "Hope is the anchor of life." The programs directed by the Secretary are an anchor of life for tens of millions of Americans. They bring hope to the hopeless and help to the helpless. They express the best ideals of our country.

It has been said that the measure of a society is how it treats the very old and the very young. The Secretary of the Department is responsible for stewardship of Medicare, which along with Social Security, states the promise of our society to our senior citizens that their golden years will be as healthy and secure as possible. Medicare is a compact between the American people and their government. It says work hard and contribute to your country during your working years—and you will have good medical care in your senior years.

For the very young, the Secretary has an equally profound responsibility. The Secretary is the leader of Head Start, one of the most effective government programs to help disadvantaged children join the mainstream of American life. It brings help and hope for millions of children who would otherwise have no chance at the American dream—but it still serves only half of all those who are eligible.

Whether the issue is health care for the disadvantaged or assistance for low-income families, HHS is the lead federal agency for some of the most serious challenges the nation faces. HHS safety net programs are the protection of last resort for millions of Americans, and other HHS programs are also vital to the well-being of affluent and average Americans alike.

Without the Food and Drug Administration, Americans could not go to the grocery store with any confidence that the food they buy is safe and healthy. No American could be confident that their prescription drugs are safe and effective, and no American needing a medical device could be sure that the device will do more good than harm.

Biomedical research supported by the National Institutes of Health is unequaled by any other country. NIH leads the world in the effort to conquer cancer, heart disease, mental illness and other dread diseases that threaten the life and happiness of American families.

We all know the important challenges that the new Congress, the new President, and the new Secretary of Health and Human Services will face this year. We need to enact prescription drug coverage under Medicare, to assure that the promise of health security in retirement will finally be fulfilled. We must expand health insurance, so that the right to health care can be a reality for every American, not just an expensive privilege for the few. We must pass a strong, enforceable Patients' Bill of Rights to end the abuses of managed care and give every patient the confidence that their health insurance will be there when they need it.

We should expand quality day care, child care, and Head Start, so that we mean what we say when we state that no child shall be left behind. We must maintain our commitment to biomedical research at the NIH, to reap the benefits of the century of the life sciences that has just begun, and increase our commitment to research on health care quality and the delivery and utilization of health services.

I hope we can move forward together in a spirit of bipartisanship to address each of these great challenges. But it is also important that we do not move backward by advancing partisan and divisive proposals that would undermine the accomplishments of the past.

We must not undermine the federal commitment to guaranteed health care for poor children, poor parents, senior citizens, and the disabled. A new effort to enact a Medicaid block grant would be counterproductive. And so would an attempt to repeal the Medicaid commitment by stealth, through the use of the waiver process in a way that undermines the Medicaid entitlement, rather than providing services in new and better ways.

Congress approved the CHIP program for children's health by an overwhelming bipartisan majority, because it struck the right balance between state flexibility and achievement of national goals. Steps to provide additional flexibility should be carefully considered—and should not be undertaken without congressional review. I know that Governor Thompson is interested in expanding coverage to parents of the children covered by Medicaid and CHIP. I hope that he will support our bipartisan efforts to provide new funds and clear authority to support states that want to accomplish this important objective, rather than using the waiver process and limited Title XXI funds to cover parents at the expanse of children.

We must be more sensitive to ethical concerns in federally financed medical research—but we must also not roll back existing research commitments because of ideology—and certainly not without congressional action to guarantee that the commitment to such change is bipartisan.

We must maintain our commitment to comprehensive family planning services—and not return to the old days of "gag rules" and harassment of family planning clinics.

We must not politicize the scientific judgements of the Food and Drug Administration.

We must do more—much more—to reduce youth smoking, and protect as many children as possible from the dangers of tobacco.

We should improve Medicare, in addition to prescription drug coverage, by adding measures to assure the highest quality care to senior citizens and the disabled. We must place a new emphasis in Medicare on keeping beneficiaries healthy rather than simply caring for them after they become ill. We can expedite Medicare's coverage of beneficial new products and procedures, and provide more adequate financial support for the nation's great teaching hospitals, its community hospitals, its nursing homes, and its home health agencies. But reform should not be an excuse to undermine Medicare's commitment, to impose additional financial burdens on the elderly, or to force senior citizens to give up conventional Medicare and join HMOs. And the failure to reach rapid consensus on Medicare reforms should not be an excuse for failure to act promptly on the most important reform of all—Medicare coverage of prescription drugs.

Finally, responsible leadership at HHS requires support for new measures and new ideas to meet the challenges facing our country. To stand still is to fall behind in all these ongoing battles of our time.

Governor Thompson comes to us with a genuinely outstanding record of accomplishment in Wisconsin. He recognizes that access to good health insurance, child care, job training and transportation services are critically important if families are to successfully leave welfare for work. Wisconsin's Badger Care health insurance program is a path-breaking model for the nation. Governor Thompson was an early and active supporter of the Jeffords-Kennedy work incentives legislation to help persons with disabilities work without fear of losing their health insurance, and he has created a long-term care initiative that would give families the freedom to choose the best forum for their long-term care needs—whether in the home or in the community.

Governor Thompson is a hard worker, and a man of strong convictions. But he is also pragmatic and willing to work with others who have different views in order to achieve a common goal.

Though the Senate is voting today, members of the Health, Education, Labor, and Pensions Committee are submitting written questions to Governor Thompson on issues that were unable to be fully explored at last Friday's hearing.

I intend to vote for Governor Thompson's confirmation, and I look forward to working with him in the years ahead to improve and protect the nation's health and welfare.

Mr. SANTORUM. Mr. President, I rise today to support the nomination of Gov. Tommy Thompson to be Secretary of Health and Human Services, and also to speak to a vital public health issue on which I know many of my colleagues are looking forward to working with him: namely, the implementation and enforcement of policies to improve our nation's organ procurement and allocation system.

I hold Governor Thompson in very high regard for his expertise in health care policy and for his long and distinguished record on innovations in health care delivery in the state of Wisconsin, and I am optimistic that in his new role as guardian of public health laws and regulations for the country we can work together toward ensuring that national interests triumph over parochial ones.

As my colleagues well know, over the past several years Congress has been unable to reach consensus on reauthorizing the National Organ Transplant Act, NOTA, though I look forward to working with Governor Thompson this Congress to reauthorize this important public law, and especially to develop a clear mandate and strategies for increasing organ donation. But in the absence of NOTA reauthorization, the country has benefitted immensely from the credible scholarship of the Institute of Medicine's 1999 study which underscored not only the need for reforming organ procurement and allocation, but also the proper role that the federal government should play in overseeing and enforcing such reforms.

I cannot fathom that the American public would countenance that a life-and-death issue such as organ allocation would be based on principles of geographic happenstance, instead of medical necessity. But it is just this outdated paradigm that has largely contributed to the fact that about 4,000 Americans die each year—at least 11 per day—while awaiting organ transplants. Of those, it is estimated that 1,000 Americans—more than 3 each day—might have been saved if the system operated more fairly.

In light of harrowing statistics such as these, following the release of the IOM study and in the absence of NOTA reauthorization, the Department of Health and Human Services last year put forth a Final Rule which enjoyed bipartisan support here in Congress and which engendered the primary recommendation of the IOM study: to establish goals for the Organ Procurement and Transplantation Network, OPTN, to make changes that would assure equity with regard to patient access to organs.

On March 16, 2000 the Final Rule governing the OPTN took effect, establishing that the medical and allocation policies of the OPTN remain the responsibility of transplant professionals, in cooperation with transplant centers, patients and donor families represented on the OPTN board. The Final Rule also rightly provides—as NOTA intended and the IOM study recommended—for the public accountability that is necessary for a national program on which so many lives depend.

Toward the goal of public accountability, the Final Rule requires the Nation's OPTN contractor to submit to the Secretary new policies governing liver allocation to needy patients, in order to achieve the following performance goals: utilize standardized, objective criteria to determine medical urgency; give highest priority to the most medically urgent candidates, based upon such new criteria; and distribute organs over as broad a geographic area as is feasible.

I am pleased that the current contractor has submitted a proposal to the Department that meets many of the criteria stipulated in the Final Rule and the recently renewed OPTN contract. The contractor's proposal would create a more precise scale for determining how sick waiting patients are, thereby allowing the network to direct more livers to the sickest patients. However, the proposal would do nothing to break down the geographic barriers that dictate organ distribution, which was one of the pivotal tenets of both the Final Rule and the new OPTN contract.

Mr. President, I share the belief of many of my colleagues that Governor Thompson is eminently qualified to meet the many and varied policy challenges that will be incumbent on the next Health and Human Services Secretary, ranging from sustaining and expanding the successes to date of welfare reform, to assessing options on how best to put Medicare on sound financial and actuarial footing for the long-term. I have confidence that Governor Thompson will approach the duties of his office with probity and rectitude. I am hopeful that the Governor will work with Congress to reauthorize NOTA and to support and ensure compliance with the regulations put forth last year relating to the operation of the organ procurement and transplantation network in the United States.

Mr. GRASSLEY. Mr. President, if it is necessary for me to yield back time, I will, but I did not want to yield back time until I knew exactly where we were with other people who had time.

Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Will the Senate advise and consent to the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 4 Ex.]

YEAS—100

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The nomination was confirmed.

NOMINATION OF NORMAN Y. MINETA TO BE SECRETARY OF TRANSPORTATION

Mr. BYRD. Mr. President, I strongly support the nomination of Norman Mineta to be the next Secretary of Transportation. Throughout his very lengthy career in public service, Norman Mineta has demonstrated a true commitment to improving the quality of life for all Americans and a strong understanding of the elemental role that transportation plays in our national prosperity.

Mr. Mineta began his public career in 1967 as the Mayor of the San Jose City Council in California. In 1971, he was elected Mayor of San Jose. Most of us know Mr. Mineta, however, from his very distinguished career in the House of Representatives, where he served for 21 years representing the Silicon Valley area. At the culmination of his career in the House, Mr. Mineta served as the Chairman of the Committee on Public Works and Transportation—the committee we now know as the Committee on Transportation and Infrastructure.

Once we succeed in confirming Norman Mineta today, we will usher in a Secretary with a very extensive grounding in both politics and transportation policy. Many of Mr. Mineta's most significant legislative accomplishments in the House were in the area of transportation. During the drafting of the Intermodal Surface Transportation Efficiency Act of 1991, Mr. Mineta served as Chairman of the Public Works Subcommittee on Ground Transportation. He has also been very involved in aviation policy, both during and after his career in Congress. President Clinton asked him to chair the National Civil Aviation Review Commission. This "Mineta Commission" made several significant recommendations for revamping the Federal Aviation Administration. At the request of Secretary of Transportation Rodney Slater, Mr. Mineta also chaired an ad hoc advisory committee on truck safety.

Much has been accomplished in these two areas, but so much more remains to be done. Aviation delays have reached an all-time high. Secretary Mineta was quite frank with the members of the Commerce, Science, and Transportation Committee during his confirmation hearing in telling them that they should not expect to see these delays diminish any time soon. Many of us have read some frightening revelations regarding the inadequate enforcement efforts made by the Federal Motor Carrier Safety Administration in maintaining truck safety. These are two areas where Secretary Mineta has committed himself to moving out quickly to implement a comprehensive series of improvements, and I support him in these efforts.

When President-elect Bush announced his selection of Norman Mineta to be his Transportation Secretary, then-Commerce Secretary Mineta stated "Inadequate infrastructure is one of the chief threats to a thriving economy." This is a point that I have sought to make on the floor of the United States Senate numerous times, and Members can expect me to continue to make this case time and time again. I am glad that I will have an ally in Secretary Mineta in convincing my colleagues that we need to reverse the overall disinvestment in our nation's infrastructure that we have experienced over the last two decades. We have begun to make some progress by honoring the funding guarantees that I and other Senators included in the Transportation Equity Act for the 21st Century. However, much more needs to be done, and I look forward to working with Norman Mineta to see to it that we take a more aggressive approach in investing in America.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Norman Y. Mineta of California to be Secretary of Transportation? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 5 Ex.]

YEAS—100

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson

Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. CORZINE). Under the previous order, the Senate will now return to legislative session.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I want to say a few words about our former colleague, Senator Alan Cranston. I ask unanimous consent that following my statement, Senator DORGAN be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO FORMER SENATOR ALAN CRANSTON

Mr. BINGAMAN. Mr. President, Alan Cranston was here in the Senate when I first arrived in 1983. He was a staunch advocate not only for California but also for a host of progressive policies at the national level. He was dedicated to protecting the environment, to expanding voter opportunities for all Americans, to closing the gap in our society between the rich and the poor. He was a champion of equal rights for all. He was a foe of bigotry in all its forms.

Perhaps his greatest passion during the years he served in the Senate was reducing the threat of nuclear war. He led the fight for arms control. Even after he left the Senate, he continued his work and spoke out for arms control and for the de-alerting of nuclear weapons.

I remember meeting with Alan last year at Ricky's Hyatt House in Mountainview, CA. I was in the Bay area, and I called ahead to see if he was available for breakfast. He said it was near his home and that he would meet me there.

He was a little less vigorous during that breakfast than he had been in earlier visits, but his commitment to arms reduction was undiminished. I remember thinking at the time how impressive it was to see someone who felt strongly enough about his views to find a way to continue advocacy of those views after leaving public office. It was clear that although he had left public office, he had not left public service.

Alan Cranston lived a remarkable life, and we are all fortunate that he devoted so much of that life to public service. I, for one, will miss Alan's wise counsel and his passionate commitment to making the world a better place.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I rise today to talk about a subject that brings me great sorrow—the passing of my old friend and colleague, former California Senator Alan Cranston.

Senator Cranston passed away suddenly last New Year's Eve, at the age of 86. His sudden death came as a shock to all of us who remember him for his abundant energy and enthusiasm.

Alan was elected to this body for the first of four terms in 1968. He was already a legend in the Senate when I arrived here for the first time almost eighteen years after him, and I consider myself very fortunate to have had the opportunity to serve alongside him. I will always remember him fondly, both for the kind of person he was, and the kind of Senator he was.

Alan was elected Democratic whip an unprecedented seven straight times, and served in that role in both the majority and minority. Having now served as my party's whip for two years, I can say that nobody who holds that office can possibly ignore the long shadow that he still casts over it.

Recently, the Senate approved an historic power-sharing agreement under which both parties would have an equal number of seats in each committee. It remains to be seen how this arrangement will work in practice, and whether the split will create more cooperation, or more gridlock.

But I think that if we in the Senate are to make it work, we would do well to follow the model set by Senator Cranston. Those of my colleagues who did not know him personally, would do well to study the lessons of his life and his career.

The press called him "Colorless Cranston," a nickname he wore with pride, because it reflected his fundamental belief that legislative accomplishment was far more important than crafting sound bites or scoring political points. When you needed to find Alan, you didn't look in the press gallery or the recording studio—you looked for him in the cloakroom, where he was always busy negotiating a compromise or finding ways to move legislation over obstacles.

Although he was known as one of the last true liberals, he never let his ideology get in the way of getting things done. He regularly reached out across the aisle and his close friends included some of his most vigorous and outspoken political opponents. He was a workhorse who lived by the maxim that a leader can accomplish great things if he doesn't mind who gets the credit.

Some of his greatest accomplishments found him in alliances that left outsiders scratching their heads—for example, teaming with STROM THURMOND to improve veterans' programs, with Alfonse D'Amato on public housing measures, with Barry Goldwater to protect first amendment press freedoms. Outsiders wondered whether he had sold out his old liberal beliefs, but the truth was that he was just finding ways to get things done with as little fuss as possible.

During his 24 years in the Senate, no legislation that touched on his passions—veterans' benefits, disarmament, environmental protection, human rights, or civil rights—passed this body without his fingerprints on it, although more often than not, only those closest to him realized the extent of his contribution.

During his long and colorful career, he crossed paths with some of the most famous men in history and was present many times while history was being made. He was a track star at Stanford and member of a record-setting relay sprint team. As a young journalist, he reported on the rise of Nazism in Germany, and was sued by Adolph Hitler for publishing an unsanitized version of "Mein Kampf" and revealing Hitler's true ambitions to the world. His lifelong commitment to halting the use of nuclear weapons began after he was introduced to Albert Einstein in 1946. After retiring from the Senate, he established a think tank with Mikhail Gorbachev to promote world peace, where he worked until his death. He counted Groucho Marx among his supporters.

Yet despite these brushes with fame and the long list of bills that bear his name, he will always be best remembered in this body for the things that newspapers don't report—for his grace, his humility, his leadership, and his devotion to his son Kim and his granddaughter. He will be missed.

Mr. SARBANES. Mr. President, I rise today to join my colleagues in honoring our friend and former colleague, Senator Alan Cranston, who died on December 31, 2000 at the age of 86 in his native California.

While Alan Cranston was elected to the United States Senate in 1968, his public service began years before when he served in the Executive Offices of the President in 1942 as Chief of the Foreign Language Division of the Office of War Information. Declining a deferment, he enlisted as a private in the United States Army in 1944. First assigned to an infantry unit, he became editor of "Army Talk" and was a Sergeant by V-J Day. He went on to serve two terms as State Controller of California before being elected to the United States Senate.

Alan Cranston served the people of California with distinction in the U.S. Senate for 24 years. He chaired the Committee on Veterans' Affairs, providing invaluable assistance to our Nation's servicemen and women. He was in the forefront in the U.S. Senate on numerous issues of national importance, including mass transit, civil rights, the environment, women's rights, housing and education.

I was privileged to serve with Senator Cranston on the Foreign Relations Committee where he played an important role during Senate consideration of the SALT II and START treaties, helped pave the way for ratification of the Panama Canal Treaty, and was active in efforts to promote peace in the Middle East. Senator Cranston was a tireless advocate for world peace and the defense of democratic institutions.

Throughout his Senate service, Alan Cranston worked diligently to promote the reduction and, ultimately, the elimination of nuclear weapons. After retiring in 1993, he continued his extraordinary commitment and devotion to these critical efforts. He chaired the State of the World Forum, a widely respected organization for the discussion of global problems based in San Francisco. He was also founder and President of the Global Security Institute, concentrating on a world-wide effort to reduce, marginalize and eliminate nuclear weapons.

Mr. President, Alan Cranston was a leader in the U.S. Senate, a well-respected member of this body. He had a unique ability to achieve consensus under difficult circumstances and his wise counsel will be missed by every member with whom he served. I would like to take this opportunity to pay tribute to him and to extend my deepest sympathies to his family.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, Alan Cranston was a Senator in this Chamber for some long while. In fact, in recent months he visited this Chamber, and I had an opportunity to say a few words to him. He was someone who left a significant mark, especially in the area of fighting for a policy in this country that would put this country in a leadership position to reduce the threat of nuclear war.

Mr. Cranston worked diligently on that issue here in Congress, but after he left his service in the Senate, he especially was interested, and active all around this country, in trying to mobilize the energy and interest for this country to lead in a range of areas dealing with stopping the spread of nuclear weapons. I recall, perhaps 6 months ago, driving down a rural highway in North Dakota and receiving a call on my cell phone. The call was from former Senator Alan Cranston, and he was calling from California. What he was calling about was what he always talked about in recent years. He was trying to find ways to continue our country's obligation to reduce the threat of nuclear weapons and the threat of nuclear war.

He felt passionately about the comprehensive nuclear test ban treaty and was disappointed when the treaty was voted down in the Senate last year or a year and a half ago. But he never stopped working. He always believed that our country, as strong and as big as it is, had a leadership responsibility in the world to mobilize its energy and commitment to find ways to stop the spread of nuclear weapons.

So today we pay honor to his memory. We should be thankful that there was an Alan Cranston involved in public service. I say to his family that our sympathies go to them. We will all miss his commitment in dealing with this issue of nuclear arms reduction.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 165 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. DORGAN and Mr. BAUCUS pertaining to the introduction of S. 171 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is conducting morning business.

WELCOMING SENATOR CLINTON

Mr. LEAHY. Madam President, before I begin on the topic I wish to discuss, I welcome my neighbor and friend from across Lake Champlain, which many of us consider a great and beautiful lake. I am delighted to have the Senator from New York to be serving here in the Senate.

THE MEXICO CITY POLICY

Mr. LEAHY. Madam President, I listened attentively to President Bush on Saturday when he called on all Americans to unite in a spirit of civility and common purpose. Those are sentiments we all share. I, for one, intend to make every effort, guided by conscience and my constituents, to work with the new administration for the good of the country.

I was also impressed by some of the things he said yesterday to his staff about treating every person with decency and respect and never taking the White House for granted. Those are important messages, and I commend the President for setting a tone of civility.

I also take the President at his word when he speaks of "working together to unite the country." I assume he means that on issues that have long divided us, he and his administration will make a sincere effort to bring people together.

But that doesn't happen simply by making a speech. Actions speak louder than words. On his first day in office, President Bush, by executive order, with no prior consultation with Congress, reinstated the controversial Mexico City policy on international family planning. The President explained his decision with these words:

> It is my conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion, either here or abroad. It is therefore my belief that the Mexico City policy should be restored.

Madam President, if current law did, in fact, permit taxpayer funds to be used to pay for or promote abortions overseas, then the President might have a point. But our law does not allow that. Our law explicitly prohibits any U.S. funds from being used for abortion or to promote abortion.

That is the settled law of the United States. It was passed by the Congress and signed into law by President Clinton. It is something we have all supported. In fact, it has been the law for as long as I can remember, even during past administrations. It is already against the law to use taxpayer funds for purposes related to abortion. Somebody should have told that to the new President.

In fact, the Mexico City policy, which he has reinstated, goes much, much further. Many have called it a "global gag rule." It prohibits taxpayer funds from being used to support private family planning organizations like the International Planned Parenthood Federation. These organizations use a small portion of their own private funds—not taxpayer funds, but private funds—to provide advice, counseling, and information about abortions, and to advocate for safe abortion practices in countries where tens of thousands of women suffer injuries or die from complications from unsafe abortions.

If we tried to impose the Mexico City policy on any family planning organization within our borders, it would clearly violate the First Amendment. It would be illegal. But we impose it on those same organizations when they work overseas beyond the reach of our Constitution.

Proponents of the Mexico City policy maintain that it will reduce the number of abortions. The reality is the opposite. The distinguished Presiding Officer knows this very well. The International Planned Parenthood Federation, which is now going to be cut off from U.S. Government support, has used every tax dollar it received in the past to provide voluntary family planning services, like contraceptives, to couples who lack them. By providing for the first time modern birth control methods to people in countries where abortion was the primary method of birth control, the number of abortions goes down.

Now, taxpayer funds to the International Planned Parenthood Federation, which is comprised of dozens of family planning organizations around the world, are cut off.

I remember the distinguished senior Senator from Oregon, former Senator Mark Hatfield, a dear friend of mine, one of the most revered Members of this body, who became chairman of the Senate Appropriations Committee. Senator Hatfield was fervently pro-life, opposed to abortion, very strong in his beliefs. I remember a debate on the Mexico City policy when he stood here—and he probably said it best. I will quote what he said:

> It is a proven fact that when contraceptive services are not available to women throughout the world, abortion rates increase. The Mexico City policy is unacceptable to me as someone who is strongly opposed to abortion.

President Bush's decision was not unexpected, based on what he said during the campaign. But I am disappointed because one would have hoped that after pledging to change the way we do business in Washington, after years of successive Congresses and administrations tying themselves in knots over this issue, his advisers would have taken the time to consult with the Congress about how to avoid the quagmire the Mexico City policy has produced in the past.

Now, had they done that, would an agreement have been possible? Who knows? There are strong passions on both sides of this issue, but they should at least have asked whether maybe, before unilaterally turning back the clock, there is a way to find common ground.

President Bush has made much of his abilities as a consensus builder. Frankly, I think had he bothered to ask, he would have found a willingness to compromise, because contrary to the President's statement and contrary to a lot of the press reports, this issue is about far more than abortion.

It is about protecting the health of women in desperately poor countries where more than half a million women die each year from complications relating to pregnancy, and where women have little control over their own bodies or their lives. We have the opportunity, at very little expense, to help. Instead—not to save money but to make a political point—we cut off that help.

The Mexico City policy has been the subject of more political posturing, more press releases, more fund raising letters, more debates, more votes, and more Presidential vetoes, than virtually any other issue I can think of.

I remember when President Clinton did the right thing by repealing the Mexico City policy 8 years ago. When he did that, a Republican Congress responded by sharply cutting funding for voluntary family planning—not funding for abortions but for voluntary family planning. The predictable, tragic result of that misguided, politically motivated act was an increase in the number of abortions and of deaths of women from botched abortions.

Again, the evidence is indisputable that when family planning services are available, the number of abortions goes down. But apparently that didn't matter. Mexico City proponents cared more about scoring political points than preventing abortions or saving women's lives.

President Bush has made a decision. He has a right to do that. But I believe it was the wrong decision—wrong because the Mexico City policy is not about taxpayer dollars, wrong because he ignored the bipartisan majority in the Senate that opposes the Mexico City policy, wrong because it will likely result in more abortions, not less, in poor countries where abortions are often unsafe.

The irony is that if we had a vote a majority of Senators—Republicans and Democrats—would vote the other way.

I do appreciate that the administration has said it will provide the full $445 million the Congress appropriated for family planning this year. That is critically important, and we should discuss how to significantly increase that amount in future years. But by reinstating the Mexico City policy, by cutting off support for some of the most effective organizations involved in family planning and women's health, the President has set us on a collision course. We can now expect extended debates that we have all heard countless times before, votes to repeal the policy, vetoes of appropriations bill, and on and on.

I hope this is not what the President meant when he spoke of working together. We can do better. We have to do better if we are going to avoid the pitfalls that divided us in the past on this issue.

Madam President, we have moved foreign aid bills through this body in record time in the last few years. Senator McCONNELL of Kentucky and I have been the floor leaders year after year. But it used to take many days, and one of the reasons was that we got bogged down in debates on the Mexico City policy.

The President could have waited until February 15 to make his decision. There was time to consult with Republicans and Democrats. He could have said: Look, I know this issue is divisive. Let us work together, come back and sit down again in a few days and work through this—because one thing we can all agree on is that with the abysmal state of women's health in so many parts of the world, we can make it better. That should not be a Republican or a Democrat or pro-choice or right-to-life issue. That is a human issue, a moral issue. This would be a good year to forget the political point making, and solve this.

I have traveled to many parts of the world. My wife is a registered nurse. She has traveled with me. We have seen how bad the situation is. We have seen how a little help can move women in many parts of the world generations ahead of where they are today.

The distinguished occupant of the chair has visited some of those same places, and many more. I know I preach to the converted.

We have enough other ways to make political points, on either side.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Madam President, we do have an essential agreement here that will allow us to move through three more nominations. I would like to go through this and then also give the Senators some further idea as to how we might proceed beyond this next week.

As in executive session, I ask unanimous consent that at 2 p.m. on Monday, the Senate proceed to the nomination of Gale Norton to be Secretary of Interior and that it be considered under the following agreement: 3 hours to be equally divided between the chairman and ranking member of the Energy Committee, 60 minutes equally divided between the two leaders or their designees, and following the use or yielding back of the time, the nomination be laid aside.

I further ask unanimous consent that at 10 a.m. on Tuesday, the Environment and Public Works Committee be discharged from further consideration of Gov. Christine Whitman to be Administrator of the Environmental Protection Agency, and the Senate proceed to its immediate consideration; that there be 30 minutes for debate to be divided as follows: 10 minutes under the control of Senator CORZINE, 10 minutes under the control of Senator TORRICELLI, 10 minutes equally divided between the chairman and ranking member of the Environment Committee.

I further ask unanimous consent that following that debate, at 10:30 a.m. on Tuesday, the nomination be temporarily laid aside and the Senate resume consideration of the Norton nomination under the following agreement: 10 minutes under the control of Senator FEINGOLD, 15 minutes under the control of Senator DURBIN, 15 minutes under the control of Senator WELLSTONE, 10 minutes under the control of Senator STABENOW, with 30 additional minutes for closing remarks under the control of Senator BOXER and the final 30 minutes under the control of Senator MURKOWSKI.

Further, I ask unanimous consent that at 2:15 on Tuesday the Senate proceed to the consideration of Elaine Chao to be Secretary of Labor, and that there be 15 minutes for debate equally divided between the chairman and ranking member of the Health, Education, Labor, and Pensions Committee, and 15 minutes under the control of Senator WELLSTONE, to be followed by a vote on the confirmation of the Secretary of Labor, to be followed by a vote on the confirmation of Gale Norton to be Secretary of Interior, and that be followed by a vote on the confirmation of Governor Whitman to be the head of EPA.

I further ask unanimous consent that following the three back-to-back votes, the President be immediately notified of the Senate's action and the Senate resume legislative session.

Finally, I ask unanimous consent that either leader may vitiate the agreement with respect to the Chao agreement prior to the vote and that in no case shall it proceed if the Senate has not yet received the nomination and the accompanying papers.

Mr. REID. Madam President, reserving the right to object, as I understand what just transpired and will have transpired by next Tuesday early in the afternoon, is that all of the President's nominees for his Cabinet will have been approved with only one selection still to be debated. It is our intention, I say to the leader, to move this to a final vote without undue delay. I hope we can do that expeditiously.

Mr. LOTT. I appreciate the comments of the Senator from Nevada. I also note with regard to the last paragraph, we do not anticipate there will be a need to vitiate the agreement with regard to the Chao agreement. It is just that we have not received all of the papers yet. We do not expect there to be any problem, but because we do not have it all, it was necessary to put this in.

Also—and I appreciate Senator REID's comments—it is our anticipation to proceed, after these three stacked votes Tuesday afternoon, on the debate with regard to the Attorney General nomination, and it is at least my hope, and I believe everybody's hope, that we will be able to complete action on that nomination next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. In light of this agreement then, the next votes will occur back to back at 2:45 p.m. on Tuesday next.

MORNING BUSINESS

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now be in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS

Mr. KOHL. Mr. President, I rise today to comment on several of the nominations on which we have voted in the last few days.

I am pleased the Senate is acting responsibly and quickly to put the President's cabinet in place. While I am sure I will not always agree with everything proposed by the nominees we have confirmed, I stand ready to work with them toward our common goal of the United State's best interest.

I especially want to welcome Governor Tommy Thompson, of my State of Wisconsin, to his new position as Secretary of Health and Human Services. I had the honor of presenting the Governor at his hearings before the Senate Finance and Health, Education, Labor, and Pensions Committees. As I said there, the Administration is truly fortunate to have a man of his energy, creativity, and intelligence in this extremely important position.

I also want to comment on some of the other nominations on which the Senate has already acted.

I am pleased to lend my support to the nomination of General Colin L. Powell to be Secretary of State. There are many foreign policy challenges facing the next Administration including the proliferation of weapons of mass destruction, our peacekeeping commitments abroad, instability in the Middle East and in other hot spots, and the continued evolution of our relationships with Russia and China. I am confident that General Powell brings a wealth of experience, a formidable intellect, and a level head to the challenges ahead. I look forward to working with Secretary Powell in forging a truly bipartisan foreign policy.

I am also pleased with President Bush's decision to appoint Donald Rumsfeld as Secretary of Defense. He is an experienced voice on defense issues, and one that the Congress has come to rely on for outside analysis. He recently addressed the threat of ballistic missiles in a special report to Congress that now shapes much of the debate on ballistic missile defense. His years of public service and expertise will give him the credibility inside the Pentagon to make the tough choices that face the new administration, and they will face many. I feel confident that Secretary Rumsfeld is qualified to help the President shape our armed forces to meet the evolving threats of the new century.

And finally, I support the nomination of Rodney Paige to be the Secretary of Education. Dr. Paige has received overwhelming praise since his nomination was announced, and in my opinion, there is good reason for that. He understands the need to change the system when the old programs aren't working like they should. He is willing to work with all sides—from teachers to parents to principals to school board members. And he brings with him to Washington an important lesson from his time in Houston: If you set high standards for students and teachers, and require them to meet them, they will strive to succeed.

Mr. President, there are many worthy nominees who deserve comment and support, but I will reserve further remarks until we engage later in the year in what I hope will be bipartisan legislating.

NOMINATION OF ANTHONY PRINCIPI

Mr. DODD. Mr. President, yesterday the Senate unanimously approved the nomination of Anthony Principi to be President Bush's Secretary of Veterans Affairs. In my judgment, Secretary Principi is supremely qualified to take on the challenges that will face the next Secretary of Veterans Affairs, and I fully supported his confirmation.

Secretary Principi will bring a wealth of experience in a broad-range of capacities pertaining to veterans and veterans health to his work at the VA. A graduate of the United States Naval Academy and decorated veteran of the Vietnam War, Secretary Principi is personally aware of our veterans needs and concerns. He was appointed deputy secretary of Veterans Affairs by President George Bush in 1989 and served as Acting Secretary during 1992—providing him with a working knowledge of the VA's structure and an understanding of how to make the system work for our veterans. Most recently, Secretary Principi served as president of a California-based health care contractor. Through a blend of public and private service, Secretary Principi has assembled an impressive track record and compiled the type of practical experience that will serve him well at the VA.

I was pleased to hear during Secretary Principi's nomination hearing that he plans to focus on veterans benefits, among other concerns. I agree strongly with this priority. Through dedicated service and sacrifice, generations of veterans and their families have answered the call to serve this nation in her darkest hours and most shining moments alike. They have kept the solemn covenant established by honored patriots past and have earned the gratitude of a grateful nation.

With 139 facilities serving 3.5 million veterans and survivors, however, the task at hand is a daunting one. While broadly speaking, the VA provides high-quality health-care and services to our veteran community, ensuring that such a standard is maintained requires constant attention and a firm guiding hand. I am confident that Secretary Principi has the leadership and managerial skill, and perhaps more importantly, the compassion, to serve well our veterans and their families, as they have served our country.

I commend President Bush for putting forth such a quality and qualified nominee. Secretary Principi will be a credit to this Administration. I am pleased that the Senate has moved emphatically to confirm him as Secretary of Veterans Affairs. I look forward to working closely with him on issues of mutual concern, and I wish him well.

Mr. CONRAD. Mr. President, I am very pleased to support the nomination of Anthony Principi to serve as Secretary of Veterans Affairs. Mr. Principi is a graduate of the U.S. Naval Academy, and a combat-decorated veteran who commanded a River Patrol Unit in the Mekong Delta during the Vietnam War.

Since completing his service in the U.S. Navy, Mr. Principi has had a distinguished career in public service serving as staff director of the Senate Committee on Armed Services and Deputy Secretary of Veterans Affairs for several years until he was appointed Acting Secretary of Veterans Affairs by President Bush in 1992. Now, as Secretary of Veterans Affairs, Anthony Principi will have responsibility for a $48 billion budget in the Federal Government's second largest department, coordinating a nationwide system of health care services and benefits to serve America's more than 25 million veterans.

As we begin the 107th Congress, there are few challenges we face more important than ensuring that America's veterans receive the health care and benefits that they so justly deserve. The challenges include providing adequate funding for veterans health care services, ensuring access to VA health care for homeless veterans and veterans living in rural areas, providing timely access to specialized medical care, and responding to the many concerns of Persian Gulf Veterans as well as veterans with service in the Balkans. Secretary Principi, as a combat veteran in Vietnam, is well aware of these challenges. He has been a strong advocate on behalf of veterans during his service in the Senate and as Acting Secretary of Veterans Affairs.

As ranking member of the Senate Budget Committee, I look forward to working with Secretary Principi to ensure that the FY 2002 budget for veterans health care services and benefits are sufficient to meet the growing needs of our veterans population, particularly our aging veterans. We must also make certain that the Department of Veterans Affairs is equipped to meet the many new challenges that are emerging as a result of the activities of our military personnel in peacekeeping operations and more non-traditional assignments around the world. I congratulate Secretary Principi on his appointment and commend him for his commitment to serve our Nation's veterans. No individual has a more solemn responsibility than the Secretary of Veterans Affairs.

RETIREMENT OF MAJOR GENERAL DRENNAN A. CLARK

Mr. REID. Mr. President, I rise today to honor an outstanding individual, patriot and friend, Major General Drennan A. "Tony" Clark from my home state of Nevada. Major General Clark is retiring from the Nevada National Guard after more than 40 years of loyal and dedicated service.

Major General Clark first joined the Nevada National Guard as a young photo lab technician in 1960, and eventually rose to Adjutant General, the highest position in the Nevada Guard—a position he held for 14 years, a remarkably long time. It speaks volumes of the respect that General Clark commands in Nevada that he was re-appointed to that position four times, by Governors from both parties.

During his 14 years as Adjutant General, Tony Clark led the Guard through many upheavals, ranging from floods, to earthquakes, to civic emergencies, to the war on drugs. Units of the Nevada Guard fought in the Persian Gulf War. Hundreds of Nevadans owe their lives to the timely assistance of the Guard in all manner of emergencies.

The face of Nevada has changed dramatically since General Clark first assumed command—the state's population has nearly tripled in the last decade alone, small towns have exploded into cities, and Las Vegas has become an attraction to the world—and the Guard's military role has also shifted, from reconnaissance, to airlift, to Medevec, to tank-busting—but through it all, Tony Clark kept the Guard constantly vigilant, ready and able to answer any call. General Clark has led the Guard so capably and for so long that it will be hard to imagine the Nevada Guard without him in command.

General Clark grew up in Reno, Nevada and graduated from Bishop Manogue High School in 1955. He studied political science at the University of San Francisco, joined the Nevada Air National Guard shortly after graduation, and served in the Guard while attending law school.

After receiving his law degree in 1964, he began a budding career as a lawyer. But fate had something different in mind, and in 1968, young Second Lieutenant Clark was called to active duty during the Pueblo Crisis and served as the Commander of the 6314th Supply Squadron at Suwon Air Base and Oson Air Base, Korea.

He was released from active duty in 1969, and returned to Nevada and his career as a rising young lawyer. But a few years later, he sacrificed what in all probability would have been a distinguished and lucrative career in the legal profession to accept assignment as the Nevada Guard's Staff Judge Advocate, where he handled the Guard's legal matters, and a few years later was appointed the State Judge Advocate. After only a year as the State Judge Advocate, Tony Clark was appointed Assistant Adjutant General in 1984, and then became the acting Adjutant General in 1986. In 1987, he was formally appointed Adjutant General and held that position until his retirement last week.

During his tenure as the Adjutant General for the state of Nevada, General Clark was responsible for enhancing the National Guard nationally and within the state. General Clark was appointed by the Secretary of the Air Force to the Air Reserve Forces policy committee. Additionally, he served on the Reserve Forces Policy Board, as chairman of the Advisory Board to Air National Guard Professional Military Educational Center, and chairman of the National Guard Bureau Executive Environmental Quality Board. In each of these critical and prestigious assignments, General Clark played a key role in enriching and highlighting the National Guard.

General Clark's military awards and decorations include the Distinguished Service Medal, Legion of Merit, Meritorious Service Medal with one bronze oak leaf cluster, Air Force Commendation Medal with two bronze oak leaf clusters, Army Commendation Medal, Air Force Achievement Medal, Army Achievement Medal, Air Force Outstanding Unit Award with one silver oak leaf cluster, Air Force Organizational Excellence Award with four bronze oak leaf clusters, Air Reserve Meritorious Service Medal, National Defense Service Medal with one bronze star, Armed Forces Expeditionary Medal, Humanitarian Service Medal, Military Outstanding Volunteer Service Medal, Air Force Overseas Ribbon, Air Force Longevity Service Award Ribbon with one silver and three bronze oak leaf clusters, Armed Forces Reserve Medal with one silver hourglass device, Small Arms Expert Marksmanship Ribbon with one bronze star, and many others.

Yet in spite of his long list of accomplishments and the many hours he spent working to improve the Guard and ensure the safety of Nevada, Tony Clark never lost sight of the things that are truly important in life—his wife Andrea, his six children, and his many friends.

Many years ago, General Clark sacrificed a lucrative career as a lawyer to serve the people of his state and his country, and we are all better for his choice. And although he retired from the Guard last week and could have done many things with his career, Tony Clark chose to remain in public service, as Nevada's Solicitor General, where he will continue to serve the people of Nevada.

Mr. President, on behalf of myself and all of Nevada, I want to thank Tony Clark for his long years of sacrifice and service in the Nevada National Guard, and to wish him the best in his new career.

PIPELINE SAFETY IMPROVEMENT ACT OF 2001

Mr. DOMENICI. Mr. President, I am pleased to have co-sponsored a bill to modernize our Nation's pipeline safety programs. The issue of our country's pipeline safety came to the forefront after tragic explosions in Bellingham, Washington, and later, in my own state of New Mexico.

Just after midnight, August 19, 2000, an El Paso Natural Gas pipeline exploded on the Pecos River near Carlsbad, New Mexico. Twelve members of an extended family were camping near the explosion, which sent a 350 foot high ball of flame into the air. Six of the campers died instantly, and the remaining six later died from their horrific injuries.

Pipelines carry nearly all of the natural gas and about 65 percent of the crude oil and refined oil products. Three primary types of pipelines form a network of nearly 2.2 million miles, 7,000 miles of which lie throughout New Mexico.

Last Congress, the Senate unanimously passed similar legislation. Our colleagues in the other Chamber voiced serious concerns regarding that bill. Many of their criticisms related to the Office of Pipeline Safety, the Office within the Department of Transportation charged with keeping our Nation's pipelines safe. Unfortunately, the Office of Pipeline Safety has had a poor history of regulation and enforcement. It is true that the Office has traditionally been slow to act.

That said, we should not allow a former executive agency's failures to dictate our failure to act in accordance with our legislative mandate. In that regard, I intend to discuss the issue with our current Secretary of Transportation nominee, Mr. Mineta. I am confident that he will address our concerns regarding the Office of Pipeline Safety's record of enforcement with the new Director of the Office when he or she is nominated by our new President.

Mr. President, this bill; significantly increases States' role in oversight, inspection, and investigation of pipelines; improves and expands the public's right to know about pipeline hazards; dramatically increases civil penalties for safety and reporting violations from $25,000 to $500,000, and increases the maximum civil penalty for a related series of violations to $1 million; increases reporting requirements of releases of hazardous liquids from 50 barrels to five gallons; provides important whistle blower protections prohibiting discrimination by pipeline operators, contractors or subcontractors; furthermore, the legislation would provide much needed funding for research and development in pipeline safety technologies. In fact, technology currently exists that might have detected weaknesses in pipelines around Carlsbad. Unfortunately, due to insufficient funding for their products to reach the market; La Sen Corporation in my own State of New Mexico has developed technology that can detect faulty pipelines where current pipeline inspection technology is not useable. La Sen's Electronic Mapping system can be very effective even in pipelines where conventional pig devices cannot be used; pipeline inspection is costly and slow. Innovative new technologies could allow us to inspect all 2.2 million miles of pipeline each year in a cost effective manner. Today, pipeline inspection technology only covers 5–10 miles per day at a cost of $50 per mile. Again, La Sen's technology can survey 500 miles per day at a cost of $32 per mile; ensuring the safety and integrity of our nation's pipelines is important to all of us.

ADDITIONAL STATEMENTS

TRIBUTE TO COLONEL MARJORIE A. JACKSON

• Ms. LANDRIEU. Mr. President, it is a privilege to take this opportunity to pay tribute to Colonel Marjorie A. Jackson, United States Army Medical Service Corps, on her retirement after 26 years of distinguished and dedicated service to the nation.

Colonel Jackson is a native of Louisiana. She graduated from Walter L. Cohen High School in New Orleans, earned her bachelor's degree from Xavier University and earned her M.A. in Executive Development from Ball State University. In 1974, she enlisted in the Army as a Pharmacy Technician serving in Fort McPherson, Georgia. In 1975, she was commissioned as a Second Lieutenant and went on to serve in a variety of key operational and staff positions including Assistant Inspector General, U.S. Army Health Services Command and Clinical Pharmacist, Hematology/Oncology Service at Walter Reed Army Medical Center. The culmination of Colonel Jackson's career was assignment as Chief of Staff of the Armed Forces Institute of Pathology.

Colonel Jackson has been at the forefront of military medicine, completing a one-year residency in Hematology-Oncology Pharmacy at Walter Reed Army Medical Center and a one-year assignment as a Pharmacy Consultant to the 18th Medical Command in Seoul, South Korea. She has been honored with the Meritorious Service Medal, Army Commendation Medal, the Order of Military Medical Merit by the Army and was selected as the College of Pharmacy Alumnus of the Year in 1996 by Xavier University for her achievements in the field.

Colonel Jackson has been a ground breaker her entire career. She was the first woman to serve as Chief of Staff, Administrative Services at the Armed Forces Institute of Pathology, the first African-American woman promoted to the rank of Colonel in the U.S. Army Medical Service Corps, the first African-American female pharmacist in the history of the U.S. Army Pharmacy Service and the first woman to direct an Army major medical center pharmacy.

For twenty-six years, seven months and eighteen days, Colonel Jackson has served her country on the forefront of military medical care. Her exemplary military career is ending, but her contributions and achievements will continue to be felt throughout the Army and the Department of Defense.

Colonel Marjorie A. Jackson served her country with great ability, valor, loyalty and integrity. On the occasion of her retirement from the United States Army, I commend her for her outstanding service. She is one of Louisiana's finest, represents all that is special about our nation, and I wish her well in the years ahead.•

IN HONOR OF DR. MICHAEL MULLIN, PHD AND DR. MIA JEAN TEGNER, PHD.

• Mrs. FEINSTEIN. Mr. President, I would like to take the opportunity to recognize and honor two exceptional research scientists from one of the world's finest oceanographic research facilities who lost their lives in recent weeks. Both were two of the brightest stars at the Scripps Institution of Oceanography, in La Jolla, California.

Michael Mullin, a research biologist at Scripps, and undergraduate professor at the University of California, San Diego, died December 19th of complications following surgery. He was 63 years old.

His research over the past 36 years at Scripps has included the study of phytoplankton, zooplankton and larval fish in the marine food web.

He was the author of more than 70 scientific publications, including his own book "Webs and Scales." He also served as chief editor of the scientific journal "Fisheries Oceanography."

Dr. Mullin's personal sense of the social and moral obligations of science made him a true leader in undergraduate programs at UCSD and at Scripps Institution of Oceanography. He was as committed to the education of young students as he was to the practice of science and he will be greatly missed.

Mia Jean Tegner, a research marine biologist at Scripps Institution of Oceanography since 1969, died Sunday, January 7th in a scuba diving accident off the San Diego coast. She was 53 years old.

An experienced scuba diver, Dr. Tegner made more than 4,000 dives throughout the world during her 31 years at Scripps. Her research focused on the ecology of kelp forest communities and near shore marine resources. Her most recent research included studies of the effects of El Nino and La Nina events on the coastal ecosystem.

Also socially active and committed to the marine environment, Mia Tegner helped to guide the City of San Diego in developing public policy based on science as it related to ocean pollution. Her work led the way in focusing the nation's attention to the true impacts of human development on the health of our marine environment.

As we take the time to honor the work of Dr. Michael Mullin and Dr. Mia Tegner we must also reflect on their commitment to providing us with a better understanding of our world and our relationship with it.

I am pleased to recognize and salute these great scientists as two of our nation's outstanding citizens and noble public servants.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE RECEIVED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination.

(The nomination received today is printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-355. A communication from the President of the United States, transmitting, pursuant to law, a report entitled "The Unfinished Work of Building One America"; to the Committee on the Judiciary.

EC-356. A communication from the Assistant Secretary of Legislative Affairs, Bureau of Consular Affairs, Department of State, transmitting, pursuant to law, a report concerning visas; to the Committee on the Judiciary.

EC-357. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report related to the Colorado River System Reservoirs for calendar year 2001; to the Committee on Energy and Natural Resources.

EC-358. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relating to trade and employment effects of the Andean Trade Preference Act for the calendar year 2001; to the Committee on Finance.

EC-359. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relating to Russian non-strategic nuclear weapons; to the Committee on Armed Services.

EC-360. A communication from the President of the United States, transmitting, pursuant to law, a report on the National Security Strategy; to the Committee on Armed Services.

EC-361. A communication from the Administrator of the Loan Servicing and Property Management Division, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Loans to Indian Tribes and Tribal Corporations" (RIN0560-AF43) received on January 4, 2001; to the Committee on Indian Affairs.

EC-362. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Mevinphos; to the Committee on Agriculture, Nutrition, and Forestry.

EC-363. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Phostebupirim; to the Committee on Agriculture, Nutrition, and Forestry.

EC-364. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Profenofos; to the Committee on Agriculture, Nutrition, and Forestry.

EC-365. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Propetamphos; to the Committee on Agriculture, Nutrition, and Forestry.

EC-366. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Coumaphos; to the Committee on Agriculture, Nutrition, and Forestry.

EC-367. A communication from the Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report related to Pesticide Registration Notice 2000-10; to the Committee on Agriculture, Nutrition, and Forestry.

EC-368. A communication from the Acting Administrator of the Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Supplemental Nutrition Program for Women, Infants, and Children Nondiscretionary Funding Modifications of P. L. 106-224" (RIN0584-AC93) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-369. A communication from the Acting Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "Extension of Time to File Annual Reports for Commodity Pools" received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-370. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Forest System Land and Resource Management Planning; Review of Decisions to Amend or Revise Plans" received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-371. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Administration of the Forest Development Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads" (RIN0596-AB67) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-372. A communication from the Administrator of the Price Support Division, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Farm Storage Facility Loan Program" (RIN0560-AG00) received on January 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-373. A communication from the Associate Chief for Natural Resources, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Areas; Roadless Area Conservation" (RIN0596-AB77) received on January 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-374. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "West Indian Fruit Fly" (Docket No. 00-110-1) received on January 17, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-375. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1773, Policy on Audits of RUS Borrowers; Management Letter" (RIN0572-AB66) received on January 17, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-376. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1773, Policy on Audits of RUS Borrowers; GAGAS Amendments" (RIN0572-AB62) received on January 17, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-377. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1744, Post-Loan Policies and Procedures Common to Guaranteed and Insured Loans" (RIN0572-AB48) received on January 17, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-378. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of the Republic of South Africa Because of Foot-and-Mouth Disease" (Docket No. 00-122-1) received on January 23, 2001;

to the Committee on Agriculture, Nutrition, and Forestry.

EC–379. A communication from the Acting General Counsel, Office of Management and Budget, transmitting, pursuant to law, the report of a rule entitled "Prompt Payment" (5 CFR 1315) received on December 19, 2000; to the Committee on Governmental Affairs.

EC–380. A communication from the Director of the Office of Personnel Policy, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Benefit Payments Under Certain District of Columbia Retirement Plans" (31 CFR 29) received on January 4, 2001; to the Committee on Governmental Affairs.

EC–381. A communication from the Director of the Office of Personnel Policy, Departmental Offices, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Retirement Benefits Under Certain District of Columbia Retirement Plans" (31 CFR 29) received on January 5, 2001; to the Committee on Governmental Affairs.

EC–382. A communication from the Director of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report related to peacekeeping policy decision-making; to the Committee on Governmental Affairs.

EC–383. A communication from the Deputy Special Counsel of Planning and Advice Division, Office of Special Counsel, transmitting, pursuant to law, the report of a rule entitled "Technical Amendment: Change of Official Mailing Address" (5 CFR 1800, 1820, 1830, and 1850) received on January 5, 2001; to the Committee on Governmental Affairs.

EC–384. A communication from the Chief Operating Officer, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, the revised Annual Performance Plan for fiscal year 2001; to the Committee on Governmental Affairs.

EC–385. A communication from the Secretary of Education, transmitting, pursuant to law, a report of surplus real property for educational institutions; to the Committee on Governmental Affairs.

EC–386. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of surplus real property for public health; to the Committee on Governmental Affairs.

EC–387. A communication from the Chief Counsel for the Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC–388. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report concerning internal controls and financial systems for fiscal year 2000; to the Committee on Governmental Affairs.

EC–389. A communication from the Deputy Director for Management, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Electronic Purchasing and Payment in the Federal Government—Update 200"; to the Committee on Governmental Affairs.

EC–390. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of the internal, accounting, and management control systems for fiscal year 2001; to the Committee on Governmental Affairs.

EC–391. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Documentation of Immigrants—International Broadcasters" (22 CFR 42) received on January 5, 2001; to the Committee on Foreign Relations.

EC–392. A communicating from the Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, a report concerning loans and guarantees under the Arms Export Control Act as of September 30, 2000; to the Committee on Foreign Relations.

EC–393. A communication from the Acting Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, the report containing analysis of service for fiscal year 2000; to the Committee on Foreign Relations.

EC–394. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the activities of the Trade and Development Agency with respect to the People's Republic of China; to the Committee on Foreign Relations.

EC–395. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning Turkmenistan and the Republic of Tajikistan; to the Committee on Foreign Relations.

EC–396. A communication from the Assistant Director for Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled "Waivers of Rights and Claims; Tender Back of Consideration" (RIN3046–AA68) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–397. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "State Vocational Rehabilitation Services Program (Extended Employment/Employment Outcome)" (RIN1820–AB52) received on January 23, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–398. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on Appropriations.

EC–399. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Sequestration Update Report for Fiscal Year 2001; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; the Judiciary; Health, Education, Labor, and Pensions; Small Business; Veterans' Affairs; Intelligence; Indian Affairs; and Rules and Administration.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. MURKOWSKI for the Committee on Energy and Natural Resources.

Gale Ann Norton, of Colorado, to be Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WELLSTONE:

S. 161. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

By Ms. COLLINS (for herself and Mr. Kerry):

S. 162. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. Leahy, Mr. Kennedy, and Mr. Torricelli):

S. 163. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex national origin, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. Cochran, and Mr. Rockefeller):

S. 164. A bill to prepare tomorrows teachers to use technology through pre-service and in-service training, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 165. A bill to amend the Agriculture Market Transition Act to increase loan rates for marketing assistance loans for each of the 2001 and 2002 crops, to make nonrecourse marketing assistance loans and loan deficiency payments available to producers of dry peas, lentils, chickpeas, and rye, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN (for herself and Mr. Sessions):

S. 166. A bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. Allard, Mr. Brownback, Ms. Collins, Mr. Craig, Mr. Domenici, Mr. Hagel, Mr. Helms, Mrs. Hutchison, Mr. Hutchinson, Mr. Kyl, Mr. Lott, and Mr. Sessions):

S. 167. A bill to allow a State to combine certain funds to improve the academic achievement of all its students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself and Mr. Hagel):

S. 168. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kazakhstan; to the Committee on Finance.

By Mr. KYL (for himself, Mr. McCain, Mrs. Hutchison, Mr. Domenici, Mrs.

FEINSTEIN, Mr. BINGAMAN, and Mrs. BOXER):

S. 169. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal criminal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. DORGAN, Mr. CONRAD, Mr. JOHNSON, Mr. MCCAIN, Mr. BINGAMAN, Mr. INOUYE, Mr. SHELBY, Ms. SNOWE, and Mr. DASCHLE):

S. 170. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. BAUCUS, and Mr. DURBIN):

S. 171. A bill to repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mr. SMITH of Oregon:

S. 172. A bill to benefit electricity consumers by promoting the reliability of the bulk-power system; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 173. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers; to the Committee on Finance.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. BOND, Mr. WELLSTONE, Mr. CLELAND, Ms. LANDRIEU, Mr. HARKIN, Mr. LEVIN, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. ENZI, Mr. KOHL, and Mr. JOHNSON):

S. 174. A bill to amend the Small Business Act with respect to the microloan program, and for other purposes; to the Committee on Small Business.

By Mrs. HUTCHISON:

S. 175. A bill to establish a national uniform poll closing time and uniform treatment of absentee ballots in Presidential general elections; to the Committee on Rules and Administration.

By Mrs. HUTCHISON:

S. 176. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. BAYH, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. GRASSLEY, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. MCCAIN, Mr. MILLER, Mr. MURKOWSKI, Mr. REID, Mr. TORRICELLI, and Mr. WARNER):

S. Con. Res. 3. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 161. A bill to establish the Violence Against Women Office within the Department of Justice; to the Committee on the Judiciary.

Mr. WELLSTONE. Mr. President, today I am introducing legislation to make the Violence Against Women Office a permanent office in the Department of Justice. After the passage of the Violence Against Women Act in 1994, the U.S. Department of Justice administratively created the Violence Against Women Office. Over time, the office's duties and responsibilities have included administering Violence Against Women Act grant programs, providing technical assistance and training to improve justice system responses in communities across the country, and providing leadership in developing the Administration's policies on violence against women. Led by a Presidentially-appointed Director, the Violence Against Women Office has had an enormous impact on social attitudes in this country about the nature and effects of domestic violence, sexual assault, and stalking. As a result of the office's high profile work, the urgent issue of violence against women has come into much sharper public focus.

Making permanent the Violence Against Women Office in the Justice Department is necessary to extend VAWA's benefits to all corners of the country. The office has been the leader in promoting a multi-disciplinary, community-coordinated system response to violence against women. Additionally, it has a specialized knowledge of the best practices in the field to ensure that the grant funds are well utilized. A statutory mandate would guarantee that the Violence Against Women Office will continue this specialized work in future Administrations, ensuring that Congress' goals regarding domestic violence, sexual assault, and stalking will be carried out with the same professional expertise that we have grown to appreciate over the past six years.

This office is needed now more than ever. Violence against women continues to ravage our society. In my own state, 40 women were murdered by their partners in the year 2000 alone. This is more than in any other year on record. Nationally, a woman is battered every 15 seconds and 25 percent of women surveyed reported rape or physical abuse by a current or former spouse, partner or date.

The effects of these crimes extend far beyond the moment when they occur. One of the most compelling marks that violence against women leaves is on our children. It is estimated that between 3 and 10 million children witness violence in the home each year, and much of this violence is persistent.

Studies indicate that children who witness their fathers beating their mothers suffer emotional problems, including slowed development and feelings of hopelessness, depression, and anxiety. Many of these children exhibit more aggressive, anti-social, and fearful behaviors. Even one episode of violence can produce post-traumatic stress disorder in children.

It is indisputable that even one incident of abuse inflicts a pain on our children that is unimaginable and often unending. It is also indisputable that domestic violence is devastating to the economic and physical well-being of women and their families. For example, a study reported on in the St. Paul Pioneer Press found that 57 percent of the women surveyed said they had been threatened to the point that they were afraid to go to school or work. Thirty percent were fired or left a job because of abuse. 25 percent of homeless people on any given night are women and children fleeing domestic abuse. 800,000 women per year seek medical care as a result of injuries sustained in a sexual or physical assault.

As this research indicates, violence against women permeates our society. It feeds on itself and it repeats itself generation after generation. People who try to keep family violence quiet and hidden behind the walls of the home ignore its tragic echoes in our schools, in the workplace and on the streets. The Federal Government must always play a role in combating this insidious epidemic. In the fight against domestic violence, we are at the starting gate. Domestic Violence is not going away and we as policy makers need to keep efforts to combat violence against women at the forefront of our work.

With the Violence Against Women Office's leadership, we will continue to work together to bring justice to millions of women who suffer at the hands of abusers everywhere. Through its work, we will ensure our commitment to arrive at a day when many fewer women are threatened in our schools, in our businesses, on our streets and in our homes. I urge my colleagues to support this critical office and the critical role we in the Federal Government can continue to play in the fight against domestic violence, and I urge them to cosponsor this important measure.

By Ms. COLLINS (for herself and Mr. KERRY):

S. 162. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Commercial Fishermen Safety Act of 2001, a bill to help fishermen purchase the life-saving safety equipment they need to survive when disaster strikes. I am very pleased to be joined by my colleague from Massachusetts, Senator JOHN KERRY, in introducing this legislation. Senator KERRY is a true friend of fishermen and, as ranking member of the Oceans and Fisheries Subcommittee, a leader in the effort to sustain our fisheries and maintain the proud fishing tradition that exists in his State and in mine. The release last summer of the movie "The Perfect Storm" provided millions of Americans with a glimpse of the challenges and the dangers associated with earning a living in the fishing industry. Based on a true story, this movie, while very compelling, merely scratches the surface of what it is like to be a modern-day fisherman. Every day, members of our fishing community struggle to cope with the pressures of running a small business, complying with extensive regulations, and maintaining their vessels and equipment. Added to these challenges are the dangers associated with fishing where disaster can strike in conditions that are far less extreme than those depicted by the movie.

Year in and year out, commercial fishing is among our Nation's most dangerous occupations. According to the data compiled by the Coast Guard and the Bureau of Labor Statistics, 536 fishermen have lost their lives at sea since 1994. In fact, with an annual fatality rate of about 140 deaths per 100,000 workers, fishing is 30 times more dangerous than the average occupation.

The year 2000 will always be remembered in Maine's fishing communities as a year marked by tragedy. The year began with the loss of the trawler *Two Friends*, 12 miles off the coast of York, ME, on January 25. Two of the three crew members died in icy waters after their vessel capsized in 16-foot seas. The year concluded with yet another tragedy, the loss of the scallop dragger *Little Raspy* on December 14. Three fishermen died when the 30-foot vessel sank in Chandler Bay near Jonesport, ME. All told, nine commercial fishermen lost their lives off the coast of Maine last year. That exceeded the combined casualties of the 3 previous years.

The death of a 27-year-old fisherman just a few days ago in the Gulf of Maine adds to the grief endured by those in Maine's small, close-knit fishing communities still trying to cope with the tragedies of the last year.

Yet as tragic as the year was, it could have been even worse. Heroic acts by the Coast Guard and other fishermen resulted in the rescue of 13 commercial fishermen off the coast of Maine in the year 2000. In most of these circumstances, the fishermen were returned to their loved ones and families because they had access to safety equipment that made all the difference between life and death.

Shawn Rich, the surviving crew member of the vessel *Two Friends*, was found wearing an immersion suit and clinging to the vessel's emergency position indicating radio beacon, or EPIRB. That equipment is what made the difference for him and allowed him to be rescued. The EPIRB strobe light was spotted by a Coast Guard helicopter despite visibility that was less than a quarter of a mile. His immersion suit, which can extend survival to as many as 6 hours in the icy waters of the North Atlantic, protected the fisherman from water temperatures that would have resulted in death by hypothermia after less than 10 minutes of unprotected exposure.

Coast Guard regulations require all fishing vessels to carry safety equipment. These requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the boat is traveling from shore to fish. Required equipment can include a liferaft that automatically inflates and floats free should the vessel sink; personal flotation devices, or immersion suits which can help protect fishermen from exposure, as well as to increase buoyancy; EPIRBs, which relay a downed vessel's position to the Coast Guard search and rescue personnel; visual distress signals; and fire extinguishers.

This equipment is absolutely critical to surviving an emergency at sea. Maggie Raymond of South Berwick, ME, the owner of the fishing vessel *Olympia*, put it well when she said:

> It is just not possible to overstate the importance of the safety equipment. Along the coast of Maine, fishing communities continue to mourn the nine fishermen lost last year. At the same time, 13 fishermen were saved because they were able to get into a survival suit on time or to get into the liferaft, or because they were found literally clinging to an EPIRB. Without this life-safety equipment, the casualty toll would have been much higher.

When an emergency arises, safety equipment is priceless. At all other times, however, the cost of purchasing or maintaining liferafts, immersion suits, and EPIRBs must compete with essential expenses such as loan payments, wages, fuel, maintenance, and insurance. Meeting all of these obligations is made much more difficult by a regulatory framework that limits the amount of time a fisherman can spend at sea and gear alterations that are used to manage our marine resources.

Most of the fishermen whom I know are more than willing to do their part to sustain our marine resources. But the reality is that when fishermen are required to limit their catch, they are also limited in their ability to generate sufficient income to meet the costs associated with maintaining their vessels. The bill I am introducing today makes it clear that fishermen should not have to compromise their safety in order to make a living in their chosen occupation.

The Commercial Fishermen Safety Act of 2001 lends fisherman a helping hand in preparing in case disaster strikes. My legislation provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit would be capped at $1,500. The items I have mentioned can literally cost thousands of dollars. The tax credit will make this life-saving equipment more affordable for more fishermen who currently face more limited options under the Federal Tax Code.

Safety equipment saves lives in an occupation that has suffered far too many tragedies, far too many losses. By extending a tax credit for the purchase of federally required safety equipment, Congress can help ensure that fishermen have a better chance of returning home each and every time they head out to sea.

I hope as part of our tax deliberations this year this important legislation will be enacted and signed into law.

I yield the floor.

Mr. KERRY. Mr. President, I rise today to co-sponsor the Commercial Fishermen Safety Act of 2001. I would like to thank the Senator from Maine, Ms. COLLINS, for asking me to introduce this bill with her. This legislation would provide fishermen with a tax credit of up to $1,500 for the purchase of safety equipment that will help save lives at sea such as life rafts, immersion suits and Emergency Position Indicating Radio Beacons (EPIRBS).

The U.S. Occupational Safety and Health Administration ranks commercial fishing as the most dangerous occupation in America, with approximately 130 deaths a year per 100,000 employees. Nearly 90 percent of all fishing related deaths result from drowning—whether a fisherman falls overboard by slipping on a wet or icy deck, is washed off deck by a wave or is dragged under by a hook or line. In the cold waters off New England and Alaska, a fisherman who goes overboard without an immersion suit has about 6 minutes to be rescued by his shipmates. But fishermen with fully functional immersion suits and life rafts are more than twice as likely to survive the sinking of their vessel.

The Commonwealth of Massachusetts knows all to well the dangers of commercial fishing. Gloucester is but one example of the toll it has taken on our coastal fishing communities. Since 1650 the sea has claimed an estimated 10,000 Gloucester fishermen. During the 19th Century, Gloucester would typically lose 200 fishermen annually—about 4 percent of the city's population—to storms in the Gulf of Maine and the Grand Banks. Today, even while the National Weather Service provides timely and accurate forecasts so that we no longer have entire fleets caught on the fishing grounds during a major storm, the tragic statistics continue to roll in.

The shocking loss of 11 fishermen in the Mid-Atlantic in two short months during 1998–1999 was unfortunately not an anomaly, but typical of historic trends, according to a Fishing Vessel Safety Task Force convened to investigate the problem. The Task Force also determined the common conditions in these accidents were poor vessel or equipment condition and inadequate preparation for emergencies—including basic equipment like life rafts, EPIRBs, and immersion suits. Confirming the Task Force's observations, last year the First Coast Guard District—whose area of responsibility stretches from Maine to New Jersey —reported the death of 13 commercial fishermen. In addition, the District reported saving 47 fishermen whose vessels had either sunk or caught fire. The Coast Guard estimates that 23 of those fishermen are alive today because they had a life raft or immersion suit.

While safety is always a concern to our fishermen and their families, the most immediate worry on their minds is declining profits from dwindling stocks and closed areas. In order to meet rebuilding plans for our fish stocks regulators have been forced to implement trip limits and closed areas to rebuild stocks. These measures are working and we are beginning to see some progress in New England. However a few fishermen, primarily in small boats, will travel far out to sea in order to fish outside the closed areas or in a place with a higher trip limit. These fishermen often times cannot afford to replace or inspect old worn out life rafts and immersion suits and place themselves at extreme risk to meet their financial needs. This legislation will help these fishermen put the equipment on their boats now not later and will save lives.

It is important that we act on this legislation, so that we provide a financial incentive to fishermen who are facing financial hardship as their fisheries recover, to invest in the replacement and inspection of their survival gear.

By Mr. FEINGOLD (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. TORRICELLI):

S. 163. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Civil Rights Procedures Protection Act of 2001. I am pleased that my cosponsors in the 106th Congress—Senators LEAHY, KENNEDY and TORRICELLI—have joined with me again in support of this legislation.

This bill addresses the rapidly growing and very troubling practice of employers conditioning employment or professional advancement upon the employees' willingness to submit claims of discrimination or harassment to arbitration. In other words, employees who raise claims of harassment or discrimination must submit those claims to arbitration, foregoing the right to go to court and any other remedies that may exist under the laws of this nation. The right to seek redress in a court of law—including the right to a jury trial—is one of the most basic rights accorded to employees in this nation. In the Civil Rights Act of 1991, Congress expressly created this right to a jury trial for employees when it voted overwhelmingly to amend Title VII of the Civil Rights Act of 1964. But employers are undermining the intent of the Civil Rights Act of 1991 and other civil rights and labor laws, such as the Age Discrimination in Employment Act of 1967, by requiring all employees to submit to mandatory, binding arbitration as a condition of employment or advancement before a claim has arisen.

Increasingly, working men and women are faced with the choice of accepting a mandatory arbitration clause in their employment agreement or no employment at all. Despite the appearance of a freely negotiated contract, the reality often amounts to a non-negotiable requirement that prospective employees relinquish their rights to redress in a court of law. Mandatory arbitration allows employers to tell all current and prospective employees in effect, "If you want to work for us, you will have to check your rights at the door." These requirements have been referred to as "front door" contracts: they require an employee to surrender certain rights in order to "get in the front door." As a nation which values work and deplores discrimination, we should not allow this practice to continue.

How then does the practice of mandatory, binding arbitration comport with the purpose and spirit of our nation's civil rights and sexual harassment laws? The answer is simply that it does not. To address the growing incidents of compulsory arbitration, the Civil Rights Procedures Protection Act of 2001 amends seven civil rights statutes to guarantee that a federal civil rights or sexual harassment plaintiff can still seek the protection of the U.S. courts rather than be forced into mandatory, binding arbitration. Specifically, this legislation affects claims raised under Title VII of the Civil Rights Act of 1965, Section 505 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act and the Federal Arbitration Act, FAA. By amending the Federal Arbitration Act, the protections of this legislation are extended to claims of unlawful discrimination arising under State or local law and other Federal laws that prohibit job discrimination.

This bill is not anti-arbitration, anti-mediation, or anti-alternative dispute resolution. I have long been and will remain a strong supporter of voluntary, alternative methods of dispute resolution that allow the parties to choose whether to go to court. Rather, this bill targets only mandatory, binding arbitration clauses in employment contracts entered into by the employer and employee before a dispute has even arisen.

The 107th Congress marks the fifth successive Congress in which I have introduced this important legislation. In recent years, we have made some advances in addressing the unfair use of mandatory, binding arbitration clauses. As a result of a hearing in the Banking Committee in 1998 and a series of articles and editorials in prominent periodicals, the National Association of Securities Dealers, NASD, agreed to remove the mandatory binding arbitration clause from its Form U–4, which all prospective securities dealers sign as a condition of employment. The NASD's decision to remove the binding arbitration clause, however, does not prohibit its constituent organizations from including a mandatory, binding arbitration clause in their own employment agreements, even if it is not mandated by the industry as a whole. Last spring, the Judiciary Subcommittee on Administrative Oversight and the Courts, chaired by my distinguished colleague from Iowa, Senator GRASSLEY, held a hearing on contractual mandatory, binding arbitration and highlighted the problem in the employment area. These are positive developments, but the trend toward the use of mandatory, binding arbitration clauses continues. A legislative fix is needed.

The Civil Rights Procedures Protection Act restores the right of working men and women to pursue their claims in the venue that they choose, which, in turn, restores the spirit of our nation's civil rights and sexual harassment laws. I ask my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 2001".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2651 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act or a provision of subchapter V of chapter 63, or section 2105, of title 5, United States Code) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9, UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising not earlier than the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. COCHRAN, and Mr. ROCKEFELLER):

S. 164. A bill to prepare tomorrow's teachers to use technology through pre-service and in-service training, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce a bill for consideration in the context of the reauthorization of the Elementary and Secondary Education Act. Earlier this week, I introduced my accountability bill designed to ensure that the taxpayers' investment in education is adequately protected and that the finest education is provided to our children by attaching performance-based accountability to the federal education programs encompassed in the ESEA. I believe the issue of accountability for results will be at the center of our debate this year so I introduced and spoke about that bill separately. Nevertheless, I believe that our efforts to ensure that schools are accountable for the education of our children requires that we provide resources to schools so that they can make full use of available teaching tools. Training teachers to use technology in their classrooms is a high priority in this regard if we are to help our children become full and active members of the global community. The bill I am introducing today addresses that priority. I am pleased that my colleagues Senator COCHRAN and Senator ROCKEFELLER have joined me in cosponsoring this bill that I believe will generate bipartisan support.

Educational technology can enlarge the classroom environment in ways that were unimaginable only a decade ago and can empower students to develop independent thinking and problem solving skills. The Technology for Teachers Act is designed to address the need to provide teachers with the skills to use this valuable resource in the classroom. Experts urge us to increase our investment in training teachers to use technology in the classroom and point out that at least 30 percent of our technology budget should be used for this purpose. Yet few of the nation's teachers have had more than one or two courses in educational technology, and those courses are usually designed as an add-on to other methods courses instead of being well-integrated into their teacher preparation program. The Training for Technology Act would provide grants to consortia of higher education institutions and public school districts so that they can integrate technology into their teacher training programs at the pre-service level. In addition, the bill requires recipients of Technology Literacy Challenge grants—an existing program which I sponsored in the 1994 reauthorization of ESEA—to demonstrate that they are using at lest 30% of their technology funding on in-service training in the use of technology.

In order to ensure that our children are well-prepared to meet the challenges of an increasingly complex and challenging world, it is critical to address improving our Nation's schools with a comprehensive effort. The bills I have introduced are designed to build on the progress we have made in the past few years to raise standards and increase accountability in America's schools. This bill seeks to provide educators with the resources to meet these increased demands. I urge my colleagues to carefully consider supporting passage of this bill.

I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology for Teachers Act 2001".

SEC. 2. LOCAL APPLICATIONS FOR SCHOOL TECHNOLOGY RESOURCE GRANTS.

Section 3135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6845) is amended—

(1) in the first sentence, by inserting "(a) IN GENERAL.—" before "Each local educational agency";

(2) in subsection (a) (as so redesignated)—

(A) in paragraph (3)(B), by striking "; and" and inserting a semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) demonstrate the manner in which the local educational agency will utilize at least 30 percent of the amounts provided to the agency under this subpart in each fiscal year to provide for in-service teacher training, or that the agency is using at least 30 percent of its total technology funding available to the agency from all sources (including Federal, State, and local sources) to provide in-service teacher training.";

(3) by redesignating subsections (d) and (e) as subsections (b) and (c) respectively; and

(4) in subsection (c) (as so redesignated), by striking "subsection (e)" and inserting "subsection (a)".

SEC. 3. TEACHER PREPARATION.

Part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6811 et seq.) is amended by adding at the end the following:

"Subpart 5—Preparing Tomorrow's Teachers To Use Technology

"SEC. 3161. PURPOSE; PROGRAM AUTHORITY.

"(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards.

"(b) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist them in developing or redesigning teacher preparation programs to enable prospective teachers to use technology effectively in their classrooms.

"(2) PERIOD OF AWARD.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years.

"SEC. 3162. ELIGIBILITY.

"(a) ELIGIBLE APPLICANTS.—In order to receive an award under this subpart, an applicant shall be a consortium that includes—

"(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;

"(2) at least 1 State educational agency or local educational agency; and

"(3) 1 or more of the following entities:

"(A) an institution of higher education (other than the institution described in paragraph (1));

"(B) a school or department of education at an institution of higher education;

"(C) a school or college of arts and sciences at an institution of higher education;

"(D) a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.

"(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—

"(1) a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards;

"(2) a demonstration of—

"(A) the commitment, including the financial commitment, of each of the members of the consortium; and

"(B) the active support of the leadership of each member of the consortium for the proposed project;

"(3) a description of how each member of the consortium would be included in project activities;

"(4) a description of how the proposed project would be continued once the Federal funds awarded under this subpart end; and

"(5) a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

"(c) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

"(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be in cash.

"SEC. 3163. USE OF FUNDS.

"(a) REQUIRED USES.—A recipient shall use funds under this subpart for—

"(1) creating programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve to challenging State and local content and student performance standards; and

"(2) evaluating the effectiveness of the project.

"(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

"(1) developing and implementing high-quality teacher preparation programs that enable educators to—

"(A) learn the full range of resources that can be accessed through the use of technology;

"(B) integrate a variety of technologies into the classroom in order to expand students' knowledge;

"(C) evaluate educational technologies and their potential for use in instruction; and

"(D) help students develop their own technical skills and digital learning environments;

"(2) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;

"(3) developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms;

"(4) providing technical assistance to other teacher preparation programs;

"(5) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and

"(6) subject to section 3162(c)(2), acquiring equipment, networking capabilities, and infrastructure to carry out the project.

"SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.

"For purposes of carrying out this subpart, there is authorized to be appropriated $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

By Mr. DORGAN:

S. 165. A bill to amend the Agriculture Market Transition Act to increase loan rates for marketing assistance loans for each of the 2001 and 2002 crops, to make nonrecourse marketing assistance loans and loan deficiency payments available to producers of dry peas, lentils, chickpeas, and rye, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, I have come to the floor today to talk about farming. The pages of the calendar have now turned. It is a new year, but our family farmers face the same struggle, and in fact, in many ways, the struggle gets worse.

Mr. President, today, I am introducing legislation titled the FARM Equity Act of 2001 that is designed to equalize the presently disparate commodity Marketing Assistance Loan rates of the current farm bill, commonly referred to as Freedom to Farm. The legislation would increase all commodity loan rates up to soybean and minor oilseed loan levels based on historical price ratios amongst the commodities. The FARM Equity Act would also treat all commodities equally in that it would place a price floor under all commodity loan rates, not just a select few.

The FARM Equity Act will leave soybeans at the current loan level—$5.26 per bushel. This price is about 85 percent of the Olympic Average of soybean market prices from the years 1994 to 1998. All other crops will be equalized up to this same price ratio related to each crops respective Olympic Average during the same time period. Equalized loan rates for wheat would be $3.14 per bushel, for corn—$2.09 per bushel, for rice—7.8 cents per pound and for cotton—52.6 cents per pound. All these loan levels would become minimum loan levels.

When Freedom to Farm was passed, supporters intended that this new farm legislation would remove all government interference or influences from planting decisions. "Let farmers take their cues from the market place", was heard often during the debate. "From now on, farmers will not plant their crops with an eye towards Washington—they will plant what the market tells them to plant."

I doubt anyone believes, let alone could debate the point with a straight face, that this major premise of Freedom to Farm—the notion of market based planting decisions—has become a reality. To the contrary, at the present time, the major influence on what type of seed goes into the ground on our nation's farms is the level of Market Assistance Loan rates available for the various program crops.

There can be no dispute that soybeans, and the other minor oilseed crops, have a much higher loan rate—when compared to historical price ratios—than wheat, corn and the other minor feed grains, cotton and rice. Likewise, there can be no dispute that the unprecedented increase in soybeans and oilseeds acreage seen the last couple of years, is due in large part, to these arbitrarily set unequal loan rates. Farmers have little choice but to plant more acres of oilseeds for the higher loan value, even though the cash and future markets clearly signal for them to do otherwise.

Does anyone remember "Green Acres," the old TV show from the sixties that poked fun of the city slicker—and country folks, for that matter—who moved out from New York City to start farming? One of the episodes had to do with deciding what crop to plant. I can't remember the exact order of events, but the gist of it was this. Oliver Wendell Douglas—played by Eddie Albert—listened to the market report while having breakfast the morning he was going to start spring planting. The price of corn was up, while soybean prices were down, so Oliver finished breakfast and away he went to the general store to buy some corn seed from Sam Drucker. Oliver then headed out to his field to plant corn.

About noon, Oliver came home for dinner. Now I know to most this meal is lunch, but trust me, on the farm—it is called dinner; farmers also have a meal called supper that takes place in the evening. But, let's get back to Oliver. While he was eating his dinner, the noon markets came on, and wouldn't you know it, corn was down, and soybeans were up. Well, Oliver was all upset, since he had already planted some of the corn.

Lisa, Oliver's wife, told him just exchange the seed for a different kind, "I always return what I buy back to the stores; why can't you just exchange the corn for some soybeans, if that's what you want to plant now?"

Oliver agreed with his wife, and went out and dug up the corn seed, put it back in the sack, and headed back to the supply store to trade it in for soybeans. Sam Drucker thought he was nuts, of course, and everyone had a good laugh.

Preposterous of course, this parody of farmer indecision where seed is actually picked out of the ground, but I mention this episode only because today, Oliver Wendell Douglas wouldn't have his ear turned to the market reports to decide what to plant. He would simply seed soybeans because everyone knows the loan price is the only price that matters these days.

In fact, one market advisor in the Midwest is promoting a "Plan B" this year that encourages farmers to plant even more soybeans than last years record acreage because of the high loan rates in hopes of decreasing corn acres enough to increase those prices. Probably not a bad idea, given the present market prices and high nitrogen costs. But, it's a clear indication of how skewed the present loan levels actually are.

Just how much effect on U.S. crop acres are these unequal loan rates having? We need look no further than the annual acreage reports issued by USDA. In 1994, US farmers planted a little over 61.6 million acres of soybeans. This past year, a record 74.5 million acres were planted to soybeans, an increase of over 20 percent.

For all wheat, USDA tells us the complete opposite is taking place. The acreage planted in the U.S. has declined over 12 percent during this same period, from 70.3 million acres down to 62.5 acres. A few weeks ago, USDA reported that the winter wheat acreage seeded last fall is down 5 percent from the fall before. The 41.3 million acres planted for harvest this coming summer is the smallest acreage devoted to winter wheat since 1971.

To those who will say that we shouldn't change the components of the present Farm Bill in mid-stream, I say, we have repeatedly changed it each of the last three years now. We have had three emergency spending bills due to the low commodity prices. We have changed payment limits on the Loan Deficiency Payments. I might add, equalizing loan rates will do more for medium sized family farms than uncapping LDP limits.

Former Secretary of Agriculture Dan Glickman also used his administrative authority to keep the loan levels at current levels. Just last month, he froze commodity loans at 2000 levels for the 2001 crop. Had he not, the loan for wheat would have fallen to $2.46, while corn would have dropped to $1.76. Even soybeans would have fallen, although not to what the formula calls for. You see, soybeans have a price floor at $4.92 a bushel. If not for this mandated floor specified in the law, the formula in Freedom to Farm would have called for a price of $4.58 per bushel.

Now, I am pleased that the Secretary of Agriculture did this. I found it interesting that I received a few calls from angry farmers when the former Agriculture Secretary froze loan rates for the coming year at 2000 levels. They thought he should have raised them and had determined his actions were vindictive and meant only to keep commodity loans at these low levels. As I have stated, Secretary Glickman prevented present law from dropping loan prices even further.

I don't want to see anymore reductions in loan levels for any of our crops. I want all crops to be treated fairly, and equally. I want all crops to have the same relative level of price protection. And if one or two crops have a loan floor that prevents further erosion in loan protection, then all crops should enjoy such a loan floor. That's why I have introduced this legislation.

This is not to say that the loan levels in this legislation are adequate. They are not. This is only the first step in many that we need to take to fix broken farm policy. And this legislation will put all crops on equal footing as we enter the debate on what will eventually replace Freedom to Farm. I would prefer that loan levels would be higher, that they would reflect the cost of production. Maybe later we can have some common sense farm policy that would do such a thing, but for now, I think this is the least that we should do, as far as loan rates are concerned.

Although it is not mentioned in this legislation, as part of this interim step to preserve our farms, I believe we should restore the automatic 20 percent reduction in Agricultural Market Transition Payments that will take place this year. It should be restored to the 2000 levels for the remaining two years of Freedom to Farm, or until we replace this legislation altogether. I know others are thinking this needs to be done, and I want to go on record as supporting this restoration of AMTA payments.

Before I close, I want to point out the steady erosion of the loan levels for most crops over the years. This year, 2001, if this legislation isn't enacted, the national loan for wheat will stand at $2.58 per bushel. In 1983, the wheat loan was $3.65 per bushel. For corn, the present loan rate is $1.89, while in 1983 it was $2.65 per bushel. For rice, this year's loan is $6.50 per cwt. In 1983, the rice loan was $8.13 per cwt. Cotton's loan this year stands at 52.9 cents per lb. 1982 saw a cotton loan rate of a little over 57 cents per lb.

Now, I saved soybeans until last, for good reason. Of all the major crops, soybeans stand alone in that it has a higher loan rate today, than in the early 1980's. The soybean loan stood at $5.02 twenty years ago, while today, the loan is $5.26. All the other crops dropped, some more than others, percentage wise. All, except for soybeans.

I would also like to point out that the cost of production has skyrocketed for all crops the past twenty years. This year alone, farmers are facing an astronomical increase in anhydrous ammonia prices—the major form of nitrogen fertilizer—due to the skyrocketing natural gas prices. As you may know, natural gas comprises 78 percent of anhydrous' cost of production. Because of this, family farmers in North Dakota, and across the country, are facing a possible doubling of their nitrogen fertilizer costs, from the low $200's per ton last year to well over $400 per ton this year.

The cost of fertilizer is just one of many examples where farm costs have skyrocketed. Others include their crop protection products, insurance costs, machinery costs, etc. The list goes on. No other segment of our economy has been asked to take less and less for their labors.

As I have stated earlier, this legislation, the FARM Equity Act of 2001, is only an interim step. It is not a new farm bill, nor is it the answer to the problems. But I believe we should take action now to equalize the loan rates. Let's pass this legislation that would leave soybeans and other oilseeds at their present loan level while raising other crops up to the same relative level, based on historical market price relationships as soybeans. It is fair. It is equitable. It is the right thing to do.

Mr. President, we have families living all across this country out in the country trying to make a go of it on a family farm: Plant some seeds, raise a crop, then harvest that crop, take it to the grain elevator, and try to raise enough money to keep going and pay the bills.

In addition to having collapsed prices for that which they produce, farmers now see the cost of their inputs dramatically increasing. The cost of anhydrous ammonia, the most popular form of nitrogen fertilizer, is up dramatically because of the spike in natural gas costs.

Farmers are beset in every direction: Monopolies in transportation, near monopolies in the grain trade business, and a collapse of the prices for that which farmers produce. It is an awfully difficult time.

So what can be done about this? My first hope would be that this Congress would rewrite the current farm bill. I do not think it works very well. I do not think we ought to get rid of all of it. The planting flexibility makes sense. Let's keep it. But clearly the current farm bill has not worked very well. Let's rewrite it and provide a price support or a bridge across price valleys for family farmers that give them some hope that if they do a good job, and work hard, they have a chance to survive out on the family farm.

But I am told that rewriting the farm bill is not going to happen this year because it expires at the end of next year. I understand that the chairman of the Agriculture Committee in the Senate does not want to hold hearings on trying to rewrite the farm bill this year. He certainly has the capability of blocking that. I respect him, but I would disagree with him about this issue. But it is likely we will not see progress in rewriting the farm bill this year.

So then, what should we do? In my judgment, we ought to at least take an interim step that would restore some balance to the current price protection that exists, as anemic as it is. We ought to provide some balance and equality to that price protection with respect to those of us who come from the part of the country that produces mostly wheat and feed grains.

We have a circumstance now where the current price support, which is, in my judgment, too low, nonetheless has an inequity about it that offers a price support substantially higher for oil seeds than it does for wheat and feed grains. I am not here to suggest that we take the price support for oil seeds down. I am suggesting that it is unfair to wheat and feed grains and we ought to bring their price support up to provide some equity and fairness. And there is a way to do that.

I would like to show a couple charts of what has been happening. This chart shows crop acres. You can see, going back to 1994, that soybean acreage is increasing and wheat acreage is declining, both substantially.

What is happening this year is, a number of farmers are making decisions about what to plant, and it has nothing to do with what the markets suggest they should plant. It has to do with what their lender would calculate is best for them to plant given the farm program price support loan levels of the various crops. The loan deficiency payment for oil seeds is much higher than for wheat and feed grains on a comparable basis, because the loan levels that determine the loan deficiency payments are likewise, much higher for oil seeds than the other crops. So the result is, they are making planting decisions, once again, based on the farm bill rather than on the market. It is because we have inequitable price support programs. You can see what has happened with the loan rates over time. With soybeans, loan rates have increased slightly over the last twenty years, while wheat, corn and other feed grain loan rates have declined substantially during the same time period.

My point is this. We ought to be able to provide equity in these loan rates by bringing the loan rate for wheat and feed grains up to an equitable level relative to oilseed levels. Doing so would, likewise, provide an equitable loan deficiency payment for all crops and would stop this calculation of, What should I plant relative to what the farm program thinks I should plant?

As Freedom to Farm passed, its supporters were saying: Let's have the market system send signals on what ought to be planted. That is not happening at the moment. It is the farm program that is determining what is being planted because of the skewed loan support prices. It is the farm program that is actually promoting that incentive to plant one thing versus another thing. I am not suggesting we fix it by reducing the loan rate or the loan deficiency payment for oilseeds. We ought not do that. We ought to bring the loan rate for the others up because those levels are too low, when compared to oilseeds. It is unfair to them.

Some will remember the old television program "Green Acres" from long ago in the 1960s. Eddie Albert played a character named Oliver Wendell Douglas, who had a pig named Arnold. He was a city slicker who moved to the country. It was a television program that poked fun at both the city slicker and maybe also at country folks. It was a comedy.

In one episode, Oliver is having breakfast one morning. He is trying to figure out what to plant. He hears the morning grain market report on the radio, and the price of soybeans was going down and the price of corn was going up. So he decided to go down to the general store and get himself some corn seed. All morning he planted corn.

At noon, Oliver came in for dinner. Back home they call it dinner in the middle of the day; some people call it lunch, but we call it dinner. He came back for dinner and discovered on the radio that the price of corn was down and the price of soybeans was up, according to the noon market report. And he said to his wife: It is kind of hard to figure out what to do here. I just planted corn because the radio said corn was up. Now corn is down, soybeans are up.

His wife said: When I go to the store and get something that doesn't work, I take it back.

So this old character on "Green Acres" went out to the field, walked down the furrows and pulled out all of his corn seeds and went back to the store to trade them in for soybean seed. Of course, the old boy who ran the store that sold him the seed thought he was pretty goofy.

My point about this story is, Oliver Douglas wouldn't have to listen, under today's circumstances, to the radio market reports to evaluate what he ought to plant, to find out what is down or what is up. In today's circumstances, when you take a look at the farm program, what is up is a better loan rate for oilseeds, and what is down is an anemic loan rate for wheat and feed grains.

What can be done about that? Bring wheat and feed grain loan rates up to where they ought to be. That only brings wheat to $3.14 a bushel, but it is a far sight better than where it is today, at $2.58.

So today, I am introducing a piece of legislation that equalizes loan rates. It will not penalize oilseeds. It will leave them where they are. Good for them; I want that. I support that and will fight for that. But it will take the loan rate for other program crops, including wheat, corn, and rice, cotton, and put those loan rates where they ought to be relative to some equity vis-a-vis oilseeds.

I am going to include in the RECORD a list of all the program crops and where I propose we establish their loan rates. The loan rates for the various crops were determined by fixing them at the same percentage of their 1994–1998 5-year Olympic Average of market prices as the soybean loan rate is with respect to its 1994-1998 5-year Olympic Average of market prices.

This is only an interim step. We must do much more, and I have other ideas on what we ought to do. But for now, at least as a first step, let's provide some fairness for those who are producing wheat and feed grains.

Mr. President, I ask unanimous consent to print in the RECORD the Olympic Average price data to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMILY AGRICULTURE RECOVERY & MARKET (FARM) EQUITY ACT OF 2001

For the 2001 & 2002 Crop Year, The "FARM Equity" Act would:

Equalize the Marketing Loan rate for commodities relative to the current soybean rates. Wheat—$3.14; corn—$2.09; soybeans (unchanged)—$5.26; cotton—$58.26/cwt.; rice—$7.81/cwt.; base other feed grain loan rates on their own price history rather than based off the corn rate. Barley—$2.01; oats—$1.27; grain sorghum—$1.89; base other oil seed rates off their own price history rather than the soybean loan rate. Oil sunflower—$.0930/lb.; confection sunflower—$.1176/lb.; canola—$.0945/lb.; safflower—$.1259/lb.

Place a floor under all commodity loan rates, not just soybean, cotton and rice loan rates.

Remove the cap on all commodity loan rates and allow them to increase if the most recent five year Olympic Average of prices of a commodity increases to a level that warrants such an increase.

Remove the incentive to continue the obvious current prevalent practice of planting for the commodity loan rate, and thus the overproduction of commodities (oilseeds) that have significantly higher loan rates relative to the actual historical market price ratios.

Keep AMTA payments in place, along with all present payment limitations.

Enable farmers to practice agronomically sound rotations rather than planting for the government loan.

Place all commodities on a level playing field with regards to loan rates prior to the debate about the next farm bill.

Add dry peas, lentils, chickpeas and rye to the list of crops eligible for Marketing Assistance Loans, increasing the rotational choices for farmers in the Pacific Northwest.

HOW WERE THE NEW LOAN PRICES ARRIVED AT?

The 1994-1998 Olympic Average price for a bushel of soybeans is $6.22, as determined by USDA. The present Freedom To Farm loan level for soybeans is $5.26. This is 84.5 percent of the 94-98 Oly price average.

The loan prices for the other crops listed in the FARM Equity Act were derived by taking the soybean factor—84.57%—against the other crops' 94-98 Olympic Price averages.

Oil Sunflowers and Flaxseed were left at the present $.0930 per lb. since applying the factor against their Olympic Price averages would have lowered their loan rate—an occurrence that no farm advocate wants for any crop during these hard times down on the farm.

The "94-98" time frame was used, since the seeding distortions and subsequent price distortions caused by Freedom to Farm's disparate loan rates had not yet infected the moving 5 yr. average.

Find below the loan levels: Marketing Loan Rates were determined by their price history during the years 1994 through 1998

Crop	F2F loan rates	"94-98" Olympic price average	Equalized loans
Wheat	$2.58	$3.71	$3.14
Corn (bus)	1.89	2.47	2.90
Grain Sorghum (bus)	1.71	2.23	1.89
Barley (bus)	1.61	2.38	2.01
Oats (bus)	1.16	1.50	1.27
Upland Cotton (lb)	0.5192	0.6883	0.5826
EL Staple Cotton (lb)	0.7965	1.0360	0.8761
Rice (cwt)	6.50	9.23	7.81
Soybeans (bus)	5.26	6.22	5.26
Oil Sunflower (lb)	0.0930	0.1060	0.0930
Nonoil Sunflower (lb)	0.0930	0.1390	0.1176
Canola (lb)	0.0930	0.1117	0.0945
Rapeseed (lb)	0.0930	0.1183	0.1001
Safflower (lb)	0.0930	0.1487	0.1259
Mustard Seed (lb)	0.0930	0.1390	0.1176
Flaxseed (lb)	0.0930	0.0963	0.0930
Rye (bus)	(1)	....	2.80
Dry Peas (cwt)	(1)	....	7.00
Lentils (cwt)	(1)	....	12.00
Chickpeas (cwt)	(1)	....	15.00

[1] Not available.

Mr. DORGAN. It is all about fairness and equity. Under the current program, even though all of the support prices are too low, wheat and feed grains are being treated unfairly and ought to be brought up to where they should be and we would have a right to expect them to be. I have included all of the significant numbers and support price proposals in the RECORD. I hope my colleagues will join me in seeing if we can at least take an interim step and pass this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Agriculture Recovery and Market (FARM) Equity Act of 2001".

SEC 2. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) is amended to read as follows:

"SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

"(a) WHEAT.—The loan rate for a marketing assistance loan under section 131 for wheat shall be not less than—

"(1) 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(2) $3.14 per bushel.

"(b) FEED GRAINS.—

"(1) CORN.—The loan rate for a marketing assistance loan under section 131 for corn shall be not less than—

"(A) 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(B) $2.09 per bushel.

"(2) OTHER FEED GRAINS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate at which loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

"(B) MINIMUM LOAN RATES.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, individually, shall be not less than—

"(i) 85 percent of the simple average price received by producers of grain sorghum, barley, and oats, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of grain sorghum, barley, and oats, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(ii)(I) in the case of grain sorghum, $1.89 per bushel;

"(II) in the case of barley, $2.01 per bushel; and

"(III) in the case of oats, $1.27 per bushel.

"(c) UPLAND COTTON.—

"(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States, a rate that is not less than the lesser of—

"(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling $1\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference, during the period April 15 through October 15 of the year preceding the year in which the crop is planted, between the average Northern European price quotation of that quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

"(2) Limitations.—The loan rate for a marketing assistance loan for upland cotton shall not be less than **$0.5826** per pound.

"(d) Extra Long Staple Cotton.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be not less than—

"(1) 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(2) **$0.8768** per pound.

"(e) Rice.—The loan rate for a marketing assistance loan under section 131 for rice shall be not less than—

"(1) 85 percent of the simple average price received by producers of rice, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(2) **$7.81** per hundredweight.

"(f) Oilseeds.—

"(1) Soybeans.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be not less than—

"(A) 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(B) **$5.26** per bushel.

"(2) Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be not less than—

"(A) 85 percent of the simple average price received by producers of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(B)(i) in the case of oil sunflower seed, **$0.093** per pound;

"(ii) in the case of nonoil sunflower seed, **$0.1176** per pound;

"(iii) in the case of canola, **$0.0945** per pound;

"(iv) in the case of rapeseed, **$0.1001** per pound;

"(v) in the case of safflower, **$0.1259** per pound;

"(vi) in the case of mustard seed, **$0.1176** per pound; and

"(vii) in the case of flaxseed, **$0.093** per pound.

"(3) Other oilseeds.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except that the rate for the oilseeds (other than cottonseed) shall not be less than the rate established for soybeans on a per-pound basis for the same crop.".

SEC. 3. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR DRY PEAS, LENTILS, CHICKPEAS, AND RYE.

(a) Definition of Loan Commodity.—Section 102(10) of the Agricultural Market Transition Act (7 U.S.C. 7202(10)) is amended by striking "and oilseed" and inserting "oilseed, dry peas, lentils, chickpeas, and rye".

(b) Availability of Nonrecourse Loans.—Section 131(a) of the Agricultural Market Transition Act (7 U.S.C. 7231(a)) is amended in the first sentence by inserting after "each loan commodity" the following: "(other than dry peas, lentils, chickpeas, and rye) and each of the 2001 and 2002 crops of dry peas, lentils, chickpeas, and rye".

(c) Loan Rates.—Section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232) (as amended by section 2) is amended by adding at the end the following:

"(g) Dry Peas, Lentils, Chickpeas, and Rye.—The loan rate for a marketing assistance loan under section 131 for dry peas, lentils, chickpeas, and rye, individually, shall be not less than—

"(1) 85 percent of the simple average price received by producers of dry peas, lentils, chickpeas, and rye, respectively, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of dry peas, lentils, chickpeas, and rye, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or

"(2)(A) in the case of dry peas, **$7.00** per hundredweight;

"(B) in the case of lentils, **$12.00** per hundredweight;

"(C) in the case of chickpeas, **$15.00** per hundredweight; and

"(D) in the case of rye, **$2.80** per bushel.".

(d) Repayment of Loans.—Section 134(a) of the Agricultural Market Transition Act (7 U.S.C. 7234(a)) is amended—

(1) by striking "and Oilseeds.—" and inserting "Oilseeds, Dry Peas, Lentils, Chickpeas, and Rye.—"; and

(2) by striking "and oilseeds" and inserting "oilseeds, dry peas, lentils, chickpeas, and rye".

(e) Payment Limitation.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) is amended by striking "contract commodities and oilseeds" and inserting "contract commodities, oilseeds, dry peas, lentils, chickpeas, and rye".

SEC. 4. APPLICABILITY.

This Act and the amendments made by this Act shall apply to each of the 2001 and 2002 crops of a loan commodity (as defined in section 102 of the Agricultural Market Transition Act (7 U.S.C. 7202) (as amended by section 3(a))).

By Mrs. FEINSTEIN (for herself and Mr. Sessions):

S. 166. A bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased today, along with Senator Sessions of Alabama, to reintroduce the James Guelff Body Armor Act for the fourth consecutive Congress.

This bill closes a glaring gap in our criminal law that permits individuals with even the grimmest history of criminal violence to use body armor. It is unquestionable that criminals with violent intentions are more dangerous when they are wearing body armor, and are more difficult for police to disarm and disable.

This bill is named in memory of San Francisco Police Officer James Guelff. On November 13, 1994, Officer Guelff was shot to death in a fire-fight by a heavily armed gunman wearing a bullet-proof vest and kevlar helmet on a major street corner in San Francisco. Because of his protective gear, the assailant was subsequently able to hold off over a hundred police officers.

California is not the only state where heavily armored criminals have assaulted police officers and the community.

In 1999, Officer James Snedigar of the Chandler, Arizona Police department was shot and killed by a gunman firing an AK-47 who was also protected by a kevlar vest.

In March of 2000, Deputy Ricky Kinchen of Atlanta, Georgia, was killed in a shootout with a gunman who wore a bulletproof vest.

On July 15, 2000, Sergeant Todd Stamper of the Crandon, Wisconsin police department, was killed in a gun fight by a heavily armed man wearing a kevlar helmet and body armor.

Lee Guelff, James Guelff's brother, wrote to me about the need to revise the laws relating to body armor. His words eloquently explain the need for the legislation:

> It's bad enough when officers have to face gunmen in possession of superior firepower. * * * But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

Our laws need to recognize that body armor in the possession of a criminal is an offensive weapon. Police officers serving on the streets should have ready access to body armor, and hardened-criminals need to be deterred from using it.

The James Guelff Body Armor Act of 2001 has three key provisions. First, it directs the United States Sentencing Commission to develop a penalty enhancement for criminals who commit violent crimes while wearing body armor. Second, it prohibits violent felons from purchasing, using, or possessing body armor. Third, this bill enables Federal law enforcement agencies to directly donate surplus body armor to local police. I will address each of these three provisions.

I. Enhanced criminal penalties for wearing body armor during violent crimes.—Criminals who wear body armor while engaged in violent crimes deserve enhanced penalties because they pose an enhanced threat to police and civilians alike. Assailants shielded by body armor can shoot at the police and civilians with less fear than individuals not so well protected.

The James Guelff Body Armor Act directs the United States Sentencing Commission to develop an appropriate sentence enhancement for wearing body armor during a violent crime. The bill also expresses the Sense of the Senate that any enhancement should be at least two levels.

II. Prohibiting violent felons from wearing body armor.—This section makes it a crime (up to three years in jail) for individuals with a violent criminal record to wear, possess, or own body armor. It is unconscionable that criminals can obtain and wear body armor without restriction when so many of our police lack comparable protection.

To account for those rare circumstances when a felon may need body armor as part of a lawful occupation, the section provides an affirmative defense against prosecution if the felon wore armor after obtaining permission from employer, and possession of armor was necessary for safe performance of lawful business activity.

III. Direct donation of body armor.—The James Guelff Body Armor Act of 2001 also empowers Federal agencies to expedite the donation of body armor to local police departments.

Far too many local police officers do not have access to bullet-proof vests. The United States Department of Justice estimates that 25% of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Supplying local police officers with more body armor will save lives. According to the Federal Bureau of Investigation, greater than 30% of the approximately 1,300 officers killed by guns in the line of duty since 1980 could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest. Body armor saves an estimated 150 police officers' lives each year.

The James Guelff Body Armor Act is backed by law enforcement officers all across America. Organizations representing over 500,000 police officers have endorsed the legislation. These organizations include the Fraternal Order of Police, the National Sheriff's Association, the National Association of Black Law Enforcement Executives, the National Troopers Coalition, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the Police Executive Research Forum, the National Association of Police Organizations, and the International Association of Police Chiefs.

I look forward to working with my colleagues to enact this legislation.

Mr. SESSIONS. Mr. President, I rise today to join my colleague from California, Senator FEINSTEIN, in sponsoring the James Guelff Body Armor Act of 2001.

This legislation is intended to deter criminals from wearing body armor and to empower Federal law enforcement agencies to donate surplus body armor to State and local police departments.

This bipartisan legislation is named in honor of James Guelff, a California police officer who was murdered in the line of duty by an assailant wearing body armor and a bulletproof helmet.

As a Federal prosecutor for fifteen years, I developed a deep appreciation for the threats that our law enforcement officers face day to day as they wage the war on crime. In my home State of Alabama, Etowah County Officer Chris McCurley was murdered and Officer Gary Entrekin was critically injured in 1997 during a shootout with two criminals shielded by body armor. This bill will make criminals like these pay an extra price for using body armor while harming innocent, law-abiding people.

The James Guelff Body Armor Act addresses the abuse of body armor in three ways:

First, the bill directs the United States Sentencing Commission to amend the Sentencing Guidelines to include an enhancement for the use of body armor during a violent crime or a drug crime. Thus, criminals who use body armor while attacking law enforcement officers or civilians will spend longer terms in prison.

Second, the bill prohibits a person who has been convicted of a violent felony from purchasing, owning, or possessing body armor. Once a criminal has shown a propensity to violent action, he should not be able to use body armor to commit another crime and perhaps evade capture by the police.

Third, the bill enables Federal law enforcement agencies to donate surplus body armor, currently totaling approximately 10,000 vests, directly to State and local law enforcement agencies. By protecting our police officers, sheriffs' deputies, and other State and local law enforcement officers with body armor, we can help ensure that more cops come home to their families at the end of their day.

It is indisputable that getting our law enforcement officers more body armor will save lives. According to the Federal Bureau of Investigation, more than 30 percent of the officers killed by firearms in the line of duty since 1980 could have survived had they been wearing body armor.

In a survey of American voters in 1999 by the National Association of Police Organizations, 83 percent supported passing laws to keep felons from wearing body armor during the commission of crimes. This is why a broad bipartisan group of law enforcement organizations support this bill including: the Fraternal Order of Police, the National Organization of Black Law Enforcement Executives, the International Association of Chiefs of Police, the Federal Law Enforcement Officers Association, the National Association of Police Organizations, the International Brotherhood of Police Officers, and the National Sheriffs Association.

Last year, a very similar bill passed the Senate Judiciary Committee unanimously. It passed the entire Senate unanimously. It is time for Congress to act and to protect our law enforcement officers.

I call on my colleagues in the Senate, including Senator FEINSTEIN, to join me, and the law enforcement community in supporting this important legislation that will save lives and provide law enforcement officers with more protection in their fight against the most violent criminals.

By Mr. FRIST (for himself, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. CRAIG, Mr. DOMENICI, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. LOTT, and Mr. SESSIONS):

S. 167. A bill to allow a State to combine certain funds to improve the academic achievement of all its students; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to introduce the Academic Achievement for All Act. I am honored to introduce this legislation.

We begin this 107th Congress with the great opportunity to dramatically shape and change the federal government's role in education. Never before have the American people been so focused on the education system. With that focus comes great expectations. As a Congress, we must seize this opportunity and work together to creatively improve how the federal government addresses education within our country.

We must continue the push to cut red tape and remove overly-prescriptive federal mandates on federal education funding. At the same time, we must hold states and local schools accountable for increasing student achievement. Flexibility combined with accountability, must be our objective.

The end result of our reform effort must spark innovation—innovation designed to provide all students a world-class education.

As the chairman of the Senate Budget Committee Task Force on Education, I heard from almost every witness, both Democrats and Republicans alike, how the sprawling, duplicative and unfocused behemoth that is the current federal education establishment ties the hands of state and local school administrators, teachers and principals with its burdensome regulations and rigidity. As a result, the very first recommendation of the Education Task Force Interim Report was to consolidate federal education programs.

The number one recommendation read as follows:

> In light of the continuing proliferation of federal categorical programs, the Task Force recommends that federal education programs be consolidated . . . The Task Force particularly favors providing states flexibility to consolidate all federal funds into an integrated state strategic plan to achieve national educational objectives for which the state would be held accountable.

In hopes of improving federal regulation of education as we currently know it, Senators Gorton, GREGG, HUTCHINSON, SESSIONS and I worked last year to create this bill. We decided to combine all of our good ideas into Straight A's. Straight A's permits states to have the option of submitting a performance agreement, setting specific and measurable performance goals that could be reached at the end of five years, in exchange for flexibility.

Straight A's is an optional program. States would still be free to administer federal education programs under the current system if they so desired. If states choose to participate in the program, they would be allowed to combine Federal K–12 funds in exchange for flexibility upon approval of their performance agreement. States can focus more funds on disadvantaged students, teacher professional development, reducing class size, technology, or improved school facilities. At the end of five years, however, the state's efforts must increase the achievement of all students, including the lowest performing students.

If states do not substantially meet those goals, they would lose their Straight A's status, and they would have to return to the less flexible regulated approach available under current law. If states do well and significantly reduce achievement gaps between high and low performing students, they will be rewarded with additional funds. Additionally, school districts would not lose any Title I funding. If Title I is included by a state, each school district in the state would be assured of receiving at least as much money as they received in the preceding fiscal year.

States and local school districts are innovative. Without question, it is states and localities that today are serving as the engines for change in education. The groundwork for success is already in place at the local level—teachers, parents, principals, and communities demonstrate on a daily basis the enthusiasm and desire to succeed. However, flexibility at the state and local level is critical to the success of our schools.

Although the federal government is prepared to assist in improving America's schools, it is worth remembering the limitations of the federal role in education. The federal government provides just 7 percent of education funding. But despite its limitations, the federal government does have a role to play in revitalizing education. The federal government can provide the focus and leadership to identify those problems worthy of the collective energy of all Americans, and it can commit resources to the states to supplement their efforts.

But along with the resources, the federal government must also give states and localities the freedom to pursue their own strategies for implementation. With respect to education, tactics and implementation procedures are virtually dictated by the federal government. The rationale for expanding an already overly large and burdensome federal education establishment is simply not discernible. Instead, the states should have the flexibility to put together state strategic plans. Under such a plan, the states would establish concrete educational goals and timetables for achievement. In return, they would be allowed to pool federal funds from categorical programs and spend these consolidated resources on state established priorities.

But, along with flexibility comes accountability. When we give states and local education agencies the freedom to use funds in the way that best meets the needs of their students, we must expect from them increased student performance. For too long accountability has been measured by quantitative measures rather than qualitative ones. We know that we are spending $8 billion on Title I—the nation's largest federal education program—to help disadvantaged children. But we do not know if all that money is helping those students to learn. This must change.

Our current system simply requires that you send the money to poor schools. I believe that there is no better catalyst for reform, no better way to ensure that poor children receive the same quality of education as their wealthier counterparts—than requiring that states demonstrate that their poor children are achieving.

The flexibility is needed to allow states to use whatever means necessary to increase poor students' achievement. Unfortunately, after 34 years and $120 billion spent on Title I, 70 percent of children in high poverty schools score below even the most basic level of reading. In math, 4th graders in high poverty schools remain 2 grade levels behind their peers in low poverty schools. In reading, they remain 3 to 4 grade levels behind.

As a scientist, I know the value of looking for new way to solve problems, and America has long had a proud tradition of innovation. This bill will create a whole new generation of inventors in the field of education—in particular, Governors, local school boards, teachers, and parents will be better able to put good ideas into practice.

I strongly urge passage of this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Academic Achievement for All Act" or "Straight A's Act".

SEC. 2. PURPOSE.

The purpose of this Act is to create options for States and communities—

(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

(3) to empower parents and schools to effectively address the needs of their children and students;

(4) to give States and communities maximum freedom in determining how to boost academic achievement and implement education reforms;

(5) to eliminate Federal barriers to implementing effective State and local education programs;

(6) to hold States and communities accountable for boosting the academic achievement of all students, especially disadvantaged children; and

(7) to narrow achievement gaps between the lowest and highest performing groups of students so that no child is left behind.

SEC. 3. PERFORMANCE AGREEMENT.

(a) PROGRAM AUTHORIZED.—States may, at their option, execute a performance agreement with the Secretary under which the provisions of law described in section 4(a) shall not apply to such State except as otherwise provided in this Act. The Secretary shall execute performance agreements with States that submit approvable performance agreements under this section.

(b) LOCAL INPUT.—States shall provide parents, teachers, and local schools and school districts notice and opportunity to comment on any proposed performance agreement prior to submission to the Secretary as provided under general State law notice and comment provisions.

(c) APPROVAL OF PERFORMANCE AGREEMENT.—A performance agreement submitted to the Secretary under this section shall be considered as approved by the Secretary within 60 days after receipt of the performance agreement unless the Secretary, before the expiration of the 60-day period, provides a written determination to the State that the performance agreement fails to satisfy the requirements of this Act.

(d) Terms of Performance Agreement.—Each performance agreement executed pursuant to this Act shall comply with the following provisions:

(1) Term.—The performance agreement shall contain a statement that the term of the performance agreement shall be 5 years.

(2) Application of program requirements.—The performance agreement shall contain a statement that no program requirements of any program included by the State in the performance agreement shall apply, except as otherwise provided in this Act.

(3) List of programs.—The performance agreement shall provide a list of the programs that the State wishes to include in the performance agreement.

(4) Use of funds to improve student achievement.— The performance agreement shall contain a 5-year plan describing how the State intends to combine and use the funds from programs included in the performance agreement to advance the education priorities of the State, improve student achievement, and narrow achievement gaps between students.

(5) Accountability system requirements.—If the State includes any of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) in the State's performance agreement, the performance agreement shall include a certification that the State has—

(A)(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b) of such Act (20 U.S.C. 6311(b)); or

(ii) developed and implemented a system to measure the degree of change from one school year to the next in student performance;

(B) developed and is implementing a statewide accountability system that has been or is reasonably expected to be effective in substantially increasing the numbers and percentages of all students who meet the State's proficient and advanced levels of performance;

(C) established a system under which assessment information may be disaggregated within each State, local educational agency, and school by each major racial and ethnic group, gender, English proficiency status, migrant status, and by economically disadvantaged students as compared to students who are not economically disadvantaged (except that such disaggregation shall not be required in cases in which the number of students in any such group is insufficient to yield statistically reliable information or will reveal the identity of an individual student);

(D) established specific, measurable, numerical performance objectives for student achievement, including a definition of performance considered to be proficient by the State on the academic assessment instruments described in subparagraph (A); and

(E) developed and implemented a statewide system for holding its local educational agencies and schools accountable for student performance that includes—

(i) a procedure for identifying local educational agencies and schools for improvement, using the assessments described in subparagraph (A);

(ii) assisting and building capacity in local educational agencies and schools identified for improvement to improve teaching and learning; and

(iii) implementing corrective actions after not more than 3 years if the assistance and capacity building under clause (ii) is not effective.

(6) Performance goals.—

(A) Student academic achievement.—Each State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in its performance agreement shall establish annual student performance goals for the 5-year term of the performance agreement that, at a minimum—

(i) establish a single high standard of performance for all students;

(ii) take into account the progress of students from every local educational agency and school in the State;

(iii) are based primarily upon the State's challenging content and student performance standards and assessments described in paragraph (5);

(iv) include specific annual improvement goals in each subject and grade included in the State assessment system, which shall include, at a minimum, reading or language arts and mathematics;

(v) compare the proportions of students at levels of performance (as defined by the State) with the proportions of students at the levels in the same grade in the previous school year;

(vi) include annual numerical goals for improving the performance of each group specified in paragraph (5)(C) and narrowing gaps in performance between the highest and lowest performing students in accordance with section 10(b); and

(vii) require all students in the State to make substantial gains in achievement.

(B) Additional indicators of performance.—A State may identify in the performance agreement any additional indicators of performance such as graduation, dropout, or attendance rates.

(C) Consistency of performance measures.—A State shall maintain, at a minimum, the same level of challenging State student performance standards and assessments throughout the term of the performance agreement.

(7) Fiscal responsibilities.—The performance agreement shall contain an assurance that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under this Act.

(8) Civil rights.—The performance agreement shall contain an assurance that the State will meet the requirements of applicable Federal civil rights laws.

(9) Private school participation.—The performance agreement shall contain assurances—

(A) that the State will provide for the equitable participation of students and professional staff in private schools; and

(B) that sections 10104, 10105, and 10106 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004-8006) shall apply to all services and assistance provided under this Act in the same manner as such sections apply to services and assistance provided in accordance with section 10103 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8003).

(10) State financial participation.—The performance agreement shall contain an assurance that the State will not reduce the level of spending of State funds for elementary and secondary education during the term of the performance agreement.

(11) Annual reports.—The performance agreement shall contain an assurance that not later than 1 year after the execution of the performance agreement, and annually thereafter, each State shall disseminate widely to parents and the general public, submit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report that includes—

(A) student academic performance data, disaggregated as provided in paragraph (5)(C); and

(B) a detailed description of how the State has used Federal funds to improve student academic performance and reduce achievement gaps to meet the terms of the performance agreement.

(e) Special Rules.—If a State does not include part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in its performance agreement, the State shall—

(1) certify that the State developed a system to measure the academic performance of all students; and

(2) establish challenging academic performance goals for such other programs in accordance with paragraph (6)(A) of subsection (d), except that clause (vi) of such paragraph shall not apply to such performance agreement.

(f) Amendment to Performance Agreement.—A State may submit an amendment to the performance agreement to the Secretary under the following circumstances:

(1) Reduction in scope of performance agreement.—Not later than 1 year after the execution of the performance agreement, a State may amend the performance agreement through a request to withdraw a program from such agreement. If the Secretary approves the amendment, the requirements of existing law shall apply for any program withdrawn from the performance agreement.

(2) Expansion of scope of performance agreement.—Not later than 1 year after the execution of the performance agreement, a State may amend its performance agreement to include additional programs and performance indicators for which the State will be held accountable.

(3) Approval of amendment.—An amendment submitted to the Secretary under this subsection shall be considered as approved by the Secretary within 60 days after receipt of the amendment unless the Secretary provides, before the expiration of the 60-day period, a written determination to the State that the performance agreement, if amended by the amendment, will fail to satisfy the requirements of this Act.

SEC. 4. ELIGIBLE PROGRAMS.

(a) Eligible Programs.—The provisions of law referred to in section 3(a) except as otherwise provided in subsection (b), are as follows:

(1) Part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(2) Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.).

(3) Part C of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6391 et seq.).

(4) Part D of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6421 et seq.).

(5) Section 1502 of part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6492).

(6) Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6641 et seq.).

(7) Section 3132 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6842).

(8) Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.)

(9) Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.).

(10) Part C of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7541 et seq.).

(11) Section 307 of the Department of Education Appropriations Act of 1999.

(12) Titles II, III, and IV of the School-to-Work Opportunities Act.

(13) Title III of the Goals 2000: Educate America Act (20 U.S.C. 5881 et seq.).

(14) Sections 115 and 116, and parts B and C of title I of the Carl D. Perkins Vocational and Technical Education Act of 1998.

(15) Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.).

(16) Section 321 of the Department of Education Appropriations Act, 2001.

(b) Allocations to States.—A State may choose to consolidate funds from any or all of the programs described in subsection (a) without regard to the program requirements of the provisions referred to in such subsection, except that the proportion of funds made available for national programs and allocations to each State for State and local use, under such provisions, shall remain in effect unless otherwise provided.

(c) Use of Funds.—Funds made available under this Act to a State shall be used for any elementary and secondary educational purposes permitted by State law of the participating State.

SEC. 5. WITHIN-STATE DISTRIBUTION OF FUNDS.

(a) In General.—The distribution of funds from programs included in a performance agreement from a State to a local educational agency within the State shall be determined by the Governor of the State and the State legislature. In a State in which the constitution or State law designates another individual, entity, or agency to be responsible for education, the allocation of funds from programs included in the performance agreement from a State to a local educational agency within the State shall be determined by that individual, entity, or agency, in consultation with the Governor and State Legislature. Nothing in this section shall be construed to supersede or modify any provision of a State constitution or State law.

(b) Local Input.—States shall provide parents, teachers, and local schools and school districts notice and opportunity to comment on the proposed allocation of funds as provided under general State law notice and comment provisions.

(c) Local Hold Harmless of Part A Title I Funds.—

(1) In general.—In the case of a State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement, the agreement shall provide an assurance that each local educational agency shall receive under the performance agreement an amount equal to or greater than the amount such agency received under part A of title I of such Act in the fiscal year preceding the fiscal year in which the performance agreement is executed.

(2) Proportionate reduction.—If the amount made available to the State from the Secretary for a fiscal year is insufficient to pay to each local educational agency the amount made available under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) to such agency for the preceding fiscal year, the State shall reduce the amount each local educational agency receives by a uniform percentage.

SEC. 6. LOCAL PARTICIPATION.

(a) Nonparticipating State.—

(1) In general.—If a State chooses not to submit a performance agreement under this Act, any local educational agency in such State is eligible, at the local educational agency's option, to submit to the Secretary a performance agreement in accordance with this section.

(2) Agreement.—The terms of a performance agreement between an eligible local educational agency and the Secretary shall specify the programs to be included in the performance agreement, as agreed upon by the State and the agency, from the list under section 4(a).

(b) State Approval.—When submitting a performance agreement to the Secretary, an eligible local educational agency described in subsection (a) shall provide written documentation from the State in which such agency is located that the State has no objection to the agency's proposal for a performance agreement.

(c) Application.—

(1) In general.—Except as provided in this section, and to the extent applicable, the requirements of this Act shall apply to an eligible local educational agency that submits a performance agreement in the same manner as the requirements apply to a State.

(2) Exceptions.—The following provisions shall not apply to an eligible local educational agency:

(A) Within state distribution formula not applicable.—The distribution of funds under section 5 shall not apply.

(B) State set aside not applicable.—The State set aside for administrative funds under section 7 shall not apply.

SEC. 7. LIMITATIONS ON STATE AND LOCAL EDUCATIONAL AGENCY ADMINISTRATIVE EXPENDITURES.

(a) In General.—Except as otherwise provided under subsection (b), a State that includes part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement may use not more than 1 percent of such total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes.

(b) Exception.—A State that does not include part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the performance agreement may use not more than 3 percent of the total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes.

(c) Local Educational Agency.—A local educational agency participating in this Act under a performance agreement under section 6 may not use for administrative purposes more than 4 percent of the total amount of funds allocated to such agency under the programs included in the performance agreement.

SEC. 8. PERFORMANCE REVIEW AND PENALTIES.

(a) Mid-Term Performance Review.—If, during the 5-year term of the performance agreement, student achievement significantly declines for 3 consecutive years in the academic performance categories established in the performance agreement, the Secretary may, after notice and opportunity for a hearing, terminate the agreement.

(b) Failure To Meet Terms.—If, at the end of the 5-year term of the performance agreement, a State has not substantially met the performance goals submitted in the performance agreement, the Secretary shall, after notice and an opportunity for a hearing, terminate the performance agreement and the State shall be required to comply with the program requirements, in effect at the time of termination, for each program included in the performance agreement.

(c) Penalty For Failure To Improve Student Performance.—If a State has made no progress toward achieving its performance goals by the end of the term of the agreement, the Secretary may reduce funds for State administrative costs for each program included in the performance agreement by up to 50 percent for each year of the 2-year period following the end of the term of the performance agreement.

SEC. 9. RENEWAL OF PERFORMANCE AGREEMENT.

(a) Notification.—A State that wishes to renew its performance agreement shall notify the Secretary of its renewal request not less than 6 months prior to the end of the term of the performance agreement.

(b) Renewal Requirements.—A State that has met or has substantially met its performance goals submitted in the performance agreement at the end of the 5-year term may apply to the Secretary to renew its performance agreement for an additional 5-year period. Upon the completion of the 5-year term of the performance agreement or as soon thereafter as the State submits data required under the agreement, the Secretary shall renew, for an additional 5-year term, the performance agreement of any State that has met or has substantially met its performance goals.

SEC. 10. ACHIEVEMENT GAP REDUCTION REWARDS.

(a) Closing the Gap Reward Fund.—

(1) In general.—To reward States that make significant progress in eliminating achievement gaps by raising the achievement levels of the lowest performing students, the Secretary shall set aside sufficient funds from the Fund for the Improvement of Education under part A of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) to grant a reward to States that meet the conditions set forth in subsection (b) by the end of their 5-year performance agreement.

(2) Reward amount.—The amount of the reward referred to in paragraph (1) shall be not less than 5 percent of funds allocated to the State during the first year of the performance agreement for programs included in the agreement.

(b) Conditions of Performance Reward.—Subject to paragraph (3), a State is eligible to receive a reward under this section as follows:

(1) A State is eligible for such an award if the State reduces by not less than 25 percent, over the 5-year term of the performance agreement, the difference between the percentage of highest and lowest performing groups of students described in section 3(d)(5)(C) that meet the State's proficient level of performance.

(2) A State is eligible for such an award if a State increases the proportion of 2 or more groups of students under section 3(d)(5)(C) that meet State proficiency standards by 25 percent.

(3) A State shall receive such an award if the following requirements are met:

(A) Content areas.—The reduction in the achievement gap or improvement in achievement shall include not less than 2 content areas, 1 of which shall be mathematics or reading.

(B) GRADES TESTED.—The reduction in the achievement gap or improvement in achievement shall occur in at least 2 grade levels.

(c) RULE OF CONSTRUCTION.—Student achievement gaps shall not be considered to have been reduced in circumstances where the average academic performance of the highest performing quintile of students has decreased.

SEC. 11. STRAIGHT A's PERFORMANCE REPORT.

The Secretary shall make the annual State reports described in section 3(d)(11) available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate not later than 60 days after the Secretary receives the report.

SEC. 12. APPLICABILITY OF TITLE X.

To the extent that provisions of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) are inconsistent with this Act, this Act shall be construed as superseding such provisions.

SEC. 13. APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.

To the extent that the provisions of the General Education Provisions Act (20 U.S.C. 1221 et seq.) are inconsistent with this Act, this Act shall be construed as superseding such provisions, except where relating to civil rights, withholding of funds and enforcement authority, and family educational and privacy rights.

SEC. 14. APPLICABILITY TO HOME SCHOOLS.

Nothing in this Act shall be construed to affect home schools regardless of whether a home school is treated as a private school or home school under State law.

SEC. 15. GENERAL PROVISIONS REGARDING NON-RECIPIENT, NON-PUBLIC SCHOOLS.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law.

SEC. 16. DEFINITIONS.

In this Act:

(1) ALL STUDENTS.—The term "all students" means all students attending public schools or charter schools that are participating in the State's accountability and assessment system.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(4) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

SEC. 17 EFFECTIVE DATE.

This Act shall take effect with respect to funds appropriated for the fiscal year beginning October 1, 2001.

Mr. MURKOWSKI. Mr. President, today I am pleased to join my distinguished colleague from Tennessee, Senator FRIST, in introducing the Academic Achievement for All Act known as Straight A's.

Our education system is in need of serious reform. Thirty-five years ago, Congress enacted the first Elementary and Secondary Education Act. Today, over $120 billion has been spent on Title I—the program that is the cornerstone of the federal investment in K through 12 education for disadvantaged children. However, only 13 percent of low-income 4th graders score at or above the "proficient" level on national reading tests, and one-third of all incoming college freshman must enroll in remedial reading, writing, or mathematics classes before taking regular courses. Even worse, no progress has been made in achieving the program's fundamental goal, narrowing the achievement gap between low-income and upper-income students.

More fundamentally, the Federal role in education has been at best irrelevant in some states, and a serious barrier to reform in States that are far ahead of the curve in implementing serious reforms. It is time that parents, teachers, principals, and school board members decide what is best for our children. It is important that we return to our States and local communities the right to set priorities that reflect the unique needs of their students. The Straight A's Act offers such an option. It leaves the basic construct of Federal education programs intact, but offers some states the opportunity to experiment. Straight A's would allow states or school districts to spend their share of Federal dollars on reforms of their choice in exchange for agreed upon academic results. It is the first Federal education program to shift Federal dollars from one size fits all programs to a program that demands academic outcomes.

I believe that choice and flexibility are the two most important aspects of education reform. The Straight A's Act offers both. The time has come to move forward with education reform, and I think Straight A's is moving in the right direction.

By Mr. KYL (for himself, Mr. MCCAIN, Mrs. HUTCHISON, Mr. DOMENICI, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mrs. BOXER):

S. 169. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal criminal aliens and for emergency health services furnished to undocumented aliens; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to reintroduce the State Criminal Alien Assistance Program II and Local Medical Emergency Reimbursement Act. Senators MCCAIN, HUTCHISON, GRAMM, DOMENICI, BINGAMAN, FEINSTEIN, and BOXER join me. This bill, which is identical to the bill I introduced in the 106th Congress, will be of great importance to Arizona's future fiscal soundness and that of the other southwest border states.

The bill will reimburse states and localities for the costs they incur to process criminal illegal aliens through their criminal justice systems. It will also provide reimbursement for the uncompensated care that states, localities, and hospitals provide, as required by federal law, to undocumented aliens for medical emergencies.

It is unclear what the true expense for providing these services is, but it is believed to be even greater than the level of reimbursement provided for in the bill we introduce today. Title I of our bill will provide $200 million each year for four years for the criminal justice costs associated with processing criminal illegal aliens. Title II will provide $200 million each year for four years for the costs that states, localities, and hospitals incur to provide emergency medical treatment to undocumented aliens.

We will soon have a better idea of what these overwhelming costs are to those jurisdictions clearly affected, the local border communities in Arizona, Texas, California, and New Mexico. Last year I successfully secured funding for a study which should be completed this week and will detail the expenses that border communities in all four southwest states incur to process criminal aliens. The Arizona portion is already complete. In the four border counties of Arizona, $18 million in unreimbursed costs are incurred to process criminal illegal aliens.

Preventing illegal immigration is the responsibility of the Federal Government. When it fails to protect our borders from illegal immigration, it has a responsibility to reimburse jurisdictions that provide federally-mandated services that (1) protect citizens and legal residents from criminal illegal aliens, or (2) provide emergency medical attention to undocumented immigrants. These two services have a tremendous effect on the budgets of these relatively small jurisdictions. When illegal immigrants commit crimes and are then caught, they drain the budgets of a locality's sheriff, detention facilities, justice court, county attorney, clerk of the court, superior and juvenile court, and juvenile detention departments, as well as the county's indigent defense budget. States and local jurisdictions all along the southwestern border have incurred 100 percent of these processing-related costs to date. Our bill will change that.

Another study I was able to secure funding for in the 106th Congress will soon begin. That study will detail the overwhelming, and again unreimbursed, costs that certain localities and hospitals are incurring to treat illegal immigrants for medical emergencies. The federal government is obligated to fully reimburse states, localities, and hospitals for the emergency medical treatment of illegal immigrants.

According to a preliminary Congressional Budget Office estimate provided two years ago, the total annual cost to treat illegal immigrants for medical emergencies is roughly $2.8 billion a year. It is roughly estimated that the federal government reimburses states for approximately half of that amount. That means states must pay the remaining $1.4 billion. The state of Arizona estimates that it incurs unreimbursed costs of $30 million annually to treat undocumented immigrants on an emergency basis.

The bill we introduce today will provide states, localities, and hospitals an additional $200 million per year to help absorb the costs of adhering to Federal law, which mandates that all individuals, regardless of immigration status or ability to pay, must be provided with medical treatment in a medical emergency.

Mr. President, I hope we can address these very pressing issues in the coming months, and that Members will consider joining my cosponsors and me in support of this bill.

Mr. McCAIN. Mr. President, I rise today in support of legislation Senator KYL and I are introducing with a number of our border-state colleagues to provide appropriate Federal reimbursement to states and localities whose budgets are disproportionately affected by the costs associated with illegal immigration. The premise of our bill, and of current law governing this type of federal reimbursement to the states, is that controlling illegal immigration is principally the responsibility of the Federal government, not the states.

Our legislation would expand the amount and scope of federal funding to the states for incarceration and medical costs that arise from the detention or treatment of illegal immigrants. Such funding currently flows to all 50 states, the District of Columbia, and several U.S. territories. In Fiscal Year 2000, approximately 360 local jurisdictions across the United States applied for these Federal monies. Although our bill gives special consideration to border States and States with unusually high concentrations of illegal aliens in residence, it would benefit communities across the nation. It deserves the Senate's prompt consideration and approval.

Many of my colleagues are probably not aware that the Federal Government, under the existing State Criminal Alien Assistance Program, SCAAP, reimburses states and counties burdened by illegal immigration for less than 40 percent of eligible alien incarceration costs. Many border counties estimate that between one-quarter and one-third of their criminal justice budgets are spent processing criminal aliens. In my State of Arizona, Santa Cruz County spent 33 percent of its total criminal justice budget in Fiscal Year 1999 to process criminal illegal aliens, of which over half was not reimbursed by the Federal Government. Arizona's Cochise County spent roughly 32 percent of its total law enforcement and criminal justice budget to apprehend and process criminal illegal aliens but received Federal payments to cover fewer than half of these costs. Similar shortfalls in Federal funding plague states and counties all along our border with Mexico.

The legislation we are introducing today would actually expand the State Criminal Alien Assistance Program by authorizing funding for state and local needs that currently go unmet. Although states receive Federal reimbursement for part of the cost of incarcerating illegal adult aliens, the Federal Government does not reimburse states or units of local government for expenditures for illegal juvenile aliens. Nor does it reimburse states and localities for costs associated with processing criminal illegal aliens, including court costs, county attorney costs, costs for criminal proceedings that do not involve going to trial, indigent defense costs, and unsupervised probation costs. Our legislation would authorize the Federal Government to reimburse such costs to States and localities that suffer a substantially disproportionate share of the impact of criminal illegal aliens on their law enforcement and criminal justice systems. It would also authorize additional Federal reimbursement for emergency health services furnished by states and localities to undocumented aliens.

Reimbursement to States and localities for criminal alien incarceration is woefully underfunded according to the existing limited criteria for SCAAP, which do not take into account the full detention and processing costs for illegal aliens. Nor does the existing SCAAP provide necessary support to local communities for the cost of emergency care for illegal immigrants, a growing problem in the Southwest, and one exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico. Our legislation thus authorizes the expansion of SCAAP to cover costs wrongly borne by local communities under current law—costs which are a Federal responsibility and should not be shirked by those in Washington.

As my colleagues know, illegal immigrants who successfully transit our Southwest border rapidly disperse throughout the United States. That SCAAP funds flow to all 50 States reflects the pressures such aliens place on public services around the country. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating state and local units for the costs they incur as unwitting hosts to undocumented aliens, even as we continue to fund border enforcement measures to reduce the flow of illegal immigrants into this country.

By Mr. REID (for himself, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. DORGAN, Mr. CONRAD, Mr. JOHNSON, Mr. McCAIN, Mr. BINGAMAN, Mr. INOUYE, Mr. SHELBY, Ms. SNOWE, and Mr. DASCHLE):

S. 170. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services.

Mr. REID. Mr. President, last Congress I, along with Senator INOUYE, introduced S. 2357, "The Armed Forces Concurrent Retirement and Disability Payment Act of 2000." Our bill addressed a 110 year old injustice that requires some of the bravest men and women in our nation—retired, career veterans, to essentially forgo receipt of a portion of their retired pay if they received a disability injury in the line of service. I am extremely disappointed that we did not take the opportunity to correct this long-standing inequity in the 106th Congress.

I rise today, to again introduce a bill along with my colleagues Senators HUTCHINSON, LANDRIEU, DORGAN, CONRAD, JOHNSON, McCAIN, BINGAMAN, INOUYE, SHELBY, SNOWE and DASCHLE, that will correct this inequity for veterans who have retired from our Armed Forces with a service-connected disability.

Our bill will permit retired members of the Armed Forces who have a service connected disability to receive military retired pay concurrently with veterans' disability compensation.

This inequitable law originated in the 19th century, when Congress approved legislation to prohibit the concurrent receipt of military retired pay and VA disability compensation. It was enacted shortly after the Civil War, when the standing army of the United States was extremely limited. At that time, only a small portion of our armed forces consisted of career soldiers.

Today, nearly one and a half million Americans dedicate their lives to the defense of our nation. The United States' military force is unmatched in terms of power, training and ability and our nation is recognized as the world's only superpower, a status which is largely due to the sacrifices our veterans made during the last century. Rather than honoring their commitment and bravery by fulfilling our obligations, the federal government has chosen instead to perpetuate a 110-year-old injustice. Quite simply, this is disgraceful.

Military retirement pay and disability compensation were earned and awarded for entirely different purposes. Current law ignores the distinction between these two entitlements. Members of our Armed Forces have normally dedicated 20 or more years to our country's defense earning their retirement for service. Whereas, disability compensation is awarded to a veteran for injury incurred in the line of duty.

Career military retired veterans are the only group of federal retirees who are required to waive their retirement pay in order to receive VA disability. All other federal employees receive both their civil service retirement and VA disability with no offset. Simply put, the law discriminates against career military men and women.

This inequity is absurd. How do we explain it to the men and women who sacrificed their own safety to protect this great nation? How do we explain this inequity to Edward Lynk from Virginia who answered the call of duty to defend our nation? Mr. Lynk served for over 30 years in the Marine Corps and participated in three wars, where he was severely injured during combat in two of them.

Or George Blahun from Connecticut, who entered the military in 1940 to serve his country because of the impending war. He served over 35 years during World War II, the Korean War and the Vietnam War. He is 100 percent disabled because of injuries incurred while performing military service.

Our nation is experiencing a prosperity unparalleled in human history and yet we continue to tell these brave soldiers that we cannot afford to make good on payments they are owed. Mr. Blahun has hit the proverbial nail on the head when he labels our excuses "arbitrary bureaucratic rhetorical nonsense." We must demonstrate to these veterans that we are thankful for their dedicated service. As such, we must fight for the amendment in the Senate version of the National Defense Authorization bill for FY 2001.

We are currently losing over one thousand WWII veterans each day. Every day we delay acting on this legislation means that we have denied fundamental fairness to thousands of men and women. They will never have the ability to enjoy their two well-deserved entitlements.

Mr. President, this bill represents an honest attempt to correct an injustice that has existed for far too long. Allowing disabled veterans to receive military retired pay and veterans disability compensation concurrently will restore fairness to Federal retirement policy.

This legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

Mr. President, passing "The Retired Pay Restoration Act of 2001" will finally eliminate a gross inequitable 19th century law and ensure fairness within the Federal retirement policy. Our veterans have heard enough excuses. Now it is time for them to hear our gratitude. I urge my colleagues to join me in supporting this legislation to finally end this disservice to our retired military men and women.

Our veterans have earned this and now is our chance to honor their service to our Nation.

I ask unanimous consent that the text of the Retired Pay Restoration Act of 2001 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retired Pay Restoration Act of 2001".

SEC. 2. PAYMENT OF RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) Restoration of Retired Pay Benefits.—Chapter 71 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

"(a) Payment of Both Retired Pay and Compensation.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

"(b) Special Rule for Chapter 61 Career Retirees.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(c) Exception.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

"(d) Definitions.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.".

(b) Repeal of Special Compensation Program.—Section 1413 of such title is repealed.

(c) Clerical Amendments.—The table of sections at the beginning of such chapter is amended—

(1) by striking the item relating to section 1413; and

(2) by adding at the end the following new item:

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.".

SEC. 3. EFFECTIVE DATE; PROHIBITION ON RETROACTIVE BENEFITS.

(a) In General.—The amendments made by this Act shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(b) Retroactive Benefits.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as added by the amendment made by section 2(a), for any period before the effective date specified in subsection (a).

Mr. HUTCHINSON. Mr. President, I rise today to join my distinguished colleague from across the aisle, Senator Reid, in introducing the Military Retirement Equity Act of 2001. With the swift passage of this act, we hope to put an end to a grossly unfair practice, to reform a system that, as it stands today, ends up hurting those veterans we owe our greatest debt of gratitude.

Today, our armed forces are struggling to meet even modest recruiting goals and are having even more difficulty retaining qualified men and women. Serving in the military is less likely to be seen as an attractive career. The Federal Government should do its part to help, not to hinder, the viability of the idea of a career in uniform.

Unfortunately, an outdated law passed in 1891 punishes those who have served this Nation in uniform for more than twenty years, in the process earning a longevity retirement. How? By forcing them to waive the amount of their retired pay equal to the amount of any VA disability compensation they may be eligible to receive. That is patently unfair. Military retirement pay based on longevity and VA disability compensation are awarded for two distinct, different reasons—one should not count against the other. One is awarded for making a career of public service, the other is to redress debilitating, enduring injuries caused by the rigors of life in the military.

Military retirees are the only group of federal retirees who must waive a portion of their retirement pay in order to receive VA disability compensation. If a veteran refuses to give up his retired pay, he will lose his VA benefits.

Let's take the fictional example of two G.I.'s named Joe and Sam. Joe and Sam joined the Army together and were wounded in the same battle. Joe left the Army after a four-year tour and joined the federal government as a civilian employee. Sam continued on and made the military his career.

Thirty years later, both men are receiving federal retirement pay and both are eligible for VA disability compensation as a result of the injuries they sustained while in the service. The difference between Joe and Sam is that in order to get disability compensation, Sam must forfeit an equal amount of his retired pay, while Joe collects the full amount of both benefits without any deduction in either.

Fairness is the issue here. We should be rewarding, not penalizing people for choosing a career in the military. Military retirees with service-connected disabilities should be allowed to receive compensation for their injuries above their retired military pay. The 107th Congress must act to bring equity to those who were disabled during a career of dedicated service to our nation, and the Reid-Hutchinson bill is the proper vehicle. By eliminating the offset, we can end this unfair practice that hurts those who need our help.

The Military Retirement Equity Act of 2001 has the strong support of many military and nonmilitary veterans service organizations. In addition, Congressman MICHAEL BILIRAKIS has introduced companion legislation in the House of Representatives. I encourage all of my colleagues to join us in this fight by signing on as cosponsors.

While I know it will be an uphill battle to get this legislation passed, it is one of my highest priorities. It's only right that the Congress make this much-needed change and reward—rather than penalize—those who have selflessly served to protect our Nation.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. BAUCUS, and Mr. DURBIN):

S. 171. A bill to repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes, to the Committee on Foreign Relations.

Mr. DORGAN. On behalf of myself, Mr. ROBERTS, Mr. BAUCUS, and Mr. DURBIN, I introduce a piece of legislation today that deals with the repeal of certain travel provisions or restrictions and certain trade sanctions with respect to Cuba.

Last year, in the Senate Appropriations Committee, I offered legislation dealing with removing the embargo that exists on the shipment of agriculture commodities around the world.

The fact is, we have some people around the world we don't like. We say: We are going to punish you.

We don't like Saddam Hussein. We say: The way to punish you is, we are going to slap an embargo on your country, and in that embargo we are going to include food and medicine. We say the same to the leaders of Libya, Cuba and North Korea.

It has been my strong feeling that we ought never have an embargo on the shipment of food and medicine to anywhere in the world. With those embargoes, we shoot ourselves in the foot. When we don't sell food to those countries, other countries will sell food to them. Why on Earth would we ever want to use food as a weapon? I thought we put that behind us 20 years ago. Yet we continue to do it with respect to certain undesirable countries.

I offered legislation in the appropriations bill last year. It came to the floor of the Senate, and we moved through the Senate into conference. We had a lot of discussion about it. The fact is, we made some progress, essentially lifting sanctions and embargoes on the shipment of food and medicine to Iran, Libya, Sudan and North Korea. But there is more yet to do. In conference we got stiffed by some interests who decided that they wanted to even take a step backward with respect to the ban on travel to Cuba. They took the legislation we enacted and added to it a further restriction by codifying all the restrictions that now exist on travel to Cuba and preventing a President from loosening the travel restrictions. They have written these restrictions into law, which makes them tighter. That made no sense. They also added provisions that ban all American financing, even private financing, for agricultural sales to Cuba. That is a step backward, not forward.

Let me read what two Members of the House who represent south Florida said when this was passed:

> The prohibition will make it as difficult as is possible to make agricultural sales to Cuba.
>
> Closing off Clinton's tourism option for Castro is our most important achievement in years. We are extremely pleased.

I understand why they are pleased. I am not. What was done by this Congress and just by a few people was wrong. We ought not make it difficult to sell food or move food or medicine to Cuba or anywhere else in the world for that matter. It is not in our interest, and it is not in the interest of others around the world for us to behave in that manner.

Does anyone think, as I have asked repeatedly, that Fidel Castro or Saddam Hussein or others miss a meal because we have decided that we will not ship agricultural products or food to Iraq, Cuba? Does anybody think they have missed a meal? All these policies do is punish poor people and hungry people and sick people. This country is better than that. We ought to start acting like it. This Congress ought to provide policies that say when 40 years of embargo to Cuba do not work, it is time to change the policy.

I happen to support lifting the embargo completely. But now we are just talking about the first piece: allowing the shipment of food and medicine to Cuba.

Then there is the issue of travel to Cuba. How on Earth can one make the claim that travel and exchange and movement between the United States and Cuba somehow undermines our interests? It does not. In my judgment, the more contact, the more travel, the more movement there is between the United States and Cuba, the more we will undermine the interest of the Communist Government of Cuba. That, after all, ought to be our objective.

Our objective ought to be to find ways to see if we can't create a new circumstance by which we persuade the Cuban Government to be open, democratic, and give the people of Cuba an opportunity for the freedoms they deserve. We have had an embargo for Cuba for 40 years. It has not worked.

There comes a time when you say something that hasn't worked for 40 years ought to be changed. This is a baby step in making the change that is needed. Even at that, we faced significant problems last year.

There are a number of people in the Senate who have worked on these issues for a long while. Senator ROBERTS, Senator DODD, former Senator Ashcroft, myself, and others have worked on these issues dealing with agriculture and travel and other issues for a long while. Senator ROBERTS is on the floor. I know he visited Cuba some months ago. I also have visited Cuba. I found it unthinkable, standing in a hospital in an intensive care room one day with a little boy who was in a coma, he had been in an accident, hit his head, was in a coma. He was in an intensive care room. There were no machines. I have been in intensive care rooms and have heard the rhythm of machinery pumping life into patients. Not in that room because they don't have the equipment. This little boy had his mother by his bedside holding his hand. They told me at that hospital they were out of 240 different kinds of medicines—240 different medicines they didn't have. They were out of it.

I am sitting there thinking, how could it serve any interest, any public policy purpose, to believe that our withholding the shipment of prescription drugs to Cuba is somehow advancing anybody's interest? It is simply unthinkable. The same holds true with food. Our farmers toil in the fields of this country and they produce a product that is needed around the world. We are told that half of the world goes to bed with an ache in their belly because it hurts to be hungry. A quarter of the world is on a diet. Then we have farmers here in America struggling to find gas to put in a tractor to plow the ground, to plant a seed, to raise a crop, only to go to the elevator in the fall and be told the crop has no value because there is an oversupply of crops.

The farmer hears the debate over the embargoes and sanctions we have against countries because we don't like their leaders. We won't ship food and the farmer get hurt. You talk about a policy that is grounded in foolishness—

this is it. More than foolishness, it is cruel. It is not what represents the best of this country. This country is a world leader. This country produces food in prodigious quantity. It is something the rest of the world desperately needs. To withhold it anywhere in the world is unbecoming of this country.

On a moral basis, this country has a responsibility to always, always decide that the shipment of food and medicine is going to be available anywhere in the world and that we are not going to have embargoes that include the withholding of medicines anywhere in the world. Dictators will always get something to eat and medicines to treat their diseases. Our policy punishes the sick, hungry, and poor people. It ought to stop.

The bill I introduce today for myself, Senators ROBERTS, BAUCUS, and DURBIN simply rescinds those provisions of the FY 2001 Agriculture Appropriations Act that tightened sanctions on Cuba.

I know I have been on the floor a lot talking about these issues, but I feel strongly about them. We have the opportunity in this Congress to undo what we did last year—undo the bad parts. We did make some progress last year. Yes, we made some progress, but not enough. I want our policy to be unequivocal and plain, that nowhere in this world, anywhere, in our relationships in the world, will we use food or prescription drugs, or medicine, as a weapon. That would represent the best of this country's instincts.

In my judgment, it will be accomplished when we have the opportunity to vote on it. The fact is, there are 70 or 80 votes in the Senate by people who believe in that position. We have just a few hard-core folks that are still living in the fifties. They drive up here in new cars, wear new suits, but they are living in the fifties, serving in the Congress in 2001, still pushing policies that don't work. A few people, a small cabal of people in this Congress, have prevented us from doing what we all know we should do, eliminate these kinds of sanctions and embargoes anywhere in the world.

Mr. President, I am happy to have introduced this today. I hope colleagues will carefully consider it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF CERTAIN TRADE SANCTIONS AND TRAVEL PROVISIONS.

(a) REPEALS.—Sections 908 and 910 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (as enacted by section 1(a) of Public Law 106-387) are hereby repealed.

(b) CONFORMING AMENDMENT.—Section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (as enacted by section 1(a) of Public Law 106-387) is amended by striking "to Cuba or".

Mr. ROBERTS. Mr. President, I rise today with my colleague from North Dakota to introduce legislation to remove several trade limiting provisions from the FY 2001 Agriculture Appropriations Bill. Although the intent may have been otherwise, the overall effect was to tighten existing prohibitions on trade with and tourist travel to Cuba.

Specifically, the purpose of the Dorgan-Roberts bill is to make changes to Title 9 of the FY 2001 Agriculture Appropriations Bill, repealing sections 908 & 910 and making a small change to section 906.

Title 9, as you recall, is also known as the Trade Sanctions Reform & Export Enhancement Act. It made a number of important strides toward ending the misguided policy of using unilateral food and medicine sanctions as a foreign policy tool. Title 9, for example, terminates current unilateral agricultural and medical sanctions and requires congressional approval for any new unilateral sanctions that Presidents may consider in the future. That is the good news about last year's effort.

The bad news is that sections 908 effectively cancels U.S. agricultural trade with Cuba as it prohibits any U.S.-based private financing or the application of any U.S. Government agricultural export promotion program. The de facto effect of this provision is to keep the Cuban market cut-off from America's farmers. This is unacceptable to me.

Also, section 906 permits the issuance of only one-year licenses for contracts to sell agricultural commodities and medicine to Cuba but places no such restriction on Syria and North Korea. What's the policy? What kind of confused message is this? We are either going to permit the sale of food and medicine to all nations despite the presence of some on the State Department terrorist list or we are not going to encourage the sale of food and medicine to all Nations. Let us be consistent in these matters.

Finally, we seek to rescind section 910 which codified prohibitions against tourist travel or tourist visits to Cuba. This travel ban stifles the most powerful influence on Cuban society: American culture and perspective, both economic and political.

When Americans travel, they transmit our nation's ideas and values. That is one reason why travel was permitted to the Soviet Union and is permitted to the People's Republic of China. A tourist travel ban is simply counterproductive.

Trade with Cuba is a very sensitive issue with reasonable, well-intentioned people on both sides. But it is an issue which must be addressed as globalization and the aggressive posture of America's trade competitors increases. We can no longer sacrifice the American farmer on the altar of the cold war paradigm.

Mr. BAUCUS. Mr. President, I am pleased to be an original co-sponsor of Senator DORGAN's bill that repeals the restrictions on food and medicine exports to Cuba and removes the legal stranglehold that has been put on liberalizing travel to Cuba.

In July of last year, I led a Senate delegation to Havana. It was a brief trip, but we had the opportunity to meet with a wide range of people and to assess the situation first-hand. We met with Fidel Castro. We spent three hours with a group of heroic dissidents who spent years in prison, yet have chosen to remain in Cuba and continue their dissent. We also met with foreign ambassadors, cabinet ministers, and the leader of Cuba's largest independent NGO.

I left Cuba more convinced than ever that we must end our outdated Cuba policy. Last year, I introduced legislation to end the embargo and begin the process of normalization of our relations with Cuba. I will reintroduce similar legislation this year.

The trade embargo of Cuba is a unilateral sanctions policy. Not even our closest allies support it. I have long opposed unilateral economic sanctions, unless our national security is at stake, and the Defense Department has concluded that Cuba represents no security threat to our nation.

Unilateral sanctions don't work. They don't change the behavior of the targeted country. But they do hurt our farmers and business people by preventing them from exporting, and then allowing our Japanese, European, and Canadian competitors happily to rush in to fill the gap.

Ironically, the U.S. embargo actually helps Castro. His economy is in shambles. The people's rights are repressed. These are the direct results of Castro's totally misguided economic, political, and social policies. Yet Fidel Castro is able to use the embargo as the scapegoat for Cuba's misery. Absurd, but true.

We should lift the embargo. We should engage Cuba economically. The bill we are introducing today is a good first step. We tried to remove restrictions on food and medicine exports last year, but a small minority in the Congress prevented the will of the majority. And they compounded the damage by codifying restrictions on travel, that is, removing Presidential discretion to allow increased travel and promote people-to-people contact between Americans and Cuban citizens.

Removing the food and medicine restrictions won't lead to a huge surge of American products into Cuba. But, today, Cuba's imports come primarily from Europe and Asia. With this liberalization, U.S. products will replace some of those sales. Our agriculture producers will have the advantage of lower transportation costs and easier logistics. It will be a start.

Allowing for the expansion of travel will increase the exposure of the Cuban people to the United States. It will result in more travel by tourists, business people, students, artists, and scholars. It will bring us into closer contact with those who will be part of the leadership in post-Castro Cuba. It will spur more business, helping, even if only a little, the development of the private sector. Moreover, we need to restore the inherent right of Americans to travel anywhere.

The world has changed since the United States initiated this embargo forty years ago. I am not suggesting that we embrace Fidel Castro. But if we wait until he is completely gone from the scene before we start to develop normal relations with leaders and people in Cuba, the transition will be much harder on the Cuban people. Events in Cuba could easily escalate out of control and become a real danger to the United States.

I need to stress that a majority of members of Congress, in both the Senate and the House, supported these initial steps to end the embargo. By overwhelming votes in both Houses last year, we approved an end to unilateral sanctions on food and medicine exports to Cuba. But the will of the majority was stopped by a few members of Congress. This legislation will correct that.

I hope to see the day when American policy toward Cuba is no longer controlled by a small coterie of leaders in the Congress along with a few private groups, and, instead, our policy will serve the national interest. Today's bill is a good first step.

By Mr. SMITH of Oregon:

S. 172. A bill to benefit electricity consumers by promoting the reliability of the bulk-power system; to the Committee on Energy and Natural Resources.

Mr. SMITH of Oregon. I stand before you and the Senate today. As I do this, our Nation is relearning a fundamental lesson—that electricity does not come from hitting a light switch. Our urban areas are getting a painful lesson that the quality of life that we and they enjoy in this Nation is a direct result of resource production.

California is scrambling as we speak to keep the lights on from day to day and has had 2 days recently of rolling blackouts. The west coast energy crisis shows no sign of abating and could actually intensify in coming weeks if the region, which is heavily dependent on hydroelectric power, continues to face below average precipitation. The reservoir behind the Grand Coulee Dam, by far the largest of the Federal dams in the Northwest, is at its lowest level in 25 years. The Grand Coulee Dam is also upstream of 10 other dams on the mainstem Columbia River. So downstream powerhouses cannot generate electricity either.

Much of the media attention in recent weeks has focused on efforts to keep the lights on in California and to keep the State's two largest utilities from going bankrupt. The west coast energy market extends to 11 other Western States, including Oregon, that are all interconnected by the high-voltage transmission system.

I believe there is more that California can and must do immediately to address this situation. First and foremost, it must approve further electric rate increases. I don't normally advocate increases, but this is necessary to send the right signal to Californians that they have to conserve energy.

Further, price increases are necessary to help California's investor-owned utilities, which have recently been reduced to junk bond status, from going bankrupt. Avoiding bankruptcy for these utilities is important for Oregon and for other Western States. Since the middle of December, Northwest utilities have been forced, by Federal order, to sell their surplus power into California, with no guarantee of being paid. If the California utilities subsequently seek bankruptcy protection, it will be Oregonians who are stuck with the bill for California's failed restructuring effort.

We should not confuse this with deregulation. This is a failed effort at restructuring that incredibly took off, went to a free market in the wholesale, went to a price cap at retail, and then overregulated at production levels.

I tell you, when you do that with an expanding economy, you have created a catastrophe. That is what California has created, and its neighbors are now beginning to help shoulder the burden.

California must also operate its native generation, including its fossil fuel plants, at full capacity during this crisis. It can also find additional temporary generation.

I recently came across a news story from last August about one California utility that was abandoning its efforts to moor a floating power plant in San Francisco Bay as protection against future power shortages.

That 95-megawatt emergency powerplant could have provided enough power for 95,000 homes in the area.

However, according to this news clip, the company abandoned its efforts because it was "under fire from environmentalists and skeptical of winning regulatory approval. . . ."

The article also quoted the executive director of the San Francisco Bay Conservation and Development Commission as saying, "The commission was skeptical as to whether the emergency really existed."

What a difference a few months makes. I wonder if anyone in San Francisco thinks there isn't an emergency now.

In response to these tight margins between supply and demand, today I am reintroducing legislation that passed the Senate last Congress that will enhance the reliability of the wholesale transmission system. It is imperative that the transmission grid be operated as efficiently and reliably as possible during times when the margin between supply and demand is so tight.

Yesterday, I sent a letter to the President urging him to issue an Executive order directing electricity conservation at all federal facilities throughout the twelve western states. Between federal office buildings, post offices, military bases, prisons, and other facilities, the federal government is among the largest consumers of electricity in the West.

The Governors of Oregon and Washington are seeking 10 percent reductions in energy use at state facilities, and I believe this would be an appropriate goal for federal facilities as well.

The federal government is also a major producer of electricity in the Western United States. Much of that generation is from hydroelectric facilities.

I have expressed concern over the last several weeks that the Columbia and Snake River hydropower facilities not be operated in a manner that jeopardizes salmon recovery efforts in what is shaping up to be a poor water year in the Basin.

However, there are many other federal generation facilities throughout the 12 western states that are interconnected by the high-voltage transmission system.

Therefore, I asked that the Energy Department be directed to undertake an immediate review of all of these facilities to ensure they are providing as much power as possible during this crisis.

It is not just California that needs additional generation, however. According to a recent study by the Northwest Power Planning Council, the Pacific Northwest faces a 25 percent chance of power shortages during this and coming winters.

To reduce this probability to a more acceptable level of five percent, the Northwest needs nearly 3,000 megawatts of new generating resources, conservation, or short-term demand management.

This report, however, assumed that all the other generation remained equal. Yet in recent years there have been calls to close the nuclear plant WNP2, with a capacity of 1,250 megawatts.

Breaching the four lower Snake River dams, which I oppose, would reduce capacity by another 1,200 megawatts, enough power for Seattle.

In addition, almost 12,000 megawatts of non-federal hydroelectric power in

Oregon, Washington, Idaho, and California, is up for relicensing between now and 2010. More stringent operating criteria could reduce the total amount of power available.

New licenses will probably also reduce the operational flexibility of these facilities that makes hydropower so valuable in meeting daily peaks in energy demand.

In the face of the numbers I just quoted, I believe it is the height of irresponsibility to even be discussing breaching the four lower Snake River dams. The Endangered Species Act was never intended to force us, as Americans, to dismantle the infrastructure that our parents and grandparents worked so hard to build.

The Bush administration is going to have to clean up a huge mess that is not of their making. The assault on domestic energy production and the lack of a national energy strategy over the last eight years are finally coming home to roost. This nation is more dependent on foreign oil than at any time in its history, and crude oil prices are rising as foreign nations are reducing production. Natural gas prices have doubled in recent months. Electricity prices on the West Coast have skyrocketed, and they remain high in the Northeast.

The previous administration started out wanting to tax energy production through a BTU tax, as a way to force Americans to conserve. When that wasn't enacted, the past administration went about a systematic assault on energy production. They went after coal-fired plants, nuclear plants, and hydroelectric plants.

They opposed the siting of new natural gas pipelines and the expansion of oil refining capacity. They put millions of acres of land off-limits to oil, gas, and coal exploration. The economy, particularly on the west coast, is just beginning to feel the cumulative effects of these actions.

The U.S. economy needs energy. It needs abundant, reasonably priced oil, gas and electricity if our economic prosperity is to continue.

I want to thank the leadership of the Senate for efforts to craft an energy bill. I know that the Bush administration will work with the Congress to achieve more energy production and more conservation.

But I say to my fellow Oregonians and Americans everywhere who care about this issue that we must reconnect the reality dots between the lives we live and the natural resources we demand.

At the end of the day, power is not created by hitting a light switch. Food does not come from Safeway. Gasoline does not come from a filling station. These are all things we need, and we must be good stewards of the environment but also remember that using the land does not have to equal abusing the land. But those who advocate that all must be shut down are simply the ones who would visit this trauma that we are now seeing in California on the rest of us as well.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electric Reliability Act".

SEC. 2. ELECTRIC RELIABILITY ORGANIZATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY ORGANIZATION.

"(a) DEFINITIONS.—In this section:

"(1) AFFILIATED REGIONAL RELIABILITY ENTITY.—The term 'affiliated regional reliability entity' means an entity delegated authority under subsection (h).

"(2) BULK-POWER SYSTEM.—

"(A) IN GENERAL.—The term 'bulk-power system' means all facilities and control systems necessary for operating an interconnected electric power transmission grid or any portion of an interconnected electric power transmission grid.

"(B) INCLUSIONS.—The term 'bulk-power system' includes—

"(i) high voltage transmission lines, substations, control centers, communications, data, and operations planning facilities necessary for the operation of all or any part of the interconnected electric power transmission grid; and

"(ii) the output of generating units necessary to maintain the reliability of the interconnected electric power transmission grid.

"(3) BULK-POWER SYSTEM USER.—The term 'bulk-power system user' means an entity that—

"(A) sells, purchases, or transmits electric energy over a bulk-power system;

"(B) owns, operates, or maintains facilities or control systems that are part of a bulk-power system; or

"(C) is a system operator.

"(4) ELECTRIC RELIABILITY ORGANIZATION.—The term 'electric reliability organization' means the organization designated by the Commission under subsection (d).

"(5) ENTITY RULE.—The term 'entity rule' means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce 1 or more organization standards.

"(6) INDEPENDENT DIRECTOR.—The term 'independent director' means a person that—

"(A) is not an officer or employee of an entity that would reasonably be perceived as having a direct financial interest in the outcome of a decision by the board of directors of the electric reliability organization; and

"(B) does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director of the electric reliability organization.

"(7) INDUSTRY SECTOR.—The term 'industry sector' means a group of bulk-power system users with substantially similar commercial interests, as determined by the board of directors of the electric reliability organization.

"(8) INTERCONNECTION.—The term 'interconnection' means a geographic area in which the operation of bulk-power system components is synchronized so that the failure of 1 or more of the components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

"(9) ORGANIZATION STANDARD.—

"(A) IN GENERAL.—The term 'organization standard' means a policy or standard adopted by the electric reliability organization to provide for the reliable operation of a bulk-power system.

"(B) INCLUSIONS.—The term 'organization standard' includes—

"(i) an entity rule approved by the electric reliability organization; and

"(ii) a variance approved by the electric reliability organization.

"(10) PUBLIC INTEREST GROUP.—

"(A) IN GENERAL.—The term 'public interest group' means a nonprofit private or public organization that has an interest in the activities of the electric reliability organization.

"(B) INCLUSIONS.—The term 'public interest group' includes—

"(i) a ratepayer advocate;

"(ii) an environmental group; and

"(iii) a State or local government organization that regulates participants in, and promulgates government policy with respect to, the market for electric energy.

"(11) SYSTEM OPERATOR.—

"(A) IN GENERAL.—The term 'system operator' means an entity that operates or is responsible for the operation of a bulk-power system.

"(B) INCLUSIONS.—The term 'system operator' includes—

"(i) a control area operator;

"(ii) an independent system operator;

"(iii) a transmission company;

"(iv) a transmission system operator; and

"(v) a regional security coordinator.

"(12) VARIANCE.—The term 'variance' means an exception from the requirements of an organization standard (including a proposal for an organization standard in a case in which there is no organization standard) that is adopted by an affiliated regional reliability entity and is applicable to all or a part of the region for which the affiliated regional reliability entity is responsible.

"(b) COMMISSION AUTHORITY.—

"(1) JURISDICTION.—Notwithstanding section 201(f), within the United States, the Commission shall have jurisdiction over the electric reliability organization, all affiliated regional reliability entities, all system operators, and all bulk-power system users (including entities described in section 201(f) for purposes of approving organization standards and enforcing compliance with this section.

"(2) DEFINITION OF TERMS.—The Commission may by regulation define any term used in this section consistent with the definitions in subsection (a) and the purpose and intent of this Act.

"(c) EXISTING RELIABILITY STANDARDS.—

"(1) SUBMISSION TO THE COMMISSION.—Before designation of an electric reliability organization under subsection (d), any person, including the North American Electric Reliability Council and its member Regional Reliability Councils, may submit to the Commission any reliability standard, guidance, practice, or amendment to a reliability standard, guidance, or practice that the person proposes to be made mandatory and enforceable.

"(2) REVIEW BY THE COMMISSION.—The Commission, after allowing interested persons an opportunity to submit comments, may approve a proposed mandatory standard, guidance, practice, or amendment submitted under paragraph (1) if the Commission finds that the standard, guidance, or practice is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(3) EFFECT OF APPROVAL.—A standard, guidance, or practice shall be mandatory and applicable according to its terms following approval by the Commission and shall remain in effect until it is—

"(A) withdrawn, disapproved, or superseded by an organization standard that is issued or approved by the electric reliability organization and made effective by the Commission under subsection (e); or

"(B) disapproved by the Commission if, on complaint or upon motion by the Commission and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest.

"(4) ENFORCEABILITY.—A standard, guidance, or practice in effect under this subsection shall be enforceable by the Commission.

"(d) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—

"(1) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Commission shall propose regulations specifying procedures and requirements for an entity to apply for designation as the electric reliability organization.

"(B) NOTICE AND COMMENT.—The Commission shall provide notice and opportunity for comment on the proposed regulations.

"(C) FINAL REGULATION.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate final regulations under this subsection.

"(2) APPLICATION.—

"(A) Submission.—Following the promulgation of final regulations under paragraph (1), an entity may submit an application to the Commission for designation as the electric reliability organization.

"(B) CONTENTS.—The applicant shall describe in the application—

"(i) the governance and procedures of the applicant; and

"(ii) the funding mechanism and initial funding requirements of the applicant.

"(3) NOTICE AND COMMENT.—The Commission shall—

"(A) provide public notice of the application; and

"(B) afford interested parties an opportunity to comment.

"(4) DESIGNATION OF ELECTRIC RELIABILITY ORGANIZATION.—The Commission shall designate the applicant as the electric reliability organization if the Commission determines that the applicant—

"(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of bulk-power systems;

"(B) permits voluntary membership to any bulk-power system user or public interest group;

"(C) ensures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards and the exercise of oversight of bulk-power system reliability;

"(D) ensures that no 2 industry sectors have the ability to control, and no 1 industry sector has the ability to veto, the applicant's discharge of its responsibilities as the electric reliability organization (including actions by committees recommending standards for approval by the board or other board actions to implement and enforce standards);

"(E) provides for governance by a board wholly comprised of independent directors;

"(F) provides a funding mechanism and requirements that—

"(i) are just, reasonable, not unduly discriminatory or preferential and in the public interest; and

"(ii) satisfy the requirements of subsection (l);

"(G) has established procedures for development of organization standards that—

"(i) provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of organization standards;

"(ii) ensure openness, a balancing of interests, and due process; and

"(iii) includes alternative procedures to be followed in emergencies;

"(H) has established fair and impartial procedures for implementation and enforcement of organization standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

"(I) has established procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information that the directors reasonably determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

"(J) provides for the consideration of recommendations of States and State commissions; and

"(K) addresses other matters that the Commission considers appropriate to ensure that the procedures, governance, and funding of the electric reliability organization are just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(5) EXCLUSIVE DESIGNATION.—

"(A) IN GENERAL.—The Commission shall designate only 1 electric reliability organization.

"(B) MULTIPLE APPLICATIONS.—If the Commission receives 2 or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application that the Commission determines will best implement this section.

"(e) ORGANIZATION STANDARDS.—

"(1) SUBMISSION OF PROPOSALS TO COMMISSION.—

"(A) IN GENERAL.—The electric reliability organization shall submit to the Commission proposals for any new or modified organization standards.

"(B) CONTENTS.—A proposal submitted under subparagraph (A) shall include—

"(i) a concise statement of the purpose of the proposal; and

"(ii) a record of any proceedings conducted with respect to the proposal.

"(2) REVIEW BY THE COMMISSION.—

"(A) NOTICE AND COMMENT.—The Commission shall—

"(i) provide notice of a proposal under paragraph (1); and

"(ii) allow interested persons 30 days to submit comments on the proposal.

"(B) ACTION BY THE COMMISSION.—

"(i) IN GENERAL.—After taking into consideration any submitted comments, the Commission shall approve or disapprove a proposed organization standard not later than the end of the 60-day period beginning on the date of the deadline for the submission of comments, except that the Commission may extend the 60-day period for an additional 90 days for good cause.

"(ii) FAILURE TO ACT.—If the Commission does not approve or disapprove a proposal within the period specified in clause (i), the proposed organization standard shall go into effect subject to its terms, without prejudice to the authority of the Commission to modify the organization standard in accordance with the standards and requirements of this section.

"(C) EFFECTIVE DATE.—An organization standard approved by the Commission shall take effect not earlier than 30 days after the date of the Commission's order of approval.

"(D) STANDARDS FOR APPROVAL.—

"(i) IN GENERAL.—The Commission shall approve a proposed new or modified organization standard if the Commission determines the organization standard to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(ii) CONSIDERATIONS.—In the exercise of its review responsibilities under this subsection, the Commission—

"(I) shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a new or modified organization standard; but

"(II) shall not defer to the electric reliability organization with respect to the effect of the organization standard on competition.

"(E) REMAND.—A proposed organization standard that is disapproved in whole or in part by the Commission shall be remanded to the electric reliability organization for further consideration.

"(3) ORDERS TO DEVELOP OR MODIFY ORGANIZATION STANDARDS.—The Commission, on complaint or on motion of the Commission, may order the electric reliability organization to develop and submit to the Commission, by a date specified in the order, an organization standard or modification to an existing organization standard to address a specific matter if the Commission considers a new or modified organization standard appropriate to carry out this section, and the electric reliability organization shall develop and submit the organization standard or modification to the Commission in accordance with this subsection.

"(4) VARIANCES AND ENTITY RULES.—

"(A) PROPOSAL.—An affiliated regional reliability entity may propose a variance or entity rule to the electric reliability organization.

"(B) EXPEDITED CONSIDERATION.—If expedited consideration is necessary to provide for bulk-power system reliability, the affiliated regional reliability entity may—

"(i) request that the electric reliability organization expedite consideration of the proposal; and

"(ii) file a notice of the request with the Commission.

"(C) FAILURE TO ACT.—

"(i) IN GENERAL.—If the electric reliability organization fails to adopt the variance or entity rule, in whole or in part, the affiliated regional reliability entity may request that the Commission review the proposal.

“(ii) ACTION BY THE COMMISSION.—If the Commission determines, after a review of the request, that the action of the electric reliability organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest and that the electric reliability organization has unreasonably rejected or failed to act on the proposal, the Commission may—

“(I) remand the proposal for further consideration by the electric reliability organization; or

“(II) order the electric reliability organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by the affiliated regional reliability entity.

“(D) PROCEDURE.—A variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the electric reliability organization for review and submission to the Commission in accordance with the procedures specified in paragraph (2).

“(5) IMMEDIATE EFFECTIVENESS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, a new or modified organization standard shall take effect immediately on submission to the Commission without notice or comment if the electric reliability organization—

“(i) determines that an emergency exists requiring that the new or modified organization standard take effect immediately without notice or comment;

“(ii) notifies the Commission as soon as practicable after making the determination;

“(iii) submits the new or modified organization standard to the Commission not later than 5 days after making the determination; and

“(iv) includes in the submission an explanation of the need for immediate effectiveness.

“(B) NOTICE AND COMMENT.—The Commission shall—

“(i) provide notice of the new or modified organization standard or amendment for comment; and

“(ii) follow the procedures specified in paragraphs (2) and (3) for review of the new or modified organization standard.

“(6) COMPLIANCE.—Each bulk power system user shall comply with an organization standard that takes effect under this section.

“(f) COORDINATION WITH CANADA AND MEXICO.—

“(1) RECOGNITION.—The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

“(2) INTERNATIONAL AGREEMENTS.—

“(A) IN GENERAL.—The President shall use best efforts to enter into international agreements with the appropriate governments in Canada and Mexico to provide for—

“(i) effective compliance with organization standards; and

“(ii) the effectiveness of the electric reliability organization in carrying out its mission and responsibilities.

“(B) COMPLIANCE.—All actions taken by the electric reliability organization, an affiliated regional reliability entity, and the Commission shall be consistent with any international agreement under subparagraph (A).

“(g) CHANGES IN PROCEDURE, GOVERNANCE, OR FUNDING.—

“(1) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

“(A) any proposed change in a procedure, governance, or funding provision; or

“(B) any change in an affiliated regional reliability entity's procedure, governance, or funding provision relating to delegated functions.

“(2) CONTENTS.—A submission under paragraph (1) shall include an explanation of the basis and purpose for the change.

“(3) EFFECTIVENESS.—

“(A) CHANGES IN PROCEDURE.—

“(i) CHANGES CONSTITUTING A STATEMENT OF POLICY, PRACTICE, OR INTERPRETATION.—A proposed change in procedure shall take effect 90 days after submission to the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of the procedure.

“(ii) OTHER CHANGES.—A proposed change in procedure other than a change described in clause (i) shall take effect on a finding by the Commission, after notice and opportunity for comment, that the change—

“(I) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

“(II) satisfies the requirements of subsection (d)(4).

“(B) CHANGES IN GOVERNANCE OR FUNDING.—A proposed change in governance or funding shall not take effect unless the Commission finds that the change—

“(i) is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

“(ii) satisfies the requirements of subsection (d)(4).

“(4) ORDER TO AMEND.—

“(A) IN GENERAL.—The Commission, on complaint or on the motion of the Commission, may require the electric reliability organization to amend a procedural, governance, or funding provision if the Commission determines that the amendment is necessary to meet the requirements of this section.

“(B) FILING.—The electric reliability organization shall submit the amendment in accordance with paragraph (1).

“(h) DELEGATIONS OF AUTHORITY.—

“(1) IN GENERAL.—

“(A) IMPLEMENTATION AND ENFORCEMENT OF COMPLIANCE.—At the request of an entity, the electric reliability organization shall enter into an agreement with the entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the electric reliability organization finds that—

“(i) the entity satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4); and

“(ii) the delegation would promote the effective and efficient implementation and administration of bulk-power system reliability.

“(B) OTHER AUTHORITY.—The electric reliability organization may enter into an agreement to delegate to an entity any other authority, except that the electric reliability organization shall reserve the right to set and approve standards for bulk-power system reliability.

“(2) APPROVAL BY THE COMMISSION.—

“(A) SUBMISSION TO THE COMMISSION.—The electric reliability organization shall submit to the Commission—

“(i) any agreement entered into under this subsection; and

“(ii) any information the Commission requires with respect to the affiliated regional reliability entity to which authority is delegated.

“(B) STANDARDS FOR APPROVAL.—The Commission shall approve the agreement, following public notice and an opportunity for comment, if the Commission finds that the agreement—

“(i) meets the requirements of paragraph (1); and

“(ii) is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

“(C) REBUTTABLE PRESUMPTION.—A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to promote the effective and efficient implementation and administration of the reliability of the bulk-power system.

“(D) INVALIDITY ABSENT APPROVAL.—No delegation by the electric reliability organization shall be valid unless the delegation is approved by the Commission.

“(3) PROCEDURES FOR ENTITY RULES AND VARIANCES.—

“(A) IN GENERAL.—A delegation agreement under this subsection shall specify the procedures by which the affiliated regional reliability entity may propose entity rules or variances for review by the electric reliability organization.

“(B) INTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply on an interconnection-wide basis, the electric reliability organization shall approve the entity rule or variance unless the electric reliability organization makes a written finding that the entity rule or variance—

“(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

“(ii) would have a significant adverse impact on reliability or commerce in other interconnections;

“(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that the entity rule or variance would be likely to cause a serious and substantial threat to public health, safety, welfare, or national security; or

“(iv) would create a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

“(C) NONINTERCONNECTION-WIDE ENTITY RULES AND VARIANCES.—In the case of a proposal for an entity rule or variance that would apply only to part of an interconnection, the electric reliability organization shall approve the entity rule or variance if the affiliated regional reliability entity demonstrates that the proposal—

“(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

“(ii) would not have an adverse impact on commerce that is not necessary for reliability;

“(iii) provides a level of bulk-power system reliability that is adequate to protect public health, safety, welfare, and national security and would not have a significant adverse impact on reliability; and

“(iv) in the case of a variance, is based on a justifiable difference between regions or subregions within the affiliated regional reliability entity's geographic area.

“(D) ACTION BY THE ELECTRIC RELIABILITY ORGANIZATION.—

“(i) IN GENERAL.—The electric reliability organization shall approve or disapprove a proposal under subparagraph (A) within 120 days after the proposal is submitted.

"(ii) Failure to act.—If the electric reliability organization fails to act within the time specified in clause (i), the proposal shall be deemed to have been approved.

"(iii) Submission to the commission.—After approving a proposal under subparagraph (A), the electric reliability organization shall submit the proposal to the Commission for approval under the procedures prescribed under subsection (e).

"(E) Direct submissions.—An affiliated regional reliability entity may not submit a proposal for approval directly to the Commission except as provided in subsection (e)(4).

"(4) Failure to reach delegation agreement.—

"(A) In general.—If an affiliated regional reliability entity requests, consistent with paragraph (1), that the electric reliability organization delegate authority to it, but is unable within 180 days to reach agreement with the electric reliability organization with respect to the requested delegation, the entity may seek relief from the Commission.

"(B) Review by the commission.—The Commission shall order the electric reliability organization to enter into a delegation agreement under terms specified by the Commission if, after notice and opportunity for comment, the Commission determines that—

"(i) a delegation to the affiliated regional reliability entity would—

"(I) meet the requirements of paragraph (1); and

"(II) would be just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

"(ii) the electric reliability organization unreasonably withheld the delegation.

"(5) Orders to modify delegation agreements.—

"(A) In general.—On complaint, or on motion of the Commission, after notice to the appropriate affiliated regional reliability entity, the Commission may order the electric reliability organization to propose a modification to a delegation agreement under this subsection if the Commission determines that—

"(i) the affiliated regional reliability entity—

"(I) no longer has the capacity to carry out effectively or efficiently the implementation or enforcement responsibilities under the delegation agreement;

"(II) has failed to meet its obligations under the delegation agreement; or

"(III) has violated this section;

"(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of the implementation or enforcement responsibilities under the delegation agreement;

"(iii) the geographic boundary of a transmission entity approved by the Commission is not wholly within the boundary of an affiliated regional reliability entity, and the difference in boundaries is inconsistent with the effective and efficient implementation and administration of bulk-power system reliability; or

"(iv) the agreement is inconsistent with à delegation ordered by the Commission under paragraph (4).

"(B) Suspension.—

"(i) In general.—Following an order to modify a delegation agreement under subparagraph (A), the Commission may suspend the delegation agreement if the electric reliability organization or the affiliated regional reliability entity does not propose an appropriate and timely modification.

"(ii) Assumption of responsibilities.—If a delegation agreement is suspended, the electric reliability organization shall assume the responsibilities delegated under the delegation agreement.

"(iii) Organization Membership.—Each system operator shall be a member of—

"(1) the electric reliability organization; and

"(2) any affiliated regional reliability entity operating under an agreement effective under subsection (h) applicable to the region in which the system operator operates, or is responsible for the operation of, a transmission facility.

"(j) Enforcement.—

"(1) Disciplinary actions.—

"(A) In general.—Consistent with procedures approved by the Commission under subsection (d)(4)(H), the electric reliability organization may impose a penalty, limitation on activities, functions, or operations, or other disciplinary action that the electric reliability organization finds appropriate against a bulk-power system user if the electric reliability organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the bulk-power system user has violated an organization standard.

"(B) Notification.—The electric reliability organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a bulk-power system user that affected or threatened to affect bulk-power system facilities located in the United States.

"(C) Right to petition.—A bulk-power system user that is the subject of disciplinary action under paragraph (1) shall have the right to petition the Commission for a modification or rescission of the disciplinary action.

"(D) Injunctions.—If the electric reliability organization finds it necessary to prevent a serious threat to reliability, the electric reliability organization may seek injunctive relief in the United States district court for the district in which the affected facilities are located.

"(E) Effective date.—

"(i) In general.—Unless the Commission, on motion of the Commission or on application by the bulk-power system user that is the subject of the disciplinary action, suspends the effectiveness of a disciplinary action, the disciplinary action shall take effect on the 30th day after the date on which—

"(I) the electric reliability organization submits to the Commission—

"(aa) a written finding that the bulk-power system user violated an organization standard; and

"(bb) the record of proceedings before the electric reliability organization; and

"(II) the Commission posts the written finding on the Internet.

"(ii) Duration.—A disciplinary action shall remain in effect or remain suspended unless the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the disciplinary action.

"(iii) Expedited consideration.—The Commission shall conduct the hearing under procedures established to ensure expedited consideration of the action taken.

"(2) Compliance orders.—The Commission, on complaint by any person or on motion of the Commission, may order compliance with an organization standard and may impose a penalty, limitation on activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a bulk-power system user with respect to actions affecting or threatening to affect bulk-power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the bulk-power system user has violated or threatens to violate an organization standard.

"(3) Other actions.—The Commission may take such action as is necessary against the electric reliability organization or an affiliated regional reliability entity to ensure compliance with an organization standard, or any Commission order affecting electric reliability organization or affiliated regional reliability entity.

"(k) Reliability Reports.—The electric reliability organization shall—

"(1) conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America; and

"(2) report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

"(l) Assessment and Recovery of Certain Costs.—

"(1) In general.—The reasonable costs of the electric reliability organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation or enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the electric reliability organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all electric energy consumers.

"(2) Rules.—The Commission shall provide by rule for the review of costs and allocations under paragraph (1) in accordance with the standards in this subsection and subsection (d)(4)(F).

"(m) Application of Antitrust Laws.—

"(1) In general.—Notwithstanding any other provision of law, the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

"(A) Activities undertaken by the electric reliability organization under this section or affiliated regional reliability entity operating under a delegation agreement under subsection (h).

"(B) Activities of a member of the electric reliability organization or an affiliated regional reliability entity in pursuit of the objectives of the electric reliability organization or affiliated regional reliability entity under this section undertaken in good faith under the rules of the organization of the electric reliability organization or affiliated regional reliability entity.

"(2) Availability of defenses.—In a civil action brought by any person or entity against the electric reliability organization or an affiliated regional reliability entity alleging a violation of an antitrust law based on an activity under this Act, the defenses of primary jurisdiction and immunity from suit and other affirmative defenses shall be available to the extent applicable.

"(n) Regional Advisory Role.—

"(1) Establishment of regional advisory body.—The Commission shall establish a regional advisory body on the petition of the Governors of at least two-thirds of the States within a region that have more than one-half of their electrical loads served within the region.

"(2) Membership.—A regional advisory body—

"(A) shall be composed of 1 member from each State in the region, appointed by the Governor of the State; and

"(B) may include representatives of agencies, States, and Provinces outside the United States, on execution of an appropriate international agreement described in subsection (f).

"(3) Functions.—A regional advisory body may provide advice to the electric reliability organization, an affiliated regional reliability entity, or the Commission regarding—

"(A) the governance of an affiliated regional reliability entity existing or proposed within a region;

"(B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

"(C) whether fees proposed to be assessed within the region are—

"(i) just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

"(ii) consistent with the requirements of subsection (l).

"(4) Deference.—In a case in which a regional advisory body encompasses an entire interconnection, the Commission may give deference to advice provided by the regional advisory body under paragraph (3).

"(o) Applicability of Section.—This section does not apply outside the 48 contiguous States.

"(p) Rehearings; Court Review of Orders.—Section 313 applies to an order of the Commission issued under this section.

"(q) Preservation of State Authority.—

"(1) Extent of authority of the electric reliability organization.—The electric reliability organization shall have authority to develop, implement, and enforce compliance with standards for the reliable operation of only the bulk-power system.

"(2) No authority with respect to adequacy or safety.—This section does not provide the electric reliability organization or the Commission with the authority to establish or enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) No preemption.—

"(A) In general.—Nothing in this section preempts the authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within the State, so long as the action is not inconsistent with any organization standard.

"(B) Consistency determination.—Not later than 90 days after the electric reliability organization or any other affected party submits to the Commission a petition for a determination that a State action is inconsistent with an organization standard, the Commission shall issue a final order determining whether a State action is inconsistent with an organization standard, after notice and opportunity for comment, taking into consideration any recommendations of the electric reliability organization.

"(C) Stay.—The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.".

(b) Enforcement.—

(1) General penalties.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended—

(A) by striking "subsection" and inserting "section"; and

(B) by striking "or 214" and inserting "214, or 215".

(2) Certain provisions.—Section 316A of the Federal Power Act (16 U.S.C. 825o-1) is amended by striking "or 214" each place it appears and inserting "214, or 215".

By Mrs. BOXER:

S. 173. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers; to the Committee on Finance.

Mrs. BOXER. Mr. President, earlier this week I introduced a bill to require the Federal Energy Regulatory Commission to establish a Western Regional Rate Cap for the sale of electricity. This is a key component to bringing stability to the electricity market and an important step in solving California's electricity problems.

Today, I am introducing the second in a series of bills to deal with this matter. The Consumer Utilities Turnback, CUT, Trust Fund Act would impose a windfall profits tax on electricity generators, with the revenues from the tax going into a Trust Fund to provide rebates to consumers.

Between the second quarter of 1999 and the second quarter of 2000, the overall net income for electricity producers based outside of California who sell to California increased 333 percent. Let me also mention a couple of specific companies. These figures compare the net income of the first three quarters of 1999 with the net income of the first three quarters of 2000. For NRG Energy Inc., it was a 386 percent increase. For the AES Corporation, it was a 262 percent increase. And for Dynegy Inc., the increase was 269 percent.

While profits for producers are reaching record levels, consumers are being hit with higher prices. Recent action by the state's Public Utility Commission has resulted in increases in consumer electricity bills from 7 to 15 percent. While this action was done to help the state's utility companies in meeting the wholesale electricity costs, it means that consumers and businesses are shouldering the burden of the windfall profits being made by the generating companies.

As I mentioned, the CUT Act would impose a windfall profits tax on electricity generators. Each year, the Federal Energy Regulatory Commission, FERC, would calculate the average level of "reasonable profit" determined by state Public Utility Commissions in states in which such a determination is made. Any profit above this average level would be windfall profit and would be subject to a 100 percent windfall profits tax.

The monies raised from the tax would be placed in the CUT Trust Fund in order to provide rebates to consumers. Governors could request that FERC provide rebates for consumers and businesses because of high electricity costs. FERC would then be charged with distributing the rebates and would be required to provide refunds to consumers each year in an amount equal to the revenues of the windfall profits tax.

Mr. President, this legislation highlights the dramatic difference between the burden California consumers are facing and the bountiful harvest being reaped by electricity generating companies. In dealing with the electricity situation in California, we must always keep this in mind.

By Mr. KERRY (for himself, Ms. Snowe, Mr. Bond, Mr. Wellstone, Mr. Cleland, Ms. Landrieu, Mr. Harkin, Mr. Levin, Mr. Lieberman, Mr. Bingaman, Mr. Enzi, Mr. Kohl, and Mr. Johnson):

S. 174. A bill to amend the Small Business Act with respect to the microloan program, and for other purposes; to the Committee on Small Business.

Mr. KERRY. Mr. President, today Senator Snowe and I are introducing a bill to improve the Small Business Administration's Microloan Program, a program which makes a very big difference through very small loans of up to $35,000. We are very pleased that Senators Bond, Wellstone, Cleland, Landrieu, Harkin, Levin, Lieberman, Bingaman, Enzi, and Kohl are joining us and cosponsoring this bill.

Senator Snowe and I have worked together many times on this program, pushing to make sure our country's smallest businesses have access to capital and business assistance. The changes we are introducing today are not controversial, and they are not new. In fact, they should sound familiar to all but our newest colleagues. First, they were part of the microloan provisions in the Senate version of last year's SBA Reauthorization bill. Second, our Committee and the full Senate voted unanimously to pass them. Further, they were drafted in cooperation with the Administration and with the folks who make the loans and provide the business training. The National Association of SBA Microloan Intermediaries (NASMI) and its members were full partners in shaping this legislation in the 106th Congress.

These provisions were not included in the conference agreement on SBA's Reauthorization bill because the House Committee on Small Business wanted to postpone consideration of these changes until they could hold a hearing and their members could have a chance to weigh in on the program. I thank former House Small Business Committee Chairman Talent, and returning Ranking Member Nydia Velázquez, for working with us on the microloan changes.

These changes we are re-introducing today will make the SBA Microloan

Program more flexible to meet credit needs, more accessible to microentrepreneurs across the nation, and more streamlined for lenders to make loans and provide management assistance. They complement the program and technical changes we made last year.

The Microloan Program Improvement Act of 2001 does the following:

It allows microintermediaries to offer revolving lines of credit. Currently, microloans are short-term loans. Eliminating this requirement will allow intermediaries greater latitude in developing microloan products that best meet their community's needs by offering borrowers revolving lines of credit, such as for seasonal contract needs. Congress does not intend for this flexibility to be used to make loans with long terms, such as 15 and 30 years.

It broadens the eligibility criteria for potential microintermediaries. Instead of requiring intermediaries to have one year of experience in making microloans to startup, newly established, or growing small businesses and providing technical assistance to its borrowers, this legislation would deem a prospective intermediary eligible if it has equivalent experience.

It expands flexibility to intermediaries to subcontract out technical assistance. Currently, intermediaries are limited to using 25 percent of their funds to assist prospective borrowers. This change allows an intermediary to allocate as much technical assistance as appropriate. This subsection also increases the percentage of technical assistance grant funds that an intermediary can use to subcontract out technical assistance. Currently, intermediaries can only subcontract 25 percent, and this legislation would raise it to 35 percent.

It establishes a peer-to-peer mentoring program to help new intermediaries provide the best possible service to microentrepreneurs. Specifically, SBA would be allowed to use up to $1 million of annual appropriations for technical assistance grants to provide peer-to-peer mentoring by subcontracting with one or more national trade associations of SBA microlending intermediaries, or subcontracting with entities knowledgeable of and experienced in microlending and related technical assistance. As Congress increases the number of lending intermediaries around the country to reach more people, we want to make sure that new intermediaries have the benefits of lessons learned by other more experienced lending intermediaries. Because the microlending industry is still very young, there are few sources of conventional training available to prospective and new intermediaries. According to the National Association of SBA Microloan Intermediaries, experienced SBA microlenders are called upon frequently to assist new intermediaries in addressing issues with their loan fund, from financial management and marketing to targeting loan funds effectively to a population or business sector. While these experienced intermediaries do their best to respond to the needs of their colleagues, they currently lack the resources to respond effectively and efficiently to the growing needs of the field.

Before I wrap up my statement, I would like to quickly run through the changes we made and that President Clinton signed into law on December 21.

Increases the maximum loan amount from $25,000 to $35,000;

Increases the average loan size for each intermediary's portfolio from $10,000 to $15,000 and increases the average loan size for specialty lenders from $7,500 to $10,000;

Raises the threshold for the comparable credit test from $15,000 to $20,000;

Increases the number of non-lending technical assistance (TA) providers from 25 to 55 and raises the maximum grant amount to each TA provider from $125,000 to $200,000; and,

Increases the number of intermediaries SBA is authorized to fund from 200 to 300.

Mr. President, I ask for unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Microloan Program Improvement Act of 2001".

SEC. 2. MICROLOAN PROGRAM.

(a) In General.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(i), by striking "short-term,";

(2) in paragraph (2)(B), by inserting before the period ", or equivalent experience, as determined by the Administration";

(3) in paragraph (4)(E)—

(A) by striking clause (i) and inserting the following:

"(i) In General.—Each intermediary may expend the grant funds received under the program authorized by this subsection to provide or arrange for loan technical assistance to small business concerns that are borrowers or prospective borrowers under this subsection."; and

(B) in clause (ii), by striking "25" and inserting "35"; and

(4) in paragraph (9), by adding at the end the following:

"(D) Peer-to-peer capacity building and training.—The Administrator may use not more than $1,000,000 of the annual appropriation to the Administration for technical assistance grants to subcontract with 1 or more national trade associations of eligible intermediaries, or other entities knowledgeable about and experienced in microlending and related technical assistance, under this subsection to provide peer-to-peer capacity building and training to lenders under this subsection and organizations seeking to become lenders under this subsection.".

(b) Conforming Amendment.—Section 7(m)(11)(B) of the Small Business Act (15 U.S.C. 636(m)(11)(B)) is amended by striking "short-term,".

Ms. LANDRIEU. Mr. President, I rise today to bring the attention of the Senate to legislation vitally important to the success of the Microloan Program of the Small Business Administration. Congress created the Microloan Program to reach small businesses not being served by traditional lenders or other credit programs within the SBA. This program has successfully helped micro entrepreneurs, many of whom are minorities, women and low-income individuals, who otherwise would have been unable to achieve their goal of owning their own business. Due to weak or, merely, non-existent credit histories and limited borrowing experience, they were often labeled as unreliable or risky borrowers by traditional credit markets and, hence, unable to obtain loans to start businesses.

To address this need and to fill the gap in micro enterprise lending, the Microloan Program was created to provide loans to non-profit intermediary lenders who, in turn, provide loans under $35,000 to very small businesses. In addition to financial resources, intermediary lenders provide technical assistance to these business owners, teaching them how to manage and run a successful business. Industry experts and micro borrowers have testified that supplementing financing with technical assistance is critical to the success of the micro enterprise and the likelihood of loan repayment.

Not only crucial to the development of the business of the micro borrower, micro loans also serve to strengthen and build communities, both growing and those in need of resurgence. To date, lending intermediaries have made 10,230 loans, worth in the range of $105 million. This money and business activity is stimulating many communities. As importantly, loans made by this Program have created new jobs. The Small Business Administration reports that for every loan made, 1.7 jobs have been created. Given the number of loans, this calculates to approximately 17,391 new jobs to strengthen the vitality of our communities.

The legislation I am cosponsoring today makes programmatic and technical changes to the Small Business Administration's Microloan Program, making it more flexible. This flexibility will help the Program meet more credit needs, be more accessible to micro entrepreneurs across the country, and streamline procedures which increase lenders' ability to make loans and provide technical assistance to micro entrepreneurs.

The Microloan Program has had substantial achievements. In South Carolina, a small retail establishment's owner wished to sell his outlet to an employee, but traditional lenders balked. The Microloan Program gave the employee the helping hand he needed with a micro loan. He paid that initial loan back early, and a second micro loan, as well. The banks now knock on his door. In Virginia, a woman, whose husband became disabled and unable to support the family, used a micro loan to start a used car dealership. That business has succeeded. So much so that she has established a program in her community that helps other women get off welfare by providing the automobile transportation to get to and from work. I want to be able to cite similar examples in my own State of Louisiana. In Louisiana, currently, we do not have any micro lenders enrolled in the Program. However, I have fought for increased funding to make sure the Program is adequately funded so that nationwide we can provide more micro loans and technical assistance. In the last Congress, I voted for legislation that increased the number of intermediaries authorized from 200 to 300 so that we can reach more micro entrepreneurs across the country.

And today, the proposed legislation will make the necessary changes to increase the attractiveness of the Program to prospective micro lenders in Louisiana and elsewhere around the country. The legislation being introduced today would broaden the eligibility criteria for intermediaries in an effort to bring lenders into the Program. This legislation would allow for intermediaries to have equivalent lending experience, rather than requiring exact micro lending experience. In addition, this legislation increases the amounts intermediaries can use to subcontract technical assistance, thus easing the burden on lenders in providing technical assistance. This legislation should encourage intermediaries to get involved in the SBA's Microloan Program in Louisiana. I urge lenders in my State to take note of the need for their future involvement in this Program. They could make big differences in their communities by making very small loans.

I have consistently supported this Program since joining the Committee on Small Business, and will continue to do so because of the many benefits that the Microloan Program can provide to micro entrepreneurs and our communities. Passage of this legislation can continue the successes of the Microloan Program and extend its reach into many other communities, such as those in Louisiana. I thank Senator KERRY and Senator SNOWE for their leadership on this legislation and encourage the Committee to act on this bill as soon as practicable.

By Mrs. HUTCHISON:

S. 175. A bill to establish a national uniform poll closing time and uniform treatment of absentee ballots in Presidential general elections; to the Committee on Rules and Administration.

S. 176. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation that will make much needed changes to our Presidential election system.

If there was one message to come from the thirty-six day ordeal over counting the votes in this Presidential election—it was that reforms are needed in the manner of national elections.

My bill would first establish a uniform poll closing time for the nation. I believe that 9 p.m. central standard time is the most appropriate time we can choose. The polls in California would close at seven. The polls in the east would close at ten. A uniform poll closing time is preferable to any kind of news blackout over election results. We live in a free society—we cannot withhold election results.

But, in this time of instant communication, we cannot let news reporting affect our voting patterns. We all recall the 1980 election, when President Carter's early concession demoralized West Coast voters who thought their vote no longer counted. In this last election, we watched the state of Florida get called, when a significant part of the state had not even closed its polls. A uniform poll closing time, in my view, is the only way to avoid a repeat of this problem.

A second difficulty that surfaced during this election cycle is the counting of absentee ballots and mail-in ballots. Some states have moved to vote by mail. But I don't believe that in a national election, we can wait on the outcome of an election through such means. A major industrial nation, in the twenty-first century, shouldn't have to wait days or weeks to determine who won an election. Literally, the fate of the Presidency and the Senate depended on the counting of absentee and mail-in ballots days after the election was held. My legislation would require that, for Presidential elections, all ballots would have to be processed and recorded by election day. States can reserve the right to have mail-in voting. But it must be done in a manner that is respectful of the nation's right to know who the next President will be.

Finally, and most importantly, I want to improve the treatment that overseas military absentee ballots are granted. We ask a lot of our men and women serving overseas. They put their lives on the line to protect our democratic values. And I was stunned to see their ballots cast aside like rubbish, purely for political opportunism, and secondly, because of so called "technicalities." It was an insult to our armed forces. Never again should this happen. I will make sure that the 107th Congress acts to make sure it never happens again.

In the past Congress has worked on this problem, but apparently we did not go far enough. We created a uniform absentee ballot for our military, if they couldn't get a ballot from their home state in a timely manner. We directed the Secretary of Defense to serve as the primary executive branch official charged with enforcing this Federal law.

My legislation would broaden the Secretary's authority—and give him the power to develop, in consultation with the states, a standard, uniform method of treating ballots in Federal elections that come from our military serving overseas. This way, no soldier or sailor or airman serving overseas will have his or her vote disenfranchised because of a patchwork of fifty state laws with respect to absentee ballots. They protect our democracy. We have to protect their right to participate in it.

Election reform will be an important issue for this Congress. There will be many proposals. I know that Senator MCCONNELL, Chairman of the Rules Committee, will have a proposal to modernize voting procedures and machinery across our nation. I am certain that some of the reforms I am offering today will become part of the debate.

Today, I am also introducing the Campaign Finance and Disclosure Act of 2001, legislation that I believe addresses the most significant problems in our present system of Federal campaign finance laws.

The bill will help level the playing field between challengers and incumbents and will target those areas of the law that have been subject to abuse and excess, without imposing a new, untested system of taxpayer funded campaign subsidies and regulations.

I am today proposing a set of relatively simple and workable reforms that will curb the abuses undermining public confidence in the present system, that will make congressional races more competitive, and that will help return control of federal campaigns and elections to their rightful owners—the individual voters in our respective states.

First, the bill requires that at least 60 percent of a Senate or House candidate's campaign funds come from individual residents of his or her state or congressional district. This will put the emphasis of fund-raising back home where it belongs, and will assist challengers, who rely more heavily on individual contributors.

In addition, the bill will end the powerful incumbent advantage of the mass mail franking privilege for Senators during the year in which they are seeking re-election.

Next, the bill increases the individual contribution limit from $1000 to $3000, per candidate, per election, while addressing the precipitous rise in the role of PACs in our existing system.

PAC contributions to congressional candidates grew from $12.5 million in 1974 to almost $200 million in 1996, a constant dollar increase of over 400 percent. Moreover, almost 70 percent of that $200 million went to incumbents, further serving to tilt the system against challengers. While PACs can and should continue to provide a vehicle for groups of like minded individuals to leverage their support of particular candidates, this should not be allowed to undermine the candidate/voter relationship. The bill will help control this growing PAC influence by also limiting PAC contributions to $3000, the same limit as individuals under my bill.

To help encourage candidates of average means to run for office against their wealthier opponents, the bill limits to $250,000 the amount a Senate campaign may reimburse a candidate, including immediate family, for loans the candidate makes to the campaign.

The Campaign Finance and Disclosure Act of 2001 will also prohibit, once and for all, several abuses of the law that now plague our system: campaign contributions by non-citizens will be banned; the use of campaign funds for purposes that are inherently personal in nature will be denied; political parties will be prohibited from accepting contributions earmarked for specific candidates; and union members will be entitled to be made aware of, and to decline to contribute to, the rapidly growing political activities of their unions.

Finally, the bill will encourage, not restrict, the volunteer-staffed political party building, "get-out-the-vote," and other candidate support activities of state and local political parties that constitute the core of grassroots politics in America. These critical activities will be given greater latitude under the law by excluding them from the definition of campaign contributions.

I realize that campaign finance reform is a contentious issue. However, if we are to restore the American people's confidence in the political process and make it more responsive to voters and accessible to candidates, we must take a hard look at those rules and attempt to fix what is broken. The Campaign Finance Reform and Disclosure Act does just that, and in a way that I believe can garner the support of a decisive majority of Congress.

Mr. President, both of these bills address issues that were raised during the campaign. I wanted to put these ideas forward today so that they can become part of the debate when we consider these issues.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. DASCHLE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 7, a bill to improve public education for all children and support lifelong learning.

S. 9

At the request of Mr. DASCHLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 9, a bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes.

S. 11

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 11, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes.

S. 23

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 23, a bill to promote a new urban agenda, and for other purposes.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Delaware (Mr. CARPER), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 28

At the request of Mr. GRAMM, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 28, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 126

At the request of Mr. CLELAND, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 132

At the request of Mr. JOHNSON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance.

S. 135

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 135, a bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the medicare program.

S.J. RES. 1

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

S. RES. 13

At the request of Mr. DASCHLE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. Res. 13, a resolution expressing the sense of the Senate regarding the need for Congress to enact a new farm bill during the 1st session of the 107th Congress.

SENATE CONCURRENT RESOLUTION 3—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED IN HONOR OF THE U.S.S. "WISCONSIN" AND ALL THOSE WHO SERVED ABOARD HER

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. BAYH, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. GRASSLEY, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. MCCAIN, Mr. MILLER, Mr. MURKOWSKI, Mr. REID, Mr. TORRICELLI, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 3

Whereas the Iowa Class Battleship, the U.S.S. Wisconsin (BB-64), is an honored warship in United States naval history, with 6 battle stars and 5 citations and medals during her 55 years of service;

Whereas the U.S.S. Wisconsin was launched on December 7, 1943, by the Philadelphia Naval Shipyard, sponsored by Mrs.

Walter S. Goodland, wife of then-Governor Goodland of Wisconsin, and commissioned at Philadelphia, Pennsylvania, on April 16, 1944, with Captain Earl E. Stone in command;

Whereas her first action for Admiral William 'Bull' Halsey's Third Fleet was a strike by her task force against the Japanese facilities in Manila, thereby supporting the amphibious assault on the Island of Mindoro, which was a vital maneuver in the defeat of the Japanese forces in the Philippines;

Whereas the U.S.S. Wisconsin joined the Fifth Fleet to provide strategic cover for the assault on Iwo Jima by striking the Tokyo area;

Whereas the U.S.S. Wisconsin supplied crucial firepower for the invasion of Okinawa;

Whereas the U.S.S. Wisconsin served as a flagship for the Seventh Fleet during the Korean conflict;

Whereas the U.S.S. Wisconsin provided consistent naval gunfire support during the Korean conflict to the First Marine Division, the First Republic of Korea Corps, and United Nations forces;

Whereas the U.S.S. Wisconsin received 5 battle stars for World War II and one for the Korean conflict;

Whereas the U.S.S. Wisconsin returned to combat on January 17, 1991;

Whereas the U.S.S. Wisconsin served as Tomahawk strike warfare commander for the Persian Gulf, and directed the sequence of Tomahawk launches that initiated Operation Desert Storm; and

Whereas the U.S.S. Wisconsin, decommissioned on September 30, 1991, is berthed at Nauticus, the National Maritime Museum in Norfolk, Virginia, where she will serve as a floating monument and an educational museum: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service in honor of the U.S.S. Wisconsin and all those who served aboard her; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a postage stamp be issued.

Mr. FEINGOLD. Mr. President, today, I have the distinct honor of introducing a resolution that commemorates one of the greatest ships of the United States Navy and her crew members. I am joined by the senior Senator from Wisconsin, Mr. KOHL, and 15 of my other colleagues.

The U.S.S. *Wisconsin* is the largest of the four magnificent battleships ever built by the United States Navy. These four vessels, the *Wisconsin*, the *Iowa*, the *New Jersey*, and the *Missouri*, comprise the revered Iowa-class battleships. Each of these ships served gallantly in every significant United States conflict from World War II to the Persian Gulf War.

At 887 feet, the *Wisconsin* carries a 108-foot, three-inch beam with a displacement of 45,000 tons. Her armor—as much as 17½ inches in some points—includes nine 16-inch guns, 20 five-inch guns, 80 40-millimeter guns, and 49 20-millimeter guns. The 16-inch guns are able to hurl shells roughly the weight of a VW Beetle to distances of up to 23 nautical miles. Due to the recoil of these massive guns, the deck had to be built of teak wood because steel plating would have buckled from the stress. While she was designed for a crew of 1,921 sailors, she ended up carrying almost 1,000 additional sailors at points during World War II and the Korean War.

The U.S.S. *Wisconsin* was built in Philadelphia, and commissioned on 7 December 1943, exactly two years after the surprise attack on Pearl Harbor. From the time President Roosevelt chose to name the vessel the *Wisconsin*, citizens from our state took an immediate interest. School children volunteered to christen the battleship. Some Wisconsinites even recommended christening the *Wisconsin* with water taken straight from the Wisconsin River, which runs through the heart of our state, instead of champagne. In fact, the Wisconsin's first commander, Captain Earl E. Stone, was born in Milwaukee and attended the city's public schools and the state university before his appointment to the Naval Academy.

In 1944, she underwent sea trials and training in the Chesapeake Bay. After the trials she was at last ready for duty. On 7 July, the *Wisconsin* departed Norfolk, Virginia, on her way to war with the legendary Admiral William F. "Bull" Halsey and his 3rd Fleet. She came to the aid of U.S. Marines and infantry as they began their island-hopping strategy toward Japan by sending her shells with deadly accuracy into the Philippines.

Following that action, the *Wisconsin* joined the 5th Fleet under another legendary commander, Admiral Raymond Spruance, and helped eliminate the Japanese resistance on Iwo Jima and Okinawa, then joining in the Battle of Leyte Gulf. After that, the U.S.S. *Wisconsin* became part of Fast Carrier Task Force 38; joining in the attacks on the Philippine Islands, Saigon, Camranh Bay, Hong Kong, Canton, Hainan, and finally the Japanese home islands.

Following Japan's surrender, the *Wisconsin* headed home with five battle stars to her credit. Additionally, after nearly two years of service in the Pacific theater during World War II, the *Wisconsin* didn't lose one crewman or get hit. This is truly an amazing fact.

After her service in World War II, she spent the summer at the Norfolk Naval Shipyard where she underwent an extensive overhaul. On 1 July 1948, she was taken out of commission, in reserve, and assigned to the Norfolk Group of the Atlantic Reserve Fleet.

However, her rest was short as the Korean War reawakened the *Wisconsin* and her sister battleships. She departed Norfolk on 25 October 1951, bound for the Pacific where she became the flagship of the 7th Fleet. When the Korean War broke out, future Admiral Elmo Zumwalt, Jr., served as the *Wisconsin*'s navigator and extolled her "versatility, maneuverability, strength, and power." During the conflict, she covered troop landings; fired upon enemy troops, trains, trucks, and bridges all along the Korean coastline; and attacked important North Korean ports in Hungnam, Wonsan, and Songjin. In April 1952, she headed to Long Beach, CA, with yet another battle star.

After departing Long Beach and arriving in Norfolk, the *Wisconsin* received her second overhaul at the Norfolk Naval Shipyard. Following a number of peacetime and diplomatic voyages showing the flag, she returned to Norfolk on 11 June 1954 for a brief overhaul before taking on her role as a training ship.

Surprisingly, it was during her service as a training ship that the *Wisconsin* received the greatest damage. On 6 May 1956, as she was cruising off the Virginia Capes in heavy fog, she collided with the destroyer U.S.S. *Eaton*. The *Wisconsin* returned to Norfolk with extensive damage to the bow, and a week later found herself back in the Norfolk Naval Shipyard. Shipyard workers fitted a 120-ton, 68-foot bow section from the unfinished *Iowa*-class battleship *Kentucky*. Working round-the-clock, *Wisconsin*'s ship force and shipyard personnel completed the operation in just 16 days.

On 28 June 1956, the ship was once again ready for service. Over the next two years she steamed from Norfolk five more times before heading for Philadelphia and deactivation. For the next 28 years she remained on inactive status until 1986, when she was towed to Ingalls Shipbuilding in Pascagoula, Mississippi. In 1988, the U.S.S. *Wisconsin* was re-commissioned for a third time.

In 1991, she led the Navy's surface attack on Iraq during the Gulf War and on 17 January fired her first tomahawk missile in the Persian Gulf War. Following her service, she was honored by leading the "Parade of Ships" for the Fleet Week celebration in New York Harbor.

On 7 December 2000, 57 years to the day after she was commissioned, the U.S.S. *Wisconsin* arrived at Nauticus, the National Maritime Center in Norfolk, Virginia, and was given a deserved salute featuring a flyover with F-14s and a 21-gun salute. At Nauticus, she serves as a floating monument and, in April of this year, will once again serve the public when she opens her deck as an educational museum. I wish she had found her final port in the great state of Wisconsin, but getting her there simply isn't possible—she's just too big.

Mr. President, I hope my colleagues will help me and the senior Senator from Wisconsin honor this great ship with a commemorative stamp.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, January 31, 2001 at 9:30 a.m. in room SH-216 of the Hart Senate Office Building in Washington, D.C.

The title of this oversight hearing is "California's Electricity Crisis and Implications for the West."

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SRC-2 Russell Senate Office Building, Washington, D.C. 20510-6150.

For further information, please call Trici Heninger at (202) 224-7875.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, January 24, 2001, at 9:30 a.m. on the Nomination of Norman Mineta to be Secretary of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, January 24, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider the nomination of Gale Norton to be Secretary of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the nomination of Elaine Chao to be Secretary of Labor during the session of the Senate on Wednesday, January 24, 2001, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, January 24, 2001, at 10 a.m. The markup will take place in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair announces on behalf of the Democratic leader, pursuant to the provisions of S. Res. 105 (adopted April 13, 1989), as amended by S. Res. 149 (adopted October 5, 1993), as amended by Public Law 105-275, further amended by S. Res. 75 (adopted March 25, 1999), and S. Res. 383 (adopted October 27, 2000), the appointment of the following Senators to serve as members of the Senate National Security Working Group for the 107th Congress:

The Senator from West Virginia (Mr. BYRD) (Democratic Administrative Co-Chairman)

The Senator from Michigan (Mr. LEVIN) (Democratic Co-Chairman)

The Senator from Delaware (Mr. BIDEN) (Democratic Co-Chairman)

The Senator from Massachusetts (Mr. KENNEDY)

The Senator from Maryland (Mr. SARBANES)

The Senator from Massachusetts (Mr. KERRY)

The Senator from North Dakota (Mr. DORGAN)

The Senator from Illinois (Mr. DURBIN), and

The Senator from Florida (Mr. NELSON).

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 909-7, appoints the following Senators to the Commission on Security and Cooperation in Europe:

The Senator from Connecticut (Mr. DODD)

The Senator from Florida (Mr. GRAHAM)

The Senator from Wisconsin (Mr. FEINGOLD), and

The Senator from New York (Mrs. CLINTON).

DISCHARGE AND REFERRAL OF S. 145

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the Committee on Veteran's Affairs be discharged from further consideration of S. 145 and that the bill be referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JANUARY 25, 2001

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11:30 a.m. on Thursday, January 25. I further ask unanimous consent that on Thursday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the majority leader be immediately recognized to offer for the RECORD the majority party's committee assignments for the 107th Congress; following that action, a brief statement by Senator BIDEN and Senator ALLEN for not to exceed 10 minutes each, with the Senate to then automatically stand in adjournment until 12 noon on Monday, January 29, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Oregon. I further ask unanimous consent that on Monday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business until 2 p.m. with the first hour under the control of the Democratic leader or his designee and the hour from 1 p.m. to 2 p.m. under the control of the Republican leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SMITH of Oregon. On Monday, at 2 p.m., the Senate will begin debate on the nomination of Gale Norton to be Secretary of the Interior. Tuesday morning, the Senate will conduct debate on the nomination of Elaine Chao to be Secretary of Labor and Governor Whitman to be Administrator of the Environmental Protection Agency.

As a reminder to all Senators, the next rollcall votes will occur on Tuesday, January 30, beginning at 2:45 p.m. in a back-to-back sequence. Following those back-to-back votes, the Senate will then begin debate on the nomination of Senator Ashcroft to be Attorney General of the United States.

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. SMITH of Oregon. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:41 p.m., adjourned until Thursday, January 25, 2001, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 24, 2001:

DEPARTMENT OF TRANSPORTATION

NORMAN Y. MINETA, OF CALIFORNIA, TO BE SECRETARY OF TRANSPORTATION.

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE JANUARY 24, 2001:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

TOMMY G. THOMPSON, OF WISCONSIN, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF TRANSPORTATION

NORMAN Y. MINETA, OF CALIFORNIA, TO BE SECRETARY OF TRANSPORTATION.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 25, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 30

9 a.m.

Agriculture, Nutrition, and Forestry

To hold an organizational business meeting to consider committee budget resolution, rules of procedure for the 107th Congress, and subcommittee assignments; to be followed by hearings to review the final report of the 21st Century Commission on Production Agriculture.

SH–216

10 a.m.

Budget

To hold hearings to examine the current state of the United States economy.

SD–608

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, January 25, 2001*

The Senate met at 11:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The prayer today will be offered by our guest Chaplain, Father James Francis Trainor, pastor at Saint Mary's/Saint Patrick's Parish, Wilmington, DE.

PRAYER

The guest Chaplain, Father James Francis Trainor, offered the following prayer:

Let us pray and bring ourselves into the presence of the Lord.

Loving God, Creator of all that is and all that shall be, who in Your providence have filled our lives with the opportunity for sufficiency in our everyday existence, give us a clear vision of the challenge You set before us as individuals and as a nation.

Help us to live this vision with such an appreciation of our blessing that we feel compelled to share that blessing and that sufficiency with all our sisters and brothers in the human family.

Lord, in a special way, guide and strengthen the men and women of this Senate as they seek daily to solve the problems and meet the challenges of this Nation. Help them to have that honest dedication which singles them out as Your humble servants. May they always remember that You are at their side, guiding their steps and weighing their actions.

Help these servants of the people, as they enter into a new year and a new millennium, to be filled with such courage that they fear not the tasks before them but meet them with confidence, remembering that they can do all things through You who strengthen them. May they recall that wisdom of old: "Unless the Lord builds the city, you labor in vain, who build it."—Psalm 127:1. May they walk always with You. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Delaware is recognized.

THE GUEST CHAPLAIN

Mr. BIDEN. Mr. President, it is my honor to welcome Father Jim Trainor to the Senate this morning, but I think it was his honor to be escorted to the President's chair by one of the great men of the Senate, Senator STROM THURMOND. I am sure one of the things that Father Trainor will take from this experience is, not particularly the fact that he gets to see Senator CARPER and me—he sees us all the time at home—but the fact he got to meet STROM THURMOND, the legendary STROM THURMOND.

Mr. THURMOND. Thank you. That is kind of you.

Mr. BIDEN. When Father Trainor put his hand out—Senator THURMOND was introduced to Father Trainor a moment before the prayer—he looked at Senator THURMOND and said: "Senator, you are an inspiration." And you are an inspiration, STROM. You are an inspiration to all of us and you are a darned good friend of mine and I'm glad you got to meet my buddy, Father Jim Trainor.

My colleagues do not know this, but Father Trainor prays for us every Sunday in Wilmington. I think he prays particularly hard for me because he is always making an extra prayer—maybe the Irish part of him—praying for the politicians and public officials.

I say to the majority leader, Senator LOTT, I go to a church called Saint Joseph's on the Brandywine, an old church that was built by the Du Pont family for "their Irish" back at the turn of the century, the turn of the 19th century, the early 1800s.

But my daughter and my wife like to go to Saint Patrick's Church, which is an inner-city church that, when I was a kid growing up, was in an Irish parish, and is now in the middle of the city and the parish is predominantly African American. It has become the haven for everyone in need in the city. Father Trainor has been there for about 25 years and has built and rebuilt that parish.

There is a long series of steps to go up to the church. It is an old-fashioned church where the actual church altar is on the second floor and below are all the meeting rooms. You walk up these two flights of stairs and occasionally—I know my colleagues will find this hard to believe—I am late.

It is such an honor to be invited here and an honor to have an opportunity to invite someone here. As you all know, this invitation went out over 6 months ago, a long time ago.

So I made the mistake of walking in a little bit late this Sunday evening for 5 o'clock mass. As I walked in the door, I knew I made a mistake. It was like being back in school. Father Trainor was up in the pulpit and I missed part of his sermon. He looked down to the congregation and he said: By the way, one other thing I want to tell you all. I want to tell you that I have had the great honor of being invited to open a session of the U.S. Senate this week. It came from the late JOE BIDEN—who just walked in the door. And then he proceeded to tell a story I hope he won't mind my telling.

He was standing in front of the entire congregation last Sunday—and by the way, this congregation attracts most of its people not from the parish. They are young professionals who come from all over the city to come into that 5 o'clock mass at night because of Father Trainor. It is always packed. It is literally standing room only. The few of us who are occasionally late, we stand a lot.

He told the following story: "I want the congregation to pray for me," he said, "because I hope I don't make the mistake I made the first time I was in Washington."

> I was a young seminarian, in graduate school, and I came to Baltimore to drop off my trunk early in the summer. I had a good friend with me who was wheelchair bound. It was his car. We decided to go visit Washington. The only thing I remember in Washington is everything is steps, steps, steps, steps. I was a pretty tough guy, and I would take that wheelchair and move it up the stairs.

He is going like this in the pulpit.

> So we went all over the city. We finished up at the Capitol.

That was before, thanks to Bob Dole and others, we had accessible entrances to our buildings in 1961 or 1962. I don't remember the exact year.

He said:

> I got to the Capitol steps and I looked up and said, "Sweet Lord, I can't do that." I walked around the side. There was a nice Capitol Policeman there. I said, "You guys have elevators here?" He said, "Sure, bring your friend in." I brought my friend in, and the officer said, "You can use those elevators. You can use them. I am sure they won't mind because of the circumstances."

Then two senatorial fellows got in the elevator and he said they both looked at him.

He said:

> I didn't know what to say.

I hope I am saying this accurately.

He said:

> Senators, I am sorry we are in here, but the police officer told us that because the other umbrella was broken, we could take this umbrella to the second floor.

He said:

> I hope I don't do that when I say my prayer this time.

I told him a story. The first time I came here, I was a student at the University of Delaware. A number of my friends went to Georgetown, and I loved coming up here. On a Saturday morning, I came up. There was an unusual Saturday session which had just closed down.

There were no metal detectors. A lot of you guys worked here as pages and had experience as staff. I walked through the double doors. The Senate had just gone out. I just walked in. The doors were open. I walked back by the Marble Room. No one was around. I opened the Chamber doors, and I was in awe. I think we all felt that the first time we ever stood in this Chamber. I was in awe. Literally, it took my breath away.

I walked in, looked around, and I walked up and sat in the chair. I was not being a wise guy. I was in awe. I sat down in the President's chair, looking out, and all of a sudden this officer grabs me, spins me around, and stands me up. He scared the devil out of me, understandably. He knew what I was doing and arrested me.

Most of you do not know that there is a police station downstairs underneath this building. He took me down. By the time we got down there, he realized I was just a college student in total awe of this place.

I was elected to the Senate 10 years later. The first day I walked into the Senate Chamber, and a police officer tapped me on the shoulder. He said: Do you remember me, Senator?

I said: No, I don't.

He said: I arrested you 10 years ago when you came in.

We both had inauspicious starts in the Senate. I say to you, Father, your prayer was right on target, and the finish was much stronger than the finish I have had. I thank you for being here.

I conclude by saying it is genuinely an honor for the State of Delaware to have a Senate host Chaplain today. Reverend Ogilvie, I thank you. You are a consummate gentleman, and I appreciate the hospitality you offered to Father and always to all of us in the Senate.

I note for the RECORD and say to my colleague from Delaware, Senator CARPER, I only know of a total of three other Delawareans since I have been here who have ever been guest Chaplains. Senator CARPER knows them all: Rabbi Kenneth S. Cohen from Congregation Beth Shalom was a guest Chaplain in 1982, and Father Robert Balducelli from St. Anthony's Parish. We need a little Irish levity brought into this. Now we have it all covered in my State. I thank you again, Father Trainor. I know the majority leader wishes to speak. After he does, I want to ask permission to yield to my colleague from Delaware for brief comments.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I have enjoyed the welcome speech from the Senator from Delaware, and I look forward to hearing from the other Senator from Delaware.

Welcome, Father Trainor. We all welcome you. Thank you for being here. You and our Chaplain, Lloyd Ogilvie, mean a great deal, obviously, to the Senators from Delaware, but also to the spirit of our country. We thank you for being here this morning and being our guest Chaplain.

COMMITTEE ASSIGNMENTS

Mr. LOTT. Mr. President, today I enter into the RECORD the majority party committee assignments for the 107th Congress. I thank all Members for their cooperation during this organization effort. I send to the desk the majority committee assignments. I understand Senator DASCHLE will be presenting his committee assignments later.

The committee assignments are as follows:

REPUBLICAN "A" COMMITTEE ASSIGNMENTS FOR THE 107TH CONGRESS

(Note: All committees have an equal number of Republicans and Democrats)

AGRICULTURE

Senators Lugar, Helms, Cochran, McConnell, Roberts, Fitzgerald, Thomas, Allard, T. Hutchinson, and Crapo.

APPROPRIATIONS

Senators Stevens, Cochran, Domenici, Specter, Bond, McConnell, Burns, Shelby, Gregg, Bennett, Campbell, Craig, K. Hutchison, and DeWine.

ARMED SERVICES

Senators Warner, Thurmond, McCain, B. Smith, Inhofe, Santorum, Roberts, Allard, T. Hutchinson, Sessions, Collins, and Bunning.

BANKING

Senators Gramm, Shelby, Bennett, Allard, Enzi, Hagel, Santorum, Bunning, Crapo, and Ensign.

COMMERCE

Senators McCain, Stevens, Burns, Lott, K. Hutchison, Snowe, Brownback, G. Smith, Fitzgerald, Ensign, and Allen.

ENERGY

Senators Murkowski, Domenici, Nickles, Craig, Campbell, Thomas, Shelby, Burns, Kyl, Hagel, and G. Smith.

ENVIRONMENT AND PUBLIC WORKS

Senators B. Smith, Warner, Inhofe, Bond, Voinovich, Crapo, Chafee, Specter, and Campbell.

FINANCE

Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Jeffords, Thompson, Snowe, and Kyl.

FOREIGN RELATIONS

Senators Helms, Lugar, Hagel, G. Smith, Thomas, Frist, Chafee, Allen, and Brownback.

GOVERNMENTAL AFFAIRS

Senators Thompson, Stevens, Collins, Voinovich, Domenici, Cochran, Gregg, and Bennett.

HEALTH, EDUCATION, LABOR, AND PENSIONS

Senators Jeffords, Gregg, Frist, Enzi, T. Hutchinson, Warner, Bond, Roberts, Collins, and Sessions.

JUDICIARY

Senators Hatch, Thurmond, Grassley, Specter, Kyl, DeWine, Sessions, Brownback, and McConnell.

REPUBLICAN "B" COMMITTEE ASSIGNMENTS FOR THE 107TH CONGRESS

AGING

Senators Craig, Jeffords, Burns, Shelby, Santorum, Collins, Enzi, T. Hutchinson, Fitzgerald, and Ensign.

BUDGET

Senators Domenici, Grassley, Nickles, Gramm, Bond, Gregg, Snowe, Frist, G. Smith, Allard, and Hagel.

ETHICS

Senators Roberts, Voinovich, and Thomas.

INDIAN AFFAIRS

Senators Campbell, Murkowski, McCain, Domenici, Thomas, Hatch, and Inhofe.

INTELLIGENCE

Senators Shelby, Kyl, Inhofe, Hatch, Roberts, DeWine, Thompson, and Lugar.

JOINT ECONOMIC COMMITTEE

Senators Bennett, Brownback, Sessions, Crapo, and Chafee.

RULES

Senators McConnell, Warner, Helms, Stevens, Cochran, Santorum, Nickles, Lott, and K. Hutchison.

SMALL BUSINESS

Senators Bond, Burns, Bennett, Snowe, Enzi, Fitzgerald, Crapo, Allen, and Ensign.

VETERANS' AFFAIRS

Senators Specter, Murkowski, Thurmond, Jeffords, Campbell, Craig, and T. Hutchinson.

Mr. DASCHLE. Mr. President, the following are the Democratic committee assignments for the 107th Congress. One more Democratic Senator will be added to the Energy Committee at next Tuesday's conference. The Energy Committee list will be reprinted in next Tuesday's RECORD to reflect that change.

DEMOCRAT COMMITTEE ASSIGNMENTS FOR THE 107TH CONGRESS

AGRICULTURE

Senators Harkin, Leahy, Conrad, Daschle, Baucus, Lincoln, Miller, Stabenow, Nelson (NE), and Dayton.

APPROPRIATIONS

Senators Byrd, Inouye, Hollings, Leahy, Harkin, Mikulski, Reid, Kohl, Murray, Dorgan, Feinstein, Durbin, Johnson, and Landrieu.

ARMED SERVICES

Senators Levin, Kennedy, Byrd, Lieberman, Cleland, Landrieu, Reed, Akaka, Nelson (FL), Nelson (NE), Carnahan, and Dayton.

BANKING

Senators Sarbanes, Dodd, Johnson, Reed, Schumer, Bayh, Miller, Carper, Stabenow, and Corzine.

COMMERCE

Senators Hollings, Inouye, Rockefeller, Kerry, Breaux, Dorgan, Wyden, Cleland, Boxer, Edwards, and Carnahan.

ENERGY

Senators Bingaman, Akaka, Dorgan, Graham, Wyden, Landrieu, Bayh, Feinstein, Schumer, and Cantwell.

ENVIRONMENT

Senators Reid, Baucus, Graham, Lieberman, Boxer, Wyden, Carper, Clinton, and Corzine.

FINANCE

Senators Baucus, Rockefeller, Daschle, Breaux, Conrad, Graham, Bingaman, Kerry, Torricelli, and Lincoln.

FOREIGN RELATIONS

Senators Biden, Sarbanes, Dodd, Kerry, Feingold, Wellstone, Boxer, Torricelli, and Nelson (FL).

GOVERNMENTAL AFFAIRS

Senators Lieberman, Levin, Akaka, Durbin, Torricelli, Cleland, Carper, and Carnahan.

HEALTH, EDUCATION, LABOR AND PENSIONS

Senators Kennedy, Dodd, Harkin, Mikulski, Bingaman, Wellstone, Murray, Reed, Edwards, and Clinton.

JUDICIARY

Senators Leahy, Kennedy, Biden, Kohl, Feinstein, Feingold, Schumer, Durbin, and Cantwell.

BUDGET

Senators Conrad, Hollings, Sarbanes, Murray, Wyden, Feingold, Johnson, Byrd, Nelson (FL), Stabenow, and Clinton.

RULES

Senators Dodd, Byrd, Inouye, Feinstein, Torricelli, Schumer, Breaux, Daschle, and Dayton.

SMALL BUSINESS

Senators Kerry, Levin, Harkin, Lieberman, Wellstone, Cleland, Landrieu, Edwards, and Cantwell.

VETERANS

Senators Rockefeller, Graham, Akaka, Wellstone, Murray, Miller, and Nelson (NE).

SPECIAL COMMITTEE ON AGING

Senators Breaux, Reid, Kohl, Feingold, Wyden, Bayh, Lincoln, Carper, Stabenow, and Carnahan.

JOINT ECONOMIC

Senators Reed, Kennedy, Sarbanes, and Corzine.

INTELLIGENCE

Senators Graham, Levin, Rockefeller, Feinstein, Wyden, Durbin, Bayh, and Edwards.

INDIAN AFFAIRS

Senators Inouye, Conrad, Reid, Akaka, Wellstone, Dorgan, and Johnson.

ETHICS

Senators Reid, Akaka, and Lincoln.

Mr. LOTT. Mr. President, the Senate will now be in a period for morning business and will adjourn after that morning business until 12 noon on Monday. During Monday's and Tuesday's session, we will consider three Cabinet nominations with the votes to occur at 2:45 p.m. on Tuesday, unless we get an agreement for some change. Right now, Senators should expect recorded votes at 2:45 p.m. on Tuesday.

I must say early, so I will not be accused of not putting Senators on alert, already we are being squeezed on both ends of the week. Senators say: Please don't have any votes after Wednesday night. Oh, please don't have any votes before Tuesday night.

We are not going to be able to do that, and we are going to have to start on Mondays. We are going to have to have votes on Tuesday mornings, Thursdays and Thursday nights, too. I realize it is early in the session and we are not under the gun, but we do need to get done as soon as possible the other nominations that have been agreed to so we can move to the last nomination and debate and vote on that one.

Those votes on confirmation at 2:45 p.m. will be Elaine Chao to be Secretary of Labor, Gale Norton to be Secretary of the Interior, and Gov. Christine Todd Whitman to be Administrator of the Environmental Protection Agency.

I ask all Senators for their assistance. Senator REID from Nevada is here. I know he has been working on helping move these along, especially Governor Whitman to be Administrator of EPA. I thank Senators on both sides of the aisle for that cooperation.

DISCHARGE AND REFERRAL OF S. 21

Mr. LOTT. Mr. President, I ask unanimous consent that S. 21 be discharged from the Committee on Finance and be referred to the Committees on Budget and Governmental Affairs, per the order of August 4, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I certainly support the leader's efforts to have us work a full workweek in the Senate Chamber. I do say we can really develop some bad habits. I know our leader has already been requested to see if we can get off on Wednesday nights. We really have to get started having some votes on more than 3 days a week.

I also say to the leader that we worked hard on this side, as I have indicated. There is a spirit of bipartisanship. I think that was helped yesterday with the meeting at the White House.

We really want to move these along, and the record should reflect, except for one nomination, Tuesday afternoon they will all have been completed. We hope in the foreseeable future we will be able to work the final one, debate it, resolve it. Hopefully, that can be done expeditiously.

We are willing to do the best we can. The record should reflect, with the remaining nomination, there are tons of questions. I know the committees are trying to work their way through that so we can have those answers so the debate can take place expeditiously.

Mr. LOTT. Mr. President, if I may respond to Senator REID's comments, with regard to the questions that need to be answered by the designee to be Attorney General, former Senator Ashcroft, this very morning we worked to encourage that those questions be answered as quickly as possible and gotten to the committee. Hopefully, that will be done today, and I understand Senator DASCHLE, if that can be done, is going to work with us to see if we can move that nomination in a reasonable time next week. I appreciate that very much.

Senator REID touched on our meeting with the President yesterday morning. It was a bipartisan, bicameral meeting. I thought it was a very good meeting. Again, the President was reaching out to the Congress and to the American people through their leaders. That was the sixth meeting he has had with congressional leaders in only 3 days as President, or workweek as President. He did have Sunday.

It has been Republicans, Democrats, leaders on education, the elected leaders, but the thing I liked about it, it was not just an effort to reach out with platitudes of courtesy. We got into a discussion on issues, not in great depth, but Senators and Congressmen were able to raise points of concern and interest. I think there was a belief on both sides that it was a very positive meeting. I hope this is the first of many of that type in the months to come.

I will be glad to yield the floor at this time so others may speak.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the majority leader leaves, the one referral the majority leader made we just learned has not been cleared by Finance yet.

Mr. LOTT. Mr. President, I thought it was routine business and thought it had been cleared.

ORDER FOR REFERRAL VITIATED

Mr. LOTT. Mr. President, I ask unanimous consent that the agreement be withheld, until we make sure it has been cleared, as always.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

THE GUEST CHAPLAIN

Mr. CARPER. Mr. President, I want to briefly thank Senator BIDEN for inviting Father Trainor to open this session of the Senate with the prayer that he has given. Senator BIDEN shared with us a story of his first visit here as a very young man, and his second visit, at 30 years old, when he was sworn into office, barely just old enough to take the oath.

When I think of his youth, the first time he stepped into this room as a Senator, and the first time I stepped into this room as a Senator earlier this month, I am so old, they named me a member of the Aging Committee. So there is a little bit of difference between his perception and mine. But I am delighted to be here and just thrilled to be able to welcome Father Trainor today.

JOE BIDEN mentioned that Senator THURMOND is an inspiration to us all. I just want to say Father Trainor continues to serve as an inspiration to us all, whether we be Catholic—or in my case, Protestant—or some other faith.

St. Pat's is in the inner-city part of Wilmington. It is an urban parish and an urban ministry, but people actually worship there from all over the northern part of our State.

I will be privileged to worship there, too, in a month or 2 at the end of our St. Patrick's Day parade, which winds down and ends right at the front door of St. Patrick's Church. We will go in and worship together—people of all faiths. We will appreciate the warm welcome, the hospitality, and the grace that is shared at that time.

I want to say one other word, if I may, about St. Pat's and Father Trainor. In a passage of Scripture in the New Testament, Matthew 25, people are gathered at the Heavenly Gates. Some are going to get in and some are not, and those who are going to be extended the privilege of living there forever in Heaven are told: When I was hungry, you fed me; when I was thirsty, you gave me something to drink; when I was naked, you clothed me; when I was sick and in prison, you came to visit me.

I just want to say at St. Pat's, as much as any church, as much as any parish in our State, that litmus test is still adhered to. And for those who are thirsty or hungry or homeless, or sick, they have a place to go.

I just want to say to Father Trainor, thank you for all that you do to make that the case and for sharing the Gospel with all of us and for really serving as a wonderful example. We welcome you here today. I am delighted to be able to be here to join with Senator BIDEN for this opportunity, and to say that the umbrellas still do work here, as Senator BIDEN alluded to earlier, and so do the elevators.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. I thank the Chair.

JUDGE ROGER GREGORY

Mr. ALLEN. Mr. President, I rise today to address the appointment of Roger L. Gregory to the U.S. Court of Appeals for the Fourth Circuit and the pending approval process of the Senate.

Judge Gregory was appointed to the bench during the congressional recess in December. He was sworn into office last Thursday, on January 18, 2001, in Charlottesville, VA. To many, this recess appointment was unacceptable because the President had nominated Judge Gregory last summer and he was never considered by the Senate or the Judiciary Committee before adjournment sine die.

There are Senators who understandably believe that promises and understandings have been breached concerning recess appointments. However, it is my belief that in Roger Gregory, the Fourth Circuit—and, indeed, America—has a well-respected and honorable jurist who will administer justice with integrity and dignity. He will, in my judgment, decide cases based upon and in adherence to duly adopted laws and the Constitution. I respectfully urge my colleagues and the administration to join me in supporting Judge Gregory.

I want to share with you my observations, and let you all know a bit more about Roger Gregory, the man.

Judge Gregory is a testament to what can be achieved in America through hard work and personal determination. He is the first person in his family to finish high school. He went on to graduate summa cum laude from Virginia State University, where his mother had once worked as a maid. He received his juris doctorate degree—his law degree—from the University of Michigan and later taught at Virginia State as an adjunct professor. Before his investiture as a judge, as a founding partner of the firm of Wilder & Gregory, Judge Gregory was a highly respected litigator representing mostly corporate and municipal clients in his hometown of Richmond, VA.

Last week, Roger Gregory became the first African American to be seated on the Fourth Circuit of the U.S. Court of Appeals.

He has been active in many civic and community affairs. He and I both served together on the Board of the Historic Riverfront Foundation in Richmond. He has served for many years on the board of directors of the Christian Children's Fund, the Richmond Renaissance Foundation, and the Black History Museum, among others.

In 1983, Commonwealth Magazine named Roger Gregory as one of "Virginia's Top 25 Best and Brightest." In 1997, he was a recipient of the National Conference of Christians and Jews Award. He has an AV rating in Martindale-Hubbell, which is the highest combined legal ability and general recommendation rating given to lawyers. He has been a leader of the Old Dominion Bar Association, having served as President from 1990 through 1992.

A few weeks ago, I had the opportunity to personally sit down and talk with and kind of interview Judge Gregory. I am truly impressed and comfortable with his judicial philosophy. Judge Gregory understands that the judicial branch is not the legislative branch. He believes in the rule of law and stated that he would adhere to precedents established by the Fourth Circuit and the Supreme Court to guide his decisions.

During our conversation, Judge Gregory told me that he does not believe justice is what he called, "result oriented," and instead, he believes the "administration of justice is a process." He was firm in his conviction that his charge as a judge is to "follow the rule of law and not participate in an activist court; as result-oriented judges are very dangerous."

Moreover, Judge Gregory articulated to me an appreciation of the rights, prerogatives, and powers reserved to the States in our Federal system. In particular, Judge Gregory believes the States have broad powers to regulate and pass laws, and that unless the law is clearly repugnant and violates established constitutional principles, he believes the laws enacted by legislators should be upheld and respected by the courts.

Mr. President, and fellow Senators, I am cognizant that this body has the prerogative of "advice and consent" and could deny Judge Gregory a permanent appointment. No one should mistake my support of Judge Gregory's confirmation with approval of the manner in which the former President handled this nomination.

At the time this nomination was first sent to the Senate last summer, I pledged to consider the nominee on his merits but took exception to the lateness of the nomination. It seemed to me the timing was calculated to accomplish a short-term political objective more than to achieve confirmation of a judge, and I felt that Mr. Gregory deserved better treatment.

Whatever the motive, the tardiness of the former President's action put the Senate in an impossible position. And the recess appointment has only compounded the harm. Still, we must act in the best interest of the judiciary and the country. I ask my colleagues today to recognize that no good for our judiciary or our country can be achieved by now striking back at the former President.

Let us rise above this procedural aggravation and act in a statesmen-like manner.

Mr. President, I submit to you and to my colleagues that Judge Roger L. Gregory is an exemplary citizen of the Commonwealth of Virginia. He has a sense of the properly restrained role of the judiciary and is eminently qualified to serve with distinction.

Mr. President, I respectfully ask my colleagues to hold the requisite hearing, after which I believe you will share my positive impression of Judge Roger Gregory, and thereafter confirm him to the U.S. Court of Appeals for the Fourth Circuit.

Thank you, Mr. President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that I may proceed irrespective of the adjournment order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wish to advise my colleagues, I will not take a lengthy period.

I commend my partner in the Senate, Senator GEORGE ALLEN, a man for whom I have had the highest respect for so many years. We have worked together now for close to two decades, and this is our first joint appearance on the floor of the Senate; it is for a very important reason. I commend my colleague for his remarks and wish to associate myself with each and every word he has said.

Mr. President, I met Judge Gregory on July 13, shortly after he was nominated, and thereafter I sent a letter to the chairman of the Judiciary Committee in which I asked for hearings. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

UNITED STATES SENATE,
Washington, DC, September 15, 2000.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness over the past several weeks to repeatedly discuss with me the nomination of Roger Gregory to serve as a judge on the United States Court of Appeals for the Fourth Circuit.

I am confident that Roger Gregory would serve as an excellent jurist on this distinguished court. I regret that the President, for reasons unknown to me, did not nominate Mr. Gregory until very near to the end of this Congress; however, I remain steadfast in my belief that the Senate should act on his nomination. Therefore, I once again respectfully request that you schedule a confirmation hearing for Mr. Gregory.

With kind regards, I am
Sincerely,
JOHN WARNER.

Mr. WARNER. I have prepared a letter to the President of the United States, George W. Bush, dated today, and my distinguished colleague has joined me in signing this letter. It is very short, and I shall read it:

DEAR MR. PRESIDENT: As a Virginian, Judge Roger Gregory is now serving in the United States Court of Appeals for the Fourth Circuit. The circumstances preceding his oath of office taken on January 18, 2001 are well known.

In the course of this process, we publicly announced—

That is Senator ALLEN and myself—

our support for then nominee Gregory and requested that the Judiciary Committee hold a confirmation hearing. Now, Judge Gregory's future tenure on the Fourth Circuit rests with your administration and, subject to your decision, then with the Senate's Judiciary Committee and the full Senate under its "Advice and Consent" responsibilities.

We continue to support Judge Gregory's nomination.

We have interviewed Judge Gregory, consulted with members of the bar, Judiciary, and others throughout the Commonwealth of Virginia about Judge Gregory's credentials. It is our belief that Judge Gregory is a well qualified candidate who will serve with distinction.

We fully respect the responsibilities you have to carefully review the overall situation regarding the Fourth Circuit and the views of the Chief Judge. Historically, Presidents have sought to achieve geographic representation in a circuit with members drawn from the several states within the circuit. It may well be that following your review of the Fourth Circuit, you will consider nominating or supporting a slate of candidates to provide to each state within the Fourth Circuit as a judge.

As you know, the Fourth Circuit serves the states of Virginia, West Virginia, North Carolina, South Carolina and Maryland. Currently, of the 11 judges sitting on the Fourth Circuit, four are Virginians, three are South Carolinians, two come from Maryland, and two are West Virginians.

We respectfully request that Judge Gregory's name be among those names that you support for confirmation to the Fourth Circuit.

Now, a few personal observations. I always go back to the Constitution and article I:

All legislative Powers herein granted shall be vested in a Congress of the United States. . . .

Then we proceed to article II:

The executive Power shall be vested in a President of the United States. . . .

And lastly, article III:

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour. . . .

Three coequal branches of Government, and we are addressing an issue relating to a member of a coequal branch of the Federal Government, a sitting Federal judge. In my judgment, despite all of the unusual aspects of the nominating process, we should support this jurist, if for no other reason, out of respect for the Senate towards the coequal branch of another part of our Republic and the members therein.

Now, as I say, I interviewed him. I have known him. He is a law partner of one of our distinguished living former Governors, Governor Wilder.

My colleague pointed out he would be the first African American on the Fourth Circuit. It was my privilege many years ago, then as a relatively junior Senator, to nominate an African American, the first in the history of the Commonwealth of Virginia, to serve in the Federal judiciary, James Spencer.

I say to my colleague, I am privileged to join with him in now supporting this eminently qualified jurist for continuation on the Fourth Circuit.

Out of respect to our former colleague, Senator Robb, we should note that he was very much involved in the nomination process that preceded in the fall.

Lastly, I will say, with regard to the advice and consent role of the Senate, each time we exercise that important constitutional responsibility—I guess I speak for myself—I consider the nominees of a President are human beings, people with sensitivities that all of us have, people who have families, people who have friends. I will have that very much in mind as we proceed to consideration of our role with regard to Judge Gregory. Sometimes we lose sight of that. Couple that with the fact that we are examining a member of a coequal branch of our Federal Government and of our Republic. For that reason we should accord him every respect we can.

Nevertheless, we shall examine thoroughly such qualifications as our colleagues wish to raise. It is my hope and, indeed, my expectation that eventually this Chamber will render its advice and consent such that Judge Gregory may continue as a member of the Fourth Circuit.

Mr. BIDEN. Will the Senator yield for a moment?

Mr. WARNER. Yes, indeed.

Mr. BIDEN. Mr. President, one of the reasons why the senior Senator from Virginia is so well respected in this place is not only the fact that he is a consummate gentleman, but he pays tribute to and honors the traditions of this great place.

I am aware that today was the maiden speech of his new colleague and our new colleague, the former Governor of Virginia.

I recall 28 years ago, when I got here, one's maiden speech was taken in a much more formal way, not by the speaker but by other Members of the Senate. I remember when I made my first speech, Senator John Stennis, Senator Allen, Senator Mansfield, Senator Javits all came and sat. I don't even remember what it was. It was an innocuous speech. They were all gracious enough to sit, turn their chairs, and act as if I was delivering the Declaration of Independence. I appreciated it very much.

Unlike my maiden speech, the maiden speech of the former Governor of the State of Virginia portends well for this body. To come here in the first speech he makes, to be in support of not the process but the person, who the Senators from Virginia could easily have concluded, because it was a Democratic nominee originally, should no longer remain on the bench because of the recess appointment and the manner in which it was taken, I take the speech of the Senator from Virginia to be more than merely about the nominee, who I agree is incredibly well qualified, having sat on the Judiciary Committee and sitting on the Judiciary Committee and being aware of his background.

I thank the Senator from Virginia, Mr. ALLEN, for making a maiden speech that meant something, that meant something about an individual and sent a signal to this body that I hope we on both sides of the aisle emulate for the next 2 years; that is, that we should look beyond partisan advantage and look to quality, the quality of what we are doing.

I compliment him on his maiden speech. I compliment him on the substance of the speech. I compliment my friend from Virginia, senior Senator, for being here. Senator ALLEN could have spoken about the dome, and he would have been here because that is the nature of the man. He understands the traditions of this place. They mean something. I am glad I get to serve with him.

Mr. WARNER. Mr. President, I express my profound appreciation and respect for my colleague from Delaware. We have enjoyed a very warm, personal, and professional relationship throughout my 23 years. I note that my colleague from Delaware has been here a number of years beyond that.

And I don't know of any Members, except maybe Senator BYRD or Senator THURMOND, who feel more deeply about the traditions here than my colleague from Delaware. I believe this morning was the longest speech on record with regard to a visiting member of the clergy, but it was heartfelt and it was fascinating to sit and listen.

These are some of the rare moments we share in this great institution when events such as that take place. I commend him and thank him. I know Senator BIDEN is the former chairman of the Judiciary Committee and he is well experienced regarding judicial nominations and the advice and consent role. Indeed, you noted the maiden speech of GEORGE ALLEN. The majority leader leaned over a few minutes ago and said beneath the tones of the system here, "Usually, we wait 3 months."

Two of us reminded the leader that this is a very important subject and one on which, indeed, the Senator could have extolled other aspects, particularly regarding education. But I think he chose the subject wisely, I say to my colleague from Virginia, and he chose the time wisely, because we should be without a moment's doubt in the minds of our colleagues about our support for this nominee and, indeed, our respect for the judicial branch.

I thank my colleague for the privilege of joining him today, and I commend him for his remarks. I also thank my colleague from Delaware.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as in morning business notwithstanding the order for the recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from Alaska (Mr. STEVENS) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the 107th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 107th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Alaska (Mr. MURKOWSKI) as Chairman of the Senate Delegation to the Canada-U.S. InterParliamentary Group conference during the 107th Congress.

WELCOMING SENATOR ALLEN TO THE SENATE

Mr. BOND. Mr. President, I join my colleague from Virginia and my colleague from Delaware in welcoming our new member from the State of Virginia. Frankly, I am delighted to see another former Governor join this body. I wish there were more of us here. I know the Senator from Virginia will have a great deal to offer. He has already made a significant contribution, and it was a pleasure for me to be able to be here and to hear his first speech. I know not only from that speech, but from his actions, he is going to be an extremely valuable Member of this body. I think the senior Senator from Virginia will agree that having additional "wahoos" is always a good idea.

Mr. WARNER. I thank our colleague. We wish the Senator well in the coming weeks. He is about to experience something that will require courage and God's will and godspeed.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

(The remarks of Mr. BOND pertaining to the introduction of S. 189 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

OFFICE OF COMPLIANCE REPORT TO CONGRESS

Mr. THURMOND. Mr. President, pursuant to Section 102(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1302(b)), the Board of Directors of the Office of Compliance have submitted a report to Congress. This document, dated December 31, 2000 is titled a "Review and Report on the Applicability to the Legislative Branch of Federal Laws Relating to Terms and Conditions of Employment and Access to Public Services and Public Accommodations."

Section 102(b) requires this report to be printed in the CONGRESSIONAL RECORD, and referred to committees with jurisdiction. Therefore, I ask unanimous consent that the report be printed in the RECORD and that the report be appropriately referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 102(b) REPORT—REVIEW AND REPORT ON THE APPLICABILITY TO THE LEGISLATIVE BRANCH OF FEDERAL LAWS RELATING TO TERMS AND CONDITIONS OF EMPLOYMENT AND ACCESS TO PUBLIC SERVICES AND PUBLIC ACCOMMODATIONS

(Prepared by the Board of Directors of the Office of Compliance pursuant to section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. §1302(b), December 31, 2000)

Section 102(a) of the Congressional Accountability Act (CAA) lists the eleven laws that, "shall apply, as prescribed by this Act, to the legislative branch of the Federal Government."[1] Section 102(b) directs the Board of Directors (Board) of the Office of Compliance (Office) to: "review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees,, and (B) access to public services and accommodations."

"And, on the basis of this review, "[b]eginning on December 31, 1996, and every 2 years thereafter, the board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch."

I. BACKGROUND

In December of 1996, the Board completed its first biennial report mandated under section 102(b) of the CAA (1996 Section 102(b) Report or 1996 Report).[2] In that Report the Board reviewed and analyzed the universe of federal law relating to labor, employment and public access, made initial recommendations, and set priorities for future reports. To conduct its analysis, the Board organized the provisions of federal law according to the kinds of entities to which they applied, and systematically analyzed whether and to what extent they were already applied to the legislative branch or whether the legislative branch was already covered by other comparable legislation. This analysis generated four comprehensive tables of laws which were categorized as: (1) provisions of law generally applicable in the private sector and/or in state and local government that also are already applicable to entities in the legislative branch, a category which included nine of the laws made applicable by the CAA; (2) provisions of law that apply only in the federal sector, a category which included the two exclusively federal-sector laws applied to the legislative branch by the CAA; (3) private-sector and/or state- and local-government provisions of law that do not apply in the legislative branch, but govern areas in which Congress has already applied to itself other, comparable provisions of law and; (4) private-sector laws which do not apply or have only very limited application in the legislative branch.

The Board then turned to its task of recommending which statutes should be applied to the legislative branch. In light of the large body of statutes that the Board had identified and reviewed, the Board determined that it could not make recommendations concerning every possible change in legislative-branch coverage. In setting its priorities for making recommendations from among the categories of statutes that the Board had identified for analysis and review, the Board sought to mirror the priorities of the CAA. Because legislative history suggested that the highest priority of the CAA was the application of private-sector protections to congressional employees where those employees had little or no protection, the Board focused its recommendations in its first report on applying the private-sector laws not currently applicable to the legislative branch.

The Board also determined in its 1996 Section 102(b) Report that, because of the CAA's focus on coverage of the Congress under private-sector laws, the Board's next priority should be to review the inapplicable provisions of the nine private-sector laws generally made applicable by the CAA. In December 1998 the Board set forth the results of that review in its second biennial report under Section 102(b) of the CAA (1998 Section 102(b) Report or 1998 Report).[3]

The 1998 Section 102(b) Report was divided into three parts. In Part I the Board reviewed laws enacted after the 1996 Section 102(b) Report, resubmitted the recommendations made in its 1996 Report, and made additional recommendations as to laws which should be made applicable to the legislative branch. In Part II the Board analyzed which provisions of the private-sector CAA laws do not apply to the legislative branch and recommended which should be made applicable. In Part III of the 1998 Report, although not required by section 102(b) of the CAA, the Board reviewed coverage of the General Accounting Office (GAO), the Government Printing Office (GPO) and the Library of Congress (the Library) under the laws made applicable by the CAA and made recommendations to Congress with respect to changing that coverage. The Board noted that the study mandated by Section 230 of the CAA which was submitted to Congress in 1996[4] did not include recommendations to Congress with respect to coverage of these three instrumentalities.[5] The Board concluded that the 1998 Section 102(b) Report, which focused on omissions in coverage of the legislative branch under the laws generally made applicable by the CAA, provided the opportunity for the Board to make recommendations to Congress regarding coverage of GAO, GPO and the Library under those laws.[6] As discussed in Section IV.C below, the Board Members identified three principal options for Congress to consider but were divided in their recommendation as to which option was preferable.

In the preparation of this 2000 Section 102(b) Report, the third biennial report issued under section 102(b) of the CAA, the Board has reviewed new statutes or statutory amendments enacted after the Board's 1998 Section 102(b) Report was prepared. The Board has also reviewed the Section 102(b) reports issued in 1996 and 1998 and the analysis and recommendations contained therein.

II. REVIEW OF LAWS ENACTED AFTER THE 1998 SECTION 102(b) REPORT

After reviewing all federal laws and amendments relating to terms and conditions of employment or access to public accommodations and services passed since October 1998, the Board concludes that there are no new provisions of law which should be made applicable to the legislative branch. As in the two previous Section 102(b) reports, the Board excluded from consideration those laws that, although employment-related, (1) are specific to narrow or specialized industries or types of employment not found in the legislative branch (e.g., employment in fire protection activities, or the armed forces); (2) established government programs of research, data collection, advocacy, or training, but do not establish correlative rights and responsibilities for employees and employers (e.g., statutes authorizing health care research); (3) authorize, but do not require, that employers provide benefits to employees, (e.g., so-called "cafeteria plans"); or (4) are not applicable to public sector employment (e.g., an amendment clarifying the treatment of stock options under the FLSA).

III. 1996 SECTION 102(b) REPORT

In preparation for the first Section 102(b) Report, as noted earlier, the Board reviewed the entire United States Code to identify laws and associated regulations of general application that relate to terms and conditions of employment or access to public services and accommodations. Noting the underlying priorities of the Act itself, the Board chose to focus its 1996 Report on the identified provisions of law generally applicable in the private sector for which there was no similar coverage in the legislative branch. The Board has reviewed the 1996 Section 102(b) Report and the recommendations contained therein, as well as the additional discussion of those recommendations found in the 1998 Section 102(b) Report.

The Board of Directors again submits the following recommendations which were made in the 1996 Section 102(b) Report and resubmitted in the 1998 Section 102 (b) Report:

(A) Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. §525).—Section 525(a) provides that "a governmental unit" may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under the bankruptcy statutes. The provision currently does not apply to the legislative branch. For the reasons set forth in the 1996 Section 102(b) Report, the board has determined that the rights and protections against discrimination on this basis should be applied to the legislative branch.

(B) Prohibition against discharge from employment by reason of garnishment (15 U.S.C. §1674(a)).—Section 1674(a) prohibits discharge of any employee because his or her earnings "have been subject to garnishment for any one indebtedness." This section is limited to private employers, so it currently has no application to the legislative branch. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to the legislative branch.

(C) Prohibition against discrimination on the basis of jury duty (28 U.S.C. §1875).—Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative-branch employment. For the reason set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections against discrimination on this basis should be applied to the legislative branch.

(D) Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000a to 2000a-6, 2000b to 2000b-3).—These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of "any place of public accommodation" as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations, it does not extend protection against discrimination based upon race, color, religion, or national origin with respect to access to such services and accommodations. For the reasons set forth in the 1996 Section 102(b) Report, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to the legislative branch.

IV. 1998 SECTION 102(b) REPORT

A. Part I of the 1998 Report (new laws enacted and certain other inapplicable laws)

In the first part of the 1998 Section 102(b) Report, the Board noted the enactment of two new employment laws and concluded that no further action was needed because substantial provisions of each had been made applicable to the legislative branch. Next, as noted above, the Board discussed and resubmitted the recommendations made in the 1996 Section 102(b) Report. In addition, the Board made three new recommendations, one based upon further review and analysis of statutes discussed in the 1996 Section 102(b) Report and two others based upon experience gained by the Board in the administration and enforcement of the CAA.

The Board of Directors resubmits the three new recommendations made in Part I of the 1998 Section 102(b) Report:

(1) Employee protection provisions of environmental protection statutes (15 U.S.C. §2622; 33 U.S.C. §1367; 42 U.S.C. §§300J-9(i), 5851, 6971, 7622, 9610).—These provisions generally protect an employee from discrimination in employment because the employee commences proceedings under applicable statutes, testifies in any such proceeding, or assists or participates in any way in such a proceeding or in any other action to carry out the purposes of the statutes. For the reasons stated in the 1998 Section 102(b) Report, the Board believes that these provisions are applicable to the legislative branch. However, because it is possible to construe certain of these provisions as inapplicable, the Board has concluded that legislation should be adopted clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the legislative branch.

(2) Employee "whistleblower" protection.—Civil service law[7] provides broad protection to "whistleblowers" in the executive branch and at GAO and GPO, but these provisions do not apply otherwise in the legislative branch. Employees subject to these provisions are generally protected against retaliation for having disclosed any information the employee reasonably believes evidences a violation of law or regulation, gross mismanagement or abuse of authority, or substantial danger to public health or safety. The Office has continued to receive a number of inquiries from legislative branch employees concerned about protection against possible retaliation by an employing office for

the disclosure of what the employee perceives to be such information. For the reasons set forth in the 1998 Section 102(b) Report, the Board has determined that whistleblower protection comparable to that provided to executive branch employees under 5 U.S.C. §2302(b)(8) should be provided to legislative branch employees.

(3) Coverage of special-purpose study commissions.—Certain special-purpose study commissions that include members appointed by Congress or by officers of Congressional instrumentalities are not expressly listed in section 101(9) of the CAA in the definition of "employing offices" covered under the CAA. For the reasons set forth in the 1998 Section 102(b) Report, the Board recommends that Congress specifically state whether the CAA applies to special-purpose study commissions, both when it creates such commissions and for those already in existence.

B. Part II of the 1998 Report (inapplicable private-sector provisions of CAA laws)

In the second part of the 1998 Section 102(b) Report, the Board considered the specific exceptions created by Congress from the nine private-sector laws made applicable by the CAA[8] and made a number of recommendations respecting the application of currently inapplicable provisions, "focusing on enforcement, the area in which Congress made the most significant departures from the private-sector provisions of the CAA laws'.[9] The Board noted that it intended that those recommendations "should further a central goal of the CAA to create parity with the private sector so that employers and employees in the legislative branch would experience the benefits and burdens as the rest of the nation's citizens".[10]

The Board of Directors has reviewed the 1998 Report and resubmits each of the following recommendations made in Part III of the 1998 Section 102(b) Report:

(1) Authority to investigate and prosecute violations of §207 of the Act, which prohibits intimidation and reprisal.—Enforcement authority with respect to intimidation or reprisal is provided to the agencies that administer and enforce the CAA laws[11] in the private sector. For the reasons set forth in the 1998 Report, the Board has concluded that the Congress should grant the Office the same authority to investigate and prosecute allegations of intimidation or reprisal as each implementing Executive Branch agency has in the private sector.

(2) Authority to seek a restraining order in district court in case of imminent danger to health or safety.—Section 215(b) of the CAA provides the remedy for a violation of the substantive provisions of the OSHAct made applicable by the CAA. Among other things, the OSHAct authorizes the Secretary of Labor to seek a temporary restraining order in district court in the case of imminent danger. The General Counsel of the Office, who enforces the OSHAct provisions as made applicable by the CAA, has concluded that Section 215(b) of the CAA gives him the same standing to petition the district court for a temporary restraining order. However, it has been suggested that the language of section 215(b) does not clearly provide that authority. For the reasons set forth in the 1998 Section 102(b) Report, the Board recommends that the CAA be amended to clarify that the General Counsel has the standing to seek a temporary restraining order in federal district court and that the court has jurisdiction to issue the order.

(3) Record-keeping and notice-posting requirements.—For the reasons set forth in the 1998 Section 102(b) Report, the Board has concluded that the Office should be granted the authority to require that records be kept and notices posted in the same manner as required by the agencies that enforce the provisions of law made applicable by the CAA in the private sector.

(4) Other enforcement authorities.—For the reasons set forth in the 1998 Section 102(b) Report, the Board generally recommends that Congress grant the Office the remaining enforcement authorities that executive-branch agencies utilize to administer and enforce the provisions of law made applicable by the CAA in the private sector.

C. Part III of the 1998 Report (options for coverage of the three instrumentalities)

In the third part of the 1998 Report, the Board, building upon its extensive Section 230 Study, exhaustively re-examined the current coverage of GAO, GPO and the Library under the CAA laws, and identified and discussed three principal options for coverage of these instrumentalities:

(A) CAA Option.—Coverage under the CAA, including the authority of the Office of Compliance as it administers and enforces the CAA. (The Board here took as its model the CAA as it would be modified by enactment of the recommendations made in Part II of its 1998 Report.)

(B) Federal-Sector Option.—Coverage under the statutory and regulatory regime that applies generally in the federal sector, including the authority of executive-branch agencies as they administer and enforce the laws in the federal sector.

(C) Private-Sector Option.—Coverage under the statutory and regulatory regimes that apply generally in the private sector, including the authority of the executive-branch agencies as they administer and enforce the laws in the private sector.

The Board noted that other hybrid models could be developed or, it could "be possible to leave the 'patchwork' of coverages and exemptions currently in place at the three instrumentalities and fill serious gaps in coverage on a piecemeal basis."[12]

The Board compared the three options against the current regimes at GAO, GPO and the Library, as well as against each other, and identified the significant effects of applying each option. The Board unanimously concluded that coverage under the private sector model was not the best of the options. However, the Board was divided as to which of the remaining options should be adopted. Two Board Members recommended that the three instrumentalities be covered under the CAA, with certain modifications, and two other Board Members recommended that the three instrumentalities be made fully subject to the laws and regulations generally applicable in the executive branch of the federal sector.[13]

A review of the analysis, discussion and recommendations contained in the Section 230 Study and Part III of the 1998 Section 102(b) Report demonstrates the complexity of the issues relating to coverage of GAO, GPO and the Library under the CAA laws. The current regime is an exceedingly complicated one, with differences evident both between and among instrumentalities and between and among the eleven CAA laws. Any proposals for changes in existing coverage must not only take into account the existing statutory regime, but also the practical effects of any recommended changes, as well as the mandates of the CAA, including Section 230. Indeed, the degree of the difficulties and challenges encountered in determining how the coverage of the instrumentalities might be modified is evidenced by the fact that after three years of study and experience, the Members of the Board in 1998 were unable to arrive at a consensus on the manner in which the CAA laws should be applied and enforced at GAO, GPO and the Library.

While the current Board Members are mindful of the institutional benefits of providing Congress with a clear recommendation as to coverage of the instrumentalities, the Board is of the view that further study and consideration of the questions presented is warranted in light of the complexity of the issues and the substantial impact that a modification would have on the instrumentalities and their employees.

The Board believes that Congress, and the instrumentalities and their employees, would derive greater benefit from a recommendation based upon further study, consideration and experience on the part of Board Members. Therefore, the Board has determined not to make any recommendations with respect to coverage of GAO, GPO and the Library under the CAA laws at this time.

ENDNOTES

[1] The nine private-sector laws made applicable by the CAA are: the Fair Labor Standards Act of 1938 (29 U.S.C. §201 et seq.) (FLSA), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) (Title VII), the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) (ADA), the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.) (ADEA), the Family and Medical Leave Act of 1993 (29 U.S.C. §2611 et seq.) (FMLA); the Occupational Safety and Health Act of 1970 (29 U.S.C. §651 et seq.) (OSHAct), the Employee Polygraph Protection Act of 1988 (29 U.S.C. §2001 et seq.) (EPPA), the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) (WARN Act), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The two federal-sector laws made applicable by the CAA are: Chapter 71 of title 5, United States Code (relating to federal service labor-management relations) (Chapter 71), and the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.). This report uses the term "CAA laws" to refer to these eleven laws.

[2] Section 102(b) Report: Review and Report of the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations (Dec. 31, 1996).

[3] Section 102(b) Report: Review and Report on the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations (Dec. 31, 1998).

[4] Section 230 of the CAA mandated a study of the status of the application of the eleven CAA laws to GAO, GPO and the Library to "evaluate whether the rights, protections and procedures, including administrative and judicial relief, applicable to [these instrumentalities] . . . are comprehensive and effective . . . includ[ing] recommendations for any improvements in regulations or legislation." Originally, the Administrative Conference of the United States was charged with carrying out the study and making recommendations, but when the Conference lost its funding, the responsibility for the study was transferred to the Board.

[5] Section 230 Study: Study of Laws, Regulations, and Procedures at The General Accounting Office, The Government Printing Office and The Library of Congress (December 1996) (Section 230 Study).

[6] The Board also found that resolution of existing uncertainty as to whether GAO, GPO and Library employees alleging violations of sections 204–207 of the CAA may use CAA procedures was an additional reason to include recommendations about coverage.

[7] See, e.g., 5 U.S.C. §2302(b)(8).

[8] The private-sector laws made applicable by the CAA are listed in note 1, at page 1, above.

[9] 1998 Section 102(b) Report at 16.

[10] Id. At 17.

[11] The only exception is the WARN Act which has no such authorities.

[12] 1998 Section 102(b) Report at 27.

[13] In December 1998, at the time the 1998 Section 102(b) Report issued, there were four Board members; the fifth Board member's term had expired and a new appointee had not yet been named. Since the issuance of the 1998 Report the terms of the four Board members who participated in that Report have expired. At present, the five-Member Board of Directors is again at its full complement; three Members were appointed in October 1999 and two Members were appointed in May 2000.

DEPARTMENT OF ENERGY NONPROLIFERATION PROGRAMS

Mr. BINGAMAN. Mr. President, the Secretary of Energy Advisory Board recently completed a review of the Department of Energy's (DOE) nonproliferation programs with Russia and released a report card assessing the contributions and needs of those programs. Two renowned Americans, former Senator Howard Baker and Lloyd Cutler, served as co-chairmen of a bipartisan task force comprised of technical experts, respected academicians and distinguished Congressmen and Senators from both political parties representing both chambers of the Congress. My colleagues will be interested to know that former Senators on the task force included Senators Baker, Boren, Hart, McClure, Nunn, and Simpson. Former House Members included Representatives Derrick, Hamilton, and Skaggs. In short, this task force brought together an experienced bipartisan group of esteemed experts whose views are well respected to examine the status of DOE's nonproliferation programs with Russia. The report they have produced should be required reading for everyone concerned about what the nation needs to do to meet our most important national security requirements.

No one could question that the greatest risks of proliferating weapons and materials of mass destruction (WMD) come from the massive WMD infrastructure left behind when the Soviet Union dissolved. Experts estimate that the former Soviet Union produced more than 40,000 nuclear weapons and left behind a huge legacy of highly enriched uranium (HEU) and plutonium—enough to build as many or more than 40,000 additional nuclear weapons. We are just now beginning to comprehend the vast quantities of chemical and biological weapons produced in the former Soviet Union. We have learned much about the stockpiles of nuclear, biological, and chemical materials that still exist in today's Russia. We have a fuller understanding of the extensive industrial infrastructure in Russia which is still capable of conducting research and producing such weapons. We are anxiously aware of the thousands of experienced Russian scientists and technicians who worked in that complex, many of whom are in need of a stable income.

Those huge numbers assume frightening implications when one considers that two years ago, conspirators at a Russian Ministry of Atomic Energy facility were caught trying to steal nuclear materials almost sufficient to build a nuclear weapon. At the same time, the mayor of Krasnoyarsk, a closed "nuclear city" in the Russian nuclear weapons complex, warned that a popular uprising was unavoidable in his city since nuclear scientists and other workers had not been paid for many months and that basic medical supplies were not available to serve the population. In December, 1998, Russian authorities arrested an employee at Russia's premier nuclear weapons laboratory in Sarov for espionage and charged him with attempting to sell nuclear weapon design information to agents from Iraq and Afghanistan. I am certain that many of my colleagues in the Senate have heard the stories regarding attempted smuggling of radioactive materials by Russian Navy personnel aboard their decaying submarine fleet. There are numerous other incidents that bring the Russian proliferation threat from incomprehensible quantities to real life threats of massive destruction.

In reviewing those threats and the various DOE programs underway to meet those dangers, the task force drew several major conclusions and recommendations on how we should proceed to reduce and ultimately eliminate the proliferation threats posed by Russia. Mr. President and colleagues of the Senate, let me cite those findings and recommendations for you.

The task force found that the "most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons—usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home." They noted that "current nonproliferation programs in the Department of Energy, the Department of Defense (DoD), and related agencies have achieved impressive results (in supporting nonproliferation objectives) . . ., but their limited mandate and function fall short of what is required to address adequately the threat."

The task force calls for the new Administration and the 107th Congress to increase our efforts to meet the proliferation threat, the dimensions of which we are only beginning to fully understand. In so doing, the report recommends that we undertake a net assessment of the threat, develop a strategy to meet it using specific goals and measurable objectives, establish a centralized command of our financial and human resources needed to do the job, and identify criteria for measuring the benefits to the United States of expanded nonproliferation programs. In particular, the task force urges the President in consultation with the Congress and in cooperation with the Russian Federation to quickly formulate a strategic plan to prevent the outflow of Russian nuclear weapons scientific expertise and to secure or neutralize all nuclear weapons-usable material in Russia during the next eight to ten year period. The task force estimates that it would take less than one percent of the U.S. defense budget or less than $30 billion over the next decade to do the job.

In short there is no more cost effective way to achieve our own national security goals than by investing in the DOE and DoD nonproliferation programs being conducted in cooperation with Russia. I urge the President, members of his administration, and my colleagues in the Senate to understand the importance of these programs to the nation. As we proceed in the uncharted waters of relations between the United States and Russia in the coming months and years, I hope we will be mindful of the central importance of these programs to our national security and to their great significance to cooperative relationships between our countries. I urge all of you to read this report carefully and support its recommendations during the forthcoming legislative cycle.

ADDITIONAL STATEMENTS

RECOGNIZING MR. JIM NICHOLSON

• Mr. CAMPBELL. Mr. President, I would like to take this opportunity to congratulate and recognize a fellow Coloradan, Mr. Jim Nicholson, the former chairman of the Republican National Committee. My friend and colleague has provided the State of Colorado, the Nation and the Republican Party outstanding service where he has devoted countless hours and tireless efforts with the Republican National Committee. I am here today to say a heartfelt "Thank You Jim," on behalf of all Coloradans.

He rose through the ranks of the Republican National Committee over the years. Based on his record of ability and accomplishments, he was elected Chairman where he served with honor and distinction.

Jim Nicholson has definitely demonstrated his commitment to ideals and an organization that has changed so dramatically over the years. His dedication and experience in business and politics will be sorely missed, but I know he will not be far away.

Also, Jim's quiet demeanor belies his gung-ho nature. As a ranger in Vietnam, he proved his dedication to a cause. And, Jim brought that same gung-ho quality to Washington where his efforts in the Republican National Committee gave us all a stronger voice and better means of resolving the hardships that all Americans face everyday. I would also like to mention his major role in helping win a trifecta in the last election, where Republicans won the White House, a majority in the House and retention of the Senate for the first time in many years.

When I first heard that Jim's tenure was coming to an end I was pleased for him and his wonderful family, but I also realized that the Republican Party, the State of Colorado and the entire Nation will be losing a devoted advocate.

I remember conversations with individuals telling me about his commitment and his passion for duty and honor. Well, I think Jim epitomizes duty and honor. Through boom and bust he has always been on the right side and I admire his steadfast devotion.

Jim and I have shared numerous experiences in our different roles. We have attended dinners and speeches together, and we have fought side by side in Colorado and in Washington. I know that he will still be involved in our lives, and I hope that our paths soon cross again. He has been a great professional associate and a greater friend. I wish Jim only the best in his next career move.●

RUTLAND HIGH SCHOOL BAND

● Mr. LEAHY. Mr. President, I would like to take a moment to commend Vermont's Rutland High School Band that performed Saturday, January 20, 2001, at the Inauguration of our Nation's 43rd President. The Rutland High Band represented our State with dignity and pride, celebrating one of our country's finest traditions, the peaceful transfer of power from one administration to the next. Their outstanding performance made me proud to be a Vermonter.

Hours of practice and preparation shone through during their two hour and fifteen minute performance. Ninety-two talented students made up this extraordinary band.

Students woke up on Inauguration Day at 4 a.m. in order to arrive at the Pentagon for an early morning security check, then played on a stage at the corner of Pennsylvania Avenue and Sixth Street, both before and after the President's swearing-in ceremony. Their dedication to excellence set an example for all of us.

The band was directed by Marc Whitman, who is a motivated and worthy leader of his students. Under his supervision, the Rutland High School Band was a true asset to the Inauguration festivities. I congratulate each and every band member and their musical directors on a superb job on January 20. All Vermonters are proud of them.

Mr. President, I ask to have printed in the RECORD an excerpt from an article about the band that appeared in the Rutland Daily Herald on January 22.

The article follows:

[From the Rutland Herald, Jan. 22, 2001]

HAIL (AND RAIN) TO THE CHIEF

(By Kevin O'Connor)

Ask anyone in the Rutland High School band: Playing at George W. Bush's inaugural Saturday left its mark.

Make that watermark.

"To see the bands, the floats, the protestors and the signs was significant, and then to be a part of that experience was something in itself," saxophonist Charles Romeo said. "We made our place in history and being in the rain makes it better—it's a better story to tell."

The 18-year-old senior was one of 92 students who soaked up the chance to represent Vermont at inaugural ceremonies this past weekend in Washington, DC.

Rutland High first played for a president when John F. Kennedy took office in 1961—a moment frozen in time by a blizzard of snow and 22-degree winds.

Forty years later, the band again took the inaugural by storm.

How wet did it get?

"Very, very wet," French horn player Devon Balfour said in a phone interview after the band returned to its hotel late Saturday night. "We were all drenched, but I don't think it mattered to many of us, because it was so exciting."

Students were set to wake Saturday as early as 4 p.m. so they could reach a Pentagon security check by 6:30 a.m., and play on a stage at the corner of Pennsylvania Avenue and Sixth Street before and after the president's swearing-in.

But the weather almost washed out their plans. Inaugural organizers didn't commit to outdoor ceremonies until late Friday, leaving the band, its two music teachers and 10 parent chaperons wondering for hours.

"I didn't even consider it as an option," band director Marc Whitman said of cancellation, "but the kids would have gotten their chance to swim in the hotel pool all day."

Band members didn't march in the inaugural parade like their predecessors, but instead performed for some of the thousands of spectators around the U.S. Capitol from 10:30 to 11:30 a.m. and 12:45 to 2 p.m.●

WILLIMANTIC LIONS CLUB

● Mr. LIEBERMAN. Mr. President, I rise today to honor the Willimantic Lions Club of Willimantic, Connecticut. On February 24, they will be celebrating their 60th Year of Service to the Greater Windham/Willimantic Community.

Since the Willimantic Lions Club was established 60 years ago, they have reached out to assist many members of the community but especially the blind and visually impaired. Their members have worked to provide eye exams, eyeglasses, low vision devices and guide dogs for members of the community through a variety of local fundraisers. The Lions Club also has lent its support to such worthwhile local causes as soup kitchens, the Red Cross, Special Olympics, the Boy and Girl Scouts and academic scholarships for local students.

As the Willimantic Lions Club has grown over the years, it has attracted more than 700 men and women as members of their club. Their numerous good works have touched many lives and demonstrated the true value of volunteerism. The people of Connecticut thank the Willimantic Lions Club and all its members for their service, dedication, and contributions to our state.●

GUN SAFETY

● Mr. LEVIN. Mr. President, on October 16, 2000, Mr. Charlton Heston, President of the National Rifle Association (NRA), gave a speech at a campaign rally in Grand Rapids, Michigan. On the campaign trial in Michigan, Mr. Heston asserted that Vice President Al Gore's position on guns had changed and suggested that "in any other time or place, you'd be looking for a lynching mob."

Such inflammatory and extremist remarks are an outrage. The NRA itself should condemn them. The fact that an average of ten children suffer gun-related deaths each day demands that we work together to end gun violence, yet Mr. Heston's comments serve only to further polarize the debate over guns and gun safety.

Although some in the crowd at the NRA rally in October may have been in support of Mr. Heston's rhetoric, the majority of people in Michigan reject the hate that was exuded by NRA's leader that October day in Michigan. In November, voters in Michigan also demonstrated that they oppose the tactics of the gun lobby and voters around the country voiced their support for gun safety measures, such as closing the gun show loophole that gives youth and criminals illegitimate access to firearms.

Mr. President, the American people have called on all of us to work toward decreasing the amount of gun violence in their schools and communities, and I am hopeful that the 107th Congress will be able to respond to their call by passing responsible gun safety legislation.●

RESTORING MILITARY RETIREES' CONCURRENT RECEIPT

● Ms. LANDRIEU. Mr. President, last year I had the honor of celebrating the fifty-sixth anniversary of D-Day with thousands of U.S. Veterans in my hometown of New Orleans. Listening to these men account their travails along the Normandy shores and honoring the memories of their fallen comrades, I was stirred with a sense of awe for our country's greatest patriots, America's military veterans.

I joined historian Stephen Ambrose at the opening of our National D-Day museum, where we memorialized not only those fallen in World War II's European Theater, but in Pacific battles as well.

As we recalled General Douglas MacArthur's fateful proclamation in 1942, I shuddered with the irony of it all—MacArthur, forced to retreat off Corregidor in the Philippines for Australia, vowed, I shall return. He did, and led our Nation to the most decisive victory in modern history. MacArthur's promise was heralded as a testament to America's convictions. Our troops fulfilled their duty to our country, defeating the Axis powers resoundingly. But our country never fully fulfilled its obligations to its troops. Promised compensation for service related disabilities, U.S. veterans have been denied critical benefits owed to them.

For over one hundred years, the Pentagon has cut into military retirees' incomes, acquiring non-appropriated funds off the backs of disabled veterans. This so-called concurrent receipt issue derives from an fiscal year 1892 appropriations bill. That's right, 1892.

In the aftermath of the Mexican War, Congress had hoped to prevent veterans from burdening America's budget by acquiring more than one pension payment. At this time, some veterans were receiving retired pay, disability pension, active duty pay, and a pension based on a disability from the Mexican War of 1846–1848. Congress decided to forbid such dual compensation for either past or current service and a disability pension. The fiscal year 1892 appropriations legislation for veterans' benefits included the first prohibition of concurrent receipt.

Since its inception, Members of Congress have tried to overturn concurrent receipt prohibitions, but have failed. Indeed, in the last Congress, we began to make substantial ground in our effort. I supported an amendment to the Senate's Defense Authorization Bill to permit retired members of the Armed Forces who have a service-connected disability to receive military retirement pay concurrently with veteran's disability compensation. House conferees over this bill rejected the provision. Instead, Congress was only able to secure $100 to $300 monthly special compensation for severely disabled retirees.

I can only hope that this measure will be the first of several steps that the Federal government takes to meet its commitments to our disabled military retirees. U.S. soldiers, sailors, airmen, and marines still put their lives and abilities on the line for our nation's defense. And yet, the government fails to meet its commitments in compensation. I predict that we will not overcome our services' recruiting and retention crises until we begin to restore such critical retiree benefits. In so doing, the United States will promote its national security and honor its guardians of liberty; our troops and our country deserve no less.•

TRIBUTE TO ELIZABETH SEWELL

• Mr. EDWARDS. Mr. President, I rise today to note with sadness the recent death of North Carolina author Elizabeth Sewell. Dr. Sewell succumbed to her third bout with cancer on January 12, at the age of 81.

Dr. Sewell was a writer of international renown. She authored four novels, three volumes of poetry, and 5 volumes of criticism, as well as scores of short stories.

Dr. Sewell was born in India and educated at Cambridge University in England. She made Greensboro, North Carolina her home starting in 1960 and became a citizen of the United States in 1974.

A gifted writer and thinker, Dr. Sewell studied and wrote on topics as diverse as race relations in the South, the role of the imagination in science and literature, and life in the academic world.

Her work garnered the prestigious poetry, fiction and non-fiction award from the American Academy and Institute of Arts and Letters in 1981.

Elizabeth Sewell was more than a prolific writer. She was also a talented teacher who shared her love of great literature with students in North Carolina and elsewhere.

She served as a visiting professor and writer-in-residence at Vassar College, the University of Notre Dame, and Bennett College in Greensboro. She became Joe Rosenthal Professor of Humanities at the University of North Carolina at Greensboro in 1974.

As North Carolinians, we are proud to claim Elizabeth Sewell as one of our own. All Americans—indeed, people all over the world—were privileged that she chose to share her many gifts with us.•

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–400. A communication from the President of the United States, transmitting, pursuant to law, the report on the budget for fiscal year 2002; referred jointly, pursuant to the order of January 30, 1975, as modified by order of April 11, 1986; to the Committees on Appropriations; and the Budget.

EC–401. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Disclosure and Reporting of CRA-Related Agreements" (RIN1550–AB32) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–402. A communication from the Chairman of the Board of Governors, Federal Reserve System, and the Secretary of the Treasury, transmitting jointly, pursuant to law, a report on the feasibility and desirability of mandatory subordinated debt; to the Committee on Banking, Housing, and Urban Affairs.

EC–403. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness" (RIN1550–AB36) received on January 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–404. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Yugoslavia; to the Committee on Banking, Housing, and Urban Affairs.

EC–405. A communication from the Senior Banking Counsel, Office of the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Financial Subsidiaries" (RIN1505–AA85) received on January 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–406. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations for January 21, 2000" (65 FR 80362) received on January 10, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–407. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations for December 21, 2000" (65 FR 80364) received on January 10, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–408. A communication from the Assistant to the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Bank Holding Companies and Change in Bank Control" (Docket No. R–1065) received on January 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–409. A communication from the Senior Banking Counsel, Departmental Offices, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Merchant Banking Investments" (RIN1505–AA78) received on January 12, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–410. A communication from the Legislative and Regulatory Activities Division, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Disclosure and Reporting of CRA-Related Agreements" (RIN1550–AB32) received on January 12, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–411. A communication from the Deputy Secretary of the Department of Housing and

Urban Development, transmitting, pursuant to law, a report relating to the update of management reform efforts for 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC-412. A communication from the Secretary of the Division of Investment Management, Office of Disclosure Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Investment Company Names" (RIN3235-AH11) received on January 17, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-413. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Discontinuation of the Section 221(d)(2) Mortgage Insurance Program" ((RIN2502-AH50)(FR-4588-F-02)) received on January 23, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-414. A communication from the Secretary of the Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Disclosure of Mutual Fund After-Tax Returns" (RIN3235-AH77) received on January 23, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-415. A communication from the Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income" ((RIN2501-AC72)(FR-4608-F-02)) received on January 23, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-416. A communication from the President of the United States, transmitting, pursuant to law, a report relating to lifting and modifying measures with respect to the Federal Republic of Yugoslavia; to the Committee on Banking, Housing, and Urban Affairs.

EC-417. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the prohibition of importing rough diamonds from Sierra Leone; to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. ROCKEFELLER, Mr. INOUYE, Mr. CLELAND, Mr. SARBANES, Ms. MIKULSKI, Mr. KOHL, Mr. HARKIN, Mr. BAUCUS, Mr. JEFFORDS, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. KENNEDY, Mr. EDWARDS, Mr. REED, Mr. BINGAMAN, Mr. JOHNSON, and Mr. DASCHLE):

S. 177. A bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established; to the Committee on Governmental Affairs.

By Mr. WELLSTONE (for himself, Mr. HARKIN, Mr. FEINGOLD, Mr. CONRAD, and Mr. DORGAN):

S. 178. A bill to permanently reenact chapter 12 of title 11, United States Code, relating to family farmers; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 179. A bill to amend the Internal Revenue Code of 1986 to phase in a full estate tax deduction for family-owned business interests and to increase the unified credit exemption; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. FEINGOLD, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. DEWINE, Mr. SANTORUM, Mr. CLELAND, and Mr. SESSIONS):

S. 180. A bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan; to the Committee on Foreign Relations.

By Mr. SHELBY:

S. 181. A bill to amend the Internal Revenue Code of 1986 to phase out the taxation of social security benefits; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 182. A bill to amend the Small Business Act with respect to the microloan program; to the Committee on Small Business.

By Ms. SNOWE:

S. 183. A bill to enhance Department of Education efforts to facilitate the involvement of small business owners in State and local initiatives to improve education; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. CRAIG):

S. 184. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself and Mr. CRAIG):

S. 185. A bill to provide incentives to encourage stronger truth in sentencing of violent offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON:

S. 186. A bill to provide access and choice for use of generic drugs instead of nongeneric drugs under Federal health care programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mr. GRASSLEY):

S. 187. A bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Ms. COLLINS (for herself and Mrs. BOXER):

S. 188. A bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources; to the Committee on Finance.

By Mr. BOND:

S. 189. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; to the Committee on Finance.

By Mr. FRIST:

S. 190. A bill to amend the Federal Food, Drug, and Cosmetic Act to grant the Secretary of Health and Human Services the authority to regulate tobacco products, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 191. A bill to abolish the death penalty under Federal Law; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. LEAHY):

S. 192. A bill to amend title 9, United States Code, with respect to consumer credit transactions; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE (for himself, Mr. HARKIN, Mr. FEINGOLD, Mr. CONRAD, and Mr. DORGAN):

S. 178. A bill to permanently reenact chapter 12 of title 11, United States Code, relating to family farmers; to the Committee on the Judiciary.

Mr. WELLSTONE. Mr. President, I rise today along with Senators HARKIN, FEINGOLD, CONRAD, and DORGAN to introduce legislation that would make permanent Chapter 12 of the U.S. Bankruptcy Code.

Chapter 12, the Chapter of the Bankruptcy Code designated for farmers, provides critical protection for family farmers who find themselves in desperate economic circumstances. Ideally, the goal of federal farm policy should be to sustain the ability of family farmers to produce and sell a competitive product, to preserve healthy and viable rural communities and to keep family farmers out of bankruptcy. However, when farmers are forced to seek bankruptcy protection, Chapter 12, because it is tailored specifically to farmers, often allows the farmer to keep his or her farm while reorganizing debt and making payments to creditors.

Extension of Chapter 12 is made all the more urgent by the current state of the farm economy. Prices are now so low that many family farmers are lucky to stay in business as market prices are lower than their cost of production. The value of field crops is expected to have been more than 24 percent lower in 2000 than it was in 1996—42 percent lower for wheat, 39 percent lower for corn, and 26 percent lower for soybeans. But farmers' expenses are not falling by the same amount. In fact, they are not falling at all. Farmers cannot maintain cash flow if their selling prices are falling through the floor while their buying prices are shooting through the roof.

Chapter 12 expired on June 30th of last year. Efforts last year to extend it or to make it permanent were held hostage to controversial bankruptcy "reform" legislation and, as a result, Congress adjourned in December without taking any action to reinstate this critical safety net. This legislation would make Chapter 12 a permanent part of the code, eliminating the need for future extensions. It is also retroactive to July 1, 2000.

I hope that in the 107th Congress we can stop using farmers as pawns in the debate over bankruptcy reform. Permanent Chapter 12 is completely noncontroversial. We could pass this bill by unanimous consent tomorrow, and we should. I note that a nearly identical measure has been introduced in the House by Congressman NICK SMITH. Given that the House last year passed two chapter 12 extensions which the Senate declined to act on, if the Senate this year took leadership on this issue and passed this bill, the House would swiftly follow. Farmers have been without this safety net long enough, and I urge my colleagues to take action by passing this measure.

Mr. DORGAN:

S. 179. A bill to amend the Internal Revenue Code of 1986 to phase in a full estate tax deduction for family-owned business interests and to increase the unified credit exemption; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I rise to introduce legislation to address an estate tax problem that many Americans want fixed without delay.

Over the years, I have heard from farmers, bankers and other business people in North Dakota and elsewhere who say it is nearly impossible for them to pass along the family business to their children to operate because of the estate taxes they would pay. They say emphatically that a family should never be forced to sell off any portion of their business just to pay the estate tax. I think they're absolutely right!

I believe that families who want to pass their business to other family members to own and operate should never have to worry about losing that business or farm to taxes. The sale of a portion of a family business to pay estate taxes does not happen very often, but it shouldn't happen at all. In fact, families ought to know that our federal tax laws will be supportive of their enterprises because of the importance of such businesses to this nation's economic well-being. And that's exactly what the bill I'm introducing would do.

This legislation is nearly identical to a bill I authored in the last Congress. It increases the current estate tax exemption for family business assets to $10 million over the next five years, and then totally eliminates the tax for them starting in the year 2006. At that time, family-owned and operated businesses will be completely exempt from the tax.

I have spoken often on the Senate floor about the importance of the family as an economic unit as well as a social unit. This nation was built upon an economy of family-based farms and businesses, and it is crucial that we strive to keep the family farms and businesses that we have, and to encourage new ones. I think that is why there's already wide agreement in the Senate that we should act to reform the estate tax to help ensure the continuity of family businesses.

We ought to address this critical family business estate tax issue early in this Congress and save for later, if necessary, those other parts of the estate tax on which there is still significant disagreement. My bill offers a common sense approach for changing the estate tax to help family enterprises survive to the next generation.

The legislation that I'm introducing today differs in two important ways from the bill, S. 3098, that I authored last year. First, I have added a provision to increase the general unified estate tax credit that is available to everyone from $675,000 to $4 million per couple by the year 2006. This will help families wishing to pass along to the children or grandchildren significant stock, proceeds from a life insurance policy or other assets they may have acquired over the years. Second, my bill makes the general credit and family-owned business exemption fully portable. This would help ensure that a surviving spouse will get the full benefit of any unused general credit or family-owned business exemption without having to have hired a sophisticated and costly tax advisor.

Let me briefly clarify one point. Together, the provisions of my legislation would effectively abolish the estate tax for over 99 percent of all taxpayers. But it does not exempt from estate taxes entirely the heirs of multi-billion dollar investment fortunes and the like, as the tax bill passed by the majority party last summer would have done.

Many of us voted against that bill because we believed that complete estate tax repeal along with the other sizable tax cuts proposed at that time threatened to put us right back into federal budget deficits once again. That is certainly something I can not support.

We also were concerned that repealing the estate tax completely would shift the burden of paying for the federal government even more onto the working men and women of this country. That is not fair. The gap between the very rich and everyone else has gotten wider in recent years, and repealing the estate tax in its entirety would only make it worse. I also think it is reasonable to ask those who have benefitted most from our democracy in the past to contribute to its security and well-being in the future.

I know that there is disagreement on these and other points. But they do deserve an honest debate, and I expect that we will have such a debate later in this Congress. But as I have said previously, we should not hold family based farms and businesses hostage to that debate and we should move quickly on estate tax reforms where there is already strong bipartisan agreement.

By Mr. FRIST (for himself, Mr. FEINGOLD, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. DEWINE, Mr. SANTORUM, Mr. CLELAND, and Mr. SESSIONS):

S. 180. A bill to facilitate famine relief efforts and a comprehensive solution to the war in Sudan; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudan Peace Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process.

(6) Through manipulation of traditional rivalries among peoples in areas outside their full control, the Government of Sudan has effectively used divide and conquer techniques to subjugate their population, and internationally sponsored reconciliation efforts have played a critical role in reducing the tactic's effectiveness and human suffering.

(7) The Government of Sudan is utilizing and organizing militias, Popular Defense Forces, and other irregular units for raiding and slaving parties in areas outside of the control of the Government of Sudan in an effort to severely disrupt the ability of those populations to sustain themselves. The tactic is in addition to the overt use of bans on air transport relief flights in prosecuting the war through selective starvation and to minimize the Government of Sudan's accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to increase the tempo and lethality of the war against the areas outside its control.

(9) Through its power to veto plans for air transport flights under the United Nations relief operation, Operation Lifeline Sudan (OLS), the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to subdue areas of Sudan outside of the Government's control.

(10) The efforts of the United States and other donors in delivering relief and assistance through means outside OLS have

played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(11) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(12) The Nuba Mountains and many areas in Bahr al Ghazal, Upper Nile, and Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(13) At a cost which has sometimes exceeded $1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(14) The ability of populations to defend themselves against attack in areas outside the Government of Sudan's control has been severely compromised by the disengagement of the front-line sponsor states, fostering the belief within officials of the Government of Sudan that success on the battlefield can be achieved.

(15) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

SEC. 3. DEFINITIONS.

In this Act:

(1) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Islamic Front government in Khartoum, Sudan.

(2) OLS.—The term "OLS" means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as "Operation Lifeline Sudan".

SEC. 4. CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan's overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice; and

(D) the Government of Sudan's use and organization of "murahalliin" or "mujahadeen", Popular Defense Forces (PDF), and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, Upper Nile, and Blue Nile regions; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

SEC. 5. SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

(a) FINDINGS.—Congress hereby recognizes that—

(1) a single viable, internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(2) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994.

(b) UNITED STATES DIPLOMATIC SUPPORT.—The Secretary of State is authorized to utilize the personnel of the Department of State for the support of—

(1) the ongoing negotiations between the Government of Sudan and opposition forces;

(2) any necessary peace settlement planning or implementation; and

(3) other United States diplomatic efforts supporting a peace process in Sudan.

SEC. 6. MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should be used as a tool to facilitating peace and recovery in Sudan; and

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to—

(A) revise the terms of Operation Lifeline Sudan to end the veto power of the Government of Sudan over the plans by Operation Lifeline Sudan for air transport of relief flights and, by doing so, to end the manipulation of the delivery of those relief supplies to the advantage of the Government of Sudan on the battlefield;

(B) investigate the practice of slavery in Sudan and provide mechanisms for its elimination; and

(C) sponsor a condemnation of the Government of Sudan each time it subjects civilians to aerial bombardment.

SEC. 7. REPORTING REQUIREMENT.

Section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) is amended by adding at the end the following:

"(g) In addition to the requirements of subsections (d) and (f), the report required by subsection (d) shall include—

"(1) a description of the sources and current status of Sudan's financing and construction of oil exploitation infrastructure and pipelines, the effects on the inhabitants of the oil fields regions of such financing and construction, and the Government of Sudan's ability to finance the war in Sudan;

"(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

"(3) the best estimates of the extent of aerial bombardment by the Government of Sudan forces in areas outside its control, including targets, frequency, and best estimates of damage; and

"(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces for the purposes of the war in Sudan.".

SEC. 8. CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit a detailed report to Congress describing the progress made toward carrying out subsection (a).

SEC. 9. CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

(a) PLAN.—The President shall develop a contingency plan to provide, outside United Nations auspices if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains, Upper Nile, and Blue Nile, in the event the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations (but for this subsection) for the purposes of the plan.

By Mr. SHELBY:

S. 181. A bill to amend the Internal Revenue Code of 1986 to phase out the taxation of Social Security benefits; to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to introduce the Older Americans Tax Fairness Act of 2001. My bill would completely eliminate the unjust taxation of Social Security benefits by the end of 2005. The premise of my legislation is simple: Social Security benefits were never intended to be taxed. At its inception and continuing on for the next fifty years, Social Security benefits were exempt from taxation. Budgetary shortfalls in 1984 and 1993, however, led to the taxation of these benefits. The economic situation of America is now such that the continued taxation of Social Security benefits is wasteful and unnecessary.

Under the current law, beneficiaries of Social Security are taxed on as much as 85 percent of their benefits. Furthermore, under the latest changes made by the Clinton Administration, some older Americans find themselves in a situation where for every dollar they earn over a threshold amount, $1.85 is subject to tax. In addition to being fundamentally and logically unfair, I believe such taxation provides senior citizens with a strong disincentive to work. In other words, taxation of benefits creates a situation where many senior citizens decide to not work rather than to earn additional income which may trigger taxation of their Social Security benefits.

Working senior citizens add a wealth of knowledge and experience to the workplace. As such, we must make sure that our American workforce is not deprived of these valuable assets. Our laws should encourage, not discourage, older Americans with a desire to work to continue contributing to our society. Unfortunately, that is not what is happening today.

Despite disincentives to work, many older Americans are forced to do so to be able to pay for living expenses, healthcare, prescription drugs and other essentials. To these people, every penny counts in determining whether they are able to meet these costs. However, when we tax Social Security benefits, we make it virtually impossible for millions of older Americans to make ends meet. In effect, taxation of Social Security benefits forces many Americans to endure stressful situations in what should be a special time of their lives. Clearly, we cannot allow such an unjust situation to continue.

The taxation of Social Security benefits impacts a wide segment of society, including a large portion of the middle class. For example, a person with $35,000 in income and $10,000 in benefits pays almost $1,000 more in taxes than he or she would, had the Clinton-Gore increase not been enacted. By repealing the 1993 Clinton-Gore increase, as well as the 1984 tax on Social Security benefits, my bill would give millions of Americans the financial freedom and security they deserve.

Mr. President, every day my office receives letters and calls from older Americans throughout the country voicing their opinions on the taxation of Social Security benefits. Their message is clear—stop the unfair taxation of these benefits. I ask my colleagues to listen to their constituents and to do the right thing by joining me in support of this bill.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 182. A bill to amend the Small Business Act with respect to the microloan program; to the Committee on Small Business.

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation I first offered during the 106th Congress during the Senate Small Business Committee's consideration of legislation to reauthorize the Small Business Administration.

This legislation is very simple and straight forward. It is designed to enhance the SBA Microloan program, which provides small, short-term loans for purchase of machinery and equipment, furniture and fixtures, inventory, supplies, and working capital for small businesses. These loans are made through SBA-approved nonprofit groups or intermediaries, which also provide counseling and educational assistance to firms or individuals.

Under the Microloan program, intermediaries operate both as lenders and as technical asistance providers. Through technical assistance, the intermediaries help the borrower to develop a business plan, to secure financing and to learn how to operate a business. I am very proud of the four Microloan intermediaries in my home state of Maine: Coastal Enterprises, Northern Maine Development Company, Eastern Maine Development Company, and Community Concepts. Mr. President, these organizations do great work in my state, and I am pleased to have this opportunity to recognize them.

I have long been a supporter of the Microloan program, and I am proud to sponsor this legislation today, which is designed to enhance and expand the program. The purpose of the legislation I am introducing today is to support efforts to increase the reach of and the number of Microlenders by authorizing peer-to-peer mentoring where experienced lending intermediaries can share their knowledge and experience with other intermediaries or organizations looking to develop a mcirolending program.

Currently, there are no resources to support such activities. Under this legislation, industry would develop a network of intermediaries with training experience and develop a system to match them with intermediaries seeking assistance. Under my bill, the program would authorize $1 million annually, and the funding would come out of already-authorized funding for Microloan technical assistance.

I hope this legislation will be a constructive step in the ongoing effort to improve the successful Microloan program, and I urge my colleagues to join me in supporting this effort.

By Ms. SNOWE:

S. 183. A bill to enhance Department of Education efforts to facilitate the involvement of small business owners in State and local initiatives to improve education; to the committee on Finance.

Ms. SNOWE. Mr. President, I rise to introduce legislation, the Small Business Employment and Education Act of 2001, which is designed to enhance federal efforts to facilitate the involvement of small business owners and entrepreneurs in state and local initiatives to improve the quality of education programs for our young people.

In 1999, the Small Business Committee, of which I am a member, held a hearing chaired by Senator BOND, chairman of the committee, on the challenges facing the small business community as a result of the failure of many of our educational institutions to teach students the basic skills that are necessary to succeed in today's work environment. The committee heard testimony from a number of small businesses and organizations about this growing problem.

And just how big is the problem? A 1999 American Management Association survey on workplace testing found that approximately 36 percent of employees tested for basic skills were found to be deficient in these skills, and small businesses reported deficiency rates well above the national average. Sixty percent of AMA-member companies reported that the availability of skilled manpower was scarce, and 67 percent believe that the shortages will continue.

A 1999 NFIB report found that 18 percent of NFIB members report that finding qualified labor is the single most important problem facing their business today.

Likewise, a 1999 poll of U.S. Chambers of Commerce found that 83 percent reported the ability—or lack thereof—to find qualified workers was among their biggest concerns, and 53 percent said education is the single most pressing public policy issue to them.

This information clearly illustrates that the business community, and small businesses in particular, have an important stake in the education of our youth. One of the most fundamental needs that any growing business faces is the need for employees with basic skills, and concerns have been expressed by the small business community that many students are not graduating with the basic skills in reading, writing, mathematics, and science—skills they need to succeed in today's workplace or become the entrepreneurs of tomorrow.

The fact of the matter is, Mr. President, the growth of high-skilled jobs is outpacing growth in all other fields. We must not allow basic skills to slip away if we are to remain competitive in an increasingly aggressive and technology-based global market.

Small business is the driving force behind our economy, and as we authorize the Elementary and Secondary Education Act, we must take into account the needs of businesses, and small businesses in particular. To that end, locally-driven initiatives are crucial. In order to create jobs, we must encourage small business expansion and foster small business entrepreneurship and, and I believe that education initiatives are key to this.

Under the Small Business Employment and Education Enhancement Act, the Department of Education would disseminate information and facilitate the sharing of information designed to assist small businesses in working with school systems in an effort to improve our educational institutions. For example, the agency would publish guidance materials, best practices, checklists and other materials on the World Wide Web, in Department of Education publications and articles, letters, links to related World Wide Web sites, public service announcements, and through other means at the Department's disposal.

The Department of Education would establish a centralized database of materials and act as a clearinghouse for information on initiatives that have proven successful.

The Secretary of the Department of Education would also establish an Office of Small Business Education to promote efforts to address the needs of small businesses though education programs. This division would work to remove any existing impediments to partnerships between school systems and small businesses, and propose solutions to education-related problems facing small businesses.

The goal of the bill I am introducing today is to facilitate partnerships between communities and businesses. I believe it should be easy for communities that are interested in designing business/school partnerships to get the information they need on how to do so. With access to the kinds of sources envisioned in this legislation, communities would be able to model a program after a proven approach.

In addition, my bill authorizes technical assistance to be administered by the Office of Small Business Education to be used to provide guidance to small businesses, small business organizations, school systems, and communities working cooperatively to enhance the teaching of basic skills.

The bill would also establish tax credits to encourage companies to provide work study, internship, or fellowship opportunities for students and teachers.

Finally, the bill includes a provision directing the Department of Education to conduct a study and report to Congress on the challenges facing small businesses in obtaining workers with adequate skills; an assessment of the impact on small businesses of the skills shortage; the costs to small businesses associated with this shortage; and the recommendations of the Secretary on how to address these challenges.

Mr. President, I hope this legislation will provide a foundation for cooperative initiatives between small businesses and school systems, and I look forward to working with the Small Business Committee, the Senate Health, Education, Labor, and Pensions Committee and others as we work to reauthorize the Elementary and Secondary Education Act.

By Mr. DORGAN (for himself and Mr. CRAIG):

S. 184. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

S. 185. A bill to provide incentives to encourage stronger truth in sentencing of violent offenders, and for other purposes; to the Committee on the Judiciary.

Mr. DORGAN. Mr. President, I offer legislation today that would strengthen our Trust in Sentencing guidelines and limit the ability of violent criminals to be released early due to "good time" credits.

Let me tell you why we need these bills. If you commit murder in this country, on average, you are going to be sentenced to about 21 years in jail but that criminal will serve, on average, only 10 years behind bars.

Most people will be startled to hear that. And why is this the case? Because people are let out early. Murderers go to prison, and they get "good time," time off for good behavior: If you want to get out early, just be good in prison, and we will put you back on the streets. A murderer can get credit for good behavior. That sounds like an oxymoron to me.

And what happens when you are put back on the streets? You read the stories. These people commit crimes again. They rape or they rob or they kill. They molest children. They repeat their crimes.

I am introducing legislation today, along with my friend Senator CRAIG of Idaho to address this problem. The point of it is very simple. I believe that in the criminal justice system we ought to have different standards for those who commit acts of violence. Everyone in this country who commits acts of violence ought to understand: You go to prison, and your address is going to be your jail cell until the end of your sentence.

I do not mind early release for nonviolent offenders. If prison officials want to use "good time" as a management tool for nonviolent criminals, fine. But for violent offenders, we ought to have a society in which everyone understands: If you commit an act of violence, the prison cell is your address to the end of your sentence. No good time off for good behavior, no getting back to the streets early. You are going to be in prison to serve your term. My legislation says, this is an important standard for state and federal prisons.

We know the current system isn't working. Too many violent offenders are sent back to America's streets. There is a way to stop that. My legislation will do so.

By Mr. JOHNSON:

S. 186. A bill to provide access and choice for use of generic drugs instead of nongeneric drugs under Federal health care programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. JOHNSON. Mr. President, today, I am introducing legislation as one more step in my fight to combat rising prescription drug prices and reduce the cost of medication for consumers in this country. My legislation, called the Generic Pharmaceutical Access and Choice For Consumers Act of 2001, aims to reduce the cost of prescription medication to American taxpayers and the U.S. government by encouraging the use of Food and Drug Administration (FDA) approved, therapeutically equivalent generic prescription drugs within the federal health care programs, except if the non-generic form is either ordered by the prescribing physician or requested by the patient.

The Generic Pharmaceutical Access and Choice For Consumers Act of 2001 establishes a straightforward and cost-effective means of increasing consumers' access and choice to safe, affordable generic prescription drugs under federal health care programs which could result in savings of millions of dollars.

The Federal Employee Health Benefits Program (FEHBP), which spends approximately $18.4 billion providing health insurance coverage to its' estimated nine million enrollees, including employees, retirees and their families, spends nearly twenty percent, $3.6 billion, of their insurance program costs on pharmaceutical benefits alone. This year brought little relief when the Office of Personnel Management (OPM) announced that FEHBP premium increases for the year 2001 were on average 10.5 percent, mostly attributable to the cost increase in prescription drug plans to fill prescriptions with FDA approved, therapeutically equivalent generic prescription drugs. In fact, the rising cost of prescription drugs accounts for about 40 percent of the total rise in premiums for this year alone.

In 1997, about one-third of all prescriptions under the FEHBP were for generic drugs. The Office of Personnel Management (OPM), which administers the FEHBP, estimated that total costs for prescription drugs would drop by about fifteen percent if half of all prescriptions were for generic drugs.

A 1998 study conducted by the Congressional Budget Office estimates that generic pharmaceutical substitution saves consumers nationwide approximately eight to ten billion dollars a year.

Some FEHBP plans and other federal health care programs do to some extent encourage the use of generic prescription drugs but the practice is not mandatory or universally incorporated into all programs. The Generic Pharmaceutical Access and Choice For Consumers Act simply directs all federal health care programs that provide prescription drug plans to fill prescriptions with FDA approved, therapeutically equivalent generic prescription drugs, except if the non-generic form is either ordered by the prescribing physician or requested by the patient.

I believe we can take greater steps to increase the utilization of high-quality, FDA approved generic drugs, which cost between twenty-five and sixty percent less than brand-name drugs, resulting in an estimated average savings of fifteen to thirty dollars on each prescription filled. In fact, independent studies have even estimated that generics provide an average savings of $45.50 for each prescription drug sold.

Generic pharmaceutical drugs are widely accepted by both consumers and the medical profession, as the market share held by generic drugs compared to brand-name prescription drugs has more than doubled during the last decade, from approximately nineteen to forty-three percent, according to the Congressional Budget Office. Yet, despite accounting for just over forty percent of the prescriptions drugs dispensed, generic drugs represent only 8 percent of the total dollar volume spent on drugs in this country. Studies have shown that consumers can save an additional $1.32 billion per year for every one percent increase in the use of generic drugs. That is why I strongly believe that generic pharmaceutical utilization can help both consumers and the government reduce the cost of prescription drugs.

Since there exists no current coverage for outpatient prescription drugs under the Medicare program, a second component of my bill includes a sense-of-the-Senate that, to the extent feasible, a preference for the safe and cost-effective use of generic drugs be considered in conjunction with any legislation that adds a prescription drug benefit to the Medicare program. I strongly believe that the utilization of high-quality, safe generic pharmaceutical drugs in a Medicare prescription drug benefit would provide a built in cost control mechanism that would help ensure the economic feasibility and sustainability of any new benefit.

And third, the bill I am introducing today works to prevent a tactic used by the brand drug industry to prevent generics from reaching the consumer by convincing state legislatures to pass unwarranted restrictions to the substitution of generic versions of brand name drugs. The campaign that some brand name drug companies lobby in some states is nothing more than an attempt by the brand name companies to protect their market share. The Generic Pharmaceutical Access and Choice For Consumers Act increases the level playing field for generic drugs by requiring the Food and Drug Administration (FDA), where appropriate, to determine that a generic pharmaceutical is the therapeutic equivalent of its' brand-name counterpart, and affording national uniformity to that determination.

The legislation would also prevent a State from establishing or continuing any requirement that keeps generic pharmaceutical drugs off the market once FDA has determined that a generic drug is "therapeutically equivalent" to a brand name drug. This provision will ensure that generic prescription drugs get to the market in a timely fashion and provide consumers with access and choice to low cost, high-quality alternatives.

As the year continues, I hope that we will move forward in a constructive debate about providing relief from the escalating costs of prescription drugs. However, I believe that minimizing cost through full access to generic drugs must be part of any effort to address the prescription drug pricing issue. I introduced the Generic Pharmaceutical Access and Choice For Consumers Act of 2001 to lay the ground work early in these discussions and take some constructive steps in the right direction so that the American public can get the full benefit of safe, affordable generic prescription drugs and taxpayers are treated right at the same time.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Generic Pharmaceutical Access and Choice for Consumers Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—REQUIRING THE USE OF GENERIC DRUGS

Sec. 101. Requiring the use of generic drugs under the Public Health Service Act.
Sec. 102. Application to Federal employees health benefits program.
Sec. 103. Application to medicare program.
Sec. 104. Application to medicaid program.
Sec. 105. Application to Indian Health Service.
Sec. 106. Application to veterans programs.
Sec. 107. Application to recipients of uniformed services health care.
Sec. 108. Application to Federal prisoners.

TITLE II—THERAPEUTIC EQUIVALENCE REQUIREMENTS FOR GENERIC DRUGS

Sec. 201. Therapeutic equivalence of generic drugs.

TITLE III—GENERIC PHARMACEUTICALS AND MEDICARE REFORM

Sec. 301. Sense of the Senate on requiring the use of generic pharmaceuticals under the medicare program.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Generic pharmaceuticals are approved by the Food and Drug Administration on the basis of scientific testing and other information establishing that such pharmaceuticals are therapeutically equivalent to brand-name pharmaceuticals, ensuring consumers a safe, efficacious, and cost-effective alternative to brand-name innovator pharmaceuticals.

(2) The pharmaceutical market has become increasingly competitive during the last decade because of the increasing availability and accessibility of generic pharmaceuticals.

(3) The Congressional Budget Office estimates that—

(A) the substitution of generic pharmaceuticals for brand-name pharmaceuticals will save purchasers of pharmaceuticals between $8,000,000,000 and $10,000,000,000 each year; and

(B) quality generic pharmaceuticals cost between 25 percent and 60 percent less than brand-name pharmaceuticals, resulting in an estimated average savings of $15 to $30 on each prescription filled.

(4) Independent studies have estimated that generics provide an average savings of $45.50 for each prescription drug sold.

(5) Generic pharmaceuticals are widely accepted by both consumers and the medical profession, as the market share held by generic pharmaceuticals compared to brand-name pharmaceuticals has more than doubled during the last decade, from approximately 19 percent to 43 percent, according to the Congressional Budget Office.

(6) Generic pharmaceuticals can save consumers an additional $1,320,000,000 each year for each 1 percent increase in the use of such pharmaceuticals.

(7) Generic pharmaceutical use can help both consumers and the Government reduce the cost of prescription drugs.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce the cost of prescription drugs to the United States Government and to beneficiaries under Federal health care programs while maintaining the quality of health care by requiring the use of generic drugs rather than nongeneric drugs, unless no therapeutically equivalent generic drug has been approved under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the nongeneric drug is specifically—

(A) ordered by the prescribing provider; or

(B) requested by the individual for whom the drug is prescribed; and

(2) to increase the utilization of generic pharmaceuticals by requiring the Food and Drug Administration, where appropriate, to determine that a generic pharmaceutical is the therapeutic equivalent of its brand-name counterpart, and by affording national uniformity to that determination.

TITLE I—REQUIRING THE USE OF GENERIC DRUGS

SEC. 101. REQUIRING THE USE OF GENERIC DRUGS UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following new section:

"SEC. 247. USE OF GENERIC DRUGS REQUIRED.

"(a) REQUIREMENT.—Each grant or contract entered into under this Act that involves the provision of health care items or services to individuals shall include provisions to ensure that any prescription drug provided for under such grant or contract is filled by providing the generic form of the drug involved, unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug is specifically—

"(1) ordered by the prescribing provider; or

"(2) requested by the individual for whom the drug is prescribed.

"(b) DEFINITIONS.—In this section:

"(1) GENERIC FORM OF THE DRUG.—The term 'generic form of the drug' means a drug that is the subject of an application approved under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), for which the Secretary has made a determination that the drug is the therapeutic equivalent of a listed drug under section 505(o) of that Act (21 U.S.C. 355(o)).

"(2) NONGENERIC FORM OF THE DRUG.—The term 'nongeneric form of the drug' means a drug that is the subject of an application approved under—

"(A) section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)); or

"(B) section 505(b)(2) of such Act and that has been determined to be not therapeutically equivalent to any listed drug.

"(3) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug that is subject to the provisions of section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

SEC. 102. APPLICATION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8902 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p) If a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of any prescription drug (as defined in paragraph (3) of section 247(b) of the Public Health Service Act), the carrier shall provide, pay, or reimburse the cost of the generic form of the drug (as defined in paragraph (1) of such section), except that this subsection shall not apply if the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(1) ordered by the prescribing provider; or

"(2) requested by the individual for whom the drug is prescribed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any prescription drug furnished during contract years beginning on or after January 1, 2002.

SEC. 103. APPLICATION TO MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)) is amended by adding at the end the following new paragraph:

"(3) For purposes of paragraph (1), the term 'drugs' means the generic form of the drug (as defined in section 247(b)(1) of the Public Health Service Act), unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of such drug (as defined in section 247(b)(2) of such Act) is specifically—

"(A) ordered by the health care provider; or

"(B) requested by the individual to whom the drug is provided.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to any prescription drug furnished on or after the date of enactment of this Act.

(2) MEDICARE+CHOICE PLANS.—In the case of a Medicare+Choice plan offered by a Medicare+Choice organization under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w-21 et seq.), the amendment made by this section shall apply to any prescription drug furnished during contract years beginning on or after January 1, 2002.

SEC. 104. APPLICATION TO MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking "and" at the end;

(2) in paragraph (65), by striking the period at the end and inserting "; and"; and

(3) by adding the following new paragraph:

"(66) provide that the State shall, in conjunction with the program established under section 1927(g), provide for the use of a generic form of a drug (as defined in paragraph (1) of section 247(b) of the Public Health Service Act), unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(A) ordered by the provider; or

"(B) requested by the individual to whom the drug is provided.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any prescription drug furnished under State plans that are approved or renewed on or after the date of enactment of this Act.

SEC. 105. APPLICATION TO INDIAN HEALTH SERVICE.

(a) IN GENERAL.—Title II of the Indian Health Care Improvement Act (25 U.S.C. 1621 et seq.) is amended by adding at the end the following new section:

"SEC. 225. USE OF GENERIC DRUGS REQUIRED.

"In providing health care items or services under this Act, the Indian Health Service shall ensure that any prescription drug (as defined in paragraph (3) of section 247(b) of the Public Health Service Act) that is provided under this Act is the generic form of the drug (as defined in paragraph (1) of such section) involved, unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(1) ordered by the prescribing provider; or

"(2) requested by the individual for whom the drug is prescribed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any prescription drug furnished on or after the date of enactment of this Act.

SEC. 106. APPLICATION TO VETERANS PROGRAMS.

(a) USE OF GENERIC DRUGS REQUIRED.—Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 1722A the following new section:

"§ 1722B. Use of generic drugs required

"When furnishing a prescription drug (as defined in paragraph (3) of section 247(b) of the Public Health Service Act) under this chapter, the Secretary shall furnish a generic form of the drug (as defined in paragraph (1) of such section), unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(1) ordered by the prescribing provider; or

"(2) requested by the individual for whom the drug is prescribed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1722A the following new item:

"1722B. Use of generic drugs required.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any prescription drug furnished on or after the date of enactment of this Act.

SEC. 107. APPLICATION TO RECIPIENTS OF UNIFORMED SERVICES HEALTH CARE.

(a) USE OF GENERIC DRUGS REQUIRED.—Chapter 55 of title 10, United States Code, as amended by section 751(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398), is amended by adding at the end the following new section:

"§ 1111. Use of generic drugs required

"The Secretary of Defense shall ensure that each health care provider who furnishes a prescription drug (as defined in paragraph (3) of section 247(b) of the Public Health Service Act) furnishes the generic form of the drug (as defined in paragraph (1) of such section), unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(1) ordered by the prescribing provider; or

"(2) requested by the individual for whom the drug is prescribed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1109 the following new item:

"1111. Use of generic drugs required.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any drug furnished on or after the date of enactment of this Act.

SEC. 108. APPLICATION TO FEDERAL PRISONERS.

(a) IN GENERAL.—Section 4006(b) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(3) USE OF GENERIC DRUGS REQUIRED.—The Attorney General shall ensure that each health care provider who furnishes a prescription drug (as defined in paragraph (3) of section 247(b) of the Public Health Service Act) to a prisoner charged with or convicted of an offense against the United States furnishes the generic form of the drug (as defined in paragraph (1) of such section), unless no generic form of the drug has been approved under the Federal Food, Drug, and Cosmetic Act or the nongeneric form of the drug (as defined in paragraph (2) of such section) is specifically—

"(A) ordered by the prescribing provider; or

"(B) requested by the prisoner for whom the drug is prescribed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any prescription drug furnished on or after the date of enactment of this Act.

TITLE II—THERAPEUTIC EQUIVALENCE REQUIREMENTS FOR GENERIC DRUGS

SEC. 201. THERAPEUTIC EQUIVALENCE OF GENERIC DRUGS.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) by adding at the end the following new subsection:

"(o)(1) For each application filed under subsection (b)(2) or subsection (j), the Secretary shall determine whether the drug for which the application is filed is the therapeutic equivalent of the drug for which the investigations have been made under subsection (b)(1)(A) (in this subsection referred to as the 'reference drug') or the listed drug referred to in subsection (j)(2)(A)(i). For applications approved after the date of enactment of this subsection, the Secretary's determination shall be made before the approval of the application. For such applications approved before such date, the most recent determination made by the Secretary shall be confirmed.

"(2) For purposes of paragraph (1), a drug is the therapeutic equivalent of a reference drug or a listed drug if—

"(A) each active ingredient of the drug and either the reference drug or the listed drug is the same;

"(B) the drug and either the reference drug or the listed drug—

"(i) are of the same dosage form;

"(ii) have the same route of administration;

"(iii) are identical in strength or concentration; and

"(iv) are expected to have the same clinical effect and safety profile when administered to patients under conditions specified in the labeling; and

"(C) the drug does not present a known bioequivalence problem, or if the drug presents such a problem, the drug is shown to meet an appropriate bioequivalence standard.

"(3) With respect to a drug for which a therapeutic equivalence determination has been made or confirmed under this subsection, no State or political subdivision of a State may establish or continue in effect with respect to therapeutic equivalence of the drug to either a reference drug or a listed drug, any requirement which is different from, or in addition to, or is otherwise not identical with, the Secretary's determination or confirmation under this subsection."; and

(2) in subsection (j)(7)(A), by adding at the end the following:

"(iv) The Secretary shall include in each revision of the list under clause (ii) on or after the date of enactment of this clause the official and proprietary name of each reference drug or listed drug that is therapeutically equivalent to a drug approved under subsection (b)(2) or under this subsection during the preceding 30-day period, as determined under subsection (o).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE III—GENERIC PHARMACEUTICALS AND MEDICARE REFORM

SEC. 301. SENSE OF THE SENATE ON REQUIRING THE USE OF GENERIC PHARMACEUTICALS UNDER THE MEDICARE PROGRAM.

It is the sense of the Senate that legislative language requiring the safe and cost-effective use of generic pharmaceuticals should be considered in conjunction with any legislation that adds a comprehensive prescription drug benefit to the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

By Ms. SNOWE (for herself and Mr. GRASSLEY):

S. 187. A bill to establish the position of Assistant United States Trade Representative for Small Business, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has thirty days to report or be discharged.

Ms. SNOWE. Mr. President, I rise today to introduce legislation on behalf of our Nation's small business community. This legislation will benefit small businesses by requiring an estimate of the cost of each piece of congressional legislation on small businesses before Congress enacts the legislation, and also by creating an assistant U.S. Trade Representative for Small Business.

Small business is the driving force behind our economy, and in order to create jobs—both in my home State of Maine and across the Nation— we must encourage small business expansion.

Nationwide, an estimated 13 to 16 million small businesses account for over 99 percent of all employers. They also employ over 50 percent of the workers. Small businesses account for virtually all of the new jobs being created. Maine, in particular, is a state with a historical record of self-reliance and small business enterprise. In Maine, of the roughly 36,660 employers, 97.6 percent are small businesses. Maine also boasts an estimated 71,000 self-employed persons. Surveys credit small businesses with all of the new jobs in Maine as well.

I believe that small businesses are the most successful tool we have for job creation. They provide a substantial majority of the initial job opportunities in this country, and are the original—and finest—job training program. Unfortunately, as much as small businesses help our own economy—and the Federal Government—by creating jobs and building economic growth, government often gets in the way. Instead of assisting small business, government too often frustrates small business efforts.

Federal regulations create more than 1 billion hours of paperwork for small businesses each year, according to the Small Business Administration. Moreover, because of the size of some of the largest American corporations, U.S. commerce officials too often devote a disproportionate amount of time to the needs and jobs in corporate America rather than in small businesses.

My legislation will address these two challenges facing small businesses, and I hope it will both encourage small business expansion and fuel further job creation.

One, this legislation will require a cost analysis of legislative proposals before new requirements are imposed on small businesses. Too often, Congress approves well-intended legislation that shifts the costs of programs to small businesses. This proposal will help avert such unintended consequences.

According to the U.S. Small Business Administration, small business owners spend at least 1 billion hours a year filling our government paperwork, at an annual cost that exceeds $100 billion. Before we place yet another obstacle in the path of small business job creation, we should understand the costs our proposals will impose on small businesses.

This bill will require the Director of the Congressional Budget Office to prepare for each committee an analysis of the costs to small businesses that would be incurred in carrying out provisions contained in new legislation. This cost analysis will include an estimate of costs incurred in carrying out the bill or resolution for a 4-year period, as well as an estimate of the portion of these costs that would be borne by small businesses. This provision will allow us to fully consider the impact of our actions on small businesses—and through careful planning, we may succeed in mitigating unintended costs.

Two, this legislation will direct the U.S. Trade Representative to establish a position of Assistant U.S. Trade Representative for Small Business. The Office of the U.S. Trade Representative is overburdened, and too often overlooks the needs of small business. This is a concern that I have heard time and again from those in the small business community. A new Assistant U.S. Trade Representative would promote exports by small businesses and work to remove foreign impediments to exports.

Mr. President, I am convinced that this legislation will truly assist small businesses, resulting not only in additional entrepreneurial potential but also in good new jobs. I urge my colleagues to join me in supporting this legislation.

By Ms. COLLINS (for herself and Mrs. BOXER):

S. 188. A bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Biomass Energy Equity Act of 2001. I am pleased to be joined in this effort by Senator BOXER, my colleague from California. This legislation makes a commonsense change to the renewable energy production tax credit by expanding it to include additional types of biomass plants. I would like to take a few minutes now to discuss the need for this important bill and to describe what it would do.

Simply put, biomass energy production uses combustion to turn wood and organic waste into energy in an environmentally sound process. Biomass takes a public liability, organic waste, and converts it into a public asset, energy.

The renewable energy production tax credit enacted in 1992 provides incentives to the solid-fuel biomass and wind energy industry to develop economically viable and environmentally responsible renewable sources of electricity. In enacting that legislation, Congress recognized that biomass energy offers substantial environmental benefits, specifically a reduced dependence on oil and coal, a desirable alternative to open field burnings and the landfilling of organic material, and a net reduction of greenhouse gas emissions.

Unfortunately, the 1992 legislation was drafted too narrowly to realize the full benefits of biomass energy production. The 1992 act narrowly defined an eligible biomass facility as including only so-called closed-loop biomass plants. Closed-loop biomass is a hypothetical form of electricity generation where the fuel is planted, grown, and harvested specifically and solely for the fuel of the power plant. This definition rules out the significant environmental benefit of disposal of organic waste otherwise destined for a landfill or field-burning and, therefore, remains unused. Since the biomass tax credit was passed, no taxpayer, not one, has taken advantage of the tax benefit.

Simply put, the closed-loop tax credit is not a sufficient incentive to develop a costly "fuel plantation," which entails large-scale land purchases, property taxes, and growing material for the sole purpose of burning it. By demanding that newly grown material be used rather than organic waste, the closed-loop biomass definition flies in the face of the commonly accepted environmental principle that products should be put to as many "highest value" uses as possible.

The legislation that I introduce today would expand the eligibility of the biomass tax credit to include conventional biomass plants. This legislation is designed to encourage a source of energy generation that offers substantial air quality, waste management, and greenhouse gas reduction benefits. The national biomass industry currently uses over 22,000,000 tons of wood waste a year. The waste the biomass industry converts into energy otherwise would be disposed of in one of three ways: burned in an open field, which generates pollution instead of energy; landfilled, where it fills limited landfill space and biodegrades, emitting methane, carbon dioxide, and other greenhouse gases; or left in the woods or fields, increasing the risk and severity of forest fires.

The air quality benefits of biomass energy are of particular importance. According to the Northeast States for Coordinated Air Use Management, an organization of all the Northeastern States' Air Quality Bureaus, biomass energy produces less nitrogen oxide than alternatives and generates virtually no sulfur dioxide, particulate matter, or mercury. Biomass energy production also results in a net reduction of greenhouse gases.

In addition to their environmental benefits, biomass plants contribute to the economy of many rural towns throughout America. Because of their dependence on organic waste, biomass facilities are usually located in rural areas where they are often important engines of economic growth. For example, in the small town of Sherman, Maine, a biomass facility provides 56 percent of the property tax base. It also directly employs 24 individuals and indirectly provides work for hundreds of truck drivers, wood operators, mill workers and maintenance contractors.

In another small town of Maine, Athens, a biomass facility provides a third of that small town's tax base and directly employs 20 people, while supporting a local wood operator who, in turn, employs 40 people.

The point is, the economy in many of the small towns in Maine, in towns such as Livermore, Ashland, Greenville, Fort Fairfield, Stratton, and West Enfield benefit considerably from these biomass facilities. In total, there are over 100 biomass facilities in the United States, representing an investment in excess of $7 billion. These facilities contribute jobs, property taxes and a disposal point for waste products. In addition, rural biomass facilities provide ash for use by local farmers, reducing their purchases of lime. I understand there is regularly more demand for the ash produced by these biomass plants than there is supply.

With biomass energy production, nothing is wasted. Biomass turns waste products—the byproducts of timber, paper or farming operations—into needed energy, wasting nothing. Even the ash is returned to the earth to grow organic matter yielding both crops and waste to generate still more electricity.

We in Congress often discuss ways to help rural America. This proposal offers an opportunity to do so in a manner that not only benefits the economy of small towns in rural America but also in a way that generates considerable environmental benefits.

This measure makes both economic and environmental sense. I urge my colleagues to join Senator BOXER and me in supporting this important legislation and working for its passage.

By Mr. BOND:

S. 189. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; to the Committee on Finance.

Mr. BOND. Mr. President, I rise because I have just come from a very interesting and informative hearing in the Budget Committee. Federal Reserve Chairman Alan Greenspan came in today to talk about what he has seen as the tremendous productivity growth in this economy. The productivity growth essentially has come about because of the investment in information technology which has allowed our country to produce more in less time and to increase the output of the many sources of goods and services in this country. It has brought with it, as Chairman Greenspan noted, a significant increase in revenues to the Federal Government, which are allowing us to pay down even more rapidly than previously thought the debt now held by the public.

Last year, Chairman Greenspan was adamant. He said the best thing we could do was to pay down the debt. He said, "I have absolutely zero concern that we are going to pay the debt down too fast." Remarkably, today he has said that there is a real danger: We are potentially paying down the debt too quickly. He said if we get to the point where we have paid down the debt and the Federal Government is starting to accumulate private assets—in other words, having to put its surpluses into investments in the country—we could have a serious political problem. He therefore said that, in addition to continuing debt reduction, it is time to take "surplus-lowering policy initiatives."

Now sometimes the Chairman doesn't speak in the clearest language, and we questioned him as to what he meant. He indicated that a reduction in taxes beginning now, prior to the time we get to the point where there is no debt held by the public, is a good idea. He said, from an economist's standpoint, the most effective way to generate growth in the economy is to reduce marginal rates.

Well, this was very informative and useful testimony. I urge my colleagues to read it. He also warned that we are in serious trouble if we follow the path we have followed in this Congress and in the last several years of spending explosions, going above the budget and continuing to spend more. He said that spending too much can be a real danger. There is much less danger of cutting taxes too much because there are limits on how much taxes can be cut.

Mr. President, I introduce the Small Business Works Act of 2001. This legislation is built on one inescapable fact—small business "works" in this country. The men and women who venture into small businesses take incredible risks. They work countless hours, often seven days a week, just to see their businesses break even. They risk their life savings and often capital put up by family and friends. And they forego valuable time with their families all for the promise of working for themselves and creating prosperous businesses in their communities.

Our country also reaps the benefits of successful small enterprises. According to the Small Business Administration, small businesses represent more than 99 percent of all employers, employ 53 percent of the private work force, and create about 75 percent of the new jobs in this country. In addition, these small firms contribute 47 percent of all sales in this country, and they are responsible for 51 percent of the private gross domestic product. With these kinds of results, it is quite clear that small business works for America.

Despite their success in recent years, one thing clearly does not work for small business—the Internal Revenue Code. Instead of collecting the lowest amount of taxes necessary in the least burdensome manner, the current tax law represents a morass of rules, regulations, forms, and, of course, penalties, with which the self-employed must contend. Just to put this into perspective, by some estimates, small business owners spend more than 5 percent of their revenues just to comply with the tax laws. In fact, a small business owner from Kansas City testified before the Senate Committee on Small Business that his business routinely spends more than 16 percent of the company's net income just to keep the records and file the appropriate tax forms. And that's even before he writes the tax check.

These revenues are taken away from the business and spent on accountants, bookkeepers, and lawyers to sort out all the rules and filing requirements. In addition, small business owners must dedicate valuable time and energy on day-to-day recordkeeping and other compliance requirements, all of which keep them from doing what they do best—running their business.

And then there are the taxes themselves. As the chairman of the Committee on Small Business, I have heard from small business owners in Missouri and across this country that they are more than willing to pay their fair share of taxes. What they object to, however, is paying high tax bills and vast amounts for professional tax assistance only to end up the victim of an unfair tax code.

Mr. President, the legislation I introduce today continues my long-standing commitment to helping small businesses obtain much needed tax relief and common-sense simplifications of our tax laws. For their unending contribution to the prosperity of this country, they deserve no less.

The bill is designed to complement the broad-based tax stimulus package that President Bush has proposed. With an economy that appears to be slowing, small businesses are likely to be among the first affected. We need to ensure that they benefit from any tax stimulus we enact this year to secure their continued vitality in the future.

The Small Business Works Act also draws from the priorities of the nation's small business organizations including the National Federation of Independent Business, the Small Business Legislative Council, and many others. While there are too many organizations to name them all individually, I am grateful for their ideas, their insights, and their support, without which this bill would not have been possible.

This legislation also includes recommendations from the National Women's Small Business Summit, which I chaired in Kansas City, Missouri, last June. That summit brought together hundreds of women business owners who focused on specific areas of concern to their businesses, one of which was taxes. As the Summit's final report concludes, "the Congress and the Executive Branch have a new mandate—listen to what women small-business owners have said and answer their call to action." During the Summit, I listened carefully to the views and recommendations of the participants, and with this legislation I am taking steps to answer their needs.

Lastly, this bill incorporates a number of the recommendations that the Internal Revenue Service (IRS) National Taxpayer Advocate set out in his Annual Report to Congress for 2001. The Taxpayer Advocate has become an invaluable resource for identifying problems facing small business taxpayers and offering legislative proposals to address them.

Mr. President, the Small Business Works Act recognizes the incredible contribution that entrepreneurs, farmers and ranchers, and home-based business owners continually make to our economy despite the financial and paperwork headaches they face at every turn. To ease those burdens, the legislation provides tax relief for the self-employed and small firms, includes broad ranging tax simplifications for small enterprises, and accords small businesses greater protection as they strive to comply with our increasingly complex tax code.

When it comes to paying taxes, small business really works for the government. According to recent IRS data, small business owners pay approximately 40 percent of the nearly $2 trillion that the Federal government collects each year. With the growing budget surpluses, small businesses, like American families, are clearly paying more than the government needs to carry out its programs and obligations. So when we talk about a tax cut, small enterprises cannot be left behind. The Small Business Works Act embraces that fact by reducing the tax burden on small firms in several ways.

First, the bill includes the legislation that I introduced earlier this week to provide 100 percent deductibility of health insurance for the self-employed beginning this year. This was among the top priorities named by the National Women's Small Business Summit last summer, and it has been identified by the IRS National Taxpayer Advocate as a legislative recommendation for small business taxpayers.

With the self-employed able to deduct only 60 percent of their health-insurance costs today, and only 70 percent next year, it comes as no surprise that 24.2 percent of the self-employed still do not have health insurance. In fact, 4.8 million Americans live in families headed by a self-employed individual and have no health insurance. A full deduction will make health insurance more affordable to the self-employed and help them and their families get the health-insurance coverage that they need and deserve today—not years in the future.

Full deductibility also levels the playing field for the self-employed, who for too long have only had partial deductibility while their large corporate competitors have been able to deduct all of their insurance costs. Full deductibility against income taxes, however, is only part of the battle. My bill also corrects an additional peculiarity of the tax code, which prevents the self-employed from deducting their health-insurance premiums against their self-employment taxes. As the Taxpayer Advocate noted in his 2001 Report to Congress, "[a]lthough self-employed individuals can reduce their taxable income by the cost of their health insurance, they still must pay self-employment taxes on this amount." In contrast, the Taxpayer Advocate continues, "Wage earners who participate in pre-tax plans do not pay Social Security tax on their health insurance payments." My bill eliminates this narrow disparity in the law and allows the self-employed to exclude their health-insurance premiums from their self-employment tax.

As a result, the self-employed will truly be on an equal footing with owners and employees of corporations whose health-insurance benefits are not subject to income or employment taxes. It is a simple matter of fairness.

Second, the Small Business Works Act addresses the increasingly onerous consequences of the individual and corporate Alternative Minimum Tax (AMT). For the sole proprietors, partners, and S corporation shareholders, the individual AMT increases their tax liability by, among other things, reducing depreciation and depletion deductions, limiting net operating loss treatment, eliminating the deductibility of state and local taxes, and curtailing the expensing of research and experimentation costs. In addition, because of its complexity, this tax forces small business owners to waste precious funds on tax professionals to determine whether the AMT even applies. For these reasons, the bill includes the recommendation of the Taxpayer Advocate to repeal the individual AMT. This will be accomplished by eliminating 20 percent of the tax each year until it is completely repealed in 2006.

For small corporations, the AMT story is much the same—high compliance costs and additional taxes draining away scarce capital from the business. In fact, the Committee on Small Business heard at a hearing in the last Congress that the corporate AMT resulted in a $95,000 tax bill for one small business in Kansas City, all because the company purchased life insurance on the father, who was the primary owner of the business, to prevent the estate tax from closing the company down. That type of nonsense must come to an end here and now.

Accordingly, for small corporate taxpayers, the bill increases the current exemption from the corporate AMT. As a result, a small corporation will initially qualify for the exemption if its average gross receipts are $7.5 million or less (up from the current $5 million) during its first three taxable years.

Thereafter, a small corporation will continue to qualify for the AMT exemption for as long as its average gross receipts for the prior three-year period do not exceed $10 million (up from the current $7.5 million).

Third, the Small Business Works Act, repeals the unemployment surtax. Since 1976, small businesses have had to bear the burden of a 0.2 percent surtax on the unemployment taxes they pay for their employees. This surtax was enacted to repay loans from the Federal unemployment fund made during the 1974 recession. Those loans were fully repaid in 1987, and yet the surtax continues to be extended, adding to the tax burden facing small employers. With the Federal surplus proving that small businesses are paying too much, this tax clearly should go.

Fourth, the Small Business Works Act incorporates a central piece of President Bush's tax plan to help businesses dedicated to developing new products and technology; it permanently extends the research and experimentation tax credit. Over the years this credit has stimulated research and development in this country and has contributed to the leadership of American businesses in the technological revolution. Unfortunately, this credit has also had a checkered history of expiration and reauthorization, which is simply untenable for businesses trying to plan for long-term research programs. It is time to end the on-again/off-again nature of this credit and provide businesses the certainty of knowing it will be available for the future.

Finally, the bill responds to the recommendation from the National Women's Small Business Summit to enhance the business-meals deduction. Unlike their large competitors, small enterprises often sell their products and services by word of mouth and close many business transactions on the road or in a local diner. In many ways the business breakfast with a potential customer is akin to formal advertising that larger businesses purchase in newspapers or on radio or television. While the newspaper ad is fully deductible, however, the business meal is only 50 percent deductible for the small business owner.

In addition, individuals who are subject to the Federal hours-of-service limitations of the Department of Transportation (such as truck drivers) are currently able to deduct 60 percent of their business meals and are on schedule to deduct up to 80 percent in coming years. As a result, small business owners have a significant lack of parity with individuals subject to hours-of-service limitations. Accordingly, the Small Business Works Act increases the limitation on the deductibility of business meals from the current 50 percent to 80 percent beginning in 2001.

As chairman of the Committee on Small Business, I spent considerable time in the last Congress examining the paperwork and filing burdens on small enterprises. According to research completed by the General Accounting Office at my request, there are more than 200 forms and schedules that a small business owner could have to file. That's a daunting universe of forms, which boils down to more than 8,000 lines, boxes, and data requirements. These forms are also accompanied by more than 700 pages of instructions—not including the countless pages of the tax code, regulations, rulings, and other IRS guidance.

Since entrepreneurs usually open their own businesses to work for themselves, not to waste valuable time and resources on government filing and recordkeeping requirements, the Small Business Works Act includes several provisions to simplify the tax code and let small business owners get on with their work.

First, in continuation of my effort in the last Congress, the bill includes my Small Business Tax Accounting Simplification Act, with some improvements. This provision allows a small business to use the cash method of accounting, rather than the more onerous accrual method, if the business' average annual gross receipts are less than $5 million. This proposal has been strongly endorsed by small business associations, including the National Federation of Independent Business and the Associated Builders and Contractors, and most recently by the Taxpayer Advocate stressing the need for simplifying the tax accounting rules.

More critically, the bill allows businesses that require merchandise in the performance of their services to use the cash method of accounting for all purposes. This provision responds to the pleas for help from small service providers, such as painters and contractors, who have recently become the focus of the IRS' attention, to the tune of thousands of dollars in taxes and penalties, not to mention accounting fees. And for what? A difference in timing, when the small business will ultimately pay the same amount of taxes? This change in the tax code is long overdue and will dramatically simplify the tax rules for countless small businesses.

At the National Women's Small Business Summit last summer, the participants raised another area of complexity for America's entrepreneurs—depreciation. The Small Business Works Act addresses this issue, in large part, by increasing the amount of equipment that small firms can expense each year to $50,000 and thereby avoid the complex depreciation rules. This bill also adjusts the phase-out limitation on expensing to permit more small businesses to purchase basic equipment without losing the benefit of immediate expensing. This limitation has not been increased since 1986, and as a result it is sorely out of step with the cost of new technology, which has risen dramatically over the past decade.

In addition, the bill responds to another recommendation of the Taxpayer Advocate by permitting computer software to be expensed. For computers and software purchased over the new $50,000 expensing limit, the bill modifies the present law to allow this technology to be depreciated over two years. Currently, computer equipment is generally depreciated over a five-year period and software is usually depreciated over three years. Any small business owner will tell you that a computer is largely obsolete well before three years of use, let alone five years. And computer software becomes outdated even faster. As a result, small business owners are left with thousands of dollars of depreciation on their books well after the equipment or software is obsolete. The bill makes the tax code in this area more consistent with the technological reality of the business world.

The Small Business Works Act also amends the limitations on the amount of depreciation that business owners may claim for vehicles used for business purposes. Under current law, a business loses a portion of its depreciation deduction if the vehicle placed in service in 2000 costs more than $14,400. Although these limitations have been subject to inflation adjustments, they have not kept pace with the actual cost of new cars and vans in most cases. For many small businesses, the use of a car or van is an essential asset for transporting personnel to sales and service appointments and for delivering their products. Accordingly, the bill adjusts the thresholds so that a business will not lose any of its depreciation deduction for vehicles costing less than $25,000, which will continue to be indexed for inflation.

Mr. President, another source of complexity for many small business owners are the estimated tax rules and the differing thresholds depending on the owner's income level. In fact, this issue was the number three legislative recommendation of the Taxpayer Advocate this year. The Small Business Works Act restores the simple two-option rule to avoid the interest penalty for underpayment of estimated taxes, which has been repeatedly altered in recent years primarily to raise revenues. To end that headache for the self-employed, the bill allows an individual to satisfy the requirements of the code if his estimated taxes are equal to 90 percent of the current year's tax bill or 100% of last year's tax bill—a simple and straightforward rule so small business owners can stop wasting time on tax preparation and get back to work.

The Small Business Works Act also addresses a complexity issue raised by the IRS National Taxpayer Advocate concerning small businesses jointly owned by a husband and wife. As noted by the Advocate in his 2001 Report to Congress: "A married couple operating a small business must comply with the complex partnership reporting requirements. Even though the married couple files a joint tax return, the law requires them to treat the business as a partnership rather than a sole proprietorship. . . . [the] IRS estimates it takes over 200 hours longer to complete a partnership return than a Sole Proprietorship Schedule C." In light of this situation, the bill amends the tax code to permit married couples who jointly own a small business to opt out of the partnership rules and file as a sole proprietorship.

Mr. President, in the 105th Congress, we took bold steps to restructure the IRS and improve the quality of service that taxpayers receive. Since the IRS Restructuring and Reform Act was enacted in 1998, the IRS made great strides to redirect the agency and balance its dual mission of collecting tax revenues and serving taxpayers in a fair and respectful manner.

With the growing complexity of our tax code, however, opportunities abound for small businesses to make honest mistakes. The IRS Restructuring and Reform Act provided important protections for all taxpayers, but work remains to ensure that small businesses are treated justly under the tax laws. The Small Business Works Act addresses several issues that small businesses continue to report as major problems.

A top concern is the excessive nature of penalties and interest imposed on taxpayers who make mistakes. Far too often, a minor tax bill grows into an unmanageable liability because of the interest on the tax owed, the penalties for negligence and late payment, and the interest on the penalties. Frequently, these penalties can prevent a small business owner from settling his account and getting back into good standing.

Penalties were included in the tax code to encourage taxpayers to comply with our voluntary assessment system, and interest was intended to compensate the government for the lost use of tax dollars. But the multiplicity of penalties and hidden punishments disguised as interest on those penalties seriously undermines Americans' confidence that our system is fair.

The Small Business Works Act stops the runaway freight train of excessive penalties and interest in two ways. First, the bill eliminates the failure-to-pay penalty, which is part of the multiple penalties often applied to the same error. Penalties should punish bad behavior, not honest errors that even well-intentioned people are bound to make now and then. Second, the bill stops the practice of charging interest on penalties. Instead, interest will only be applied to the taxes due, just like interest is charged on a credit card for unpaid balances. Both of these changes implement recommendations of the Taxpayer Advocate. Again, it's simply a matter of fairness.

The bill also addresses the issue of electronic filing of tax returns. In the 1998 IRS Restructuring and Reform Act, we set a goal for the IRS to make electronic filing the most practical and preferred method of filing so that 80 percent of taxpayers would choose to file electronically by 2007. While I continue to support that goal, I am concerned that the temptation for ensuring that the goal is reached will lead to mandatory electronic filing. At a time when small firms are already faced with daunting government mandates just in completing their tax returns, the last thing they need is a new mandate for filing them. To prevent that result, my bill makes clear that expanded electronic filing of tax and information returns will be a voluntary option for small businesses, not another government mandate.

The taxpayer protections included in the bill are intended to strike a balance for small business taxpayers. On the one hand, the bill eases the excessive punishment imposed for honest errors and reduces the burdens faced by taxpayers subject to an audit by the IRS. On the other, it preserves the agency's authority to enforce the tax laws and prevent individuals from cheating the tax system, which in the end increases the tax burden on all Americans.

Mr. President, the legislation I introduce today is a commonsense package of tax relief, simplification, and protections for America's small businesses who work so hard. As we strive in the coming weeks to enact tax-relief legislation, I urge my colleagues to remember that small business works in America, the jobs they provide in our local communities are too important, and they simply cannot be left behind.

I ask unanimous consent to have printed in the RECORD following the text of my statement a description of the bill's provisions, and letters I have received from small business organizations supporting the Small Business Works Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SELF BUSINESS WORKS ACT OF 2001

TITLE I—SMALL BUSINESS TAX RELIEF

Self-Employed Health Insurance Deductibility

The bill amends section 162(*l*)(1) of the Internal Revenue Code to increase the deduction for health-insurance costs for self-employed individuals to 100 percent beginning on January 1, 2001. Currently the self-employed can only deduct 60 percent of these costs. The deduction is not scheduled to reach 100 percent until 2003, under the provisions signed into law in October 1998. The bill is designed to place self-employed individuals on an equal footing with large businesses, which can currently deduct 100 percent of the health-insurance costs for all of their employees.

In addition, the bill corrects a disparity under current law that bars a self-employed individual from deducting any of his or her health-insurance costs if the individual is eligible to participate in another health-insurance plan. This provision affects self-employed individuals who are eligible for, but do not participate in, a health-insurance plan offered through a second job or through a spouse's employer. That insurance plan may not be adequate for the self-employed business owner, and this provision prevents the self-employed from deducting the costs of insurance policies that do meet the specific needs of their families. In addition, this provision provides a significant disincentive for self-employed business owners to provide group health insurance for their employees. The bill ends this disparity by clarifying that a self-employed person loses the deduction only if he or she actually participates in another health-insurance plan.

The bill also levels the playing field by permitting self-employed individuals to deduct the cost of their health insurance against their self-employment taxes. This change will put the self-employed on an equal footing with owners and employees of corporations whose health-insurance benefits are not subject to employment taxes.

Alternative Minimum Tax Relief

The bill repeals the individual Alternative Minimum Tax (AMT) by 2006. For individual taxpayers, the individual AMT has become an increasingly burdensome tax. For the sole proprietors, partners, and S corporation shareholders, the individual AMT increases their tax liability by, among other things, limiting depreciation and depletion deductions, net operating loss treatment, the deductibility of state and local taxes, and expensing of research and experimentation costs. In addition, because of its complexity, this tax forces small business owners to waste precious funds on tax professionals to determine whether the AMT even applies.

The bill addresses these issues by eliminating 20 percent of the individual AMT each year until complete repeal is achieved in 2006. During the phase-out period, the bill extends the current exclusion of personal tax credits from the AMT, and it coordinates the farm income-averaging rules with the AMT to ensure that farmers and ranchers do not lose the benefits of income averaging.

For small corporate taxpayers, the bill increases the current exemption from the corporate AMT, under section 55(e) of the Internal Revenue Code. Under the bill, a small corporation will initially qualify for the exemption if its average gross receipts are $7.5 million or less (up from the current $5 million) during its first three taxable years. Thereafter, a small corporation will continue to qualify for the AMT exemption for so long as its average gross receipts for the prior three-year period do not exceed $10 million (up from the current $7.5 million). The increased limits for the small-corporation exemption from the corporate AMT will be effective for taxable years beginning after December 31, 2000.

Repeal of Federal Unemployment Surtax

In 1976, a surtax of 0.2 percent was added to the Federal Unemployment Tax to repay loans from the Federal unemployment fund made during the 1974 recession. Those loans were fully repaid in 1987. Accordingly, the bill repeals the 0.2 percent surtax beginning in taxable year 2001.

Extend Research and Experimentation Tax Credit Permanently

The bill permanently extends the research and experimentation (R&E) tax credit, which has been a valuable resource for businesses developing new products. Under current law, the R&E tax credit is set to expire on June 30, 2004.

Increased Deduction for Business Meal Expenses

The bill increases the limitation on the deductibility of business meals from the current 50 percent to 80 percent beginning in 2001. Unlike their large competitors, small enterprises often sell their products and services by word of mouth and close many business transactions on the road or in a local diner. In addition, individuals who are subject to the Federal hours-of-service limitations of the Department of Transportation (such as truck drivers) are currently able to deduct 60 percent of their business meals and are on schedule to deduct up to 80 percent in coming years. Accordingly, the bill corrects this significant lack of parity for small-business owners by putting them on par with individuals subject to hours-of-service limitations and their large competitors.

TITLE II—SMALL BUSINESS TAX SIMPLIFICATION

Clarification of Cash Accounting Rules for Small Businesses

The bill amends section 446 of the Internal Revenue Code to provide a clear threshold for small businesses to use the cash receipts and disbursements method of accounting, instead of accrual accounting. To qualify, the business must have $5 million or less in average annual gross receipts based on the preceding three years. Thus, even if the production, purchase, or sale of merchandise is an income-producing factor in the taxpayer's business, the taxpayer will not be required to use an accrual method of accounting if the taxpayer meets the average annual gross receipts test.

In addition, the bill provides that a taxpayer meeting the average annual gross receipts test is not required to account for inventories under section 471. The taxpayer will be required to treat such inventory in the same manner as materials or supplies that are not incidental. Accordingly, the taxpayer may deduct the expenses for such inventory that are actually consumed and used in the operation of the business during that particular taxable year.

The bill indexes the $5 million average annual gross receipts threshold for inflation. The cash-accounting safe harbor will be effective for taxable years beginning after December 31, 2000.

Increase in Expense Treatment for Small Businesses

The bill amends section 179 of the Internal Revenue Code to increase the amount of equipment purchases that small businesses may expense each year from the current $24,000 to $50,000. This change will eliminate the burdensome recordkeeping involved in depreciating such equipment and free up capital for small businesses to grow and create jobs.

The bill also increases the phase-out limitation for equipment expensing from the current $200,000 to $400,000, thereby expanding the type of equipment that can qualify for expensing treatment. This limitation along with the annual expensing amount will be indexed for inflation under the bill.

Following the recommendation of the National Taxpayer Advocate, the bill also amends section 179 to permit expensing in the year that the property is purchased or the year that the property is placed in service, whichever is earlier. This will eliminate the difficulty that many small firms have encountered when investing in new equipment in one tax year (e.g., 2000) that cannot be placed in service until the following year (e.g., 2001). The bill also expands section 179 to permit the expensing of computer software up to the new $50,000 limit.

The equipment-expensing provisions will be effective for taxable years beginning after December 31, 2000.

Modification of Depreciation Rules

The bill modifies the outdated depreciation rules to permit taxpayers to depreciate computer equipment and software over a two-year period. Under present law, computer equipment is generally depreciated over a five-year period and software is usually depreciated over three years. With the rapid advancements in technology, these depreciation periods are sorely out of date and can result in small businesses having to exhaust their depreciation deductions well after the equipment or software is obsolete. The bill makes the tax code in this area more consistent with the technological reality of the business world.

The bill also amends section 280F of the Internal Revenue Code, which limits the amount of depreciation that a business may claim with respect to a vehicle used for business purposes. Under the current thresholds, a business loses a portion of its depreciation deduction if the vehicle placed in service in 2000 costs more than $14,400. Although these limitations have been subject to inflation adjustments, they have not kept pace with the actual cost of new cars and vans in most cases. For many small businesses, the use of a car or van is an essential asset for transporting personnel to sales and service appointments and for delivering their products. Accordingly, the bill adjusts the thresholds so that a business will not lose any of its depreciation deduction for automobiles costing less than $25,000, which will continue to be indexed for inflation.

Simplification of Estimated Tax Rules

The bill simplifies the current rules for calculating the level of estimated taxes necessary to avoid the interest penalty for underpayment of estimated taxes. Currently, small business owners can avoid the interest penalty if they pay estimated taxes equal to at least 90 percent of their tax liability for the current year. Alternatively, for taxable year 2001, small business owners who earned more than $150,000 in taxable year 2000 can avoid the interest penalty if they pay estimated taxes equal to 112 percent of their 2000 tax liability. For taxable years 2002 and beyond, the threshold will be 110 percent. In contrast, taxpayers earning $150,000 or less, can avoid the penalty by paying estimated taxes equal to 100 percent of their prior year's tax liability.

The bill simplifies the estimated-tax rules by providing a consistent test for avoiding the interest penalty: taxpayers must deposit estimated taxes equal to 90 percent of the current year's or 100 percent of the prior year's tax liability. This change will eliminate complex calculations currently required of small business owners and ease strains on the business' cashflow. These changes will be effective for tax years beginning after the date of enactment.

Exemption from Partnership Rules for Sole Proprietorships Jointly Owned by Spouses

The Internal Revenue Service (IRS) National Taxpayer Advocate's Annual Report to Congress for 2001 identified a problem facing married couples operating a small business. Although these couples file a joint tax return, they are currently required to comply with the onerous partnership rules instead of being permitted to treat the business as a sole proprietorship. According to IRS estimates, the additional burden of the partnership rules can add more than 200 hours to the time required to prepare the business' tax return than would be necessary if it were treated as a sole proprietorship.

The bill amends section 761 of the Internal Revenue Code to permit married couples who file joint tax returns to opt out of the partnership rules and treat their jointly owned business as a sole proprietorship. It also amends the self-employment tax rules to allow such married couples to receive Social Security credits on an individual basis, which they currently receive when filing a partnership return.

TITLE III—SMALL BUSINESS TAXPAYER PROTECTIONS

Taxpayer's right to have an IRS examination take place at another site

The bill provides that the IRS must accept a taxpayer's request that an audit be moved away from his or her home or business premises if the off-site location (e.g., an accountant's office) is accessible to the auditor and the taxpayer's books and records are available at such a location. This provision will enable the IRS to conduct an audit but without the fear and disruption resulting from the auditor being present in a family home and among a business' employees and customers for days or weeks.

Clarification that Electronic Filing is a Goal, not a Mandate

The bill amends the IRS Restructuring and Reform Act of 1998 (Public Law 105–206) to clarify that the IRS should set as a goal, but not a mandate, that paperless filing should be the preferred and most convenient means of filing tax and information returns in 80 percent of cases by the year 2007. Concerns have been raised that in order to reach this goal, the IRS may have to require certain taxpayers to file electronically. The bill makes clear that electronic filing should be a voluntary option for taxpayers, not a new government mandate.

Taxpayer's election with respect to recovery of costs and certain fees

Under the Internal Revenue Code, a taxpayer may recover costs and fees, including attorney's fees, against the IRS if he or she prevails and the IRS' litigation position was not substantially justified. The Equal Access to Justice Act (EAJA) permits a small business to recover such costs when an unreasonable agency demand for fines or civil penalties is not sustained in court or in an administrative proceeding. In addition, a small business may also recover such costs and fees under the EAJA when it is the prevailing party and the agency enforcement action is not substantially justified. Currently, the EAJA prohibits a taxpayer seeking to recover costs and fees in an IRS enforcement action from doing so under the EAJA if the fees and costs can be recovered under the Internal Revenue Code.

The bill permits taxpayers to elect whether to pursue recovery of attorney's fees and expenses under the EAJA or the Internal Revenue Code.

Repeal of the failure-to-pay penalty

The failure-to-pay penalty was originally enacted in the 1960s to compensate for the low rate of interest applied to an individual's tax liability, and for the fact that such interest was not compounded. Today, with interest compounded daily and adjusted for changes in the interest rate, this penalty is no longer needed and serves only as another hidden, second penalty. In addition, this penalty is often applied on top of accuracy-related penalties, resulting in total punishment of as much as 45 percent in non-criminal cases. To simplify the tax rules and reduce the multiplicity of punishment on taxpayers, the bill repeals the failure-to-pay penalty.

Limit Compounded Interest to Underlying Tax

Under current law, when a taxpayer fails to pay the correct amount of taxes, interest is applied and compounded not only on the underlying tax liability, but also on any penalties assessed. As a result, compound interest becomes an additional penalty. In many cases the interest on penalties can substantially increase the total amount of tax due and jeopardize the small business taxpayer's ability to pay its tax debt. In addition, calculating the interest on penalties adds an additional layer of complexity and compliance costs for small businesses. The bill alleviates this situation by limiting the application of interest to only the underlying tax assessment.

SMALL BUSINESS
LEGISLATIVE COUNCIL,
Washington, DC, January 22, 2001.
Hon. KIT BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: First, let me take the opportunity on behalf of SBLC, to thank you for your tireless efforts on behalf of small business. I have no doubt that in future Congresses we will be holding up your stewardship of the Small Business Committee as the model for future chairs.

My primary reason in writing is to offer our unqualified support for your initiative to bring fairness and simplification to the current tax system. As you know, perhaps better than anyone in Congress, the current tax code remains a minefield of problems for small business. Your legislation is a comprehensive blueprint for how to sweep it clean.

While we endorse all of your initiatives, I do want to take the opportunity to single out four items.

We are absolutely convinced settling the issue of whether small businesses can use cash accounting is not only a matter of fairness, but that it will also significantly simplify small business compliance. We have had a hard time understanding why the IRS has been so intent on chasing the opportunity to collect a few tax dollars just a little sooner. Using cash accounting is not about tax avoidance. The costs to small business productivity must surely outweigh the time value of revenue to the government.

SBLC was one of the original champions of the concept of direct expensing. We wholeheartedly endorse your efforts to "modernize" the concept. The amount needs to be increased. The other important reason to address cost recovery is that our depreciation system is no longer in sync with the pace of technology obsolescence.

One of the ticking time bombs of the tax code is the personal Alternative Minimum Tax (AMT). We believe in the near future it may do more harm to small business than any other provision of the tax code. It swallows up any profits that can be reinvested in the business.

Finally, Section 280F of the tax code and regulations thereunder, reflect a different time and different philosophy with respect to business vehicles. It is time to move the clock ahead two decades and simplify the process of dealing with this provision.

We look forward, as always, to working with you on behalf of small business.

As you know, the SBLC is a permanent, independent coalition of 80 trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President and General Counsel.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

ACIL
Air Conditioning Contractors of America
Alliance of Independent Store Owners and Professionals
Alliance of Affordable Services
American Association of Equine Practitioners
American Bus Association
American Consulting Engineers Council
American Machine Tool Distributors Association
American Moving and Storage Association
American Nursery and Landscape Association
American Road & Transportation Builders Association
American Society of Interior Designers
American Society of Travel Agents, Inc.
American Subcontractors Association
Associated Landscape Contractors of America
Association of Small Business Development Centers
Association of Sales and Marketing Companies
Automotive Recyclers Association
Bowling Proprietors Association of America
Building Service Contractors Association International
Business Advertising Council
CBA
Council of Fleet Specialists
Council of Growing Companies
Cremation Association of North America
Direct Selling Association
Electronics Representatives Association
Health Industry Representatives Association
Helicopter Association International
Independent Bankers Association of America
Independent Medical Distributors Association
International Association of Refrigerated Warehouses
International Franchise Association
Machinery Dealers National Association
Mail Advertising Service Association
Manufacturers Agents for the Food Service Industry
Manufacturers Agents National Association
Manufacturers Representatives of America, Inc.
National Association for the Self-Employed
National Association of Plumbing-Heating-Cooling Contractors
National Association of Realtors
National Association of RV Parks and Campgrounds
National Association of Small Business Investment Companies
National Association of the Remodeling Industry
National Community Pharmacists Association
National Electrical Contractors Association
National Electrical Manufacturers Representatives Association
National Lumber & Building Material Dealers Association
National Ornamental & Miscellaneous Metals Association
National Paperbox Association
National Retail Hardware Association
National Society of Accountants
National Tooling and Machining Association
National Wood Flooring Association
Organization for the Promotion and Advancement of Small Telephone Companies
Painting and Decorating Contractors of America
Petroleum Marketers Association of America
Printing Industries of America, Inc.
Professional Lawn Care Association of America
Promotional Products Association International
The Retailer's Bakery Association
Saturation Mailers Coalition
Small Business Council of America, Inc.
Small Business Exporters Association
Small Business Exporters Association
SMC Business Councils
Society of American Florists
Tire Association of North America
Turfgrass Producers International
United Motorcoach Association
Washington Area New Automotive Dealers Association

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, January 24, 2001.
Hon. KIT BOND,
Chairman, Senate Small Business Committee, Washington, DC.

DEAR CHAIRMAN BOND: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I want to express our strong support for the "Small Business Works Act of 2001" which would provide badly needed tax relief to America's small business. NFIB urges the Senate to quickly support its adoption.

While economic conditions for small business remain relatively strong, economic activity has cooled over the past few months. According to NFIB's monthly Small Business Economic Trends (SBET) index, confidence in the economy is approximately half as strong as it was a year ago. Over the coming months, it appears likely that the problem of the slowing economy will only continue.

Small businesses are forced by Washington to spend an overwhelming amount of time, money, and energy complying with the tax and regulatory burdens. With the economy showing signs of slowing, tax relief will significantly help spur immediate economic recovery for America's small businesses.

Your bill goes a long way towards providing America's small business owners valuable tax relief.

Cash vs. Accrual Accounting—Clarifying the IRS code to state clearly that small business owners with gross revenues below $5 million are eligible to use cash accounting methods would save small business owners from spending valuable resources on high-priced tax accountants and lawyers.

Accelerate 100% Self-Employed Health Insurance Deduction—Currently, self-employed workers can only deduct 60% of their health-insurance costs from their taxable income. Raising that threshold to 100% in 2001 would cut health-care costs for the typical small-business owner by hundreds of dollars per year.

Increase Section 179 Expensing—A majority of NFIB members exceed the current small-business expensing limits in only three months. The limit for 2001 is only $24,000. Raising the threshold to $50,000 and indexing it with inflation will allow additional investments in the business to be expensed thus helping small businesses expand and create new jobs. This provision lowers the cost of capital for tangible property and eliminates depreciation record-keeping requirements. Updating our tax code to reflect the reality of today's technology-based workplace is critical to the continued success of our economy and to the daily advancement of small business in America. Allowing small business to depreciate software assets while they are still useful and efficient technologies is critical to future technological development in the job producing engines of our economy. This change would provide small business owners the opportunity to compete in today's high technology markets.

Increase Deduction for Business Meals—For many self-employed and small business owners, discussing business over lunch is an efficient use of time and an absolute necessity when courting new clients. Increasing the deductibility reduces a large and disproportionate tax on small-business owners who rely on mealtime to conduct business.

Federal Unemployment Insurance Surtax Repeal—The .2% surtax was adopted in 1976 to repay loans to the federal unemployment fund during the 1974 recession. This debt was fully repaid in 1987. This so-called temporary surtax has long outlived its original purpose and is now used to pay for government programs totally unrelated to the unemployment compensation system.

AMT Relief and Repeal—According to the Joint Committee on Taxation, fewer than 1 in 150 taxpayers is subjected to the AMT today. By 2007, however, that number if expected to grow to 1 in 14, with the largest increase coming from taxpayers earning between $50,000 and $100,000. The individual AMT is a remarkably complex and obtuse provision in a tax code not known for its clarity. It literally requires taxpayers to calculate their taxes twice, and then pay the larger amount. While originally designed to ensure that wealthy Americans pay a reasonable level of their income in taxes, the AMT has the side effect of hitting taxpayers—increasingly middle-class taxpayers—when they can least afford the bill. The AMT literally kicks taxpayers when they are down. NFIB supports abolishing the individual Alternative Minimum Tax. NFIB also supports your efforts to increase the exemption for small businesses from the heavily burdensome corporate AMT.

Mr. Chairman, we applaud your proactive efforts to reduce the tax burden on small business. We thank you for your continued support of small businesses, and we look forward to working with you to see the "Small Business Works Act of 2001" enacted into law.

Sincerely,

DAN DANNER,
Senior Vice President,
Federal Public Policy.

By Mr. FEINGOLD:

S. 191. A bill to abolish the death penalty under Federal Law; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Federal Death Penalty Abolition Act of 2001. This bill will abolish the death penalty at the Federal level. It will put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of Federal law.

The most recent Gallup poll shows that, while a majority of Americans continue to support capital punishment, this support has reached a nearly 20-year low. This diminished support comes amid rising concern that the system by which we impose the sentence of death is seriously flawed. In the last year or so since I first introduced this bill, the American people have learned about the risk of executing innocent people and other fairness and reliability concerns with the administration of the death penalty. I am confident that in the weeks and months to come, the American people will continue to learn and continue to question the fairness of our death penalty system.

In recent years, this Chamber has echoed with debate on violence in America. We've heard about violence in our schools and neighborhoods. Some say it's because of the availability of guns to minors. Some say Hollywood has contributed to a culture of violence. Others argue that the roots of the problem are far deeper and more complex. Whatever the causes, a culture of violence has certainly infected our nation. As schoolhouse killings have shown, our children are now reached by that culture of violence, not merely as casual observers, but as participants and victims.

But, I'm not so sure that we in government don't contribute to this casual attitude we sometimes see toward killing and death. With each new death penalty statute enacted and each execution carried out, our executive, judicial and legislative branches, at both the state and federal level, add to a culture of violence and killing. With each person executed, we're teaching our children that the way to settle scores is through violence, even to the point of taking a human life. Sadly, total executions in the last two years—98 in 1999 and 85 in 2000—mark the highest number of total annual executions since the death penalty was reinstated in 1976.

At the same time, I am pleased that the public debate on the death penalty, which was an intense national debate not very long ago, appears to have been revived. In the wake of recent controversies involving DNA technology and the discovery of condemned innocents, we are once again having a national debate on this important issue of justice. Those who favor the death penalty should be pressed to explain why fallible human beings should presume to use the power of the state to extinguished the life of a fellow human being on our collective behalf. Those who oppose the death penalty should demand that explanation adamantly, and at every turn. But only a zealous few try.

Our Nation is a great Nation. We have the strongest democracy in the world. We have expended blood and treasure to protect so many fundamental human rights at home and abroad and not always for only our own interests. But we can do better. We should do better. Courtesy of the Internet and CNN International, the world observes, perplexed and sometimes horrified, the violence in our nation. Across the globe, with every American who is executed, the entire world watches and asks how can the Americans, the champions of human rights, compromise their own professed beliefs in this way.

Religious groups and leaders express their revulsion at the continued practice of capital punishment. Pope John Paul II frequently appeals to American governors when a death row inmate is about to die. I am pleased that in one case in January 1999, involving an inmate on death row in Missouri, the late Missouri Governor Mel Carnahan heeded the good advice of the pontiff and commuted the killer's sentence to life without parole. That case generated a lot of press—but only as a political issue, rather than a moral question or a human rights challenge.

But the Pope is not standing alone against the death penalty. He is joined by the chorus of voices of various people of faith who abhor the death penalty. Religious groups from the National Conference of Catholic Bishops, the United Methodist Church, the Presbyterian Church, the Evangelical Lutheran Church in America, the Mennonites, the Central Conference of American Rabbis, and so many more people of faith have proclaimed their opposition to capital punishment. And, I might add, even conservative Pat Robertson protested the execution in 1998 of Karla Faye Tucker, a born-again Christian on Texas death row. Mr. President, I would like to see the commutation of sentences to life without parole for all death row inmates—whether they are Christians, Muslims, Jews, Buddhists, or some other faith, or no faith at all.

The United States' imposition of capital punishment is abhorrent not only to people of faith. Our use of the death penalty also stands in stark contrast to the majority of nations that have abolished the death penalty in law or practice. Even South Africa and Russia—nations that for years were violators of basic human rights and liberties—have abolished the death penalty or are moving toward abolition of the death penalty, respectively. The United Nations Commission on Human

Rights has called for a worldwide moratorium on the use of the death penalty. The European Union denies membership in the alliance to those nations that use the death penalty. In fact, it passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all states within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of the nations with which the United States enjoys its closet relationships—nations that so often follow our lead.

What is even more troubling in the international context is that the United States is now one of only six countries that imposes the death penalty for crimes committed by children. I'll repeat that because it is remarkable. We are one of only six nations on this earth that puts to death people who were under 18 years of age when they committed their crimes. The others are Iran, Pakistan, Nigeria, Saudi Arabia and Yemen. These are countries that are often criticized for human rights abuses. When will we rectify this clear human rights violation—the execution of people who were not even adults when they committed the crimes for which they were sentenced to die?

Let's look at the numbers. Since 1990, the United States has executed 14 child offenders. That's more than all of the five aforementioned nations combined. In 2000, the rest of the world watched as the United States not only executed four juvenile offenders, but was the only nation to engage in such an egregious practice at all. Even China—the country that many members of Congress, including myself, have criticized for its human rights abuses—apparently has the decency not to execute its children. This is embarrassing. Is this the kind of company we want to keep? Is this the kind of world leader we want to be? But these are the facts, from the last decade of the 20th century to the present. No one, Mr. President, no one can reasonably argue that based on this data, executing child offenders is a normal or acceptable practice in the world community. And I don't think we should be proud of the fact that the United States is the world leader in the execution of child offenders.

Is the death penalty a deterrent for our children's conduct, as well as that of adult Americans? The numbers prove that those who believe that capital punishment is an effective deterrent are sadly, sadly mistaken. The Federal Government and most States in the U.S. have a death penalty, while our European counterparts do not. Following the logic of death penalty supporters who believe it is a deterrent, you would think that our European allies, who don't use the death penalty, would have a higher murder rate than the United States. Yet, they don't and it's not even close. In fact, the murder rate in the U.S. is six times higher than the murder rate in Britain, seven times higher than in France, and five times higher than in Sweden.

But we don't even need to look across the Atlantic to see that capital punishment has no deterrent effect on crime. The geographical disparities within the United States lead to the same conclusion. Let's compare Wisconsin and Texas. I'm proud of the fact that in 1853, my home state of Wisconsin became the first state in the nation to abolish the death penalty completely. Wisconsin has been death penalty-free for nearly 150 years. In contrast, Texas is the most prodigious user of the death penalty, having executed 241 people since 1976. Let's look at the murder rate in Wisconsin and Texas. During the period 1995 to 1998, Texas has had a murder rate that is nearly double the murder rate in Wisconsin. The same trend can also be detected on a regional scale. The Southern region of the United States has a higher murder rate than any other region. Yet, executions taking place in that region constituted almost 90 percent of executions in the nation as a whole. These and countless other data continue to call into question the argument that the death penalty is a deterrent to murder.

In fact, according to a 1995 Hart Research poll, the majority of our nation's police chiefs do not believe the death penalty is a particularly effective law enforcement tool. When asked to rank the various factors in reducing crime, police chiefs rank the death penalty last. Rather, the police chiefs—the people who deal with hardened criminals day in and day out—cite reducing drug abuse as the primary factor in reducing crime, along with a better economy and jobs, simplifying court rules, longer prison sentences, more police officers, and reducing guns. It looks like most police chiefs recognize what our European allies and a few states like Wisconsin have known all along; the death penalty is not an effective deterrent.

Let me be clear. I believe murderers and other violent offenders should be severely punished. I'm not seeking to open the prison doors and let murderers come rushing out into our communities. I don't want to free them. The question is: should the death penalty be a means of punishment in our society? One of the most frequent refrains from death penalty supporters is the claim that the majority of Americans support the death penalty. But Mr. President, an August 2000 Gallup poll shows that while 67 percent of Americans support the death penalty, only 28 percent do so without reservations. In contrast, 37 percent support the death penalty with reservations and 26 percent of Americans do not support the death penalty at all.

Furthermore, surveys show that when sentencing alternatives are offered, support for the death penalty drops to below 50 percent. And a plurality of Americans prefer life without parole plus restitution for the victim's family to the death penalty. According to a 1993 national poll, 44 percent of Americans supported the alternative of life without parole plus restitution. Only 41 percent preferred the death penalty and 15 percent were unsure. This is remarkable. Sure, if you ask Americans the simple, isolated question of whether they support the death penalty, a majority of Americans will agree. But if you ask them whether they support the death penalty or a realistic, practical alternative sentence like life without parole plus restitution, support for the death penalty falls dramatically to below 50 percent. More Americans support the alternative sentence than the death penalty.

The fact that our society relies on killing as punishment is disturbing enough. Even more disturbing, however, is the fact that the States' and federal use of the death penalty is often not consistent with principles of due process, fairness and justice. These principles are the foundation of our criminal justice system and, in a broader sense, the stability of our nation. It is clearer than ever before that we have put innocent people on death row. In addition, statistics show that those States that have the death penalty are more likely to put people to death for killing white victims than for killing black victims.

Are we certain that innocent persons are not being executed? Obviously not. Are we certain that racial bias is not infecting the criminal justice system and the administration of the death penalty? I doubt it.

It simply cannot be disputed that we are sending innocent people to death. Since the modern death penalty was reinstated in the 1970s, we have released 93 men and women in 22 states from death row. Why? Because they were innocent. Ninety-three men and women sitting on death row, awaiting a firing squad, lethal injection or electrocution, but later found innocent. That's one death row inmate found innocent for every seven executed. One in seven! That's a pretty poor performance for American justice. A wrongful conviction means that the real killer may have gotten away. What an injustice that the victims' loved ones cannot rest because the killer is still not caught. What an injustice that an innocent man or woman has to spend even one day in jail. What a staggering injustice that innocent people are sentenced to death for crimes they did not commit. What a disgrace when we carry out those sentences, actually taking the lives of innocent people in the name of justice.

I call my colleagues' attention to the recent example of an Illinois death row inmate, Anthony Porter, who was freed in 1999 after 16 years of his life were wasted awaiting execution for a crime he did not commit. Mr. Porter came within two days of execution when his life was spared only because of questions regarding his mental competency. Mr. Porter owes his freedom, as some previous Illinois death row inmates do, to investigation by Northwestern University journalism students. They persuaded the true killer to confess on videotape. A statement by the true killer's estranged wife that Chicago police pressured her into testifying against Porter further represents the level of unreliability and failures in the administration of the death penalty surrounding this case. College students were able to successfully spare the lives of innocent men. Men were freed from death row not because of technicalities, but because they were truly innocent. Mr. President, it is clear that our criminal justice system is sometimes far from just and sometimes just plain wrong.

One is left with the inescapable conclusion that even if it is not absolutely certain, it is very possible that innocent people have been executed. Why? We can all agree that it is profoundly wrong to convict and condemn innocent people to death. But sadly, that's what's happening. With the greater accuracy and sophistication of DNA testing available today compared to even a couple of years ago, states like Illinois are finding that people sitting on death row did not commit the crimes to which earlier, less accurate DNA tests appeared to link them. This DNA technology should be further reviewed and compared to other tests. We should make sure that the most sophisticated, modern DNA tests are made available to those on death row.

Some argue that the discovery of the innocence of a death row inmate proves that the system works. This is absurd. How can you say the criminal justice system works when a group of students—not lawyers or investigators but students with no special powers, who were very much outside the system—discover that a man about to be executed was, in fact, innocent? A recent NBC News/Wall Street Journal Poll shows that 63 percent of Americans favor suspending capital punishment until fairness questions can be adequately studied. Americans recognize the failures of our justice system and are demanding answers.

A primary reason why our justice system has sometimes been less than just is a series of U.S. Supreme Court decisions that seem to fail to grasp the significance and responsibility of their task when a human life is at stake. The Supreme Court has been narrowly focused on procedural technicalities, ignoring the fact that the death penalty is a unique punishment that cannot be undone to correct mistakes. In Jones v. United States, which involved an inmate on death row in Texas and the interpretation of the 1994 Federal Death Penalty Act, the judge refused to tell the jury that if they deadlocked on the sentence, the law required the judge to impose a sentence of life without possibility of parole. As a result, some jurors were under the grave misunderstanding that lack of unanimity would mean the judge could give a sentence where the defendant might one day go free. The jurors therefore returned a sentence of death. The Supreme Court upheld the lower court's imposition of the death penalty. And one more person will lose a life, when a simple correction of a misunderstanding could have resulted in a severe, yet morally correct, sentence of life without parole.

As legal scholar Ronald Dworkin recently observed, "[t]he Supreme Court has become impatient, and super due process has turned into due process-lite. Its impatience is understandable, but is also unacceptable." Mr. President, America's impatience with the protracted appeals of death row inmates is understandable. But this impatience is unacceptable. The rush to judgment is unacceptable. And the rush to execute men, women and children who might well be innocent is horrifying.

The discovery of the innocence of death row inmates and misguided Supreme Court decisions disallowing potentially dispositive and/or exculpatory evidence, however, aren't the only reasons we need to abolish the death penalty. Another reason we need to abolish the death penalty is the continuing evidence of racial bias in our criminal justice system. Our nation is facing a crucial test. A test of moral and political will. We have come a long way through this nation's history, and especially in this century, to dismantle state-sponsored and societal racism. Brown v. Board of Education, ensuring the right to equal educational opportunities for whites and blacks, was decided almost half a century ago. Unfortunately, however, we are still living with vestiges of institutional racism. In some cases, racism can be found at every stage of a capital trial—in the selection of jurors, during the presentation of evidence, when the prosecutor contrasts the race of the victim and defendant to appeal to the prejudice of the jury, and sometimes during jury deliberations.

After the 1976 Supreme Court Gregg decision upholding the use of the death penalty, the death penalty was first enacted as a sentence at the federal level with passage of the Drug Kingpin Statute in 1988. Since that time, numerous additional Federal crimes have become death penalty-eligible, bringing the total to about 60 federal crimes today. At the federal level, 20 people currently sit on death row. Another seven men sit on the military's death row. Of those 2 defendants on the federal government's death row, 14 are black and only 4 are white. One defendant is Hispanic and another Asian. That means 16 of the 20 people on federal death row are members of a racial or ethnic minority. That's 80 percent. And the numbers are worse on the military's death row. Six of the seven, or 86 percent, on military death row are minorities.

Some of my colleagues may remember the debates of the late 1980's and early 1990's, when Congress considered the Racial Justice Act and other attempts to eradicate racial bias in the administration of capital punishment. A noted study evaluating the role of race in death penalty cases was frequently discussed. This was the study by David Baldus, a professor at the University of Iowa College of Law. The Baldus study found that defendants who kill white victims are more than four times more likely to be sent to death row than defendants who kill black victims. An argument against the Baldus study was made by some opponents of the Racial Justice Act. They argued that we just needed to "level up" the playing field. In other words, send all the defendants who killed black victims to death row, too. They argued that legislative remedies were not needed, just tell prosecutors and judges to go after perpetrators of black homicide as strong as against perpetrators of white homicide. I believe such arguments displayed a shocking insensitivity to racial bias in our criminal justice system.

Problems with bias and arbitrariness have not escaped the federal death penalty system. In September 2000, the Department of Justice released a report on the federal death penalty system. That report that whether one will live or die in the federal system appears to be related to the color of one's skin or the federal district in which the prosecution takes place. I think we can all agree that the report is deeply disturbing. There is a glaring lack of uniformity in the application of the federal death penalty. Why do these disparities exist? How can they be addressed? The Justice Department report doesn't have answers to these and other questions. I am pleased that Attorney General Janet Reno initiated additional, internal reviews, and it is my fervent hope that the next Attorney General will follow through on this important further study and analysis.

One thing is clear: no matter how hard we try, we cannot overcome the inevitable fallibility of being human. That fallibility means that we will be unable to apply the death penalty in a fair and just manner. The risk that we will condemn innocent people to death will always lurk. Mr. President, let's restore some certainty, fairness, and justice to our criminal justice system.

Let's have the courage to recognize human fallibility.

The American Bar Association has also raised fairness and due process concerns. In 1997, the American Bar Association became the first organization to call for a moratorium on the death penalty. Several states are finally beginning to recognize the great injustice when the ultimate punishment is carried out in a biased and unfair way. In January 2000, Governor George Ryan became the first chief executive to place a moratorium on executions. Moratorium bills have been considered by the legislatures of at least ten states over the last two years.

I am glad to see that some states are finally taking steps to correct the practice of legalized killing that was again unleashed by the Supreme Court's Gregg decision in 1976. The first post-Gregg execution took place in 1977 in Utah, when Gary Gilmore did not challenge and instead aggressively sought his execution by a firing squad. The first post-Gregg involuntary execution took place on May 25, 1979. I vividly remember that day. I had just finished my last law school exam that morning. Later that day, I recall turning on the television and watching the news report that Florida had just executed John Spenkelink. I was overcome with a sickening feeling. Here I was, fresh out of law school and firm in my belief that our legal system was advancing through the latter quarter of the twentieth century. Instead, to my great dismay, I was witnessing a throwback to the electric chair, the gallows, and the routine executions of our Nation's earlier history.

I haven't forgotten that experience or what I thought and felt on that day. At the beginning of 2001, at the end of a remarkable century and millennium of progress and at the beginning of a new century and millennium with hopes for even greater progress, I cannot help but believe that our progress has been tarnished by our Nation's not only continuing, but increasing use of the death penalty. As of today, the United States has executed 690 people since the reinstatement of the death penalty in 1976. This is astounding and it is embarrassing. We are a Nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a Nation that scrutinizes the human rights records of other nations. We are one of the first nations to speak out against torture and killings by foreign governments. It is time for us to look in the mirror.

Two former Supreme Court justices did just that. Justice Harry Blackmun penned the following eloquent dissent in 1994:

> From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court's delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies. The basic question—does the system accurately and consistently determine which defendants "deserve" to die?—cannot be answered in the affirmative. . . . The problem is that the inevitability of factual, legal, and moral error gives us a system that we know must wrongly kill some defendants, a system that fails to deliver the fair, consistent, and reliable sentences of death required by the Constitution.

Justice Lewis Powell also had a similar change of mind. Justice Powell dissented from the Furman decision in 1972, which struck down the death penalty as a form of cruel and unusual punishment. He also wrote the decision in McCleskey v. Kemp in 1987, which denied a challenge to the death penalty on the grounds that it was applied in a discriminatory manner against African Americans. In 1991, however, Justice Powell told his biographer that he had decided that capital punishment should be abolished.

After sitting on our Nation's highest court for over 20 years, Justices Blackmun and Powell came to understand the randomness and unfairness of the death penalty. Mr. President, it is time for our Nation to follow the lead of these two distinguished jurists and revisit its support for this form of punishment.

At the beginning of 2001, as we enter a new millennium, our society is still far from fully just. The continued use of the death penalty demeans us. The death penalty is at odds with our best traditions. It is wrong and it is immoral. The adage "two wrongs do not make a right," could not be more appropriate here. Our Nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of suspected criminals. Just as our nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we enter the next century. And it's not just a matter of morality. The continued viability of our justice system as a truly just system requires that we do so. And in the world's eyes, the ability of our nation to say truthfully that we are the leader and defender of freedom, liberty and equality demands that we do so.

I close with the following remarks from Aundre Herron, an attorney who was recently honored in California for her outstanding service in defense of those charged with capital crimes:

> . . . [T]he death penalty is America's dark underbelly—the worst of America—the part we seek desperately to hide from public view. . . . It is here—in the worst of America—that the death penalty finds its truest and most sinister meaning—the death penalty is where all the contradictions converge. It is this country's way of destroying the evidence of its failures, its hypocrisy, its shame. It is the last relic of America's worst legacies—slavery, segregation, lynching, racism, classism and violence.

Abolishing the death penalty will not be an easy task. It will take patience, persistence and courage. As we head to a new millennium, let us leave this archaic practice behind.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great nation. I also call on each state that authorizes the use of the death penalty to cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our criminal justice system.

I ask that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Death Penalty Abolition Act of 2001".

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.—

(1) MURDER RELATED TO THE SMUGGLING OF ALIENS.—Section 274(a)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)(iv)) is amended by striking "punished by death or".

(2) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN DEATH.—Section 34 of title 18, United States Code, is amended by striking "to the death penalty or".

(3) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.—Section 36(b)(2)(A) of title 18, United States Code, is amended by striking "death or".

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.—Section 37(a) of title 18, United States Code, is amended, in the matter following paragraph (2), by striking "punished by death or".

(5) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.—Chapter 13 of title 18, United States Code, is amended—

(A) in section 241, by striking ", or may be sentenced to death";

(B) in section 242, by striking ", or may be sentenced to death";

(C) in section 245(b), by striking ", or may be sentenced to death"; and

(D) in section 247(d)(1), by striking ", or may be sentenced to death".

(6) MURDER OF A MEMBER OF CONGRESS, AN IMPORTANT EXECUTIVE OFFICIAL, OR A SUPREME COURT JUSTICE.—Section 351 of title 18, United States Code, is amended—

(A) in subsection (b)(2), by striking "death or"; and

(B) in subsection (d)(2), by striking "death or".

(7) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN

OR INTERSTATE COMMERCE.—Section 844 of title 18, United States Code, is amended—

(A) in subsection (d), by striking "or to the death penalty";

(B) in subsection (f)(3), by striking "subject to the death penalty, or";

(C) in subsection (i), by striking "or to the death penalty"; and

(D) in subsection (n), by striking "(other than the penalty of death)".

(8) MURDER COMMITTED BY USE OF A FIREARM DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.—Section 924(j)(1) of title 18, United States Code, is amended by striking "by death or".

(9) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "death or".

(10) FIRST DEGREE MURDER.—Section 1111(b) of title 18, United States Code, is amended by striking "by death or".

(11) MURDER BY A FEDERAL PRISONER.—Section 1118 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "by death or"; and

(B) in subsection (b), in the third undesignated paragraph—

(i) by inserting "or" before "an indeterminate"; and

(ii) by striking ", or an unexecuted sentence of death".

(12) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.—Section 1121 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "by sentence of death or"; and

(B) in subsection (b)(1), by striking "or death".

(13) MURDER DURING A KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by striking "death or".

(14) MURDER DURING A HOSTAGE-TAKING.—Section 1203(a) of title 18, United States Code, is amended by striking "death or".

(15) MURDER WITH THE INTENT OF PREVENTING TESTIMONY BY A WITNESS, VICTIM, OR INFORMANT.—Section 1512(a)(2)(A) of title 18, United States Code, is amended by striking "the death penalty or".

(16) MAILING OF INJURIOUS ARTICLES WITH INTENT TO KILL OR RESULTING IN DEATH.—Section 1716(i) of title 18, United States Code, is amended by striking "to the death penalty or".

(17) ASSASSINATION OR KIDNAPING RESULTING IN THE DEATH OF THE PRESIDENT OR VICE PRESIDENT.—Section 1751 of title 18, United States Code, is amended—

(A) in subsection (b)(2), by striking "death or"; and

(B) in subsection (d)(2), by striking "death or".

(18) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking "death or".

(19) MURDER INVOLVED IN A RACKETEERING OFFENSE.—Section 1959(a)(1) of title 18, United States Code, is amended by striking "death or".

(20) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.—Section 1992(b) of title 18, United States Code, is amended by striking "to the death penalty or".

(21) BANK ROBBERY-RELATED MURDER OR KIDNAPING.—Section 2113(e) of title 18, United States Code, is amended by striking "death or".

(22) MURDER RELATED TO A CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking ", or sentenced to death".

(23) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking "unless the death penalty is imposed,".

(24) MURDER RELATED TO SEXUAL ABUSE.—Section 2245 of title 18, United States Code, is amended by striking "punished by death or".

(25) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(d) of title 18, United States Code, is amended by striking "punished by death or".

(26) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1) of title 18, United States Code, is amended by striking "punished by death or".

(27) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.—Section 2281(a)(1) of title 18, United States Code, is amended by striking "punished by death or".

(28) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.—Section 2332(a)(1) of title 18, United States Code, is amended by striking "death or".

(29) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), by striking "punished by death or"; and

(B) in subsection (b), by striking "by death, or".

(30) MURDER BY ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(c)(1)(A) of title 18, United States Code, is amended by striking "by death, or".

(31) MURDER INVOLVING TORTURE.—Section 2340A(a) of title 18, United States Code, is amended by striking "punished by death or".

(32) MURDER RELATED TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(A) in each of subparagraphs (A) and (B) of subsection (e)(1), by striking ", or may be sentenced to death";

(B) by striking subsections (g) and (h) and inserting the following:

"(g) [Reserved.]

"(h) [Reserved.]";

(C) in subsection (j), by striking " and as to appropriateness in that case of imposing a sentence of death";

(D) in subsection (k), by striking ", other than death," and all that follows before the period at the end and inserting "authorized by law"; and

(E) by striking subsections (l) and (m) and inserting the following:

"(l) [Reserved.]

"(m) [Reserved.]".

(33) DEATH RESULTING FROM AIRCRAFT HIJACKING.—Section 46502 of title 49, United States Code, is amended—

(A) in subsection (a)(2), by striking "put to death or"; and

(B) in subsection (b)(1)(B), by striking "put to death or".

(b) NON-HOMICIDE RELATED OFFENSES.—

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking "punished by death or" and all that follows before the period and inserting "imprisoned for any term of years or for life".

(2) TREASON.—Section 2381 of title 18, United States Code, is amended by striking "shall suffer death, or".

(c) REPEAL OF CRIMINAL PROCEDURES RELATING TO IMPOSITION OF DEATH SENTENCE.—

(1) IN GENERAL.—Chapter 228 of title 18, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by striking the item relating to chapter 228.

SEC. 3. PROHIBITION ON IMPOSITION OF DEATH SENTENCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the date of enactment of this Act for any violation of Federal law .

(b) PERSONS SENTENCED BEFORE DATE OF ENACTMENT.—Notwithstanding any other provision of law, any person sentenced to death before the date of enactment of this Act for any violation of Federal law shall serve a sentence of life imprisonment without the possibility of parole.

By Mr. FEINGOLD (for himself and Mr. LEAHY):

S. 192. A bill to amend title 9, United States Code, with respect to consumer credit transactions; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Consumer Credit Fair Dispute Resolution Act of 2001, a bill that will protect and preserve American consumers' right to take their disputes with creditors to court. I first introduced this legislation last year, both as a bill and as an amendment to the bankruptcy reform bill. I am pleased that my distinguished colleague from Vermont, the ranking member of the Judiciary Committee, Senator LEAHY, has joined me again as an original cosponsor of this important legislation.

Credit card companies and consumer credit lenders are increasingly requiring their customers to use binding arbitration when a dispute arises. Consumers are barred by contract from taking a dispute to court, even small claims court. While arbitration can be an efficient tool to settle claims, it is credible and effective only when consumers enter into it knowingly, intelligently and voluntarily. Unfortunately, that's not happening in the credit card and consumer credit lending arenas.

One of the most fundamental principles of our justice system is the constitutional right to take a dispute to court. Indeed, all Americans have the right in civil and criminal cases to a trial by jury. The right to a jury trial in civil cases in Federal court is contained in the Seventh Amendment to the Constitution. Many States provide a similar right to a jury trial in civil matters filed in state court.

Some argue that Americans are overusing the courts. Court dockets across the country are congested with civil cases. In part as a response to these concerns, various ways to resolve disputes, short of going to court, have been developed. Alternatives to court litigation are collectively known as alternative dispute resolution, or ADR. ADR includes mediation and arbitration. Mediation and arbitration are often efficient ways to resolve disputes because the parties can have their case heard well before they would have received a trial date in court.

Arbitration, like a court proceeding, involves a third party—an arbitrator or arbitration panel. The arbitrator issues a decision after reviewing the arguments by all parties. Arbitration uses rules of evidence and procedure, although it may use rules that are simpler or more flexible than the evidentiary and procedural rules that the parties would follow in a court proceeding.

Arbitration can be either binding or non-binding. Non-binding arbitration means that the decision issued by the arbitrator or arbitration panel takes effect only if the parties agree to it after they know what the decision is. In binding arbitration, parties agree in advance to accept and abide by the decision, whatever it is.

Some contracts contain clauses that require arbitration to be used to resolve disputes that arise after the contract is signed. This is called "mandatory arbitration." This means that if there is a dispute, the complaining party cannot file suit in court and instead is required to pursue arbitration. "Mandatory, binding arbitration" therefore means that under the contract, the parties must use arbitration to resolve a future disagreement and the decision of the arbitrator or arbitration panel is final. The parties have no ability to seek relief in court or through mediation. In fact, if they are not satisfied with the arbitration outcome, they are probably stuck with the decision.

Under mandatory, binding arbitration, even if a party believes that the arbitrator did not consider all the facts or follow the law, the party cannot file a suit in court. The only basis for challenging a binding arbitration decision is fairly narrow: if there is reason to believe that the arbitrator committed actual fraud, or was partial, corrupt or guilty of misconduct, or exceeded his or her powers. In contrast, if a dispute is resolved by a court, the parties can have broader grounds upon which to pursue an appeal of the lower court's decision.

Because mandatory, binding arbitration is so conclusive, it is a credible means of dispute resolution only when all parties understand the full ramifications of agreeing to it. But that's not what's happening in a variety of contexts—from motor vehicle franchise agreements, to employment agreements, to credit card agreements. I'm proud to have sponsored legislation addressing employment agreements and motor vehicle franchise agreements. Many of my colleagues have joined as cosponsor of one or both bills. And just last spring, my distinguished colleague from Iowa, Senator GRASSLEY, chaired a hearing in the Judiciary Subcommittee on Administrative Oversight and the Courts on contractual mandatory, binding arbitration. That hearing included a discussion of mandatory arbitration in the consumer credit agreement context.

There is a growing, menacing trend of credit card companies and consumer credit lenders inserting mandatory, binding arbitration clauses in agreements with consumers. Companies like First USA Bank, American Express, and Green Tree Discount Company unilaterally insert mandatory, binding arbitration clauses in their agreements with consumers, often without the consumer's knowledge or consent.

The most common way credit card companies have done this is through the use of a "bill stuffer." Bill stuffers are the advertisements and other materials that credit card companies insert into envelopes with the customers' monthly statements. Some credit card issuers like American Express have placed mandatory arbitration clauses in bill stuffers. The arbitration provision is usually buried in fine print in a mailing that includes a bill and various advertising materials. It is often described in a lengthy legal document that most consumers probably don't even skim, much less read carefully.

American Express's mandatory arbitration provision took effect on June 1, 1999. So, if you're an American Express cardholder and you have a dispute with American Express, as of June 1999, you can't take your claim to court, even small claims court. You are bound to use arbitration, and you are bound to the final arbitration decision. In this case, you are also bound to use an arbitration organization selected by American Express, the National Arbitration Forum.

American Express is not the only credit card company imposing mandatory arbitration on its customers. First USA Bank, the largest issuer of Visa cards, with 58 million customers, has been doing the same thing since 1997. First USA also alerted its cardholders with a bill stuffer, containing a condensed set of terms and conditions in fine print. The cardholder, by virtue of continuing to use the First USA card, gave up the right to go to court, even small claims court, to resolve a dispute.

This growing practice extends beyond credit cards into the consumer loan industry. Consumer credit lenders like Green Tree Consumer Discount Company are inserting mandatory, binding arbitration clauses in their loan agreements. The problem is that these loan agreements are usually adhesion contracts, which means that consumers must either sign the agreement as is, or forego a loan. In other words, consumers lack the bargaining power to have the clause removed.

More importantly, when signing on the dotted line of the loan agreement, consumers may not even understand what mandatory arbitration means. In all likelihood, they do not understand that they have just signed away a right to go to court to resolve a dispute with the lender. It might be argued that if consumers are not pleased with being subjected to a mandatory arbitration clause, they can cancel their credit card, or not execute on their loan agreement, and take their business elsewhere. Unfortunately, that's easier said than done. As I mentioned, First USA Bank, the nation's largest Visa card issuer, is part of this questionable practice. In fact, the practice is becoming so pervasive that consumers may soon no longer have an alternative, unless they forego use of a credit card or a consumer loan entirely. Consumers should not be forced to make that choice.

Companies like First USA, American Express and Green Tree argue that they rely on mandatory arbitration to resolve disputes faster and cheaper than in court litigation. The claim may be resolved faster but is it really cheaper? Is it as fair as a court of law? I don't think so. Arbitration organizations often charge exorbitant fees to the consumer who brings a dispute. These costs can be much higher than bringing the matter to small claims court and paying a court filing fee. Or, the fees could very well be greater than the consumer's claim. So as a result, a consumer's claim is not necessarily resolved more efficiently with arbitration. It is resolved either at greater cost to the consumer or not at all, if the consumer cannot afford the costs, or the costs outweigh the amount in dispute.

In December 2000, in Green Tree Financial Corp. Alabama et. al. v. Randolph, the U.S. Supreme Court found that an arbitration clause that is silent as to the costs and fees of arbitration is enforceable. It, however, left unanswered the question of whether large arbitration costs, which effectively preclude a litigant from vindicating federal statutory rights in the arbitral forum, render the arbitration clause unenforceable.

Another significant problem with mandatory, binding arbitration is that the lender gets to decide in advance who the arbitrator will be. In the case of American Express and First USA, they have chosen the National Arbitration Forum. All credit card disputes with consumers involving American Express or First USA are handled by that entity. There would seem to be a significant danger that this would result in an advantage for the lenders who are "repeat players." After all, if the National Arbitration Forum develops a pattern of reaching decisions that favor cardholders, American Express or First USA may very well decide to take their arbitration business elsewhere. A system where the arbitrator has a financial interest in reaching an outcome that favors the credit card company is not a fair alternative dispute resolution system.

At least one state court has found that mandatory arbitration provisions in credit card bill stuffers are unenforceable. A suit filed in California state court arose out of a mandatory arbitration provision announced in mailings by Bank of America to its credit card and deposit account holders. In 1998, the California Court of Appeals ruled that the mandatory arbitration clauses unilaterally imposed on the Bank's customers were invalid and unenforceable. The California Supreme Court refused to review the decision of the lower court. As a result, credit card companies in California cannot invoke mandatory arbitration in their disputes with customers. In fact, the American Express bill stuffer notes that the mandatory, binding arbitration provision will not apply to California residents until further notice from the company. The California appellate court decision was wise and well-reasoned, but consumers in other states cannot be sure that all courts will reach the same conclusion.

My bill extends the wisdom of the California appellate decision to every credit cardholder and consumer loan borrower. It amends the Federal Arbitration Act to invalidate mandatory, binding arbitration provisions in consumer credit agreements. Now, let me be clear. I believe that arbitration can be a fair and efficient way to settle disputes. I agree we ought to encourage alternative dispute resolution. But I also believe that arbitration is a fair way to settle disputes between consumers and lenders only when it is entered into knowingly and voluntarily by both parties to the dispute after the dispute has arisen. Pre-dispute agreements to take disputes to arbitration cannot be voluntary and knowing in the consumer lending context because the bargaining power of the parties is so unequal. My bill does not prohibit arbitration of consumer credit transactions. It merely prohibits mandatory, binding arbitration provisions in consumer credit agreements.

Credit card companies and consumer credit lenders are increasingly slamming the courthouse doors shut on consumers, often unbeknownst to them. This is grossly unjust. We need to restore fairness to the resolution of consumer credit disputes. I urge my colleagues to support the Consumer Credit Fair Dispute Resolution Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Credit Fair Dispute Resolution Act of 2001".

SEC. 2. CONSUMER CREDIT TRANSACTIONS.

(a) DEFINITIONS.—Section 1 of title 9, United States Code, is amended—

(1) in the section heading, by striking "**AND 'COMMERCE' DEFINED**" and inserting "**, 'COMMERCE', 'CONSUMER CREDIT TRANSACTION', AND 'CONSUMER CREDIT CONTRACT' DEFINED**"; and

(2) by inserting before the period at the end the following: "; 'consumer credit transaction', as herein defined, means the right granted to a natural person to incur debt and defer its payment, where the credit is intended primarily for personal, family, or household purposes; and 'consumer credit contract', as herein defined, means any contract between the parties to a consumer credit transaction.".

(b) AGREEMENTS TO ARBITRATE.—Section 2 of title 9, United States Code, is amended—

(1) by striking "A written" and inserting "(a) IN GENERAL.—A written"; and

(2) by adding at the end the following:

"(b) CONSUMER CREDIT CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding the preceding sentence, a written provision in any consumer credit contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of the contract, or the refusal to perform the whole or any part thereof, shall not be valid or enforceable.

"(2) LIMITATION.—Nothing in this section shall prohibit the enforcement of any written agreement to settle by arbitration a controversy arising out of a consumer credit contract, if such written agreement has been entered into by the parties to the consumer credit contract after the controversy has arisen.".

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. HAGEL, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 27

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 35

At the request of Mr. GRAMM, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 35, a bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it.

S. 37

At the request of Mr. LUGAR, the names of the Senator from Missouri (Mr. BOND), the Senator from Michigan (Mr. LEVIN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 37, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 39

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

S. 60

At the request of Mr. BYRD, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Nevada (Mr. REID), the Senator from North Dakota (Mr. DORGAN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electicity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 148

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes notwithstanding the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOVING FROM POLITICS TO POLICY: THE PRESIDENT'S CHALLENGE ON NATIONAL MISSILE DEFENSE

Mr. BIDEN. Mr. President, last weekend the nation inaugurated a new President, President George W. Bush.

With the change of power now complete, the President and Congress must now get down to the hard business of governing.

After eight years of Democratic leadership, it is obvious that a Bush Administration will propose policy changes on several fronts. One of the most important and complex issues for President Bush will be how to implement his national missile defense policy in a manner that contributes to our national security, rather than putting it at risk.

For six solid years, Republicans have used national missile defense as a "big stick"—a stick employed not against America's enemies, but against those who thought we did not need a national missile defense. Republicans repeatedly criticized the Clinton administration for its approach to national missile defense, and in the last two presidential campaigns, the promise of a "robust" national missile defense figured prominently in the Republican Party's platform and foreign policy speeches.

Although it is always difficult to get into the minds of the American people, it does appear that, for the most part, the public has ignored this debate. The missile defense issue has commanded the attention of only a tiny minority of the American people. In a recent survey by the Pew Charitable Trust of priorities for the new administration, Americans rated missile defense in eighteenth place among twenty issues.

Whether missile defense was on voters' minds or not, however, George W. Bush is now our President. He and his team are committed to a national missile defense that will be, in the President's words, "effective," "based on the best available options," deployed "at the earliest possible date" and "designed to protect all 50 states and our friends and allies and deployed forces overseas from missile attacks by rogue nations, or accidental launches."

That mantra will suffice for a campaign, but not for policy. Presidential campaigns bear little relation to actually being President, and campaign slogans are but the shadows of flesh and blood policy somewhat related to it, but lacking in both detail and substance.

In short, the real test of President Bush on national missile defense is just beginning. It is to take those campaign slogans and turn them into coherent policies and strategies.

The challenge for the President and his team is this: to pursue their dream of a "robust" national missile defense with:

Full attention to the technological challenges;

Full attention to the potential consequences for arms control;

Full attention to the potential impact on strategic stability; and

Full attention to its possible effect on America's relations with our allies.

As our former colleague and Armed Services Committee chairman Sam Nunn said recently, "I would hope the new administration would approach this subject as a technology, not a theology."

Let me outline some of the key questions that I believe the Administration must consider.

A national missile defense policy for the new administration will specify system objectives. Whom shall the system protect, against what level of attack, and with what level of success—or, on the other hand, allowing what rate of failure?

As I noted earlier, then-Governor Bush set his initial objectives last May: "to protect all 50 states and our friends and allies and deployed forces overseas from missile attacks by rogue nations, or accidental launches."

That's a very tall order, Mr. President. Can current technology support its achievement any time soon, or at an affordable cost? I have my doubts.

Taken literally, protection "from . . . accidental launches" requires an ability to intercept at least a small number of advanced Russian warheads, rather than just simple warheads from the so-called "rogue states" of North Korea, Iran or Iraq. And protecting "our friends and allies and deployed forces overseas" would require either multiple defenses against ICBM's or else a world-wide system like the space-based laser of Ronald Reagan's "Star Wars."

A serious national missile defense policy will give careful attention to possible Russian reactions to our actions. It is not enough to say, as President Bush did during the campaign, that "I will offer Russia the necessary amendments to the ABM Treaty" and that, "if Russia refuses the changes we propose, I will give prompt notice" of our intent to withdraw from the Treaty.

What will happen if the President does what he proposed during the campaign? Will Russia suspend its compliance with other arms control agreements, such as the START Treaty and the Intermediate Nuclear Forces Treaty? Will future arms reductions occur without agreed means of verification? Indeed, will Russia try to rebuild its nuclear forces, instead of reducing them?

Will Russia ally itself more closely with China or—worse yet—with anti-American "rogue states" that seek weapons of mass destruction? Will our allies question America's leadership? Will our allies lose faith in the nuclear non-proliferation regime that we put in place?

A serious national missile defense policy cannot wish away these risks. Rather, it must consider them and include a strategy for dealing with them.

Let us suppose, however, that Russia agrees to work out an accommodation with the United States—which is another possible outcome. What sort of agreement should the President propose?

Is there an agreement that would permit the sort of defense that the President seeks, while still being reliably limited? Would it be verifiable by Russia? How would it safeguard Russia against a U.S. "breakout" from its limitations?

How shall a "robust" national missile defense be fielded at the same time that Russia and the United States are substantially reducing their nuclear forces, which is another stated goal of the new administration? Missile defense advocates argue that Russia has nothing to fear from a limited defense, because it has so many strategic warheads.

But what happens as those numbers go down? How can mutual deterrence of full-scale war be maintained? How can Russia accept a system that undermines that deterrence?

Does it make sense to establish a combined limit on offensive and defensive systems, as some experts have proposed both here and in Russia? Is it possible, at very low numbers of strategic forces or by adopting sweeping "de-alerting" measures as well, to deny either side the ability to mount a disabling first strike? If so, would each side then have to target its remaining missiles on the other side's cities—as China does today—in order to maintain a residual capability to cause unacceptable damage to a country?

How would a U.S.-Russian agreement allowing a "robust" national missile defense affect U.S.-Russian strategic stability across the whole range of possible conflicts? If a system were good enough to guard against accidental Russian launches, then it could also combat such purposeful acts as a so-called "demonstration" attack using a small number of warheads. In effect, it would "raise the bar" for initiating a strategic nuclear war; that's why it would frustrate "rogue states" with very small strategic forces.

Would this extra "firebreak" against strategic nuclear war make tactical nuclear weapons more usable? If so, is that a problem? Would it also set a "floor" on strategic arms reductions, so that the United States (and Russia) could still deter "the old-fashioned way" any third-country attack that would overcome the missile defense?

What about the START II ban on MIRV'ed ICBM's? Would an agreement with Russia require relaxation of that ban?

What would the consequences be of allowing a given number of MIRV's? Would they be small if the number of MIRV's per missile were limited to 2 or 3, or if MIRV's were restricted to mobile launchers? How verifiable would such limitations be, if the MIRV's were on a missile that had both mobile and silo-based variants?

Were all these issues solved, and if a U.S.-Russian agreement were to be reached, how would a U.S. national missile defense affect China's strategic force structure and its relations with the United States? Would a geographically limited national missile defense—such as a boost-phase intercept system deployed only near "countries of concern"—permit China to maintain its nuclear deterrence at low force levels?

With a numerically limited defense, could we accept China increasing its strategic forces from 18 warheads to 200 or more? Would that prompt an arms race between China and India (and then Pakistan), or even with Russia?

Or would a "robust" national missile defense—whether deployed with Russian assent or without it—be so large as to simply strip away China's deterrent capability? If that were the case, what risk would we run of China deciding to attack Taiwan before that date arrived? How would we prepare for that possibility?

These are serious and complex questions that I have not heard debated or sufficiently discussed. That does not mean that they cannot be solved. It does underlie my own feeling, however, that the world may not be ready yet for the missile defense system that President Bush would like to build, even if the technology were available.

If the President seeks substantial world agreement on this course, then the ground must be prepared—not only in Alaska, but in world capitals from London and Paris to Tokyo, and from Moscow to Beijing. If he seriously intends to proceed in the face of world objection, then we—and, whether they like it or not, the rest of the world—must prepare for all the complications that may result.

It would be unfair to expect President Bush and his team to have answered all these questions already. They have argued the case for a "robust" national missile defense only as a political issue, not as the carefully crafted policy of a government in power. That is understandable.

But now they are the Executive Branch of government. They are in power. Now theirs is the burden of putting real flesh on the mere bones of a policy that sufficed while they were the opposition.

What shall we say to those who take on that burden? On the one hand, we must wish them well. Nobody doubts the sincerity or morality of a belief in a national missile defense, only its practicality.

On the other hand, we must also say: Do not go blindly crashing into this new venture.

Remember Alexander Pope's line that "fools rush in, where angels fear to tread." Remember also that the system you may wish to build does not yet exist. Neither has its feasibility or cost-effectiveness yet been adequately demonstrated.

The complexity of the issues raised by a national missile defense—and the lack of a proven design for even a limited missile defense, let alone a "robust" one—lead me to the following respectful suggestions to the President and his national security team:

(1) fold these issues into the "Nuclear Posture Review" mandated by the Congress last year;

(2) instruct our military experts to examine in that review the full range of interrelated offensive and defensive issues;

(3) give them time to analyze those issues fully and thoughtfully; and

(4) delay your decisions regarding missile defense architecture and deployment until that review has been completed and absorbed.

If President Bush and his team proceed with caution and with fully articulated policies and strategies, perhaps they will transform the world. For that is, indeed, their goal, and it is a laudable goal.

If they proceed rashly, however, the world is likely to be an unforgiving master. If they cannot develop a fully articulated policy, then perhaps a "robust" national missile defense is really an expression of the desire to be done with worldly cares, and not a truly rational approach to world leadership in the 21st century.

ADJOURNMENT UNTIL MONDAY, JANUARY 29, 2001

Mr. BIDEN. If there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:38 p.m., adjourned until Monday, January 29, 2001, at 12 noon.

SENATE—*Monday, January 29, 2001*

The Senate met at 12 noon and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray.

Dear God, You constantly are seeking us. Our desire to pray arises in our hearts because You want to love, guide, inspire, and empower us. The greatest gift we can receive in this time of prayer is more of You. Whatever else You give or withhold is to draw us closer to You.

In our world of politics, so often the question is, "Who gets the glory?" We confess that often we become obsessed by concern over whether we have been recognized for our abilities or rewarded for our accomplishments. Your admonition to us through Jeremiah helps us order our priorities. "Let not the wise man glory in his wisdom, let not the mighty man glory in his might, nor let the rich man glory in his riches, but let him who glories glory in this, that he understands and knows Me, that I am the Lord, exercising loving kindness, judgment, and righteousness in the earth. For in these I delight."—Jeremiah 9:23-24.

We dedicate this new week to delight in what delights You. You are the only One we want to please. You are our heart's delight! Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader, the Senator from Mississippi, Mr. LOTT.

Mr. LOTT. Mr. President, are there any other proceedings or announcements that need to be made at this time?

The PRESIDENT pro tempore. Not at this time.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until 2 p.m., with the two leaders or their designees in control of that time. Following morning business, the Senate will begin consideration of Gale Norton's nomination to be Secretary of the Interior. Under the previous order that was entered into last week, there will be up to 4 hours of debate on the Norton nomination during today's session. Tomorrow the Senate will complete debate on the Norton nomination as well as consider the nominations of Governor Whitman to be the Environmental Protection Agency Administrator and Elaine Chao to be Secretary of Labor. Those confirmation votes are scheduled to occur at 2:45 p.m. tomorrow. Following those votes, the Senate will begin consideration of the nomination of John Ashcroft to be Attorney General. A vote on that nomination is expected prior to the Senate adjourning this week.

I should say that while the vote in the Judiciary Committee on Senator Ashcroft was delayed until this week, I believe there will be a vote on it either Tuesday or Wednesday morning. I hope we can begin the debate on his nomination as early as tomorrow afternoon and continue, if necessary, into the night and Wednesday and into the night and into Thursday—all if necessary.

I had a brief conversation with Senator DASCHLE this morning about the schedule for the next month or so, but we did not get into a deep discussion about exactly how to proceed after the votes that are now scheduled at 2:45 tomorrow afternoon. We expect to meet later on today, and as we get an agreement of how we can proceed, certainly we will notify our Members to that effect.

I do want to say also, I firmly believe that Senators should have every opportunity to question the nominees to the President's Cabinet, and to make statements on the floor if they choose so there can be a full reading of the record and a discussion of their record. But I also think it is important that we do come to a conclusion and reach a vote.

There has been good cooperation on both sides of the aisle, and from committees, over the past month when they were chaired by Democrats and last week as it continued under Republican leadership. We will have completed all the nominations but one by tomorrow afternoon. I hope we can move to that nomination expeditiously also.

Again, I am sure we will have a full debate, but I think after a reasonable period of time we should come to a vote so the Justice Department can have an Attorney General in place and can begin to do the very important job that he will have to carry forward.

I thank my colleagues for their attention and look forward to the debate this week and working with the leadership on the schedule.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield for a comment?

Mr. LOTT. I will be glad to yield.

Mr. LEAHY. On the nomination of Senator Ashcroft to be Attorney General, I understand the White House actually sent the nomination up this morning. But even though they had not sent it until today, to try to accommodate the new President, we held hearings prior to the inauguration of the new President. I think we had an equal number of witnesses on both sides. There may have been one more for Senator Ashcroft than against, but anyway, it was completed during that time. Answers that were submitted came in this weekend.

I know the distinguished chairman of the committee, Senator HATCH, is out of the country, but I am perfectly willing, certainly on this side, to go forward with the committee vote on him as soon as he comes in, especially now that the papers have come up from the White House today. I notified the President's office this morning—speaking about Senator Ashcroft—I will not take part in any filibuster, nor do I expect there to be any filibuster on this nomination. I assure the distinguished majority leader we moved as rapidly as we could. We now actually have the nomination and the schedule is now in the hands of my friend from Mississippi.

Mr. LOTT. I thank the Senator from Vermont for that information. I think it is appropriate we actually receive the nomination before we vote—a little small detail but that has been taken care of.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. LEAHY. It always helps.

Mr. LOTT. I will be talking further to your leadership about how we schedule it this week, and I look forward to getting it completed as soon as possible.

I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. Under the previous order, the time until 1 p.m. shall be under the control of the Democratic leader, or his designee.

The Senator from Nevada, Mr. REID.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent the time for morning business on the Democratic side be extended until the hour of 1:10 and then the Republicans would, of course, have the next hour.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator from Nevada.

NOMINATION

Mr. REID. Mr. President, as the majority leader indicated, we have done really a good job of approving the nominations of the new President. By tomorrow afternoon, 12 of the 13—I think that is the right number—will have been approved. Anyway, all but one will have been approved.

While the Senator from Vermont is on the floor, I extend to him the appreciation of the entire Democratic caucus for the way the hearings have been conducted.

First, as Senator LEAHY was chairman of the committee, and then following that, working as the ranking member, this is a lot of heavy lifting.

I talked to someone today, and they asked me: Why is it taking so long? I indicated that it is taking a long time because—let's assume Vice President Gore had been elected President, and I just pick a name. Let's assume Senator KENNEDY had been selected to be the Attorney General for the United States rather than John Ashcroft, two people who have served this Senate on different sides of the political spectrum. I think the Republicans would have taken a lot of time to go over all the things Senator KENNEDY had said in speeches and things he had said on the Senate floor.

That is what we are doing. We are looking at the record of the designate for Attorney General, what he said when he was attorney general, what he did when he was attorney general, what he did when he was Governor, and what he did in the Senate.

I extend my appreciation to the Senator from Vermont for the job that has been done. Senator LEAHY, prior to coming here, was a prosecutor. He had to prepare his cases to make sure all the evidence was brought before the jury and/or the court. That is in effect what he is doing, but in this instance the jury is the 100 Members of the Senate. Without a good record, we cannot make a good decision.

I have not had the benefit of sitting through all of these hearings as has the Senator from Vermont. Therefore, he must provide us, through the committee procedures, all he believes is important to be brought to the floor of the Senate. To this point he has, as usual, done an outstanding job. For the third time this morning, I extend the appreciation of the entire Democratic Conference for giving us information upon which we can make a decision regarding the Attorney General-designate that has been sent to us by the President.

I personally have not made up my mind as to what I am going to do. Therefore, I am depending on the Senator from Vermont to give me his direction, his leadership. I think it is so important that we all take what has gone on in that committee to heart.

I have said publicly on other occasions that this is not a decision only Democrats will have to make. I hope the Republicans will also keep an open mind before rushing to a decision. I have been very disappointed in some of my friends on the other side of the aisle who, prior to a single witness testifying, said they were going to vote for Senator Ashcroft. I think they should also keep an open mind and base their decision on what has transpired before the Judiciary Committee.

I also take what the Senator from Vermont has said to heart. People have things to say. I do not know who wants to speak. We will certainly know before this debate takes place, but this is not a time to restrict—and I know the majority leader has not suggested that—restrict how much time people can take. We want to make sure there is full opportunity for people to say what they want to say.

I have been contacted by a number of my colleagues who are voting for and voting against Senator Ashcroft and who want to spend some time on the Senate floor explaining that position. The floor activities will be, of course, under the direction of the Senator from Vermont who is the ranking member on the Judiciary Committee. I look forward to a good debate. It should be a high point for the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Vermont, Mr. LEAHY.

Mr. LEAHY. Mr. President, I thank my dear friend, the senior Senator from Nevada, for his kind words. As always, we rely on his leadership here, too. I appreciate what he said.

NOMINATION OF JOHN ASHCROFT

Mr. LEAHY. The President of the United States sent to the Senate the nomination of John Ashcroft to be the Attorney General of the United States. In advance of him sending it, to accommodate the new President and expedite the consideration of the nomination, I convened 3 days of hearings on this nomination over the 4-day period from January 16 to January 19.

The Republican leadership had announced weeks ago that all 50 Republican Senators would be voting in favor of this nomination, but I declined to prejudge the matter.

The Committee on the Judiciary has done the best it could to handle this nomination fairly and fully; and we did it through hearings of which all members of the committee, on both sides of the aisle, and all Members of the Senate I believe can be proud.

Having reviewed the hearing record and the nominee's responses to written follow-up questions from the Judiciary Committee, I come today to announce and explain my opposition to the nomination of John Ashcroft to be the Attorney General of the United States.

I take no pleasure in having reached this decision. I have voted or will be voting to confirm nearly all of the President's Cabinet nominees. No one in this Chamber more than I would have wanted a nomination for Attorney General that the Senate could have approved unanimously. As the ranking member of the Senate Judiciary Committee, I am going to be working closely with the new Attorney General, often on a daily basis. I would have wanted to begin that relationship with enthusiastic support for whomever the President chose.

I also had the privilege of working with John Ashcroft during the 6 years he served as a Senator, and I consider it a privilege. Most of us know him and like him. I admire his personal devotion to his family and to his religion. While we are not always in agreement, I respect his commitment to the principles he firmly holds, and I respect his right to act on those principles.

The fact that many of us served with Senator Ashcroft and know and like him does not mean we should not faithfully carry out our constitutional responsibility in acting on this nomination. No one nominated to be Attorney General of the United States should be treated in any special way, either favorably or unfavorably, by this body because he or she once served in the

Senate. Our guide must be constitutional duty, not friendship.

Most of us believe that a President has a right to nominate to executive branch positions those men and women whom he believes are going to carry out his agenda and his policies, but it is only with the consent of the Senate that the President may proceed to appoint.

The Constitution, interestingly enough, is silent on the standard Senators should use in exercising this responsibility. Every Senator has the task of discerning what that standard should be, and then each Senator has to decide how it applies in the case of any nomination, especially a controversial nomination such as that of Senator Ashcroft.

The Senate's constitutional duty is to advise and consent; it is not to advise and rubber stamp. Fundamentally, the question before us is whether Senator Ashcroft is the right person at this moment for the critical position of Attorney General of the United States.

This is an especially sensitive time in our Nation's history. Many seeds of disunity have been carried aloft by winds that often come in gusts, most recently out of Florida. The Presidential election, the margin of victory, the way in which the vote counting was halted by the U.S. Supreme Court remain sources of public concern and even of alienation. Deep divisions within our country have infected the body politic. We experienced the closest Presidential election in the last 130 years, possibly in our history.

For the first time, a candidate who received half a million more votes lost. The person who received half a million fewer popular votes was declared the victor of the Presidential election by 1 electoral vote.

The Senate, for the first time in our history, is made up of 50 Democrats and 50 Republicans. Although this session of Congress is less than 1 month old, each political party has already had its leader serve as majority leader. Both Senator DASCHLE and Senator LOTT have served as majority leader.

Senate committees have already operated under both Democratic and Republican chairs. I suspect Ph.D. dissertations will be written about this for years to come.

Much has been made of what has come to be known as the Ashcroft evolution, where activist positions he has held and valiantly advanced appear now to be suddenly dormant in deference, as he said, to settled law, at least during the confirmation hearings.

But leaving Senator Ashcroft aside for a moment, it must not be left unremarked that he is not the only politician who has sent conflicting signals about his view of Government. We have already seen two distinct sides of the new President since he was declared the victor after the November election. One side is the optimistic face of bipartisanship—a sincere and knowledgeable President determined to work with like-minded Democrats and Republicans to overhaul the way we educate our children. This is a side of hope, cooperation, and compromise. In fact, in his encouraging inaugural address barely 10 days ago, President Bush acknowledged the difficulties of these times and the very special needs of a divided nation. He said: "While many of our citizens prosper, others doubt the promise, even the justice, of our own country." He recognized that deep differences divide us and pledged "to work to build a single nation of justice and opportunity." I applaud President Bush for those words. At the luncheon after the inauguration, I told him how much those words meant to me.

These crucial weeks and months after the divisive election are an especially sensitive time, when hope and healing are waiting to emerge. But they are also fragile, like the first buds of the sugar maple in the spring in my own State of Vermont.

On the other side of the ledger, though, is the President's decision to send to the Senate the nomination of John Ashcroft. Senator Ashcroft is a man we know and respect, but a man we also know held some of the most extreme positions on a variety of the most volatile social and political issues of our time: Civil rights, women's rights, gun violence, discrimination against gay Americans, and the role of the judiciary itself.

Appointing the top law enforcement officer in the land is the place to begin, if the goal is to bring the country together. I wish the President had sent us a nomination for Attorney General who would unite us rather than divide us. But that did not happen. This is a nomination that had controversy written all over it from the moment it was announced. It should surprise no one that today we find ourselves in the middle of this battle. It should surprise no one that the polls in this country show the American people are deeply divided on this nomination.

It was, I believe, a crucial miscalculation from the President and his advisers to believe this nomination would have brought all of us together. Or perhaps, as some have suggested, it is an instance where consensus was not the objective.

Many organizations and their members have weighed in on either side of this debate. Some advocates for the nominee have been especially critical of the membership groups that oppose this nomination. It must be said that the only political pressure groups that have had a decisive role in this nomination are the far right wing elements of the Republican Party who insisted on this particular nominee and even bragged to the press that they vetoed other, more moderate, candidates—Republican candidates—for this job.

What is crystal clear to me is that the nomination of John Ashcroft does not meet the standard the President himself has set. In those who doubt the promise of American justice—and there are those—it does not inspire confidence in the U.S. Department of Justice.

The Senate can help mend these divisions, it can give voice to the disaffected, it can help to restore confidence in our Government, but only if it remains true to its own constitutional responsibilities. At a time of intense political frustration and division, it is especially important for the Senate to fulfill its duty.

One of the abiding strengths of our democracy is that the American people have opportunities to participate in the political process, to be heard, and to believe that their views are being taken into account. When the American people vote, every vote is important, every vote should be counted. Then when we hold hearings, and when we vote, we have to be cognizant that each of us has sworn an oath to uphold the Constitution. Each action we take as Senators has to be consistent with that oath.

There are 280 million Americans in this wonderful and great country of ours. Of those 280 million Americans, there are only 100 people who have the license and the obligation to vote on this nomination: 100 Members of the Senate, a body that should be the conscience of the Nation, and sometimes is. Two hundred eighty million Americans expect us to make up our minds on this.

There is a reason many of us believe that the job and role of Attorney General is the most important job in the Cabinet. Why? Because it is not simply a job where you carry out what the President tells you to do; it is far more than that. The extensive authority and discretion to act in ways that go beyond Presidential orders are part of the important role of the Attorney General and require that our Attorney General have the trust and confidence of all the people. Democrats, Republicans, moderates, conservatives, liberals, white, black, no matter who, rich, poor, they must all have confidence in this one Cabinet position above all others, because the Attorney General is a lawyer for all the people. He is the chief law enforcement officer of the country.

The Attorney General is not the lawyer for the President. The President has a White House counsel for that. The Attorney General is the lawyer for all of us, no matter where we are from, no matter what party we belong to. We all look to the Attorney General to ensure evenhanded law enforcement. And we look to the Attorney General for the protection of our constitutional rights—including freedom of speech, the right to privacy, a woman's right to choose, freedom from Government oppression, and equal protection of the laws. The Attorney General plays a critical role in bringing the country together, bridging racial divisions, and inspiring people's confidence in their own Government.

Senator Ashcroft has often taken aggressively activist positions on a number of issues that deeply divide the American people. He had a right to take these activist positions. But we have a duty to evaluate how these positions would affect his conduct as Attorney General.

John Ashcroft's unyielding and intemperate positions on many issues raise grave doubts, both about how he will interpret the oath he would take as Attorney General to enforce the laws and uphold the Constitution and also about how he will exercise the enormous power of that office.

Let me be very clear on this. I am not objecting to this nominee simply because I disagree with him on ideological grounds. I have voted for many nominees with whom I have disagreed on ideological grounds. I am not applying the "Ashcroft standard" as he applied it to Bill Lann Lee and other Presidential nominees over the last 6 years. My conclusion is based upon a review of John Ashcroft's record as the attorney general and then Governor of Missouri, as a Senator, and also on his testimony before the Judiciary Committee. It is based on how he has conducted himself and what positions he has taken while serving in high public office while sworn to uphold the Constitution, basically the same oath one would take as Attorney General.

President Kennedy observed that to govern is to choose. What choices the next Attorney General makes about resources and priorities will have a dramatic impact on almost every aspect of the society in which we live. The American people are entitled to be sure not just that this nominee says he will enforce the laws on the books but also to be sure what those priorities are going to be, what choices he is likely to make, what changes he will seek in the law. Most importantly, we are entitled to know what changes he will seek in the constitutional rights that all Americans currently enjoy—that includes, of course, what positions he will urge upon the Supreme Court—in particular, whether he is going to ask the Supreme Court to overturn Roe v. Wade or to impose more burdensome restrictions on a woman's ability to secure legal and safe contraceptives.

On several of these issues, such as his lifelong opposition to a woman's right to choose, his support for measures to criminalize abortion even in cases of rape and incest, and his efforts to limit access to widely used contraceptives, Senator Ashcroft has moved far outside the mainstream. The controversial positions taken by this nominee and his record require us to reject this nomination as the wrong one for the critical position of Attorney General of the United States at this time in our history.

It is in part because I know John Ashcroft to be a person of strong convictions and consistency that I am concerned that he could not disregard those long-held convictions if he is confirmed by this body. It troubles me that he took essentially the same oath of office as attorney general of Missouri that he would take as Attorney General of the United States, but he acted differently than what he tells us he would do now. Senator Ashcroft assumed a dramatically different tone and posture on several matters during the course of his hearing.

The new John Ashcroft did not oppose the nomination of James Hormel because of his sexual orientation. The new John Ashcroft is now a supporter of the assault weapons ban. The new John Ashcroft is an ardent believer in civil rights, women's rights, and gay rights. The new John Ashcroft now believes Roe v. Wade is settled law. In fact, the more I heard him refer to matters he has consistently opposed, laws he consistently tried to rewrite, the more he referred to them as settled law, the more unsettling that became.

Occasionally, we would get a peek behind the confirmation curtain. What we saw was deeply disturbing. Senator Ashcroft was unrepentant in the way he torpedoed the nomination of Judge Ronnie White to the Federal district court, despite calls from some Republican Senators who personally apologized to Judge White for the shabby treatment he received. Senator Ashcroft, on the one hand, denied that sexual orientation had anything to do with his opposition to the Hormel nomination, then left the distinct, gratuitous impression that there was something unspoken, unreported, yet unacceptable about Mr. Hormel that somehow disqualified him from serving the United States as Ambassador to Luxembourg, even though Luxembourg said they would welcome his appointment as Ambassador.

Senator Ashcroft repeatedly declined to show the slightest remorse for his appearance at Bob Jones University, for the enthusiastically supportive interview he gave with a pro-confederate magazine, Southern Partisan, and for some of the most inflammatory language I have heard about the Federal judiciary since the bitter and violent days of the civil rights movement.

Most of us in this body have known the old John Ashcroft, but during the hearings we met a new John Ashcroft. Our challenge has been to reconcile the new John Ashcroft with the old John Ashcroft, to find the real John Ashcroft who would sit in the Attorney General's office. Were the demurrals of his testimony real, or were they delicate bubbles that would burst and evaporate a year or a month or a day from now under the reassertion of his long-held beliefs.

So we come back again to why all this matters. Why would we treat this position differently than, say, Secretary of Commerce or Transportation? Obviously, if he had been nominated to either of those, we would not have the controversy we now have. We treat it differently because of this: The position of Attorney General is of extraordinary importance. The judgments and priorities of the person who serves as Attorney General affect the lives of all Americans.

We Americans live under the rule of law. The law touches us all every day in ways that affect our safety and our health and our very rights as citizens. Our Attorney General is our touchstone in the fair and full application of our laws. The Attorney General not only needs the full confidence of the President, he or she also needs the full confidence of the American people.

The Attorney General controls a budget of more than $20 billion, directs the activities of more than 123,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers, other employees, in more than 2,700 Justice Department facilities around the country, actually more than 124 in foreign cities. The Attorney General supervises the selection and the actions of 93 U.S. attorneys and their assistants and the U.S. Marshals Service and its offices in each State. The Attorney General supervises the FBI and its activities around the world and in this country, as well as the INS, the DEA, the Bureau of Prisons, and a whole lot of other Federal law enforcement departments.

The Attorney General evaluates judicial candidates, recommends judicial nominees to the President, advises on the constitutionality of bills and laws. The Attorney General determines when the Federal Government is going to sue an individual or a business or even a local government. The Attorney General decides what statutes to defend in court, what arguments to make to the Supreme Court or other Federal courts, even State courts, on behalf of the U.S. Government.

As I said at the confirmation hearings for Edwin Meese to be Attorney General, while the Supreme Court has the last word in what our laws means, the Attorney General, more importantly, has the first word.

The Attorney General exercises broad discretion—in fact, most of that discretion is not even reviewed by the courts; one might say it is very rarely and then only sparingly reviewed by the Congress—over how to allocate that $20 billion budget, then how to distribute billions of dollars a year in law enforcement assistance to State and local governments, and coordinate task forces on important law enforcement priorities. These are the priorities the Attorney General sets.

The Attorney General makes the decision when not to bring prosecution as well as when to bring prosecution, when to settle a case and when to go forward with a case. Having been a prosecutor, I know these are the decisions that can set policy more than anything that a Governor or a President or Member of Congress might do. A willingness to settle appropriate cases once the public interest has been served rather than to pursue endless and divisive and expensive appeals, as John Ashcroft did in the Missouri desegregation cases, is a critical qualification for the job.

There is no appointed position within the Federal Government that can affect more lives in more ways than the Attorney General. No position in the Cabinet is more vulnerable to politicization by one who puts ideology and politics above the law. We should expect —all of us, not just 100 Senators but 280 million Americans—to have an Attorney General who will ensure evenhanded law enforcement and equal justice for all, protection of our basic constitutional rights to privacy, including a woman's right to choose and our rights to free speech and to freedom from government oppression. We look to the Attorney General to safeguard our marketplace from predatory and monopolistic activities and to protect our air and our water and our environment.

The Attorney General, among all the members of the President's Cabinet, is the officer who must be most removed from politics, if he is going to be effective and if he is going to fulfill the duties of that office.

Now, I have a deep and abiding respect for the Senate and its vital role in our democratic government. Twenty-six years in the Senate have given me the privilege to know and work with hundreds of others in this body. I cherish those friendships, and not only the friendships of the other 99 Senators here today, but the others I have served with over two-and-a-half decades. But far beyond friendship, my first duty as a U.S. Senator from Vermont is to the Constitution. I have sworn to uphold the Constitution.

In the aftermath of the national election in November, I have gone back to that Constitution many times. This weekend, I re-read the appointments clause.

I cannot give consent to the nomination of John Ashcroft to be Attorney General and thus be true to my oath of office. I do not have the necessary confidence that John Ashcroft can carry on the great tradition and fulfill the important role of Attorney General of the United States.

The American people certainly are not united in any such confidence. This nomination does not help President Bush to fulfill his pledge to unite the Nation.

I will vote no when the Senate is asked to give its advice and consent to the nomination of John Ashcroft to be Attorney General of the United States.

To further elaborate, Mr. President, the week before the Inauguration of the new President, the Senate Judiciary Committee conducted three days of hearings over four days on the nomination of former Senator John Ashcroft to be the next Attorney General of the United States. We heard not only from the nominee but also from thirteen witnesses called on his behalf and thirteen witnesses who opposed his nomination. While a number of my colleagues, most notably the entire Republican caucus, expressed support for this nomination before the hearing, I declined to pre-judge the nominee until I had heard his testimony and that of other witnesses, and reviewed their responses to follow-up written questions. I rise today to express my opposition to this nomination.

The Appointments Clause of the Constitution gives the Senate the duty and responsibility of providing its advice and consent. The Constitution is silent on the standard that Senators should use in exercising this responsibility. This leaves to each Senator the task of figuring out what standard to apply and, most significantly, leaves to the American people the ultimate decision whether they approve of how a Senator has fulfilled this constitutional duty.

Many of us believe that the President has a right to appoint to executive branch positions those men and women whom he believes will help carry out his agenda and policies. Yet, the President is not the sole voice in selecting and appointing officers of the United States. The Senate has an important role in this process. It is advise and consent, not advise and rubberstamp. The Senate has a duty to take this constitutional function seriously.

There was a time, of course, when "senatorial courtesy" meant cursory attention to former members of this body. Senators nominated to important government positions did not even appear before Committees for hearings. Certainly, the Senate was and should continue to be courteous to all nominees, but we should not use a double standard for members who have not been re-elected to the Senate. No one nominated to be Attorney General should be treated specially either favorably or unfavorably just because he once served in the Senate. The fact that many of us served with, know and like John Ashcroft does not excuse the Senate from faithfully carrying out its constitutional responsibility with regard to this nomination. Our constitutional duty rather than any friendship for Senator Ashcroft must guide us in the course of these proceedings and on the final vote on his nomination.

This is especially the case in these times when the new President is emerging from a disputed election that was decided after vote counting in Florida was ordered to stop through the intervention of the U.S. Supreme Court. The resolution of this election remains a source of public concern and sharp division in our country, reflected in a deeply divided electorate and demands from all sides for bipartisan leadership.

These are not auspicious beginnings for a new Administration and this nomination has been a troubling signal. John Ashcroft has taken aggressively activist positions on a number of issues on which the American people feel strongly and on which they are deeply divided. On several of those issues, such as his lifelong opposition to a woman's right to choose and support for measures to criminalize abortion, even in cases of rape and incest, and to limit access to widely-used contraceptives, he is far outside the mainstream.

The President has said his choice is based on finding someone who will enforce the law, but we need more than airy promises on this score to vest the extensive authority and important role of the Attorney General in John Ashcroft. His assurances that he would enforce the law cannot be the end of our inquiry, as some would urge. The heart of the Attorney General's job is to exercise discretion in deciding how and to what extent the law should be enforced, and what the Government will say it means.

The essence of prosecutorial discretion is that some laws get enforced more aggressively than others, some missions receive priority attention and some do not. No prosecutor's office—unless you are an independent counsel—has the resources to investigate every lead and prosecute every infraction. A prosecutor may choose to enforce those laws that promote a narrow agenda or ones that protect people's lives and neighborhoods. We need an Attorney General who has the full trust and confidence of the people that the laws will be enforced fairly and across the board, and that any changes the Attorney General will seek legislatively or in defining critical constitutional rights before the U.S. Supreme Court will be for the benefit of all Americans and reflect the mainstream of our values.

John Ashcroft's unyielding and intemperate positions on many issues raise grave doubts in my mind both about how he will interpret the oath he would take as Attorney General to enforce the laws and uphold the Constitution, and about how he will exercise the enormous discretionary power of that office. Let me be clear: I am not objecting to this nominee simply because I disagree with him on ideological grounds.

My conclusion is based upon a review of John Ashcroft's record as the Attorney General of Missouri and then Governor, as a United States Senator, and his testimony before the Judiciary Committee. That is to say, it is based on how he has conducted himself, and what positions he has taken, while serving in high public office and while sworn to uphold the Constitution. Let me give some specific examples.

As Governor, John Ashcroft vetoed two bipartisan bills that would have made it easier to register voters in the City of St. Louis, a city with a very substantial African-American population. These bills would have directed election authorities to allow outside groups, such as the League of Women Voters, to register voters. They were designed to rectify an imbalance between St. Louis County, a predominantly white area where outside groups were allowed to register voters, and St. Louis City, whose election commissioners (appointed by John Ashcroft) forbade the practice. Due in large part to that imbalance, only 73 percent of St. Louis City residents were registered to vote, while 81 percent of County residents were registered. (St. Louis Post-Dispatch, February 2, 1989). Faced with an opportunity to correct that imbalance, however, Governor Ashcroft refused. He vetoed one bill that dealt specifically with the St. Louis City Election Board, claiming it was unfair to single out one region for this requirement. The following year, the legislature addressed that criticism and passed a bill that pertained to the entire state. Nonetheless, Governor Ashcroft vetoed it again. (New York Times, January 14, 2001).

This opposition to legislation that would have ensured that black and white voters were treated equally in Missouri is all the more disturbing in light of the serious charges that have arisen in the wake of the Florida vote in the presidential election. It is critical that our new Attorney General have a sterling record on voting rights issues.

Neither Senator Ashcroft's handling of this matter as Governor nor his response to the Committee's questions about it inspire confidence. Indeed, it was distressing that Senator Ashcroft, when given the chance to explain his actions, chose to engage in an apparent "filibuster" by reading his entire veto messages, which were neither concise nor responsive to the questions he was asked. As a result, the time of his questioner expired and Senator Ashcroft was able to avoid confronting this issue fairly and completely.

Set against John Ashcroft's questionable record on voting rights issues, his record while he served as Attorney General and Governor of Missouri on fighting a voluntary desegregation plan for the St. Louis school system is particularly troublesome. My concern is not merely that he fought a voluntary desegregation plan, since I can well appreciate the volatility of using busing to achieve equal educational opportunity. My concern is over the manner in which he aggressively fought this voluntary plan, the defiance he showed to the courts in those proceedings and his use of that highly-charged issue for political advantage rather than for constructive action. Most significantly, on at least four crucial points, the testimony he gave to the Committee about this difficult era in Missouri's history was incomplete and misleading, which he essentially conceded when I corrected the record on the second day of the hearing.

First, Senator Ashcroft repeatedly claimed during the first day of his testimony that the state was not a party to the lawsuit brought to desegregate the schools in St. Louis. He testified, in response to my questions that "the state had never been a party to the litigation." (1/16/01 Tr., at p. 101). He repeated this assertion that the state was not a party to the litigation, stating, "if the state hadn't been made a party to the litigation and the state is being asked to do things to remedy the situation, I think it's important to ask the opportunity for the state to have a, kind of, due process, and the protection of the law that an individual would expect," (Id., at p. 101).

Yet, Missouri was, indeed, made a party to the St. Louis lawsuit in 1977, the year after Ashcroft took over as the state's Attorney General. See Adams v. United States, 620 F.2d 1277,1285 (8th Cir.), cert. denied, 449 U.S. 826 (1980). I pointed out this fact at the outset of the second day of the hearings. (1/17/01 Tr., at p. 2–3), and Senator Ashcroft thanked me for the opportunity to clarify the record. (Id., at 2–3).

Second, Senator Ashcroft also repeatedly claimed in his testimony that the state was not liable. He testified that "I opposed a mandate by the federal government that the state, which had done nothing wrong, found guilty of no wrong, that they should be asked to pay . . ." (1/16/01 Tr., at p. 100). Again, he testified "the state had not been found really guilty of anything." (Id.). He explained that "I argued on behalf of the state of Missouri that it could not be found legally liable for segregation in St. Louis schools because the state had never been party to the litigation." (Id.). He further explained, "Frankly, I thought the ruling by the court that the state would have to pay when there was not showing of a state violation to be unfair." (Id. at p. 101). He maintained this position in response to questions by Senator KENNEDY and testified that segregation in St. Louis "was not a consequence of any state activity." (Id., at p. 123).

In fact, however, the state was found directly liable for illegal school segregation in St. Louis. In March 1980, the Eighth Circuit ruled that both the state and the city school board were liable for segregation. Adams v. United States, 620 F.2d 1277, 1280, 1291, 1294–95 (8th Cir.), cert. denied, 449 U.S. 826 (1980). The state's improper conduct included previously mandating, over a period of years, the inter-district transfer of black students into segregated city schools to maintain segregation. Id. at 1280. In other words, when Senator Ashcroft testified that the State "had not been found really guilty of anything," the fact was that it had been found guilty of imposing forced busing on African-Americans in order to segregate them. And the "mandate by the federal government" that he opposed was a mandate to remedy the State's own flagrant violation of Brown v. Board of Education.

In June 1980, the district court made clear the state's liability, explaining that "the State defendants stand before the Court as primary constitutional wrongdoers who have abdicated their remedial duty. Their efforts to pass the buck among themselves and other state instrumentalities must be rejected." Liddell et al. v. Bd. of Ed. of City of St. Louis, 491 F. Supp. 351, 357, 359 (E.D. Mo. 1980), aff'd 667 F.2d 643 (8th Cir.), cert. denied, 454 U.S. 1081 (1981). Attorney General Ashcroft appealed this liability finding, but the Eighth Circuit rejected his argument as "wholly without merit." Liddell, supra, 667 F.2d at 655. The U.S. Supreme Court denied the state's attempt to appeal the decision. 454 U.S. 1081, 1091 (1981).

Again, in 1982, the Eighth Circuit reiterated that the state defendants were "primary constitutional wrongdoers" that could be ordered to take remedial action. Liddell, 677 F.2d 626, 628–29, (8th Cir.), cert. denied 459 U.S. 877 (1982). The U.S. Supreme Court again denied the state's attempted appeal.

Yet again, as his attorney general term was ending in 1984, the Eighth Circuit rejected the state's arguments against voluntary city-suburb desegregation, and the Supreme Court again denied review. Liddell, 731 F.2d 1294, 1305–9 (8th Cir.), cert. denied, 469 U.S. 816 (1984).

I pointed out the multiple findings of state liability by the federal courts at the outset of the second day of the hearing, and Senator Ashcroft conceded the accuracy of that correction. (1/17/01 Tr., at p. 2–3). It is a shame, indeed, that he only acknowledged the settled law of the case 20 years after the courts decided it.

Third, Senator Ashcroft testified that in the St. Louis case, "[i]n all of the cases where the court made an order, I followed the order, both as attorney general and as governor." (1/16/01 Tr., at p. 125–126). He repeated this claim in response to questions from

Senator HATCH, stating that "we complied with the orders of the federal district court and of the Eighth Circuit court of appeals and of the United States Supreme Court." (1/17/01 Tr., at p. 197).

While as attorney general, John Ashcroft may have complied with the technical terms of the court orders, his vigorous and repeated appeals show that he did so reluctantly and the scathing criticism he received from the courts shows that they lacked confidence in how he was fulfilling his obligations as an officer of the court. This is troubling. In 1981, the federal district court ordered the state and the city board to submit voluntary desegregation plans, but attorney general Ashcroft failed to comply. Consequently, the court threatened in March 1981 to hold the state in contempt if it did not meet the latest deadline and explicitly criticized the state's "continual delay and failure to comply" with court orders. (AP 3/5/81). The court also stated the following: "The court can draw only one conclusion—the state has, as a matter of deliberate policy, decided to defy the authority of the court."(St. Louis Post-Dispatch 3/5/81). The district court also stated in a 1984 order, "if it were not for the state of Missouri and its feckless appeals, perhaps none of us would be here today" (St. Louis Post-Dispatch, December 30, 1984).

Fourth, Senator Ashcroft denied that he "opposed voluntary desegregation of the schools" and said "nothing could be farther from the truth." (1/16/01 Tr., at p. 99). He asserted that "I don't oppose desegregation" and that "I am in favor of integration," and only opposed the State being asked to pay this very substantial sum of money over a long course of years." (Id., at p. 101).

I take Senator Ashcroft at his word that he supports integration. This only makes more disturbing his public statements made in the heat of political campaigns that exacerbated an already difficult situation over desegregation in Missouri schools. In 1981, he opposed a plan by the Reagan administration for voluntary desegregation, based not just on cost but also because it would allegedly attract "the most motivated" black city students, even though the city school board itself disagreed. (Newsweek, May 18, 1981). I cannot understand how John Ashcroft, leading advocate of vouchers to facilitate "parental choice" for those motivated to leave the public school system, could at the same time oppose the parental choice involved in voluntary school desegregation for "motivated" African-Americans. In 1984, he assailed the St. Louis desegregation plan as an "outrage against human decency." (St. Louis Post-Dispatch, June 15, 1984). In his 1984 gubernatorial campaign, he proudly stated that he had done "everything in his power legally" to fight the plan and suggested that listeners should "[a]sk Judge (William) Hungate who threatened me with contempt." (UPI, February 12, 1984).

Commentators at the time were critical of John Ashcroft's use for political gain of the difficult challenges of desegregating the schools. For example, the Post-Dispatch commented that Ashcroft and his Republican gubernatorial primary opponent in 1984 were "trying to outdo each other as the most outspoken enemy of school integration in St. Louis," and were "exploiting and encouraging the worst racist sentiments that exist in the state." (St. Louis Post-Dispatch, March 11, 1984). An African-American newspaper, the St. Louis American, had even harsher words for Ashcroft. "Here is a man who has no compunction whatsoever to standing on the necks of our young people merely for the sake of winning political favor," it wrote. "Ashcroft implies at every news conference, radio and television interview that he couldn't care less what happens to black school children." (St. Louis Post-Dispatch, February 29, 1984).

Finally, during the course of the hearing, Senator Ashcroft tried to deflect any criticism of his own actions over desegregation by trying to blame others. Specifically, he twice cited in his oral testimony and again in his responses to written questions, an incident "when the state treasurer balked at writing the checks" and "it became necessary to send a special delegation from my office to him to indicate to him that we believed compliance with the law was the inescapable responsibility . . . fortunately, the state treasurer at the time made the decision to abandon plans for a separate counsel and to go ahead and make the payments." (1/17/01 Tr., at p. 196; see also 1/16/01 Tr., at p. 100–103).

The treasurer to whom Senator Ashcroft referred was the late Mel Carnahan. As I clarified on the record, treasurer Carnahan faced personal liability for making a payment without the warrant of the commissioner of administration of the state of Missouri and properly issued the check as soon as he had the appropriate legal authority to do so. (1/18/01 Tr., at p. 130). In other words, Mel Carnahan did not, as Senator Ashcroft implied, seek to defy the court's order; he merely made sure that legally mandated procedures for complying with that order were followed. The insinuation that Mel Carnahan was the obstacle to desegregating Missouri's schools is false and reprehensible. Governor Carnahan is rightly credited with bringing this lengthy litigation to a close and fashioning progressive, bipartisan legislation to appropriate funds sufficient for a remedy and allowing the court to withdraw from active supervision of the case.

In my view, Senator Ashcroft's thinly-veiled disparaging testimony about his deceased political opponent were mean and offensive.

In his written response to questions from Senator KENNEDY, Senator Ashcroft presents his role in the desegregation case as simply an attempt to oppose interdistrict remedies, not intradistrict remedies. This is the same argument he made as Attorney General to justify bringing appeals from desegregation orders in 1981, 1982, and 1984. As explained above, the courts repeatedly rejected this argument. It should be noted in this regard that John Ashcroft did not merely appeal those orders that imposed interdistrict remedies—he also appealed orders mandating that the State aid in making improvements within St. Louis itself, and orders that simply told the State to enter into discussions concerning the possibility of interdistrict cooperation. See, e.g., Liddell v. Board of Education, 667 F.2d 643. It should also be noted that the courts found that Missouri was constitutionally responsible for segregation in St. Louis in part because it mandated the transfer of black suburban students into segregated city schools to enforce segregation. Liddell v. Bd. of Educ., 491 F. Supp. 351, 359 (E.D. Mo. 1980).

Ignorance Is His Defense—Southern Partisan and Bob Jones University. Senator Ashcroft's record on the racially-charged issues of voting rights and desegregation make more worrisome his explanations for and associations with Southern Partisan magazine and Bob Jones University. In short, his explanation is ignorance.

In 1998, Senator Ashcroft gave an interview to the Southern Partisan, a magazine which has gained a reputation for espousing racist views due to its praise in past articles of such figures as former KKK leader David Duke and its defense of slave-holders. At the hearing, Senator BIDEN asked Senator Ashcroft about this interview and his association with this publication. Senator Ashcroft disavowed any knowledge about the publication or its reputation. He said, "On the magazine, frankly, I can't say that I knew very much at all about the magazine. I've given magazine interviews to lots of people. . . . I don't know if I've ever read the magazine or seen it" (1/17/01 Tr., p. 146). He told Senator FEINGOLD that he thought the magazine was "a history journal." (Id., at 219).

Yet, it is difficult to square Senator Ashcroft's quoted remarks in the Southern Partisan interview with his purported ignorance about the publication. He praised the magazine, saying "Your magazine also helps to set the record straight" on what he called "attacks the [historical] revisionists have brought against our founders." He added even more praise, saying, "You've got a heritage of doing that, of defending Southern patriots like Lee, Jackson and Davis." Southern Partisan, at 28 (2d Quarter, 1998). It is difficult to reconcile Senator Ashcroft's testimony not to have known "very much at all" about the magazine with his own statements in the interview praising its "heritage." Indeed, he subsequently admitted that "I know they've been accused of being racist." (1/17/01 Tr., p. 152).

Putting that aside, however, I find it more troubling that despite the multiple opportunities he was given to distance himself from this magazine and evidence regret for giving the interview, he refused to do so. Instead, he responded with a platitude saying, "I condemn those things which are condemnable." (Id., at 147). We need more than platitudes from the next Attorney General. He made clear that what he mostly regretted is that this interview became an issue, saying: "And I regret that speaking to them is being used to imply that I agree with their views." (1/17/01 Tr., p. 146). Would it really hurt him to say, "I made a mistake. It's an obnoxious publication and its positions are offensive"? It troubles me to see a public official going around applauding racially offensive institutions, and it troubles me even more to see him refusing to admit his mistakes and try to heal the offense.

The same claim of ignorance was Senator Ashcroft's excuse for accepting a speaking engagement and an honorary degree from Bob Jones University. This school is not accredited. It did not admit African American students until 1971. Then, from 1971 to May 1975, the University accepted no applications from unmarried African American students, but did accept applications from African Americans "married within their race." Bob Jones University v. U.S., 461 U.S. 574 (1983). Even after it lost its tax exempt status in the mid-1970's, Bob Jones University maintained a ban on interracial dating. This policy changed on March 3, 2000, when Bob Jones announced on Larry King Live that the policy was dropped after an outcry over the visit to the University by then candidate, now President Bush.

The school, however, continues to discourage interracial dating. After announcing that the school would drop the interracial dating ban, Bob Jones told the student body at their daily chapel service the following day that they must tell their parents if they became involved in an interracial relationship and parents must send a letter to the dean of men or women approving the relationship before the university would allow it. Two days later, he announced that the school would drop the parental permission requirement but that students who wanted to engage in "serious dating relationships" against their parents' approval would be referred to counseling by the university. That is mandatory special "counseling" for adults engaged in interracial dating in the year 2001. That is a disgrace to our nation and all that we stand for.

As recently as March 2000, Bob Jones, the leader of the school, made clear on national TV that he views the Pope as the "anti-Christ" and both Catholicism and Mormonism as "cults." Senator Ashcroft claimed that he did not know about the school's beliefs at the time he spoke. (St. Louis Post-Dispatch, March 3, 2000). Yet, when he spoke to the students at Bob Jones University, he appeared to condone the policies of the school from which they were graduating by thanking each of them "for preparing themselves in the way that you have."

His assertion of ignorance was once again met with some skepticism, as even the press pointed out that "he was attorney general [of Missouri] when the U.S. Supreme Court denied the university's tax exempt status, and was governor when a state Supreme Court candidate ignited a controversy with pro-Bob Jones statements in 1992." (Id.). Specifically, in 1992, then Governor Ashcroft considered appointing Carl Esbeck to fill, at the time, the seventh and last open seat on the Missouri Supreme Court, but this proposed nomination proved controversial due to Esbeck's criticism of the U.S. Supreme Court's ruling that Bob Jones University was not entitled to tax-exempt status due to its discriminatory practices. (St. Louis Post-Dispatch, August 6, 1992). Having seen the offense caused by his own efforts to appoint a judge who had been supportive of Bob Jones University in 1992, one might have expected Senator Ashcroft to be more sensitive, and more cautious about accepting an honorary degree from the same institution seven years later.

Again, as with the Southern Partisan interview, Senator Ashcroft has never apologized for accepting an honorary degree from this school or for associating with it. Instead, during his unsuccessful Senatorial campaign, in response to his opponent's challenge to take this action, Senator Ashcroft "fired a puzzling return volley, saying he will give back all his degrees if Mr. Carnahan will return campaign contributions from pro-choice groups." (St. Louis Post-Dispatch, March 3, 2000). If Senator Ashcroft believes that support for Roe v. Wade is on a moral, legal, or political par with racial bigotry and the demonization of the Catholic and Mormon Churches, he is further out of the mainstream than I thought. If not, he missed a major opportunity to heal an offense for a great many Americans with an evasive and irrelevant response.

By contrast, after then candidate, now President Bush spoke at Bob Jones University in February 2000, he expressed regret for the appearance, in recognition of the "anti-Catholic and racially divisive views" associated with that school. Another Republican colleague, who also received an honorary degree from Bob Jones University, Representative ASA HUTCHINSON, later took a public step to disassociate himself from the school, calling the school's policies "indefensible." (New York Times, March 1, 2000).

Senator Ashcroft apparently has no regrets about accepting an honorary degree from Bob Jones University. On the contrary, Senator Ashcroft made clear in response to questions from both Senator DURBIN and Senator FEINSTEIN that he would consider a repeat visit to Bob Jones University as U.S. Attorney General. (1/17/01 Tr., pp. 237, 243). Senator DURBIN asked, "you would not rule out, as attorney general of the United States, appearing at that same school?" Senator Ashcroft responded, "Well, let me just say this, I'll speak at places where I believe I can unite people and move them in the right direction." (Id. at p. 237). Senator FEINSTEIN asked "In six months, you receive an invitation from Bob Jones University. You now know about Bob Jones University. Do you accept that invitation?" Senator Ashcroft indicated that, "it depends on what the position of the university is; what the reason for the invitation is," but the short answer is "I don't want to rule out that I would ever accept any invitation there." (Id., at p. 243).

This response was dismaying for a man who seeks the post of lawyer and advocate for all the people of this country. During the hearing, I suggested that he "put that honorary degree in an envelope and send it back and say this is your strongest statement about what you feel about the policies." (Id., at p. 262). Maybe at a minimum he could send it back with a statement that he will consider associating with Bob Jones University again if and when the school publicly disavows all of its racially and religiously offensive positions. That, at least, would be better than hanging a degree from an infamous bastion of discrimination on the walls of the Attorney General's office. Ignorance is a weak defense for associating with institutions that notoriously espouse racially insensitive and discriminatory philosophies and policies. An inability to recognize one's mistakes, and to acknowledge the sensitivities of others, is a serious flaw in a man who would be the Attorney General of all the people.

Finally, despite the deep concern about his judgment in appearing at Bob Jones University, Senator Ashcroft has been less than forthright with the Committee. During my short tenure as Chairman of the Committee, I asked him personally for a copy of his commencement address, in whatever form it was in, at a meeting on January 4, 2001. I then wrote to Vice President CHENEY, as head of the transition office, twice requesting copies of any tape recordings or transcriptions of that speech. In my January 11 letter, I reported that Bob Jones University advised my staff a tape was available but would not be released without Senator Ashcroft's permission and specifically requested "a tape of the commencement ceremony in May, 1999, in which Senator Ashcroft participated." The next day, Senator Ashcroft furnished the Committee with a transcription of the speech, on the same day the videotape of Senator Ashcroft's speech was broadcast on Larry King Live. This videotape has never been provided to the Committee. Moreover, the Committee's request for the videotape of the entire commencement proceeding remains unanswered.

Senator Ashcroft proudly told Southern Partisan magazine that "I have been as critical of the courts as any other individual, probably more than any other individual in the Senate. I have stopped judges . . . and I will continue to do so." In fact, he led the Senate in the politics of personal destruction by distorting the records of presidential nominees whose political ideologies or "lifestyles" he disliked.

Let me start with a review of how Senator Ashcroft worked to block the nomination of James C. Hormel to be the Ambassador to Luxembourg, and then how he explained his actions before the Committee on January 17, 2001.

Ambassador Hormel had a distinguished career as a lawyer, a businessman, educator, and philanthropist. He had diplomatic experience as well. He was eminently qualified for the job of U.S. Ambassador to Luxembourg, Luxembourg's ambassador to the U.S. said the people of his country would welcome him, and a clear majority of Senators supported his confirmation.

Yet he was denied a Senate debate and vote. Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee who voted against favorably reporting the nomination of James Hormel to serve as U.S. Ambassador to Luxembourg.

In June 1998, at a luncheon with reporters, Senator Ashcroft is reported to have said:

> People who are nominated to represent this country have to be evaluated for whether they represent the country well and fairly. His conduct and the way in which he would represent the United States is probably not up to the standard that I would expect. He has been a leader in promoting a lifestyle. And the kind of leadership he's exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned. Boston Globe (June 24, 1998).

Senator Ashcroft also said that a person's sexual conduct "is within what could be considered and what is eligible for consideration" for ambassadorial nominees. (San Diego Union-Tribune June 19, 1998). The implication of these remarks seems clear to me. But do not rely on my judgment. Listen instead to one of Senator Ashcroft's Republican colleagues of the time, Senator Alphonse D'Amato. Senator D'Amato wrote, in a letter to Majority Leader TRENT LOTT, that he was "embarrassed" that Hormel's nomination had been held up by other Republican Senators. He wrote, "I fear that Mr. Hormel's nomination is being obstructed for one reason, and one reason only: the fact that he is gay." (Id.)

When I questioned him at the hearing about his remarks at the 1998 luncheon, Senator Ashcroft did not deny making them. Instead, he asked us to ignore their clear import. I asked him directly: "Did you block his nomination from coming to a vote because he is gay?" Senator Ashcroft answered, "I did not." I then asked "Why did you vote against him? And why were you involved in an effort to block his nomination from ever coming to a vote?" Senator Ashcroft implicitly acknowledged that he did engage in blocking the nomination from coming to a vote, saying,

> Well, frankly, I had known Mr. Hormel for a long time. He had recruited me, when I was student in college, to go to the University of Chicago Law School. . . . But I did know him. I made a judgment that it would be ill-advised to make him ambassador based on the totality of the record. I did not believe that he would effectively represent the United States in that particular post. (1/17/01 Tr., p.191).

Senator Ashcroft then proceeded to claim, without directly addressing the Hormel nomination, that "[s]exual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held. It will not be a consideration in hiring at the Department of Justice. It hasn't been for me." (Id, at 192).

I brought Senator Ashcroft back to the question of why he had opposed James Hormel's nomination. I said: "I'm not talking about hiring at the department, I'm talking about this one case, James Hormel. If he had not been gay, would you have at least talked to him before you voted against him? Would you have at least gone to the hearing? Would you have at least submitted a question?" (Id.) When evasion did not work, Senator Ashcroft simply flatly refused to answer, stating, "I'm not prepared to redebate that nomination here today," and repeated his claim that his opposition to the Hormel nomination was based on "the totality of his record." (Id, at 192–193). Three Senators asked the nominee in written questions to specify the factors that led to his opposition to James Hormel, but he continued to refuse to do so, citing again "the totality of Mr. Hormel's record" as the basis for his opposition.

The story does not end there. The implication of Senator Ashcroft's remarks what some have called "creepy" about being "recruited" by and "knowing" Mr. Hormel was that some personal experience with that nominee played a role in his decision to block it. (New York Times, January 20, 2001). Yet, by letter dated January 18, 2001, Mr. Hormel expressed "very deep concern" about this implication since he could not recall "ever having a personal conversation with Mr. Ashcroft," "no contact with him of any type since . . . nearly thirty-four years ago, in 1967." Mr. Hormel also clarified that he did not personally "recruit" John Ashcroft to law school; he had simply admitted him, along with hundreds of other students, in his capacity as Dean of Students. Mr. Hormel concluded, "For Mr. Ashcroft to state that he was able to assess my qualifications to serve as Ambassador based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous."

I am forced to agree with Mr. Hormel's assessment. There certainly still has not been any forthright explanation from Senator Ashcroft for his insistence that, contrary to the views of the President, the Ambassador from Luxembourg, and the vast majority of his Senate colleagues, Mr. Hormel would not "effectively represent the U.S." in Luxembourg. Indeed, given another chance to explain his position through responses to written questions, Senator Ashcroft has simply repeated his boilerplate language about the "totality" of Mr. Hormel's record, adding no specificity beyond the fact that Luxembourg is "the most Roman Catholic country in all of Europe." He does not explain the significance of this fact.

At the hearing, Senator FEINGOLD asked Senator Ashcroft whether, as Attorney General, he would permit employment discrimination against gay men and lesbians, pointing in particular to Senator Ashcroft's public statement that "I believe the Bible calls [homosexuality] a sin, and that's what defines sin for me." Senator FEINGOLD stated that "Attorney General Reno clarified that sexual orientation should not be a factor for FBI clearances." Then he asked Ashcroft, "As attorney general would you continue and enforce this policy?" Again, Senator Ashcroft did not answer the question directly with a clear statement against discrimination based on sexual orientation at the FBI, saying, "I have not had a chance to review the basis for the FBI standard and I am not familiar with it. I would evaluate it based upon conferring with the officials in the bureau." In my view, the American people are entitled to expect from their Attorney General more forthright and decisive leadership on the simple question of whether the FBI will be permitted to discriminate on the basis of sexual orientation. The correct answer to that question is not "maybe," it is "no."

This is troubling. Senator Ashcroft's answers raise serious question about whether he would adopt a policy as Attorney General that a person's sexual orientation could be a basis for denying a security clearance. If sexual orientation can be used to deny a security clearance for a government job, gay men and lesbians would be barred from numerous government positions, including in the Justice Department, as surely as if John Ashcroft, as Attorney General, were to exclude them personally.

In October 1999, Senator Ashcroft spearheaded a campaign to defeat the nomination of Missouri Supreme Court Judge Ronnie White to serve as a federal district court judge. Like many Senators, I was deeply troubled by Senator Ashcroft's sneak attack on Judge White, who was the first nominee to a federal district court to be rejected on the floor of the Senate in over 50 years. Senator Ashcroft's testimony to the Committee did nothing to allay my concerns.

There can be no serious question that Senator Ashcroft distorted Judge White's record. To give just one example, in one of the three opinions that Senator Ashcroft cited as supposed evidence of a "procriminal jurisprudence," Judge White took a narrower view of the Fourth Amendment—and a broader view of the powers of the police—than the U.S. Supreme Court took a few years later. That is to say, Senator Ashcroft characterized Judge White as "procriminal" for taking a position that was more pro-law enforcement than the position of a majority of the conservative Rehnquist Court.

Senator Ashcroft has told us that he based his opposition to James Hormel and other nominees on "the totality of the record." In the case of Judge White, the totality of the record was very different than what Senator Ashcroft led his colleagues to believe. While I state again and unequivocally that I do not charge Senator Ashcroft with racism, I cannot help but think that he was willing to play politics with Judge White's reputation in a manner that casts serious doubt on his ability to serve all Americans as our next Attorney General. In my mind, and in the minds of many Americans, he engineered a party-line vote to reject Judge White not because Judge White was unqualified, but because he wanted to persuade the voters of Missouri that John Ashcroft was tougher on crime and more pro-death penalty than his Democratic opponent. The voters saw through this ploy, and Senators should consider it carefully in deciding whether to give their consent to this nomination. In doing so, Senators may ask themselves whether a man who used his public office to besmirch a respected judge for crass political ends is the sort of man the American people deserve as their Attorney General.

I want to discuss a few of the circumstances surrounding the White nomination that cause me particular concern.

As an initial matter, I am disturbed by Senator Ashcroft's repeated claims that he torpedoed Judge White at the urging of law enforcement groups that had come forward to oppose the nomination. On the Senate floor, Senator Ashcroft told his colleagues that law enforcement officials in Missouri had "decided to call our attention to Judge White's record in the criminal law." (CONGRESSIONAL RECORD, October 4, 1999, at S11872). But after the Senate voted to reject the nomination, the press reported that Senator Ashcroft had actually solicited opposition to Judge White from at least some law enforcement officials. (St. Louis Post-Dispatch, October 8, 1999). This detail—who contacted whom came up at the hearing, and was at the center of more attempts by Senator Ashcroft to shade the facts.

At the hearing, Senator DURBIN noted while questioning Senator Ashcroft that the Missouri Chiefs of Police had refused to accept his invitation to oppose Judge White. Senator Ashcroft responded, "I need to clarify some of the things that you have said. I wasn't inviting people to be part of a campaign." Senator DURBIN followed up by asking, "Your campaign did not contact these organizations?" The nominee tried to side-step the issue by making a general statement rather than responding directly to the question he was asked. He said, "My office frequently contacts interest groups related to matters in the Senate. We don't find it unusual. It's not without precedent that we would make such a request to see if someone wants to make a comment about such an issue."

According to the St. Louis Post-Dispatch, Senator Ashcroft's office contacted at least two police groups with respect to Judge White 's nomination, and the contacts went well beyond a mere "request to see if someone wants to make a comment." The president of the Missouri Police Chiefs Association—one of Missouri's largest police groups—said that he was contacted by Senator Ashcroft's office and asked whether the Association would work against the nomination. The Association declined. Its president said that he knew Judge White personally and had always known him to be "an upright, fine individual." (St. Louis Post-Dispatch, October 8, 1999.)

According to the same article, Senator Ashcroft's office also solicited opposition to Judge White from the Missouri Federation of Police Chiefs. Vice President Bryan Kunze said the group got involved after Senator Ashcroft's office sent them information about the nomination. Kunze is quoted as saying "I never heard of Judge White until that day." (Id.)

What does this mean? It means that there was a simpler, and more direct answer to Senator DURBIN's question: "yes." Senator Ashcroft's office did contact law enforcement organizations. And it did so not just to "see if" they wanted "to make a comment," but to solicit their opposition to Judge White. At a minimum, Senator Ashcroft shaded the truth when he suggested that his opposition to Judge White was prompted by the concerns of Missouri's law enforcement community. While some law enforcement officials eventually came to oppose Judge White's nomination, some of that opposition was instigated and orchestrated by Senator Ashcroft himself.

Moreover, although Senator Ashcroft did not acknowledge the fact, many law enforcement officials strongly supported Judge White. At the hearing, I put into the record a strong letter of support and endorsement from the chief of police of the St. Louis Metropolitan Police Department for Judge White, which Senator Ashcroft received before the vote on Judge White's nomination. I also put into the record another letter from the Missouri State Lodge of the Fraternal Order of Police from shortly after the vote, stating on behalf of 4,500 law enforcement officers in Missouri that they viewed Judge White's record as, "one of the judges whose record on the death penalty has been far more supportive of the rights of victims than the rights of criminals." Yet when Senator Ashcroft went to the floor of the Senate in October 1999 to disparage Judge White's record as "procriminal," he gave a one-sided account, ignoring the law enforcement officials who had come out in support of Judge White's nomination or declined Senator Ashcroft's invitations to work against him.

It is worth reviewing the history that led up to Senator Ashcroft's denouncement of Judge White on the floor, because that history sheds some light on the genesis of the supposed "procriminal" concerns. President Clinton first nominated Judge White in June 1997. Like many other judicial nominations during the Clinton Administration, the nomination was held in limbo for more than two years before the Senate finally voted on it in October 1999. During most of that time, there was no mention of Judge White's judicial record. Senator Ashcroft has said that he began to review Judge White's opinions "upon his nomination" (CONGRESSIONAL RECORD, October 4, 1999, at S11871), yet he did not elaborate on his reasons for opposing Judge White until August 1999, when he told reporters that Judge White had "a very serious bias against the death penalty." At the time, the death penalty was a hot issue in Senator Ashcroft's re-election campaign against the late

Governor Carnahan, who had recently commuted the sentence of a death row inmate at the request of Pope John Paul II. It was Governor Carnahan who, in 1995, appointed Judge White to the Missouri Supreme Court.

When Judge White came before the Judiciary Committee in May 1998, he was introduced by two members of Missouri's congressional delegation, Senator BOND and Congressman CLAY. Both urged Judge White's confirmation. Congressman CLAY also stated that he had discussed the nomination with Senator Ashcroft, and that Senator Ashcroft had polled Judge White's colleagues on the Missouri Supreme Court—all Ashcroft appointees—and they all spoke highly of Judge White and said he would make an outstanding federal judge. That was yet another set of endorsements for Ronnie White that Senator Ashcroft did not himself acknowledge when he spoke out on the nomination.

After the hearing, Senator Ashcroft submitted 21 written questions to Judge White, 15 more than were submitted to the other nominees at the same hearing. Among those questions were two concerning an action—neither an unlawful nor an unethical one—that Judge White had taken as a State legislator in 1992 that contributed to the defeat of an anti-abortion bill supported by then-Governor Ashcroft. There was also one question about a death penalty case in which Judge White had written a lone dissent.

When Senator Ashcroft joined a handful of Senators and voted against Judge White in Committee, he inserted a short statement in the Committee records on May 21, 1998, to explain his vote. Making reference to the anti-abortion bill that was the subject of those written questions, he said: "I have been contacted by constituents who are injured by the nominee's manipulation of legislative procedures while a member of the Missouri General Assembly. This contributes to my decision to vote against the nomination." He made no mention of concern about any other issue, including the death penalty case about which he had also asked Judge White a written question. Apparently then, as of May 1998, Senator Ashcroft's investigations into Judge White's judicial record had not unearthed any "procriminal" concerns.

Senator Ashcroft's testimony and answer to written questions that reproductive rights played no part in his opposition to Judge White is flatly contradicted by both the questions he asked about the judge as a state legislator calling "an unscheduled vote that resulted in the defeat of a measure designed to limit abortions," and the statement Senator Ashcroft put in the Judiciary Committee mark up record in May 1998, in which he referred to Judge White's "manipulation of legislative procedures while he was a member of the Missouri General Assembly" and expressly stating that "contribute[d] to my decision."

This dissembling is disingenuous, but explains the troubling fact that Senator Ashcroft did not fully question Judge White about his death penalty decisions or law enforcement concerns at his hearings before the Judiciary Committee. That is the purpose of nomination hearings, as Senator Ashcroft well knows. At his own hearings, Senator Ashcroft was afforded a full and fair opportunity to answer questions and address concerns. Judge White did not have that opportunity. He was ambushed on the floor of the Senate, with no opportunity to explain his decisions or defend his reputation.

Judge White finally got that opportunity during the hearings on this nominee, and I urge all Senators to read his testimony. He was gracious, he was dignified, and he set the record straight. This is what that record shows.

Ronnie White grew up in a poor, segregated neighborhood in St. Louis. He worked his way through high school, college, and law school. He had a distinguished legal career in private practice and as city counselor for the City of St. Louis and lawyer for the St. Louis Police Department. In 1989 he was elected to the Missouri legislature, where he was twice selected to serve as chairman of the judiciary committee. In 1995, he became the first African-American to serve on the Missouri Supreme Court.

The Facts on Judge White's Capital Cases. At the hearing last week, Senator Ashcroft admitted that he had characterized Judge White's record as being "pro-criminal," but claimed that he "did not derogate his background." I believe that Senator Ashcroft's attacks on Judge White on the Senate floor went well beyond simply characterizing his record. Senator Ashcroft suggested that Judge White had "a tremendous bent toward criminal activity" (CONGRESSIONAL. RECORD, October 5, 1999, at S11933) and "a serious bias against a willingness to impose the death penalty" (CONGRESSIONAL RECORD, October 4, 1999, at S11872), and argued that, if confirmed, "he will use his lifetime appointment to push law in a procriminal direction, consistent with his own personal political agenda" (Id.). In my 26 years in the Senate, I have never heard an attack like that on the Senate floor against a sitting judge. I can scarcely imagine anything more derogatory that could be said about a judge than that he uses his office to pursue a personal procriminal agenda. Such accusations should not be lightly made. The facts show that they were baseless.

Fact one: Judge White voted to uphold the death penalty 40 times in 58 death penalty cases. In other words, he voted to uphold the death penalty in about 70 percent of the capital cases that came before him. One of Senator Ashcroft's own appointees to the Missouri Supreme Court, the late Ellwood Thomas, had a much higher percentage of votes for reversal of death sentences.

Fact two: In 55 out of 58 capital cases that came before Judge White—that is 95 percent of the time—he ruled the same way as at least one of his Ashcroft-appointed colleagues. Judge White dissented in only seven out of 58 death penalty cases, and he was the sole dissenter in only three of those cases. The other four times, one or more of the Ashcroft judges agreed with Judge White that the defendant was entitled to a new trial or a new sentencing hearing.

Fact three: In leading the campaign to defeat Judge White, Senator Ashcroft specifically criticized just three cases in which Judge White filed a lone dissent. In each case, Judge White's dissents were well-reasoned and entirely defensible. The first was a 1996 case called State v. Damask (936 S.W.2d 565), which raised the issue of the constitutionality of drug interdiction checkpoints in two Missouri counties. Police officers dressed in camouflage were stopping motorists in the dark of night at the end of a lonely highway exit ramp and looking for evidence to allow them to search their vehicles for drugs. These stops were challenged by some motorists as a violation of the Fourth Amendment's prohibition against unreasonable search and seizure, but the Missouri Supreme Court decided that these were constitutional law enforcement procedures.

Judge White filed a reasoned and respectful dissent. He agreed with his colleagues that "trafficking in illegal drugs is a national problem of the most severe kind." He also agreed that traffic stops such as these could be lawful, if conducted in a reasonable way. However, he found, based on the specific facts of the case, that the checkpoint operations at issue were unduly intrusive and therefore unconstitutional.

Just a few months ago, a case with facts similar to the Missouri case made its way to the U.S. Supreme Court. In City of Indianapolis v. Edmond, 121 S. Ct. 447 (2000), a six-justice majority of the Court found that drug interdiction checkpoints like the ones that were upheld by the Missouri Supreme Court are unconstitutional per se. Indeed, the Court went much farther in protecting the rights of motorists than Judge White went in his dissent.

Judge White testified last week that the U.S. Supreme Court had vindicated his decision to dissent in the Damask case. That is clear to any competent lawyer reading the two cases. Yet before the Supreme Court's ruling, Senator Ashcroft said that Judge White's dissent in Damask revealed a "tendency . . . to rule in favor of criminal defendants and the accused in a . . .

procriminal manner." (CONGRESSIONAL RECORD, October 4, 1999, at S11872). A fairer characterization would be that Judge White faithfully followed the law in striking a reasonable balance between the freedoms that we all enjoy as motorists and the interests of law enforcement.

Senator Ashcroft has stubbornly refused to retract his criticism of Judge White's dissent in Damask, notwithstanding the subsequent decision by the U.S. Supreme Court vindicating Judge White's position. Instead, Senator Ashcroft in his responses to written questions mischaracterized the facts of Damask, claiming that "the police had created a checkpoint designed to stop only those who behaved in a way to justify individualized suspicion." As is clear from the majority decision, however, the police in Damask stopped all motorists who approached the checkpoint, without any individualized suspicion of wrongdoing, virtually identical to the fact in the Missouri case in which Judge White dissented.

One would think that any Senator who characterized as "procriminal" a position taken by Justices O'Connor and Kennedy, among others, would be embarrassed and quick to apologize. Yet we have yet to hear an apology or even a retraction by Senator Ashcroft on this point.

The other two dissents that Senator Ashcroft cited as evidence of Judge White's "procriminal" tendencies were filed in death penalty cases: State v. Johnson, 968 S.W.2d 123 (Mo. 1998), and State v. Kinder, 942 S.W.2d 313 (Mo. 1996). Both cases involved brutal and shocking murders, and we heard a lot about those murders at the hearings. While my heart goes out to the victims, I am troubled by the implication of many of my Republican colleagues that those accused of particularly egregious crimes are somehow undeserving of the fair trial and due process rights guaranteed to all Americans. As Senator Ashcroft's own models of conservative jurisprudence have written, "the more reprehensible the charge, the more the defendant is in need of all constitutionally guaranteed protection for his defense." (Danner v. Kentucky, 525 U.S. 1010 (1998) (Scalia, J., joined by Thomas, J., dissenting from the denial of certiorari)). Focusing on the egregious facts of (rather than the legal analysis underlying) a death penalty case is a disingenuous and inappropriate way of evaluating the qualifications of sitting judges.

Judge White's dissents in Johnson and Kinder properly turned on the legal issues in those cases. In Johnson, the key legal issue was whether or not the defendant received constitutionally sufficient assistance from his lawyer. In Kinder, the issue was whether the defendant was entitled to a new trial with an unbiased judge. These were difficult issues, and as many of my Republican colleagues have acknowledged, reasonable minds could differ on how they should have been resolved. Some respected legal commentators have reviewed the facts in these cases and the relevant legal precedents and concluded that Judge White was right to dissent. I especially urge all Senators to read Stuart Taylor's thoughtful and thorough analyses of these cases in the National Journal on October 16, 1999, and January 13, 2001.

It is of course the right and duty of all Senators to familiarize themselves with a nominee's record before voting on his nomination. I respect Senator Ashcroft's diligence in undertaking a review of Judge White's decisions. What I do not understand are the apparent distortions of Judge White's record, the intemperate attacks, and the implication that judges should apply a lower standard of review in capital cases. When Senator Ashcroft began his campaign against Judge White, retired Missouri Supreme Court Judge Charles Blackmar—a Republican appointee—said that Judge White's votes in capital cases were "not a significant diversion from the mainstream," and added this strong criticism of Senator Ashcroft: "The senator seems to take the attitude that any deviation is suspect, liberal, activist and I call this tampering with the judiciary because of the effect it might have in other states that have the death penalty where judges, who might hope to be federal judges, feel a pressure to conform and to vote to sustain the death penalty." (St. Louis Post-Dispatch, August 21, 1999). As a strong believer in judicial independence, I share Judge Blackmar's concern.

To conclude on this point, Senator Ashcroft's words and actions with respect to the Ronnie White nomination raise serious concerns about his sense of fair play, his willingness to demonize those with whom he disagrees, and his respect for judicial independence. In my view, what America needs is an Attorney General who examines the facts and the law carefully and impartially and then articulates his positions respectfully, not one who distorts the facts and plays politics with the law.

In his first day of testimony, Senator Ashcroft stated, in response to my questions, that he had opposed Bill Lann Lee, President Clinton's nominee for Assistant Attorney General for Civil Rights, because he had "serious concerns about his willingness to enforce the Adarand decision, which was a recent decision of the United States Supreme Court. . . . Mr. Lee did not indicate a clear willingness to enforce the law based on that decision." (1/16/01 Tr., at p. 96). When I tried to explore what Senator Ashcroft perceived to be Mr. Lee's failure in this regard, Senator Ashcroft explained that when Mr. Lee was asked at his confirmation hearing what the Adarand standard was, "he did not repeat the strict scrutiny standard of 'narrowly tailored and directly related. . . . He stated another standard." (Id, at 97). This is simply not true.

When Bill Lann Lee testified before the Senate Judiciary Committee on October 22, 1997, he had the following colloquy with Chairman HATCH:

> Chairman HATCH: These cases [Croson and Adarand] would also stand for the proposition, wouldn't they, that strict scrutiny would be required in all governmental racial classification matters?
>
> Mr. LEE: Yes, that is correct, that strict scrutiny is required and that properly designed and properly implemented affirmative action programs are consistent with the strict scrutiny test under the Fourteenth and Fifth Amendment.
>
> Chairman HATCH: Would you agree that Adarand stands for the proposition—the Supreme Court case of Adarand—stands for the proposition that State-imposed racial distinctions are presumptively unconstitutional, that that presumption can be overcome only by a strong basis in evidence of a compelling interest and should be narrowly tailored? Have I stated that pretty correctly?
>
> Mr. LEE: Yes, and I agree with that.
>
> Chairman HATCH: All right . . . .

(Bill Lann Lee Confirmation Hearing, Senate Judiciary Committee, October 22, 1997, Transcript of Proceedings, pages 41–42).

Moreover, when I asked Senator Ashcroft about Bill Lann Lee, he referred to the District Court's decision on remand in the Adarand case, which found unconstitutional the contracting affirmative action program that is the subject of that litigation. He failed to note, however, that the Tenth Circuit has since reversed that decision, finding that the contracting program did in fact meet strict scrutiny. Adarand Constructors v. Slater, 228 F.3d 1147 (10th Cir. 2000).

To this day, I do not understand Senator Ashcroft's opposition to the nomination of Bill Lann Lee, but I do know that the purported reason he gave at his own nomination hearing is simply not supported by the record.

At the hearing, Senator Ashcroft and the witnesses called on his behalf made claims about the diversity of his appointments to the state courts and his cabinet while he was Governor. These claims were clearly designed to rebut any inference that his actions and record with regard to presidential nominees such as Judge Ronnie White, Bill Lann Lee, and others, or his associations with Southern Partisan magazine or Bob Jones University, reflected any fundamental insensitivities on his part. Unfortunately, the claims made at the hearing about the diversity of Governor Ashcroft's appointments do not withstand scrutiny when compared to either his Republican predecessor in the Governor's office, Senator KIT BOND, or his successor, Governor Mel Carnahan.

At the first day of the hearing, Senator Ashcroft stated: "I took special care to expand racial and gender diversity in Missouri's courts. I appointed more African-American judges to the bench than any governor in Missouri history, including appointing the first African-American on the Western District Court of Appeals and the first African-American woman to the St. Louis County Circuit Court." (1/16/01 Tr., at p. 89). He repeated these claims the next day. (1/17/01 Tr., at p. 57).

The claim of appointing more African American judges than any governor in Missouri history is deliberately deceptive. While Governor from 1985 through 1992, John Ashcroft set a record at the time with eight African American appointments to the bench, but this is only when compared to his predecessors, who had appointed far fewer. His successor, the late Governor Mel Carnahan, appointed twenty. (St. Louis Post-Dispatch, 1/11/01).

Also, while technically correct that Governor Ashcroft appointed the first African-American on the Western District Court of Appeals, this was not the first African American appointed to the appellate court in Missouri, as might be implied. Judge Ted McMillian was appointed by Warren Hearnes more than ten years earlier to the Eastern District Court of Appeals. (See The Honorable Donald P. Lay, "The Significant Cases of the Honorable Theodore McMillian During His Tenure on the U.S. Court of Appeals for the Eighth Circuit," 43 St. Louis U. L.J. 1269, 1270 (1999)). I point this out not to minimize Senator Ashcroft's appointment of minority candidates, but simply to ensure that the record is not exaggerated.

Jerry Hunter, former Missouri Labor Secretary, and Missouri Circuit Judge David Mason, both of whom had been appointed by Governor Ashcroft, testified in support of the nominee and applauded his record of appointments of African-Americans while he was Governor. Mr. Hunter was the only African-American or minority to serve in John Ashcroft's cabinet, which is made up of fifteen department directors, during his first four years. (1/18/01 Tr., at pp.179–180). In addition, although the Mound City Bar Association, which Mr. Hunter described as "one of the oldest black bar associations in this country," commended Governor Ashcroft in 1991 upon his appointment to the bench of an African-American female judge, this same organization, by letter dated January 12, 2001, has made clear that "this is not a nomination that we can support." (Id., at p. 180).

Senator Ashcroft as Governor of Missouri claims to have taken "special care" of gender diversity as well, yet his record of appointments of women to the judiciary is "abysmal." (1/18/01 Tr., at p. 60). He carefully testified that he named two women to the appellate court, the first in 1988; the other to fill the same position when the first woman moved up to the Supreme Court. He does not mention that this did not happen until nearly three years after he took office and only after front-page stories in local newspapers made clear that "Missouri lags behind most other states in the selection of women for judgeships," (St. Louis Post-Dispatch, October 22, 1986), and a national survey by the National Women's Political Caucus ranked Governor Ashcroft "near the bottom among state executives in appointment of women to Cabinet-level posts. . ." (St. Louis Post-Dispatch, October 24, 1986). By contrast, the same survey put Governors Madeleine Kunin of Vermont and Bill Clinton of Arkansas among the top ten states for the percentages of women in their cabinets. (Id.).

A study on the number of women appointed to the judiciary published in 1986 found that Missouri was one of only five states with intermediate appellate courts that had never had a female jurist above the trial court level. (Karen Tokarz, "Women Judges and Merit Selection under the Missouri Plan," 4 Washington Univ. Law Quarterly, 903, 916 (1986)). This study suggests that "the attitude of the chief executive may affect women's access to the judiciary," and cites as examples that the "explicit affirmative efforts by Governor CHRISTOPHER BOND and President Jimmy Carter to recruit women applicants correlate with increased numbers of women judicial appointees during their tenures." (Id., at 942). By comparison, the study notes that at the time the article was written, then Governor Ashcroft had selected no women for the 19 judicial appointments he had made "nor has Ashcroft appointed any women for the nine interim appointments." (Id.).

John Ashcroft's low numbers of women appointments to the judiciary were not due simply to a failure to have women's names recommended by nominating commissions. Press accounts report that women candidates appeared on panels presented to then-Governor Ashcroft, but in the incidents reported, he appointed men. (St. Louis Post-Dispatch, March 20, 1988). Moreover, as Governor, John Ashcroft did even more poorly with so-called "interim appointments" of judges outside the merit selection plan, where governors have free rein and are not limited by the recommendations of a selection panel. In two terms, Governor BOND had named eight women out of 77 interim appointments. Governor Ashcroft named only two women out of 51 interim appointments. ("Report on the Missouri Task Force on Gender and Justice," 58 Missouri Law Rev. 485, 688 n. 746 (1993)).

In short, Senator Ashcroft deserves credit for appointing women to judicial posts, but the amount of credit he should be given depends on the context. John Ashcroft named only eleven women out of 121 judicial appointments during his eight years as governor. Id. at 702, Table 1. Not only did his successor appoint nearly three times that number in the equivalent time period but this number was even surpassed by his predecessor, Governor BOND, who appointed twelve women during two terms. (58 Mo. Law Rev. at 702, Table 1).

Governor Ashcroft's testimony on the diversity of his appointments is technically accurate, but in my view was misleadingly framed to portray him as a leader on diversity. In truth, the record shows little evidence of urgency or strong advocacy for diversity. Both his actual record and the manner in which he portrayed it to the Committee are troubling.

John Ashcroft has engaged in a pattern of using inflammatory and intemperate language to question the authority and legitimacy of the United States Supreme Court and lower federal courts in a way that raises serious concern in my mind about his suitability for the job of Attorney General and whether he is the appropriate role model for the job of the Nation's chief law enforcer. Worse, while sworn to uphold the Constitution, he has backed up his words and disrespect for Supreme Court precedent by sponsoring legislation both in Missouri and in the U.S. Senate that is patently unconstitutional.

John Ashcroft has taken many opportunities to bash the federal judiciary. In several public speaking engagements he has chosen to attack the decisions of federal courts. (Speech to the Claremont Institute, Los Angeles, California, October 13, 1997, available through *www.claremont.org;* Appearance on "Jay Sekulow Live" Radio Show, July 24, 1998, available through *www.jaylive.com.*) The most extreme example of Senator Ashcroft's rhetorical attacks on the Supreme Court is the speech he gave in March 1997 to both the annual meeting of the Conservative Political Action Conference and to the Heritage Foundation. In "Courting Disaster: On Judicial Despotism In the Age of Russell Clark," he characterized the Supreme Court's landmark abortion decisions in Roe v. Wade and Casey as "illegitimate." He called the Justices who struck down an Arkansas congressional term limit law "five ruffians in robes," and said that they "stole the right of self-determination from the people." He asked, "have people's lives and fortunes been relinquished to renegade judges, a robed, contemptuous intellectual elite fulfilling Patrick Henry's prophecy, that of turning the courts into, quote, 'nurser[ies] of vice and the bane of liberty?' " He also said "We should enlist the American people in an effort to rein in an out-of-control Court."

The "five ruffians in robes" to whom Senator Ashcroft referred are members of the Rehnquist Supreme Court, which is a most conservative court—sometimes activist but decidedly conservative. I have heard Justice Anthony Kennedy and Justice Ruth Bader Ginsburg called many things but never "ruffians."

I find this sort of rhetoric deeply troubling. I certainly understand disagreeing with a Supreme Court decision. Lately, I have found myself strongly disagreeing with a number of decisions by the Court. I took strong exception to the Court's intervention in Bush v. Gore, but having noted my disagreement in respectful terms, I said that I accepted the Court's decision, and believed that all Americans should do the same.

When I asked Senator Ashcroft about these comments, he did not disavow them but simply noted that "I don't think it'll appear in any briefs." (1/17/01 Tr., at p. 263). I should hope not. But I would also hope that a public official sworn to uphold the Constitution would not go running around denying the legitimacy of Supreme Court decisions that, in our constitutional system, are the ultimate authority on what the Constitution means.

These comments raise serious issues about a fundamental qualification for the job of Attorney General: Senator Ashcroft's ability and readiness to discharge the obligatory oath to uphold the Constitution.

Senator Ashcroft's legislative career is not reassuring in this regard. While it is true, as Senator Ashcroft stressed, that a Senator's legislative role is different from an Attorney General's law enforcement role, both take the same oath to uphold the Constitution, so the one is not irrelevant to the other.

As a Senator, John Ashcroft displayed little reverence for the Constitution as written and as interpreted by the Supreme Court. It is, of course, the privilege of Senators to propose constitutional amendments, but in his one six-year term here, Senator Ashcroft stood out among his colleagues in his eagerness to amend the Constitution whenever its terms dictated a result he did not like. He did not like Roe v. Wade, so he sponsored a Human Life Amendment, which would have banned all abortions except where necessary to protect the life of the mother. He did not like the way the "five ruffians in robes" interpreted the Constitution in the Term Limits case, so he sponsored Term Limits Amendments. In total, Senator Ashcroft sponsored or supported constitutional amendments on no less than eight different topics in his six years in the Senate.

That is a distinctly un-Madisonian record. James Madison told posterity that constitutional amendments should be limited to "certain great and extraordinary occasions." Madison's wise counsel, like the Constitution itself, has stood the test of time: the Constitution has only been amended 17 times in the past 200 years. But John Ashcroft disagrees with James Madison on the spirit of Article V, the Article governing the amendment process. Indeed, he even introduced a proposed amendment, supported by no other Senator, to change Article V itself. In a Dallas Morning News article dated January 17, 1995, he was quoted as saying that he wanted to "swing wide open the door" to let the States decide on new amendments. His proposed amendment would have done so. Even more than the other amendments he supported, Senator Ashcroft's amendment to Article V would have severely cut back on the constitutional role of Congress, by allowing bare majorities in three-quarters of the States to amend the Constitution even if a majority of Congress disagreed. This radical proposal sits in stark contrast to the claim Senator Ashcroft makes today—in his response to my written question he says that his efforts to amend the Constitution as a Senator "reflect a fundamental respect for the Constitution and for the mechanism that that documents for altering the text."

More troublesome is Senator Ashcroft's record of introducing unconstitutional legislation, particularly in the area of reproductive rights. In both Missouri and in the U.S. Senate, Senator Ashcroft has been an unabashed advocate of banning abortion in all circumstances, except to save the life of the mother, even though this position runs directly counter to the fundamental rights set forth in Roe v. Wade. He has also been an unabashed critic of this seminal decision, stating as recently as 1998 that, "[c]learly, the Supreme Court, unguided by any constitutional text, has written themselves into a position that is legally, medically and morally incoherent." (CONGRESSIONAL RECORD, June 5, 1998, at S5697).

In 1981, when he served as Attorney General of Missouri, he testified before the Senate Judiciary Subcommittee on Separation of Powers on a bill sponsored by Senator HELMS and Representative HYDE. The bill stated "the life of each human being begins at conception," and would have allowed each state to outlaw and criminalize abortion, without any exception for victims of rape or incest or even to save the life of the mother. (Hearings on S. 158 Before the Subcomm. on Separation of Powers, Senate Comm. on the Judiciary, 97th Cong. 1105–1109 (1981)). John Ashcroft made clear his view of both Roe v. Wade and the workings of the Supreme Court in his introductory remarks, stating:

> I have devoted considerable time and significant resources to defending the right of the State to limit the dangerous impacts of Roe v. Wade, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of 50 States relating to abortions. (Id.).

In a chilling reminder of stringent State anti-abortion laws in effect before Roe v. Wade, Missouri Attorney General Ashcroft reminisced that:

> We had a law which specified that aborting a child subjected a person to a manslaughter charge, but there was a clearly maintained exception for cases in which the mother's life was in danger.

True to his 1981 testimony, he was actively involved in anti-abortion efforts as Missouri's Attorney General. He defended a state statute that, among other restrictions, would have required all abortions after 12 weeks to be performed in a hospital. The Supreme Court recognized that such a requirement would effectively increase the cost of such abortions dramatically and make them all but impossible to obtain for anyone but the wealthy, and therefore ruled that this requirement was unconstitutional. *Planned Parenthood* v. *Ashcroft*, 462 U.S. 476, 482 (1983). In a brief he submitted to the U.S. Supreme Court in defense of that law, John Ashcroft argued that, in establishing the in-hospital requirement, "Missouri has acted precisely within the parameters of Roe v. Wade." (Brief for the Cross-Petitioners).

While defending the constitutionality of a state law is the appropriate role of the attorney general, he has also aggressively tested the limits of Roe v. Wade as a legislator. In 1986, as Governor of Missouri, John Ashcroft signed a sweeping anti-abortion bill that stated, among other things, that "life begins at conception." The Supreme Court declined to assess the constitutionality of that provision, while upholding other parts of the law. *Webster* v. *Reproductive Health Services*, 492 U.S. 490 (1989).

His legal success in *Webster* prompted Governor Ashcroft to appoint a state task force to consider additional measures the state could enact to restrict reproductive rights. Despite the complexity and volatility of this issue, he made no effort to develop a consensus but instead indicated that the group should not have "drawn-out hearings" and he only appointed members who shared his ardent anti-abortion views. This was a polarizing action. Indeed, legislative leaders reportedly "declined to nominate members to the task force, saying it was going to end up stacked anyway in favor of one side of the issue." (St. Louis Post-Dispatch, August 9, 1989). Harriett Woods confirmed at the nomination hearing that "the leaders of the legislature were so outraged that they said they wouldn't participate." (1/18/01 Tr., at p. 63). Not surprisingly, the preordained conclusions of the Task Force on Unborn Life report, issued in January 1990, were that "the ultimate goal of legislation and policy-making in the State of Missouri should be . . . the imposing of legal restrictions to reduce the number of abortions."

Shortly after release of that report, Governor Ashcroft announced his support for legislation, to become known as Missouri Senate bill 339, that would have criminalized abortions performed for eighteen different reasons, including "to prevent multiple births from the same pregnancy," "the failure of a method of birth control," and "to prevent having a child not deemed to be wanted by the mother or father." No exception for rape or incest was allowed. To add to the burdens on a woman seeking an abortion, this legislation would have required a pregnant woman to file an affidavit stating the reasons for the abortion, apparently subjecting her to criminal liability for perjury if she did not fully disclose in a document to be filed with the abortion facility her most personal, confidential reasons for exercising her right to choose. Furthermore, the bill would also have allowed the spouse or father of the "unborn child" and the state Attorney General to intervene in court to stop the abortion. This extreme legislation failed in the state legislature because it lacked an exception for cases of rape and incest. (St. Louis Post-Dispatch, March 28, 1991).

When I consider the moral, ethical and religious dilemma that parents face when they learn that a pregnancy is multiple and that the best chance for normal, healthy births may be to have selective fetal reduction, I shudder at proposed legislation that would make such a difficult decision a criminal one.

More disturbing is Senator Ashcroft's effort, as part of his confirmation evolution, to distance himself from this legislation. He acknowledges in response to my written questions that Missouri Senate Bill 339 might not be constitutional, but asserts that (1) he had "no specific recollection" of the bill; (2) "it appears from press reports that representatives from my office may have expressed interest in seeing the bill passed out of committee"; (3) "[w]hile I was governor, it was my policy to refrain from opining on whether I would sign a bill until after a bill actually passed the legislature" and (4) "this bill did not prevent abortions attributable to rape, incest or a "bona fide, diagnosed health problem". (Emphasis in original). Each of these assertions are belied by the public record.

First, Senator Ashcroft's failure of recollection about this legislation is difficult to credit. In his State of the State Address on January 9, 1990, he said: "within the next week, I will announce my support for concepts that would enhance our capacity to protect unborn children." Shortly thereafter, on January 19, 1990, he issued a statement saying, "Today I am proposing that Missouri ban abortions for birth control, sex selection, and racial discrimination. Missourians reject multiple, birth control abortions. . . I am grateful for these proposals and I would welcome an opportunity to sign their protections for unborn children and mothers into law as an alternative to the continuation of abortions." These specific reasons for banning abortion were part of Missouri Senate bill 339. Senator Ashcroft failed to provide the Committee with these speeches, but they are documented in contemporaneous press reports. (See St. Louis Post-Dispatch, January 10, 1990 and January 20, 1990).

Second, Senator Ashcroft is wrong when he says only his "representatives . . . expressed interest." In addition to the speeches cited above, in which he expressly supported the terms of this legislation, when the bill was being debated in the Missouri Senate, then-Governor Ashcroft reportedly got personally involved in pressuring a swing vote. "Gov. John Ashcroft had telephoned Singleton to urge his support for a bill barring virtually all abortions" [referring to Senate Bill 339]. St. Louis Post-Dispatch, March 28, 1991.

Third, Senator Ashcroft is wrong when he says he refrained from opining about signing the bill. Contemporaneous press reports note that "[t]he governor's proposal would join two bills that would outlaw most abortions in Missouri. Ashcroft said he would sign those measures into law 'as an alternative to the continuation of abortions.' " (St. Louis Post-Dispatch, January 20, 1990).

Finally, Senator Ashcroft is wrong when he says the bill did "not prevent abortion attributable to rape, incest". The bill itself provides no such exceptions and, in fact, the bill failed because in the view of the "swing vote" "the proposal went too far. . . it failed to assure the continued legality of abortions in cases involving rape or incest." (St. Louis Post-Dispatch, March 28, 1991).

We are all aware that during his time in the Senate, John Ashcroft was among the most avid of anti-abortion legislators. He has cosponsored the so-called "Human Life Act," which states that "the life of each human being begins at fertilization." This legislation would not only ban all abortions, but also have the effect of outlawing the most common forms of contraception, including the birth control pill and the IUD.

At the nomination hearing, I asked a panel of witnesses that included both supporters and opponents of this nomination, and was composed largely of experts on reproductive rights issues, whether anyone disagreed that the Human Life Act was patently unconstitutional on its face. No one expressed disagreement, or disputed me when I said: "I'll take it by your answers, everybody feels it's unconstitutional." (1/18/01 Tr., at p. 80).

In response to my written questions, Senator Ashcroft has now conceded, as part of his confirmation evolution, that, as introduced, the Human Life Act of 1998 was "not constitutional under *Roe* and *Casey*," thus acknowledging that while sworn to uphold the Constitution, he knowingly proposed unconstitutional legislation. His explanation—"I thought that [the legislation] had the potential to promote a discussion that could have led to the passage of legislation that would have been constitutional under *Roe* and *Casey*"—is inconsistent with his statement on introduction of the bill: "I believe that our proposed Human Life Act is a legitimate exercise of Congressional power under Section Five of the Fourteenth Amendment" (CONGRESSIONAL RECORD. 6/5/98, S5697).

There is no doubt that John Ashcroft's support for unconstitutional legislation limiting reproductive rights stems from his genuine and heart-felt antipathy for the woman's right to choose—her right to choose not only whether to be pregnant but also the form of contraceptive which works best for her. Limiting access to contraceptives is, for me, a significantly troubling aspect of John Ashcroft's record.

For example, when he testified before the Senate in 1981, opponents of the Helms-Hyde bill at issue made clear that an important consequence of a law mandating that life begins at conception would be to permit states to ban multiple forms of popular contraceptives. One expert physician explained, "[t]his bill, if enacted into law, will prohibit the use of such commonly employed contraceptives as certain birth control pills and intrauterine devices because these forms of birth control prevent implantation into the uterus of the fertilized ovum that has, by legal decree, been made a person." (Hearings on S. 158 Before the Subcomm. on Separation of Powers, Senate Comm. on the Judiciary, 97th Cong., supra, at p. 51, testimony of Dr. Leon Rosenberg).

Short of federal legislation, John Ashcroft took other steps to limit access to contraceptives at the local level. In 1980, as Missouri's Attorney General, he issued a legal opinion designed to undermine the state's nursing practices law. He opined that the giving of information about and dispensing of condoms, IUDs and oral contraceptives, and other basic gynecological services by nurses constituted the criminal act of the unauthorized practice of medicine, even though these services were at the time routine health practices provided by Missouri nurses, including within the State's own county health departments. As a result, the State Board of Registration for the Healing Arts threatened certain physicians and nurses with a show cause order as to why criminal charges should not be brought against them. The attorney who represented these nurses and physicians, Frank Susman, testified at the nomination hearing that:

> Implementation of the nominee's Opinion would have eliminated the cost-effective and readily available delivery of these essential services to indigent women, who often utilize county health departments as their primary health care provider, and would have shut and bolted the door to poor women who relied upon these services as their only means to control their fertility. (1/18/01 Tr., at p. 75).

In a lawsuit designed to resolve this matter, Attorney General Ashcroft intervened to block the nurses from providing these family planning services, but a unanimous Missouri Supreme Court struck down the nominee's interpretation of the Nursing Practice Act. *Sermchief* v. *Gonzales*, 660 S.W.2d 683 (1983).

Mr. Susman testified that the nominee has "at every opportunity . . . sought to limit access to and to require parental consent for not only abortion, but for contraception as well." (1/18/01 Tr., at p. 76). Indeed, in the Senate, Senator Ashcroft was the sole sponsor of legislation that would require parental consent before "an abortifacient" or "contraceptive drugs or devices" are dispensed to a minor through federally-subsidized programs. (S. 2380, in 105th Congress; S. 3102 in 106th Congress).

Set against this record, John Ashcroft's testimony that he accept[s] *Roe* and *Casey* as the settled law of the land and that he will follow the law in this area" seems, at a minimum, implausible. (1/16/01 Tr., at p. 91).

Religious organizations perform wonderful acts of compassion and charity and play a critical role in helping those most needy in our country and in filling gaps left by government programs. Yet, our Constitution obligates us to ensure that church and state remain separate, to protect the religious beliefs of all of our citizens from government interference, and to protect the rights of those who do not believe. This obligation means that any use of religious organizations to provide social services must be structured with extraordinary care, and that there be separation between proselytizing and charity. John Ashcroft has been a leading proponent of the most extreme "charitable choice" policies, under which religious organizations would not even have to avoid religious proselytizing while distributing federal benefits.

His deference to religious groups is such that, as Governor, he even opposed laws aimed at ensuring that church-run day care centers met the same basic health and safety requirements (e.g., smoke detectors and fire exits) that applied to all other day care centers because, as he put it in his response to my written questions, of "the need to protect religious institutions from excessive entanglements with government." Missouri was one of a small group of States that did not apply ordinary health and safety requirements to day care centers run by religious organizations. (St. Louis Post-Dispatch, June 13, 1985). Nevertheless, John Ashcroft threatened to veto bills aiming to apply these requirements. (UPI, December 3, 1984). The extremeness of this position was demonstrated by the testimony of James Dunn, who recounted how a move to apply safety regulations to religiously-run child care centers in Texas were opposed by only three out of 600 such centers (1/19/01 Tr., at p. 73).

Senator Ashcroft has also not been forthcoming in response to straightforward questioning concerning his views of the Supreme Court's First Amendment jurisprudence. He told the Christian Coalition in 1998 that "a robed elite have taken the wall of separation built to protect the church and made it a wall of religious oppression." But when I asked him in writing to specify which court decisions he was referring to, he offered no response. Similarly, I asked him about his attitude toward the Supreme Court's 1987 decision in *Edwards* v. *Aguillard*, which held that States may not forbid the teaching of evolution when "creation science" is not also taught. He would not say whether he agreed with the decision or not, and he would not provide any examples to support his 1997 claim that "over the last half century, the federal courts have usurped from school boards the power to determine what a child can learn."

John Ashcroft presents himself as a man of great certitude—we did not hear any regret from him during his testimony about his appearance at Bob Jones University, his interview with Southern Partisan magazine, or his reference to former Reagan Administration press secretary Jim Brady as the "leading enemy" of responsible gun owners. In his written responses to questions from members of the Committee, he bypassed further opportunities to reflect on his controversial statements and actions. He can be fairly characterized as seeing issues as sharp contests between right and wrong, and I am sure that he believes he chooses the right. But I am concerned that his certitude may make him insensitive to the actual impact of his actions on individual American families and citizens. I think in particular of the story of Pete Busalacchi, who submitted written testimony to the Judiciary Committee.

Pete Busalacchi is a Missouri man and was one of John Ashcroft's constituents. Almost 15 years ago, his teenage daughter, Chris Busalacchi, was grievously wounded in a car crash. According to Mr. Busalacchi, his daughter's doctors told him that she would remain in a persistent vegetative state for the remainder of her life. (Busalacchi testimony, p. 1). After more than three years had passed since the accident, during which time Chris Busalacchi never recovered from her injuries, Mr. Busalacchi sought to move his daughter to Minnesota. He planned to seek further medical opinions and consider removing her feeding tube if the medical consensus continued to be that she had no hope of recovery. (Id. at p. 2). Instead, the Ashcroft Administration obtained a restraining order preventing Mr. Busalacchi from removing her from the state, launching a two-year battle seeking to prevent Mr. Busalacchi from making determinations about his daughter's medical treatment. (Id.) Pete Busalacchi testified that John Ashcroft, through his administration, injected his "political and religious views into [the Busalacchi] family's tragedy." (Id. at p. 1). When informed of the way Mr. Busalacchi felt and asked in writing whether his administration had shown the proper respect for the Busalacchi family in such a difficult time, John Ashcroft simply said, "Yes." He made no acknowledgment that this tragedy even presented a difficult case, nor did he express compassion for the family.

President Bush announced that John Ashcroft would be his nominee for Attorney General on December 22, 2000. The choice of a controversial nominee was his alone. Despite the controversy surrounding this nomination, we proceeded expeditiously to schedule nomination hearings, as requested by then President-Elect Bush, even before we had received the formal nomination, a complete FBI background report or Senator Ashcroft's complete response to the standard Committee questionnaire.

As the Chairman of the Judiciary Committee for the three-week period from the beginning of the new 107th Congress until the Inauguration, I pledged to conduct the nomination hearing for John Ashcroft in a full, fair, and thorough manner. I believe this pledge was amply fulfilled. I conferred regularly with Senator HATCH to ensure that every single witness from whom the nominee and his supporters wished to hear were called as witnesses. I also provided a fair amount of time and opportunity for the American people, through their elected representatives, to ask the nominee about fundamental issues and the direction of federal law enforcement and constitutional policy that affect all of our lives.

At a time of political frustration and division, it is important for the Senate to listen. One of the abiding strengths of our democracy is that the American people have opportunities to participate in the political process, to be heard and to feel that their views are being taken into account. Just as when the American people vote, every vote is important and should be counted so, too, when we hold hearings we ought to do our best to take competing views into account. Being thorough, and giving a fair hearing to supporters and opponents of the nomination, is also what fairness to the nominee requires. I and others put tough questions to John Ashcroft so that he would have a fair opportunity to respond to our concerns, instead of being ambushed on the Senate floor without an opportunity to respond, as had happened to Ronnie White.

Over the last 200 years the confirmation process has evolved. The first Congress established the office of the Attorney General in 1789 but confirmations were handled by the full Senate or special committees. It was not until 1816 that the Senate established the Judiciary Committee as one of the earliest standing Committees, chaired initially by Senator Dudley Chase of Vermont. It was not until 1868 that the Senate began regularly referring nominations for Attorney General to this Committee. In the 26 years that I have been privileged to serve in the United States Senate, these confirmation hearings have become an increasingly important part of the work of the Committee.

Of the 15 cabinet nominees not to be confirmed over time, nine were rejected by the Senate after a floor vote. Of those, one was a former Senator, John Tower, in 1989. Two were nominees to serve as Attorney General. One of those rejected Attorney General nominees was Charles Warren, an ultraconservative Detroit lawyer and politician nominated by President Coolidge who was voted down by a Senate controlled by the President's own party due to concern that Warren's prior associations raised questions about his suitability to be Attorney General.

> Progressive Republicans, recalling that Warren had aided the sugar trust in extending its monopolistic control over that industry believed this appointment was a further example of the President's policy of turning over government regulatory agencies to individuals sympathetic to the interest they were charged with regulating. . . . [T]he progressive Republicans combined with the Democrats in March 1925 to defeat the nomination narrowly. Richard Allen Baker, "Legislative Power Over Appointments and Confirmations," Encyclopedia of the American Legislative System, at p. 1616.

After the Senate rejected the nomination of Charles Warren, President Coolidge nominated John Sargent, a distinguished lawyer from Ludlow, Vermont, who was immediately confirmed and was the only Vermonter ever to serve as the Attorney General of the United States.

It has been more than 25 years since a Senator was nominated to be Attorney General. Senator William Saxbe of Ohio resigned his Senate seat in 1974 to pick up the reins of the Justice Department in the aftermath of Watergate, at a time that saw two prior Attorneys General indicted toward the end of the Nixon Administration. It has been more than 130 years since a President has chosen to nominate a former Senator after he lost his bid for reelection to the United States Senate to be Attorney General. It is not since President Grant nominated George Williams to be Attorney General in 1871 that we have had a former Senator nominated to this important post after being rejected by the people of his home State.

The position of Attorney General is of extraordinary importance, and the judgment and priorities of the person who serves as Attorney General affect the lives of all Americans. The Attorney General is the lawyer for all the people and the chief law enforcement officer in the country. Thus, the Attorney General not only needs the full confidence of the President, he or she needs the confidence and trust of the American people. All Americans need to feel that the Attorney General is looking out for them and protecting their rights.

The Attorney General is not just a ceremonial position, and his or her duties are not just administrative or mechanical. Rather he or she controls a budget of over $20 billion and directs the activities of more than 123,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers and other employees in over 2,700 Justice Department facilities around the country and in over 120 foreign cities. Specifically, the Attorney General supervises the selection and actions of the 93 United States Attorneys and their assistants and the U.S. Marshals Service and its offices in each State. The Attorney General supervises the FBI and its activities in this country and around the world, the INS, the DEA, the Bureau of Prisons and many other federal law enforcement components.

The Attorney General evaluates judicial candidates and recommends judicial nominees to the President, advises on the constitutionality of bills and laws, determines when the Federal Government will sue an individual, business or local government, decides what statutes to defend in court and what arguments to make to the Supreme Court, other federal courts and State courts on behalf of the United States Government. The Attorney General exercises broad discretion, largely unreviewed by the courts and only sparingly reviewed by Congress, over how to allocate that $20 billion budget and how to distribute billions of dollars a year in law enforcement assistance to State and local government, and coordinates task forces on important law enforcement priorities. The Attorney General must also set those priorities, and make tough decisions about which cases to compromise or settle. A willingness to settle appropriate cases once the public interest has been served rather than pursue endless, divisive, and expensive appeals, as John Ashcroft did in the Missouri desegregation cases, is a critical qualification for the job.

There is no appointed position within the Federal Government that can affect more lives in more ways than the Attorney General, and no position in the cabinet more vulnerable to politicization by one who puts ideology and politics above the law. We all have a stake in who serves in this uniquely powerful position and how that power is exercised.

We all look to the Attorney General to ensure even-handed law enforcement; equal justice for all; protection of our basic constitutional rights to privacy, including a woman's right to choose, to free speech, to freedom from government oppression; and to safeguard our marketplace from predatory and monopolistic activities, and safeguard our air, water and environment.

As I said at the confirmation hearings for Edwin Meese to be Attorney General, "[w]hile the Supreme Court has the last word on what our laws mean, the Attorney General has often more importantly the first word."

In addition, the Attorney General has come to personify fairness and justice to people all across the United States. Over the past 50 years, Attorneys General like William Rogers and Robert Kennedy helped lead the effort against racial discrimination and the fight for equal opportunity. The Attorney General has historically been called upon to lead the Nation in critical civil rights issues, to unite the Nation in the pursuit of justice, and to heal divisions in our society. America needs an Attorney General who will fight for equal justice for all and win the confidence of all the people, not one with a record of missed opportunities to bring people together.

I do not have the necessary confidence that John Ashcroft can carry on this great tradition and fulfill this important role. Therefore, I cannot support his nomination.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I ask unanimous consent I be permitted to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTHEASTERN EUROPE, THE MIDDLE EAST AND OUR FLAWED ENERGY POLICY

Mr. VOINOVICH. Mr. President, several weeks ago, Senator SPECTER and I had the unique privilege to represent our nation and this body during a visit to Germany, the Federal Republic of Yugoslavia, Bosnia, Egypt and Israel.

While in these nations, we were able to meet with a number of government and non-governmental leaders who familiarized us with the current situation in southeastern Europe and the Middle East.

I found our discussions with these leaders to be extraordinarily educational and highly productive, and their insight helped us assess the broad spectrum of issues that shapes both of these volatile regions of our globe.

Our first stop was in Munich, Germany where Senator SPECTER and I spoke with members of the U.S. Embassy about trade, security and foreign policy issues facing the United States and Germany.

We also met with a number of leaders of the Munich business community to talk about trade issues affecting the United States and the European Union, (EU). Specifically, we discussed steel, bananas, and genetically-modified beef—all issues currently dominating our trade relations.

We further spoke about the deployment of the National Missile Defense system, our commitment to the ABM Treaty and the concern in the U.S. that the Europeans are moving away from their commitments to NATO.

Our second stop was in Belgrade, Yugoslavia. It was my first trip to Yugoslavia in many years; since before Milosevic came to power. I had been asked to go many times—even by the Patriarch himself—but I said that I would not go until Milosevic was no longer in power. I had taken the same view with regards to Croatia; I would not go there until Tudjman was gone.

The fact that in the last year I've visited both Croatia and Yugoslavia says that a lot about the change that has happened.

And I am proud of the fact that I was the first member of the House or Senate to visit Croatia's new president, Stipe Mesic, and that Senator SPECTER and I were the first U.S. elected officials to fly into Yugoslavia and congratulate President Kostunica.

I think it's important for the American people to know that our efforts in southeastern Europe are paying dividends for the cause of democracy, the rule of law, human rights and a market economy.

However, a part of me often wonders if we had taken as much of an interest in southeastern Europe in the early 1990's as we do today, perhaps we wouldn't have to have U.S. troops in Bosnia and Kosovo.

Still, we are making progress in restoring order and building peace, and though some may not agree, it is in our national interest to be involved in the Balkans.

I was impressed with the leadership of Yugoslavia's President Kostunica. He has surrounded himself with bright, capable individuals who share their President's eagerness to bring their nation back into the fold of the international community.

Our discussion focused on a number of issues, including reintegrating Yugoslavia into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people—including a lack of power, medicine and medical equipment—and the situation in Kosovo, the Presevo Valley and relations with Montenegro.

I was also impressed with Zoran Djindjic, the Serbian government's prime minister. Our meeting largely focused on the same subject matters discussed with President Kostunica.

We also discussed in detail the war crimes issue and America's strong interest in seeing progress in this area. I reminded him that Congress had laid out conditions in the FY 2001 Foreign Operations Appropriations bill in order for U.S support to continue.

From Serbia, we traveled to Bosnia to visit our American troops. We were met by Major General Smart who gave us an overview of the situation in Bosnia. He informed us that the men and women under his command understand the importance of their mission, have high morale and are performing beyond expectations.

After lunching with some of our men and women in uniform from Ohio and Pennsylvania, Senator SPECTER and I rode along with some of our troops on a Humvee patrol through the area.

I asked a couple of the young soldiers with whom we were patrolling what they thought would happen if the United States were to pull out of the region. They answered without hesitation that the ethnic hostilities between the Serbs, the Croat's and the Muslim's would almost immediately resume.

Their assessment—these two young men who are right in the thick of it—made it clear how important it is to maintain an ongoing international military presence in Southeastern Europe for at least the immediate future. In my view, Bosnia's government structure which was created in Dayton is fundamentally unworkable, and it must be reassessed if there is ever to be a lasting peace in Bosnia.

After a return to Belgrade for more meetings, we flew to Egypt, where we met with President Mubarak.

We had a detailed discussion about the latest peace plan put forward by President Clinton, Egypt's role in the peace process, and the comparative positions of the Israelis and Palestinians.

During the meeting, we encouraged President Mubarak to support President Clinton's peace initiative, and requested he urge other Arab leaders to support the peace initiative in Israel.

From Cairo, we went to Israel to meet with Shimon Peres, Ehud Barak and Ariel Sharon and other leaders to discuss the fragile peace process.

Mr. Peres felt that economic cooperation is a key to conflict resolution, believing that if people have something to lose in war or violence, they will be less likely to fight. We also discussed the issues of the day in the negotiations—the Temple Mount and refugee returns.

Mr. Barak expressed his disappointment at the failure of various peace initiatives, and concern that the Palestinians may be learning the wrong lesson: that continued violence strengthens their negotiating position.

He stressed the opposite: that violence is slowing the peace process and strengthening the negotiating position of the Israelis. Mr. Barak was hopeful that negotiations would continue throughout the American presidential transition and the Israeli elections. Thank God they have.

We then met with Ariel Sharon, and immediately discussed his controversial visit to the Temple Mount last September and the impact it had on the peace process. I indicated that many Americans felt it was inflammatory.

Mr. Sharon explained that his visit was a normal event and that every Israeli citizen has the right to visit the Temple Mount because of its religious significance. Evoking images of Richard Nixon, he further stated that he was the only candidate for Prime Minister who could reach a true peace agreement with the Palestinians.

After my meeting with Mr. Sharon, I joined U.S. Consul General Ron Schlicher for a dinner discussion with Faisal Husseini. Husseini is a leading figure in the Palestinian community. We had a lengthy discussion regarding the ongoing violence and tensions in Israel, prospects for peace, and the Palestinian perspective on the last 50 years.

The next day, I also met with Mr. Jawdat Ibrahim, a young Palestinian businessman who was deeply interested in the peace negotiations. I was interested in his view—and through him, the Palestinian view—on current events. Our discussion was interesting and it added an important perspective to my trip.

Mr. President, at this time, I ask unanimous consent that a longer statement outlining many of the observations that I was able to make over the course of our trip be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. VOINOVICH. Mr. President, one of the true benefits of traveling overseas is it gives lawmakers an opportunity to see first hand the political, social and economic conditions of nations that many of us only read about in the papers or see on the nightly news.

It also allows us to see how these conditions in one part of the world can have a profound impact on an entirely different part of the world.

So it was with my trip to the Middle East, where I was able to see how events there have a direct effect on events in the United States. Many people in our nation do not realize this, but there actually is an "interconnectedness" of issues between nations that sometimes we don't think about.

One thing that I have thought a lot about since my visit is just how much the "on-again/off-again" peace process in the Middle East affects our nation's energy policy, particularly as it relates to our national security.

While I was in Israel, I met with Richard Shotenstein, the Managing Director of the Ohio Department of Development's Eastern Mediterranean Regional Office, an office I created as Governor of Ohio.

He told me that the tensions surrounding the ongoing Middle East crisis have dramatically lessened the interest of Ohio companies in business opportunities in the region.

He also indicated that there is a growing anti-Americanism, largely seen in boycotts, spreading throughout the Arab world, where many view the U.S. and Israel as intimately linked. Thus, anti-Israel trends become anti-American trends.

This should be a concern of every American given the fact that today, the United States is more dependent on foreign oil than at any other time in history.

In 1973, at the time of the Arab oil embargo, we imported 35 percent of our oil to meet our domestic needs. Today, that number averages 58 percent and it is estimated that we could be importing 65 percent of our oil by 2020.

Unless we address our own domestic energy needs and become less dependent on foreign oil, we may be held to the whims of the OPEC nations, and indirectly, to the vagaries of the Arab world—particularly in Iraq, arguably our nation's biggest enemy.

On January 17, the New York Times reported that the OPEC nations were going to reduce oil production by 1.5 million barrels per day. Although this will likely drive up prices, the real problem to watch for is what Iraq will do.

According to the article:

> If Iraq indeed keeps exports to a trickle, Saudi Arabia—as the largest producer in OPEC and its de facto leader—may feel compelled, as it has intermittently over the last year, to increase its own output to make up for the Iraqi supplies. But the Saudis might be able to replace only part of the oil that Iraq took off the market.

I shudder to think how Iraq would use its influence should they gain a more dominant role in the production of crude oil in the Middle East.

It is one of the major reasons why a lack of a reliable supply of energy should be of great concern to all Americans.

Consider the rolling electricity blackouts that California is now experiencing. Consider also natural gas prices which are expected to skyrocket 70 percent by the end of winter according to predictions by the Department of Energy.

Add in the fact that home heating oil prices have already jumped by 40 percent and more, not to mention high gasoline prices, and it should become crystal clear that our country's lack of a comprehensive energy policy must be addressed.

Since at least the mid-1970's, Congress and presidential administrations of both parties have been unwilling, unable and unmotivated to implement a long-term energy policy.

As I have stated, the United States relies on more foreign sources of oil than at any other time in history. However, even if we wanted to increase the production of crude oil in this country, there has not been a new refinery constructed in 25 years due, in part, to changes in U.S. environmental policies.

Additionally, 36 refineries have closed since the beginning of the Clinton administration, in part, because of strict environmental standards.

Last year, the existing refineries were running at 95 percent capacity or higher for much of the year. With our refineries running at these levels, even if a greater oil supply was available, there would be no capability for refineries to turn it into useful products.

As a result, we must currently rely on overseas supplies at an astronomical cost from a region fraught with instability. Until new refining capacity is available, even minor supply disruptions will continue to lead to drastic increases in fuel prices. No one has dared contemplate what would happen should major disruptions occur.

In addition, natural gas heats 56 million American homes and provides 15 percent of the nation's electric power, for nearly one-quarter of our energy supply.

Because natural gas burns so cleanly, it is easier to obtain the environmental permits necessary to build natural gas-run energy plants. Thus, it is easy to see why virtually all new electric generation plants that are currently being built will use natural gas for fuel.

The popularity of natural gas is good for the air we breathe, but the high demand for it is beginning to pinch the pocketbook, resulting in soaring costs. We should not forget that other energy resources are available which can provide additional sources of clean, low-cost power.

New technologies are making coal an increasingly cleaner source of electricity. We should not forget this valuable, abundant natural resource—with an estimated domestic supply of 250 years—as we move forward with an energy policy that not only protects our environment, but also continues to meet consumer's needs for power.

I support efforts such as those in the National Electricity and Environmental Technology Act, introduced last week by Senator BYRD. His bill creates research and development programs that provide incentives for developing clean-coal technologies in the U.S.

As my colleagues know, if we are to decrease our dependence on foreign energy sources, research and development will be important to ensure that coal can remain a viable energy option in the future.

During this energy crisis, it is critical that we restructure our country's disjointed energy policy into a national plan that is comprehensive, cohesive and cost-efficient.

Last year, the Majority Leader and Senator MURKOWSKI introduced legislation to address many of these problems. I was proud to be an original cosponsor of that legislation in the 106th Congress, and I will cosponsor Senator MURKOWSKI's bill when he introduces it this year.

In addition, Senator MURKOWSKI and I sat down last week to discuss the role that environmental regulations play in our nation's energy policy. We agreed that it is imperative that we work to harmonize our environmental and energy policies so that clean, affordable and reliable energy can be made available to all consumers.

To help accomplish this goal, we both agreed that the key to a comprehensive energy policy will rely on environmental regulations that, while protecting public health and the ecosystem, are based on cost-benefit analysis and sound science. As Chairman of the Senate's Clean Air Subcommittee, it is something that I will work towards in the 107th Congress.

Finally, with the extreme cold weather we have experienced so far this winter compounding our current energy crisis, we need to encourage the President to provide more funding for the Low Income Home Energy Assistance Program—LIHEAP—to meet the pressing needs of those who are most vulnerable to skyrocketing energy prices. Certainly if we have a supplemental this is an emergency that needs to be addressed in that.

Under LIHEAP, states are required to use the Federal funds they receive to provide the greatest level of benefit to the greatest need.

That means in my State of Ohio, some 220,000 households are expected to be helped this year—10 percent more than last year—with each household receiving payments between $150 and $400 to cover energy costs.

Last week, along with a number of my colleagues, I asked the President to provide $300 million in emergency LIHEAP funds. Should he allocate these funds, it will help hundreds of thousands of low income families, seniors and the disabled get through our current energy crisis.

Our national security depends on our ability to guarantee a reliable energy supply. To do this, we must lessen our dependence on foreign oil, investigate alternative fuels and energy sources and ensure an adequate delivery and supply infrastructure.

At the same time we are developing this energy policy, we must insist that it does not result in diminishing our environment or public health. We cannot allow that to happen. We must continue to improve the environment and public health. It is a complex task, but one I know that we can accomplish if we work together on a bipartisan basis. We need to get the environmentalists, industry, and consumers—all of us in the same room talking to each other, so we can come up with a policy that is fair to everyone.

EXHIBIT 1

OBSERVATIONS IN SOUTHEASTERN EUROPE AND THE MIDDLE EAST, JANUARY 29, 2001

(By Senator George Voinovich)

On the morning of December 28, 2000, Senator Specter and I left Andrews Air Force Base for a 7 day assessment of the situation in Southeastern Europe and the Middle East and the prospect for peace in either region. The first leg of our journey consisted of an approximately nine hour flight to Munich, Germany where we were scheduled for an overnight stay. Arriving late that evening, we were met by Consul General Robert W. Boehme and John McCaslin, a U.S. Foreign Commercial Service officer. We had an interesting discussion about a variety of trade, security and foreign policy issues facing the United States and Germany.

The next morning, (December 29), Senator Specter and I met with a number of leaders of the local business community. We had an interesting conversation about a variety of trade concerns facing the United States and the European Union, EU. Specifically, we discussed the steel, banana, and genetically-modified beef issues currently dominating our trade relations.

When the conversation turned to technology, I was surprised to learn that the Germans are facing the same shortage of highly-trained information technology workers that our nation has been struggling with in recent years. This problem has been exacerbated by the growing number of entrepreneurs funneling venture capital into the high-technology sectors of the economy.

We also had an interesting discussion about National Missile Defense, NMD. The business leaders we met with explained their deep concern that the United States' commitment to an NMD system may create another Cold War with Russia and China. They were also concerned with our continued commitment to the Anti-Ballistic Missile Treaty, ABM Treaty, and indicated that their views largely reflected those of the German people.

Finally, we discussed the European Union's, EU, European Security and Defense Policy, ESDP. Senator Specter and I made it clear that many Members of Congress are concerned that our European allies are moving away from their commitments to the North Atlantic Treaty Organization, NATO. The group responded by explaining that the Europeans will continue to view NATO as the foundation of the trans-Atlantic relationship.

After the meeting in Munich, Senator Specter and I flew to Belgrade in the Federal Republic of Yugoslavia, FRY. Ours was the first American plane to land in Serbia since the Kosovo bombing campaign in early 1999.

While a number of the buildings in the central section of the city were abandoned due to bomb damage, I was generally impressed with the city's landscape. It was clear that Belgrade was once the economic, political and cultural heart of Tito's Yugoslavia.

We immediately met with Vojislav Kostunica, the recently elected President of the Federal Republic of Yugoslavia at the Federation Palace, and it was not lost on me that we were the first federally-elected officials from the U.S. to meet the man who toppled Slobodan Milosevic. He reminded us that it took Yugoslavia less time to elect their new president than it did for us to elect the President of the United States.

The President sat down with us after completing a meeting with Boris Trikosky, the President of the Former Yugoslav Republic of Macedonia, whom I personally had met last February during a visit I made to Croatia, Macedonia and Kosovo. The discussion President Kostunica had with Senator Specter and me focused on the progress that has been made in reintegrating the FRY into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people (including a lack of power, medicine and medical equipment), and the situation in Kosovo, the Presevo Valley and relations with Montenegro.

We spent a great deal of time stressing to President Kostunica the importance of cooperation with the United Nations' International Criminal Tribunal for the Former Yugoslavia, ICTY or the Hague. We made it clear that Congress will demand significant progress in this area in order for economic assistance to continue to be made available to the FRY. We also highlighted the view of many in the U.S. that Milosevic must be brought to justice for the crimes he committed against humanity in Bosnia and Kosovo; specifically, that he be brought to the Hague.

In response, the President indicated that he was very aware of American concern over the war crimes issue, and that he shared our concern but for very different reasons. Milosevic is thought to have stolen over $1 billion from the people of Serbia during his rule, ordered the murder of many of his political opponents and manipulated the results of several elections, among other crimes.

President Kostunica made it clear that the Serb people want him to be held accountable for his crimes against the Serb people before he faces any international court or charges for war crimes. He also indicated that a domestic trial would begin to show to the people of the FRY what horrors were committed on their behalf over the last ten years.

He explained that Milosevic's control of the media prevented the vast majority of people from the truth about Bosnia and Kosovo. A trial would begin to present these ugly realities. He pointed out that the International Criminal Tribunal for the Former Yugoslavia is expected to open an office in Belgrade as a sign of growing cooperation and understanding between The Hague and the FRY.

The next meeting we held was with Miroljub Labus, the Federal Deputy Prime Minister responsible for economic policy, and his senior team. I was very impressed by his understanding of the various problems dragging down the Serbian economy. He made a point to stress the humanitarian crisis the country is facing.

He also made it clear that their efforts to reinvigorate the economy, attract foreign investment and begin to address the nation's debilitated infrastructure would not likely have an effect for several months. He explained that Milosevic's rule had left the economy in such a shambles that they were only now beginning to pick up the pieces.

I stressed the importance of resisting the traditional Balkans temptation to fill key jobs in the new government with family, friends and political allies. Given the troubles before them, now is not the time to bring in political hacks. Labus must assemble a clean, well-qualified team, and from what I saw, he has done so thus far.

I was very impressed by Deputy Prime Minister Labus and his team. The future Serbian Minister for Finance, Bozidar Djelic, and the FRY's Stability Pact Coordinator, Milan Pajevic, attended the meeting as well. It was clear that they understood the importance of addressing their people's needs in the short-term.

We then met with Zoran Djindjic at his campaign headquarters. Mr. Djindjic ran Mr. Kostunica's presidential campaign and has been active in the opposition movement in Serbia for years. It was widely reported that he would soon be installed as the Serbian government's prime minister, and in fact, on January 25, he was sworn in as prime minister. As my colleagues may not be aware, under the FRY's constitution, the prime minister of Serbia is given a great deal of power, thus, Mr. Djindjic will be intimately involved in finding solutions to the various problems facing his country.

The discussion largely focused on the same subject matters discussed with President Kostunica—reintegrating the FRY into the international community after Milosevic's downfall, the country's continuing economic challenges, the humanitarian issues facing the people (including a lack of power, medicine and medical equipment), and the situation in Kosovo, the Presevo Valley and relations with Montenegro. We also discussed in detail the war crimes issue and America's strong interest in seeing some progress in this area. I found Mr. Djindjic to be well-versed in all of these matters and largely aware of the official American position on them.

Of the various matters covered, the issue of Montenegro's relationship with Serbia was discussed in the most detail. Mr. Djindjic's passion for retaining the existing structure/relationship with Montenegro was clear. As some of my colleagues may know, President Djukanovic of Montenegro has indicated that, in response to the popular will of his citizens, he may be forced to hold a referendum on Montenegrin independence in the next few months. Mr. Djindjic indicated that such a move would create a crisis between Serbia and Montenegro which would have the potential to have a broader regional impact.

I then traveled to the Ministry of Foreign Affairs for a meeting with Foreign Minister Goran Svilanovic. Again, in an effort to be consistent in my message to the new government, I explained in detail the importance of cooperation with the International Criminal Tribunal, (The Hague). The Foreign Minister's response echoed that of the President and Mr. Djindjic.

I was pleased to know that Mr. Svilanovic is pushing EU membership as a long-term goal for the FRY. To that end, he plans on traveling extensively in the near future to explain the various issues facing his country, their plans to address them, and their long-term agenda. I am hopeful that he will be successful in this effort. I believe that a focus on EU membership will encourage changes within the FRY that will further instill a commitment to democracy, the rule of law and human rights.

For dinner that evening, I was pleased to join U.S. Ambassador to the Federal Republic of Yugoslavia, William Montgomery, Foreign Minister Svilanovic, Professor Vojin Dimitrijevic, who is head of the Belgrade Human Rights Committee, and Milan St. Protic, the Mayor of Belgrade. It was widely expected at that time that Mayor Protic would be named as the FRY's Ambassador to the U.S. and since we've been back in the United States, it has actually occurred. As a matter of fact, just last week, I met with Ambassador Protic to discuss a variety of issues of concern to his nation.

The dinner we had in Yugoslavia included a frank, wide-ranging, off-the-record discussion, where we exchanged views on the opposition movement in Serbia during the Milosevic years, the Bosnia tragedy and Kosovo. It was a dinner that I am not likely to forget soon.

The morning of December 30, Senator Specter and I met with His Holiness Paul, the Patriarch of the Serbian Orthodox Church, at the Patriarchate. The Patriarch discussed the importance of reconciliation between the various peoples of southeast Europe to the future of the region.

He pointed out that cooperation and mutual respect between the various ethnic groups in the region, between the Serbs and Albanians in Kosovo, for example, is impossible while violence continues. He expressed his deep concern and remorse that nearly 100 Serbian Orthodox religious sites, included centuries-old churches, had been destroyed in Kosovo since the completion of the 1999 NATO bombing campaign.

The Patriarch gave me a copy of a booklet that the Serbian Orthodox Church prepared on the number of churches gutted, damaged and destroyed. I told the Patriarch I had read it and had shared copies that I had been given by Father Irini Dobrevich with some of my colleagues.

I reminded the Patriarch that I met with Bishop Artemiie on his visit to the UN and the United States last year and indicated that he is an effective voice for the Serbian Orthodox Church in Kosovo. I stated that because of the efforts of people like Bishop Artemjie, the U.S. State Department is a little more focused in terms of their involvement and concern with Yugoslavia.

Further, the Patriarch Senator Specter and I discussed the terrible ethnic cleansing that had happened and was continuing to happen in Kosovo, and I asked him to keep me updated on the ongoing situation in Kosovo.

Finally, I thanked him for the leadership role the Orthodox Church played in the removal of Slobodan Milosevic and their push for free and fair elections, and for establishing a Serbian Orthodox Church office in Washington, led by Father Irini Dobrevich. I have gotten to know Father Dobrevich and find him to be a breath of fresh air in Washington. He has worked hard on behalf of Serbs in diaspora and continues to respond to the many ongoing humanitarian needs in the FRY.

Senator Specter and I then flew to Tuzla, Bosnia where we were met and briefed by Major General Walter M. Sharp. Major General Sharp commands Multi-National Division, a force of some 7,000 soldiers. He was happy to report that the men and women under his command understand the importance of their mission, have high morale and are performing beyond expectations.

After the overview, we traveled to Camp Dobol where we shared lunch with a number of Ohioans and Pennsylvanians serving their nation in Bosnia. And I have to say that we as a nation should be very proud of all of our young men and women who serve their country, not just in Southeastern Europe, but all over the world.

Senator Specter and I then rode along with some of our troops on a mounted patrol through area. It quickly became clear to me that General Sharp's comments about the morale and performance of his people were accurate.

Although some of the scenery looked very peaceful, it belied incredible tension in the area. I asked a couple of the young soldiers with whom we were patrolling what they thought would happen if the United States were to pull out of the region. They answered without hesitation that the ethnic hostilities between the Serbs, the Croats and the Muslims would almost immediately resume.

Their assessment made it clear how important it is to maintain an ongoing international military presence in Southeastern Europe for at least the immediate future.

After our tour, we returned to Belgrade for more meetings.

We met with Momcilo Grubac, the Federal Minister of Justice at the Federation Palace. Mr. Grubac stressed his government's commitment to the rule of law. He explained that his first task will be to modernize the legal framework within the FRY to bring it into compliance with international standards. He was quick to point out that the years under Milosevic had set the country and its people behind in this area.

Again, we discussed in great detail the importance of cooperation with the international community on war crimes. As expected, his comments largely reflected those of President Kostunica. However, he did indicate that the FRY will no longer harbor indicted war criminals. He added that an internal criminal proceeding to deal with Milosevic would be important to further establishing democracy in the FRY.

We then traveled to the Federal Parliament Building where we met with Dragoljub Micunovic, the President of the Chamber of Citizens, and a number of other leading parliamentarians. On the war crimes issue, Mr. Micunovic agreed that accountability must be established to remove the sense of collective guilt that is beginning to become more and more prevalent in the FRY. On Milosevic specifically, he indicated his strong belief that Milosevic would be tried domestically and by the international community if there were evidence to support charges.

Senator Specter and I then joined Mr. Micunovic at a press conference to discuss our meeting and our general impressions from our visit to Belgrade.

I explained my position about the bombing campaign, that I really believed that other diplomatic routes should have been pursued in dealing with Milosevic. I also explained that had the U.S. not legitimized Milosevic's leadership at Dayton, and not refused to support the resistant movement in 1997, the situation could have been a lot different in Serbia. There could have been an earlier removal of Milosevic from office and avoidance of the whole war, and the death, destruction and human suffering that accompanied it.

One of the questions I was asked was whether the U.S. and/or NATO leaders should appear before a war crimes tribunal for the air war conducted over Kosovo. I made it very clear that the responsibility for the bombing rest solely with Milosevic—not the United States or any of her officials, nor NATO. To those in NATO and the U.S., Milosevic and his thugs were a cancer that had to be removed from Serbia for the crimes he has committed. With Milosevic out of power, it is now possible to stabilize southeastern Europe, integrate Serbia into the EU and improve the standard of living and quality of life of all the Serbian people.

That evening, I joined a number of OTPOR activists for dinner. As my colleagues may know, it was the demonstrations by OTPOR members against Slobodan Milosevic's attempt to steal last autumn's election from Mr. Kostunica that hastened the downfall of Milosevic. I was heartened by the youthful spirit of the people I met and I suggested some new roles that they could play now that Milosevic has been removed from leadership.

I was thoroughly impressed with the quality of this group of leaders in Yugoslavia, men and women who were able to mobilize a nearly 70 percent youth vote turnout in the election that toppled Milosevic. I am sure that they will continue to be a significant force for democracy in the years ahead.

The next day (December 31), we traveled to Cairo, Egypt where we met with U.S. Ambassador Daniel C. Kurtzer. He explained that President Mubarak, with whom we were planning on meeting the next day, was consumed with the Middle East peace process.

With that in mind, we discussed the political environment among the Arab and Israeli peoples, Prime Minister Barak's political position in light of the upcoming elections in Israel and Arafat's negotiating positions in the discussions.

The morning of New Year's day (January 1, 2001), we met with President Hosni Mubarak at his presidential complex in downtown Cairo. We had a detailed discussion about the latest peace plan put forward by President Clinton, Egypt's role in the peace process, and the comparative positions of the Israelis and Palestinians. During the meeting, we encouraged President Mubarak to support President Clinton's peace initiative, and that he should urge other Arab leaders to support the peace initiative in Israel.

After meeting with President Mubarak, Senator Specter and I had a news conference where we indicated that we would send out a telegram encouraging other Arab leaders to come out publicly in favor of the initiative. We also announced that we would be urging President Clinton to meet with Chairman Arafat for the purpose of clarifying the details of the proposal and to keep the parties talking to one another rather than seeing the peace discussions end precipitously. Later that day, we sent a telegram encouraging other Arab leaders to come out publicly in favor of the initiative and continuing the negotiations. We were pleased that ultimately the President did meet with Arafat and that the Arab leaders came out and said that they were supportive of the initiative.

I found President Mubarak to be an engaging, affable man, committed to peace yet struggling to maintain a very difficult political position. Given Egypt's crucial role in maintaining relative peace in the region since the Camp David Accords, it was an honor to meet him. I believe his role will be crucial in the coming weeks, months, and years if peace is to truly be reached in the Middle East.

After the meeting and press conference, we flew to Tel Aviv and then drove to Jerusalem for a series of meetings. Our time in Israel began with a discussion with U.S. Ambassador Martin Indyk who updated us on the American perspective on the peace negotiations. We examined the right of return and Temple Mount issues in some depth which quickly confirmed my impression that the issues facing the negotiators are incredibly complex.

We then traveled to the Knesset building where we had a series of meetings. We first saw Shimon Peres, a friend I have known for years. He indicated that he did not believe that the schedule imposed on the ongoing peace talks, considering the U.S. presidential transition and the upcoming election for prime minister in Israel, was realistic. I agreed.

I believe that it was a mistake and is a mistake to set deadlines on the discussions because they create unnecessary pressure. I believe that it is best to continue an active, open dialogue for as long as necessary, even if it appears that little progress is being made.

Mr. Peres commented how advances in information technology had fundamentally altered the worlds of diplomacy and warfare. He also explained that one of the keys to peace in the region that has not been properly addressed is economic cooperation.

He believes that if people have something to lose in conflict or violence, they will be less likely to fight. This is a message I had received from him several years ago and was crucial in my decision when I was Governor of Ohio to open a Middle East trade office, the Eastern Mediterranean Regional Office, in Israel.

We then discussed the issues of the day in the negotiations—the Temple Mount and refugee returns. As always, I found his analysis to be insightful.

Senator Specter and I then visited with Prime Minister Ehud Barak. As my colleagues would expect, the peace process was the only matter discussed.

Mr. Barak expressed his disappointment at Camp David's failure and the various peace initiatives attempted since then. He also expressed his concern that the Palestinians may be learning the wrong lesson in recent months—that continued violence strengthens their negotiating position. Rather, he made it clear that violence is slowing the peace process and strengthening the negotiating position of the Israelis.

Mr. Barak was hopeful that negotiations would continue throughout the American presidential transition and the Israeli elections. It was clear, however, that the continued violence was putting a great deal of pressure on him.

We then met with Ariel Sharon who is widely expected to defeat Mr. Barak in the upcoming elections for prime minister. We immediately turned to his controversial visit to the Temple Mount last September and the impact it had on the peace process. I pointed out to him that many of us felt that his visit was inflammatory, that it did nothing to aid the peace process and that if elected Prime Minister of Israel, he would have to make it very clear that he was for peace. Mr. Sharon explained that his visit was a completely normal event and that every Israeli citizen has the right to visit the Temple Mount because of its religious significance. I also expressed my opinion that in visiting Israel for the sixth time in twenty years, the situation there was more critical and explosive than I'd ever seen.

We then discussed his plans for the peace process, should he be elected prime minister. He made a number of strong statements regarding his commitment to the process. He argued that since only President Nixon could open the door to China, only he could come to a peace agreement with the Palestinians given his military background.

After the Sharon meeting, Senator Specter traveled on to Jordan to continue examining issues in the Middle East. I remained in Jerusalem to continue to examine the situation in Israel.

That evening, I joined U.S. Consul General Ron Schlicher for a dinner discussion with Faisal Husseini. Husseini is a leading figure in the Palestinian community. We had a lengthy discussion regarding the ongoing violence and tensions in Israel, prospects for peace, and the Palestinian perspective on the last 50 years.

I thought it was important that I have a balanced understanding of the current situation in Israel and was pleased to have the opportunity to meet with Mr. Husseini.

The next day (January 2), I met with Ehud Olmert, the Mayor of Jerusalem. I met Mr. Olmert on my fourth trip to Israel in 1993. He indicated how important it was to retain Jerusalem's integrity during the course of the peace negotiations.

He also argued that the various plans being considered, including President Clinton's proposal, were fundamentally flawed on this point. He strongly believes that the people of Jerusalem, his constituents, will never agree to a divided capital city. Richard Shotenstein, the Managing Director of the Ohio Department of Development's Eastern Mediterranean Regional Office, attended the meeting with Mayor Olmert.

Afterwards, I spoke with Mr. Shotenstein regarding the Office's recent activities. While there have been some great successes, he explained that the tensions surrounding the ongoing Middle East crisis have dramatically lessened the interest of Ohio companies in business opportunities in the region.

He also indicated that there is a growing anti-Americanism, largely seen in boycotts, spreading throughout the Arab world. This trend has especially impacted consumer products. Mr. Shotenstein explained that to many in the Arab world, the U.S. and Israel are intimately linked. Thus, anti-Israel trends become anti-American trends.

I then met with Mr. Jawdat Ibrahim, a young Palestinian businessman who was deeply interested in the peace negotiations. I was interested to see his view—and through him, the Palestinian view—on current events. Our discussion was interesting and it added an important perspective to my trip.

Later that day, I met with a group of Ohioans now living in Israel. After meetings with various political leaders, I wanted to have an opportunity to discuss the issues of the day with people whose lives are affected by the ongoing violence. The group made it very clear that there was a very real sense of fear living in Israel.

Some described risking their life simply driving to and from work. Others feared that their car would explode when they started it every morning. Still others recounted phone calls from relatives living in America expressing concern about the safety of their grandchildren. I cannot imagine living with this kind of fear.

The last day of the trip (January 3), I had a telephone conversation with Benjamin Netanyahu. While I was disappointed that scheduling conflicts prevented our meeting in person, I found his analysis of the situation in the region to be very insightful. I hope to have the opportunity to meet him on my next visit to the region, although he indicated that he would make it a point to meet with me the next time he visited the United States.

Following my phone conversation, I had another meeting with Ambassador Indyk to discuss the various things I had learned during my visit to the region.

I was pleased to travel with my colleague, Senator Specter, to two of the most important regions to our national security at such a crucial time. I gained valuable insight as to the fragility of peace, and came away with a new and deeper appreciation for our American democracy.

Mr. President, as we welcome a new administration to the White House, I am hopeful that President Bush and his foreign policy team will be successful in promoting peace, stability and prosperity in these areas. We must never forget that both southeastern Europe and the Middle East are important to our national security and our nation's future.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

EXECUTIVE SESSION

NOMINATION OF ELAINE LAN CHAO, OF KENTUCKY, TO BE THE SECRETARY OF LABOR

Mr. THOMAS. Mr. President, I now ask unanimous consent the Senate proceed to executive session to consider the nomination of Elaine Lan Chao, of Kentucky, to be Secretary of Labor, notwithstanding the consent of January 24, 2001, that the time of the nomination be yielded back, and the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume the pending business.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I want to bring to the attention of all Senators that this will mean we have approved in such a short period of time 12 of President Bush's 15 nominations and that tomorrow afternoon we will approve two more, leaving only one. I want the record to be spread with the fact that that is pretty good work of the U.S. Senate. We look forward to completing all 15 in the near future.

I withdraw any objection that I have.

The PRESIDING OFFICER. Is there objection? If not, the nomination is confirmed.

Mr. THOMAS. Thank you, Mr. President. Certainly all of us are pleased with the progress that has been made here and that it allows the administration to get into place and begin to move. I thank the Senator from Nevada.

Mr. REID. Mr. President, if I could say to my friend from Wyoming——

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Also we have had experience working with Mrs. Chao before. She is a good administrator. She has been good to the State of Nevada in the past. I look forward to working with her as Secretary of Labor. I am sure she will do a good job.

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my support for Elaine Chao's nomination to be Secretary of Labor. Ms. Chao is a woman of impressive talents who has achieved a great deal in her career, both in and out of government. She is an accomplished manager and a graceful leader, and she has distinguished herself and her family by her strong commitment to public service.

She knows first hand the experience of minorities growing up in the America of the 1950's and 60's. Her career is a vivid example of the triumph of the American dream. She decided to attend both college and graduate school in Massachusetts, and our state is proud of her, too.

As we all know, the Secretary of Labor has the profound responsibility for enforcing the basic federal laws and federal programs that protect workers' fundamental rights, especially in areas such as fair wages, fair benefits, reasonable work hours, safe and healthy workplaces, and non-discrimination and equal opportunity in employment. The Department's statutory mission is specifically, and I quote, "to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

Ms. Chao is committed to these goals. As she stated forcefully at her confirmation hearing, "all work is worthy of respect and virtually all workers need appropriate protection." She recognizes that "the labor struggles of the early part of the last century and the laws that grew out of them are a critical part of this nation's historic commitment to justice for all." She has promised to "fully, fairly and evenly enforce the labor laws of this country." Many challenges will face Ms. Chao in her new position, and I look forward to working with her to meet them.

This Congress, once again, will have an opportunity to increase the minimum wage. Many of us have long fought for raising the minimum wage, and we plan to introduce new legislation soon to grant a long overdue increase. Eleven million workers have already waited for over three years for Congress to act.

The real value of the minimum wage has fallen dramatically in the past generation. To have the purchasing power it had in 1968, the minimum wage would have to be at least $8.05 an hour today, not the current level of $5.15. Minimum wage families today fail to earn enough to rise above the poverty level. No one who works for a living should. have to live in poverty. So, I hope that a fair increase in the minimum wage will be a top priority for both Congress and the Administration early this year.

I also hope that President Bush and Secretary Chao will reconsider their support of proposals that would enable states or local communities to "opt out" of a minimum wage increase. In some states today, the state minimum wage is as low as $1.50 an hour. In others, it is $2.65 and $3.35. The vast majority of workers are covered by the federal minimum wage, so these state rates apply to relatively few workers. Clearly, allowing states to opt out of the federal minimum wage would violate our commitment to the principle, which Congress has stood by for over sixty years, that working men and women are entitled to a fair minimum wage. Ms. Chao has said that she supports and will maintain the current federal minimum wage of $5.15 an hour nationwide, but that level today is not sufficient to provide the economic security that every working family deserves.

Another vital labor priority is training the nation's workforce to meet the demands of the new economy. I welcome Ms. Chao's assurance that "training, developing and modernizing America's work force is one of [her] highest priorities," and I look forward to working with her to strengthen programs to address the needs of those in the workforce who are not adequately prepared. The bipartisan Workforce Investment Act, which Congress passed in 1998, reformed federal job training by creating a streamlined, one-stop approach to job training, and it was an important first step. But as more and more workers face mid-life career changes, and as even traditional occupations grow in complexity, better training for all workers—adults, dislocated workers and youth—is a necessity.

I was also encouraged by Ms. Chao's desire to see that "parents have an easier time balancing the responsibilities of home and work." Today's employees are working longer and longer hours to make ends meet. The result is significant new problems for businesses and families. I welcome Ms. Chao's recognition that the Family and Medical Leave Act "has brought about a great deal of benefit for working families that need flexibility." But we can and should do more to deal with these problems, and I am pleased by Ms. Chao's commitment to "keep an open mind" and to be "a real good listener" on further expansions in the law.

We must also guarantee strong and effective enforcement of the federal laws against job discrimination. Current laws require non-discrimination and affirmative action. The landmark Executive Order issued by President Johnson in 1965 has been in effect for more than 35 years, under both Republican and Democratic administrations, and strong enforcement is still needed. In her opening statement at her confirmation hearing, Ms. Chao eloquently testified to her understanding that barriers based on gender, race, national origin and disability have prevented many of America's workers from achieving their true potential. She emphasized that she is "against discrimination of any sort, and will enforce the law as it is enacted." I hope this is an area where the Department and Congress can continue to make progress together.

Many of us have also long been committed to vigorous enforcement of laws and programs to protect workers' health. A particular contemporary concern is the prevalence of ergonomic injuries in the workplace. These injuries are the most significant workplace safety and health issue we face today. About 1.8 million workers report that they suffer ergonomic injuries every year. Another 1.8 million workers suffer such injuries that they do not report. These injuries are painful and often debilitating, and disrupt and sometimes end workers' careers. In the vast majority of cases, these injuries are preventable. The OSHA ergonomics rule went into effect at long last earlier this month. It offers vital protections to American workers, and it benefits employers too. Recent studies should lay to rest the suggestion by special interest groups that we should wait for additional scientific evidence to deal with this serious problem.

Ms. Chao has called the ergonomics rule "the most visible issue" facing the Department of Labor, and she said she would give the issue the "greatest thought and effort and study." I commend her recognition that "any change in our labor laws or in their interpretation must be carefully and solemnly considered, giving respectful and full attention to the views of every participant in the labor-management equation." I know that she will apply this understanding to the ergonomics rule, as well as to all of the other issues before the Department of Labor.

Finally, as we know, from equal pay for women and people of color, to pension plans and health plans, to the Family and Medical Leave Act, employees depend on the Department of Labor to ensure that the nation's labor laws are fully and fairly enforced. We in Congress have our own responsibility in this area—to see that the Department has adequate resources to carry out these missions successfully.

I congratulate Ms. Chao on her nomination, and I look forward to working with her on issues of vital importance to workers and their families. I hope that under her able leadership, the Department of Labor will be at the forefront of improving the lives of the nation's workers and their families, by ensuring that they have good jobs, good wages and safe and healthy places to work.

Mr. ENZI. Mr. President, I am thrilled that we are today confirming Elaine Chao as Secretary of Labor. As Chairman of the Subcommittee on Employment, Safety and Training and a member of the Small Business Committee, I am very concerned about making sure all businesses in this country, even the very smallest, are able to understand the thousands of regulations they must follow and get the help they need to follow them. I know Secretary Chao shares these concerns and I look forward to working with her on these issues.

I am also extremely excited about the managerial and administrative experience Ms. Chao brings to the Department. It is so important that we have good administrative processes in the Department of Labor. The decisions of this Department deeply affect both our nations' workers and the businesses that provide jobs and incomes and help our economy grow. It is absolutely critical that both workers and employers feel that these decisions are not arbitrary and are reached in a fair and impartial manner.

I firmly believe Secretary Chao has the experience and skills to inspire confidence in the fairness of the Department's actions, regardless of their popularity. This is a crucial responsibility of the Secretary of Labor, and I believe Secretary Chao has been well trained to fulfill this responsibility. I look forward to helping Secretary Chao with this task, and I welcome my fellow members from both sides of the aisle to join us in this effort. I hope that together during this Congress we can take a careful and close look at some of the existing regulatory and enforcement procedures that Secretary Chao will inherit. We must ensure that good procedures are followed properly, and we must change procedures that are not working.

I also look forward to working with Secretary designate Chao to bring the Department of Labor into the 21st Century. We are in a very exciting time of more positive relationships between employees and employers. In this period of record unemployment, employers have learned the lesson that it makes good business sense to keep employees healthy and happy. In order to encourage this progress, we must ensure that our Department of Labor does not thwart the development of workplace arrangements and initiatives that benefit both employee and employer. This will take modern, innovative thinking and I am confident that Secretary Chao is such a thinker.

I think the President made a wonderful choice when he nominated Elaine Chao to be Labor Secretary, and I am so glad the Senate has demonstrated equal wisdom by confirming her quickly. I look forward to working closely with Secretary Chao and the Department on all the many challenging workplace issues.

Mr. WARNER. Mr. President, I rise today to express my support for Ms. Elaine Chao to be Secretary of Labor.

This Nation can be no stronger than the men and women who get up everyday and accept the challenges to go out into the workplace and return home to care for their families, themselves, and their neighborhoods. The Secretary of Labor's responsibility is to look out for the welfare of these men and women across our country. I am confident that Ms. Chao will be a great champion of these individuals, and I commend President Bush on selecting such an excellent nominee.

Ms. Chao brings to this important position a record of accomplishment both in the private and public sectors. Among other positions, Ms. Chao has served as president of the United Way, Director of the Peace Corps, Deputy Secretary of the Department of Transportation, and Chairman of the Federal Maritime Administration. Her experience as an executive and experience in finding solutions to complex problems with limited budgets, gives her a solid foundation to lead the Labor Department.

I have personally known Ms. Chao for a number of years. I was honored to be present at her confirmation hearing before the Senate's Health, Education, Labor, and Pensions Committee, of which I am now once again a member. Throughout her career, Ms. Chao has accepted the challenges that have confronted her and pursued her responsibilities with firmness, fairness, and always with a quiet dignity.

Ms. Chao will be a great leader at the Department of Labor, and I look forward to voting in support of her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. THOMAS. Mr. President, I would like to proceed, if I may, under the order. I believe this time is allotted to us.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

NOMINATION OF GALE NORTON

Mr. THOMAS. Mr. President, we were talking about confirmation of appointments. Among the next ones that will take place tomorrow will be the Secretary of the Interior, Gale Norton. I want to spend a little time talking about the Secretary, but perhaps more as a preliminary matter, I want to talk about the importance of Federal lands and the impact they have on the West in particular. Of course, they are national lands.

First of all, I am very hopeful and confident that Gale Norton will be confirmed. I think she has done an excellent job in responding to the legitimate questions she has been asked. That is the role of the Senate: to inquire, ask questions of these aspiring nominees. She has done, I believe, an excellent job of responding.

She is a superb candidate for this job. She has experience. She has experience as attorney general of the State of Colorado, during which time, of course, she had to deal with a good many land, water, and air quality issues and I think dealt with them professionally.

She is knowledgeable, certainly, about the West. The West is unique—I will talk about that in a moment—where, in many cases, more than half of a State belongs to the Federal Government. It is very important to all of us.

Gale Norton has a background in land use and park use, not only from her experience in Colorado but also her experience in the Interior Department as an associate solicitor for the Fish and Wildlife Service, as well as the Park Service. I have had some occasions to talk with her as chairman of the parks subcommittee.

I certainly have an interest in this job in that this Secretary has jurisdiction over the National Park System. She is certainly a conservative conservationist. We have sometimes gotten into the position where those things seem to be an oxymoron; they seem to be conflicting. Indeed, it seems to me they are not.

She is a conservative and I am a conservative, but we are conservationists in that we want to protect the resources so they will be there in the future for our kids and future youngsters. These two things are not incompatible. Under most definitions, they would be quite compatible. I would substitute conservationist—at least to some we have to be an environmentalist. That perhaps is another step.

In any event, I do believe Gale Norton will be confirmed as Secretary, and I certainly support her nomination. I do want to talk about public lands, since we have some time today.

In my State of Wyoming, nearly 50 percent of the land belongs to the Federal Government in various categories. Some was set aside for national parks. We have two of the most famous national parks, Yellowstone and Grand Tetons. We also have Devils Tower and other facilities as well. Some of the land was set aside for U.S. forests. Much of the land, on the other hand, is BLM land, which really was remaining land after the Homestead Act was finished and lands were taken for private ownership. These were the lands that remained and stayed in Federal ownership.

This map shows the holdings throughout the country. They represent millions of acres—a great deal of public land. In Alaska, 68 percent of the land belongs to the Federal Government. In Nevada—Senator REID was just here—they believe theirs is closer to 87 percent federally owned lands. It goes all the way to New Mexico, the Presiding Officer's State, with about 26 percent.

They are very important. Not only are they important because they are public lands and they are great treasures that we want to preserve, but of course they have a great deal to do with the way we live. They have a great deal to do with our economy. They have a great deal to do with our culture.

Those who live there often talk about public lands, and I understand people in Maryland or people in Connecticut often are not quite as familiar with the fact that we have millions of acres that are either mountains or high plains.

When we talk about those things, there is not much recognition of what the problems are. I suppose we are guilty of the same thing with regard to coastal lines. We do not have coastal lines in Wyoming. We need to talk about some of these things so we will better understand them.

I am very interested, of course, in the parks. I grew up right outside Yellowstone Park in Cody, WY. The park is one of the real treasures of this country. It seems to me the purpose of the park is to protect those treasures. The second purpose is to allow the owners, the American people, to enjoy them, and, from time to time, how we do that becomes somewhat controversial.

These places are unique, and some are managed for a single purpose: wilderness areas. I support wilderness areas. They are set aside and restricted as to how they can be used.

I hope we do not change the old sign of the Forest Service which said "Land of many uses," to what some would like to change it to: "Land of no uses." I do not believe that is where we ought to be headed, and I do not believe that is where our Secretary of the Interior will be heading.

There are many uses for which the land should be made available, not all economic. There is hiking and camping. You would be surprised by the number of letters I receive, when we talk about the roadless areas, from veterans organizations. Some of our disabled veterans are not going to have access to these lands if we do not provide it. Not only are there resources there such as grazing and timbering, but also recreational access, of course, is most important.

We also need to understand that these resources do need to be managed. We had this year probably the most devastating series of forest fires on public lands in the West. Managing those forests more in terms of access if there is a fire, in terms of thinning to prevent fires, is a very important issue.

We have a unique relationship with the Federal Government because of this involvement. Generally, it is a pretty good relationship. Interestingly enough, often the relationship with regard to the forest and BLM lands is pretty good on the local level with the staffs that are doing the actual work, but when you get to the policy level, the regional level, the national level, that coordination and cooperation seems to become more and more difficult.

We need to find some ways to make the Government a better neighbor to the people of the West so that we can work together. There has been a promise on the part of this administration, and particularly on the part of Gale Norton, to work more closely to involve local people and local governments in management of these lands.

One of the things that has happened, and needs to happen more, and at least be done more effectively and efficiently, is what is called a cooperating agency agreement where, when you have an EIS or study on a particular change of a regulation, why, the surrounding States, the surrounding counties, officials can be brought in as cooperating members and cooperating agencies to help make these decisions. It is true they are Federal lands and the final decision rests with those agencies, but the people who live there ought to have some input, and we hope that can be the case.

Throughout this past administration, it was more difficult. I understand the Secretary of the Interior and the last President were seeking to make some history for themselves, some legend in terms of setting aside public lands. Much of that was done without any commitment or involvement of local people at all.

On the contrary, Escalante Staircase, in Utah, was announced in Arizona when the Governor and the delegation had not been consulted about setting aside millions of acres in the State of Utah. That is not the kind of thing that makes for a good arrangement for managing these resources well or providing an opportunity for local people to participate that each of us thinks they ought to have.

Also, of course, there are a number of agencies that are involved. It isn't just the Department of the Interior. Certainly, in terms of access, we have the EPA, which has a great deal to do with some of the things that are involved with the endangered species and that sort of business. We have the whole access question, which has to do with Transportation, and other agencies. So we hope there will be an effort to bring together agencies that have sometimes conflicting jurisdictions in the Interior Department.

Certainly, I hope, for the most part, these lands, other than those that are set aside for special purposes, can be used for multiple use. And "multiple use," I am afraid, is sometimes interpreted as being very detrimental to the environment. It does not necessarily need to be that way. There can be these uses, if they are managed well—renewable resources, such as grazing, for example. Grazing can be, if it is managed properly. It is certainly not detrimental to these lands. It harvests a crop that is there and will be there again next year.

So multiple use is very important to our States and to the economy there. This, of course, is not to say in the least that we in the West are not as interested in preserving the resources as anyone else in the country. One of the real problems, however, is the decisions with respect to that have generally been made from the top down, where the whole system really was designed in the NEPA arrangements that are in place, and so on, to start at the bottom and move up. And we have had, in our case in Wyoming recently, several instances of changes that were to be made, the most recent one being the use of snow machines in Yellowstone Park, where we had a 2-year winter-use study. They went all through this thing. They came up toward the end with some preferred decisions, and the Assistant Secretary—the very person we are talking about here—came there and said: Wait a minute. We are going to change that. And that was after all the people had participation in it.

In Jack Morrow Hills, which is in the Red Desert in Wyoming, the very same thing happened recently with the Secretary. You go through this process and you talk about partnerships and participation, and then somebody from the administration, at the top level, comes out and says: All right, we are going to change all that.

That is not really what is intended for participatory government. Hopefully, we can do some things that will help to change that.

I emphasize, however, again, that when we talk about preserving resources, I think you will find the people who live there are as adamant and emotional about preserving the resources—more so—than most people because that is where they live. That is where they are. Those are the things that are very important.

So we need to have a little better understanding of the plan and process. Frankly, more recently, it has been my experience, that when people from Washington went out to talk about a proposed roadless plan they were not certain what the plan was when they got to the meeting. And there would not be a lot of support for it among the people who were actually managing the process.

We have a process for a forest plan that comes up for renewal about every 10 years. That is where the decisions ought to be made for the Medicine Bow Forest, not here in Washington. So I hope that is what we can do; that there can be public involvement.

So, Mr. President, I am very excited about the opportunity to support Gale Norton. Certainly, the appointments of the other officials in the Department will be equally as important—when you appoint the Director of the Park Service, when you appoint the Director of the Fish and Wildlife Service, or in the Department of Agriculture, where you have a Secretary who is over the Forest Service and the Forest Service management, as well as, of course, the Chief of the Forest Service, who does not happen to be one who is confirmed by the Senate.

But those are very important items. I hope we can help build some understanding that people who are interested in having multiple use of the lands are not interested in destroying those lands. We sometimes get that view promoted by some of the environmental groups in New York City and other places, that if you are going to use it, it destroys it. That does not need to be the case. Indeed, it should not be the case.

In fact, of course, in the parks we work very hard to provide facilities so that people can come and enjoy them. They have to be managed. I mentioned the sled issue. The parks said: We are going to do away with them because they are too noisy and have too much exhaust. They do. The difference is, there has been no management effort made over the last 20 years to separate the snow machines from the cross-country skiers. There has been no effort made to have standards so that the manufacturers of the sleds would reduce the noise and the exhaust. They were willing and able to do that, if they had some standards that would ensure that the investment they made could then be legitimate.

So I think these are the things we are looking for, to have a little different way of managing these kinds of resources. I am excited about the prospects that Secretary Norton will bring to this agency.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I join my colleague, Senator THOMAS, in supporting the nomination of Gale Norton as Secretary of the Interior. She will, indeed, provide the kind of consultation that has been lacking in this past administration on important issues such as the designation of lands for conservation areas, or monuments, and some of the other issues on which there has been little consultation with the stakeholders, the people who are really most affected by the decisions of the Department of the Interior. Because so much of that Department's role recently has been the recommendation to the President of unilateral executive decisions on his part, that kind of consultation is going to be critical. Gale Norton is the kind of person who throughout her public career has brought people together and has reached solutions to problems that were primarily acceptable to all sides.

I have known Gale Norton for over 20 years. First of all, she is one of the smartest people I know. She actually scored 100 percent on her law school admissions test, the so-called LSAT. She graduated magna cum laude from the University of Denver. She attended the University of Denver Law School, where she was a member of the school's honor society.

She has held a variety of positions in her career, including chairing the Republican National Lawyers Association. She served under the previous President Bush on the Western Water Policy Commission. She served as chair of the Environmental Committee for the National Association of Attorneys General when she was attorney general of the State of Colorado.

As a matter of fact, when she was at the Department of the Interior, in her earlier career, serving as Associate Solicitor for Conservation and Wildlife, she was the primary legal adviser for the National Park Service and the Fish and Wildlife Service. She also played a key role in something—the Presiding Officer has, I think, perhaps been to my office. There is a very large painting in my office of the Vermilion Cliffs in northern Arizona, which is the area where the California condors were brought—this endangered species—to try to rejuvenate the species. This is an area where they thought the condor could survive. They are having a fairly tough time of it, but we hope they will survive. In any event, she was instrumental in protecting the condor.

She was instrumental in negotiating an agreement to deal with the noise from overflights over the Grand Canyon. There are a whole variety of things that Gale Norton did while at the Department of the Interior, and then as the attorney general of Colorado. For example, she was successful in persuading the Federal Government to accelerate the cleanup of a hazardous waste area near Rocky Flats in Colorado, which is the former nuclear weapons production site there, and at the Rocky Mountain Arsenal, a chemical weapons manufacturing site. There are a whole variety of things that one could mention in her record. I think most of them have been pretty well discussed in connection with her confirmation hearings.

But the point is to illustrate, first of all, the fact that she is an extraordinarily capable person, a lawyer with great experience in this Department of the Interior, as well as an attorney general, and other positions, all of which qualify her now to become the Secretary of the Interior.

She has experience in a wide variety of areas with which she will have to deal, including environmental protection—as I mentioned, hazardous waste cleanup, and other things.

As the Presiding Officer is well aware, one of the things the Department of the Interior, of course, has to deal with is giving great care and commitment to be the primary trustee for our Native Americans.

Because the United States has that trust responsibility and it reposes primarily in the Secretary of Interior, it is a critical position.

I ask unanimous consent to print in the RECORD a letter from Kelsey Begaye, President of the Navajo Nation, in support of Gale Norton for the position of Secretary of Interior.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NAVAJO NATION,
Window Rock, AZ, January 16, 2001.

Hon. JOHN KYL,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR KYL: On behalf of the Navajo Nation, I convey our support for Ms. Gale Norton, nominee for Secretary of the Department of the Interior. The Navajo Nation, in its government-to-government relationships, works with the Department of the Interior on myriad issues affecting the Nation. Although there are times when we disagree with one another we continue to work together for the benefit of the Navajo People. We wish to continue the working relationship with the new administration and we look forward to working with Ms. Norton.

The Navajo Nation's past experience with Gale Norton involved issues with the Southern Ute Tribe during her term as Attorney General for the State of Colorado. During that time Ms. Norton approached the tribes and asked how she could help. She provided testimony to the House (Natural Resources) Committee on the Animas-LaPlata project which benefitted the tribes. Her willingness to support the tribes demonstrates her knowledge of Indian nations and their position within the federal system.

The Navajo Nation does have its concerns with regard to Indian country policies and initiatives. We advise the new administration to follow the basic goals and principles of affirmation of the commitment to tribal sovereignty and self-determination, protecting and sustaining treaty rights and the federal trust responsibilities, and supporting initiatives which promote sustainable economic development in Indian country.

The Navajo Nation supports the nomination of Gale Norton for Secretary of the Interior and we trust she will continue to work with Indian country as she has done in the past. We look forward to working with her in advancing Indian country policies and Indian initiative for the Bush/Cheney Administration.

Sincerely,

KELSEY A. BEGAYE,
President.

Mr. KYL. In this letter he notes that Gale Norton has in the past exhibited an understanding of the needs of Native Americans. She worked on one of the settlements when she was attorney general of Colorado that involved water and other issues relating to the Colorado Ute tribe.

On other areas as well, President Begaye notes that she has an understanding of Indian issues which will make her a fine trustee. In all of these regards, it is clear that Gale Norton is well positioned to be a fine Secretary of Interior.

I conclude with what I began—namely, she is the kind of person who is able to bring people together to work on solutions to problems that have been somewhat contentious. Because we are dealing with so many different needs and different groups of people with our western lands and resources, it is important to bring these groups together. She will do that and will make a strong Secretary of Interior.

NOMINATION OF JOHN ASHCROFT

Mr. KYL. Mr. President, I rise briefly to discuss the nomination of another Cabinet official, the Attorney General, John Ashcroft. Hopefully, we will be able, on the Judiciary Committee, to have the vote on Attorney General designate Ashcroft tomorrow. We hope to have that meeting on Tuesday, at the very latest Wednesday. We are hoping to consider his nomination on the floor of the Senate and get that done by Thursday afternoon prior to the time that the Senate recesses for the week.

It is important that this nomination be confirmed. There are a lot of things pending. The Attorney General is one of the officers of the Cabinet who is always on watch. There are all of the assistant attorneys general, U.S. attorneys around the country who are looking for guidance from Washington on a wide variety of matters. We have more terrorist issues that demand the attention of the Attorney General. My colleagues on both the Democratic and Republican side are interested in commencing the process of judicial nominations to fill so many vacancies that exist. All of these and many more issues require an Attorney General who is active and in place. The sooner we can get the President's nominee for Attorney General confirmed, the better for the Nation.

I will comment briefly on some comments that have been made. One of my colleagues this morning spoke, as a matter of fact. The charges are pretty much the same. Let me summarize three or four things that have been said with regard to John Ashcroft and try to put them in proper context.

One of my colleagues this morning commented on the floor that there is a new John Ashcroft. I would have thought that since they didn't particularly like the old John Ashcroft, this would be good news, but it turns out not to be. What they are basically saying is, they don't know which one to trust. You have the old John Ashcroft who, as a Member of the Senate, was pushing legislation to do this and legislation to do that. Now as Attorney General, he says he will abide by the law. Well, which is it? The fact is, John Ashcroft has served in different capacities in his life, and they are not always the same.

As Members of the Senate, we put ideas forth. They are partisan ideas, they are philosophical ideas, and we debate them. In the crucible of this institution, those ideas are put to tests. They are molded, and they are amended. And consensus develops around solutions that we eventually will pass. None of us get our way on any of this legislation, but we all put it forth. We have our debates and then we move on.

That is a very different position than the position of a judge or Attorney General. There you have to take the law as it is, and you have to apply it. You have to interpret it. You have to argue it to the court and so on. I, for the life me, cannot understand why some of my colleagues are not able to make this distinction. Perhaps they are able to and choose not to because it is an unfair criticism of John Ashcroft that he will not apply the law as he is required to do as Attorney General simply because, as a Member of the Senate, he argued for other positions.

We can all walk and chew gum. We can all do different things at different times. There is nothing to suggest that John Ashcroft won't do exactly what he swears he will do when he puts his hand on the Bible and swears to uphold the Constitution and the laws. He did that as attorney general of the State of Missouri. One should not expect that it would change if he is Attorney General of the United States.

Secondly, there is this question of whether he would enforce laws with which he disagrees. Two thoughts about that: First, everyone is assuming he disagrees with certain laws that he doesn't disagree with. The so-called FACE law, the freedom of access to clinics entrances law, he supports that law. He opposes abortion. Some of his opponents say if he opposes abortion, he therefore must oppose that law, and therefore he probably won't enforce it. Wrong on two counts. You can oppose abortion and still support the law, as I do, as Senator Ashcroft does, which says that people should not be harassed when they want to lawfully go into a place which is a lawful place of business. There is nothing inconsistent with opposing what goes on inside that office but upholding the law that says people have a right to enter. He has said he would do that. That is the second point.

I don't know why people don't believe that. There is nothing in his record to suggest he would not uphold that law. He supports the law. He says he will uphold it. I don't understand why people, therefore, in effect question his motivation or his commitment to abide by the oath he will take. That bothers me because it suggests they don't trust John Ashcroft. Yet there isn't a single Senator who has served with John Ashcroft who hasn't, when asked to remark upon this, confirmed that, no, they understand his integrity and it is not that they don't trust John Ashcroft. There is something else.

I think it has to do with the fact that there are so many liberal special interest groups that have a reason to oppose John Ashcroft because his views are not the same as theirs that it is forcing our colleagues then to say things that are inappropriate. Because to suggest that John Ashcroft is not a man of integrity and that he won't keep his commitments is quite unfair to this fine and decent man.

That finally brings me to the third point. My colleague, Senator LEAHY, ranking member of the Judiciary Committee on which I sit, made a very important point this morning with which I agree. He said the office of Attorney General is a little different than the other Cabinet positions in that there is a special kind of responsibility there. With most of the other Cabinet positions, there are policy issues and administration involved, but there is not the necessity of upholding the rule of law. In that, Senator LEAHY was absolutely correct. One could argue that there are a couple other Cabinet positions that also have a unique responsibility.

The Secretary of Defense, I am sure, would fall into that, protecting the American people, not just being interested in policy. But certainly he is right that the office of Attorney General is something special.

We expect the Attorney General to care first and foremost about the rule of law and to represent all Americans as well as the President in upholding that rule of law. As a matter of fact, Senator LEAHY said—paraphrasing here—no position in the Cabinet is as important for evenhanded justice. I didn't do him justice in paraphrasing, but I agree with that sentiment.

It seems to me that people who focus on that issue now with respect to John Ashcroft would have a lot more credibility in making their case against John Ashcroft if they had demonstrated an equal concern for the rule of law in a whole variety of issues that involved the Clinton administration for the last 8 years. On this, many of his opponents have been relatively silent. Every single one of the Democrats in this body voted against the punishment that the House of Representatives offered forth with respect to the impeachment of President Clinton. That was all about the rule of law. As it has transpired, the President has admitted to making knowingly false statements to officers of the court. This is not something which enhances the rule of law. Yet I heard all manner of excuses about the President's conduct at that time.

Nor have we heard much about the rule of law as to the current Attorney General's refusal time after time after time to appoint special counsel or otherwise look into what were clear violations of the law and very questionable conduct with respect to campaign contributions, among other things. When her special counsel Charles LaBella recommended the appointment of a special prosecutor to look into this, when Louis Freeh, head of the FBI recommended the same, time after time Attorney General Reno said no.

When we talk about politicizing the office of Attorney General, I think it is important for our Democratic friends to understand that Republicans have been concerned about the rule of law and the politicization of the Department of Justice for a long time. We are anxious for an Attorney General to go into that office and, frankly, clean it up so that there isn't the politics that has characterized it for the last 8 years.

It is hard for me to give much credence to those on the outside who question whether John Ashcroft can do this and who question his commitment to the rule of law when, for 8 years, they have been silent about repeated matters involving very strong charges that the rule of law is violated by various people and an unwillingness on the part of the Attorney General to do very much, if anything, about it.

Even the last act of President Clinton in pardoning a whole group of people has drawn very little criticism from our friends who are critical of John Ashcroft and are now very concerned about the rule of law. One of these was the pardoning of Marc Rich. A few of my Democratic Senate colleagues have been coached to come out with mild statements, or expressions of concern, about that pardon. I think that is appropriate. There ought to be expressions of concern about it.

My point is that if we are going to talk about concern over the rule of law and how John Ashcroft as Attorney General will protect and preserve the rule of law in this country, then I think it behooves us to be consistent in our concern for the rule of law and apply it equally in the situation of the immediate past Attorney General.

This is an example where I suspect many Americans look at this and say, well, I guess where you stand depends on where you sit. It is easy to criticize somebody on the other side. You don't want to criticize somebody on your own side. That is a natural characteristic of politics. But when we are talking about actually voting against John Ashcroft to be Attorney General of the United States, it seems to me that at last my colleagues who will have an opportunity to vote on that—and I now separate them from the special interest groups about which I have been speaking—need to look at this carefully, look at what they have said about the rule of law over the last 8 years, before they raise concerns about John Ashcroft and the rule of law.

There has never been a more qualified nominee for Attorney General than John Ashcroft and I doubt many with greater integrity. I know many Attorneys General have served with great integrity. Neither his integrity nor qualifications has been questioned. All it boils down to is that some people object to his conservative ideology.

The President of the United States is elected, and I believe he has an opportunity to serve the American people and ability to do so in following through on his campaign commitments, following through on his ideas of how we ought to proceed with public policymaking. The Attorney General will have something to say about that. But mostly, as Senator LEAHY said today, the Attorney General's job is to administer the law. About that, there is no question where the President stands and where John Ashcroft stands.

I urge my colleagues to think very carefully how a "no" vote on John Ashcroft would look perhaps 2 years from now, 5 years from now, 10 years from now. Will it look like a good call or will it look petty? Will it look like an act of statesmanship or will it look like an act of partisanship? I urge my colleagues to think very carefully about this vote before they cast it.

EXECUTIVE SESSION

NOMINATION OF GALE ANN NORTON TO BE SECRETARY OF THE INTERIOR

The PRESIDING OFFICER (Mr. BYRD). Under the previous order, the hour of 2:04 having arrived, the Senate will now go into executive session and will proceed to the Norton nomination, which the clerk will report.

The legislative clerk read the nomination of Gale Ann Norton, of Colorado, to be Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Utah, Mr. BENNETT, is recognized.

Mr. BENNETT. Mr. President, I understand there is to be 3 hours of debate on this nomination to be equally divided, and my request is that I be allowed such time as I may consume and to make it clear to my colleagues that I have no intention of coming close to the hour and a half that is allocated for our side.

The PRESIDING OFFICER. The Chair should state that under the previous order there will be 3 hours of debate equally divided between the chairman and the ranking member of the Energy and Natural Resources Committee.

Under the previous order, there will now be 60 minutes to be equally divided between the two leaders, or their designees. The distinguished Senator from Utah is recognized during the period which is equally divided between the two leaders.

Mr. BENNETT. I thank the Chair for the clarification.

Mr. President, when I decided that I would run for the Senate, I had been out of any active kind of political involvement for close to 18 years.

I left Washington in 1974, the same year Richard Nixon, the President in whose administration I served, left Washington. I remember being in a taxicab in Burbank, CA, on my way to an airport to come back to Washington to pick up my family when on the radio playing in the taxicab Mr. Nixon announced his resignation from the Presidency. At that time, I thought I would never return to anything connected with public life or politics and settled into a career as a businessman.

But life has a way of changing things that we think are set in our lives. I found myself in 1991 contemplating a return to the political arena for the first time as a candidate for a serious office. I discovered in the 18-year hiatus since I had been gone that there were a number of issues I had not paid any attention to which were burning issues in the political arena of that time. One of them was clearly the question of the environment and the use of public lands.

In Utah, we have a tremendous number of public lands. Indeed, two-thirds of our State is owned by the Federal Government, and a large percentage of that which is owned by the State government is given over to State parks and other State land uses. One of the most inspiring of those State parks is known as Dead Horse Point. It is a place where you can go out and look over a huge vista way down below and, for reasons which I don't understand, is named after a dead horse.

As you stand on that point—Dead Horse Point—you get a picture of the grandeur that is available in southeastern Utah. As I went down in that area to look for votes, I discovered that one of the biggest controversies there was the question of an oil well built in an area that could be seen from Dead Horse Point. I went down there absolutely determined that I would do whatever I could to see to it that there would be no oil exploration anywhere in an area that might despoil or damage the glorious views of Dead Horse Point.

When I got there, I found that the local Republican leaders were involved in the oil well. Indeed, the woman, whom I had not met before, who took me around and introduced me into that area, said her husband worked on the oil well and outlined for me what it meant to their family economically if something were to happen to close oil wells. I thought, Well, here I am caught between the economic impact that is benefiting their family and other families and the aesthetic impact of seeing to it that things must be done properly as well as to protect the environment. What am I going to do about it? Then she said something that was very appropriate and, frankly, rare among politicians. She said: Why don't we go look at it? Why don't you see firsthand what this is all about? I said: Fine. That was a good way to delay the issue and not have to announce my position while I would let her take me out and show me where the oil well was.

The gentleman who had driven me down into that part of the State and I got into her pickup truck and we went out looking for the oil well. I say "looking" because you couldn't find it. If you didn't have a guide who knew her way very well, you couldn't find the oil well. You couldn't see it.

To further complicate things, on that particular day it was a little bit overcast and there was not necessarily fog but some confusion in the atmosphere making it difficult for us to get our bearings from surrounding mountains. She was a native of the area, knew it very well, but got lost nonetheless. We made a wrong turn. We wandered around. She tried to get her bearings and finally, retracing our steps, she took us to the place where there was the oil well. We got out of the truck and walked out into an area maybe twice the size of the Senate Chamber.

It had been bermed up around the area, possibly by a bulldozer, but the result was that the oil well was in the bottom of what you might consider a very shallow basin. That is why you couldn't see it. It was not the great derrick we think of when we think of the movie "Giant" and Some of the other visual depictions of drilling for oil. It was what is called a Christmas tree, a series of valves that come together. I had my picture taken standing on it, and the Christmas tree was no higher than I could reach. I could put my hand out on the top of this and stand there. This was the total visual impact of this oil well. It was painted in such a way as to blend into the surrounding flora, and it was at the bottom of a shallow basin. If you were more than 100 feet away from it, you couldn't see it. I realized that the idea it could be seen from Dead Horse Point maybe was true if you had a very high-powered set of binoculars and knew exactly where to look and maybe had some sort of laser device to help you aim, but that no one in the normal course of enjoying the outdoor experience of Dead Horse Point would ever see this oil well.

I went away from the experience determined that I would support the oil well and the pumping of oil in that area to see to it that the people of that area would get some economic stability to their lives, knowing it could be done in an environmentally sensitive way that would see to it that visitors to Dead Horse Point would have no diminution of their outdoor experience in southeast Utah.

I described this experience in this kind of detail for this reason: We are going to discuss the nomination of Gale Norton to be Secretary of the Interior. The opposition to Gale Norton as Secretary of the Interior comes from those who insist that her attitude toward the wise use of our natural resources in this country is so inimical to the idea of wilderness, environmental enjoyment, and environmental protection that she must be defeated.

I suggest we need to, as a nation, go through the same kind of experience that I as an individual went through when I was trying to make up my mind on which side of this divide I would come down. I discovered that you can, in fact, if you are willing to look at the facts, come down on both sides simultaneously; they are not mutually exclusive.

The wise exploitation of our natural resources in an environmentally sensitive way can and should go forward, and it need not—indeed, should not—impinge upon our national commitment to preserve that which is wonderful about the American environment, and particularly the American West where I come from. Those two can and should work closely together.

I learned another thing out of that experience and out of my time in the Senate: The greatest environmental degradation comes in the areas that are the poorest. I was talking to a friend of mine who travels widely around the world for his jobs. He said: The worst pollution I have ever seen in my entire life in all the places I have visited is in Katmandu. It is one of the poorest places on the planet. The reason they have such tremendous pollution is that they don't have the money necessary to clean it up.

We in America have the money, and we have spent the money, and we are continuing to spend the money to see to it that we can have this combination of what I have spoken: Sound economic activity, along with proper reverence for and preservation of our environment. The aspect of that balancing act is this: If we do things in the name of preserving the environment that has the effect of destroying our economic strength, paradoxically, that will come back to hurt the environment. Environmental protection of the kind we have embarked on as a nation costs money. Environmental preservation of the kind to which we have dedicated ourselves as a people is expensive. And the most pollution-free and the most scenically preserved areas in the world are those in the areas where people are the most economically strong.

I say to those who view the nomination of Gale Norton with hostility, recognize that if you are so pure in your determination that nothing whatever can be done of an economic nature on public lands, you run the risk of damaging those public lands. If you do things that damage the American economy, you undercut the American ability to pay for environmental protection, just as the people in southeastern Utah, if they say absolutely no to any kind of oil exploration or pumping, run the risk of degrading the economy in that part of the State to the point where there can be no money for environmental protection. The two must go hand in hand. Not only can they go hand in hand, they must go hand in hand for the benefit of the environment.

The Senator from Alaska has invited me and every other Member of this body to go with him to the Alaskan wildlife preserve, not to be sold a bill of goods, not to go up there with any predetermination. He is willing for us to come up under whatever sponsorship and attitude we might have and see for ourselves what drilling at ANWR really would mean. In other words, he has asked Members to do what I did in southern Utah: Look at it on the ground. See for yourself what it would mean. I intend to take him up on that, by the way, Mr. President. I believe when we do that, we can make a wise decision without going up determined, either for drilling or against drilling, prior to our visit.

One other personal comment about all of these debates. I served in the Nixon administration when the question arose as to whether or not to build the Alaskan pipeline. We had all of the same debates then that we are having now. One that I heard over and over again was the statement that the building of the Alaskan pipeline would not only disturb but would ultimately destroy the caribou herd in Alaska because the pipeline went right through the caribou's traditional mating grounds: We must not allow this; the caribou are too important; the caribou are too vital to our heritage to allow anything to go forward.

That argument did not prevail back in the 1970s. The pipeline was built, and now we can look back at it with nearly 30 years of experience and discover that the amorous urges of the caribou were not affected by the presence of a pipeline. Indeed, the caribou herd is now larger than it was when the pipeline was built, and caribou that have been born since the pipeline was built see it as part of their natural environment, having not been told in advance they were going to be against it, and enjoy the pipeline as their mating grounds. They rub up against the pipeline because it is warm and it is a opportunity for them to get warm in a hostile environment. And the caribou, as I say not being educated to the contrary, think this is a good thing.

I think we can learn a lesson from that experience, the same lesson, again, that we can have proper preservation of the environment and economic development side by side. We need not have this wide schism.

Finally, one last story that frames my approach to this nomination, this seems to be my day to go down memory lane. I go way back this time, to the time when my father served in the Senate and the issue before the Senate was the building of the Glen Canyon Dam, the creation of Lake Powell. There were those who opposed the building of the Glen Canyon Dam, just as there are those now who want it dynamited and taken down. One of the arguments for the Glen Canyon Dam was the need for electric power. There were those who said: This is ridiculous. We will never as a nation need that much electric power. We have plenty of power. The building of the Glen Canyon Dam with its hydroelectric facility will only depress prices because it will produce so much extra power that we will never, ever need.

We can look back on that, with 40 years of experience, and realize that their projections of this Nation's power needs were wrong and that we clearly do need the power. But the interesting footnote of that debate was this: During that debate, people said: If we should be wrong and somehow, some way, the country should need that much extra power, we do not need Glen Canyon Dam and hydroelectric power. There is all that coal in the Kaparowitz Plateau, right next door, that could be burned to provide the power that we need. So let us not build the dam. If we should, by some strange circumstance, need that power, we can always burn the coal.

That was the argument made while my father was a Senator, trying to get the Glen Canyon Dam built. By coincidence, when I became a Senator, President Clinton used the Antiquities Act to create a national monument on the Kaparowitz Plateau for the sole purpose of preventing us from burning that coal.

In today's circumstance it is interesting to note that the coal in Kaparowitz represents enough power to heat and light the city of San Francisco for the next 100 years. Given where we are right now in the California energy crisis, that is an interesting circumstance.

So I have given this history of my own involvement to make it clear why I am an enthusiastic supporter of Gale Norton. She understands that we can do both, we must do both, and we should do both—protect the environment and support the economy. I say to those who say no, no, no, she is too extreme, on one side or the other: Do what I did. Go to the ground. Look at it yourself and try to take a long view of the next 20 or 30 years and see what would be the result of Gale Norton's stewardship, for both the economy and the environment in that circumstance.

Mr. President, I endorse her nomination. I will vote enthusiastically for it. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, let me recognize the senior Senator from West Virginia, former President pro tempore of this body. It is certainly a privilege to have him in the Chair. I wish him a very good afternoon.

I make an inquiry relative to the time agreement pending. Am I correct in assuming we have 3 hours equally divided between my colleague, Senator BINGAMAN, who cochairs the Energy and Natural Resources Committee, and myself?

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. Is there additional time, if necessary, to be divided between the leaders?

The PRESIDING OFFICER. The Senator is correct. There is an additional hour to be divided between the two leaders.

Mr. MURKOWSKI. For further clarification, it is my understanding that Tuesday at 10:30 there will be a number of Senators recognized to speak for roughly 2 hours?

The PRESIDING OFFICER. That is correct.

Mr. MURKOWSKI. It is the intention of the leadership to vote at 2:45 tomorrow, on the nominees, Whitman, Chao, and Norton?

The PRESIDING OFFICER. The Chao nomination has already been disposed of. The other two nominees will be voted on at 2:45 p.m. tomorrow.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, it is my intention to defer my extended opening statement and yield to Senator DOMENICI and then it will be Senator BINGAMAN's turn in sequence to speak at length.

Before I yield to Senator DOMENICI, let me point something out concerning the nomination of Gale Norton for Secretary of the Interior. The Committee on Energy and Natural Resources voted her out with a mandate, 18–2. I might add, for the benefit of Members, that she answered some 224 written questions. She answered all of them in detail.

It is my own view that the environmentalist's attacks on her have gone too far. I think they overstep the bounds of reasonableness. I think to some extent the environmental groups lost credibility with their overzealous attacks on her.

If I were a member of some of those environmental groups, I would want to know whose decision it was to spend the millions of dollars that have been spent in advertisements in newspapers that made false statements about her record. It seems to be the case, when the facts are not on your side the attack seems to be on the person. It is my view that that is what has happened here.

Finally, they have attempted to try to rub out the messenger, but they cannot rub out her message. Her message was that she will enforce the law if confirmed by this body.

I yield to the senior Senator from New Mexico.

The PRESIDING OFFICER. How much time is yielded to the Senator?

Mr. MURKOWSKI. I yield whatever time is necessary. Again, I recognize the junior Senator from New Mexico, and as we have agreed, we encourage other Senators who intend to speak to come to the floor and be heard this afternoon during the available time.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. DOMENICI, is recognized for whatever time is necessary.

Mr. DOMENICI. Mr. President, for the Senators present and for my friend from New Mexico who might want to speak next, I do not think I will use more than 10 minutes.

First, let me say it is a pleasure seeing you in the Chair. For a number of years, obviously, when it was not 50/50 and we were in control, we did not see you there very often. Now we will and it is really a pleasure. I am hopeful that sometime when we have some difficult matters you might be there because your sense of parliamentary procedure is very good from what I can tell and it helps the whole Senate.

Mr. President, today on the floor is the Senator from West Virginia, the Senator from Alaska, and two Senators from New Mexico. It is rather interesting because I choose today to spend my time talking about a very serious crisis that Gale Norton can help us with.

The American people are just finding out that we have an energy crisis of serious proportions. We are on the Budget Committee and we will be talking about grave matters, such as Dr. Greenspan's statement about the surplus being so big and how we ought to start giving back to the people.

You, Mr. President, sat in attendance and listened for 4 hours when he testified, without a recess.

The most important thing in our society is the energy that moves every American's daily life. From the automobiles they drive, the houses they own, the ironing boards they use, the electric washing machines, and, yes, even the industry down the road, be it little or big, all use energy.

I was on this floor way back when we had a big natural gas crisis. The Senator might remember it. It was one of the few times the Democrats told a Senator who was postcloture filibustering a natural gas bill to sit down. Even back then there was great fear that industries in America might not have enough natural gas for the 24-hour shift that they were on.

It was amazing. One of the Senators who objected most to deregulating natural gas—and for those hearing the word "deregulation," this is not deregulation like California deregulating the energy industry. This was deregulation in the sense of the marketplace determining whether they drilled for natural gas and what price was received.

It was important back then. Today America has more coal than Saudi Arabia has oil. What is happening? We have not built a coal-burning powerplant in America for I do not know how long, yet the last five we built were all natural gas.

There are 20-some plants in California and almost all of them are natural gas. They do not make us work at trying to fix the Clean Air Act and expand technology in order to make exchanges that will permit us to use what energy we own.

We have become so frightened about nuclear power. Nuclear power does not have to be a nemesis to coal. America needs a diversity of energy.

In the area of clean coal, we tried to put money into it, we even advanced appropriated money for clean coal technology because it was so important. I was here when it was done. I shared with the Senator in the Chair when he said: Why don't we do that?

I said: Let's do that.

I was not the only one, but we all did that. Even with that, we are so timid matching up the environment with the energy needs of America, and we never come down on the side of energy. It is amazing: New rules, new regulations, new ideas about conservation, but never has one of those issues come down in the last decade on the basis of how much energy are we losing.

This energy crisis is so severe and this President will set about to solve it in a very extraordinary way. The Secretary of the Interior, whom we are about to confirm, will be part of solving that problem; not all of it, but part of it. Why? Because on the public domain lands owned by Americans is more of the resources for energy than on any other properties in America. The Senate ought to know that on the basic properties that we own in the West in the public domain, there is more natural gas than we ever thought existed. There are some who say we have 20, 30, 40 times more than we need. We know for sure that in the past 8 years, the Secretary of the Interior, a wonderful, nice man who got along well with all of us, succeeded in taking lands out of possible production. The potential of drilling a natural gas well, according to the experts, are enough to produce 20 times what we are using per year now. That is a lot.

What if it was 10 times as much? That would be great. It means that much is there and we ought to get it.

What is this Secretary going to be doing? She is going to be part of what I am sure this President is going to do, and that is to task more than one Department to be concerned about energy. He has to task the Interior Department to begin to make decisions based on our energy future. He is also going to task the energy Secretary to get on board as well. In my opinion, he will even task the Director of the Environmental Protection Agency to do the same. Nobody thinks of that as part of our energy solution, but it is a huge potential. They have not been making decisions because nobody has yet asked them to.

When you are making something and you are balancing pluses and minuses, you have to consider energy at each of these Departments in their major decisions. We need an energy policy quickly that will let us have the kind of energy supply that America needs to stay on the path of prosperity. This kind of prosperity will cease if our companies do not get the electricity they need, if those who travel the roads and sell their products do not get electricity, if those who are building new small businesses in the high-tech area which use a lot of electricity do not get what they need, from where is this prosperity going to come?

I am here today because I think it is the right time in history to change Secretaries of the Interior. The public had an election. They elected a Republican, and that means we are going to change the Secretary of the Interior from Mr. Babbitt, a nice man—I like him—to Gale Norton.

I hope she is confirmed. She is entitled to the job. We have probably never had a candidate for that job who is better educated or qualified in the areas of her jurisdiction than this lady. She is not going to be a fool. She is not going to do things in any extraordinary way to cause the people to say: She is forgetting about the environment. You count on it. She is just going to say some of the things we have been doing in the name of conservation are not needed for the environment. We can change them and produce more natural gas for America.

I am not talking only about ANWR because I do not think ANWR is a policy, it is part of a policy. It is part of looking at the public domain of America and asking, considering the nature of America's energy crisis now and for the next 25 or 30 years, can we preserve the environment? Can we produce energy and supply basic energy to help America continue to be the strongest nation on Earth militarily and economically?

It is interesting because I could say almost the same thing about Christine Todd Whitman, the Environmental Protection Agency Administrator nominee. I know that she is not going to be able to exclusively consider environmental matters with total disregard for any cost benefit as it pertains to reasonable costs of energy. That cannot continue. The heyday of that is gone as America tries to find a way to have energy so we can be powerful and prosper and have good jobs and good paychecks.

That is why I think Gale Norton should be confirmed overwhelmingly. There are some in this country who want to "put another Secretary Babbitt in office," and they are angry because this is not another "Secretary of the Interior Babbitt." As I said in confirmation hearings to Gale Norton: If you told the committee you would do everything like Secretary Babbitt, this Senator would not be voting for you because this is the time for a change.

Actually, we do not need more of the last 8 years. We need somebody who will bring balance so we will not have the kind of crisis that is occurring in California and all over America.

I want to close by saying I am very confident that our new President, together with these new Cabinet members will not hide from the facts. I know they will continue telling America that we must do some things differently if we want to have a vibrant country. We have a lot of energy sources in this country there at our disposal and we can preserve this country's magnificence—the beauty of our parks and the like—while still producing energy for the American people.

I was very proud, as I listened to Gale Norton answering some of the accusations made against her. I also read about other accusations, such as the Summitville mining disaster in Colorado. Actually, she had more to do with trying to solve the Summitville crisis. Yet, that was put up as some reason for us voting against her.

Some talked about the Rocky Mountain Arsenal and Rocky Flats cleanup in Colorado. Actually, when it is all boiled down and you look at her record, she did a lot to help move that along. Incidentally, it is the best project we have of the seven on-going in the United States in terms of nuclear cleanup. We still have two or three big ones in California and the Carolinas, and we are not sure when we will ever clean them up.

So I close today. I put all the details about her background in the RECORD. Today, I have just chosen to say a few words about why she is going to be the right person on a team that will help move us in the right direction on energy. I do not think within the next 6 months to a year we are going to be short of good, positive ideas from this administration. I think they will come.

I do not think we will be frightened by any of these ideas.

To reiterate, I support the nomination of Gale Norton as the new Secretary of Interior. She has extensive legal, regulatory, state and federal government experience which duly qualifies her to serve as Secretary of a department as diverse as Interior.

The Interior Department has a broad mission which includes responsibility for the internal development of the nation and the welfare of its people. It's broad coverage includes managing parks, water issues, basic responsibilities for American Indians, public lands management, and the rational exploration of our wilderness areas in balance with preserving our nation's resources.

Gale Norton has worked for over 20 years on environmental and federal land issues. She has demonstrated her commitment to a safe and clean environment by bringing all parties together in an effort to find solutions to these complex issues. She has proven herself as a negotiator, a skilled legal mind and a defender of the law. She exemplifies the qualities of a consensus builder, not a divider.

The issues arising in these areas are some of the most complex and contentious and require a leader who can balance the various competing interests. Gale Norton has repeatedly demonstrated that she is this type of leader.

One example of Gale Norton's consensus building leadership is exemplified in her handling of western water issues. She has led efforts to bring together state water users, federal agencies, and Indian tribes to settle water use disputes. In particular, during the Romer-Schoettler process that led to the development of the Colorado Ute Settlement Act Amendments of 2000, which recently passed Congress, Gale Norton worked to ensure that the water rights settlement with the two Colorado Ute Indian Tribes would be fulfilled in a way that would respect existing water uses and the social fabric of the area. This included balancing a variety of interests including that of current users and the Ute tribes while looking out for potential development and considering the needs of endangered species. Ms. Norton honored Colorado's commitments to both the Tribes and the non-Indians living and working in Southwest Colorado and Northwest New Mexico. She worked through a very contentious issue looking for consensus and reasonable solutions.

Ms. Norton has mentioned the priority the new administration intends to place on American Indian issues. I commend her on her past efforts related to these issues, such as her role in the Animas La-Plata project, and I look forward to working with the new administration on American Indian issues.

Ms. Norton has had other extensive experience with western water issues. She has actively participated in the negotiation, litigation, and settlement of multi-state compact claims and has dealt with other complex water issues including federal reservation rights, interstate water use, and the balance between water rights protection for states and preservation of endangered species.

Gale Norton has successfully balanced environmental concerns while being sensitive to businesses and other citizens whose interests are at stake. Ms. Norton created an environmental crimes task force to prosecute the most flagrant polluters. She played a leading role in the cleanup of numerous sites in Colorado to protect the environment and ensure its preservation for future generations.

Ms. Norton has always worked to find innovative ways to protect the environment. While at Stanford she researched "emissions trading" approaches, like those adopted in the Clean Air Act, that created market based incentives for businesses to reduce emissions. The Colorado "audit law" that Gale Norton supported achieved better environmental protection by encouraging early and full identification of environmental problems and, most importantly, long term solutions.

Ms. Norton is committed to enforcing the law and has a record of bipartisan cooperation and negotiation. Additionally, Ms. Norton understands the importance of the relationship between States and the federal government and has proven her ability to negotiate with both. She has worked towards finding innovative solutions to environmental problems, while at the same time working towards the goals advocated by interested parties. She understands that these issues are important to a variety of people and will work to ensure that all competing interests are balanced within existing laws.

I am convinced that Interior needs this type of balanced leadership, and needs that leadership today. I look forward to working with Gale Norton as the new Secretary of Interior and it is my strong recommendation that the Senate move quickly to approve her nomination.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. BINGAMAN.

Mr. BINGAMAN. Mr. President, I will give a short statement that relates to the nomination of Gale Norton myself, and then I know there are three other Democratic Senators here who have indicated a desire to speak briefly. I know Senator MURKOWSKI wishes to speak, and there are others on his side as well.

As the principal steward of our public lands, the Secretary of the Interior is responsible for overseeing and protecting the natural and cultural treasures of our Nation, including all units of our National Park System, national wildlife refuges, most national monuments, national conservation areas, and many of our wilderness areas.

When the Energy and Natural Resources Committee, which Senator MURKOWSKI chairs, and which I serve on as the ranking Democrat, began its hearings on the nomination of Gale Norton to be Secretary of the Interior, I indicated that I had serious doubts about whether Ms. Norton's past views on the role of the Federal Government in enforcing environmental protection laws were consistent with the responsibilities of the Secretary of the Interior. In her many published articles, Ms. Norton had amassed a record that championed the rights of individuals over the public interest in many natural resource issues; she had argued that key environmental protection laws—including critical provisions of the Endangered Species Act and the Surface Mining Act—were unconstitutional; and she had often supported the interests of economic development over environmental protection.

During two days of hearings, however, Gale Norton presented a much different picture of her future actions as Secretary of the Interior, a different picture than her previous writings would have suggested. She testified that she was, as she put it, a "passionate conservationist" and that her "top priority" will be the "conservation of America's natural resources." She recognized that—this is a quote from her testimony—"the great wild places and unspoiled landscapes of this country are the common heritage of all Americans" and she pledged to work to conserve them for present and future generations.

She testified in support of laws she had previously opposed. She proposed the committee—this is a quote from her testimony—she "will be fully committed to ensuring that our nation's environmental laws and laws for the protection of natural resources will be fully enforced."

With respect to the Endangered Species Act, she testified that she supports not only the goals of the act, but also that she "will apply the Act as it is written, and as the courts have interpreted it." When specifically asked whether she will support the protection of critical habitat for threatened and endangered speices—a provision she had previously opposed while attorney general of Colorado—Ms. Norton replied that "the courts have decided that, in addition to things that affect the species directly, the Fish and Wildlife Service has the ability to regulate on private land, and I will enforce that provision."

When questioned about another key environmental law she had earlier opposed, the Surface Mining Control and

Reclamation Act, Ms. Norton testified that "I will certainly enforce the law in the way it has been interpreted by the U.S. Supreme Court."

Contrary to some of her critics' past accusations, Ms. Norton testified that it will be her responsibility to enforce Federal environmental laws, and that she will ensure that all parties comply with those laws. She expressly refuted a previous statement written long ago suggesting that corporations had a "right to pollute."

She made it very clear that both President Bush and she support continuing the moratoriums on offshore oil and gas leasing off the coasts of California and Florida, and that she would work with other States opposing drilling activities off their coastlines.

Finally, she recognized the Secretary's special responsibility to Native Americans, and promised to improve Indian education programs.

In addition to answering two days of questions before our committee, she responded in writing to another 227 questions that were submitted to her by committee members and other Senators.

It is clear that the Gale Norton who testified before our committee presented different views about the Federal Government and its role in protecting the environment than the Gale Norton who authored controversial articles challenging that same Federal authority previously. Frankly, reconciling some of her past views with her current testimony is not that easy.

However, I take Gale Norton at her word when she testified under oath in front of our committee that she will uphold our Nation's environmental laws, and that she will be a strong defender of our natural and cultural heritage. I listened to all of her testimony and have reviewed all of her written responses to our questions. Based on her testimony and those written responses, to our questions, and because of the promises she made at the hearing, I am supporting her nomination.

While I will vote to confirm her nomination tomorrow, I still do have reservations about some issues that Ms. Norton declined to provide specific answers for. For example, she did not take a position on whether she would work to ensure the protection of those areas designated as national monuments by President Clinton, or whether she would support efforts to modify or repeal the Antiquities Act. She did not give us specifics as to how she will balance the Secretary of the Interior's resource protection responsibilities against the need to ensure continued energy resources from public lands. She avoided answering questions on whether she will support and enforce Federal reserved water rights for wilderness areas or endangered species.

In the final analysis, Gale Norton's actions on these and other issues as Secretary of the Interior will ultimately speak louder than any statements made during her confirmation hearing. While I am willing to give her the benefit of the doubt, I know that other Senators—and some who will speak here—still have reservations about whether she will be able to set aside her past policy positions and be a strong advocate for protecting the critical Federal resources under her domain.

But, based on the assurances she gave our committee, I will support her confirmation. I expect her to honor the commitments she has made to me and to other Senators to justify the trust that the Senate is going to place in her when she is confirmed tomorrow.

I yield the floor.

Mr. MURKOWSKI. Mr. President, in order to accommodate Members who have been waiting, I wonder if Senator BINGAMAN and I could agree to allowing time off each side by various Senators. I will ask Senators in the order in which they appear. We would like to go back and forth.

Mr. BINGAMAN. Mr. President, I believe the order Senators appeared was Senator WYDEN, then Senator FEINSTEIN from California, then Senator BREAUX from Louisiana, and I believe Senator STEVENS from Alaska. That is the order they appeared.

Mr. MURKOWSKI. I have no objection. I ask each Member how much time they might request. We want to run time equally. It is immaterial to me. We can run it equally.

Mr. BINGAMAN. How much time does the Senator from Oregon require?

Mr. WYDEN. I believe about 15 minutes.

Mr. BINGAMAN. I will be glad to yield 15 minutes off of my time.

Mr. MURKOWSKI. Then is it the understanding that we would go in that order; is that agreeable? It would be understood that after Senator WYDEN, Senator FEINSTEIN, Senator BREAUX, and then Senator STEVENS, and then we will perhaps start again and go back and forth after that.

The PRESIDING OFFICER. Would the Senator please state the names in sequence so the Chair will have a clear understanding?

Mr. MURKOWSKI. I thank the Chair. It is my understanding that Senator WYDEN would be recognized next, and the time would be 15 minutes, and it would be off the time of the minority, if that is agreeable; Senator FEINSTEIN, the time would be 10 minutes, and that would be off Senator BINGAMAN's time; Senator BREAUX, 5 minutes from Senator BINGAMAN's time; and then Senator STEVENS for 7 or 8 minutes from our time. That would be the proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Again, I recommend any Senators who intend to participate please come to the floor.

The PRESIDING OFFICER. The Senator from Oregon, Mr. WYDEN, is recognized for 15 minutes.

Mr. WYDEN. Mr. President, every day the Secretary of the Interior makes decisions that directly affect the quality of life in the West. This Department manages almost 500 million acres of public lands, and the debates that westerners have about the management of these lands are not for the fainthearted. To the people I represent, controversies about spotted owls, raging forest fires and mining waste are not intellectual abstractions. Almost invariably, discussions about these issues divide into two camps, with the environmental community on one side, and the affected industries on the other. Finding common ground between these two camps is extraordinarily difficult, but it is the premier challenge in the natural resources field.

Today—and I say this with reluctance—I rise to state that I will be voting no on this nomination. I still have reservations about the nominee's commitment to make, as the central focus of her office, the bringing together of these two camps, the environmental community and the affected industries, to find common ground. America wants and deserves this because it is the common ground where we can protect our treasures and be sensitive to local economic needs.

First, I do not necessarily share the views of those who believe that Gale Norton will throw open the doors at Interior, invite in powerful interest groups and say: Feel free to plunder our natural treasures and resources. In her testimony before the committee, Ms. Norton committed to not just enforce the Federal environmental laws as written but also as interpreted by the courts. In my opinion, she significantly changed her previous position on the Endangered Species Act, the so-called right to pollute, and global warming science.

The Gale Norton who testified this month before the Senate is certainly no James Watt, but at this unique time in our history, that distinction alone is not enough to warrant confirmation.

My reservations about this nominee fall into two major areas. First, Ms. Norton's desire to provide flexibility to private parties and the States to comply with our environmental laws has not been accompanied by a demonstrated commitment to watchdog those companies and the States to ensure that our national treasures are not exploited.

Ms. Norton is right—what works for the Bronx does not necessarily work for Prineville, Oregon. One size does not fit all. But her demonstrated record suggests that she did not come down with hobnail boots on private parties who abuse our national treasures in the name of exercising flexibility.

Look at what happened at Summitville in Colorado where a vast amount of cyanide spilled into the Alamosa River. Colorado was supposed to supervise that mine. It was the State's job and the State didn't do it.

When I asked Ms. Norton at the confirmation hearings how she would prevent future "Summitvilles," she was unwilling to say that the key to preventing these environmental tragedies is leadership that steps in when private parties go over the line. After Summitville, Ms. Norton could have immediately pushed to extend the statute of limitations on environmental crimes, which would have allowed criminal prosecution in that case. But she didn't, and respected Colorado commentators took her to task for not doing so.

In another case involving heavy metal pollution at the Asarco plant in the Globeville neighborhood of Denver, Ms. Norton said she couldn't move quickly and aggressively because she could act only on referrals from the State health department. Every U.S. State senator knows that a State attorney general has more power than that. The State attorney general has the power to call in the officials from State agencies that are not doing their job and tell them to get on the stick and protect the public and the environment. Ms. Norton could have even taken her concerns about the State health department dragging its feet to the public, but she didn't. That absence of leadership led to a settlement from her agency that was so inadequate that a private citizens lawsuit recovered significantly more damages than Ms. Norton did.

The Secretary of the Interior has wide latitude under the law as to who gets the land for leases or how the land will be handled under those leases. The Secretary of the Interior has the right to say we will lease this land for oil and gas, but we will not lease this land for coal exploration or we will not lease it at all or we will lease it with the following requirements to protect the environment. For example, many new oil and gas leases require the lessee to take the special precautions to protect wildlife on public lands. By Secretarial order, Ms. Norton could direct the Bureau of Land Management to weaken protective requirements enclosed in oil and gas leases, and at the same time significantly harm the environment. The fact is, the power of this office could allow virtually any private interest to build in one of our national treasures. In addition, through this office, the Secretary of the Interior can do much to deep six the prosecution of egregious environmental disasters. The reality here is: whether lawyers for the Interior Department are handling a case or the Justice Department is handling it, the Secretary of the Interior will be consulted just as any client is consulted by a lawyer about important appeals. Should there be an appeal at all? What kind of settlement would be appropriate? Is this offer satisfactory? Given Ms. Norton's record, the evidence does not demonstrate that she will be tough with polluters. The fact is, as you try to find the common ground between the environmental community and the affected industries, when one of those parties goes over the line, you do have to have a Secretary of the Interior who is willing to be tough about using the enforcement capabilities of the office.

Finally, I am concerned about Ms. Norton's interest and willingness to do the heavy lifting, to bring parties together, to find creative solutions to vexing environmental problems.

I am proud to have been able to work with the Senator from Idaho, Mr. CRAIG, in an effort that was successful in the last session to resolve the question of how you pay for schools and roads in rural communities that have historically been tied to the harvest of timber. When Senator CRAIG and I started that effort, the two sides were 180 degrees apart, and virtually no one thought we could bring them together. But with good will and rolling up our sleeves, we were able to do it.

When Ms. Norton was kind enough to come visit me at my office, I asked her to bring to the committee specific examples of how she would try similar efforts on other longstanding conflicts, such as the Endangered Species Act. I thought for a long time that it was extremely important to relieve some of the redtape and bureaucratic requirements on small private landowners, for example, under the Endangered Species Act, and I believe that can be done without destroying the mission of that critical statute. That would be the kind of thing that I would like to see the Secretary of the Interior take on and bring together these rival camps in an effort to find common ground.

But she didn't give us those examples at the hearing that was scheduled. I asked—not just when she came to the office, but at the hearing—for specifics where she might work to try these common ground efforts that are so important, but none were furnished.

So I will be a reluctant vote on Ms. Norton. I strongly hope that her record proves me wrong. As I stated in the committee, it would not be the first time, nor the last time, that that was the case. I hope Ms. Norton goes on to lead the Interior Department and that she will, in fact, look for specific ways to do what the President of the United States is asking us in natural resources and other areas, and that is to unite, not divide. On that important objective articulately stated by the President of the United States, Ms. Norton will always have my assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from California, Mrs. FEINSTEIN, has 10 minutes.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I associate myself with the comments made by the ranking member, the distinguished Senator from New Mexico, Mr. BINGAMAN. My assessment of this nominee is approximately the same. I will vote for her, and I want to take a few moments to explain to this honorable body why I will vote for her.

I am a new member of the Senate Energy and Natural Resources Committee. As such, I had an opportunity to hear her answers to questions presented firsthand, and I also had an opportunity to talk with her in my office. I talked with her about specific California issues. The first was something called CALFED; second, the Colorado River decision; third, oil drilling off the coast of California; fourth, the land and water conservation fund.

I think virtually all Members of this body know about the energy or electricity crisis in California, but I think what perhaps many Members of this body might not understand is that water is close behind.

Beginning in 1993, I asked Interior Secretary Babbitt if he would sit down and meet with the so-called water constituencies in California—the agricultural farmers, the environmentalists, the urban water users, a group called stakeholders in California's water future. As often said, whiskey is for drinking but water is for fighting. Lawsuit after lawsuit had characterized the situation with respect to water.

The basic fact is that California has a water infrastructure for 16 million people. That is when it was built, when Pat Brown was Governor of the State. Today the State has 34 million people, and it will be 50 million people within 20 years—with the same water infrastructure. That is not good for the ecosystem, not good for the largest agricultural State in the Nation, and it is certainly not good for clean drinking water for the people of California.

To make a long story short, this CALFED venture culminated last year in an agreement between the Governor of the State and the Secretary of the Interior called "A Plan For Action." That plan for action involved the State water project, which is the California water project, and the federally run, built, and operated project, the Central Valley Project. It is to be a $7 billion shared program over the next 7 years with some 700 individual projects. That program needs both an authorization this year and an appropriation this year as well. There was an attempt last year and it failed. So to have a Secretary of the Interior who would be willing, one, to put an appropriation, which is a substantial one, in her budget to send up to the Office of Management and Budget this year is important to me. Secondly, to have a Secretary of the Interior who is willing to designate a high-level member of her Department, just as Secretary Babbitt designated the Under Secretary to oversee the development of this State-Federal program, is important to me as well.

Ms. Norton has agreed to do both. She has agreed to take a good look—I know she has called the Office of Management and Budget and advocated for the CALFED program because we were called by OMB and they said that she had done so. Secondly, she has assured us that she will appoint a high-level official to oversee the various meetings with the stakeholders.

So for me, my No. 1 environmental priority this year is the authorization and the appropriation of the first year of a new CALFED program. I believe she has an open mind. I think she understands the importance of water. I think she understands the outdated nature of the water infrastructure, the struggle to keep the salmon running, to keep high-quality water for people to drink, and enough water to be able to produce what is in excess of a $25 billion agricultural industry.

I also discussed with her the recent 15-year Colorado River agreement, which has been now agreed to by seven States, which will ensure that California will receive no more than its annual allowance of 4.4 million acre feet of water from the Colorado River.

The fact is, because of this water shortage, California has been overdrawing the Colorado River allotment by some 800,000 acre feet a year. Southern California, which uses water from the Colorado, has employed all sorts of additional water conservation methodology, water recycling and water transfer measures, to ensure that there will be enough water for the other States.

I am a strong supporter of this agreement. I would like to see it go forward. I believe this Secretary will do her due diligence on the agreement and also agree that it is a major and positive step forward for the seven affected States.

She has also categorically assured me that there will be no offshore oil drilling off the coast of California. That is something the people of California have very strong opposition to, and I believe she will keep her word.

We also spoke about the importance of the land and water conservation fund. I happen to believe it can be the most important environmental program. I think there is an accumulation of $13 billion in offshore oil revenues that can go for appropriation into the land and water conservation fund.

I supported a bill Senator MURKOWSKI and Senator LANDRIEU had put together, plus my own bill, which would assure the appropriation of some of this money on a regular basis—approximately $900 million of that money.

I see the chairman of the Appropriations Committee on which I am a lowly member, and I know appropriators don't necessarily like being told how to appropriate. However, I can say this: I think the Land & Water Conservation Fund offers this Senate and the House of Representatives an opportunity for major improvements in our environmental legacy. I am hopeful that issue might be settled. I know there has been some significant opposition to Gale Norton. As a former Colorado attorney general, she has taken some positions with which I disagree. However, she had every right to do so.

I, for example, was troubled by her 1997 op-ed when she said there was no consensus on global warming. And quite categorically, to our committee, she stated that times have changed—and indeed they have—and that she has had an opportunity to reconsider her point of view and does in fact believe that global warming is real. I think what came through to me the most clearly when I had an opportunity to talk with her was that this is a very talented woman. She has strong skills. She is flexible. She is trying very hard to maintain an open mind, and I think it is very possible that she is going to do an excellent job as Secretary of the Interior.

At the very least, she has convinced me that she is willing to work on issues in a bipartisan fashion. She is willing to address the difficult issues which will confront her, as I believe she is open minded and I feel as though I can pick up the phone and call her and that she will, A, either return that call, or, B, listen to my concerns and try to work them out. As a Senator from the largest State in the Nation, that means a great deal to me.

I want to say one thing. I returned last night from Switzerland where I attended the World Economic Forum. I cannot tell you how deeply troubled other nations are by the fact that, as they see it, the United States is unwilling to put forward a major environmental presence. They express concern that the United States, with 4 percent of the world's population, uses 25 percent of the energy. They are concerned about global warming—particularly nations that are low lying that see the sea rising and have the possibility, within decades, of some of their coastal cities being wiped out. They are concerned about deforestation of the rain forest and the loss of wetlands, and they are concerned about clean air and clean water. I share their concerns. I believe this new Secretary of the Interior will also share these concerns as the chief steward of land managed by the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the U.S. Geological Service.

In California alone, this includes the Mojave National Preserve, Yosemite, Joshua Tree, and Death Valley National Parks.

She has a tremendous responsibility.

I end my remarks by saying, once again, that she is a talented woman. She is flexible. She is committed, I believe, and she has the opportunity to be a very positive Secretary of the Interior. I will be very happy to cast my vote for Gale Norton.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Louisiana was ahead of me. I will be pleased to wait for him, if Senator BINGAMAN would like me to do so.

Mr. BINGAMAN. Mr. President, I don't know where he is. I suggest the Senator from Alaska go right ahead.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am very pleased to come to the floor to support the nominations of Gale Norton to be Secretary of the Department of the Interior. She has a proven record as a public servant and the credentials, experience, and character to be a great Secretary of the Interior. I know a little bit about this Department. I was at the Interior Department during the days of President Eisenhower first as a legislative counsel, then as Assistant to the Secretary of the Interior, Fred Seaton, and then as the Solicitor of the Interior Department. I recall that in those days we had informal meetings with Members of Congress to discuss the real issues facing Federal land managers and the people living and working near those lands. Those were nonpartisan talks that assured the success of later more formal administrative and legislative initiatives during the Eisenhower administration.

In Alaska, one-third of the lands are managed by the Bureau of Land Management, two-thirds of the lands managed by the National park Service, and almost 90 percent of the lands managed by the Fish and Wildlife Service. All agencies of the Department of the Interior, and one-quarter of all the lands under the management of the Interior Department have been declared to be wilderness by the U.S. Congress and not available for our use.

Many of Alaska's Native people, as well as other Alaskans, live within the boundaries of these Federal conservation areas that have been withdrawn. They make their livelihood off of the land, and many times there are conflicts between our people and the Department of the Interior.

As an Alaskan, I am very pleased to support Gale Norton because of her background, and as a Senator, I say to my colleagues that we are most fortunate to have this brilliant young woman as a guardian of our Nation's lands and native people. As a lawyer, she will look beyond rhetoric. As a former Interior Department official, she will understand the duty and stewardship and traditions of that Department. As a former attorney general of a Western State, she will remember the communities and the people who neighbor Federal lands under her jurisdiction. I shall vote for her nomination and welcome the opportunity to do so.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I see the Senator from Idaho seeking time. May I ask how much he might require at this time? I yield 12 minutes, and I think Senator BINGAMAN and I agree that when Senator BREAUX returns, he will be recognized. I also am under the impression that Senator WARNER will be coming to the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague, the chairman of the Energy and Natural Resources Committee for yielding me time to speak on behalf of the nomination of Gale Norton as Secretary of the Interior. As someone who knows Ms. Norton, I commend her to my colleagues as an Interior Secretary who will cooperate with Congress and collaborate with States and local governments and communities of interest affected by her Department's decisions.

I also commend her to my colleagues as a person who demonstrated in her two days of testimony before the Committee on Energy and Natural Resources that she possesses the balanced views and judgment and personality required to be a Secretary of the Interior. That was perhaps somewhat of a surprise, I think, to some of our committee members who had heard about Ms. Norton only through the advertisements of a $2 million media campaign waged against her nomination by national environmental groups. I don't believe it has been since Jackie Gleason—and we remember Jackie Gleason, fist doubled up, face flushed—railing against his Honeymooner's neighbor by the name of Norton. We kept hearing "Norton, Norton." I don't think we have heard that name Norton, spoken with so much venom since the days of Jackie Gleason. Unfortunately, national environmental groups literally have become the Ralph Cramden of the advocacy community—overbearing, overwrought, and overstuffed—in their case, with foundation money that could have been so much better spent on on-the-ground conservation priorities.

The Senate confirmation process is also a bit of an acronym in this era of 24/7 news coverage—that is, round the clock news coverage and continuous campaigning. Every elected official knows, as we all must understand, the peril of letting an attack against a candidate or a legislative proposal go unanswered within a 24-hour news cycle. And yet, to protect our prerogatives as Senators in this process that we are talking about today, we insist that nominees for public office remain silent until they appear before us for their confirmation hearings.

At those hearings on January 18 and 19, Ms. Norton finally was able to speak about what she believes and who she is. The contrast with what was falsely portrayed in 3 weeks of intensified interest group advertising was stark and it was vivid. It contributed, I think, to the overwhelming vote by the committee in favor of her confirmation.

Two themes, in particular, that emerged from her testimony, deserve the close attention of all of our colleagues. First, this is an Interior Secretary who is committed to working with Congress. That is a refreshing and important concept. Both in her opening statement, as well as in several thoughtful responses to questions, Ms. Norton expressed her commitment to working with Members of Congress from both sides of the aisle to develop bipartisan solutions to difficult natural resource problems. This is a sharp contrast to her predecessor who made no secret of his disdain for the congressional authorizing committees as little more than "highly partisan debating societies" that were staffed by "munchkins" and that do nothing more than "wrangle a lot" about the issues of the day. I also doubt that we will see Ms. Norton walk off camera during a "20/20" interview, swearing under her breath.

Second, this is an Interior Secretary who is committed to listening and working with the people affected by her decisions. She said:

> I am firmly committed to a process of consultation and collaboration. We should listen to all voices and involve all citizens. That is fair. It is also wise. People are magnificent resources for ideas, for knowledge, for insight. I have lived and worked here in Washington. I have also lived and worked in the great American West. Those of us in Washington need to be good partners with Americans living in other parts of the country and in our territories. America is a strong nation because of the diversity of its people. These people hold many different views in different perspectives. We need to work with them, to involve them, to benefit from their creativity and their capacity to innovate.

What a refreshing statement compared with the Secretary of the Interior who has now just left this city.

I submit to my colleagues that, whatever our differences with one another over the contentious issues and whatever differences some or all of us may ultimately have with the new administration, starting off with the Secretary of the Interior who is committed to being a listener is a very good place to begin. As she so eloquently said at her confirmation hearing, "Using consultation and collaboration, forging partnerships with interested citizens, together we can all succeed in our effort to conserve America's most precious resources."

I urge my colleagues to vote favorably for the nomination of Gale Norton to be Secretary of the Interior of the United States. Our environment, our public land resources, and the Nation as a whole depend upon it.

I yield the floor.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. To clarify, prior to my colleague from Colorado coming to the floor, we had an agreement that Senator BREAUX would be the next recognized speaker, and Senator BREAUX did show up, so I guess we will have to live with that.

Mr. ALLARD. That will be fine. I am happy to wait until the Senator finishes.

Mr. MURKOWSKI. I think Senator BREAUX wanted about 8 minutes.

Mr. BREAUX. More or less.

Mr. MURKOWSKI. The Senator from Colorado will be recognized.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. It is BREAUX by a nose.

Mr. President, I thank my colleagues for making time available on this very important nomination as to who is going to be the new Secretary of the Interior, a very important position for all Americans. We as a nation have a major interest in knowing that the person who is to be in charge of the managing of all of our public lands and much of our public resources is going to be a person who brings a balanced philosophy to that task. It is an immense task for which I imagine no one who would be nominated would ever be considered the perfect nominee.

What I mean by that is it seems to me there will be some, and I think a minority of people in both camps, who would say they would perhaps like to have a Secretary of the Interior who would bring almost no management responsibilities to that task, who would basically say we should let the private sector develop the resources of this country in whatever way they saw fit. There is probably another group of people in the country—again a very small number—who would say no, when it is public lands, they cannot be utilized for private purposes ever; that it should be micromanaged by the Federal Government out of Washington;

you can limit activity to only what is absolutely needed.

I think the better philosophy for this very important job is to bring a balance. In my conversations with Gale Norton, I have come to the conclusion that she is a person who can bring a management-type philosophy to this job.

Neither of the two extremes that I describe will probably be very happy with the approach she uses. Some will say in many cases she is being far too restrictive and limits to too much detail what can be done on our public lands. Others will say she is not being aggressive enough in allowing for development on these resources.

The answers to these questions, simply stated, are that we want a balanced person for the job. We want someone who brings commonsense policies to this important task, and commonsense policies is a phrase I have heard used in describing Gale Norton.

In addition, I think she will be a person who will consider multiple use of these valuable properties. What do I mean by that? What I mean is that Federal lands owned by our Government can be used for more than just one purpose; yes, there are lands that are particularly set aside as wildlife refuges and conservation areas and wilderness areas. My argument is that these areas can be subject to multiple use in a fashion that preserves the intent of why this area was set aside in the first place and at the same time allows for balanced development which is compatible with that purpose.

There has been a great deal made about the new administration's consideration of opening up the Arctic National Wildlife Refuge in the State of Alaska. I happen to think that is something that can be done. It is not without risk. Nothing we do as a society is without some risk, some adverse consequences, but history tells us that we can have a wildlife refuge in an area of the country where ANWR is located and find there are uses that are compatible to that refuge that make sense from a public policy standpoint.

That is where the question of whether it is going to be balanced comes into play. I note that when I met with Ms. Norton in my office, we talked about that, and I suggested she look at the record in Louisiana where we have had exploration and development on wildlife refuges for over 60 years. We have almost 1,700 wells that have been drilled on wildlife refuges, both Federal and State refuges, including property owned by environmental groups, that has been done successfully. Because we have been doing it since the 1940s, we have made mistakes that would not be made in the year 2001 and beyond because we, in fact, have learned from those mistakes.

I argue that an area such as ANWR, which is covered over in the winter months with solid sheets of ice, an area where there would be no necessity for dredging canals to get to the property, where there is already a major pipeline running from Prudhoe Bay down to Valdez, is an ecosystem that can allow for exploration and production in a manner that would be compatible with the purpose of the refuge.

I argue the refuges in Louisiana where we have that type of production are much more complicated. We have much greater abundance of wildlife than they do in ANWR. We have everything from alligators to fur-bearing animals, to waterfowl, ducks, geese, shrimp, oysters, and fin fish, all within the same ecosystem in a very fragile wetland area. If we are able to do it under those circumstances, I argue that certainly ANWR can also allow for the compatible exploration and production in their area if it is done carefully in a managed fashion.

As far as what is potentially available in that area, they tell me the latest estimates are that it could produce up to 1.5 million barrels a day of oil for at least 25 years, a sum that is equal to nearly 25 percent of our daily oil consumption.

Some people say: That is not that much. Yes, it is. It is a considerable amount, and if you look at California, which is experiencing blackouts and operations which are being curtailed because of either unavailability of energy or because of the high cost of energy, how can we say that we are going to just build a fence around an area which will potentially be the second largest energy-producing region of all of North America?

We have to take a balanced approach, look at it carefully, look at what we have done in other areas, and then make a decision not based on emotion but based on the facts of the situation. When I spoke with Ms. Norton and listened to what she was thinking of doing, that was a balanced position she would bring to this job. I am pleased to stand and urge my colleagues to support her. This Congress will watch carefully how she conducts the affairs of the Department of the Interior because this is something that affects all Americans, whether you are a Westerner, a Southerner, or someone in an urbanized area in New England. I think she can do a good job, will do a good job, and I look forward to working with her.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I see my colleague from Montana seeking recognition, to be followed by Senator ALLARD from Colorado. Senator WARNER indicated an interest in speaking.

How much time does the Senator from Montana require?

Mr. BURNS. Mr. President, I will try my best to keep it under 10 minutes.

Mr. MURKOWSKI. I appreciate that and leave it up to the clerk to monitor the clock.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I am very glad to stand today and voice my support for Gale Norton as this country's next Secretary of the Interior. After meeting with Ms. Norton and sitting in on her confirmation hearings, I am convinced she is the right person for the job. Not only am I impressed with her good ideas and her willingness to listen, but I am impressed with the balance of thought she will be bringing to the Department. She knows that the challenges in that Department are probably larger than any other department in Washington, DC. She also has an idea about how she wants to deal with them.

As a member of the Energy and Natural Resources Committee and also a member of the Subcommittee on Interior Appropriations, I look forward to working with Ms. Norton. If confirmed as the next Secretary of the Interior, she will be called upon to appear in front of these committees, and she will ultimately be held responsible for the workings of the agencies under her supervision.

When we have questions or concerns about the National Park Service or the Bureau of Land Management, the Bureau of Indian Affairs, and the U.S. Fish and Wildlife Service, just to name a few, we will come to her. I am grateful for that because I think what we are looking for, more than anything else, is balance instead of activism.

Like most Western States, Montana has a lot of public land, and we are affected every day by some of the decisions that are made regarding Federal land because they determine whether we will make a living or not in our State. Sometimes Government is a very good neighbor; sometimes it is not. I think Ms. Norton understands that, coming from a public lands State.

One thing in particular: Last year, the year 2000, we know how the fires swept across the West. No State was more affected than New Mexico or the State of Montana. In fact, Congress appropriated $1.6 billion to help fix the damage from the summer of 2000 and also to make sure we will be prepared should another catastrophe such as that happen again. We would rather that not be repeated.

In the year 2000, almost 1 million acres burned in Montana, some of it public. Plenty of the land was private, however, because private lands lay next to those forest lands—forest land, grassland, pasture land, homes, businesses, and everything in between. It was a dark, dark summer for us in Montana.

We are approaching spring again, and the work is just beginning. We need to reseed the burned areas to keep the soil from eroding. We need to make sure the watersheds stay clean. One of the most important things we can do is to make sure the noxious weeds do not take our newly burned land. I know a lot of folks say everything has grown back. Nine times out of 10, it is a noxious weed. When they take hold, the native plants are crowded out, wildlife habitat is compromised, livestock-carrying capacity is reduced, and the condition of the land is jeopardized for years to come.

So we need to get after it and get this land cleaned up, making sure those lands that are remaining now are protected because we are again looking at a very difficult time. Our snow pack is low again this year. We have not had moisture since before Christmas. Again, we are looking at another year that could be another drought year in Montana. We will need people who are not afraid to make decisions, make them quickly, and make the right decision that protects the land.

You have to appreciate Ms. Norton for another area, too. Under the previous administration, we withdrew a lot of land from minerals management, resource management, and resource development. We have an energy crisis in this country. Maybe you are not affected by it now, but our friends from California are. The last time I looked around, California was still a part of this great country, which makes us concerned about what happens to our good friends in California.

It is just not a California problem. If you come from the Northwest, where we produce an abundance of electrical power, you see that power sucked away from our area, going to California. I do not begrudge Californians the power. But I also have to be a little bit nervous about having power for the people in the Northwest.

When they are in trouble, we are in trouble. We have built no new generating facilities. We just came from an administration that wanted to breach the dams that produce electricity for the West and the national grid. That is irresponsible. Conservation, yes. It is of vital importance to all our energy needs. But conservation will not do it alone.

We were very successful the last time we faced an energy crisis, when, way back in 1976, we did a lot of good through conservation. And we are still doing a lot of good through conservation. But we failed to build any more facilities to produce power, electricity.

I will tell you, electricity does not come Republican or Democrat. I will tell you where it comes from. The first time that finger hits that switch, and these lights do not go on, it becomes a national crisis.

I think Ms. Norton will be able to play a vital role in resource management when it comes to solving some of the power problems and energy crises that we are facing today.

When we look at public lands, energy development and access to public lands are vital issues. These things will be coming up again and again over the next few years because I truly believe the chairman of the Committee on Energy and Natural Resources probably has his hands as full as he wants in trying to deal with the energy crisis for all Americans. Because there is no doubt in my mind, if you want to pick one thing that is slowing down our economy, it is the tremendous increase in the cost of our energy. Access to those lands is very important.

But also another point that I think was brought up during the hearings is that, for the first time, we heard the Secretary of Energy say that he is not afraid to talk to the Secretary of Agriculture, and neither one of them are afraid to talk to the Secretary of the Interior to solve common problems. That is very important in this town because in this town we spend more time solving turf wars that we do anything else. But this time it is going to take an administration of Department heads and Secretaries working together, knowing what one is doing and the policy they are putting forward, and knowing how we can complete a national policy to deal with an energy crisis; the ability to work together.

So I am here today to offer Ms. Norton my wholehearted support in her nomination as Secretary of the Interior. She is the right person for this job. I cannot imagine how we would find anybody more qualified. She has a great mind and is very intelligent, understanding her job, which touches so many of our lives every day.

I heard some of the folks on the other side of the aisle saying she is too far to the right to go into the Department of the Interior. But I will tell you, when you look at those statements, they are just partisan arguments, and that is all because there is no other substance there.

Mr. President, I thank the chairman of the full committee and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, under the previous agreement, the senior Senator from Virginia was to be recognized upon his return. I see the Senator from Virginia has returned to the floor.

Might I ask, how much time might the Senator desire?

Mr. WARNER. Mr. President, I would think 10 minutes would be adequate.

Mr. MURKOWSKI. I thank my friend from Virginia and yield him 10 minutes. And then after he speaks, I will yield to the Senator from Colorado who has been waiting.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today with other colleagues to express my strong support for President Bush's nominee to be Secretary of the Interior, Gale Norton.

I have had a brief opportunity to visit with this distinguished American, and I heartily endorse the President's nomination. She has the qualifications, in my judgment, to serve in this important post.

As many of my colleagues have detailed, she is an effective litigator, with over 20 years of experience in environmental and natural resources law. Prior thereto, she was a law clerk to a judge. And I had the privilege in my lifetime to have that experience.

Her professional experiences and successes as Colorado attorney general, I believe, have given her a solid foundation and, indeed, the temperament—and it requires temperament because there will be a lot of heated issues in the course of her duties that she will have to resolve—necessary to be an outstanding Secretary.

She has served on, as we say, "both sides of the fence"—in the Federal Government and State government. She is skilled in the law and knows that States can be effective partners in preserving our public lands and managing its valuable resources.

From her testimony before the committee, I was compelled by her recognition that the primary responsibility of Secretary of the Interior is one of protecting and fostering our public lands, our natural resources, and the treasures that make up our national park and wildlife refuge system.

Mr. President, I want to finish up my statement on a personal note. I have three wonderful children. All of them are very active in philanthropic activities to protect the very things that I have enumerated here: our natural resources, national parks, wildlife, and the like. Their philosophy extends a little further than their old man's philosophy on this. I tend to be a centrist, trying to strike a clean balance between the necessity for carefully expanding the protected areas of America, and husbanding of our resources, while at the same time giving the private sector and, indeed, the States the rights to which they are entitled.

My children have all communicated with me within the past few days about this nomination. I have told them very clearly, I am going to support this nominee. Their request to me was this: Father, that's fine, but keep a watchful eye.

So I made a commitment to my family that I shall keep a watchful eye. But I assured them that, in my judgment, this eminently qualified individual would pursue a balanced course of action between the many competing interests for the precious resources we have. And in the words of my children, once these resources are withdrawn, once they are developed, they are gone forever. And that is correct.

The Commonwealth of Virginia is home to some of our Nation's greatest natural and historic resources—from the Shenandoah National Park, our Civil War battlefields throughout the region, to the wildlife refuges on the eastern shore. The 20 national parks in Virginia have the fifth highest visitor rate in the Nation. It surprises people when I make that statement. We are No. 5 in the nation and located here in the East. That is why I am the first eastern Senator to speak on behalf of this distinguished nominee. I feel very strongly about it.

My State is very actively engaged with the national park system. In fact, I have just taken the initiative to create another wilderness area in my State. In my 23 years in the Senate, I have been involved with a number of these wilderness areas, and I shall continue to press for the establishment and the preservation of these national treasures. We cherish, as Virginians, these resources and welcome a strong partnership with the Department of the Interior. These sites provide an outdoor classroom to tell the story of the founding of our Nation and other significant events that have woven the fabric of our form of government and, indeed, of our great Nation.

I am drawn to the nominee's comments regarding the importance of partnerships between the Federal, State and local government, and private organizations. We have such partnerships in Virginia, and they work well. Partnerships with the Park Service and local governments have been tremendously successful in preserving historic battlefields, particularly in the Shenandoah Valley. These partnerships ensure that significant historic landmarks can be preserved without the expense of Federal ownership.

The amount of land of natural and historic valve that should be somehow preserved is enormous. The Federal taxpayer cannot begin to provide the funds necessary to purchase all this land. In Virginia, we have shown how a farmer can continue his or her operation and pass it down through successive generations of their families and yet preserve that farm, while allowing visitors to come and study where historic battles, in the Shenandoah Valley for instance, were fought. It makes little difference to that visitor whether he or she is standing on Federal land or land preserved by the family.

I urge our new Secretary to explore further opportunities in this area of public/private partnerships.

In addition to our historic battlefields, Virginia is blessed with critical habitat for migratory waterfowl in our coastal areas including the Eastern Shore. We are home to six major national wildlife refuges. These sites provide undisturbed lands for the American bald eagle, the peregrine falcon and hundreds of migratory ducks and songbirds.

Throughout my Senate career I have been pleased to work with local governments and local citizen organizations to expand our national park and our wildlife refuge system in Virginia. Permanent preservation of these lands ensures that future generations will have a "hands on" experience and that our wildlife will be able to flourish.

I fully endorse the nomination of Gale Norton to be Secretary of Interior and I look forward to working with her to strengthen our national parks and wildlife refuges across this country.

(The remarks of Mr. WARNER pertaining to the introduction of S. 201 and S. 202 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI. Madam President, I ask that the Senator from Colorado be recognized at this time. He asked for 10 or 12 minutes.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Colorado is recognized.

Mr. ALLARD. Madam President, I thank the chairman for giving me an opportunity to respond.

I rise to respond to the comments from my dear friend and colleague from Oregon and also reemphasize what my colleague from Idaho had talked about in regard to Gale Norton as Secretary of the Interior.

I agree with my colleague from Idaho that Gale Norton will be a listener. Even more than just listening, she is going to understand. The reason she is going to be able to understand is because she has a broad background of experience. She started out her career actually working here in Washington, DC. She worked in the Department of Agriculture. Then she went over to the Department of the Interior and worked there as associate solicitor. Then she went back to the State of Colorado and was elected attorney general of the State of Colorado. She has been able to see issues from the Federal perspective, and she understands the responsibility the Federal Government takes on many of these issues.

She understands many of these issues from a State perspective because she has had to be a spokesman for the State of Colorado, the citizens of Colorado, as various issues concerning the environment have come forward. Not only that, she has also served in the private sector. So as an American or as a Coloradan, she has had to deal with various laws that have been passed by the Congress, signed by the President, and she has had to live with those laws.

I have always believed that if you have walked in the shoes of somebody who has had to live with the laws of this country, you have a better, balanced understanding of what is needed.

Gale Norton has had a good record on the environment. It started early on when she was associate solicitor with the Department of the Interior—and she mentioned this in her testimony before the committee—where she pointed to helping prevent the California condor from becoming extinct as one of her greatest accomplishments. That was part of her responsibilities as associate solicitor.

She also worked in the State of Colorado to clean up a number of Superfund sites we have there. In Leadville, we had a Superfund site. She worked to clean that up. She worked hard to get started with cleanup of Rocky Flats, another Superfund site in Colorado. She worked hard to get things moving as far as the Rocky Mountain arsenal was concerned. She has a good record for cleaning up the environment.

Her record has been misrepresented as far as the Summitville mine. I will take a few moments to talk about that because my colleague from Oregon mentioned that in his comments. The problem at the Summitville mine in Colorado—I might add, this has been a real catastrophe on the environment, and I have been very concerned about the fact that the cleanup of the Summitville mine has not been progressing along satisfactorily—started in the 1980s.

At that time we had a Democrat Governor in the State of Colorado, and we had a Democrat who was attorney general for the State of Colorado when they first began to deal with the problem. Gale Norton, then, was elected as attorney general in the State of Colorado just as the problem of the Summitville mine began to bubble up in a public manner. Now, today, this Summitville mine problem is beginning to be resolved in a real, meaningful way. There has been a settlement, and the company has agreed to pay $30 million in cleanup of the site.

Those of us who have lived in the State of Colorado understand the hard work she has done in trying to clean up the Summitville mine. It is not only myself, but the Denver Post, for example, has written an article in support of Gale Norton and characterized the Summitville mine issue as a false blame toward Gale Norton. I ask unanimous consent that that editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Jan. 11, 2001]

THE BLAME FOR SUMMITVILLE

Blame for the Summitville environmental fiasco oozes thick and wide through Colorado state government. Yet critics are using Summitville to singularly bash Gale Norton, the former Colorado attorney general whom President-elect George W. Bush nominated as U.S. interior secretary. Norton should not be slammed for other politicians' mistakes.

In fact, during her tenure as state AG, Norton struggled to protect the public's interest at Summitville, despite legislative mandates that ham-strung meaningful action.

In the late 1980s, the Colorado Legislature gutted the state agency responsible for supervising environmental compliance at hardrock mines, leaving far too few mine inspectors in the field. So when the Summitville gold mine installed the liner for its heap leach pond, state experts didn't take a close look at the design and implementation. State inspectors also weren't around to discover numerous other environmental goofs and lawbreaking at the site. The pond liner eventually failed, spewing mine poisons into the head-waters of the Rio Grande, one of our region's most important rivers. Only later did authorities discover the other mining law violations, too.

But Norton never was in charge of the state unit responsible for the omissions.

Meantine, state lawmakers had imposed a ridiculously short time frame in which authorities could bring charges when mine operators committed wrong-doing. In the Summitville case, the statute would have hogtied any Colorado AG, even the most radical environmentalist. So, although The Denver Post editorially bemoaned the state's inability to act, we were haranguing the foolishness of the Colorado Legislature, not Norton.

In fact, Norton barely had been in office a year when the Summitville crisis broke in 1992. The fiasco's roots instead had taken hold under the policies of a conservative Republican legislature, and on the watch of a moderate Democratic governor and attorney general, Roy Romer and Duane Woodard.

Moreover, Washington critics are linking Summitville to Colorado's self-audit law, which lets businesses review their own environmental compliance without risking regulatory wrath. The state has tangled with the U.S. Environmental Protection Agency over the law. But the statute was enacted in 1994, two years after the Summitville debacle.

EPA's own Summitville record isn't spotless, as the feds squandered enormous sums accomplishing very little.

Summitville shamed Colorado. This newspaper, with its active environmentalist agenda, repeatedly lambasted the state and EPA's handling of the matter.

But far from causing the problem, Norton was among the civil servants trying to fix the mess under nearly impossible circumstances.

Mr. ALLARD. This appeared in the Denver Post on January 11. The headline is "The Blame for Summitville." It makes two cogent points that I want to bring to the attention of the Members of the Senate. One of the paragraphs says:

> In fact, Norton barely had been in office a year when the Summitville crisis broke in 1992. The fiasco's roots instead had taken hold under the policies of a conservative Republican legislature, and on the watch of a moderate Democratic Governor and attorney general, Roy Romer and Duane Woodard.

The article points out that "EPA's own record isn't spotless, as the Feds squandered enormous sums accomplishing very little."

Gale Norton pursued this issue after getting into office. She reached in and tried to protect the assets of a company that was filing bankruptcy so as to get out of the responsibility of having to clean up that mine. She yanked them out of the bankruptcy proceedings and continued to hold them responsible.

The individual who followed Gale Norton as attorney general for the State of Colorado is Ken Salazar. He is a Democrat. Ken Salazar made a public statement in defense of the work of Gale Norton as attorney general for the State of Colorado as it applied to the Summitville mine. He starts out his public statement by saying:

> I believe former Colorado Attorney General Gale Norton knows the environmental issues of Colorado and the West, is smart, and has a passion for public service. She should be given a chance to serve as Secretary of the Interior.

It goes on to say:

> In the past few days, former Attorney General Norton has been unfairly criticized concerning two issues: Her support for the environmental self-audit laws of Colorado, and her role in the Summitville Mine environmental case in the Alamosa River watershed in southern Colorado.

I point out that Ken Salazar grew up in that area close to the Summitville mine. He is familiar with the area and also with the case because he had to follow up on the work that the attorney general, Gale Norton, had started, and now the present attorney general, Salazar, is wrapping that up. In his statement, he goes on:

> Concerning the Summitville mine matter, the State of Colorado has been vigilant and aggressive in pursuing those responsible for the release of pollution from the Summitville Mine. Former Attorney General Gale Norton supported the efforts to recover the proceeds from bankruptcy, and in 1996 she also joined with the United States of America in the lawsuit to recover expenses and natural resource damages from those involved in the Summitville mine.

So it is definitely an unfair accusation, as viewed by many of us in Colorado, Democrats and Republicans.

I also ask unanimous consent that the statement by Attorney General Salazar be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF COLORADO ATTORNEY GENERAL KEN SALAZAR CONCERNING GALE NORTON'S NOMINATION AS SECRETARY OF THE INTERIOR

DENVER.—I believe former Colorado Attorney General Gale Norton knows the environmental issues of Colorado and the West, is smart, and has a passion for public service. She should be given a chance to serve as Secretary of the Interior.

I have worked with Gale Norton for more than a decade. In her role as Colorado Attorney General, she represented me while I served as Executive Director of the Colorado Department of Natural Resources. Though I certainly do not share all of former Attorney General Norton's views on the environment and other matters, I respect her legal and policy knowledge and constructive approach to difficult issues.

In the past few days, former Attorney General Norton has been unfairly criticized concerning two issues: (1) her support for the environmental self-audit laws of Colorado; and (2) her role in the Summitville Mine environmental case in the Alamosa River watershed in southern Colorado.

Gale Norton's position on Colorado's environmental self-audit law has enjoyed very significant bipartisan support here in Colorado. The original self-audit bill had a Democratic sponsor and was signed into law by a Democratic governor. As a Democrat, I supported the environmental self-audit law because the law, when properly implemented, creates incentives for businesses to protect the environment. I have worked to resolve outstanding issues with the Environmental Protection Agency and the Department of Justice on Colorado's law, and on April 14, 2000 I issued a formal opinion that sets forth the central legal principles of Colorado's environmental self-audit law.

Concerning the Summitville Mine matter, the State of Colorado has been vigilant and aggressive in pursuing those responsible for the releases of pollution from the Summitville Mine. Former Attorney General Gale Norton supported the efforts to recover the proceeds from bankruptcy and in 1996, she also joined with the United States of America in the lawsuit to recover expenses and natural resource damages from those involved in the Summitville Mine.

There are fair questions that should be asked in the course of the Senate confirmation proceedings. These matters are proper inquiries of any nominee for Secretary of the Interior.

* * * * *

Mr. ALLARD. Madam President, I wanted to take a few moments to respond to the comments and accusations leveled against Gale Norton because I really believe she has a deep concern about our environment. She comes from the State of Colorado. We call it colorful Colorado. She wants to keep Colorado that way, and certainly I think she will be very responsible. She will do a good job as Secretary of the Interior. She has a great background and the intellect to do the right thing for America.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, I see no other Members seeking recognition at this time, although we have had an indication that one or two may come over. Senator BINGAMAN, who is the ranking member of the Energy and Natural Resources Committee, and I have agreed to share our time equally since we are both supporting the nominee, Gale Norton, for Secretary of the Interior. How much time remains total for either side, or both?

The PRESIDING OFFICER. The Senator from Alaska controls 9 remaining minutes, and the Senator from New Mexico has 43 minutes.

Mr. MURKOWSKI. It is my understanding that Senator BINGAMAN has agreed that we will try to accommodate those coming over and let the time run out. It is our understanding that tomorrow the Senate will take up, at 2:45, three nominations and that we have 90 minutes, I believe; is that correct—110 minutes, rather.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. Madam President, I have an extended statement, but I am sure the occupant of the Chair and others would be happy if I were a little briefer.

Madam President, I think it is fair to say that we have had a pretty unanimous consensus here of those speaking on behalf of Gale Norton for Secretary of the Interior. We only have one Member who opposes her, and I suspect we will have others tomorrow, inasmuch as time will allow for additional Members to speak. I won't try to prejudge the level of support. But I think it is fair to say, as chairman of The Energy and Natural Resources Committee, that we have had somewhat of a mandate within the committee makeup. We voted her out 18–2.

As I indicated earlier in my remarks, Ms. Norton has answered some 224 written questions, having sat through her 2 days of testimony. I found it rather humorous that, in spite of her willingness to answer the questions presented by the Members—as we all note the good work of our staff, and the staff to a large degree repeated many of those questions. Nevertheless, that is how it goes, and we all understand the procedure and the fact that the staff does keep busy supporting us.

In any event, I think, to some extent, some of the characterizations of this particular nominee are what I object to. I think it is fair to say that it is not a partisan issue. There was a cartoon in New York Daily News depicting Norton as a flack for the child poisoning industry. In a parody of our President's campaign promise to leave no child behind, it puts a slogan in her mouth: Leave no child alive. I don't know. But I think many of us are of the opinion that the environmental groups that support this kind of—well, it is hard for me to describe words of that nature. But I think they have lost somewhat of their credibility with these over-the-top attacks. I think a question of courtesy, a question of what is decent, and what is over the line has happened here, and I think that is, indeed, unfortunate.

If I were a member of some of these environmental groups, I would want to know who made the decision to spend thousands and in some cases millions of dollars on advertisements in major newspapers that make false, inaccurate, inappropriate, and downright discourteous statements about her record.

It seems to me, as I have indicated, that when the facts aren't on your side, you attack the person. That is what has happened here.

I was listening to the Sunday service at the little church I attend this Sunday. The priest made the comment: They can try to rub out the messenger, but they can't rub out the message.

I thought of Gale Norton and her commitment to enforce the law. She gave her committee the assurance that she will enforce the law. To some extent, some of the criticism seems to cover her position on an issue that involves my State of Alaska, and that is the Arctic National Wildlife Refuge. The criticism seems to be that somehow this area is in jeopardy by the Bush administration. And the experience we have had in the Arctic in drilling for oil and gas associated with Prudhoe Bay somehow has no parallel to the potential opening of this small area of the Arctic National Wildlife Refuge.•

Few people consider that the area itself is about 19 million acres—about the size of the State of South Carolina. Even fewer recognize what has already taken place in that area. But out of that 19 million acres, 9 million acres has been set aside by Congress in a refuge in perpetuity. That means Congress isn't going to change it; that is it. And 8½ million acres have been set aside in wilderness in perpetuity. But Congress left 1½ million acres, called the 1002 area, for a determination to be made at a future date whether it should be explored for oil and gas. The Secretary's position on this is she happens to favor the opening, if it can be done safely and in compatibility with the environment and the ecology. That is the position that is taken by our President, President Bush, and our Vice President.

As a consequence, it should be pointed out that it is not her decision, nor will it be her decision as to whether or not this sliver of the Coastal Plain will be open. When I say "sliver," I am referring to specifically the realization that there is only 1½ million acres in the 1002 area to be considered by Congress, and industry tells us that with their new technology and ice roads and the realization that there is only a short 60 miles of pipe that would have to be extended over to the existing infrastructure of the Trans-Alaska pipeline where the 800-mile pipeline has been for some 27 years, that the impact would be minimal.

That doesn't mean there won't be an impact, but it would be minimal. But the footprint is what is significant. It is estimated to be about 2,000 acres out of the million and half acres which is out of the 19 million acres. That is the perspective that our friends in the environmental community fail to recognize. They fail to recognize what we have learned in Prudhoe Bay for 27 years.

We have seen the habitat of the central Arctic herd during that timeframe, and those caribou increased dramatically from about 3,000 to 4,000 to the numbers currently of about 26,000 to 27,000. They are protected. The mild activity associated with that oil field does not threaten either the caribou, their lifestyle, or their reproduction as evidenced by the fact that the herd has increased dramatically. To suggest somehow that this same situation can't occur in the 1002 area of ANWR flies in the face of realism.

But it is appropriate that in the few minutes we have, since this has come up continually in her nomination, that some of the inaccuracies by some of the defenders of wildlife and others who are campaigning on this issue to generate membership and dollars—they are using fear tactics, they are using inaccuracies, and they are using irresponsibility. One of the statements that was made in the U.S. news wire of January 25 entitled "Defenders of Wildlife Launch Campaign To Save The Arctic Refuge" was "We know Americans overwhelmingly favor protecting the Arctic range". Of course. We all do. But they go further to suggest that the American public, as evidenced by public opinion polls, shows that two-thirds of Americans are against opening it. That is not related to any degree of accuracy.

The recent polling by the Christian Science Monitor on the issue was about 58 in favor of opening it and about 34 favor closing it. The Chicago Tribune had a poll limited to the Chicago area, which was about the same—about 52 to 53 percent favor. So public opinion, I think, is obviously an important factor in determining the eventual outcome. But to suggest that public opinion opposes it is simply not true.

Further, the statement is made by the U.S. news wire that only the remaining 5 percent of Alaska's North Slope is not already open to drilling. That is totally inaccurate, and not based on any fact. Factually, 14 percent of the 1,200-mile Coastal Plain is open. If you do not believe it, go to the Department of the Interior and try to get a lease there. Fourteen percent is open.

Further, Madam President, as we look at inaccuracies, we find that we are going to have on the web site an innovative computer animation on the issue narrated by an actor to tell the story of the polar bears and the cubs driven from their dens by the oil well on the refuge—the now pristine Coastal Plain. Of course, there is no oil well on the area. There is one well that has been driven. Further, if they had any degree of accuracy, they would recognize that the Coastal Plain is not the home of the polar bear. The polar bears actually den out on the Arctic ice.

Our information shows, scientists, and the State of Alaska, and other sources, that approximately 10 to 12 polar bears have been identified as denning on that Coastal Plain area of ANWR. They simply don't den there. So it is quite infrequent. Now there are polar bears that come into Point Barrow. There are polar bears that come into the Prudhoe Bay area. What they don't say is that the greatest benefactor of the polar bear is the non-natives. Non-natives cannot take them for trophy hunting. The law says that only the native people can take them for subsistence. If you want a polar bear, where do you go? Go to Canada.

I might add, some people in the Canadian government are opposed to opening this area. It could be because of the competitive posture as a supplier of energy to the United States. They look upon us as a potential competitor. That is all right. But the polar bear issue, keep it defined where it belongs. In Canada you can go out and shoot one. In Russia you can shoot one, but you can't shoot one in Alaska. That has a lot to do with the longevity of the polar bear.

We have a web site now, an innovative computer animation about the polar bear, but it doesn't tell the true story about the polar bear. It is going to suggest the polar bear abandon her cubs because of the oil activity. It is simply not true.

Further, they say this is opening this area, sticking oil wells right smack in the biological heart of the wildest place left in America. They don't state that there is an Eskimo village there with 220 people living there. There are radar sites. I encourage every Member of the Senate who wants to voice an opinion on this to come to Alaska and take a look for themselves. Many Members have. We are extending an invitation at the end of March and early April to take Members up there so they can see for themselves. To suggest it is the biological heart of the wildest place left if America, I argue that point.

They call it America's Serengeti. That is an understatement. It is an interesting, beautiful, harsh, rugged environment. It is winter 9 months of the year. It is not a place that is warm, fuzzy and cuddly. It is home of the polar bear, wolves, musk ox, millions of migratory birds, caribou, and hundreds of other species. That is partially true. The one area that Congress setaside is different. It is not the home of the wolves or the musk ox and the birds that come through into the wilderness and the refuge.

They further say there would be immense spills. They go one step further and suggest the greasy oil slick surrounding the Galapagos is somehow connected to the danger and exposure to this area.

It is paramount to recognize the connection between the nominee for the Secretary of the Interior and this particular issue. She will not be making the decision. She will simply be forwarding the facts to the Congress and to the administration surrounding whether or not it can be opened safely.

I implore those following this debate to recognize one significant issue that concerns California today. If one will look at what has happened to California as a consequence of a decision made some time ago to depend on outside energy sources, outside the State of California, for their gas and for their electricity, and the consequences of what has happened. Twenty- five percent of the energy of California comes outside that State. There hasn't been one new generating plant built there of any consequence in the last decade. California environmentalists made decisions and those decisions have come back today. Those California environmentalists have to bear the responsibility for those decisions. They are pretty hard to find right now. You don't see them around saying, maybe we did make a mistake, maybe we should have encouraged an energy supply within the State of California. They were very instrumental in saying we will buy the energy from Washington State, we will buy it from British Columbia where they have a lot of hydropower. We won't develop it within our State.

They are paying the price now. Their two major utilities are in bankruptcy. A bankruptcy judge may come in and say, all right, California consumer, this is what it will cost you for your energy. I am not prepared to go into this at this time but the Energy and Natural Resource Committee will be holding a hearing Wednesday and go into this matter at length.

I draw the parallel. We know what happened in California today by depending on outside energy sources. The parallel is, this Nation today, the United States of America, is 56 percent dependent on imported oil. Where is it coming from? It is coming from Saudi Arabia, it is coming from Mexico, it is coming from Venezuela. Where else is it coming from? It is coming from Iraq, our old friend Saddam Hussein. We are importing 750,000 barrels a day of oil from Iraq. We fought a war over there in 1992. We lost 147 American lives. We had over 400 wounded. How quickly we forget.

What is Saddam Hussein doing? We know he is developing a missile capability. We know he is developing a biological capability. Who is it aimed at in the Middle East? Israel. Iraq is the greatest threat to the peace process in the Middle East—Saddam Hussein. What are we doing about it? We are turning around and buying more oil, importing it to the extent that we are 56 percent dependent today. The Department of Energy suggests by the year 2004 we will be 64 percent dependent.

The parallel is there. California and their dependence on outside sources for their energy and the United States today dependent 56 percent on oil.

The energy bill we are proposing, we are committed to reduce our dependence to less than 50 percent by initiating exploration in the continental United States in the overthrust belt, Wyoming, Montana, New Mexico, Montana, and my State of Alaska, and part of that involves opening up the small area of the coastal plain, using science and technology, the winter roads, the icy roads, and the expense we have had for 30 years where there has never been a proven exposure to the caribou associated with exploration for oil and gas.

So, let's remember this parallel. You depend on outsiders, you lose your leverage, and you pay the price. It happened in California. It can happen today. As far as I'm concerned, it is happening.

Whether we want to reduce that risk associated with this issue which has become a part of the deliberation of Gale Norton is up to us. I think it is fair to say we can probably terminate the debate on the nomination.

Mr. BYRD. Madam President, I am pleased to join my colleagues today in supporting the president's nomination of Mrs. Gale Norton to be the next Secretary of the Department of the Interior.

As the ranking minority member on the appropriations subcommittee which provides funding for the Interior department, I have a particular interest in this Cabinet position. I know that effectively managing this department—an organization of 69,000 employees and an $8.4 billion budget—is not an easy task. The Interior Secretary is charged with overseeing the 379 parks of the National Park System, the 521 refuges and the 66 national fish hatcheries of the Fish and Wildlife Service, the 264 million acres of land managed by the Bureau of Land Management, and serving the needs of 1.4 million American Indians. Clearly, with a portfolio that broad, it is easy to see that the programs under the jurisdiction of the Secretary have a direct impact on every state in the union and nearly every American citizen.

I am aware of the controversy that has surrounded this nomination. I know that there are those who do not see Mrs. Norton as an ally. There have been many accusations made concerning the nominee's public policy positions, and she has been, in my opinion, unfairly derided as a result of certain past working relationships. Despite this, I remain confident that, as Secretary, Gale Norton will be responsive to the concerns of the American people, particularly those concerns expressed by the Congress.

I have personally talked with Mrs. Norton, and while I will not say that we had an in-depth discussion of all the issues which come before the Interior Department, I can say that, with respect to those subject matters we did discuss, I found Gale Norton to be well informed. More importantly, I found her willing to consider various points of view. Obviously, Senators cannot expect a Cabinet Secretary to agree with us on all things at all times. But what we should expect is to have an opportunity to present our views, or present the case of those we represent, and to have those views heard in a fair and unbiased manner. I believe Mrs. Norton will deliver quite well on that expectation.

Madam President, I wish Gale Norton well as she embarks on a difficult assignment, and she will work with the Congress to ensure that we fulfill our land management and trust responsibilities to the American people in a fair, economical, and efficient manner.

MORNING BUSINESS

Mr. MURKOWSKI. I ask unanimous consent the Senate now go into a period of morning business, with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS

SENATOR SPENCER ABRAHAM TO BE SECRETARY OF ENERGY

Mr. BYRD. Madam President, I supported the nomination of Senator Spencer Abraham as the next Secretary of Energy, and I look forward to working with him in his new position. While I know that Senator Abraham will be facing a host of new issues at the Department of Energy, I welcome his appointment.

I believe that Senator Abraham has a commitment to address the many complicated, intertwining energy, environmental, and economic questions that he will be faced with on a daily basis as Energy Secretary. In recent years, the Department of Energy has been rocked by high profile scandals and security breaches and criticism for failing to address compounding energy policy problems. The Department of Energy has longstanding internal problems regarding agency morale, a complicated system of laboratories, the cleanup of DOE's nuclear complex, and competition between fuel and industry interests. Secretary Abraham will have a defining role in determining the needs and priorities for our national security, energy policy, science and technology, and environmental management.

First and foremost, he will need to work with Congress in the development of a balanced, comprehensive national energy policy. If our ultimate national interests are ever to be achieved, we must address the overarching concerns witnessed by the current price hikes in gasoline, home heating oil, electricity, and natural gas. Though I am certain that, in time, these crises will pass as most crises do, I fear that, as a nation, we will sink back into energy somnolence. The alarm bells are ringing loudly today, and it is time to wake up and address our need for a serious comprehensive national energy strategy. At the same time, a comprehensive energy strategy must also incorporate a strong environmental policy and economic incentives to benefit our nation as a whole.

The new Energy Secretary agreed with me that coal is integral to any national energy strategy. When I met with him, we discussed Clean Coal Technologies and other research that can utilize many of our domestic energy resources in economically and environmentally sound ways. Since 1985, when I established the Clean Coal Technology initiative with a Congressional authorization of $750 million, more than $2.4 billion has been invested in this successful program. Secretary Abraham voiced Administration support for these efforts. By utilizing our nation's knowledge and resources, we can meet our energy demands while also improving the environment.

Additionally, I urged the new Energy Secretary to find ways to address the global climate change challenge. I hope he will continue to support longstanding initiatives that can address climate change as well as find more ways to deploy our advanced technologies in the market, both domestically and internationally. These new technologies and ideas have been paid for by the American people, tested in our laboratories, and demonstrated with the support and assistance of the private sector, and must be deployed if the global community is ever going to seriously tackle the problem of global climate change.

In the coming months, there certainly will be debate over how best to protect the environment, without risking the economic security of our own country. Adopting a commonsense national energy policy that takes advantage of our advanced technologies, while also utilizing our vast energy resources, can be a win-win situation for the environment and the economy.

ADDITIONAL STATEMENTS

COMMENDING THE SPECIAL OLYMPICS ATHLETES, COACHES, AND SUPPORTERS

• Mr. CRAPO. Mr. President, I rise today to commend the Idahoans who will participate in the 2001 Special Olympics World Winter Games in Anchorage, Alaska, this March 4th through 11th. The Special Olympics World Games is an event of Special Olympics, Inc. It is an international competition offered once every two years in Olympic tradition, alternating winter and summer games.

Chris Fonk of Burley and Wendy Newsom of Boise will compete in Alpine skiing. Eric Dille of Burley will be the Alpine skiing alternate. Chad Moe and Lacy Cummings, both of Lewiston, will compete in Nordic skiing. Janet Bush of Mountain Home and Jeff Frost of Pocatello will be the Nordic skiing alternates. April Empey of Blackfoot, Chris Blair of Burley and Dennis Knifong of Boise will compete in snowshoeing.

Snowshoe coach, Terry Kinkead of Burley, and Nordic coach, Manny Sheibany of Moscow, will also take part in the 2001 World Winter Games. The efforts of Terry, Manny, and so many other coaches, volunteers, and supporters has helped the Idaho Special Olympics program offer the opportunity to benefit through sports training and competition to thousands of people with mental retardation.

In turn, every Special Olympics competition leaves its spectators with a better understanding of people who have mental retardation. Through their spirited participation, we learn that these athletes appreciate challenges and benefit greatly from encouragement. We are shown that excellence is a matter of passion and determination. Most important, we are made to realize that the emotional and spiritual health of people with special needs is largely a reflection of the respect and acceptance they receive in their community at large.

I am very proud of these Idaho athletes, their coaches, and their supporters. Special Olympics enlighten us, and then leave our souls soaring.•

TRIBUTE TO JOHN A. VATTES

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor John A. Vattes, Staff Accountant for the New Hampshire Housing Finance Authority, upon his retirement.

John, who received two Associate Degrees from Hesser College, has faithfully served the New Hampshire Housing Finance Authority and the surrounding community for many years. In addition to holding the position of Staff Accountant at the New Hampshire Housing Finance Authority, he has also been the Supervisor of Large Power Billing for Public Service Company of New Hampshire for thirty years. I applaud his hard work and dedication in these positions.

In addition to giving to the New Hampshire Housing Finance Authority and Public Service Company of New Hampshire, John worked tirelessly on New Hampshire political campaigns for former U.S. Senator Gordon J. Humphrey. John has also been a trusted and longtime friend to me for my Congressional elections since the beginning of my political career. He has worked diligently on behalf of New Hampshire political candidates on the local, state and federal levels for over two decades.

A veteran of the Korean conflict, Vattes served New Hampshire and his country with honor as a member of the U.S. Marine Corps. He has worked selflessly within his local community for the South Little League in Manchester for 5 years as player agent and has served as a member of the Knights of Columbus.

John Vattes is truly an extraordinary individual and loyal friend. He has devoted countless hours as a volunteer in his community while still finding time for his family. He and Dotty, his wife of 40 years, are the proud parents of four children: Wendy, Lori, Mark and Shane. John enjoys leisure time pursuing his personal hobbies which include politics, reading, chess, exercising and traveling.

I commend John Vattes and wish him the best upon his retirement. It has been a pleasure to work with him in the years past, and it is truly an honor to represent him in the U.S. Senate.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-418. A communication from the Trial Attorney of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Power Brake Regulations: Freight Power Brake Revisions" (RIN2130-AB16) received on January 8, 2001; to the Committee on Commerce, Science, and Transportation.

EC-419. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relating to smokeless tobacco health education for the years 1998 and 1999; to the Committee on Commerce, Science, and Transportation.

EC-420. A communication from the Chief Counsel of the National Telecommunications and Information Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Technology Opportunities Program" (RIN0660-ZA06) received on January 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-421. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Removal of Groundfish Closure (to allow small-scale fixed-gear Pacific cod fisheries to continue for a limited time period)" (RIN0648-AO44) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC-422. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Large Coastal, Pelagic, and Small Coastal Shark Species, Fishing Season Notification" (I.D. 111400A) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC-423. A communication from the Deputy Assistant Administrator of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Implementation of ICCAT Recommendations" (RIN0648-AN52) received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC-424. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustment to the 2000 Summer Flounder, Scup and Black Sea Bass Commercial Quotas" received on January 10, 2001; to the Committee on Commerce, Science, and Transportation.

EC-425. A communication from the Trial Attorney for the National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled "Criminal Penalty Safe Harbor Provision" (RIN2127-AI24) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-426. A communication from the Trial Attorney for the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reporting the Sale or Lease of Defective of Noncompliant Tires" (RIN2127-AI23) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-427. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Memorial Bridge, across the Intercostal Waterway, mile 830.6, Volusia County, Daytona Beach, FL (CGD07-00-135)" ((RIN2115-AE47)(2001-0006)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-428. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Lower Grand River, LA (CGD08-00-032" ((RIN2115-AE47)(2001-0005)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-429. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08-00-029" ((RIN2115-AE47)(2001-0004)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-430. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Mississippi River, Iowa and Illinois (CGD08-00-033)" ((RIN2115-AE47)(2001-0007)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-431. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Hillsborough Bay, Tampa, Florida (CGD07-00-124)" ((RIN2115-AE46)(2001-0002)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-432. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Great Egg Harbor Bay, New Jersey (CGD05-00-055)" ((RIN2115-AE47)(2001-0008)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-433. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Allowing Alternative Source to Incandescent Light in Private Aids to Navigation (USG-2000-7466)" ((RIN2115-AF98)(2001-0001)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-434. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Cortez Bridge (SR 684), across the Gulf Intracoastal Waterway, mile 87.4 Sarasota County, Cortez, FL (CGD07-00-132)" ((RIN2115-AE47)(2001-0002)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-435. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Siesta Key Bridge, across the Gulf Intracoastal Waterway, mile 71.6, Sarasota County, Florida (CGD07-00-133)" ((RIN2115-AE47)(2001-0003)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-436. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Iliamna, Alaska" ((RIN2120-AA66)(2001-0023)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-437. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Albia, Iowa" ((RIN2120-AA66)(2001-0021)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-438. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amend Legal Description of Jet Route J-501" (RIN2120-AA66)(2001-0022)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-439. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Bloomfield, Iowa" ((RIN2120-AA66)(2001-0019)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-440. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Washington, Missouri" ((RIN2120-AA66)(2001-0020)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-441. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (52)" ((RIN2120-AA65)(2001-0005)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-442. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Willits, California" ((RIN2120-AA66)(2001-0027)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-443. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Legal Description of V-66 in the Vicinity of Dallas/Forth Worth, Texas; correction" ((RIN2120-AA66)(2001-0026)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-444. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Colored Federal Airways; Alaska" ((RIN2120-AA66)(2001-0025)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-445. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Gulkana, Alaska" ((RIN2120-AA66)(2001-0024)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-446. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (42)" ((RIN2120-AA65)(2001-0009)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-447. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (116)" ((RIN2120-AA65)(2001-0008)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-448. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (61)" ((RIN2120-AA65)(2001-0007)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-449. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (32)" ((RIN2120-AA65)(2001-0006)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-450. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (38)" ((RIN2120-AA65)(2001-0010)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-451. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Learjet Model 60 Airplane" ((RIN2120-AA64)(2001-0076)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-452. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Walnut Ridge, Arkansas" ((RIN2120-AA66)(2001-0016)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-453. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Wainwright, Arkansas" ((RIN2120-AA66)(2001-0017)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-454. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Fayetteville, Arkansas" ((RIN2120-AA66)(2001-0015)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-455. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Tulsa Oklahoma" ((RIN2120-AA66)(2001-0018)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-456. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (19)" ((RIN2120-AA63)(2001-0001)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-457. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 Series Airplanes" ((RIN2120-AA64)(2001-0065)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-458. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Agusta SPA Model A109E Helicopters" ((RIN2120-AA64)(2001-0064)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-459. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747, 757, 767, and 777 Series Airplanes" ((RIN2120-AA64)(2001-0063)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-460. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Agusta SPA Model A109E Helicopters" ((RIN2120-AA64)(2001-0062)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-461. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737, 747, 757, and 767 Series Airplanes" ((RIN2120-AA64)(2001-0061)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-462. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW4164, 4168, and 4168A Series Turbofan Engines" ((RIN2120-AA64)(2001-0070)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-463. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD-90-30 Series Airplanes" ((RIN2120-AA64)(2001-0069)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-464. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC-8 Series Airplanes" ((RIN2120-AA64)(2001-0068)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-465. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Schweizer Aircraft Corp Model 269A, 269A1, 269B, 269C, 269C1, 269D, and TH-55A Helicopters" ((RIN2120-AA64)(2001-0066)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC-466. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330 Series Airplanes"

((RIN2120–AA64)(2001–0075)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–467. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9–81, DC 9–82, DC 9–83, and DC 9–87, Model MD–88 Airplanes, and Model MD–90–30 Series Airplanes" ((RIN2120–AA64)(2001–0074)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–468. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by Pratt and Whitney JT9D–3 and –7 Series Engines" ((RIN2120–AA64)(2001–0073)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–469. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. Models PC12 and PC12/45 Airplanes" ((RIN2120–AA64)(2001–0072)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–470. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Agusta SPA Model A109A and A109A II Helicopters" ((RIN2120–AA64)(2001–0071)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–471. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–100 Series Airplanes" ((RIN2120–AA64)(2001–0060)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–472. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Pella, Iowa" ((RIN2120–AA66)(2001–0014)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–473. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E5 Airspace; Meridian, Mississippi" ((RIN2120–AA66)(2001–0013)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–474. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Time of Use for Restricted Areas R–450A, B, C, D, and E; Fort Leonard Wood, Missouri" ((RIN2120–AA66)(2001–0012)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–475. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; and Model A300, B4600, A300, B4–600R, and A300 F4–600R Series Airplanes" ((RIN2120–AA64)(2001–0053)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–476. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Deutschland Model EC135P1 and T1 Helicopters" ((RIN2120–AA64)(2001–0054)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–477. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–400 Series Airplanes" ((RIN2120–AA64)(2001–0055)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–478. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: S.N. Centrair Model 201B Gliders" ((RIN2120–AA64)(2001–0056)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–479. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, 320, 321, Series Airplanes" ((RIN2120–AA64)(2001–0049)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–480. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Beech Models A36, B36TC, and 58 Airplanes" ((RIN2120–AA64)(2001–0050)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–481. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: S.N. CENTRAIR 101 Series Gliders" ((RIN2120–AA64)(2001–0051)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–482. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The New Piper Aircraft, Inc. PA–31 Series Airplanes" ((RIN2120–AA64)(2001–0052)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–483. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: SAAB Model 340B Series Airplanes" ((RIN2120–AA64)(2001–0045)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–484. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 and MD–11F Series Airplanes" ((RIN2120–AA64)(2001–0046)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–485. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospatiale Model ATR72 Series Airplanes" ((RIN2120–AA64)(2001–0047)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–486. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800A and Hawker 800XP Series Airplanes" ((RIN2120–AA64)(2001–0041)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–487. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: SAAB Model SAAB 2000 Series Airplanes" ((RIN2120–AA64)(2001–0042)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–488. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model BAC 1–11 401/AK and 410/AQ Airplanes" ((RIN2120–AA64)(2001–0043)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–489. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800KP and Hawker 800 Series Airplanes" ((RIN2120–AA64)(2001–0044)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–490. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: SAAB Model SF340A and 340B Series Airplanes" ((RIN2120–AA64)(2001–0038)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–491. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9–19, 20, 30, 40, and 50 Series Airplanes; and C–9 Airplanes" ((RIN2120–AA64)(2001–0039)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–492. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: P and W PW4000 Series Turbofan Engines" ((RIN2120–AA64)(2001–0040)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–493. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120–AA64)(2001–0037)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–494. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Vulcanair SpA models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" Airplanes" ((RIN2120–AA64)(2001–0059)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–495. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1 600 1A11, CL 600 2A12, and CL 600 2B16, Series Airplanes" ((RIN2120–AA64)(2001–0058)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–496. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textran Inc. Model 205A–1, 205–B, 212, 412, and 412CF Helicopters" ((RIN2120–AA64)(2001–0057)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–497. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision to the Legal Description of the Laughlin/Bullhead International Airport Class D Airspace Area, AZ" ((RIN2120–AA66)(2001–0011)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–498. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Service Difficulty Reports; final rule; delay of effective date" ((RIN2120–AF10)(2000–0004)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–499. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 Series Airplanes" ((RIN2120–AA64)(2001–0028)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–500. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: P and W JT8D–200 Series Turbofan Engines" ((RIN2120–AA64)(2000–0588)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–501. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, –200, –747SP, and –747SR Series Airplanes Powered by P and W JT9D–3, and –7 Series Engines" ((RIN2120–AA64)(2000–0592)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–502. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model AD3–60 SHERPE Series Airplanes" ((RIN2120–AA64)(2000–0591)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–503. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Model 402C Airplanes" ((RIN2120–AA64)(2000–0590)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–504. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: P and W JT8D Series Turbofan Engines" ((RIN2120–AA64)(2000–0584)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–505. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 430 Helicopters" ((RIN2120–AA64)(2001–0067)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–506. A communication from the Program Analyst of the Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–102, 103, and 301 Series Airplanes" ((RIN2120–AA64)(2001–0048)) received on January 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–507. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of FM Allotment; FM Broadcast Stations. (Lewistown, Montana)" (Docket No. 00–150) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–508. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Strattanville and Farmington Township, Pennsylvania)" (Docket No. 99–58) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–509. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 730202(b), Table of Allotments, FM Broadcast Stations. (Indian Wells, Indio, California)" (Docket No. 98–29, RM–9190, RM–9275) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–510. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Susquehanna and Hallstead, Pennsylvania" (Docket No. 00–15) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–511. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations. (Richmond, Virginia)" (Docket No. 00–97, RM–9865) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–512. A communication from the Special Assistant of the Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Florence and Comobabi, Arizona)" (Docket No. 00–107, RM–9891) received on January 16, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Special Report entitled "Report of the Committee on Governmental Affairs United States Senate and its Subcommittees for the One Hundred Fifth Congress".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. Craig, Mr. Schumer, and Mrs. Murray):

S. 193. A bill to authorize funding for Advanced Scientific Research Computing Programs at the Department of Energy for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 194. A bill to authorize funding for successful reentry of criminal offenders into local communities; to the Committee on the Judiciary.

By Mr. FRIST:

S. 195. A bill to amend the Elementary and Secondary Education Act of 1965 to establish programs to recruit, retain, and retrain teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable personal credit for energy conservation expenditures, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS (for himself and Mr. Hollings):

S. 197. A bill to provide for the disclosure of the collection of information through computer software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. Daschle, Mr. Baucus, Mr. Burns, Mr. Conrad, Mr. Crapo, Mr. Dorgan, Mr. Johnson, and Mr. Smith of Oregon):

S. 198. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 199. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to oversee the competitive activities of air carriers following a concentration in the airline industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 200. A bill to establish a national policy of basic consumer fair treatment for airline passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER:

S. 201. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WARNER:

S. 202. A bill to rename Wolf Trap Farm Park for the Performing Arts as "Wolf Trap National Park for the Performing Arts"; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for himself, Mr. DURBIN, Mr. FITZGERALD, Mr. GRAHAM, Mr. HAGEL, Mr. KYL, Mr. INHOFE, and Mr. BINGAMAN):

S. Con. Res. 4. A concurrent resolution expressing the sense of Congress regarding housing affordability and ensuring a competitive North American market for softwood lumber; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. SCHUMER, and Mrs. MURRAY):

S. 193. A bill to authorize funding for Advanced Scientific Research Computing Programs at the Department of Energy for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for the Office of Science to develop a robust scientific computing infrastructure to solve a number of grand challenges in scientific computing. This bipartisan bill, which is referred to as the "Department of Energy Advanced Scientific Computing Act" is co-sponsored by Senators CRAIG, SCHUMER, and MURRAY. Before discussing this program in detail, let me briefly frame the proposed effort. First, I will outline the tremendous advances made in the last decade for scientific computing. Second, I will give a few examples of the "grand challenges" in scientific computing. Third, I will discuss how the proposed program at the Office of Science will give our nation's scientists the tools to meet these grand challenges. I will conclude by demonstrating how this program integrates with defense related computing programs at the DOE and across the interagency.

Experts agree that scientific computing R&D is at a critical juncture. If the breakthroughs proceed as predicted, the information age could affect our everyday lives far beyond what we nonexperts currently grasp. It is terribly important that we, as a nation, ensure that the U.S. maintains a leadership role in scientific computing R&D. If we fall behind in this rapidly changing field, our nation could lose its ability to control the national security, economic and social consequences from these new information technologies.

What are the possible breakthroughs in scientific computing that merit such strong programmatic attention? Within the next five years we expect that advanced scientific computing machines will achieve peak performance speeds of 100 teraflops or 100 trillion arithmetic operations per second; that is 100 times faster than today's most advanced civilian computers. To put things in perspective, the fastest Pentium III available today can perform about 2 gigaflops (2 billion operations per second), so a 100 teraflops machine is about 50,000 times faster than today's fastest Pentium III. We call this new wave of computing "terascale computing". This new level of computing will allow scientists and engineers to explore problems at a level of accuracy and detail that was unimaginable ten years ago. I will discuss the scientific and engineering opportunities in more detail later. First, let me discuss some of the challenges in terascale computing.

The major advance that led to terascale computing is the use of highly parallel computer architectures. Parallel computers send out mathematical instructions to thousands of processors at once rather than waiting for each instruction to be sequentially completed on a single processor. The problem we face in moving to terascale computers is writing the computer software that utilizes their full performance capabilities. When we say "peak" speeds we mean the ability to use the full capability of the computer. This happens very rarely in parallel computers. For example, in 1990 on state-of-the-art Cray supercomputers with about eight processors, we could obtain, on the average, about 40–50 percent of the computer's "peak" speed. Today, with massively parallel machines using thousands of processors, we often obtain only 5–10 percent of the machine's "peak" speed. The issue is how to tailor our traditional scientific codes to run efficiently on these terascale parallel computers. This is the foremost challenge that must be overcome to realize the full potential of terascale computing.

Another problem we face as we move to terascale computing is the amount of data we generate. Consider the following. Your PC, if it is one of the latest models, has a hard drive that will hold about 10 gigabytes of data. If we successfully begin to implement terascale computing, we will be generating "petabytes" of data for each calculation. A petabyte of data is one million gigabytes or the equivalent of 100,000 hard drives like the one on your PC. A teraflop machine user will make many runs on these machines. But raw data isn't knowledge. To turn data into knowledge, we must be able to analyze it—to determine what it is telling us about the phenomena that we are studying. None of the data management methods that we have today can handle petabytes data sets. This is the second challenge that must be overcome.

And, many more challenges exist.

To make effective use of today's and the future's computing capability we need to establish a scientific program that is radically different from what researchers are used to today. Future scientific computing initiatives must be broad multi-disciplinary efforts. Tomorrow's scientific computing effort will employ not only the physicist who wishes to probe the minute details of solid matter in order to say, built a better magnet, it will include a computer scientist to help ensure that the physicist's software makes efficient use of the terascale computer. Terascale computing will also require mathematicians to develop specialized routines to adapt the solution of the physicist's mathematical equations to these parallel architectures. Finally, terascale computers will require specialists in data networking and visualization who understand how to manage and analyze the massive amounts of data.

I note these problems to highlight the complexities of tomorrow's scientific computing environment from the common information technologies that we employ today. However, because computing technology moves at such a rapid rate, elements of the issues that I have described will surely impact us in the near future. Given the impact information technologies have had only in ten years, it is important that we, as a nation, lead the initiative in these breakthroughs so that we can positively control the impact that the these revolutionary technologies will have on our economy and the social fabric of our Nation.

What are the important problems that we expect terascale computing to address? We call these problems "Grand Challenges". Terascle computing will enable climate researchers to predict with greater certainty how our planet's climate will change in the future, allowing us to develop the best possible strategies and policy for addressing climate change. Terascale computing will help chemists understand the chemical processes involved in combustion, which will translate into more efficient, less polluting engines. Terascale computing will allow material scientists to design nanomaterials atom by atom, which will lead to stronger, yet lighter and hence more energy efficient materials. Terascale computing will assist nanoscience researchers by simulating atom manipulation before undertaking complex and expensive experiments. Nanotechnology will lead to whole new generations of computer chips, information systems, and stronger, yet lighter materials. Finally, terascale computing will enable biologists to understand the structure of the proteins encoded in the human genome, which will lead to better medicines and health for our citizens. These fundamental grand challenge problems are now addressable with the recent advances in scientific computing. Due to the impact the grand challenge problems will have on our lives, we as a nation, must take the lead in their investigation.

What are the elements of the proposed effort? The program I propose will build on the Department of Energy's decades of leadership in high performance computing and networks to ensure that terascale computing and petabyte data visualization becomes a positive force for the U.S. The proposed program has four parts. The first part is the establishment of core teams of researchers who specialize in the grand challenge problem itself. An example of a core team is one made up of geologists and geochemists allied with computer scientists and applied mathematicians to write large software programs associated with oil exploration or the diffusion of waste in the subsurface. The scientific simulation software created by these core teams will be the "engines" that drive the scientific discovery process. The second element of the program enhances the research efforts in computer science and computational mathematics that underlie this software development effort. These specialists will ensure that the core teams effectively use massively parallel computers—not at the current 5–10 percent but at 50 percent of the computer's peak running speed. These specialists will also develop the software to manage and visualize the petabytes of data that the core teams, as well as the next generation of experimental facilities, generate. Third, this program will fund specialists to develop the networking and electronic collaboration software that will allow researchers all across the U.S.—in national laboratories, universities, and industry to routinely use petabyte data sets. This new networking capability will translate quickly to the private sector in the areas of medicine, business transactions, and education over the internet. Fourth, this program will fund the unique computer hardware required for scientific investigations of the "Grand Challenges" on a continuing basis. Many of the grand challenge problems will benefit from specialized computers. This program will fund such specialized computers. For instance, IBM will build in the year 2004 or 2005 a unique 1000 teraflops (1000 trillion operations per second) computer called "Blue Gene". Blue Gene will be 500,000 times faster than your desk PC. This machine will be used by DNA researchers to predict the structure of proteins and in doing so allow drugs and medicines to be optimized before they are commercially produced. We propose to place these one-of-a-kind computers at national user facilities and make them available to U.S. researchers in national and government laboratories, universities, and industry.

In summary, we are proposing a program that will substantially advance our understanding of complex scientific phenomena that affect our daily lives. At the present we cannot fully understand these phenomena; it is critical that we master it in our national interest so to benefit our nation and its people.

Overall, this program will integrate into other DOE advanced computing efforts and into our national strategy for advanced scientific computing. In FY01, the DOE National Nuclear Security Agency, NNSA, funded the Accelerated Strategic Computing Initiative or ASCI at $477 million dollars. ASCI's mission—to develop the capability to simulate the safety and surety of the nuclear weapons in our stockpile—is critical to the security of our nation. The ASCI program is a focused and classified program with one primary user—the nuclear weapons community. Its problems revolve around materials and plasmas undergoing rapid changes from a nuclear explosion. The Advanced Scientific Computing Program I am proposing is unclassified and covers many other areas of science critical to the long term well being of the nation. This program will involve interaction between researchers at the nation's national and federal laboratories, universities, and industry. That is not to say that there will be no integration between these two worthy and important efforts. Both efforts involve terascale computers, so clearly we expect that many of the central tools common to both in terms of hardware design and underlying software for networks and visualization will be shared. Both programs will benefit by the two diverse communities working towards the common goal of terascale computing. And, the NNSA will be able to infuse fresh ideas from the universities and industry on parallel architectures and data visualization into their efforts in ensuring the surety of our nation's nuclear weapons stockpile.

Within the U.S. Government, this effort will fall under the purview of the National Coordinating Office for Computing, Information and Communications, "NCO/CIC". This Office is charged with coordinating government-sponsored information technology research programs across all of the government agencies. The NCO/CIC provides a forum for DOE to coordinate its scientific computing program with information technology programs in NSF, DOD, NASA, NIH, NOAA, and other government agencies interested in high-performance computing. Although the DOE program is focused on its energy, environmental, and scientific missions, many benefits will be derived by coordinating its activities with related computing activities in other agencies. Finally, I note that in our national implementation plan for "Information for the Twenty First Century", the NSF and the DOE were given the leadership for "Advanced Scientific Computing for Science, Engineering and the Nation". The program I have outlined supports that role.

In summary, I have outlined a scientific computing program that will advance our ability to understand complex but important physical, chemical, and biological phenomena. Advancing our understanding of global climate change will lead to a better understanding on the relationship between our energy consumption and the climate on our planet. Mastering materials and chemical processes at an atomic level will enhance U.S. industrial competitiveness in many areas such as energy efficient materials manufacturing and develop new computer chip technologies. Understanding the flow of contaminants in the groundwater will help develop better strategies for cleaning up DOE's sites and help commercial oil and gas extraction. Predicting the structure of proteins will lead to more effective drugs with minimal side effects. Beyond solution of the "Grand Challenges" are the advancements that will be made in advanced computing and networking technologies which will benefit users in areas as diverse as medicine and business. These problems are of national significance to the health of our citizens and our future economy in the 21st century.

By Mr. BIDEN:

S. 194. A bill to authorize funding for successful reentry of criminal offenders into local communities; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, today I am proud to introduce the "Offender

Reentry and Community Safety Act of 2001," a bill I first introduced last July. The bill is also a part of S. 16, the Democrat's omnibus crime legislation.

Too often we have short-term solutions for long-term problems. All too often we think about today, but not tomorrow. It's time that we start looking forward. It's time that we face the dire situation of prisoners re-entering our communities with insufficient monitoring, little or no job skills, inadequate drug treatment, insufficient housing and deficient basic life skills.

According to the Department of Justice, 1.25 million offenders are now living in prisons and another 600,000 offenders are incarcerated in local jails. A record number of those inmates—approximately 585,400 will return to communities this year. Historically, two-thirds of returning prisoners have been rearrested for new crimes within three years.

The safety threat posed by this volume of prisoner returns has been exacerbated by the fact that states and communities can't possibly properly supervise all their returning offenders, parole systems have been abolished in thirteen states and policy shifts toward more determinate sentencing have reduced the courts' authority to impose supervisory conditions on offenders returning to their communities.

State systems have also reduced the numbers of transitional support programs aimed at facilitating the return to productive community life styles. Recent studies indicate that many returning prisoners receive no help in finding employment upon release and most offenders have low literacy and other basic educational skills that can impede successful reentry.

At least 55 percent of offenders are fathers of minor children, and therefore face a number of issues related to child support and other family responsibilities during incarceration and after release. Substance abuse and mental health problems also add to concerns over community safety. Approximately 70 percent of state prisoners and 57 percent of federal prisoners have a history of drug use or abuse. Research by the Department of Justice indicates that between 60 and 75 percent of inmates with heroin or cocaine problems return to drugs within three months when untreated. An estimated 187,000 state and federal prison inmates have self-reported mental health problems. Mentally ill inmates are more likely than other offenders to have committed a violent offense and be violent recidivists. Few states connect mental health treatment in prisons with treatment in the return community. Finally, offenders with contagious diseases such as HIV/AIDS and tuberculosis are released with no viable plan to continue their medical treatment so they present a significant danger to public health. And while the federal prison population and reentry system differs from the state prison population and reentry systems, there are nonetheless significant reentry challenges at the federal level.

We need to start thinking about what to do with these people. We need to start thinking in terms of helping these people make a transition to the community so that they don't go back to a life of crime and can be productive members of our society. We need to start thinking about the long-term impact of what we do after we send people to jail.

My legislation creates demonstration reentry programs for federal, state and local prisoners. The programs are designed to assist high-risk, high-need offenders who have served their prison sentences, but who pose the greatest risk of reoffending upon release because they lack the education, job skills, stable family or living arrangements, and the substance abuse treatment and other mental and medical health services they need to successfully reintegrate into society.

Innovative strategies and emerging technologies present new opportunities to improve reentry systems. This legislation creates federal and state demonstration projects that utilize these strategies and technologies. The projects share many core components, including a more seamless reentry system, reentry officials who are more directly involved with the offender and who can swiftly impose intermediate sanctions if the offender does not follow the designated reentry plan, and the combination of enhanced service delivery and enhanced monitoring. The different projects are targeted at different prisoner populations and each has some unique features. The promise of the legislation is to establish the demonstration projects and then to rigorously evaluate them to determine which measures and strategies most successfully reintegrate prisoners into the community as well as which measures and strategies can be promoted nationally to address the growing national problem of released prisoners.

There are currently 17 unfunded state pilot projects, including one in Delaware, which are being supported with technical assistance by the Department of Justice. My legislation will fund these pilot projects and will encourage states, territories, and Indian tribes to partner with units of local government and other non-profit organizations to establish adult offender reentry demonstration projects. The grants may be expended for implementing graduated sanctions and incentives, monitoring released prisoners, and providing, as appropriate, drug and alcohol abuse testing and treatment, mental and medical health services, victim impact educational classes, employment training, conflict resolution skills training, and other social services. My legislation also encourages state agencies, municipalities, public agencies, nonprofit organizations and tribes to make agreements with courts to establish "reentry courts" to monitor returning offenders, establish graduated sanctions and incentives, test and treat returning offenders for drug and alcohol abuse, and provide reentering offenders with mental and medical health services, victim impact educational classes, employment training, conflict resolution skills training, and other social services.

This legislation also re-authorizes the drug court program created by Congress in the 1994 Crime Law as a cost-effective, innovative way to deal with non-violent offenders in need of drug treatment. This is the same language as the "Drug Court Re-authorization and Improvement Act" that I introduced with Senator SPECTER last Congress.

Rather than just churning people through the revolving door of the criminal justice system, drug courts help these folks to get their acts together so they won't be back. When they graduate from drug court programs they are clean and sober and more prepared to participate in society. In order to graduate, they are required to finish high school or obtain a GED, hold down a job, and keep up with financial obligations including drug court fees and child support payments. They are also required to have a sponsor who will keep them on track.

This program works. And that is not just my opinion. Columbia University's National Center on Addiction and Substance Abuse (CASA) found that these courts are effective at taking offenders with little previous treatment history and keeping them in treatment; that they provide closer supervision than other community programs to which the offenders could be assigned; that they reduce crime; and that they are cost-effective.

According to the Department of Justice, drug courts save at least $5,000 per offender each year in prison costs alone. That says nothing of the cost savings associated with future crime prevention. Just as important, scarce prison beds are freed up for violent criminals.

I have saved what may be the most important statistic for last. Two-thirds of drug court participants are parents of young children. After getting sober through the coerced treatment mandated by the court, many of these individuals are able to be real parents again. More than 500 drug-free babies have been born to female drug court participants, a sizable victory for society and the budget alike.

This bill re-authorizes programs to provide for drug treatment in state and federal prisons. According to CASA, 80 percent of the men and women behind bars in the United States today are there because of alcohol or drugs. They were either drunk or high when they committed their crime, broke an alcohol or drug law, stole to support their habit, or have a history of drug or alcohol abuse. The need for drug and alcohol treatment in our nations prisons and jails is clear.

Providing treatment to criminal offenders is not "soft." It is a smart crime prevention policy. If we do not treat addicted offenders before they are released, they will be turned back onto our streets with the same addiction problem that got them in trouble in the first place and they will re-offend. Inmates who are addicted to drugs and alcohol are more likely to be incarcerated repeatedly than those without a substance abuse problem. This is not my opinion, it is fact. According to CASA, 81 percent of inmates with five or more prior convictions have been habitual drug users compared to 41 percent of first-time offenders. Re-authorizing prison-based treatment programs is a good investment and is an important crime prevention initiative.

This legislation is just a first step—but a necessary one. Someday, we will look back and wonder why we didn't think of this sooner. For now, we need to implement these pilot projects, help people make it in their communities and make our streets safer at the same time. I am certain that in the end we will revel in the results.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Offender Reentry and Community Safety Act of 2001".

SEC. 2. FINDINGS.

Congress finds the following:

(1) There are now nearly 1,900,000 individuals in our country's prisons and jails, including over 140,000 individuals under the jurisdiction of the Federal Bureau of Prisons.

(2) Enforcement of offender violations of conditions of releases has sharply increased the number of offenders who return to prison—while revocations comprised 17 percent of State prison admissions in 1980, they rose to 36 percent in 1998.

(3) Although prisoners generally are serving longer sentences than they did a decade ago, most eventually reenter communities; for example, in 1999, approximately 538,000 State prisoners and over 50,000 Federal prisoners a record number were returned to American communities. Approximately 100,000 State offenders return to communities and received no supervision whatsoever.

(4) Historically, two-thirds of returning State prisoners have been rearrested for new crimes within 3 years, so these individuals pose a significant public safety risk and a continuing financial burden to society.

(5) A key element to effective post-incarceration supervision is an immediate, predetermined, and appropriate response to violations of the conditions of supervision.

(6) An estimated 187,000 State and Federal prison inmates have been diagnosed with mental health problems; about 70 percent of State prisoners and 57 percent of Federal prisoners have a history of drug use or abuse; and nearly 75 percent of released offenders with heroin or cocaine problems return to using drugs within 3 months if untreated; however, few States link prison mental health treatment programs with those in the return community.

(7) Between 1987 and 1997, the volume of juvenile adjudicated cases resulting in court-ordered residential placements rose 56 percent. In 1997 alone, there were a total of 163,200 juvenile court-ordered residential placements. The steady increase of youth exiting residential placement has strained the juvenile justice aftercare system, however, without adequate supervision and services, youth are likely to relapse, recidivate, and return to confinement at the public's expense.

(8) Emerging technologies and multidisciplinary community-based strategies present new opportunities to alleviate the public safety risk posed by released prisoners while helping offenders to reenter their communities successfully.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, using new strategies and emerging technologies that alleviate the public safety risk posed by released prisoners by promoting their successful reintegration into the community;

(2) establish court-based programs to monitor the return of offenders into communities, using court sanctions to promote positive behavior;

(3) establish offender reentry demonstration projects in the states using government and community partnerships to coordinate cost efficient strategies that ensure public safety and enhance the successful reentry into communities of offenders who have completed their prison sentences;

(4) establish intensive aftercare demonstration projects that address public safety and ensure the special reentry needs of juvenile offenders by coordinating the resources of juvenile correctional agencies, juvenile courts, juvenile parole agencies, law enforcement agencies, social service providers, and local Workforce Investment Boards; and

(5) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

TITLE I—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 101. FEDERAL REENTRY CENTER DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) a Reentry Review Team for each prisoner, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and incorporating victim impact information, and will thereafter meet regularly to monitor the prisoner's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) regular drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner's minor or technical violation of the conditions of participation in the project;

(4) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as advisers and mentors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of offenders' reentry plan.

(c) PROBATION OFFICERS.—From funds made available to carry out this Act, the Director of the Administrative Office of the United States Courts shall assign one or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(d) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participant prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Attorney General, in consultation with the Judicial Conference of the United States, shall select an appropriate number of Federal judicial districts in which to carry out the Reentry Center Demonstration project.

(f) COORDINATION OF PROJECTS.—The Attorney General, may, if appropriate, include in the Reentry Center Demonstration project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 105.

SEC. 102. FEDERAL HIGH-RISK OFFENDER REENTRY DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Director of the Administrative Office of the United

States Courts, in consultation with the Attorney General, shall establish the Federal High-Risk Offender Reentry Demonstration project. The project shall involve Federal offenders under supervised release who have previously violated the terms of their release following a term of imprisonment and shall utilize, as appropriate and indicated, community corrections facilities, home confinement, appropriate monitoring technologies, and treatment and programming to promote more effective reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by Federal prisoners who have previously violated the terms of their release following a term of imprisonment;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5), will be part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programming to promote effective reintegration into the community as appropriate;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim(s), especially in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program; and

(7) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated a previously imposed term of supervised release and who will be subject to some additional term of supervised release, shall be designated to participate in the demonstration project. With respect to these offenders, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in the project.

(d) PROJECT DURATION.—The Federal High-Risk Offender Reentry Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(e) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal High-Risk Offender Reentry Demonstration project.

SEC. 103. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this Act, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC ISTART) project. The project shall involve high risk District of Columbia parolees who would otherwise be released into the community without a period of confinement in a community corrections facility and shall utilize intensive supervision, monitoring, and programming to promote such parolees' successful reentry into the community.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement;

(3) a Reentry Review Team that includes a victim witness professional for each parolee which shall meet with the parolee—by video conference or other means as appropriate—before the parolee's release from the custody of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereafter meet regularly to monitor the parolee's progress toward reentry and coordinate access to appropriate reentry measures and resources;

(4) regular drug testing, as appropriate;

(5) a system of graduated levels of supervision within the community corrections facility to promote community safety, encourage victim restitution, provide incentives for prisoners to complete the reentry plan, and provide a reasonable method for immediately sanctioning a prisoner's minor or technical violation of the conditions of participation in the project;

(6) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed and indicated;

(7) the use of monitoring technologies, as appropriate;

(8) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based communities, to serve as advisers and mentors to prisoners being released into the community; and

(9) notification to victims on the status and nature of a prisoner's reentry plan.

(c) MANDATORY CONDITION OF PAROLE.—For those offenders eligible to participate in the demonstration project, the United States Parole Commission shall impose additional mandatory conditions of parole such that the offender when on parole shall, as directed by the community supervision officer, reside at a community corrections facility or participate in a program of home confinement, or both, submit to electronic and other remote monitoring, and otherwise participate in the project.

(d) PROGRAM DURATION.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Trustee of the Court Services and Offender Supervision Agency of the District of Columbia may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 104. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall establish the Federal Intensive Supervision, Tracking and Reentry Training Demonstration (FED ISTART) project. The project shall involve appropriate high risk Federal offenders who are being released into the community without a period of confinement in a community corrections facility.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a prisoner's reentry plan.

(c) PROGRAM DURATION.—The Federal Intensive Supervision, Tracking and Reentry Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

(d) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 105. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING AND DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project in selected institutions. The project shall provide in-prison assessments of prisoners' vocational needs and aptitudes, enhanced work skills development, enhanced release readiness programming, and other components as appropriate to prepare Federal prisoners for release and reentry into the community.

(b) PROGRAM DURATION.—The Enhanced In-Prison Vocational Assessment and Training Demonstration shall begin not later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to 6 months to enable participating prisoners to complete their involvement in the project.

SEC. 106. RESEARCH AND REPORTS TO CONGRESS.

(a) ATTORNEY GENERAL.—Not later than 2 years after the enactment of this Act, the Attorney General shall report to Congress on the progress of the demonstration projects authorized by sections 101 and 105. Not later than 1 year after the end of the demonstration projects authorized by sections 101 and

105, the Director of the Federal Bureau of Prisons shall report to Congress on the effectiveness of the reentry projects authorized by sections 101 and 105 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 2 years after the enactment of this Act, Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the demonstration projects authorized by sections 102 and 104. Not later than 180 days after the end of the demonstration projects authorized by sections 102 and 104, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 102 and 104 of this Act on post-release outcomes and recidivism. The report should address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(c) DC ISTART.—Not later than 2 years after the enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 6 of this Act. Not later than 1 year after the end of the demonstration project authorized by section 103, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 103 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate. In the event that the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) is not in operation 1 year after the enactment of this Act, the Director of National Institute of Justice shall prepare and submit the reports required by this section and may do so from funds made available to the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) to carry out this Act.

SEC. 107. DEFINITIONS.

In this title—

(1) the term "appropriate prisoner" means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community, and

(B) to lack the skills and family support network that facilitate successful reintegration into the community; and

(2) the term "appropriate high risk parolees" means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act, there are authorized to be appropriated, to remain available until expended, the following amounts:

(1) To the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2002;

(B) $1,110,000 for fiscal year 2003;

(C) $1,130,000 for fiscal year 2004;

(D) $1,155,000 for fiscal year 2005; and

(E) $1,230,000 for fiscal year 2006.

(2) To the Federal Judiciary—

(A) $3,380,000 for fiscal year 2002;

(B) $3,540,000 for fiscal year 2003;

(C) $3,720,000 for fiscal year 2004;

(D) $3,910,000 for fiscal year 2005; and

(E) $4,100,000 for fiscal year 2006.

(3) To the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712)—

(A) $4,860,000 for fiscal year 2002;

(B) $4,510,000 for fiscal year 2003;

(C) $4,620,000 for fiscal year 2004;

(D) $4,740,000 for fiscal year 2005; and

(E) $4,860,000 for fiscal year 2006.

TITLE II—STATE REENTRY GRANT PROGRAMS

SEC. 201. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end the following:

"PART CC—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2951. ADULT OFFENDER STATE AND LOCAL REENTRY PARTNERSHIPS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Funds may be expended by the projects for the following purposes:

"(1) oversight/monitoring of released offenders;

"(2) providing returning offenders with drug and alcohol testing and treatment and mental health assessment and services;

"(3) convening community impact panels, victim impact panels or victim impact educational classes;

"(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

"(5) establishing and implementing graduated sanctions and incentives.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under 2601(a)—

"(1) shall prepare the application as required under subsection 2601(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $40,000,000 in fiscal years 2002 and 2003; and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2952. STATE AND LOCAL REENTRY COURTS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $500,000 to State and local courts or state agencies, municipalities, public agencies, nonprofit organizations, and tribes that have agreements with courts to take the lead in establishing a reentry court. Funds may be expended by the projects for the following purposes:

"(1) monitoring offenders returning to the community;

"(2) providing returning offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(3) convening community impact panels, victim impact panels, or victim impact educational classes;

"(4) providing and coordinating the delivery of other community services to offenders, such as housing assistance, education, employment training, conflict resolution skills training, batterer intervention programs, and other social services as appropriate; and

"(5) establishing and implementing graduated sanctions and incentives.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies, including existing community corrections and parole, and there will be appropriate coordination with all affected agencies in the implementation of the program;

"(4) describe the methodology and outcome measures that will be used in evaluation of the program.

"(c) APPLICANTS.—The applicants as designated under 2602(a)—

"(1) shall prepare the application as required under subsection 2602(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2953. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the projects for the following purposes:

"(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

"(3) oversight/monitoring of released juvenile offenders; and

"(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, conflict resolution skills training, batterer intervention programs, employment training and placement, efforts to identify suitable living arrangements, family involvement and support, and other services.

"(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies, including existing community corrections and parole, in the implementation of the program;

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(c) APPLICANTS.—The applicants as designated under 2603(a)—

"(1) shall prepare the application as required under subsection 2603(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2954. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and approaches, selected evaluation of projects authorized in the preceding sections, and dissemination of information to the field.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary to carry out this section in fiscal years 2004, 2005, and 2006.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by striking the matter relating to part Z and inserting the following:

"PART CC—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

"Sec. 2951. Adult Offender State and Local Reentry Partnerships.
"Sec. 2952. State and Local Reentry Courts.
"Sec. 2953. Juvenile Offender State and Local Reentry Programs.
"Sec. 2954. State Reentry Program Research and Evaluation.".

TITLE III—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION

SEC. 301. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS REAUTHORIZATION.

Section 3621(e)(4) of title 18, United States Code, is amended by striking subparagraph (E) and inserting the following:

"(E) $31,000,000 for fiscal year 2002; and

"(F) $38,000,000 for fiscal year 2003.".

TITLE IV—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS REAUTHORIZATION

SEC. 401. REAUTHORIZATION.

Paragraph (17) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(17)) is amended to read as follows:

"(17) There are authorized to be appropriated to carry out part S $100,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2007.".

SEC. 402. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.".

By Mr. FRIST:

S. 195. A bill to amend the Elementary and Secondary Act of 1965 to establish programs to recruit, retain, and retrain teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, today I am introducing the A Million Quality Teachers Act.

Thomas Jefferson once observed that of all the bills in the federal code, "by far the most important is that for the diffusion of knowledge among the people. "No surer foundation," he said, "can be devised for the preservation of freedom and happiness." President Bush has reminded us of the importance of education as well. In his Inauguration Speech, he urged all of us to work together to rebuild our nation's education system: "Together we will reclaim America's schools, before ignorance and apathy claim more young lives."

As President Bush himself noted in that same speech, "While many of our citizens prosper, others doubt the promise, even the justice, of our own country. The ambitions of some Americans are limited by failing schools, and hidden prejudice, and the circumstances of their birth." Our current foundation of elementary and secondary education is grossly inadequate to enable American children of all income levels and backgrounds to best realize the "American dream" and the economic freedoms that the "American dream" encapsulates.

Most companies dismiss the value of a high school diploma. Twelfth grade students in the United States rank near the very bottom on international comparisons in math and science. The Third International Math and Science Study, the most comprehensive and rigorous comparison of quantitative skills across nations, reveals that the longer our students stay in the elementary and public school system, the worse they perform on standardized tests.

High school graduates are twice as likely to be unemployed as college graduates (3.9% vs. 1.9%). Moreover, the value of a college degree over a high school degree is rising. In 1970, a college graduate made 136% more than a high school graduate. Today it is 176%. Even more ominous are labor participation rates for high school graduates in an information economy. While labor force participation for adults is at an all time high in the American economy, this boom has masked a 10% decline in participation rates for high school graduates since 1970 from 96.3% to 86.4%.

Our children cannot afford to be illiterate in mathematics and science. The rapidly changing technology revolution demands skills and proficiency in mathematics, science, and technology. IT, perhaps the fastest growing sector of our economy, relies on more than basic high school literacy in mathematics and science.

We have all heard about the impending teacher shortage. The Department of Education estimates that we will need over 2.2 million new teachers in the next decade to meet enrollment increases and to offset the large number of baby boomer teachers who will soon be retiring. Additionally, although America has many high-quality teachers already, we do not have enough, and with the impending retirement of the baby boomer generation of teachers, we will need even more.

Many want to continue to devote significant resources to reducing class size, and the concept to hire more teachers isn't a bad idea. Studies have shown that smaller class size may improve learning under certain circumstances. But class size is only a small piece in the bigger puzzle to improve America's education system, not the catapult that will launch us into education prosperity.

Unfortunately, there are too many teachers in America today who lack proper preparation in the subjects that they teach. My own state of Tennessee actually does a good job of ensuring that teachers have at least a major or minor in the subject that they teach—well enough to receive a grade of A in that category on the recent Thomas Fordham Foundation report on teacher quality in the states. Even in Tennessee, however, 64.5% of teachers teaching physical science do not even have a minor in the subject. Among history teachers, nearly 50% did not major or minor in history. Many other states do worse.

Additionally, there is consensus that we are not attracting enough of the best and the brightest to teaching, and not retaining enough of the best of those that we attract. According to Harvard economist Richard Murnane, "College graduates with high test scores are less likely to become teachers, licensed teachers with high test scores are less likely to take jobs, employed teachers with high test scores are less likely to stay, and former teachers with high test scores are less likely to return."

A Million Quality Teachers seeks to change that by recruiting, and helping states recruit into the teaching profession top-quality students who have majored in academic subjects. We want teachers teaching math who have majored in and who love math. We want teachers teaching science who have majored in and who love science. This bill helps draw those students into teaching for a few years at the very least, and studies have shown that new teachers are most effective in the first couple of years of teaching. This bill would attract new students, and different kinds of students, into teaching by offering significant loan repayment.

While teachers are one of our nation's most critical professions, it is often very difficult to attract highly skilled and marketable college students and graduates because of a profound lack of competitive salaries and the burden of student loans. In addition to the loan forgiveness and alternative certification stipends, the legislation will allow states to use up to $1.3 billion originally designated in a lump sum to hire more teachers to instead allow the states to use that money more creatively in programs to attract the kind of quality teachers they need but cannot afford. Using innovative tools already tested by many states, such as signing bonuses, loan forgiveness, payment of certification costs, and income tax credits, states will be able to once again make teaching an attractive and competitive career for our brightest college graduates. Additionally, the legislation does not limit states to these tools, but allows them to receive grants to continue testing other innovative and new programs for the same purposes.

There are two parts to the bill. Part I is a competitive grant program for States to enable them to run their own innovative quality teacher recruitment, retention and retraining programs. Part II is a loan forgiveness and alternative certification scholarship program to entice individuals with strong academic backgrounds into teaching.

The State grant program will help States focus on recruitment, retention and retraining in the way that best serves the individual State. Some states may decide to offer a teacher signing bonus program like the widely publicized and very successful program in Massachusetts. Other states may choose to institute teacher testing and merit pay, or to award performance bonuses to outstanding teachers. The program is very flexible, yet the State must be accountable for improving the quality of teachers in that State.

States who participate must submit a plan for how they intend to use funds under the program and how they expect teacher quality to increase as a result, including the expected increase in the number of teachers who majored in the academic subject in which they teach, and the number of teachers who received alternative certification, if the funds are used for recruitment activities. If the funds are used for retention or retraining, the State must focus on how the program will decrease teacher attrition and increase the effectiveness of existing teachers.

States must also report at the end of the three-year grant on how the program increased teacher quality and increased the number of teachers with academic majors in the subjects in which they teach and the number of teachers that received alternative certification and/or how the program decreased teacher attrition and increased the effectiveness of existing teachers.

The loan forgiveness provision is different than loan forgiveness already in current law in that it targets a different population: students in college or graduate school today who are excelling in an academic subject. The purpose is to attract students into teaching who might not otherwise choose to pursue a teaching career and who are majoring in an academic subject.

Any eligible student may take advantage of the loan forgiveness and deferral. An eligible student has majored in a core academic subject with at least a 3.0 GPA and has not been a full-time teacher previously. Loan payments are deferred for as long as the student is obtaining alternative certification or teaching in a public school.

The premise of the bill is that teaching is, or will soon be, like other professions where there is at least some degree of transience. In fact, recent studies show that most new teachers leave within four years. But these studies also show that new teachers are most effective in the first few years of teaching. This bill would attract new students, and different kinds of students, into teaching by offering significant loan repayment.

Alternative certification stipends will provide a seamless transition for a student from school into teaching. The bill provides stipends to students who have received their academic degrees from a college or university in order to obtain certification through alternative means. Students who have received assistance under the loan forgiveness section get first priority, but any student who has received a bachelors or advanced degree in a core academic subject with a GPA of at least 3.0 and who has never taught full-time in a public school is eligible. Students would receive the lesser of $5,000 or the costs of the alternative certification program, in exchange for agreeing to teach in a public school for 2 years.

The job of every new generation is to meet civilization's new problems, improve its new opportunities, and explore its ever-expanding horizons, creating dreams not just for themselves, but for all who come after. Our job—the job of the current generation—is to help them do just that. Learning is the future. Education is the key. We must embark upon a national effort to bring it up to a standard demanded by the challenge, and improving teacher quality is the first step. I hope that my colleagues will concur.

By Mrs. BOXER:

S. 196. A bill to amend the Internal Revenue Code of 1986 to provide a refundable personal credit for energy conservation expenditures, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, today, I am introducing the Energy Conservation Tax Credit Act. As the electricity crisis in California continues, the entire nation needs to conserve electricity and improve energy efficiency. No solution to the energy problem is complete without addressing the need to improve the demand side of the equation.

The Energy Conservation Tax Credit Act would encourage efforts at energy conservation through a refundable tax credit, grants to schools to retrofit buildings, and increased information to consumers on their use of electricity.

The legislation would provide individuals with a refundable tax credit for the cost of energy conservation measures, such as ceiling insulation, weather stripping, water heater insulation blankets, low-flow showerheads, thermal doors and windows, clock thermostats, and external shading devices. The provisions eligible for the tax credit are passed on what was included in the California tax code from 1981 to 1986. The bill also includes a provision allowing this list to be expanded for other devices that the Secretary of Energy determines to be effective in conserving energy.

The bill would also provide grants to school districts to retrofit public school buildings to increase energy efficiency and conservation. Many school buildings are old and do not use energy efficiently. According to the California Energy Commission, making energy efficient improvements can reduce a school's annual utility bills by 20 percent. Unfortunately, particularly in low-income districts, other priorities—such as textbooks and teachers—often push the need to retrofit down on the priority list. My bill establishes a grand program to help local schools make these improvements.

Finally, for consumer information, the bill would require utility companies to provide information on electricity bills regarding the amount of electricity used during peak and nonpeak hours and how much the consumer is paying during each period.

This is not the complete answer to the energy situation in California. But, it is important, and would be helpful in reducing the nation's need for electricity.

By Mr. EDWARDS (for himself and Mr. HOLLINGS):

S. 197. A bill to provide for the disclosure of the collection of information through computer software, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. EDWARDS. Mr. President, how would you feel if someone was eavesdropping on your private phone conversations without your knowledge? Well, if it happened to me, I would be very disturbed. And I think that most Americans would be very disturbed to know that something similar may be happening every time they use their computers.

The shocking fact is that many software programs contain something called spyware. Spyware is computer code that surreptitiously uses our Internet connection to transmit information about things like our purchasing patterns and our health and financial status. This information is collected without our knowledge or explicit permission and the spyware programs run undetected while you surf the Internet.

Spyware has been found in Quicken software, which is manufactured by Intuit, Inc. So let me use this as an example. Imagine you purchase Quicken software or download it from the Internet. You install it on your computer to help you with your finances. However, unbeknownst to you, Quicken does more than install financial planning tools on your computer. It also installs a little piece of spyware. The spyware lies dormant until one day when you get on the Internet.

As you start surfing the Internet, the spyware sends back information to Intuit about what you buy and what you are interested in. And all of this happens without your knowledge. You could be on Amazon.com or researching health issues and at the very same time Intuit spyware is using your Internet connection, transmitting some of your most private data to someone you never heard of.

In the months since it was reported that Quicken contained spyware, the folks at Intuit may have decided to remove the spyware from Quicken. However, Quicken is not the only software program that may contain spyware. One computer expert recently found spyware programs in popular childrens' software that is designed to help them learn, such as Mattel Interactive's Reader Rabbit and Arthur's Thinking Games. And, according to another expert's assessment, spyware is present in four hundred software programs, including commonly used software such as RealNetworks RealDownload, Netscape/AOL Smart Download, and NetZip Download Demon. Spyware in these software programs can transmit information about every file you download from the Internet.

Mr. President, I rise today to re-introduce the Spyware Control and Privacy Protection Act. I first introduced this legislation during the 106th Congress. At that time, Congress was debating how to best address the Internet privacy issue. Unfortunately, Congress failed to enact meaningful Internet privacy legislation before the close of the Congress. I am hopeful that the story will end differently during the 107th Congress. I hope we will pass comprehensive legislation that enables Americans to regain control over their personal information, and that helps protect their privacy and the privacy of their families. I believe my spyware bill is essential to ensuring that these computer privacy protections are complete, and I will work to make sure it is incorporated into any Internet privacy legislation that moves in the Senate.

My proposal is common-sense and simple. It incorporates all four fair information practices of notice, choice, access and security practices that I believe are essential to effective computer privacy legislation.

First, the Act requires that any software that contains spyware must provide consumers with clear and conspicuous notice—at the time the software is installed—that the software contains spyware. The notice must also describe the information that the spyware will collect and indicate to whom it will be transmitted.

Another critical provision of my bill requires that software users must first give their affirmative consent before the spyware is enabled and allowed to start obtaining and sharing users' personal information with third parties. In other words, software users must "opt-in" to the collection and transmission of their information. My bill gives software users a choice whether they will allow the spyware to collect and share their information.

The Spyware Control and Privacy Protection Act allows for some common-sense exceptions to the notice and opt-in requirements. Under my proposal, software users would not have to receive notice and give their permission to enable the spyware if the software user's information is gathered in order to provide technical support for use of the software. In addition, users' information may be collected if it is necessary to determine if they are licensed users of the software. And finally, the legislation would not apply to situations where employers are using spyware to monitor Internet usage by their employees. I believe that this last issue is a serious one and deserves to be addressed in separate legislation.

Another important aspect of the Spyware Control and Privacy Protection Act is that it would incorporate the fair information practice known as "access." What this means is that an individual software user would have the ability to find out what information has been collected about them, and would be given a reasonable chance to correct any errors.

And finally, the fourth fair information practice guaranteed by my bill is "security." Anyone that uses spyware to collect information about software users must establish procedures to keep that information confidential and safe from hackers.

Mr. President, spyware is a modern day Trojan horse. You install software on your computer thinking it's designed to help you, and it turns out that something else is hidden inside that may be quite harmful.

I have been closely following the privacy debate for some time now. And I am struck by how often I discover new ways in which our privacy is being eroded. Spyware is among the more startling examples of how this erosion is occurring.

Most people would agree that modern technology has been extraordinarily beneficial. It has enabled us to obtain information more quickly and easily than ever before. And companies have streamlined their processes for providing goods and services.

But these remarkable developments can have a startling downside. They have made it easier to track personal information such as medical and financial records, and buying habits. In turn, our ability to keep our personal information private is being eroded.

Even sophisticated computer software users are unlikely to be aware that information is being collected about their Internet surfing habits and is likely being fed into a growing personal profile maintained at a data warehouse. They don't know that companies can and do extract the information from the warehouse to create a so-called cyber-profile of what they are likely to buy, what the status of their health may be, what their family is like, and what their financial situation may be.

I believe that in the absence of government regulation, it is difficult, if not impossible for people to control the use of their own personal information. Consumers are not properly informed, and businesses are under no legal obligation to protect consumers' privacy.

I believe that the Spyware Control and Privacy Protection Act is a reasonable way to help Americans regain some of their privacy. My legislation does not prevent software providers from using their software to collect a consumer's online information. However, it gives back some control to the consumer by allowing him or her to decide whether their information may be gathered.

My bill protects consumer privacy, while enabling software companies and marketing firms to continue obtaining consumers' information if the consumer so chooses. Confidence in these companies will be enhanced if they are able to assure their customers that they will not collect their personal information without their permission.

Privacy protections should not stop with computer software. I am proud to have cosponsored the Consumer Privacy Protection Act, a much-needed measure offered by Senator HOLLINGS. This legislation would prevent Internet service providers, individual web sites, network advertisers, and other third parties from gathering information about our online surfing habits without our permission. I intend to be an original cosponsor of the bill when it is reintroduced.

And during the last Congress, I introduced the Telephone Call Privacy Act in order to prevent phone companies from disclosing consumers' private phone records without their permission. I will be re-introducing this bill soon.

Increasingly, technology is impacting our lives and the lives of our families. I believe that while it is important to encourage technological growth, we must also balance new developments with our fundamental right to privacy. Otherwise, we may wake up one day and realize that our privacy has been so thoroughly eroded that it is impossible to recover.

I urge my colleagues to support the Spyware Control and Privacy Protection Act and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spyware Control and Privacy Protection Act of 2001".

SEC. 2. COLLECTION OF INFORMATION BY COMPUTER SOFTWARE.

(a) NOTICE AND CHOICE REQUIRED.—

(1) IN GENERAL.—Any computer software made available to the public, whether by sale or without charge, that includes a capability to collect information about the user of such computer software, the hardware on which such computer software is used, or the manner in which such computer software is used, and to disclose to such information to any person other than the user of such computer software, shall include—

(A) a clear and conspicuous written notice, on the first electronic page of the instructions for the installation of such computer software, that such computer software includes such capability;

(B) a description of the information subject to collection and the name and address of each person to whom such computer software will transmit or otherwise communicate such information; and

(C) a clear and conspicuous written electronic notice, in a manner reasonably calculated to provide the user of such computer software with easily understood instructions on how to disable such capability without affecting the performance or operation of such computer software for the purposes for which such computer software was intended.

(2) ENABLEMENT OF CAPABILITY.—A capability of computer software described in paragraph (1) may not be enabled unless the user of such computer software provides affirmative consent, in advance, to the enablement of the capability.

(3) EXCEPTION.—The requirements in paragraphs (1) and (2) shall not apply to any capability of computer software that is reasonably needed to—

(A) determine whether or not the user is a licensed or authorized user of such computer software;

(B) provide, upon request of the user, technical support of the use of such computer software by the user; or

(C) enable an employer to monitor computer usage by its employees while such employees are within the scope of employment as authorized by applicable Federal, State, or local law.

(4) USE OF INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any information collected through a capability described in paragraph (1) for a purpose referred to in paragraph (3) may be utilized only for the purpose for which such information is collected under paragraph (3).

(5) ACCESS TO INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any person collecting information about a user of computer software through a capability described in paragraph (1) shall—

(A) upon request of the user, provide reasonable access by user to information so collected;

(B) provide a reasonable opportunity for the user to correct, delete, or supplement such information; and

(C) make the correction or supplementary information a part of the information about the user for purposes of any future use of such information under this subsection.

(6) SECURITY OF INFORMATION COLLECTED THROUGH EXCEPTED CAPABILITY.—Any person collecting information through a capability

described in paragraph (1) shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of such information.

(b) Preinstallation.—In the case of computer software described in subsection (a)(1) that is installed on a computer by someone other than the user of such computer software, whether through preinstallation by the provider of such computer or computer software, by installation by someone before delivery of such computer to the user, or otherwise, the notice and instructions under that subsection shall be provided in electronic form to the user before the first use of such computer software by the user.

(c) Violations.—A violation of subsection (a) or (b) shall be treated as an unfair or deceptive act or practice proscribed by section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Disclosure to Law Enforcement or Under Court Order.—

(1) In general.—Notwithstanding any other provision of this section, a computer software provider that collects information about users of the computer software may disclose information about a user of the computer software—

(A) to a law enforcement agency in response to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, or a court order issued in accordance with paragraph (3); or

(B) in response to a court order in a civil proceeding granted upon a showing of compelling need for the information that cannot be accommodated by any other means if—

(i) the user to whom the information relates is given reasonable notice by the person seeking the information of the court proceeding at which the order is requested; and

(ii) the user is afforded a reasonable opportunity to appear and contest the issuance of the requested order or to narrow its scope.

(2) Safeguards against further disclosure.—A court that issues an order described in paragraph (1) shall impose appropriate safeguards on the use of the information to protect against its unauthorized disclosure.

(3) Court orders.—A court order authorizing disclosure under paragraph (1)(A) may issue only with prior notice to the user and only if the law enforcement agency shows that there is probable cause to believe that the user has engaged, is engaging, or is about to engage in criminal activity and that the records or other information sought are material to the investigation of such activity. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this paragraph, on a motion made promptly by the computer software provider may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on the provider.

(e) Private Right of Action.—

(1) Actions authorized.—A person may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate Federal court, if such laws or rules prohibit such actions, either or both of the actions as follows:

(A) An action based on a violation of subsection (a) or (b) to enjoin such violation.

(B) An action to recover actual monetary loss for a violation of subsection (a) or (b) in an amount equal to the greater of—

(i) the amount of such actual monetary loss; or

(ii) $2,500 for such violation, not to exceed a total amount of $500,000.

(2) Additional remedy.—If the court in an action under paragraph (1) finds that the defendant willfully, knowingly, or repeatedly violated subsection (a) or (b), the court may, in its discretion, increase the amount of the award under paragraph (1)(B) to an amount not greater than three times the amount available under paragraph (1)(B)(ii).

(3) Litigation costs and attorney fees.—In any action under paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action and assess reasonable costs, including reasonable attorney fees, against the defendant.

(4) Venue.—In addition to any contractual provision otherwise, venue for an action under paragraph (1) shall lie where the computer software concerned was installed or used or where the person alleged to have committed the violation concerned is found.

(5) Protection of trade secrets.—At the request of any party to an action under paragraph (1), or any other participant in such action, the court may, in its discretion, issue a protective order and conduct proceedings in such action so as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to—

(A) prevent possible recurrence of the same or a similar act by another person; or

(B) protect any trade secrets of such party or participant.

(f) Definitions.—In this section:

(1) Collect.—The term "collect" means the gathering of information about a computer or a user of computer software by any means, whether direct or indirect and whether active or passive.

(2) Computer.—The term "computer" means a programmable electronic device that can store, retrieve, and process data.

(3) Computer software.—(A) Except as provided in subparagraph (B), the term "computer software" means any program designed to cause a computer to perform a desired function or functions.

(B) The term does not include a text file, or cookie, placed on a person's computer system by an Internet service provider, interactive computer service, or commercial Internet website to return information to the Internet service provider, interactive computer service, commercial Internet website, or third party if the person subsequently uses the Internet service provider or interactive computer service, or accesses the commercial Internet website.

(4) Information.—The term "information" means information that personally identifies a user of computer software, including the following:

(A) A first and last name, whether given at birth or adoption, assumed, or legally changed.

(B) A home or other physical address including street name and name of a city or town.

(C) An electronic mail address.

(D) A telephone number.

(E) A social security number.

(F) A credit card number, any access code associated with the credit card, or both.

(G) A birth date, birth certificate number, or place of birth.

(H) Any other unique information identifying an individual that a computer software provider, Internet service provider, interactive computer service, or operator of a commercial Internet website collects and combines with information described in subparagraphs (A) through (G) of this paragraph.

(5) Person.—The term "person" has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(6) User.—The term "user" means an individual who acquires, through purchase or otherwise, computer software for purposes other than resale.

(g) Effective Date.—This section shall take effect 180 days after the date of the enactment of this Act.

By Mr. CRAIG (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. CONRAD, Mr. CRAPO, Mr. DORGAN, Mr. JOHNSON, and Mr. SMITH of Oregon):

S. 198. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, non-native weeds on public and private land; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today with Senator DASCHLE to introduce the Harmful Non-native Weed Control Act of 2000—to provide assistance to eligible weed management entities to control or eradicate harmful, non-native weeds on public and private land. I am pleased that Senators BAUCUS, BURNS, CONRAD, CRAPO, DORGAN, JOHNSON, and GORDON SMITH are joining us as original cosponsors.

I have stood before Congress for the past three years pushing legislation and speaking on the issue of noxious weeds. I know some members tire of hearing me bring up this issue, but I have seen the destruction caused when non-native weeds are not treated and are left to over take native species.

Non-native weeds threaten fully two-thirds of all endangered species and are now considered by some experts to be the second most important threat to bio-diversity. In some areas, spotted knapweed grows so thick that big game like deer will move out of the area to find edible plants. Noxious weeds also increase soil erosion, and prevent recreationists from accessing land that is infested with poisonous plants.

Because of these problems, during the 106th Congress I introduced and worked to pass the Plant Protection Act. As you may recall, that bill primarily dealt with Animal Plant Health Inspection Service's authority to block or regulate the importation or movement of a noxious weed and plant pest, and it also provides authority for inspection and enforcement of the regulations. Basically the bill focused on stopping the weeds at the border.

Stopping the spread of noxious weeds requires a two pronged effort. First, we must prevent new non-native weed species from becoming established in the United States, which was the focus of the Plant Protection Act. Second, we must stop or slow the spread of the non-native weeds we already have, which is the focus of the Harmful Nonnative Weed Control Act.

I have been working with the National Cattlemen's Beef Association, Public Lands Council, and the Nature Conservancy to develop the Harmful Non-native Weed Control Act. This legislation will provide a mechanism to get funding to the local level where weeds can be fought in a collaborative way. Working together is what the entire initiative is about.

Specifically, this bill establishes, in the Office of Secretary of the Interior, a program to provide assistance through States to eligible weed management entities. The Secretary of the Interior appoints an Advisory Committee of ten individuals to make recommendations to the Secretary regarding the annual allocation to funds. The Secretary, in consultation with the Advisory Committee, will allocate funds to States to provide funding to eligible weed management entities to carry out projects approved by States to control or eradicate harmful, non-native weeds on public and private lands. Funds will be allocated based on several factors, including but not limited to: the seriousness of the problem in the State; the extent to which the federal funds will be used to leverage non-federal funds to address the problem; and the extent to which the State has already made progress in addressing the problems.

The bill directs that the States use 25 percent of their allocation to make base payments and 75 percent for financial awards to eligible weed management entities for carrying out projects relating to the control or eradication of harmful, non-native weeds on public or private lands. To be eligible to obtain a base payment, a weed management entity must be established by local stakeholders for weed management or public education purposes, provide the State a description of its purpose and proposed projects, and fulfill any other requirements set by the State. Weed management entities are also eligible for financial awards—funds awarded by the State on a competitive basis to carry out projects which can not be funded within the base payment. Projects will be evaluated, giving equal consideration to economic and natural values, and selected for funding based on factors such as the seriousness of the problem, the likelihood that the project will address the problem, and how comprehensive the project's approach is to the harmful, non-native weed problem within the state. A 50 percent non-federal match is required to receive the funds.

The Department of Agriculture in Idaho (ISDA) has developed a Strategic Plan for Managing Noxious Weeds through a collaborative effort involving private landowners, state and federal land managers, state and local governmental entities, and other interested parties. Cooperative Weed Management Areas (CWMAs) are the centerpiece of the strategic plan. CWMAs cross jurisdictional boundaries to bring together all landowners, land managers, and interested parties to identify and prioritize noxious weed strategies within the CWMA in a collaborative manner. The primary responsibilities of the ISDA are to provide coordination, administrative support, facilitation, and project cost-share funding for this collaborative effort. Idaho already has a record of working in a collaborative way on this issue—my legislation will build on the progress we have had, and establish the same formula for success in other states.

As I have said before, non-native weeds are a serious problem on both public and private lands across the nation. They are particularly troublesome in the West where much of our land is entrusted to the management of the federal government. Like a "slow burning wildfire," noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods—including farmers, ranchers, recreationists, and others.

I believe we must focus our efforts to rid our lands of these non-native weeds. Noxious weeds are not only a problem for farmers and ranchers, but a hazard to our environment, economy, and communities in Idaho, the West, and for the country as a whole. We must reclaim the rangeland for natural species. Noxious weeds do not recognize property boundaries, so if we want to win this war on weeds, we must be fighting at the federal, state, local, and individual levels. The Harmful Non-native Weed Control Act is an important step to ensure we are diligent in stopping the spread of these weeds. I am confident that if we work together at all levels of government and throughout our communities, we can protect our land, livelihood, and environment.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harmful Nonnative Weed Control Act of 2000".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) public and private land in the United States faces unprecedented and severe stress from harmful, nonnative weeds;

(2) the economic and resource value of the land is being destroyed as harmful nonnative weeds overtake native vegetation, making the land unusable for forage and for diverse plant and animal communities;

(3) damage caused by harmful nonnative weeds has been estimated to run in the hundreds of millions of dollars annually;

(4) successfully fighting this scourge will require coordinated action by all affected stakeholders, including Federal, State, and local governments, private landowners, and nongovernmental organizations;

(5) the fight must begin at the local level, since it is at the local level that persons feel the loss caused by harmful nonnative weeds and will therefore have the greatest motivation to take effective action; and

(6) to date, effective action has been hampered by inadequate funding at all levels of government and by inadequate coordination.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide assistance to eligible weed management entities in carrying out projects to control or eradicate harmful, nonnative weeds on public and private land;

(2) to coordinate the projects with existing weed management areas and districts;

(3) in locations in which no weed management entity, area, or district exists, to stimulate the formation of additional local or regional cooperative weed management entities, such as entities for weed management areas or districts, that organize locally affected stakeholders to control or eradicate weeds;

(4) to leverage additional funds from a variety of public and private sources to control or eradicate weeds through local stakeholders; and

(5) to promote healthy, diverse, and desirable plant communities by abating through a variety of measures the threat posed by harmful, nonnative weeds.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the advisory committee established under section 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 4. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish in the Office of the Secretary a program to provide financial assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

SEC. 5. ADVISORY COMMITTEE.

(a) IN GENERAL.—The Secretary shall establish in the Department of the Interior an advisory committee to make recommendations to the Secretary regarding the annual allocation of funds to States under section 6 and other issues related to funding under this Act.

(b) COMPOSITION.—The Advisory Committee shall be composed of not more than 10 individuals appointed by the Secretary who—

(1) have knowledge and experience in harmful, nonnative weed management; and

(2) represent the range of economic, conservation, geographic, and social interests affected by harmful, nonnative weeds.

(c) TERM.—The term of a member of the Advisory Committee shall be 4 years.

(d) COMPENSATION.—

(1) IN GENERAL.—A member of the Advisory Committee shall receive no compensation for the service of the member on the Advisory Committee.

(2) TRAVEL EXPENSES.—A member of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee

of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Advisory Committee.

(e) Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 6. ALLOCATION OF FUNDS TO STATES.

(a) In General.—In consultation with the Advisory Committee, the Secretary shall allocate funds made available for each fiscal year under section 8 to States to provide funding in accordance with section 7 to eligible weed management entities to carry out projects approved by States to control or eradicate harmful, nonnative weeds on public and private land.

(b) Amount.—The Secretary shall determine the amount of funds allocated to a State for a fiscal year under this section on the basis of—

(1) the seriousness of the harmful, nonnative weed problem or potential problem in the State, or a portion of the State;

(2) the extent to which the Federal funds will be used to leverage non-Federal funds to address the harmful, nonnative weed problems in the State;

(3) the extent to which the State has made progress in addressing harmful, nonnative weed problems in the State;

(4) the extent to which weed management entities in a State are eligible for base payments under section 7; and

(5) other factors recommended by the Advisory Committee and approved by the Secretary.

SEC. 7. USE OF FUNDS ALLOCATED TO STATES.

(a) In General.—A State that receives an allocation of funds under section 6 for a fiscal year shall use—

(1) not more than 25 percent of the allocation to make a base payment to each weed management entity in accordance with subsection (b); and

(2) not less than 75 percent of the allocation to make financial awards to weed management entities in accordance with subsection (c).

(b) Base Payments.—

(1) Use by weed management entities.—

(A) In general.—Base payments under subsection (a)(1) shall be used by weed management entities—

(i) to pay the Federal share of the cost of carrying out projects described in subsection (d) that are selected by the State in accordance with subsection (d); or

(ii) for any other purpose relating to the activities of the weed management entities, subject to guidelines established by the State.

(B) Federal share.—Under subparagraph (A), the Federal share of the cost of carrying out a project described in subsection (d) shall not exceed 50 percent.

(2) Eligibility of weed management entities.—To be eligible to obtain a base payment under paragraph (1) for a fiscal year, a weed management entity in a State shall—

(A) be established by local stakeholders—

(i) to control or eradicate harmful, nonnative weeds on public or private land; or

(ii) to increase public knowledge and education concerning the need to control or eradicate harmful, nonnative weeds on public or private land;

(B)(i) for the first fiscal year for which the entity receives a base payment, provide to the State a description of—

(I) the purposes for which the entity was established; and

(II) any projects carried out to accomplish those purposes; and

(ii) for any subsequent fiscal year for which the entity receives a base payment, provide to the State—

(I) a description of the activities carried out by the entity in the previous fiscal year—

(aa) to control or eradicate harmful, nonnative weeds on public or private land; or

(bb) to increase public knowledge and education concerning the need to control or eradicate harmful, nonnative weeds on public or private land; and

(II) the results of each such activity; and

(C) meet such additional eligibility requirements, and conform to such process for determining eligibility, as the State may establish.

(c) Financial Awards.—

(1) Use by weed management entities.—

(A) In general.—Financial awards under subsection (a)(2) shall be used by weed management entities to pay the Federal share of the cost of carrying out projects described in subsection (d) that are selected by the State in accordance with subsection (d).

(B) Federal share.—Under subparagraph (A), the Federal share of the cost of carrying out a project described in subsection (d) shall not exceed 50 percent.

(2) Eligibility of weed management entities.—To be eligible to obtain a financial award under paragraph (1) for a fiscal year, a weed management entity in a State shall—

(A) meet the requirements for eligibility for a base payment under subsection (b)(2); and

(B) submit to the State a description of the project for which the financial award is sought.

(d) Projects.—

(1) In general.—An eligible weed management entity may use a base payment or financial award received under this section to carry out a project relating to the control or eradication of harmful, nonnative weeds on public or private land, including—

(A) education, inventories and mapping, management, monitoring, and similar activities, including the payment of the cost of personnel and equipment; and

(B) innovative projects, with results that are disseminated to the public.

(2) Selection of projects.—A State shall select projects for funding under this section on a competitive basis, taking into consideration (with equal consideration given to economic and natural values)—

(A) the seriousness of the harmful, nonnative weed problem or potential problem addressed by the project;

(B) the likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future;

(C) the extent to which the payment will leverage non-Federal funds to address the harmful, nonnative weed problem addressed by the project;

(D) the extent to which the entity has made progress in addressing harmful, nonnative weed problems;

(E) the extent to which the project will provide a comprehensive approach to the control or eradication of harmful, nonnative weeds;

(F) the extent to which the project will reduce the total population of a harmful, nonnative weed within the State; and

(G) other factors that the State determines to be relevant.

(3) Scope of projects.—

(A) In general.—A weed management entity shall determine the geographic scope of the harmful, nonnative weed problem to be addressed through a project using a base payment or financial award received under this section.

(B) Multiple states.—A weed management entity may use the base payment or financial award to carry out a project to address the harmful, nonnative weed problem of more than 1 State if the entity meets the requirements of applicable State laws.

(4) Land.—A weed management entity may use a base payment or financial award received under this section to carry out a project to control or eradicate weeds on any public or private land with the approval of the owner or operator of the land, other than land that is devoted to the cultivation of row crops, fruits, or vegetables.

(5) Prohibition on projects to control aquatic noxious weeds or animal pests.—A base payment or financial award under this section may not be used to carry out a project to control or eradicate aquatic noxious weeds or animal pests.

(e) Administrative Costs.—Not more than 5 percent of the funds made available under section 8 for a fiscal year may be used by the States or the Federal Government to pay the administrative costs of the program established by this Act, including the costs of complying with Federal environmental laws.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. DASCHLE. Mr. President, today I am introducing with Senator Larry Craig and a number of my other colleagues the Harmful Non-native Weed Control Act of 2001. This legislation will provide critically needed resources to local agencies to reduce the spread of harmful weeds that are destroying the productivity of farmland and reducing ecological diversity.

In the last few years, public and private lands in the west have seen a startling increase in the spread of harmful, non-native weeds. In south Dakota, these weeds choke out native species, destroy good grazing land, and cost farmers and ranchers thousands of dollars a year to control. On public lands in South Dakota and throughout the west, the spread of the weeds has outpaced the ability of land managers to control them, threatening species diversity and, at times, spreading on to private land.

This problem has become so severe that, last year, the White House has created an Invasive Species Council to address it. Former Secretary Bruce Babbitt noted, "The blending of the natural world into one great monoculture of the most aggressive species is, I think, a blow to the spirit and beauty of the natural world."

Despite these efforts, the scale of this problem is vast. Some estimate that it could cost well into the hundreds of millions of dollars to control effectively the spread of these weeds. This legislation will help to meet that need by putting funding directly into the hands of the local weed boards and managers who already are working to control this problem and whose lands are directly affected.

Specifically, this legislation authorizes new weed control funding and establishes an Advisory Board in the Department of Interior to identify the areas of greatest need for the distribution of those funds. States, in turn, will transfer up to 25 percent of it directly to local weed control boards in order to support ongoing activities and spur the creation of new control boards, where necessary. The remaining 75 percent of funds will be made available to weed control boards on a competitive basis to fund weed control projects.

Mr. President, I'd like to thank Senator CRAIG for his work on this issue, and to thank the National Cattleman's Beef Association and the Nature Conservancy, who have been instrumental to the development of this bill. Now that this legislation has been introduced, it is my hope that we can work with all interested stakeholders to enact it as soon as possible. I look forward to working with my colleagues during this process.

Mr. BURNS. Mr. President, I join Senator CRAIG in sponsoring the Harmful Nonnative Weed Control Act of 2001. This bill will require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land. In a state like Montana, where we depend heavily on the bounty of the land to support the lifestyle we enjoy, weed control has a very important place in land management. Noxious weeds attack the natural balance of the range and the entire ecosystem, along with threatening the health and productivity of public and private lands.

When I visit with Montana ranchers, farmers, recreationists, and others who live close to the land, they continually mention their concern over noxious weeds. These folks are worried about how the weeds are changing the face of the land, and I am too. When these weeds take hold and native plants are crowded out, wildlife habitat is compromised, livestock carrying capacity is reduced, and the condition of the land is jeopardized. Over the last few years we have been able to secure appropriations to increase research efforts with respect to weeds management. I think this is a step in the right direction, but we also need our land management agencies and to work with private land owners.

One thing is clear: this is not just a public lands problem, nor is it only a private landowner problem. Without cooperation from both sides, any efforts from the other group are compromised. This bill presents a great opportunity for cooperation, and a chance for the federal government to demonstrate a commitment to stewardship of our public lands. Sadly, this is a commitment we have not seen enough of lately.

Aside from the ongoing battle against nonnative weeds in the West, this year we have an added urgency to do something real about the problem. When fires swept over millions of acres of public and private land last summer, that land was made especially vulnerable to weed infestation. Aside from repairing the immediate damage to structures and making sure we are able to control erosion and protect clean water, we have an obligation to fight the weeds that will otherwise take over these lands. As hard as we have worked in the Senate to create fire programs that repair last year's damage and keep it from happening again, it would be a step in the wrong direction to leave weed prevention by the wayside. Preventing non-native species from taking hold right now will be a much better investment than trying to control the invasion later. We cannot afford to stand by and do nothing.

In some ways, the disease of weed infestation resembles the challenge of wildfire. Both are economically and environmentally devastating, and do not distinguish between public and private land. A recent study presented at the American Association for the Advancement of Science estimates that non-native species cause $123 billion in damage annually. This figure is more than twice the annual economic damage caused by all natural disasters in the United States.

There are no silver bullets here, and we won't be able to fix things overnight, but with hard work and a commitment to this cause, I know we can make a difference. It is time the federal government step up to its obligations to Americans, and take decisive action to fight nonnative weeds. This is a serious problem, and I am proud to be working with my colleagues in the Senate to fix it.

By Mr. REID:

S. 199. A bill to amend title 49, United States Code, to authorize the Secretary of Transportation to oversee the competitive activities of air carriers following a concentration in the airline industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today because I am deeply concerned with the sudden increase in airline merger proposals. Many have predicted that if the proposed merger of United Airlines and US Airways is allowed to go forward, it will be followed by mergers of other major airlines, and we will soon have an industry dominated by mega-carriers.

American Airlines recently bought Reno Air, and now is proposing a merger of American Airlines and Trans World Airlines. If this trend continues, we could end up with only three airlines in America. That could drive prices sky high and cut the number of available flights, which will be terrible for consumers.

I know first hand that mergers can hurt consumers. In my own state, the Reno-Tahoe International Airport lost flights when American Airlines bought Reno Air. Flights were reduced significantly and now it is harder for people to fly in and out of the Reno and Lake Tahoe areas.

The purpose of deregulation was to encourage competition. Evidence seems to support a reduction in competition. It seems to be having an opposite effect. I am very concerned with the recent airline merger proposals and the merger frenzy that may follow. We must maintain as much competition as possible in the airline industry.

This legislation will protect consumers against monopolistic abuses. I emphasize that this type of legislation is not my preferred approach—I would greatly prefer to continue to have consumers protected by adequate competition in a free market.

I emphasize that the bill is not a "deregulation" bill. Airlines will remain free to set prices and provide service without prior government approval. However, the bill will give DOT authority to intervene if the airlines take unfair advantage of the absence of sufficient competition.

We are at a critical juncture for the future of a competitive airline industry. The inescapable lesson of 22 years of deregulation is that mergers and a reduction in competition often lead to higher fares for the American traveling public. We cannot stand idly by and allow the benefits of deregulation to be derailed by a wave of mergers.

Mr. President, my bill will take effect as a result of consolidation or mergers that occur between two or more of the top seven airline carriers, or if three or fewer of those air carriers control more than 70% of domestic revenue passenger miles. Highlights of my Airline Competition Preservation bill are as follows:

Monopolistic Fares—The Secretary of Transportation is authorized to require reduction in fares that are unreasonably high. The factors to be considered include:

Whether the fare in question is higher than fares charged in similar markets; whether the fare has been increased in excess of cost increases; and whether there is a reasonable relationship between fares charged leisure travelers and those charged business travelers.

If a fare is found to be unreasonably high, the Secretary may order that it be reduced, that the reduced fare be offered for a specified number of seats and that rebates be offered.

Preventing Unfair Practices Against Low Fare New Entrants: If a dominant incumbent carrier responds to low fare service by a new entrant by matching the low fare, and offering two or more times the low fare seats as the new entrant, the dominant carrier must continue to offer the low fare for two years.

Increasing Competition At Hubs: If a dominant carrier at a hub airport is taking advantage of its monopoly power by offering fares 5% or more above industry average fares, in more than 20% of hub markets, DOT may take steps to facilitate added competition at the hub.

Mr. President, no one wants the federal government to micro manage private industry. But our airways are not just a private industry—they are a public trust. People need to be able to fly across our vast nation—to do business, to see family members, and to enjoy their lives. If these mergers proceed without the competitive protections I am proposing, then the ultimate irony of deregulation will be that we will have traded government concern for the public interest, for private monopoly control in the interests of the industry.

I ask unanimous consent that the text of the Airline Competition Preservation Act of 2001 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Competition Preservation Act of 2001".

SEC. 2. OVERSIGHT OF AIR CARRIER PRICING.

(a) In General.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§41512. Oversight of air carrier pricing

"(a) Effective Date.—

"(1) In general.—This section shall take effect immediately upon a determination by the Secretary of Transportation that 3 or fewer air carriers account for 70 percent or more of the scheduled revenue passenger miles in interstate air transportation as a result of—

"(A) the consolidation or merger of the properties (or a substantial portion of the properties) of 2 or more of the 7 air carriers that account for the highest number of scheduled revenue passenger miles in interstate air transportation into a single entity that owns or operates the properties previously in separate ownership; or

"(B) the acquisition (by purchase, lease, or contract to operate) of the properties (or a substantial portion of the properties) of 1 or more of the 7 air carriers described in subparagraph (A) by another of such carriers.

"(2) Use of data.—For the purpose of determining the number of scheduled revenue passenger miles under paragraph (1), the Secretary shall use data from the latest year for which complete data is available.

"(3) Determination of air carrier concentration.—In making a determination under paragraph (1), the Secretary shall attribute to an air carrier those scheduled revenue passenger miles in interstate air transportation of the air carrier that is consolidated, merged, or acquired that are associated with routes adopted by the remaining carrier.

"(b) Fares of Air Carriers.—

"(1) In general.—On the initiative of the Secretary or on a complaint filed with the Secretary, the Secretary may undertake an investigation to determine whether an air carrier is charging a fare or an average fare for interstate air transportation on a route that is unreasonably high.

"(2) Considerations.—In determining whether a fare or an average fare of an air carrier for interstate air transportation on a route is unreasonably high, the Secretary shall consider, among other factors, whether—

"(A) the fare or average fare is higher than the fare or average fare charged by the carrier on other routes in interstate air transportation of comparable distances;

"(B) the fare or average fare has increased by a significant amount in excess of any increase in the cost to operate flights on the route; and

"(C) the range of fares specified on the route or the carrier's entire fare system offers a reasonable balance and a fair allocation of costs between passengers who are primarily price sensitive and passengers who are primarily time sensitive.

"(3) Actions in response to unreasonable fares.—If the Secretary determines that an air carrier is charging a fare or an average fare for interstate air transportation on a route that is unreasonably high, the Secretary, after providing the carrier an opportunity for a hearing, may order the carrier—

"(A) to reduce the fare;

"(B) to offer the reduced fare for a specific number of seats on the route; and

"(C) to offer rebates to individuals who have been charged the fare.

"(4) Period of effectiveness of order.—An order issued by the Secretary under this subsection shall remain in effect for a period to be determined by the Secretary.

"(c) Actions of Dominant Air Carriers in Response to New Entrants.—If, with respect to a route in interstate air transportation to or from a hub airport, a dominant air carrier at the airport—

"(1) institutes or changes its fares for air transportation on the route in a manner that results in fares that are lower than or comparable to the fares offered by a new entrant air carrier for such air transportation; and

"(2) increases the passenger capacity at which such fares are offered on the route to a level which is—

"(A) 2 or more times the capacity previously offered by the carrier at such fares on the route; and

"(B) 2 or more times the total capacity offered by the new entrant air carrier on the route, the dominant air carrier, in the 2-year period beginning on the date that such fares and additional capacity are instituted, shall continue to offer such fares with respect to not less than 80 percent of the highest number of seats per week for which the dominant air carrier has offered the fares.

"(d) Ensuring Competition at Hub Airports.—

"(1) In general.—On the initiative of the Secretary or on a complaint filed with the Secretary, the Secretary may undertake an investigation to determine whether a dominant air carrier at a hub airport is charging higher than average fares at the airport.

"(2) Higher than average fares.—For purposes of paragraph (1), the Secretary may determine that a dominant air carrier is charging higher than average fares at a hub airport if the carrier is charging, with respect to 20 percent or more of its routes in interstate air transportation that begin or end at the airport, an average fare that is at least 5 percent higher than the average fare being charged by all air carriers on routes in interstate air transportation of comparable distances and density, after adjustments for costs that are carrier or airport specific, such as passenger facility charges or employee compensation.

"(3) Actions in response to unfair competition.—If the Secretary determines under paragraph (1) that a dominant air carrier is charging higher than average fares at a hub airport, the Secretary, after providing the carrier an opportunity for a hearing, may order the carrier to take actions to increase opportunities for competition at the hub airport, including—

"(A) requiring the carrier to make gates, slots, and other airport facilities available to other air carriers on reasonable and competitive terms;

"(B) requiring adjustments in the commissions paid by the carrier to travel agents;

"(C) requiring adjustments in the carrier's frequent flyer program; and

"(D) requiring adjustments in the carrier's corporate discount arrangements and comparable corporate arrangements.

"(e) Definitions.—In this section, the following definitions apply:

"(1) Dominant air carrier.—The term 'dominant air carrier', with respect to a hub airport, means an air carrier that accounts for more than 50 percent of the total annual boardings at the airport in the preceding 2-year period or a shorter period specified in paragraph (3).

"(2) Hub airport.—The term 'hub airport' means an airport that each year has at least .25 percent of the total annual boardings in the United States.

"(3) Interstate air transportation.—The term 'interstate air transportation' includes intrastate air transportation.

"(4) New entrant air carrier.—The term 'new entrant air carrier', with respect to a hub airport, means an air carrier that accounts for less than 5 percent of the total annual boardings at the airport in the preceding 2-year period or in a shorter period specified by the Secretary if the carrier has operated at the airport less than 2 years.".

(b) Conforming Amendment.—The analysis for such chapter is amended by adding at the end the following:

"41512. Oversight of air carrier pricing.".

By Mr. REID:

S. 200. A bill to establish a national policy of basic consumer fair treatment for airline passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, this past holiday season saw a record number of Americans travel by air. Unfortunately, it also saw increases in some common problems associated with air travel—delayed and cancelled flights, customer confusion, and occurrences of "air rage."

The number of delayed, cancelled and diverted flights has been increasing steadily over the past few years, reaching record highs last year. Last week, the Department of Transportation released a management report indicating that, from 1995 to 1999, the number of flight delays rose 58 percent and cancelled flights grew by 68 percent. In just one year, 1999, passenger complaints grew by 16 percent. During the first nine months of 2000, one of every four flights was cancelled, delayed or diverted, affecting more than 119 million passengers. The average delay was 50 minutes.

Disturbingly, the report also indicated an increase in the number of near-misses and runway safety errors that could have led to collisions between aircraft both in the air and on the ground.

And amid these problems, the number of choices available to customers keeps decreasing. Within the past few months, National Airlines terminated much of its service, United Airlines announced a merger with USAir, and American Airlines announced its acquisition of TWA. If approved, these mergers would allow only three airlines to dominate the commercial airline industry.

More than a year ago, the airlines announced voluntary pledges to improve their customer service and reduce delays, and asked for time to carry out their promises. But it's obvious that those voluntary promises have not worked. In addition to the increase in delays and customer complaints, a preliminary report by the Inspector General released last summer revealed a number of unfair and deceptive practices by the industry, including providing false or inaccurate information to passengers about the reasons for delays.

Transportation Secretary Norman Mineta, recently confirmed by the Senate, warned a few days ago that flight delays this coming summer will likely be as bad or worse than they have been the past two years.

It's time for Congress to take action.

Last year, I introduced S. 2891, the Air Travelers' Fair Treatment Act of 2000, which was aimed at addressing some of the most pressing problems associated with air travel. Today, I am re-introducing a modified version of that bill, which is titled the "Air Travelers' Fair Treatment Act of 2001."

The new bill includes six main provisions:

(1) Flight delays: Air carriers would be required to provide travelers with accurate and timely explanations of the reasons for a flight cancellation, delay or diversion from a ticketed itinerary. The failure to do so would be classified as an unfair practice that would subject the airline to civil penalties.

(2) Right to exit aircraft: Where a plan has remained at the gate for more than 1 hour past its scheduled departure time and the captain has not been informed that the aircraft can be cleared for departure within 15 minutes, passengers would have the right to exit the plane into the terminal to make alternative travel plans, or simply to stretch their legs, get something to eat, etc. I believe this provision will help prevent "air rage" incidents when passengers are forced to sit in parked planes for long periods of time.

(3) Right to in-flight medical care: Currently, each airline has its own policy regarding what kind of medical and first-aid equipment and training is provided on their flights, so that the available equipment and medical training varies widely between carriers. This bill would direct the Secretary of Transportation to issue uniform minimum regulations for all carriers regarding the type of medical equipment each flight must carry and the kind of medical training each flight crew should receive.

(4) Access to State laws: The Federal Courts have split on whether the Airline Deregulation Act of 1978 pre-empts state consumer protection and personal injury laws as applied to airlines. The Ninth Circuit Court of Appeals has held that passengers may sue airlines in state court for violations of state fraud and consumer protection laws; in contrast, the Fourth Circuit has held that airlines are immune from state law. The bill would clarify that the 1978 Act does not preempt state tort and consumer protection laws, allowing passengers full access to their consumer rights in whatever state they are in.

(5) Termination of ticket agents: Travel agencies provide a valuable service to customers looking for the best prices. Yet airlines have enormous leverage over what kind of information they can and cannot provide to customers, because they can withdraw their accounts without notice from any travel agency for any reason—even if the only reason is that the travel agency is giving the customer the best rates. The bill requires carriers to provide written 90-day advance statement of reasons before canceling a travel agency's account with the airline, and to give them 60 days to correct the identified deficiencies.

(6) Safety records: Right now, many airlines are reluctant to release information to the public relating to their safety records, including their accident record and certification compliance records. But I believe that passengers should have the right to know whether the airline they are flying has complied with government safety standards, whether it has been fined or penalized for safety violations, and how many accidents or safety violations the airlines has been involved in. This bill will include a new provision requiring the Secretary of Transportation to develop regulations under which the safety, inspection, certification compliance and accident records of the airlines will be made available to any customer upon request.

Mr. President, air travel has become a staple of modern society. All of us in this body rely on it frequently to return to our home states. But by almost every measure, the quality and reliability of air travel continues to decline. I think it's past time that Congress stepped in and forced the airlines to do what they have been unwilling to do so far on their own—to clean up their act. I ask my colleagues to join me.

I ask unanimous consent that the text of the Air Travelers Fair Treatment Act of 2001, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Air Travelers Fair Treatment Act of 2001".

SEC. 2. FAIR TREATMENT OF AIRLINE PASSENGERS.

Section 41712 of title 49, United States Code, is amended by adding at the end the following:

"(c) SPECIFIC PRACTICES.—For purposes of subsection (a), the term 'unfair or deceptive practice' includes each of the following:

"(1) FLIGHT DELAYS.—The failure of an air carrier or foreign air carrier to provide a passenger of the carrier with an accurate explanation of the reasons for a flight delay, cancellation, or diversion from a ticketed itinerary.

"(2) TERMINATION OF TICKET AGENTS.—In the case of a termination, cancellation, nonrenewal, or substantial change in the competitive circumstances of the appointment of a ticket agent by an air carrier or foreign air carrier, the failure of the air carrier or foreign air carrier—

"(A) to provide the ticket agent with written notice, and a full statement of reasons for the action, on or before the 90th day preceding the action; and

"(B) to provide the ticket agent with at least 60 days to correct any deficiency claimed in the written notice,

except in cases of insolvency, an assignment for the benefit of creditors, bankruptcy, or nonpayment of sums due under the appointment.".

SEC. 3. CLARIFICATION REGARDING ENFORCEMENT OF STATE LAWS.

Section 41713(b)(1) of title 49, United States Code, is amended by striking "related to a price, route, or service of an air carrier that may provide air transportation under this subpart" and inserting "that directly prescribes a price, route, or level of service for air transportation provided by an air carrier under this subpart".

SEC. 4. EMERGENCY MEDICAL ASSISTANCE; RIGHT OF EGRESS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"§ 41722. Airline passenger rights

"(a) RIGHT TO IN-FLIGHT EMERGENCY MEDICAL CARE.—

"(1) IN GENERAL.—The Secretary of Transportation shall prescribe regulations to establish minimum standards for resuscitation, emergency medical, and first-aid equipment and supplies to be carried on board an aircraft operated by an air carrier in air transportation that is capable of carrying at least 30 passengers.

"(2) CONSIDERATIONS.—In prescribing regulations under paragraph (1), the Secretary shall consider—

"(A) the weight and size of the equipment described in paragraph (1);

"(B) the need for special training of air carrier personnel to operate the equipment safely and effectively;

"(C) the space limitations of each type of aircraft;

"(D) the effect of the regulations on aircraft operations;

"(E) the practical experience of airlines in carrying and operating similar equipment; and

"(F) other relevant factors.

"(3) CONSULTATION.—Before prescribing regulations under paragraph (1), the Secretary shall consult with the Surgeon General of the Public Health Service.

"(b) RIGHT TO EXIT AIRCRAFT.—No air carrier or foreign air carrier operating an aircraft in air transportation shall prevent or hinder (including by failing to assist) any passenger from exiting the aircraft (under the same circumstances as any member of the flight crew is permitted to exit the aircraft) if—

"(1) the aircraft is parked at an airport terminal gate with access to ramp or other facilities through which passengers are customarily boarded and deplaned;

"(2) the aircraft has remained at the gate more than 1 hour past its scheduled departure time; and

"(3) the captain of the aircraft has not been informed by air traffic control authorities that the aircraft can be cleared for departure within 15 minutes.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end the following:

"41722. Airline passenger rights.".

SEC. 5. CONSUMER ACCESS TO INFORMATION.

(a) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—Chapter 447 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 44727. Air traveler safety program

"(a) IN GENERAL.—

"(1) WRITTEN INFORMATION.—The Secretary of Transportation (in this section referred to as the 'Secretary') shall require in regulations, for a period determined by the Secretary, that each air carrier that provides interstate air transportation or foreign air transportation to provide written information upon request, to passengers that purchase passage for interstate or foreign air transportation concerning the following:

"(A) Safety inspection reviews conducted by the Administrator of the Federal Aviation Administration (in this section referred to as the 'Administrator') on the aircraft of that air carrier.

"(B) The safety ranking of that air carrier, as determined by the Administrator in accordance with applicable law.

"(C) The compliance of the members of the crew of the aircraft with any applicable certification requirements under this subtitle.

"(2) GUIDELINES.—The regulations issued by the Secretary under this subsection shall provide guidelines for air carriers relating to the provision of the information referred to in paragraph (1).

"(3) REQUEST FOR INFORMATION.—An air carrier shall be required to provide to a passenger, on request, any information concerning the safety of aircraft and the competency of persons issued a certificate under this subtitle for the operation of the aircraft that the Secretary, to the extent allowable by law, determines to be appropriate.

"(b) SUBMISSION OF PERFORMANCE REVIEW.—

"(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall submit a report to Congress regarding the safety of air carriers that provide interstate or foreign air transportation. The report shall include with respect to the year in which the report is filed—

"(A) the number of accidents and a description of such accidents of air carriers attributable to each air carrier that provides interstate or foreign air transportation; and

"(B) the names of makers of aircraft that have been involved in an accident.

"(2) AVAILABILITY OF INFORMATION.—The Secretary shall make the annual report under paragraph (1) available to any person or entity upon request.

"(A) travel agencies and consultants for distribution to persons served by those agencies and consultants; and

"(B) any other person or entity upon request.

"(c) VICTIMS' RIGHTS PROGRAM.—

"(1) IN GENERAL.—The National Transportation Safety Board shall establish and administer a program for victims and survivors of aircraft accidents in air commerce. Under that program, the National Transportation Safety Board shall ensure that such victims and survivors of an accident receive, to the extent allowable by law, immediate and unrestricted access to information on the accident that is made available from—

"(A) the air carrier involved in an accident in air commerce;

"(B) the Federal Government; and

"(C) State governments and political subdivisions thereof.

"(2) CLASSIFIED INFORMATION.—Nothing in paragraph (1) may be construed to authorize a release of information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy.

"(d) COORDINATION OF VICTIM ASSISTANCE.—

"(1) IN GENERAL.—The National Transportation Safety Board, in cooperation with officials of appropriate Federal agencies and the American Red Cross, shall establish a program to ensure the coordination of the disclosure of information under subsection (c) and assistance provided to victims of an accident in air commerce.

"(2) ESTABLISHMENT OF TOLL-FREE TELEPHONE LINE.—

"(A) IN GENERAL.—The National Transportation Safety Board, in cooperation with officials of the appropriate Federal agencies and the American Red Cross, shall establish a toll-free telephone line to facilitate the provision of information under paragraph (3).

"(B) ACTION BY THE NATIONAL TRANSPORTATION SAFETY BOARD.—The National Transportation Safety Board shall take such action as may be necessary to ensure—

"(i) the publication of the telephone number of the telephone line established under subparagraph (A) in newspapers of general circulation; and

"(ii) the provision of such number on national television news programs.

"(3) INFORMATION PROVIDED BY TELEPHONE LINE.—The telephone line established under paragraph (2) shall provide the following information concerning an accident in air commerce:

"(A) The identifier name and number of the aircraft involved in the accident.

"(B) The names of known victims of the accident.

"(C) The status of the investigation of the accident.

"(D) A list of appropriate Federal agencies and contacts.

"(E) The facilities at which victims of the accident may be identified.

"(e) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any air carrier that fails to provide information in accordance with this section shall be liable for a civil penalty in an amount not to exceed $100,000 per violation.

"(2) TRAVEL AGENCIES AND OTHER PERSONS NOT COVERED.—Paragraph (1) shall not apply to a travel agency or other person that does not provide interstate or foreign air transportation.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 447 of title 49, United States Code, is amended by adding at the end the following new item:

"44727. Air traveler safety program.".

(b) TIME FOR REGULATIONS.—The Secretary of Transportation shall issue the regulations required by subsection (a) of section 44727 of title 49, United States Code (as added by subsection (a)), not later than 90 days after the date of enactment of this Act.

(c) SUBMITTAL OF FIRST ANNUAL REPORT.—The Secretary of Transportation shall submit the first annual report to Congress under subsection (b) of such section 44727 not later than December 31, 2001.

By Mr. WARNER:

S. 202. A bill to rename Wolf Trap Farm Park for the Performing Arts as "Wolf Trap National Park for the Performing Arts"; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, today I rise to introduce a bill to rename the Wolf Trap Farm Park for the Performing Arts as the "Wolf Trap National Park for the Performing Arts". Wolf Trap is the only unit of the National Park System dedicated to the performing arts. It provides an unrivaled setting for live performances in the rolling countryside of Virginia outside of Washington, D.C.

To provide this unique experience, the National Park Service collaborates with the Wolf Trap Foundation in a public/private partnership to offer cultural, natural, and educational experiences to the community and to the nation. The National Park Service maintains the grounds and buildings of Wolf Trap Farm Park. The Wolf Trap Foundation, a "501(c)(3)" not-for-profit organization, creates and selects the programming, develops all education programs, handles ticket sales, marketing, publicity and public relations, and raises funds to support these programs. The Park Service has an annual budget of just over $3 million to maintain the facility while the Wolf Trap Foundation has an annual budget of $22 million, 60% of which is generated through ticket sales with the rest raised through private donations.

Wolf Trap offers a wide variety of educational programs including the nationally acclaimed Wolf Trap Institute for Early Learning Through the Arts for preschoolers, scholarships and performance opportunities for talented high school musicians, pre-performance preview lectures, the America's Promise mentoring program, the Mars Millennium project partnership with Buzz Aldrin Elementary School, the Folk Masters Study Units for teachers who want to incorporate the folk arts into their curriculum, a highly competitive internship program for college students, and master classes for people with all skill levels and interest. Wolf Trap has also gained world-wide recognition for its summer residency program for young opera singers, the Wolf Trap Opera Company.

This legislation recognizes Wolf Trap's status as one of the crown jewels in the National Park System. Including Wolf Trap with the already designated National Parks is intended to raise awareness of the unique roll this facility plays in the nation's natural, cultural and educational life. I urge my colleagues to join me in recognizing the many achievements of Wolf Trap.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING.

The Act entitled "An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes", Public Law 89-671 (16 U.S.C. 284) is amended in the first section and in section 11(2) by striking "Wolf Trap Farm Park" and inserting "Wolf Trap National Park for the Performing Arts". Any reference to such park in any law, regulation, map, document, paper, or other record of the United States shall be considered to be a reference to the "Wolf Trap National Park for the Performing Arts".

SEC. 2. USE OF NAME.

The Act entitled "An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes", Public Law 89-671 (16 U.S.C. 284) is amended by adding at the end the following:

"SEC. 14. Any reference to the park other than by the name 'Wolf Trap National Park for the Performing Arts' shall be prohibited.".

SEC. 3. APPLICABILITY OF OTHER LAWS.

Any laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a "National Park" shall not apply to "Wolf Trap National Park for the Performing Arts" nor to any other units designated as a "National Park for the Performing Arts".

SEC. 4. TECHNICAL CORRECTION.

Section 4(c)(3) of "An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes", Public Law 89-671 (16 U.S.C. 284) is amended by striking "Funds" and inserting "funds".

By Mr. WARNER:

S. 201. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, today I rise to introduce the Federal Employee Protection Act of 2001. This bill will significantly strengthen existing laws protecting federal employees from discrimination, harassment, and retaliation in the workplace. It is an unfortunate fact that too many federal employees are subjected to such treatment with alarming regularity.

My bill will result in a more productive work environment by ensuring agencies enforce the laws intended to protect federal employees from harassment, discrimination and retaliation for whistleblowing.

The Federal Employee Protection Act contains three main provisions: No. 1, when agencies lose judgments or make settlements in harassment, discrimination and whistleblower cases, the responsible Federal agency would pay any financial penalty out of its own budget, rather than out of a general Federal judgment fund; No. 2, Federal agencies are required to notify their employees about any applicable discrimination, harassment and whistleblower protection laws; and No. 3, each Federal agency is required to send an annual report to Congress and the Attorney General listing: the number of cases in which an agency was alleged to have violated any of the discrimination, harassment or whistleblower statutes; the disposition of each of these cases; the total of all monetary awards charged against the agency from these cases; and the number of agency employees disciplined for discrimination or harassment or retaliation. Additionally, the Federal Employee Protection Act requires each Federal agency to submit a one-time report to Congress and the Attorney General that includes the same information required for the annual reports going back for the last ten years. This report will provide a historical perspective to help evaluate current agency behavior.

Under current law, agencies are not accountable financially when they lose harassment, discrimination and retaliation cases because any financial penalties are paid out of a government-wide fund and not the agency's budget. I firmly believe that because there is no financial consequence to their actions, Federal agencies are essentially able to escape responsibility when they fail to comply with the law and are unresponsive to their employees' concerns.

Reports of Federal agencies being indifferent or hostile to complaints of sexual harassment and racial discrimination undermine the ability of the Federal Government to enforce civil rights laws and hamper efforts to recruit talented individuals for Federal employment. The Federal Government must set an example for the private sector by promoting a workplace that does not tolerate harassment or discrimination of any kind and that encourages employees to report illegal activity and mismanagement without fear of reprisal.

I believe the Federal Employee Protection Act of 2001 will give Federal employees the protections they need to perform their jobs effectively and will give the taxpayers a government with more accountability. I urge my colleagues to support this important legislation.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Alaska (Mr. STEVENS), the Senator from Alabama (Mr. SHELBY), the Senator from Michigan (Mr. LEVIN), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 49

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 49, a bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 127

At the request of Mr. MCCAIN, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 141

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr.

BROWNBACK) was added as a cosponsor of S. 141, a bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

S. 157

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 157, a bill to establish a program to help States expand the existing education system to include at least 1 year of early education preceding the year a child enters kindergarten.

S. 174

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 174, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Michigan (Ms. STABENOW), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 189

At the request of Mr. ENZI, his name was added as a cosponsor of S . 189, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

At the request of Mr. HUTCHINSON, his name was added as a cosponsor of S. 189, supra.

SENATE CONCURRENT RESOLUTION 4—EXPRESSING THE SENSE OF THE SENATE REGARDING HOUSING AFFORDABILITY AND ENSURING A COMPETITIVE NORTH AMERICAN MARKET FOR SOFTWOOD LUMBER

Mr. NICKLES (for himself, Mr. DURBIN, Mr. FITZGERALD, Mr. GRAHAM, Mr. HAGEL, Mr. KYL, Mr. INHOFE, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Finance:

S. CON. RES. 4

Whereas since 1989 the United States and Canada have worked to reduce tariff and nontariff barriers to trade;

Whereas free trade has greatly benefited the United States and Canadian economies;

Whereas the United States and Canada have been engaged in an ongoing dispute over trade in softwood lumber for 19 years;

Whereas on May 29, 1996, the United States and Canada entered into an agreement to temporarily resolve the dispute by limiting Canadian exports of softwood lumber to the United States;

Whereas the United States-Canada Softwood Lumber Agreement of 1996 does not promote open trade;

Whereas the scope of the United States-Canada Softwood Lumber Agreement of 1996 has been expanded, leading to uncertainty for importers, distributors, retailers, and purchasers of softwood lumber products;

Whereas the availability of affordable housing is important to the American homebuyer;

Whereas lumber price volatility jeopardizes housing affordability; and

Whereas the United States-Canada Softwood Lumber Agreement of 1996 will expire on April 1, 2001: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States-Canada Softwood Lumber Agreement of 1996 should terminate on April 1, 2001, with no extension or additional quota agreement, and trade restrictions on lumber after the agreement expires should not be renegotiated;

(2) the President should continue to work with the Government of Canada to promote open and competitive trade between the United States and Canada on softwood lumber; and

(3) the President should consult with consumers of softwood lumber products in future discussions regarding the open trade of softwood lumber between the United States and Canada.

NOTICE OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on January 30, 2001 in SH-216 at 9 a.m. The purpose of this hearing will be to review the Report from the Commission on 21st Century Production Agriculture.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, January 31, 2001 at 9:15 a.m. in room 485 of the Russell Senate Office Building to conduct a business/organizational meeting to elect the chairman and vice chairman of the committee.

Those wishing additional information may contact committee staff at 202/224-2251.

ORDER FOR RECORD TO REMAIN OPEN UNTIL FEBRUARY 20 TO SUBMIT CRANSTON TRIBUTES

Mr. MURKOWSKI. Madam President, I ask unanimous consent the order of January 5th with respect to the Cranston tributes be changed to reflect that Senators have until Tuesday, February 20, to submit tributes, and that the tributes then be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from Colorado (Mr. CAMPBELL) as Chairman of the Commission on Security and Cooperation in Europe (Helsinki) during the 107th Congress.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84 and Public Law 106-292, appoints the following Senators to the United States Holocaust Memorial Council: The Senator from Nevada (Mr. REID), and the Senator from California (Mrs. BOXER) (reappointment).

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, reappoints the Senator from Tennessee (Mr. FRIST) as a member of the Board of Regents of the Smithsonian Institution.

ORDERS FOR TUESDAY, JANUARY 30, 2001

Mr. MURKOWSKI. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Tuesday, January 30. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of Governor Christine Todd Whitman to be administrator of the EPA as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask further consent that on Tuesday the allotted time for Senator MURKOWSKI on the Whitman nomination be increased by 10 minutes and the time between 2:15 p.m. and 2:45 p.m. be equally divided between Senator GRAHAM of Florida and the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I also ask that the Senate recess from 12:30 until 2:15 p.m. to accommodate the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MURKOWSKI. Madam President, tomorrow at 10 a.m., the Senate will immediately begin consideration of the Whitman nomination for Administrator of the EPA. Under the previous order, there will be up to 30 minutes for debate on the nomination. Following that debate, the Senate will resume consideration of the nomination of Gale Norton to be Secretary of the Interior. There will be approximately 2 hours for closing debate on the Norton nomination, with votes scheduled to occur at 2:45 p.m.

As a reminder, the Secretary of Labor, Elaine Chao, was confirmed today by the Senate by unanimous consent. Therefore, there will be two consecutive votes beginning at 2:45 p.m. on

Tuesday. Following those votes, the Senate will begin consideration of the nomination of John Ashcroft to be Attorney General.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MURKOWSKI. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:41 p.m., adjourned until Tuesday, January 30, 2001, at 10 a.m.

NOMINATIONS

Executive Nominations Received by the Senate January 29, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT B. ZOELLICK, OF VIRGINIA, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DEPARTMENT OF LABOR

ELAINE LAN CHAO, OF KENTUCKY, TO BE SECRETARY OF LABOR.

DEPARTMENT OF JUSTICE

JOHN ASHCROFT, OF MISSOURI, TO BE ATTORNEY GENERAL.

CONFIRMATION

Executive Nomination Confirmed by the Senate January 29, 2001:

DEPARTMENT OF LABOR

ELAINE LAN CHAO, OF KENTUCKY, TO BE SECRETARY OF LABOR.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 30, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 31

9:15 a.m.
Indian Affairs
To hold an organizational business meeting to elect the Chairman and Vice Chairman; and to consider committee budget resolution and rules of procedure for the 107th Congress.
SR-485

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings to examine the impact of California's electricity crisis on the West.
SH-216

10 a.m.
Budget
To hold hearings on the issues of the budget and the economic outlook of the United States.
SD-608

FEBRUARY 1

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the American Airlines' proposed acquisition of Trans World Airlines (TWA), and part of DC Air, focusing on airline competition, and the impact on consumers.
SR-253

10:30 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia
Subcommittee
To hold hearings to examine the decision of the General Accounting Office to place strategic human capital management on GAO's "High-Risk" list of federal agencies and programs that are vulnerable to waste, fraud, abuse and mismanagement, including administrative and legislative solutions to the human capital crisis.
SD-342

FEBRUARY 13

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the first Monetary Policy Report for 2001.
SH-216

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, January 30, 2001*

The Senate met at 10:03 a.m. and was called to order by the Honorable BOB SMITH, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Omnipresent Lord God, there is no place we can go where You have not been there waiting for us; there is no relationship in which You have not been seeking to bless the people with whom we are involved; there is no task You have given us to do that You are not present to help us accomplish. We need not ask to come into Your presence; Your presence with us creates the desire to pray. You delight in guiding us to pray for what You are more ready to give than we may be prepared to ask.

You are here. We do not need to convince You to bless this Senate. You have shown us how much You love and care for the United States of America. You want the very best for this beloved Nation and have chosen the Senators through whom you want to work to accomplish Your plans. Help them to see themselves as Your agents. Bless them with Your power. Keep them fit physically, secure emotionally, and alert spiritually. So much depends on their trust in You and pursuit of Your guidance. May awe and wonder capture them as they realize all You have put at their disposal to ensure that they succeed. Thank You for the biblical assurance that You work all things together for those who love You, who are called according to Your purpose. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BOB SMITH lead the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The clerk will now read a communication to the Senate.

The legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 30, 2001.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB SMITH, a Senator from the State of New Hampshire, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF CHRISTINE TODD WHITMAN TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to executive session to consider the nomination of Gov. Christine Todd Whitman.

The legislative clerk read the nomination of Christine Todd Whitman, of New Jersey, to be Administrator of the Environmental Protection Agency.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes of debate on the Whitman nomination.

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the prior order entered be changed to allow the chairman of the committee, Senator SMITH, 15 minutes, and the ranking member, Senator REID, 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Mr. REID assumed the Chair.)

SCHEDULE

Mr. SMITH of New Hampshire. Mr. President, the Senate will now immediately begin consideration of the nomination of Governor Whitman's nomination to be Administrator of the Environmental Protection Agency. Under the previous order, there will be 30 minutes for debate on the nomination. Following that debate, the Senate will resume consideration of the nomination of Gale Norton to be Secretary of the Interior.

There will be approximately 2 hours for closing debate with two consecutive votes scheduled to occur at 2:45 p.m. on the Norton nomination for Secretary of the Interior and the Whitman nomination for EPA Administrator.

I now ask unanimous consent that immediately following the votes, the Senate proceed to a period of morning business with Senator LOTT or his designee in control of the time until 3:45 p.m. and Senator DASCHLE in control of the following 20 minutes, beginning at 3:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Following morning business, it is expected the Senate will begin consideration of the Ashcroft nomination to be Attorney General of the United States.

I thank my colleagues for their attention.

NOMINATION

Mr. President, it is an honor for me to rise in strong support of the nomination of Governor Christine Todd Whitman to become the next Administrator of the Environmental Protection Agency. As chairman of the Environment and Public Works Committee, I have full confidence that she is the right person for this job and will be an outstanding leader. She has an incredible environmental record as the Governor of New Jersey. New Jersey has cleaner air; the number of days that her State violated the Federal 1-hour standard for ozone dropped from 45 in 1988 to only 4 last year.

It is a remarkable accomplishment. The water is cleaner. The fish population is thriving. New Jersey beaches are once again clean and open for enjoyment, beaches that I enjoyed, I might add, as a young man growing up in New Jersey. There was a brief hiatus where it was not even safe to walk those beaches. Annual beach closings dropped from 800 in 1988 to just 11 last year. That is 11 too many, but still it is an incredible task in development.

The National Resources Defense Council has praised New Jersey for having the most comprehensive beach monitoring system in the entire Nation.

Under Governor Whitman, New Jersey has been a national leader in redeveloping brownfields, which has long been an issue for me as the chairman of this committee, and even prior to becoming the chairman—in reforming the brownfields legislation to clean up these blights on our society. That experience in dealing with brownfields will be invaluable as we develop Federal legislation.

Conservation has also been a top priority for this nominee. During her 7 years as Governor of New Jersey, more open space and farmland was preserved than in the previous 32 years. She has preserved more land than any previous administration in New Jersey, and under a conservation program that she established, and was overwhelmingly approved by the voters, nearly 1 million acres will be preserved by the year 2010.

The list of her environmental accomplishments goes on and on, from air quality to smart growth to species conservation. The bottom line is that New Jersey's air, water, and land are cleaner because of Governor Whitman.

It is remarkable and, some hate to say, unusual for a nominee to be this qualified for this position. This is all occurring when the economy is stronger than ever. We can have a clean environment and a strong economy, and Governor Whitman has proven that.

What is most impressive about Governor Whitman's record is how she achieved this environmental success. It is an approach that focuses on results, an approach with which I totally identify and agree, results achieved through cooperation and partnership as opposed to confrontation and not working together. You use the hammer of enforcement when it is necessary, but if you can lay the groundwork too so you do not need to use the hammer, that is even better. We address problems in a holistic manner—we look at the entire problem, all the sources of pollution air, land, or water. Governor Whitman has done that.

As we begin to tackle the environmental issues of the 21st century, we need that ability to think outside the box. We need to have someone in this agency saying: Just because we did it yesterday or last year does not mean we have to do it again this year. We may want to think about something new, something innovative, something flexible.

Governor Whitman, with her record and experience, is the right person to oversee the protection of our environment. President Bush is to be congratulated for choosing such a strong protector of the environment to head the EPA.

On a personal level, in the private meeting I had with Governor Whitman, we discussed the environmental agenda of President Bush. We also discussed her own environmental agenda. I found it very much in tune with mine. We were talking at great length about the utility emissions reduction, the so-called bubble bill, where we cap and trade and bring utilities and other sources of pollution under this bubble to bring down the emissions. This is a high priority for President Bush and for Governor Whitman. I look forward to working with her on that.

Brownfields, which I discussed a moment ago, is also one of her top priorities. I predict, working with Administrator Whitman, we will move out of the gate very quickly with good strong brownfields legislation which will allow us to get into these communities where these contaminated sites are. Some are asbestos-filled buildings or other messes that have been left by industrial development. We will clean it up. We will remove the unfair liability and allow the contractors to get on site and clean them up.

The spinoff is remarkable: A, you clean up the environment; B, you create jobs; C, you allow areas to be developed that were developed and you do not have to put more pressure on green space somewhere else because now you can clean up, you can build and put new industries on the old industrial site. It is a tremendous opportunity, and it is very exciting to think about working on this with Governor Whitman.

We must address the environmental infrastructure, the combined sewage overflow, storm and sewage overflow. There is much infrastructure that is necessary to look at. She, again, has experience in this area, and we can work together.

On conservation funding, we need to get dollars into the areas we can; with a willing seller and a willing buyer to perhaps set aside new land and, at the same time, protecting private property rights and encouraging dollars to help fish and wildlife and other areas of our environment.

Something the Governor and I really click on is the MTBE issue, which is a big issue in her State as well as it is in mine. We have to work together to try to remove that contamination that is such a problem all across the country, but especially in New Hampshire, California, New Jersey, and several other States where MTBE gets into the water supply. We have to do something about the leaking underground storage tanks that create this problem and, at the same time, begin to develop another source to replace MTBE to still keep the air clean with no backsliding and see to it that we keep this kind of chemical out of our water supply.

It is an ambitious agenda. She is up to that agenda. She is up to the task. I look forward to working with her, and I am very anxious to see her nomination move quickly through the Senate this afternoon.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Nevada.

Mr. REID. Mr. President, I came to this session of Congress as chairman of this committee, the committee of jurisdiction dealing with Christine Todd Whitman. For 17 days, I was chairman of the Environment and Public Works Committee. One of my first acts was to hold hearings regarding Gov. Christine Todd Whitman. Part of me said this is my chance to stand out. This is somebody who wants to be the Administrator of the Environmental Protection Agency, someone whose name has been submitted to us by President Bush, whom I did not support in the election. I thought it would be a time to set a real good record show, maybe not a lot, but a significant number of Senators, that they should vote against her.

I went into the hearing with that direction: What could we do to show that she would do a bad job. We had questions from all types of her enemies in the State of New Jersey, many of which we asked orally; the others we submitted to her in writing.

I say candidly, this woman did a great job before the committee answering these questions. We went through four different rounds of questions. Some Senators sat through the entire hearing. It was long. It started at 9:30 in the morning and ended around 1 o'clock, as I recall, or 1:30 p.m. that day. She, I repeat, answered every question we submitted to her. She did not appear to be evasive. When we submitted the questions to her in writing, the answers we got back, as far as I am concerned, especially on issues relating to the State of Nevada, were even stronger than her oral answers.

I do not proudly say there was a part of me when these hearings started that wanted to find things against her. I say to the Senate and those within the sound of my voice, that perhaps was a wrong attitude. Certainly she was able to alleviate any questions I had about whether or not she should be the Administrator of the Environmental Protection Agency.

This is an important agency. I have been on the committee since I came to the Senate. I have seen EPA Administrators come, and I have seen them go. I am confident—and I am very hopeful—that she will be a very good EPA Administrator.

Of all the testimony that she gave, the only concern I have —and I told her this at the hearing—is that I hope she does not depend too much on voluntary compliance. I have no problem if she wants to try it, but let's not push this envelope too far. My experience has been, in the environmental field, voluntary compliance simply does not work.

This agency is responsible for protecting both the health of our citizens and the health of our environment. The agency must ensure that Federal laws protecting human health and the environment are fairly and effectively enforced.

There are 10 comprehensive environmental protection laws that Governor Whitman must administer, including the Clean Air Act, the Safe Drinking Water Act, and the Superfund law. These are very important laws. She and the regional offices she directs throughout the country need to implement them. Leading this agency is a big job.

The Administrator of the EPA needs to ensure that these responsibilities are carried out, in addition to overseeing the Agency's environmental research and making recommendations to the President on environmental policy.

Given the importance of the mission of this agency and the role it must play in developing the future direction of environmental protection, I am joining with my colleague, Senator BARBARA BOXER, as a sponsor of a bill that would give the Environmental Protection Agency Cabinet level status. I have supported efforts in the past in this regard, and I certainly support the efforts today. I think it should be a Cabinet office.

As my friend, the chairman of the committee, has acknowledged, she has been the Governor of New Jersey since 1993. Her accomplishments as Governor are significant: Preserving open space and farmland in New Jersey; expanding the brownfields redevelopment program, and having one of the most comprehensive beach monitoring programs in the entire country. I can remember, it was not long ago, I was speaking to Senator Bradley. Being from Nevada, it was hard for me to comprehend, but syringes and needles were washing up on the shore. People were afraid to go to the beaches. That is no longer a problem in the State of New Jersey, or at least it is a very minor problem.

Governor Whitman has seen the importance of the partnership between the Federal Government and the States in accomplishing mutual goals, such as cleaning up Superfund sites. I think it is significant that rather than what happens in many States, where people and Governors and State entities go out of their way to prevent Superfund sites from being declared, she did just the opposite. She went around soliciting to help the Federal Government clean up these sites that needed to be cleaned up. Therefore, we have a significant number of Superfund sites there. I believe the State of New Jersey has more Superfund sites than any other State in the Union.

She testified before our committee that she would do what she could to make sure that Superfund became an effective law and continued being an important law.

I will hold her to the promise she gave to the committee to support, defend, and enforce the laws of this land. In particular, I am glad that she and the President intend to make sure Federal facilities will comply with the same environmental standards that apply to private facilities. I am glad she has recognized that the Environmental Protection Agency must fulfill its legal obligation to set radiation protection standards for Yucca Mountain in the State of Nevada. This is the facility that is being looked at to determine whether or not it can safely hold nuclear waste.

I think she recognizes the Federal Government's legal obligation to set radiation standards for Yucca Mountain that fully protect human health and the environment. To my mind, anything less stringent than the final rule would not satisfy that responsibility.

While she has not been fully briefed on all these issues, and some of the answers provided to the committee reflected that, the Governor did say at her hearing she is committed to working on these issues. It is my hope she will look carefully at the recent actions of the new administration that would halt some of the proposals, as well as the progress of the last administration.

I expect Governor Whitman to consult with us, the committee, before making any changes that would weaken our environmental protections. We have come too far to allow a single-minded or shortsighted action to set us back environmentally. There are too many problems out there. People want clean air. They want pure water. They want these sites that are so dangerous to be cleaned up.

We have, in the State of Nevada, regarding Superfund, some very good history. I can remember coming into Reno and there was a huge pit. We called it the Helms Pit. The State of Nevada's small environmental protection agency was fighting, working with the oil companies, to do something about the black stains that appeared on this huge gravel pit. In the bottom of it was water. Just a few feet away was the Truckee River—the source of water for the entire State.

I directed the EPA to take a look at it. Within 2 weeks, an emergency Superfund site was declared at the Helms Pit. Here it is now, 8 or 9 years later, and this is a beautiful area called the Sparks Marina, full of water, with motor boats on this little lake. It is just beautiful. And it is all as a result of the Federal Government. It is the Federal Government at its best. The government came in and determined that it was dangerous. There were millions of gallons of fuel that leaked out of pipelines the oil companies had brought into the area. They paid for it. The Federal Government didn't pay for it. The oil companies paid for it.

Now all of northern Nevada has benefited from this environmental law that we passed a number of years ago. So I think it is important we do not set back the progress we have made over the last decade.

I expect, as I have indicated, she will consult with us before making any changes that will weaken our environmental laws. She has a credible environmental record, certainly not perfect, but a credible environmental record, and a profound understanding of conservation issues from a New Jersey perspective. She now needs a perspective for the entire country.

As Administrator of EPA, she will have an opportunity to learn about the different regional environmental challenges that face Americans from coast to coast. For example, in Nevada we face a situation in which dozens of small communities, through no fault of their own, will be in violation of the new safe drinking water regulation standard for arsenic. The issue of naturally occurring arsenic contaminating drinking water may not have been a major issue in New Jersey, but in Nevada it is something that I am confident she can learn about and help communities address.

These challenges are significant. It will be an important task for Governor Whitman to ensure that, all through the western United States, the water standards that have been set can be met. We know from a health perspective they should be met. We need the Federal Government to step in and help us with some of these small communities.

The Environmental Protection Agency has a 30-year history to be proud of. I hope, by working together, we can continue to do just that—protect our environment for generations yet to come.

Mr. President, I support the nomination of Gov. Christine Todd Whitman to be the Administrator, and maybe soon the Secretary, of the Environmental Protection Agency and urge my colleagues to do the same.

Before vacating the floor, I want to say, early in this session, what a pleasure it has been to work with the chairman of the committee, BOB SMITH. He and I have a long history of working together. We were both on the Select Committee on MIA-POWs. It was a very difficult year we spent together. We also spent some difficult time together, and some pleasant time together, as the two party leaders on the Ethics Committee. I have found him to be fair and to always have an open door. I look forward to working with him as the ranking member of the Environment and Public Works Committee.

Mr. SMITH of New Hampshire. I appreciate the comments of my colleague very much. I also commend Senator REID for the expeditious and nonpartisan way in which he has handled the nomination during his tenure as chairman, which was ever so brief. It was a pleasure to work with the Senator. I look forward to working with the Senator in the future.

Mr. President, how much time is remaining on the Whitman nomination?

The PRESIDING OFFICER. The Senator from New Hampshire has 5½ minutes. The Senator from Nevada has 3½ minutes.

Mr. SMITH of New Hampshire. Mr. President, I am going to just take another 2 or 3 minutes to make some comments on the Norton nomination and then will not use all of the remaining time but will be happy to yield it back so we can move to the next nominee.

Again, let me just reiterate my strong support for Governor Whitman in this position as EPA Administrator.

She is extremely well qualified—one of the most qualified people ever to be recommended for the job. She has first-hand experience as a Governor dealing with these problems—some of them on the receiving end of the Federal Government and other times just working in cooperation with the Federal Government.

It is an exciting opportunity to work together on the agenda I talked about a few moments ago: clean air, clean water, infrastructure, many other issues that will be coming before us, including MTBE, which is a big issue in New Hampshire and New Jersey.

Mr. CORZINE. Mr. President, I rise in support of the nomination of Christine Todd Whitman to be Administrator of the Environmental Protection Agency.

Christine Todd Whitman has a long and distinguished record of public service, and has made many important contributions to my State of New Jersey. She is well qualified to head the EPA, and I urge my colleagues to support her nomination.

Governor Whitman is highly articulate and persuasive. She genuinely cares about the issues, and she knows how to make an impact.

Governor Whitman has been a leader in protecting New Jersey's 127-mile shoreline and in fighting for cleaner air, guarding against the kind of pollution that knows no state boundaries. As an individual and a Governor, she has demonstrated a strong commitment to preserving open space.

The Administrator of EPA has the primary responsibility for ensuring that our air and water is clean, our natural resources are preserved, and our public health protected. It is a difficult job. It often requires a careful evaluation of highly complex scientific data, and an ability to translate that data into detailed policies. It needs someone who will fight internal battles to make environmental protection a budget priority. It needs someone who will work with local communities and businesses to find mutually acceptable solutions to environmental problems. And it needs someone who, when necessary, will be tough on polluters and force them to do the right thing.

I believe that Governor Whitman has the background, the experience and the skills necessary to do the job, and to do it well. I know that we will not always agree on every policy issue. This became clear during the hearing on her nomination in the Environment and Public Works Committee. In fact, I was concerned by some of her answers with respect to the need for tough enforcement against polluters and the need to ensure that environmental decisions adequately respect the rights of minorities and other disadvantaged groups.

However, I remain hopeful that Governor Whitman will use her considerable skills to be a strong environmental advocate, and I look forward to working with her to ensure that EPA remains committed to strong and effective enforcement of our environmental laws.

With that, I want to conclude my remarks and wish Governor Whitman the best of luck as she undertakes this important new challenge.

Mr. KERRY. Mr. President, I would like to make a short statement on President Bush's nomination of New Jersey Governor Christine Todd Whitman to serve as Administer of the Environmental Protection Agency. I have known Governor Whitman for many years. I admire her public service record and believe she comes to this job with a strong committment and sensitivity to its many responsibilities. I welcome the opportunity to vote for her.

President Bush's choice of New Jersey Governor Christine Todd Whitman is a positive signal regarding the environmental agenda that he will pursue over the next four years at EPA. Under her guidance, New Jersey has worked with other Northeastern states to strengthen local and national clean air protections. For example, Ms. Whitman recently supported the EPA's newly announced rule to reduce pollution from diesel fuel. Ms. Whitman has been a strong advocate of preserving open space. On the issue of coastal and marine protection, which is of particular concern to my state of Massachusetts, Ms. Whitman has advocated tougher controls on ocean pollution and enhanced protection of our seashores.

One area of concern has been expressed regarding Ms. Whitman's record. Conservation groups in New Jersey claim that during her time as New Jersey governor, Ms. Whitman took a somewhat lax approach to enforcement of environmental law. Needless to say I believe environmental law should be enforced as strenuously as any other law. I anticipated that Ms. Whitman will recognize her new responsibilities and leave no one doubting her willingness to enforce the law vigorously.

While I certainly do not share all of Ms. Whitman's views on environmental protection, I believe that she has shown balance and a willingness to listen to all sides throughout her career. I wish her well at the EPA, look forward to working with her and will vote for her nomination today.

Mr. TORRICELLI. Mr. President, I rise to support Christine Todd Whitman as President Bush's nominee for Administrator of 'the Environmental Protection Agency. During her years as Governor we have waged many fights together from open space preservation to ending ocean dumping.

President Bush has made a wise selection. The EPA and the country will be getting an Administrator who is qualified, battle-tested and ready to tackle the challenges that lie ahead for this Agency. With this nominee, there will be no learning curve.

There are few training grounds that could better prepare someone for this position than the Governor of New Jersey. As Chief Executive of the State, Governor Whitman has the managerial and administrative experience of running an agency as large as the EPA. But more importantly, no state has a better sampling of the issues facing the incoming Administrator of the EPA than New Jersey.

With 127 miles of shoreline, Governor Whitman has dealt extensively with issues of clean water and non-point source pollution. She knows first-hand the threats to the economy and the environment from ocean dumping. Governor Whitman has increased funding for beach cleanups, and under her watch, beach closings have dropped from 800 in 1989 to just 11 in 1999.

With more Superfund sites than any other state in the Union (111), she knows what works and what doesn't in the Superfund program. She has seen the value of a concerted effort to turn urban brownfields into productive industrial and commercial sites.

With the many dense urban centers in New Jersey, she has dealt with the complex funding and regulatory issues of upgrading dilapidated sewer systems and controlling combined sewer overflow.

As Governor of our Nation's most developed State, she initiated and passed a landmark $1 billion bond measure to preserve one million acres of farmland, forest, watersheds, and urban parkland. Few elected officials in this Nation, yet alone, this Cabinet, have a better understanding of what is needed to curb sprawl and protect our open spaces, than Christie Whitman.

But more than her record of environmental progress, what makes Governor Whitman uniquely qualified for this position is her understanding that economic and environmental progress are not mutually exclusive goals. For example, travel and tourism generates $28 billion in revenue and employs nearly 800,000 people in Central and Southern New Jersey. No issue is more important to those jobs than ocean quality. Yet the Port of NY/NJ is a vital component of economic growth and employment in the northern part of NJ contributing $20 billion annually to the economy and supporting nearly 200,000 jobs. I have worked with Governor Whitman to balance these constituencies and develop a policy that ended ocean dumping while still allowing for the continuation of the dredging necessary for the Port's continued growth.

The job for which Governor Whitman seeks confirmation is by no means an easy one. The challenges faced by the next Administrator are both numerous and difficult. The Superfund and Clean Water and Clean Air Acts have not been re-authorized in a decade and there are new challenges on the horizon, especially in our urban areas. Our urban centers have sewer systems that were built at the turn of the 19th Century. They frequently back-up and endanger public health and water quality because they are incapable of handling overflow. Too often industries unwanted anywhere else find homes on city blocks because of the jobs they offer and the taxes they pay. The next Administrator must make a priority of closing the gap between available funds and infrastructure needs and ensuring that environmental justice is more than a think tank slogan.

I am confident that Governor Whitman will do this and more. The challenges ahead are many—protecting our drinking water and purifying our air, preserving open space and reforming Superfund. But President Bush could not have selected a nominee with more experience and commitment than Governor Whitman. I have the utmost confidence that she will do the Senate and her home State very proud, and I urge her confirmation.

Mr. WARNER. Mr. President, I join today in supporting the nomination of Christine Todd Whitman to be Administrator of the Environmental Protection Agency.

As a member of the Committee on Environment and Public Works, I have had the opportunity to discuss with the nominee the many challenging environmental and public health issues facing us today.

As the former, two-term governor of New Jersey, Ms. Whitman brings to this position on the ground experience in finding solutions and making progress on environmental problems. Today, New Jersey's beaches, once plagued with closures, have seen dramatic reductions in closures due a comprehensive beach monitoring system. New Jersey's brownfields redevelopment initiations are leading the nation in revitalizing urban centers.

Mr. President, Ms. Whitman brings to this important post a record of accomplishment. More importantly, she has a demonstrated ability to find common ground to make progress on complex problems. Her experience as a state executive will guide her as she works with our state partners to improve air and water quality, to restore abandoned industrial sites and to reinvigorate the Superfund program.

I have every confidence of her steadfast commitment to advancing the protection of public health and the environment. I look forward to working with her and urge my colleagues to support her nomination.

NOMINATION OF GALE NORTON

Mr. SMITH of New Hampshire. Mr. President, I rise today to express my strong support for the President's nominee for the Secretary of the Interior, Gale Norton. I know there are some groups out there that have mischaracterized her record and have indicated some fears or concerns. I remember similar fears and concerns being expressed about me. It didn't seem to work out the way some thought it would. They have resorted to name calling, misrepresenting her record, making false accusations. We are probably going to hear some of those accusations repeated on the floor today, regretfully.

I begin by trying to set the record straight. I think this business of personal attacking and trying to destroy people personally is a mistake that is uncalled for. It is one thing to disagree on the issues. It is another thing to begin to get into name calling and making accusations about people's character that are not justified.

Let me stick to the record. Gale Norton has a strong environmental record. Certainly, if we look at the facts in Colorado at Rocky Flats and Rocky Mountain Arsenal, she has a strong record of enforcing Federal and State environmental laws vigorously and fairly. As attorney general of Colorado, she fought to make the Federal Government and private companies clean up hazardous and nuclear waste left behind at the Rocky Mountain Arsenal and Rocky Flats.

At the Rocky Mountain Arsenal, she fought all the way the U.S. Supreme Court for the State's right to hold the Federal Government to the same stringent cleanup standards that she applied to private companies. She sued not to try to weaken the cleanup standard but to strengthen it. Today the Rocky Mountain Arsenal is a national wildlife refuge. That is not an accident. That is strong leadership on the part of this nominee for Secretary of the Interior.

The extreme environmental groups also blame Ms. Norton for the Summitville mine disaster and suggest that she didn't do enough to enforce the law. Again, their facts are wrong completely. Ms. Norton did go after the mine operator shortly after she took office. Because of her actions, the mine operator was forced to operate a water treatment facility to prevent contamination from spreading. She also brought an enforcement action against the mine operator recovering millions of dollars to pay for the cleanup. She did not let the polluter off the hook. To the contrary, she made the polluter pay.

This "let the polluter off the hook" is a favorite expression of the left to somehow assume that if you try to work to get cleanup and you are not extracting every last dollar from every person who has it, somehow we are letting polluters off the hook. As we know, we have crossed this rubicon in the past. We have crossed that threshold, and it depends on which polluter we are talking about. What is a polluter? Is a polluter somebody who throws a ballpoint pen in a landfill? Under some definitions, yes. We have to be very careful how we throw that term around.

We are going to hear it a lot today in the debate, that somehow she let the polluters off the hook. The facts are, she did not.

These are just a few examples. Anyone who looks at her record—instead of the environmental groups' characterizations—will see that Ms. Norton enforced the law and she protected the environment at the same time.

She appreciates the value of preserving our land. She grew up in Colorado. She understands what wilderness means and what it means to live in a beautiful, pristine area such as central Colorado.

The extreme environmental groups have also suggested that Gale Norton cannot be trusted to protect our public lands, our national parks and refuges and wilderness areas. That is not true. Her record demonstrates that Ms. Norton values our public lands and she will protect them. Again, just look at the record.

As attorney general, she worked with Congress to craft the Colorado wilderness bill that established 19 new wilderness areas in the State. That doesn't sound like somebody who is opposed to cleaning up our environment and protecting our wilderness.

That bill was enacted in part because of Ms. Norton's efforts to build consensus for the preservation of those lands.

Her record at the Department of the Interior, where she was Associate Solicitor for Conservation and Wildlife from 1985 to 1987, shows once again that she was an effective advocate for protecting our public lands and natural resources, including endangered species.

Let me name just a few of her accomplishments in the Solicitor's Office:

She represented the Fish and Wildlife Service in its successful effort to add 80,000–90,000 acres to the Big Cypress National Preserve.

She was involved in an effort to add 5,000 acres to complete the Florida Panther National Wildlife Reserve in Florida.

She fought to ensure the success of the captive breeding program that saved the California condor when environmental groups sued to try to stop it. If they had succeeded, the condor would now be extinct.

She fought for the acquisition of land to extend the Appalachian Trail.

She worked on the regulations that banned lead shot for migratory birds, saving millions of birds.

She secured funds for the restoration of Ellis Island and the Statue of Liberty.

And she negotiated the original agreement with Senator McCAIN to restrict overflights in the Grand Canyon.

Again, these are just a few of her accomplishments over the past 15 years, but they paint a clear picture.

They paint a picture of someone who has dedicated her life to public service, to preserving the environment and natural resources, and to enforcing the law.

They paint a picture of an individual who is highly qualified to be the next Secretary of the Interior, and the first woman to serve in that position.

I urge my colleagues to consider the facts, not the distortions, in making their decisions about Gale Norton.

I strongly support Ms. Norton's nomination to be Secretary of the Interior, and look forward to working with her on the many challenges that lay ahead.

NOMINATION OF GALE ANN NORTON TO BE SECRETARY OF THE INTERIOR—Resumed

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the nomination of Governor Whitman is laid aside, and the Senate will now resume consideration of the nomination of Gale Ann Norton, which the clerk will report.

The legislative clerk read the nomination of Gale Ann Norton, of Colorado, to be Secretary of the Interior.

Who yields time? The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the time allotted to Senator FEINGOLD with respect to the Norton nomination be provided to Senator KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I believe I have 15 minutes to speak on the Norton nomination.

The PRESIDING OFFICER. The Senator is correct.

Mr. WELLSTONE. Mr. President, I say to my colleague from New Hampshire, I think there is a distinction between what I hope will be substantive remarks on my part in opposition to Ms. Norton to be Secretary of the Interior and personal attack.

I am a Senator from Minnesota. I am from a State where we love our lakes and rivers and streams, the environment.

My opposition to Ms. Norton to be Secretary of the Interior does not mean ipso facto that what I say represents any kind of personal attack. It is simply a very different assessment of whether or not she should in fact be the Secretary of the Interior for the United States of America.

I have a lot of policy disagreements with Ms. Norton. I have a lot of policy disagreements with any number of the President's nominees to serve in our Cabinet, but almost all of them I will support because there is a presumption that the President should be able to nominate his or her people.

On the environmental front, as long as I have the floor of the Senate—and I hope I am wrong—I say today that I believe the record of this administration will amount to a rather direct assault on environmental protection. I think that would be wrong for the country. This is not a debate about ANWR, the Arctic National Wildlife Refuge, not today. My disagreement with Ms. Norton or the President is not the reason why I oppose her to be Secretary of the Interior.

Part of the debate we will have in this country has to do with this nexus between the way we consume, the way we produce energy, and the environment. I see an administration that is an oil interest administration, and the focus will be more and more on oil, barreling down a hard path energy policy, with fossil fuels, environmental degradation getting lipservice but not investments in clean technologies, renewables, safe energy.

The reason I oppose not Gale Norton as a person but Gale Norton to be Secretary of the Interior is because I have doubts about her ability to fairly enforce existing environmental and land use laws. That is why I oppose this nomination.

The Secretary of the Interior is the principal steward of nearly one-third of our Nation's land. The Secretary is the chief trustee of much of our Nation's energy and mineral wealth.

The Secretary of the Interior is the principal guardian of our national parks, our revered historic sites, and our fish and wildlife. It is the job of the Secretary of the Interior to protect this precious legacy and to pass it on to future generations. As Catholic bishops said 15 or 20 years ago in their wonderful pastoral statement, we are strangers in this land. We ought to make that better for our children and our grandchildren.

Ms. Norton has had significant positions—government positions and in the private sector. It is her record in these positions—both in government and private sector roles—that are the most troubling to me. In fact, her record indicates that she may not be able to enforce environmental protections and ensure the preservation of our public lands.

There is no doubt that Ms. Norton did a good job in the confirmation hearings. She pledged her past views, and she is certainly committed to enforcing the laws of the Interior Department. I commend her for her testimony. It is my sincere hope that she will live up to these commitments. However, I think the Senate and Senators are compelled to view her record not in terms of 2 days of testimony but the totality of her record.

The totality of her record is one that I believe points to her inability to strike the very difficult and the very delicate balance between conservation and development. As a private attorney, Ms. Norton has taken positions that indicate a strong opposition to the very environmental protections which, if confirmed, she would be asked to defend.

For instance, she has argued that all or parts of the Clean Air Act are unconstitutional—taking a State rights view. She has argued that the Surface Mining Act, which is all about protecting workers' coal dust level, which is all about occupational health and safety protection, which is all about the problems of strip-mining and the environmental degradation that it causes many communities in Appalachia, again, unconstitutional.

She has argued that provisions of the Superfund law that require polluting industries to pay for cleanup of waste sites should be eliminated.

Ms. Norton has testified that implementation of the National Environmental Policy Act—NEPA—is something that should be essentially devolved to the State level, that she would prefer not to conduct Federal land environmental reviews.

I am sorry; when it comes to this most precious heritage, when it comes to the land, when it comes to our environment, when it comes to something that is so precious for not just us but our children and grandchildren, it is not just a matter of State options.

We are a national community, and we have made a commitment to environmental protection. I believe the actions Ms. Norton has taken and the positions she has taken in the past would make it impossible for her not only to enforce these laws but to be a strong steward for the environment.

In 1997, Ms. Norton argued that the global warming problem didn't exist. That is, of course, in contradiction to the international science community. I know in her testimony she essentially said she now takes a different position—I appreciate that—as Colorado attorney general.

But I also have questions in my own mind given the position she has taken about what kind of steward for the environment she would be.

As Colorado attorney general, Ms. Norton argued against the Endangered Species Act, saying it was unconstitutional. As attorney general, Ms. Norton supported measures that would relax otherwise applicable environmental safeguards if businesses volunteered to regulate themselves. And regardless of the damage, regardless of the effect on the public, regardless of the effect on people, these companies would be shielded from any liability.

Her position is troubling to me because Ms. Norton might be willing to permit private companies that operate on or near public lands to regulate themselves. As Colorado attorney general, in the case of one mining company acting under self-regulation, there were violations and massive contamination of the Alamos River. My colleague from New Hampshire said she took action, but it was only after the Federal Government was forced to step in and say you must take action. Indeed, the Federal Government was forced to step in and spend $150 million in emergency cleanup of the river.

In addition, there is a case of citizens living downwind from a mill that had been emitting pollution for months. Again, the Secretary of the Interior refused to take action, and again the Federal Government was forced to intervene—again resulting in a record $37 million in fines against the company.

Since leaving her job as AG in 1999, Ms. Norton has been lobbying Congress and the Colorado State Legislature on lead paint issues in behalf of the NL Industries, a Houston company formerly known as the National Lead Company. This company has been named as a defendant involving 75 Superfund or other toxic waste sites in addition to dozens of lawsuits involving children allegedly poisoned by lead paint. The only thing that I can say is I understand Ms. Norton's right to work for whatever company she wants to, but it does not give me very much confidence that she is the right person to be Secretary of the Interior—a major position of environmental leadership in the U.S. Government.

After reviewing her record of 20 years, I believe Ms. Norton has not demonstrated the required balance needed to be a guardian of our national heritage and a trustee of our national lands. Furthermore, she has shown a career pattern of opposing environmental protection, which I think speaks to her ability—or, I say to my colleague from Massachusetts, her inability to carry out the requirements of Secretary of the Interior.

I appreciate her testimony to the Energy Committee, and I take that in good faith. However, I cannot ignore her resistance to prosecute the industry in order to protect Colorado's land and people while serving as attorney general. As Secretary of the Interior, Ms. Norton would be charged with balancing the interests of industry against conservation. In my view, her record strongly indicates she will heavily tilt that balance away from conservation, away from preservation of the environment, away from environmental protection, away from being the trustee for the land, and away from understanding what a sacred duty we have.

It is a value question to make this Earth a better Earth and hand it on to our children and grandchildren. I find all of that unacceptable, and that is why I oppose this nomination. I hope other Senators will oppose this nomination as well.

Might I ask how much time I have remaining?

The PRESIDING OFFICER. Three minutes 43 seconds.

Mr. WELLSTONE. I yield the floor, and I also say to my colleague from Massachusetts that I would be pleased to yield the additional time to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Minnesota not just for his graciously yielding me additional time but, most importantly, for the thoughtfulness and sensitivity expressed in his remarks. I associate my remarks very much with his thinking and his approach on this issue.

I think each and every one of us in the Senate feels an automatic pressure to want to support the nominee of the President of the United States. I think it is a national feeling that generally pretty good people, with honest records of taking a position for something they believe in in the course of a lifetime, have found their way to the top of their profession in a sense, and the President of the United States, for one reason or another, makes a decision to entrust them with significant responsibilities.

There is a lot of goodwill here in the initial days of the administration to want to give the President the person that the President chooses. I think through the 16 years I have been here, and the several Presidents I have had the privilege of giving advice and consent to with respect to their nominations, that there are precious few, a small percentage—very small—that I have chosen to cast my vote against the President's choice.

As the Senator from Minnesota said, I think what we are looking for in the person who comes to a job with that kind of responsibility, being a Cabinet Secretary in charge of major responsibilities, is somebody who brings not a series of denials, renunciations, conversions, if you will, from a lifetime of effort, but somebody who brings with them to the job their gut and their heart and their head all linked together in concert with the fundamentals of the job they are being asked to do.

In the case of the nominee Gale Norton, I don't find there is that kind of connection, that there is a continuity of a lifetime of effort that shows me with assurance where the stewardship of this department will go. I regret to say to the Chair and to my colleagues that in the course of the years I have been here and had the opportunity to provide advice and consent on other nominees, we have seen people who came without that connection, with that disconnect, and who subsequently fell short in the job because the gut instinct was not to strike the balance; it was to keep faith with who they were and what brought them to the job.

I don't cast this vote lightly because I know Ms. Norton has a long and even distinguished record of public and private service. I know her friends and others say she is a decent and a capable professional. Some have, in the course of this debate, labeled her an extremist or even caricatured her as James Watt in a skirt. I think that is unfortunate. I find those labels troubling and improper. They distract from honest differences over principle and policy that have made this nomination troubling for the Senator from Minnesota, for myself, and for others.

I oppose Gale Norton's nomination. For a Cabinet post that demands that its occupant strike a very difficult and a very delicate balance—the same word my colleague from Minnesota used—a balance between conservation and development, President Bush has selected this individual. I suppose one might ask the question, of all the people in the country who have records with respect to the environment and development and striking that balance, of all the attorneys general, of all the people involved in conservation itself, of all the people in the environmental movements of this country, of all the people who have built up records of activism in an effort to try to strike that balance, why is it that we are presented with an individual whose philosophy over the past two decades has been singularly unbalanced?

The Secretary of the Interior is responsible for protecting the almost 500 million acres of public land, including 383 parks, 530 wildlife refuges, and 138 wilderness areas. Among these are some of our Nation's most valued lands: Yosemite, with its waterfalls, meadows, the forests, and the giant Sequoias, the world's oldest living things; the Everglades National Park, with its sea of sawgrass, mangroves, hardwood hemlocks, stork, great blue heron, and egrets; Mount Rainier National Park at Mount Rainier—a 14,410-foot-tall active volcano encased in 35 square miles of snow and ice and flanked with old-growth forests and alpine meadows.

Some are sanguine to suggest, well, those areas will never be threatened. But I know from talking to people in various parts of the country I visit that there are huge movements where people are angry that so much of their State is protected by the Federal Government; where people believe more of these areas ought to be open to development, not less; where people have witnessed, indeed, efforts to try to stop finding that proper balance between mining and grazing, or a host of other interests, and who would rather open the forests and have the U.S. Government build more logging roads, without even commenting on whether our logging practices are good or bad, after fires that we had last year. Sure, we can improve, but these are different movements, these are movements which disagree with these setasides.

I remember what happened on the floor of the Senate just a very few years ago, in 1995, with the House of Representatives and the Senate first term in Republican control, and I remember standing here and by 1 vote only we managed to stop major destruction to 25 years' of efforts to protect the environment of this country—by 1 vote only.

We happen to be a little stronger in the Senate today, but knowing how close it was and watching how critical the discretion of a Secretary is in what happens in terms of the regulations, what happens in terms of efforts they take to court or don't take to court, or seek to have protected or not protected, there is enormous discretion exercised on a daily basis.

I believe we need to remember the history we have traveled here. There was a period of time where some of the lands I just mentioned, the very ones that are protected today that we think of as national treasures, were not thought of in that way. In 1853, when the U.S. Army's topographical engineers returned from a trip to what we would later call the Grand Canyon, the party reported that it was "the first, and will doubtless be the last, party to visit this profit-less locality."

As each decade has passed since those early forays into the American continent, the country's appreciation for its land has grown—I believe it continues to grow among Americans today—the places to hike, canoe, camp, to play, to learn, and to leave nature, except for a harmless visit now and then. There were 273 million visits to our National Parks alone in 1993, a clear sign of their value to the Nation.

At the same time, the Interior Secretary manages the development of our public lands. Private companies, from multinational conglomerates to small family businesses, use our Nation's water, minerals, timber, oil, gas, and other public resources. Their industry, obviously, contributes to the national economic growth, and it provides thousands of jobs in regional communities. Our public lands have produced all of the needs of this Nation, and the Department of the Interior has managed hundreds of thousands of claims to mine gold, copper, and other valuable metals; 34 million acres of commercial timberland and 164 million acres of rangelands that are open to grazing.

It is the Secretary of the Interior's job to strike the proper balance between conservation and development. It is a tough job. The Secretary is under enormous pressure from those who hope to profit from these natural resources. Once a decision is made to develop land, the impacts are often permanent. You can't turn back the clock and recreate an old-growth forest. You can't return an extinct species of life. You can't return polluted land to absolutely pristine condition.'

There are many steps we can take to avoid unnecessary damage and restore land, and nature has shown itself to be resilient, but the rate of destruction today and the levels and the kinds of destruction too often force us to lose natural resources forever. The numbers of brownfields in cities around this country, the numbers of Superfund sites that have been on the list for years and remain not cleaned up are testimony to that tragedy.

In considering this vote, I have reviewed Ms. Norton's record as a constitutional attorney, an activist, and as Colorado attorney general, and her testimony before the Energy and Natural Resources Committee. It is a record that in my view simply does not reflect the balance I talked about that is necessary to serve as Secretary of the Interior.

I know she will be confirmed. Perhaps in the end we will see a different exercise of that discretion. As a constitutional attorney, Ms. Norton argued that bedrock Federal environmental, public health, and other laws are unconstitutional.

The PRESIDING OFFICER (Mr. ENZI). The Senator has a minute and a half remaining.

Mr. KERRY. Mr. President, Senator BOXER said that she would yield me 5 minutes. I ask unanimous consent I be afforded that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, based on her legal views, which are, thankfully, outside the opinion of most legal scholars and reflected in decades of court decisions—the Clean Air Act, Endangered Species Act, and Clean Water Act—and many other laws not directly related to the job of Secretary of the Interior but certainly important to this country, such as the Americans With Disabilities Act, Fair Labor Standards Act, and the Violence Against Women Act—violate our Constitution in one way or another. Indeed, if her convictions were the basis for this new administration's actions, it would unravel most of our Nation's environmental safeguards.

In addition to these writings and comments, Ms. Norton has been an active participant in several lawsuits and other efforts to overturn environmental protections. For example, she serves as an attorney to an organization called the Defenders of Property Rights that has advocated against endangered species protections in more than two dozen lawsuits.

Ms. Norton's writing and activism on these issues reaches far beyond the few examples that I have outlined here. To her credit, she has been a capable and dedicated advocate for more than two decades. The problem, simply, is that she has advocated legal and policy positions entirely at odds with the job of Secretary of the Interior.

In her testimony before the Energy and Natural Resources Committee, Ms. Norton distanced herself from her legal and activist record. While I certainly appreciate Ms. Norton's willingness to rethink and revise here views, I remain greatly concerned. Too often absolutist views were cast aside with little or no explanation. Too often the answers were vague and incomplete. Do I expect Ms. Norton to have answers to every issue she may encounter as Secretary? No. But my standard is higher for a nominee who comes before us with a career's record of fighting the laws the administration has now asked her to enforce.

History warns us to be concerned and cautious.

In 1981, Mr. James Watt was nominated to be the Secretary of the Interior by President Ronald Reagan. Mr. Watt, like Ms. Norton, came to the Senate with a record of anti-environmental legal activism. And like Ms. Norton, Mr. Watt showed a willingness to rethink and revise his views. A passage from the CONGRESSIONAL RECORD from 1981 is enlightening. For example, Mr. Watt was asked how, in light of his record, would he

> carry out the Secretary's dual responsibility to permit resource development on the public lands while preserving natural values?

Mr. Watt offered the following answer:

> As Secretary of the Interior, I will fully and faithfully execute the public land policy adopted by Congress requiring such a balanced approach.

The record after this is clear. It was opposite to that very answer.

This year, Ms. Norton was asked a similar question in regard to her views on the takings clause of the Constitution and environmental enforcement. Ms. Norton answered that she:

> will protect the federal government's interests in its lands and enforce all environmental and land use laws that apply to the lands and interest managed by the Department of the Interior.

Sound familiar? My point is that we have been witness to "confirmation conversions" before, and the result—as in the case of Mr. Watt—is sometimes regrettable. When a nominee's record is overwhelmingly slanted in one direction and falls far outside of the mainstream on a set of issues central to the job they will perform, reversals and revision leave me concerned.

I looked to Ms. Norton's record as Colorado Attorney General to learn how she performed at a job that required her to enforce environmental laws—again she has argued are constitutionally flawed. I found that record to be decidedly mixed and worrisome.

While Ms. Norton pursued two high profile cases against the federal government, environmental organizations, environmental attorneys, and the Denver Post report that in several major cases she failed to enforce environmental law against private companies.

For example, in one case, neighbors of a Louisiana-Pacific mill were forced to abandon their homes because the stench of pollution from the facility was so great. Without assistance from the state of Colorado, they hired attorneys and won a $2.3 million court against the company. Although that civil trial uncovered criminal wrongdoing by the company, the state still failed to prosecute. Finally, the federal government interceded and assessed $37 million in fines for fraud and violating the Clean Air Act against Louisiana-Pacific.

The attorney who represented the citizens in that case, Kevin Hannon, told the Denver Post.

> I would have grave concerns about Gale Norton's aggressiveness in enforcing environmental compliance and protecting citizens from environmental damage.

And there are additional similar cases.

In her defense, Ms. Norton claims to have not acted because state agencies did not ask her to prosecute. That answer is inadequate in my view, Mr. President. In several instances Ms. Norton aggressively pursued her legal agenda as attorney general. For example, Ms. Norton proactively wrote state agencies declaring that a program to increase minority enrollment at state schools was unconstitutional. Ms. Norton refused to defend a state program to increase minority contracting from legal challenge because it was unconstitutional. As Colorado Attorney General, Ms. Norton filed a brief in an Endangered Species Act case in Oregon arguing a provision of the law was unconstitutional. Clearly, Ms. Norton was an aggressive and capable advocate when the legal agenda matched her policy agenda. But when it came to enforcing environmental law against polluting companies, she too often failed to act and seems to have been uncharacteristically passive.

Arguably Ms. Norton's performance enforcing environmental law as Colorado's attorney general is the most relevant portion of her resume as she becomes the next Secretary of the Interior. One of her primary responsibilities will be to protect the environment and public land by enforcing the law against private companies. Unfortunately that record is weak on environmental crime.

As I have said, Ms. Norton will not receive my vote today. I do not cast this vote lightly. I believe that President Bush should be given wide discretion in selecting a cabinet to advance his agenda. However, there is a reason that the Constitution calls for the Senate to advise and consent on nominations. I believe that policy, ideas and a nominee's professional record matter. In many ways they matter more than the personal issues that derailed other candidates. Each Senator has the right—indeed an obligation—to vote their concerns and hope and their consciences.

Ms. Norton will be entrusted with protecting our federal lands and finding that difficult balance between conservation and development. Not an easy job. I feel strongly that Ms. Norton can only do that job properly if she sticks with the legal and policy philosophy she set forth in the Energy Committee hearings and not the philosophy she has advocated for 20 years. I feel strongly that Ms. Norton can only do that job properly if she does a better job enforcing environment law than she did in Colorado.

I yield the floor.

Mr. SCHUMER. Mr. President, I ask unanimous consent that 3 minutes of the time allotted to Senator STABENOW with respect to the Norton nomination be provided to the senior Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, first let me say I agree with many of my colleagues that Gale Norton is clearly an experienced, capable public servant with a distinguished record. I know the Senate confirmation process can be an arduous one. I think she has handled herself very well. She has made herself available to questions by those of us on the committee and conducted and presented herself in a very able way.

That said, I am afraid Ms. Norton has not been able to erase all my doubts and the doubts of many New Yorkers about her environmental record and whether or not she will be a strong enough guardian of our Nation's treasured public lands.

Although she is clearly an honorable person, I believe she does not have a balanced enough view on the question of conservation versus development to serve as Secretary of the Interior. To me, the key word is "balance." I reject those on either side.

There are some who say the conservation movement, the conservation of our lands, is really not necessary, or, once you have one place preserved, you have had enough and conservation should hold little weight when we talk about the needs of development. I have always philosophically rejected that view.

I must also tell you that I reject the view of some of my friends in the environmental movement who believe in no development at all, particularly at a time of scarce resources. There has to be a balance, and that is what I think most Americans seek. Obviously, we all differ on where that balance should be. I am worried that Ms. Norton does not have enough of that balance.

She spoke very well at our committee. But if you look at her history in both the public and private sectors, it is not one of balance. It is one, rather, of almost instinctively saying that development should take precedence over conservation. I do not think that is the right person for the Secretary of the Interior, and therefore I must reluctantly—although I generally believe in supporting the President with his nominations and intend to support the President in all but two of his Cabinet level nominees—I must reluctantly vote no on the nomination of Gale Norton.

Mr. President, I yield.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding under the allotted time I have 15 minutes to speak on the nomination of Gale Norton as Secretary of the Interior.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Mr. President, today we are charged with the important decision of considering Gale Norton for our next Secretary of the Interior. This position is extremely important. As the Secretary of the Interior, Ms. Norton would be the principal steward of nearly a third of our Nation's land; the guardian for our national parks; and the protector of our wildlife refuges.

The process of appointing and approving cabinet members is a curious mix of politics and policy. I believe President Bush has every right to exercise the same prerogative as Presidents before him, of choosing members of his cabinet that share his point of view.

In proposing Ms. Norton, President Bush asks the Senate to entrust her with our environmental heritage.

In sending me to the Senate, the people of Illinois have entrusted me with the duty of deciding whether Ms. Norton will faithfully fulfill the job that she has been asked to do.

Although Ms. Norton conducted herself well throughout the confirmation hearings, I am left with many questions about her vision for the future of our Nation's environment. I have no doubt that Ms. Norton has the professional experience to be a capable Secretary of the Interior. The question is not about her ability to lead, but whether she will be a leader for the preservation of our public lands and natural resources.

This is why I rise in opposition to her nomination today. I am disturbed that not one respected conservation group in our Nation has announced its support for Ms. Norton. Her strongest supporters hail from the mining, drilling, logging, and grazing industries—industries better known for exploiting public land than for protecting it.

My concerns were not allayed during her confirmation hearings. Despite more than 20-years experience in dealing with environmental issues, she often gave vague, uncertain answers to questions on how she would enforce many of our significant environmental laws. Her answers gave me little to reassure Americans who support conserving our natural resources.

Let me be clear. I am not opposing her nomination based on her ideology alone. Her documented public record speaks louder than her words. Her career is filled with stands on environmental law and policy that are incompatible with the Secretary of the Interior's role as steward of our public lands. Her actions reflect her philosophy that property rights are pre-eminent and Federal intervention should be minimized. She has not addressed the concern that this approach will interfere with her duty as Secretary of the Interior to aggressively enforce compliance with Federal environmental laws.

By now, most of us know that Ms. Norton started her career at the Mountain States Legal Foundation under the guidance of James Watt, the controversial former Secretary of the Interior. During her time with Mr. Watt, she pursued cases opposing the enforcement of the Clean Air Act in Colorado and supported drilling and mining in wilderness areas. She followed Mr. Watt to the Department of the Interior in 1985 as an Assistant Solicitor where she worked to open up the Arctic National Wildlife Refuge to oil drilling. But it was in her capacity as attorney general for Colorado from 1991 to 1999 that we find egregious examples of her tendency to side with private, pro-development interests over those of preservation.

As attorney general of Colorado, Ms. Norton was an advocate of the policy of self-auditing: a policy that allows polluting companies to escape fines if they report the problem and correct it. Unfortunately, this policy allowed Summitville mine, a large gold mine, to continue operating even though it had serious environmental problems. It was only after the mine spilled a mixture of cyanide and acidic water into the Alamosa River, killing virtually every living thing for a 17-mile stretch, that her office became involved.

The Summitville mine was considered Colorado's worst environmental disaster and is now the poster child of bad mining practices. To her credit, Ms. Norton vigorously pursued the mining company for repayment to cover the cleanup. However, she sought no criminal charges, and her office was criticized for being slow to act. The Federal Government had to step in to prevent the disaster from worsening and later won felony convictions against many of the corporate owners of the mine. In fact, the Denver Post said: "It's a shame that Colorado must rely on the feds to pursue the case." This happened under the watch of attorney general Gale Norton of Colorado.

As Secretary of the Interior, Ms. Norton will have enormous discretion to unilaterally alter environmental policy. She could block funding or enforcement of rules and regulations proposed by the previous administration. For example, she could prevent a recent proposal to limit snowmobile use in our national parks from taking effect, a proposal that was supported by literally thousands of citizens.

As a strong promoter of wilderness areas, I am concerned that Ms. Norton's pro-development leaning will make it more difficult to inventory areas for wilderness designation. I am concerned that she will open more land to mineral and mining development leaving less for wilderness areas. I am concerned that she won't stand strong and protect existing and proposed wild areas from off-road vehicle damage.

I am especially concerned that the Interior Department headed by Ms. Norton will parallel the Interior Department headed by her early mentor, James Watt. Mr. Watt tried to overturn environmental initiatives implemented by President Carter's administration. Ms. Norton says she wants to review many of President Clinton's environmental initiatives. Mr. Watt wanted to shift public land policy towards development and resource exploration. Ms. Norton has indicated she would like to do the same. Mr. Watt tried to make many of these changes out of the congressional limelight by using budgetary recommendations and administrative and regulatory actions. I am concerned that with strong public support for protecting the environment but an almost evenly divided Congress, Ms. Norton may be tempted to try the same tactics.

The Secretary of the Interior has a significant distinction from that of other Cabinet posts. That distinction is that no other Secretary's decisions have such a long-range impact. Once the earth is disturbed to start a mining operation, that land will never be the same. Once an animal goes extinct, there is no replacing it. Once land has been developed, it loses its character as a wilderness.

Mr. President, I believe that Ms. Norton's nomination sends the wrong signal to the country: a signal that we are moving away from conserving our natural resources and moving toward turning our public lands over to private interests.

As a great Republican President and the father of our Nation's conservation ethic, Theodore Roosevelt, said, "It is not what we have that will make us a great nation; it is the way in which we use it." Mr. James Watt echoed this statement during his nomination process in 1981 when he testified that he would seek balance in managing our Nation's lands. Ms. Norton recently testified that she would also seek to find this balance between using and preserving our natural resources.

Unfortunately, Mr. Watt did not keep his word. If Ms. Norton should be confirmed today, I urge her to learn a lesson from Mr. Watt's experience and uphold her promise "to enforce the laws as they are written."

The Interior Department is responsible for many of our Nation's most valuable treasures—natural resources that belong not only to this generation but also to generations to come. Americans will be counting on Gale Norton, should she be confirmed, to protect these national treasures so they can be handed on as an enduring legacy—to keep them safe from those who would exploit and destroy them.

Mr. President, I ask unanimous consent that the remaining time under the control of Senator STABENOW be allocated to Senator BOXER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, can you tell me how much time I consumed?

The PRESIDING OFFICER. The Senator has consumed 9½ of minutes of his 15 minutes.

Mr. DURBIN. I reserve the remainder of my time, Mr. President.

At this time, I see Senator BOXER has come to the floor.

Mr. President, I suggest the absence of a quorum until she is prepared to speak.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, how much time do I have for my presentation this morning?

The PRESIDING OFFICER. Thirty-one minutes.

Mrs. BOXER. Thank you very much.

Mr. President, I rise to explain to my colleagues, and to my constituents, why I will vote no on the nomination of Gale Norton to be Secretary of the Interior.

It is very rare for me to oppose any Cabinet nominee because I approach the whole subject of advise and consent on Cabinet nominations with the presumption that the President has the right to pick his or her own Cabinet. Having said that, you cannot walk away from a constitutional responsibility to advise and consent if you feel that nomination is way outside the mainstream of American thought, and if you feel that nomination could harm our country in one way or another. And I have many questions about this nominee which lead me to the conclusion that it would be far better to have someone more mainstream in this position. I will be explaining it through a series of charts and through my comments.

I have supported all of President Bush's nominees but for two—this one, and John Ashcroft, which we will be speaking about later this week and perhaps into next week.

I will start by discussing why this position is so important. The Secretary of the Interior is the primary steward of our Nation's natural resources. One of the most incredible gifts that we have from God is our natural resources, the beauty of our Nation. It seems to me we have a God-given responsibility to protect those resources for future generations.

Into the hands of the Secretary of the Interior we place a vast amount of control over our parks, over our wildlife refuges, over grasslands, over ranges, and over endangered fish and wildlife.

I will just show you a beautiful photograph. I have a few. This particular one is Death Valley National Park. What you can see from this photograph is the magnificent environment the Secretary of the Interior will be protecting. If a decision is made, for example, to extract minerals from a park such as this, you could certainly endanger this beauty.

She will make decisions regarding grazing, mining, offshore oil and gas development, habitat protection or habitat destruction, and American Indian tribal concerns that will have far-reaching and long-lasting consequences.

I asked her some questions about some of these areas in my State, and I have to tell you, as I will in greater detail, that I was very saddened; they were really no answers. There was no commitment that I wanted to hear to protect these magnificent areas. I will go into some of her comments that were put in writing.

We give the Secretary of the Interior the discretion, and we trust her to balance the economic development of our rich natural resources with the need to protect and conserve them. We are looking for a balance, and in my view, we have not seen that balance, either in Gale Norton's past or, frankly, in her answers, which I did not find to be terribly believable. And again, I will get into that.

After more than a century of untempered resource extraction, we have learned we must restore some equilibrium to the management of our public lands and wildlife resources. The American people understand this. Poll after poll shows they overwhelmingly support environmental protection and restoration. They understand we are living in the most beautiful place and we have a responsibility to protect it.

They are willing, for example, to conserve a little energy in order to spare pristine areas such as wildlife refuges. How people could say you can drill in a wildlife refuge, to me, just on its face, there is something that does not make sense about that. If it is a wildlife refuge, it is a refuge; it is not oil-drilling land. Why would it be called a refuge if it is not a refuge, a magnificent area where wildlife can live?

So I think in this appointment President Bush, who for the most part I think made good, moderate appointments, has gone off the reservation. I also understand Ms. Norton will be confirmed. I hope she proves me wrong. I hope she listens to this and proves me wrong. But I can say, I am worried. And there is precedent for me to worry.

If her nomination is approved, Ms. Norton will have authority to make decisions that determine the fate of some of California's treasures and America's treasures, places such as Yosemite National Park, the Presidio, Klamath National Wildlife Refuge, the San Diego National Wildlife Refuge, Death Valley National Park—you can see from the picture how beautiful this is—and the California Desert—and believe me, it is a precious environment; I have been there; I have seen—Point Reyes National Seashore—which is in my backyard; a magnificent area that needs to be protected—and the Santa Barbara coastline. I will get into that because there are 39 leases off the Santa Barbara coastline that are under threat of development.

Ms. Norton's answer to that question leaves me very worried about what will happen.

These unique ecological and cultural gems are fragile and vulnerable places. If they are mismanaged, the damage is likely to be irreparable. She will have responsibility for protection and recovery of California's most imperiled wildlife and fish species. Those endangered species, such as the California condor, will depend upon her for their continued survival.

Taken in total, it is an awesome responsibility and one of great importance to my constituents who treasure California's unique environment.

Let me say something about that. Oftentimes, people come to the floor and say: Well, you can't be an environmentalist because it means you don't want economic growth. You can't be an environmentalist because it means you will not have enough energy. We are going to hear this argument over and over and over, particularly about energy. I will talk a little bit about that. That is a false premise.

Our economy depends on our environment in California. People come to our State and spend money to stay there because of our unique environment. They come to our ocean not to look at offshore oil drilling but to enjoy the beauty and the serenity of standing on that shoreline and looking at the vastness God gave us. To say that being an environmentalist is somehow not for a strong economy is a fact that is wrong on its face.

The green industries that grow up around clean air and clean water, a clean environment, are industries we are not exporting across the world.

To the people of this country, take heart. There are many in this body who understand this.

After Ms. Norton's confirmation hearings, her responses to over 200 written questions and an in-depth look at her long and detailed history of work on these environmental issues—unfortunately, on the other side of most of them—it is clear to me that her record is remarkably consistent. One can say that about Ms. Norton; her record is remarkably consistent.

She has spent her lifetime over the past 20 years focused on fighting against our essential Federal environmental laws and fighting for increased resource extraction from our public lands. That is her history. That is her life. Indeed, it is striking how few examples there are where Ms. Norton worked for the protection of the environment, despite the fact that her positions as Associate Solicitor at Interior and attorney general in Colorado required it.

Let us look at some of her statements. On mining she said:

> The Surface Mining Control and Reclamation Act is not constitutional.

This is the act that tries to at least repair the damage that is done after there is mining.

On endangered species she said:

> The federal government has interpreted its habitat protection duties far too broadly.

In other words, she doesn't think the Federal Government should have much say in habitat protection.

On takings compensation:

> Compensation is desirable because it will have a chilling effect on federal environmental regulations.

A chilling effect on Federal environmental regulations?

We have a lot of important Federal environmental regulations: the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act—all Federal regulations—the Surface Mining Control and Reclamation Act, the Endangered Species Act; these are important advances that our country has made. They have strong support. She likes things that give a chilling effect to Federal Government regulation. It gives me the chills to think that someone who feels this way is in charge of a lot of our laws.

We see recurring themes, deeply held philosophies. These include vehement opposition to Federal environmental regulation, an unflagging commitment to the supremacy of property rights even if those rights lead to environmental destruction and harm everyone else.

Ms. Norton has argued that "control of land use and of mining is a traditional State function outside the scope of the commerce power." Thus, they are not activities that should be regulated by Federal land managers. She went so far as to argue that the Surface Mining Control and Reclamation Act is unconstitutional, as I have stated. Given these beliefs, it is doubtful that she will apply this law and implement it and make sure these conservation standards are applied in a meaningful way.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mrs. BOXER. I thank the Chair.

She has raised strong complaints about the Endangered Species Act, another one of our bedrock laws that the Interior Secretary must implement. During her earlier tenure at the Department of the Interior, she complained the courts were providing an overly broad interpretation of the ESA's habitat provisions. She argued that the habitat protection standard should be extremely narrow so that only habitat that was immediately occupied by an endangered species would be protected. This interpretation would have ignored everything we know about the biological needs of species. It would have protected, for example, a bald eagle's nesting tree but allowed the rest of its surrounding habitat to be destroyed. With that kind of thinking, the bald eagle would never have been saved because you save the tree and then right around the tree you don't take any measures to protect the bald eagle.

Let us show a picture of some of our habitat. We are talking about God's creations that we have a responsibility to protect. This is Mohave National Preserve Joshua trees. We have to move to protect them.

Let us show some other habitat. Let us show the beautiful habitat of Alaska.

Here we can see some of the magnificent caribou up in Alaska. We will be arguing a lot about that issue. We can see, if we are going to protect their habitat, we cannot just protect a small amount. It is as if saying that we are going to protect the air in one State and not in another one. We know the air moves; the animals move. We have to think about their whole habitat if we are going to protect them and not have this narrow view that Ms. Norton has articulated, which is that you should apply it very narrowly.

She submitted an amicus brief in the *Babbit* v. *Sweet Home* case and argued that the Department of the Interior's protection of habitat on private lands was unconstitutional and constituted a taking. She argued for such a restricted interpretation of the law that it would have severely hindered our ability to protect habitat necessary for the recovery of the Endangered Species Act. On that case, her side lost. She is out of the mainstream of thought.

Is it possible she could forget her lifetime of work against these things and suddenly become a fighter for the environment? I conclude no. Over and over again, Ms. Norton has advocated for "the devolution of authority in the environmental area back to the States." In other words, she doesn't really see the need for Federal laws such as the National Environmental Policy Act, NEPA.

While working in Colorado, she wrote of having "to do battle" with the Federal Government to wrestle control away from Washington and spoke with pride of her challenges to the Environmental Protection Agency regarding its interference in Colorado's air pollution programs. Oddly, she lamented that the end of the Civil War meant that "we lost the idea that states were to stand against the Federal Government gaining too much power over our lives."

There are a lot of things you could bring up to drive home a point, but to raise the Civil War is odd. She said that the end of the Civil War meant that "we lost the idea that states were to stand against the Federal Government gaining too much power over our lives."

She is way out there, in my opinion, because the people whom I represent—I think the vast majority of people—want to have a Clean Water Act, want to have a Safe Drinking Water Act, want to protect the magnificent species from destruction, and believe we have a God-given responsibility to do that. But she is way outside the mainstream. President Bush, for the vast majority, in my opinion—all but a couple—has chosen from the middle ground this time and reached over so far that there isn't much room on the other side and put this individual in the position where she can do harm.

As a matter of fact, given her statements about the inappropriate role of the Federal Government in all of this protection, it is hard to understand how she would want to be a part of the Interior Department, much less be the head of it. It raises questions to me about her ability to adequately serve as an advocate from the Federal perspective in various environmental decision making processes. Ms. Norton has a long history of association with organizations that promote ideas such as eliminating the Bureau of Land Management and selling off our national parks. Not surprisingly, these views have sparked strong opposition from the people of our country.

I want to show you some of the groups that have opposed her nomination: the Natural Resources Defense Council, The Wilderness Society, Sierra Club, League of Conservation Voters, Republicans for Environmental Protection, Physicians for Social Responsibility, NAACP, AFL-CIO, Childhood Lead Action Project—I understand why they oppose her—Community Energy Project, the Network for Environmental and Economic Responsibility for the United States Church of Christ.

This is a lightning rod nomination for people who care about protecting the environment. Why do we have to see their kind of nomination? We could have had a nomination for the President to "unify us" and not divide us.

That is the reason I am against this nomination. Her lobbying to dissuade States from holding the lead industry accountable for the continued use of lead-based paint has brought criticism. I showed you that. The Childhood Lead Action Project, why would they get involved in this? Guess what we know. Lead-based paint causes mental retardation in children. This isn't a theory; it is a fact, and she led the charge to get the Federal Government out of regulating lead.

You have to stand up at some point in your life and be held responsible and accountable. I think this is a moment when someone has to be held accountable.

Everyone knows what a strong environmentalist I am and everyone knows how strong I am for a woman's right to choose. They know I have dedicated my life to do these two things. Suppose the laws were changed and suddenly a woman's right to choose was outlawed and I was put up for a position where I had to say enforce that law—put a woman in jail, put a doctor in jail. If this were to happen, people should come down to the floor and say BARBARA BOXER is not the right person for that job; her whole life has been dedicated to making sure that a woman has a right to choose. Why would they give her this position? They would be right. I don't care if I said I will do it; I will enforce it. They know how strongly I feel.

We know how strongly she feels about the interference of the Federal Government, what she considers to be interference in States rights in terms of protecting the environment. Why is this a good appointment? Again, you have to wonder why someone who has dedicated their adult life to opposing the Federal Government's involvement would even take this job. But we saw that happen before. His name was James Watt. We will get down to when someone says they will fully enforce the Nation's laws. Fine. But then when you ask her how she interprets those laws, you have to wonder because it is not the same interpretation as most people have.

When I asked her how she felt about priority issues for California, if she would uphold the Bureau of Land Management's important decision to deny a permit to a gold mine, which everyone agreed would destroy Native American land and destroy the environment in California near the San Diego area, she basically passed on an answer. I asked her about how she felt about the much heralded new management plan for Yosemite National Park. She basically passed on an answer. The Klamath Wildlife Refuge, she passed on an answer. The Trinity River Restoration effort, she passed on an answer. She said she wasn't familiar with the issue; she had not taken a position. This troubles me since she worked at the Department of the Interior before. Yosemite should not be unfamiliar to someone who is to be head of the Department of the Interior and, yet, she passed on an answer on Yosemite.

I would like to submit these answers for the RECORD at this time. I ask unanimous consent to have them printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS FROM SENATOR DIANNE FEINSTEIN SUBMITTED ON BEHALF OF SENATOR BARBARA BOXER

Question. There are currently 36 undeveloped oil leases situated on the Outer Continental Shelf off the coast of California. Development of these leases has been strongly opposed by the state of California and the associated local coastal communities. This Administration has signaled its intent to prioritize the development of domestic oil and gas sources. Will you encourage development of offshore leases in states like California where there is strong and persistent opposition to the development of such leases? Past administrations have used their executive authority to place a moratorium on offshore oil and gas drilling in currently undeveloped areas. Would you recommend that such a moratorium be continued under this administration? Would you view such a moratorium, or any other environmental regulation that prevents development of a lease, to be a taking under the Fifth Amendment of the Constitution?

Answer. President Bush pledged to support the existing moratoria on OCS leases. He also committed to working with California and Florida leaders and local affected communities to determine on a case-by-case basis whether or not drilling should occur on existing, but undeveloped leases. If confirmed as Secretary of the Interior, I will honor these commitments and promise to work with all parties to reach a consensus on how undeveloped leases should be handled and the extension of existing moratoria.

Question. The Interior Department recently announced its denial of a permit for the Glamis Imperial gold mine that was proposed for development in Imperial County, California. This mine was rejected on the grounds that it would have caused undue degradation to the site's environmental and cultural resources. Do you think it is appropriate under current mining law for the Secretary to reject mines like the proposed Glamis Imperial Mine on these grounds?

Answer. I am not familiar with the specifics of the Glamis mine proposal or the basis on which the mine was rejected. I look forward to learning more about the proposed Glamis project and working with Congress to ensure that all new mining projects maintain an appropriate balance between legitimate mineral development activities and preservation of important environmental and cultural resources.

Question. Recently, the National Park Service developed a detailed plan for the future management of Yosemite National Park. This plan was developed after considerable input from all of the affected stakeholders and over 10,000 members of the public submitted comments to the agency. Central to this plan is the notion that visitors to the park should be encouraged to leave their personal vehicles outside the park and travel through the park on a park transit system. As Secretary of the Interior, will you actively support implementation of the new Yosemite Valley Management Plan? Will you be aggressive about developing similar management plans for the many other national parks that are suffering environmental degradation because their management practices have not kept pace with the growing numbers of visitors?

Answer.'I am not familiar with the details of the Yosemite Valley Management Plan. As a general matter, I support the concept of management plans for our public lands and believe that they represent an important decision-making tool for land managers. For these plans to be successful, I believe it is important that they be developed in consultation with the affected States, local communities, affected stakeholders, and environmental groups.

Question. In 1998, the U.S. Fish and Wildlife Service adopted a policy for Tule Lake and Lower Klamath National Wildlife Refuges in California and Oregon that prevents irrigation on commercial farmland on the refuges unless sufficient water is available to sustain the refuges' marshes. Do you support this policy which gives priority to the refuges' ecological resources over commercial farming? The National Wildlife Refuge System Improvement Act of 1997 set new requirements for the management of refuges. In response, the U.S. Fish and Wildlife Service issued regulations establishing procedures for determining what uses are compatible with the mission of the refuge system and the mission of each individual refuge. Do you believe farming is compatible with the mission of the Tule Lake and Lower Klamath National Wildlife Refuges? What uses would you deem to be incompatible with the mission of the national wildlife refuge system?

Answer. I am not familiar with the details of the Department's 1998 policy.

I have not yet had an opportunity to review the Compatibility Policy, and am not in a position at this time to assess how it might affect the Tule Lake and Lower Klamath National Wildlife Refuges. I am also aware that the Fish and Wildlife Service recently issued a draft Appropriate Uses Policy that may impact activities on refuges such as Tule Lake or the Lower Klamath. I look forward to learning more about the Fish and Wildlife Service's policies implementing the National Wildlife Refuge Improvement Act and about the 530 Refuges in the National Wildlife Refuge System.

Question. The Department of the Interior, with the concurrence of the Hoopa Valley Tribe, announced on December 19, 2000, a plan to restore the Trinity River in California. The decision is based on 20 years of scientific research and public involvement. It completes a process supported by the Carter, Reagan, Bush and Clinton Administrations and has enjoyed bipartisan support in the Congress. Will you commit your Department to follow through on the decision and implement the Trinity River restoration program?

Answer. I am not familiar enough with this restoration plan to respond to this question at this time. I look forward to working with you to learn more about this plan and the Department of the Interior's role in implementing it.

Mrs. BOXER. Mr. President, she had a good answer on the Outer Continental Self moratorium where she said she supported the States rights not to drill. When I pressed her on 36 existing leases off Santa Barbara, I didn't get the same answer. She said she would look at them on a case-by-case basis. That is not good enough because the State doesn't want any drilling there. Why wouldn't she just take it off the table? She couldn't do that.

I am very troubled, and we will have a lot of debate over those 36 existing leases. It is one of the most pressing environmental issues in California. We have unwavering opposition to the development of those leases. Since she says she is for States rights, now she can't suddenly say I'm for States rights on this one.

Finally, I want to address the Arctic National Wildlife Refuge. I am not going to spend a lot of time on that. That will come at a later date. I agree with President Bush. It is unfair to criticize her for not wanting to drill in the Arctic. He says, I do; of course, my Secretary would. I have no problem with that. However, Ms. Norton seems to have enthusiasm about drilling there.

If you look at her historical role in pushing to open up the refuge, and her links to the oil and gas industry through the Mountain States Legal Foundation, and the oil companies that hire her current lobbying firm, and the oil and gas interests that gave her significant contributions during her Senate race, I think there are valid questions we could raise about whether she can effectively serve the role that the Secretary must fill in this type of decision making.

What do I mean by that? Let me show you a picture of the Arctic Wildlife Refuge. You already saw a picture of the caribou there. This is just an open view of the Coastal Plain. By the way, this came from, if Senator MURKOWSKI is listening, the State biologists in Alaska. They wanted us to show this Coastal Plain. Basically, we are going to have a huge debate over whether to open up this refuge to drilling. This is going to be a tough debate. I know that at best there is 6 months' worth of oil there. If you just change the mileage on SUVs a few miles you wouldn't have to do any of this. But we will have that debate. I look forward to it.

But Ms. Norton, in her position, is going to have to be objective about facts such as how much oil lies there, and what is the impact on the caribou and the rest of the environment. I question whether she would be objective given her strong stand in favor of oil drilling.

My State is suffering from energy problems. I want to put something right out here right now. Outside of California, the people are saying it is California's fault because it didn't build enough powerplants. I want to explain something. It was explained very well in the New York Times editorial. Our utilities did not want to build any powerplants because they want to control the supply. The fact is, no new plants were built in the 1990s because prices were low, supplies were plentiful, and producers wanted to wait until they better understood the new era of deregulation.

The State of California recognized back in the 1980s that generation needs might increase, and they tried to move forward with building for new generating plants. It was the utilities, not conservationists, who blocked the efforts. They said we didn't need any new capacity until 2005, and they took their appeal to the State administrative law judge in their efforts to stop the State's push for new generating plants.

The utilities lost that battle. The State said you have to build new generating plants. Do you know what the utilities did? They ran to the Federal Energy Regulatory Commission. And guess what the Federal Energy Regulatory Commission did. they sided with the utilities over the objections of the State, and therefore we did not have these plants go on line. Finally, now they are coming on line, and that, along with long-term contracts and energy conservation, will solve our needs.

I can assure you that rolling back environmental laws and making our air dirty is the last thing my constituents want or need.

In Ms. Norton's testimony before the Energy Committee, she backed away from her life's work. Call me simplistic—and you can, and I don't mind it because I know I am a tough debater in this way. Call me simplistic, but I do not believe that a lifetime commitment to repealing environmental laws can be dissipated by nice, warm, fuzzy statements made in front of a committee.

I was not born yesterday. I watched James Watt. He made nice, warm, fuzzy statements in front of the committee. He said: I will fully and faithfully execute the public land laws adopted by Congress. I believe in balance. He said in his answers: Gee, I am unfamiliar with the details.

That is what Ms. Norton said. As a matter of fact, I find the parallels chilling, looking at her answers and looking at his answers.

We remember Secretary Watt's tenure at the Department of the Interior: Catastrophic impacts on the environment, opening up millions of acres of protected Federal lands, blocking Federal land acquisitions, making substantial changes in strip mining regulations that weakened or directly repealed environmental law, new plans for oil and gas drilling in the Arctic, et cetera.

In closing, let me say I cannot vote for someone for this important position whose life record has been against every single law that she says she will now protect. There is too much at stake for my State. There is too much at stake for the Nation. I have laid out my reasons. I take the Senate's responsibility of advice and consent seriously.

I would like to submit for the RECORD some of Ms. Norton's writing which include the extreme statements I referred to in my comments. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, January 14, 1987.
Hon. F. HENRY HABICHT, II,
Assistant Attorney General, Division of Land and Natural Resources.
Attention: DONALD A. CARR, Esquire,
Chief, Wildlife and Marine Resources Section, Department of Justice, Washington, DC.

DEAR MR. HABICHT: In *Palila v. Hawaii Department of Land and Natural Resources*, Civ. No. 78-0030 (D. Hawaii, Nov. 21, 1986), the United States District Court for the District of Hawaii recently issued an opinion that interprets the scope of the "taking" prohibition of Section 9 of the Endangered Species Act, 16 U.S.C. §1538 (1982). The Interior Department is concerned that the *Palila* court's discussion of the concept of taking, or "harming," endangered species by habitat degradation is overbroad; therefore, should the *Palila* decision be appealed, the Department requests the opportunity to prepare or review an amicus curiae brief for submission to the Ninth Circuit Court of Appeals.

In determining that the State of Hawaii's maintenance of mouflon sheep on the Mauna Kea Game Management Area (which includes most of the Palila's critical habitat) "harms" the Palila, the district court held that: "A finding of "harm" does not require death to individual members of the species, nor does it require a finding that habitat degredation is presently driving the species further toward extinction. Habitat destruction that prevents the recovery of the species by affecting essential behavioral patterns causes actual injury to the species and effects a taking under section 9 of the Act." *Palila, supra*, slip op. at 9. The district court's analysis appears to improperly blend Section 7 concepts (*i.e.*, the prohibitions against jeopardy and the destruction or adverse modification of critical habitat) into the definition of "harm," and, therefore, needlessly expands that definition to include habitat destruction that does not actually result in death or physical injury to an endangered species, either directly or indirectly in the foreseeable future. In order to show "harm," there must be proof of a causal connection between the habitat modifying activity and foreseeable death or injury to an endangered species.

The scope of the holding in *Palila* runs counter to the Interior Department's redefinition of the term "harm": Harm in the definition of "take" in the Act means an act which *actually kills or injures* wildlife * * * such act may include significant habitat modification or degradation where it *actually kills or injures* wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 CFR 17.3 (1985) (emphasis added). In short, the department's definition of "harm" quite clearly requires a showing of actual death or injury to wildlife, even in the case of taking by habitat modification.

For those who would develop real estate near or within endangered species habitat, the *Palila* decision could expand their Section 9 liability if essential behavioral patterns of the species are affected to the extent that recovery is prevented. No proof of mortalities or actual physical injury to endangered species would be required to sustain a prosecution or civil injunctive action under the *Palila* ruling. The *Palila* decision poses an equally serious concern to federal land managing agencies.

Please contact Michael Young of my staff at 343-2172 if we can be of assistance on this matter.

Sincerely,
GALE A. NORTON,
Associate Solicitor, Conservation and Wildlife.

TAKINGS ANALYSIS OF REGULATIONS

(By Gale A. Norton)

Because the panel already has discussed why property is both an enemy and an ally of regulation, I will move immediately to a discussion of how to protect property from excessive regulation. How do we restore a regime of property rights? I would like to discuss a few things happening on that front.

This Symposium occurs at an appropriate time: March 15, 1989, is the first anniversary of the issuance of President Reagan's Executive Order 12,630 dealing with takings. It is surprising that the Executive Order has received so little publicity because it is a unique approach to the issue. It asks the federal agencies to move beyond their environmental and regulatory impact analyses, and to perform a takings impact analysis. The agencies are asked to examine their regulations and determine whether the regulations are likely to cause takings of property and, if so, to estimate what effect the regulations will have on the federal budget. As might be expected, the agencies are not wildly enthusiastic about performing takings impact analyses. The agencies tend to believe that they are not taking anything and that they should never have to pay compensation. Nevertheless, it appears that the agencies are beginning to develop plans for performing analyses in accordance with the Order.

Compensation is the key issue in any analysis under the Takings Clause. First, of course, compensation provides fairness to the person who is harmed by the regulation or other government action. The classic rationale for compensation is that, in fairness and justice, one individual should not be forced to bear the burden that ought properly to be borne by society as a whole. Second, compensation tends to limit government action. Even though bureaucrats enjoy the benefit of spending other people's money, their actions are constrained by their agency's budget. If the government must pay compensation when its actions interfere with private property rights, then its regulatory actions must be limited. This constraint also results in a limitation on transfer activity. If compensation is paid, the political system must take into account some financial costs. Therefore, some brakes are applied on political redistribution as compared with a system that puts everyone's property rights up for grabs.

Finally, the payment of compensation helps encourage the resolution of social problems by private, voluntary contractual arrangements rather than by regulation. It may appear cost-free to work out conflicts by regulation because the costs are off-budget. But when regulations impose burdens on private individuals, the costs are borne by the private sector and are not considered in the democratic decisionmaking process. As those costs are returned to the budget by payment of compensation, we will start looking at alternatives to regulations that may in the long run be more beneficial.

President Reagan's Executive Order on takings has generated significant disapproval from the environmental community, including criticism from Jerry Jackson, a former attorney for the National Wildlife Federation. He said the Executive Order mandates an impossibility because it requires the agencies to determine under the current takings law what actions might be unconstitutional takings. I agree with him on this point. The takings case law is currently such a mess that it is difficult to ascertain what is and is not a taking. The Supreme Court has provided clear guidance in this area.

I, however, disagree strongly with Mr. Jackson about the role of the Constitution in executive agency decisionmaking. He seems to believe that the only way the Constitution figures into an executive agency's decision is that, long after the fact, a court finally addresses the issue and decides that there was indeed a taking. Before a court's decision, the agency should be oblivious to the takings implications. Mr. Jackson says, "Whether a permit denial might be construed by a court to effect a taking is not a relevant factor in an agency's decision to grant or deny the permit absent express legislative authority making it a factor." I would be very interested to see that legislative authority. It would have to say something like, "In this case, the Constitution applies." Mr. Jackson also notes that the Executive Order on takings may have a chilling effect on regulation. I view that as something positive.

I consider next the formulations that might be used in deciding when an environmental regulation is a taking and ought to result in compensation. An exception to the compensation requirement has been recognized when the government acts pursuant to the police power or restrains public nuisances. The exact scope of this exception is not clear. Because we are looking at alternatives. I will act like a good bureaucrat and look at the extreme alternatives.

Let us first assume that there is absolutely no police power or nuisance exception to the takings rule. The government pays whenever it regulates in a way that interferes with private property rights. In a way, this regime would be easy to administer. One would simply look at the property values before and after the regulation is imposed to determine the amount of compensation. But under this regime, the government would have to pay for all types or regulations—even those that halt the worst criminal offenses. (One wonders what the compensation to criminals would be for closing down a crack house—probably mind-boggling.) In such a case, we have little justification for taking money from the taxpayers to pay someone not to engage in socially inappropriate or criminal behavior. Such cases also pose the danger of someone coming back time and time again with, "Well, last time you paid me to close down a crack house. Now it's time to pay me to close down the bordello, and next week you can pay me to close down whatever I dream up next time." The model is open to exploitation by repeat offenders.

At the other extreme, let us assume that the government does not have to pay at all unless it chooses to label its action condemnation. Again, such a regime would be easy to administer. In fact, it would be facile. The government never would have to worry about what it takes, but individual rights clearly would not be protected.

One formulation that actually has been adopted by the courts is a nuisance exception: No compensation is due if a taking is performed pursuant to the police power in regulating a nuisance. Unfortunately, this is often expressed as a broad police power exception: Compensation need not be paid for government actions undertaken pursuant to the police power. The problem with this approach is defining the police power. The police power may be interpreted very broadly, as it was; for example, in the License Cases of 1847: "nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions." This definition covers far too much. No regulatory taking would ever be compensated. Furthermore, there is no textual support in the Constitution for an exception to the takings rule for police powers. A further problem with a broad police-power exception to the compensation requirement is that the public-use requirement in the Takings Clause has been interpreted as being "coterminous" with the police power. Combining a police-power exception to the compensation requirement with a police-power definition of what is a public use leaves an empty box as to when compensation would be awarded. A taking would be appropriate if performed pursuant to the police power and pursuant to public use, but no compensation would be necessary because it falls within the police-power exception.

A much better formulation focuses on the extent of the property rights involved, presumably, there is no actual property right in maintaining a nuisance. Thus, government is not involved in a taking when it halts a nuisance because there is no property right to take. The Keystone decision states this rule, but the analysis in the opinion proceeds to ignore it. There was clearly a property right under state law in that case, but the Supreme Court proceeded as if there were no such right.

Another crucial step in the analysis is defining a nuisance, including determining whether a nuisance is to be interpreted by the common law, and deciding whether nuisance is synonymous with a negative externality. If they are synonymous, then aesthetic harms are problematic. Let me give you an example. I am from Denver, I am a Broncos fan—at least I watch about half of every Super Bowl game in which they are involved. A few years ago, when we were in our first Super Bowl, there was a craze to paint one's house Bronco orange. If I lived across the street from one of those houses, I would view the aesthetic harm to myself as an interference with my right to use my property, but I doubt that we want to regulate such aesthetic harm.

A different way of identifying a nuisance is to require a physical invasion of neighboring property. A physical invasion test eliminates the problem of aesthetic harm. But physical invasion standing alone is not necessarily a nuisance. There must be some additional element of harmfulness, undesirability, or inappropriateness.

Another alternative is to consider some kind of reasonable right to use our property. In the Nollan case, Justice Scalia, writing for the Court, noted that the right to build on one's property was an actual right and not a government-granted privilege. Regulation of this right may have very significant repercussions in future land-use litigation. Interestingly, we might even go so far as to recognize a homesteading right to pollute or to make noise in an area. This approach would eliminate some of the theoretical problems with defining a nuisance.

Moving beyond the question of defining the nuisance exception to the just compensation requirement. I would like to summarize a few other key components of current takings analysis. In evaluating regulatory takings, particularly in the land-use context, the Court often employs a diminution in value test. Under this test, if a regulation goes too far, it is a taking. The question, as phrased by the courts, is whether the regulation denies the owner all economically viable use of the property. Under this test, the courts have found that diminutions in value of seventy-five percent of almost ninety percent are not sufficiently severe to constitute takings.

Another question is whether a regulation substantially advances a legitimate state interest. This is similar to the requirement of having a public use for the taking under the Fifth Amendment, and therefore it does not provide us with a satisfactory test of what should and should not be compensated. It focuses on what the government is properly empowered to do, not at what it can do on the condition that it pay compensation. Although this test has been frequently reiterated by the Court, it has seldom been used to strike down an uncompensated taking.

One other approach is the bundle of rights test. An interference with a particularly important strand in the bundle of rights may constitute a taking. This test has not yielded particularly enlightening results. A right to exclude others and a right to pass to one's heirs are significant and denial of these rights will be deemed a taking. On the other hand, ownership of a support estate as part of a mineral interest or the right to sell property, are not considered significant and compensable.

An emerging way of looking at the question is the nexus requirement that is set forth in the Nollan decision and that is discussed extensively in Executive Order 12,630. This analysis requires that conditions put on permits have the same health and safety objectives, and substantially advance the same objectives, as the denial of a permit would serve. A good example of such an approach is the case of wetlands dredge and fill permits. The purpose of the wetlands regulatory program is to protect water quality. Its application has been judicially and administratively expanded to protect wetlands values. Frequently, conditions are placed on dredge and fill permits that have no relationship to the overall purpose of the regulatory program, such as providing recreational boat ramps and docks. It will be interesting to watch how these issues are treated as the Executive Order analysis develops.

In this discussion, I have not examined a number of other formulations in the takings context—compensating benefits and so forth—that further complicate the whole analysis. As the preceding discussion indicates, the analysis at this point is very confused and inconsistent. This confusion, however, creates an opportunity for a major shift in takings jurisprudence, toward a greater protection of property rights.

[Panel II]

ECONOMIC RIGHTS PROVISIONS OF THE CONSTITUTION

(By Gale Norton)

I would like to explore some of the means by which I believe the Constitution provides judges with standards for the protection of economic liberties. Throughout the history of the United States, the protection of economic rights has been attempted through a variety of provisions: the ex post facto clause, the contracts clause, the takings clause, the privileges and immunities clause, and through theories of natural rights and due process. While each of these approaches has been largely rejected by the courts, litigants are continually exploring new approaches for the protection of economic rights.

Economic rights are clearly not protected today. Land is owned subject to the whims of one's neighbors on the zoning commission. Prices of goods and services are controlled by a plethora of governmental and regulatory bodies. Selective taxation hampers the growth and innovation of industry, and subsidies enrich some sectors of society at the expense of others.

There are substantial similarities between the takings and contracts clauses. Both clauses limit the powers of government, chiefly the police and eminent domain powers. The eminent domain power is not explicitly provided in the Constitution, but it has been upheld for many years as a necessary and inherent power of government. The police power is exercised by state governments; the federal government exercises similar authority through the commerce power and other delegated powers. The contracts clause applies by its terms only to the states, the takings clause only to the federal government. The requirement of just compensation has, however, been applied to states through the fourteenth amendment. Ellen Frankel Paul has noted the inconsistencies between recognition of the eminent domain power and the Lockean natural rights approach to property rights. An extended discussion of these inconsistencies is beyond the scope of today's discussion; however, I believe it is instructive to explore briefly the character of these governmental powers as they highlight the role and importance of the takings and contracts clauses.

The police power is basically government regulation for the promotion and protection of health, safety, morals, and the general welfare. In a narrow sense, it is the government attempting to enforce the maxim that one should use one's property so as not to injure that of another. This narrow view of the police power firmly prevailed in the early days of the United States, but it has now been broadened to include not only the protection of public safety, health, and morals, but anything rationally related to these broad areas. Indeed, Justice Brennan stated in his dissent in *Nollan v. California Coastal Commission* that a review of the use of the police power "demands only that the state could rationally have decided that the measure might achieve the state's objective." Thus, the only practical limitation on this power comes from specific constitutional provisions such as the contracts and takings clauses.

The contracts clause is one of those provisions that has been virtually written out of the Constitution in current times. Even though James Madison eloquently discussed the contracts clause in *Federalist No. 44* in fairly modern terms, modern jurisprudence has seemingly discarded the clause. Essentially, Madison viewed the contracts clause as discouraging transfer activities, keeping decisions out of the hands of lobbyists, and providing the predictability necessary for business planning.

Despite the soundness of the reasons behind the contracts clause, its erosion began discouragingly early in our history. In *Ogden v. Saunders*, the Supreme Court held that only existing contracts were protected by the clause. The Court had previously held that the *ex post facto* clause applied only to criminal activities, thereby preventing its use for the protection of contracts. Thus, by 1827 the Court had already moved away from viewing the contracts clause as a broad freedom of contract provision that would protect contracts generally.

Today, the clause is so weakened that in the recent *Keystone Coal* decision the Court stated, "Unlike other provisions in article 1, section 10, it is well settled that the prohibition against impairing the obligation of contracts is not to be read literally." The chief reason for this view of the contracts clause is that the courts have clearly stated that the clause does not supersede the police power. This puts us in a "catch 22" position because the police power (in the modern broad sense) is exactly what the contracts clause should be limiting. Therefore, we have a limitation that is superseded by the power it is intended to restrain.

The takings clause is somewhat more alive than the contracts clause, but it also suffers from some debilitating restrictions. An encouraging note is the widespread interest in Richard Epstein's analysis, which expands the takings clause beyond simply eminent domain activities to encompass limitations on the commerce power, taxing power, and so forth. The analysis takes a simple political science approach, i.e., that the takings clause was meant to operate as a check preventing the majority from raiding the assets of the other forty-nine percent of society. Compensation must be paid when the burdens of society fall too heavily on an individual or group, which presumably limits regulatory excesses. The compensation may be monetary or implicit in-kind compensation. Thus, those who are burdened or taxed for the benefit of society are compensated for their special sacrifices.

The current judicial interpretation of the takings clause, however, falls far short of the role discussed by Richard Epstein and intended by the Constitution. For instance, in the public use cases of Hawaii Housing Authority v. Midkiff and Ruckelshaus v. Monsanto the Supreme Court held that the public use justification is coterminous with the police powers. This interpretation can work to deprive individuals of their economic rights. The transfer of property from private party to private party, through the compulsion of the state, will now be upheld when any rational basis can be put forth. Moreover, the courts will only step in if the state's public use determination involves an impossibility and therefore has no rational justification.

In the case of a regulatory taking, the standard approach has been that when regulation goes too far, it is a taking. "Too far" generally means that a regulation, under the guise of the police power, does not advance a legitimate state interest or that an owner has been deprived of all economically viable use of his property. As stated earlier, the courts will uphold any state action that is supported in any fashion by some state interest. Moreover, the courts have held that the loss of only one or several attributes of the "bundle of sticks" of property ownership is not equal to a taking. The courts have often gone to ridiculous extremes to find some remaining viable use. The only relief the courts have granted property owners in this area in recent times has been to hold that a deprivation of property need not be permanent to bring into force the takings clause. This is a minimal breakthrough since the property owner still has the ominous burden of showing that a taking has occurred.

I believe that some changes are desperately needed in the jurisprudence of economic liberties. The preceding analysis suggests some specific overall changes. I think one important change should be in the level of scrutiny applied to statutes affecting economic liberties. An extreme proposal would be to place the burden of proof on the government to justify its regulations. Levels of scrutiny below this extreme, but higher than the current minimal scrutiny, are realistic.

I would like to note that there are some grounds for optimism in the recent Supreme Court decisions. Bernard Siegan, in his Economic Liberties and the Constitution, states: "A change of one vote on the Supreme Court in *Ogden* v. *Saunders* would have, in 1827, brought economic due process into being through the contracts clause. One vote likewise separated the majority and minority position on the constitutional status of economic rights in the 1872 Slaughterhouse cases. * * * [E]conomic due process was unanimously accepted in 1897 and it fell by one vote in 1937."

Hopefully in the future these close calls will be resolved in favor of freedom.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I yield myself such time as I may consume of Senator MURKOWSKI's time, I believe. I ask for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, that is one of those remarkable things about this body. We can come to the floor and debate vigorously many different issues. In this case, we are making remarks about what I hope will soon be our secretary of the environment, our Secretary of the Department of the Interior, Gale Norton.

I come to the floor to give some words of support for her appointment and with just the greatest amount of respect to my colleague who just spoke, Senator BARBARA BOXER.

Mrs. BOXER. I thank the Senator.

Ms. LANDRIEU. Thank you very much.

With all due respect to my colleague from California—and I have the greatest respect for her as an environmental leader—I have carefully considered the nomination of Gale Norton, former attorney general of Colorado, to be our Secretary of the Interior and arrived at a different conclusion.

Let me begin by saying that since the announcement for this position, there has been much debate about positions she has taken throughout the course of her career. Whether the topic has been protection of private property rights, environmental self-audits, or certain provisions of the Endangered Species Act, she has advocated for limits on Federal power while arguing for more State and local authority.

In its core essence, that is not necessarily a bad thing. We need to be very sensitive to local and State governments as we craft and fashion and design environmental laws for this Nation. Frankly, I think in some instances the Federal Government has gone, you might say, overboard or has not had as much sensitivity to State and local governments as perhaps we should. We are still a work in progress here.

I find her position, actually, for State and local authority, refreshing and necessary, recognizing that one size does not fit all. But I do not question her commitment to clean air, to clean water, and to finding the right ways to pursue those goals.

As Secretary of the Interior, it would be her duty to manage public lands on behalf of the Federal Government and also to represent its interests in any dispute. So some legitimate concerns have been raised as to whether she would fall on the side of State and local government or Federal Government. I think she put those issues to rest clearly and squarely in her testimony before the committee as she said she would represent the interests of the Federal Government, using her sensitivity to State and local governments as an asset, but not as a barrier to fighting vigorously for and enforcing environmental laws that are on the books.

One such example I would like to point out that should be in her favor is her successful advocacy for the Rocky Mountain Arsenal cleanup. When the Federal Government itself was standing in the way of efficient and effective cleanup, Gale Norton challenged the Federal Government to clean up its own hazardous waste sites and led the fight successfully in that area, and that is a project that is still going forward.

In her 2 days of testimony before our committee as well as her answers to a few hundred written questions, I believe she has sufficiently indicated her honest intention to enforce the Federal laws as they are written and as the courts have interpreted them. Policy differences from time to time between Ms. Norton and the Members of this body are unavoidable. However, she has listened attentively to the concerns expressed by members of the committee, and her pledges to work with us seem genuine.

In addition, I am encouraged by her comments that she was willing to give appropriate consideration to the impact of Federal laws on State and local interests, which is something I mentioned before as very important to me and many Members, Democrats and Republicans, in our body. While there are certain instances where national policy on environmental issues is necessary, as I said earlier, sometimes one size does not fit all. We would be wise to recognize that and implement different strategies for different regions and different States.

In fact, Ms. Norton and I had the opportunity to discuss such a matter during her recent visit to my office—my favorite subject, actually—the Conservation and Reinvestment Act, which is a conservation program that will benefit all 50 States. She expressed an interest to learn more about this. She expressed a very keen understanding of the contribution made by coastal States, in terms of the amount of money that is sent to the Federal Government from offshore oil and gas production, that could be used more wisely to replenish and restore some of our renewable resources while we are, in fact, depleting a nonrenewable resource.

Based on the crisis that we are facing in our Nation today, our energy crisis—as the chairman, Senator MURKOWSKI, from the State of Alaska, has so ably spoken about on this floor so many times—we can really now recognize the value of producing States. Let's make sure the billions of dollars we are sending to the Federal Treasury is used not just for general government purposes but used to invest in our environment to provide parks and recreation, wildlife and conservation, and, yes, to extend help to coastal impact assistance and coastal communities everywhere.

She says she understands it. Although she has not officially endorsed the bill, she will work very closely with us to carry out our work on CARA. Let me be quick to mention, though, that while she has not taken an official position and did not do so in the hearings, President Bush did in fact endorse, during the campaign, the CARA legislation. He did remind us all as Americans that you just can't keep taking; that sometimes you have to give back if you want your children and your grandchildren to enjoy the same benefits of open spaces, wildlife, and fisheries.

Mr. President, I ask unanimous consent for 2 more minutes to close.

Mr. MURKOWSKI. If I may, I dearly want to accommodate my good friend from Louisiana, but Senator LANDRIEU asked for 7 minutes, Senator HUTCHISON for 5, and Senator BAUCUS for a minute and a half. The two Senators from Colorado need time, and we have to finish at 12:30. I encourage colleagues to try to keep within their time limits.

Ms. LANDRIEU. I thank the Chair. I will take 1 minute to close.

President Bush endorsed this bill during the campaign, and I believe with Ms. Norton's leadership, with President Bush's leadership, and with bipartisan leadership in the Senate and House, it is an early bipartisan victory we can achieve for the environment and for our Nation. I look forward to working with her on that and many other issues. I am proud to support her nomination as our new Secretary of the Interior, and I look forward to working with her in the years ahead.

I thank the Chair, and I yield back whatever time I have remaining.

Mr. MURKOWSKI. I thank the Senator from Louisiana.

I believe the Senator from Texas seeks recognition as the next in order on the list, followed by Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Energy Committee.

Mr. President, I rise today to speak on behalf of my friend Gale Norton to be Secretary of the Interior.

I have watched Gale as the attorney general of Colorado. I worked with her very closely on the lawsuit that the attorneys general of our States filed against the tobacco companies. Gale was one of the key leaders of the States' attorneys general in that effort and successfully negotiated the lawsuit against the tobacco companies. We worked very hard to make sure that that money stayed in the States, that the Federal Government was not able to take part of the tobacco settlement money away from the States. That has certainly helped all of our States use that money mostly for the purpose of better health care for the indigent people in their States and for all citizens who need help with health care.

In my State of Texas, we added it to the CHIP program for children's health insurance. I know this has added to the quality of health care coverage in our country, and Gale Norton was one of those most responsible for it.

As a former State official, she has also shown that she wants to protect the environment, and she also wants balance in our environmental laws. She believes the Federal Government should have the same requirements to keep environmental standards high that our private industries do.

As Colorado attorney general, she was able to get involved in negotiations to make sure the Federal Government cleaned up hazardous waste in the Rocky Mountain arsenal.

She is going to be the person who will improve public health and the environment in an evenhanded and thoughtful way. I can think of no person who would be better for this job as Secretary of the Interior than Gale Norton.

Mr. President, we will also be voting on the nomination of Gov. Christine Todd Whitman to be EPA Administrator, a Cabinet post. I cannot think of a better person for EPA Administrator than this wonderful Governor of New Jersey who has a very strong environmental record and who also believes in balance to make sure that our economy stays strong and we keep the environment clean for future generations.

I am proud to speak for Governor Whitman and for my friend Gale Norton to join the Cabinet of President Bush, hopefully this afternoon, because

I think they will add immense experience, quality, intelligence, and integrity to that Cabinet. I am pleased to support them.

I thank Senator MURKOWSKI for giving me this time.

Mr. MURKOWSKI. I thank Senator KAY BAILEY HUTCHISON.

Senator BAUCUS is seeking recognition.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, at the outset, I want to be clear that I have reservations about Ms. Norton's ability to reconcile her history of passionately battling Federal environmental and public health laws with her duties as Interior Secretary, the public's voice in protecting and managing the Nation's national parks, its endangered wildlife and one-third of the nation's public lands.

Ms. Norton has stated she endorses the goals of our nation's land and wildlife protection laws. She must do more. She must enforce and uphold the spirit of those laws, the very laws she has tried in the past to undermine. She must ensure balance in her and her Department's decisions, listening to the concerns of all interested parties.

Because so many lands in Montana belong to the Federal Government and will fall under Ms. Norton's jurisdiction, Ms. Norton's actions will have an enormous impact on our way of life. Her actions will also impact the many native American tribes in Montana. I hope we can work together to ensure that those impacts are positive, both for Montana and for the Nation. I know I will do my part, and I expect she will do her part.

Despite these reservations, I believe that Ms. Norton is qualified for this position, I believe that she is honest and that she has the utmost integrity and that she will do her best to carry out her many obligations. I believe that Ms. Norton should be confirmed as Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I take this opportunity to offer my wholehearted support for Gale Norton's nomination.

After all the rhetoric about Ms. Norton for the last month, it only took two appearances before the Energy Committee to get an 18–2 vote. That may not be unanimous, but it is mighty close to it. It is certainly overwhelming. I believe it is evidence that an overwhelming majority of the committee knows she is an outstanding candidate for the job.

She has proven she is knowledgeable, articulate, and capable of enduring round after round of detailed questions while being the object of pretty outrageous charges and mean-spirited ads paid for by her extremist detractors. She handled it, as she does everything, by simply focusing on the job at hand. The more she sat in those hearings, the more she convinced our colleagues that she is the right person for the job.

My Democrat colleagues on the committee saw, as with several other Bush nominees, that getting through this nomination process is not easy. The environmental groups that focused on her simply were wrong. Her management direction and experience have been proven over and over, and I was pleased to hear some very enthusiastic and commendable words from my colleagues on the other side of the aisle and other side of the dais in our Energy Committee before we voted to send her nomination to the floor.

My friend and colleague from California, Senator DIANNE FEINSTEIN, stated:

> Some of the things said about her are simply not correct.

That is absolutely true. Some of the articles in paid-for ads in the Washington Post were simply distorted.

She certainly allayed, through her testimony and her answers to 227 written questions to the committee, the fears my colleagues had. Senator BAUCUS, Senator LANDRIEU, and Senator BINGAMAN, all valued Members of this body, questioned her at length and came away with the same opinion I have: That she is going to be a very good Secretary of the Interior. Directly after the vote, the same people who had attacked her before did so again, and also sent kind of a warning shot to the Senate Democrats on the committee. The President of the Friends of the Earth, a prominent environmental group, said after the vote that Norton is "a wolf in sheep's clothing" and that "she pulled the wool over the eyes of the Senators." That paragraph was in the Washington Post on January 24. These are the types of fictional jabs that I believe led to the vote for her overwhelmingly.

Contrary to the Friends of the Earth, she did not pull the wool over anybody's eyes. In fact, if anything, she opened the eyes of many of the committee members who had some questions about her qualifications before she had a chance to be interviewed.

I have known Gale for many years both in a professional capacity and as a friend, too. Let me state for the RECORD, she has a long and distinguished career of doing the right thing—always. Her consensus-building ability might be best illustrated by her 8 years as Colorado's attorney general. There she served under a Democrat Governor and still accomplished much for the betterment of Colorado, not the least of which was the cleanup of Superfund sites.

For more than 20 years, she has provided leadership on environmental and public lands and has demonstrated a responsible commonsense approach to preserving our natural heritage.

I listened to some of the comments of her detractors on the floor this morning, and I will tell you that is not the Gale Norton I know. In fact, the Gale Norton I know represents a balanced approach to public lands.

Another significant fact to know about Ms. Norton is she is committed to enforcing the law as it is written. Throughout her questioning in front of the Energy Committee, she repeatedly stated she will enforce the letter of the law with which she is entrusted. I believed her. The majority of the committee also believed her.

I think that is a novel approach. I say to the Presiding Officer, coming from the West, you, as I, have seen a Secretary of the Interior the last number of years who believes laws are passed by Congress, and they are simply an extension of what the Secretary of the Interior wants to do by rulemaking authority. Ms. Norton will follow the rule of law.

She listens to common sense while she searches for common ground. Unlike many in Washington, she understands that real environmental solutions do not just come from beltway professionals or are driven by ideological purists but come by including people whose lives are going to be affected. They come from real people with honest concerns about the land and the water.

She relayed this to all of the Senators she testified before and visited around the time of her confirmation hearing. She proved to 18 of the 20 Senators of the committee that she is the right person for the job. She is up to the task. She will be a very fine Secretary of the Interior.

And probably above all, we have witnessed in the West in the last few years a process which certainly locks out any local input whatsoever. Ms. Norton is concerned about that. She knows that the people whose lives are affected at the local level must also be included when we talk about public lands policy.

Her record as a public servant demonstrates she will work with all parties to craft reasonable solutions. That kind of evenhanded approach to public land management has been missing, and the West is worse off for it. I know she will bring to this office of Interior Secretary decisive action in the land and resource issues where we have recently seen too much photo-op and not enough solid demonstrable decisions.

I believe she should be confirmed by the full Senate quickly, and by a large margin, and certainly would ask my colleagues to do so.

With that, I thank the Chair and yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, might I ask, how much time is remaining for debate?

The PRESIDING OFFICER. Seventeen minutes 15 seconds.

Mr. MURKOWSKI. Seventeen minutes. I thank the Chair, and I thank my colleague from Colorado.

Mr. President, virtually every newspaper in Colorado has endorsed Ms. Norton. I cannot think of one that has not. The attorneys general throughout the United States have rallied behind her, those who have worked with her and know her. I cannot think of a greater tribute to her than hearing from those who have worked with her and have respected her over an extended period of time.

Mr. President, I ask unanimous consent that a letter from the International Brotherhood of Teamsters, dated January 29, 2001, signed by the general president, James P. Hoffa, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
> *January 29, 2001.*
>
> DEAR SENATOR: On behalf of the 1.5 million members of the International Brotherhood of Teamsters, I urge you to support the nomination of Gale Norton for Secretary of the Interior.
>
> As you know, the United States finds itself facing an ever-growing crisis in meeting its energy needs. As skyrocketing gas prices hit the pocketbooks of working Americans and rolling blackouts bring to a grinding halt the economic engine of California, the citizens of this country look to the federal government to address this program now.
>
> Our first step must be to increase the United States' energy independence. The Arctic National Wildlife Refuge (ANWR) offers a realistic and immediate opportunity for working toward this goal. Tapping the resources of ANWR in an environmentally sensitive manner will provide 10.3 billion gallons of oil, while at the same time creating an estimated 25,000 Teamster jobs and potentially 750,000 jobs nationwide.
>
> Ms. Norton recognizes these facts. Her commitment to finding real solutions, particularly with regard to ANWR, demonstrates that she has the ability to balance the needs of the environment with the needs of working Americans.
>
> Admittedly, during her tenure as Colorado Attorney General, Ms. Norton did oppose the labor community on some issues very important to our members. However, I believe that her commitment to energy independence and job creation portends a welcome shift in priorities at the Department of the Interior that will benefit Teamsters and other working families.
>
> For these reasons, I ask you to vote to confirm Gale Norton as Secretary of the Interior.
>
> Sincerely,
>
> JAMES P. HOFFA,
> *General President.*

Mr. MURKOWSKI. Mr. President, I yield myself 7 minutes.

I will take the liberty of referring to the letter:

> On behalf of the 1.5 million members of the International Brotherhood of Teamsters, I urge you to support the nomination of Gale Norton for Secretary of the Interior.

The next paragraph reads as follows:

> As you know, the United States finds itself facing an ever-growing crisis in meeting its energy needs. * * *
>
> Our first step must be to increase the United States' energy independence. The Arctic National Wildlife Refuge (ANWR) offers a realistic and immediate opportunity for working toward this goal. Tapping the resources of ANWR in an environmentally sensitive manner will provide 10.3 billion gallons of oil, while at the same time creating an estimated 25,000 Teamster jobs and potentially 750,000 jobs nationwide. It would be the largest construction project in the history of North America.
>
> Admittedly, during her tenure as Colorado Attorney General, Ms. Norton did oppose the labor community on some issues very important to our members. However, I believe that her commitment to energy independence and job creation portends a welcome shift in priorities at the Department of the Interior that will benefit * * * working families.

Mr. President, we disagree in this body on a daily basis, and that is healthy, and it is a part of the process before us. But I think some in the environmental community could learn from that model associated with Ms. Norton's confirmation effort. She represents some of the western values and approaches toward public lands and the environment.

People are free to disagree with her values and approaches; however, in some cases, some have tried to portray her as an extremist. Representatives of some special interests said that she has spent her lifetime trying to undermine the mission of the agency she is nominated to lead; that is, the Department of the Interior.

The disagreeable rhetoric used was never born out in fact. In her entire testimony before the committee, of which I chair, the Energy and Natural Resources Committee, where we have held 2 days of hearings, we had her respond to about 224 questions. We voted her out with a mandate vote of 18–2.

In any event, that rhetoric is without reality and has led to questioning the goals of some in the environmental community. I do question the goals, and I do question the effort to basically character assassinate this nominee.

Let me quote from a January 19, 2001, guest editorial in the Chicago Sun Times:

> The Norton nomination exposes a growing schism within the national environmental movement. An increasingly radical left wing, funded by a small number of liberal foundations and tens of millions of dollars each year from government grants, will stop at nothing to shut down American manufacturing and to ban all public access to public lands. These are the same groups that rioted in Seattle in November 1999 and are burning down resorts and new homes to protest sprawl.

Mr. President, it goes without saying that the Colorado newspapers have supported Ms. Norton, but they go further than that. How about the Tacoma News Tribune:

> Norton has been described, even by some Democrats, as bright, hard-working, highly ethical and willing to at least listen to those with opposing views.

Washington State Attorney General Christine Gregoire said:

> The Sierra Club asked me not to say positive things about [Ms. Norton]. I told them to show me why she shouldn't be confirmed. I am still waiting for them to show me the evidence.

Like the Washington State attorney general, I am still waiting to see the evidence that Ms. Norton does not support the Endangered Species Act.

She led the fight to save the California condor. In her appearance before the committee, she repeatedly stated that she would enforce the Endangered Species Act. I have heard television ads run about Ms. Norton's, something they call, "right to pollute." They did not clarify that Ms. Norton used this phrase only in discussing emissions trading, a concept later embodied in the Clean Air Act passed by the Congress. It was a Democratic Congress.

These are two of the egregious misrepresentations of her record made by special interest groups. I am almost ashamed of some of these groups. I don't think any person in this body should repeat any of the vicious personal attacks made in desperate attempts to derail this nomination. I view some of the attacks as despicable, unworthy of the space it took to print them. Such distortions and name calling really reflect badly on the authors, not on Ms. Norton. I am also ashamed that some of these D.C.-based groups use the word "Alaska" as part of their name. The reputation of several of these environmental interest groups is in tatters after this process. Ms. Norton's stature remains upright and in one piece.

I know we have heard from a number of Senators expressing their views today. The Senators who will close the debate—we have already heard from Senator CAMPBELL; Senator WAYNE ALLARD from Colorado is next—have worked under the tenure of the attorney general, and I commend their statements to the Senate as a true picture of the nominee before us, the nominee who will make an excellent Secretary of the Interior.

Finally, they try to rub out the messenger, but they can't rub out her message; that is, that she will uphold and enforce the law.

I yield the remainder of the time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Senator from Alaska. I compliment him on a fine job on the floor and in committee on the nomination of Gale Norton to be

Secretary of the Interior. I also recognize the diligent efforts of my colleague, Senator BEN CAMPBELL of Colorado, in carrying forward, making sure we get a confirmation.

I rise today in strong support of President Bush's nomination of Gale Norton to be the next Secretary of the Interior. I have known Gale Norton for years and know her to be an individual with strong personal convictions and the upmost professional integrity.

This past month, my colleagues in the Senate and our constituents have had a chance to get to know Gale Norton. During that time they learned that Gale was a member of the law school honor society at the University of Denver; after law school she joined her alma mater as the Interim Director of the Transportation Law program at the University of Denver law school. Gale also worked at the U.S. Departments of Agriculture and Interior serving as Associate Solicitor for Conservation and Wildlife. This diverse background gave her a solid foundation to run successfully for Colorado's Attorney General, a position she was overwhelmingly reelected to in 1994. During her 20 years working on environmental and natural resource issues, Gale Norton has gained a solid reputation defending the role of the State, advocating sensible environmental cleanup and solving problems.

Now, I know that most western Senators support Gale Norton for Secretary of the Interior. But for those of my Senate colleagues who still have doubts, let me tell them some more about Gale and her career and why she deserves their support.

I am a fifth generation Coloradan, and believe me, I know what it means to represent such a beautiful and diverse State. Gale also grew up in Colorado and she knows that Coloradans take environmental issues seriously. Whether it's a farmer or rancher, small businessman, high tech employee or new immigrant to the state, everyone recognizes and appreciates the connection between our economy and our environment. Colorado is not gaining a 7th congressional seat because our environment has been neglected. If anything, Colorado has demonstrated that there can be a balance between environmental protection and economic prosperity. This balanced approach was utilized during Gale's tenure as Attorney General.

Coloradans recognized Gale's ability and qualifications and entrusted her to represent them on complex and diverse issues. As Colorado Attorney General, Gale was committed to enforcing the law. She led efforts to ensure that the federal government cleaned up its hazardous and toxic wastes in Colorado and actively participated in the settlement of complex water rights cases. Gale also testified before Congress on implementation of the National Environmental Policy Act, Superfund and Colorado wilderness legislation. Gale's input on these issues was always based on the premise that we can improve the laws so they protect the environment without imposing unnecessary burdens on society. Contrary to some reports, commenting on the effectiveness of a law does not equate to advocating repeal of the law.

We need to set the record straight on some of the outlandish statements radical environmental groups have been generating. Radical environmental groups are trying to tie Gale Norton to the Summitville mine disaster,. an event that didn't even happen on her watch. It happened under former Colorado Governor Roy Romer, a Democrat, his head of Department of Natural Resources Ken Salazar, and the attorney general, also a democrat. No one denies the environmental abuses at Summitville, but unfairly trying to link Gale to this is appalling. Even Ken Salazar, who now serves as Colorado's Attorney General believes she should have the opportunity to serve as Secretary of the Interior.

During Gale's 8 years as attorney general, she never allowed free reign for polluters to come in and destroy our environment.

At this point, I ask unanimous consent to print in the RECORD an editorial entitled "Summitville Gold Mine Is Cast As A Political Boogeyman" by Denver Post columnist and editorial writer Al Knight.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Jan. 30, 2001]

SUMMITVILLE GOLD MINE IS CAST AS A POLITICAL BOOGEYMAN

(By Al Knight)

JANUARY 10, 2001.—The New York Times, for reasons that must be assumed to be political, has attempted to smear Gale Norton, President-elect George W. Bush's choice for Secretary of the Interior.

In an article last Sunday, The Times essentially attempted to make Norton, a former Colorado attorney general, responsible for what is headlined as "the death of a river."

The article, which relied on a series of factual misrepresentations regarding the Summitville gold mine, also made a hash of explaining applicable environmental law.

The writer, Timothy Egan, clearly doesn't understand the history of Summitville, nor does he demonstrate any understanding of the ongoing dispute between the Environmental Protection Agency and various states, including Colorado, that have passed environmental self-audit laws.

Egan's thesis was simple. Summitville was an environmental disaster. Norton was attorney general when it happened, thus she was partially responsible for it. Because Norton has supported self-audit laws that allow companies to inventory and report on environmental problems, she therefore must somehow countenance the environmental damage at Summitville.

The problem with this thesis is that it is wrong on almost every count.

Egan misrepresents the so-called death of the Alamosa River. That river has for decades been anything but a prime fishery. The watershed has long been affected by acid mine drainage and by naturally occurring minerals and heavy metals in the soil. It is simply irresponsible of The Times to continue to repeat allegations that discharges from Summitville killed the river.

A high-level EPA memo written in 1995 summarizing "ecological data and risks at Summitville" said there were "uniquely high and variable levels of natural background metals (in the Alamosa River) which can often exceed aquatic lethality benchmarks independently of site contamination."

Translation: Summitville contamination alone cannot account for the absence of fish in the river.

That same memo, by the way, says that drainage from the Summitville site at certain times of the year "could actually improve upstream Alamosa River water quality."

Egan goes on to repeat the falsehood that cyanide releases from the Summitville mine killed fish. It makes for a nice scare story but it did not happen. No fish died of cyanide poisoning.

Norton was attorney general when the state and federal government filed suit in 1996 against financier Robert Friedland—a former owner of the company who ran the mine in the mid- and late 1980s—attempting to recover cleanup costs.

That suit was finally settled last month, with Friedland agreeing to pay $27.5 million. There is no allegation in The Times or elsewhere that Norton did less than quality work in connection with that case, which was mostly dictated by federal law. It's worth noting that Friedland paid much less than the government originally sought and won some important concessions as part of his settlement, which ends all U.S. claims against him.

For one thing, most of his money will stay in Colorado to help improve conditions in or near the Alamosa River. Normally, under the Superfund law, recovery of cleanup costs goes directly into the federal treasury. Friedland has long claimed that the federal government wasted millions at Summitville and said that he did not want his money to be used to effectively finance what he believes is EPA waste.

This concession was almost certainly won because the EPA had badly botched its legal case against Friedland. Friedland had a important case pending against the United States before the Canadian Supreme Court, and it is safe to assume the United States was anxious to avoid having that case go forward. Any mishandling of the Summitville litigation can be directly traced to the EPA and to the Justice Department. Norton was certainly not responsible.

Finally, there is the matter of the state's self-audit law. Colorado's law was passed after Summitville went out of business. The self-audit procedure has nothing whatsoever to do with Summitville. What happened under Norton's watch regarding self-audits was quite simple:

The EPA, in effect, declared war on the states that had such a statute, and North—as attorney general—defended the state law against what was clearly a federal overreach. Self-audits were never intended to trump or otherwise replace all other federal or state regulation. The truth is that the EPA didn't want to see its power diminished and decided to fight the use of self-audit laws even though there was clear and convincing proof they produced environmental benefits that otherwise would not have been achieved.

The New York Times seems incapable of keeping its clearly liberal political positions out of its news columns. It has achieved something of a temporary new journalistic low in trying to tie Norton to a mythical "death" of a river. The state of Colorado may have made a number of mistakes relative to Summitville, but they pale to insignificance compared with the mistakes made since by the EPA, its waste of millions in tax dollars and the federal government's mishandling of years of litigation. That's the truth, whether The New York Times knows it or not.

Mr. ALLARD. The Denver Post, which describes itself as a newspaper with an active environmentalist agenda says that "Norton should not be slammed for other politicians' mistakes," also defends Norton as one who tried to fix Summitville under nearly impossible circumstances. I hope my colleagues read these editorials and help set the record straight to end these vicious rumors.

With Gale as the Secretary of the Interior, we can begin the healing process in our rural communities, of regaining their trust. You see, when I was elected to the Senate, I made a commitment to all the residents of Colorado, that I would visit their county every year for a town meeting. I've held more than 250 town meetings, and whether I was in the rural communities of Craig and Lamar or the larger communities of Grand Junction and Pueblo, the message was the same—they were tired of constant threats and assaults on their way of life, they don't trust government. And how can they? When in the waning days of the Clinton administration, some 2000 pages a day of new rules and regulations were added to the Federal Register. How can this be good for the environment and the economy?

Gale believes there is a role for local input in the public policy process. It's one thing to say that you believe in local involvement, but to actually use their input and listen is different. I know that Gale adheres to this philosophy. I also know that Gale recognizes the role of Congress in protecting our environment. I am confident that she will work with all of us, as elected officials and our constituents to address our complex environmental issues.

With Gale Norton and President Bush, we will restore the premise that the public and Congress have a role in the decision-making process, especially as it relates to federal land management. Local input and congressional support ensures that sound public policy prevails. I know the new administration will work to protect the environment and restore integrity to the public process.

Now that you know who Gale Norton is and what she represents, I hope you too will give her your strong support and vote yes for her confirmation.

Again, I thank Senator MURKOWSKI and Senator BEN CAMPBELL for their efforts on Gale Norton's behalf.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank my two colleagues from Colorado for their statements in support of the nominee. I ask unanimous consent that I may be allowed to simply recognize a group of supporters who I believe should be entered into the RECORD at this time.

We have letters of support for Gale Norton from Indian tribes: the Navajo Nation, the Nez Perce Tribe, Oneida Indian Nation, United South and Eastern Tribes of Tennessee, Ute Mountain Tribe, the Southern Ute Indian Tribe, and United South and Eastern Tribes.

I ask unanimous consent to print letters of support from those tribes in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NAVAJO NATION,
Window Rock, AZ, January 16, 2001.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: On behalf of the Navajo Nation, I convey our support for Ms. Gale Norton, nominee for Secretary of the Department of the Interior. The Navajo Nation, in its government-to-government relationships, works with the Department of the Interior on myriad issues affecting the Nation. Although there are times when we disagree with one another we continue to work together for the benefit of the Navajo People. We wish to continue the working relationship with the new administration and we look forward to working with Ms. Norton.

The Navajo Nation's past experience with Gale Norton involved issues with the Southern Ute Tribe during her term as Attorney General for the State of Colorado. During that time Ms. Norton approached the tribes and asked how she could help. She provided testimony to the House (Natural Resources) Committee on the Animas-LaPlata project which benefitted the tribes. Her willingness to support the tribes demonstrates her knowledge of Indian nations and their position within the federal system.

The Navajo Nation does have its concerns with regard to Indian country policies and initiatives. We advise the new administration to follow the basic goals and principles of affirmation of the commitment to tribal sovereignty and self-determination, protecting and sustaining treaty rights and the federal trust responsibilities, and supporting initiatives which promote sustainable economic development in Indian country.

The Navajo Nation supports the nomination of Gale Norton for Secretary of the Interior and we trust she will continue to work with Indian country as she has done in the past. We look forward to working with her in advancing Indian country policies and Indian initiative for the Bush/Cheney Administration.

Sincerely,

KELSEY A. BEGAYE,
President.

RESOLUTION OF THE INTERGOVERNMENTAL RELATIONS COMMITTEE OF THE NAVAJO NATION COUNCIL

SUPPORTING PRESIDENT-ELECT GEORGE W. BUSH'S CABINET NOMINEE FOR UNITED STATES DEPARTMENT OF THE INTERIOR, GALE NORTON

Whereas:

1. Pursuant to 2 N.N.C. §821, the Intergovernmental Relations Committee of the Navajo Nation Council is established and continued as a Standing Committee of the Navajo Nation Council; and

2. Pursuant to 2 N.N.C. §822(B), the Intergovernmental Relations Committee of the Navajo Nation Council ensures the presence and voice of the Navajo Nation; and

3. Pursuant to 2 N.N.C. §824(A), the Intergovernmental Relations Committee of the Navajo Nation Council shall have all the powers necessary and proper to carry out said purposes; and

4. Pursuant to the Treaty of 1868, the Navajo Nation and the United States Government have a government-to-government relationship; and

5. The United States Department of the Interior is charged with maintaining the government-to-government relationship between the United States and the Navajo Nation; and

6. President-Elect George W. Bush has nominated Ms. Gale Norton as the Secretary of the Interior, United States Department of the Interior; and

7. The Navajo Nation previously interacted with Ms. Gale Norton, former Colorado State Attorney General, on issues, which benefited the Southern Ute Nation and the Navajo Nation. Now therefore be it *resolved*, that:

1. The Intergovernmental Relations Committee of the Navajo Nation Council supports President-Elect Bush's Cabinet nominee, Ms. Gale Norton, for Secretary of the Interior, United States Department of the Interior.

2. The Intergovernmental Relations Committee of the Navajo Nation Council authorizes and directs Navajo Nation President Kelsey A. Begaye to deliver a letter of support for Ms. Gale Norton to President-Elect George W. Bush, Senator Jeff Bingaman, Senator Pete Domenici, Senator John McCain, Senator John Kyl, Senator Daniel K. Inouye, Senator Ben Nighthorse Campbell, Senator Orrin G. Hatch, and Senator Robert F. Bennett, on behalf of the Navajo Nation.

NEZ PERCE,
TRIBAL EXECUTIVE COMMITTEE,
Lapwai, ID, January 18, 2001.

Re: Secretary of the Interior Appointment
U.S. Senate:

With the recent George W. Bush election victory, a primary interest of the Nez Perce Tribe in the transition process is the appointment of Gale Norton as the Secretary of the Interior. As you know, this Secretary's agency, the Bureau of Indian Affairs, has the primary charge of maintaining the federal government's trust relationship with Indian Tribes.

President-Elect Bush, in a letter to the Nez Perce Tribe dated August 18, 2000, stated "I will strengthen Indian self-determination by respecting tribal sovereignty, which has improved the quality of life for many Native Americans. I recognize and reaffirm the unique government-to-government relationship between Native American tribes and the federal government. I will strengthen Indian self-determination by respecting tribal sovereignty, which has improved the quality of life for many Native Americans. I believe the federal government should allow tribes greater control over their lives, land, and destiny." He also stated that he would like to work with Indian tribes to chart a course which "recognizes the unique status of the tribes in our constitutional framework..." We urge you to ensure that when making your decision to support the President-Elects' appointee, Gale Norton, these principles underlie the process.

In addition, the Republican Platform states that "high taxes and unreasonable regulations stifle new and expanded businesses and thwart the creation of job opportunities and prosperity [for Native Americans]. The federal government has a special responsibility, ethical and legal, to make the American dream accessible to Native Americans. We will strengthen Native American self-determination by respecting tribal sovereignty, encouraging economic development on reservations. We uphold the unique government-to-government relationship between the tribes and the United States and honor our nation's trust obligations to them."

We sincerely hope that all the President-Elect's appointees, including Gale Norton, is not only aware of these basic tenets of tribal sovereignty, but that such tenets are upheld and enforced, rather than ignored or legislated out of existence. In upholding these significant maxims, it is essential that the Secretary of the Interior appointee support the rights of Indian people. To Indian Tribes, this position is extremely important so, again, we urge you to take great care in the confirmation process of the appointed Secretary of the Interior.

Thank you. Please give me a call if you have any questions.

Sincerely,

SAMUEL N. PENNEY,
Chairman.

ONEIDA INDIAN NATION,
ONEIDA NATION HOMELANDS,
Vernon, NY, January 19, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: On behalf of the Oneida Indian Nation of New York, I am writing to express support for Gale Norton to be the next Secretary of the Interior.

While our tribe does not have first hand experience with Secretary-designate Norton, I am encouraged that she has worked with Indian nations on a government-to-government basis during her tenure as the Attorney General of the State of Colorado. As Attorney General, Ms. Norton repeatedly demonstrated respect for tribal sovereignty. For example, in the wake of Colorado's settlement with the tobacco industry, Ms. Norton worked to ensure that the tribal share of the proceeds went directly to tribal governments rather than be administered through state agencies.

As Secretary of the Interior, Ms. Norton would preside over the Bureau of Indian Affairs and help set the agenda for issues that are of vital importance to Native Americans. These issues, which include health care, education, sovereignty, economic development, gaming, and taxation, have been increasingly the subject of debate in Congress. Consequently, we believe that it is imperative that the next Secretary of the Interior respect the role of tribal sovereignty, affirm a government-to-government relationship between the federal government and Indian nations, and provide the tools the tribes need to further the goal of tribal self-advancement and economic self-sufficiency.

Because of Ms. Norton's background and record on issues relating to Native Americans, we offer our endorsement of her nomination to become the next Secretary of the Interior.

Na ki' wa,

RAY HALBRITTER,
Nation Representative.

UNITED SOUTH AND
EASTERN TRIBES, INC.,
Nashville, TN, January 19, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: As President of the United South and Eastern Tribes, I am writing to express support for Gale Norton to be the next Secretary of the Interior. USET is an organization made up of 24 Federally recognized tribes that extend from the State of Maine to the tip of Florida and over to Texas.

In my role as President of USET, I have not had first hand experience with Secretary-designate Norton, however, I am encouraged that she has worked with Indian nations on a government-to-government basis during her tenure as the Attorney General of the State of Colorado. As attorney general, Ms. Norton repeatedly demonstrated respect for tribal sovereignty. For example, in the wake of Colorado's settlement with the tobacco industry, Ms. Norton worked to ensure that the tribal share of the proceeds went directly to tribal governments rather than be administered through state agencies.

As Secretary of the Interior, Ms. Norton would preside over the Bureau of Indian Affairs and help set the agenda for issues that are of vital importance to Native Americans. These issues, which include health care, education, sovereignty, economic development, gaming, and taxation, have been increasingly the subjects of debate in Congress. Consequently, we believe that it is imperative that the next Secretary of the Interior respect the role of tribal sovereignty, affirm a government-to-government relationship between the federal government and Indian nations, and provide the tools tribes need to further the goal of tribal self-advancement and economic self-sufficiency.

Because of Ms. Norton's background and record on issues relating to Native Americans, I offer my endorsement of her nomination to become the next Secretary of the Interior.

Sincerely,

KELLER GEORGE,
President of USET.

UTE MOUNTAIN UTE TRIBE,
SOUTHERN UTE INDIAN TRIBE,
January 8, 2001.

Hon. FRANK MURKOWSKI,
Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI, We are writing in support of the nomination of Gale Norton to serve as Secretary of the Interior, and hope you will share our remarks with members of the Committee who will visit with her during her upcoming confirmation hearing.

Our Tribes have enjoyed a strong working relationship with the State of Colorado for many years. As Attorney General, Gale Norton furthered that relationship through her commitment to resolving issues in a fair and thoughtful way. She is an open-minded leader who listens and then works toward a resolution. We were able to agree to a gaming compact with the State of Colorado during her tenure as Attorney General. In addition, her strong and adamant support of the Colorado Ute Indian Water Rights Settlement Act was a major factor in what ultimately became successful legislation to modify the Animas-La Plata Project and still meet the obligation to the Ute people of Colorado.

Ms. Norton is a very capable individual whose public service is not based on a desire for accolade or credit, but on a commitment to resolve issues, no matter how controversial.

We proudly support her nomination and enthusiastically encourage the Senate to approve her nomination.

Sincerely,

ERNEST HOUSE,
Chairman, Ute Mountain Ute Tribe.
VIDA PEABODY,
Acting Chairman, Southern Ute Indian Tribe.

Mr. MURKOWSKI. I also have letters from the Fraternal Order of Police, United States Park Police Labor Committee endorsing Ms. Norton; the Governor of Guam endorsing Ms. Norton; the Commonwealth of the Northern Mariana Islands endorsing Ms. Norton, signed by Pedro Tenorio, Governor; and a letter of January 17th from 21 State attorneys general supporting the nomination of Ms. Norton.

I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRATERNAL ORDER OF POLICE,
U.S. PARK POLICE LABOR COMMITTEE,
Washington, DC, January 15, 2001.

Hon. FRANK MURKOWSKI,
Chairman, Senate Energy and Natural Resources Committee, Senate Dirksen Building, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: On behalf of the Fraternal Order of Police, United States Park Police Labor Committee, we are writing to strongly endorse President-elect Bush's nomination of Gale A. Norton for the office of Secretary of the Interior. We feel Ms. Norton is extremely well qualified for this position and possesses the knowledge, experience, and leadership necessary to be a highly successful Secretary. We urge the Committee to favorably report her nomination to the full Senate as quickly as possible.

The United States Park Police Labor Committee is deeply concerned with the current state of law enforcement within the Department of the Interior. For this reason, we are adding our voices to the many others who are supporting the nomination of Mr. Norton. Our Committee does not customarily write endorsements, but we feel that the importance of confirming Ms. Norton justifies our participation.

During the past two years, three separate studies have been conducted to examine law enforcement operations in the Department. Two of these studies were conducted by outside experts, namely Booz-Allen Hamilton and the International Association of Chiefs of Police, while a third was an Internal Departmental review mandated by the Senate. All three studies concluded that the effectiveness of law enforcement activities by the U.S. Park Police and the Law Enforcement Rangers has been consistently declining. While both organizations continue to successfully fulfill their mission of protecting our parks and their visitors, a lack of resources and emphasis on law enforcement in the Department threatens our future ability to keep public lands safe. Strong leadership and critical reforms are needed now.

From a law enforcement perspective, Ms. Norton is an outstanding candidate for Secretary. Her background in law enforcement as Attorney General of Colorado, coupled with her previous service within the Department, gives her a unique ability to understand and address the problems faced by its law enforcement agencies. Throughout her career in public service, she has consistently shown strong support for law enforcement officers. Furthermore, she has repeatedly proven her ability to work with diverse individuals and groups to forge consensus and accomplish important tasks. We are confident that Ms. Norton will exert this same vigorous leadership as Secretary of the Interior to enact the reforms necessary to strengthen agency law enforcement efforts and ensure the safety of the visitors to our parks and monuments.

Once again, we strongly urge the Committee to favorably report her nomination to the full Senate at the earliest possible opportunity.

Sincerely,

PETER J. WARD,
Chair.

OFFICE OF THE GOVERNOR,
Guam, January 18, 2001.

Chairman JEFF BINGAMAN,
Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in support of the nomination of the Honorable Gale Norton as Secretary of the Interior. The people of Guam look forward to Ms. Norton's leadership of the executive department that has direct responsibility for insular affairs. I am confident that as Secretary of the Interior, Ms. Norton will continue progress on the issues of great importance to Guam and that she will be instrumental in resolving the land issues that have been at the forefront of the Guam-United States relationship in the past few years.

Ms. Norton has substantial experience in the Department of the Interior, having previously served in the Solicitor's Office. We believe that she has the necessary familiarity with territorial issues to be an effective Secretary and that she brings a broad understanding of the unique federal land issues on Guam to her office.

Guam has had a contentious relationship with the Department of the Interior in large measure due to the Fish and Wildlife Service's acquisition of 370 acres of excess military lands in 1993 for a wildlife refuge. The 370 acres at Ritidian have become the focal point for Guam's dissatisfaction with federal land policy on our island. Due to the historical context of the military's acquisition of over one-third of Guam's lands after World War II for national security purposes, the Interior action has been harmful to the good relationship between the people of Guam and the United States. We hold the federal government to its commitment that military lands no longer needed for defense purposes should be returned to the people of Guam.

In an effort to resolve these issues, I have been engaged in discussions for the past year with the previous Secretary and his staff on possible solutions that would enhance the level of environmental protection on Guam while addressing the issue of Interior's acquisition of Ritidian. I was willing to make the necessary compromises that would restore the good relationship between the U.S. and Guam and that would meet the needs of the Interior Department and the Government of Guam. Regretfully, the Fish and Wildlife Service was not.

We believe that Ms. Norton will restore a balance to federal land policy on Guam that has been missing since 1993. There is now an imbalance where the bureaucrats at the Fish and Wildlife Service make policy without adequate regard for local concerns. Environmental policy should not be a zero sum game where the Fish and Wildlife Service wins and the people of Guam lose. Environmental policy should be collaborative process with respect for, and accommodation of, local needs. On Guam, the respect we seek would recognize the patriotism of the people of Guam and our support for the national security interest, even when the national interest requires the use of one-third of our island for military bases. And the accommodation we seek would balance environmental policy with the federal commitment to return excess military lands to our people. We believe that Ms. Norton appreciates our history and our culture, and that she will be fair in dealing with us on these land issues.

We are also encouraged by Ms. Norton's commitment to the devolution of federal power where local governments are more appropriate to formulating public policy in response to local needs. This is a bedrock principle of self-government that Guam supports and encourages. We are confident that Ms. Norton will appoint policy makers and senior staff at the Department of the Interior that will reflect this view. Any increase in local self-governance in the territories is welcome and long overdue. We find Ms. Norton's views on limiting the role of the federal government in our lives both refreshing and promising for the resolution of the Guam's political status issues.

Thank you for considering my support of Ms. Gale Norton as Secretary of the Interior. I hope that the Senate Committee on Energy and Natural Resources votes to recommend Ms. Norton to the full Senate and that she is confirmed quickly. We look forward to her new leadership and her initiatives for the territories.

Sincerely,

CARL T.C. GUTIERREZ,
Governor of Guam.

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,
January 17, 2001.

Hon. FRANK MURKOWSKI,
Senate Committee on Energy and Natural Resources, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: This coming week Secretary Designate Gale Norton will proceed through the hearings in connection with consideration or her confirmation. I am writing, on behalf of the people of the Commonwealth of the Northern Mariana Islands, to express our support for her confirmation as Secretary of the Interior.

The Department of the Interior, in particular its Office of Insular Affairs, plays a central role in the relationship of the Commonwealth with the United States Federal Government. We were pleased by the announcement of her nomination to this position. We believe that we could establish a positive and fruitful working relationship with Secretary Designate Norton should she be confirmed and wish her the best of luck.

Respectfully,

PEDRO P. TENORIO.

JANUARY 17, 2001.

Re nomination of Gale Norton for Secretary of the United States Department of The Interior.

Senator JEFF BINGAMAN,
Energy and Natural Resources Committee, Washington DC.

Senator FRANK MURKOWSKI,
Energy and Natural Resources Committee, Washington, DC.

DEAR SENATORS: We, the undersigned state Attorneys General, write to provide important information that will help you evaluate Gale Norton's nomination for Secretary of the Interior. These insights are based on our work with Gale during her eight years as Attorney General for the State of Colorado. While Gale provided numerous examples of her leadership and ability as Colorado's Attorney General, there are a few specific instances that truly demonstrate her skill and experience.

First, in the early 1990's, Gale worked with Attorneys General and Governors in an effort to force the United States Department of Energy to comply with federal environmental laws as its facilities around the nation. Gale helped lead the fight to ensure that Energy would be responsive to the states, comply with the law, and refocus on cleaning up Rocky Flats in Colorado and other sites around the nation.

Gale served as the Chair of the Energy and Environment Committee for the National Association of Attorneys General from 1992 to 1994. As Chair of the Committee, Gale worked with Attorneys General from both political parties to achieve results for all states. Gale had the instinctive ability to work for bipartisan solutions and she helped create consensus on a number of sensitive issues.

Finally, Gale's work on the tobacco settlement was significant. Gale was selected by her colleagues to be a member of the settlement negotiating team. Gale's selection was based on the fact that she is very bright, hard working, and has extremely high ethical standards and integrity. She was a valuable member of the team throughout the prolonged and complicated negotiations.

We know that you are receiving extensive comments about Gale's qualifications. We want to provide you with our views, based on our years of experience working with Gale on complex, sensitive issues. We know that Gale will do her best to build coalitions and develop solutions to hard problems in a way that creates broad-based support. It is our hope that this information will be helpful as you consider Gale Norton's nomination for Secretary of the Interior.

Alan G. Lance, Idaho Attorney General; Christine O. Gregoire, Washington Attorney General; Bill Pryor, Alabama Attorney General; Toetagata Albert Mailo, American Samoa Attorney General; Ken Salazar, Colorado Attorney General; Jane Brady, Delaware Attorney General; Jim Ryan, Illinois Attorney General; Steve Carter, Indiana Attorney General; Carla J. Stovall, Kansas Attorney General; Mike Moore, Mississippi Attorney General.

Don Stenberg, Nebraska Attorney General; Frankie Sue Del Papa, Nevada Attorney General; Philip T. McLaughlin, New Hampshire Attorney General; Betty D. Montgomery, Ohio Attorney General; Hardy Myers, Oregon Attorney General; Mike Fisher, Pennsylvania Attorney General; Charlie Condon, South Carolina Attorney General; Mark Barnett, South Dakota Attorney General; John Cornyn, Texas

Attorney General; Mark Shurtleff, Utah Attorney General; Mark L. Earley, Virginia Attorney General; Gay Woodhouse, Wyoming Attorney General.

Mr. MURKOWSKI. I thank all of my colleagues who have spoken on behalf of the nominee. The action out of the committee on a vote of 18–2 is certainly, in my opinion, a mandate for approval by this entire body. I think she will represent our new President in a manner that attempts to balance the delicate issue of concern over the environment and the ecology.

Since there has been a lot of comment about ANWR during this entire process and many pictures, for my colleagues, I show a picture of ANWR as it exists for about 9 months of the year. This is what it looks like. Do not be misinformed; it is a long, dark 9-month winter.

I thank the Chair for its indulgence.

It is my understanding that the vote will be scheduled for 2:45 on two nominations and there will be separate votes. I wonder if the Chair could identify those.

The PRESIDING OFFICER. There will be two separate votes occurring at 2:45. The first will be on the Norton nomination, and the second one will be on the Whitman nomination.

RECESS

The PRESIDING OFFICER. The hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHAFEE).

EXECUTIVE SESSION

NOMINATION OF GALE ANN NORTON TO BE SECRETARY OF THE INTERIOR—Resumed

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I come before you today to offer my views on the nomination of Ms. Gale Norton to be Secretary of the Department of the Interior. I believe in some basic principles relative to Presidential nominees for the President's Cabinet. I believe they are reviewed for purposes of advise and consent of the Senate with the presumption that the President has a right to choose his or her closest advisers.

I believe our duty as Senators in discharging that constitutional responsibility of advise and consent is to assure those advisers are capable of and committed to doing the jobs for which they have been nominated.

In the past, Ms. Norton has made statements that raise questions in my mind, and in many others, about her appropriateness for the position of Secretary of the Interior. Ms. Norton's explanations of those statements suggested that her views have evolved over time.

Having listened to her responses and evaluated her truthfulness, I take her at her word and trust her sincerity. My own life experience tells me that it is possible—in fact, it is highly desirable—for individuals to evolve in their thinking over their adult years. If a person at 55 has the same views they had at 25, that would raise serious questions as to whether this was an individual who was sufficiently affected by life to be an appropriate holder of a position of major public trust.

I asked Ms. Norton a series of questions during the course of the hearings before the Energy and Natural Resources Committee. I asked Ms. Norton if she would support the current moratorium that exists on offshore oil and gas leases, particularly those in California and my home State of Florida. She answered yes. She echoed President Bush's support for those moratoriums. I take Ms. Norton at her word.

I asked Ms. Norton if she would work with our State and other States to assure that the wishes of the State, with regard to existing leases, are followed. Ms. Norton answered yes, and I take her at her word.

I asked Ms. Norton if she would enter into discussions toward the objective of developing a plan for the buyback of Outer Continental Shelf leases in those States which had expressed opposition to their development for oil and gas purposes. This is much in line with the plan which is currently in effect in Florida for buyback of leases in the area of the Florida Keys that was originally developed by President George Bush. Ms. Norton answered yes, and I look forward to the opportunity to commence that process.

I spoke to Ms. Norton in my office regarding the importance of the Department of the Interior in the restoration of America's Everglades. I consider the passage of that legislation last year to have been one of the signal events of that Congress and one of the most important environmental advances in recent years.

As a steward of four national park units and 16 national wildlife refuges, the Secretary of the Interior has a distinct role in assuring that the natural systems are protected in America's Everglades, particularly protected as we move forward with their restoration.

She clearly understood the importance of the Department of the Interior's role in Everglades restoration, and I take her at her word.

I asked Ms. Norton what her plans were for funding of the Land and Water Conservation Fund. Ms. Norton answered that in accordance with President Bush's campaign position, she supported full funding of the Land and Water Conservation Fund, both those funds that flow to Federal agencies and those that go to State and local communities. I take Ms. Norton at her word.

Ms. Norton went further and recognized the important interrelationship between a balanced park and recreation policy, with the Federal Government having the primary responsibility for the protection of natural resources and with State and local governments having the responsibility for providing appropriate recreational activities for our people.

I asked Ms. Norton how she would balance the Secretary's responsibility to protect public lands with her desire to partner with private landholders and local governments in executing those responsibilities. Ms. Norton answered that these partnerships are not a substitute for enforcement actions, and that as Secretary of the Interior, she would remain committed to enforcing the law. And I take her at her word.

I could continue this list of questions and answers for some time. However, my conclusion is that Ms. Norton demonstrated during the Energy and Natural Resources Committee hearings that she will be open minded and will take the expertise of State and local governments on the issues that come before her very seriously.

I was particularly pleased she committed to respecting the moratoria on new leases off the coast of Florida and California; that she intends to look to the future relative to the buyback of those leases which are currently outstanding, and that she intends to uphold the Department of the Interior's responsibilities as a caretaker of public lands involved in America's Everglades restoration.

With these assurances, I offer my support for the nomination of Ms. Gale Norton to be Secretary of the Interior, and I look forward to working with her, the Department of the Interior, and State and local officials in my State and elsewhere to build upon the commitments that she made during her confirmation hearings.

I thank the Chair.

Mr. ROCKEFELLER. Mr. President, I rise today to discuss the pending nomination of Ms. Gale Norton to be Secretary of the U.S. Department of the Interior. I suspect that Ms. Norton's nomination will be approved by the Senate later today, without my support, and I want to share with my colleagues and the people of West Virginia why I have decided to oppose this nomination.

First and foremost, I should say that I do not oppose this or any other presidential nomination lightly or on personal or ideological grounds. President Bush should have a Cabinet of people whom he trusts and who will govern as he wishes. In the vast majority of cases, I have and will lend my firm support to the President's nominees, after considering their qualifications and determining that they will effectively represent our nation and share my commitment to tackling the challenges facing West Virginia.

I have no litmus test for nominees, and I do not expect or insist that they agree with me on how best to approach our challenges or solve our problems. But I do take seriously my duty under the Constitution to approve or disapprove presidential nominees. In these times of national division and discontent without government on so many issues, what I look for in a nominee is an overriding ability to follow through on the President's promise to bring our nation together, and a commitment to the values that West Virginians hold dear.

Let there be no doubt that Ms. Norton is a capable and experienced person whose willingness to serve her country is to be commended. But I do not believe that her life's work reflects the balance and inclusiveness we need to chart this new course, and I cannot abide by her fight against laws that I and my fellow West Virginians support and respect.

One prominent example is Ms. Norton's prior work to dismantle the Surface Mining and Reclamation Control Act, SMRCA.

SMRCA is a law that strikes a balance between critical economic and industrial development and adequate environmental protections. It is intended to ensure that after mining is complete, reclamation will happen and water quality will be protected. And it provides an important level playing field for states and companies that are committed to this kind of balance—with federal standards that prevent any competitive disadvantage for sound mine reclamation.

As a constitutional lawyer for the Mountain States Legal Foundation in 1980, Ms. Norton tried to convince the courts that SMRCA is unconstitutional, on grounds that it usurped state government in a way that "threaten[ed] to destroy the structure of government in America. * * *" First as Governor and then as Senator for a coal state, I have disagreed with Ms. Norton's assessment. I testified then in support of surface mining legislation that would "equalize reclamation standards among the states and alleviate West Virginia's distinct competitive disadvantage in the marketplace."

I remain proud of my work on the surface Mining Act and its initial implementation during my years as a Governor. I know that the law is not perfect, and that we need always to be vigilant about striking the intended balance. Yet also believe Ms. Norton's position on this law is indicative of her determination to limit or eliminate the federal role in this area—even when that role can help balance the needs of critical industries with the goal of preserving our environment and protecting the quality of our water and air.

Some will say that Ms. Norton's nomination should be approved because she has promised to uphold the law and has recently distanced herself from some of her more divisive past positions. I should be clear that I do not doubt Ms. Norton would respect the decisions of the courts, nor that she would uphold the law as it is written. But I also do not believe that one can so easily change course after a career dedicated to strong and passionate advocacy for limited environmental preservation and protection.

As Interior Secretary, Ms. Norton would have enormous discretion in implementing and enforcing federal law and policies. She would set priorities or the Department's resources and would develop and promote policy positions large and small. Ms. Norton's career and experience reflect neither balance nor moderation, and I simply do not think she can be expected to change her approach so dramatically at this point.

In addition, Ms. Norton's nomination has been questioned by leading public health organizations because of her policies and actions regarding lead paint and its link to public health, particularly the health of our children. I have a long history in promoting children's health, and I feel obligated to raise these matters as part of my duty to "advise and consent" on the president's nominees.

Let me close by saying that my opposition to Mr. Norton's nomination is intended primarily to register my grave concern. I stand ready and willing to work with her as the new Interior Secretary and hope we can find common ground in striking a balance on environmental policies and programs.

Mr. LEVIN. Mr. President, I will vote no on the nomination of Gale Norton as Interior Secretary because, based on her record, I do not have confidence that she will serve as an environmentally-sensitive steward of the nation's public lands. There is too much at stake to take a chance on someone who, throughout her career, has consistently chosen development over environmental protection. Her responses to questions at her confirmation hearing failed to relieve my concerns about her record of weak environmental enforcement as Colorado attorney general.

For instance, Ms. Norton wrote that "we might even go so far as to recognize a homesteading right to pollute or to make noise in an area." Although she attempted to explain that statement by stating that she was referring to emissions trading, I see no indication in the article itself that she was referring to emissions trading. Rather it seems to be an extreme position on takings law.

As attorney general, Ms. Norton pursued government polluters while rarely taking on corporate polluters. According to the Denver Post, Ms. Norton "sat out fights when a corporate power plant broke air pollution laws 19,000 times, a refinery leaked toxins into a creek and a logging mill conducted illegal midnight burns."

Further, when I asked Ms. Norton about her position on drilling for oil and natural gas in the Great Lakes, she responded that she had no position. This caused me concern because her philosophy could play a central role in decisionmaking on Great Lakes protections at the Department of the Interior.

We have made substantial progress the past several years in improving the quality of the Great Lakes and its habitat. I hope that Ms. Norton proves my concerns unfounded and will work hard the next four years to protect our valuable natural resources and further the environmental progress that we have worked so hard to achieve.

Mr. REED. Mr. President, I rise to speak in opposition to the confirmation of Gale Norton as Secretary of the Interior. After thorough consideration of her record and her recent testimony before the Senate Energy and Natural Resources Committee, I have reluctantly concluded that Ms. Norton is not the right person to serve as the chief steward of our nation's public lands.

Ms. Norton stated at her confirmation hearings earlier this month that she would feel "very comfortable" enforcing federal environmental laws as they are written. Unfortunately, her record of two decades in private and public life strongly suggests that she will do so with little enthusiasm, and, where the law gives her discretion—which it often does—she will favor resource extraction over resource protection.

Ms. Norton's employment history and legal writings reflect a consistent record of supporting industry and developers over wildlife and public lands protection, even going so far as to argue to the U.S. Supreme Court that the Endangered Species Act and the Surface Mining and Reclamation Act—both of which she would administer if confirmed—are unconstitutional. She has repeatedly taken the position that the federal government lacks the constitutional power to address a wide range of environmental harms, a view that is diametrically opposed to a long line of Supreme Court rulings and is hard to reconcile with the Secretary of the Interior's role in managing our precious natural resources.

President Bush and Ms. Norton support opening the Arctic National Wildlife Refuge to oil and gas exploration. I oppose drilling in the ANWR, and I believe a bipartisan majority in the Senate feels the same way, but let me emphasize that my opposition to this nomination is not about a policy disagreement over ANWR. It is about whether we will have an Interior Secretary who will provide aggressive oversight of industries that have been granted the privilege to seek profits on federal land—whether in the ANWR (should Congress ever approve such activity) or in the hundreds of other magnificent places owned by the taxpayers of this country.

The President committed during his campaign to come to Washington to unite the nation and to work with Congress to protect America's environment. That makes his choice of Ms. Norton to head the Interior Department all the more disappointing. With so many outstanding public servants across this country to choose from, including both Republicans and Democrats with substantial experience managing public lands and a balanced view on the best use of those lands, it is regrettable that President Bush chose someone who has spent so much of her professional life working against the very mission of the Department she would oversee and, more importantly, the laws she would enforce.

I must, therefore, cast my vote against the confirmation of Ms. Norton. I urge my colleagues to do the same, and I hope that if she is confirmed Ms. Norton will set aside her long-held views and work with Congress to protect our public lands for generations to come.

Mr. CORZINE. Mr. President, I rise to oppose the nomination of Gale Norton to be the Secretary of the Department of the Interior.

The Department of the Interior is charged with the protection of more than 500 million acres of public land that comprise an important part of our natural and cultural heritage. The Secretary of the Interior is the steward of this land and is responsible for protecting it for the generations that follow.

Unfortunately, based on her record, I am concerned that Gale Norton is the wrong person to handle this critically important responsibility. From all indications, she has a strong tendency to favor the interests of industry over the needs of the environment. That is not my preferred approach, nor does it represent the values of the people in New Jersey who I represent.

When Ms. Norton served as a State Attorney General, for example, she was very reluctant to prosecute industries that polluted Colorado's rivers and air. Perhaps the most disturbing example of this involved the Summitville Consolidated Mining Corporation, which spilled cyanide and acidic water into a 17-mile stretch of the Alamosa River, killing every living organism that was there. Notwithstanding this egregious conduct, Ms. Norton refused to prosecute. It took federal intervention to prosecute the polluters. I find this very troublesome.

In many other ways, Gale Norton has expressed views towards environmental protection that strongly conflict with my own. She has taken the states' rights argument to the extreme—arguing that the Surface Mining Act, an invaluable tool to protect the environment from problems associated with coal mining, was unconstitutional. She has supported restrictions to the Endangered Species Act that would have gutted the law. She has shown a readiness to accept an extremist view on what constitutes a taking under the Constitution, something that could jeopardize necessary environmental protections. She also has strongly supported drilling for oil in the Arctic National Wildlife Refuge, something I cannot support.

Ms. Norton also has argued against the "polluter pays" principle contained within the Superfund law. That is very troubling to me. Coming from a state that has the most Superfund sites in the country, I believe strongly that those who pollute the land should pay to restore it.

I recognize that during her confirmation hearings Ms. Norton seemed to moderate her approach, and promised to enforce laws such as the Endangered Species Act and the Surface Mining Act. Yet one statement before a congressional committee does not negate a lifetime opposition. For a position as important as this, we need someone whose commitment to the environment is clear and long-standing.

For all these reasons, regretfully, I must oppose the nomination of Gale Norton to be the Secretary of the Interior. However, I recognize that she probably will win confirmation. I only hope that my concerns are proven wrong.

Mr. LIEBERMAN. Mr. President, I rise today to cast my vote against Gale Norton for Secretary of the Interior. I do this with some reluctance, as I believe that the Senate owes the President significant deference in its review of his Cabinet nominees. The Senate's review, however, must be substantive and searching, and cannot amount to automatic approval of every nominee.

Over the years of my service here, I have given great thought to the extent of the Senate's advise and consent power. In all cases, I believe that our review must focus on a candidate's experience, judgment, and ethics. However, I also believe that a Senator may consider whether the nominee holds fundamental and potentially irreconcilable policy differences with the department she will head which put in doubt the nominee's capacity to credibly carry out the responsibilities of the department.

The Interior Secretary plays a critical role in determining our national natural resource policy, which will affect our nation for centuries to come. I have concluded that Ms. Norton's record reflects a philosophy that is so contrary to the mission of the Department of the Interior that I have serious doubts about the manner in which she would administer the Department.

The Secretary of the Interior enjoys wide discretion in how to best carry out the Department's mission of preserving, "the Nation's public lands and natural resources for use and enjoyment both now and in the future." I have reviewed Ms. Norton's past writings, speeches and professional activities, and they reveal an ideological viewpoint at real variance with the legal requirements and responsibilities that she would have as Secretary of the Interior.

Many of my colleagues have stated that they were comforted by Ms. Norton's testimony in her confirmation hearing in which she seemed to back away from her more controversial positions and they therefore have decided to vote in favor of her nomination. I respect their decisions but I remain with too many doubts. Therefore, I will reluctantly and respectfully vote no.

Ms. MIKULSKI. Mr. President, I rise today to oppose the confirmation of Gale Norton to be Secretary of the Interior.

I have three criteria I use to evaluate nominees: (1) competence; (2) integrity, and (3) commitment to protecting the mission of the department he or she seeks to lead.

I do not question Ms. Norton's competence or integrity. But I am concerned that Ms. Norton's views and her record cast serious doubt on whether she is suitable to act as our chief land conservation official—safeguarding our Nation's parks, wilderness, and wildlife refuge areas.

The Interior Department's mission is "to encourage and provide for the appropriate management, preservation, and operation of the Nation's public lands and natural resources for use and enjoyment both now and in the future." The Department of the Interior is charged with ensuring that we preserve and protect our Nation's extraordinary public lands and natural resources. To do this, the Interior Secretary must implement critical parts of the Clean Water Act, Clean Air Act, Superfund, Endangered Species Act and other laws that protect our nation's natural heritage.

I am concerned about Ms. Norton's commitment to fulfilling this mission.

She has fought against these very laws and regulations her entire career. We need an Interior Secretary who can balance economic interests with environmental protection. Yet Ms. Norton has shown an unfortunate bias toward those who profit from public lands.

For example, as the Attorney General of Colorado, Ms. Norton refused to vigorously enforce environmental compliance against corporate polluters. She didn't seek criminal penalties against a mining company that allowed cyanide to pollute a river or against a power plant that broke air pollution laws thousands of times. She supported a law to grant immunity to industrial polluters and weaken the government's ability to enforce environmental regulations. She has also sided with companies that are being sued for exposing children to lead paint. This record of siding with corporate polluters casts doubt on her commitment to pursuing polluters and holding them accountable.

In addition, Ms. Norton has sought to overturn the Endangered Species Act. This law is essential to maintaining our nation's fragile, diverse ecosystems. Yet Ms. Norton signed onto an amicus brief in a case before the Supreme Court in which the state of Arizona sought to weaken the Endangered Species Act. She argued that the Endangered Species Act was unconstitutional in the requirements it placed on landowners. How can she enforce laws that she claims are unconstitutional?

Finally, Ms. Norton strongly supports opening the Arctic National Wildlife Refuge to oil drilling. Drilling at ANWR would threaten this fragile and unique ecosystem. It is a short-term solution to the long-term problem of energy dependency. This policy could result in irreparable damage to one of our Nation's natural treasures.

Mr. President, Ms. Norton's record raises serious concerns about her appropriateness to serve as our highest ranking land conservation official. Her record indicates that her views are fundamentally incompatible with the mission of the Department she seeks to lead. I am deeply concerned that her confirmation may lead to a significant retreat from the gains made by former Secretary Babbitt.

Although I hope her actions prove me wrong, I must regretfully oppose Gale Norton's confirmation.

Mr. TORRICELLI. Mr. President, I rise to express my concerns regarding the nomination of Gale Norton as President Bush's Secretary of the Interior. I will vote against her confirmation today. I will do so with some reluctance because I believe that the President enjoys the privilege of selecting the people he wishes to join his administration. However, after much thought and reflection, I am afraid that the views that Gale Norton and I hold on a number of important environmental issues are irreconcilable.

Let me begin by saying that I do not believe Gale Norton is a bad person. However, her documented record as Attorney General of Colorado and positions she has taken for twenty years in opposition to a number of important federal environmental laws, such as the Endangered Species Act, the Clean Water and Clean Air Acts, and Superfund are of concern.

Gale Norton supports, as does President Bush, opening the Arctic National Wildlife Refuge to oil exploration. While the President is certainly entitled to nominate those who share his views, I am unable to support a nominee who would advocate for the opening of this pristine wilderness to oil drilling.

I am also concerned that Gale Norton will bring what I perceive as a solely Western orientation to resource management issues to the Interior Department. The Secretary of the Interior must represent all regions of our Nation with equal vigor. This means understanding the unique issues facing the Northeast. Our open spaces are being churned up by development at an alarming rate. New Jersey is losing its open space faster than any other State in the Union. Federal funding for the acquisition of this open space is not viewed as a "land grab" in New Jersey, it is a necessity. However, I am not convinced that these concerns will be addressed. Open space protection is perhaps the most important issue facing a state like New Jersey, and I am concerned that the same passivity in enforcing environmental laws and protecting natural resources in Colorado will occur in New Jersey.

Franklin Delano Roosevelt said, "The throwing out of balance of the resources of nature throws out of balance also the lives of men." I strongly believe that this balance is critical to the success of the next Secretary of the Interior. I have attempted to find this balance in President Bush's nominee, but have not. I am concerned that her record does not reflect this balance that is so necessary. I see no real difference between her positions from 20 years ago, 10 years ago, and today. Therefore, I reluctantly oppose this nomination, not this person.

Mr. KENNEDY. Mr. President, I join in expressing my concern over the nomination of Gale Norton to be Secretary of the Interior.

The Secretary of the Interior is charged with being the caretaker of the Nation's public lands and public's waters, which are held in trust by the government for the benefit of the public.

Our Nation's public lands and public waters contain vast riches of minerals, oil, gas, timber, and grazing areas. The Secretary of the Interior has the responsibility of ensuring that these private uses of the public lands are compatible with the public's right to enjoy these lands as a priceless part of the Nation's environmental heritage.

I am concerned that Gale Norton's record has too often been hostile to many of our most fundamental environmental protection laws. The views she has often expressed in opposition to needed federal environmental regulation raises serious doubts about her commitment to the environment. Her partial, vague, and evasive answers to questions at the committee hearing were in sharp contrast to her past harsh criticisms of the important federal role in the protection of the Nation's natural resources.

The Clean Air Act, the Clean Water Act, and the National Environmental Policy Act—which calls for the government to " . . . fulfill the responsibilities of each generation as trustee of the environment for succeeding generations"—are long settled and respected bodies of law. The American people are proud of the progress that we have made in recent years on the environment. The talented and committed officials in the Department of the Interior deserve a great deal of credit for that achievement, and they and the American people deserve a Secretary of the Interior who shares that commitment.

Superfund and the Surface Mining Act have also been largely successful environmental laws. But it was environmental brinkmanship that made those laws necessary.

Energy crises in the 1970's and again during the Gulf war were not solved by putting our priceless environmental heritage at risk, and they cannot be solved by such a strategy today.

The position of Secretary of the Interior requires a vigilant leader who can resist the urge to exploit our natural resources at the expense of the environment.

The next Secretary will also face numerous challenges in the management and development of our National Parks. As recreation becomes more and more popular, our parks and wildlife refuges will continue to be under pressure, and sound management policies will be needed to protect them.

These, and many other environmental concerns, are widely shared by the vast majority of the American people, and the country needs a Secretary of the Interior who shares that commitment.

Mr. FEINGOLD. Mr. President, today as the Senate begins the consideration of the nomination of Gale Norton to be Secretary of the Interior, we confront an enormous responsibility.

The individual charged with this responsibility will set the direction for our national policies for our natural resources. This person will have the power to decide whether to nurture and conserve, or to develop and destroy our Nation's great resources. As a member of this body, I have committed myself to a career of environmental stewardship. I have tried to cast votes and offer legislation that fully reflects the importance and lasting legacy of America's natural resource management decisions. I have done so because of the role of my own home state in this matter. America's conservation history is Wisconsin's conservation history. From John Muir's battles with Teddy Roosevelt over the Hetch Hetchy Dam, to Sigurd Olson's efforts to create the National Wilderness Preservation System, to former Senator Gaylord Nelson's efforts to create the Wild and Scenic Rivers System, to Aldo Leopold's struggles to move and mold the Forest Service, Wisconsin's role in conservation has been rich. I also have another tradition to defend and uphold. I have committed myself, to a constructive role in the Senate's duty to provide advice and consent with respect to the President's nominees for cabinet positions.

As the Secretary of the Interior, Ms. Norton will be charged with unique and historic responsibilities, which will be as important as they are far reaching. In varying ways, all Americans will be affected by her decisions. As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and resources. During the nominations process, I have been disturbed to learn of the fears that Ms. Norton will not live up to this responsibility for stewardship of all our natural resources. I have been concerned that Ms. Norton's background might cloud her judgement and objectivity on a number of important issues and place her at odds with members of the conservation community and with this Senator. While I am concerned with Ms. Norton's professed unfamiliarity with many of the laws which I regard as critical for the promotion of balanced conservation policy, I am somewhat heartened by Ms. Norton's responses to questions by members of the Energy and Natural Resources Committee with regard to her responsibility to enforce federal environmental law. I am encouraged by this statement for two reasons: first, it is an acknowlegement that she is obliged to work hard to enforce the letter of the law; second, it is an admission that there is indeed an interest on the part of all Americans in preserving our environmental heritage.

I will take Ms. Norton at her word—that she will devote her time and energy to the proper enforcement of the Interior Department policies, rather than circumvent or repeal laws which preserve our dwindling resources, that she will attempt to address the pollution of public lands which ruins our enjoyment of them and makes our air unfit to breathe and our water unsafe to drink, and that she will protect our land and water resources. For this reason, I will vote for her today.

However, in doing so, I fully recognize that my responsibility involves nothing less than overseeing the institution with stewardship of our public lands and national resource wealth. The Senate does not, by confirming Ms. Norton, place the responsibility for the protection of public lands and resources in the hands of a single individual. I do not believe that the American people are ready to ignore the voices of the environmental community who remind us how fragile and vulnerable our resources can be. That is not the message of November 4, 2000. I am hopeful that these voices will be heard by Ms. Norton. I am placing my trust in her that she will embrace her duty to take into account the future and forseeable consequences of her actions, and that she will be guided by the knowledge that this Senator will raise those consequences at all appropriate opportunities.

Mr. ENZI. Mr. President, I rise in support of the nomination of Gale Norton as Secretary of the Interior, and encourage my colleagues in the United States Senate to vote to approve her nomination as the first woman to ever hold this position as the premier land manager within the United States Government.

I don't know how I can impress upon this Senate the great impact that the Secretary of the Interior can have on my home state of Wyoming, and on the rest of the Western United States. Between the National Park Service, the Bureau of Land Management, the Bureau of Indian Affairs, the Bureau of Reclamation, and the Fish and Wildlife Service, the Department of the Interior is the single largest land owner within the State of Wyoming. This means that most of my state's rich natural resources and energy opportunities are dependent on the Interior to be able to find and develop those resources. I know from experience that with cooperation and open communication this process can be completed in a manner that not only benefits our nation's energy and mineral needs, but does so in a way that preserves the rich natural beauty and wildlife that calls Wyoming home.

In order to do this, however, both the Federal Government and local communities must be able to sit down together and talk through any potential conflicts and must do so in a way that lays the groundwork for the future. In her years as Attorney General for the State of Colorado, Ms. Norton was able to demonstrate the invaluable ability to talk to people, on all sides of the issues, to get to the heart of the matter, and to effect real change in the only place that really matters when it comes to environmental and community protection—directly on the ground.

As a Wyoming State legislator and member of the Wyoming State Senate, I watched Ms. Norton as she pioneered the development of Colorado's environmental self audit program. I was very interested in seeing what obstacles she faced and what hurdles she had to overcome in creating this incredible environmental protection opportunity, mainly because I wanted the same thing for my state. You see, I knew that if I could provide the people of Wyoming the same opportunity that Ms. Norton was giving the people of Colorado—the opportunity to find environmental hazards for themselves, and to provide a way for them to correct those hazards without being penalized for being responsible—then I knew that my friends and neighbors would jump at the chance to clean up their businesses and neighborhoods, and would make their homes safer, on their own, for their children to grow up in.

I also knew that without this program there would be no incentive for private business owners to find out what kind of conditions existed on their property. In fact, the overbearing bureaucratic penalties that exist to punish conscientious property owners work more as a deterrent to responsibility than as a motivation to accomplish the goals of environmental cleanup.

Because of her efforts I am happy to say that she made my work much easier, and now both Colorado and Wyoming have responsible, environmental audit laws that encourage businesses to clean up their property without forcing the United States taxpayers to foot the bill. I am also proud to say that these statutes have made more of a difference on the health and environmental well-being of local communities than superfund. There is more proactive action on the part of property owners and there is a greater testing of unknown substances so we now have a much better understanding of what is out there in our communities. Most states have now followed this lead.

Ms. Norton is also aware of the fiscal responsibilities that many Federal agencies have shirked over the past several years. In one discussion I had with Ms. Norton, she made the comment that as a state official she had a fixed budget and was responsible for every dollar, but in reviewing the budgets of the Federal agencies that fall under the jurisdiction of the Department of the Interior she was appalled to see the lack of accountability. I encouraged her then, and I will encourage her now, to do what she can as Secretary to see that this situation is reversed. Most policy is set by the President. Secretaries administer and manage huge work forces. Ms. Norton is a manager.

In closing Mr. President, when I spoke with Ms. Norton earlier this year I was encouraged by her sincerity and by her understanding of the responsibility and sense of duty that must accompany public servants like the Secretary of the Interior. I am convinced that Ms. Norton will uphold the laws of this land and will hold not only private individuals responsible for their actions, but will ensure that the Federal Government does not shirk its duties as a major landowner, or its liabilities as a polluter.

Mr. REID. Mr. President, today I join a majority of my colleagues in the Senate to confirm President Bush's nomination of Gale Norton as the Secretary of the Interior.

As you know the Secretary of the Interior has tremendous responsibilities as the chief steward of America's public lands as well as the biological and mineral resources native to those lands.

The role of the Secretary of the Interior is nowhere more important than in the great state of Nevada where nearly 90 percent of the land is owned by the federal government.

Through her oversight of the Bureau of Land Management, the Bureau of Reclamation, and the Fish and Wildlife Service, the Secretary of the Interior impacts the lives of Nevadans every day.

The challenges of managing the Interior Department have evolved over the years. Today, some of the most important issues facing the Secretary are urban land management decisions that did not pose major problems decades ago.

For example, the Las Vegas Valley, which is the fastest growing region in the country, is completely encircled by federal lands. Much of this public land, including scattered parcels throughout the Valley, is managed by the Interior Department.

The tremendous growth in Southern Nevada places increasing pressure on our public land resources.

As an example, recreational sportsmen cannot safely shoot in many parts of the Southern Nevada desert any longer because of urban growth and competing recreational uses.

In an effort to remedy this problem, I am working with Clark County and the BLM to identify and dedicate public land for use as a recreational shooting complex. Recreation and access to public lands are of paramount importance in Nevada.

Conservation and protection of natural resources in the Silver State are important too.

It is my sincere hope that Secretary Norton and President Bush do not view confirmation of someone who once worked for the Mountain States Legal Foundation as a mandate for the rollback of environmental protections enacted over the past 8 years.

The recently enacted phase out of snowmobile use in Yellowstone National Park will provide a litmus test for whether President Bush will promote conservation or oversee the decline and degradation of our treasured national park system and our public lands generally.

Mrs. MURRAY. Mr. President, after carefully considering the record and statements of Gale Norton, nominee for Secretary of the Interior, I am voting to confirm her nomination today. I have serious concerns about many of the land use and conservation policies Ms. Norton has promoted in the past, and my vote is in no way a confirmation of these policies. However, after a lengthy discussion with Ms. Norton, she has pledged to work closely with me on the issues that affect Washington state.

We discussed many of Washington's challenges, including the Hanford Ranch, Elwha dams, salmon recovery, habitat conservation plans, and funding for Interior programs. In our conversation, I assured Ms. Norton that if she threatens Washington's interests she will find in me a strong and persistent opponent. I will speak out from the Senate floor and use my position on the Appropriations Committee to challenge any initiatives or spending proposals that don't meet Washington's needs. If the Interior Secretary seeks to roll back important policy initiatives, I will defend my state with every authority available to me. President Bush wants Gale Norton to manage the Department of the Interior. I will hold President Bush accountable for his policies and budget decisions.

I believe it's important to leave the door open for discussion, and I trust that Gale Norton will reach out to work with Senator CANTWELL and me on Northwest issues. Given her pledge to work with me and her promises during the confirmation process, I'm voting for Gale Norton with the understanding that we will have a seat at the table on the policies and budgets that will affect us.

Washington state has many environmental challenges. We have the responsibility for recovering endangered species, including salmon, bulltrout, sturgeon, the spotted owl, and the marbled murrelet. The Department of the Interior plays a crucial role in protecting these species on federal lands. If the department does a good job of protecting these species, less of a recovery burden will fall to private property owners. In addition, we must also fund land and forest conservation efforts.

The next Interior Secretary will need to develop innovative partnerships that include Federal, State, local, and tribal governments, along with private property owners and businesses. It is particularly important in Washington state that the Interior Secretary works closely with tribal governments and treats them as equals. Further, I call on Ms. Norton to fill critical posts, including the Director of the U.S. Fish and Wildlife Service, with appointees who are familiar with the unique environmental needs of the Pacific Northwest.

I do want to address President Bush's proposal to open the Arctic National Wildlife Refuge (ANWR) to drilling, a proposal Ms. Norton supports. During the past eight years, I've consistently opposed drilling in ANWR, which the Bush Administration considers a high priority. I remain very skeptical of our ability to drill without threatening or disrupting this pristine area, and I will continue to share my concerns with the Bush Administration.

Throughout the past eight years, we have made great progress in protecting the environment and preserving natural resources while maintaining resource-dependent industries. We need to continue our progress in this fragile balance. Now is not the time to undo the environmental progress made under previous Administrations. Now is the time to look ahead, to work together, and to find creative solutions to the many problems still facing our nation. I look forward to working together with Ms. Norton in the months ahead.

Mr. JEFFORDS. Mr. President, today I rise to comment on the nomination of Gale Norton to the position of Secretary of the Interior, and to explain the reasons why I plan to support her nomination.

The founders of this nation gave the United States Senate an important responsibility when they granted it advice and consent authority over Presidential nominations. Throughout my career in the Senate I have taken this responsibility seriously and have established consistent standards for application of this power, regardless of which political party sits in the White House.

However, not all Presidential nominations are equal. I apply a very different standard to Supreme Court and federal judicial appointments than to political appointees.

Federal judges and Supreme Court Justices receive the highest standard of scrutiny. They are confirmed for life and can only be removed through impeachment by Congress. Justices, by the nature of the job, should be nonpartisan. I subject Judicial nominees to intense review, examining their experience as well as their ideology.

Cabinet and subcabinet appointments receive a different standard of scrutiny. These appointees serve at the will of the President and can be removed from office with relative ease. Unless the nominee is shown, through the nomination and hearing process, to be unfit or unqualified to serve, I believe any President should be allowed to choose his or her cabinet and the Senate should confirm the nomination.

Mr. President, Gale Norton and I may disagree on many issues. However, after two days of hearings by the Senate Energy and Natural Resources

Committee and answers to over 200 questions submitted in writing, she came across as a qualified nominee of integrity and intellect who is committed to upholding current environmental laws, whatever her past opinions. In fact, I have been encouraged by the fact that her nomination was reported to the full Senate by a bipartisan vote of 18–2.

My guess is that today she will receive the votes of a majority of Democrats who, like me, consider themselves devoted environmentalists. My good friend and the ranking member of the Energy Committee, Senator JEFF BINGAMAN, who had earlier expressed concern about the nomination, spoke yesterday on the floor of the Senate and said that Norton had stated her commitment to "conserve our 'great wild places and unspoiled landscapes'" and to enforce endangered species, surface mining and other laws. "I take her at her word," he told the Senate.

I will also take her at her word, and will be watching her actions carefully on the natural resource issues that we Vermonters care so deeply about. In this regard, let me take a moment to lay out my positions and priorities for protecting the natural resources under the purview of the Interior Secretary.

I will not support drilling for oil or natural gas in the Arctic National Wildlife Refuge (ANWR). I continue to believe that the United States' dependence on oil and its byproducts cannot overshadow the importance of keeping ANWR free from the detrimental impacts of oil and natural gas drilling and exploration. Drilling and exploration in this pristine Arctic wilderness could have a lasting impact that would forever damage the environment of this region. Hopefully, we can secure permanent protection for this unique linkage of ecosystems upon which the local communities depend, and the American community as a whole should value as a national and natural treasure.

In order to reduce our dependence on nonrenewable resources like oil and coal, we must consider alternative energy resources, as well as increasing investments in energy efficient technologies and promotion of energy conservation. I have worked to increase our nation's investments in solar, wind and other alternative technologies since founding the Congressional Solar Coalition in 1976. We must make investing in alternative energy sources and energy efficiency a higher priority.

In the past and in the future, many environmental battles come down to funding questions. One of the new Secretary's first responsibilities will be to help draft a Bush Administration budget. She should know already that I am a strong supporter of full funding for the Land and Water Conservation Fund, and I will fight to achieve this goal in the next Congress.

Our National Parks and National Monuments must receive adequate funds to cope with greater use by the American public and to ensure that these treasures and the animals that inhabit them are not loved to death. The Fish and Wildlife Service and the Bureau of Land Management are not agencies we often hear about in the news, but they play a critical role in preserving our native species of plants and animals and they must be adequately funded.

Finally, I have been and continue to be a strong supporter of mining and grazing reform. It is outrageous that a 19th century statute continues to govern what the U.S. taxpayer is paid by companies extracting precious resources from public lands.

As a Senator from the party of President Theodore Roosevelt, and a Senator who represents the beautiful State of Vermont, I believe strongly that we all must be conservationists. I will vote for Gale Norton today because I am confident that she will stand by her promise to enforce the laws that are the responsibility of the Interior Secretary, and will consult with all interested parties in making regulatory decisions. Furthermore, I pledge to be a watchdog to ensure that environmental protection and conservation are not undermined at the Department of the Interior.

Mr. KOHL. Mr. President, I rise today to explain why I have decided to support Gale Norton as the Secretary of the Interior. It is not because I agree with her on every issue. In fact, on many issues we disagree. She supports expanding the extraction of resources on federal lands, including allowing drilling in the Arctic National Wildlife Refuge. I do not. In the past, she has supported greater exploitation and commercialization of our public lands, and that troubles me. While I agree that public lands can have mixed uses, I am concerned that Ms. Norton will swing the pendulum too far in favor of industry. Her attitudes, however, fairly represent those of the President, and President Bush has the right to appoint a Cabinet that is a reflection of his beliefs.

While I am concerned about her past writings and beliefs about the role of the Federal government in managing federal lands and conserving natural resources, she has pledged to the Senate to uphold the law as it is currently formulated by the Congress and interpreted by the courts. She has told the Senate that her thinking on issues like global warming has changed. She now says that she supports the Endangered Species Act, and the right of the Federal government to intervene on private lands to protect wildlife from extinction. I will take her at her word and give her the opportunity to serve as our nation's leading conservationist.

Ms. Norton's opponents have compared her to James Watt, for whom she once worked, but I hope she learned well from his term as the Secretary of the Interior. I hope she learned the lesson that the American people will not tolerate an extremist anti-environment agenda. Americans have embraced a moderate environmental agenda that protects, nurtures, and manages our lands in the public interest, and not for the private benefit of a few. This country will not allow an Administration to abuse that public trust.

Secretary Watt damaged not only the Department of the Interior and our public lands, but the Administration that he served. President Bush has spoken at length about bi-partisanship and bringing this country together. Nothing will evaporate the spirit of bi-partisanship faster than vigorously pursuing an anti-environmental agenda.

So I believe that Ms. Norton should be given the opportunity to serve as Secretary of the Interior, but she will be watched carefully by Congress and private organizations. She needs to prove to many that she will be a faithful steward of our natural riches and properly balance development with conservation.

Mr. HATCH. Mr. President, I would like to take just a moment to give my full and heartfelt support to Ms. Gale Norton as our new Secretary of the Interior. It gives me great pleasure and some hope that our national land management policies will be more balanced and will take local views into account that she has been confirmed today.

I congratulate President George W. Bush for putting forward this outstanding nominee. Clearly, one of the first impressions our new president has made on the nation is that he is willing to seek out and surround himself with the most capable administrators our nation has to offer. If anyone wishes to know why Gale Norton is such a great nominee, just look at what her worst critics are not saying about her. No one has questioned her intelligence; no one has questioned her qualifications; and no one has questioned her ability to work with all sides on an issue. Some may question her views on the issues, but that is to be expected in a change of government.

Mr. President, Gale Norton understands what Utahns have always known, but what the last administration was unwilling to acknowledge: that the environment and our public lands belong to the people, not to federal bureaucrats. Gale Norton seems to believe, like I do, that some power should be returned to our state and local communities who have the greatest interest and the greatest stake in protecting their environment.

There will always be a role for our federal government in protecting our environment and our federal lands. But our federal government cannot be effective when it fails to listen to the needs of the people it is supposed to serve. After the last eight years of increasing all viewpoints will be a breath of fresh air. I urge all of my colleagues, today, to join me in confirming Gale Norton as the Secretary of the Interior.

Mr. BIDEN. Mr. President, I rise today in opposition to the confirmation of Gale Norton as Secretary of the Interior. I do not reach this decision easily. However, I do not have the confidence that Ms. Norton will bring the necessary balanced approach that should be required for this position.

I have discussed the important and special role that the Secretary of the Interior performs in this country when the Senate has considered other nominees to this office. In 1983, I described the office of the Secretary of the Interior as:

> The chief environmental officer of the United States as well as the conservator, trustee and steward of the public lands and natural resources. At the same time, the Secretary is expected to promote and direct the reasonable and efficient use of those lands and natural resources, in ways which do not conflict with his primary environmental responsibilities. And the American people, those who wish to preserve those lands and resources as well as those who wish to develop them, expect that the Secretary will bring to bear an appropriate expertise, experience and balanced temperament on the wide variety of issues he is called upon to decide.

I do not question that Gale Norton has a great deal of experience and knowledge about the matters that will come before her. However, I am concerned that her record fails to indicate a "balanced temperament on the wide variety of issues she will be called upon to decide."

From her earlier attacks on the Surface Mining Act and Endangered Species Act to positions she has taken to undermine implementation of the Clean Air Act and Clean Water Act, her judgments evidence a pattern that calls into question exactly how she will view her responsibilities as the steward of our public lands when she is called upon to make decisions about their appropriate use. The position of Secretary of the Interior is too important to entrust to someone whose record does not convey a commitment to the preservation of our public lands and natural resources.

For these reasons, I will cast my vote against the confirmation of Ms. Norton.

Mr. LEAHY. Mr. President, I rise today to express my opposition to the nomination of Gale Norton to be Secretary of the Interior. While I am not a member of the Energy Committee that held hearings on the nomination, I have closely reviewed her record and her testimony.

The Secretary of the Interior is the steward of our country's natural resources and public lands. Any nominee for this position should be selected for their commitment to protecting our precious resources as well as their dedication to uphold and enforce our environmental laws.

After reviewing the record of Gale Norton there is little doubt that she is an intelligent and dedicated public servant who has strong convictions about issues that concern the Department of the Interior. On the one hand, I commend her commitment to her strong ideological views. However, it is this unyielding commitment to those strongly held beliefs that makes me question whether she will be able to set those views aside and consider the views of all Americans as we debate important issues concerning the natural resources.

As our country continues to prosper, the Secretary of the Interior will oversee a number of ongoing debates concerning public lands and the protection of endangered species. There is no single solution that can serve as an answer to land management issues in each region of our country. There are many stakeholders with a wide variety of views on how we protect, access and use our natural resources. We in Vermont and New England are deeply concerned about pressure being placed on our natural resources from rapid growth. We Vermonters also have concerns that environmental standards should be strictly enforced for our lands, air, water and threatened species.

The record of Gale Norton provides important insight on how she will interpret laws and weigh the views of stakeholders concerning our natural resources. These beliefs have been remarkably unwavering.

Based on the record I must vote against this nomination. However, if Gale Norton is confirmed, you can be sure that I will work closely with her on a variety of issues that are important to Vermonters. I will work with her to try and foster consensus not only in our region but also throughout the country.

Mr. DASCHLE. Mr. President, Gale Norton has a long public record and has written extensively on environmental issues over her career. I have reviewed that record and understand the concerns of those who have asked whether, as Secretary of the Interior, she would implement and defend environmental laws, many of which she has challenged or questioned in the past.

That is the core question surrounding this nomination. It was put to Ms. Norton in a number of ways by members of the Committee on Energy and Natural Resources.

Ms. Norton testified that she is a "passionate conservationist" who will enforce the law as interpreted by the courts. I will vote to confirm her nomination, but I don't discount the seriousness of the concerns raised by her opponents. I intend to monitor closely her stewardship of the Department of the Interior.

The duties of the Secretary of the Interior are profound, and have serious implications for the health of our nation's environment and the quality of life for millions of Americans. The Secretary is the primary guardian of the Endangered Species Act, our nation's flagship law for protecting plant and animal species threatened with extinction. The Secretary also is charged with administering most of our nation's public lands, including places of extraordinary beauty and fragility such as Yellowstone National Park.

As Ms. Norton undertakes these responsibilities, it is my hope and expectation that she will follow the pragmatic approach reflected in her testimony before the Committee on Energy and Natural Resources. Her success as Interior Secretary will be measured by the degree to which she maintains this balanced approach to environmental and natural resource issues.

Our nation's environmental laws, including the Endangered Species Act and the National Environmental Policy Act, must be enforced fully, as they have been interpreted by the courts.

In managing our natural resources, we should respect the views of local residents, but we must also recognize that the American people own these lands and that the Secretary must uphold the public interest as a whole.

Ms. Norton has expressed confidence in the efficacy of allowing industries to police themselves when it comes to protecting the environment. History has shown too often that this approach fails to protect the public interest. Summitville, Colorado, is only one example of how insufficient oversight has led to environmental disaster. The map of the United States is dotted with other examples. It is my hope that, through this confirmation process and through her experience in public office, Ms. Norton has gained a better appreciation of the fact that the Secretary of the Interior's trust includes active enforcement of the nation's environmental laws.

It is particularly important to me that Ms. Norton fully implement the biological opinion written by the U.S. Fish and Wildlife Service regarding the management of the Missouri River. The Fish and Wildlife Service has found that, unless the Corps of Engineers makes major changes in the operations of federal dams on the river, it will be in violation of the Endangered Species Act. Ensuring that the Corps makes the needed changes in the operations of the dams is a top priority for the upper Midwest, and for me personally. It is imperative that Secretary Norton follow through on the Fish and Wildlife Service recommendations so that they are adopted by the Corps.

I also hope to work with Secretary Norton to preserve small wetlands and native prairie in South Dakota, both of which provide important habitat for wildlife. Tallgrass prairie preservation has been a remarkable success in my state, and the number of farmers seeking to participate in the program has outpaced the amount of available funding.

Finally, I want to work with Secretary Norton to strengthen the Bureau of Reclamation. Vast areas of South Dakota lack potable drinking water. Federal projects funded by the Bureau of Reclamation such as the Mni Wiconi, Mid-Dakota and Lewis and Clark rural water systems are critical to the public health and economic vitality of our state. At current funding levels, however, it will be years before these projects can be completed. I urge the Secretary to give these projects the priority treatment they deserve.

Ms. Norton faces some significant policy challenges at the Department of the Interior. I expect we will have our differences, such as on President Bush's support for opening the Arctic National Wildlife Refuge for oil exploration and drilling. On those issues I anticipate a spirited debate. On many other issues, I am certain we will work closely together to protect and manage our nation's natural resources and honor our trust responsibilities to tribes.

Gale Norton has my congratulations on her nomination and confirmation as Secretary of the Interior.

Mr. LOTT. Mr. President, I rise today to speak in support of the nomination of Gale Norton to be the next Secretary of the Department of the Interior. Clearly the Senate Energy and Natural Resources Committee hearings on Gale Norton's nomination have revealed that she is a vivacious lawyer who contemplates and explores ideas. Concepts matter to her, and more importantly she has the management ability to turn concepts into public policies which have both enhanced compliance with environmental laws and respected the responsible stewardship of citizens who live on the land. Gale Norton knows there must be a balance and this will make her invaluable for America's conservation programs and for all our communities.

Too often, some environmentalist groups only offer false choices. They only want a policy choice which pits the environment against citizens and industry. This is unacceptable. Some environmentalist groups also only want Washington "experts" making the decisions. Well, Gale Norton has repeatedly shown her commitment to a safe and clean environment through consensus building. For over 20 years, she has brought people together with different views to overcome problems dealing with environmental and Federal land issues.

I have little doubt that Americans will see for themselves that Gale Norton will serve with a steady, firm and fair hand as our Nation's next Secretary of the Interior. I firmly believe our Nation's treasures will be both protected and improved.

Americans will quickly discover just how harshly inaccurate many special interest groups' characterizations of her have been. Gale Norton has shown the grace and resolve that will help her restore the unanimity at the Department of the Interior.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Is there a couple minutes remaining before the vote?

The PRESIDING OFFICER. There are 3 minutes remaining.

Mr. THOMAS. I yield to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have spoken at length about the Interior Secretary nominee and also about our other nominee today, but I have not had a chance to say anything about the Environmental Protection Agency and the nominee, Christine Todd Whitman. I am very proud to make a statement for the RECORD that expresses my views.

Mr. President, "just as houses are made of stones, so is science made of facts; but a pile of stones is not a house and a collection of facts is not necessarily science." For the past 8 years I have questioned numerous collections of facts put out by the Environmental Protection Agency in the name of science. That is why I strongly support President Bush's nomination of Christine Todd Whitman as the new Administrator of the Environmental Protection Agency.

President Bush has endorsed Christie Whitman as a person who understands the importance of a clean and healthy environment and who will ensure that environmental regulations are based, not merely on assembled facts, but on solid, sound science. Sound science has been left out of the regulation equation too often over the past 8 years. A prime example is the new arsenic standards proposed last week. These standards were not based on sound science and they were not implemented to increase health benefits, they were put into effect because it was the politically expedient thing to do.

Arsenic is naturally occurring in my home state of New Mexico. I have not seen reasonable data in support of increased health benefits from these lower standards. I have only seen a collection of facts from studies conducted outside of the United States. New Mexicans will not see appreciable health benefits; they will see their water bills double and will be forced to endure financial hardship.

Ms. Whitman has been an advocate of clean water, clean air and clean shores and while I know that she will continue to promote these things for all Americans, I am excited about the way she will champion these causes. I believe that she will promote scientifically valid initiatives to ensure that we have clean water, clean air and clean shores.

In conjunction with sound scientific, Ms. Whitman also understands that better results can be achieved through a more cooperative, rather than a confrontational, approach with the regulated community. This too is consistent with the beliefs and philosophies of President Bush. President Bush has said that the federal model of mandate, regulate, and litigate needs to be modernized. Americans need to be rewarded for innovation and results when it comes to protecting the environment.

Christie Whitman has worked extensively on environmental issues during her service as the New Jersey Governor. She has demonstrated her commitment to a safe and clean environment and shows that she is willing to bring all parties together in an effort to find solutions to complex environmental issues. She exemplifies the qualities of a consensus builder, not a divider.

Environmental issues continue to be some of the most complex and contentious and require a leader who can balance various competing interests. Christie Whitman will bring this type of leadership into the Environmental Protection Agency.

It is time to base our regulations on more than just a collection of facts. It is time to work together and to search for solutions that are based on scientifically valid facts. I look forward to working with Ms. Whitman in doing just that.

As I have said, the Secretary of the Interior has important jobs besides just the Interior Department's functions. I say the same about Christine Todd Whitman. She will have a tough job because America is in an energy crisis. That means every Department of our Government is going to have to start looking not only at their policies but how do their policies affect America's energy future? She will have a difficult job because that has not been the case at EPA in the past. So I bid her well. I hope she has a very successful term because if she does, we will. If she adjusts some of her rulings to a bigger problem, and can make some cost-benefit assessments that are good for the environment, but also for energy, the energy supply, I think that will be a marvelous achievement.

Mr. President, I ask for the yeas and nays on the nominations.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is, Will the Senate advise and consent to the nomination of Gale Ann Norton to be Secretary of the Interior? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN) is necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 24, as follows:

(Rollcall Vote No. 6 Ex.)

YEAS—75

Akaka
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cochran
Collins
Conrad
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kohl
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reid
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—24

Bayh
Biden
Boxer
Cleland
Clinton
Corzine
Dayton
Durbin
Edwards
Harkin
Kennedy
Kerry
Leahy
Levin
Lieberman
Mikulski
Reed
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NOT VOTING—1

Dorgan

The nomination was confirmed.

Mr. LOTT. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Let me make sure I understand. The vote was completed. The vote was announced, and has been dispensed with; is that correct?

The PRESIDING OFFICER. The Senator is correct and the nomination was confirmed.

Mr. LOTT. Have the yeas and nays been asked on the next vote?

Mr. BYRD. Mr. President, may we have order.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order. Those having conversations will take their seats or remove themselves from the floor.

Mr. LOTT. Mr. President, have the yeas and nays been ordered on the second vote on nominations?

The PRESIDING OFFICER. They have not.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, before we proceed, I ask unanimous consent that following the time allocated immediately following the back-to-back votes, the Senate proceed to a period of morning business in order to debate the nomination of Senator Ashcroft to be U.S. Attorney General and the time between then and 9 o'clock tonight be equally divided between the two leaders or their designees. Further, I ask unanimous consent the next vote be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. There was so much noise, I do thank the distinguished senior Senator from West Virginia for asking for order.

I did not hear the first part of the statement of my friend from Mississippi. We begin the debate on the Ashcroft nomination prior to even voting it out? Or was it in morning business?

Mr. LOTT. It was in morning business.

Mr. LEAHY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF CHRISTINE TODD WHITMAN TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY—Continued

The legislative clerk read the nomination of Christine Todd Whitman, of New Jersey, to be Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christine Todd Whitman, of New Jersey, to be Administrator of the Environmental Protection Agency? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Dorgan

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action on these nominations.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time under the agreement and under the rule of the day. It is my understanding the time now will be designated primarily for statements related to the Ashcroft nomination. There may be other comments and other remarks to be made about other issues, but it is my intention to make some remarks with regard to the Ashcroft nomination.

NOMINATION OF JOHN ASHCROFT

Mr. DASCHLE. Mr. President, in 14 years in the Senate, I have voted on 36 Cabinet nominations: 24 by Republican Presidents and 12 by a Democratic President. Of all of them, this one is by far the most difficult. I have struggled with this decision, as have most of us.

I have spent many hours thinking about what I have heard and read. I have reviewed the words of our founders, and I have searched my memory and my conscience.

In his inaugural address, President Bush pledged to "work to build a single nation of justice and opportunity" for all Americans. I think most Americans share that desire.

That is why this vote is so important.

John Ashcroft is a man of considerable accomplishment. He is a graduate of Yale and the University of Chicago Law School, a former State auditor, State attorney general, and a former Governor.

Beyond that, he is a former Member of this Senate. Many of us have worked with him for a number of years.

The question facing us, however, is not: Does John Ashcroft have an impressive resume? Clearly, he does.

The question facing us is: Is John Ashcroft the right person to lead the United States Department of Justice?

The Attorney General is more than "the President's lawyer." He is the guardian of the constitutional rights of all Americans—the protector of our fundamental freedoms.

The Attorney General of the United States has enormous power. He advises the President and every other Cabinet member—on whether their actions are constitutional. He has enormous authority to decide which laws are enforced, and to what extent.

The Attorney General decides how—and whether—to intervene in court cases. He is responsible for screening and recommending nominees for the Federal bench, including the Supreme Court.

Because of his enormous authority and discretion, the Attorney General—more than any other Cabinet member—has the power to protect, or erode, decades of progress in civil rights in America.

I believe the President has the right to choose advisers with whom he is philosophically comfortable.

That is why—out of 36 Cabinet nominations, I voted so far on 35, "yes." The only nominee I voted against was John Tower. I think we are all aware of the problems with that nomination.

My respect for the President's right to choose his own Cabinet is also a good part of the reason I have voted to confirm every other nominee this President has sent us.

At the same time, the Senate has a right—and a responsibility to evaluate the President's nominees; offer advice; and either grant—or withhold—its consent.

How do we decide whether to confirm—or reject—a Cabinet nominee? Our Founders, unfortunately, gave us no constitutional guidelines. The "appointments clause" of the Constitution says only that the Senate has the power of advice and consent. It does not specify how we should decide.

During his 6 years in this body, Senator Ashcroft had his own standard. He made it clear he believes Presidential appointees can—and should—be rejected for ideological reasons. That is the standard he used in blocking Bill Lann Lee's nomination to head the Justice Department's Civil Rights Division.

As Senator Ashcroft put it at the time: Mr. Lee "obviously (has) a strong capacity to be an advocate. But his pursuit of objectives important to him limit his capacity to make a balanced judgment."

Some might say it is fair to hold Senator Ashcroft to that same standard. And they might be right. But I choose a different standard.

In Federalist No. 76, Alexander Hamilton said there must be "special and strong reasons" for Senators to reject a Presidential nominee.

Rarely has that standard been met. Out of more than 900 Cabinet nominations that have reached this floor, the Senate has rejected only five.

Only one nominee for Attorney General has ever been rejected on the Senate floor; and that was 76 years ago.

Nearly 30 years ago, Archibald Cox was the special Watergate prosecutor—until President Nixon had him fired for doing his job too well. Before that, he was Solicitor General of the United States.

He has said that the best way to judge what sort of Attorney General a person will make is not by listening to the nominee's promises about the future. It is by examining his past.

In his words:

> Respect for the law—the fairness with which the law is administered—is the foundation of a free society. The individual who becomes Attorney General can do more by his past record . . . than by his conduct in office . . . to strengthen or erode confidence in the fairness, impartiality, integrity and freedom-from-taint-of-personal-influence, in the administration of law.

Is John Ashcroft the right person to lead the Justice Department? Or are there "special and strong" reasons that make his appointment as Attorney General unwise? The answer is not in his heart. It is in his long public record.

Senator Ashcroft has been a public official for nearly a quarter of a century.

Throughout his career, he has been a fierce advocate for his beliefs. Those beliefs—on civil rights, on women's rights, workers' rights, separation of church and State, and many other issues—put him far to the right of most Americans.

Senator Ashcroft and his supporters argue that his past activism does not matter. Legislators write laws, they say. Attorneys general simply enforce the laws that are on the books.

It is an interesting distinction. But in 8 years as Missouri's attorney general, it is not a distinction John Ashcroft made.

For 8 years as Missouri's attorney general and 8 years after that as Governor, John Ashcroft prevented efforts to end segregation of public schools in St. Louis and 23 surrounding communities.

The Federal court system found the State responsible for the segregation, and ordered it to correct its sad history. John Ashcroft fought nearly every one of those orders. Three times in 4 years, he appealed all the way to the U.S. Supreme Court. Each time, he lost.

When St. Louis and the surrounding communities agreed on their own to a voluntary desegregation plan, Attorney General Ashcroft used the power of his office to block it. His obstruction provoked one judge in the case to threaten him with contempt. Today, he insists that his opposition was just a matter of guarding the public till.

But in 1984, when he ran for Governor, John Ashcroft denounced the voluntary desegregation plan as "an outrage against human decency."

According to the St. Louis Post Dispatch, he and his opponent in the 1984 Republican Gubernatorial primary competed "to see who could denounce desegregation most harshly . . . exploiting and encouraging the worst racist sentiments that exist in the state."

His continued defiance as Governor caused another judge in the case—a Republican appointed by President Reagan—to conclude that "the State is ignoring the real objectives of this case—a better education for city students—to personally embark on a litigious pursuit of righteousness."

John Ashcroft's 16-year fight to prevent the voluntary desegregation cost Missouri taxpayers millions of dollars. Worse than that, it cost many children their right to a decent education.

So much for the distinction between writing laws, and merely enforcing them.

In addition, Attorney General Ashcroft vigorously opposed the Equal Rights Amendment.

When the National Organization for Women urged a boycott of Missouri and other States for failing to ratify the ERA, Attorney General Ashcroft ignored settled legal precedent and stretched antitrust laws to sue the organization. He used taxpayer dollars to take the case all the way to the U.S. Supreme Court. The Court ruled that NOW members were simply exercising their fundamental, constitutional right to free speech.

Governor Ashcroft also twice vetoed voting-rights bills that would have allowed trained volunteers to register voters in the city of St. Louis—just as they did in neighboring suburbs, where there were more white and Republican voters.

Earlier this month, in his opening remarks before the Judiciary Committee, Senator Ashcroft described himself as "a man of common-sense conservative beliefs." The truth is, there is nothing common about his conservatism.

Here in this Senate, he demonstrated what the New York Times called "a radical propensity for offering constitutional amendments that would bring that document into alignment with his religious views."

In more than 200 years, our Constitution has been amended only 27 times—including the 10 amendments of the Bill of Rights. In his one term in this Senate, John Ashcroft introduced or cosponsored seven constitutional amendments. One of his amendments would have radically rewritten the rules to make it easier to amend the

Constitution. Another would have made abortion a crime, even in cases of rape and incest, and even when continuing a pregnancy would result in serious and permanent injury to a woman. It also would have banned most common forms of birth control.

By his own account, Senator Ashcroft was "probably more critical than any other individual in the Senate" of Federal judges. He has vilified judges with whom he disagrees as "renegade judges, a robed and contemptuous elite."

He frequently opposed qualified Presidential nominees. He opposed both Dr. Henry Foster and Dr. David Satcher for Surgeon General because they supported President Clinton's position on a woman's right to choose. In Dr. Foster's case, he prevented the nomination from ever reaching the Senate floor.

In 1998, when James Hormel was nominated to serve as U.S. Ambassador to Luxembourg, Senator Ashcroft said he opposed the nomination because Mr. Hormel "has been a leader in promoting a lifestyle."

While Senator Ashcroft never met with Mr. Hormel to discuss his qualifications, he now asserts vaguely that it was the "totality" of Mr. Hormel's record that prompted his opposition.

Then-Senator Al D'Amato—a member of Senator Ashcroft's own party—saw a different reason.

In a 1998 letter to Senator LOTT, Senator D'Amato wrote: "I fear Mr. Hormel's nomination is being held up for one reason and one reason only: the fact that he is gay."

Senator Ashcroft blocked Bill Lann Lee's nomination to head the Justice Department's Civil Rights Division because of Mr. Lee's views on affirmative action.

Just as Senator Ashcroft assures us that he will enforce laws with which he disagrees, Mr. Lee assured members of the Judiciary Committee that he would enforce Supreme Court rulings restricting affirmative action.

Senator Ashcroft refused to accept that assurance. Perhaps the most troubling for me personally is Senator Ashcroft's treatment of Judge Ronnie White, the first nominee to the Federal district court to be rejected on the Senate floor in 50 years.

Judge White grew up in a poor family and worked his way through college and law school. He is a former prosecutor, State legislator, circuit judge, and member of the Missouri State appeals court. He is the first African American ever appointed to the Missouri Supreme Court. In 1997, he was nominated to be a U.S. district court judge. For 2 years, Senator Ashcroft blocked Judge White's nomination from coming to the Senate floor. The wait lasted so long that the seat for which Judge White was nominated was officially declared a judicial emergency.

When Judge White's nomination finally did come to the floor, Senator Ashcroft misled the Senate and deliberately distorted his record. For me, that day was one of the saddest in all of my years in the Senate.

John Ashcroft smeared Judge White as "pro-criminal and activist," a man with a "tremendous bent toward criminal activity." Nothing could be further from the truth.

Stuart Taylor who writes for the conservative National Journal magazine writes that John Ashcroft's treatment of Judge White alone makes him "unfit to be Attorney General."

"The reason," Taylor writes, "is (that) during an important debate on a sensitive matter, then-Senator Ashcroft abused the power of his office by descending to demagoguery, dishonesty and character assassination."

I do not believe John Ashcroft's treatment of Judge White was motivated by racism. I believe it was plain political opportunism. In the heat of a tough reelection battle, John Ashcroft was willing to try to distort the record and destroy the reputation of a good man. To this day, Senator Ashcroft continues to misrepresent Judge White's record and insist that he himself did nothing wrong.

The job of Attorney General demands fairness, judgment, tolerance, and respect for opposing views. It demands commitment to equal rights for all Americans and a sensitivity to injustice. John Ashcroft has shown a pattern of insensitivity through his public career. Even now he refuses to disavow Southern Partisan Quarterly Review, a magazine that has defended slavery. He refuses to distance himself from Bob Jones University, a cauldron of intolerance that has described Mormons and Catholics as "cults which call themselves Christian."

Senator Ashcroft has said there are only "two things you find in the middle of the road: a moderate and a dead skunk." I think he is wrong. The other thing you find in the middle of the road is the vast majority of the American people.

An article in the December 23 New York Times quoted an adviser to President Bush as saying:

> Attorney General was the one area where the right felt very strongly, a la Ed Meese. This is a message appointment.

The adviser described it as a signal to the conservatives that "I hear your concerns."

What message does making John Ashcroft Attorney General send to the rest of America? What message does it send to women or to minorities? What message does it send to judges and others who may not see the world exactly as John Ashcroft sees it? What message does making John Ashcroft Attorney General send to Americans who fear their votes don't count and aren't counted?

John Ashcroft has said:

> There are voices in the Republican Party today who preach pragmatism, who champion conciliation, who counsel compromise. I stand here today to reject those deceptions. If ever there was a time to unfurl the banner of unabashed conservatism, it is now.

I say, if ever there was a time to unfurl the banner of conciliation, it is now. Senator Ashcroft is a man of intellect and passionate beliefs. I am sure there are many ways he can serve the causes in which he believes so fiercely, but I do not believe it is fair or reasonable for us to expect him to fully enforce laws he finds unwise, unconstitutional, and, in some cases, morally repugnant.

How can John Ashcroft enforce laws he has spent his entire public career fighting? What would that say about him if he did?

I have turned this over in my head a hundred times. Every time the answer is sadly the same: I do not believe John Ashcroft is the right person to lead the U.S. Department of Justice. For that reason, I will vote no on this nomination.

In his inaugural address, President Bush spoke of the "grand and enduring ideals" that unite Americans across generations. "The grandest of all these ideals," he said, "is an unfolding American promise that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born."

I applaud the President's words, but I cannot reconcile them with this nomination. John Ashcroft spent 6 years in the Senate mocking bipartisanship. To require that we confirm him now as proof of our bipartisanship and good faith is asking too much.

I thank Senators LEAHY and HATCH and members of the staff of the Judiciary Committee for conducting a full and fair hearing. I thank the many witnesses and people all across our Nation who made their voices heard on this critical nomination.

In closing, regardless of what we decide, I hope we will all remember what this debate is about. It is not about partisan politics. It is not about whether we are willing to work with this President. It is about justice.

Nearly a century ago, another Republican, President Theodore Roosevelt, heard rumors that the district attorneys and marshals in a particular State would be ordered to replace their deputies for political reasons. Immediately President Roosevelt sent a letter to his Attorney General, a man named William Moody, demanding that the plan be stopped. As he put it:

> Of all the officers of the Government, those of the Department of Justice should be kept free from any suspicion of improper action on partisan or factional grounds.

He went on to say:

> I am particularly anxious that the federal courts . . . should win regard and respect for the people by an exhibition of scrupulous

> nonpartisanship, so that there shall be gradually a growth—even though a slow growth—in the knowledge that the Federal Court and the Federal Department of Justice insist on meting out even-handed justice to all.

That was in 1904.

Over the course of the 20th century, we made great strides in assuring that America's courts and Justice Department are indeed committed to even-handed justice for all. Now, as we begin the 21st century, is not the time to turn the clock back.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. REID. Will the Senator withhold for a unanimous consent request?

Mr. INHOFE. Yes.

Mr. REID. Mr. President, we are in a time for morning business. In an effort to have Senators know what is next, I ask unanimous consent that Senator INHOFE be recognized next for up to 15 minutes or whatever time.

Mr. INHOFE. Maybe a little bit longer.

Mr. REID. Senator INHOFE for 25 minutes. Following that, the Senator from Michigan, Ms. STABENOW, be recognized for 15 minutes; following that, Senator BUNNING be recognized for up to a half hour; following that, Senator HARKIN be recognized; and following that, Senator MURRAY from Washington be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma.

Mr. REID. Mr. President, I was just advised that I failed to mention Senator JACK REED in the mix, and we want him to follow Senator BUNNING in the same order, if there is a Republican who needs to speak in between Senator REED and Senator HARKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I was listening very carefully during the entire presentation of our very illustrious minority leader, immediate past majority leader. I had a hard time figuring out who he was talking about.

I am 66 years old, and I have been involved in virtually every kind of political job. I have been involved for 30 years in the private sector. I don't believe I can stand here and think of one person I have ever met in my entire life who is a more honorable person, who is totally incapable of telling a lie, than John Ashcroft.

I have watched him take courageous stands for things he believes in, yes, but he always tells it exactly the way he believes it. That is not the question here. We are talking about a law enforcement officer. We are talking about the chief, the guy at the top.

When I have heard people say that he will not uphold the rule of law, I am reminiscent of the last 8 years, certainly Janet Reno and the Clinton administration. We have been waiting for her to uphold the law, to prosecute people, and not to let people off just because they may be friends of the administration.

I have watched her refuse to go after campaign fundraising abuses, refuse to appoint an independent counsel where it is required by law, reject advice by Louis Freeh and Charles LaBella, refuse to prosecute Gore's White House phone calls, questionable plea bargains with John Huang, Charlie Trie. I have watched the theft of nuclear secrets, watched the botching of the investigation of Wen Ho Lee. I have watched this Attorney General refuse to vigorously enforce gun laws. Gun prosecutions went down under the Reno administration.

We could think of a lot of examples. One that comes to mind, I happen to be in a Bible study with a man named Chuck Colson, who occasionally comes by. I got to know him quite well. I think most Americans know who Chuck Colson is. Chuck Colson violated the law back during the Watergate era. He disclosed confidential information and leaked it to the media. As a result of that, he was found guilty and he served time, was prosecuted and went to prison in a Federal penitentiary.

Ken Bacon did exactly the same thing. I have stood on this floor on three different occasions and talked for about 40 minutes just on this particular case, that during the Linda Tripp case, Ken Bacon did in fact release confidential information to the media. And as a result of that, this person was taken out of consideration in terms of credibility.

There is no reason in the world. The law hasn't changed. If anything, it is stronger than it was at that time. But there is no reason in the world that if Chuck Colson was prosecuted 25 years ago and spent time in the Federal penitentiary, Ken Bacon should not have been prosecuted and sent to the penitentiary exactly as Chuck Colson was.

There is an accusation that John Ashcroft would not uphold the law. I am not saying he should be just a little bit better than our previous Attorney General, Janet Reno, has been. He has to be much, much better. But there is certainly no comparison.

As far as Ronnie White is concerned, I think it is important that we not try to paint John Ashcroft as being any kind of racist. During the time he was in the positions that he held in the State of Missouri, he supported 26 of the 27 black judges. It is my understanding that he supported more black judges during his administration than anyone had before him.

As far as Ronnie White is concerned, I listened to him testify before the committee, and I was wondering why certain things were not said that should have been said, because after going back and reading the case—I believe the name is James Johnson—where this individual had gone out and had violently murdered a sheriff, in the same night a deputy sheriff, in the same night another deputy sheriff, and then, if that weren't enough, went to a person's home where they were having a Christmas party and in the process of praying brutally murdering the wife of one of the sheriffs, White was the lone dissenter in the death penalty case involving that man who brutally murdered four people.

On the same day that the nomination came to the floor, I heard this story. I voted against Ronnie White mostly because of that case.

But I have to say this. I don't think many of us here who were not on the Judiciary Committee knew that Ronnie White was black. This is the thing that shocked everyone. One of the Senators said this: The first time I realized that he was black is when someone took the floor and said this was a result of racism. I know this isn't true.

There is one thing I want to clarify. I think it is important during the next few hours that each one of these allegations be responded to because there is an assumption out there that is true. I am going to respond to one in kind of an unusual way about James Hormel.

I almost 3 years ago on the floor of this Senate made a speech. It was on May 22, 1998. I heard some comments by one of my favorites in the Senate. I have to say this. When Patrick Moynihan was in the Senate, I always referred to him—he was my nextdoor neighbor—as my favorite liberal. Since he is gone, I think I will refer to PAUL WELLSTONE as my favorite liberal. He and I have found that we don't agree on too many things, but he made some comments concerning my opposition to James Hormel.

It has been stated several times on this Senate floor, and I think in the hearings also, that John Ashcroft was the one responsible for James Hormel not getting legitimately confirmed. I am here to say today that it was not John Ashcroft; it was I.

I am going to read the RECORD where I thanked the Senator from Minnesota, Mr. WELLSTONE, for some comments he made, and I also said what we might do since we are both sharing time was that I would speak first and he could respond afterwards.

Some statements were made on the floor yesterday concerning the hold I have on James Hormel to be Ambassador to Luxembourg. It is true I have a hold on James Hormel. This is I, myself, speaking almost 3 years ago. It was not John Ashcroft, it was I.

There very well may be a vote on this individual, but I will oppose his nomination, and I want to stand and tell you why.

Statements were made on the floor by the senior Senator from Minnesota, Mr. WELLSTONE. I will read excerpts from it.

> Now, one of my colleagues, and I think it is extremely unfortunate, one of my colleagues has compared Mr. Hormel, a highly qualified public servant and nominee, to Mr. David Duke, who, among other credentials, is a former grand wizard of the Ku Klux Klan.

He goes on to say:

> I want to say to my colleagues, that given this kind of statement made publicly by a United States Senator, this kind of character assassination, it is more important now than ever that this man, Mr. Hormel, be voted on.
>
> In defense, really, of the senior Senator from Minnesota, I say that if I had said what he thought I said, he was certainly entitled and justified to make the statements that were made. But I think it is important to know that I did not make those statements in the context that he believed I made them.
>
> Let me, first of all, say that there probably are not two Members of the U.S. Senate who are further apart philosophically than the senior Senator from Minnesota and myself, I would probably, in my own mind, believe him to be an extreme left-wing radical liberal and he believes me to be an extreme right-wing radical conservative. And I think maybe we are both right.
>
> But one thing I respect about Senator WELLSTONE is he is not a hypocrite. He is the same thing everywhere. He is the same everywhere. He honestly believes that government should have a more expanded role. He is a liberal. I am a conservative.

Having said that, let me go back and talk a little bit about what he had actually said. I made the statement when I was running for office—and I have been consistent with that—that if I get to the Senate where I have the opportunity to participate in the confirmation process, I will work to keep the nominee from being confirmed if that individual has his own personal agenda and has made statements publicly to the effect that he believes strongly in his personal agenda and will use that office to advance the personal agenda more than he will the American agenda.

In the case of James Hormel, a gay activist, he made statements in the past, which I will read in a moment, that have led me to believe that his personal agenda is above the agenda of the United States. As I said, the same thing would be true if it were David Duke. If he were up for nomination, I would oppose him because I believe he would have his agenda above the agenda of America. Maybe with Patricia Ireland it would be the same thing, Ralph Reed, who started the Christian Coalition. Maybe if he were up for nomination and he made the statement that he would use that nomination, whether it be ambassadorial or anything else, to advance his own agenda, I would oppose it. Yet I agree with his agenda.

I would also like to quote someone who I think is familiar to all of us and whom we hold here in very high esteem, Faith Whittlesey, former U.S. Ambassador to Switzerland. She was talking about this trend of trying to put people with their own personal agendas in the various embassies. She said:

> Ambassadorial appointments should not be used for the purposes of social engineering in the countries to which the ambassadors are assigned.

One of the many statements I have made previously about James Hormel that led me to the conclusion he wanted to use his position to advance the agenda was the following statement he made June 16, 1996. He said:

> I specifically asked to be Ambassador to Norway because, at the time, they were about to pass legislation that would acknowledge same-sex relationships, and they had indicated their reception, their receptivity, to gay men and lesbians.

I believe he was implying and there is no question in anyone's mind that he was saying he was going to use that job to advance his own agenda. I think it is important that we understand that.

I would like to repeat what I just said. It was 3 years ago.

As we listen to the confirmation hearings and hearing the speeches on the floor, whoever it was who said that John Ashcroft was the one who blocked and attempted to block the confirmation of James Hormel, they are wrong. I am the one. It was not he.

I think there is a more serious thing here. I don't think it is the issue so much of James Hormel, or of abortion, or of discrimination. We are always shocked when we hear about repercussions in places such as Sudan and China. People are enslaved for their religious belief.

I look at this and I think John Ashcroft is guilty of one thing. He is guilty of having an inseparable walk with the Lord. And he has said that several times.

There is someone I dearly love by the name of Bill Bright who wrote the book "Red Sky in the Morning." I think it should be required reading for all Americans. Let me read a couple of things from it.

> George Washington, "Father of Our Country," 1st President of the U.S.: "Bless O Lord the whole race of mankind, and let the world be filled with the knowledge of Thee and Thy Son, Jesus Christ."
>
> "It is impossible to rightly govern the world without God and the Bible."
>
> Patrick Henry, American Revolutionary Leader: "It cannot be emphasized too strongly or too often that this great nation was founded, not be religionists, but by Christians; not on religions, but on the Gospel of Jesus Christ."
>
> Thomas Jefferson, 3rd President of the United States: "Indeed I tremble for my country when I reflect that God is just, and that His justice cannot sleep forever."

It goes on and on. You can read all of the founding fathers of this country.

What would John Adams, who said we have no government armed with power capable of contending with human passions, unbridled mortality, and religion—what would they say if they knew right now that a man from Missouri, after very carefully listening to all the comments, all the charges have been made about John Ashcroft?

I believe this is a case of religious persecution.

I have to conclude by saying what I started out by saying; that is, of all the people I have known and worked with in my entire life, I know no one of greater character or more highly moral than John Ashcroft.

The PRESIDING OFFICER (Mr. CHAFEE). Under the previous order, the Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. The Senator has that right.

Ms. STABENOW. I thank the Chair.

(The remarks of Ms. STABENOW pertaining to the introduction of S. 215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 30 minutes.

Mr. BUNNING. Mr. President, before I am recognized under the time allotted under the previous order, I ask unanimous consent that notwithstanding the previous order, Senator ALLARD be recognized for up to 15 minutes following the remarks of Senator REED of Rhode Island and that Senator THOMAS be recognized for up to 15 minutes following the remarks of Senator HARKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I rise in support of the nomination of John Ashcroft to be our next U.S. Attorney General. For weeks now, the media, Members of this body, and the liberal left have conducted nothing more than a smear campaign against John Ashcroft.

For the past 2 years in the 106th Congress, I served with John Ashcroft as a deputy whip, and I came to know him very well.

He is one of the most intelligent, fair, and compassionate men I have ever known. He is thoughtful and full of integrity and humility. He is going to make a fine Attorney General.

What is being done to John Ashcroft and his reputation is wrong and despicable. Today I want to help set things straight about John Ashcroft, and to separate the facts from the lies and distortions that are being carelessly tossed around about him and his record.

First of all, John Ashcroft is one of the most qualified nominees ever to be named to be Attorney General. He was twice elected to be Missouri's attorney general. He was twice elected to be Missouri's Governor. And the people of Missouri elected him in 1994 to be one of their U.S. Senators.

None of our previous Attorneys General has had such broad popular support from the people who knew them best.

In each of these posts, John Ashcroft served with distinction, being honored by his peers with leadership positions.

As Missouri's attorney general, John Ashcroft was elected president of the National Association of Attorneys General. In other words, the other 49 elected him to lead their group.

As Missouri's Governor, he was elected chairman of the National Governors' Association. The same thing: 49 others elected him to lead the Governors' organization.

Now many of the liberal special interests groups are trying to tar and feather him by attacking his long and distinguished record of public service.

But facts are stubborn things, and the facts prove them wrong.

The liberals claim that John's views are out of the mainstream. Some are even resorting to name-calling and calling him a racist and an extremist.

It is hard to see how he could be such a demon and still be five times elected to statewide office.

If John Ashcroft's execution of these earlier public trusts was as far "out of the mainstream" as his critics now claim, the people of Missouri would have ridden him out of town on a rail. His peers surely would not have honored him for his achievements.

The fact of the matter is that John Ashcroft's views are in line with those of most Missourians and most Americans.

If his ideas and beliefs are so far out of the mainstream, are John Ashcroft's critics really saying that the majority of citizens in Missouri who elected him to these posts are extremists? Are his critics ready to make this claim? I doubt it.

The rhetoric we have heard from these critics serves nothing more than to fatten up the fundraising of the left and to scare people into voting for liberals by continuing to try and label conservatives as mean-spirited.

We saw it with Robert Bork. We saw it with Clarence Thomas. Now we are seeing it with John Ashcroft.

It is just hot air, and I believe that the American people are going to reject these tactics and the politics of personal destruction.

Another one of the lies that is being told about John Ashcroft is that he is a racist. His critics point to his opposition to Missouri Judge Ronnie White for a position as a Federal judge as proof.

But, again, let's ignore the rhetoric and look at the facts. When he was Governor, John Ashcroft appointed the first black judge to one of Missouri's appellate courts. As a Senator, John Ashcroft voted to confirm 26 black judges out of 28 nominated to the Federal bench.

He led the fight to save Lincoln University which was founded by black soldiers. His wife, Janet, even teaches as a law professor at Howard University, one of our leading historically black colleges.

For his critics to now turn around and call John a racist is absurd and nothing more than dirty politics. When they're not calling John Ashcroft a racist, the liberals sneer that he can't be trusted to enforce the law. They don't have any real proof, just a lot of strong words. They say that John isn't fair-minded enough to enforce laws he might not agree with.

But John did a fine job enforcing Missouri's laws when he was attorney general there. And I believe that after he lays his hand on the Bible and swears to uphold the Constitution as our 68th Attorney General that he will do a fine job for our Nation.

Eight years ago when Janet Reno was nominated to be Attorney General, no one made the ridiculous charge that she wouldn't uphold laws she might not agree with.

No one can or should make the same claim about John Ashcroft.

John Ashcroft will enforce the law. He is a man of his word. He has an impeccable record of law enforcement. I know and I fully trust him to do the job which he will be sworn to do.

Let's face it. The real problem the critics on the left have is John Ashcroft's stance on the issues and his conservative philosophy. But they know they can't use this as a real reason to defeat his nomination, so they resort to calling him names and throwing mud at him, hoping that some will stick. They drag out the process as long as possible and dig around in the dirt for any scraps they can find.

They smear his good name. They make up bogus charges. They even sink as low as to question his religious beliefs. It is very sad, but it won't work.

The job of Attorney General is not to advocate policy. It is to enforce our laws. The question we have to ask about John Ashcroft is, will he enforce those laws? His record says he will. He has repeatedly said he will. There is no evidence to say otherwise, just false charges and name-calling.

John Ashcroft is going to be confirmed, and I believe his critics and the tactics they take will backfire.

Mr. President, I urge my colleagues to vote for John Ashcroft. We could not ask for a more qualified and fair-minded person for the job. John will make us all very proud.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Rhode Island came to the floor quickly. The Senator from Oklahoma has about a 4-minute statement he would like to make on Christine Todd Whitman. Would the Senator from Rhode Island allow him to proceed?

Mr. REED. Absolutely.

The PRESIDING OFFICER. The Senator from Oklahoma.

NOMINATION OF CHRISTINE TODD WHITMAN

Mr. INHOFE. Mr. President, I thank the assistant minority leader.

Certainly in having the discussion on the floor about Christine Todd Whitman and her nomination to be the director of the EPA—I have served on the Environment and Public Works Committee since I have been in the Senate—I can say what a refreshing change it is going to be. I have watched her record and things for which she stands. She is someone who really believes in a commonsense approach to solving problems. She has experience as Governor and has the desire for cost-effective programs and environmental beliefs. I am very pleased that she is going to take on this job at a time when we really have serious problems.

For the last 8 years, we have not had a reliance upon science in the promulgation of our rules and regulations. We haven't had the cost-benefit analyses that I think most people realize we should have. I think there is a lot of work to be done.

I was very upset when we ended up with the so-called "midnight regulations." I applaud President Bush for issuing a 60-day review of all of the Clinton administration's midnight regulations. For example, one of the regulations was the final rule, the sulfur diesel rule which spent 2 weeks at the OMB instead of the customary 90 days. This is something that will have a direct effect on the cost of fuel, something we were having hearings on, and we didn't need to rush into that. Or some of the regulations having to do with putting 60 million acres out of reach so that they cannot be developed or have roads built on them.

Right now, we have a crisis in this country. Some States have a greater crisis than we have. But certainly it is a crisis in terms of the price of fuel and the availability of fuel. By putting this 60 million acres in the category that it is in, it would keep us from developing about 21 trillion cubic feet of natural gas. That would be enough to run this country for a period of 1 year.

The EPA doesn't operate in a vacuum. Some of the things they have and the rules they promulgate affect other departments. I happen to be chairman of the Senate Armed Services Subcommittee on Readiness. And I can tell you right now that some of the EPA regulations on our training grounds have caused us to be less than adequate in our training activities. In fact, we have testimony from one of our commander trainers that they spend more money on compliance of EPA rules and regulations than they do actually on training.

In terms of the energy supply, we can't just act as though all of these new rules and regulations affecting our refiners don't have an effect on cost. They do have an effect on cost of gasoline that we burn in our cars. It is something that will have to be dealt with. Right now, we are at 100 percent of refining capacity in this country. Any new rules and regulations that would cause any of these refiners to drop down directly impacts and increases the cost of fuel.

If I could single out one thing that I am really thankful for in Christine Todd Whitman taking on this position, it is that she has been on the receiving end of abusive regulations. She has been the Governor of a State that had to comply with things without adequate time, without the resources, and I think it is time we had someone in that position who has been on the receiving end of these regulations. I am sure Christine Todd Whitman will be one of the best directors we have ever had for the EPA.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

NOMINATION OF JOHN ASHCROFT

Mr. REED. Mr. President, after listening to the testimony given before the United States Senate Judiciary Committee and after much reflection, I decided to oppose the nomination of John Ashcroft as Attorney General of the United States.

This has been a difficult decision; one that I take very seriously. Just as the Constitution gives the President the unfettered right to submit nominees to the Senate, the Constitution requires the Senate to give "Advice and Consent" on such nominations.

The Senate does not name a President's Cabinet, but it also does not merely rubber stamp his choices. Senatorial consent must rest on a careful review of a nominee's record and a thoughtful analysis of a nominee's ability to serve not just the President, but the American people.

Unlike other cabinet positions, the Attorney General has a very special role—decisively poised at the juncture between the executive branch and the judicial branch. In addition to being a member of the President's Cabinet, the Attorney General is also an officer of the federal courts and the chief enforcer of laws enacted by Congress. He is in effect the people's lawyer, responsible for fully, fairly and vigorously enforcing our nation's laws and Constitution for the good of all.

In addition to being intellectually gifted, legally skilled and of strong moral character, I believe that the position of Attorney General requires an outlook and temperament that will allow the American people to believe that he will champion their individual rights more than any particular and potentially divisive dogma.

During the past several weeks, I have listened to John Ashcroft's words in the context of his lifetime of public conduct. As a state attorney general, a governor and a United States Senator, he has established a pattern of activism that challenges important civil and individual rights.

Instead of being a positive force for reconciling the races, as Missouri's Attorney General John Ashcroft conducted a futile struggle to frustrate the voluntary integration of public schools.

He fought a voluntary desegregation plan for the city of St. Louis, showed defiance of the courts in those proceedings and used that highly charged issue for political advantage instead of for constructive action.

Instead of accepting commonsense approaches to limiting the damage done by guns in our society, he has rigidly worked against such solutions—such simple solutions as asking that guns be sold with safety locks

He also has aggressively worked to dismantle some of our country's most basic legal tenets, such as the separation between church and state.

On the nomination of Judge Ronnie White to the United States Federal court, he appears to have mischaracterized Judge White's record unfairly, and at the end of the process, raising issues that really did not go to the merits of Judge White's nomination. This raises serious concerns and questions about both his sense of fair play and his respect for judicial independence.

In sum, although he claims he will enforce the letter of the law, I fear he will not recognize the true spirit of the law.

I believe he will use the considerable power of the Attorney General in directing resources, initiating lawsuits, and interpreting the law to clearly and consciously impose his views as he has done in the past.

His views are not the views of a vast majority of Americans, regardless of political affiliation.

Given the extremely divisive nature of the last election, and the nature of some of the voting irregularities, our nation needs an Attorney General who can lead us on critical civil rights issues, unite us in the pursuit of justice, and help heal some of these wounds.

I believe that John Ashcroft lacks the temperament needed to serve as Attorney General of the United States and I cannot support his nomination as our next Attorney General.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with and that I may proceed for 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized without objection.

BUDGET PITFALLS

Mr. NELSON of Florida. Mr. President, I had the privilege of coming to Congress in 1978 and being assigned as a freshman in January 1979 to the House Budget Committee. In 1979, I never thought I would live to see the day we would balance the budget, much less did I think I would live to see the day that, in fact, we would get into a surplus situation. Now, in this time of prosperity and budget surpluses, it is very much incumbent upon us to be fiscally wise and fiscally disciplined in how we use these budget surpluses so we do not go back into the boom-and-bust cycles that we have experienced in the past.

Mr. President, 22 years ago as a freshman member of the House Budget Committee—I am now a freshman member of the Senate Budget Committee—we had an annual deficit somewhere in the range of about $20 to $24 billion. Then, as we moved into the decade of the 1980s, that annual deficit crept higher and higher and higher. Toward the end of the decade of the 1980s, we exceeded $300 billion in annual deficit spending. That is not the kind of financial situation you want.

Indeed, we just had Mr. Greenspan before the Budget Committee and he continued the very severe lecture that he has given us for years, which is: Be very fiscally disciplined and wise, and don't return to that era of deficit spending.

I bring this up today—and this is, by the way, my maiden speech in the Senate, so what a privilege for me to be here, what a privilege to represent such a dynamic State as the State of Florida—but I rise on the occasion of my maiden speech to talk about the potential pitfalls that could take us back into deficit spending. In these times of prosperity and budget surpluses, it is important for us to be very wise and fiscally conservative in making these choices—and we are going to make some choices very soon.

One of the first choices we have to make is: Are we going to use all of the

Social Security surplus and most of the Medicare trust fund surplus to be applied to reducing the national debt? I can tell you the people in Florida believe very firmly that we should use the surplus to reduce and ultimately pay off the national debt. I think most of us, almost unanimously in this Chamber, would be dedicated to that particular part of budgetary restraint. We have the surpluses. We need to do that.

The next question that is going to face us, then, is: What should be the size of the tax cut?

I am going to argue and articulate about what my people have educated me, and that is to craft a Federal budget that will be balanced so we can have a substantial tax cut and, at the same time, we can address a number of other very important needs facing this country, such as modernizing Medicare, a 35-year-old system, to provide a guaranteed prescription drug benefit.

I will give another example: a substantial investment in education that will help bring down class sizes and pay teachers more to give them the respect they need in their profession and who ought to have the very best to compete with the private sector, so that we have the very best teaching for our children; an investment in education that will also enable us to make the classrooms more safe and the schools safe.

In addition to lowering class sizes, paying teachers more, and making the schools safe, we should have our schools accountable for the product they produce. That is just another example.

Clearly, defense is another important priority: the new systems we are going to need, the research and development that will be needed. Indeed, what is one of the main reasons for having a National Government? It is to provide for the common defense, not even speaking about the question of pay for our men and women in our armed forces.

I have only listed three, and there are many more. I mentioned prescription drugs, education, and defense, all being needs in which, over the next decade, this Government is going to have to invest more.

The question is: With the available surplus, after we subtract the Social Security surplus and the Medicare trust fund surplus, with what is left, what is wise for us then to enact in a tax cut? Should it be the tax cut that is proposed by the administration which, after one considers the interest cost and the alternative minimum tax, is going to be in the range of a $2.2 trillion tax cut over a decade? What that would do is wipe out all of the available remaining surplus over the next decade so there would not be anything left for prescription drugs, education, defense, strengthening Social Security, the environment, and I could go on and on.

What I argue in my maiden speech in this august body, of which I am so privileged to be a part, is that we approach our budget with balance, that we keep in mind primarily paying down the national debt with the surplus, and that as we make choices, we make them wisely on a substantial tax cut, but a tax cut that leaves enough of the surplus left to do these other things; plus one more thing, and that is, we need a rainy day fund.

We do not know that these budget projections are going to pan out over the course of the next 10 years. We ought to have a cushion. We ought to be conservative in our fiscal planning so that if those budget projections do not turn out to be accurate, then we have a cushion to fall back on so we never get back into the situation we were in during the decade of the eighties when, in 1981, we enacted a tax cut that was so large—and I voted for it; I admit I am gun shy on this because of the lessons I learned—we had to undo it not once but three times, in 1983, 1986, and again in 1990 when I had the privilege of serving in the Congress.

I argue for balance, I argue for fiscal restraint, I argue for fiscal discipline, I argue for fiscal conservatism as we make these choices in the budget that we will be adopting over the next several months.

I thank the Chair.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NELSON of Florida. Indeed, I yield with pleasure.

Mr. BYRD. Mr. President, I was sitting at my desk poring over my mail, watching for grammatical errors, errors in sentence construction, and, lo and behold, I heard this voice coming to me. I heard the voice saying this was a maiden speech, so I just stopped everything, and I said to the other staff people in the office: That man says this is his maiden speech. I am going to go up and listen to him.

This is a reminder to me of the old days when Senators gathered around close to hear a new Senator's maiden speech. The word would go out, and we came. We did not have the public address system. We gathered close by so that we could clearly understand the words that were being spoken, and we looked the speaker eye in the eye and he looked us eye in the eye.

This reminds me of those days when Senators gathered together to listen to a new Senator. This Senator has greatly impressed me. He serves on the Budget Committee with me. We are both newcomers on that committee. I have had the chance to talk on very few occasions with Senator NELSON. I have been impressed by his straightforwardness, his high sense of purpose in service. He comes to us from Florida. My wife and I lived in Florida for 7 months during the last days of the war—the Second World War, that is, not the Civil War.

I was a welder in the shipyard at the McClosky shipyard in Tampa. Spessard Holland was the Governor of the State of Florida. I later came to this body, and, lo and behold, here was Spessard Holland in this body. I went right over there, about the second or third seat in the front row, and I sat down and talked with Spessard Holland the day I was sworn in. I said: Well, Governor, I lived in your State. I was a welder down in your State while you were Governor. I am proud to be here serving with you.

Spessard Holland was a very fine Senator. He was always courteous to a fault and made up his own mind. I think this Senator from Florida will be one who will make up his own mind. That is something we need to be very careful of here. I do not count myself being in a particular ideological group of Senators. I am an independent Senator—not an Independent but an independent Democrat. Sometimes I differ with my other Democratic friends.

That is not the point here. I think we have a fine Senator in Senator NELSON who will be his own man, who will make up his own mind. He will study things carefully, and he will try to reach a reasoned, balanced—I use his word "balanced" there—disciplined—he used that word, too—judgment. I am proud we have such a man coming into the Senate. I predict he will be a power in the Senate, and I consider myself very fortunate in having the opportunity to serve with Senator NELSON.

I was trying to think of a bit of poetry that I wanted to recall for this particular occasion. But aside from that—I may get back to it later—I like what the Senator said. He intends to weigh very carefully this proposed tax cut which is in the nature of $1.6 trillion. That is $1,600 for every minute since Jesus Christ was born. That is a good way to gauge the size of this tax cut: $1,600 for every 60 seconds since the birth of our Lord Jesus Christ.

That is a lot of money, and I am going to weigh it very carefully with him. Yes, we need to think carefully about education. We also must remember that the 7 percent contribution we make to the education budgets in the States is not a great deal. And I am not sure how much good what we contribute really does. Probably, we will never be really sure.

But education is at the local level. We need good teachers, teachers who know the subjects, teachers who are dedicated. We need parents who will back up the teachers. And we need students who want to learn.

I was fortunate, coming up in the Great Depression, to have good teachers. They didn't make much money, and many times they had to give 20 to 25 percent of their check in order to get it cashed in the days of the Great Depression. But they were dedicated teachers.

I started out in a two-room schoolhouse; I am proud of it. I thank God for it. I thank God for the fact that I came through the Great Depression. It left some very vivid memories with me.

I was born in 1917, and so my recollections of the Great Depression are as they were only of yesterday. I remember that little two-room schoolhouse at Algonquin in Mercer County. And I remember a little two-room schoolhouse up on Nubbins Ridge where I attended. There were two teachers in that little school. One was a man; one was a lady. The man walked, I expect, 4 miles every morning to school. He came from far down the creek, and he came up, walked by my house, and I fell in line when he came by the house, and I walked on to school with him.

I learned in those days. My heroes were the great patriots of the American Revolution. And they were men such as George Washington, Benjamin Franklin, Francis Marion, the "Swamp Fox," Daniel Morgan, and men who lived during the formation of this Republic.

Now, I wanted to learn. And the man who raised me never told me he would ever go up and whip the teacher if I came home with a bad report card. He wouldn't go up. And if the teacher gave me a whipping—which he didn't—I was told that I would get another one when I got home. And I knew that was the case.

I wanted to please the two old people who raised me. They were not my father and mother, but I wanted to please them. I wanted to please the teacher, just to get a pat on the back, just to get a little pat on the top of my head from the teacher.

I remember I took violin lessons beginning in the seventh grade. And at this particular school—it was in a coal mining camp—the principal was a tough disciplinarian, the kind we need in our schools, if they would let teachers discipline children. I don't think they will let them do that anymore. Too bad.

But the principal's wife was a music teacher, and an excellent one. She talked me into asking the people who raised me if they would buy a violin for me so I could take music lessons. She thought I might grow up to be a violinist.

So I remember one Saturday night when we all piled into the back of a big truck and went to Beckley 10 or 12 miles away. And there—I always called him my dad; he was the only dad I ever knew—he bought a violin and a case and a fiddle bow. Now I am talking about a fiddle, but it is all the same thing. But this whole kit and caboodle cost about $26 or $28. That was big money in a coal camp.

Anyhow, I went home that night carrying that fiddle case under my arm and with visions—old men dream dreams, and young men have visions—of myself being a Fritz Chrysler or a great violinist. Well, I took lessons. And in this high school orchestra, I was the first violinist. It so happens, I was the first violinist. I was the first one. I got to the point where I thought I had all the lessons down pat, that I didn't have to practice as hard anymore.

So one day I went to school, and the teacher had a little tryout. And lo and behold, she demoted me to the second chair. I went home a crushed lad, crushed because I had been demoted. I liked that music teacher. In all my years of 83, I have lost I think four teeth. It was on one of those occasions when I had an abscessed tooth that this music teacher said to her husband: Now, you take this boy to Sophia. That was 3 miles away. This was in the wintertime. It was up a steep mountain. She said: You take him up to the dentist. And he took me.

I was crushed that night because I had been demoted. But it was my fault. I got just a little too overly confident. So that night I practiced and I practiced and I practiced and I practiced; and the next day I recovered my first chair in that orchestra. Those are the kinds of teachers we had.

We can put all the money we want into education, but the teachers have to be dedicated teachers. I had dedicated. They didn't make much money. As I say, they had to give a fourth or a fifth of it away in order to get a check cashed in the days of the Depression. But we can't pay enough money to a good teacher. And it is very disappointing to me when I see athletes draw down millions of dollars every year. Of course, I admire good athletes, but I think this country has gone all wild over athletes, and it is standing its values on its head. A lot of these athletes go out here and they commit crimes. They are not very good models. Of course, there are people outside athletics who are not good models, too. There have been a few in politics, especially in recent years, perhaps not altogether recent years.

Look at some of the anchors on the TV from the networks. They are drawing down $5, $6, $7, $8 million a year. They aren't worth it. They aren't worth it.

But we need to stimulate a love and a search for excellence in this country. Most of that can be done, most of the stimulation of that, the motivation of that; some of it will come from within; some of it starts in here. But it also comes from a good teacher, a good parent, who sets the example for that young person and encourages them to study, and study, and make something out of themselves—to use the words of my own people who raised me, try to make something out of themselves, try to continue learning.

I try to continue learning. I am always trying to learn. Solon, one of the seven wise men of Greece, said: "I grow old in the pursuit of learning."

We can pour out all the money from the Treasury, but it can be poured down a rat hole. The motivation has to be there. The good teacher has to be there. We ought to pay those good teachers. After all, they are dealing with our most precious resource. They ought to be paid well. But they ought to be held accountable for the work they do. And the parents, as I say, ought to strive to stimulate in the child a motivation, a desire to learn, learn, learn.

I have gone a long way in my desultory ramblings here, but this matter of education is one that is overly, overly, overly important. As I often say to young people, no ball game ever changed the course of history, not one. And when you have seen one, you have seen them all. When you have seen one ball game, you have seen them all.

I can play every position on the team. I can go through all the motions. I don't say this now in derogation of athletics. I don't do that at all. But we have our values standing on their heads. We have a job to do. We do need to think about education, as we think about the so-called surpluses. These surpluses, I have seen them on paper. I haven't seen one yet that really glitters because we don't have them in hand, and we may never have them in hand. If we go for this big tax cut, $1.6 trillion, once we write that law and the President signs it, that money goes out. It is gone. The surpluses won't be in hand, if ever, for some years. It will take a while. So we need to proceed with great caution.

I hope the Senator will forgive me for imposing on his time. I felt so proud to see Senator NELSON come to the floor. I have lived more than 83 years. I have been fooled by a few people in my lifetime.

My mom used to keep boarders, and I would go to her when we had a new boarder, and I would say: Mom, that man is going to cheat you out of your board payment.

I didn't do that often, but I think I was about right in every one I selected. That man will cheat you out of your board bill; there is something about him.

I think there is something about this man. In any case, he is going to be a good Senator, a hard-working one. I am proud to listen to him in his maiden speech, and I am delighted to work with him. I thank him for what he has said today.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Colorado is recognized.

Mr. REID. Will the Senator yield for a brief comment?

Mr. ALLARD. I am glad to yield.

Mr. REID. I also appreciate having had the opportunity to listen to the Senator from Florida. We served in the

House together. He is just as good as the Senator from West Virginia expects him to be.

It is a rare occasion that we have on the Senate floor two doctors: the doctor from Colorado and the Presiding Officer who is a doctor. They are both doctors of veterinary medicine. I think we should recognize the fact that they are and recognize that their talents are far beyond their medical training. It is unusual to have two doctors on the floor at the same time.

I yield the floor to the Senator from Colorado and recognize that my friend, the Presiding Officer, is also a doctor of veterinary medicine.

Mr. BYRD. Will the distinguished Senator yield to me briefly?

Mr. ALLARD. I am glad to yield to the Senator from West Virginia.

Mr. BYRD. I did not know that Senator ALLARD was a doctor. He has gone up in stature with me since I have learned that. I have a little dog, a little Maltese dog, Billy Byrd. He is approaching his 14th birthday. If I ever saw in this world anything that was made by the Creator's hand that is more dedicated, more true, more undeviant, more faithful than this little dog, I am at a loss to state what it is. I take my hat off. My wife and I pay some pretty high bills to some of these veterinarians, but we gladly pay them. We love that little dog. I take my hat off. I wish I could say that I had been a veterinarian. It must be a joy to work with animals, especially with dogs. I believe it was Truman who said: If you want a friend in Washington, buy a dog. Well, I have a friend in McLean, and I take my hat off to the veterinarians, the two of them, the one in the Chair as well. I am glad we have two here. I did not know this about Senator ALLARD. I have served with him a while. I am pleased to hear this.

Thank you for the services you perform on creatures that make us happy and that show us God's love and show us how to be honest and true and faithful and guileless.

Mr. NELSON of Florida. Will the Senator further yield?

Mr. ALLARD. I thank the Senator from West Virginia, as well as the Senator from Nevada, and in a moment I will recognize the Senator from Florida to comment, too.

I want to invite all of you to join the veterinary caucus with all the favorable comments we are getting here. Before I yield to the Senator from Florida, I want to respond that Senator GREGG has a dog by the name of Wags, and Wags comes down the hallway and frequently comes into my office to say hello. We visit with him a little bit. If your dog is ever visiting you in your office, bring him down. We love dogs and would like to have an opportunity to get to know Senator BYRD's dog.

I yield to the Senator from Florida.

Mr. NELSON of Florida. I thank the distinguished Senator for yielding for me to make the comment that it is not only a great privilege to serve here and to represent my State, but it is doubly a pleasure to serve with the quality of Members of this body as exemplified by the senior Senator from West Virginia. He is someone I have naturally gravitated to in these first few weeks as someone from whom I can learn a lot. Of course, I knew of his tremendous talents as one of the best orators who has ever been produced in the Senate. His reputation precedes him as one of the best fiddlers the Nation has ever produced, and now I am delighted to know how he got started as an expert fiddler by virtue of the story he told us of receiving the gift of a violin as a child.

I thank the Senator for his comments, and I thank the Senator for yielding.

Mr. ALLARD. I would also like to join with the Senator in commending Senator BYRD for his distinguished service in the Senate. We all respect him. Whether we agree with him or not, he is one of the more honorable Members here, somebody I appreciate. He has joined on the Budget Committee; I am new on the Budget Committee. I am looking forward to visiting with him about those issues as they come up before the Budget Committee. I think it is going to be a challenging year, and it is an important committee. It is an important start for the Congress.

Hopefully, we will get some legislation quickly reported out of there, as we get the process moving forward.

Again, I am glad we have all these animal lovers here in the Senate. I talked to Senator ENSIGN, who is in the Chair, about facetiously setting up a veterinary caucus. With all these comments, I begin to take it more seriously. We would like to perhaps extend an invitation to all the dog lovers here in the Senate, to see if they would like to join us.

Mr. BYRD. I thank the Senator.

NOMINATION OF JOHN ASHCROFT

Mr. ALLARD. Mr. President, I come to the floor this evening to lend my support to President Bush's nomination of John Ashcroft to be the next United States Attorney General. He is another individual in the Senate whom I have always viewed as quite honorable.

It is the constitutional right and duty of each President to appoint Cabinet Members who will help serve the citizens of this great country during their tenure. I believe President Bush has made a wise choice in John Ashcroft as a member of his Cabinet.

John Ashcroft is a man of great honor and high personal integrity. He will bring these much needed characteristics to the office of the U.S. Attorney General. I have no doubt about that. He has had a long and distinguished career serving the people of Missouri and the people of the United States. I am confident he has the experience to fulfill the duties of this position.

Those who defended President Clinton to the death are now attacking one of the most honorable individuals of the Senate as less than honorable. This was most evident by Senator Ashcroft's gracious concession to his opponent in his Senate race in Missouri.

John Ashcroft served as Missouri's attorney general from 1976 to 1985, where he worked tirelessly to enforce Missouri State laws and chaired the National Association of Attorneys General; having been supported in that position, I might add, by both Democrats and Republicans. After serving his home State as their top law enforcement agent, he was elected as Missouri's 50th Governor in 1984. He was reelected in 1988 to a second term, where he received 64 percent of the vote.

It was during his second term that he was recognized as a leader among his colleagues and was named chairman of the National Governors' Association. Again, he was supported by both Democrats and Republicans.

In 1994, John Ashcroft was elected by the people of Missouri, this time to serve his State in the U.S. Senate. While serving in the Senate, Senator John Ashcroft was a member of the Judiciary Committee as well as chairman of the Judiciary Subcommittee on the Constitution. His record has shown a strong commitment to upholding the Constitution and the rule of law equally and fairly.

Throughout this grueling nomination process, Members on the other side of the aisle have questioned John Ashcroft and, in some cases, even accused him of allowing race to affect his decision on judicial nominees.

There is absolutely no evidence that backs up these absurd allegations.

Let me remind Members of this body that as a United States Senator John Ashcroft supported 26 of 28 African American Judicial nominees sent to the Senate for confirmation by the President.

As the Governor of Missouri, John Ashcroft nominated eight African American judges, including the first ever to the court of appeals in the state. He appointed three African American members to his cabinet while he was the chief executive of the state of Missouri. He supported and signed into law Missouri's Martin Luther King, Jr. holiday. He supported and signed the law that established Scott Joplin's house as the first and only historic site honoring an African American citizen. He led the fight to save independent Lincoln University, founded by African American soldiers.

He established an award, emphasizing academic excellence, in the name of George Washington Carver. I believe John Ashcroft wants equal opportunity extended to all.

Over the last few weeks we have heard from a number of people who have questioned the nomination of John Ashcroft. I would like to take a few moments to mention some of the groups who have endorsed the nominee for Attorney General:

National District Attorney's Association, Fraternal Order of Police, International Brotherhood of Police Officers, Law Enforcement Alliance of America, National Sheriffs Association, Missouri Police Chiefs of Police, National Victims Constitutional Amendment Network, Victims of Crime United, Citizens for Law and Order, Justice for Homicide Victims, Justice for Murder Victims, National Organization of Parents of Murdered Children, National Association of Manufacturers, United States of Commerce, Associated Builders and Contractors, American Farm Bureau Federation, and the American Insurance Association.

I could go on and on and continue to name a total of some 263 groups that have voiced their support for John Ashcroft to be the next Attorney General.

John Ashcroft is clearly qualified for the job of U.S. Attorney General.

He understands what is expected of the office. During his hearings he summed up his duties in one statement:

> My responsibility is to uphold the acts of the legislative branch of this government and I would do so and continue to do so in regard to the cases that now exist and further enactments of the Congress.

John Ashcroft is a man of unquestionably high character and morals who has the knowledge and experience to serve our Nation with justice and excellence as our Nation's next Attorney General.

Thank you Mr. President. I yield the floor.

Mr. HUTCHINSON. Mr. President, I want to take just 1 minute to say a word of commendation for my colleague, John Ashcroft. As the Judiciary Committee, at this very hour, prepares to meet for a vote on his confirmation, I say that this man of honor and integrity has gone through an unprecedented ordeal in his desire to serve this country as Attorney General.

I cannot imagine any person who comes to that position with greater qualifications or a greater sense of integrity. I do not believe my colleagues on either side of the aisle would question this man's commitment nor his faith. In fact, I suggest no one would argue but that he is the man of deepest faith in this body, and yet that very faith commitment has been turned on its head to make it an issue against his confirmation. I find that astounding and very disappointing.

The fact that people would ask, can John Ashcroft enforce the laws because of his religion and his faith—John had the best answer to it when he said before the Judiciary Committee: I will enforce the laws of this land because of my faith. As someone who shares much of the same faith as John Ashcroft, I can relate to and understand exactly what John is saying.

Though he may hold deep convictions—and he may or may not agree with all the laws of this land—it is because of his deep faith that he knows he must enforce the laws of this land—and will.

Who in this body would question his sincerity or his honesty? And as he stood before the Judiciary Committee, and sat before that Judiciary Committee, and took that oath to tell the truth, and said he would enforce the laws of this land—whether he agreed with them or not—who would we be and which of my colleagues would dare question his sincerity or his honesty?

It was interesting to me, as you look back historically at how we have previously confirmed Democrat nominees for the Cabinet, overwhelming votes, without filibusters, and without delay, here is a quote about the nomination process worth repeating:

> We must always take our advice and consent responsibilities seriously because they are among the most sacred. But, I think most senators will agree that the standard we apply in the case of executive branch appointments is not as stringent as that for judicial nominees. The president should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises in the course of our carrying out our duties, then the president gets the benefit of the doubt.

That statement was made by Senator LEAHY. He laid down the right standard. He is right. The President should be able to pick his own team. I hope my colleagues recognize that and will support the confirmation of our distinguished colleague from Missouri, Senator John Ashcroft.

Mr. President, I thank you and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I rise this evening to speak about the nomination of Senator John Ashcroft to serve as Attorney General. I want to be very clear. I did not seek this debate. I think it is unfortunate that this new Senate has to address such a difficult and contentious nomination that opens up old history and old wounds and old debates, rather than moving forward on issues that unite our country.

I do not relish the role of opposing a new President's nominee for Attorney General. In fact, quite to the contrary. I believe a new President should be able to fill his Cabinet with the people he wants. Unfortunately, this is not something over which I have control. President Bush picked Senator Ashcroft and in doing so he brought this conflict upon himself and he must accept responsibility for that decision.

Senator Ashcroft, too, must accept responsibility for his actions, especially those that have raised doubts about his ability to serve as Attorney General. I did not seek this conflict, but under the U.S. Constitution the Senate is called upon to provide advice and consent on Cabinet appointments, and I take that responsibility seriously.

I do want to point out that I and all of my colleagues took great care to treat John Ashcroft carefully. In fact, throughout the debate over Senator John Ashcroft's nomination I have said that I would only make a decision after Senator Ashcroft had a full and fair hearing. That is what fairness requires.

Senator Ashcroft had an opportunity to respond to questions before the Senate Judiciary Committee. I reviewed the testimony thoroughly and then I reached my decision. I want to share with my colleagues and the people I represent how I reached the conclusion that Senator Ashcroft should not serve as Attorney General.

First, I considered the unique responsibility and trust placed in an Attorney General. Far more than any other Cabinet officer, the Attorney General of the United States has the power to affect the rights and the lives of all Americans. For that reason, this nominee must be chosen with great care.

I can tell you I spent many days and several long nights thinking about qualities I would want to see in an Attorney General. In addition to being honest and independent, that person must actively enforce the laws and ensure the public's confidence in our legal system. The Attorney General must also display the highest standards of fairness, trust, and respect for the law. I developed those standards and then I looked at Senator Ashcroft's statements in the RECORD.

As I have looked at the facts, it seems clear that, in his hearing, he obscured his record and did not prove to me that he is qualified to be Attorney General.

As I said, I have taken great care to ensure that John Ashcroft had a fair opportunity to respond to the questions raised about his nomination. Unfortunately, Senator Ashcroft did not extend that same standard of fairness to Judge Ronnie White and fairness is one of the critical qualities needed in an Attorney General.

In the case of Ronnie White, Senator Ashcroft leveled serious charges against a respected jurist. Through Senator Ashcroft's timing and maneuvering, Judge White was never asked about those charges. Judge White was never even given an opportunity to defend himself, and that is fundamentally unfair.

In any Senator, such behavior is inappropriate and regrettable. In an Attorney General, such behavior can be dangerous.

Unfortunately, Ronnie White was not the only nominee that Senator Ashcroft, in his long tenure, has treated questionably. Senator Ashcroft's treatment of Ambassador James Hormel is also very troubling to me. At the time Senator Ashcroft said he opposed Mr. Hormel's selection to be Ambassador to Luxembourg because he actively promoted the gay lifestyle. More recently, however, we heard a different answer from John Ashcroft. He told the Senate Judiciary Committee that he voted against Mr. Hormel because he knew him personally. But Mr. Hormel has said that he never met Senator Ashcroft, and, further, that Senator Ashcroft had refused to even meet with him. In fact, John Ashcroft would not even attend the nomination hearing in the Foreign Relations Committee of which he was a member. His treatment of Mr. Hormel, and his varying and contradicted claims about the reason for his decision, give me great pause.

It would be easy to give Senator Ashcroft the benefit of the doubt if this were an isolated incident, but in addition to Ronnie White and James Hormel, Senator Ashcroft also treated Bill Lann Lee unfairly. As my colleagues will recall, Bill Lann Lee was nominated to be head of the Justice Department Civil Rights Division. In opposing Lee, Ashcroft said Lee had an intensity that belongs to advocacy, not the balance that belongs to administration.

It seems to me that Senator Ashcroft would not even pass his own test. Senator Ashcroft's treatment of Judge White, Ambassador James Hormel, Bill Lann Lee, and others does not show the level of fairness that an Attorney General must display. This is not how the U.S. attorney general should treat people.

Let me turn to the second standard I considered—trust. The Attorney General must be someone the American people can trust to vigorously protect their rights.

Citizens of this country should feel comfortable that the highest law enforcement officer of the land will ensure their basic liberties. Unfortunately, for far too many Americans, Senator Ashcroft's record creates fear, not trust. His appointment sends the wrong message to Americans who already face discrimination and unfair treatment in their daily lives.

Next I want to turn to integrity because Senator Ashcroft is often said to be a man of integrity, and I do not challenge his integrity, but I do ask this: If he is true to his beliefs, how can he vigorously enforce the laws he has vehemently opposed and sought to overturn throughout his public service?

His past history shows he does not believe in and has fought against the laws that strengthen gun safety, protect a woman's right to choose, and civil rights. I can only assume that a man who prides himself on his integrity would continue to advocate those views.

John Ashcroft is a man of uncommonly strong beliefs. Based on what I know of Senator Ashcroft, he has not convinced me that he can set aside those beliefs to execute fully the laws with which he disagrees.

I also considered Senator Ashcroft's willingness to enforce the law, especially those with which he disagreed. Because we are a nation of laws, the Attorney General must actively enforce our laws. This is an area where Senator Ashcroft has an extensive record.

Unfortunately, as Missouri's attorney general, John Ashcroft was selective in his application of the law. Often he acted outside the scope of his office. For example, Senator Ashcroft refused several court orders to implement desegregation of public schools in St. Louis. In fact, one judge said of Senator Ashcroft's efforts representing Missouri:

> The State has, as a matter of deliberate policy, decided to defy the authority of this court.

The St. Louis desegregation case is the most troubling example of Senator Ashcroft's refusal to enforce the laws with which he disagreed.

Senator Ashcroft has also failed to convince me that he would actively enforce the laws that protect a woman's right to choose.

Finally, the Attorney General must be someone to whom all Americans can look as their advocate. President Bush has said he wants to unite our country, not divide it. This nomination, more than any I have ever seen, has divided our country and left many Americans wondering if their rights will be protected in the Bush administration.

I have received literally thousands of calls from a wide variety of citizens in my State asking me to oppose Senator Ashcroft's nomination, and they are not just saying oppose Ashcroft and hanging up. These are people who are telling me they have been following the debate and are really concerned that their rights will not be protected if John Ashcroft becomes Attorney General.

I want to say one more thing about the high level of public comment we have heard in recent weeks. Some claim that interest groups are to blame for John Ashcroft's problems. I disagree. No interest group made John Ashcroft mistreat Ronnie White or James Hormel or Bill Lann Lee. John Ashcroft did that himself, and he has to accept responsibility for his actions.

Those are the factors I considered: fairness, trust, ability to enforce the law, and ability to represent all Americans and to safeguard their rights.

I asked myself: Is John Ashcroft someone whom all Americans can trust to treat them fairly and to protect their rights? I have concluded he is not.

I will vote against John Ashcroft because he has not shown the fairness, the trust, or the respect of the law required in America's highest law enforcement officer.

Given the likelihood of his confirmation, I hope that John Ashcroft's actions in office will prove me wrong. Either way, I will hold President Bush accountable for his decision.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Alabama.

Mr. SESSIONS. Mr. President, President Bush's Cabinet nominees are the finest group of Cabinet nominees I believe we have seen in the last 100 years. They are extraordinary men and women of accomplishment and achievement. They are grownups. They are people who have a proven record of achievement, and I am proud of them.

John Ashcroft is a quality nominee. He is 59 years old. He served twice as attorney general of Missouri, twice as Governor, and he was elected to the Senate. He was five times elected to public office in the State of Missouri, a heartland State, a State that is always a bellwether for who will win the Presidency.

This is not a man who is an extremist. This is one of the finest, most decent men I have ever known. This is a man who tells the truth to a degree unusual in this Capital, and to have John Ashcroft accused of not telling the truth by the very same people who on this floor defended the former President of the United States, Bill Clinton, for bald-faced misrepresentations and lies he has finally admitted to making is stunning.

John Ashcroft is not that kind of person. John Ashcroft is a better person than that. He tells the truth. He does what is right. I have seen that aspect of his character exhibited time and time again on this floor. He is one of the most principled and decent Senators I have ever known.

As I told some friends of mine back home, I have not met a finer person in my church, in my State, or in Washington than John Ashcroft.

It is really disturbing to me to have Members of this body be encouraged and pushed by a group of hard-left activists to make statements that are demonstrably untrue. This is especially true when the people parroting these irresponsible statements were not present to observe the hearings that we had on this nomination. In fact, some who have announced their intentions to vote against John Ashcroft did not even wait for the Judiciary Committee hearings to begin before making their rush to judgment.

I am a member of the Judiciary Committee, and I was there when we had the hearings concerning this nomination. The committee gave everybody their say. We had representatives of Planned Parenthood, who oppose virtually any kind of control on abortion. We had representatives of the National Abortion Rights Action League as well. We also had a representative from Handgun Control who admitted to me that his organization never criticized the Clinton administration when they allowed prosecutions of gun crimes to drop 46 percent over the past eight years.

He never criticized the Clinton administration, not even one single time. Yet he has no problem launching attacks on Republicans who would not agree to support more and more regulation of innocent law-abiding citizens who want to possess guns. That is what the gun debate had become. Whatever bill you agree to pass, these groups want to put something more extreme out there so that it implicates the second amendment to a degree that is arguably unconstitutional, thereby giving them ammunition with which to attack the person who will not vote for it.

They never criticized the Clinton administration for not prosecuting gun cases even though Attorney General Reno allowed prosecutions to plummet 46 percent over the past eight years. Why was this group silent? If their agenda is truly one of concern about the criminal misuse of firearms, why were they willing to turn a blind eye to the Democratic administrations lax enforcement efforts?

The truth is that many of these activist groups are fundamentally arms of the Democratic National Committee, and they are leaders of the hard left in America. They think they can come in and dictate to the President of the United States that he cannot appoint a decent, exceptionally skilled, and fine individual as Attorney General of the United States.

John Ashcroft went to Yale. He graduated from the University of Chicago Law School.

He is a scholar. I have heard him make speeches that are extraordinarily fine in their analytical thought. He follows his principles to a degree that I think is unsurpassed here. So it is really surprising to me to hear these complaints raised about him.

Let's talk about one matter his opponents keep raising. I would like to stand here all night debunking the myths that the far left has attempted to construct, but for the moment I am just going to talk about a couple of them tonight. The Ronnie White matter is one of the first myths that the hard left is perpetuating.

Let's look at the facts. John Ashcroft voted for every single African American judicial nominee who came up for a vote on this floor except Ronnie White—26 out of 27. Ronnie White was opposed not only from his home State of Missouri by John Ashcroft, he was also opposed by KIT BOND, the senior Senator from Missouri. Both of the home State Senators opposed this nominee. Was this some sort of an extremist position? I mean, confirmation is a fact and we need to deal with the cases that come before us.

John made a speech on this floor indicating his opposition to that nomination. He voted against it in committee. I think it came up in committee on two different occasions and on both occasions he voted against it and expressed his opposition to the nominee. But, to his credit, he did let the nominee come to the floor for a final vote. He agreed to allow that to happen.

So now he has been accused of intentionally mistreating Ronnie White because he allowed the full Senate to consider the nomination, rather than attempting to quietly defeat the nomination in committee. Let me tell you, if you hold a nominee in committee—and I suppose Senator BOND and Senator Ashcroft could have kept that nominee in committee—the left would have been attacking him now for not letting the White nomination come to a vote. I am telling you, that is what he would be accused of. I have been here on the floor, and I have seen that.

John made a speech delineating some of the reasons—which I am going to mention in a moment—that he opposed him. And 54 of the 100 Senators in this body voted no.

How is that an extreme matter? Why would they vote no? There were several reasons. Out of the 114 sheriffs in Missouri, 77 of them wrote in opposition to the White nomination. Incidentally, many of these sheriffs are Democrats. Additionally, the Mercer County District Attorney wrote a letter to John Ashcroft stating:

> Judge White's record is unmistakably antilaw enforcement, and we believe his nomination should be defeated. His rulings and dissenting opinions on capital cases and on fourth amendment issues should be disqualifying factors when considering his nomination.

You have heard another far left myth if you listened to the debate to date in that some opponents of John Ashcroft's nomination claim that John Ashcroft's members of the Supreme Court voted to dissent on criminal cases more frequently than Judge White. That is a very inaccurate statement. Let me tell you why. It is because apples are being compared to oranges. While the Ashcroft judge Mr. White replaced did vote against the imposition of the death penalty in a number of cases that Ashcroft nominee was voting on a series of cases that were not the same cases Judge White was ruling on when he was on the Supreme Court. He was ruling on a different group, with different facts and different legal questions involved. It is apples and oranges.

In order to place Judge White's death penalty dissents in proper perspective, it is necessary to compare Judge White's rulings to all the members of the court during the time Judge White sat on the court. When apples are compared to apples, it is clear that Judge White dissented four times more frequently than any other judge on that court.

That is a record that should be examined. That is a cause of concern. Some of Judge White's opinions that I have read cause me great concern because I was a Federal prosecutor for 15 years, and an attorney general for 2. I know some of the issues that come up with judges. I have spent by far the largest portion of my career in Federal court before Federal judges.

You have to understand something about Federal judges. They are appointed for life. They have absolute power in many instances in a trial, power that is unreviewable by any court. The most dramatic of these powers is the ability to grant a judgment of acquittal at the end of the prosecution's case.

For example, if you present a case against a defendant for murder, or some other fraud or crime, and the prosecution stands up at the end of its case and says, "The prosecution rests," immediately now, these days, no matter what the evidence, the defense lawyer will stand up and make a motion for a judgment of acquittal.

Usually they are denied. Usually these motions are just hot air. They are just saying stuff for the record, frankly. Most prosecutors bring good, strong cases. So defense attorneys as a matter of routine move for a judgment of acquittal. If the judge grants that judgment of acquittal, it is the same as if a jury had acquitted that defendant. Jeopardy attaches. Under the Constitution of the United States, you cannot twice be held in jeopardy under the law. That defendant is acquitted, and he can never be tried again, no matter how guilty he or she may have been of the offenses charged.

So a Federal judge with a lifetime appointment in many ways is much more problematic for the system than one member of a seven-member supreme court. John Ashcroft, as a former State attorney general, understood that.

Federal judges also routinely overrule the entire criminal justice system of a State. You may say that is not routine. I suggest to you it is very frequent, and they are often asked to do so.

For example, if a case is appealed all the way to the Missouri Supreme Court, and the Missouri Supreme Court rules, then the defendant can file post-conviction relief in Federal court and ask the Federal court to review the State case to see if the Federal Constitution has been implicated and violated in some way that the defendant was tried.

So if you have a Federal judge on the bench who wants to let criminals go or is undisciplined in the responsibilities of his office in applying the law, or has demonstrated a bias against law enforcement officers, you can have a real problem.

In Alabama, people knew who the judges were who were always letting criminals go. It was not a secret. I am telling you, if you have a nominee come up from my State for a lifetime Federal judgeship, I am going to ensure—because I was an attorney general also—that they are going to give law enforcement a fair day in court, too. They are going give the prosecutor a fair chance to put on his or her case.

That is the way John Ashcroft felt about it. So imagine his concern when he realized that he had prosecutors in his State opposing the White nomination. He had a majority of the sheriffs in his state oppose this judge. He even received written opposition from national law enforcement organizations, such as the National Sheriffs Association, that wrote in and opposed this judicial nomination.

So, keeping these facts in mind, John looked at the record, and thoroughly examined a number of the opinions Judge White had issued which concerned these groups. And what he discovered, as he expressed in his floor speech at the time of the vote, is that Judge White had made a series of "procriminal rulings". The far left analyzes this as some sort of unwarranted attack upon Judge White's character, but it was not. It was simply a description of the opinions involved.

This is clear if one bothers to read the statement John made here on this floor. He was referring to his opinions. You can call them liberal opinions; you can call them bleeding heart opinions; you can call them anti-law-enforcement opinions. You can call them whatever you want to characterize them. But it is not disqualifying, in my opinion, to be Attorney General if you refer to a justice's opinions as procriminal when they continually rule in favor of criminal defendants.

One of the cases that caused the greatest disturbance was the Johnson case. In this case the defendant, Mr. Johnson, was involved in a domestic disturbance. The call went out to the sheriff's department. As so often happens, sheriff's deputies go out to those houses in response to a domestic call. These missions are considered to be perhaps the most risky and dangerous thing they do. In this case a deputy knocked on the door, and Johnson appears with a gun. As the deputy tried to get away, Johnson shot him in the back. The deputy fell to the ground, and Johnson walks over and puts a bullet through his forehead, execution style.

That is not enough to satisfy Johnson's blood lust, however. What does he do next? After murdering, in cold blood, a deputy doing his duty, Johnson goes out and tries to track down the sheriff. The sheriff isn't home. But the sheriff's wife is in the home, having a social gathering there—and with her own children about—and he shoots the wife five times through the window, killing her.

Then Johnson continues his rampage by tracking down two other deputy sheriffs and killing them.

This is one of the most horrible crimes I have seen.

At his trial, Johnson's defense lawyers suggest that because he served in Vietnam, the murders were the result of posttraumatic stress syndrome. The trial had all kinds of expert testimony and things of that nature to deal with this issue.

The defendant was caught, surrounded in a building, and surrendered. He made a detailed confession. I would say, as a prosecutor, it was a powerful demonstration of guilt beyond virtually any doubt that this defendant committed this crime.

The defense tried to say this guy thought he was in Vietnam. These were good defense lawyers, they had been award-winning criminal defense lawyers. All of them were highly skilled. So, on behalf of their client they claimed he had posttraumatic stress syndrome. In light of the overwhelming evidence what else could they do? The murders were plain and simple. During the course of the trial, these lawyers made some representations that were not factually accurate, but which were not sufficiently egregious for the majority of the Missouri Supreme Court to find any error in their actions.

But Judge White felt differently. He concluded that the defense attorneys were incompetent, and that Johnson didn't get a fair trial. He also suggested that he wanted to apply an insanity theory that was different from established Missouri law. In fact, what White said was that if Johnson didn't meet the legal definition of insanity, he had something "akin to madness."

Two of the most significant criminal justice issues in America are the question of insanity and incompetent counsel. That is true because so many cases in our criminal justice system are like this case—the guilt is clear and overwhelming. So when they go and appoint a paid State attorney, a court-appointed attorney—by the way, in this case these attorneys were retained counsel, hired by this defendant or his family; he hired them; he wanted good attorneys—normally, the appeal goes forward dutifully after conviction because that is what a lawyer is expected to do. The State will pay for it. So they make an appeal and raise these issues on appeal.

When the guilt is overwhelming and the defendant did something violent such as this, what are the two issues you can raise? Ineffective assistance of counsel and insanity. And in this one opinion, Judge White showed clearly that he lacked judicial discipline. He lacked a comprehensive and clear understanding of the importance of a judge maintaining clear rules on insanity and incompetence of counsel. His dissent, if applied, would have completely destabilized the law in both of those areas for the State of Missouri.

Another big factor in cases is, even if the lawyer made a mistake and could in one sense be held to be incompetent, the judge must ask himself, on appeal, would that have had any likelihood of changing the outcome of the case. Certainly it would not have in this case, as the majority opinion clearly held.

There were a series of other cases such as this one that caused the former attorney general of the State of Missouri to wrestle with his conscience about whether or not he could approve this judge. He concluded he could not, that he ought to oppose him. By giving him a lifetime-appointed Federal judicial position, the danger would be great, and he should not be promoted with this kind of anti-law-enforcement record. So he made a statement to that effect on the floor, and 54 Senators agreed with him.

That is not disqualifying. That shows to me a man of courage, because he knew it would be a difficult matter, that many would disagree with him and he would probably be attacked. It showed the kind of courage that prosecutors have to have. It is not always a pleasant task to take on these cases. You have to do your duty, and John did in this case.

He did the right thing. Judge White's opinions are, in my opinion, outside the mainstream, and he should not have been confirmed—54 Senators agreed with this conclusion.

The far left has also made allegations about the Bill Lann Lee nomination, and they have been attacking Senator Ashcroft for his small role—they don't say small role—in the Bill Lann Lee matter.

Bill Lann Lee was nominated by the President for chief of the Civil Rights Division of the Department of Justice. He had been a career civil rights attorney, a good one, who had filed lawsuits all over the country. That had been his goal throughout life. He came at the office from that perspective.

That is not disqualifying. As a matter of fact, it could be a good quality. In fact, I consider it a good quality that he had litigated and had been active in the areas of law which he would be called upon to enforce.

Many of his cases, however, had obtained rulings or forced agencies he was suing into consent decrees that went beyond what I believe is justified under current Supreme Court law. In fact, in recent years the U.S. Supreme Court rendered an opinion called the Adarand opinion. It was a very important case. It clarified in many ways the issue concerning quotas and affirmative action programs in terms of what is legitimate and what is not. Basically, the Supreme Court held that the Government can't have quotas. It cannot say that you get this contract for highway work because of the color of your skin and you don't get it because of the color of your skin. The Government can have affirmative action programs; it can have action to encourage small businesses. It can do a lot of different things to encourage minorities to have the opportunity to compete. But it cannot, as a matter of American law and fundamental justice, say to one group or another: You can't get this contract because of the color of your skin.

We had a hearing on that in the Judiciary Committee. We had Mrs. Adarand, the wife of Mr. Adarand, testify how their business had been damaged by a quota system in Federal highway funding. She described that in some detail.

We had a lady, a Chinese American from San Francisco, who testified about her daughter who had studied very hard to get into a special advanced quality school in San Francisco for math and science, I believe. She met the test scores, and they were so excited. Then she got a letter saying they were not accepted.

This woman went down to the school's office and said: My daughter made this test score. I thought she would be accepted. Why wasn't she?

She said the man to whom she was speaking looked at her and said: She was rejected because there are too many Chinese enrolled already.

Even though her child qualified in every way, she was rejected because of her ethnic, racial background.

That is the kind of thing that is happening in America today. It is not a healthy thing. Adarand made clear that those kinds of things are not justified. Adarand holds that there is a presumption in the law that programs based on race, that favor one group or another based on their race, are unconstitutional and that they fail and cannot be enforced unless they pass a strict scrutiny test, which is a very high test.

Isn't that true? Isn't that what America is about? Equal opportunity for all, regardless of their race and background, color or creed or religion? Yes, that is what America is about. So this is a seminal case.

So Mr. Lee came up. It became a really important question as to whether or not he would follow this because his background, particularly in a lot of cases before Adarand was ruled on, was contrary to that. He said he thought Adarand was fine, he would follow it. But we questioned him in some detail about how he interpreted Adarand, and that was a matter that did not go well for Mr. Lee, in my opinion. It troubled the entire committee.

The precise questions dealt with the enforcement of Adarand. When asked to state the holding of Adarand—we asked him what he thought the holding of Adarand was—he testified that racial preference programs are permissible "if conducted in a limited and measured manner." Racial preferences are permissible in America, he said, if conducted in a limited and measured manner.

But Adarand doesn't say that. That was the problem. Adarand says they are presumptively unconstitutional unless they pass strict scrutiny, some specific reason—normally, a clear bias that is being fixed by a post-adjudication order. But even when this was pointed out to Mr. Lee, he stayed with his expressed position. That was very troubling.

I liked Mr. Lee. I told him I liked him. But I was troubled that he was going to be chief of the Civil Rights Division in the Department of Justice, and he wasn't prepared to enforce plain rule, as I saw it, in the Adarand case.

Chairman HATCH, who is a constitutional scholar, was also troubled. He came and made a speech on this floor which had the quality of a Law Review article dissecting this important seminal case and Mr. Lee's responses to it. He voted no, the chairman of the Judiciary Committee, as did eight other members of the Judiciary Committee, of which I was a member. He failed in committee 9–9.

They blamed John Ashcroft as being a man who personally blocked this person from that high office. I don't think that is right. I think that is wrong. That is deliberate distortion of what happened. Members of the committee who were there ought to have known better than to criticize John Ashcroft with regards to the Bill Lann Lee nomination. They should not repeat a false allegation, and they should correct their colleagues who may not know otherwise.

It was an honest, professional discussion of the law. It was an honest discussion of what ought to be done for Bill Lann Lee, and we concluded that his understanding of Adarand was different than what we understood Adarand to be and that he could not fulfill the very heart of his office's responsibility if he didn't understand the seminal case on preferences and quotas in America law, the Adarand case.

There are hundreds of Federal programs based on race in America. When asked if any of them would fall because of Adarand, Lee suggested maybe one. I think that is unlikely to be so as the law continues to develop in this area. I think we had a real problem there. That is why that matter was decided the way it was.

It certainly is unfair to say that this brilliant lawyer, this principled Senator, this public servant of over 25 years was somehow anti-Chinese-Americans because he voted against Bill Lann Lee. He voted for 26 out of 27 African American judges that the Clinton administration sent forward, objecting only to the one in his State where his sheriffs and police chiefs opposed him. Does that mean that he is anti-black? They are wrong. This is going too far. What is happening here is not right.

I was talking to a group, and I acknowledged that John was different from the rest of us. He doesn't drink, dance or smoke because of his dedication to his religious beliefs. He has been married to one wife, and he has a fine family. His personal life is conducted on the highest standard of decency and fairness. In many important ways, John Ashcroft is different from the rest of us. In many important ways, John Ashcroft is better than the rest of us.

He has appointed numerous African Americans to the bench in Missouri. He signed into law and supported the Martin Luther King birthday law in Missouri at a time when some didn't want to do that. His wife, a law professor herself, is teaching at the Howard University, a majority black college here in D.C. John has a clear record of fairness and justice.

It is wrong to allow a series of groups that are not answerable to the American people, that have hard-left agendas, to come in here and caricature his decisions as being somehow anti-civil rights because he voted against Bill Lann Lee; that he is somehow anti-black because he voted against this one judge. To make that kind of caricature of this good man and then ask us to vote against him based on that caricature is fundamentally wrong.

If you had heard the testimony and heard him answer and explain how he did this and other things in the hearing, you would agree, I believe, that he made a wonderful case for what he did. It was plausible and reasonable and principled and is not in any way extreme or outside the mainstream of American law.

Another far left myth is that John is against integration because he resisted massive Federal Court intervention in the State of Missouri's school systems.

Many of you have probably heard of the Kansas City case where a Federal judge imposed a tax and ordered a county commission to impose a tax to pay for the court's plan for education. John was the attorney general of the State of Missouri, the sovereign State of Missouri, that has a constitution that says what State school boards do, what State superintendents of education do, and how the system is set up. This Federal judge came in and ripped it all apart doing what he thought was just.

I am telling you, if the attorney general wants to defend his State, what is the matter with that? Who is in charge? Is he supposed to stand idly by and allow the court to do that?

Senator Danforth, one of the most respected Senators who has served in this body, is an Episcopal priest, and was attorney general before John. He opposed these court orders. His successor opposed these orders. The second successor to John Ashcroft, Jay Nixon—I was attorney general, and I knew Jay. Jay opposed those orders exceedingly vigorously. But that didn't stop a few of the Members of this body, Senators KENNEDY and HARKIN, from going to Missouri and having a fundraiser for Jay Nixon in his race for the Senate.

Let me repeat that. Senators KENNEDY and HARKIN held a political fundraiser for Jay Nixon after he opposed these court orders vigorously, yet somehow it was improper for then Attorney General Ashcroft to have opposed them as well.

This example is illustrative. Like the integration charge, all the charges made against John are trumped up. This is not fair. John Ashcroft was doing his duty as an attorney general. He favored school integration, and he has stated that unequivocally. He believes in integration, but he did not agree with the actions taken by the federal courts.

This is what was in one of the court orders that John Ashcroft resisted as attorney general of Missouri. It ordered the school system to have an 8-lane, 50-meter swimming pool, the biggest in the State, bigger than any of the universities' swimming pools; a 300-seat Greek amphitheater with a stage framed with white columns; a planetarium; greenhouses; a dust-free diesel mechanic shop—I worked in my dad's mechanic shop. It wasn't dust free. It didn't hurt me, I don't think—broadcast cable radio and TV studios; school animal rooms, including an indoor petting zoo; private nature trails; overseas trips for students; and a model United Nations with language translation.

The attorney general is supposed to sit by and let a Federal judge take over the whole State and issue these kinds of orders? Who is going to pay this $1.7 billion? The people of Missouri.

Who is this judge? How do judges get to do this? They have to be careful about this. You can't issue orders to remedy a past discrimination. You can't do that, but judges do it regularly. But many judges over reach. Many court rulings have over reached.

As attorney general, John Ashcroft thought it was his duty to defend Missouri as his predecessor and as his two successors did. That is not an extreme position.

This is second-guessing somebody and twisting it to make it sound as if he opposed integration, which he absolutely did not.

There are many more matters that have been charged. The responses to them are just as compelling. In fact, it is clear to me that the case against John Ashcroft totally collapsed in the hearings that we held. We gave everybody a chance to testify. John responded to all of them. He answered 400 questions propounded to him.

There is no case here that shows that he wouldn't be the finest kind of Attorney General. I am convinced that he will. I am convinced that he will be a great Attorney General.

As one who spent 15 years in the Department of Justice, I dearly love and I respect it from my deepest being. It has not been run well in the last 8 years. It really has not. Morale is not where it needs to be. They have not pursued cases effectively, in my view. For long, long periods of time, chief positions such as Criminal Division Chief have been left vacant. There has not been a focus and a leadership there, and it is desperately needed. More than anybody I know, John Ashcroft can fill that role with integrity, with fairness, and with justice to restore the concept of equal justice under the law, even if it means denying pardons to millionaire fugitives who won't come back to face the medicine.

He would never have approved a pardon for that kind of case. That kind of stuff is rotten to the core. The same people in this body who have defended, excused, and apologized for lies, for unprincipled operation of the Department of Justice, or for former President Clinton's subversion of the law, now see fit to attack a man of character and decency. This is tragic, and it speaks volumes about John's opponents.

He is going to be confirmed, because my colleagues know the truth about John Ashcroft. He will be a good Attorney General. Members of this Senate in opposition to this nomination ought to reevaluate their conscience about how they have handled this case. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

ELIMINATING FEDERAL BARRIERS

Mr. HUTCHINSON. Mr. President, I rise to enthusiastically applaud George W. Bush's community and faith-based initiative which he announced yesterday and is emphasizing and talking about this week. It is a very exciting prospect that we have a President who recognizes the vast untapped potential of the charitable and faith-based sector and who wants to rally what he calls the "armies of compassion" to solve the deeper social problems and the deeper social challenges we face in this Nation.

The government can do many things. Some of those things it does well, but there are many things government cannot do. It cannot put hope in our hearts or a sense of purpose in our lives. This is done by churches, synagogues, mosques, and charities that warm the cold of life. It is done by the faith-based sector in our society.

I am pleased the President has established the Office of Faith-Based and Community Initiatives. By creating this office, we now will have a clearinghouse in the executive branch to point up where we have legislative and administrative barriers that have been erected to make it more difficult for people to encourage and support these faith-based initiatives. It will identify such problems in Federal rules, practices, and regulatory and statutory barriers in order that we might find relief and coordinate new Federal initiatives to empower and partner with faith-based and community problem solvers.

As he rolled out this plan—some of it, I am sure, is going to be controversial, and that is where the media would like to focus—much of what the President has rolled out makes common sense if we go beyond welfare reform, passed a few years ago and signed by President Clinton. Welfare reform has had a dramatic impact. We have seen the welfare roles decline by half across the Nation. All of us involved in the effort understood that was but the first step, and if we were ultimately to get to the deeper problems in a welfare culture, if we were going to deal with the problems of drug dependency, if we were going to deal with the high rate of recidivism in our prisons that we had to embrace, we had to involve the faith-based sector.

The President has suggested we should expand private giving, we should grant a charitable deduction for nonitemizers. The Federal charitable deduction, under the President's plan, will be expanded to 80 million taxpayers. Seventy percent of all filers do not itemize, and thus currently cannot claim this benefit. This initiative will spark billions of dollars in new donations to charitable organizations. He has suggested that we should promote corporate in-kind donations. The administration seeks to limit the liability of corporations that in good faith donate equipment, facilities, vehicles, or aircraft to charitable organizations, thus enhancing the ability of these organizations to serve neighborhoods and families. That, I say to my colleagues, is common sense. It should not be controversial. He suggested that we permit charitable contributions from IRAs without penalty. Under current law, withdrawals from IRAs are subject to income tax. This creates a disincentive for retirees to contribute some or all of their IRA funds to charity.

President Bush supports legislation that would permit individuals, over the age of 59, to contribute IRA funds to charities without having to pay income tax on their gifts. He promotes a charitable State tax credit. He supports raising the cap on corporate charitable deductions and creating a compassion capital fund.

All of these are a simple means in which we can use the Tax Code to encourage donations to the faith-based and charitable sector and unleash this vast source of energy to help solve these very deep-rooted problems that we have in our society.

Among the new approaches, he suggests action that would help the children of prisoners, improving inmate rehabilitation, providing second chance maternity group homes, and more afterschool opportunities.

I want to tell one such story from the State of Arkansas that I believe the President's initiatives will assist. We had a wonderful organization started in Little Rock, AR, called PARK. It stands for Positive Atmosphere Reaches Kids. It was established by someone whose name will be familiar to football fans across this country. It was established by Keith Jackson. Keith was raised in a single parent household in a low-income neighborhood of Little Rock. He held steadfast to his course of finishing high school, playing football, and ultimately graduating from college. Unfortunately for us, he played football for the University of Oklahoma. But he went on to the NFL where he had a stellar career. He returned to Little Rock with this burden to help underprivileged children in Little Rock.

This is what he said in 1989. He said, while watching an evening newscast, he was struck by the number of stories involving teenagers and violent crime. He said: It seemed like every story was about a kid getting shot or robbing a liquor store or being in a gang fight. It really hit me for the first time that somebody had to do something to stop this. What we are doing now isn't working.

He said the Government programs, as many and as well motivated as they were, were not doing the job. He established PARK. It is a wonderful program. It is an afterschool program. From September through May, the program operates 4 days a week. Kids ride schoolbuses to PARK. When they arrive, they eat a nutritious snack. They participate in the required academic program which requires homework, tutoring, reading or research in the library, working in the computer lab that is equipped with software designed to enhance skills in reading, math, and language arts.

Volunteer tutors and mentors come in. After they spend the hour doing the academics, they then get to enjoy the recreation. They have a skating rink, a weight room, basketball courts, racquetball courts, and an arcade. Some kids may go so they can be involved in the recreation, but they first have to do the academic work. They have a summer program. They have a community service program. They emphasize parental involvement.

When school is over, the buses take the kids to PARK, where they enjoy an extra hour of academic emphasis. Then they have the recreation. They have a nutritious snack. They have parental involvement. They have mentors and tutors. And they have a college prep program. All of this is done without one red cent of Government money. It is all from donations. It is all from foundations; not any Government assistance.

Why shouldn't we make it easier for people who believe in programs such as PARK to be able to give and contribute and have a tax incentive to do that? I simply applaud President Bush for seeing this need and for stepping forward and being willing to take some of the barbed attacks he has faced, and will continue to face, for this initiative because it is sorely needed.

I want to tell one more example. Here in Washington, DC, a group of Hill staffers, a few years ago, saw the need of children in disadvantaged homes in the District of Columbia, where many of them did not have the same educational opportunities as children from more affluent homes. They went out and they started a school called Cornerstone. They started it on a shoestring. They had no great resources. They had no great endowment. They had no great foundation. All they had was a vision and a dream. They are Hill staffers. They have started a school that is now serving scores of young people here in the District of Columbia. While we may argue about vouchers, we surely should not argue about making it easier for people to support faith-based initiatives such as Cornerstone.

DEMOCRATIC COMMITTEE MEMBERS

Mr. DASCHLE. Mr. President, the following is our completed list of Democratic members of the Energy Committee: Senators BINGAMAN, AKAKA, DORGAN, GRAHAM, WYDEN, JOHNSON, LANDRIEU, BAYH, FEINSTEIN, SCHUMER, and CANTWELL.

NOMINATIONS

TOMMY G. THOMPSON TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. CONRAD. Mr. President, I supported Governor Tommy G. Thompson's nomination to be Secretary of Health and Human Services (HHS) because he is a proven leader in reforming welfare, health care, and other important social policies.

As the steward of the Department of Health and Human Services, he will be involved in managing more than 300 separate programs and the largest budget of any cabinet agency, more than $400 billion per year. In this position, it is my hope that he will make providing affordable, universal prescription drug coverage to every Medicare beneficiary, and reforming the Medicare program to ensure its long-term fiscal solvency at the top of his agenda.

. Also, I would hope that under his leadership, HHS will take an active role in working to address continued funding and access shortfalls in the rural health care system, particularly as they relate to Medicare reform. This is especially important in my state of North Dakota, where health care providers are struggling to offer quality services to seniors living in rural areas. In addition, we know that Governor Thompson has fought hard to expand health care coverage for low-income parents and children in the state of Wisconsin. It is my hope that he will continue this effort at the federal level, with a firm commitment to retaining a strong federal role in important programs such as Medicaid and the State-Children's Health Insurance Program.

I look forward to working with Governor Thompson in the coming years to improve health care and income security for all Americans.

CONFIRMATION OF MEL MARTINEZ

Mr. CONRAD. Mr. President, I supported Mel Martinez as Secretary of the Department of Housing and Urban Development. I believe that Mr. Martinez will contribute both his knowledge of housing policy and personal experience toward increasing home ownership among all Americans. During his confirmation hearing, Mr. Martinez said that he knows the value of home ownership, because he has witnessed its great power throughout his entire life. It is true that the foundation of community involvement and prosperity is built upon home ownership, which is a critical element of the American Dream.

I am pleased that Mr. Martinez has voiced his support for the President's proposal to provide $1.7 billion in tax credits over five years to build and renovate single-family homes in poor communities and to allocate another $1 billion in tax credits to assist up to 650,000 families attain their dreams of becoming homeowners.

Having emigrated to the United States at the age of 15 and successfully risen to the post of Chairman of Orange County, Florida, Mr. Martinez has proved his mettle and displayed his commitment to public service. I look forward to working with Mr. Martinez in his capacity as our nation's newest Secretary of Housing and Urban Development.

NORMAN MINETA TO BE SECRETARY OF TRANSPORTATION

Mr. CONRAD. Mr. President, I was very pleased to support the nomination of Norman Mineta to be Secretary of Transportation.

Mr. Mineta has had a long and distinguished career in public service. Most recently, he served with distinction as Secretary of Commerce. Before that, he served for many years in the House of Representatives, where he rose to become Chairman of the Transportation Committee. With that background, Mr. Mineta could not be better prepared for the challenges he will face.

One of this country's great competitive advantages in the global economy has been our transportation infrastructure, which allows us to move raw materials to processing plants and finished products to markets around the world with great efficiency. However, our infrastructure is starting to show its age. Our roads and airports, in particular, are increasingly congested, and delays are costing our economy tens of billions of dollars annually. In recent years, the Congress has dramatically increased our national commitment to highway and airport funding to make sure our infrastructure is up to the standards and challenges of the twenty-first century. Our next Secretary of Transportation will have the important task of implementing these legislative initiatives as well as helping to negotiate the next highway bill.

As he takes on these challenges, I hope Secretary Mineta will keep in mind some of the concerns of primarily rural states like North Dakota. In my state, Essential Air Service is critically important to preserving air service to mid-size communities and helping to foster economic development in those communities. More generally, federal funding is essential to maintaining the hundreds of miles of highways that bridge the distances between population centers. Finally, I had the opportunity to talk with Mr. Mineta the other day about the unique situation in the Devils Lake region in my state and the need to come up with an innovative solution that will maintain the road network in the face of continued flooding of Devils Lake.

I look forward to working with Secretary Mineta on these many issues and wish him well in his new position.

CHARITABLE CONTRIBUTIONS

Mrs. HUTCHISON. Mr. President, later today I plan to introduce legislation that will be a very important part of our tax bill and also part of the effort to encourage people to give more to charitable institutions. This bill was passed by Congress last session, and it was vetoed by the President. Senator DURBIN and I are going to reintroduce it. It is the IRA charity rollover bill.

It will allow simply anyone 59½ or older to take money from their IRA that they find they do not need for the lifestyle in which they wish to live in retirement and give it directly to charity without having to pay taxes on it. This will give more money to the charity, it will allow that person to choose where his or her money will go, and it will certainly continue to encourage people to save for their retirement security. It will also give them flexibility, an option, if they have saved in good faith and find they now can be more generous and would like to help the charity of their choice.

The charity IRA rollover bill will be introduced by Senator DURBIN and myself this afternoon. I am very pleased it also is going to be part of President Bush's tax package. Now I know that when we pass this bill, it will be signed by the President.

TRIBUTE TO ALAN CRANSTON

Mr. CLELAND. Mr. President, for the information of all Senators, I am being joined by former Senator Alan Simpson and my distinguished colleagues, Senators BOXER, FEINSTEIN, KENNEDY and ROCKEFELLER, in sponsoring a Memorial Tribute to our former colleague and my dear friend, Alan Cranston, who passed away on New Year's Eve 2000. The tribute will be held on Tuesday, February 6, 2001, at 2 p.m. in Room 902 of the Hart Building. I invite and encourage all Senators to join us for this celebration of Alan's life of service to the people of our country.

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2001 budget through January 24, 2001. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2001 Concurrent Resolution on the Budget (H. Con. Res. 290).

The estimates show that current level spending is above the budget resolution by $33.9 billion in budget authority and by $21.8 billion in outlays. Current level is $14.1 billion above the revenue floor in 2001.

This is my first report for fiscal year 2001, and my first report for the first session of the 107th Congress.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 25, 2001.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2001 budget and are current through January 24, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 290, the Concurrent Resolution on the Budget for Fiscal Year 2001.

This is my first report for the fiscal year.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosures.

TABLE 1.—FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT, AS OF JANUARY 24, 2001

[In billions of dollars]

	Budget resolution	Current level[1]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,534.5	1,568.4	33.9
Outlays	1,495.9	1,517.7	21.8
Revenues:			
2001	1,498.2	1,512.3	14.1
2001–2005	8,022.4	8,155.9	133.5
Debt Subject to Limit	5,663.5	5,646.0	−17.5
OFF-BUDGET			
Social Security Outlays:			
2001	336.5	337.2	0.7
2001–2005	1,765.0	1,767.3	2.3
Social Security Revenues:			
2001	501.5	501.5	(2)
2001–2005	2,740.8	2,740.8	(2)

[1] Current level is the estimated revenue and direct spending effects of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest information from the U.S. Treasury.

[2] Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF JANUARY 24, 2001

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in sessions prior to 2000:			
Revenues	n.a.	n.a.	1,514,820

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF JANUARY 24, 2001—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Permanents and other spending legislation	961,237	916,844	n.a
Appropriation legislation	0	266,010	n.a
Offsetting receipts	– 297,807	– 297,807	n.a
Total, enacted in previous sessions	663,430	885,047	1,514,820
Enacted in 2000:			
Authorizing Legislation:			
Act to amend the Food Stamp Act of 1977 (P.L. 106–171)	1	1	0
Omnibus Parks Technical Corrections Act of 1999 (P.L. 106–176)	8	6	0
Wendell H. Ford Aviation Investment and Reform Act (P.L. 106–181)	3,200	0	– 2
Civil Asset Forfeiture Reform Act of 2000 (P.L. 106–185)	– 114	– 75	– 115
Trade and Development Act of 2000 (P.L. 106–200)	– 47	– 47	– 442
Agricultural Risk Protection Act of 2000 (P.L. 106–224)	3,060	2,165	0
Valles Caldera Preservation Act (P.L. 106–248)	– 1	– 1	0
Griffith Project Prepayment and Conveyance Act (P.L. 106–249)	– 103	– 103	0
Semipostal Authorization Act (P.L. 106–253)	– 2	– 2	0
Long-term Care Security Act (P.L. 106–265)	3	3	0
Security Assistance Act of 2000 (P.L. 106–280)	6	6	0
Lincoln County Land Act of 2000 (P.L. 106–298)	– 3	– 3	0
Act to provide personnel flexibilities for GAO (P.L. 106–303)	0	0	0
Children's Health Act of 2000 (P.L. 106–310)	2	2	0
Act to increase fees for employers who are petitioners (P.L. 106–311)	0	– 64	0
American Competitiveness in the 21st Century Act (P.L. 106–313)	0	– 126	0
Black Hills National Forest and Rocky Mountain Research Station Improvement Act of 2000 (P.L. 106–329)	– 1	– 1	0
Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106–354)	15	15	0
Act to amend Title 5, United States Code, on Thrift Savings Plans (P.L. 106–361)	– 3	– 3	– 6
Act to direct the Secretary of the Interior to convey property (P.L. 106–366)	– 5	– 5	0
National Museum of the American Indian Commemorative Coin Act (P.L. 106–375)	– 3	– 3	0
Act to direct the Secretary of the Interior to convey facilities (P.L. 106–376)	– 2	– 2	0
Victims of Trafficking and Violence Protections Act of 2000 (P.L. 106–386)	342	342	0
Act to authorize the Bureau of Reclamation to provide cost sharing (P.L. 106–392)	23	8	0
County Schools Funding Revitalization Act of 2000 (P.L. 106–393)	21	21	0
Federal Employees Health Benefits Children's Equity Act of 2000 (P.L. 106–394)	– 1	– 1	0
Floyd D. Spence National Defense Authorization Act for 2001 (P.L. 106–398)	– 22	– 22	0
Alaska Native and American Indian Direct Reimbursement Act (P.L. 106–417)	9	9	0
Veterans Benefits and Health Care Improvements Act of 2000 (P.L. 106–419)	154	154	0
National Transportation Safety Board Amendments Act of 2000 (P.L. 106–424)	12	12	0
Santo Domingo Pueblo Claims Settlement Act of 2000 (P.L. 106–425)	8	8	0
Arizona National Forest Improvement Act of 1999 (P.L. 106–458)	– 5	– 5	0
Grain Standards and Warehouse Improvement Act of 2000 (P.L. 106–472)	1	1	0
Act to amend the Harmonized Tariff Schedule to modify rates of duty (P.L. 106–476)	0	0	– 26
Palmetto Bend Conveyance Act (P.L. 106–512)	– 42	– 42	0
Act to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (P.L. 106–519)	0	0	– 153
Water Resources Development Act of 2000 (P.L. 106–541)	2	2	0
Act to direct the Secretary of the Interior to conduct a study (P.L. 106–566)	5	5	0
Omnibus Indian Advancement Act (P.L. 106–568)	8	8	0
American Homeownership and Economic Opportunity Act of 2000 (P.L. 106–569)	– 13	– 13	– 68
Federal Physicians Comparability Allowance Amendments of 2000 (P.L. 106–571)	– 3	– 3	1
Installment Tax Correction Act of 2000 (P.L. 106–573)	0	0	– 1,120
Consolidated Appropriations Act (P.L. 106–554)	4,568	4,480	– 139
Total, authorizing legislation	11,078	6,727	– 2,070
Appropriation Acts:			
Agriculture Appropriations (P.L. 106–387)	77,830	42,663	0
Commerce, Justice, State Appropriations (P.L. 106–553)	37,812	25,437	0
Defense Appropriations (P.L. 106–259)	287,806	188,945	0
District of Columbia Appropriations (P.L. 106–522)	440	408	0
Energy and Water Development Appropriations (P.L. 106–377)	23,598	15,129	0
Foreign Operations Appropriations (P.L. 106–431)	14,945	5,457	0
Interior Appropriations (P.L. 106–291)	18,905	11,912	0
Labor, HHS, Education Appropriations (P.L. 106–554)	289,432	227,557	0
Legislative Branch Appropriations (P.L. 106–554)	2,577	2,207	3
Military Construction Appropriations (P.L. 106–246)	4,932	– 3,982	0
Transportation Appropriations (P.L. 106–346)	18,834	20,509	– 460
Treasury, PS, General Appropriations (P.L. 106–554)	29,964	26,342	0
Veterans, HUD Appropriations (P.L. 106–377)	103,577	62,961	0
Act making further continuing appropriations for the fiscal year 2001 (P.L. 106–426)	7	7	0
Act making further continuing appropriations for the fiscal year 2001 (P.L. 106–520)	7	7	0
Consolidated Appropriations (P.L. 106–554)	15	– 115	0
Total, appropriation acts	910,681	625,444	– 457
Total, enacted in 2000	921,759	632,171	– 2,527
Entitlements and mandatories: Adjustments to appropriated mandatories to reflect baseline estimates	– 16,743	519	n.a
Total Current Level	1,568,446	1,517,737	1,512,293
Total Budget Resolution	1,534,546	1,495,924	1,498,200
Current Level Over Budget Resolution	33,900	21,813	14,093
Current Level Under Budget Resolution	n.a.	n.a.	n.a
Memorandum: Emergency designations for bills enacted this session	8,744	11,225	0

Source: Congressional Budget Office.
Notes: P.L. = Public Law. n.a. = not applicable.

ADDITIONAL STATEMENTS

TRIBUTE TO JERE W. GLOVER

• Mr. KERRY. Mr. President, I speak today to praise Jere Glover, former Chief Counsel for Advocacy at the U.S. Small Business Administration, for almost seven years of outstanding work in that position.

The United States Senate confirmed President Clinton's appointment of Mr. Glover as Chief Counsel for Advocacy on May 4, 1994. Mr. Glover served as Chief Counsel until January 20, 2001. The following briefly highlights some of the Office of Advocacy's achievements during Mr. Glover's leadership.

Mr. Glover was instrumental in making the third national White House Conference on Small Business a success. Held in June 1995 in Washington, DC, it was attended by nearly 2,000 delegates. Some 20,000 small businesses participated in 59 state conferences and six regional conferences leading to the national conference. In the legislation authorizing the conference, the Congress mandated that SBA monitor and report to the delegates on the progress made to implement their recommendations. Under Mr. Glover, the Office of Advocacy established networks of delegates and provided information through "regional issue chairs." In the month of September in 1996, 1997, and, finally, 2000, the Office of Advocacy sent annual implementation reports to Congress, the President and the delegates. These reports indicated the unprecedented progress, compared with previous conferences, in implementing the recommendations of the 1995 White House Conference on Small Business.

Following up on the recommendations of the 1995 White House Conference on Small Business, the Office of Advocacy provided research and testimony in support of a number of laws designed to reduce small business tax, regulatory, and paperwork burdens. In addition to the Small Business Regulatory Enforcement Fairness Act of 1996, the Office of Advocacy supported provisions in the Taxpayer Relief Act of 1997, the Small Business Job Protection Act of 1996, the Health Insurance Portability and Accountability Act of 1996, the American Inventors Protection Act, the Federal Activities Inventory Reform Act and others, all of which incorporated the Conference recommendations.

Since the enactment of the Regulatory Flexibility Act (RFA) in 1980, the Office of Advocacy has had an oversight role in monitoring compliance with the law. The RFA requires federal agencies to determine whether a proposed rule will have a disproportionate effect on small firms and other small entities and, if so, to explore equally effective alternative regulatory solutions. In 1996, Congress expanded the Office of Advocacy's role by passing the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). This law provides new avenues for small businesses to participate in and have access to the federal regulatory arena.

The Office of Advocacy held briefings for more than 600 federal officials on the requirements and procedures mandated by this amendment to the Regulatory Flexibility Act. The Office of Advocacy held a special conference for the economic analysts in each agency on how to analyze the economic impact of agency regulations on small business and was successful in challenging violations of the RFA and SBREFA in court.

Under Jere Glover, the Office of Advocacy pursued the mandates of SBREFA in over 20 EPA and OSHA small business advocacy review panels. The panels reviewed proposals that would impose burdens on small business and recommended changes. The work of these panels helped craft stronger, more equitable regulations. Even in cases where agreement wasn't reached, small businesses were better informed of regulatory burdens and requirements.

At the beginning of this year, the Office of Advocacy published its 20th Anniversary Regulatory Flexibility Act Report. Chief among the report's findings is the estimate that in the 1998–2000 period, regulatory changes supported by the Office of Advocacy saved small businesses about $20 billion in annual and one-time compliance costs.

In addition to the Regulatory Flexibility Report, the Office of Advocacy has completed its fourth annual report focusing on small business lending activities of the nation's commercial bank lenders. This study analyzes information in the "call" reports filed by all federally regulated banks. The national and state-by-state analyses of the data show which banks, large and small, are most likely to lend to small businesses. The Office of Advocacy reports also categorize the banks by the percentage and dollar volume of their lending to small businesses.

Additionally, under Mr. Glover's tenure, the Office of Advocacy has developed, or assisted in the development of a number of databases to address the critical gap in equity capital financing, aide public and private contracting officers seeking small business contractors, subcontractors and partnership opportunities and, measure job creation by small business. Using this data, the Office of Advocacy estimates that small businesses created more than 12 million net new jobs between 1992 and 1996.

Mr. President, as the Ranking Democratic Member of the Senate Committee on Small Business, I would like to extend my congratulations to Mr. Glover for his successes while Chief Counsel for Advocacy and wish him well in his future endeavors.

I ask that a letter from business groups around the country, thanking Mr. Glover for his hard work and support of America's small businesses, be printed in the Record.

The letter follows:

A Tribute to Jere W. Glover

Jere W. Glover is a great American.

Each of us, the undersigned, has had an opportunity to work closely with Jere Glover over the last six years, and we would like to share with America some of our unique experiences and accomplishments with him as the Chief Counsel for Advocacy of the U.S. Small Business Administration. On January 20, he will leave behind a significant legacy in the regulatory arena.

Jere Glover advanced the cause of small business by decades, by being one of the driving forces behind one of the most significant changes to the Regulatory Flexibility Act (RFA): the Small Business Advocacy Review Panel process. The Panel process enables the Chief Counsel, with the advice of the small business community, to review and evaluate the basis for certain regulations at an early stage of the process. These are regulations that could have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, and/or small governments. The Panel process led to a number of significant improvements to regulations of the U.S. Environmental Protection Agency (EPA) and the U.S. Occupational Safety and Health Administration (OSHA) in recent years.

Perhaps the largest part of his legacy, the work Jere Glover has done with EPA rules affecting the petroleum refining industry, has been most effective. Thanks to Jere Glover, there will continue to be a significant small business presence in this industry.

For example, EPA was planning to propose a significantly more stringent regulation of sulfur in gasoline, but Jere helped to persuade EPA that such a decision would be unnecessary and unduly costly to the consumer. EPA eventually signed a rule that would delay the final standards for four to six years for small businesses, allowing them to make more manageable reductions in sulfur over a longer period of time.

The same is true about EPA's recent rule to control hazardous air pollutants from mobile sources. Due largely to Jere's counsel, EPA backed away from initial plans for a more stringent rule to commit to a no-cost approach at proposal. His continued interest and advocacy led to further changes to the final rule, which helped the Agency to ensure that it would meet its twin goals of a no-cost rule that, at the same time, maintains the significant air quality improvements over the last several years.

Jere Glover was also successful in persuading EPA to build some flexibility into the rule for the control of sulfur in highway diesel fuel, so that small refiners could stage significant investments in the diesel and gasoline sulfur rules.

In the safety arena, Jere Glover has been a real watchdog for the rights of small business under the RFA. While there have been only three SBREFA panels at OSHA, Jere Glover was closely involved with each one, ensuring that the concerns of small business were heard. Without the input of Jere and that of small employers, OSHA would not have revised its economic impact analysis of the Ergonomics rule, nor added provisions such as the Quick Fix option, which gave flexibility to small entities.

Jere Glover has been a true advocate for the millions of small employers affected by both the Ergonomics rule and the Safety and Health proposed rule. He insisted that OSHA take into consideration not only how differently small employers operate their workplaces, but also how burdensome and costly government regulations are on those employers. With Jere's constant commitment to small business, he was able to argue convincingly that OSHA's cost estimates in both the Ergonomics rule and the Safety and Health program standard were significantly underestimated.

And Jere Glover did not stop there. He was instrumental in persuading the EPA not to finalize national wastewater discharge standards for the textile supply and service industry (industrial launderers). By pointing to existing local regulations, Jere was able to convince the EPA that the industry's voluntary pollution prevention and resource conservation program was a more appropriate course of action.

He also managed to persuade EPA to provide significant flexibility in the Transportation Equipment Cleaning Industry wastewater regulation.

And last, when did EPA learn that the public already knew that there was actually gasoline at gas stations? When Jere Glover pointed it out. The Agency had been insisting that gas station owner/operators should annually complete more paperwork on gasoline to serve the public's right-to-know about environmental hazards. But Jere Glover helped them to see that EPA could use existing paperwork, the underground storage tank forms, to accomplish the same goal at less cost and less burden.

The small business community salutes you, Jere Glover. We will miss you, Jere, and your invaluable contributions to our cause. Good luck to you in your future endeavors. We will never forget you.

Ad Hoc Coalition of Small Refiners; American Association of Airport Executives;

American Electroplaters and Surface Finishers Society; American Foundry Society; Consumer Specialty Products Association; Council of Industrial Boilers; Lead Industries Association, Inc.; Metal Finishing Suppliers Association; National Association of Metal Finishers; National Marine Manufacturers Association; National Tank Truck Carriers, Inc.; North American Die Casting Association; Petroleum Marketers Association of America; Porcelain Enameling Institute; Society of American Florists; Stormwater Reform Coalition; Synthetic Organic Chemical Manufacturers Association; Textile Rental Services Association of America; Uniform Textile & Service Association; and United Motorcoach Association.•

TRIBUTE TO ELDER E.E. CLEVELAND

• Mr. SHELBY. Mr. President, I rise today to recognize Elder E.E. Cleveland, a civic and religious leader for over 50 years with the Seventh-day Adventist Church. A graduate and an eventual professor at Oakwood College in Huntsville, Alabama, Elder Cleveland is a shining example of a man whose devotion to principle and belief can serve to inspire and influence others. In honor of the new Bradford Cleveland Institute for Continuing Education located at Oakwood College, I wanted to take this opportunity to recognize a man who has been a pioneer in religious and community involvement.

After graduating from Oakwood College in 1941, and being ordained in 1946, Elder Cleveland embarked on a remarkable path which has taken him all over the United States, across 6 continents, and 67 countries. He has conducted over 60 public Evangelism campaigns, trained over 1,100 pastors world-wide, and held scores of church revivals. In fact, Elder Cleveland was the first black church leader sent to Asia, Europe, South America and Australia, and has preached to integrated audiences in Cape Town and South Africa. He has authored sixteen published books and two Sabbath School Lesson Quarterlies, and served as a Contributing and Associate Editor to numerous religious journals and publications. In fact, Elder Cleveland was presented with an award by Governor Guy Hunt in 1989, for being the most distinguished Black Clergyman in the State of Alabama.

It can truly be said that Elder Cleveland has touched the lives of many throughout the world. This broad sense of community is demonstrated in his involvement in many areas. Elder Cleveland participated in the First March on Washington in 1957 with Dr. Martin Luther King, and organized the NAACP Chapter for students on the Oakwood College Campus. He also was a member of the Washington, D.C. Branch of the Organizing Committee of the Southern Christian Leadership Conference's "Poor People's March" on Washington in 1968. In addition, he has conducted "Feed the Hungry" programs in over 20 cities in the U.S. and helped to establish a feeding depot in Washington, DC.

Elder Cleveland remains a great Evangelist, teacher, author, and leader. He has received over 100 awards, honors and citations for his various achievements. Currently, Elder Cleveland lives with his wife, Celia Abney Cleveland, in semi-retirement in Huntsville, Alabama. I would like to take this opportunity to commend Elder Cleveland for his commitment to his moral principles and his unwavering dedication to helping those less fortunate.•

REPORT OF THE PROGRAM ENTITLED "RALLY THE ARMIES OF COMPASSION"—MESSAGE FROM THE PRESIDENT—PM 2

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Enclosed please find the blueprint for my program to "Rally the Armies of Compassion." I look forward to working with the Congress to pass reforms to support the heroic works of faith-based and community groups across America.

GEORGE BUSH.

THE WHITE HOUSE, *January 30, 2001.*

MESSAGE FROM THE HOUSE

At 2:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 2(b) of Public Law 98–183, the Speaker appoints the following member to the Commission on Civil Rights on the part of the House to fill the existing vacancy thereon: Dr. Abigail M. Thernstrom of Lexington, Massachusetts.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–513. A communication from the Attorney General and the Secretary of the Department of Health and Human Services, jointly transmitting, pursuant to the Social Security Act, a report relating to health care fraud and abuse control programs for fiscal year 2000; to the Committee on Finance.

EC–514. A communication from the Administrator of the General Service Administration, transmitting, pursuant to law, a report of an interim lease prospectus for the Bureau of Alcohol, Tobacco, and Firearms; to the Committee on Environment and Public Works.

EC–515. A communication from the General Counsel of the Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report of a rule entitled "Electronic and Information Technology Accessibility Standards" (RIN–AA25) received on December 19, 2000; to the Committee on Environment and Public Works.

EC–516. A communication from the Regulations Officer of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Mitigation of Impacts to Wetlands and Natural Habitat" (RIN2125–AD78) received on January 8, 2001; to the Committee on Environment and Public Works.

EC–517. A communication from the Acting Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Boating Infrastructure Grant Program" (RIN1018–AF38) received on January 9, 2001; to the Committee on Environment and Public Works.

EC–518. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relating investments on the National Highway System connectors serving, seaports, airports, and other intermodal freight transportation facilities; to the Committee on Environment and Public Works.

EC–519. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a report relating to the status and trends of wetlands from 1986 to 1997; to the Committee on Environment and Public Works.

EC–520. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Spectacled Eider" (RIN1018–AF92) received on January 11, 2001; to the Committee on Environment and Public Works.

EC–521. A communication from the Deputy Assistant Secretary for Fish Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Final Determination of Critical Habitat for the Alaska-Breeding Population of the Steller's Eider" (RIN1018–AF95) received on January 11, 2001; to the Committee on Environment and Public Works.

EC–522. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oil Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities" (RIN2050–AC62) received on January 12, 2001; to the Committee on Environment and Public Works.

EC–523. A communication from the Director of the Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Fuel Solutions Addition" (RIN3150–AG54) received on January 12, 2001; to the Committee on Environment and Public Works.

EC–524. A communication from the Director of the Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Termination of Section 274i Agreement Between the State of Louisiana and the Nuclear Regulatory Commission" (RIN3150–AG60) received on January 12, 2001; to the Committee on Environment and Public Works.

EC–525. A communication from the Regulations Officer of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Intelligent Transportation System Architecture and Standards" (RIN2125–AE65) received on January 12, 2001; to the Committee on Environment and Public Works.

EC–526. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act, Section 112(1), Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of Washington; Puget Sound Clean Air Agency" (FRL6882–2) received on January 16, 2001 ; to the Committee on Environment and Public Works.

EC–527. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habit for the Mexican Spotted Owl" (RIN1018–AG29) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–528. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting a report relating to regulatory programs; to the Committee on Environment and Public Works.

EC–529. A communication from the Secretary of the Army and the Secretary of Agriculture, transmitting jointly, pursuant to law, a report relating to the interchange of jurisdiction of Army civil works and National Forest lands lying within and adjacent to the San Bernardino National Forest and the Santa Ana River Project; to the Committee on Environment and Public Works.

EC–530. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, a report concerning environmental assessment, restoration, and cleanup activities for the years 1997 through 1999; to the Committee on Environment and Public Works.

EC–531. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for Peninsular Bighorn Sheep" (RIN1018–AG17) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–532. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL6935–4) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–533. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "State and Federal Operating Permits Programs: Amendments to Compliance Certification Requirements" (FRL6934–5) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–534. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans; Texas; Approval of Clean Fuel Fleet Substitution Program Revision" (FRL6935–3) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–535. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Technical Amendment" (FRL6935–8) received on January 17 , 2001; to the Committee on Environment and Public Works.

EC–536. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring" (FRL6934–9) received on January 17, 2001; to the Committee on Environment and Public Works.

EC–537. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Reclassification; Wallula, Washington Particulate Matter (PM–10) Nonattainment Area" (FRL6937–5) received on January 23, 2001; to the Committee on Environment and Public Works.

EC–538. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Change 10 CFR 50.47 Relating to the Use of Potassium Iodide (KI) for the General Public" (RIN3150–AG11) received on January 23, 2001; to the Committee on Environment and Public Works.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. HATCH from the Committee on the Judiciary:

John Ashcroft, of Missouri, to be Attorney General.

(The above nomination was reported with the recommendation that it be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. KYL, and Ms. LANDRIEU):

S. 203. A bill to amend the Internal Revenue Code of 1986 to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials; to the Committee on Finance.

By Mr. CRAIG:

S. 204. A bill for the relief of Benjamin M. Banfro; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. DURBIN, and Mr. LEVIN):

S. 205. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Finance.

By Mr. SHELBY (for himself, Mr. MURKOWSKI, Mr. SARBANES, Mr. GRAMM, Mr. DODD, Mr. LOTT, Mr. CRAIG, and Mr. CRAPO):

S. 206. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH of New Hampshire (for himself, Mrs. FEINSTEIN, Ms. SNOWE, Ms. COLLINS, Mr. KERRY, Mr. HELMS, and Mr. LEAHY):

S. 207. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. HARKIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. HUTCHINSON, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, and Mr. REED):

S. 208. A bill to reduce health care costs and promote improved health care by providing supplemental grants for additional preventive health services for women; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 209. A bill for the relief of Sung Jun Oh; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 210. A bill to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 211. A bill to amend the Education Amendments of 1978 and the Tribally Controlled Schools Act of 1988 to improve education for Indians, Native Hawaiians, and Alaskan Natives; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 212. A bill to amend the Indian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 213. A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CONRAD, Mr. DASCHLE, and Mr. CAMPBELL):

S. 214. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

By Ms. STABENOW:

S. 215. A bill to amend the Federal Food, Drug, and Cosmetic Act to permit importation in personal baggage and by mail of certain covered products for personal use from certain foreign countries and to correct impediments in implementation of the Medicine Equity and Drug Safety Act of 2000; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Mr. Harkin, Mr. Biden, Mr. Jeffords, and Mr. Chafee):

S. 216. A bill to establish a Commission for the comprehensive study of voting procedures in Federal, State, and local elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. SCHUMER (for himself, Mr. Warner, Mr. Durbin, Mr. Santorum, Mr. Sarbanes, Mr. Chafee, Mr. Voinovich, Mr. Kerry, Mr. Dodd, and Ms. Mikulski):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes; to the Committee on Finance.

By Mr. McCONNELL (for himself, Mr. Torricelli, Mrs. Feinstein, Mr. Allard, Mr. Smith of Oregon, Ms. Landrieu, Mr. Burns, Mr. Bennett, Mr. Breaux, Mr. Hutchinson, Mr. Santorum, Mr. Warner, Mr. Reid, and Mr. Roberts):

S. 218. A bill to establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes; to the Committee on Rules and Administration.

By Mr. DODD (for himself, Mr. McCain, Mr. Hollings, and Mr. Hagel):

S. 219. A bill to suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. Sessions, and Mr. Hatch):

S. 220. A bill to amend title 11, United States Code, and for other purposes; read the first time.

By Mrs. BOXER:

S. 221. A bill to authorize the Secretary of Energy to make loans through a revolving loan fund for States to construct electricity generation facilities for use in electricity supply emergencies; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES (for himself and Ms. Mikulski):

S. Res. 15. A resolution congratulating the Baltimore Ravens for winning the Super Bowl XXXV; considered and agreed to.

By Mr. INOUYE:

S. Con. Res. 5. A concurrent resolution commemorating the 100th Anniversary of the United States Army Nurse Corps; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself and Mr. Brownback):

S. Con. Res. 6. A concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. Kyl, and Ms. Landrieu):

S. 203. A bill to amend the Internal Revenue Code of 1986 to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today with my friend and colleague from Arizona, Senator Kyl, to introduce the Teacher Support Act of 2001. We are very pleased to be joined by our good friend and colleague, Senator Landrieu, in proposing this legislation.

Senator Kyl and I crafted this bill to help our teachers when they pursue professional development or pay for supplies for their classrooms.

Our legislation has two major provisions.

First, it will allow teachers and teacher aides to take an above-the-line deduction for their professional development expenses. Thus, educators who don't itemize their deductions will still be able to benefit from tax-favored treatment for their professional development.

Second, the legislation will grant educators a tax credit of up to $100 for books, supplies, and other materials that they purchase for their classrooms. According to a study by the National Education Association, the average public school teacher spends more than $400 annually on classroom supplies. This sacrifice, I think, is typical of the dedication of many of our schoolteachers toward their students.

While our legislation provides some financial assistance to educators, its ultimate beneficiaries will be their students. Other than involved parents, a well-qualified teacher is the most important prerequisite for students' success. Educational researchers have demonstrated over and over again the close relationship between qualified educators and successful students. Moreover, educators themselves understand how important professional development is to maintaining and extending their level of competence.

Mr. President, when I meet with teachers from my State of Maine, they repeatedly tell me of their need for more professional development and the scarcity of financial support for this worthy pursuit. As President Bush has put it, "Teachers sometimes lead with their hearts and pay with their wallets."

The willingness of Maine's teachers to fund their own professional development activities has deeply impressed me. For example, an English teacher, who serves on my education advisory committee, told me of spending her own money to attend a curriculum conference. She then came back and shared her new knowledge with all of the teachers in her department at Bangor High School. She is typical of the many educators who generously reach into their own pockets to pay for professional development and to purchase materials to enhance their teaching.

Let me explain how our legislation works in terms of real dollars. In my home State, the average yearly starting salary of a public school teacher is about $23,300. Under the current law, even a teacher who is earning this modest salary cannot deduct the first $466 in professional development expenses that he or she paid for out-of-pocket. That is because of the requirement in the current law that sets a floor of 2 percent that has to be reached before the cost of the course or other professional development is deductible. Moreover, under current law, professional development expenses above $466 can be deducted only if the teacher itemizes his or her deductions. Only about one-third of our Nation's schoolteachers do itemize their tax deductions.

Our legislation would enable all educators, regardless of whether or not they itemize deductions, to receive tax relief for professional development expenses.

I greatly admire the many educators who have voluntarily financed additional education to improve their skills so that they may better serve their students. I admire those teachers who purchase books, supplies, equipment, and other materials for their students in order to enhance their teaching.

I hope this change in our Tax Code will encourage educators to continue their formal course work in the subject matter they teach and to attend conferences to give them new ideas for presenting course work in a challenging manner. This bill will reimburse educators for a small part of what they invest in our children's future. This money would be well spent. Investing in education helps us to build one of the most important assets for our country's future—a well educated population. We need to ensure that our public schools have the very best educators possible in order to bring out the very best in our students.

Last year, Senator Kyl and I offered a similar version of this legislation as an amendment to the Affordable Education Act of 2000. Our amendment enjoyed overwhelming support and passed the Senate by a vote of 98–0. Unfortunately, the underlying bill was not taken up by the House of Representatives.

This year, we are very pleased that President Bush has made the classroom supplies portion of our bill part of his education platform, and that our legislation has received the support of the

National Education Association. Our hope is that the bill will become law before the end of the year. We urge our colleagues to join us in supporting this legislation.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teacher Support Act of 2001".

SEC. 2. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an eligible teacher, there shall be allowed as a deduction an amount equal to the qualified professional development expenses paid or incurred by the taxpayer during the taxable year.

"(b) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of this section—

"(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

"(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction.

"(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

"(i) is—

"(I) directly related to the curriculum and academic subjects in which an eligible teacher provides instruction, or

"(II) designed to enhance the ability of an eligible teacher to understand and use State standards for the academic subjects in which such teacher provides instruction,

"(ii) may—

"(I) provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented), or

"(II) provide instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subclause (I) to learn,

"(iii) is tied to challenging State or local content standards and student performance standards,

"(iv) is tied to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible teacher,

"(v) is of sufficient intensity and duration to have a positive and lasting impact on the performance of an eligible teacher in the classroom (which shall not include 1-day or short-term workshops and conferences), except that this clause shall not apply to an activity if such activity is 1 component described in a long-term comprehensive professional development plan established by an eligible teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the students of the teacher, and the local educational agency involved, and

"(vi) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the goals of the preceding clauses.

"(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect on the date of the enactment of this section.

"(2) ELIGIBLE TEACHER.—

"(A) IN GENERAL.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher or aide in an elementary or secondary school for at least 720 hours during a school year.

"(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.

"(c) DENIAL OF DOUBLE BENEFIT.—

"(1) IN GENERAL.—No other deduction or credit shall be allowed under this chapter for any amount taken into account for which a deduction is allowed under this section.

"(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified professional development expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following new paragraph:

"(18) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—The deduction allowed by section 222.".

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Qualified professional development expenses.

"Sec. 223. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 3. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

"SEC. 30B. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible teacher, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary education expenses which are paid or incurred by the taxpayer during such taxable year.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100.

"(c) DEFINITIONS.—

"(1) ELIGIBLE TEACHER.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

"(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term 'qualified elementary and secondary education expenses' means expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by an eligible teacher in the classroom.

"(3) ELEMENTARY OR SECONDARY SCHOOL.—The term 'elementary or secondary school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any expense for which credit is allowed under this section.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(B) the tentative minimum tax for the taxable year.

"(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30B. Credit to elementary and secondary school teachers who provide classroom materials.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

Mr. KYL. Mr. President, I was an original cosponsor of the Teacher Support Act of 2001. Working together last year, Senator COLLINS and I, with invaluable assistance from our departed colleague Paul Coverdell, persuaded the Senate to pass almost identical legislation by a vote of 98–0.

Like the amendment approved by the Senate last year, the Teacher Support Act would provide an annual tax credit of up to $100 for teachers' un-reimbursed classroom expenditures that are qualified under the Internal Revenue Code. For amounts over $100, teachers would continue to use the deductions allowed for such expenses under current law.

We know the need this legislation addresses is real. According to a recent study by the NEA, the average K–12 teacher spent $408 every year on classroom materials needed for education but not supplied by the schools. These materials include everything from books, workbooks, erasers, paper, pens, equipment related to classroom instruction, and professional enrichment programs.

In my discussions with teachers—public and private—I have been amazed to learn that many use their own money to cover the cost of classroom materials that are not supplied by their school or school district.

I have attended intense meetings in which Arizona teachers have related to me, in confidence, that they have used money from the family budget, without telling their spouses, for needed classroom supplies, and that though they feel wracked with guilt, they would do it again for their students. The Teacher Support Act stands for the idea that teachers should not feel compelled to make such sacrifices.

Though there is no absolute linkage between personal contributions for school supplies and the quality of the teaching, there likely is some correlation, given the degree of commitment evidenced by these teachers who are spending their own money. To the extent this is true, the proposal will have the effect of encouraging instruction of the highest quality.

I am pleased that President Bush campaigned on a similar proposal last year, and that he has included it in the education package he announced last week. This legislation, sends a much-needed message to the hard-working teachers of this country that they have our support, and that, working together, we can improve education for America's children.

Ms. LANDRIEU. Mr. President, as you well know, the need for reform in the American education system is a priority for many members of Congress, as well as for President Bush and his newly assembled administration. While there still is some debate over a few remaining issues such as annual testing and private school vouchers, it is clear that there is much that we agree must be addressed if our children are to receive the type of education necessary to be competitive in the 21st century. Almost no one disagrees that focused efforts to recruit and retain qualified teachers are the key to increasing student achievement. Today, research is confirming what common sense has suggested all along. A skilled and knowledgeable teacher can make enormous difference in how well students learn. One Tennessee study found that the students who had good teachers three years in a row scored significantly higher on state tests and made far greater gains than students with a series of ineffective teachers. Another study conducted at Stanford found that the strongest indicator of how a state's students performed on National assessments was the percentage of well qualified teachers.

The Department of Education estimates that 2,000,000 new teachers will have to be hired in the next decade. Yet, each year, only 60,000 college graduates enter into teaching. In my home state of Louisiana, almost one in five of our teachers has not completed the standard regimen for teaching. One of the main detractors for qualified professionals to choose to enter the profession of teaching is simply that the salaries cover little more than life's daily expenses. While the amount of salary a teacher makes is not determined by the federal government, that does not preclude us from putting forth innovative strategies to address the gaps left by these salaries. In fact, I think it is our responsibility to do all that we can to assist states in their efforts to bring the best and the brightest teachers into our nation's classrooms. The federal tax code provides us with several opportunities to acknowledge and reward teachers for the work that they do for our children everyday.

I am proud to join Senator COLLINS in introducing the "Teacher Support Act of 2001". This bill allows educators to receive a tax credit for some of the costs associated with furthering their professional development. Specifically, it will allow educators to deduct professional development expenses, without requiring the deduction to be subject to the existing two percent floor. In addition, this legislation creates an above the line deduction, allowing for teachers who do not itemize their taxes to take advantage of these helpful benefits. And finally, it allows educators to claim a tax credit of up to $100 for books, supplies, and equipment that they purchase for their students.

This is the first of the many steps we as a body must take toward building a system of supports for our teachers. This small investment will have an inordinate impact on their ability to provide effective instruction to our nation's school children. Henry B. Adams once said "A teacher affects eternity; he can never tell, where his influence stops." With this in mind, I ask you to support this bill and others like it, so that we can truly affect the future of education in America.

By Mrs. HUTCHISON (for herself, Mr. DURBIN, and Mr. LEVIN):

S. 205. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation that will enhance and encourage charitable contributions in the United States.

As many know, this week, the President is set to unveil a number of initiatives to promote charitable giving and to expand the role that charities and faith-based institutions play in attacking social problems in the United States.

Government alone is incapable of solving society's most vexing problems. In fact, government programs often fail in their missions. The old welfare system is a perfect example of what often goes wrong. Under the old system, we encouraged people to stay on welfare. We encouraged out-of-wedlock births. We encouraged fathers to live out of the home. We ended this with our welfare reform bill. Welfare rolls have now dropped by half across the United States.

The track record of charitable organizations have been far superior than the government's in tackling social ills. America's top charities cover a broad range of problems, from the Salvation Army to the YMCA, and the American Cancer Society to the Red Cross. Each is playing a role in improving America's health, education and welfare. How successful can they be? It has been known that mentors in the Big Brothers/Big Sisters program can cut drug abuse by 50 percent.

Americans appreciate the role of these groups. They are actively involved in charitable causes. Nearly half of all Americans volunteer in some capacity on a regular basis.

Nearly 25 percent of all Americans are active in their religion on a volunteer basis. This is why it is so logical to use faith-based organizations as means of accomplishing objectives at which the government has failed. The Chicago Tribune recently noted that "churches, temples and prayer halls cannot replace the mammoth task of helping the needy. But, they do a better and more efficient job of understanding their communities and meeting the need of their citizens."

The legislation I am introducing today will make it easier for charitable contributions to the made and for charitable organizations to pursue their missions. Under this bill, individuals age 59½ and older will be able to move assets penalty-free from an IRA directly to a charity or into a qualifying deferred charitable gift plan, such as a charitable remainder trust, pooled income fund or gift annuity. Current law requires taxpayers to first withdraw the IRA proceeds, pay the taxes due and then contribute the funds to a charity. Taxes can be offset by the current charitable deduction, but only to an extent.

Americans currently hold well over $1 trillion in assets in IRAs, and nearly half of America's families have IRAs. This bill will allow senior citizens who have provided for their retirement—but find that they do not need their entire IRA for living expenses—to transfer IRA funds to charity without dilution. This will cut bureaucratic obstacles to charitable giving and unlock a substantial amount of new funds that could flow to America's charitable organizations.

I first introduced this legislation in 1998, and it was folded into our tax bill in 1999. Regrettably, it was vetoed by the President. But, given our new leadership in the White House, this is an idea whose time has come. In fact, President Bush made this part of his tax plan when it was unveiled in 1999.

This is also not a partisan proposal. Senator DURBIN was an original cosponsor of this legislation. I look forward to working with him, and the White House on this bill. It also has the support of numerous universities and charitable groups, including the Charitable Accord and the Council of Foundations, two umbrella organizations representing more than 2,000 organizations and associations.

Mr. DURBIN. Mr. President, I am pleased to introduce, along with Senator KAY BAILEY HUTCHISON, the charitable IRA Rollover Act of 2001. We introduced this legislation in the last Congress. While it was included in last year's year-end tax bill, our provision was unfortunately stripped out at the last minute. Senator HUTCHISON and I sincerely hope that this legislation will become law this year.

The IRA Charitable Rollover Act has the support of numerous charitable organizations across the United States. The effect of this bill would be to unlock billions of dollars in savings Americans hold and make them available to charities. Our legislation will allow individuals to roll assets from an Individual Retirement Account (IRA) into a charity or a deferred charitable gift plan without incurring any income tax consequences. Thus, the donation would be made to charity without ever withdrawing it as income and paying tax on it.

Americans currently hold well over $1 trillion in assets in IRAs. Nearly half of America's families have IRAs. Recent studies show that assets of qualified retirement plans comprise a substantial part of the net worth of many persons. Many of these individuals would like to give a portion of these assets to charity.

Under our current law, if an IRA is transferred into a charitable remainder trust, donors are required to recognize that as income. Therefore, absent the changes called for in the legislation, the donor will have taxable income in the year the gift is funded. This is a huge disincentive contained in our complicated and burdensome tax code. This legislation will unleash a critical source of funding for our nation's charities. This legislation will provide millions of Americans with a common sense way to remove obstacles to private charitable giving.

Under the Hutchison-Durbin plan, an individual, upon reaching age 59½, could move assets penalty-free from an IRA directly to charity or into a qualifying deferred charitable gift plan—e.g. charitable remainder trusts, pooled income funds and gift annuities. In the latter case the donor would be able to receive an income stream from the retirement plan assets, which would be taxed according to normal rules. Upon the death of the individual, the remainder would be transferred to charity.

There are numerous supporters of this legislation including Georgetown University, the Art Institute of Chicago, the University of Chicago, the Field Museum, the Catholic Diocese of Peoria, Northwestern University, the Chicago Symphony Orchestra, and others. There are over 100 groups in Illinois alone that support this sensible legislation.

I hope the Senate will join in this bipartisan effort to provide a valuable new source of philanthropy for our nation's charities. I hope that our colleagues will co-sponsor this important piece of legislation and that it will be enacted into law this year. I thank the Senator from Texas, Senator HUTCHISON, for working with me and my staff in this effort.

By Mr. SHELBY (for himself, Mr. MURKOWSKI, Mr. SARBANES, Mr. GRAMM, Mr. DODD, Mr. LOTT, Mr. CRAIG, and Mr. CRAPO):

S. 206. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SHELBY. Mr. President, I rise today to introduce the Public Utility Holding Company Act of 2001. This bipartisan bill is designed to help America's energy consumers by repealing an antiquated law that is keeping the benefits of competition from reaching our citizens. I am pleased to be joined by Senators GRAMM and SARBANES, chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs, Senator MURKOWSKI, chairman of the Energy and Natural Resources Committee, Majority Leader LOTT, and Senators DODD, CRAIG, and CRAPO in introducing this important legislation. Our bill, which closely tracks legislation voted out of the Senate Banking Committee with bipartisan support in the 106th Congress, repeals the Public Utility Holding Company Act of 1935, PUHCA.

The original PUHCA legislation passed over 60 years ago in 1935. At that time, a few large holding companies controlled a great majority of the electric utilities and gas pipelines. However, such a limited number of providers no longer offer a majority of the utility service. In fact, over 80 percent of the utility holding companies are currently exempt from PUHCA.

This legislation implements the recommendations that the Securities and Exchange Commission, SEC made first in 1981 and then again in 1995 following an extensive study of the effects of this antiquated law on our energy markets. In the 1995 report entitled, "The Regulation of Public-Utility Holding Companies," the Division of Investment Management recommended that Congress conditionally repeal the Act since "the current regulatory system imposes significant costs, indirect administrative charges and foregone economies of scale and scope . . ." In the end, the report serves to highlight the fact that the regulatory restraints imposed by PUHCA on our electric and gas industries are counterproductive in today's competitive environment and are based on historical assumptions and industry models that are no longer valid.

In order to ensure that ratepayers are protected, this bill provides the Federal Energy Regulatory Commission and the States access to the books and records of holding company systems that are relevant to the costs incurred by jurisdictional public utility companies. As a result, the regulatory framework to protect consumers is not only protected in this bill, but enhanced.

Let me be clear about the effect of PUHCA repeal: it eliminates redundant and burdensome regulation while enhancing existing consumer protections.

Mr. President, we are at a time in our nation's history when we are going to have to make some critical choices regarding our national energy policy. The fact is, future technological innovation and economic growth is contingent upon this country's ability to meet its ever-increasing demand for energy. In order to do this, we need to modernize production systems, increase market competition, and strip away unnecessary regulations. Achieving these goals is going to be a difficult and time consuming process. However, repeal of this law would be the first step in the right direction.

Mr. President, it has been a very long time since it first became clear that this out dated, Depression-era law had become an unnecessary constraint on the ability of American gas and electric utilities to compete. Unfortunately, the many bipartisan efforts to repeal PUHCA have not been successful. However, strong support still exists for its elimination. I believe that it is imperative that we achieve this goal in the 107th Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Utility Holding Company Act of 2001".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Public Utility Holding Company Act of 1935 was intended to facilitate the

work of Federal and State regulators by placing certain constraints on the activities of holding company systems;

(2) developments since 1935, including changes in other regulation and in the electric and gas industries, have called into question the continued relevance of the model of regulation established by that Act;

(3) there is a continuing need for State regulation in order to ensure the rate protection of utility customers; and

(4) limited Federal regulation is necessary to supplement the work of State commissions for the continued rate protection of electric and gas utility customers.

(b) PURPOSES.—The purposes of this Act are—

(1) to eliminate unnecessary regulation, yet continue to provide for consumer protection by facilitating existing rate regulatory authority through improved Federal and State commission access to books and records of all companies in a holding company system, to the extent that such information is relevant to rates paid by utility customers, while affording companies the flexibility required to compete in the energy markets; and

(2) to address protection of electric and gas utility customers by providing for Federal and State access to books and records of all companies in a holding company system that are relevant to utility rates.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

(2) the term "associate company" of a company means any company in the same holding company system with such company;

(3) the term "Commission" means the Federal Energy Regulatory Commission;

(4) the term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing;

(5) the term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale;

(6) the terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this Act;

(7) the term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale). of natural or manufactured gas for heat, light, or power;

(8) the term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Act upon holding companies;

(9) the term "holding company system" means a holding company, together with its subsidiary companies;

(10) the term "jurisdictional rates" means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

(11) the term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale;

(12) the term "person" means an individual or company;

(13) the term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce;

(14) the term "public utility company" means an electric utility company or a gas utility company;

(15) the term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies;

(16) the term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Act upon subsidiary companies of holding companies; and

(17) the term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 4. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 5. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 6. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission deems are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978.

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, records, or any other information, or in any way limit the rights of any State to obtain books, records, or any other information under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 7. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 5 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 5, if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, records, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 8. AFFILIATE TRANSACTIONS.

Nothing in this Act shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 9. APPLICABILITY.

No provision of this Act shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

SEC. 10. EFFECT ON OTHER REGULATIONS.

Nothing in this Act precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 11. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this Act.

SEC. 12. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this Act prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this Act.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this Act limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 13. IMPLEMENTATION.

Not later than 18 months after the date of enactment of this Act, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this Act (other than section 6); and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this Act and the amendments made by this Act.

SEC. 14. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this Act shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect 18 months after the date of enactment of this Act.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act.

SEC. 17. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

By Mr. FRIST (for himself, Mr. HARKIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. HUTCHINSON, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, and Mr. REED):

S. 208. A bill to reduce health care costs and promote improved health care by providing supplemental grants for additional preventive health services for women; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, although we often think of cardiovascular disease as a men's health issue, the American Heart Association estimates that nearly one in two women will die of heart disease or stroke. However, because of its historically male stereotype, most women do not realize that they are at such high risk for cardiovascular disease even though cardiovascular diseases kills nearly 50,000 more women each year than men. Even more alarming is data reported by the Society for Women's Health Research which revealed that not all physicians know that cardiovascular diseases are the leading cause of death among American women.

Each year nearly half a million women lose their lives as a result of heart disease and stroke. Fortunately, men have experienced a decline in deaths due to cardiovascular diseases since 1984; but women have not, and many of these tragic deaths could have been prevented had these women known they were at risk. For instance, they could have taken preventive measures by not smoking, lowering their cholesterol or blood pressure, or by eating more nutritiously, and perhaps avoided becoming a victim of heart disease or stroke. For many women, prevention is truly the only cure, since it has been reported that as many as two-thirds of women who die from heart attacks have no warning symptoms of any kind.

Cardiovascular diseases kill more American females each year than the next 14 causes of death combined, including all forms of cancers. Over half of all cardiovascular deaths each year are women, and in 1997 alone heart diseases claimed the lives of more than half a million women. My own home state of Tennessee has the second highest death rate from heart disease, stroke, and other cardiovascular diseases in the nation and the 13th highest ranking state in women's heart deaths. In 1997, 10,884 Tennessee women died from these two cardiovascular diseases alone. Moreover, the Centers for Disease Control and Prevention (CDC) reports that women in the rural South are more likely to die of heart disease than those in other parts of the country.

Fortunately, some preventive measures, such as physical activity and better nutrition, can be taken by women to reduce their risk for cardiovascular diseases, as well as other preventable diseases, such as osteoporosis—a disease that affects one out of every two women over 50 and threatens roughly 28 million Americans, 80 percent of whom are women.

To continue to draw greater awareness to health issues among American women, particularly cardiovascular diseases, I am very pleased to reintroduce legislation which I introduced last Congress, the "WISEWOMAN Expansion Act of 2001," with Senator HARKIN. Our goal in expanding this program is to reduce the risk of cardiovascular diseases, and other preventable diseases, and to increase access to screening and other preventive measures for low-income and underinsured women. In addition to making cardiovascular diseases screening accessible to underserved women, this program will also educate them about their risk for cardiovascular diseases and how to make lifestyle changes—thereby giving them the power to prevent these diseases.

The CDC's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) is an example of a successful program that has provided critical services to help prevent major diseases affecting American women. The NBCCEDP has done an outstanding job of reaching out to low-income underinsured women—women who are generally too young for Medicare and unable to qualify for Medicaid or other state programs—and providing them with preventive screenings for breast and cervical cancers. These women would likely otherwise fall through the cracks in our health system.

Our bill provides for the expansion of the WISEWOMAN (Well-Integrated Screening and Evaluation for Women in Massachusetts, Arizona, and North Carolina) demonstration project, which is run by the CDC in conjunction with the NBCCEDP, to additional states. The WISEWOMAN program capitalizes on the highly successful infrastructure of the NBCCEDP to offer "one-stop shopping" screening and preventive services for uninsured and low-income women. In addition to these very important breast and cervical cancer screenings, WISEWOMAN screens for cardiovascular disease risk factors and provides health counseling and lifestyle interventions to help women reduce behavioral risk factors. The program addresses risk factors such as elevated cholesterol, high blood pressure, obesity and smoking and provides important additional intervention and educational services to women who would not otherwise have access to cardiovascular disease screening or prevention. This bill also adds flexibility to the program language that would allow screenings and other preventive measures for diseases in addition to cardiovascular diseases, such as osteoporosis, as more preventive technology is developed.

I would like to thank Judy Womack and Dr. Joy Cox of the Tennessee Department of Health for their counsel and assistance on this legislation and for their efforts in helping Tennesseans.

I ask unanimous consent that three letters supporting the WISEWOMAN Expansion Act of 2001 be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN HEART ASSOCIATION,
OFFICE OF PUBLIC ADVOCACY,
Washington, DC, January 26, 2001.

Hon. BILL FRIST, M.D.,
Hon. TOM HARKIN,
United States Senate,
Washington, DC.

DEAR SENATORS FRIST AND HARKIN: Heart attack, stroke and other cardiovascular diseases remain the leading cause of death of women in the United States. Heart disease, alone, is the number one killer of American women and stroke is the number three killer. In fact, low-income women are at an even higher risk of heart disease and stroke than other women, and they have a higher prevalence of risk factors contributing to these diseases. The American Heart Association is very grateful for the support you and other members of the United States Congress have given to the WISEWOMAN demonstration program which uses the National Breast and Cervical Cancer Early Detection Program network to provide heart disease and stroke screening services, as well as diet and physical activity interventions and appropriate referrals.

The American Heart Association applauds the WISEWOMAN program and we are anticipating even greater results in the battle against heart disease and stroke as the program expands to serve more women throughout the United States. The Frist-Harkin "WISEWOMAN Expansion Act of 2001" will expand WISEWOMAN's heart disease and stroke screenings beyond its current limit, which we believe will have a tremendous positive impact to the cardiovascular health of women who live in states served by the program.

The American Heart Association recommends increased funding and expansion of the WISEWOMAN program during fiscal year 2002. Also, because of the solid scientific evidence that cardiovascular screenings can help prevent heart disease and stroke in women, we believe cardiovascular screenings provided by WISEWOMAN should be expanded before using the demonstration program to provide screenings for other diseases affecting women.

We thank you for your commitment to fighting heart disease and stroke, and look forward to your continued support in the future.

Sincerely,
ROSE MARIE ROBERTSON, M.D.,
President.

SOCIETY FOR
WOMEN'S HEALTH RESEARCH,
Washington, DC, January 25, 2001.

Hon. BILL FRIST,
Chair, Subcommittee on Public Health, Committee on Health, Education, Labor, and Pensions, Dirksen Senate Office Building, Washington, DC.
Hon. TOM HARKIN,
Ranking Member, Subcommittee on Public Health, Committee on Health, Education, Labor, and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS FRIST AND HARKIN: On behalf of the Society for Women's Health Research, we express our appreciation for your leadership on the introduction of the "WISEWOMAN Expansion Act of 2001." In addition to a strong national research program, disease prevention is vital to our nation's health. Chronic diseases, such as heart disease, cancer, diabetes, and osteoporosis are among the most prevalent, costly, and preventable of all health problems.

As you know, women tend to live longer but not necessarily better than men. They have more chronic health conditions and are more economically insecure. Safety net programs often are the difference between life and death. The WISEWOMAN Expansion Act is building on a foundation that has provided positive feedback and will allow additional states to provide prevention services to those women in need. We applaud the flexibility of the legislation. With the passage of time, as new technologies develop, as disease burdens shift, and as lifestyles change, the program can address women's most critical health needs.

We thank you for your commitment to improving the nation's health through prevention. By focusing on the health of women, you ultimately will be improving the health of the nation's families.

Sincerely,
PHYLISS GREENBERGER,
President and CEO.
ROBERTA BIEGEL,
Director of Government Relations.

NATIONAL OSTEOPOROSIS FOUNDATION,
January 29, 2001.

Hon. TOM HARKIN,
Hon. BILL FRIST,
U.S. Senate, Washington, DC.

DEAR SENATORS HARKIN AND FRIST: On behalf of the National Osteoporosis Foundation (NOF), I commend you on the introduction of the bipartisan WISEWOMAN Expansion Act of 2001 that supports your effort to provide additional preventive health services, including osteoporosis screening, to low-income and uninsured women.

As you know, osteoporosis is a major health threat for more than 28 million Americans, 80 percent of whom are women. In the United States today, 10 million individuals already have the disease and 18 million more have low bone mass, placing them at increased risk for osteoporosis. Also, one out of every two women over 50 will have an osteoporosis-related fracture in their lifetime. It is estimated that the direct hospital and nursing home costs of osteoporosis are over $13.8 billion annually, with much of that attributed to the more than 1.5 million osteoporosis-related fractures that occur annually.

The health care services included in the WISEWOMAN program have provided positive results for many women who have participated and ultimately cost-savings for the states that have participated. Expansion of the WISEWOMAN model to additional states and for additional preventive services, such as screening for osteoporosis, should enhance positive results for both the women and states participating in the program.

The National Osteoporosis Foundation is most appreciative of your efforts to promote improved both health and endorse the WISEWOMAN Expansion Act of 2001.

Sincerely,
SANDRA C. RAYMOND,
Executive Director.

Mr. HARKIN. Mr. President, I am pleased to join Senator FRIST today to introduce the "WISEWOMAN Expansion Act." This bill will help thousands of women have access to basic preventive health care they may otherwise not receive. The legislation builds on a successful demonstration program and expands screening services and preventive care for uninsured and low-income women across the nation.

Beginning in 1990, I worked as Chairman of the Labor, Health and Human Services and Education Appropriation Subcommittee to provide the funding for the National Breast and Cervical Cancer Early Detection Program. NBCCEDP, run through the Centers for Disease Control and Prevention. In Iowa alone, the program has successfully served close to 9000 women through 618 provider-based breast and cervical cancer screening sites.

Today, the Centers for Disease Control and Prevention currently run the WISEWOMAN program through the NBCCEDP as a demonstration project. The program has successfully built upon the framework of the NBCCEDP to target other chronic diseases among women, including heart disease, the leading cause of death among women, and osteoporosis. The programs address risk factors such as elevated cholesterol, high blood pressure, obesity and smoking and provide important intervention services.

This demonstration project has been successful. It is now time to expand the program to additional states, and eventually make it nationwide. As the brother of two sisters lost to breast cancer and the father of two daughters, I know first hand the importance of making women's health initiatives a top priority. The first step to fighting a chronic disease like cancer, heart disease or osteoporosis is early detection. All women deserve to benefit from the early detection and prevention made possible by the latest advances in medicine. This bill ensures a place for lower income woman at the health care table.

The majority of Americans associate cardiovascular disease with men, but the American Heart Association estimates that nearly one in two women will die of heart disease or stroke. In fact, cardiovascular diseases kills nearly 50,000 more women each year than men. In my own state of Iowa, cardiovascular disease accounts for 44 percent of all deaths in Iowa. Close to 7,000 women die annually in Iowa from cardiovascular disease. Each year, nearly half-a-million women lose their lives as a result of heart disease and stroke. Sadly, with appropriate screening and interventions, many of these deaths could have been prevented.

Osteoporosis is also a preventable disease and affects one out of every two women over the age of 50. Fortunately, some of the preventive measures women can take to reduce their risk for cardiovascular diseases, such as eating more nutritious foods and exercising, can also reduce their risk for osteoporosis.

Our bill would do the following:

Expand the current WISEWOMAN demonstration project to additional states;

Add flexibility to program language that would allow screenings and other preventive measures for diseases in addition to cardiovascular diseases;

Allow flexibility for the WISEWOMAN program to grow and adapt with the changing needs of individual states and our better understanding of new preventive strategies; and

Ensure continued full collaboration of the WISEWOMAN program with the NBCCEDP; Authorize the CDC to make competitive grants to states to carry out additional preventive health services to the breast and cervical cancer screenings at NBCCEDP programs, such as: screenings for blood pressure, cholesterol, and osteoporosis; health education and counseling; lifestyle interventions to change behavioral risk factors such as smoking, lack of exercise, poor nutrition, and sedentary lifestyle; and appropriate referrals for medical treatment and follow-up services.

In order to be eligible for this program, states are required to already participate in the NBCCEDP and to agree to operate their WISEWOMAN program in collaboration with the NBCCEDP.

This bipartisan legislation has the support of the National Osteoporosis Foundation, the American Heart Association, the American Cancer Society and the Komen Foundation, among others. I urge my colleagues to join us in supporting this critical legislation.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 210. A bill to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined today by the Vice Chairman of the Committee on Indian Affairs Senator DANIEL K. INOUYE in introducing the Native American Alcohol and Substance Abuse Program Consolidation Act of 2001. This important legislation will authorize Indian Tribes to consolidate and integrate alcohol, substance abuse prevention and treatment and mental health programs to provide more comprehensive treatment and services to Native Americans across the country.

More often than not, individuals with alcohol and substance abuse problems are also hobbled with mental health problems, and this bill authorizes tribes to make mental health services available as well.

Native Americans have higher rates of alcohol and drug use than any other racial or ethnic group in the United States. Despite previous treatment and preventive efforts, alcoholism and substance abuse continue to be prevalent among Native youth: 82 percent of Native adolescents admitted to having used alcohol, compared with 66 percent of non-Native youth.

Alcohol continues to be an important risk factor associated with the top three killers of Native youngsters—accidents, suicide, and homicide.

Based on 1993 data, the rate of mortality due to alcoholism among Native youth ages 15 to 24 was 5.2 per 100,000, which is 17 times the rate for whites in the same age group.

In a 1994 school-based study, 39 percent of Native high school seniors reported having "gotten drunk" and 39 percent of Native kids admitted to using marijuana.

Alcohol and substance abuse also contribute to other social problems including sexually transmitted diseases, child and spousal abuse, poor school achievement and dropout, unemployment, drunk driving and vehicular deaths, mental health problems, hopelessness and suicide.

Alcohol, substance abuse, and mental health program funds are available to tribes from virtually every agency in the federal government including the Departments of Education, Health and Human Services, Housing and Urban Development, Interior, Justice, and Transportation.

To help Tribes slice through the bureaucracy, this bill authorizes Tribal governments and inter-Tribal organizations to: 1, consolidate these programs through a single federal office in the Department of Health and Human Services—Indian Health Services, IHS; and 2, use a single plan to reduce the administrative and bureaucratic processes, resulting in better services to Native Americans.

This bill tries to replicate the success of the widely-hailed "477 model" that Tribes have used to effectively coordinate employment training and related services through the Indian Employment Training and Related Services Demonstration Act of 1992, Pub. Law 102-477.

Under the "477 model," and applicant Tribe files a single plan to draw and coordinate resources from the spectrum of federal agencies and administer them through one office. I am hopeful that armed with this creative tool, Tribes can begin to bring an end to the devastation of alcohol and drug abuse in their communities.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Alcohol and Substance Abuse Program Consolidation Act of 2001".

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are—

(1) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis and treatment programs, and mental health and related programs, to provide unified and more effective and efficient services to Native Americans afflicted with alcohol and other substance abuse problems; and

(2) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis and treatment programs for their communities, consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

(2) INDIAN.—The term "Indian" has the meaning given that term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) INDIAN TRIBE.—The terms "Indian tribe" and "tribe" have the meaning given the term "Indian tribe" in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) and shall include entities as provided for in subsection (b)(2).

(4) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of Health and Human Services.

(5) SUBSTANCE ABUSE.—The term "substance abuse" includes the illegal use or abuse of a drug, the abuse of an inhalant, or the abuse of tobacco or related products.

(b) INDIAN TRIBE.—

(1) IN GENERAL.—In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this Act, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this Act).

(2) INCLUSION OF OTHER ENTITIES.—In a case described in paragraph (1), the term "Indian tribe", as defined in subsection (a)(2), shall include the additional authorized Indian tribe, inter-tribal consortium, or tribal organization.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary, in cooperation with the Secretary of Labor, the Secretary of the Interior, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation, as appropriate, shall, upon the receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, authorize the tribe to coordinate, in accordance with such plan, its federally funded alcohol and substance abuse and mental health programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any plan referred to in section 4 shall include—

(1) any program under which an Indian tribe is eligible for the receipt of funds under a statutory or administrative formula for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders;

(2) any program under which an Indian tribe is eligible for receipt of funds though a competitive or other grant program for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders, if—

(A) the Indian tribe has provided notice to the appropriate agency regarding the intentions of the tribe to include the grant program in the plan it submits to the Secretary, and the affected agency has consented to the inclusion of the grant in the plan; or

(B) the Indian tribe has elected to include the grant program in its plan, and the administrative requirements contained in the plan are essentially the same as the administrative requirements under the grant program; and

(3) any program under which an Indian tribe is eligible for receipt of funds under any other funding scheme for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders.

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable under section 4, the plan shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated into the project;

(3) describe a comprehensive strategy that identifies the full range of existing and potential alcohol and substance abuse and mental health treatment and prevention programs available on and near the tribe's service area;

(4) describe the manner in which services are to be integrated and delivered and the results expected under the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribe believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the tribe.

SEC. 7. PLAN REVIEW.

(a) Consultation.—Upon receipt of a plan from an Indian tribe under section 4, the Secretary shall consult with the head of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan.

(b) Identification of Waivers.—The parties consulting on the implementation of the plan under subsection (a) shall identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to implement its plan.

(c) Waivers.—Notwithstanding any other provision of law, the head of the affected Federal agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the Federal agency that has been identified by the tribe or the Federal agency under subsection (b) unless the head of the affected Federal agency determines that such a waiver is inconsistent with the purposes of this Act or with those provisions of the Act that authorizes the program involved which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL.

(a) In General.—Not later than 90 days after the receipt by the Secretary of a tribe's plan under section 4, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan.

(b) Disapproval.—If a plan is disapproved under subsection (a), the Secretary shall inform the tribal government, in writing, of the reasons for the disapproval and shall give the tribe an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.

SEC. 9. FEDERAL RESPONSIBILITIES.

(a) Responsibilities of the Indian Health Service.—

(1) Memorandum of understanding.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act.

(2) Lead agency.—The lead agency under this Act shall be the Indian Health Service.

(3) Responsibilities.—The responsibilities of the lead agency under this Act shall include—

(A) the development of a single reporting format related to the plan for the individual project which shall be used by a tribe to report on the activities carried out under the plan;

(B) the development of a single reporting format related to the projected expenditures for the individual plan which shall be used by a tribe to report on all plan expenditures;

(C) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency;

(D) the provision of technical assistance to a tribe appropriate to the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

(E) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that participate in projects under this Act, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out projects under this Act to discuss issues relating to the implementation of this Act with officials of each agency specified in paragraph (1).

(b) Report Requirements.—The single reporting format shall be developed by the Secretary under subsection (a)(3), consistent with the requirements of this Act. Such reporting format, together with records maintained on the consolidated program at the tribal level shall contain such information as will—

(1) allow a determination that the tribe has complied with the requirements incorporated in its approved plan; and

(2) provide assurances to the Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

SEC. 10. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a participating tribe involved in any project be reduced as a result of the enactment of this Act.

SEC. 11. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, or the Secretary of Transportation, as appropriate, is authorized to take such action as may be necessary to provide for the interagency transfer of funds otherwise available to a tribe in order to further the purposes of this Act.

SEC. 12. ADMINISTRATION OF FUNDS AND OVERAGE.

(a) Administration of Funds.—

(1) In general.—Program funds shall be administered under this Act in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount utilized from each program) are expended on activities authorized under such program.

(2) Separate records not required.—Nothing in this section shall be construed as requiring a tribe to maintain separate records tracing any services or activities conducted under its approved plan under section 4 to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among individual programs.

(b) Overage.—All administrative costs under a plan under this Act may be commingled, and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for

Federal audit purposes so long as the overage is used for the purposes provided for under this Act.

SEC. 13. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

SEC. 14. REPORT ON STATUTORY AND OTHER BARRIERS TO INTEGRATION.

(a) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the implementation of the program authorized under this Act.

(b) FINAL REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the results of the implementation of the program authorized under this Act. The report shall identify statutory barriers to the ability of tribes to integrate more effectively their alcohol and substance abuse services in a manner consistent with the purposes of this Act.

SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ALCOHOL AND DRUG TREATMENT OR MENTAL HEALTH PROGRAMS.

Any State with an alcohol and substance abuse or mental health program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of subchapter IV of chapter 33 of title 5, United States Code, may deem appropriate to help insure the success of such program.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 211: A bill to amend the Education Amendments of 1978 and the Tribally Controlled Schools Act of 1988 to improve education for Indians, Native Hawaiians, and Alaskan Natives; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased today to be joined by the Vice Chairman of the Committee on Indian Affairs, Senator DANIEL K. INOUYE, in introducing legislation to improve the education delivery systems in Indian schools so that the President's goal that "no child be left behind" is as true for Native youngsters as for all Americans.

Grounded in the Constitution, treaties, federal statutes and court decisions, the United States has a unique role in the education of Native people. This is especially true for the Bureau of Indian Affairs school system for schools on or near reservations built and designed by the federal government. The only other school system in which the federal role is so significant is with Department of Defense schools for the children of those serving our nation in the armed forces.

As a youngster from a troubled background and a former teacher myself, I firmly believe that more than ever a quality education holds the key to a brighter and more hopeful future. I also know that the life-blood of Native people and the best chance they have for improving the lives of all their members lies in a well-educated community. In short, I believe community development starts with individual development and education is the key.

Like President Bush, I believe that education reform stands at the top of our national agenda. Education reform in Indian country is critical if this nation's Native people are to make the kind of advancement that is so clearly needed.

The geography of much of Indian country is difficult: from wintry Alaska, to the windswept Plains, to the searing heat of the Southwest, the terrain often makes it hard to get to school, let alone do well in school. I believe this reality must be acknowledged as we work to improve Native school systems.

Members of the Committee on Indian Affairs know all too well that the conditions in many, if not most, Indian schools is appalling: crumbling facilities, asbestos and PCBs, lead paint, lack of heat and other problems combine to make the schools nearly uninhabitable. Most members, indeed most Americans, would probably pull their children from school if they were subjected to these conditions.

We made a solid start at facilities replacement and repair with the Fiscal Year 2001 Interior appropriations bill which provided nearly $300 million in funds for these purposes.

Nevertheless, the backlog in school construction needs is still in the $800 to 900 million range.

I am very encouraged by President Bush's plan to establish an Indian tribal school capital improvement fund of more than $900 million to rectify the facilities crisis.

The bill I am introducing today, the Native American Educational Improvement Act of 2001, will improve education for Native people in a variety of ways.

Title I of the bill will amend the Education Amendments of 1978 in several respects. This legislation was enacted to provide a comprehensive structure for the BIA funded schools system including grant, contract and BIA operated schools.

The bill addresses most aspects of the BIA school system including standards and accreditation, facilities and various funding issues. It also provides guidance for how funding should be allocated by establishing a formula to effect a more equitable distribution of funds. The formula is based on weighted student units with extra weight given for such things as disabilities of gifted and talented abilities.

In keeping with the policy of Indian Self Determination, the bill carves out a key role for Indian Tribes by requiring that actions undertaken pursuant to the Act be done in consultation with the Tribes. This emphasis on maximizing local, Indian involvement is witnessed in the bill in several respects including the use of negotiated rulemaking in proposing and developing regulations to carry out the Act.

There is no single federal policy more successful than the contracting and compacting opportunities provided by the Indian Self Determination and Education Assistance Act of 1975, as amended.

Tribes and Tribal consortia have demonstrated that when they are provided the resources and flexibility to design and implement programs and services formerly provided by the Federal government, good things happen: 1, the quality of those services is refined; 2, the Tribe or consortium enhances its administrative and managerial abilities; and 3, federal resources are used more efficiently and effectively.

In keeping with this pattern, the bill authorizes Tribal contractors to perform all functions that are not inherently federal.

The bill will unshackle local authorities from the constraints of centralized management by authorizing Tribes to waive BIA school standards and design and implement standards that will better meet the needs of that Tribe's students.

Standards, flexibility and accreditation are important aspects of any good school system, but so is a sufficient pool of resources.

This bill will help evaluate whether funding levels for BIA schools are sufficient and seeks a review by the General Accounting Office to that effect.

While the core purpose of the Act is to provide a blueprint for the BIA school system, the bill I introduce today incorporates Tribal departments of education as well as early childhood development programs that provide services to meet the needs of parents and children under age six.

Title II of the bill amends the Tribally Controlled Schools Act of 1988, TCSA, by expanding the opportunities for Tribal operation of schools that would otherwise be run by the BIA.

Passage of the TCSA in 1988 grew out of dissatisfaction with the method of contracting educational services under the Indian Self Determination and Education Assistance Act, P.L. 93-638, ISDEAA.

While many services were being successfully contracted by Tribes under ISDEAA, education continued to be plagued with problems and Tribes were looking for an alternative to contracts.

The bill I am introducing today is grounded in the concept of "lump-sum" financing to Indian Tribes. This approach is intended to address some of the problems faced by ISDEAA contractors. That is, if a Tribe wants to operate a school pursuant to contract, it would be forced to negotiate a separate contract for each of the various school functions. A separate contract was required for transportation, for programs, for operations and maintenance, and other functions. This bill will consolidate these and other functions into one contract.

The grant schools operated by Tribes are provided considerable latitude in managing their finances provided that four specific requirements are met: As long as a grant school 1, submits an annual program report; 2, submits an evaluation report; 3, is accredited; and 4, adheres to the federal Single Audit Act, then that school may continue to enjoy the flexibility afforded it under P.L. 100-297.

Last, to ensure that Tribal initiative and creativity are not thwarted unnecessarily, this bill prohibits regulations from being established unless specifically authorized.

I have highlighted but a few of the major provisions included in this bill and I urge my colleagues to join me in supporting this important initiative. I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Education Improvement Act of 2001”.

TITLE I—AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978

SEC. 101. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

“PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

“SEC. 1120. FINDING AND POLICY.

“(a) FINDING.—Congress finds and recognizes that—

“(1) the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people includes the education of Indian children; and

“(2) the Federal Government has the responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that the Federal Government has established on or near reservations and Indian trust lands throughout the Nation for Indian children.

“(b) POLICY.—It is the policy of the United States to work in full cooperation with tribes toward the goal of assuring that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of these children.

“SEC. 1121. ACCREDITATION AND STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

“(a) PURPOSE; DECLARATIONS OF PURPOSE.—

“(1) PURPOSE.—The purpose of the standards implemented under this section shall be to ensure that Indian students being served by a school funded by the Bureau of Indian Affairs are provided with educational opportunities that equal or exceed those for all other students in the United States.

“(2) DECLARATIONS OF PURPOSE.—

“(A) IN GENERAL.—Local school boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with the appropriate tribal governing bodies and their communities, are encouraged to adopt declarations of purpose for education for their communities, taking into account the implications of such declarations on education in their communities and for their schools. In adopting such declarations of purpose, the school boards shall consider the effect the declarations may have on the motivation of students and faculties.

“(B) CONTENTS.—A declaration of purpose for a community shall—

“(i) represent the aspirations of the community for the kinds of people the community would like the community's children to become; and

“(ii) contain an expression of the community's desires that all students in the community shall—

“(I) become accomplished in things and ways important to the students and respected by their parents and community;

“(II) shape worthwhile and satisfying lives for themselves;

“(III) exemplify the best values of the community and humankind; and

“(IV) become increasingly effective in shaping the character and quality of the world all students share.

“(C) STANDARDS.—The declarations of purpose shall influence the standards for accreditation to be accepted by the schools.

“(b) STUDIES AND SURVEYS RELATING TO STANDARDS.—Not later than 1 year after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary, in consultation with the Secretary of Education, consortia of education organizations, and Indian organizations and tribes, and making the fullest use possible of other existing studies, surveys, and plans, shall carry out, by contract with an Indian organization, studies and surveys to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

“(c) REVISION OF MINIMUM ACADEMIC STANDARDS.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall—

“(A) propose revisions to the minimum academic standards contained in part 36 of title 25, Code of Federal Regulations (on the date of enactment of the Native American Education Improvement Act of 2001) for the basic education of Indian children attending Bureau funded schools, in accordance with the purpose described in subsection (a) and the findings of the studies and surveys carried out under subsection (b);

“(B) publish such proposed revisions to such standards in the Federal Register for the purpose of receiving comments from the tribes, local school boards, Bureau funded schools, and other interested parties; and

“(C) consistent with the provisions of this section and section 1130, take such actions as are necessary to coordinate standards implemented under this section with—

“(i) the Comprehensive School Reform Plan developed by the Bureau; and

“(ii)(I) the standards of the State in which any Bureau funded school is located; or

“(II) in a case where schools operated by the Bureau are within the boundaries of the reservation land of 1 tribe but within the boundaries of more than 1 State, the standards of the State selected by the tribe.

“(2) FINAL STANDARDS.—Not later than 6 months after the close of the comment period for comments described in paragraph (1)(B), the Secretary shall establish final standards under this subsection, distribute such standards to all tribes, and publish such standards in the Federal Register.

“(3) FURTHER REVISIONS.—The Secretary shall revise standards under this subsection periodically as necessary. Prior to making any revisions of such standards, the Secretary shall distribute proposed revisions of the standards to all the tribes, and publish such proposed revisions in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

“(4) APPLICABILITY OF STANDARDS.—Except as provided in subsection (e), the final standards published under this subsection shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as model standards for educational programs for Indian children in public schools.

“(5) CONSIDERATIONS WHEN ESTABLISHING AND REVISING STANDARDS.—In establishing and revising standards under this subsection, the Secretary shall take into account the unique needs of Indian students and support and reinforce the specific cultural heritage of each tribe.

“(d) ALTERNATIVE OR MODIFIED STANDARDS.—With respect to a school that is located in a State or region with standards that are in conflict with the standards established under subsection (c), the Secretary shall provide alternative or modified standards in lieu of the standards established under such subsection so that the programs of such school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

“(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—

“(1) WAIVER.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c) and (d) if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

“(2) ALTERNATIVE STANDARDS.—The tribal governing body or school board involved shall, not later than 60 days after providing a waiver under paragraph (1) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the affected tribes or local school board.

“(f) ACCREDITATION AND IMPLEMENTATION OF STANDARDS.—

“(1) DEADLINE.—Not later than the second academic year after publication of final standards established under subsection (c) or (d), or after the approval of alternative standards under subsection (e), to the extent necessary funding is provided, each Bureau funded school to which such standards would apply shall meet the applicable standards or be accredited—

“(A) by a tribal accrediting body that has been accepted by formal action of the appropriate tribal governing body;

“(B) by a regional accreditation agency;

“(C) in accordance with State accreditation standards for the State in which the school is located; or

“(D) in the case of a school that is located on a reservation that is located in more than 1 State, in accordance with the State accreditation standards of 1 State as selected by the tribal government.

“(2) DETERMINATION OF STANDARDS TO BE APPLIED.—The accreditation type or standards applied for each school shall be determined by the school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

“(3) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementing standards established under subsections (c), (d), and (e), if the school boards request that such standards, in part or in whole, be implemented.

“(4) FISCAL CONTROL AND FUND ACCOUNTING STANDARDS.—The Bureau shall, either directly or through a contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall yield data results comparable to the data provided by Bureau schools.

“(g) ANNUAL PLAN FOR MEETING OF STANDARDS.—

“(1) IN GENERAL.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section on the date of their establishment.

“(2) PLAN.—On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies of such schools a detailed plan to bring all Bureau funded schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school up to the level required by such standards.

“(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

“(1) IN GENERAL.—Except as specifically required by law, no Bureau funded school or dormitory operated on or after January 1, 1992, may be closed, consolidated, or transferred to another authority and no program of such a school may be substantially curtailed except in accordance with the requirements of this subsection.

“(2) EXCEPTIONS.—This subsection (other than this paragraph) shall not apply—

“(A) in those cases in which the tribal governing body for a school, or the local school board concerned (if designated by the tribal governing body to act under this paragraph), requests the closure, consolidation, or substantial curtailment; or

“(B) if a temporary closure, consolidation, or substantial curtailment is required by facility conditions that constitute an immediate hazard to health and safety.

“(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of school programs of Bureau schools, in accordance with the requirements of this subsection.

“(4) NOTIFICATION.—

“(A) CONSIDERATION.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school program of a Bureau school is under active consideration or review by any division of the Bureau or the Department of the Interior, the head of the division or the Secretary shall ensure that the affected tribe, tribal governing body, and local school board, are notified (in writing) immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review.

“(B) FORMAL DECISION.—When the head of any division of the Bureau or the Secretary makes a formal decision to close, transfer to another authority, consolidate, or substantially curtail a school program of a Bureau school, the head of the division or the Secretary shall notify (in writing) the affected tribes, tribal governing body, and local school board at least 6 months prior to the end of the academic year preceding the date of the proposed action.

“(C) COPIES OF NOTIFICATIONS AND INFORMATION.—The Secretary shall transmit copies of the notifications described in this paragraph promptly to the appropriate committees of Congress and publish such notifications copies in the Federal Register.

“(5) REPORT.—

“(A) IN GENERAL.—The Secretary shall submit a report to the appropriate committees of Congress, the affected tribal governing body and the designated local school board, describing the process of the active consideration or review referred to in paragraph (4).

“(B) CONTENTS.—The report shall include the results of a study of the impact of the action under consideration or review on the student population of the school involved, identify those students at the school with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include a description of consultation conducted between the potential service provider and current service provider of such services, parents, tribal representatives, the tribe involved, and the Director of the Office regarding such students.

“(6) LIMITATION ON CERTAIN ACTIONS.—No irreversible action may be taken to further any proposed school closure, transfer to another authority, consolidation, or substantial curtailment described in this subsection concerning a school (including any action that would prejudice the personnel or programs of such school) prior to the end of the first full academic year after the report described in paragraph (5) is submitted.

“(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED FOR CERTAIN ACTIONS.—The Secretary may terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

“(A) any Bureau funded school that is operated on or after January 1, 1999;

“(B) any program of such a school that is operated on or after January 1, 1999; or

“(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body for the school involved approves such action.

“(i) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

“(1) IN GENERAL.—

“(A) APPLICATIONS.—

“(i) TRIBES; SCHOOL BOARDS.—The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

“(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

“(II) applications from any tribe or school board associated with any Bureau funded school for the awarding of a contract or grant for the expansion of a Bureau funded school that would increase the amount of funds received by the tribe or school board under section 1126.

“(ii) LIMITATION.—With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

“(B) FACTORS.—With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

“(i) The adequacy of existing facilities to support the proposed program and services or the applicant's ability to obtain or provide adequate facilities.

“(ii) Geographic and demographic factors in the affected areas.

“(iii) The adequacy of the applicant's program plans or, in the case of a Bureau funded school, of a projected needs analysis conducted either by the tribe or the Bureau.

“(iv) Geographic proximity of comparable public education.

“(v) The stated needs of all affected parties, including students, families, tribal governing bodies at both the central and local levels, and school organizations.

“(vi) Adequacy and comparability of programs and services already available.

“(vii) Consistency of the proposed program and services with tribal educational codes or tribal legislation on education.

“(viii) The history and success of these services for the proposed population to be served, as determined from all factors, including standardized examination performance.

“(2) DETERMINATION ON APPLICATION.—

“(A) PERIOD.—The Secretary shall make a determination concerning whether to approve any application described in paragraph (1)(A) not later than 180 days after the date such application is submitted to the Secretary.

“(B) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make the determination with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

“(3) REQUIREMENTS FOR APPLICATIONS.—

“(A) APPROVAL.—Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

“(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

“(ii) the tribe or designated school board involved submits written evidence of such approval with the application.

“(B) INFORMATION.—Each application described in paragraph (1)(A) shall contain information discussing each of the factors described in paragraph (1)(B).

“(4) DENIAL OF APPLICATIONS.—If the Secretary denies an application described in paragraph (1)(A), the Secretary shall—

“(A) state the objections to the application in writing to the applicant not later than 180 days after the date the application is submitted to the Secretary;

“(B) provide assistance to the applicant to overcome the stated objections;

“(C) provide to the applicant a hearing on the record regarding the denial, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

“(D) provide to the applicant a notice of the applicant's appeals rights and an opportunity to appeal the decision resulting from the hearing under subparagraph (D).

“(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the action that is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective—

“(i) on the first day of the academic year following the fiscal year in which the application is approved; or

“(ii) on an earlier date determined by the Secretary.

“(B) APPLICATION TREATED AS APPROVED.—If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective?—

“(i) on the date that is 18 months after the date on which the application is submitted to the Secretary; or

“(ii) on an earlier date determined by the Secretary.

“(6) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to preclude the expansion of grades and related facilities at a Bureau funded school, if such expansion is paid for with non-Bureau funds.

“(j) JOINT ADMINISTRATION.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services, and other funds received for such education and related services from non-Federally funded programs, may apportion joint administrative, transportation, and program costs between such programs and the funds shall be retained at the school.

“(k) GENERAL USE OF FUNDS.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program of the schools for all Indian students.

“(l) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—

“(1) STUDY.—The Comptroller General of the United States shall conduct a study, in consultation with tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools, including isolation, limited English proficiency of Indian students, the costs of educating disabled Indian students in isolated settings, and other factors that may disproportionately increase per-pupil costs, as well as expenditures for comparable purposes in public schools nationally.

“(2) FINDINGS.—On completion of the study under paragraph (1), the Secretary shall take such action as may be necessary to ensure distribution of the findings of the study to the appropriate authorizing and appropriating committees of Congress, all affected tribes, local school boards, and associations of local school boards.

“SEC. 1i22. NATIONAL STANDARDS FOR HOME LIVING SITUATIONS.

“(a) IN GENERAL.—The Secretary, in accordance with section 1137, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, need for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau schools. Any subsequent revisions shall also be in accordance with such section 1137.

“(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their issuance.

“(c) PLAN.—

“(1) IN GENERAL.—Upon the submission of each annual budget request for Bureau educational services (as contained in the President's annual budget request under section 1105 of title 31, United States Code), the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that have dormitories or provide home-living (dormitory) situations into compliance with the standards established under this section.

“(2) CONTENTS.—Each plan under paragraph (1) shall include—

“(A) a statement of the relative needs of each of the home-living schools and projected future needs of each of the home-living schools;

“(B) detailed information on the status of each of the schools in relation to the standards established under this section;

“(C) specific cost estimates for meeting each standard for each such school;

“(D) aggregate cost estimates for bringing all such schools into compliance with the standards established under this section; and

“(E) specific timelines for bringing each school into compliance with such standards.

“(d) WAIVER.—A tribal governing body or local school board may, in accordance with section 1121(e), waive the standards established under this section for a school described in subsection (a) in the same manner as the governing body or school board may waive the standards provided under section 1121(c) for a Bureau funded school.

“(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

“SEC. 1123. SCHOOL BOUNDARIES.

“(a) ESTABLISHMENT BY SECRETARY.—Except as described in subsection (b), the Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

“(b) ESTABLISHMENT BY TRIBAL BODY.—In any case in which there is more than 1 Bureau funded school located on a reservation of a tribe, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the boundaries of the relevant geographical attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

“(c) BOUNDARY REVISIONS.—

“(1) IN GENERAL.—Effective on July 1, 1999, the Secretary may not establish or revise boundaries of a geographical attendance area with respect to any Bureau funded school unless the tribal governing body concerned or the school board concerned (if designated by the tribal governing body to act under this paragraph) has been afforded—

“(A) at least 6 months notice of the intention of the Secretary to establish or revise such boundaries; and

“(B) the opportunity to propose alternative boundaries.

“(2) PETITIONS.—Any tribe may submit a petition to the Secretary requesting a revision of the geographical attendance area boundaries referred to in paragraph (1).

“(3) BOUNDARIES.—The Secretary shall accept proposed alternative boundaries described in paragraph (1)(B) or revised boundaries described in a petition submitted under paragraph (2) unless the Secretary finds, after consultation with the affected tribe, that such alternative or revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. On accepting the boundaries, the Secretary shall publish information describing the boundaries in the Federal Register.

“(4) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents a choice of the Bureau funded school their child may attend, regardless of the geographical attendance area boundaries established under this section.

“(d) FUNDING RESTRICTIONS.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the boundaries of the geographical attendance area established for that school under this section. No funding shall be made available for transportation without tribal authorization to enable the school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

“(e) RESERVATION AS BOUNDARY.—In any case in which there is only 1 Bureau funded school located on a reservation, the boundaries of the geographical attendance area for the school shall be the boundaries (as established by treaty, agreement, legislation, court decision, or executive decision and as accepted by the tribe involved) of the reservation served, and those students residing near the reservation shall also receive services from such school.

“(f) OFF-RESERVATION HOME-LIVING SCHOOLS.—Notwithstanding the boundaries of the geographical attendance areas established under this section, each Bureau funded school that is an off-reservation home-living school shall implement special emphasis programs and permit the attendance of students requiring the programs. The programs provided for such students shall be coordinated among education line officers, the families of the students, the schools, and the entities operating programs that referred the students to the schools.

"SEC. 1124. FACILITIES CONSTRUCTION.

"(a) NATIONAL SURVEY OF FACILITIES CONDITIONS.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall compile, collect, and secure the data that is needed to prepare a national survey of the physical conditions of all Bureau funded school facilities.

"(2) DATA AND METHODOLOGIES.—In preparing the national survey required under paragraph (1), the General Accounting Office shall use the following data and methodologies:

"(A) The existing Department of Defense formula for determining the condition and adequacy of Department of Defense facilities.

"(B) Data related to conditions of Bureau funded schools that has previously been compiled, collected, or secured from whatever source derived so long as the data is relevant, timely, and necessary to the survey.

"(C) The methodologies of the American Institute of Architects, or other accredited and reputable architecture or engineering associations.

"(3) CONSULTATIONS.—

"(A) IN GENERAL.—In carrying out the survey required under paragraph (1), the General Accounting Office shall, to the maximum extent practicable, consult (and if necessary contract) with national, regional, and tribal Indian education organizations to ensure that a complete and accurate national survey is achieved.

"(B) REQUESTS FOR INFORMATION.—All Bureau funded schools shall comply with reasonable requests for information by the General Accounting Office and shall respond to such requests in a timely fashion.

"(4) SUBMISSION TO CONGRESS.—Not later than 24 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall submit the results of the national survey conducted under paragraph (1) to the Committee on Indian Affairs and Committee on Appropriations of the Senate, and the Committee on Resources and Committee on Appropriations of the House.

"(5) NEGOTIATED RULEMAKING COMMITTEE.—

"(A) IN GENERAL.—Not later than 6 months after the date on which the submission is made under paragraph (4), the Secretary shall establish a negotiated rule making committee pursuant to section 1137(c). The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

"(i) A catalogue of the condition of school facilities at all Bureau funded schools that—

"(I) rates such facilities with respect to the rate of deterioration and useful life structures and major systems;

"(II) establishes a routine maintenance schedule for each facility; and

"(III) makes projections on the amount of funds needed to keep each school viable, consistent with the standards of this Act.

"(ii) A school replacement and new construction report that determines replacement and new construction need, and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such formula shall utilize necessary factors in determining an equitable distribution of funds, including—

"(I) the size of school;

"(II) school enrollment;

"(III) the age of the school;

"(IV) the condition of the school;

"(V) environmental factors at the school; and

"(VI) school isolation.

"(iii) A renovation repairs report that determines renovation need (major and minor), and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such report shall identify needed repairs or renovations with respect to a facility, or a part of a facility, or the grounds of the facility, to remedy a need based on disabilities access or health and safety changes to a facility. The formula developed shall utilize necessary factors in determining an equitable distribution of funds, including the factors described in subparagraph (B).

"(B) Not later 24 months after the negotiated rulemaking committee is established under subparagraph (A), the reports described in clauses (ii) and (iii) of subparagraph (A) shall be submitted to the committees of Congress referred to in paragraph (4), the national and regional Indian education organizations, and to all Indian tribes.

"(6) FACILITIES INFORMATION SYSTEMS SUPPORT DATABASE.—The Secretary shall develop a Facilities Information Systems Support Database to maintain and update the information contained in the reports under clauses (ii) and (iii) of paragraph (5)(A) and the information contained in the survey conducted under paragraph (1). The system shall be updated every 3 years by the Bureau of Indian Affairs and monitored by General Accounting Office, and shall be made available to Indian tribes, Bureau funded schools, and Congress.

"(b) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the Native American Education Improvement Act of 2001.

"(c) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (b) of this section into compliance with the standards referred to in subsection (b). Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

"(d) CONSTRUCTION PRIORITIES.—

"(1) SYSTEM TO ESTABLISH PRIORITIES.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, and publish in the Federal Register, information describing the system used by the Secretary to establish priorities for replacement and construction projects for Bureau funded schools and home-living schools, including boarding schools, and dormitories. On making each budget request described in subsection (c), the Secretary shall publish in the Federal Register and submit with the budget request a list of all of the Bureau funded school construction priorities, as described in paragraph (2).

"(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to submitting the plan described in subsection (c), the Secretary shall—

"(A) not later than 18 months after the date of enactment of the Native American Education Improvement Act of 2001, establish a long-term construction and replacement priority list for all Bureau funded schools;

"(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to facilitate planning and scheduling of budget requests;

"(C) publish the list prepared under subparagraph (B) in the Federal Register and allow a period of not less than 120 days for public comment;

"(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

"(E) publish a final list in the Federal Register.

"(3) EFFECT ON OTHER LIST.—Nothing in this section shall be construed as interfering with or changing in any way the construction and replacement priority list established by the Secretary, as the list exists on the date of enactment of the Native American Education Improvement Act of 2001.

"(e) HAZARDOUS CONDITION AT BUREAU FUNDED SCHOOL.—

"(1) CLOSURE, CONSOLIDATION, OR CURTAILMENT.—

"(A) IN GENERAL.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of facility conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau and an individual designated by the tribe involved under subparagraph (B), determine that such conditions exist at a facility of the Bureau funded school.

"(B) DESIGNATION OF INDIVIDUAL BY TRIBE.—To be designated by a tribe for purposes of subparagraph (A), an individual shall—

"(i) be a licensed or certified facilities safety inspector;

"(ii) have demonstrated experience in the inspection of facilities for health and safety purposes with respect to occupancy; or

"(iii) have a significant educational background in the health and safety of facilities with respect to occupancy.

"(C) INSPECTION.—In making a determination described in subparagraph (A), the Bureau health and safety officer and the individual designated by the tribe shall conduct an inspection of the conditions of such facility in order to determine whether conditions at such facility constitute an immediate hazard to health and safety.

"(D) FAILURE TO CONCUR.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A) do not concur that conditions at the facility constitute an immediate hazard to health and safety, such officer and individual shall immediately notify the tribal governing body and provide written information related to their determinations.

"(E) Consideration by tribal governing body.—Not later than 10 days after a tribal governing body received notice under subparagraph (D), the tribal governing body shall consider all information related to the determinations of the Bureau health and safety officer and the individual designated by the tribe and make a determination regarding the closure, consolidation, or curtailment involved.

"(F) Cessation of closure, consolidation, or curtailment.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A), concur that conditions at the facility constitute an immediate hazard to health and safety, or if the tribal governing body makes such a determination under subparagraph (E) the facility involved shall be closed immediately.

"(G) General closure report.—If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau funded school are temporarily substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the local school board, not later than 3 months after the date on which the closure, consolidation, or curtailment was initiated, a report that specifies—

"(i) the reasons for such temporary action;

"(ii) the actions the Secretary is taking to eliminate the conditions that constitute the hazard;

"(iii) an estimated date by which the actions described in clause (ii) will be concluded; and

"(iv) a plan for providing alternate education services for students enrolled at the school that is to be closed.

"(2) Nonapplication of certain standards for temporary facility use.—

"(A) Classroom activities.—The Secretary shall permit the local school board to temporarily utilize facilities adjacent to the school, or satellite facilities, if such facilities are suitable for conducting classroom activities. In permitting the use of facilities under the preceding sentence, the Secretary may waive applicable minor standards under section 1121 relating to such facilities (such as the required number of exit lights or configuration of restrooms) so long as such waivers do not result in the creation of an environment that constitutes an immediate and substantial threat to the health, safety, and life of students and staff.

"(B) Administrative activities.—The provisions of subparagraph (A) shall apply with respect to administrative personnel if the facilities involved are suitable for activities performed by such personnel.

"(C) Temporary.—In this paragraph, the term 'temporary' means—

"(i) with respect to a school that is to be closed for not more than 1 year, 3 months or less; and

"(ii) with respect to a school that is to be closed for not less than 1 year, a time period determined appropriate by the Bureau.

"(3) Treatment of closure.—Any closure of a Bureau funded school under this subsection for a period that exceeds 1 month but is less than 1 year, shall be treated by the Bureau as an emergency facility improvement and repair project.

"(4) Use of funds.—With respect to a Bureau funded school that is closed under this subsection, the tribal governing body, or the designated local school board of each Bureau funded school, involved may authorize the use of school operations funds, which have otherwise been allocated for such school, to abate the hazardous conditions without further action by Congress.

"(f) Funding Requirement.—

"(1) Distribution of funds.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, all funds appropriated to the budget accounts for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from these accounts may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

"(2) Requirements for certain uses.—

"(A) Agreement.—The Secretary shall not withhold funds that would be distributed under paragraph (1) to any grant or contract school, in order to use the funds for maintenance or any other facilities or road-related purposes, unless such school—

"(i) has consented to the withholding of such funds, including the amount of the funds, the purpose for which the funds will be used, and the timeline for the services to be provided with the funds; and

"(ii) has provided the consent by entering into an agreement that is—

"(I) a modification to the contract; and

"(II) in writing (in the case of a school that receives a grant).

"(B) Cancellation.—The school may, at the end of any fiscal year, cancel an agreement entered into under this paragraph, on giving the Bureau 30 days notice of the intent of the school to cancel the agreement.

"(g) No Reduction in Federal Funding.—Nothing in this section shall be construed to reduce any Federal funding for a school because the school received funding for facilities improvement or construction from a State or any other source.

"SEC. 1125. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

"(a) Formulation and Establishment of Policy and Procedure; Supervision of Programs and Expenditures.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

"(b) Direction and Supervision of Personnel Operations.—

"(1) In general.—Not later than 6 months after the date of the enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education services by the Bureau, including school or institution custodial or maintenance personnel, and facilities management, contracting, procurement, and finance personnel.

"(2) Transfers.—The Assistant Secretary for Indian Affairs shall coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.

"(c) Inherent Federal Function.—For purposes of this Act, all functions relating to education that are located at the Area or Agency level and performed by an education line officer shall be subject to contract under the Indian Self-Determination and Education Assistance Act, unless determined by the Secretary to be inherently Federal functions.

"(d) Evaluation of Programs; Services and Support Functions; Technical and Coordination Assistance.—Education personnel who are under the direction and supervision of the Director of the Office in accordance with subsection (b)(1) shall—

"(1) monitor and evaluate Bureau education programs;

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

"(3) provide technical and coordination assistance in areas such as procurement, contracting, budgeting, personnel, curricula, and operation and maintenance of school facilities.

"(e) Construction, Improvement, Operation, and Maintenance of Facilities.—

"(1) Plan for construction.—The Assistant Secretary for Indian Affairs shall submit as part of the annual budget request for educational services (as contained in the President's annual budget request under section 1105 of title 31, United States Code) a plan—

"(A) for the construction of school facilities in accordance with section 1124(d);

"(B) for the improvement and repair of education facilities and for establishing priorities among the improvement and repair projects involved, which together shall form the basis for the distribution of appropriated funds; and

"(C) for capital improvements to education facilities to be made over the 5 years succeeding the year covered by the plan.

"(2) Program for operation and maintenance.—

"(A) In general.—

"(i) Program.—The Assistant Secretary shall establish a program, including a program for the distribution of funds appropriated under this part, for the operation and maintenance of education facilities. Such program shall include—

"(I) a method of computing the amount necessary for the operation and maintenance of each education facility;

"(II) a requirement of similar treatment of all Bureau funded schools;

"(III) a notice of an allocation of the appropriated funds from the Director of the Office directly to the appropriate education line officers and school officials;

"(IV) a method for determining the need for, and priority of, facilities improvement and repair projects, both major and minor; and

"(V) a system for conducting routine preventive maintenance.

"(ii) Meetings.—In making the determination referred to in clause (i)(IV), the Assistant Secretary shall cause a series of meetings to be conducted at the area and agency level with representatives of the Bureau funded schools in the corresponding areas and served by corresponding agencies, to receive comment on the projects described in clause (i)(IV) and prioritization of such projects.

"(B) Maintenance.—The appropriate education line officers shall make arrangements for the maintenance of the education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers. No funds made available under this part may be authorized for expenditure for maintenance of such an education facility unless the appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

“(3) Implementation.—The requirements of this subsection shall be implemented as soon as practicable after the date of enactment of the Native American Education Improvement Act of 2001.

“(f) Acceptance of Gifts and Bequests.—

“(1) Guidelines.—Notwithstanding any other provision of law, the Director of the Office shall promulgate guidelines for the establishment and administration of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated education programs, including, in appropriate cases, the establishment and administration of trust funds.

“(2) Monitoring and reports.—Except as provided in paragraph (3), in a case in which a Bureau operated education program is the beneficiary of such a gift or bequest, the Director shall—

“(A) make provisions for monitoring use of the gift or bequest; and

“(B) submit a report to the appropriate committees of Congress that describes the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such use.

“(3) Exception.—The requirements of paragraph (2) shall not apply in the case of a gift or bequest that is valued at $5,000 or less.

“(g) Functions Clarified.—In this section, the term ‘functions’ includes powers and duties.

“SEC. 1126. ALLOTMENT FORMULA.

“(a) Factors Considered; Revision To Reflect Standards.—

“(1) Formula.—The Secretary shall establish, by regulation adopted in accordance with section 1137, a formula for determining the minimum annual amount of funds necessary to operate each Bureau funded school. In establishing such formula, the Secretary shall consider—

“(A) the number of eligible Indian students served by the school and the total student population of the school;

“(B) special cost factors, such as—

“(i) the isolation of the school;

“(ii) the need for special staffing, transportation, or educational programs;

“(iii) food and housing costs;

“(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

“(v) special transportation and other costs of an isolated or small school;

“(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

“(vii) costs associated with greater lengths of service by education personnel;

“(viii) the costs of therapeutic programs for students requiring such programs; and

“(ix) special costs for gifted and talented students;

“(C) the costs of providing academic services that are at least equivalent to the services provided by public schools in the State in which the school is located;

“(D) whether the available funding will enable the school involved to comply with the accreditation standards applicable to the school under section 1121; and

“(E) such other relevant factors as the Secretary determines are appropriate.

“(2) Revision of formula.—On the establishment of the standards required in sections 1121 and 1122, the Secretary shall—

“(A) revise the formula established under paragraph (1) to reflect the cost of compliance with such standards; and

“(B)(i) by not later than January 1, 2002, review the formula established under paragraph (1) and take such action as may be necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living schools and other Bureau operated residential facilities; and

“(ii) concurrently with any actions taken under clause (i), review the standards established under section 1121 to be certain that the standards adequately provide for parental notification regarding, and consent for, such counseling and therapeutic programs.

“(b) Pro Rata Allotment.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted on a pro rata basis in accordance with the formula established under subsection (a).

“(c) Annual Adjustment; Reservation of Amount for School Board Activities.—

“(1) Annual adjustment.—

“(A) In general.—For fiscal year 2002, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

“(i) use a weighted factor of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

“(ii) consider a school with an enrollment of fewer than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools;

“(iii) take into account the provision of residential services on less than a 9-month basis at a school in a case in which the school board and supervisor of the school determine that the school will provide the services for fewer than 9 months for the academic year involved;

“(iv) use a weighted factor of 2.0 for each eligible Indian student that—

“(I) is gifted and talented; and

“(II) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school; and

“(v) use a weighted factor of 0.25 for each eligible Indian student who is enrolled in a year long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

“(B) Timing.—The Secretary shall make the adjustment required under subparagraph (A)(v) for such school after—

“(i) the school board of such school provides a certification of the Indian or Native language curriculum of the school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second academic year after the academic year for which the certification is made; and

“(ii) the funds appropriated for allotments under this section are designated, in the appropriations Act appropriating such funds, as the funds necessary to implement such adjustment at such school without reducing an allotment made under this section to any school by virtue of such adjustment.

“(2) Reservation of amount.—

“(A) In general.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

“(i) $8,000; or

“(ii) the lesser of—

“(I) $15,000; or

“(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

“(B) Training.—Each local school board, and any agency school board that serves as a local school board for any grant or contract school, shall ensure that each individual who is a new member of the school board receives, within 12 months after the individual becomes a member of the school board, 40 hours of training relevant to that individual's service on the board. Such training may include training concerning legal issues pertaining to Bureau funded schools, legal issues pertaining to school boards, ethics, and other topics determined to be appropriate by the school board.

“(d) Reservation of Amount for Emergencies.—

“(1) In general.—The Secretary shall reserve from the funds available for allotment for each fiscal year under this section an amount that, in the aggregate, equals 1 percent of the funds available for allotment for that fiscal year.

“(2) Use of funds.—Amounts reserved under paragraph (1) shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of education facilities, at a school site (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988).

“(3) Funds remaining available.—Funds reserved under this subsection shall remain available without fiscal year limitation until expended. The aggregate amount of such funds, from all fiscal years, that is available for expenditure in a fiscal year may not exceed an amount equal to 1 percent of the funds available for allotment under this section for that fiscal year.

“(4) Reports.—If the Secretary makes funds available under this subsection, the Secretary shall submit a report describing such action to the appropriate committees of Congress as part of the President's next annual budget request under section 1105 of title 31, United States Code).

“(e) Supplemental Appropriations.—Any funds provided in a supplemental appropriations Act to meet increased pay costs attributable to school level personnel of Bureau funded schools shall be allotted under this section.

“(f) Eligible Indian Student Defined.—In this section, the term ‘eligible Indian student’ means a student who—

“(1) is a member of, or is at least ¼ degree Indian blood descendant of a member of, a tribe that is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians;

“(2) resides on or near a reservation or meets the criteria for attendance at a Bureau off-reservation home-living school; and

“(3) is enrolled in a Bureau funded school.

“(g) Tuition.—

“(1) In general.—A Bureau school or contract or grant school may not charge an eligible Indian student tuition for attendance at the school. A Bureau school may not charge a student attending the school under the circumstances described in paragraph (2)(C) tuition for attendance at the school.

“(2) Attendance of non-Indian students at Bureau schools.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

“(A)(i) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation requirements; and

“(ii) the local school board consents; and

“(B)(i) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site; or

“(ii) tuition is paid for the student in an amount that is not more than the amount of tuition charged by the nearest public school district for out-of-district students, and is paid in addition to the school's allotment under this section.

“(3) Attendance of non-Indian students at contract and grant schools.—The school board of a contract or grant school may permit students who are not eligible Indian students to attend the contract or grant school. Any tuition collected for those students shall be in addition to the amount the school received under this section.

“(h) Funds Available Without Fiscal Year Limitation.—Notwithstanding any other provision of law, at the election of the local school board of a Bureau school made at any time during a fiscal year, a portion equal to not more than 15 percent of the funds allotted for the school under this section for the fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary for Indian Affairs shall take such steps as may be necessary to implement this subsection.

“(i) Students at Richfield Dormitory, Richfield, Utah.—Tuition for the instruction of each out-of-State Indian student in a home-living situation at the Richfield dormitory in Richfield, Utah, who attends Sevier County high schools in Richfield, Utah, for an academic year, shall be paid from Indian school equalization program funds authorized in this section and section 1129, at a rate not to exceed the weighted amount provided for under subsection (b) for a student for that year. No additional administrative cost funds shall be provided under this part to pay for administrative costs relating to the instruction of the students.

“SEC. 1127. ADMINISTRATIVE COST GRANTS.

“(a) Definitions.—In this section:

“(1) Administrative cost.—

“(A) In general.—The term 'administrative cost' means the cost of necessary administrative functions which—

“(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

“(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

“(iii) are either—

“(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

“(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

“(B) Inclusions.—The term 'administrative cost' may include—

“(i) contract or grant (or other agreement) administration;

“(ii) executive, policy, and corporate leadership and decisionmaking;

“(iii) program planning, development, and management;

“(iv) fiscal, personnel, property, and procurement management;

“(v) related office services and record keeping; and

“(vi) costs of necessary insurance, auditing, legal, safety and security services.

“(2) Bureau elementary and secondary functions.—The term 'Bureau elementary and secondary functions' means—

“(A) all functions funded at Bureau schools by the Office;

“(B) all programs—

“(i) funds for which are appropriated to other agencies of the Federal Government; and

“(ii) which are administered for the benefit of Indians through Bureau schools; and

“(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

“(3) Direct cost base.—

“(A) In general.—Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

“(i) the second fiscal year preceding such fiscal year; or

“(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

“(B) Functions not previously operated.—In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

“(4) Maximum base rate.—The term 'maximum base rate' means 50 percent.

“(5) Minimum base rate.—The term 'minimum base rate' means 11 percent.

“(6) Standard direct cost base.—The term 'standard direct cost base' means **$600,000**.

“(7) Tribal elementary or secondary educational programs.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

“(b) Grants; Effect Upon Appropriated Amounts.—

“(1) Grants.—

“(A) In general.—Subject to the availability of appropriated funds, the Secretary shall provide a grant to each tribe or tribal organization operating a contract or grant school, in an amount determined under this section, for the purpose of paying the administrative and indirect costs incurred in operating the contract or grant school, in order to—

“(i) enable the tribe or tribal organization operating the school, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

“(ii) carry out other necessary support functions that would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

“(B) Amount.—No school operated as a stand-alone institution shall receive less than **$200,000** per year under this paragraph.

“(2) Effect upon appropriated amounts.—Amounts appropriated to fund the grants provided for under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

“(c) Determination of Grant Amount.—

“(1) In general.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate determined under subsection (d) of the tribe or tribal organization to the aggregate cost of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate does not apply to programs not relating to such functions that are operated by the tribe or tribal organization.

“(2) Direct cost base funds.—The Secretary shall—

“(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by a tribe or tribal organization under any Federal education program that is included in the direct cost base of the tribe or tribal organization; and

“(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government (other than the Department of the Interior) for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

“(3) Reductions.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under paragraph (1) and (2) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under this subsection for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under this subsection bears to the total of all grants determined under this subsection for all tribes and tribal organizations for such fiscal year.

“(d) Administrative Cost Percentage Rate.—

“(1) In general.—For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

“(A) the sum of—

“(i) the amount equal to—

“(I) the direct cost base of the tribe or tribal organization for the fiscal year; multiplied by

“(II) the minimum base rate; plus

“(ii) the amount equal to—

“(I) the standard direct cost base; multiplied by

“(II) the maximum base rate; by

“(B) the sum of—

“(i) the direct cost base of the tribe or tribal organization for the fiscal year; and

“(ii) the standard direct cost base.

“(2) Rounding.—The administrative cost percentage rate shall be determined to 1/100 of a percent.

“(e) Combining Funds.—

“(1) In general.—Funds received by a tribe, tribal organization, or contract or grant school through grants made under this section for tribal elementary or secondary educational programs may be combined by the tribe, tribal organization, or contract or grant school and placed into a single administrative cost account without the necessity of maintaining separate funding source accounting.

“(2) Indirect cost funds.—Indirect cost funds for programs at the school that share common administrative services with the tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

“(f) Availability of Funds.—Funds received through a grant made under this section with respect to tribal elementary or secondary educational programs at a contract or grant school shall remain available to the contract or grant school—

“(1) without fiscal year limitation; and

“(2) without reducing the amount of any grants otherwise payable to the school under this section for any fiscal year after the fiscal year for which the grant is provided.

“(g) Treatment of Funds.—Funds received through a grant made under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or grant shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

“(h) Treatment of Entity Operating Other Programs.—In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

“(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

“(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

“(i) Applicability to Schools Operating Under Tribally Controlled Schools Act of 1988.—The provisions of this section that apply to contract or grant schools shall also apply to those schools receiving assistance under the Tribally Controlled Schools Act of 1988.

“(j) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

“SEC. 1128. DIVISION OF BUDGET ANALYSIS.

“(a) Establishment.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (referred to in this section as the ‘Division’). Such Division shall be under the direct supervision and control of the Director of the Office.

“(b) Functions.—In consultation with the tribal governing bodies and local school boards the Director of the Office, through the head of the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau funded schools and project the amounts necessary to provide to Indian students in such schools the educational program set forth in this part.

“(c) Annual Reports.—Not later than the date that the Assistant Secretary for Indian Affairs submits the annual budget request as part of the President's annual budget request under section 1105 of title 31, United States Code for each fiscal year after the date of enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate), all Bureau funded schools, and the tribal governing bodies relating to such schools, a report that shall contain—

“(1) projections, based on the information gathered pursuant to subsection (b) and any other relevant information, of amounts necessary to provide to Indian students in Bureau funded schools the educational program set forth in this part;

“(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

“(3) such other information as the Director of the Office considers to be appropriate.

“(d) Use of Reports.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the information contained in the annual report required by subsection (c) in preparing their annual budget requests.

“SEC. 1129. UNIFORM DIRECT FUNDING AND SUPPORT.

“(a) Establishment of System and Forward Funding.—

“(1) In general.—The Secretary shall establish, by regulation adopted in accordance with section 1137, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1126. All amounts appropriated for distribution in accordance with this section may be made available in accordance with paragraph (2).

“(2) Timing for use of funds.—

“(A) Availability.—With regard to funds for affected schools under this part that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to such affected schools not later than December 1 of the fiscal year, except that operations and maintenance funds shall be forward funded and shall be available for obligation not later than July 15 and December 1 of each fiscal year, and shall remain available for obligation through the succeeding fiscal year.

“(B) Publications.—The Secretary shall, on the basis of the amounts appropriated as described in this paragraph—

“(i) publish, not later than July 1 of the fiscal year for which the amounts are appropriated, information indicating the amount of the allotments to be made to each affected school under section 1126, of 85 percent of such appropriated amounts; and

“(ii) publish, not later than September 30 of such fiscal year, information indicating the amount of the allotments to be made under section 1126, from the remaining 15 percent of such appropriated amounts, adjusted to reflect the actual student attendance.

“(3) Limitation.—

“(A) Expenditures.—Notwithstanding any other provision of law (including a regulation), the supervisor of a Bureau school may expend an aggregate of not more than $50,000 of the amount allotted to the school under section 1126 to acquire materials, supplies, equipment, operation services, maintenance services, and other services for the school, and amounts received as operations and maintenance funds, funds received from the Department of Education, or funds received from other Federal sources, without competitive bidding if—

“(i) the cost for any single item acquired does not exceed $15,000;

“(ii) the school board approves the acquisition;

“(iii) the supervisor certifies that the cost is fair and reasonable;

“(iv) the documents relating to the acquisition executed by the supervisor of the school or other school staff cite this paragraph as authority for the acquisition; and

“(v) the acquisition transaction is documented in a journal maintained at the school that clearly identifies when the transaction occurred, the item that was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or the school board considers to be relevant.

“(B) Notice.—Not later than 6 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall send notice of the provisions of this paragraph to each supervisor of a Bureau school and associated school board chairperson, the education line officer of each agency and area, and the Bureau division in charge of procurement, at both the local and national levels.

“(C) Application and guidelines.—The Director of the Office shall be responsible for—

“(i) determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph;

“(ii) ensuring that there is at least 1 such individual at each Bureau facility; and

“(iii) the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

“(b) Local Financial Plans for Expenditure of Funds.—

“(1) Plan required.—

“(A) In general.—Each Bureau school that receives an allotment under section 1126 shall prepare a local financial plan that specifies the manner in which the school will expend the funds made available under the allotment and ensures that the school will meet the accreditation requirements or standards for the school established pursuant to section 1121.

“(B) REQUIREMENT.—A local financial plan under subparagraph (A) shall comply with all applicable Federal and tribal laws.

“(C) PREPARATION AND REVISION.—The financial plan for a school under subparagraph (A) shall be prepared by the supervisor of the school in active consultation with the local school board for the school. The local school board for each school shall have the authority to ratify, reject, or amend such financial plan and, at the initiative of the local school board or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

“(D) ROLE OF SUPERVISOR.—The supervisor of the school—

“(i) shall put into effect the decisions of the school board relating to the financial plan under subparagraph (A); and

“(ii) shall provide the appropriate local union representative of the education employees of the school with copies of proposed financial plans relating to the school and all modifications and proposed modifications to the plans, and at the same time submit such copies to the local school board.

“(iii) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned.

A copy of statement under clause (iii) shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

“(2) REQUIREMENT.—A Bureau school shall expend amounts received under an allotment under section 1126 in accordance with the local financial plan prepared under paragraph (1).

“(c) TRIBAL DIVISION OF EDUCATION, SELF-DETERMINATION GRANT AND CONTRACT FUNDS.—The Secretary may approve applications for funding tribal divisions of education and developing tribal codes of education, from funds made available pursuant to section 103(a) of the Indian Self-Determination and Education Assistance Act.

“(d) TECHNICAL ASSISTANCE AND TRAINING.—A local school board may, in the exercise of the authority of the school board under this section, request technical assistance and training from the Secretary. The Secretary shall, to the greatest extent possible, provide such assistance and training, and make appropriate provision in the budget of the Office for such assistance and training.

“(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

“(1) IN GENERAL.—A financial plan prepared under subsection (b) for a school may include, at the discretion of the supervisor and the local school board of such school, a provision for funding a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of facilities of the school for such program during any summer in which such utilization is requested.

“(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (commonly known as the ‘Johnson-O'Malley Act’; 48 Stat. 596, chapter 147) and this Act may be used to augment the services provided in each summer program referred to in paragraph (1) at the option of the tribe or school receiving such funds. The augmented services shall be under the control of the tribe or school.

“(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination of activities for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of such programs.

“(f) COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—From funds allotted to a Bureau school under section 1126, the Secretary shall, if specifically requested by the appropriate tribal governing body, implement a cooperative agreement that is entered into between the tribe, the Bureau, the local school board, and a local public school district that meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau, the school board, and the local public school district shall determine the terms of the agreement.

“(2) COORDINATION PROVISIONS.—An agreement under paragraph (1) may, with respect to the Bureau school and schools in the school district involved, encompass coordination of all or any part of the following:

“(A) The academic program and curriculum, unless the Bureau school is accredited by a State or regional accrediting entity and would not continue to be so accredited if the agreement encompassed the program and curriculum.

“(B) Support services, including procurement and facilities maintenance.

“(C) Transportation.

“(3) EQUAL BENEFIT AND BURDEN.—

“(A) IN GENERAL.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed by the school.

“(B) LIMITATION.—Subparagraph (A) shall not be construed to require equal expenditures, or an exchange of similar services, by the Bureau school and schools in the school district.

“(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

“(h) MATCHING FUND REQUIREMENTS.—

“(1) NOT CONSIDERED FEDERAL FUNDS.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this title for education-related activities (not including funds for construction, maintenance and facilities, improvement or repair) shall not be considered to be Federal funds for the purposes of meeting a matching funds requirement for any Federal program.

“(2) NONAPPLICATION OF REQUIREMENTS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, no requirement relating to the provision of matching funds or the provision of services or in-kind activity as a condition of participation in a program or project or receipt of a grant, shall apply to a Bureau funded school unless the provision of law authorizing such requirement specifies that such requirement applies to such a school.

“(B) LIMITATION.—In considering an application from a Bureau funded school for participation in a program or project that has a requirement described in subparagraph (A), the entity administering such program or project or receiving such grant shall not give positive or negative weight to such application based solely on the provisions of this paragraph. Such an application shall be considered as if it fully met any matching requirement.

“SEC. 1130. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

“(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

“(b) CONSULTATION WITH TRIBES.—

“(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes. The Bureau and tribes shall work in a government-to-government relationship to ensure quality education for all tribal members.

“(2) REQUIREMENTS.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

“SEC. 1131. INDIAN EDUCATION PERSONNEL.

“(a) DEFINITIONS.—In this section:

“(1) EDUCATION POSITION.—The term ‘education position’ means a position in the Bureau the duties and responsibilities of which—

“(A) are performed on a school-year basis principally in a Bureau school and involve—

“(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

“(ii) any activity (other than teaching) that requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

“(iii) any activity in or related to the field of education, whether or not academic credits in educational theory and practice are a formal requirement for the conduct of such activity; or "(iv) provision of support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs, other than the position of agency superintendent for education.

"(2) Educator.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(b) Civil Service Authorities Inapplicable.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions.

"(c) Regulations.—Not later than 60 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions relating to—

"(1) the establishment of education positions;

"(2) the establishment of qualifications for educators and education personnel;

"(3) the fixing of basic compensation for educators and education positions;

"(4) the appointment of educators;

"(5) the discharge of educators;

"(6) the entitlement of educators to compensation;

"(7) the payment of compensation to educators;

"(8) the conditions of employment of educators;

"(9) the leave system for educators;

"(10) the length of the school year applicable to education positions described in subsection (a)(1)(A); and

"(11) such matters as may be appropriate.

"(d) Qualifications of Educators.—

"(1) Requirements.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A) that lists of qualified and interviewed applicants for education positions be maintained in the appropriate agency or area office of the Bureau or, in the case of individuals applying at the national level, the Office;

"(B)(i) that a local school board have the authority to waive, on a case-by-case basis, any formal education or degree qualification established by regulation, in order for a tribal member to be hired in an education position to teach courses on tribal culture and language; and

"(ii) that a determination by a local school board that such a tribal member be hired shall be instituted by the supervisor of the school involved; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level—

"(i) that such individual's name appear on a list maintained pursuant to subparagraph (A); or

"(ii) that such individual have applied at the national level for an education position.

"(2) Exception for Certain Temporary Employment.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to authorize the employment would result in that position remaining vacant.

"(e) Hiring of Educators.—

"(1) Requirements.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i)(I) that educators employed in a Bureau school (other than the supervisor of the school) shall be hired by the supervisor of the school; and

"(II) that, in a case in which there are no qualified applicants available to fill a vacancy at a Bureau school, the supervisor may consult a list maintained pursuant to subsection (d)(1)(A);

"(ii) each supervisor of a Bureau school shall be hired by the education line officer of the agency office of the Bureau for the jurisdiction in which the school is located;

"(iii) each educator employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

"(iv) each education line officer and educator employed in the office of the Director of the Office shall be hired by the Director;

"(B)(i) that, before an individual is employed in an education position in a Bureau school by the supervisor of the school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted; and

"(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the superintendent for education of the agency office);

"(C)(i) that, before an individual is employed in an education position in an agency office of the Bureau, the appropriate agency school board shall be consulted; and

"(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be employed shall be instituted by the superintendent for education of the agency office;

"(D) that before an individual is employed in an education position (as described in subsection (a)(1)(B)) in the office of the Director of the Office (other than the position of Director), the school boards representing all Bureau schools shall be consulted; and

"(E) that all employment decisions or actions be in compliance with all applicable Federal, State and tribal laws.

"(2) Information Regarding Application at National Level.—

"(A) In General.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position.

"(B) Effect of Inaccurate Statement.—If an individual described in subparagraph (A) is employed at the local level, such individual's name shall be immediately forwarded to the Secretary by the local employer. The Secretary shall, as soon as practicable but in no event later than 30 days after the receipt of the name, ascertain the accuracy of the statement made by such individual pursuant to subparagraph (A). Notwithstanding subsection (g), if the Secretary finds that the individual's statement was false, such individual, at the Secretary's discretion, may be disciplined or discharged.

"(C) Effect of Application at National Level.—If an individual described in subparagraph (A) has applied at the national level for an education position, the appointment of such individual at the local level shall be conditional for a period of 90 days. During that period, the Secretary may appoint a more qualified individual (as determined by the Secretary) from a list maintained pursuant to subsection (e)(1)(A) to the position to which such individual was appointed.

"(3) Statutory Construction.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

"(4) Appeals.—

"(A) By Supervisor.—The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) By Education Line Officer.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(5) Other Appeals.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(f) Discharge and Conditions of Employment of Educators.—

"(1) Regulations.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

“(A) that procedures shall be established for the rapid and equitable resolution of grievances of educators;

“(B) that no educator may be discharged without notice of the reasons for the discharge and an opportunity for a hearing under procedures that comport with the requirements of due process; and

“(C) that each educator employed in a Bureau school shall be notified 30 days prior to the end of an academic year whether the employment contract of the individual will be renewed for the following year.

“(2) PROCEDURES FOR DISCHARGE.—

“(A) DETERMINATIONS.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. On giving notice to an educator of the supervisor's intention to discharge the educator, the supervisor shall immediately notify the local school board of the proposed discharge. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor.

“(B) APPEALS.—The supervisor shall have the right to appeal a determination by a local school board under subparagraph (A), as evidenced by school board records, not to discharge an educator to the education line officer of the appropriate agency office of the Bureau. Upon hearing such an appeal, the agency education line officer may, for good cause, issue a decision overturning the determination of the local school board with respect to the employment of such individual. The education line officer shall make the decision in writing and submit the decision to the local school board.

“(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

“(A) to recommend to the supervisor that an educator employed in the school be discharged; and

“(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

“(g) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

“(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action carried out under this section with respect to an applicant or employee not entitled to an Indian preference if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not be construed to relieve the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

“(2) DEFINITIONS.—In this subsection:

“(A) INDIAN PREFERENCE LAWS.—The term ‘Indian preference laws’ means section 12 of the Act of June 18, 1934 (48 Stat. 986, chapter 576) or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

“(B) TRIBAL ORGANIZATION.—The term ‘tribal organization’ means—

“(i) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

“(ii) in connection with any personnel action referred to in this subsection, any local school board to which the governing body has delegated the authority to grant a waiver under this subsection with respect to a personnel action.

“(h) COMPENSATION OR ANNUAL SALARY.—

“(1) IN GENERAL.—

“(A) COMPENSATION FOR EDUCATORS AND EDUCATION POSITIONS.—Except as otherwise provided in this section, the Secretary shall fix the basic compensation for educators and education positions—

“(i) at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable; or

“(ii) on the basis of the Federal Wage System schedule in effect for the locality involved, and for the comparable positions, at the rates of compensation in effect for the senior executive service.

“(B) COMPENSATION OR SALARY FOR TEACHERS AND COUNSELORS.—The Secretary shall establish the rate of basic compensation, or annual salary rate, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rate of basic compensation applicable (on the date of enactment of the Native American Education Improvement Act of 2001 and thereafter) for comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act. The Secretary shall allow the local school boards involved authority to implement only the aspects of the Defense Department Overseas Teachers Pay and Personnel Practices Act pay provisions that are considered essential for recruitment and retention of teachers and counselors. Implementation of such provisions shall not be construed to require the implementation of that entire Act.

“(C) RATES FOR NEW HIRES.—

“(i) IN GENERAL.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, each local school board of a Bureau school may establish a rate of compensation or annual salary rate described in clause (ii) for teachers and counselors (including academic counselors) who are new hires at the school and who had not worked at the school, as of the first day of such fiscal year.

“(ii) CONSISTENT RATES.—The rates established under clause (i) shall be consistent with the rates paid for individuals in the same positions, with the same tenure and training, as the teachers and counselors, in any other school within whose boundaries the Bureau school is located.

“(iii) DECREASES.—In an instance in which the establishment of rates under clause (i) causes a reduction in compensation at a school from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the new rates of compensation may be applied to the compensation of employees of the school who worked at the school as of such date of enactment by applying those rates at each contract renewal for the employees so that the reduction takes effect in 3 equal installments.

“(iv) INCREASES.—In an instance in which the establishment of such rates at a school causes an increase in compensation from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the school board may apply the new rates at the next contract renewal so that either—

“(I) the entire increase occurs on 1 date; or

“(II) the increase takes effect in 3 equal installments.

“(D) ESTABLISHED REGULATIONS, PROCEDURES, AND ARRANGEMENTS.—

“(i) PROMOTIONS AND ADVANCEMENTS.—The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of an educator.

“(ii) CONTINUED EMPLOYMENT OR COMPENSATION.—The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (o), as in effect on January 1, 1990.

“(2) POST DIFFERENTIAL RATES.—

“(A) IN GENERAL.—The Secretary may pay a post differential rate not to exceed 25 percent of the rate of basic compensation, for educators or education positions, on the basis of conditions of environment or work that warrant additional pay, as a recruitment and retention incentive.

“(B) SUPERVISOR'S AUTHORITY.—

“(i) IN GENERAL.—Except as provided in clause (ii) on the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differential rates under subparagraph (A).

“(ii) EXCEPTION.—The Secretary shall disapprove, or approve with a modification, a request for authorization to provide a post differential rate if the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that the rate should be disapproved or decreased because the disparity of compensation between the appropriate educators or positions in the Bureau school, and the comparable educators or positions at the nearest public school, is—

“(I)(aa) at least 5 percent; or

“(bb) less than 5 percent; and

“(II) does not affect the recruitment or retention of employees at the school.

“(iii) APPROVAL OF REQUESTS.—A request made under clause (i) shall be considered to be approved at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with a modification, or disapproved by the Secretary.

“(iv) DISCONTINUATION OF OR DECREASE IN RATES.—The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential rate provided for under this paragraph at the beginning of an academic year if—

“(I) the local school board requests that such differential be discontinued or decreased; or

“(II) the Secretary or the supervisor, respectively, determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(v) REPORTS.—On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals of authorization made under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

"(i) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (c)(9) shall not be so liquidated.

"(j) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who—

"(1) is transferred, promoted, or reappointed, without a break in service, to a position in the Federal Government under a different leave system than the system for leave described in subsection (c)(9); and

"(2) earned or was credited with leave under the regulations prescribed under subsection (c)(9) and has such leave remaining to the credit of such educator;

such leave shall be transferred to such educator's credit in the employing agency for the position on an adjusted basis in accordance with regulations that shall be prescribed by the Director of the Office of Personnel Management.

"(k) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates employment under an employment contract with the Bureau before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(l) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (a)(1)(A) who—

"(1) is employed at the end of an academic year;

"(2) agrees in writing to serve in such position for the next academic year; and

"(3) is employed in another position during the recess period immediately preceding such next academic year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation;

such section 5533 shall not apply to such educator by reason of any such employment during the recess period with respect to any receipt of additional compensation.

"(m) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school boards concerned, accept voluntary services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section shall be considered to be a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"(n) PRORATION OF PAY.—

"(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of an educator, shall prorate the salary of the educator for an academic year over a 12-month period. Each educator employed for the academic year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(2) CHANGE OF ELECTION.—During the course of such academic year, the employee may change the election made under paragraph (1) once.

"(3) LUMP-SUM PAYMENT.—That portion of the employee's pay that would be paid between academic years may be paid in a lump sum at the election of the employee.

"(4) APPLICATION.—This subsection applies to educators, whether employed under this section or title 5, United States Code.

"(o) EXTRACURRICULAR ACTIVITIES.—

"(1) STIPEND.—Notwithstanding any other provision of law, the Secretary may provide, for Bureau employees in each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off for overtime work. Any employee of the Bureau who performs overtime work that consists of additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(2) ELECTION NOT TO RECEIVE STIPEND.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply with respect to the work involved.

"(3) APPLICATION.—This subsection applies to Bureau employees, whether employed under this section or title 5, United States Code.

"(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected to be covered under this section or a corresponding provision after November 1, 1979) and to the position in which such educator is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

"(q) FURLOUGH WITHOUT CONSENT.—

"(1) IN GENERAL.—An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under subsection (p) at that time, and who did not make the election under paragraph such subsection, may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code, without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b); and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

"(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

"(ii) such educators are selected based upon such educator's qualifications after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) APPEALS.—The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

"SEC. 1132. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2002, the Secretary shall establish within the Office a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

"(1) student enrollment;

"(2) curricula;

"(3) staffing;

"(4) facilities;

"(5) community demographics;

"(6) student assessment information;

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discrete elements;

"(8) relevant reports;

"(9) personnel records;

"(10) finance and payroll; and

"(11) such other items as the Secretary determines to be appropriate.

"(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1, 2003, the Secretary shall complete implementation of such a system at each Bureau field office and Bureau funded school.

"SEC. 1133. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"Not later than 90 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall submit a report on the procedures and practices to Congress.

"SEC. 1134. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include provisions for opportunities for acquiring work experience prior to receiving an actual work assignment.

"SEC. 1135. ANNUAL REPORT; AUDITS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and the tribal governing bodies of such schools, a detailed annual report on the state of education within the Bureau and any problems encountered in Indian education during the period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include information on the status of tribally controlled community colleges.

"(b) Budget Request.—The annual budget request for the Bureau's education programs, as submitted as part of the President's next annual budget request under section 1105 of title 31, United States Code) shall include the plans required by sections 1121(g), 1122(c), and 1124(c).

"(c) Financial and Compliance Audits.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted for each Bureau school at least once in every 3 years. Such an audit of a Bureau school shall examine the extent to which such school has complied with the local financial plan prepared by the school under section 1129(b).

"(d) Administrative Evaluation of Schools.—The Director shall, at least once every 3 to 5 years, conduct a comprehensive evaluation of Bureau operated schools. Such evaluation shall be in addition to any other program review or evaluation that may be required under Federal law.

"SEC. 1136. RIGHTS OF INDIAN STUDENTS.

"The Secretary shall prescribe such rules and regulations as may be necessary to ensure the protection of the constitutional and civil rights of Indian students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

"SEC. 1137. REGULATIONS.

"(a) In General.—The Secretary may issue only such regulations as may be necessary to ensure compliance with the specific provisions of this part. In issuing the regulations, the Secretary shall publish proposed regulations in the Federal Register, and shall provide a period of not less than 120 days for public comment and consultation on the regulations. The regulations shall contain, immediately following each regulatory section, a citation to any statutory provision providing authority to issue such regulatory section.

"(b) Regional Meetings.—Prior to publishing any proposed regulations under subsection (a) and prior to establishing the negotiated rulemaking committee under subsection (c), the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, representatives of Bureau employees, and tribal officials, parents, teachers and school board members of tribes served by Bureau funded schools to provide guidance to the Secretary on the content of regulations authorized to be issued under this part and the Tribally Controlled Schools Act of 1988.

"(c) Negotiated Rulemaking.—

"(1) In general.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Secretary shall promulgate regulations authorized under subsection (a) and under the Tribally Controlled Schools Act of 1988, in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, United States Code, and shall publish final regulations in the Federal Register.

"(2) Expiration of authority.—The authority of the Secretary to promulgate regulations under this part and under the Tribally Controlled Schools Act of 1988, shall expire on the date than is 18 months after the date of enactment of this part. If the Secretary determines that an extension of the deadline under this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for an extension of such deadline.

"(3) Rulemaking committee.—The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

"(A) apply the procedures provided for under subchapter III of chapter 5 of title 5, United States Code, in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

"(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

"(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally-operated schools;

"(D) ensure, to the maximum extent possible, that the tribal representative membership on the committee reflects the proportionate share of students from tribes served by the Bureau funded school system; and

"(E) comply with the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(4) Authorization of appropriations.—There is authorized to be appropriated such sums as necessary to carry out the negotiated rulemaking provided for under this section. In the absence of a specific appropriation to carry out this subsection, the Secretary shall pay the costs of the negotiated rulemaking proceedings from the general administrative funds of the Department of the Interior.

"(d) Application of Section.—

"(1) Supremacy of provisions.—The provisions of this section shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this part, and the Secretary may repeal any regulation that is inconsistent with the provisions of this part.

"(2) Modifications.—The Secretary may modify regulations promulgated under this section or the Tribally Controlled Schools Act of 1988, only in accordance with this section.

"SEC. 1138. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) Grants.—The Secretary shall make grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b) Amount of Grants.—

"(1) In general.—The amount of the grant made under subsection (a) to each eligible tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount that bears the same relationship to the total amount appropriated under subsection (g) for such fiscal year (other than amounts reserved under subsection (f)) as—

"(A) the total number of children under age 6 who are members of—

"(i) such tribe;

"(ii) the tribe that authorized such tribal organization; or

"(iii) any tribe that—

"(I) is a member of such consortium; or

"(II) so authorizes any tribal organization that is a member of such consortium; bears to

"(B) the total number of all children under age 6 who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a);

"(ii) is a member of a consortium that is eligible to receive such funds; or

"(iii) is authorized by any tribal organization that is eligible to receive such funds.

"(2) Limitation.—No grant may be made under subsection (a)—

"(A) to any tribe that has fewer than 500 members;

"(B) to any tribal organization that is authorized to act—

"(i) on behalf of only 1 tribe that has fewer than 500 members; or

"(ii) on behalf of 1 or more tribes that have a combined total membership of fewer than 500 members; or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes to act on behalf of the tribes, that have a combined total tribal membership of fewer than 500 members.

"(c) Applications.—

"(1) In general.—To be eligible to receive a grant under subsection (a), a tribe, tribal organization, or consortium shall submit to the Secretary an application for the grant at such time, in such manner, and containing such information as the Secretary shall prescribe.

"(2) Contents.—An application submitted under paragraph (1) shall describe the early childhood development program that the applicant desires to operate.

"(d) Requirement of Programs Funded.—In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organization, or consortium—

"(1) shall coordinate the program with other childhood development programs and may provide services that meet identified needs of parents, and children under age 6, that are not being met by the programs, including needs for—

"(A) prenatal care;

"(B) nutrition education;

"(C) health education and screening;

"(D) family literacy services;

"(E) educational testing; and

"(F) other educational services;

"(2) may include, in the early childhood development program funded through the grant, instruction in the language, art, and culture of the tribe served by the program; and

"(3) shall provide for periodic assessments of the program.

"(e) Coordination of Family Literacy Programs.—An entity that operates a family literacy program under this section or another similar program funded by the Bureau shall coordinate the program involved with family literacy programs for Indian children carried out under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

"(f) Administrative Costs.—The Secretary shall reserve funds appropriated under subsection (g) to include in each grant made under subsection (a) an amount for administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.

"SEC. 1139. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

"(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) APPLICATIONS.—For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(c) DIVERSITY.—The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

"(d) USE.—Tribes that receive grants under this section shall use the funds made available through the grants—

"(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

"(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

"(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

"(e) PRIORITIES.—In making grants under this section, the Secretary shall give priority to any application that—

"(1) includes—

"(A) assurances that the applicant serves 3 or more separate Bureau funded schools; and

"(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools; and

"(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

"(3) provides a plan and schedule that—

"(A) provides for—

"(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

"(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

"(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(e) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

"(f) TERMS, CONDITIONS, OR REQUIREMENTS.—A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 103(a) of the Indian Self-Determination and Education Assistance Act that are in effect on the date that the tribal governing body submits the application for the grant under subsection (c). The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003, 2004, 2005, and 2006.

"SEC. 1140. DEFINITIONS.

"In this part, unless otherwise specified:

"(1) AGENCY SCHOOL BOARD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'agency school board' means a body, for which—

"(i) the members are appointed by all of the school boards of the schools located within an agency, including schools operated under contracts or grants; and

"(ii) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

"(B) EXCEPTIONS.—In the case of an agency serving a single school, the school board of such school shall be considered to be the agency school board. In the case of an agency serving a school or schools operated under a contract or grant, at least 1 member of the body described in subparagraph (A) shall be from such a school.

"(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

"(3) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract or grant school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

"(4) BUREAU SCHOOL.—The term 'Bureau school' means—

"(A) a Bureau operated elementary school or secondary school that is a day or boarding school; or

"(B) a Bureau operated dormitory for students attending a school other than a Bureau school.

"(5) CONTRACT OR GRANT SCHOOL.—The term 'contract or grant school' means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

"(6) EDUCATION LINE OFFICER.—The term 'education line officer' means a member of the education personnel under the supervision of the Director of the Office, whether located in a central, area, or agency office.

"(7) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

"(8) INDIAN ORGANIZATION.—The term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

"(9) INHERENTLY FEDERAL FUNCTIONS.—The term 'inherently Federal functions' means functions and responsibilities which, under section 1125(c), are non-contractible, including—

"(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

"(B) the administration of Federal personnel laws for Federal employees;

"(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary;

"(D) the conducting of administrative hearings and deciding of administrative appeals;

"(E) the determination of the Secretary's views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

"(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

"(G) reporting to Congress and the President;

"(H) the formulation of the Secretary's and the President's policies and their budgetary and legislative recommendations and views; and

"(I) the non-delegable statutory duties of the Secretary relating to trust resources.

"(10) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

"(11) LOCAL SCHOOL BOARD.—The term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

"(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

"(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

"(12) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(14) SUPERVISOR.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

"(15) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

“(16) Tribe.—The term ‘tribe’ means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”.

TITLE II—TRIBALLY CONTROLLED SCHOOLS ACT OF 1988

SEC. 201. TRIBALLY CONTROLLED SCHOOLS.

Sections 5202 through 5213 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended to read as follows:

“SEC. 5202. FINDINGS.

“Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

“(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

“(2) because of the Bureau of Indian Affairs' administration and domination of the contracting process under such Act, Indians have not been provided with the full opportunity to develop leadership skills crucial to the realization of self-government and have been denied an effective voice in the planning and implementation of programs for the benefit of Indians that are responsive to the true needs of Indian communities;

“(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

“(4) true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles;

“(5) the Federal administration of education for Indian children have not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

“(6) true local control requires the least possible Federal interference; and

“(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

“SEC. 5203. DECLARATION OF POLICY.

“(a) Recognition.—Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

“(b) Commitment.—Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

“(c) National Goal.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children—

“(1) to compete and excel in the life areas of their choice; and

“(2) to achieve the measure of self-determination essential to their social and economic well-being.

“(d) Educational Needs.—Congress affirms—

“(1) the reality of the special and unique educational needs of Indian people, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities; and

“(2) that the needs may best be met through a grant process.

“(e) Federal Relations.—Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations.

“(f) Termination.—Congress repudiates and rejects House Concurrent Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

“SEC. 5204. GRANTS AUTHORIZED.

“(a) In General.—

“(1) Eligibility.—The Secretary shall provide grants to Indian tribes and tribal organizations that—

“(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing to operate such schools as contract schools under such title;

“(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

“(C) elect to assume operation of Bureau funded schools with the assistance provided under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

“(2) Deposit of funds.—Funds made available through a grant provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

“(3) Use of funds.—

“(A) Education related activities.—Except as otherwise provided in this paragraph, funds made available through a grant provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which the grant may be used under the laws described in section 5205(a), or any similar activities, including expenditures for—

“(i) school operations, and academic, educational, residential, guidance and counseling, and administrative purposes; and

“(ii) support services for the school, including transportation.

“(B) Operations and maintenance expenditures.—Funds made available through a grant provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

“(4) Waiver of Federal Tort Claims Act.—Notwithstanding section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101-512), the Federal Tort Claims Act shall not apply to a program operated by a tribally controlled school if the program is not funded by the Federal agency. Nothing in the preceding sentence shall be construed to apply to—

“(A) the employees of the school involved; and

“(B) any entity that enters into a contract with a grantee under this section.

“(b) Limitations.—

“(1) 1 grant per tribe or organization per fiscal year.—Not more than 1 grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

“(2) Nonsectarian use.—Funds made available through any grant provided under this part may not be used in connection with religious worship or sectarian instruction.

“(3) Administrative costs limitation.—Funds made available through any grant provided under this part may not be expended for administrative cost (as defined in section 1127(a) of the Education Amendments of 1978) in excess of the amount generated for such cost under section 1127 of such Act.

“(c) Limitation on Transfer of Funds Among School Sites.—

“(1) In general.—In the case of a recipient of a grant under this part that operates schools at more than 1 school site, the grant recipient may expend not more than the lesser of—

“(A) 10 percent of the funds allocated for such school site, under section 1127 of the Education Amendments of 1978; or

“(B) $400,000 of such funds;

at any other school site.

“(2) Definition of school site.—In this subsection, the term ‘school site’ means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discrete student count is identified under the funding formula established under section 1126 of the Education Amendments of 1978.

“(d) No Requirement To Accept Grants.—Nothing in this part may be construed—

“(1) to require a tribe or tribal organization to apply for or accept; or

“(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept, a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. The submission of such applications and the timing of such applications shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring the grant recipient to make any grant under this part to any other entity.

“(e) No Effect on Federal Responsibility.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide an educational program.

“(f) Retrocession.—

“(1) In general.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective on a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

"(2) STATUS AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession relates to status as a Bureau operated school or as a school operated under a contract under the Indian Self-Determination Act.

"(3) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded shall transfer to the Secretary (or to the tribe or tribal organization that will operate the program as a contract school) the existing equipment and materials that were acquired—

"(A) with assistance under this part; or

"(B) upon assumption of operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

"(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

"SEC. 5205. COMPOSITION OF GRANTS.

"(a) IN GENERAL.—The funds made available through a grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

"(1) the total amount of funds allocated for such fiscal year under sections 1126 and 1127 of the Education Amendments of 1978 with respect to the tribally controlled school eligible for assistance under this part that is operated by such Indian tribe or tribal organization, including funds provided under such sections, or under any other provision of law, for transportation costs for such school;

"(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination and Education Assistance Act or any other provision of law, other facilities accounts for such school for such fiscal year (including accounts for facilities referred to in section 1125(d) of the Education Amendments of 1978 or any other law); and

"(3) the total amount of funds that are allocated to such school for such fiscal year under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—

"(A) APPLICABLE PROVISIONS.—Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

"(i) title I of the Elementary and Secondary Education Act of 1965;

"(ii) the Individuals with Disabilities Education Act; or

"(iii) any Federal education law other than title XI of the Education Amendments of 1978.

"(B) OTHER BUREAU REQUIREMENTS.—Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii) or (iii) of subparagraph (A).

"(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1125(d), 1126, and 1127 of the Education Amendments of 1978.

"(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools for the purposes of allocation of funds provided under—

"(A) title I of the Elementary and Secondary Education Act of 1965;

"(B) the Individuals with Disabilities Education Act; and

"(C) any other Federal education law, that are distributed through the Bureau.

"(4) ACCOUNTS; USE OF CERTAIN FUNDS.—

"(A) SEPARATE ACCOUNT.—Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 5204(a), the grant recipient shall maintain a separate account for such funds. At the end of the period designated for the work covered by the funds received, the grant recipient shall submit to the Secretary a separate accounting of the work done and the funds expended. Funds received from those accounts may only be used for the purpose for which the funds were appropriated and for the work encompassed by the application or submission for which the funds were received.

"(B) REQUIREMENTS FOR PROJECTS.—

"(i) REGULATORY REQUIREMENTS.—With respect to a grant to a tribally controlled school under this part for new construction or facilities improvements and repair in excess of $100,000, such grant shall be subject to the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in part 12 of title 43, Code of Federal Regulations.

"(ii) EXCEPTION.—Notwithstanding clause (i), grants described in such clause shall not be subject to section 12.61 of title 43, Code of Federal Regulations. The Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed.

"(iii) APPLICATIONS.—In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization involved would be deficient in assuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2005(a)) with respect to organizational and financial management capabilities.

"(iv) DISPUTES.—Any disputes between the Secretary and any grantee concerning a grant described in clause (i) shall be subject to the dispute provisions contained in section 5209(e).

"(C) NEW CONSTRUCTION.—Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal governing body or tribal organization that submits the application for the grant provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

"(D) PERIOD.—Where the appropriations measure under which the funds described in subparagraph (A) are made available or the application submitted for the funds does not stipulate a period for the work covered by the funds, the Secretary and the grant recipient shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grant recipient.

"(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—

"(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant under this part the funds described in subsection (a)(2) within 180 days after the filing of the request, the Secretary shall—

"(i) be deemed to have approved such request; and

"(ii) immediately upon the expiration of such 180-day period amend the grant accordingly.

"(B) RIGHTS.—A tribe or organization described in subparagraph (A) may enforce its rights under subsection (a)(2) and this paragraph, including rights relating to any denial or failure to act on such tribe's or organization's request, pursuant to the dispute authority described in section 5209(e).

"SEC. 5206. ELIGIBILITY FOR GRANTS.

"(a) RULES.—

"(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

"(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

"(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

"(C) is not a Bureau funded school, but has met the requirements of subsection (c); or

"(D) is a school with respect to which an election has been made under paragraph (2) and that has met the requirements of subsection (b).

"(2) NEW SCHOOLS.—Notwithstanding paragraph (1), for purposes of determining eligibility for assistance under this part, any application that has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe or tribal organization for a school that is not in operation on the date of enactment of the Native American Education Improvement Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

"(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

"(1) BUREAU FUNDED SCHOOLS.—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of enactment of the Native American Education Improvement Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

"(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

"(ii) make a determination as to whether the school is eligible for assistance under this part; and

"(B) the Secretary makes a determination that the school is eligible for assistance under this part.

"(2) CERTAIN ELECTING SCHOOLS.—

"(A) DETERMINATION.—By not later than 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

"(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

"(ii) whether the school is eligible for assistance under this part.

"(B) CONSIDERATION; TRANSFERS AND ELIGIBILITY.—In considering applications submitted under paragraph (1)(A), the Secretary—

"(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

"(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school and will not carry out the purposes of this Act.

"(C) CONSIDERATION; POSSIBLE DEFICIENCIES.—In considering applications submitted under paragraph (1)(A), the Secretary shall only consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

"(i) equipment;

"(ii) bookkeeping and accounting procedures;

"(iii) ability to adequately manage a school; or

"(iv) adequately trained personnel.

"(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL THAT IS NOT A BUREAU FUNDED SCHOOL.—

"(1) IN GENERAL.—A school that is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

"(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

"(B) the Secretary makes a determination that the school is eligible for assistance under this part.

"(2) DEADLINE FOR DETERMINATION BY SECRETARY.—

"(A) DETERMINATION.—By not later than 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

"(B) FACTORS.—In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

"(i) With respect to the applicant's proposal—

"(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(II) geographic and demographic factors in the affected areas;

"(III) adequacy of the applicant's program plans;

"(IV) geographic proximity of comparable public education; and

"(V) the needs to be met by the school, as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations.

"(ii) With respect to all education services already available—

"(I) geographic and demographic factors in the affected areas;

"(II) adequacy and comparability of programs already available;

"(III) consistency of available programs with tribal education codes or tribal legislation on education; and

"(IV) the history and success of those services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

"(C) EXCEPTION REGARDING PROXIMITY.—The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

"(D) INFORMATION ON FACTORS.—An application submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers to be appropriate.

"(E) TREATMENT OF LACK OF DETERMINATION.—If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application—

"(i) the Secretary shall be deemed to have made a determination that the tribally controlled school is eligible for assistance under this part; and

"(ii) the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

"(d) FILING OF APPLICATIONS AND REPORTS.—

"(1) IN GENERAL.—Each application or report submitted to the Secretary under this part, and any amendment to such application or report, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which the filing occurs shall, for purposes of this part, be treated as the date on which the application, report, or amendment was submitted to the Secretary.

"(2) SUPPORTING DOCUMENTATION.—

"(A) IN GENERAL.—Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the appropriate tribal governing body concerning authorizing such application.

"(B) AUTHORIZATION ACTION.—The Secretary shall administer the requirement of subparagraph (A) in a manner so as to ensure that the tribe involved, through the official action of the tribal governing body, has approved of the application for the grant.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as making a tribal governing body (or tribe) that takes an action described in subparagraph (A) a party to the grant (unless the tribal governing body or the tribe is the grantee) or as making the tribal governing body or tribe financially or programmatically responsible for the actions of the grantee.

"(3) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as making a tribe act as a surety for the performance of a grantee under a grant under this part.

"(4) CLARIFICATION.—The provisions of paragraphs (2) and (3) shall be construed as a clarification of policy in existence on the date of enactment of the Native American Education Improvement Act of 2001 with respect to grants under this part and shall not be construed as altering such policy or as a new policy.

"(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part shall be made, and any transfer of the operation of a Bureau school made under subsection (b) shall become effective, beginning on the first day of the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or on an earlier date determined by the Secretary.

"(f) DENIAL OF APPLICATIONS.—

"(1) IN GENERAL.—If the Secretary disapproves a grant under this part, disapproves the transfer of operations of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

"(A) state the objections in writing to the tribe or tribal organization involved within the allotted time;

"(B) provide assistance to the tribe or tribal organization to cure all stated objections;

"(C) at the request of the tribe or tribal organization, provide to the tribe or tribal organization a hearing on the record regarding the refusal or determination involved, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

"(D) provide to the tribe or tribal organization an opportunity to appeal the decision resulting from the hearing.

"(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary and shall submit the determinations of the Secretary with respect to such reconsideration to the tribe or the tribal organization.

"(g) REPORT.—The Bureau shall prepare and submit to Congress an annual report on all applications received, and actions taken (including the costs associated with such actions), under this section on the same date as the date on which the President is required to submit to Congress a budget of the United States Government under section 1105 of title 31, United States Code.

"SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

"(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

"(b) ANNUAL REPORTS.—

"(1) IN GENERAL.—Each recipient of a grant provided under this part for a school shall prepare an annual report concerning the school involved, the contents of which shall be limited to—

"(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting standards established by the grant recipient;

"(B) a biannual financial audit conducted pursuant to the standards of chapter 71 of title 31, United States Code;

"(C) a biannual compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board;

"(D) an annual submission to the Secretary containing information on the number of students served and a brief description of programs offered through the grant; and

"(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

"(2) Evaluation review teams.—In appropriate cases, representatives of other tribally controlled schools and representatives of tribally controlled community colleges shall be members of the evaluation review teams.

"(3) Evaluations.—In the case of a school that is accredited, the evaluations required under this subsection shall be conducted at intervals under the terms of the accreditation.

"(4) Submission of report.—

"(A) To tribal governing body.—Upon completion of the annual report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body.

"(B) To secretary.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report sent pursuant to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

"(c) Revocation of Eligibility.—

"(1) In general.—

"(A) Nonrevocation conditions.—The Secretary shall not revoke a determination that a school.is eligible for assistance under this part if—

"(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

"(ii) at least 1 of the following conditions applies with respect to the school:

"(I) The school is certified or accredited by a State certification or regional accrediting association or is a candidate in good standing for such certification or accreditation under the rules of the State certification or regional accrediting association, showing that credits achieved by the students within the education programs of the school are, or will be, accepted at grade level by a State certified or regionally accredited institution.

"(II) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in subclause (I), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years and that the program offered by the school is beneficial to Indian students.

"(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized State certification or regional accrediting agency.

"(IV) The school accepts the standards issued under section 1121 of the Education Amendments of 1978 and an impartial evaluator chosen by the grant recipient conducts a program evaluation for the school under this section in conformance with the regulations pertaining to Bureau operated schools, but no grant recipient shall be required to comply with the standards to a greater degree than a comparable Bureau operated school.

"(V)(aa) Every 3 years, an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to the date of enactment of the Native American Education Improvement Act of 2001.

"(bb) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, item (aa) shall not apply.

"(B) Standards.—The choice of standards employed for the purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

"(2) Notice requirements for revocation.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

"(A) provides notice, to the tribally controlled school involved and the appropriate tribal governing body (within the meaning of section 1140 of the Education Amendments of 1978) for the tribally controlled school, which states—

"(i) the specific deficiencies that led to the revocation or reassumption determination; and

"(ii) the actions that are needed to remedy such deficiencies; and

"(B) affords such school and governing body an opportunity to carry out the remedial actions.

"(3) Technical assistance.—The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

"(4) Hearing and appeal.—In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

"(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 5206(f)(1)(C); and

"(B) an opportunity to appeal the decision resulting from the hearing.

"(d) Applicability of Section Pursuant to Election Under Section 5209(b).—With respect to a tribally controlled school that receives assistance under this part pursuant to an election made under section 5209(b)—

"(1) subsection (b) shall apply; and

"(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c).

"SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS; STATE PAYMENTS TO SCHOOLS.

"(a) Payments.—

"(1) Manner of payments.—

"(A) In general.—Except as otherwise provided in this subsection, the Secretary shall make payments to grant recipients under this part in 2 payments, of which—

"(i) the first payment shall be made not later than July 15 of each year in an amount equal to 80 percent of the amount that the grant recipient was entitled to receive during the preceding academic year; and

"(ii) the second payment, consisting of the remainder to which the grant recipient was entitled for the academic year, shall be made not later than December 1 of each year.

"(B) Excess funding.—In a case in which the amount provided to a grant recipient under subparagraph (A)(i) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount. The amount returned to the Secretary under this subparagraph shall be distributed equally to all schools in the system.

"(2) Newly funded schools.—For any school for which no payment under this part was made from Bureau funds in the academic year preceding the year for which the payments are being made, full payment of the amount computed for the school for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) Late funding.—With regard to funds for grant recipients under this part that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to the grant recipients not later than December 1 of the fiscal year, except that operations and maintenance funds shall be forward funded and shall be available for obligation not later than July 15 and December 1 of each fiscal year.

"(4) Applicability of certain title 31 provisions.—The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made under paragraphs (1), (2), and (3).

"(5) Restrictions.—Payments made under paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that is imposed by a continuing resolution or other Act appropriating the funds involved.

"(b) Investment of Funds.—

"(1) Treatment of interest and investment income.—Notwithstanding any other provision of law, any interest or investment income that accrues on or is derived from any funds provided under this part for a school after such funds are paid to an Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization. The interest or income shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance to be provided, under any provision of Federal law.

"(2) Permissible investments.—Funds provided under this part may be invested by an Indian tribe or tribal organization, as approved by the grantee, before such funds are expended for the objectives of this part if such funds are—

"(A) invested by the Indian tribe or tribal organization only—

"(i) in obligations of the United States;

"(ii) in obligations or securities that are guaranteed or insured by the United States; or

"(iii) in mutual (or other) funds that are registered with the Securities and Exchange Commission and that only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

“(B) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully supported by collateral to ensure protection of the funds, even in the event of a bank failure.

“(c) RECOVERIES.—Funds received under this part shall not be taken into consideration by any Federal agency for the purposes of making underrecovery and overrecovery determinations for any other funds, from whatever source derived.

“(d) PAYMENTS BY STATES.—

“(1) IN GENERAL.—With respect to a school that receives assistance under this part, a State shall not—

“(A) take into account the amount of such assistance in determining the amount of funds that such school is eligible to receive under applicable State law; or

“(B) reduce any State payments that such school is eligible to receive under applicable State law because of the assistance received by the school under this part.

“(2) VIOLATIONS.—

“(A) IN GENERAL.—Upon receipt of any information from any source that a State is in violation of paragraph (1), the Secretary shall immediately, but in no case later than 90 days after the receipt of such information, conduct an investigation and make a determination of whether such violation has occurred.

“(B) DETERMINATION.—If the Secretary makes a determination under subparagraph (A) that a State has violated paragraph (1), the Secretary shall inform the Secretary of Education of such determination and the basis for the determination. The Secretary of Education shall, in an expedient manner, pursue penalties under paragraph (3) with respect to the State.

“(3) PENALTIES.—A State determined to have violated paragraph (1) shall be subject to penalties similar to the penalties described in section 8809(e) of the Elementary and Secondary Education Act of 1965 for a violation of title VIII of such Act.

“SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

“(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part and the schools funded under such grants:

“(1) Section 5(f) (relating to single agency audits).

“(2) Section 6 (relating to criminal activities; penalties).

“(3) Section 7 (relating to wage and labor standards).

“(4) Section 104 (relating to retention of Federal employee coverage).

“(5) Section 105(f) (relating to Federal property).

“(6) Section 105(k) (relating to access to Federal sources of supply).

“(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

“(8) Section 106(e) (relating to limitation on remedies relating to cost allowances).

“(9) Section 106(i) (relating to use of funds for matching or cost participation requirements).

“(10) Section 106(j) (relating to allowable uses of funds).

“(11) The portions of section 108(c) that consist of model agreements provisions 1(b)(5) (relating to limitations of costs), 1(b)(7) (relating to records and monitoring), 1(b)(8) (relating to property), and 1(b)(9) (relating to availability of funds).

“(12) Section 109 (relating to reassumption).

“(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

“(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

“(1) IN GENERAL.—A contractor that carries out an activity to which this part applies and who has entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect on the date of enactment of the Native American Education Improvement Act of 2001 may, by giving notice to the Secretary, elect to receive a grant under this part in lieu of such contract and to have the provisions of this part apply to such activity.

“(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

“(3) EXCEPTION.—In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of year following the year in which the election is made.

“(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

“(d) TRANSFERS AND CARRYOVERS.—

“(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

“(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if the tribe or tribal organization were contracting under the Indian Self-Determination and Education Assistance Act; or

“(B) a contract school with assistance under this part shall be entitled to funding for improvements, alterations, replacement and code compliance in facilities where programs approved under this part were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act and to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if the tribe or tribal organization were contracting under such Act.

“(2) FUNDS.—Any tribe or tribal organization that assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization that elects to operate a school with assistance under this part rather than to continue to operate the school as a contract school shall be entitled to any funds that would remain available from the previous fiscal year if such school remained a Bureau school or was operated as a contract school, respectively.

“(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—

“(1) IN GENERAL.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(1)(B), any dispute regarding a grant authorized to be made pursuant to this part or any modification of such grant, and any dispute involving an administrative cost grant under section 1127 of the Education Amendments of 1978, shall be administered under the provisions governing such exceptions, problems, or disputes described in this paragraph in the case of contracts under the Indian Self-Determination and Education Assistance Act.

“(2) ADMINISTRATIVE APPEALS.—The Equal Access to Justice Act (as amended) and the amendments made by such Act shall apply to an administrative appeal filed after September 8, 1988, by a grant recipient regarding a grant provided under this part, including an administrative cost grant.

“SEC. 5210. ROLE OF THE DIRECTOR.

“Applications for grants under this part, and all modifications to the applications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Reports required under this part shall be submitted to education personnel under the direction and control of the Director of such Office.

“SEC. 5211. REGULATIONS.

“The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this part. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for purposes of judicial review.

“SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM.

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—Each school receiving a grant under this part may establish, at a federally insured financial institution, a trust fund for the purposes of this section.

“(2) DEPOSITS AND USE.—The school may provide—

“(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants provided under this part may be used for that purpose;

“(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

“(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

“(b) INTEREST.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.

“SEC. 5213. DEFINITIONS.

“In this part:

“(1) BUREAU.—The term ‘Bureau’ means the Bureau of Indian Affairs of the Department of the Interior.

“(2) ELIGIBLE INDIAN STUDENT.—The term ‘eligible Indian student’ has the meaning given such term in section 1126(a) of the Education Amendments of 1978.

“(3) INDIAN.—The term ‘Indian’ means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

“(4) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(5) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(7) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school that receives assistance under this Act, the recognized governing body of the Indian tribe involved.

"(8) TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—The term 'tribal organization' means—

"(i) the recognized governing body of any Indian tribe; or

"(ii) any legally established organization of Indians that—

"(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

"(II) includes the maximum participation of Indians in all phases of the organization's activities.

"(B) AUTHORIZATION.—In any case in which a grant is provided under this part to an organization to provide services through a tribally controlled school benefiting more than 1 Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

"(9) TRIBALLY CONTROLLED SCHOOL.—The term 'tribally controlled school' means a school that—

"(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a preschool;

"(B) is not a local educational agency; and

"(C) is not directly administered by the Bureau of Indian Affairs.".

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 212. A bill to amend the Indian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined today by the Vice Chairman of the Committee on Indian Affairs, Senator DANIEL K. INOUYE, and former Chairman, Senator JOHN MCCAIN in introducing important legislation to reauthorize the Indian Health Care Improvement Act of 1976, the "IHCIA" or the "Act".

The United States first provided health services to Indians in 1824 as part of the War Department's handling of Indian affairs. In 1849 this responsibility went to the newly-created Department of the Interior where it rested until 1955 when it was transferred to the Public Health Service's Indian Health Agency.

The evolution of the Indian Health Service from an ad hoc service provided to Indians by the BIA to a specialized agency within the Department of Health and Human Services was completed with the passage of the Indian Health Care Improvement Act of 1976.

In 1970, President Nixon issued his now-famous "Special Message to Congress on Indian Affairs" laying out the rationale for a more enlightened Federal Indian Policy: Indian Self-Determination.

Self-Determination is the core principle embodied in the IHCIA the main purposes of which are to improve the health status of Indian people and to increase the number of Indians involved in the health professions.

The Indian Self-Determination and Education Assistance Act of 1975, the IHCIA, and the amendments to each over the years can all be traced directly to the fundamental changes first proposed in 1970.

I am proud to say that legislation I proposed in the 106th Congress, the Indian Tribal Self-Governance Amendments of 2000, were enacted into law as Public Law 106-260. The bill we introduce today builds on this new law in important respects.

By introducing the IHCIA reauthorization bill, we re-affirm Indian Self-Determination and the principles of the IHCIA (1) that the provision of Federal health services is consistent with the federal-tribal relationship; (2) that a goal of the U.S. is to provide the quantity and quality of services to raise the health status of Indians; (3) that Indian participation in the planning and management of health services should be maximized; and (4) that the numbers of American Indians and Alaska Natives trained in health professions be maximized.

Before the passage of the Act in 1976 the mortality rate for Indian infants was 25 percent higher than that of non-Indian babies. The death rates for mothers was 82 percent higher and the mortality rates from infectious disease-causing diarrhea and dehydration was 138 percent greater.

Today we can see marked improvements. Infant mortality rates have been reduced by 54 percent, maternal mortality rates have been reduced by 65 percent, tuberculosis mortality by 80 percent and overall mortality rates have been reduced by 42 percent.

While encouraging, these statistics mask the fact that the health status of Native people in America is still poor and below that of all other racial and ethnic groups.

While we will continue to push forward on all fronts in seeking to improve Indian health services, I believe that there are three emergent issues that we need to address: urban Indian health care; Indian health facilities construction needs; and the booming problem of diabetes.

Undoubtedly the 2000 decennial census will likely show what past counts have shown—that more than one-half of the 2.3 million American Indians and Alaska Natives reside off-reservation and are referred to as "urban Indians." Though the health services framework that now exists has slowly begun to acknowledge this trend, I am concerned that urban Indian health care needs require a more focused and vigorous approach.

Another problem that must be addressed is the growing backlog in health care facilities construction. Recent estimates show that there is some $900 million in unmet facilities needs. The dogged approach to eliminating this backlog by relying on federal appropriations will not work, and I strongly believe that innovative proposals need to be made, refined and perfected in order to accomplish our common goal.

I am heartened by the cooperative federal-tribal efforts in making the Joint Venture Program a success and look forward to building on this success in the coming years.

Ailments of affluence continue to seep into Native communities and erode the quality of life and very social fabric that holds these communities together. Alcohol and substance abuse continue to take a heavy toll and diabetes is reaching alarmingly high rates. Most troubling is the increasing obesity and diabetes that is occurring with alarming frequency in Native youngsters.

It is now time to make the extra effort to look at the positive things we have accomplished and build upon them.

This bill is a step in the right direction on these and other health matters. The bill we introduced last year was the product of months-long consultations by a group of very dedicated individuals consisting of Indian Tribal leaders, health and legal professionals, and representatives of the private and public health care sectors. The group reviewed existing law and has proposed changes to improve the current system by stressing local flexibility and choice, and making it more responsive to the health needs of Indian people.

I am hopeful that in moving forward this year we can draw from the hearing record built after no fewer than five hearings on the bill that was introduced in the 106th Congress, S. 2526.

I urge my colleagues to join me in supporting this key measure. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Indian Health Care Improvement Act Reauthorization of 2001”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

Sec. 101. Amendment to the Indian Health Care Improvement Act.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

Sec. 201. Limitations on charges.
Sec. 202. Qualified Indian health program.

Subtitle B—Medicaid

Sec. 211. State consultation with Indian health programs.
Sec. 212. Fmap for services provided by Indian health programs.
Sec. 213. Indian Health Service programs.

Subtitle C—State Children's Health Insurance Program

Sec. 221. Enhanced fmap for State children's health insurance program.
Sec. 222. Direct funding of State children's health insurance program.

Subtitle D—Authorization of Appropriations

Sec. 231. Authorization of appropriations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Repeals.
Sec. 302. Severability provisions.
Sec. 303. Effective date.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

SEC. 101. AMENDMENT TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘Indian Health Care Improvement Act’.

“(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

“Sec. 1. Short title; table of contents.
“Sec. 2. Findings.
“Sec. 3. Declaration of health objectives.
“Sec. 4. Definitions.

“TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

“Sec. 101. Purpose.
“Sec. 102. General requirements.
“Sec. 103. Health professions recruitment program for Indians.
“Sec. 104. Health professions preparatory scholarship program for Indians.
“Sec. 105. Indian health professions scholarships.
“Sec. 106. American Indians into psychology program.
“Sec. 107. Indian Health Service extern programs.
“Sec. 108. Continuing education allowances.
“Sec. 109. Community health representative program.
“Sec. 110. Indian Health Service loan repayment program.
“Sec. 111. Scholarship and loan repayment recovery fund.
“Sec. 112. Recruitment activities.
“Sec. 113. Tribal recruitment and retention program.
“Sec. 114. Advanced training and research.
“Sec. 115. Nursing programs; Quentin N. Burdick American Indians into Nursing Program.
“Sec. 116. Tribal culture and history.
“Sec. 117. INMED program.
“Sec. 118. Health training programs of community colleges.
“Sec. 119. Retention bonus.
“Sec. 120. Nursing residency program.
“Sec. 121. Community health aide program for Alaska.
“Sec. 122. Tribal health program administration.
“Sec. 123. Health professional chronic shortage demonstration project.
“Sec. 124. Scholarships.
“Sec. 125. National Health Service Corps.
“Sec. 126. Substance abuse counselor education demonstration project.
“Sec. 127. Mental health training and community education.
“Sec. 128. Authorization of appropriations.

“TITLE II—HEALTH SERVICES

“Sec. 201. Indian Health Care Improvement Fund.
“Sec. 202. Catastrophic Health Emergency Fund.
“Sec. 203. Health promotion and disease prevention services.
“Sec. 204. Diabetes prevention, treatment, and control.
“Sec. 205. Shared services.
“Sec. 206. Health services research.
“Sec. 207. Mammography and other cancer screening.
“Sec. 208. Patient travel costs.
“Sec. 209. Epidemiology centers.
“Sec. 210. Comprehensive school health education programs.
“Sec. 211. Indian youth program.
“Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
“Sec. 213. Authority for provision of other services.
“Sec. 214. Indian women's health care.
“Sec. 215. Environmental and nuclear health hazards.
“Sec. 216. Arizona as a contract health service delivery area.
“Sec. 216A. North Dakota as a contract health service delivery area.
“Sec. 216B. South Dakota as a contract health service delivery area.
“Sec. 217. California contract health services demonstration program.
“Sec. 218. California as a contract health service delivery area.
“Sec. 219. Contract health services for the Trenton service area.
“Sec. 220. Programs operated by Indian tribes and tribal organizations.
“Sec. 221. Licensing.
“Sec. 222. Authorization for emergency contract health services.
“Sec. 223. Prompt action on payment of claims.
“Sec. 224. Liability for payment.
“Sec. 225. Authorization of appropriations.

“TITLE III—FACILITIES

“Sec. 301. Consultation, construction and renovation of facilities; reports.
“Sec. 302. Safe water and sanitary waste disposal facilities.
“Sec. 303. Preference to Indians and Indian firms.
“Sec. 304. Soboba sanitation facilities.
“Sec. 305. Expenditure of nonservice funds for renovation.
“Sec. 306. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
“Sec. 307. Indian health care delivery demonstration project.
“Sec. 308. Land transfer.
“Sec. 309. Leases.
“Sec. 310. Loans, loan guarantees and loan repayment.
“Sec. 311. Tribal leasing.
“Sec. 312. Indian Health Service/tribal facilities joint venture program.
“Sec. 313. Location of facilities.
“Sec. 314. Maintenance and improvement of health care facilities.
“Sec. 315. Tribal management of Federally-owned quarters.
“Sec. 316. Applicability of buy American requirement.
“Sec. 317. Other funding for facilities.
“Sec. 318. Authorization of appropriations.

“TITLE IV—ACCESS TO HEALTH SERVICES

“Sec. 401. Treatment of payments under medicare program.
“Sec. 402. Treatment of payments under medicaid program.
“Sec. 403. Report.
“Sec. 404. Grants to and funding agreements with the service, Indian tribes or tribal organizations, and urban Indian organizations.
“Sec. 405. Direct billing and reimbursement of medicare, medicaid, and other third party payors.
“Sec. 406. Reimbursement from certain third parties of costs of health services.
“Sec. 407. Crediting of reimbursements.
“Sec. 408. Purchasing health care coverage.
“Sec. 409. Indian Health Service, Department of Veteran's Affairs, and other Federal agency health facilities and services sharing.
“Sec. 410. Payor of last resort.
“Sec. 411. Right to recover from Federal health care programs.
“Sec. 412. Tuba City demonstration project.
“Sec. 413. Access to Federal insurance.
“Sec. 414. Consultation and rulemaking.
“Sec. 415. Limitations on charges.
“Sec. 416. Limitation on Secretary's waiver authority.
“Sec. 417. Waiver of medicare and medicaid sanctions.
“Sec. 418. Meaning of ‘remuneration’ for purposes of safe harbor provisions; antitrust immunity.
“Sec. 419. Co-insurance, co-payments, deductibles and premiums.
“Sec. 420. Inclusion of income and resources for purposes of medically needy medicaid eligibility.
“Sec. 421. Estate recovery provisions.
“Sec. 422. Medical child support.
“Sec. 423. Provisions relating to managed care.
“Sec. 424. Navajo Nation medicaid agency.
“Sec. 425. Indian advisory committees.
“Sec. 426. Authorization of appropriations.

“TITLE V—HEALTH SERVICES FOR URBAN INDIANS

“Sec. 501. Purpose.

"Sec. 502. Contracts with, and grants to, urban Indian organizations.
"Sec. 503. Contracts and grants for the provision of health care and referral services.
"Sec. 504. Contracts and grants for the determination of unmet health care needs.
"Sec. 505. Evaluations; renewals.
"Sec. 506. Other contract and grant requirements.
"Sec. 507. Reports and records.
"Sec. 508. Limitation on contract authority.
"Sec. 509. Facilities.
"Sec. 510. Office of Urban Indian Health.
"Sec. 511. Grants for alcohol and substance abuse related services.
"Sec. 512. Treatment of certain demonstration projects.
"Sec. 513. Urban NIAAA transferred programs.
"Sec. 514. Consultation with urban Indian organizations.
"Sec. 515. Federal Tort Claims Act coverage.
"Sec. 516. Urban youth treatment center demonstration.
"Sec. 517. Use of Federal government facilities and sources of supply.
"Sec. 518. Grants for diabetes prevention, treatment and control.
"Sec. 519. Community health representatives.
"Sec. 520. Regulations.
"Sec. 521. Authorization of appropriations.

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
"Sec. 602. Automated management information system.
"Sec. 603. Authorization of appropriations.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"Sec. 701. Behavioral health prevention and treatment services.
"Sec. 702. Memorandum of agreement with the Department of the Interior.
"Sec. 703. Comprehensive behavioral health prevention and treatment program.
"Sec. 704. Mental health technician program.
"Sec. 705. Licensing requirement for mental health care workers.
"Sec. 706. Indian women treatment programs.
"Sec. 707. Indian youth program.
"Sec. 708. Inpatient and community-based mental health facilities design, construction and staffing assessment.
"Sec. 709. Training and community education.
"Sec. 710. Behavioral health program.
"Sec. 711. Fetal alcohol disorder funding.
"Sec. 712. Child sexual abuse and prevention treatment programs.
"Sec. 713. Behavioral mental health research.
"Sec. 714. Definitions.
"Sec. 715. Authorization of appropriations.

"TITLE VIII—MISCELLANEOUS

"Sec. 801. Reports.
"Sec. 802. Regulations.
"Sec. 803. Plan of implementation.
"Sec. 804. Availability of funds.
"Sec. 805. Limitation on use of funds appropriated to the Indian Health Service.
"Sec. 806. Eligibility of California Indians.
"Sec. 807. Health services for ineligible persons.
"Sec. 808. Reallocation of base resources.
"Sec. 809. Results of demonstration projects.
"Sec. 810. Provision of services in Montana.
"Sec. 811. Moratorium.
"Sec. 812. Tribal employment.
"Sec. 813. Prime vendor.
"Sec. 814. National Bi-Partisan Commission on Indian Health Care Entitlement.
"Sec. 815. Appropriations; availability.
"Sec. 816. Authorization of appropriations.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) Federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with the American Indian people, as reflected in the Constitution, treaties, Federal laws, and the course of dealings of the United States with Indian Tribes, and the United States' resulting government to government and trust responsibility and obligations to the American Indian people.

"(2) From the time of European occupation and colonization through the 20th century, the policies and practices of the United States caused or contributed to the severe health conditions of Indians.

"(3) Indian Tribes have, through the cession of over 400,000,000 acres of land to the United States in exchange for promises, often reflected in treaties, of health care secured a de facto contract that entitles Indians to health care in perpetuity, based on the moral, legal, and historic obligation of the United States.

"(4) The population growth of the Indian people that began in the later part of the 20th century increases the need for Federal health care services.

"(5) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians, regardless of where they live, to be raised to the highest possible level, a level that is not less than that of the general population, and to provide for the maximum participation of Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery, and management of those services.

"(6) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of illnesses among, and unnecessary and premature deaths of, Indians.

"(7) Despite such services, the unmet health needs of the American Indian people remain alarmingly severe, and even continue to increase, and the health status of the Indians is far below the health status of the general population of the United States.

"(8) The disparity in health status that is to be addresses is formidable. In death rates for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher.

"SEC. 3. DECLARATION OF HEALTH OBJECTIVES.

"Congress hereby declares that it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people—

"(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

"(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto;

"(3) in order to raise the health status of Indian people to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto, to permit Indian Tribes and tribal organizations to set their own health care priorities and establish goals that reflect their unmet needs;

"(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population;

"(5) to require meaningful, active consultation with Indian Tribes, Indian organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

"(6) that funds for health care programs and facilities operated by Tribes and tribal organizations be provided in amounts that are not less than the funds that are provided to programs and facilities operated directly by the Service.

"SEC. 4. DEFINITIONS.

"In this Act:

"(1) ACCREDITED AND ACCESSIBLE.—The term 'accredited and accessible', with respect to an entity, means a community college or other appropriate entity that is on or near a reservation and accredited by a national or regional organization with accrediting authority.

"(2) AREA OFFICE.—The term 'area office' mean an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

"(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Indian Health Service as established under section 601.

"(4) CONTRACT HEALTH SERVICE.—The term 'contract health service' means a health service that is provided at the expense of the Service, Indian Tribe, or tribal organization by a public or private medical provider or hospital, other than a service funded under the Indian Self-Determination and Education Assistance Act or under this Act.

"(5) DEPARTMENT.—The term 'Department', unless specifically provided otherwise, means the Department of Health and Human Services.

"(6) FUND.—The terms 'fund' or 'funding' mean the transfer of monies from the Department to any eligible entity or individual under this Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts, or otherwise.

"(7) FUNDING AGREEMENT.—The term 'funding agreement' means any agreement to transfer funds for the planning, conduct, and administration of programs, functions, services and activities to Tribes and tribal organizations from the Secretary under the authority of the Indian Self-Determination and Education Assistance Act.

"(8) Health profession.—The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.

"(9) Health promotion; disease prevention.—The terms 'health promotion' and 'disease prevention' shall have the meanings given such terms in paragraphs (1) and (2) of section 203(c).

"(10) Indian.—The term 'Indian' and 'Indians' shall have meanings given such terms for purposes of the Indian Self-Determination and Education Assistance Act.

"(11) Indian health program.—The term 'Indian health program' shall have the meaning given such term in section 110(a)(2)(A).

"(12) Indian tribe.—The term 'Indian tribe' shall have the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

"(13) Reservation.—The term 'reservation' means any Federally recognized Indian tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments.

"(14) Secretary.—The term 'Secretary', unless specifically provided otherwise, means the Secretary of Health and Human Services.

"(15) Service.—The term 'Service' means the Indian Health Service.

"(16) Service area.—The term 'service area' means the geographical area served by each area office.

"(17) Service unit.—The term 'service unit' means—

"(A) an administrative entity within the Indian Health Service; or

"(B) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

"(18) Traditional health care practices.—The term 'traditional health care practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to western healing sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony.

"(19) Tribal organization.—The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self Determination and Education Assistance Act.

"(20) Tribally controlled community college.—The term 'tribally controlled community college' shall have the meaning given such term in section 126 (g)(2).

"(21) Urban center.—The term 'urban center' means any community that has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

"(22) Urban Indian.—The term 'urban Indian' means any individual who resides in an urban center and who—

"(A) for purposes of title V and regardless of whether such individual lives on or near a reservation, is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those tribes, bands or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member;

"(B) is an Eskimo or Aleut or other Alaskan Native;

"(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

"(D) is determined to be an Indian under regulations promulgated by the Secretary.

"(23) Urban Indian organization.—The term 'urban Indian organization' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the participation of all interested Indian groups and individuals, and which is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"SEC. 101. PURPOSE.

"The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health services to Indian people.

"SEC. 102. GENERAL REQUIREMENTS.

"(a) Service Area Priorities.—Unless specifically provided otherwise, amounts appropriated for each fiscal year to carry out each program authorized under this title shall be allocated by the Secretary to the area office of each service area using a formula—

"(1) to be developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations;

"(2) that takes into account the human resource and development needs in each such service area; and

"(3) that weighs the allocation of amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

"(b) Consultation.—Each area office receiving funds under this title shall actively and continuously consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds provided under this title within the service area.

"(c) Reallocation.—Unless specifically prohibited, an area office may reallocate funds provided to the office under this title among the programs authorized by this title, except that scholarship and loan repayment funds shall not be used for administrative functions or expenses.

"(d) Limitation.—This section shall not apply with respect to individual recipients of scholarships, loans or other funds provided under this title (as this title existed 1 day prior to the date of enactment of this Act) until such time as the individual completes the course of study that is supported through the use of such funds.

"SEC. 103. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

"(a) In General.—The Secretary, acting through the Service, shall make funds available through the area office to public or nonprofit private health entities, or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

"(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

"(A) to enroll in courses of study in such health professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

"(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

"(3) establishing other programs which the area office determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

"(b) Administrative Provisions.—

"(1) Application.—To be eligible to receive funds under this section an entity described in subsection (a) shall submit to the Secretary, through the appropriate area office, and have approved, an application in such form, submitted in such manner, and containing such information as the Secretary shall by regulation prescribe.

"(2) Preference.—In awarding funds under this section, the area office shall give a preference to applications submitted by Indian tribes, tribal organizations, or urban Indian organizations.

"(3) Amount.—The amount of funds to be provided to an eligible entity under this section shall be determined by the area office. Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations promulgated pursuant to this Act.

"(4) Terms.—A funding commitment under this section shall, to the extent not otherwise prohibited by law, be for a term of 3 years, as provided for in regulations promulgated pursuant to this Act.

"(c) Definition.—For purposes of this section and sections 104 and 105, the terms 'Indian' and 'Indians' shall, in addition to the definition provided for in section 4, mean any individual who—

"(1) irrespective of whether such individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940;

"(2) is an Eskimo or Aleut or other Alaska Native;

"(3) is considered by the Secretary of the Interior to be an Indian for any purpose; or

"(4) is determined to be an Indian under regulations promulgated by the Secretary.

“SEC. 104. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall provide scholarships through the area offices to Indians who—

“(1) have successfully completed their high school education or high school equivalency; and

“(2) have demonstrated the capability to successfully complete courses of study in the health professions.

“(b) PURPOSE.—Scholarships provided under this section shall be for the following purposes:

“(1) Compensatory preprofessional education of any recipient. Such scholarship shall not exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act).

“(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act) except that an extension of up to 2 years may be approved by the Secretary.

“(c) USE OF SCHOLARSHIP.—Scholarships made under this section may be used to cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school.

“(d) LIMITATIONS.—Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of—

“(1) the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; or

“(2) the applicant's eligibility for assistance or benefits under any other Federal program.

“SEC. 105. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

“(a) SCHOLARSHIPS.—

“(1) IN GENERAL.—In order to meet the needs of Indians, Indian tribes, tribal organizations, and urban Indian organizations for health professionals, the Secretary, acting through the Service and in accordance with this section, shall provide scholarships through the area offices to Indians who are enrolled full or part time in accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall, except as provided in subsection (b), be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 2541).

“(2) NO DELEGATION.—The Director of the Service shall administer this section and shall not delegate any administrative functions under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act.

“(b) ELIGIBILITY.—

“(1) ENROLLMENT.—An Indian shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a)(1).

“(2) SERVICE OBLIGATION.—

“(A) PUBLIC HEALTH SERVICE ACT.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service—

“(i) in the Indian Health Service;

“(ii) in a program conducted under a funding agreement entered into under the Indian Self-Determination and Education Assistance Act;

“(iii) in a program assisted under title V; or

“(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“(B) DEFERRING ACTIVE SERVICE.—At the request of any Indian who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

“(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

“(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

“(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (iv) of subparagraph (A).

“(C) NEW SCHOLARSHIP RECIPIENTS.—A recipient of an Indian Health Scholarship that is awarded after December 31, 2001, shall meet the active duty service obligation under such scholarship by providing service within the service area from which the scholarship was awarded. In placing the recipient for active duty the area office shall give priority to the program that funded the recipient, except that in cases of special circumstances, a recipient may be placed in a different service area pursuant to an agreement between the areas or programs involved.

“(D) PRIORITY IN ASSIGNMENT.—Subject to subparagraph (C), the area office, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(3) PART-TIME ENROLLMENT.—In the case of an Indian receiving a scholarship under this section who is enrolled part time in an approved course of study—

“(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the appropriate area office;

“(B) the period of obligated service described in paragraph (2)(A) shall be equal to the greater of—

“(i) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the area office); or

“(ii) two years; and

“(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 2541(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

“(4) BREACH OF CONTRACT.—

“(A) IN GENERAL.—An Indian who has, on or after the date of the enactment of this paragraph, entered into a written contract with the area office pursuant to a scholarship under this section and who—

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(ii) is dismissed from such educational institution for disciplinary reasons;

“(iii) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him or her, or on his or her behalf, under the contract.

“(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A) an individual breaches his or her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

“(C) DEATH.—Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(D) WAIVER.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the appropriate area office, Indian tribe, tribal organization, and urban Indian organization, determines that—

“(i) it is not possible for the recipient to meet that obligation or make that payment;

“(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

“(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

“(E) HARDSHIP OR GOOD CAUSE.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

“(F) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

"(c) Funding for Tribes for Scholarship Programs.—

"(1) Provision of funds.—

"(A) In general.—The Secretary shall make funds available, through area offices, to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(B) Limitation.—The Secretary shall ensure that amounts available for grants under subparagraph (A) for any fiscal year shall not exceed an amount equal to 5 percent of the amount available for each fiscal year for Indian Health Scholarships under this section.

"(C) Application.—An application for funds under subparagraph (A) shall be in such form and contain such agreements, assurances and information as consistent with this section.

"(2) Requirements.—

"(A) In general.—An Indian Tribe or tribal organization receiving funds under paragraph (1) shall agree to provide scholarships to Indians in accordance with the requirements of this subsection.

"(B) Matching requirement.—With respect to the costs of providing any scholarship pursuant to subparagraph (A)—

"(i) 80 percent of the costs of the scholarship shall be paid from the funds provided under paragraph (1) to the Indian Tribe or tribal organization; and

"(ii) 20 percent of such costs shall be paid from any other source of funds.

"(3) Eligibility.—An Indian Tribe or tribal organization shall provide scholarships under this subsection only to Indians who are enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in this Act.

"(4) Contracts.—In providing scholarships under paragraph (1), the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

"(A) obligate such recipient to provide service in an Indian health program (as defined in section 110(a)(2)(A)) in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for—

"(i) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(ii) such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

"(B) provide that the scholarship—

"(i) may only be expended for—

"(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

"(ii) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

"(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

"(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to the health profession involved.

"(5) Breach of contract.—

"(A) In general.—An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this subsection and who—

"(i) fails to maintain an acceptable level of academic standing in the education institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) is dismissed from such education for disciplinary reasons;

"(iii) voluntarily terminates the training in such an educational institution for which he or she has been provided a scholarship under such contract before the completion of such training; or

"(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract;

shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

"(B) Failure to perform service obligation.—If for any reason not specified in subparagraph (A), an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

"(C) Information.—The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

"(6) Required agreements.—The recipient of a scholarship under paragraph (1) shall agree, in providing health care pursuant to the requirements of this subsection—

"(A) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and

"(B) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(7) Payments.—The Secretary, through the area office, shall make payments under this subsection to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary or area office determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.

"SEC. 106. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

"(a) In General.—Notwithstanding section 102, the Secretary shall provide funds to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various colleges and universities throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

"(b) Quentin N. Burdick American Indians Into Psychology Program.—The Secretary shall provide funds under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115, the Quentin N. Burdick Indians into Health Program authorized under section 117, and existing university research and communications networks.

"(c) Requirements.—

"(1) Regulations.—The Secretary shall promulgate regulations pursuant to this Act for the competitive awarding of funds under this section.

"(2) Program.—Applicants for funds under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges that will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;

"(C) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

"(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

"(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

"(F) utilizes, to the maximum extent feasible, existing university tutoring, counseling and student support services; and

"(G) employs, to the maximum extent feasible, qualified Indians in the program.

"(d) Active Duty Obligation.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(C) that is funded under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act;

"(3) in a program assisted under title V; or

"(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the

Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

"(a) In General.—Any individual who receives a scholarship pursuant to section 105 shall be entitled to employment in the Service, or may be employed by a program of an Indian tribe, tribal organization, or urban Indian organization, or other agency of the Department as may be appropriate and available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship.

"(b) Enrollees in Course of Study.—Any individual who is enrolled in a course of study in the health professions may be employed by the Service or by an Indian tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

"(c) High School Programs.—Any individual who is in a high school program authorized under section 103(a) may be employed by the Service, or by a Indian Tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

"(d) Administrative Provisions.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

"SEC. 108. CONTINUING EDUCATION ALLOWANCES.

"In order to encourage health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or in any program of an Indian tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the area offices, may provide allowances to health professionals employed in the Service or such a program to enable such professionals to take leave of their duty stations for a period of time each year (as prescribed by regulations of the Secretary) for professional consultation and refresher training courses.

"SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

"(a) In General.—Under the authority of the Act of November 2, 1921 (25 U.S.C., 13) (commonly known as the Snyder Act), the Secretary shall maintain a Community Health Representative Program under which the Service, Indian tribes and tribal organizations—

"(1) provide for the training of Indians as community health representatives; and

"(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) Activities.—The Secretary, acting through the Community Health Representative Program, shall—

"(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program;

"(2) in order to provide such training, develop and maintain a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

"(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

"(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education;

"(4) maintain a system that provides close supervision of community health representatives;

"(5) maintain a system under which the work of community health representatives is reviewed and evaluated; and

"(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

"SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

"(a) Establishment.—

"(1) In general.—The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (referred to in this Act as the 'Loan Repayment Program') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

"(2) Definitions.—In this section:

"(A) Indian health program.—The term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

"(i) directly by the Service;

"(ii) by any Indian tribe or tribal or Indian organization pursuant to a funding agreement under—

"(I) the Indian Self-Determination and Educational Assistance Act; or

"(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47) (commonly known as the 'Buy-Indian Act'); or

"(iii) by an urban Indian organization pursuant to title V.

"(B) State.—The term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

"(b) Eligibility.—To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

"(ii) in an approved graduate training program in a health profession; or

"(B) have—

"(i) a degree in a health profession; and

"(ii) a license to practice a health profession in a State;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Indian Health Service; or

"(D) be employed in an Indian health program without a service obligation; and

"(3) submit to the Secretary an application for a contract described in subsection (f).

"(c) Forms.—

"(1) In general.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

"(2) Forms to be understandable.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) Availability.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) Priority.—

"(1) Annual determinations.—The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

"(A) identify the positions in each Indian health program for which there is a need or a vacancy; and

"(B) rank those positions in order of priority.

"(2) Priority in approval.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

"(A) give first priority to applications made by individuals Indians; and

"(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

"(i) individuals recruited through the efforts an Indian tribe, tribal organization, or urban Indian organization; and

"(ii) other individuals based on the priority rankings under paragraph (1).

"(e) Contracts.—

"(1) In general.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

"(2) Notice.—Not later than 21 days after considering an individual for participation in the Loan Repayment Program under paragraph (1), the Secretary shall provide written notice to the individual of—

"(A) the Secretary's approving of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

"(B) the Secretary's disapproving an individual's participation in such Program.

"(f) Written Contract.—The written contract referred to in this section between the Secretary and an individual shall contain—

"(1) an agreement under which—

"(A) subject to paragraph (3), the Secretary agrees—

"(i) to pay loans on behalf of the individual in accordance with the provisions of this section; and

"(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe, tribal organization, or urban Indian organization as provided in subparagraph (B)(iii); and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)—

"(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

"(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

"(iii) to serve for a time period (referred to in this section as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

"(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

"(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

"(g) Loan Repayments.—

"(1) In general.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

"(C) reasonable living expenses as determined by the Secretary.

"(2) Amount of payment.—

"(A) In general.—For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

"(B) Time for payment.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

"(3) Schedule for payments.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

"(h) Counting of Individuals.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

"(i) Recruiting Programs.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

"(j) Nonapplication of Certain Provision.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

"(k) Assignment of Individuals.—The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

"(l) Breach of Contract.—

"(1) In general.—An individual who has entered into a written contract with the Secretary under this section and who—

"(A) is enrolled in the final year of a course of study and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) voluntarily terminates such enrollment; or

"(iii) is dismissed from such educational institution before completion of such course of study; or

"(B) is enrolled in a graduate training program, and who fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

"(2) Amount of recovery.—If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

"(A) 'A' is the amount the United States is entitled to recover;

"(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

"(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

"(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

"(3) Damages.—

"(A) Time for payment.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach of contract or such longer period beginning on such date as shall be specified by the Secretary.

"(B) Delinquencies.—If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

"(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

"(C) Contracts for recovery of damages.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

"(m) Cancellation, Waiver or Release.—

"(1) Cancellation.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

"(2) Waiver of service obligation.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) Waiver of rights of united states.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) Release.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

"(n) Report.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 105 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 105, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the 3 fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes, tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.

"SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

"(a) Establishment.—Notwithstanding section 102, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (referred to in this section as the 'LRRF'). The LRRF Fund shall consist of—

"(1) such amounts as may be collected from individuals under subparagraphs (A) and (B) of section 105(b)(4) and section 110(l) for breach of contract;

"(2) such funds as may be appropriated to the LRRF;

"(3) such interest earned on amounts in the LRRF; and

"(4) such additional amounts as may be collected, appropriated, or earned relative to the LRRF.

Amounts appropriated to the LRRF shall remain available until expended.

"(b) Use of LRRF.—

"(1) In general.—Amounts in the LRRF may be expended by the Secretary, subject to section 102, acting through the Service, to make payments to the Service or to an Indian tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act—

"(A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to sections; and

"(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 or section 110.

"(2) Scholarships and recruiting.—An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or to recruit and employ, directly or by contract, health professionals to provide health care services.

"(c) Investing of Fund.—

"(1) In general.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Sale price.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

"SEC. 112. RECRUITMENT ACTIVITIES.

"(a) Reimbursement of Expenses.—The Secretary may reimburse health professionals seeking positions in the Service, Indian tribes, tribal organizations, or urban Indian organizations, including unpaid student volunteers and individuals considering entering into a contract under section 110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

"(b) Assignment of Personnel.—The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

"SEC. 113. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

"(a) Funding of Projects.—The Secretary, acting through the Service, shall fund innovative projects for a period not to exceed 3 years to enable Indian tribes, tribal organizations, and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A)).

"(b) Eligibility.—Any Indian tribe, tribal organization, or urban Indian organization may submit an application for funding of a project pursuant to this section.

"SEC. 114. ADVANCED TRAINING AND RESEARCH.

"(a) Demonstration Project.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian health program (as defined in section 110) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

"(b) Service Obligation.—

"(1) In general.—An individual who participates in the project under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such project.

"(2) Failure to complete service.—In the event that an individual fails to complete a period of obligated service under paragraph (1), the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the project after the date of the enactment of this Act, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

"(c) Opportunity To Participate.—Health professionals from Indian tribes, tribal organizations, and urban Indian organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to participate in the program under subsection (a).

"SEC. 115. NURSING PROGRAMS; QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

"(a) Grants.—Notwithstanding section 102, the Secretary, acting through the Service, shall provide funds to—

"(1) public or private schools of nursing;

"(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

"(3) nurse midwife programs, and advance practice nurse programs, that are provided by any tribal college accredited nursing program, or in the absence of such, any other public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

"(b) Use of Grants.—Funds provided under subsection (a) may be used to—

"(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses;

"(2) provide scholarships to Indian individuals enrolled in such programs that may be used to pay the tuition charged for such program and for other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses;

"(3) provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians;

"(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses; or

"(5) provide any program that is designed to achieve the purpose described in subsection (a).

"(c) Applications.—Each application for funds under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

"(d) Preferences.—In providing funds under subsection (a), the Secretary shall extend a preference to—

"(1) programs that provide a preference to Indians;

"(2) programs that train nurse midwives or advanced practice nurses;

"(3) programs that are interdisciplinary; and

"(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

"(e) Quentin N. Burdick American Indians Into Nursing Program.—The Secretary shall ensure that a portion of the funds authorized under subsection (a) is made available to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick Indian Health Programs established under section 117(b).

"(f) Service Obligation.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded under subsection (a). Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination and Education assistance Act;

"(3) in a program assisted under title V; or

"(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"SEC. 116. TRIBAL CULTURE AND HISTORY.

"(a) In General.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian tribes in each service area receive educational instruction in the history and culture of such tribes and their relationship to the Service.

"(b) Requirements.—To the extent feasible, the educational instruction to be provided under subsection (a) shall—

"(1) be provided in consultation with the affected tribal governments, tribal organizations, and urban Indian organizations;

"(2) be provided through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

"(3) include instruction in Native American studies.

"SEC. 117. INMED PROGRAM.

"(a) Grants.—The Secretary may provide grants to 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (referred to in this section as 'INMED') as a means of encouraging Indians to enter the health professions.

"(b) Quentin N. Burdick Indian Health Program.—The Secretary shall provide 1 of the grants under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Program', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

"(c) Requirements.—

"(1) In general.—The Secretary shall develop regulations to govern grants under to this section.

"(2) Program requirements.—Applicants for grants provided under this section shall agree to provide a program that—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program;

"(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

"(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university; and

"(E) to the maximum extent feasible, employs qualified Indians in the program.

"SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

"(a) Establishment Grants.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service, or in a tribal health program.

"(2) Amount.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

"(b) Continuation Grants.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

"(2) Eligibility.—Grants may only be made under this subsection to a community college that—

"(A) is accredited;

"(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

"(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

"(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

"(ii) stipulate certifications necessary to approve internship and field placement opportunities at health programs of the Service or at tribal health programs;

"(D) has a qualified staff which has the appropriate certifications;

"(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

"(F) agrees to provide for Indian preference for applicants for programs under this section.

"(c) Service Personnel and Technical Assistance.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

"(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

"(2) providing technical assistance and support to such colleges.

"(d) Specified Courses of Study.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

"(1) has already received a degree or diploma in such health profession; and

"(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

"(e) Priority.—Priority shall be provided under this section to tribally controlled colleges in service areas that meet the requirements of subsection (b).

"(f) Definitions.—In this section:

"(1) Community college.—The term 'community college' means—

"(A) a tribally controlled community college; or

"(B) a junior or community college.

"(2) Junior or community college.—The term 'junior or community college'' has the meaning given such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

"(3) Tribally controlled college.—The term 'tribally controlled college' has the meaning given the term 'tribally controlled community college' by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

"SEC. 119. RETENTION BONUS.

"(a) In General.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, the Service, an Indian tribe, a tribal organization, or an urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

"(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

"(2) the Secretary determines is needed by the Service, tribe, tribal organization, or urban organization;

"(3) has—

"(A) completed 3 years of employment with the Service; tribe, tribal organization, or urban organization; or

"(B) completed any service obligations incurred as a requirement of—

"(i) any Federal scholarship program; or

"(ii) any Federal education loan repayment program; and

"(4) enters into an agreement with the Service, Indian tribe, tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

"(b) Rates.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

"(c) Failure To Complete Term of Service.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

"(d) Funding Agreement.—The Secretary may pay a retention bonus to any health professional employed by an organization providing health care services to Indians pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.

"SEC. 120. NURSING RESIDENCY PROGRAM.

"(a) Establishment.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110(a)(2)(A)), and have done so for a period of not less than 1 year, to pursue advanced training.

"(b) Requirement.—The program established under subsection (a) shall include a combination of education and work study in an Indian health program (as defined in section 110(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or an advanced degrees in nursing and public health.

"(c) Service Obligation.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

"SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

"(a) In General.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; commonly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

"(b) Activities.—The Secretary, acting through the Community Health Aide Program under subsection (a), shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objective specified in section 3(b);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or who can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

"SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

"Subject to Section 102, the Secretary, acting through the Service, shall, through a funding agreement or otherwise, provide training for Indians in the administration and planning of tribal health programs.

"SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT.

"(a) Pilot Programs.—The Secretary may, through area offices, fund pilot programs for tribes and tribal organizations to address chronic shortages of health professionals.

"(b) Purpose.—It is the purpose of the health professions demonstration project under this section to—

"(1) provide direct clinical and practical experience in a service area to health professions students and residents from medical schools;

"(2) improve the quality of health care for Indians by assuring access to qualified health care professionals; and

"(3) provide academic and scholarly opportunities for health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

"(c) Advisory Board.—A pilot program established under subsection (a) shall incorporate a program advisory board that shall be composed of representatives from the tribes and communities in the service area that will be served by the program.

"SEC. 124. SCHOLARSHIPS.

"Scholarships and loan reimbursements provided to individuals pursuant to this title shall be treated as 'qualified scholarships' for purposes of section 117 of the Internal Revenue Code of 1986.

"SEC. 125. NATIONAL HEALTH SERVICE CORPS.

"(a) Limitations.—The Secretary shall not—

"(1) remove a member of the National Health Services Corps from a health program operated by Indian Health Service or by a tribe or tribal organization under a funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations; or

"(2) withdraw the funding used to support such a member;

unless the Secretary, acting through the Service, tribes or tribal organization, has ensured that the Indians receiving services from such member will experience no reduction in services.

"(b) Designation of Service Areas as Health Professional Shortage Areas.—All service areas served by programs operated by the Service or by a tribe or tribal organization under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization, shall be designated under section 332 of the Public Health Service Act (42 U.S.C. 254e) as Health Professional Shortage Areas.

"(c) Full Time Equivalent.—National Health Service Corps scholars that qualify for the commissioned corps in the Public Health Service shall be exempt from the full time equivalent limitations of the National Health Service Corps and the Service when such scholars serve as commissioned corps officers in a health program operated by an Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization.

"SEC. 126. SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.

"(a) Demonstration Projects.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Use of Funds.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

"(c) Term of Grant.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1 year period upon the approval of the Secretary.

“(d) Review of Applications.—Not later than 180 days after the date of the enactment of this Act, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

“(e) Technical Assistance.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

“(f) Report.—The Secretary shall submit to the President, for inclusion in the report required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

“(g) Definitions.—In this section:

“(1) Educational curriculum.—The term ‘educational curriculum’ means 1 or more of the following:

“(A) Classroom education.

“(B) Clinical work experience.

“(C) Continuing education workshops.

“(2) Tribally controlled community college.—The term ‘tribally controlled community college’ has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

“(3) Tribally controlled postsecondary vocational institution.—The term ‘tribally controlled postsecondary vocational institution’ has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

“SEC. 127. MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION.

“(a) Study and List.—

“(1) In general.—The Secretary and the Secretary of the Interior in consultation with Indian tribes and tribal organizations shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

“(2) Positions.—The positions referred to in paragraph (1) are—

“(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

“(i) elementary and secondary education;

“(ii) social services, family and child welfare;

“(iii) law enforcement and judicial services; and

“(iv) alcohol and substance abuse;

“(B) staff positions within the Service; and

“(C) staff positions similar to those specified in subsection (b) and established and maintained by Indian tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements under the Indian Self-determination and Education Assistance Act, and this Act.

“(3) Training criteria.—

“(A) In general.—The appropriate Secretary shall provide training criteria appropriate to each type of position specified in subsection (b)(1) and ensure that appropriate training has been or will be provided to any individual in any such position.

“(B) Training.—With respect to any such individual in a position specified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training or provide funds to an Indian tribe, tribal organization, or urban Indian organization for the training of appropriate individuals. In the case of a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the funding agreement, if necessary.

“(4) Cultural relevancy.—Position specific training criteria shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

“(5) Community education.—

“(A) Development.—The Service shall develop and implement, or on request of an Indian tribe or tribal organization, assist an Indian tribe or tribal organization, in developing and implementing a program of community education on mental illness.

“(B) Technical assistance.—In carrying out this paragraph, the Service shall, upon the request of an Indian tribe or tribal organization, provide technical assistance to the Indian tribe or tribal organization to obtain and develop community educational materials on the identification, prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior.

“(b) Staffing.—

“(1) In general.—Not later than 90 days after the date of enactment of the Act, the Director of the Service shall develop a plan under which the Service will increase the number of health care staff that are providing mental health services by at least 500 positions within 5 years after such date of enactment, with at least 200 of such positions devoted to child, adolescent, and family services. The allocation of such positions shall be subject to the provisions of section 102(a).

“(2) Implementation.—The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly know as the ‘Snyder Act’).

“SEC. 128. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

“TITLE II—HEALTH SERVICES

“SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

“(a) In General.—The Secretary may expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act, that are appropriated under the authority of this section, for the purposes of—

“(1) eliminating the deficiencies in the health status and resources of all Indian tribes;

“(2) eliminating backlogs in the provision of health care services to Indians;

“(3) meeting the health needs of Indians in an efficient and equitable manner;

“(4) eliminating inequities in funding for both direct care and contract health service programs; and

“(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

“(A) clinical care, including inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

“(B) preventive health, including mammography and other cancer screening in accordance with section 207;

“(C) dental care;

“(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners;

“(E) emergency medical services;

“(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

“(G) accident prevention programs;

“(H) home health care;

“(I) community health representatives;

“(J) maintenance and repair; and

“(K) traditional health care practices.

“(b) Use of Funds.—

“(1) Limitation.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act, the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), or any other provision of law.

“(2) Allocation.—

“(A) In general.—Funds appropriated under the authority of this section shall be allocated to service units or Indian tribes or tribal organizations. The funds allocated to each tribe, tribal organization, or service unit under this subparagraph shall be used to improve the health status and reduce the resource deficiency of each tribe served by such service unit, tribe or tribal organization. Such allocation shall weigh the amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians for all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

“(B) Apportionment.—The apportionment of funds allocated to a service unit, tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes in accordance with this section and such rules as may be estabiished under title VIII.

“(c) Health Status and Resource Deficiency.—In this section:

“(1) Definition.—The term ‘health status and resource deficiency’ means the extent to which—

“(A) the health status objective set forth in section 3(2) is not being achieved; and

“(B) the Indian tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

“(2) Resources.—The health resources available to an Indian tribe or tribal organization shall include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

"(3) Review of Determination.—The Secretary shall establish procedures which allow any Indian tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe or tribal organization.

"(d) Eligibility.—Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

"(e) Report.—Not later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

"(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

"(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

"(4) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

"(B) the number of Indians eligible for health services in each service unit or Indian tribe or tribal organization; and

"(C) the number of Indians using the Service resources made available to each service unit or Indian tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

"(f) Budgetary Rule.—Funds appropriated under the authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(g) Rule of Construction.—Nothing in this section shall be construed to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs or to discourage the Service from undertaking additional efforts to achieve equity among Indian tribes and tribal organizations.

"(h) Designation.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

"SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

"(a) Establishment.—

"(1) In general.—There is hereby established an Indian Catastrophic Health Emergency Fund (referred to in this section as the 'CHEF') consisting of—

"(A) the amounts deposited under subsection (d); and

"(B) any amounts appropriated to the CHEF under this Act.

"(2) Administration.—The CHEF shall be administered by the Secretary solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(3) Equitable allocation.—The CHEF shall be equitably allocated, apportioned or delegated on a service unit or area office basis, based upon a formula to be developed by the Secretary in consultation with the Indian tribes and tribal organizations through negotiated rulemaking under title VIII. Such formula shall take into account the added needs of service areas which are contract health service dependent.

"(4) Not subject to contract or grant.—No part of the CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act.

"(5) Administration.—Amounts provided from the CHEF shall be administered by the area offices based upon priorities determined by the Indian tribes and tribal organizations within each service area, including a consideration of the needs of Indian tribes and tribal organizations which are contract health service-dependent.

"(b) Requirements.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

"(2) provide that a service unit, Indian tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treatment for any victim of such a catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

"(A) for 1999, not less than $19,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

"(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

"(A) service units, Indian tribes, or tribal organizations, or facilities of the Service; or

"(B) non-Service facilities or providers whenever otherwise authorized by the Service;

in rendering treatment that exceeds threshold cost described in paragraph (2);

"(4) establish a procedure for payment from the CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from the CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

"(c) Limitation.—Amounts appropriated to the CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) or any other law.

"(d) Deposits.—There shall be deposited into the CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the CHEF.

"SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

"(a) Findings.—Congress finds that health promotion and disease prevention activities will—

"(1) improve the health and well-being of Indians; and

"(2) reduce the expenses for health care of Indians.

"(b) Provision of Services.—The Secretary, acting through the Service and through Indian tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objective set forth in section 3(b).

"(c) Disease Prevention and Health Promotion.—In this section:

"(1) Disease prevention.—The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications, and the reduction in the consequences of such diseases, including—

"(A) controlling—

"(i) diabetes;

"(ii) high blood pressure;

"(iii) infectious agents;

"(iv) injuries;

"(v) occupational hazards and disabilities;

"(vi) sexually transmittable diseases; and

"(vii) toxic agents; and

"(B) providing—

"(i) for the fluoridation of water; and

"(ii) immunizations.

"(2) Health promotion.—The term 'health promotion' means fostering social, economic, environmental, and personal factors conducive to health, including—

"(A) raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information;

"(B) encouraging adequate and appropriate diet, exercise, and sleep;

"(C) promoting education and work in conformity with physical and mental capacity;

"(E) making available suitable housing, safe water, and sanitary facilities;

"(F) improving the physical economic, cultural, psychological, and social environment;

"(G) promoting adequate opportunity for spiritual, religious, and traditional practices; and

"(H) adequate and appropriate programs including—

"(i) abuse prevention (mental and physical);

"(iii) community health;

"(iv) community safety;

"(v) consumer health education;

"(vi) diet and nutrition;

"(vii) disease prevention (communicable, immunizations, HIV/AIDS);

"(viii) environmental health;

"(ix) exercise and physical fitness;

"(x) fetal alcohol disorders;

"(xi) first aid and CPR education;

"(xii) human growth and development;

"(xiii) injury prevention and personal safety;

"(xiv) mental health (emotional, self-worth);

"(xv) personal health and wellness practices;

"(xvi) personal capacity building;

"(xvii) prenatal, pregnancy, and infant care;

"(xviii) psychological well being;

"(xix) reproductive health (family planning);

"(xx) safe and adequate water;

"(xxi) safe housing;

"(xxii) safe work environments;

"(xxiii) stress control;

"(xxiv) substance abuse;

"(xxv) sanitary facilities;

"(xxvi) tobacco use cessation and reduction;

"(xxvii) violence prevention; and

"(xxviii) such other activities identified by the Service, an Indian tribe or tribal organization, to promote the achievement of the objective described in section 3(b).

"(d) EVALUATION.—The Secretary, after obtaining input from affected Indian tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to Congress under section 801 an evaluation of—

"(1) the health promotion and disease prevention needs of Indians;

"(2) the health promotion and disease prevention activities which would best meet such needs;

"(3) the internal capacity of the Service to meet such needs; and

"(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

"SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

"(a) DETERMINATION.—The Secretary, in consultation with Indian tribes and tribal organizations, shall determine—

"(1) by tribe, tribal organization, and service unit of the Service, the prevalence of, and the types of complications resulting from, diabetes among Indians; and

"(2) based on paragraph (1), the measures (including patient education) each service unit should take to reduce the prevalence of, and prevent, treat, and control the complications resulting from, diabetes among Indian tribes within that service unit.

"(b) SCREENING.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by an Indian tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

"(c) CONTINUED FUNDING.—The Secretary shall continue to fund, through fiscal year 2013, each effective model diabetes project in existence on the date of the enactment of this Act and such other diabetes programs operated by the Secretary or by Indian tribes and tribal organizations and any additional programs added to meet existing diabetes needs. Indian tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section. Model diabetes projects shall consult, on a regular basis, with tribes and tribal organizations in their regions regarding diabetes needs and provide technical expertise as needed.

"(d) DIALYSIS PROGRAMS.—The Secretary shall provide funding through the Service, Indian tribes and tribal organizations to establish dialysis programs, including funds to purchase dialysis equipment and provide necessary staffing.

"(e) OTHER ACTIVITIES.—The Secretary shall, to the extent funding is available—

"(1) in each area office of the Service, consult with Indian tribes and tribal organizations regarding programs for the prevention, treatment, and control of diabetes;

"(2) establish in each area office of the Service a registry of patients with diabetes to track the prevalence of diabetes and the complications from diabetes in that area; and

"(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to tribes, tribal organizations, and all other area offices.

"SEC. 205. SHARED SERVICES.

"(a) IN GENERAL.—The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements with Indian tribes or tribal organizations for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a long-term care or other similar facility owned and operated (directly or through a funding agreement) by such Indian tribe or tribal organization.

"(b) REQUIREMENTS.—A funding agreement or other arrangement entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

"(3) may authorize such tribe or tribal organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(d) USE OF EXISTING FACILITIES.—The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes.

"SEC. 206. HEALTH SERVICES RESEARCH.

"(a) FUNDING.—The Secretary shall make funding available for research to further the performance of the health service responsibilities of the Service, Indian tribes, and tribal organizations and shall coordinate the activities of other Agencies within the Department to address these research needs.

"(b) ALLOCATION.—Funding under subsection (a) shall be allocated equitably among the area offices. Each area office shall award such funds competitively within that area.

"(c) ELIGIBILITY FOR FUNDS.—Indian tribes and tribal organizations receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to compete for, and receive, research funds under this section.

"(d) USE.—Funds received under this section may be used for both clinical and nonclinical research by Indian tribes and tribal organizations and shall be distributed to the area offices. Such area offices may make grants using such funds within each area.

"SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

"The Secretary, through the Service or through Indian tribes or tribal organizations, shall provide for the following screening:

"(1) Mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

"(2) Other cancer screening meeting national standards.

"SEC. 208. PATIENT TRAVEL COSTS.

"The Secretary, acting through the Service, Indian tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act:

"(1) Emergency air transportation and nonemergency air transportation where ground transportation is infeasible.

"(2) Transportation by private vehicle, specially equipped vehicle and ambulance.

"(3) Transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

"SEC. 209. EPIDEMIOLOGY CENTERS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In addition to those centers operating 1 day prior to the date of enactment of this Act, (including those centers for which funding is currently being provided through funding agreements under the Indian Self-Determination and Education Assistance Act), the Secretary shall, not later than 180 days after such date of enactment, establish and fund an epidemiology center in each service area which does not have such a center to carry out the functions described in paragraph (2). Any centers established under the preceding sentence may be operated by Indian tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but funding under such agreements may not be divisible.

"(2) FUNCTIONS.—In consultation with and upon the request of Indian tribes, tribal organizations and urban Indian organizations, each area epidemiology center established under this subsection shall, with respect to such area shall—

"(A) collect data related to the health status objective described in section 3(b), and monitor the progress that the Service, Indian tribes, tribal organizations, and urban Indian organizations have made in meeting such health status objective;

"(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(C) assist Indian tribes, tribal organizations, and urban Indian organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

"(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

"(F) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

“(G) provide disease surveillance and assist Indian tribes, tribal organizations, and urban Indian organizations to promote public health.

“(3) TECHNICAL ASSISTANCE.—The director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

“(b) FUNDING.—The Secretary may make funding available to Indian tribes, tribal organizations, and eligible intertribal consortia or urban Indian organizations to conduct epidemiological studies of Indian communities.

“SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall provide funding to Indian tribes, tribal organizations, and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children.

“(b) USE OF FUNDS.—Funds awarded under this section may be used to—

“(1) develop and implement health education curricula both for regular school programs and after school programs;

“(2) train teachers in comprehensive school health education curricula;

“(3) integrate school-based, community-based, and other public and private health promotion efforts;

“(4) encourage healthy, tobacco-free school environments;

“(5) coordinate school-based health programs with existing services and programs available in the community;

“(6) develop school programs on nutrition education, personal health, oral health, and fitness;

“(7) develop mental health wellness programs;

“(8) develop chronic disease prevention programs;

“(9) develop substance abuse prevention programs;

“(10) develop injury prevention and safety education programs;

“(11) develop activities for the prevention and control of communicable diseases;

“(12) develop community and environmental health education programs that include traditional health care practitioners;

“(13) carry out violence prevention activities; and

“(14) carry out activities relating to such other health issues as are appropriate.

“(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical assistance to Indian tribes, tribal organization and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

“(d) CRITERIA.—The Secretary, in consultation with Indian tribes tribal organizations, and urban Indian organizations shall establish criteria for the review and approval of applications for funding under this section.

“(e) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—

“(1) DEVELOPMENT.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and affected Indian tribes and tribal organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 for use in schools operated by the Bureau of Indian Affairs.

“(2) REQUIREMENTS.—The program developed under paragraph (1) shall include—

“(A) school programs on nutrition education, personal health, oral health, and fitness;

“(B) mental health wellness programs;

“(C) chronic disease prevention programs;

“(D) substance abuse prevention programs;

“(E) injury prevention and safety education programs; and

“(F) activities for the prevention and control of communicable diseases.

“(3) TRAINING AND COORDINATION.—The Secretary of the Interior shall—

“(A) provide training to teachers in comprehensive school health education curricula;

“(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

“(C) encourage healthy, tobacco-free school environments.

“SEC. 211. INDIAN YOUTH PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to provide funding to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available under this section may be used to—

“(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

“(B) develop and provide community training and education.

“(2) LIMITATION.—Funds made available under this section may not be used to provide services described in section 707(c).

“(c) REQUIREMENTS.—The Secretary shall—

“(1) disseminate to Indian tribes, tribal organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

“(2) encourage the implementation of such models; and

“(3) at the request of an Indian tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models.

“(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organization, and urban Indian organizations, shall establish criteria for the review and approval of applications under this section.

“SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

“(a) IN GENERAL.—The Secretary, acting through the Service after consultation with Indian tribes, tribal organizations, urban Indian organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian tribes and tribal organizations for—

“(1) projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori, which projects may include screening, testing and treatment for HCV and other infectious and communicable diseases;

“(2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases;

“(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals; and

“(4) a demonstration project that studies the seroprevalence of the Hepatitis C virus among a random sample of American Indian and Alaskan Native populations and identifies prevalence rates among a variety of tribes and geographic regions.

“(b) REQUIREMENT OF APPLICATION.—The Secretary may provide funds under subsection (a) only if an application or proposal for such funds is submitted.

“(c) TECHNICAL ASSISTANCE AND REPORT.—In carrying out this section, the Secretary—

“(1) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

“(2) shall prepare and submit, biennially, a report to Congress on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.

“SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

“(a) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, and tribal organizations, may provide funding under this Act to meet the objective set forth in section 3 through health care related services and programs not otherwise described in this Act. Such services and programs shall include services and programs related to—

“(1) hospice care and assisted living;

“(2) long-term health care;

“(3) home- and community-based services;

“(4) public health functions; and

“(5) traditional health care practices.

“(b) AVAILABILITY OF SERVICES FOR CERTAIN INDIVIDUALS.—At the discretion of the Service, Indian tribe, or tribal organization, services hospice care, home health care (under section 201), home- and community-based care, assisted living, and long term care may be provided (on a cost basis) to individuals otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a tribe or tribal organization.

“(c) DEFINITIONS.—In this section:

“(1) HOME- AND COMMUNITY-BASED SERVICES.—The term ‘home- and community-based services’ means 1 or more of the following:

“(A) Homemaker/home health aide services.

“(B) Chore services.

“(C) Personal care services.

“(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

“(E) Training for family members.

“(F) Adult day care.

“(G) Such other home- and community-based services as the Secretary or a tribe or tribal organization may approve.

“(2) HOSPICE CARE.—The term ‘hospice care’ means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian tribe or tribal organization determines are necessary and appropriate to provide in furtherance of such care.

“(3) PUBLIC HEALTH FUNCTIONS.—The term ‘public health functions’ means public health related programs, functions, and services including assessments, assurances, and policy development that Indian tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to carry out by forming collaborative relationships with all levels of local, State, and Federal governments.

"SEC. 214. INDIAN WOMEN'S HEALTH CARE.

"The Secretary acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

"SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

"(a) Study and Monitoring Programs.—The Secretary and the Service shall, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and tribal organizations, conduct a study and carry out ongoing monitoring programs to determine the trends that exist in the health hazards posed to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result of environmental hazards that may result in chronic or life-threatening health problems. Such hazards include nuclear resource development, petroleum contamination, and contamination of the water source or of the food chain. Such study (and any reports with respect to such study) shall include—

"(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future environmental resource development on or near Indian reservations and communities including the cumulative effect of such development over time on health;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal, oil and gas production or transportation on or near Indian reservations or communities, and other development that could affect the health of Indians and their water supply and food chain;

"(4) a summary of any findings or recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of the enactment of this Act that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) a description of the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

"(b) Development of Health Care Plans.—Upon the completion of the study under subsection (a), the Secretary and the Service shall take into account the results of such study and, in consultation with Indian tribes and tribal organizations, develop a health care plan to address the health problems that were the subject of such study. The plans shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

"(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

"(c) Submission to Congress.—

"(1) General report.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Service shall submit to Congress a report concerning the study conducted under subsection (a).

"(2) Health care plan report.—Not later than 1 year after the date on which the report under paragraph (1) is submitted to Congress, the Secretary and the Service shall submit to Congress the health care plan prepared under subsection (b). Such plan shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address the health problems involved.

"(d) Task Force.—

"(1) Established.—There is hereby established an Intergovernmental Task Force (referred to in this section as the 'task force') that shall be composed of the following individuals (or their designees):

"(A) The Secretary of Energy.

"(B) The Administrator of the Environmental Protection Agency.

"(C) The Director of the Bureau of Mines.

"(D) The Assistant Secretary for Occupational Safety and Health.

"(E) The Secretary of the Interior.

"(2) Duties.—The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community, and enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

"(3) Administrative provisions.—The Secretary shall serve as the chairperson of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

"(e) Provision of Appropriate Medical Care.—In the case of any Indian who—

"(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition;

"(2) is eligible to receive diagnosis and treatment services from a Service facility; and

"(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

"SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2013, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216A. NORTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 2001, and ending with the fiscal year ending September 30, 2013, the State of North Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of North Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216B. SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) In General.—For fiscal years beginning with the fiscal year ending September 30, 2001, and ending with the fiscal year ending September 30, 2013, the State of South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of South Dakota.

"(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of South Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

"(a) In General.—The Secretary may fund a program that utilizes the California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

"(b) Reimbursement of Board.—

"(1) Agreement.—The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 with respect to high-cost contract care cases.

"(2) Administration.—Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be used for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) LIMITATION.—No payment may be made for treatment provided under this section to the extent that payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(c) ADVISORY BOARD.—There is hereby established an advisory board that shall advise the California Rural Indian Health Board in carrying out this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under this section, at least 50 percent of whom are not affiliated with the California Rural Indian Health Board.

"SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State, except that any of the counties described in this section may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

"SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

"(a) IN GENERAL.—The Secretary, acting through the Service, shall provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

"The Service shall provide funds for health care programs and facilities operated by Indian tribes and tribal organizations under funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act on the same basis as such funds are provided to programs and facilities operated directly by the Service.

"SEC. 221. LICENSING.

"Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any State, be exempt from the licensing requirements of the State in which the agreement is performed.

"SEC. 222. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

"With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

"(a) REQUIREMENT.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) FAILURE TO RESPOND.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) PAYMENT.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

"SEC. 224. LIABILITY FOR PAYMENT.

"(a) NO LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

"(c) LIMITATION.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services involved.

"SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

"TITLE III—FACILITIES

"SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

"(a) CONSULTATION.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

"(2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b) CLOSURE OF FACILITIES.—

"(1) IN GENERAL.—Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility or any inpatient service or special care facility operated by the Service, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such proposed closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

"(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

"(B) the cost effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service;

"(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.

"(2) TEMPORARY CLOSURE.—Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

"(c) PRIORITY SYSTEM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a health care facility priority system, that shall—

"(A) be developed with Indian tribes and tribal organizations through negotiated rulemaking under section 802;

"(B) give the needs of Indian tribes' the highest priority, with additional priority being given to those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas; and

"(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E);

except that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top 10 priority inpatient projects or one of the top 10 outpatient projects in the Indian Health Service budget justification for fiscal year 2001, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.

"(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report that includes—

"(A) a description of the health care facility priority system of the Service, as established under paragraph (1);

"(B) health care facility lists, including—

"(i) the total health care facility planning, design, construction and renovation needs for Indians;

"(ii) the 10 top-priority inpatient care facilities;

"(iii) the 10 top-priority outpatient care facilities;

"(iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and

"(v) any staff quarters associated with such prioritized facilities;

"(C) the justification for the order of priority among facilities;

"(D) the projected cost of the projects involved; and

"(E) the methodology adopted by the Service in establishing priorities under its health care facility priority system.

"(3) CONSULTATION.—In preparing each report required under paragraph (2) (other than the initial report) the Secretary shall annually—

"(A) consult with, and obtain information on all health care facilities needs from, Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the

Service under the Indian Self-Determination and Education Assistance Act; and

"(B) review the total unmet needs of all tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

"(4) Criteria.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(5) Equitable integration.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements in accordance with the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the health care facility priority system.

"(d) Review of Need for Facilities.—

"(1) Report.—Beginning in 2002, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to Congress under section 801 of this Act, a report which sets forth the needs of the Service and all Indian tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities.

"(2) Consultation.—In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, and with urban Indian organizations.

"(3) Criteria.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(4) Equitable integration.—The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system.

"(5) Annual nominations.—Each year the Secretary shall provide an opportunity for the nomination of planning, design, and construction projects by the Service and all Indian tribes and tribal organizations for consideration under the health care facility priority system.

"(e) Inclusion of Certain Programs.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act.

"(f) Innovative Approaches.—The Secretary shall consult and cooperate with Indian tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

"SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

"(a) Findings.—Congress finds and declares that—

"(1) the provision of safe water supply facilities and sanitary sewage and solid waste disposal facilities is primarily a health consideration and function;

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

"(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

"(4) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

"(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

"(b) Provision of Facilities and Services.—

"(1) In general.—In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(2) Assistance.—The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

"(A) financial and technical assistance to Indian tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the tribe or tribal organization;

"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

"(C) priority funding for the operation, and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

"(3) Provisions relating to funding.—Notwithstanding any other provision of law—

"(A) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

"(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

"(C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

"(D) the Secretary of Health and Human Services is authorized to accept all Federal funds that are available for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self-Determination and Education Assistance Act, between the Secretary and Indian tribes and tribal organizations;

"(E) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to fund up to 100 percent of the amount of a tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

"(F) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

"(G) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated and thereafter the Department's applicable policies, rules, regulations shall apply in the implementation of such projects;

"(H) the Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, the Environmental Protection Agency and other appropriate Federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act; and

"(I) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.

"(c) 10-Year Funding Plan.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall develop and implement a 10-year funding plan to provide safe water supply and sanitary sewage and solid waste disposal facilities serving existing Indian homes and communities, and to new and renovated Indian homes.

"(d) Capability of Tribe or Community.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

"(e) Financial Assistance.—The Secretary may provide financial assistance to Indian tribes, tribal organizations and communities for the operation, management, and maintenance of their sanitation facilities.

"(f) Responsibility for Fees for Operation and Maintenance.—The Indian family, community or tribe involved shall have the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity or the health benefit of the facility, the Secretary may assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.

“(g) Eligibility of Certain Tribes or Organizations.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

“(1) any funds appropriated pursuant to this section; and

“(2) any funds appropriated for the purpose of providing water supply, sewage disposal, or solid waste facilities;

on an equal basis with programs that are administered directly by the Service.

“(h) Report.—

“(1) In general.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—

“(A) the current Indian sanitation facility priority system of the Service;

“(B) the methodology for determining sanitation deficiencies;

“(C) the level of initial and final sanitation deficiency for each type sanitation facility for each project of each Indian tribe or community; and

“(D) the amount of funds necessary to reduce the identified sanitation deficiency levels of all Indian tribes and communities to a level I sanitation deficiency as described in paragraph (4)(A).

“(2) Consultation.—In preparing each report required under paragraph (1), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any funding agreements entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rulemaking.

“(3) Methodology.—The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

“(4) Sanitation deficiency levels.—For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes are as follows:

“(A) A level I deficiency is a sanitation facility serving and individual or community—

“(i) which complies with all applicable water supply, pollution control and solid waste disposal laws; and

“(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

“(B) A level II deficiency is a sanitation facility serving and individual or community—

“(i) which substantially or recently complied with all applicable water supply, pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance;

“(ii) in which the deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

“(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities.

“(C) A level III deficiency is an individual or community facility with water or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available.

“(D) A level IV deficiency is an individual or community facility where there are no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists.

“(E) A level V deficiency is the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater disposal.

“(i) Definitions.—In this section:

“(1) Facility.—The terms ‘facility’ or ‘facilities’ shall have the same meaning as the terms ‘system’ or ‘systems’ unless the context requires otherwise.

“(2) Indian community.—The term ‘Indian community’ means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

“SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

“(a) In General.—The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an ‘Indian firm’) in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

“(1) ownership and control by Indians;

“(2) equipment;

“(3) bookkeeping and accounting procedures;

“(4) substantive knowledge of the project or function to be contracted for;

“(5) adequately trained personnel; or

“(6) other necessary components of contract performance.

“(b) Exemption From Davis-Bacon.—For the purpose of implementing the provisions of this title, construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act). For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wages at rates that are not less than the prevailing wage rates for similar construction in the locality involved, as determined by the Indian tribe, Tribes, or tribal organizations served by such facilities.

“SEC. 304. SOBOBA SANITATION FACILITIES.

“Nothing in the Act of December 17, 1970 (84 Stat. 1465) shall be construed to preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

“SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

“(a) Permissibility.—

“(1) In general.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act, including—

“(A) any plans or designs for such expansion, renovation or modernization; and

“(B) any expansion, renovation or modernization for which funds appropriated under any Federal law were lawfully expended;

but only if the requirements of subsection (b) are met.

“(2) Priority list.—The Secretary shall maintain a separate priority list to address the need for increased operating expenses, personnel or equipment for such facilities described in paragraph (1). The methodology for establishing priorities shall be developed by negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian tribes and tribal organizations.

“(3) Report.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

“(b) Requirements.—The requirements of this subsection are met with respect to any expansion, renovation or modernization if—

“(1) the tribe or tribal organization—

“(A) provides notice to the Secretary of its intent to expand, renovate or modernize; and

“(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and

“(2) the expansion renovation or modernization—

“(A) is approved by the appropriate area director of the Service for Federal facilities; and

“(B) is administered by the Indian tribe or tribal organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

“(c) Right of Tribe in Case of Failure of Facility To Be Used as a Service Facility.—If any Service facility which has been expanded, renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.

“SEC. 306. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

‘‘(a) AVAILABILITY OF FUNDING.—

‘‘(1) IN GENERAL.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall make funding available to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided for in subsections (b)(2) and (c)(1)(C)). Funding under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term ‘construction’ includes the replacement of an existing facility.

‘‘(2) REQUIREMENT.—Funding under paragraph (1) may only be made available to an Indian tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian tribe or tribal organization) pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

‘‘(b) USE OF FUNDS.—

‘‘(1) IN GENERAL.—Funds provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

‘‘(A) located apart from a hospital;

‘‘(B) not funded under section 301 or section 307; and

‘‘(C) which, upon completion of such construction, expansion, or modernization will—

‘‘(i) have a total capacity appropriate to its projected service population;

‘‘(ii) provide annually not less than 500 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and

‘‘(iii) provide ambulatory care in a service area (specified in the funding agreement entered into under the Indian Self-Determination and Education Assistance Act) with a population of not less than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B).

‘‘(2) LIMITATION.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population described in clauses (ii) and (iii) of paragraph (1)(C). The requirements of such clauses (ii) and (iii) shall not apply to a tribe or tribal organization applying for funding under this section whose principal office for health care administration is located on an island or where such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.

‘‘(c) APPLICATION AND PRIORITY.—

‘‘(1) APPLICATION.—No funding may be made available under this section unless an application for such funding has been submitted to and approved by the Secretary. An application or proposal for funding under this section shall be submitted in accordance with applicable regulations and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

‘‘(A) adequate financial support will be available for the provision of services at such facility;

‘‘(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

‘‘(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

‘‘(2) PRIORITY.—In awarding funds under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

‘‘(A) a need for increased ambulatory care services; and

‘‘(B) insufficient capacity to deliver such services.

‘‘(d) FAILURE TO USE FACILITY AS HEALTH FACILITY.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian tribe or tribal organization.

‘‘(e) NO INCLUSION IN TRIBAL SHARE.—Funding provided to Indian tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

“SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

‘‘(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, may enter into funding agreements with, or make grants or loan guarantees to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities, including hospice, traditional Indian health and child care facilities, to Indians.

‘‘(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

‘‘(1) waive any leasing prohibition;

‘‘(2) permit carryover of funds appropriated for the provision of health care services;

‘‘(3) permit the use of other available funds;

‘‘(4) permit the use of funds or property donated from any source for project purposes;

‘‘(5) provide for the reversion of donated real or personal property to the donor; and

‘‘(6) permit the use of Service funds to match other funds, including Federal funds.

‘‘(c) CRITERIA.—

‘‘(1) IN GENERAL.—The Secretary shall develop and publish regulations through rulemaking under section 802 for the review and approval of applications submitted under this section. The Secretary may enter into a contract, funding agreement or award a grant under this section for projects which meet the following criteria:

‘‘(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

‘‘(B) A significant number of Indians, including those with low health status, will be served by the project.

‘‘(C) The project has the potential to address the health needs of Indians in an innovative manner.

‘‘(D) The project has the potential to deliver services in an efficient and effective manner.

‘‘(E) The project is economically viable.

‘‘(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

‘‘(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

‘‘(2) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

‘‘(3) PRIORITY.—The Secretary shall give priority to applications for demonstration projects under this section in each of the following service units to the extent that such applications are filed in a timely manner and otherwise meet the criteria specified in paragraph (1):

‘‘(A) Cass Lake, Minnesota.

‘‘(B) Clinton, Oklahoma.

‘‘(C) Harlem, Montana.

‘‘(D) Mescalero, New Mexico.

‘‘(E) Owyhee, Nevada.

‘‘(F) Parker, Arizona.

‘‘(G) Schurz, Nevada.

‘‘(H) Winnebago, Nebraska.

‘‘(I) Ft. Yuma, California.

‘‘(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

‘‘(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health care practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

‘‘(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

‘‘(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

“SEC. 308. LAND TRANSFER.

‘‘(a) GENERAL AUTHORITY FOR TRANSFERS.—Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

"(b) CHEMAWA INDIAN SCHOOL.—The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

"SEC. 309. LEASES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes and tribal organizations for periods not in excess of 20 years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe or tribal organization.

"(b) FACILITIES FOR THE ADMINISTRATION AND DELIVERY OF HEALTH SERVICES.—The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(l) of the Indian Self-Determination and Education Assistance Act.

"SEC. 310. LOANS, LOAN GUARANTEES AND LOAN REPAYMENT.

"(a) HEALTH CARE FACILITIES LOAN FUND.—There is established in the Treasury of the United States a fund to be known as the 'Health Care Facilities Loan Fund' (referred to in this Act as the 'HCFLF') to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for the construction of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities such as behavioral health and elder care facilities).

"(b) STANDARDS AND PROCEDURES.—The Secretary may promulgate regulations, developed through rulemaking as provided for in section 802, to establish standards and procedures for governing loans and loan guarantees under this section, subject to the following conditions:

"(1) The principal amount of a loan or loan guarantee may cover up to 100 percent of eligible costs, including costs for the planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing).

"(2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriation Acts.

"(3) In the discretion of the Secretary, the program under this section may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation).

"(4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or 25 years, whichever is less.

"(5) The Secretary may allocate up to 100 percent of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee.

"(6) The Secretary may accept an assignment of the revenue of an Indian tribe or tribal organization as security for any direct loan or loan guarantee under this section.

"(7) In the planning and design of health facilities under this section, users eligible under section 807(b) may be included in any projection of patient population.

"(8) The Secretary shall not collect loan application, processing or other similar fees from Indian tribes or tribal organizations applying for direct loans or loan guarantees under this section.

"(9) Service funds authorized under loans or loan guarantees under this section may be used in matching other Federal funds.

"(c) FUNDING.—

"(1) IN GENERAL.—The HCFLF shall consist of—

"(A) such sums as may be initially appropriated to the HCFLF and as may be subsequently appropriated under paragraph (2);

"(B) such amounts as may be collected from borrowers; and

"(C) all interest earned on amounts in the HCFLF.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to initiate the HCFLF. For each fiscal year after the initial year in which funds are appropriated to the HCFLF, there is authorized to be appropriated an amount equal to the sum of the amount collected by the HCFLF during the preceding fiscal year, and all accrued interest on such amounts.

"(3) AVAILABILITY OF FUNDS.—Amounts appropriated, collected or earned relative to the HCFLF shall remain available until expended.

"(d) FUNDING AGREEMENTS.—Amounts in the HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

"(e) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the HCFLF as such Secretary determines are not required to meet current withdrawals from the HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

"(f) GRANTS.—The Secretary is authorized to establish a program to provide grants to Indian tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this section or otherwise.

"SEC. 311. TRIBAL LEASING.

"Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

"SEC. 312. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian tribes and tribal organizations to establish joint venture demonstration projects under which an Indian tribe or tribal organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility.

"(2) USE OF RESOURCES.—A tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(3) ELIGIBILITY OF CERTAIN ENTITIES.—A tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health facility.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into an arrangement under subsection (a)(1) with an Indian tribe or tribal organization only if—

"(A) the Secretary first determines that the Indian tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in subsection (a)(1); and

"(B) the Indian tribe or tribal organization meets the needs criteria that shall be developed through the negotiated rulemaking process provided for under section 802.

"(2) CONTINUED OPERATION OF FACILITY.—The Secretary shall negotiate an agreement with the Indian tribe or tribal organization regarding the continued operation of a facility under this section at the end of the initial 10 year no-cost lease period.

"(3) BREACH OR TERMINATION OF AGREEMENT.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe or tribal organization, or paid to a third party on the tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence shall not apply to any funds expended for the delivery of health care services, or for personnel or staffing.

"(d) RECOVERY FOR NON-USE.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section shall be entitled to recover from the United States an amount that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement.

"(e) Definition.—In this section, the terms 'health facility' or 'health facilities' include staff quarters needed to provide housing for the staff of the tribal health program.

"SEC. 313. LOCATION OF FACILITIES.

"(a) Priority.—The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian tribe with jurisdiction over such lands or other lands owned or leased by the Indian tribe or tribal organization so long as priority is given to Indian land owned by an Indian tribe or tribes.

"(b) Definition.—In this section, the term 'Indian lands' means—

"(1) all lands within the exterior boundaries of any Indian reservation;

"(2) any lands title to which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and

"(3) all lands in Alaska owned by any Alaska Native village, or any village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.

"SEC. 314. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

"(a) Report.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report that identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the fiscal year after the year for which the report is being prepared. The report shall identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

"(b) Maintenance of Newly Constructed Space.—

"(1) In general.—The Secretary may expend maintenance and improvement funds to support the maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian tribe or tribal organization.

"(2) Definition.—For purposes of paragraph (1), the term 'supportable space allocation' shall be defined through the negotiated rulemaking process provided for under section 802.

"(c) Construction of Replacement Facilities.—

"(1) In general.—In addition to using maintenance and improvement funds for the maintenance of facilities under subsection (b)(1), an Indian tribe or tribal organization may use such funds for the construction of a replacement facility if the costs of the renovation of such facility would exceed a maximum renovation cost threshold.

"(2) Definition.—For purposes of paragraph (1), the term 'maximum renovation cost threshold' shall be defined through the negotiated rulemaking process provided for under section 802.

"SEC. 315. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

"(a) Establishment of Rental Rates.—

"(1) In general.—Notwithstanding any other provision of law, an Indian tribe or tribal organization which operates a hospital or other health facility and the Federally-owned quarters associated therewith, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, may establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

"(2) Objectives.—In establishing rental rates under paragraph (1), an Indian tribe or tribal organization shall attempt to achieve the following objectives:

"(A) The rental rates should be based on the reasonable value of the quarters to the occupants thereof.

"(B) The rental rates should generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and, subject to the discretion of the Indian tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

"(3) Eligibility for quarters improvement and repair.—Any quarters whose rental rates are established by an Indian tribe or tribal organization under this subsection shall continue to be eligible for quarters improvement and repair funds to the same extent as other Federally-owned quarters that are used to house personnel in Service-supported programs.

"(4) Notice of change in rates.—An Indian tribe or tribal organization that exercises the authority provided under this subsection shall provide occupants with not less than 60 days notice of any change in rental rates.

"(b) Collection of Rents.—

"(1) In general.—Notwithstanding any other provision of law, and subject to paragraph (2), an Indian tribe or a tribal organization that operates Federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

"(A) The Indian tribe or tribal organization shall notify the Secretary and the Federal employees involved of its election to exercise its authority to collect rents directly from such Federal employees.

"(B) Upon the receipt of a notice described in subparagraph (A), the Federal employees involved shall pay rents for the occupancy of such quarters directly to the Indian tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

"(C) Such rent payments shall be retained by the Indian tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States.

"(D) Such rent payments shall be deposited into a separate account which shall be used by the Indian tribe or tribal organization for the maintenance (including capital repairs and replacement expenses) and operation of the quarters and facilities as the Indian tribe or tribal organization shall determine appropriate.

"(2) Retrocession.—If an Indian tribe or tribal organization which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying Federally-owned quarters, such retrocession shall become effective on the earlier of—

"(A) the first day of the month that begins not less than 180 days after the Indian tribe or tribal organization notifies the Secretary of its desire to retrocede; or

"(B) such other date as may be mutually agreed upon by the Secretary and the Indian tribe or tribal organization.

"(c) Rates.—To the extent that an Indian tribe or tribal organization, pursuant to authority granted in subsection (a), establishes rental rates for Federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

"SEC. 316. APPLICABILITY OF BUY AMERICAN REQUIREMENT.

"(a) In General.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 318, except that Indian tribes and tribal organizations shall be exempt from such requirements.

"(b) False or Misleading Labeling.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 318, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(c) Definition.—In this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

"SEC. 317. OTHER FUNDING FOR FACILITIES.

"Notwithstanding any other provision of law—

"(1) the Secretary may accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) between the Secretary and an Indian tribe or tribal organization, except that the receipt of such funds shall not have an effect on the priorities established pursuant to section 301;

"(2) the Secretary may enter into interagency agreements with other Federal or State agencies and other entities and to accept funds from such Federal or State agencies or other entities to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other Federal or State agency or for which the funds were otherwise provided;

"(3) any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency; and

"(4) the Secretary, acting through the Service, shall establish standards under regulations developed through rulemaking under section 802, for the planning, design and construction of health care facilities serving Indians under this Act.

"SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

"TITLE IV—ACCESS TO HEALTH SERVICES

"SEC. 401. TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM.

"(a) IN GENERAL.—Any payments received by the Service, by an Indian tribe or tribal organization pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

"(b) EQUAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act in preference to an Indian beneficiary without such coverage.

"(c) SPECIAL FUND.—

"(1) USE OF FUNDS.—Notwithstanding any other provision of this title or of title XVIII of the Social Security Act, payments to which any facility of the Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes.

"(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for benefits under title XVIII of the Social Security Act.

"SEC. 402. TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM.

"(a) SPECIAL FUND.—

"(1) USE OF FUNDS.—Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

"(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for medical assistance under title XIX of the Social Security Act.

"(b) PAYMENTS DISREGARDED FOR APPROPRIATIONS.—Any payments received under section 1911 of the Social Security Act for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

"(c) DIRECT BILLING.—For provisions relating to the authority of certain Indian tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or tribal organizations and for which payment may be made under this title, see section 405.

"SEC. 403. REPORT.

"(a) INCLUSION IN ANNUAL REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements under titles XVIII and XIX of the Social Security Act.

"(b) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian tribe or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Service under Title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian tribe or tribal organization, or urban Indian organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

"SEC. 404. GRANTS TO AND FUNDING AGREEMENTS WITH THE SERVICE, INDIAN TRIBES OR TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

"(a) IN GENERAL.—The Secretary shall make grants to or enter into funding agreements with Indian tribes and tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

"(1) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

"(2) pay premiums for health insurance coverage; and

"(3) apply for medical assistance provided pursuant to titles XIX and XXI of the Social Security Act.

"(b) CONDITIONS.—The Secretary shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement or grant which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

"(1) determine the population of Indians to be served that are or could be recipients of benefits or assistance under titles XVIII, XIX, and XXI of the Social Security Act;

"(2) assist individual Indians in becoming familiar with and utilizing such benefits and assistance;

"(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for such benefits and assistance;

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for health insurance coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits and assistance provided under titles XVIII, XIX, and XXI of the Social Security Act.

"(c) AGREEMENTS FOR RECEIPT AND PROCESSING OF APPLICATIONS.—The Secretary may enter into an agreement with an Indian tribe or tribal organization, or an urban Indian organization, which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act, child health assistance under title XXI of such Act and benefits under title XVIII of such Act by a Service facility or a health care program administered by such Indian tribe or tribal organization, or urban Indian organization, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee-for-service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, an Indian tribe or tribal organization, and an urban Indian organization.

"(d) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to—

"(A) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

"(B) pay premiums on behalf of such individuals for coverage under title XVIII of such Act; and

"(C) apply for medical assistance provided under title XIX of such Act and for child health assistance under title XXI of such Act.

"(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are—

"(A) consistent with the conditions imposed by the Secretary under subsection (b);

"(B) appropriate to urban Indian organizations and urban Indians; and

"(C) necessary to carry out the purposes of this section.

"SEC. 405. DIRECT BILLING AND REIMBURSEMENT OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

"(a) ESTABLISHMENT OF DIRECT BILLING PROGRAM.—

"(1) In general.—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or from any other third party payor.

"(2) Application of 100 percent FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under title XIX of the Social Security Act for health care services directly billed under the program established under this section.

"(b) Direct Reimbursement.—

"(1) Use of funds.—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under titles XVIII and XIX of the Social Security Act for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 807(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under title XVIII or XIX of the Social Security Act. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

"(A) solely for improving the health resources deficiency level of the Indian tribe; and

"(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) Audits.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act.

"(3) Secretarial oversight.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

"(4) No payments from special funds.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

"(c) Requirements for Participation.—

"(1) Application.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

"(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

"(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

"(C) the facility meets the requirements that apply to programs operated directly by the Service; and

"(D) the facility—

"(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

"(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

"(2) Approval.—

"(A) In general.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

"(B) Grandfather of demonstration program participants.—Any participant in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.

"(C) Duration.—An approval by the Secretary of a qualified application under subparagraph (A), or a deemed approval of a demonstration program under subparagraph (B), shall continue in effect as long as the approved applicant or the deemed approved demonstration program meets the requirements of this section.

"(d) Examination and Implementation of Changes.—

"(1) In general.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement—

"(A) any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under title XIX of the Social Security Act; and

"(B) any changes that may be necessary to enable participants in the program established under this section to provide to the Service medical records information on patients served under the program that is consistent with the medical records information system of the Service.

"(2) Accounting information.—The accounting information that a participant in the program established under this section shall be required to report shall be the same as the information required to be reported by participants in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000. The Secretary may from time to time, after consultation with the program participants, change the accounting information submission requirements.

"(e) Withdrawal From Program.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

"SEC. 406. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

"(a) Right of Recovery.—Except as provided in subsection (g), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary or an Indian tribe or tribal organization in providing health services, through the Service or an Indian tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if—

"(1) such services had been provided by a nongovernmental provider; and

"(2) such individual had been required to pay such charges or expenses and did pay such expenses.

"(b) Urban Indian Organizations.—Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

"(c) Limitations on Recoveries From States.—Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

"(1) workers' compensation laws; or

"(2) a no-fault automobile accident insurance plan or program.

"(d) Nonapplication of Other Laws.—No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States or an Indian tribe or tribal organization under subsection (a), or an urban Indian organization under subsection (b).

"(e) No Effect on Private Rights of Action.—No action taken by the United States or an Indian tribe or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

"(f) Methods of Enforcement.—

"(1) In general.—The United States or an Indian tribe or tribal organization may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by—

"(A) intervening or joining in any civil action or proceeding brought—

"(i) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization, or urban Indian organization; or "(ii) by any representative or heirs of such individual; or

"(B) instituting a civil action.

"(2) NOTICE.—All reasonable efforts shall be made to provide notice of an action instituted in accordance with paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

"(g) LIMITATION.—Notwithstanding this section, absent specific written authorization by the governing body of an Indian tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), neither the United States through the Service, nor an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, nor an urban Indian organization funded under title V, shall have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization, or urban Indian organization. Where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.

"(h) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded reasonable attorneys' fees and costs of litigation.

"(i) RIGHT OF ACTION AGAINST INSURERS AND EMPLOYEE BENEFIT PLANS.—

"(1) IN GENERAL.—Where an insurance company or employee benefit plan fails or refuses to pay the amount due under subsection (a) for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States or an Indian tribe or tribal organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal, State or tribal law.

"(2) URBAN INDIAN ORGANIZATIONS.—Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal or State law.

"(j) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—Notwithstanding any other provision in law, the Service, an Indian tribe or tribal organization, or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA-1500 or UB-92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.

"SEC. 407. CREDITING OF REIMBURSEMENTS.

"(a) RETENTION OF FUNDS.—Except as provided in section 202(d), this title, and section 807, all reimbursements received or recovered under the authority of this Act, Public Law 87-693, or any other provision of law, by reason of the provision of health services by the Service or by an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization funded under title V, shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

"(b) NO OFFSET OF FUNDS.—The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

"SEC. 408. PURCHASING HEALTH CARE COVERAGE.

"An Indian tribe or tribal organization, and an urban Indian organization may utilize funding from the Secretary under this Act to purchase managed care coverage for Service beneficiaries (including insurance to limit the financial risks of managed care entities) from—

"(1) a tribally owned and operated managed care plan;

"(2) a State or locally-authorized or licensed managed care plan; or

"(3) a health insurance provider.

"SEC. 409. INDIAN HEALTH SERVICE, DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING.

"(a) EXAMINATION OF FEASIBILITY OF ARRANGEMENTS.—

"(1) IN GENERAL.—The Secretary shall examine the feasibility of entering into arrangements or expanding existing arrangements for the sharing of medical facilities and services between the Service and the Veterans' Administration, and other appropriate Federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such arrangements.

"(2) SUBMISSION OF REPORT.—Not later than September 30, 2001, the Secretary shall submit the report required under paragraph (1) to Congress.

"(3) CONSULTATION REQUIRED.—The Secretary may not finalize any arrangement described in paragraph (1) without first consulting with the affected Indian tribes.

"(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Service;

"(2) the quality of health care services provided to any Indian through the Service;

"(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

"(4) the quality of health care services provided to any veteran by the Veteran's Administration;

"(5) the eligibility of any Indian to receive health services through the Service; or

"(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service or the Indian tribe or tribal organization shall be reimbursed by the Veterans' Administration where services are provided through the Service or Indian tribes or tribal organizations to beneficiaries eligible for services from the Veterans' Administration, notwithstanding any other provision of law.

"(c) AGREEMENTS FOR PARITY IN SERVICES.—The Service may enter into agreements with other Federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Service.

"SEC. 410. PAYOR OF LAST RESORT.

"The Service, and programs operated by Indian tribes or tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to individuals eligible for services from the Service and such programs, notwithstanding any Federal, State or local law to the contrary, unless such law explicitly provides otherwise.

"SEC. 411. RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS.

"Notwithstanding any other provision of law, the Service, Indian tribes or tribal organizations, and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entities) shall be entitled to receive payment or reimbursement for services provided by such entities from any Federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.

"SEC. 412. TUBA CITY DEMONSTRATION PROJECT.

"(a) IN GENERAL.—Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian tribes to be served approve, the Service in the Tuba City Service Unit may—

"(1) enter into a demonstration project with the State of Arizona under which the Service would provide certain specified medicaid services to individuals dually eligible for services from the Service and for medical assistance under title XIX of the Social Security Act in return for payment on a capitated basis from the State of Arizona; and

"(2) purchase insurance to limit the financial risks under the project.

"(b) EXTENSION OF PROJECT.—The demonstration project authorized under subsection (a) may be extended to other service units in Arizona, subject to the approval of the Indian tribes to be served in such service units, the Service, and the State of Arizona.

"SEC. 413. ACCESS TO FEDERAL INSURANCE.

"Notwithstanding the provisions of title 5, United States Code, Executive Order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

"SEC. 414. CONSULTATION AND RULEMAKING.

"(a) CONSULTATION.—Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall require the Administrator of that Administration to—

"(1) identify the impact such policy or regulation may have on the Service, Indian tribes or tribal organizations, and urban Indian organizations;

"(2) provide to the Service, Indian tribes or tribal organizations, and urban Indian organizations the information described in paragraph (1);

"(3) engage in consultation, consistent with the requirements of Executive Order 13084 of May 14, 1998, with the Service, Indian tribes or tribal organizations, and urban Indian organizations prior to enacting any such policy or regulation.

"(b) Rulemaking.—The Administrator of the Health Care Financing Administration shall participate in the negotiated rulemaking provided for under title VIII with regard to any regulations necessary to implement the provisions of this title that relate to the Social Security Act.

"SEC. 415. LIMITATIONS ON CHARGES.

"No provider of health services that is eligible to receive payments or reimbursements under titles XVIII, XIX, or XXI of the Social Security Act or from any Federally funded (whether in whole or part) health care program may seek to recover payment for services—

"(1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization, in an amount in excess of the lowest amount paid by any other payor for comparable services; or

"(2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.

"SEC. 416. LIMITATION ON SECRETARY'S WAIVER AUTHORITY.

"Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) of the Social Security Act to any State plan under title XIX of the Social Security Act.

"SEC. 417. WAIVER OF MEDICARE AND MEDICAID SANCTIONS.

"Notwithstanding any other provision of law, the Service or an Indian tribe or tribal organization or an urban Indian organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under title XVIII, XIX, or XXI of the Social Security Act as if such entity were directly responsible for administering the State health care program.

"SEC. 418. MEANING OF 'REMUNERATION' FOR PURPOSES OF SAFE HARBOR PROVISIONS; ANTITRUST IMMUNITY.

"(a) Meaning of Remuneration.—Notwithstanding any other provision of law, the term 'remuneration' as used in sections 1128A and 1128B of the Social Security Act shall not include any exchange of anything of value between or among—

"(1) any Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act;

"(2) any such Indian tribe or tribal organization or urban Indian organization and the Service;

"(3) any such Indian tribe or tribal organization or urban Indian organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of this Act (as in effect on the day before the date of enactment of the Indian Health Care Improvement Act Reauthorization of 2001); or

"(4) any such Indian tribe or tribal organization or urban Indian organization and any third party required by contract, section 206 or 207 of this Act (as so in effect), or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian tribe or tribal organization or urban Indian organization;

provided the exchange arises from or relates to such health programs.

"(b) Antitrust Immunity.—An Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act or title V shall be deemed to be an agency of the United States and immune from liability under the Acts commonly known as the Sherman Act, the Clayton Act, the Robinson-Patman Anti-Discrimination Act, the Federal Trade Commission Act, and any other Federal, State, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.

"SEC. 419. CO-INSURANCE, CO-PAYMENTS, DEDUCTIBLES AND PREMIUMS.

"(a) Exemption From Cost-Sharing Requirements.—Notwithstanding any other provision of Federal or State law, no Indian who is eligible for services under title XVIII, XIX, or XXI of the Social Security Act, or under any other Federally funded health care programs, may be charged a deductible, co-payment, or co-insurance for any service provided by or through the Service, an Indian tribe or tribal organization or urban Indian organization, nor may the payment or reimbursement due to the Service or an Indian tribe or tribal organization or urban Indian organization be reduced by the amount of the deductible, co-payment, or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, the term 'through' shall include services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian tribe or tribal organization or an urban Indian organization and another health provider.

"(b) Exemption From Premiums.—

"(1) Medicaid and state children's health insurance program.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for medical assistance under title XIX of the Social Security Act or child health assistance under title XXI of such Act may be charged a premium as a condition of receiving such assistance under title XIX of XXI of such Act.

"(2) Medicare enrollment premium penalties.—Notwithstanding section 1839(b) of the Social Security Act or any other provision of Federal or State law, no Indian who is eligible for benefits under part B of title XVIII of the Social Security Act, but for the payment of premiums, shall be charged a penalty for enrolling in such part at a time later than the Indian might otherwise have been first eligible to do so. The preceding sentence applies whether an Indian pays for premiums under such part directly or such premiums are paid by another person or entity, including a State, the Service, an Indian Tribe or tribal organization, or an urban Indian organization.

"SEC. 420. INCLUSION OF INCOME AND RESOURCES FOR PURPOSES OF MEDICALLY NEEDY MEDICAID ELIGIBILITY.

"For the purpose of determining the eligibility under section 1902(a)(10)(A)(ii)(IV) of the Social Security Act of an Indian for medical assistance under a State plan under title XIX of such Act, the cost of providing services to an Indian in a health program of the Service, an Indian Tribe or tribal organization, or an urban Indian organization shall be deemed to have been an expenditure for health care by the Indian.

"SEC. 421. ESTATE RECOVERY PROVISIONS.

"Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under title XVIII, XIX, or XXI of the Social Security Act, or any other health care programs funded in whole or part with Federal funds:

"(1) Income derived from rents, leases, or royalties of property held in trust for individuals by the Federal Government.

"(2) Income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of Federally protected rights, whether collected by an individual or a tribal group and distributed to individuals.

"(3) Property, including interests in real property currently or formerly held in trust by the Federal Government which is protected under applicable Federal, State or tribal law or custom from recourse, including public domain allotments.

"(4) Property that has unique religious or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.

"SEC. 422. MEDICAL CHILD SUPPORT.

"Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing the Federal Government or a State for the cost of medical services provided to a child by or through the Service, an Indian tribe or tribal organization or an urban Indian organization. For the purposes of this subsection, the term 'through' includes services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian Tribe or tribal organization or an urban Indian organization and another health provider.

"SEC. 423. PROVISIONS RELATING TO MANAGED CARE.

"(a) Recovery From Managed Care Plans.—Notwithstanding any other provision in law, the Service, an Indian Tribe or tribal organization or an urban Indian organization shall have a right of recovery under section 408 from all private and public health plans or programs, including the medicare, medicaid, and State children's health insurance programs under titles XVIII, XIX, and XXI of the Social Security Act, for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe or tribal organization or an urban Indian organization.

"(b) Limitation.—No provision of law or regulation, or of any contract, may be relied upon or interpreted to deny or reduce payments otherwise due under subsection (a), except to the extent the Service, an Indian tribe or tribal organization, or an urban Indian organization has entered into an agreement with a managed care entity regarding services to be provided to Indians or rates to be paid for such services, provided that such an agreement may not be made a prerequisite for such payments to be made.

"(c) Parity.—Payments due under subsection (a) from a managed care entity may not be paid at a rate that is less than the rate paid to a 'preferred provider' by the entity or, in the event there is no such rate, the usual and customary fee for equivalent services.

"(d) No Claim Requirement.—A managed care entity may not deny payment under subsection (a) because an enrollee with the entity has not submitted a claim.

“(e) DIRECT BILLING.—Notwithstanding the preceding subsections of this section, the Service, an Indian tribe or tribal organization, or an urban Indian organization that provides a health service to an Indian entitled to medical assistance under the State plan under title XIX of the Social Security Act or enrolled in a child health plan under title XXI of such Act shall have the right to be paid directly by the State agency administering such plans notwithstanding any agreements the State may have entered into with managed care organizations or providers.

“(f) REQUIREMENT FOR MEDICAID MANAGED CARE ENTITIES.—A managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act shall, as a condition of participation in the State plan under title XIX of such Act, offer a contract to health programs administered by the Service, an Indian tribe or tribal organization or an urban Indian organization that provides health services in the geographic area served by the managed care entity and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.

“(g) PROHIBITION.—Notwithstanding any other provision of law or any waiver granted by the Secretary no Indian may be assigned automatically or by default under any managed care entity participating in a State plan under title XIX or XXI of the Social Security Act unless the Indian had the option of enrolling in a managed care plan or health program administered by the Service, an Indian tribe or tribal organization, or an urban Indian organization.

“(h) INDIAN MANAGED CARE PLANS.—Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under title XIX or XXI of the Social Security Act shall enter into such an agreement with the Service, an Indian tribe or tribal organization or an urban Indian organization under which such an entity may provide services to Indians who may be eligible or required to enroll with a managed care organization through enrollment in an Indian managed care organization that provides services similar to those offered by other managed care organizations in the State. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization, and other matters that might otherwise prevent an Indian managed care organization or health program from meeting Federal or State standards applicable to such organizations, provided such Indian managed care organization or health program offers Indian enrollees services of an equivalent quality to that required of other managed care organizations.

“(i) ADVERTISING.—A managed care organization entering into a contract to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.

“SEC. 424. NAVAJO NATION MEDICAID AGENCY.

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may treat the Navajo Nation as a State under title XIX of the Social Security Act for purposes of providing medical assistance to Indians living within the boundaries of the Navajo Nation.

“(b) ASSIGNMENT AND PAYMENT.—Notwithstanding any other provision of law, the Secretary may assign and pay all expenditures related to the provision of services to Indians living within the boundaries of the Navajo Nation under title XIX of the Social Security Act (including administrative expenditures) that are currently paid to or would otherwise be paid to the States of Arizona, New Mexico, and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency.

“(c) AUTHORITY.—The Navajo Nation Medicaid Agency shall serve Indians living within the boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other State agency responsible for the administration of the State plan under title XIX of the Social Security Act.

“(d) TECHNICAL ASSISTANCE.—The Secretary may directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act (which shall, for purposes of reimbursement to such Nation, include Western and traditional Navajo healing services) within the Navajo Nation. Such assistance may include providing funds for demonstration projects conducted with such Nation.

“(e) FMAP.—Notwithstanding section 1905(b) of the Social Security Act, the Federal medical assistance percentage shall be 100 per cent with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance and related administrative costs.

“(f) WAIVER AUTHORITY.—The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency.

“(g) SCHIP.—At the option of the Navajo Nation, the Secretary may treat the Navajo Nation as a State for purposes of title XXI of the Social Security Act under terms equivalent to those described in the preceding subsections of this section.

“SEC. 425. INDIAN ADVISORY COMMITTEES.

“(a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.—The Administrator of the Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall have no fewer than 14 members, including at least 1 member designated by the Indian tribes and tribal organizations in each service area, 1 urban Indian organization representative, and 1 member representing the Service. The scope of the activities of such group shall be established under section 802 provided that such scope shall include providing comment on and advice regarding the programs funded under titles XVIII, XIX, and XXI of the Social Security Act or regarding any other health care program funded (in whole or part) by the Health Care Financing Administration.

“(b) INDIAN MEDICAID ADVISORY COMMITTEES.—The Administrator of the Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Service, Indian tribes and tribal organizations and urban Indian organizations in each State in which the Service directly operates a health program or in which there is one or more Indian tribe or tribal organization or urban Indian organization.

“SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2002 through 2013 to carry out this title.”.

“TITLE V—HEALTH SERVICES FOR URBAN INDIANS

“SEC. 501. PURPOSE.

“The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.

“SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

“Under the authority of the Act of November 2, 1921 (25 U.S.C. 13)(commonly known as the Snyder Act), the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within urban centers, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to section 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

“SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

“(a) AUTHORITY.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

“(1) estimate the population of urban Indians residing in the urban center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

“(2) estimate the current health status of urban Indians residing in such urban center or centers;

“(3) estimate the current health care needs of urban Indians residing in such urban center or centers;

“(4) provide basic health education, including health promotion and disease prevention education, to urban Indians;

“(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

“(6) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

“(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

“(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;

“(2) the size of the urban Indian population in the urban center or centers involved;

“(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

“(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

"(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

"(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"(c) Health Promotion and Disease Prevention.—The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

"(d) Immunization Services.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

"(3) Definition.—In this section, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

"(e) Mental Health Services.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

"(2) Assessment.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

"(3) Use of funds.—Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral health services, to educate urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to urban Indians;

"(C) to provide outpatient behavioral health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

"(D) to develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

"(f) Child Abuse.—

"(1) In general.—The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

"(2) Assessment.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

"(3) Use of funds.—Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

"(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

"(4) Considerations.—In making grants to carry out this subsection, the Secretary shall take into consideration—

"(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

"(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

"(C) the assessment required under paragraph (2).

"(g) Multiple Urban Centers.—The Secretary, acting through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.

"SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

"(a) Authority.—

"(1) In general.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503.

"(2) Purpose.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

"(b) Requirements.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

"(B) with respect to urban Indians in the urban center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

"(c) Limitation on Renewal.—The Secretary may not renew any contract entered into, or grant made, under this section.

"SEC. 505. EVALUATIONS; RENEWALS.

"(a) Procedures.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) Compliance With Terms.—The Secretary, acting through the Service, shall evaluate the compliance of each urban Indian organization which has entered into a contract or received a grant under section 503 with the terms of such contract of grant. For purposes of an evaluation under this subsection, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization—

"(1) conduct, through the Service, an annual onsite evaluation of the organization; or

"(2) accept, in lieu of an onsite evaluation, evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the medicare program under Title XVIII of the Social Security Act.

"(c) Noncompliance.—

"(1) In general.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance.

"(2) Nonrenewal.—If the Secretary determines, under an evaluation under this section, that noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

"(d) Determination of Renewal.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditation under subsection (b).

“SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

“(a) Application of Federal Law.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

“(b) Payments.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

“(1) be made in their entirety by the Secretary to the urban Indian organization by not later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

“(2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds.

“(c) Revising or Amending Contract.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

“(d) Fair and Uniform Provision of Services.—Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

“(e) Eligibility of Urban Indians.—Urban Indians, as defined in section 4(f), shall be eligible for health care or referral services provided pursuant to this title.

“SEC. 507. REPORTS AND RECORDS.

“(a) Report.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary, on a basis no more frequent than every 6 months, a report including—

“(1) in the case of a contract or grant under section 503, information gathered pursuant to paragraph (5) of subsection (a) of such section;

“(2) information on activities conducted by the organization pursuant to the contract or grant;

“(3) an accounting of the amounts and purposes for which Federal funds were expended; and

“(4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary, after consultations consistent with section 514, with urban Indian organizations.

“(b) Audits.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

“(c) Cost of Audit.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

“(1) a certified public accountant; or

“(2) a certified public accounting firm qualified to conduct Federal compliance audits.

“SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

“The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

“SEC. 509. FACILITIES.

“(a) Grants.—The Secretary may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

“(b) Loans or Loan Guarantees.—The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide loans to contractors or grant recipients under this title from the Urban Indian Health Care Facilities Revolving Loan Fund (referred to in this section as the ‘URLF’) described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements:

“(1) The principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase.

“(2) The total amount of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations Acts.

“(3) The loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or 25 years.

“(4) An urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection.

“(5) The Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection.

“(c) Urban Indian Health Care Facilities Revolving Loan Fund.—

“(1) Establishment.—There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. The URLF shall consist of—

“(A) such amounts as may be appropriated to the URLF;

“(B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and

“(C) interest earned on amounts in the URLF under paragraph (3).

“(2) Use of URLF.—Amounts in the URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to the URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in the URLF shall remain available until expended.

“(3) Investments.—The Secretary of the Treasury shall invest such amounts of the URLF as such Secretary determines are not required to meet current withdrawals from the URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the URLF may be sold by the Secretary of the Treasury at the market price.

“SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

“There is hereby established within the Service an Office of Urban Indian Health which shall be responsible for—

“(1) carrying out the provisions of this title;

“(2) providing central oversight of the programs and services authorized under this title; and

“(3) providing technical assistance to urban Indian organizations.

“SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES.

“(a) Grants.—The Secretary may make grants for, the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

“(b) Goals of Grant.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) Criteria.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

“(1) size of the urban Indian population;

“(2) capability of the organization to adequately perform the activities required under the grant;

“(3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

“(4) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

“(d) Treatment of Funds Received by Urban Indian Organizations.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

“SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

“(a) Tulsa and Oklahoma City Clinics.—Notwithstanding any other provision of law, the Tulsa and Oklahoma City Clinic demonstration projects shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in this title, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

“(b) Report.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

“SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

“(a) Grants and Contracts.—The Secretary, acting through the Office of Urban Indian Health of the Service, shall make grants or enter into contracts, effective not later than September 30, 2002, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (referred to in this section to as ‘NIAAA’) and transferred to the Service.

“(b) Use of Funds.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

“(c) Eligibility.—Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

“(d) Evaluation and Report.—The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

“SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

“(a) In General.—The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the maximum extent practicable, with urban Indian organizations (as defined in section 4) prior to taking any action, or approving Federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations.

“(b) Requirement.—In subsection (a), the term ‘consultation’ means the open and free exchange of information and opinion among urban Indian organizations and the operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

“SEC. 515. FEDERAL TORT CLAIMS ACT COVERAGE.

“For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for personal injury (including death) resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679 of title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury (including death) resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided for in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant, except that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.

“SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

“(a) Construction and Operation.—The Secretary, acting through the Service, shall, through grants or contracts, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting.

“(b) States.—A State described in this subsection is a State in which—

“(1) there reside urban Indian youth with a need for alcohol and substance abuse treatment services in a residential setting; and

“(2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.

“SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

“(a) In General.—The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

“(b) Donation of Property.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

“(c) Acquisition of Property.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

“(d) Priority.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian tribe or tribal organization, the Secretary shall give priority to the request for donation to the Indian tribe or tribal organization if the Secretary receives the request from the Indian tribe or tribal organization before the date on which the Secretary transfers title to the property or, if earlier, the date on which the Secretary transfers the property physically, to the urban Indian organization.

“(e) Relation to Federal Sources of Supply.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

“SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL.

“(a) Authority.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians.

“(b) Goals.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed upon between the Secretary and the grantee.

“(c) Criteria.—The Secretary shall establish criteria for the awarding of grants made under subsection (a) relating to—

“(1) the size and location of the urban Indian population to be served;

“(2) the need for the prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served;

“(3) performance standards for the urban Indian organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

“(4) the capability of the urban Indian organization to adequately perform the activities required under the grant; and

“(5) the willingness of the urban Indian organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located.

“(d) Application of Criteria.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

“SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

“The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.

“SEC. 520. REGULATIONS.

“(a) Effect of Title.—This title shall be effective on the date of enactment of this Act regardless of whether the Secretary has promulgated regulations implementing this title.

“(b) Promulgation.—

“(1) In general.—The Secretary may promulgate regulations to implement the provisions of this title.

“(2) Publication.—Proposed regulations to implement this title shall be published by the Secretary in the Federal Register not later than 270 days after the date of enactment of this Act and shall have a comment period of not less than 120 days.

“(3) Expiration of authority.—The authority to promulgate regulations under this title shall expire on the date that is 18 months after the date of enactment of this Act.

“(c) Negotiated Rulemaking Committee.—A negotiated rulemaking committee shall be established pursuant to section 565 of title 5, United States Code, to carry out this section and shall, in addition to Federal representatives, have as the majority of its members representatives of urban Indian organizations from each service area.

“(d) Adaption of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.

“SEC. 521. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

“TITLE VI—ORGANIZATIONAL IMPROVEMENTS

“SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

“(a) Establishment.—

“(1) In general.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

“(2) Assistant secretary of indian health.—The Service shall be administered by an Assistance Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

“(b) Agency.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

“(c) Functions and Duties.—The Secretary shall carry out through the Assistant Secretary of the Service—

“(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Service on such day;

“(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

“(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

“(A) this Act;

“(B) the Act of November 2, 1921 (25 U.S.C. 13);

“(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

“(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

“(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

“(4) all scholarship and loan functions carried out under title I.

“(d) Authority.—

“(1) In general.—The Secretary, acting through the Assistant Secretary, shall have the authority—

“(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

“(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

“(C) to manage, expend, and obligate all funds appropriated for the Service.

“(2) Personnel actions.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

“SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

“(a) Establishment.—

“(1) In general.—The Secretary, in consultation with tribes, tribal organizations, and urban Indian organizations, shall establish an automated management information system for the Service.

“(2) Requirements of system.—The information system established under paragraph (1) shall include—

“(A) a financial management system;

“(B) a patient care information system;

“(C) a privacy component that protects the privacy of patient information;

“(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service;

“(E) an interface mechanism for patient billing and accounts receivable system; and

“(F) a training component.

“(b) Provision of Systems to Tribes and Organizations.—The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

“(1) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service; and

“(2) meet the management information needs of the Service.

“(c) Access to Records.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

“(d) Authority To Enhance Information Technology.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

“SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

“TITLE VII—BEHAVIORAL HEALTH PROGRAMS

“SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

“(a) Purposes.—It is the purpose of this section to—

“(1) authorize and direct the Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs;

“(2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

“(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

“(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

“(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access; and

“(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

“(b) Behavioral Health Planning.—

“(1) Area-wide plans.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, encourage urban Indian organizations to develop local plans, and encourage all such groups to participate in developing area-wide plans for Indian Behavioral Health Services. The plans shall, to the extent feasible, include—

“(A) an assessment of the scope of the problem of alcohol or other substance abuse, mental illness, dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including—

“(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; and

“(ii) an estimate of the financial and human cost attributable to such illness or behavior;

“(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c); and

“(C) an estimate of the additional funding needed by the Service, Indian tribes, tribal organizations and urban Indian organizations to meet their responsibilities under the plans.

“(2) National clearinghouse.—The Secretary shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed under this section by Indian tribes, tribal organizations and by areas relating to behavioral health. The Secretary shall ensure access to such plans and outcomes by any Indian tribe, tribal organization, urban Indian organization or the Service.

“(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be utilized and adopted locally.

“(c) CONTINUUM OF CARE.—The Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, to the extent feasible and to the extent that funding is available, for the implementation of programs including—

“(1) a comprehensive continuum of behavioral health care that provides for—

“(A) community based prevention, intervention, outpatient and behavioral health aftercare;

“(B) detoxification (social and medical);

“(C) acute hospitalization;

“(D) intensive outpatient or day treatment;

“(E) residential treatment;

“(F) transitional living for those needing a temporary stable living environment that is supportive of treatment or recovery goals;

“(G) emergency shelter;

“(H) intensive case management;

“(I) traditional health care practices; and

“(J) diagnostic services, including the utilization of neurological assessment technology; and

“(2) behavioral health services for particular populations, including—

“(A) for persons from birth through age 17, child behavioral health services, that include—

“(i) pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention);

“(ii) mental health or substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco);

“(iii) services for co-occurring disorders (multiple diagnosis);

“(iv) prevention services that are focused on individuals ages 5 years through 10 years (alcohol, drug, inhalant and tobacco);

“(v) early intervention, treatment and aftercare services that are focused on individuals ages 11 years through 17 years;

“(vi) healthy choices or life style services (related to STD's, domestic violence, sexual abuse, suicide, teen pregnancy, obesity, and other risk or safety issues);

“(vii) co-morbidity services;

“(B) for persons ages 18 years through 55 years, adult behavioral health services that include—

“(i) early intervention, treatment and aftercare services;

“(ii) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

“(iii) services for co-occurring disorders (dual diagnosis) and co-morbidity;

“(iv) healthy choices and life style services (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior);

“(v) female specific treatment services for—

“(I) women at risk of giving birth to a child with a fetal alcohol disorder;

“(II) substance abuse requiring gender specific services;

“(III) sexual assault and domestic violence; and

“(IV) healthy choices and life style (parenting, partners, obesity, suicide and other related behavioral risk); and

“(vi) male specific treatment services for—

“(I) substance abuse requiring gender specific services;

“(II) sexual assault and domestic violence; and

“(III) healthy choices and life style (parenting, partners, obesity, suicide and other risk related behavior);

“(C) family behavioral health services, including—

“(i) early intervention, treatment and aftercare for affected families;

“(ii) treatment for sexual assault and domestic violence; and

“(iii) healthy choices and life style (related to parenting, partners, domestic violence and other abuse issues);

“(D) for persons age 56 years and older, elder behavioral health services including—

“(i) early intervention, treatment and aftercare services that include—

“(I) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

“(II) services for co-occurring disorders (dual diagnosis) and co-morbidity; and

“(III) healthy choices and life style services (managing conditions related to aging);

“(ii) elder women specific services that include—

“(I) treatment for substance abuse requiring gender specific services and

“(II) treatment for sexual assault, domestic violence and neglect;

“(iii) elder men specific services that include—

“(I) treatment for substance abuse requiring gender specific services; and

“(II) treatment for sexual assault, domestic violence and neglect; and

“(iv) services for dementia regardless of cause.

“(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

“(1) IN GENERAL.—The governing body of any Indian tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. Such plan should include behavioral health services, social services, intensive outpatient services, and continuing after care.

“(2) TECHNICAL ASSISTANCE.—In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian tribe or tribal organization in the development of a plan under paragraph (1). Upon the establishment of such a plan and at the request of the Indian tribe or tribal organization, such officials shall cooperate with the Indian tribe or tribal organization in the implementation of such plan.

“(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

“(e) COORDINATED PLANNING.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other Federal and State agencies, to ensure that comprehensive behavioral health services are available to Indians without regard to their place of residence.

“(f) FACILITIES ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

“SEC. 702. MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement as required under section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411), and under which the Secretaries address—

“(1) the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

“(2) the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

“(3) the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

“(4)(A) the right of Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

“(B) the right of Indians to participate in, and receive the benefit of, such services; and

“(C) the actions necessary to protect the exercise of such right;

“(5) the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

“(6) a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

“(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

“(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

"(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412); and

"(8) provide for an annual review of such agreement by the 2 Secretaries and a report which shall be submitted to Congress and made available to the Indian tribes.

"(b) SPECIFIC PROVISIONS.—The memorandum of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"(c) CONSULTATION.—The Secretary and the Secretary of the Interior shall, in developing the memorandum of agreement under subsection (a), consult with and solicit the comments of—

"(1) Indian tribes and tribal organizations;

"(2) Indian individuals;

"(3) urban Indian organizations and other Indian organizations;

"(4) behavioral health service providers.

"(d) PUBLICATION.—The memorandum of agreement under subsection (a) shall be published in the Federal Register. At the same time as the publication of such agreement in the Federal Register, the Secretary shall provide a copy of such memorandum to each Indian tribe, tribal organization, and urban Indian organization.

"SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Service, Indian tribes and tribal organizations consistent with section 701, shall provide a program of comprehensive behavioral health prevention and treatment and aftercare, including systems of care and traditional health care practices, which shall include—

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification or psychiatric hospitalization and treatment (residential and intensive outpatient);

"(C) community-based rehabilitation and aftercare;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

"(E) specialized residential treatment programs for high risk populations including pregnant and post partum women and their children;

"(F) diagnostic services utilizing, when appropriate, neuropsychiatric assessments which include the use of the most advances technology available; and

"(G) a telepsychiatry program that uses experts in the field of pediatric psychiatry, and that incorporates assessment, diagnosis and treatment for children, including those children with concurrent neurological disorders.

"(2) TARGET POPULATIONS.—The target population of the program under paragraph (1) shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary, acting through the Service (with the consent of the Indian tribe to be served), Indian tribes and tribal organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

"(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian tribes and tribal organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

"SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

"(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

"(1) provides for the training of Indians as mental health technicians; and

"(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

"(b) TRAINING.—In carrying out subsection (a)(1), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

"(c) SUPERVISION AND EVALUATION.—The Secretary shall supervise and evaluate the mental health technicians in the training program under this section.

"(d) TRADITIONAL CARE.—The Secretary shall ensure that the program established pursuant to this section involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

"SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

"Subject to section 220, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall—

"(1) in the case of a person employed as a psychologist to provide health care services, be licensed as a clinical or counseling psychologist, or working under the direct supervision of a clinical or counseling psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

"(a) FUNDING.—The Secretary, consistent with section 701, shall make funding available to Indian tribes, tribal organizations and urban Indian organization to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

"(b) USE OF FUNDS.—Funding provided pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

"(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional health care practices, cultural values, and community and family involvement.

"(c) CRITERIA.—The Secretary, in consultation with Indian tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

"(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"SEC. 707. INDIAN YOUTH PROGRAM.

"(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall, consistent with section 701, develop and implement a program for acute detoxification and treatment for Indian youth that includes behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an area office.

"(B) AREA OFFICE IN CALIFORNIA.—For purposes of this subsection, the area office in California shall be considered to be 2 area offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

"(2) FUNDING.—For the purpose of staffing and operating centers or facilities under this subsection, funding shall be made available pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act).

“(3) Location.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) that is agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

“(4) Specific provision of funds.—

“(A) In general.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

“(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska;

“(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l));

“(iii) the Southern Indian Health Council, for the purpose of staffing, operating, and maintaining a residential youth treatment facility in San Diego County, California; and

“(iv) the Navajo Nation, for the staffing, operation, and maintenance of the Four Corners Regional Adolescent Treatment Center, a residential youth treatment facility in New Mexico.

“(B) Provision of services to eligible youth.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

“(c) Intermediate Adolescent Behavioral Health Services.—

“(1) In general.—The Secretary, acting through the Service, Indian Tribes and tribal organizations, may provide intermediate behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including—

“(A) pre-treatment assistance;

“(B) inpatient, outpatient, and after-care services;

“(C) emergency care;

“(D) suicide prevention and crisis intervention; and

“(E) prevention and treatment of mental illness, and dysfunctional and -self-destructive behavior, including child abuse and family violence.

“(2) Use of funds.—Funds provided under this subsection may be used—

“(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

“(B) to hire behavioral health professionals;

“(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided; and

“(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

“(E) to provide intensive home- and community-based services, including collaborative systems of care.

“(3) Criteria.—The Secretary shall, in consultation with Indian tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

“(d) Federally Owned Structures.—

“(1) In general.—The Secretary, acting through the Service, shall, in consultation with Indian tribes and tribal organizations—

“(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youth; and

“(B) establish guidelines, in consultation with Indian tribes and tribal organizations, for determining the suitability of any such Federally owned structure to be used for local residential or regional behavioral health treatment for Indian youth.

“(2) Terms and conditions for use of structure.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian tribe or tribal organization operating the program.

“(e) Rehabilitation and Aftercare Services.—

“(1) In general.—The Secretary, an Indian tribe or tribal organization, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit, community-based rehabilitation and follow-up services for Indian youth who have significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youth after their return to their home community.

“(2) Administration.—Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

“(f) Inclusion of Family in Youth Treatment Program.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary, an Indian tribe or tribal organization shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

“(g) Multidrug Abuse Program.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youth residing in Indian communities, on Indian reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youth.

“SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT.

“(a) In General.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems.

“(b) Treatment of California.—For purposes of this section, California shall be considered to be 2 areas of the Service, 1 area whose location shall be considered to encompass the northern area of the State of California and 1 area whose jurisdiction shall be considered to encompass the remainder of the State of California.

“(c) Conversion of Certain Hospital Beds.—The Secretary shall consider the possible conversion of existing, under-utilized Service hospital beds into psychiatric units to meet needs under this section.

“SEC. 709. TRAINING AND COMMUNITY EDUCATION.

“(a) Community Education.—

“(1) In general.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement, or provide funding to enable Indian tribes and tribal organization to develop and implement, within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community.

“(2) Education.—A program under paragraph (1) shall include education concerning behavioral health for political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

“(3) Training.—Community-based training (oriented toward local capacity development) under a program under paragraph (1) shall include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment and aftercare).

“(b) Training.—The Secretary shall, either directly or through Indian tribes or tribal organization, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders, to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

“(c) Community-Based Training Models.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

“(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

“(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

“(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

“SEC. 710. BEHAVIORAL HEALTH PROGRAM.

“(a) Programs for Innovative Services.—The Secretary, acting through the Service, Indian Tribes or tribal organizations, consistent with Section 701, may develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

"(b) Criteria.—The Secretary may award funding for a project under subsection (a) to an Indian tribe or tribal organization and may consider the following criteria:

"(1) Whether the project will address significant unmet behavioral health needs among Indians.

"(2) Whether the project will serve a significant number of Indians.

"(3) Whether the project has the potential to deliver services in an efficient and effective manner.

"(4) Whether the tribe or tribal organization has the administrative and financial capability to administer the project.

"(5) Whether the project will deliver services in a manner consistent with traditional health care.

"(6) Whether the project is coordinated with, and avoids duplication of, existing services.

"(c) Funding Agreements.—For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding for projects to be operated under any funding agreement entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

"SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

"(a) Establishment of Program.—

"(1) In general.—The Secretary, consistent with Section 701, acting through Indian tribes, tribal organizations, and urban Indian organizations, shall establish and operate fetal alcohol disorders programs as provided for in this section for the purposes of meeting the health status objective specified in section 3(b).

"(2) Use of funds.—Funding provided pursuant to this section shall be used to—

"(A) develop and provide community and in-school training, education, and prevention programs relating to fetal alcohol disorders;

"(B) identify and provide behavioral health treatment to high-risk women;

"(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected persons and their families or caretakers;

"(D) develop and implement counseling and support programs in schools for fetal alcohol disorder affected children;

"(E) develop prevention and intervention models which incorporate traditional practitioners, cultural and spiritual values and community involvement;

"(F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders;

"(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities;

"(H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and

"(I) develop and fund community-based adult fetal alcohol disorder housing and support services.

"(3) Criteria.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

"(b) Provision of Services.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall—

"(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders in Indian communities; and

"(2) provide supportive services, directly or through an Indian tribe, tribal organization or urban Indian organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorders.

"(c) Task Force.—

"(1) In general.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders Task Force to advise the Secretary in carrying out subsection (b).

"(2) Composition.—The task force under paragraph (1) shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development, the Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders experts.

"(d) Applied Research.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, tribal organizations and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders.

"(e) Urban Indian Organizations.—The Secretary shall ensure that 10 percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

"(a) Establishment.—The Secretary and the Secretary of the Interior, acting through the Service, Indian tribes and tribal organizations, shall establish, consistent with section 701, in each service area, programs involving treatment for—

"(1) victims of child sexual abuse; and

"(2) perpetrators of child sexual abuse.

"(b) Use of Funds.—Funds provided under this section shall be used to—

"(1) develop and provide community education and prevention programs related to child sexual abuse;

"(2) identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse;

"(3) develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement;

"(4) develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

"(5) identify and provide behavioral health treatment to perpetrators of child sexual abuse with efforts being made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated, and to provide treatment after release to the community until it is determined that the perpetrator is not a threat to children.

"SEC. 713. BEHAVIORAL MENTAL HEALTH RESEARCH.

"(a) In General.—The Secretary, acting through the Service and in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions, for the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations and among Indians in urban areas. Research priorities under this section shall include—

"(1) the inter-relationship and inter-dependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

"(2) the development of models of prevention techniques.

"(b) Special Emphasis.—The effect of the inter-relationships and interdependencies referred to in subsection (a)(1) on children, and the development of prevention techniques under subsection (a)(2) applicable to children, shall be emphasized.

"SEC. 714. DEFINITIONS.

"In this title:

"(1) Assessment.—The term 'assessment' means the systematic collection, analysis and dissemination of information on health status, health needs and health problems.

"(2) Alcohol related neurodevelop-mental disorders.—The term 'alcohol related neurodevelop-mental disorders' or 'ARND' with respect to an individual means the individual has a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities, that behaviorally, there may be problems with irritability, and failure to thrive as infants, and that as children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgment problems.

"(3) Behavioral health.—The term 'behavioral health' means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. Such term includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

"(4) Behavioral health aftercare.—

"(A) In general.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient or outpatient treatment, to help prevent or treat relapse, including the development of an aftercare plan.

"(B) Aftercare plan.—Prior to the time at which an individual is discharged from a level of care, such as outpatient treatment, an aftercare plan shall have been developed for the individual. Such plan may use such resources as community base therapeutic group care, transitional living, a 12-step sponsor, a local 12-step or other related support group, or other community based providers (such as mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, or ministers).

"(5) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. In individual with a dual diagnosis may be referred to as a mentally ill chemical abuser.-

"(6) FETAL ALCOHOL DISORDERS.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome, or alcohol related neural developmental disorder.

"(7) FETAL ALCOHOL SYNDROME.—The term 'fetal alcohol syndrome' or 'FAS' with respect to an individual means a syndrome in which the individual has a history of maternal alcohol consumption during pregnancy, and with respect to which the following criteria should be met:

"(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

"(B) Craniofacial abnormalities with at least 2 of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

"(C) Prenatal or postnatal growth delay.

"(8) PARTIAL FAS.—The term 'partial FAS' with respect to an individual means a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose.

"(9) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.

"(10) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

"SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

"TITLE VIII—MISCELLANEOUS

"SEC. 801. REPORTS.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population, including specific comparisons of appropriations provided and those required for such parity;

"(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact, including a report on proposed changes in the allocation of funding pursuant to section 808;

"(3) a report on the use of health services by Indians—

"(A) on a national and area or other relevant geographical basis;

"(B) by gender and age;

"(C) by source of payment and type of service;

"(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

"(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act;

"(4) a report of contractors concerning health care educational loan repayments under section 110;

"(5) a general audit report on the health care educational loan repayment program as required under section 110(n);

"(6) a separate statement that specifies the amount of funds requested to carry out the provisions of section 201;

"(7) a report on infectious diseases as required under section 212;

"(8) a report on environmental and nuclear health hazards as required under section 214;

"(9) a report on the status of all health care facilities needs as required under sections 301(c)(2) and 301(d);

"(10) a report on safe water and sanitary waste disposal facilities as required under section 302(h)(1);

"(11) a report on the expenditure of nonservice funds for renovation as required under sections 305(a)(2) and 305(a)(3);

"(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities as required under section 314(a);

"(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act as required under section 403(a);

"(14) a report on services sharing of the Service, the Department of Veterans Affairs, and other Federal agency health programs as required under section 412(c)(2);

"(15) a report on the evaluation and renewal of urban Indian programs as required under section 505;

"(16) a report on the findings and conclusions derived from the demonstration project as required under section 512(a)(2);

"(17) a report on the evaluation of programs as required under section 513; and

"(18) a report on alcohol and substance abuse as required under section 701(f).

"SEC. 802. REGULATIONS.

"(a) INITIATION OF RULEMAKING PROCEDURES.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act.

"(2) PUBLICATION.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary not later than 270 days after the date of enactment of this Act and shall have not less than a 120 day comment period.

"(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

"(b) RULEMAKING COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian tribes, tribal organizations, and urban Indian organizations from each service area.

"(c) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

"(d) FAILURE TO PROMULGATE REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

"(e) SUPREMACY OF PROVISIONS.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation that is inconsistent with the provisions of this Act.

"SEC. 803. PLAN OF IMPLEMENTATION.

"Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations, shall prepare and submit to Congress a plan that shall explain the manner and schedule (including a schedule of appropriate requests), by title and section, by which the Secretary will implement the provisions of this Act.

"SEC. 804. AVAILABILITY OF FUNDS.

"Amounts appropriated under this Act shall remain available until expended.

"SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

"Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

"SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

"(1) Any member of a Federally recognized Indian tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

"(A) is a member of the Indian community served by a local program of the Service; and

"(B) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

"(a) INELIGIBLE PERSONS.—

"(1) IN GENERAL.—Any individual who—

"(A) has not attained 19 years of age;

"(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian; and

"(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

"(2) Spouses.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses or spouses who are married to members of the Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b) Programs and Services.—

"(1) Programs.—

"(A) In general.—The Secretary may provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

"(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals; and

"(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

"(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

"(II) there is no reasonable alternative health program or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

"(B) Funding agreements.—In the case of health programs operated under a funding agreement entered into under the Indian Self-Determination and Educational Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under such funding agreement is authorized to determine whether health services should be provided under such funding agreement to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

"(2) Liability for payment.—

"(A) In general.—Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880 of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program for not to exceed 1 fiscal year after the fiscal year in which collected.

"(B) Services for indigent persons.—Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

"(3) Service areas.—

"(A) Service to only one tribe.—In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

"(B) Multi-tribal areas.—In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

:"(c) Purpose for Providing Services.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

"(1) achieve stability in a medical emergency;

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum; or

"(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

"(d) Hospital Privileges.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

"(e) Definition.—In this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

"SEC. 808. REALLOCATION OF BASE RESOURCES.

"(a) Requirement of Report.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

"(b) Nonapplication of Section.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

"SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

"The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.

"SEC. 810. PROVISION OF SERVICES IN MONTANA.

"(a) In General.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cr. 1987).

"(b) Rule of Construction.—The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

"SEC. 811. MORATORIUM.

"During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration, relating to eligibility for the health care services of the Service, the Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

"SEC. 812. TRIBAL EMPLOYMENT.

"For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, Chapter 372), an Indian tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an employer.

"SEC. 813. PRIME VENDOR.

"For purposes of section 4 of Public Law 102–585 (38 U.S.C. 812) Indian tribes and tribal organizations carrying out a grant, cooperative agreement, or funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be deemed to be an executive agency and part of the Service in the and, as such, may act as an ordering agent of the Service and the employees of the tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Service.

"SEC. 814. NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT.

"(a) Establishment.—There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

"(b) Membership.—The Commission shall be composed of 25 members, to be appointed as follows:

"(1) Ten members of Congress, of which—

"(A) three members shall be from the House of Representatives and shall be appointed by the majority leader;

‘‘(B) three members shall be from the House of Representatives and shall be appointed by the minority leader;

‘‘(C) two members shall be from the Senate and shall be appointed by the majority leader; and

‘‘(D) two members shall be from the Senate and shall be appointed by the minority leader;

who shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Indians and who shall elect the chairperson and vice-chairperson of the Commission.

‘‘(2) Twelve individuals to be appointed by the members of the Commission appointed under paragraph (1), of which at least 1 shall be from each service area as currently designated by the Director of the Service, to be chosen from among 3 nominees from each such area as selected by the Indian tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the Commission of members who are familiar with various health care delivery modes and who represent tribes of various size populations.

‘‘(3) Three individuals shall be appointed by the Director of the Service from among individual who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees from each program that is funded in whole or in part by the Service primarily or exclusively for the benefit of urban Indians.

All those persons appointed under paragraphs (2) and (3) shall be members of Federally recognized Indian Tribes.

‘‘(c) Terms.—

‘‘(1) In general.—Members of the Commission shall serve for the life of the Commission.

‘‘(2) Appointment of members.—Members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection.

‘‘(3) Vacancy.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

‘‘(d) Duties of the Commission.—The Commission shall carry out the following duties and functions:

‘‘(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3) to the Commission.

‘‘(2) Make recommendations to Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a programs on existing health care delivery systems for Indian persons and the effect of such programs on the sovereign status of Indian Tribes;

‘‘(3) Establish a study committee to be composed of those members of the Commission appointed by the Director of the Service and at least 4 additional members of Congress from among the members of the Commission which shall—

‘‘(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently;

‘‘(B) make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which shall, at a minimum, address issues of eligibility, benefits to be provided, including recommendations regarding from whom such health services are to be provide,d and the cost, including mechanisms for funding of the health services to be provided;

‘‘(C) determine the effect of the enactment of such recommendations on the existing system of the delivery of health services for Indians;

‘‘(D) determine the effect of a health services entitlement program for Indian persons on the sovereign status of Indian tribes;

‘‘(E) not later than 12 months after the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to each Federally recognized Indian tribe, tribal organization and urban Indian organization for comment to the Commission; and

‘‘(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

‘‘(4) Not later than 18 months after the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian tribes.

‘‘(e) Administrative Provisions.—

‘‘(1) Compensation and expenses.—

‘‘(A) Congressional members.—Each member of the Commission appointed under subsection (b)(1) shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

‘‘(B) Other members.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b), while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

‘‘(2) Meetings and quorum.—

‘‘(A) Meetings.—The Commission shall meet at the call of the chairperson.

‘‘(B) Quorum.—A quorum of the Commission shall consist of not less than 15 members, of which not less than 6 of such members shall be appointees under subsection (b)(1) and not less than 9 of such members shall be Indians.

‘‘(3) Director and staff.—

‘‘(A) Executive director.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that for level V of the Executive Schedule.

‘‘(B) Staff.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

‘‘(C) Applicability of civil service laws.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

‘‘(D) Experts and consultants.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

‘‘(E) Facilities.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

‘‘(f) Powers.—

‘‘(1) Hearings and other activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 6 regional hearings shall be held in different areas of the United States in which large numbers of Indians are present. Such hearings shall be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this paragraph, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under this section may be counted towards the number of regional hearings required by this paragraph.

‘‘(2) Studies by GAO.—Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

‘‘(3) Cost estimates.—

‘‘(A) In general.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

‘‘(B) Reimbursements.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

‘‘(4) Detail of federal employees.—Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

"(5) Technical assistance.—Upon the request of the Commission, the head of a Federal Agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

"(6) Use of mails.—The Commission may use the United States mails in the same manner and under the same conditions as Federal Agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(7) Obtaining information.—The Commission may secure directly from the any Federal Agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

"(8) Support services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(9) Printing.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

"(g) Authorization of Appropriations.—There is authorized to be appropriated $4,000,000 to carry out this section. The amount appropriated under this subsection shall not be deducted from or affect any other appropriation for health care for Indian persons.

"SEC. 815. APPROPRIATIONS; AVAILABILITY.

"Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.".

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

SEC. 201. LIMITATIONS ON CHARGES.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period and inserting ", and"; and

(3) by adding at the end the following:

"(T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices and such payment methodology and amounts as are prescribed under regulations issued by the Secretary.".

SEC. 202. QUALIFIED INDIAN HEALTH PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1880 the following:

"QUALIFIED INDIAN HEALTH PROGRAM

"Sec. 1880A. (a) Definition of Qualified Indian Health Program.—In this section:

"(1) In general.—The term 'qualified Indian health program' means a health program operated by—

"(A) the Indian Health Service;

"(B) an Indian tribe or tribal organization or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; or

"(C) an urban Indian organization (as so defined) and which is funded in whole or in part under title V of the Indian Health Care Improvement Act.

"(2) Included programs and entities.—Such term may include 1 or more hospital, nursing home, home health program, clinic, ambulance service or other health program that provides a service for which payments may be made under this title and which is covered in the cost report submitted under this title or title XIX for the qualified Indian health program.

"(b) Eligibility for Payments.—A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as the program meets all the conditions and requirements set forth in this section.

"(c) Determination of Payments.—

"(1) In general.—Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

"(2) Definition of full cost recovery.—

"(A) In general.—Subject to subparagraph (B), in this section, the term 'full cost recovery' means the sum of—

"(i) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location, and service population of the qualified Indian health program, and which shall include direct program, administrative, and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable; and

"(ii) indirect costs which, in the case of a qualified Indian health program—

"(I) for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established, shall be not less than an amount determined on the basis of the indirect cost rate; or

"(II) for which no such rate has been established, shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

"(B) Limitation.—Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments, or deductibles when the service was provided to an Indian entitled under Federal law to receive the service from the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

"(3) Outstationing costs.—In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any Federal or State health program including the programs established under this title, title XIX, and XXI.

"(4) Determination of all-inclusive encounter or per diem amount.—

"(A) In general.—Costs identified for services addressed in a cost report submitted by a qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services.

"(B) No single report requirement.—Not all qualified Indian health programs provided or administered by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization need be combined into a single cost report.

"(C) Payment for items not covered by a cost report.—A full cost recovery payment for services not covered by a cost report shall be made on a fee-for-service, encounter, or per diem basis.

"(5) Optional determination.—The full cost recovery rate provided for in paragraphs (1) through (3) may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by the State agency responsible for administering the State plan under title XIX and shall be valid for reimbursements made under this title, title XIX, and title XXI. The costs described in paragraph (2)(A) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals—

"(A) a significant decrease in discharges;

"(B) costs for graduate medical education programs;

"(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10; and

"(D) payment for outlier cases.

"(6) Election of payment.—A qualified Indian health program may elect to receive payment for services provided under this section—

"(A) on the full cost recovery basis provided in paragraphs (1) through (5);

"(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the Federal Register;

"(C) on the same basis as other providers are reimbursed under this title, provided that the amounts determined under paragraph (c)(2)(B) shall be added to any such amount;

"(D) on the basis of any other rate or methodology applicable to the Indian Health Service or an Indian Tribe or tribal organization; or

"(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

"(d) Election of Reimbursement for Other Services.—

"(1) In general.—A qualified Indian health program may elect to be reimbursed for any service the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization may be reimbursed for under section 1880 and section 1911.

"(2) Option to include additional services.—An election under paragraph (1) may include, at the election of the qualified Indian health program—

"(A) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service;

"(B) screening, diagnostic, and therapeutic outpatient services including part-time or intermittent screening, diagnostic, and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program;

"(C) preventive primary health services as described under section 330 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided;

"(D) with respect to services for children, all services specified as part of the State plan under title XIX, the State child health plan under title XXI, and early and periodic screening, diagnostic, and treatment services as described in section 1905(r);

"(E) influenza and pneumococcal immunizations;

"(F) other immunizations for prevention of communicable diseases when targeted; and

"(G) the cost of transportation for providers or patients necessary to facilitate access for patients.".

Subtitle B—Medicaid

SEC. 211. STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking "and" at the end:

(2) in paragraph (65), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (65), the following:

"(66) if the Indian Health Service operates or funds health programs in the State or if there are Indian tribes or tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project, or other request that would have the effect of changing any aspect of the State's administration of the State plan under this title, so long as—

"(A) the term 'meaningful consultation' is defined through the negotiated rulemaking process provided for under section 802 of the Indian Health Care Improvement Act; and

"(B) such consultation is carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of that Act.".

SEC. 212. FMAP FOR SERVICES PROVIDED BY INDIAN HEALTH PROGRAMS.

The third sentence of Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended to read as follows:

"Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per cent with respect to amounts expended as medical assistance for services which are received through the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under section 1911, whether directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization and another health provider.".

SEC. 213. INDIAN HEALTH SERVICE PROGRAMS.

Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended to read as follows:

"INDIAN HEALTH SERVICE PROGRAMS

"Sec. 1911. (a) In General.—The Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan by such entities if and for so long as the Service, Indian tribe or tribal organization, or urban Indian organization provides services or provider types of a type otherwise covered under the State plan and meets the conditions and requirements which are applicable generally to the service for which it seeks reimbursement under this title and for services provided by a qualified Indian health program under section 1880A.

"(b) Period for Billing.—Notwithstanding subsection (a), if the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization which provides services of a type otherwise covered under the State plan does not meet all of the conditions and requirements of this title which are applicable generally to such services submits to the Secretary within 6 months after the date on which such reimbursement is first sought an acceptable plan for achieving compliance with such conditions and requirements, the Service, an Indian tribe or tribal organization, or urban Indian organization shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of actual compliance with such conditions and requirements during the first 12 months after the month in which such plan is submitted.

"(c) Authority To Enter Into Agreements.—The Secretary may enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the Indian Health Service, Indian tribes or tribal organizations, or urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization and another health care provider to Indians who are eligible for medical assistance under the State plan.".

Subtitle C—State Children's Health Insurance Program

SEC. 221. ENHANCED FMAP FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) In General.—Section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) In general.—Subject to paragraph (2), for purposes"; and

(2) by adding at the end the following:

"(2) Services provided by Indian programs.—Without regard to which option a State chooses under section 2101(a), the 'enhanced FMAP' for a State for a fiscal year shall be 100 per cent with respect to expenditures for child health assistance for services provided through a health program operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act).".

(b) Conforming Amendment.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by inserting "an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act)," after "Service,".

SEC. 222. DIRECT FUNDING OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Title XXI of Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. DIRECT FUNDING OF INDIAN HEALTH PROGRAMS.

"(a) In General.—The Secretary may enter into agreements directly with the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) for such entities to provide child health assistance to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside.

"(b) Transfer of Funds.—Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled to under this title to the Indian Health Service, an Indian tribe or tribal organization or an urban Indian organization—

"(1) to be administered by such entity to achieve the purposes and objectives of this title under an agreement between the State and the entity; or

"(2) under an agreement entered into under subsection (a) between the entity and the Secretary.".

Subtitle D—Authorization of Appropriations

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2002 through 2013 to carry out this title and the amendments by this title.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPEALS.

The following are repealed:

(1) Section 506 of Public Law 101-630 (25 U.S.C. 1653 note) is repealed.

(2) Section 712 of the Indian Health Care Amendments of 1988 is repealed.

SEC. 302. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 303. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 2001.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 213. A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce an amendment to the National Trails System Act which would update the feasibility and suitability studies of four national historic trails and allow possible additions to them. The trails in question are the Oregon, the Mormon, the Pony Express and the California National Historic Trails.

In 1978, the Oregon and Mormon trails were established by the National Trails System Act. At that time the language of the bill defined these trails as "point to point," limiting them to one beginning point and one destination. The Mormon Pioneer National Historic Trail at that time was defined as the route Brigham Young took in 1846 through Iowa and then to the Salt Lake Valley in 1847. The Oregon Trail was defined narrowly as the route taken by settlers from Independence, Missouri, to Oregon City from 1841 to 1848. It, too, was limited to a single trail with only three variants.

Later, in 1992, Congress passed an amendment for the establishment of the California and Pony Express National Historic Trails. This amendment broadened the possibility of trail variants for the California Trail and provided a more accurate depiction of the original trail. However, the legislation I am introducing today will provide additional authority for variations to these trails.

To those of us in the West, these trails are the highways of our history. With this legislation, I hope to capture the stories made along the side roads, as well. In many cases, our most interesting and telling history was made along the variations of the main trails. Since the enactment of the National Trails System Act in 1978, there has been a great deal of support to broaden the Act to include these side roads to history.

Not every pioneer company embarked on their journey from Omaha, Nebraska or Independence, Missouri. Tens of thousands of settlers began from other starting points. These trail variations and alternate routes show the ingenuity and adaptability of the poineers as they were forced to contend with inclement weather, lack of water, difficult terrain, and hostile Native American tribes. The variant routes taken by the pioneers tell important stories that would otherwise slip through the cracks under a strict interpretation of the National Trails System Act.

The Act requires that comprehensive management and use plans be prepared for all historic trails. In 1981, such plans were completed for the Mormon and Oregon trails. Since that time, however, endless hours of research by the Park Service and trails organizations have produced a more complete picture of the westward expansion. The National Park Service has determined, however, that legislation is required to update the trails with this newfound history.

That is why I am introducing this legislation today. This bill would authorize the study of further important additions to the California, Mormon Pioneer, Oregon, and Pony Express National Historic Trails and allow for a more complete story to be told of our history in the West.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. CONRAD, Mr. DASCHLE, and Mr. CAMPBELL):

S. 214. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to Committee on Indian Affairs.

Mr. McCAIN. Mr. President, I rise to introduce legislation to designate the Director of the Indian Health Service as an Assistant Secretary for Indian Health within the Department of Health and Human Services. My colleagues, Senators INOUYE, CONRAD, DASCHLE and CAMPBELL are joining me in this effort as original co-sponsors. I am pleased to note that Congressman Nethercutt from Washington will introduce companion legislation on the House side.

The purpose of this legislation is simple. It will redesignate the current Director of the Indian Health Service, IHS, as a new Assistant Secretary within the Department of Health and Human Services to be responsible for Indian health policy and budgetary matters.

As the primary health care delivery system, the Indian Health Service is the principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.5 million Indian people are served every year by the IHS. At its current capacity, the IHS estimates that it can only meet about 60 percent of tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill is to respond to the desire by Indian people for a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of the Tribal governments.

This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the federal trust responsibility toward Indian tribes. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

Tribal communities are in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle and the new Administration to ensure prompt passage of this legislation. I ask unanimous consent that the full text of this bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health in order to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes— .

(1) facilitate advocacy for the development of appropriate Indian health policy; and

(2) promote consultation on matters related to Indian health.

(b) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services (referred to in this section as the "Secretary") may designate. The Assistant Secretary for Indian Health shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

(5) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.

(c) References.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) Rate of Pay.—

(1) Positions at level IV.—Section 5315 of title 5, United States Code, is amended—

(A) by striking the following:

"Assistant Secretaries of Health and Human Services (6)."; and

(B) by inserting the following:

"Assistant Secretaries of Health and Human Services (7).".

(2) Positions at level V.—Section 5316 of title 5, United States Code, is amended by striking the following:

"Director, Indian Health Service, Department of Health and Human Services.".

(e) Duties of Assistant Secretary for Indian Health.—Section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1661(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the second sentence of paragraph (1), as so designated, by striking "a Director," and inserting "the Assistant Secretary for Indian Health,"; and

(3) by striking the third sentence of paragraph (1) and all that follows through the end of the subsection and inserting the following: "The Assistant Secretary for Indian Health shall carry out the duties specified in paragraph (2).

"(2) The Assistant Secretary for Indian Health shall—

"(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

"(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

"(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

"(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

"(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.".

(f) Continued Service by Incumbent.—The individual serving in the position of Director of the Indian Health Service on the date preceding the date of enactment of this Act may serve as Assistant Secretary for Indian Health, at the pleasure of the President after the date of enactment of this Act.

(g) Conforming Amendments.—

(1) Amendments to Indian Health Care Improvement Act.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended—

(A) in section 601—

(i) in subsection (c), by striking "Director of the Indian Health Service" both places it appears and inserting "Assistant Secretary for Indian Health"; and

(ii) in subsection (d), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health"; and

(B) in section 816(c)(1), by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(2) Amendments to other provisions of law.—The following provisions are each amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health":

(A) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(B) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(C) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)).

By Ms. STABENOW:

S. 215. A bill to amend the Federal Food, Drug, and Cosmetic Act to permit importation in personal baggage and by mail of certain covered products for personal use from certain foreign countries and to correct impediments in implementation of the Medicine Equity and Drug Safety Act of 2000; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, today I rise to introduce my first bill in the Senate, the Medication Equity and Drug Savings Act, or the MEDS Act.

On January 22, a little over a week ago, I had the privilege of addressing my colleagues in my first speech on the Senate floor. The topic of the speech was health care, specifically the need to pass a strong Patients' Bill of Rights. I pledged my commitment to making health care a priority during my tenure in this esteemed body.

Today, I am pleased to share with my colleagues that I am taking the next step in keeping my promise by introducing a bill that addresses another priority health care issue: the price of prescription drugs. We all know that providing prescription drugs for seniors has become a very important issue for the American public. In fact, this was a key issue in many campaigns throughout the country, including my own.

On a fundamental level, I believe everyone should have access to affordable prescription drugs, especially senior citizens enrolled in Medicare and the disabled. It is an outrage that not only must those seniors, who rely solely on Medicare for their health insurance, pay for all of their medications out of their own pockets, but that in many instances they pay more for the same drug than their counterparts with other insurance.

So we have situations where those without insurance, and most often this falls on our seniors—but anyone without insurance is most often walking into the pharmacy and paying more. We did a study in my State that showed, on average, they paid twice as much as someone with insurance for the very same medications.

I have conducted several prescription drug price studies in Michigan, and I have learned that, in fact, there is a genuine problem that touches the lives of so many people whom I represent. My concerns have been confirmed by literally thousands of letters and e-mails and phone calls from seniors and families who cannot afford to buy their medications.

I have been saddened by the sheer number of seniors who confided in me that the cost of their drugs is so high that they are often forced to give up their meals or are not able to heat their homes. In Michigan that can be very serious in the wintertime. This is in order to buy their medications.

These are not new stories. I know my colleagues have heard these stories as well, but they are real. They are not just stories. They are affecting people today. As we speak, there are seniors somewhere deciding whether or not they are going to skip their meals to get their medicine, or whether they are going to eat and not have the medications they need.

I also know from hearing from doctors in my district who are worried about seniors, who decided to do their own self-regulation. They cannot afford all their pills, so they will skip a couple of pills, or they will take them every other day, or cut them in half. Oftentimes they have been placed in serious jeopardy as to their health because they have not been able to afford their medications and they have taken them inappropriately.

The bottom line is that Medicare should include a defined, voluntary prescription drug benefit to help cover the costs of prescription drugs for seniors and the disabled. I am committed to working with my colleagues across the aisle, and the administration, to finish what we started last year and create this new component of Medicare that is absolutely critical. Without it, we are not fulfilling the promise of universal health care for those over the age of 65, or the disabled. If we do not cover medications, we are not providing health care in the truest sense for those individuals.

In fact, one of the very first bills I cosponsored this year was S. 10, a bill that would create this important benefit in the Medicare program. I am ready to work with my colleagues to make sure that we do whatever it takes to update Medicare and create a defined benefit that will make such an incredible difference in the lives of seniors and their families in my great State of Michigan and all across the country. As we work on this complex issue, there are other approaches we can take in a more immediate sense to cut the costs of prescription drugs.

Last year, Congress passed and the President signed into law an important new Act that would permit U.S. manufactured, FDA approved drugs to be reimported back into the United States by wholesalers. I firmly believe that implementing this Act could substantially reduce the cost of drugs, not just for seniors, but for everyone.

Many of my colleagues may remember that during my campaign I organized several bus trips to Canada. As you know, Canada is just a short trip over a bridge or through a tunnel for many residents of Michigan. What I discovered on my bus trips was almost unbelievable.

With just a short drive across the border, U.S. citizens can substantially reduce the cost of their medications by purchasing them in Canadian pharmacies. The difference in price for medications was absolutely shocking. A price study I conducted, comparing the price of several drugs purchased in the U.S. to the Canadian prices, conformed what we saw happening on our bus trips—the price of the same drug purchased in Canada is substantially lower than the average U.S. price.

I have brought a chart to the floor to show my colleagues some of the incredible differences between the average price in Canada and the average price in Michigan. I would like to point those out today.

Zocor, a drug to reduce cholesterol, costs $109.73 in Michigan for 50, 5 milligram tablets. The same drug costs only $46.17 in Canada. That is a 138 percent difference in price.

Prilosec, a drug to treat ulcers $115.37 in Michigan for 20, 20 milligram capsules. The same drug costs only $55.10 in Canada. That is a 109 percent difference in price.

Procardia XL, a drug to treat heart problems, costs $133.36 for 100, 30 milligram tablets in Michigan. The same drug costs only $74.25 in Canada. That is an 80 percent difference in price.

Norvasc, a drug to treat high blood pressure, costs $116.79 for 90, 5 milligram tablets. The same drug costs only $89.91 in Canada. That is a 30 percent difference in price.

Tamoxifen, a drug to treat breast cancer, costs $136.50 in Michigan for a one month supply. The same drug costs only $15.92 in Canada. That is an 88 percent savings in price.

Zoloft, a drug to treat depression, costs $220.64 for 100, 50 milligram tablets in Michigan. The same drug costs $129.05 in Canada. That is a 30 percent difference in price.

These are all drugs that have been manufactured in the United States and have met all FDA manufacturing, safety and purity requirements. Furthermore, because these are U.S. drugs, the companies developing and manufacturing them have all benefited from substantial assistance from the U.S. government, including NIH supported research and the Research and Development tax credit. Furthermore, a great deal of this research is conducted in state universities.

I believe that U.S. citizens should have access to these U.S. drugs that are sold at lower prices in other countries. Competition is key to ensuring prices that consumers are willing to pay. Keeping the Canadian border, as well as other borders, closed is an obstacle to competition and is serving to maintain artificially high prices for drugs in the United States. I believe that permitting U.S. wholesalers, such as pharmacies, to bring lower priced drugs back into this country could reduce the price of drugs for every American.

As my colleagues know, the Secretary of Health and Human Services was given broad discretion in implementing the wholesale reimportation provision of the Act. The former Secretary expressed concerns that the provision may not provide cost savings and could pose risks to the public health and opted not to promulgate rules. I understand that my colleagues are urging the new Secretary to reconsider this decision and to begin the implementation process. I am hopeful this may happen and would like to work with my colleagues to forward this effort.

Nonetheless, I recognize that there are some concerns with the law enacted last year. My bill addresses these concerns by correcting these impediments that may delay the Secretary from promulgating regulations and permitting reimportation. Furthermore, my bill directs the Secretary to dispense with the delay and instructs him to begin the rulemaking process within 30 days of enactment of the bill.

The first of the concerns about wholesale reimportation addressed by my bill is the sunset provision. My bill would lift the 5 year sunset imposed in the Act. Critics argued that sunsetting the provision would be a disincentive for distributors to develop ways to comply with the reimportation requirements when there was the possibility that reimportation could be prohibited again in the near future.

Careful thought was put into the requirements to ensure consumers would be protected. I believe reimporters should be given every opportunity to meet these requirement and that removing the sunset will give these distributors what they need.

Further, I believe consumers should always have access to U.S. manufactured drugs as long as they comply with FDA safety requirements and there is no need for a sunset. If Congress or the administration identifies safety concerns in the future, they should be addressed by revising the reimportation safety requirements, not sunsetting the entire provision of the law.

The act also did not specify that reimorters could use the manufacturers' FDA-approved labels. These labels are required by law if the products are to be sold in the United States. My bill would make those labels available to the reimporters from the manufacturers for a small fee.

Finally, while the act prohibited manufacturers from entering into agreements with distributors that would interfere with reimportation of drugs, critics argue this provision was not strong enough to work. My legislation tightens up this section by prohibiting manufacturers from discriminating against wholesalers simply because they intend to reimport the product.

The bill also has stronger language prohibiting price fixing. Wholesale reimportation of prescription drugs is only half the story. While I think it is critical that wholesalers be permitted to bring U.S.-manufactured drugs back into the country to reduce the price for consumers, I also believe individuals should be able to cross the border and purchase medication for themselves.

The act we passed last year did not change the current law which prohibits individuals from bringing medications across the border for their own use. That is why my bill also makes personal reimportation legal. I believe individuals should be able to cross the border and purchase prescription drugs at a lower price for their own use.

The FDA currently has an enforcement policy that permits individuals who meet specific requirements to bring a 90-day supply of medication with them into the United States from another country, and my legislation would codify the current enforcement policy into law. It requires essentially the same safety precautions currently expected of individuals who bring medication over the border under the FDA's enforcement policy.

The bill also recognizes that some individuals may be too ill to cross the borders themselves and permits them to designate a proxy to bring the medication back for them as long as they provide a letter from their doctor indicating that the trip to another country would endanger their health.

The bill also provides opportunities for individuals to order medication over the Internet—there are other new sites being developed—and other means—hotlines, et cetera—in order to also have prescription drugs delivered by mail.

I am committed to this issue of making prescription drugs more affordable for everyone. This is a matter of fairness. This bill is a matter of fairness to Americans, young and old, who need to have access to affordable prescription drugs. We as Americans ought not to be underwriting the research and at the same time, after the medications, as great as they are, are developed, manufactured, and sold, have Americans paying on average twice as much as those in other countries. That makes no sense to me.

I am committed to working with my colleagues on both sides of the aisle. I appreciate the time I have been given today. This is a critical issue. I cannot think of a more serious issue affecting particularly older people today than the issue of access to medications. I think it is shameful that we have even one senior who is having to choose today, tomorrow, or next week between eating or taking their medicine. We can fix that. One way is to start with this legislation which opens our borders and allows real competition for the best price for American citizens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act maybe cited as the "Medication Equity and Drug Savings Act".

SEC. 2. IMPORTATION OF COVERED PRODUCTS FOR PERSONAL USE.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

"SEC. 805. IMPORTATION OF COVERED PRODUCTS FOR PERSONAL USE.

"(a) DEFINITIONS.—In this section:

"(1) COVERED PRODUCT.—The term 'covered product' means a prescription drug described in section 503(b)(1).

"(2) FOREIGN COUNTRY.—The term 'foreign country' means—

"(A) Australia, Canada, Israel, Japan, New Zealand, Switzerland, and South Africa; and

"(B) any other country, union, or economic area that the Secretary designates for the purposes of this section, subject to such limitations as the Secretary determines to be appropriate to protect the public health.

"(3) MARKET VALUE.—The term 'market value' means—

"(A) the price paid for a covered product in foreign country; or

"(B) in the case of a gift, the price at which the covered product is being sold in the foreign country from which the covered product is imported.

"(b) IMPORTATION IN PERSON.—

"(1) REGULATIONS.—Notwithstanding subsections (d) and (t) of section 301 and section 801(a), the Secretary shall promulgate regulations permitting individuals to import into the United States from a foreign country, in personal baggage, a covered product that meets—

"(A) the conditions specified in paragraph (2); and

"(B) such additional criteria as the Secretary specifies to ensure the safety of patients in the United States.

"(2) CONDITIONS.—A covered product may be imported under the regulations if—

"(A) the intended use of the covered product is appropriately identified;

"(B) the covered product is not considered to represent a significant health risk (as determined by the Secretary without any consideration given to the cost or availability of such a product in the United States); and

"(C) the individual seeking to import the covered product—

"(i) states in writing that the covered product is for the personal use of the individual;

"(ii) seeks to import a quantity of the covered product appropriate for personal use, such as a 90-day supply;

"(iii) provides the name and address of a health professional licensed to prescribe drugs in the United States that is responsible for treatment with the covered product or provides evidence that the covered product is for the continuation of a treatment begun in a foreign country;

"(iv) provides a detailed description of the covered product being imported, including the name, quantity, and market value of the covered product;

"(v) provides the time when and the place where the covered product is purchased;

"(vi) provides the port of entry through which the covered product is imported;

"(vii) provides the name, address, and telephone number of the individual who is importing the covered product; and

"(viii) provides any other information that the Secretary determines to be necessary, including such information as the Secretary determines to be appropriate to identify the facility in which the covered product was manufactured.

"(3) IMPORTATION BY AN INDIVIDUAL OTHER THAN THE PATIENT.—The regulations shall permit an individual who seeks to import a covered product under this subsection to designate another individual to effectuate the importation if the individual submits to the Secretary a certification by a health professional licensed to prescribe drugs in the United States that travelling to a foreign country to effectuate the importation would pose a significant risk to the health of the individual.

"(4) CONSULTATION.—In promulgating regulations under paragraph (1), the Secretary shall consult with the United States Trade Representative and the Commissioner of Customs.

"(c) IMPORTATION BY MAIL.—

"(1) REGULATIONS.—Notwithstanding subsections (d) and (t) of section 301 and section 801(a), the Secretary shall promulgate regulations permitting individuals to import into the United States by mail a covered product that meets such criteria as the Secretary specifies to ensure the safety of patients in the United States.

"(2) CRITERIA.—In promulgating regulations under paragraph (1), the Secretary shall impose the conditions specified in subsection (b)(2) to the maximum extent practicable.

"(3) CONSULTATION.—In promulgating regulations under paragraph (1), the Secretary shall consult with the United States Trade Representative and the Commissioner of Customs.

"(d) RECORDS.—Any information documenting the importation of a covered product under subsections (b) and (c) shall be gathered and maintained by the Secretary for such period as the Secretary determines to be appropriate.

"(e) STUDY AND REPORT.—

"(1) STUDY.—The Secretary shall conduct a study on the imports permitted under this section, taking into consideration the information received under subsections (b) and (c).

"(2) EVALUATIONS.—In conducting the study, the Secretary shall evaluate—

"(A) the safety and purity of the covered products imported; and

"(B) patent, trade, and other issues that may have an effect on the safety or availability of the covered products.

"(3) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the results of the study.

"(f) NO EFFECT ON OTHER AUTHORITY.—Nothing in this section limits the statutory, regulatory, or enforcement authority of the Secretary relating to importation of covered products, other than the importation described in subsections (b) and (c).

"(g) LIMITATION.—Information collected under this section shall be subject to section 522a of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—Section 801(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(1)) is amended by striking "section 804" and inserting "sections 804 and 805".

SEC. 3. CORRECTION OF IMPEDIMENTS IN IMPLEMENTATION OF MEDICINE EQUITY AND DRUG SAFETY ACT OF 2000.

(a) ACCESS TO LABELING TO PERMIT IMPORTATION.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) specify a fair and reasonable fee that a manufacturer may charge an importer for printing and shipping labels for a covered product for use by the importer.";

(2) in subsection (e)(2), by inserting after "used only for purposes of testing" the following: "or the labeling of covered products"; and

(3) in subsection (h)—

(A) by striking "No manufacturer" and inserting the following:

"(1) IN GENERAL.—No manufacturer"; and

(B) by adding at the end the following:

"(2) NO CONDITIONS FOR LABELING.—No manufacturer of a covered product may impose any condition for the privilege of an importer in using labeling for a covered product, except a requirement that the importer pay a fee for such use established by regulation under subsection (b)(4).".

(b) PROHIBITION OF PRICING CONDITIONS.—Paragraph (1) of section 804(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(h)) (as designated by subsection (a)(3)(A)) is amended by inserting before the period at the end the following: "that—

"(A) imposes a condition regarding the price at which an importer may resell a covered product; or

"(B) discriminates against a person on the basis of—

"(i) importation by the person of a covered product imported under subsection (a); or

"(ii) sale or distribution by the person of such covered products".

(c) CONDITIONS FOR TAKING EFFECT.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended by striking subsection (l) and inserting the following:

"(l) CONDITIONS FOR TAKING EFFECT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall become effective only if the Secretary certifies to Congress that there is no reasonable likelihood that the implementation of this section would pose any appreciable additional risk to the public health or safety.

"(2) REGULATIONS.—Notwithstanding the failure of the Secretary to make a certification under paragraph (1), the Secretary, not later than 30 days after the date of enactment of this paragraph, shall commence a rulemaking for the purpose of formulating regulations to enable the Secretary to implement this section immediately upon making such a certification.".

(d) REPEAL OF SUNSET PROVISION.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended by striking subsection (m).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) (as amended by subsection (d)) is amended by adding at the end the following:

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2002 and each subsequent fiscal year such sums as are necessary to carry out this section.".

By Mr. SPECTER (for himself, Mr. HARKIN, Mr. BIDEN, Mr. JEFFORDS, and Mr. CHAFEE):

S. 216. A bill to establish a Commission for the comprehensive study of voting procedures in Federal, State, and local elections, and for other purposes; to the Committee on Rules and Administration.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which seeks to modernize Federal election voting procedures throughout the United States. The 2000 election saga is now over and, in the words of President John F. Kennedy, "Our task now is not to fix the blame for the past, but to fix the course for the future."

I believe that had we studied our country's voting and monitoring procedures after President Kennedy's election, we would have in place today a uniform Federal election system that would have avoided the very problem presented in Florida. The presidential election of the year 2000 has drawn attention to several issues relating to current voting technologies. The central question is, how can we ensure fair, reliable, prompt and secure voting procedures?

In this electronic age—in a nation that has put a man on the moon and an ATM machine on every corner—we have no excuse not to ensure that we have an accurate voting system in which every person's vote counts. Thousands of my Pennsylvania constituents raise similar questions relating to the paradox of the "Internet age" and antiquated voting procedures. In order to move the voting process to the point we expect in the 21st century, we must establish a system that will improve the integrity of elections and facilitate faster, more accurate results and overcome the weaknesses of older election technology.

It is not really practical for someone to layout an entire bill with the precise procedures to implement these objectives, but it seems to me that it will be useful to establish a Commission which would take up the question of how to reform our Federal election procedures. On November 14, 2000, the first legislative day following the presidential election, I introduced legislation addressing the issue of modernizing our voting procedures. Today, I am reintroducing essentially the same bill with my distinguished colleague, Senator HARKIN, as the lead cosponsor. This bill would establish a Commission for the Comprehensive Study of Voting Procedures which would take up the very question of the best methods to ensure accurate, electronic, and timely reporting of vote counts. The Commission would then submit a report to the President and Congress which would include recommendations to reform or augment current voting procedures for Federal elections. Further, this bill would authorize matching grants for States and localities to implement the Commission's recommendations in relation to Federal elections. Congress should address this issue as least as to Federal elections, leaving the matters of State and local elections to State officials under Federalist concepts.

Specifically, my bill would create a 6 member Commission with the President, Senate Majority Leader, Senate Minority Leader, Speaker of the House, and House Minority Leader each appointing one member; and the Director of the Office of Election Administration of the Federal Election Commission serving as a advisory, non-voting member. The Commission would conduct a thorough study of all issues relating to voting procedures in Federal, State, and local elections, including the following: (1) Voting procedures in Federal, State, and local government elections; (2) Current voting procedures which represent the best practices in Federal, State, and local government elections; (3) Current legislation and regulatory efforts which affect voting procedures; (4) Implementing standardized voting procedures, including technology, for Federal, State, and local government elections; (5) Speed and timeliness of reporting vote counts in Federal, State, and local government elections; (6) Accuracy of vote counts in Federal, State, and local government elections; (7) Security of voting procedures in Federal, State, and local government elections; (8) Accessibility of voting procedures for individuals with disabilities and the elderly; and (9) Level of matching grant funding necessary to enable States and localities to implement the recommendations of the Commission for the modernization of State and local voting procedures. The details of this bill are incorporated in the attached section-by-section analysis.

Studies have shown that more than half of the nation's registered voters are currently using outdated voting systems. A recent USA Today article noted that most voters across our country still punch paper ballots, even though experts say that system is more vulnerable to voter error than any other. In addition, approximately 20% of voters use mechanical-lever machines that are no longer manufactured, while more than 25% of voters fill in a circle, square, or arrow next to their choice of candidates on a ballot.

My bill is necessary to prevent a recurrence of the problems that threatened the 2000 presidential election whose problems could have been avoided if we had modernized voting and monitoring procedures. Voting is the fundamental safeguard of our democracy and we have the technological power to ensure that every person's vote does count. The time is now to repair the problems of our patchwork system in order to restore the faith of American voters in our Federal election process. Mr. President, I ask that the full text of the bill and a section by section analysis be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on the Comprehensive Study of Voting Procedures Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are increasingly concerned about current voting procedures;

(2) Americans are increasingly concerned about the speed and timeliness of vote counts;

(3) Americans are increasingly concerned about the accuracy of vote counts;

(4) Americans are increasingly concerned about the security of voting procedures;

(5) the shift in the United States is to the increasing use of technology which calls for a reassessment of the use of standardized technology for Federal elections; and

(6) there is a need for Congress to establish a method for standardizing voting procedures in order to ensure the integrity of Federal elections.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established the Commission on the Comprehensive Study of Voting Procedures (in this Act referred to as the "Commission").

SEC. 4. DUTIES OF THE COMMISSION; MATCHING GRANT PROGRAM.

(a) STUDY.—Not later than 1 year after the date on which all of the members of the Commission have been appointed under section 5, the Commission shall complete a thorough study of all issues relating to voting procedures in Federal, State, and local elections, including the following:

(1) Voting procedures in Federal, State, and local government elections.

(2) Voting procedures that represent the best practices in Federal, State, and local government elections.

(3) Legislation and regulatory efforts that affect voting procedures issues.

(4) The implementation of standardized voting procedures, including standardized technology, for Federal, State, and local government elections.

(5) The speed and timeliness of vote counts in Federal, State and local elections.

(6) The accuracy of vote counts in Federal, State and local elections.

(7) The security of voting procedures in Federal, State and local elections.

(8) The accessibility of voting procedures for individuals with disabilities and the elderly.

(9) The level of matching grant funding necessary to enable States and localities to implement the recommendations made by the Commission under subsection (b) for the modernization of State and local voting procedures.

(b) Recommendations.—The Commission shall develop recommendations with respect to Federal elections matters.

(c) Reports.—

(1) Final report.—Not later than 180 days after the expiration of the period referred to in subsection (a), the Commission shall submit a report, that has been approved by a majority of the members of the Commission, to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) Interim reports.—The Commission may submit to the President and Congress any interim reports that are approved by a majority of the members of the Commission.

(3) Additional reports.—The Commission may, together with the report submitted under paragraph (1), submit additional reports that contain any dissenting or minority opinions of the members of the Commission.

(d) Matching Grant Program.—

(1) Authority.—After the submission of the final report under subsection (c)(1), the Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs, shall award grants to State and local governments to enable such governments to implement the recommendations made by the Commission under subsection (b).

(2) Application.—To be eligible to receive a grant under paragraph (1), a State or local government shall prepare and submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may require including an assurance that the applicant will comply with the requirements of paragraph (3).

(3) Matching funds.—The Attorney General may not award a grant to a State or local government under this subsection unless the government agrees to makes available (directly or through donations from public or private entities) non-Federal contributions toward the activities to be conducted under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

(4) Amount of grant.—The Attorney General shall determine the amount of each grant under this subsection based on the recommendations made by the Commission under subsection (b).

(5) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection, the amounts recommended for each fiscal year by the Commission under subsection (b) as being necessary for the modernization of State and local voting procedures with respect to Federal elections.

SEC. 5. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of—

(1) five voting members of whom—

(A) one shall be appointed by the President;

(B) one shall be appointed by the majority leader of the Senate;

(C) one shall be appointed by the minority leader of the Senate;

(D) one shall be appointed by the Speaker of the House of Representatives; and

(E) one shall be appointed by the minority leader of the House of Representatives; and

(2) the Director of the Office of Election Administration of the Federal Election Commission who shall be an advisory, nonvoting member.

(b) Date of Appointment.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) Terms.—Each member of the Commission shall be appointed for the life of the Commission.

(d) Vacancies.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Meetings.—

(1) In general.—The Commission shall meet at the call of the Chairperson or a majority if its members.

(2) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Chairperson and Vice Chairperson.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 6. POWERS OF THE COMMISSION.

(a) Hearings and Sessions.—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Website.—For purposes of conducting the study under section 4(a), the Commission shall establish a website to facilitate public comment and participation.

(d) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) Administrative Support Services.—Upon the request of the Chairperson of the Commission, the Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(f) Contracts.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes (42 U.S.C. 5).

(g) Gifts and Donations.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 8. LIMITATION ON CONTRACTING AUTHORITY.

Any new contracting authority provided for in this Act shall be effective only to the extent, or in the amounts, provided for in advance in appropriations Acts.

SEC. 9. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 4.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to prohibit the enactment of an Act with respect to voting procedures during the period in which the Commission is carrying out its duties under this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Commission to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SECTION-BY-SECTION ANALYSIS—THE COMMISSION FOR THE COMPREHENSIVE STUDY OF VOTING PROCEDURES ACT OF 2001

Sections 1–2. Denotes the title of the bill and enumerates the findings, which include increasing concern over voting procedures; increasing concern over the speed, timeliness, and accuracy of voting counts; increasing use of technology by American citizens; and increasing need for standardized voting technology and standardized voting procedures in Federal elections.

Section 3. Establishes the Commission for the Comprehensive Study of Voting Procedures.

Section 4. Directs the Commission to conduct a study of issues relating to voting procedures, which should take no more than one year from the appointment of the full Commission and should include the following:

Monitoring voting procedures in Federal, State, and local government elections;

Current voting procedures which represent the best practices in Federal, State, and local government elections;

Current legislation and regulatory efforts which affect voting procedures issues;

Implementing standardized voting procedures, including standardized technology, for Federal, State, and local government elections;

Speed and timeliness of reporting vote counts in Federal, State, and local government elections;

Accuracy of vote counts in Federal, State, and local government elections;

Security of voting procedures in Federal, State, and local government elections;

Accessibility of voting procedures for individuals with disabilities and the elderly;

Level of matching grant funding necessary to enable States and localities to implement the recommendations of the Commission for the modernization of State and local voting procedures.

Requires the Commission to submit a report to Congress on its findings, including any recommendations for legislation to reform or augment current voting procedures, within 180 days of completing their study.

Establishes a matching grant program for States and localities under the Assistant Attorney General for the Office of Justice Programs, following the submissions of the Commission's final report. Also, authorizes an amount to be appropriated as the Commission finds necessary for States and localities to implement the recommendations of the Commission with respect to Federal elections.

Section 5. Specifies the membership of the Commission. Stipulates that the Commission consist of 6 members appointed as follows:

1 by the President
1 by the Senate Majority Leader
1 by the Senate Minority Leader
1 by the Speaker of the House
1 by the House Minority Leader
the Director of the Office of Election Administration of the Federal Election Commission.

Sections 6–7. Authorizes powers to the Commission, establishes a Web site to facilitate public participation and comment, and provides for the hiring of a Director and staff.

Section 8–9. Limits the contracting authority of the Commission to those provided under appropriations and specifies that the Commission terminate 30 days after the final report is submitted.

Section 10–11. Specifies the caveat that the Act will not prohibit the enactment of legislation on voting procedure issues during the existence of the Commission and authorizes appropriations.

Mr. HARKIN. Mr. President, I am pleased to join with Senator SPECTER on the introduction of the Commission on the Comprehensive Study of Voting Procedures Act of 2001. This measure is very similar to the one we introduced soon after last year's election. I think that we can all agree that this year's Presidential election has exposed a number of serious flaws in Florida's voting system, as well as in those of many states around the country.

First, thousands of ballots were not counted due to voter error. Some people voted for two candidates. Some voted for no candidate. And thousands who voted for just one candidate did so in such a way that their ballots could not be accurately read by vote-counting machines.

Second, the systems we traditionally use to decide elections—systems that can determine the results of an election that is won by one percent or two percent or five percent of the vote—simply aren't accurate enough to decide an election based on a margin of just hundredths of one percent. For example, ask any election expert in the country, and they'll tell you that punch card machines just aren't up to such a task. The press late last year was filled with reports and analysis showing that punch card systems have a far greater proportion of undercounted votes than other systems.

We also now know that butterfly ballots were not the wisest idea. And it's not just a matter of avoiding that particular design. We've also got to develop a mechanism to ensure that ballots are designed in ways that voter error is minimized. In addition, we learned that some Floridians thought they were registered to vote. However, when they arrived at the polls, they found that their names were not listed on the registration roles. These citizens were not allowed to vote in Florida.

Clearly, our voting system has flaws. However there's nothing wrong with our voting system that can't be fixed by what's right with it. For example, in Iowa, we have a law that allows any potential voter who is not found on the registration roles to cast a "challenged ballot." This challenged ballot is like an absentee ballot. It's put in an envelope, and election officials spend the days immediately after the election rechecking registration roles for clerical errors.

If an error was made, and a person was indeed registered to vote, then his or her challenged ballot is counted. This isn't a perfect solution, but it ensures that fewer people fall through the cracks. And there are more creative answers like this just waiting to be discovered in innovative, forward-thinking counties throughout America. That's why Senator SPECTER and I have introduced a bill designed to revamp our election systems to make them as clear, accessible and accurate as possible.

The Specter-Harkin bill establishes a bipartisan commission which would spend one year examining election practices throughout America. The Commission would seek to discover the strengths and weaknesses in our election system in order to determine the best course of action for the future.

The Commission would specifically be responsible for studying the following:

(1) Voting procedures in Federal, State, and local government elections.

(2) Voting procedures that represent the best practices in Federal, State, and local government elections.

(3) Legislation and regulatory efforts that affect voting procedures issues.

(4) The implementation of standardized voting procedures, including standardized technology for Federal, State, and local government elections.

(5) The speed and timeliness of vote counts in Federal, State and local elections.

(6) The accuracy of vote counts in Federal, State and local elections.

(7) The security of voting procedures in Federal, State and local elections.

(8) The accessibility of voting procedures for individuals with disabilities and the elderly.

(9) The level of matching grant funding necessary to implement the Commission's recommendations.

Lastly, the bill authorizes a one-to-one matching grant program subject to the appropriation of the funds.

The commission would seek to answer questions like the following: What are the latest innovations in voting technology? What are the best failsafe systems we can install to alert voters that they've voted for too many candidates or too few? Are we doing everything we can to make our voting system accessible to the elderly, people with disabilities, and others with special needs?

The next Presidential election is less than four years away. By allotting 12 full months for the Commission to study our voting systems, we'll leave time for the Commission to finish a report and submit it to Congress for review and passage, and to allow Federal, State and local governments to pass and implement new voting legislation. But the timeline is tight, and we must move forward quickly.

Clearly, when it comes to voting, local officials should have discretion in their precincts. But at the very least, we must establish minimum standards for accessibility and accuracy in order to ensure a full, fair and precise count. We also need clear guidelines regarding the recounting of votes in very close elections. Each vote is an expression of one American's will, and we cannot deny anyone that fundamental right to shape our democracy.

There will always be conflicting views about what happened in Florida. And we'll probably never come to complete agreement on the results. But let us move forward and work together to minimize voting inaccuracies in the future and ensure every American's right to be heard.

By Mr. SCHUMER (for himself, Mr. WARNER, Mr. DURBIN, Mr. SANTORUM, Mr. SARBANES, Mr. CHAFEE, Mr. VOINOVICH, Mr. KERRY, Mr. DODD, and Ms. MIKULSKI):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I am proud to join my colleagues—Senators WARNER, DURBIN, CHAFEE, SARBANES, SANTORUM, DODD, KERRY, VOINOVICH, and MIKULSKI today to introduce the Commuter Benefits Equity Act of 2001. This bill corrects an inequity in the tax code and has the potential to draw hundreds of thousands of commuters out of their cars and onto our nation's transit and commuter rail systems.

The inequity I am speaking about is the largely ignored difference in the amount of "pretax" compensation that current law permits employers to give employees to cover parking and transit costs. At present, a company may provide a worker with $175 per month to cover parking expenses. That limit is set at $65 per employee for mass transit expenses.

At a time when our nation's highways and bridges are under unprecedented strain, it is hard to believe that federal law provides a greater incentive for workers to drive to work than to leave their cars at home.

The Commuter Benefits Equity Act of 2001 would raise the monthly cap to $175 for transit and provide "cost of living" increases for both benefits in the future. I would note that the parking benefit just received a $5 COLA.

It is often said that people love their cars and simply will not ride mass transit to work. Many times this view is asserted as if it were an incontrovertible fact. I don't believe it at all, and recent ridership increases show how untrue such statements are.

According to the American Public Transportation Association, Americans took over 9.4 billion trips on public transportation last year—a 320 million ride increase over 1999. This figure marks the highest ridership number in more than forty years. It also signifies a 20 percent increase over the last five years.

Clearly, Americans are willing to use mass transportation. I suspect that if the federal government were to remove barriers like the current disparity in the parking and transit benefits, even more would abandon their cars.

It certainly is a goal worth pursuing. According to the Texas Transportation Institute, between 1982 and 1997 the average delays faced by commuters in our metropolitan areas increased by alarming percentages. Over that fifteen-year period, commuters in New York endured a 158-percent increase in the amount of time they spent stuck in traffic. And that, comparatively speaking, is low. The figure for Detroit commuters was 182 percent. In Dallas it was 300 percent. Denver commuters faced a grim 337-percent increase.

The monthly cap on the federal transit benefit must be raised because it is far below the average costs incurred by the suburban commuters who use mass transportation. For instance, it costs a Westchester, New York commuter over $170 per month to take MetroNorth into the City. In Chicago, the average cost is approximately $148. In suburban Seattle that cost can exceed $200. Many commuters who would prefer to ride a train into work versus sitting in traffic probably can't afford to do so. This is because the choice between paying the majority of their own mass transportation costs or sitting in traffic and getting heavily subsidized parking is one they cannot justify economically.

My colleagues and I believe that by creating a more level playing field between the transit and parking benefits, mass transportation use in this country will rise more rapidly. We also anticipate that our nation's urban highways will operate more efficiently. This view is shared by groups such as the Sierra Club, Environmental Defense, and the U.S. Conference of Mayors, who have endorsed the Commuter Benefits Equity Act of 2001.

Mr. President, I ask unanimous consent that any comments relating to this bill appear in the RECORD following my remarks as well as the text of the Commuter Benefits Equity Act of 2001.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commuter Benefits Equity Act of 2001".

SEC. 2. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended by striking "$65" and inserting "$175".

(b) CONFORMING AMENDMENT.—Section 9010 of the Transportation Equity Act for the 21st Century is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 3. CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

"(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;".

Mr. WARNER. Mr. President, I am pleased today to join with my distinguished colleague from New York, Senator SCHUMER, to introduce the Commuter Benefits Equity Act of 2001.

Transportation gridlock in the metropolitan Washington region is dramatic and well documented. The average commuter spends about 76 hours a year idling on our area roads. The average speed on the Capital Beltway has decreased from 47 miles per hour to 23 miles per hour today. This wasted time in cars results in lost work productivity, lost time with families and degraded air quality. The quality of life for commuters is significantly reduced all across the country. I firmly believe the strength of our economy will be jeopardized if the growing rate of congestion in our communities remains unchecked.

Yes, the construction of new roads and the expansion of existing roads must occur. But, this alone is not the answer to our problems. Relief from our growing gridlock will not come from any one solution. It will only come from an integrated policy of options that provide short-term, immediate solutions, together with long-term planning for new transportation facilities, both roads and transit.

For these reasons, I have worked over the years to provide commuters with greater incentives to use mass transit, bus or rail, and to join vanpools. Increased transit ridership, extension of the Metro system, the Dulles Rapid Transit System, and expanded telecommuting opportunities are critical to providing temporary short-term solutions. Greater transit use and broader telework options are measures we can implement today that will deliver results tomorrow.

The measure I am introducing today with Senator SCHUMER will provide parity in the tax code for those who enjoy employer-provided parking and those who elect to commute by mass transit.

Today, the tax code provides two benefits for employers to offer their employees, both Federal employees and those in the private sector. Employers can offer employees a cash benefit of $65 per month for commuting expenses, or employers can set aside up to $65 per month of an employee's pre-tax income to pay for commuting costs. Under the tax code, however, the employer-provided parking benefit is valued at $175 per month.

The legislation introduced today will increase the transit/vanpool benefit to $175 per month to be on par with the value of the parking benefit.

Last year, I authored a provision in the FY 2001 Department of Defense Authorization bill requiring the Department of Defense to offer the cash commuting benefit to all DOD employees working in areas that do not meet the Federal air quality standards. With a total metropolitan Washington regional federal workforce of 323,000 persons, the Department of Defense is, by far, the single largest federal employer with 65,000 persons.

The implementation of this benefit by the Federal agencies will improve employee satisfaction and have a positive effect on retention rates in the Federal workforce. This measure, however, is not limited to Federal employees. It does extend the benefit to private sector employees as well.

Equally important are the resulting air quality benefits from increased transit use. According to the Environmental Protection Agency, the metropolitan Washington area is an air quality non-attainment area, categorized as severe, under the Clean Air Act Amendments of 1990. Mobile sources are responsible for the majority of our air quality violations.

Mr. President, I commend this legislation to my colleagues for their attention. It's costs are modest, and the benefits to our society are significant.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues Senators SCHUMER and WARNER in introducing the Commuter Benefits Equity Act of 2001. This measure is another important step forward in our efforts to make transit services more accessible and improve the quality of life for commuters throughout the nation.

All across the nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impacts, and personal frustration. According to the Texas Transportation Institute's Annual Mobility Report, in 1997, Americans in 68 urban areas spent 4.3 billion hours stuck in traffic, with an estimated cost to the nation of $72 billion in lost time and wasted fuel, and the problem is growing. One way in which federal, state, and local governments are responding to this problem is by promoting greater use of transit as a commuting option. The American Public Transportation Association estimates that last year, Americans took over 9.4 billion trips on transit, the highest level in more than 40 years. But we need to do more to encourage people to get out of their cars and onto public transportation.

The Internal Revenue Code currently allows employers to provide a tax-free transit benefit to their employees. Under this "Commuter Choice" program, employers can set aside up to $65 per month of an employee's pre-tax income to pay for the cost of commuting by public transportation or vanpool. Alternatively, an employer can choose to offer the same amount as a tax-free benefit in addition to an employee's salary. This program is designed to encourage Americans to leave their cars behind when commuting to work.

By all accounts, this program is working. In the Washington area, for example, the Washington Metropolitan Area Transit Authority reports that 168,500 commuters take advantage of transit pass programs offered by their employers. That means fewer cars on our congested streets and highways.

Employees of the federal government account for a large percentage of those benefitting from this program in the Washington area. Under an Executive Order issued by President Clinton, all federal agencies in the National Capital Region, which includes Montgomery, Prince George's, and Frederick Counties, Maryland, as well as several counties in Northern Virginia, are required to offer this transit benefit to their employees. The Commuter Choice program is now being used by 115,000 Washington-area federal employees who are choosing to take transit to work.

However, despite the success of the Commuter Choice program in taking cars off the road, our tax laws still reflect a bias toward driving. The Internal Revenue Code allows employers to offer a tax-free parking benefit to their employees of up to $175 per month. The striking disparity between the amount allowed for parking—$175 per month—and the amount allowed for transit—$65 per month—undermines our commitment to supporting public transportation use.

The Commuter Benefits Equity Act would address this discrepancy by raising the maximum monthly transit benefit to $175, equal to the parking benefit. The federal government should not reward those who drive to work more richly than those who take public transportation. Indeed, since the passage of the Intermodal Surface Transportation Efficiency Act of 1991, federal transportation policy has endeavored to create a level playing field between highways and transit, favoring neither mode above the other. The Commuter Benefits Equity Act would ensure that our tax laws reflect this balanced approach.

In addition, the Commuter Benefits Equity Act would remedy another inconsistency in current law. Private-sector employers can offer their employees the transit benefit in tandem with the parking benefit, to help employees pay for the costs of parking at transit facilities, commuter rail stations, or other locations which serve public transportation or vanpool commuters. However, under current law, federal agencies cannot offer a parking benefit to their employees who use park-and-ride lots or other remote parking locations. The Commuter Benefits Equity Act would remove this restriction, allowing federal employees access to the same benefits enjoyed by their private-sector counterparts.

The Washington Metropolitan Region is home to thousands of federal employees. It is also one of the nation's most highly congested areas, with the second longest average commute time in the country. This area ranks third in the nation in the number of workers commuting more than 60 minutes to work, and has the highest per vehicle congestion cost and the second highest per capita congestion cost in the nation. It is clearly in our interest to support programs which encourage federal employees to make greater use of public transportation for their commuting needs.

The simple change made by the Commuter Benefits Equity Act would provide a significant benefit to those federal employees whose commute to work includes parking at a transit facility. For example, a commuter who rides the Metrorail System to work and parks at the Wheaton park-and-ride lot pays about $50 monthly for parking, on top of the cost of riding the train. A private-sector employee whose employer provides the parking benefit in addition to salary could receive $600 a year tax free to help pay these parking costs. Federal government employees should be allowed the same benefit.

I support the Commuter Benefits Equity Act because it creates parity—parity in the tax code between the parking and transit benefits, and parity for federal employees with their private-sector counterparts. Both of these improvements will aid our efforts to fight congestion and pollution by supporting public transportation. I encourage my colleagues to join me in supporting the Commuter Benefits Equity Act.

By Mr. McCONNELL (for himself, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ALLARD, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. BURNS, Mr. BENNETT, Mr. BREAUX, Mr. HUTCHINSON, Mr. SANTORUM, Mr. WARNER, Mr. REID, and Mr. ROBERTS).

S. 218. A bill to establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes; to the Committee on Rules and Administration.

Mr. McCONNELL. Mr. President, I rise today to re-introduce along with Senators TORRICELLI, FEINSTEIN, ALLARD, SMITH, BREAUX, BURNS, REID, BENNETT, LANDRIEU, SANTORUM, ROBERTS, HUTCHINSON, and WARNER meaningful, bipartisan legislation to reform the administration of our nation's elections. I ask that the entire text of my statement and the text of the legislation appear in the RECORD.

As we move into the twenty-first century it is inexcusable that the world's most advanced democracy relies on voting systems designed shortly after the Second World War. The goal of our legislation is rather simple: that no American ever again be forced to hear the phrases dimpled chad, hanging chad or pregnant chad. The Election Reform Act will ensure that our nation's electoral process is brought up to twenty-first century standards.

By combining the Federal Election Commission's Election Clearinghouse and the Department of Defenses' Office of Voting Assistance, which facilitates voting by American civilians and servicemen overseas, into the Election Administration Commission, the bill will create one agency that can bring focuses expertise to bear on the administration of elections. This Commission will consist of four Commissioners appointed by the President with the advice and consent of the Senate. It will continue to carry out the functions of the two entities that are being combined to create it.

In addition, the new Commission will engage in ongoing study and make periodic recommendations on the best practices relating to voting technology and ballot design as well as polling place accessibility for the disabled. The Commission will also study and recommend ways to improve voter registration, verification of registration, and the maintenance and accuracy of voter rolls. This is of special urgency in view of the allegations surfacing in this election of hundreds of felons being listed on voting rolls and illegally voting, as reported in the Miami Herald, while other law abiding citizens who allegedly registered were not included on the voting rolls and were unable to vote. Such revelations from this year's elections coupled with the well-knows report by "60 Minutes" of the prevalence of dead people and pets both registering and voting in past elections make clear the need for thoughtful study and recommendations to ensure that everyone who is legally entitled to vote is able to do so and that everyone who votes is legally entitled to do so—and does so only once.

In addition to its studies and recommendations, the Commission will provide matching grants to states working to improve election administration. During the first four years, low-income communities will get priority for these grants and low-income communities are permanently exempted from the requirement to provide matching funds. The legislation also ensure that states comply with the provisions in the Uniformed Overseas Voting Act designed to facilitate voting by members of the armed forces stationed overseas.

Finally, I am pleased also to announce that Representative TOM DAVIS, along with Representatives ROTHMAN, DREIER, and HASTINGS are re-introducing the House companion to our bill today.

Mr. DODD (for himself, Mr. McCAIN, Mr. HOLLINGS, and Mr. HAGEL):

S. 219. A bill to suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, today I send to the desk legislation on behalf of myself, Senators McCAIN, HOLLINGS and HAGEL. The purpose of the bill we are introducing today is to help the incoming Bush administration in its efforts to strengthen international cooperation in combating international drug trafficking and drug-related crimes.

As you know, the issue of how best to construct and implement an effective international counter narcotics policy has been the subject of much debate in this Chamber over the years, and I would add much disagreement. Our intention in introducing this legislation is to try to see if there is some way to end what has become a stale annual debate that has not brought us any closer to mounting a credible effort to eliminate or even contain the international drug mafia. We all can agree that drugs are a problem—a big problem. We can agree as well that the international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law throughout the world, but most especially in our own hemisphere.

While the international impact is serious and of great concern, of even greater concern to me personally are effects it is having here at home. Last year Americans spent more than $60 billion to purchase illegal drugs. Nearly 15 million Americans (twelve years of age and older) use illegal drugs, including 1.5 million cocaine users, 208,000 heroin addicts, and more than 11 million smokers of marijuana. This menace isn't just confined to inner cities or the poor. Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

The human and economic costs of illegal drug consumption by Americans are enormous. More than 16,000 people die annual as a result of drug induced deaths. Drug related illness, death, and crime cost the United States approximately over $100 billion annually, including costs for lost productivity, premature death, and incarceration.

This is an enormously lucrative business—drug trafficking generates estimated revenues of $400 billion annually. The United States has spent more than $30 billion in foreign interdiction and source country counter narcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, foreign drugs are cheaper and more readily available in the United States today than two decades ago.

We think that for a variety of reasons, that the time is right to give the incoming Bush administration some flexibility with respect to the annual certification process, so that it can determine whether this is the best mechanism for producing the kind of international cooperation and partnership that is needed to contain this transnational menace. I believe that government leaders, particularly in this hemisphere, have come to recognize that illegal drug production and consumption are increasingly threats to political stability within their national borders. Clearly President Pastrana of Colombia has acknowledged that fact and has sought to work very closely with the United States in implementing Plan Colombia. Similarly President Vincente Fox of Mexico has made international counter narcotics cooperation a high priority since assuming office last December. These leaders also feel strongly, however, that unilateral efforts by the United States to grade their governments' performance in this area is a major irritant in the bilateral relationship and counterproductive to their efforts to instill a cooperative spirit in their own bureaucracies.

The legislation we are introducing today recognizes that illicit drug production, distribution and consumption are national security threats to many governments around the globe, and especially many of those in our own hemisphere, including Mexico, Colombia, and other countries in the Andean region. It urges the Administration to develop an enhanced multilateral strategy for addressing these threats from both the supply and demand side of the equation. It calls upon the President to consider convening a conference of heads of state, at an early date, to review on a country-by-country basis, national strategies for drug reduction and prevention, and agree upon a time table for action. It also recommends that the President submit any legislative changes to existing law which he deems necessary in order to implement this international program within one year from the enactment of this legislation.

In order to create the kind of international cooperation and mutual respect that must be present if the Bush administration's effort is to produce results, the bill would also suspend the annual drug certification procedure for a period of 2 years, while efforts are ongoing to develop and implement this enhanced multilateral strategy. I believe it is fair to say that while the certification procedure may have had merit when it was enacted into law in 1986, it has now become a hurdle to furthering bilateral and multilateral cooperation with other governments, particularly those in our own hemisphere such as Mexico and Colombia—governments whose cooperation is critical if we are to succeed in stemming the flow of drugs across our borders.

Let me make clear however, that while we would not be "grading" other governments on whether they have "cooperated fully" during the two year "suspension" period, the detailed reporting requirements currently required by law concerning what each government has done to cooperate in the areas of eradication, extradition, asset seizure, money laundering and demand reduction during the previous calendar year will remain in force. We will be fully informed as to whether governments are following short of their national and international obligations. Moreover, if the President determines during the two year suspension period that the certification process may be useful in order to elicit more cooperation from a particular government he may go ahead and issue the annual certification decision with respect to that country. The annual determination as to which countries are major producers or transit sources of illegal drugs will also continue to be required by law.

I believe that we need to reach out to other governments who share our concerns about the threat that drugs pose to the very fabric of their societies and our own. It is arrogant to assume we are the only Nation that cares about such matters. We need to sit down and figure out what each of us can do better to make it harder for drug traffickers to ply their trade. It is in that spirit that we urge our colleagues to give this proposal serious consideration. Together, working collectively we can defeat the traffickers. But if we expend our energies playing the blame game, we are certainly not going to effectively address this threat. We aren't going to stop one additional teenager from becoming hooked on drugs, or one more citizen from being mugged outside his home by some drug crazed thief.

During the Clinton Administration, Barry McCaffrey, the Director of the Office of National Drug Control Policy did a fine job in attempting to forge more cooperative relations with Colombia, Mexico and other countries in our own hemisphere. The OAS has also done some important work over the last several years in putting in place an institutional framework for dealing with the complexities of compiling national statistics so that we can better understand what needs to be done. The United Nations, through its Office for Drug Control and Crime Prevention has also made some important contributions in furthering international cooperation in this area. However, still more needs to be done. We believe that this legislation will build upon that progress. I would urge my colleagues to give some thought and attention to our legislative initiative. We believe that if they do, that they will come to the conclusion that it is worthy of their support.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TWO-YEAR SUSPENSION OF DRUG CERTIFICATION PROCEDURES.

(a) FINDINGS.—Congress makes the following findings:

(1) The international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law.

(2) The United States has a vital national interest in combating the financial and other resources of the multinational drug cartels, which resources threaten the integrity of political and financial institutions both in the United States and abroad.

(3) Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

(4) Worldwide drug trafficking generates revenues estimated at $400,000,000,000 annually.

(5) The 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances form the legal framework for international dung control cooperation.

(6) The United Nations International Drug Control Program, the International Narcotics Control Board, and the Organization of American States can play important roles in facilitating the development and implementation of more effective multilateral programs to combat both domestic and international drug trafficking and consumption.

(7) The annual certification process required by section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), which has been in effect since 1986, does not currently foster effective and consistent bilateral or multilateral cooperation with United States counternarcotics programs because its provisions are vague and inconsistently applied and in many cases have been superseded by subsequent bilateral and multilateral agreements and because it alienates the very allies whose cooperation we seek.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) many governments are extremely concerned by the national security threat posed by illicit drug production, distribution, and consumption, and crimes related thereto, particularly those in the Western Hemisphere;

(2) an enhanced multilateral strategy should be developed among drug producing, transit, and consuming nations designed to improve cooperation with respect to the investigation and prosecution of drug related crimes, and to make available information on effective drug education and drug treatment;

(3) the President should at the earliest feasible date in 2001 convene a conference of heads of state of major illicit drug producing countries, major drug transit countries, and major money laundering countries to present and review country by country drug reduction and prevention strategies relevant to the specific circumstances of each country, and agree to a program and timetable for implementation of such strategies; and

(4) not later than one year after the date of the enactment of this Act, the President should transmit to Congress legislation to implement a proposed multilateral strategy to achieve the goals referred to in paragraph (2), including any amendments to existing law that may be required to implement that strategy.

(c) TWO-YEAR SUSPENSION OF DRUG CERTIFICATION PROCESS.—(1) Subsections (a) through (g) of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), relating to annual certification procedures for assistance for certain drug-producing countries and drug-transit countries, shall not apply in the first 2 calendar years beginning after the date of the enactment of this Act.

(2) Notwithstanding any provision of paragraph (1), section 489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h), relating to the international narcotics control strategy report, and section 490(h) of that Act (22 U.S.C. 2291j(h)), relating to determinations of major drug-transit countries and major illicit drug producing countries, shall continue to apply in the 2 calendar years referred to in that paragraph.

(3) The President may waive the applicability of paragraph (1) to one or more countries in one or both of the calendar years referred to in that paragraph if the President determines that bilateral counternarcotics cooperation would be enhanced by the applicability of subsections (a) through (g) of section 490 of the Foreign Assistance Act of 1961 to such country or countries in such calendar year.

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), the provisions of subsection (c) shall take effect on the date of the enactment of this Act and apply with respect to certifications otherwise required under section 490 of the Foreign Assistance of 1961 in the first two fiscal years beginning after that date.

(2) If this Act is enacted on or before February 28, 2001, the provisions of subsection (c) shall take effect on the date of the enactment of this Act and apply with respect to

certifications otherwise required under section 490 of the Foreign Assistance of 1961 in fiscal years 2001 and 2002.

Mr. HOLLINGS. Mr. President, I rise today to join my good friend Senator DODD, and our distinguished colleagues Senator HAGEL and Chairman MCCAIN, in cosponsoring an important piece of legislation with far-reaching effects in our struggle to combat drug trafficking. Our bill calls for the development of a multilateral strategy among major illicit drug producing, transit, drug demand, and consuming countries to improve cooperation with respect to the investigation and prosecution of drug related crimes. Intelligence reports have shown that sophisticated cartels operate on a truly global scale. America's drug demand problems may feed Europe's money laundering problems which are related to Asia's organized crime problems or street-crime in Latin America. All the states of the world are under attack from a common, sophisticated enemy. Our bill encourages the President of the United States to bring the heads of state together to review individual country strategies and develop a new multilateral approach. This bill requires the President to submit to Congress legislation to implement a multilateral strategy devised through the consultation process described above.

Drug trafficking becomes harder to fight as the world becomes increasingly interconnected. I am united with my colleagues to remain vigilant in fighting the proliferation of drugs on the streets of the United States. The last time I checked, the United States does not produce one ounce of cocaine, or one ounce of heroin. This bill recognizes the essential truth of drug trafficking—it is a multinational, multifaceted criminal plague that respects no borders.

With this in mind, I rise to support a 2-year moratorium of the annual U.S. certification procedures which require the President to certify that other nations qualify as "partners" in combating drug trafficking. This certification is required for the release of certain U.S. bilateral assistance, as well as for the release of multilateral development aid from institutions where the United States is a voting member. This practice stymies multilateral cooperation in combating drug trafficking and has not yielded any measurable results—unless one counts the resentment of our neighbors. We need a new approach and new strategic partners. This legislation will direct President Bush to seek out new approaches and new partners rather than wasting time and energy on certification.

Officials from Mexico, our neighbor and close ally, have routinely appealed to the President of the United States and to Congress to suspend the drug certification process. They argue it is detrimental to bilateral cooperation in enforcement and interdiction, it is bad for the morale of law enforcement, and it serves to absolve the United States from its responsibility in the proliferation of drug trafficking. Americans spend an estimated $110 billion a year on illegal drugs—the equivalent of one-tenth the value of the country's entire industrial production. Unfortunately, the dedicated and hardworking efforts of our law enforcement and customs officials to gain control of drugs entering our country from Mexico are to date unsuccessful. The Mexican police have been overwhelmed by the sheer volume of drugs transhipped through their country (The DEA estimated that, in 1999, 55 percent of the cocaine and 14 percent of the heroin which enter the United States came from Mexico, as did 3,700 metric tons of marijuana). The situation is further complicated by the existing corruption in Mexican police ranks. By way of example, in December 1999 the Government of Mexico reported that between 1997 and 1999 more than 1,400 federal police officers had been fired for corruption and that 357 of the officers had been prosecuted. Given the pervasive scale of the problem, the Federal Preventive Police (FPP) was created to investigate and root out crooked officers in the federal police. By the winter of 2000, several agents of the FPP were under investigation themselves for corruption.

Despite these grim examples there are clear signs of hope. In July 2000 Mexico turned a corner in history and ended seven decades of one-party rule by sending opposition candidate Vincente Fox to Los Pinos. Fox cast a wide net in the Mexican mainstream with themes of inclusion and governmental responsiveness in a historic campaign. "Democracy is a starting point—it is the process by which society becomes organized and gains its own voice" said Fox. "Democracy provides the legitimacy necessary for the country to meet the historic challenges in the areas of development, social justice, and the reduction of inequality."

President Fox represents a clean break with the institutionalized corruption and graft that carried Mexico to the brink of Chaos in 1994 when PRI presidential candidate Donaldo Colosio was assassinated. President Fox inherited a judicial system and a federal police force rocked by scandal and largely ineffectual in combating drug trafficking. Mexico ranked 4th in the World Bank's 2000 list of most corrupt governments. Backed with a popular mandate for change, Fox put fighting corruption as the overarching goal in all his policy initiatives. The task will not be easy. Last Friday, January 19th, for example, it was reported that convicted drug kingpin Joaquin Guzmán Loera escaped from a maximum security prison in Jalisco. Guzmán is a leader of the Félix Gallardo drug family, which authorities say is deeply involved in shipping illegal drugs to the United States.

While I am sobered by the accounts of the Guzmán escape, it is encouraging that the Mexican Supreme Court reversed its decision on extraditions for drug crimes and agreed to turn over drug kingpins wanted in the United States. We must further these confidence-building initiatives between the United States and Mexico. One way to do this is to grant Mexico a two-year moratorium from the drug certification process to allow President Fox to organize his Administration and to set his course. We should not evaluate President Fox for the corruption of his predecessors. We must allow him to address the endemic corruption that plaques the Mexican state.

This legislation does not cede Congress' role in the so-called drug war. It call for new energy and a new multilateral approach. It emphasizes Congress' interest in building real partnerships and looking for new answers in this difficult struggle. This legislation will give us a fresh start with our neighbor to the south and build confidence between our people. President Fox is committed to reforming Mexico and I intend to urge my colleagues to help this vibrant new leader to achieve his goal. He has brought the liberating force of democracy to his people, but his work is not done. President Fox has to use his power to transform the state. He has an old order to dismantle, a new one to build, and 6 years to do it. I have confidence in Mr. Fox and his able cabinet. My colleagues and I are reaching out to the Fox Administration and the Mexican people; we want to build a partnership and seek new ways to address common problems.

By Mrs. BOXER:

S. 221. A bill to authorize the Secretary of Energy to make loans through a revolving loan fund for States to construct electricity generation facilities for use in electricity supply emergencies.

Mrs. BOXER. Mr. President, since last week, I have introduced several bills to help California deal with the electricity crisis and to help prevent such emergencies from occurring in other States in the future. Today, I am introducing another such bill—the State Electricity Reserve Fund Act.

Current electricity generating capacity is tied to the expected need. Private generating companies have no incentive to build or maintain facilities that would generate capacity greater than what is needed to meet consumer demand. The plants would be idle most of the time. As a result, electricity shortages can occur.

A lack of rainfall, which means that hydroelectric facilities cannot be operated as often, as well as unseasonably hot or cold temperatures, or rapid population increases in a State can all result in a demand for electricity unexpectedly exceeding supply. But with supply tied to expected demand, this can result in devastatingly large price increases for consumers and/or electricity shortages, which in turn could cause brownouts or blackouts.

This is exactly what has happened in California. In the late 1980's, the California Public Utilities Commission required utilities to determine demand for new power generating capacity. At that time, the state recognized that generation needs could increase. However, the utilities argued that no new capacity would be needed in California until 2005. The utilities fought the attempt by the state to make them build more generating capacity. The utilities argued it was not needed.

It turned out that it was needed. And whether the utilities should have known is another argument for another day. But the point here is that we cannot rely on the private sector to create a "rainy day fund" of electricity in the event of emergencies.

So, the State Electricity Reserve Fund Act would create a revolving loan fund for states to use to help pay for the creation of an electricity reserve capacity. These loans could be used by states to build electricity generation facilities that would be controlled by the state and would be kept in reserve unless the Governor of the State declares an electricity emergency.

Mr. President, it is not an unusual thing for the federal government to prepare for energy emergencies. We have the Strategic Petroleum Reserve in the case of oil shortages, and last year we established the Home Heating Oil Reserve for the Northeastern States. My bill is based on the same premise.

True, we cannot store electricity like we can store petroleum and heating oil. But we can financially help States build a reserve facility, including a reserve of the fuel that is needed to generate electricity, to be used in the case of electricity emergencies. If such a reserve had existed in California, we would not have reached State III emergencies and rolling blackouts over the past couple of weeks.

Mr. President, I think being prepared for emergencies is always a good policy. Helping States be prepared for electricity emergencies is no different.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Electricity Reserve Fund Act of 2001".

SEC. 2. PURPOSE.

The purpose of this Act is to assist States in creating electric generating capacity to be used in the event of an electricity emergency.

SEC. 3. EMERGENCY ELECTRICITY GENERATION FACILITIES.

(a) REVOLVING LOAN FUND.—There is established in the Treasury of the United States a revolving loan fund to be known as the "State Electricity Reserve Loan Fund" consisting of such amounts as may be appropriated or credited to such Fund as provided in this section.

(b) EXPENDITURES FROM LOAN FUND.—

(1) IN GENERAL.—The Secretary of Energy, under such rules and regulations as the Secretary may prescribe, may make loans from the State Electricity Reserve Loan Fund, without further appropriation, to a State.

(2) PURPOSE.—Loans provided under this section shall be used for the purpose of designing and constructing 1 or more facilities in a State with capacity to generate an amount of electricity sufficient to meet the amount of any intermittent deficiencies in electricity supply that the State may reasonably be expected to experience during any period over the next 10 years.

(3) USE OF FUNDS.—A facility designed or constructed with a loan provided under this section—

(A) shall be owned by the State and operated by the State directly or through a contract with an electric utility or a consortium of electric utilities; and

(B) shall be operated to supply electricity to the electricity transmission grid only during periods of electricity emergencies declared by the Governor of the State.

(4) DETERMINATIONS BY SECRETARY.—No loan shall be provided under this section unless the Secretary determines that—

(A) there is reasonable assurance of repayment of the loan; and

(B) the amount of the loan, together with other funds provided by or available to the State, is adequate to assure completion of the facility or facilities for which the loan is made.

(5) LOAN AMOUNT.—The amount of a loan provided under this section shall not exceed the lesser of—

(A) 40 percent of the costs to be incurred in designing and constructing the facility or facilities involved; or

(B) $1,000,000,000.

(c) LOAN REPAYMENT.—

(1) LENGTH OF REPAYMENT.—

(A) IN GENERAL.—Before making a loan under this section, the Secretary shall determine the period of time within which a State must repay such loan.

(B) LIMITATION.—Except as provided in subparagraph (C), the Secretary shall in no case allow repayment of such loan—

(i) to begin later than the date that is 2 years after the date on which the loan is made; and

(ii) to be completed later than the date that is 10 years after the date on which the loan is made.

(C) MORATORIUM.—The Secretary may grant a temporary moratorium on the repayment of a loan provided under this section if, in the determination of the Secretary, continued repayment of such loan would cause a financial hardship on the State that received the loan.

(2) INTEREST.—The Secretary may not impose or collect interest or other charges on a loan provided under this section.

(3) CREDIT TO LOAN FUND.—Repayment of amounts loaned under this section shall be credited to the State Electricity Reserve Loan Fund and shall be available for the purposes for which the fund is established.

(d) ADMINISTRATION EXPENSES.—The Secretary may defray the expenses of administering the loans provided under this section.

(e) APPROPRIATIONS.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the State Electricity Reserve Loan Fund—

(1) $5,000,000,000 in fiscal year 2002;

(2) $4,000,000,000 in fiscal year 2003;

(3) $3,000,000,000 in fiscal year 2004;

(4) $2,000,000,000 in fiscal year 2005; and

(5) $1,000,000,000 in fiscal year 2006.

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 6, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Missouri (Mrs. CARNAHAN), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 28

At the request of Mr. GRAMM, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 28, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 29

At the request of Mr. BOND, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 70

At the request of Mr. INOUYE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 70, a bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all

Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 147

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 147, a bill to provide for the appointment of additional Federal district judges, and for other purposes.

S. 148

At the request of Mr. CRAIG, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 171

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 171, a bill to repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes.

S. CON. RES. 4

At the request of Mr. NICKLES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress regarding housing affordability and ensuring a competitive North American market for softwood lumber.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 5—COMMEMORATING THE 100TH ANNIVERSARY OF THE UNITED STATES ARMY NURSE CORPS

Mr. INOUYE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 5

Whereas since the War of American Independence, nurses have served the Armed Forces of the United States in peace and in war;

Whereas on February 2, 1901, Congress authorized the establishment of a permanent nurse corps;

Whereas for the past 100 years the United States Army Nurse Corps has served with distinction at home and on distant battlefields;

Whereas over 21,000 Army nurses served in World War I, and many of them were noted in British Army dispatches for their meritorious service;

Whereas in World War II, over 57,000 Army nurses again served with distinction, including 67 who were captured in the Philippines and held as prisoners of war for 3 years before their liberation in February 1945;

Whereas Army nurses served in hostilities in Korea, Vietnam, Grenada, Panama, Kuwait, and Somalia;

Whereas Army nurses were there to care for United States soldiers, wherever those soldiers were fighting, thereby winning extraordinary distinction and respect for the Nation and the United States Army;

Whereas on this 100th Anniversary of the United States Army Nurse Corps, nurses in the Army Reserve, the Army National Guard, and the Regular Army are deployed to over 15 countries, including to Bosnia-Herzegovina and Kosovo;

Whereas the motto of Army nurses, "Ready, Caring, Proud" is more than mere words, it is the creed by which the Army nurse lives and serves;

Whereas it is certain that Army nurses, selflessly serving the Nation, will continue to be the credentials of our Army, even though no one can predict the cause, location, or magnitude of future battles; and

Whereas the United States Army Nurse Corps is committed to providing quality care in peace and war, at anytime and in any place: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the valor, commitment, and sacrifice that United States Army nurses have made throughout the history of the Nation;

(2) commends the United States Army Nurse Corps for 100 years of selfless service;

(3) requests that the President issue a proclamation recognizing the 100th anniversary of the United States Army Nurse Corps on February 2, 2001; and

(4) calls upon the people of the United States to observe that anniversary with appropriate ceremonies and activities.

Mr. INOUYE. Mr. President, I rise today to submit a resolution to commemorate the 100th anniversary of the United States Army Nurse Corps.

As a proud supporter of the Army Nurse Corps, both the officers and the many enlisted and civilian personnel who work with them, I am pleased that we are taking time today to recognize their contributions to our army and our nation.

Since the War of Independence, nurses have served our military in peace and in war, but it was not until 1901 that a bill came before the Congress to establish a permanent Nurse Corps. The Nurse Corps became a permanent corps of the medical department under the Army Reorganization Act passed by the Congress on February 2, 1901. At that time, the Nurse Corps was composed of only women.

The Army Nurse Corps has a proud history. More than 21,000 nurses served during World War I, many of them named in British Army dispatches for their meritorious service. In World War II, more than 57,000 Army nurses again served with distinction. Sixty-six of those nurses were captured in the Philippines and held as prisoners of war for three years before their liberation in February 1945. There is not enough time to describe all of the heroic actions of the nurses who waded ashore on the Anzio beachhead and many other locations throughout the war. One nurse, Lieutenant Frances Y. Slinger from Roxbury, Massachusetts, wrote a letter to Stars and Stripes from her tent in Belgium:

> Sure we rough it. But compared to the way you men are taking it, we can't complain, nor do we feel that bouquets are due us. . . . It is to you we doff our helmets. To every G.I. wearing the American uniform-for you we have the greatest admiration and respect.

Seventeen days later, on October 21, 1944, Lieutenant Slanger died of wounds caused by the shelling of her tented hospital area. Hundreds of soldiers replied:

> To all Army nurses overseas: We men were not given the choice of working in the battlefield or the home front. We cannot take any credit for being here. We are here because we have to be. You are here because you felt you were needed. So, when an injured man opens his eyes to see one of you . . . . Concerned with his welfare, he can't but be overcome by the very thought that you are doing it because you want to . . . you endure whatever hardships you must be where you can do us the most good.

Eventually, on August 9, 1955, Public Law 294 authorized commissions for male nurses in the U.S. Army Reserve. Army Nurses went to serve our nation in Korea, Vietnam, Grenada, Panama, Operation Desert Shield/Desert Storm, Somalia, Bosnia, Kosovo and other far away destinations. Army Nurses are currently deployed to more than 15 countries, and there are nurses in the Army Reserves, Army National Guard and the Active Force. Today, we recognize the men and women of the Army Nurse Corps for their selfless service and dedication to our nation and our military. I commend the Army Nurse Corps for its commitment to excellence and for a century of leadership and caring for America's Army from 1901 to 2001.

CONCURRENT RESOLUTION 6—EXPRESSING THE SYMPATHY FOR THE VICTIMS OF THE DEVASTATING EARTHQUAKE THAT STRUCK INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

Mr. TORRICELLI (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S.CON.RES 6

Whereas on the morning of January 26, 2001, a devastating and deadly earthquake shook the state of Gujarat in western India, killing untold tens of thousands of people, injuring countless others, and crippling most of the region;

Whereas the earthquake of January 26, 2001, has left thousands of buildings in ruin, caused widespread fires, and destroyed infrastructure;

Whereas the people of India and people of Indian origin have displayed strength, courage, and determination in the aftermath of the earthquake;

Whereas the people of the United States and India have developed a strong friendship based on mutual interests and respect;

Whereas India has asked the World Bank for $1,700,000,000 in economic assistance to start rebuilding from the earthquake;

Whereas the United States has offered technical and monetary assistance through the United States Agency for International Development (USAID); and

Whereas offers of assistance have also come from the Governments of Turkey, Switzerland, Taiwan, Russia, Germany, China, Canada, and others, as well as countless nongovernmental organizations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its deepest sympathies to the citizens of the state of Gujarat and to all of India for the tragic losses suffered as a result of the earthquake of January 26, 2001;

(2) expresses its support for—

(A) the people of India as they continue their efforts to rebuild their cities and their lives;

(B) the efforts of the World Bank;

(C) continuing and substantially increasing the amount of disaster assistance being provided by the United States Agency for International Development (USAID) and other relief agencies; and

(D) providing future economic assistance in order to help rebuild Gujarat; and

(3) recognizes and encourages the important assistance that also could be provided by other nations to alleviate the suffering of the people of India.

SENATE RESOLUTION 15—CONGRATULATING THE BALTIMORE RAVENS FOR WINNING SUPER BOWL XXXV

Mr. SARBANES (for himself and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 15

Whereas in March of 1984, the Baltimore Colts stole away in the dark of night, to become the Indianapolis Colts;

Whereas for eleven long years, the football-crazy fans of Baltimore waited for an NFL franchise;

Whereas the arrival of the Ravens, coupled with the enthusiasm and energy of their fans, has ushered in a new era of unity in the Baltimore community;

Whereas the drive of the Baltimore Ravens' organization to win has embodied the spirit and pride of Baltimore as a city with great football heritage and as a great city on the rise;

Whereas members of the Ravens' team have exemplified confidence, character, perseverance, talent, dedication, and most importantly, a commitment to giving something back to the Baltimore community;

Whereas the Baltimore Ravens' defense goes down in history as one of the NFL's all-time best defensive units;

Whereas in the 2000–2001 NFL season, the Baltimore Ravens compiled a remarkable record of achievements including—

(1) the American Football Conference title;

(2) the NFL record for the least number of points allowed in a season (165);

(3) 4 shutouts;

(4) the NFL record for the least rushing yards allowed in a 16-game season;

(5) a Ravens' franchise record of 12 regular season wins;

(6) the NFL's Defensive Player of the Year Award (Ray Lewis);

(7) an NFL punt return leader (Jermaine Lewis); and

(8) a rookie running back who rushed for over 1,300 yards (Jamal Lewis); and

Whereas the Baltimore Ravens won Super Bowl XXXV, defeating the valiant New York Giants 34 to 7 in a hard-fought battle: Now, therefore, be it

Resolved, That the Senate—

(1) commends the unity, loyalty, community spirit, and enthusiasm of the Baltimore Ravens' fans;

(2) applauds the Baltimore Ravens for their commitment to high standards of character, perseverance, professionalism, excellence, and teamwork;

(3) praises the Baltimore Ravens' players and organization for their commitment to the Greater Baltimore Community through their many charitable activities;

(4) congratulates both the Baltimore Ravens and the New York Giants for providing football fans with a hard-fought, but sportsmanlike Super Bowl;

(5) congratulates the Baltimore Ravens and their fans on a Super Bowl victory and an NFL Championship; and

(6) recognizes the achievements of the players, coaches, and support staff who were instrumental in helping the Baltimore Ravens win Super Bowl XXXV on January 28, 2001.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Baltimore Ravens' owner, Art Modell, and to the Ravens' head coach, Brian Billick.

Mr. SARBANES. Mr. President, it is with great pride that I submit this resolution congratulating the Baltimore Ravens on their remarkable championship season. On Super Bowl Sunday, the Baltimore Ravens completed an incredible season, beating the New York Giants by a score of 34 to 7 to become the 2000–2001 National Football League Champions.

At the beginning of the season, very few of the experts thought the Ravens would have a chance at glory. And as the team endured a five game stretch without a touchdown, the nay sayers grew and many wrote the Ravens off entirely. But during the season's early rough spots, when the team could have fallen to pieces, no one pointed fingers or assigned blame. Instead, under the leadership of a great coaching staff, they grew together and formed a remarkable bond not only amongst each other but also with the fans of Baltimore.

And then, with the NFL's best defense leading the way, the Baltimore Ravens began to string together win after win. The victories weren't always pretty, but the team always found a way to win—with a new hero stepping forward to make something happen. Week in and week out, Matt Stover, Quadry Ismail, Shannon Sharpe, Duane Starks, Jamal Lewis, Jermaine Lewis, Ray Lewis, Trent Dilfer, Rod Woodson, Tony Siragusa, Sam Adams, Jonathan Ogden, and countless others took it upon themselves to make the big play.

Still, even through the playoffs, the experts kept scratching their heads wondering how the Ravens were beating their highly acclaimed opponents. To the very end, the doubters outweighed the believers. Only the Ravens themselves and the fans of Baltimore truly dared to believe that a Championship season was possible. Finally, after a hard fought, playoff run—on the road—against the AFC's finest, the Ravens have brought the Lombardi Trophy home to Baltimore. And now the experts believe.

The game was a defensive masterpiece as those who know and have followed the Ravens would expect. But what makes this victory particularly special is that the Ravens played as a team, with remarkable cohesiveness and spirit. And in the world spotlight, they were able to display their diverse, but largely unsung, talents. Jamie Sharper's interception, Jermaine Lewis's terrific kickoff return, Brandon Stokely's outstanding touchdown reception, Jamal Lewis's diving touchdown run, Trent Dilfer's pain-filled, but error-free game, Kyle Richardson's coffin corner punts and Ray Lewis's MVP Award-winning performance, are just a few of the individual efforts that combined to secure this victory. The list goes on and on.

And Finally, I want to take a moment to recognize the leadership of Coach Brian Billick who is in his second year as head coach of the Ravens. We all know that to be champions requires a strong commitment to working harder than the rest. The Ravens' Super Bowl win is a credit to an extraordinary effort by the entire Baltimore Ravens' organization, from Art Modell down—but I would be remiss if I didn't mention the motivational push, level head and remarkable football mind demonstrated by Coach Billick and his coaching staff throughout the season, and especially during the playoff run. Most importantly, he helped Baltimore believe through thick and thin.

There is a statue of Edgar Allen Poe located in the plaza of the University of Baltimore Law School not too far from PSiNet Stadium, with an engraving that reads, "Dreaming dreams that no mortal ever dared to dream before; To thee the laurels belong".

Today the Lombardi Trophy belongs to the Baltimore Ravens because they dared to dream when no one else believed a championship was possible. I congratulate them and their worthy opponents, the New York Giants, on a tremendous season and I urge my colleagues to do the same.

AMENDMENT SUBMITTED

LOAN FORGIVENESS FOR HEAD START TEACHERS ACT OF 2001

FEINSTEIN AMENDMENT NO. 1

(Ordered referred to the Committee on Health, Education, Labor, and Pensions.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill (S. 123) to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; as follows:

At the end, add the following:

(d) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 460 of the Higher Education Act of 1965 (20 U.S.C 1087j) is amended—

(A) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A)(i) has been employed—

"(I) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

"(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

"(ii)(I) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

"(II) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

"(III) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and";

(B) in subsection (g), by adding at the end the following:

"(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subclause (II) of subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001."; and

(C) by adding at the end the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(i).".

(2) CONFORMING AMENDMENTS.—Section 460 of such Act (20 U.S.C. 1087j) is amended—

(A) in subsection (c)(1), by inserting "or fifth complete program year" after "fifth complete school year of teaching";

(B) in subsection (f), by striking "subsection (b)" and inserting "subsection (b)(1)(A)(i)(I)";

(C) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)(I)"; and

(D) in subsection (h), by inserting "except as part of the term 'program year'," before "where".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the Session of the Senate on Tuesday, January 30, 2001 to conduct a hearing. The purpose of this hearing will be to review the report from the Commission on 21st Century Production Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, January 30, 2001, to consider the nomination of Robert Zoellick to be United States Trade Representative.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, January 30, 2001, at 2:30 p.m. The markup will take place in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Mr. Dan Wenk, a congressional fellow in our office, be granted the privilege of the floor for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent that Megan Wanzer be granted the privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 220

Mr. SESSIONS. Mr. President, I understand S. 220 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 220) to amend title 11 of the United States code, and for other purposes.

Mr. SESSIONS. I ask for its second reading and would object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

Mr. SESSIONS. I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 100. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitation.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 325. United States trustee program filing fee increase.
Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the corporation with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy Code amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
Sec. 912. Asset-backed securitizations.
Sec. 913. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Discharge under chapter 12.
Sec. 1220. Bankruptcy cases and proceedings.
Sec. 1221. Knowing disregard of bankruptcy law or rule.

Sec. 1222. Transfers made by nonprofit charitable corporations.
Sec. 1223. Protection of valid purchase money security interests.
Sec. 1224. Extensions.
Sec. 1225. Bankruptcy judgeships.
Sec. 1226. Compensating trustees.
Sec. 1227. Amendment to section 362 of title 11, United States Code.
Sec. 1228. Judicial education.
Sec. 1229. Reclamation.
Sec. 1230. Providing requested tax documents to the court.
Sec. 1231. Encouraging creditworthiness.
Sec. 1232. Property no longer subject to redemption.
Sec. 1233. Trustees.
Sec. 1234. Bankruptcy forms.
Sec. 1235. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 1236. Exemptions.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.
Sec. 1310. Enforcement of certain foreign judgments barred.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1401. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13";

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion of" and inserting "trustee, bankruptcy administrator, or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title," after "consumer debts"; and

(III) by striking "a substantial abuse" and inserting "an abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or **$6,000**, whichever is greater; or

"(II) **$10,000**.

"(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

"(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, and siblings of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

"(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

"(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child under the age of 18 years up to **$1,500** per year per child to attend a private elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary.

"(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

"(I) the sum of—

"(aa) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

"(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by

"(II) 60.

"(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

"(I) the total amount of debts entitled to priority; divided by

"(II) 60.

"(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

"(ii) In order to establish special circumstances, the debtor shall be required to—

"(I) itemize each additional expense or adjustment of income; and

"(II) provide—

"(aa) documentation for such expense or adjustment to income; and

"(bb) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

"(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

"(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims, or **$6,000**, whichever is greater; or

"(II) **$10,000**.

"(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

"(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

"(A) whether the debtor filed the petition in bad faith; or

"(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

"(4)(A) The court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

"(i) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator brings a motion for dismissal or conversion under this subsection; and

"(ii) the court—

"(I) grants that motion; and

"(II) finds that the action of the counsel for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

"(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, at a minimum, the court shall order—

"(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

"(ii) the payment of the civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

"(C) In the case of a petition, pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney has—

"(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

"(ii) determined that the petition, pleading, or written motion—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

"(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

"(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion brought by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that brought the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

"(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

"(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

"(C) For purposes of this paragraph—

"(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

"(I) has less than 25 full-time employees as determined on the date the motion is filed; and

"(II) is engaged in commercial or business activity; and

"(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

"(I) a parent corporation; and

"(II) any other subsidiary corporation of the parent corporation.

"(6) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

"(7) No judge, United States trustee, panel trustee, bankruptcy administrator or other party in interest may bring a motion under paragraph (2), if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

"(10A) 'current monthly income'—

"(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 6-month period preceding the date of determination; and

"(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes;".

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The trustee shall—"; and

(2) by adding at the end the following:

"(b)(1) With respect to an individual debtor under this chapter—

"(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

"(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census.

"(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 704(b)(2) if the product of the debtor's current monthly income multiplied by 12 exceeds 100 percent, but does not exceed 150 percent of—

"(A)(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

"(ii) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; and

"(B) the product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service) and clauses (iii) and (iv) of section 707(b)(2)(A), multiplied by 60 is less than the lesser of—

"(i) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

"(ii) $10,000.".

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) In an individual case under chapter 7 in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.".

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by this section, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victims dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(h) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.".

(i) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) Recommendation.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.".

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) Test.—

(1) Selection of districts.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) Use.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) Evaluation.—

(1) In general.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) Report.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1).

"(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.".

(b) Chapter 7 Discharge.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.

"(12)(A) Paragraph (11) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of that district determines that the approved instructional courses are not adequate to service the additional individuals required to complete such instructional courses under this section.

"(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

"(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§111. Credit counseling services; financial management instructional courses

"(a) The clerk of each district shall maintain a publicly available list of—

"(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

"(b) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management as follows:

"(1) The United States trustee or bankruptcy administrator shall have thoroughly reviewed the qualifications of the credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the programs or instructional courses which will be offered by such agency or provider, and may require an agency or provider of an instructional course which has sought approval to provide information with respect to such review.

"(2) The United States trustee or bankruptcy administrator shall have determined that the credit counseling agency or course of instruction fully satisfies the applicable standards set forth in this section.

"(3) When an agency or course of instruction is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or course of instruction is initially approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

"(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for successive 1-year periods thereafter, any agency or course of instruction which has demonstrated during the probationary or subsequent period that such agency or course of instruction—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an interested person may seek judicial review of such decision in the appropriate United States District Court.

"(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

"(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

"(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(i) are not employed by the agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

"(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

"(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such course of instruction;

"(C) adequate facilities situated in reasonably convenient locations at which such course of instruction is offered, except that such facilities may include the provision of such course of instruction or program by telephone or through the Internet, if the course of instruction or program is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such course of instruction or program, including any evaluation of satisfaction of course of instruction or program requirements for each debtor attending such course of instruction or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such course of instruction or program is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

"(e) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list under subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

"(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) Clerical amendment.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Credit counseling services; financial management instructional courses.".

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) Reduction of Claim.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

"(B) the offer of the debtor under subparagraph (A)—

"(i) was made at least 60 days before the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).".

(b) Limitation on Avoidability.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.".

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

"(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

"(2) such act is in the ordinary course of business between the creditor and the debtor; and

"(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.".

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) In General.—Section 524 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

"(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;";

(2) by adding at the end the following:

"(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

"(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

"(3) The disclosure statement required under this paragraph shall consist of the following:

"(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

"(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

"(C) The 'Amount Reaffirmed', using that term, which shall be—

"(i) the total amount which the debtor agrees to reaffirm, and

"(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

"(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

"(i) 'The amount of debt you have agreed to reaffirm'; and

"(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

"(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

"(i) if, at the time the petition is filed, the debt is open end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)(5) and (6)), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

"(ii) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

"(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act (15 U.S.C. 1638(a)(4)), as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

"(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act (15 U.S.C. 1601 et seq.), by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

"(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

"(i) by making the statement: 'Your first payment in the amount of $ is due on but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

"(I) The following statement: 'Note: When this disclosure refers to what a creditor 'may' do, it does not use the word 'may' to give the creditor specific permission. The word 'may' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'.

"(J)(i) The following additional statements:

"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

"'3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

"'4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

"'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"'7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

"'Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of the agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5)(A) The declaration shall consist of the following:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $, leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: .

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by counsel and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)), the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'

"(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I (we), the debtor, affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve a reaffirmation, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(9) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(A) such creditor retains a security interest in real property that is the debtor's principal residence;

"(B) such act is in the ordinary course of business between the creditor and the debtor; and

"(C) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

"(l) Notwithstanding any other provision of this title:

"(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

"(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)).".

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

"(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

"(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are—

"(1) a United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

"(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

"(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

"(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

"(i) a separation agreement, divorce decree, or property settlement agreement;

"(ii) an order of a court of record; or

"(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

"(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt;".

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking "First" and inserting "Second";

(4) in paragraph (3), as redesignated, by striking "Second" and inserting "Third";

(5) in paragraph (4), as redesignated—

(A) by striking "Third" and inserting "Fourth"; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as redesignated, by striking "Fourth" and inserting "Fifth";

(7) in paragraph (6), as redesignated, by striking "Fifth" and inserting "Sixth";

(8) in paragraph (7), as redesignated, by striking "Sixth" and inserting "Seventh"; and

(9) by inserting before paragraph (2), as redesignated, the following:

"(1) First:

"(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

"(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.".

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

"(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.";

(2) in section 1208(c)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.";

(3) in section 1222(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding in the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a) (as amended by this Act), by adding at the end the following:

"(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable after the date on which the petition is filed; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid" after "completion by the debtor of all payments under the plan".

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

"(iii) concerning child custody or visitation;

"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

"(v) regarding domestic violence;

"(B) the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

"(D) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16));

"(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

"(F) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) or under an analogous State law; or

"(G) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.);".

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;";

(B) in paragraph (15)—

(i) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(ii) by inserting "or" after "court of record,"; and

(iii) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon; and

(C) by striking paragraph (18); and

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)".

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

SEC. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In any case described in subsection (a)(10), the trustee shall—

"(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures;

"(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and “(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and

“(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor;

“(III) the last recent known name and address of the debtor's employer; and

“(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In any case described in subsection (a)(7), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor;

“(III) the last recent known name and address of the debtor's employer; and

“(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In any case described in subsection (b)(6), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor;

“(III) the last recent known name and address of the debtor's employer; and

“(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d).”; and

(2) by adding at the end the following:

“(d)(1) In any case described in subsection (b)(6), the trustee shall—

“(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664, 666) for the State in which the holder resides; and

“(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

“(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

“(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

“(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

“(I) the granting of the discharge;

“(II) the last recent known address of the debtor;

“(III) the last recent known name and address of the debtor's employer; and

“(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

“(aa) is not discharged under paragraph (2), (4), or (14) of section 523(a); or

“(bb) was reaffirmed by the debtor under section 524(c).

“(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.”.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

“(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

“(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

“(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

“(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;”.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking “a person, other than an attorney or an employee of an attorney” and inserting “the attorney for the debtor or an employee of such attorney under the direct supervision of such attorney”;

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: “If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by—

"(aa) the debtor; and

"(bb) the bankruptcy petition preparer, under penalty of perjury; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as redesignated—

(i) by striking "Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as redesignated, by striking "or the United States trustee" and inserting "the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, United States trustee, or bankruptcy administrator, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, the United States trustee, or the bankruptcy administrator."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

"(3) The debtor, the trustee, a creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

“(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”; and

(iv) by striking “(2)(A) any property” and inserting:

“(3) Property listed in this paragraph is—

“(A) any property”;

(B) by striking paragraph (1) and inserting:

“(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.”;

(C) by striking “(b) Notwithstanding” and inserting “(b)(1) Notwithstanding”;

(D) by striking “paragraph (2)” each place it appears and inserting “paragraph (3)”;

(E) by striking “paragraph (1)” each place it appears and inserting “paragraph (2)”;

(F) by striking “Such property is—”; and

(G) by adding at the end the following:

“(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

“(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

“(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

“(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

“(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

“(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

“(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

“(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

“(ii) A distribution described in this clause is an amount that—

“(I) has been distributed from a fund or account that is exempt from taxation under. section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

“(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.”; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “subsection (b)(1)” and inserting “subsection (b)(2)”; and

(B) by adding at the end the following:

“(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (18) the following:

“(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

“(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;”; and

(4) by adding at the end of the flush material at the end of the subsection, the following: “Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title.

Nothing in paragraph (18) may be construed to provide that any loan made under.a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

“(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute ‘disposable income’ under section 1325.”.

(e) ASSET LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

“(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 104 of this title) in a case filed by an individual debtor, except that such amount may be increased if the interests of justice so require.”.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “or” at the end;

(B) by redesignating paragraph (5) as paragraph (10); and

(C) by inserting after paragraph (4) the following:

“(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

“(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

“(B) only to the extent that such funds—

“(i) are not pledged or promised to any entity in connection with any extension of credit; and

“(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

“(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

“(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

“(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

“(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

“(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;”; and

(2) by adding at the end the following:

“(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.’’.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).’’.

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

‘‘(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;’’;

(2) by inserting after paragraph (4) the following:

‘‘(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;’’; and

(3) by inserting after paragraph (12) the following:

‘‘(12A) ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

‘‘(A) any person that is an officer, director, employee or agent of that person;

‘‘(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

‘‘(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;

‘‘(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union; or

‘‘(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.’’.

(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ‘‘101(3),’’ after ‘‘sections’’.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

‘‘§ 526. Restrictions on debt relief agencies

‘‘(a) A debt relief agency shall not—

‘‘(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

‘‘(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

‘‘(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

‘‘(i) the services that such agency will provide to such person; or

‘‘(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

‘‘(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

‘‘(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

‘‘(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

‘‘(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

‘‘(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

‘‘(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

‘‘(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

‘‘(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

‘‘(A) may bring an action to enjoin such violation;

‘‘(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

‘‘(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

‘‘(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

‘‘(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

‘‘(A) enjoin the violation of such section; or

‘‘(B) impose an appropriate civil penalty against such person.’’.

‘‘(d) No provision of this section, section 527, or section 528 shall—

‘‘(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

‘‘(2) be deemed to limit or curtail the authority or ability—

‘‘(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

‘‘(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.’’.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting before the item relating to section 527, the following:

‘‘526. Debt relief enforcement.’’.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

‘‘§ 527. Disclosures

‘‘(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

‘‘(1) the written notice required under section 342(b)(1) of this title; and

‘‘(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

‘‘(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

‘‘(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

‘‘(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

‘‘(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2)) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"§ 528. Requirements for debt relief agencies

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code,' or a substantially similar statement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

"528. Debtor's bill of rights.".

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court",

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915", and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan which will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.".

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (19), as added by this Act, the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;".

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a) (as so designated by this Act)—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking "(e), and (f)" inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k); and

(C) by inserting after subsection (g) the following:

"(h)(1) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

"(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion."; and

(2) in section 521—

(A) in subsection (a)(2), as so designated by this Act, by striking "consumer";

(B) in subsection (a)(2)(B), as so designated by this Act—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

(ii) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C), as so designated by this Act, by inserting ", except as provided in section 362(h) of this title" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) In General.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) Restoring the Foundation for Secured Credit.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 5-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".

(c) Definitions.—Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3)(A) of title 11, United States Code, as so designated by this Act, is amended—

(1) by striking "180 days" and inserting "730 days"; and

(2) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place".

SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and

(2) by adding at the end the following:

"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 7-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) Stopping Abusive Conversions From Chapter 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) Giving Debtors the Ability To Keep Leased Personal Property by Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) Adequate Protection of Lessors and Purchase Money Secured Creditors.—

(1) Confirmation of plan.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

‘‘(iii) if—

‘‘(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

‘‘(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or’’.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

‘‘(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

‘‘(A) proposed by the plan to the trustee;

‘‘(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

‘‘(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

‘‘(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

‘‘(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

‘‘(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.’’.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

‘‘(C)(i) for purposes of subparagraph (A)—

‘‘(I) consumer debts owed to a single creditor and aggregating more than $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

‘‘(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

‘‘(ii) for purposes of this subparagraph—

‘‘(I) the term ‘extension of credit under an open end credit plan’ means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

‘‘(II) the term ‘open end credit plan’ has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

‘‘(III) the term ‘luxury goods or services’ does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.’’.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (21), as added by this Act, the following:

‘‘(22) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

‘‘(23) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law;

‘‘(24) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs;

‘‘(25) under subsection (a) of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;’’.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ‘‘six’’ and inserting ‘‘8’’; and

(2) in section 1328, by inserting after subsection (e) the following:

‘‘(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.’’.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

‘‘(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term ‘household goods’ means—

‘‘(i) clothing;

‘‘(ii) furniture;

‘‘(iii) appliances;

‘‘(iv) 1 radio;

‘‘(v) 1 television;

‘‘(vi) 1 VCR;

‘‘(vii) linens;

‘‘(viii) china;

‘‘(ix) crockery;

‘‘(x) kitchenware;

‘‘(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

‘‘(xii) medical equipment and supplies;

‘‘(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

‘‘(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor.

‘‘(B) The term ‘household goods’ does not include—

‘‘(i) works of art (unless by or of the debtor or the dependents of the debtor);

‘‘(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

‘‘(iii) items acquired as antiques;

‘‘(iv) jewelry (except wedding rings); and

‘‘(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.’’.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

‘‘(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);’’.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

‘‘(1) provided for under section 1322(b)(5);

‘‘(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

‘‘(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

‘‘(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.’’.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

(A) by inserting ‘‘(1)’’ after ‘‘(c)’’;

(B) by striking ‘‘, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice’’; and

(C) by adding at the end the following:

‘‘(2) If, within the 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number."; and

(2) by adding at the end the following:

"(e) At any time, a creditor, in a case of an individual debtor under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

"(f) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

"(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

"(2) No sanction under section 362(k) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (a), as so designated by this Act, by striking paragraph (1) and inserting the following:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

"(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

"(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

"(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

"(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

"(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;"; and

(2) by adding at the end the following:

"(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

"(2)(A) The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, to the trustee, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

"(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

"(3)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

"(B) The court shall make such plan available to the creditor who request such plan—

"(i) at a reasonable cost; and

"(ii) not later than 5 days after such request.

"(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of any party in interest—

"(1) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

"(2) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

"(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

"(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

"(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

"(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

"(g)(1) A statement referred to in subsection (f)(4) shall disclose—

"(A) the amount and sources of income of the debtor;

"(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

"(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in subsection (e)(2)(A) and subsection (f) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

"(h)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

"(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

"(3) Not later than 1 year and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

"(A) assesses the effectiveness of the procedures under paragraph (1); and

"(B) if appropriate, includes proposed legislation to—

"(i) further protect the confidentiality of tax information; and

"(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

"(i) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

"(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(j)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

"(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

"(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.".

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a).".

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) Property of the Estate.—

(1) In general.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"§ 1115. Property of the estate

"(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.".

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) Clerical amendment.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

"1115. Property of the estate.".

(b) Contents of Plan.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) Confirmation of Plan.—

(1) Requirements relating to value of property.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

"(15) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.".

(2) Requirement relating to interests in property.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)".

(d) Effect of Confirmation—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor"; and

(2) by adding at the end the following:

"(5) In a case concerning an individual—

"(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

"(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

"(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

"(ii) modification of the plan under 1127 of this title is not practicable.".

(e) Modification of Plan.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

"(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

"(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.".

SEC. 322. LIMITATION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548 of this title, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 2-year period preceding the filing of the petition which exceeds in the aggregate $100,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.

"(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.

"(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of the 2-year period) into the debtor's current principal residence, where the debtor's previous and current residences are located in the same State.".

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "522(d)," and inserting "522(d), 522(n), 522(p),"; and

(2) in paragraph (3), by striking "522(d)," and inserting "522(d), 522(n), 522(p),".

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (6), as added by this Act, the following:

"(7) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by the employer from employees for payment as contributions to—

"(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

"(ii) a health insurance plan regulated by State law whether or not subject to such title;".

(b) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking "Notwithstanding" and inserting "Except as provided in subsection (e)(2), and notwithstanding"; and

(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

"(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.".

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $160; or

"(B) under chapter 13 of title 11, $150.".

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;";

(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of paragraph (b)(1);"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) of this title expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (25), as added by this Act, the following:

"(26) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(2) by adding at the end the following:

"(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Reform Act of 2001, or any successor thereto.".

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.".

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period" and inserting

"or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.".

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.".

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term "filing fee" means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) In General.—

(1) Disclosure.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) Information.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) Purpose.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 432. DEFINITIONS.

(a) Definitions.—Section 101 of title 11, United States Code, as amended by this Act, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $3,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"§ 1116. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the plan shall be confirmed not later than 175 days after the date of the order for relief, unless such 175-day period is extended as provided in section 1121(e)(3).".

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by this Act is amended—

(1) in subsection (k), as redesignated by this Act—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(l)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) do not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

"(2) This subsection does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) Expanded Grounds for Dismissal or Conversion.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

"(A) a plan with a reasonable possibility of being confirmed will be filed within a reasonable period of time; and

"(B) the grounds include an act or omission of the debtor—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

"(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

"(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) Additional Grounds for Appointment of Trustee.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562" after "557,".

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) In General.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of each district shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than October 31, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

"(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debts reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the filing of the petition and the closing of the case;

"(E) for the reporting period—

"(i) the number of cases in which a reaffirmation was filed; and

"(ii)(I) the total number of reaffirmations filed;

"(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders determining the value of property securing a claim issued;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or damages awarded under such Rule.".

(b) Clerical Amendment.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) Amendment.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"§ 589b. Bankruptcy data

"(a) Rules.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

"(b) Reports.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) Required Information.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) Final Reports.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) Periodic Reports.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 603. AUDIT PROCEDURES.

(a) In General.—

(1) Establishment of procedures.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) Procedures.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) Amendments.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Reform Act of 2001; and"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) Amendments to Section 521 of Title 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting "or an auditor appointed under section 586(f) of title 28" after "serving in the case".

(d) Amendments to Section 727 of Title 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) Effective Date.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) Treatment of Certain Liens.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".

(b) Determination of Tax Liability.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.".

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";

(2) by striking "(1) upon payment" and inserting "(A) upon payment";

(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";

(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";

(5) by striking "(2) upon payment" and inserting "(B) upon payment";

(6) by striking "(3) upon payment" and inserting "(C) upon payment";

(7) by striking "(b)" and inserting "(2)"; and

(8) by inserting before paragraph (2), as so designated, the following:

"(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

"(i) designate an address for service of requests under this subsection; and

"(ii) describe where further information concerning additional requirements for filing such requests may be found.

"(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.".

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) In General.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§511. Rate of interest on tax claims

"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

"511. Rate of interest on tax claims.".

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of filing of the petition" after "gross receipts";

(B) in clause (i), by striking "for a taxable year ending on or before the date of filing of the petition"; and

(C) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days."; and

(2) by adding at the end the following:

"An otherwise applicable time period specified in this paragraph shall be suspended for (i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus (ii) any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in section 523(a)(2) or for a tax or customs duty with respect to which the debtor—

"(A) made a fraudulent return; or

"(B) willfully attempted in any manner to evade or defeat that tax or duty.".

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning an individual debtor's tax liability for a taxable period ending before the order for relief under this title".

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

"(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by this Act, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by this Act, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

"1308. Filing of prepetition tax returns.".

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (26), as added by this Act, the following:

"(27) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);".

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of state and local taxes

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

“(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

“(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

“(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

“(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

“(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

“(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

“(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

“(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

“(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is repealed.

(2) Section 1146 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

“(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

“(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.”.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

“Sec.
“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.
“1503. International obligations of the United States.
“1504. Commencement of ancillary case.
“1505. Authorization to act in a foreign country.
“1506. Public policy exception.
“1507. Additional assistance.
“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

“1509. Right of direct access.
“1510. Limited jurisdiction.
“1511. Commencement of case under section 301 or 303.
“1512. Participation of a foreign representative in a case under this title.
“1513. Access of foreign creditors to a case under this title.
“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“1515. Application for recognition.
“1516. Presumptions concerning recognition.
“1517. Order granting recognition.
“1518. Subsequent information.
“1519. Relief that may be granted upon filing petition for recognition.
“1520. Effects of recognition of a foreign main proceeding.
“1521. Relief that may be granted upon recognition.
“1522. Protection of creditors and other interested persons.
“1523. Actions to avoid acts detrimental to creditors.
“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
“1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
“1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. Commencement of a case under this title after recognition of a foreign main proceeding.
“1529. Coordination of a case under this title and a foreign proceeding.
“1530. Coordination of more than 1 foreign proceeding.
“1531. Presumption of insolvency based on recognition of a foreign main proceeding.
“1532. Rule of payment in concurrent proceedings.

“§ 1501. Purpose and scope of application

“(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

“(1) cooperation between—

“(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

“(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

“(2) greater legal certainty for trade and investment;

“(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

“(4) protection and maximization of the value of the debtor's assets; and

“(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

“(b) This chapter applies where—

“(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

“(2) assistance is sought in a foreign country in connection with a case under this title;

“(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

“(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

“(c) This chapter does not apply to—

“(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

“(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

“(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

“(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

“SUBCHAPTER I—GENERAL PROVISIONS

“§ 1502. Definitions

“For the purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a nontransitory economic activity;

“(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

“(4) ‘foreign main proceeding’ means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§ 1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§ 1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§ 1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§ 1509. Right of direct access

"(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

"(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

"(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

"(3) a court in the United States shall grant comity or cooperation to the foreign representative.

"(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

"(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

"(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

"§ 1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§ 1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§ 1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§ 1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§ 1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§ 1515. Application for recognition

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

“§ 1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding (as defined in section 101) and that the person or body is a foreign representative (as defined in section 101), the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

“§ 1517. Order granting recognition

“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

“(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

“(3) the petition meets the requirements of section 1515.

“(b) The foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

“§ 1518. Subsequent information

“From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

“§ 1519. Relief that may be granted upon filing petition for recognition

“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor's assets;

“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (28) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

“§ 1520. Effects of recognition of a foreign main proceeding

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

“(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

“§ 1521. Relief that may be granted upon recognition

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

“(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (28) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

“§ 1522. Protection of creditors and other interested persons

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

“§ 1523. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"§ 1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

"(A) any relief granted under sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

"(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

"(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases .... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(1), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(j) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15,".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) Other Sections of Title 11.—

(1) Section 109(b)(3) of title 11, United States Code, is amended to read as follows:

"(3)(A) a foreign insurance company, engaged in such business in the United States; or

"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) in the United States.".

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking ", 304," each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows:

"(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.".

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) Definition of Qualified Financial Contract.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(b) Definition of Securities Contract.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) Securities contract.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.".

(c) Definition of Commodity Contract.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) Commodity contract.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.".

(d) Definition of Forward Contract.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) Forward contract.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).".

(e) Definition of Repurchase Agreement.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) Repurchase agreement.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) Definition of Swap Agreement.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) Swap agreement.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction similar to any other agreement or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), (IV), or (V).

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.".

(g) Definition of Transfer.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) Transfer.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.".

(h) Treatment of Qualified Financial Contracts.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(B) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(C) by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(i) Avoidance of Transfers.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) In General.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) Walkaway clauses not effective.—

"(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) Technical and Conforming Amendment.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) Transfers of Qualified Financial Contracts to Financial Institutions.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) Transfer of qualified financial contracts.—

"(A) In general.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) Transfer to foreign bank, foreign financial institution, or branch or agency of a foreign bank or financial institution.—In transferring any qualified financial contract and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITION.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution.".

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).".

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period "or that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) Enforceability of Contracts With Uninsured National Banks and Uninsured Federal Branches and Agencies.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 408; and

(2) by inserting after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

"(a) In General.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.

"(b) Liability.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) Regulatory Authority.—

"(1) In general.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.

"(2) Specific requirement.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) Definitions.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) Definitions of Forward Contract, Repurchase Agreement, Securities Clearing Agency, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract on the date of the filing of the petition;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is an interest rate swap, option, future, or forward agreement, including—

"(I) a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or an equity swap, option, future, or forward agreement;

"(V) a debt index or a debt swap, option, future, or forward agreement;

"(VI) a credit spread or a credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, weather derivative, or weather option;

"(ii) any agreement or transaction similar to any other agreement or transaction referred to in this paragraph that—

"(I) is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), but do not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

"(iv) any margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) any combination of the agreements or transactions referred to in this subparagraph;

"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) any security agreement or arrangement or other credit enhancement, related to any agreement or transaction referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan."; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition;".

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract 'Merchant.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

"(B) in connection with a securities contract, as defined in section 741, an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means an entity that, at the time it enters into a securities contract, commodity contract, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761 or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by this Act, is amended—

(A) in paragraph (6), by inserting ", pledged to, and under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, and under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (27), as added by this Act, the following new paragraph:

"(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; or".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(l) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (28) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101-311)—

(A) by striking "under a swap agreement"; and

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(2) by adding at the end the following:

"(k) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements"; and

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

"(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b) EXCEPTION.—

"(1) IN GENERAL.—A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) COMMODITY BROKERS.—If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under that subchapter IV; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) CONSTRUCTION.—No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under section 5(a)(12)(A) of the Commodity Exchange Act and has been approved; or

"(B) any other netting agreement between a clearing organization, as defined in section 761, and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) DEFINITION.—As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15 of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.

(l) Commodity Broker Liquidations.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) Stockbroker Liquidations.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) Setoff.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(28), 555, 556, 559, 560, or 561 of this title)"; and

(2) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(28), 555, 556, 559, 560, 561".

(o) Securities Contracts, Commodity Contracts, and Forward Contracts.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in section 546(e), by inserting "financial participant," after "financial institution,";

(3) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(4) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by inserting before the period at the end ", a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice"; and

(5) in section 556, by inserting ", financial participant," after "commodity broker".

(p) Conforming Amendments.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) Recordkeeping requirements.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.".

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) Exemptions from contemporaneous execution requirement.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

SEC. 910. DAMAGE MEASURE.

(a) In General.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, the following:

"§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

"If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date of such liquidation, termination, or acceleration."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by this Act) the following:

"562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) Claims Arising From Rejection.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) Exception from stay.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101 and 741 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

SEC. 912. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

"(8) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a);"; and

(2) by adding at the end the following new subsection:

"(f) For purposes of this section—

"(1) the term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securities rating organizations, when the securities were initially issued by an issuer;

"(2) the term 'eligible asset' means—

"(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, assets of governmental units, including payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

"(B) cash; and

"(C) securities, including without limitation, all securities issued by governmental units;

"(3) the term 'eligible entity' means—

"(A) an issuer; or

"(B) a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

"(4) the term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto; and

"(5) the term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(8) (whether or not reference is made to this title or any section hereof), irrespective and without limitation of—

"(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

"(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

"(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.".

SEC. 913. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date.—This title shall take effect on the date of enactment of this Act.

(b) Application of Amendments.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) Reenactment.—

(1) In general.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277, 112 Stat. 2681-610), and amended by this Act, is reenacted.

(2) Effective date.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(b) Conforming Amendment.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

(a) In General.—Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

"(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection.".

(b) Effective Date.—The first adjustment required by section 104(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of—

(1) April 1, 2001; or

(2) 60 days after the date of enactment of this Act.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) Contents of Plan.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) Special Notice Provisions.—Section 1231(b) of title 11, United States Code, as so designated by this Act, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) Health Care Business Defined.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

"(i) the diagnosis or treatment of injury, deformity, or disease; and

"(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—

"(i) any—

"(I) general or specialized hospital;

"(II) ancillary ambulatory, emergency, or surgical treatment facility;

"(III) hospice;

"(IV) home health agency; and

"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

"(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) Patient and Patient Records Defined.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any person who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) Rule of Construction.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) In General.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"§ 351. Disposal of patient records

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

"351. Disposal of patient records.".

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351; or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business;

"(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6); and".

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) IN GENERAL.—

(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

"§ 332. Appointment of ombudsman

"(a) IN GENERAL.—

"(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as an ombudsman, including a person who is serving as a State Long-Term Care Ombudsman appointed under title III or VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.).

"(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

"(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

"(c) CONFIDENTIALITY.—An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

"332. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter proceeding subparagraph (A), by inserting "an ombudsman appointed under section 331, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking "sections 704(2), 704(5), 704(7), 704(8), and 704(9)" and inserting "paragraphs (2), (5), (7), (8), (9), and (11) of section 704(a)".

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (28), as added by this Act, the following:

"(29) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).".

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property."; and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 322 of this Act, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so designated by this Act, is amended by striking "attorney's" and inserting "attorneys'".

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting "1123(d)," after "1123(b),".

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1219. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. 1220. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 1221. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 1222. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(g) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1223. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. 1224. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "or October 1, 2002, whichever occurs first"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking "or October 1, 2002, whichever occurs first"; and

(ii) in the matter following subclause (II), by striking "October 1, 2003, or"; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking "before October 1, 2003, or"; and

(ii) by striking ", whichever occurs first".

SEC. 1225. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 2001".

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the district of Delaware.

(D) Two additional bankruptcy judgeships for the southern district of Florida.

(E) One additional bankruptcy judgeship for the southern district of Georgia.

(F) Two additional bankruptcy judgeships for the district of Maryland.

(G) One additional bankruptcy judgeship for the eastern district of Michigan.

(H) One additional bankruptcy judgeship for the southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1).

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under paragraphs (1), (3), (7), (8), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located."; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1226. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

SEC. 1227. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;".

SEC. 1228. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1229. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days after the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(7).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(10) the value of any goods received by the debtor not later than 20 days after the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

SEC. 1230. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1231. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1232. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

"(9) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or".

SEC. 1233. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

SEC. 1234. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

SEC. 1235. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) IN GENERAL.—Section 158 of title 28, United States Code, is amended—

(1) by striking subsection (d) and inserting the following:

"(d)(1) In a case in which the appeal is heard by the district court, the judgment, decision, order, or decree of the bankruptcy judge shall be deemed a judgment, decision, order, or decree of the district court entered 31 days after such appeal is filed with the district court, unless not later than 30 days after such appeal is filed with the district court—

"(A) the district court—

"(i) files a decision on the appeal from the judgment, decision, order, or decree of the bankruptcy judge; or

"(ii) enters an order extending such 30-day period for cause upon motion of a party or upon the court's own motion; or

"(B) all parties to the appeal file written consent that the district court may retain such appeal until it enters a decision.

"(2) For the purpose of this subsection, an appeal shall be considered filed with the district court on the date on which the notice of appeal is filed, except that in a case in which the appeal is heard by the district court because a party has made an election under subsection (c)(1)(B), the appeal shall be considered filed with the district court on the date on which such election is made.

"(e) The courts of appeals shall have jurisdiction of appeals from—

"(1) all final judgments, decisions, orders, and decrees of district courts entered under subsection (a);

"(2) all final judgments, decisions, orders, and decrees of bankruptcy appellate panels entered under subsection (b); and

"(3) all judgments, decisions, orders, and decrees of district courts entered under subsection, (d) to the extent that such judgments, decisions, orders, and decrees would be reviewable by a district court under subsection (a).

"(f) In accordance with rules prescribed by the Supreme Court of the United States under sections 2072 through 2077, the court of appeals may, in its discretion, exercise jurisdiction over an appeal from an interlocutory judgment, decision, order, or decree under subsection (e)(3).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 305(c) of title 11, United States Code, is amended by striking "section 158(d)" and inserting "subsection (e) or (f) of section 158".

(2) Section 1334(d) of title 28, United States Code, is amended by striking "section 158(d)" and inserting "subsection (e) or (f) of section 158".

(3) Section 1452(b) of title 28, United States Code, is amended by striking "section 158(d)" and inserting "subsection (e) or (f) of section 158".

SEC. 1236. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: .' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Reform Act of 2001, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: ______.' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "CONSULTATION OF TAX ADVISER.—A statement that the" and inserting the following: "TAX DEDUCTIBILITY.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) IN GENERAL.—If any"; and

(B) by adding at the end the following:

"(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to

further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

SEC. 1310. ENFORCEMENT OF CERTAIN FOREIGN JUDGMENTS BARRED.

(a) IN GENERAL.—Notwithstanding any other provision of law or contract, a court within the United States shall not recognize or enforce any judgment rendered in a foreign court if, by clear and convincing evidence, the court in which recognition or enforcement of the judgment is sought determines that the judgment gives effect to any purported right or interest derived, directly or indirectly, from any fraudulent misrepresentation or fraudulent omission that occurred in the United States during the period beginning on January 1, 1975, and ending on December 31, 1993.

(b) EXCEPTION.—Subsection (a) shall not prevent recognition or enforcement of a judgment rendered in a foreign court if the foreign tribunal rendering judgment giving effect to the right or interest concerned determines that no fraudulent misrepresentation or fraudulent omission described in subsection (a) occurred.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

READING OF WASHINGTON'S FAREWELL ADDRESS.

Mr. SESSIONS. Notwithstanding the resolution of the Senate of January 24, 1901, I ask unanimous consent that the Senate convene at 12 noon Monday, February 26, 2001; that immediately following the prayer, the disposition of the Journal, and the Pledge of Allegiance to the Flag, the traditional reading of Washington's Farewell Address take place, and that the Chair be authorized to appoint a Senator to perform this task.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE AND REFERRAL—S. 21

Mr. SESSIONS. Mr. President, I ask unanimous consent that S. 21 be discharged from the Committee on Finance and be referred to the Committees on the Budget and Governmental Affairs per the order of August 4, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of January 30, 2001, appoints the Senator from Virginia (Mr. ALLEN) to read Washington's Farewell Address on February 26, 2001.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Washington (Mrs. MURRAY) as Co-Chair of the Senate Delegation to the Canada-U.S. Interparliamentary Group conference during the 107th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Connecticut (Mr. DODD) as Co-Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 107th Congress.

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Delaware (Mr. BIDEN) as Co-Chairman of the Senate Delegation to the North Atlantic Assembly during the 107th Congress.

CONGRATULATING THE BALTIMORE RAVENS FOR WINNING SUPER BOWL XXXV

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 15, submitted earlier today by Senators SARBANES and MIKULSKI.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 15) congratulating the Baltimore Ravens for winning Super Bowl XXXV.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MIKULSKI. I stand to honor the Baltimore Ravens who soared over the Super Bowl winning 34–7.

I also want to honor the city of Baltimore. Baltimore has often been overlooked and under valued.

Baltimore is the comeback city: the crime rate is dropping; test scores are rising; we are building a digital harbor; and now we are the Super Bowl champs for the first time since 1971.

We want the world to get to know Baltimore as a dynamic city, a city of communities—that's unified around our values, our patriotism, and our Ravens, a city with a great football heritage—and a great football future.

I congratulate the Baltimore fans, loyal and with high energy. They spent 11 years without any team at all after our Colts snuck out of town. We now have the Ravens—and we're the Super Bowl champs. We deserved this win.

I congratulate owner Art Modell, who won his first Super Bowl in 40 years of owning the team; head coach Brian Bilick, who won after only 2 years as a head coach; Ray Lewis, named most valuable player; the Ravens defense, one of the best defensive teams ever, making records and Super Bowl history, allowing just 165 points in the 16-game regular season, and had caught four interceptions during the Super Bowl.

The Ravens' offense and special teams scored big. Quarterback, Trent Dilfer threw the first touchdown pass of the game and had no interceptions; Brandon Stokely caught a 38-yard touchdown pass; Jermaine Lewis, a Maryland native and former Maryland Terrapin, returned an 84-yard kick-off to put the game out of reach.

The resolution we are passing today commends the loyalty, community spirit and enthusiasm of the Baltimore fans, applauds the Baltimore Ravens for their high standards of character, perseverance, professionalism, excellence and teamwork, praises the Ravens for their community service, congratulates the Ravens and the New York Giants for a hard-fought, sportsmanlike Super Bowl, congratulates the Ravens and their fans for the Super Bowl victory, and recognizes the achievements of the players, coaches and support staff who made this win possible.

We have been celebrating since Sunday night.

Today we had a parade through Baltimore.

We gave the Ravens the key to our city; they already have the key to our hearts.

I just watched as our colleagues from New York made good on their bet and recited Edgar Allen Poe's "The Raven."

We want our colleagues to share in our excitement for our Ravens and for our city.

Mr. SESSIONS. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 15) was agreed to.

The preamble was agreed to.

(The resolution is located in today's RECORD under "Senate Resolutions.")

ORDERS FOR WEDNESDAY, JANUARY 31, 2001

Mr. SESSIONS. On behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, January 31. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:30 a.m. with Senators speaking for up to 5 minutes each, with the following exceptions: Senator BROWNBACK or his designee, 10 to 10:15 a.m.; Senator DURBIN or his designee, 10:15 to 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. On behalf of the majority leader, I further ask that following morning business the Senate proceed to executive session to begin consideration of the Ashcroft nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Tomorrow the Senate will be in a period of morning business from 10 a.m. to 10:30 a.m. Following morning business, the Senate will resume consideration of Senator Ashcroft's nomination to be Attorney General of the United States. Under the order, debate will occur throughout the day. It is hoped that we can schedule Senators in an alternating manner throughout the day.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:14 p.m., adjourned until Wednesday, January 31, 2001, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 30, 2001:

DEPARTMENT OF THE INTERIOR

GALE ANN NORTON, OF COLORADO, TO BE SECRETARY OF THE INTERIOR.

ENVIRONMENTAL PROTECTION AGENCY

CHRISTINE TODD WHITMAN, OF NEW JERSEY, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

HOUSE OF REPRESENTATIVES—*Tuesday, January 30, 2001*

The House met at 2 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

With the psalmist we pray: "O Lord open my lips and my mouth will declare Your praise."

Even before the first word is formulated, Lord, guide our minds, our thoughts, our hearts and desires. By Your Holy Spirit, breathe into us a new spirit. Shape this Congress and our world according to Your design that we may fulfill Your holy will.

Give us the gift of attentive hearts and open minds, that through the diversity of ideas, we may sort out what is best for this Nation. Let us not be afraid of silence; that even before we speak, we may heed Your revealed Word with longing.

May our speech be deliberately free of all prejudice that others may listen wholeheartedly. Then our dialogue will be mutually respectful, surprising even us with unity and justice. And our words as well as our lives will give You praise now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 22, 2001, at 12:25 p.m.

That the Senate passed S. Res. 10.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 24, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 24, 2001 at 11:02 a.m.

That the Senate passed S. Res. 12.

Appointments:

Commission on the Future of the U.S. Aerospace Industry, John J. Hamre of Maryland.

Board of Regents, Smithsonian Institution, Senator Leahy, Vermont.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT OF MEMBERS TO HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to clause 11 of rule X and clause 11 of rule I, the Chair appoints the following Members of the House of Representatives to the Permanent Select Committee on Intelligence:

Mr. BEREUTER of Nebraska,
Mr. CASTLE of Delaware,
Mr. BOEHLERT of New York,
Mr. BASS of New Hampshire,
Mr. GIBBONS of Nevada,
Mr. LAHOOD of Illinois,
Mr. CUNNINGHAM of California,
Mr. HOEKSTRA of Michigan,
Mr. BURR of North Carolina, and
Mr. HUTCHINSON of Arkansas.

APPOINTMENT OF MEMBERS TO THE NORTH ATLANTIC ASSEMBLY

The SPEAKER. Pursuant to 22 U.S.C. 1928a, the Chair appoints the following Members of the House to the United States Group of the North Atlantic Assembly:

Mr. BEREUTER of Nebraska, Chairman,
Mr. REGULA of Ohio,
Mrs. ROUKEMA of New Jersey,
Mr. HEFLEY of Colorado,
Mr. GILLMOR of Ohio,
Mr. GOSS of Florida,
Mr. EHLERS of Michigan, and
Mr. MCINNIS of Colorado.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM

The SPEAKER laid before the House the following resignation as a member of the Committee on Government Reform:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
January 17, 2001.

Hon. J. DENNIS HASTERT,
Speaker, Republican Steering Committee, House of Representatives, the Capitol.

DEAR MR. SPEAKER: I am writing to request that I be removed from the membership of the Committee on Government Reform for the 107th Congress. I indicated this desire in my committee request form and have been told informally that I would no longer be serving on the Government Reform Committee. I ask that you take whatever steps are necessary to make this decision official.

Thank you for consideration of my request. Should you have any questions regarding my committee assignments please do not hesitate to contact me.

Sincerely,

ASA HUTCHINSON,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

COMMUNICATION FROM CASE MANAGER OF HONORABLE DAN MILLER OF FLORIDA, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Laura Griffin, Case Manager to the Honorable DAN MILLER of Florida, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 5, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule VIII of the Rules of the House that I received a subpoena for documents and testimony issued by the Circuit Court of the Twelfth Judicial Circuit of Florida In and For Manatee County, Florida.

After consultation with the Office of General Counsel, I have determined to comply with the subpoena to the extent that it is consistent with Rule VIII.

Sincerely,

LAURA GRIFFIN,
Case Manager.

COMMUNICATION FROM THE HONORABLE DAVID DREIER, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable DAVID DREIER, Member of Congress:

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 10, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you that, pursuant to Rule VIII of the Rules of the House of Representatives, I have been served with a grand jury subpoena for documents issued by the U.S. District Court for the Central District of California.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
DAVID DREIER.

COMMUNICATION FROM STAFF MEMBER OF HONORABLE JAMES A. TRAFICANT, JR., MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Anthony Traficanti, office of the Honorable JAMES A. TRAFICANT, Jr., Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule VIII of the Rules of the House that I have received a subpoena for testimony before the grand jury issued by the United States District Court for the Northern District of Ohio.

Sincerely,
ANTHONY TRAFICANTI.

COMMUNICATION FROM ECONOMIC DEVELOPMENT AND COMMUNITY OUTREACH REPRESENTATIVE OF HONORABLE JAMES A. TRAFICANT, JR., MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Claire Maluso, Economic Development and Community Outreach Representative of the Honorable JAMES A. TRAFICANT, Jr., Member of Congress:

JANUARY 22, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This to formally notify you pursuant to Rule VIII of the Rules of the House, that I have received a subpoena for testimony before the grand jury issued by the United States District Court for the Northern District of Ohio.

Sincerely,
CLAIRE MALUSO,
Youngstown, OH.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). The Chair will entertain 1-minute requests.

PRIVACY OF AMERICANS IS UNDER ATTACK

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Madam Speaker, I rise today to address a growing concern in this Nation, and that is the concern that the privacy of Americans is under attack. With the explosion of the Internet, changes in financial and medical laws and an increasingly intrusive Federal Government, people's personal information seems to be collected, sold, and transferred without adequate protections.

Madam Speaker, Congress must be engaged on this issue. In the last Congress, 250 of my colleagues joined me in supporting a bill establishing a historic commission that would have studied the protection of an individual's privacy. This would be the first such commission in 25 years. Now that the 107th Congress has begun, our agenda is very full; but the protection of the individual privacy remains one of the most important issues that we could address.

Several bills have been introduced. They should be considered. I encourage Congress to take up privacy legislation, but I believe it should be done in a responsible manner that allows for the appropriate flow of information without compromising the privacy of individuals. I believe a privacy commission is the right way to address this very important subject.

BALTIMORE RAVENS MAKE APPLESAUCE OUT OF NEW YORK GIANTS

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Madam Speaker, in the 1958 NFL championship game, Baltimore's beloved Colts defeated the New York Giants in the greatest game ever played, the game that created the modern-day NFL.

This past Sunday, Baltimore's beloved Ravens wrote the latest chapter in Baltimore's glorious football history, again defeating the New York Giants in Super Bowl XXXV, in a 34 to 7 blowout.

The Ravens' victory was keyed by a swarming, stifling defensive unit that now ranks as the greatest of all time. Led by Ray Lewis, the NFL's Defensive Player of the Year and Super Bowl MVP, the Ravens' defense cut the Giants down to size, leaving the team from the Big Apple as so much applesauce.

While the defense deserves the headlines it has received, the game was truly a team effort, with the offense and the special teams making big plays. In addition to Ray Lewis, the Ravens got major contributions from the other Lewises as well. Jamal Lewis pounded out 102 yards in rushing offense, and Jermaine Lewis scored on a kickoff return that broke the Giants' backs.

Today the City of Baltimore is the site of a victory parade, as the people of America's greatest city honor America's greatest football team. To all the Ravens, to owner Art Modell, I extend my heartfelt congratulations on a great season and a great Super Bowl championship.

A NEW ERA BEGINS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, this has been an exciting January here in Washington, but as we begin our work of the 107th Congress, it is important that we keep our focus on what we were sent here to do. As Members of Congress, we stood in this Chamber to take our oath of offices, promising to do the will of the American people; and this month we witnessed the inauguration of a new administration, an administration dedicated and committed to leading this Nation with integrity and fairness.

Madam Speaker, this 107th Congress has the opportunity to usher in a new era of politics. Together, this Congress and the Bush administration can successfully address the challenges facing our Nation, including ensuring military readiness, providing quality health care for all, and enacting meaningful education reform. We were elected to accomplish these goals, and now it is time for us to do our work and that of the American people.

CONGRESS CANNOT DEFEND AMERICA WITH STYROFOAM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, CSC Steel Company in my district has filed for bankruptcy protection, laying off 500 people. The reason is clear: foreign steel is being illegally dumped into America at record levels. Now if that is not enough to polish your stainless, the Clinton administration last month allowed an $18 million loan guarantee to a Chinese steel company. Beam me up.

Yes to Chinese steel; no to American steel. Is it any wonder the American steel industry is going belly up? I urge Congress to cosponsor House Resolution 16, that caused a 50 percent reduction of imports in 1998.

I yield back the fact that Congress cannot defend America with Styrofoam.

WE HAVE A MANDATE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, some of our friends in the media have suggested that because the President won a narrow election victory he does not have a mandate for his agenda. Well, that is wrong. Every American wants the best schools we can provide for our children. Every American deserves a tax cut. Every American wants us to pay off the debt; and, yes, we can afford to do both. Every American wants to help our seniors get prescription drugs and make sure Social Security will be there for the next generation. In fact, a recent Zogby poll showed that up to 40 percent of the people who voted for Al Gore support the Bush agenda. Education, tax cuts, debt pay-down, strong national defense, strengthening Social Security and Medicare, these are the issues the American people have assigned to us. These are the issues our President has campaigned on. These are the issues the country wants addressed. We have a mandate. The President has a plan. Let us roll up our sleeves, go to work, enact the President's agenda. It is really the people's agenda.

RURAL POVERTY, AN UNNOTICED PROBLEM IN OUR NATION

(Mr. OSBORNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OSBORNE. Madam Speaker, rural poverty is a huge, largely unnoticed problem in our Nation. Currently, the three lowest-income counties in the United States are in my district. The poorest county averages less than $4,000 annual income per person.

Paradoxically, in these counties, the unemployment rate is extremely low, the character level is excellent, and the work ethic is exceptional. The problem is that these rural counties are totally dependent upon production agriculture. For this reason today, along with several colleagues, I am introducing a bill that will provide a one-time, $500,000 capital gains tax exemption for farmers and ranchers who sell their land. This exemption would equal the capital gains exemption already granted to homeowners. Many producers feel they cannot retire because of their tax situation. This bill will help. I encourage support.

□ 1415

ARMED SERVICES APPRECIATION PAY RAISE ACT

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Madam Speaker, today I introduce the Armed Services Appreciation Pay Raise Act, the ASAP Act, to increase the salaries of our dedicated service personnel by 3.5 percent this year. When combined with next year's scheduled pay increase, this act will put an additional $150 per month in their pockets.

The issue should transcend politics. As long as there are military personnel collecting food stamps, as long as there are Americans who choose not to serve because they cannot afford to, we obviously have a problem that needs to be solved.

More and more is being asked of the men and women in our Armed Forces, especially our active Reservists and National Guard members who have shouldered an increasing burden through our military draw-down. But we have not appropriately rewarded them for their increasingly important role in our national defense.

Madam Speaker, I promised the people of Montana that recognizing the contribution of our young men and women in uniform would be the first legislation I introduced as a United States Congressman. Today, I am proud to honor that commitment by introducing the ASAP Act.

THE RACE AGAINST DRUGS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Madam Speaker, I rise today to discuss an issue that is very important to America. That is, how do we reduce drug use among our young people. I will be joined tomorrow at a press conference by NASCAR race driver Ricky Craven and representatives from other government agencies to talk about a new program to reduce drug use among young people, with a $2.5 million grant from the Department of Justice for the Race Against Drugs.

The Race Against Drugs is a nationwide drug prevention education program aimed at educating today's youth about the dangers of substance abuse. The program was developed in May of 1990, in partnership with the National Child Safety Council, the Department of Justice, the Center for Substance Abuse Prevention, and the Department of Health and Human Services, and 23 motor sport sanctioning organizations.

As one of several who has been fighting for increasing funding for effective drug prevention programs targeted towards America's youth, we know that this year's grant represents by far the largest level of support the Race Against Drugs has received from the Federal Government. We will have a race car, race drivers and a new innovative means to reduce drug use among youths. Join us at this press conference tomorrow, January 31 at the Triangle at 12:30 p.m.

RECESS

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5:30 p.m. today.

Accordingly (at 2 o'clock and 17 minutes p.m.), the House stood in recess until approximately 5:30 p.m.

□ 1730

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 5 o'clock and 30 minutes p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

FEDERAL FIREFIGHTERS RETIREMENT AGE FAIRNESS ACT

Mr. LATOURETTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 93) to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers, as amended.

The Clerk read as follows:

H.R. 93

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Firefighters Retirement Age Fairness Act".

SEC. 2. MANDATORY SEPARATION AGE FOR FIREFIGHTERS.

(a) Civil Service Retirement System.—

(1) In general.—The second sentence of section 8335(b) of title 5, United States Code, is amended—

(A) by inserting ", firefighter," after "law enforcement officer"; and

(B) by inserting ", firefighter," after "that officer".

(2) Conforming amendment.—Section 8335(b) of title 5, United States Code, is amended by striking the first sentence.

(b) Federal Employees' Retirement System.—

(1) In general.—The second sentence of section 8425(b) of title 5, United States Code, is amended—

(A) by inserting ", firefighter," after "law enforcement officer" each place it appears; and

(B) by striking "courier" the second place it appears and inserting "courier, as the case may be,".

(2) CONFORMING AMENDMENT.—Section 8425(b) of title 5, United States Code, is amended by striking the first sentence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

GENERAL LEAVE

Mr. LATOURETTE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 93, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATOURETTE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to have the House consider H.R. 93 this evening, important legislation introduced by our colleague, the gentleman from California (Mr. GALLEGLY). This bipartisan legislation amends Federal civil service law relating to the Civil Service Retirement System and the Federal Employees Retirement System to provide the same mandatory separation age for Federal firefighters and Federal law enforcement officers who have 20 years of service.

Currently, the mandatory separation age is 55 for firefighters and 57 for law enforcement officers. In both cases, an agency head may allow the employee to work until the age of 60 if that is required by the public interest.

The Subcommittee on Civil Service has examined the legislative history of these mandatory separation ages and it has determined that there is no rationale for continuing to maintain the discrepancy that currently exists. If enacted, H.R. 93, this bill, will bolster our firefighting capabilities. Allowing these brave men and women the option of continuing their careers for an additional 2 years will make it easier to maintain more experienced firefighters in the field and in senior management positions.

Madam Speaker, I encourage all of our Members to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. CUMMINGS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it certainly is a pleasure to be here this afternoon on the first bill of this session. Madam Speaker, last year more than 6.5 million acres of land, more than two times the ten-year national average, burned. Federal manpower resources were spread thin. More than 29,000 people were involved in firefighting efforts, including approximately 2,500 Army soldiers and Marines, and fire managers from Canada, Australia, Mexico and New Zealand.

In addition, 1,200 fire engines, 240 helicopters and 50 air tankers were in use last season. If nothing else, last year's fire season taught us that we must take steps to recruit and retain more Federal firefighters. H.R. 93 is a step in that direction, and, I might add, a step in the right direction.

From the start of the Civil Service Retirement System in 1920 until 1978, all Federal workers were required to retire at age 70 if, at that age, they had completed at least 15 years of service. In 1978, mandatory retirement was repealed for most Federal workers, although it continues to apply to special occupational groups whose duties pertain to public safety. Under current law, Federal law enforcement officers must retire at age 57 or as soon after that age as they complete 20 years of service. The agency head may grant exemptions up to the age 60. Federal firefighters must retire at age 55 or as soon thereafter as they complete 20 years of service. H.R. 93 would raise the mandatory retirement age for firefighters to mirror that of Federal law enforcement officers. It would raise the mandatory retirement age of Federal firefighters to age 57.

In June 2000, the Washington Post reported a 5.8 percent reduction in the number of firefighters nationwide. H.R. 93 will help stem the declining firefighter population and will help the Federal Government retain some of its most experienced firefighters.

In addition to supporting this legislation, I urge my colleagues to support a bill I introduced in the 106th Congress, and plan to reintroduce this session, that will be of equal benefit to the Federal public safety community.

Introduced last session as H.R. 1769, the bill works to eliminate a number of inequities found in the computation of benefits for public safety employees under the Federal Employee's Retirement System and the Civil Service Retirement System. It is my hope that the chairman of the Subcommittee on Civil Service, the gentleman from Florida (Mr. SCARBOROUGH), H.R. 93 author, the gentleman from California (Mr. GALLEGLY), and the firefighter and law enforcement communities will work with me to move my legislation through the Congress this session.

I would be remiss if I did not acknowledge the hard work of the gentlewoman from California (Mrs. CAPPS), who worked very diligently with the gentleman from California (Mr. GALLEGLY) to bring H.R. 93 to the floor. I join my colleagues, the gentlewoman from California (Mrs. CAPPS) and the gentleman from California (Mr. GALLEGLY), and ask that this bill be given full support.

Madam Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. GALLEGLY), the author of the bill.

Mr. GALLEGLY. Madam Speaker, I thank the gentleman from Ohio (Mr. LATOURETTE) for yielding me this time.

Madam Speaker, I would first like to thank the leadership, the gentleman from Indiana (Mr. BURTON) and the subcommittee chairman, the gentleman from Florida (Mr. SCARBOROUGH), for all their help in bringing this bill to the floor early in our session.

I would also like to thank my constituent, retired Captain Mike Hair of the Federal firefighting unit at Point Mugu Naval Air Station, for first bringing this important issue to my attention.

Madam Speaker, H.R. 93, the Federal Firefighters Retirement Age Fairness Act, is a bill I first introduced way back in 1995 to stop the forced early retirement of our Federal firefighters. The bill raises the mandatory retirement age for Federal firefighters from 55 to 57 allowing Federal firefighters the option of continuing their careers for an additional 2 years. The bill has gained bipartisan management and labor support with the endorsement of the International Association of Fire Chiefs, as well as the American Federation of Government Employees and the National Association of Government Employees.

Several years ago, Congress raised the mandatory retirement age for Federal law enforcement officers from 55 to 57. However, Congress neglected to raise the retirement age for Federal firefighters. As a result, we are losing our best and our most experienced firefighters to forced early retirement. Federal firefighters not only fight fires, they provide emergency medical service response, response to hazardous material situations and inspect and protect our military bases and other Federal employees. In fact, they were among the first to respond to the Oklahoma City bombing. If enacted, this bill will bolster our firefighter HAZMAT and EMS capabilities.

We will maintain more experienced firefighters in the field and in senior management positions by allowing these brave men and women the option of continuing their careers for an additional 2 years.

As an added bonus, Madam Speaker, the CBO estimates that the bill will actually save the government $4 million over the next 5 years. We must act now to ensure we have the experienced personnel needed to fight our Nation's fires and to be prepared to respond to future critical situations.

Mr. CUMMINGS. Madam Speaker, I yield 5 minutes to the gentleman from the Eighth District of New Jersey (Mr. PASCRELL), who was the author of the Fire Act that became law during the last session. This was the first comprehensive fire bill ever passed on the part of DOD in the reauthorization. So he has been one of those Members of Congress who has, along with the gentleman from California (Mr. GALLEGLY) and the gentlewoman from California (Mrs. CAPPS), been at the forefront of addressing the concerns and the needs of our firefighters.

Mr. PASCRELL. Madam Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS) for yielding me this time.

Madam Speaker, I also thank my good friends, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from California (Mr. GALLEGLY) for once again stepping to the plate. We did make progress in the House of Representatives, but so many of our efforts which were bipartisan stopped at the doorstep. This is important legislation. It again helps us address the other half of the public safety equation which has been neglected for so long.

Whether we are talking about the gentleman from California (Mr. GALLEGLY), whether we are talking about the gentleman from Pennsylvania (Mr. WELDON), whether we are talking about the gentleman from Maryland (Mr. HOYER), people that have been out there on the stump for 10 years for our firefighters, I am honored to join with them in looking at one part of those folks who put their lives on the line every day by raising the mandatory retirement age for the Federal firefighters from 55 to 57. H.R. 93 allows Federal firefighters the option of continuing their careers for an additional 2 years.

How many public servants in public safety all over America are being pushed out of their jobs? We are losing, as the prior speakers have addressed, our most experienced people. While we are moving away from the high salaries, quote/unquote, that those folks may be receiving, their years of experience can never be paid for. We cannot put a dollar sign on it. We are addressing this inequity today.

Our Federal facilities, military facilities, our national forests, our National Fire Center in Idaho, are a very part of the national fabric. The Federal Firefighters Retirement Age Fairness Act has bipartisan management and labor support. This is only appropriate, Madam Speaker. After all, firefighters do not go into a burning building and ask the folks which political party they belong to.

It has also won the endorsement of the International Association of Fire Chiefs and the American Federation of Government Employees. As I always say, firefighters are the forgotten side of the public safety equation. This was again proven true when the Congress raised the mandatory retirement age for Federal law enforcement officers from 55 to 57 several years ago. At that time, Congress did not raise the retirement age for Federal firefighters, and is it not interesting we have played the game of catch-up with the 32,000 fire departments and the million firefighters in America. We are always playing catch-up. Thanks to the gentlemen and ladies I mentioned before, we are moving in the right direction.

Finally, let me also remind our colleagues the role of the firefighters is expanding. Several fire departments in this Nation reach across county and city lines to assist each other with natural disasters and incidents of domestic terrorism. In fact, there are two fire search and rescue units that have responded to international disasters on behalf of the United States, and our Federal firefighters have been called on to go out of the country just recently to Mexico to assist with problems in that country.

□ 1745

Collectively, the Miami-Dade Fire Rescue Department, Fairfax County Search and Rescue Teams, while not Federal fire departments, have traveled to several countries around the world. These men and women do a job unbelievably and they get no credit for it, usually. Natural and man-made disasters do not discriminate when and where they arise. Proudly, the firefighters of the United States do not discriminate when or where they provide help. The role of our firefighters is ever-changing. It is my belief that the role that the Federal Government plays during these changes must be commensurate.

Because the role of the American firefighters is expanding, this bill will bolster more than firefighting capabilities. Hazardous material response, emergency medical services, and natural disaster support will be enhanced, Madam Speaker. By allowing these brave men and women the option of continuing their careers for an additional 2 years, we will maintain more experienced firefighters in the field and senior management positions and, in fact, correct me if I'm wrong, it will even save the Federal Government money.

Madam Speaker, I urge all of my colleagues to vote in favor of this public safety bill.

Mr. LATOURETTE. Madam Speaker, I yield myself such time as I may consume to make the following comment: That the gentleman from New Jersey really hides his own light under a bushel basket. He was very effusive in his praise of the gentleman from California (Mr. GALLEGLY) and the gentleman from Pennsylvania (Mr. WELDON) and others which is well deserved, but those of us that served in the last Congress know full well the contribution of the gentleman from New Jersey (Mr. PASCRELL) as the lead sponsor for carrying the fire bill through this House, and the men and women that serve in the fire services owe the gentleman from New Jersey (Mr. PASCRELL), our friend, a great deal of the credit.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GRUCCI), one of our new Members on our side.

Mr. GRUCCI. Madam Speaker, I rise today to honor all of the brave and fearless firefighters across the Nation who risk their lives on a daily basis.

This is a common-sense bill that provides 9,120 Federal firefighters with the opportunity to continue their careers for an additional 2 years. This is a simple measure that is afforded to other Federal law enforcement officers in order to stop the forced early retirement of well-qualified, experienced, emergency service personnel.

As my colleagues know, firefighters do more than just respond to fires. Firefighters are the first to respond to traffic and medical accidents and natural disasters like hurricanes. It is crucial that our Nation maintains a firefighting force of highly capable, highly trained competent men and women who are fully prepared to respond to any critical emergency situation.

Once again, Madam Speaker, I thank the gentleman from California (Mr. GALLEGLY), the sponsor of this fine bill.

Mr. CUMMINGS. Madam Speaker, I yield 6½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), from the 18th District of Texas. She certainly has been one at the forefront of addressing the issues concerning our firefighters.

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentleman from Maryland (Mr. CUMMINGS), the ranking member, and I thank the gentleman from California (Mr. GALLEGLY), who is a colleague of mine on the Committee on the Judiciary, and the gentlewoman from California (Mrs. CAPPS) and the gentleman from Ohio (Mr. LATOURETTE) for bringing this bill to the floor of the House, or presenting it at this time, H.R. 93.

It gives me time to acknowledge the importance of this legislation, the Federal Firefighters Retirement Age Fairness Act, but as well, it gives me a moment to speak about the courageousness and the importance of firefighters, both on the Federal level and on the local level.

I rise in support of H.R. 93, the Federal Firefighters Retirement Age Fairness Act, that would amend the Federal civil service law to provide that the mandatory retirement age for Federal firefighters be raised from 55 to 57 years. This adjustment would put Federal firefighters' retirement age on par with Federal law enforcement officers. I appreciate very much the words of the gentleman from Baltimore, Maryland (Mr. CUMMINGS) and will join him in his effort to promote his legislation as well.

Madam Speaker, in reviewing this bill, I was reminded of Benjamin Franklin who, in paying tribute to firefighters wrote, "Neither cold, nor darkness will deter good people from hastening to the dreadful place to quench the flame. They do it not for the sake of reward or fame; but they do it for the reward in themselves, and the love they have for their fellowman."

If we just chronicle over the last 5 years or so the kind of heroic and courageous efforts of our firefighters, well worth noting is the enormous number of western fires that we have called them to help us in, certainly the great tragedy of Oklahoma City when firefighters were coming in from all over the country, assisting Federal firefighters, and certainly the enormous amount of tragedies, natural disasters that we have faced, whether it has been flood or hurricane or tornadoes, we have called upon firefighters and emergency medical personnel under the jurisdiction of firefighters to help our Nation.

The poem by Benjamin Franklin is true today, as it was in the days of Benjamin Franklin. Madam Speaker, H.R. 93 recognizes this fact and was introduced not to honor our Nation's firefighters, but to recognize their desire to serve their country. Every day, firefighters pursue the dangers of their jobs with unflinching hearts and unwavering spirits. They face dangers on a daily basis that few of us can even imagine. Because of them, homes and loved ones are protected. Time and time again they battle fires, rescue children and the old, save lives and return to the firehouse with the quiet pride of knowing that they truly make a difference.

Federal firefighters not only fight fires, they provide emergency medical service response, respond to hazardous materials situations, and inspect and protect our military bases and other Federal facilities. As I indicated, they were among those who first responded to the Oklahoma City bombing.

Tomorrow, I will meet with a number of my constituents from the firefighters' pension program in Houston. I would like to say to them personally now on the day of this legislation that, although it covers Federal firefighters, it is important to emphasize how much the firefighters in my own hometown have done. We have had an enormously cold winter, and we have found with the housing stock in Houston that we have had, unfortunately, a series of tragedies because of the very tinderbox-type of housing stock and the utilization of space heaters. So our firefighters have been called upon to do great service.

As I indicated, in my home city of Houston, the Houston Fire Department, which does not have a mandatory retirement age, is very successful in preventing fires, due, in part, to the contributions of seasoned and experienced firefighters. For example, experienced firefighters of the Houston Fire Department have established successful programs over the years to educate the public on ways to prevent fires through community service seminars, fire safety meetings, as well as a smoke detector donation program, which has been very successful.

In addition, the Houston Fire Department, as indicated and announced by my mayor, Mayor Lee P. Brown, will receive international certification as of today, January 30, 2001. The experienced members of the Houston Fire Department found that, without the proper educational programs which have formed their many years of experience, 81 percent of youth that have played with and started fires would do it again. However, because of the Houston Fire Department's fire prevention programs which were established by seasoned veterans, it has maintained a 98 percent success rate in preventing firesetting behavior.

Madam Speaker, the Houston Fire Department has been successful and has been a role model for fire departments across the country because of the contributions of many of its firefighters who would be forced to retire if they were under the current Federal firefighters mandatory retirement requirement. Therefore, this bill is a common-sense bill that seeks to follow the lead set by this Congress who, several years ago, raised the mandatory retirement age for Federal law enforcement officers from 55 to 57. While Congress neglected to raise the retirement age for Federal firefighters at that time, H.R. 93 by the gentleman from California (Mr. GALLEGLY) would bring to par the mandatory retirement age of firefighters with that of Federal law enforcement officers.

Presently, we are losing our best and most experienced firefighters forced to early retirement, and H.R. 93 would correct this, but it would also reward individuals who want to serve. Madam Speaker, H.R. 93 even has bipartisan support from both management and labor, and has received the endorsement of the International Association of Fire Chiefs, as well as the American Federation of Government Employees and the National Association of Government Employees.

I want to pay tribute, as I said, to my local firefighters union 341 and acknowledge that, in addition to the expertise we had in our local community, this was a difficult year for Houston inasmuch as we lost two of our valiant firefighters, for the first time in many, many years that firefighters lost their lives in protecting Houstonians' lives and property. They do it all the time willingly, and the Federal firefighters are simply asking, allow us to do it a little longer.

If enacted, H.R. 93 will bolster our firefighting and emergency services capabilities. We will maintain more experienced firefighters in the field and in senior management positions by allowing these brave men and women the option of continuing their careers for an additional 2 years. In addition, the CBO estimates that H.R. 93 will actually save the government $4 million over the next 5 years.

Madam Speaker, I support this bill and I believe this will help us not only fight fires here in this country, but fight fires abroad as we have been asked to do quite frequently; and it will ensure this Nation has the experienced personnel needed to fight fires throughout the country. I urge my colleagues to join in this bipartisan effort.

Madam Speaker, I rise in support of H.R. 93, the Federal Firefighters Retirement Age Fairness Act that would amend the federal civil service law to provide that the mandatory retirement age for federal firefighters be raised from 55 to 57 years old. This adjustment would put federal firefighter's retirement age on par with federal law enforcement officers.

Madam Speaker, in reviewing this bill I was reminded of Benjamin Franklin, who in paying tribute to firefighters wrote, "Neither cold, nor darkness will deter good people from hastening to the dreadful place to quench the flame. They do it not for the sake of reward or fame; but they do it for the reward in themselves, and the love they have for their fellowman."

This quote by Benjamin Franklin is true today, as it was in the days of Benjamin Franklin. H.R. 93 recognizes this fact and was introduced not to honor our nation's firefighters but to recognize their desire to serve their country. Every day, firefighters pursue the dangers of their jobs with unflinching hearts and unwavering spirits. They face dangers on a daily basis that few of us can even imagine. Because of them, homes, and loves ones are protected. Time and time again they battled fires, rescued children and the old, saved lives and return to the firehouse with the quiet pride of knowing that they truly make a difference.

Federal firefighters not only fight fires, they provide emergency medical service response, respond to hazardous materials situations, and inspect and protect our military bases and other federal facilities. In fact, they were among those who responded to the Oklahoma City bombing.

In my home city of Houston, the Houston Fire Department which does not have a mandatory retirement age, is very successful in preventing fires, due in part to the contributions of seasoned and experienced firefighters. For example, experienced firefighters of the Houston Fire Department have established successful programs over the years to educate the public on ways to prevent fires through community service seminars, fire safety meetings as well as a smoke detector donation program.

The experienced members of the Houston Fire Department found that without the proper educational programs which they have formed their many years of experience, 81 percent of youths that have played with and started fires will do it again. However, because of the Houston Fire Department's fire prevention programs which were established by seasoned veterans, it has maintained a 98 percent success rate in preventing fire setting behavior. Madam Speaker, the Houston Fire Department is successful and has been a role model for Fire Departments across the country because of the contributions of many of its firefighters who would be forced to retire if they were under the current federal firefighter's mandatory retirement requirement.

This bill is a "common sense bill" that seeks to follow the lead set by this Congress who several years ago, raised the mandatory retirement age for "federal law enforcement officers" from 55 to 57. While Congress neglected to raise the retirement age for federal firefighters at that time, H.R. 93 would bring to par, the mandatory retirement age of federal firefighters with that of federal law enforcement officers. Presently, we are losing our best and most experienced firefighters to forced early retirement. H.R. 93 would correct this.

H.R. 93 even has bipartisan support from both management and labor, and has received the endorsement of the International Association of Fire Chiefs as well as the American Federation of Government Employees and the National Association of Government Employees.

If enacted, H.R. 93 will bolster our firefighting, and emergency medical services capabilities. We will maintain more experienced firefighters in the field and in senior management positions by allowing these brave men and women the option of continuing their careers for an additional two years. In addition, the CBO estimates that H.R. 93 will actually save the government $4 million over the next 5 years.

Madam Speaker, I support this bill because it would ensure that this nation has the experienced personnel needed to fight fires throughout the country. I urge my colleagues to vote in favor of its passage.

Mr. LATOURETTE. Madam Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

One of the most devoted and hardworking Members of this House was Herb Bateman, and it really comes as no surprise to me that tonight, the Representative who has assumed his seat wants to make a contribution on the very first day and on the very first piece of legislation.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I come to the floor today in support of H.R. 93, the Federal Firefighters Retirement Age Fairness Act. As my colleagues know, this bill raises the mandatory retirement age for Federal firefighters from 55 to age 57, allowing Federal firefighters the option of continuing their public careers for an additional 2 years. As a wife of a career firefighter, I understand this lifestyle well and know that there is no substitute for experience in their line of work.

This bill has gained bipartisan support from both management and labor and has been endorsed by the International Association of Fire Chiefs as well as the American Federation of Government Employees.

In my district, the First District of the great Commonwealth of Virginia, I am proud of the hundreds of men and women who serve our local communities and our Nation on Virginia's many military installations as firefighters. These dedicated individuals often put their lives and health in jeopardy so that property and people are protected.

In addition to fighting fires, these men and women provide response to hazardous material incidents, provide emergency medical services, and inspect and protect our Federal facilities and bases.

I thank the gentleman from California (Mr. GALLEGLY) and the gentleman from Indiana (Mr. BURTON) for working to make this much-needed change in our Federal code, and I encourage my colleagues to join me in supporting H.R. 93.

Mr. CUMMINGS. Madam Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER), of the Fifth Congressional District. The gentleman from Maryland (Mr. HOYER) has always been very sensitive to our Federal employees and has constantly done things to lift up their lives and their family's lives.

Mr. HOYER. Madam Speaker, I appreciate very much the kind words of the gentleman from Maryland. I rise in strong support of this legislation. I thank the gentleman from California (Mr. GALLEGLY) for his leadership on this and the gentleman from Ohio (Mr. LATOURETTE) for his leadership on this as well.

This is the right thing to do. The good news is that we are healthier for longer periods of time, more able to do vigorous things. Obviously, our first responders, our firefighters and emergency response teams, whether they be career or volunteer, are critical components of our society. They are professionals in every sense of the word, whether paid or volunteer; well trained. What this will do will allow us for another 2 years to avail ourselves of that training, that expertise, that commitment, and that courage.

☐ 1800

That is a very important thing for us to do. Some may or may not know that there are some 10,000-plus firefighters in the Federal service, as well as, of course, thousands and thousands across this Nation, both paid and volunteer.

Firefighting is one of the most dangerous enterprises, and because it is so, it requires people who have experience. I think this bill will go a long way towards providing us the ability when the firefighter chooses to allow them to continue in service until 57. As has been, I am sure, observed on the floor of this House, this will make parity between our law enforcement personnel and our firefighting personnel; a very appropriate step for us to take.

Madam Speaker, I rise in strong support of this legislation, and, like all of my colleagues, are in grateful recognition of the critical contribution that firefighters and emergency response personnel throughout this country make to our communities. As evidence of that, those of my colleagues who are new, I would urge my colleagues to join the Fire Service Caucus. It is the largest caucus in the Congress of the United States, bipartisan, led by and founded by the gentleman from Pennsylvania (Mr. WELDON), himself a former fire chief and probably is the most knowledgeable person we have in this country on fire issues.

I note on the floor, the gentleman from New Jersey (Mr. PASCRELL), who was a leader on an effort for the first time last year in this Congress, with the leadership on the majority side and on the minority side, in a bipartisan way, to appropriate $100 million for firefighters and emergency responders throughout this country.

Madam Speaker, this is an appropriate step, and I am pleased to join my colleagues in seeing its overwhelming support.

Mr. LATOURETTE. Madam Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. GILMAN), one of the most respected Members of the House.

Mr. GILMAN. Madam Speaker, I thank the gentleman from Ohio (Mr. LATOURETTE) for yielding the time to me.

Madam Speaker, permit me to take this opportunity to thank the gentleman from California, (Mr. GALLEGLY) for his leadership in bringing this important measure, H.R. 93, the Federal Firefighters Retirement Age Fairness Act, before the House today. I want to thank my colleagues who have risen in support of this measure.

Everyday America's firefighters are placing their lives and welfare on the line to protect our families, our homes and our communities and, in turn, they deserve our providing them with the resources and training that is so necessary as they face their dangerous tasks.

However, each year, regrettably, our veteran firefighters are forced into retirement because of the mandatory separation age for Federal firefighters. The Federal Firefighters Retirement Age Fairness Act amends the Federal Civil Service law relating to the Civil Service retirement system and the Federal Employees' Retirement System to provide the mandatory separation age for the Federal firefighters, currently age 55, be made the same as the age that applies with respect to Federal law enforcement officers, which is currently age 57.

This important measure will positively assist the lives of thousands of our Nation's firefighters, who will continue to offer experience to the younger men and women who look to them for leadership and guidance as they enter their noble profession.

Madam Speaker, I rise today in strong support of H.R. 93 and urge our colleagues in the House to support this worthy measure for our Nation's firefighters, for their families and for the communities that they all protect.

Mr. CUMMINGS. Madam Speaker, I yield 30 seconds to the gentlewoman from Ohio (Mrs. JONES), my colleague.

Mr. LATOURETTE. Madam Speaker, I am happy to yield another 30 seconds to the gentlewoman from Ohio (Mrs. JONES), so she has a full minute so we can hear what she has to say.

Mrs. JONES of Ohio. Madam Speaker, I want to thank my colleague from Maryland (Mr. CUMMINGS) and my colleague from Ohio (Mr. LATOURETTE) for yielding me this time.

Madam Speaker, I rise in support of this legislation. Having worked over the years with a number of firefighter organizations in Cleveland out of Ohio, particularly one year, on September 10, which is my birthday, my house caught on fire, and I was so pleased with the work and the level of experience of the officers that came to assist me.

They did not know it was me at the time that they came, but they are really wonderful firefighter folks, and I am standing here to say if they want to work longer, we ought to let them work longer, in terms of providing experienced service as firefighters.

I thank the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from Ohio (Mr. LATOURETTE) for the opportunity to be heard on this legislation, and I ask all of my colleagues to join us as we give firefighters a new opportunity, just an opportunity to work on behalf of the people.

Mr. LATOURETTE. Madam Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), another new Member of the House of Representatives already making a difference.

Ms. HART. Madam Speaker, back in Pennsylvania, most of our firefighters units are run by volunteers. As a State senator, I did my best to support this proud community tradition, especially at times, like now, when the job is so demanding and the number of volunteers is declining.

Firefighting, as we all know, is tough work. It is difficult to find qualified men and women who are willing to serve, whether it is as a volunteer back home, at the Harrison Hills Volunteer Fire House in Natrona Heights, Pennsylvania, or as a member of the Federal firefighters who do everything from protecting military bases to responding to national emergencies, such as the Oklahoma City bombing.

I was surprised to learn that Federal law actually prevents many seasoned and capable firefighters from staying on the job, even if they wish to. Maybe it is my Pennsylvania perspective, but I believe that we should support our firefighters, not force them into retirement when their experience can still be put to great and even critical use.

To me, that means we should ensure our laws give firefighters more authority to decide for themselves how long they can work safely and effectively, and when they should retire. That is why I rise today in support of H.R. 93. The bill would prevent these able-bodied, experienced firefighters from being forced to retire before they wanted to by raising that retirement age to the age of 57.

Madam Speaker, it is a great, common-sense measure protecting not only these firefighters, but also public safety, by seeing that they retain the qualified and experienced force. The taxpayers benefit from this measure, too, because the Congressional Budget Office's analysis indicates that this change will save the taxpayers over $4 million over the next 5 years.

I commend my colleague from California (Mr. GALLEGLY) for introducing this measure. I commend my colleagues who support this.

Mr. CUMMINGS. Madam Speaker, I yield 5 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

Ms. JACKSON-LEE of Texas. Madam Speaker, I want to thank the ranking member, the gentleman from Maryland (Mr. CUMMINGS), but I also want to thank the gentleman from Pennsylvania (Mr. WELDON) for his leadership on this issue.

Mr. LATOURETTE. Madam Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Madam Speaker, we all should thank the gentleman from California (Mr. GALLEGLY) for bringing this to our attention. It moves the mandatory retirement age from 55 up to 57. The fact that this is the first piece of legislation this new body is considering I think helps demonstrate the esteem with which this Congress holds the Nation's firefighters, its first responders.

This bill corrects an inequity. We owe, I think, a great debt to what are some of the heroes of this country. We have 1.2 million firefighters in this Nation. Over 90 percent are volunteers. That means they are out risking their lives to help us. They truly are the first responders.

We made a lot of progress, I think, towards reinforcing the fact that this Congress supports firefighters. In this last session, we appropriated $100 million in grants to cost share with local communities to make sure that they have the equipment; that they have the personnel; that they have the capable training they need.

Madam Speaker, I am pleased to support H.R. 93 as the next step in our efforts to address issues of concern to the fire community. As the chairman of the Subcommittee on Basic Research that oversees the National Fire Administration, I suggest to all my colleagues that it is important that we continue this kind of support. These are the men and women that go out and have baked goods sales to try to support and raise enough money to have the kind of equipment that is going to end up saving our lives and our property. So when my colleagues go back home, thank these individuals. This is a good bill. Let us move on with it, and I hope that we continue this effort of supporting our first responders.

Mr. CUMMINGS. Madam Speaker, we have a limited amount of time, and it is my understanding that the gentleman from Ohio (Mr. LATOURETTE) has agreed to yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. LATOURETTE. Madam Speaker, that is correct. In the spirit of bipartisanship that permeates the Chamber, it is my pleasure to yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Madam Speaker, I rise in support of H.R. 93, the Federal Firefighters Retirement Act, and this measure increases the mandatory separation age for Federal firefighters from 55 to 57.

Last year was one of the worst fire seasons in our Nation's history. My own congressional district experienced the devastating effects of the Cerro Grande and the Vivash fires which consumed over 75,000 acres, and burned over 200 homes.

The exemplary courage and dedication of the firefighters who have fought these wildfires was tremendous. In fact, these same firefighters continued to fight fire throughout the Nation beyond the normal fire season that charred almost 7 million acres. Last year, however, it became difficult to find enough firefighters to suppress, manage and support these large fires. This prompted the need to hire back some of the retired firefighting force.

We are losing wildland firefighters at an alarming rate to retirement or other occupations. For example, in 1999, 57 percent of the U.S. Forest Service firefighters were age 45 or older.

Madam Speaker, I would ask all my colleagues to support this bill.

H.R. 93 would allow the Federal Wildland fire agencies to keep experienced firefighters on the line to safely protect homes, families, and businesses. Moreover, the bill would allow more time for senior fire managers to obtain higher incident command qualifications.

H.R. 93 amends Federal civil service laws to make the mandatory separation age the same with respect to the age in which Federal law enforcement officers can retire.

Furthermore, the legislation is estimated to save the Federal Government approximately $4 million over 5 years. By allowing Federal firefighters the option of continuing their careers for another 2 years, we will bolster our firefighting capabilities with more experience and knowledge. I, therefore, urge my colleagues to support this measure.

Mr. LATOURETTE. Madam Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON) whose name has been invoked many times during the course of the debate, a champion of firefighters all over the country and around the world.

Mr. WELDON of Pennsylvania. Madam Speaker, I rise, first of all, in thanks for the outstanding leadership provided by my colleagues on both sides of the aisle, the gentleman from Ohio (Mr. LATOURETTE), for bringing this bill to the floor, who has been constantly supportive of efforts associated with the Fire Service, and the gentleman from California (Mr. GALLEGLY), my good friend and colleague.

Madam Speaker, I can tell my colleagues that when the gentleman from California (Mr. GALLEGLY) bites an issue, he does not let go, whether it is fighting for the support for the airborne firefighters in California, by getting the military to respond to the MAPS program, or whether it is fighting for this legislation; the gentleman from California (Mr. GALLEGLY) has been there.

It is not just with his words. I mean, the gentleman from California (Mr. GALLEGLY) has gone out on nightly experiences here in D.C. with the paid fire department when he and I rode the fire trucks to get a feel for what our paid firefighters go through.

The gentleman from California (Mr. GALLEGLY) has been there on the scene in situations, in California. I have been with him on the wildlands fires, the earthquakes. The gentleman is someone who really believes that we have to do more to assist these brave Americans.

Madam Speaker, this Congress and the last Congress have been the most responsive in the history of this country to the American domestic defenders, the men and women of our fire service. Both the paid and volunteer firefighters in this country have benefitted from the actions of this Congress in a strong bipartisan way.

Madam Speaker, I want to thank my colleagues for, again, recognizing the fire service for what it is, the backbone of our country, the people who make America strong. I want to thank the gentleman from Maryland (Mr. HOYER), I do not see him in the room, but the gentleman has been a tireless advocate for the firefighters as the original cochairman of the Fire Caucus. And, again, thank all of my colleagues and ask for a very strong vote, again, for the support of the men and women who make America such a great Nation, our fire and EMS personnel.

□ 1815

Mr. CUMMINGS. Madam Speaker, it is my understanding that the other side will yield us 35 seconds.

Mr. LATOURETTE. That is correct, Madam Speaker.

Before I do, the gentleman from California (Mr. GALLEGLY) has asked for 30 seconds. Then I will be happy to yield the gentleman from Maryland (Mr. CUMMINGS) 30 seconds, if that is all right with him.

Madam Speaker, I yield 30 seconds to the gentleman from California (Mr. GALLEGLY).

Mr. GALLEGLY. Madam Speaker, I thank the gentleman from Ohio (Mr. LATOURETTE), again, for yielding me this time.

Madam Speaker, I want to thank all of my colleagues for their testimony this afternoon and for the kind words.

Madam Speaker, if enacted, this bill will bolster our firefighting, HAZMAT, and EMS capabilities. We will maintain more experienced firefighters in the field and in senior management positions by allowing Federal firefighters the option of continuing their careers for 2 additional years.

I ask my colleagues to join with me this afternoon in passing this very important legislation.

The SPEAKER pro tempore (Mrs. BIGGERT). The Chair recognizes the gentleman from Maryland (Mr. CUMMINGS) for 55 seconds.

Mr. CUMMINGS. Madam Speaker, our firefighters are often unseen, unnoticed, unappreciated, and unapplauded. By doing what we are doing today, I think we send a very strong message to them that we do appreciate them and we do appreciate the fact that they can serve beyond 55 years of life and probably could even go beyond 57.

But the fact still remains that we must continue to do what we are doing today; and that is to lift them up.

I want to thank the gentleman from Pennsylvania (Mr. WELDON), the gentleman from Maryland (Mr. HOYER), the gentleman from California (Mr. GALLEGLY), the gentlewoman from California (Mrs. CAPPS), and all of those people of this Congress who have taken it upon themselves to make sure that we send a very strong message to them.

With that, Madam Speaker, I urge all of our colleagues to vote in favor of the Federal Firefighters Retirement Age Fairness Act.

Madam Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Madam Speaker, I yield myself the balance of our time.

Madam Speaker, I want to commend the gentleman from California (Mr. GALLEGLY) for introducing this important bill and for his efforts to bring it to the floor.

As our colleagues from the 106th Congress will remember, this bill passed the House under suspension on October 17, 2000, but failed to receive Senate action.

I want to take the time to thank the gentleman from Indiana (Mr. BURTON), the chairman of the full committee; the gentleman from Florida (Mr. SCARBOROUGH), the subcommittee chairman; the gentleman from California (Mr. WAXMAN), the ranking member of the full committee; and the gentleman from Maryland (Mr. CUMMINGS), ranking member of the subcommittee, for their effort.

Last year, Madam Speaker, the Congressional Budget Office estimated that the bill will actually save the government $4 million in direct spending over the next 5 years. The Office of Personnel Management, which administers civil service retirement, believes that it is appropriate to apply the same mandatory separation age to firefighters as we do to law enforcement officers.

I urge Members to lend their support.

Mr. UNDERWOOD. Madam Speaker, I rise in support of H.R. 93, the Firefighters Retirement Age Fairness Act. This sensible piece of legislation eliminates the unfair forced retirement for Federal firefighters by raising the mandatory separation age from 55 to 57, providing Federal firefighters with the same retirement age as Federal law enforcement officers.

This bill goes a long way towards fairness and equity by giving a class of civil servants who provide valuable contributions towards public safety their just due. By raising the mandatory separation age for Federal firefighters, we do not only equate their benefits with Federal law enforcement officers, but we take into account their individual merits and their ability to continue substantial and dedicated service to the community.

Among the people who will benefit from the passage of this bill are about a hundred Federal fighters from my home island of Guam. These folks who work for both the Navy and the Air Force aside from their assigned duties are called upon to assist the civilian community in times of calamities and disasters. Among their distinguished contributions was the assistance they provided during the recent crash of Korean Air Flight 801. On Guam, these civil servants are distinguished and greatly admired members of our community.

Let us take this occasion to show our appreciation for the dedicated service and contributions of Federal firefighters by allowing them service based on their own merits. I urge my colleagues to support H.R. 93.

Mrs. CAPPS. Madam Speaker, I rise today in strong support of the Federal Firefighters Retirement Age Fairness Act, a bill which would raise the mandatory retirement age for Federal firefighters to the same age as Federal law enforcement officers. As a proud cosponsor of this bill, I appreciate the House taking up this significant legislation.

Currently, federal firefighters must retire at age 55. The Federal Firefighters Retirement Age Fairness Act would correct this oversight by raising the retirement age to 57. This will allow more firefighters to remain on the front lines in the battle against devastating fires in my District and across the country.

As the recent wildfires, which ravaged much of the West, have shown, firefighters are in great demand. Many of our Nation's firefighters are quickly approaching retirement age, highlighting the growing shortage of well trained, quality firefighters. In fact, a recent report issued by the General Accounting Office stated that because of an aging work force there will be a shortage of qualified firefighters in the U.S. Forest Service and the Bureau of Land Management, and that the situation could have a direct impact on firefighters' safety. Because it takes 17 to 22 years of experience to become eligible for firefighters leadership positions, an extra two years of service will give federal firefighters the option of continuing their careers and bolster fire fighting capabilities by having more experience in the field among our chiefs and commanders.

Madam Speaker, I offer my heartfelt gratitude to every person who has taken part in combating destructive fires—these heroes deserve our strongest support. Their work in protecting our lives, our families, our property, and our environment is deeply appreciated by the residents of the Central Coast and by all Americans.

Mr. SMITH of Michigan. Madam Speaker, the fact that the first piece of legislation this new body is considering is a firefighting bill helps demonstrate the esteem with which the Congress holds the Nation's firefighters. This bill, which corrects an inequity in the mandatory retirement age for federal firefighters compared to their law enforcement counterparts, continues the good work of the last Congress in addressing issues of concern to the firefighting community.

We owe a great debt to our firefighters—federal and municipal, paid and volunteer. The 1.2 million men and women of the fire services serve as our nation's domestic defenders, often placing themselves at great risk. And yet they continue to man the front lines for our communities against fires, accidents, and disasters. Increasingly, we are asking them to take on further responsibilities—to respond to terrorist attacks or to help stem environmental disasters, for example. It's important that as we ask them to take on more, we stay committed to insuring we support them as best we can.

We made a lot of progress towards that end in the last session. We were able to secure $100 million in funding for a grant program that will help fire departments nationwide purchase equipment, train personnel, and promote fire safety. We increased our support for the Volunteer Fire Assistance Program and began a study of ways to better allocate radio frequencies to fire services.

Madam Speaker, I'm pleased to support H.R. 93 as the next step in our efforts to address issues of concern to the fire community. And, as Chairman of the Subcommittee with oversight over the U.S. Fire Administration, I look forward to continuing to work to ensure our first responders get the support they deserve.

Mr. LATOURETTE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 93, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GALLEGLY. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 31, as follows:

[Roll No. 5]

YEAS—401

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Barcia
Barr
Barrett
Bartlett
Barton
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—31

Bachus
Ballenger
Bass
Becerra
Bono
Callahan
Cannon
Carson (IN)
DeFazio
DeGette
Everett
Fossella
Gutierrez
Hinojosa
Hobson
Houghton
Lantos
Leach
Meek (FL)
Moakley
Mollohan
Neal
Ortiz
Oxley
Rush
Sanchez
Stark
Thomas
Vitter
Wexler
Young (AK)

□ 1841

Mr. ENGEL changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SANCHEZ. Madam Speaker, during rollcall vote No. 5 on January 30, 2001, I was unavoidably detained. Had I been present, I would have voted "yea."

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will the gentleman from Illinois (Mr. LIPINSKI) please come forward and take the oath of office at this time.

Mr. LIPINSKI of Illinois appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations.

BLUEPRINT FOR PROGRAM TO RALLY THE ARMIES OF COMPASSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-36)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means, the Committee on the Judiciary, the Committee on Education and the Workforce, the Committee on Financial Services, and the Committee on Government Reform and ordered to be printed:

To the Congress of the United States:

Enclosed please find the blueprint for my program to "Rally the Armies of Compassion." I look forward to working with the Congress to pass reforms to support the heroic works of faith-based and community groups across America.

GEORGE BUSH.

THE WHITE HOUSE, *January 30, 2001.*

□ 1845

AUTHORIZING THE SPEAKER TO ENTERTAIN A MOTION TO SUSPEND RULES ON WEDNESDAY, JANUARY 31, 2001

Mr. HANSEN. Madam Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules and agree to the following concurrent resolution on Wednesday, January 31, 2001:

H. Con. Res. 14.

The SPEAKER pro tempore (Ms. BIGGERT). Is there objection to the request of the gentleman from Utah?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONCERNING INTERNATIONAL FAMILY PLANNING RESTRICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan (Ms. KILPATRICK) is recognized for 5 minutes.

Ms. KILPATRICK. Madam Speaker, I rise today with a heavy heart as we acknowledge, unfortunately, that poor women and children all over the world will be unable to participate in the $425 million that this Congress passed in the Foreign Operations bill for family planning.

Unfortunately, about 10 days ago, President Bush signed an executive order that would not allow international family planning clinics to use the 400-plus million for family planning educational services as this Congress passed.

My colleagues might remember that, in that same Foreign Operations bill, we said, as a compromise, that no funds would be expended until February, 6 months after the beginning of the fiscal year.

It is unfortunate now, after much trepidation, a lot of meetings, a lot of bipartisan cooperation, that we now find some of the poorest women in countries around the world who receive funds from several countries unable to use the appropriations that this Congress provided for family planning.

People in need of health services unrelated to family planning are affected by this executive order. The executive order says that no monies from our Treasury, and it has been appropriated and approved, $425 million, can be used for health services in those countries that counsel on family planning.

We think that is wrong. We think that because we have put so much time and effort into this, and because America is the number one country in the world, that we have a responsibility to help those poorer countries who are in need of those health dollars, health dollars for diabetes, health dollars for heart disease, health dollars for a myriad of illnesses that those clinics help.

Our $400 million that was appropriated in a bipartisan way with the knowledge that those funds not be expended until February; now those funds cannot be used in those poor countries. We think it is a shame. It is called international gag rule because those countries across the world who use our dollars also get other dollars from other places to help them in their family planning efforts. We think it is unfortunate. We think President Bush has made a mistake and we hope that he will revisit this.

Vulnerable populations around the world look to America for leadership. They look to us to help them with their family planning, to help them with their childhood illnesses, to help them with their health concerns.

As a member of the Subcommittee on Foreign Operations, Export Financing and Related Programs, we had much debate on this issue. We think it is unfortunate, now that we stand here, not to able to use funds that have been appropriated for the poorest of countries in the world, from the leaders of the free world, the citizens here in the United States.

Madam Speaker, if in fact this policy stands, can my colleagues imagine the hardships that those poor families will feel around the world, not able to use their health dollars for those illnesses, including family planning.

I hope, Madam Speaker, that we will take another look at this. I hope that President Bush will rescind that executive order. Family planning is one of the most sacred things that we have as women. God created women and created men with certain characteristics. Only women can bear children, and we want to bear them when we need them, when we want them, and when we can take care of them. That is what that appropriation did that we have in our Foreign Operations bill.

So I call on President Bush to rethink his position. There are millions of women across the world who look to America for assistance. $400 million is a small piece of the pie, but it certainly can save many lives, help many families and ensure protection for children who are poor and who need our assistance.

So, Madam Speaker, again, I ask President Bush, please rescind the executive order, lift the gag rule on international planning. We call on him today and we hope he will heed our call.

Madam Speaker, the announcement of President Bush of his intent to reinstate the so-called "Mexico City" policy represents an abandonment of women and families in need around the globe. In December, Congress voted to lift from this year's foreign spending bill the unfair restrictions imposed on international family planning providers. Keeping out of future appropriations what is often referred to as the "global gag rule" is both a moral and economic imperative.

The controversial Mexico City language specifies two major conditions that foreign nongovernmental organizations (NGO's) must meet in order to receive family planning funds from the United States. First, the NGO must not perform abortions, except in cases of forcible rape or incest, or where the mother's life is endangered if the pregnancy is carried to term. This condition refers specifically to NGO's using private funds to provide abortion services since no U.S. funds have been used to perform abortions abroad since 1973. Second, the NGO must not violate their country's abortion laws, or engage in any effort to change the laws of their country governing abortion. This means that participation in a rally, the lobbying of government representatives, or any advocacy efforts by an organization to either allow or even maintain legal abortions in their own countries would be grounds for the United States to rescind funding. Such a restriction is a clear violation of the right to free speech and would be unconstitutional in the United States.

Let us intimately examine the very real and humanitarian effects of withholding funding for international family planning. Oftentimes, facilities which provide family planning information also provide the majority of health-related services to a given population. When the only health care facility in a rural community closes due to insufficient operating costs, who pays the price? The impoverished mother of seven seeking a tubal ligation to prevent future unplanned pregnancies pays the price. Young newlyweds desiring to learn about oral contraception and condom use, as well as natural family planning pays the price. A village in need of medical treatment for tuberculosis, malaria, iron-deficiency, or any other illness unrelated to reproductive issues pays the price.

If the United States is serious about its resolve to enhance the democracies, economies, health and education infrastructures, and human living conditions in the developing world, then it must acknowledge the interdependence of these sectors in a country's development. Why should we realistically expect to witness significant increases in economic growth within the trade, banking, or manufacturing industries when much of a country's population remains formally uneducated without access to basic medical services and information?

The difficult process of international development requires a comprehensive approach, congressional funds appropriated for this purpose have a proven track record of effectiveness, but are in need of continued support. NGO's and health care facilities provide invaluable services that a developing nation's government is often unable to provide for financial reasons. Understand unequivocally that no U.S. federal funds provide abortion services in this country or abroad. Let us never again allow this fact to be blurred within our discussions and debates with supporters of the global gag rule.

The removal of the Mexico City language from the Foreign Operations appropriations bill was a declaration by the United States that it is truly committed to the democratic principles upon which the nation was conceived. The bill reaffirms our proactive concern for impoverished and underserved people throughout the globe. It is my sincere hope that the new administration will demonstrate the compassion and moral leadership of the United States by retaining as a top priority the health and well being of women, children, and families worldwide.

IN HONOR OF F. WHITTEN PETERS, SECRETARY OF THE AIR FORCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN. Madam Speaker, today I rise in tribute to the Honorable F. Whitten Peters, the outgoing Secretary of the Air Force, who recently left office to return to private life.

In his 4 years as Under Secretary, Acting Secretary and Secretary, Whit Peters led America's Air Force during a period of unprecedented change. Under his inspired leadership, the Air Force evolved from the garrison force that won the Cold War to the Expeditionary Aerospace Force that dominated the skies over Kosovo and Serbia, deterred conflict around the globe, and delivered comfort to the afflicted in over 100 nations during the last year alone.

With unflagging energy and unfailing good humor, Secretary Peters has attached and overcome a broad array of resource problems affecting the Air Force. Colleagues on both sides of the aisle will well remember his work with us to secure additional resources for aircraft spare parts. He labored tirelessly to ensure that aircraft maintainers had the tools and equipment required to perform their important duties. And he made revolutionary use of Air National Guard and Air Force Reserve members to augment members of the Regular Air Force in keeping our aircraft flying. As a result of these and many other significant initiatives, the Air Force arrested a decade-long decline in aircraft readiness.

With similar vigor and success, Secretary Peters has led the development of the Air Force as the service leader in the national security space arena. Today, the United States Air Force provides over 85 percent of the national security space funding and 90 percent of the people who perform the national security space mission.

More important, under Secretary Peters' deft guidance, the Air Force made national security space assets more responsive and more relevant to our national defense than ever before. He built pioneering partnerships between NASA, the National Reconnaissance Office, and the Air Force to rapidly exploit emerging technologies that will move vital intelligence information to field commanders in minutes rather than months.

But, even with the most daunting challenges of global crises, emerging technologies and constrained resources, the 700,000 men and women of America's Air Force have always been his most important concern. His unceasing efforts on their behalf in the halls of this building resulted in a better quality of life and better compensation for every Air Force member. As a result, the Air Force exceeded its recruiting goals in 2000 and is ahead of schedule for 2001.

When Whit Peters came to the Office of the Secretary, he had inherited declining retention rates among the troops at all levels. But his efforts have paid off. For the first 3 months of this fiscal year, first-term airmen are re-enlisting at rates above the Air Force's goal, a goal that is already higher than the goal of any other service. And the Air Force's pilot shortage has been cut by a third in just over a year.

My colleagues, today the Air Force is better, much better, America is stronger, and the world is safer because of the dedication, sacrifice and hard work of Secretary Whit Peters. I know my colleagues will join me in wishing him good luck and Godspeed as he returns to private life.

HISTORIC DAY FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Madam Speaker, today was an historic day for the United States because our President, George W. Bush, announced a new office for faith-based initiatives.

Many of us have worked for many years, as has President Bush and the State of Texas, in many of these initiatives and are very excited about what the President has done. There have been many people toiling away in our inner cities, in our rural areas, and other places trying to extend a helping hand to the poor, yet often ignored in the public arena, while many groups who have been less effective have been able to get the funds.

Nobody is arguing that there are not well-meaning people in multiple bureaucracies of the Federal Government and of State and local governments. But we also know that many of the most life-changing experiences, many of the most effective programs, have actually occurred at the neighborhood level, the grassroots level, from people who live in those communities, who work in those communities, who are deeply invested; they leverage the funds, and yet they are not eligible when we have different programs.

□ 1900

We have had a number of amendments through this House, some of which have died in the Senate, some of which were vetoed, and some of which are law in the charitable choice provisions.

President Bush has gone one step farther. Not only has he said that he favors these charitable choice provisions in allowing, under rigid conditions, nobody can proselytize, nobody can try to push their religious faiths on somebody else, but for Christians who want to do service for others, to try to extend those dollars, whether it be in housing, in juvenile justice, whether it be in certain after-school programs, whether it be helping the homeless, whether it be helping people with AIDS, that Christian and Muslim and Hindu and Buddhist and Jewish organizations can now apply for those grants.

In addition to what he has done at the legislative proposal level, he has asked the executive branch agencies to analyze their programs internally to see where they have reached out, to see what has worked and what has not worked and where they might expand that.

He also has a package for a charitable tax credit for nonitemizers, for example, something that the gentleman from Illinois (Mr. CRANE) pushed here for years, that I have had legislation as well, to try to expand the charitable credit that was in the bill of the gentleman from Oklahoma (Mr. WATTS) and Jim Talent that we have argued, that former Senator Dan Coats advocated in the Senate and worked with, because a tax credit that would put additional dollars into the charitable organizations that are having such an impact at the local level would be a major breakthrough.

What we have seen out of our new President is not just a talk that related to the campaign to try to win but a comprehensive blueprint of how to actually accomplish this in office. That is not something that gains necessarily a lot of votes. Not a lot of lobbyists come to our office saying, hey, we will financially support you if you just back this faith-based initiative thing.

It comes with a lot of controversy because a lot of people, rightly to some degree, fear that this could be overextended, and they do not understand the full nature of this and the court limitations on it, and they are worried about religious liberty. But President Bush has stood up and said, this is too important, there are too many kids and families hurting in this country to continue to ignore the most effective way to reach many of these children who need our help.

I cannot say enough in praise of this initiative. I am excited about the Office of Faith-Based Initiatives. I am looking forward to the legislation that we will be bringing to the floor to work with this and to work with this office. This is a great morning in America today for many people who really need the help not only of the government but of their neighbors and the communities and the churches and others who can do so much to give them a chance in this wonderful free country.

ON THE GLOBAL GAG RULE

The SPEAKER pro tempore (Mr. PLATTS). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise to express my extreme disappointment that the global gag rule has been imposed on U.S. assistance to international family planning programs once again. On his second full day in office, President Bush reinstated this Reagan-era restriction, gagging foreign private organizations from using their own funds to educate women and families about their full range of reproductive choices.

For decades, U.S. aid to family planning organizations overseas has helped these groups provide invaluable services for women around the world. Our Nation has a history of helping women educate themselves and to providing access to needed reproductive health services. I assure my colleagues that piling on restrictions to censor what foreign organizations can and cannot do with their own private funds is nothing to be proud of.

Each year in the developing world, nearly 600,000 women die from pregnancy-related complications. That is why our support for a full range of reproductive health services, including contraception, health workshops, counseling and maternal care becomes more important every day.

By imposing the gag rule, President Bush is taking away a woman's right to make decisions, decisions that affect her reproductive health, her emotional and physical security, and her family's future. President Bush is imposing his own values on foreign groups, and he is limiting these groups to providing only the services that get his seal of approval.

The truth is that family planning programs reduce the need for abortion. They promote safe motherhood and they increase child survival. Denying women birth control and counseling creates more unwanted pregnancies, more abortions, and more suffering. It is also a fact that more than 75,000 women die each year due to unsafe abortion. Without access to safe and affordable services, abortion will be less safe and will put more women's lives in danger.

I know that the women of this House are more committed than ever to protect the rights of women around the world. We have a responsibility to work to reduce the rate of unwanted pregnancy and improve the lives of women and children at home and abroad.

Implementing a global gag rule is not the way to meet this goal.

HONESTY AND GLOBAL GAG RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, by reinstituting the global gag rule as one of his first actions in office, President Bush quickly revealed how uncompassionate his conservatism will be. The gag rule will take money away from the world's poorest women and girls. This is not the action of a moderate.

The gag rule prevents doctors from giving the best medical advice to patients, it stops free speech, and it limits the effectiveness of family planning organizations. So this gag rule is not about preventing taxpayer dollars from being used for abortions, no matter what the President's spokesman says.

This is a significant point. Language is important. By using language that leads people to believe that the ban will stop taxpayer money from being used for abortions, the Bush administration gave a positive spin to a negative action. We need to call them on it. That is why many of us are on the floor tonight.

This is not about taxpayer money being used for abortion. It could not be. No American dollars have been used for abortions since 1973. That is the law of this country. The gag rule is about preventing organizations from giving good medical advice and care to patients. It coerces family planning clinics, doctors and organizations into sacrificing their right to counsel patients or even participate in democratic debates in order to receive U.S. funding for voluntary family planning services. It will stop much needed family planning funding from going to the organizations that provide the services that prevent abortions. It forces providers to make a terrible choice, give up desperately needed funding for family planning services or sacrifice their rights and responsibilities. Either way, women lose and the number of abortions, particularly illegal abortions, will rise.

The gag rule would be unconstitutional here in the United States, and it is unconscionable that among the first acts of the Bush administration was to reinstate it and impose it on the world's poorest women and girls. During the campaign, President Bush said that the United States should not appear arrogant in its foreign policy. Imposing limits on speech that would be unconstitutional here in the United States is the height of arrogance in foreign policy.

That is not to say that all the news is bad. I was pleased to hear that President Bush has committed to retaining the fiscal year 2001 funding levels for international family planning. That was a very welcome statement. I hope that when President Bush takes another look at the facts, he will recognize that his actions actually encourage the procedure he is trying to reduce.

We know that family planning reduces the need for abortions. We know that it saves lives. The gag rule reduces the effectiveness of family planning organizations and should be eliminated. I urge the President to revoke the gag rule. I applaud my many colleagues that have joined me in doing so.

GLOBAL GAG RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise today in strong opposition to President Bush's decision to reinstate the Mexico City restrictions on United States assistance to international family planning organizations abroad. I also urge the Bush administration to stop misleading the American people by stating that American taxpayer dollars are being used to pay for abortions overseas. The truth is that since 1973, under the HELMS amendment, the United States has prohibited foreign recipients of international family planning aid to use taxpayer funds to perform abortions. Despite this fact, however, President Bush's press secretary, in his defense of the global gag rule, has continued to state that American taxpayer dollars are being used to pay for abortion services. This is just downright wrong.

President Bush's decision to reinstate the global gag rule will deny United States family planning assistance to any organization that uses its own, non-United States taxpayer funds to provide abortion services or engage in reproductive choice advocacy. This would be unconstitutional in our own country.

Each year, approximately 600,000 women die from preventable complications related to pregnancy and childbirth. Ninety-nine percent of these women are in developing countries. Complications from pregnancy and childbirth are the leading cause of death and disability among women aged 15 to 49 in the developing countries. Many of these deaths can be prevented by providing women with the means and the information to responsibly plan their families. United States funding provides family planning services and reproductive health education to families worldwide. So cutting funding for family planning diminishes access to the single most effective means of reducing the need for abortions.

Access to international family planning services is one of the most effective means of reducing the need for abortion and protecting the health of women and babies. Restricting funds to organizations that provide a wide range of safe and effective family planning services can only lead to more, not fewer, abortions. And limiting access to family planning results in high rates of unintended and high-risk pregnancy, unsafe abortions, and maternal deaths.

It is crucial that women across the world have fundamental access to health care. Our support of international family planning helps save lives. It promotes women's and children's health and strengthens families and communities around the world. By denying these vital services, we deny women access to methods of contraception, leading to higher risks of getting and spreading the HIV/AIDS virus. Funding for family planning will help curb the spread of sexually transmitted disease.

I urge the Bush administration to really correct their misstatements about ·international family planning aid. If not, it is our duty as Members of Congress to stand up and inform the American people that the President's executive order will restrict funds to organizations that provide a wide range of safe and effective family planning services to women in need. Millions of women around the world are begging President Bush to reconsider this decision. I implore the President to consider the deadly ramifications of his decision and really help poor women in need of basic education regarding their health care.

□ 1930

AID TO INTERNATIONAL FAMILY PLANNING SHOULD CONTINUE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. SLAUGHTER) is recognized for 5 minutes.

Ms. SLAUGHTER. Mr. Speaker, I rise today in coalition with my colleagues to express my deep concern and opposition to President Bush's recent declaration to discontinue the aid in family planning and to reinstate the global gag rule. In essence, this global gag rule restricts foreign, nongovernmental organizations that accept international family planning funds from using their own non-U.S. money to provide legal abortion services or to lobby their own governments for changes in the abortion laws. While this gag rule is simply bad policy, its consequences are extremely severe, affecting the health of women and families in some of the poorest and neediest countries under some of the direst of circumstances. These consequences have not been fully or accurately disclosed to the American people. At its best, this global gag rule will serve to undermine a key priority of United States foreign policy, to promote Democratic values worldwide. At its worst, it will block access to contraceptives, increase the incidents of illegal abortion and lead to higher maternal mortality rates. Instead of presenting these facts to the American people, President Bush provided the press with an attractive sound bite explaining his recent decision: Quote, I am opposed to American taxpayer dollars being used to pay for abortions overseas, end quote.

The statement is grossly inaccurate. As we know, the global gag rule is totally unrelated to the issue of taxpayers' funds being used for abortions. In fact, since 1973, under the Helms amendment, the United States has prohibited the use of taxpayer funds from being used for the performance of abortions by foreign recipients of international family planning aid. That is nearly 30 years.

Before he was elected, George W. Bush said he wanted to change the way America thinks about abortion and he claimed to be a uniter and did a wonderful adroit dance around this issue every time he was asked. Nothing in his campaign suggested that he intended to take this step which, frankly, according to his words, he seems not to understand what he has done.

Mr. Speaker, I rise today to not only express my strong opposition to President Bush's efforts to reinstate the global gag rule, but I urge the Bush administration to correct their misstatements about international planning aid. The American people deserve to know the truth.

IN OPPOSITION TO IMPOSITION OF THE GLOBAL GAG RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to express my strong opposition to President Bush's decision to reinstate the anti-democratic Mexico City restrictions on U.S. assistance to international family planning organizations. Also known as the Global Gag Rule, this provision prohibits nongovernmental organizations (NGOs) that receive U.S. family planning assistance from using their own private non-U.S. funds to provide counseling, referrals, or services related to abortion or to engage in any effort to change the laws of their country governing abortion.

This harmful provision will not prevent abortions—desperate women will still find a way to obtain an abortion. But the restrictions will help to make abortions more dangerous and will inhibit access to family planning and reproductive health services to the world's poorest and most powerless women.

International family planning programs provide vital services that improve women's health and mortality, improve child survival rates, and increase women's educational opportunities and earnings. Hundreds of thousands of women in the developing world—many of whom are young adolescents—die from complications of pregnancy or inadequate reproductive health care. Few of these girls and young women have equal rights, much less the abstinence option viewed by some in this body as the solution to unwanted pregnancies. The Global Gag Rule will cost women's lives!

Let's remember that it has been against U.S. law to use USAID funds for abortion or to promote abortion since 1973. The Global Gag Rule is a means of denying to women in other, poorer countries services that are legal in the United States even when these services are paid for with private funds.

The Mexico City restrictions even go so far as to prohibit NGOs from using their own funds to lobby their own governments to change laws regarding abortion. The restrictions force foreign NGOs to choose between desperately needed family planning funding and their right to speak out on an important social issue.

Under the Global Gag Rule, an NGO that dared to protest a lack of post-abortion care and the jailing of women and girls who have had abortion would lose U.S. family planning funds. If this NGO were the only family planning provider in a remote rural area—there are seldom multiple providers—then access to these services would be eliminated.

I find it incredible that the United States would use its enormous influence and power to curb free speech in the developing world. This is contrary to everything our country stands for. If the Congress attempted to pass such a provision affecting nonprofit agencies in the United States, it would be struck down as un-Constitutional.

In her Washington Post column of September 29, 2000, Judy Mann quotes Katherine Bourne, director of public affairs for Pathfinder, and international reproductive health organization, about the dangers of the Global Gag Rule.

> [The gag rule] allows these organizations to provide care when a woman is dying from a botched abortion, but "they are not parsing out the legislative language," Bourne says. "What they are hearing is: 'The U.S. doesn't like abortions. It endangers our funding. We'll stay away from it entirely.'" . . . "In Peru, we work with eight different NGOs," she says. "They tend to be [in remote areas] where there are no services. They are so nervous about it, they won't stock equipment to do post-abortion lifesaving care. They refer women to the public-sector hospital. That can make the difference between a woman going to a local clinic that is a half-hour away or going to a public hospital that is an eight-hour walk away. If you are hemorrhaging from an abortion, you could die within hours."

All Americans want to see the number of abortions decline. The best and most proven method of reducing abortions is to provide family planning services. The Global Gag Rule will not reduce abortions, but it will reduce access to family planning and lifesaving reproductive health services to the detriment of the world's poorest women and children.

NOMINATION OF SENATOR ASHCROFT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I appreciate the Speaker's kindness. I rise to join my colleagues who have spoken of their concern about the recent executive order that eliminates the opportunity of international family planning. My fellow colleagues have been extremely eloquent, and I would for a moment just like to expand that opposition to that decision by the administration to carry forth my opposition to the nomination of former Senator John Ashcroft to the position of Attorney General of the United States of America.

I would hope that this representation and opposition clearly will not be characterized as personal. I testified in the Committee on the Judiciary on my position, and it is a passionate position on the importance of the fundamental rights, civil rights, the right to vote, freedom of choice, all the law of the land. I might suggest to my colleagues that I believe that this USA Today, People for the American Way advertisement, captures my concern. Should a man who misrepresents the facts under oath be our Attorney General? And the facts are there. Again, it is not to personally suggest that Mr. Ashcroft may not believe in what he has said, but his actions speak louder than words.

When asked repeatedly whether he would be able to support *Roe* v. *Wade*, he indicated it was the settled law of the land but yet consistently throughout his Senatorial career, gubernatorial career and his other career, this individual showed that he was not in support of the law of the land, the Constitution of the United States, which gives a woman the right to choose.

In a decision dealing with voluntary desegregation in St. Louis, it was noted that in the first representation of his testimony he said the State was not liable and was not involved and, in fact, the State was involved and it was attributed to his position that caused this delay in a resolution of this desegregation order where the parties at hand voluntarily decided to resolve this.

His position as Attorney General or governor caused it to continue to be at odds, because he fought against the voluntary agreement.

Do we believe in integration in this country? Do the laws provide us the opportunity for civil rights? Yes. And I believe the actions of this nominee do not speak well for him being able to enforce the law of the land.

Might I suggest that several other items come to mind and that, of course, is one that many of us have heard over and over again, that is the nomination of Judge Ronnie White and the comments being made by Senator Ashcroft that he was pro-criminal or had a criminal bent when over 60 percent of the time Judge White agreed with the nominees of then-Governor Ashcroft in confirming the death penalty.

Might I read this insert by Congressman WILLIAM CLAY as he introduced Judge Ronnie White before the Senate Committee on the Judiciary upon which Senator Ashcroft said, I might cite one incident that attests to the kind of relationship that Judge White has with many and that is with a member of this committee Senator Ashcroft: When I recommended Judge White to the President for nomination and the President nominated him, one of the first people that I conferred with was Senator John Ashcroft. At a later date, he told me that he had appointed 6 of the 7 members to the Missouri Supreme Court. Ronnie White was the only one he had not appointed. He said, meaning Senator Ashcroft, he had canvassed the other six, the ones that he appointed. They all spoke very highly of Ronnie White and suggested that he would make an outstanding Federal judge. So I think that this is the kind of person we need on the Federal bench. These were the confirmation hearings on Federal appointments, hearings before the Senate Committee on the Judiciary 105th Congress.

Yet on the floor of the Senate, Senator Ashcroft vigorously opposed Judge Ronnie White, for what reason we do not know; and this nominee came out of the Committee on the Judiciary twice victoriously. One wonders whether or not in his explanation that the reason he opposed him was his record, when his record was clear, Judge White's record was clear. He was an independent justice who reviewed the facts and supported the facts and was well respected in his State.

Then we have the situation of Ambassador Hormel, who we have heard recently who has a different life-style, and because of a different life-style he opposed him.

Mr. Speaker, I want to thank my colleagues for this unique opportunity to offer a few observations on the nomination of Mr. John Ashcroft for attorney general of the United States. As Martin Luther King once stated, "Injustice anywhere is a threat to justice everywhere." That is why I am here today to speak out not only as a member of Congress, but as a citizen of our diverse and vulnerable nation..

The Senate is moving closer to taking final action on Mr. Ashcroft's nomination. This causes me great anxiety that a growing number of Americans are demonstrating in every state of the Union.

Based on Mr. John Ashcroft's voting record of aggressive opposition to women's rights, civil rights, and the unfortunate handling of the nomination of Judge Ronnie White, the Senate Judiciary Committee and its colleagues should vote down his nomination for the sake of unifying America. The attorney general for the United States should support laws that protect all of America's people. It is unfortunate that ratings by the Christian Coalition, the National Right to Life Committee, and the American Conservative Union show that throughout his six years in the United States Senate, John Ashcroft has been a consistent and reliable vote in opposing the certified law of the land.

Let me be absolutely clear. I am not questioning Mr. Ashcroft's personal probity; I am vigorously questioning his suitability for the job for which he has been selected.

Mr. Ashcroft's record on matters of race has been simply disappointing. According to the Washington Times, Ashcroft received a grade of 'F' on each of the last three NAACP report cards because of his anti-progressive voting record, having voted to approve only three of 15 legislative issues supported by the NAACP and other civil rights groups. This explains why such a broad number of groups are so strongly united against his confirmation as the next attorney general of the United States.

Mr. Ashcroft opposed the approval of Judge Ronnie White to the Federal Bench. In 1997, President Clinton nominated Judge White of the Missouri Supreme Court to be a United States District Court Judge. At the hearings on his nomination in May 1998, Judge White was introduced to the Senate Judiciary Committee by Republican Senator CHRISTOPHER BOND, who told the committee that Judge White "has the necessary qualifications and character traits which are required for this most important job." See Confirmation Hearings on Federal Appointments: Hearings Before the Senn. Comm. On the Judiciary, 15th Cong., 2d Sess. 7–8 (1998).

In 1962, Dr. King once said that "[it] may be true that the law cannot make a man love me, but it can keep him from lynching me, and I think that's pretty important." But have we learned from his admonition? We all know that John Ashcroft led a campaign to defeat the nomination of Missouri's first African-American Supreme Court Justice, Judge Ronnie White, to the federal bench. Mr. Ashcroft seriously distorted White's record, portraying it as pro criminal, and anti-death penalty, and even suggested, according to the London Guardian, that "the judge had shown a tremendous bent toward criminal activity." Ironically, Judge White had voted to uphold the death sentence in 41 of the 59 cases that came before him, roughly the same proportion as Ashcroft's court appointees when he was Governor.

In fact, of these 59 death penalty cases, Judge White was the sole dissenter in only three of them. As a matter of fact, three of the other Missouri Supreme Court judges, all of whom were appointed by Mr. Ashcroft as Governor, voted to reverse death penalty case sentences in greater percentage of cases than did Judge White. Ashcroft also failed to consider or mention that in at least fifteen death penalty cases Missouri Supreme Court Justice, Ronnie White, wrote the majority opinion for the court to uphold the death sentence. America owes an apology to Judge White and I admire his ability to move forward with his life. This is a judicial nominee for which Mr. Ashcroft had no substantial reason to oppose—and it is time that America knows the facts.

I took my responsibility in helping shed light on Judge White's confirmation hearing before the Senate Judiciary Committee on the 17th of January of this month with great seriousness. I felt compelled to have my voice heard on behalf of Judge White who had never been given the chance to defend himself from vicious attacks on his impeccable judicial record. More importantly, each Senator and Representative now knows that when Judge White's nomination was brought to the Senate floor in October 1999, Senator Ashcroft spearheaded a successful party-line fight to defeat White's confirmation, the first time in twelve years (since the vote on Robert Bork) that the full Senate had voted to reject a nominee to the federal bench.

In contrast to that effort, as former Congressman William L. Clay introduced Judge Ronnie White before the Senate Judiciary Committee he said the following: "I might cite one incident that attests to the kind of relationship that Judge White has with many, and that is with a member of this committee—Senator Ashcroft. When I recommended Judge White to the President for nomination and the President nominated him, one of the first people that I conferred with was Senator Ashcroft. At a later date, he told me that he had appointed six of the seven members to the Missouri Supreme Court. Ronnie White was the only one he had not appointed. He said he had canvassed the other six, the ones that he appointed, and they all spoke very highly of Ronnie White and suggested that he would make an outstanding Federal Judge. So I think that this is the kind of person we need on the Federal bench," Confirmation Hearings on Federal Appointments: Hearings before the Sen. Comm. On the Judiciary, 105th Cong., 2d Sess. 7–8 (1998).

I am further saddened to learn that Mr. Ashcroft accepted an Honorary Degree from Bob Jones University. In 1999, Ashcroft accepted an honorary degree from Bob Jones University, which critics have rightly called racist and anti-catholic. Bob Jones University lost its tax-exempt status in 1970 for refusing to admit African-Americans. The school then changed its policy but still prohibited any interracial dating or marriage. In 1983, the U.S. Supreme Court supported an IRS decision to remove tax-exempt status from the school for its dating policy, which included rules such as "students who date outside their own race will be expelled."

Mr. Speaker, Mr. Ashcroft even opposed gathering statistics for racial profiling studies. After learning of the importance of law enforcement efforts to stem these unlawful activities in a number of states, Mr. Ashcroft's views appear not only out of touch with mainstream America but with existing consent decrees by law enforcement to rid the nation of this practice. As a member of the House Committee on the Judiciary, this troubles me immensely. In 1999, Ashcroft opposed legislation for gathering racial statistics on traffic violations after chairing the Subcommittee hearing on it, favoring ignorance over information. Mr. Speaker, how can Mr. Ashcroft be attorney general if he fundamentally disagrees with this fundamental human rights issue? That is sad and further evidence of his insensitivity for basic matters concerning equal protection and justice for all.

The President-Elect's selection for Attorney General has certainly been no friend of reproductive rights for women in America. Ashcroft would not be a guardian of women's right to reproductive choice as provided by the Supreme Court's decision in *Roe* v. *Wade*. On the contrary, Mr. Ashcroft supports a constitutional amendment that would outlaw abortion even in cases of incest and rape and that would criminalize several commonly used forms of contraception.

As Missouri attorney general and governor, and more recently in the Senate, he repeatedly used his office as a United States Senator to push through severe new restrictions on women's reproductive freedom as part of an effort to get the Supreme Court to overturn *Roe* v. *Wade*. It is fair to say that many women in America have a right to be concerned because as attorney general, Ashcroft could use the power of the Federal government behind new strategies to defeat the right to an abortion in the Supreme Court. It is also reasonable to express doubts about whether he would fully enforce laws that insure access to abortion clinics by limiting violent or obstructive demonstrations by abortion opponents.

We all look to the attorney general to ensure even-handed law enforcement and protection of our basic constitutional rights: freedom of speech, the right to privacy, a woman's right to choose, freedom from governmental oppression and other vital functions. We cannot deny the attorney general plays a critical role in bringing the country together, bridging racial divides, and inspiring people's confidence in their government.

Accordingly, as I review the series of questionable acts that can be found in Mr. Ashcroft's record as a public servant, I find such action by Mr. Ashcroft to be inconsistent with the kind of vision and tolerance that the next top law enforcement officer will need to exhibit. Mr. Ashcroft's record on desegregation in the State of Missouri is one of those examples that makes me truly sad as an African American and I have an obligation to emphasize this very grave matter.

John Ashcroft, as Attorney General and as Governor of the State of Missouri consistently opposed efforts to desegregate schools in Missouri, which for more than 150 years, had legally sanctioned separate and inferior education for blacks.

Missouri has a long and marked history of systematically discriminating against African Americans in the provision of public education. During forty-five years of slavery, the State forbid the education of blacks. After the Civil War, Missouri was the most northern state to have a constitutional mandate requiring separate schools for blacks and whites. This Constitutional provision remained in place until 1976. For much of its history, Missouri provided vastly inferior services to black students.

After the Supreme Court's ruling in Brown v. Board of Education, the Missouri Attorney General's office, rather than ordering the dismantling of segregation, simply issued an opinion stating that local districts "may permit" white and colored children to attend the same schools, and could decide for themselves whether they must integrate." Local schools districts in St. Louis and Kansas City perpetuated segregation by manipulating attendance boundaries, drawing discriminatory busing plans and building new schools in places to keep races apart.

The now well-known St. Louis case, which is under such debate in these proceedings before the Senate Judiciary Committee, was filed in 1972. St. Louis had adhered to an explicit system of racial segregation throughout the 1960s. White students were assigned to schools in their neighborhood; black students attended black schools in the core of the city. Black students who resided outside the city were bused into the black schools in the city. The city had launched no effort to integrate; it simply adopted neighborhood school assignment plans that maintained racial segregation.

Senator Ashcroft then, the Attorney General, challenged the desegregation plan. He argued that there was no basis for holding the State liable and that the State had taken the "necessary and appropriate steps to remove the legal underpinnings of segregated schooling as well as affirmatively prohibiting such discrimination." The courts rejected his attempts; even the U.S. Supreme Court denied certiori.

In 1983, the city school Board and the 22 suburban districts all agreed to a "unique and compressive" settlement, implementing a voluntary five-year school desegregation plan for both the city and the county. Importantly, the plan was voluntary—it relied on voluntary transfers by students rather than so-called "forced busing." The district court approved this plan.

Attorney General Ashcroft, representing the State, was the only one that did not join the settlement. He opposed all aspects of the settlement. In fact, he sought to have it overturned by the Eighth Circuit. The Eighth Circuit upheld most of the provisions of the plan, and emphasized that three times over the prior three years, specifically held that the State was the primary constitutional violator.

We need a nominee that enforces the civil rights laws of the Nation, that brings strength and confidence to the top law enforcement post of our great country, and to affirm equal protection and fundamental fairness in the United States of America. We owe at least that much to the working people of America and all those who believe the United States remains an example of basic fairness and justice for all.

I strongly believe that the philosophy and beliefs of Senator John Ashcroft are archaic and obsolete. This country has come so far in improving civil rights and fundamental fairness. The confirmation of John Ashcroft will set us years back after all the improvements that have been made. This would be a travesty.

TRIBUTE TO THE LEGENDARY DR. JOHN BIGGERS

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me also say in closing that I pay tribute to Dr. John Biggers and would insert my comments concerning the loss of this great artist into the record. I am sorry I had to put it in conjunction with my opposition to Senator Ashcroft.

Mr. Speaker, I rise today to pay tribute to one of Houston's best known and most beloved artists and teachers, and one of my constituents—Dr. John Biggers. Dr. Biggers passed away this month in his Houston home. He was one of the most renowned and beloved residents in our city, and there is no doubt that his death will leave a hole in our community and in the art world—a hole that will never be filled.

According, to an article written in our local newspaper the Houston Chronicle, John Bigger's life began in racially divided Gastonia, N.C., a rural community near Charlotte, where he was a teacher, traveler, author and artist. Dr. Biggers was born in 1924, the youngest son of Paul and Cora Biggers' seven children. His father was the son of a white plantation owner who at age 18 had the opportunity to attend a school for freed slaves and their children. There he met his future wife, Cora, and began preaching the gospel, accepting eggs and never money, for his ministries.

John Biggers arrived in Houston in 1949 to establish the art department at the Texas State College for Negroes, known today as Texas Southern University. At 25 years old, he had a bachelor's and master's degree from Penn State and had received an honorable discharge from the U.S. Army.

John Biggers would go on to change his world and ours through painting. He has used his gift as a tool to paint the mosaics of life. He turned canvasses into stories of life and was able to share with young and old people a continuing and colorful history of America. His art has received international and national acclaim. He traveled to Africa and brought back the dreams and aspirations of those who lived there in the form of unbelievably life like and moving art. He has shared them with those of us who live around the United States giving us a peek into the lives of others through art. More importantly, he has opened the eyes of children, including inner city children, who no longer wonder if they too can paint with a brush and turn a blank canvass into life in pictures.

I hope that Dr. Biggers' life and his work will serve as an inspiration not only to Texans who have treasured his work for many years, but also for all Americans, throughout the United States.

For his dedication and success to teaching art in our community, Dr. Biggers received many awards and grants during his lifetime. Among the most prestigious was a 1957 UNESCO Fellowship that allowed him to study in West Africa. In March, he was to receive the first Texas Medal of Arts Award from the Austin-based Texas Cultural Trust. But these awards simply mark points in a larger than life existence—the life of Dr. John Biggers.

I extend my deepest sympathies to his wife Hazel Hales Biggers, his sister Ferrie Arnold of Florida, his nieces and nephews, and his entire family, including the families of strangers he touched during his remarkable journey.

Mr. Speaker, the passing of Dr. John Biggers is a great loss to the State of Texas and the United States. His contributions to national and local culture will be sorely missed for generations.

I hope that many others learn from and follow his example of creating beauty for all to enjoy.

I thank my colleagues for this opportunity to pay tribute to this admirable man in the permanent history of this body. I also encourage my colleagues to take a few minutes to read the following article about Dr. Biggers, which appeared in the Houston Chronicle on February 16, 1997. The article does a fine job of capturing Dr. Biggers life in words as his art has captured life in pictures.

[From the Houston Chronicle, Feb. 16, 1997]

FAME IS FINE, BUT ARTIST JOHN BIGGERS HAS MORE ON HIS MIND

(By Patricia C. Johnson)

John Biggers smiles warmly as he opens the door to his studio. It is the private world where he has conceived and executed monumental murals, drawings and easel paintings for 50 years of his life. The radio is tuned to a jazz station, and the music fills the air, bouncing off walls lined with partitions covered with paintings. African masks and figures he's collected through the decades cram shelves at one end of the room, and the large table in the center disappears beneath a load of books and catalogs, opened and unopened mail, sketches and pens, even an occasional African carving that's strayed.

It's been two years since the retrospective of his work premiered at the Museum of Fine Arts, Houston, an event the artist described then as "miraculous."

Forty-five years earlier, he was not allowed inside the museum to receive the prize awarded his drawing in the museum's annual juried exhibition, for in the segregated city, blacks were allowed inside only on specified times and days. The special arrangements that were made for Biggers and a colleague to view the show in advance became moot when the museum changed its admission policy a few months later to open its doors to everyone at all times.

Now "John Biggers: View From the Upper Room," has been traveling cross-country from Los Angeles to Boston's MFA, gathering marvelous reviews along the way. It opens at Hampton University (Virginia) later this year, completing one cycle in the artist's rich career.

And when the University of Texas Press reissued his landmark book, "Ananse: The Web of Life," last month, another cycle began to inspire a whole new generation.

"You make art one piece at a time," Biggers says today. "Fifty years is a lifetime, it is a long time. And 50 years is very short. You have to reckon with all of that. You may be impressed with the great quantity of work. But, what about the dream?"

Giving form to that dream has been the consuming passion of a lifetime dedicated to making art that is meaningful.

The artist's oft-told story begins in racially divided Gastonia, N.C., a rural community near Charlotte, where this teacher, traveler, author and artist was born in 1924, the youngest of Paul and Cora Biggers' seven children. His father was the son of a white plantation owner who at age 18 had the opportunity to attend a school for freed slaves and their children. There he met his future wife, Cora, and began preaching the gospel, accepting only good things, such as eggs, never money, for his ministries. When he died in 1937, Cora took in laundry to help support her family.

John Biggers was drawing and shaping things from the mud beneath his house from the time he was a child. When he set out for Hampton Institute (now Hampton University) in 1941, however, it was with the intention of becoming a plumber. Fortunately for everyone, a forward-looking professor, Viktor Lowenfeld, redirected the young man's goals. Lowenfeld, a Jewish refugee from Hitler's Austria, an artist and psychologist, had left Harvard for Hampton, an all-black school, and organized its first art classes. He taught his students that art could be the road to self-realization. When he transferred to Pennsylvania State University, Biggers followed him.

"I began to see art not primarily as an individual expression of talent," Biggers stated in "Black Art in Houston" (Texas A&M Press, 1978) "But as a responsibility to reflect the spirit and style of the Negro people."

That realization would become his credo and the foundation for his art.

John Biggers arrived in Houston in 1949 to establish the art department at the Texas State College for Negroes, known today as Texas Southern University. He was 25 years old, had bachelor's and master's degrees from Penn State and an honorable discharge from the U.S. Army. His wife, Hazel, was with him.

They had met at Hampton University, where both were undergraduates. He courted her for years, sometimes long-distance, before she finally agreed to marry him in December 1948. Within a few years of their arrival, they settled into the ranch-style brick house in the tree-lined Riverside neighborhood east of the Museum District that is still their home.

The city was segregated, as was the rest of the country. But, Biggers has said, "the conditions (for blacks) in Philadelphia and New York in the 1940s repelled me. Houston was segregated, but we had recognition from the community at large."

Besides, he says, Texas was close to Mexico where the great muralists—Diego Rivera, Jose Clemente Orozco and David Alfaro Siqueiros—had made a case for art as a political and pedagogic tool as well as an aesthetic pursuit. And Texas was in the South, where the idealistic artist felt he could find—and define—himself, too.

"I wanted to get involved with and attempt to express the lifestyle and spiritual aspirations of the black people," Biggers once said in an interview. "The richness of it was here."

Complicating the issue of racism, the problem—and bitter disappointment—was that at the time, the black community didn't realize or understand who they were and the cultural wealth it possessed. Most blacks viewed acculturation as the goal. But Biggers, who had first learned about African art and life from his teacher, Viktor Lowenfeld, wanted "to change old images of poverty into new perceptions of honest, simple dignity," he states in "Black Art in Houston."

"We had to rip through veils . . . (and) understand new truths," he said. Africa was the route to reconnecting with "our ancestors (who) were hewers of wood and drawers of water, husbands of the land." His desire to visit Africa was derided by everyone, especially his TSU colleagues, who urged him to go to Paris and London instead.

Still, the determined young artist persisted, and in 1957, a grant from UNESCO enabled Biggers and his wife to visit the ancestral land for six months. It was an epiphany, and it changed his life and his art forever.

"I found a dignity (in the African people) I had rarely encountered before, for I had been accustomed to living with warped personalities all my life," he wrote in "Ananse," published in 1962. "I admired the African's straightforwardness, a characteristic that contrasted sharply—and much in his favor—with the slippery maneuverings of our culture.

"And when I heard the great drums call the people, when I saw the people respond with an enthusiasm unequaled by any other call of man or God, I rejoiced, I knew that many of these intrinsic African values would never be lost in the dehumanizing scientific age—just as they were not lost during the dark centuries of slavery."

In the United States, the civil rights movement was changing blacks' perception of themselves. Though art seemed peripheral to it all and Biggers' emphasis on Africa "was not resting well with the more conservative faculty members (at TSU)," as Alvia Wardlaw noted in her catalog on Bigger's retrospective, the artist "continued to teach the fundamentals of drawing, printmaking and paintings . . . and the murals created by his students increasingly reflected the movement's struggles."

Anything else would have been dishonest to an individual of conscience and the artist of vision.

In his own work, Biggers struggled for a unified image that would reflect the ancestral legacy of Africa and the realities of contemporary urban America. His figures became increasingly abstract, and he incorporated personal symbols—the quilt, remembered from his grandmother's house, and the kettle, in which his mother boiled the laundry—as he searched for archetypes. His palette of earth tones became lighter and almost transparent. He described complex spaces with patterns combining elements of the urban landscape, notably the shotgun houses symbolic of freed slaves, and pure geometry based on the symmetry of the classic quilt. He populated these spaces with families, mothers and children especially, who shared it with magical things like the rabbits and tortoises of West African creation myths and celestial bodies.

Biggers retired from TSU in 1983 and has since been dividing his time between Houston and Gastonia, preferring the rural simplicity and quiet of his hometown, where his family also lives, to the urban cacophony. In a way, it's returning to the dreams of his youth, discovering the connectedness to the Earth and its rhythms that he had discovered on that first visit to Africa.

"I like the little frogs and the birds and the trees," he says with a laugh.

He's delighted by the attention his retrospective is receiving, and graciously attends the events that surround it, most recently at the Boston museum. But he's tired, he says.

"When you're young and have goals, you're interested in reaching out and proving yourself. I'm not interested in that anymore," he says.

"I'm a person who needs to work rather than celebrate. For me, the payoff is the work itself. It think this work I'm doing now is showing I've grown. It has greater simplicity, and I like that."

Biggers has a mural commission, the 16th in his career, in progress. He titled it "Salt Marsh," and enlisted friend and former student James McNeil to assist. Its final version will be 10 feet by 27 feet, painted with acrylic on canvas. On this cool winter morning, work is in the early stages, with McNeil painstakingly translating Biggers' first small but detailed pencil drawing into a larger, color-coded version pinned to the studio wall.

In a corner, a half-finished painting sits on the easel waiting for the artist's return. This, too, is a commission, and similarly loaded with symbols and meanings distilled from decades of research and hundreds of artworks.

He's titled it "The Morning Star." There, in Biggers' unmistakable crystalline colors and geometric forms, are the father and mother, the son who's being born and the daughter who is yet to be conceived, in a mystical space with the symbolic rabbit and turtle. Ever the teacher and storyteller, he explains:

"You see, the boy here is being born from the blue sky. Those are his parents, sitting on a bench, which is on a barge, their feet on the floor, which is a xylophone." The soft voice goes on to describe the other components, their shapes and their origins in ancient African myths, and their timeless meaning.

"Individual life is very short," he says, "All things rise and fall, live and die.

"But if we agree the spirit does not die, that it reinhabits the world, time takes a different dimension."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to refrain from urging action by the Senate or characterizing action of the Senate.

PUBLICATION OF THE RULES OF THE COMMITTEE ON RULES 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, at its organizational meeting on January 3, 2001, pursuant to clause 2(a)(1)(A) of rule XI of the rules of the House, the Rules Committee adopted in an open meeting, with a quorum present, its committee rules for the 107th Congress. Pursuant to clause 2(a)(1)(D) of rule XI of the rules of the House and clause (d) of rule I of the rules of the Committee on Rules, the rules of the Committee on Rules are hereby submitted for printing in the CONGRESSIONAL RECORD.

RULES OF THE COMMITTEE ON RULES—U.S. HOUSE OF REPRESENTATIVES, 107TH CONGRESS

RULE 1—GENERAL PROVISIONS

(a) The rules of the House are the rules of the Committee and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable privileged motions in the Committee. A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day).

(b) Each subcommittee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

(c) The provisions of clause 2 of rule XI of the rules of the House are incorporated by reference as the rules of the Committee to the extent applicable.

(d) The Committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

RULE 2—REGULAR, ADDITIONAL, AND SPECIAL MEETINGS

Regular Meetings

(a)(1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) A regular meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair.

Notice for Regular Meetings

(b) The Chair shall notify each member of the Committee of the agenda of each regular meeting of the Committee at least 48 hours before the time of the meeting and shall provide to each member of the Committee, at least 24 hours before the time of each regular meeting.

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of

(A) the bill or resolution,

(B) any committee reports thereon, and

(C) any letter requesting a rule for the bill or resolution; and

(2) for each other bill, resolution, report, or other matter on the agenda a copy of—

(A) the bill, resolution, report, or materials relating to the other matter in question; and

(B) any report on the bill, resolution, report, or any other matter made by any subcommittee of the Committee.

Emergency Meetings

(c)(1) The Chair may call an emergency meeting of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided, however, that the Chair has made an effort to consult the ranking minority member, or, in such member's absence, the next ranking minority party member of the Committee.

(2) As soon as possible after calling an emergency meeting of the Committee, the Chair shall notify each member of the Committee of the time and location of the meeting.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting was a regular meeting.

Special Meetings

(d) Special meetings shall be called and convened as provided in clause 2(c)(2) of rule XI of the Rules of the House.

RULE 3—MEETING AND HEARING PROCEDURES

In General

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the member designated by the Chair as the Vice Chair of the Committee, or by the ranking majority member of the Committee present as Acting Chair.

(2) Meetings and hearings of the committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) Any meeting or hearing of the Committee that is open to the public shall be open to coverage by television, radio, and still photography in accordance with the provisions of clause 4 of rule XI of the Rules of the House (which are incorporated by reference as part of these rules).

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Quorum

(b)(1) For the purpose of hearing testimony on requests for rules, five members of the Committee shall constitute a quorum.

(2) For the purpose of taking testimony and receiving evidence on measures or matters of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(3) A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, of closing a meeting or hearing pursuant to clause 2(g) of rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B), or of taking any other action.

Voting

(c)(1) No vote may be conducted on any measure or motion pending before the Committee unless a majority of the members of the Committee is actually present for such purpose.

(2) A record vote of the Committee shall be provided on any question before the Committee upon the request of any member.

(3) No vote by any member of the Committee on any measure or matter may be cast by proxy.

(4) A record of the vote of each Member of the Committee on each record vote on any matter before the Committee shall be available for public inspection at the offices of the Committee, and with respect to any record vote on any motion to amend or report, shall be included in the report of the Committee showing the total number of votes cast for and against and the names of those members voting for and against.

Hearing Procedures

(d)(1) With regard to hearings on matters of original jurisdiction, to the greatest extent practicable: (A) each witness who is to appear before the Committee shall file with the committee at least 24 hours in advance of the appearance a statement of proposed testimony in written and electronic form and shall limit the oral presentation to the Committee to a brief summary thereof; and (B) each witness appearing in a non-governmental capacity shall include with the statement of proposed testimony provided in written and electronic form a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(2) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each member of the Committee has had an opportunity to question the witness.

(3) The provisions of clause 2(k) of rule XI of the rules of the House shall apply to any hearing conducted by the committee.

Subpoenas and Oaths

(e)(1) Pursuant to clause 2(m) of rule XI of the rules of the House of Representatives, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee designated by the Chair, may administer oaths to witnesses before the Committee.

RULE 4—GENERAL OVERSIGHT RESPONSIBILITIES

(a) The Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(b) Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Administration and the Committee on Government Reform, in accordance with the provisions of clause 2(d) of House rule X.

RULE 5—SUBCOMMITTEES

Establishment and Responsibilities of Subcommittees

(a)(1) There shall be two subcommittees of the Committee as follows:

(A) Subcommittee on Legislative and Budget Process, which shall have general responsibility for measures or matters related to relations between the Congress and the Executive Branch.

(B) Subcommittee on Technology and the House, which shall have general responsibility for measures or matters related to the impact of technology on the process and procedures of the House, relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

(2) In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(3) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Referral of Measures and Matters to Subcommittees

(b)(1) In view of the unique procedural responsibilities of the Committee, no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee.

(2) The Chair shall refer to a subcommittee such measures or matters of original jurisdiction as the Chair deems appropriate given its jurisdiction and responsibilities.

(3) All other measures or matters of original jurisdiction shall be subject to consideration by the full Committee.

(4) In referring any measure or matter of original jurisdiction to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(5) The Committee by motion may discharge a subcommittee from consideration of any measure or matter referred to a subcommittee of the Committee.

Composition of Subcommittees

(c) The size and ratio of each subcommittee shall be determined by the Committee and members shall be elected to each subcommittee, and to the positions of chairman and ranking minority member thereof, in accordance with the rules of the respective party caucuses. The Chair of the full committee shall designate a member of the majority party on each subcommittee as its vice chairman.

Subcommittee Meetings and Hearings

(d)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chairman of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

Quorum

(e)(1) For the purpose of taking testimony, two members of the subcommittee shall constitute a quorum.

(2) For all other purposes, a quorum shall consist of a majority of the members of a subcommittee.

Effect of a Vacancy

(f) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of the subcommittee.

Records

(g) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee necessary for the Committee to comply with all rules and regulations of the House.

RULE 6—STAFF

In General

(a)(1) Except as provided in paragraphs (2) and (3), the professional and other staff of the Committee shall be appointed, by the Chair, and shall work under the general supervision and direction of the Chair.

(2) All professional, and other staff provided to the minority party members of the Committee shall be appointed, by the ranking minority member of the Committee, and shall work under the general supervision and direction of such member.

(3) The appointment of all professional staff shall be subject to the approval of the Committee as provided by, and subject to the provisions of, clause 9 of rule X of the Rules of the House.

Associate Staff

(b) Associate staff for members of the Committee may be appointed only at the discretion of the Chair (in consultation with the ranking minority member regarding any minority party associate staff), after taking into account any staff ceilings and budgetary constraints in effect at the time, and any terms, limits, or conditions established by the Committee on House Administration under clause 9 of rule X of the Rules of the House.

Subcommittee Staff

(c) From funds made available for the appointment of staff, the Chair of the Committee shall, pursuant to clause 6(d) of rule X of the Rules of the House, ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee, and, after consultation with the ranking minority member of the Committee, that the minority party of the Committee is treated fairly in the appointment of such staff.

Compensation of Staff

(d) The Chair shall fix the compensation of all professional and other staff of the Committee, after consultation with the ranking minority member regarding any minority party staff.

Certification of Staff

(e)(1) To the extent any staff member of the Committee or any of its subcommittees does not work under the direct supervision and direction of the Chair, the Member of the Committee who supervises and directs the staff member's work shall file with the Chief of Staff of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the member of the Committee with respect to the month in question met the requirements of clause 9 of rule X of the Rules of the House.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's direct supervision and direction.

RULE 7—BUDGET, TRAVEL, PAY OF WITNESSES

Budget

(a) The Chair, in consultation with other members of the Committee, shall prepare for each Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b)(1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

Pay of Witnesses

(c) Witnesses may be paid from funds made available to the Committee in its expense resolution subject to the provisions of clause 5 of rule XI of the rules of the House.

RULE 8—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or acting Chair shall report it to the House or designate a member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the Members of the Committee requests such printing. Any such transcripts shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks. Nothing in this paragraph shall be construed to require that all such transcripts be subject to correction and publication.

(2) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

(3) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Chair, shall be the property of the House, and all Members of the House shall have access thereto as provided in clause 2(e)(2) of rule XI of the Rules of the House.

(4) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule VII of the rules of the House. The Chair shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

Committee Publications on the Internet

(c) To the maximum extent feasible, the Committee shall make its publications available in electronic form.

Calendars

(d)(1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other committee on which a rule has been granted or formally requested, and such other matters as the Chair shall direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each member of the Committee with a list of all bills or resolutions (A) reported from the Committee but not yet considered by the House, and (B) on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the Chairman of a committee which has reported a bill or resolution (or a member of such committee authorized to act on the Chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other Procedures

(e) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees in a manner consistent with these rules.

RULE 9—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended or repealed, in the same manner and method as prescribed for the adoption of committee rules in clause 2 of rule XI of the Rules of the House, but only if written notice of the proposed change has been provided to each such Member at least 48 hours before the time of the meeting at which the vote on the change occurs. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after their approval.

THE PARDON OF MARC RICH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, as has become customary, I have to spend the first 5 minutes rebutting some of the previous statements that were made here on the House floor.

First of all, let me say to my colleague that spoke preceding my comments here, that as a former police officer I take issue with some of the statements that were made in regards to Judge White's decisions. If one will take a close look at that case, it will be revealed that three police officers were killed by the defendant in that particular case, and I think that spending a little time on the facts would be helpful for those of us who are interested in looking at the specifics.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. MCINNIS. I will not.

Ms. JACKSON-LEE of Texas. Then the gentleman does not want the truth.

Mr. MCINNIS. The gentlewoman, of course, in her previous comments stated one side, and here we are for rebuttal.

Mr. Speaker, look at facts of the case. Look at the officers that were killed in the line of duty. In fact, I remember the gentlewoman from Texas (Ms. JACKSON-LEE) speaking with seriousness of heart and sincerity last year when a law enforcement officer in the State of Texas lost his life.

On this floor, I think we ought to, all of us at least, have an obligation to address facts. It is very easy to come down here and give one side obviously because we are not in a debate format. It is a presentation of one side, but at least both sides ought to present what the facts are.

Second of all, I need to clarify the statement by the preceding speaker. Her statement is that President Bush's executive order, and I quote, eliminates international family planning. That executive order does not eliminate international family planning. What does the executive order do? What that executive order does is it simply makes it clear that the American taxpayer should not pay for abortions in foreign countries.

Now I know a lot of people, obviously, on the pro-life side. I know a lot of people on the so-called pro-choice side, who happen to be pro-choice but maybe anti-abortion, but I know a lot of people who believe in a woman's right to choose but they do not go so far as to say take money from taxpayers, from working Americans, and send it to foreign countries to pay for abortion. I know a lot of people, myself included, that believe that international family planning, excluding abortion, is important, but this rule does not say no more international family planning, and I think that the accuracy of these statements, we need to take some time so that the statements that we make that are portrayed are factual in basis.

Mr. Speaker, I want to speak this evening really about two things that I feel very strongly about. One is the death tax. I have taken the House floor many times before to speak about the unfairness and the inequities that are worked upon hard-working American people by the death tax. In my opinion, death should not be a taxable event. In my opinion, the death tax in this country is the most unfair, unjustified tax that we have. One cannot, in my opinion, legitimize that type of tax, taxing a person's death, in a society like ours. So I want to spend some time in the latter part of my discussion this evening about the death tax, but first of all I want to speak about an event that I consider shameful, and all American people ought to have their eyes open as to what has gone on here in Washington, D.C. in the last two weeks.

We know that when Clinton left office, Air Force One, they stripped the China, whatever, out of Air Force One. There were pranks played at the White House. There were lots of gifts made to furnish homes and so on and so forth. That is minutia. In my opinion, those issues are minutia when held in comparison to the issue of which I wish to discuss this evening, and that is the pardon of a fellow named Marc Rich.

Marc Rich, and I will repeat his name several times during my discussion this evening on the floor, Marc Rich was one of the most sought-after fugitives in the world. Marc Rich has lived in Switzerland or overseas for about 17 years, since he became a fugitive from the United States of America, for betraying, in my opinion, betraying this country, and that is one of the charges that was brought against him; living a life of luxury. This fugitive, Marc Rich, is a billionaire, and I intend this evening to step through the process that shows us in America even though someone is not in America and they are a fugitive overseas, if they are a billionaire they stand a very good chance of getting special treatment, to be absolved of any allegations that were made against them in regards to white collar crime.

Fundamentally, what happened for this pardon is unfair. It has never, to the best of my study of history, and I have asked for some assistance on it, happened before with a previous President who granted pardons; never to this level, never to this extent, and never under these kind of circumstances.

□ 1930

But Clinton did it. Marc Rich today, who defrauded the American taxpayers, and those are the allegations, who defrauded the American taxpayers of tens of millions of dollars, and if we add penalties, we are in the hundreds of millions of dollars; and during a time that this country had American soldiers and American citizens held hostage by the Iranians, Marc Rich, despite the law of this land, was out selling oil to our enemy.

Do we think somebody like that is deserving of a Presidential pardon? Take a look at this week's Time Magazine. Very interesting: "What's That Smell?" Time Magazine, this week. So do not just take it from Scott McInnis discussing with my colleagues this evening about this pardon. This pardon was wrong. Clinton knew it was wrong; we all know it was wrong, Time Magazine knew it was wrong. Take a look at that article, "What's That Smell?"

Now, just for our interest here, obviously, the former President Clinton, the United States Senator, HILLARY CLINTON, and the ex-wife of Marc Rich, and I am going to go into some detail about this woman, her lobbying efforts, her contributions to the Democratic Party, and how that all played in a pardon being granted to one of the most sought-after fugitives in American history; but let me quote a little from Time Magazine. They have an extensive article. They are talking about the pardons, and let me quote directly.

"Tucked in among the names was that of Marc Rich, 65, one of the world's most wanted white collar fugitives. Marc Rich and Mr. Green were charged with an illegal oil pricing scheme that amounts to what might be the largest," might be the largest, "tax swindle in U.S. history, to the tune of almost $50 million, not to mention trading with Iran during the hostage crisis."

I skip down a little. "Marc Rich," I add that in, "has spent the last 17 years in Switzerland, living in splendid exile outside Zurich, protected by an coterie of private security guards and running a $30 billion business. Marc Rich's ex-wife, New York City socialite, Denise Rich, just happens," and I am quoting, "just happens to be a major Clinton donor and fund-raiser who has raked in millions of dollars for the Democratic Party during the last 8 years. Rich's lawyer in the pardoned case, Jack Quinn, was once Clinton's general counsel. Quinn personally lobbied Clinton and various dignitaries, including, sources tell Time, Israel Prime Minister Barak and King Juan Carlos of Spain, who contacted Clinton on Mr. Rich's behalf."

I will continue, but by the way, let me hold that up. This is the second page. This is a photo of Marc Rich, of his second wife and the yachts behind him in Switzerland.

To continue, "By Thanksgiving 2000, Quinn," this is the attorney; now, this attorney was general counsel for Bill CLINTON, a close friend of Bill CLINTON's, and he has been retained by Mr. Rich to obtain this pardon for him. Mr. Quinn, by the way, makes hundreds of thousands of dollars. He is paid, and he admits to this, he is paid hundreds of thousands of dollars.

"By Thanksgiving of 2000, Quinn had started a new game. During a meeting at the Justice Department on November 21, he notified Deputy Attorney General Eric Holder of his plan to file a pardon petition with the White House. He asked Holder if he wanted a copy. Holder, who assumed that the White House would forward the petition to the Justice Department's pardon attorney for review, as was customary." In other words, these pardons have always gone to the Justice Department for review, for input by the Justice Department.

Well, on December 11, Quinn delivered the massive document, about the size of a phone book, but for reasons unknown and reasons that have not been explained, the White House decided not to send this petition down to the Justice Department.

So remember our steps here. First of all, Marc Rich, the billionaire and his partner who, by the way, one of the two at some point tried to denounce their citizenship in this country, and they sold oil to the Iranians during the Iranian hostage crisis. The ex-wife of Mr. Rich begins to make heavy contributions to the Democratic Party. Mr. Rich hires Mr. Clinton's former attorney and a good friend of Mr. Clinton to begin the legal work and the lobbying effort on his part and, lo and behold, what a coincidence, the petition papers, I say to my colleagues, that generally and customarily go down to the Justice Department, did not make it this time. Quinn, again the attorney, went straight to the top, sending a letter to Bill CLINTON that read, "I believe in this cause with all of my heart."

The pardoned case, this case of Mr. Rich, was strengthened by an extraordinary lobbying effort. For starters, there was Denise Rich, again, the ex-wife, the grammy-nominated song writer and the Democrat diva who throws some of the most happening fund-raisers in New York City and Aspen, Colorado, my district, frequented by the likes of Marcia Stewart and Michael Jackson.

Let us go through it on kind of a stick chart on how I think these events took place. The pardon. Let us start right here, with Denise Rich. Now, remember that the party that we are talking about is Marc Rich. He is in business with another gentleman who also got a pardon from the President. Now, in the history of pardons, pardons which have been customary in the past by previous Presidents is that a pardon is issued to someone who has committed an offense, has been found guilty of the crime or of the offense, and in the President's assessment of the facts, and the President has great latitude in making this decision, the President, in the assessment of the facts, feels that the debt has been paid to society. Mr. Rich has lived out the debt to society for the last 17 years living in luxury in Switzerland.

Mr. Rich is a fugitive. To the best of my knowledge, in studying the history of pardons, and I will grant that it is not the most extensive study undertaken on pardons, but I think it is a pretty thorough study that we have undertaken, we cannot find where a fugitive, one of the most sought-after fugitives in the history of this country, who may have undertaken one of the largest tax swindles in the history of this country, that a fugitive is granted a pardon by the President.

Why do not the pardon petition papers make it down to the Justice Department? Why not, as was customary, hand those petition papers over to the Justice Department? It creates a very confusing and blurry picture, and when we have a confusing and blurry picture, we need to step back and try to start putting the pieces of the puzzle together. I think I can put some of those pieces of the puzzle together for my colleagues tonight.

Again, let us start with the ex-wife, Denise Rich. Denise Rich has given $1 million in donations to the Democratic National Committee. Now, I am one of those people that believe that one should give contributions to one's political party. I am not against contributions. But let us look at the coincidence of the timing. Let us look at the amount of money. How many people in America do we know that within a very short period of time have given $1 million to a political party without expecting something in return?

Now, let me tell my colleagues, she has become very active since making those contributions in the party. In fact, I understand that Andrew Cuomo, who has just announced for governor of the State of New York, was going to have his announcement in her home. But because of some of what has come out in the last 24 hours or so, that announcement location has changed.

Let us go on. Mr. Speaker, $190,000. Denise Rich, the ex-wife, $190,000 in gifts to the Clintons, $7,800 in furniture to the Clintons for their home in New York; $7,000 in furniture for their home in Georgetown, and many of us saw the picture on national TV where Ms. Rich gave a brand-new saxophone in person to Clinton.

Now let us come down here. This is puzzle piece number one. The puzzle now is starting to take shape. Let us look down here. Jack Quinn, he is the attorney who makes hundreds of thousands of dollars. Marc Rich, the fugitive, pays the attorney hundreds of thousands of dollars to undertake the cause for him. Now, it just happens to be that that attorney was the former general counsel for Clinton. So former White House counsel and personal confidant to the President, he undertakes the case. The current attorney for Marc Rich and Mr. Green, the other defendant in this case, which has been paid at least $300,000, he begins his efforts and as a part of these efforts, he contacts people overseas, he writes the President a letter that says he believes in this cause with his whole heart. A lot of things can make us believe in things when one gets hundreds of thousands of dollars to lobby it.

So what happens? This begins to funnel to the Clintons. Now the puzzle begins to make sense. But we have a little difficulty here. The Justice Department is probably going to urge the President not to grant the pardon. The Justice Department is going to bring to the President's attention how, number one, this is a fugitive. Number two, if this case was as weak as Mr. Quinn alleges it is, why did he flee the country? Why the fugitive status? Number three, Mr. Rich has not exactly paid back society for his alleged wrongdoings. In fact, he has lived a life of extreme luxury in Switzerland for all of these years, never renounced the tax swindle, although I guess at one point in time, somebody he hired offered $100 million for this thing to go away.

So what happens? The Clintons get it. The Clintons receive fund-raising support from Denise Rich, and 3 days after the report, going back to the Lewinsky affair was released, Denise Rich hosted a $3 million fund-raiser where President Clinton said it means so much now, more than ever, and we will never forget it, and then what happens? Here we come out. This is when the puzzle comes together. Marc Rich and Green received a Presidential pardon from a 65-count racketeering indictment, including the crimes of tax evasion, oil profiteering and unlawfully trading with Iran or the enemy during the oil crisis.

Let me quote from some of the people that have looked at that, independent of me. Now some of my colleagues are going to say, look, he is a Republican so he is going to take one last shot at Clinton. I told my colleagues at the beginning of my conversation, I thought it was minutia to deal with what has been taken out of Air Force One, the tricks that were played down at the White House as they left the facility, the phone lines that were cut, the gifts and things, although there is some question of the President furnishing these homes with the gifts, and there is a connection of the gifts with this case. However, what I am really focusing on is, whether one is Republican or Democrat, we ought to be saying wait a minute, why this pardon? How can we justify it?

Let me quote from a few sources. From the Wall Street Journal, "This story will go down as an extraordinary feat in the annals of Washington lobbying, illustrating in a dramatic fashion how money begets access, access begets influence, and influence begets results." The Wall Street Journal had a superior piece about this very case in yesterday's paper. Any of my colleagues that want to look at the facts should take a look at how unusual, how rare is what has happened. In fact, to my knowledge, I have never found an incident of it in the past of this country, for a fugitive being granted a pardon like this. Take a look at that Wall Street Journal article.

I think it is very important, and I think it is incumbent upon a President, that when they take a look at issuing a pardon, they truly have to see, has that person paid society? Was the person wronged? Is it for the good of the country? What does the Justice Department think about this case?

□ 1945

That is how a President ought to be influenced, in my opinion, in regards to a pardon. Those are the facts that should be considered by a President. What should not be considered by a President in granting a pardon is a million dollars in donations to the Democratic National Committee, $190,000 in gifts to the Clintons, $7,800 in furniture to the Clintons, $7,000 for the home in Georgetown. One of their close friends, also their attorney, who has been retained by them in making hundreds of thousands of dollars to represent them, it is not right.

Mr. Speaker, that is why you have an article like Time Magazine that comes out, and the title on the article, "What's That Smell?" That is what they are talking about. They are talking about this pardon; that is what justified this article in Time Magazine. Furthermore, at the beginning of Time Magazine, there is a cartoon. Here is the cartoon, it shows Marc Rich, an image of Marc Rich with lots of money in his hand, and it says beg your pardon, billionaire-fugitive Marc Rich, escapes jail on 51 charges of fraud, racketeering, and more after Bill Clinton pardons him as one of his final acts in office. Rich paid his debt to society by living lavishly in Europe for 17 years.

In all of my years in Washington, D.C., I have dealt with people who are discouraged, regular ordinary citizens in this country, and, you know, constantly, you find yourself on defense saying, look, we have a good government in Washington D.C., and things, for the most part, are done right, and then something like this comes along. And as Time says, something stinks.

How can any of us in this room, how can any of us go back to our districts and justify the Marc Rich pardon. How can any of us look at an ordinary citizen who is not a billionaire, who is not a friend of Clinton, who is not paying the attorney hundreds of thousands of dollars, how can we explain to the ordinary citizen what their treatment would be?

Let me conclude by saying this in regards to this portion of my comments. If any one of your constituents, colleagues, any one of your constituents, went to the local WalMart store or the local hardware store, let us just say the local WalMart store, and they stole a bag of M&Ms and they got caught, their punishment would be worse than Marc Rich, who is one of the most sought after fugitives in the world, a tax-evasion swindle alleged to be in the hundreds of millions who has been living in luxury, and he walks away from this, scot-free. It is not right.

DEATH TAX

Let me move on to my next subject, the death tax. This issue, the death tax, is very, very important. It is a tax imposed by our taxing system in this country upon one event, your death. Let me say in our current Tax Code, there are two taxes that I think fly contrary to what this country is about. One of them is the marriage tax, where they consider being married, should be taxed. In my opinion, this country should encourage marriage, not take actions to discourage marriage.

This is a country which prides itself on being built upon the family foundation, so we should not tax marriage. The other one is, this country taxing the event of death. This is a country that, in my opinion, and in the opinion, I think, of most Americans, should be in the business of encouraging one generation to pass the family farm or to pass a small business or to pass some type of wealth on to the next generation.

This is a country where all of us dream, all of us, and colleagues, I am not sure there is one exception in this room, where all of us dream of being able to do something for our children, hopefully during your lifetime, being able to acquire, maybe not a lot, but something that we can pass on to our children to make life a little easier for them or to pass on a family heritage, like the family ranch or the family farm or the family business.

This tax prevents this. This tax has done more harm to American families than any tax I can think of. This tax, the death tax, this is a tax on property that has already been taxed. This is not property that has somehow evaded taxes. This is not property that has not been carrying its fair share of taxation throughout the life of the asset. In fact, the taxes many times have been paid two or three times.

What is interesting about the death tax is you hear the liberal, and I say that, because I want you to know, it is not the Democratic, it is the liberal. There are a lot of conservative Democrats who agree with me that we should eliminate the death tax. The first bill I introduced this year is elimination of the death tax in the Committee on Ways and Means in the House.

I think it is almost unified, especially on the Republican side, and with some of the conservative Democrats, to eliminate or to significantly restructure that so-called death tax.

Let us talk for a moment about just exactly the arguments on the other side. Let us assume what the other side is going to say about somehow justifying a death tax.

First of all, many of my colleagues who have voted for the death tax or voted against the abolishment of the death tax, and several of those individuals are worth in excess of a million dollars, you can bet your bottom dollar that elected people who vote to support the death tax who have a net worth of more than a million or $2 million probably have already secured the services of legal counsel to make sure that they do not pay the death tax, to make sure that their property does not end around the tax and can go on to the next generation, because they can afford the attorneys to do that. They do not mind having a double standard, one standard for their family, i.e., setting up trusts and end-runs around the death tax, and one standard for the average working American family that might be subject to this that they have to pay the tax.

Make no mistake about it, this tax is very punitive. The next argument you will hear from the liberals who support this kind of taxation. And, by the way, the history of this taxation, it came in to penalize the Robert Barrons. They were going after the Carnegies and the Hertz and the people like that. Go penalize them. How dare somebody in our society go make a lot of money. Maybe they had some jurisdiction to go around these Robert Barrons around the turn of the century, so they put in this tax.

You will hear some liberals say what is the big beef? What are they complaining about? It only hits 2 percent of the American people. Let me tell you. Let us go through exactly what the death tax does. If you have a small community, take a small community, anywhere America, and this is your community. This argument that it only affects 2 percent of the people is fallacious on its face.

Oh, sure, the family that ends up paying the tax directly out of their pocket might be the top 2 percent income earners. Although, I am not sure that is accurate, the top 2 percent asset holders in this country, but the reality of it is look what it does to a community.

Let us say, for example, we have family A, and family A is subject to the death tax. People would have you believe that the only family affected in this community is family A. Well, you know what happens to the money when they impose a death tax on an estate. It does not stay in your community out in Colorado or out in Utah or Texas or Minnesota. That money comes out. And in the case of Colorado, it comes out of Colorado and makes a sharp turn east. And where does it go? It goes to Washington, D.C.

That is exactly what happens. It sucks that money out of the community, takes a 90-degree turn and heads straight for Washington, D.C. Then Washington, D.C., the bureaucracy in Washington, D.C. takes those family-earned assets, and a lot of times those assets were built over the lifetime, over the lifetime of the descendant, takes those assets and redistributes them to the Federal Government.

It is a scheme of redistribution. It creates no capital, but it punishes a lot of people.

I have some letters that I wanted to read. These are letters that I have gotten in my office that I think reflect the hardships on hard-working American people that are imposed by this tax which has no justification in our tax system, other than being used as a tool of punishment. Remember that the death tax initially came in as a tool of punishment against the wealthy.

Let me read this letter. This actually was a letter to the editor. My family has ranched in northern Colorado for 125 years. My sons are the sixth generation to work this land. We want to continue, but the Internal Revenue Service is forcing almost all ranchers and many farmers out of business. The problem is estate taxes. The demand for our land is very high and 35-acre ranchettes are selling in this area as high as $4,500 per acre. We have 20,000 acres. We want to keep an open space, but the U.S. Government is making it impossible, because we will have to pay 55 percent of their valuation when my parents pass on.

Ranchers are barely scraping by these days anyway. If we were willing to develop home sites, we could stop the mining. But since we want to save the ranch, we are in trouble. The family has been able to scrape up the estate taxes as each generation dies up to now.

So in other words, what the letter is saying, every time we have had that death, we have been able to pool some tight resources to pay that tax.

But the time is up. I am afraid we are done for. This time, our only option is to give the ranch to a nonprofit organization and they all want it, but they will not guarantee they will not develop it. My father is 90 years old, so time is short. We are only one of two or three ranchers left around here.

Most ranches have been subdivided. One of the last to go was a family that had been here as long as our family. When the old folks died, the kids borrowed money to pay the taxes. Soon they had to start selling cattle to pay the interest. When they ran out of cattle, their 18,000-acre ranch was foreclosed on and is now being developed. The family now lives in a trailer near town and the father works as a highway flagman.

If you want to stop sprawl, you better ask U.S. Government to get off the backs of family ranches and farms.

Now, what do they mean by the last comment that this gentleman wrote. If you want to stop sprawl? In my district in Colorado, my district's the Third Congressional District of Colorado. It is a district geographically larger than the State of Florida. It is a district whose property values have skyrocketed. It is a district whose beauty, and I know I am prejudiced or biased because I represent this district, but it is a district that is probably among the top three or four in the Nation for beauty, but it is also a district that in the past has a strong agricultural base.

Many, many families, including my own in-laws, who have been on the same family ranch since the 1870s or 1880s, my family who were farmers who came to Boulder, Colorado in the days of the old Chicago fire, that is why they were sent to Colorado after having come to Ellis Island.

The history of that district is agricultural. There are a lot of family farms and ranches. And what happens is if you come in with a death tax, because the valuation of the land has got up. Mind you, this is not money sitting at the bank account at the Smith ranch or the Volbrac ranch, or the Straubaugh ranch. It is not money sitting in the bank account. This is money that is on paper. It is called paper money. The property has gone up in value, because property around it has gone up in value.

If you have an unexpected death or even an expected death, what happens is, and a lot of times the only thing you can do with the farmer ranch is subdivide it, you have to break it up.

A lot of us in Colorado, a lot of us in every State in this country, we cherish open space. We become to value open space like we have never had in our past, because we understand how much more limited it is becoming. And now what is happening once again, instead of encouraging a family farm to go from one generation to the next generation, we, in fact, are penalizing that family and turning it on ourselves by forcing this beautiful open space to be subdivided, so the mere simplification of the tax of this estate tax can be paid.

Some people like to oversimplify the situation and say, oh, come on, give me a break, go get life insurance. There are very few ranchers in America, very few ranchers in America who make enough money to go out, for example, and insure a 90-year-old father against the estate taxes.

□ 2000

Or even insure a 45-year-old father or a 45-year-old mother against the impact of the estate taxes. That insurance costs a lot of money, and in agriculture there is some exceptions, but in agriculture, you do not make that kind of money. Let us go on.

I am writing to bring your attention to an issue of the utmost importance to me, my family, my employees and my business, elimination of the death tax. I urge you to support and pass the death tax this year. Family-owned businesses need relief from the death tax now. We are celebrating 66 years of business. My grandfather, Vic Edwards, started with a fruit and vegetable stand in 1943 at our current location in Colorado. The business grew into a grocery store, a lawn and a garden center. My father is now 80 years old and is in poor health. No business can remain competitive in a tax regime that imposes rates as high as 55 percent upon the death of the owner. Our tax laws should encourage rather than discourage the perpetuation of these businesses. While being a member of the House Ways and Means Committee, I am sure you already know the urgency for the death tax repeal. Family-owned businesses and their employees will continue to suffer until this unfair, unproductive, uneconomic tax is abolished. My wife and I are active and look forward to working with you and your staff to enact common-sense legislation to preserve and promote our Nation's family-owned enterprises.

Now, take a look at what it involves to get you subject to the estate or the death tax bracket. If you are a contractor, for example, let us say in Vail, Colorado, let us say that you own your pickup free and clear, you own a dump truck free and clear, and a bulldozer free and clear, and let us say you have a single-car garage to store things in, or maybe do some mechanical work on those four pieces of machinery, you are subject to the death tax in this country. If you live in areas like the Third Congressional District in these communities where you have seen quick valuations and rapidly escalating valuations on these properties like in California or Colorado, take a look, you better look at your assets because as long as that death tax is in place, you could subject your family to an economic punishment the likes of which they have never experienced before.

Your plans, colleagues, and the plans of your constituents of working their entire life paying their taxes, being hard-working citizens, being law-abiding citizens and trying to accumulate something for their lifetime to pass on to the next generation, and in the case of ranches and businesses in the hope that that generation passes it to the next generation, these dreams can be trashed upon your death. These dreams can be demolished.

And for what purpose? Is there any purpose that any of my colleagues today, any purpose other than punishment that you can think of as justification for the death tax in this Nation? Of course there is not.

Let me talk about another example which happened about a year and a half ago. This comes right out of our newspaper, Grand Junction, Colorado, the Daily Sentinel, Brookhart's Building Centers, a small, family-owned lumber company. They had to sell it in order to avoid paying the death tax. The owner said it was one of the hardest decisions that his father and his family have made in their 52 years of doing business. So for 52 years, they have been in western Colorado doing business as a small lumber company. This by the way is not Home Depot, it is not some massive operation, it was a small lumber building center for 52 years. But the current Federal death taxes as they now exist forced this gentleman and his family to sell the business in hopes of being able to redistribute some of the wealth within their family and within their own community before the death took place.

I quote: "In order to protect our family and our current employees from a forced liquidation upon the death of himself and his wife, Betty, the best thing now is to sell the company." This family cared about, and this is a valid point to observe, this family did not just care about their own family and the generation behind them, they cared about the employees of the lumber company.

They said, if this death were to occur, we would have to liquidate the business, which means these employees lose their jobs.

Let us go back to community A. Remember what I said in community A. I will draw a little bigger circle. This is community A. I will give my colleagues a true example of which I am aware of out in Colorado. Businessman A comes into town. Many, many years ago, maybe 50, 60 years ago, he comes into this small community in western Colorado. He becomes a janitor at a construction company.

Because of his hard work, his dedicated efforts, over a period of several years, he has an opportunity to buy into the company. After a while, he is able to become the primary owner of the company. After many years, he owns the whole company.

What happens, it becomes a very successful construction company in that area, in that community. They are the primary employer in the community. They are the primary holder of real estate in that community. They are the primary contributor to the charities in that community. They are the primary contributor to the local church that they went to in that community.

What happened? I knew the person personally. My friend got cancer. My friend had sold the construction company about 2 months before he found out that he had cancer. So he got hit with what is called a capital gains taxation. Then he got the cancer. He died. They hit him with 55 percent, 55 percent of what he had spent his entire life, his entire life working for. Fifty-five percent.

Now, when you combine it with the capital gains taxation that our government imposed upon A's estate, the effective rate was around 72 cents on the dollar, 72 percent taxation rate because he died. Seventy-two percent, 72 cents on the dollar.

Now, I asked the family, I said, You mean you only walked away with 28 cents out of every dollar that your father spent his entire life working on property that you had already paid the taxes on? You only walked away with 28 cents on the dollar?

No, no, no. You have got it wrong. You have got it wrong, Scott. We did not get 28 cents on the dollar. In order to pay the 72 cents on the dollar, we had to go to a fire sale. We had to sell our property for less than what it was worth because we had to sell it quickly to meet the estate taxes we had to pay. So we figured we walked away with about 18 cents on the dollar, maybe 15 cents on the dollar.

That is pathetic. That is unbelievable. What happened in the community? Remember, I said they were the largest employer? Forget that. Remember the money that stayed in the community? Citizen A, he did not bank his money in Washington, D.C. He did not employ people in Washington, D.C. He did not help the church in Washington, D.C. He did not send his money to charities in Washington, D.C. He used them in that community. His bank deposits were in his little community in western Colorado. His employees were in that community in western Colorado. His charitable contributions were in that community. His landholdings were in that community. His investments were in that community.

But what happened after the death tax took place? All of that was put into one big bundle, one big bundle. Out of the State it went and on to Washington, D.C. where the bureaucracy back here figures they have a better idea of how to redistribute that money.

Did it have any impact on that community? Let us say one does not sympathize with my friend A, the wealthier individual who owned this construction company. Let us say one has no sympathy for him. But look beyond him. What did it do to that community?

Can one justify sitting here in Washington, D.C., imposing a tax, in effect which is on that entire community, just because a person has worked hard all his life and paid those taxes? This is not the first time this property was taxed.

I will tell my colleagues what happens a lot of times or could happen, does happen. Let us say this is mom and dad B, and they own the ranch. Let us say that A and B are in an accident and all of a sudden the ranch has to pay estate taxes. So now the ranch becomes a little smaller because one has got to trim a part of it off to pay the taxes. One can sell the cattle; but after a while, one has got to get to the land.

Well, the good Lord forbid, that the family that is left, let us say they have a daughter C, the good Lord forbid that C would die prematurely. Because if C died, even if C died within a few months of A and B, guess what happens? Uncle Sam is back again and takes another chunk out of that until, finally, the chunk is so small that they do not tax it anymore.

Where is the fairness of this? I can tell my colleagues with a great deal of pleasure, we have got a President now, President Bush, who has committed as one of his top agenda items in this tax cut that he is going to send to the Hill, one of his top priorities is to do something about that death tax. We are going after the marriage tax, too.

But, in my opinion, it is about time we had someone with enough gumption to stand up to that liberal segment of our society that believes in punitive and believes in punishment instead of fairness, somebody who is standing up, as President Bush is doing, and saying, wait, instead of deciding whether we should punish somebody because they have worked hard or they have built up a ranch or a farm or a business, why do we not kind of figure out what we are looking for.

Number one, are we looking for punishment? No, we are not looking for punishment, or we should not be. Now, sure, there are some of my colleagues in here that like class warfare that want to do everything they can to beat down the rich because it is good political rhetoric. But the fact is we are not looking for punishment.

Are we looking for redistribution of wealth through Washington, D.C.? Well, we should not be. That is not fair. Look what it does to the community in my previous example.

Well, are we looking for some kind of justification that a death tax is a legitimate reason for a government to tax a family? Nobody, nobody in their right mind can stand up and argue the legitimacy of a death tax.

So what is it that allows this to continue to stand? Well, what allowed it to continue to stand has now left office. Now, granted, there are a few House Members and a few of my colleagues that will still support the continuation of a death tax. But count my words, Mr. Speaker, any one of my colleagues that votes for this death tax, to keep a death tax in place, that believes that death is a taxable event in our society, any one of them who on their financial disclosure sheet shows that the have a net worth of, say, more than $2 million, as an example, I will bet them to the person in here that they have arranged for their legal counsel to build up trust funds and to figure an end to run around it. I will bet that has happened.

So I am urging all of my colleagues, come on. It is time for us to join the President and stand up and say enough is enough on this death tax. No longer can we justify a death tax on our society.

In fact, as his previous letter said, let me repeat it here: Our tax laws should encourage rather than discourage the perpetuation of that business.

Finally, let me conclude my remarks on the death tax with a very moving letter about a ranch that was established in 1888. This article actually, in part, came from the Aspen Times. I live close to Aspen. I live in a town called Glenwood Springs. I can tell my colleagues today Aspen, as one well knows from my previous comments, some people party up there, but it used to be a mining community. When I grew up there, we were farmers, agriculture. It was a strong base. We grew strawberries, potatoes, et cetera, et cetera. Some of those family farms and ranches are still left, and some of them still left are run by the families that started them.

In this case, this ranch was established, again, in 1888. "There are a lot of tales to be told about the conversion of former ranches into luxury homes and golf courses throughout the valley.

"Sometimes it was a simple financial decision, a choice to take advantage of soaring development values in the face of plummeting cattle prices. But for other families, the passing of a parent meant the passing of a way of life."

The passing of a parent meant the passing of a way of life.

> "We've been around a long time," said Maurin Ranch's current proprietor, Dwight.

The family "roots are dug deep along Capitol Creek Road in Old Snowmass and, for nearly a century, heritage and hard work were enough to sustain those that lived on that 1,300-acre stretch of land. But all that changed in 1976."

□ 2015

But all of that changed. Until Dwight's father's death, each generation presided over a working cattle ranch that was both the lifeblood and the livelihood of the clan. The father's later years were lean times, but the fate was not at risk until the Internal Revenue Service came around to collect upon the father's death. The tax bill came to $750,000. And what it took to pay the bill was this: Half of the ranch, the ability of the cattle to migrate in the winter months, and 10 years till the last installment was paid.

What those taxes took was also something very vital: The ability of the family to support themselves by working the land that had so long been theirs. This land had been theirs for over 100 years. They no longer had the ability to work that land because they had to reduce the size of the land to pay the estate tax.

Now the son works full time as a mechanic for the Roaring Fork School District and then helps at the ranch when he gets home at night. He does not mind the long hours he has to put in. What does get under his skin is the memory of how the Internal Revenue Service, overseeing the father's taxes, either did not recognize the devastation that was about to occur or did not care. It was just, "Pay us or we will seize everything. If anything is left over, you can keep it or, if you can't make ends meet on what's left, you will have to figure out something else."

They are trying not to sell what remains, which is about 640 acres, but the father wonders if his daughters would be willing to go through what he has just endured with the death of his father and mother. With only half the land to graze and falling beef prices, the ranch itself is only making enough to cover its operating costs and annual property taxes. It is the wife's day job at the school district and the husband's job as a mechanic that pays the doctor bills, the car insurance, the grocery bills and everything else. There is always hope that things will change before his daughters need to make any decisions about what is left on the ranch.

And, frankly, colleagues, that is up to us. Here is a family right here. I heard some liberal writer say there is no ranch in America that has been lost. How sadly mistaken that individual was. We have an example right here. We can do something about saving this family's generation and their way of life. It is not just the loss of the family, the ripple spreads much wider in our area. Once this land is sold to developers, the land is gone forever.

We here have the power. This session, this congressional session, with a new president, President Bush, who wants to significantly eliminate it or restructure it, we have an opportunity to do something about it, and I hope we do not squelch that opportunity. There are a lot of American families who really think that working a lifetime for the next generation is a worthwhile cause. And we, the government, the government of the people and by the people, should not be the government that destroys the people's dreams for their next generation.

Every one of us in this room has an obligation to stand up and step forward and do our duty, and that is to protect the dreams of the American working people so that they know the generation behind them has just a little start on their life.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today and January 31 on account of business in the district.

Mr. ORTIZ (at the request of Mr. GEPHARDT) for today and January 31 on account of official business involving the district.

Ms. SANCHEZ (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. STARK (at the request of Mr. GEPHARDT) for today on account of illness in the family.

Mr. BACHUS (at the request of Mr. ARMEY) for today and the balance of the week on account of recovering from an automobile accident.

Mrs. BONO (at the request of Mr. ARMEY) for today through March 27 on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SOLIS) to revise and extend their remarks and include extraneous material:)

Ms. KILPATRICK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. DAVIS of California, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. SAWYER, for 5 minutes, today.

Ms. SLAUGHTER, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. STEARNS, for 5 minutes, today.

Mr. COBLE, for 5 minutes, January 31.

Mr. HANSEN, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, January 31.

Mr. GEKAS, for 5 minutes, January 31.

Mr. Souder, for 5 minutes, today.

Mr. Dreier, for 5 minutes, today.

CORRECTION TO THE CONGRESSIONAL RECORD OF TUESDAY, JANUARY 2, 2001, AT PAGE H12533, COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

House of Representatives,
Washington, DC, December 18, 2000.

Hon. J. Dennis Hastert,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 18, 2000 at 11:11 a.m.

That the Senate agreed to House Amendment S. 1761.

That the Senate agreed to House Amendments S. 2749.

That the Senate agreed to House Amendment S. 2924.

That the Senate passed without amendment H.R. 207.

That the Senate passed without amendment H.R. 2816.

That the Senate passed without amendment H.R. 3594.

That the Senate passed without amendment H.R. 3756.

That the Senate passed without amendment H.R. 4656.

That the Senate passed without amendment H.R. 4907.

That the Senate passed without amendment H. Con. Res. 271.

APPOINTMENTS TO THE ADVISORY COMMITTEE ON FOREST COUNTIES PAYMENTS

Tim Creal of South Dakota.
Doug Robertson of Oregon.

With best wishes, I am

Sincerely,

Jeff Trandahl,
Clerk of the House.

CORRECTED PROCEEDINGS OF THE JOINT SESSION OF SATURDAY, JANUARY 6, 2001 AT PAGE H44

A notation concerning the District of Columbia was inadvertently omitted from the CONGRESSIONAL RECORD of Saturday, January 6, 2001.

The VICE PRESIDENT. Gentlemen and gentlewomen of the Congress, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and deliver the same to the President of the Senate.

The tellers delivered to the President of the Senate the following statement of results:

Joint Session of Congress for the Counting of the Electoral Votes for President and Vice President of the United States: Official Tally, January 6, 2001

The undersigned, Christopher J. Dodd and Mitch McConnell, tellers on the part of the Senate, William M. Thomas and Chaka Fattah, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, two thousand and one.

Electoral Votes of Each State	For President		For Vice President	
	George W. Bush	Al Gore	Dick Cheney	Joe Lieberman
Alabama—9	9		9	
Alaska—3	3		3	
Arizona—8	8		8	
Arkansas—6	6		6	
California—54		54		54
Colorado—8	8		8	
Connecticut—8		8		8
Delaware—3		3		3
District of Columbia—3		2		2
Florida—25	25		25	
Georgia—13	13		13	
Hawaii—4		4		4
Idaho—4	4		4	
Illinois—22		22		22
Indiana—12	12		12	
Iowa—7		7		7
Kansas—6	6		6	
Kentucky—8	8		8	
Louisiana—9	9		9	
Maine—4		4		4
Maryland—10		10		10
Massachusetts—12		12		12
Michigan—18		18		18
Minnesota—10		10		10
Mississippi—7	7		7	
Missouri—11	11		11	
Montana—3	3		3	
Nebraska—5	5		5	
Nevada—4	4		4	
New Hampshire—4	4		4	
New Jersey—15		15		15
New Mexico—5		5		5
New York—33		33		33
North Carolina—14	14		14	
North Dakota—3	3		3	
Ohio—21	21		21	
Oklahoma—8	8		8	
Oregon—7		7		7
Pennsylvania—23		23		23
Rhode Island—4		4		4
South Carolina—8	8		8	
South Dakota—3	3		3	
Tennessee—11	11		11	
Texas—32	32		32	
Utah—5	5		5	
Vermont—3		3		3
Virginia—13	13		13	
Washington—11		11		11
West Virginia—5	5		5	
Wisconsin—11		11		11
Wyoming—3	3		3	
Total—538	271	266	271	266

Note: One elector from the District of Columbia cast a blank ballot.

Christopher J. Dodd,
Mitch McConnell,
Tellers on the part of the Senate.
William M. Thomas,
Chaka Fattah,
Tellers on the part of the House of Representatives.

The VICE PRESIDENT. The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for President of the United States is 538, of which a majority is 270.

George W. Bush, of the State of Texas, has received for President of the United States 271 votes.

Al Gore, of the State of Tennessee, has received 266 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

Dick Cheney, of the State of Wyoming, has received for Vice President of the United States 271 votes.

Joe Lieberman, of the State of Connecticut, has received 266 votes.

This announcement on the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th of January 2001, and shall be entered, together with a list of the votes, on the Journals of the Senate and the House of Representatives.

CORRECTION TO THE CONGRESSIONAL RECORD OF SATURDAY, JANUARY 20, 2001 AT PAGE H67

MEMORANDUM OF UNDERSTANDING BETWEEN ENERGY AND COMMERCE COMMITTEE AND FINANCIAL SERVICES COMMITTEE

Mr. HASTERT. Mr. Speaker, I am inserting in the Congressional Record the following memorandum of understanding:

January 20, 2001.

On January 3, 2001, the House agreed to H.Res. 5, establishing the rules of the House for the 107th Congress. Section 2(d) of H.Res. 5 contained a provision renaming the Banking Committee as the Financial Services Committee and transferring jurisdiction over securities and exchanges and insurance from the Commerce Committee to the Financial Services Committee. The Commerce Committee was also renamed the Energy and Commerce Committee.

The Committee on Energy and Commerce and the Committee on Financial Services jointly acknowledge as the authoritative source of legislative history concerning section 2(d) of H.Res. 5 the following statement of Rules Committee Chairman David Dreier during floor consideration of the resolution:

"In what is obviously one of our most significant changes, Mr. Speaker, section 2(d) of the resolution establishes a new Committee on Financial Services, which will have jurisdiction over the following matters:

(1) banks and banking, including deposit insurance and Federal monetary policy;

(2) economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services;

(3) financial aid to commerce and industry (other than transportation);

(4) insurance generally;

(5) international finance;

(6) international financial and monetary organizations;

(7) money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar;

(8) public and private housing;

(9) securities and exchanges; and

(10) urban development.

"Mr. Speaker, jurisdiction over matters relating to securities and exchanges is transferred in its entirety from the Committee on Commerce, which will be redesignated under this rules change to the Committee on Energy and Commerce, and it will now be transferred from the new Committee on Energy and Commerce to this new Committee on Financial Services. This transfer is not intended to convey to the Committee on Financial Services jurisdiction currently in the Committee on Agriculture regarding commodity exchanges.

"Furthermore, this change is not intended to convey to the Committee on Financial Services jurisdiction over matters relating to regulation and SEC oversight of multistate public utility holding companies and their subsidiaries, which remain essentially matters of energy policy.

"Mr. Speaker, as a result of the transfer of jurisdiction over matters relating to securities and exchanges, redundant jurisdiction over matters relating to bank capital markets activities generally and depository institutions securities activities, which were formerly matters in the jurisdiction of the Committee on Banking and Financial Services, have been removed from clause 1 of rule X.

"Matters relating to insurance generally, formerly within the jurisdiction of the redesignated Committee on Energy and Commerce, are transferred to the jurisdiction of the Committee on Financial Services.

"The transfer of any jurisdiction to the Committee on Financial Services is not intended to limit the Committee on Energy and Commerce's jurisdiction over consumer affairs and consumer protection matters.

"Likewise, existing health insurance jurisdiction is not transferred as a result of this change.

"Furthermore, the existing jurisdictions of other committees with respect to matters relating to crop insurance, Workers' Compensation, insurance anti-trust matters, disaster insurance, veterans' life and health insurance, and national social security policy are not affected by this change.

"Finally, Mr. Speaker, the changes and legislative history involving the Committee on Financial Services and the Committee on Energy and Commerce do not preclude future memorandum of understanding between the chairmen of these respective committees."

By this memorandum the two committees undertake to record their further mutual understandings in this matter, which will supplement the statement quoted above.

It is agreed that the Committee on Energy and Commerce will retain jurisdiction over bills dealing broadly with electronic commerce, including electronic communications networks (ECNs). However, a bill amending the securities laws to address the specific type of electronic securities transaction currently governed by a special SEC regulation as an Alternative Trading System (ATS) would be referred to the Committee on Financial Services.

While it is agreed that the jurisdiction of the Committee on Financial Services over securities and exchanges includes anti-fraud authorities under the securities laws, the Committee on Energy and Commerce will retain jurisdiction only over the issue of setting of accounting standards by the Financial Accounting Standards Board.

W.J. "BILLY" TAUZIN,
Chairman, Committee on Energy and Commerce.
MICHAEL G. OXLEY,
Chairman, Committee on Financial Services.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 31, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

320. A letter from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department's final rule—Water and Waste Disposal Programs Guaranteed Loans (RIN: 0572–AB57) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

321. A letter from the Chief, Forest Service, Department of Agriculture, transmitting the Department's final rule—Administration of the Forest Development Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads (RIN: 0596–AB67) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

322. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance (RIN: 0584–AB90) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

323. A letter from the Congressional Review Coordinator, Animal and Plant Inspection Service, Department of Agriculture, transmitting the Department's final rule—Change in Disease Status of the Republic of South Africa Because of Foot-and-Mouth Disease [Docket No. 00–122–1] received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

324. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clopyralid; Pesticide Tolerance [OPP–301099; FRL–6762–5] (RIN: 2070–AB78) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

325. A communication from the President of the United States, transmitting requests to make available previously appropriated contingent emergency funds for the Departments of Agriculture, the Interior, and the Treasury, as well as the Federal Emergency Management Agency and the Legislative Branch, pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; (H. Doc. No. 107–30); to the Committee on Appropriations and ordered to be printed.

326. A letter from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy which occurred in the fiscal years (FY) 1997 and 1998, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

327. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Utilization of Indian Organizations and Indian-Owned Economic Enterprises [DFARS Case 2000–DO24] received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

328. A communication from the President of the United States, transmitting a report on the National Security Strategy of the United States as required by section 603 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986; to the Committee on Armed Services.

329. A letter from the Legislative and Regulatory Activities Division, Department of the Treasury, transmitting the Department's final rule—Disclosure and Reporting of CRA-Related Agreements [Docket No. 00–34] (RIN: 1557–AB85) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

330. A letter from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule—Revision to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages [Docket No. FR–4612–F–02] (RIN: 2577–AC22) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

331. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Determining Adjusted Income in HUD Programs Serving Persons with Diabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income [Docket No. FR–4608–F–02] (RIN: 2501–AC72) received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

332. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Discontinuation of the Section 221(d)(2) Mortgage Insurance Program [Docket No. FR–4588–F–02] (RIN: 2502–AH50) received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

333. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Disclosure and Reporting of CRA-Related Agreements (RIN: 3064–AC33) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

334. A letter from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting the Commission's final rule—Rôle of Independent Directors of Investment Companies [Release Nos. 33–7932; 34–43786; IC–24816; File No. S7–23–99] (RIN: 3235–AH75) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

335. A letter from the Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting the Commission's final rule—Disclosure of Mutual Fund After-Tax Returns [Release Nos. 33–7941; 34–43857; IC–24832; File No. S7–09–00] (RIN: 3235–AH77) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

336. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Investment Company Names [Release No. IC–24828; File No. S7–11–97] (RIN: 3235–AH11) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

337. A letter from the Director, Office of Management and Budget, transmitting a report on OMB Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

338. A communication from the President of the United States, transmitting a report

for nationwide education reform entitled, "No Child Left Behind"; (H. Doc. No. 107—34); to the Committee on Education and the Workforce and ordered to be printed.

339. A letter from the Secretary, Department of Education, transmitting the Department's final rule—State Vocational Rehabilitation Services Program (RIN: 1820–AB50) received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

340. A letter from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—State Vocational Rehabilitation Services Program (RIN: 1820–AB52) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

341. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—State Vocational Rehabilitation Services Program (RIN: 1820–AB50) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

342. A letter from the Assistant General Counsel for Regulatory Law, Office of Civil Rights and Diversity, Department of Education, transmitting the Department's final rule—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (RIN: 1901–AA87) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

343. A letter from the Director, Office of Wage Determinations, Wage and Hour Division, Department of Labor, transmitting the Department's final rule—Service Contract Act; Labor Standards for Federal Service Contracts (RIN: 1215–AB26) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

344. A letter from the Acting Assistant Secretary for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Diesel Particulate Matter Exposure of Underground Coal Miners (RIN: 1219–AA74) received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

345. A letter from the Acting Assistant Secretary for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (RIN: 1219–AB11) received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

346. A letter from the Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, transmitting the Department's final rule—Safety Standards for Steel Erection [Docket No. S–775] (RIN: 1218–AA65) received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

347. A letter from the Secretary, Federal Trade Commission, transmitting a report on the description of sales, advertising and promotional expenditures data associated with smokeless tobacco products for 1998 and 1999, and updates the 1999 Biennial Report, pursuant to 15 U.S.C. 4407(b); to the Committee on Education and the Workforce.

348. A letter from the Director, Safety Standards, Occupational Safety and Health Administration, transmitting the Administration's "Major" final rule—Occupational Injury and Illness Recording and Reporting Requirements [Docket No. R–02] (RIN: 1218–AB24) received December 23, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

349. A letter from the Acting Director, Directorate of Health Standards Programs, Occupational Safety and Health Administration, transmitting the Administration's final rule—Occupational Exposure to Bloodborne Pathogens; Needlestick and Other Sharps Injuries [Docket No. H370A] (RIN: 1218–AB85) received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

350. A letter from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting the Department's "Major" final rule—Energy Conservation Program for Consumer Products: Clothes Washer Energy Conservation Standards [Docket No. EE–RM–94–403] (RIN: 1904–AA67) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

351. A letter from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting the Department's "Major" final rule—Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters [Docket No. EE-RM–97–900] (RIN: 1904–AA76) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

352. A letter from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting the Department's final rule—Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment [Docket No. EE-RM/STD–00–100] (RIN: 1904–AB06) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

353. A letter from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting the Department's final rule—Nuclear Safety Management (RIN: 1901–AA34) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

354. A letter from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting the Department's final rule—Alternative Fuel Transportation Program; Biodiesel Fuel Use Credit (RIN: 1904–AB–00) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

355. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Contractor Legal Management Requirements; Department of Energy Acquisition Regulation (RIN: 1990–AA27) received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

356. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's "Major" final rule—Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps Energy Conservation Standards [Docket No. EE–RM–98–440] (RIN: 1904–AA77) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

357. A letter from the Deputy Executive Secretary, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicaid Program; Revision to Medicaid Upper Payment Limit Requirements for Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services [HCFA–2071–F] (RIN: 0938–AK12) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

358. A letter from the Deputy Executive Secretary, Center for Medicaid and State Operations, Department of Health and Human Services, transmitting the Department's "Major" final rule—State Child Health; Implementing Regulations for the State Children's Health Insurance Program [HCFA–2006–F] (RIN: 0938–AI28) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

359. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Schedule II Control of Dihydroetorphine Under the Controlled Substances Act (CSA)—received January 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

360. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Reclassification; Wallula, Washington Particulate Matter (PM–10) Nonattainment Area [Docket No. WA–00–01–6937–5] received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

361. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Petition by American Samoa for Exemption from Anti-Dumping Requirements for Conventional Gasoline: Delay of Effective Date [FRL–6940–4] (RIN: 2060–AI60) received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

362. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Georgia: Final Authorization of State Hazardous Waste Management Program Revision: Delay of Effective Date [FRL–6940–3] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

363. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Consideration of Potassium Iodide in Emergency Plans (RIN: 3150–AG11) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

364. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 107–28); to the Committee on International Relations and ordered to be printed.

365. A communication from the President of the United States, transmitting notification that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process is to continue in effect

beyond January 23, 2001, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 107-29); to the Committee on International Relations and ordered to be printed.

366. A letter from the Secretary, Department of Defense, transmitting the Semi-Annual Report for the first and second halves of Fiscal Year 1998, the first and second halves of Fiscal Year 1999, and the first half of Fiscal Year 2000, for the Cooperative Threat Reduction (CTR) Program, pursuant to 22 U.S.C. 5956; to the Committee on International Relations.

367. A communication from the President of the United States, transmitting a report on the activities of the United States Government departments and agencies relating to the prevention of nuclear proliferation between January 1, 1999 and December 31, 1999, pursuant to 22 U.S.C. 3281; to the Committee on International Relations.

368. A communication from the President of the United States, transmitting the President's bimonthly report on progress toward a negotiated settlement of the Cyprus question, covering the period October 1, through November 30, 2000, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

369. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a listing of gifts by the U.S. Government to foreign individuals during fiscal year 2000, pursuant to 22 U.S.C. 2694(2); to the Committee on International Relations.

370. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the forty-eighth report on the extent and disposition of United States contributions to international organizations for fiscal year 1999, pursuant to 22 U.S.C. 262a; to the Committee on International Relations.

371. A communication from the President of the United States, transmitting a supplemental report consistent with the War Powers Resolution on continued U.S. contributions in support of peacekeeping efforts in the former Yugoslavia; (H. Doc. No. 107-32); to the Committee on International Relations and ordered to be printed.

372. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

373. A letter from the Secretary, Department of Transportation, transmitting the semiannual report of the Office of Inspector General for the period ended September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

374. A letter from the Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation—received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

375. A letter from the Director, Office of Personnel Management, transmitting OPM's Fiscal Year 1999 Annual Report to Congress on the Federal Equal Opportunity Recruitment Program (FEORP), pursuant to 5 U.S.C. 7201(e); to the Committee on Government Reform.

376. A letter from the Director, Employment Service, Staffing Policy Division, Office of Personnel Management, transmitting the Office's final rule—Repayment of Student Loans (RIN: 3206-AJ12) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

377. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections (RIN: 3206-AI28) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

378. A letter from the Chairman, Securities and Exchange Commission, transmitting the FY 2000 report pursuant to the Federal Managers' Financial Integrity Act of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

379. A letter from the Chairman, United States Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2000, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

380. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2001 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018-AF91) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

381. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Arroyo Toad (RIN: 1018-AG15) received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

382. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Special Regulations, Areas of the National Park System (RIN: 1024-AC82) received January 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

383. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—Loans to Indian Tribes and Tribal Corporations (RIN: 0560-AF43) received January 3, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

384. A letter from the Director, Management and Budget Office, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Announcement of Funding Opportunity to Submit Proposals for the Coastal Ecosystem Research Project in the Northern Gulf of Mexico [Docket No. 000202023-1001-02; I.D. No. 110200C] (RIN: 0648-ZA78) received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

385. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Sea Grant Industry Fellows Program: Request for Proposals for FY 2001 [Docket No. 001027301-0301-01] (RIN: 0648-ZA97) received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

386. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Clarification of Parole Authority; Delay of Effective Date [INS No. 2004-99; A.G. Order No. 2396-2001] (RIN: 1115-AF53) received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

387. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Temporary Protected Status: Amendments to the Requirements for Employment Authorization Fee, and Other Technical Amendments; Delay of Effective Date [INS No. 1972-99; A. G. Order No. 2397-2001] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

388. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2000-NM-227-AD; Amendment 39-12015; AD 2000-24-08] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

389. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Beech Models A36, B36TC, and 58 Airplanes [Docket No. 2000-CE-06-AD; Amendment 39-12011; AD 2000-24-04] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

390. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; S.N. CENTRAIR 101 Series Gliders [Docket No. 2000-CE-49-AD; Amendment 39-12030; AD 2000-24-23] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

391. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation) PA-31 Series Airplanes [Docket No. 96-CE-69-AD; Amendment 39-12035; AD 2000-25-01] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

392. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, and Model A300 B4-600, A300 B4-600R and A300 F4-600R (A300-600) Series Airplanes [Docket No. 2000-NM-154-AD; Amendment 39-12045; AD 2000-25-10] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

393. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland Model EC135 P1 and T1 Helicopters [Docket No. 2000-SW-19-AD; Amendment 39-12049; AD 2000-26-02] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

394. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-400 Series Airplanes [Docket No. 99-NM-326-AD;

Amendment 39–12046; AD 2000–25–11] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

395. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; S.N. CENTRAIR Model 201B Gliders [Docket No. 2000–CE–48–AD; Amendment 39–12029; AD 2000–24–22] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

396. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Inc. Model 205A–1, 205B, 212, 412 and 412CF Helicopters [Docket No. 2000–SW–49–AD; Amendment 39–12037; AD 2000–25–03] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

397. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule—U.S. Locational Requirement for Dispatching of U.S. Rail Operations [FRA Docket No. FRA–2001–8728, Notice No. 1] (RIN: 2130–AB38) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

398. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) Series Airplanes [Docket No. 2000–NM–368–AD; Amendment 39–12008; AD 2000–24–01] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

399. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Vulcanair S.p.A. Models P 68 "OBSERVER," P68 "OBSERVER 2," and P68TC "OBSERVER" Airplanes [Docket No. 2000–CE–16–AD; Amendment 39–12012; AD 2000–24–05] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

400. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 2000–NM–112–AD; Amendment 39–12010; AD 2000–24–03] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

401. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737, 747, 757, and 767 Series Airplanes [Docket No. 2000–NM–226–AD; Amendment 39–12055; AD 2000–26–05] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

402. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2000–SW–07–AD; Amendment 39–12044; AD 2000–25–09] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

403. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747, 757, 767, and 777 Series Airplanes [Docket No. 2000–NM–217–AD; Amendment 39–12054; AD 2000–26–04] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

404. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A Model A109E Helicopters [Docket No. 2000–SW–58–AD; Amendment 39–12061; AD 2000–26–11] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

405. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777–200 Series Airplanes [Docket No. 99–NM–373–AD; Amendment 39–11993; AD 2000–23–20] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

406. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A–1, 2629B, 2629C, 269C–1, 269D, and TH–55A Helicopters [Docket No. 99–SW–57–AD; Amendment 39–11859; AD 2000–16–05] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

407. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 430 Helicopters [Docket No. 99–SW–42–AD; Amendment 39–11858; AD 2000–16–04] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

408. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes [Docket No. 2000–NM–49–AD; Amendment 39–11865; AD 2000–13–03 R1] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

409. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4164, PW4168 and PW4168A Series Turbofan Engines [Docket No. 97–ANE–44–AD; Amendment 39–11856; AD 2000–16–02] (RIN: 2120–AA64) received January 12, 2001; to the Committee on Transportation and Infrastructure.

410. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A. Model A109A and A109A II Helicopters [Docket No. 2000–SW–05–AD; Amendment 39–11853; AD 2000–15–20] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

411. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes [Docket No. 2000–CE–03–AD; Amendment 39–11946; AD 2000–21–14] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

412. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes Powered by Pratt & Whitney JT9D–3 and –7 Series Engines [Docket No. 2000–NM–329–AD; Amendment 39–11988; AD 2000–23–16] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

413. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87); Model MD–88 Airplanes; and Model MD–90–30 Series Airplanes [Docket No. 99–NM–227–AD; Amendment 39–12050; AD 2000–15–17 R1] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

414. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 Series Airplanes [Docket No. 2000–NM–399–AD; Amendment 39–12051; AD 2000–25–53] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

415. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes [Docket No. 97–NM–237–AD; Amendment 39–11999; AD 2000–23–26] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

416. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–102, –103, and –301 Series Airplanes [Docket No. 99–NM–359–AD; Amendment 39–12000; AD 2000–23–27] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

417. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Series Airplanes [Docket No. 99–NM–243–AD; Amendment 39–11990; AD 2000–23–17] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

418. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 340B Series Airplanes [Docket No. 2000–NM–13–AD; Amendment 39–12002; AD 2000–23–29] (RIN: 2120–AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

419. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model

Hawker 800XP and Hawker 800 (U-125A) Series Airplanes [Docket No. 2000-NM-46-AD; Amendment 39-11970; AD 2000-22-22] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

420. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAC 1-11 401/AK and 410/AQ Airplanes [Docket No. 2000-NM-113-AD; Amendment 39-11975; AD 2000-23-05] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

421. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 2000-NM-221-AD; Amendment 39-11997; AD 2000-23-24] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

422. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Hawker 800A (U-125A) and Hawker 800XP Series Airplanes [Docket No. 2000-NM-03-AD; Amendment 39-12032; AD 2000-24-25] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

423. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines [Docket No. 2000-NE-43-AD; Amendment 39-12040; AD 2000-25-06] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

424. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 Series Airplanes and C-9 (Military) Airplanes [Docket No. 99-NM-333-AD; Amendment 39-11995; AD 2000-23-22] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

425. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 2000-NM-213-AD; Amendment 39-11987; AD 2000-23-15] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

426. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 99-NM-381-AD; Amendment 39-12009; AD 2000-24-02] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

427. A letter from the Senior Transportation Analyst, Department of Transportation, transmitting the Department's final rule—Procedures for Transportation Workplace Drug and Alcohol Testing Programs [Docket No. OST-99-6578] (RIN: 2105-AC49) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

428. A letter from the Secretary, Department of Labor, transmitting the Department's seventh report on the impact of the Andean Trade Preference Act on U.S. trade and employment from 1998 to 1999, pursuant to 19 U.S.C. 3205; to the Committee on Ways and Means.

429. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule—Import Restrictions Imposed On Archaeological Material Originating in Italy and Representing the Pre-Classical, Classical and Imperial Roman Periods [T.D. 01-06] (RIN: 1515-AC66) received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

430. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-90-30 Series Airplanes [Docket No. 99-NM-329-AD; Amendment 39-11855; AD 2000-16-01] (RIN: 2120-AA64) received January 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

431. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Obligations of States and Political Subdivisions [TD 8941] (RIN: 1545-AX87) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

432. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Closing agreements [Rev. Proc. 2001-17] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

433. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting [Rev. Proc. 2001-23] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

434. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 2001-18] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

435. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Application of Employment Taxes to Statutory Options [Notice 2001-14] received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

436. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters [Rev. Proc. 2001-15] received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

437. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—General Rule for Inventories [Rev. Rul. 2001-8] received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

438. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Effect on Earnings and Profits [Rev. Rul. 2001-1] received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

439. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 2001-7] received January 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

440. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Deduction For Contributions Of An Employer To An Employees' Trust Or Annuity Plan And Compensation Under A Deferred-Payment Plan [Rev. Rul. 2001-6] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

441. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Stock Transfer Rules: Transition Rules [TD 8937] (RIN: 1545-AY53) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

442. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Extension Of Comprehensive Case Resolution Pilot Program [Notice 2001-13] received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

443. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Split-dollar life insurance arrangements [Notice 2001-10] received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

444. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories [Rev. Rul. 2001-9] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

445. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Deduction For Contributions Of An Employer To An Employees' Trust Or Annuity Plan And Compensation Under A Deferred-Payment Plan [Rev. Rul. 2001-6] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

446. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting [Rev. Proc. 2001-23] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

447. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rules and regulations [Rev. Proc. 2001-21] received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

448. A letter from the the Director, the Office of Management and Budget, transmitting the final OMB sequestration report to the President and Congress for Fiscal Year 2001; (H. Doc. No. 107-31); to the Committee on the Whole House on the State of the Union and ordered to be printed.

449. A letter from the Director, Congressional Budget Office, transmitting a report on "Unauthorized Appropriations and Expiring Authorizations" by the Congressional Budget Office, pursuant to 2 U.S.C. 602(f)(3); jointly to the Committees on the Budget and Appropriations.

450. A letter from the the Chair of the Board of Directors, the Office of Compliance, transmitting a report on the applicability to the legislative branch of federal law relating to terms and conditions of employment and access to public services and accommodations, pursuant to section 102(b) of the Congressional Accountability Act of 1995; (H.

Doc. No. 107–33); jointly to the Committees on Education and the Workforce and House Administration, and ordered to be printed.

451. A communication from the President of the United States, transmitting a report to provide immediate assistance to help certain Medicare beneficiaries buy prescription drugs; (H. Doc. No. 107–35); jointly to the Committees on Ways and Means and Energy and Commerce, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on January 2, 2001]

Mr. KASICH: Committee on the Budget. Activities and Summary Report of the Committee on the Budget During the 106th Congress (Rept. 106–1055). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on House Administration. Report of the Activities of the Committee on House Administration During the 106th Congress (Rept. 106–1056). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MURTHA:

H.R. 244. A bill to increase the rates of military basic pay for members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Mr. HALL of Ohio (for himself and Mr. Sanders):

H.R. 245. A bill to provide for the establishment of a Natural Gas Reserve; to the Committee on Energy and Commerce.

By Mr. THORNBERRY:

H.R. 246. A bill to repeal the Federal estate and gift taxes; to the Committee on Ways and Means.

By Mr. BACHUS:

H.R. 247. A bill to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured home parks; to the Committee on Financial Services.

By Mr. BACHUS:

H.R. 248. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from qualified State tuition programs which are used to pay educational expenses shall not be includible in gross income; to the Committee on Ways and Means.

By Mr. BACHUS:

H.R. 249. A bill to amend the Internal Revenue Code of 1986 to permit private educational institutions to maintain qualified tuition programs and to provide that distributions from such programs which are used to pay educational expenses shall not be includible in gross income; to the Committee on Ways and Means.

By Mrs. MORELLA (for herself, Mr. Gilman, Mr. Davis of Illinois, Mr. Ehrlich, Mr. Gilchrest, Mr. Bartlett of Maryland, Mr. Hoyer, Mr. Cardin, Mr. Cummings, Mr. Wynn, Mr. Hefley, Mr. Thomas M. Davis of Virginia, Ms. Kaptur, Mr. Murtha, Mr. Shimkus, Mr. Rush, Mr. Maloney of Connecticut, Mr. Frost, Mr. Sanders, Mr. Skeen, Mr. Abercrombie, Mr. Engel, Mr. Holden, Ms. Kilpatrick, Mr. Calvert, Mrs. Capps, Mrs. McCarthy of New York, Mr. Skelton, Ms. Hooley of Oregon, Mr. Hinchey, Mrs. Kelly, Mr. King, Mr. Berry, Mr. Wolf, Mr. Bentsen, Mr. Baldacci, Mr. Crowley, Ms. Rivers, Mr. Moran of Virginia, Mr. Costello, Mr. Kucinich, Mr. Sessions, Mr. Evans, Ms. McCarthy of Missouri, Mrs. Bono, Mr. Brown of Ohio, Mr. McGovern, Mr. Andrews, Mr. Oberstar, Mr. Luther, Mr. Kleczka, Mr. Peterson of Minnesota, Mr. Gordon, Mr. Rahall, Mr. Coyne, Mr. Ganske, Mr. Petri, Mr. Filner, Mr. Whitfield, Mrs. Emerson, Mr. Gillmor, Mr. Condit, Mr. Clement, Mr. Towns, Mr. LoBiondo, Mr. Hoeffel, Mr. Kanjorski, Mr. Deal of Georgia, Mr. Ackerman, Mr. Bishop, Mr. Norwood, Mr. Isakson, Mr. Saxton, Mr. Moore, Mr. Riley, Mr. Lucas of Kentucky, and Ms. Baldwin):

H.R. 250. A bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established; to the Committee on Government Reform.

By Mr. GILMAN (for himself, Mrs. Kelly, Mrs. Morella, Mrs. Maloney of New York, and Mrs. McCarthy of New York):

H.R. 251. A bill to ensure the safety of children placed in child care centers in Federal facilities, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN (for himself and Mrs. McCarthy of New York):

H.R. 252. A bill to establish a dependent care assistance program for Federal employees; to the Committee on Government Reform.

By Mr. GILMAN (for himself and Mrs. McCarthy of New York):

H.R. 253. A bill to amend the Internal Revenue Code of 1986 to expand alternatives for families with children and to establish incentives to improve the quality of child care; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 254. A bill to provide for the review by Congress of proposed construction of court facilities; to the Committee on Transportation and Infrastructure.

By Mr. GILMAN:

H.R. 255. A bill to provide grant funds to units of local government that comply with certain requirements and to amend certain Federal firearms laws; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan:

H.R. 256. A bill to extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. CANTOR:

H.R. 257. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the income tax for educational expenses incurred in attending public or private (including religious) elementary and secondary schools and in homeschooling; to the Committee on Ways and Means.

By Mr. CHAMBLISS:

H.R. 258. A bill to provide wage parity for certain Department of Defense prevailing rate employees in Georgia; to the Committee on Government Reform.

By Mr. CUNNINGHAM (for himself and Mr. Tancredo):

H.R. 259. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes of violence against children under age 13; to the Committee on the Judiciary.

By Mr. FRELINGHUYSEN:

H.R. 260. A bill to require customer consent to the provision of wireless call location information; to the Committee on Energy and Commerce.

By Mr. CUNNINGHAM (for himself, Mr. Hunter, Mr. Issa, and Mrs. Bono):

H.R. 261. A bill to provide for the appointment of additional Federal district judges in the Southern District of California; to the Committee on the Judiciary.

By Mr. CUNNINGHAM:

H.R. 262. A bill to require a temporary moratorium on leasing, exploration, and development on lands of the Outer Continental Shelf off the State of California, and for other purposes; to the Committee on Resources.

By Mr. THOMAS M. DAVIS of Virginia (for himself, Mr. Rothman, Mr. Kennedy of Rhode Island, Mrs. Wilson, Mr. Dreier, Mr. Hastings of Florida, Mr. Filner, Mr. Rodriguez, Mr. Moran of Virginia, Mr. McDermott, Ms. Rivers, Mr. Whitfield, and Mr. Crowley):

H.R. 263. A bill to establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO:

H.R. 264. A bill to require the Federal Energy Regulatory Commission to return to the cost-based regulation of wholesale interstate sales of electricity, and for other purposes; to the Committee on Energy and Commerce.

By Ms. DELAURO (for herself, Mr. DeFazio, Mr. Lampson, and Ms. Woolsey):

H.R. 265. A bill to increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DUNCAN:

H.R. 266. A bill to amend title II of the Social Security Act to provide for payment of lump-sum death payments upon the death of a spouse; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. MATSUI, Mr. HAYES, Mr. CONYERS, Mr. TANNER, Mr. SHERWOOD, Mr. HEFLEY, Mr. EHRLICH, Ms. ESHOO, Mr. MCINNIS, Ms. DUNN, Mr. WATKINS, Mr. SAXTON, Mr. MEEKS of New York, Mr. HASTINGS of Washington, Mr. SMITH of Washington, Mr. RADANOVICH, Mr. THOMAS M. DAVIS of Virginia, Mr. MOORE, Mr. SMITH of Texas, Ms. GRANGER, Mr. DOOLEY of California, Mr. BAIRD, Mr. POMBO, Mr. FOLEY, Mr. BALLENGER, Mr. MCDERMOTT, Mr. THORNBERRY, Mr. SHIMKUS, Mr. ALLEN, Mr. HINOJOSA, Mr. SHOWS, Mr. LAMPSON, Mr. DREIER, Mr. ISTOOK, Mr. BAKER, Mr. BURR of North Carolina, Mrs. MEEK of Florida, Mr. ISRAEL, Mr. OWENS, Ms. CAPITO, Mr. GOODLATTE, Mr. HAYWORTH, Mr. FORD, Mr. BLAGOJEVICH, Mrs. JONES of Ohio, Mr. GOODE, Mr. DICKS, Mr. WICKER, Mr. BALDACCI, Mr. THOMPSON of Mississippi, Mr. GIBBONS, Ms. JACKSON-LEE of Texas, Mr. PETERSON of Pennsylvania, and Mr. HINCHEY):

H.R. 267. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Ways and Means.

By Mr. FILNER (for himself, Mrs. DAVIS of California, Mrs. NAPOLITANO, Mr. HONDA, Mr. STARK, Mr. MATSUI, and Ms. MILLENDER-MCDONALD):

H.R. 268. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates and charges for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 269. A bill to amend the Internal Revenue Code of 1986 to promote the development of domestic wind energy resources, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK:

H.R. 270. A bill to amend title 1, United States Code, to eliminate any Federal policy on the definition of marriage; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 271. A bill to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center; to the Committee on Resources.

By Mr. GONZALEZ (for himself, Mr. ORTIZ, Mrs. DAVIS of California, Mr. REYES, Mr. FILNER, Mr. BONILLA, Mr. RODRIGUEZ, and Mr. PASTOR):

H.R. 272. A bill to provide for the appointment of additional Federal district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. GOSS:

H.R. 273. A bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes; to the Committee on Resources.

By Mr. ISRAEL (for himself and Mr. GRUCCI):

H.R. 274. A bill to amend title XVIII of the Social Security Act to provide incentive payments for multi-year contracts entered into by Medicare+Choice organizations, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAM JOHNSON of Texas (for himself, Mr. CRANE, Mr. GOSS, Mr. ARMEY, and Mr. TERRY):

H.R. 275. A bill to amend the Internal Revenue Code of 1986 to repeal the adjusted gross income limitations on itemized deductions, the personal exemption deduction, and the child tax credit and to repeal the alternative minimum tax on individuals; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. WATKINS, and Mr. MCCRERY):

H.R. 276. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER):

H.R. 277. A bill to amend the Internal Revenue Code of 1986 to permit tax-exempt organizations to participate in political campaigns; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself and Mr. CROWLEY):

H.R. 278. A bill to assist State and local governments in conducting community gun buy back programs; to the Committee on the Judiciary.

By Mr. KENNEDY of Rhode Island (for himself, Mr. FROST, Ms. DELAURO, Mr. BARCIA, Mr. FILNER, Mr. BALDACCI, Mr. HINCHEY, and Mr. OLVER):

H.R. 279. A bill to amend title XVIII of the Social Security Act to prevent sudden disruption of Medicare beneficiary enrollment in Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING (for himself and Mr. PAUL):

H.R. 280. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING:

H.R. 281. A bill to amend the Internal Revenue Code of 1986 to establish and provide a checkoff for a Breast and Prostate Cancer Research Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE:

H.R. 282. A bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to soldiers who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; to the Committee on Resources.

By Mrs. MALONEY of New York:

H.R. 283. A bill to amend the Federal Election Campaign Act of 1971 to require the disclosure of certain information by persons conducting phone banks during campaigns for election for Federal office, and for other purposes; to the Committee on House Administration.

By Mrs. MALONEY of New York:

H.R. 284. A bill to protect the civil rights of victims of gender-motivated violence and to promote public safety, health, and regulate activities affecting interstate commerce by creating employer liability for negligent conduct that results in an individual's committing a gender-motivated crime of violence against another individual on premises controlled by the employer; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 285. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; to provide for a performance standard for breast pumps; and to provide tax incentives to encourage breastfeeding; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MCCARTHY of New York (for herself and Mr. GILMAN):

H.R. 286. A bill to provide for the construction and renovation of child care facilities, and for other purposes; to the Committee on Financial Services.

By Mrs. MCCARTHY of New York (for herself and Mr. KING):

H.R. 287. A bill to amend title XXVII of the Public Health Service Act, title I of the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title XVIII of the Social Security Act to require that group and individual health insurance coverage, group health plans, and Medicare+Choice organizations provide prompt payment of claims; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MINK of Hawaii (for herself, Mr. FALEOMAVAEGA, Ms. MCKINNEY, Mrs. CHRISTENSEN, Mr. FILNER, and Mr. FROST):

H.R. 288. A bill to amend title 10, United States Code, to extend eligibility to use the military health care system and commissary stores to an unremarried former spouse of a member of the uniformed services if the member performed at least 20 years of service which is creditable in determining the member's eligibility for retired pay and the former spouse was married to the member for a period of at least 17 years during those years of service; to the Committee on Armed Services.

By Mrs. MINK of Hawaii:

H.R. 289. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of soft money to influence any campaign for election for Federal office; to the Committee on House Administration.

By Mrs. MINK of Hawaii:

H.R. 290. A bill to amend title 38, United States Code, to revise the effective date for an award of disability compensation by the Secretary of Veterans Affairs under section 1151 of such title for persons disabled by treatment or vocational rehabilitation; to the Committee on Veterans' Affairs.

By Mr. MOORE (for himself and Mr. Young of Alaska):

H.R. 291. A bill to compensate the Wyandotte Tribe of Oklahoma for the taking of certain rights by the Federal Government, and for other purposes; to the Committee on Resources.

By Mr. NADLER:

H.R. 292. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. Kildee, and Mr. Hayworth):

H.R. 293. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OSBORNE (for himself, Mr. Bereuter, Mr. Pomeroy, Mrs. Emerson, Mr. Skelton, Mr. Shows, Mr. Frost, and Mr. Goode):

H.R. 294. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence; to the Committee on Ways and Means.

By Mr. PASCRELL (for himself, Mr. Andrews, Mr. Holt, and Mr. Frelinghuysen):

H.R. 295. A bill to limit the use of eminent domain under the Natural Gas Act to acquire certain State-owned property; to the Committee on Energy and Commerce.

By Mr. PASCRELL (for himself, Mr. Baldacci, Mr. LaTourette, Mr. Hinchey, Mr. Faleomavaega, Ms. Millender-McDonald, Mrs. Jones of Ohio, Mrs. Meek of Florida, Mr. Hinojosa, Ms. Rivers, Mr. Doyle, Mr. McGovern, Mr. Olver, Mr. Stark, Ms. Roybal-Allard, Mr. Kucinich, Mr. Rush, and Mr. Holden):

H.R. 296. A bill to amend the Truth in Lending Act to require credit card issuers to mail monthly statements at least 30 days before the due date of the next payment, and for other purposes; to the Committee on Financial Services.

By Mr. RAHALL:

H.R. 297. A bill to foster the reclamation of abandoned coal mine sites in order to protect public health and safety, and for other purposes; to the Committee on Resources.

By Mr. REHBERG:

H.R. 298. A bill to provide a further increase in the rates of military basic pay for members of the uniformed services for fiscal year 2001, and for other purposes; to the Committee on Armed Services.

By Mr. ROTHMAN:

H.R. 299. A bill to amend title 49, United States Code, to prohibit the operation in certain metropolitan areas of civil subsonic turbojets that fail to comply with stage 3 noise levels; to the Committee on Transportation and Infrastructure.

By Mr. SAXTON:

H.R. 300. A bill to amend the Internal Revenue Code of 1986 to allow individuals an exclusion from gross income for certain amounts of capital gains distributions from regulated investment companies; to the Committee on Ways and Means.

By Mr. SHOWS:

H.R. 301. A bill to require the Secretary of Agriculture to make emergency loans under the Consolidated Farm and Rural Development Act and provide emergency assistance under the Livestock Assistance Program to poultry farmers whose energy costs have escalated sharply; to the Committee on Agriculture.

By Mr. SHOWS:

H.R. 302. A bill to require the Secretary of Agriculture to make emergency loans under the Consolidated Farm and Rural Development Act to poultry farmers whose energy costs have escalated sharply; to the Committee on Agriculture.

By Mr. BILIRAKIS (for himself, Mr. Condit, Mr. Shows, and Mr. Kolbe):

H.R. 303. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THORNBERRY:

H.R. 304. A bill to establish an independent nonpartisan review panel to assess how the Department of State can best fulfill its mission in the 21st century and meet the challenges of a rapidly changing world; to the Committee on International Relations.

By Mr. TRAFICANT:

H.R. 305. A bill to establish the Fair Justice Agency as an independent agency for investigating and prosecuting alleged misconduct, criminal activity, corruption, or fraud by an officer or employee of the Department of Justice; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 306. A bill to prohibit oil and gas drilling in Mosquito Creek Lake in Cortland, Ohio; to the Committee on Resources.

By Mr. TRAFICANT:

H.R. 307. A bill to amend the Act of June 1, 1948 to provide for reform of the Federal Protective Service, to enhance the safety and security of federal employees, members of the public and for children enrolled in childcare facilities located in public buildings under the control of the General Services Administration, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UNDERWOOD:

H.R. 308. A bill to establish the Guam War Claims Review Commission; to the Committee on Resources.

By Mr. UNDERWOOD:

H.R. 309. A bill to provide for the determination of withholding tax rates under the Guam income tax; to the Committee on Resources.

By Mr. UPTON:

H.R. 310. A bill to amend title 5, United States Code, to move the legal public holiday known as Washington's Birthday to election day in Presidential election years; to the Committee on Government Reform.

By Mr. VITTER:

H.R. 311. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud, to direct the Secretary of Defense to prepare and submit a plan for electronic voting by absent uniformed services voters, and for other purposes; to the Committee on House Administration.

By Mr. WYNN (for himself, Mr. Shadegg, Ms. Eshoo, and Mr. Ehrlich):

H.R. 312. A bill to amend the Federal Power Act to provide for the reliability of the electric power transmission system in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DELAHUNT:

H.J. Res. 5. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. KING:

H.J. Res. 6. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy; to the Committee on Armed Services.

By Mr. McDERMOTT (for himself, Mr. Royce, Mr. Davis of Illinois, Mr. Hyde, Mr. Lantos, Mr. Schiff, Mr. Wynn, Mr. Hastings of Florida, Mr. Houghton, Mr. Menendez, Mr. Rangel, Mrs. Morella, Mr. Rohrabacher, Ms. Hooley of Oregon, Mr. Bonior, Mr. Obey, Mr. Payne, Mr. Hilliard, Mr. Engel, Mr. Faleomavaega, Mr. Pallone, Mr. Ackerman, Mrs. Napolitano, Mr. Berman, Ms. Schakowsky, Mr. Inslee, Mr. Greenwood, Mr. Saxton, Mr. Crowley, Mr. Foley, Mr. Doyle, Mr. McNulty, Mr. Ferguson, Ms. Pelosi, Mr. Dicks, Mr. Kennedy of Rhode Island, Mr. Neal of Massachusetts, Mr. Boucher, Mr. Matsui, Mr. Wexler, Mr. Levin, Ms. Jackson-Lee of Texas, Mr. Horn, Mr. Israel, Mr. Delahunt, Mr. Becerra, Mr. Meeks of New York, Mr. Shimkus, Mr. Towns, Mr. Stark, Mrs. Thurman, Mr. Weldon of Florida, Mr. Rothman, Mr. Fattah, Mr. LaHood, Mr. King, and Mr. Jefferson):

H. Con. Res. 13. Concurrent resolution expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY (for himself, Mr. Hoyer, Mr. Thomas, Mr. Boehner, Mr. Fattah, Mr. Ehlers, Mr. Linder, Mr. Gilman, Mr. Lantos, Mr. LaTourette, Mr. Frost, Mr. Cannon, Mr. Davis of Florida, and Mr. Cantor):

H. Con. Res. 14. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on House Administration.

By Mr. ROYCE (for himself, Mr. McDermott, Mr. Davis of Illinois, Mr. Hyde, Mr. Lantos, Mr. Schiff, Mr. Wynn, Mr. Hastings of Florida, Mr. Houghton, Mr. Menendez, Mr. Rangel, Mrs. Morella, Mr. Rohrabacher, Ms. Hooley of Oregon, Mr. Bonior, Mr. Obey, Mr. Payne, Mr. Hilliard, Mr. Engel, Mr. Faleomavaega, Mr. Pallone, Mr. Ackerman, Mrs. Napolitano, Mr. Berman, Ms. Schakowsky, Mr. Inslee, Mr. Greenwood, Mr. Saxton, Mr. Crowley, Mr. Foley, Mr. Doyle, Mr. McNulty, Mr. Ferguson, Ms. Pelosi, Mr. Dicks, Mr. Kennedy of Rhode Island, Mr. Neal of Massachusetts, Mr. Boucher, Mr. Matsui, Mr. Wexler, Mr. Levin, Ms. Jackson-Lee of Texas, Mr. Horn, Mr. Israel, Mr. Delahunt, Mr. Becerra, Mr. Meeks of New York, Mr. Shimkus, Mr. Towns, Mr. Stark, Mrs. Thurman, Mr. Weldon of Florida, Mr. Rothman, Mr. Fattah, Mr. LaHood, Mr. King, Mr. Jefferson, Mr. Udall of Colorado, Mr. Knollenberg, and Mr. Chabot):

H. Con. Res. 15. Concurrent resolution expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida:

H. Con. Res. 16. Concurrent resolution calling for a peaceful transition to stability and democracy in the Democratic Republic of the Congo; to the Committee on International Relations.

By Mrs. MALONEY of New York (for herself and Mrs. Morella):

H. Con. Res. 17. Concurrent resolution expressing the sense of the Congress supporting Federal funding of pluripotent stem cell research; to the Committee on Energy and Commerce.

By Mr. HILL (for himself and Mr. Taylor of Mississippi):

H. Res. 23. A resolution expressing the sense of the House of Representatives that any portion of the Federal budget surplus attributable to the Department of Defense Military Retirement Fund should be used exclusively for the financing of the military retirement and survivor benefit programs of the Department of Defense; to the Committee on the Budget, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

1. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to Resolution No. 12–109 memorializing the United States Congress to pass a resolution calling for the adoption of an amendment to the United States Constitution which shall read: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision, thereof, or any official of such state or political subdivision, to levy or increase taxes"; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LAMPSON:

H.R. 313. A bill for the relief of Mrs. Marie Marlow of Friendswood, Texas; to the Committee on the Judiciary.

By Mr. PASCRELL:

H.R. 314. A bill for the relief of Moise Marcel Sapriel; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 315. A bill for the relief of Imbeth Belay; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. Kind, Ms. Hart, Mr. Hansen, Mr. Gekas, Mr. Calvert, Ms. Granger, Mr. Bonilla, Mr. Hastings of Washington, Mr. Hefley, Mr. Bereuter, Mr. Akin, Mr. Blunt, Mrs. Emerson, Mr. LaTourette, Mr. LoBiondo, Mrs. Wilson, Mr. Lucas of Kentucky, Ms. Berkley, Mr. Ose, Mr. Holden, Mr. Rohrabacher, Mrs. Northup, Mr. Cramer, Mr. Clement, Mr. Grucci, Mr. Hilleary, Mr. Crenshaw, Mr. Gillmor, Mr. Wamp, Mr. Bass, Mr. Shays, Mr. Burton of Indiana, Mr. Cox, Mrs. Jones of Ohio, Mrs. Maloney of New York, Ms. Millender-McDonald, Mr. Miller of Florida, Mr. Tancredo, Mr. Paul, Mr. Hobson, Mr. Horn, Mrs. Biggert, Mr. Pitts, Mr. Bentsen, Mr. Maloney of Connecticut, Mr. Green of Texas, Mr. Isakson, Mr. Royce, Mr. Riley, Mr. Cooksey, Mr. LaHood, Mr. Boucher, Mr. Schaffer, Mr. Wolf, Mr. Baldacci, Mr. English, Mr. Jones of North Carolina, Mr. Spratt, Mr. McHugh, Mr. Terry, Mrs. Bono, Mr. Duncan, Mr. Istook, Mrs. Mink of Hawaii, Mr. Wynn, Mr. Nethercutt, Mr. Bishop, Mr. Sununu, Mr. Chambliss, Mr. Frelinghuysen, Mr. Baker, Mr. Doyle, Mr. Ryun of Kansas, Mrs. Roukema, Mr. Greenwood, Mr. Oxley, Mr. Ehlers, Mr. Pombo, Mr. Simmons, Mrs. McCarthy of New York, Mr. Deal of Georgia, Mr. Frost, Mr. Moran of Kansas, Mr. Goodlatte, Ms. DeLauro, Mr. Whitfield, Mr. Gonzalez, Mrs. Kelly, Mr. Largent, Mr. Faleomavaega, Mr. Knollenberg, Mr. Udall of New Mexico, Mr. Schrock, Mr. Mica, and Mr. King.

H.R. 17: Mr. Payne, Mr. Frost, Mrs. Mink of Hawaii, and Mr. Clyburn.

H.R. 28: Mr. Horn, Mr. Baldacci, Ms. Baldwin, Mr. Berman, Ms. Brown of Florida, Ms. Carson of Indiana, Mr. Conyers, Mr. Etheridge, Mr. Evans, Mr. Frost, Mr. Hinchey, Ms. Hooley of Oregon, Ms. Jackson-Lee of Texas, Mrs. Maloney of New York, Mr. Moran of Virginia, Mr. Nadler, Ms. Roybal-Allard, Ms. Schakowsky, Mr. Towns, Mrs. Jones of Ohio, Mr. Engel, Mr. Farr of California, Ms. Kaptur, Mr. Owens, Mr. Wynn, Mr. Delahunt, Mr. Holden, Mr. Green of Wisconsin, Mr. Payne, Mr. Rothman, Mr. Smith of Washington, Mrs. Tauscher, Ms. Woolsey, Ms. Lee, Ms. DeGette, Mr. Reyes, Mr. Holt, Mrs. Meek of Florida, Mr. Scott, Mr. McDermott, Ms. Norton, Mr. Pomeroy, Mr. Allen, Mr. Kucinich, Ms. Rivers, Mr. Frank, Mr. McNulty, Mr. Pastor, Mrs. Thurman, Mr. Sanders, Mr. Tierney, Mr. Abercrombie, Mrs. Mink of Hawaii, Mr. Simmons, Mr. Blagojevich, Mr. Smith of New Jersey, Mr. Kleczka, Mr. Shows, Mr. Ose, Mr. George Miller of California, Mr. Cardin, Mr. Meehan, Ms. DeLauro, Mr. Greenwood, Mr. Filner, Mr. Blumenauer, Mrs. Clayton, Ms. McCarthy of Missouri, Mrs. Lowey, Mr. Sandlin, Mr. Ackerman, Mr. Becerra, Mr. Jackson of Illinois, Mr. Hall of Ohio, Mr. Maloney of Connecticut.

H.R. 31: Mr. Lucas of Kentucky, Mr. Skimkus, Mr. Wamp, and Mr. Shows.

H.R. 41: Mr. Houghton, Mr. Herger, Mr. Ramstad, Mr. Weller, Mr. Shays, Mr. Cunningham, and Mr. Dooley of California.

H.R. 46: Mr. Towns.

H.R. 50: Mr. Green of Texas, Mr. McNulty, Mr. Hoeffel, Mrs. Meek of Florida, and Mr. Faleomavaega.

H.R. 57: Mr. Udall of New Mexico, Mr. Moran of Virginia, Mr. Green of Texas, Mr. Rodriquez, Ms. Roybal-Allard, Mr. Clay, Mr. Etheridge, Mr. Upton, and Mr. Hoeffel.

H.R. 85: Mr. Pascrell, Mr. Shows, Mr. Spratt, Mr. Holden, Mr. Ackerman, Mr. Isakson, Mr. Kildee, Mr. Dingell, Ms. Rivers, Mr. Andrews, and Mr. Petri.

H.R. 89: Mr. Lantos, Mr. Quinn, and Ms. Hart.

H.R. 90: Mr. Baca, Mr. Greenwood, Mr. Horn, Mr. Meeks of New York, Ms. Millender-McDonald, Ms. Berkley, Mr. Watkins, Mr. Castle, Mr. Frank, Mr. Duncan, Mr. Pallone, Mr. Bass, Mr. Regula, Mr. Lucas of Kentucky, Mr. Brady of Texas, Mr. Thomas M. Davis of Virginia, Mr. McHugh, Mr. Petri, Mr. Bentsen, Mr. Gilchrest, Mr. Wamp, Mr. Pascrell, Mr. Quinn, Mrs. Emerson, Mr. Simmons, Mr. Holt, Mr. Baldacci, Mr. McIntyre, Mr. Holden, Mr. Lantos, Mr. Rothman, Ms. Hart, Mr. Hilleary, Mr. Hinchey, Mr. McDermott, Mr. Gillmor, and Mr. Larson of Connecticut.

H.R. 93: Mr. Calvert, Mr. Capuano, Ms. Rivers, Mr. Weldon of Pennsylvania, Mrs. Jo Ann Davis of Virginia, Mr. Greenwood, Mr. Ehrlich, Mr. Kildee, Ms. Brown of Florida, Mrs. Biggert, Mr. Reyes, Mrs Meek of Florida, Mr. Gibbons, Mr. Otter, Mrs. Napolitano, Mr. Schrock, Mr. Pascrell, Mr. Hinojosa, Mr. Hoyer, Mr. Rush, Mr. Saxton, Mr. Dicks, Mr. Walden of Oregon, Mr. Moakley, Ms. Berkley, Mr. Kucinich, Mrs. Mink of Hawaii, Mr. Udall of New Mexico, Ms. Eshoo, Mrs. Davis of California, Mr. Abercrombie, Ms. Pelosi, Mr. Barcia, Mr. Blagojevich, Mr. Evans, Ms. Millender-McDonald, Mr. Filner, Mr. Doolittle, Mr.

ENGEL, Mrs. MORELLA, Mr. GREEN of Texas, Mr. FRANK, Mr. WYNN, Mr. MCHUGH, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. KOLBE, Mr. STARK, Mr. WOLF, Mr. DEFAZIO, Mr. HOLDEN, Mr. POMBO, Mr. CARDIN, Mr. FROST, Mr. COSTELLO, Ms. JACKSON-LEE of Texas, Mr. HINCHEY, Mr. MCNULTY, Ms. HART, Mr. GEKAS, and Mr. BISHOP.

H.R. 116: Mrs. MORELLA, Mr. PALLONE, Mr. WU, Mr. ANDREWS, Mr. GEORGE MILLER of California, Mr. KILPATRICK, Mrs. MALONEY of New York, Ms. JACKSON-LEE of Texas, Mr. KIND, Mr. CLEMENT, and Mr. LANTOS.

H.R. 117: Mrs. MORELLA.

H.R. 119: Mr. RODRIGUEZ, Mr. KLECZKA, Mr. FROST, Ms. RIVERS, and Ms. JACKSON-LEE of Texas.

H.R. 129: Mr. OSE and Mr. CLEMENT.

H.R. 138: Mr. WYNN, Mr. MCGOVERN, Mr. RUSH, Mr. ISRAEL, and Ms. CARSON of Indiana.

H.R. 139: Mr. WYNN, Mr. MCGOVERN, Mr. RUSH, Mr. ISRAEL, and Ms. CARSON of Indiana.

H.R. 152: Mr. EHRLICH, Mr. HUTCHINSON, Mr. SHIMKUS, Mr. CLEMENT, and Mr. COOKSEY.

H.R. 159: Mr. GREENWOOD, Mr. BACHUS, Mr. HAYWORTH, Mr. REHBERG, Mr. BAKER, Mr. HEFLEY, Mr. WAMP, Mr. NORWOOD, Mrs. CHRISTENSEN, Mr. HILLEARY, Mr. SHOWS, Mr. GREEN of Wisconsin, Ms. GRANGER, Mr. BEREUTER, Mr. HOLDEN, Ms. HART, and Mr. HOSTETTLER.

H.R. 161: Mr. HALL of Texas, Mr. BEREUTER, Mr. LAHOOD, Ms. SLAUGHTER, Mr. HOLDEN, and Mr. GILLMOR.

H.R. 162: Mr. BAIRD, Mr. CAPUANO, Mr. MCDERMOTT, Mr. GREEN of Texas, Ms. RIVERS, Mr. MCGOVERN, Mr. UNDERWOOD, Mr. SANDLIN, Mr. ENGLISH, Ms. BERKLEY, and Mr. KILDEE.

H.R. 168: Mr. ENGLISH.

H.R. 179: Mr. ACKERMAN, Mr. ALLEN, Mr. BACA, Mr. BALDACCI, Ms. BALDWIN, Mr. BARCIA, Mr. BASS, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Mr. BURR of North Carolina, Mr. CALLAHAN, Mrs. CAPPS, Mr. CAPUANO, Mr. CARSON of Oklahoma, Mrs. CHRISTENSEN, Mr. CLEMENT, Mr. CONDIT, Mr. COOKSEY, Mr. CRAMER, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. THOMAS M. DAVIS of Virginia, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DINGELL, Mr. DOYLE, Ms. DUNN, Mr. EDWARDS, Mr. EHRLICH, Mrs. EMERSON, Mr. ETHERIDGE, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FRANK, Mr. FROST, Mr. GILCHREST, Mr. GONZALEZ, Mr. GOODE, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. HORN, Mr. HUTCHINSON, Mr. ISTOOK, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mr. KANJORSKI, Mrs. KELLY, Mr. KILDEE, Mr. KING, Mr. KUCINICH, MR. KIND, Mr. LATOURETTE, Mr. LOBIONDO, Mrs. MALONEY of New York, Mr. MATSUI, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MCKEON, Ms. MCKINNEY, Mr. MEEHAN, Mr. MEEKS of New York, Mr. MICA, Ms. MILLENDER-MCDONALD, Mr. MOORE, Mr. NEY, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. RADANOVICH, Mr. RILEY, Mr. ROHRABACHER, Mrs. ROUKEMA, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SANDLIN, Mr. SCHAFFER, Ms. SCHAKOWSKY, Mr. SCHROCK, Mr. SERRANO, Mr. SESSIONS, Mr. SHIMKUS, Mr. SIMMONS, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SMITH of Texas, Mr. STRICKLAND, Mr. TANNER, Mr. TAYLOR of North Carolina, Mr. TERRY, Mrs. THURMAN, Mr. TOWNS, Mr. TRAFICANT, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. WAMP, Mr. WELDON of Florida, Mr. WHITFIELD, Mrs. WILSON, Mr. WOLF, Ms. WOOLSEY, and Mr. WYNN.

H.R. 184: Mr. BALDACCI, Mrs. JONES of Ohio, Mr. HALL of Ohio, Ms. KILPATRICK, Mr. KUCINICH, Mr. WAMP, Mr. MURTHA, Mr. LATOURETTE, Mr. CUMMINGS, Mr. PASCRELL, and Mr. BARRETT.

H.R. 185: Mr. ABERCROMBIE, Mr. CAPUANO, Mrs. JOHNSON of Connecticut, Mr. PALLONE, Ms. RIVERS, Mrs. THURMAN, Mr. BROWN of Ohio, Mr. GREEN of Texas, Mr. HINCHEY, Ms. PELOSI, Mr. WAXMAN, Mr. ENGEL, Mrs. MINK of Hawaii, Ms. MILLENDER-MCDONALD, Mrs. TAUSCHER, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. FARR of California, Mr. HILLIARD, Mr. BENTSEN, Mrs. LOWEY, Mr. LANTOS, Mr. CONYERS, Ms. HOOLEY of Oregon, Mr. BLAGOJEVICH, Mr. MCDERMOTT, Mr. ANDREWS, Mr. FILNER, Mr. BALDACCI, Ms. WOOLSEY, Mr. DEFAZIO, Ms. SCHAKOWSKY, Mr. STARK, Mr. SANDLIN, Mr. TIERNEY, Ms. KILPATRICK, Mr. FROST, Mr. PRICE of North Carolina, Mr. BONIOR, Mr. SANDERS, Mr. NADLER, Mr. BERMAN, Mr. RUSH, Mr. BLUMENAUER, Ms. JACKSON-LEE of Texas, and Ms. NORTON.

H.R. 187: Mrs. MINK of Hawaii and Mr. HILLIARD.

H.R. 218: Mr. GOODE, Mr. HUNTER, Mr. POMBO, Mr. JENKINS, Mr. HILLEARY, Mr. SHAYS, Mr. BARCIA, Mr. SUNUNU, Mr. CRAMER, Mr. GREEN of Texas, Mr. NEY, Mr. WAMP, Mr. SMITH of Washington, Mr. HAYWORTH, Mr. LATOURETTE, Mr. ENGLISH, Mr. GARY MILLER of California, Mrs. BONO, Mr. KLECZKA, Mr. HOLDEN, Mr. GEKAS, Mr. SISISKY, Mr. GREEN of Wisconsin, Mr. PALLONE, Mr. BILIRAKIS, Mr. HUTCHINSON, Mr. BOUCHER, Mr. SIMMONS, Mr. BLUNT, Mr. ROYCE, Mr. LOBIONDO, Mrs. KELLY, and Mr. LEWIS of Kentucky.

H.R. 219: Mr. SCHAFFER.

H.R. 220: Mr. HINCHEY and Mr. SCHAFFER.

H.R. 232: Mr. GILMAN, Mr. MURTHA, Mr. ISRAEL, Mr. LUCAS of Kentucky, Mr. LUTHER, Mr. HOLT, and Mr. LANTOS.

H.R. 238: Mr. THOMPSON of California, Ms. WOOLSEY, Mr. BACA, Mrs. TAUSCHER, Mr. BERMAN, Mrs. NAPOLITANO, Mr. FARR of California, Mr. BECERRA, Mr. HONDA, Mr. GEORGE MILLER of California, Mrs. DAVIS of California, and Mr. STARK.

H.R. 239: Mr. HILLIARD, Ms. MCKINNEY, Mr. KILDEE, Mr. STARK, Mr. OWENS, Ms. MILLENDER-MCDONALD, Mr. RUSH, Mr. MCINTYRE, and Mrs. CHRISTENSEN.

H.R. 241: Mr. SCHAFFER.

H. Con. Res. 3: Mr. MCGOVERN, Ms. KILPATRICK, Mrs. NAPOLITANO, Mr. FALEOMAVAEGA, Ms. DELAURO, Mr. UNDERWOOD, Mrs. MINK of Hawaii, Mr. MCDERMOTT, Mr. KUCINICH, Mrs. DAVIS of California, Mr. PASTOR, Ms. BERKLEY, Mr. HILLIARD, Mrs. MEEK of Florida, and Mr. STARK.

H. Con. Res. 8: Mr. HALL of Texas, Mr. FROST, Mr. WALSH, Mrs. BIGGERT, Mr. WOLF, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. BONIOR, Mr. NETHERCUTT, Mr. BERMAN, Mr. GREEN of Wisconsin, Mr. NADLER, Mr. LANTOS, and Mr. CLEMENT.

H. Res. 15: Mr. TRAFICANT, Mr. RILEY, Mr. SCHAFFER, and Mr. TANCREDO.

EXTENSIONS OF REMARKS

HONORING IRENE FERREIRA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Irene Ferreira, the current State President of the Cabrillo Civic Clubs of California. The Cabrillo Civic Clubs of California is comprised of fourteen nonprofit Portuguese-American civic clubs whose principles are Americanization, Civic Affairs and Scholarship.

Irene was born in Merced and raised in Fresno, California. As a child, Irene was fortunate enough to learn the Portuguese language and the Portuguese culture.

Irene was an active member of the Fresno County Cabrillo Civic Club No. 10 for several years. In 1989 and 1990 she served as the Fresno County Cabrillo Civic Club No. 10 President. She has also served as the District Governor of District No. 6 for the organization. At the local level, she has served as Chairperson for many various functions. She also served as the State Civic Affairs Chairperson for seven years.

Irene has been married to her husband, Frank, for 36 years. They have two children and three grandchildren.

Mr. Speaker, I rise to honor Irene Ferreira for her leadership roles in the Cabrillo Civic Clubs of California. I urge my colleagues to join me in wishing Irene Ferreira many more years of continued success.

TRIBUTE TO JUDGE FRANK H. RIDDICK OF MADISON COUNTY, AL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to a man who has served Madison County for many years, Probate Judge Frank Riddick. I would like to recognize the outstanding contributions of Judge Riddick to our community and to the Twenty-Third Judicial Circuit of Alabama.

Judge Riddick has made the Huntsville-Madison County Courthouse a better place with his service to the families and the mentally ill across the county. He has preserved important legal records for our county. His commitment to justice and efficiency is unparalleled.

For his hard work, vision and dedication to the people of Madison County, I feel this is an apt honor. Over his long career both in the courthouse and in the Alabama legislature, he has become a role model for his work ethic. Now as he retires, I wish to thank Judge Riddick for his extraordinary service to his community and this nation.

On behalf of the U.S. Congress, I pay tribute to Judge Riddick and thank him for a job well done. I join his family, friends and colleagues in congratulating him on his retirement. I wish him a well-deserved rest.

IN HONOR OF WATSON RICE LLP ON THE OCCASION OF THE FIRM'S 30TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MALONEY of New York. Mr. Speaker, this year marks the 30th anniversary of Watson Rice LLP, an accounting and consulting firm in the heart of my district that exemplifies the benefits of affirmative action. Today, Watson Rice is one of the nation's largest and oldest firms owned and managed by diverse partners, with 125 professionals operating in four states and the District of Columbia.

Few would have predicted that back in 1971, in downtown Cleveland, two fledgling accountants operating in one room, at a shared desk sitting face to face, with a single adding machine and one telephone line, would develop a firm that now earns annual billings approaching $9 million.

Tom Watson and Bob Rice, however, share this American success story. Garnering their first fees from a dry cleaning establishment, a grocery store, and a funeral home, they now operate a formidable enterprise well known today as Watson Rice LLP.

The African-American founders of Watson Rice LLP found opportunity in the pro-active policies of President Carter's administration that welcomed the services of qualified firms staffed with multicultural professionals. Mr. Watson and Mr. Rice first and foremost reached out to the regional offices of established accounting firms to learn from experienced senior professionals. Mr. Rice recalls that period for the exceptionally generous mentors at Big 8 firms like Deloitte Haskins.

Watson Rice's first sizable contract, from the U.S. Department of Labor, enabled the firm to move to their own offices in downtown Cleveland and to start adding staff. Business from the U.S. Department of Commerce and from the U.S. Environmental Protection Agency followed, and then from several other Washington agencies.

In 1976, Tom Watson met Ron Thompkins, a Florida-based professional partner in a firm which developed a considerable practice specializing in health care services. This firm later was merged into Watson Rice to mutually strengthen operations in government, nonprofit and joint venture practices. The Miami branch since has doubled its number of staff professionals.

The late 1970s also were a time when Tom Watson first met Bennie Hadnott, a specialist in quality control and training for government audits. That meeting led to another merger, with Hadnott fully blending into Watson Rice—ultimately to become its Managing Partner based in New York. The firm's government practice grew rapidly, generating $1 million in fees during the first two years of the new affiliation. Contracts with the Departments of Labor and Energy provided substantial revenue, especially from reviews of oil company pricing practices during the Mideast embargo of petroleum.

The growing New York practice generated an impressive and diverse client roster, including the New York City Health & Hospital Services, Coca-Cola Bottling Company, the NAACP Legal Defense Fund, the NYC Department of Aging, and eight McDonald's franchises. Hadnott also served on the Mayor's Financial Committee during the Dinkins Administration of New York City.

In 1982, Watson Rice contracted with the Resolution Trust Corporation to help close Carteret Savings, one of New Jersey's largest banks. The firm opened offices in Rutherford, NJ, at first for the 60 members of its staff assigned to the program, and later to represent prestigious regional operations, such as the Newark Public Schools, the Urban League, and statewide long term care facilities. Bennie Hadnott, while still active in the firm, recently passed its leadership to a new and dynamic managing partner, Raymond P. Jones. The emphasis at the firm continues to be training and excellence, with Watson Rice at the cutting edge of establishing a paperless accounting practice, a leader in its industry. Mr. Speaker, I salute Watson Rice LLP and I ask my fellow Members of Congress to join me in recognizing this firm's 30th anniversary.

INTRODUCTION OF LEGISLATION ENTITLED, "REPEALING TAXES ON FAMILY VALUES ACT OF 2001"

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I am joined by Representatives PHIL CRANE, PORTER GOSS, LEE TERRY, and Majority Leader DICK ARMEY in the introduction of legislation that will repeal certain hidden taxes imposed on our American families and values.

In the past two reports to Congress, our country's National Taxpayer Advocate has urged us to eliminate hidden taxes in the Internal Revenue Code. The National Taxpayer Advocate, unlike any top official at the IRS or

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Treasury, reports his findings and recommendations directly to Congress without review or revision within the agency or department. In one of our greatest legislative achievements, the "IRS Restructuring and Reform Act of 1998," Congress strengthened the National Taxpayer Advocate's independence from the IRS in order to help address taxpayers' concerns.

The National Taxpayer Advocate can now recommend legislative changes to the tax code in cases where current law creates inequitable treatment or where change will alleviate barriers to compliance. For the third year in a row, tax code complexity tops the list of taxpayer concerns. Accordingly, the National Taxpayer Advocate has singled out two hidden taxes in the Internal Revenue Code that should be repealed.

The first of these hidden taxes is the phaseout of itemized deductions and personal exemptions. With regard to this hidden tax on our American families and values, our country's National Taxpayer Advocate has stated in the past that "[n]o other tax issues are taken so personally. As a result, the phaseouts of itemized deductions and the personal exemptions are often seen by taxpayers as being especially unfair, creating a certain amount of resentment and cynicism. "[A]llowing all taxpayers to retain these deductions and exemptions would go a long way toward reducing burden, increasing fairness, and restoring faith in the tax system."

The second of these hidden taxes is the "Alternative Minimum Tax" or AMT. With regard to this hidden tax on our American families and values, our country's National Taxpayer Advocate has described the AMT as "unnecessarily complex and burdensome," effectively operating "as a separate or 'parallel' tax system with many rules that differ from the regular tax system." In this year's report to Congress, the National Taxpayer Advocate describes the AMT as our nation's ticking tax time bomb—"Just three years ago, only 600,000 taxpayers were affected by the Alternative Minimum Tax. Over 17 million taxpayers will be subject to the Alternative Minimum Tax by the year 2010. Taxpayers with an adjusted gross income of less than $100,000 will owe 60% of the nation's Alternative Minimum Tax by the year 2010."

Many taxpayers are required to make several computations just to see if they must figure out their tax under the AMT. Additionally, AMT presents significant compliance and administrative problems for the IRS. Finally, many taxpayers are subject to the AMT "without being aware of its existence. Often, the way that many individuals first hear of the Alternative Minimum Tax is when they receive a notice from the IRS. *Outright elimination of the Alternative Minimum Tax would do a great deal for simplification and burden reduction of the tax system* (emphasis added)."

I strongly support the work and conclusions of the National Taxpayer Advocate. This legislation will repeal both of these hidden taxes on American families and values.

Additionally, this legislation will go one step further and repeal another hidden tax—the phaseout of the Child Tax Credit. In 1997, this Congress enacted legislation to return $500 in tax credits for every child under the age of 17. Unfortunately, budget constraints and opponents of this pro-family idea forced us to phaseout the Child Tax Credit in a complicated and unfair manner. We should not penalize any family who chooses to have children. All children should be treated equally as they are in the eyes of their Maker. Consequently, this legislation will also repeal this arbitrary hidden tax on American families.

I urge my colleagues to join me in repealing these hidden taxes and restore freedom to American families.

TRIBUTE TO MILTON W. HINTON, A GREAT LIVING CINCINNATIAN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to recognize Milton W. Hinton, a community leader who will be honored as a Great Living Cincinnatian by the Greater Cincinnati Chamber of Commerce on February 9, 2001. He was selected for his outstanding community service, business and civic accomplishments, awareness of the needs of others and achievements that have brought favorable attention to the Cincinnati area.

Milton was born and raised in Glassboro, New Jersey, and he has spent the last thirty years in Cincinnati. He earned his bachelor's and master's degrees from Glassboro State College, and, in 1969, he received his doctorate in education from Columbia University.

Throughout his life, Milton has been deeply committed to education and to efforts promoting civil rights and improved race relations. He began his teaching career in the Philadelphia and Glassboro public school systems. He then went on to become Head of the Department of Special Education at Virginia State University. He moved to our area in 1970 after the University of Cincinnati offered him a teaching position. At the University, he has served as a Professor, Department head and Vice Provost.

Milton also has had a strong presence at the National Association for the Advancement of Colored People (NAACP). While in New Jersey he served for five years as President of the Glassboro branch of the NAACP and for an additional eight years as President of the Gloucester County branch. At the Cincinnati chapter of the NAACP, he served as President from 1994 until his recent retirement this past December. Because of his leadership and hard work, the chapter has seen its membership grow from 700 to approximately 3,500, and, with it, the effectiveness of the chapter also has tremendously increased. One of his most noteworthy accomplishments at the chapter is the development of a Citizens Review Panel for the Cincinnati Police Division.

He and his wife, Betti, continue to live in Cincinnati. They have one son, one daughter and two granchildren.

All of us in the Cincinnati area congratulate Milton on being named a Great Living Cincinnatian, and we look forward to his continued leadership in our area.

GUAM FOREIGN INVESTMENT EQUITY ACT

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UNDERWOOD. Mr. Speaker, today I would like to reintroduce the Guam Foreign Investment Equity Act, which passed the House of Representatives during the 106th Congress. While an agreement was reached with the Treasury Department on the provisions of the bill, the Senate was unable to act on this important legislation before sine die adjournment.

At the outset, I would like to say that this legislation is direly needed, given Guam's struggling economy and 15 percent unemployment rate. Unlike the rest of the nation, which has experienced unprecedented economic growth and low unemployment rates the last few years, Guam's economy and tourism industry continues to recover from the Asian financial crisis, given our island's close proximity to Asia. Guam is only three flying hours from Japan.

My legislation provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with foreign countries since Guam cannot change the withholding tax rate on its own under current law. Since the U.S. cannot unilaterally amend treaties to include Guam in its definition of United States, the legislation amends Guam's Organic Act, which has an entire tax section that mirrors the U.S. tax code. The legislation does not cost the federal government any money. It simply allows the Government of Guam to lower its withholding rate for foreign investors. While the Congressional Budget Office last year estimated that the bill will result in the loss of revenue for the Government of Guam in the short term, those losses are expected to be offset by the generation of increased tax revenues through increased foreign investments in the long term. Seventy-five percent of Guam's commercial development is funded by foreign investors.

Currently, under the U.S. Internal Revenue Code, there is a 30 percent withholding tax rate for foreign investors in the United States. Since Guam's tax law "mirrors" the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30 percent. Under U.S. tax treaties, it is a common feature for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term "United States" under these treaties, Guam is not included. As an example, with Japan, the U.S. rate for foreign investors is 10 percent. That means while Japanese investors are taxed at a 10 percent withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30 percent withholding rate on Guam.

While the long term solution is for U.S. negotiators to include Guam in the definition of the term "United States" for all future tax treaties, the immediate solution is to amend the Organic Act of Guam and authorize the Government of Guam to tax foreign investors at the same rates as the fifty states.

Other territories under U.S. jurisdiction have already remedied this problem through delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to take advantage of this tax benefit.

The bill I am introducing today incorporates changes recommended by the Treasury Department to ensure that a foreign investor who benefits from this new tax benefit cannot simultaneously benefit from tax rebates under Guam territorial law. My legislation is supported by the Governor of Guam, the Guam Legislature, and the Guam business community. During the 106th Congress, I also worked closely with the House Resources Committee, the House Ways and Means Committee, the Senate Finance Committee, the Senate Energy and Natural Resources Committee, the Interior Department, the Treasury Department, and the White House National Economic Council. I am hopeful that all of the progress that was undertaken on this issue last year will continue, and that the Congress and the Bush Administration will move quickly on this legislation this Congress.

ZERO TOLERANCE FOR VIOLENCE AGAINST CHILDREN: "MATTHEW'S LAW"

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce "Matthew's Law."

Aimee Willard, Polly Klaas, Megan Kanka, and Matthew Cecchi, have one thing in common. They were children struck down by killers. Mr. Speaker, I believe that every Member in the House is tired of having to name bills after murdered children. We must work to prevent the killing by severely punishing those who take young lives.

In November 1998, 9-year-old Matthew Cecchi was brutally murdered in Oceanside, CA. Matthew was not a troubled runaway. He was not a child that was allowed to wander far from his parents. He was not abducted or stolen. He simply walked into a public restroom alone. While his aunt waited outside, he was brutally murdered. His killer Brandon Wilson carefully stalked and hunted down this young and helpless child. This crime shocked our community and struck fear in the hearts of parents. Even today, communities in my district are building co-ed bathrooms for parents to use with children to ensure that this does not happen again. Nevertheless, parents should not fear taking their children to the park. They should not fear letting their children go to the bathroom. Our parks and public lands should be free from crime, free from fear and free from terror.

That is why I am reintroducing "Matthew's Law," to ensure that those who seek to harm the helpless are met with severe punishment, and to prevent crime by increasing the certainty of justice.

"Matthew's Law," will increase sentencing requirements for those individuals who commit federal violent crimes against children under 13 years of age. It directs the U.S. Sentencing Commission to increase by five levels the punishment for a crime of violence against a child. In most cases, this will result in a doubling of the punishment, and in the most violent cases increase the chance for life in prison or the death penalty.

I believe that this additional punishment is important to deter violence against our children.

"Matthew's Law" also directs the FBI to make available, when possible, assistance if requested by local law enforcement when a child is killed. In the case of Matthew Cecchi, it was not until his killer made another attack that he was captured. When a killer takes one of our children, we must mobilize our resources to stop that killer before he strikes again.

Mr. Speaker, this legislation tells killers and violent felons that our parks and public lands are for families and children, not for murderers.

This legislation is about national leadership. It shows the States and local communities that the Federal Government will not tolerate violence against our children. And hopefully, they will follow our lead on this issue.

This legislation is supported by the National Office of the Fraternal Order of Police, the Law Enforcement Association of America, and the family or Matthew Cecchi who never wants another family to face the tragedy they have seen.

Mr. Speaker, this legislation and a similar measure both passed with more than 400 votes on the House floor. On June 16, 1999, it passed as an amendment to juvenile justice, and similar bill passed on May 7, 1996. This is sound legislation that will protect our children, and this Congress should pass it right away.

I urge all of my colleagues to join me in supporting "Matthew's Law."

DEATH OF JERRY LEE YEAGLEY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. TRAFICANT. Mr. Speaker, today, I am deeply saddened to share the news of the passing of Jerry Lee Yeagley.

Jerry Lee Yeagley was born on May 30, 1943 to Arthur J. and LaRue Mellott Yeagley. He married Rebecca Jones and together they had two sons, Trent and Corey.

Jerry Lee Yeagley was deeply involved in civic affairs. He served as Green Township, Ohio trustee and was in charge of record keeping for Green Township Cemetery. A dedicated individual, he had perfect attendance at Greenford Ruritan Club meetings for 29 years, where he served as director. He was employed at Salem Fruit Growers in Greenford, Ohio and was a former member of the Green Township Volunteer Fire Department.

Jerry Lee Yeagley will be sorely missed in the Greenford community. He was a fine man, thoroughly dedicated to his family and his community. I extend my deepest sympathy to his family and friends.

HONORING MIRIAM COSTELLO

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Miriam Costello for receiving the honor of Businesswoman of the Year 2000 by the Mariposa County Chamber of Commerce.

Miriam was born in Salt Lake City, Utah. Her family moved to California and in 1945 she graduated from Oakland High School. She spent her first summer in California working in the Yosemite Lodge Cafeteria during World War II. In the fall of 1945, she enrolled at U.C. Berkeley and married her high school sweetheart, Kevin Costello, soon thereafter. Miriam then decided to dedicate her time, love, and energy to raising the wonderful family she boasts today.

After her children matured, Miriam returned to college and became an interior designer, earning her degree at U.C.L.A. and the New York School of Interior Design. She then joined the San Diego Chapter of the American Society of Interior Designers (ASID).

Miriam's first shop, one of eleven, was in Montrose, CA. After Montrose, shops were established in La Canada, Solana Beach, San Diego, Encitas, and Mariposa.

When her husband retired from his teaching career in 1991, she opened "Jailhouse Square" and made her permanent home in Mariposa. Three years ago Miriam opened "Miriam & Co." She was joined in this venture by Trish Nady of "Artistic Creations" and Sue Dole of "Frankie Sues Antiques and Stuff." Miriam recently opened the "Patent Leather Tea/Coffee Room," also in Mariposa.

Miriam is now a proud grandmother of eleven.

Mr. Speaker, I want to pay tribute to Miriam Costello for being named Businesswoman of the Year 2000. I urge my colleagues to join me in wishing Miriam Costello many more years of continued success.

TRIBUTE TO CHARLES C. DERAMUS OF PRATTVILLE, AL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to a man who has set the standard for public service serving as a role model for Alabama and the greater housing community. Charles C. DeRamus has been responsible for housing almost 25,000 low and moderate income Alabamians helping them to achieve the American Dream. As he retires from his almost 40 year career with the United States Department of Agriculture Rural Development, Charles leaves a legacy of good works and responsible governing.

Charles began his career with USDA when it was known as the Farmers Home Administration. He has been directly involved in the supervision of the Administration in several Alabama counties including Etowah, Choctaw, Randolph, and Dallas. He knows Alabama well and has become an expert in rural housing serving as the Rural Housing Chief for the state office from 1983 to 1994. Most recently, he has served as the Single Family Housing Program Director for Alabama overseeing thousands of loans and grants.

Charles' hard work has made a real difference for families trying to get on their feet and become self-sufficient. I wish to take this opportunity to thank him for his exemplary role as a leader in our community. As he retires though, I do want to warn the wildlife of Alabama that DeRamus is a free man, since I know he will spend a great deal of time enjoying hunting and fishing.

I join USDA in commending him for making Alabama a better place to live and raise a family. I share their pride in and gratitude for the accomplishments of Charles C. DeRamus. On behalf of the U.S. Congress, I thank him for a job well done and wish him a well-deserved rest.

IN HONOR OF M. BARRY SCHNEIDER, FOR HIS COMMUNITY SERVICE AS CHAIRMAN OF MANHATTAN COMMUNITY BOARD EIGHT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. MALONEY of New York. Mr. Speaker, today I pay tribute to M. Barry Schneider, who recently completed his two-year term as Chairman of Manhattan Community Board Eight, which serves the Upper East Side, Lenox Hill, Yorkville, and Roosevelt Island neighborhoods of Manhattan.

Mr. Schneider has dedicated his effective leadership to serving his community for the last ten years, both as a cofounder of the East Sixties Neighborhood Association, Inc., a community group directed toward improving the quality of life for neighborhood residents, and as a member of Community Board Eight, to which he was appointed by the Manhattan Borough President in 1991.

Within my district in New York City, Community Boards serve a tremendously beneficial advisory role in ensuring that the opinions of members of the community are recognized by the city government when reviewing prospective neighborhood changes dealing with land use and zoning matters. Among other responsibilities, Community Boards also have the important role of making recommendations to the city government in the allocation of the city budget.

In his service to Community Board Eight, Mr. Schneider has consistently and enthusiastically demonstrated his willingness to strive for the improvement of his neighborhood. Prior to becoming Chairman of the Community Board in 1998, Mr. Schneider served as the 2nd Vice Chairman of the Board from 1994–1995, Transportation Committee Chairman from 1994–1997, and as 1st Vice Chairman from 1996–1997.

As the Chairman of Community Board Eight, Mr. Schneider has overseen the realization of many notable community developments. From the dedication of the Central Park Children's Zoo to saving the Manhattan Eye, Ear, and Throat Hospital, Mr. Schneider's term can be described as nothing short of a true success.

A former officer in the United States Army and the current owner and president of a successful advertising company, M. Barry Schneider represents the ideal model of leadership and truly demonstrates the honorable American tradition of service to one's community.

Although his Community Board Eight colleagues can no longer refer to him as "Mr. Chairman," I have no doubt that Mr. Schneider's service to his community will continue for years to come.

TRIBUTE TO WILLIAM J. KEATING, A GREAT LIVING CINCINNATIAN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to William J. Keating, a dear friend and community leader who will be honored as a Great Living Cincinnatian by the Greater Cincinnati Chamber of Commerce on February 9, 2001. He was selected for this honor because of his outstanding civic and business accomplishments, his awareness of the needs of others and his contributions that have increased the quality of life in Cincinnati and Southwest Ohio.

Bill is a native Cincinnatian, and he has tirelessly worked to make our area a better place to live. He graduated from St. Xavier High School in 1945 where he was an All-American swimmer. Shortly thereafter, he served in the U.S. Navy in World War II and later was a first lieutenant in the Air Force Reserve, J.A.G. When Bill returned home after World War II, it took him only 4 years to earn his bachelor's and law degrees from the University of Cincinnati.

Bill has had a most distinguished and successful career. In 1954, he helped to establish one of Cincinnati's premier law firms, Keating, Muething & Klekamp, P.L.L.; he was elected and served as a judge for the Hamilton County municipal and common pleas courts for nearly a decade; he was elected to the Cincinnati City Council for two terms from 1967 to 1970; and he represented the First Congressional District of Ohio from 1970 to 1973.

After two distinguished terms in the U.S. Congress, Bill returned to Cincinnati to run our largest daily newspaper. He was chairman of the Cincinnati Enquirer from 1973 to 1992. During that tenure, he was alternately publisher of the Enquirer, chief executive officer of the Detroit Newspaper Agency, president of the Newspaper Division of Gannett Co., Inc., and Gannett's executive vice president and general counsel. In addition, Bill served as chairman of the Associated Press from 1987 to 1992.

Bill also as given a great deal of his time to serve on the board of directors for several successful local companies and nonprofits, including Fifth Third Bancorp and Fifth Third Bank; The Midland Company; Metropolitan Growth Alliance; and the Cincinnati Arts Association. Other current and past leadership roles include: former chairman of the board of trustees, University of Cincinnati; board of trustees, Xavier University; former cochairman, Cincinnati Business Committee; and former chairman of the Greater Cincinnati Chamber of Commerce.

Always keeping busy, Bill most recently became chairman of the bid development for Cincinnati 2012, Inc., to help bring the Olympics to Cincinnati in 2012. He is a proud and devoted family man. He and his wife, Nancy, have 5 sons, 2 daughters and 27 grandchildren.

All of us in the Cincinnati area thank him for his outstanding service, and we wish him the very best on his current and future endeavors.

PROTECT CALIFORNIA'S COASTLINE WITH A MORATORIUM ON OIL AND GAS DEVELOPMENT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CUNNINGHAM. Mr. Speaker, I rise today to re-introduce legislation to extend the moratorium on oil and gas development in the Outer Continental Shelf (OCS) off the coast of California. This legislation is similar to H.R. 112 from the 106th Congress.

Californians strongly favor continuing this moratorium. The State of California has enacted a permanent ban on all new offshore oil development in state coastal waters. In addition, former Governor Peter Wilson, Governor Gray Davis, and state and local community leaders up and down California's coast have endorsed the continuation of this moratorium.

I believe that the environmental sensitivities along the entire California coastline make the region an inappropriate place to drill for oil using current technology. A 1989 National Academy of Sciences (NAS) study confirmed that new exploration and drilling on existing leases and on undeveloped leases in the same area would be detrimental to the environment. Cultivation of oil and gas off the coast of California could have a negative impact on California's $27 billion a year tourism and fishing industries.

This legislation focuses on the entire state of California, and would prohibit the sale of new offshore leases in the Southern California, Central California, and Northern California planning areas through the year 2011. New exploration and drilling on existing active leases and on undeveloped leases in the same areas would be prohibited until the environmental concerns raised by the 1989 National Academy of Sciences study are addressed, resolved and approved by an independent scientific peer review. This measure ensures that there will be no drilling or exploration along the California coast unless the most knowledgeable scientists inform us that it is absolutely safe to do so.

I am proud to be working to protect the beaches, tourism, and the will of the people of

California. I ask my colleagues to join me in co-sponsoring this important legislation.

EDITORIAL BY FORMER SENATOR CHARLES PERCY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. NORTON. Mr. Speaker, former Senator Charles Percy, who lives in Georgetown here in the District of Columbia, is well remembered in the country, and especially here in the District and in Illinois, for very distinguished service in the U.S. Senate during three terms. Senator Percy has resided in Washington, DC, since leaving the Senate. He has served this city as a resident in ways that have made an important difference to his Georgetown community and to the city itself. Senator Percy has also supported the city as an advocate of congressional voting rights and local self government. He has given outstanding personal service and countless hours of energy and wisdom to his community and has secured funding for his community from Congress. Some of the details of his service are cited in an the op ed article by Senator Percy that appeared in the Washington Times on Sunday, January 7, 2001.

The occasion for this Washington Times article arose at a time when I was seeking the return of the vote of D.C. residents in the Committee of the Whole. Senator Percy called my office and offered to write an op ed article in support of D.C. voting rights. We are pleased and honored to have the support of a distinguished former Senator of the United States. It give me great pleasure to submit Senator Percy's op ed article as it appeared in the Washington Times to the CONGRESSIONAL RECORD.

[From the Washington Times, Jan. 7, 2001]

D.C. RESIDENTS DESERVE A WHOLE COMMITTEE HEARING

On January 20th, I will be proud to see an outstanding man and leader of the Republican party occupy the White House as President of the United States. On January 20th, my party will begin the first year, since 1965, almost half a century, with a Republican majority in both houses and a Republican President, but with the pledge from our leadership that issues will be dealt with in a Bipartisan way. This is an opportunity for the new Republican government to pay its respects to hometown Washington, D.C. The House is now writing its rules for the 107th Congress. One of those rules should restore the vote in the Committee of the Whole on the House floor to the taxpaying residents of the District of Columbia. As of 1998, the District population was 523,000 which is larger than the population of Wyoming (481,000) and close to that of Alaska (614,000), North Dakota (638,000), and Vermont (591,000), each of whom have votes in the House of Representatives and two votes in the Senate. We're asking for a vote in the house not the Senate.

Why should a man who served Illinois in the U.S. Senate for 18 years care deeply about Congressional voting rights for D.C. residents? Living here for 33 years and loving it has a lot to do with it.

My wife Loraine and I have lived in Georgetown since January 1967 and pay our federal and D.C. taxes like our neighbors and fellow citizens. Nine of our ten grandchildren and one great grandchild live in the D.C. area. While in the U.S. Senate I was elected The Founding Vice Chairman of The Kennedy Center with my across the street neighbor in Georgetown, the gifted Roger L. Stevens serving as Founding Chairman. We stared with a vacant lot overlooking the Potomac river and created, with wonderful help, one of the greatest centers for performing arts in the world.

Now I am proud to serve in a volunteer capacity as Founding Chairman of The Georgetown Waterfront Park Commission. This is what General Colin Powell, now designated as our new Secretary of State in the George W. Bush administration said in a letter to me:

DEAR CHUCK: Congratulations to you for accepting the chairmanship of the Georgetown Waterfront Park Commission. I am confident that under your leadership and with the help of your colleagues and partners, you will bring about a restoration of the Georgetown Waterfront that removes an eyesore and adds a place of beauty to the nation's capitol.

Best of luck,

Sincerely,

COLIN.

I have shared the problems and successes of this great city, and I have shared the anguish of the Americans who live here, who cannot accept disenfranchisement in the Congress simply because they happened to live in the capitol of their country.

I was among the two-thirds of the Senate who voted for the Voting Rights Amendment to give the District full congressional voting rights in 1978. Unfortunately, the amendment did not receive the required three quarters of the state legislatures.

However, when the district's delegate to Congress, Eleanor Holmes Norton, submitted a legal memorandum in 1993, the House

In 1994, some Republicans disagreed when the Democratic House voted to allow all five delegates to vote. However, the District was not considered separately, and many Republicans believed then and believe now that D.C. residents are in a unique position, as District residents are the only Americans who pay federal income taxes but have no congressional voting representation to give them a say in how their taxes are used. Today, only the District is seeking the return of its vote in the 107th Congress and future congresses.

Immense credit is due to Rep. Tom Davis (R-Va.), Chair of the D.C. Subcommittee, and its Vice-Chair, Rep. Connie Morella (R-Md.), who have both testified before the House Rules Committee in favor of D.C.'s vote in the Committee of the Whole.

At the House Rules Committee hearing in September 2000, Rep. Davis said: "The District of Columbia's citizens pay federal taxes . . . it is the capitol of democracy. They operate in every other way like recognized that it could grant the District voting rights in the Committee of the Whole, where most business on the House floor is conducted, and the courts later agreed. The District had long voted in committees, and the logic for the vote in the Committee of the Whole is compelling. Notwithstanding some limitation, the vote was almost always the equivalent of every House member's vote. Most important, it gave D.C. residents the opportunity to have an elected member of Congress register their views on the House floor, or if the representative voted contrary to their views, to respond as well. After 200 years, at least in the House, D.C. residents were on their way. They now have a vote in committees most of the time in exchange for the taxes they pay every other citizen in any district, and they ought to have the vote on the floor of the House. We have the opportunity as Republicans to step up and do the right thing . . ." Rep. Morella agreed and testified "why I feel very strongly that as we put together the . . . rules . . . that we do give . . . voting right in the Committee of the Whole to the delegate from our Nation's Capitol."

I join Representatives Davis, Morella and other Republicans in asking the Congressional leadership and members, to "do the right thing" for taxpaying D.C. residents. And I join Mayor Williams, the City Council, religious leaders and D.C. residents who are actively seeking the return of the vote in the Committee of the Whole on the House floor when the House returns in January 2001, and also complete its financial assistance that is greatly needed by the Georgetown Waterfront Park Commission, and National Park Foundation and I also hope will have the support of our Washington, D.C. area media including D.C. voting rights.

AFFIDAVIT OF MICHAEL TERLECKY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. TRAFICANT. Mr. Speaker, today, I am submitting an affidavit by Michael Terlecky of Mahoning County for the record. The affidavit, signed and sworn on the fourth of January, 2000, alleges Federal Bureau of Investigation corruption in the Youngstown, Ohio area.

Terlecky, as a Mahoning County Deputy Sheriff, worked exclusively with the Youngstown Police Department Special Investigations Unit (SIU) to raid and eliminate illegal gambling rings in the Mahoning Valley. He was removed from active duty in 1988 because of a physical disability.

The affidavit alleges gross misconduct on the part of FBI agents Robert Kroner and Larry Lynch. As the affidavit illustrates, Terlecky was manipulated and neutralized by the local FBI agents' efforts to protect the FBI's participation in illegal activities. Michael Terlecky was dangerous to the local FBI. He was also an unlucky man for having stumbled upon the connections of the Prato/Naples faction and the FBI.

The Terlecky affidavit is being submitted today to the CONGRESSIONAL RECORD as supporting documentation for my bill H.R. 4105, The Fair Justice Act. This bill would create an agency to oversee the U.S. Department of Justice and prosecute those involved in any wrongdoing. Today, when something is amiss in the Justice Department, it investigates itself, much like the fox guarding the henhouse. An independent oversignt agency would eliminate the conflict of interest that exists today when wrongdoing occurs in the Justice Department.

STATE OF OHIO, COUNTY OF MAHONING

Affidavit of Michael S. Terlecky

After having been duly sworn in accordance with law, I, Michael S. Terlecky hereby depose and say:

1. The purpose of this affidavit is to give notice that I am in fear of losing my freedom and or my life because of the reasons set forth below.

2. On December 28, 2000 Congressman James A. Traficant, Jr. hosted the Dan Ryan Talk Radio Show. Congressman Traficant interviewed me on this talk radio show. During this interview I revealed the wrongdoings of FBI SA Robert Kroner, FBI SA Larry Lynch, Mahoning County Sheriff Randall Wellington and others. I allowed Congressman Traficant to interview me so that the truth of what took place over 12 years ago could be revealed.

3. FBI SA Robert Kroner, using his special influence, neutralized me over twelve years ago so I could not reveal the truth about his criminal wrongdoing. I feel he may attempt to do the same again by more drastic tactics. The more drastic tactics are now available to him because Mahoning County Sheriff Randall Wellington and his second in command, newly appointed Major Mike Budd fall directly under his corrupt influence.

4. Sheriff Wellington knows that I know he is corrupt. Newly appointed Major Mike Budd knows I know he is corrupt, and a dangerous man with a gun. Therefore, all three have motive to neutralize me.

5. Congressman James A Traficant, Jr. has my permission to use this affidavit in any way he deems appropriate.

Further affiant sayeth naught.

Michael S. Terlecky.

Sworn to and subscribed before me, a notary public, in and for the County of Mahoning, this 4th day of January 2001.

M. Suzanne Falcon, Notary Public, State of Ohio. My commission expires Sept. 13, 2005.

HONORING AUSTIN HERRIN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Austin Herrin for saving the life of my constituent and cousin, Tom Radanovich. Mr Herrin's courage and composure during an emergency situation exemplified heroism.

On the evening of September 19, 2000, Tom Radanovich and a friend were dining at an Applebee's Restaurant in Clovis, CA. Tom was enjoying a steak. Unexpectedly, a piece of the meat became lodged in Tom's throat. Tom began to panic and indicate that he was unable to breathe. Austin Herrin, the waiter who had been serving Tom, noticed the commotion and quickly approached Tom. Mr. Herrin calmly performed the Heimlich maneuver, which successfully removed the meat from Tom's throat. Austin's actions likely saved Tom Radanovich's life.

Mr. Speaker, I rise to honor Austin Herrin for his quick action in helping save a life. I urge my colleagues to join me in expressing deep gratitude to Mr. Herrin.

TRIBUTE TO JOHN ALEXANDER CAMPAU

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for his outstanding service to the community, that I ask my colleagues in Congress to recognize John Alexander Campau for receiving the Jackson County Small Business Person of the Year Award.

John Campau is the ultimate entrepreneur. He took the risk, and accepted the challenge of running Comtronics. It is with great pleasure that I congratulate him on his past 12 seasons of service.

Under his leadership, sales revenue has more than doubled. Comtronics has added 27 employees and almost 1,000 customers and has expanded into seven states. Gross profits have increased, net profits have increased, and net worth of the corporation has increased over 300 percent. Today, the company is larger, stronger, more diverse, and financially more sound than ever before in its 42-year history. As president and chief executive officer, John Campau rose to the occasion and exceeded all projections of growth. He has a life long history of being a leader and a 14-year track record of outstanding business success. John Campau is a true entrepreneur. He had a vision and a relentless passion to create and succeed.

Not only has John been an industry leader, but more importantly he has continued a family tradition of being an active member of his community. Supporting community organizations such as the American Cancer Society, Hot Air Jubilee, Family Service and Children's Aid, Junior Achievement and the United Way, John understands the importance of giving back to his community.

John Campau's devotion and determination to both Comtronics and his community is to be applauded and I am honored to join the Greater Jackson community in recognizing him and wishing continued success in his future endeavors.

AS PROFITS ON A DRUG GO UP, SO DOES UTILIZATION. IS THIS A FORM OF PATIENT ABUSE?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. STARK. Mr. Speaker, Medicare and many others pay for prescription drugs on the basis of the average wholesale price (AWP). Unfortunately, the AWP is a completely fictitious price which has been manipulated by a number of drug companies in ways the companies believe will influence physician prescribing practices. Have they succeeded?

While the AWP payment loophole is an abuse of taxpayers, I am concerned that it may be causing unnecessary utilization and prescribing of drugs in a way that can be an abuse of the patient. I would appreciate hearing from medical experts whether the following data can be explained by good medical practice, or whether it is another example of pharmaceutical company success in using price differentials to shape prescribing patterns, which may, or may not, be good for the patient.

For example, in 1995, Medicare paid $3.11 a unit for the inhalation drug Ipratropium Bromide. That's exactly what it cost the doctor at wholesale, and total Medicare usage and expenditure on the drug was only $14,426,108.

In 1996, a 'spread' developed between what Medicare paid ($3.75 a unit) and what the doctor paid, $3.26 a unit, and utilization went to $47,388,622.

In 1997, Medicare paid $3.50 but doctors only paid $2.15 and utilization doubled, to $96,204,639.

In 1998, the spread increased as Medicare paid $3.34 but doctors could get the drug for $1.70, and utilization doubled again, to $176,887,868. Does anyone really believe that the need for this drug doubled in one year?

The data is just in for 1999, and shows that the spread and usage widened again: Medicare paid $3.34 a unit. Doctors could get the drug for $1.60 a unit, and Medicare spent $201,470,288 for Ipratropium Bromide.

The abuse of the taxpayer in this situation is serious. But what is even more serious is the question that must be raised about the doctor-patient relationship and whether patients can trust doctors to prescribe appropriately when they can make 108% profit on the prescription of a drug?

ELECTION REFORM ACT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. DAVIS of Virginia. Mr. Speaker, I, along with my fellow colleagues, Representatives STEVE ROTHMAN, PATRICK KENNEDY and HEATHER WILSON, DAVID DREIER and ALCEE HASTINGS are pleased to introduce meaningful, bipartisan legislation to reform the administration of our nation's elections. The Election Reform Act will ensure that our nation's electoral process is brought up to twenty-first century standards.

The Election Reform Act will establish an Election Administration Commission to study federal, state and local voting procedures and election administration and provide grants to update voting systems. The legislation combines the Federal Election Commission's Election Clearinghouse and the Department of Defense's Office of Voting Assistance, which facilitates voting by American civilians and servicemen overseas, into the Election Administration Commission, creating one permanent commission charged with electoral administration.

The Commission will be comprised of four individuals appointed by the President, with the advice and consent of the Senate. The Commission will conduct an ongoing study and make recommendations on the "best practices" relating to voting technology, ballot design and polling place accessibility. Under this legislation, the Commission will recommend ways to improve voter registration, verification of registration, and the maintenance and accuracy of voter rolls.

It is vital that we establish this Commission as a permanent body. Many issues and concerns surrounding elections necessitate a continual review of ever-changing technologies. A permanent Commission will be best suited to facilitate the sharing of information about new, cost-effective technologies that can improve the way we administer elections in America.

HONORING REV. FRED CORNELL'S FIFTY YEARS IN THE MINISTRY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the fifty years of ministry for the Reverend Fred Cornell, pastor of the Concordia Church of Christ in Belleville, Illinois.

This month, Reverend Cornell is celebrating 50 years in the ministry. Rev. Cornell was ordained on December 27, 1950 and went on to establish himself as a progressive religious leader with a willingness to get involved in the community and speak out on important issues. He was pastor of the First Presbyterian Church of Belleville in 1964, when he was arrested in Mississippi with 26 others helping to register African American voters.

Reverend Cornell grew up in St. Louis, Missouri. His great-great-great grandfather served as a Presbyterian Missionary to native Americans in Maine and Pennsylvania in the early 1800's. Reverend Cornell served three years in the navy and earned a business degree from Washington University in St. Louis. He also worked for Ralston-Purina of St. Louis, but found that work to be unsatisfying. He attended McCormick Theological Seminary in Chicago for three years and got his first job as a minister in Mountainburg, Arkansas. Two years later he became pastor of two small churches in Owensville and Gerald, Missouri.

In 1956, he began as the Associate Pastor at First Presbyterian in Belleville and became its pastor three years later. His social activism was rooted in the Church philosophy that led the fight against slavery in the 1800's. His travels to Mississippi were in response to a church call for help with voter registration drives. Reverend Cornell was also active in promoting meetings between people. During the Vietnam War he formed a local group of concerned citizens about the War.

Throughout his time at First Presbyterian, he was also busy with numerous building projects having assisted with the construction of the new First Presbyterian church and the creation of First United Presbyterian Church in 1982. Reverend Cornell also served as the President of the Belleville Ministerial Alliance in the 50's and moderator of the Alton Presbytery in the 1960's. He also helped found the Belleville Clergy Association.

Reverend Cornell married his wife Barbara in 1994. His son John is an artist who lives in Belleville. He also has two grandchildren. Reverend Cornell also was no stranger to adversity himself, his other son Paul, who was only 24 years old, died in 1977 after a blockage was discovered in his brain. Reverend Cornell also suffered a heart attack that same year and underwent by-pass surgery in 1987. After "retiring" from First United Presbyterian in 1988 he went to Concordia United Church of Christ. This place, he thought, would be perfect for him. The little country church, founded by German immigrants in 1845, had just lost its pastor of 19 years. Reverend Cornell now ministers its 90 members.

Mr. Speaker, I ask my colleagues to join me in honoring the Reverend Fred Cornell and to recognize his commitment for service to the community.

HONORING RICHARD "DICK" JOHANSON

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I would like to present the following Opinion-Editorial that was written by Deborah Nankivell, executive director of the Fresno Business Council. The Opinion-Editorial, printed in the Fresno Bee on December 20, 2000, reads as follows:

JOHANSON'S 'GIFT' HAS BEEN SERVICE TO PUBLIC

We all make decisions everyday based upon external signals and usually motivated by achieving specific goals. Much of life is about taking care of daily tasks and making plans for the future.

Then there are those whose path is determined from the inside. Their commitment is to serving and improving the lives of others. Usually these people are invisible in a community. They are the ones who work tirelessly in service professions, the healing arts and serving on countless committees. However, in times of crisis, these people make what is for them a difficult sacrifice, they assume public leadership positions.

For the past five years, such a public servant, Richard Johanson, has led the Fresno Business Council. When he was asked to assume this position he was bewildered. He could not understand why community leaders would turn to him to lead the organization. Time has made obvious what the wise among us already knew.

Fresno desperately needed to witness a new kind of leader, a community steward, someone who could inspire others to contribute their very highest talents to addressing a myriad of community problems.

SPECIAL TOUCH

It has been often asked how Dick does what he does. How does he take a table full of people who disagree and don't much like each other to come to consensus in less than an hour with hardly saying anything? Why have boards canceled or postponed meetings upon knowing Dick could not attend because they knew without him unproductive conflict would ensue. Why is it that Dick is the one everybody trusts?

I believe it is not about what he does at all; it is about who he is. His presence reminds us all of the noble impulses we would love to act upon, but so often choose to ignore in order to satisfy the desires of the ego. Dick has been a role model simply by living his life according to his inner code of honor. In doing so, he has created a culture of stewardship within the Business Council that has begun to spread throughout the community.

Six years ago, the lack of civility was painfully obvious in the public arena. Today, those in the public affairs community are learning one of the responsibilities of public service is to be positive role models. Five years ago, the different sectors of the community operated in internal and external vacuums, often in competition with one another. Today, seeking collaborative partners is becoming the norm.

Four years ago, expecting merit-based decisions was considered naive. Today, seeking the views of all the stakeholders and deliberating on the merits of an issue is becoming the new standard for decision-making.

Three years ago, an expectation of excellence was seen as a criticism in a community defending the status quo. Today, the Center for Advanced Research and Technology, which Dick chairs, is a national example of excellence and the process of its creation has inspired people throughout the Valley to dream new dreams fully expecting fruition.

UNIQUE ROLE

While certainly many people have had a hand in the steady transformation of the Fresno area, Dick has played a unique and essential role. His ability to love, to care so deeply about his community and everyone who lives here, has melted the hearts and loosened the resources of everyone who is needed to help create a healthier and more prosperous home for us all.

As Dick steps down as president of the Business Council and passes the new leadership mantle to Ken Newby, it is the appropriate time to publicly thank him for the gift of himself.

Mr. Speaker, I rise to honor Richard "Dick" Johanson for his years of dedicated and distinguished service to his community. I urge my colleagues to join me in wishing Mr. Johanson many more years of continued success.

TRIBUTE TO MR. BILLY D. HARBIN OF MADISON COUNTY, AL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to a man who has served Madison County for 30 years, Mr. Billy Harbin. I would like to recognize the outstanding contributions of Mr. Harbin to our community and to the Twenty-Third Judicial Circuit of Alabama.

Mr. Harbin's roots are deep within North Alabama. After growing up in Huntsville and graduating from Hazel Green High School, Mr. Harbin played basketball and baseball on scholarship at the University of North Alabama in Florence. After serving the Army on active duty between 1956–58, Mr. Harbin went to work with them at Redstone Arsenal as an instructor with the Ordnance Guided Missile School and Missile Munitions Center and School. Mr. Harbin's love for his country found a different path when he first ran for Circuit Clerk in 1970. His commitment to justice and efficiency were recognized by the people he served. He ran for re-election four times, each time without opposition. His colleagues appreciated his service as well selecting him to receive the first "Outstanding Circuit Clerk" State of Alabama award. He is also the recipient of the Huntsville/Madison County Jaycee's "Good Government Award" and the Huntsville/Madison County Bar Association's "Liberty Bell Award".

His dedication to his community extends beyond his professional duties. He has given of his time and talents to several civic boards of directors including the Salvation Army, Community Bank of North Alabama and Huntsville Hospital. Former Chief Justices of the Alabama Supreme Court including the Hon. Howell Heflin and the Hon. C.C. "Bo" Torbert, Jr. have nominated him to several state commissions and to the Board of Directors of the Alabama Judicial College.

For his hard work, vision and dedication to the people of Madison County, I feel this is an apt honor. Now as he retires, I wish to thank Mr. Harbin for his extraordinary service for his community and this nation. On behalf of the U.S. Congress, I pay tribute to Mr. Harbin and thank him for a job well done. I join his wife Joyce, his two children Danny and Sandy, and his three granddaughters in congratulating him on his retirement. I wish him a well-deserved rest.

IN HONOR OF ALICE OSTROW RENT CONTROL AND UNION ACTIVIST, ON HER PASSING

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MALONEY of New York. Mr. Speaker, today I pay tribute to Alice Ostrow, a longtime union supporter and housing activist, who passed away on January 4, 2001. Ms. Ostrow, a onetime Socialist candidate for Congress in New Jersey's 12th Congressional District, was a cofounder of the Textile Workers' Organizing Committee. In her capacity as a union leader, Ms. Ostrow served as an effective and compassionate leader throughout the organized labor movement of the 20th Century.

Alice Ostrow was born in Philadelphia in 1915, honed her leadership skills as class president at South Philadelphia High School, and attended Strousberg State Teachers' College. Pushing aside the limitations American society placed upon women, she began her foray into politics when she joined the Philadelphia Chapter of the Young Peoples' Socialist League.

Throughout her career, Ms. Ostrow worked for the IRS, served as a legislative representative of the Federation of Federal Employees, and worked for the Communications Workers of America. In the late 1940s and 1950s, during the birth of rent control, Ms. Ostrow organized the group New jersey Tenants for Rent Control and fought for tenants' rights for many years afterwards.

After moving to Burlington, Vermont in 1955, Ms. Ostrow became involved in numerous local liberal organizations, including the Vermont ACLU. After her husband's death in 1967, she moved to my district in New York City, where she became heavily involved in the NAACP, the ACLU, the Workers Defense League, and Americans for Democratic Action.

Even in her 80s, Ms. Ostrow was a tireless activist for the rights of the elderly, poor, oppressed, and otherwise downtrodden. She traveled to the New York State Capitol in Albany to lobby for tenant rights. She also staffed a homeless center and circulated political petitions.

A vibrant and caring woman who viewed public service in the same regard as Robert F. Kennedy—she "saw wrong and tried to right it." I am confident that her legacy will continue through the many individuals she personally touched during her extraordinary life.

THE SOUTHERN CALIFORNIA FEDERAL JUDGESHIP ACT OF 2001

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CUNNINGHAM. Mr. Speaker, I rise today to introduce the Southern California Federal Judgeship Act of 2001. I am proud to be joined in this effort by my colleagues from San Diego, Representative DUNCAN HUNTER, and Representative DARRELL ISSA. This important legislation will authorize eight additional federal district court judges, five permanent and three temporary, to the Southern District of California.

A recent judicial survey ranks the Southern District of California as the busiest court in the nation by number of criminal felony cases filed and total number of weighted cases per judge. In 1998, the Southern District had a weighted caseload of 1,006 cases per judge. By comparison, the Central District of California had a weighted filing of 424 cases per judge; the Eastern District of California had a weighted filing of 601 cases per judge; and the Northern District of California had a weighted filing of 464 cases per judge.

The Southern District consists of the San Diego and Imperial Counties of California, and shares a 200-mile border with Mexico. According to the U.S. Customs Service, as much as 33 percent of the illegal drugs and 50 percent of the cocaine smuggled into the United States from Mexico enters through this court district. Additionally, the court faces a substantial number of our nation's immigration cases. Further multiplying the district's caseload is an agreement between the Immigration and Naturalization Service and the State of California that calls for criminal aliens to be transferred to prison facilities in this district upon nearing the end of their state sentences. All these factors combine to create a tremendous need for additional district court judges.

I hope that all my colleagues will join those of us from San Diego and help the people of Southern California by authorizing additional district court judges for the Southern District of California.

TRIBUTE TO JUDGE NILDA MORALES HOROWITZ

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SERRANO. Mr. Speaker, I rise today to congratulate and to pay tribute to Nilda Morales Horowitrz, and outstanding individual who has dedicated her life to public service. She was inducted on January 18 as a Family Court Judge for Westchester County in New York.

Mr. Speaker, from April 1998 until her recent appointment, Judge Horowitz served as deputy county attorney and family court bureau chief. She was in charge of and responsible for twenty-four attorneys who handled all matters before the Family Courts of Westchester County. She handled the daily review and assignment of all cases involving the Department of Social Services, such as the county's neglect and abuse referrals, and all juvenile delinquency referrals from the Department of Probation. She was also the supervisor of specialized Domestic Violence Unit within the Family Court Bureau.

Her distinguished career also includes service as a hearing examiner for the New York State Family Court, a Senior Law Judge and Supervising Judge for the New York State Workers' Compensation Board, and adjunct professor of Public Administration at Hostos Community College, and a lawyer in private practice specializing in public interest law.

Judge Horowitz is well known and highly respected by her peers and the different communities she has served for her sensitivity, professionalism, integrity and sound judgment. Her induction brings to the Court an outstanding judge.

Mr. Speaker, I ask my colleagues to join me in commending Judge Nilda Morales Horowitz for her outstanding achievements and in wishing her continued success as Family Court Judge for Westchester County.

INTRODUCTION OF THE POSTMASTERS FAIRNESS AND RIGHTS ACT OF 2001

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MORELLA. Mr. Speaker, today I support our nation's 28,000 Postmasters by introducing the Postmasters Fairness and Rights Act of 2001.

Under current law, Postmasters are denied the basic right to discuss fundamental issues which impact the quality of mail services provided to your constituents, the management of your local Post Office, and their own compensation. Postmasters suffer from a dysfunctional "consultation process" whereby Postal Headquarters may unilaterally mandate local Post Office operational changes.

The Postmasters Fairness and Rights Act of 2001 seeks to remedy this inequality by enabling Postmasters to take an active and constructive role in managing their Post Office and discussing compensation issues. If the Postmasters and Postal Headquarters are unable to reach an understanding, the Act provides for a neutral outside party to resolve the disagreement. If enacted, the Postmasters Fairness and Rights Act would foster better mail services by allowing Postmasters greater input in operational decision-making, improving Postmaster morale, and making it possible to attract and retain exemplary Postmasters.

This legislation had 238 cosponsors last year. With the support of my colleagues in the 107th Congress, we will be able to move this legislation and finally restore fairness to our nation's Postmasters.

HONORING MARILYN RIGG

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Eastern Madera County Chamber of Commerce President Marilyn Rigg for her years of dedicated service to the community.

Marilyn is a graduate of St. Aloysius Academy, the University of Ohio and the Stonier School of Banking, where her thesis was copyrighted and accepted for inclusion in the National Library.

Ms. Rigg taught school in Virginia for 2 years before moving to Oakhurst in 1970. Marilyn worked for 21 years at Security Pacific Bank, where she held numerous jobs, including branch manager, vice-president of planning and marketing, and vice-president of corporate lending. In 1992, she left Security Pacific to begin a State Farm Agency in Oakhurst.

Marilyn has served as a member and past president of Soroptimist International of the Sierra, chairman of the Oakhurst Fall Festival, chairman of "Oakhurst Goes to the Oscars," and past board member and treasurer of the Eastern Madera County Chamber of Commerce.

Mr. Speaker, I want to pay tribute to Marilyn Rigg for her active and distinguished community involvement. I urge my colleagues to join me in wishing Marilyn Rigg many more years of continued success.

SOCIAL SECURITY BURIAL BENEFIT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. DUNCAN. Mr. Speaker, today I introduced a bill that would expand eligibility for the Social Security burial benefit.

As you may be aware, prior to 1981, any individual could receive the burial benefit lump sum of $255 in order to pay funeral expenses. Today, the surviving spouse receives a burial benefit only if the deceased spouse is insured by Social Security.

However, I do not think it is particularly fair to deny this benefit to the spouse of the deceased. It is this person who is most likely to be responsible for the funeral expenses if there is no estate to handle this financial matter. Obviously, these expenses can be very costly.

I was not in Congress at the time, but this change was made when Congress was attempting to make as many cost cuts in the Social Security system as possible because of projected financial problems. In retrospect, the fund has generated healthy surpluses.

This legislation would correct this problem so that any surviving spouse, as long as one of the spouses is insured through Social Security, would be eligible to receive the burial benefit.

I urge my colleagues to support this bill and improve the Social Security death benefit for those who deserve it most.

BROADBAND INTERNET ACCESS ACT

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. ENGLISH. Mr. Speaker, today I am reintroducing the Broadband Internet Access Act, which is a bipartisan bill to encourage the spread of high-speed Internet technology in rural and low-income communities.

Much in the role that canals played at the turn of the 19th century and the railroad played later in the century, the Internet is the critical infrastructure of our age. Communities without access will suffer as jobs and investment moves to connected communities. People in the rural or low-income communities are excluded from the personal and economic benefits of a high-speed information flow—a digital divide. The Broadband Internet Access Act of 2001 addresses the disparity in the availability of high-speed Internet access, also known as broadband services, in the United States.

Underserved communities—typically rural and low-income areas—are lagging seriously behind. The digital divide compromises the enormous gains that could be achieved by the Internet economy. The Internet is a valuable tool and every American should have the opportunity to get up to speed on the information superhighway.

I am submitting a technical explanation of the bill that is designed to stimulate the growth of high-speed Internet services.

BROADBAND INTERNET ACCESS TAX CREDIT

(New Sec. 48A of the Code)

PRESENT LAW

Present law does not provide a credit for investments in telecommunications infrastructure.

EXPLANATION OF PROVISION

The bill provides a credit equal to 10 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which "current generation" broadband services are delivered to subscribers in rural and underserved areas. In addition, the bill provides a credit equal to 20 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which "next generation" broadband services are delivered to subscribers in rural areas, underserved areas, and to residential subscribers.

Current generation broadband services is defined as the transmission of signals at a rate of at least 1.5 million bits per second to the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services is defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber. Taxpayers will be permitted to substantiate their satisfaction of the required transmission rates through statistically significant test data demonstrating satisfaction of the required transmission rates, by providing evidence that all relevant subscribers were provided with a written guarantee that the required transmission rates would be satisfied, or through any other reasonable method. For this purpose, the fact that certain subscribers are not able to access such services at the required transmission rates due to limitations in equipment outside of the control of the provider, or in equipment other than qualified equipment, shall not be taken into account.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area is any census tract which is located in an

QUALIFIED EXPENDITURES

Qualified expenditures are those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. Qualified expenditures are those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2006.

The expenditures are taken into account for purposes of claiming the credit in the first taxable year in which broadband service is delivered to at least 10 percent of the specified type of subscribers which the qualified equipment is capable of serving in an area in which the provider has legal or contractual area access rights or obligations. For this purpose, it is intended that the subscribers which the equipment is capable of serving will be determined by the least capable link in the system. For example, if a system has a packet switch capable of serving 10,000 subscribers, followed by a digital subscriber line access multiplexer ("DSLAM") capable of serving only 2,000 subscribers, then the area which the equipment is capable of serving is the area served by the 2,000 DSLAM lines.

Although the credit only applies with respect to qualified expenditures incurred during specified periods, the fact that the expenditures are not taken into account until a later period will not affect the taxpayer's eligibility for the credit. For example, if a taxpayer incurs qualified expenditures with respect to equipment providing next generation broadband services in 2004, but the taxpayer does not satisfy the 10 percent subscription threshold until 2005, the taxpayer will be eligible for the credit in 2005 (assuming the other requirements of the bill are satisfied). To substantiate their satisfaction of the 10 percent subscription threshold, taxpayers will be required to provide such information as is required by the Secretary, which may include relevant customer data or evidence of independent certification.

In the case of a taxpayer that incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualified expenditures are determined by multiplying otherwise qualified expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualified equipment would be capable of serving, as determined by the least capable link in the system. Taxpayers may use any reasonable method to determine the relevant total potential subscriber population, based on the most recently published census data. In addition, for purposes of substantiating the total potential subscriber population which equipment is capable of serving, taxpayers will be required to provide such information as is required by the Secretary, which may include manufacturer's equipment ratings or evidence of independent certification.

QUALIFIED EQUIPMENT

Qualified equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. It is intended that this standard would be satisfied if a subscriber utilizing broadband services through the equipment is able to receive the specified transmission rates in at least 99 out of 100 attempts.

In the case of a telecommunications carrier, qualified equipment is equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualified equipment is equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualified equipment is equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualified equipment is equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. In addition, any packet switching equipment deployed in connection with other qualified equipment is qualified equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber. Finally, multiplexing and demultiplexing equipment and other equipment making associated applications deployed in connection with other qualified equipment is qualified equipment only if it is located between qualified packet switching equipment and the subscriber's premises.

Although a taxpayer must incur the expenditures directly in order to qualify for the credit, the taxpayer may provide the requisite broadband services either directly or indirectly. For example, if a partnership constructs qualified equipment or otherwise incurs qualified expenditures, but the requisite services are provided by one or more of its partners, the partnership will be eligible for the credit (assuming the other requirements of the bill are satisfied). It is anticipated that the Secretary will issue regulations or other published guidance demonstrating how the requirements of the bill are satisfied in such situations.

EFFECTIVE DATE

The provision is effective for expenditures incurred after December 31, 2001.

TRIBUTE TO MR. TIMOTHY P. RYAN, BOARD OF TRUSTEES, LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor a very special leader in my district. Timothy P. Ryan has served the Livermore Valley Joint Unified School District for over two decades. Mr. Ryan has successfully worked for the betterment of the entire school community as President of the Livermore Board of Trustees, Board Clerk, member of President of the Alameda County School Boards Association, member and President of the Tri-Valley Special Education Local Plan Area Board, and the Regional Occupational Program Board.

Timothy Ryan has served admirably as a leader and advocate for our children and our community. He has helped Livermore Valley Joint Unified School District through some of the most difficult times. Mr. Ryan has proven to be an effective member of the Board, always seeking resolution to Board differences by discovering the wide areas of agreement. His fairness and his Irish humor continues to win over groups.

I take great pride in honoring Timothy P. Ryan's dedication and leadership. His hard work has improved the opportunities for all students throughout the District. Under his direction, Livermore Valley Joint Unified School District has served as a model for schools in Alameda and Contra Costa Counties and throughout the State of California. I believe that school districts across the country should follow Timothy Ryan's example and take the opportunity to learn from his successful and innovative ways.

A TRIBUTE TO HAROLD H. GRAY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SCHAFFER. Mr. Speaker, it is my privilege to stand before this great House to honor a man from Colorado's Fourth Congressional District. On January 30, 2001, Mr. Harold H. Gray, of Brush, Colorado, will celebrate his 100th birthday.

Born in the small farming town of Braddyville, Iowa, Mr. Gray and his family moved to the Eastern Plains of Colorado while he was just a small boy, to accommodate for his ailing mother's respiratory problems. During his young and formative years, Harold learned many valuable lessons while helping out with his family's businesses. These lessons prepared him for an active community role of prudent leadership. Whether working at his father's grocery store in Loveland, or at the Riverdale Ranch, near the South Platte River, Harold learned to meet the challenges of small-town commerce along with the difficulties of ranch life.

As an adult living in Brush, Colorado, Harold became a business man, whose dedication to community was marked by great accomplishment. Owner of the Carroll Motor and Carroll Oil companies, Harold was an active participant in the Colorado Auto Dealers Association, Colorado Auto Dealers Insurance Trust along with the Colorado Ford Dealers Advertising Association. Furthermore, he was part of a committee for the Brush Rodeo and the Brush Racing Association. As a result, he joined the Board of Directors and was voted President of the Centennial Race Track. Harold's other community activities have included the Brush Chamber of Commerce, Highway 71 committee, Brush Industrial Park, Rotary Club and the Brush Methodist Church.

Mr. Gray's contributions have been significant. Truly he represents the rural values of Colorado's Fourth Congressional District—hard-work and commitment to the community. Please join me in wishing Harold H. Gray a magnificent 100th birthday. May he enjoy this day and those to come with his family and friends.

JANUARY SCHOOL OF THE MONTH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. McCARTHY of New York. Mr. Speaker, I have named Mineola High School in Garden City Park as School of the Month in the Fourth Congressional District for January 2001. I am a proud graduate of Mineola High School in 1962.

I especially want to commend John R. Lewis, Principal of Mineola High, and Dr. Harry Jaroslaw, the Superintendent of Schools for the Mineola School District.

I loved my time at Mineola High and my solid education there prepared me for the rest of my life. I still use the lessons I learned at Mineola.

Unique opportunities await Mineola High students. They can participate in the Work Experience Program for school credit, while simultaneously earning a paycheck. The Student Service Center harnesses the energy and devotion of students to their community. Within the center, they can volunteer at the Children's Museum, the Ronald McDonald House and nursing homes, just to name a few. Also, programs such as the leadership council and peer support and mediation foster student-to-student involvement.

Each year, I present an award in the name of my late husband, Dennis McCarthy, to a Mineola High School student who has struggled through adversity and difficult times and made the best of it. This award is one of the things I do to keep Dennis' memory alive. At Mineola High, there are so many special students it's so hard to choose!

Mineola High has received numerous awards in recognition of the school's excellence, including the Eleanor Roosevelt Community Service Award, Newsday's Long Island High School of the Year for Community Service and the New York State Governor's Commendation. All of the awards demonstrate the school's dedication to involving students in the community.

In 2000, 84 percent of Mineola's senior class went to college, 57 percent to 4-year colleges. Of the last graduating class, 55 percent of all students received Regents seals on their diplomas, including 14 students who earned Regents diplomas with honors.

The outstanding academic record and the dedication of Mineola's administrators and staff demonstrate it is indeed a school of the month and a school vital to Long Island's future.

HONORING EDNA GARABEDIAN, BORIS NIXON, AND DIANE NIXON

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Edna Garabedian, Boris Nixon, and Diane Nixon for their contributions to the California Opera Association.

The California Opera Association was incorporated as a California non-profit corporation May 4, 2000. The association is dedicated to enhance public awareness of the role of arts in California through activities and services in the field. In addition to forming partnerships with community organizations, California Opera Association will participate in local, regional, national and international events designed to enhance good will and to support and encourage civic and community growth.

Edna Garabedian is one of the founding directors of the California Opera Association. She is a world-renowned Mezzo-Soprano who has performed throughout the U.S. and Europe. Ms. Garabedian was the founder of the Fresno International Grand Opera and has held the distinction of chairperson of voice and opera at several major universities.

Boris Nixon is a featured cellist with the Fresno Philharmonic Orchestra. He has performed with various symphony orchestras throughout the United States and he is also one of the founding directors of the California Opera Association. Mr. Nixon has collaborated with the Music Performance Trust Fund of America and Young Audiences of America to stress the importance of keeping music in the schools and expanding work and career opportunities for professional musicians.

Diane Nixon is an educator and musician, who is currently completing her pre-med requirements to become a physician. Ms. Nixon is also a founding director of the California Opera Association and has traveled extensively throughout the United States and Europe attending and studying International Operas and Special Arts Festivals for the disabled. Her goal is to focus on integrating and embracing the often-neglected populations, such as the disabled, disadvantaged and elderly, into the creation and consumption of the performing arts.

Mr. Speaker, I want to congratulate Edna Garabedian, Boris Nixon and Diane Nixon for their contributions to the California Opera Association. I urge my colleagues to join me in wishing Ms. Garabedian, Mr. Nixon and Ms. Nixon many more years of continued success.

IN HONOR OF THE 100TH ANNIVERSARY OF THE NEW YORK JUNIOR LEAGUE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MALONEY of New York. Mr. Speaker, today I pay tribute to the New York Junior League (NYJL) on the occasion of its 100th Anniversary.

The NYJL is a remarkable organization, dedicated to training women for leadership in serving their communities. The Junior League is committed to promoting volunteerism, developing the potential of women, and improving the community through the effective action and leadership of trained volunteers.

The NYJL was founded by Mary Harriman, a 19-year-old New Yorker and Barnard College student, to unite young women and provide an organized means for them to give back to their communities. Originally called the Junior League for the Promotion of Settlement Movements, the organization was inspired by the settlement movement started by Jane Addams 13 years earlier. The NYJL quickly boasted 80 members. The new organization's first beneficiaries were residents of the New York College Settlement on the Lower East Side. Recognizing the success of NYJL, other areas of the country began to form their own Junior Leagues. Today there are 296 Junior Leagues in the United States, Canada, Mexico and the United Kingdom.

Eleanor Roosevelt joined the NYJL at the age 19. Her volunteer activities included serving as a dance teacher for young girls living in a Lower East Side settlement house. She later acknowledged that the experience played an important role in developing her social conscience and her commitment to public service.

Today, Junior League volunteers are engaged in helping a wide range of New Yorkers, including children, the elderly, victims of domestic abuse and prisoners. The NYJL teamed up with the Legal Aid Society Community Law Offices in East Harlem to help domestic violence survivors obtain divorces. As its 85th Anniversary project, NYJL created Milbank Houses, which provides transitional housing for homeless families. Junior League volunteers continue to provide education on subjects including living skills, nutrition and job-hunting. NYJL volunteers paired up with Victim Services to provide temporary emergency shelter victims of domestic violence through Project Debby. Volunteers recruit hotels to donate unused rooms for one to three nights to women and children in need of a safe haven until permanent arrangements can be made.

Ms. Speaker, I am delighted to congratulate the New York Junior League on its 100th Anniversary and I wish them many more years of successful service to my community.

TRIBUTE TO BILL EASTERLING OF HUNTSVILLE, AL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CRAMER Mr. Speaker, I rise today to pay tribute to the life and legacy of Mr. Bill Easterling of Huntsville, Alabama. On December 29, 2000, Bill Easterling, a Huntsville Times columnist and friend of our larger community succumbed to his 18-month struggle with cancer. Our community mourned the loss of this man respected throughout North Alabama for his generosity, talented writing and love of his fellow man.

The blessed life of Bill Easterling was filled to the brim with his writing. For 22 years, he shared his talents with the Huntsville Times in the capacities of sports writer, editor, and columnist. When he began writing the Times community column, his stories opened up new people and places and a lot of old ones too for all the community to learn from and take pride in. Lee Roop, one of Bill's colleagues, had this to say about Bill, "Bill Easterling had a talent for people, too. He was gifted with the ability to touch them. He was comfortable being up close where life is shared in all its emotions." John Pruett, a sports writer for the Times, expressed that Bill "commanded respect without seeking it, inspired loyalty without demanding it and exuded self-assurance without making a show of it." Mrs. Christine Richard eloquently wrote "Bill Easterling's death leaves a void in the lives and hearts of so many people—those who knew him personally and those who only knew him through his columns."

Bill Easterling's words of wisdom and insight will live on in his columns and books. During his prolific career, Bill wrote an award-winning children's book, Prize in the Show and published two collections of his columns, Voices on an Cold Day and A Locust Leaves its Shell. I extend my sympathy to Bill's family, his wife Pat, his children, Leigh and Mike, step-children, Victor and Natalie and grandchildren Caroline and Ellie.

On behalf of the people of Alabama's 5th Congressional District, I join them in celebrating the extraordinary life and honoring the memory of a man who filled his 60-years with a love of God, his community, and his family. I send my condolences to his family, colleagues and friends.

GUAM WAR CLAIMS REVIEW COMMISSION ACT

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UNDERWOOD. Mr. Speaker, today, I'd like to reintroduce a bill which passed the House of Representatives during the 106th Congress dealing with equity for the people of Guam during World War II. While the bill received bi-partisan support, the Senate was unable to act on the bill before sine die adjournment.

Legislation regarding Guam war restitution has been introduced by every Guam Delegate to Congress, beginning with Guam's first Delegate Antonio Won Pat, and including my predecessor, General Ben Blaz. The measure I introduce today is a careful compromise that incorporates many Congressional and Department of Interior recommendations that have been made over the years. The legislation amends the Organic Act of Guam and provides a process for U.S. restitution to Guamanians who suffered compensable injury during the occupation of Guam by Japan during World War II. Compensable injury includes death, personal injury, or forced labor, forced march, or internment. The bill establishes a federal commission to review the relevant historical facts and determine the eligible claimants, the eligibility requirements, and the total amount necessary for compensation.

There is a lot of historical information available to show that the United States had every intention of remedying the issue of war restitution for the people of Guam. In 1945, at the urging of the Acting Secretary of the Navy to the House of Representatives, the Guam Meritorious Claims Act was enacted which authorized the Navy to adjudicate and settle war claims in Guam for property damage for a period of one year. Claims in excess of $5,000 for personal injury or death were to be forwarded to Congress. Unfortunately, the act never fulfilled its intended purposes due to the limited time frame for claims and the preoccupation with the local population to recover from the war, resettle their homes, and rebuild their lives.

On March 25, 1947, the Hopkins Commission, a civilian commission appointed by the U.S. Navy Secretary, issued a report which revealed the flaws of the 1945 Guam Meritorious Claims Act and recommended that the Act be amended to provide on the spot settlement and payment of all claims, both property and for death and personal injury.

Despite the recommendations of the Hopkins Commission, the U.S. government failed to remedy the flaws of the Guam Meritorious Act when it enacted the War Claims Act of 1948, legislation which provided compensation for U.S. citizens who were victims of the Japanese war effort during World War II. Because Guamanians were not U.S. citizens when the act was enacted, but were U.S. nationals, they were not eligible for compensation. Guamanians finally became U.S. citizens in 1950 under the Organic Act of Guam.

In 1962, there was another attempt by Congress to address the remaining U.S. citizens and nationals that had not received reparations from previous enacted laws. Once again, however, Guamanians were inadvertently made ineligible because policymakers assumed that the War Claims Act of 1948 included them. Thus, Guam was left out of the 1962 act.

The reason the legislation involves the U.S. government is because under the 1951 Treaty of Peace between the U.S. and Japan, the treaty effectively barred claims by U.S. citizens against Japan. As a consequence, the U.S. inherited these claims, which was acknowledged by Secretary of State John Foster Dulles when the issue was raised during consideration of the treaty before the Committee on Foreign Relations in 1952.

My legislation does not provide compensation. It simply establishes a federal process to review the relevant historical facts and determine the eligible claimants, the eligibility requirements, and the total amount necessary for compensation arising from the Japanese occupation of Guam during World War II. Last year, the Congressional Budget Office estimated that the cost of my bill would be minimal and would not affect direct spending or receipts. Moreover, considering that the island of Guam had a small population of 22,290 during the nearly 3 years of occupation during the war, and given the available territorial and federal records on this matter, I anticipate that any federal commission that is established under my bill would be able to complete its work expeditiously and provide the Congress with the necessary recommendations to resolve this longstanding issue in a timely fashion.

IN HONOR OF MAJOR ALBERT V. CLEMENT

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. McGOVERN. Mr. Speaker, on October 19, 2000, in a ceremony held at Ft. Benning, Georgia, Ranger Albert V. Clement (Major Ret. Deceased) of Fall River, Massachusetts, was inducted into the Ranger Hall of Fame.

The Ranger Hall of Fame was formed to honor and preserve the spirit and contribution of America's most extraordinary Rangers. The members of the Ranger Hall of Fame Selection Board take particular care to ensure that only the most extraordinary Rangers are inducted. By any standard, Major Albert Clement was an outstanding choice to receive this honor.

Major Clement joined the U.S. Army in June 1941 in response to ominous signs of a pending world conflict. He fought for forty-one months in the Pacific Islands as a machine gunner and expert demolitionist. Shortly after the Korean War started, he volunteered to fight there as a Ranger, but was promoted and selected to remain at Fort Benning as an instructor. Shortly thereafter, he volunteered again, was assigned to the 32nd Infantry, and was chosen to organize and lead a raider platoon against menacing enemy forces entrenched in the Iron Triangle. Major Clement's Raiders turned the enemy tide and filled a critical void left by the formerly assigned 2nd Ranger Company. Within four months he was awarded two Silver Stars and one Bronze Star for heroism, received two Purple Hearts, was promoted to master sergeant and granted a battlefield commission.

In 1960, Major Clement and two Special Forces professionals were called to affect a daring rescue in the Congo. The country had just won its independence and was in a state of crisis. Mutiny and rebellion were rampant, and hundreds of missionaries and doctors were being held hostage and threatened with rape, torture and death. In three weeks, 239 people were rescued and safely evacuated from various tribal areas, with Major Clement leading the way. The mission ranks as a huge special operations success story.

Following retirement, Major Clement worked for the local school board and later entered into a commercial fishing venture. As a machine gunner in the Pacific, a Ranger at Fort Benning, a Raider in Korea or a Green Beret in the Congo, he was destined to live his retired life as he had served—in the adventurous outdoors. He died on Friday, October 16, 1998, after suffering for several years with cancer. He concluded his life of selfless service in quiet dignity.

IN HONOR OF THE McLEAN HIGHLANDERS MARCHING BAND

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to the McLean Highlanders Marching Band for winning first place in the Class IV Open Championship competition sponsored by the U.S. Scholastic Band Association.

On November 3, 2000, the Highlanders not only delivered the overall winning performance within their grouping, but they also were given the best music award and the Marine Corps "Expirit de' Corps" award for best team spirit and discipline.

During the month of August when most high school students were still enjoying their summer vacations, every member of the Highlander Band and their dedicated parents began preparations for this competition.

Under the guidance of band director Kirchenbauer and his support staff, the group devoted countless hours of practice throughout the year to learn and perfect their award-winning musical program and marching routine.

Mr. Speaker, a tribute to the McLean Highlander Band would not be complete without mentioning the support of Dr. Donald Weinheimer, McLean High School Principal, and the tireless efforts of the McLean High School Band Parents Association.

The McLean community is proud of every member of the high school band that contributed to their award-winning performance. Accordingly, I join the students of McLean High School and the U.S. Scholastic Band Association in saluting the McLean Highlander Marching Band on a job well done.

HONORING JEANIE MILLER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Jeanie Miller for being voted "Affiliate of the Year" by the Fresno Association of Realtors for the year 2000. The "Affiliate of the Year" is awarded to an individual who promotes the professionalism of the Fresno Association of Realtors and has made available the programs and services that allow members to conduct their business with integrity and competency.

Jeanie began her career as an account executive at Pacific Telephone Company and AT&T. In 1986 she became an area production manager at First Interstate Mortgage. In 1990 Jeanie started working at All Pacific Mortgage Company, where she served as vice-president and branch manager. Currently, Jeanie is the area production manager at Union Planters Mortgage in Fresno, CA.

Throughout her career, Ms. Miller has maintained involvement in the community. She has been active in several organizations, including: Fresno Realtors Association, Association of Professional Mortgage Women, president of the Central Valley Executive Association, and Finance and Stewardship Committee at St. Luke's Church. She is currently the affiliate chairperson for the Fresno Association of Realtors. She was also voted "Affiliate of the Year" by the Fresno Association of Realtors in 1987. Jeanie's personal mission is to feed the hungry through Love, Inc.

Mr. Speaker, I rise to congratulate Jeanie Miller for being named "Affiliate of the Year" by the Fresno Association of Realtors. I urge my colleagues to join me in wishing Jeanie many more years of continued success.

HONORING HUGH McDIARMID ON HIS RETIREMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. DINGELL Mr. Speaker, today I speak on behalf of myself and my colleague, Mr. UPTON, to recognize honor and salute my dear friend Hugh McDiarmid on his retirement from the The Detroit Free Press and for his many years of dedicated political reporting.

Hugh stated his career in journalism more than 40 years ago at the Journal Herald in Ohio and has covered politics ever since. For the past 25 years, Hugh has written for The Free Press. In short, he has become an institution in Michigan politics.

Hugh's columns are legendary for their keen political insights. Indeed, few reporters can hold a candle to Hugh's skills as a journalist, much less match his unflappable wit—which I have born the brunt of upon occasion.

Hugh's retirement does not mean that those of us who love his columns will be completely bereft of his voice altogether. Hugh will continue to contribute articles to The Free Press, and for that we are grateful.

Mr. Speaker, as Hugh leaves behind a long and rich history at The Free Press to spend time with his family, I would ask that all of may colleagues salute Hugh, his good reporting, biting wit and above all his earnest good will and compassion for his fellow man.

CROSBY KAZARIAN HONORED

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SHAW. Mr. Speaker, I would like to take a moment to recognize the life-long contributions of Crosby Kazarian to his community and church. Due to his record of service. Mr. Kazarian was honored recently with the Pontifical Medal of St. Nersess Shnorhali by His Holiness Karekin II, Supreme Patriach and Catholicos of All Armenians, at St. David Armenian Church of Boca Raton, Florida. The presentation of the medal and the Patriarchal Encyclical, reached here from Holy Etchmiadzin, the Holy See of the Armenian Church, were made by His Eminence Archbishop Khajag Barsamian, Primate of the Eastern Diocese of the Armenian Church of America.

Born in Providence, Rhode Island, Crosby Kazarian was praised for his widespread services in the Armenian Church, the Dioces, the Knights of Vartan, the Armenian General Benevolent Union, and the St. Nersess Armenian Seminary in New York.

As an American born Armenian, Crosby was one of the rare members who was very fluent in Armenian, both liturgical and conversational, whose participation as an ordained deacon in the Armenian Church, and a member of the church choir in Providence since 1944, was an outstanding accomplishment.

Mr. Kazarian was a member of the Parish Council, and a Diocesan Delegate. He was chairman of the Diocesan Assembly in 1976–78, and was on the Diocesan Council from 1979–83. He has been a member of the St. Nersess Theological Seminary Board of Directors, and since 1985 has served on the Armenian Church Endowment Fund's Board of Trustees.

A phenomenon in an individual's life was Crosby Kazarian's election as the Grand Commander of the Knights of Vartan, an International Armenian Fraternal organization, which was hailed as the youngest among his predecessors during 1983–85. Presently an active member of the Brotherhood, Crosby is also a member of St. David Armenian Church, being one of its Godfathers on the consecration day in 1988, and still serving the same church as an Archdeacon, Mr. Kazarian and his wife of forty-years, Araxie, are the parents of two sons, Gregory and Ara.

IN HONOR OF NOBEL WINNING POET GEORGE SEFERIS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MALONEY of New York. Mr. Speaker, today I pay tribute to George Seferis (nom de plume of George Seferiadis), on the 100th anniversary of his birth.

On December 5, 2000 the Consulate Generals of Greece and Cyprus, the Hon. Dimitris Platis and the Hon. Vasilis Philippou will host an evening of celebration of the works of George Seferiadis. This cultural event will provide an opportunity for many individuals to appreciate the works of George Seferis, statesman, fighter for democracy, and poet.

George Seferis was born on the 29th of February 1900 in Smyrna. The family moved to Athens in 1914. From 1918–1924 he studied law in Paris and in 1926 joined the diplomatic service. His career took him to London and Albania. From the 28th of October 1940, when Mussolini attacked Greece, every evening he held foreign press briefings in Athens. These press conferences are still remembered.

During WWII he served in Beirut and Alexandria. After the war he continued to serve in the diplomatic core and was stationed in Ankara, London, and Beirut. In 1963 he was awarded the Nobel Prize for Literature. George Seferis' poetry shows his search for clarification. His striving toward the lights that stands for life, hope, and salvation in what gives his poetry its anguished tone but also its sense of immediacy. The clarity of his precisely controlled style, his complex symbolism, his powerful understatement, with the intensity of his suppressed emotions, compactness of nuance and wealth of allusions create an effect of dramatic density.

Lord, help us to keep in mind the causes of
this slaughter: greed, dishonesty, selfishness,
The desecration of love;
Lord, help us to root these out . . .

As we celebrate the hundred years since his birth and mourn his death (September 20th, 1971), Hellenes have been singing Seferis' stanza of hope put to music by Theodorakis:

A little farther
We will see the almond trees blossoming
The marble gleaming in the sun
The sea breaking into waves
A little farther
Let us rise a little higher.

He died during the time of the brutal military dictatorship in Greece. Having denounced the regime on March 28, 1969, he became a symbol for millions of Greeks who hated the junta and knew of his poetry.

We truly thank the Honorable Vasilis Philippou and the Honorable Dimitris Platis for sharing with us the wonderful works and history of George Seferis.

TRIBUTE TO MAJOR BEN W. STUTTS OF CHEROKEE, AL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to a fallen soldier from my district, Maj. Ben W. Stutts. Major Stutts is a true hero of our district and I am pleased that his family will receive the Purple Heart in his honor today for his extraordinary acts of bravery and his lifetime commitment to our armed services.

Born in Cherokee, Alabama, Major Stutts first entered the Army Reserves after finishing Florence State College and the ROTC program. He served as a military police officer before traveling to Ft. Hood, Ft. Devens, Korea and finally Redstone Arsenal as an infantry officer.

Major Stutts' bravery was put to the test in May of 1963 when his helicopter on a routine mission along the Korean Demilitarized Zone inadvertently landed in North Korea. Held captive for a year in North Korea, Major (then Captain) Stutts courageously endured his situation and held onto his faith, his patriotism and his love of his family.

While his family met with the Army and their representatives in Congress and his fate was uncertain, Major Stutts' perseverance served as inspiration for his family and friends anxiously awaiting his home-coming. Stutts' widow Mary and his sons Gregory, Michael and Bruce deserve our recognition for the sacrifices they have endured these many years. As his family accepts this Purple Heart today in honor of their beloved husband and father, I would like to express my appreciation for Major Stutts' actions to keep this country the home of the free.

On behalf of the Congress of the United States, I would like to pay tribute to Major Stutts and his loving family. We can never afford to forget the victories and sacrifices of our veterans like Major Stutts lest we take for granted the precious freedoms we enjoy every minute of every day.

PELTIER'S PARDON

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues to consider carefully the following editorial from the December 27, 2000, edition of the Norfolk Daily News, entitled "Peltier Pardon Would Be Wrong."

PELTIER PARDON WOULD BE WRONG—PINE RIDGE MURDERER OF TWO FBI AGENTS NOT DESERVING OF CLEMENCY

Not since Gerald Ford ascended to the presidency and promptly pardoned former President Richard Nixon for any Watergrate crimes has an American president been faced with as important a test of the unique constitutional powers of clemency. The U.S. Constitution makes it possible for a president to forgive otherwise unpardonable acts. The power is absolute with the exception of impeachment: "He shall have the power to grant reprieves and pardons for offenses against the United States."

That makes it possible for President Clinton to follow his pardoning decisions in 62 cases announced recently and provide clemency for Leonard Peltier, 56. Peltier is serving two life sentences in federal prison in Leavenworth, Kan., for the murder of two agents of the Federal Bureau of Investigation in 1975. The agents, Ron Williams and Jack Coler, were attempting to arrest robbery suspects on the Pine Ridge reservation. The agents were injured, then shot in the head repeatedly, at point blank range. The guilty verdict, rendered in 1977 after Peltier had been returned from Canada where he fled after the crime, has withstood multiple appeals.

His time in prison has found him playing the role of a victim, innocent not by reason of having no association with the crime but because of the injustice done American Indians. Injustices of the past, however, should not be allowed to excuse vicious crimes of the present.

There is now the possibility that President Clinton might agree to the demand of today's activists. They claim (1) that Peltier was a victim of overzealous agents of the federal government, (2) that if he, in fact, committed the crimes for which he was found guilty beyond reasonable doubt, mistreatment of American Indians justified the slayings and (3) that he has become a changed man in prison, and written useful books about the plight of reservation Indians.

There is no question that for many, and especially on the Pine Ridge, conditions were harsh and still are. Murder is still not justified, however, and that must apply especially to those responsible for law enforcement.

While we do not believe in the propriety of demonstration—either against Peltier's incarceration as have taken place repeatedly over the years, or against clemency as the FBI agents did in an orderly way in Washington several days ago—they have served to highlight this unusual and tragic case.

In reaching his last-minute decision, Mr. Clinton needs to look especially at what are the incontrovertible facts of a vicious crime, and the importance to the American system of justice of not treating lightly the cold-blooded murder of federal agents acting to uphold the law.

HONORING TERRY MEEHAN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Terry Meehan for being named "Realtor of the Year" by the Fresno Association of Realtors for the year 2000. The "Realtor of the Year" is awarded to an individual who promotes the professionalism of the Fresno Association of Realtors and has made available the programs and services that allow members to conduct their business with integrity and competency.

Ms. Meehan led the Fresno Association of Realtors and Fresno Multiple Listing Service into the future with an Internet based M.L.S. system allowing realtors to use the latest technology for their clients.

Terry is a graduate of Cal State Fullerton and holds the two highest real estate designations: Graduate of the Realtor Institute and Certified Residential Specialist.

Terry has been a full-time real estate broker for over 20 years in Fresno and Clovis, CA. She specializes in residential real estate sales and serves as relocation director at Realty Concepts.

She is currently the Fresno Association of Realtors M.L.S. chairperson and serves as a State Director for the California Association of Realtors.

Mr. Speaker, I want to congratulate Terry Meehan for being named "Realtor of the Year" by the Fresno Association of Realtors. I urge my colleagues to join me in wishing Ms. Meehan many more years of continued success.

INTRODUCING THE NATURAL GAS RESERVE ACT OF 2001

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. HALL of Ohio. Mr. Speaker, today, I am introducing legislation titled the Natural Gas Reserve Act of 2001, to create a natural gas reserve to help stabilize the supply and price of natural gas. This reserve will be modeled after the Strategic Petroleum Reserve and the Northeast Home Heating Oil Reserve.

Natural gas prices have risen sharply this winter because of low supplies and increased demand. This in turn has caused hardship for many families in the Dayton area and across the country who are receiving significantly increased utility bills.

A natural gas reserve is part of the long-term solution to the current low supplies and high prices of natural gas. A reserve would enable the federal government to buy when supplies are cheap and plentiful, and make it available during times of shortages. I believe if the United States had such a reserve today, natural gas prices would be lower.

Supplies are at a historic low, in part because of the new gas-fired electric power generators which many utilities are now using, and because of the unexpected cold weather. The Energy Information Administration projects that in March 2001, U.S. natural gas in storage will be 40 percent below the last 5-year average.

The national gas reserve could be drawn down when there is a supply shortage such as one we are now experiencing. This release of additional natural gas into the market will help keep prices down.

Under this legislation, the Secretary of Energy would determine the size of the natural gas reserve. The Secretary would be authorized to sell oil from the Strategic Petroleum Reserve to cover the administration and acquisition costs of the reserve, and Congress could appropriate additional funds as well.

The Natural Gas Reserve Act of 2001 is an insurance policy for American consumers because it will provide relief during national shortages. I would urge my colleagues to pass this important piece of legislation.

INTRODUCTION OF H. CON. RES. 13, A RESOLUTION EXPRESSING SUPPORT FOR THE VICTIMS OF THE EARTHQUAKE IN INDIA

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. McDERMOTT Mr. Speaker, I rise today to introduce a concurrent resolution expressing sympathy for the victims of the recent earthquake in the Indian state of Gujarat.

It is with a heavy heart that my colleagues and India Caucus co-chairman, ED ROYCE, and I have introduced this bill. Early on India's Republic Day, January 26th, a strong earthquake, registering 7.9 on the Richter scale, ripped through the industrial state of Gujarat. Early estimates indicated that this was a particularly bad earthquake, but I doubt that anyone could have thought that it would turn out to be the most devastating natural disaster in India for several centuries. Several high ranking Government of India officials have already said that the death toll may rise above 100,000.

The resolution that we have introduced simply expresses our sympathies for the victims and supports the continued relief efforts. The physical destruction in Gujarat will not be erased for many years, and the psychological scars may never be eliminated. It is in this time of tragedy that we must stand by our friend India and the Indian people and offer all we can to aid their efforts.

In recent years, we have grown increasingly closer to India and the Indian people because of common interests and values, as well as a strong Indian-American community who have made an amazing impact on our nation in the past several decades. It has been this community that has come together to truly lead the American people's response to this natural disaster, and I wish to thank them for that. Indian has become a trading partner, a strategic partner in various international issues, and a true partner for stability and democracy in Asia. I truly hope that our token of support is received by India and the people of India with our deepest sympathies.

This resolution has strong support on both sides of the aisle as well as both bodies of Congress. I am happy that this body will quickly pass this resolution. I urge my colleagues to voice their strong support of the resolution, and by doing so, voice their support for the people of Gujarat.

HARRY WAYNE CASEY'S FIFTIETH BIRTHDAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate Harry Wayne Casey of KC & the Sunshine Band on his fiftieth birthday, January 31, 2001. KC's music has not only enhanced the cultural vibrance of the Miami community, but has become an important part of 20th century American music.

During the course of his remarkably successful career, KC has made a profound impact on popular music as we appreciate it today. His influence helped to shape an entire decade of music; one which has continued to excite fans and earn critical acclaim for the past twenty years.

A native of Hialeah, Florida, KC began his career at age 17 when he began working at Miami's T.K. Records/Studios. By 1973 he had formed the Sunshine Band and embarked upon his meteoric rise to stardom. The Band's second album, released in 1975, went triple platinum and third album, released in 1977, also went triple platinum. KC & The Sunshine Band had amassed an amazing nine Grammy nominations, three Grammy Awards, an American Music Award, four number one singles in the span of one year, and nine Top 10 singles.

KC has maintained an active philanthropic presence in South Florida where he continues to give back to his community. His many charitable acts include the purchase of thousands of Thanksgiving and Christmas dinners for poor families in the Miami area and regular guest appearances on Radio Y100 in Miami to support child abuse prevention. In addition, he performed in a major benefit concert for the victims of Hurricane Andrew in 1992.

I am proud to recognize KC for his outstanding contributions to our community and to our nation's rich music history. I join his family and friends in honoring him on this very special occasion. My best wishes for a wonderful birthday and many more to come.

HONORING ROBERTO PEREZ

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Roberto Perez for his years of dedicated service to the community.

Roberto grew up in Atwater, CA and graduated from Atwater High School in 1973. He studied accounting and business administration at Merced Junior College. After college, he served for six years as a security specialist in the U.S. Air Force. After leaving the military, Roberto became secretary and financial officer for his family's business working alongside his father, Joe Perez, owner of the Atwater Tile Company and La Nita's Restaurants.

Roberto's interest in the community has led him to become involved in several organizations. In 1978, he became a member of Livingston Lodge and was elected as the worshipful master in 1993. In 1979, he became a member of the Scottish Rite of Fresno and Shriners of Fresno, where he rose to assistant executive director general Tehran Temple. He joined the Merced/Mariposa Shriner Club in 1979 and served as president in 1998. After many years as a member of the Mariposa Masonic Lodge he was elected as worshipful master in 1998 and reelected in 1999. He is a former Grand Bible Bearer of the State of California Freemasonry for the year 1999–2000. Roberto has been active in his local Chamber of Commerce. He has served on the board of directors and was elected in 2000 as president of the Mariposa County Chamber of Commerce.

Roberto is married to Amy. They have two children, Katrina and Roberto Jr.

Mr. Speaker, I want to pay tribute to Roberto Perez for his active and distinguished community involvement. I urge my colleagues to join me in wishing Roberto Perez many more years of continued success.

TRIBUTE TO NANCY J. SPIKER'S RETIREMENT

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. HOLDEN. Mr. Speaker, I wish to pay tribute to Nancy J. Spiker, who recently retired from the U.S. Department of Agriculture. Ms. Spiker is the State Director for USDA's Rural Development Mission Area in Pennsylvania. That appointment by President Clinton caps a nearly 40-year career of service dedicated to improving the quality of life in rural America.

While most of Ms. Spiker's career in USDA was spent in her native Maryland, I have had the good fortune to work with her since she came to the Pennsylvania state office in February 1993. She arrived as the Chief of Community and Business Programs, and among her accomplishments is the complete turnaround of the state's performance in the programs under her leadership. These programs were critical to rural Pennsylvanians, especially in my district. Yet, before he arrived, Pennsylvania had been regularly turning back much of its funding allocations for programs that provided clean water and safe waste disposal and rural communities, created and saved rural jobs, and financed essential community facilities, such as hospitals, schools, and emergency services. As a direct result of Ms. Spiker's leadership, Pennsylvanians now receive the full benefit of funding available, plus additional funds derived from national reserves. Many rural communities, including my district, have benefitted from her resolve and her hard work.

Nancy Spiker has exemplified "public service" in the finest sense of the term. She has vigorously protected taxpayers' interests. At the same time, she ensured that those who most needed financial assistance learned of USDA's programs and got whatever help they needed to navigate the application process. Whether it was starting the first minority-owned steel business in Pennsylvania, opening a shelter for battered women in a rural community, or helping the residents of a small town ravaged by acid mine drainage get clean drinking water for the first time in decades, Ms. Spiker has consistently gone the extra mile. She didn't just spend taxpayers' money, she invested it wisely in projects that have touched thousands of lives over her career.

As Assistant State Director, Ms. Spiker helped the Pennsylvania Rural Development staff successfully implement a major reorganization, and was instrumental in retraining staff to maintain service to the public. As State Director, she led what has become one of the most robust state operations in Rural Development, and completed a personal journey that began in 1961 as a file clerk.

Mr. Speaker, I know my colleagues will join me in congratulating Nancy for her exemplary career in civil service, and a lifetime of lasting achievements in rural America.

TRIBUTE TO THE RETIRED ROBERT T. HEALEY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. PALLONE. Mr. Speaker, I rise today to honor the life of Robert T. Healey of Burlington County, New Jersey. Mr. Healey is a son of the Great Depression and like the great souls that showed America a better way during that time, his life has been one of resiliency. In 1954, Mr. Healey received his Jurist Doctor degree from University of Pennsylvania Law School. Mr. Healey was admitted to the bar in all state and federal courts in New Jersey. He was also admitted to the practice of law in the U.S. Supreme Court and the Third Circuit Court of Appeals. He recently retired as senior partner of Healey, Mueller and Tyler to give full time interest to several "Viking" business ventures in which he serves as Chairman and Chief Executive Officer. He has chaired the National Coalition to Save Jobs in Boating, the Atlantic City Marine Expo and is the President of the New Jersey Boat Builders Association.

Mr. Healey has also worked in several philanthropic ventures throughout his life. He is the President and principal benefactor of Living Bridges International, a nonprofit foundation working to assist needy-at-risk children. The foundation has helped build two schools in Mexico and helps provide 2400 hot meals per day for Mexican children. Mr. Healey has also been very active in his church and civic duties and has served as the vice-chairman of the Lumberton Township Economic Development Authority.

The honorable Mr. Robert Healey is now a hearty retired grandfather with seven grandchildren and resides with his wife and three children at Gleneayre Farms in Lumberton, New Jersey. The wise philosopher Socrates once asserted that an unexamined life is not worth living. Mr. Healey, I salute you in saying that your examined life, dear sir, was truly worth living.

INTRODUCTION OF A BILL TO CLARIFY THAT NATURAL GAS GATHERING LINES ARE 7-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I am joined by Representatives MCCRERY and WATKINS in the introduction of legislation that will clarify the proper tax treatment of natural gas gathering lines for purposes of depreciation.

For several years, a level of uncertainty has hampered the natural gas processing industry as well as imposed significant costs on the energy industry as a whole. Of course, these costs are ultimately passed on to American consumers in the form of higher heating prices. Consequently, I have been working to bring certainty to the tax treatment of natural gas gathering lines. During this time, I have corresponded and meet with a variety of people from the Department of the Treasury in an effort to secure the issuance of much needed guidance for the members of the natural gas processing industry regarding the treatment of these assets.

Unfortunately, I have not received satisfactory responses. Protracted Internal Revenue Service audits and litigation on this issue continue without any end in sight. As a result, I chose to introduce legislation in the 105th and the 106th Congress in order to clarify that, under current law, natural gas gathering lines are properly treated as seven-year assets for purposes of depreciation.

This bill specifically provides that natural gas gathering lines are subject to a seven-year cost recovery period. In addition, the legislation includes a proper definition of a "natural gas gathering line" in order to distinguish these assets from pipeline transportation lines for depreciation purposes. While I believe this result is clearly the correct result under current law, my bill will eliminate any remaining uncertainty regarding the treatment of natural gas gathering lines.

The need for certainty regarding the tax treatment of such a substantial investment is obvious in the face of the IRS's and Treasury's refusal to properly classify these assets. The Modified Accelerated Cost Recovery System (MACRS), the current depreciation system, includes "gathering pipelines and related production facilities" in the Asset Class for assets used in the exploration for and production of natural gas subject to a seven-year cost recovery period. Despite the plain language of the Asset Class description, the IRS and Treasury have repeatedly asserted that only gathering systems owned by producers are eligible for seven-year cost recovery and all other gathering systems should be treated as transmission pipeline assets subject to a fifteen-year cost recovery period.

The IRS's and the Treasury's position creates the absurd result of the same asset receiving disparate tax treatment based solely on who owns it. The distinction between gathering and transmission is well-established and recognized by the Federal Energy Regulatory Commission and other regulatory agencies. Their attempt to treat natural gas gathering lines as transmission pipelines ignores the integral role of gathering systems in production and the different functional and physical attributes of gathering lines as compared to transmission pipelines.

Not surprisingly, the United States Court of Appeals for the Tenth Circuit has held that natural gas gathering systems are subject to a seven-year cost recovery period under current law regardless of ownership. The potential for costly audits and litigation, however, still remains in other areas of the country. Given that even a midsize gathering system can consist of 1,200 miles of natural gas gathering lines, and that some companies own as much as 18,000 miles of natural gas gathering lines, these assets represent a substantial investment and expense.

The IRS should not force business to incur any more additional expenses as well. My bill will ensure that these assets are properly treated under our country's tax laws.

I urge my colleagues to join me as cosponsors of this important legislation.

RECOGNIZING MR. HENRY L. (HANK) HECK, JR. FOR HIS 32 YEARS OF SERVICE TO THE ASSOCIATED PENNSYLVANIA CONSTRUCTORS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SHUSTER. Mr. Speaker, I am pleased to have this opportunity to recognize a man from my home State of Pennsylvania who has dedicated 32 years of his life to enhancing the quality of life of all Pennsylvanians by working to improve the safety and reliability of the Nation's surface transportation network. Henry L. (Hank) Heck, Jr. has been with the Associated Pennsylvania Constructors since 1969 and has been executive vice president of the association since 1980. Over these past many years, both Hank and I have worked toward similar goals and fought similar battles—myself in the U.S. Congress and Hank on behalf of his association's members throughout the Keystone State. Anyone who knows Hank holds a great respect and admiration for his distinguished career—spanning more than three decades. Now that his well-earned retirement is upon us, Hank will be remembered as both a leader and friend by the many individuals throughout Pennsylvania's transportation construction industry who have had the privilege of working with him.

Although Hank has spent most of his career with the Associated Pennsylvania Constructors, his leadership has benefited several other organizations as well. As past chairman of the American Road and Transportation Builders Association's (ARTBA) Council of State Executives, Hank led the association's State chapter affiliates in supporting ARTBA's pursuit to increase federal investment in our Nation's transportation infrastructure. Hank's accomplishments also include service as past president of the Pennsylvania Society of Association Executives, the American Society of Highway Engineers (Harrisburg Chapter), and the Harrisburg Trade Association Executives. He also currently serves as treasurer of the Pennsylvania Highway Information Association. A man does not simply lead by his title alone, and Hank has exemplified what it means to be a true leader and a strong advocate for transportation infrastructure throughout Pennsylvania.

Over the years, I have considered Hank to be both a trusted friend and a knowledgeable advisor. Although many will most certainly miss Hank's everyday presence, his impact on the construction industry will be felt for many years to come. I would like to thank Hank for his commitment and service to the Commonwealth of Pennsylvania over the past 32 years and I respectfully request that the House join me in wishing Hank the very best as he begins his retirement with his wife, Jody, and their family at his side.

JANUARY CITIZEN OF THE MONTH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. McCARTHY of New York. Mr. Speaker, I have named Joseph DiGiorgio, Army veteran and co-founder of the Mineola Volunteer Ambulance Corps as Citizen of the Month in the Fourth Congressional District for January 2001.

Joseph exemplifies the American spirit of patriotism and community activism. He served his country and came home to serve his community.

A resident of Mineola for 50 years—since 1955—Joseph served in the Army during World War II with distinction, receiving many commendations for courage under fire in England, France, Belgium, Holland and Germany.

Joe has a strong interest in veterans' issues and is an active member of Disabled American Vets (DAV) and the Veterans of Foreign Wars (VFW).

Never one to slow down, Joe's service to his country carried over to his community. He and his wife Louise stated the Mineola Volunteer Ambulance Corps in 1977 at their kitchen table at 116 Jerome Avenue, known as the "Mineola White House." Together they raised funding through citizen contributions and grants.

In the beginning, calls to the ambulance service were answered from homes. Today, the Mineola Ambulance Corps responds to over 1,300 calls per year.

The Mineola Ambulance Corps has grown from one basic life support ambulance to three Advanced Life Support Ambulances, equipped with modern life-saving equipment, administered by over 70 paramedics, EMT's and other emergency-trained people.

I congratulate and thank Joseph, his wife Louise, his daughter Joanne for their community activism and loyal service to Long Island.

A TRIBUTE TO DR. JACK MACKEY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SCHAFFER. Mr. Speaker, today I rise to honor a man who has, throughout his entire carrier as a physician, embodied the values of rural America—hard work and dedication. On December 1, 2000, Dr. Jack Mackey of Sterling, CO, after more than four decades of ardent service, retired and closed his medical practice.

As a young man, Jack Mackey joined the Army entering corpsman's school. Shortly thereafter, he was stationed in Denver, at Fitzsimmons Army Base, for a stint of three years. Following his honorable discharge from the Army, he attended and ultimately graduated from the University of Denver and University of Colorado Medical School.

While completing his education, Jack gained valuable experience as an intern at St. Lukes Hospital in Denver. Afterwards he launched into a private practice in Nebraska. Dr. Mackey then moved to Sterling, CO, where he established a glowing reputation for his devotion, care and concern for humanity. He traveled long distances throughout the eastern plains, treating many patients on numerous house-calls.

Dr. Jack Mackey has provided excellent care and the gift of good health to many residents of Colorado's Fourth Congressional District. I ask my colleagues of this great House to join me in extending a special "thanks" to Dr. Mackey. May God's Blessings continue to be with him as he begins what we all hope will be a long and certainly a well deserved retirement.

CONGRATULATING EDWARD AND PEGGY PESTANA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RANDANOVICH. Mr. Speaker, I rise today to congratulate Edward and Peggy Pestana as they celebrate their 50th wedding anniversary. Edward and Peggy Pestana were married on December 16, 1950 in Riverside, California.

In 1949, after graduating from San Leandro High School, Edward enlisted in the U.S. Air Force where he proudly served as a gunner, boom operator, instructor/evaluator, and recruiter until he retired in 1971 as senior master sergeant. In 1975, Edward earned his bachelor of arts degree in psychology from La-Verne College. Then, for 14 years he worked as a social worker and conservator investigator for Merced County.

Peggy graduated from Hayward High School in 1949. In 1965 she began her career as a textbook clerk, which she continued for 25 years at three different school districts.

Edward and Peggy Pestana retired together in 1991 and live at home in Mariposa. Since their retirement, the couple has traveled extensively around the world. They are still active docents at the Mariposa History Center. Peggy also participates in two programs to help the underprivileged: the Brown Bag and the Commodities programs.

Edward and Peggy have three sons and seven grandchildren.

Mr. Speaker, I want to congratulate Edward and Peggy Pestana on their Golden Wedding Anniversary. I urge my colleagues to join me in wishing them many more years of continued happiness.

IMPROVE, DON'T RE-REGULATE OUR NATION'S AVIATION SYSTEM—THESE REMARKS APPEARED AS A "GUEST COLUMN" IN THE ALTOONA MIRROR ON JANUARY 29, 2001

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SHUSTER. Mr. Speaker, at the end of this month, I am retiring from Congress after being fortunate enough to represent the 9th District of Pennsylvania for 28 years, most recently as chairman of the House Committee on Transportation and Infrastructure. I am proudest of my efforts to improve the nation's transportation system, especially highways, transit, and airports.

In 1998, I introduced the Transportation, Equity Act for the 21st Century, which guaranteed that revenue from highway users will be used to fund transportation improvements. This landmark legislation, TEA–21, will result in a $219 billion investment in highway and transit systems by 2003.

And last April, President Clinton signed into law my Aviation Investment and Reform Act for the 21st Century (AIR–21), which will unlock revenue from taxes on airline tickets to enhance aviation safety and improve infrastructure by providing more money for terminals, gates, taxiways and other improvements. Overall funding for Federal Aviation Administration programs will increase from about $10 billion in fiscal 2000 to more than $13 billion annually over the next three years.

However, I believe this bipartisan measure should be regarded as only a first step. The FAA still lacks funding to modernize the air traffic control system, and we remain woefully short of airport capacity to serve the 660 million passengers who fly each year, a number that has more than doubled since 1978.

In recent months, there has been considerable discussion about how consolidation in the airline industry will affect the future of air travel, particularly in the wake of proposed mergers between United Airlines and USAirways, initiated last May, and the American Airlines takeover of TWA, announced this month. In my opinion, much of the concern about these developments is misplaced.

The United-USAirways merger, for example, will create more than 500 new airport-to-airport routes, including 64 new domestic nonstop flights. But more importantly, it will preserve and expand access by USAirways passengers to a convenient, seamless, national and international airline network—the kind of air travel that is essential for companies doing business in today's global economy. Without this merger, USAirways is almost certain to fade away, costing tens of thousands of jobs and reducing air service—especially for smaller cities on less-profitable routes that usually are the first to lose flights and the last to get them back.

Many of the same benefits apply to the American Airlines purchase of TWA, which has lost money for a decade and is now in its third visit to bankruptcy court. American gains a strong hub in St. Louis, allowing it to increase competition by adding capacity. But more significantly, the deal will preserve access to a competitive, comprehensive airline network for the cities now served by TWA.

Certainly, these mergers raise some issues, which are being handled by the Justice Department. United has proposed to increase competitiveness by operating the Boston-New York-Washington shuttle with American. DC Air, the spin-off airline created by the merger, will preserve service from Reagan National Airport to the 43 cities now served by USAirways. In addition, American is buying 49 percent of DC Air (thus giving the new airline access to American's planes, capital and operating expertise), and has agreed to maintain nonstop service on five key hug-to-hub flights where both United and USAirways currently operate for at least 10 years to ensure competition.

I believe Justice is quite capable of ensuring that these mergers will benefit the traveling public. But I think it would be a mistake to reregulate the airlines, as suggested by some well-meaning lawmakers. The airline industry does not need federally mandated competition "guidelines"—it needs the gates, terminals, runways and traffic control systems that will allow it to grow. Even though many carriers have come and gone in the 20-plus years since airlines were deregulated, average fares have dropped 40 percent in constant dollars—proof of healthy competition in the skies.

Half a century ago, the president and Congress launched what became the world's greatest road network, America's Interstate highway system. I am proud that we have taken steps to preserve that network. And I hope that the new Administration and Congress will make the same effort to enhance our nation's system of air travel.

NEW BEDFORD MAKES PROGRESS ON CLEAN WATER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. FRANK of Massachusetts. Mr. Speaker, we often hear tales of woe from local officials and it is important that we remain cognizant of these, so that we can act to correct policy mistakes and other circumstances that cause undue stress to the people who have the important job of administering our municipalities. But it is also important to note when as a result of cooperation among the various offices of government, we get something right. I was pleased to receive from the Mayor of New Bedford, MA, Fred Kalisz, an interesting discussion of how cooperation at all three levels has resulted in a policy involving the cleaning of New Bedford Harbor which has had beneficial environmental and economic effects, without having an excessively harsh financial impact on the citizens of that area. I submit the following instructive discussion from Mayor Kalisz into the CONGRESSIONAL RECORD.

[From the City of New Bedford, Office of the Mayor]

THE CITY OF NEW BEDFORD WASTEWATER IMPROVEMENTS FUNDING HISTORY

The City of New Bedford is an old coastal community located on the South Coast of Massachusetts, approximately 50 miles south of Boston. Considered by many as the gateway to Cap Cod, Marth's Vineyard and the Islands.

New Bedford's colorful history is intimately tied to the sea. As one of three deepwater ports in the State of Massachusetts, and home to the second largest fishing fleet in the country, New Bedford's history, past and future is tied to the sea and the stewardship of its resources.

The City occupies a land area of 19 square miles and has a mean elevation of 50 feet above sea level. Established in 1787, New Bedford was incorporated as a City in 1847.

The New Bedford wastewater collection system was originally constructed in the middle 1800's as a system of sewers that discharged wastewater directly into the City's inner harbor and Clark's Cove. Between 1910 and 1920, the City expanded the system by adding a main interceptor, conveying wastewater through a now abandoned screen house, into an outfall, discharging into Buzzards Bay.

In 1972, the City added a primary treatment facility located on Fort Rodman, at the southern most tip of New Bedford, to provide primary treatment to the outfall discharged to the Bay. In 1986, the U.S. Environmental Protection Agency (the "EPA") and the Commonwealth of Massachusetts issued joint permits to the City requiring immediate compliance with the secondary wastewater treatment requirements of the Federal Clean Water Act of 1972 (the "CWA") and the Massachusetts Clean Water Act (the "Massachusetts Act").

In 1987, the City entered into a Consent Decree and began implementation of a Capitol Improvement Program (CIP designed to comply with regulatory mandates of the CWA and the Massachusetts Act. Capitol improvement costs identified by the Decree totaled nearly $225 million and were projected to increase typical household sewer bills from less than $70 per year to over $1000 per household. This court action put the City on schedule to improve its collection and treatment systems through the planning, design, and construction of approved collection and treatment facilities.

The cost of complying with the mandates of the Consent Order represented a major economic and financial burden for the City and its citizens. The City entered into

In total, the City of New Bedford completed twelve major wastewater related infrastructure projects totaling 177 million dollars, to comply with Federal and State clean water mandates ending decades of deferred maintenance and environmental neglect. Today, New Bedford boasts its heritage of the sea with renewed commitment to the stewardship of its resource.

Thousands of acres of shellfish beds, closed for decades, are now open, creating jobs and providing tangible evidence to the success of a community committed to environmental progress.

However, these efforts came at great cost for resident shard pressed to afford the resources necessary to end these decades of neglect. To a community that experienced double digit unemployment, and a blue-collar workforce with a median family income of less than $28,000 per year, New Bedford initiated and raised sewer fees in a depressed economy to support this Herculean effort.

The community viewed original rate projections in the initial phases of the projects timetable with despair. They could ill afford the enormous expense of the commitment before them, help was needed, and New Bedford could not do it alone.

In July of 1988, the City of New Bedford established and adopted the first sewer fee in the municipalities' history, equal to 34 cents per thousand gallons of water discharged into the sewer system. By January 1994 this rate had increased to $3.55 for the same thousand gallons, a 1000% increase. Based on project engineering estimates and financial considerations, rates were expected to approach $6.00 per thousand gallons by the year 1999.

The Massachusetts Water Pollution Abatement Trust (The Trust) was established in March 1993. Utilizing Federal grant money, the Trust established a State Revolving Fund that provided zero interest loans for sewer related infrastructure improvements for municipalities faced with mandates to meet environmental regulations.

This form of Federal and State support of capital improvement project has become a critical component for municipalities to move progressively forward in achieving environmental goals.

In the case of the City of New Bedford, this support has enabled the community to complete every project outlined in their facilities plan to provide infrastructure capabilities for industrial, commercial and residential growth, while meeting clean water mandates and environmental commitments.

As a result of our efforts, New Bedford is the first community to take advantage of extending State Revolving Fund debt and amortizing these commitments out over 30 years. Thus extending the term of the SRF debt to reflect the useful life of the financed projects again minimizing impacts to rates. A community that once faced sewer fees that were unaffordable has completed the largest sewer related capitol improvement program in its history, without breaking the back of the ratepayers.

This is testament to Federal, State and Local governments forming partnerships to solve problems.

ELLIS ISLAND MEDALS OF HONOR AWARDS CEREMONY—NECO CHAIRMAN WILLIAM DENIS FUGAZY LEADS DRAMATIC CEREMONY ON ELLIS ISLAND, NY, MAY 6

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. BURTON of Indiana. Mr. Speaker, standing on the hallowed grounds of Ellis Island—the portal through which 17 million immigrants entered the United States—a cast of ethnic Americans who have made significant contributions to the life of this nation were presented with the coveted Ellis Island Medal of Honor at an emotionally uplifting ceremony.

NECO's annual medal ceremony and reception on Ellis Island in New York Harbor is the Nation's largest celebration of ethnic pride. Representing a rainbow of ethnic origins, this year's recipients received their awards in the shadow of the historic Great Hall, where the first footsteps were taken by the millions of immigrants who entered the U.S. in the latter part of the nineteenth century. "Today we honor great ethnic Americans who, through their achievements and contributions, and in the spirit of their ethnic origins, have enriched this country and have become role models for future generations," said NECO Chairman William Denis Fugazy. "In addition, we honor the immigrant experience—those who passed through this Great Hall decades ago, and the new immigrants who arrive on American soil seeking opportunity."

Mr. Fugzay added, It doesn't matter how you got here or if you already were here. Ellis Island is a symbol of the freedom, diversity and opportunity—ingredients inherent in the fabric of this nation. Although many recipients have no familial ties to Ellis Island, their ancestors share similar histories of struggle and hope for a better life here.

Established in 1986 by NECO, the Ellis Island Medals of Honor pay tribute to the ancestry groups that comprise America's unique cultural mosaic. To date, approximately 1,300 American citizens have received medals.

NECO is the largest organization of its kind in the U.S. serving as an umbrella group for over 250 ethnic organizations and whose mandate is to preserve ethnic diversity, promote ethnic and religious equality, tolerance and harmony, and to combat injustice, hatred and bigotry. NECO has a new goal in its humanitarian mission: saving the lives of children with life-threatening medical conditions. NECO has founded the Forum's Children Foundation, which brings children from developing nations needing life-saving surgery to the United States for treatment. This year alone, NECO's efforts have helped save the lives of twelve infants from around the world.

Ellis Island Medals of Honor recipients are selected each year through a national nomination process. Screening committees from NECO's member organizations select the final nominees, who are then considered by the Board of Directors.

Past Ellis Island Medals of Honor recipients have included several U.S. Presidents, entertainers, athletes, entrepreneurs, religious leaders and business executive, such as William Clinton, Ronald Reagan, Jimmy Carter, Gerald Ford, George Bush, Richard Nixon, George Pataki, Mario Cuomo, Bob Hope, Frank Sinatra, Michael Douglas, Gloria Estefan, Coretta Scott King, Rosa Parks, Elie Wiesel, Muhammad Ali, Mickey Mantel, General Norman Schwarzkopf, Barbara Walters, Terry Anderson and Dr. Michael DeBakey.

Congratulations to the 2000 Ellis Island Medals of Honor recipients.

MEDALIST LIST: ELLIS ISLAND 2000

Richard A. Abdoo, Business Leader, Lebanese.

Anthony R. Abraham, Business/Community Leader, Lebanese.

Dr. William A. Athens, Physician/Surgeon, Hellenic.

Nelson Viriato Baptista, Business Leader, Portuguese.

Amin J. Barakat M.D., Physician, Lebanese.

Edward J. Bergassi, Business Leader, Italian.

Bharat B. Bhatt, Business Leader, Indian.

Norman P. Blake, Jr., Business Leader, English/German.

Gunter Blobel, M.D., PhD, Scientist, German.

Jules J. Bonavolonta, Business Leader, Italian.

Patricia R. Brandrup, Business Leader, English.

Hon. Jesse Brown, Business Leader, African.

Art Buchwald, Syndicated Columnist, Austrian/Hungarian.

Gerard L. Cafesjian, Investor/Philanthropist, Armenian.

Dr. Vincent J. Calamia, Physician & Business Leader, Italian.

Charles V. Campisi, Chief of Internal Affairs, Italian.

Carlos H. Cantu, Business Leader, Mexican.

Elvira M. Carota, M.D., Physician/Educator/Humanitarian, Italian.

David E.A. Carson, Business Leader, English.

Frank Carucci, Educator, Italian.

Margo Catsimatidis, Advertising Exec./Philanthropist, Russian.

Leonard A. Cecere, Attorney, Italian.

Michael Chakeres, Business Leader, Hellenic.

Alvah H. Chapman, Jr., Business/Community Leader, English.

Dr. Ben John Chen, Community/Business Leader, Chinese.

George C. Chryssis, Community/Business Leader, Hellenic.

Sam C. Chung, Banker, Korean.

John R. Climaco, Attorney, Italian.

Vance D. Coffman, Business Leader, German/English.

Paul F. Cole, Labor Leader, Irish/German.

Evanthea Condakes, Community Leader, Hellenic.

James Costaras, Educator, Hellenic.

Stephen J. Dannhauser, Esq., Attorney, German/Irish.

James DeCuzzi, NYC Commissioner, Italian/British.

James F. Demos, Community Leader, Hellenic.

James L. Doti, Educator, Italian.

Hon. Dennis C. Droushiotis, International Business Leader, Cypriot.

Walter E. Dunn, Jr., Labor Leader, Irish.

Joseph P. Dunne, Law Enforcement Officer, Irish.

Jean C. Emond, M.D., Surgeon/Humanitarian, Canadian.

Gaetana Enders, Author/Community Leader, Italian.

Jack W. Eugster, Business Leader, Swiss.

John D. Feerick, Lawyer, Irish.

Steven Fisher, Business Leader, Russian.

John S.T. Gallagher, CEO Healthsystem, Columbian/Irish.

John E. Callagher, Sr., Business Leader, Irish.

Laurance W. Gay, Business Leader, Italian/Irish.

Louis C. Generali, Business Leader, Italian.

Liz Giordano, Business/Community Leader, Italian.

Robert C. Golden, Business Leader, Irish.

Alan Harvey Goldfield, Business Leader, Austrian.

Hon. Norman Goodman, Attorney/Government Official, Russian/English.

Milton Gralla, Publisher, Polish.

Hans G. Hachmann, Attorney, German.

Michael Haratunian, Business Leader, Armenian.

Dr. L.P. Hinterbuchner, Educator/Physician, Slovak.

Dr. Eugene M. Holuka, Dip. of Internal Medicine, Ukrainian.

James J. Houlihan, Business Leader, Irish.

Raffy A. Hovanessian M.D., Community Leader, Armenian/Lebanese.

Henry J. Humphreys, Community Leader, Irish/English.

Hon. Charles J. Hynes, District Attorney, Irish.

James S. Isray, Business Leader, Polish/Hungarian.

Mjr. Gen. Robert R. Ivany, Maj. Gen.—United States Army, Hungarian.

Jay S. Jacobs, Business/Civic Leader, English/German.

Dr. William A. Athens, Physician/Surgeon, Hellenic.

Thomas H. Jacobsen, Business Leader, Norwegian.

Willie James, Labor Leader, African.

Albert Joseph, Business Leader, Lebanese.

William H. Joyce, Business Leader, Swedish/Irish.

Dr. Kirk P. Kalemkeris, Doctor/Author Community Leader, Hellenic.

Sok Hui Kang, Community Leader/Activist, Korean.

Mike Kojaian, Business Leader, Armenian.

George P. Kokalis, Community Leader, Hellenic.

Elyse Kroll, Business Leader, Russian/English.

Glenn Kummer, Business Leader, Swiss German.

Leonard A. Lauder, Business Leader, Hungarian/Czech/Austrian.

Hon. Peter K. Leisure, Sr. District Judge, English/French.

Alfred Lerner, Business Leader, Russian.

Leo Liebowitz, Business Leader, Romanian/Polish.

Anthony J. Limberakis M.D., Nat'l Cmdr Order of St. Andrew, Hellenic.

Dr. Herbert London, Educator, Russian/Polish.

Robert Lopez, Business Leader, Puerto Rican.

Susan Lucci, Emmy Award Winning Actress, Italian/Swedish.

Robert W. Mahoney, Business Leader, Irish.

Gerald F. Mahoney, Business Leader, Irish/Scottish.

Hon. Guy James Mangano, Presiding Justice, Italian.

Colonel William J. Martinez, Commander, Spanish/Mexican.

James S. Mavromatis, Special Agent, Hellenic/Yugoslavian.

Hon. John McCain, United States Senator, Scottish/Irish.

Royce Neil McNeill, FSA Scot, Scottish Clan Leader, Scottish.

C. Dean Metropoulos, Business Leader, Hellenic.

William D. Modell, Business Leader, Hungarian.

Zena, Mucha, Government Relations Specialist, Ukrainian.

Hon. Michael B. Mukasey, Chief Judge, So. District NY, Russian/Polish.

Joseph P. Nacchio, Business Leader, Italian.

Fred Nauman, Labor Leader, German.

Joseph Neubauer, Business Leader, Israeli.

Peter M. Nicholas, Business Leader, Hellenic.

Hugh O'Brien, Philanthropist/Educator Performer, Irish/German/Scottish.

John Pappajohn, Business Leader, Hellenic.

Ike Pappas, Television Journalist, Hellenic.

Nazario Paragano Sr., Builder/Real Estate Broker/Banker, Italian.

Hon. Michael L. Pesce, Adm. Judge, Italian.

Thomas M. Reich, Attorney, Russian.

Hon. Janet Reno, Attorney General of the U.S., Danish.

Chita Rivera, Entertainer, Puerto Rican.

Douglas L. Rock, Business Leader, Austrian.

John Roland, TV News Anchorman, German.

Hon. Eugene T. Rossides, Business/Community Leader, Cypriot/Hellenic.

John P. Rousakis, Community Leader, Hellenic.

T. Timothy Ryan, Jr., Investment Banker, Irish.

George E. Safiol, Business Leader, Hellenic.

Edward M. Salem, Community Leader/Humanitarian, Lebanese.

Tamir Sapir, Business Leader, Russian.

Albert Schwartzberg, Business Leader, Russian.

Cristina Schwarz, Spanish Language TV Executive, Argentina/Austria/Chile/Croatia.
Irving J. Shulman, Business Leader, Russian.
Nathaniel L. Sillis, Business Leader, Lithuanian/Polish.
Sam Simonian, Business Leader, Lebanese/Armenian.
Louis H. Siracusano, Sr., Entrepreneur, Italian.
David S. Slackman, Business Leader, Polish.
Richard A. Smith, Business Leader, German/Dutch/English.
Salvatore F. Sodano, Business/Community Leader, Italian.
Taraneh Sohrab, Banker, Persian.
Harold A. Sorgenti, Business Leader, Italian.
Hon. Eliot Spitzer, NYS Attorney General, Austrian/French.
Robert G. Stanton, Conservation Leader, African.
Jerry Stiller, Polish.
Thomas C. Sullivan, Business Leader, Irish.
Dr. William A. Athens, Physician/Surgeon, Hellenic.
Sidney Taurel, Business Leader, Spanish.
W.R. Timken, Jr., Business Leader, German.
Joe Torre, New York Yankees Manager, Italian.
William Ungar, Business Leader, Polish.
Hon. Thomas Von Essen, NYC Fire Commissioner, German.
Michael Wach, Television Executive, Polish/Russian.
LaDane Williamson, Business Leader, English/Italian.
Gary Winnick, Global Financier/Philanthropist, Eastern European.
Barry Zorthian, Communications Consultant, Armenian.

HONORING SCOTT CHASE

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor a Good Samaritan named Scott Chase. Scott braved the freezing cold temperatures to save the life of an elder woman, who was involved in a tragic accident on January 17.

On that fateful Wednesday afternoon, longtime friends Shirley Maris and Mary Belle Hamm were meeting other friends for lunch at a popular restaurant in Southeast Denver. Ms. Maris parked in a space that appeared to be on a parking lot. In reality, she drove her car onto a 9-foot-deep pond that was covered with ice and 3 inches of snow. When the two women parked on the ice, their vehicle plunged into the water. Several onlookers witnessed this horrible incident. One of these witnesses was Scott Chase, who ran out of his company's boardroom and to the site where he saw Ms. Hamm in the vehicle's rear window. An employee from the restaurant broke the rear window with a propane tank and Scott dove into the water and rescued Ms. Hamm from the frigid water. Tragically, officers and rescue teams could not save Ms. Maris, who drowned after being trapped underwater for 20 minutes. However, Ms. Hamm was treated for hypothermia and released from the hospital.

Mr. Speaker, the entire state of Colorado was saddened by Shirley Maris' untimely death. But we were also encouraged by Scott Chase's heroic efforts. When I hear of such courageous acts, it gives me great hope for our nation because it reminds me of the deep wells of compassion that many people shelter in their hearts. So today, I honor Scott Chase, who did not flinch and who did not brag—he merely did what any Good Samaritan would do. Scott is a model citizen, and we all can learn from his example.

TRIBUTE TO DR. DAMON CASTILLO, JR., OUTGOING 2000 PRESIDENT, GREATER RIVERSIDE HISPANIC CHAMBER OF COMMERCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I am honored today to pay tribute to a man who has given time and time again to the children, parents and communities of Riverside, CA. An individual whose dedication and unselfish public service has made Riverside a better place to live and work. Dr. Damon Castillo, Jr. is one of these individuals and much, much more.

On January 20, 2001 Dr. Castillo was honored as the outgoing 2000 President of the Greater Riverside Hispanic Chamber of Commerce. In his capacity as President, Damon brought his belief that in partnership with the local businesses and the communities our schools can build a solid foundation of literacy knowledge permitting all students to succeed well into the next millennium.

Dr. Damon Castillo, Jr. has 29 years of experience in the field of education, including teaching, administration, personnel management and district superintendent. As Superintendent of the Alvord Unified School District in Riverside, a district serving almost 17,000 students, Damon oversaw the passage of a school bond in the amount of $57 million. That school bond measure, combined with state funds, allowed the Alvord Unified School District to receive a total of $100 million for modernization and growth needs. Additionally, during his position as superintendent, the district continuation school was recognized by the state as a "Model Continuation School." One elementary school was also recognized as a California Distinguished School—the first in the district's history.

Damon's history of involvement in the community have also included: Member of the Board of Directors of the United Way of the Inland Valleys, President-elect of the Arlington Rotary Club, Member of the Riverside City Council's Downtown Specific Plan Committee and as a member of my Hispanic Task Force. Recognitions have included the 1998 Inland Empire Hispanic Image Awards, 1998 Greater Riverside Hispanic Chamber of Commerce Community Service Award, 1999 Minority Male Award and the 1999 Presidential Citation for Educational leadership.

His outstanding work to promote Hispanic businesses, community organizations and students of the Inland Empire make me proud to call him a community member and fellow American. I know that all of the Inland Empire, including myself, are grateful for his contributions to the betterment of the community and salute Damon as the outgoing 2000 President. I look forward to continuing to work with him for the good of the Inland Empire in the future.

H.R. 134 WILL PROVIDE COMPENSATION FOR VETERANS EXPOSED TO RADIATION

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MINK of Hawaii. Mr. Speaker, on January 3, 2001, I introduced H.R. 134 to enable veterans exposed to radiation to be considered for medical assistance without regard to their particular level of exposure. The bill also expands the definition of radiation-risk activity to include veterans exposed to residual contamination.

The destroyer U.S.S. *Brush* entered the waters of the Kwajalein Atoll in the Marshall Islands, an area contaminated with radiation from a large number of ships that had served as targets during two atmospheric nuclear tests. Crew members of the U.S.S. *Brush* ate fish and drank water distilled from the bay and crew members made trips to the target vessels to retrieve souvenirs. There was no dosimetry data collected on the U.S.S. *Brush* or at the Kwajalein Atoll to determine levels of exposure. No safety precautions were taken to prevent exposure and the crew was unaware of the dangers of ionizing radiation.

Veterans who served on the U.S.S. *Brush* now suffer from a number of diseases that can be linked to radiation exposure. However, their disability claims have repeatedly been denied because they were not onsite participants in an atmospheric nuclear test and they were exposed to low levels of ionizing radiation.

Congress has assisted veterans exposed to radiation in the past. In 1988 Congress passed the Radiation-Exposed Veterans Compensation Act (Pub. L. 100–321). This law covered veterans which participated in a radiation risk activity. The law has three definitions of radiation risk activity. They include: Onsite participation in a nuclear detonation, occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945 and ending on July 1, 1946, and internment as a prisoner of war in Japan during WWII which resulted in the opportunity for exposure to ionizing radiation comparable to that of veterans occupying Hiroshima or Nagasaki. Clearly, this language does not cover those veterans exposed to radiation while in the service of their country.

VA claims that lab tests on these veterans show that levels of residual radiation are not sufficient to sustain their claims for disability. However, these dose levels were based on lab tests, not data collected on sight at the Kwajalein Atoll. This is important because Congress has previously concluded that determining the level of exposure, unless collected onsite, is a futile exercise. Disability claims must be considered without regard to whether any particular level of radiation was measured for that individual especially when exposure is not denied.

Congress must ensure that veterans exposed to ionizing radiation either on site or residually be eligible for benefits. Without H.R. 134 radiation-exposed veterans do not have a realistic chance of proving their disability claim. I urge my colleagues to support our veterans by co-sponsoring H.R. 134.

HONORING MR. SCOTT FLORES

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise to honor Scott Flores, the outgoing chairman of the Denver Hispanic Chamber of Commerce, who has made significant contributions to the Hispanic community and to Colorado as a whole.

The Denver Hispanic Chamber flourished under his leadership. It has been recognized not only as the Regional Hispanic Chamber of the Year for a nine-state region, but also as the leading large Hispanic Chamber of Commerce in the country, highlighting its important leadership role in the local and national Hispanic community.

During the past year, Scott Flores has been the individual most responsible for uniting the seven Hispanic Chambers throughout Colorado into a single Colorado Hispanic Chamber of Commerce Alliance. Although this alliance is still in the development phase, it has the potential to unite Colorado Hispanics economically and socially. This new organization could help strengthen existing businesses and establish new ones. Additionally, this new organization will likely be partnered with the United States Hispanic Chamber of Commerce, which could help to foster cultural unity and stimulate further achievements on the part of the Hispanic community in Colorado.

Mr. Speaker, I am proud to recognize Mr. Scott Flores for his efforts. I have no doubt that his work with the Denver Hispanic Chamber will continue to benefit our economy and improve American equality and social justice.

HONORING BILL NORTH, PRESIDENT, JURUPA VALLEY CHAMBER OF COMMERCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of California's Inland Empire and the nation is unparalleled. The Inland Empire has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Mr. Bill North is one of these individuals.

On January 27, 2001, Bill North was honored by the Jurupa Valley Chamber of Commerce during his installation dinner, not only for being the singular individual in the Chamber's history to serve three consecutive terms but also for his life-long service to the community and our country. In 1989, Bill and his wife, Debbie, joined the Chamber of Commerce as the owners of Eagle One Security. In those 12 years they have given time and time again, and are still at it.

Bill North's life is a testament to the founding principles of our great nation. One of twelve children born in Cawood, Kentucky, Bill grew up working in tobacco fields and on his family farm. At only seventeen he enlisted in the United States Army, training with the British Commandos to become an Airborne Ranger. As a soldier he fought in more than his share of battles, including: Normandy, the Battle of the Bulge, the Rhineland, Northern Europe and Central Europe Campaigns. His bravery and heroism earned him a Silver Star, five Bronze Stars, a Presidential Citation, two Purple Hearts and many other citations. The war not only introduced him to seemingly impossible challenges—such as when his outfit mistakenly parachuted behind enemy lines and landed in a concentration camp, engaging in heavy combat, and liberating the victims—but also afforded him the opportunity to share a meal with Winston Churchill and having General Patton remark to him, "You'll Make It Kid," while riding on the General's tank.

After the war, Bill's long and prosperous career included a stint in the steel mills of Detroit and government work in California, welding titanium heat shields for the first manned orbital space flight. However, it is his community involvement that has set Bill apart, including: fifty-seven years as a Shriner within the Masonic Order, the Elk & Moose, Junior Mechanics, Odd Fellows, Red Man and numerous others. These groups have allowed him to continue to express his care for humanity by delivering meals to those in need and visiting terminally ill children in the hospital. Bill is also a co-founder of the Concerned Citizens on Patrol and currently volunteers as a Social Investigator with the Riverside County Probation Department's Youth Accountability Board Program.

Bill North's incredible devotion to our nation and his outstanding work to promote the businesses, schools and community organizations of the Jurupa Valley Chamber of Commerce make me proud to call him a community member and fellow American. I know that all of the Inland Empire, including myself, are grateful for his contribution to the betterment of our community and salute Bill as he commences his fourth term (third consecutive term) as President of the Jurupa Valley Chamber of Commerce. I look forward to continuing to work with him for the good of the community well into the future.

A SALUTE TO JACK MCLAUGHLIN HONORING HIS YEARS OF SERVICE WITH THE BERKELEY UNIFIED SCHOOL DISTRICT

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. LEE. Mr. Speaker, I rise in honor today to salute Berkeley Unified School District's Superintendent, Jack McLaughlin, for his years of service to the school district and city of Berkeley.

Superintendent McLaughlin has thirty-seven years of service in California's public school system to his credit, with twenty-six of those years as a district superintendent throughout the state. Additionally, he has also served as a teacher, Principal and Assistant Superintendent. Dr. McLaughlin is leaving Berkeley Unified to become Nevada State's Superintendent of Public Instruction.

Dr. McLaughlin has made a positive and profound impact on the students and faculty of Berkeley during his six-year tenure as its Superintendent. These impacts include implementation of a full scale class size reduction, implementation of an Early Literacy Plan, creation of small school academies at Berkeley High School, conversion of the continuation school to an alternative high school, implementation of a rigorous promotion and retention policy, extension of the day program for additional academic student support, construction of five new school buildings, four magnet schools and one new elementary school, replacement of over half of the district's bus fleet with more energy efficient and low emission vehicles, implementation of a classroom technology program and creation of Healthy Start programs throughout the district to extend support for the school district's families and students.

While this list is just a fraction of his accomplishments in an active six-year tenure, it is no surprise that Dr. McLaughlin was named as California's Superintendent of the Year in 1999.

I proudly join his friends and colleagues in thanking and saluting him for his years of service and commitment to education and wishing him much success on his new career in Nevada. Thank you Jack.

PROTECTING THE MILITARY HEALTH CARE BENEFITS OF LONG-MARRIED MILITARY SPOUSES FOLLOWING DIVORCE

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MINK of Hawaii. Mr. Speaker, today I am introducing legislation extending eligibility to use the military health care system and commissary stores to un-remarried former spouses of a member of the uniformed services in certain circumstances. The legislation is identical to H.R. 475 which I introduced in the 106th Congress.

Current law provides health and commissary benefits to un-remarried former spouses who meet the 20/20/20 rule—those who were married to military personnel for at least 20 years, whose spouse served in the military for at least 20 years, and whose marriage and spouse's military service overlapped for 20 years.

A problem that frequently arises is that many members who retire upon attaining 20 years of service were married a year or two after entering active duty. The overlap of their service and marriage is just short of 20 years. Thus regardless of the subsequent length of marriage the spouse can never meet the criteria requiring the 20 year overlap.

The bill would eliminate this current inequity by extending to un-remarried former spouse's medical care and commissary benefits if the member performed at least 20 years of service which is creditable in determining the member's eligibility for retired pay and the former spouse was married to the member for a period of at least 17 years during those years of service.

This inequity affects not only individuals in my district, but spouses in every district across the Nation. Since the introduction of H.R. 475 last Congress, I have received letters and phone calls from Massachusetts, Idaho, California, Ohio, Arizona, Florida, Washington, Maryland, Kansas, and Utah.

The Department of Defense has stated that by providing a more liberal entitlement to these individuals, we would "tax" the Department's resources thus increasing the budgetary requirements. Well, I say it is worth it when I read about a woman from Arizona who was married to her husband for 36 years, but because she married him 1 year after his initial enlistment, she missed the 20-20-20 rule by 11 months. These stories are tragic, and we must correct this unfairness.

I urge my colleagues to join as cosponsors of this legislation.

TRIBUTE TO DONNA NIEHOUSE, OUTGOING PRESIDENT, LAKE ELSINORE VALLEY CHAMBER OF COMMERCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of Lake Elsinore is exceptional. Lake Elsinore has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Donna Niehouse is one of these individuals.

On January 20, 2001, Donna Niehouse was honored as the outgoing 1999–2000 President of the Lake Elsinore Chamber of Commerce. Donna's efforts over the past two years as President of the Lake Elsinore Chamber of Commerce led to the Chamber's financial stability through her sound judgement and leadership. Additionally, Lake Elsinore has seen the growth of the monthly Street Fairs and Cruise Nights held in the historic downtown Lake Elsinore—leading the Chamber's ability to turn over the operation of these events to the Downtown Merchants Association.

The leadership of Donna Niehouse has also led to the Economic Development Committee's returning to their original concept of monthly luncheons, now one of the most highly attended events in the community, and the establishment of the Chamber website. Donna has been instrumental in strengthening the bonds between the Chamber, City and business community.

Donna's work to promote the businesses, schools and community organizations of the City of Lake Elsinore make me proud to call her a community member and fellow American. I know that all of Lake Elsinore is grateful for her contribution to the betterment of the community and salute her as she departs the Lake Elsinore Valley Chamber of Commerce after two years of service. I look forward to continuing to work with her for the good of our community in the future.

PEACE AND QUIET OF THE PARKS NEED CONTINUED PROTECTION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UDALL of Colorado. Mr. Speaker, the new Administration is reviewing some of the actions of their predecessors. That is understandable and in some cases may be appropriate.

But I am concerned about reports that the review may lead to actions to delay or undo important recent initiatives to protect the public health and safety and the quality of our environment.

For example, the Forest Service recently completed development of new rules for the management of the remaining roadless areas in the national forests. They are sound, balanced rules to protect these areas that are so important for fish and wildlife, clean water, recreation, and other values. They should be allowed to stand.

Similarly, the National Park Service has acted to reduce the noise and other adverse effects on some parks for snowmobiles and aircraft. Here again, it would be a mistake to simply discard the work that has been done to respond to some very real problems.

As the Denver Post noted in a recent editorial, "the Park Service didn't react arbitrarily. The agency held extensive public hearings, conducted numerous scientific studies, and invited tens of thousands of written citizen comments. . . . The Park Service was responding to a public outcry, so the new policies in fact largely emerged from the grassroots. . . . Our beloved national parks must be preserved for future generations . . . the ban on loud, intrusive machines in these awe-inspiring wonderlands should remain."

Mr. Speaker, I agree, and for the benefit of our colleagues, I am submitting the full Denver Post editorial for inclusion in the RECORD.

[From the Denver Post, Jan. 23, 2001]

DON'T DISRUPT PARKS POLICY

President Bush should stand up to the narrow political interests who would wreck the tranquility of our national parks.

For years, visitors at Yellowstone and Grand Canyon National parks often complained about snowmobiles in Yellowstone, and airplane and helicopter flights over the Grand Canyon. Clearly, the National Park Service had to craft a new policy responding to numerous citizens infuriated by the noise, pollution, wildlife harrassment and inappropriate machine use. In Yellowstone, for instance, visitors couldn't even hear Old Faithful's great roar over the constant whine of hundreds of snowmobiles.

But the Park Service didn't react arbitrarily. The agency held extensive public hearings, conducted numerous scientific studies and invited tens of thousands of written citizen comments.

Based on that input, the Park Service imposed the bans on Grand Canyon aircraft flights and snowmobiles in Yellowstone.

However, some conservative Western politicians want President Bush to discard these thoughtful policies. In a Dec. 27 letter, U.S. Rep. Jim Hansen, a Utah Republican, told Bush he should overturn a host of Clinton administration public land policies. At the top of Hansen's promachine wish list: the ban on Grand Canyon aircraft flights and snowmobiles in Yellowstone and other national parks.

Hansen wrongly asserts that these policies were imposed top-down and would harm good stewardship of our public lands. Nothing could be further from the truth. In both the Yellowstone and Grand Canyon cases, the Park Service was responding to a public outcry, so the new policies in fact largely emerged from the grassroots.

Moreover, most people who visit either park don't use the machines. Instead, they walk, hike, ski, ride horses or mules, or take the family car, public transportation or, in Yellowstone, the quieter snow coach tours.

By contrast, of the 130,000 miles of snowmobile trails in the continental United States, only 670 miles are in the national parks. So Hansen's assertion that efforts to protect the parks' tranquility somehow restrict public access are just plain bizarre.

Our beloved national parks must be preserved for future generations, not sacrificed for short-term political gamesmanship.

Mr. President, as a Texan you know one of the greatest qualities about the West is the pockets of public land where it's still possible to find a little peace and quiet. Please don't ruin that irreplaceable experience at our national parks. The ban on loud, intrusive machines in these awe-inspiring wonderlands should remain.

A TRIBUTE IN MEMORY OF DR. BENJAMIN MAJOR, OAKLAND, CALIFORNIA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. LEE. Mr. Speaker, it is with a great sense of loss that I rise to pay tribute to Dr. Benjamin Major, a prominent Bay Area physician, who passed on January 4, 2001, in Kensington, California.

Dr. Major was a graduate of Fisk University and graduated from Meharry Medical College at the age of 21. After completing an internship and residency in Obstetrics and Gynecology at Homer G. Phillips Hospital in St. Louis, he served honorably as a Captain in the U.S. Air Force Medical Corp.

Dr. Major began his private practice in Oakland in 1953 and eventually opened The Arlington Medical Group in 1957.

Dr. Major was active in the community and the field of medicine locally, nationally and internationally. During his career, he was a consultant Obstetrician to the City of Nairobi and the Family Planning Association of Kenya through the World Health Organization, was a diplomat of the American Board of Obstetrics and Gynecology and a Fellow of the American College of Obstetrics and Gynecology.

He later received a Ford Foundation mid-career scholarship in 1969 and obtained a Masters of Public Health in Maternal Child Health and Family Planning from UC Berkeley in 1970.

Even though he retired from practice in 1987, he continued to serve as a consultant and instructor in family planning at several agencies and facilities throughout Northern California.

Additionally, Dr. Major served the community by being a member of several organizations. These organizations include the American College of Obstetrics and Gynecology, the National Medical Association, the California Medical Association, the Golden State Medical Association, the Sinkler-Miller Medical Association, the St. Luke's Society, the National Family Planning Council, the NAACP, and the Sigma Pi Phi Fraternity.

Dr. Major's contributions throughout the world and at home will remain his lasting legacy. My thoughts and prayers are with his family, friends, patients and colleagues this day.

COMPENSATION FOR VETS DISABLED WHILE IN VA CARE

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to introduce an important piece of legislation to allow veterans disabled by treatment or vocational rehabilitation to receive compensation from the day they were disabled while under VA care.

The occurrence of medical malpractice in which veterans are disabled while under Veterans Affairs' care is rare compared with the total number of veterans served every year. In 1997, the last year in which data was available, there were 826,846 inpatients treated and 32,640,000 outpatient visits at VA medical centers at a cost of $17.149 billion. There are 173 VA medical centers, more than 391 outpatient and outreach clinics, 131 nursing home care units and 39 domiciliaries.

Without this network of government run VA hospitals, clinics and nursing care units, many veterans would never receive the care available to them. However, it is clear that the care provided is not always of the highest quality. Worse than inadequate care are the instances in which veterans receive care that leaves them further disabled.

Since 1990, 9,597 administrative malpractice claims were filed by veterans with VA and 2,134 were settled. The total amount paid in claims settled was nearly $1.73 million. During the same time period, 2,064 veterans filed court claims against VA. 626 of these court claims were dismissed, the U.S. won 272, and plaintiffs won 129 court claims for a total of $65,858,110. The VA settled 1,315 VA cases out of court by VA, in the amount of $253,464,632.

In 1958 Congress established section 1151 of title 38, United States Code, Benefits for Persons Disabled by Treatment or Vocational Rehabilitation. Along with section 1151, section 5110 of the same title established the effective date of an award for disability incurred during treatment or vocational rehabilitation. These two sections ensured that veterans disabled by their treatment received compensation. This was the fair and right thing to do.

A close review of these sections reveals an inconsistency. While the United States Code allowed compensation for veterans disabled by treatment or vocational rehabilitation, it established an arbitrary cut off date of one year to deny individuals full compensation. Individuals who are unable or not aware of this arbitrary application date for medical malpractice claims should not be denied full compensation for administrative reasons. Statutes of limitations like this are important for preserving the rights of individuals but the VA should be held to a different standard.

Veterans who prove that they were disabled while under the care of Veterans Affairs should be compensated from the day of their injury regardless of their date of application. This bill will repeal United States Code section 5110 which allows Veterans Affairs to avoid its responsibility to veterans it disables during treatment or vocational rehabilitation. The bill also allows veterans who did not receive full and fair compensation from the date of their injury to receive this compensation upon enactment of this bill.

I urge my colleagues to end this unfair practice by cosponsoring this bill.

TRIBUTE TO ROBERT ROBIE, OUTGOING CHAIRMAN, INLAND EMPIRE ECONOMIC PARTNERSHIP

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of California's Inland Empire is unparalleled. The Inland Empire has been fortunate to have dynamic and dedicated business community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Mr. Robert Robie is one of these individuals.

On January 20, 2001, Robert Robie was honored as the outgoing 2000 Chairman of the Inland Empire Economic Partnership (IEEP). Through Mr. Robie's efforts over the past year at the IEEP the Inland Empire has seen: The creation of 1,360 jobs and retention of 390 jobs, which resulted in a $133,039,011 financial investment into the local communities; the implementation of "CallPoint," a one-stop workforce recruiting program that helps employers find and train qualified workers; the implementation of a new Bio-Tech/High-Tech program, which supports the high technology industry; the development of a Tourism Brochure and a Regional Visitor's Guide; the issuance of 306 film permits that resulted in 993 film related projects in the Inland Empire; the addition of twenty-six IEEP members; and the development of an Inland Empire supplement to the May 2001 Forbes Magazine U.S. and Global Issues edition.

As IEEP's 2000 Chairman, Robert brought his 38 years in the banking industry to the table for the Inland Empire. He is currently the Executive Vice President and Chief Credit Officer for the Bank of Hemet in Riverside, Chairman of the Directors' Loan Committee, Director of the Banklink Corporation, Director of the Hemet Service Corporation and Director of Florida Avenue Investment, Inc. Robert Robie's contributions to the nation's positive perception of the Inland Empire as a viable business location has been sizeable.

Robert's activities in the community also include being on the board of the Greater Riverside Chambers of Commerce, the Children's Fund of San Bernardino County Children's Network, and the Riverside Community Hospital Foundation. Additionally, he was the 2000 Chairman of the Executive 2000 Council of the Riverside County Community Hospital Foundation.

His outstanding work to promote the businesses, schools and community organizations of the Inland Empire make me proud to call him a community member and fellow American. I know that all of the Inland Empire, including myself, are grateful for his contribution to the betterment of our community and salute Robert as IEEP's outgoing 2000 Chairman. I look forward to continuing to work with him for the good of our community in the future.

IN MEMORY OF HENRY B. GONZALEZ

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UDALL of Colorado. Mr. Speaker, last November I heard with great regret of the death of the father of our colleague from Texas, Representative GONZALEZ. And I listened with great interest to the remarks of the many Members who spoke about their memories of the days when our colleague's father had served here in the House of Representatives.

The accomplishments, the character, the leadership of Henry B. Gonzalez are also well known to many Coloradans—as is shown by a column, entitled, "America Lost a Visionary Leader in Henry B." in a recent edition of the Colorado Daily, a newspaper published in Boulder, Colorado.

For the benefit of our colleagues, I am submitting a copy of that column, for inclusion in the RECORD.

[From the Colorado Daily, Jan. 19, 2001]

AMERICA LOST A VISIONARY LEADER IN HENRY B.

(By Yolanda Chavez Leyva)

Henry B. Gonzalez, 84 died on Nov. 28 in a San Antonio hospital.

Henry B., as he was affectionately known, was a fierce fighter for the poor. Throughout almost half a century of public service, he dedicated himself to civil rights and social justice.

Gonzalez, who served 37 years in the House of Representatives before retiring in 1998, was the first Mexican American from Texas elected to that position. Although he stated that his politics were not shaped by his ethnicity, his championing of issues such as voting rights and economic opportunity made him a hero to many Mexican Americans.

His career helped open the door to other Mexican-American politicians. According to political scientist Rodolfo Rosales, Gonzalez' election was "a cornerstone" in the creation of a middle-class Mexican-American leadership.

Gonzalez was known for his controversial stands. He was willing to take on Republicans and members of his own Democratic Party to defend his principles. He advocated the impeachment of Presidents Reagan and Bush for the 1983 invasion of Grenada and the Iran-Contra scandal, respectively. He also investigated their friendly dealings with Iraq and Saddam Hussien prior to the 1990 invasion of Kuwait.

During his tenure on the powerful House Banking Committee, he led the investigation into the savings and loan scandals of the 1980s, which implicated five Democratic senators. In 1993, he was one of two Mexican-American representatives who voted against NAFTA. The other one was Rep. Matthew Martinez, D-Calif.

Over the years, Henry B. survived many challenges to his political leadership. His political astuteness was unquestioned, his charisma obvious.

As significant as his individual achievements were, however, it is important to understand the community from which Henry B. emerged. Gonzalez was as much a product of the Mexican-American community's dream of justice as a champion of its cause.

Henry B. was born in 1916 to immigrant Mexican parents. He graduated from St. Mary's Law School in 1943. After working as a probation officer and deputy director of the Bexar County Housing Authority, he was elected to the San Antonio City Council in 1953 as a result of a grassroots campaign.

Henry B. came of age in a Texas that regarded Mexican Americans as second-class citizens. Texas Rangers and other law-enforcement agencies kept Mexican Americans "in line" through intimidation and violence. The Southern legacy of segregation was still thriving, although both African Americans and Mexican Americans continually challenged the status quo. The poll tax worked to keep the poor from participating in the political process. Education was but a dream to many. In 1950, only one in 10 Mexican Americans graduated from high school in Texas. Less than one in 100 finished college, according to historian Rodolfo Acuna. Poverty and racism had closed the school door to the majority of Mexican-American children.

In San Antonio, where Henry B. grew up, the streets of the barrios remained unpaved. Health care for the poor was negligible. Tuberculosis and other diseases were rampant.

Despite the poverty and second-class citizenship, a dream of justice lived. In the 1930s, thousands of Mexican-American workers took to the San Antonio streets demanding better working conditions.

In the 1940s and '50s, Mexican Americans used the Texas courts to demand equality. In the 1948 Delgado vs. Bastrop Independent School District case, the court ruled that the segregation of Mexican-American children in schools violated the 14th Amendment. In the 1954 case of Hernandez vs. The State of Texas, the court ruled that qualified Mexican Americans could not be excluded from juries.

Gonzalez built on these victories. Following election of the state Senate in 1956, he opposed efforts by other Texas legislators to maintain segregated schools. When legislators introduced bills to withhold. funds from integrated schools following the 1954 Brown vs. Board of Education decision, Gonzalez responded with a now-famous filibuster.

Henry B. was often called "a man of the people," and his defense of the common folk is well-known. He was, however, also a man who emerged from the people with a dream: a dream of social justice and equality.

A SALUTE TO MARY KING HONORING HER YEARS OF SERVICE AS AN ALAMEDA COUNTY SUPERVISOR

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. LEE. Mr. Speaker, I rise in honor today to salute Mary King for her years of service to the citizens of Alameda County and in honor of her retirement as a member of the Alameda County Board of Supervisors.

Mary King served three terms on the Alameda County Board of Supervisors and was the first African-American woman to serve on this governing body. Prior to joining the Board of Supervisors, King was an Independent Consultant to the Board managing the ground operation for the County's sales tax initiative campaign—Measure B. Previously, she served as an Assistant to Oakland's City Manager, Henry Gardner, Chief of Staff to Oakland Mayor Lionel Wilson, and was an aide and later Chief of Staff to California State Legislator Bill Lockyer, California's current Attorney General.

During her tenure as a county Supervisor, Mary King served on a diverse and impressive array of boards and commissions. These bodies include California Attorney General's Commission on Hate Crimes, Association of Bay Area Governments, Bay Area Air Quality Management District, Alameda County Transportation Authority, Public Protection Committee, Metropolitan Transportation Commission (MTC), Joint Powers Authority of the Network Associates Coliseum (formerly the Alameda County-Oakland Coliseum), the MTC's Bay Bridge Task Force, San Francisco Bay Conservation and Development Commission, Alameda County Democratic Central Committee, Democratic National Platform Committee, and the Center for Ethics and Social Policy of the Graduate Theological Union at UC Berkeley.

In addition, during her tenure as Supervisor, Mary King worked to save health care services for residents by creating a hospital authority model, implemented the Model Neighborhood Program, and developed a major land use approach to the County General Plan. I proudly join her many friends and colleagues in thanking and saluting Mary King for her years of service to the community and her commitment to bettering the lives of the citizens she served. Thank you Mary.

SOFT MONEY BAN

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise to introduce a bill that would prohibit the use of soft money to influence any campaign for election to federal office.

Since 1907, it has been illegal for corporations to donate money for campaigns for federal office. Since 1947, labor unions have not been allowed to donate money directly for campaigns. Finally, since 1974, individuals have not been allowed to contribute more than $1,000 to a federal candidate.

Soft money emerged as a vehicle to get around these campaign finance laws. Political parties now receive unlimited contributions by corporations, labor unions, and wealthy individuals. Huge amounts of soft money have invaded our political system. My bill places the same limits on the contributions to the National Parties as is currently in effect for contributions made to all candidates for federal office. We should ban soft money this year and restore the people's faith in our political process.

RECOGNIZING LOIS B. KRIEGER FOR 25 YEARS OF SERVICE—WESTERN MUNICIPAL WATER DISTRICT'S REPRESENTATIVE ON THE METROPOLITAN WATER DISTRICT BOARD OF DIRECTORS

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I take to the floor today to recognize the outstanding career of Lois Krieger, who retired after 25 years as Western Municipal Water District's representative on the Metropolitan Water District Board of Directors on January 1. Throughout the towns and cities across our nation, there are individuals who are willing to step forward to dedicate their talents and energies to make life better for their friends and neighbors. The citizens of Riverside, CA, are fortunate to have had such an individual in Lois.

Lois began her career in 1976, when she was appointed to succeed her father, Howard Boylan. At that time Lois Krieger already possessed a deep understanding and dedication to the region's complex water affairs from her years traveling with her father to public utility hearings and water affairs meetings. It was precisely Lois' commitment to these issues that spurred her election as the first woman, in the district's 60-year history, to chair the Metropolitan Water District (MWD) Board, serving from 1989 to 1993.

MWD imports water from the Colorado River and northern California, to supplement the local supplies within southern California, and provides it safely and reliably to the public. Western Municipal Water District is one of the 27 member agencies to make up MWD and provides water, waste water disposal and water resources management to the communities within a 510 square mile area of western Riverside County.

In addition to her work on the MWD's Board of Directors, Lois also served as the first woman president of the Association of California Water Agencies (ACWA), a California statewide association of 435 public water agencies responsible for the delivery of most of the water in the state. In that capacity, Krieger considers Water for All Californians, the governing policy of ACWA, as her chief accomplishment while President. Additionally, Lois has served as: a member on boards of directors of the Water Education Foundation, the California Water Resources Association, the Colorado River Resources Coalition; a western delegate to the municipal caucus of the National Water Resources Association; and a member of the University of California at Riverside Chancellor's agricultural advisory council and Women's Hall of Fame.

Lois Krieger's leadership has led to numerous awards and recognitions. The highlights include: the Los Angeles YWCA's Silver Achievement Award for public service in 1990; the Riverside YMCA's Women in Achievement Award for public and community service in 1990; and the U.S. Bureau of Reclamation's Citizen Award for her commitment to the needs of the water community in 1993.

Mr. Speaker, Lois' work to preserve and strengthen southern California's water resources has been critical to the future viability of our communities, region and state. I know that all of the Inland Empire is grateful for her contributions to the betterment of the community and salute Lois as she retires from the Municipal Water District's Board of Directors. I look forward to continuing to work with her for the good of the Inland Empire and southern California in the future.

HONORING MARTIN LUTHER KING, JR.

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor Dr. Martin Luther King, Jr.

America is a country of many faces and we take pride in our nation's diversity. America is known as the "great melting pot" because it has welcomed many people from all over the world to share in living the American dream. Unfortunately, reality is often different than the dream for many Americans.

The reality has often been ugly. Segregation was a blight on our nation that deprived millions of people equality in this country and was often used as a tool to oppress people and keep them from living up to their full potential. The system kept many people in the shackles of poverty. America needed a bold leader who, despite hardships and violent attacks, would continue to fight for justice.

In 1955 frustration at the system of segregation boiled over in Montgomery, Alabama when Rosa Parks refused to give up her seat on a city bus to a white passenger. She was consequentially arrested. Her act sparked a citywide boycott of the bus system by African-Americans that lasted more than a year. The boycott elevated an unknown clergyman named Martin Luther King, Jr., to national prominence and resulted in the end to segregation on city buses. Dr. King continued to promote peaceful protest and inspired a generation of Americans to work to end segregation and to fight for equality. His dedication to the cause of ending a broken system and bringing America's reality closer to the dream won him the Nobel Peace Prize and empowered many Americans.

But his work is not done. Barriers to racial equality must still be torn down and many hearts still need to be healed. We cannot let Martin Luther King's work go unfinished; we have not reached the mountaintop yet. Even today, ethnic minorities, women, gays and lesbians, the disabled and others are often treated as if they are second class citizens. This must not stand. There is no reason why our nation, which prides itself in being the home of the free, should continue to treat people unequally. It is time to make the dream fully real. We must challenge ourselves to reach across divides and embrace and celebrate our nation's diversity. We as a country and as a people will be stronger because of it.

CONGRESSWOMAN BARBARA LEE PAYS TRIBUTE TO WOMEN FROM UGANDA AND THE UNITED STATES AS THEY GATHER TOGETHER TO CELEBRATE "CALLING THE CIRCLE FOR THE NEW MILLENNIUM"

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Ms. LEE. Mr. Speaker, I rise today to pay special tribute to a group of extraordinary women leaders from Uganda, who, as part of a globally-focused program entitled CALLING THE CIRCLE, are currently on a 12-day visit to the great state of California.

These women leaders, who come from various regions of Uganda, represent two of the largest Ugandan NGOs that are focused on women's issues and leadership building: Action for Women in Development (or ACFODE) and the Forum for Women in Democracy (or FOWODE). In collaboration with ACFODE and FOWODE and other community organizations in Uganda, the Women's Intercultural Network, a Northern California-based NGO, is CALLING THE CIRCLE between women of Uganda and the U.S. to strengthen democratic values throughout civil society. The goal of this collaboration is to develop mechanisms and models for joint advocacy, leadership development, and democracy building across cultural and digital divides. Their vision is to build a "virtual grassroots network" between Ugandan and U.S. women for on-going discussion, information exchange, and worldwide collaboration.

There are already some important highlights from this trip, not the least of which was a welcome tea that was hosted by the Japanese Consul-General at his official residence. At this truly multi-cultural and international gathering, the women from Uganda were able to meet and talk with Japanese and Japanese-American women who represented a wide range of organizations, professions, and experiences. Consul-General Tanaka, gave a gracious welcome to the women and expressed his country's commitment and interest in the continent of Africa. Along with Mr. Tanaka's welcome, Mayor Willie L. Brown, Jr., of San Francisco, proclaimed Sunday, January 21 as "Uganda Women's Day" in the city and county of San Francisco.

Furthermore, while here in the United States, the Uganda women will join their American sisters at issue forums, roundtable meetings and social gatherings to discuss and deliberate on issues that impact women across the globe. Some of these topics included health, mentoring women for leadership, democracy building, as well as economic and environmental justice.

In closing Mr. Speaker, let me say how proud I am that one of the Bay Area's own NGOs, the Women's Intercultural Network, has been the force behind this global effort to link grassroots women leaders and organizations across digital and cultural divides. We often think of the Bay Area and Silicon Valley as the world's leader in producing technology, but now we must also recognize that the Bay Area is playing an important role in producing the next generation of women leaders throughout the world.

HONORING THE 75TH ANNIVERSARY OF THE POLISH AMERICAN RADIO PROGRAM OF PHILADELPHIA

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. BORSKI. Mr. Speaker, today I recognize an important milestone honoring a valuable service to the Polish American community in Philadelphia, PA and its surrounding region. This year marks the 75th anniversary of the Polish American Radio Program of the Philadelphia area. This radio broadcast has served as an invaluable communication tool for the Polish American community. It serves as an important medium in which to share common views and ethnic pride.

The first broadcast took place in April 1925 on Broad Street in Philadelphia on 860 AM Radio. Since that time there have been many daily and weekly hosts of the program who offered various types of entertainment to Polonia. Many in Philadelphia remember the long time daily radio program host Theodore

Przybyla, who passed away in 1982 at the time martial law was imposed in Poland and the Solidarity Union was crushed.

Following Mr. Przybyla's death, Michael Blichasz and Barbara Ilnicka worked tirelessly with radio management at WTEL 860 AM Radio to maintain the daily radio program. They gathered the support and hard work of the Polish religious community, the Polish American organizations, fraternal organizations, veterans groups, local businesses and individual supporters who recognized the valuable service provided to the Polish American community. After 72 years of programming at WTEL 860 AM, a programming change shifted broadcast of the Polish American Radio program to its current home on station WNWR 1540 AM, where it proudly serves as the only Polish American broadcast program heard 7 days a week.

The program can also be heard live over the Internet during regular broadcast times at www.WNWR.COM.

Sustaining a radio program for 75 years is a wonderful achievement marked by strong dedication to purpose. Longtime hosts Michael Blichasz and Barbara Ilnicka, are to be commended for their expertise in hosting a radio program that fulfills its mission to inform, unite, entertain and present news and information about activities taking place in the Polish American community and in Poland.

Mr. Speaker, as a Polish American, I too have felt personal pride in the struggles of Poles who have fought oppression and witnessed democracy return to their native land. For the thousands of Polish Americans who live in Philadelphia, this Polish American broadcast has been a wonderful resource to follow developments in the homeland and share in the ethnic pride of strong people who fought communism and won.

Mr. Speaker, I am proud to recognize the Polish American Radio Program of Philadelphia for its 75 years of outstanding service to the community.

LEGISLATION REGARDING THE DIRECTOR OF THE INDIAN HEALTH SERVICE

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. NETHERCUTT. Mr. Speaker, I am pleased to introduce legislation today with the gentleman from Michigan (Mr. KILDEE) and the gentleman from Arizona (Mr. HAYWORTH) to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services. Companion legislation is also being introduced today in the other body by the gentleman from Arizona (Mr. McCAIN).

The Indian Health Service (IHS) is the lead agency in providing health care to the more than 550 Indian tribes in the United States. Services ranging from facility construction to pediatrics assist approximately 1.3 million American Indians and Alaska Natives each year. The IHS currently falls under the authority of the Public Health Service within the Department of Health and Human Services (HHS). The IHS Director is the top administration official charged with carrying out the federal trust responsibility for IHS, but he does not report to the HHS Secretary.

Designating the IHS Director as an Assistant Secretary of Indian Health would afford IHS a stronger advocacy function within HHS, and allow for increased representation during the budget process. Currently the ability of the IHS to affect budgetary policy is limited, in part by the Director's inability to directly participate in budget negotiations. It is also important to note than an Assistant Secretary leads the Bureau of Indian Affairs (BIA) although the IHS budget exceeds that of BIA.

This legislation has the strong support of the American Indian and Alaska Native community. I urge my colleagues to cosponsor this bill.

TRIBUTE TO JOHN DENVER, OUTGOING PRESIDENT, PERRIS VALLEY CHAMBER OF COMMERCE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication to the community and to the overall well-being of the City of Perris is exceptional. The City of Perris has been fortunate to have dynamic and dedicated business and community leaders who willingly and unselfishly give time and talent to make their communities a better place to live and work. John Denver is one of these individuals.

On January 26, 2001, John Denver was honored as the outgoing 1999–2000 President of the Perris Valley Chamber of Commerce. Most significantly, John's leadership over the past two years as President of the Perris Valley Chamber of Commerce led to tremendous strides in reunifying the Chamber. Additionally, Mr. Denver put enumerable hours into the Perris community's re-development, Student of the Month and Wake Up Perris programs.

John Denver's dedication to promoting the businesses, schools and community organizations of the Perris Valley make me proud to call him a community member and fellow American. I know that all of Perris Valley are grateful for his contribution to the betterment of the community and salute him as he departs the Perris Valley Chamber of Commerce after two years of service. I look forward to continuing to work with him for the good of our community in the future.

REVIEW BY CONGRESS OF PROPOSED CONSTRUCTION OF COURT FACILITIES, H.R. 254

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. GILMAN. Mr. Speaker, today I am introducing legislation to provide for the review by Congress of proposed construction of court facilities.

I am introducing this measure in response to my frustrating experience with a proposed Federal courthouse project for Orange County, New York.

In April of this year, the Judicial Council of the Second Circuit voted to rescind its prior 1992 approval for construction of a Federal courthouse in Orange County, New York.

This project began in 1991, when then chief judge of the U.S. District Court of the Southern District of New York, the Honorable Charles L. Brient, requested the Board of Judges to study future planning for court facilities west of the Hudson River. Subsequently, in June 1992, the Board of Judges of the Southern District found that there was a need for a courthouse to meet the growing demands in the mid-Hudson valley region of New York, and voted unanimously to authorize the chief judge to apply to the Judicial Council of the Second Circuit for approval of a Federal district courthouse west of the Hudson.

Following approval of the Judicial Council of the Second Circuit on July 28, 1992, the matter was referred to the Court Administration and Case Management Committee of the Judicial Conference of the United States. The committee reported favorably and voted unanimously in a March 1993 session of the Judicial Conference of the United States to "seek legislation on the court's behalf to amend title 28 of the U.S. Code, section 112(B) to establish a place for holding court in the Middletown/Wallkill Area of Orange County or such nearby location as may be deemed appropriate."

Accordingly, during the 104th Congress, Public Law 104–317 was approved designating that "Court for the Southern District shall be held at New York, White Plains, and in Middletown-Wallkill area of Orange County or such nearby location as may be appropriate."

In an attempt to proceed forward in an expeditious manner the Administrative Office of the Courts and the U.S. General Services Administration, both concurring with the need for a courthouse in Orange County, determined that a facility could and should be constructed and paid through GSA's current funding.

This project had and still has clear evidence denoting the growth population and economic activity in Dutchess, Orange, and Sullivan Counties in New York State, as well as steady increases in caseload from the Mid-Hudson Valley Region. In fact, current statistics suggests that the need is even greater now than previously ascertained by Congress in 1996. The number of cases in 1999 that could have gone to an Orange County Courthouse, based on the location of the litigants or the attorney's residence, increased to 312, up from 290 in 1996. Moreover, the population for the region has increased to 671,767, up from 656,740 in 1996 and the total labor force has risen to 309,100, up from 301,800 in 1996.

Furthermore, it should be noted that while Congress may have acquiesced in the closure of some courthouses which have become redundant, based on considerations of economy and efficiency, I know of no situation where a court has refused to provide judicial services at a location designated by statute, where both the need exists and there is strong local support for the service. Such was and still is clearly the case with regard to the Orange County courthouse project.

Accordingly, while it is now current practice, as denoted by title 28 of the U.S. Code, for the U.S. Administrative Office of the Courts and the GSA to develop a rolling five year plan denoting the need for courthouse construction, I believe it is important for Congress to have a say in this important matter.

The legislation which I am introducing today will require the Director of the Administrative Office of the United States Courts to submit for approval to the Congress a report setting forth the court's plans for proposed construction. Thereafter, Congress will have 30 legislative days to disapprove of the proposed construction.

It has become apparent to me after the experience I have had with both the Board of Judges of the Southern District and the Judicial Council of the Second Circuit that an imperialistic attitude among many of our Federal judges prevail.

The decision as to whether or not to move forward with construction of a court facility is no longer being based upon existing evidence and data attesting to need, but instead on the personal thoughts of the judges involved.

This legislation will end that practice by enabling Congress to properly assert its role in the construction of needed new courts.

Mr. Speaker, I submit a full copy of the text of H.R. 254 to be included at this point in the RECORD:

H.R. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL REVIEW OF NEW CONSTRUCTION FOR FEDERAL COURTS.

(a) IN GENERAL.—Section 462 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Facilities for holding court may not be constructed unless—

"(A) the Director of the Administrative Office of the United States Courts submits to the Congress a report setting forth the plans for the proposed construction; and

"(B) 30 days have elapsed and the Congress has not, before the end of that 30-day period, enacted a provision of law stating in substance that the Congress disapproved the proposed construction.

"(2) For purposes of paragraph (1), construction of facilities includes the alteration, improvement, remodeling, reconstruction, or enlargement of any building for purposes of holding court.

"(3) The 30-day period referred to in paragraph (1) shall be computed by excluding—

"(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session."

(b) CONFORMING AMENDMENTS.—Section 462 of title 28, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", and subject to subsection (g)";

(2) in subsection (c), by inserting before the period at the end the following: ", and subject to subsection (g)"; and

(3) in subsection (f), by inserting "subject to subsection (g)," after "Director requests,".

SUPPORT FOR FAITH-BASED AND COMMUNITY INITIATIVES

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. HALL of Ohio. Mr. Speaker, today I praise President George W. Bush's proposal to assist faith-based and community organizations as a promising way of encouraging them to help battle hunger, poverty, and other social ills. I was pleased to meet with the President today at the Fishing School as he announced the legislative initiative of his proposal.

Faith has been a defining characteristic of our communities' life throughout our nation's history, and people who serve God by serving those in need remain one of America's greatest strengths. This initiative will draw on these traditions and bring them to bear on some of our most difficult social problems. It also will leverage private funds and give a wider circle of donors a stake in the success of these projects.

I am particularly encouraged that this initiative will give some well-deserved support to the legions of people trying to end poverty in our prosperous nation, and I hope it will extend to those working in faith-based organizations that fight hunger. In recent years, growing numbers of hungry people have been turning to food pantries and soup kitchens for help each month. Nationwide, requests for help were up 18 percent nationwide, and three in five came from families with children. More than 70 percent of these pantries and kitchens are operated by faith-based organizations that work hard to collect donations—but have not been able to keep their shelves stocked. These are creative and resourceful projects whose dedicated employees and volunteers deserve support.

To those who worry that we are in uncharted territory, I would point out the work American charities do overseas, coping with this month's terrible earthquakes in India and El Salvador, easing famine in Africa, Asia, and Latin America, and promoting development around the world. Many of these organizations are closely affiliated with religious groups; many of their projects grew from missionary roots. This work leverages private funds and achieves results that often last generations.

To those who charge this initiative will open the door to taxpayer-funded religion, I would say that every faith tradition emphasizes helping the poor. The Bible, for example, contains some 2,500 verses about caring for those in need. The 'Golden Rule' is echoed in all religions' teachings, and is something virtually all can agree upon. This initiative's focus on results will ensure that Constitutional safeguards—both of religious freedom and for taxpayers—remain in place.

This is a common-sense approach that deals with the challenges many Americans face head on. It deserves a chance, and I commend President Bush for giving it one.

I also submit for the RECORD a piece that my good friend Jim Wallis recently wrote for the Washington Post. As editor of Sojourners magazine and convener of the Call to Renewal, he has been actively involved in having the faith community address problems like poverty and racism for decades.

[From the Washington Post, January 8, 2001]

A CHURCH-STATE PRIORITY

When the phone call came from Austin, I was surprised. Just two days after his election was secured, President-elect Bush wanted a meeting with religious leaders to discuss faith-based initiatives in solving poverty. He was reaching well beyond his base of conservative evangelicals; would I come and suggest others who should be invited?

The subject was already on my mind. The U.S. Conference of Mayors just had released its annual survey on hunger and homelessness in U.S. cities. In the past year, it showed, requests for emergency food increased by 17 percent. Two-thirds of the people requesting assistance were members of families, and 32 percent of the adults requesting food were employed.

Demand for emergency shelter increased 15 percent, and of those 36 percent were families with children. Thirteen percent of the requests for food and nearly one-quarter of the requests for housing went unmet because of lack of resources.

The leading causes of these increases? Low-paying jobs, lack of affordable housing, unemployment or other employment-related issues, and poverty or lack of income. Just before the holidays, Catholic Charities also released its annual report showing a "startling" 22 percent increase in the use of its emergency services of shelter, clothing, food and medicine.

The latest U.S. Census poverty statistics report that despite this time of record prosperity, one in every six American children is poor; one in three children of color. No other developed country has anything approaching U.S. child poverty rates.

So it seemed appropriate, just a few days before Christmas, to be in a Sunday school classroom in Austin's First Baptist Church with a diverse group of religious leaders, having a conversation with George W. Bush The president-elect listened and asked questions for more than an hour, then stayed to mingle and talk to us individually. He believes in faith-based organizations and the important role they can play in solving social problems, and he wants to make support for such efforts an important part of his administration.

He asked us how to speak to the nation's soul. We suggested starting with our children, who embody our best hopes and reveal our worst failures as a society. I thanked him for being willing to include people in the meeting who hadn't supported his election and pledged to work with him if he chose to do something significant to reduce child poverty. We suggested that Bush use his inaugural address to call the nation to cut the child poverty rate by half in five years; a task that would require both political will and creativity.

We said that ideological warfare had allowed too many children to fall between the cracks of our faulty political discourse; liberal and conservative false choices about whether family values or living family incomes are more central to the causes and cures for poverty. I noted that churches across a broad spectrum are finding remarkable unity on these issues, and maybe it was time to try it on a political level. Evangelical and liberal, Catholic and Protestant, black and white church leaders have been motivated by prosperity's contradictictions and united by the biblical imperatives of compassion and justice. Around the country, faith-based initiatives to overcome poverty show remarkable progress. But the president-elect needs to send an early signal about poor children and families being high on his agenda.

Bush asked theological questions such as, "What is justice?" That is a key question, especially amid fears that an emphasis on faith-based initiatives will be used to substitute for governmental responsibilities. We told him that in forging new partnerships to reduce poverty, the religious community will not only be service providers but prophetic interrogators. Our vocation is to ask why people are poor, and not just to care for the forgotten. Shelters and food banks aren't enough. We need solutions to the many problems of poverty, a pragmatic approach that produces results.

Could our divided political leaders rally around the moral cause of using our prosperity to finally address this nation's shamefully high poverty levels, especially among children? Could this divided nation find common ground if politicians would collaborate across old barriers, as religious leaders have begun to do?

Since neither party has succeeded in breaking the grip of persistent poverty, isn't a bipartisan effort called for? Republicans preaching compassionate conservatism and family values, Democrats fighting for poor working families and a religious community ready to lead by example; these forces could do something significant about poverty.

It is an encouraging sign that the president-elect is reaching out to begin discussions with leaders of faith-based initiatives. "I hope you surprise us," I told him afterward. We'll see; for now, the ball is in both our courts.

INTRODUCTION OF A CONSTITUTIONAL AMENDMENT PROVIDING FOR THE DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. DELAHUNT. Mr. Speaker, I am today introducing legislation to abolish the electoral college and provide for the direct popular election of the President and Vice President of the United States.

Until our recent national crash course in the federal election process, most Americans saw the Electoral College as a harmless anachronism. But 10 days ago, for the first time in over a century, the nation watched as the oath of office was administered to an elected president who failed to secure a plurality of the votes cast. The Constitution is clear, and I do not question the lawfulness or legitimacy of electing a president under these circumstances. Indeed, I join all patriotic citizens in wishing our new president well. But we must also ask—as many of my constituents have—whether an electoral system that negates the votes of half a million citizens is compatible with democratic values. This is not a partisan question. Indeed, I first raised it on the eve of the election, when it looked as though the shoe might be on the other foot—when many were predicting that the candidate of my own party might prevail with a minority of the popular vote. And the answer to that question is far more important than the political fortunes of any one candidate or party.

The Electoral College presents a troubling contradiction for our democracy in at least two respects. First, and most obviously, it cannot be squared with the principle of majority rule. To award the presidency to the loser of the popular vote undermines respect for the system and compromises the new president's mandate to govern.

Second, the Electoral College is inconsistent with the principle of "one person, one vote". This is because the system by which electors are assigned gives disproportionate weight to less populous states. Massachusetts has one electoral vote for every 500,000 people, while Wyoming has one for every 160,000. In other words, a vote cast in Wyoming counts three times as much as a vote cast in Massachusetts.

Some defend the Electoral College because it carries the weight of constitutional authority. I agree that the Constitution should be amended only rarely and with great care. But the system designed by the framers for electing the president has already been amended, by the 12th and 22nd Amendments. And until ratification of the 17th Amendment in 1913, the U.S. Senate was elected not by the people, but by state legislatures. Few would argue that the original purpose of the Electoral College retains any relevance today. It reflected a mistrust of the electorate which we no longer endorse—the same mistrust that denied the people the right to elect their senators, and withheld the vote altogether from women, African-Americans and persons who did not own property.

Far from embodying some essential constitutional principle, the Electoral College was a political compromise, born of an era in which the states were 13 separate sovereignties determined to defend their interests. While regional differences have not disappeared, they have been greatly diluted by the growth of a common national identity. After 200 years of migration of people and ideas, the states themselves are far more heterogeneous, and far more similar, than when the compromise was struck.

While admitting that the original justification for the Electoral College no longer exists, its defenders claim that it serves some other, modern purpose. They argue, for example, that without the Electoral College, candidates will campaign only in major population centers, ignoring more sparsely populated regions. Yet even the residents of rural states tend to live within close proximity to a major metropolitan area. And even if their fears were to materialize, it is hard to see how this would be worse than the targeted campaigning in which the candidates recently engaged, writing off whole sections of the country and concentrating only on the so-called "battleground states." With every vote in play, candidates would no longer have an incentive to take anyone for granted. Others contend that abolishing the Electoral College would further undermine the stability and finality of the electoral process. They point out that Florida's was not the only state race to be decided by a very small margin, and argue that if every vote were to count equally, recounts and court challenges would proliferate. Yet wouldn't this be likelier to happen if the Electoral College is retained? Without it, state wins and losses would no longer have electoral significance. All that would matter is the nationwide count.

Let's not forget that what happened in Florida was only a glimpse of the problems the Electoral College can cause. Had neither candidate received the required 270 electoral votes, the election would have been thrown into the House of Representatives—where the controversy could have taken weeks or months longer to resolve. I am under no illusion about the difficulty of enacting a constitutional amendment. But now is the time to act—while the memory of our recent experience is fresh. Congress has considered Electoral College reform before—but only when spurred on by electoral crises. The Senate held hearings in 1992, when it seemed that the Perot candidacy might deadlock the Electoral College. After George Wallace ran as a third-party candidate in 1968, the House actually approved a constitutional amendment, but it fell victim to a Senate filibuster.

We shouldn't wait for the next crisis before confronting the problem. There have been several thoughtful proposals to reform the Electoral College without a constitutional amendment, and they deserve a hearing. My own view, however, is that halfway measures cannot address the fundamental contradiction which the Electoral College represents in a mature democracy. That's why the bill I am introducing today would abolish it outright. Public officials, from selectmen to senators, are chosen by majority vote. That's the way it's supposed to work in a democracy. And that's how we should elect the president of the greatest democracy on earth.

CHRISTIANS THANK SIKHS IN INDIA: DR. GURMIT SINGH AULAKH COMMENDED

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. BURTON of Indiana. Mr. Speaker, on January 17 a group of Christians in India known as the Persecuted Church of India issued a statement commending the protection that Sikhs have provided to Christians in India from Indian government persecution.

Father Dominic Immanuel appeared on Star News to thank the Sikhs community for protecting Christians from Indian government persecution. As you know, the Christians in India have undergone a wave of violence and terror by militant Hindu nationalists associated with the pro-Fascist RSS, the parent organization of the ruling BJP. This violence has taken the form of church burnings, rape of nuns, murders of priests, and attacks on Christian schools and prayer halls. Graham Staines and his two little boys were burned to death in their jeep while they slept. Earlier, in 1997, police broke up a Christian religious festival with gunfire. No one has ever been punished for these activities. Instead, there have been Indian officials who have been quoted as saying that everyone who lives in India must either be a Hindu or be subservient to Hinduism. Last year RSS leader Kuppa Halli Sitharamaiya called for a ban on foreign churches.

Interestingly, the article mentions Dr. Gurmit Singh Aulakh, the President of the Council of Khalistan, for his lobbying efforts here on Capitol Hill. The Sikhs and Christians are suffering from the same kind of terror. More than 250,000 Sikhs have been murdered by the Indian government since 1984, according to Inderjit Singh Jaijee's "The Politics of Genocide". The Indian government has also killed more than 200,000 Christians in Nagaland. According to Amnesty international, there are about 50,000 Sikhs held in Indian jails as political prisoners without charge or trial. In November, Indian police with heavy sticks called lathis attacked 3,200 Sikh religious pilgrims at a railroad station on the Indian-Pakistani border. These pilgrims were attempting to get to Nankana Sahib in Pakistan to celebrate the birthday of the first Sikh guru, Guru Nanak. Only 800 managed to get to the celebration. In July, police arrested Rajiv Singh Randhawa, the only witness to the September 1995 kidnapping of human-rights activist Jaswant Singh Khalra, while he was trying to give a petition to the British Home Minister in front of the Golden Temple, the holiest Sikh shrine that the Indian government brutally attacked in June 1984. Mr. Khalra was killed in police custody about six weeks after he was kidnapped. More than five years later, no one has been punished. Now the Indian police are harassing the only witness. In March, according to the findings of two independent investigations, the Indian government murdered 35 Sikhs in the village of Chithi Singhpora.

In addition to its persecution of Christians, Sikhs, and other minorities, India has worked aggressively to thwart several U.S. foreign policy goals around the world. Not only does it vote against the United States at the United Nations more often than any country except Cuba, but in 1999 the Indian Defense Minister led a meeting with the Ambassadors from Iraq, Cuba, Libya, Russia, Serbia, and China in which the parties discussed setting up a security alliance "to stop the U.S."

We should stop U.S. aid to India until the oppression of Christians, Sikhs, Muslims, and other minorities ends and human rights are observed. We must also put the United States on record in support for the freedom movements in Khalistan, Nagalim, Kashmir, and the other nations seeking their freedom from India, through a free and fair plebiscite. That is the democratic way and the way that world powers do things. These measures will help bring peace, freedom, stability, prosperity and dignity to all the people of the subcontinent.

Mr. Speaker, I would like to submit a statement issued by the Persecuted Church of India that discusses the efforts that Sikhs have made on behalf of India's Christian community. I commend this statement to anyone who would like to better understand the plight of minorities in India.

PERSECUTED CHURCH OF INDIA—JANUARY 17, 2001—THE SIKHS RUSH TO PROTECT THE CHRISTIANS

A few days ago when the attacks against the Christian missionaries in Rajasthan took place, Fr Dominic Immanual went on record on Star News to acknowledge the protection that the Sikh community was providing to the persecuted Christians of Haryana and elsewhere. That was a belated recognition to the much maligned Sikh minorities. We had earlier reported the incidents wherein the nuns were protected by the Sikhs at the time of attacks. However almost all the cases have gone unreported. Fr Dominic did great justice to the Sikhs when he underlined incidents in rural Haryana where the helpless Christians had none to help but the Sikhs during the attacks by the Hindu fascists. He quoted the incidents in Panipat, Sonepat and Gannore where the Christians have been saved by the Sikhs, many a time risking their own lives as the Hindu terrorists struck. The recognition is too little for the community whose plight was ignored by the Christians as they too had been under the influence of the Hindu nationalist lies against the Sikhs.

THE LEGACY OF SADHOO SUNDER SINGH

Sadhu Sunder Singh was one of the greatest Christian missionaries India has known. Punjab, more particularly the districts like Ludhiana has a considerable concentration of Christians. The Sikhs themselves have been victims of Hindu majoritarinism and ethnic cleansing. A vast number of their youth had been annihilated in the anti-Sikh riots and fake encounters. Thousands of innocent Sikh youth are persecuted in jails as undertrials. The anti-Sikh crackdown saw the flight of thousands of Sikhs abroad. When the recent wave of anti-Christian persecution started, at least one Christian bishop recognized the injustice done to the Sikh minority by the Christians. Bishop Philipose Mar Chsysostem, the Mar Thoma Metropolitan, wrote that it was due to our apathy during the earliest atrocities against other (minorities) that this danger has befallen us. The community which we did injustice to has now become our saviors. In fact Gurmeet Singh Aulakh, the Sikh leader in the U.S. was one of the first persons to lobby against the Christian persecution in the U.S. Congress by the Hindu fundamentalists.

THE ANTI-SIKH MOVEMENT

One of the reasons for the insurrection in Punjab was the attempt by the Hinduists to brand Sikhism as a part (or panth) of Hinduism. The RSS went on to call the Sikhs "Kesadhari Hindus". History says that the no Sikh participated in the drafting of the Constitution, and as they were away, the Hindu nationalists branded them as "Hindus". The governments finally accepted the independent identity of the Sikhs apart from the Hindus. Recently the Hindu majoritarians revived the old tension by once again branding the Sikhs as part of Hinduism. The Sikhs are idol-haters and do not liked to be linked to it's worship forms. The Sikh community warned with one voice that any attempt by the Hinduists to carry the Guru Granth Sahib to the temples will be met with stiff resistance. The tension in Punjab has increased manyfold due to the upsurge in the activities of RSS, VHP and the Bajrang Dal. There are reports of the raising of a Bajrang Dal army of 30,000 cadres from Punjab. As per an article that appeared in the Hindu, the Bajrang Dal is giving fierce arms training to their cadre. They have the blessings of the rulers of Delhi. The formation of the new organization Rashtriya Sikh Sangatana (RSS) by the Rashtriya Swayamsevak Sangh (RSS) have angered the Sikhs and this has once again brought most Sikhs to a single platform. The majoritarian ambitions of the Hindutva forces in Punjab are sure to lead to doom.

CONCLUSION

At this instance we can only pray for peace in Punjab. We pray that good sense prevails with the majoritarians and they do not do anything harmful to the interests of the nation. We also thank the valiant but unsung Sikh heros and heroines who have and are risking their own lives to save the defenseless Christians in Haryana, Punjab and elsewhere from the atrocities of the Hindu organizations.

TRIBUTE IN HONOR OF TEXAS COMMUNITY LEADER SAM FLORES UPON HIS RETIREMENT

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RODRIGUEZ. Mr. Speaker, I rise today to honor a true public servant and long-time colleague, Mr. Sam Flores of Seguin, TX. After 36 years of working for the Seguin City Council, Mr. Flores retired the beginning of this year after devoting half of his life to the council and most of his life in the service of others. He is an inspiration for us all.

Mr. Flores was born in San Marcos, TX, during the Roaring Twenties, but grew up during the difficult years of the Great Depression. A young Flores soon learned the value of hard work as the middle child of seven raised during this trying time. As soon as he was physically capable of manual labor, Flores was thrust into the life of an adult migrant worker, traveling from California to Minnesota as the seasons changed. When only 17, he dropped out of school to join the Marines. His six-year career was distinguished, and included serving as a Platoon Sergeant in the Korean War and aiding in the evacuation of Shanghai by Americans during the communist revolution in China.

After finishing his time with the Marines, Flores continued his formal education and earned a degree in education from Southwest Texas State University in 1955. Four years later Sam Flores had earned his Master's degree in school administration, was married to Velia Flores, and moved to her hometown of Seguin, TX. For the next 35 years Flores would serve the Harlandale ISD. He taught regular and special education classes to elementary and secondary school students. He distinguished himself as the first Hispanic Principal for the Harlandale ISD. He then became the Director for Special Education for six school districts. Even after this extensive career, Mr. Flores, knowing the value of education, works for the Seguin school district as the Attendance Officer.

Flores did not limit himself to his teaching vocation, but also took an active interest in other aspects of the community. Flores helped others. And it was both the small and large things that made an impact, everything from helping a single mother fill out a college application to working for the establishment of the Seguin Housing Authority, from assisting an elderly widow with her Social Security to helping establish the Seguin Boys Club. We owe Sam Flores a great deal of gratitude for his work to build a new Seguin Post Office, establish the Health Unit Project, and provide the leadership needed to complete the Walnut Creek Flood project.

Sam Flores led the fight against discrimination. In the Sixties he helped form the Seguin Biracial Committee, which successfully worked to end discrimination in public places. He also helped to end segregation in the Seguin Independent School District. Beyond merely ending discrimination, Flores worked to expand cultural understanding. Today, for example, because of his dedication, Texas Lutheran University now has Mexican American Studies program for the benefit of our students.

The contributions made by Sam Flores to the City of Seguin are felt not only by those in direct contact with him, but by all the contributions made by the people he touched. His tremendous work and accomplishments is inspiring. His example of sincere dedication to others is a blueprint for all of us to follow.

THE LATE CONGRESSMAN WILLIAM H. AYRES

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. SAWYER. Mr. Speaker, William H. Ayres represented the 14th Congressional District of Ohio in the U.S. House of Representatives for 20 years. Congressman Ayres, who died on December 27, defined his political philosophy with typical succinctness. He said, "Most of the fellows today are issue-oriented. They're trying to save the world, while I was trying to save a paycheck."

A direct statement—modest, self-effacing, and misleading. Bill Ayres did much more than "save paychecks."

Congressman Ayres was the son of a Methodist minister and a missionary nurse. Before serving in the Army, he worked as a salesman for a heating equipment company. After the Second World War, he started his own company selling gas furnaces. His priorities were made evident when he hired 15 men—all World War II veterans—to work for him.

Bill Ayres also showed his independent streak by challenging restrictions on heating contractors. That crusade ended in victory in the Ohio Supreme Court.

Those two characteristics—fierce independence and loyalty to veterans—marked his public service, especially in the House of Representatives. Committed to constituent service, Bill Ayres was an energetic and innovative campaigner, who was re-elected nine times, including the 1964 landslide for Lyndon Johnson.

His daughter, Virginia, touched on those tireless efforts as she recalled, "Every weekend, he was at the Polish picnic and the Hungarian picnic and the Kiwanis. Those are my memories of childhood."

After leaving the House, Bill Ayres continued his dedicated work for veterans, running the Jobs for Veterans program in the Department of Labor under President Nixon.

Bill Ayres had as a campaign slogan, "Ayres Cares." His approach to work, to people, and to life, proved clearly that it was no empty slogan, but an apt description of the man, and his model for public service.

Congressman Ayres now rests in Arlington National Cemetery, among the men and women he supported and served. It is a fitting resting place for a tireless fighter for his fellow veterans, for a true public servant.

HONORING THE KOSCIUSZKO HOUSE IN HISTORIC PHILADELPHIA

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. BORSKI. Mr. Speaker, today I recognize an important milestone in Polish-American history, the 25th anniversary of the opening of the Kosciuszko House in historic Philadelphia. The house, at 3rd and Pine Streets, serves as a National Historic Site and a National Memorial to American Revolutionary War hero and Polish freedom fighter, General Thaddeus Kosciuszko.

In the mid-1960s, Edward Pinkowski, a Philadelphia historian, after hours of research, discovered that the house was Kosciuszko's home during the Revolutionary War. In October 1967, the Pennsylvania Historical Commission officially recognized the residence of Kosciuszko by placing a marker on the building and designating it as a historic site. Between 1967 and 1970, Polish American Congress Eastern Pennsylvania District President Henry Wyszynski, coordinated a national campaign among Polish American Congress state divisions to designate the Kosciuszko House as a National Memorial. In 1970, philanthropist Edward Piszek joined the effort by purchasing the building and successfully helping to persuade the 91st Congress to introduce legislation establishing the Thaddeus Kosciuszko Home as a National Historic Site.

In October 1972, after a long, well-organized national campaign, a federal law was passed for the nation to accept the house from Mr. Piszek as a gift. At that time, the government appropriated $592,000 to develop the site as a National Memorial Site to be administered by the National Park Service of the U.S. Department of the Interior.

After three years of historical restoration work was completed, the adjoining house was purchased by Mr. Piszek and donated to the U.S. Government to provide space to accommodate tourist.

On February 4, 1976—the 230th anniversary of Thaddeus Kosciuszko's birth—the Kosciuszko House was open to the public and became an official site of the United States National Park Service.

Mr. Speaker, since its opening 25 years ago, the Kosciuszko House has been open to thousands of people who have gained a valuable insight into the role this Polish freedom fighter played in America's fight for freedom. It stands along with Independence Hall and the Liberty Bell as a stirring symbol of Philadelphia's honored role as the birthplace of America.

Since 1967, the Polish American Congress has sponsored a tribute ceremony to honor Kosciuszko on the first Saturday of February so all people can pay tribute to this Revolutionary War hero.

This year, on the 25th anniversary of the Kosciuszko House and the 255th anniversary of Kosciuszko's birth, I am proud to recognize the dedication of proud Polish Americans whose efforts led to the preservation of this important historic treasure as a National Historic Site.

INTRODUCTION OF THE ABANDONED MINE LANDS RECLAMATION REFORM ACT OF 2001

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. RAHALL. Mr. Speaker, today I am introducing the "Abandoned Mine Lands Reclamation Reform Act of 2001" in recognition of the pressing need to make continued progress in restoring the environment in coalfield communities throughout the Nation.

Originally authorized as part of the landmark Surface Mining Control and Reclamation Act of 1977, to date over $1.7 billion has been appropriated under the Abandoned Mine Reclamation Program to restore lands and waters adversely affected by past coal mining practices. These restoration projects normally involve threats to the public health and safety from dangerous highwalls, subsidence, refuse piles and open mine portals. They also include the construction of new water supply systems to coalfield communities where water supplies have been contaminated by past coal mining practices. Over the years, other amounts have been appropriated under the program for emergency coal reclamation projects, the Rural Abandoned Mine Program, the Small Operators Assistance Program, certain noncoal mining reclamation projects and the administration of the program for a total $4 billion in appropriations.

The primary delivery mechanism for these funds is through annual grants made through the annual appropriations process to 26 eligible States and Indian tribes. This effort is augmented by funds expended by the Interior Department's Office of Surface Mining (OSM) in States and tribes without approved reclamation programs. By most accounts, this effort has been a success achieving far more in real on-the-ground environmental restoration than programs such as the Superfund.

Yet, the mission of this program has not yet fully been accomplished which is the reason for the legislation I am introducing today. As it stands, there currently exists about $2.5 billion worth of high priority human health and safety threatening abandoned coal mine reclamation costs in this country. There are other costs as well, associated with lower priority abandoned coal mine sites. The fundamental purpose of the "Abandoned Mine Lands Reclamation Reform Act of 2001" is to raise sufficient revenues which, when coupled with the unappropriated balance in the Abandoned Mine Reclamation Fund and the reforms proposed by the legislation, to finance the reclamation of the remaining $2.5 billion inventory of high priority coal reclamation sites and draw this effort to a successful conclusion.

In this regard, it is essential to note that this program is not financed by the general taxpayer but rather through a fee assessed on every ton of coal mined. The unreclaimed coal sites eligible for expenditures under the program were primarily abandoned prior to the enactment of the Surface Mining Control and Reclamation Act of 1977 which placed stringent mining and reclamation standards in place. The authority to collect these fees was originally for a 15-year period. However, on two prior occasions through legislation I sponsored the Congress extended those fees collections in recognition of the continued need to address health, safety and environmental threats in the Nation's coalfield communities.

A central feature of this legislation then is to extend that fee collection authority for an additional seven years to 2011. This is the period the OSM estimates will be necessary to generate the additional revenue to complete the high priority coal site inventory. However, that alone will not allow us to achieve that goal which is the reason for the reforms proposed by this bill.

Simply put, in my view over the years there has been a hemorrhaging of some of the funding made available under this program to lower priority projects. Almost $200 million, for instance, for coal priority 3 projects which do not involve protecting the public health and safety. One of the reasons this reduction in focus on health and safety threatening projects has occurred is due to a late 1994 OSM policy shift that corrupted what is known as the general welfare standard in the coal reclamation priority rankings. This new policy has had the affect of allowing States to bootstrap what would normally have been lower priority 3 projects into the higher priority 1 and 2 rankings. To be clear, not all States or even a majority of Sates have taken advantage of this new policy and I commend them for that. Yet it is a fact that as a result of this new policy the bona fide $2.5 billion inventory of unfunded priority 1 and 2 projects has swollen to over $6 billion. I do not recognize this $6 billion figure and neither does this legislation.

The reforms proposed by this bill include eliminating the general welfare standard and restricting the use of State/tribal share grants and supplemental federal share grants to bona fide coal priority 1 and 2 projects involving threats to human health and safety. Once those projects are completed and only when those projects are completed, with two minor exceptions, can a State or tribe undertake the lower priority coal projects under the certification program with their State/tribal share grants. The exceptions to this rule involve situations where a priority 3 site is undertaken in conjunction with a priority 1 or 2 site, or where a priority 3 sites is addressed in association with a coal remaining operation. In effect, this legislation seeks to target the lion's share of available funding to coal priority 1 or 2 keeping faith with the original mission of the program. Among other reforms envisioned are federal approval of any additions made to the official Abandoned Mine Reclamation Inventory and a review of those additions made since the OSM policy shift on the general welfare standard.

The purposes of these reforms are intended, as previously noted, to complete those projects which are necessary to complete for the sake of protecting the health and safety of

I would like to make note of two additional changes to current law proposed by this bill. As already noted, in the past appropriations were made available from the Abandoned Mine Reclamation Fund to the Rural Abandoned Mine Program (RAMP), an Agriculture Department program. No such appropriations have been forthcoming for six fiscal years now. I find this disappointing. While the Interior Department and the States from the very beginning were against RAMP funding, contending it was duplicative of their efforts, this in my view and in that of many others was not the case. RAMP served a distinctly different purpose involving a closer working relationship with landowners and sought to address reclamation projects on a more holistic basis. Another problem that also dogged Ramp was the fact that while it is an Agriculture Department program, its appropriations were being made out of an Interior Department trust fund by the Interior Appropriations bill. Obviously, Interior officials had little interest in this arrangement and so beginning in 1995 we have not been able to obtain funding for RAMP. In my view, this situation will not change if the status quo is maintained. For that reason, the legislation I am introducing today would authorize RAMP for general fund appropriations rather than out of the Abandoned Mine Reclamation Fund so that funding can be pursued through the Agriculture Department's Natural Resources Conservation Service's budget.

Finally, this legislation also seeks to lift the restriction that interest accrued in the Abandoned Mine Reclamation Fund can only be transferred to what is known as the Combined Benefits Fund for unassigned beneficiaries. Under this bill, all accrued interest would be available to keep faith with the promise made by the federal government many years ago to guarantee health care benefit for certain retired coal miners.

In introducing this legislation I do not purport to suggest it offers perfect solutions. It is a fact that the draft bill has been available for review by the affected States and tribes for 10 months now and I thank them for their comments. It has also been reviewed by the Citizens Coal Council, a coalfield-based environmental group. And, it has been reviewed by segments of the coal industry. Certainly, though, we have a long legislative process ahead of us and I look forward to working with interested Members of Congress on this matter.

I submit the following detailed section-by-section analysis of the "Abandoned Mine Lands Reclamation Reform Act of 2001" for inclusion in the RECORD.

Section-by-Section Analysis of the "Abandoned Mine Lands Reclamation Reform Act of 2001"

Section 1 provides for a short title.

Section 2, amendments to title IV—

Subsection (a)(1) strikes form the purposes of Abandoned Mine Reclamation Fund the transfer of amounts to the Secretary of Agriculture for use under the Rural Abandoned Mine Program and the use of funds for abandoned mine land research projects conducted by the Bureau of Mines. The bureau no longer is in existence.

Subsection (a)(2) clarifies that all interest accrued to the Abandoned Mine Reclamation Fund is for the purpose of making transfers to the Combined Benefit Fund.

Subsection (b)(1) extends the authorization to assess reclamation fees from 2004 to 2011.

Subsection (b)(2) modifies the provision of current law requiring the redistribution of grant amounts not expended within three years after being awarded. Amounts redistributed would be expended under the historic coal production supplemental grant program rather than any funding category as under current law. [Note: this provision has never been enforced].

Subsection (b)(3) strikes the reservation of reclamation fees and interest for the Rural Abandoned Mine Program. An amendment made by this subsection requires the Secretary to insure strict compliance with the priorities set forth in section 403(a) in the expenditure of funds until certification of the completion of all eligible coal abandoned mine reclamation projects is made.

Subsection (b)(4) contains two technical and conforming amendments.

Subsection (b)(5) rewrites section 402(g)(4) relating to the eligibility of certain post August 4, 1977,sites for expenditure of funds under the Abandoned Mine Reclamation Fund. Current law allows such expenditures on certain sites abandoned after August 4, 1977, but prior to a State or Tribe receiving approval of this permanent program or where a surety company insolvency resulted in abandoned coal mine lands and waters. The amendment made by this subsection primarily strikes the latter situation as such sites are no longer prevalent.

Subsection (b)(6) increases the amount of reclamation fees dedicated to the historic coal production supplemental grant program from 40% to 60% of the Secretary's 50% share of the Abandoned Mine Reclamation fund (30% of the total). This subsection also includes a technical and conforming amendment.

Subsection (b)(7) eliminates the set-aside of 10% of annual grants for purposes of expenditure after September 30, 1995, as the provision is no longer relevant. Amendments in this subsection also streamline provisions relating to the 10% set-aside for acid mine drainage abatement and treatment by eliminating Secretarial approval of such expenditures and provisions requiring consultation with the Soil Conservation Service and the Bureau of Mines.

Subsection (b)(8) provides that the expenditure of funds for projects formerly identified as priority 3 may only be made in conjunction with the expenditure of funds for priority 1 or 2 projects or in association with coal remining operations prior to the certification of the completion of all eligible coal abandoned mine reclamation projects is made (other amendments eliminate priority 3 from section 403 and transfers it to the post-certification program).

Subsection (b)(9) extends the authorization level for minimum program States to post-certification priority 3 coal sites.

Subsection (b)(10) lifts restrictions relating to the transfer of interest to the Combined Benefit Fund.

Subsection (b)(11) is a technical and conforming amendment relating to the amendment made by subsection (b)(9).

Subsection (c)(1) strikes the term "general welfare" from priority 1 and 2 and strikes priorities 3 thru 5.

Subsection (c)(2) makes a technical and conforming amendment and includes a requirement that amendments to the AML Inventory are subject to the approval of the Secretary.

Subsection (d) makes a technical and conforming amendment.

Subsection (e) authorizes the Rural Abandoned Mine Program to receive general fund appropriations.

Subsection (f) updates requirements relating to the filing of liens.

Subsection (g) updates section 409 primarily by including references to Indian tribes, clarifying that annual grants may be used for projects under the section excluding amounts received under the historic coal production supplemental grant program, and clarifying that States and Tribes rather than the Secretary make expenditures under the section subject to the approval of the Secretary. Provision is made allowing continued eligibility under section 409 after a State or tribe has certified the completion of all coal priority 1 and 2 projects but has not yet completed other remaining coal projects under section 411.

Subsection (h) rewrites the section 411 certification program in two significant ways. First, it allows the Secretary or a third party (in addition to a State or Tribe as under current law) to seek the certification of the completion of all coal priorities on eligible lands and waters. Second, provision is made to require certification after the completion of coal priority 1 and 2 projects. Once this occurs, a State or Tribe would commence other remaining coal projects eligible under section 404 (former priority 3 projects) prior to undertaking non-coal projects. Provisions relating to non-coal projects remain unchanged from current law.

Subsection (i) strikes a moribund provision in section 413.

Section 3, free-standing provisions—

Subsection (a) provides that reclamation fees credited to the Rural Abandoned Mine Program but not appropriated in the past be available for historic coal production supplemental grants. An amendment also provides for the transfer of interest not transferred in the past to the Combined Benefit Fund.

Subsection (b) requires the Secretary to review all additions to the AML Inventory made since December 31, 1998. Provision is made deeming projects listed in the inventory under the "general welfare" standard as being ineligible under section 403(a) and may only be carried out under section 411(c)(1). Provision is made for the Inspector General to evaluate the review and together with the Secretary report the results to committees of the House and Senate. Provision is also made requiring the Inspector General to conduct an annual review of any amendments to the inventory.

Subsection (c) is a savings clause noting that nothing in the legislation affects any State or Tribal certification made before the date of enactment of the bill.

FEDERAL EMPLOYEE DEPENDENT CARE ASSISTANCE PROGRAM, H.R. 252

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 30, 2001

Mr. GILMAN. Mr. Speaker, today I am introducing legislation, which will benefit Federal employees around the country. This bill will provide our Federal employees with a benefit that many of their counterparts in the private sector enjoy.

The time has finally arrived for the Federal Government to become more competitive with the private sector to help gain and retain qualified employees. The private sector has been able to hire the best and brightest employees and offer competitive benefits and pay while the Federal Government has seen its top workers flee for the higher paying jobs of the private sector.

By providing employees with the opportunity to participate in the Dependent Care Assistance Program (DCAP), we are giving parents more flexibility and choices when it comes to paying for child care. DCAP is similar to a medical savings account in that an employee can choose to set aside a portion of their income without it being taxed, for the sole purpose of paying for child care expenses. This type of program is used widely in the public sector and it is high time for Federal Employees to be able to use this program as well.

Moreover, this legislation sets an example for those businesses that do not offer similar benefits to their employees. For years, the Federal government has been a model for the private sector especially in the area of employee provided health care benefits and coverage of medical procedures and it is our hope that this legislation will inspire more businesses to offer similar benefits to their employees.

Accordingly, I am pleased to be sponsoring this legislation and I am confident that by affording our Federal employees their benefit, we will help to create a more family friendly Federal Government.

Mr. Speaker, I submit a full copy of this Text of H.R. 252 to be inserting at this point in the RECORD:

H.R. 252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEPENDENT CARE ASSISTANCE PROGRAM FOR FEDERAL EMPLOYEES.

Subpart G of part III of title 5, United States Code, is amended by inserting after chapter 87 the following:

"CHAPTER 88—DEPENDENT CARE ASSISTANCE PROGRAM

"§ 8801. Definitions

"(a) For the purpose of this chapter, 'employee' means—

"(1) an employee as defined by section 2105 of this title;

"(2) a Member of Congress as defined by section 2106 of this title;

"(3) a Congressional employee as defined by section 2107 of this title;

"(4) the President;

"(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation;

"(6) an individual first employed by the government of the District of Columbia before October 1, 1987;

"(7) an individual employed by Gallaudet College;

"(8) an individual employed by a county committee established under section 590h(b) of title 16;

"(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;

but does not include—

"(A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

"(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or

"(C) an employee excluded by regulation of the Office of Personnel Management under section 8716(b) of this title.

"(b) For the purpose of this chapter, 'dependent care assistance program' has the meaning given such term by section 129(d) of the Internal Revenue Code of 1986.

§ 8802. Dependent care assistance program

"The Office of Personnel Management shall establish and maintain a dependent care assistance program for the benefit of employees.".

HOUSE OF REPRESENTATIVES—*Wednesday, January 31, 2001*

The House met at 10 a.m.

Chaplain Steven Colwell, Army Reserve Readiness Training Center, Fort McCoy, Wisconsin, offered the following prayer:

Our most gracious Heavenly Father, we thank You for giving us this day, another day of life for us to cherish Your goodness and Your majesty. May we use this day seeking Truth and in so doing return it as our gift to You.

O Lord, bless these gathered here with Your wisdom. Guard them and guide them, O Father, and fill them with Your Presence. Bless their families and the staffs that labor by their side in government. May the laws enacted here conform to the Great Law that emanates from Your righteousness. I beseech You, Lord, to hear this prayer, prayed by a simple soldier, offered to You in the Name of the Prince of Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LAMPSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LAMPSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. LAMPSON) come forward and lead the House in the Pledge of Allegiance.

Mr. LAMPSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CHAPLAIN STEVEN COLWELL

(Mr. KIND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I thank the Speaker for the opportunity to say a few words about our guest chaplain today. I am proud that the inspiring words heard this morning came from one of my constituents, Chaplain Steven Colwell. He serves as staff minister at the Army Reserve Readiness Training Center at Fort McCoy, Wisconsin.

At Fort McCoy, Chaplain Colwell is the primary instructor on ethics and Army values training. In addition, he provides spiritual guidance and counseling to the more than 100,000 soldiers who come to Fort McCoy to train every year. The support that Chaplain Colwell provides to the military personnel and their families is invaluable. Chaplain Colwell has received numerous military honors, including the Army Commendation Medal with two Oak Leaf Clusters, the Kuwait Liberation Medal, and the South West Asia Service Medal with three Bronze Stars.

Chaplain Colwell has provided tremendous service to his community as well as our country. I am fortunate to have him as a constituent and pleased that he could share his inspiring words with us today. I thank Chaplain Colwell for being here today and for his service and dedication to our country.

APPOINTMENT AS INSPECTOR GENERAL FOR UNITED STATES HOUSE OF REPRESENTATIVES

The SPEAKER. Pursuant to clause 6 of rule II, the Speaker, majority leader, and minority leader jointly appoint Mr. Steven A. McNamara of Sterling, Virginia, to the position of Inspector General for the United States House of Representatives for the 107th Congress, effective January 3, 2001.

MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, let me ask a question of fairness and that is a pretty fundamental issue of fairness and that is, is it right, is it fair, that under our Tax Code that married working couples pay higher taxes just because they are married? Is it right, is it fair, that two working people, a husband and wife, both in the workforce, pay on average $1,400 more in higher taxes just because they are married, $1,400 more than an identical couple that lives together outside of marriage?

I think we all agree that it is wrong that 26 million married working couples on average pay $1,400 more just because they are married. It is called the marriage tax penalty.

I was proud that this House and the Senate last year sent to the President legislation with bipartisan support wiping out the marriage tax penalty for almost everyone who suffers it. Unfortunately, it fell victim to the President's veto. Well, we have an opportunity this year to eliminate the marriage tax penalty, an opportunity to work together in a bipartisan way and send to our new President, President Bush, who indicates he will sign into law our efforts to eliminate the marriage tax penalty, to get the job done this year.

I want to extend the invitation to my colleagues to join with us to eliminate the marriage tax penalty.

INTERNATIONAL ABDUCTIONS

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I rise today for the first time to address the 107th Congress. Representing southeast Texas has been an honor and a privilege, and I look forward to two more years of service.

My grandson Nicholas joined me at the swearing-in ceremony this year and that was great; but unfortunately, there are many grandparents and parents who have not been so lucky and do not have the opportunity to share their lives with their children and grandchildren.

During my first year in office, I founded the Congressional Missing and Exploited Children's Caucus in response to the abduction and murder of a 12-year-old girl in Friendswood, Texas. The devastation felt by her family and the determination of the volunteers who searched for her inspired me to found this caucus, which includes 138 members and provides a loud and unified voice for missing children within Congress.

Mr. Speaker, as we begin the first session of the 107th Congress, I ask my colleagues who are not already members of the caucus to join me and to encourage those who are already members to continue fighting with me for

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

our children and for our families. Let us work together as parents, grandparents, and Members of Congress to keep our children safe.

BREAST AND CERVICAL CANCER TREATMENT ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, last Congress the passage of the Breast and Cervical Cancer Treatment Act was a huge victory for women across our Nation. This legislation gives every State the option of providing lifesaving treatment to low-income women who have been diagnosed with breast or cervical cancer through the early detection screening program.

I congratulate the governor of my home State, Florida, Jeb Bush, who recognized the great benefits of this program early on. Governor Bush included almost $13 million in his budget to provide cancer treatment to low- and moderate-income women. I hope that the governors and legislators in every State follow the example of our governor, Jeb Bush, and help give women a fighting chance at beating this treacherous disease.

I especially congratulate Jane Torres, Teresa Moran-Menendez, and all of the members of the Florida Breast Cancer Coalition who lobbied and worked tirelessly to make this happen. On behalf of Florida's women, I thank Governor Jeb Bush.

WHITE HOUSE WAS NOT THE ONLY AMERICAN INSTITUTION THAT WAS TRASHED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, graffiti on the walls, furniture destroyed, doors glued shut, garbage in refrigerators. Sounds like Animal House, but I am talking about the Clinton White House. Now if that is not enough to wax your windows, former President Clinton has said, and I quote, he wants "a complete and thorough investigation into this crime at the White House." Beam me up. This is the same President that wanted no investigation into Chinese Communist cash being funneled to the Democrat National Committee, and we let him get away with it. Unbelievable.

Mr. Speaker, the White House was not the only American institution that was trashed. The Clinton administration not only trashed, they shredded our Constitution.

I yield back the garbage at the former Clinton White House.

ENVIRONMENTAL EXTREMISTS DRIVE UP COST OF UTILITIES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, if people wonder why their utility bills have gone up so much lately, they need look no further than the environmental groups. Environmentalists protest and stop or delay and thus drive up the costs every time a company tries to produce more natural gas, coal, oil or lumber. As a recent column by Thomas Sowell pointed out, these groups have stopped California from building any new power plants for over a decade. Many lower-income and senior citizens are now having to choose between eating or paying their utility bills. Most of the, quote, credit for this belongs to environmental extremists. If our leaders do not soon realize how left-wing most environmentalists have become, it will soon wreck our economy.

NEW MEMBERS WELCOMED TO THE DISTRICT OF COLUMBIA

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, because I represent the home jurisdiction of the United States Congress, I want to personally welcome new Members of the House and my friends and colleagues from past years. Many of them will spend more of their time here than they will in their own home district. They should know something about the city, and there is a Dear Colleague coming to them which they may find useful.

The city has rapidly revitalized. After a period of financial crisis, it was the only city that had to carry State, county, and municipal functions. Ultimately, it had to have a control board like the boards they had in New York and Philadelphia and Cleveland and other cities, but on Monday after 4 years of balanced budgets and surpluses, indeed the end of the control period was announced 2 years ahead of time. We have been witnessing not only financial revival but the complete overhaul of services, enormous progress. The front page of the Washington Post talks about some of that progress today. If Members have service problems in their own home or in their own neighborhood, I hope they will be in touch with my office.

EVERY CHILD SHOULD HAVE A FIRST-CLASS EDUCATION

Mr. FERGUSON. Mr. Speaker, as a former teacher, I believe that our most profound responsibility is to ensure that every child has a first-class education, that no child is left behind, and that all students can share in the pride and promise of educational opportunity. That is why I am so pleased with the bipartisan support education reform is receiving from my colleagues in the House and in the Senate.

It is important that we continue to put our children above politics. I believe that while we call for higher standards, we must also provide schools with both the funding and the flexibility that they need to succeed. Flexibility is a key to success. After all, the needs of schools in Green Brook and Warren, towns in my district in New Jersey, are different from the needs of schools in Green Bay and in Wichita.

Targeting resources to local priorities will ensure that dollars reach the programs that need them the most, such as hiring new teachers to reduce class size, expanding charter schools and funding for new school construction.

I commend our President and my colleagues on both sides of the aisle for advocating common sense education reforms that, if enacted, will strengthen our public schools and make sure that no child is left behind. After all, our children are our country's most precious resource.

MAKING IN ORDER MOTION TO SUSPEND THE RULES ON TODAY

Mr. NEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules and agree to the following concurrent resolution today, January 31, 2001:

House Concurrent Resolution 15.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR AN ADJOURNMENT OF HOUSE FROM JANUARY 31, 2001 TO FEBRUARY 6, 2001

Mr. NEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 18) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 18

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 14) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance victims of the Holocaust.

The Clerk read as follows:

H. CON. RES. 14

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used on April 18, 2001, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

□ 1015

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Public Law 96–388, signed October 7 of 1980, and the original bill was introduced by the late Representative Sydney Yates, created the United States Holocaust Memorial Council. The council was charged with providing for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual national civic commemoration of the Holocaust. As a result of this legislation, the first ceremony of remembrance was held in the rotunda in 1979 and has been held there every year since, except periods when the rotunda has been closed for renovations.

House Concurrent Resolution 14 will provide for this year's annual national ceremony to be held April 18 in the rotunda. That ceremony will be the centerpiece of similar remembrance ceremonies to be held throughout the Nation.

This is an important resolution, Mr. Speaker, in memory of, I think, one of the largest tragedies that the world has ever seen, and I urge that we support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

I am very pleased and proud to rise in support of this concurrent resolution that would grant the use of the Capitol rotunda for the 2001 Days of Remembrance Ceremony. I certainly want to thank the new chairman, and I want to congratulate him also, the gentleman from Ohio (Mr. NEY), who has had a distinguished career in the State legislature, chaired the Committee on Appropriations in the Senate in Ohio and has come to the House and made an extraordinary contribution and has just been named as chairman of the House Administration Committee. I congratulate him and look forward to working with him. I want to congratulate the chairman for his hard work in getting this resolution to the floor today in a very timely fashion.

Mr. Speaker, this ceremony has occurred annually in the Capitol rotunda. It is the centerpiece of similar programs that occur all across our land. There is no doubt that the rotunda, the site of so many of our Nation's historical events, is a fitting and appropriate place for such a program. It is a place of unity, where we gather together as a Nation to celebrate and, yes, sometimes to mourn. On April 18, 2001, it will once again be at the forefront of the Nation's attention as we gather to remember one of the most heinous times in our past, and to pledge anew that it will never, never, never again happen, and that we will never, never again turn our backs on genocide.

The theme of this year's program is "Remembering the Past for the Sake of the Future." This should be more than just a theme for a few days; it should be a guiding principle in all of our actions.

Sixty years ago the Nazis began their campaign of genocide against European Jews and others perceived to be not productive parts of the society. When the war finally ended, more than 11 million people, including 6 million Jews, died at the hands of the Nazis. In the years since, we have built memorials and museums so we can better remember, and this is certainly appropriate.

In remembering the past, however, we must always consider the future. This sentiment was perhaps best stated in the 1979 report of the President's Commission on the Holocaust that said, "A memorial unresponsive to the future would violate the memory of the past."

The Days of Remembrance program is a living remembrance of the past that should always help guide the future. It forces us to consider what we can do to prevent genocide from ever occurring again. It raises questions we often grapple with in the Congress. As we all know, Mr. Speaker, we grappled with it in Bosnia, in Kosovo. So it is not ancient history; it is recent history.

What should we have done and what can we do in Rwanda, Afghanistan, the Sudan? Well, let us also use this opportunity to shine a light into the dark corners of our own Nation. In the past several years, we have seen a proliferation of hate crimes across our land. We must use the power that the people have granted us to pass laws to help ensure that these horrible acts will never go unpunished, or even perhaps more importantly, or as importantly, unrecognized.

As most of my colleagues know, the Days of Remembrance Commemoration was created in the establishment clause of the legislation that created the United States Holocaust Memorial Council. I would like to thank all of the members, Mr. Speaker, of the Council for their tremendous work that ensures that this Nation and our people will never forget and will never allow this tragic history to repeat itself.

I would also take a moment, and the gentleman from Ohio (Mr. NEY) has also mentioned him, to remember the late and great Member of this House who served almost a half a century, Sid Yates from Illinois. Sid Yates kept the faith. Sid Yates kept the light burning. Sid Yates made us all remember. Sid Yates was a giant in this institution, a giant in this country; and we miss him. This commemoration will certainly be another remembrance of him as well. Through Sid, though he is no longer with us, his efforts to ensure that current and future generations never forget the Holocaust will reverberate for years to come.

Mr. Speaker, I have spoken to my good friend, the gentleman from California (Mr. LANTOS), who is a strong supporter of this resolution and a tireless advocate for human rights. Unfortunately, Mr. Speaker, he cannot be on the House Floor today and, therefore, is unable to support this resolution on the floor at this time. But as our ranking member on the Committee on International Relations, and I see we have the gentleman from Illinois (Mr. HYDE) here, the chairman of the Committee on International Relations; the gentleman from California (Mr. LANTOS) would join the chairman in support of this resolution. I would like to thank him for his continuing support.

Mr. Speaker, I urge my colleagues to support this resolution, and I would also like to urge them to participate in this event, to remember the past, to reflect upon our obligation to the future.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I just want to take a second to also thank the distinguished gentleman from Maryland (Mr. HOYER) for his work on this important resolution and for his work on the committee.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Ohio (Mr. NEY) for yielding me this time.

Mr. Speaker, I am pleased to rise in support of H. Con. Res. 14, sponsored by the distinguished gentleman from Ohio (Mr. NEY) and by the gentleman from Maryland (Mr. HOYER); and I am pleased to be an original cosponsor of this measure. I want to commend the gentleman from Maryland (Mr. HOYER) for his supportive comments and his tribute to former Congressman Sid Yates who did so much good work in reminding all of us about the importance to commemorate the Holocaust.

House Concurrent Resolution 14 permits the use of our congressional rotunda for the annual ceremony commemorating the Days of Remembrance of the victims of the Holocaust. The annual Days of Remembrance sponsored by our Nation's Holocaust Memorial Council, of which I am a congressional member, will take place this year on April 18. That important commemorative program allows our Congress and the Nation to appropriately observe the Days of Remembrance for victims of the Holocaust, to pay tribute to the American Army liberators of the concentration camp survivors. And by commemorating this enormous tragedy, we remind the world that we must not let it happen again anywhere in the world.

Accordingly, Mr. Speaker, I urge our colleagues to adopt this important resolution, H. Con. Res. 14.

Mr. HOYER. Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, I rise today to express my support for House Concurrent Resolution 14, permitting the use of the rotunda of the Capitol to commemorate the Days of Remembrance of victims of the holocaust.

The use of the Capitol rotunda for this occasion is a fitting tribute to the victims of the Holocaust, and I am proud that the United States Congress recognizes the importance of the lessons taught by their death and suffering. It is appropriate that we commemorate those who tragically lost their lives in the Holocaust. However, it is also important to note that the remembrance of this dark chapter of human history serves to remind us of what can happen when the fundamental tenets of democracy are discarded by dictatorial regimes.

While we in the United States, the birthplace of Thomas Jefferson and James Madison, have experienced years of peace and prosperity, we must not forget that genocide and human rights abuses continue to occur elsewhere around the world. As the leader of the Free World, the United States must use its power and influence to bring stability to the world and educate people around the globe about the horrors of the Holocaust to ensure that it must never happen again.

I am pleased that the growing number of community-based Holocaust museums around the country are a reflection of our increasing awareness of the lessons of the Holocaust. I am proud to be a founding trustee of the Virginia Holocaust Museum and applaud the efforts of those who join us nationwide in support of this noble cause. Only when every person understands the magnitude of the death, destruction, and utter horrors of the Holocaust can we feel we have done everything to prevent its recurrence.

Therefore, as we remember the horrors of this dark chapter in human history and remain dedicated to increasing awareness of the Holocaust, I am pleased to be here in support of this resolution regarding the use of the Capitol rotunda on this most solemn occasion.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Maryland for yielding me this time.

Mr. Speaker, I rise to support House Concurrent Resolution 14 to make use of the rotunda to commemorate the victims of the Holocaust. When we think about the Holocaust, we must understand the centrality of an individual people with their passions, dreams, aspirations, and agonies as being the voices that sear our conscience to honor righteousness and embrace a future of justice for all.

These voices strive to teach us that the Holocaust was not an abstract injustice that defiled, tortured and killed six million Jews, but a testament of faith that the origins of injustice are in the minds and hearts of men and women and that justice will come into the world only when the unjust persons change their ways in a move to love thy neighbor. If we refuse to hear these voices, we ourselves will be perpetual victims of our past and our inheritance. Let us not forget the victims of the Holocaust when we see the faces of desperate people.

Mr. Speaker, I simply wanted to add my voice to that of those who not only want to make use of the rotunda, but those who would want to share our expressions and feelings of concern for a tremendous tragedy that wrecked our world. I urge passage of this resolution.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Maryland for yielding me this time, and I thank those who have offered this resolution.

I rise in support of the resolution providing for a ceremony in commemoration of the Days of Remembrance of the victims of the Holocaust. Out of this horrific and tragic story of life and death and the loss of so many loved ones in a tragedy in our world history comes an acknowledgment that we should never, never forget.

As my colleagues have indicated, the story of the Holocaust is more than the reciting of the tragedy of six million lives, not faceless human beings, but families, mothers and fathers, children, grandparents, all of whom lost their lives in the tragedy of extreme and brutal cruelty because they were different. So I believe what we are standing here today and supporting and continuing to remember is that we will be strong in supporting what is right, what is open, and what is fair and what is loving, and never, never forget what has been done from one human race to another.

□ 1030

I would offer to say that we should also raise up our prayers for peace in the Middle East and I offer my congratulations for this celebration.

Mr. Speaker, I also want to pay tribute to the Holocaust Museum in my city, the City of Houston, and thank them for what they have brought to our community, for they have taught us tolerance and peace and love, and I hope that we will continue that in this Nation.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the State of Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, in the history of the world, there are very few issues that strike us so hard as what went on during the Holocaust, but life goes on. I was noticing this morning that 100,000 people have died in India in an earthquake, and it is off the front page of the New York Times. We pass on to the next event and the next event, and people tend to forget.

Mr. Speaker, and what is important, not only for us as human beings in the Congress, but for the American people and the world, to not forget is what happens if people who care are not vigilant. People who know what is going on must speak out. When I think about what will go on over there, I always think of the statement made by Martin Noemuller, who said, "When they came for the Communist, I was not a Communist, so I did not speak up. And when they came for the trade unionists, I was not a trade unionist, and so I did not speak up. And when they came for the socialist, I was not a socialist, and I was not a Jew. And when they came for me, there was nobody to speak up."

I think that the decision by the House of Representatives to take the time to make a day of remembrance in the Rotunda is a very small step towards helping us to remember.

We, all of us, know people whose families were affected by it, and when you listen to their stories, one of the things I do on the 4th of July is give a liberty award to the immigrant to our country who has done things for the people of Seattle. About 3 years ago, I gave an award to a woman who came, when all of her family was lost, she was the only one who came to the United States. She opened a successful business, but she spent all of her extra time and money educating people of Seattle about what this is about. And I think that the House is to be commended, the leadership is to be commended to put this first on the agenda. Because if we ever forget what our democracy is really all about, we are in danger of losing it.

Mr. Speaker, I am very glad to be rising in support.

Mr. HOYER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, I have some pictures on the wall in my den, they were left to me by my mother, pictures of people that I never met. They are people in Europe, some of them in Poland, especially who my mother would refer to as her aunt so-and-so or her cousin so-and-so, people that she never saw again when she left Poland as a 6-year-old girl.

People who just disappeared and nobody knew what happened to them, but everybody knew, in reality, what happened to them. They had been rounded up, little kids, their parents, husbands and wives, separated in extermination camps, put into gas chambers and just changed into smoke.

The entire world, Mr. Speaker, stood by for so long during that period of time. People did not want to know. It was a catastrophe of just enormous proportions that at the end, there were over 12 million people that were exterminated, 6 million of them Jews, Catholics, labor union workers, gypsies and others. Horrible experiments done on human beings just for the sadistic curiosity of so many physicians gone mad in Nazi Germany.

The world turned a blind eye. Oh, they had excuses. They did not know. They did not hear about it. When we think about it, Mr. Speaker, people disappearing in the middle of the night, half of towns just disappearing and others thinking, thinking that they better not speak up, lest something happen to them.

We must recognize this tragedy of all tragedies, Mr. Speaker. The action in the House today to make the Rotunda available for a commemoration of this terribly horrific event is something that we do with a great deal of sadness, but with the knowledge of knowing that if we did not take this kind of action to keep reminding the world that, indeed, these things do happen, that they can happen, and that there are good people who must and need to speak up, then we could never prevent this from happening again.

Mr. Speaker, I commend all of our colleagues who have spoken here today and all who have expressed their support for this resolution, and I thank the sponsors of the resolution for bringing it before us today.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York (Mr. ACKERMAN) for his very poignant and powerful comments.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, let me thank my colleagues for their support in sponsorship of this resolution.

Mr. Speaker, before my election to the House, I served as the President of the Institute on the Holocaust and the Law, and we studied and analyzed how laws were used not to protect people, but as instruments of oppression; how over 400 anti-Jewish laws were promulgated and formulated to discriminate, to segregate, to impoverish and to annihilate; how judges used the most murderous interpretation of law to impose death sentences for petty crimes; how law professors formulated lethal theories to advance a political agenda that discriminated against so many people.

Mr. Speaker, I believe it is very fitting that we, as law-makers, be reminded of the unique role of law and the profound difference between law and justice.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) for yielding me the time.

Mr. Speaker, we should look upon the day of remembrance in the very same way that we look upon Martin Luther King's birthday. We need to remember, because if we forget, we cannot be sure that sacrifices that were made will not have to be made again.

I went to school in segregated schools of the District of Columbia. It was not until I had the opportunity to go away to college that I actually learned that 6 million Jews had been murdered in World War II. I knew all about World War II, why did I not know about this sacrifice? That is what segregation and isolation from one another will do to you.

Mr. Speaker, I remember the day there in the dormitory when sitting around in an integrated group that I first learned, and it struck me like a bolt of lightning. I could not believe it, well, believe it. Believe that anti-Semitism is still alive. Believe that it exists in all communities and in all races and in this country, and that there are still incidences every year reported in the North and the South and the East and the West, believe it.

So as we go to the day of remembrance in this great building, let us understand that we are not only remembering. We remember so that we will not forget for a reason, because these issues of racial and religious hatred do not die forever, and they need, each generation, to vivify what they can mean. So what we do on the day of remembrance and what we do here in this House is most appropriate, and if we think about our country and the world today, we will understand as well that it is most necessary.

Mr. LANTOS. Mr. Speaker, I want to express my strong support for H. Con. Res. 14, to authorize the use of the Rotunda of the United States Capitol for the national civic commemoration of the Days of Remembrance of the Holocaust later this year. I want to express my thanks to the chairman of the Committee on House Administration, Mr. NEY of Ohio, for his leadership in this matter, and I also want to thank my dear friend and distinguished colleague Mr. HOYER of Maryland, the ranking Democratic member of the Committee.

Mr. Speaker, as the only survivor of the Holocaust ever elected to the Congress of the United States, this resolution has special meaning for me. Remembering the Holocaust on this day provides us the opportunity to pay tribute to the vast numbers of innocent men, women and children who were murdered en masse by the Nazi war machine and its Fascist allies. It also reminds us of man's mindless inhumanity towards man.

In the traumatic, final days of the Second World War, when the full horror of Hitler's "Final Solution" was brought to light, the international community said "never again." Looking back over the past fifty years since the Holocaust, this hope has, unfortunately, not been realized. Time and time again whole populations have been extinguished in southeast Asia, central Africa, southeast Europe and elsewhere as religious, ethnic and racial hatred ran amok. Innocent men, women, and children have been targeted for destruction for the sole reason that they were of a different religious, ethnic or racial community.

Mr. Speaker, this annual observance of the "Days of Remembrance" is a much-needed reminder of the nightmare of the Holocaust and the massacre of 6 million innocent people by a brutal and barbaric regime. It also reminds us that hate persists in today's world, that hate crimes are prosecuted each and every day, and that we must do all in our power to prevent hate crimes from leading to future holocausts.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. REYES. Mr. Speaker, I rise today in support of Concurrent Resolution 14, which would permit the use of the Capitol Rotunda for ceremonies commemorating the Days of Remembrance of the victims of the Holocaust. Holocaust Remembrance Days are specially designated periods of time during which victims of the Holocaust are cherished and remembered. Further, these days serve as reminders to all citizens that the evils of bigotry, hate, and indifference are very real, and continue to pose serious threats. Yet, it is in the remembrance of the Holocaust and the commemoration of those who perished that we overcome these evils and symbolize a voice that speaks for the very essence of humanity.

I can think of no better place than the Rotunda of the United States Capitol to capture the appropriate elements of reverence and dignity necessary for the remembrance of the victims of this tragedy. And it is with such remembrance that we allow individuals to be educated about the Holocaust so that future generations will know the horrors of violent indifference. The United States Capitol has stood as a symbol for freedom and liberty, a symbol that brilliantly reflects the positive aspects of this country. The Capitol may once again serve as such a symbol, and at this time may reflect the inspiration that has allowed the survivors of the Holocaust and the friends and family of survivors to truly survive, and will also join the battle against the greatest enemy to the remembrance of the victims of the Holocaust, silence.

Mr. Speaker, indifference is not neutral and is not unspoken. Indifference has a voice in the present and in the past. And as we move sixty years beyond the Holocaust, our obligation in honoring those who perished will live on and be fulfilled by telling their grim but inspirational story from the hall of our government reserved for the highest tribute, the Capitol Rotunda.

Mrs. MORELLA. Mr. Speaker, I rise in support of H. Con. Res. 14, which will allow the use of the Capitol Rotunda for an April 18th ceremony to pay tribute and respect for the victims of the Holocaust. This day will be a demonstration of respect and remembrance for the Jews and their families whose property was stolen, hopes and dreams suffocated, and lives extinguished in the Nazi death camps and throughout Nazi-ruled Europe.

We also come together to recognize that if we are ever to witness a universal respect for human rights, we must begin by acknowledging the truth: Even today, governments still continue to commit atrocities against their own citizens while escaping the consequences of their actions, internally by means of repression and externally for reasons of political expediency.

The events that took place under Nazi rule were real. Real people—women, children, the old, and the infirm—were wiped out. The sheer scope of the slaughter was and still is shocking. And yet when so many react with silence or indifference to genocidal horrors occurring today, in Rwanda, Congo, and Bosnia, we effectively give our approval to genocidal abuses of power.

We must all recognize that silence can not be acceptance when it comes to human rights abuses. Not just violations of the past, but also against violations which are occurring in our world today. We must let the truth about these events be known and continue to speak out against all instances of inhumanity.

Mr. ROTHMAN. Mr. Speaker, I have come to the floor of the U.S. House of Representatives today to commend the authors of H. Con. Res. 14, legislation that will permit the use of the Capitol rotunda for a ceremony as part of the commemoration of the Days of Remembrance of victims of the Holocaust.

I believe it is vital for the United States to continue to lead the way in the remembrance and prevention of crimes against humanity. And that is the exact purpose served by the legislation before us today, which will enable us to hold a solemn ceremony in the rotunda of the Capitol to remember the millions of victims of the Holocaust.

The important lesson learned by remembering the victims of the Holocaust is that man's inhumanity to man, if unchecked, can quickly result in the slaughter of millions of innocent people. Whether we honor the victims of the Holocaust at the U.S. Capitol, or whether we study the tragic story of other genocides, the universal lesson is that America has a national interest in assuring that the 21st century is not marred by genocide.

Mr. Speaker, over the past several months I have been honored to work with one of my constituents, Ms. Bonnie Glogover, of Edgewater, New Jersey in an effort to increase awareness about the Holocaust. Ms. Glogover, whose father is a survivor of Auschwitz, is working to see that Holocaust Remembrance Day is printed on calendars to educate the public about this important observance. Her unending dedication to this worthwhile cause is a tribute to our sworn duty to never forget, and I am proud to be associated with her in this endeavor.

This year, Holocaust Remembrance Day will be commemorated on April 19, 2001. I urge all my colleagues to inform their constituents of this and to join House and Senate leaders in the Capitol Rotunda this April to remember the innocent victims of the Holocaust.

I am honored to support H. Con. Res. 14 and I urge my colleagues to vote for this worthwhile legislation.

Mr. ISRAEL. Mr. Speaker, I rise to commend the sponsors and supporters of this resolution, permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the Days of Remembrance of Victims of the Holocaust.

Prior to being elected to this House, I served as president of the Institute on the Holocaust and the Law. The Institute studies and analyzed how laws were used in the Holocaust as instruments of oppression, rather than protection. How over 400 anti-Jewish decrees were promulgated and formulated to discriminate, segregate, impoverish and annihilate. How judges used murderous interpretation of legal theory to impose death sentences for petty crimes. How law professors formulated lethal theories to advance a political agenda that affected millions, Jews and gentiles alike.

I believe it is fitting that we, as lawmakers, be reminded of the unique role of the law in the Holocaust; and the profound and vast difference between law and justice.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 14.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 14.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXPRESSING SYMPATHY FOR VICTIMS OF EARTHQUAKE IN INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

Mr. HYDE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 15) expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

The Clerk read as follows:

H. CON. RES. 15

Whereas on the morning of January 26, 2001, a devastating and deadly earthquake shook the state of Gujarat in western India, killing untold tens of thousands of people, injuring countless others, and crippling most of the region;

Whereas the earthquake of January 26, 2001, has left thousands of buildings in ruin; caused widespread fires, and destroyed infrastructure;

Whereas the people of India and people of Indian origin have displayed strength, courage, and determination in the aftermath of the earthquake;

Whereas the people of the United States and India have developed a strong friendship based on mutual interests and respect;

Whereas India has appealed to the World Bank, the Asian Development Bank, and the international community for the economic assistance to meet the substantial relief and reconstruction needs facing that country in the aftermath of the earthquake;

Whereas the United States has offered technical and monetary assistance through the United States Agency for International Development (USAID); and

Whereas offers of assistance have also come from the Governments of Turkey, Switzerland, Taiwan, Russia, Germany, China, Canada, and others, as well as countless nongovernmental organizations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) expresses its deepest sympathies to the citizens of the state of Gujarat and to all of India for the tragic losses suffered as a result of the earthquake of January 26, 2001;

(2) expresses its support for—

(A) the people of India as they continue their efforts to rebuild their cities and their lives;

(B) continuing and substantially increasing the amount of disaster assistance being provided by the United States Agency for International Development (USAID) and other relief agencies; and

(C) providing future economic assistance in order to help rebuild Gujarat;

(3)(A) supports the economic assistance efforts of the World Bank, the Asian Development Bank, and the international community; and

(B) urges the President to use United States influence with these bodies to expedite these efforts; and

(4) recognizes and encourages the important assistance that also could be provided by other nations to alleviate the suffering of the people of India.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from New York (Mr. ACKERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H. Con. Res. 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 15, which expresses the sympathy and the condolences of the American people and the Congress of the United States following the devastating earthquake that struck western India January 26, 2001.

This earthquake, the most severe in India in the past 50 years, registered 7.9 on the Richter scale and caused incalculable human suffering and devastation. The resultant loss of life is estimated to be in the tens of thousands and hundreds of thousands are homeless and injured.

President Bush has pledged to provide immediate assistance to India, which is in urgent need of medical supplies, food, and emergency relief equipment.

H. Con. Res. 15 supports the efforts of our government, the World Bank, the Asian Development Bank and the international development community, in their endeavors to provide assistance to the Government of India and private voluntary organizations that are engaged in relief efforts.

Mr. Speaker, India is the most populous democracy on earth and a strategic partner of the United States. It is, therefore, fitting that the United States Congress express its sympathy and condolences to the people of India for the tragic loss of life and devastating destruction caused by this earthquake and support all bilateral and multilateral efforts to ease the human suffering in India and provide assistance in the reconstruction effort.

Mr. Speaker, I ask that my colleagues to support H. Con. Res. 15. I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 15.

Mr. Speaker, on the morning of January 26, the devastating earthquake measuring 7.9 on the Richter scale ripped through Gujarat State in northwestern India, leaving in its wake destruction on a staggering scale. The full extent of the damage is as yet unknown, but the numbers of dead are at least in the tens of thousands, the number of injured in the hundreds of thousands, and the number of displaced is so far over a half a million.

The estimate of property damage now tops $5 billion, but mere numbers cannot capture the extent of the devastation, nor the horror at the loss of life and loved ones.

Mr. Speaker, I want to express my personal condolences to all of those in India for the tragic losses that they have suffered.

□ 1045

I also want to express my condolences to those Indian-Americans whose families or friends have been affected by the earthquake. I know that the Indian-American community has mobilized since the earthquake to provide donations to those organizations that are assisting the relief operations on the ground in India, and the community should be commended for and assisted in its efforts.

The U.S. Agency for International Development has responded with a pledge of $5 million in emergency assistance joining many other nations as the international community comes together to assist in the search and rescue effort.

I am sure that, in this hour of India's deepest need, the United States and the international community will continue to do all that they can to assist India in the rescue and reconstruction efforts.

Mr. Speaker, the resolution before us today expresses the deepest sympathies of the Congress to the people of India and expresses our support as the people of India begin to rebuild their lives: I urge all of our colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from California (Mr. ROYCE), one of the coauthors of this resolution.

Mr. ROYCE. Mr. Speaker, first, I want to commend the gentleman from Illinois (Mr. HYDE), the new chairman of the Committee on International Relations, especially for expediting this important resolution to make certain that it hit the floor today.

I worked on this resolution with the gentleman from Washington (Mr. MCDERMOTT), my fellow cochairman of the Congressional Caucus on India; and it goes to the issue of the massive earthquake that with terrifying intensity hit the State of Gujarat in India on January 26. This is the most massive quake that India has faced in 50 years. It left in its wake tens of thousands of dead and injured. It devastated the infrastructure of the region.

The death toll has now been estimated anywhere between 20,000 and, incredibly, 100,000 human beings. These are staggering numbers, though the fatality statistics alone do not begin to convey the level of suffering that the people of India have endured and will endure for years to come as a result of this quake.

Indeed, the images of death and destruction we have seen on television are sobering. While the quake also impacted Pakistan and Nepal and Bangladesh, it is Gujarat that has been reduced to rubble. Thousands who have been left homeless must now deal with the loss of family members and the loss of their neighbors.

But in this tragedy, we were afforded a look at the strength of the human spirit. Alongside the devastation that occurred were the courage and determination shown by the people of India. Glimmers of that spirit came in the news that a mother and her baby were found among the survivors a full 4 days after the quake struck.

Offers of assistance have come from many countries. Not surprisingly, members of the Indo-American community have been quick to deliver their time and aid. Many Indo-Americans have family in Gujarat, though it is the Indo-American community as a whole that has stepped forward with a greatly impressive aid drive.

Over the weekend, USAID coordinated an airlift of emergency supplies to meet the immediate needs of the families in the region. President Bush has said that other airlifts are on the way. This resolution backs that effort in the strongest of terms which extends the American tradition of providing humanitarian aid.

The rebuilding of the state of Gujarat is a daunting challenge. Economic damage may top $5 billion. While India enjoys a growing economy, U.S.-India commerce is growing, India is still, though, very much a developing country that can ill afford this damage, especially to Gujarat, which was an economic powerhouse of India.

But India has a strong partner in the United States. We can lend a hand. Indians and Americans share a strong friendship, one that is so promising because of our common security and economic interest as well as the bond of common values between the world's oldest and largest democracies.

This quake, by the way, struck on India's Republic Day, a time for India to celebrate the democratic values upon which it was founded 51 years ago.

Again, I want to commend the effort of the gentleman from Washington (Mr. McDERMOTT) and applaud the support many Members of both parties showed by quickly cosponsoring this resolution. Showing solidarity now is in India's interest and it is in America's interest, and I urge passage.

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Washington State (Mr. McDERMOTT), the cosponsor of the resolution before us and also the newly elected cochair of the Congressional Caucus on India and Indian-Americans.

Mr. McDERMOTT. Mr. Speaker, I rise today to support H. Con. Res. 15, the concurrent resolution to express sympathy to the victims of the earthquake and the Indian state of Gujarat.

It is really with a very heavy heart that the gentleman from California (Mr. ROYCE), my colleague and Indian Caucus cochair, has introduced this bill.

I went down to San Francisco on Friday to celebrate Republic Day with the Indian community. I have never been in such a sad place filled with people who had spent the day or the night trying to get through to find out if their families were still alive.

For those of us who live on the West Coast, a 7.9 earthquake is truly terrifying. I have never been through anything that strong, and I have been through some tough ones in Seattle, and I know the gentleman from California (Mr. ROYCE) has in Southern California. The devastation was, of course, clearly going to be a bad earthquake. But no one realized that this was going to be the worst natural disaster in several centuries in India.

Several high-ranking government officials have already stated that the death toll is probably going to reach 100,000 people. Conservative estimates on property damage suggest a $5.5 billion toll, and that is before there has really been an assessment of the problem.

This resolution simply expresses our sympathies and our support for efforts by our own country in relief efforts. The physical devastation of Gujarat will not be erased for many years, and the psychological scars may never be eliminated.

Gujarat is where Mahatma Gandhi came from. It is where independence sprang. His first nonviolent act was to walk from Ahmedabad, the city that was destroyed, down to the sea. This is a time of tragedy, then, for our friends in India and all its people. In recent years, we have grown increasingly closer to India. The President visited India. The Prime Minister visited the United States last year. It was truly an amazing year last year. Those ties have become tighter and tighter in large measure because of the strong Indian-American community who has made an amazing impact in our country.

It has been this community that has come together to truly lead the American people's response to this natural disaster. I was in Seattle for the Republic Day celebration on Sunday, and they had already pledged a million dollars from Seattle.

India is a trading partner, a strategic partner and certainly an ally in democracy. I truly hope that our token of support is received by India and the people of India with our deepest sympathies.

This resolution, I am sure, will be unanimous on all sides of the aisle. I am happy this House has acted so quickly.

I want to thank Speaker HASTERT and the gentleman from Missouri (Mr. GEPHARDT) for acting so quickly and especially to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for waiving their jurisdiction so that we can vote on it today.

I would like to close by offering a Sanskrit benediction: "Sarva Mangalam Bha-vantu," peace to everyone.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from New York (Mr. GILMAN), the distinguished chairman emeritus of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I wanted to thank the gentleman from Illinois (Mr. HYDE), our distinguished chairman, for yielding. And I commend the gentleman from California (Mr. ROYCE) and the gentleman from Washington (Mr. McDERMOTT) for their sponsorship of this important resolution.

I am pleased to rise in strong support of H. Con. Res. 15, a sense of the Congress expressing our sympathy for the victims of the recent tragic earthquake in India and support for our ongoing aid efforts. Our hearts and prayers go out to our friends and families both here and abroad who are anguishing and mourning over this enormous tragedy in India.

On January 26, a quake that hit India's Gujarat state measured 7.9 on the Richter Scale. As of yesterday, there were 6,287 people confirmed dead and 15,481 injured, with estimates putting the total number of fatalities projected to be as high as 100,000. That earthquake left thousands of buildings in ruin, caused widespread fires and devastation and impacted the entire infrastructure of that region.

My office has been in direct contact with Ambassador Celeste, our representative to India; and based on his report, we are confident that our State Department is acting swiftly and appropriately in this crisis.

Two days ago, our Nation's airlift, a 747 aircraft, loaded with supplies capable of assisting some 8,000 people, landed; and U.S. funds have already been contributed to India's prime minister's relief fund.

Secretary of State Colin Powell has been permanently engaged in ensuring that our government does all that it can to help in sending emergency equipment and personnel to help relieve this suffering and then assessing how and where our assets can best be utilized.

We commend India's defense minister, George Fernandes, for his swift and impressive response to this crisis. He is well known as being a man of the people and his dedicated work of his soldiers is doing God's work.

It was reported yesterday that Prime Minister /Vajpayee, while touring areas hardest hit by the powerful quake, pledged that no expense would be spared to rebuild the affected region as soon as possible. We in our Nation need to do all that we can to assist him in his efforts, and I look forward to hearing from the administration how we can be of further assistance.

I strongly support H. Con. Res. 15 and urge my colleagues to support the resolution.

Mr. ACKERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), the founder of the India Caucus and the former chairman.

Mr. PALLONE. Mr. Speaker, it is with great sadness that I come to the House floor this morning. Last Friday, as we know, one of the most destructive and devastating earthquakes hit India. And the area hit hardest by the quake was Gujarat, an area where a majority of Indian-Americans in my home district of New Jersey come from.

Many of these Indian-Americans today are still waiting to hear whether or not relatives and friends are still alive. I want the millions of Indian-Americans to know that my prayers remain with them as the struggle to find victims and provide assistance to the wounded continues.

Mr. Speaker, the resolution that we have before us today says two very important things: first, that, as a country and as a Congress, we express our deepest sympathies to all Indians for the tragic losses suffered as a result of last week's earthquake; and, second, the resolution voices this Congress' belief that we must substantially increase the amount of disaster assistance being provided by USAID and other relief agencies. This is critical.

As of today, USAID has already sent $5 million in emergency supplies to the area most devastated. This is a good start, but we must do more. That is why I have asked President Bush to immediately double the amount of money being sent to India through USAID. I believe that we will need to do more in the future, but this assistance will make a huge difference in the lives of those who are now suffering.

I just lastly want to thank the gentleman from Washington (Mr. McDERMOTT) and the gentleman from California (Mr. ROYCE), the new chairman on the Congressional Caucus on India and Indian-Americans, for introducing this resolution in such a timely manner.

I ask that my colleagues support this resolution so that the nation of India and millions of Indian-Americans here in the United States know that they are not alone in helping the victims of this devastating event.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) for yielding me time.

Mr. Speaker, I, too, rise this morning to join the bipartisan voices of support to the nation of India during this extremely difficult time.

As was noted last Friday, western India, Gujarat, was struck by a devastating earthquake resulting in the loss of tens of thousands of lives. It has been mentioned that 100,000 might be reached, death and devastation that defies description. Perhaps the injuries will be in the hundreds of thousands, economic damage of $5 billion or more, and perhaps even that is not measurable.

With the destruction of thousands of buildings and the devastation of the region's infrastructure, India is in great need of support from the international community. And I am glad to hear that USAID has weighed in with an initial response on January 27th of $5 million. There is more to come.

Along with that, the international community, the European Union, the International Red Cross is on board. Things are happening, but it cannot happen fast enough.

□ 1100

So, Mr. Speaker, I offer my condolences to all the families and individuals in India and the United States, and particularly those in my own district in Michigan who lost their loved ones, as well as those who have lost homes and possessions. I urge all Members to join in expressing our deepest sympathies and continued support as the people of India face the enormous task of rebuilding their country.

I urge my colleagues to support the resolution and I commend the authors, the gentleman from California (Mr. ROYCE) and the gentleman from Washington (Mr. McDERMOTT), as cochairs, for bringing this resolution forward.

Mr. ACKERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I first want to thank our ranking member for allowing me the time to come forward, and I thank also the two chairmen, as well as the gentleman from California (Mr. ROYCE) and the gentleman from Washington (Mr. McDERMOTT) for bringing this to the floor quickly.

As a member of the House Committee on Appropriations, where I serve on the Subcommittee on Foreign Operations, Export Financing and Related Programs, this small appropriation that we are giving India today hopefully will be a first step in assisting them with the tragedy that they suffered on January 26.

I want to express my sympathy to the victims of the devastating earthquake and let them know that this Congress, USAID, the World Bank and the Asian Bank are working in partnership to make sure that we do what we can to help to rebuild that fabulous country.

It is important that we show our appreciation and support because millions of Indian-Americans, as has already been stated, here in this country have lost families in their homeland; over 20,000 and up to 100,000 people losing their lives.

So, Mr. Speaker, I am happy to also express sympathy and offer support, and I hope that as we work through the foreign operations budget we will find more financing and more support for the people of India.

Mr. HYDE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I rise in strong support of H. Con. Res. 15. I want to thank the chairman, the gentleman from Illinois (Mr. HYDE), and I want to thank the ranking member, the gentleman from California (Mr. LANTOS), for so expeditiously bringing this very important resolution before us. Obviously, I want to thank the Members of Congress who crafted it, the gentleman from California (Mr. ROYCE) and the gentleman from Washington (Mr. McDERMOTT).

This is so important, and I certainly express my sorrow and my sympathy to the citizens of Gujarat, and all of India, for the losses that they have experienced caused by the tragic earthquake in India which occurred on January 26.

This earthquake was the most powerful to strike India since August 15, 1950. The Indian Government estimates that as many as 100,000 people are dead, 200,000 are injured. The media has reported that more than 500,000 people are displaced. And although logistical constraints continue to hamper relief efforts, the United States Agency for International Development's Disaster Assistance Response Team, Catholic Charities, and dozens of relief agencies have worked with the Indian Government in identifying several critical needs in affected areas. Hundreds of volunteers have offered themselves and equipment to the relief efforts, including earth-moving equipment, concrete cutting and breaking supplies, medical equipment and supplies, mobile field surgical hospitals, portable water, sanitation facilities, food, and shelter.

Americans are traditionally very generous to those in need, be it an individual or an entire Nation. And this terrible incident is another example of how we have to come together to attempt to lessen the severe pain that the country of India is currently experiencing.

Although the search for survivors decreases by the day, we must remember the rebuilding period that will take decades. Literally hundreds of thousands of men, women, and children are homeless, widowed, orphaned, and helpless.

Mr. Speaker, I am proud to represent a large number of Indian-Americans in my district and to serve on the Congressional Caucus on India and Indian-Americans. I want to encourage all of my colleagues to join me in recognizing the pain of an entire Nation and the courage of its people while offering long-term support.

Paraphrasing John Donne, who said, "No man or woman is an island; we are all connected to each other. The death of any man or woman diminishes me. The bell tolls for each of us." Let us respond.

Mr. ACKERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) and the distinguished gentleman from New York (Mr. ACKERMAN), along with many Members of the Congressional Caucus on India and Indian-Americans.

Let me first of all acknowledge the great contributions that Indo-Americans have given to this Nation. Celebrating the 51st anniversary of their democracy this weekend in Houston with some 5,000, it was very much emphasized the drawing together of this community to lift up India and their loved ones.

We realize there may be as many as 100,000 dead. And as we have watched every morning on television, we have seen not only the sadness but we have seen the courage, we have seen the ability of those in India to survive. And they want to survive and they want to try to save their family members. I am hoping, and I believe this resolution is of great importance to acknowledge their courage, to acknowledge the devastation and to begin to talk as a country to increase the amount of aid.

Let me applaud the Congressional Caucus on India and Indian-Americans for its request for additional aid, and I wish to acknowledge Condoleezza Rice and the Bush administration in responding to a call I made for an increase in aid. Let us give the Indian people sympathy and love and let us give them support.

Mr. Speaker, I rise in support of the sense of congress resolution expressing sympathy for the victims of the recent earthquake in India. The earthquake that struck India on January 26, 2001, was truly devastating and horrific. The loss of human life and mass destruction of property that has been witnessed in India is sad and real. With at least 20,000 people killed, thousands missing or homeless, and the region's infrastructure totally devastated, the state of Gujarat and the Indian nation has an overwhelming task of rebuilding.

The earthquake had enormous affect in India's western Gujurat state, and governmental officials said thousands are injured or missing. The tremble caused high-rise buildings to shake from New Delhi to Munbai and Kolkata. I have learned that the death toll could go as high as 100,000. Whatever the actual loss, such tragedies are difficult to ever justify morally or in any other logical fashion. It is a humanitarian disaster.

The United States can and should play a leading role in the international relief effort on behalf of India, given the growing ties with India and the burgeoning American-Indian Community in America. In fact, India and the United States have much in common as the world's two largest democracies. Last year, I had an opportunity to accompany President Clinton on his historic visit to India to further strengthen our ties with the people of India. The warmth and genuineness of the people of India was unforgettable.

This past weekend I attended a moving event with Indian-Americans from the 18th Congressional District of Texas. The Honorable Rinzing Wangdi, Consul General of India was in attendance. I had the opportunity to speak with a number of Indian-Americans who spoke about their shock and sadness regarding the earthquake.

Accordingly, I wrote and spoke with the Bush Administration officials, over the weekend, to ask for support of the Indian people. When meeting with American-Indians in my community, they urged me to seek assistance for the people of India. While I surely applaud the innovative efforts being taken within India to assist the victims during this traumatic time, urgent assistance is needed for the people of India. We have all learned by now that searchers in India used everything from sniffer dogs and sophisticated rock-cutting tools to screwdrivers and their bare hands to search for survivors. We must hope, of course, that any life that can be saved will be saved.

In bringing hope and expeditious relief to the people of India, we must listen to the growing Indian-American population for their guidance and expertise in emerging from this crisis. Indian-Americans, who have organized themselves into large numbers of associations and organizations, are playing an important role in strengthening cooperation in India and the United States. This is a promising sign for relations between our nations because we can pull together in times of need.

As a preliminary response, I am thankful that coordinated efforts by agencies such as the American Red Cross and international organizations are beginning to determine the needs of the survivors and those left without basic necessities. Contributions by individuals to such relief agencies will make such a discernable difference in the life of the people of India that have suffered so severely.

Additionally, India will be seeking loans from the international community to rebuild the devastated areas. The Government of India is expected to seek loans from international institutions, such as the World Bank and the Asian Development Bank. The World Bank has thus far offered $300 million, and has pledged to put together a longer-term assistance plan in consultation with the Gujarat state government. We understand that India may seek $1.5 billion in multilateral loans.

Mr. Speaker, we must confront unilateral U.S. sanctions that are in place against India to bring some peace and stability to the affected areas. Under the unilateral sanctions regime on India that went into effect in 1998, the U.S. government was directed to oppose multilateral loans and credits to India. However, under legislation adopted by Congress, the President of the United States has the authority to waive certain sanctions, including the mandated U.S. opposition to World Bank loans, particularly those loans that would have a direct humanitarian benefit. Clearly, the present tragedy in India is an enormous humanitarian emergency.

Accordingly, I wish to join my colleagues and urge the Administration to fully support India's request for assistance through international financial institutions, and should work within the World Bank and other international organizations to expedite India's requests. It is the right thing to do and we all know it.

Mr. Speaker, at this time of enormous tragedy in India, it would send a positive signal of American concern and support if the remaining U.S. unilateral sanctions against India were waived to allow for friendlier and more normalized relations between our nations, and to remove any impediments for full and prompt delivery of assistance to India in this time of need. Let us be helpful and expeditious in this enormous time of need for the people of India.

Mr. Speaker, I urge adoption of the resolution.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the chairman for yielding me this time. I too want to express my deep sympathy and sorrow for those people in India who are suffering. It was truly a devastating natural disaster and certainly the concern of all Americans goes out to all these people.

I do have some concerns about how we respond so often to disasters like this because we believe that we can solve all our problems by just going to the taxpayers. I know that this does not seem like the appropriate time to raise the question, but there was a time in our history when we did not assume that it was a constitutional approach to tax poor people in America to help people in other parts of the world. We have always resorted to charities and volunteer approaches, and I still believe that is proper. I do not think there is evidence to show that aid to governments is necessarily the most efficient manner of helping other people.

There is also the moral question. We talk about what we are giving today, and it is substantial amounts, and we are substantially increasing it. It could be $10 million. It could be $100 million. But nobody talks about could it cost something. Well, there is a cost to it and it might hurt some innocent people in this country; the people who we do not know about. Somebody might not be able to build a house or get medical care. There may be somebody who will lose a job. There may be an increase in inflation. But we will never see those victims, so they are not represented. I think that if we were more determined to follow the rule of law and do this only in a voluntary manner we would not always place a burden on some innocent people in this country.

It was ironic that today, although there was talk earlier about sending some goods and surpluses, that actually the ambassador today sadly said he was not interested in any surpluses; he just wanted the dollars to come over there. And there may be a good reason for this, for efficiency sake or whatever. But in a way, I think if we have some surplus in food or something, we should be able to provide that.

Mr. Speaker, I thank you for the opportunity to express my sympathy for victims of the recent earthquake in the State of Gujarat, India and, at the same time, my concern for American taxpayers who, once again, will see their constitution ignored and their pockets raided by their representatives in Washington—it is, of course, easy to express sympathy with other people's money.

Without so much as a hearing in the International Relations committee, this bill comes to the floor and, while laudably expressing deep sympathy for victims of this terrible natural disaster in India, regrettably expresses support for (a) the World Bank; (b) "substantially" increasing the amount of U.S. taxpayer-funded, disaster assistance; and (c) future economic assistance to rebuild the state of Gujarat, India.

Setting aside for the moment that nowhere in Article I, Sec. 8 (the enumerated powers clause) of the Federal Constitution can authority be found to take money from U.S. taxpayers for this purpose, additional problems result from passage of this resolution as well as those actions certain to follow as a consequence of the bill's passage.

First, the notion of taxing the fruits of financially struggling Americans with no constitutional authority only to send it to foreign governments is reprehensible. One of the problems with such aid is that it ultimately ends up in the hands of foreign bureaucrats who merely use it to advance their own foreign government agendas thus making it less likely to get to those most deserving. One need only compare the success of private charities in this country with those government relief efforts to clearly see government's profound and inherently inept record.

Secondly, forced "contributions" erode any satisfaction that comes from being a charitable individual. Without the personal choice of giving or not giving to charitable relief efforts, the decision to be charitable and the moral reward of so doing is completely eroded by the force-based government.

Lastly, as a result of such actions as these, participation dwindles worldwide for the most efficient means of dealing with such catastrophes, that is, private disaster insurance. When disaster costs are socialized, greater catastrophic results are encouraged as more people ignore the costs of living in riskier areas. At the same time, these same actors ignore the cost savings and other benefits of living in safer areas. Governments acting to socialize these costs actually stimulates the eventual death and destruction of more people and their property. (This, of course, is a lesson that the United States should learn to apply domestically, as well.)

While I truly do extend my heartfelt sympathy to those victims of the recent natural disaster in India, my duty remains to protect the U.S. taxpayer and uphold the constitutional limits of our Federal Government. For this reason and each of those detailed above, I must oppose this resolution.

Mr. ACKERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I too rise in support of House Concurrent Resolution 15.

A few weeks ago, Mr. Speaker, we heard of a devastating earthquake also in El Salvador. Here we go again, another earthquake that has profoundly affected the citizens of India.

As a former representative of the State of California, I had the privilege of working with the Indo-American community in the State of California to help establish a trade office there. I know that these individuals, both there and abroad, their families right now deserve our utmost support and sympathy, and particularly any humanitarian aids that we might provide.

I stand here before my colleagues, as a California representative, asking for full support and effort on behalf of our country for those mostly affected in the great country of India.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Illinois for bringing this quickly to the floor. Having just returned from India, I wish to express my deepest sympathy to the many victims of the recent earthquake. India is a beautiful country, with so many wonderful people. The scope of this disaster is just hard to imagine. Traveling across the country, I was amazed by the diversity in the culture and the hospitality of the hosts.

The devastation caused by this natural disaster has taken the lives of over 10,000 people but has impacted countless others, both in India and here in the United States. In my own district, the American-Indian community is very strong, and I am honored to consider many of them my friends.

It is difficult to imagine the magnitude of the devastation in India as we speak hear on the floor today, but I am deeply moved by the mobilization of the Indian community in response to this tragedy.

Let me borrow a quote from the inaugural address of President Bush. "Never tiring, never yielding, never finishing, we renew that purpose today; to make our country more just and generous; to affirm the dignity of our lives' and every life. This work continues. This story goes on." That is America, there to help in time of need.

So I would encourage all Americans to consider contributing to one of the many aid organizations that participate in the recovery and aid the mission in India. I urge my colleagues to support this resolution, and I thank all who participated in bringing it to the floor today.

Mr. ACKERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleagues in support of House Concurrent Resolution 15 expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001 and support for aid efforts.

Relative to our population size, the Virgin Islands proportionately has one of the largest Indian communities in the United States. In many communities of the Caribbean, people who trace their ancestry to India make up an important part of the fabric of those societies. So on behalf of the Virgin Islands' community I wanted to join my colleagues in expressing our sympathy and concern, but more importantly in encouraging our country's support.

One finds it difficult to imagine how a Nation will cope with a tragedy which estimates total deaths possibly as many as 100,000 people. They can only do so with our and the world's help.

I want to commend President Bush for his quick response in offering assistance to the people of India. Likewise, I want to commend the Speaker; our minority leader, the gentleman from Missouri (Mr. GEPHARDT); and my other colleagues for doing the same with this resolution today, and I urge its support.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank the chairman.

As chairman of the subcommittee on science that oversees what we do on earthquakes in the United States, I would like to sort of make two comments. Number one, we are going to do whatever we can in this country to relieve some of the suffering and some of the damage that has been caused by earthquakes in India, so certainly I support this resolution. But I would like to call to all my colleagues' attention, to the attention of the American people, that this is not isolated to some other country; something that might happen someplace else.

We have had serious earthquakes in the United States and will continue to have very serious earthquakes. The Loma Prieta earthquake was an estimated $6 billion worth of property loss in addition to human life. And of course the Northridge in 1994 was an estimated $40 billion loss of property as well as a great deal of damage to our physical health and well-being in California. It is a challenge.

We have passed a bill this past year which is probably the most aggressive effort in giving us a better time frame to determine what we can do in that short time period to reduce the damage to human and physical property.

□ 1115

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, on behalf of the vibrant Indo-American community in my district, many of whom who have relatives in Gujarat, I rise in strong support of the resolution and thank the distinguished co-chairman of our Caucus on India, the gentleman from Washington (Mr. MCDERMOTT) and the gentleman from California (Mr. ROYCE), who I was honored to travel with them and the President to India last year.

I am proud to be an original cosponsor of this resolution, which expresses sympathy for the loss of lives and Congress' commitment to help our ally, India, the world's largest democracy.

I know that USAID and other U.S. agencies are working hard to respond to this crisis. It is also important that we all work to get accurate information to our constituents so that they can know, in the earliest time possible, what has happened to their loved ones.

I certainly pledge to do my part and am happy once again to congratulate the authors of this resolution.

Mr. HYDE. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentleman from California (Mr. OSE).

Mr. OSE. Mr. Speaker, I rise today on behalf of the people of the Third Congressional District to express our deepest sympathies to the people of India for the losses suffered in the recent earthquake in Gujarat.

As we see the victim toll continue to rise, I pledge my support to those efforts in aiding India and its people to recover and rebuild their cities and their lives.

I hope that the Committee on Financial Services will take an extensive look at helping India through the Asian Development Bank. The U.S. contribution to the Asian Development Bank can provide an effective way to help India rebuilt its cities and keep its society going.

I applaud the Bush administration's active role and those of all international organizations in supporting the people of India at this time.

Mr. Speaker, I strongly support this resolution.

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from California (Mrs. CAPPS) a member of the committee.

Mrs. CAPPS. Mr. Speaker, it is with such sadness that I rise today to speak of the enormous tragedy which has befallen the Indian people. The earthquake that struck Gujarat on January 26 has taken such a toll and the suffering continues.

I recently had the opportunity to travel to India and witnessed firsthand the grandeur of this great nation. I experienced the generosity and warmth of the Indian people and benefitted from their friendship.

The Indian people have overcome many challenges to become a great leader in technology and commerce. As the world's largest democracy, India is a great friend to the United States and an important ally. I trust we all are and will do all we can to help our friends in this, their time of need.

I commend the efforts in my district through a nonprofit agency, Direct Relief International, where shipments of medical supplies are on their way in a coordinated effort. I know that this aid we send cannot end their suffering, but we must reach out a helping hand and our prayers to our friends in India and to Indian Americans here at home.

Mr. HYDE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Illinois (Mr. HYDE) has 2½ minutes remaining, and the gentleman from New York (Mr. ACKERMAN) has 7½ minutes remaining.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, as my colleagues know, on January 26 of this year, India suffered a tragic and deadly earthquake that stole the lives of thousands. It is with my deepest and heartfelt sympathies that I offer my prayers for all those affected by the earthquakes in western India.

I have spoken with Indian Americans in my district in New Jersey who are experiencing tremendous grief. My thoughts are with them and their family and friends and all of those who have been affected by this unbelievably tragic event.

Now that several days have passed and the critical threshold for time for the rescue of survivors is dwindling, I can only point to the recovery of a 7-year-old child, who was found in the arms of her deceased mother, as a sign of hope that there are still survivors. It is faith that has kept these survivors alive. We must not lose ours.

In the aftermath of these earthquakes, the people of India have shown an enormous display of strength, courage, and determination. We must support the thousands of survivors who have been left in shock and who are in desperate need of medical care, food and shelter.

We must ensure that the United States and international aid is delivered to provide both economic and disaster assistance in order to alleviate the suffering of the people of India in a timely fashion.

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise to express my strong support for the resolution before us, which expresses our deep sorrow and sympathy for the horrifying earthquake that devastated India, the world's largest democracy, on January 26.

In spite of this enormous natural disaster, the will of the Indian people perseveres as they try to recover and meet the latest challenge placed before them. Many of my constituents have family, friends and loved ones that live in Gujurat, the hardest-hit region, and my thoughts and prayers are with them.

Our shared democratic values and commitment to the rule of law and basic freedoms demonstrate why it is in America's interest to assist India, a growing trading partner, in its full recovery. While the Agency for International Development has already provided several millions of dollars in emergency humanitarian and disaster assistance, I hope President Bush will seek to do more.

Even though the earthquake will have a negative impact on India's growing economy, India should continue with its bold economic liberalization and revitalization efforts. Through those efforts, the United States will remain its largest foreign trading partner and investor.

The Indian-American community, which has played a strong and productive role in strengthening ties between India and the United States, has responded strongly in the midst of their overwhelming grief. The effects of this unfolding tragedy will be felt over time, but it remains necessary to continue with relief efforts and begin to consider the long-term steps necessary to help India rebuild itself.

I hope our Government will continue to support the relief efforts of AID, private voluntary organizations, and international financial institutions to supplement for the vigorous efforts of the Indian government as it helps its citizens recover and rebuild their lives. It gives us the sense of universality of our citizens, the citizens of the world. And in moments of need, this is the time which the United States has a tremendous opportunity to help.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from the State of Illinois (Mr. DAVIS), the original conceiver of this resolution before us today, who has been very gracious in cooperating both with the leadership and with the women members of our delegation to allow them to speak before him, as well.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Illinois (Speaker HASTERT), the gentleman from Texas (Mr. ARMEY), the majority leader, and my colleague, the gentleman from Illinois (Mr. HYDE) for their sensitivity in expediting this important resolution to the floor.

I also take this opportunity to commend and thank the gentleman from Washington (Mr. MCDERMOTT) and the gentleman from California (Mr. ROYCE), the co-chairs of the Caucus on India, for their leadership in drafting this important resolution.

I was also pleased to have a resolution which I submitted rolled in this one so that there would be one strong resolution and one strong display of unity.

I rise today on behalf of the people of the Seventh Congressional District of Illinois to offer support, sympathy and condolences to the people of India in light of what has been called one of the most deadliest and most devastating earthquakes ever to strike that country.

On Friday, January 26, India was struck by a devastating earthquake that measured 7.9 on the Richter scale. The earthquake has flattened the second most industrialized city in India. In addition, to causing massive destruction to the infrastructure of India—thousands of lives have been lost. As of today, the official death toll stands at more than 7 thousand. According to Indian Defense Minister George Fernandes, the death toll could go as high as 100 thousand, with twice as many injured. Moreover, more than 200,000 people are said to be homeless as a result of the devastating destruction to many of the buildings in Western India. Thousands of India citizens remain traumatized by the continuous strong tremors and aftershocks—some ranging up to 5.6 magnitude on the Richter scale, that continue to hit India.

Hundreds of thousands of persons are plagued with the prospect of no food, no running water for bathing or cooking, no blankets to stay warm and no working telephones to make contact with family.

But even in the midst of this tragedy, there are heartwarming stories that must be told. For example, the enormous outpouring of aid from the world community and especially Pakistan. Other stories include children and babies being pulled out of the rubble after being buried for 3–4 days. The remarkable story of the human heart and how it is able to triumph over tragedy. In Chicago, and other cities relief efforts are underway. There are the remarkable doctors, nurses and other medical personnel volunteering to work urgently against time to save as many victims as possible. Their dedication to save life regardless of the lack of medical supplies available to them, at times moving from victim to victim without time to sterilize their medical instruments. I praise the medical personnel who are doing everything possible to save their fellow citizens during this tragic time in their country.

It is estimated that the damages caused by the earthquake will be $5.5 billion. India is in need of mobile surgery units, simple medications, bandages, splints, and electronic equipment to help search for bodies buried in the rubble. India has already begun to receive aid in forms of search dogs, cranes, generators, and experienced rescuers. The United States has committed $5 million in aid to be sent to India.

I call on all citizens of the United States to assist India in its rebuilding efforts. Crisis situations, like the one in India, calls for genuine unity among nations. It has been predicted that the rehabilitation and reconstruction may take another 10 to 20 years. The need for support to India will continue to exist after the rubble has been plowed away and the dead memorialized. This Resolution says that we, as a nation, will continue to be by India's side during its transformation back into a state of normalcy.

I want to commend the world community for its swift action and response and especially the country of Pakistan. I also want to commend all of the medical personnel, the doctors and nurses, and others who have given so much of themselves so that they could be of help.

Mr. Speaker, I want to thank my new intern, Jennifer Luciano from Loyola University. This was her first work effort, and I think she did an outstanding job.

Mr. ACKERMAN. Mr. Speaker, it is my pleasure to yield 1½ minutes to the distinguished gentleman from the State of Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, the depth of the suffering and tragedy in India I think is obvious. But I think what is not, perhaps, obvious is to the extent of how close our relationship will be with the Indian people over the next several decades.

I would suggest that one of, and just one of the reasons we should significantly increase our aid to India at this time is that we are going to have a relationship with India, the world's largest democracy, I believe, in the next several decades every bit as close and important, as vital and productive as our previous relationship with the continent of Europe in the last several centuries. And because of that, we ought to significantly increase, is my belief, our commitment, which, at this moment, stands at, I believe, $5 million.

My growing friendship with the Indo-American community, seeing the creative talent that has come to our community in my district, which is the major reason for the economic explosion in my district with their creative talents, leads me to conclude that India is going to be every bit as important as the European community.

I want to compliment the Bush administration in trying to assess the damage in India. I have spoken to two assistant secretaries in the last 2 days about that. But I do want to encourage the executive authority to significantly increase the aid on an emergency basis, even before we can do an emergency supplemental. And the reason I say that is, the executive staff does have the ability to do this at this time. There are funds in the various accounts to be able to do so. And it is my belief that this would be a tremendous step for the new administration to take, to come up with an aid package in multiples of $5 million.

It would demonstrate the compassion that is the basic character of the country, but it would also demonstrate that this new administration intends to have a proactive beneficial international policy.

Mr. ACKERMAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the State of New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, while thousands of individuals celebrated their domestic accomplishments and democratic government a week ago on Republic Day, the earthquake shook the ground that they marched on and turned a festivity into a disaster for hundreds of thousands.

Earlier this month, I had the privilege of traveling again in India, a country rich in heritage, beauty and traditions, a country quickly rising in economic power.

Now, however, despite the dismal reports, small glimmers of hope are emerging from the darkness. Just yesterday, a 24-year-old computer student, Veeral Dalal, a resident of my State of New Jersey, was rescued in Bhuj after spending 4 days with only 8 inches of room between him and a collapsed ceiling.

Americans are generous to those in need. We stand ready to offer assistance. Mr. Dalal is just one example of how grief can be mitigated with hope. But we must stand ready not only to offer help and rescue, recovery, and emergency shelter and care, but also in the longer-term efforts in community planning and reconstruction of a modern infrastructure in keeping with the great country of India and our growing closeness to democratic countries.

Mr. ACKERMAN. Mr. Speaker, may I inquire how much time is remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. ACKERMAN) has 2 minutes remaining.

Mr. ACKERMAN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 15 offered by the gentleman from California (Mr. ROYCE), the gentlemen from Illinois, Mr. HYDE and Mr. DAVIS, and the gentleman from Washington (Mr. MCDERMOTT) and my good friend, the gentleman from New York (Mr. ACKERMAN).

I wish to express my deepest sympathy to the victims of the devastating earthquake that occurred on the morning of January 26 of this year in the Indian state of Gujarat in western India and the families of the victims both in India and the United States.

As a member of the Caucus on India and as a representative of a sizable population from Gujarat and other parts of India in my home district, I will do everything I can to help my constituents reach out to their families and friends who suffered tremendous losses as a result of this terrible event.

□ 1130

I will be meeting with leaders of the Indian community in my district this Thursday to talk about the relief efforts that are under way thus far.

I wish to commend the gentlemen from California, Illinois, New York, and Washington for their leadership in rapidly responding to the Gujarat earthquake over the last several days. I also want to extend my thanks to the Bush administration, Secretary Powell, and USAID for their quick response to the situation in India and the release of emergency funding.

As my colleagues have done, I urge the Bush administration to increase the amount of technical and monetary support both for immediate disaster relief as well as for long-term reconstruction of the Gujarat state economy. I also urge the Bush administration to support World Bank funding fcr earthquake relief.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

I just want to conclude by thanking the distinguished new chairman of the House Committee on International Relations on what appears to be his first successful handling of a bill in that committee on the floor. He shows a lot of promise.

Mrs. MALONEY of New York. Mr. Speaker, I was deeply saddened by the news of the earthquake in India's Gujarat state and would like to offer my sincerest condolences to the families of India. In this time of tragedy, the people of India can be assured that we will stand by them and continue to offer our support. We will do all we can to aid those who are suffering and those who must begin the difficult process of rebuilding.

Mr. DOYLE. Mr. Speaker, I stand before the House today with a heavy heart to express my profound sorrow and sympathy for the victims of the Gujarat earthquake in India.

This terrible act of nature destroyed thousands of homes and businesses, crippled roads and bridges, and unleashed raging fires. But, my colleagues, the most devastating toll of destruction resulting from last Friday's earthquake is not on the physical structures in India, but on the citizens of India themselves. Tens of thousands of Indian people were killed as a result of this earthquake, and a myriad of others were critically injured.

Mr. Speaker, I know from my personal involvement with the Indian-American community in my congressional district and from my service on the Caucus on India and Indian-Americans that the people of India and the United States have long enjoyed a hearty and prosperous friendship. I am also very aware of the strong sense of community and social responsibility that Indian-Americans possess. When a tragedy of this magnitude occurs, the Indian people both domestic and abroad, rally this spirit of community and fellowship to help the plight of those suffering from harm.

We too must answer this call to service and community, and reaffirm our support for the people of India in this time of dire need. That is why I became an original cosponsor of House Concurrent Resolution 15, which officially recognizes and encourages efforts to alleviate the suffering of the people of India. I fully support continuing and increasing the amount of disaster assistance provided to India by the United States Agency for International Development, and encourage other financial institutions such as the World Bank to provide economic assistance.

While no amount of money could ever hope to replace the loss of life, we can endeavor to ease the suffering and help the reconstruction efforts of those survivors left to pick up the pieces. I am pleased that H. Con. Res. 15 passed the House overwhelmingly earlier this afternoon. Once again, Mr. Speaker, let me express my condolences to the victims of the Indian earthquake.

Mr. WELDON of Florida. Mr. Speaker, I am pleased to come before the House today and pledge support to H. Con. Res. 15, a concurrent resolution expressing sympathy for those suffering due to the devastating earthquake in India. As a member of the India Caucus I want to commend Representatives McDERMOTT and ROYCE who introduced this resolution and so quickly brought it to the House floor.

On January 26, an earthquake measuring 7.9 on the Richter Scale occurred in western India. The epicenter of the earthquake was located 12 miles northeast of Bhuj in Gujarat State, India. Since January 26, there have been 77 confirmed aftershocks, 19 of which registered above 5.0 on the Richter Scale. On January 28, two aftershocks caused additional structural damage. Pakistan, Nepal, and Bangladesh were also impacted. The earthquake was the most powerful to strike India since August 15, 1950, when an 8.5-magnitude earthquake killed 1,538 people in northeastern Assam state.

This enormous tragedy has left tens of thousands of people dead, hundreds of thousands homeless, and the region's infrastructure devastated. The state of Gujarat and the entire nation of India face an enormous task of rebuilding. Friday's quake flattened two cities in India's western Gujarat state, and government officials said thousands are injured or still missing.

In addition to the relief assistance already being provided by the Government of India, I am here today to support United States efforts as well. On January 27, the United States Agency for International Development/Office of U.S. Foreign Disaster Assistance (USAID/OFDA) announced that it is prepared to provide $5 million in emergency humanitarian assistance. Mr. Speaker, the United States has a long history of support for other nations in their time of need. And I join other Members of the Congress in supporting these efforts for India.

I am pleased to be working with members of the Indian community in my congressional district to expedite assistance to those in need.

My prayers are with those affected by the earthquake and those in my district and other Americans who have family and friends in India.

Mr. LEVIN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 15, which expresses Congress' sympathy to the citizens of Gujarat, India, for the devastating losses suffered as a result of last week's deadly earthquake. This resolution urges economic and disaster assistance to help the victims of this disaster rebuild their lives. As an original cosponsor of House Concurrent Resolution 15, and a longtime friend of India, I urge all my colleagues to join me in voting for this measure.

This tragedy has cost the lives of tens of thousand in India, injured more than 100,000, and displaced more than a half million men, women, and children. Fires still burn throughout the devastated region. The damage to the region is expected to exceed $5.5 billion. In the face of such a catastrophe, it is imperative that the global community actively respond. Already, nations around the globe, and countless non-governmental organizations, have offered assistance to India. We in the United States can do no less. I commend President Bush for quickly offering assistance to India, and urge my colleagues to do still more.

I offer my condolences to the people of India, and especially the victims of the Gujarat earthquake and their families. I thank my colleagues, Mr. McDERMOTT and Mr. ROYCE, for offering this resolution, and urge all my colleagues to support it.

Mr. LANTOS. Mr. Speaker, I rise today in support of H. Con. Res. 15 which expresses the sympathy and support of the American people and the U.S. Congress to the victims of the devastating earthquake in western India. On Friday, January 26, the Indian State of Gujarat was struck by a massive quake which was felt across the subcontinent from Pakistan to Nepal and Bangladesh. For Gujarat, the calamity was overwhelming—thousands have lost their lives and countless others have been rendered homeless and destitute.

The Government of India has been coping heroically in the face of such widespread destruction. The Indian Armed Forces have been the backbone of this response, joined by thousands of ordinary people who have put aside their own personal loss to help save lives and provide assistance to others.

The aftershocks of the quake can be felt around the world and in our own country as thousands of Indian-Americans face the loss of loved ones.

I want to commend the Bush administration and the U.S. Agency for International Development for immediately responding to the emergency by providing $5 million in humanitarian assistance and dispatching a plane load of supplies and relief experts to the region.

I also want to commend the American people, particularly the Indian-American community for their tremendous outpouring of concern and offers of assistance to the victims of the disaster. As we have seen time and again, during the recent earthquake in El Salvador and other foreign disasters, the generosity and caring of the American people knows no boundaries.

The world community has also recognized the enormity of this disaster and aid has been flooding in from all corners. But I am afraid that even this generous response will be inadequate in the face of such overwhelming destruction.

This resolution pledges the support of the U.S. Congress to provide additional assistance to the Indian Government and the people of Gujarat as they try to rebuild their lives and their country.

In light of the very special relationship between the United States and India, I think it is important that we send this message of solidarity and hope to the people of India.

There will be dark days ahead for the people of India as they dig out from beneath the rubble, cremate the dead and try to piece together their lives and livelihoods. But they can take comfort from the fact that they are not alone in facing this challenge. America and the world will stand by India in its hour of need.

I urge my colleagues to support this resolution.

Mr. STARK. Mr. Speaker, today, I rise in support of this resolution expressing sympathy for the victims of the January 26, 2001, earthquake in India. The earthquake and the subsequent aftershocks have killed tens of thousands of people.

On the heels of a large earthquake and mudslides in El Salvador, the earthquake in India has again challenged the international community to respond to people in need. And again we have responded with overwhelming support. Countries from the United States to Great Britain to Israel to countries around the world responded with humanitarian aid.

Most heartening is the aid provided by Pakistan. Despite the ongoing conflict over the disputed territory along the Indian-Pakistani border, Pakistan has reached out to its neighbor to help in a time of need, just as India has during natural disasters that have devastated Pakistan. It is my hope that through this tragedy these two enemies can put aside their differences to create a lasting peace.

I applaud the pledge of support by USAID, and hope that this Congress will provide further resources to help the people of India recover from this disaster. This resolution also commits the Congress to providing additional funding to disaster assistance. It is my hope that when it comes time to appropriate this money, this body will consider disaster assistance a higher priority than a tax cut or an aircraft carrier or a national missile defense system. Wherever and whenever there are people suffering around the world the United States should respond to those people in need through support of international efforts. We should make it the cornerstone of our foreign policy to help those who suffer from not only natural disasters, but also those who suffer under inhumane sanctions, disease, and war.

On behalf of the many Indian-Americans and constituents in my district, I join with my colleagues in expressing our deepest sympathies with the people who have lost family members, homes, and businesses in this disaster. I am confident that with the outpouring of international aid and support coupled with the enduring resilience of the Indian people, that they will be able to rebuild and continue to move forward. Also, we thank all those individuals, organizations, and countries who respond to disasters throughout the world.

Mr. CLAY. Mr. Speaker, as the devastating results of the earthquake in Gujarat, India continue to unfold before the world's eyes, I believe I speak for all citizens of the United States when I say sorrow fills every heart and soul.

When tragedy of this magnitude strikes, its impact is not isolated by physical boundaries. The pain is felt by the entire world. Let us, as individuals, remember that while we have all experienced loss in our own lives at one time or another, many Indian families lost everything they had in one devastating moment. Therefore, let us, as members of local communities, reach out to our Indian friends, neighbors and coworkers and do all that we can to ease their pain and suffering. Let us, as a country, use the resources we've been blessed with to help the Indian government cope with this widespread destruction and loss of life.

Personally, I send my deepest sympathy to those families affected by this cataclysmic disaster. I, along with my family and my staff, also extend our hearts and hands to the Indian community here in America. With humbled hearts, we will pray for strength for the Indian nation.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of H. Con. Res. 15, which expresses sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and provides support for ongoing aid efforts.

This Member would like to thank the distinguished gentleman from California (Mr. ROYCE) for introducing this sense of the Congress resolution and for his efforts in bringing this measure to the House floor today.

As is well known, on the morning of January 26, 2001, a deadly earthquake shook the state of Gujarat in western India, which injured and killed untold thousands of people and has left the building infrastructure in ruin.

India has appealed to the World Bank, the Asian Development Bank, and the international community for the economic assistance to meet the relief needs facing India. It is important to note that the Asian Development Bank promotes development in the Asia-Pacific region through project investment lending, policy reform lending and advice, and technical assistance.

As the chairman of the Financial Services Subcommittee on International Monetary Policy and Trade, which has jurisdiction over the World Bank and the regional development banks such as the Asian Development Bank, this Member wants to convey his strong support for these aid efforts for India.

This sense of the Congress resolution was referred to both the House Financial Services and House International Relations Committee. As a member of both of these committees, this Member would like to encourage his colleagues to vote in support of H. Con. Res. 15.

Mr. BALLENGER. Mr. Speaker, I rise today in support of this resolution recognizing the recent tragedy in India as a result of a devastating earthquake and the horrific loss of life experienced by the Indian nation.

I want to commend the gentleman from Washington for introducing the original resolution.

Mr. Speaker, at the same time we are expressing our sympathy and support for the people of India, I want to call to the attention of my colleagues another tragic earthquake which recently hit El Salvador with equally horrific devastation and loss of life.

On January 13 an earthquake with a magnitude of 7.6, only 3 tenths of a point less powerful than the earthquake in India, rocked El Salvador. It is estimated that close to 1,000 people lost their lives, with another 4,000 injured.

Recently, I visited El Salvador along with several of my colleagues and witnessed first hand the tragedy which has engulfed that nation. We were told that over 75,000 houses were destroyed and another 118,000 damaged ultimately affecting well over 1 million Salvadorans.

Mr. Speaker, just when the people of El Salvador seemed to have recovered from the devastating effects of Hurricane Mitch, this tragedy hits forcing new sacrifices from an already battered population.

But as they did after Mitch, the people of El Salvador have already begun to put their lives back together with a fierce spirit of self-determination, and a lot of help from friends far and wide.

And although we are dealing here with the tragedy in India, I want to recognized the valiant efforts of the people of El Salvador, the hard work of their President, Flores and other government officials for their tireless efforts. I especially want to commend the dedicated people at the Agency for International Development and their Office of Foreign Disaster Assistance for their rapid reaction to this disaster and for the aid they provided on a moments' notice and continue to provide today as Salvador recovers.

Mr. Speaker, we all recognize the horror of these kinds of tragedies and the toll they take on the people of the nation affected. I want to salute those brave men and women in both India and El Salvador for the sacrifices they have made in these times of tragedy.

I urge support of this resolution and for the people of India and El Salvador.

Mr. ACKERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 15.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ACKERMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today and on the approval of the Journal.

Votes will be taken in the following order:

House Concurrent Resolution 14, by the yeas and nays;

House Concurrent Resolution 15, by the yeas and nays;

approval of the Journal, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PERMITTING USE OF ROTUNDA OF CAPITOL FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 14.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 14, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 26, as follows:

[Roll No. 6]

YEAS—407

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)

Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—26

Abercrombie
Bachus
Becerra
Berman
Bono
Callahan
Carson (IN)
Cox
DeFazio
Everett
Ganske
Gephardt
Hinojosa
Kennedy (RI)
Lantos
Leach
Lewis (GA)
Miller, Gary
Mollohan
Ortiz
Oxley
Pitts
Rush
Strickland
Vitter
Wexler

□ 1155

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SYMPATHY FOR VICTIMS OF EARTHQUAKE IN INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

The SPEAKER pro tempore (Mr. LATHAM). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 15.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 15, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 1, not voting 26, as follows:

[Roll No. 7]

YEAS—406

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Mink
Moakley
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky

Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence

Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner

Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—26

Abercrombie
Bachus
Bartlett
Becerra
Berman
Bono
Callahan
Carson (IN)
DeFazio

Everett
Ganske
Gephardt
Hilleary
Hinojosa
Lantos
Leach
Lewis (GA)
Meek (FL)

Miller, Gary
Mollohan
Ortiz
Oxley
Rush
Thurman
Vitter
Wexler

□ 1205

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. LATHAM). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ETHERIDGE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 382, noes 19, not voting 32, as follows:

[Roll No. 8]

AYES—382

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baker
Baldacci
Baldwin
Ballenger

Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert

Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher

Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)

Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery

McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Mink
Moakley
Moran (KS)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Sawyer
Scarborough
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows

Shuster
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney

Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky

Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—19

Baird
Costello
Crane
Filner
Gutierrez
Kucinich
McDermott

Moore
Oberstar
Ramstad
Sabo
Schaffer
Stark
Stupak

Taylor (MS)
Thompson (CA)
Thompson (MS)
Waters
Weller

NOT VOTING—32

Abercrombie
Bachus
Becerra
Berman
Boehner
Bono
Buyer
Callahan
Capuano
Carson (IN)
DeFazio

DeLay
Everett
Ganske
Gephardt
Hilleary
Hinojosa
Jones (NC)
Kirk
Lantos
Leach
Lewis (GA)

Miller, Gary
Mollohan
Moran (VA)
Ortiz
Oxley
Pelosi
Rush
Sanders
Saxton
Vitter

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, earlier today, I was unavoidably absent when three rollcall votes were taken. Had I been present, I would have voted:

Rollcall No. 6, H. Con. Res. 14, Permission for use of the Capitol Rotunda for a Ceremony as a part of the remembrance of victims of the Holocaust, "yes"; Rollcall No. 7, H. Con. Res. 15, Expressing sympathy for the victims of the earthquake in India on January 26, 2001, "yes"; and Rollcall No. 8, Approval of the Journal, "yes."

ELECTION OF MEMBERS TO COMMITTEE ON HOUSE ADMINISTRATION

Mr. BONILLA. Mr. Speaker, I offer a resolution (H. Res. 24) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 24

Resolved, That the following named Members be, and are hereby, elected to the following standing committee of the House of Representatives:

House Administration: Mr. Ehlers; Mr. Mica; Mr. Linder; Mr. Doolittle and Mr. Reynolds.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 25) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 25

Resolved, That the following named Members be, and are hereby, elected to the following standing Committees of the House of Representatives:

Committee on Agriculture: Mr. Stenholm of Texas, Mr. Condit of California, Mr. Peterson of Minnesota, Mr. Dooley of California, Mrs. Clayton of North Carolina, Mr. Hilliard of Alabama, Mr. Holden of Pennsylvania, Mr. Bishop of Georgia, Mr. Thompson of Mississippi, Mr. Baldacci of Maine, Mr. Berry of Arkansas, Mr. McIntyre of North Carolina, Mr. Etheridge of North Carolina, Mr. John of Louisiana, Mr. Boswell of Iowa, Mr. Phelps of Illinois, Mr. Thompson of California, Mr. Hill of Indiana, and Mr. Baca of California;

Committee on Appropriations: Mr. Obey of Wisconsin, Mr. Murtha of Pennsylvania, Mr. Dicks of Washington, Mr. Sabo of Minnesota, Mr. Hoyer of Maryland, Mr. Mollohan of West Virginia, Ms. Kaptur of Ohio, Ms. Pelosi of California, Mr. Visclosky of Indiana, Mrs. Lowey of New York, Mr. Serrano of New York, Ms. DeLauro of Connecticut, Mr. Moran of Virginia, Mr. Olver of Massachusetts, Mr. Pastor of Arizona, Mrs. Meek of Florida, Mr. Price of North Carolina, Mr. Edwards of Texas, Mr. Cramer of Alabama, Mr. Kennedy of Rhode Island, Mr. Clyburn of South Carolina, Mr. Hinchey of New York, Ms. Roybal-Allard of California, Mr. Farr of California, Mr. Jackson of Illinois, Ms. Kilpatrick of Michigan, and Mr. Boyd of Florida;

Committee on Armed Services: Mr. Skelton of Missouri, Mr. Sisisky of Virginia, Mr. Spratt of South Carolina, Mr. Ortiz of Texas, Mr. Evans of Illinois, Mr. Taylor of Mississippi, Mr. Abercrombie of Hawaii, Mr. Meehan of Massachusetts, Mr. Underwood of Guam, Mr. Blagojevich of Illinois, Mr. Reyes of Texas, Mr. Allen of Maine, Mr. Snyder of Arkansas, Mr. Turner of Texas, Mr. Smith of Washington, Ms. Sanchez of California, Mr. Maloney of Connecticut, Mr. McIntyre of North Carolina, Mr. Rodriguez of Texas, Ms. McKinney of Georgia, Mrs. Tauscher of California, Mr. Brady of Pennsylvania, Mr. Andrews of New Jersey, Mr. Hill of Indiana, Mr. Thompson of California, Mr. Larson of Connecticut, Mrs. Davis of California, and Mr. Langevin of Rhode Island;

Committee on the Budget: Mr. Spratt of South Carolina, Mr. McDermott of Washington, Mr. Thompson of Mississippi, Mr. Bentsen of Texas, Mr. Davis of Florida, Mrs. Clayton of North Carolina, Mr. Price of North Carolina, Mr. Markey of Massachusetts, Mr. Kleczka of Wisconsin, Mr. Clement of Tennessee, Mr. Moran of Virginia, Ms. Hooley of Oregon, Mr. Holt of New Jersey, Mr. Hoeffel of Pennsylvania, and Ms. Baldwin of Wisconsin;

Committee on Energy and Commerce: Mr. Dingell of Michigan, Mr. Waxman of California, Mr. Markey of Massachusetts, Mr. Hall of Texas, Mr. Boucher of Virginia, Mr. Towns of New York, Mr. Pallone of New Jersey, Mr. Brown of Ohio, Mr. Gordon of Tennessee, Mr. Deutsch of Florida, Mr. Rush of Illinois, Ms. Eshoo of California, Mr. Stupak of Michigan, Mr. Engel of New York, Mr. Sawyer of Ohio, Mr. Wynn of Maryland, Mr. Green of Texas, Ms. McCarthy of Missouri, Mr. Strickland of Ohio, Ms. DeGette of Colorado, Mr. Barrett of Wisconsin, Mr. Luther of Minnesota, and Mrs. Capps of California;

Committee on Education and the Workforce: Mr. Miller of California, Mr. Kildee of Michigan, Mr. Owens of New York, Mr. Payne of New Jersey, Mrs. Mink of Hawaii, Mr. Andrews of New Jersey, Mr. Roemer of Indiana, Mr. Scott of Virginia, Ms. Woolsey of California, Ms. Rivers of Michigan, Mr. Fattah of Pennsylvania, Mr. Hinojosa, Mrs. McCarthy of New York, Mr. Tierney of Massachusetts, Mr. Kind of Wisconsin, Ms. Sanchez of California, Mr. Ford of Tennessee, Mr. Kucinich of Ohio, Mr. Wu of Oregon, Mr. Holt of New Jersey, Ms. McCollum of Minnesota, and Ms. Solis of California.

Committee on Financial Services: Mr. LaFalce of New York, Mr. Frank of Massachusetts, Mr. Kanjorski of Pennsylvania, Ms. Waters of California, Mrs. Maloney of New York, Mr. Guiterrez of Illinois, Ms. Velázquez of New York, Mr. Watt of North Carolina, Mr. Ackerman of New York, Mr. Bentsen of Texas, Mr. Maloney of Connecticut, Ms. Hooley of Oregon, Ms. Carson of Indiana, Mr. Sherman of California, Mr. Sandlin of Texas, Mr. Meeks of New York, Ms. Lee of California, Mr. Mascara of Pennsylvania, Mr. Inslee of Washington, Ms. Schakowsky of Illinois, Mr. Moore of Kansas, Mr. Gonzalez of Texas, Mrs. Tubbs Jones of Ohio, and Mr. Capuano of Massachusetts;

Committee on Government Reform: Mr. Waxman of California, Mr. Lantos of California, Mr. Owens of New York, Mr. Towns of New York, Mr. Kanjorski of Pennsylvania, Mrs. Mink of Hawaii, Mrs. Maloney of New York, Ms. Norton of the District of Columbia, Mr. Fattah of Pennsylvania, Mr. Cummings of Maryland, Mr. Kucinich of Ohio, Mr. Blagojevich of Illinois, Mr. Davis of Illinois, Mr. Tierney of Massachusetts, Mr. Turner of Texas, Mr. Allen of Maine, Mr. Ford of Tennessee, and Ms. Schakowsky of Illinois;

Committee on House Administration: Mr. Fattah of Pennsylvania, and Mr. Davis of Florida;

Committee on International Relations: Mr. Lantos of California, Mr. Berman of California, Mr. Ackerman of New York, Mr. Faleomavaega of American Samoa, Mr. Payne of New Jersey, Mr. Menendez of New Jersey, Mr. Brown of Ohio, Ms. McKinney of Georgia, Mr. Hastings of Florida, Mr. Hilliard of Alabama, Mr. Sherman of California, Mr. Wexler of Florida, Mr. Rothman of New Jersey, Mr. Davis of Florida, Mr. Delahunt of Massachusetts, Mr. Meeks of New York, Ms. Lee of California, Mr. Crowley of New York and Mr. Hoeffel of Pennsylvania.

Committee on the Judiciary: Mr. Conyers of Michigan, Mr. Frank of Massachusetts, Mr. Berman of California, Mr. Boucher of Virginia, Mr. Nadler of New York, Mr. Scott of Virginia, Mr. Watt of North Carolina, Ms. Lofgren of California, Ms. Jackson-Lee of Texas, Ms. Waters of California, Mr. Meehan of Massachusetts, Mr. Delahunt of Massachusetts, Mr. Wexler of Florida, Mr. Rothman of New Jersey, Ms. Baldwin of Wisconsin, and Mr. Weiner of New York;

Committee on Science: Mr. Hall of Texas, Mr. Gordon of Tennessee, Mr. Costello of Illinois, Mr. Barcia of Michigan, Ms. Johnson of Texas, Ms. Woolsey of California, Ms. Rivers of Michigan, Ms. Lofgren of California, Mr. Doyle of Pennsylvania, Ms. Jackson-Lee of Texas, Mr. Etheridge of North Carolina, Mr. Lampson of Texas, Mr. Larson of Connecticut, Mr. Udall of Colorado, Mr. Wu of Oregon, Mr. Weiner of New York, Mr. Capuano of Massachusetts, Mr. Baird of Washington, Mr. Hoeffel of Pennsylvania, Mr. Moore of Kansas, and Mr. Baca of California; .

Committee on Small Business: Ms. Velázquez of New York, Ms. Millender-McDonald of California, Mr. Davis of Illinois, Mrs. McCarthy of New York, Mr. Pascrell of New Jersey, Mr. Hinojosa of Texas, Mrs. Christensen of the Virgin Islands, Mr. Brady of Pennsylvania, Mr. Udall of New Mexico, Mr. Moore of Kansas, Mrs. Tubbs Jones, Mr. Gonzalez of Texas, Mr. Phelps of Illinois, Mrs. Napolitano of California, Mr. Baird of Washington, Ms. Berkley of Nevada, and Mr. Udall of Colorado;

Committee on Transportation and Infrastructure: Mr. Oberstar of Minnesota, Mr. Rahall of West Virginia, Mr. Borski of Pennsylvania, Mr. Lipinski of Illinois, Mr. DeFazio of Oregon, Mr. Clement of Tennessee, Mr. Costello of Illinois, Ms. Norton of the District of Columbia, Mr. Nadler of New York, Mr. Menendez of New Jersey, Ms. Brown of Florida, Mr. Barcia of Michigan, Mr. Filner of California, Ms. Johnson of Texas, Mr. Mascara of Pennsylvania, Mr. Taylor of Mississippi, Ms. Millender-McDonald of California, Mr. Cummings of Maryland, Mr. Blumenauer of Oregon, Mr. Sandlin of Texas, Mrs. Tauscher of California, Mr. Pascrell of New Jersey, Mr. Boswell of Iowa, Mr. McGovern of Massachusetts, Mr. Holden of Pennsylvania, Mr. Lampson of Texas, Mr. Baldacci of Maine, Mr. Berry of Arkansas, Mr. Baird of Washington, Ms. Berkley of Nevada, Mr. Carson of Oklahoma, Mr. Matheson of Utah, Mr. Honda of California, and Mr. Larsen of Washington;

Committee on Veterans' Affairs: Mr. Evans of Illinois, Mr. Filner of California, Mr. Guiterrez of Illinois, Ms. Brown of Florida, Mr. Doyle of Pennsylvania, Mr. Peterson of Minnesota, Ms. Carson of Indiana, Mr. Reyes of Texas, Mr. Snyder of Arkansas, Mr. Rodriguez of Texas, Mr. Shows of Mississippi, Ms. Berkley of Nevada, Mr. Hill of Indiana, and Mr. Udall of New Mexico;

Committee on Ways and Means: Mr. Rangel of New York, Mr. Stark of California, Mr. Matsui of California, Mr. Coyne of Pennsylvania, Mr. Levin of Michigan, Mr. Cardin of Maryland, Mr. McDermott of Washington, Mr. Kleczka of Wisconsin, Mr. Lewis of Georgia, Mr. Neal of Massachusetts, Mr. McNulty of New York, Mr. Jefferson of Louisiana, Mr. Tanner of Tennessee, Mr. Becerra of California, Mrs. Thurman of Florida, Mr. Doggett of Texas, and Mr. Pomeroy of North Dakota.

Mr. FROST (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 29, 2001.
Speaker J. DENNIS HASTERT,
The U.S. House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER, Attached herewith is a copy of my letter to Governor Tom Ridge of the Commonwealth of Pennsylvania stating that my retirement and resignation from the United States Congress shall be effective at 2400 hours, Friday, February 2, 2001.

Sincerely,
BUD SHUSTER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 29, 2001.
Governor TOM RIDGE,
Commonwealth of Pennsylvania,
Office of the Governor, Harrisburg, PA.

DEAR GOVERNOR RIDGE, I hereby submit my letter of retirement and resignation from the United States Congress, effective at 2400 hours, Friday, February 2, 2001.

Sincerely,
BUD SHUSTER,
Member of Congress.

WISHING THE HON. RICHARD A. GEPHARDT, MEMBER OF CONGRESS, HAPPY BIRTHDAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the House be on record as wishing the distinguished gentleman from Missouri (Mr. GEPHARDT) a happy birthday and many happy returns.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MAKING CALIFORNIA WHOLE AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to talk about my City of San Diego in the State of California and the incredible energy crisis that we are going through. Yes, we are still experiencing it. We have not yet solved it. I have heard comments from Members of this body and the other body, comments from the White House, which seem to indicate an unwillingness to take action to work with California through this crisis.

I say to my colleagues in the Senate and I say to the administration, we are all in this together. If California falls, the rest of the Nation cannot be far behind.

We are the largest State in the union. We have experienced rolling blackouts, utilities on the verge of bankruptcy. If my colleagues do not think this has had an impact on our national economy, listen to Alan Greenspan, as he testified to the Senate just last week. He said that California's crisis is not isolated. It is not an aberration, and it is a problem that the whole Nation must address and must address quickly.

We should pay heed to Mr. Greenspan. And I say to the President, I think the President is going in the wrong direction on this issue. A hands-off approach by the Federal Government, as the President has suggested, is not going to solve this problem.

Yes, we are increasing our generating capacity. Yes, we are redoubling and retripling our efforts to conserve, but an important piece of this problem has been the wholesale prices that have been charged to our utilities and our consumers. The obscene wholesale prices that have been charged.

And only the Federal Government, I say to the President, only the Federal Government, through our Federal Energy Regulatory Commission, has the authority to regulate this wholesale price.

For the President to say that California must solve its own problems ignores the fact that the generators and marketers of electricity, a seven-member monopoly, in fact, that is based in States like Texas, have run up huge, huge profits, 800 percent, 900 percent in their latest reports.

While California, and soon other parts of the Nation, will suffer, Sacramento alone, California alone cannot regulate these wholesalers, I say to the President. This is Washington's responsibility, and it is that responsibility that we must take.

I have a bill just introduced today, the California Electrical Consumers Relief Act of 2001, to take that responsibility head on. In a case like San Diego and California, where FERC has already found, through its investigation, our wholesale rates to be unjust and unreasonable, and, therefore, illegal, illegal, I say to the President, in that situation, my bill would establish what is called cost-based rates. That is the costs of generation plus a reasonable profit, for wholesale electricity, not just in California, but throughout the western States.

This is a regional problem. We must tackle it regionally. It sets those prices retroactively back to last June when this crisis started. This is not a cap. This is not an arbitrary figure.

This is a reasonable rate based on a market-based formula which allows the generators to make a profit, but protects the consumers.

Mr. Speaker, FERC knows how to set those rates. They have the rationale. They have the procedure. They should do it, and we should order it.

For those rates, under my legislation, that were charged above the legal cost-based rates that we have in California and San Diego and have been paying since last June, my bill requires the refund of those obscene profits, the difference between what was charged us and the cost-based rates that FERC determines should be refunded, a billion dollars to the consumers of San Diego, Mr. Speaker. $12 billion to the State of California.

These were ill-gotten gains by a cartel of the large energy generators and marketers, and that money must be returned to the Californians who are suffering. And as we watch the news and as we listen to what is going on, please remember the Governor of California and the California legislature can do a lot about our State's problems, but they cannot order refunds. They cannot set wholesale prices.

We are stuck in California with the economic disaster that that implies, a billion dollars worth of debt in San Diego, $12 billion sucked out of our State by these power generators. We cannot look to Sacramento to solve that; only we can do it. I ask President Bush to act, and act quickly. The President cannot take a hands-off approach.

WHY DOES THE MEDIA INSIST UPON REPORTING ACCOMPLISHMENTS OF THE CONGRESSIONAL REPUBLICAN MAJORITY AND GIVING THE CLINTON ADMINISTRATION CREDIT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. COBLE) is recognized for 5 minutes.

Mr. COBLE. Mr. Speaker, late last year, a constituent asked me "why do newspapers and TV networks insist upon not reporting the accomplishments of the Congressional Republican majority, or if it is reported, the Clinton administration is given the credit?"

I replied, some do accurately report the facts, but the national media, printed and electronic, with rare exceptions, tilts noticeably to the left.

Mr. Speaker, many Americans, if not most Americans, prefer fair, objective reporting. All too often, again, with rare exceptions, double standards are applied to the detriment of conservative Republicans.

An example of this double-standard mentality is the recently-revealed Jesse Jackson saga. Had a nationally known conservative Republican religionist fathered a child out of wedlock, a universal firestorm would have likely erupted and, in lieu of a three-day story, it would have endured for several weeks with front page dissemination.

Ironically, Mr. Speaker, African American reporters have been more critical of Mr. Jackson than have many nonblack reporters.

This is an appropriate time, as we begin a new year, it seems to me, for the media to scrap the double standard it has nurtured for so long and embrace a single standard of reporting. If conservative Republicans are taken to the woodshed by the media, then so should liberal Democrats.

The Jesse Jackson case involves not insignificant amounts of money changing hands to the benefit of the mother of Reverend Jackson's child. If the father of this child, in my opinion, were a conservative Republican, media sleuths likely would be developing a money trail to determine the source of these funds. Is such a trail being pursued in the Jackson case? Unlikely.

When this story broke, I heard it said time and again that this story will be summarily dismissed, because Jesse Jackson is too powerful, and no one wants to annoy Reverend Jackson.

While I am attempting to annoy no one, Mr. Speaker, I, however, am employing the national media to submit to a New Year's resolution that, henceforth, conservative Republicans and liberal Democrats be objectively fed from the same journalistic spoon and the Jesse Jackson case is one of several that can serve as a springboard for this purpose.

My criticism of double standard reporting, Mr. Speaker, is directed to the mainstream media, or what is commonly known as the big markets. I am the beneficiary of fair and objective reporting by the media in my congressional district. But fairness and objective political reporting need to be practiced more fully at the national level. If my activities can be reported fairly and objectively within the boundaries of my congressional district, why can it not be done nationally?

I hope this will be forthcoming. Should I hold my breath? I fear that would be ill-advised. Meanwhile, Mr. Speaker, I will patiently wait and hope.

☐ 1230

POULTRY FARMERS' EMERGENCY ASSISTANCE ACT

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Mr. Speaker, the unusually cold winter and the dramatic increase in heating costs are hurting everybody in my State of Mississippi and this country. Clearly we need to encourage more domestic production of oil and gas. But in Mississippi, we need immediate action; we need help today, especially for our region's poultry industry.

Some poultry farmers have seen their gas bills double and triple over last year. This is through no fault of their own since we lost so much to NAFTA, which is a major employer in many of our communities. The poultry industry relies on plentiful and affordable gas heat in the cold winter months.

These days the industry has been devastated by the dramatic rise in the cost of gas. This may not be a natural disaster like a tornado or flood, but this is a disaster just the same. It is an economic disaster that threatens the very existence of farmers throughout our regions.

Yesterday, I introduced a bill that would provide both immediate and long-term emergency assistance to our poultry farmers. My bill, the Poultry Farmers' Emergency Energy Assistance Act, would authorize the Secretary of Agriculture to provide grants that would not have to be repaid to help local producers deal immediately with financial pressures caused by this crisis.

This bill would also make low-interest loans available to poultry farmers to help deal with the energy crisis for the months ahead.

In addition, at my insistence, loan-making officials at the USDA's Farm Service Agency have clarified their regulations so that contract poultry farmers will be eligible for FSA emergency loans.

This important legislation needs to be enacted quickly. Our farmers need help, and they need it now. I am calling upon our leaders in Congress to move this energy assistance bill quickly to passage. I will not rest until the Poultry Farmers' Emergency Energy Assistance Act becomes law.

TRIBUTE TO WILL DWYER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, this is kind of a sad occasion for me. Today I rise to pay tribute to Will Dwyer, who was my former communications director of the Committee on Government Reform and Oversight. He passed away earlier this month after a long battle with cancer.

He began his media career as a broadcast documentary producer in the 1950s, and then he moved to Washington to start a career in public service. He was a native of Rochester, New York; and he began his congressional career in the 88th Congress by working for Frank Horton of New York. He served as his administrative assistant for some time.

Then after his stint in public service, he left Washington for the private sector. He returned to Rochester where he held the post of Republican county chairman. During that time, he also founded a telecommunications privacy service.

Will knew that life was too valuable to let a day go by without enjoying everything that it had to offer. He was a man with an incredible thirst for new and different experiences, and he returned to school in mid-life and received his law degree while he was in his mid-40s.

Earlier this decade, Will was called back into public service by the gentleman from California (Mr. RADANOVICH). It was on his reputation on Radanovich's staff that we hired him to be our communications director with the Committee on Government Reform.

Although I knew Will for only a short period of time, he was a very, very fine man, a man of impeccable integrity, really cared about this country, a very patriotic fellow. He lived his life knowing that every day was something to savor. It was his attitude that brings me to the floor today to pay tribute to this man whom we are all going to miss a great deal, my friend, Will Dwyer.

So God in heaven, I hope you are blessing Will because he was a man who should be blessed a great deal.

Mr. Speaker, I insert into the RECORD an article that appeared in the Rochester Democrat and Chronicle about the life of my good friend, Will Dwyer, as follows:

[From the Rochester Democrat and Chronicle, Jan. 18, 2001]

WILLIAM F. DWYER II DIES OF CANCER AT 65

William F. Dwyer II is described as a dynamo, a restless man, an irrepressible force.

He worked in politics from Monroe County to Washington, D.C., and was a Rochester broadcaster. He got his law degree in his late 40s, spoke on behalf of the tobacco industry, even ran a modular home business in California.

But there was one constant theme in Mr. Dwyer's life—his limitless interest in people.

"He was such an egalitarian," said Mr. Dwyer's wife, Constance Drath. "He talked to the grocery clerk, the mailman, the elected officials. He loved learning about everyone."

Mr. Dwyer died of cancer last week in Washington. He was 65.

Mr. Dwyer was born in Rochester on March 30, 1935, and grew up in the city. He graduated from a military academy in New Jersey as the class valedictorian, Drath said.

He returned to Rochester in the mid-1950s and began a career in broadcasting at WHAM-AM (1180). Family and friends say that Mr. Dwyer—a tall man with a curly head of brown hair—had a deep, resonant voice that was perfect for the airwaves.

In 1962, Mr. Dwyer moved to the political arena, going to work for Frank Horton, a Penfield Republican just elected to Congress. He became Horton's administrative assistant, basically his right-hand man, and instituted weekly radio feeds that would be picked up by Rochester radio stations.

Mr. Dwyer also used a radio communications system that kept the Horton campaign in touch with him. "This wasn't done back then," said Horton, who called Mr. Dwyer not just a valued employee but a good friend.

"I could tell him anything," Horton said. "You can't say that about everybody."

He left Horton's office in the late 1960s and started a public relations firm that often worked with political campaigns. He worked closely with the Republican Party and in 1970 was named Monroe County chairman of the party.

Richard Rosenbaum, himself a former county GOP chairman, said that Mr. Dwyer's style was "benevolent aggressiveness."

"He was a great PR man, who could make lemonade out of the most awful lemons," he said.

Mr. Dwyer left Rochester for Washington in 1972 and worked in the Nixon and Ford administrations, mainly as a Labor Department spokesman for new workplace safety and health standards.

In 1975, he became a spokesman for the now-defunct Tobacco Institute, which spoke on behalf of cigarette manufacturers.

In 1980, Mr. Dwyer moved to California with Drath. In two years, he obtained his law degree from Southwestern University of Law in Los Angeles. He and Drath opened a law firm in Beverly Hills, specializing in wrongful employment termination cases and immigration issues.

During the 1980s, he dabbled in other ventures, including a modular home company.

In 1994, politics came calling again, and Mr. Dwyer served as a press secretary for Rep. George Radanovich, R-Calif., then as communications director for the House Government Reform Committee.

Through all the changes in his life, Mr. Dwyer remained upbeat and eager for new challenges, Drath said.

"This was a man who knew the art of living in the moment," she said. "He never looked back, never had any regrets."

Along with his wife of Washington, Mr. Dwyer is survived by their two children Scott Dwyer and William Dwyer III of Washington; Elizabeth Sellers of Paris and Geoffrey Dwyer of Brockport, his children from his previous marriage to Eleanor Clarke, now Eleanor Lawton of Brighton; and two sisters, Carol Stearns of Washington, Conn., and Anne Colgan of East Rochester.

A memorial service will be held at Georgetown Presbyterian Church in Washington at noon Wednesday.

Memorial contributions can be made to the National Colorectal Cancer Research Institute at Entertainment Industry Foundation, 11132 Ventura Blvd., Studio City, CA 91604.

TAX DEDUCTION FAIRNESS ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BAIRD) is recognized for 5 minutes.

Mr. BAIRD. Mr. Speaker, I rise today to introduce legislation that will help restore tax fairness to millions of people in my State of Washington and throughout the country. Joining me in this effort today is the gentleman from Tennessee (Mr. CLEMENT), my good friend and colleague, who has been instrumental in helping draft this legislation.

The problem we are referring today to, Mr. Speaker, is a basic unfairness in the current Tax Code. In my home State of Washington and in other States, such as Florida, Nevada, South Dakota, Tennessee, Texas, and Wyoming, a State sales tax takes the place of a State income tax as the primary means for raising revenue.

Every year in April, taxpayers send their tax returns to the IRS. It is a ritual to which all Americans have become accustomed. Although we do not always like it, we realize it is part of our duties to the country.

But the ritual brings added frustration for taxpayers in my State who feel cheated by what they pay into the Federal Treasury. A taxpayer of identical income and expense in almost any other State would be able to deduct the amount that they pay their State in income tax; but in Washington, we cannot do that.

Folks in my State have the same amount withheld from their paychecks; but when they itemize their taxes, they deduct a significantly lesser amount. Because of the tax reforms of 1986 when lawmakers decided to remove the deduction for sales tax, Washingtonians were shortchanged. In fact, the Congressional Research Service estimates that Washington State taxpayers are penalized to the tune of $450 million every year when compared to their neighbors.

Should residents of Washington and the other States with sales taxes pay hundreds of dollars more to the Federal Treasury than States which choose to tax residents through income taxes? Of course not.

Federal taxes should be levied on all of our Nation's citizens in a fair and equitable manner that does not give preference to one State or another.

That is why, along with the gentleman from Tennessee (Mr. CLEMENT), I am introducing today legislation to correct this inequity. Our bill, the Tax Deduction Fairness Act of 2001, would reinstate the sales tax deduction and direct the IRS to develop tables of average sales tax liabilities for taxpayers in every State. It would then give the taxpayer the option to deduct either their State sales tax or their State income tax when they file their Federal return.

The bill will not make the State or the Federal Income Tax Code more complicated. In fact, it will add one simple line and take about 60 seconds to complete. I do not know about my colleagues, but taking 60 seconds to look on a simple chart in a way that would save me $400 to $500 a year is a pretty good investment in time. Adding that line will save hundreds of millions of dollars for American taxpayers every year, and it is all about fundamental fairness.

Let me give my colleagues a couple of very real human examples. Brian and Cathy Lux and their three kids, Carissa, Devon and Tristian, live in Brush Prairie, just outside my home town of Vancouver, Washington. Brian is a finance manager for a local auto dealership, and his wife, Cathy, is a licensed home care provider.

All told, the Luxes make between $70,000 to $80,000 a year, not a huge amount for a family of five. Working with the IRS, my office estimates that the Luxes paid an average of about $1,700 in sales taxes last year, but they were able to deduct none of it from their Federal return.

However, under our bill, they would get nearly $500 of their tax money back. For Brian and Cathy, that $500 would be nearly a month's worth of groceries; or when their kids get a little older, it would be a semester of tuition at the local community college.

Mr. Speaker, now is the time to fix this inequity in the Federal Tax Code for all Brian and Cathy Luxes and for all of the similar families throughout the country.

The new administration campaigned on fair and just tax relief, and I support that promise. But I cannot think of anything more fair than the bill that the gentleman from Tennessee (Mr. CLEMENT) and I are introducing today. If we penalize people for being married, so too it must be unjust to penalize people for living in States that opt to tax their citizens through a sales tax. I welcome the bipartisan spirit of the new administration, and I urge members to support this legislation that is all about fairness and simplicity and will help working families throughout this country.

Mr. Speaker, I yield to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Washington (Mr. BAIRD) for yielding and congratulate him because I know that he has been a leader in the State of Washington on this issue, but has also been a leader across the country on this; and it is a pleasure to join forces with him because what we are trying to do is correct inequity, correct tax unfairness.

This came back to us in the 1986 tax reform. Prior to 1986, we were able to deduct our State sales tax from our Federal income tax return. But in the 1986 tax reform, that was taken away from us. It was an oversight, and now we want to correct that oversight once and for all for those seven States that are left out. We should not be forced to move to a State income tax in Tennessee or Washington or the other States if we do not want to.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, the purpose of the special order to which I am attached today is to announce the introduction of the new bankruptcy reform act that we hope will be enacted into law during this current session and swiftly to arrive at the President's desk for signature. We are naming the new effort the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, and we have over 50 cosponsors already even at the early stages of this session to help us shepherd through much-needed bankruptcy reform.

Mr. Speaker, my colleagues will recall that in the waning days of the last session, the House by voice vote and the Senate by an overwhelming vote of 70 to 28 approved the bankruptcy bill of the last term only to have it vetoed by President Clinton in the last days of the congressional session during the year 2000. So we have to start all over again.

In starting all over again, Mr. Speaker, we are adopting as the starting vehicle about 99 and 44/100 percent of the bill that was approved in the last days of the last session by both the House and the Senate, which was of course veto-proof. In the previous House vote, there were 315 votes, well over the veto-proof level, and in the Senate it was 70 over something which also allows for veto override. Happily, we may not require a veto-proof majority in this current session because we believe that bankruptcy reform could be part and parcel of President Bush's overall plan to meet the unstable economy head on to prevent some of the worst consequences of an economic downturn. It fits in perfectly.

Two main themes are part of the new bankruptcy reform effort to which I allude. These same two themes guided our actions from the very beginning. The first theme, and the most important one, is that it is tailored to make certain that anyone who is so overwhelmed by debt, so swamped by the inability to pay one's obligations that that individual after a good close look at his circumstances would be entitled to a fresh start, to be discharged in bankruptcy, to be free of the debts that so overwhelmed him. That is a salient feature of this bankruptcy reform bill and the ones that we were able to get these favorable votes to accomplish in the last two sessions.

So we never lose sight of, nor will we ever lose sight of, the real purpose of bankruptcy reform or any bankruptcy legislation to allow an American citizen the right to gain a fresh start after finding himself incapable of meeting his obligations. But the other tandem theme that is also part of what we have been doing for the last 3 years, and which will be an important feature of the new bill, will be that certain provisions will be put into place which will make certain that those people who have an ability to repay some of their debts will be compelled to do so, so that instead of a Chapter 7 filing which will give that automatic almost-fresh start, we will be able to shepherd some of the debtors into Chapter 13 and propose a plan and adopt a plan by which they could over a period of time repay some of the debt out of their then-current earnings.

This is a well-balanced concept which we are presenting to the American people and to the Congress so that we can help join in the fight to make sure that our economy remains stable throughout the ensuing several years and into the next decade.

Some of the contentious features that we found occurred on the floor of the House and in committee throughout the last 3 years have been so well settled now and are part and parcel of the new proposal that we believe that only a modicum of new hearings will be needed either in the Senate or in the House for final resolution of the final wording that will go into the bankruptcy reform bill to which we refer. We had some 13 hearings within a year to determine what was out there in the business world and in the consumer world that was important enough for us to note and to provide language to accommodate.

Mr. Speaker, I am asking for cosponsorship.

I am proud to introduce H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, today together with original cosponsors from both sides of the aisle.

This bill is identical to the conference report that accompanied H.R. 2415, the Gekas-Grassley Bankruptcy Reform Act of 2000, which passed the House by voice vote last October and passed the Senate with a veto-proof vote of 70 to 28 less than 2 months ago. The only revisions consist of a title change and the deletion of a provision that has already become law.

This bill is a further perfection of its predecessor, H.R. 833, the Bankruptcy Reform Act of 1999, which I introduced on February 24, 1999. With more than 100 cosponsors, H.R. 833 had overwhelming bipartisan support in the House as further evidenced by a vote on final passage of 313 to 108.

The bill I am introducing today consists of a comprehensive package of reforms pertaining to consumer and business bankruptcy law. It also includes provisions regarding the treatment of tax claims, enhanced data collection, and international insolvencies.

This bill responds to several developments affecting bankruptcy law and practice. Based on data released by the Administrative Office of the United States Courts, bankruptcy filings have increased exponentially. Between 1994 and 1998, the number of filed bankruptcy cases grew by more than 72 percent. In 1998, bankruptcy filings, according to the Administrative Office, reached an "all-time high" of more than 1.4 million cases. Paradoxically, however, this dramatic increase in bankruptcy filing rates occurred during a period when the economy continued to be robust, with relatively low unemployment and high consumer confidence.

Coupled with this development was the release of a study that estimated financial losses in 1997 resulting from these bankruptcy filings exceeded $44 billion, a loss equal to more than $400 per household. This study projected that even if the growth rate in personal bankruptcies slowed to only 15 percent over the next 3 years, the American economy would have to absorb a cumulative cost of more than $220 billion.

The Judiciary Committee began its consideration of comprehensive bankruptcy reform early in the 105th Congress. On April 16, 1997, the Subcommittee on Commercial and Administrative Law conducted a hearing on the operation of the bankruptcy system that was combined with a status report from the National Bankruptcy Review Commission. This was the first of 13 hearings that the subcommittee held on the subject of bankruptcy reform over the ensuring 2 years. Eight of these hearings were devoted solely to consideration of H.R. 833 and its predecessor, H.R. 3150, the Bankruptcy Reform Act of 1998. Over the course of these hearings, more than 120 witnesses, representing nearly every major constituency in the bankruptcy community, testified. With regard to H.R. 833 alone, testimony was received from 69 witnesses, representing 23 organizations, with additional material submitted by other individuals and groups.

The heart of the bill's consumer bankruptcy reforms is the implementation of a mechanism to ensure that consumer debtors repay their creditors the maximum that they can afford. The needs-based formula articulates objective criteria so that debtors and their counsel can self-evaluate their eligibility for relief under chapter 7 (a form of bankruptcy relief where the debtor generally receives a discharge of his or her personal liability for most unsecured debts). These reforms are not intended to affect consumer debtors lacking the ability to repay their debts and deserving of an expeditious fresh start.

The bill's debtor protections include significant new credit card disclosure specifications and the requirement that billing statements and other related materials contain explanatory statements with regard to introductory interest rates and minimum payments. These additional disclosures will give debtors important information to enable them to better manage their financial affairs so that they can avoid fiscal disaster.

Important reforms intended to help debtors understand their rights and obligations with respect to reaffirmation agreements are also included in the legislation. To enforce these protections, the bill requires the Attorney General to designate a U.S. attorney for each judicial district and a FBI agent for each field office to have primary responsibility regarding abusive reaffirmation practices, among other responsibilities.

In addition, the legislation substantially expands a debtor's ability to exempt certain tax-qualified retirement accounts and pensions. It also creates a new provision that allows a consumer debtor to exempt certain education IRA and state tuition plans for his or her child's postsecondary education from the claims of creditors.

Most importantly, the legislation's credit counseling provisions will give consumers in financial distress an opportunity to learn about the consequences of bankruptcy—which can be very devastating to their credit rating, among other matters—and about alternatives to bankruptcy, as well as how to manage their finances, so that they can avoid future financial difficulties.

Other debtor protections include heightened requirements for those professionals and others who assist consumer debtors in connection with their bankruptcy cases, expanded notice requirements for consumers with regard to alternatives to bankruptcy relief, and the institution of a pilot program to study the effectiveness of consumer financial education for debtors. The legislation also addresses a problem under the current law with respect to those individuals who are precluded from obtaining bankruptcy relief because they simply cannot afford to pay the requisite bankruptcy filing fees and related charges. Under the legislation, these fees and charges may be waived in appropriate cases.

With regard to business bankruptcy reform, the bill addresses the special problems that small business cases present by instituting a variety of performance criteria and enforcement mechanisms to identify and weed out those debtors who are unable to reorganize. It also requires more active supervision of these cases by United States Trustees and the bankruptcy courts. The bill includes provisions dealing with business bankruptcy cases, in general, and family farmer bankruptcies, in particular. It also clarifies the treatment of certain financial contracts under the banking laws as well as under the Bankruptcy Code. The bill responds to the special needs of family farmers by making chapter 12 of the Bankruptcy Code—a form of bankruptcy relief available only to eligible family farmers—permanent.

The small business and single asset real estate provisions of the bill are largely derived from consensus recommendations of the National Bankruptcy Review Commission. Many of these recommendations received broad support from those in the bankruptcy community, including various bankruptcy judges, creditor groups, and the Executive Office for United States Trustees.

The bill, in addition, contains several provisions having general impact with respect to bankruptcy law and practice. These include a provision permitting certain appeals from final bankruptcy court decisions to be heard directly by the court of appeals for the appropriate circuit. Another general provision of the bill requires the Executive Office for United States Trustees to compile various statistics regarding chapter 7, 11, and 13 cases, to make these data available to the public, and to report annually to Congress on the data collected.

It is also important to note that the legislation includes a plethora of provisions intended to protect the interests of women and children. For example, the legislation—

Gives domestic support obligations the highest entitlement to payment in bankruptcy cases where there are assets available to pay the claims of creditors. Current law only accords a seventh level payment priority to these claims.

Establishes a uniform and expanded definition of the term "domestic support obligation" to better protect the rights of women and children with support claims and to reduce litigation.

Prevents deadbeat parents from enjoying the benefits of bankruptcy relief without having first satisfied their spousal and child support obligations.

Ensures that bankruptcy cannot be used by deadbeat parents to interfere with the enforcement efforts of federal, state and local authorities with respect to overdue child support obligations.

Ensures that bankruptcy cannot be used by deadbeat parents to interfere with the enforcement efforts of federal, state and local authorities with respect to overdue child support obligations.

Does not allow deadbeat parents to discharge other obligations relating to divorce or separation agreements.

Requries those who are responsible for the administration of bankruptcy cases to provide important information and notices to their holders of spousal or child support claims as well as to state child support agencies.

Many professionals and organizations responsible for federal child support enforcement programs such as the National District Attorneys Association, the National Association of Attorneys General, and the National Child Support Enforcement Association (which represents more than 60,000 child support professionals across America) have enthusiastically expressed their support for these important reforms.

I urge my colleagues to support H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001.

☐ 1245

SUPPORT SALES TAX DEDUCTION ACT OF 2001

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from Tennessee (Mr. CLEMENT) is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I rise today in strong support of a bill that the gentleman from Washington (Mr. BAIRD) and myself have worked so hard on and we are introducing today that would restore the sales tax deduction to the Federal Income Tax Code. We are talking about an oversight that occurred in 1986, where seven States cannot deduct their State sales tax from their Federal income tax return, which they could do prior to 1986. This is an issue of tax fairness that has been wrongly denied to the citizens of Tennessee and six other States for 15 years.

Mr. Speaker, due to the elimination of the State sales tax deduction from the Federal Tax Code in 1986, the people of Tennessee are paying significantly more in taxes to the Federal Government than a taxpayer with an identical profile in a State that does have a State income tax. In the last fiscal year alone, my colleagues, my friends, constituents in Tennessee, paid an average of $727 in State sales taxes but could not deduct $1 of it from their Federal income tax return. We are being forced to pay taxes on our taxes. This is unfair, it is unjust, and it must be corrected here in the 107th Congress. The people of Tennessee and the other States deserve better from the Federal Government.

Our bill is very simple. It would allow taxpayers to deduct their State sales taxes from their Federal income tax return. Those living in a State with an income tax would be completely unaffected, since they would still be able to take an income tax deduction as they do today. For example, a family with a combined income of $50,000 that lives in Tennessee, for example, who are blessed with beautiful twin daughters would save $350. That, Mr. Speaker, is a lot of diapers.

I am calling on my colleagues to take this opportunity to restore fairness and equity to the Tax Code in this Congress without making the Tax Code more complex and without abandoning our fiscal discipline. In a year when all the talk now is about bipartisan tax cuts and bipartisan tax reform, I say we come together and pass tax fairness and ensure tax equity now. Let us take this opportunity to do something about our tax burdens and not just talk about them.

In this last Congress, the gentleman from Washington (Mr. BAIRD) and myself were able to offer it on the floor of the House, and 173 of our colleagues voted in favor of similar tax language. I would like to call on those Members of the House to cosponsor this legislation. It is a fair bill, it makes a lot of sense, and it will treat all States equal. Is that not what it is all about, when we call ourselves the United States of America?

Mr. Speaker, at this time I would like to have a colloquy with my good friend and a real leader in the House of Representatives, the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. I thank the gentleman from Tennessee, and I want to commend him for his efforts on this bill and for his fight for fairness for his citizens.

It really is this simple. What we propose is to have the IRS create simple tables. A person will not have to save their receipts in a shoe box or keep track of all their expenditures. They will simply look on a simple table. On the left column is their income, the top row is the family size. They will find where that intersects and that is the amount they put on their tax form. Literally, 30 seconds to a minute for fundamental fairness, for a bill that will save the average working family, who itemizes their deductions, between $300 to $500 every year.

The $500 million that Washington State taxpayers paid to the Federal treasury could have been spent on their families, their kids' educations, and in a lot of other ways. I am sure it is true in Tennessee as well.

Mr. CLEMENT. The gentleman is absolutely right. And I have heard so many people in Tennessee say why not? We should not have been overlooked in 1986. I know neither one of us were in Congress when that happened, when they passed the 1986 tax reform, but the fact is someone did not fight for us. Someone did not fight for those seven States.

I know some of those northeastern Congressmen say, well, we wanted to make sure that if an individual lived in a State with a State income tax that they could deduct that from their Federal income tax returns. Well, treat us fairly as well, where we can deduct some taxes from our Federal income tax return, so we have fairness and equity for all in the United States.

FAITH-BASED INITIATIVES A PRIORITY WITH PRESIDENT BUSH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Earlier this week, President George Bush announced his faith-based initiatives office and different proposals that he will be sending down to Congress. Earlier today, the gentleman from Oklahoma (Mr. WATTS), who has been a leader in this effort, and Senator RICK SANTORUM, along with the gentlewoman from Kentucky (Mrs. NORTHUP) and myself, and Senators TIM HUTCHINSON and SAM BROWNBACK held a press conference with a number of leaders from Michigan, Florida, and other places around the United States to highlight some of these initiatives.

There are a number of questions that I wanted to address here as we prepare to analyze and hopefully report the President's package and add different things we have considered here in the House and Senate to it as well.

First and foremost, this is not a new idea. Former Congressman and Senator Dan Coats, when he was in the House, had a number of these initiatives. In the Senate, the Agenda for American Renewal. Former Secretary of Housing and Urban Development Secretary Jack Kemp had a number of faith-based initiatives there because a lot of people would not reach out and care for those with AIDS. In the early stages of the AIDS crisis, as people were dying, there were all sorts of false rumors around and many people did not care for them. Without the faith-based communities, if the government had not reached out to the faith-based communities and involved them, there would have been many people dying of AIDS who would not have received any assistance whatsoever. Nobody objected to the faith-based communities coming and working.

Similarly in homelessness, the Federal dollars, the State dollars, and the local dollars were not enough to address the homeless questions. So, under HUD, they expanded into the faith-based organizations back in the Bush administration. That was continued under Secretary Cisneros and continued under Secretary Cuomo. It is not fair to say that these things are suddenly new and that President Bush is trying to insert religion into the national debate. It has been there. The difference is, instead of an afterthought, President Bush wants to make it a focus. He is saying that all these flowering organizations that are developed in every neighborhood, particularly those that are hurting the most, there are people making a difference and we need to tap into that.

Now, a second question that comes up is, well, these examples that are brought forth and are talked about at press conferences or that are talked about by Gene Rivers in Boston or Freddie Garcia in San Antonio, they are just exceptions. They are not the rules. We could not possibly make this program work on a large scale because, while there are a few people here and there toiling away, this cannot possibly be part of an integrated strategy. That is just false.

The largest city in my district is Fort Wayne, Indiana. I want to give an example of the breadth of what we are talking about here. Reverend Bill McGill was executive director of Stop the Madness. After one pastor's son was shot in the center city of Fort Wayne while he was sitting at a YMCA and two guys got in a gun fight, he decided to form an organization called Stop the Madness. Bill McGill headed that organization. Now he is executive director of One Church, One Offender. We have churches throughout northeast Indiana and Fort Wayne in particular who are working to adopt people who have gotten in trouble with the law and who are now coming out. Who is going to help them get a job and work with them? This is a tremendous program.

The Ewell Wilson Center was started by Shirley Woods and her husband after their boy, who was a star athlete, was shot. She has a community center now who works with kids. It is disconcerting that she has to fight for every little game unit, for every computer, for every little thing because she is not a high-powered organization. It is just a couple of people who said we care about the kids in our area. They do not have grant writers or the so-called beltway bandits. How can people making a difference at the grass roots level do it?

Reverend Jessey and Anthony Beasley came to me. They have an inner-city church and they are trying to figure out how to get a youth program started for the after-school kids because we have a huge crack problem in Fort Wayne and a high murder rate, and they do not know where to turn to do that.

George Middleton took some of his savings out to help build a youth center, and he is building this with his private money and getting volunteers in. But he can only do so much. And when someone does not get the help, they get tired too fast. They are working 18 hours a day. Here are the people who are actually doing it in the ZIP code where they live and we cannot get the dollars to them.

Friends of mine, Barb and Lonnie Cox, had their family touched and friends touched by the drug problem, so they went to the bishop and through the parish there they formed a house to reach people who have been battling drug addiction.

There is Father Glenn Kohrman in Fort Wayne. We have an influx of Burmese come in, as they have had a conflict in that country. We have programs for people of Spanish language, often through faith-based organizations because often they are involved in the Catholic church or Pentecostal churches, but in this case, in the Asian community, we did not have any direct funds where the Catholic church could figure out how to do English as a second language to a subgroup.

This is what President Bush is talking about. We have lots of people already there; we have lots more interested, but they have not had access to it. I congratulate the President for making this a foremost priority rather than an afterthought.

HONORING THE LIFE OF OLIVE WEHBRING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today to honor the life of Olive Wehbring. Communities are indeed fortunate to have political activists who choose to devote their time to the cause of good government after they retire from a paid career. It is rare when that commitment to public issues becomes another 30-year career. Olive Wehbring, who passed away recently in San Diego at the age of 95, was just such an exemplary citizen.

When I was a young mother and new board member of the San Diego League of Women Voters, I was delighted to meet Olive and to be introduced by her and to the intricacies of local government. She was a model for several generations of League of Women Voters leaders. Her enthusiasm was matched by tireless perseverance and sitting through long meetings, whether they be a county health committee, a regional planning meeting of the San Diego Association of Governments, or a city planning commission hearing. In fact, she attended a meeting of regional planners only 3 months before she died from complications of breast cancer.

Three years ago, I had the opportunity to speak at a State League of Women Voters convention in San Diego, and Olive, well over 90 years old, appeared at the meeting. She had volunteered all morning at the registration table, driven 10 miles home to check on her cat during lunch, drove back downtown, parked, and walked several blocks in time for the afternoon session.

Olive's energy was legendary. Her spirit indomitable and her intellect unsparing. She served as President of the League of Women Voters of San Diego County in 1981, and for the city league she authored a guide to the city's structure and operation. Mrs. Wehbring was also active in the Church of the Good Samaritan, where she served as clerk of the vestry and as head of the Altar Guild.

Olive was born here in Washington, DC, but grew up in New York. After graduating in 1927 from Smith College, where she was a competitive swimmer, she became a reference librarian. Managing the reference department for a library in White Plains, New York, she earned a Master's Degree in library science in 1955 from Columbia University. In New York, Olive served as President of the United Nations Association of Westchester County and on the board of the Westchester Mental Health Association.

☐ 1300

After moving in 1970 to the newly developed University City area of San Diego with her late husband Leon, she became a member of the University City Planning Board. As the University of California San Diego grew, the area expanded with diverse business, scientific research, and high-density residential buildings. Olive became a watchdog for good growth policies to tailor the growth of the community.

Olive Wehbring will be missed by many community members, as well as her daughter Brenda Holman of San Diego, her sons John of San Diego and Kurt of Portland, Oregon, and her five grandchildren and ten great-grandchildren. She will always have a special place in my heart and the hearts of many women for whom she was a role model and mentor.

EDUCATION PLAN OF PRESIDENT BUSH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to express my support as well as concerns regarding President Bush's education plan. The plan represents a comprehensive and broad-reaching initiative, which is expected to gain the support of both sides of the aisle and both Houses of Congress. And it deserves it. But I must raise the reality that the U.S. territories, like Guam, the Virgin Islands, American Samoa and the Northern Marianas are not even mentioned.

There is no mention in the President's proposal regarding the treatment of territories. It is not unusual that territories are often overlooked and sometimes misrepresented in the crafting of national policy. But when national policies have ambitious titles and objectives, the territories should not be overlooked.

The goal of President Bush's plan is that no child be left behind. I would like to restate that goal so that it rings clear to everyone. No child in America should be left behind. And that should include all American children no matter where they live.

I would like to emphasize the special needs of public schools in the territories, which, apart from the remoteness from the U.S. mainland, share in the same struggle to meet the basic needs of operating a school system. But due to our geography, we face special challenges in maintenance, school construction, acquisition of school supplies and equipment, recruitment and training of professionals.

In Guam, we face the additional burden of dealing with typhoons in an unforgiving tropical environment, unforgiving for buildings, that is. The people of Guam have crafted a reasonable 10-year plan for the system's infrastructure, and we look to Federal programs and unique bonding arrangements which will jump-start our effort to bring Guam schools into the 21st century.

The territories are generally included in most national programs, but only as afterthoughts and educators in Guam must follow a patchwork system of funding arrangements and frequent bureaucratic indifference in order to obtain needed and fair funding. This was the message conveyed to me in a meeting last week with Guam's top-level administrators in the Department of Education.

We also frequently try to apply national programs to our local jurisdictions which face very different and difficult circumstances. It is for this reason that territorial school systems which have a unique relationship with the Federal Government deserve special consideration and mention in the President's plan and any plan which leaves Congress.

As stated in Title VI of the President's proposal, "The Federal Government has a special obligation to certain schools that educate the children of families who serve in the U.S. military and those that educate Native American children." This initiative to rebuild schools for Native Americans and children of military families should be extended to all territories, as all territories have a unique relationship with the Federal Government.

As an educator by training, and my mother is an educator and my wife is an educator and my daughter is an educator, I must also state a concern about the emerging nature of the accountability to mention the President's proposal. I am concerned about the overreliance of testing as the only measure of educational success. Guam schools, like many other school districts in the Nation, are struggling to meet very basic needs and have a very diverse student body and we need to account for different ways of measuring success.

I believe in standards and agree that the failure to include high standards will mean that schools will not meet designated goals. But we must think about other ways to measure the school environment than simple reliance on standardized testing, just that alone.

As a former educator, I give President Bush high marks for introducing a comprehensive educational measure at the beginning of his administration. This demonstrates his solid commitment to improve education in public schools for all American children. I know my colleagues in the territories will agree that this administration and this Congress should work in concert to move our Nation's educational agenda forward so that no child is left behind whether they live in Los Angeles or Washington, D.C., Hagatna or Yara.

I urge my fellow colleagues and President Bush to consider the special needs of U.S. territories as we work in crafting an educational plan that truly meets the needs of all Americans.

WELL WISHES TO HON. BUD SHUSTER ON HIS DEPARTURE FROM HOUSE OF REPRESENTATIVES

Mr. MURTHA. Mr. Speaker, this is the last day for the gentleman from Pennsylvania (Mr. SHUSTER), one of the most dynamic experts on transportation in the entire country. There has been no individual that has had more of an impact on transportation in Pennsylvania, in the commonwealth in his district, in my district, in the entire country.

He was an expert in the field. Even when he was in the minority, he had a tremendous impact on transportation things. He convinced the Congress and the White House that the taxes we collect for transportation ought to go to transportation; and, even against tremendous odds, he was able to win that battle.

It will be a long time before we see another person with his ability. He was a Ph.D with a Phi Beta Kappa. He was an Army veteran. He was a person of great compassion, and sometimes it was overshadowed by things that he was interested in.

But I will say this, that the gentleman from Pennsylvania (Mr. SHUSTER) will be long remembered for all the things that he did in Pennsylvania and for his legacy and there will be a better transportation system in this great country. And that is absolutely essential to our economic progress.

Mr. MASCARA. Mr. Speaker, I rise today to pay tribute to one of the finest sons of Pennsylvania: Chairman BUD SHUSTER.

BUD, your commitment and vision has reshaped our national landscape from the local level to the national level.

In 1995, when I took the oath of office and won a seat on the T&I Committee, you were beginning your 12th term as a Congressman and first year as Chairman of the Transportation and Infrastructure Committee. Little did I realize that under your leadership the Committee would become the most productive Congress has ever seen. A large measure of your success can be attributed to your fair treatment and respect for the minority members of the Committee.

We as a nation are extremely lucky to have had you working to build the Transportation and Environmental infrastructure of our nation. Because of your efforts, I do not believe the American people will ever again accept inadequate funding for our Waterways, Railways, Airways, and Highways.

Personally, I want to thank you for helping with many projects in my district. I am particularly grateful for your visit to my district to view the efforts being made to complete the Mon-Fayette and Southern Beltway Transportation Projects. Once completed, this project has the economic potential to revive the economy for the hard working men and women of southwestern Pennsylvania.

It has been an honor and pleasure to work with you on the Transportation and Infrastructure Committee. Although I am certain you are looking forward to other pursuits, you will be sadly missed by me personally and your colleagues on the Committee.

As you plan for your future, let me assure you that you have a friend in FRANK MASCARA. I wish you the best of everything.

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks about the retirement of the gentleman from Pennsylvania (Mr. SHUSTER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONSUMER ONLINE PRIVACY AND DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I would like to join in the remarks of my colleague. The gentleman from Pennsylvania (Mr. SHUSTER) has been very fair and worked on transportation not only, obviously, in Pennsylvania but all over the country. His presence will be missed.

Mr. Speaker, I rise today, though, to talk about a bill I just introduced, the Consumer Online Privacy and Disclosure Act.

Unprecedented numbers of American consumers are flocking to the Internet to transact business and tap the nearly limitless informational databases that are available. The explosion in Internet usage, however, is not without its problems.

Unlike shopping in a mall or browsing through a library where individuals travel anonymously through the merchandise racks and library stacks, the Internet is becoming less and less anonymous. Direct marketing firms are now trying to identify individuals as they surf the Web to isolate where they visit and what they are viewing.

This new data collection practice is most often described as Internet profiling. Internet profiling describes the practice of joining a consumer's personal information with that of his or her Internet viewing habits. To develop this detail profile, a "persistent cookie" must be attached to the consumer's cookie as they move through a Web site.

A persistent cookie is a small text file copied for varying lengths of time to consumers' computers to track their movements while they are online. It is almost like somebody following you on the street, Mr. Speaker; and we have protections against that.

My legislation would prohibit Internet Service Providers (ISP) and Web site operators from allowing third parties to attach these persistent cookies to a consumer's computer without his or her knowledge and consent. And that is the biggest purpose. If someone wants to give their consent, then that is their business.

For example, we have these grocery cards all over the country that gives us a discount. We understand that by taking that discount that Safeway or Kroeger's or someone else is actually seeing what we buy at the grocery store. We agree to that in a way.

The legislation requires the Federal Trade Commission, the FTC, to promulgate rules specifying that all operators of a Web site or online service provide a clear and conspicuous notice of their privacy policy in clear, non-legalistic terms.

The bill also requires a Web site or online service to provide consumers with an option to prevent the use of their personal information for any activity other than the particular transaction. And finally, the privacy policy must clearly state how any information, collected information will be shared or transferred to an external company or third party.

While my legislation gives consumers more information and control over how they use the Internet, I have also included a provision that will hold e-commerce companies to their privacy policies.

With insolvency of many dot-com companies, oftentimes the only tangible asset left to satisfy creditors is a consumer's transaction and personal information.

The global use of the Internet is beneficial only so long as the information traveling through cyberspace remains private. Consumers will pull back from this burgeoning information and commerce tool if they believe their privacy is being invaded.

While I understand there are many differing approaches to the use of Internet privacy, I believe this legislation addresses a critical component of Internet privacy debate; and I look forward in working with this Congress, Mr. Speaker, also to make sure that our constituents have that privacy that they expect and also that they will think they have.

THE THREE R'S PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Washington (Mr. SMITH) is recognized for 60 minutes as the designee of the minority leader.

Mr. SMITH of Washington. Mr. Speaker, I am pleased to come before the Chamber today to talk about what is the most important issue facing our country today and certainly in the future, education: How can we prepare our children to become adults with the skills and the knowledge that they need to succeed and compete in the world today. It is a challenge that we are presently not meeting to the degree that we should, and it starts with K–12 education.

Right now we are losing too many students before they even make it through high school, too many students who are not developing the skills and the learning experiences that they need. How can we go about fixing that problem?

Well, for the most part, this is a local issue. This is something that States, school districts and local communities are going to be the primary drivers on in terms of fixing the problems, investing the resources and making the decisions. And I think we should keep that in mind, as the United States Congress, that we want to make sure that we empower the locals to do the job that they are in the best position to do.

But the Federal Government does have a role. There is a lot of people that say that the Federal Government does not have any business being involved in K–12 education because it is a

State and local issue, period. I disagree.

On the single-most important issue facing our country, the quality of our child's education, I think all taxpayers would like to know that some of that money that they pay in taxes to the Federal Government is going to help improve our K–12 education system since it is such an important issue to all of us.

But the question that we are addressing here today is, what is the proper role for the Federal Government? How can they best use the money that they spend?

Right now the Federal Government is responsible for about 7 percent of the school district's budget. Are we getting the most we can for those dollars? Are those dollars going to the right places? Are they coming with the proper amount of flexibility? I do not think so.

Myself and a number of colleagues of mine have introduced a bill on education called the Three R's bill. The gentleman from California (Mr. DOOLEY), the gentleman from Indiana (Mr. ROEMER) and others have cosponsored this to try to shift the focus of the Federal role in education to improve it and to make it work better. There are some basic principles that we want to outline today that we are headed towards on this program.

First and foremost is we do need to make an increased investment in education. And have a chart here that lays out what our goals and priorities are, and that is the first time.

There are many people that would like to believe, I guess, that we do not need to spend more money to make education better. And I will agree that we do not need to only spend more money, we have to make it more efficient, more effective and more accountable as well. But when we look at our crumbling classrooms in one end of this country to the other, the crushing need for school construction, at the coming shortage of teachers that we have, at the growing class sizes, at the growing needs for technology in our schools, there is no question that we as a Nation need to make a greater investment in K–12 education, and that is something that we ought to start with.

But the other thing is, when we are looking at the Federal Government, where should we send our money? Those Federal dollars should be targeted to help where we can best help, and that is driving those dollars out to the communities that are in poverty, to the poorer communities that frankly do not have the same access to education that other communities have.

If they live in a wealthy or tax-rich community, they have a number of options for funding the programs that they need in school. If they do not, they do not have as many options, they cannot simply raise a $100,000 from the parents or pass a levy or bond issue to generate those dollars.

☐ 1315

The Federal Government should target their dollars that they send to get to those poor communities. We do not do a good enough job of that right now. Too many of those dollars are not going to the communities that truly need them. Our bill adjusts those formulas to drive them out primarily based on need, based on those poverty-based communities that we are headed towards.

The other major problem of the Federal role in education right now is that it is too bureaucratic and there are too many strings attached to those dollars that are sent out. That is a problem in a couple of different areas. First of all there is insufficient flexibility. The needs of one school district may not necessarily be the same as another. The needs in Seattle may not be the same as Chicago or Spokane or South Bend, Indiana, there may be differences in what they want, but the Federal Government is very prescriptive in how we send the dollars out. They have to be spent in a certain way. That reduces the flexibility of those local communities to best use those dollars. But the other problem with it is the bureaucratic nightmare that goes with it.

The way the Federal structure is currently set up, there is somewhere in the neighborhood of 60 different Federal programs, pots of money of varying sizes that all school districts in the country have to compete for. They fill out grants to go get these dollars. There are a whole series of problems with this process. First of all, the communities that need these dollars the most, the poor, the rural communities, they do not have the money for grant writers. They are struggling just to provide the educators they need in their school districts. So it becomes a snowball effect. They do not have the money to hire the grant writers so they cannot get the additional money the Federal Government is providing and the dollars do not get driven out where they are truly needed. But even in communities that have large school districts, you do not want your school district personnel to be grant writers. You want them to be educators.

There is a school district in my congressional district that estimates in 1 year they spent 900 person-hours filling out Federal grants for money. Think of what those 900 person-hours could have been better used for to help educate our children. We need to give them that flexibility and freedom from the grant writing that is currently required of so many school districts. We drive our dollars out in a way that does not require that, that gives them that greater flexibility and lifts them away from that bureaucracy.

The last issue I want to touch on is accountability. As I mentioned, we certainly need to invest more in education. But we also need more accountability, more effective results. The biggest reason for that is you cannot fix a failing school. You cannot educate a child that is not learning to read or write or develop the math skills that he or she needs if you are not aware of it. If we are not measuring the results of our schools and our students, we do not know where they are at. Now, this is something that should be State driven, no question. But I believe it should be the policy of the Federal Government to require States to keep track of how their schools are performing, so that parents can know what is going on and so that, most importantly, we can meet the needs as they come up. So that is another important part of our bill is we require States to measure performance at least three times during the course of K–12 education. In my home State of Washington, we do it in the fourth, seventh, and tenth grade. Different States do it at different places, but there needs to be a measurement so we know how the schools are doing.

But the second most important part about accountability is the part that I think we are doing the weakest job on as a country, and, that is, once you find out the schools that are not succeeding, the students that are not succeeding, what do you do about it? Are you then investing and making the changes necessary to fix the problem? It is nice to know, but it is far more important to get in there and fix the problem so that all of us, all of our children, have access to a quality education. What our bill does is it requires that measurement and then once you find out what schools are not performing, we set aside money for the States to go into those specific schools and improve them and make them work better, to get the results that we need.

Our bill is a significant change in Federal education policy. It is a change that reflects the need to spend more money certainly but to target those dollars in an appropriate place, to increase local flexibility so that they are not filling out Federal paperwork but, rather, educating our children and to have accountability, to measure results so that we know how our children are doing, how our schools are doing, so hopefully we can step up and improve them. I feel there is no more important issue that this Congress will deal with. I am pleased that the President has shown an indication to move in this direction. We have some differences on the proposal that he has outlined. But we also have a lot of similarities. I think there is a good chance that this Congress will make a significant change in education policy.

With that, I am joined by several colleagues today who are cosponsors of this bill and share with me in our desire to get it passed and change this role. I would first like to call on the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, I thank the gentleman from Washington (Mr. SMITH). We appreciate that so much.

I am glad to say, Mr. Speaker, the national debate has shifted to our American system of education. Recently, President Bush offered a comprehensive education package. I am glad priorities concerning education are taking the national stage now, because improving our schools makes all our lives better.

The President's proposal has much merit, but let me tell my colleagues about another education proposal and that is what the gentleman from Washington is talking about today, the Three R's Act. This bill demonstrates that both parties are willing to invest more in education and support strong accountability measures. The Three R's bill streamlines the Federal bureaucracy, allows for more local control, increases funding for poor schools and allows for more teacher and principal hiring and recruitment. The Three R's Act actually streamlines 50 Federal programs into five performance-based grants. It also provides for more resources to schools with high concentrations of poor children to help States meet their new performance goals. This will also be of particular benefit for my State, Mississippi.

I recently released a report conducted about class sizes in our congressional district. The gentleman was talking about it earlier. The study revealed that over 80 percent of young children in these grades were taught in classrooms that exceeded the national goal of 18 students per classroom. That is in my district. It is important that some of the funds from the Three R's Act or any education bill go to help reduce class sizes. Smaller class sizes have been proven to increase student achievement, reduce discipline problems and increase the amount of instructional time teachers are able to spend with students. Class size reduction has the strongest effects on children in kindergarten through third grade. A study conducted in Tennessee, for example, revealed that in the fourth grade, students from the smaller classes still outperformed the students from the larger classes in all academic subjects.

In order to have a comprehensive solution to ensuring that our children receive a quality education, we must invest in school construction and modernization, mental health professionals and more guidance counselors in our schools, technology in the classrooms and smaller class sizes.

With smaller class sizes, a teacher can better identify the needs of the students, provide individual attention, and spend less time on disciplinary matters. I look forward to continuing to work with my colleagues in Congress on an education bill that will strengthen our education system for the 21st century.

Mr. SMITH of Washington. Mr. Speaker, I yield to the gentleman from Indiana (Mr. ROEMER) who serves on the Committee on Education and the Workforce and has been a leader on education policy for the full decade he has been in Congress and is one of the prime drivers behind this legislation.

Mr. ROEMER. I appreciate the very kind words from my good friend and fellow New Democrat from the State of Washington (Mr. SMITH). I want to applaud him for his hard work on this bill over the past year and a half. I want to thank the gentleman from Mississippi (Mr. SHOWS) for the eloquence in his statement. We will be joined by the gentleman from Wisconsin (Mr. KIND) to talk about education as well from his vantage point on the Committee on Education and the Workforce where he has joined me working on these efforts for the past several years.

I also want to commend all the New Democrats that have worked so hard on education legislation over the past several years. We have a host of people that dedicate their careers in public service to trying to improve opportunities for young children, for people that are going back to school, whether they be 28 or 48 years old, to get a better education, whether it be a nontraditional student at 33 years old going to a community college. We are interested in working in areas to improve education for Americans across the country. The New Democrat Coalition has been a driving force to try to come up with these new ideas, to try to work with the Senate where, with this particular bill, the Three R's, we have worked with Senator BAYH, my colleague from Indiana, and Senator LIEBERMAN from Connecticut to craft this legislation. And where we look to work in a bipartisan way with our fellow Republicans across the aisle, with the new administration and with all those people across the country that continue to say that education is the single most important issue across America.

You can go into a small business or a large business and the first thing out of their mouth is education, to improve productivity. You can go into a labor union and talk to people about training opportunities and apprenticeship programs and the first word is improving education. You can talk about Democrats and Republicans, the Bush administration, the former Clinton administration, the nexus is here, the rivers are all coming together for us to finally work in a bipartisan way to achieve some much-needed results in improving public education in this country.

Now, we are 2 years behind, ladies and gentlemen, 2 years behind in reauthorizing the most important education bill where there is a partnership between the Federal Government and our local schools, locally driven, I might add, for the Elementary and Secondary Education Act. We have proposed a bill that the gentleman from Washington has just very, very quickly outlined, and done it very well. That I think is a very, very good starting point and a possible ending point, for good bipartisan legislation to reauthorize the ESEA proposal. Let me outline two or three major components of this bill and then maybe touch on a brief area of disagreement with the Bush administration, and then conclude with the importance of resources and investment for public education in this country.

First of all, what we do in this Three R's education proposal which has been dropped today, I think the number will probably be H.R. 345, is we consolidate a number, 50 to 60 Federal programs, down to five competitive Federal grants. These five areas, including title I for the poorest children; teacher quality to improve on the number of people going into the teaching profession and coming out, maybe going in at mid career; we talk about public school choice and expanding choice to empower more parents. Those are the five critical areas to consolidate and make sure that these decisions are not driven by Washington, D.C. but are driven by the local community with help and assistance from the Federal Government.

Secondly, we demand more accountability and results from our schools, from every teacher, from every single child, to make sure that they can live up to the standards and the requirements of this new economy, so that they can meet the needs upon graduation from high school that are going to be needed by our businesses, by our unions, by our hospitals and our banks, so that they make certain requirements and that diploma is meaningful coming out of high school, that diploma means they have met certain assessments and skill levels, but that we do not also overtest and put a Federal mandate on our local schools. There is a delicate balance that we try to reach in this bill between recognizing the needs to test our students and demand more from our students but also not give unfunded mandates to our local schools.

Thirdly, and I will talk about this a little bit more, we target new resources, new investments, new opportunities to some of the poorest children in inner city and rural areas in America that are not getting the same opportunities to a good education that some other students might be getting.

Now, the CBO today is releasing new figures that say over the next 10 years, the Federal surplus will swell to $5.6 trillion. Now, on a cautionary note, ladies and gentlemen, 1 month ago their preliminary figure was $6 trillion, but with the economy slowing down, they have readjusted that by $400 billion in the last month. If we have an energy crisis, if we have a recession, if we have a problem overseas, that could significantly go down from that $5.6 trillion initial guesstimate.

We do not know what it is going to be over the next 10 years. But certainly in this town where people are rushing to increase a tax cut, where they are rushing to throw money at defense, the very first thing that we are going to try to do in this session of Congress is work in a bipartisan way on investments in results of better public education. Certainly we can afford to invest some more resources into our education system, for quality teachers, for more public school choice, for professional development opportunities for our teachers, and smaller class sizes, things that are going to make a big difference in the quality of the student graduating from school.

□ 1330

So we will be fighting for more resources, and this bill devotes 35 billion extra dollars on top of current funding over the next 5 years to education for ESEA.

Consolidation, accountability, new resources, and less bureaucracy here. I think this is a very, very strong bill to work with the Bush administration and our fellow Republicans in a bipartisan way to finally get ESEA reauthorized.

There are a couple of areas of disagreement that I think our colleagues will probably talk more about. One of them is how do we address failing schools. If the school is not adequately preparing, if the school is not adequately requiring, if the school is not adequately making sure that that student is getting good results and learning, then we need to do something about that school.

The Bush administration proposal is to say we are going to give that student a $1,500 voucher to then leave that public school and take it somewhere else. Well, the first problem is, the $1,500 voucher could not really get someone in the door of a private school. They still have a $2,000 or $3,000 or $4,000 required payment to make for the tuition. But secondly, it starts to take vital money away from that public school that is failing.

The slogan is, "Leave no Child Behind." Well, one is leaving a school, an entire school, behind with that philosophy. We say in our bill, for a failing school, we are going to demand more. We are going to require more. We are going to remediate that school. We are going to put teachers or principals on probation. We are going to do more to make that school work with empowering parents with public school choice and charter schools and magnet schools and alternative schools, but keep that $1,500 in the public school system.

We also have differences in some other areas that I will not get into on the amount of testing, on the amount of resources that we devote, but we will probably talk more about these ideas as this bill makes its way through. I think there is a great foundation between our bills to begin working together, with 80 percent agreement and bipartisan reauthorization of ESEA.

I will conclude by again saying that I am very, very proud of the people that have worked so hard to put this new Democratic Coalition bill together and look forward to working in a bipartisan way to see that reauthorization of ESEA is a possible stepping stone to working in a bipartisan way on other issues.

Mr. SMITH of Washington. Mr. Speaker, I just want to, before calling on my next colleague, amplify the point that the gentleman from Indiana (Mr. ROEMER) made about where the new Democrats are coming from on this issue. For years, there has been this sort of frozen public debate going on between Republicans and Democrats, with Democrats arguing that more money needs to be spent and Republicans arguing that there needs to be more accountability for results; and that as a consequence we have not done anything. We really have not moved forward significantly in either area.

What this bill represents and what the new Democratic Coalition has worked so hard to do is a way to find a middle ground to bridge the gap and recognize what we ought to do is both. We certainly ought to have a more accountable education system that measures results, that tells us who is succeeding and who is not. We also need to invest resources; and that is going to be a major, major topic of conversation between us and the White House, is how much money are they willing to put into this to help make sure we do not leave any child behind. If we are talking about ratcheting up the tax cut from a trillion to $1.6 trillion to $2 trillion to whatever it winds up as being, think about what we could do with some of those dollars if they were invested in education if we actually made a difference on things like class size and school construction and investing in those poor communities that do not have adequate access.

I think we need to make sure that the White House shows us a commitment on the investment side as well as on the accountability side. We as New Democrats are trying to do both because we recognize that both need to be done.

Mr. Speaker, I yield to my colleague and friend, the gentleman from Wisconsin (Mr. KIND), who is also a member of the Committee on Education and the Workforce and has been working on these issues for a number of years.

Mr. KIND. Mr. Speaker, I thank my friend, the gentleman from Washington (Mr. SMITH), for yielding me this time and also securing this hour for general discussion about education policy.

As my friend from Indiana pointed out, there is a convergence of energy and interests and anticipation really in doing something good in this session of Congress in regards to reforming the education system in this country.

I am a proud sponsor, as a member of the new Democratic Coalition, of the RRRs program that the gentleman from Washington (Mr. SMITH) has just laid out for us. I think it is a realistic proposal. It is credible, and it is long overdue.

The consolidation aspect is much needed. It will increase flexibility to local school districts so that the decision-makers, those who are intimately involved in reforming the education system, will have an opportunity to implement the reforms that they know will succeed at the local level; but it also recognizes importantly enough that we have to be committed to making a major investment if we are going to see the results that we are demanding now from our school districts and the administrators.

This is a very exciting proposal. It is a very good starting point. Many of the features that we have in this RRR proposal are very similar to what the new administration and President Bush just announced last week. In fact, last Thursday I had the opportunity to go to the White House and sit down and have a good conversation with the President, along with a few other members of the Committee on Education and the Workforce, in regards to the proposals that he released last week. There are a lot of good proposals that President Bush is bringing to the table on education reform, not least of which is his philosophy that there is a Federal role in the education system, in the education of our children.

It was a philosophy that in recent years, at least, we were fighting on the Committee on Education and the Workforce. Many of our colleagues in this Chamber were actually advocating shutting down the Department of Education, claiming that there was no Federal role at all to help with local school districts and the resources that they need in order to make the improvements that we would like to see. President Bush is saying, no, that is wrong. There is a role. We have a responsibility, and there is a way for us to work together in a bipartisan fashion to assist these local school districts in making these reforms.

There are also some points of contention, issues that we are going to seriously debate and get into as we get into the formulation of education policy, the reauthorization of the Elementary and Secondary Education Act that we have to get accomplished this year in committee; not least of which is the whole idea of accountability, and what people mean by that, because it has various definitions. It has various meanings.

I think what we have with the RRR proposal from the new Democratic Coalition is a requirement that we want to see student performance measured so that we can take corrective action, take remedial action for students who are detected as falling behind, so that they are not left behind as they progress through the education system.

I would hate for us in this Congress, though, to work on a system of accountability which merely establishes a regime of sanctions and penalties, and I am afraid that with the private voucher proposal in the President's plan that we could very easily get to that step where we would be draining precious and limited resources from the public education system that we want to support and put it into the private sphere, where there are, granted, a lot of good private schools doing wonderful things throughout the country. But let us face it, the private school system does not have the same type of system of accountability that the public school systems currently have. Nor would we necessarily want to attach strings and a lot of accountability with the funds that go into private, and especially parochial, education.

I am very concerned about the separation of church-and-state issues if accountability follows the Federal dollars, which is an issue that really has not been aired all that much when one gets into the private voucher plan, and one that we really need to be more careful about in our discussions as we go forward. There are some very attractive features in what the President is calling for, what we are calling for in our education plan, the emphasis on professional development programs so we have the quality teachers in the classroom, which is perhaps the second most important determinant of how well our students are going to perform, right after parental involvement.

I hope we do not lose sight of the necessity of investing in professional development of the school leaders, principals, superintendents, the administrators. Everyone who has been involved in the school system realizes how important it is to have quality people in those positions to quarterback the education system and to provide guidance and implement the reforms that are necessary. The President, too, is emphasizing, as President Clinton before him, early childhood literacy programs which, again, received fierce resistance in this House over the last 4 years, the Reading Excellence Act. President Bush is now asking for a ramp up in early childhood literacy programs, and I applaud him for that, but there is one area that hopefully we can embrace and form bipartisan consensus around, and that is for this United States Congress to live up to the Federal responsibility and obligation to fully fund special education costs throughout the country.

Our obligation is roughly 40 percent of the special education costs that school districts have to incur in order to educate these children. These children deserve to be educated. They deserve to get a good education, but it requires an investment because of the special needs that they bring to the classroom. We have only been funding it at roughly 12, 13 percent. If we can get to that 40 percent level, which will require a substantial investment in special education, IDEA is the program's name, that would free up a lot of resources then by its very nature at the local school districts. That would provide them with increased flexibility in order to make reforms that they want to make at the local school districts, and all that it requires is an act of Congress, with the cooperation of the appropriators and the administration, to be committed to this concept of fully funding our obligation to special education needs across the country.

Not only is it the right thing to do, I think it is good policy if we really want to see the results that many of us have a passion for in the public school system. It is an issue that I personally raised with the President as they are beginning to formulate their budget proposal which will be submitted shortly to Congress for our consideration.

Just to close on a point that my friend, the gentleman from Indiana (Mr. ROEMER), made, there is a lot of euphoria in Washington these days in regards to the latest CBO projected budget surpluses, $5.6 trillion, which was announced today; but I think we need to be careful because I think the greatest challenge we are going to face this year in Congress is to lose fiscal discipline. By that I mean if we look at the actual numbers and how they play out, first of all, two-thirds of even that projection does not occur until the second 5 years, which means we cannot front-load a lot of that tax cut which a lot of people want to do because of the slowdown of economic times. We do not have the money to do that.

Secondly, if we take the Social Security Trust Fund and the Medicare Trust Fund out of that equation, and hopefully we are going to have consensus on that this year, that $5.6 trillion is suddenly reduced to $2.6 trillion. If we are starting with a premise of a $2 trillion-plus tax cut, that leaves very little for all the other domestic policy items which will be receiving attention, increasing defense spending, farm relief again because the farmers are suffering, the education investment that many of us would like to see; but also I think we are hopeful and hedging our bets on whether or not the economy is going to continue to perform and produce these surpluses that these tax figures are being based upon right now. So we face some challenges. I think we have a lot of area of common ground and some good common agreement in which to start from.

There are going to be some contentious issues. I think the RRR proposal that we are introducing today is very comparable, in fact, to what a lot of moderate Republicans in Congress have been advocating for some time as well. I feel a political coalition can be formed quite easily, as long as we deal up front with some of the more contentious issues and not allow that to bring down what could be a very good education year here in the United States Congress.

I commend again my friend, the gentleman from Washington (Mr. SMITH), for the hard work that he has put in over the last couple of years in being able to put an education proposal of this nature together. There have been a lot of people involved and hopefully good things will emanate from it.

Mr. SMITH of Washington. Mr. Speaker, I appreciate all of the help from the gentleman, and support and work on this issue.

Mr. Speaker, now I would like to recognize the gentlewoman from New York (Mrs. MCCARTHY), also a member of the Committee on Education and the Workforce.

Mrs. MCCARTHY of New York. Mr. Speaker, I stand here very proudly as a cosponsor of the new Democratic Coalition on supporting the RRRs. I sit on the Committee on Education and the Workforce and for the last 4 years we certainly have been trying to bring together new initiatives on how we are going to bring the best education to all of our children, all of our children; and the RRRs program is a program that can work for all of our children across this country.

Politicians are very good a lot of times at saying, well, we are going to do this, we are going to do this, we are going to do this. I really hope this time around that we are going to have an educational policy that is going to be there for our children.

Each and every one of us comes from different districts. We all represent different parts of this country; but when it comes down to education, the American people want us to do something. The RRRs education program, as far as I am concerned, will answer all of the problems that we are having across this Nation.

I want to just say a little thing on the side. Thank goodness the majority of our schools in this country are doing well. Please let us not forget them. We are talking about dealing with schools that need extra help. I have a school in my district, Roosevelt School District, and they were taken over by the State a couple of years ago and they are struggling. This is why I am such a strong opponent of having a voucher system. If we start losing monies that go into the Roosevelt School system, what are we going to do with all the other kids?

□ 1345

We are going to leave so many children behind. Vouchers sound wonderful. They do sound wonderful. They are not the answer. Federal dollars have to go into our public schools.

A question that I certainly hope that someone will be able to answer for me from the administration is, if it gets passed, and I am hoping that it does not, but if the $1,500 voucher gets passed, and a child takes that into whatever school they go to, where is the accountability for that $1,500? How do we know that that child is getting the education that they should be getting? These are some of the questions that we have to answer in the next several months.

The bottom line is, the American people want to have a good education. When we talk about 7 percent of our Federal dollars going into our schools, if we really think about that, it is not very much that goes back to our school systems. But the gentleman from Wisconsin (Mr. KIND) and I agree totally on IDEA. Those are the schools, unfortunately, that are getting hurt the most, because it puts that much money out to these children that learn differently. That is all it is. They learn differently. If the schools could be freed up for the monies that they have to spend to educate these children, then school districts would have more local control on educating those students that are considered "normal."

Let me say something about that. We have such an opportunity in the next few months to do probably one of the best things that we can do for this country and for the future of this country, and that is passing an educational program that is going to go to our neediest children, which our program does; it will go to the neediest children, it will give those school districts the head start that they need. We are building on the future of America. We are not only doing ourselves a favor, we are doing this whole country a favor.

So as we go forward in the months ahead, I think the RRRs educational proposal, which is something that has been out here for a couple of years; this is not new. We have been trying to push this for a couple of years. Hopefully, we will see our program go through, and then we will be doing the right thing for the American children, and we will be doing the right thing for our country.

Mr. SMITH of Washington. Mr. Speaker, I thank the gentlewoman. It is now my pleasure to call on one of our new colleagues, the gentlewoman from California (Mrs. DAVIS) who worked in her State on educational issues and now has the opportunity to bring that knowledge to the Federal level.

Mrs. DAVIS of California. Mr. Speaker, it is my privilege to be an original cosponsor of this bill, Improving Education Through the RRRs. Increasing the excellence of our children's education must be our national priority.

This approach to funding and focusing on educational reform is a philosophical framework for how to keep our eyes on that goal.

First, it recognizes that a large increase in funding for education is not only critical and possible, but that money must be directed where it is most needed. Title I funds not only deserve the 50-percent increase called for, but also are protected from nonprogram uses. The bill requires accountability of the results of these programs.

Second, there is an emphasis on promoting the recruitment and retention of high-quality teachers and principals. This is fundamental to improving teaching, particularly in California where less than half of the needed new teachers are being trained in our universities. There are many successful programs to recruit new teachers and support them, and they deserve new funding. In California, we have supported a very successful mentoring program for teachers in their first 2 years. Individuals who enter teaching as a second career also need extensive mentoring and training support when they enter the classroom. These are costly programs and need additional funding which is included in this bill.

Retaining the best teachers is also important. As a member of the California legislature, I sponsored substantial one-time awards for teachers who have achieved National Board for Professional Teaching Standards Certification; and, as a result, the number of candidates for this demanding program which demonstrates excellence in the classroom have doubled annually. This is one example of the type of program which would be eligible for funding under this bill. It inspires excellence and rewards the best professionals. Public recognition of professionalism is another way to improve retention of our most valued teachers.

Targeting funding to recruitment of mid-career teachers is also critical. The new Troops to Teachers program can be a model for the much larger Transition to Teaching program called for in this legislation.

Third, as prudent stewards, we must insist on accountability of the programs we fund. California has initiated many of the types of accountability called for under this proposal. As a result, I am keenly aware of the care which must be taken in aligning our testing with State and locally developed curricula and of moving toward testing which evaluates many different types of student performance. I look forward to working on refining these programs so that they also are effective.

Mr. Speaker, I believe that this bill establishes the appropriate framework for improving education, and I commend it to my colleagues.

Mr. SMITH of Washington. Mr. Speaker, we are joined by another freshman Member, the gentleman from California (Mr. SCHIFF), who has also worked on education issues on the State level and now is taking that expertise to the Federal level.

Mr. SCHIFF. Mr. Speaker, I rise today to join my colleagues in urging support for the Public Education Reinvestment, Reinvention, and Responsibility Act. This bill invests more in education, $35 billion over 5 years, for title I, for poor and disadvantaged communities where many young people, through no fault of their own, are getting a poor education, and are failing to meet their full potential because of our failures. It provides more for charter schools, for magnet schools and innovative public school choice programs, and also to help children unlock the door of opportunity that is the English language.

How do we make this investment? Are we simply throwing good money after bad? Are we spending more without doing more? The answer is no. This bill targets children who are most in need. Seven percent of the public school budget is provided via Federal funding. Our solution is, therefore, a 7 percent solution; and it will only be effective if it is targeted and targeted to those who are most in need. This bill does that.

The bill also provides local schools with greater flexibility to use local innovation to meet local needs. It does this by consolidating a myriad of Federal programs into five national goals. I introduced legislation not unlike this in the State legislature in California.

It was very instructive as we proceeded with that bill, consolidating 30 categorical education programs into one. Each of the special interests that had grown up around that particular categorical program came to oppose it. It became very apparent to me, as I think it has to many in this country, that some of the educational programs, albeit started for good reason and with the best of intentions, have come to exist and persist for themselves, not for the benefit of the children they were intended to teach, but to perpetuate the suppliers, the vendors, of those materials of that approach, and this has to end if we are going to change public education for the better.

This proposal consolidates those programs, develops a system based on accountability, not accountability simply that the money is spent for its intended purpose, but rather accountability that says, we will give you flexibility, you give us good results.

Under the current law, there is no accountability. That has to change if we are going to improve the quality of a public school system. We have to demand more of our teachers, of our parents, of ourselves, and this bill goes a long way to doing exactly that.

Why all the focus on education in the last few years? We have a proud heritage in this country of public education. It has always been the great equalizer providing opportunity to the poorest among us, tapping the human potential of every child, and giving them a chance to succeed, a chance to enjoy the American dream. We are losing that heritage to schools that underperform, with children who fail or drop out or perhaps, saddest of all, who graduate and cannot read, who get a diploma and cannot write. Jefferson once said that "A nation that expects to live both ignorant and free expects what never was and never will be." Today's bill does honor to the father of public education, and restores our commitment to public education and civic education.

Mr. Speaker, I commend the work of the gentleman from Washington (Mr. SMITH), the gentleman from California (Mr. DOOLEY), the gentleman from Indiana (Mr. ROEMER), and others; and I urge the support of my colleagues.

Mr. SMITH of Washington. Mr. Speaker, I want to pick up on one of the points that the gentleman from California (Mr. SCHIFF) mentioned about the accountability provisions and how they are currently in the Federal law and what we would like to do to change them to. Ironically, right now, there is no accountability in terms of the Federal money spent. That means that the Federal Government does not periodically do audits of school districts, but when they go in, what they look at is, did you spend the money the way we told you to, and did you fill out the paperwork that proves that. The one thing that those Federal audits do not care about is whether or not the children are succeeding, whether or not the school is working. That is a ridiculous situation, putting process over results.

What we try to do here is we change that. We will give them the flexibility to spend the money to succeed, but we are also going to keep track of whether or not you are succeeding and if you are not, we are going to figure out a way to help all schools succeed. It is much better than the paperwork approach used right now.

Mr. Speaker, I yield to a new Member of Congress, the gentleman from Washington (Mr. LARSEN).

Mr. LARSEN of Washington. Mr. Speaker, I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I rise today to address one of the most pressing issues facing the Nation and my district, and that is education. Having just been elected to Congress in November, I have spent many months traveling across the second district of Washington State meeting with parents and teachers and local school officials from Everett to Blaine, from Concrete to Coupeville and up in the San Juan Islands as well, and the message from them is clear: they want local control of education. Again and again I hear that people are greatly concerned about public education. They are concerned about the quality of education and preparing our kids today to compete in the job market of tomorrow. They want accountability. If taxpayers support education, they simply want their money to be spent more wisely.

Today, therefore, I am pleased to be an original cosponsor of the RRRs bill, the Reinvestment, Reinvention, and Responsibility Act of 2001. This bill is a new approach to Federal education policy, one that refocuses our resources and our resolve on raising academic achievement. The RRRs streamlines the more than 50 Federal education programs into five performance-based grants. It increases the Federal investment in education, but better targets those funds. Most importantly, Mr. Speaker, it increases the accountability for results with Federal tax dollars, focusing these monies on our local school district.

The approach of the RRRs plan that we introduced today is simple: invest in reform and insist on results. We want to give States and local school districts the resources that they need to help every student learn at a high level.

This bill, Mr. Speaker, does not promote vouchers, but the targeting of Federal dollars to the communities across this Nation and my district that need them the most. In fact, I believe that vouchers are the wrong answer to the right question: What are we going to do to improve our public schools? The RRRs bill, in my opinion, is a key step in improving our public schools.

In the new economy, it is a time to take an approach to education in a new way, so I join with my fellow Democrats and colleagues in supporting the RRRs legislation; and I look forward to working in a bipartisan fashion here on the floor of the House with Republicans and with the administration in passing the RRRs here in Congress.

Mr. SMITH of Washington. Mr. Speaker, that concludes our presentation. I am going to conclude with a few remarks of my own, but I want to thank my colleagues who joined me here today to introduce our proposal on Federal education policy, the RRRs proposal that was introduced today as a bill. I particularly want to thank the new Democrats and the work that they have done to forge this middle ground on education, to stop the either/or partisan rhetoric that has been going on and focus on something that will really work and will give us the results that we want.

We have a great challenge over the course of the next few months. Our President has made education his top priority, and that gives us a tremendous opportunity to make some long-needed changes in Federal education policy. But the devil is always in the details and the difficulty is not in talking about it, but in getting it done. So I hope that we will work hard to make sure that we get there and do what we need to do on education.

We need to make an investment, but in order to make that investment, we need to show the taxpayers that they are going to get results for their dollars. That is sort of the battle I think that has been going on in this country, and a lot of skepticism about the ability of government to get anything done. There are those who believe that government should just sort of get out of the way of everything, and we are not going to change their minds. However, I think there is a larger group of people out there who recognize that particularly in an area like education, government can have a real positive impact on improving the quality of our lives in this country.

□ 1400

These taxpayers just want their money's worth. They do not want us to simply say we are going to throw more money at the problem. They want to know that they are going to be accountable for results that comes with that money. If we can push the three Rs bill that focuses on local control, flexibility and results, I think we can get the public support we need to spend the dollars we need, but that is going to be a real challenge.

It is a challenge as new Democrats that we put down for the President to work with us, certainly to get the accountability and the results-oriented focus. But once we have done that, make the investment that is necessary to get it done. I mean, I wish we could improve the quality of education without spending any more money on it, that would make all of our lives more easy. We would not have to find the dollars and make the more choices when you look at the crushing needs out there, particularly in impoverished communities, rural communities, some urban communities, areas that do not have the dollars to get the basics of what they need, you know that they need help in the resources department.

They need some money from the Federal Government to help meet the needs of their children. And if the philosophy is leave no child behind, you better be prepared to step up to that commitment.

We will give them the accountability and the results, but let us make sure that we go out there and make the investments necessary to educate our population to the degree that they deserve.

I am joined by the person who has done more work on this than anybody, the gentleman from California (Mr. DOOLEY), the gentleman and I actually introduced this bill last session of Congress. It did not go anywhere then, but it is moving now.

There is some change here and I think we have a real opportunity to move forward on that.

Mr. Speaker, I yield to the gentleman from California (Mr. DOOLEY) to conclude our discussion today.

Mr. DOOLEY of California. Mr. Speaker, I thank the gentleman from Washington (Mr. SMITH) for yielding to me, and I am just delighted to be here in support of our three Rs proposal.

As Democrats, we recognize that we have to make reforms in the way that the Federal Government is participating as a partner with our local school districts, and what we are doing with this proposal is understanding that it is incumbent upon us to invest more in our public schools and investing those dollars in a way which we are sure are going to benefit those students that are facing the greatest challenges.

I represent a district in the central valley of California. It is one of the lowest income districts in the State. There is a lot of farm worker families that are struggling to make ends meet.

Our school districts are struggling financially, and what this proposal will ensure is that those children of farm workers are not going to be left behind, that the Federal Government is going to be there in order to provide them with the resources that those schools need to ensure that they are going to have the opportunity to excel academically.

But basically as a covenant that we are creating here with our local school districts, by providing these additional dollars, we are going to be demanding more. We are going to be demanding that those schools be held accountable for improving the academic performance of these students. We are going to require that we see improvement on an annual basis of these children and their performance in their classes.

We also are convinced that while we are providing these additional resources, we are providing for greater accountability that we have to have confidence in our local school districts, to do what they think is best in order to provide for this quality academic environment. Thus, we are giving those school districts greater flexibility.

We have consolidated over 45 programs down into five revenue streams, giving those school districts the ability to develop those programs that are going to meet some of their unique challenges. So in return for that investment of additional dollars, in return for giving those school districts greater flexibility, we are going to demand the greater accountability, because we believe, as President Bush does, that we cannot leave any child behind.

We disagree with President Bush on a number of his proposals, but where there is a lot of in common, there are some significant differences is that with our proposal, when we have a school that is not meeting the academic performance that we believe is appropriate, is that we provide them with additional resources, both in personnel and dollars initially to help see improvement there. But if they continue to fail, we then provide for the option of those school children to go into other public schools.

We provide for public school choice. We also allow that school district to convert that school to a charter school so they can try different and more innovative approaches to improving the academic environment there.

President Bush takes a little bit different approach, and basically he would abandon those schools after 3 years and give that child a $1,500 voucher that could be used at another public school or a private school. Many of us think that is a false promise, because a $1,500 voucher to a farm worker child in my district that does not have a private school option, or the private school option they have is much more expensive than that, it is really a false promise.

We are hopeful as we move forward here with this debate on education that we can narrow or find the common ground that is between President Bush's proposal and what we are offering today, because we think, we are not that far apart, with the exception of the utilization and embracement of vouchers by President Bush. Our 3 R's proposal is one which I am convinced will provide the flexibility and resources that our local schools need, will ensure that our children will have a higher quality education, and will ensure that those children that are in some of the most struggling economic areas of our country will have the resources that they need to ensure that they will have the academic opportunities that are going to be so important in terms of their future success.

Mr. Speaker, I say to the gentleman from Washington (Mr. SMITH), I really appreciate all the work the gentleman has done there and all the cosponsors of this legislation.

Mr. SMITH of Washington. Mr. Speaker, I thank the gentleman from California (Mr. DOOLEY), who is the prime sponsor actually of the 3 R's proposal.

Mr. Speaker, I just want to thank all of my colleagues once again for their broad support. I think we have the opportunity in the next several months to make some very positive changes in Federal education policy, and I think this bill is an excellent place to start.

Mr. Speaker, I look forward to working on that with all of my colleagues on both sides of the aisle.

A FIRST-HAND LOOK AT AFRICA

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from Virginia (Mr. WOLF) is recognized for 60 minutes as the designee of the majority leader.

Mr. WOLF. Mr. Speaker, I take this time today to report on my recent eight-day, six-country trip to Africa where I visited the Congo, Rwanda, Burundi, Uganda, Sudan and Kenya. I left Washington on January 6 and returned January 14.

I have closely followed events in Africa since being elected to Congress. My first trip to the continent was in 1984 when I went to Ethiopia to witness the heartbreaking famine which resulted in the death of hundreds of thousands of women and children.

Mr. Speaker, I also have been to Algeria, Benin, Egypt, Guinea, Ivory Coast, Sierra Leone and Somalia.

Let me begin by saying that there is far too much suffering going on in Africa. Pain and suffering are a constant. Too many children are dying of starvation, disease, war, and AIDS.

Seventy percent of the world's AIDS cases are in Africa, where more than 16,000 people a day are infected by the virus. More than 2 million Africans died of AIDS in the year 2000.

The raging civil wars in both the Congo and Sudan are taking a tremendous toll on human life. More than 4 million, more than 4 million combined have died as a result of the two wars in the Congo and Sudan and millions have been displaced.

My trip started in Kinshasa, the capitol of Congo. I visited Congo to help better understand the cause of a raging civil war that has resulted in more than 1.7 million deaths since 1988, according to the International Rescue Committee, and to explore what, if any, role the United States may be able to play in bringing an end to the conflict.

Mr. Speaker, I was there less than a week before Congolese President Laurent Kabila was assassinated. We met with him on January 8 in the Presidential palace. From Kinshasa, I traveled by plane 1,000 miles to what is called the Great Lakes Region in eastern Congo and spent a day in the town of Goma and a day in the town of Bukavu.

I met with the rebel leadership, women's groups, clergy, average Congolese citizens and representatives of a number of nongovernmental organizations.

I also met with the American missionaries. And I might say. Few of the people that we spoke with support the rebel leadership in this part of the Congo.

Life is not easy for the average Congolese. There are few schools or hospitals and little potable water. Children go hungry. Women live in fear. I heard horrific stories and tales of rape and abuse by different armed forces and soldiers who come into one village, take the food, rape the women, do different things. Three days later a different group comes in. So life for the average person, particularly women and children, is very, very grim.

Soldiers are everywhere; most are young boys or men carrying automatic weapons.

I visited Rwanda to learn more about the reconciliation process the country is going through following a genocide of more than 800,000 ethnic Tutsis in 1994. My trip to Burundi followed for similar reasons.

From 1993 to the year 2000, violence between Hutu and Tutsi ethnic factions in Burundi has left more than 250,000 people dead and created hundreds of thousands refugees. In Rwanda, the first place we visited was Murambi Technical School, which is now a genocide site.

The world seems to forget, but over the course of 100 days, in the spring of 1994, more than 800,000 Tutsis and moderate Hutus were systematically murdered in Rwanda as part of ethnic genocide. Some 50,000 people were slaughtered in the villages near the Murambi Technical School that we visited.

Contorted skeletons now rest on wooden tables in 18 of the school's classrooms. Some are missing limbs. Others have arms over their heads, as if trying to protect themselves from their killers.

One room was filled with just skulls, and they were hacked to death with machetes and most skulls are fragmented from being smashed.

In Kigali, the capitol of Rwanda, I met with President Paul Kagame, members of the Parliament and NGOs. Rwanda needs to pull its troops out of the Congo as do the other countries that have troops in Congo.

Having said that, I do understand the security concerns that the Rwandans have, particularly with what took place with regards to the genocide, but some now appear to have other motives.

They have fought, at least the Rwandans and the Ugandans, have fought at least three times over diamonds and other minerals near the town of Kisangani. And Kisangani is far from the border where they are threatened by EXFAR and Interahamwe.

I next visited Burundi primarily to speak at a prayer breakfast attended by Hutus and Tutsis. Like Rwanda, Burundi has experienced ethnic violence between the Hutus and Tutsis, and more than 250,000 people have been killed over the last decade.

I also met with President Pierre Buyoya and members of the Parliament and, frankly, was very impressed with the efforts of reconciliation taking place both in Rwanda and also in Burundi.

The last leg of my trip took us to Sudan, my fourth visit there in 11 years. Over the past two decades, a Civil War pitting the Khartoum government against the black Christians and others in the southern half of the country has cost more than 2 million lives in war and famine-related deaths, and millions more have been displaced.

So in the last 17 years, over 2 million people, most black Christians and animists have died as a result of the Khartoum government in the North and with irreverence against those in the South. Regrettably, the situation in Sudan is no better today than in 1989, the first time I traveled to the war-torn region.

The Khartoum regime continues to persecute members of different religious minorities, Christians, Muslim and animist, under the auspices of what they call the Sharia law.

Since 1983, the government of Sudan has been waging a brutal war against factions in the South who are fighting for self determination and religious freedom. The Committee on Conscience of the United States Holocaust Memorial Museum has issued a genocide warning for Sudan. It is important for the people in the West to know if the Holocaust Museum believes it is that significant, then those of us in Congress and in the administration should also take note of the genocide warning issued with regard to Sudan.

Earlier, Mr. Speaker, today in the House, during the debate on the resolution on the day of remembrance for the victims of the Holocaust, we took time to speak out to remind the people of genocide that took place less than six decades ago. We need to remember. We need to speak out. Our voices should be raised today about the genocide taking place in Sudan.

Mr. Speaker, I visited the southern town of Yei where the Khartoum government last November committed one of the most heinous acts of violence in the war, bombing a busy marketplace in the middle of the afternoon. Nineteen people were killed. Fifty-two were injured, 14 bombs were rolled out of the back of a Soviet-made Antonov bomber on November 20, the year 2000. No one was spared, women, children, young and old.

I also saw a video that was given to me by an NGO when we were there taken of the bombing. The marketplace was packed. People had nowhere to hide. Some of those killed had their limbs blown off. Women and children were screaming as they witnessed the carnage. The photograph here shows one of the victims, one of the 19 victims of the bombing.

Now, this is a civilian village. It is not a military target, and yet the Khartoum government of Sudan sends bombers over to bomb innocent women and children in the villages.

□ 1415

Now, if you look at the definition of genocide that is recognized, clearly what is taking place in the Holocaust Museum is accurate: genocide in Southern Sudan, and here is an example. Yei is hundreds of miles from the front lines. It is not a military target, but on a daily basis a high-altitude Antonov bomber passes over the town. People are terrified by the bombing runs. You can see it in their eyes. You can hear it in their voices. Ask anyone what concerns them most and the refrain is "the Antonov bomber."

No one knows where the bombs are being dropped because the plane is sometimes beyond eyesight. Sometimes the planes fly overhead to play mind games with the residents of the town. Sometimes bombs randomly fall from the sky. They have hit churches, homes, hospitals, and sometimes the bombs are 55-gallon oil drums packed with dynamite and nails. The planes fly morning, noon, and night. An Antonov bomber flew over the town on January 13, the last morning I was in Yei. Panic set in. Psychological warfare is taking its toll. People are afraid to build houses or raise crops when they could be destroyed. Peddlers have dug foxholes in the marketplace so they can climb into the hole if a plane flies over, and they pray that the bombs fall somewhere else. We also saw a bomb shelter outside the hospital; people from the hospital went into the bomb shelter and then it was hit and people died. The bombing runs have become a major obstacle to daily life in Yei and throughout Southern Sudan.

Last year nearly 100 innocent Sudanese were killed in bombings according to figures compiled by several NGOs in Southern Sudan. Bombs hit relief agency compounds and convoys, and getting food and supplies through Southern Sudan is difficult enough because of the deplorable conditions of the roads. It took us nearly 4 hours to travel from the border of Uganda to Yei. The actions of the Khartoum Government cannot and should not be tolerated any longer. It is a brutal, repressive regime. Government-sponsored militias torch houses and food supplies, and rape and murder with impunity. Civilian food production and supply lines are attacked, livestock is destroyed, and international relief is obstructed. In 1998 this strategy caused a famine in Southern Sudan that endangered millions and killed tens of thousands.

Then there is the slavery issue. There is slavery in Sudan that we now know for a fact. Slave traders from the north sweep down in the villages and kidnap women and children and sell them for domestic servants or concubines. This is real-life chattel slavery in the 21st century in January and February of this year.

There is also the issue of oil. In 1999 the Khartoum Government began earning hundreds of millions of dollars from oil exports. The hard currency that they are earning from these oil exports are now enabling them to buy new weapons. They are buying Soviet Hind helicopters, and they are killing people. So as they take the money, the oil from the revenue, which has now been listed on the stock exchange, the more money they get, the more helicopters they buy, the more weapons they buy, the more tanks they buy, the more people they kill. So the death rate will be increasing in Khartoum as the oil revenues increase for the Khartoum Government because they are using the hard currency to finance the weapons in the war to kill women and children.

The Khartoum Government has doubled its spending on arms since it began exporting oil; and as I said, more people are going to die with the additional weapons that are being purchased.

From my observations on this trip, we have several recommendations for the new administration. On the general issue of Africa, I would recommend that the new Bush administration move quickly to show an interest in Africa. A Presidential task force could be created to study Africa which could be made up of experts both in and out of government who have an expertise and interest and a sense of caring with regard to what is taking place in Africa, particularly with regard to women and children.

The panel should make a top-to-bottom review of what policy the United States should take toward Africa, particularly sub-Saharan Africa. It should be charged with offering practical and strategic insight into the promotion of democracy, the prevention and spread of AIDS. Everywhere we went, the issue of AIDS came up over and over; in dealing with other diseases and economic development and trade and education and human rights and religious freedom and other aspects of improving life such as eliminating hunger for the average person in Africa. The panel should submit a country-by-country analysis as well as a regional analysis about the problems and challenges on what the United States should be doing with regard to Africa. There are many people in our government in the State Department and other agencies who have deep personal knowledge of Africa, and if they could be joined by some in academia and others to do this on a fast-track basis so we now know what the policy should be, how we deal country by country and region by region and problem by problem.

Debt relief also must be addressed. Today I introduced the Responsible Debt Relief and Democracy Reform Act, legislation that will provide incentives to countries to institute democratic reforms and basic structures of civil society in order to receive debt relief. The problem is that it is the poorest people in the world and the poorest countries who suffer as a result of the government debt.

Now, this has to be done in a way that as we forgive debt, they, an individual country, does things like bring about democracy, transparency, freedom of the press, freedom of movement; and this has to be done in a way that does not line the pockets of the dictators and the corrupt.

Regarding the area of central Africa with the assassination of Congolese President Kabila on January 16, the situation in Central Africa is more complicated than ever. Kabila's son,. Joseph, has been tapped the successor; but it is unclear how all of the Congo's rivals will react. Nevertheless, the United States needs to send a clear and early signal that it cares about the fate of Congo because I think we may have ignored it too long. And when you listen to what the new president, Joseph Kabila, says, he appears to be open and here is the opportunity. I said earlier that 1.7 million people in the Congo have died. There are millions more who are in the bush in a third of the Congo that cannot even be reached who may be dying on a daily basis and no food, and so there are many more that we cannot even get into the region to find out how bad life is for them.

I also recommend that all foreign armies be publicly pressured to leave the Congo. In addition, something must be done to disarm and demobilize and resettle the former Rwandan Army and militia forces and the rebel factions warring in the Congo. When we ask the Rwandan Government to pull its soldiers out, we also have to have some mechanism whereby the Rwandans are comfortable that their border will be protected and those who did the mass genocide cannot come back in and do those things again. There are ways of doing it with balance.

The United Nations should put together an assessment team to develop a strategy for withdrawal. The United States must forcefully speak out and act creatively on this issue. Our failure to speak out during the genocide in Rwanda in 1994 was wrong. The failure of the United States and the failure of the West not to speak out on the issue of genocide in 1994 was wrong and will go down as a dark day as historians look back on that period. We should not now remain silent on the issue of foreign troops because nearly 2 million people have already died in the Congo over the last few years and that number should not be allowed to continue to multiply.

Regarding Sudan, I believe there should be a major effort on the part of the United States, the United Nations and the European Union to bring an end to the war in Sudan and peace with justice. Peace with justice has to be a priority of the Bush administration. Sudan is a litmus test; and as history looks back for those who care about human rights, about civil rights, and about religious persecution and about hunger, it should be viewed in terms of this decade's South Africa. The same amount of time and energy and resources should be put into ending the war in Sudan that was put into bringing democracy and freedom to South Africa.

I recommend that a full-time high-profile envoy be appointed by President Bush to help bring peace to Sudan. This must be a person of national stature such as former Secretary of State Jim Baker or former U.N. Ambassador Richard Holbrooke.

When President Clinton appointed former Senator Mitchell of Maine to be the special envoy for Ireland, everyone knew that Mitchell had President Clinton's ear. Any time Mitchell wanted Clinton to make a telephone call, he was able to get it done; and former Senator Mitchell should be commended for the outstanding job he did in bringing peace to Northern Ireland.

When Tony Lake was working on the Ethiopian-Eritrean war, he was the special envoy, and when he needed something done, he was able to get President Clinton to do it. The envoy must be someone that the President and the Secretary of State have confidence in and has a real interest in seeing the conflict in Sudan resolved. The envoy also must have the President's ear. Clearly the envoy concept with somebody like Senator Mitchell worked in Ireland and I believe can work and will work in Sudan.

Not to try it would be in essence sentencing the women and children in the south and the villages to continual death. One young man I spoke to said, I was born in this war and I am afraid I will die in this war. This is an opportunity for the new administration to really bring about peace and demonstrate that we can make a big, big difference. I also recommend that our allies in the region be pressured, be urged to be encouraged to become more engaged.

Egypt. Egypt, for example, has tremendous influence over the Khartoum regime. The United States Government, the American taxpayer, everyone out there, should know that we have given over $45 billion in foreign aid to Egypt since the Camp David Accords were signed in 1978. Over $45 billion. We should use this leverage. Egypt should not be sitting by on the sidelines when this war is raging in Sudan where there are over 2.2 million people killed, where there is slavery.

where there is terrorism problems. Many terrorist groups who operate in the Middle East have training camps and operate around Khartoum.

Where the problem of hunger is growing, Egypt and other friendly countries like that who are friends of the United States should be urged to be engaged and be involved to help bring about the peace, as should our allies in Europe.

□ 1430

I also believe it is important for the United States to support systems of local governance and sustenance in southern Sudan. Operation Lifeline of Sudan, which has cost billions, is subject to the control of the government of Sudan and it is manipulated by the Khartoum government to suit its objectives. The government claims that its territorial integrity is violated by foreign NGOs in the south trying to help the people it claims as citizens. And until the fighting actually ends and there is peace, the United States should strongly support the Sudanese People's Liberation Movement.

In conclusion, from what I saw on the trip, I believe the Bush administration and the Congress, working together, have a unique opportunity to make a real difference in Africa and in Sudan, and now is the time to seize it.

I was pleased to learn that the African bureau was the first section area our new Secretary of State Colin Powell visited at the State Department. That is a small step, but it was an extremely positive one. I am also pleased that Secretary Powell addressed Africa during his confirmation hearings.

Africa and the world is watching. We can provide hope and opportunity to these people who have suffered so much, particularly in southern Sudan and in central Africa. The figures are hard to comprehend, but more than 4 million people, more than 4 million, a population larger than some of our largest cities, have died in Sudan and in the Congo. Four million. The number is staggering and the number is increasing. With more weapons being purchased, it is increasing more. With more child soldiers running rampant through the Congo and Sudan it is increasing more.

We cannot, we in the Congress and those in the Bush administration, cannot allow the suffering to continue without trying, without making an effort. The Bush administration has a unique opportunity to make a difference in Africa.

Throughout my trip, the constant refrain I heard was that the United States just needed to show that it cared. No one, no one asked for American troops to be deployed. No one needs, supports, believes that American soldiers have to be involved in any way. They just want America to use its efforts, and they want America to send a signal that it will begin to focus on the plight of Africa before another generation of young people is lost to civil war, famine, disease, and AIDS.

America has a rich history of reaching out to bring peace and stability and reconciliation to communities around the world. We have made a difference in northern Ireland, we have made a difference in Eastern Europe, we have made a difference in so many places. We are attempting to bring peace to the Middle East. It is now time to focus on Africa, to focus on the Congo and to focus on the Sudan to end the killing.

IN OPPOSITION TO CONFIRMATION OF SENATOR ASHCROFT FOR ATTORNEY GENERAL

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Ohio (Mrs. JONES) is recognized for 60 minutes.

Mrs. JONES of Ohio. Mr. Speaker, it gives me, I want to say great pleasure; but I do not know if it is great pleasure that I have as I stand here this afternoon. I stand here and hope to be joined by a number of my colleagues in opposition to the confirmation of Senator John Ashcroft for Attorney General. This special order today will be dedicated to opposing that confirmation.

In the wake of the election calamity in Florida, we find ourselves forced into yet another battle to defend the tenets of our Constitution, equal protection and fairness for all. This unfortunate situation arises only a few weeks after the President-elect promised to be a uniter, not a divider; to be the President of all Americans, not just the minority who voted for him. Sadly, the nomination of John Ashcroft to be this Nation's Attorney General makes those words ring hollow.

If President Bush truly wishes to unite this country, his selection of John Ashcroft is a puzzling one. If, on the other hand, his goal is to appease a small minority of Americans who view the principles of equal protection and fairness for all Americans with disdain, he could find no better candidate for Attorney General than John Ashcroft.

The Ashcroft nomination does nothing to move this country towards much-needed healing. In fact, Senator Ashcroft has openly rejected those members of his own party who speak of conciliation and compromise and has fanatically urged the encroachment of conservatism. Senator Ashcroft's public record exhibits an open hostility to the very laws and policies that protect the civil rights of all individuals in our society. More importantly, Senator Ashcroft has revealed a troubling lack of integrity in his attempts to use the power entrusted to him by Missouri voters to force his personal agenda into public policy and law by whatever means necessary, including personal attacks and distortions of truth.

Sadly, he has extended his proclivity for mischaracterization into his Senate confirmation hearings, where he blatantly distorted his own record and history in hopes of convincing this Senate that the partisan zealot we have come to know has become a rational, fair, public servant. We should not be fooled.

There are a number of reasons to oppose Senator Ashcroft, but his appalling record on civil rights alone makes him unqualified for this job. No one would entrust their home to a caretaker who has made repeated attempts to burn it to the ground. Similarly, it makes no sense to place our civil rights laws in the hands of a man who has shown an outright hostility to the very notion of civil rights for all.

For example, Senator Ashcroft voted against the Hate Crimes Prevention Act and opposes any form of affirmative action. He eagerly accepted an honorary degree from Bob Jones University, vigorously opposed the gathering of racial profiling statistics, and aggressively fought school desegregation ordered by the Federal courts in Missouri. Senator Ashcroft also praised Southern Partisan Magazine, which has been called neosegregationist, and called Confederate soldiers patriots.

Many of Senator Ashcroft's supporters, in an attempt to sweep this abysmal record under the rug, insist that he should be judged not on his veracity and record but solely on his character. However, even if we were to disregard this other extensive evidence of his unfitness and limit our decision to his character, he badly fails the test as well. For example, in the Senate Committee on the Judiciary earlier this month, Mr. Ashcroft repeatedly and blatantly misrepresented or evaded the facts of his own record. He wants this job so badly that he is willing to misstate the truth in order to obtain it.

Senator Ashcroft's willingness to jettison honesty and integrity to achieve his political ends is nothing new. As a member of the Senate Committee on the Judiciary, he was well known for viciously attacking candidates whose political views did not agree with his extremist ideas. He opposed the confirmation of two highly qualified attorneys, Marsha Berzon and Richard Paez to the Federal Courts of Appeals. The most recent offense was his dishonest and cynical campaign against a Federal judicial nomination of a highly qualified African-American Supreme Court Judge, Ronnie White. He demonstrated a disturbing lack of integrity by distorting the truth and misleading the press and his colleagues in the Senate in order to sabotage White's nomination to a Federal District Court.

His history and past behavior of twisting facts and law to conform to his own narrow political views further reveals his unfitness to serve as this country's top law enforcement official. My legal experience as a judge and prosecutor taught me that the law is often not clearly defined and in such cases must be interpreted by the person enforcing it. That is why I am so concerned about Senator Ashcroft's nomination. He said over and over again, in the Senate confirmation hearings, that he would be willing to enforce the law when the law was clear and convincing. What I am worried about is what happens when the law is not clear and convincing.

As the Attorney General, Senator Ashcroft would be vested with significant discretion, having oversight over U.S. attorneys throughout these United States. And throughout these United States, they are required to follow the policy of the Attorney General. Let me just give an example. When Janet Reno served as Attorney General, one of the programs she had in place was Trigger Lock. The purpose of Trigger Lock was to enforce certain penalties against those who carried guns. This was a policy that passed throughout the United States.

What I worry about is, should Senator Ashcroft become the Attorney General, what policies he will put in place that will pass throughout the country. What policies will he put in place that might inhibit someone because of their sexual preference; that might inhibit someone because of their religion; that might inhibit someone because of their race; that might inhibit someone as a result of their choice to speak on a particular issue.

Now, when the law is clear, perhaps he will follow the law because he knows a billion people will be watching him. But all prosecutors, all attorneys general are permitted to make decisions that will never see the light of day, and those decisions are the ones we are concerned about, where he is vested with discretion, based on his past experience and his past service as not only a governor, as an Attorney General, but also as a Senator. That is why we are worried. Based on his extensive record, I have no confidence that Mr. Ashcroft is capable of interpreting our Nation's laws in a way that furthers the best interests of the American people rather than his own ideology.

The Attorney General must have the trust of the American people. Clearly, he does not. Recently, an unprecedented nationwide campaign of coalitions, representing over 200 national organizations, launched the Stop Ashcroft Crusade. Not surprisingly, many of Mr. Ashcroft's supporters have attempted to vilify this coalition by incorrectly characterizing it as an assembly of marginal left-leaning interest groups. However, this coalition represents a broad base of American citizens and wide-ranging mainstream issues, including civil and human rights, the environment, women's rights and choice, gun control, workplace concerns and religious freedom, and cannot be dismissed so cavalierly.

□ 1445

The depth and breadth of opposition to Mr. Ashcroft is best exemplified by those who know him best, his own constituency in his home State of Missouri, who overwhelmingly voted for a deceased candidate rather than endure another 6 years with him as Senator.

The grim truth is that the record of Senator Ashcroft is not only anti-ethical to the necessary virtues of an effective U.S. Attorney General, it also demonstrates values and belief in direct conflict with the purported philosophy of President Bush.

Mr. Ashcroft is a divider, not a uniter, and by President Bush's own definition, is unqualified to serve as this Nation's Attorney General. For this reason, I pray that my colleagues in the Senate will show a commitment to true bipartisanship and show a commitment to the people of these United States and politely and firmly show Mr. Ashcroft the door.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). If the gentlewoman will suspend, the Chair would gently remind all Members not to characterize or advise the other body on their decision, under the tradition of comity.

Mrs. JONES of Ohio. Would the Speaker repeat that for me, please.

The SPEAKER pro tempore. The Chair would urge all Members not to advise the other body as to how they should vote under the rule seeking to establish comity and continued cooperation with the other body.

Mrs. JONES of Ohio. Mr. Speaker, at this time I yield to my colleague the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I want to thank the gentlewoman for yielding to me and I want to thank her for her leadership in bringing this special order to the floor on this special day when Mr. Ashcroft is indeed before the Senate and in the nomination that the President has put.

I want to speak to the standard that should be used in deciding whether a nominee for Attorney General should be approved. I think it is only fair to use the same standard that Mr. Ashcroft used, because I believe if we use that standard, then it would be necessary to follow him in voting against a presidential choice.

This is what Mr. Ashcroft himself said. I am quoting from the transcript of proceedings in the nomination of Bill Lan Lee for Assistant Attorney General of the United States, and here is what Mr. Ashcroft himself said: "He has, obviously, the incredibly strong capacities to be an advocate, but I think his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs that division."

If this is the standard, Mr. Speaker, if the standard set by Mr. Ashcroft is to be followed, incredibly strong capacities to be an advocate, this is the man with the strongest capacity to be an advocate on the issues he espouses, the issues that are at issue in the United States Senate, then you need somebody, he says, with a more balanced view. Or again, reading from Mr. Ashcroft's own words again in the Bill Lan Lee proceedings: "I don't think that this is an issue that really is an issue about the appointments of the President. I think this is an issue about the job that should be filled."

So Mr. Ashcroft wants us to look at the job that should be filled. So I want to look at the job that should be filled. The job that would be filled is Attorney General of the United States. To fill that job, one has, it seems to me, to meet not only substantive standards such as qualifications, but the appearance to be able to do fairness. After all, they are the chief prosecutor and they have got to somehow create the appearance that, in choosing who to prosecute, in choosing what to pursue, they have done so on a fair basis.

In other words, all of the talk about Mr. Ashcroft's qualifications as a lawyer I concede. Because being Attorney General of the United States is not only about whether they can do it, but whether they give the apparent appearance of fairness in doing it.

Or, as Mr. Ashcroft said, this is an issue about the job to be filled. The job to be filled here is not simply just the kind of job that my students at Georgetown University Law School, when they go to a law firm, have to fill. That is how they qualify to go to a job when they are among the best and brightest students, as they are, in the country. To be Attorney General of the United States, there is another very important ingredient, and that is, can they be fair in doing it and have they led their life so that people will believe that they are being fair in doing it.

I believe it is not appropriate to oppose a nominee because one disagrees with him. If that were the case, then I would have to oppose any senator probably in the United States Senate who was up for Attorney General.

The reason that I think it fair to oppose Mr. Ashcroft is that he is on the fringes of advocacy on issues that are central to his jurisdiction as Attorney General of the United States, he is on the fringes of advocacy of civil rights, he is on the fringes of advocacy of the rights of gays, he is on the fringes of advocacy of the rights of women to reproductive freedom.

It is not that we oppose him. It is that he has set himself so far on the edge of advocacy that he has created doubts and serious doubts about his ability to fill the position for which he has been nominated, and that is the standard he has set and that is the standard that the Senate itself says should be set.

It is that standard that Mr. Ashcroft has not met. He has not met that standard when it came to the way he opposed a voluntary plan for integration in a State that had a long history of segregation. He has not followed that standard when it came to the way he opposed reproductive freedom for women, going well beyond the standard that we use even in this House when wanting to bar, outlaw the procedure altogether under any and all circumstances.

What woman can be for that? Well, I tell you this much. Most women in the United States oppose that. He has not met that standard when it comes to his fairness in judging the qualifications of others, such as Judge Ronnie White.

Having not met that standard, the standard he himself set, I do not see how others should be called upon to hold him to a lesser standard. I think this is an issue about the job, as Senator Ashcroft said when judging whether Bill Lan Lee should become Assistant Attorney General for civil rights. I think this is about the job even more so because this is about the job of Attorney General of the United States.

On that score, I can say, having looked to the standard he set, the standard that I believe is being used in the Senate of the United States as I speak, that John Ashcroft does not meet the qualifications to be Attorney General of the United States.

I thank the gentlewoman for yielding me this time.

Mrs. JONES of Ohio. Mr. Speaker, at this time I yield 5 minutes to my colleague, the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I rise to join my colleagues in the Congressional Black Caucus today to voice my deep concerns regarding the nomination of John Ashcroft for Attorney General of the United States.

I want to also commend my colleague, the gentlewoman from Ohio (Mrs. JONES) for her leadership with the CBC Task Force on this nomination and for scheduling this special order.

Mr. Speaker, our Constitution states that the President has the right to nominate individuals whom he chooses to be in his cabinet. Likewise, the Senate has the right and duty to advise and consent on those nominations as it sees fit.

But I am a Congressman from Missouri, a place known as the "show me" State, and I am not easily convinced. I will wait to see which John Ashcroft shows up as Attorney General, the John Ashcroft who appeared at the confirmation hearing, or the one who I served with in Missouri State government. Because those are two very different men.

Evidently, former Senator Ashcroft has had a sudden epiphany, one which miraculously coincided with his confirmation hearing. He has apparently undergone a great conversion on a wide range of issues that he has consistently opposed in the past, issues such as civil rights, school desegregation, voting rights, reproductive choice, and equal protection for all Americans, including those of a different sexual orientation.

But the John Ashcroft that I served with when he was Missouri attorney general and Governor was not at the confirmation hearing we witnessed.

I know what John Ashcroft's real record as a public servant has been because I was there. His public record shows a pattern of extremism that has deprived many children of a quality education. He squandered millions of tax dollars and harmed our State by using racially divisive political tactics.

But for now, I will take Senator Ashcroft at his word that as U.S. Attorney General, he will enforce all Federal laws vigorously, regardless of his personal views and past record.

I hope that both President Bush and former Senator Ashcroft are sincere in their intent to use the law as a healing force in this country. And to demonstrate that sincerity, I challenge the President and Senator Ashcroft to put their words into action by renominating Justice Ronnie White to the Federal bench.

Americans are still divided following a bitter election, and this current nomination process has deepened the divisions across our country. Renominating Justice White would provide a powerful act of healing. It would show the American people that the new administration is serious about bringing our Nation together.

I urge the President to take advantage of this unique opportunity and demonstrate the compassion he so frequently refers to. And I hope that former Senator Ashcroft will encourage him to do so.

Mrs. JONES of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman from Ohio (Mrs. JONES) for her leadership in her efforts to inform the public with regards to the facts as to why so many of us are opposed to the appointment of Senator John Ashcroft as Attorney General of the United States.

The Attorney General heads this Nation's Department of Justice. Extremist views, which Mr. Ashcroft has demonstrated over and over again, will not serve the cause of justice.

It has been said that extremism in defense of liberties is no vice. Well, what about extremism which comes at the expense of liberty?

I believe that the appointment of Mr. Ashcroft really does threaten the liberty of women across this country to make fundamental decisions about their health and their reproductive lives. For at least three times, for example, he stood on the floor of the Senate to vote against a woman's right to choose, even in the case of rape, incest, or even major injury to the woman.

This is, after all, a man who not only opposes abortion, he has supported legislation that would outlaw many forms of birth control.

□ 1500

We cannot go back to the days when government controlled such essential personal decisions.

We cannot have an Attorney General who so strongly opposes the law of the land which upholds a woman's right to choose. I believe that the appointment of Mr. Ashcroft threatens the liberty of minorities across this country.

In his quest for reelection, Mr. Ashcroft besmirched the reputation of a respected African American judge in order to win political points. He has pointed to the old confederacy for his heroes. We cannot go back to those days, either.

I believe that the appointment of Mr. Ashcroft endangers the rights of Americans who face discrimination on the basis of sexual orientation. He opposed and sought to block the appointment of Ambassador Hormel, an openly gay and highly qualified nominee, while refusing to even meet with him. He has not only openly opposed gay rights in employment, he has reportedly trampled them himself in his own interviewing tactics. Once again, we cannot go back there. We have come too far.

President Bush has promised us bipartisan cooperation. Yet he has nominated as our Nation's chief law enforcement officer a man who publicly denounced members of his own party who champion conciliation or counsel compromise. This is a man who has really built a career on extremism, not on justice. As such, I urge my colleagues in the Senate to stand up in defense of all of our liberties and defeat Mr. Ashcroft, who will not do justice for many as the head of our Department of Justice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). The gentlewoman will suspend.

The Chair will remind the Member that although Members may air their views concerning nominees for Cabinet posts, it is not in order to urge action on the part of the Senate or to characterize Senate action, in order to preserve comity between the two bodies.

Mrs. JONES of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the chair of the Congressional Black Caucus.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to express my concern today about the nomination of Senator John Ashcroft and want to express my appreciation to the leadership of the gentlewoman from Ohio (Mrs. JONES) to give us this opportunity to simply express our concerns.

Let me say at the outset that, on paper, Mr. Ashcroft is the perfect candidate. He was a Member of the Senate, a governor, and an attorney general of the State of Missouri. I am told that he is amiable among his friends and has a good sense of humor. However, in determining the suitability of a nominee to serve as the highest law enforcement official of the country, we must take great care and look below the surface. We must look to his record and find the truth of his character from the actions he has taken at different times. I have examined that record and believe that Mr. Ashcroft is an unfortunate choice to head the Department of Justice.

I would not make such a statement lightly. As the New York Times said in an editorial which appeared on January 23: "Any reasonable reading of the extensive Judiciary Committee testimonies shows that Mr. Ashcroft's zeal has overruled prudence in cases that bear directly on issues relevant to the Department of Justice. Mr. Ashcroft's record on civil rights marks him as out of the mainstream of American ideals."

Poll after poll has shown that the vast majority of Americans favor equal rights for all people. Most Americans take pride in the strength and courage this country has shown to come from the ugly days of segregation and Jim Crow to the America we now know. And while much remains to be done, few are willing to return to the bitter days of yesteryear. Yet it would seem that Mr. Ashcroft does not share these views because Mr. Ashcroft has opposed every major civil rights bill during his tenure in the Senate.

Not only has his opposition to civil rights involved attempting to thwart the passage of laws, but it has involved attempting to block confirmation of individuals that he thinks might carry out these laws. During the Clinton administration, he led the fight against the confirmation of Bill Lann Lee as Assistant Attorney General for Civil Rights. Despite Mr. Lee's unquestioned and impeccable credentials, Mr. Ashcroft objected to Mr. Lee because Mr. Lee had opposed proposition 209, a California measure that eliminated affirmative action in California. Mr. Lee was never confirmed.

Even more troubling for someone who seeks to be Attorney General, Mr. Ashcroft's opposition to civil rights apparently includes blocking lawfully issued orders of Federal courts. When Mr. Ashcroft was the attorney general for Missouri, he was the State's top lawyer in the key stages of a court battle to end separate and unequal education. Twenty-five years after Brown v. the Board of Education, St. Louis schools still needed to come into compliance with the Supreme Court's ruling in this landmark case. John Ashcroft blocked the parties in the suit from developing a plan for voluntary desegregation and actively obstructed implementation of court orders. He filed appeal after appeal. His efforts caused unusually harsh criticism from the courts.

After repeated delays and failure to comply by Mr. Ashcroft, the court threatened in March of 1981 to hold the State in contempt. In its order, the court order explicitly criticized the State's continual delay and failure to comply with court orders. The court stated that "the court can only draw one conclusion, the State has as a matter of deliberate policy decided to defy the authority of the court."

And again in 1981, Ashcroft even opposed a plan by the Reagan administration for voluntary desegregation. Even more troubling, in 1984, he based his gubernatorial primary campaign on his zealous opposition to the voluntary school desegregation plans for St. Louis schools. This is a troubling intersection of the use of the law for political gain.

Yet all of this could be forgiven if Mr. Ashcroft had demonstrated an ability to work with those who differed with him. In the role of Attorney General of the United States, one must meet with many people with divergent interests and complicated agendas. Yet despite all of his experience in politics and government, I am afraid that Mr. Ashcroft has not built a reputation as one who seeks compromise and understanding.

For instance, in 1993 when seeking to become chair of the Republican National Committee, members of his own party criticized Mr. Ashcroft's unwillingness to work cooperatively with those whose views differed from his. According to a quote which appeared in the St. Louis Post Dispatch on January 10, 1993, a fellow Republican from Missouri, State Senator Robert Johnson, said that Ashcroft "won't take criticism. And if you disagree with him, he knocks you out of the loop like you don't exist." And this is the most troubling thing of all, because, as Mr. William Raspberry wrote in the Washington Post, Mr. Ashcroft "seems certain to be a highly divisive force in an administration committed to healing across lines of party, ideology and race."

While I hope that the Senate takes heed to these concerns, I understand that Mr. Ashcroft may succeed in his quest to become Attorney General. Let me take this opportunity to say now that if Mr. Ashcroft is confirmed, he will have a strong obligation to staff the Justice Department with people of demonstrated fairness and integrity and to show that they can administer the law evenhandedly. I hope that if he is confirmed, he will remember that it was his record of divisiveness that has marred his confirmation process. I hope he decides to follow President Bush's promise to be a uniter, not a divider.

Mrs. JONES of Ohio. Mr. Speaker, I yield to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I say to our Member from Ohio, the distinguished judge and prosecutor, for not only leading the issue today but for her forthrightness in bringing to this body such legislative and judicial experience, prosecutorial experience that certainly has helped us, we appreciate her leadership, and I thank her very much.

Today, this afternoon or tomorrow, the United States Senate will vote on the next Attorney General. There has been much discussion about Senator Ashcroft for the last month now. Extensive hearings have been held. Much media has had its coverage. And even in this body as women in this Chamber today walked over to the Senate Chamber to stand with those opposing his nomination, we come today to a very sad time in American history. To be the top lawyer, the number one lawyer in our country requires that the person be noble, that they be intelligent, that they understand the world in which they live, and that they understand that this is a very diverse economy and country that we live in. The person should also be sensitive to the needs of the poor, the disenfranchised, and those who need a little bit more help from their government.

This is said to be the greatest country in the world. We are certainly the richest country in the world and in a position to offer more to our citizens than we offer today. The Attorney General being selected either today or tomorrow is lacking in many of the qualities that I believe are necessary in an Attorney General and the main lawyer for our country.

Forty-six years ago, Brown v. Board of Education was had in court and passed, a desegregation case that said open up the schools, 46 years ago, so that children could work side by side from different nationalities and partake of a quality education. Brown v. Board of Education. Senator Ashcroft has not only tested the rightfulness of that decision of Brown v. Board of Education which allowed all of America's children to receive quality education in integrated classrooms but has challenged its validity, and I think that is wrong for someone who will be the top lawyer for our country.

Roe v. Wade just celebrated over 25 years of sound judgment that this country has lived under for over 25 years. Senator Ashcroft has challenged and tested Roe v. Wade on more than one occasion. It is one thing to have strong beliefs, and we all live in a great society where we can do that and express our differences, but it is quite another on the one hand to disqualify Bill Lann Lee as our civil rights expert as he did on many occasions because of his views; and here we stand today, hours away of nominating a young man who has very, very different views from many Americans, and the same barometer is not being used. There is something tragically wrong with that.

It was mentioned earlier that Ambassador Hormel was going for his hearing, asking for a hearing before the Senate so that he could be confirmed. Ambassador Hormel is a homosexual, and everyone knows that and it is all right in our country. We support that. People are what they are. God has given them the right to be that. This country validates that and not one of us because of race, religion, ethnicity or our hetero or homosexual tendencies should keep us from serving our country. It has been documented that Senator Ashcroft would not even give Ambassador Hormel a hearing. That is wrong.

So if you talk about from affirmative action to hate crimes, to access to the process through hearings so that you can be heard, Senator Ashcroft does not meet the test. He should not be confirmed as our Attorney General.

Further, Senator Ashcroft received an honorary degree from Bob Jones University, who again lost their tax status on more than one occasion because of the policies of that university. Now we have a Senator who received an honorary degree from the university, nominated and soon to be confirmed as our next Attorney General.

I think it is unfortunate that President Bush made such a volatile announcement and nomination of Senator Ashcroft at this time, at a time when we have gone through a very turbulent election, when many Americans feel that they were not treated fairly, votes were not counted, not allowed to vote, very angry, even as we speak today, that we come here today as Members of this House of Representatives, standing strong, asking the Senate to take an action that the American people would want them to take.

□ 1515

Mr. Speaker, this is a serious time. It is not too late to withdraw that nomination. To put an American citizen there who will enforce the laws and not bring their own views into the law. This country cannot afford to be fragmented much more.

This past election demonstrated that we are a great country. Those same circumstances in another country would have blood in the street. I do not advocate that. We are a country and we settle our differences, but let us not fool each other. These are perilous times. These are critical times.

Today it was announced that the surplus is larger than ever before, ever even than 6 months ago. Are we going to invest in America's schools and children and health centers and seniors? It is important that all of this be considered and that as we talk about Senator Ashcroft today and whether he will be confirmed or not, look at the views of the man. We are a greater country than that. We need people to serve who will represent all of the people.

I do not believe that Senator Ashcroft has the ability, has the sensitivity or is able to represent over half of the American citizenry.

Mr. Speaker, today we have an opportunity to say our remarks, to share with Senator Ashcroft who, I am told, will be confirmed. We hope you listen, Senator. We hope that you will enforce the laws on the books and not try to change them. We hope that you will be sensitive to civil rights issues, affirmative action, hate crimes. We hope that you will allow people hearings who come before your body so that they can be rightfully heard in this just society that we live in. I hope you are listening, Senator Ashcroft. We are going to be watching you.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). The Chair would advise that although Members may air their views concerning nominees for Cabinet posts, it is not in order to urge action on the part of the Senate or to characterize Senate action. That is in acknowledgment of the independence of the Senate.

Mrs. JONES of Ohio. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentlewoman from Ohio (Mrs. JONES) has 18 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I yield to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, after 3 days of confirmation hearings and a Senate Committee on the Judiciary vote, I still insist that John Ashcroft has definitely not made his case for appointment as U.S. Attorney General. Instead, Congress and the public have witnessed a confirmation strategy that consists of misleading characterizations, factual errors and evasion.

When convenient during his confirmation hearings, Mr. Ashcroft has feigned memory loss as he did in response to inquiries regarding his opposition to Judge Margaret McKeown. Yet in a 1997 speech before The Heritage Foundation, he referred to her efforts in a lawful ballot initiative campaign as sinister and labeled her and her ACLU friends as liberal elitists.

When pressed for answers to persistent inquiries, Mr. Ashcroft deferred to a need for consultation with Department of Justice officials, as in his response regarding enforcement of Attorney General Reno's prohibition of inquiries into the sexual orientation of department employees.

Another tactic used by Mr. Ashcroft when the questions made him uncomfortable was to reply, quote, "I do not think I want to discuss that any longer," quote/unquote.

We saw that tactic when he was questioned on his opposition to the appointment of Ambassador Hormel, the ambassador to Luxembourg, who was subsequently confirmed by an 80 to 11 vote in the Senate. Ambassador Hormel's appointment was made while the Senate was in recess due in great part to Mr. Ashcroft's opposition to the ambassador's, quote, "life-style," quote/unquote.

Mr. Ashcroft said in 1998 during the confirmation process that Ambassador Hormel, quote, "has been a leader in promoting a life-style likely to be offensive in the setting to which he will be assigned," quote/unquote.

Mr. Ashcroft made the observations, even though Ambassador Hormel had received bipartisan support, endorsement by then Secretary of State George Schultz, and the government of Luxembourg.

Under questioning during the recent hearings, Mr. Ashcroft remarked easily that he was, quote, "not prepared to redebate that nomination," quote/unquote.

Then there is the, quote, just trust me John Ashcroft, who asks us to believe that he can be new, but only if he is confirmed. We saw this tactic in all of his responses to questions concerning a woman's right to choose. The fact is that in matters of a woman's right to choose, freedom of choice, Mr. Ashcroft has exhibited a zealous opposition to Roe v. Wade while a State and Federal official. In spite of his careerlong attempt to overturn Roe, he has stated without credibility during the hearings that the Roe decision is the settled law of the land, which he will enforce. We cannot and should not expect John Ashcroft to retreat in his persistent campaign against a woman's right to reproductive options.

Mr. Ashcroft has said he is a man of principle. Let us take a look at a few more of his principles in action. As Missouri's attorney general and governor, Mr. Ashcroft vigorously opposed voluntary desegregation plans submitted by St. Louis city and county school districts. When those plans were subsequently approved and ordered by the Federal district court, Mr. Ashcroft continued in his opposition, arguing that the Court could not implement an intradistrict remedy, although voluntary, for an intradistrict violation.

In at least three appeals, the Supreme Court rejected Mr. Ashcroft's argument as often as he made it, agreeing with the lower courts that the State was the primary constitutional violator. The appeals court also referred to Missouri's history of school segregation and reminded Mr. Ashcroft that in the past in order to ensure educational apartheid, the State bused suburban black students from St. Louis County into the city's black schools in order to maintain the dual system.

Ironically, a statutorily mandated intradistrict scheme to maintain segregation was acceptable for years while a voluntary intradistrict attempt to eliminate segregation was declared too costly and disruptive by Mr. Ashcroft and school desegregation opponents.

Remaining among the most vicious misrepresentations associated with the consideration of Mr. Ashcroft for confirmation is his wholly unethical campaign against Judge Ronnie White. The record cannot overemphasize the fact that after receiving bipartisan support for a Federal judgeship, support that included Missouri Senator BOND, John Ashcroft sabotaged Judge White's confirmation after the hearings, the committee hearings, at a time when Judge White could not respond to Mr. Ashcroft's distortions of his record.

Judge White's record on capital punishment did not differ appreciably from that of any other jurists who were successfully confirmed with Mr. Ashcroft's consent and support. In the case of Judge White, deliberate misrepresentation, cowardly sabotage, and a double standard were all instruments in Mr. Ashcroft's drive to promote his own reelection.

These are a few of the principles that have in practice guided Mr. Ashcroft's actions. These are the principles that speak more loudly than any confirmation hearing denials. Questions regarding Mr. Ashcroft's record and his fitness to serve as the Nation's top prosecutor have not been answered satisfactorily. Accordingly, the Nation should not suffer the appointment of Mr. Ashcroft as Attorney General. He has demonstrated over and over again that he is unwilling to travel a path forward to needed social progress. As guardians of the Nation's future, we cannot sit idly by and watch Mr. Ashcroft be confirmed without strong opposition, and while we have been encouraged and urged not to advocate what should be done about him by the Members, I just hope and I just pray that the Members do the right thing. I do not need to tell them what to do. He has defined himself very well. I think they know what to do. He should not be confirmed.

GENERAL LEAVE

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

POINTS OF ORDER

Mrs. JONES of Ohio. Mr. Speaker, because of some misunderstanding, I would make a point of order and ask unanimous consent to have the time extended to allow the people who I have remaining to speak. Can I do that?

The SPEAKER pro tempore. The request of the gentlewoman from Ohio may not be entertained.

Mrs. JONES of Ohio. May I inquire of the Speaker why?

The SPEAKER pro tempore. Under clause 2 of rule XVII, a Member may not address the House for longer than 1 hour.

Mrs. JONES of Ohio. This is a point of order. I hope I am not using up my time. Up until one speaker, before this speaker, the speaker was acting on the time; and it was my thought that that was how the time operated, sir; and so I wanted to be able to get some additional time to allow the rest of the people I have here to speak, especially on an issue as important as this confirmation.

The SPEAKER pro tempore. The Chair regrets any misunderstanding, but here is the practice: A Member who is recognized to control time during special orders may yield to colleagues for such amounts of time as she may deem appropriate, but may not yield blocks of time to be enforced by the Chair. Members regulate the duration of their yielding by reclaiming the time when appropriate.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes under Special Orders.

The SPEAKER pro tempore. Without objection, the gentleman may take that Special Order after the pending time has expired.

There was no objection.

Mrs. JONES of Ohio. Mr. Speaker, I yield to my colleague, the gentlewoman from the great State of Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank very much the distinguished gentlewoman from Ohio (Mrs. JONES), and I thank her for her leadership on this issue.

I thank my colleagues for coming to the floor of this House at a time when it might be more comfortable for us to just drift off into the distant sunset, but I am always reminded that it is not the test of character where one stands in times of comfort and ease but where one stands in times of battle and challenge. Though there may be no other voices that raise up against the confirmation of the Attorney General of the United States, I am proud to stand with those who would speak for the voiceless in America, for there are millions of Americans whose voices will not be heard when the vote is taken and there is such a confirmation.

My colleagues have chronicled the record and philosophy of this nominee, but the real question becomes to answer the question for America and for this body. What is the value and the importance of the Attorney General and the Department of Justice? It is not a question of whether we are recklessly opposing someone because they have fundamentally different beliefs than what I have, but the Department of Justice is what it symbolizes. It is the refuge for the voiceless and the disenfranchised.

In the 1960s, in the civil rights movement, as Martin Luther King, Jr., in the segregated South, it was the Justice Department that came riding in to preserve the sanctity of the Union, and for us to be able to express the opposition to a segregated and violent America.

It was the Justice Department and the President of the United States that utilized that leadership when it was necessary for the Little Rock 9 to enter into the high schools so that there could be integration and an implementation of Brown v. Topeka in the case that was before the Supreme Court. And so the Justice Department is the refuge and the Attorney General is the captain.

If this nominee is confirmed, that captain will steer the ship wrong. There will be no refuge for women who under the law have the right to utilize Roe v. Wade. There will be no refuge for those of us who pushed for desegregation of this Nation. There will be no refuge for millions of Americans who were disenfranchised in the last election and question whether or not there is support for voting and enforcing the Voter Rights Act of 1965.

Then there will be the question of appointments, the Assistant Attorney General for Civil Rights, the protection and understanding of the rights of immigrants, respect for secret evidence, a law that was passed, realizing that immigrants have rights and that we should not be in a position in this Nation to bash people because they are different. We can all join in in believing that there should be law and order; but at the same time who will enforce the rights not only of the victim, which I support, in supporting their rights, but the innocent convicted defendant incarcerated, the wrong person, when we talk about using DNA?

□ 1530

What will be the position of this Attorney General when all of his legal background and his public service have been in opposition to this?

If I might just say this: I sat through the hearings and I testified with respect to my opposition to this nomination. I cannot suggest to the other body what they should do. I can only plead with them on behalf of those whose voices will not be heard that if there is one place in this country where those who are less than what many would want them to be, who are poor, who are downtrodden, who are incarcerated, who seek to have laws enforced, if there is anyplace that one can go and seek fairness, it has to be in the Department of Justice.

Mr. Speaker, I close with these two points of contention. In those hearings, Attorney General-to-be or nominee Ashcroft was asked if he followed the law as the Attorney General in Missouri, not whether or not he believed or had a philosophy different from any one of us, and, of course, he suggested that he did follow the law. But yet, during the bitter 10-year legal battle against voluntary desegregation, and I said voluntary, where the community came together, he was cited by the Federal court and he was criticized, and the language is as follows: his continual delay and failure to comply with court orders, and concluded that the State has, as a matter of deliberate policy, decided to defy the authority of a court. That is who my Republican colleagues think can follow the law.

Lastly, when he was asked whether or not he opposed Judge Ronnie White for any other reason, he noted that he did not derogate his background, but yet Ashcroft, in opposing him, indicated that White, a judge that had voted 60 percent with the Ashcroft appointees of the State, would use his lifetime appointment to push law in a pro-criminal direction, consistent with his own political agenda. When have we ever heard that the courts and the judges who take an oath of office have done so?

Mr.. Speaker, I thank the gentlewoman for allowing me to join in with my colleagues. The real question is, will we close the doors of justice with the confirmation of an individual who has seemingly exemplified whatever his beliefs are, questionable vigorousness in enforcing the law of the land? Be not afraid to stand up and to suggest that there should be another direction for this Nation. I have no fear, and I hope the rest of America has none as well.

Mr. Speaker, I rise this afternoon to oppose the nomination of John Ashcroft for Attorney General of the United States. Today, I walked in solidarity with fellow women members of the Democratic Caucus to the Senate floor to oppose the Ashcroft confirmation. At least fifteen Members of the Democratic Women's Caucus participated in this solemn protest concerning the confirmation battle. We came together and witnessed the debate in the Senate Chamber up close and personal.

I am here today to speak out not only as a Member of Congress, but as a citizen of our diverse and vulnerable nation.

The Senate is moving perilously close to taking final action on Mr. Ashcroft's confirmation. This causes me great anxiety in light of the fact that a growing number of Americans are demonstrating in every state of the Union against the Ashcroft confirmation.

Based on Mr. John Ashcroft's voting record of aggressive opposition to women's rights, civil rights, and the unfortunate handling of the nomination of Judge Ronnie White, the Senate Judiciary Committee and its colleagues should vote down his nomination for the sake of unifying America. The Attorney General for the United States should support laws that protect all of America's people. It is unfortunate that ratings by the Christian Coalition, the National Right to Life Committee, and the American Conservative Union show that throughout his 6 years in the U.S. Senate, John Ashcroft has been a consistent and reliable vote in opposing the certified law of the land. I am not questioning Mr. Ashcroft's personal probity; I am vigorously questioning his suitability for the job for which he has been selected.

Mr. Ashcroft's record on matters of race has been simply disappointing. According to the Washington Times, Ashcroft received a grade of "F" on each of the last three NAACP report cards because of his anti-progressive voting record, having voted to approve only 3 of 15 legislative issues supported by the NAACP and other civil rights groups. This explains why such a broad number of groups are so strongly united against his confirmation as the next Attorney General of the United States.

Mr. Ashcroft opposed the approval of Judge Ronnie White to the Federal Bench. In 1997, President Clinton nominated Judge White of the Missouri Supreme Court to be a United States District Court Judge. At the hearings on his nomination in May 1998, Judge White was introduced to the Senate Judiciary Committee by Republican Senator CHRISTOPHER BOND, who told the committee that Judge White "has the necessary qualifications and character traits which are required for this most important job." See Confirmation Hearings on Federal Appointments: Hearings Before the Senn. Comm. On the Judicary, 15th Cong., 2d Sess. 7–8 (1998).

We all know that John Ashcroft led a campaign to defeat the nomination of Missouri's first African-American Supreme Court Justice, Judge Ronnie White, to the federal bench. Mr. Ashcroft seriously distorted White's record, portraying it as pro criminal, and anti-death penalty, and even suggested, according to the London Guardian, that "the judge had shown a tremendous bent toward criminal activity." Ironically, Judge White had voted to uphold the death sentence in 41 of the 59 cases that came before him, roughly the same proportion as Ashcroft's court appointees when he was Governor.

In fact, of these 59 death penalty cases, Judge White was the sole dissenter in only three of them. As a matter of fact, three of the other Missouri Supreme Court judges, all of whom were appointed by Mr. Ashcroft as Governor, voted to reverse death penalty case sentences in greater percentage of cases than did Judge White. Ashcroft also failed to consider or mention that in at least fifteen death penalty cases Missouri Supreme Court Justice, Ronnie White, wrote the majority opinion for the court to uphold the death sentence. America owes an apology to Judge White and I admire his ability to move forward with his life. This is a judicial nominee for which Mr. Ashcroft had no substantial reason to oppose—and it is time that America knows the facts.

I took my responsibility in helping shed light on Judge White's confirmation hearing before the Senate Judiciary Committee on the 17th of January of this month with great seriousness. I felt compelled to have my voice heard on behalf of Judge White who had never been given the chance to defend himself from vicious attacks on his impeccable judicial record. More importantly, each Senator and Representative now knows that when Judge White's nomination was brought to the Senate floor in October 1999, Senator Ashcroft spearheaded a successful party-line fight to defeat White's confirmation, the first time in 12 years (since the vote on Robert Bork) that the full Senate had voted to reject a nominee to the Federal bench.

In contrast to that effort, as former Congressman William L. Clay introduced Judge Ronnie White before the Senate Judiciary Committee he said the following: "I might cite one incident that attests to the kind of relationship that Judge White has with many, and that is with a member of this committee—Senator Ashcroft. When I recommended Judge White to the President for nomination and the President nominated him, one of the first people that I conferred with was Senator Ashcroft. At a later date, he told me that he had appointed six of the seven members to the Missouri Supreme Court. Ronnie White was the only one he had not appointed. He said he had canvassed the other six, the ones that he appointed, and they all spoke very highly of Ronnie White and suggested that he would make an outstanding Federal Judge. So I think that this is the kind of person we need on the Federal bench." Confirmation Hearings on Federal Appointments: Hearings before the Sen. Comm. On the Judiciary, 105th Cong., 2d Sess. 7–8 (1998).

John Ashcroft, if confirmed would not be a guardian of women's right to reproductive choice as provided by the Supreme Court's decision in Roe v. Wade. On the contrary, Mr. Ashcroft supports a constitutional amendment that would outlaw abortion even in cases of incest and rape and that would criminalize several commonly used forms of contraception.

As Missouri attorney general and Governor, and more recently in the Senate, he repeatedly used his office as a U.S. Senator to push through severe new restrictions on women's reproductive freedom as part of an effort to get the Supreme Court to overturn Roe v. Wade. It is fair to say that many women in America have a right to be concerned because as Attorney General, Ashcroft could use the power the Federal Government behind new strategies to defeat the right to an abortion in the Supreme Court. It is also reasonable to express doubts about whether he would fully enforce laws that insure access to abortion clinics by limiting violent or obstructive demonstrations by abortion opponents.

We all look at the Attorney General to ensure even-handed law enforcement and protection of our basic constitutional rights: freedom of speech, the right to privacy, a woman's right to choose, freedom from governmental oppression and other vital functions. We cannot deny the Attorney General plays a critical role in bringing the country together, bridging racial divides, and inspiring people's confidence in their government.

Accordingly, as I review the series of questionable acts that can be found in Mr. Ashcroft's record as a public servant, I find such action by Mr. Ashcroft to be inconsistent with the kind of vision and tolerance that the next top law enforcement officer will need to exhibit. Mr. Ashcroft's record on desegregation in the State of Missouri is one of those examples that makes me truly sad as an African-American and I have an obligation to emphasize this very grave matter.

John Ashcroft, as Attorney General and as Governor of the State of Missouri consistently opposed efforts to desegregate schools in Missouri, which for more than 150 years, had legally sanctioned separate and inferior education for blacks.

Missouri has a long and marked history of systematically discriminating against African-Americans in the provision of public education. During the years of slavery, the State forbid the education of blacks. After the Civil War, Missouri was the most northern state to have a constitutional mandate requiring separate schools for blacks and whites. This constitutional provision remained in place until 1976. For much of its history, Missouri provided vastly inferior services to black students.

After the Supreme Court's ruling in Brown v. Board of Education, the Missouri Attorney General's office, rather than ordering the dismantling of segregation, simply issued an opinion stating that local districts "may permit" white and colored children to attend the same schools, and could decide for themselves whether they must integrate. Local school districts in St. Louis and Kansas City perpetuated segregation by manipulating attendance boundaries, drawing discriminatory busing plans and building new schools in places to keep races apart.

The now well-known St. Louis case, which was debated in these proceedings before the Senate Judiciary Committee, was filed in 1972. In brief, St. Louis had adhered to an explicit system of racial segregation throughout the 1960s. White students were assigned to schools in their neighborhood; black students attended black schools in the core of the city. Black students who resided outside the city were bused into the black schools in the city. The city had launched no effort to integrate; it simply adopted neighborhood school assignment plans that maintained racial segregation.

Senator Ashcroft, then the Attorney General, challenged the desegregation plan. He argued that there was no basis for holding the State liable and that the State had taken the "necessary and appropriate steps to remove the legal underpinnings of segregated schooling as well as affirmatively prohibiting such discrimination." The courts rejected his attempts; even the U.S. Supreme Court denied certiorari.

In 1983, the city school Board and the 22 suburban districts all agreed to a "unique and compressive" settlement, implementing a voluntary 5-year school desegregation plan for both the city and the county. Importantly, the plan was voluntary—it relied on voluntary transfers by students rather than so-called "forced busing." The district court approved this plan.

Attorney General Ashcroft, representing the State, was the only one that did not join the settlement. He opposed all aspects of the settlement. In fact, he sought to have it overturned by the Eighth Circuit. The Eighth Circuit upheld most of the provisions of the plan, and emphasized that three times over the prior three years, specifically held that the State was the primary constitutional violator. Can this man be the next Attorney General of the United States of America.

We need a nominee that enforces the civil rights laws of the Nation, that brings strength and confidence to the top law enforcement post of our great country, and to affirm equal protection and fundamental fairness in the United States of America. We owe at least that much to the working people of America and all those who believe the United States remains an example of basic fairness and justice for all.

I strongly believe that some of the beliefs of Senator John Ashcroft are archaic and obsolete. This country has come so far in improving civil rights and fundamental fairness. The confirmation of John Ashcroft will set us years back after all the improvements that have been made. This would be a travesty.

Mrs. JONES of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I commend her for calling this Special Order.

I too rise to express my opposition to the nomination of former Senator John Ashcroft, a man who has spoken repeatedly against gun control, against a woman's right to choose, against affirmative action, against integration of schools, against the Miranda rights of suspects. How can we have this person, as our President wants to nominate and has nominated, and who opposes a qualified person like Bill Lan Lee, who said that even though you are great and I hear what you say, I just do not believe you can do what you say; against Frederica Massiah-Jackson for Federal judgeship; against Dr. David Satcher, one of the tremendous physicians in this country for Surgeon General; against Dr. Foster, another candidate for Surgeon General; against Ronnie White, who, in 71 percent of the cases voted for the death penalty, where Mr. Ashcroft voted for another person who only voted for the death penalty 55 percent, who happened not to be African American.

Finally, when a person said that receiving a doctorate degree, honorary doctorate degree from Bob Jones University, that after he swore he was telling the truth, and when he looked into that camera, when he was asked about that university, Senator Ashcroft sat in that seat and said, in 1999, in June of 1999, that I did not know what Bob Jones University stood for, when George Bush went there to campaign and McCAIN went there to campaign, and the whole question of when President Bush apologized to the Catholics because he said that he should not have gone there because they are antiCatholic, and never said a word about the antiblack. But that was our new President that wants to bring all people in. I just cannot understand how Senator Ashcroft could put his hand on the Bible, put his hand up to God and say, I did not know, less than a year ago, what Bob Jones University stood for.

Mr. Speaker, for those reasons, I do not think he is qualified to be the Attorney General of the United States of America.

Mrs. JONES of Ohio. Mr. Speaker, I thank the Speaker for the additional 1 minute. In light of our discussion, very quickly, the relief for the minorities over the years have come through the courts. This year, we were let down by the United States Supreme Court in their decision that ultimately decided the election that allowed President Bush to become President. We were then let down by the executive, the President, by nominating John Ashcroft to be Attorney General. We need the legislature, even though we cannot urge them to vote in any way; the Senate, the only remaining branch of government who has not yet acted, to stand up for Americans, stand up for minorities, stand up for women, stand up for gays and lesbians, and stand up for all Americans, and not confirm the nomination of John Ashcroft.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). The Chair urges all Members not to urge action of Members of the Senate.

OPPOSING ATTORNEY GENERAL NOMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, as the ranking Democrat on the House Committee on the Judiciary and the senior Member of the Congressional Black Caucus, I am unalterably opposed to John Ashcroft's nomination to be Attorney General of the United States. I have reached this decision with some regret and consternation. In my 36 years in Congress, I have never publicly opposed a nominee for Attorney General. However, in the present case, my reservations about the Senator's ability and inclinations to support and uphold the law in such critical areas as civil rights, reproductive choice and gun safety are so grave; and his pattern of misleading and disingenuous responses at his confirmation hearings so serious, that I believe it is in the national interests that his nomination be either withdrawn or rejected by the Senate.

I am also concerned that the Senator's personal lack of responsiveness to me foreshadows a pattern of conscious avoidance or, at best, benign neglect of me and my colleagues in the House.

First, in terms of civil rights, I am troubled by the fact that notwithstanding Senator Ashcroft's general statements about support for civil rights enforcement, he declined to state specific agreement with the Department's position in a host of civil rights cases, including its support of the University of Michigan's affirmative action program.

I am also dismayed that the Senator has taken public positions opposing voluntary school desegregation, and that he wrongly asserted that the State had done nothing wrong, and was quote, found guilty of no wrong, end quote, in the Missouri desegregation cases.

As we all know, there are two separate Federal Court of Appeals decisions and numerous district court decisions holding the State expressly responsible for the unconstitutional discrimination that occurred. I am also profoundly disappointed in the manner by which the Senator thwarted Judge Ronnie White's nomination to be Federal district court judge, the first African American justice ever to serve on the Missouri Supreme Court. Senator Ashcroft's unwillingness at his confirmation to acknowledge or to express a scintilla of regret for the disingenuous manner in which he distorted Judge White's record can hardly be seen as a promising omen to those of us in the African American community who have worked so hard to integrate the Federal judiciary.

Second, given Senator Ashcroft's past record and statements at the hearings, I do not find his acknowledgment of a woman's constitutional right to an abortion as settled law under Roe and Casey as being at all credible. I say this because in 42 out of 43 Senate votes concerning reproductive rights, he cast a vote aimed at overturning Roe versus Wade.

Third, with regard to Senator Ashcroft's record of opposition to gun control legislation, I remain unconvinced that he is the appropriate person to uphold and enforce our Nation's firearms law. To me, Senator Ashcroft's past wholehearted embrace of an extreme view of the second amendment is active support for legislation in Missouri that would allow individuals to carry concealed weapons and his unwillingness to commit to relinquish his membership in the National Rifle Association, disqualify him as the person best charged with enforcing our gun laws. In sum, I have come to the reluctant conclusion that the Senator is the wrong man for the wrong job at the wrong time.

When our Nation urgently needs an Attorney General who can bring us all together, we have been offered a person known for extreme right-wing positions and divisiveness. I have spent my entire career fighting for the cause of civil rights, reproductive choice and common sense crime and gun safety laws. In my view, Senator Ashcroft's record is simply too inconsistent with these goals to justify our support for him.

Mr. Speaker, I yield to and commend the gentlewoman from Ohio (Mrs. JONES) for calling this Special Order and bringing us all together this evening.

Mrs. JONES of Ohio. Mr. Speaker, I would just state to the gentleman that I thank him for his leadership on the Committee on the Judiciary and trust that our work together will not allow this confirmation to proceed.

Mr. TOWNS. Mr. Speaker, I rise in opposition to the nomination of John Ashcroft of Missouri to the crucial position of United States Attorney General. Mr. Ashcroft has a long and consistent record of conservative extremism, opposing civil rights as well as qualified Federal nominees, abortion rights, gay rights and environmental protection.

In his confirmation hearings last week, we saw a nominee on his best behavior, and yet, he could not acknowledge the possibility that he was wrong about the impeccable qualifications of federal judge nominee Ronnie White. We have a nominee who denies that sexual preference was an issue when he questioned James Hormel's "life-style" before rejecting his nomination. We have a nominee who claims that as Attorney General of Missouri he always upheld the law and did not try and impose his own personal beliefs while the record shows that just the opposite is true. In fact, there is nothing in the record to indicate that Mr. Ashcroft has ever exhibited any flexibility in his ideology.

Mr. Speaker, I ask you should we support giving him the keys to our nation's laws with our eyes opened and our fingers crossed.

I cannot remain silent when the person who is nominated to be the chief law enforcement officer of this country and who will be responsible for defending the civil rights of all Americans has repeatedly demonstrated his personal animosity for those fundamental rights. I urge the Administration to live up to its promises to unite this country and withdraw this ill-conceived nominee from consideration. At the very least, I urge my friends in the other Chamber to do the right thing and reject this nominee.

THE WAR AGAINST DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, I will not take the entire hour, but I did want to rise and summarize a trip that I took last week to Colombia and Ecuador to inform our colleagues and our constituents about the progress being made in the war against drugs.

To be honest, Mr. Speaker, last year I was concerned when the President and the administration requested $1.3 billion to be used in the war against drugs in Colombia and South America. I was concerned because I was not sure that it was the right approach for us to be taking; that perhaps it would send the wrong signals, and that perhaps this should not be an issue in which the American military is involved.

Mr. Speaker, I went to Ecuador and Colombia to see firsthand what is happening with those dollars, what is happening with our effort to interact with the leadership of Ecuador and Colombia to see what role we are playing and what role they are playing in solving this problem. I came back, Mr. Speaker, convinced that we made the right decision.

I come to the floor this afternoon to encourage our colleagues to get more information about what is happening in Latin America, to better understand the type of threat that exists there, to understand the importance of what we are doing in Latin America in the war against drugs, and to understand that there will be additional requests for dollars this year in the President's budget and the requests coming to this Congress to continue this fight for at least a 5-year period.

□ 1545

Mr. Speaker, I started my trip in Ecuador in Quito, the capital, where I met with and had a briefing with our Ambassador, Ambassador Gwen Clare, and with her in-country team, including the military. I had a full briefing on the impact in Ecuador of the activities involved with Plan Colombia. I heard from the Ecuadoran leadership that while Ecuador did receive some support from this program, approximately $20 million, there is simply a greater need, both in terms of supporting their military efforts and the economic efforts, particularly along the northern rim of Ecuador, in dealing with the overflow of the drug cartels in Colombia.

I also discussed with the Ecuadoran leaders, the issue of the Galapagos and the Environmental Damage being caused by the ship, that just a few days earlier, had crashed off of the coast of the Galapagos, and what we in America could do to assist Ecuador.

In fact, in coming away from that trip, I was convinced that Ecuador, being the key ally that it has been with America is, in fact, a country that we should renew our focus on. In meetings both before my trip and today, I met with the Ecuadoran ambassador to the United States, and I can tell you that she appreciates the effort that America has put forward and is willing to work with us on additional initiatives to cause further integration with the efforts of Ecuador in solving the drug problem and America in solving the drug problem.

In Colombia, Mr. Speaker, I met again where our in-country team, including our Ambassador, Ann Patterson, a very capable lady under very difficult circumstances. I met with our leadership, military leadership. I met with our CINC, our commanding officer for that region. I met with our military leaders from all the services.

I spent an hour meeting with the Defense Minister from Colombia, the chairman of the Joint Chiefs of Staff, and the senior leaders of their military.

I also met with the general in charge of their police force that comes under the military, and then they flew me out to one of the base camps about an hour from Bogota near the FARC demilitarized zone, and I spent a half a day observing the training being provided by our troops to the Colombian military.

Let me give you some impressions, Mr. Speaker, for our colleagues. First of all, American troops are not being used in any combat mission whatsoever. As you know, Mr. Speaker, we imposed a limitation of 500 American troops in Latin America, in Colombia for the specifics of carrying out this plan, not one of our military is involved in any type of hostile action.

They are not involved in any kind of overt action against Colombia. They are simply there providing training. They are doing training for the Colombian military in terms of going out and running exploratory patrols of how to take apart these precursor labs. They are running training in how to guard the helicopters and the planes that are spraying the coca fields.

I can tell my colleagues, I was overwhelmingly impressed with our military. They are doing, as they always do, an outstanding job. All of our special forces and our military personnel there speak fluent Spanish. And I can tell my colleagues the relationship they have established at the one base I visited in Larandia was absolutely exemplary.

The training that was going on was a reality training and the kinds of successes that the Colombian military is having, I think, is directly responsive to the efforts of the American military officers and enlisted personnel who are on the scene throughout Colombia.

We have a dangerous situation, Mr. Speaker, in that part of the world. Our focus in Washington from an national security standpoint has traditionally been on the former Soviet Union and the 15 republics of that nation, China, the Middle East, and the threats posed by countries like Iran, Iraq, Syria, Libya and North Korea. But, Mr. Speaker, I came away from my trip and my meetings convinced that one of the most troublesome threats that we faced right now in America is the huge amount of cocaine coming into our country, primarily from Colombia.

It is estimated that between 60 percent and 80 percent of all the cocaine used in America is produced in Colombia. On hundreds of thousands of acres of farmland that used to grow crops, used to grow coffee, used to grow the kinds of fruits and vegetables that Colombia and Latin America are famous for. When the FARC began its operations and the terrorist revolutionaries began their operations, they began to acquire a large area in Colombia, specifically, to grow initially marijuana, and then poppies, and now they are into coca, which is converted in local labs into cocaine, which is then sent back here to the States.

Mr. Speaker, it is now a multibillion dollar industry in Colombia. In fact, the estimates are the FARC is receiving perhaps as much as $6 billion to $7 billion a year in income, which has allowed the FARC, which has its own zone inside of Colombia that is absolutely isolated from the rest of the country. It has allowed the FARC to produce a military that has in excess of 20,000 armed troops.

This military is well-trained. They have the latest in terms of communication systems, and they have an elaborate network in place to send that cocaine through whatever means possible to America, and they are doing that.

In fact, just a few weeks before I arrived in Colombia, we were able to confiscate, or the Colombians were able to confiscate a submarine that had been built with the assistance of Russian scientists that the FARC was going to use to move cocaine from Colombia to America.

Mr. Speaker, the FARC has become a major force that provides a threat to America's homeland defense. Now, I have worked for the 14 years I have been in Congress on issues involving the security threats coming from Russia. I was a member of the Cox committee that investigated the transfer of technology to China.

I was on the speaker's advisory group on North Korea. I have spent hours and hours focusing on the threats coming from those nations providing technology to unstable nations and to unstable groups. But I can tell you, Mr. Speaker, I am now convinced that one of the greatest threats that we face in the 21st century is the threat to our society from the continued growth of the cocaine industry in America, especially when this cocaine industry is supporting a major military establishment in Latin America, a destabilizing military establishment.

In fact, Mr. Speaker, the FARC and the revolutionary groups are creating serious instability in the areas in Colombia where they, in fact, are secure. And they are now spilling over into north Ecuador, as well as having an impact in other Latin American countries.

The day before I arrived at the base camp at Larandia, there was intelligence that a FARC exploratory group was going to move into a small town, which is a typical operation for them. When they moved into that small town, they would burn the local police station, and they would hunt out the police officers and either intimidate them until they complied with the FARC or until they killed them.

Mr. Speaker, 3,000 individuals per year on average are kidnapped in Colombia. Many of them are police officers at the local level trying to provide protection for the people of the towns. The FARC and the revolutionaries have been going into small towns and villages wreaking havoc on the quality of life in those communities.

They have been taking peaceful farmers and forcing them to stop growing legitimate crops and instead produce the coca that the FARC then buys and uses at their precursor labs to produce cocaine, which is then shipped to America. And if the local farmers do not cooperate, they, too, are harassed.

Their buildings are burned. Their vehicles are trashed and burned, and in the end, the people themselves are tortured. But the FARC is doing far worse than that, Mr. Speaker, and so is the result of the narcotrafficking trade in Colombia.

The day before I arrived at Larandia, there was a confrontation. The military units of the Colombian base where I lived, Larandia, were sent out, because they had intelligence that indicated the FARC was going to raid a local community and take over its police department.

The Colombian military met the FARC unit on a small road outside the village. A firefight ensued. The FARC was equipped with AK47s, the latest weapons available for a military anyplace in the world today, bought with those billions of dollars of money, most of it coming from wealthy Americans wanting to have their coke, at the same time they are proclaiming that somehow they are concerned about the drug problem in America.

Mr. Speaker, the confrontation that ensued resulted in the death of 3 FARC uniform personnel. One of the uniform personnel, Mr. Speaker, was a 12-year-old girl. The second FARC soldier that was killed was a 14-year-old boy, and the third FARC military person that was killed was a 17-year-old boy. And the mode of operation was the same as it always is with the FARC.

When they get into a confrontation with the Colombian military, which may occur, 100 yards or 200 yards away so the soldiers cannot see who they are up against, the FARC pushes young kids in uniform out in the front so they are the first to be killed. They are the first to die.

Mr. Speaker, this has happened time and time again throughout Colombia. In fact, with all of our concerns about the crimes of Saddam Hussein and

Slobodan Milosevic, it is amazing to me that there is not an outcry in this country for a war crimes tribunal against the gross human atrocities being caused by the FARC and the revolutionary groups in Colombia and Latin America.

Because what is occurring there? The hundreds of deaths, the slaughtering of young children, the slaughtering of families, the forcing of farmers to grow these illegal crops and the devastation of local villages, is a gross kind of human rights abuse that I do not think we have seen the likes of since Saddam Hussein was in his prime back in Iraq before the invasion.

Mr. Speaker, we have no choice but to support the Colombians in this struggle and they are winning. They are making progress. The training is working.

Mr. Speaker, I insert for the RECORD a summary of counternarcotics operations in Putumayo, which is the hot bed of this activity in Colombia. This was prepared at my request by our Ambassador. I submit this for the RECORD for all of our colleagues to review and for all Americans to understand the success that is occurring in Colombia as we begin to eradicate hopefully 100 percent of the coca production in that country which has led to the huge proliferation of cocaine into America.

SUMMARY OF COUNTERNARCOTICS OPERATIONS IN PUTUMAYO, DECEMBER 19, 2000–JANUARY 28, 2001

(Prepared for Representative Curt Weldon)

I. INTRODUCTION

The first six weeks of counternarcotics operations in Putumayo Department in southern Colombia (the initial geographical focus under Plan Colombia) have seen many positive results. Two social pacts supported by the U.S. Agency for International Development, which provide for voluntary manual eradication and alternative crop development, have been signed by over 1400 families in Puerto Asis municipality, and six more are expected to be signed before the end of March. Aerial coca eradication and ground interdiction activities have taken place in south-central and southwestern Putumayo. As of January 28, 2001, over 24,000 hectares have been sprayed in Putumayo, the most densely cultivated area in the world. There has been an unprecedented level of cooperation between the Colombian Army Counterdrug Brigade and the Antinarcotics Directorate of the Colombian National Police. The operations have proceeded with relatively few incidents of armed clashes or ground fire directed at spray aircraft.

II. AERIAL ERADICATION

Although estimates vary, coca cultivation in Putumayo could be as high as 90,000 hectares (about 225,000 acres). The most dense areas of cultivation are located in southwestern Putumayo. Aerial eradication in Putumayo began in that area on December 22, 2000. As of January 28, 2001, a total of 24,123 hectares has been sprayed—22,332 hectares in southwestern Putumayo (mostly in paramilitary-dominated zones) and 1,791 hectares in south-central Putumayo. Spraying is currently taking place in southwestern Putumayo. There have been eight spray planes and/or escort helicopters hit by hostile ground fire (in six incidents) since commencement of spraying in Putumayo—fewer than expected, given the high presence of illegal armed groups operating in Putumayo. None resulted in any injury or serious damage to aircraft.

III. COLOMBIAN MILITARY OPERATIONS

As of January 28, 2001 there are approximately 3,000 Colombian Army troops deployed in Putumayo, including troops from the First and Second Counterdrug Battalions of the Counterdrug Brigade. The ground troops support aerial eradication activities and conduct lab interdictions. Since the start of operations in mid-December 2000, Colombian military forces have attacked 40 targets in Putumayo, including coca base labs, cocaine hydrochloride labs, and weapons storage facilities.

There have been five incidents of armed clashes between Colombian military forces and illegal groups since the start of Putumayo operations, one involving paramiltaries and three involving FARC. These clashes resulted in the deaths of two 12th Brigade soldiers, 11 FARC, and one paramilitary. The fifth incident was the firing (by unknown persons) of a rocket-propelled grenade at an embassy-contracted fuel plane (carrying Colombian National Police officers) departing Tres Esquinas.

The level of cooperation between Colombian military forces and antinarcotics police during the Putumayo operation has been unprecedented, given the historic rivalries between the various armed forces and police. The forces have shared USG-supplied helicopters to move troops and police in and out of the spray/interdiction areas. The Deputy Commander of the Counterdrug Brigade now attends the daily briefings for the spray pilots, hence is better able to deploy his troops into the most effective areas and to alert the pilots to suspected locations of hostile elements.

IV. U.S.-SUPPORTED ALTERNATIVE DEVELOPMENT/MANUAL ERADICATION

A key aspect of the multifaceted Plan Colombia projects targeted for Putumayo (and, later, other parts of the country) is to encourage small coca growers to sign agreements to voluntarily eliminate their illicit crops in exchange for government assistance with alternative crop development The U.S. Agency for International Development is working closely with the Government of Colombia's National Plan for Alternative Development (PLANTE), to put such agreements into place. Two agreements have been signed to date by a total of 1453 families in Puerto Asis municipality, providing for the voluntary elimination of nearly 3000 hectares of coca. Six more agreements are expected to be signed before the end of March 2001. The target is to enter agreements with a total of 5500 families for the elimination of approximately 10,500 hectares of coca. The signing of even two elimination agreements has had a positive effect, in that many more families are interested in signing them now that they are perceived as a reality. The signings appear to have lessened some local officials' opposition to aerial eradication as well. While in the past they often complained that government efforts were focused on the "stick" of spraying but not the "carrot" of alternative development, at least one Putumayo mayor has stated that the government now apparently intends to keep its word to combine the two efforts.

V. HUMAN RIGHTS

Since the first Counterdrug Battalion was formed in April 1999, we have had no human rights complaints against the Counterdrug Brigade, nor have we received any since joint operations were launched in December 2000. There has been minimal displacement, with some 20–30 people displaced since spray operations began in mid-December. In contrast, thousands of people were displaced in the area between September-December 2000 as a result of the FARC's armed seige of Putumayo.

As required under the Leahy amendment, the Embassy vets all military and police units which receive USG assistance by reviewing the unit's human rights record and regular reports from the Colombian Ministry of Defense on any units or members of units which are undergoing formal investigation for human rights violations. The 24th Brigade, a member of the Joint Task Force-South under General Mario Montoya's command, is currently the only element of the Joint Task Force-South which is not approved to receive USG assistance.

VI. CONCLUSION

While the government of Colombia has achieved significant success in the first phase of U.S.-supported counternarcotics operations in Putumayo, much more remains to be done. Embassy is encouraging the Colombian Army and Antinarcotics Police to pursue more joint operations, and is encouraging the Colombian Presidency to explain Plan Colombia more clearly to its citizens. The Government of Colombia has shown the political will to maintain its commitment to the aerial eradication and interdiction aspects of Plan Colombia, even if violence escalates (as is likely to be the case). Public support for antinarcotics aid is strong, but continued close engagement at all levels will be required to maintain the GOC's resolve.

Mr. Speaker, in this two-page summary, our colleagues will find a detailed assessment of the successes that we are achieving, of the cooperation of the Colombian military, of the brave efforts being put forth by military leaders and police leaders who everyday are being intimidated and whose families are being threatened by the FARC and the terrorist groups throughout Colombia.

Mr. Speaker, I want to also assure my colleagues one of the major concerns we have in any country is that there not be human rights abuses by the military or the police of that country. In the training that I witnessed at the Larandia operation, a major part of our training program for the Colombian military deals with human rights, showing the soldiers on the ground in Colombia that while they are there, to weed out the corrupt narcoterrorists activity.

They must adhere to strict human rights concerns that we have. They must comply with international norms. They must not abuse innocent people. And while there are still incidents as there are even in our own military, from time to time, of concerns relative to human rights. I can assure our colleagues that the Colombian military, the Colombian police department have made overwhelming positive strides in stopping human rights abuses from those who are enforcing the laws and from those who are going after the narcotics traffickers.

Mr. Speaker, our military again is rising to the occasion and doing an outstanding job. The Colombian soldier on the ground understands the importance of maintaining human rights and dignity, even when they are dealing with thugs involved, with growing and selling off cocaine eventually for America's soil.

This summary gives a glimpse of the kind of successes that we are having in each of these areas; the efforts at cleaning up the drug labs, the efforts at spraying the crops, the efforts at protecting the human rights, the efforts at helping to rebuild the economy of these areas that have been devastated by drug trafficking.

□ 1600

The role of America is not just training. We are also providing resources. Of the $1.3 million that we are placing into Plan Colombia, only a small portion is actually going to our military. Significant parts of the money are going into nonmilitary activities, such as the Department of State. Other parts are going into activities involving economic readjustment.

In fact, Mr. Speaker, I have a series of charts that I will be providing for every Member of the House that give an assessment as to where the $1.3 million is going, the kinds of equipment that we are buying, helicopters to do spraying, and helicopters to accompany the helicopters and the planes that are doing the spraying of the crops.

So the effort in Plan Colombia is not just about helping the military. It is about providing a broad strategy. It is about building democratic institutions. It is about helping local mayors and local councils have better control over their communities. It is involving ourselves through Colombia in creating additional economic activities for farmers who no longer are going to produce these drugs.

Mr. Speaker, I am convinced that we must stay the course in Latin America. One of the concerns that I had when I traveled to Ecuador and Colombia was that we in America do not know enough about our southern partners. I am very pleased that our new President has made statements that he wants to reach south. He has already reached out to Mexico. I know that he wants to reach out to Central and South America.

I am convinced, Mr. Speaker, that many of us, including myself, have not paid attention to our closest neighbors. We have not taken the opportunity to reach out to them as equal partners in terms of economic development, environmental cooperation, cooperation in health and human services, and also dealing with problems like the oil spill off the Galapagos or the drug problem in Colombia.

That is why, Mr. Speaker, I had discussions in both countries and I am now suggesting to my colleagues, especially those on the Committee on International Relations chaired by the gentleman from Illinois (Mr. HYDE), that we look at the putting together an initiative, kind of a mini-Marshall Plan that would bring a special focus on the seven contiguous countries around Colombia, to let these countries know that Americans up north are not just in Colombia, Ecuador, Bolivia, Peru and Panama, that we are not just there because of the drug problem, that we want to establish a new relationship, one that encourages more economic investment and encourages real environmental cooperation, one that shows that we will assist them in improving their quality of life in health care and education; and in the end, a strong component that will support the rule of law and support the continued effort to help the Colombian people and the other nations rid themselves of this terrible narcotrafficking and production that has been occurring there over the past several years.

I would hope that one of our objectives in this session of Congress would be to establish this mini-Marshall Plan to show our friends in South America that America wants to be true and close partners of theirs. Ecuador has been one of the closest allies to our country for years. It is time to let the people of Ecuador know that we appreciate that support and that we want to engage with Ecuador in a more aggressive way.

I would hope that our colleagues on the Committee of International Relations led by such great people as the gentleman from North Carolina (Mr. BALLENGER), who has traveled to that part of the world more than any of our colleagues, who along with his wife has a better grasp of the situation in Central and South America than many of our people who serve in State Department positions, that we reach out and work with the gentleman from North Carolina (Mr. BALLENGER) and his subcommittee and work to shape a new policy, a proactive policy that has a military component but also shows the people of South America that we want to be their true friends and trading partners.

I came away also, Mr. Speaker, from my trip with one additional piece of information dealing with a very controversial subject that will again be taken up by this Congress this year, and that is the School of the Americas. Every year, Mr. Speaker, when we bring up the defense authorization bill on the floor, there are several Members of Congress who offer an amendment to basically do away with the School of the Americas at Fort Benning, Georgia; and they use the argument that some of the graduates of that school have committed atrocities and have been involved in gross human rights abuses, particularly in Central and South America.

Mr. Speaker, I am not challenging the fact that out of the thousands of people that have gone through the School of the Americas there have been some bad apples, just as I would acknowledge that you can take Harvard University or Yale or Princeton and find one or two graduates who have ended up in jail because of white collar crimes or because of things that they have done that are against our society.

But I can tell you, Mr. Speaker, when I ask the question of the Colombians and the Ecuadorians and our leaders and our two ambassadors in those countries how important is the School of the Americas to your success, the answer was unanimous. The answer was unanimous from everyone I talked to, that the School of the Americas played an absolutely essential role in teaching South and Central American leaders that the military responds to the civilian part of society, that human rights is a part of what a military leader must consider every day he or she is doing their job, that the School of the Americas has trained young military leaders to understand the same types of leadership skills that our military has that are so frequently brought to their attention in serving in our services.

So an additional point that our colleagues need to ask as they travel and deal with the situation in Latin America is how important is this institution to the continued success that we are having in cooperating with the militaries of the South American countries. Are they perfect? The answer is, no. Is our military perfect? The answer is, no. But we are both moving in the same direction, addressing the concerns of human rights and dignity as we enforce laws and as we deal with tyrants and dictators and thugs such as those involved with the FARC and the revolutionary groups that currently are running rampant in Colombia and other parts of South America.

Mr. Speaker, in closing, the news is good. The success is documented, and I rise as someone who was not a big fan of this initiative 6 months ago.

I was a skeptic. I am now convinced we are doing the right thing. Our colleagues, Mr. Speaker, are going to be asked this year to provide a second sum of money to continue this operation. Our colleagues need to get the facts. Our colleagues need to travel to Latin America.

To this end, Mr. Speaker, I will again be organizing a delegation sometime in the mid to latter part of 2001. I have already received a commitment that Members of Congress will be able to stay overnight in a base camp so they can see firsthand and observe themselves the kind of training, the kind of interaction, can talk to the villagers. and can talk to people who are in the Colombian military to see the success firsthand that we are having.

In Ecuador, we will meet with the leadership. We will also talk about environmental cooperation with pristine areas like the Galapagos. In Colombia and the other countries we visit, we will begin to focus on the success that we are having.

I encourage our colleagues, Mr. Speaker, prior to the vote on these additional funds, to travel to that part of the world. The gentleman from North Carolina (Chairman BALLENGER) takes trips to Central and South America on a regular basis. If our colleagues cannot join the delegation that I organize, they can contact the gentleman from North Carolina (Chairman BALLENGER), and I am sure he will organize an appropriate visit as well this year.

I think in the year 2001, under the leadership of our new President, George Bush, Latin America is the key area of focus; that we must renew old friendships. We must show these people in Central and South America that we are not the ugly gringos of the north, that we want to be their friends. We want to be their trading partners. We want to help them solve their environmental problems. We want to help them in their effort to weed out corruption, to deal with human rights abuses, and to help them provide a solid well-trained military and police force to maintain the basic elements of democracy.

In doing all of that, Mr. Speaker, I am convinced America will be better, our homeland defense will be more secure, and we will have a better relationship with those people who inhabit both Central and South America.

Mr. Speaker, I yield back the remaining time and thank the Speaker and the staff for sticking through this Special Order.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 18. Concurrent resolution providing for an adjournment of the House of Representatives.

The message also announced that pursuant to the provisions of Senate Resolution 105 (adopted April 13, 1989), as amended by Senate Resolution 149 (adopted October 5, 1993), as amended by Public Law 105–275, further amended by Senate Resolution 75 (adopted March 25, 1999), and Senate Resolution 383 (adopted October 27, 2000), the Chair, on behalf of the Democratic Leader, announces the appointment of the following Senators to serve as members of the Senate National Security Working Group for the One Hundred Seventh Congress—

The Senator from West Virginia (Mr. BYRD) (Democratic Administrative Co-Chairman);

The Senator from Michigan (Mr. LEVIN) (Democratic Co-Chairman);

The Senator from Delaware (Mr. BIDEN) (Democratic Co-Chairman);

The Senator from Massachusetts (Mr. KENNEDY);

The Senator from Maryland (Mr. SARBANES);

The Senator from Massachusetts (Mr. KERRY);

The Senator from North Dakota (Mr. DORGAN);

The Senator from Illinois (Mr. DURBIN); and

The Senator from Florida (Mr. NELSON).

The message also announced that pursuant to Public Law 94–304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints the following Senators to the Commission on Security and Cooperation in Europe—

The Senator from Connecticut (Mr. DODD);

The Senator from Florida (Mr. GRAHAM);

The Senator from Wisconsin (Mr. FEINGOLD); and

The Senator from New York (Mrs. CLINTON).

The message also announced that pursuant to Public Law 94-304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints the Senator from Colorado (Mr. CAMPBELL) as Chairman of the Commission on Security and Cooperation in Europe (Helsinki) during the One Hundred Seventh Congress.

The message also announced that pursuant to section 2761 of title 22, United States Code, as amended, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, appoints the Senator from Alaska (Mr. STEVENS) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the One Hundred Seventh Congress.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Seventh Congress.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Connecticut (Mr. DODD) as Co-Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Seventh Congress.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. MURKOWSKI) as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Seventh Congress.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Washington (Mrs. MURRAY) as Co-Chair of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Seventh Congress.

The message also announced that pursuant to the provisions of sections 42 and 43 of title 20, United States Code, the Chair, on behalf of the Vice President, reappoints the Senator from Tennessee (Mr. FRIST) as a member of the Board of Regents of the Smithsonian Institution.

The message also announced that pursuant to Public Law 96–388, as amended by Public Law 97–84 and Public Law 106–292, the Chair, on behalf of the President pro tempore, appoints the following Senators to the United States Holocaust Memorial Council—

The Senator from Nevada (Mr. REID); and

The Senator from California (Mrs. BOXER) (re-appointment).

The message also announced that in accordance with sections 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Delaware (Mr. BIDEN) as Co-Chairman of the Senate Delegation to the North Atlantic Assembly during the One Hundred Seventh Congress.

COMMUNICATION FROM THE HON. RAY LaHOOD, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. COOKSEY) laid before the House the following communication from the Honorable RAY LaHOOD, Member of Congress:

WASHINGTON, DC,
January 29, 2001.

Hon. J. DENNIS HASTERT,
Office of the Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have received a subpoena for testimony issued by the Superior Court for the District of Columbia.

After consultation with the Office of General Counsel, I have determined that the subpoena is not material and relevant and is not consistent with the privileges and rights of the House.

Sincerely,

RAY LaHOOD.

COMMUNICATION FROM PRODUCTION OPERATIONS MANAGER OF THE OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

The SPEAKER pro tempore laid before the House the following communication from Gary J. Denick, production operations manager, Office of the Chief Administrative Officer:

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, HOUSE OF REPRESENTATIVES,
Washington, DC, January 31, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for records and testimony issued by the Superior Court for the District of Columbia in the case of *United States* v. *Armfield*, Case No. M1098200.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

GARY J. DENICK,
Production Operations Manager.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLAY) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

Mr. CLEMENT, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

(The following Member (at the request of Mr. SOUDER) to revise and extend his remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. MURTHA, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 18 of the 107th Congress, the House stands adjourned until 2 p.m., Tuesday, February 6, 2001.

Thereupon (at 4 o'clock and 12 minutes p.m.), pursuant to House Concurrent Resolution 18, the House adjourned until Tuesday, February 6, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

452. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Amendments to the Daily Computation of the Amount of Customer Funds Required to be Segregated (RIN: 3038-AB52) received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

453. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Delegation of Authority to Disclose and Request Information—received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

454. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Clarification of Inspection Requirements [Docket No. FV99-905-5 FR] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

455. A letter from the Associate Administrator, Livestock and Seed Program, Department of Agriculture, transmitting the Department's final rule—Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Livestock and Poultry Products [Docket No. LS-98-09] (RIN: 0581-AB69) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

456. A letter from the Executive Vice President, Commodity Credit Corporation, Tobacco and Peanuts Division, Department of Agriculture, transmitting the Department's final rule—Cleaning and Reinspection of Farmers Stock Peanuts (RIN: 0560-AF56) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

457. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Suspension of Provisions under the Federal Marketing Order for Tart Cherries [Docket No. FV00-930-6 IFR] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

458. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Decreased Assessment Rates [Docket No. FV01-930-1 IFR] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

459. A letter from the Associate Administrator, Agricultural Marketing Service, Dairy Programs, Department of Agriculture, transmitting the Department's final rule—Milk in the Northeast and Other Marketing Areas; Interim Admendment of Orders [Docket No. AO-14-A69, et al; DA-00-03] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

460. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced from Grapes Grown in California; Decreased Assessment Rate [Docket No. FV00-989-5 FIR] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

461. A letter from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program [Docket No. FV01-989-1 IFRA] received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

462. A letter from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting the National Guard ChalleNGe Program Annual Report for Fiscal Year 2000, required under section 509(k) of title 32, United States Code; to the Committee on Armed Services.

463. A letter from the Under Secretary, Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on outsourcing and privatization initiatives; to the Committee on Armed Services.

464. A letter from the Assistant General Counsel for Regulatory Law, Office of Security and Emergency Operations, Department of Energy, transmitting the Department's final rule—Office of Security and Emergency Operations; Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 [Docket No. SO-RM-00-3164] (RIN: 1992-AA26) received January 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

465. A letter from the Deputy Under Secretary of Defense, Department of Defense, transmitting the annual report to Congress describing the activities of the Defense Production Act Title III Fund for Fiscal Year 2000, pursuant to 50 U.S.C. app. 2094; to the Committee on Financial Services.

466. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Suspension of Community Eligibility [Docket No. FEMA-7753] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

467. A letter from the Deputy Secretary, Division of Investment Management, Office of Investment Adviser Regulation, Securities and Exchange Commission, transmitting the Commission's final rule—Electronic Filing by Investment Advisers; Amendments to Form ADV; Technical Amendments [Release No. IA-1916; 34-43758; File No. S7-10-00] (RIN:3235-AI04) received December 22, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

468. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

469. A letter from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Additional Designations and Supplementary Information on Specially Designated Narcotics Traffickers—received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

470. A letter from the Secretary, Department of Commerce, transmitting the semiannual report on the activities of the Office of the Inspector General and the Secretary's semiannual report on final action taken on Inspector General audits for the period from April 1, 2000 through September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

471. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-465, "Capitol Hill Business Improvement District Procedure Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

472. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-464, "College Savings Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

473. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-463, "Approval of the Application for Transfer of Control of District Cablevision, Inc., to AT&T Corporation Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

474. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-406, "Sentencing Reform Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

475. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-418, "Freedom From Cruelty to Animals Protection Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

476. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-447, "Retirement Reform Temporary Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

477. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-448, "Residential Permit Parking Area Temporary Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

478. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-449, "Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

479. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-457, "Foster Children's Guardianship Temporary Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

480. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-459, "Motor Vehicle Residential Parking Regulation Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

481. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-395, "Distribution of Marijuana Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

482. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-460, "Safe Teenage Driving and Merit Personnel Technical Amendment Act of 2000" received January 31, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

483. A letter from the Staff Director, Commission on Civil Rights, transmitting the FY 2000 Federal Managers Financial Integrity Act report, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

484. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List—received January 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

485. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List—received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

486. A letter from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting a report on the Strategic Plan for FY 2000-FY 2005; to the Committee on Government Reform.

487. A letter from the Secretary, Department of Education, transmitting the FY 2000 Federal Managers' Financial Integrity Act Report, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

488. A letter from the Secretary, Department of Education, transmitting a report concerning surplus Federal real property disposed of to educational institutions, pursuant to 40 U.S.C. 484(o)(1); to the Committee on Government Reform.

489. A letter from the Secretary, Department of Transportation, transmitting a report on Revisions to Final Department of Transportation FY 2001 Performance Plan; to the Committee on Government Reform.

490. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acquisition Regulation: Type of Contracts [FRL-6932-7] received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

491. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

492. A letter from the Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting the Office's final rule—Technical Amendments to Office of Government Ethics Freedom of Information Act Regulation: Change in Decisional Officials—received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

493. A letter from the Deputy Director for Management, Office of Management and Budget, transmitting a report entitled, "Electronic Purchasing and Payment in the Federal Government—Update 2000"; to the Committee on Government Reform.

494. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Excepted Service; Career and Career-Conditional Employment (RIN: 3206-AJ28) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

495. A letter from the Chief Operating Officer, U.S. Chemical Safety and Hazard Investigation Board, transmitting a report on the Annual Performance Plan for FY 2001; to the Committee on Government Reform.

496. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—The Argo Project: Global ocean observations for understanding and prediction of climate variability [Docket No. 001027300-0300-01] (RIN: 0648-ZA96) received December 21, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

497. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for North Carolina [Docket No. 000119014-0137-02; I.D. 121200H] received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

498. A communication from the President of the United States, transmitting a report for the lower Delaware River and several of its tributaries in Pennsylvania and New Jersey, in response to the provisions of the Wild and Scenic Rivers Act, Public Law 90-542, as amended; to the Committee on Resources.

499. A communication from the President of the United States, transmitting a report for the lower Sheenjek River in Alaska, in response to the provisions of the Wild and Scenic Rivers Act, Public Law 90-542, as amended; to the Committee on Resources.

500. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Additional Authorization To Issue Certifications for Foreign Health Care Workers; Speech-Language Pathologists and Audiologists, Medical Technologists and Technicians, and Physician Assistants [INS No. 2089-00] (RIN: 1115-AE73) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

501. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Clarification of Parole Authority [INS No. 2004-99] (RIN: 1115-AF53) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

502. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Temporary Protected Status: Amendments to the Requirements for Employment Authorization Fee, and Other

Technical Amendments [INS No. 1972-99] (RIN: 1115-AF01) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

503. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Update of the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program [INS No. 2020-99] (RIN: 1115-AF81) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

504. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Removing Burma From the Guam Visa Waiver Program [INS No. 2099-00] (RIN: 1115-AF95) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

505. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 99-NM-377-AD; Amendment 39-12014; AD 2000-24-07] (RIN: 2120-AA64) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

506. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Mitigation of Impacts to Wetlands and Natural Habitat [FHWA Docket No. FHWA 97-2514; 96-8] (RIN: 2125-AD78) received January 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

507. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Commercial Hazardous Waste Combustor Subcategory of the Waste Combustors Point Source Category; Correction [FRL-6866-7] (RIN: 2040-AC23) received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

508. A letter from the Chairman, Office of Economics, Environmental Analysis, and Administration, Surface Transportation Board, transmitting the Board's final rule—Modification of the Class I Reporting Regulations [STB Ex Parte No. 583] received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

509. A letter from the the Director, National Legislative Commission, The American Legion, transmitting the proceedings of the 82nd National Convention of the American Legion, held in Milwaukee, Wisconsin from September 5, 6, and 7, 2000 as well as a report on the Organization's activities for the year preceding the Convention, pursuant to 36 U.S.C. 49; (H. Doc. No. 107—37); to the Committee on Veterans' Affairs and ordered to be printed.

510. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department's final rule—Technical Amendments to the Customs Regulations [T.D. 01-14] received January 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

511. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Closing agreements [Rev. Proc. 2001-17] received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

512. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines: Health Insurance Deductibility for Self-Employed Individuals—received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

513. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines: Retroactive Adoption Of An Accident And Health Plan—received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

514. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Changes in accounting periods and in methods of accounting [Rev. Proc. 2001-24] received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

515. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Action On Decision: Security State Bank v. Commissioner—received January 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

516. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines: Retroactive Adoption of an Accident and Health Plan—received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

517. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines: Health Insurance Deductibility for Self-Employed Individuals—received January 24, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

518. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Closing agreements [Rev. Proc. 2001-22] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

519. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rules and regulations [Rev. Proc. 2001-21] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means..

520. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Contingent Liability Tax Shelter [Notice 2001-17] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

521. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Intermediary Transactions Tax Shelter [Notice 2001-16] received January 23, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

522. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Timely Mailing Treated as Timely Filing/Electronic Postmark [TD 8932] (RIN: 1545-AW81) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

523. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Returns and Return Information to Designee of Taxpayer [TD 8935] (RIN: 1545-AY59) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

524. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Conversion to the Euro [TD 8927] (RIN: 1545-AW34) received January 10, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

525. A letter from the Secretary, Department of Agriculture, transmitting the USDA 1997-1999 activities report on environmental assessment, restoration, and cleanup activities required by Section 120(e)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act; jointly to the Committees on Agriculture and Energy and Commerce.

526. A letter from the Deputy Secretary, Department of Housing and Urban Development, transmitting an update regarding the Department of Housing and Urban Development's 2020 Management Reform efforts that have changed HUD for the better and the semi-annual report of the Inspector General for the period ending September 30, 2000, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); jointly to the Committees on Financial Services and Government Reform.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TANCREDO (for himself, Mr. Cantor, and Mr. Baker):

H.R. 316. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for education expenses of children receiving or eligible to receive free or reduced price school meals; to the Committee on Ways and Means.

By Mr. MANZULLO (for himself, Ms. Velázquez, Mr. English, Mrs. Thurman, and Mr. Graves):

H.R. 317. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. McGOVERN (for himself, Mr. Shays, and Mr. Borski):

H.R. 318. A bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income; to the Committee on Ways and Means.

By Mr. ALLEN:

H.R. 319. A bill to amend title II of the Social Security Act to provide an exception to the nine-month duration of marriage requirement for widows and widowers in cases in which the marriage was postponed by legal impediments to the marriage caused by State restrictions on divorce from a prior spouse institutionalized due to mental incompetence or similar incapacity; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Mr. Dingell, Mr. Filner, Mr. Shows, Ms. Brown of Florida, Mr. Reyes, Mr. Rodriguez, Ms. Berkley, Ms. Carson of Indiana, Mr. Doyle, Mr. Gutierrez, Mr. Udall of New Mexico, Mr. Bishop, Mr. Baldacci, Ms. Baldwin, Mr. Borski, Mr. Coyne, Mr. Cummings, Mr. Farr of California, Mr. Frost, Mr. Hinchey, Mr. Barcia, Mr. Capuano, Mrs. Capps, Mr. Cramer, Ms. DeLauro, Mr. Faleomavaega, Mr. Hall of Texas, Mr. Taylor of Mississippi, Mr. Brown of Ohio, Mr. Strickland, Mr. Tanner, Mr. Wu, Mr. Watt of North Carolina, Mr. Wynn, Mr. Dicks, Mr. Costello, Mr. Gordon, Mr. Holden, Ms. Hooley of Oregon, Ms. Kaptur, Mr. Kildee, Mr. Lipinski, Mrs. McCarthy of New York, Mr. Mascara, Mr. Menendez, Mr. Murtha, Mr. Olver, Mr. Rush, Mr. Sanders, Mr. Lucas of Kentucky, Ms. Millender-McDonald, Mr. Moran of Virginia, Mr. Oberstar, Mr. Pomeroy, Mr. Sandlin, Ms. Woolsey, Mrs. Meek of Florida, Mr. Whitfield, Mr. Andrews, Mr. Edwards, Mr. Brady of Pennsylvania, Ms. Slaughter, Mr. Clement, Mr. Hinojosa, Mr. McGovern, Mr. Green of Texas, Mr. Lampson, Mr. Pascrell, Mr. Smith of Washington, Mr. Skelton, Mr. Kucinich, Mr. Towns, Mr. Stenholm, Mr. Kennedy of Rhode Island, Mrs. Mink of Hawaii, Mr. Blagojevich, Mr. Bonior, Mr. Sawyer, Mr. Pallone, Mr. Weiner, Mr. George Miller of California, Ms. Schakowsky, Mr. Matsui, Mrs. Christensen, Mr. Frank, Ms. Norton, Mrs. Thurman, Ms. McCarthy of Missouri, Mr. Boswell, Mrs. Jones of Ohio, Mr. LaTourette, Mr. Ackerman, Mr. McNulty, Mr. Snyder, Ms. Roybal-Allard, Mr. Conyers, Mr. Condit, Mr. Moakley, Mr. Underwood, Mr. Gephardt, Mr. Peterson of Minnesota, and Mr. Maloney of Connecticut):

H.R. 320. A bill to amend title 38, United States Code, to improve benefits under the Montgomery GI Bill by establishing an enhanced educational assistance program, by increasing the amount of basic educational assistance, by repealing the requirement for reduction in pay for participation in the program, by authorizing the Secretary of Veterans Affairs to make accelerated payments of basic educational assistance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JACKSON of Illinois:

H.R. 321. A bill to assure protection for the substantive due process rights of the innocent, by providing a temporary moratorium on carrying out of the death penalty to assure that persons able to prove their innocence are not executed; to the Committee on the Judiciary.

By Mr. BAIRD (for himself and Mr. Clement):

H.R. 322. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State sales taxes in lieu of State and local income taxes; to the Committee on Ways and Means.

By Mr. BECERRA:

H.R. 323. A bill to amend the 21st Century Community Learning Centers Act to include public libraries; to the Committee on Education and the Workforce.

By Mr. BOEHLERT:

H.R. 324. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, to reauthorize and reform the Superfund program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANNER (for himself, Mr. Blunt, Mr. John, Mr. Abercrombie, Mr. Saxton, Mr. Dingell, Mr. Stenholm, Mr. Pallone, Mr. English, Mr. Boehlert, Mr. Boyd, and Mr. Clement):

H.R. 325. A bill to amend the Federal Water Pollution Control Act to establish a program for fisheries habitat protection, restoration, and enhancement, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MINK of Hawaii (for herself, Mrs. Morella, Mr. Hilliard, Mr. Hinchey, Mr. Wynn, Ms. Baldwin, Mr. Capuano, Mr. Sanders, Ms. Pelosi, Mr. Abercrombie, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Cummings, Mr. Faleomavaega, Mr. Crowley, Ms. Jackson-Lee of Texas, Mr. Weiner, Ms. Hooley of Oregon, Mr. McNulty, Ms. Waters, Mrs. Jones of Ohio, Ms. McKinney, Ms. McCarthy of Missouri, Mrs. Maloney of New York, Mr. Filner, Mr. Waxman, Mr. Jefferson, Ms. Kaptur, Mr. Rangel, Mrs. Capps, Mr. Sandlin, Ms. Eddie Bernice Johnson of Texas, Mr. Levin, Ms. Schakowsky, Mr. Lipinski, Mrs. Meek of Florida, Ms. Woolsey, Mr. Owens, Ms. Berkley, Mr. Davis of Illinois, Mrs. Lowey, Ms. DeLauro, Mrs. Thurman, Mr. Mica, Mr. Gonzalez, Ms. Norton, Mr. Bonior, Ms. Rivers, Ms. Kilpatrick, Ms. Brown of Florida, Ms. Roybal-Allard, Mr. Mascara, Mr. Wu, Ms. Lee, Mr. Frost, Mrs. Napolitano, and Ms. Eshoo):

H.R. 326. A bill to amend the Public Health Service Act to provide for programs regarding ovarian cancer; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana:

H.R. 327. A bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses; to the Committee on Government Reform, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CHRISTENSEN:

H.R. 328. A bill to amend title 46, United States Code, to exempt from inspection certain small passenger vessels that operate in waters of the United States only in the Virgin Islands; to the Committee on Transportation and Infrastructure.

By Mr. CLEMENT (for himself, Mr. Ford, Mr. Gordon, Mr. Hilleary, Mr. Wamp, Mr. Duncan, Mr. Bryant, Mr. Jenkins, and Mr. Tanner):

H.R. 329. A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Nashville, Tennessee; to the Committee on the Judiciary.

By Mr. COX (for himself, Mr. Aderholt, Mr. Armey, Mr. Bachus, Mr. Baker, Mr. Ballenger, Mr. Barcia, Mr. Barr of Georgia, Mr. Bartlett of Maryland, Mr. Barton of Texas, Mr. Bass, Mrs. Biggert, Mr. Blunt, Mr. Boehlert, Mr. Boehner, Mr. Bonilla, Mrs. Bono, Mr. Boucher, Mr. Brady of Texas, Mr. Bryant, Mr. Burr of North Carolina, Mr. Burton of Indiana, Mr. Buyer, Mr. Callahan, Mr. Calvert, Mr. Camp, Mr. Cannon, Mr. Chabot, Mr. Chambliss, Mr. Coble, Mr. Collins, Mr. Combest, Mr. Condit, Mr. Cooksey, Mr. Cramer, Mr. Crane, Mr. Crenshaw, Mrs. Cubin, Mr. Cunningham, Mr. Deal of Georgia, Mr. DeLay, Mr. DeMint, Mr. Diaz-Balart, Mr. Doolittle, Mr. Dreier, Mr. Duncan, Ms. Dunn, Mrs. Emerson, Mr. English, Mr. Everett, Mr. Fletcher, Mr. Foley, Mr. Fossella, Mr. Frelinghuysen, Mr. Gallegly, Mr. Gekas, Mr. Gibbons, Mr. Gillmor, Mr. Gilman, Mr. Goodlatte, Mr. Goode, Mr. Goss, Mr. Graham, Ms. Granger, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Grucci, Mr. Hall of Texas, Mr. Hansen, Ms. Hart, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hefley, Mr. Herger, Mr. Hilleary, Mr. Horn, Mr. Hostettler, Mr. Hulshof, Mr. Hunter, Mr. Hutchinson, Mr. Hyde, Mr. Isakson, Mr. Istook, Mr. Jenkins, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mrs. Kelly, Mr. King, Mr. Knollenberg, Mr. Kolbe, Mr. LaHood, Mr. Largent, Mr. Latham, Mr. LaTourette, Mr. Lewis of California, Mr. Lewis of Kentucky, Mr. Linder, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. Manzullo, Mr. McCrery, Mr. McHugh, Mr. McInnis, Mr. McKeon, Mr. Mica, Mr. Miller of Florida, Mr. Gary Miller of California, Mr. Moran of Kansas, Mrs. Myrick, Mr. Nethercutt, Mr. Ney, Mrs. Northup, Mr. Norwood, Mr. Ose, Mr. Oxley, Mr. Paul, Mr. Peterson of Pennsylvania, Mr. Pickering, Mr. Pitts, Mr. Pombo, Ms. Pryce of Ohio, Mr. Radanovich, Mr. Ramstad, Mr. Riley, Mr. Rogers of Michigan, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mrs. Roukema, Mr. Royce, Mr. Ryan of Wisconsin, Mr. Ryun of Kansas, Mr. Saxton, Mr. Scarborough, Mr. Schaffer, Mr. Sensenbrenner, Mr. Sessions, Mr. Shadegg, Mr. Shaw, Mr. Shimkus, Mr. Simpson, Mr. Skeen, Mr. Smith of Texas, Mr. Smith of Michigan, Mr. Souder, Mr. Spence, Mr. Stearns, Mr. Stump, Mr. Sununu, Mr. Sweeney, Mr. Tancredo, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Terry, Mr. Thornberry, Mr. Thune, Mr. Tiahrt, Mr. Toomey, Mr. Traficant, Mr. Upton, Mr. Vitter, Mr. Walden of Oregon, Mr. Walsh, Mr. Wamp, Mr. Watkins, Mr. Watts of Oklahoma, Mr. Weldon of Pennsylvania, Mr. Weldon of Florida, Mr. Whitfield, Mr. Wicker, Mrs. Wilson, Mr. Wolf, and Mr. Young of Alaska):

H.R. 330. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. Pitts, Mr. Paul, Mr. Miller of Florida, and Mr. Gary Miller of California):

H.R. 331. A bill to provide that the Davis-Bacon Act shall not apply to contracts for the construction and repair of schools and libraries, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DEFAZIO (for himself and Ms. Slaughter):

H.R. 332. A bill to amend title 49, United States Code, to improve consumers' access to airline industry information, to promote competition in the aviation industry, to protect airline passenger rights, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEKAS (for himself, Mr. Sensenbrenner, Mr. Boucher, Mr. Moran of Virginia, Mr. Armey, Mr. Chabot, Mr. Graham, Mr. Barr of Georgia, Mr. Andrews, Mr. Barton of Texas, Mr. Bentsen, Mr. Bereuter, Ms. Berkley, Mr. Burton of Indiana, Mr. Buyer, Mr. Camp, Mr. Castle, Mr. Cooksey, Mr. Cramer, Mr. Cunningham, Mrs. Davis of California, Mr. Dooley of California, Mr. Dreier, Mr. Ehrlich, Mr. English, Mr. Foley, Mr. Frost, Mr. Goode, Mr. Goodlatte, Mr. Hilleary, Mr. Holden, Ms. Eddie Bernice Johnson of Texas, Mrs. Kelly, Mr. Kleczka, Mr. Linder, Mr. Lucas of Kentucky, Mr. Maloney of Connecticut, Mr. Menendez, Mrs. Myrick, Mr. Nethercutt, Mrs. Northup, Mr. Oxley, Ms. Pryce of Ohio, Mr. Rothman, Mr. Royce, Mr. Simpson, Mr. Sisisky, Mr. Smith of Michigan, Mr. Smith of Washington, Mr. Stump, Mr. Sununu, Mr. Sweeney, Mrs. Tauscher, Mr. Terry, Mr. Upton, Mr. Weldon of Florida, and Mr. Weller):

H.R. 333. A bill to amend title 11, United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO:

H.R. 334. A bill to increase burdensharing for the United States military presence in the Persian Gulf region; to the Committee on International Relations, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEMINT (for himself, Mr. Portman, Mrs. Johnson of Connecticut, Mr. Schaffer, and Mr. Goode):

H.R. 335. A bill to provide for the establishment of a commission to review and make recommendations to Congress on the reform and simplification of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. DOYLE (for himself, Mr. Baldacci, Mr. Borski, Mr. Brady of Pennsylvania, Mr. Coyne, Mr. Evans, Mr. Gekas, Mr. Holden, Mr. Kanjorski, Mr. Larson of Connecticut, Mr. Mascara, Mr. Murtha, and Mr. Pascrell):

H.R. 336. A bill to amend title 38, United States Code, to enhance outreach programs carried out by the Department of Veterans Affairs to provide for more fully informing eligible surviving spouses and dependents of deceased veterans of benefits available to them under laws administered by the Secretary of Veterans Affairs and to improve assistance provided at local levels by providing for staff with specific responsibilities to assist those individuals in obtaining benefits under those laws; to the Committee on Veterans' Affairs.

By Mrs. EMERSON (for herself and Mr. Berry):

H.R. 337. A bill to amend the Food Security Act of 1985 to increase the maximum amount of marketing loan gains and loan deficiency payments that an agricultural producer may receive during the 2001 crop year; to the Committee on Agriculture.

By Mrs. EMERSON (for herself and Mr. Berry):

H.R. 338. A bill to amend the Food Security Act of 1985 to increase the maximum amount of marketing loan gains and loan deficiency payments that an agricultural producer may receive during each of crop years 2001 and 2002; to the Committee on Agriculture.

By Mr. ENGEL (for himself, Mr. Frost, Mr. Hilliard, Mr. Weiner, Mr. Nadler, and Mr. McNulty):

H.R. 339. A bill to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under part B of the Medicare Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. Kildee, Mr. Andrews, Mr. Baldacci, Mr. Bonior, Mr. Brown of Ohio, Mr. Conyers, Mr. Cummings, Mr. Delahunt, Ms. DeLauro, Mr. Dingell, Mr. Fattah, Mr. Filner, Mr. Frost, Mr. Green of Texas, Mr. Hinchey, Mr. Hinojosa, Mr. Holt, Mr. Kind, Mr. Kucinich, Mrs. McCarthy of New York, Ms. McCollum, Mr. McDermott, Mr. McGovern, Ms. Millender-McDonald, Mrs. Mink of Hawaii, Mr. Nadler, Mr. Owens, Mr. Payne, Ms. Pelosi, Mr. Rodriguez, Mr. Reyes, Mr. Rush, Ms. Sanchez, Mr. Scott, Ms. Solis, Mr. Stark, Mr. Tierney, Mr. Udall of New Mexico, Ms. Velázquez, Ms. Woolsey, Ms. DeGette, Mr. Kennedy of Rhode Island, Mr. Towns, Mr. Engel, and Mr. DeFazio):

H.R. 340. A bill to amend the Elementary and Secondary Education Act of 1965 to improve the quality of public education and raise student achievement by increasing investment, strengthening accountability, raising standards for teachers, improving professional development and teacher compensation, rewarding successful schools, and providing better information to parents, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FORD:

H.R. 341. A bill to amend the Elementary and Secondary Education Act of 1965 to authorize school construction funds for local educational agencies that have made improvements in teacher quality and student achievement; to the Committee on Education and the Workforce.

By Mr. FORD:

H.R. 342. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a full tax deduction for higher education expenses and interest on student loans; to the Committee on Ways and Means.

By Mr. FRANK:

H.R. 343. A bill to amend the Higher Education Act of 1965 to provide for the forgiveness of Perkins loans to members of the armed services on active duty; to the Committee on Education and the Workforce.

By Mr. FRANK:

H.R. 344. A bill to amend titles II and XVIII of the Social Security Act to eliminate the 5-month waiting period which is presently required in order for an individual to be eligible for benefits based on disability or for the disability freeze and to eliminate the 24-month waiting period for disabled individuals to become eligible for Medicare benefits; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROEMER (for himself, Mr. Dooley of California, Mr. Smith of Washington, Mr. Bentsen, Mr. Carson of Oklahoma, Mr. Clement, Mr. Cramer, Mr. Davis of Florida, Mrs. Davis of California, Ms. Harman, Mr. Israel, Mr. Kind, Mr. Larsen of Washington, Mrs. McCarthy of New York, Mr. Moran of Virginia, Mr. Schiff, and Mrs. Tauscher):

H.R. 345. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GREEN of Texas:

H.R. 346. A bill to amend the Communications Act of 1934 to provide for the use of unexpended universal service funds in low-income schools, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GREEN of Texas:

H.R. 347. A bill to require the Federal Trade Commission to prescribe regulations to protect the privacy of personal information collected from and about individuals on the Internet, to provide greater individual control over the collection and use of that information, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUTIERREZ:

H.R. 348. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatamala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

By Mr. HAYWORTH:

H.R. 349. A bill to amend title 5, United States Code, to provide competitive civil service status for National Guard technicians who are involuntarily separated other than for cause from National Guard service; to the Committee on Government Reform.

By Mr. HEFLEY:

H.R. 350. A bill to establish certain requirements relating to the acquisition, transfer, or disposal of public lands managed by the Bureau of Land Management, and for other purposes; to the Committee on Resources.

By Mr. HEFLEY:

H.R. 351. A bill to amend the Internal Revenue Code of 1986 to extend to civilian employees of the Department of Defense serving in combat zones the tax treatment allowed to members of the Armed Forces serving in combat zones; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 352. A bill to establish certain privileges and immunities for information disclosed as part of a voluntary self-evaluation of compliance with environmental requirements, relating to compliance with environmental laws, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, Agriculture, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA (for himself, Mr. Chambliss, Mr. DeMint, Mr. Gutknecht, Mr. Hayworth, Mr. Sam Johnson of Texas, Mr. Norwood, Mr. Paul, Mr. Ryun of Kansas, Mr. Shadegg, Mr. Tancredo, Mrs. Biggert, Mr. Doolittle, Mr. Hutchinson, Mr. Jones of North Carolina, Mr. Pitts, Mr. Schaffer, Mr. Sununu, Mr. Upton, Mr. Rohrabacher, Mr. Royce, Mr. DeLay, Mr. Blunt, and Mr. Collins):

H.R. 353. A bill to require the Comptroller General of the United States to conduct a comprehensive fraud audit of the Department of Education; to the Committee on Education and the Workforce.

By Mr. HUTCHINSON (for himself, Mr. Hastings of Florida, Mr. Foley, Mr. Udall of Colorado, Mr. McHugh, Mr. McIntyre, Mr. Green of Texas, Mr. English, and Mr. Goodlatte):

H.R. 354. A bill to establish a grant program to assist State and local governments with improving the administration of elections through activities which may include the modernization of voting procedures and equipment, and for other purposes; to the Committee on House Administration.

By Mr. JONES of North Carolina (for himself and Mr. Hostettler):

H.R. 355. A bill to amend the Internal Revenue Code of 1986 with respect to nonprofit organizations; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. Duncan, and Mr. Hansen):

H.R. 356. A bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island (for himself and Ms. Brown of Florida):

H.R. 357. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Mr. KENNEDY of Rhode Island (for himself, Mr. McGovern, Mr. Langevin, and Mr. Neal of Massachusetts):

H.R. 358. A bill to authorize appropriations for the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes; to the Committee on Resources.

By Mr. KOLBE:

H.R. 359. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon National Park and certain other units of the National Park System to secure bonds for capital improvements to these parks, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY of New York:

H.R. 360. A bill to amend the Public Health Service Act to establish a program of research regarding the risks posed by the presence of dioxin, synthetic fibers, and other additives in feminine hygiene products, and to establish a program for the collection and analysis of data on toxic shock syndrome; to the Committee on Energy and Commerce.

By Mrs. MALONEY of New York (for herself and Mr. Greenwood):

H.R. 361. A bill to provide for international family planning funding for the fiscal year 2002, and for other purposes; to the Committee on International Relations.

By Ms. McCARTHY of Missouri (for herself, Mr. Skelton, Mr. Moore, Mr. Lantos, and Mr. Graves):

H.R. 362. A bill to ensure that law enforcement agencies determine, before the release or transfer of a person, whether that person has an outstanding charge or warrant, and for other purposes; to the Committee on the Judiciary.

By Mr. McNULTY:

H.R. 363. A bill to amend title 49, United States Code, to grant the State of New York authority to allow tandem trailers to use Interstate Route 787 between the New York State Thruway and Church Street in Albany, New York; to the Committee on Transportation and Infrastructure.

By Mrs. MEEK of Florida (for herself and Ms. Ros-Lehtinen):

H.R. 364. A bill to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office"; to the Committee on Government Reform.

By Mr. MOORE (for himself, Mr. Frost, Ms. Berkley, Mr. Blumenauer, Mr. Filner, Mr. Hinchey, Mr. Maloney of Connecticut, Mr. Sherman, and Mr. Ross):

H.R. 365. A bill to amend the Federal Election Campaign Act of 1971 to require persons making certain campaign-related telephone calls to disclose the identification of the person financing the call, and for other purposes; to the Committee on House Administration.

By Mr. MOORE (for himself and Mr. Frost):

H.R. 366. A bill to amend title 18, United States Code, to make unlawful the knowing dissemination of false information regarding elections for Federal office with the intent of discouraging another person from voting; to the Committee on the Judiciary.

By Mr. NADLER:

H.R. 367. A bill to promote the health and safety of children by requiring the posting of Consumer Product Safety Commission child care center safety standards in child care centers and by requiring that the Secretary of Health and Human Services report to Congress with recommendations to promote compliance with such standards; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. Bartlett of Maryland, Mr. Norwood, and Mr. Schaffer):

H.R. 368. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for tuition and related expenses for public and nonpublic elementary and secondary education; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. Baker, Mr. Bartlett of Maryland, Mr. Bishop, Mr. Hinchey, Mr. Isakson, Ms. McKinney, Mr. Miller of Florida, Mr. Norwood, Mr. Schaffer, Mr. Radanovich, Mr. Udall of New Mexico, and Mr. Upton):

H.R. 369. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. Bartlett of Maryland, and Mr. Norwood):

H.R. 370. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for amounts contributed to charitable organizations which provide elementary or secondary scholarships and for contributions of, and for, instructional materials and materials for extracurricular activities; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 371. A bill to amend the Individuals with Disabilities Education Act relating to the minimum amount of State grants for any fiscal year under part B of that Act; to the Committee on Education and the Workforce.

By Ms. RIVERS:

H.R. 372. A bill to prevent Members of Congress from receiving any automatic pay adjustment which might otherwise take effect in 2002; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan (for himself, Mr. Grucci, Mr. Simmons, Mr. Flake, Mr. Tiberi, Mr. Crenshaw, Mr. Rehberg, Mr. Brown of South Carolina, and Mr. Akin):

H.R. 373. A bill to amend the concurrent resolution on the budget for fiscal year 2001 to protect Social Security surpluses; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 374. A bill to establish a National Commission to Eliminate Waste in Government; to the Committee on Government Reform.

By Mr. ROYCE (for himself, Mr. Pitts, and Mr. Rohrabacher):

H.R. 375. A bill to dismantle the Department of Commerce; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Financial Services, International Relations, Armed Services, Ways and Means, Government Reform, the Judiciary, Science, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 376. A bill to abolish the Department of Energy; to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Science, Government Reform, Rules, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 377. A bill to amend the Internal Revenue Code of 1986 to provide additional incentives for the use of clean-fuel vehicles by businesses within empowerment zones, enterprise communities, and renewal communities; to the Committee on Ways and Means.

By Mr. SERRANO:

H.R. 378. A bill to amend the Internal Revenue Code of 1986 to provide for designation of overpayments and contributions to the United States Library Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. PAUL, and Mr. PETRI):

H.R. 379. A bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Mr. MEEHAN, Mr. WAMP, Mr. LEVIN, Mr. CASTLE, Mr. DINGELL, Mr. HORN, Mrs. MALONEY of New York, Mr. GILMAN, Mr. FARR of California, Mrs. ROUKEMA, Mr. BONIOR, Mr. GALLEGLY, Mr. GEPHARDT, Mr. HOUGHTON, Mr. ALLEN, Mr. GREENWOOD, Mr. HOYER, Mr. GILCHREST, Mr. STENHOLM, Mrs. MORELLA, Ms. DELAURO, Mr. LATOURETTE, Mr. LEWIS of Georgia, Mr. BOEHLERT, Mr. FRANK, Mr. BASS, Mr. GEORGE MILLER of California, Mr. GILLMOR, Ms. RIVERS, Mrs. JOHNSON of Connecticut, Mrs. CAPPS, Mr. LEACH, Mr. DOOLEY of California, Mr. RAMSTAD, Mr. CARDIN, Mr. LOBIONDO, Mr. TURNER, Mr. GANSKE, Mr. BARRETT, Mrs. KELLY, Mr. TIERNEY, Mr. FOLEY, Mr. PRICE of North Carolina, Mr. WALSH, Mr. KIND, Mr. FRELINGHUYSEN, Mr. NADLER, Mr. OSE, Mr. SHERMAN, Mr. KIRK, Mr. STARK, Mr. SIMMONS, Mr. BRADY of Pennsylvania, Mr. BALDACCI, Mr. MORAN of Virginia, Mr. SMITH of Washington, Mr. LUTHER, Mr. MALONEY of Connecticut, Mr. WAXMAN, Mr. POMEROY, Mr. CLEMENT, Mr. LANTOS, Mr. PALLONE, Mr. HINCHEY, Mr. BLUMENAUER, Mr. WEXLER, Mr. MCGOVERN, Mr. MARKEY, Mr. ROTHMAN, Mr. PASCRELL, Mr. KANJORSKI, Mr. ACKERMAN, Mr. DAVIS of Florida, Mr. HOLT, Mr. GREEN of Texas, Mr. KLECZKA, Ms. KILPATRICK, Ms. ROYBAL-ALLARD, Mrs. TAUSCHER, Mr. SPRATT, Mr. HOEFFEL, Mr. MOORE, Mr. BORSKI, Ms. BALDWIN, Mr. UDALL of New Mexico, Ms. CARSON of Indiana, Ms. MCCARTHY of Missouri, Mrs. MCCARTHY of New York, Mr. SNYDER, Mr. BAIRD, Mr. GONZALEZ, Mr. INSLEE, Mr. STRICKLAND, Mr. CROWLEY, Ms. ESHOO, Mr. DEFAZIO, Ms. WOOLSEY, Ms. SLAUGHTER, Mr. WEINER, Mr. ABERCROMBIE, Mr. ENGEL, Mr. THOMPSON of California, Mr. FILNER, Mr. LARSON of Connecticut, Mr. UDALL of Colorado, Mr. SANDERS, Ms. BERKLEY, Ms. SCHAKOWSKY, Mr. CAPUANO, Mr. COYNE, Mr. BECERRA, Mr. BLAGOJEVICH, Mr. EVANS, Mr. UNDERWOOD, Mr. DELAHUNT, Mr. LAFALCE, Mr. WU, Mr. KUCINICH, Mr. GORDON, Mr. SCHIFF, Ms. HARMAN, Mr. RANGEL, Mrs. DAVIS of California, Mr. VISCLOSKY, Mr. LARSEN of Washington, Mr. RODRIGUEZ, Ms. HOOLEY of Oregon, Mr. REYES, Mr. MCNULTY, Mr. CLAY, Mr. ROSS, Mr. BROWN of Ohio, Mr. MCDERMOTT, Mr. CARSON of Oklahoma, Mr. PASTOR, Mr. KENNEDY of Rhode Island, Mr. HOLDEN, Mr. BERRY, Ms. MCCOLLUM, Mr. LANGEVIN, Mrs. CLAYTON, Mr. SAWYER, Ms. PELOSI, Mr. ISRAEL, Mr. SAXTON, Ms. LOFGREN, and Ms. DEGETTE):

H.R. 380. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Education and the Workforce, Government Reform, the Judiciary, Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 381. A bill to prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Commerce.

By Mr. STEARNS (for himself, Mr. BARTLETT of Maryland, Mr. HALL of Texas, Mr. SMITH of Washington, Mr. NETHERCUTT, Mr. YOUNG of Alaska, Mr. BACHUS, Mr. HOLDEN, Mrs. EMERSON, Mr. HOSTETTLER, Mr. GREEN of Texas, Mr. CRAMER, Mr. COMBEST, Mr. RAHALL, Mr. BARCIA, and Mr. LARSEN of Washington):

H.R. 382. A bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry certain concealed firearms in the State, and to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns; to the Committee on the Judiciary.

By Mr. STEARNS (for himself and Mr. SCHAFFER):

H.R. 383. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid for health insurance and prescription drug costs of individuals; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 384. A bill to establish a national policy of basic consumer fair treatment for airline passengers; to the Committee on Transportation and Infrastructure.

By Mr. TANCREDO (for himself, Mr. STUMP, Mr. SHAYS, Ms. RIVERS, and Mr. RYUN of Kansas):

H.R. 385. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for parental notification and consent prior to enrollment of a child in a bilingual education program or a special alternative instructional program for limited English proficient students; to the Committee on Education and the Workforce.

By Mr. THORNBERRY:

H.R. 386. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to orphan drugs; to the Committee on Energy and Commerce.

By Mr. WEINER:

H.R. 387. A bill to amend the Internal Revenue Code of 1986 to expand the child tax credit; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 388. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to extend energy assistance to households headed by certain senior citizens; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER (for himself, Mr. BENTSEN, Mr. ANDREWS, Mr. ENGEL, Mr. FRANK, Mr. GUTIERREZ, Mr. PRICE of North Carolina, Ms. WOOLSEY, Mr. DAVIS of Illinois, Ms. ESHOO, Mr. FROST, Mrs. LOWEY, Mr. MEEHAN, Mr. SANDERS, and Mr. WYNN):

H.R. 389. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and chapter 89 of title 5, United States Code, to require coverage for the treatment of infertility; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 390. A bill to require the establishment of regional consumer price indices to compute cost-of-living increases under the programs for Social Security and Medicare and other medical benefits under titles II and XVIII of the Social Security Act; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF:

H.R. 391. A bill to require foreign countries to meet certain requirements relating to political freedom, transparency, accountability, and good governance in order to be eligible to receive cancellation or reduction of debt owed to the United States; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX (for himself, Mr. ARMEY, Mr. DELAY, Mr. WATTS of Oklahoma, Ms. PRYCE of Ohio, Mrs. CUBIN, Mr. ADERHOLT, Mr. AKIN, Mr. BACHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BEREUTER, Mrs. BIGGERT, Mr. BILIRAKIS, Mr. BLUNT, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mrs. BONO, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CANNON, Mr. CANTOR, Ms. CAPITO, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mr. COBLE, Mr. COLLINS, Mr. COMBEST, Mr. COOKSEY, Mr. CRANE, Mr. CRENSHAW, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. THOMAS M. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEMINT, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN, Mr. EHLERS, Mr. EHRLICH, Mrs. EMERSON, Mr. ENGLISH, Mr. EVERETT, Mr. FARR of California, Mr. FERGUSON, Mr. FLAKE, Mr. FLETCHER, Mr. FOLEY, Mr. FOSSELLA, Mr. FRELINGHUYSEN, Mr. GALLEGLY, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr.

Gilchrest, Mr. Gillmor, Mr. Gilman, Mr. Goode, Mr. Goodlatte, Mr. Goss, Mr. Graham, Ms. Granger, Mr. Graves, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Grucci, Mr. Gutknecht, Mr. Hansen, Ms. Hart, Mr. Hastert, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hefley, Mr. Herger, Mr. Hilleary, Mr. Hobson, Mr. Hoekstra, Mr. Horn, Mr. Hostettler, Mr. Houghton, Mr. Hulshof, Mr. Hunter, Mr. Hutchinson, Mr. Hyde, Mr. Isakson, Mr. Issa, Mr. Istook, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Johnson of Illinois, Mr. Sam Johnson of Texas, Mrs. Jones of Ohio, Mr. Keller, Mrs. Kelly, Mr. Kennedy of Minnesota, Mr. Kerns, Mr. King, Mr. Kingston, Mr. Kirk, Mr. Knollenberg, Mr. Kolbe, Mr. LaHood, Mr. Largent, Mr. Latham, Mr. LaTourette, Mr. Leach, Mr. Lewis of California, Mr. Lewis of Kentucky, Mr. Linder, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. Manzullo, Mr. McCrery, Mr. McHugh, Mr. McInnis, Mr. McKeon, Mr. Mica, Mr. Miller of Florida, Mr. Moran of Kansas, Mrs. Morella, Mrs. Myrick, Mr. Nethercutt, Mr. Ney, Mrs. Northup, Mr. Gary Miller of California, Mr. Norwood, Mr. Nussle, Mr. Osborne, Mr. Ose, Mr. Otter, Mr. Oxley, Mr. Paul, Mr. Pence, Mr. Peterson of Pennsylvania, Mr. Petri, Mr. Pickering, Mr. Pitts, Mr. Platts, Mr. Pombo, Mr. Portman, Mr. Putnam, Mr. Quinn, Mr. Radanovich, Mr. Ramstad, Mr. Regula, Mr. Rehberg, Mr. Reynolds, Mr. Riley, Mr. Rogers of Kentucky, Mr. Rogers of Michigan, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mrs. Roukema, Mr. Royce, Mr. Ryan of Wisconsin, Mr. Ryun of Kansas, Mr. Saxton, Mr. Scarborough, Mr. Schaffer, Mr. Schrock, Mr. Sensenbrenner, Mr. Sessions, Mr. Shadegg, Mr. Shaw, Mr. Shays, Mr. Sherwood, Mr. Shimkus, Mr. Shuster, Mr. Simmons, Mr. Simpson, Mr. Skeen, Mr. Smith of Michigan, Mr. Smith of New Jersey, Mr. Smith of Texas, Mr. Souder, Mr. Spence, Mr. Stearns, Mr. Stump, Mr. Sununu, Mr. Sweeney, Mr. Tancredo, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Terry, Mr. Thomas, Mr. Thornberry, Mr. Thune, Mr. Tiahrt, Mr. Tiberi, Mr. Toomey, Mr. Upton, Mr. Vitter, Mr. Walden of Oregon, Mr. Walsh, Mr. Wamp, Mr. Watkins, Mr. Weldon of Florida, Mr. Weldon of Pennsylvania, Mr. Weller, Mr. Whitfield, Mr. Wicker, Mrs. Wilson, Mr. Wolf, Mr. Young of Alaska, and Mr. Young of Florida):

H.J. Res. 7. A joint resolution recognizing the 90th birthday of Ronald Reagan; to the Committee on Government Reform.

By Mr. JENKINS (for himself, Mr. Duncan, Mr. English, Mr. Rogers of Michigan, Mr. Simmons, Mr. Nethercutt, Mr. Goode, Mr. Largent, Ms. Hart, Mr. LoBiondo, Mr. Castle, Mrs. Northup, Mr. Schaffer, and Mr. Terry):

H.J. Res. 8. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. NEY:

H. Con. Res. 18. Concurrent resolution providing for an adjournment of the House of Representatives; considered and agreed to.

By Mr. MOORE (for himself and Mr. Stenholm):

H. Con. Res. 19. Concurrent resolution expressing the sense of the Congress that future budget resolutions should maintain our commitment to fiscal responsibility by using agreed-upon surplus, tax, and spending figures; to the Committee on the Budget.

By Mr. PALLONE (for himself, Ms. Pryce of Ohio, Mr. Frost, Mr. Udall of New Mexico, Mr. Pascrell, Mr. Spratt, Mr. Tancredo, Mr. Luther, Mr. Bishop, Mr. Holden, Mr. Shows, Mr. Burton of Indiana, Mr. Hall of Texas, Mr. Abercrombie, Mr. Evans, Mr. Davis of Florida, Mr. Wolf, Mrs. Kelly, Mrs. Meek of Florida, Mr. Neal of Massachusetts, Mr. Gutierrez, Mr. Largent, Ms. Jackson-Lee of Texas, Mr. Shays, Mr. Oberstar, Mr. Rohrabacher, Mrs. McCarthy of New York, Mr. LaTourette, Mr. Kildee, Mr. Borski, Ms. Millender-McDonald, Mr. Bentsen, Mr. Berman, Mrs. Capps, Ms. McKinney, Mr. Fossella, Mr. Baldacci, Mrs. Mink of Hawaii, Mr. Green of Texas, Ms. Kilpatrick, Mr. Hinojosa, Mr. Kucinich, Mrs. Thurman, Mrs. Northup, Mr. Kleczka, Mr. Sandlin, Mr. Bonior, Mr. King, and Mrs. Jones of Ohio):

H. Con. Res. 20. Concurrent resolution expressing support for the goals of Veterans Educate Today's Students (VETS) Day, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BONILLA:

H. Res. 24. A resolution designating majority membership on certain standing committees of the House of Representatives; considered and agreed to.

By Mr. FROST:

H. Res. 25. A resolution designating minority membership on certain standing committees of the House of Representatives; considered and agreed to.

By Mr. BALDACCI (for himself and Mrs. Emerson):

H. Res. 26. A resolution expressing the sense of the House of Representatives regarding the disparity between identical prescription drugs sold in the United States, Canada, and Mexico; to the Committee on Energy and Commerce.

By Mr. DeFAZIO:

H. Res. 27. A resolution strongly urging the President to file a complaint at the World Trade Organization against oil-producing countries for violating trade rules that prohibit quantitative limitations on the import or export of resources or products across borders; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ALLEN:

H.R. 392. A bill for the relief of Nancy B. Wilson; to the Committee on the Judiciary.

By Mrs. CUBIN:

H.R. 393. A bill for the relief of Ashley Ross Fuller; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. LaTourette, Mr. Paul, Mr. Chambliss, Mr. Hayes, Mr. Weldon of Florida, Mr. Blumenauer, Mr. Cantor, Mr. Simpson, Mr. Simmons, Mr. Wicker, Mr. Whitfield, Mr. Maloney of Connecticut, Mr. Calvert, Mr. Hefley, and Mr. Bartlett of Maryland.

H.R. 43: Mr. English and Mr. Green of Wisconsin.

H.R. 79: Mr. Etheridge.

H.R. 80: Mr. LaHood and Mr. Lantos.

H.R. 99: Mr. Paul, Mr. Tancredo, Mr. Crane, Mr. Ehrlich, Mr. Burr of North Carolina, Mr. Frelinghuysen, and Mr. Camp.

H.R. 103: Mr. Paul and Mr. Camp.

H.R. 105: Mr. Paul, Mr. Hefley, and Mr. Schaffer.

H.R. 123: Mr. Schaffer and Mr. Wamp.

H.R. 144: Mr. Peterson of Minnesota.

H.R. 145: Mr. Hilliard.

H.R. 147: Mr. Whitfield, Mr. Pallone, Ms. Hart, Mr. Baldacci, Mr. Holden, Mr. Wynn, Mr. McGovern, Ms. Slaughter, and Mr. Hilliard.

H.R. 148: Ms. DeLauro, Mr. Sandlin, and Mr. Baldacci.

H.R. 154: Mrs. Roukema, Mrs. Tauscher, Ms. Hooley of Oregon, Mr. Cunningham, Mr. Oberstar, Mr. Moore, Mr. Skelton, Mr. King, Mr. Paul, Mr. Snyder, Mr. Frost, Ms. Kilpatrick, Mr. Brown of Ohio, Mr. Dooley of California, Ms. Rivers, Mr. Phelps, Mr. Luther, Mr. Nethercutt, Mr. Costello, Mr. Pitts, Mr. Sensenbrenner, Mr. Stump, Mr. Simmons, Mrs. Davis of California, Mr. Doyle, Mr. Abercrombie, Mr. Boehlert, Mr. Whitfield, Mr. Kind, Mr. Hastings of Washington, Ms. Hart, Ms. Granger, Mr. Calvert, Mr. Green of Wisconsin, Mr. Burton of Indiana, Mrs. Morella, Mr. Meehan, Mr. Sandlin, Mr. Price of North Carolina, Mr. Lewis of Kentucky, Mr. Barcia, Mr. Holden, Mr. Baird, Mrs. Kelly, and Mr. Udall of New Mexico.

H.R. 161: Mr. Sweeney.

H.R. 166: Mrs. Bono, Mr. LaTourette, and Mr. Goodlatte.

H.R. 167: Mr. Paul, Mr. Duncan, Mr. Smith of New Jersey, Mr. Hastings of Washington, and Mr. Burton of Indiana.

H.R. 169: Ms. Jackson-Lee of Texas.

H.R. 179: Mr. Collins, Mr. Gilman, Mr. Jefferson, and Mr. McNulty.

H.R. 190: Mr. Goode, Mr. Callahan, and Mr. Duncan.

H.R. 220: Mr. Duncan.

H.R. 236: Mr. Horn, Mr. Crowley, Mrs. Roukema, Mr. Pombo, Mr. Tiberi, Mr. Burr of North Carolina, Mr. Duncan, Mr. Jenkins, Mr. King, Mr. Shimkus, Mr. Vitter, Mr. Ganske, Mrs. Kelly, Mr. Larson of Connecticut, Mr. Green of Texas, Mrs. Tauscher, Mr. Smith of Texas, Mr. Cooksey, Mr. Shays, Mr. Wolf, Mr. Tancredo, Mr. Hall of Texas, Mr. Kleczka, Mr. Cox, Mr. Chabot, Mr. McHugh, Mr. Meeks of New York, Mr. Blunt, Mrs. Biggert, Mr. Wamp, Mr. Armey, Mr. Schrock, Mr. Hastings of Washington, Ms. Pryce of Ohio, Mr. Reynolds, Mr. Lipinski, Ms. Eddie Bernice Johnson of Texas, Mr. Crane, Mr. Stearns, Mrs. McCarthy of New York, and Mr. Gilchrest.

H.R. 238: Ms. Millender-McDonald and Mr. Matsui.

H.R. 245: Mr. Mascara.

H.R. 267: Mr. Lucas of Kentucky, Mr. Largent, Mr. Rogers of Michigan, Mr. Reynolds, and Mrs. Maloney of New York.

H.R. 279: Mrs. CAPPS.

H.R. 311: Mr. TANCREDO, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. KOLBE, Mrs. ROUKEMA, Mr. HEFLEY, Mr. REYNOLDS, Mr. GREENWOOD, Mr. HILLEARY, Mr. SCHAFFER, Mr. EHRLICH, Mr. LATOURETTE, Ms. HOOLEY of Oregon, Mr. PUTNAM, Mr. NORWOOD, Mr. CHAMBLISS, Mr. PITTS, Mr. COOKSEY, Mr. DUNCAN, Mr. ISAKSON, Mr. BALLENGER, and Mr. KING.

H. Con. Res. 4: Mrs. ROUKEMA, Mr. PALLONE, Mr. QUINN, Mr. MCGOVERN, Mr. FILNER, Mr. LATOURETTE, Mr. MARKEY, Mr. KING, Ms. JACKSON-LEE of Texas, Ms. HART, Mr. KUCINICH, and Mr. LOBIONDO.

H. Con. Res. 8: Mr. SWEENEY, Mr. KING, and Ms. PRYCE of Ohio.

H. Con. Res. 15: Mr. GEPHARDT, Mr. BLAGOJEVICH, and Mr. BROWN of Ohio.

H. Res. 11: Ms. ROYBAL-ALLARD, Mr. DEFAZIO, Mr. BROWN of Ohio, Mr. GONZALEZ, and Mr. UDALL of New Mexico.

H. Res. 17: Ms. MCKINNEY, Mr. DEFAZIO, and Mr. FRANK.

SENATE—*Wednesday, January 31, 2001*

The Senate met at 10 a.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God, our help in ages past and our hope for years to come, we thank You for our Constitution and the stability and strength it has provided for our beloved Nation. Today, we gratefully remember the life and leadership of Gouverneur Morris, born on this day in 1752. We prayerfully recall that he was the writer of the final draft of the Constitution, the head of the Committee on Style, and the originator of the phrase, "We the people of the United States."

Thank You for the impact of Mr. Morris, who at the age of thirty-five became a member of the Continental Congress and spoke 173 times during the Constitutional debates, more than any other delegate. We honor his memory, not just for the quantity of his words but for their quality. In particular, we are moved by his conviction about You. "There is one Comforter," he said "who weighs our Minutes and Numbers out our Days." About the importance of a strong faith in You he said, "Religion is the only solid basis of good morals; therefore education should teach the precepts of religion, and the duties of man toward God." May we never forget that "morality is truth in full bloom." Father, keep America rooted in Your moral absolutes. You are our Judge and Redeemer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK, a Senator from the State of Kansas, led the pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 31, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the assistant majority leader, the Senator from Oklahoma, Mr. NICKLES.

SCHEDULE

Mr. NICKLES. Mr. President, today the Senate will be in a period of morning business until 10:30, with Senators BROWNBACK and DURBIN in control of the time. Following morning business, the Senate will proceed to executive session to consider the nomination of John Ashcroft to be the Attorney General of the United States. Debate on the nomination will be the business of the day, and the Senate will remain in session into the evening to allow all Members adequate time to discuss this nomination. It is hoped a vote on the confirmation of John Ashcroft will occur early in Thursday's session. Senators will be notified as that vote is scheduled.

I thank my colleagues for their attention.

MEASURE PLACED ON THE CALENDAR—S. 220

Mr. NICKLES. Mr. President, I understand there is a bill at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 220) to amend title 11 of the United States code, and for other purposes.

Mr. NICKLES. Mr. President, I object to further reading of this bill at this time.

The ACTING PRESIDENT pro tempore. Under the rule, the bill will be placed on the calendar.

DEBATE ON THE ASHCROFT NOMINATION

Mr. NICKLES. Mr. President, I also wish to bring to the attention of my colleagues the fact we had significant debate on this last night. Senator SESSIONS did an outstanding job in making his presentation. I encourage colleagues to review his statements and encourage all colleagues who wish to speak on this nomination to come to the floor early and make their statements so we can confirm John Ashcroft, or have a vote on his confirmation by tomorrow.

Mr. REID. Mr. President, if I could ask my colleague to yield for a brief interruption.

Mr. NICKLES. I yield.

Mr. REID. Thank you, Mr. President. I thank my friend from Oklahoma. I know how important his statement is. I know how much of a tragedy the State of Oklahoma and everyone in the country suffered.

But I did want to say before we left the floor that we agree with the Senator that the debate should go forward in full flow, and I say to the Democratic Senators within the sound of my voice, this could be a very late night. We have a lot of people on the Democratic side who want to speak on this nomination. They are going to have that opportunity.

We did not do as much talking as probably should have taken place last night. We completed our work at 7 o'clock. We expected to go to 9. I think tonight we will go at least until 9 or 10 o'clock.

I say to Democratic Senators, they should be prepared because there may not be a tomorrow. I know there are efforts around here to move this forward. We have completed 14 of the 15 nominations that had been sent to us by the President, which is a record-setting pace. We want to move forward on the Ashcroft nomination as quickly as we can. We hope it does not have to go into next week. We will need cooperation from the Republican side. We are going to do the best we can to have somebody in place just as quickly as we can.

I, again, apologize for interrupting my friend, but I appreciate his allowing me to do so.

Mr. NICKLES. I appreciate my colleague's comments. I echo that. I encourage all Senators who wish to speak on the Ashcroft nomination to come to the floor earlier today, rather than later today. It was a little regrettable because I think both leaders had stated publicly we intended to be in session late last night for this nomination. But we could not get additional speakers so we adjourned earlier than planned. I thank my friend and colleague from Nevada.

I might also add when he said we moved forward expeditiously, I am pleased we have confirmed all but one nominee. But I might remind my colleagues, 8 years ago every Clinton nominee was confirmed by January 22, unanimously, by voice—every single one. The only one that was not was the Attorney General, and the reason for that was that the Clinton administration had withdrawn a couple of nominees. The eventual nominee for Attorney General, Janet Reno, was confirmed 98–0 after very short debate.

I just make those points to clarify the record. Eight years ago Congress moved very expeditiously to confirm all nominees. All were confirmed by January 21—by voice vote, I might add. The only recorded vote was Janet Reno and that was 98–0.

THE OKLAHOMA STATE UNIVERSITY PLANE CRASH

Mr. NICKLES. Mr. President, tragedy struck my State, as members of the Oklahoma State basketball team and news organizations were killed in a tragic plane crash just outside of Denver.

Of course any plane crash is not anticipated, but this was especially painful and tragic because it snuffed out the lives of 10 outstanding individuals, who were well known on campus and throughout the state. Two team members were killed. They were outstanding athletes.

Eight other individuals that were on the plane were a part of the team in various capacities and it is a real tragedy, a tragedy to our State and to our university.

Today there is a memorial service taking place at Oklahoma State University to memorialize these 10 exceptional individuals.

One of the individuals was Nate Fleming. His sister served as an intern in my office. He was a nephew of one of my best friends and an outstanding athlete. Nate was a National Honor Society member and valedictorian of his class. He was only 20 years old.

Another team member, Daniel Lawson, 21, was a junior and played guard. He was originally from Detroit, Michigan. Another was Pat Noyes, 27. Pat was director of basketball operations at Oklahoma State University.

Brian Luinstra, 29, the athletic trainer, leaves a wife and two children.

Will Hancock, 31, was in his fifth year as coordinator of media relations. His wife, Karen, is the coach of the OSU women's soccer team and they had their first child just this last November.

Jared Weiberg, 22, was a student manager and nephew of the Big 12 commissioner, Kevin Weiberg. Jared was a part of the team and will most certainly be missed by all.

Bill Teegins, 48, was the play-by-play voice of the Oklahoma State University Cowboys for many seasons and was sports director for Channel 9 in Oklahoma City. He was honored several times as sportscaster of the year. He was known by everyone across the state and needless to say, he did an outstanding job.

Kendall Durfey, 38, was a producer and engineer for the OSU radio network. Denver Mills, the pilot, from Oklahoma City, was well liked and was a great aviator.

Bjorn Falistrom was the copilot, originally from Sweden.

This is a real loss for their families, for Oklahoma State University, for Oklahoma and the nation. The contributions these individuals made to the State and to the University will always be remembered. We extend our condolences to Coach Sutton and to President James Halligan and the extended family of Oklahoma State University. It is with deep sadness that we extend our prayers to their families, and to their friends in mourning such a great loss. Certainly, they will be missed.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator from Oklahoma for his eloquent statement.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

The ACTING PRESIDENT pro tempore. The Senator from Kansas, Mr. BROWNBACK.

Mr. BROWNBACK. Mr. President, I believe under a previous agreement I have 15 minutes allocated to me; is that correct?

The ACTING PRESIDENT pro tempore. The Senator was to have until 10:15. It is now 10:12.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Reserving the right to object, and I will not object, but I want to reserve 15 minutes in morning business after Senator BROWNBACK.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas is recognized for 15 minutes.

Mr. BROWNBACK. I thank the Chair.

MOMENT OF SILENCE

Mr. BROWNBACK. Mr. President, I note with sadness what took place at Oklahoma State. That was a terrible tragedy. I was reading about it in our papers in Kansas. That happened to Wichita State University about 30 years ago. It still has not really healed. Somehow when you take that young life and that vibrant seed with the team, it really grabs a hole out of you that takes a long time to fill.

My thoughts immediately turned to Wichita State when that happened to Oklahoma State. My thoughts and prayers are with the Senator and with Oklahoma.

Mr. President, I wonder if it would be appropriate to have a moment of silent prayer for Oklahoma, for the tragedy they have experienced.

The ACTING PRESIDENT pro tempore. There will be a moment of silence in the Chamber in memory of those who died.

(Moment of silence.)

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

AMERICA NEEDS A TAX CUT

Mr. BROWNBACK. Mr. President, I rise today to speak on a different issue, one of great importance and one I think we are going to see take place, and that is overdue tax relief for the American people.

The Congressional Budget Office has just announced the 10-year budget surplus projection has increased to $5.6 trillion. When I came to the House of Representatives in 1994, it would have been hard to fathom numbers of this nature, but through fiscal restraint, a plan put in place to limit the amount of spending over a period of years, and a healthy, growing economy, we are now to the point where we are projecting and experiencing budget surpluses. It is wonderful that we have this opportunity.

I also point out to the American public, in case you are worried the Republicans in Congress are taking their eyes off the ball of fiscal discipline and paying down the debt, we are paying down the debt, and we will continue to pay down the debt.

Over the past 3 years, we paid down over $360 billion of public debt—$360 billion over 3 years. We will continue at that pace, if not greater, of reducing the Federal debt. We are going to continue to do that. But it also is possible, and I suggest necessary, for us to do the needed tax cuts and tax relief the American public deserves. America's taxpayers are overpaying the bill for their Government. More specifically, it is a tax on their success. It is, in fact, a tax on the robust economic growth we have experienced and which now seems to be slowing.

Of the $5.6 trillion, we have already committed to save $2.7 trillion for Social Security, and we should do that. That still leaves almost $3 trillion. This is separate and distinct from the Social Security trust fund. We have put that in a lockbox. The Republican Congress said we are building a lockbox; we are going to put the Social Security surplus in it. That is the $2.7 trillion of Social Security income, leaving $3 trillion over the next 10 years for tax cuts and debt reduction. We can do both. We must do both.

With the announcement by the Congressional Budget Office last week, along with Federal Reserve Chairman Greenspan's comments, there is no longer any credible excuse not to cut taxes for the American people. There is more than enough money to cut taxes, protect Social Security, and continue on our path of debt reduction—the $360 billion paydown we have done over the past 3 years. Americans demand fiscal responsibility, and they deserve a tax cut.

I am hopeful we will be able to pass meaningful tax relief this session, sooner rather than later. I think that is important for the economy, I think it is important for the American people, and it is necessary. We have worked in a bipartisan fashion to balance the budget, to pay down the debt, and protect Social Security. Now we must work in the same fashion to give the American people a tax cut they deserve.

As virtually everyone in the free world knows, our economy is slowing. Some are even concerned we are teetering on the brink of a recession. Recent reports indicate consumer confidence has now dipped to its lowest level since December of 1996, which could have the effect of fueling further fears of a slow downturn into a recession.

The last month and a half has shown the accuracy of President Bush's remarks about the state of the economy as he was in the midst of handling his transition. We now await further action by Chairman Alan Greenspan. It is worthy of note that several of my colleagues on the other side of the aisle have urged the Chairman not to increase interest rates. I think that was correct. However, now it is clear the Fed is changing its direction. In fact, according to many economists, the markets are already assuming a half basis point reduction to be announced at the conclusion of the meeting that began yesterday.

The Federal Reserve is doing its job to strengthen this economy and prevent it from going into a recession. It is now time for Congress to do its job, which is to cut taxes. In fact, I think as a body we need to worry less about the job Mr. Greenspan is doing down the street and more about the job we need to do on Capitol Hill.

Both monetary and fiscal policy needs to be used to keep this economy from going into recession but lift it up. Our part in doing this, as virtually all economists will note, is to cut taxes to help stimulate the economy. We need to pursue a fiscal policy that reflects the needs of Americans and of our economy.

Based on the surplus projections of the Congressional Budget Office, we have the resources available to not only realize our commitment to sound fiscal policy, protecting Social Security, and paying down the debt, but to significantly—and I want to add the point, significantly—reduce the tax burden faced by Americans.

We must cut taxes now for America's working families. In fact, we need to pursue broader and deeper tax cuts than those proposed last week by my colleagues from Texas and Georgia. It is a bipartisan tax cut bill that was put in last week by Senators GRAMM and MILLER.

We must cut taxes for two primary reasons. First, tax cuts are in effect an insurance policy for further economic growth because of the stimulating effect they would have on the economy. Second, tax cuts are good policy not only because they return hard-earned dollars back to the American people—the people who earned the dollars in the first place—but also because they help limit the growth of Government.

If we do not send the surplus back to the American people in the form of tax cuts, Washington's big spenders will use the money to grow the size of Government. It is almost an iron rule of Government; if there is a dollar left on the table around here, it is going to get spent. It needs to go back to the American people because they have overpaid. And it will help stimulate our economy, which is one of the keys of how we have been able to balance the budget and pay down the debt and have a strong economy. If that economy weakens, we are not going to have the tax receipts to be able to pay down the debt or do the things that people would like to do as well. If the markets are any indication, we need to use our fiscal policy now to grow the economy, not to grow the Government.

Today, we are collecting more from hard-working Americans than we have at any point since the conclusion of World War II. Artificially high tax rates used to fund our bloated Federal Government is one reason we are collecting so much revenue from the American people; the growth in the stock market and an increase in entrepreneurial activity is the other.

The American people should not be taxed on success, but that is exactly what we are doing when we impose high rates of taxation, particularly on capital gains. We punish people for innovation, thrift, and hard work, and we penalize them for being successful. We need another reduction in capital gains tax rates to follow on the 1997 reductions.

I want to go to a particular point at this time, and that is the marriage penalty tax that has been in place now for a number of years. Twice in Congress we have passed a bill to repeal it. Now is the time for us to repeal it and get it signed into law by a President who agrees that we should repeal the marriage penalty tax.

We have been taxing people for being married. It is a ridiculous policy. We have discussed it a number of times on the floor. An average American couple, in a two-wage-earner family, pays about $1,500 extra in taxes just for the privilege of being married. It is ridiculous.

Recently, my colleague, Senator KAY BAILEY HUTCHISON, and I introduced a bill to eliminate the marriage penalty. It is now clearly within our grasp to rid the Tax Code of this onerous, ridiculous penalty. I believe we must eliminate this penalty immediately.

Unfortunately, some of the proposals being considered to reduce taxes fail to adequately address the marriage penalty. We need real marriage penalty reduction, not more gimmicks in our Tax Code. We need to double the standard deduction immediately. In fact, I prefer to make it retroactive to January 1 of this year. We also need to double the income subject to the marginal rate brackets for married couples to twice the amount it is for individuals. This accomplishes real marriage penalty relief.

As we move to consideration of a reconciliation bill later this year, I will be pushing for broad-based marriage penalty relief. I am hopeful this Congress, with an enormous on-budget surplus, will be able to accomplish real tax cuts for American families.

The proposal by my colleagues is a good way to start the debate on tax cuts, but I am hopeful we can do more than the $1.6 trillion tax cut. We have $3 trillion that is available, and $2.7 trillion of the Social Security surplus is set aside. We have $3 trillion to pay down debt and to be able to cut taxes. I think we can do better than the $1.6 trillion. I think it will be necessary for us to do that to help to stimulate this economy.

Finally, I believe tax cuts work in part because they do stimulate economic growth and also because they help insure against an economic downturn. We need that insurance policy before the economic situation deteriorates even more.

I would add that there is a positive psychological effect that takes place; when the Federal Reserve reduces the rate it charges by half basis points, there is a psychological point that, OK, the Fed is stepping in and taking action to make sure this economy does not go in recession. Therefore, more people say: Good, that is a positive sign. I am going to watch, and I am going to be maybe a little more positive.

If the Congress would do that similarly with tax cuts, the American people, as well, would say: OK, they are concerned about this economy, but they are taking action. I can see there is light at the end of the tunnel.

We should do that for its economic and stimulative effect on people's positive thinking of what can take place for this economy.

I am hopeful that Congress will pass meaningful tax cuts earlier in this year rather than later. Americans deserve some tax relief. They have waited long enough.

Mr. President, thank you very much for your time. I yield the floor and yield back any time allotted to me.

The ACTING PRESIDENT pro tempore. By the previous order, the Senator from Illinois, Mr. DURBIN, is recognized for 15 minutes.

Mr. DURBIN. Thank you, Mr. President.

TAX CUTS AND THE BUDGET SURPLUS

Mr. DURBIN. Mr. President, it is opportune I am here following my friend and colleague from Kansas, Senator BROWNBACK, to talk about the same issue because I think we both agree on several things, but we may have a little difference of opinion on several others.

Senator BROWNBACK and I came to the House of Representatives at about the same time. We lived through the era of red ink—the terrible deficits and mounting national debt. Many times it appeared we would never get out from under that burden.

I can recall when I first came to the Senate, Senator ORRIN HATCH was at this desk right over here and had stacked up next to the desk all of the budget books for the previous 20 or 30 years, which all showed a deficit. He said: It is time to amend the Constitution for a balanced budget amendment. It is the only way to get Congress to stop its profligate ways and to finally bring balance to our books.

I resisted that amendment. I thought it was overkill and unnecessary. It failed by one vote, and thank goodness it did because the ink had hardly dried in the CONGRESSIONAL RECORD than we started turning the corner. The economy started getting stronger, and we started leaving the deficit era, going into the surplus era. And what a change it has brought about with all of the Americans who are currently working, though there clearly is some downturn in the economy now. Those working Americans, and their families, and their businesses have brought success not only to them personally but also to our Nation's economy. It certainly is reflected in the fact that we now are talking about surpluses.

The obvious question the American people ask of us in the Senate is: If we have more money than we need in Washington, why do you keep it? Why don't you do something good with it? And one of the good things you can do with it is to reduce the tax burden on families.

Senator BROWNBACK suggested that. I agree with him. It is President Bush's plan. It is a democratic plan. If I had to put my money on one thing that is likely to happen this year, there would be some form of a tax cut; and there should be. I think we are at a point in history where it is not only the right thing to do, because there is a surplus, it is the right thing to do for the economy.

Chairman Greenspan at the Federal Reserve appeared before the Senate Budget Committee just a few days ago and basically said he thinks we are at a point where there is no growth in our economy. If you have that situation, basic economics tells you that you try to put some stimulus in the economy to get it moving again. And that would be a lowering of interest rates, which helps everyone who has an adjustable mortgage rate or is paying off a car loan or some credit card loan that is reflective of those interest rates, or you find a fiscal approach; that is, a tax cut that also generates more strength, more activity in the economy.

But I think where there may be a difference between Senator BROWNBACK and myself is on the question of how much we have to spend on the tax cut. What can we afford to put into a tax cut? I am going to use the maximum amount that is reasonable, but let's look at some of the figures that are being used.

This chart shows the projected budget surplus for the next 10 years: $5.7 trillion in a unified surplus. But when we take out the Social Security trust fund—which, incidentally, both parties were very clear in saying: We are not going to raid Social Security to spend or for anybody's tax cut—that takes away $2.7 trillion, so we have a net of $3 trillion in our surplus. Then we take away the Medicare trust fund, which I am sure all of us agree we would not want to raid for spending on other programs, to protect it, and we are now down to a net projected budget surplus for the next 10 years of $2.6 trillion.

Projecting a budget surplus means assuming certain things will happen. There are as many economists in Washington as there are opinions about what might happen to our economy, but most of these projections about a surplus assume certain growth in the economy. They say if we continue to grow, we will continue to generate surplus. If they are wrong, if the economy takes a downturn, there will be less money available, less money for whatever purposes we might consider on the floor of the Senate or in the Federal Government.

Let's take a look at President Bush's proposed tax cut. His proposal is $1.6 trillion, which reflects a 10-year tax cut plan. There is also an element in the tax law known as the alternative minimum tax. All of us are concerned that the alternative minimum tax has been written in a way that is starting to penalize a lot of families and businesses we never intended to penalize in any way. So reform of the alternative minimum tax appears to be agreed by almost everyone as something we should do. That would cost us another $200 billion over a 10-year period of time.

In addition, if we take money and, instead of buying down the debt of the country, put it into something such as a tax cut, it increases the interest costs that have to be paid on that debt by $400 billion over the same period of time. The true net cost of the Bush tax plan, considering these two scenarios, is $2.2 trillion.

Recall earlier I said that our actual surplus by these estimates will be $2.6 trillion. To put it into some perspective, look at the tax cuts assuming a $2.6 trillion surplus. If we put $2.2 trillion into tax cuts, as President Bush has recommended, literally 85 percent of the surplus will be going exclusively to tax cuts. The remaining $400 billion, 15 percent, would be there and could be used. However, look at all of the things we frankly have to consider out of this $400 billion over 10 years: As to debt reduction—I will get back to that in a moment—we have a $5.7 trillion national debt. I will talk about what it costs us to maintain that debt. The prescription drug benefit under Medicare is going to cost us some money; some suggest $300 billion over 10 years. We are taking this slice of $400 billion and all the things in which we want to invest.

The President has called for more money for education. I like that idea. I think it is a good thing to do. Again, it is coming out of this slice, this 15-percent slice.

He has also asked for more money for defense; we anticipate a need for agriculture as we have in the past; Medicare reform, Social Security reform, and some have even suggested the creation of a rainy day fund to protect our economy and our budget in bad times.

The reason I like to reflect for a moment on the national debt is that we have to consider this as the mortgage that we are leaving our kids. The best thing we can do for our children and grandchildren is to make that debt, that mortgage, as little as possible so they are not burdened with the responsibility and debt of the obligations of our generation.

What does a national debt of $5.7 trillion cost us? Literally, we collect $1 billion a day in Federal taxes from individuals, families, and businesses to pay interest on old debt. That is $1 billion a day that isn't being spent to put a computer in a classroom or to make America's national defense any stronger. It is $1 billion a day which instead is being spent for interest on old debt.

Many of us believe if we truly are at a time of surplus, this is the moment we should seize to pay down that national debt, bring it down as low as we can conceivably bring it so that future generations and our kids and grandkids won't be burdened with this debt and responsibility.

As you pay down the national debt, the competition for money in the marketplace is reduced. The Federal Government is not out there borrowing and servicing debt. Therefore, interest rates tend to come down. Now not only will we be taking the burden off of families who pay $1 billion a day for interest on the old debt, we will also be reducing the interest rates they pay on their homes and their cars and their credit cards. Families win both ways.

Ultimately, this is as good, if not better, in many respects, as a tax cut. It reduces the cost of living for real families facing real difficulties.

Let me speak for a moment about the tax cut itself. There are a variety of ways we can approach this tax cut. Some have suggested cutting marginal rates. That is a shorthand approach to a tax cut which would, in fact, benefit some of the wealthiest people in this country more than working families and middle-income families. That is where I have some difficulty.

I know what is going on in my home State of Illinois now. I know because my wife called me a few weeks ago and said: I just got the first gas bill for the winter. You will never guess what happened. It is up to $400 a month in Springfield, IL. It is about a 40-percent increase in my hometown. I hear this story all over Illinois, all over the country—energy bills up 50 percent, natural gas bills up 70 percent. If we talk about tax cuts, we ought to be thinking about families who are literally struggling with these day-to-day bills. Whether it is the need to heat your home or to pay for a child's college education or perhaps for tuition in a school, should we not focus tax cuts on the working families who struggle to get by every single day?

I always express concern on the Senate floor that we seem to have more sympathy for the wealthiest people in this country than for those who are really struggling every single day to build their families and make them strong. If we are going to have a tax cut—and we should—let's make sure the tax cut benefits those families.

I also want to make certain we protect Social Security and Medicare. If as an outcome of this debate we end up jeopardizing Social Security or Medicare, then we have not met our moral and social obligation to the millions of Americans who have paid into these systems and depend on them to survive.

I believe the good news about the surplus should be realistic news. We should understand that surpluses are not guaranteed. We ought to make certain that any tax cut we are talking about is not at the expense of Social Security and Medicare. We should focus the tax cuts on working families to make sure they are the beneficiaries so that they have the funds they need to make their lives easier. That should be the bottom line in this debate.

As I said at the outset, Democrats and Republicans alike believe these tax cuts are going to happen. I believe it is a good thing to do. Let us pay down this national debt. Let us provide a tax cut for the families who need it. Let's make sure we protect Social Security and Medicare in the process.

I yield back my time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the Ashcroft nomination, which the clerk will report.

The assistant legislative clerk read the nomination of John Ashcroft, of Missouri, to be Attorney General.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President. I am pleased that the Judiciary Committee yesterday evening favorably reported the nomination of Senator John Ashcroft to be the next Attorney General of the United States. I look forward to a fair debate of Senator Ashcroft's qualifications and am hopeful that we could move to a vote on his confirmation this week. It is important that we confirm Senator Ashcroft as soon as possible so that the President has his Cabinet in place and he can move ahead with the people's agenda.

John Ashcroft is no stranger to most of us in this body. We have served with him during his 6 years of service as the Senator representing Missouri, some had worked with him when he was Governor and some others had worked with him when he was the Attorney General of Missouri.

In the Senate, he served on the Judiciary Committee with distinction over the past four years—working closely with members on both sides of the aisle. As a member of the committee, he proved himself a leader in many areas, including the fight against drugs and violence, the assessment of the proper role of the Justice Department, and the protection of victims' rights.

But, having heard the relentless drumbeat of accusation after accusation in recent weeks, I can fairly say, in my view, that there has been an unyielding effort to redefine this man of unlimited integrity. Some have termed the statements made by John Ashcroft, during the nearly four days of hearings in the committee, a "confirmation conversion"—"a metamorphosis."

On the contrary. The true metamorphosis of John Ashcroft is in the misleading picture painted of him by narrow left-wing interest groups. In fact, I welcomed them to the committee, and said: We haven't seen you for 8 years. I think there is a lot to be garnered out of that statement.

As my colleagues are well aware, John Ashcroft has an impressive 30-year record of loyal public service as a state attorney general, a two term Governor, and then—of course—as Senator, for the State of Missouri. I should also mention that as Missouri's attorney general, he was so well respected that he was elected by his peers across the nation to head the National Association of Attorneys General, and again as Governor, he was elected by this nation's governors to serve as the head of the National Governors' Association.

That really defines John Ashcroft rather than some of the accusations that have been thrown against him in the Senate.

I have said this before and I will say it again, of the sixty-seven Attorneys General we have had, only a handful even come close to having some of the qualifications that John Ashcroft brings in assuming the position of chief law enforcement officer of this great nation.

The Department of Justice, of course, encompasses broad jurisdiction. It includes agencies ranging from the Drug Enforcement Administration, the Immigration and Naturalization Service, the U.S. Marshal's Service, the Federal Bureau of Investigation, the United States Attorneys, to the Bureau of Prisons. It includes, among other things, enforcement of the law in areas including antitrust, terrorism, fraud, money laundering, organized crime, drugs, and immigration. To effectively prevent and manage crises in these important areas, one thing is certain: we need, at the helm, a no-nonsense person with the background and experience of John Ashcroft.

Those charged with enforcing the law of the nation must demonstrate both a proper understanding of that law and a determination to uphold its letter and spirit. This is the standard I have applied to nominees in the past, and this is the standard I am applying to John Ashcroft here today in my full-hearted support of his nomination to be the next Attorney General of the United States.

During John Ashcroft's 30-year career in public service, he has worked to establish numerous things to keep Americans safe and free from criminal activities. For example, he has: (1) fought for tougher sentencing laws for serious crimes; (2) authored legislation to keep drugs out of the hands of children; (3) improved our nation's immigration laws; (4) protected citizens from fraud; (5) protected competition in business; (6) supported funding increases for law enforcement; (7) held the first hearings ever on racial profiling; (8) fought for victims' rights in the courts of law and otherwise; (9) helped to enact the violence against women bill; (10) supported provisions making violence at abortion clinics fines non-dischargeable in bankruptcy; (11) authored anti-stalking laws; (12) fought to allow women accused of homicide to have the privilege of presenting battered spouse syndrome evidence in the courts of law. On that point, I should add that as governor, he commuted the sentences of two women who did not have that privilege; (13) signed Missouri's hate crimes bill into law.

I could go on and on. His record is distinguished.

I am getting a little irritated that some even implied that he might be a racist, but all, including the judge for Ronnie White, said they do not believe he is a racist. In fact, he is not. His record proves he is not. I might add that his record proves that he is in the mainstream of our society.

Senator Ashcroft appeared before the Judiciary Committee for two days and answered all questions completely, honestly and with the utmost humility. Over the inaugural weekend, he received over 400 questions. He completely answered these follow-up questions that the Senators both on and off the committee sent to him. He has testified and committed both orally and in writing that he will uphold the laws of the United States, regardless of his religious views on the policy which, within his constitutional duties as a Senator, he may have advocated changing. He understands his role as the chief law enforcement officer of this nation.

Virtually every Senator on the committee and every Senator in this Senate has to admit he has the utmost integrity, honor, dignity, and decency. If that is true, why not give him the benefit of the doubt rather than the other way?

We saw at the four days of hearings that even when he disagreed with the underlying policies, he has an undisputable record of enforcing the laws. This was the case with respect to abortion laws, gun laws, or laws relating to the separation of church and state.

Mr. President, a great number of people have said to me that they are tired of living in fear. They want to go to sleep at night without worrying about the safety of their children or about becoming victims of crime themselves.

As someone who both knows John Ashcroft as a person and who is familiar with his distinguished 30-year record of enforcing and upholding the law, I can tell you that I feel a great sense of comfort and a newfound security in the likely prospect of his confirmation to be our nation's chief law enforcement officer.

Mr. President, as I told my committee colleagues last night, we have served with John Ashcroft, and we know that he is a man of integrity, committed to the rule of law and the Constitution. We know that he is a man of compassion, faith, and devotion to family. We know that he is a man of impeccable credentials and many accomplishments.

Some have charged that we are asking that the Senate apply a different standard to John Ashcroft than other nominees because he was a member of this cherished body. Let me be clear. I am not asking nor advocating that a standard be applied to his nomination that is different than that which is applied to other nominees. I am simply saying that you have worked with him and know him to be a man of his word. He is not the man unfairly painted as an extremist by the left-wing activists who have reportedly threatened Senators in their re-election bids if they vote for his confirmation.

They present a man that none of us really know. They have distorted his record and impugned his character and have exaggerated their case.

I am saying that a nominee, especially one we all personally know to be a man of deep faith and integrity, deserves to be given the benefit of the doubt when he commits to us under oath that he will enforce and uphold the rule of law regardless of his personal or religious beliefs.

Mr. President, that is the benefit we accorded General Reno, President Clinton's nominee 8 years ago. She was pro-abortion, she had said so. She was anti-death penalty, she had said so. On both of these issues, among others, she had a totally different ideological view than almost all of the Republican Senators serving at the time. But she committed to uphold the laws of the land, regardless of her personal views. and we accorded her the benefit of the doubt which I believe President Bush's nominee similarly deserves, especially since we all know him.

I ask that we evaluate this man based on his record, his testimony, and based on your personal experiences with him. We know John Ashcroft is not an extremist. That is the image of him that has been painted through a vicious campaign by a well organized group of left-wing special interest activists.

They have a right to be active. They have a right to complain. They have a right to find fault. They have a right to present their case. But they do not have a right to impugn a man's integrity, or distort his record, which I think they have done.

Sometimes in life, though, the measure of a person is best seen in times of adversity. So it is with John Ashcroft who, after a difficult battle for something that meant a great deal to him—re-election to the Senate—resisted calls to challenge the outcome of that election. His own words during this difficult time say it best:

> Some things are more important than politics, and I believe doing what's right is the most important thing we can do. I think as public officials we have the opportunity to model values for our culture—responsibility, dignity, decency, integrity, and respect. And if we can only model those when it's politically expedient to do so, we've never modeled the values, we've only modeled political expediency.

Contrary to what a few special interest groups with a narrow political agenda would have us believe, these are not the words of an extremist or a divisive ideologue. These are the words of a fine public servant who is a man of his word and of faith and who is willing to do the right thing, even when it means putting himself last.

Mr. President, John Ashcroft, like many of us, is a man of strongly held views. I have every confidence, based on his distinguished record, that as Attorney General, he will vigorously work to enforce the law—whether or not the law happens to be consistent with his personal views.

Mr. President, as I asked my colleagues in the Judiciary Committee, I ask that in keeping with our promise to work in a bipartisan fashion, we reject the politics of division. If we want to encourage the most qualified citizens to serve in government, we must do everything we can to stop what has been termed the politics of personal destruction. This is not to say that we should put an end to an open and candid debate on policy issues. Quite the contrary: our system of government is designed to promote the expression of these differences and our Constitution protects that expression. But the fact is that all of us both Democrats and Republicans, know the difference between legitimate policy debate and unwarranted personal attacks promoted—and sometimes urged—by narrow interest groups.

Mr. President, let me cite just one example of what I mean by the narrow interest group campaign of personal destruction. Many may have read, hopefully with disbelief and dismay, a New York Times report, the day following the release of the transcript of Senator Ashcroft's speech at the Bob Jones University, which read, "the leader of a major liberal group opposing Mr. Ashcroft's nomination expressed disappointment that the comments were not much different from those many politicians offer in religious settings." The piece continued, quoting this "leader" as saying "'[t]his, clearly, will not do it,' this person said of hopes that the speech might help defeat the nomination."

Let me note that some opponents have charged that Senator Ashcroft's answers at the hearing and his written answers to the approximately 400 questions sent to him by Judiciary Committee members were evasive. Wrong.

I don't know of any case where we had that many questions of a Cabinet official. Usually it is an insignificant number.

Throughout, Senator Ashcroft has consistently and persuasively responded that he will enforce the law irrespective of his personal views. His long and distinguished record in Missouri supports his commitment to follow and observe the rule of law. But that record is ignored by his critics.

For some of those looking to oppose him, he simply cannot do anything right. When he answers questions in detail to attempt to explain his record, he's termed evasive because he should have simply answered "yes" if he really meant it. When he answers a question with a simple and straightforward yes, he's accused of not confronting the issue completely.

Let us be clear. John Ashcroft is strongly pro-life. He always has been as far as I know, and I expect he always will be. He is a deeply religious man—he always has been as far as I know, and I expect he always will be. He has strenuously committed to a policy of equal justice and opportunity for all—and has a long record which supports this commitment of these matters. But he opposed Mr. Hormel for an ambassadorship, as did a number of his colleagues; he opposed Bill Lann Lee, as did eight other Republicans on the Judiciary Committee, including myself; and he opposed Justice Ronnie White. This is the record upon which many paint John Ashcroft as a right wing extremist. I disagree.

Let me simply conclude by repeating the words of John Ashcroft which I cited earlier. "Some things are more important than politics, and I believe doing what's right is the most important thing we can do." I only hope that my colleagues will heed these words as they consider their vote in the Senate. I urge my colleagues to vote yes on this nomination.

By the way, I am urging my colleagues to do what we did for Attorney General Reno: Give John Ashcroft the benefit of the doubt instead of taking the exact opposite tack, of which I think I have seen enough evidence. When Attorney General Reno came up, there were 2 days of hearings. In fact, there was only 1 day for Attorney General Dick Thornburgh. There were only 2 days for Attorney General Bill Barr, only 2 days for Janet Reno. In none of those cases did we allow right-wing groups to come in and attack the witness. We allowed them to submit statements, but we didn't go on and on trying to destroy the reputation of really good people. John Ashcroft is really good people. He is a decent, honorable, religious, thoughtful, kind man who has a reputation of being fair and honest. I personally resent those who try to say otherwise and try to impugn that reputation.

The ACTING PRESIDENT pro tempore. The Senator from Vermont, Mr. LEAHY.

Mr. LEAHY. I appreciate the comments of my friends from Utah and the distinguished chairman of the Senate Judiciary Committee. He suggests a lot of questions were asked of Senator Ashcroft. I read today in the Wall Street Journal, a newspaper that has strongly backed Senator Ashcroft, they believe we didn't ask enough questions, especially concerning fundraising activities by Senator Ashcroft.

I ask unanimous consent that the article from the Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEAHY. Mr. President, when we talk about the time involved in a nomination such as this, I recall the last controversial nomination for Attorney General we had when the Republicans controlled the Senate. That was for Edwin Meese. It took considerably longer, with far more witnesses and questions than we are having in this debate. We sometimes forget the history of what goes on here.

This is a case where the White House actually sent Senator Ashcroft's nomination to the Senate on Monday—Monday of this week, 2 days ago. We are having the debate on the floor today. Prior to the President's inauguration, the Democrats controlled the Senate. We moved forward even without the paperwork or anything else from the incoming transition team. We moved forward to speed up a hearing on Senator Ashcroft.

Today we begin the debate on the floor, after the Judiciary Committee debated the nomination yesterday and voted yesterday evening. As I said, I convened 3 days of hearings on this nomination over a 4-day period from January 16 to January 19. That was prior to having received all the paperwork on Senator Ashcroft. We did that to help the new administration. The Republican leadership announced weeks ago that all 50 Republican Senators would vote in favor of the nomination, irrespective of whatever came out of those hearings. I am glad that other Senators declined to prejudge the matter.

Actually, the Committee on the Judiciary has done the best we could to handle this nomination fairly and fully. We have had hearings, I think, that make all members of the committee and the Senate proud. I have served in this body for 26 years. I believe very much in the committee system. I believe very much in having real hearings and then having a record available for Senators.

In fact, we actually invited Senators who had served in the 106th Congress and were going to leave the committee, as well as some we anticipated would be coming in from both the Republican and Democratic side, to sit in on those hearings. I mention this because we did not actually set the membership of our committee until last Thursday, but we did this ahead of time.

The committee heard from every single witness Senator Ashcroft or Senator HATCH wanted to call in his behalf. This is not a case where suddenly one side or the other was something loaded up. I think there were an equal number of witnesses on both sides. We completed the oral questioning of Senator Ashcroft in less than a day and a half. We limited each Member to two rounds of questions, for a total of only 20 minutes. The nominee was not invited back by the Republicans following the testimony of the public witnesses. As a result, any unanswered questions had to be answered in writing.

We then expedited the sending of written questions to the nominee. We sent the majority of written questions on Friday, January 19, the last day of the hearing, rather than waiting until the following Monday when they were due. Senator HATCH sent out the final batch of written questions on the Tuesday following the hearing.

We received some of what were described as answers to some of the written followup questions sent to the nominee late last Thursday. It is clear from those answers that the nominee has chosen not to respond to our concerns or address many of our questions. In fact, the committee has had outstanding requests to the nominee to provide a copy of the entire videotape of the commencement proceedings in which he participated at Bob Jones University, as has been discussed here on the floor. We have had that request pending since early January. That videotape was provided, incidentally, to news outlets but not to the committee.

I have also requested that the nominee provide a formal response to the allegations that while he was Governor of Missouri he asked about a job applicant's sexual preference in an interview, and we have not received any answer.

There have been references on the floor already today as though there were some kind of left-wing conspiracy to defeat John Ashcroft. I am not aware of that. I have asked my questions as the Senator from Vermont, and I responded to the interests of my constituents, both for and against Senator Ashcroft, from Vermont.

But if there is any question of whether there is influence of anybody on this nomination, I will refer to the New

York Times of Sunday, January 7, and the Washington Post of Tuesday, January 2, in which they quote a number of people from the far right of the Republican Party who openly bragged about the fact that they told the new President he could not appoint Governor Racicot of Montana—whom he wanted to appoint—but that he must appoint John Ashcroft.

I mention that because, if anybody thinks this nomination has been influenced by liberal groups, the only ones who have actually determined this nomination and have openly gone to the press and bragged about influencing it are an element of the far right of the Republican Party. They have openly bragged about the fact that they told the incoming administration and President Bush that he could not have his first choice, the Governor of Montana—who is a conservative Republican and now the former Governor—but that he must appoint Senator Ashcroft. That remains a fact. That is why we are here.

Notwithstanding all this, and notwithstanding the fact that the questions have not all been answered, the requested material has not all been sent, we Democrats granted consent to advance the markup date in order to proceed yesterday afternoon and last evening. As the distinguished chairman knows, normally we would have had our debate before the committee today. I said, following his request, that we would not object to moving it up 24 hours. I was told the Republicans have a meeting of their caucus scheduled for later this week and it would accommodate both the new administration and the Republicans in the Senate if we moved that up. I agreed to that. As I said, the Senate works better if Senators can work together. Accommodation, however, does not mean changing one's vote.

We had a good debate in the committee. I think Republicans and Democrats would agree it was a good, solid debate. We reported the nomination to the Senate by a margin of 10–8, a narrow margin. Actually, in most of that debate we had between six and nine Democratic Members present. We usually had three to four Republican Members.

I brought with me the hearing record. Here it is, right here. This is a good, solid record. It is part of the history of the Senate. I wish all Senators would review that record. Many have. Unfortunately, we are not going to have a committee report on this controversial nomination. I think we would have been helped by doing that. There was a time when we did seek to inform the Senate with committee reports on nominations, nominations such as that of Brad Reynolds or William Bennett and a number of important and controversial judicial nominations. We prepared such reports when Senator THURMOND required that as chairman.

In lieu of a committee report, each Senator is left with the task of reviewing the record and searching his or her conscience and deciding how to vote.

I did put into the RECORD a large and I hoped complete brief prepared by me and the lawyers on the Senate Judiciary staff—Bruce Cohen, Beryl Howell, Julie Katzman, Tim Lynch and others—which I think would be very helpful to the Senate.

We may want to consider and contrast the behavior that has been engaged in on the other side. We have talked about the time this may have taken. We had the hearing, we expedited the debate, and we came to the floor. The consideration of the nomination of Attorney General Meese when the Republicans controlled the Senate—with a Republican Senate, one would assume that would move very quickly—that took 13, not days, not weeks: 13 months. And then we had several days of debate in a Republican-controlled Senate before final Senate action.

There was reference to how we how we handled the nomination of Attorney General Reno. That was noncontroversial, and that still took a month from nomination to confirmation. She was not confirmed by the Senate until mid-March in the first year of President Clinton's term. Attorney General Meese was not confirmed by the Senate until late February in 1985, at the beginning of President Reagan's second term. Here we are in January. This nomination was sent to the Senate on Monday, 48 hours ago.

I hope those who advise the President will point out to him these facts so he is not under the impression this nomination has been delayed from Senate consideration. The Democrats, when we controlled the Senate for a few weeks, expedited this. Republicans, when they controlled the Senate at the time of President Reagan; took 13 months to get his nomination of Edwin Meese through.

I have reviewed the hearing record and the nominee's responses to the written followup questions from the Judiciary Committee. I did that before I announced I would oppose John Ashcroft to be Attorney General of the United States.

I have talked to the Senate already about this, and to the committee, about my reasons for opposing the nomination. I expect we will go back to this during the debate.

Let's not lose sight of the historical context in which we consider this nomination. This is an especially sensitive time in our Nation's history. Many seeds of disunity have been carried aloft by winds that come in gusts—especially, unfortunately, from the State of Florida. The Presidential election, the margin of victory, the way in which the vote counting was halted by five members of the U.S. Supreme Court—these remain sources of public concern and even alienation. Deep divisions within our country have infected the body politic. We experienced the closest Presidential election in the last 130 years, probably the closest in our history. For the first time, a candidate who received more votes than were cast for the victor in the last three elections for President, who received half a million more votes than the person who eventually was inaugurated as President—received half a million more votes, I should say, than the man who became President—saw the man who became President declared the victor of the Presidential election by one electoral vote.

I do not question the fact that President Bush is legitimately our President. Of course, he is. I was at the inauguration. We all were. He was inaugurated. Yet, I would hope Senators will realize the concerns in this country: One person gets half a million more votes, the other person becomes President; the one who becomes President after a disputed count in one State becomes President by one electoral vote.

He is President. He has all the powers, he has all the obligations, all the duties of the Presidency, and all the legitimacy of the Presidency. I have no question about that. But I think he has an obligation to try to unite the country, not to divide the country. In fact, 11 days ago, President Bush acknowledged the difficulties of these times and the special needs of a divided Nation. He said:

> While many of our citizens prosper, others doubt the promise, even the justice, of our own country.

He pledged to "work to build a single nation of justice and opportunity."

I was one of those who had lunch with the new President less than an hour after his inauguration. I spoke to him and told him how much his speech meant to me. I told him he will be the sixth President with whom I have served. I told him how impressed I was by his inaugural speech. I said he had a sense of history and a sense of country, and I applauded him for it. I do think the nomination of John Ashcroft to be Attorney General does not meet the standard that the President himself has set. For those who doubt the promise of American justice—and, unfortunately, there are many in this country who doubt it—this nomination does not inspire confidence in the U.S. Department of Justice.

My Republican colleagues have urged us to rely on John Ashcroft's promise to enforce the law, as if that is the only requirement to be an Attorney General.

If Senator Ashcroft would have come before the committee and said he would not enforce the law, we would not be debating this issue today. I cannot imagine any nominee—and I have sat in on hundreds of nomination hearings—would say they would not enforce the law. That is not the end of the story. The Senate's constitutional duty to advise and consent is not limited to extracting a promise from a nominee that he will abide by his oath of office. Let me quote what my good friend, Senator HATCH, said on the floor on November 4, 1997, about the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights:

> His talents and good intentions have taken him far. But his good intentions should not be sufficient to earn the consent of this body. Those charged with enforcing the Nation's law must demonstrate a proper understanding of that law, and a determination to uphold its letter and its spirit * * *. At his hearing before the Judiciary Committee, Mr. Lee suggested he would enforce the law without regard to his personal opinions. But that cannot be the end of our inquiry. The Senate's responsibility is then to determine what the nominee's view of the law is.

Like Senator Ashcroft, Bill Lann Lee promised to enforce the law as interpreted by the Supreme Court. He made the promise emphatically, he made it repeatedly, and he made it specifically with respect to certain Supreme Court decisions with which he may have personally disagreed. Despite all of Bill Lann Lee's assurances that he would enforce the law, the Republican-controlled Senate would not allow a vote up or down on the floor on his nomination.

I believe John Ashcroft's assurances that he would enforce the law is not the end of our inquiry. Far more than the Assistant Attorney General for Civil Rights, a job to which Bill Lann Lee was nominated, the Attorney General has vast authority to interpret the law and to participate in the law's development.

Unlike one of his assistants, he has to be held to a higher standard because he sets the policy. The assistant carries out the policy of the Attorney General. The Attorney General's job is not merely to decide whether common crimes, such as bank robbery, should be prosecuted. Of course, they should. Does anybody believe that whoever is Attorney General faced with something as horrendous as the Oklahoma City bombing is going to say, "I am not going to prosecute"? Does anybody believe an Attorney General faced with a skyjacking or assassination is going to say, "I am not going to prosecute"? Of course, they are going to prosecute.

But there are many other less spectacular matters, matters that are not in the news every day, where the Attorney General has to decide how the law is to be enforced. The Attorney General has more discretion in this regard than anybody in Government.

The Attorney General advises the President on judicial nominations. He decides what positions to take before the Supreme Court and lower Federal courts. He decides which of our thousands of statutes require defending or interpreting. He allocates enforcement resources. The Attorney General decides whom we are going to sue and, even more importantly, perhaps, decides which cases we are going to settle. He makes hiring and firing decisions. He sets a tone for the Nation's law enforcement officials.

I think it is reasonable to go back and look at how John Ashcroft acted as attorney general before, and I go back to Missouri. Again, he was sworn to enforce the laws and all the laws. So how did he focus the resources of his office? This is how he did it.

He focused the resources of his office on banning abortions and also on blocking nurses from dispensing birth control pills and IUDs. He sued political dissenters, and he fought voluntary desegregation. I am sure with murder cases or anything else such as that he would enforce the law, but it is how he chose to decide which of those discretionary areas to act in that troubles me.

He has used language here describing the judiciary that is disturbing to many. He has shown what Senator BIDEN calls "bad judgment" in associating with Bob Jones University and Southern Partisan magazine, and he unfairly besmirched the reputations of Presidential nominees, including Judge Ronnie White and Ambassador James Hormel.

I am particularly concerned that he has not fully accepted what he now calls the settled law regarding a woman's right to choose. His confirmation evolution seems implausible, given his support less than 3 years ago for the Human Life Act, which he now admits is unconstitutional even though he supported it, and his denial of the "legitimacy" of Roe and Casey in the 1997 "Judicial Despotism" speech, in which he called the Supreme Court "ruffians in robes."

I have disagreed with the Supreme Court on some cases, but I have never called them that.

His assurances are totally undercut by the recent remarks of President Bush and Vice President CHENEY. Just 1 day after Senator Ashcroft assured the committee that Roe and Casey were settled law and that he would not seek an opportunity to overturn them, the President said he would not rule out having the Justice Department argue for that result. The Vice President similarly refused to commit himself on this issue over the weekend.

A promise to enforce the law is only a minimum qualification for the job of Attorney General. It is not a sufficient one. It is simply not enough just to say you will enforce the law.

Senator Ashcroft's record does matter in making a judgment about whether he is the right person for this job. Throughout the committee hearings, my Republican colleagues said we should give Senator Ashcroft credit for his public service. I agree with that, just as I give him strong credit and admire him for his devotion to his family and his religion.

At the same time, my Republican friends insist that his record and the positions he has taken in public service do not matter because he will take now a different position as U.S. Attorney General.

President Bush asked us to look into Senator Ashcroft's heart, but we are being urged not to look into his record. I do not doubt the goodness of his heart. I do doubt the consistency of his record.

Some of my Republican colleagues went so far as to argue we should not hear from any witnesses other than the nominee, that we need not review all the nominee's required financial disclosures and his files and his speeches before passing on this nomination. That is not the way we go about our responsibility of advise and consent. Remember, the Constitution does say advise and consent, not advise and rubber stamp.

That is why, as chairman of the Judiciary Committee, during the weeks I held that post, I refused to railroad this nomination through. Instead, I had full, fair, informative hearings to review the nominee's record and positions.

The American people are entitled to an Attorney General who is more than just an amiable friend to many of us here in the Senate and promises more than just a bare minimum that he will enforce the law. They are entitled to someone who will uphold the Constitution as interpreted by the Supreme Court, respect the courts, abide by decisions he disagrees with, and enforce the law for everybody regardless of politics. The way to determine that is to look at the nominee's record, not to engage in metaphysical speculation about his heart.

John Ashcroft's stubborn insistence on re-litigating a voluntary desegregation decree consented to by all the other parties over and over again, at great expense to the State of Missouri and with sometimes damaging disruption to the education of Missouri's children, is relevant. It is relevant because someone who has used his power as a State Attorney General to delay and obstruct efforts to remedy past racial discrimination by the State, and who has then publicly excoriated the judges who ruled against him and made a major political issue of his disagreements with the courts, may use his greater power as the U.S. Attorney General for similarly divisive political purposes.

His effort as a State Attorney General to suppress the political speech of a group with which he disagreed—the National Organization of Women—by means of an antitrust suit is relevant, because it reflects on how he might respond to political dissent as U.S. Attorney General.

His actions as Governor of Missouri and as a U.S. Senator are also relevant. In those offices, he took the same oath of office to uphold the Constitution that he would take as U.S. Attorney General. Yet, in both of those offices, he sponsored legislation that was patently unconstitutional under Roe v. Wade: the 1991 anti-abortion bill in Missouri, and the 1998 "Human Life Act" in the Senate. It is highly relevant to ask why, if his oath of office did not constrain him from ignoring the Constitution in those public offices, we should expect it to constrain him as Attorney General. And it is also relevant to ask whether the same John Ashcroft who as a U.S. Senator went around making public speeches calling a majority of the current conservative Supreme Court "five ruffians in robes" has the temperament needed to be an effective advocate before that same Court as U.S. Attorney General.

I cannot judge John Ashcroft's heart. But we can all judge his record. Running through that record are troubling, recurrent themes: disrespect for Supreme Court precedent with which he disagrees; grossly intemperate criticism of judges with whom he disagrees; insensitivity and bad judgment on racial issues; and the use of distortions, secret holds and ambushes to destroy the public careers of those whom he opposes.

I cannot give my consent to this nomination.

Mr. President, I will say more, but I see several Senators from both sides of the aisle on the floor. I am going to withhold in just a moment. But just think for a moment, we are a nation of 280 million Americans. What a fantastic nation we are. We range across the political spectrum, across the economic spectrum, all races and religions.

I think of, in my own case, my mother's family coming to this country not speaking a word of English. My grandfathers were stonecutters in Vermont. I look at the diversity of ethnic backgrounds in our family, my wife growing up speaking a language other than English. We have great diversity in this country and, over it all, everybody knowing, whether they are an immigrant stonecutter or whether they are a wealthy Member of the Senate, the laws will always treat them the same; everybody knowing, whether they are black or white, they can rely on the law to treat them the same.

But on top of all that, the Attorney General of the United States represents all of us. The Attorney General is not the lawyer for the President; the President has a White House counsel. In fact, to show the separation, the White House counsel does not require Senate confirmation; he or she is appointed by the President, and that is the choice of the President alone. But the Attorney General requires confirmation because the Attorney General represents all of us.

We hold this country together because we assume the law treats us all the same. When I look at the public opinion polls in this country and see a nation deeply divided over this choice for Attorney General, it shows me that American people do not have confidence in this nomination. I hope, if John Ashcroft is confirmed, he will take steps to heal those divisions, take steps to say he will be the Attorney General for everybody, not just for one group who told the President he had to appoint him. So in that regard, I hope all Senators will think about that.

Mr. President, I will go back to this later on, but I see other Senators on the floor, so I yield the floor.

Exhibit 1

[From the Wall Street Journal, Jan. 31, 2001]

Senate Panel Backs Ashcroft Despite Fund-Raising Issues

(By Tom Hamburger and Rachel Zimmerman)

Washington.—The Senate Judiciary Committee narrowly sent John Ashcroft's nomination as attorney general to the Senate floor, even as outside critics complained that his history of aggressive fund raising raises questions about his ability to enforce campaign-finance laws.

The committee's 10–8 vote, with Democrat Russell Feingold of Wisconsin joining the committee's nine Republicans, signaled that Mr. Ashcroft is almost certain to win confirmation from the full Senate later this week. But the panel's sharp division and Senate Minority Leader Thomas Daschle's announcement yesterday that he will vote against his former colleague reflect the strong opposition among Democratic constituencies to Mr. Ashcroft's staunchly conservative record.

Mr. Daschle accused the Missouri Republican of having "misled the Senate and deliberately distorted" the record of African-American judicial nominee Ronnie White, leading the Senate to reject Mr. White's nomination to the federal bench. Answering such attacks for the GOP, Judiciary Committee Chairman Orrin Hatch of Utah complained that a "vicious" campaign by liberal advocacy groups had left Democratic senators giving Mr. Ashcroft "not one positive benefit of the doubt."

One of Mr. Ashcroft's most voluble opponents, Democratic Sen. Edward Kennedy of Massachusetts, indicated that he won't attempt to block the nomination with a filibuster. President Bush urged quick action by the Senate so that his administration could proceed with the organization of the Justice Department, where a number of top department appointments have been held up pending action on Mr. Ashcroft.

"I would just hope there are no further delays," Mr. Bush said. "There's been a lot of discussion, a lot of debate . . . and it's now time for the vote, it seems like to me."

Actually, the former senator's history of campaign fund raising hasn't been debated much within the Senate. Mr. Feingold, who backed Mr. Ashcroft in yesterday's vote, is one of the chamber's leading advocates of campaign reform. But yesterday, he cited the "substantial deference" a president deserves in nominations.

Critics say Mr. Ashcroft has repeatedly pushed at the edges of campaign-finance regulations by using taxpayer-financed office staff to wage election campaigns, and by joining other candidates in both parties in finding loopholes that have allowed him to pursue larger donations than the $1,000-a-person contributions permitted to a candidate's campaign committee.

Those critics, from Democrats in Mr. Ashcroft's home state to representatives of national organizations promoting campaign-finance overhaul, say the lack of attention to the issue reflects how deeply the Senate itself is steeped in the techniques of fully exploiting the campaign-finance system. But at a time when an overhaul bill may soon overcome lingering resistance on Capitol Hill, they say Mr. Ashcroft's record casts a cloud over his commitment to enforce rigorously the laws regulating how political money is raised and spent.

"The Senate has completely failed its obligation to pursue this line of inquiry," complains John Bonifaz, executive director of the National Voting Rights Institute, a Boston nonprofit group that specializes in campaign finance and civil-rights litigation.

Mr. Ashcroft's backers on Capitol Hill and in the Bush administration dismiss the complaints as ideologically inspired sniping. Administration spokeswoman Mindy Tucker says Mr. Ashcroft has "always adhered to the law on campaign-finance issues and his campaign-finance practices have been above reproach."

Like other senators in both parties, Mr. Ashcroft formed a joint committee with his national party's Senate campaign arm to collect unregulated "soft money." When he was exploring a presidential bid, he went to Virginia, which has few campaign-money limits, to establish a political action committee that accepted a $400,000 donation. "A blatant evasion of laws that are designed to protect against the kind of corruption the attorney general is charged with upholding," complains Scott Harshbarger, Common Cause president.

In one case, Missouri Democrats allege, Mr. Ashcroft went over the line of propriety. It dates to 1982, when Mr. Ashcroft was Missouri attorney general and brought an action against a local oil company for selling tainted gasoline. The company, Inland Oil, countersued, charging that Mr. Ashcroft's actions were motivated by his desire to win election as governor. In a deposition, Mr. Ashcroft's administrative assistant said he worked on Mr. Ashcroft's election campaign while a state employee and contacted potential campaign contributors from his government office.

The lawsuit also noted that Mr. Ashcroft had solicited an executive of Inland Oil for a donation to the state GOP in a fund-raising appeal under the state attorney general's letterhead, and that he personally sought a donation from a barge-company owner who did business with Inland. Mr. Ashcroft has said the mail solicitation was merely sent in his name, and Ms. Tucker says he hadn't known of the barge concern's connection to Inland when he sought a donation.

The state later settled its complaint against Inland Oil, which in turn dropped its counter suit. An opposing legal counsel in that case, Alex Bartlett, says Mr. Ashcroft "caved" on the case to avoid answering questions about his fund-raising practices. Mr. Bartlett also says Mr. Ashcroft later exacted retribution by effectively blocking the Clinton administration from nominating him for

> a federal judgeship in the mid-1990s. Former White House Counsel Abner Mikva says then-Sen. Ashcroft told him in early 1995, "I don't like" Mr. Bartlett.
>
> Ms. Tucker rejects that interpretation of events, saying Mr. Ashcroft negotiated an appropriate settlement in the Inland Oil matter. If he later expressed reservations about Mr. Bartlett to Mr. Mikva, she adds, he didn't block him from the bench since Mr. Bartlett was never formally nominated. She also says Mr. Ashcroft never used public employees to perform campaign work except in their off ours.
>
> FUND-RAISING VEHICLES
>
> John Ashcroft has harvested donations, in recent years using these political committees:
>
> Ashcroft 2000: Senate re-election committee raised $8.9 million in "hard" money subject to federal limits of $1,000 per individual donation, $5,000 per political action committee.
>
> Ashcroft Victory Fund: Collected $3.8 million unregulated "soft" money during 1999–2000, split evenly between Ashcroft 2000 and National Republican Senatorial Committee.
>
> Spirit of America PAC: So-called leadership PAC collected $3.6 million in hard money since 1997, largely to finance Ashcroft's exploration of a presidential bid.
>
> American Values PAC: Virginia-based PAC raised $586,533 beginning in 1998, which financed TV ads in Iowa and New Hampshire.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate the comments that both Chairman HATCH and Senator LEAHY have just made with respect to this nomination.

We began when I referred to Senator LEAHY as Mr. Chairman, and now we are nearing the conclusion of this during the time that Senator HATCH will be referred to as Mr. Chairman. I agree, it is time to bring the confirmation proceedings for Senator Ashcroft to a close.

I hope my colleagues will consider the long-range implications of their votes with respect to Senator Ashcroft. I have, I think, never regretted voting for a nominee for office, but I have regretted some of the votes I have cast against nominees. I hope my colleagues judge how their votes will be considered a year from now, 4 years from now, perhaps 20 years from now, in thinking about how they will cast their votes.

Most of the points Senator LEAHY made have been made before and have been fairly thoroughly rehashed during the committee process and in other forums. I would really like to only respond to three points Senator LEAHY just made.

First, he made this comment in the Judiciary Committee meeting yesterday, as well. Senator LEAHY said it is not liberal or left-wing groups that have influenced this nomination but, rather, groups on the far right. And it is possible, of course, for anybody to brag about what they may or may not have done. President Bush is fully capable of deciding whom he is going to nominate for Attorney General. I was one of the people who recommended John Ashcroft to him. So I do not think we can ascribe John Ashcroft's nomination to the fact that some people who are very conservative brag about the fact that they stopped somebody else and recommended his nomination. He was recommended by other people as well, including myself.

In any event, I think it is rather odd to suggest that liberal groups have not been actively involved in this debate. Immediately after it began, I received a copy of a special report from the People for the American Way—clearly a liberal, left leaning group—making the case against the confirmation of John Ashcroft as Attorney General. And page after page after page of it, in effect, is opposition research opposing the nomination.

I also will note just one story from the Washington Times of January 17 of this year. I will quote this at length because I think it makes the point rather clearly.

> Senate Democrats are under enormous pressure from liberal interest groups to defeat Mr. Ashcroft, whom they accuse of insensitivity to minorities and of harboring a stealth agenda to undermine abortion rights.
>
> Yesterday, Kweisi Mfume, president of the National Association for the Advancement of Colored People, said his organization will "fund major information campaigns for the next 4 years" in States whose senators vote in favor of Mr. Ashcroft.

This is continuing the quotation from Mr. Mfume:

> Senators who vote for Ashcroft will not be able to run away from this and assume people will forget, said Mr. Mfume. For Democratic senators, in particular, this vote comes as close to a litmus test as one can get on the issue of civil rights and equal justice under law from the party's most loyal constituency.

Mr. President, I do not think it really matters much. It is very clear that both liberal and conservative interest groups have weighed in on this nomination. It is totally appropriate for them to do so. Therefore, I am not quite clear why one would make the point that it is only conservative groups who have weighed in. Clearly, liberal groups have weighed in as well. That is their right.

I, in fact, admire those Democratic Senators who will vote to confirm Senator Ashcroft because I appreciate the intense pressure they are under. We all have pressures, but it takes courage sometimes to go against what they may perceive as going against the grain in their own State.

The second point made was that this was a divisive nominee. It is a little hard for me to understand how a nomination can be divisive until somebody objects. President Bush laid out his potential Cabinet, and immediately all attention focused on three of those nominees. They were said to be divisive. They were divisive because somebody objected to them.

Third—and this relates to it—this business about enforcing the law has really put Senator Ashcroft in a difficult position. It is a catch-22 for him; he cannot win, literally.

If he says he will enforce the law, which, of course, every nominee has said, then he is subject to the criticism that this is a change, a new Ashcroft, and we can't believe that he will, in fact, enforce the law. What is he to do? He can't prove a negative. He can't prove he will not fail to enforce the law.

We can look to his experience. We can look to his service in the Senate.

One of our colleagues who will be voting on him made this statement. This is from West Virginia Democratic Senator ROBERT BYRD:

> I'm going to vote for him. He was a legislator. His opinions at that time were the opinions of someone who writes the laws. He is now going to be an officer who enforces the laws. He will put his hand on the Bible. He will swear to uphold the law, that he will enforce the law. He has said so, and I take him at his word. I believe Ashcroft means what he says.

Of course, some have noted that John Ashcroft is a very religious man. Yet it seems paradoxical to me that after referring to his faith, they would somehow doubt that he would be firm in his commitment to uphold the laws. I agree with Senator BYRD. We can trust this man, that he will do what he says he will do.

I will submit for the RECORD just one of the many examples that one can point to about the immediate past Attorney General not enforcing the law; in this case, a situation in which Attorney General Reno specifically refused to enforce the Controlled Substances Act when it dealt with the matter of assisted suicide. Yet I heard nobody who is a critic of John Ashcroft criticize Attorney General Reno for her refusal to enforce existing law.

These are matters of judgment, and reasonable people will differ. That is why it is especially perplexing to me to note the vehemence with which some have expressed opposition to Senator Ashcroft on the grounds that they know he won't enforce the law. That is perplexing to me.

A final point on this—it has been made over and over, but I think it bears a little bit of discussion right now—Bill Lann Lee was a nominee of Bill Clinton for a very important job in the Justice Department, head of the Civil Rights Division. There were many who opposed his nomination, including myself. Senator LEAHY and others have been very critical of our opposition. In effect, they have said we should not have opposed him for that position. We applied too tough a standard; we should have believed him when he said he would enforce the law.

Not getting into all of the reasons why we didn't think he would enforce the law and why, as it turns out, we were correct. Nonetheless, people such as Senator LEAHY have been very critical of us for the stance we took. Yet they are now saying they are going to apply the same test they say we applied in the case of Bill Lann Lee. Either we were wrong in that case and that test should not be applied or we were right and it is a test that can be applied. And they then apply it and perhaps reach a different conclusion than we.

We should discuss this honestly. I don't think you can say on the one hand that test was wrong for Republicans to apply in the case of Bill Lann Lee but it is right for Democrats to apply it in the case of John Ashcroft. Which is it? If it is wrong for us to say we just didn't believe that Bill Lann Lee could do what he said he would do, then the Democrats have a very tough argument to make that they should be able to say precisely that with respect to John Ashcroft.

The bottom line is, it doesn't matter what John Ashcroft says to some Senators. They have reached a conclusion—I will suggest in good faith; I will never question the motives of my colleagues even if they vehemently disagree with me—that he is not suitable to be the Attorney General of the United States. That is their right.

I don't think John Ashcroft can ever satisfy them. He can say: I promise you I will uphold the law, as he did over and over and over again in the hearing. We know he is a man of integrity and no one has questioned that. Yet they still apply this test which, in their minds, requires them to vote against his confirmation. So be it.

We have to be honest about the application of these tests. If it is fair to do it in the case of John Ashcroft, then it was fair for Republicans to do it in the case of Bill Lann Lee. We simply reached different conclusions. If it was unfair in the case of Bill Lann Lee, then it certainly can be argued to be unfair in the case of John Ashcroft.

People who argue about this "rule of law" point would be much more credible if over the course of the last 8 years they would have been more outspoken about the repeated problems of the immediate past administration with respect to the rule of law. They were defending their administration. They were defending their Attorney General and their President. They didn't speak out about these matters.

The rule of law is really at the bottom the most important thing that those of us on the Judiciary Committee can focus on and that we do need to consider when the President has nominees pending on the floor. That is why I am happy to conclude these brief remarks with my view that there is no one whom I believe in more with respect to fulfilling the responsibility to support the rule of law than John Ashcroft, a man of great integrity, a man of unquestioned intelligence and experience—in fact, the most experienced nominee ever for the position of Attorney General—a man who repeatedly was elected by his constituents in Missouri, who had every opportunity to view him as an extremist, if that in fact had been the case, but it was not; and a man who served in this body for 6 years.

During that time, he was a friend of virtually everybody in the body because they knew him, they liked him, they trusted him, and they worked with him. Therefore, it is perplexing and hurtful to me to hear some of the things that have been said about him in connection with his confirmation.

Oppose him if you will; that is your right. Reasonable people can reach different conclusions about whether he should be confirmed. But we need to do it in a civil way so that there is not lasting harm done either to the confirmation process, to the legitimacy of the Senate's actions with respect to confirmation, or to the legitimacy of President Bush and his Department of Justice under the leadership of John Ashcroft.

I urge my colleagues to consider whether in 4 or 5 or 6 years they will be happy with and glad to defend a negative vote on this confirmation. I urge them to consider that carefully.

I am very proud to express my strong support for the nomination of John Ashcroft. He will, in the words of Daniel Patrick Moynihan, make a superb U.S. Attorney General.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first, I express my appreciation to our chairman and the members of the Judiciary Committee for the way these hearings were held on Senator Ashcroft to be the Attorney General, at that time chaired by our long-time friend and colleague, Senator LEAHY, and also, in terms of the markup, by Senator HATCH. Those who had the opportunity to watch the course of the hearings would understand the sense of fairness and fair play all of us who are members of the committee believe they conducted the hearings with. I am grateful to both of them.

I hope at the start of this debate that we can put aside the cliches and the sanctimonious attitudes we sometimes hear on the floor of the Senate that those of us who have very serious and deeply felt concerns about this nominee somehow are responding to various constituency groups, or somehow these views are not deeply held or deeply valued. I have been around here long enough to know that in many situations, it is very easy for any of us to say those who agree with our position are great statesmen and women, and those who differ with us are just nothing but ordinary politicians who are not exercising their good judgment.

Those are policies or at least slogans which are sometimes used here.

This issue is too important not to have respect for those views that support the nominee as well, hopefully, as those that have serious reservations about it.

Listening to my friend from Arizona talk about the difference between Bill Lann Lee and this nominee, the differences couldn't have been greater. Bill Lann Lee was committed to upholding the law and had a long-time commitment to upholding the law. His statements to the committee confirmed a commitment to uphold the law just like Dr. Satcher and Dr. Foster.

Many of us have serious concerns about this nominee's commitment to the fundamental constitutional rights that involve millions of our fellow citizens in the areas of civil rights, women's rights, privacy, as well as the issues of the Second Amendment, and the treatment of nominees over a long period of time. I think the record will reflect that I find very, very powerful and convincing evidence that the nominee fails to give the assurance to the American people, should he gain the approval, that he will protect those particular rights and liberties of our citizens.

I intend to outline my principal concerns in the time that I have this morning.

Mr. President, two weeks ago the Judiciary Committee heard four days of testimony on Senator Ashcroft's nomination to serve as Attorney General of the United States. We heard Senator Ashcroft—as well as those who support and oppose his nomination—discuss his record.

I found the testimony on civil rights, women's rights, gun control, and nominations very disturbing. As I said then, Americans must be confident that the Attorney General and the Justice Department will vigorously enforce our nation's most important laws and vigorously defend our citizens' most important rights. Neither Senator Ashcroft nor his supporters have been able to provide that assurance.

Civil rights is the unfinished business of America, and the people of this country deserve an attorney general who is sensitive to the needs and rights of all Americans, regardless of color. It is not enough for Senator Ashcroft to say after the fact that he will always enforce the laws fairly. We must instead examine his record as Attorney General of Missouri and as Governor of Missouri and the impact he had on the civil rights of the citizens of Missouri. We must consider whether as Attorney General or Governor of Missouri, Senator Ashcroft tried to advance the cause of civil rights in his state or whether he tried to set up roadblocks. Based on the totality of his record, I must sadly conclude that he did the latter. I am particularly concerned about Senator Ashcroft's testimony on school desegregation in St. Louis. He asserted that the discrimination that segregated the schools of St. Louis was from the distant past and that the state had not actively discriminated since the decision by the United States Supreme Court Brown v. Board of Education in 1954. He made sweeping general statements about having always opposed segregation and supported integration. He made specific claims that he complied with all court orders, that the state was not a party to the lawsuits and that the state had never been found guilty of any wrongdoing.

Those statements and claims are inconsistent with the facts and with his record as Attorney General and Governor of Missouri. I see no plausible conclusion other than that Senator Ashcroft misled the committee during his testimony.

Senator Ashcroft's testimony that state sponsored segregation ended in the 1950s sheds light on his attitude about discrimination and his willingness to turn a blind eye to the disenfranchised. Responding to a list of the state actions that maintained segregated schools, Senator Ashcroft said:

> Virtually none of the offensive activities described in what you charged happened in the state after Brown v. Board of Education. As a matter of fact, most of them had been eliminated far before Brown v. Board of Education.
>
> Secondly, in saying that the city maintained a segregated school system into the '70s, is simply a way of saying that after Brown v. Board of Education when citizens started to flee the city and move to the county . . . the schools, as people changed their location, began to be more intensely segregated. That was after the rules of segregation had been lifted, and it was not a consequence of any state activity.

Senator Ashcroft's testimony, at best, ignored the undeniable facts about school segregation in St. Louis, ignored court rulings, and was very misleading. In fact, far from having eliminated the "offensive activities" Senator Ashcroft referred to "far before Brown," Missouri was still passing new segregation laws in the decade before the Brown decision, going as far as amending its state constitution to require segregation.

In his testimony before the Judiciary Committee, Senator Ashcroft denied that the city maintained a segregated school system into the 1970s. He testified that the schools remained segregated only because whites fled the city. He emphasized that this segregation "was not a consequence of any state activity." Again, this statement is seriously misleading in light of the facts and the court rulings.

The record shows that the response by St. Louis to the Brown decision was what the school board called a "neighborhood school plan." The plan was designed to maintain the pre-Brown state of segregation in the St. Louis schools, and that is exactly what it did.

Reviewing the board's 1954–56 neighborhood school plan, the 8th circuit found:

> The boundary lines for the high schools, however, were drawn so as to assign the students living in the predominately black neighborhoods to the two pre-Brown black high schools. Following implementation of the School Board plan, both of these schools opened with 100 percent black enrollments. the elementary school boundaries were also drawn so that the school remained highly segregated.

The 8th Circuit Court of Appeals went on to make clear that there was no justification, other than perpetuating segregation, for the boundaries chosen:

> The Board could have, without sacrificing the neighborhood concept, drawn the boundaries so as to include significant numbers of white students in the formerly all-black schools. a reading of the record also makes clear, however, that strong community opposition has prevented the Board from integrating the white children of South St. Louis with the black children of North St. Louis.

The board's own documents show that maintaining the status quo of segregation was the intent of the plan, and that the new attendance zones were drawn to reassign the fewest number of students possible. Leaving no stone unturned, the board also made sure that the staffs of the schools remained segregated as well.

The court went on to make clear findings of fact that contrary to Senator Ashcroft's testimony, the board's active segregation of the schools did not end in the 1950s. In fact, the board actively used a student transfer program, forced busing, school site selection and faculty assignments throughout the 1950s, 1970s and into the 1970s to maintain the segregated status quo. In 1962, all 28 of the pre-Brown black schools were all or virtually all black, and 26 still had faculties that were 100 percent black. At the same time, the pre-Brown white schools that had switched racial identities has switched their faculties from white to black also.

Choosing sites for new schools could have helped, but instead was also used to make the segregation even worse. In 1964, ten new schools were opened and were placed so their "neighborhoods" would ensure segregated enrollment—all ten opened with between 98.5 percent and 100 percent black students. From 1962 to 1975, there were 36 schools opened—35 were at least 93 percent segregated, only 1 was integrated.

Forced busing was also designed to continue segregation. As late as 1973, 3,700 students were being bused to schools outside their neighborhoods to reduce overcrowding. The vast majority of the black students were bused to other predominantly black schools, while virtually all of the white students were sent to other white schools. Only 27 white students were bused to black schools.

The court of appeals summed up the continuing legacy of discrimination in 1980, in a case that Attorney General Ashcroft had litigated for the state:

> The dual school system in St. Louis, legally mandated before 1954 and perpetuated by the Board of Education's 1954–1956 desegregation plan, has been maintained and strengthened by the actions of the Board in the years since.

All of these numbers and statements are facts according to the federal courts—from federal court cases that Attorney General Ashcroft litigated. Senator Ashcroft knew these facts. He knew them in the 1980s when he tried these cases. He knew them in 1984 when he ran for governor as the candidate who would fight the hardest against integration. And, most important, he knew them when he testified before the Committee.

Senator Ashcroft also gave misleading testimony about his own actions in fighting school desegregation. He claims that he has always supported integration and supported desegregation. But his protracted and tenacious legal fight against desegregation, his failure to make a good faith effort to cooperate with court-ordered desegregation, and his frequent exploitation of racial tension over desegregation during his 1984 campaign for governor suggests otherwise.

Over a four year span as Missouri's Attorney General, Senator Ashcroft fought the desegregation plan all the way to the Supreme Court three times—and lost his bid for review of the 8th Circuit Court of Appeals decisions each time. As attorney general, he lost definitively in the 8th Circuit in 1980, 1982, and 1984. In the 1984 case, it took the court 4 pages just to describe the myriad suits, motions, and appeals Ashcroft filed. And then he appealed that one, too. And during the time that he was filing repeated legal challenges to the desegregation plan, Attorney General Ashcroft proposed no desegregation plan of his own and strongly resisted a negotiated settlement for entirely voluntary school transfers that had been agreed to by the city of St. Louis and St. Louis County. These are not the actions of a man who supports integration and opposed segregation.

In response to questioning by the Judiciary Committee, Senator Ashcroft made this specific claim:

> In all of the cases where the court made an order, I followed the order, both as attorney general and as governor. It was my judgment that when the law was settled and spoken that the law should be obeyed.

One of the simplest and least burdensome orders of the court flatly refutes Senator Ashcroft's claim. In May 1980, the federal district court ordered the state to prepare and submit a proposal within 60 days for desegregating the schools. In a telling example of his unwillingness to support any form of desegregation plan, Attorney General

Ashcroft failed to comply with the order. In fact, it wasn't until December 1980 that the State responded at all—other than filing motions to block the order to submit a plan and appealing them all the way to the Supreme Court—and the court did not consider the responses to be a good-faith effort. In 1981, after several more orders and deadlines were missed he was finally threatened with contempt of court for his repeated delays.

Attorney General Ashcroft was not threatened with contempt because he objected to the cost of a particular desegregation plan or because he was aggressively filing appeals. He was threatened with contempt for his failure to comply with the court's 1980 order to submit a plan for integrating the schools. He refused, in effect, to even participate in desegregation at all. Later, instead of being chastened by his brush with contempt for defying the court, he cited it as a badge of honor during his 1984 campaign for governor, as proof of his adamant opposition to desegregation. He publicly bragged that it showed "he had done everything in [his] power legally" to fight the desegregation plan.

In fact, as the court had stated in its 1981 order:

> The foregoing public record reveals extraordinary machinations by the State defendants in resisting Judge Meredith's orders. In these circumstances, the court can draw only one conclusion. The State has, as a matter of deliberate policy, decided to defy the authority of the court.

In yet in another attempt to claim that his opposition to the desegregation plan did not mean he was opposed to integration, Senator Ashcroft testified he opposed the plan because the State was not a party to the lawsuit and did not have a fair chance to defend itself. As he stated:

> Well, you know, if the State hadn't been made a party to the litigation and the state is being asked to do things to remedy the situation, I think it's important to ask the opportunity for the State to have a kind of, due process and the protection of the law that an individual would expect.

This claim borders on the bizarre. The state became a party to the case in 1977, the very year that Senator Ashcroft took office as attorney general, and three years before the first 8th Circuit ruling. Throughout his entire eight year tenure, Attorney General Ashcroft litigated this case up and down the federal system on behalf of the State of Missouri. To claim that the State was not a party to the litigation is a disingenuous and transparent attempt to evade responsibility for his actions.

In some of his court challenges, Attorney General Ashcroft did claim that the State was not a party to the settlement agreement and should not be required to implement it. The truth is that the other parties agreed and submitted a plan to the court. Attorney General Ashcroft had every opportunity to submit his own proposal in fact, he was ordered to do so but he refused. To then claim that he shouldn't have to follow the court ordered plan is tantamount to saying that a guilty party who doesn't want to be punished is somehow beyond the authority of the court. The defense was rightly rejected by the district court and the 8th Circuit and the Supreme Court refused to hear it.

In his testimony, Senator Ashcroft directly, clearly, and repeatedly said that he opposed State liability for desegregation because the State had never been found guilty of the segregation. In his response to questioning from Senator LEAHY, he testified:

> I opposed a mandate by the Federal Government that the State, which had done nothing wrong, found guilty of no wrong, that they should be asked to pay this very substantial sum of money over a long course of years. And that's what I opposed.

This was no slip of the tongue. He repeated the denial of responsibility moments later, saying:

> Here the court sought to make the State responsible and liable for the payment of these very substantial sums of money, and the State had not been found really guilty of anything.

These two statements, made under oath in testimony before the Committee, are flatly wrong and grossly misleading. The St. Louis cases were certainly long and convoluted, but one point is abundantly clear: the courts held that the State of Missouri was responsible for the discrimination. The 8th Circuit left no doubt about the State's guilt and liability for segregating the schools. As the court said in 1984:

> We, again noted that the State and City Board—already judged violators of the Constitution—could be required to fund measures designed to eradicate the remaining vestiges of segregation in the city schools, including measures which involved the voluntary participation of the suburban schools.

This statement by the court highlights a very important point. The court said "We again noted that the State and City Board—already adjudged violators of the constitution"—were responsible for desegregating the schools. This 1984 decision came four years after the original 8th circuit decision held that the state was in fact responsible for the discrimination.

Senator Ashcroft was attorney general of Missouri for all of those years and was campaigning for governor when the decision was issued. No one knew better than he that the state had been found guilty of discrimination, and had been found guilty repeatedly. Yet he was still denying responsibility before the court in 1984 and it is deeply troubling that he was denying it before this committee in 2001.

I am also deeply troubled by Senator Ashcroft's exploitation of the racial tensions over desegregation to promote his campaign for governor in 1984. The St. Louis Post-Dispatch reported at the time that Senator Ashcroft and his Republican primary opponent were "trying to outdo each other as the most outspoken enemy of school integration in St. Louis," and were "exploiting and encouraging the worst racist sentiments that exist in the state." The Economist, a conservative magazine, reported that both candidates ran openly bigoted ads and that Ashcroft called his opponent a "closet supporter of racial integration." Even the Daily Dunklin Democrat, a newspaper that supported Ashcroft's appeals of the desegregation orders, took him to task for exploiting race in his campaign, criticizing the 1984 primary campaign as "reminiscent of an Alabama primary in the 1950s."

Ashcroft claimed in the Judiciary Committee that in opposing the desegregation plan he was merely opposing the cost of the desegregation that was being imposed on the state. But according to press reports of that campaign, Ashcroft repeatedly attacked the courts and the desegregation plan for reasons wholly unrelated to cost, even going as far as calling the desegregation plan an "outrage against human decency" and an "outrage against the children of this state." I believe, instead, that it is the repeated, legally unsupportable, vigorous opposition to desegregation, that is an outrage against human decency and an outrage against the children of Missouri.

For these reasons, I have great concern about Senator Ashcroft's testimony and his actions surrounding the entire issue of desegregation. His actions as Attorney General of Missouri leave no doubt that at every turn, he chose to wage a non-stop legal war against integration and desegregation, and that he used the full power of his office to do so.

The question for Senator Ashcroft, and for Senators on both sides of the aisle, is how can it mean anything for Senator Ashcroft to say that he will enforce the law against discrimination, when this record shows beyond any reasonable doubt that he will go to extraordinary lengths to deny the facts of discrimination?

Senator Ashcroft's record and testimony on voter registration legislation are equally troubling. In response to a question about his decision as Governor of Missouri to veto two bills to increase voter registration in the city of St. Louis, which is heavily African American, Senator Ashcroft testified:

> I am concerned that all Americans have the opportunity to vote. I am committed to the integrity of the ballot. . . . I vetoed a number of bills as governor, and frankly, I don't say that I can remember all the details of all of them. Accordingly, I reviewed my veto message and recalled that I was urged to veto these bills by responsible local election officials. I also appeared to anticipate

the Supreme Court's recent decision, as I expressed a concern that voting procedures be unified statewide.

A review of the facts surrounding Governor Ashcroft's decision to veto the voter registration bills raises serious questions about whether he truly is "concerned that all Americans have the opportunity to vote." Even the equal protection principle recently stated by the U.S. Supreme Court in the Florida election case cannot be reconciled with Ashcroft's actions.

As Governor of Missouri, Senator Ashcroft appointed the local election boards in both St. Louis County and St. Louis City. The county, which surrounds much of the city, is relatively affluent. It is 84 percent white, and votes heavily Republican. The city itself is less affluent, 47 percent black, and votes heavily Democratic.

Like other election boards across the State, the St. Louis County Election Board had a policy of training volunteers from nonpartisan groups—such as the League of Women Voters—to assist in voter registration. During Senator Ashcroft's service as Governor, the county trained as many as 1,500 such volunteers. But the number of trained volunteers in the city was zero—because the city election board appointed by Governor Ashcroft refused to follow the policy on volunteers used by his appointed board in the county and the rest of the State.

Concerned about this obvious disparity, the State legislature passed bills in 1988 and 1989 to require the city election board to implement the same training policy for volunteers used by the county election board and the rest of the State. Despite broad support for these bills, on both occasions, Governor Ashcroft vetoed them, leaving in place a system that clearly made it more difficult for St. Louis City residents to register to vote.

Among the justifications offered by Ashcroft for the vetoes was a concern for fraud, even though the Republican director of elections in St. Louis County was quoted in press reports as saying: "It's worked well here . . . I don't know why it wouldn't also work well [in the City]."

The issues of fraud and voter registration had also been addressed by the United States Senate several years earlier, which concluded that "fraud more often occurred by voting officials on election day, rather than in the registration process."

In fact, in Missouri in 1989—five months after Governor Ashcroft's second veto—a clerk on the city of St. Louis Election Board was indicted for voter fraud by Secretary of State Roy Blunt.

Ultimately, the repeated refusal by the St. Louis City Election Board to train volunteer registrars had a serious negative impact on voter registration rates in the city. During Senator Ashcroft's eight years as Governor, the voter registration rate in St. Louis City fell from a high of nearly 75 percent to 59 percent—a rate lower than the national average, lower than the statewide average, and 15 percent lower than St. Louis County rate.

The types of barriers to voter registration approved by Governor Ashcroft and his appointed election board in the city were explicitly criticized in the early 1980s by both Democrats and Republicans in the United States Congress. In October 1984, the Subcommittee on Civil Rights and Constitutional Rights of the House Judiciary Committee issued a report with the following finding:

> There is no room in our free society for inconvenient and artificial registration barriers designed to impede participation in the electoral process. . . . [W]e do not quarrel with increasing registration outreach and expanding the system of deputization [i.e., training volunteers registrars].

So we had the two vetoes, one where we had a limited bill that was just targeted for the city of St. Louis where they were going to, in effect, have training registrars like they had in the county. Ashcroft vetoed that bill and said it was special legislation and, therefore, he couldn't agree to it because it was just special to a city in Missouri. So he vetoed it.

A year later, the Missouri legislature passed an overall plan for the whole state that encouraged the appointment of training registrars, so it would have application to the city of St. Louis. And he vetoed that again. He vetoed it because he said it was too broad and unnecessary.

So the result of both of his vetoes was this dramatic adverse impact on black voter participation in the city of St. Louis. At the same time that there were 1,500 voting registrars just outside of the core city, there were zero voting registrars in the city of St. Louis as a result of Senator Ashcroft's actions in the inner city. As a result, there was a significant expansion of voter registration in Republican areas, in the white community, and there was the beginning of the collapse of voter registration in the black communities. That is a direct result.

I will, in just a few moments, show this on a chart which vividly reflects this in a compelling way.

The core question at issue in the recent Florida election case was whether the different county-by-county standards in Florida for determining what constituted a valid vote were inconsistent with the equal protection clause. Seven members of the U.S. Supreme Court, relying upon existing precedent, concluded that the equal protection clause required the application of a uniform statewide standard for determining what was a valid vote.

I think it should have been that way by common sense, but here we have the overwhelming statement of the law by the Supreme Court. It is something I think all Americans can understand, but it was not good enough for Senator Ashcroft. As a result of that failure, we saw a dramatic reduction in voter participation and registration in that community. At a time when the issues of the adequacy of the counting and the sacred right to vote are part of our whole national dialog and debate about how we are going to remedy the extraordinary injustices that occurred in the last election and in other elections as well, it would seem to me that all citizens want to have confidence in whomever is going to be Attorney General; that they are going to protect their right to vote.

If you were one of those Americans who was disenfranchised in the last national election and knew this particular record of Mr. Ashcroft—would you be wondering whether you could ever get a fair deal?

We ought to have an Attorney General in whom all Americans can have confidence that their votes will be counted and counted fairly.

In 1988, when Governor Ashcroft vetoed the first voter registration bill, he cited two reasons. He said it was unfair to pass a law requiring the city of St. Louis—but no other jurisdiction—to train volunteers to help register voters. And he said he was urged to veto the bill by his appointed St. Louis Board of Elections. (Governor's Veto Message, June 6, 1988.) Yet every other jurisdiction in Missouri—other than St. Louis City—actively trained outside volunteers.

In 1989, the Missouri legislature, in an effort to respond to Governor Ashcroft's concerns about unfairness, passed a second bill. This time the legislature adopted a uniform registrar training requirement for election boards throughout the State of Missouri. But Governor Ashcroft vetoed the legislation again claiming that "[e]lection authorities are free to participate with private organizations now to conduct voter registration."

Democrats and Republicans alike in the legislature said if the Governor is going to veto it because it is targeted, we will pass one with general application. That is what they did, claiming that election authorities are free to participate with private organizations.

As I mentioned, what is troubling is there was a second veto by then Governor Ashcroft. The veto effectively ensured that there would not be a "unified statewide" procedure—a result that directly conflicts with the equal protection principles announced in the Florida election case and cited by Senator Ashcroft in his testimony to our committee.

The facts are clear. For 8 years as Governor, Senator Ashcroft had the opportunity to ensure that citizens of St. Louis city—nearly half of whom are African-American—were afforded the same opportunity to register to vote as citizens in the rest of Missouri. Instead of working to expand the right to vote, Governor Ashcroft and his appointed election board in the city of St. Louis chose to maintain inconvenient and artificial registration barriers that had the purpose and effect of depressing participation in the electoral process, particularly by African-Americans.

Senator Ashcroft's record on desegregation and voter registration are relevant to his recent visit to Bob Jones University and his interview with Southern Partisan magazine. The policies of both Bob Jones University and Southern Partisan magazine represent intolerance, bigotry, and a willingness to twist facts to create a society in that image. And those are policies that all Americans should reject.

Displaying an extraordinary lack of sensitivity, Senator Ashcroft claims that he went to Bob Jones University and was interviewed by Southern Partisan magazine without knowing the policies and beliefs of either. Even if those claims are true, Senator Ashcroft's comments during the hearing were—at best—disturbing. Senator Ashcroft condemned slavery and discrimination, but his response displayed a fundamental misunderstanding of how certain institutions in our society perpetuate discrimination.

Senator Ashcroft was unwilling to say that he would not return to Bob Jones University. He believes his presence there may have the potential to unite Americans. But to millions of Americans, such a visit by Senator Ashcroft as Attorney General of the United States would be a painful and divisive gesture.

Similarly, on Southern Partisan magazine, Senator Ashcroft would only say that he would "condemn those things which are condemnable." Surely the man who wants to sit at the head of the Department of Justice should say more and do more where bigotry is the issue. On the issue of women's rights, Senator Ashcroft's record is equally troubling. The Supreme Court's decision in Roe v. Wade a quarter century ago held that women have a fundamental constitutional right to decide whether to have an abortion. The Court went on to say that States may regulate the abortion procedure after the first trimester of pregnancy in ways necessary to protect a women's health. After fetal viability, a State may prohibit abortions in cases where the procedure is not necessary to protect a woman's life or health.

In the years since Roe v. Wade, opponents have relentlessly sought to overturn the decision and restrict a woman's constitutional right to choose. Senator Ashcroft has been one of the chief architects of that strategy. As attorney general of Missouri, he told the Senate Judiciary Committee in 1981:

> I have devoted considerable time and significant resources to defending the right of the State to limit the dangerous impacts of Roe, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of 50 states relating to abortions.

Senator Ashcroft's position is clear. He believes that, except when medically necessary to save a woman's life, abortion should never be available, even in cases involving a victim of rape or incest. He has said, "Throughout my life, my personal conviction and public record is that the unborn child has a fundamental individual right to life which cannot be infringed and should be protected fully by the 14th Amendment." While I respect Senator Ashcroft's personal convictions, they cannot and should not be used as an excuse to deprive women of their constitutional right to choose.

Nevertheless, Senator Ashcroft has been unrelenting in his efforts to overturn Roe v. Wade. While serving as attorney general and as Governor, Senator Ashcroft constantly sought the passage of State antichoice legislation and was a principal architect of a continuing nationwide litigation strategy to persuade the Supreme Court to restrict or overturn Roe v. Wade. In 1991, as Governor, he even boasted that no State had more abortion-related cases that reached the Supreme Court.

As attorney general, Senator Ashcroft was so intent on restricting a woman's right to choose that he personally argued Planned Parenthood of Western Missouri v. Ashcroft in the United States Supreme Court. In that case, decided in 1983, the Supreme Court specifically and clearly rejected, by a 6 to 3 margin, the attempt by the State of Missouri to require all second trimester abortions to be performed in a hospital. The Court did permit, however, three requirements—that a second physician be present during a postviability abortion; that a minor obtain either parental consent or a judicial waiver to have an abortion; and that a pathology report be prepared for each abortion.

In 1986, Governor Ashcroft signed into law a bill that attempted to overturn Roe v. Wade by declaring that life begins at conception. The bill also imposed numerous restrictions on a woman's constitutional right to choose. After signing the bill into law, Governor Ashcroft said, "the bill makes an important statement of moral principle and provides a framework to deter abortion wherever possible."

In 1989, the bill was challenged all the way to the U.S. Supreme Court in Webster v. Reproductive Health Services. The State of Missouri not only asked the Supreme Court to uphold the statute, but it also specifically asked the Supreme Court to overturn Roe v. Wade. The Court refused to overturn Roe. But by a vote of 5-4, the Court upheld some provisions of the statute, including the prohibitions on the use of public facilities or personnel to perform abortions.

In addition to his attempts to restrict a woman's right to choose, Senator Ashcroft as attorney general also took direct and improper action that prevented poor women from obtaining gynecological and birth control services. As Attorney General, he issued an opinion stating that nurses in Missouri did "not have the authority to engage in primary health care that includes diagnosis and treatment of human illness, injury or infirmity and administration of medications under general rather than direct physician guidance and supervision." Following this opinion, the Missouri State Board of Registration for the Healing Arts threatened the criminal prosecution of two nurses and five doctors employed by the East Missouri Action Agency who provided family planning services to low-income women.

The nurses provided family planning, obstetrics and gynecology services to the public—including information on oral contraceptives, condoms and IUDs; initiatives on breast and pelvic examinations; and testing for sexually-transmitted diseases—through funding for programs directed to low-income populations. The nurses were licensed professionals under Missouri law, and the doctors issued standing orders for the nurses. All services performed by the nurses were carried out pursuant to those orders or well-established protocols for nurses and other paramedical personnel. The board, however, threatened to find the nurses guilty of the unauthorized practice of medicine, and to find the physicians guilty of aiding and abetting them.

In 1983, more than 3 years after Attorney General Ashcroft issued his opinion, the Supreme Court of Missouri rejected the opinion, finding that nothing in the state statutes purported to limit or restrict the nurses' and doctors' practices, and that the nurses actions "clearly" fell within the legislative standard governing the practice of nursing. Although the decision ensured that nurses in Missouri could continue to provide family planning services, during the almost 3 years that the case was pending, Attorney General Ashcroft's legally untenable opinion placed nurses providing gynecological services, including family planning, in considerable legal peril.

Senator Ashcroft's aggressive and vocal opposition to Roe v. Wade continued during his service as a Member of the Senate. He voted in favor of overturning Roe v. Wade and sponsored both a human life amendment to the Constitution and parallel legislation. The human life amendment would prohibit all abortions except that required to prevent the death of the mother—but only if every reasonable effort is made to preserve the life of the women and the fetus. The proposed constitutional amendment contains no exception for rape or incest, and no protections for a woman's health. Because the amendment and the proposed statute define life as beginning at fertilization, its language could also be used to ban any type of contraception which prevents a fertilized egg from being implanted in the uterus, including birth control pills and IUDs.

Two weeks ago, however, Senator Ashcroft appeared to experience a confirmation conversion. He asked us to disregard his past record and unyielding position against reproductive rights and accept his new position—he now views "Roe v. Wade and Planned Parenthood v. Casey as the settled law of the land." He will not longer work to dismantle Roe, but to enforce it, he says.

When asked about his efforts to overturn Roe v. Wade, Senator Ashcroft told the Committee that he "did things to define the law by virtue of lawsuits . . . did things to refine the law when I had an enactment role." But as an example of his view of "defining" and "refining" the law, during his 1981 testimony before the Senate Judiciary Committee as attorney general of Missouri, Senator Ashcroft testified that the human life bill—which would prohibit all abortions—could be constitutional within the framework of Roe v. Wade. It is clear that as Attorney General of the United States, Senator Ashcroft could easily feel free to define and refine Roe v. Wade out of existence.

Senator Ashcroft also wants the committee to believe that he won't ask the Supreme Court to overturn Roe v. Wade. The current Court has made it clear that it will not overturn Roe. In that sense, Roe is settled law. But once the current composition of the Court changes, however, President Bush and Senator Ashcroft will feel free to take steps to overturn Roe. In an interview on January 20, 2001, President Bush said;

> Roe v. Wade is not going to be overturned by a Constitutional amendment because there's not the votes in the House or the Senator. I—secondly—I am going to put judges on the Court who strictly interpret the Constitution, and that will be the litmus test . . . I've always said that Roe v. Wade was—was a judicial reach.

If Senator Ashcroft becomes Attorney General, he will be well-positioned to undermine and eliminate this most basic right of privacy for all American women. President Bush and Senator Ashcroft will select judges and justices who are prepared to turn back the clock to a time when women did not have the right to choose.

We know Senator Ashcroft is willing to go to the courts time and time again to challenge settled law. State of Missouri v. The National Organization for Women is a case in point. In that case, the organization had called for a boycott of Missouri because of the failure by the State to ratify the equal rights amendment to the U.S. Constitution.

Senator Ashcroft told the Judiciary Committee that the litigation brought in Missouri by his office against the National Organization for Women was well within the law. He said:

> We filed the lawsuit, to the best of my recollection, because the boycott was hurting the people of Missouri, and we believed it to be in violation of the antitrust laws. The lawsuit had nothing to do with the ERA . . . or the political differences that I might have had with NOW.

He went on to say:

> Now, I litigated that matter thoroughly, and frankly, other states attempted it . . . I think the law is clear now and has been clear in the aftermath of that decision.

That testimony was grossly misleading. At the time he brought the NOW case, the law was already well-settled in direct opposition to Senator Ashcroft's position. In ruling against Attorney General Ashcroft, both the federal district court and the Eighth Circuit Court of Appeals relied upon the Supreme Court's decision in Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.—a case decided 17 years before Senator Ashcroft brought suit against NOW. The Attorney General said in that case:

> [The Sherman Act] . . . is a code that condemns trade restraints, not political activity, and, a publicity campaign to influence governmental action falls clearly into the category of political activity.

Still, Attorney General Ashcroft was not deterred, even though the district court and the court of appeals had ruled against him, relying upon the clear U.S. Supreme Court precedent. Senator Ashcroft persisted and asked the Supreme Court to review the NOW case. The Court refused even to hear the case.

It is deeply troubling that as attorney general, Senator Ashcroft used state resources to litigate a weak case that rested on an argument rejected by the Supreme Court years ago. But, as with the litigation surrounding the voluntary school desegregation plan, he preferred to fight on in appeal after appeal in a losing and illegitimate battle, rather than surrender to justice and protect the rights of women.

Mr. President, just for the information of Members, I have probably 4 or 5 more minutes. I know others wish to speak. Then I will put the rest of the statement in the RECORD.

Mr. President, Senator Ashcroft's opposition to gun control, his interpretation of the second amendment, and his advocacy of extremist gun lobby proposals are also very disturbing. Over 30,000 Americans lose their lives to gun violence every year, including over 3,000 children and teenagers. Our Nation's level of gun violence is unparalleled in the rest of the world. In response to the devastation caused by gun violence, the majority of Americans support stricter gun control laws and vigorous enforcement of the laws now on the books.

Contrary to the majority of the American public, Senator Ashcroft vigorously opposes stricter gun control laws. He addressed this issue during the hearing, where he seemed to change his long held beliefs and emphasized his commitment to enforce the gun laws and defend their constitutionality. He testified that "there are constitutional inhibitions on the rights of citizens to bear certain kinds of arms." Saying he supported some controls, Senator Ashcroft referred to his attempt to amend the juvenile justice bill to make semiautomatic assault weapons illegal for children. However, he neglected to mention that his proposed amendment was actually a weaker version of one proposed by Senator FEINSTEIN.

He sought to create a parental consent exception to Senator FEINSTEIN's bill, which would have prevented juveniles from obtaining semiautomatic assault weapons. At the hearing, Senator Ashcroft also testified that the assault weapons ban, the Brady law, licensing and registration of guns, and mandatory child safety locks are all constitutional.

Although Senator Ashcroft's testimony was intended to ease our concerns about his willingness to enforce gun control laws, it is difficult to reconcile what he said last week with his rhetoric and his record. Contrary to his testimony, Senator Ashcroft has previously stated that individuals have a virtually unconditional right to bear arms under the second amendment. In a 1998 hearing, he commented on court decisions, which noted that the second amendment does not guarantee individuals unrestricted rights to keep and bear arms. Senator Ashcroft expressed his disagreement with the view accepted by every federal appellate court and the Supreme Court, that the second amendment was intended to protect state-regulated militias, but does not entitle individuals to possess or use weapons connected with participation in private militias. He criticized these court decisions, stating, "The argument makes no sense to me." At the 1998 hearing, Senator Ashcroft went on to say:

> Indeed, the second amendment—like the First—protects an important individual liberty that in turn promoted good government. A citizenry armed with the right to possess firearms and to speak freely is less likely to fall victim to a tyrannical central government than a citizenry that is disarmed from criticizing government or defending themselves.

Senator Ashcroft's extreme view of the second amendment parallels his rhetoric comparing today's elected officials with the despots of the 18th century. The pro-gun Citizens Committee for the Right to Keep and Bear Arms reported that Senator Ashcroft compared "today's power brokers and policy wonks" in the Federal Government to the "European despots from whom our Founding Fathers fled." He has explained that individuals should be allowed to "keep and bear arms" because "I am fearful of a government that doesn't trust the people who elected them." Are we talking about our system of government? Are we talking about that?

Unfortunately, Senator Ashcroft's rhetoric and record lend undeserved credibility and legitimacy to the views espoused by anti-government militia groups in our Nation. Members of these groups believe the second amendment gives them the right to form private armies as a check against federal power. These militia groups point out that guns are not for hunting or even protecting against crime. Rather, they say, the second amendment was intended to safeguard liberty forever by ensuring that the American people should never be out-gunned by their own government. Ruby Ridge and Waco are two recent violent episodes in which groups holding these views came into armed conflict with federal law enforcement. The Department of Justice has the all-important responsibility to enforce the laws against such extremist groups. Yet Senator Ashcroft's past rhetoric has supported these extremist views and causes legitimate concern that his views are so outside the mainstream of American thought that as Attorney General he will be unable and unwilling to enforce the gun laws and pursue prosecutions against militia groups for violations of Federal laws.

Although Senator Ashcroft testified that he believes in the constitutionality of the assault weapons ban, the Brady law, gun licensing and registration, and mandatory child safety locks on guns, he voted to oppose legislation in these areas. He voted against the ban on the importation of high ammunition magazines. He voted against closing the gun show loophole. He voted for a measure to impede implementation of the National Instant Check System. He voted twice to weaken existing law by removing the background check requirements on pawnshop redemptions and by allowing dealers to sell guns at gun shows in any state. He voted twice against bills to require child safety locks, and he voted against regulating firearms sales on the Internet.

Senator Ashcroft testified that he supported funds for gun prosecution initiatives. However, he has voted to reduce funding in other areas vital to gun law enforcement. For example, he voted against funding to implement background checks under the Brady law, named after former Reagan Press Secretary James Brady. Indeed, Senator Ashcroft has referred to James Brady, a brave and patriotic American, as "the leading enemy of responsible gun owners." When provided the opportunity to express regret for making such an unjustified statement, Senator Ashcroft declined.

Senator Ashcroft is also closely tied to the gun lobby and he has often accepted contributions from these organizations and supported their agendas. During the hearing, he told us that keeping guns out of the hands of felons is a "top priority" of his. Yet, in 1998, this did not seem to be a top priority for him. He supported an NRA-sponsored ballot initiative that would have allowed almost anyone to carry concealed guns in Missouri. The proposal was so filled with loopholes that it would have allowed convicted child molesters and stalkers to carry semiautomatic pistols into bars, sports stadiums, casinos, and day care centers. The proposal was opposed by numerous law enforcement groups and many in the business community. Proponents of the measure say Senator Ashcroft volunteered his help to support the referendum, even recording a radio ad endorsing the proposal. Senator Ashcroft stated in response to written questions that "Although [he did] not recall the specific details, [his] recollection is that supporters of the referendum approached [him] and asked [him] to record the radio spot." The fact remains that Senator Ashcroft did support the referendum and did record the radio spot. Few can doubt that as a seasoned politician, Senator Ashcroft made himself fully aware of the contents of the referendum before lending his name to it. And if he did not, there is even greater reason to question his judgment and suitability for such a high and important position in our federal government.

Senator Ashcroft championed the NRA's concealed weapon proposition in 1998. But in 1992, while governor of Missouri, he had voiced his concerns about such a measure. As Governor, he stated he had "grave concerns" about concealed carry laws. He stated, "Overall, I don't know that I would be one to want to promote a whole lot of people carrying concealed weapons in this society." He further stated, "Obviously, if it's something to authorize everyone to carry concealed weapons, I'd be concerned about it." When asked about his change of view in deciding to support the 1998 initiative, Senator Ashcroft said he changed his position because of "Research plus real-world experiences." However, Senator Ashcroft's research was so flawed that he responded to written questions that "[t]o the extent there were loopholes in Missouri law" that would permit convicted child molesters and stalkers to carry concealed weapons, he was "unaware of those provisions at the time." Later, it was reported that the gun lobby spent **$400,000** in support of Senator Ashcroft's Senate reelection campaign. He became "the unabashed celebrity spokesman . . . for the National Rifle Association's recent attempts to arm citizens with concealed weapons in Missouri," according to a column by Laura Scott in the Kansas City Star.

The Citizens' Committee for the Right to Keep and Bear Arms gave Senator Ashcroft the "Gun Rights Defender of the Month" Award for leading the opposition to David Satcher's nomination to be Surgeon General. The group objected to Dr. Satcher because he advocated treating gun violence as a public health problem.

Based on his close ties to the gun lobby and his strong support for their agenda, it is difficult to have confidence that Senator Ashcroft will fully and fairly enforce the nation's gun control laws and not seek to weaken them.

Senator Ashcroft has shown time and time again that he supports the gun lobby and opposes needed gun safety measures. Given the important litigation in the federal courts, it is imperative to have an Attorney General who will strongly enforce current gun control laws such as the Brady Law, the assault weapons ban, and other statutes. It is also important to have an Attorney General with a responsible view of proposed legislation when the Department of Justice is asked to comment on it.

Senator Ashcroft's handling of judicial and executive branch nominations also raises deep concerns. In four of the most divisive nomination battles in the Senate in the 6 years he served with us, Senator Ashcroft was consistently involved in harsh and vigorous opposition to the confirmation of distinguished and well-qualified African Americans, an Asian American and a gay American.

When President Clinton nominated Judge Ronnie White of the Missouri Supreme Court to be a federal district court judge, Senator Ashcroft flagrantly distorted the record of the nominee and attacked him in the strongest terms. He accused Judge White of being "an activist with a slant toward criminals." He accused him of being a judge with "a serious bias against a willingness to impose the death penalty." He accused him of seeking "at every turn" to provide opportunities for the guilty to "escape punishment." He accused him of voting "to reverse the death sentence in more cases than any other [Missouri] Supreme Court judge."

When questioned about Judge White's nomination, Senator Ashcroft did not retreat from his characterization of Judge White's record, although a review clearly demonstrates that Senator Ashcroft's charges were baseless.

Judge White is not an ardent opponent of the death penalty. He voted to uphold death penalty convictions in 41 cases, and voted to reverse them in only 17 cases. His votes in death penalty cases were not significantly different from the votes of the other members of the Missouri Supreme Court—judges whom Senator Ashcroft appointed when he was Governor. In more than half of the 17 cases in which Judge White voted to overturn a death sentence, he was voting with the majority—with Ashcroft appointees. Seven of these cases were unanimous decisions. There were only three death penalty reversals in which Judge White was the only judge who voted to overturn the conviction. In fact, four of the justices whom Senator Ashcroft named to the court have voted to overturn more death penalty convictions than Judge White. That record is not the record of "an activist with a slant toward criminals."

In fact, Judge White's record in death penalty cases shows him to be in the Missouri mainstream. Four of his colleagues who were appointed to the bench by Governor Ashcroft have voted to overturn between 22 percent and 25 percent of the death penalty convictions they considered. Judge White voted to reverse the convictions in 29 percent of the death penalty cases he heard. By contrast, his predecessor Judge Thomas, also an Ashcroft appointee, voted to reverse 47 percent of the death sentences he reviewed. There is no significant difference between Judge White's record on the death penalty and the records of his colleagues on the court.

Some law enforcement officials in Missouri did oppose the White nomination. But many Missouri police officials supported Judge White. He had the support of the State Fraternal Order of Police. The head of the FOP said, "The record of Justice White is one of a jurist whose record on the death penalty has been far more supportive of the rights of victims than the rights of criminals." Judge White was also endorsed by the chief of police of the St. Louis Metropolitan Police Department. The president of the Missouri Police Chiefs Association described Judge White as "an upright, fine individual."

In Senator Ashcroft's statements on the Senate floor on the nomination, he focused on a small number of Judge White's opinions. A review of Judge White's entire record suggests that those cases were taken very much out of context. In two of them, there were serious questions about the competency of the defendant's trial counsel. In the third, there was evidence of racial bias by the trial judge. Those cases were not disagreements about the death penalty. The issue was whether the defendant had received a fair trial. Judge White's dissent in one of those cases makes this point in the clearest terms:

> This is a very hard case. If Mr. Johnson was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given . . . I am not convinced that the performance of his counsel did not rob Mr. Johnson of any opportunity he might have had to convince the jury that he was not responsible for his actions. This is an excellent example of why hard cases make bad law. While I share the majority's horror at this carnage, I cannot uphold this as an acceptable standard of representation for a defendant accused of capital murder.

Senator Ashcroft's statements on the White nomination strongly suggest that Senator Ashcroft has a misguided view of the role of judges in our constitutional system. To label a judge "pro-criminal" based on isolated opinions over the course of an entire career is wrong. Judges are obliged to decide individual cases according to the requirements of law, including the Constitution. Judge White has frequently voted to affirm criminal convictions, including 41 capital cases. The fact that he reached a contrary position in a few cases should not disqualify him to be a federal judge.

What is most noteworthy about Senator Ashcroft's attacks on Judge White is the extraordinary degree to which Senator Ashcroft distorted the record in order to portray Judge White's confirmation as a referendum on the death penalty. This is a judge who had voted to uphold more than 70 percent of the death penalty convictions he had reviewed. Yet Senator Ashcroft never questioned Judge White about these issues at the committee hearing on Judge White's nomination, and he never gave Judge White an opportunity to explain his reasons for dissenting in the three cases before unfairly attacking his record.

It appears that Senator Ashcroft had decided to use the death penalty as an issue in his campaign for re-election to the Senate, and to make his point, he cruelly distorted the honorable record of a distinguished African American judge and denied him the position he deserved as a federal district court judge. As I said at the hearing, what Senator Ashcroft did to Judge White is the ugliest thing that has happened to a nominee in all my years in the Senate.

Senator Ashcroft was also asked about the nominations of Bill Lann Lee to serve as Assistant Attorney General for Civil Rights, Dr. David Satcher to serve as Surgeon General of the United States, and James Hormel to serve as U.S. Ambassador to Luxembourg.

Senator Ashcroft told the committee that he could not support Mr. Lee because he had "serious concerns about his willingness to enforce the Adarand decision" on affirmative action. In truth, however, Mr. Lee's position on affirmative action was well within the mainstream of the law, and he repeatedly told the committee that he would follow the Supreme Court's ruling in the Adarand case. As Senator LEAHY said during the Ashcroft confirmation hearings.

> Mr. Lee testified on a number of occasions—in fact, testified under oath, including, incidentally, directly in answer to your questions, that he would enforce the law as declared in Adarand. And he also said, in direct answer to questions of this committee, he considered the Adarand decision of the Supreme Court as the controlling legal authority of the land, that he would seek to enforce it, he would give it full effect . . .

Similarly, Senator Ashcroft said he did not support Dr. Satcher to be Surgeon General because he:

> Supported a number of activities that I thought were inconsistent with the ethical obligations of a medical doctor and a physician, particularly the surgeon general . . . for example he supported an AIDS study on pregnant women in Africa where some patients were given placebos, even though a treatment existed to limit transmission of AIDS from the mother to the child . . . I, secondly, believed his willingness to send AIDS-infected babies home with their mothers without telling their mothers about the infection of the children was another ethical problem that was very serious.

In fact, at the time of the debate on the Satcher nomination in 1997, approximately 1,000 babies were born with HIV every day. Most of the births were in developing countries, where the U.S.-accepted regimen of AZT treatment is not practical because of safety and cost concerns. In 1994, the World Health Organization had called a meeting of international experts to review the use of AZT to prevent the spread of HIV in pregnancy. That meeting resulted in the recommendation that studies be conducted in developing countries to test the effectiveness and safety of short-term AZT therapy that could be used in developing countries and that those studies be placebo-controlled to ensure safety in areas with various immune challenges. Approval was obtained by ethics committees in this country and the host countries and by the UNAIDS program. The National Institutes of Health and the Centers for Disease Control agreed to support the studies in order to save lives in developing countries.

Many leaders in the medical field supported the studies. Dr. Nancy Dickey, AMA president-elect at the time, said that the studies in Africa and Asia were "scientifically well-founded" and carried out with "informed consent." Those who did not support the studies still supported Dr. Satcher's nomination. Dr. Sidney Wolfe, Director of Public Citizen's Health Research Group, said that while he had for many months expressed opposition to the AZT experiments, it represented an honest difference of opinion with Satcher. He said he fully supports the nomination. "I think he'd make an excellent surgeon general," Wolfe said. "I have known him and I admire him."

Senator Ashcroft also mis-characterized Dr. Satcher's role in the survey of

HIV child-bearing women. In 1995, seven years after the survey began during the Reagan administration, Dr. Satcher, as acting CDC director, and Dr. Phil Lee, former Assistant Secretary for Health, halted the HIV survey. They did so because of a combination of better treatment options for children with HIV, the discovery of a therapeutic regimen to reduce mother-to-infant HIV transmission, and a greater ability to monitor HIV trends in women of childbearing age in other ways.

The HIV tests had begun in 1988, five years before Dr. Satcher joined the CDC. The tests were supported by public health leaders at every level of government as a way to monitor the HIV/AIDS epidemic. These surveys were designed to provide information about the level of HIV in a given community without individual information. The Survey of Child-Bearing Women was one of the HIV surveys conducted under the program. It was funded by the CDC and conducted by the states. Forty-five states, including Missouri while Senator Ashcroft was Governor, participated in the survey and requested and received federal funds from the CDC to conduct it. The survey was important to public health officials at the time, because it was the only unbiased way to provide a valid estimate of the number of women with HIV and their demographic distribution. Dr. Satcher's participation in the survey was justified, and it was not a valid reason for Senator Ashcroft to deny him confirmation as Surgeon General.

The case of James Hormel is also especially troubling. When Mr. Hormel was nominated by President Clinton to serve as Ambassador to Luxembourg, Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee to oppose the nomination. Although Senator Ashcroft voted against Mr. Hormel, Senator Ashcroft did not attend the confirmation hearings, did not submit written questions, and refused Mr. Hormel's repeated requests to meet or speak by phone to discuss the nomination.

In 1998, when asked about his opposition to Mr. Hormel's nomination, Senator Ashcroft stated that homosexuality is a sin and that a person's sexual conduct "is within what could be considered and what is eligible for consideration." Senator Ashcroft also publicly stated in 1988 that: "[Mr. Hormel's] conduct and the way in which he would represent the United States is probably not up to the standard that I would expect."

Senator LEAHY asked Senator Ashcroft at the Judiciary Committee hearings whether he opposed Hormel's nomination because of Hormel's sexual orientation. Senator Ashcroft responded "I did not." Instead, Senator Ashcroft claimed that he had "known Mr. Hormel for a long time"—Mr. Hormel had been a dean of students at the University of Chicago law school when Senator Ashcroft was a student there in the 1960s. Senator Ashcroft repeatedly testified that he based his opposition to Mr. Hormel on the "totality of the record."

Mr. Hormel was so troubled by Senator Ashcroft's testimony that he wrote to the committee and said the following:

> I want to state unequivocally and for the record that there is no personal or professional relationship between me and Mr. Ashcroft which could possibly support such a statement. The letter continued, I have had no contact with him [Ashcroft] of any type since I left my position as Dean of Students . . . nearly thirty-four years ago, in 1967 . . . For Mr. Ashcroft to state that he was able to assess my qualifications . . . based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous . . . I find it personally offensive that Mr. Ashcroft, under oath and in response to your direct questions, would choose to misstate the nature of our relationship, insinuate objective grounds for voting against me, and deny that his personal viewpoint about my sexual orientation played any role in his actions.

We should all be deeply concerned about Senator Ashcroft's willingness to mislead the Judiciary Committee about his reasons for opposing the Hormel nomination. As the St. Louis Post-Dispatch noted on January 22, 2001. "[T]he most disturbing part of Mr. Ashcroft's testimony was the way in which he misstated important parts of his record."

In conclusion, the Attorney General of the United States leads the 85,000 men and women who enforce the nation's laws in every community in the country. The Attorney General is the nation's chief law enforcement officer and a symbol of the nation's commitment to justice. Americans from every walk of life deserve to have trust in him to be fair and just in his words and in his actions. He has vast powers to enforce the laws and set priorities for law enforcement in ways that are fair or unfair—just or unjust.

When a President nominates a person to serve in his Cabinet, the presumption is rightly in favor of the nominee. But Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that. Americans are entitled to an Attorney General who will vigorously fight to uphold the law and protect our constitutional rights. Based on a detailed review of his long record in public service, Senator Ashcroft is not that man. I urge the Senate to vote no on this nomination.

Mr. President, since I see a number of my colleagues, I will take the opportunity, when there is a pause in the Senate, to complete my statement. At this time, I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I consider it an honor and privilege to stand here today in support of the nomination of John Ashcroft to be Attorney General of the United States. Contrary to some of the rhetoric we have been hearing from the other side, everybody in this institution knows he is one of the finest people who ever served here. He is a man of great religious faith, a moral man. Yet as we listen to this debate, if it wasn't for the fact that it was so personally destructive and so vindictive, it would be humorous.

We have a man who served 6 years in the Senate, served two terms as Governor, two terms as attorney general of the State of Missouri. Yet to hear the debate, he is anti-child, anti-woman, anti-black, anti-gay, anti-Catholic. What else can possibly be said?

One thing we can certainly be assured of—the left knows how to play politics. They do it well, and I commend them for it. Unfortunately, though, sometimes in politics, one destroys unfairly the reputations of people who don't deserve it. That is what offends me the most. I will not use the term "anger," but it does offend me that this kind of personal destruction has to be used.

I recall the comments earlier in the debate today of Senator LEAHY when he said there are 280 million Americans with divergent ethnic backgrounds and political views. Out of that 280 million Americans, according to the left, if there are any of those 280 million Americans who are conservative and happen to be pro-life or pro-gun, they can't be Attorney General. If they are pro-choice or if they are anti-gun, then they can be.

I again remind my colleagues that the vote on Janet Reno was 98–0. Most of us on this side of the aisle would agree that her views and ours were quite different, but we supported her nomination because the President of the United States has a right to pick his or her Cabinet. That is a fact.

I will respond directly to this anti-Catholic charge. It is so outrageous, I don't know how people can look in the mirror, to be candid about it, and do this kind of personal destruction.

Let me read from a copy of a letter I just received from Senator KENNEDY's own cardinal, Cardinal Law. I will read it into the RECORD:

> DEAR SENATOR ASHCROFT: Let me begin by expressing my deep dismay at the unfounded and scurrilous charge that you could possibly harbor anti-Catholic feelings. I was astounded to hear that anyone was making such a ridiculous accusation.
>
> From any time as Bishop of Springfield Cape Girardeau until today, I have always found you to be a man of honor, integrity and deep faith. I recall with great fondness the many opportunities we had to work together on many issues affecting the lives of

the good people of the State of Missouri. In a particular way, I recall how kind and thoughtful you were to invite me to address The Governor's Annual Prayer Breakfast on January 9, 1992 when you were serving as the Governor of Missouri. On that same day you also honored me with an invitation to address The Governor's Leadership Forum on Faith and Values. College students, then and now, are beneficiaries of your generous love and concern for them and their futures. I do not recall that you made any distinctions between black and white, Protestant, Catholic or Jew in your desire to instill in them a love for their faith, their families and one another as brothers and sisters in the human family.

Let me assure you, John, of my prayers.

Asking God to bless you, Janet, the children and all whom you hold dear and with warm personal regards. I am

Sincerely yours in Christ,
BERNARD F. LAW,
Archbishop of Boston.

Mr. President, there are a long line of people on the basis of their position on life who couldn't be Attorney General. We could start with Jesus Christ himself. We could also add to that list the Pope, Mother Teresa, all the cardinals in the United States. We are going to have to eliminate a whole lot of people. It is so outrageous and, frankly, pathetic, it really exposes the left for what they are.

It exposes the left for what they are.

Let me read part of a comment made by Bill Bennett:

> What you are seeing is the true face of the Democratic Party. What you are seeing is them saying to a man "you are perfectly decent, everything you have done is within the law, you haven't harbored any illegal aliens, you have never left the scene of a crime, you led an exemplary life, but we don't approve of your views. You dare to say you are pro-life, you dare to say you are opposed to reverse discrimination and for that you will pay. For that we will make this experience something you will never forget." I hope they do it. I hope the American people watch it. If you want to see the haters, you'll see them in these press conferences behind the attempt to kill the Ashcroft nomination.

You can't say it any better than that. People should be ashamed of themselves. Who did our side oppose on a Cabinet appointment in the Clinton administration? They all were approved by voice vote, with the exception of Janet Reno. That was 98–0.

> The activist Democrats shooting at John Ashcroft in his bid to become America's next Attorney General have revealed the ugliness about themselves, not the nominee.

So said Betsy Hart of Scripps Howard. That is the truth. There is the ugliness. It is not John Ashcroft. John Ashcroft sat on that committee on a panel and took those questions and took that abuse. He was decent, respectful, honorable, gracious, and took it all.

He is above them all. He showed it on national television. He is above them all. His critics couldn't tie his shoe laces or even shine his boots.

Betsy Hart also said:

> Apparently these folks are so comfortable with using cabinet offices to create law instead of to enforce existing laws and so content to see judges write new law instead of interpret existing law, they can't fathom a responsible officeholder who will honor the rule of law.

You cannot say it any better than that, if you are prepared for 10 years. That sums it up in a nutshell. They are so used to using these positions to create law, they can't believe a person such as John Ashcroft, who will say to you: I worked as hard as I could as a Member of the Senate to create laws for what I believe in. So does everybody else on the left, and you have every right to do that. But there is a difference between that John Ashcroft and the John Ashcroft, however reluctant he may be, who will step up to the plate as the Attorney General of the United States and enforce the law—yes, even the laws he doesn't like. His record proves he did it over and over and over and over and over again. There is not one shred of evidence to indicate that he didn't do it.

I am sick and tired of the hypocrisy in this place. Much was made about another issue; when you start getting into the racial charges, that hits right below the belt. I am going to answer it. It deserves to be answered. Is there anybody in here whose spouse taught for several years at a predominantly black school? Is that racist? In the news today is speculation that his No. 2 person may, in fact, be black. So what. The most qualified person should be who he picks. Then the issue of desegregation in the St. Louis matter before the Governor and the attorney general. During that suit, the job of the attorney general and the Governor was to support the State's position, to defend the State. It wasn't about segregation. It was about taxes. It was about busing. It was a very controversial issue. Those who opposed busing or imposing taxes by the courts on the citizens were not racists.

Anyone who implies that is flat out wrong. If John Ashcroft is guilty of segregation because he defended the State, then why is Jay Nixon, who is the attorney general, himself, not guilty of the same thing? Why is it that two prominent Members of this body—I will introduce this into the RECORD—Senator KENNEDY and Senator HARKIN—invite you to a breakfast "to meet and support Missouri Senate candidate, Attorney General Jay Nixon, Tuesday, March 31, 1998, at The Monocle for a contribution of $5,000 or finish your max-out?" He did the same thing as Ashcroft did. And it is hypocrisy to stand here and say this to destroy the reputation of one of the finest people who ever served here.

Mr. President, I ask unanimous consent that this announcement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR TED KENNEDY &
SENATOR TOM HARKIN
INVITE YOU FOR BREAKFAST TO MEET AND SUPPORT
MISSOURI SENATE CANDIDATE
ATTORNEY GENERAL JAY NIXON
TUESDAY, MARCH 31, 1998
THE MONOCLE
8:30 AM–9:30 AM
RSVP to Jill Gimmel—202-546-9494
or Don Erback—202-546-9292
Contribution: $5,000 or Finish Your Max-Out

Mr. SMITH of New Hampshire. Kay James said it about as well as you can say it. "Religious profiling," that is what it is. You can't be a man of faith or a woman of faith. You can't be that. You can't have views that differ with the left. Otherwise, you can't serve. That is it.

Bipartisanship? I will tell you how far it reaches when we agree with that. That is when we get bipartisanship. They never come over to agree with us. That is what this debate is about. It is about the continuation of the election. The election is over. Hello, the election is over, folks.

The President of the United States should pick his Cabinet. That is the right thing to do, and every one of you knows it. To get into this character assassination of racism, anti-Catholic, antigay, anti-this, anti-that—there is not a shred of evidence about John Ashcroft that would indicate that, and you ought to examine your conscience before you vote.

John Ashcroft is well qualified to be Attorney General, maybe one of the most qualified ever to even be put up for nomination.

During the debate on Janet Reno, I recall her views against the death penalty. I happen to support the death penalty. I voted for Reno because Reno said she would enforce the law, and if the law of the land is the death penalty, she said she would enforce it. That is fine.

Do I agree with everything Janet Reno did? No. Bill Clinton won the Presidency and had the right to pick his Attorney General. That is the situation right now. George Bush is the President, and he has the right to pick. If you think John Ashcroft is not going to enforce the law, then say so. If you think he is a racist, say so. But there is not one shred of evidence that indicates otherwise.

This business about Ronnie White is so outrageous that it really just defies logic to talk about it.

The National Sheriffs' Association wrote a letter, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, January 11, 2001.
Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: On behalf of the National Sheriffs' Association (NSA), I am writing to offer our strong support for the nomination of Attorney General Designate John Ashcroft. As the voice of elected law enforcement, we are proud to lend our support to his nomination and look forward to his confirmation by the Senate.

As you know, NSA is a non-profit professional association located in Alexandria, Virginia. NSA represents nearly 3,100 elected sheriffs across the Nation and has more than 20,000 members including deputy sheriffs, other law enforcement professionals, students and others.

NSA has been a long time supporter of John Ashcroft and in 1996, he received our prestigious President's Award. After reviewing Senator Ashcroft's record of service, as it relates to law enforcement, we have determined that he will make an outstanding Attorney General and he is eminently qualified to lead the Department of Justice. NSA feels that Senator Ashcroft will be an outstanding Attorney General for law enforcement and the U.S. Senate should confirm him.

I look forward to working with you to ensure that the U.S. Senate confirms Attorney General Designate Ashcroft.

Sincrely,
JERRY "PEANUTS" GAINS,
President.

Mr. SMITH of New Hampshire. The National Sheriffs' Association wrote a letter on behalf of John Ashcroft for Attorney General.

On this business about Ronnie White, the truth of the matter is the individual accused of that crime, Mr. Johnson, went on a 24-hour crime spree, killed three sheriffs, killing the wife of another one at a party during the Christmas holidays, and he was given all kinds of legal defenses. Ronnie White argued that Johnson's defense team, a group of three private attorneys with extensive trial experience, had provided ineffective assistance. Fine; he has a right to do that. Ronnie White was a judge. He had a right to say this guy deserves some more help. But he also has to expect that if you make those kinds of decisions, somebody may hold that against you when you go up for another judgeship somewhere.

That is all it was. That is what that was about. It wasn't about racism; it was about a judge who some of us thought—55 of us, as a matter of fact—thought shouldn't be on the court because of his views on crime.

I urge my colleagues to rethink their positions and understand it is important that we understand that a President should pick his nominee and that this nominee is a fine man—one of the finest who ever served here. He should be confirmed, and I hope he will be confirmed, as the next Attorney General.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much.

Mr. President, as we consider the nomination of John Ashcroft for Attorney General, I would like to compliment the Judiciary Committee on their process and deliberation in bringing this nomination to the floor.

On my side of the aisle, I would like to be particularly complimentary of the leadership provided by Senator PATRICK LEAHY and, of course, the work done by Senator ORRIN HATCH. I believe the deliberations were fair, rigorous, thorough, and conducted in a tone that was really becoming of the U.S. Senate. I would like to congratulate my colleagues on that.

As I consider the nomination of all the Cabinet members, particularly this one, I want to speak first about the statement that said a President is entitled to his nominees. The nominations to head up the executive branch are not entitlement programs. There is nothing entitlement about it. In fact, we were given a constitutional mandate to examine each and every nominee and to give our advice and consent to the President of the United States. The founding fathers were very clear that the Senate should not be a rubber stamp in terms of a Presidential set of nominees. The President is entitled to fair consideration of those nominees, but not for us to be a rubber stamp.

On each and every one of those nominees, I have given my independent judgment and have voted for most of President Bush's nominations because I think they meet three tests: Competency, integrity, and a commitment to the mission of the agency.

President Bush in his inaugural address pledged to "work to build a single nation of justice and opportunity." Yet one of his first acts was to choose John Ashcroft to lead the Department of Justice, someone who has had an extreme ideological agenda on civil rights, on a woman's right to choose, on gun control, his positions are far outside the mainstream. Often, his rhetoric has been harsh and wounding. As attorney general and Governor of Missouri; he pushed systematically and regularly for the disempowerment of people of color and the disempowerment of women to have access to health services related to their own reproduction.

Can anyone be surprised that this nomination is divisive? This is not a time in our history for further division.

My wonderful colleague from New Hampshire left the floor. I want to say something. I don't have a litmus test on nominations. I don't have a single issue by which I judge any and of all the nominees. He raised the issue, and appropriately, that if you are not prochoice, can you be confirmed in the Senate, or can you get Democratic votes? The answer is yes, and right here.

I will give you an example. Governor Thompson has now been appointed our Secretary of HHS. I am pro-choice. Governor Thompson is not. I did not hesitate to vote for Governor Thompson because I looked at the pattern of the way he governed. He is a champion of welfare rights and truly a compassionate conservative—one of the first to have a State version of a woman's health agenda, a real commitment to dealing with the tragedy of long-term care and extra support to care givers. This is a Cabinet member I want to work with in constructive dialog.

I had no litmus test. I don't believe my colleagues do. I believe among our own side of the aisle there are people about which it is not whether you are pro-choice or pro-life, it is, are you committed to some of the central values of our society?

Do you believe America is a mosaic, that all people come with different heritages and different beliefs and have a right to equal opportunity and justice under the law? Do you believe the social glue is access to courts that you believe are fundamentally fair. Do you believe that an Attorney General's Office at the State or Federal level will embrace the fundamental principles of our U.S. Government? That is our criteria.

When I looked at the nomination of John Ashcroft, I had to say, Is he competent? Yes. You can't dispute that. His whole education and record—yes, he is competent. On integrity? Until the confirmation hearing, I believed him to be a man of great integrity. I had no doubt. But all of a sudden, there were two John Ashcrofts. The prehearing John Ashcroft who was Attorney General, as Governor of Missouri, here on the Senate floor had one set of beliefs. I respect those beliefs. People are entitled to their beliefs. But all of a sudden in the confirmation hearing, his beliefs no longer mattered to him. If you fundamentally opposed, as he did, issues of civil rights, the access of women to have reproductive services, how is it you could have such passionate beliefs one day and then say they didn't matter, you would put them on the shelf?

I respect the passion Senator Ashcroft has of his beliefs. Though he is entitled to his beliefs, I don't believe his beliefs entitle him to be Attorney General of the United States. I don't know how you can believe something so passionately one day and then say you will put them on the shelf. Beliefs are not something like the surplus that you can put in a lockbox. Beliefs cannot be put in a lockbox.

When I looked at John Ashcroft and his record as attorney general and as Governor, I was deeply troubled. What I was troubled about was how he enforced issues, his record on civil rights, on a woman's right to choose, on enforcing the laws.

On civil rights, the Attorney General of the United States decides how vigorously we enforce existing civil rights laws. The Civil Rights Division monitors and ensures that school districts comply with desegregation. Yet as attorney general, John Ashcroft strenuously opposed a voluntary court-ordered desegregation plan agreed to by all parties. He even tried to block this after a Federal court found that the State was acting unconstitutionally and then went on to vilify the court for their position.

One of the fundamental civil rights is the right to vote. Didn't we just go through that in the most closely contested election? Every vote does count, and everybody who can should be registered. Yet as Governor, he vetoed the Voter Registration Reform Act which would have significantly increased minority voter registration and was endorsed by such groups as the League of Women Voters. I believe there has been a persistent pattern of opposing opportunity in the areas of civil rights.

On the protection of rights of individuals, the right to choose, the Attorney General has great power to undermine existing laws and the constitutional protection of a woman's right to choose. As attorney general, John Ashcroft used his office to limit women's access to health care, particularly reproductive health care, filing an amicus brief in a case that sought to prevent nurses from providing routine GYN services and also giving out on a voluntary basis usual and customary methods of contraceptives, saying they were practicing medicine. What they were doing was practicing public health.

Based on his record and other statements, I can only conclude that John Ashcroft would use his position to undermine existing laws, including the constitutional protection of a woman's right to choose and access to reproductive health services, after these services have already been affirmed by law and the Supreme Court.

Sexual orientation. The Attorney General is charged with enforcing antidiscrimination laws, which include protections for homosexuals. Yet John Ashcroft opposed the nomination of James Hormel to be Ambassador to Luxemburg simply because he is gay. Now, hello, what does that mean would happen in his own department? Will this be an issue with his own hiring at the Department of Justice?

The Justice Department advises the President on proposed legislation; for example, hate crimes prevention, another part of the social glue of America. John Ashcroft voted against this legislation. How does he feel about hate crimes now? Will he enforce existing hate crime laws? Will he recommend that the President expand them?

The Justice Department is called upon to enforce other laws. One of the big flashing yellow lights is racial profiling. By the way, the former Governor of New Jersey was called into question about the way she enforced racial profiling, but I voted for her to be EPA Administrator because that is not the issue in being an EPA Administrator. Again, no litmus test and no listening to the so-called left-wing groups they talk about. Please let's end this demeaning of groups.

The NAACP, People for the American Way, the ACLU, these are part of America. Senator Ashcroft could have acted in racial profiling, but he held it up in committee. He was quite passive. Is he going to be passive when it comes to this as Attorney General? I wonder.

Then we have activism. Bill Lann Lee was nominated for the Assistant Secretary for Civil Rights—a compelling story, a man of great talent, a man who worked his way up, not unlike some of the nominees given to us by President Bush, such as Mr. Martinez, Ms. Chao, whose stories are compelling. Bill Lann Lee had a compelling story, but he also had one other thing on his resume. He happened to have been a civil rights lawyer for the NAACP. This made him, in the Ashcroft analysis, a radical activist. What is wrong with being a lawyer for the NAACP? I thought Thurgood Marshall once had that job—not a bad place to earn your spurs. But, oh, no.

So what is it that John Ashcroft is going to look for in his Assistant Secretary for Civil Rights? Passivity? Let's get somebody passive? I don't think so, because it really goes against what we require in that job, because in that job you have to be proactive.

I don't believe John Ashcroft is a racist. I also don't believe he is anti-Catholic. I believe those rhetorical charges were not only exaggerated but I truly believe they are unfounded. At the same time, he does have a record of insensitivity. I look at that pattern where he routinely blocked the nomination of women and minorities; he opposed 12 judicial nominees, 8 of whom were women and minorities.

Others have spoken about his position on gun control. As a fervent opponent of even the most basic gun control measures, how can we expect him to vigorously enforce the gun safety laws that are already on the books?

Let me conclude. The President does have the right to name his Cabinet, but the Senate has the constitutional requirement to give advice and consent on these nominations. My advice to President Bush is: I am sorry you gave us such a divisive nominee. Other nominees are excellent. Others I will look forward to working with, and to starting a constructive dialog with. I am so sorry this happened. I am sorry it happened to John Ashcroft. If John Ashcroft had been nominated for Secretary of Agriculture, I would have probably voted for him. But I cannot vote for him to be Attorney General because I do believe that beliefs matter and the beliefs that you show over a record of a lifetime show the true way you will conduct your office. Beliefs are not in a lockbox.

I cannot consent to the nomination of John Ashcroft. I urge my colleagues to join me in opposing this nomination. I also urge my colleagues, let us not have demeaning rhetoric on the floor or try to demonize either a group or a nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am prepared to speak at this moment. If there is a Republican Senator on the floor, I will be happy to yield time so we take turns.

Mr. HATCH. If the Senator will wait, I understand Senator KAY BAILEY HUTCHISON is coming over. Here she is now. I appreciate that courtesy.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Judiciary Committee for having this nomination go forward and for giving us the opportunity to talk. I think the debate is very important. I think it is important that we talk about the John Ashcroft we know because when I hear some of the other people talking about John Ashcroft, it is not the same person with whom I served for 6 years. I would like to set the record straight on a couple of points.

I have known John and Janet Ashcroft since long before they came to the Senate because he was a leader for his State and our country for many years before he represented his State in the Senate. He has been a Governor. He has been elected chairman of the National Governors' Association. He has been the attorney general for the State of Missouri. And he served as chairman of the Attorneys General Association of the United States. So he has been in a position of leadership for our country many times.

I think he is the most qualified person to have been nominated for Attorney General in many years. He has served in the capacity of attorney general as well as Governor and in the U.S. Senate.

The people of America saw the true heart of John Ashcroft when his opponent, Mel Carnahan, died near the end of their race for the Senate. I was there for John Ashcroft after that tragic accident. I think John Ashcroft did not know what to do, just like everyone else. He had no intention of campaigning against a man who had just died, a man who had also served the State of Missouri so well. He had no intention of campaigning against his widow when she made the decision that she would take the appointment of the Governor if Mr. Carnahan won the election.

John Ashcroft kept his word. He kept his word and has never uttered a word about Mrs. CARNAHAN. So I think when he was ultimately defeated, his magnanimity in defeat also showed that he is a person of character first—character above public servant, character above partisan, character above everything else. He showed it at a time when he had nothing to gain, when he thought he probably would not be in public office again. But he did what was right from his heart. That is why I am supporting him for Attorney General of the United States.

He also brings an impressive academic background to this office. He is a graduate of the University of Chicago School of Law. He attended Yale University.

I also want to mention, because I think she is very much a part of this team, his wife Janet and their joint commitment to education in our country. When she moved up here with Senator Ashcroft, she decided she wanted to teach. She chose to teach at Howard University, one of our Nation's historically black colleges. Howard University is where she has taught for 5 years. I think she has shown her commitment to education by going the extra mile to share her experiences and her knowledge with the students at Howard University. Janet, by the way, is also a lawyer.

I am very proud to support both Janet and John Ashcroft.

We have heard a lot of John Ashcroft's record, things which he said which have also been refuted. In my experience with John Ashcroft, he was the cosponsor of my legislation to eliminate the marriage tax penalty, which has the effect of taxing so many couples just because they get married—not because they make higher salaries individually but because they get married—and throwing them into a higher bracket. John did not just cosponsor the bill and walk away; he fought with me on the floor, day after day, week after week. We passed marriage penalty relief. It was because John Ashcroft worked as hard as I did to make that happen. It was vetoed by the President. But eventually we are going to pass marriage penalty relief in this country, and the President is going to sign it, and people will not have to pay the average $1,400 a year just because of their married status.

John did this because he believes in family values and he believes marriage is one of the ways people can live a good life. Statistics show that married people are the least likely to be on welfare or to get into any kind of criminal trouble. I think we should be encouraging marriage, not discouraging it. John Ashcroft agrees with that.

He worked with me on reauthorizing the Violence Against Women Act. We introduced legislation to amend current stalking laws to make it a crime to stalk someone across State lines. Also, cyberstalking has become a more common crime in recent years, as the use of the Internet has increased. Young people are lured into a situation in which criminal conduct becomes part of an association. That happens when you have Internet chatrooms. Internet chatrooms often cause people to start thinking they want to meet, and that has facilitated criminal acts when it has not been monitored correctly. So to try to discourage it, we made that against the law.

John also played a role in allowing hourly wage workers, particularly working mothers, to have flextime in the workplace so they could take off at 3 o'clock on Friday afternoon and make up for it on Monday by working 2 extra hours so they could see their child's football game or soccer game.

These are things that are very important in John's background.

He also voted to prohibit anyone convicted of domestic violence from owning a firearm. This is very important to try to curb domestic violence in our country.

I think we need to bring John's full record to the forefront in order to make the decision on whether he would be fit to serve as Attorney General.

Almost everyone in this body supported every Clinton appointee to the Cabinet. That has been the tradition in the Senate. Very few times do we deny the right of the President to have his own Cabinet and the people he trusts and wants to work with around him. I think it would be a major step in the wrong direction to not affirm the appointment of John Ashcroft. I also think it will be a major setback if John Ashcroft is the victim of scurrilous statements that will keep him from having the ability to do his job and the mantle to do his job.

So I hope my colleagues will show discretion. I hope they will understand that John Ashcroft is likely to be confirmed. So if they have something to say against him, it is their absolute right to do it, but I hope they stick to the facts and give their views in a way that will not hurt John Ashcroft's ability to do the important job of enforcing the laws of this country.

When John Ashcroft becomes Attorney General, he will no longer be an advocate for laws; he will be the enforcer of laws. He has said on many occasions that he will enforce those laws to the letter because he sees that as his job.

Furthermore, he has shown by his record as attorney general of Missouri that he will do that. He deserves not only our support now but also our support after he gets the job to make sure the laws of our country are fairly and reasonably enforced and targeted to people who break those laws.

The rhetoric, if it gets too hot, is going to auger against his ability to do the job that all of us need for him to do and want him to do.

I thank the Chair. I thank Senator HATCH and Senator DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair. Mr. President, I thank the Senator from Texas for her kind words. I will be happy to yield to the chairman of the committee, Senator HATCH, so we can continue this dialog about this important nomination.

While in my office, I listened to one of my colleagues on the Republican side earlier in the debate raise the question whether the opposition to John Ashcroft was really based on his religious belief. I think that is an extraordinarily serious charge to make.

I am a member of the Senate Judiciary Committee. Together with my staff, we have worked for the last several weeks analyzing the public record and public career of John Ashcroft. I am aware of his religious affiliation because he made a point of stating with pride his religious affiliation during the course of the hearing. I can tell you quite candidly that I do not know a single precept or tenet of his religious faith, nor did I take the time to ask. That is totally irrelevant. In fact, if someone tried to raise that during the course of this debate, I would be the first to defend John Ashcroft's right to practice the religion of his conscience.

I do not know anything about his religion, nor have I based any of my decisions on his nomination on that fact. As I said during the course of the hearing, he has said—and it has been a matter of some amusement—that he does not drink or dance. But I will tell you I do not know whether Janet Reno drinks or dances, nor do I think it is important to the job of Attorney General.

During the course of the hearings, the Republicans brought forward a lady by the name of Kay Coles James who works for the Heritage Foundation. After her testimony, I had a conversation with her on two different occasions. At the end of the second conversation, she said: You and I agree on a lot more than we disagree when it comes to religion in public life. I liked her.

She said something in her testimony on this same issue that caused me great concern. At one point she said John Ashcroft was a victim of "religious profiling." That was her term. It is not in her written statement, but it is what she said before the Senate Judiciary Committee.

In her written statement and repeated at the hearing, she said:

> Unfortunately that faith Senator Ashcroft's faith—has been dragged into the public debate and has been used to call into question his fitness for public service. Senator Ashcroft's opponents have veered perilously close to implying that a person of strong religious beliefs cannot be trusted with this office.

As a result of that statement in the hearing, I called Ms. James over afterwards and said: I am going to ask you very specifically tomorrow to name the Senators who have crossed this line and raised questions about John Ashcroft's religious belief. I did not have time the second day when the panel returned. I sent a letter to her in writing.

On January 23, Ms. James replied to my letter. This is basically what she said:

> On Thursday, I testified that "several members of the Senate have questioned whether or not a man of strong personal faith and conviction can set aside his personal beliefs and serve as the Attorney General for all citizens." You ask me to identify these several senators. As I told you after the hearing, this summary came directly from Senator Ashcroft's testimony on January 16th.

And then she relates the transcript of the session which reads as follows:

Senator **LEAHY** asked of Senator Ashcroft:

> Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?

John Ashcroft:

> No Senator has said "I will test you." But a number of senators have said, "Will your religion keep you from being able to perform your duties in office?"

Senator **LEAHY** went on to say:

> All right, well, I'm amazed at that.

And that was the end of the transcript.

Ms. James goes on to say:

> As we further discussed, I think when you put it into the context of substituting another qualifier for "religion" that the offensiveness of such thinking is apparent. I find this as troubling as asking whether being a "woman" or being an "African-American" would prevent someone from doing a job.

I believe that is a fair characterization of her reply. We still do not know the name of any Senator who raised either personally or privately to Senator Ashcroft or certainly publicly any question about his fitness for office based on his religious belief. I do not know the religions of any of the nominees to President Bush's Cabinet, nor do I think it is an important question.

What we have focused on during the course of this investigation of John Ashcroft is his public career, his public record. There have been those who always want to say: What about his private life? His private life should be private. It is his life and his family's life. I have resisted any efforts by critics of John Ashcroft to even follow that line of questioning. It is irrelevant, unimportant.

What is important is what he has stood for publicly, what it tells us about his view of politics and policy and the kind of job he would do if he is confirmed as Attorney General.

I considered John Ashcroft and his public record and my dealings with him as a fellow Senator over 4 years, and I came to the conclusion that I cannot support his nomination as Attorney General.

I listened to his testimony before the committee, and I heard him say so frequently that public positions on issues which he had held for his adult life would, frankly, not encumber him as Attorney General. I cannot really base my vote on John Ashcroft on what he has claimed he will do in the future when his public record is so clear and in many ways so inconsistent with what he said to the committee.

I say to those who raise the question about whether the Judiciary Committee or any committee is being fair to President Bush by having a thorough investigation of John Ashcroft or any other nominee, I think the agenda for considering these nominees is not the creation of any Senator, nor certainly of the Democratic side in the Senate. It is the creation of the Founding Fathers in article II, section 2, of the Constitution where they gave to the Senate the power to advise and consent to the President's nominees.

The critics of this process ignore our sworn responsibility to defend the Constitution. Alexander Hamilton, writing in Federalist Paper No. 76 on "The Appointing Power of the Executive" wrote this of the advice and consent provision which brings us to the floor today:

> It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union. . . .

Please forgive Alexander Hamilton for just referring to men, but that was the style of the day. I would certainly expand on Alexander Hamilton's sentiment to include women, but otherwise I agree wholeheartedly. There was and is enormous wisdom in the constitutional provision to provide to the legislative branch, in this case the Senate, the ability to exercise oversight of the nominations made by the President.

The Founding Fathers believed, and I think they were right, that the power to appoint people to high office in the United States should not be vested in the hands of a single individual.

The President deserves clear and broad latitude in making the appointments of his choice, but just as clearly, the Senate has a responsibility to ensure that these appointments will serve expertly, broadly, and fairly in a manner that will benefit all Americans, and the Senate has the power to, if necessary, reject the nomination.

My colleague, Senator **FEINGOLD**, in his statement yesterday before the committee, noted that this is a rare situation when the Senate rejects a nomination, but I will tell you, during the course of our Nation's history, there have been literally hundreds of names withdrawn when it was clear they would not pass with approval before the Senate.

Alexander Hamilton thought such rejections would occur rarely and only when there were "special and strong reasons for the refusal." I believe we have before us one of those rare instances that Hamilton foresaw. There exists today just such "special and strong reasons" to reject the nomination of John Ashcroft to the position of Attorney General. I would like to outline my reasons that necessitated my vote against his nomination.

During his testimony, Senator Ashcroft did a masterful job of painting a portrait of his vision of the job of Attorney General. He described himself as a man who would evenhandedly enforce and defend the laws of the land no matter how strong his personal disagreement with those laws, but his public career paints a much different picture.

When I look at the public record of John Ashcroft and compare it, point by point, with his testimony, I find I am looking at two completely different portrayals, two completely different people. During the hearings, Senator Ashcroft promised fairness in setting the agenda for the Department of Justice and vowed to protect vulnerable people whose causes he has seldom, if ever, championed in his public life.

Which picture tells the story? If John Ashcroft were to become Attorney General, would it be John Ashcroft, the defender of a woman's constitutional right to choose, or John Ashcroft, passionate opponent of Roe v. Wade? John Ashcroft, the defender of sensible gun safety laws, or John Ashcroft, who opposed every significant gun safety measure that came before the Senate during his tenure? John Ashcroft, as defender of civil rights, or John Ashcroft, who, as Governor of Missouri, opposed a voluntary—I repeat, voluntary—school desegregation plan and efforts to register minorities to vote.

We all heard Senator Ashcroft's testimony, but his public record speaks with clarity and consistency.

Let us consider the question of discrimination against a person because of their sexual orientation. Consider whether those with a different sexual orientation who were victims of a hate crime could expect the protection of John Ashcroft's Department of Justice.

I cannot speak for all of America—maybe only a small part of it—but I think, regardless of your view towards sexual orientation, the vast majority of Americans oppose discrimination against anyone because of their sexual orientation. The vast majority of Americans think it is fundamentally unfair to be intolerant of people with a different sexual persuasion.

Recently at Georgetown University, Professor Paul Offner stated that in a 1985 job interview, then-Governor Ashcroft asked him pointblank about his sexual orientation. Mr. Offner related that the Governor asked him: "Do you have the same sexual preference as most men?" Senator Ashcroft, through his spokespeople, has denied this. In fact, they brought witnesses to say that it did not happen.

Perhaps the story would be nothing more than the typical Washington version of "yes, you did; and, no, I didn't," were it not for the matter of Senator Ashcroft's troubling record on the issue of tolerance for people of different sexual orientations.

Senator Ashcroft opposed the nomination of James Hormel as Ambassador to Luxembourg because Mr. Hormel, in Senator Ashcroft's words, ". . . has been a leader in promoting a lifestyle. . . . And the kind of leadership he's exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned."

For the record, Mr. Hormel's lifestyle is that he is an openly gay man.

I know the appointment of any Ambassador is important. Certainly, the appointment to a nation such as Luxembourg, which has been a friend of the United States for a long time, is important. But to single out James Hormel because he is an openly gay man, and to oppose his nomination because of that, I think, is not fair.

Senator Ashcroft said he opposed Mr. Hormel's nomination based on the "totality of the record." When he was asked by Senator LEAHY if he opposed Mr. Hormel because he was gay, Senator Ashcroft denied that. He said: "I did not."

Senator Ashcroft had very little contact with Mr. Hormel before his nomination. He refused to meet with Mr. Hormel after he was nominated despite Mr. Hormel's request.

At a recent press conference, Mr. Hormel had this to say. I will quote him:

> I can only conclude that Mr. Ashcroft chose to vote against me solely because I am a gay man.

He had concluded that his sexual orientation was the cause of Senator Ashcroft's opposition "not only from his refusal to raise any specific objection to my nomination, but also from Mr. Ashcroft's public comments at the time of my nomination and his own long record of resistance to acknowledging the rights of all citizens, regardless of their sexual orientation."

I have before me a letter dated December 3, 1997, from James Hormel, of San Francisco, CA, to Senator Ashcroft at the Hart Senate Office Building. He wrote:

> I am aware that you voted against my nomination, when it was considered by the Foreign Relations Committee, and understand that you may have concerns about my qualifications. I want you to know that I am available to meet with you at your convenience in either Washington or Missouri, to address and—I trust—allay your concerns.

Senator Ashcroft never agreed to such a meeting.

Could we expect Attorney General Ashcroft to defend tomorrow's Matthew Shepard if he can't show tolerance for today's James Hormel?

The second issue that is of importance to me relates to an outstanding individual who came before the Senate Judiciary Committee when I served on that committee 2 years ago. His name was Bill Lann Lee. He was being considered as an Assistant Attorney General for Civil Rights. Senator Ashcroft joined in an effort to block his nomination.

I remember this because I remember what Bill Lann Lee told about his life's story. Maybe I am particularly vulnerable when I hear these stories, but they mean so much to me, when a person such as Bill Lann Lee comes and tells us about the fact that his mother and father were immigrants from China to the United States. They came to New York City and started a small laundry, and raised several children, including Bill Lann Lee.

His mother is with him. His father passed away. He said his mother used to sit in the window of the laundry every day at her sewing machine. His father was busy in the back ironing and preparing the laundry. Bill Lann Lee said that they worked every day—hard-working people—raising a family. When World War II broke out, Bill Lann Lee's father was old enough to escape or avoid the draft, but he volunteered because he was proud of this country and he was willing to serve.

Bill Lann Lee also told us that his father refused to ever teach him how to run the laundry. He told him, from the beginning: This is not your life. You will have a different life. We will work hard here. You are going to do something different. And, boy, was he right, because Bill Lann Lee applied for a scholarship to one of the Ivy League schools. He received a scholarship and went on and graduated from law school.

He then went to work for the NAACP. He really dedicated his professional life not to making money as a lawyer but to fighting for tolerance against discrimination.

He was a quiet man, a humble man; but when it came to the cause of civil rights, he clearly believed in it. For that reason, he faced withering criticism from the Senate Judiciary Committee. In fact, Senator Ashcroft openly opposed his nomination.

When Bill Lann Lee was asked about a specific Supreme Court case, and whether he would enforce it, Bill Lann Lee, under oath, said: Yes, I will enforce it. Senator Ashcroft rejected that sworn statement. He said, in opposing Bill Lann Lee, that Bill Lann Lee was an "advocate" and was "willing to pursue an objective . . . with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration."

Obviously, Senator Ashcroft felt that advocacy and effective administration do not mix. "He has obviously incredibly strong capacities to be an advocate," Ashcroft said of Bill Lann Lee. "But I think his pursuit of specific objectives that are important to him limit his capacity to have a balanced view of making judgments that will be necessary for the person who runs that division."

I was saddened by the treatment of Bill Lann Lee by the Senate Judiciary Committee and Senator Ashcroft. This good man—this great American story—was subjected to what I considered an unfair standard by the man who now wants to be our Attorney General, who now wants to be entrusted with enforcement of civil rights laws.

But this was not the only nominee that Senator Ashcroft zeroed in on; another was Judge Margaret Morrow of California. He joined in blocking her nomination for a lengthy period of time with a little Senate device known as a "secret hold," where you hold up a nominee and you never disclose that you are the person holding it. Eventually, he admitted he was the person holding Margaret Morrow back from her appointment to the Federal bench.

Was Margaret Morrow qualified to be a Federal district court judge? Witness after witness said she was. They all said she had extraordinary qualifications. She was the first woman to be president of the California State Bar Association. But she didn't meet Mr. Ashcroft's test. Because of that, she waited years before this Senate before she had a chance to serve in the State of California.

The reason why Senator Ashcroft opposed her? She was an advocate in his mind. Should I accept that John Ashcroft, himself, an impassioned advocate for his entire political life, will surrender his advocacy in the role of Attorney General? He certainly didn't accept those arguments from Bill Lann Lee and Margaret Murrow when they raised their hand to give the same oath he did.

If we apply the Ashcroft standard to his own nomination, would he have a chance of being confirmed in the Senate? Fairness requires more than a simple test as to whether a nominee has advocated views with which we disagree. Fairness requires that we judge on balance whether that nominee can credibly set aside those views and be evenhanded.

At this moment in our Nation's history, our need for that type of leadership is compelling. We are a politically divided Nation with one of the closest elections in modern memory. Landmark civil rights and human rights laws hang in the balance. We need an Attorney General who will be fair and impartial in administering justice.

No issue in the United States is more divisive than civil rights or more in need of enlightened leadership. Yet throughout his career, Senator Ashcroft repeatedly turned down opportunities to reach out across the racial divide. There was, of course, a lot of attention given to the fact that Senator Ashcroft appeared at Bob Jones

University, received an honorary degree, and delivered the commencement address. It did deserve attention. It became an issue in the last Presidential campaign.

After President Bush appeared there during the course of his campaign, he was so troubled by the public reaction to his appearance at Bob Jones University that he sent a letter to the late Cardinal O'Connor in New York assuring the cardinal that he did not agree with the prejudicial statements of Mr. Jones and regretted that he did not distance himself from them.

Let me quote a few words from George Bush's letter to Cardinal O'Connor in reflecting on his appearance before Bob Jones University, a letter of February 25, 2000:

> Some have taken—and mistaken—this visit as a sign that I approve of the anti-Catholic and racially divisive views associated with that school. As you know from a long friendship with my family—and our own meeting last year—this criticism is unfair and unfounded. Such opinions are personally offensive to me and I want to erase any doubts about my views and values.
>
> On reflection, I should have been more clear in disassociating myself from anti-Catholic sentiments and racial prejudice. It was a missed opportunity causing needless offense, which I deeply regret.

I accept President Bush at his word. I believe he was embarrassed when he reflected on some of the statements that have been made at Bob Jones University: Their ban on interracial dating among students; some of the cruel statements made about people of the Catholic and Mormon religions; of course, their decision, when a gay alumnus said he was going to revisit his campus at Bob Jones University, and they stated publicly if he came on campus, they would have him arrested for trespassing. I can understand the embarrassment of people as they reflect on those sorts of statements. But I cannot understand, after President Bush has made this acknowledgment, that when John Ashcroft had the same opportunity before the Senate Judiciary Committee, he didn't take that opportunity. He offered no apologies for his appearance at Bob Jones University.

I said: If you become Attorney General, would you return to Bob Jones University? He wouldn't rule that out.

He said: If I go back, I might talk to them about some of the things they have said and what they stand for.

I am sorry. I view that particular episode as troubling. It has little to do, if anything to do, with religion and more to do with tolerance. If elected officials don't take care as to where they speak and what they say, what comfort and encouragement they give to others, then I think we are derelict in our public responsibilities.

I think President Bush learned an important lesson. It is hard to imagine that his choice for Attorney General of the United States couldn't learn the same lesson from him, couldn't say before this committee exactly what President Bush said to the late Cardinal O'Connor, but he did not.

On the issue of school desegregation, my colleague, Senator KENNEDY, laid out the issue quite clearly before the Senate within the last hour or two in the course of the debate. I grew up in East St. Louis, IL, across the river from St. Louis. I associated myself more with St. Louis than most other cities as a child. I know, having grown up in that area on both sides of the river, that there have always been racial problems, sometimes bitter and violent, and sad situations arising because of it.

When there was an effort made in Missouri to deal with segregated schools, there was a voluntary desegregation plan that was agreed to by the students and their parents, by the administrators and the teachers, people living in the community, of how they would voluntarily desegregate schools and give children an opportunity for a good education. We have heard during the course of the committee hearing, we heard again on the floor of the Senate, John Ashcroft used every tool in his tool box to try to stop this voluntary desegregation plan. Frankly, that is a poor reflection on what John Ashcroft would do as Attorney General.

He labeled the efforts of the Federal courts to desegregate Missouri's schools as a "testament to tyranny." Again, Governor Ashcroft missed an important opportunity to bridge the racial divide.

Then he had two bipartisan bills presented to him as Governor to expand voting rights in the city of St. Louis, which is predominantly African American. He vetoed the first saying: It doesn't help St. Louis. It should be a broader based and statewide bill.

The next year, the General Assembly of Missouri sent him the broader based statewide bill. He vetoed that as well, saying: This is too broad based and too general.

I think it is pretty clear that he was intent on not expanding an opportunity for voter registration and efforts for people to involve themselves in the voting process. What possible assurance could we have from his record that Attorney General John Ashcroft would dedicate himself to eliminating racial prejudice in America?

The next issue which I take with John Ashcroft is one which was probably the most important to me. On the day that President Bush nominated John Ashcroft, the leading radio station in St. Louis, KMOX, called me and asked for a comment. I told them that before I could vote for John Ashcroft, I had to have answers to several questions. First and foremost was the treatment of Judge Ronnie White. Of course, that is something I will speak to and an issue that came up time and again during the course of the hearings.

Within an hour or two, John Ashcroft called me after I made this radio statement and said: I want to talk to you. I need your vote.

I said: Senator, I will be happy to meet with you any time and discuss this, but let me make it clear, the first question I will have to you is about what happened to Judge Ronnie White, when he had an opportunity to become a Federal district court judge and you blocked that opportunity.

He said: That is fine. We will have to get together.

I said: My door is open.

John Ashcroft never called for such a meeting. I asked several questions of Senator Ashcroft at the hearing about the White nomination. I listened carefully to the testimony of Judge White himself. I understand why Senator Ashcroft did not ask for a meeting.

The story of Judge Ronnie White is one that bears repeating. This is not just another nominee for Federal court. There are some fine men and women who have been nominated and confirmed. Let me tell you a little bit about Judge Ronnie White.

He was the first African American city counselor in the city of St. Louis. That, in and of itself, does not sound very impressive, but when Judge White explained his childhood growing up in one of the poorest sections of St. Louis, in one of the poorest homes and struggling throughout his life to earn an education and to go to law school—he was bused as a young student to one of these newly integrated schools. He recalled other children throwing food and milk at him and the other African American students coming off the bus. Life was not easy. He wasn't looking for sympathy. He was looking for a chance, and he got the chance. He went to law school, became the first African American city counselor in St. Louis. He became the first African American in Missouri history to be appointed to the appellate court of the State, and he became the first African American in the history of the State to serve on the Missouri Supreme Court.

If you visit St. Louis, you can't miss the arch. That is really the thing you think of right away. But within the shadow of the arch is a building which is historically so important to that city, State, and to our Nation. It is the St. Louis courthouse. It is a white, stone building, very close to the Mississippi River. The reason why this building is so historically significant is that it was in this courthouse that the Dred Scott case was argued and tried twice. It was on the steps of this courthouse before the Civil War that African Americans were sold as slaves.

When Ronnie White was appointed to the Missouri Supreme Court, he chose that old courthouse in St. Louis to take his oath of office. The St. Louis Post Dispatch, in commenting on that setting and his selection as the first African American to the Missouri Supreme Court, said:

> It is one of those moments when justice has come to pass.

It certainly was. And as you listen to Judge White's testimony, you understand that this wasn't a matter of pride for his family in being nominated to the Federal district court. It wasn't just a matter of pride for his colleagues on the Missouri Supreme Court. It had to be a source of great pride for thousands of African Americans to see this man overcome such great odds to finally get a chance to serve on the Federal district court.

He never had that chance. The reason he didn't have that chance was that after 2 years of having his nomination pending before this Senate, after being approved twice by the Senate Judiciary Committee, after finally finding his name on the calendar of the Senate to be voted on to become a Federal district court judge, John Ashcroft decided to kill his nomination.

And he did it. He did it. He came to the floor, after speaking to his colleagues on the Republican side, and said that Judge Ronnie White was pro-criminal. He cited several decisions made by the judge and said that they were ample evidence that this man did not have appropriate sensitivity to become a Federal judge with a lifetime appointment when it came to enforcing our laws. Judge Ronnie White's name was then called for a vote.

It was defeated on a partisan vote. Every Republican voted against it. This is rare in the history of the Senate. It doesn't happen very often. Our review said it hadn't happened for 40 years, that a nominee was brought to the floor, subjected to that kind of public criticism, and defeated.

Frankly, it wasn't necessary. If John Ashcroft had decided that he wanted to stop Ronnie White, there were a variety of ways for him to do it, quietly and bloodlessly. But he didn't choose those options. He chose instead to attack this man and to attack him on the floor of the Senate.

When we were interrogating John Ashcroft about his criticisms, he said, the law enforcement groups are the ones who really told me that Ronnie White was not a good choice.

It is true that there was a local sheriff, whose family had been involved in a murder in a case where Judge Ronnie White had handed down a dissenting opinion, who sent a letter to John Ashcroft saying they objected to him. That is true. But it is also true that the largest law enforcement community in the State of Missouri, the Fraternal Order of Police, endorsed Ronnie White, and that the vast majority of law enforcement officials in that State endorsed Ronnie White for this Federal district courtship.

Sadly, he was defeated and, in the process, I am afraid, faced the kind of humiliation which no one should ever have to face—certainly not on the floor of the Senate.

I am troubled by John Ashcroft's willingness to distort a good judge's record beyond all recognition, to attack his character and integrity and to deliver this unjust condemnation on the floor of the Senate without ever giving Judge White an opportunity to respond and defend his name.

When Judge White appeared before the Judiciary Committee, it was clear to many of us that he deserved an apology for what had happened to him.

Why is this important in choosing a man to be Attorney General of the United States? When given the power as a Senator, I don't believe that John Ashcroft used it appropriately. The victim was a very good man.

There have been a lot of questions asked about the issue of reproductive rights of women and what the new Attorney General, John Ashcroft, would do with that authority. I know John Ashcroft's position. I respect him for the intensity of his belief in opposing Roe v. Wade for his entire public career. There are people in my State of Illinois and his State of Missouri who feel just as passionately on one side or the other side of the issue. It worries some that he would be entrusted with the authority and responsibility to protect a woman's right to choose and what he would do with it. He tried to set the issue aside in his opening statement by saying he accepts Roe v. Wade and Casey v. Planned Parenthood, two Supreme Court cases, in Ashcroft's words, as the "settled law of the land." That, of course, raises questions. If it is the settled law of the land, what will he do in enforcing it?

One of the things that troubles me—and Senator MIKULSKI of Maryland raised this earlier—was the decision John Ashcroft made as attorney general of Missouri when there was an effort to have nurses provide women's health services in one of the poorest medically underserved sections of Missouri.

John Ashcroft attempted to block the nurses. He joined in filing a lawsuit against the nurses at their women's health clinic. These nurses were providing gynecological services, including oral contraceptives, condoms, and IUDs, Pap smears, and testing for venereal disease. He joined in suing these nurses to stop them from providing vital reproductive health services to low-income women in his home State.

As Governor in 1986, Senator Ashcroft signed a bill that defined life as beginning at fertilization, providing a legal basis to ban some of the most common and effective methods of contraception. In 1998 and 1999, Senator Ashcroft wrote letters to Senator BEN NIGHTHORSE CAMPBELL opposing a Senate amendment to require the FEHBP, the federal health insurance plan, to cover the cost of FDA-approved contraceptives, citing concerns that funding certain contraceptives was equivalent to funding abortifacients.

Nearly forty million women in America use some form of contraception. Would Attorney General John Ashcroft work to protect their right of privacy and their right to choose the medical services best for them and their families?

On the question of the "settled law of the land"—Roe and Casey—we have had this contentious debate on the floor of the Senate for years about a partial-birth abortion ban. Many of us have said we can agree to a ban so long as it not only protects the life of the mother but women who face grave health risks. Those who introduced the amendment—Senator Santorum of Pennsylvania and others—have refused to include that second phrase "health risk" as part of the bill. Recently, in a Supreme Court case, they considered a Nebraska partial-birth abortion ban, and the Supreme Court concluded that unless you protect the health of the mother, protecting the mother's life is not enough on a partial-birth abortion ban. They cited as the reason for it the same Casey decision which Senator Ashcroft described as the "settled law of the land" to make certain that it was clear.

Senator SCHUMER of New York and I asked Senator Ashcroft as Attorney General, if the Santorum partial-birth abortion ban comes to him by either the President asking whether he should veto it or Senator Ashcroft as Attorney General trying to decide whether to defend it, and it does not include the protection of a woman's health, what will he do. The answer to me seems fairly obvious. If the Casey decision is the settled law of the land, he would have to say the Santorum bill we considered before the Senate is unconstitutional, inappropriate, and inconsistent with Supreme Court decisions. That seems obvious to me.

Senator Ashcroft would not answer the question.

The clarity of his statement, his opening statement, disappeared. His answers were tentative and, unfortunately, very unsettling. The Attorney General must diligently protect women's rights in America—rights repeatedly confirmed in the Supreme Court. Senator Ashcroft's public record and his testimony before the Judiciary Committee leave that in doubt.

Senator Ashcroft has made troubling, at times shocking statements regarding the lynchpin of our American system of justice, the judicial branch of government. He is fond of the phrase "judicial despotism" and even used this as the title of a speech he gave before the Heritage Foundation. In it he vows to "fight the judicial despotism that stands like a behemoth . . ." over our great land. He tells us that "people's lives and fortunes" have been "relinquished to renegade judges," judges the labels "a robed, contemptuous intellectual elite." He speaks of America's courts as "out of control" and the "home to a 'let-them-eat-cake elite' who hold the people in the deepest disdain."

Senator Ashcroft went on to say: "Five ruffians in robes" on the Supreme Court "stole the right of self-determination from the people" and have even directly "challenged God. . . ." So grievous are the actions of the Federal Judiciary, according to Senator Ashcroft, "the precious jewel of liberty has been lost."

These statements come from a speech Senator Ashcroft gave on judicial despotism. I suggest to my colleagues who have not read it that they do. Is this a person with such a deep mistrust of the character of justice in our great land that we should entrust him with the office of Attorney General?

Many years ago, during the Roosevelt administration, Supreme Court Justice Frank Murphy served as Attorney General and created the Civil Liberties Union to prosecute local officials who abused and even murdered blacks and union organizers. He summed up his constitutional philosophy in one sentence: "Only by zealously guarding the rights of the most humble, the most unorthodox and the most despised among us, can freedom flourish and endure in our land." Could Senator Ashcroft rise to this awesome and often unpopular standard as our Attorney General?

We recently celebrated again the birthday of Dr. Martin Luther King, Jr. It was a huge gathering in the city of Chicago. Mayor Daley has an annual breakfast. I attended another breakfast sponsored by Rev. Jesse Jackson. Literally thousands of people came out to pay tribute to Dr. Martin Luther King, Jr. I am old enough to remember when Dr. Martin Luther King, Jr., was alive, and I can recall in the midsixties that Dr. Martin Luther King, Jr.'s visit to the city of Chicago was not welcome. He announced he was coming to Chicago to march in the streets of Cicero and other neighborhoods to protest racial segregation. Many people—Democrats, Republicans, and independents alike—were saying: Why is he doing this? Why is he stirring things up?

It is easy today to forget how unpopular Dr. Martin Luther King, Jr., was with the majority of Americans during his life. It was only after his assassination and our reflection on the contribution he made to America that the vast majority of Americans now understand that although he was unpopular, he was right. Dr. Martin Luther King, Jr.'s life, fighting for civil rights, tells an important story. When you are fighting for the rights of those discriminated against because of sexual orientation, when you are fighting for the rights of women, poor women in particular, when you are fighting for the rights of African Americans and Hispanics, it is often unpopular. But it is the right thing to do.

The Attorney General, more than any other Cabinet officer, is entrusted with protecting the civil rights of Americans. We know from our history, defending those rights can be controversial. I find no evidence in the public career of the voting record of Ashcroft that he has ever risked any political capital to defend the rights of those who suffer in our society from prejudice and discrimination.

As I said in the committee yesterday, it is a difficult duty to sit in judgment of a former colleague, but our Nation and our Constitution ask no less of each Member of the Senate. That is why I will vote no on the nomination of John Ashcroft to serve as Attorney General.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. If the Senator from Michigan will yield, I think we were going to go back and forth.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the Senator from Alabama has concluded, I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I was looking for Senator WARNER. In the absence of Senator WARNER, I will mention a couple of things.

How long will the Senator from Michigan speak?

Mr. LEVIN. Perhaps 15 minutes.

Mr. LEAHY. If I might, the agreement the distinguished Senator from Utah and I had—obviously an informal agreement—was that following the normal procedure in such a debate, we would be going from side to side. The distinguished Senator from Illinois has just spoken; the distinguished Senator from Alabama was going to speak. The normal rotation would go back to this side, and it would be the distinguished senior Senator from Michigan. That is without time agreements for any Senator.

Mr. REID. If the Senator from Alabama will yield.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As I said this morning, we want to try to wrap up this debate in the near future. I know how fervently the Senator from Alabama feels about this issue, but I do say every time someone says something, we are not going to finish this debate. The Senator from Alabama has already spoken very eloquently—which was referred to this morning by Senator NICKLES, about what a great statement he made, and I heard part of his statement, and it was extremely good.

My point is, if the people on the other side of the aisle want us to finish this debate sometime tomorrow, we are going to have to be cut a little bit of slack and be able to proceed with our statements. Otherwise, we are going to go over until next week.

Mr. SESSIONS. I understand that is the position of the other side, that they would like this side to hush and have their full say all day.

I see the Senator from Virginia is here. I yield to the Senator from Virginia such time as he desires.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. If I could enter into a unanimous consent request sequencing the next two Senators: The Senator from Virginia be recognized, and after the Senator from Virginia has finished, then I be recognized, which is a modification of a previous unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I am happy to accommodate the leadership and the floor managers. Would the Senator care to modify it now and take that time?

Mr. LEVIN. We were alternating.

Mr. WARNER. Does the Senator want to modify a unanimous consent request?

Mr. LEVIN. We just did.

Could the Senator from Virginia give us a time indication.

Mr. WARNER. I will take not more than 10 minutes if that is agreeable to my colleagues.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join the many Members today to support the nomination of our former colleague—our friend, indeed—John Ashcroft, to serve as the Attorney General of the United States.

Article II, section 2, of the Constitution provides that the President shall name and, with the advice and consent of the Senate, shall appoint judges of the Supreme Court and all other officers of the United States.

Thus, the Constitution provides a role for both the President and the Senate in this process. The President has the power to nominate; the Senate has the power to render advice and consent on the nomination.

In fulfilling the constitutional role of the Senate, throughout my career—some 23 years I have been privileged to represent the Commonwealth of Virginia—I have always tried to give fair and objective consideration to both Republican and Democratic Presidential Cabinet-level appointees; as a matter of fact, all appointees.

Traditionally, a President, especially after taking office following a national election, should be entitled to select individuals who he believes can best serve this Nation and his goals as President. It has always been my policy to review Cabinet nominees to ensure that the nominee has the basic qualifications and the basic experience to ensure that nominee can perform the job to which he has been nominated, to ensure that the nominee also will enforce the laws of the land that are key—and that is instrumental—in the consideration now being given to this important post of the Attorney General of the United States, and to ensure that the nominee possesses a level of integrity and character that the American people deserve and expect from public officeholder.

Therein, perhaps, rests the widest margin of discretion that should be exercised by the Senate. All 100 members have brought to bear in this Chamber, and in other areas in which we daily work to serve the Senate, experience that has enabled us to win the public office as Senator. That experience has fine-honed every Member of this Chamber in one way or another, such that he or she can judge facts, nominees, and the entirety of the situation to determine, does that individual have the integrity or do they not have that integrity?

That is a very important function we perform.

I say to my colleagues, and to my constituents, and to those who are interested in my views, that John Ashcroft has the qualifications and the experience and the integrity to undertake this important office.

Former Senator John Ashcroft from Missouri recently lost his election bid to the Senate under most unusual circumstances, not unlike the circumstances that faced my State at one time, when we lost one of our most valued public servants, a public servant who was contending for the office of the U.S. Senate, who had beaten me fairly and squarely in basically a convention or modified primary type situation. I was in strong support of that individual. Then his light plane one night crashed.

I have had that experience. I shared it with my friend, John Ashcroft, because he was so deeply shaken by this tragedy. There is not a one of us who couldn't say, "Well, it could have been me," the way we have to travel across our States, across our land, in these small planes and many other modes of conveyance at all hours of the day and night.

John Ashcroft approached that tragic situation in a very balanced and fair manner. To some extent, he counseled with several of us. But it was a very difficult decision as to how he should conduct himself for the balance of that campaign. I think he did it admirably. He did it with great courage and respect for the tragedy that had befallen his State.

If I ever had any doubts about John Ashcroft, the manner in which he handled that tragic situation will forever place in my mind that this man has the integrity, not only to be Attorney General but to take on any public office of this land.

Our colleague served in the Senate from 1994 to 2000, serving as a leader in the passage of welfare reform legislation and fighting for lower taxes, strong national defense, greater local control of education, and enhanced law enforcement.

Prior to his service in the Senate, John Ashcroft served as Governor of Missouri from 1985 to 1993 and attorney general of Missouri from 1976 to 1985. He dedicated over 28 years of his life to public service—over a quarter of a century. If he had flaws in his integrity, they would have been carefully documented, I am sure, in that period of time.

I would like to add this, again based on having the privilege of serving in this Chamber many years and having gone through many hearings for Cabinet nominees and other nominees, this was a very thorough hearing. Legitimate questions can be asked as to how fair it might have been in some instances, but it was unquestionably thorough. It was prolonged—there is a question of the necessity of the length of it—but anyway, it was thorough.

In my opinion—and I say this with the deepest respect to the members of the committee and most especially to this nominee, John Ashcroft, and I say to my good friend, the ranking member, whom I have admired these many years in the Senate—John Ashcroft emerges as a better, a stronger, a more deeply committed man as a consequence of this process. I feel that ever so strongly. Each of us who has gone through these stressful situations that we confront from time to time in our public office—those of us who go through those situations—and withstand the rigors of such an examination, in all likelihood emerge a stronger person.

I see my friend standing. Does he wish to comment?

Mr. LEAHY. Mr. President, if I could, and I do not wish to interfere in any way in the Senator's time.

Mr. WARNER. Mr. President, I think this is an important point, certainly to this Senator. I value the views of my friend.

Mr. LEAHY. I respect the views of the distinguished Senator from Virginia, who has been my friend from day 1 in this place. I knew him before in his other capacities, such as Secretary of the Navy. I have cherished, at home, a souvenir from the bicentennial year which I received from him. He has been a man to whom I have gone for counsel on a number of issues. I refer to him as my Senator away from home because I spend the week in Virginia when we are in session.

He and I, of course, disagree on this nomination. I understand he stated his strong views on it. I have stated mine. I promised two things to both the then President-elect and Senator Ashcroft. I promised them two things when they called me to tell me they were going to nominate him: No. 1, that there would be questions, tough questions, but I would conduct a fair hearing. I believe I did. The nomination actually came to the Senate Monday of this week, the official papers. We are moving to go forward with this. Everybody in the Senate knows approximately how the vote will come out.

I tell the Senator from Virginia of a conversation I had. As he can imagine, prior to my announcing my opposition to Senator Ashcroft, I called Senator Ashcroft to tell him what I was going to say and notified the White House what I was going to say. But I suggested one thing. I don't think I divulge any confidence with Senator Ashcroft who spoke about what he has gone through. It might have been the same thing the Senator from Virginia said. I suggested what he do after he is sworn in is that he meet quietly and privately with a number of Senators and House Members of both parties—those who have an interest in law enforcement issues, interests that affect the Justice Department—meet on a private, off-the-record basis, hear their suggestions or their criticisms, and vice versa. He assured me that he would.

He asked me also if I would be willing to help bring Members who had voted against him or spoken against him to those meetings. I assured him I would do that, too. The Senator from Virginia makes a good point.

I think the debate is good. I hope Senators on both sides of the aisle will listen to the debate.

Again, I use this opportunity to mention one more time how much I have enjoyed the friendship and the wise counsel of my friend from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague. If I may say with deep respect to him as a friend first, and as a Senator second, I think he agrees with my basic proposition that he emerges from this process a stronger and a more deeply committed public servant.

Mr. LEAHY. I do, yes.

Mr. WARNER. Certainly from that standpoint, that alone would give everyone a basis on which to cast a vote in favor of this nomination.

For those who are concerned about Senator Ashcroft's nomination, it is important to remember that once John Ashcroft is confirmed as our next Attorney General, he will serve at the pleasure of the President.

This time honored phrase, "At the pleasure of the President," has been used by Presidents throughout American history to show the American people that the President is the final arbiter of accountability for his Cabinet members.

And, also, I'd like to remind my colleagues in the Senate, and more broadly the American people, of the promises John Ashcroft has made and the oath that he will take. John Ashcroft has promised to every American that he will uphold the law of the land whether he disagrees with such a law or not. Once confirmed as Attorney General, John Ashcroft will raise his right hand and swear to uphold the law of the land.

When John Ashcroft makes a promise that he will uphold the law of the land, and when he takes that oath of office to uphold the law of the land, I take him at his word.

(The remarks of Mr. WARNER pertaining to the introduction of S. 225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. Mr. President, I yield the floor and thank my colleagues.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the Senate will soon vote on whether or not one of our former colleagues and friend, Senator John Ashcroft, should be confirmed to the position of Attorney General of the United States. In the vast majority of Cabinet nominations, the decision is an obvious one. Most of a President's nominees to his Cabinet receive overwhelming, if not unanimous, support by the Senate, and that is as it should be. When it comes to Cabinet appointees, we as a Senate are willing to give the President wide berth in his choice, knowing that, unlike the lifetime appointment of Federal judges, the President must be able to choose appointees who can carry out his program during his term, people who share his values, his vision and his ideals. But the Constitution also requires us to exercise our judgment. The deference owed the President is due deference, not unlimited deference.

In his inaugural address to the Nation, President Bush laid out the vision and ideals he will seek to carry out, visions and ideals which I believe most of us share. He said:

> The grandest of these ideals is an unfolding American promise that everyone deserves a chance, that no insignificant person was ever born.

And he called on Americans "to enact this promise in our lives and our laws." He then made this pledge: "I will work to build a single nation of justice . . ." The Department of Justice is the place above all where the chance to further the vision of "a single nation of justice" resides.

Like the rest of my colleagues, I know Senator Ashcroft in his role as Senator from, and as advocate for, the State of Missouri. I consider him a friend. But today we are not called upon to judge Senator Ashcroft as a friend or colleague, as a Senator representing his home State, or as a nominee for any other post but Attorney General of the United States—at this time in our history and keeping in mind the goal of building a "single nation of justice."

The Attorney General does not mechanically enforce the law. His job is not a matter of simply applying a specified law to a specified set of facts. Great discretion resides with the Attorney General and the proper functioning of the Department of Justice requires that the public—all the public—feels that discretion will be exercised with balanced and deliberative judgment.

There are many times when a prosecutor has within his grasp the power to prosecute or take a pass, and in that decision lies the lives of the people involved and their families. A commitment to enforce the law of the land is the beginning point, not the ending point. The discretion exercised by the Attorney General is not critical in the easy or obvious matters that do not require the Attorney General's most considered judgment, but in the complex and unclear ones where a commitment simply to enforce the law does not resolve the complexities, and where balanced deliberation is essential.

If America is to build a "single nation of justice," the Department of Justice should have as its head someone whose record demonstrates evenhandedness and whose rhetoric seeks to assure the American people of fair and balanced consideration, rather than division and distrust. More than 25 years ago, at his swearing-in ceremony, Edward Levi, Attorney General under President Ford, reflected this sentiment by stating if we are going to achieve "our common goals: among them domestic tranquility, the blessings of liberty and the establishment of justice" through the enforcement and administration of law, then it takes "dedicated men and women to accomplish this through their zeal and determination, and also their concern for fairness and impartiality."

While Senator Ashcroft's rhetoric over the years reveals his zeal and determination, it has not reflected the same concern for impartiality and fairness. I have concluded that his record and his rhetoric are so divisive and polarizing that his nomination will not provide the necessary confidence all Americans are entitled to have in the fairness and impartiality required of the Department of Justice. Here are four examples:

First is his position and his effort with respect to the nomination of Judge Ronnie White as a Federal District Judge for the Eastern District of Missouri. It was unfair and inappropriate to maintain Judge White, a distinguished jurist on the Missouri Supreme Court, had "a slant toward criminals" and was "against . . . the culture in terms of maintaining order," as Senator Ashcroft did in his speech to the Senate on October 4, 1999. It was unjust to say Judge White practices "procriminal jurisprudence" and will use his "lifetime appointment to push law in a procriminal direction." It was an unfounded and unfair characterization of Judge White to assert that Judge White "has been very willing to say: We should seek, at every turn, in some of these cases to provide an additional opportunity for an individual to escape punishment." It was a significant distortion of Judge White's record for Senator Ashcroft to say in the same speech to the Senate that Judge White's "opinions, and particularly his dissents, reflect a serious bias against a willingness to impose the death penalty," given the fact that Judge White voted with then-Governor Ashcroft's appointees in death penalty cases 95 percent of the time.

Moreover, it was unfair that Senator Ashcroft did not raise any reference to the death penalty or any of his concerns about Judge White's record before or at Judge White's confirmation hearing. Judge White was not given the chance to respond to these allegations during the consideration of his nomination. Rather, these personal attacks came well after Judge White had appeared before the Judiciary Committee. When asked at his own confirmation hearing whether he treated Judge White fairly, Senator Ashcroft said:

> I believe that I acted properly in carrying out my duties as a member of the committee and as a member of the Senate in relation to Judge White.

In responding in that fashion, he neither defended his characterizations, qualified them or withdrew them. Senator Ashcroft's response therefore left standing as his current view his claims and statements with respect to Judge White.

Second is Senator Ashcroft's interview with Southern Partisan magazine, a publication which has been described as a "neo-confederate." Senator Ashcroft not only granted an interview to Southern Partisan magazine, he commended the magazine for helping to "set the record straight." He said:

> We've all got to stand up and speak in this respect, or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda.

While in that interview Senator Ashcroft expressed support for Southern Partisan's message, he later said that he did not know much about Southern Partisan and did not know what it promoted. Fair enough.

But since his interview with Southern Partisan, much has been said about the magazine in the media and at Senator Ashcroft's own confirmation hearing. Southern Partisan was described as a "publication that defends slavery, white separatism, apartheid and David Duke" by a media watch group.

In 1995, Southern Partisan offered its subscribers T-shirts celebrating the assassination of Abraham Lincoln. In the same year, an author of an article in that publication alleged "there is no indication that slavery is contrary to Christian ethics." In 1990, another article praised former Ku Klux Klan Grand Wizard David Duke as "a Populist spokesperson for a recapturing of the American ideal."

In 1996, an article in the magazine alleged "slave owners . . . did not have a practice of breaking up slave families. If anything, they encouraged strong slave families to further the slaves' peace and happiness." In 1991, another writer printed in the publication wrote, "Newly arrived in New York City, I puzzled, 'Where are the Americans?' for I met only Italians, Jews, and Puerto Ricans."

I take Senator Ashcroft at his word that he did not know much about Southern Partisan magazine when he praised them for helping to "set the record straight," in his words. I take him at his word. But where was the immediate disgust and repudiation when he learned what he had inadvertently praised? And, after the inquiries of others, why not make a prompt inquiry to satisfy himself that he had not inadvertently advanced the purpose of a racist publication? Even in his written responses to the Judiciary Committee, he said he only rejects the publication "if the allegations about [the] magazine are true."

More than 2 years after the original interview he gave to that magazine, it appears he never took it upon himself to inquire about the magazine's purpose, to see for himself if the allegations were true, and, if so, to correct the record.

A person being considered for the office of Attorney General—the single most important person charged with enforcing our Nation's civil rights laws in a fair and just manner—should accept the obligation to make that inquiry if the American people are to have faith that their Attorney General will "build a single nation of justice."

As a third example, I am troubled by Senator Ashcroft's previous speeches on drug treatment. In 1997, Senator Ashcroft told the Claremont Institute:

> A government which takes the resources that we should devote toward the interdiction of drugs and converts them to treatment resources . . . is a government that accommodates us at our lowest and least instead of calls us to our highest and best.

During the same year, he addressed the Christian Coalition Road to Victory and said:

> Instead of stopping drugs at the border, we're investing in drug treatment centers. Instead of calling America to her highest and best by saying "no" to drugs, we're accommodating drug users with treatment. . . .

Again, it is not just Senator Ashcroft's views on drug treatment that are troublesome—although they are—it is his choice of words, his rhetoric, that is so divisive and so polarizing. To suggest, as Senator Ashcroft does, that those who are crippled by addiction to drugs and who seek treatment are somehow the "lowest and least" violates President Bush's own inaugural promise that "no insignificant person was ever born" and that we will "build a single nation of justice."

When I asked Senator Ashcroft in a written question what he meant by "lowest and least," to give him an opportunity to comment or to explain or to confirm the clear impression that those words create, his response was a nonresponse.

A fourth example is Senator Ashcroft's opposition to James Hormel's nomination for Ambassador to Luxembourg. Senator Ashcroft stated in press accounts that he opposed Mr. Hormel's nomination because Mr. Hormel "actively supported the gay lifestyle." Senator Ashcroft also said a person's sexual orientation "is within what could be considered and what is eligible for consideration" with respect to the qualifications to serve as an Ambassador.

To suggest that a person could not represent America's interests or should be judged professionally because of sexual orientation is inappropriate and divisive.

When pressed on this issue by the ranking member of the Judiciary Committee, Senator Ashcroft further responded in writing:

> I did not believe [Hormel] would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe.

To suggest that Luxembourg would not welcome Mr. Hormel's nomination is not true. Luxembourg has outlawed discrimination based on sexual orientation, and its Government specifically said they would welcome James Hormel as Ambassador. And, most importantly, to fail to retract such contentious statements about a person because of his sexual orientation adds further doubt that all our people will have confidence that this nominee will strive to build that single nation of justice for which the President has called.

In summary, I am deeply troubled by Senator Ashcroft's record of repeatedly divisive rhetoric and sometimes simply unfair personal attacks, such as what he has said and done about Judge White, his passive acceptance of the message of Southern Partisan, his statements about drug treatment as accommodating the "lowest and least," and his statements about Mr. Hormel's qualifications to serve his country because of his sexual orientation.

Senator Ashcroft has frequently engaged in "us versus them" rhetoric. He frequently rejects moderation and has even criticized some members of his own party for engaging in what he characterized as "deceptions" when they "preach pragmatism, champion conciliation [and] counsel compromise."

Senator Ashcroft, in his confirmation hearings, in his written answers to questions posed by a number of Senators, including myself, either reaffirmed some of his divisive statements or simply did not explain the extreme language. His refusal to comment on some of the most troubling past statements leaves them standing as his current views.

His language and his approach to issues in terms of "us versus them" would not prevent me from voting for his confirmation for most positions in the Cabinet. But more than any other Cabinet member, the Attorney General, as the chief law enforcement officer of the United States, is charged with the responsibility of assuring that the Department of Justice's goal is equal justice under the law for all Americans. And although I consider John Ashcroft a friend, I will vote no on the nomination of John Ashcroft for Attorney General of the United States.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise in support of the nomination of John Ashcroft. I have had the opportunity, for the last several weeks, as a member of the Judiciary Committee, to listen to the testimony and to listen to what has turned out to be fairly extensive hearings.

The John Ashcroft I have known for 6 years, and whom most of us have known for 6 years—some have known a lot longer—does not really bear much resemblance to the individual who has been described by those who have attacked him during this process. I must say, he does not bear much resemblance to the individual whom some of my colleagues have pictured, both in debate on the Senate floor and in the Judiciary Committee.

The truth is that the John Ashcroft on whom we are going to vote, whose nomination we are taking up, whose nomination we will vote on tomorrow, is the same John Ashcroft we have known for 6 years.

He is a man of integrity, a man of honesty, and a man of courage. He is also a man who has taken controversial positions, a man who has cast in his lifetime thousands of votes. I don't think it should come as a shock to us that someone who has been in public office for a quarter of a century would have taken controversial positions. We would worry if he had not.

This is a man who served as assistant attorney general of the State of Missouri, who served for 8 years as their elected attorney general, who served for 8 years as Missouri's elected Governor and then, for 6 years, as Missouri's elected U.S. Senator. He is a man who served as a member of the Senate Judiciary Committee.

It should come as no surprise that he has taken positions on many issues. It should come as no surprise that he has cast thousands of votes. And, yes, he clearly does have a long track record.

It should not come as a surprise that a record of a quarter of a century would generate criticism, or that it would generate a lot of criticism.

I said, when the Judiciary Committee hearing started, I sometimes get the feeling that the longer someone is in office, the more positions they have taken and, frankly, the better qualified they are, the more controversial their nomination probably is. And if you wanted someone with no controversy, the President would find someone to nominate who had virtually no track record to shoot at.

The fact is, this Attorney General nominee, this individual, John Ashcroft, after he is confirmed, will ultimately be judged as Attorney General not by any one particular position he will take or any one particular decision he will make.

If you look back over the last half a century, look at the Attorneys General and look at how history judges them. It is not the day-to-day decisions. It is probably a handful of big decisions to which we look. But even more important than that is probably the perception that we have about what type of person the Attorney General was: How did they conduct their office? What kind of respect did they have? Did they bring honesty and integrity and courage to that job?

The job of Attorney General is different. It is different in many respects than any other Cabinet position. It is different because this individual has to be adviser to the President, has to be able to give the President confidential, good advice. But he or she is more than that. He or she is the person who stands for law enforcement and, in a sense, is the chief law enforcement officer of this country.

The Attorney General has to be someone who can tell the President yes when the President needs to be told yes, but also, much more importantly, can look the President in the eye and tell the President no when the President has to be told no.

The Attorney General is ultimately someone who on certain occasions will disagree with the President. How that person conducts the office under those circumstances may define that person's tenure as Attorney General and how history judges that individual. It ultimately comes down to is the person a person of integrity, someone of honesty, someone of courage, someone who brings honor to the office, someone who cares passionately about justice.

My experience with John Ashcroft over the last 6 years is that clearly he is such an individual. I have not always agreed with John. John and I have voted differently on certain issues—some high profile; some not so high profile. I don't think that is relevant.

What is relevant is, does this President have the right to have his nominee—I think he does—and is this a nominee who will conduct the office with integrity and with honesty. I have no doubt that history will judge John Ashcroft in a favorable light. As they look back on his tenure as Attorney General of the United States, people will say: I may have agreed with him; I may have disagreed with him on different issues. He may not always have been right, but I think he was a man of honesty, a man of goodwill, and he brought honor to the office.

I conclude by urging my colleagues to vote for John Ashcroft, a man who I believe will be a very excellent Attorney General at a time in our country's history when we need someone who will carry out the duties of that job with all the problems that we face as a country, all the challenges that we have, and who will, in fact, bring the expertise that that particular job needs.

I believe John Ashcroft has the experience, has the background, and has the integrity to be a very excellent Attorney General.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleagues on both sides of the aisle for their statements. This is what the Senate is supposed to do on very important issues of the day—deliberate as carefully as possible. We are doing that, and we are doing that very carefully in the Senate.

Mr. President, I rise in opposition to the nomination of John Ashcroft to be Attorney General of the United States. I do this with no glee or exultation. I do this without any feeling of joy. In fact, I believe this is a sad day in so many ways. In a certain sense, it is a sad day for John Ashcroft and his family. They have been through a lot in these past weeks. It is sad because while so many of us have disagreed with John Ashcroft's views and at times we thought his methods were untoward, he has devoted himself to public service, which I believe is a noble calling. In the heat of battle, it is not easy for those who speak against him and, certainly for Senator Ashcroft and his family, to hear people speaking against him.

It is a sad day for me because it is never easy opposing a nominee and a former colleague. I believe that one gives the President the benefit of the doubt in terms of appointments. It is the President's Cabinet. He won the election. Yes, it was close. But I said then and believe every bit as much today that the closeness of the election should do nothing to undermine the legitimacy of the Presidency. I explained that I wanted to give the President his choice. And to have to oppose somebody, no less a colleague, is not easy and requires some thought and fortitude. So it is a sad day for me as a Senator. It is a sad day for the Senate because we are so divided on this nomination.

One of the things I have greatly appreciated since moving from the other body is the comity that still reigns here to a significantly greater extent than it does in the House and perhaps than it does in the body politic. We still are friends across the aisle. We fight hard. But when we can agree, we are much happier than when we disagree. That is the whole tone of the body. The Senator from West Virginia, more than probably any other person here, has made it clear to all of us that is what we aspire to be.

It is a sad day when the Senate is so staunchly and strongly divided when we would all, I think, prefer to be united. I don't believe division is coming from this side of the aisle. If we were truly bipartisan, we all would have supported Senator Ashcroft. No. I believe that when the President nominated Senator Ashcroft, he was well aware that someone of Senator Ashcroft's hard-right views would stir opposition, or should stir opposition. I don't accept in any way what some have said—that if this body were truly bipartisan, Senator Ashcroft would be confirmed 100–0.

You could argue that if the President were truly bipartisan, he might not have nominated Senator Ashcroft. For that reason, I think it is a sad day for the President. He has, in my judgment, had a good beginning to his term. He is reaching out. The message he sent during the campaign that he wished to work with people from both sides of the aisle in large part has been met, at least in these very early days of his administration.

One of my roommates was GEORGE MILLER, one of the stronger Democrats in the House. And he spent some time with the President and is utterly amazed and pleased with the President's attitude.

But this is particularly a sad day for the Presidency because this is the one place, more than any other, in the early morning of his administration where he has sent a nomination that is not, in my judgment, one that reaches out to the middle of the country, one that says I do want to be bipartisan.

At his inauguration the President said, "While many of our citizens prosper, others doubt the promise, even the justice, of our own country." Unfortunately, this choice for Attorney General has given many in our country even more reason to doubt this promise of justice.

Finally, it is a sad day for our country. The elections we went through created a lot of pain for a lot of people. There is a good portion of America that feels disenchanted and even disenfranchised. This nomination, in my judgment, is the one position in the Cabinet where unity and ability to reach out to every part of the American people is called for and, more than any other, this nomination, sadly, threw salt on the wounds of those who felt disenfranchised.

It is a sad day—a sad day for Senator Ashcroft, a sad day for those of us who feel an honor-bound duty to oppose him. It is a sad day for the Senate. It is a sad day for the new President. It is a sad day for America.

With that said, it is important that we all recognize what the opposition to this nomination is not based on. It is not based on Senator Ashcroft's religion. It makes no difference whether he be Christian, or Jew, or Muslim, or Zoroastrian. His faith is a gift. As a person of faith myself, and a different faith than his, but deep and abiding faith, I respect his faith. I think it is a wonderful faith.

I think all things being equal, I would like to see a nominee for any high position in this land hold such a position of faith. But his faith, while it is a wonderful thing, and wonderful for many, respect for his faith does not mean one simply supports him. I wouldn't do that for anybody because of their own personal belief. I think it is unfair for some to say that because of one's faith, one should adopt an issue.

As many of my colleagues have said, this is a significant and important nomination. I think I should give my view of this. It is time to set the record straight that those of us who are taking issue with Senator Ashcroft's years of activist opposition to causes and ideals in which we believe so deeply, are basing that on his record as Governor, as State attorney general, and as Senator, and, emphatically, not on his religious faith.

About a month ago, when the process of this nomination first got underway, there was a lot of anger and even fury in our country. It didn't come from the leaders of a few groups; it came from citizens of different walks of life, of different races, of different genders, and of different sexual orientation, who, once they became familiar with Senator Ashcroft's record, said, How is this man going to be as Attorney General?

Given the view I stated earlier, I like to give the President the benefit of the doubt and am willing to support Cabinet members with whom I disagree ideologically if nominated by the President.

I decided to jot down on a piece of paper what I thought the hearings and ultimately the vote on the Ashcroft nomination should really be about. Frankly, I was concerned that with the torrent of opposition charges, countercharges, and a whirlwind of politics, the real issues on which we should focus would be obscured or consumed by other forces. I sat down at my kitchen table in Brooklyn on a Saturday morning and tried to formulate what this nomination debate should boil down to, at least in the opinion of one Senator. This is what I wrote:

> We should carefully analyze the functions of the Attorney General and then closely scrutinize Senator Ashcroft's record to determine whether he can fully, impartially, and adequately perform all of those functions. But merely asking if he can do the job is unhelpful. The hearings must probe into the nominee's positions on each of the many different areas of law that the Attorney General must enforce. These range from antitrust and environmental laws to drug and gun laws to hate crimes, voting rights, and clinic protection laws.

After 3 weeks of statements, questions, answers, hearings, and now votes, I still think this statement cuts to the heart of the matter and has guided me ever since this process began.

What are the functions of the Attorney General? And what is the Ashcroft record? These are the two essential questions.

The duties of the Attorney General primarily involve: (1) enforcement of all Federal laws, both civil and criminal; (2) litigating the constitutionality of all Federal laws and regulations, including before the Supreme Court; (3) advising the President, the agencies, and even Congress on the constitutionality of laws and various federal actions; (4) judicial vetting and selection; (5) representing all of the federal agencies in litigation; and (6) supervising the U.S. attorneys.

This job is the most sensitive and one of the most powerful positions in the Cabinet.

Importantly, all of these complicated duties require the Attorney General to exercise enormous judgment and enormous discretion. Much of the power of the Attorney General adheres in this discretion, which is not constrained by law. Following law, to me at least, isn't enough—although it is an important threshold question.

I think it is fair and reasonable to examine Senator Ashcroft's public positions over the years, as well as how he has exercised the judgment and discretion and power vested in him. When we look at that record—and we did very closely in the hearings—we see a very stark picture of a man on a mission, a man who with passion and with zeal sought to advocate and enact the agenda of the far right wing of the Republican Party.

On civil rights, as Governor he fought voluntary desegregation—that is, voluntary desegregation—and vetoed bills designed to boost voter registration in the inner city of St. Louis. More recently, as Senator, he opposed the Hate Crimes Prevention Act, which would have strengthened the Federal response to hate crimes motivated by race, color, region, or national origin, and would have extended the law to cover crimes targeting gender, sexual orientation, and disability.

We all know about the Bob Jones speech and the Southern Partisan Review and the Ronnie White debacle. I do not believe John Ashcroft is a racist. I don't just say that. He has appointed people of color to judicial and executive positions. His wife teaches at Howard University. But I think when you put all these pieces together, what you see is a pattern of insensitivity to the long and tortured history our country has had with race.

When several of my colleagues on the committee asked him for some feeling of remorse, given this record, we didn't see any. There wasn't any new sensitivity that showed itself.

The Attorney General of our country should not be insensitive. He should be just the opposite. The Attorney General, more than any other Cabinet minister, should be acutely aware and sensitive on the issue of race, which de Tocqueville, over 150 years ago, said would be the one thing that would stop America from greatness.

I do not believe this nomination for Attorney General meets that criteria.

On choice, Senator Ashcroft has been at the helm for decades leading the drive to overturn Roe v. Wade and eviscerate a woman's right to choose. His beliefs are heartfelt; they are sincere. However, in my judgment, they are wrong. He has led the charge to enact new abortion hurdles and restrictions. I am not saying that Senator Ashcroft should be rejected for being pro-life. I was happy to vote for Tommy Thompson to be the Secretary of HHS despite the fact that I disagree with his views on choice. And I believe that a pro-life position is not at all a disqualification for Attorney General, as much as I would prefer to see someone pro-choice.

Let me say to my colleagues on the other side of the aisle, if someone was nominated for Attorney General who was vehemently pro-choice, who simply did not just espouse a pro-choice position, but in his or her career spent decades trying to find ways of expanding the law so that, say, abortion on demand, for 9 months, would be perfectly legal, wouldn't Members be more upset and raise a louder voice than against a nominee who was simply pro-choice? Of course. Thus we who believe in the prochoice side say it is not because Senator Ashcroft is pro-life that we oppose him but because of the vehemence and extreme position of his views. He hasn't been just anti-choice. He has been one of the most outspoken anti-choice crusaders in the country. It is not his belief that abortion is murder that makes me oppose him. It is his past willingness to bend and torture the law to serve his desire to eliminate, totally eliminate, even in rape and incest, a woman's right to choose that makes me oppose him.

This is not simply what he said but what he did when he had executive power, when he became the attorney general of Missouri. He didn't relinquish his role of a passionate advocate against choice, as he says he will now do. He joined in a suit against nurses who dispensed contraceptives. He sued the National Organization of Women under the antitrust laws to muzzle their attempt to pass the ERA. He tried to pass statutes that end abortion. He tried to pass constitutional amendments to do the same.

For John Ashcroft, at least when he was Senator, ending abortion by any means necessary was the end all and be all of his political career.

There was some discussion in the hearings that some of the groups opposing this nomination were doing it to raise money and raise their profiles. I resent that. Let me say when you sit down with people in these groups and look them in the eye, what you see is fear, fear that we will start moving back to the days before Roe v. Wade, fear that back-alley abortions will again be the norm, fear that equal rights for women will become a figment of the past. Some may feel these fears are unfounded, but the motivation is not mercenary or crass, it is as deep and as heartfelt as the speeches I have heard from some of my colleagues supporting Senator Ashcroft.

Senator Ashcroft also, Mr. President, has been a leader in the charge against gun control. He has fought to kill legislation that would have made it easier to catch illegal gunrunners dealing with the issue of enforcement. He has vociferously opposed even the child safety locks and the assault weapons ban. These were some of the main issues with John Ashcroft's record that were examined at the Judiciary Committee hearings. To be fair, Senator Ashcroft took us on. He directly confronted many of those issues and unequivocally asserted that as Attorney General, he would uphold and enforce and defend all the laws of the land whether he agreed with them or not.

At the start of the hearings, I asked Senator Ashcroft the following question: When you have been such a zealot and impassioned advocate for so long, how can you just turn it off?

His answer was: I'll be driving a different car. There's nothing to turn off.

And our hearings in the committee revolved around this question: Given his past, what kind of future as Attorney General would he have? As I said at the committee vote yesterday, after all these hearings, all the witnesses, all the studying of the record, and Senator Ashcroft's testimony, the conclusion for me is clear. I do not believe that Attorney General Ashcroft can stop being Senator Ashcroft. I am not convinced that he can now step outside the ideological fray he has been knee-deep in, set his advocacy to one side and become the balanced decisionmaker with an unclouded vision of the law that this country deserves as its Attorney General.

Ironically, I don't think Senator Ashcroft disagrees we need a balanced Attorney General. That is why he went to great lengths during the hearing to portray himself as now being different than the Senator Ashcroft we all knew. He was not saying that someone of such vehement and strong opposition, he was not saying that somebody so far to the right should be Attorney General, but he was saying he was a different person or would be a different person as Attorney General than he was as Senator. Every Senator will have to judge for himself or herself whether he can do that, even if he should want to. I do not think he can. In my opinion, John Ashcroft's unique past will indelibly mark his future, making his nomination a source of anger and fear to so many in the country.

I have one other point in this area. John Ashcroft, at least to so many in this country, has had the appearance of not being concerned about these issues, even if you do not agree with the reality. Many would dispute that. They would say the reality is there, too. I would myself. John Ashcroft has the appearance of not being concerned about issues of deep concern to these groups: to African Americans, to Latinos, to women, to gay and lesbian people. Just the appearance of such unfairness would make it much harder for him to be Attorney General. That "appearance" argument to me is not dispositive, but it weighs into the mix.

Let's assume for a minute, let's just accept on its face the argument that Senator Ashcroft can devote himself solely to the administration of existing law. Let's assume he will not challenge Roe—which he did say at the hearing. He said he would not roll back civil rights enforcement; he would not do away with the assault weapons ban. This is an appealing way to look at the nomination. Our better angels want to believe this will be the future of the Justice Department.

But in reality when you really explore it and don't avoid it, this is a naive perspective on the powers of the Attorney General. Just saying that Senator Ashcroft will enforce and respect existing law ignores the reality that the Attorney General has vast power and discretion to shape legal policy in the Federal judiciary, unhindered by any devotion to existing law.

My good friend from Wisconsin, Senator **FEINGOLD**, has argued that simply enforcement of the law is enough, and he will give Senator Ashcroft the benefit of the doubt that he will enforce the law.

I would argue, no, that while you certainly give the President the benefit of the doubt in terms of an appointment, ideology has to enter into it because the Attorney General does so many things that are not simply enforcing the law but are rendering opinions in choosing judges, areas of discretion. I do not think even if one ascribed to Senator **FEINGOLD**'s argument—and I say it with due respect; he is a man of deep principle and I respect his decision. He argued eloquently in committee yesterday, and I know he thought long and hard about it. But even if you assume someone would enforce the law fully, you could never rule out ideological disposition. If Bull Connor had been nominated for Attorney General, my guess is we would all say, even if we were certain he would enforce existing law, we would be certain he should not be Attorney General, based on his past, based on his ideology.

Senator Ashcroft is not Bull Connor; he was a bigot. Senator Ashcroft is not. But we all have to draw the line at some point. And we all do.

It is easy to say ideology will never enter into our decision, voting for a nomination. In reality, that principle is virtually impossible to maintain when given nominees of ideologies to the far side, one way or the other—far left or far right. It is logical because the job of Attorney General is not just enforcing the law, as important as that is. As I mentioned before, it contains vast discretion. For example, the Attorney General will decide what cases will or will not be pursued in the Supreme Court. That is not just following the law.

He will help draft new legislation and give influential commentary on proposals circulating in Congress. That is not just enforcing existing law.

He will, perhaps, be the most significant voice in the country when it comes to filling vacancies, particularly on our court of appeals.

Regarding the Supreme Court, most of us believe the President, with advice from the Attorney General, will make each decision. But at least if the past is prologue, for court of appeal judges, in the vetting process, the bringing of them forward, the Attorney General has enormous say and weight.

It is an enormous power. Every one of these is an enormous power. And none of them will be hindered at all by Senator Ashcroft's newfound devotion to existing law.

The argument that concerns me the most is the selection of Federal judges, or the one of these arguments, because these Federal judges will serve for decades. They often have the last word on some of the most significant issues our society faces. It is safe to expect that the principles that have guided Senator Ashcroft's views on judicial nominations in the Senate will be the exact same principles that will guide him as Attorney General. This is not "following the law."

Assuming, arguendo, that we believe Senator Ashcroft will follow existing law in his law enforcement capacity, there is no reason to believe in this capacity what he did in the Senate will be any different than what he does as Attorney General. And, as Attorney General, of course, he will have significantly more power and the same largely unbounded discretion in influencing who becomes a Federal judge—much more than he did as a Senator. As a Senator, he was willing to fully flex his ideological muscle and use power over nominations in a disturbing and divisive way.

In my 2 years in the Senate, the Ronnie White vote, led by Senator Ashcroft's decision to use the Republican caucus to kill the nomination, was the bleakest, most divisive and destructive moment I have experienced in my short stay in the Senate. It was a moment utterly lacking in—to use our President's words in his inaugural—civility, courage, compassion, and character.

But the Ronnie White nomination was just the most visible attempt by Senator Ashcroft to kill a nomination. The list goes on and on: Fletcher, Satcher, Lann Lee, Morrow, Sotomayor, Paez, Dyk, Lynch, Hormel—and there are others.

In just one term in the Senate, Senator Ashcroft devoted himself to opposing—and when possible scuttling and derailing—any nominee, no matter how well qualified and respected, who was in some way objectionable to his world view. It is virtually an inescapable conclusion that with the new power he would have over the selection of judges, Senator Ashcroft would seek out those who agree with his passionate views on choice and civil rights, on a separation of church and state, and gun control, among other issues, when he reviews judges.

I urge my colleagues to read the short article called "Judicial Despotism" that Senator Ashcroft wrote a few short years ago. This was not something written 25 years ago when he was a young man forming his views. In "Judicial Despotism," he vows to stop any judicial nominee who would uphold Roe v. Wade. Nothing could be more results oriented. In the hearings, Senator Ashcroft said he would be law oriented, not results oriented, but this is as results oriented as it gets.

If he is confirmed, I pray that more moderate souls prevail in the selection of judges. But as it now stands, this nomination poses an enormous threat to the future of the Federal judiciary, and I would oppose the nomination for that reason alone.

As I said when I started, this is a sad day—not a day for exultation, for happiness, for parades. It is sad when the Nation is divided. It is sad when a man who has served so long is the focal point of such intense opposition. It is sad when those of us who want to support a new President cannot. It is sad when, as a nation, a nation trying to bind itself together, we find salt thrown in those wounds.

I just hope, and I believe, that we will have better days to look forward to.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. HATCH. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 18, an adjournment resolution, which is at the desk. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. BYRD. I thank the Chair. What are the terms of the adjournment resolution?

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 18) providing for an adjournment of the House of Representatives.

Mr. HATCH. It only affects the House and takes them out until next Tuesday.

Mr. BYRD. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 18) was agreed to, as follows:

H. CON. RES. 18

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL OF THE UNITED STATES—Continued

The PRESIDING OFFICER. The Senator from West Virginia, Mr. BYRD, is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I daresay that each of us has received an enormous amount of correspondence and a plethora of phone calls about the nomination of Senator John Ashcroft to be Attorney General of the United States.

The favorable correspondence tends to emphasize support for the Senator's policy priorities and appreciation of his reputation for honesty and integrity.

The unfavorable correspondence tends to emphasize concern about the Senator's policy priorities and disapproval of the standards that he applied as a United States Senator and in previous offices that he held, but particularly to the standards he applied with regard to the disposition of Presidential nominations.

Mr. President, I speak today for myself as a Senator from the State of West Virginia, as one who has sworn an oath 16 times to support and defend the Constitution of the United States against all enemies foreign and domestic.

I have heard arguments pro and con with respect to this nomination. I am not here to argue the case at all. I am here merely to express my support for the nomination of John Ashcroft to be Attorney General of the United States. I will not fall out with anyone else who differs from my views. As I say, I am not here to debate my views. I know what my views are. I am going to state them, and they will be on the record. I do not fault anyone else on either side of the aisle or on either side of the question. This is for each Senator to resolve in his or her own heart and in accordance with his or her own conscience.

With respect to that provision in the U.S. Constitution, investing in the U.S. Senate the prerogative, the right, and the duty of advising and consenting to nominations, I find no mandate as to what a standard may be. I am not told in that Constitution that I can or cannot apply a standard that is ideological in nature. I have no particular guidance set forth in that Constitution except exactly what it says. And I am confident, without any semblance of doubt, that as far as ability is concerned to conduct the office of Attorney General, there can be no question about Senator John Ashcroft's ability to conduct that office.

He has held many offices. He has been a Governor of the State of Missouri. He has been a United States Senator. He has been an attorney general of the State of Missouri and, as I understand it, he has been the chairman—I may not have the title exactly right—

of the National Association of Attorneys General of the United States. These are very important offices. They are high offices. They are offices that reflect honor upon the holder thereof.

To have been selected for these high offices, John Ashcroft must have enjoyed the respect and the confidence of the people of Missouri and of his colleagues, other Attorneys General throughout the United States.

I, myself, do consider ideology when I consider a nominee, for this office, Attorney General, and in particular for the offices of Federal district judgeships or appellate judgeships, and U.S. Supreme Court Judgeships; yes, I do. I apply my own standards of ideology, and lay them down beside the record, if there be such, of a nominee. And I may reach a judgment based on ideology.

I have no problem with others who want to apply the criterion of ideology. I have no problem with those who say it should not be applied. This is for each Senator to determine.

It is our understanding, based on Senator Ashcroft's record, certainly based on news reports, and other sources from which we might reach a judgment, that Senator Ashcroft is a conservative. I personally have no problem with that. I consider myself a conservative in many ways; in some ways a liberal.

This nomination has been heatedly debated. There have been great and strong passions exhibited. That is all right. I do not have any problem with that. I am glad that Members of the Senate take a matter such as this so seriously. We can feel strongly about these things

I happen to be a Senator who believes that when it comes to judges, they ought to be conservative. I think that if there is going to be a department of our Government that wishes to be liberal, then that is up to the people, if they wish to elect persons with liberal outlooks, liberal philosophies, to the U.S. Senate or to the House of Representatives—the legislative branch. It is up to the people.

The Chief Executive may be a liberal; he may be a conservative; or he may be both liberal in one instance, conservative in another. Who knows what liberal is and what conservative is? The beauty is in the eye of the beholder—in many instances, certainly. But in my own eye, looking at ROBERT BYRD—and who can see ROBERT BYRD from within?

There is a poem—"Just stand aside and see yourself go by." I try to look at myself every now and then, especially as I pass the mirror.

When you get all you want in your struggle for self
And the world makes you "King" for a day
Then go to a mirror and look at yourself
And see what that guy has to say.
For it isn't your father, or mother, or wife
Whose judgment upon you must pass
The fellow whose verdict counts most in your life
Is the [man looking] back from the glass.

But as I see myself, I consider myself to be a liberal on economic matters, generally; and a conservative on social matters. Newspapers indicate that the vehemence of the opposition to this nomination is, in a measure, for the purpose of sending a "shot across the bow" of the Executive, so that in the future when it comes to Supreme Court nominations, the President will be very careful not to send up a conservative.

I do not have a very big gun, but my little shot across the bow would be: Mr. President, send us conservative judges. That is the one department of the Government that I think should be conservative. It should not make the laws. It should not consider itself a perpetual and traveling constitutional convention. It should construe the Constitution and the laws that the legislature makes.

The President was elected as a conservative. He did not get my vote, but he was elected as a conservative. I think that when it comes to the appointment of Federal judges, I hope he will nominate conservatives. That is what he ought to do. He told the people he was conservative; and they should expect that of him.

But entirely aside from that—and this Senator speaks only for himself in this regard—I think appointments to the Federal bench should be of a conservative bent. Judges have no business trying to make the laws.

As far as I am concerned, any other Senator may apply his own standards and say whatever he wants to. I only have to answer for one person, and that is the old boy looking back from the glass when I pause in front of the mirror.

I have heard no Senator indicate opposition to the nominee on the basis of the nominee's religion. I have heard none. But there have been a few little insinuations in some newspapers, in the columns, to the extent that part of the opposition to this nominee may be on the basis of his being a Christian, his adhering to the Christian religion.

Mr. President, I salute the nominee for being someone who has a religion. I think more public officials should have a strong religious bent, and should be willing to enunciate their faith, whether it be Methodist, Jewish, Catholic, Muslim, Baptist, whatever. That is fine.

I am glad that there are people who bring to the realms of government a religious faith. We need more of that. One does not need to be driven into the closet because he has religious faith. One should not allow himself to be driven in the closet. I do not attempt to foist my faith on others, but I can listen to any of them when it comes to their prayers. I can listen—listen—with respect, and I can hear what they say.

I have a son-in-law who is from Iran. He grew up in a family of devout Muslims. Five times a day did my son-in-law's father look toward Mecca and pray. I could have no better son-in-law, none better. I am proud of him. It does not matter to me what a man's religion is. It matters more that he has a religion. It is like the rules of the Senate. It does not matter so much what a rule of the Senate is. What matters most is that there be a rule to go by.

In this regard, I remember the beginning days of the Continental Congress in 1774. That First Continental Congress met on September 5, 1774. The next day, one of the members—it may have been Cushing or Clark, Cushing of Massachusetts or Clark of New Jersey—stood to his feet and moved that there be prayer at the beginning of each session. John Jay, who was an orthodox Congregationalist, objected, as did, I believe, John Rutledge of South Carolina, objected on the basis that this might cause some dissension, some argumentation, so on.

Whereupon Samuel Adams—the real firebrand of the Revolution, along with Patrick Henry—stood to his feet and said: I am no bigot. I can hear a prayer by any of them.

He, too, was a Congregationalist. I could listen to any of them, Adams said. "I move that Mr. Duche, an Episcopalian clergyman, desired to rend prayers to the Congress tomorrow morning."

I feel the same as did Samuel Adams. I can listen to any of them. We all stand before one God, and he will be our judge. Whether I am a Methodist or Baptist or Episcopalian or Catholic or Jew won't put me at the head of the line. It is my belief in that Creator, the use of my talents as he gave them to me, and my own conscience that will count.

I am for Mr. Ashcroft. I praise him, if he has a religion that he is willing to stand up for. I am not suggesting that he is going to use that in one way or the other as he has to deal with problems that will come before him as Attorney General, but I would much rather believe a man who puts his hand on that Bible and swears to support and defend the Constitution of the United States against all enemies foreign and domestic, I would feel safer believing that that individual will adhere to his oath than I will have faith in an individual who has no manifestation of religion whatsoever or who has no religion.

Here is a man who puts his hand on the Bible, the book our fathers and mothers read, and swears an oath before Almighty God and man. When he says that while he was a Senator he enacted laws but when he becomes Attorney General he won't enact laws any longer, he will enforce the laws. I should think that it would be cynical not to take that man at his word. What else can we demand? A pound of flesh?

I take him at his word. He is a conservative. I am a conservative. He may be to my right on some issues. That is neither here nor there. He will have sworn that he will uphold, support, and defend the Constitution, that he will enforce the law as he found it. I shall believe him.

I wonder if Hugo Black would be confirmed by the Senate in today's political environment. He was confirmed by the United States Senate prior to the revelation that he had been a member of the Ku Klux Klan. He had already been confirmed before that revelation appeared in the Hearst papers in 1937. That is the year in which I married my wife, Erma, 1937. He had already been confirmed.

But there was an effort to have the Supreme Court reject him after that information came to light, but the Supreme Court denied that petition. I am sure that in light of his past, had it been known when the Senate confirmed him, Hugo Black may never have had the opportunity to be the great jurist that he became. So we cannot always look at a person's past and make an accurate judgment. And who am I to look at anybody's past? Look at my own. Someone has said that no man's past will bear looking into. I think it is probably true.

We are talking here in regard to Mr. Ashcroft's past positions on various issues. But when he took those positions, he took them not as Attorney General of the United States, not as one who enforces the laws of the United States.

As a legislator now for 54 years, going on 55, I have taken many controversial positions on issues. I think I would be constitutionally capable of putting aside my opinions, as I have expressed them in the past—and many of mine have been very strongly expressed—I would be capable, I would like to think, of putting those aside and enforcing the laws of the land without fear or favor, hewing to the line, if called upon to be the Attorney General of the United States. It was never a job I would want. I think Mr. Ashcroft can do that.

The Constitution merely states that the President shall appoint public ministers with the advice and consent of the Senate.

As I say, this is not a specific standard, nor even a mandate to review particular features of the nominee's background or capabilities. Rather, we are enjoined to employ our judgment, a faculty which—however much we may lament it—focuses on different factors in considering nominees for different public offices and varies its approach in response to the needs of the times. Thus, when it comes to our duty to provide advice and consent on Cabinet nominations, we are plainly in an area where reasonable minds can differ, not only about the criteria, but even about the proper result given particular criteria. No amount of pressure politics—and no slickly packaged talking points—can alter this fundamental fact.

I do not subscribe to the view that, barring the taint of criminality or dishonesty, the President is entitled to have his nominations confirmed. I do not subscribe to that view. That is not what the Constitution says. I do subscribe to the view that law enforcement officials of good will and ability can separate their policy preferences from the performance of their official duties.

There is a distinct difference between the role of a Senator as the drafter of laws and the role of the Attorney General as the enforcer of laws. Once Senator Ashcroft places his left hand on the Bible and swears to uphold the laws of the United States, he will be required to enforce even those laws about which he harbors serious reservations. Not only that, but given the fact that John Ashcroft is as I said, is reputed to be a deeply religious man.

I know not whether he is or isn't. I have never been one who has been close to Mr. Ashcroft. I never served on any committee with him. My conversations with him have been very, very few.

He and I have not voted alike on many occasions. So I don't come here today supporting Mr. Ashcroft because I know him well, or because we have been bosom friends, or because we served on committees together, or even because he is a U.S. Senator. But I believe that that solemn vow will be taken seriously by him.

I am attempting to discharge my duty under the Constitution. That is the way I see it.

Let me quote Senator Ashcroft's own words on that subject: "As a man of faith, I take my word and my integrity seriously," he said. "So, when I swear to uphold the law, I will keep my oath, so help me God."

What more can I ask? Shall I go behind these words and dig up what he might have written on this subject or that subject? Those who feel differently may do so. But in this case, all things being considered, I have reason to believe that when he says he is a man of strong religious faith, he means what he says when he takes the oath. I believe him.

During his confirmation hearings, he stated that he understands this obligation and fully intends to honor it. For example, he indicated that he "will vigorously enforce and defend the constitutionality" of the law barring harassment of patients entering abortion clinics, despite any misgivings he might have about that law.

I take him at his word. Although, I do not agree with all of Senator Ashcroft's views, as I have already indicated, I have no cause to doubt Senator Ashcroft's word or his sincerity regarding his fealty to an oath he will swear before God and man.

As far as I am personally concerned, it would be an act of supreme arrogance on my part to doubt his intention to honor such an oath. I will not prejudge him in such a manner.

Given Senator Ashcroft's background, the position to which he has been nominated, and his assurances to the Senate that he will faithfully uphold the laws of the United States, I believe he should be confirmed.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, thank you.

Mr. President, we have heard a lot said by my Republican friends and others that Senator Ashcroft's nomination is opposed by "hard left" or "extremist" groups who are "far out of the mainstream" of American politics. I see a pretty broad group here in these extreme or out of the mainstream groups. I will read for the RECORD the names of those who oppose this nomination.

Alliance for Justice, AFL–CIO, American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans United for Separation of Church and State, Asian Pacific American Labor Alliance, Baptist Joint Committee, California Teachers Association, Campaign for Tobacco Free Kids, Coalition to Stop Gun Violence, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, Handgun Control, Hispanic Bar Association of the District of Columbia, The Interfaith Alliance, Japanese American Citizens League, Justice Policy Institute, Leadership Conference on Civil Rights, National Asian Pacific American Legal Consortium, National Consumers League, National Council of Jewish Women, National Council of Juvenile and Family Court Judges, National Education Association, National Rehabilitation Association, National Voting Institute, Organization of Chinese Americans, Inc., Sierra Club, United Auto Workers, US Action, Victims Rights Political Action Committee, Violence Policy Center, Youth Law Center.

I ask unanimous consent that this more complete list of the organizations and individuals opposing this nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS OPPOSED TO THE NOMINATION OF JOHN ASHCROFT

AIDS Action, AFL–CIO, Alliance for Justice, American Association of University Women, and ACLU.

American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans for Democratic Action, and Americans United for Separation of Church and State.

Asian Pacific American Labor Alliance, Baptist Joint Committee, Bar Association of San Francisco, California Teachers Association, and Campaign for Tobacco Free Kids.

Center for Reproductive Law and Policy, Coalition to Stop Gun Violence, Common Cause, Common Sense for Drug Policy Legislative Group, and Democracy 21.

Earth Justice Legal Defense Fund, Feminist Majority, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, and Handgun Control.

Hispanic Bar Association of the District of Columbia, Human Rights Campaign, The Interfaith Alliance, Japanese American Citizens League, and The Justice Policy Institute.

Lambda Legal Defense and Education Fund, Inc., Lawyers Committee for Civil Rights Under Law, Leadership Conference on Civil Rights, Mexican American Legal Defense and Educational Fund, and Missouri Legislative Black Caucus.

Mound City Bar Association, NARAL, NAACP, National Office, NAACP, St. Louis Branch, and NAACP, Mississippi State Conference.

National Abortion Federation, National Asian Pacific American Legal Consortium, National Asian Pacific American Bar Association, National Association of Criminal Defense Lawyers, and National Black Women's Health Project, Inc.

National Coalition Minority Businesses, National Consumers League, National Council of Jewish Women, National Council of Juvenile and Family Court Judges, and National Education Association.

National Family Planning and Reproductive Health Association, National Voting Rights Institute, NOW Legal Defense Fund, National Partnership for Women & Families, and National Rehabilitation Association.

National Task Force on Violence Against Health Care Providers, National Voting Institute, National Women's Law Center, Organization of Chinese Americans, Inc., and People for the American Way.

Physicians for Social Responsibility, Planned Parenthood, Public Campaign, Rainbow Push Coalition, Religious Coalition for Reproductive Choice, and St. Louis Black Leadership Roundtable.

Schiller Institute, Sierra Club, Texas Legislative Black Caucus, UAW, US Action, and Victims Rights Political Action Committee.

Violence Policy Center, Voters for Choice, Wisconsin Legislative Black & Hispanic Caucus, Women's International League for Peace and Freedom, Women's National Democratic Club, and Youth Law Center.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, when the roll is called on the nomination of John Ashcroft to Attorney General of the United States, I will vote "no."

The position of Attorney General is not comparable to other Cabinet positions. As head of the Department of Justice, the Attorney General has enormous independent responsibility and authority, neither of which is subject directly to direction by the President.

The Attorney General also has enormous discretion in choosing where to use the power to prosecute and when to go to court to assert the rights of the People. Historically, the Attorney General is the officer who has enforced the Voting Rights Act and the other civil rights laws which have transformed our nation for the better in the last half century.

Given the great power which has been lodged in this office, it is important that the American people have confidence in the fairness and impartiality of the occupant of that office. It is clear to me that many in our country lack that confidence in John Ashcroft. His past actions and statements raise legitimate concerns about how he would carry out the duties of Attorney General. It is those legitimate concerns that lead me to oppose his nomination.

What are those concerns?

Other Senators have cited actions and statements which they find objectionable. I will mention three.

First, the decision to oppose Judge Ronnie White's nomination to the U.S. District Court for Missouri. In my view, the decision to oppose Judge Ronnie White was both unfortunate and unfair. Judge White's record and views were distorted in the debate on the Senate floor. Perhaps even more disturbing was the way in which Senator Ashcroft determined to oppose Judge White's nomination. Each of us here in the Senate knows that we have ample opportunity to voice objections about judicial nominees from our own state long before a nomination ever reaches the Senate floor. In the case of Judge White, Senator Ashcroft chose to delay serious objection to Judge White until the question came before the full Senate for debate. During that debate, Judge White, the highest ranking African-American jurist in Missouri, was publicly humiliated. This treatment was anything but fair. It was a sad day in the United States Senate.

A second reason for my opposition to Senator Ashcroft's nomination is his implacable opposition to the appointment of Bill Lann Lee to head up the Civil Rights Division at the Justice Department in the previous administration. Senator Ashcroft's opposition was clearly based on Mr. Lee's support for upholding the nation's laws as they pertain to affirmative action. Mr. Lee testified that he would enforce the Supreme Court's rulings on affirmative action, including those that restricted affirmative action. Senator Ashcroft opposed Mr. Lee's nomination, presumably because he feared that Mr. Lee would actually uphold the law of the land in that regard.

The third reason for my vote will be Senator Ashcroft's opposition to James Hormel as President Clinton's choice to be Ambassador to Luxembourg.

I have never met Mr. Hormel. I was not involved in the committee deliberations on that nomination, but as far as I can determine, Mr. Hormel was opposed because of his admission that he is gay. No other credible explanation for opposing Mr. Hormel has been offered of which I am aware.

It is my view that the person entrusted with responsibility to fairly and evenhandedly administer the law should not be suspected of discriminating against any nominee on that basis.

Other actions and statements could be cited, but I will stop with those three. They are, in my view, legitimate concerns, and in my view those concerns require a vote against Mr. Ashcroft to be our next Attorney General. The position of Attorney General is far too important to our Nation. Our Nation is one that needs to be united rather than further divided at this point in our history. I do not believe he is the right person for this job.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to have printed in the RECORD a number of editorials regarding his nomination from the New York Times, USA Today, the Akron Beacon Journal, St. Louis Post-Dispatch, and the Pittsburgh Post-Gazette.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 27, 2001]

WHAT ASHCROFT DID

(By Anthony Lewis)

BOSTON.—Even some conservatives are embarrassed now by the way Senator John Ashcroft killed the nomination of Ronnie White to be a federal judge. He told his Republican colleagues that Judge White, of the Missouri Supreme Court, had shown "a tremendous bent toward criminal activity." It was a baseless smear.

But it was not just dirty politics. It was dangerous, in a way that casts doubt on Senator Ashcroft's fitness to be attorney general.

Judge White was attacked by Senator Ashcroft because, in 59 capital cases before the Missouri court, he had voted 18 times to reverse the death sentence. In 10 of those 18 the court was unanimously for reversal. Senator Ashcroft hit at cases in which Judge White dissented.

For appraisal of Judge White's record in those cases I rely on Stuart Taylor Jr. of The National Journal, a conservative who is widely respected as a legal analyst. He wrote: "The two dissents most directly assailed by Ashcroft in fact exude moderation and care in dealing with the tension between crime-fighting and civil liberties."

One of the dissents was in a horrifying murder case—the murder, among others, of a sheriff. Mr. Taylor wrote that Judge White's "conclusion was plausible, debatable, highly unpopular (especially among police) and (for that reason) courageous. For John Ashcroft to call it 'pro-criminal' was obscene."

In short, a judge who wrote a thoughtful, reasoned dissent in a murder case was told that it disqualified him for a federal judgeship. Think about what that means for our constitutional system.

Judicial independence has been a fundamental feature of the American system for 200 years and more. We rely on judges to enforce the Constitution: to protect our liberties. But a judge who does so in a controversial case is on notice from John Ashcroft that he may be punished. The judge must reject the constitutional claim, however meritorious, or face a malicious smear.

There is a slimy feel to Senator Ashcroft's behavior with Judge White. One of the Republicans who voted against the judge at Senator Ashcroft's urging, Arlen Specter of Pennsylvania, told Judge White the other day, "the Senate owes you an apology." Commentators have urged Senator Ashcroft to apologize, but he has refused.

That same sense of slipperiness is evident in another matter: Senator Ashcroft's role in blocking the nomination of James Hormel to be ambassador to Luxembourg in 1998. Mr. Hormel is gay. Senator Ashcroft explaining his opposition, said Mr. Hormel "has been a leader in promoting a lifestyle," and that was "likely to be offensive" in Luxembourg.

But 10 days ago, when Senator Patrick Leahy, a Democrat of Vermont, asked whether he had opposed Mr. Hormel because he is gay, Senator Ashcroft replied, "I did not." Why, then, had he opposed the nomination? Senator Leahy asked.

"Well frankly," Senator Ashcroft replied, "I had known Mr. Hormel for a long time. He had recruited me, when I was a student in college, to go to the University of Chicago Law School [where Mr. Hormel was then an assistant dean]. . . . I made a judgment that it would be ill advised to make him an ambassador based on the totality of the record."

After that testimony, Mr. Hormel wrote Senator Leahy that he had not "recruited" Mr. Ashcroft or anyone to Chicago, which needed no recruiting; that he could recall no personal conversation with Mr. Ashcroft then and had not seen him for nearly 34 years. He added that he had asked to talk with Senator Ashcroft in 1998 about the Luxembourg nomination but had gotten no response.

Trying now to appear as someone who will act equitably to all, Senator Ashcroft was not man enough to admit that he had opposed Mr. Hormel because of his sexual orientation. He resorted instead to the false suggestion that he was well acquainted with Mr. Hormel over decades and his "record" was bad.

Supporters of Senator Ashcroft say it is improper to object to him because of his ideolgy—a president should be free to have cabinet members of whatever ideology he chooses. Even with the greatest latitude for the cabinet, Senator Ashcroft's extreme-right politics make him a dubious choice for attorney general. But what makes him, finally, unfit for the job is that, in Stuart Taylor's words, "A character assassin should not be attorney general."

[From the USA Today, Jan. 26, 2001]

Ashcroft Rights Record Bears Careful Watching

OUR VIEW: HIS TESTIMONY SAID ONE THING; HIS RECORD ANOTHER

When Senate Democrats forced postponement of a vote Wednesday on a confirmation of John Ashcroft, it was less a victory than a delay of the inevitable. Ashcroft will be attorney general. But whether Ashcroft will perform that office's most vital role—protecting citizens against abuses of power they can't combat themselves—remains very much in doubt.

History has shown this to be the most lasting accomplishment of many attorneys general. Herbert Brownell Jr., who served Dwight D. Eisenhower, advised federal intervention when the doors to a Little Rock school were barred to the first black students. As John F. Kennedy's attorney general, Robert Kennedy led the government's fight against racial violence in the South. And most recently, Janet Reno worked to assure women their constitutional right to an abortion free from threat or violence.

There will be quick and ample opportunity for a confirmed Ashcroft to show such leadership on everything from voting to abortion rights. But the troubling questions remain: Will the nation get the man of measured views portrayed at his recent confirmation hearings? Or the ferocious ideologue who served in the Senate and as Missouri's attorney general and governor?

Ashcroft said all of the right things about being willing to uphold the law. But grudgingly upholding it and actively fighting for it are very different. Ashcroft's long public record raises questions about his commitment, which were enhanced at hearings last week when he distorted, evaded and strained credulity in key areas, particularly civil rights:

Fighting integration. Ashcroft has shown no inclination to fight for civil rights and indeed battled for years against a voluntary St. Louis busing plan that grew out of a lengthy court case. Assertions at last week's hearings that he favors integration were undercut when he twisted his own record.

Ashcroft told senators that Missouri was not a party to the desegregation lawsuit, that it was "found guilty of no wrong" and that when "the court made an order, I followed" it. All distortions. The state was sued in 1977, Ashcroft's first full year as attorney general. Judges repeatedly found state officials liable, once calling them "primary constitutional wrongdoers." A federal judge threatened contempt proceedings against the state for defying orders. And in 1984, another judge wrote, "if it were not for the state of Missouri and its feckless appeals, perhaps none of us would be here."

Meanwhile, according to news accounts, Ashcroft rode the case to higher office: He bragged about his unbridled opposition and the threatened contempt citation. And he ran a scathing TV ad suggesting that a GOP primary opponent was too soft on busing.

Insensitivity on race. Ashcroft's Missouri history doesn't mean he's an overt racist. Money was at issue as well as integration in the St. Louis case. But he certainly seems indifferent to minority concerns. Given ample opportunity to explain his acceptance of an honorary degree from Bob Jones University, a bastion of racial bias, and his praise for a neo-Confederate magazine, Ashcroft offered limp evasions. He "should do more due diligence" on the magazine, he said, and he'll continue to speak at places where he can "unite people." That doesn't sound like a man who would use the power of his office to fight racial bias.

Ideology over justice. Ashcroft, who ferociously opposed several Clinton nominees with whom he differed ideologically, displayed no better sense of fairness even as he sought Senate approval.

He repeated his harsh attack on an African-American Missouri Supreme Court judge, whom he had labeled "pro-criminal." Ashcroft torpedoed the judge's 1999 nomination to the federal bench even though the judge voted to uphold 70% of the death sentences he reviewed. Also, Ashcroft evaded specific questions about opposition to Clinton nominee James Hormel as ambassador to Luxembourg. According to news accounts, Ashcroft criticized Hormel, a gay businessman, for supporting "the gay lifestyle."

Presidents get, and in most cases deserve, wide latitude to pick a top team that reflects their philosophy, but that comes with a price: They bear responsibility for their appointees' actions. President Bush, who can't afford to offend minority voters by abandoning civil rights, may hold tight rein on the Justice Department. Moreover, much will depend on those named to key jobs just below attorney general, particularly the department's civil rights chief. Those nominees deserve particular scrutiny.

Ashcroft himself faces several early tests of his commitment to fairness. He'll decide whether the U.S. government pursues allegations of voter discrimination in Florida in the presidential election. He'll help determine whether race has been used wrongly to draw new congressional districts nationwide. He'll play a major role in picking new federal judges and potentially Supreme Court justices. And he'll influence the nation's stand on future restrictions on abortion and on the use of race in government hiring and college admissions.

If Ashcroft indulges ideology over fairness, Bush will surely pay the price. But so, too, would Americans who most need the law's protection. That would be the real tragedy.

[From the Akron Beacon Journal, Jan. 24, 2001]

The President's Man—The Ugly Story of the Ronnie White Nomination Reveals What a Disappointing Choice George W. Bush Has Made

Trent Lott has declared that John Ashcroft will easily win confirmation as attorney general. The Senate Judiciary Committee was expected to vote today. That has been postponed. Still, the forecast of the Senate majority leader will likely prove true in a week or two. A majority of senators will consent to the choice of George W. Bush.

A president deserves to surround himself with Cabinet officers and advisers in whom he has confidence. That is part of even the slenderest mandate a president may win. It ensures that responsibility for an administration falls on the person who occupies the Oval Office.

Those who've described the confirmation hearings on the Ashcroft nomination as among the toughest ever forget the raucous sessions over Clarence Thomas and Robert Bork, to name just two. The politics involved have been plain. The president hoped to reassure arch conservatives with his choice. Liberal interest groups have kept their own lists, noting the performance of Democratic allies in the Senate.

All of the clatter might have been dismissed as business as usual until Ronnie White, the first black man to sit on the Missouri Supreme Court, testified at the confirmation hearing. Bill Clinton appointed White to a position on the federal district court. In 1999, Sen. Ashcroft, a fellow Missourian, almost singlehandedly defeated the White nomination, and the way he did so raises questions about his judgment.

Ashcroft misled his colleagues. He rallied law enforcement organizations to oppose the White nominations, all the while leaving the impression they had come forward on their own. He grossly distorted the White record, describing the judge as "pro-criminal" and "with a tremendous bent toward criminal activity." He painted the portrait of a judge determined to reverse death sentences.

In truth, White voted to uphold the death penalty in 41 of 59 cases before the Missouri high court. He sided with the majority in 53 of those cases. Ashcroft defended his opposition last week, arguing that he considered the "totality" of the judge's record. If anything, that record, as White quietly and powerfully made obvious, has reflected sound reasoning and a dedication to the law (as many police groups acknowledge).

Sen. Arlen Specter, a Pennsylvania Republican, felt the duty to apologize to White for the way he had been treated. The judge framed the issue of Ashcroft's nomination: "The question for the Senate is whether these misrepresentations are consistent with the fair play and justice that you all would require of the U.S. attorney general."

The White nomination doesn't tell the entire story of John Ashcroft. As a former state attorney general, governor and senator, he is highly qualified to lead the Department of Justice. He has governed from the center and with integrity, enforcing the law whether he has agreed with its direction or not.

His zealotry has also been front and center. He has yet to explain clearly his opposition to James Hormel to be ambassador to Luxembourg, except to suggest that he was offended because the nominee was gay. He persisted in playing racial politics with a lengthy school desegregation case in St. Louis.

The Ashcroft record raises the question: Why didn't George W. Bush nominate someone else to be attorney general, someone who better reflected the themes of his inaugural address, conservative, yes, but far less polarizing and tempted by expediency? Fair play? Justice? John Ashcroft is the president's man.

[From the St. Louis Post-Dispatch, Jan. 25, 2001]

A QUESTION OF FITNESS

ATTORNEY GENERAL

John D. Ashcroft has spent the better part of his political career at odds with core values of the Constitution—equality, religious freedom, judicial independence and individual autonomy. Now he is nominated to be the people's guardian of those values. The conflict between his record and the duties of the office raises serious questions as to whether John Ashcroft should be confirmed as attorney general.

Disagreeing with Mr. Ashcroft is not reason enough to oppose him. Presidents are entitled, generally, to their pick of Cabinet members. If Mr. Ashcroft were the nominee for secretary of agriculture there would be no problem. But the attorney general vets federal judges, enforces civil rights laws, safeguards the reproductive rights of women and determines the legal position of the United States.

Can Mr. Ashcroft fairly vet federal judges when he believes the judiciary is full of "renegade judges" who have created a "judicial tyranny" where courts are "nurseries for vice?" Can he guard judicial independence when he has repeatedly denied judgeships for political reasons? Can he enforce the civil rights laws when he has doggedly fought school desegregation, affirmative action and gay rights? Can he protect women seeking abortions when he considers abortion murder?

John Ashcroft is indisputably a man of principle. The problem is those principles put him at odds with the Constitution, with contemporary notions of equality and with the mainstream of the American public.

JUDICIAL INDEPENDENCE

Judicial independence is the rock that anchors our judiciary. But Mr. Ashcroft has undermined independence with his attacks on judicial nominees.

Mr. Ashcroft's hostility to judicial independence is an important lesson of the much-told story about his opposition to Ronnie White as a federal judge. Mr. Ashcroft may have been motivated by a feud with Mr. White over abortion policy. But by basing his attack on Judge White's death penalty decisions, Mr. Ashcroft sent a chill through the ranks of state judges hoping to be promoted to the federal bench. Mr. Ashcroft said Mr. White was "pro-criminal" because he had voted to overturn death sentences. In fact, Mr. White had upheld 35 of the 55 death sentences.

Mr. Ashcroft focused on Judge White's lone dissent to the conviction of James R. Johnson in the gruesome murder of a sheriff, two sheriff's deputies and a sheriff's wife. Judge White spoke of his "horror at this carnage" and said Johnson "deserved to die" if he was not insane. But he concluded that Johnson's lawyer was so incompetent that he had not received effective counsel.

A lone dissent in the case that arouses such public passion is the essence of judicial independence. Charles Blackmar, a retired Supreme Court judge, called Mr. Ashcroft's attack "tampering with the judiciary."

Mr. White is not a perfect man, nor is he the nation's keenest jurist. But he upheld the highest values of a judge in his dissent. Will Mr. Ashcroft reject for the federal bench those judges with the temerity to overturn a death sentence?

Mr. Ashcroft's record in Missouri raises similar questions. Judicial nominees say that Mr. Ashcroft asked them their views about abortion before deciding whether to nominate them.

CIVIL RIGHTS

Mr. Bush says that Mr. Ashcroft "has a strong civil rights record." As evidence he cites Mr. Ashcroft's appointment of eight African-Americans to Missouri judgeships, a past commendation from the Mound City Bar Association, an endorsement by the Limelight newspaper, his support of Lincoln University and his signing of bills honoring Martin Luther King and establishing Scott Joplin's home as a historic site.

The appointment of eight black judges is a substantive accomplishment. The rest is résumé padding. Mr. Ashcroft was only marginally involved in the Scott Joplin house. The Limelight is a free, marginal publication, by no means the largest or most influential African-American newspaper in St. Louis. The Mound City Bar Association, a black lawyers' group, does not support Mr. Ashcroft because of the "insidious" way he killed Mr. White's nomination.

The actual Ashcroft civil rights record is weak and regressive. As state attorney general he denied that the St. Louis schools were segregated. He lobbied members of the Reagan Civil Rights Division to switch sides in the St. Louis school desegregation case, and eventually became the desegregation plan's chief opponent.

That plan offered responsible politicians the chance to support phased, voluntary desegregation. But Mr. Ashcroft insisted on calling it "mandatory busing" and leveled a devastating anti-busing TV ad at his opponents in the 1984 governor's race. U.S. District Judge William L. Hungate summed up Mr. Ashcroft's behavior as "feckless," saying he "voluntarily rode (the desegregation) bus to political prominence."

In 1997 Mr. Ashcroft led the opposition to Bill Lann Lee, the Asian-American head of the Civil Rights Division. First, he distorted Mr. Lee's position on affirmative action, saying he favored quotas. Then, he said Mr. Lee should be rejected for holding a position at odds with the Supreme Court's, when in fact Mr. Lee favored affirmative action in limited cases where the Supreme Court said it could be used.

In 1999 Mr. Ashcroft accepted an honorary degree from Bob Jones University, a fundamentalist Christian college that banned interracial dating until last March. Mr. Ashcroft's claim that he did not know about the university's discriminatory policies stretches credulity. The college's tax exempt status was a huge controversy during the Reagan administration.

Mr. Ashcroft's civil rights record raises serious doubts about his commitment to "equal protection" under the law—a seed of liberty scarified by the flames of the Civil War and brought to fruition by the civil rights movement.

WOMEN AND REPRODUCTIVE FREEDOM

Mr. Bush says Mr. Ashcroft "has a solid record" on women's issues, citing his appointment of Ann Covington to the Missouri Supreme Court and his support for money to combat violence against women.

But the Women's Political Caucus ranked Mr. Ashcroft last in the nation for appointing women while he was governor of Missouri. As Missouri's attorney general, he opposed the Equal Rights Amendment. When the National Organization for Women boycotted Missouri for opposing the amendment, he stretched antitrust laws to sue the group.

In every office that he has held, Mr. Ashcroft has fought abortion. He supported a Human Life Amendment even before Roe v. Wade. In his view, Roe and its "illegitimate progeny have occasioned the slaughter of 35 million innocents."

As Missouri's attorney general, he personally sought to limit abortion in an argument to the Supreme Court. As governor, he signed the law that led to the 1989 Supreme Court decision that came within one vote of overturning Roe. Mr. Ashcroft has said his top priority is the Human Life Amendment; it would only allow an abortion to save the life of the mother. There would be no exception for rape or incest. Nor could states pass laws permitting abortion. Its tenet that life begins at conception raises questions about the legality of birth control pills, IUDs and the abortion drug RU–486, which Mr. Bush may also seek to restrict.

Mr. Ashcroft has supported a partial birth abortion bill that does not include an exception for the health of the mother, even though the Supreme Court says that exception is required.

Mr. Bush says he does not think the nation is "ready" to overturn Roe and says he will focus on bills such as one outlawing partial birth abortion. Mr. Bush and Mr. Ashcroft have also said they will uphold the law protecting women's access to abortion clinics. But Mr. Ashcroft would have ample room as attorney general to advocate positions that would undermine Roe. And he could help pick Supreme Court justices who would read it out of the Constitution.

RELIGIOUS FREEDOM

Organized prayer in the public schools is unconstitutional. The First Amendment says the government can't tell us when or how to worship. Yet Mr. Ashcroft has long supported organized school prayer. He also supports school vouchers, as does Mr. Bush, that would direct large sums of public money to church schools. As attorney general, Mr. Ashcroft would have the lead role in developing the administration's legal arguments in favor of vouchers. His opposition to four decades of Supreme Court decisions raises questions as to whether he believes in the boundary between church and state.

Perhaps, in several hours of testimony before the Senate Judiciary Committee this week, Mr. Ashcroft can explain why the nation should not feel uneasy with his stewardship of values and principles at war with his own. Perhaps he can reassure the American people that he will enforce principles he has spent a quarter of a century—his entire career in public life—fighting. But how could a man swear to uphold constitutional values he rejects, without betraying his own core beliefs? And who would place his trust in a man willing to do so?

Mr. Ashcroft should certainly have a chance to explain how. But if Mr. Bush wanted a uniter, not a divider, he has the wrong man at Justice.

[From the Pittsburgh Post-Gazette, Jan. 24, 2001]

Ashcroft: Still No—Senate Hearings Don't Alter the Case Against Him

The Senate Judiciary Committee could vote as early as today on the nomination of former Missouri Sen. John Ashcroft to be U.S. attorney general. Before last week's hearings by the committee, the Post-Gazette suggested that Mr. Ashcroft was the wrong man for the job. Nothing that transpired in the hearings changed our view.

It is true that Mr. Ashcroft, who was nominated by President Bush as a gesture to religious conservatives, assured senators he would enforce laws he didn't agree with. He even made a specific commitment not to seek a reversal of Supreme Court decisions legalizing abortion, which he called "settled law."

Almost four years ago, in a lecture to the Heritage Foundation, Mr. Ashcroft had a different description of the high court's abortion rulings. Referring to a 1992 decision reaffirming Roe vs. Wade, he complained that in that ruling "the Supreme Court challenged God's ability to mark when life begins and ends." In the same lecture, he echoed a familiar conservative critique of what he called "appalling judicial activism."

As we observed before, the question is not whether Mr. Ashcroft can put aside his history of being an extreme critic of the federal courts and of some of the statutes and court decisions he will have to enforce. The question is why the Senate should force him to perform the intellectual contortions that transformation would require.

In raw political terms, it made sense for George W. Bush, who received significant support from the religious right in his election campaign, to make what one of his aides called a "message appointment" that would please that constituency. Senators who see the world differently—like Pennsylvania's Arlen Specter—are under no obligation to follow suit by confirming Mr. Ashcroft.

Yet Mr. Specter went on record early saying he would support Mr. Ashcroft "unless something extraordinary" developed in the confirmation hearings. Predictably, no such "smoking gun" materialized. Moreover, the witness Ashcroft opponents had most counted on, Missouri Supreme Court Judge Ronnie White, while eloquent, was in some ways a disappointment. Judge White, an African American, declined an opportunity to impute racism to then-Sen. Ashcroft's disgraceful derailment of his nomination to the federal bench.

But the issue wasn't whether Mr. Ashcroft is a racist. It was that he unfairly distorted Judge White's record by branding him as "pro-criminal." That charge is more understandable in the context of Mr. Ashcroft's general attitude toward judges he considers appalling activists and subverters of the divine will.

There is no need to impugn Mr. Ashcroft's integrity or his legal skills to oppose his nomination. Unlike other Cabinet officers, the attorney general is beholden not just to the president who appoints him but also to a body of law that, in many respects, is uncongenial to John Ashcroft but vital to women, minorities and other Americans who find his demonization of the courts bizarre.

It was symbolism that led President Bush to nominate Mr. Ashcroft; senators who are uncomfortable with that symbolism—Arlen Specter among them, we hope—should reject the nomination.

Mr. HATCH. Mr. President, since we have a lull, I will take a few moments to make some points I think need to be made in light of some of the statements that have been made. We have been placing matters in the RECORD all day, and hopefully people will read the RECORD and realize some of the arguments that have been made are not only inconsequential but really not right.

Let me rise today to address some of the most common criticisms directed against Senator Ashcroft.

Certain allegations have surfaced again and again, and they misrepresent Senator Ashcroft's record and personal character. I will address some of the most invidious of these charges.

The primary criticism cited by my colleagues in opposition to Senator Ashcroft are his involvement with school desegregation and his actions taken against the nominations of Ronnie White and Bill Lann Lee.

First, let me address the criticisms made against Senator Ashcroft's role in the school desegregation cases in St. Louis and Kansas City. There has been a significant distortion of his role in these cases and there are some things that I would like to make clear.

First, John Ashcroft supports integration. He is not against desegregation and said so repeatedly during the four days of hearings and in response to numerous written questions on the subject. Senator Ashcroft testified, "I have always opposed segregation. I have never opposed integration. I believe that segregation is inconsistent with the 14th amendment's guarantee of equal protection. I supported integrating the schools." Senator Ashcroft is deeply committed to civil rights and has stated that he intends to make this one of his top priorities if confirmed as Attorney General.

Second, all of Senator Ashcroft's actions with regard to desegregation occurred in his role as attorney general, as the legal representative of the State of Missouri. As the State attorney general he was required to defend the interest of the State, his client. The State opposed voluntary desegregation because it would lead to incredible costs for the State—estimates put the total cost of desegregation at an incredible $1.8 billion to the State. To put this in perspective, Missouri's fiscal year 2001 budget is $17 billion. At that time it was much less. In other words, he wanted to prevent, as did virtually everybody in government, a judicial raid on the state treasury, something that all of us ought to be concerned about.

Indeed, the combined costs of the St. Louis and Kansas City desegregation plans have been higher than the costs of desegregation in all the other states combined, with the exception of California. Moreover, the way the plan was structured most of the money was funneled to the white suburbs. In 1996, when the total cost of the program was $1.3 billion, only between $100 and $200 million went to the St. Louis schools. That doesn't sound like desegregation to me. Yet that is what these liberals have been arguing for.

The results of these court-ordered remedies have been truly unimpressive. For instance, test scores actually went down from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. It doesn't sound like very good desegregation to me. The graduation rate has remained around an abysmal 30 percent. And as far as actual desegregation, the percentage of African-American students in the St. Louis schools has remained almost identical to what it was when the plan started, about 80 percent.

Yet our liberal friends, both in this body and in the outside groups, would have you believe Senator Ashcroft is doing a terrible thing against desegregation and against integration. And they just plain don't accept his very honest statements that he has always been for desegregation and for integration. He has never spoken against them.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis. But given these unimpressive results and extraordinary costs, I think it seems perfectly understandable that many State officials from both political parties have consistently had doubts about this plan. Indeed, Senator Ashcroft's democratic successor as attorney general took the same position on behalf of the State of Missouri.

Third, some of my colleagues have charged that Senator Ashcroft misrepresented his involvement with the desegregation cases. This is also a significant distortion of Senator Ashcroft's responses to a flurry of questions. The Missouri school desegregation cases are extremely complex and involve a variety of different factual and constitutional issues. Perhaps Senator Ashcroft made some preliminary statements that were incomplete, but when questioned further, he clarified his answers. Moreover, in an extended response to a written question, he fully detailed Missouri's liability and involvement with the case.

Senator Ashcroft has acknowledged that the State was found liable for desegregation. However, the State was found liable only for an intra-district violation, that is a violation in the one district of St. Louis. The State was never at any time adjudged liable for an intra-district violation involving the St. Louis suburbs—this is the bottom line of a long and somewhat murky legal record.

The fact that Missouri was never found to have committed an interdistrict violation is easily proved. Consider that throughout 1981 and 1982 the parties and the court were preparing for a trial on the very question of interdistrict liability. It goes without saying that a trial on the point would have been unnecessary if liability had already been determined.

In fact there was never a trial on the interdistrict liability. This trial was averted because the suburban schools and the St. Louis Board of Education agreed to a consent decree. In fact, this settlement was hastened when the district court announced that it would have to consolidate city and county school districts if at trial liability is proved of an interdistrict violation. The threat of consolidating suburban and city school districts was enough to prompt the city and county to reach a settlement agreement, an agreement to which the State was not a party. The consent decree entered by the district court did not contain the necessary finding of liability for an interdistrict violation. Thus, a settlement was reached in which the State was required to pay for an inter-district remedy between the city and county although it had never been found liability of an inter-district violation.

Missouri's arguments on appeal against the district court's order had a strong legal basis. The Supreme Court had previously held in Milliken that a district court must find an interdistrict violation before it can order an interdistrict remedy. Indeed, such a remedy must also be narrowly tailored to fit only the particular constitutional violation. There was no finding of liability here, much less a determination by the court that the settlement met constitutional requirements.

Moreover, the State did not willfully refuse to comply with the district court's orders. What the district court ordered was for the parties to the litigation to enter into a voluntary plan for interdistrict transfers of students to suburban schools. But such a plan was an impossibility because the suburban school districts were necessary parties who were not before the court. No satisfactory plan was likely to be produced under those circumstances. Indeed, no successful plan was produced until the suburban schools were joined and threatened by the district court directly with being placed by the court into the same school district as the city schools.

The district court did criticize the State, but it did not hold the State in contempt. Probably because the court realized that it had essentially ordered the State and other defendants to perform an impossibility.

Finally, Senator Ashcroft has been criticized for being overly litigious in the desegregation cases. But an electronic search reveals that Senator Ashcroft was actually the least litigious of the attorneys general who represented the State during any significant portion of this litigation. During the 8 years that John Ashcroft was attorney general, there are 18 entries relating to this case.

By comparison, during the 8 years William Webster was attorney general, there are 34 entries. And during the 7 years that Jay Nixon, a democrat, was attorney general, there are 22 entries.

Then-Attorney General Ashcroft did bring several appeals to the district court's action. But this is understandable given that the courts never found the State liable for an inter-district violation. A very key point, by the way. Senator Ashcroft's position on behalf of the State was eventually vindicated in the Kansas City school desegregation litigation. That line of cases culminated in Missouri versus Jenkins—in which the Supreme Court held that an interdistrict violation is required before a Federal court can impose interdistrict remedies.

In sum, Senator Ashcroft was a faithful advocate for the State of Missouri. He defended the interests of all state taxpayers through a series of legally justified appeals. The legal theories he advanced on behalf of the State were eventually vindicated by the Supreme Court. As Missouri attorney general he supported improved educational opportunities for children, not the failed and extremely expensive court-ordered remedies developed by the district court. Senator Ashcroft's actions contesting the details of a complicated court-ordered busing scheme does not mean that he opposed segregation. Quite to the contrary, Senator Ashcroft opposes segregation and supports integration, and he represented his client the State in good faith.

Some remarks have been made about some of the judge's crusty remarks. For those of us who have been in litigation before the Federal courts, we are kind of used to those crusty remarks from time to time. Frankly, because one single Federal judge of the approximately 800 district and Federal judges in this country makes a crusty remark, that should not be interpreted as condemnation of John Ashcroft or any other litigant before the court, nor was there any indication of any kind of censure by the court or contempt proceedings. As a matter of fact, it did not happen. Yet there have been allusions here on the floor that there should have been contempt proceedings. Come on, the law is pretty clear. This has been distorted. It is really offensive to have it distorted in a way that flies in the way of true civil rights, a man who basically has stood up for civil rights throughout his lifetime.

Another topic that has been brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. Mr. President, I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and antilaw enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the Federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that there was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman **KENNETH HULSHOF**, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant "hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team."

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and came up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Some of our colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson testified:

> I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case . . . In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance.

Finally, some of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White:

> I beg of you, in the name of fairness and justice and all things that are good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.

Thus, Senator Ashcroft was between a rock and a hard place as how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the constitutional advice and consent duty of a Senator. I regret that we have needed to revisit this issue at such great length.

Now, Mr. President, let me address one final issue that continues to come up. Some critics of Senator Ashcroft have stated that he distorted Bill Lann Lee's record when he was nominated to head the Civil Rights Division. But this is simply not the case. Mr. Lee had a noted record of promoting and preserving race-conscious policies of questionable constitutionality. Opposition to Mr. Lee was not limited to Senator Ashcroft—nine Republicans on the Judiciary Committee opposed this nominee, including myself.

Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race.

Senator Ashcroft's principled opposition to Mr. Lee was firmly based in the record. The signs that Mr. Lee would pursue an activist agenda were clear at his hearings. At that time he narrowly defined the rule in Adarand and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

Some have alleged that Senator Ashcroft's opposition to Mr. Lee was based on mischaracterizations. But Senator Ashcroft did not distort Mr. Lee's testimony. When Mr. Lee stated the test of Adarand versus Pena he said that the Supreme Court considered racial preference programs permissible if "conducted in a limited and measured manner." While this might be correct in a narrow sense, it purposefully misses the main point of the Court's fundamental holding that such race-conscious programs are presumptively unconstitutional. Mr. Lee might have stated that strict scrutiny was the standard articulated in Adarand; however, when he described the content of this standard it was far looser than what the Supreme Court delineated. A "limited and measured manner" is a standard far more lenient than the strict scrutiny standard of "narrowly tailored to serve a compelling governmental interest." Mr. Lee's misleading description can properly be assailed as a fundamental mischaracterization of the spirit of the law.

Senator Ashcroft has stated that he opposed Mr. Lee because of his record of advocacy and his distortion of precedent. These failures to properly interpret the law would have serious effects on Mr. Lee's ability to serve as Assistant Attorney General for Civil Rights. Senator Ashcroft's reasons for opposing Mr. Lee were amply supported by the record.

By contrast to Mr. Lee, Senator Ashcroft has repeatedly distinguished his role as a legislator and advocate from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated,

> My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in particular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling.

Senator Ashcroft's critics also allege that because Senator Ashcroft opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights, Senator Ashcroft will himself be unable to defend civil liberties. But this is an incredible and illogical leap. To oppose the race-conscious policies favored by Mr. Lee is to value the true principles of the civil rights movement—equality of opportunity for all Americans.

At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports "affirmative access" programs. As he testified,

> We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement.

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the "soft bigotry of low expectations" that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Some of these programs might be unconstitutional under the Supreme Court's decision in Adarand versus Pena. That decision stated that all governmental racial classifications should be subject to strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such things as a "benign" racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

> *We have no reason to doubt that Senator Ashcroft will work long and hard to defend the civil liberties of all Americans.*

These are the points that are repeatedly used to denigrate Senator Ashcroft's character and motivation. But when the facts are examined, these charges simply do not stick. Senator Ashcroft is a man of tremendous integrity and probity and I hope that we move quickly to confirm him.

Mr. LEAHY. Mr. President, the Senator from Delaware was going to speak, but if I might, just before he does, and on this issue, the desegregation efforts in Missouri in 1992, when Jay Nixon first ran for attorney general in Missouri, he did recognize the need to settle the St. Louis and Kansas City desegregation issues. He said the State, the cities, and parents needed resolution and certainty after years of nonstop litigation. The St. Louis Post-Dispatch editorial summed up the differences under Jay Nixon. It said:

> Their differences in how the State should respond to the Federal court orders of desegregation for St. Louis and Kansas City schools is instructive. The Republican wants to keep fighting although the State lost the case long ago. The Democrat wants to have a settlement.

Mr. Nixon then followed through in this agreement. He was the first Missouri official to sign a resolution on behalf of the State, and he was a supporter of the law that provided the State funding to settle the St. Louis case. In both the settlement agreement and the law to implement it, then Governor, Governor Carnahan, provided the leadership that Governor Ashcroft did not provide.

Senator Ashcroft ran for Governor in 1984 as a strong opponent of the settlement, the settlement finally had in Missouri. He was 8 years as attorney general and 8 years as Governor. In those years he denied liability, opposed a fair settlement, and litigated the questions over and over again.

I will put in the RECORD in a moment a letter from Arthur Benson who, since 1979, has been lead counsel for the schoolchildren in the Kansas City desegregation litigation.

What he said in it is:

> While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

To this Senator's mind, this is a marked difference from what Senator Ashcroft had done. In any event, Senators have to make up their own minds.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ARTHUR BENSON & ASSOCIATES,
Kansas City, MO, January 30, 2001.

Hon. PATRICK LEAHY,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Since 1979 I have been the lead counsel for the plaintiff schoolchildren in the Kansas City school desegregation litigation, now styled as *Jenkins et al.*, v. *Kansas City Missouri School District*, case number Case No. 77-0420-CV-W-1, United States District Court for the Western District of Missouri.

After January 1993 there was a marked change in the manner in which the then defendants of the State of Missouri were represented in this litigation. After January 1993 Attorney General Jay Nixon continued to defend the legal positions of the State of Missouri defendants vigorously and well. At the same time, however, he never denied the State's responsibility for eliminating the vestiges of its prior de jure segregation. He also expressed interest in settlement, supported legislative initiatives in the Missouri legislature that would provide necessary underpinning for any settlement, and proposed alternatives to the courts in response to remedial proposals of the plaintiffs, all of which were changes from the litigation tactics of the state defendants in this case before 1993.

While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

Yours very truly,

ARTHUR BENSON.

Mr. LEAHY. I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, just a few moments ago, I had a phone conversation with Senator Ashcroft—it was not an easy call for me, and I suspect it was not an easy call for him—in which I shared with him my decision not to vote for his confirmation to be Attorney General for our country.

Unlike many of my colleagues in this body, I never served with Senator Ashcroft. We heard a lot about him today from those who know him better than I ever will. While some are full of praise and others are more critical, a number of characteristics about the man emerge. I want to reiterate some of those.

Even his critics will acknowledge that John Ashcroft is a person of intellect, someone with great energy, someone with a wealth of experience within his own State and here at the Federal level, a person of deep faith, someone who was gracious in defeat in his reelection campaign last November. If he were a nominee for Secretary of Education, Secretary of Energy, Secretary of Agriculture, or Secretary of Housing and Urban Development, my vote would be different; I would vote for him. But he is not. He is the nominee for Attorney General for our country.

Senator Ashcroft and I have some common roots. I share his deep faith. We are both Christians. I have been Governor of my State. He was Governor of his State. He nominated many people to serve in that capacity. I nominated many people to serve in that capacity as well, judges and people to serve on my cabinet. Governors of Delaware do not nominate the attorney general of our State. The person charged with law enforcement and prosecuting criminals in our State is the attorney general, who is independently elected.

Some have said to me that the President should have the right to his choice of his attorney. We need to remember that the Attorney General is not just the President's attorney. The President actually has his own attorney, and all Presidents for a long time have had their own attorneys. The Attorney General is the Attorney General for the country.

There was a fellow named George Wallace who used to be Governor of Alabama. Many of us remember him. When he would run for President, he knew he was not going to win. John Ashcroft is going to win. He will be confirmed today. He knows that, and I think we know that.

When George Wallace used to run for President, he would say to the voters who were skeptical to spend their vote on a guy who was not going to win: Send them a message.

I am struck by the people in my State, people of color, who have said to me in the last month or two since John Ashcroft's name was floated and ultimately submitted by President Bush, that even if Senator Ashcroft is confirmed as Attorney General, we need to send him a message, and the message is that people in my State, particularly people of color, are uncomfortable with this nomination. They are unconvinced that he will be forthright, that he will be consistent, that he will be persistent, that he will be a champion when it comes to ensuring that their civil rights are protected.

John Ashcroft comes from Missouri. It is a show-me State. There are people in my State, especially people of color—and I know there are others in Delaware and in other States—who are concerned about whether or not Attorney General John Ashcroft would ensure reproductive rights for women, civil rights for those who may have different sexual preferences than others of us, people who may feel differently about gun laws. Will this Attorney General enforce the laws of the land and protect those interests as well?

I have heard from too many people in my State—from the minority community—who have said we need to send a message to Washington, to the new administration, that they do not want to be forgotten. They do not want to be left behind. As much progress as we have made in providing a better, equal footing, a level playing field for people of color, we still have a long ways to go.

I regret I have to vote against our new President on this nomination. I will vote yes on every other one. This is one on which I have to take a different course.

I thank Senator Ashcroft for the conversation we just had a little bit ago. I am hopeful he is prepared to send all of us a message, regardless of where we are from, what our color is, what our sexual preference is, how we feel about a woman's reproductive right, and that is: As Attorney General he will enforce rigorously the laws of this land for all of us. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to support the nomination of John Ashcroft, a person with whom I have had the opportunity to serve in the Senate for the 6 years he was here before ending that term after the last election.

I think the President of the United States has selected an outstanding nominee to head up the Justice Department. I look forward to working with him.

Despite the campaign that has been launched against him, he will be approved by a sizable margin so that he can do his work and do it without any guilt whatsoever about any of the accusations that have been made against him. I add my voice in support of his nomination.

Despite these well-publicized, well-financed attempts orchestrated by outside groups to smear his good name, I am thankful Senator Ashcroft will survive this reckless campaign that has snowballed into an avalanche of innuendo, rumor, and spin.

From the moment President Bush announced his choice for U.S. Attorney General, some predictable opponents immediately got to work. They circled their wagons and launched an all-out war on our former colleague and his nomination to be Attorney General.

In their zeal to pick a fight with the new administration, the debate in the Senate has melted down into a feeding frenzy for the left wing which sought in the process to lay down markers for their agenda.

Ironically, the President's nominee for the Nation's top law enforcement office in the country is arguably one of the most qualified candidates this body has ever had the privilege to cast its advice and consent on for the office of U.S. Attorney General. He was twice elected Governor of Missouri, served two terms there as the attorney general, and was for 6 years our colleague—all of that public service is remarkable for a person who will go on to be Attorney General.

He has the academic background and the legal background to also be a good Attorney General.

From the 6 years I had the privilege of working with John Ashcroft in the Senate, I can unequivocally say he is a man of his word. And what is so important about being a man of his word is that the case made against John Ashcroft is that in the Senate he pursued changes in law, he pursued public policies that maybe some did not agree with. But that is the job of a Senator: to vote for or against public policy you think is good on the one hand, bad on the other hand; public policy you might agree with on the one hand or might disagree with on the other hand.

They say he is not qualified to be Attorney General because of a lot of things he did in the Senate, representing his constituents—forthrightly arguing points he believed in, and voting on those points. But has integrity and honesty. And being a man of his word is so important because as Attorney General he will take an oath to uphold the law. He is going to enforce that law, even law with which he does not agree.

He could even be in the position of enforcing some piece of legislation against which he voted on the floor of the Senate because he is a man of his word. And with all the criticism people have had of John Ashcroft, where they disagreed with him as a Senator, and then they criticize him as not being qualified or the right person to be Attorney General, they forget that because he is a man of his word, they have nothing to worry about.

In fact, he is such a man of his word that if he were to tell a fib, you would know it right away. He is that straight laced, that straightforward, that transparent of an individual, that he would tell you the truth because he could not lie. He couldn't get away with lying. And he knows he couldn't get away with lying. That is the sort of a person to have as Attorney General of the United States.

We are going to have a person who is going to be the chief law enforcement officer of the United States. You will never see him being the chief defense counsel for the President of the United States as we have seen over the last 4 or 5 years in the previous administration. John Ashcroft, put in that position, would resign from being Attorney General of the United States.

So the people who are making a case against his being Attorney General, because of votes and speeches and positions he has taken on the floor of the Senate, are comparing apples and oranges; and they are forgetting that a man of his word is going to do what he says, and he takes an oath to uphold the law and enforce that law; and it is going to get done. So I say, once again, he is unequivocally a man of his word.

He testified before the Senate Judiciary Committee that he will enforce the laws of this land, and he is going to do that for all Americans. He said that, and he is going to do it. And his saying that makes me fully confident that he will do so.

He has a sharp command of the law, having filled both shoes of Senator, Governor and state Attorney General. He understands the difference between advancing legislation as a Senator and enforcing the laws on the books as a state Attorney General. And along this line, he has been recognized by the leaders of other States in this area, because he was elected by the National Association of Attorneys General, and elected in another position by the National Governors' Association, to represent and lead their organizations while he was in those two positions for the State of Missouri.

As fellow midwesterners, John and I come from States where agricultural issues are key components of our economy, our culture, and our heritage. We have discussed at length how to address the challenges confronting family farmers in this new century. He shares my concern that we must foster competitive markets and that the family farmer is entitled to a level playing field—the same for independent producers—and he would say, beyond agriculture, fair competition is important for the small business people of America.

He would also say that for passengers in my State who pay extraordinarily high airline tickets to fly from Des Moines, IA, to Chicago, there has to be competition in the airline industry, particularly for rural America.

Based on my experience with Senator Ashcroft's work here in the Senate, I know he is committed to doing what is right for middle America as he enforces these laws that are already on the books. He knows, of course, that I will keep my lines of communication wide open between my office and his when it comes to fighting for the interests of rural America.

In addition to his exemplary professional credentials, there is another issue upon which his supporters and detractors alike agree, and that is, our former colleague, Senator John Ashcroft, is a man of principle. He is a man of his word. Just ask the people of Missouri who, not once but time and time again, placed their trust in him for high statewide elected office.

Senator Ashcroft's career has been stellar. During his career, Senator Ashcroft has worked to establish a number of things to keep all Americans safe and free from criminal activity.

For example, last year Senator Ashcroft introduced a bill to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed this Ashcroft legislation. He also voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm within a school zone. Because the Clinton Justice Department had not made gun prosecutions a priority, Senator Ashcroft led the charge in directing the Justice Department to increase the prosecution of crimes committed with guns. In fact, he sponsored legislation to authorize $50 million to hire additional Federal prosecutors and law enforcement officers to increase Federal prosecution of criminals who use guns.

John Ashcroft's efforts against drug abuse and trafficking are equally as impressive. A leader in the national fight against the scourge of methamphetamine, John Ashcroft won enactment of the Comprehensive Methamphetamine Control Act of 1996, among other antidrug laws he got passed.

Senator Ashcroft has fought hard for the rights of women and to protect them from domestic abuse. He signed into law a bill, when he was Governor, that allowed women accused of homicide to present battered spouse syndrome evidence in the court in that State. He cosponsored, at the Federal level, the Violence Against Women Act that helped secure $100 million in increased funding to combat violence against women.

He voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm.

As Governor, Senator Ashcroft appointed women to the State's appellate courts, including the first two women to the Missouri Court of Appeals and the first woman to the Missouri Supreme Court.

In regard to the tactics used against him, deploying distortion and demagoguery to advance their own agenda, groups inside the beltway, who probably have felt very secure for the last years because they had somebody in the White House who would advance their agenda, now feel a little shut out. They have banded together to engineer a controversy about John Ashcroft where none exists. They rushed to cast judgment, and in the process his opponents sought to paint John Ashcroft as a racist, as somebody tainted by his principles and unfit to lead the Department of Justice.

Obviously, in my view, these critics have been unable to make their case, and I think when this vote is taken, we will find out that they did not make their case.

Despite his critics' best efforts, accusations of racism and bias have not stuck. In fact, throughout his career, Senator Ashcroft has tried to protect the rights of minorities. He signed the Missouri hate crimes bill into law, and in the Senate he held the first-ever hearing on racial profiling. As Governor, he appointed a number of minority judicial candidates. His by-the-book approach to governing rises above and way beyond the decibel level of his detractors, the 200-some organizations that have banded together to make this clean-cut, honest American, great public servant, out to be some very bad person.

It is sad that the aggressive publicity generated by the special interest groups to derail this nomination has painted an unfair image of John Ashcroft in the minds of too many Americans. For example, contrary to the controversy surrounding the nomination to the Federal bench of Ronnie White, John Ashcroft does not have a racist bone in his body. If his opponents are keeping track of his support for black judges, it is ironic that they didn't care to publicize the fact that he, as Senator, voted for 26 out of 28 judges of African American descent. He nominated the first black judge to the appellate court as Governor of Missouri, and the St. Louis Black Bar Association praised him for diversity in his court appointments. The trumped-up charges of racism and bias took on a life of their own, but in fact they ring very hollow when we pull back the curtain of his opponents' red hot rhetoric.

In recent years, misrepresentations and baldfaced lies coming out of Washington have eroded the electorate's faith and trust in public officials, including all of us. Thankfully, that is not the way the majority of the American people operate. To the majority of the American people, the end does not always justify the means. In fact, seldom is that true. But in the case of this opposition to John Ashcroft, any means is justified for the end they want—to let their grassroots members back home know that even though they don't have the President of the United States always carrying their agenda, as they did the last 8 years, they are going to be a force in this town. And they are a force in this town.

They are also telling Members of Congress, particularly left-of-center Members of Congress: You are on a short leash. We have to be reckoned with. Don't toy around with playing with the Republicans too much or a Republican President. It is also going to help them tremendously with their fund-raising. That is what is at stake here.

The majority of Americans do not operate that way. Not even a majority of their own rank-and-file members at the grassroots operate that way. I was a member of a labor union from 1961 to 1971. If there is one thing I learned as a member of the labor union—and I was voluntarily a member of the labor union because in my State, we have the right-to-work law, you don't have to join—I found out that the political agenda of the labor union leadership of Detroit or Washington, DC, did not represent the political philosophy of my members on the assembly line at the Waterloo Register Company in Cedar Falls, IA. They may have represented our economic interests of collective bargaining, but they did not represent the political interests of the commonsense, conservative blue-collar workers. It is the very same way with a lot of these organizations. When we go back to the grassroots of our States and interact with the rank-and-file members of a lot of these organizations, they do not treat us in our State the way these leaders might treat us out here, as evidenced by the fact of how they treat John Ashcroft. Misrepresentations and baldfaced lies that are used by this group are not the way my friend and neighbor, John Ashcroft, has built up an impeccable record of honest public service. His rock-solid integrity, legal background, and proven ability to uphold and enforce the law will restore the mission of the Justice Department.

It is clear to me that despite his personal beliefs, Senator Ashcroft has proven his ability to uphold the law without the influence of personal bias. For example, as Missouri attorney general, John Ashcroft protected the confidentiality of abortion records maintained by the Missouri Department of Health, even when they were requested by pro-life groups. He has voiced his opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. That is the law of the land. Senator Ashcroft's views on abortion are known. But as Attorney General, those laws would not be something that he could change, as one could as a legislator. As a Senator, as a policymaker, he could change some things he might not agree with and I may not agree with. It is still the law of the land, and we live by it.

Senator Ashcroft believes that people who commit acts of violence and intimidation should be punished to the fullest extent of the law. He knows that if you are going to have a civil society, you cannot tolerate violence on the part of pro-life people any more than you can tolerate violence on the part of union leaders on the picket line.

I conclude by saying that everyone in this institution comes to the Senate with a set of ideals and principles that serve as their guiding compass. Whether it is based upon conservatism, liberalism, or something else, or something in between, each of us in this Chamber has the privilege and responsibility to cast votes of conscience.

When the Presiding Officer calls the yeas and nays on this nomination, I hope that the avalanche of unproven criticism will be put to rest as a result of that vote.

I want us to confirm John Ashcroft as our next Attorney General. I have listened to the opponents of John Ashcroft speak here. I have not heard every one of the speeches, but I had an opportunity to be on a television program with a colleague of mine from the other side of the aisle who is going to vote against this nomination, the Senator from Indiana, Mr. BAYH, a person of outstanding ethics, honesty, and moral values. His dad served in this Senate, was an outstanding leader and a person of moral and high ethical values as well.

I would vote for Senator BAYH to be Attorney General of the United States, if a Democrat President nominated him, because he is just the sort of person who, when you look at him, you just know this guy is not going to do something that is wrong. You know he is going to enforce the law.

I hope all of the people who are upright and of strong conviction on the other side, people who have high moral and ethical values—and I know my colleagues on the other side to be in that category—I hope they vote for John Ashcroft to be Attorney General. I could cast a vote for them as well for Attorney General, not because they are my colleagues, but because of what I have seen in their lives. I hope they truly have seen what is in John Ashcroft's life. And I hope those that are against him will have a little guilty feeling about voting against him, unless I see them differently from the way they are and I have been mistaken about John Ashcroft. But I haven't been mistaken about John Ashcroft, and I haven't been mistaken about my colleagues from the other side as well. I just hope there is a lot of soul searching in the next few hours before we vote because I think this Senator is entitled to an overwhelming vote of support to become the next Attorney General of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I regretfully rise today to oppose the nomination of John Ashcroft as Attorney General of the United States. As a new Member of the U.S. Senate, I did not have the opportunity to serve with former Senator Ashcroft. I have only his record and his testimony on which to make this decision. I come to this judgment after supporting almost all of President Bush's other Cabinet nominees. I believe that the President should be given broad latitude in choosing his Cabinet, but the Constitution clearly gives the Senate the responsibility of advice and consent. It is our responsibility to review the actions and backgrounds of the nominees and speak on behalf of the people we represent.

I have listened intently to the judiciary hearings—the questions and the answers—and I would like to commend my colleagues on the Judiciary Committee for the thoughtful and thorough process that was used on this critically important nomination. There is no question that former Senator Ashcroft has a long career of public service. It is that career and the record that he has created that I feel compelled to evaluate as the most important consideration in making my decision. I have always believed that actions speak louder than words, especially when there is a long and consistent public history of questionable actions.

This is especially important given the critical responsibilities and broad discretion given to the office of Attorney General. Let me list just a few of the actions that I find most disturbing. I was extremely troubled to learn of Senator Ashcroft's record as Missouri's attorney general when he strongly opposed a voluntary and court-ordered plan to desegregate many of the public schools in St. Louis. As the Governor of the State of Missouri, this nominee vetoed the Voter Registration Reform Act, which would have clearly increased the participation of minorities in the electoral process.

His record on other antidiscrimination issues is equally disturbing. From his opposition to the ultimately successful appointment of James Hormel as Ambassador to Luxembourg, simply because he was gay, regardless of his qualifications, to his refusal to answer questions during his confirmation hearing about whether he would discriminate against Americans by denying them the ability to gain security clearances simply because of their sexual orientation. His record on women's rights is just as troubling. He has consistently used every opportunity and every power he has had to block reproductive choice for women including the extreme position of suing public health care nurses in the State of Missouri for providing basic gynecological and contraceptive services. In addition, his very vocal opposition to Roe vs. Wade and the basic reproductive rights of women is an issue that not only continues to worry me, but millions of women across this country.

For me personally, one of the most troubling aspects of his record, was Senator Ashcroft's unfair treatment of Judge Ronald White when he spearheaded the U.S. Senate's rejection of his nomination to the Federal bench. This action was highly unusual and extremely unfortunate for Judge White and for the U.S. Senate.

One of the most basic requirements of any nominee to be the U.S. Attorney General is an ability to exhibit a strong track record of fighting for the constitutional rights of all Americans—black, brown, or white, male or female, young or old, rich or poor. In my opinion, Senator Ashcroft's record clearly fails to satisfy that most basic qualification. To the contrary, he has established a 25-year track record of opposing equal opportunities and fair play for too many Americans.

The basic fact remains that the U.S. Attorney General is the people's lawyer, not the President's lawyer. He is the guardian of the constitutional rights of every American citizen. And I cannot in good conscience support a nominee who has spent much of the past 25 years opposing the constitutional rights of far too many of our citizens.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I could engage my friend from Utah, the manager of this nomination, I know our friend from Kansas is here, and the Senator from Iowa spoke for quite a long period of time. The Senator from Michigan spoke for just a few minutes. I think it would be appropriate to have the Senator from California speak. She will probably speak for about 35 or 40 minutes.

Mr. HATCH. I believe Senator BROWNBACK was next.

Mr. BROWNBACK. Mr. President, if I could, I have about 10 minutes to speak. If I could, I would like to go in a back-and-forth order.

Mr. REID. We just didn't want another 2- or 3-minute speech that took 40 minutes.

Mr. HATCH. I rightfully understand that. If the Senator will speak for 10 minutes or less, we would appreciate it.

Mrs. BOXER. If we could have a unanimous consent agreement that following Senator BROWNBACK, Senator REID would be recognized, and then Senator BOXER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. BROWNBACK. Thank you, very much. I appreciate the opportunity to be here to speak in favor of our colleague, Senator Ashcroft, to be Attorney General of the United States.

I serve on our Judiciary Committee along with the esteemed Presiding Officer.

I wonder sometimes who people are talking about when I hear people saying he is too far this way or that way to be Attorney General. I wonder. How did he win statewide elections in a swing State such as Missouri for so many different elections. How was he elected president of the National Association of Attorney Generals? How was he elected head of the National Governors' Association—bipartisan groups? If this guy is so far out there on these issues, how on Earth did he get elected to all of these positions? It just baffles me other than to say he is not extreme.

In most of his policy issues he has put forward, he cares strongly with passion. But there is a solid core of Americans, and in most cases a majority of Americans, who strongly believe in and agree with him on issues such as partial-birth abortion and other items. But that really is neither here nor there. The issue is whether he will enforce the law. That is what an Attorney General is required to do and is called upon to do and in States are elected to do. He has done that at the State level as an elected attorney general. He will do that as a national Attorney General, especially for the United States.

I am new to the Judiciary Committee with this session. I am looking forward to serving on that body. But what I found by this process that we have had in the treatment of John Ashcroft is that it is an extraordinarily unfair process, and I think quite undeservedly toward John.

Mr. President, I grew up in a town only about 20 miles from the State of Missouri in a small town called Parker, KS. I have had the opportunity to follow John's career for a long time. Our States share a common border. In the Senate, John and I served together on the Commerce and Foreign Relations Committee. Our offices were even down the hall from each other. John and I were neighbors here in Washington, and he even put me up in his house when my apartment building burned. I submit that he would do that for anyone who needed a roof over their head. But more important than geography or committee assignments, John Ashcroft is my friend. A friend who shared with me his honesty and integrity, his devotion to his creator, his principled character, and his steadfast belief that each of us is put here on Earth, to help our fellow man, and to leave the world a better place for all of our children.

Contrary to the assertions of those who make a living exacerbating the tensions that divide us as a nation, I know John Ashcroft is committed to our Nation's promise of equal justice for all.

President Bush made an outstanding choice for his Attorney General. John Ashcroft is one of the most qualified nominees for the office of Attorney General in history.

But even more impressive than his resume, Mr. President, are John Ashcroft's words and deeds. Article II, section 3 of the Constitution provides that the President of the United States, "shall take care that the laws be faithfully executed." The Department of Justice is the primary government agency charged with the President's constitutional duty to faithfully execute the laws of the United States. John Ashcroft has fulfilled this function as two-time attorney general of the State of Missouri. In that role, John Ashcroft upheld law with which he personally disagreed, and which many of us in this body might disagree with. But as Missouri attorney general, he swore an oath to uphold the law, and he did. Mr. President, there are many issues on which many of us in this body disagree. But we are legislators, we write laws. That is not the role of the Attorney General of the United States. Mr. President, John Ashcroft raised his right hand swore before the Senate Judiciary Committee that he would faithfully enforce the laws of the United States, "So help me God." As a person who feels fortunate to call John Ashcroft a friend, I don't think there is a stronger guarantee than that oath he took.

Some have called Senator Ashcroft's record on civil rights into question. This has been a program of distortion. As Missouri Governor, John Ashcroft signed Missouri's first hate crimes statute into law. As a U.S. Senator, John Ashcroft supported every African-American judicial nominee confirmed by the Senate. As chairman of the Judiciary Committee's Subcommittee on the Constitution, John Ashcroft convened a hearing on racial profiling with Senator FEINGOLD, stating on the record that racial profiling is unconstitutional. John Ashcroft's record speaks for itself; he is a man of integrity dedicated to equal justice under law. There have been other distortions of Senator Ashcroft's record.

Mr. President, I was heartened by Senator FEINGOLD's remarks in the Judiciary Committee executive session yesterday, in which he extended an olive branch of peace and cooperation to our side of the aisle, and we have a Senate more evenly divided than we have had for almost 50 years. Senator FEINGOLD has answered President Bush's call to change the tone in Washington. It is a bold step, a step I hope my colleagues on the other side of the aisle will follow. I had the opportunity to speak personally with the witnesses who testified both for and against John Ashcroft's nomination. Believe me, there is more that binds us together as a people and a nation than keeps us apart. Let us begin this Congress in that spirit which Abraham Lincoln used to help heal a nation, when he warned that "A house divided against itself cannot stand." I intend to vote for John Ashcroft's nomination to be Attorney General of the United States. I encourage my colleagues, on both sides of the aisle, to follow the spirit of Lincoln, and help renew the ties that bind us together, and to resist the temptation to use this process for political gain, and further divide us as a nation.

I think once John Ashcroft is approved as Attorney General of the United States, he will be an outstanding and extraordinary Attorney General for all American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator HATCH and Senator REID for reserving this time for me.

As most people know, there were several Members who came out early with a position on John Ashcroft. Most came out for him before the hearings, and I came out against his confirmation. The people who came out for John Ashcroft before the hearings said they knew enough to know they were for him. I said, after looking at the record and being very familiar with the record, I could not support him. I actually asked then-President-elect Bush to reconsider his choice because I believed him when he said he wanted to unite the Nation rather than divide the Nation. I felt this nomination would be very divisive, would raise the very same issues that were raised during one of the most difficult campaigns that I certainly ever remember for President.

I think what I said was borne out. This Presidential election was a mandate. Many people think if all the votes had been counted, it might have come out a different way. That is not the point. The point is, because it was so divisive, whoever won, whether it was Al Gore or George W. Bush, whoever actually took the office—in this case the Supreme Court decided to stop the count, and George W. Bush became President—whoever was President had to know that this was a very divided Nation and that we needed to put up moderate people—moderate people—for important offices such as Attorney General, Interior Secretary, and the like.

For me, it is very rare to oppose a Bush Cabinet nominee. Out of all of them, I have opposed two. I have supported every other one. One thing John Ashcroft said is: I supported 90 percent of President CLINTON's judges.

Well, I supported 90 percent of George W. Bush's Cabinet picks. Therefore, when I choose to say no, it is because I feel very deeply and very firmly that John Ashcroft is not the right choice.

President Bush said he picked John Ashcroft because "he has a commitment to fair and firm and impartial administration of justice." He told us that John Ashcroft is "a man who has a good and decent heart," and he asked us to look into the heart of John Ashcroft.

Believe me, I have done that. And I have looked into the hearts of people who John Ashcroft has hurt. I believe this nomination should be rejected. I will be very specific.

Judge Ronnie White: Was John Ashcroft's treatment of Judge Ronnie White fair? Did he have a good heart when it came to dealing with Judge Ronnie White? Let's revisit it. The American Bar Association gave Judge White a unanimous qualified rating.

Judge White was introduced at his nomination hearing for judgeship in front of the Judiciary Committee with glowing remarks by Senator BOND. With no warning, John Ashcroft championed the defeat of Judge White's nomination on the Senate floor.

I have been in elective life for 25 years; certain things you do not remember and a lot of things you do. I will never forget the day this Senate voted down Judge Ronnie White on a straight partisan vote—the first time in 50 long years that a judge nominee who had been passed favorably through the Judiciary Committee was so treated.

Why would I remember it so clearly? I thought a few people might vote no just as we have on many judge nominations. But I never thought that John Ashcroft would have rounded up and made it a big political issue that all the Republicans would stick with him on this vote. We all know, because we are not children in this body, there are other ways to treat someone who suddenly doesn't look like he will be confirmed. You bring it back to the committee, you have another vote. You don't do what they did to Ronnie White.

I remember that Congresswoman MAXINE WATERS, one of my good friends, came over from the House that day. She was here because she wanted to celebrate the fact that Ronnie White was going to get this judgeship. She and I looked at each other as the nomination went down. It was a humiliating defeat. It was a sad, sad day.

I compliment those Senators on the Judiciary Committee who apologized to Ronnie White. He never, ever should have been treated that way. It was unnecessary to do that to any human being.

So, yes, I have looked into John Ashcroft's heart. And I say how could someone with a good heart do that to another good person? I do not understand it.

I hope Senator FEINGOLD will be listening, too, when he says to President Bush: Why don't you renominate Ronnie White in the spirit of reconciliation?

During his floor remarks, John Ashcroft pointed to Judge White's dissent in a murder case. It was a horrific case. Yet John Ashcroft did not ask any questions of Judge White during the confirmation hearing or even afterwards in written follow-up questions about that case. I think a fundamental guarantee of our system of justice, particularly from someone who wants to be an Attorney General, is the right to give someone you are criticizing the right to be heard.

Judge Ronnie White did not have that right until the Democrats called him up during this hearing. I appreciate the fact that he had that hearing in front of the Republicans and Democrats of that committee. That nomination was sabotaged on the floor of the Senate. It was wrong; it was harsh; it was cruel; it was humiliating; and it was not necessary.

I think that speaks volumes about John Ashcroft's commitment to fairness. On the Senate floor, John Ashcroft said that Judge White was "pro-criminal, with a tremendous bent toward criminal activity." In the Judiciary Committee hearings last week, Judge White noted that after a long career in public service, including elective office, he had never, ever heard himself described that way.

Judge White got the chance to set the record straight. He told the Judiciary Committee that he voted to affirm the death penalty 41 times out of 59 cases. And in 10 of the remaining 18, he joined a unanimous court in reversing. All together, Judge White voted with the majority of the court in 53 out of 59 cases. In only 6 cases did he dissent in a death penalty case, and in only 3 of those was he the sole dissenter. When you add this all up, it turns out that Judge White voted the same way as Ashcroft appointed judges—95 percent of the time.

How did Judge White feel about John Ashcroft's pro-criminal label? This is what he said. He told the Judiciary Committee, "Senator John Ashcroft seriously distorted my record." And he very graciously left it up to the Senate to decide whether that kind of treatment is consistent with fair play and justice that an Attorney General is expected to have.

Conservative columnist Stuart Taylor of the National Journal has written that John Ashcroft's treatment of Judge White is enough to disqualify him for the position of Attorney General.

Of Mr. Ashcroft's actions in the Ronnie White matter, Mr. Taylor wrote that Ashcroft:

> . . . abused the power of his office by descending to demagoguery, dishonesty, and character assassination.

Those are not my words. Those are the words of Stuart Taylor, a conservative journalist for the National Journal.

Let's just say you think everybody is entitled to one mistake, to one mistreatment of another individual. Let's just say that. Unfortunately, in this case, I am going to point to a number of other examples.

Take the case of James Hormel. Ambassador Hormel was nominated in 1997 to be the U.S. Ambassador to Luxembourg. He was approved by the Senate Foreign Relations Committee by a vote of 16–2. One of those "no" votes was cast by Senator Ashcroft. Why did Senator Ashcroft oppose Ambassador Hormel, a very well-known businessman, a beautiful family—why?

Let's check the record. In 1998, when asked about the nomination of James Hormel, Senator Ashcroft said:

> His conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator Ashcroft continued:

> He has been a leader in promoting a lifestyle . . . and the kind of leadership he's exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned.

This is the comment of John Ashcroft on the nomination of James Hormel. Clearly, by this statement—

> He has been a leader in promoting a lifestyle . . . and the kind of leadership he has exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned.

To me, you don't have to have a degree in psychology to understand what John Ashcroft is saying. He is saying he is a leader in promoting a gay lifestyle. That is what he is saying.

This issue came up at the Judiciary Committee. When Senator LEAHY asked John Ashcroft if he opposed James Hormel because he was gay, Senator Ashcroft replied:

> I did not.

He said:

> I made a judgment that it would be ill-advised to make him an ambassador based on the totality of the record.

He went on to say:

> I had known Mr. Hormel for a long time.

Ambassador Hormel responds:

> There is simply no truth in Mr. Ashcroft's statement that he had any objective basis or personal knowledge upon which to vote against my nomination.

He went on to say:

> He refused to give any specific example of anything in my record on which to base his opposition. I can only conclude Mr. Ashcroft chose to vote against me solely because I am a gay man.

Is this fair? I already talked about Ronnie White. Senator Ashcroft never had the courtesy to ask Ronnie White any questions about the case that he said disqualified Ronnie White for a judgeship. And he led a fight here on the floor such that we have not seen in 50 long years to defeat Ronnie White. And he refused to meet at that time with Ambassador Hormel.

Ambassador Hormel said: I want to meet with you, Senator Ashcroft.

No. He refused. And Mr. Hormel stated he cannot remember having a single conversation with the Senator.

Then, in his answers to a written follow-up question after the Judiciary Committee hearings last week, John Ashcroft changes his story. Ashcroft stated that:

> [B]ased on the totality of Mr. Hormel's advocacy, I didn't believe he would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe.

So we have different answers. First, it was the totality of his knowledge of Mr. Hormel, whom he knew so well. Then Mr. Hormel says: He didn't even want to meet with me. And then he changes his answer again.

He hurt James Hormel deeply by not allowing that Ambassadorship to come up for a vote. I think that kind of hurt says to me that when I look at his heart, I don't see the kindness and the caring about other people.

So, you would say, OK, that was two. That was Ronnie White and James Hormel. Do we stop there? Unfortunately, we don't. We go to Margaret Morrow. Was John Ashcroft fair to Margaret Morrow, the first woman to head the Los Angeles Bar Association and the California Bar Association, nominated to the Federal district court in May of 1996, and not until 2 whole years later were we able to finally get a vote? And I must thank Chairman HATCH for that—by February 11, 1998.

Why did it take so long? Simple: John Ashcroft placed a secret hold on Ms. Morrow's nomination. The hold kept Morrow from having a vote on the Senate floor; it kept her from having a fair up-or-down vote.

I do not think that is fair. That was hurtful. He said she was an "activist judge." In fact, Ms. Morrow had overwhelming Republican support, to the contrary.

Robert Bonner, a U.S. attorney appointed by Ronald Reagan, supported her. Many Senators from the Judiciary Committee, including Senator HATCH, supported her. James Rogan supported her. And yet he put this hold on her. Finally, we were able to get him to back off. For 2 years, that court ran without Margaret Morrow on it, and now she serves proudly after getting a vote of 67–28.

He was so out of line on that. A strong majority supported Margaret Morrow.

You have heard the stories: Ronnie White, James Hormel, Margaret Morrow, human beings with faces and hearts and pulses who were hurt by John Ashcroft, hurt deeply by John Ashcroft. But there is more.

Bill Lann Lee, was John Ashcroft fair to him when he was nominated to be Assistant U.S. Attorney for Civil Rights? When he arrived here in 1997, he had a long record at the NAACP of fighting discrimination. Yet even Lee's former corporate opponents came to lobby for him—what a wonderful person he is.

He supported the law, the law of giving people a chance, affirmative action laws. John Ashcroft did not like that law, which, by the way, he will be sworn now to uphold. He blocked Bill Lann Lee's nomination, and Bill Lann Lee never got an up-or- down vote. He served as an acting head of that division.

I know the story of Bill Lann Lee. He is an incredible example of the American dream. He worked his way up from the bottom of the economic ladder. His father ran a laundry where they sweated every single day to help their son get an education, and this is the way he was treated in the greatest nation in the world. It was hurtful. It was very hurtful to Bill Lann Lee. It was very hurtful to the people in this country who were looking to Bill Lann Lee as a role model.

This is what John Ashcroft said about Bill Lann Lee:

> We don't need an individual who is trying to go against the Constitution as recently interpreted by the Supreme Court. We need someone who is going to say I'm here to provide the administration.

Bill Lann Lee said under oath that he would uphold the Constitution, just as John Ashcroft is saying he will. Yet he did not give Bill Lann Lee a chance. He hurt this man deeply.

That is a story of looking into the heart of someone. I think you have to be judged by not only your words but your deeds in totality, so I have not given one example; I have given four. I could give more. I will not.

I want to talk about the Southern Partisan. I want to talk about the fact that John Ashcroft as a Senator in 1998 gave an interview to the Southern Partisan magazine. Put in a most straightforward way, this magazine promotes racism.

This is a picture of a T-shirt that is advertised in this magazine. This is a portrait of Abraham Lincoln, and they sell this on a T-shirt. This is Latin. It says: "Thus be it to tyrants." It is a picture of Lincoln: "Thus be it to tyrants." Those are the words that were uttered by the assassin of Abraham Lincoln. Abraham Lincoln was quoted by Senator BROWNBACK, and he made a beautiful speech. This is sold by this magazine. The words of John Wilkes Booth are underneath: "Thus be it always to tyrants."

In his interview, John Ashcroft praised the magazine and its mission:

> Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. Traditionalists should do more. I've really got to do more. We've all got to stand up and speak in this respect or else we will be taught that these people were giving their lives, ascribing their sacred fortunes and their honor to some perverted agenda.

Now he says he did not know about the magazine. Let's look at that.

First of all, there was an amazing exchange in the committee between Senator BIDEN and John Ashcroft. Senator BIDEN gave John Ashcroft the opportunity to denounce this magazine. He said: What do you think of it now that you know what they do, what they stand for, the T-shirt, and the rest? John Ashcroft basically did not answer him. Senator BIDEN was taken aback because he had the opportunity to say: This is a racist magazine; I'll never talk to them. He did not say it. He said: I deplore what is deplorable. That was his response to Senator BIDEN.

He had a chance. He said:

> On the magazine, frankly, I can't say that I knew very much at all. . . . I've given magazine interviews to lots of people . . . and I regret that speaking to them is being used to imply that I agree with their views.

If you go back to what he said when he spoke to them, he said:

> Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

So how does he say he never heard of the magazine when you look at his quote and he knows of the magazine, because he says:

> Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

And it goes on. It does not ring true.

He had a chance in simple language to say: I will never talk to them again. He did not do it.

We could look at Bob Jones University, and I will not go into the details of that, but we have to believe that he knew about the racist policies when he accepted their degree because those policies were the subject of a huge Supreme Court case that was decided when he was attorney general of Missouri.

The case was Bob Jones v. the United States. It was on the front page of the major newspapers when it was decided. In that case, the Supreme Court reversed the university's tax exempt status because of the racist policy that John Ashcroft said he did not know about. But he was an attorney general at the time that decision came down.

Again, I think he could have said more at the hearings to distance himself from the university's policies.

These are the things that say to me, out of the 280 million Americans in our country, there has to be someone who is better suited for this job.

We have heard a lot about a woman's right to choose. Regardless of your feelings on it—I happen to be of a mind that the Government has no business telling a woman about her reproductive health care in the beginning of a pregnancy, which is Roe v. Wade; that is the law of the land—I would hope we could come together when it comes to preventing unwanted pregnancies by contraception. That seems to be an area of common ground where both sides could come together. Because if you do not get pregnant, if you do not want a child, you do not have to have an abortion. It works. It will lower the number of abortions.

But when John Ashcroft was attorney general, he sued nurses who were giving contraception to women. Let me repeat that. He went against settled law in Missouri when he was attorney general. He tried to stop nurses, through the courts, from handing out contraception. It was settled law that those nurses could do it, but John Ashcroft argued that Missouri law did not allow for it.

The Missouri Supreme Court ruled against John Ashcroft. It strongly pointed out his interpretation was out of step with settled law. This is what the Missouri Supreme Court had to say:

> We believe the acts of the nurses [providing contraceptives, breast and pelvic exams] are precisely the types of acts the legislature contemplated. . . .
>
> The Court believes that it is significant that while at least forty states have modernized and expanded their nursing practice laws during the past fifteen years, neither counsel nor the Court have discovered any case challenging nurses' authority to act as the nurses herein acted.

In other words, in 40 States, not one other attorney general ever sued nurses and tried to stop them from providing these services to women. On this occasion, it was in rural clinics. So when John Ashcroft says he is going to uphold settled law, I am sure he said that when he was the attorney general of Missouri.

Then, if we look at other issues concerning women, he also sued the National Organization for Women. When he was an attorney general in the 1980s, he sued NOW to stop their campaign to win ratification of the Equal Rights Amendment. Now, maybe he does not agree with the Equal Rights Amendment, he does not want women to be equal through the Equal Rights Amendment. Maybe he does not believe it is necessary, for whatever reason. But to sue a woman's organization for 3 years—losing at every step but never giving up; taking it to the U.S. Supreme Court after the Circuit Court of Appeals, and they all rejected his arguments—it seems to me, since that was also settled law in a case from 1961, we have to question: What does he mean when he says he will accept settled law?

Voluntary desegregation: Others have spoken about this. How do you fight a voluntary desegregation plan that everyone came together and said was a good way to help our kids? Well, he figured out how to do it. And I will tell you, his rhetoric was very strong. He called the voluntary plan an "outrage against human decency" and an "outrage against the children of this State."

The conservative Economist magazine described Ashcroft this way—and it turned out he and his opponent were both arguing:

> The campaign quickly degenerated into a context over who was most opposed to the plan for voluntary racial desegregation . . .

The court roundly criticized then-Attorney General Ashcroft. They said:

> The court can only draw one conclusion . . . the state has, as a matter of deliberate policy, decided to defy the authority of this court.

From the St. Louis Post-Dispatch in 1982, Ashcroft was "making himself a familiar advocate before the Supreme Court, most often as the antagonist of civil rights interests."

So here you have a nominee, who is supposed to firmly uphold the civil rights laws, being called an antagonist of civil rights interests in an article in 1982.

This was an election where many African American voters believed they were disenfranchised. They are looking at this Senate and thinking they cannot believe that this is the individual George Bush would put before us. Why do I say that? Because there is a case on point about voter registration. While John Ashcroft was Missouri Governor, he vetoed a bill that would have allowed volunteers to register voters in the largely African American city of St. Louis; in other words, a bill to allow the League of Women Voters to encourage voter registration.

The very interesting bottom line of this case is, in the white parts of the county he allowed this voter registration to go on. When he vetoed the first bill, he said he had a problem with it. But then he vetoed it again. It seems to me that anyone who believes that we ought to have our voting rights be sacred in this Nation would have problems voting for this nominee.

The St. Louis Post-Dispatch noted at the time:

> Gov. John Ashcroft has decided that [some citizens] . . . should continue to be treated differently from others on the matter of voter registration.

So, Mr. President, I am sure you are glad to hear I am about to sum up, to finish. What I have tried to do in this presentation is to speak from my heart because that is what George Bush asked me to do. He said: Look in your heart and look in the heart of John Ashcroft. I believe that he meant for me to do that.

In my advise and consent responsibility, I have looked into the heart of John Ashcroft. And how can I do it? By looking at the way he treats other people. My mother taught me to do that. You can say a lot of things in life. You can tell your kids, be good to your neighbor, but if they see you walk past your neighbor, if your neighbor is lying on the street, they know something is not right.

When I talk to people and see people such as Ronnie White—a beautiful family man, qualified, the American dream personified—humiliated on the Senate floor, I cannot look away from that. When I see Margaret Morrow hanging and twisting in the wind for 2 years because John Ashcroft put a secret hold on her, I have to look at that. When I see James Hormel, a distinguished man, humiliated, hurt, turned down for an Ambassadorship because he happened to be a gay man, I cannot look away from that. And when I see Bill Lann Lee, whose father and mother sweated in a laundry so that he could get the American dream—when I see him hurt and humiliated—I cannot look away from that.

Maybe my colleagues can, and they see other things that I do not see. I respect them so much. And I respect their right to feel strongly, just as I do on the other side of this issue. But I have taken this time because I feel so deeply about this.

The Attorney General is the Nation's guardian of civil rights, of human rights, of women's rights, of the environment, of sensible gun laws. He or she must be moderate to bring the country together. What did John Ashcroft say about moderates? He said:

> There are two things you find in the middle of the road: A moderate and a dead skunk, and I don't want to be either.

Mr. President, I have looked into the heart of John Ashcroft. I do not think he is the right person for this job.

I yield the floor.

Mr. HATCH. Mr. President, another topic that keeps being brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and anti-law enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican in the Senate did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that here was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant "hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team."

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and come up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Many of my colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson, testified, "I opposed Judge White's nomination to the federal bench, an I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty cease. . . in his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance."

Finally, many of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White,

> I beg of you, in the name of fairness and justice and all things that ace good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did. bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.—Cong. Rec. S. 11871, Oct. 4, 1999.

Thus, Senator Ashcroft was between a rock and a hard place as to how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the advice and consent duty of a senator. I regret that we have needed to revisit this issue at such great length.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arizona.

Mr. KYL. I ask unanimous consent to have an op-ed piece, which responds to one of the points that Senator BOXER was raising, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN ASHCROFT, AMERICAN PARTISAN

(By Thomas G. West)

Frustrated by the absence of any real dirt on Senator John Ashcroft, his ideological enemies have descended into dishonesty and distortion. He is being attacked as a racist and a defender of slavery. A quotation from his 1998 interview with "Southern Partisan" magazine has been denounced with particular venom.

Those circulating that quotation suggest that Ashcroft was praising the confederate cause, including slavery. But in context he was praising the antislavery principles of America's Founding Fathers. I should know, because he was talking about my book.

Here is how the full quotation reads in the original: "Ashcroft: Revisionism is a threat to the respect that Americans have for their freedoms and the liberty that was at the core of those who founded this country, and when we see George Washington, the founder of our country, called a racist, that is just total revisionist nonsense, a diatribe against the values of America. Have you read Thomas West's book, "Vindicating the Founders"?

"Interviewer: I've met Professor West, and I read one of his earlier books, but not that one.

"Ashcroft: I wish I had another copy: I'd send it to you. I gave it away to a newspaper editor. West virtually disassembles all of these malicious attacks the revisionists have brought against our Founders. Your magazine also helps set the record straight. You've got a heritage of doing that, of defending Southern patriots like [Robert E.] Lee, [Stonewall] Jackson and [Jefferson] Davis. Traditionalists must do more. I've got to do more. We've all got to stand up and speak in this respect. or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda."

Ashcroft's language is telling. It is a clear reference to the final words of the Declaration of Independence, where the signers "pledge to one another our lives, our fortunes, and our sacred honor." The "perverted agenda" to which Ashcroft alludes is the ideology of proslavery, which he is utterly rejecting here.

"Southern Partisan" has been described, correctly, as a magazine that defends the South in the Civil War. But Ashcroft has just pointed out, correctly, that "liberty"—not slavery—was "at the core" of the founding, and that Washington was not a racist. His praise of the three Confederate leaders, therefore, must be taken in context as an expression of respect for men of honor and talent, but in no way for the proslavery policies of the Confederacy.

Ashcroft was deploring, quite sensibly, that people are being taught to despise and hate the Founders, instead of respecting them for creating the first country in history dedicated to the principle that "all men are created equal."

My "Vindicating the Founders" shows that this dedication led directly to the abolition of slavery in the northern states, and to the 1787 law banning slavery from the territories north of the Ohio River. These states became the American heartland that later, following Lincoln's lead, stood up for the founding principles, won the Civil War, and abolished slavery throughout the country.

Contrary to opponents of his nomination, taken as a whole this interview shows that Ashcroft is an admirer of the "liberty that was at the core" of the American founding. He is therefore likely to be especially respectful toward the original meaning of the Constitution, which was designed to secure "the blessings of liberty to ourselves and our posterity."

The deeper point that Ashcroft was pointing to is this: Liberals today generally agree with Bill Clinton, who said in a 1997 speech that Thomas Jefferson's view of equality meant that "you had to be white, you had to be male, and . . . you had to own property." Because Clinton and other liberals misunderstand the founding so badly, they believe in a "living Constitution" whose meaning changes to keep up with the times. Or, as Clinton put it in the same speech, our history is the story of "new and higher definitions—and more meaningful definitions—of equality and dignity and freedom."

John Ashcroft believes in the original definition of equality and liberty: that all human beings deserve to be free and to keep the property they earn with their own hands, rather than have it taken away by a government that pretends to know better than they do what to do with that property.

In the incoming Bush administration, with Ashcroft as Attorney General, perhaps America has a chance to go back to the genuine principles of the Founders, without trying to come up with "new and higher definitions" of them, as has been the habit of the past eight years.

Ashcroft has also been unjustly vilified for a speech at Bob Jones University in 1999. His words, "We have no king but Jesus," have been denounced as narrow and bigoted—as if the Constitution had some sort of religious test that excludes serious Christians from public office. Yet in that speech, as in the "Southern Partisan" interview, Ashcroft singled out for his highest praise the Founders' inclusive vision of equal rights for all.

To his Bob Jones audience, Ashcroft quotes with reverence the Declaration's famous phrases, including "endowed by our Creator with certain inalienable rights." He celebrates the fact that Christians, indeed most Americans, believe these rights come from "our Creator," not from a merely "civic and temporal" source in "Caesar" or "the king." For, as Ashcroft knows, if our rights come merely from government, then government may one day decide to take them away.

In this conviction he expresses his agreement with the greatest statesmen and heroes of the past, from Washington and Jefferson to Lincoln and Reagan.

Based on these two Ashcroft pronouncements—his "Southern Partisan" interview, and his Bob Jones speech—a fair-minded reader would conclude that Ashcroft is just the kind of man that America needs as its next Attorney General: a man devoted, to the depth of his heart, to the great principle of the equality of men that has made America the greatest nation on earth.

Mr. HATCH. Mr. President, I wish to discuss some civil rights issues surrounding the nomination of Senator Ashcroft to be Attorney General. At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports "affirmative access" programs. As he testified, "We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement."

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the "soft bigotry of low expectations" that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Many of these programs would be unconstitutional under the Supreme Court's decision in Adarand v. Pena. That decision stated that all governmental racial classifications should be subject to strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such thing as a "benign" racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

Some of my colleagues and certain special interest groups have especially questioned Senator Ashcroft's ability to support and defend civil liberties because he opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights. Well, all but one Republican in the Judiciary Committee opposed this nominee. Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race. As the Supreme Court has held, that would be unconstitutional.

Indeed, it is now clear that we were right to oppose the nomination of Mr. Lee. Over the Senate's objections, President Clinton made a recess appointment of Mr. Lee to head the Civil Rights Division. His record has been one of pursuing constitutionally suspect, race-based policies at great cost to civil liberties.

Under Mr. Lee's leadership, the Civil Rights Division has waged a war against testing standards in public sector employment based on what he considers to be the "adverse impact" of such testing. He has repeatedly sought to replace objective hiring processes with devices designed to boost minorities.

In 1998, a federal judge, a Carter-appointee, assessed an unprecedented $1.8 million attorney fee award against the Civil Rights Division for a lawsuit against the city of Torrance, California. The Judge found the suit "frivolous, unreasonable and without foundation." Despite this embarrassment, the Division continues to argue that using test results and hiring those who score best on the test is, in the words of one civil rights division deputy, "the worst possible way to select applicants."

Furthermore, under Mr. Lee, the Civil Rights Division has continued the legal challenge to Proposition 209, a measure that prohibited government discrimination of Californians on the basis of race, gender, or national origin. These suits continue despite the fact that Proposition 209 has repeatedly been upheld by federal courts.

Finally, under Bill Lann Lee, the Division continued to defend the federal contract set-aside struck down by the Supreme Court in Adarand.

At the time of Mr. Lee's nomination I made a lengthy speech on this floor. I regret that Mr. Lee's tenure has shown that my concerns were not unfounded. Mr. Lee's actions show that he was unable to distinguish the substantive role of being a law enforcer for all citizens from being a private activist litigator charged with pushing the limits of the law.

Senator Ashcroft's principled opposition to Mr. Lee has been vindicated over time. Not only was Mr. Lee an activist, but he continued to pursue his activist agenda once in a position of trust for all Americans. The signs that he would do this were clear at his hearings at which he narrowly defined the rule in Adarand and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

By contrast, Senator Ashcroft has repeatedly distinguished his role as a legislator from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated, "My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in particular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling."

Senator Ashcroft will be a faithful guardian of our civil liberties, and it is for this reason and many others that I wholeheartedly support his nomination to be Attorney General.

Mr. President, some claim that Senator Ashcroft will not uphold the law with regard to abortion.

I think it would be appropriate at this time to set the record straight on John Ashcroft's record and commitments regarding abortion—an issue we have heard a lot about during this confirmation process.

While Senator Ashcroft's critics have spared nothing in their attempts to distort his record and create fear, Senator Ashcroft's record over 25 years as a public servant, and his testimony before the Judiciary Committee during his confirmation hearing, demonstrate his lifelong commitment to the rule of law and his respect for the uniquely different roles of a legislator and a law enforcer. Senator Ashcroft has proven that he can objectively interpret and enforce the law—even where the law may diverge from his personal views on policy. His record and character demonstrate that he can be. as he has pledged, "law oriented and not results oriented."

Contrary to the fear-mongering of his critics, Senator Ashcroft will enforce the law protecting a woman's right to an abortion. He was very straightforward in his testimony before the Judiciary Committee when he stated that, in his view, Roe versus Wade is settled law and that the Supreme Court's decisions upholding Roe "have been multiple, they have been recent and they have been emphatic." He said he would enforce the law as interpreted by the Supreme Court.

When asked whether he would seek to change the Supreme Court's interpretation of the law, Senator Ashcroft stated that "it is not the agenda of the President-elect to seek an opportunity to overturn Roe. And as his Attorney General, I don't think it could be my agenda to seek an opportunity to overturn Roe." He also stated that as Attorney General, it wouldn't be his job to "try and alter the position of the administration."

Senator Ashcroft clearly recognized the importance of not devaluing "the currency" of the Solicitor General's Office by taking matters to the Supreme

Court on a basis the Court has already stated it does not want to entertain. He noted that in this way, "accepting Roe and Casey as settled law is important, not just to this arena, but important in terms of the credibility of the Department."

He said he would give advice based upon sound legal analysis, not ideology or personal beliefs. He made a commitment that "if the law provides something that is contrary to my ideological belief, I would provide them with that same best judgment of the law."

From Senator Ashcroft, those are not just words. Throughout his career, he has demonstrated that he can do just that.

For example, as Missouri Attorney General, Senator Ashcroft did not let his personal opinion on abortion cloud his legal analysis. He protected the confidentiality of abortion records maintained by the Missouri Department of Health—even when they were requested by pro-life groups.

Likewise, when asked to determine whether a death certificate was required for all abortions, regardless of the age of the fetus, Attorney General Ashcroft—despite his personal view that life begins at conception—issued an opinion that Missouri law did not require any type of certificate if the fetus was 20 weeks old or less. His legal analysis was fair and objective and unaffected by what his policy views may have been.

There has also been, what I consider, unfounded skepticism over whether Senator Ashcroft would vigorously enforce clinic access and antiviolence statutes. Being pro-life is not inconsistent with opposing violence at clinics. The primary focus of the opposition has been the Freedom of Access to Clinic Entrances Act or "FACE." Senator Ashcroft supports the FACE law, and always has.

Senator Ashcroft testified specifically on how he would enforce FACE and other clinic access and antiviolence laws. He stated clearly that he would enforce these laws "vigorously", that he would investigate allegations "thoroughly" and that he would devote resources to these cases on a "'priority basis."

He further stated that he would maintain the appropriate task forces which have been created to facilitate enforcement of clinic access and antiviolence statutes.

These statements are totally consistent with Senator Ashcroft's long record of speaking out against violence and his belief that the first amendment does not give anyone the right to "violate the person, safety, and security" of another.

Senator Ashcroft has always spoken out against clinic violence and other forms of domestic terrorism. He has written to constituents about his strong opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. He voted for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Senator Ashcroft has always condemned criminal violence at abortion clinics—or anywhere for that matter—and believes people who commit these acts of violence and intimidation should be punished to the fullest extent of the law. As Attorney General he'll do just that.

Access to contraceptives is another area that I think Senator Ashcroft has been unfairly criticized. His critics make dire predictions about the future that are totally unsupported by Senator Ashcroft's testimony. Senator Ashcroft could not have testified any more clearly on the issue of contraception. He stated that: "I think individuals who want to use contraceptives have every right to do so . . . [and] I think that right is guaranteed by the Constitution of the United States." He also testified that he would defend current laws should they be attacked. What more can he say? Is there anything a pro-life nominee could say to please the pro-abortion interest groups?

Senator Ashcroft's opponents take great pains to say that they do not oppose him on ideological grounds. Well you could have fooled me. Their argument is that someone who has been active in advocating a particular policy position cannot set that aside and enforce the law fairly. I don't believe they can be serious. Does this mean that a person of character and integrity who had been active in the prochoice movement could never be Attorney General? And what about the death penalty? Could we have no future Attorney General, regardless of how honest and well-qualified, who opposed the death penalty? Of course not. In fact, Republicans voted to confirm Janet Reno, despite her personal opposition to the death penalty, because she said she could still enforce the law even though she disagreed with it.

If this is not about ideology, then we should get to the business of confirming Senator Ashcroft. He has given strong and specific assurances to the Senate on abortion and other questions. These assurances are backed up by his proven record as Missouri attorney general and Governor. Most importantly, they are backed up by Senator Ashcroft's personal integrity and decency—characteristics he holds as is known personally by almost every Member of this body.

Members know John Ashcroft is a man of his word—it's time that they act on it and confirm him as Attorney General.

Mr. President, some have criticized Senator Ashcroft's handling of voter registration in Missouri. Some of my colleagues have charged that as Governor, John Ashcroft essentially blocked two bills that would have required the city of St. Louis Board of Election Commissioners to deputize private voter registration volunteers. These bills were opposed by both Democrats and Republicans in St. Louis. Opposition included the bipartisan St. Louis County Board of Election Commissioners, the St. Louis Board of Aldermen President Tom Villa, and St. Louis circuit attorney George Peach. Tom Villa was a noted Democratic leader, and St. Louis circuit attorney George Peach was a Democrat who was the prosecutor in the St. Louis area. All of these people opposed the legislative plan. The recommendations of these officials was one of the reasons that John Ashcroft vetoed the bills.

It was insinuated during the hearings that these actions were taken out of some kind of partisan or racial motivation, because the city of St. Louis is predominantly black and Democratic. But this implication is seriously discredited by the history of voter registration in St. Louis and earlier Federal court cases.

The city board has a long history of refusing to deputize private voter registration deputies, long before John Ashcroft appointed anyone to that board. Indeed, in 1981 a lawsuit was filed against the members of the St. Louis board concerning the failure to deputize voter registration deputies. The Federal District Court for the Eastern District of Missouri explicitly rejected charges of racial animus. The court found that the board properly refused to deputize volunteers to prevent fraud and ensure impartiality and administrative efficiency. Moreover, these conclusions were sustained by the eighth circuit, in an opinion by Judge McMillan, a prominent African-American jurist.

Some have also claimed that then-Governor Ashcroft refused to appoint a diverse group of commissioners to the election board. This is simply untrue. Mr. Jerry Hunter, the former labor secretary of Missouri, testified that Senator Ashcroft worked hard to increase black representation on the St. Louis City Election Board, but his efforts were stalled by State senators.

Mr. Hunter testified that, "Governor Ashcroft's first black nominee for the St. Louis City Election Board was rejected by the black State senator, because that person did not come out of his organization." When then-Governor Ashcroft came up with a second black attorney, this candidate was also rejected by two black State senators. As Mr. Hunter stated, "[F]rom the beginning, any efforts to make changes in the St. Louis City Election Board were forestalled because the state senators wanted people from their own organization." Apparently for these State senators the political spoils system was more important than the voters of St. Louis.

Finally, my colleagues imply that these voter registration issues will make Senator Ashcroft less able to deal with allegations of voting improprieties resulting from the Florida vote in the Presidential election. Yet Senator Ashcroft has repeatedly testified, "I will investigate any alleged voting rights violation that has credible evidence. . . . I have no reason not to go forward, and would not refuse to go forward for any reason other than a conclusion that there wasn't credible evidence to pursue the case."

Mr. President, a number of my colleagues have continued to express concerns about Senator Ashcroft's actions with regard to conducting a telephone interview with a magazine called Southern Partisan. Their concern is what message that interview might have sent to the country. It is clear, however, that Senator Ashcroft has forthrightly and forcefully condemned racism and discrimination, and he has left no doubt or ambiguity regarding his views on that matter.

During his confirmation hearings, Senator Ashcroft said, "Let me make something as plain as I can make it. Discrimination is wrong. Slavery was abhorrent. Fundamental to my belief in freedom and liberty is that these are God-given rights." And in his responses to written questions, he said, "I reject racism in all its forms. I find racial discrimination abhorrent, and against everything that I believe in." It is clear to me that John Ashcroft believes in equal treatment under the law for everyone. He believes in it, and he has committed to fight to make it a reality for all Americans.

Now, as to the magazine itself, Senator Ashcroft contritely admitted that he does not know very much about it. He confessed that he should have done more research about it before talking to them. And he said that he did not intend his telephone interview—or any other interview he has participated in during his career—as an automatic endorsement of the editorial positions of those publications. John Ashcroft went even further than that. He said, "I condemn those things which are condemnable" about Southern Partisan magazine. This was a strong statement against any unacceptable ideas discussed in that publication. And it was the strongest statement possible from someone who did not personally know the facts.

Despite Senator Ashcroft's contriteness and strong words, some Senators and interest groups have demanded that Senator Ashcroft go out on a limb and add his derision based upon an acceptance at face value of all the negative allegations concerning that magazine. In my opinion, Mr. President, this led to one of the most profound moments of the confirmation hearings. A member of the committee pushed Senator Ashcroft to label the Southern Partisan magazine as "racist"—even after Senator Ashcroft explained that he did not know whether that was true. The profound part was John Ashcroft's response. He said, "I know they've been accused of being racist. I have to say this, Senator: I would rather be falsely accused of being a racist than to falsely accuse someone else of being a racist." This exchange tells volumes about Senator Ashcroft's moral character, deep sense of fairness, and his fitness for the office of Attorney General. It would have been a lot easier for him just to say, "Yes, I agree with anyone who uses that term about someone else." Doing so would have saved him from further bashing by the committee and the press. It would have been politically expedient. But John Ashcroft choose to take the high road, not to heap disdain onto something he didn't know about just because it would have suited his interests to do so. This was a vivid example of good judgment and good character.

This is not to say that John Ashcroft defended anything about the magazine. Clearly he did not. In fact, when Senator BIDEN asked him whether the magazine was condemnable because it sells T-shirts that imply that Lincoln's assassin did a good thing, he answered: "If they do that, I condemn it." And he clarified that "Abraham Lincoln is my favorite political figure in the history of this country." What John Ashcroft did was state his absolute intolerance for racism and bigotry, and he did so honestly without creating a straw man, a scapegoat, or a fall guy.

I think we need to ask anyone who is not satisfied with John Ashcroft's answers what they really want. What do his accusers think justice is? I surely hope that no one in this body would say that justice means the knee-jerk condemnation of things they do not know about, so long as that condemnation is politically expedient.

Mr. President, I think this issue has shed light on why John Ashcroft will be a fair and principled Attorney General. As he told the Judiciary Committee, "I believe racism is wrong. I repudiate it. I repudiate racist organizations. I'm not a member of any of them. I don't subscribe to them. And I reject them." These are straightforward words from an honest man. I look forward to having such a man running our Department of Justice.

Mr. President, I heard one of my colleagues today criticize Senator Ashcroft's view of the second amendment. While I disagree with these vague criticisms, I do believe that one of the biggest challenges that Senator Ashcroft will face as Attorney General is to increase the prosecution of federal gun crimes. Where there is little consensus in Congress regarding new gun control legislation, there is widespread consensus that current gun laws can and should be prosecuted more vigorously.

While the Clinton administration has increased the regulation of licensed gun dealers, it has not increased the prosecution of Federal gun crimes in a like manner. For example:

Between 1992 and 1998, prosecutions of defendants who use a firearm in the commission of a felony dropped nearly 50 percent, from 7,045 to approximately 3,800.

It is a Federal crime to possess a firearm on school grounds, but the Clinton Justice Department prosecuted only eight cases under this law in 1998, even though more than 6,000 students brought guns to school. The Clinton Justice Department prosecuted only five such cases in 1997.

It is a Federal crime to transfer a firearm to a juvenile, but the Clinton Justice Department prosecuted only six cases under this law in 1998 and only five in 1997.

It is a Federal crime to transfer or possess a semiautomatic assault weapon, but the Clinton Justice Department prosecuted only four cases under this law in 1998 and only four in 1997.

As his testimony to the Senate Judiciary Committee made clear, Senator Ashcroft will reverse this trend and make gun prosecutions a priority. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. For example, in response to the decline in gun prosecutions by the Justice Department, Senator Ashcroft sponsored legislation to authorize $50 million to hire additional Federal prosecutors and agents to increase the Federal prosecution of criminals who use guns.

In addition, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft juvenile assault weapons ban in May of 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, and he voted for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms.

In order to close the so-called "gun show loophole," Senator Ashcroft voted for legislation, which I authored, to require mandatory instant background checks for all firearm purchases at gun shows.

Senator Ashcroft sponsored legislation to require a 5-year mandatory minimum prison sentence for Federal gun crimes and for legislation to encourage schools to expel students who bring guns to school.

Senator Ashcroft voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm in a school zone, and he voted for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale.

As a former state attorney general and president of the National Association of Attorneys General, Senator Ashcroft knows that criminal laws are useless if not enforced. Given his proven commitment to fighting gun violence, there can be little doubt that Attorney General Ashcroft will make gun prosecutions a priority for the Justice Department.

Mr. President, I would like to address one more issue concerning Senator Ashcroft's position on gun enforcement. Some special-interest groups have made the ridiculous assertion that an Ashcroft Justice Department would not defend the constitutionality of certain gun laws. As Senator Ashcroft noted at his hearing, there is a longstanding policy for the Solicitor General's office to defend Federal statutes in court if there is a reasonable basis for doing so. In other words, the Justice Department will defend Federal statutes even if that particular administration does not agree with the statute as a matter of policy. This longstanding policy applies to all Federal statutes, except those which infringe on the prerogatives of the President. This longstanding policy promotes the integrity and the consistent administration of Federal law.

At his confirmation hearing, in response to Senator KENNEDY, Senator Ashcroft pledged to "vigorously defend" the constitutionality of the ban on possession of firearms by persons convicted of domestic violence. In fact, Senator Ashcroft voted for the legislation that prohibited persons convicted of domestic violence from possessing firearms. And in response both to Senators FEINSTEIN and KENNEDY, Senator Ashcroft pledged to maintain the Justice Department's position of defending the constitutionality of the assault weapons ban. In short, Senator Ashcroft made clear that the Justice Department would defend and enforce Federal gun laws whether or not he agreed with such laws as a matter of policy.

Senator Ashcroft's record as Missouri attorney general supports his pledge to defend and enforce gun laws regardless of his personal beliefs. For example, as the attorney general of Missouri, John Ashcroft issued an opinion which interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons, even though some prosecuting attorneys conducted their own investigations and faced dangerous situations. This is a classic example of John Ashcroft upholding the law even when he did not agree with it.

In short, John Ashcroft is a man of integrity and great ability. With John Ashcroft as Attorney General, I am confident that the Justice Department will enforce Federal gun laws with unprecedented zeal.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today, as many of my colleagues have done, in support of my friend and our friend, Senator John Ashcroft, to be Attorney General of the United States.

It is always interesting, as the distinguished Senator from California has indicated, to look at people's views in a situation such as this. And I must say that while I respect the Senator's views and her comments, I guess what I will describe as allegations, I do have a different view. This does not add up to the John Ashcroft I know as a neighbor.

We have heard the debate. It has been considerable. We have all heard the charge that Senator Ashcroft is somehow not fit to serve as Attorney General. But that really does not square with the John Ashcroft I know.

We in Kansas have watched our neighbor and observed his record for a great number of years. We think we know this man. Again, I don't think the record really squares with the charges and the allegations that have been tossed about for the last several weeks.

As Missouri attorney general, John Ashcroft strictly enforced laws that differed from his own beliefs. I repeat that. That seems to be the crucial issue here. He strictly enforced laws that actually differed from his own beliefs, including firearms—we have heard a lot of talk about firearms—whether prosecuting attorneys could actually carry concealed weapons; here is one on abortion and that dealt with the confidentiality of hospital records on numbers of abortions that were performed; whether a death certificate was legally required for fetuses under 20 weeks; church and state; the availability of funds for private and religious schools, and the distribution of religious materials in public schools; quite a few environmental regulations; and also in regard to affirmative action.

If Senator Ashcroft could not honestly enforce the law, wouldn't somebody have documented such an instance by now in relation to these laws he did enforce that involved strong beliefs with which he did not agree? I don't think they have, despite the rhetoric.

I will talk a little bit about experience. John Ashcroft, regardless of your view about his stance on the issues or his ideology or selected quotes, is the most experienced Attorney General nominee in American history. Boy, that is a strong statement, but consider the facts. Of the 67 persons who have served in that office since the founding of the Republic, only one, John Ashcroft, has served as State attorney general—that is two terms—and Governor of his State—two terms—and as a U.S. Senator with service on the Senate Judiciary Committee.

As Missouri AG, John Ashcroft was elected the president of the National Association of Attorneys General. As Missouri Governor, he was elected chairman of the National Governors' Association. If John Ashcroft's execution of these earlier public trusts was as far "out of the mainstream" as his critics now claim, wouldn't his fellow State attorneys general or Governors, including Democrats, have noticed and said something?

His colleagues universally admire his devotion to his faith. Mr. BYRD, the distinguished Senator from West Virginia, spoke to that earlier today and made some excellent comments. Does that not imply he is then a man of conscience, that he will do what he says he will do? John Ashcroft himself said:

> My primary personal belief is that the law is supreme; that I don't place myself above the law, and I shouldn't place myself above the law. So it would violate my beliefs to do it.

He will enforce the law.

Perhaps the most serious of the charges against the Senator, our former colleague, is that he is somehow—and I don't like to use this term, but it has been bandied about—a racist because of his opposition to Justice Ronnie White. I do not think, in knowing the man and in looking at the record very carefully, there is any evidence of racial bias in Senator Ashcroft's record.

Among other initiatives—and this has been said before on the floor, and it deserves repeating—this is a man who signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin Luther King, Jr., holiday in Missouri. He appointed the first African American woman to the Missouri Court of Appeals. He has been a leader in opposition to racial profiling.

In my personal view, there were good reasons that Senator Ashcroft opposed the White confirmation and that every Republican Senator then voted no. Justice White, during his tenure on the Missouri Supreme Court, was notable for his anti-death-penalty and procriminal bias, which led to strong bipartisan opposition from the law enforcement community to his lifetime appointment to the Federal bench.

Let me point this out. More than 70 percent of all elected officials in Missouri, including sheriffs, are Democrats; and 77 of the 114 Missouri sheriffs, including many Democrats, were on record in unprecedented opposition to Justice White's confirmation. The Missouri Federation of Police Chiefs and the National Sheriffs Association were also against that confirmation. I voted no. I did not know at the time when I cast that vote of Justice White's African American status. I didn't know that. As a matter of fact, in talking with fellow Republicans, many of us did not know that. John Ashcroft never mentioned that. That wasn't the reason we opposed him.

Senator Ashcroft's opponents accuse him of being out of the mainstream and in support of private ownership of firearms. They say his support of firearms as a guard against government tyranny is "talk of a madman." I think we ought to look at the record.

As State attorney general and Governor, John Ashcroft conscientiously enforced both State and Federal gun laws, even those with which he disagreed. That again is the crucial issue. His record does contrast sharply with the Clinton Justice Department's failure to enforce existing Federal gun laws, even while calling for new ones.

The second amendment to the U.S. Constitution was adopted to preserve a traditional right of the people as a guard against government encroachment, and that point is beyond dispute. If John Ashcroft is "a madman" or "out of the mainstream," so were James Madison, Alexander Hamilton, Thomas Jefferson, Noah Webster, Abraham Lincoln, Hubert Humphrey, and other notable Americans who held that same view.

Despite the harsh words being hurled in Washington about this nomination, many in our Nation's heartland, in Kansas and Nebraska, Oklahoma, Missouri, know, understand, have seen him up close and personal as neighbors. We know he is an outstanding public servant and will make an outstanding Attorney General.

Listen to what the Atlanta Journal and Constitution has to say about this nomination:

> Ashcroft is certainly conservative, and he is certainly religious. But 88 percent of his fellow citizens report that religion is important or very important in their lives, a figure that has barely varied over the past 20 years. Seventy percent or more believe the nation would be better off if it were more religious, and 79 percent favor prayer or at least a moment of silence in the public schools. So who's out of the mainstream?
>
> Ashcroft strongly opposes abortion on moral grounds; 55 percent of the people say it is "morally wrong most of the time." The nominee would like to see sharp restrictions on when an abortion would be legal; only 28 percent of Americans think it should be legal under any circumstances. He absolutely opposes partial-birth abortion; so do 66 percent of Americans. Who are the extremists on this issue?
>
> Actually, none of these attacks on Ashcroft's beliefs has much real meaning because he has already demonstrated, as Attorney General of Missouri, that he is perfectly capable of following the law as it is, rather than as he might wish it were.

Again, that is the basic point I make.

> Maybe it is difficult for his opponents to believe that he could so carefully separate his personal views from his task as chief enforcer of the nation's laws because they have so much trouble doing that themselves. But we believe he can and will do so and that the American mainstream which was invoked so frequently at his hearings will be well served and satisfied with the job that he will do.

I certainly agree that America will be well served with Senator Ashcroft's confirmation by the Senate. I intend to vote for him. I urge my colleagues to do the same.

One other thing: John Ashcroft and I spent a little time together—3 days—up in the wilds of Alaska. We were up there at the invitation of Senator TED STEVENS. There is a fishing contest up there. The Presiding Officer is very skilled, by the way, in taking part in that whole fishing contest. The proceeds are used to improve the habitat on the Kenai River.

We had a great deal to say to each other, both Senator Ashcroft and myself, when we were fishing in that kind of circumstance. We didn't talk about anything that involved racism, or Bob Jones University, or selected quotes, or whatever; we talked as individuals and as friends. I did not hear a bitter or prejudicial word. We talked about what things mean in life basically. We talked about family and of the Lord's creation. We talked as fellow men. We talked about the privilege to serve in the Senate. We told a lot of stories about human beings, we talked a lot about fishing, and we talked a lot about friendship. I think when we can spend time with a man in that kind of circumstance, we really get to know him.

Personally, I just want to say I am having a lot of trouble figuring out whom the critics are talking about in regard to the John Ashcroft I know and respect. I think he will make a great Attorney General. And, quite frankly, I think at the end of the day when he reaches out in an act of friendship and trust across the aisle to many of his critics, we are going to be just fine.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I gather that the order set is that Senator DODD will speak and then Senator COCHRAN.

The PRESIDING OFFICER. There is no order at this point.

Mr. KERRY. Mr. President, I ask unanimous consent that the order be as follows: That following Senator DODD, Senator COCHRAN speak, and that I be permitted to speak following Senator COCHRAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, at the outset I commend my colleagues on the Judiciary Committee, the chairman of the committee, Senator HATCH, and Senator LEAHY, the ranking Democrat, and the respective members of the committee for the manner in which they conducted the confirmation hearing for the position of Attorney General of the United States and for the manner in which they treated John Ashcroft, President Bush's nominee for this position.

It is a difficult job, particularly when the nomination is controversial. I think the members of the Judiciary Committee, both Republicans and Democrats, conducted themselves with great dignity, and I commend them for it.

Mr. President, I am going to vote to confirm John Ashcroft as U.S. Attorney General. I would like to take a few minutes of the Senate's time to explain my reasons.

Let me say at the outset that I hope Mr. Ashcroft will listen to what I have to say here this afternoon. My comments are delivered primarily for the benefit of my colleagues and my constituents. But they are also directed to John Ashcroft.

It is important that John Ashcroft understand that my support of his nomination is not unqualified. It is given, rather, only upon extensive reflection and despite concerns about what kind of Attorney General he will make.

I have listened attentively to the comments of our colleagues both in support of and in opposition to this nomination. I respect immensely their views. I have considered the practices and precedents of the Senate in deferring to presidential cabinet appointments. And I have reflected upon my own practices over the past two decades in the Senate in considering such appointments. During that time, I have supported an overwhelming number of Cabinet nominees. But I have, on the rarest occasions, opposed Cabinet nominees supported by the majority of members of the Senate and by a majority of my own party. It also bears mentioning that I have supported nominees opposed by most members of my party and, in one instance, also opposed by a majority of the Senate.

My concerns about this particular nominee can be reduced to three in particular:

First, whether he will uphold and vigorously enforce our laws—especially those with which he personally disagrees.

Second, whether he will treat other people in public life as he wishes to be treated—particularly those with whom he may disagree.

And third, whether he will seek to unify rather than divide our nation on critical issues facing our nation, especially the issue of racial justice.

Let me address these concerns in order.

First, as to John Ashcroft's disposition to enforce the law. The Attorney General, as we all know, is our nation's primary law enforcement officer. This is an office of unique importance.

Except perhaps for the president himself, no other individual can or should do more to protect the public's safety, and to promote the ideal of equal justice that is the North Star in our constellation of laws.

Like many others in public life, John Ashcroft is a man of strong convictions. He should be commended, not faulted, for that fact. But the question that arises with respect to his nomination for this particular office is whether those convictions—on matters such as a woman's right to choose and gun safety—might well preclude him from enforcing laws on those and similar issues with which he may disagree.

This is a threshold question. If the nation's top law enforcement officer cannot enforce the law, how can anyone say he should nevertheless assume the office? If the public cannot know with reasonable assurance that their Attorney General will uphold our laws vigorously and free of personal bias, then how can we be confident that respect for the law will not be weakened?

If minority Americans, women, and others cannot rely on the Attorney General to safeguard their liberties, how can other—indeed, all—Americans not worry that their rights might one day be placed at risk, as well?

John Ashcroft has minced no words about his positions on issues like a woman's right to choose and gun safety. He has advocated positions contrary to current law. That is his record. It is also, I might add, his right—just as any of us has the right to advocate legal change.

But that is far from saying that he cannot faithfully enforce the law. There is more to his record that deserves consideration. This is a man who was elected not once, but five times by a majority of the people of his state—as their attorney general, governor, and Senator. He has devoted nearly three decades of his life to public service. He has, as far as anyone knows, upheld the public's trust throughout that time.

If his nomination were to be decided on the basis of experience alone, he would have been among the first, rather than the last, of the President's Cabinet nominees to be considered by the Senate.

As Attorney General and Governor, the record suggests that he did, in fact, uphold and advocate laws with which he disagreed. He endorsed Democratic proposals to fund new roads and schools. He signed legislation to increase the penalties for crimes motivated by bigotry. He supported additional resources for legal services for the indigent.

During his confirmation hearing, he swore under oath that he would uphold the law "so help me God." He did so repeatedly and fervently. He swore that he would respect Roe v. Wade and Planned Parenthood v. Casey as the law of the land. He swore to uphold the federal law that prevents violence and intimidation at family planning clinics. He testified that the Brady law and the assault weapons ban are constitutional.

He also testified that mandatory trigger locks, gun licensing and gun registration are all constitutional. And he vowed to hire without regard to sexual preference (although he did not, I should add, pledge to continue Attorney General Reno's policy of excluding sexual preference from security clearance decisions).

I do not expect that John Ashcroft will change his views as Attorney General. But I do, have every right to expect, based upon his commitment to God Almighty, before the Judiciary Committee that he will keep his word to uphold the laws of the land, even those with which he profoundly disagrees.

Mr. President, I would love to have the complete and total assurance he would do that. I cannot honestly conclude that he would not. Thus, it compels me to give him the benefit of the doubt because he has taken that oath fervently, before God Almighty, and members of the Senate Judiciary Committee.

A second concern I have about Senator Ashcroft's nomination is how he has treated other people. I refer very specifically to his conduct toward Judge Ronnie White, Ambassador James Hormel, and Bill Lann Lee, former head of the Justice Department Civil Rights Division.

Other colleagues have spoken and will speak about these cases in greater detail. Suffice it to say his treatment of their nominations went beyond the bounds of good manners and common decency. Too often, John Ashcroft refused to meet with these people; he failed to give them an opportunity to respond to the allegations, and he distorted, in my view, their records.

In the case of Mr. Hormel, he deemed the wholly private matter of sexual orientation to be a factor "eligible for consideration" in whether he ought to be nominated.

In the case of Judge White, he actively worked for his defeat—without first giving him a chance to respond to misleading statements made against him on the Senate floor.

His treatment of these men was cavalier at best—callous and calculated at worst. It is particularly troubling because my own limited experience with Senator Ashcroft was of a quite different nature.

We worked together on only one issue that I recall—ending the embargo on food and medicine to Cuba. In that effort, he took a position that engendered considerable opposition in his own caucus. At all times, I found him reasonable and trustworthy.

But there is nevertheless a record here of going after people in a harsh and unfair manner. I have always been suspicious of people who try to build a political career in part on the bones of their personal adversaries. Attacking motives, using people as political scapegoats, acting with reckless disregard to the reputations of others—these are the kinds of actions that I find contemptible, and that unfortunately have become all too common in public life today.

I hope John Ashcroft will change and turn away from such behavior in the future. I believe that he can. As the saying goes, "There is no sinner without a future, and no saint without a past." I believe John Ashcroft is a decent human being, and I take him at his word.

If his flaws loom large, it is at least in part because they have been aired and examined in the magnifying light of public life.

And while I will not excuse these flaws—particularly in his treatment of others as a public official—I will not engage in the same form of pay-back politics that seems to have a growing currency in our time. That is not to suggest that those who oppose him will have engaged in such tactics. On the contrary, I can well understand the principled basis of their opposition.

That said, I will not do to John Ashcroft, what has been done to too many people in recent years—including people like Ronnie White, James Hormel, and Bill Lann Lee. These individuals do not deserve the treatment they received. No one does. Not even John Ashcroft.

My third and final concern is closely related to the first: whether his views on the critical domestic issues of our day would preclude him from using his office not just to uphold the law, but to uphold the spirit of freedom and equal justice that permeates every one of our laws.

I find it not a little ironic that our new President, who calls himself a "uniter, not a divider", nominated for Attorney General a man who throughout his career has plunged so divisively into the most divisive issues of our time: civil rights, women's rights, equal rights, gun safety.

On a different level, I am not in the least surprised. The President chose a nominee who reflects his own views on many of these same issues. I did not expect him to nominate a Democrat.

Like nearly all of our colleagues, I have time and again supported Cabinet and other nominees with whom I disagreed on critical issues.

Like them, I have a high degree of tolerance for differences of opinions when such nominations come before us—including on such issues as choice and guns. Indeed, I supported the nomination of Governor Thompson as Secretary of Health and Human Services, despite our strong differences on issues related to a woman's right to choose.

There are certain differences that, I would argue, none of us should tolerate. And in that respect, the issue in

John Ashcroft's public record that concerns me the most is the issue of race.

If I thought John Ashcroft was a racist, I would oppose him as strongly as I possibly could on any other issue I have ever faced in my 25 years of public service. I urge each of our colleagues to do the same. We must not tolerate intolerance. But I do not believe that such a potent word applies to John Ashcroft. And it is lamentable, to say the least, that some outside of the Senate have used it to describe him.

We of all people here in the Senate appreciate that words have meaning. So when someone uses a word such as "racist" to describe actions that, however objectionable, are not racist, then they reduce the impact of that word at those moments when it is most applicable.

While by no means a path-breaker, as governor, John Ashcroft appointed more African-American jurists to the bench than any of his predecessors. He appointed a number of women, as well. His wife has taught at Howard University, a predominantly black institution. People of color testified in support of his nomination. Even Judge Ronnie White—about whom I will say more in a moment—said that he does not believe Senator Ashcroft's opposition to his nomination was racist in nature.

In the Senate, he held a hearing on and condemned the practice of racial profiling. He supported twenty-six judicial nominees of African-American descent.

And it should not go unmentioned that at least one member of his Senate staff—a devout Jew—has written that he found Senator Ashcroft not only tolerant, but supportive of his religious beliefs and the practical demands that those beliefs placed upon his time.

Nevertheless, I am deeply troubled by many of his actions in this area. Most notably, he vehemently and persistently opposed efforts to integrate the St. Louis public schools. In fact, his actions were so vexatious that he was nearly cited for contempt for failing to comply with court orders to submit a plan to desegregate the schools of that fine city. He walked up to the line of disobeying the law—even appearing to boast of that fact when he ran for Governor for the first time. Those actions trouble me deeply.

The record suggests that in times past John Ashcroft has submitted to the temptation to divide Americans along racial lines.

The same record also suggests that he is someone without personal bias on matters of race, who has tried to heal rather than deepen our nation's ancient racial wounds. I hope that it is that John Ashcroft who, if confirmed, will lead the Department of Justice. Our nation has traveled too far—and we have too far still to go—to relent for even a moment in the struggle for equal justice.

I realize that my vote for John Ashcroft may not be decisive. But I hope that it will be informative—informative most of all to John Ashcroft. Listen well, John Ashcroft. There are those of us here today who could easily vote against your confirmation, but have decided to give you a second chance—an opportunity that you denied to Ronnie White, Bill Lann Lee, James Hormel, and others.

I hope this vote will not be in vain. I hope that John Ashcroft will uphold his pledge to enforce the laws of our land. I fervently hope that he will work to unite rather than divide our nation. And I hope, for the sake of our nation and this institution, that this vote will in some small measure help bring about an end to the growing predilection to treat nominations as ideological battlefields.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to support the Senate confirmation of John Ashcroft as Attorney General of the United States. He is well qualified for the job, having served as attorney general of Missouri, as Governor of Missouri, and with distinction as United States Senator.

I first met John Ashcroft in 1992 at the Missouri Republican Convention in Springfield, MO, when I was a surrogate for the campaign of President George Bush.

Two years later, John invited me and our colleague from New Mexico, PETE DOMENICI, to come to Missouri and campaign with him when he was a candidate for the Senate.

I was very impressed with John Ashcroft on both occasions. He was an articulate and intelligent advocate for commonsense solutions to our country's problems. He impressed me as a serious-minded, dedicated, and energetic force in shaping public opinion on issues that should be addressed by our Government.

I enjoyed very much being a part of his campaign effort and I was delighted when he was elected to the Senate.

In the Senate he has been very active in the legislative process. He has initiated reforms in trade sanctions policy and juvenile justice which I have been pleased to support and cosponsor. He is one of the most sincerely respected members of our Republican Conference, and I consider him to be one of my best friends in the Senate.

I take issue with the critics who have questioned his candor and his character. There is no basis whatsoever for those charges. I am surprised and disappointed that he has been characterized so unfairly by some in this body.

I am confident he will prove by his exemplary service as Attorney General that he is fair minded, thoughtful, and true to his word, and his oath, as he carries out his important duties.

The President has selected a good man to be Attorney General. He has withstood the slings and arrows of his opponents, and he is still standing.

When I was elected to Congress, I was given by my mother a poem by Josiah Gilbert Holland, which I have kept close to my desk for the past 28 years. It says in part:

> God give us men! A time like this demands
> Strong minds, great hearts, true faith, and ready hands;
> whom the lust of office does not kill;
> whom the spoils of office cannot buy;
> who possess opinions and a will;
> who have honor;
> who will not lie;
> who can stand before a demagog and damn his treacherous flatteries without winking!
> Tall men, sun-crowned, who live above the fog, in public duty and in private thinking.

That poem describes my friend and fellow Senator, John Ashcroft. I am proud of his service in the Senate, and I am confident he will make me just as proud as he serves our Nation as Attorney General of the United States.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, contrary to what some people may believe, thinking about how people make this choice and given some of the arguments that have surfaced in the course of this nomination, I suppose some people might think this is sort of automatic for some folks on different sides of the aisle. I want to make clear that I do not feel that way at all. I think there are many different crosscurrents with respect to anybody's nomination, and I certainly do not disagree with the comments of my good friend and colleague, Senator DODD, who spoke a few minutes ago about what has happened to the nomination process, or to the review over the course of the last years here in this city.

While I certainly raised questions early on with respect to this nominee, I tried, in the course of this process, to refrain from making any final judgments until the hearings were held, until questions were asked, until Senator Ashcroft himself had an opportunity to lay out the record, so to speak.

I listened very carefully to what Senator DODD said a moment ago about not making choices on ideology. I agree with that. My opposition, which I announced yesterday, to Senator Ashcroft's nomination, is not based on ideology. I might say, however, that our friends on the other side of the aisle in the Republican Party have certainly made ideology a significant component of their opposition to many people in the last years. Even Senator Ashcroft himself has engaged in a process of making judgments about people's fitness to be judges, people's fitness to be in the Attorney General's office—Bill Lann Lee—on a matter of ideology.

In fact, I am told by some members of their party that they, themselves, have been the victims of ideological decisionmaking with respect to positions they might or might not be able to fill within the party itself. Perhaps there is the deepest irony at all, that people such as Tom Ridge, Governor of Pennsylvania, or Governor Keating, were themselves the subject of bitter dissension within the Republican Party over whether or not they might be fit to serve as Vice President of the United States, or hold some other office of importance, on the basis of ideology.

So we need to be careful and thoughtful about who comes to that part of this debate with clean hands. But I am confident that all of us would agree with Senator DODD, that we would like to see an end to that kind of division.

There is another reason why this is difficult. It is because Senator Ashcroft comes to this question with all the advantages of a colleague. We know him. Many of us know him well enough to consider him a friend in the context of the Senate and like him personally. We certainly respect his conviction and his dedication to public service.

As colleagues have noted, he was elected by the citizens of his State as attorney general, as Governor, and as Senator.

But the truth is, in the final analysis this is not a vote or a decision about those personal relationships. This is not a vote about personality. And it is certainly not a vote that calls on us to somehow ratify the traditional expectations of the Senate, which are understood by everyone in the Senate and often are found very confusing to many people in the country who measure us and what we do by a different standard.

The office of Attorney General is obviously not a political reward, left simply to the victors of national elections or to the crosscurrents of ideology within a particular party. It is one of the most sensitive positions of public trust. It is an office in which all Americans must have a deep and abiding faith that its occupant will enforce the laws with equal justice, with fairness, and impartiality.

In other words, the person who comes to that office must come to it with a level of acceptance by the public at large about their moral and legal bonafides that they bring to the office in a way that is beyond dispute.

It is very clear that there were others whom a uniting, not a dividing, President might have chosen for this job. I think everyone in the Senate would agree that if our colleague, former Senator John Danforth, had been chosen, you would have had a person who espoused all the ideology, the full measure of conservative views—he is an Episcopalian minister; he is pro-life—but he would have brought absolutely none of the controversy that has come with this nominee, which raises doubts—I am not saying certainties but doubts—in the minds of many people about this nominee's either willingness or capacity to apply the law in the way he has suggested he would in the course of these hearings.

In fact, after closely examining the record set forth in those hearings, and the record as attorney general of the State of Missouri, I conclude that record makes him the wrong person for this job at this time.

This is, without any question—I think everybody in the Senate would agree—a special time in our history. We have a President of the United States who was elected not with the popular vote of the country but for the third time in history by the electoral college. We have a President who was elected effectively by one vote, some would argue by the one vote in the electoral college, but there are many others in the country who would argue it was the one vote in the Supreme Court of the United States. There are many in the country, whether legitimately or not, who have a deep sense of alienation and outrage over what happened in the application of law in the course of the last months in our Nation.

Because this election was so divisive, because the President himself has come to office saying that he acknowledges the deep need for him to be a unifier and not a divider, I believe, therefore, this nomination is particularly troubling.

Senator Ashcroft's record reveals a series of actions—not beliefs; I want to distinguish this. I heard colleagues defending Senator Ashcroft again and again saying he should not be held accountable for his deep-rooted beliefs that reflect those who elected him. I am not holding him accountable, per se, for those beliefs. I believe, however, there are a series of actions that ignore the kind of need we face at this point in time to have an Attorney General come to office not needing to prove that the years in the past were somehow an aberration or a mistaken impression but, rather, who brings the full force of their history of commitment to civil rights, a commitment to a series of issues that are the law of the land.

In effect, we are being asked to accept the nomination of an individual who, by definition, will have to wake up every single morning and curb his natural political instincts in order to do this job. I do not think that is an unfair statement because on all of those key issues where the Attorney General is so critical, whether it is guns or the law of the land with respect to Roe v. Wade, women's choice, or the law of the land with respect to civil rights in many areas, Senator Ashcroft again and again in his political life has been on the other side of those particular issues.

There is a very simple question to ask yourself: Is that really what you want in an Attorney General of the United States?

In my judgment, reviewing the record of the hearings and reviewing the record of Senator Ashcroft's stewardship as Attorney General, there are occasions where the Senator took actions that do not call to question today his ideology but call to question his judgment in pursuit of that ideology.

Yes, Senator Ashcroft testified that he would enforce the laws with which he disagrees. But take, for instance, the voluntary school desegregation case in St. Louis, or the nomination of Judge Ronnie White, or the nomination of James Hormel to be Ambassador to Luxembourg, or the nomination of David Satcher for Surgeon General. Each of these, in my estimation, reveals a response by Senator Ashcroft that exhibited an exercise of judgment that I believe calls into question his ability to provide for the kind of moral and legal force necessary in the job of Attorney General.

I am not convinced that you can simply dismiss each and every one of the instincts that led to the exercise of that judgment in each of those cases. Let me be very specific about each and every one of those.

When he was Missouri attorney general, as we know—others have talked about it—Senator Ashcroft opposed the court-appointed voluntary desegregation plan for St. Louis. We know school desegregation is a controversial public policy, and there are many people who appropriately at various times in the country, in one place or the other, found fault with certain approaches to various voluntary desegregation plans. That is not the measure of my concern.

What is deeply troubling to me is that despite the problems with the existing law and despite the problems that were found with the proposed voluntary remedy, Senator Ashcroft, in a position of leadership on this issue, duty bound to bring people together and to try to lead the community through this difficult time, failed to come up with an alternative that would have ameliorated the divisions of the community and, most importantly, would have addressed the segregated conditions. When children are trapped in schools that do not work, when cities are divided by racial lines, there is a choice that can be made: You can be a voice for reconciliation or you can be a voice for division.

When Senator Ashcroft chose to politicize the issue beyond all proportion, which is what many people in the community have testified, he chose the latter, and that is a matter of judgment, not belief.

Perhaps the most disturbing element in his record was the treatment of Judge Ronnie White. Many people have brought those facts to the floor, and I obviously am not going to go through all of them again. I remember that debate well. I remember the language which characterized this good person. He was called procriminal. It was said that he had a tremendous bent towards criminal activity—a judge had a tremendous bent toward criminal activity. It was claimed that he was the court's most liberal judge on the death penalty and did not care "how clear the evidence of guilt."

That is not true. Those words are simply not true. Of course he cared about guilt, and if you read his decision, his decision said nothing about whether or not he was not guilty or whether or not he should not, if guilty, be subjected to the death penalty. He did not think this man had a fair trial.

I do not believe an Attorney General of the United States should interpret some judge's opposition to the lack of a fair trial to become on the floor of the Senate a rationale for a party-line vote, fully divided by virtue of his leadership on his protestations and characterizations of this judge.

As is now well known, Judge White had a strong record of supporting capital punishment and often voted with Mr. Ashcroft's own appointees on the Missouri Supreme Court. Indeed, he had a tougher record on the death penalty than some of Senator Ashcroft's own nominees. Judge White voted for the death penalty in 41 of 59 cases that came before him, and he voted with the majority 53 times, including cases in which he favored reversal.

So that is not an issue of ideology. That is not a matter of belief on which I choose to cast my vote. It is because I believe that Judge White was inappropriately characterized on the floor of the Senate. I believe that was a reflection of a judgment about another human being, about our politics, about life in our country. I do not believe, as some have claimed, at all—and I hope we would never insinuate—that Senator Ashcroft is racist. I do not think there is any evidence of that. I do not believe that he is. I think that is inappropriate to this debate. But I do think that it was an unfair distortion of Judge White's record branding him as procriminal. And the handling of that nomination in itself raises serious questions about judgment, about fair-mindedness, and about fair play.

Judge White, quite eloquently, made that very point during his testimony before the Judiciary Committee when he said: I believe that the question for the Senate is whether these misrepresentations are consistent with fair play and justice that you would require of the U.S. Attorney General. That is not a matter of ideology; that is a matter of judgment.

I am also troubled that when David Satcher's nomination for Surgeon General came before the Senate with great bipartisan support, again, Senator Ashcroft filibustered and described him as a "promoter of partial-birth abortion."

David Satcher had led the Centers for Disease Control in Atlanta with distinction. He had been a leader at a medical college in Tennessee. He had the full backing of Senator **FRIST** and Senator **THOMPSON**, both of whom are people of enormous integrity. They told us that David Satcher would not promote abortion. They told us that you could not question his character or his integrity. But John Ashcroft said that this individual would "promote a heinous act, partial-birth abortion." Why? Simply because David Satcher believed that a ban on the procedure—which he was in favor of—ought to include an exception for the life and health of the mother.

The kind of distortion we saw for David Satcher raises a question, not about ideology but about judgment and fairness and fair play.

I am also troubled by Senator Ashcroft's judgment about the so-called alleged "totality of the record" with respect to a good man named James Hormel. I regret to say it, but I can only interpret the "totality of the record" as a code word for opposition to James Hormel because he was gay.

Why do I draw that conclusion? Because in the course of debate, and in the course of comments publicly, Senator Ashcroft, at the Foreign Relations Committee, never doubted that Mr. Hormel was a competent businessperson, never doubted or questioned his record of philanthropy or commitment to his community, never doubted or questioned his effectiveness as a dean, or the job he had done prior to entering the business at the University of Chicago. Senator Ashcroft was only one of two people on the Foreign Relations Committee to vote against him.

During the confirmation hearings a couple weeks ago, he again reiterated it was the "totality of the record" but, once again, without any explanation.

As we know, Mr. Hormel was finally appointed by a recess appointment. But in my judgment, Mr. Hormel was opposed for a status offense. Senator Ashcroft did raise questions about the propensity or likelihood Mr. Hormel might have about "promoting a certain kind of lifestyle." I think every single one of us understands that is a code word in and of itself for his sexuality.

I would add that the people of Luxembourg, far from raising this question themselves, did not share that concern. And so it was that Senator Ashcroft sought to deny Luxembourg an Ambassador that they were asking to have appointed.

I do not believe the American people should have an Attorney General who leaves even doubts—even doubts—about whether or not being gay is a status offense.

I am also troubled by the lack of sensitivity that was displayed, even in the aftermath of the interview that took place with Southern Partisan magazine in 1998. Another colleague has gone into that at great depth on the floor, and I will not spend a lot of time on it.

It is one thing to have done the interview and, I suppose, to have suggested later that you did not know what the magazine did or who they spoke to or what audience they talked about. It is another thing when you are a nominee for Attorney General not to acknowledge that there are, indeed, questions that would arise in an interview of this nature with that kind of magazine.

This is a magazine that praises John Wilkes Booth for assassinating Abraham Lincoln. It has editorials against interracial dating. When you read the interview itself, and you recognize the folks the Senator was trying to talk to, and what he was appealing to, it seems to me that there are serious questions, again, about judgment, about the judgment of what the message is to a large part of America who sees that magazine and those who adhere to its philosophy as those who have never gotten over the fact that slavery was ended in the South.

I would have liked—I think many of us would have liked—to at least have heard a disavowal of those views or an expression, recognition that some of the views are, in fact, inappropriate and appeal to some people's worst instincts rather than best instincts.

I think those are the kinds of expressions that ought to come from somebody who is going to try to represent the healing of the divisions that have occurred over the course of the last years. I might add, they are not just the healings from the difficulties of the election. They are the healings from the problems of racial profiling. They are the healings from the problems of discrimination in housing. They are the healings from the problems of so many people of color who wind up in prison instead of in college. They are the divisions that occur because so many in this country still believe that the law is stacked against them rather than working for them.

The choices that an Attorney General will make are obviously critical to our ability to move forward and not backward with respect to those kinds of divisions. It is these particular acts of personal judgment that I believe raise the most serious questions about the appropriateness of Senator Ashcroft assuming this remarkably sensitive position.

As a former prosecutor—I see Senator **REID** is on the floor; and he shares that prior occupation—I think for many of us there is an acute sensitivity to the judgments that an Attorney General makes on a daily basis: what cases will be taken on; what particular task forces might be created in order to try to address people's sense of grievance in the country; certainly, obviously, the power of the Solicitor General; the power of choosing who will sit on what courts; the power of deciding what you will appeal to the Supreme Court of the United States; and, most importantly, what you will investigate and how. All of these are issues of judgment, too.

I believe the issues I have raised put before the Senate serious questions about the exercise in that judgment. I believe that in the end, notwithstanding what I have said, there is always a feeling by each of us with respect to a colleague that these votes are difficult. I don't pretend that it is not in this regard. That is true for all of us on our side. We have to make a choice. It is our responsibility and it is our oath to the Constitution to make the best judgments we can about the choices that are put in front of us.

I believe the important thing at this moment in time in this particular position, above all, is to have a nominee who is free from this kind of controversy, who comes to this job not with the questions that have been raised in the Senate and this revisitation of the kind of divisiveness that so many of us are tired of. That is not something we asked for. That is something we were given by virtue of the President's choice to send us this nominee.

With this nominee comes these questions about his ability to assume this job that requires such a special sensitivity, such a special sense of the need to bring the country together and to be able to apply the law equally and fairly to all:

It may well be that every concern I have expressed is wiped away when John Ashcroft takes this job on, as we know he will. There is no question about whether he is going to be confirmed. But there is a question about whether or not we will ever, in the next few years, again have to revisit some of the questions that have been raised in the course of these hearings and in the course of this debate.

My prayer is that we won't, and nothing, obviously, would please me more than to say to John Ashcroft: I am glad I sounded my warning bells, but I am equally glad that you proved us wrong and were the kind of Attorney General that the country needed at this moment.

It may well be that all of our colleagues are absolutely correct in predicting that that is what we will have. If it is, so much the better for the Nation and so much the better for John Ashcroft. It is important for us to place as part of the record, as he assumes this job, the concerns that we have on behalf of so many people in this country who need to see the law applied more fairly and need to have a better sense of due process and of equal justice under the law. I hope, in the end, this administration and this Attorney General will produce that.

Mr. HATCH. Finally, Mr. President, I wish to speak about John Ashcroft's ability, if and when he becomes Attorney General, to enforce laws that he spoke against or even voted against as a legislator.

As you know, Mr. President, opponents of Senator Ashcroft are accusing him of being unable to set aside his opinions on certain laws sufficiently in order to enforce those laws.

And I have to give those opponents credit for their creativity. They have developed a brand new test for cabinet appointees. Eight years ago, when the Senate unanimously confirmed an Attorney General whose personal views opposed the death penalty and the imposition of mandatory minimum sentences for convicted criminals, none of the anti-Ashcroft crusaders accused Janet Reno of being unable to set aside her personal views.

But while I admire the creativity of this new approach, I am deeply troubled by the substance beneath it. What's being proposed is to disqualify from high office anyone who has previously taken a side on a legislative proposal.

It is simply not true that a legislator is so tainted by efforts to change laws that thereafter he or she cannot perform the duties of attorney general. Outside this Chamber, and outside of the Washington Beltway, Americans understand that people can take on different roles and responsibilities when they are given different positions. Americans know that lawyers can become judges, welders can become foremen, engineers can become managers, and school teachers can become school board leaders. And Americans know that a Senator, whose job is to propose and vote on new laws, can become an Attorney General, whose job is to enforce those laws that are duly passed.

There aren't many people who know as much about the different roles in government as John Ashcroft. He has been in the executive branch—as an Attorney General for 8 years. He has been chief executive as Governor for 8 years. And he has been in the legislative branch as a United States Senator for 6 years. Each of these positions have required an understanding of the differing roles assumed by the three branches of government.

It is in this context that John Ashcroft told the Senate what he will do as Attorney General. He said he will enforce the laws as written, and uphold the Constitution as interpreted by the Supreme Court. This is a concise yet profound statement about the proper role of the Attorney General. And it is more than just a statement, because it is backed up by the unquestioned integrity of John Ashcroft, a man who will do what he says. He will enforce the law as it is written, even in those instances where he would have written it differently.

Still, some members of this body are unconvinced. They apparently think that John Ashcroft will not do what he said. Of course they would not call him a liar—at least not explicitly, anyway. They are saying that, try as he might, he simply cannot enforce the law because he wants so badly for the law to say something other than what it actually says.

Some who have adopted this view are accusing John Ashcroft of changing his views. They accuse him of having a "confirmation conversion." By this they mean that people who take off their legislator's cap, and put on an attorney general's hat, cannot adapt from the role of law writer to law enforcer without being insincere. This is a ludicrous proposition. John Ashcroft has not undergone a confirmation conversion; he has been the victim of an interest group illusion.

Members of this body know something that the public may not: There is an unspoken rule that a nominee does not answer questions in public between their nomination and their confirmation hearing. This is done out of respect for the Senate—whose job it is, after all; to listen to the nominee rather than the media. But savvy special interest groups take advantage of the time in between to wage a war of words against nominees they dislike. Many of those words are exaggerated or unsubstantiated attacks. The result can be the fabrication of a false public record.

Mr. President, I am asking my fellow Senators to resist the temptation to label it a "conversion" when a nominee simply corrects the misperceptions created by special interest groups. I am asking my colleagues to look at John Ashcroft's real record, and at own words—in his confirmation hearings, and in his answers to the voluminous written questions—rather than relying on the press releases of issue advocates.

If you only listen to interest groups, you might conclude that John Ashcroft would bend or ignore the law in order to put more guns in people's hands. But you would be wrong. As Missouri's Attorney General in 1977, John Ashcroft wrote Attorney General Opinion No. 50, in which he interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons even while engaged in the discharge of official duties. This is hardly the kind of decision that someone bent on eliminating gun laws would want to reach.

The special interest groups also want us to believe that John Ashcroft cannot enforce abortion laws because of his personal view that life begins at conception. But 20 years ago, as Missouri Attorney General, John Ashcroft had—and did not take—the opportunity to bend the law to favor his view. His 1981 Attorney General Opinion No. 5 barred the Missouri Division of Health from releasing statistics revealing the number of abortions performed by particular hospitals—even though such statistics would help the pro-life movement make its case. Similarly, in Attorney General Opinion No. 127, dated September 23, 1980, Attorney General Ashcroft determined that a death certificate was not required for all abortions, despite his personal view that abortion terminates human life. Are these the kind of decisions that you would expect from an unrestrainable zealot?

But the special interest groups do not stop there. They have also attacked John Ashcroft for his religious views, inferring that he would use his position to blur the lines between church and state. The fact is, however, that John Ashcroft has turned down several opportunities to do just that. In a 1977 Attorney General Opinion, No. 102, Ashcroft forbade public school districts from using federal education funds to benefit nonpublic including parochial school children. He did so even though the federal grant in question specifically allowed private and parochial school children to benefit. In similar decisions, Attorney General Ashcroft prevented the State of Missouri from providing transportation for nonpublic school students [Attorney General Opinion No. 148], and determined that a board of education lacked legal authority to allow the distribution of religious material on school property [Attorney General Opinion No. 8, February 8, 1979]. Don't expect to see these decisions listed in the press releases concerning John Ashcroft's "extremist views."

Another area of falsification concerns John Ashcroft's record on the enforcement of environmental laws. To hear some interest groups talk, you would think John Ashcroft wants to allow polluters to ignore the regulations that protect the planet. Again, his record shows the opposite. In Attorney General Opinion No. 123-84, Ashcroft declared that underground injection wells constitute pollution of the waters and are therefore subject to regulation by the Missouri Department of Natural Resources. He also opined that it would be unlawful to build or operate such a well without a permit from the Clean Water Commission. And in another opinion, Ashcroft decided that operators of surface mines must obtain a permit for each year that the mine was unreclaimed. In reaching this opinion, Ashcroft concluded that a continuous permit requirement facilitated Missouri's intention "to protect and promote the health, safety and general welfare of the people of this state, and to protect the natural resources of the state from environmental harm." This settlement was echoed in an opinion concerning recycling that John Ashcroft wrote in 1977. In Attorney General Opinion No. 189, Ashcroft decided that Missouri's cities and counties could require that all solid waste be disposed of at approved solid waste recovery facilities, rather than landfills. That opinion was based on the arguments that "recycling of solid wastes results in fewer health hazards and pollution problems than does disposal of the same types of wastes in landfills" and that "public welfare is better served by burning solid wastes for generation of electricity, thus conserving scarce natural resources." I suggest, Mr. President, that these are not the words of a man who is intent on ignoring the law and destroying the environment.

My final example, Mr. President, is on the topic of minority set asides. As you know, among the tactics of the anti-Ashcroft forces has been to bring baseless racial allegations. And, again, this is being done in indirect and subtle ways, implying that there is something hidden and unrestrainable about John Ashcroft that should concern minorities. Thus my colleagues will be pleased to learn that, as Missouri's Attorney General, John Ashcroft issued an opinion which cleared the way for the Missouri Clean Water Commission to award a 15 percent state grant to the Metropolitan St. Louis Sewer District to establish a minority business enterprise program.

These examples—all of which predate the public smear campaign against John Ashcroft—demonstrate that Mr. Ashcroft has a record of enforcing the law. John Ashcroft has not undergone a confirmation conversion. Rather, he is a victim of interest group illusion. The artists behind the lobbying groups aligned against him have made his true record disappear in a cloud of smoke. And they are attempting to convince the public that his distinguished record of advocacy as a legislator is a straitjacket from which he cannot escape. But let me tell you what I see in the crystal ball. John Ashcroft is going to be an excellent attorney general. He is going to enforce the laws of this land fairly and forcefully. He will do so even when he might have written the law differently as a legislator.

Mr. President, the issues that have been raised in objection to Senator Ashcroft's nomination are largely policy issues. There is no objection on his qualifications, his credentials, or his integrity. The attempt to paint him as extremist on policy grounds is countered effectively by his five elections to statewide office in Missouri, and his elections to head the National Association of Governors and the National Association of Attorneys General.

Mr. President, John Ashcroft is qualified, not extreme on policy, but his policy positions are largely irrelevant because he has demonstrated that he understands his role as law enforcer, as distinguished from that of a policy advocate.

I hope we will give him the benefit of the doubt if any doubt exists. I believe he will enforce the laws even-handedly and be a fine Attorney General.

Mr. President, I would also like to respond to the issue of whether there have been religious attacks on Senator Ashcroft.

Article VI of our Constitution, while requiring that Officers of the government swear to support the Constitution, assures us that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." I fear that with regard to the nomination of John Ashcroft to be Attorney General of the United States, we are coming very close to violating the spirit, if not the letter of that assurance.

Mr. President, John Ashcroft has been attacked as a dangerous zealot by many of his opponents, who suggest that his faith will require him to violate the law, or as a liar who cannot be trusted when he says he will uphold the law, even when he disagrees with it, as he has in similar circumstances in the past.

I think the corrosive attacks on a qualified nominee because of his religious beliefs not only weakens our constitutional government, but also undermines the ability of citizens in our democracy to engage in a meaningful dialog with each other. When such attacks are made on the ground that a man's faithful conviction will prevent him from discharging the duties of his office, whole segments of our democracy are disenfranchised, and the American heritage of religious tolerance is betrayed.

Let me point to just a few instances of these amazing attacks on Senator Ashcroft, made on largely religious grounds, since he was nominated.

Let me begin with the testimony of Professor James M. Dunn, who testified at our Senate hearings as an expert on religion issues. I begin here because Professor Dunn is the most explicit in his religious attack on Senator Ashcroft.

Professor Dunn says explicitly what others have coyly and carefully implied. He says, and I quote what is essentially the thesis statement of his testimony before the Judiciary Committee: "the long history of Senator Ashcroft's identification with and approval of the political agenda of religious, right-wing extremism in this country convinces me that he is utterly unqualified and must be assumed to be unreliable for such a trust."

Let me quote that point again, "the long history of Senator Ashcroft's identification with and approval of . . . religious, right-wing extremism in this country convinces [Professor Dunn] that he is utterly unqualified and must be assumed unreliable for such a trust."

That is about as baldly as the matter can be put. John Ashcroft is "utterly unqualified" and "unreliable" because of his "religious, right-wing extremism."

As if the name-calling were not enough, to make this an even more stunning assertion, the case Professor Dunn offers to prove this perceived "extremism" is that John Ashcroft was the "principal architect" of the so-called "charitable choice" legislation which was passed by the Congress and signed by President Clinton in 1996.

To suggest that duly passed legislation, adopted by two branches of government controlled by different political parties is outside the mainstream is simply ludicrous, and suggests that the one outside the mainstream is not Senator Ashcroft, but rather his critics. This is a point that could be made on a number of policy fronts.

Well, I am disappointed when policy disagreements deteriorate into name-calling, but considering the source I am particularly disappointed. I would hope that the United States Senate would never countenance such attacks in the consideration of this, or any other, nominee. I hope no weight will be given to such intemperate vitriol, nor more guarded attacks made in the same spirit. And I hope that none of my colleagues would join in such attacks, whether explicitly stated or couched in more careful language.

But I am glad that at least Professor Dunn's clear statement can put to rest the question of whether Senator Ashcroft is being attacked in part on his religious beliefs. Dunn is not alone, either. For example, Barry Lynn, of Americans United for Separation of Church and State, in attacking Senator Ashcroft's nomination also cites charitable choice—again, a law adopted by two branches of government controlled by two different parties—as an instance of Ashcroft's "extreme views." And to underscore the broader point, Lynn points to the apparently decisive fact that "Religious Right leaders find Ashcroft's fundamentalist Christian world view and his far-right political outlook appealing." Let us be clear here: the charge is guilt by association with religious people.

As a number of my colleagues have suggested that the nominee might want to apologize for some of his associations or take the opportunity to dissociate himself from them, I would invite my colleagues to show a similar indignation for these attacks on people of faith, and dissociate themselves from these intolerant statements, unless they too would like their silence to be considered approval of such intolerance. Perhaps there needs to be greater sensitivity shown here.

In addition to such explicit attacks, others attack Senator Ashcroft because his religious beliefs can be viewed as diverging from the legal results favored by far left liberal interest groups.

For example, in the area of abortion, Ms. Gloria Feldt, the president of Planned Parenthood Federation of America criticized Senator Ashcroft for "his belief that personhood begins at fertilization," saying that his view is "one of the most extreme positions among those who oppose a woman's right to make her own reproductive choices, John Ashcroft actually believes that personhood begins . . . at the moment that sperm meets egg, the moment of fertilization." Well, call it extreme if you will—that word is a hobby horse of the far left liberal groups who oppose this nominee—but I understand that is the position of a number of churches, including the Catholic church. What is striking and chilling about this attack is the implication that anyone who holds this belief, including believing members of many churches, including the millions of believing Catholics, are unfit for the office of Attorney General because of their "extreme positions." Surely, the Senate cannot take the position that faithful Americans who adhere to the pro-life doctrines of their churches, or even those who are pro-life on secular grounds, are unfit for office because of this view.

Besides undermining our basic assumptions supporting the rule of law, this critique leads to a second, and more chilling result for religious tolerance, namely that of Senator's judging a nominee on the basis of their views of the nominee's religious faith and that faith's priorities. John Ashcroft responds to those who criticize him for his beliefs about abortion and the beginning of life, for example, by stating that his religion requires him to follow the law as written when he is filling an enforcement role, and his oath to do that will be binding on him. Those who challenge his veracity on this point are picking and choosing which of Senator Ashcroft's religious beliefs they feel are genuine or which religious principle has priority for him. I think this moves dangerously close to the line of imposing a religious test on a nominee.

Perhaps we can ask a nominee the general question whether there is anything that would keep them from fulfilling their duties, but I do not think it appropriate to assume that someone is unfit for a job because we have preconceptions about what their sect believes and then criticize them if their answers do not fit our preconceptions of what they should believe. We need to tread very carefully here. And we would do well in such matters to give the benefit of the doubt to the nominee. We have certainly given the benefit of the doubt to the last President when we had qualms about the quality or credentials of some of his nominees, or their policy positions. But we owe a special duty to resolve doubts in favor of a nominee when questions stem from our assumptions about a nominee's religious beliefs, especially in the face of the nominee's contradiction of our assumptions.

Mr. President, I think we would all do well to remember what we know about John Ashcroft, and not be influenced by a caricature painted by those extreme groups whose distortions of this honorable man are driven largely by their own narrow political interests. We know John Ashcroft is the sort of person whose word is his bond. And if his religion is relevant, it speaks for him as a person who will discharge the office of Attorney General with honor and dignity, with impartiality, according to the law.

I think if we examine our hearts, we will find nothing that disqualifies John Ashcroft to be Attorney General. And we cannot, in good conscience, say that all those Americans who believe as he does are outside the mainstream of American opinion. No, they are solidly within the history of American pluralism and freedom, including religious freedom. We know John Ashcroft will faithfully discharge his duties and honor his oath of office no matter what the liberal pressure groups assert. I hope we will similarly honor our oaths, rejecting what has become in essence a religious test for this nominee, and vote to confirm this honorable man to the post of Attorney General.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Illinois wishes to speak now. He has indicated he will take about 10 minutes. Following that, I ask unanimous consent that I be allowed to speak and, following that, Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I rise in support of John Ashcroft in his nomination as our Nation's Attorney General.

This nomination debate and the consideration of John Ashcroft's nomination is much different for me than my consideration of all the other nominees to President Bush's Cabinet. It is different for the reason that in the case of most other nominees, I do not know those individuals personally. Of course, I did know Senator Abraham who served well with us and has now been confirmed as our Nation's Energy Secretary. But with the exception of Senators Abraham and Ashcroft, most of the nominees come to me just from what I have heard, what I have seen in the newspapers, what others have written about those people. I do not have the personal experience that I have had in the case of John Ashcroft.

I knew John Ashcroft before I joined the Senate over 2 years ago. I got to know him a little bit during the time I was running for Senator from Illinois. Then, of course, once I was sworn into office, I had the privilege of working with John Ashcroft on a regular basis. I worked with him for 2 years side by side, sometimes day in and day out.

My State of Illinois is right next door to the State of Missouri, so perhaps I have had the privilege of getting to know John Ashcroft and working with him more closely than many of the other Members of this body.

We, of course, have many issues that Illinois and Missouri share in common. We have a similar agricultural economy where corn and beans are the prevailing crop. We also have the Mississippi River that divides our two States. We are frequently working together on issues of concern to the Mississippi River. We also share the Greater St. Louis metropolitan region. Most of that region is in John's State of Missouri, but a large portion of it, maybe 20 percent of it, actually is across in the eastern part of the Mississippi River and in my State of Illinois. We were constantly discussing issues of job creation and economic opportunities in the Greater St. Louis region.

In addition, I had the opportunity to work closely with John insofar as he was a supporter of a bill that I sponsored last year to improve the standards on child safety seats in this country. The bill went through the Senate Commerce Committee. In fact, I believe John was chairman of the subcommittee in which that issue was first taken up.

I also worked very closely with Senator Ashcroft on the issue of sanction reform. Both John and I and many others, representing particularly midwestern States, were very concerned that some of the sanctions our Government put on other countries, banning the sale of products from our country to other countries around the world that may have bad records in one regard or another, were hurting people that they were not intended to hurt and were not affecting the governments. At the same time, they were shooting our own farmers in the foot.

I supported John's efforts to lift the sanctions with respect to food and medicine that our country had placed on a number of nations around the world.

There are many other issues. In fact, my staff gave me two pages of issues that I worked very closely on with John Ashcroft. I am not going to go through and rebut one by one all the little points that have been made. In fact, I think many people have already done a good job rebutting some of the disinformation that has been put out. I think Senator Ashcroft did an outstanding job defending his own record before the Senate Judiciary Committee.

Of the people I have known over the course of my public life, I would have to tell my colleagues that John Ashcroft has few equals in terms of character and integrity. John Ashcroft is a man of utmost character and integrity—as much, if not more so, than anyone else I have ever met in public life.

When I heard that President Bush had nominated John Ashcroft to be Attorney General, I knew that I had disagreed with John Ashcroft on many issues during the course of the last 2 years. I had voted differently than he on any number of issues, maybe some of which have been used as an argument against John Ashcroft. But I thought: Thank God that President Bush has had the wisdom to put someone who is absolutely unimpeachable, irreproachable, and an absolute straight arrow in that office of Attorney General.

I believe character and integrity are, hands down, the most important qualifications for that job and, indeed, just about any job in public life. Many people have raised the question, Will John Ashcroft enforce the laws? Clearly, there are many laws on the books that he would not have voted for and did not vote for, or, if they came up again, would not vote for. There are many laws on the books that many of us would not have voted for.

But when the question comes up about John Ashcroft enforcing the laws, the thought that has gone through my head is, I know John Ashcroft well enough to believe with wholehearted confidence that if John Ashcroft says he will enforce the laws, he will enforce the laws. He is so stellar, so 24-carat is his honor and integrity, that I believe him without question.

One of the other things that really has not been discussed or brought up in adequate defense of John Ashcroft—as bright as all my colleagues are in this illustrious body, the Senate, so many of whom are brilliant and had brilliant academic careers—is that I have to say John Ashcroft is one of the brightest and most articulate public servants with whom I ever had the privilege of serving. I think you can see that if you look at his early career and his undergraduate degree from Yale. He attended the University of Chicago Law School, a renowned institution in my home State. And many people do not even know that this man, who has spent most of his life in public office in so many different elected posts in the State of Missouri, was in fact a coauthor, I believe, with his wife of a business law textbook. It is hard to imagine when he found the time to do that. But so brilliant, so talented, and hard-working is John that he has a remarkable degree of accomplishment in academics, in public service, and in music and other areas. He is a wonderful, outstanding man.

Finally, without belaboring this subject on which I think the points and counterpoints have been made now thoroughly on both sides of the aisle, the final thought with which I would like to leave the Senate is that the attacks that have been made on John Ashcroft simply don't compute with the John Ashcroft from my neighboring State whom I knew and served with day in and day out for 2 years.

I don't think even the people of Missouri would recognize the characterizations of this man whom they elected to be their attorney general, their Governor, and their Senator and who has had such a long and distinguished career. And even before he was an elected officer, he was the State auditor of the State of Missouri. He is one of the most qualified people ever to be nominated for the office of Attorney General.

I urge my colleagues, some of them who may disagree with votes John Ashcroft may have taken in his many years in the Senate, to reconsider and think about how important is his character and integrity, and just the fact that we can all sleep well at night knowing we have an absolute straight arrow in the highest law enforcement position in this country.

Thank you very much, Mr. President.

Mr. LOTT. Mr. President, I ask unanimous consent that beginning at 9 a.m. on Thursday, the Senate resume the Ashcroft nomination in executive session and the time be allocated in the following fashion: 9 a.m. to 9:15 under the control of the majority party; 9:15 to 9:30 under the control of Senator HARKIN; from 9:30 to 9:45 under the control of Senator JOHNSON; from 9:45 to 10 a.m. under the control of the majority party; from 10 a.m. until 10:15 under the control of Senator SARBANES; from 10:15 to 10:30 under the control of the majority party; from 10:30 to 10:45 under the control of Senator LIEBERMAN; from 10:45 to 11 a.m. under the control of the majority party; from 11 o'clock to 11:10 under the control of Senator EDWARDS; from 11:10 to 11:15 under the control of Senator GRAMM of Texas; from 11:15 to 11:45 a.m. under the control of Senator WELLSTONE; Senator LEAHY or his designee from 11:45 to 12:15; Senator HATCH or his designee in control from 12:15 to 12:45 in the afternoon; and Senator DASCHLE or his designee from 12:45 in the afternoon to 1:15; Senator BOND in control from 1:15 to 1:30; and Senator LOTT in control from 1:30 to 1:45.

I ask unanimous consent that at 1:45 the Senate proceed to a vote on the confirmation of the nomination of John Ashcroft to be Attorney General of the United States.

Mr. LEAHY. Reserving the right to object, and I will not object, if I could ask the distinguished leader, this locks in the vote at 1:45. Is it his assumption that should everybody have used up their time prior to that, there may be a new request to move the vote time earlier?

Mr. LOTT. I believe this would indicate that the vote will be not later than 1:45. If Senators yield back their time or don't use the entire time, and we could finish at an early hour—11:30 or 12:00—I would be very appreciative of that. I would be willing to yield some of my own time to accomplish that. If we see we are ready to proceed to a vote at noon tomorrow, certainly, I would like to be able to do that.

I thank Senator LEAHY, and especially Senator REID, for working this agreement out, and to all Senators who have been willing to accomplish it so we can complete this debate and get a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. In light of this agreement, the next vote will occur on the confirmation of our former colleague, Senator John Ashcroft, not later than 1:45 p.m. tomorrow, and earlier if the time has been yielded back and we are ready to proceed to a final vote.

Mr. REID. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. REID. After Senator KENNEDY, I will make a statement, and Senator GRAHAM from Florida will make a statement. I say to all the Senators, either with the majority or the Democratic side, if they feel they still want to talk, they can come and talk tonight.

Mr. LOTT. I believe we have some Senators committed to speak after that, at least two more within the next hour, interspersed with other speakers.

Mr. REID. The point I make, no one should complain they don't have the ability to talk.

Mr. LOTT. It is not that late by Senate time. I believe we have one speaker who will speak at 7:50 or so, and if other Senators who haven't spoken would like to get in the queue, we would like them to do that, or Senators who were thinking they want to wait until tomorrow, I think it would be well received if they could go ahead and speak tonight.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the order of speakers be reversed and that Senator KENNEDY precede the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the leaders. I will just take a few moments to respond to some points that were made earlier in the day by my friend and colleague, the Senator from Utah, Mr. HATCH.

Earlier this morning I took the time to review the history of the challenges that were there for St. Louis in terms of desegregation of the schools and the actions that were taken or failed to be taken by the nominee, Mr. Ashcroft. I took a considerable amount of time to review the whole history and review the cases there. I drew the conclusion that there was a gross failure of, I think, judgment in terms of taking the necessary steps to protect the interests of the children. Those cases were later challenged during the course of the afternoon, and I would like to respond very briefly and then to conclude with the remainder of my remarks that I had this morning, which, because others were here on the floor, I did not have the time to do.

My food friend from Utah talked earlier about the St. Louis desegregation case. Unfortunately, he continued the pattern on the other side of expressing outrage about the fact that desegregation can be expensive, without being outraged by the injustice being done to the African American children in St. Louis.

The simple fact is that Senator Ashcroft spent his career as attorney general denying the facts of discrimination and segregation. He continued to deny them at his confirmation hearing, and many of our colleagues are attempting to deny them on the floor of the Senate.

The facts are clear. The state of Missouri was found guilty by the courts of segregating the schools and keeping them segregated all the way through the 1970s. The court's findings in 1980 made very clear that the state was aggressively maintaining segregation. Even black families who had moved out to the suburbs saw their children bused back into the inner-city to black schools. As the court ruled in 1982:

> We held . . . that the state had substantially contributed to the segregation of the public schools of the City of St. Louis . . . the state defendants are primary constitutional wrongdoers and, therefore, can be required to take those actions which will further the desegregation of the city schools, even if the actions required will occur outside the boundaries of the city school district.

Yet Senator Ashcroft continued to insist that the state was "found guilty of no wrong."

Some of our colleagues claimed that Senator Ashcroft's position was vindicated by the Supreme Court in Missouri v. Jenkins. But the Jenkins case was from Kansas City. It had nothing to do with St. Louis.

The Supreme Court rejected every one of Ashcroft's three appeals in the St. Louis case. He also complained that some of the money went to the suburban schools. It went for the students who transferred to the suburban schools; that is Public School Choice. He said that the test scores went down in St. Louis in the nineties.

What is clear, is that the students who transferred had consistently twice to three times the graduation rate, and in some districts, 90 percent of the graduates went on to college.

Defenders of Senator Ashcroft also claimed that desegregation in Missouri was more expensive than anywhere except California. We all know what made it expensive—the unrelenting 16 year fight against doing anything to fix the problem by Senator Ashcroft when he was Attorney General and Governor of the State.

If Senator Ashcroft was simply protecting the state's treasury he could easily have proposed a cheaper alternative to the court. If he was concerned that the courts was ordering desegregation, he could easily have supported a state law to correct the problem.

In fact, the state is not paying for the plan anymore, and that's because Senator Ashcroft successors, Attorney General Jay Nixon and Governor Mel Carnahan, provided the leadership needed to settle the cases and start improving education for all the children in St. Louis.

Earlier, I spoke at length about Senator Ashcroft's record on civil rights—especially, school desegregation and voting rights—and his record on women's rights and gun control. At this time, I intend to discuss Senator Ashcroft's treatment of judicial and executive branch nominees.

I know others have referenced some of them, but I want to underscore my own reaction and response to the handling of these nominations by Senator Ashcroft.

Senator Ashcroft's handling of judicial and executive branch nominations raises deep concerns. In four of the most divisive nomination battles in the Senate in the six years he served with us, Senator Ashcroft was consistently involved in harsh and vigorous opposition to the confirmation of distinguished and well-qualified African Americans, an Asian American, and a gay American.

When President Clinton nominated Judge Ronnie White of the Missouri Supreme Court to be a federal district court judge, Senator Ashcroft flagrantly distorted the record of the nominee and attacked him in the strongest terms. He accused Judge White of being "an activist with a slant toward criminals." He accused him of being a judge with "a serious bias against a willingness to impose the death penalty." He accused him of seeking "at every turn" to provide opportunities for the guilty to "escape punishment." He accused him of voting "to reverse the death sentence in more cases than any other [Missouri] Supreme Court judge."

When questioned about Judge White's nomination, Senator Ashcroft did not retreat from his characterization of Judge White's record, although a review clearly demonstrates that Senator Ashcroft's charges were baseless. It's clear that Senator Ashcroft distorted the record in order to portray Judge White's confirmation as a referendum on the death penalty.

Senator Ashcroft had decided to use the death penalty as an issue in his campaign for re-election to the Senate, and to make his point, he cruelly distorted the honorable record of a distinguished African American judge and denied him the position he deserved as a federal district court judge. As I said at the hearing, what Senator Ashcroft did to Judge White is the ugliest thing that has happened to a nominee in all my years in the Senate.

Senator Ashcroft was also asked about the nominations of Bill Lann Lee to serve as Assistant Attorney General for Civil Rights, Dr. David Satcher to serve as Surgeon General of the United States, and James Hormel to serve as U.S. Ambassador to Luxembourg.

Senator Ashcroft told the committee that he could not support Mr. Lee because he had "serious concerns about his willingness to enforce the Adarand decision" on affirmative action. In truth, however, Mr. Lee's position on affirmative action was well within the mainstream of the law, and he repeatedly told the committee that he would follow the Supreme Court's ruling in the Adarand case. As Senator LEAHY said during the Ashcroft confirmation hearings,

> Mr. Lee testified on a number of occasions—in fact, testified under oath, including, incidentally, directly in answer to your questions, that he would enforce the law as declared in Adarand. And he also said, in direct answer to questions of this committee, he considered the Adarand decision of the Supreme Court as the controlling legal authority of the land, that he would seek to enforce it, he would give it full effect . . .

That wasn't sufficient for Senator Ashcroft and he continued to oppose, and oppose strongly, this extraordinarily well-qualified, committed, and dedicated public servant.

Similarly, Senator Ashcroft said he did not support Dr. Satcher to be Surgeon General because he:

> . . . supported a number of activities that I thought were inconsistent with the ethical obligations of a medical doctor and a physician, particularly the surgeon general . . . for example he supported an AIDS study on pregnant women in Africa where some patients were given placebos, even though a treatment existed to limit transmission of AIDS from the mother to the child . . . I, secondly, believed his willingness to send AIDS-infected babies home with their mothers without telling their mothers about the infection of the children was another ethical problem that was very serious.

In fact, at the time of the debate on the Satcher nomination in 1997, approximately 1,000 babies were born with HIV every day. Most of the births were in developing countries, where the U.S.-accepted regimen of AZT treatment is not practical because of safety and cost concerns. In 1994, the World Health Organization had called a meeting of international experts to review the use of AZT to prevent the spread of HIV in pregnancy. That meeting resulted in the recommendation that studies be conducted in developing countries to test the effectiveness and safety of short-term AZT therapy that could be used in developing countries and that those studies be placebo-controlled to ensure safety in areas with various immune challenges. Approval was obtained by ethics committees in this country and the host countries and by the UNAIDS program.

The studies were supported by many leaders in the medical field, and the facts undermine Senator Ashcroft's criticism of Dr. Satcher.

Senator Ashcroft also mischaracterized Dr. Satcher's role in the survey of HIV child-bearing women. In 1995, seven years after the survey began during the Reagan Administration, Dr. Satcher, as acting CDC director, and Dr. Phil Lee, former Assistant Secretary for Health, halted the HIV survey. They did so because of a combination of better treatment options for children with HIV, the discovery of a therapeutic regimen to reduce mother-to-infant HIV transmission, and a greater ability to monitor HIV trends in women of childbearing age in other ways.

Dr. Satcher's participation in the survey was justified, and it was not a valid reason for Senator Ashcroft to deny him confirmation as Surgeon General.

It was a gross distortion of his record in this situation. To criticize him for taking actions which were inconsistent with ethical considerations in that case was a complete distortion of the record.

The case of James Hormel is also especially troubling. When Mr. Hormel was nominated by President Clinton to serve as Ambassador to Luxembourg, Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee to oppose the nomination. Although Senator Ashcroft voted against Mr. Hormel, Senator Ashcroft did not attend the confirmation hearings, did not submit written questions, and refused Mr. Hormel's repeated requests to meet or speak by phone to discuss the nomination.

Generally, as a matter of courtesy, if a nominee asks individual members to meet with them to explain their positions, respond to questions, as long as it have been in the Senate that has been a privilege that has been extended. But not by Mr. Ashcroft to Mr. Hormel, in spite of repeated requests.

In 1998, when asked about his opposition to Mr. Hormel's nomination, Senator Ashcroft stated that homosexuality is a sin and that a person's sexual conduct:

> [I]s within what could be considered and what is eligible for consideration.

Senator Ashcroft also publicly stated in 1998 that:

> [Mr. Hormel's] conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator LEAHY asked Senator Ashcroft at the Judiciary Committee hearings whether he opposed Hormel's nomination because of Hormel's sexual orientation. Senator Ashcroft responded "I did not." Instead, Senator Ashcroft claimed that he had "known Mr. Hormel for a long time"—Mr. Hormel had been a dean of students at the University of Chicago law school when Senator Ashcroft was a student there in the 1960s. Senator Ashcroft repeatedly testified that he based his opposition to Mr. Hormel on the "totality of the record."

Mr. Hormel was so troubled by Senator Ashcroft's testimony that he wrote to the committee and said the following:

> I want to state unequivocally and for the record that there is no personal or professional relationship between me and Mr. Ashcroft which could possibly support such a statement.

The letter continued:

> I have had no contact with him [Ashcroft] of any type since I left my position as Dean of Students . . . nearly thirty-four years ago, in 1967 . . . For Mr. Ashcroft to state that he was able to assess my qualifications . . . based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous . . . I find it personally offensive that Mr. Ashcroft, under oath and in response to your direct questions, would choose to misstate the nature of our relationship, insinuate objective grounds for voting against me, and deny that his personal viewpoint about my sexual orientation played any role in his actions.

We should all be deeply concerned about Senator Ashcroft's willingness to mislead the Judiciary Committee about his reasons for opposing the Hormel nomination. As the St. Louis Post-Dispatch noted on January 22, 2001:

> [T]he most disturbing part of Mr. Ashcroft's testimony was the way in which he misstated important parts of his record.

Senator Ashcroft's efforts to derail the nominations of these four distinguished men was grounded in a distortion of the facts. In every case, He twisted events to suit his purposes and held the nominees to a standard by which he could not be confirmed.

Sadly, the facts surrounding these nominations represent the tip of the iceberg. Year after year, Senator Ashcroft worked to prevent the confirmation of talented women and minorities—Marsha Berzon, Richard Paez, Margaret McKeown, and others. In some instances he was successful and—

fortunately—in others, he was not. But, what is most disturbing is Senator Ashcroft's unfair treatment of well-qualified men and women, and, what appears to be, a fundamental misunderstanding of the role of a federal jurist or the role of a member of the President's Cabinet.

I want to mention Senator Ashcroft's decades-long opposition to gun control legislation.

Senator Ashcroft is closely tied to the gun lobby and he has often accepted contributions from these organizations and supported their agendas. During the hearing, he told us that keeping guns out of the hands of felons is a "top priority" of his. Yet, in 1998, this did not seem to be a top priority for him. He supported an NRA-sponsored ballot initiative that would have allowed almost anyone to carry concealed guns in Missouri. The proposal was so filled with loopholes that it would have allowed convicted child molesters and stalkers to carry semi-automatic pistols into bars, sports stadiums, casinos and day care centers. The proposal was opposed by numerous law enforcement groups and many in the business community. Proponents of the measure say Senator Ashcroft volunteered his help to support the referendum, even recording a radio and endorsing the proposal. Senator Ashcroft stated in response to written questions that:

> Although [he did] not recall the specific details, [his] recollection is that supporters of the referendum approached [him] and asked [him] to record the radio spot.

The fact remains that Senator Ashcroft did support the referendum and did record the radio spot. Few can doubt that as a seasoned politician, Senator Ashcroft made himself fully aware of the contents of the referendum before lending his name to it. And if he did not, there is even greater reason to question his judgment and suitability for such a high and important position in our Federal Government.

Senator Ashcroft championed the NRA's concealed weapon proposition in 1998. But in 1992, while governor of Missouri, he had voiced his concerns about such a measure. As governor, he stated he had "grave concerns" about concealed carry laws. He stated:

> Overall, I don't know that I would be one to want to promote a whole lot of people carrying concealed weapons in this society.

He further stated:

> Obviously, if it's something to authorize everyone to carry concealed weapons, I'd be concerned about it.

When asked about his change of view in deciding to support the 1998 initiative, Senator Ashcroft said he changed his position because of "Research plus real-world experiences."

However, Senator Ashcroft's research was so flawed that he responded to written questions that "[t]o the extent there were loopholes in Missouri law" that would permit convicted child molesters and stalkers to carry concealed weapons, he was "unaware of those provisions at the time." Later, it was reported that the gun lobby spent $400,000 in support of Senator Ashcroft's Senate reelection campaign. He became:

> the unabashed celebrity spokesman . . . for the National Rifle Association's recent attempts to arm citizens with concealed weapons in Missouri.

That is according to a column by Laura Scott in the Kansas City Star.

The Citizen's Committee for the Right to Keep and Bear Arms gave Senator Ashcroft the "Gun Rights Defender of the Month" Award for leading the opposition to David Satcher's nomination to be Surgeon General. The group objected to Dr. Satcher because he advocated treating gun violence as a public health problem.

Based on his close ties to the gun lobby and his strong support for their agenda, it is difficult to have confidence that Senator Ashcroft will fully and fairly enforce the nation's gun control laws and not seek to weaken them.

Senator Ashcroft has shown time and time again that he supports the gun lobby and opposes needed gun safety measures. Given the important litigation in the Federal courts, it is imperative to have an Attorney General who will strongly enforce current gun control laws such as the Brady law, the assault weapons ban, and other statutes. It is also important to have an Attorney General with a responsible view of proposed legislation when the Department of Justice is asked to comment on it.

In conclusion, the Attorney General of the United States leads the 85,000 men and women who enforce the Nation's laws in every community in the country. The Attorney General is the Nation's chief law enforcement officer and a symbol of the Nation's commitment to justice. Americans from every walk of life deserve to have trust in him to be fair and just in his words and in his actions. He has vast powers to enforce the laws and set priorities for law enforcement in ways that are fair or unfair—just or unjust.

When a President nominates a person to serve in his Cabinet, the presumption is rightly in favor of the nominee. But Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that. Americans are entitled to an Attorney General who will vigorously fight to uphold the law and protect our constitutional rights. Based on a detailed review of his long record in public service, Senator Ashcroft is not that man. I urge the Senate to vote no on this nomination.

Mr. HATCH. Mr. President, my colleague Senator KENNEDY continues to mischaracterize Senator Ashcroft's record with regard to school desegregation. First, let me say that I do not in the least condone segregation in St. Louis or Kansas City or anywhere else. It is a shameful legacy that must be dealt with appropriately.

Second, while the costs of the desegregation program were exorbitant this is not the only criticism to be made of the plans. The primary argument repeatedly made by Senator Ashcroft is that the state was never found liable for an inter-district violation.

Senator KENNEDY refers to an 8th circuit decision that he argues found the State of Missouri guilty of an inter-district violation. But a circuit court cannot make such a factual finding. Rather this is a finding that must be made by the trial court.

The fact that the State was never found liable for an inter-district violation is shown by the fact that throughout 1981 and 1982 the parties were preparing for a trial on the very question of inter-district liability.

So again, I emphasize that it is true and correct to say that the State was never found liable for an inter-district violation.

Although the State was not found liable for an inter-district violation it was required by the district court to pay for a settlement reached by the suburbs and the City of St. Louis. This order by the district court was likely unconstitutional under the Supreme Court's decision in Milliken.

Opposing these court orders for a plan that was constitutionally suspect, expensive, and ineffective, does not make Senator Ashcroft an opponent of desegregation.

Indeed, the plan as implemented has been a dismal failure. Test scores actually declined from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. And the graduation rate has remained around a dismal 30 percent.

He has repeatedly stated the opposite position.

To question Senator Ashcroft's integrity over such a complicated and controversial issue is to seriously distort his record and disbelieve his sworn testimony.

Senator Ashcroft acted with great probity as representative for the State of Missouri. He supports integration and deplores racism.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Department of Justice is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, is that justice shall be done.

That obligation of impartiality, oft repeated by the Supreme Court, courses as the lifeblood through all departments of any fair and representative government. From it springs the confidence in government which is the presupposition central to the Founding Fathers' basic premise; that government derives its proper power only from the consent of the governed.

When George W. Bush campaigned for the presidency, when he took his oath of office, he promised the American people that he would not divide our house against itself. I took him at his word.

When he nominated John Ashcroft as Attorney General I kept an open mind and determined that I would, as I have always tried to do in the past, judge the nominee upon the evidence presented regarding his fitness for office, and that I would give the chief executive what leeway I could in his choice of people to carry out his plans and policies. That license, however, is not unlimited, for it is also my obligation to pass upon the nominee; to weigh the evidence of his or her past and determine how it will affect our country's future.

I have weighed the facts revealed before the Judiciary Committee to the best of my ability. The evidence has convinced me that Mr. Ashcroft has demonstrated real and substantial biases against women, people of color, gays and lesbians, and anyone else who does not meet his personal definition of what constitutes a true American. Not only has he shown that pervasive bias, he has repeatedly acted upon it as attorney general and Governor of Missouri and as a member of this body.

It is with sadness I stand here tonight to say that the facts have forced me to two conclusions. First, John Ashcroft, while he has many fine qualities, he is not the person to be this country's chief law enforcement officer. Second, while President George W. Bush may wish to be a unifier, he is not willing to put unity above partisan appeal to the most extreme elements in the Republican Party.

To President Bush I say this. Please remember that it was the first Republican President, Abraham Lincoln, who quoted from the Bible these words, "A house divided against itself cannot stand." You, President Bush, campaigned on a platform of unification of this Nation. I will support every effort of yours to do so, but unification does not mean that we abandon our commitment to fairness and impartiality and essential decency in government.

To John Ashcroft, I say that I cannot confirm to an office whose obligation to govern impartially is as compelling as his obligation to govern at all; and whose interest, is that justice shall be done a man who has repeatedly and pervasively demonstrated that he is not impartial, and that he judges individuals not by the content of their souls but rather by the tint of their ideology. I cannot confirm a man who allows his bias against another's most personal lifestyle choices to effect his decision on whether that individual is fit to enter public service. I cannot confirm a man who prevents women from options to which they should be entitled. I cannot confirm as Attorney General anyone who will not confer upon that office the impartiality it demands and, most importantly, deserves.

Mr. President, I cannot for the women of Nevada, for the people of Nevada, vote to confirm John Ashcroft as Attorney General of the United States.

So when my name is called by the clerk of the Senate, I will respond without hesitation "No."

Mr. NELSON of Florida. Mr. President, many of my Democratic colleagues rose today and expressed their objections to the nomination of former Senator Ashcroft to be Attorney General of the United States. I do not wish to recapitulate their arguments, but I share many of their concerns regarding his nomination. I believe former Senator John Ashcroft has been a dedicated public servant who has acted in what he felt was the public's best interest. But his record has stirred controversy on a wide-range of issues. The position of attorney general is one of great importance to the people of the United States. An Attorney General must unite the citizens. Unfortunately, Senator Ashcroft's record has tended to be divisive rather than unifying.

Most importantly, many Floridians are afraid that Senator Ashcroft will turn back the clock on civil rights after all the progress that has been made over the years. Based on his record and his testimony before the Judiciary Committee, I share their concern.

An Attorney General, of all the Cabinet officers, must be perceived to be the most vigilant enforcer of the law, an attorney who will represent all the people's interest. I am afraid this nomination does not meet that test. Thus, I am voting against confirmation.

Mr. FEINSTEIN. Mr. President, I truly believe that a President is entitled to his, or her, cabinet. I am aware that virtually all of President Clinton's cabinet was approved by voice vote, with one exception, which was a roll call vote, and that nominee was overwhelmingly approved.

However, the background record of this nominee is not mainstream on the key issues. I know he is strong and tough on law and order issues. However, his views on certain issues—civil rights and desegregation, a woman's right to choose and guns—make him an enormously divisive and polarizing figure.

This record can best be characterized as ultra-right wing. That is not where most of the people in this nation are.

Senator Ashcroft's commitment to enforce the law in view of the extremeness of his record, as well as, on occasion, the harshness of his rhetoric, makes it difficult to believe that he can, in fact, fairly and aggressively enforce laws he deeply believes are wrong.

When Senator John Ashcroft opposed Bill Lann Lee's nomination to head the Civil Rights Division at the Department of Justice, he argued that Lee was "an advocate who is willing to pursue an objective and to carry it with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration . . . his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs [the Civil Rights] Division."

If the Senator's own standard is applied to this nomination, he would not be confirmed.

Last week, this committee held four days of hearings into the nomination of Senator Ashcroft. During that time, we witnessed a man who had undergone a major transformation on many key issues of importance to the people of my State and the nation. The question that each Senator must now ask, is whether that transformation is plausible after more than 25 years of advocating the other side.

On a woman's right to choose, for example, the new John Ashcroft would have us believe that he fully accepts Roe v. Wade as the law of the land, and he will do nothing to try to overturn it. He would fully fund task forces to protect women as they enter abortion clinics, and stated firmly that "no woman should fear being threatened or coerced in seeking constitutionally protected health services."

Contrast that with the John Ashcroft of the past 25 years, who has long argued that there is no constitutional right to abortion at all, that Roe v. Wade was wrongly decided, and in 1998 wrote that "If I had the opportunity to pass but a single law. I would . . . ban every abortion except those medically necessary to save the life of the mother." This John Ashcroft supported a constitutional amendment to ban virtually all abortions, even in the cases of rape and incest—an amendment that would also likely ban some of the most common forms of birth control, including the pill and the IUD.

The John Ashcroft of 25 years once stated, "Battles (for the unborn) are being waged in courtrooms and state legislatures all over the country. We need every arm, every shoulder, and every hand we can find. I urge you to enlist yourself in that fight." The new John Ashcroft claims to have laid down his arms entirely.

On gun control, the new John Ashcroft says he supports background checks at gun shows, says that he voted to deny the right to bear arms to domestic violence offenders, and says he would support re-authorizing the assault weapons ban when it expires in 2004, although he has called it "wrongheaded."

The old John Ashcroft, on the other hand, voted against mandatory background checks at gun shows, trigger locks on guns sold, and a ban on large capacity ammunition magazines. He supported a concealed weapons law that would allow the people of Missouri to carry a concealed firearm into a grocery store, a church, or on school grounds or on a school bus, superceding the Federal Gun Free Schools Act. He was, and still may be, an active member of the National Rifle Association.

On civil rights, the old John Ashcroft strenuously fought a desegregation plan in Missouri. In fact, the judge in the case stated that Attorney General Ashcroft, "as a matter of deliberate policy, decided to defy the authority of this court."

The old John Ashcroft spoke at Bob Jones University, that to this day remains highly questionable for its religious and racial bias; at the hearing he demurred when Senator BIDEN urged him to return the honorary degree and did not rule out returning to the college in the future.

And the old John Ashcroft, in stating his reasons for voting against James Hormel as Ambassador for Luxemburg, stated that Hormel had "actively supported the gay lifestyle," and that a person's sexual conduct is "within what could be considered and what is eligible for consideration" for ambassadorial nominees.

Yet the new John Ashcroft promises never to discriminate against gays or lesbians for employment and said the reason for voting against Ambassador Hormel was because he knew him personally. Mr. Hormel called to tell me that he not only does not know Mr. Ashcroft, but that the Senator had refused to meet with him prior to his confirmation.

For over a quarter-century of public life, John Ashcroft has established a record of right-wing conservatism, and of views far to the right of the average American, and even of many in his own party. Senator Ashcroft has spent a career fighting against a woman's right to choose. He obstructed the nominations of several women and minority candidates to the federal bench.

Senator Aschcroft said just two short years ago that 'There are voices in the Republican Party today who preach pragmatism, who champion conciliation, who counsel compromise. I stand here today to reject those deceptions. If ever there was a time to unfurl the banner of unabashed conservatism, it is now."

In 1997, Senator Ashcroft remarked that "People's lives and fortunes [have] been relinquished to renegade judges—a robed, contemptuous intellectual elite." He continued that "Judicial despotism . . . stands like a behemoth over this great land."

In a speech entitled "Courting Disaster: Judicial Despotism in the Age of Russell Clark," Senator Ashcroft reveals deep and antagonistic feelings toward the courts of our country with this sentence: "Can it be said that the 'people govern'? Can it still be said that citizens control that which matters most? Or have people's lives and fortunes been relinquished to renegade judges—a robed contemptuous, intellectual elite that has turned the courts into 'nurseries of vice and the bane of liberty'?"

And in the case of Missouri Supreme Court Justice Ronnie White's nomination to the federal bench, Senator Ashcroft was responsible for a dark day in the Senate. When a home-state Senator objects to a nominee, it is very unlikely that the nomination will go forward. But instead of quietly objecting early on and allowing White to withdraw his nomination with dignity if he so wished, John Ashcroft waited until the nominee reached the floor of the Senate—after waiting for two full years—to derail the nomination and humiliate the nominee by stating, "We do not need judges with a tremendous bent toward criminal activity."

Whatever Senator Ashcroft's problem with Ronnie White, there was no need to destroy White's reputation on the floor of the Senate, with no warning and no chance for Judge White to either defend himself or withdraw. This one act has become a stumbling block to my support, which I have not been able to get around. It says to me that it was done for political purposes.

Taken as a whole, Senator Ashcroft's positions and statements, in my view, do not unite, but rather divide. They send strong signals to the dispossessed, the racial minorities of our country, and particularly to all women who have fought long and hard for reproductive freedom that this Attorney General will not be supportive of laws for which they fought, no matter what he has said in the past weeks.

How can our citizens feel that this man will stand up for them when their civil rights are violated? How can the left out, the rape victim who needs an abortion have faith that this man would enforce their rights?

In the end, every Senator must live with his or her own vote, and for this Senator, that vote will be "no."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, as a Senator, I do not serve on the Judiciary Committee, but I have watched nearly every hour of their hearing on the confirmation of John Ashcroft to be our next Attorney General of the United States.

I have watched while men and women of good will, while attempting to speak in soft and mellow tones, have been intimidated and bludgeoned by the far left to such a point that we now hear them come to the floor of the Senate and reach to find excuses to vote against a man of good faith and a man of good will.

I am not an attorney, nor have I ever claimed to be, but as a human being who has served in public life for a good number of years and associated with a great many people, I believe I am a reasonable judge of character.

This afternoon, I heard a speech from one of my colleagues about seeing into the heart of John Ashcroft. That particular Senator said that once she had viewed the heart of John Ashcroft, she could not support him.

I suggest to that Senator that I have not seen into the heart of John Ashcroft, but I know it because I have lived near it and around it for the last 6 years. I know of its sincerity and its compassion. I know of its love of people and love of this institution. I know of its great patriotic pride for its country. I know of a heart that has served as a State attorney general, a Governor, a Senator, and who will soon serve as the U.S. Attorney General.

No, I have not seen the heart. I know the heart, and I know it to be a heart of compassion, but I also know it to be a heart of truth, one who, when he looks into the eyes of his colleagues and says, "I will enforce the laws of this Nation," he and he alone is telling the truth.

Why could we assume he would tell the truth when others in past years have failed that test? Because he is a moral and ethical Christian.

That is a very valuable and important definition to understand because if you meet that definition, you must enforce the law; it is within your character and your being that you do such. Lawmakers and law enforcers are different types of people, but within the character of the definition I have just given, they are people who, by their very being, must enforce the law. They cannot arbitrarily, they cannot philosophically, nor can they politically, adjust the law as we have seen it for 8 long years be adjusted to meet the politics of the day.

Quite the opposite happens with a man of the character of John Ashcroft; for if he does not like the law, if he does not feel it comports to his belief of what the culture and the character of our country ought to be, does he not enforce it? No. He turns to the lawmaking body, us, and says: You ought to change the law. It does not fit the character or the essence of the American way of life. But while it is here, I will enforce it as your Attorney General. You see, I must; it is my responsibility. I have taken the oath of office, and in taking that oath, I must uphold the law.

Yes, John Ashcroft is a Christian. He is a man of faith. My wife Suzanne and I know John and Janet Ashcroft well and personally. We have traveled around the country and around the world with them. He is a close, personal friend. In all of those times that we have traveled together, I have never heard him once speak ill of another human being. Not once have I ever heard him impugn the character of another human being.

Oh, John Ashcroft is a passionate man. He believes strongly in certain "isms." But most importantly, he believes in Jesus Christ. He is a Christian. That is a character valuable to the culture of our country.

What I have seen or what I have felt over the last several weeks is the ultimate test coming down on John Ashcroft. While it has not been spoken, I sincerely believe it has been implied, that if you are a Christian, if you are a person of faith, you cannot serve in public life and in public office in this country because it, in some way, "taints" the way you think, the way you act, the way you respond.

I offer that challenge up to all of my colleagues because if that is what is being implied by the far left today, then shame on them, for it is outside the character of this country and it is outside the Constitution of this country.

Let me read from article VI. The last full paragraph of that article says:

> The Senators, and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

That is the Constitution of the United States. That is the hallowed voice of our Founding Fathers. Yet by implication and innuendo, the far left of this country has implied, time and time again over the last several weeks, that a Christian person, a person of faith, cannot be trusted to serve and render the just and appropriate interpretation of the laws of this country. That is not only wrong for our country; that is wrong under our Constitution. That test can never be allowed to be applied, whether on the right or on the left or down the center. It is a test of character that we have prohibited in this country for all time. And because we have prohibited it, our country is a sanctuary for all the world to seek.

Mr. President, I am confident, because I know John Ashcroft—I know his heart, that he is a man of unquestionable character who will do as he has said he will do before the Judiciary Committee of the Senate—that he will enforce the laws of this land, so help him God.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I rise in support of the confirmation of John Ashcroft to be Attorney General of the United States.

I spent 15 years of my professional career as a prosecutor, as a U.S. Attorney, in the Department of Justice. It is an institution for which I have the highest respect that I can express. The goal of equal justice under law is one of the highest and most valuable ideals any nation can have. I am convinced that this Nation's strength is because of our legal system, our pursuit of truth and accuracy and fairness in giving everybody their day in court.

We need to give nominees here their day in court. And if we do, John Ashcroft will be found to be a sterling nominee. The complaints that are made against him collapse in the face of the facts. And I believe that is plain and accurate. I think that is an accurate statement. It disappoints me to hear people persist in pursuing objections and complaints that, if fairly looked at and considered objectively, are not meritorious.

Before I make my general remarks—and I will just respond to a few things that have been said—I would like to have printed in the RECORD a letter that was published in the Washington Post today. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 31, 2001]

CONFIRM JOHN ASHCROFT

ALAMERICA BANK,
Birmingham, AL, January 31, 2001.

TO MEMBERS OF THE UNITED STATES SENATE: I am an African-American from Birmingham, Alabama. I live in a state known around the world for its long and ugly history of racial segregation and pervasive discrimination.

I am a former National Association for the Advancement of Colored People ("NAACP") and Southern Christian Leadership Conference ("SCLC") trial attorney and a staunch supporter of each organization's mission and goals. After graduating from law school in 1973, I spent the next two decades litigating and winning landmark school desegregation, fair housing and equal employment opportunity cases for the NAACP and SCLC. In 1976, I obtained a full and complete pardon from the State of Alabama for Mr. Clarence Norris, the last known surviving "Scottsboro Boy".

I voted for former President Bill Clinton twice and supported him in his fight against impeachment. I also voted for Al Gore and Joe Lieberman last Fall. I am a political independent who assesses a political candidate or appointee's fitness for office based upon the content of his character—NOT his party affiliation.

I believe it is time for the United States Senate to confirm John Ashcroft as Attorney General. Here is why:

1. As a former Governor and U.S. Senator, John Ashcroft may have played political hardball, but he is not a racist.

When John Ashcroft was first nominated to be Attorney General, I read the newspaper stories about his successful effort to defeat the federal judgeship nomination of Missouri Supreme Court Justice, Ronnie White. I was highly concerned. I watched the Senate Judiciary Committee hearings. There, I saw a different story. I learned that Messrs. White and Ashcroft were skillful and brilliant players at the game of legislative hardball.

Mr. White, while a state legislator, used his powerful committee chairmanship position to engage in political jousting with then Governor Ashcroft. Years later, Mr. Ashcroft continued the jousting by using his influence as a Senator to defeat Mr. White's nomination to become a federal district judge.

The defeat of Justice White was hardball, not racism. Mr. White himself testified that John Ashcroft was not a racist.

2. It is time for America to have an Attorney General who will enforce the law equally and fairly for all Americans.

As Black Americans, we see the problem of crime in America up close and personal. Black Americans are among its greatest victims. For us, it is particularly important that the enforcement of our law be strong, effective and fair.

Mr. Ashcroft has also promised to investigate all alleged voting rights violations, particularly those lodged in Florida in the aftermath of last Fall's election. We expect him to prosecute any criminal violations if federal laws protecting voting rights were broken in Florida.

3. It is time to restore civility and dignity to the Senate confirmation process.

Americans have watched the Senate confirmation process deteriorate over the years since the Robert Bork nomination in 1987. What used to be a calm exploration of a nominee's qualifications often now becomes a trial by ordeal. Both political parties decry the so-called "politics of personal destruction" and then eagerly employ it. Special interest groups on all sides regard a confirmation battle as a fundraising opportunity and a test of strength, regardless of its impact on the nominee. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

Sincerely,

DONALD V. WATKINS,
Founder and Chairman.

Mr. SESSIONS. Mr. President, the letter was paid for by Donald V. Watkins of Birmingham, Alabama. He is one of Alabama's most prominent African American leaders, and he is an attorney. I went to law school with Don.

He has been an active Democrat. He says in his letter that he supported the Gore-Lieberman ticket this time. He has been a lawyer for the NAACP and the Southern Christian Leadership Conference, a trial attorney, and "a staunch supporter of each organization's missions and goals."

Don says it is time for us to restore civility and dignity to the Senate confirmation process. In effect, he says that President Bush has been elected. He made some promises. He promised to have a more diverse Cabinet. This civil rights advocate, this skilled lawyer says that he has followed those commitments and that what the African American community should do is to insist that he follows the other commitments he made and judge him on what he does, because he is the President, and we should give him a fair chance to succeed.

He says John Ashcroft should be confirmed. Quoting from the letter:

> Americans have watched the Senate confirmation process deteriorate over the years since the Bork nomination in 1987. What used to be a calm exploration of a nominee's qualifications now often becomes a trial by ordeal. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

Don Watkins says:

> It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

I think that says it well. I had no advance notice of this. I had no idea this would appear from this fine and skilled advocate for equal rights in America.

I want to share a few matters that are important to correct. They have been repeated so often; I believe they are so incorrect that they ought to be responded to. First, in this town, people know who are honest and truthful—people who tell the truth, people who are straight shooters—it is pretty well known. And it is known those who cannot be trusted. There are not many you would trust on almost any matter whatsoever. John Ashcroft, though, is that kind of person. You have heard people say that repeatedly today and in days past. They know him. They respect him. He is a man of integrity, a man of religious faith, yes, a leader in his denomination, a man who is broadly respected all over America for the very qualities that are so much in need today.

If anybody reads my mail and listens to the comments I am receiving from people with a longing and a deep concern about their country, that a man of this quality is beaten up and attacked and dismembered, in effect, while at the same time we have the same Members of this body who have been steadfastly and tenaciously defending the kind of spin that has gone on in this town that led to impeachment and other matters, they are having a difficult time comprehending that.

Anyway, we are here. People have had their day. They have been able to appear at the hearing and present their charges. We, as Senators, are supposed to weigh them. It is all right. I believe in free debate. Nobody should be stifled—they ought to have their say. But we are not run here by special interest groups. Handgun Control does not control in this body. We take an oath to obey the law and to do justice here, not to kowtow to every group who builds up a campaign to pressure Members of this body to vote the way they want, threaten them that they won't support them in primary elections in the future, and otherwise make their lives miserable in every way they possibly can to get them to vote a certain way. They have a right to write and threaten and say they are not going to vote for somebody. It is a free country. But we, as Senators, have a right and a duty and a responsibility to do the right thing.

I know there are some conservative groups who tried to pressure Chairman HATCH on some issues. He said: We are willing to listen to you and have your input, but I am a Senator. I happen to chair this committee. As long as I chair the committee, we are going to do this fairly and above board and no interest group is going to have an undue influence in how I do my job.

That is a fact. People know that here. We need to remember that as we go forward with this process.

One of the charges that has been made that is somewhat complicated, but at bottom is very simple, is this charge that John Ashcroft opposed integration. That is a bad thing to say. He came before the committee and looked us all in the eye and said: I support integration; I do not oppose integration. He said what he opposed was a Federal court plan that was extreme, in my view and in the view of a lot of legal scholars, to create a massive Federal intervention in the educational systems of Kansas City and St. Louis, Missouri. In fact, the Federal court plans ordered an additional $3 billion in funding to be spent to carry out these plans. A lot of it was for busing; a lot of it was for other activities.

This was a big deal. His predecessor opposed that court activity. His successor opposed it. His second successor opposed it. His second successor as attorney general was Jay Nixon, with whom I served when I was Attorney General of Alabama. Jay Nixon opposed this. He is a Democrat and was supported by two Members of this body in his effort to run for the U.S. Senate while he was resisting this litigation in the State. Why would we want to oppose that?

The wording the complainers have used is that he opposed voluntary court desegregation or voluntary desegregation in Missouri.

Let me tell my colleagues how that happens. I was Attorney General of Alabama. I have been through this. It is a common thing in America, as we try to deal with the vestiges of segregation. Some of it was legal. Some of it has been by just the nature of the residences that segregation occurred, and various efforts have been made to deal with this.

It has been said: How did he oppose voluntary desegregation?

This is what happened. Plaintiffs sued St. Louis and Kansas City. They sued the suburbs, and they got to court and claimed the school system is segregated by design, in effect. They object to it. They want it to end. The school systems resist, and the litigation goes on. And the judge in this case essentially suggested or indicated that he just might render an order that would eliminate all the suburban cities and merge them—at least their school systems—merge them with the St. Louis school system. We would just have one big school system. That is just what he might do, he said.

So threatened with their very educational system at stake, they voluntarily, under those kinds of threats, agreed to a plan to spend a massive amount of money to bus students around in an effort to achieve racial balance, which the judge was pushing to make happen.

They said: By the way, state of Missouri, you pay for it. We run our school system here, the city of St. Louis runs theirs, but we want you to pay the cost of this.

The Attorney General of the State of Missouri was the one person who had a responsibility and a duty, the lawyer for all the people of Missouri, to question whether or not citizens all over the State ought to pay for this kind of massive plan.

He objected to that. He resisted as did two of his successors who resisted it. In fact, one of the most infamous of all court plans was because a Federal judge ordered one of the school districts to raise taxes to pay for his idea of the school.

That is what we are talking about—a consent decree. I have seen them. They will sue the prison system. The prison system will put up a little defense, or the mental health system, or the school system will, and they will go in and say: Judge, I guess you are right. Order the State of Alabama to give more money to run the prison. Order the State of Alabama to give more money to the mental health system because these are the people who would like to have more money because it is their system they are running, and they don't have an objective position. The attorney general is the one who has to represent the entire State and to question what is happening.

Let me tell you why an attorney general has a particular duty to resist. He has a particular duty because this unelected lifetime-appointed Federal judge who is saying he is going to abolish the school district and consolidate them into one, who is taking an action that violates the Constitution of the State of Missouri—violates the statutory laws of the State of Missouri, violates the duly elected school boards and districts, and the school boards' authority given to them by the people of the State of Missouri and people in that district. And he is going to rip all of that apart and impose his will on how education ought to be conducted in the targeted community in that state.

Do you see how important this is for a principal attorney general. He should resist and defend unless it is absolutely clear that there is no other way that a constitutional deprivation can be ended. He should resist the compromise of the Constitution and laws of his State, as did his predecessor and as did his two successors. To say those acts of principal resistance to a Federal evisceration of the local educational scheme demonstrates lack of concern for children or somebody who wants to maintain segregation is just plain wrong. We ought not to twist those kinds of things today into that sort of mentality. I don't like that.

There is one more thing I will mention—the Bill Lann Lee nomination, although I could do this on almost every allegation that is before us.

Bill Lann Lee was opposed not just by John Ashcroft. He failed to come out of the Judiciary Committee on a tie vote, 9–9. I am not aware that John even spoke about it. Perhaps he did, but I do not know what he said. I do remember that I spoke against the Lee nomination. I remember Chairman HATCH of the Judiciary Committee made an eloquent argument against Mr. Lee.

I would like to mention a couple of things about that. Oh, Mr. Lee, is so terribly pitiful, that he has just been put upon and he has been abused, is what they would say.

But let me tell you. We had a full hearing on the Adarand case. We had a hearing on that. Mrs. Adarand even came. Adarand, for purposes of background, is the case that sets out the law for quotas in America. They said you can't have racial set-asides and quotas. Mr. Lee refused to acknowledge the real meaning of Adarand.

He said he would support Adarand, but when questioned in detail, he defined it in such a way that it was clear that the chief of the Civil Rights Division would not support the principle that Adarand stated. That is why the chairman of the Judiciary Committee opposed it. He made something like a 15-page speech on this floor and delineated in high style and with great legal expertise why this was important and why he reluctantly opposed this nomination. He did not attack—nor did any of one of us at any time attack—the character of Bill Lann Lee. We simply said that we believed he did not understand the meaning of that case and would not follow the law of the United States and, as such, that he should not be confirmed.

That is what happened. To suggest that John Ashcroft went out of his way to block this nominee is just one more statement that is inaccurate and unfair to the good and decent man whom I believe will soon be Attorney General and whom I am confident will be one of the greatest Attorneys General in the history of this nation. People are going to appreciate him. He will restore dignity. He will restore integrity. He will bring personal probity and decency to that office and will, I believe, be greatly respected when he concludes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized

Mr. ALLEN. I thank the Chair. I commend the articulate, knowledgeable, and eloquent Senator from Alabama for his remarks on a variety of issues.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. SESSIONS. Mr. President, I have received a statement from the editor of the Southern Partisan magazine that has been attacked here to some degree. I have never read the magazine. But it is a refutation of many of the statements made about the magazine. It certainly is proof that the magazine is in a much better light than it has been reported to be here on the floor.

I note that Senator Ashcroft, when he was interviewed by it, simply did a telephone interview with the magazine. There was no evidence he ever read it, or saw it, or knew much about it.

I think it would be healthy for the statement of Chris Sullivan, editor of the Southern Partisan, to be made part of the RECORD in which he flatly denies that he favored, or the magazine favored, segregation or other kinds of racially—discriminatory activities.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTHERN PARTISAN,
January 11, 2001.

FROM: Chris Sullivan, Editor
RE: Refutation of false reports now being circulated about Southern Partisan magazine in an effort to damage John Ashcroft

A number of false reports are circulating in the national press, alleging that Southern Partisan is a "racist," "segregationist," "secessionist," or "white-supremacist" magazine. This is part of an orchestrated effort to embarrass Senator John Ashcroft for having once been interviewed by our magazine.

Most of the distortions can be traced to an article by Benjamin Soskis in the New Republic which contained a series of factual errors and distortions extracted from any sense of fair or accurate context, some of which were clearly malicious. People for the American Way subsequently loaded all of those gross distortions onto their web-page. After that, reporters and editorial writers for mainstream outlets covering the presidential primary reported the errors as if they were factual.

For those who may be interested in the facts, I have assembled the following item-by-item refutation of these false reports:

1. Senator Joe Biden said on Meet the Press that Southern Partisan is "a white-supremacist magazine, or so I've been told." Others have labeled us "neosegregationist" and "racist."

Those charges are absolutely false. In 20 years of publication, our journal has never advocated segregation, white-supremacy or any form of racism. Indeed one of our central purposes is to defend the South against such stereotypical and reactionary attacks. Our editors and contributors have included highly respected writers, academics and journalists like Russell Kirk, Aleksandr Solzhenitsyn, Murray Rothbard, Walter Williams, Anthony Harrigan, Kenneth Cribb, J.O. Tate, Andrew Lytle, Cleanth Brooks and many others.

2. The allegation that John Ashcroft's interview is somehow disreputable. A simple listing of others who have been interviewed in our "Partisan Conversation" section (which is where Ashcroft appeared) should suffice to rebut this silly charge. Other Interviewees include NBC weatherman Willard Scott, former Surgeon General C. Everett Koop, civil rights activist James Meredith, poet laureate James Dickey and political leaders like Senators Trent Lott, Phil Gramm, Jesse Helms and Thad Cochran as well as Ashcroft (a list of other interviewees is attached).

3. The allegation that our magazine "praises" David Duke. Absolutely not true. Twelve years ago, when Duke was running for office in Louisiana, he claimed he had converted to Christianity, renounced his past Klan involvement and campaigned on a mainstream conservative platform. At that time, we published a column defending the people of Louisiana for taking Duke at his word. As it turned out, Mr. Duke was deceiving everyone. In subsequent years he was rejected by he voters of Louisiana, which was a happy ending. (I have attached the full column in question, which is now 12 years old, to show just how the meaning was twisted by the out-of-context quote. Item #1 shows he quote extracted by "researchers" seeking to damage the magazine. Item #2 makes the true meaning clear).

4. The allegation that our magazine defends slavery. Again, that outrageous idea got started by the New Republic. The quote offered to "prove" we defend slavery was taken from a book review of a scholarly work on slavery called Time on the Cross. (Robert Fogel and Stanley Engerman) One of the findings of that book (based on plantation economic records) was that slave families were not frequently broken up, contrary to what was then a general view. Breaking up slave families was bad for morale and therefore bad for business. In preparing this memo, I consulted Dr. Walter Edgar's recent book on the history of South Carolina, which has been widely praised. Dr. Edgar is not a Republican or a conservative. The 1998 edition of his book has this to say on page 317:

“Owners realized that it was to their advantage to encourage stable slave family life . . . Slaves who had families were less likely to run away. . .” Obviously, in no way is such a point intended to justify or defend slavery, which was a terrible national tragedy. The point the reviewer hoped to make was that slavery was bad enough without being exaggerated.

5. The allegation that our magazine engages in ethnic slurs. The quote most often offered to prove this allegation was taken from a column Reid Buckley, William F.'s brother, wrote for us 17 years ago. Here is what the New Republic reported that Mr. Buckley had written:

“In 1987 the magazine offered a vision of South African history straight from the apartheid-era textbooks: ‘God led [Afrikaners] into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all sides.’”

Here is the actual text from which the quote was dishonestly extracted:

“Then what demon has provoked their hateful policies? Well, not demon, it transpires upon reading a little South African history. God Almighty. In *their* view. [Emphasis in the original] God led them into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all side.”

It is obvious to even the most casual reader that Mr. Buckley is actually criticizing the “hateful policies” of apartheid, not defending them. The New Republic article extracted a partial quote that completely reversed the author's meaning. We can only assume that the distortion is deliberate. Why else would the New Republic writer have lifted only a portion of the passage?

6. The allegation that our magazine sells hateful t-shirts and bumper strips, including a shirt with Lincoln's image and the legend “sic semper tyrannis” which are the words Booth uttered before he shot Lincoln.

There is a web site called pointsouth.com that apparently sells a variety of Southern novelty items including bumper strips. We have no ties whatsoever with that web site. For a time, pointsouth.com carried a link to our web site. When we discovered that they were selling bumper strips with messages we found to be tasteless, we asked that the link be deleted. It was.

As to the Lincoln “Sic semper tyrannis” t-shirt: that tasteless item has never been advertised or sold on the pages of our magazine. Seven years ago, a part-time staff member of our magazine offered to compile a catalog of Southern items available—from various vendors—such as art prints, books, ties, grits, t-shirts, etc., to raise money to help defray the cost of the magazine. The catalog was compiled and mailed to our readers as a separate brochure, without careful review by our editors. The catalog included a “tree of liberty” t-shirt with the image of an oak tree and a quote from Thomas Jefferson. Apparently the Lincoln image with the sic semper tyrannis logo appeared on the reverse side of the t-shirt. While the slogan was noted in the fine print, that face escaped our attention. Nevertheless, it was advertised in the catalog one time seven years ago. The catalog was cancelled soon thereafter. Yes, the Lincoln message was in poor taste. It was a mistake. We regret that it was sold through a catalog our name was briefly associated with. But any effort to hold Senator Ashcroft accountable for that is absurd.

7. The allegation that our magazine is anti-Semitic.

Of all the charges made, this is the single most baseless. I do not believe Southern Partisan has ever published a single negative comment about Jews. On the contrary, we have published numerous very favorable articles on Jewish Confederates and Judah P. Benjamin, pointing out that the Confederate government had a Jewish member of its cabinet 50 years before the federal government. The charge of anti-Semitism against the magazine is completely unfounded.

8. The allegation that we are hostile to Martin Luther King Day.

Two decades ago, there was widespread opposition to MLK Day among conservatives all over the country. Around that time (18 years ago in fact) we published a column suggesting that other African-Americans in history might be more worthy of elevation to holiday status. Examples of George Washington Carver, Booker T. Washington and General Chappie James were given. Of course, the debate is long over. MLK Day is now accepted as a part of the nation's life. Nothing negative has been written on our pages about MLK Day for the past 18 years. In fact, South Carolina, the State where we publish, recently converted MLK Day from an optional to a free-standing holiday. The son of the writer who wrote that column 18 years ago is a member of the S.C. State Legislature. He voted for the holiday with his Dad's support.

9. The allegation that we are hostile to Nelson Mandela.

Again, the column cited to support that allegation was written over a decade ago. At the time, the idea that Mandela had engaged in violence before his arrest and refused to renounce violence as a precondition to release from jail was widely reported. The views on Mandela expressed a decade ago were conventional for conservative writers from all regions of the country. In subsequent years, Mandela (who is now a respected elder statesman) has changed his mind about violence in the manner of Sadat and Begin.

10. The allegation that our magazine called Lincoln “a consummate liar * * *”.

The quote was taken from a speech given by the late Murray Rothbard, a respected Jewish intellectual. He was president emeritus of the Ludwig von Mises Institute, speaking at a seminar on the cost of war. The introductory phrase left out of Dr. Rothbard's remarks (which completely alters the meaning) was this: “Of course, Abraham Lincoln was a politician which means he was a consummate liar, manipulator * * *” etc. The quote was followed by laughter from those in attendance. In other words, it was a generic insult against politicians intended to be humorous.

The ten slanders listed above are the major ones we have seen in the media for the past six months. There may be others. If so, please let us know so we will have an opportunity to defend ourselves. Our concern is not only with the reputation of our magazine but also with all the people who have written for us or been interviewed by us over the years. They are innocent bystanders in this scorched earth campaign to defeat Sen. Ashcroft. Their reputations are very important to them and to their families.

To our dismay, these slanders have metastasized like an aggressive cancer throughout the national news media. In fact, months ago, we sent all of the above corrections to the People for the American Way with a polite request that they correct their web site. They never did. It truly is shocking that there are groups so radically committed to their political agenda that they are willing to destroy reputations falsely in an effort to prevent the appointment to a person they disagree with.

Please feel free to contact me if you have any additional questions (803-254-3660).

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise as a new Member of the Senate, having listened to the arguments back and forth for several weeks on the matter of John Ashcroft's nomination as Attorney General of the United States.

As a new Member, some of the arguments made, various votes and so forth are of interest, and there is some hyperbole to it.

But let me tell you that coming out of the real world and going through a campaign and listening to people in Virginia and elsewhere, I think if there is one message that the American people sent to our country's leaders last November, it was this:

The politics of personal destruction in our country must end. Sadly, there are some leaders of organized interest groups who have already turned a deaf ear to that message, even as we in the Senate are working so hard to move America forward in a bi-partisan manner.

Of course, I understand that some of my colleagues may disagree with the philosophy of our new President and his choice for Attorney General. However, when the Chief Executive picks his management team, unless there is an extraordinary reason that would dictate otherwise, this body should not stand in his way or obstruct. Political opportunism is not an appropriate rationale for withholding consent for a nominee.

When I served as Governor of Virginia, I was fortunate to have a capable cabinet who assisted me in managing the day-to-day operation of state government and advancing the agenda I established. While both the House and Senate in Virginia are required to approve of the Governor's selections, they have always, without exception, afforded the Governor the ability to name the qualified individuals he recruits to lead the team. No matter how distasteful the views of the nominee might be to some on the other side of the aisle, except for a very very few legislators, Republicans and Democrats alike have continuously respectfully rallied to put the best interests of Virginia ahead of political chicanery and that has effectively enabled Virginia's Governors to do the job they were elected to do.

The federal government should be no different and John Ashcroft deserves the support of the United States Senate for Attorney General. He has proven himself a caring and capable leader during his many years of public service. Elected by the people of Missouri five times, his is a long record of achievement for all of the people he has represented. It is incumbent on all of us to examine the totality of his record and to not be drawn to a single contorted, concocted blemish on a sterling 30-year record. As we proceed toward a vote on his nomination, we must understand what is in this man's heart, not what is displayed on the television screen in a 15-second distorted charge from heavily funded special interests.

Mr. President, the people of the United States expect principled civil, debate here and in elections. In numerous elections all across the U.S. last year, voters rejected the politics of division. Virginians, like so many other Americans, want our country to heal itself and to move beyond scare tactics and personal destruction.

We, here in the United States Senate, have the unique ability to prove to Americans that this noble goal is achievable. Let's move forward! I respectfully urge my colleagues to join together to rise to a higher plane and vote to confirm the honorable John Ashcroft as Attorney General of the United States.

Mr. THURMOND. Mr. President, I rise today to express my strong support for the nomination of our distinguished former colleague, John Ashcroft, to serve as Attorney General.

The debate we have been engaged in is not about Senator Ashcroft's qualifications because they are not in question. He has a wealth of experience and a record of exemplary public service that spans three decades. Twenty years ago, I recommended him for Attorney General under President Reagan, and I would like to place that letter into the RECORD at the conclusion of my remarks. The intervening time has only made it more clear that he should serve in this position. Before I had the pleasure of working with him in the Senate and on the Judiciary Committee, he served two terms as Missouri's Attorney General and Governor. Senator Ashcroft is one of the most qualified people nominated for this position in all my years of public service.

I recognize that some Senators disagree with some of the positions that he has taken during his almost thirty years in public life. As I said during his confirmation hearing, I hope the question will not be whether we agree with him on every issue. That is a standard he cannot meet for all of us. The President is entitled to some deference from the Senate in selecting those who will carry out the President's agenda.

In the Senate, what we can expect is that the Attorney General will do his job and enforce all the laws, and Senator Ashcroft will. His record of enforcing laws that he did not support while serving as Missouri Attorney General should help prove it.

We should keep in mind that all Attorneys General are called upon to enforce laws they do not support. The last Attorney General, Janet Reno, opposed the death penalty. I was one of many senators who strongly disagreed with her on this point, but we still supported her quick confirmation.

During the extensive committee hearings recently, Senator Ashcroft did not have much time to talk about issues which will occupy most of his time as Attorney General, such as crime and drugs. In the Senate, he was a leader in fighting crime and helping keep drugs out of the hands of children. He also stood up for victim's rights. It should come as no surprise that the law enforcement community strongly supports him.

Some of the toughest criticism of Senator Ashcroft's record is simply not warranted. For example, it was proper for him to oppose a judge-imposed school desegregation plan in Kansas City called Missouri v. Jenkins. In that case, the judge ordered a massive tax increase to pay for his almost unlimited school improvements, which included a 2,000 square-foot planetarium, a 25-acre farm, a model United Nations, an art gallery, movie editing rooms, and swimming pools. The plan was an elaborate social experiment in the name of education, and it utterly failed. Moreover, it established terrible legal precedent regarding the power of federal judges. I have introduced legislation in every Congress since to prohibit judges from being able to impose a tax increase. Elected state officials should represent their constituents and oppose activist federal judges like this, as long as they comply with the court after the case ends, as John Ashcroft did.

On another matter, I believe it is highly unfortunate that some outside special interests have gone beyond specific issues in their attacks and have criticized "Senator Ashcroft's identification with . . . religious, right-wing extremism." This Senate should not tolerate any effort to make a person's religious beliefs an issue in whether they should serve in a high government position. As the Union of Orthodox Jewish Congregations of America wrote to the Senate, "this view has been the subtext for some of the criticism of Mr. Ashcroft. We are confident that you will reject it, as you would any other form of prejudice."

Senator Ashcroft has not only received strong support from well-known Christian organizations, such as the Christian Coalition, he has been endorsed by organizations of various religious faiths, such as the major Orthodox Jewish Organization, Agudath Israel of America. This is a testament to what kind of person John Ashcroft is.

In fact, he should be praised for his deep religious convictions. It helps explain many of his fine traits. He is a man of honesty and integrity, and a person of strong moral character.

I am confident that he will serve with dedication and distinction as the Nation's top law enforcement officer. America needs a man like Senator Ashcroft to lead the Justice Department. I urge all of my colleagues to look beyond partisan politics and support this exceptional candidate.

I ask unanimous consent that the letter I referenced earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 1980.

Mr. EDWIN MEESE III,
Office of the President-Elect,
Washington, DC.

DEAR ED: Among the more important appointments that President-Elect Reagan soon will make is that of Attorney General of the United States. In this regard, I want to bring to your attention The Honorable John Ashcroft, presently Attorney General of the State of Missouri.

John Ashcroft was elected the 38th Attorney General of Missouri in 1976. He was just reelected to another term in that office, demonstrating the trust that the people of Missouri have in this very bright, very dedicated young man.

I first met John Ashcroft in 1976. At that time, I was immediately impressed with him. More recently, as I traveled around the country speaking on behalf of Governor Reagan, I had the pleasure of seeing John again. In fact, he introduced me on one such visit to Missouri to attend a Reagan-Bush rally.

I consider John Ashcroft to be one of our more promising young Republican leaders and believe that he represents the kind of young but experienced talent that could be used well in the Reagan Administration in the post of Attorney General.

I am submitting a packet of informational materials on John. I hope that you will review them carefully and that you will conclude, as I have, that John deserves to be at the top of your list of nominees for the post of Attorney General.

If I can provide other, additional materials of assistance to you in this regard, please let me know.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND.

Mr. BENNETT. Mr. President, I rise to support Senator John Ashcroft for Attorney General, and will outline some sound business reasons for this position.

Senator Ashcroft has proven himself the friend of American consumers, investors, and businesses, especially in the high technology sector which has driven much of the prosperity of the last long economic expansion.

His potential leadership in the Department of Justice has been hailed as especially good news by high tech businesses and investors, whose retirement and pensions rely on the health of the technology stocks that have recently taken a beating.

Indeed, James Lucier of Prudential Securities recently wrote to investors.

Technology investors got their Christmas present three days early on December 22

> when President-elect George W. Bush named . . . John Ashcroft as his choice to serve as Attorney General . . . [W]e find it hard to imagine Bush choosing a potential attorney general with better qualifications than Ashcroft to restore investor confidence and dispel the more extreme, valuation-depressing fears of political risk at a time when Congress is set to take up a slate of complex issues with ample potential to raise blood pressures among the investor class.—Prudential Securities, "Washington Research, Washington World," January 3, 2001, p. 1.

In other words, according to some analysts, tech-sector investors who have been worried about their wealth or retirement security because of recent tech-stock losses can breath a little easier if John Ashcroft is confirmed as Attorney General. With so many Americans now relying on those investments, I think they need to understand that the partisan extremists fighting Senator Ashcroft could be putting at risk many Americans' economic and retirement security to satisfy their own political interests.

His general approach of avoiding unnecessary regulation of and litigation against business will help foster a positive economic environment that is so important to all Americans.

Senator Ashcroft has also played a role in helping consumers enjoy the benefits of technology. The same newsletter points out Ashcroft's role as Attorney General in Missouri authoring and filing an amicus brief joined by other state attorneys general supporting Sony Corporation's contention that consumers had the right to "time-shift" television broadcasts by taping on their VCRs in the famous Betamax Supreme Court case.

He has worked to support the development of the Internet, to avoid taxes that would slow the growth of e-commerce; he has pushed to allow consumers and Internet users to use strong encryption to protect their privacy online, and to keep American companies at the forefront of encryption and software development.

All in all, Senator Ashcroft's nomination and confirmation should be a boon to our economy, to investors, our businesses, and consumers. I would hope that consumers, investors, and all those who rely on a strong economy will make their support of Senator Ashcroft known to their Senators.

Mr. VOINOVICH. Mr. President, I rise today to lend my voice to those of my colleagues in support of the nomination of Senator John Ashcroft for the position of Attorney General.

I have known John Ashcroft for more than a decade. I first met him when I was mayor of Cleveland and he was Governor of Missouri, but I really got to know him through our service together in the National Governors' Association.

John was the chairman of the National Governors' Association, and I had just joined the organization after being elected governor. My wife, Janet, and I were able to get to know John and his wife Janet on a personal basis.

I could see almost immediately that John was a man who was dedicated to making a difference, and he wanted me to help in setting the NGA's education agenda.

John appointed me to chair the NGA Bipartisan Taskforce on School Readiness. I will always be grateful for that appointment, because I quickly realized that the task force could serve as a forum in which to "air out" new ideas on how best to help our kids learn. From that task force, we were able to develop a Whole School Initiative.

I admired the leadership role John took at NGA, and our work together helped me to get to know John Ashcroft.

Of course, nothing will help you get to know someone better than going fishing with them, and John and I have spent hours together fishing. I have spent enough time with him to get to know what is in his heart, and I can honestly say that he is one of the most honorable men I have ever met. He is, in every sense of the word, a gentleman.

We in the Senate have been given a remarkable obligation by our Founding Fathers to provide the President of the United States our "advice and consent" on certain Presidential nominees for Cabinet offices and other positions of governmental importance.

It is a duty that all of us in this Chamber take seriously.

Historically, members of the United States Senate have given the President—Republican or Democrat—the benefit of the doubt when it comes to the confirmation of a Cabinet official.

On the rare occasion when a nominee fails, it is because the nominee's qualifications are lacking, or because a flaw in his or her character exempts them from successfully carrying out the duties of the office in which they would serve.

However, in the case of President Bush's Attorney General nominee, John Ashcroft, there has been a steady stream of detractors who are trying to cast doubt on the character of John Ashcroft or misconstrue his record of accomplishments. I would like to say that those of us in this body who have worked with John Ashcroft, know the type of man he truly is.

In my personal relationship with John, and in my evaluation of his ability to serve as Attorney General, I have seen only an individual with impeccable qualifications and unquestionable character.

There is no doubt in my mind that John Ashcroft possesses the integrity and the experience necessary to carry out the duties of Attorney General. We all know his biography by now—elected for two terms to serve as the Attorney General for the state of Missouri and elected for two terms to serve as Governor of Missouri, and then elected to serve as United States Senator from Missouri.

It is this record of public service that has made John Ashcroft the most qualified individual ever to be nominated to be Attorney General. Just look at some of our recent Attorneys General—Janet Reno, a prosecutor; Dick Thornburgh, a governor; Ed Meese, a district attorney.

Of the 67 persons who have served in the office of Attorney General in the history of our nation, only one—John Ashcroft—has served as state attorney general of his state, and U.S. Senator—and only a handful have held two of these three offices.

I might add that in each of the responsible positions he has held, he has served the people of Missouri with distinction.

What is interesting, though, is how the special interest groups have "taken the gloves off" in their opposition to John. They are working overtime to demonize Senator Ashcroft, trying to paint him as unfit to hold public office.

But, we seem to have lost sight of the fact that the citizens of Missouri elected John Ashcroft 5 times to statewide office.

The John Ashcroft that the interest groups are characterizing is not the John Ashcroft we all know, and in my view, he has been the victim of a vicious character assassination, the likes of which I have not seen in years.

This is just wrong.

This visceral opposition is being orchestrated by groups that I have to believe are making tons of money in their fundraising efforts by using John Ashcroft as a lighting rod.

For example, some have raised the accusation that he is a racist because of his opposition to Ronnie White's nomination.

John Ashcroft did speak against Ronnie White in a convincing way. John did have some influence over my decision to vote against Ronnie White, but I had no idea he was an African American. That was never even an issue in our discussions over the nomination of Ronnie White, and I want everyone to understand that.

Anyone who knows my record knows that I do not tolerate racism or insensitivity to others, and I have no patience for individuals who espouse such views.

In fact, in the more than ten years I have known John Ashcroft, I have never heard a word uttered from him that indicated any insensitivity to any minority groups. To the contrary, his accomplishments reflect a real level of support for the African American community.

John Ashcroft signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin

Luther King, Jr., holiday in Missouri. He appointed the first African-American woman to the Missouri Court of Appeals.

He led the fight to save Lincoln University, founded by African-American Civil War veterans—something that he and I have in common, given my work to save Central State University, a historically black university in Ohio. John also established an award in the name of renowned scientist, George Washington Carver.

He also has been a leader in the opposition to racial profiling, convening the only Senate hearing on the subject to date. He voted to confirm 26 of 27 African American judicial appointees nominated by President Clinton that came to the Senate floor.

John Ashcroft has worked with African Americans. He has appointed African Americans when he was Governor. He has worked on issues of importance to African Americans. That's why I cannot understand all this talk that John Ashcroft is somehow a racist.

Does the Senate honestly think that the good people of Missouri would elect a racist? Do we honestly think John Ashcroft could have possibly fooled the people of the "Show-Me State" 5 separate times?

John Ashcroft looks at his fellow human beings as in the image and likeness of God. Yes, he is a Christian, and he believes in the Two Great Commandments—love of God, and love of fellow man—and he follows the Golden Rule, but those traits are not—and should never be—disqualifying traits.

I have no question about what is in this man's heart, and I know that he will be impeccably impartial in carrying out his responsibilities. In fact, John Ashcroft will be scrupulous in carrying out the responsibilities of his office.

Even with John's integrity, character and good sense, probably the loudest complaints about him seem to be from those individuals who believe that John will ignore or even seek to overturn laws he personally does not like. Nothing could be further from the truth.

Throughout his many years of public service, John Ashcroft has been a sworn defender of the laws of the people—all of the people—and his record shows that he has not allowed his personal views to interfere in the pursuit of his duties.

As Missouri Attorney General, John Ashcroft strictly enforced laws that differed from his own views, including such items as: firearms—he determined, under Missouri law, that prosecuting attorneys could not carry concealed weapons; abortion—he determined, under the law, that hospital records on the number of abortions performed must remain confidential, and, he determined, under the law, that a death certificate was not legally required for fetuses under 20 weeks; and church and state—he determined, under Missouri law, that public funds were not available for private and religious schools even though federal grants permitted it, and he determined, under the law, that religious materials could not be distributed in public schools.

I believe we all have faced laws or responsibilities that we must carry out that we may not necessarily agree with. I did so when I was Governor because I took an oath to uphold the law. So did John Ashcroft.

For those who are not inclined to support the nomination of John Ashcroft, I need only refer to his testimony before the Senate Judiciary Committee. Senator Ashcroft gave his assurance—his word—that as Attorney General he will uphold the law, including laws he may personally disagree with.

The fact that he has his faith is one of the reasons why John Ashcroft has upheld the law and why he will uphold the law—because he has character, because he has principles, because he has a foundation, because he has roots and because he has grounding.

I think in our assessment of John, all we need to do is look at our colleague, Senator JOSEPH LIEBERMAN. Part of the reason why Senator LIEBERMAN is where he is in life is due to his profound faith. He abides by his faith and it impacts on decisions he makes in the Senate and in his life.

There are many other members of this Chamber who I believe are exactly the same; with their faith at the base of who they are, whether they are Jewish, Protestant, Catholic or whatever their religion.

It is that faith that builds the character and builds the individual. It is what has made John Ashcroft.

And I urge all of my colleagues to read an article written by one of Senator Ashcroft's former staff members, Tevi Troy, for the New Republic online. Mr. Troy, who is an Orthodox Jew, explains how faith has influenced John Ashcroft's deep respect for other religions, and how faith has shaped John Ashcroft to be the man he is today.

In my family—and I would imagine in most families as well—when we're getting to know someone, we subconsciously subject them to what I call the "kitchen test." Basically, the kitchen test is: is this person someone I would feel comfortable enough to bring to my home, to sit at my dinner table, with my family?

John Ashcroft is someone I would be honored to have in my home, at my dinner table, with my family. He is a good solid man.

Based on his record, John Ashcroft is fit in every way to be the Attorney General. He is a man of integrity, and I am completely confident that not only will he be fair and impartial in the administration of justice, but that he will insist that every employee at the Department of Justice do the same. He sets high standards for people.

John Ashcroft's experience is more than enough to qualify him for the role as the nation's "top cop," but the added bonus to his achievements is the fact that he is a man of character, and a man who believes that the law is the law, and not something with which to manipulate policy.

Though some of my colleagues may not agree with his personal views, I urge them to look beyond their personal prejudices and look at John's record, his character, his integrity and his experience and give President Bush the man he wants to serve as Attorney General of the United States.

I will vote in favor of the nomination of John Ashcroft to be United States Attorney General, and I sincerely urge my colleagues to give him their full support as well.

Mr. JEFFORDS. Mr. President, I rise today to discuss my thoughts on the nomination of Senator John Ashcroft to be the United States Attorney General.

One of the first issues I faced as a new Senator in 1989 was the controversial nomination of former Senator John Tower to be Secretary of Defense. As this was the first time I was faced with the Senate's constitutional "advise and consent" role, it was incumbent upon me to learn more about this important role through study and through conversations with my fellow Senators. It was also important to devise a standard to evaluate Presidential nominations so as to treat nominees of both Republican and Democratic Presidents with consistency and fairness.

I came to the conclusion that my general policy should be to support nominations made by a President, provided that the individual is appropriately qualified and capable of performing the duties of the position. A President is entitled to a Cabinet of his or her own choosing unless a nominee is proven unethical or unqualified. I would not oppose a nominee just because I disagree with them on a policy matter.

For judicial branch nominations, however, I apply a different standard. I have made this distinction between executive and judicial nominees throughout my Senate career. For example, during the consideration of Clarence Thomas' nomination to the Supreme Court in 1991, I argued that:

> By no means does a president, even one of my own party, have the right to pick virtually anyone he wants who meets minimal qualifications with respect to character, legal ability and judicial temperament. This is not a pass-fail test. In my mind, such a process is entirely proper for appointees to the executive branch of government. The president should be given wide latitude in selecting his Cabinet secretaries and key agency personnel. But under the Constitution,

such deference is inappropriate in the confirmation of Supreme Court justices.

I used this policy in evaluating Presidential nominations throughout the Bush Presidency and the subsequent Clinton Presidency, and will continue to use this standard to evaluate the nominations put forth by our current President. In order to determine a nominee's qualifications and capabilities, I review the statements of nominees, follow the hearings conducted on a nominee, and listen to the opinions expressed by my colleagues. I have done all of these in the case of this nomination and I am here today to express my support for the confirmation of John Ashcroft to be the next United States Attorney General.

A review of Senator Ashcroft's record shows that he is qualified to serve in the position of United States Attorney General. He has a long and distinguished tenure in public service, serving as Missouri's Attorney General, Governor and Senator. During his terms as Governor, John Ashcroft served as Chairman of the Republican Governors' Association and as Chairman of the National Governors' Association. In addition, during his tenure in the Senate he served on the Senate Judiciary Committee and chaired the Senate Judiciary Subcommittee on the Constitution.

Senator Ashcroft is also capable of performing the duties of United States Attorney General as he is a fair and judicious individual. Some have raised questions concerning his ability to enforce laws he has opposed in the past, but during a meeting I had with him he assured me that as Attorney General he would work to uphold the laws of this nation, including those with which he disagrees. I believe that these qualities prove Senator Ashcroft to be capable of performing the duties of Attorney General and will serve him well in this role.

As anyone can tell from our records, Senator Ashcroft and I have very different opinions on many important issues, including abortion, civil and gay rights, and environmental protection. I will continue in my role as a Senator from Vermont to support legislation upholding the Roe v. Wade decision legalizing abortion, protecting access to clinics that perform abortion services, combating employment discrimination and hate crimes based on sexual orientation, and protecting our environment. I will also closely follow the decisions Senator Ashcroft makes as Attorney General and speak out when I feel those decisions are wrong. However, while we may have different opinions on many issues, in my mind that alone is not enough to disqualify a nominee.

THE LOCKERBIE VERDICT

Mr. McCAIN. Mr. President, today's unanimous verdict by a Scottish court convicting a Libyan intelligence agent of murder in the 1988 bombing of Pan Am Flight 103 over Lockerbie concludes an exhaustive terrorism trial that clearly exposed Libyan state sponsorship of the mass murder of 270 individuals, including 189 Americans. A second Libyan charged with the same offense was acquitted. Although no verdict can compensate the victims' loved ones for their loss, the life sentence handed down to Libyan intelligence agent Abdel Basset Ali al-Megrahi represents a first step for the families, the prosecution, and the Western nations that supported bringing the Libyans to justice.

Nonetheless, the trial's conclusion must not obscure the task ahead: holding Libya accountable for full compliance with the U.N. Security Council resolutions governing the sanctions regime against that country. These resolutions mandate that, before sanctions can be lifted, Libya must (1) Cease all forms of terrorism; (2) Disclose all information about the Lockerbie bombing; (3) Accept responsibility for the actions of Libyan officials; (4) Pay appropriate compensation to the victims' families; and (5) Cooperate with the French investigation into the 1989 bombing of UTA Flight 772 over Niger.

Full Libyan compliance with the U.N. resolutions must be the standard for terminating the sanctions, which are believed by many experts to be responsible for the significant decline in Libya's sponsorship of terrorism overseas.

Of perhaps more immediate importance to the United States is the question of the separate U.S. sanctions currently in place against Libya, primarily as a consequence of its sponsorship of state terrorism. True, Libya did hand over the Lockerbie defendants in 1999 and expel the Abu Nidal terrorist organization from its territory in 1998. The Libyan government has also seemingly reduced its contacts with radical Palestinian organizations espousing violence against Israel. In 1999, after the conviction in absentia of six Libyans by a French court for the UTA 772 bombing, Libya compensated the families of the 171 victims. However, it has not turned over the convicted individuals for trial or acknowledged responsibility.

In addition to the issue of terrorism, the United States must consider Libya's covert and sometimes armed intervention in the affairs of other African nations, including Chad, Sudan, and Sierra Leone, as well as Libya's continuing development of weapons of mass destruction. Libya used chemical weapons acquired from Iran against Chad in 1986 and has constructed chemical weapons facilities at Rabta and Tarhunah. According to the Congressional Research Service, Libya tried to buy nuclear weapons or components from China in 1975, India in 1978, Pakistan in 1980, the Soviet Union in 1981, Argentina in 1983, Brazil in 1984, and Belgium in 1985. The United Kingdom accused Libya of smuggling Chinese Scud missiles through Gatwick Airport in 2000. The Pentagon believes China has provided missile technology training to Libyan workers.

While I applaud the Lockerbie verdict, I believe any consequent American policy changes toward Libya must take into account its possession of chemical and potentially nuclear weapons, its compliance with existing U.N Security Council mandates on the Lockerbie and UTA bombings, and any residual support for state terrorism. If Libya truly wishes to enter the ranks of law-abiding nations, with the economic and diplomatic benefits such status affords, it must satisfy the international community's concerns on these issues.

TRIBUTE TO WARREN RUDMAN

Mr. SMITH of New Hampshire. Mr. President, I rise today to honor former United States Senator Warren Rudman of New Hampshire, whose dedication to public service has earned him the respect and admiration of a grateful nation. On January 8th of this year, Senator Rudman was awarded the Presidential Citizens Medal which recognizes exemplary service by a citizen of the United States. The medal recognizes Senator Rudman for co- authoring the Gramm-Rudman-Hollings deficit reduction law that requires automatic spending cuts if annual deficit targets are missed.

Senator Rudman served in the United States Army as a combat platoon leader and company commander during the Korean conflict. After graduating from Boston College Law school, he returned to New Hampshire to practice law and was later appointed Attorney General of the State.

Senator Rudman serves as Chairman of the President's Foreign Intelligence Advisory Board and was also appointed to serve as Vice Chairman of the Commission on Roles and Capabilities of the United States Intelligence Community.

During his distinguished twelve years in the Senate, Senator Rudman established a record of independence. While a member of the Senate, he served on the Ethics Committee and the Senate Appropriations Committee, where he was active on the Subcommittees on Defense and Commerce, Justice, State, and the Judiciary.

Warren Rudman is an exemplary citizen who has dedicated himself to serving the people of New Hampshire and our country for over three decades. He continues to selflessly give of his time within the community and serves on the Board of Trustees of Boston College, Valley Forge Military Academy, the Brookings Institution and the Aspen Institute.

The people of our state and country look to Senator Rudman with tremendous gratitude and admiration for all that he has done. It has been a pleasure and privilege of mine to have worked with a leader as extraordinary as Warren Rudman. Warren, it is an honor to represent you in the United States Senate.

RETIREMENT OF U.S. BANKRUPTCY JUDGE, HON. BRETT DORIAN

Mrs. BOXER. Mr. President, I would like to recognize Judge Brett Dorian as he retires after almost 12 years as a United States Bankruptcy Judge in Fresno, California.

Brett Dorian's legal career reflects a long and honorable commitment to public service. His dedication spans more than three decades, beginning with his service in the United States Air Force. Upon graduation from Boalt Hall, University of California, Berkeley Mr. Dorian helped and assisted the underprivileged in Central California as a legal aid lawyer. He then went on to a distinguished career in private practice where he specialized in bankruptcy law and served as a bankruptcy trustee for many years.

In 1988, Judge Dorian was appointed to the United States Bankruptcy Court in Fresno. He served as a Bankruptcy Judge for almost 12 years. Judge Dorian served an eight county area in Central California. Judge Dorian has long been known as a thorough, dedicated and compassionate judge. Throughout his judicial career, he was diligent in carefully balancing the law in his cases and protecting the rights of those who appear before him.

Judge Dorian has served the people of California as well as all Americans with great distinction. I am honored to pay tribute to him today and I encourage my fellow colleagues to join me in wishing Judge Brett Dorian continued happiness as he embarks on new endeavors.

SAFEGUARDING CHILDREN

Mr. LEVIN. Mr. President, on New Year's Day, the Governor of Michigan signed into law a bill to take discretion away from local gun boards in issuing concealed gun licenses. The new law, scheduled to take effect on July 1st of this year, would increase the number of concealed handgun licenses in our state by 200,000 to 300,000—a ten-fold increase.

The concealed weapons law is being challenged by a coalition of law enforcement and community groups across our state called the People Who Care About Kids. This coalition is working to obtain 151,000 signatures needed to suspend the implementation of the law and put the issue before voters in 2002.

Other groups in our state are also working along side the coalition to keep our streets and our communities safe. One such group is the Detroit-based Save Our Sons And Daughters, SOSAD. I ask unanimous consent to print an article in the RECORD from the Detroit News about SOSAD to show what they are doing to fight the concealed· weapons bill and to keep our children safe from gun violence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Detroit News, Jan. 30, 2001]

NEW STATE GUN LAW ALARMS SOSAD—GROUP REDOUBLES EFFORTS TO SAFEGUARD CHILDREN

(By Rhonda Bates-Rudd)

DETROIT—After 14 years of helping hundreds of grieving families, who've lost a loved one as a result of homicide, suicide, disease and natural death, Clementine Barfield, founder and president of the nonprofit, Detroit-based Save Our Sons and Daughters, says the organization is facing a new challenge.

Michigan's latest concealed gun legislation, which limits the power of county gun boards to deny gun permits, has moved the group to turn up the heat in their efforts to promote peace.

Homicide is among the leading causes of death for African-American youths, recent data compiled by the Michigan Department of Community Health said.

"Homicide is real and the effects on children in our community is immeasurable," Barfield said. "People should not believe that they are immune to this type of tragedy. Many children already have a false confidence in weapons, as evidenced by reports of their use of guns and violence in the news. If ever there was a right time to promote peace in our community, the time is now."

In March, the group's mothers will reveal their new image, a white kerchief and arm band, which is both a symbol of their grief and desire for peace.

The nonprofit group, which also honors other groups that help the grieving after deadly tragedies, is seeking corporate and community sponsorship to develop programs and activities for youth that will promote nonviolence. The organization also is in need of volunteers willing to make a long-term service commitment to perform an array of administrative tasks, as well as spread the message of peace to youth who, often, enlist the use of violence and handguns to settle disputes.

USHER IN MORE DEATH

Save Our Sons and Daughters member Cheryl Ross, her husband and their four children moved to the suburbs after her son, DeWunn Carter, 23, was shot to death in 1977 at a Coney Island Restaurant on Chicago near Evergreen, just a few steps from the front door of their former home.

"I believe this new law will make it easier for more people to get their hands on guns and keep them concealed, which will make it easier for more youth to get their hands on weapons," Ross said. "I think this new law is just a platform to usher in more death."

Ross, who lives in Redford Township, has a better look than most at the toll homicide takes. She is a SOSAD liaison assigned to the Detroit Police Department Homicide Unit, along with Linda Barfield and Vera Rucker.

Working in the homicide division, contacting victim's families and helping them has been therapeutic, Ross said.

Liaisons almost daily receive a list of homicides they use to create a file that includes basic information about the family, such as phone number, address and the number of family members. Serving as go-betweens, they contact the families and offer the group's counseling and support group services. They also provide families with information about the case and how the process works.

"If they are grieving and just need someone to talk to, we are here for that, too, because as many of the SOSAD staffers are mothers who've lost children, we understand what they are going through," Ross said.

Victim liaison Rucker, who has been with SOSAD since its inception, said "No one can understand what you're going through—the grief, anger, anguish and frustration—unless they've lost a child to homicide."

Her daughter, Melody "Poochie" Rucker, 14, was shot and killed on Detroit's west side by random gunfire at a back-to-school party for Benedictine High School students in 1986.

Police Inspector William Rice, commanding officer for the Detroit police homicide unit, has been a law enforcer for 31 years. He said, without a doubt, the group's 3-year-old victim liaison office at the First precinct has been a new tool to help in the aftermath of homicide.

"After a homicide, the family is usually confronted by a lot of social and economic issues, such as how and why the crime was committed, and then they almost immediately have to deal with funeral planning and burial expenses," Rice said. "SOSAD members avail themselves to assist families with whatever it is they need."

"The volunteers can bring the compassion element that police officers cannot offer because their (the police) job is to solve the crime by asking a lot of questions that may make family members uncomfortable and, many times, the clues to solving a crime may lead us back to the family," Rice said.

Barfield, a former City of Detroit accounting department employee, said she was always troubled by reports of the growing number of Detroit youth who were shot and, often, fatally wounded by handguns.

The 1986 death of her son, Derick, 16, and that of many other Detroit youth moved Barfield to create the organization which has been featured in newspapers and magazines across the country, including Essence, Ebony and People magazines.

HUNDREDS HELPED

In the last 14 years, the group has helped hundreds of families through the grieving process with counseling and support groups that meet weekly.

There also is a 24-hour crisis hotline in which volunteers provide immediate response to families in need.

Since 1988, the group has held an annual public memorial service that is open to anyone wanting to light a candle in memory of someone killed. This year's service will be held from 4-6 p.m. March 17 at the Cobo Center.

The group also hosts an annual appreciation breakfast, usually during National Crime Victim Rights week, the last week in April, to give accolades and the Angel of Mercy Award to emergency room medical staff, homicide investigators, funeral directors and morgue personnel.

NOMINATION OF GALE NORTON

Mr. DORGAN. Mr. President, I rise in support of the nomination of Gale Norton as this country's next Interior Secretary.

While I have some disagreements with some of Ms. Norton's positions, I believe that she represented herself well in the nomination hearings that we held in the Energy Committee.

I indicated during those hearings that if I felt she were another James Watt I could never vote for her "in a million years." I say that because, two decades ago, James Watt came to town as a newly appointed Interior Secretary and very quickly began to take both positions and actions that were, in my opinion, destructive to the interests that I value with respect to the stewardship of public lands in our country. Because Gale Norton was a protege of James Watt, and because she has spoken and written extensively on a range of issues, we questioned her very closely during her confirmation hearing on a wide range of important issues that will confront the new Secretary of the Interior.

Her responses to some tough inquiries during the hearings demonstrated to me that she is qualified to be Interior Secretary and that the views she holds, while in some cases controversial, are well within the norm of the political discussions we're having in Washington about a wide range of these issues.

I want Gale Norton to do an excellent job as Interior Secretary and pledge my cooperation to help make that happen. At the same time, I want her to know that those of us on the Energy Committee take very seriously the representations she made during the confirmation hearings on a wide range of matters. She will find those of us on the Committee who have now voted for her confirmation to be helpful in her job of meeting the stewardship responsibilities of the Secretary of the Interior. But she should understand that she will find us to be severe critics if the representations she made to us during the Committee hearings turn out to be not in keeping with the way she conducts herself as Interior Secretary.

I will be particularly interested in working with Ms. Norton on several issues important to North Dakota and the Nation. For example, I will work to ensure that Ms. Norton provides protection for our National Parks, public lands and environmentally-sensitive areas.

Native Americans are particularly important to me. During the hearing, Ms. Norton said she respects tribal sovereignty. She should adopt a cooperative approach to include the relevant tribal stakeholders in policy and regulatory decision making. She also committed to work with us to make progress in meeting the critical funding needs for tribal schools and colleges.

I will count on Ms. Norton to adopt a sound scientific basis for her policy decisions on actions pertaining to endangered species, the global climate, energy issues and more.

Again, I wish her well and pledge my cooperation as she begins her duties following her confirmation today. She clearly has the skill and capability to do well as Interior Secretary if she pursues a balanced set of policies that conform to the positions she took when she appeared before our Committee.

TRIBUTE TO TERRY BRAGG

Mr. DEWINE. Mr. President, I rise today to recognize a brave and hardworking Ohioan by the name of Terry Bragg. Terry has been a life-long resident of McConnelsville, where he has spent the last 39 years as a member of the Malta-McConnelsville Fire Department. During nearly 40 years of tireless dedication to his community, Terry has served as a firefighter, Assistant Fire Chief, and for the last 32 years, as the department's Fire Chief.

I recognize Terry today for his commitment to protecting his community from devastating fires. People like Terry Bragg, who risk their lives daily on our behalf, command great respect and deserve our deep and sincere thanks.

I cannot overstate just how important Terry's job of fire fighting and prevention education is to our families and communities. Overall, fire is responsible for killing more Americans than all natural disasters combined. Every 18 seconds, a fire department responds to a fire somewhere in the United States. In 1998, there were 4,035 civilian fire deaths—that's one death every 130 minutes. And sadly, many of those who die each year in fires are children.

To help support Terry and every firefighter in Ohio and across America as they work to protect our families and children, I sponsored the Firefighter Investment Act, which provides a vital federal investment to the courageous men and women who make up our local fire departments. I am please do report that we successfully included my bill as a provision in the recently-passed Fiscal Year 2001 Department of Defense Appropriations bill. The funding that will be made available as a result will help local fire departments and firefighters, just like Terry Bragg and the Malta-McConnelsville Fire Department, to continue carrying out their life-saving missions.

Over the years, Terry Bragg has received many, many awards and special recognitions. He has received three medals for bravery, and in 1997, the Ohio Department of the Veterans of Foreign Wars named him "Ohio Firefighter of the Year." He received the Bob and Delores Hope "Good Samaritan Award," the "M&M Firefighter of the Year Award," and the Ohio Masonic Grand Master's "Community Service Award."

Not only is Terry a dedicated Fire Chief, he is a strong community leader; volunteer; businessman; and loving husband, father, and grandfather. Indeed, Terry Bragg is a role model for whom we all can be proud.

I thank him for his past, present, and future service to his community, to Ohio, and to our nation.

ADDITIONAL STATEMENTS

TRIBUTE TO THE LAW ENFORCEMENT AGENCIES AND COMMUNITIES INVOLVED IN THE APPREHENSION OF THE TEXAS SEVEN

• Mr. ALLARD. Mr. President, today I want to take a few minutes to recognize the efforts of everyone involved in the capture of the Texas fugitives that ended one of the largest manhunts this national has ever seen. As you know, the last two of the seven Texas inmates that escaped from a maximum security prison in Kenedy, Texas on December 13th surrendered on January 24th in Colorado Springs, Colorado. This can be attributed to the exemplary work done by the local and federal law enforcement agencies involved as well as the communities of Woodland Park and Colorado Springs. This was a cooperative effort that saw the pooling of all the resources available and resulted in a peaceful conclusion.

There cannot be enough said about the work that was done by the law enforcement agencies involved. The Federal Bureau of Investigation, The Colorado Springs office of the Bureau of Alcohol and Firearms, the U.S. Marshals office, the Texas authorities, the Teller County Sheriffs office, the El Paso County Sheriffs office, the Colorado Springs Police Department, the Woodland Park Police Department and the Colorado State Patrol did a tremendous job of working together to apprehend the seven fugitives.

The effort and support of the residents of Woodland Park and Colorado Springs can't be overlooked. We need to commend people like Wade Holder and Eric Singer. Mr. Holder resides in Woodland Park and is the owner of the RV park where the fugitives were hiding out. He called in a tip to the local authorities after seeing pictures of the fugitives on the America's Most Wanted Web Site. KKTV's Colorado Springs news anchor Eric Singer helped negotiators by conducting a telephone interview with the last two fugitives in order to assure a peaceful surrender. These are just a couple of examples of how the two communities contributed to the successful manhunt.

In all of this we should not forget that two law enforcement agents lost their lives in this investigation. Irving, Texas Officer Aubrey Hawkins and Colorado State Trooper Jason Manspeaker both died in the line of duty. Officer Hawkins was brutally shot 11 times and killed by one of the fugitives while responding to a robbery of a sporting goods store in Irving Texas on December 24th. Colorado State Trooper Jason Manspeaker was killed when he crashed his Jeep Cherokee Squad car into a heavy equipment trailer on U.S. Highway 6 in Colorado. The crash occurred while chasing a vehicle suspected of harboring the last two fugitives on January 23rd. Both Officer Hawkins and State Trooper Manspeaker paid the ultimate price for our freedom. My wife Joan and I offer all our compassion, our sympathy and our prayers to the families of both victims.●

LORETTA SYMMS

● Mr. REID. Mr. President, I come to the Senate floor today to express my regret that Loretta Symms will soon retire as Deputy Sergeant at Arms. I would also like to congratulate her on a long and distinguished career.

During her 22 years of service on Capitol Hill, Loretta gained the respect of Senators and Congressmen from both sides of the aisle. Her creativity and dedication to improving the innerworkings of the Senate have made her an invaluable asset to the institution and she will be dearly missed by all.

Loretta started her career on Capitol Hill in 1978 working for then-Congressman Steve Symms as executive assistant and office manager. In 1981, after Congressman Symms was elected to the Senate, Loretta became his executive secretary and office manager. In 1987, Senator Dole appointed Loretta as the Republican representative to the Sergeant at Arms.

As Director of the Capitol Facilities Department, she reinvented the Facilities Department providing career ladders, formal position descriptions, instituted reading programs, basic computer classes for employees, and training programs. Working closely with the Secretary of the Senate's office, Loretta has been actively involved in the oversight and management of the Senate Page Program. For example, Loretta participated in the renovation and opening of Webster Hall, the Senate Page dormitory, and the Senate Page School.

During her tenure as Deputy Sergeant at Arms, Loretta worked closely with the Assistant Secretary of the Senate to create the Joint Office of Education and Training which provides a wide variety of professional seminars and training for the staff of Senate Offices and Committees. As every Senator can attest, this office has become an invaluable resource. In 1996, Senator LOTT named Loretta Deputy Sergeant at Arms, the post in which she still serves. As Deputy, Loretta has managed the day to day operations of more than 770 employees.

Loretta is married to former Senator Steve Symms. They have 7 children and 10 grandchildren. Her retirement will allow her to fulfill her dreams of traveling and spending more time with her grandchildren. Loretta's impact on the institution of the Senate is greatly appreciated and will be remembered for a long time to come. But most importantly to this Senator is the many acts of kindness in the most professional manner that Loretta has extended to me. For her many acts I will always be grateful.●

TRIBUTE TO BEN AUGELLO

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Ben Augello of Weare, New Hampshire, an elementary school principal whose devotion to education serves as an inspiration for his colleagues and students alike. Recently named Elementary Principal of the Year by the New Hampshire Association of School Principals, Ben is known for his incomparable listening skills.

Ben's lifelong dream since childhood to become a teacher began in New York where he taught science to middle school students. He had a special talent for making every student feel valued and special.

Ben has been the principal of the Center Woods Elementary School in Weare, New Hampshire, since 1991. He oversaw the construction of the school and has also spearheaded development of the school's inclusionary model. Mr. Augello is an enthusiastic administrator who exudes a warmth and openness that permeates the school.

Married for thirty-seven years, Ben and his wife Bunny have two children: Christine, a resident of Nashua, and Peter, who resides in Florida. Ben's hobbies include cooking and traveling throughout the United States and Europe.

Ben Augello is a tribute to his community and profession. It is an honor and a privilege to represent him in the United States Senate.●

TRIBUTE TO DEBBIE JANS

● Mr. CLELAND. Mr. President, when I first came back to Washington, DC as a Senator-elect in December of 1996 for freshman orientation, one of the first people I met was a young lady who I was told I had to get to know if I was to be able to successfully get around the august halls of the Senate. She was then the Director of the Congressional Special Services Office that provided assistance to Capitol visitors and staff with disabilities. What I did not know at the time, but soon learned, was that she had been working for years to help move both Houses of Congress toward compliance with the landmark Americans with Disabilities Act. What I also didn't know at first, but learned almost immediately was that this young lady, Deborah Kerrigan Jans—known to all as Debbie—once worked for that great Senator Hubert Humphrey and that in addition to Minnesota ties she shared with Senator Humphrey a great fondness for the spoken word! In spite of that, or perhaps because of it, I soon found that Debbie had made herself indispensable to the conduct of my activities as a United States Senator and I quickly signed her on to my staff to coordinate my scheduling and advance work in the Senate. Part of her role was described very well in an August 1999 article in Esquire magazine:

> He (Cleland) has one staffer, Deborah Jans, who advances his schedule to make sure he can get there. She is a dervish, racing in and out of men's rooms to make sure the doors on the stalls open out and not in, looking everywhere for ramps and elevators, measuring doorways for the chair. . . . So she goes, and she measures, and she checks—a whirlwind advancing a kind of rolling thunder.

Today, Debbie is retiring after 25 years of service to the Senate and to Congress. Prior to her excellent work for me, Debbie served as Director of the Congressional Special Services Office, Manager of the Senate Special Services Office, and Tour Guide with the U.S. Capitol Guide Service. These positions allowed her to share her love of the Capitol with visitors, providing a political, historical and architectural orientation to our magnificent institution. As I previously mentioned, in the latter part of this service, her role was extended to providing support and services to Capitol visitors and staff with disabilities. The innovative programs that she managed included special tours for individuals with disabilities, sign language interpreting, wheelchair loans, development of Braille materials, as well as classes and seminars for Congressional staff on disability issues.

Debbie and her husband Ron, who is a wonderful fellow himself and has had the opportunity to develop tremendous listening skills during his years with Debbie, are preparing to return to the Land of 10,000 Lakes. Washington's loss is Minnesota's gain. We shall miss Debbie here on Capitol Hill. The place will never be the same.●

MESSAGES FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the provisions of 22 U.S.C. 1928a, the Speaker appoints the following Members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. BEREUTER, Mr. REGULA, Mrs. ROUKEMA, Mr. HEFLEY, Mr.

GILLMOR, Mr. GOSS, Mr. EHLERS, and Mr. MCINNIS.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 93. An act to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 18. Concurrent resolution relative to the adjournment of the House on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.

At 3:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 14. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

H. Con. Res. 15. Concurrent resolution relative to the victims of the deadly earthquake in the State of Gujarat in western India.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 93. An act to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 14. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

H. Con. Res. 15. Concurrent resolution relative to the victims of the deadly earthquake in the State of Gujarat in western India; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 220. A bill to amend title 11, United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–539. A communication from the Secretary of Defense, transmitting, pursuant to law, a report concerning the Cooperative Threat Reduction Program for fiscal year 1999; to the Committee on Armed Services.

EC–540. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report concerning the Andrews Air Force Base, 89th Airlift Wing Aircraft Maintenance and Base Supply; to the Committee on Armed Services.

EC–541. A communication from the Deputy Chief of Programs and Legislation Division, Office of Legislative Liaison, transmitting, pursuant to law, a report concerning cost reductions of the Heat Steam Operations at Andrews Air Force Base; to the Committee on Armed Services.

EC–542. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report relating to the improvement of efficiency, effectiveness, and cost of operations for fiscal year 2001; to the Committee on Armed Services.

EC–543. A communication from Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–01; to the Committee on Appropriations.

EC–544. A communication from the Clerk of the Court of Federal Claims, transmitting, pursuant to law, a report relating to the relief of the Pottawatomi Nation in Canada; to the Committee on the Judiciary.

EC–545. A communication from the Director of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report on the Apportionment of Regional Fishery Management Council Membership for the year 2000; to the Committee on Commerce, Science, and Transportation.

EC–546. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines; Pretreatment Standards, and New Source Performance Standards for the Commercial Hazardous Waste Combustor Subcategory of Waste Combustors Point Source Category; Correction" (FRL6866–7) received on January 29, 2001; to the Committee on Environment and Public Works.

EC–547. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for Oxides of Nitrogen" (FRL6922–7) received on January 25, 2001; to the Committee on Environment and Public Works.

EC–548. A communication from the Deputy Associate Administrator of the Environmental Agency, transmitting, pursuant to law, the report of a rule entitled "Georgia: Final Authorization of States Hazardous Waste Management Program Revision: Delay of Effective Date" (FRL6940–3) received on January 26, 2001; to the Committee on Environment and Public Works.

EC–549. A Communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Petition of American Samoa for Exemption from Anti-Dumping Requirements for Conventional Gasoline: Delay of Effective Date" (FRL6940–4) received on January 26, 2001; to the Committee on Environment and Public Works.

EC–550. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report concerning the monitoring of developments in the Domestic Lamb Meat Industry; to the Committee on Finance.

EC–551. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens" (RIN1545–AY62) received on January 29, 2001; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 222. A bill to provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 223. A bill to terminate the effectiveness of certain drinking water regulations; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 224. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to those parks, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S. 225. A bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. JEFFORDS, and Mr. VOINOVICH):

S. 226. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. JOHNSON, and Mr. FEINGOLD):

S. 227. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA:

S. 228. A bill to amend title 38, United States Code, to make permanent the Native American veterans housing loan program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HAGEL:

S. 229. A bill to amend Federal banking law to permit the payment of interest on business checking accounts in certain circumstances, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENSIGN (for himself and Mr. REID):

S. 230. A bill to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the City of Carson City, Nevada, for use as a senior center; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 231. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND (for himself, Mr. DURBIN, Mr. HAGEL, Mr. CORZINE, and Ms. LANDRIEU):

S. 232. A bill to amend the Internal Revenue Code of 1986 to exclude United States savings bond income from gross income if it is used to pay long-term care expenses; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. LEVIN, Mr. WELLSTONE, and Mr. CORZINE):

S. 233. A bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 16. A resolution designating August 16, 2001, as "National Airborne Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 222. A bill to provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise to introduce legislation designed to promote growth in the domestic cruise ship industry and at the same time enable U.S. shipyards to compete for cruise ship orders. The legislation would provide tax incentives for U.S. cruise ship construction and operation.

Current law prohibits non-U.S. vessels from carrying passengers between U.S. ports. As such, today's domestic cruise market is very limited. The cruise industry consists predominantly of foreign vessels which must sail to and from foreign ports. The vast majority of cruise passengers are Americans, but most of the revenues now go to foreign destinations. That is because the high cost of building and operating U.S.-flag cruise ships and competition from modern, foreign-flag cruise ships have deterred growth in the domestic cruise ship trade.

By some estimates, a single port call by a cruise vessel generates between $300,000 and $500,000 in economic benefits. This is a very lucrative market, and I would like to see U.S. companies and American workers benefit from this untapped potential. However, domestic ship builders and cruise operations face a very difficult, up-hill battle against unfair competition from foreign cruise lines and foreign shipyards. Foreign cruise lines, for example, pay no corporate income tax. Nor are they held to the same demanding ship construction and operating standards imposed on U.S.-flag vessel operators. Foreign cruise lines are also free from the need to comply with many U.S. labor and environmental protection laws, and U.S. health, safety, and sanitation laws do not apply to the foreign ships.

The legislation I am introducing today is designed to level the playing field between the U.S. cruise industry and the international cruise industry. For example, it provides that a shipyard will pay taxes on the construction or overhaul of a cruise ship of 20,000 gross tons or greater only after the delivery of the ship.

Under my bill, a U.S. company operating a cruise ship of 20,000 grt and greater may depreciate that vessel over a five-year period rather than the current 10-year depreciation period. The bill would also repeal the $2,500 business tax deduction limit for a convention on a cruise ship to provide a tax deduction limit equal to that provided to conventions held at shore-side hotels. The measure would authorize a 20 percent tax credit for fuel operating costs associated with environmentally clean gas turbine engines manufactured in the U.S., and also allows use of investment of Capital Construction Funds to include not only the non-contiguous trades, but also the domestic point-to-point trades and "cruises to nowhere".

Mr. President, I truly believe that this legislation would help jumpstart the domestic cruise trade, benefit U.S. workers and companies, and promote economic growth in our ports. I strongly urge my colleagues to join me in a strong show of support for this effort.

By Mr. DOMENICI:

S. 223. A bill to terminate the effectiveness of certain drinking water regulations; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, "Just as houses are made of stones, so is science made of facts; but a pile of stones is not a house and a collection of facts is not necessarily science."

For the past 8 years I have questioned numerous collections of facts put out by the Environmental Protection Agency in the name of science and I have found sound science has been left out of the regulation equation too often. A prime example is the new arsenic standards in drinking water proposed last week. This new standard dramatically reduces the arsenic level allowable in drinking water from 50 parts per billion (ppb) to 10 ppb, a reduction of 80 percent.

I believe it is essential to protect and ensure the safety of our nation's water supply and to uphold the principles and goals set forth in the Safe Drinking Water Act, but these standards were not based on sound science and there is no proof that they will increase health benefits. They were put into effect because it was the politically expedient thing to do.

That is why at this time I am introducing this bill which would terminate the effectiveness of these new drinking water standards.

The amendments to the Safe Drinking Water Act required the standards for arsenic in drinking water be changed by January 1st of this year. Because the proposed rule was issued late, I cosponsored an amendment to the VA HUD appropriations bill giving EPA a 6-month extension. This amendment was later signed into law, but was ignored by the agency.

There was much controversy and debate surrounding the appropriate level for the new standard. The EPA's Science Advisory Board expressed unanimous support for reducing the current standard, but varied considerably on the appropriate level. Both the EPA and the National Academy of Sciences National Research Council acknowledged more health studies were needed to evaluate what potential health benefits, if any, would likely result from this lower standard.

Arsenic is naturally occurring in my home state. In fact, New Mexico has some of the highest levels of arsenic in the nation, yet has a lower than average incidence of the diseases associated with arsenic. I have not seen any reasonable data in support of increased health benefits from these lower standards. I have only seen a collection of facts from studies conducted outside of the United States.

Under these new standards states such as New Mexico, are going to be required to revise water treatment facilities at a significant cost to the general public. Such costs should not be incurred unless sufficient scientific information exists in support of the new standard.

The New Mexico Environment Department estimates this new standard will affect approximately 25 percent of

New Mexico's water systems, with the price for compliance between $400,000,000 and $500,000,000 in initial capital expenditures. Annual operating costs will easily fall anywhere between $16,000,000 and $21,000,000. Additionally, large water system users will see an average water bill increase between $38 and $42 and small system users will see an average water bill increase of $91. The cost of complying with this new standard could well put small rural systems out of business, which is the exact opposite of what we should be trying to accomplish—providing a safe and reliable supply of drinking water to rural America.

Again, I believe that science is made of facts and I don't believe we have enough facts here to determine if there will be increased health benefits from the change in these standards. I see unintended consequences resulting from well intentioned motives. We should study this issue here in the United States and then take our best data and formulate standards that are scientifically sound.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DRINKING WATER REGULATIONS.

On and after the date of enactment of this Act—

(1) the amendments to parts 9, 141, and 142 of title 40, Code of Federal Regulations, made by the final rule promulgated by the Administrator of the Environmental Protection Agency entitled "Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring" (66 Fed. Reg. 6976 (January 22, 2001)) are void; and

(2) those parts shall be in effect as if those amendments had not been made.

By Mr. MCCAIN:

S. 224. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon or other national parks to secure bonds for capital improvements to those parks, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am renewing my efforts to provide innovative solutions to address urgently needed repairs and enhancements at our nation's parks. The legislation I am introducing today is identical to the bill I sponsored in prior congresses, which received substantial support from many of the organizations supporting the National Parks system. I thank my colleague, Representative KOLBE, for introducing companion legislation in the House of Representatives.

The National Parks Capital Improvements Act of 2001 would help secure taxable revenue bonding authority for National Parks. This legislation would allow private fundraising organizations to enter into agreements with the Secretary of Interior to issue taxable capital development bonds. Bond revenues would then be used to finance park improvement projects. The bonds would be secured by an entrance fee surcharge of up to $2 per visitor at participating parks, or a set-aside of up to $2 per visitor from current entrance fees.

Our national park system has enormous capital needs—which by last estimate ranges from $3 to 5 billion—for high-priority projects such as improved transportation systems, trail repairs, visitor facilities, historic preservation, and the list goes on and on. The unfortunate reality is that even under the rosiest budget scenarios, our growing park needs far outstrip the resources currently available. Parks are still struggling to address enormous resource and infrastructure needs while seeking to improve the park experience to accommodate the increasing numbers of visitors to recreation sites.

Revenue bonding would take us a long way toward meeting our needs within the national park system. For example, based on current visitation rates at the Grand Canyon, a $2 surcharge would enable us to raise $100 million from a bond issue amortized over 20 years. That is a significant amount of money which we could use to accomplish many critical park projects.

Let me emphasize, however, the Grand Canyon National Park would not be the only park eligible to benefit from this legislation. Any park unit with capital needs in excess of $5 million is eligible to participate. Among eligible parks, the Secretary of Interior will determine which may take part in the program. I also want to stress that only projects approved as part of a park's general management plan can be funded through bond revenue. This proviso eliminates any concern that the revenue could be used for projects of questionable value to the park.

In addition, only organizations under agreement with the Secretary of Interior will be authorized to administer the bonding, so the Secretary can establish any rules or policies determined necessary and appropriate.

Under no circumstances, however, would investors be able to attach liens against Federal property in the very unlikely event of default. The bonds will be secured only by the surcharge revenues.

Finally, the bill specifies that all professional standards apply and that the issues are subject to the same laws, rules, and regulatory enforcement procedures as any other bond issue.

The most obvious question raised by this legislation is: Will the bond markets support park improvement issues, guaranteed by an entrance surcharge? The answer is an emphatic yes. Bonding is a well-tested tool for the private sector. Additionally, Americans are eager to invest in our Nation's natural heritage, and with park visitation growing stronger, the risks appear minimal.

Are park visitors willing to pay a little more at the entrance gate if the money is used for park improvements? Again, I believe the answer is yes. Time and time again, visitors have expressed their support for increased fees provided that the revenue is used where collected and not diverted for some other purpose devised by Congress. In recent surveys by the National Park Service, nearly 83 percent of participating respondents were comfortable in paying such fees for park purposes and other respondents thought the fees too low.

With the recreational fee program currently being implemented at parks around the Nation, an additional $2 surcharge may not be necessary or appropriate at certain parks. Under the bill, those parks could choose to dedicate $2 per park visitor from current entrance fees toward a bond issue. This legislation can easily compliment the recreational fee program to increase benefits to support our parks and increase the quality of America's park experience well into the future.

I look forward to working with my colleagues and National Parks supporters to ensure passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Parks Capital Improvements Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Fundraising organization.
Sec. 4. Memorandum of agreement.
Sec. 5. National park surcharge or set-aside.
Sec. 6. Use of bond proceeds.
Sec. 7. Administration.

SEC. 2. DEFINITIONS.

In this Act:

(1) FUNDRAISING ORGANIZATION.—The term "fundraising organization" means an entity authorized to act as a fundraising organization under section 3(a).

(2) MEMORANDUM OF AGREEMENT.—The term "memorandum of agreement" means a memorandum of agreement entered into by the Secretary under section 3(a) that contains the terms specified in section 4.

(3) NATIONAL PARK FOUNDATION.—The term "National Park Foundation" means the foundation established under the Act entitled "An Act to establish the National Park Foundation", approved December 18, 1967 (16 U.S.C. 19e et seq.).

(4) National park.—The term "national park" means—

(A) the Grand Canyon National Park; and

(B) any other unit of the National Park System designated by the Secretary that has an approved general management plan with capital needs in excess of $5,000,000.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. FUNDRAISING ORGANIZATION.

(a) In General.—The Secretary may enter into a memorandum of agreement under section 4 with an entity to act as an authorized fundraising organization for the benefit of a national park.

(b) Bonds.—The fundraising organization for a national park shall issue taxable bonds in return for the surcharge or set-aside for that national park collected under section 5.

(c) Professional Standards.—The fundraising organization shall abide by all relevant professional standards regarding the issuance of securities and shall comply with all applicable Federal and State law.

(d) Audit.—The fundraising organization shall be subject to an audit by the Secretary.

(e) No Liability for Bonds.—The United States shall not be liable for the security of any bonds issued by the fundraising organization.

SEC. 4. MEMORANDUM OF AGREEMENT.

The fundraising organization shall enter into a memorandum of agreement that specifies—

(1) the amount of the bond issue;

(2) the maturity of the bonds, not to exceed 20 years;

(3) the per capita amount required to amortize the bond issue, provide for the reasonable costs of administration, and maintain a sufficient reserve consistent with industry standards;

(4) the project or projects at the national park that will be funded with the bond proceeds and the specific responsibilities of the Secretary and the fundraising organization with respect to each project; and

(5) procedures for modifications of the agreement with the consent of both parties based on changes in circumstances, including modifications relating to project priorities.

SEC. 5. NATIONAL PARK SURCHARGE OR SET-ASIDE.

(a) In General.—Notwithstanding any other provision of law, the Secretary may authorize the Superintendent of a national park for which a memorandum of agreement is in effect—

(1) to charge and collect a surcharge in an amount not to exceed $2 for each individual otherwise subject to an entrance fee for admission to the national park; or

(2) to set aside not more than $2 for each individual charged the entrance fee.

(b) Surcharge in Addition to Entrance Fees.—A national park surcharge under subsection (a) shall be in addition to any entrance fee collected under—

(1) section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a);

(2) the recreational fee demonstration program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134; 110 Stat. 1321–156; 1321–200; 16 U.S.C. 460l–6a note); or

(3) the national park passport program established under title VI of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 112 Stat. 3518; 16 U.S.C. 5991 et seq.).

(c) Limitation.—The total amount charged or set aside under subsection (a) may not exceed $2 for each individual charged an entrance fee.

(d) Use.—A surcharge or set-aside under subsection (a) shall be used by the fundraising organization to—

(1) amortize the bond issue;

(2) provide for the reasonable costs of administration; and

(3) maintain a sufficient reserve consistent with industry standards, as determined by the bond underwriter.

(e) Excess Funds.—Any funds collected in excess of the amount necessary to fund the uses in subsection (d) shall be remitted to the National Park Foundation to be used for the benefit of all units of the National Park System.

SEC. 6. USE OF BOND PROCEEDS.

(a) Eligible Projects.—

(1) In general.—Subject to paragraph (2), bond proceeds under this Act may be used for a project for the design, construction, operation, maintenance, repair, or replacement of a facility in the national park for which the bond was issued.

(2) Project limitations.—A project referred to in paragraph (1) shall be consistent with—

(A) the laws governing the National Park System;

(B) any law governing the national park in which the project is to be completed; and

(C) the general management plan for the national park.

(3) Prohibition on use for administration.—Other than interest as provided in subsection (b), no part of the bond proceeds may be used to defray administrative expenses.

(b) Interest on Bond Proceeds.—

(1) Authorized uses.—Any interest earned on bond proceeds may be used by the fundraising organization to—

(A) meet reserve requirements; and

(B) defray reasonable administrative expenses incurred in connection with the management and sale of the bonds.

(2) Excess interest.—All interest on bond proceeds not used for purposes of paragraph (1) shall be remitted to the National Park Foundation for the benefit of all units of the National Park System.

SEC. 7. ADMINISTRATION.

The Secretary, in consultation with the Secretary of Treasury, shall promulgate regulations to carry out this Act.

By Mr. WARNER:

S. 225. A bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce, "The Teacher Tax Credit Act."

All of us know that individuals do not pursue a career in the teaching profession for the money. People go into the teaching profession for grander reasons—to educate our youth, to make a lasting influence.

Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

Despite the fact that teachers play such an important role, elementary and secondary education teachers are underpaid, overworked, and, unfortunately, all too often, under-appreciated.

I was astounded to learn that teachers expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending money out of their own pocket on three types of expenses:

(1) education expenses brought into the classroom—such as books, supplies, pens, paper, and computer equipment;

(2) professional development expenses—such as tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors; and

(3) interest paid by the teacher for previously incurred higher education loans.

This is the essence of volunteerism in the United States—teachers spending their own money to better our childrens' education. Why do they do this? Simply because school budgets are not adequate to meet the costs of education.

These out-of-pocket costs placed on the backs of our teachers are but one reason our teachers are leaving the profession.

Numerous reports exist detailing the teacher shortage. According to the National Education Association, "America will need two million new teachers in the next decade, and experts predict that half the teachers who will be in the public school classrooms 10 years from now have not yet been hired."

In addition, it is estimated that twenty percent of all new hires leave the teaching profession within three years.

Certainly, a pay raise for teachers is needed and would be a strong showing of recognition and appreciation towards the profession. However, whether or not to provide teachers a pay raise is a local issue and not one that the federal government ought to be involved in.

Nevertheless, there is something we can do. On a federal level, we can encourage individuals to enter the teaching profession and remain in the teaching profession by reimbursing them for the costs that teachers voluntarily incur as part of the profession. Second, we can help our local school districts with the costs associated with education. And, finally, third, we can specifically help financially strapped urban and rural school systems recruit new teachers and keep those teachers that are currently in the system.

With these premises in mind, I introduce, "The Teacher Tax Credit." This legislation creates a $1,000 tax credit for eligible teachers for qualified education expenses, qualified professional development expenses and interest paid by the teacher during the taxable year on any qualified education loan.

Every one of these expenses benefit the student in the classroom either through better classroom materials or through increased knowledge on the part of the teacher. Even so, the current tax code provides little, if any, recognition of the importance of these expenses.

Under the current tax structure, each of these expenses are deductible. However, in order to deduct these classroom expenses under the current tax code, our teachers must meet 4 requirements:

(1) Teachers must itemize their deductions to receive any tax benefit for the unreimbursed money they spend on education expenses or professional development expenses. Most taxpayers in this country do not itemize;

(2) In the event teachers do itemize, in order to receive a deduction under the current tax code for education expenses or professional development costs, teachers' deductions would have to exceed two percent of their adjusted gross income;

(3) With respect to qualified education loans, under the current tax law, the interest on these loans is deductible, but that deduction is limited to the first sixty months after graduation. A teacher with the standard ten year repayment loans who has been teaching for more than five years receives no benefit; and

(4) Under the current tax code, the student loan interest deduction is phased out based on income level. Thus, some teachers, although not rich by any means, could be phased out of the deduction.

As a result of these four prerequisites, most teachers today receive little, if any, tax benefit for their out of pocket expenses to improve our childrens' education.

Our teachers deserve better.

When our teachers spend their own money on education expenses that go into the classroom to help students learn, they ought to receive a real tax benefit.

When our teachers spend their own money on professional development courses to enhance their knowledge in a subject in which they are instructing, our teachers deserve a real tax benefit.

When our recent college graduates make the honorable and tough choice of training today's youth and tomorrow's leaders, with little expectation of financial riches, such a choice should be encouraged and our teachers' choices should be recognized.

In my view, the most important factor in ensuring a quality education is having a quality teacher in the classroom.

The $1,000 Teacher Tax Credit recognizes the hard work our teachers have committed themselves to and helps improve education.

Under my legislation, teachers could receive up to a $1,000 tax credit for qualified education expenses, qualified professional development courses, and interest on student loans. Qualifying teachers would not have to itemize their deductions to receive the credit, and they would not have to exceed the two-percent floor. Teachers would not be phased out of the student loan interest benefit based on income level, and there would be no 60 month limitation.

Mr. President, we all agree that our education system must ensure that no child is left behind. As we move towards education reforms to achieve this goal, we must keep in mind the other component in our education system—the teachers.

We must ensure that qualified teachers are not forgotten.

Quality, caring teachers, along with quality caring parents, play the predominant roles in ensuring that no child is left behind. Passage of The Teacher Tax Credit will help our school systems retain the good teachers they now have and recruit the good teachers they need for the future.

Mr. President, some of my colleagues in the Senate have recognized that we can and must do more for our teachers in this country. Senators COLLINS and KYL have worked on similar legislation, and I commend them for their efforts. I look forward working with them and my other colleagues on this important matter. I urge my colleagues to support this legislation.

I ask unanimous consent that letters from the National Education Association and the Virginia Education Association indicating their support for this legislation and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The TEACHER Tax Credit Act".

SEC. 2. CREDIT FOR TEACHING EXPENSES, PROFESSIONAL DEVELOPMENT EXPENSES, AND INTEREST ON HIGHER EDUCATION LOANS OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

"SEC. 25B. TEACHING EXPENSES, PROFESSIONAL DEVELOPMENT EXPENSES, AND INTEREST ON HIGHER EDUCATION LOANS OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible teacher, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified education expenses paid or incurred by the taxpayer during the taxable year,

"(2) the qualified professional development expenses paid or incurred by the taxpayer during the taxable year, and

"(3) interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE TEACHER.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in a public elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

"(2) ELEMENTARY AND SECONDARY SCHOOLS.—The terms 'elementary school' and 'secondary school' have the respective meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect of the date of enactment of this section.

"(3) QUALIFIED EDUCATION EXPENSES.—The term 'qualified education expenses' means expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by an eligible teacher in the classroom.

"(4) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

"(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

"(i) for tuition, fees, books, supplies, and equipment required for the enrollment or attendance of an individual in a qualified course of instruction, and

"(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

"(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

"(i) directly relates to the curriculum and academic subjects in which an eligible teacher provides instruction,

"(ii) is designed to enhance the ability of an eligible teacher to understand and use State standards for the academic subjects in which such teacher provides instruction,

"(iii) provides instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented),

"(iv) provides instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described clause (iii) learn, or

"(v) is tied to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of the eligible teacher.

"(5) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(e)(1), but only with respect to qualified higher education expenses of the taxpayer.

"(d) DENIAL OF DOUBLE BENEFIT.—

"(1) IN GENERAL.—No deduction or other credit shall be allowed under this chapter for any amount taken into account for which credit is allowed under this section.

"(2) COORDINATION WITH EXCLUSIONS.—A credit shall be allowed under subsection (a) for qualified professional development expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.

"(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Teaching expenses, professional development expenses, and interest on higher education loans of public elementary and secondary school teachers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, January 25, 2001.

Senator JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for the Educator and Classroom Help Education Resources (TEACHER) Tax Credit Act.

As you know, teacher quality is the single most critical factor in maximizing student achievement. Ongoing professional development is essential to ensure that teachers stay up-to-date on the skills and knowledge necessary to prepare students for the challenges of the 21st century. The TEACHER Act tax credit for professional development expenses will make a critical difference in helping teachers access quality training.

In addition, the TEACHER Act will help encourage talented students to pursue a career in teaching by providing a tax credit for interest paid on higher education loans. Such a tax credit is particularly critical given the projected need to recruit two million qualified teachers nationwide over the next decade.

Finally, we are pleased that your legislation would provide a tax credit for teachers who reach into their own pockets to pay for necessary classroom materials, including books, pencils, paper, and art supplies. A 1996 NEA study found that the average K-12 teacher spent over $400 a year out of personal funds for classroom supplies. For teachers earning modest salaries, the purchase of classroom supplies represents a considerable expense for which they often must sacrifice other personal needs.

We than you for your leadership in introducing this important legislation and look forward to working with you to support our nation's teachers.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

VIRGINIA EDUCATION ASSOCIATION,
Richmond, VA, January 24, 2001.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: On behalf of all 56,000 members of VEA we congratulate you on your appointment to the Education Committee, and we look forward to working with you.

Christopher Yianilos reviewed "The Educator and Classroom Help Education Resources (TEACHER) Tax Credit Act" with Rob Jones and me on January 19th. We appreciated this opportunity to evaluate the bill and to receive a thorough briefing from Mr. Yianilos.

We both appreciate and support your efforts to provide a tax credit for teaching expenses, professional development expenses, and student education loans. Please call on VEA if we can be of assistance in gaining passage of this worthy bill.

In addition, please call on us if we can ever be of assistance to you in your new position as a member of the Education Committee.

Sincerely,

JEAN H. BANKOS,
President.

By Ms. SNOWE (for herself, Mr. JEFFORDS, and Mr. VOINOVICH):

S. 226. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I am reintroducing legislation that would establish a Northern Border States Council on United States-Canada trade.

The purpose of this Council is to oversee cross-border trade with our Nation's largest trading partner—an action that I believe is long overdue and should be considered. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade from the very people who are dealing with trade problems. The Council will enable the United States to more effectively administer the trade policy with Canada by applying the wealth of insight, knowledge and expertise of people who reside not only in my State of Maine, but also in the other northern border States, on this critical policy issue.

Within the U.S. Government we already have the Department of Commerce and a U.S. Trade Representative, both Federal entities, responsible for our larger, national U.S. trade interests. But the fact is that too often such entities fail to give full consideration to the interests of the northern States that share a border with Canada, the longest demilitarized border between two nations anywhere in the world. The Northern Border States Council will provide State trade officials with a mechanism to share information about cross-border traffic and trade. The Council will also advise the Congress, the President, the U.S. Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, practices, and problems.

Canada is our largest and most important trading partner. It is by far the top purchaser of U.S. export goods and services, as it is the largest source of U.S. imports. In 1999, total two-way merchandise commerce was $365 billion—that's $1 billion a day. With an economy one-tenth the size of our own, Canada's economic health depends on maintaining close trade ties with the United States. While Canada accounts for about one-fifth of U.S. exports and imports, the United States is the source of two-thirds of Canada's imports and provides the market with fully three-quarters of all of Canada's exports.

The United States and Canada have the largest bilateral trade relationship in the world, a relationship that is remarkable not only for its strength and general health, but also for the intensity of the trade and border problems that do frequently develop—as we have seen in recent years with actual farmer border blockades in some border states because of the unfairness of agricultural trade policies.

Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free Trade Agreement in 1989, and the North American Free Trade Agreement, or NAFTA, in 1993. They also negotiated the 1996 US-Canada Softwood Lumber Agreement, which will expire two months from now, on March 31. Even though some of us in Congress urged the last Administration on more than one occasion to negotiate a process with Canadian officials to work for a fairer alternative, nothing was attempted on a government to government basis.

Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa for solutions to problems for grain trade, wheat imports, animal trade, and joint cooperation on Biotechnology.

Most of the more well-known trade disputes with Canada have involved agricultural commodities such as durum wheat, peanut butter, dairy products, and poultry products, and these disputes, of course, have impacted more than just the northern border States. Each and every day, an enormous quantity of trade and traffic crosses the United States-Canada border. There are literally thousands of businesses, large and small, that rely on this cross-border traffic and trade for their livelihood.

My own State of Maine has had a long-running dispute with Canada over that nation's unfair policies in support of its potato industry. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as setting container size limitations and a prohibition on bulk shipments from the United States. I might add that there has still not been any movement towards solutions for these problems, even though I have been given promises every year that trade problems with Canada would be a top priority for discussion.

This bulk import prohibition effectively blocks United States potato imports into Canada and was one topic of discussion during a 1997 International Trade Commission investigations hearing, where I testified on behalf of the

Maine potato growers. The ITC followed up with a report stating that Canadian regulations do restrict imports of bulk shipments of fresh potatoes for processing or repacking, and that the U.S. maintains no such restrictions. These bulk shipment restrictions continue, and, at the same time, Canada also artificially enhances the competitiveness of its product through domestic subsidies for its potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, originally served as the inspiration for this legislation. In July 1993, Canadian federal customs officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick Provincial Sales Tax, [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian federal sales tax all across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick.

After months of imploring the U.S. Trade Representative to do something about the imposition of the unfairly administered tax, then Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST issue in the NAFTA dispute settlement process. But despite this explicit assurance, the issue was not, in fact, brought before NAFTA's dispute settlement process, prompting Congress in 1996, to include an amendment I offered to immigration reform legislation calling for the U.S. Trade Representative to take this action without further delay. But, it took three years for a resolution, and even then, the resolution was not crafted by the USTR.

Throughout the early months of the PST dispute, we in the state of Maine had enormous difficulty convincing our Federal trade officials that the PST was in fact an international trade dispute that warranted their attention and action. We had no way of knowing whether problems similar to the PST dispute existed elsewhere along the United States-Canada border, or whether it was a more localized problem. If a body like the Northern Border States Council had existed when the collection of the PST began, it could have immediately started investigating the issue to determine its impact and would have made recommendations as to how to deal with it.

The long-standing pattern of unsuccessful negotiations is alarming. In short, the Northern Border States Council will serve as the eyes and ears of our States that share a border with Canada, and who are most vulnerable to fluctuations in cross-border trade and traffic. The Council will be a tool for Federal and State trade officials to use in monitoring cross-border trade. It will help ensure that national trade policy regarding America's largest trading partner will be developed and implemented with an eye towards the unique opportunities and burdens present to the northern border states.

The Northern Border States Council will be an advisory body, not a regulatory one. Its fundamental purpose will be to determine the nature and cause of cross-border trade issues or disputes, and to recommend how to resolve them.

The duties and responsibilities of the Council will include, but not be limited to, providing advice and policy recommendations on such matters as taxation and the regulation of cross-border wholesale and retail trade in goods and services; taxation, regulation and subsidization of food, agricultural, energy, and forest-products commodities; and the potential for Federal and State/provincial laws and regulations, including customs and immigration regulations, to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panels established under NAFTA. These Council reviews will be conducted upon the request of the United States Trade Representative, the Secretary of Commerce, a Member of Congress from any Council State, or the Governor of a Council State.

If the Council determines that the origin of a cross-border trade dispute resides with Canada, the Council would determine, to the best of its ability, if the source of the dispute is the Canadian Federal Government or a Canadian Provincial government.

The goal of this legislation is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each northern border State will have two members on the Council. The Council members will be unpaid, and serve a 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will ensure that the voices and views of our northern border States are heard in Washington by our Federal trade officials. For too long their voices have been ignored, and the northern border States have had to suffer severe economic consequences at various times because of it. This legislation will bring our States into their rightful position as full partners for issues that affect cross-border trade and traffic with our country's largest trading partner. I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Border States Council Act".

SEC. 2. ESTABLISHMENT OF COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Northern Border States-Canada Trade Council (in this Act referred to as the "Council").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of 24 members consisting of 2 members from each of the following States:

(A) Maine.
(B) New Hampshire.
(C) Vermont.
(D) New York.
(E) Michigan.
(F) Minnesota.
(G) Wisconsin.
(H) North Dakota.
(I) Montana.
(J) Idaho.
(K) Washington.
(L) Alaska.

(2) APPOINTMENT BY STATE GOVERNORS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce (in this Act referred to as the "Secretary") shall appoint two members from each of the States described in paragraph (1) to serve on the Council. The appointments shall be made from a list of nominees submitted by the Governor of each such State.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for terms that are coterminous with the term of the Governor of the State who nominated the member. Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Council have been appointed, the Council shall hold its first meeting.

(e) MEETINGS.—The Council shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Council shall select a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall each serve in their respective positions for a period of 2 years, unless such member's term is terminated before the end of the 2-year period.

SEC. 3. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The duties and responsibilities of the Council shall include—

(1) advising the President, the Congress, the United States Trade Representative, the Secretary, and other appropriate Federal and State officials, with respect to—

(A) the development and administration of United States-Canada trade policies, practices, and relations,

(B) taxation and regulation of cross-border wholesale and retail trade in goods and services between the United States and Canada,

(C) taxation, regulation, and subsidization of agricultural products, energy products, and forest products, and

(D) the potential for any United States or Canadian customs or immigration law or policy to result in a barrier to trade between the United States and Canada;

(2) monitoring the nature and cause of trade issues and disputes that involve one of the Council-member States and either the Canadian Government or one of the provincial governments of Canada; and

(3) if the Council determines that a Council-member State is involved in a trade issue or dispute with the Government of Canada or one of the provincial governments of Canada, making recommendations to the President, the Congress, the United States Trade Representative, and the Secretary concerning how to resolve the issue or dispute.

(b) Response to Requests by Certain People.—

(1) In general.—Upon the request of the United States Trade Representative, the Secretary, a Member of Congress who represents a Council-member State, or the Governor of a Council-member State, the Council shall review and comment on—

(A) reports of the Federal Government and reports of a Council-member State government concerning United States-Canada trade;

(B) reports of a binational panel or review established pursuant to chapter 19 of the North American Free Trade Agreement concerning the settlement of a dispute between the United States and Canada;

(C) reports of an arbitral panel established pursuant to chapter 20 of the North American Free Trade Agreement concerning the settlement of a dispute between the United States and Canada; and

(D) reports of a panel or Appellate Body established pursuant to the General Agreement on Tariffs and Trade concerning the settlement of a dispute between the United States and Canada.

(2) Determination of scope.—Among other issues, the Council shall determine whether a trade dispute between the United States and Canada is the result of action or inaction on the part of the Federal Government of Canada or a provincial government of Canada.

(c) Council-Member State.—For purposes of this section, the term "Council-member State" means a State described in section 2(b)(1) which is represented on the Council established under section 2(a).

SEC. 4. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act and at the end of each 2-year period thereafter, the Council shall submit a report to the President and the Congress which contains a detailed statement of the findings, conclusions, and recommendations of the Council.

SEC. 5. POWERS OF THE COUNCIL.

(a) Hearings.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out the provisions of this Act. Notice of Council hearings shall be published in the Federal Register in a timely manner.

(b) Information From Federal Agencies.—The Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out the provisions of this Act. Upon the request of the Chairperson of the Council, the head of such department or agency shall furnish such information to the Council.

(c) Postal Services.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Council may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COUNCIL PERSONNEL MATTERS.

(a) Members To Serve Without Compensation.—Except as provided in subsection (b), members of the Council shall receive no compensation, allowances, or benefits by reason of service to the Council.

(b) Travel Expenses.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(c) Staff.—

(1) In general.—The Chairperson of the Council may, without regard to the civil service laws, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Council to perform its duties. The employment of an executive director shall be subject to confirmation by the Council and the Secretary.

(2) Compensation.—The Chairperson of the Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) Office Space.—The Secretary shall provide office space for Council activities and for Council personnel.

SEC. 7. TERMINATION OF THE COUNCIL.

The Council shall terminate on the date that is 54 months after the date of enactment of this Act and shall submit a final report to the President and the Congress under section 4 at least 90 days before such termination.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated an amount not to exceed $250,000 for fiscal year 2002 and for each fiscal year thereafter to the Council to carry out the provisions of this Act.

(b) Availability.—Any sums appropriated pursuant to this section shall remain available, without fiscal year limitation, until expended.

By Mr. AKAKA:

S. 228. A bill to amend title 38, United States Code, to make permanent the Native American Veterans Housing Loan Program, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise to introduce a bill which permanently authorizes the Native American Veteran Housing Loan Program.

In 1992, I authored a bill that established a pilot program to assist Native American veterans who reside on trust lands. This pilot program, administered by the Department of Veterans Affairs, VA, provides direct loans to Native American veterans to build or purchase homes on trust lands. Previously, Native American veterans who resided on trust lands were unable to qualify for VA home loan benefits. This disgraceful treatment of Native American veterans was finally corrected when Congress established the Native American Direct Home Loan Program.

Despite the challenges of creating a program that addresses the needs of hundreds of different tribal entities, VA has successfully entered into agreements to provide direct VA loans to members of 59 tribes and Pacific Island groups, and negotiations continue with other tribes. Since the program's inception, 233 Native American veterans have been able to achieve home ownership, and none of the loans approved by the VA have been foreclosed.

Unfortunately, the authority to issue new loans under this successful program will end on December 31, 2001. This would be devastating to a number of Native American veterans who would like to participate in this program. Native American veterans who reside on trust lands should be afforded the same benefits available to other veterans. Without this program, it would be incredibly difficult for Native Americans living on trust lands to obtain home loan financing.

Permanent authorization of this program will ensure that Native American veterans are provided equal access to services and benefits available to other veterans. I urge my colleagues to support this important legislation.

I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR NATIVE AMERICAN VETERANS HOUSING LOAN PROGRAM.

(a) Permanent Authority.—Section 3761 of title 38, United States Code, is amended by striking subsection (c).

(b) Reporting Requirements.—Subsection (j) of section 3762 of that title is amended—

(1) in the matter preceding paragraph (1), by striking "through 2002"; and

(2) by striking "pilot" each place it appears.

(c) Conforming Amendments.—(1) Section 3761 of that title is further amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "establish and implement a pilot program" and inserting "carry out a program"; and

(ii) in the second sentence, by striking "establish and implement the pilot program" and inserting "carry out the program"; and

(B) in subsection (b), by striking "pilot".

(2) Section 3762 of that title is further amended—

(A) in subsection (b)(1)(E), by striking "pilot program established under this subchapter is implemented" and inserting "program under this subchapter is carried out";

(B) in the second sentence of subsection (c)(1)(B), by striking "in order to carry out" and all that follows through "direct housing loans" and inserting "to make direct housing loans under the program under this subchapter"; and

(C) in subsection (i)—

(i) in paragraph (1), by striking "pilot";

(ii) in paragraph (2)(A)—

(I) by striking "pilot program" the first place it appears and inserting "program provided for under this subchapter"; and

(II) by striking "pilot program" the second place it appears and inserting "that program"; and

(iii) in paragraph (2)(E), by striking "pilot program" and inserting "program provided for under this subchapter".

(d) CLERICAL AMENDMENTS.—(1) The section heading of section 3761 of that title is amended to read as follows:

"§3761. Housing loan program".

(2) The subchapter heading of subchapter V of chapter 37 of that title is amended to read as follows:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM".

(3) The table of sections at the beginning of chapter 37 of that title is amended by striking the item relating to subchapter V and the item relating to section 3761 and inserting the following new items:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM

"3761. Housing loan program.".

By Mr. CAMPBELL:

S. 231. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CAMPBELL. Mr. President, the future of our nation rests on the small shoulders of America's school children. To help them face that challenge, we must call on all of our resources and find new and innovative ways to support our schools, right now.

That is why today, I am introducing the "Seniors As Volunteers in Our Schools Act," a bill that will be an important step in ensuring that our schools provide a safe and caring place for our children to learn and grow. This bill is based on legislation which I introduced in the 106th Congress, S. 1851. I am pleased to have my colleagues Senators GRASSLEY, AKAKA and INOUYE as original co-sponsors.

Over the past week, under the leadership of President Bush, our nation and this body have committed to improving the nature of our schools. This bill presents one common-sense approach to enhancing the safety in our schools by utilizing one of our greatest resources—our senior citizens.

The bill I introduce today would encourage school administrators and teachers to use qualified seniors as volunteers in federally funded programs and activities authorized by the Elementary and Secondary Education Act, ESEA. The legislation specifically would encourage the use of seniors as volunteers in the safe and drug free schools programs, Indian education programs, the 21st Century Community before- and after-school programs and gifted and talented programs.

The Seniors as Volunteers in Our Schools Act creates no new programs; rather it suggests another allowable use of funds already allocated. The discretion whether to take advantage of this new resource continues to remain solely with the school systems.

In my home state of Colorado, a School Safety Summit recommended connecting each child to a caring adult as a way to reduce youth violence. Studies show that consistent guidance by a mentor or caring adult can help reduce teenage pregnancy, substance abuse and youth violence. Evidence also shows that the presence of adults on playgrounds, and in hallways and study halls, stabilizes the learning environment.

I know firsthand the importance of mentoring based on my own experiences as a teacher. A mentor can have a profound and positive impact on a child's life. What better way to make our schools safer for our children than to have more caring adults visibly involved?

I am pleased to note that the Colorado Association of School Boards supports the goal of this legislation. Jane Urschel, the Association's Associate Executive Director states, "As many Colorado school districts have already discovered, having senior citizens in our classrooms helps to build intergenerational relationships and trust. It leads to a richer life for all."

I am pleased that a number of seniors in Colorado already are helping in schools throughout my state. Many of my former and current staffers and their relatives care deeply about this issue and are very involved in volunteer and mentoring activities.

I do not expect this legislation to solve all the problems confronting our schools today. But, I see it as a practical way to help make our schools safer, more caring places for our children.

Mr. President, the Seniors as Volunteers in Our Schools Act of 2001 is one simple way to address the school safety issue in Colorado and nationwide. I believe that as we work to find the resources our schools require we must not overlook one of the more plentiful and accessible resources at our disposal—willing and capable adult role models. This bill provides an opportunity to immediately improve the lives of younger and older Americans alike by bringing them together in our schools. I urge my colleagues to support its passage.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seniors as Volunteers in Our Schools Act".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. GOVERNOR'S PROGRAMS.

Section 4114(c) (20 U.S.C. 7114(c)) is amended—

(1) in paragraph (11), by striking "and" after the semicolon;

(2) in paragraph (12), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(13) drug and violence prevention activities that use the services of appropriately qualified seniors for activities that include mentoring, tutoring, and volunteering.".

SEC. 4. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

Section 4116(b) (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by inserting "(including mentoring by appropriately qualified seniors)" after "mentoring";

(2) in paragraph (2)(C)—

(A) in clause (ii), by striking "and" after the semicolon;

(B) in clause (iii), by inserting "and" after the semicolon; and

(C) by adding at the end the following:

"(iv) drug and violence prevention activities that use the services of appropriately qualified seniors for such activities as mentoring, tutoring, and volunteering;";

(3) in paragraph (4)(C), by inserting "(including mentoring by appropriately qualified seniors)" after "mentoring programs"; and

(4) in paragraph (8), by inserting "and which may involve appropriately qualified seniors working with students" after "settings".

SEC. 5. NATIONAL PROGRAMS.

Section 4121(a) (20 U.S.C. 7131(a)) is amended—

(1) in paragraph (10), by inserting ", including projects and activities that promote the interaction of youth and appropriately qualified seniors" after "responsibility"; and

(2) in paragraph (13), by inserting ", including activities that integrate appropriately qualified seniors in activities, such as mentoring, tutoring, and volunteering" after "title".

SEC. 6. AUTHORIZED SERVICES AND ACTIVITIES.

Section 9115(b) (20 U.S.C. 7815(b)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.".

SEC. 7. IMPROVEMENTS OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

Section 9121(c)(1) (20 U.S.C. 7831(c)(1)) is amended—

(1) in subparagraph (J), by striking "or" after the semicolon;

(2) by redesignating subparagraph (K) as subparagraph (L); and

(3) by inserting after subparagraph (J) the following:

"(K) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or".

SEC. 8. PROFESSIONAL DEVELOPMENT.

Section 9122(d)(1) (20 U.S.C. 7832(d)(1)) is amended in the second sentence by striking the period and inserting ", and may include programs designed to train tribal elders and seniors.".

SEC. 9. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

Section 9210(b) (20 U.S.C. 7910(b)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon; and

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors.".

SEC. 10. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

Section 9306(b) (20 U.S.C. 7936(b)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors.".

SEC. 11. GIFTED AND TALENTED CHILDREN.

Section 10204(b)(3) (20 U.S.C. 8034(b)(3)) is amended by striking "and parents" and inserting ", parents, and appropriately qualified senior volunteers".

SEC. 12. 21st CENTURY COMMUNITY LEARNING CENTERS.

Section 10904(a)(3) (20 U.S.C. 8244(a)(3)) is amended—

(1) in subparagraph (D), by striking "and" after the semicolon;

(2) in subparagraph (E), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(F) a description of how the school or consortium will encourage and use appropriately qualified seniors as volunteers in activities identified under section 10905.".

By Mr. CLELAND (for himself, Mr. DURBIN, Mr. HAGEL, Mr. CORZINE, and Ms. LANDRIEU):

S. 232. A bill to amend the Internal Revenue Code for 1986 to exclude United States savings bond income from gross income if it is used to pay long-term care expenses; to the Committee on Finance.

Mr. CLELAND. Mr. President, I am very pleased to begin this session with re-introduction of a measure to help Americans to better afford health care. Last Congress, I introduced S. 2066, which would have created a Savings Bond Income Tax-exemption for long-term care services. On July 17, 2000, this measure was adopted by the Senate as an amendment to S. 2839, the Marriage Penalty Reconciliation bill, but unfortunately was not retained in the final version of the legislation. As we all know, Congress did not pass any significant tax relief for health care coverage last year. Today, I am joined by Senators DURBIN, HAGEL, CORZINE and LANDRIEU in re-submitting this legislation.

Many have expressed their continuing interest in enacting our proposal which would result in a revenue loss of less than $22 million over ten years as estimated by the Joint Committee on Taxation while offering significant help in the financing of long-term health care needs. It is currently forecasted that in the next 30 years, half of all women and a third of all men in the United States will spend a portion of their life in a nursing home at a cost of $40,000 to $90,000 per year per person. I believe the proposed legislation would provide an excellent opportunity to assist millions of Americans facing the financial burdens of long-term care.

The bill we are re-introducing today would exclude United States savings bond income from being taxed if used to pay for long-term health care expenses. It will assist individuals struggling to accommodate costs associated with many chronic medical conditions and the aging process. Families that claim parents or parents-in-law as dependents on their tax returns would qualify for this tax credit if savings bond income is used to pay for long-term care services. "Sandwich generation" families paying for both college education for their children and long-term care services for their parents could use the tax credit for either program or a combined credit up to the allowable amount.

The last Congress took an important step in addressing our growing long-term care needs by enacting H.R. 4040, the Long-Term Care Security Act. H.R. 4040, which was signed into law on September 19, 2000, created the largest employer-based long-term care insurance program in American history. Additional steps are needed and our proposal will make long-term care more obtainable by more Americans. I urge you to support this needed tax relief for Americans struggling with the high cost of assistive and nursing home care.

I ask that this proposal to provide tax relief for long-term care services be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF UNITED STATES SAVINGS BOND INCOME FROM GROSS INCOME IF USED TO PAY LONG-TERM CARE EXPENSES.

(a) IN GENERAL.—Subsection (a) of section 135 of the Internal Revenue Code of 1986 (relating to income from United States savings bonds used to pay higher education tuition and fees) is amended to read as follows:

"(a) EXCLUSION.—

"(1) GENERAL RULE.—In the case of an individual who pays qualified expenses during the taxable year, no amount shall be includible in gross income by reason of the redemption during such year of any qualified United States savings bond.

"(2) QUALIFIED EXPENSES.—For purposes of this section, the term 'qualified expenses' means—

"(A) qualified higher education expenses, and

"(B) eligible long-term care expenses.".

(b) LIMITATION WHERE REDEMPTION PROCEEDS EXCEED QUALIFIED EXPENSES.—Section 135(b)(1) of the Internal Revenue Code of 1986 (relating to limitation where redemption proceeds exceed higher education expenses) is amended—

(1) by striking "higher education" in subparagraph (A)(ii), and

(2) by striking "HIGHER EDUCATION" in the heading thereof.

(c) ELIGIBLE LONG-TERM CARE EXPENSES.—Section 135(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ELIGIBLE LONG-TERM CARE EXPENSES.—The term 'eligible long-term care expenses' means qualified long-term care expenses (as defined in section 7702B(c)) and eligible long-term care premiums (as defined in section 213(d)(10)) of—

"(A) the taxpayer,

"(B) the taxpayer's spouse, or

"(C) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.".

(d) ADJUSTMENTS.—Section 135(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) ELIGIBLE LONG-TERM CARE EXPENSE ADJUSTMENTS.—The amount of eligible long-term care expenses otherwise taken into account under subsection (a) with respect to an individual shall be reduced (before the application of subsection (b)) by the sum of—

"(A) any amount paid for qualified long-term care services (as defined in section 7702B(c)) provided to such individual and described in section 213(d)(11), plus

"(B) any amount received by the taxpayer or the taxpayer's spouse or dependents for the payment of eligible long-term care expenses which is excludable from gross income.".

(e) COORDINATION WITH DEDUCTIONS.—

(1) Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end the following new subsection:

"(f) COORDINATION WITH SAVINGS BOND INCOME USED FOR EXPENSES.—Any expense taken into account in determining the exclusion under section 135 shall not be treated as an expense paid for medical care.".

(2) Section 162(l) of such Code (relating to special rules for health insurance costs of self-employed individuals) is amended by adding at the end the following new paragraph:

"(6) COORDINATION WITH SAVINGS BOND INCOME USED FOR EXPENSES.—Any expense taken into account in determining the exclusion under section 135 shall not be treated as an expense paid for medical care.".

(f) CLERICAL AMENDMENTS.—

(1) The heading for section 135 of the Internal Revenue Code of 1986 is amended by inserting "and long-term care expenses" after "fees".

(2) The item relating to section 135 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting "and long-term care expenses" after "fees".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

By Mr. FEINGOLD (for himself, Mr. LEVIN, Mr. WELLSTONE, and Mr. CORZINE):

S. 233. A bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, one year ago today, Governor George Ryan took the bold step of placing a moratorium on executions in Illinois. He refused to sign off on a single execution in Illinois. Why? Because he saw that the system by which people were sentenced to death in Illinois was terribly flawed. In fact, by the time Governor Ryan made his decision, Illinois had seen more exonerations of innocent people than executions. There had been 13 exonerations and 12 executions. Of the 13 people found innocent, some were wrongfully convicted based on police or prosecutorial misconduct. Modern DNA testing played a role in yet another 5 exonerations. And in some cases, it was students from Northwestern University—people very much outside the criminal justice system—who played a key role in finding and presenting the evidence to secure the release of wrongfully condemned men.

What did Governor Ryan do in the face of this risk of executing innocent people? Governor Ryan recognized the moral stakes that faced him and took the courageous step of suspending executions. He said, "until I can be sure with moral certainty that no innocent man or woman is facing a lethal injection, no one will meet that fate." Is that too much to ask—that innocent men and women not be put to death? I believe the vast majority of Americans would say it is not too much to ask. Governor Ryan has been an ardent death penalty supporter, having argued vehemently for its use while a member of the Illinois legislature. But now, as Governor, he was faced with the awesome responsibility of carrying out the final stage of this punishment. Following his decision to place a moratorium on executions, he promptly appointed a panel of distinguished prosecutors and defense lawyers, as well as civic and political leaders. That panel is charged with thoroughly reviewing the flaws in the administration of the death penalty in Illinois.

But these problems—and particularly the risk of executing an innocent person—are not unique to Illinois. They exist throughout our Nation. That is why today I rise to re-introduce the National Death Penalty Moratorium Act. This bill seeks to apply the wisdom of Governor Ryan and the people of Illinois to the federal government and all states that authorize the use of capital punishment. I am pleased that my distinguished colleagues, Senators LEVIN, WELLSTONE and CORZINE, have joined me in cosponsoring this bill.

Governor Ryan's decision was a watershed event. During the last year, his action was a significant factor in unleashing a renewed, national debate on the death penalty. For the first time in many years, people are beginning to understand that our system is fallible. Mistakes can be made. Mistakes have been made. But mistakes should not be made, particularly when mistakes can mean the difference between life and death. In fact, overall support for the death penalty has dropped to an almost 20-year low. According to an NBC News/Wall Street Journal poll, 63 percent of Americans support a suspension of executions while questions of fairness are addressed.

The time to prevent the execution of the innocent is now. The time to restore fairness and justice is now. The time to act is now. The time for a moratorium is now.

Governor Ryan was greatly troubled by the number of innocent people sent to death row in Illinois—13 people, and still counting. Since the 1970s, 93 people have been exonerated nationwide. At the same time, we have executed close to 700 people. That means for every seven people who have been executed, we have found one person sitting on death row who should not have been there. And it's not just Illinois that has sent innocent people to death row. Twenty-two of the 38 states that authorize capital punishment have had exonerations. In fact, Florida actually exceeds Illinois in total number of people exonerated: Florida has had 20. Oklahoma has exonerated 7, Texas has exonerated 7 people, Georgia has exonerated 6 people, and on and on. Mr. President, while we explore ways to reduce and eliminate the risk of executing the innocent, not a single person should be executed. The time to act is now. The time for a moratorium is now.

My distinguished colleague from Vermont, the ranking member of the Judiciary Committee, Senator LEAHY, has championed the need for access to modern DNA testing and certain minimum standards of competency for defense counsel in capital cases. I have joined him and many of our distinguished colleagues, including Senators GORDON SMITH, COLLINS, JEFFORDS, and LEVIN, to support the Innocence Protection Act. This bill would bring greater fairness to the administration of the death penalty. I commend Senator LEAHY for his leadership on this bill, particularly for highlighting the need for access to modern DNA testing. During the last year, as a result of his leadership, the American people are beginning to understand the value and necessity of modern DNA testing in our criminal justice system. But while we work to pass these needed reforms, a time-out is needed to ensure the integrity and fairness of our criminal justice system. The time for a moratorium is now.

According to a study led by Columbia University Law Professor Jim Liebman and released last June, the overall rate of error in America's death penalty system is 68 percent. Reviewing over 4,500 appeals between 1973 and 1995, the report found that courts detected serious, reversible error in nearly 7 of every 10 of the capital sentences that were fully reviewed. It is appalling that the system is producing so many mistakes. And, of course, the question remains: Are we in fact catching all the mistakes?

The Columbia study is further evidence that Illinois' problems are not unique. The overall error rate in Illinois was 66 percent, just below the national average, which means that some states are well above Illinois. I can't underscore this enough. The serious, prejudicial error that results in reversals is a phenomenon nationally, not just in Illinois.

In the words of the study's authors, our system is "collapsing under the weight of its own mistakes." Mr. President, if our death penalty system was a business enterprise that had an error rate in producing widgets of 68 percent, that business would undertake a thorough, top to bottom review. Let's conduct a thorough, top to bottom review of our nation's death penalty system.

The Columbia study found that the most common errors are (1) egregiously incompetent defense counsel who failed to look for important evidence that the defendant was innocent or did not deserve to die; and (2) police or prosecutors who discovered that kind of evidence but suppressed it, again keeping it from the jury. On retrial where results are known, 82 percent of the reversals resulted in sentences less than death, while another 7 percent were found to be innocent of the crime that sent them to death row. When the system sends an innocent person to death row, there is a double loss: the innocent person is robbed of freedom and the real killer is still free, free to potentially do more harm.

Senator LEAHY's Innocence Protection Act is a first step in the fight to ensure that defendants facing capital charges receive competent legal representation. We have heard stories of sleeping lawyers, drunk lawyers, lawyers who are paid less than a living wage, all of whom are lawyers who have represented people subsequently convicted and sentenced to death. But, as the Columbia study shows, access to modern DNA testing and efforts to ensure competent counsel in capital cases are only two of the many menacing problems plaguing the administration of the death penalty.

The second common error, according to the Columbia study, is the role of police or prosecutorial misconduct in suppressing evidence that could mean the difference between guilt and innocence, or life and death. The risk of police or prosecutorial misconduct is increased in capital cases. Why? Because capital cases are usually high profile, high stakes cases, particularly for the police or prosecutor's personal, professional advancement. One problem involves the use of jailhouse informant testimony. Police or prosecutors use jailhouse informants who claim to have heard the defendant confess to a crime. These informants' testimony, however, is inherently unreliable because they have a strong incentive to lie: their testimony to convict another person can mean reduced charges or a lighter sentence in their own case.

Similarly, prosecutors may rely on the testimony of co-defendants who also may have strong incentives to lie to avoid tougher charges or harsher sentences. Yet another area of police misconduct involves false confessions. Take the case of Gary Gauger. Gauger was wrongfully convicted of murdering his parents on the basis of a false confession obtained by police. In 1993, he was convicted and sent to Illinois' death row. The main piece of evidence against him was a so-called "confession" that the police claimed they obtained after holding Gauger for 21 hours without food or access to an attorney. The police wrote out a version of the murder and tried to convince Gauger that he had killed his parents while in a blackout state. He refused to sign the "confession." But the prosecution introduced the unsigned confession against him at trial. His defense attorney did virtually no work preparing for trial, telling Gauger's sister that "death penalty cases are won on appeal." Fortunately for Gauger, Northwestern University Law Professor Larry Marshall took over his case and Gauger's conviction was reversed. In the meantime, the real killers were discovered when FBI agents, listening to wiretapped conversations during an FBI investigation of a motorcycle gang, heard the killers describe murdering Gauger's parents.

Gauger finally got his freedom, but only after being unfairly and unjustly dragged through our criminal justice system. Our law enforcement officers do a great job, but we must act to understand the role of misconduct by police and prosecutors and its contribution to creating a high rate of error in capital cases. The time to act is now. The time for a moratorium is now.

Another problem with our nation's administration of the death penalty is the glaring racial disparity in decisions about who shall be executed. One of the most disturbing statistics suggests that white victims are valued more highly by the system than non-whites. Since reinstatement of the modern death penalty, 83 percent of capital cases involve white victims, even though murder victims are African American or white in roughly equal numbers. Nationwide, more than half the death row inmates are African Americans or Hispanic Americans.

Racial disparities are particularly pronounced at the federal level. According to a report released by the Justice Department in September 2000, whether a defendant lives or dies in the federal system appears to relate to the color of the defendant's skin or the federal district in which the prosecution takes place. The report also found that 80 percent of the cases submitted for death penalty prosecution authorization involved minority defendants. Furthermore, according to the Department of Justice, white defendants are more likely than black defendants to negotiate plea bargains saving them from the death penalty in Federal cases. In fact, currently, 16 of the 20, or 80 percent, of federal death row inmates are racial or ethnic minorities.

The federal death penalty system also shows a troubling geographic disparity. The Department of Justice report shows that United States Attorneys in only 5 of 94 Federal districts—1 each in Virginia, Maryland, Puerto Rico, and 2 in New York—submit 40 percent of all cases in which the death penalty is considered. In fact, U.S. attorneys who have frequently recommended seeking the death penalty are often from States with a high number of executions under State law, including Texas, Virginia, and Missouri.

The National Institute of Justice is already setting into motion a comprehensive study of these racial and geographic disparities. Federal executions should not proceed until these disparities are fully studied and discussed, and until the federal death penalty process is subjected to necessary remedial action.

In addition to racial and geographic disparities in the administration of the federal death penalty, other serious questions exist about the fairness and reliability of federal death penalty prosecutions. Federal prosecutors rely heavily on bargained-for testimony from accomplices of the capital defendant, which is often obtained in exchange for not seeking the death penalty against the accomplices. This practice creates a serious risk of false testimony.

Federal prosecutors are not required to provide discovery sufficiently ahead of trial to permit the defense to be prepared to use this information effectively in defending their clients. The FBI, in increasing isolation from the rest of the nation's law enforcement agencies, refuses to make electronic recordings of interrogations that produce confessions, thus making subsequent scrutiny of the legality and reliability of such interrogations more difficult. Federal prosecutors rely heavily on predictions of "future dangerousness"—predictions deemed unreliable and misleading by the American Psychiatric Association and the American Psychological Association—to secure death sentences.

I was pleased when, in December 2000, President Clinton stayed Juan Raul Garza's execution and ordered the Justice Department to conduct further reviews of the racial and regional disparities in the federal death penalty system. Before the federal government takes this step, resuming executions for the first time in almost 40 years, we should be sure that our system of administering the ultimate punishment is fair and just.

I urge my colleagues to join me in cosponsoring the National Death Penalty Moratorium Act. This bill would place a moratorium on federal executions and urge the States to do the same. The bill would also create a National Commission on the Death Penalty to review the fairness of the administration of the death penalty at the state and federal levels. This Commission would be an independent, blue ribbon panel of distinguished prosecutors, defense attorneys, jurists and others.

The need for a moratorium could not be more critical than it is today. The time to act is now. The time for a moratorium is now.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Death Penalty Moratorium Act of 2001".

TITLE I—MORATORIUM ON THE DEATH PENALTY

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) GENERAL FINDINGS.—

(A) The administration of the death penalty by the Federal government and the States should be consistent with our Nation's fundamental principles of fairness, justice, equality, and due process.

(B) At a time when Federal executions are scheduled to recommence, Congress should consider that more than ever Americans are questioning the use of the death penalty and calling for assurances that it be fairly applied. Support for the death penalty has dropped to the lowest level in 19 years. An NBC News/Wall Street Journal Poll revealed that 63 percent of Americans support a suspension of executions until questions of fairness can be addressed.

(C) Documented unfairness in the Federal system requires Congress to act and suspend Federal executions. Additionally, substantial evidence of unfairness throughout death penalty States justifies further investigation by Congress.

(2) ADMINISTRATION OF THE DEATH PENALTY BY THE FEDERAL GOVERNMENT.—

(A) The fairness of the administration of the Federal death penalty has recently come under serious scrutiny, specifically raising questions of racial and geographic disparities:

(i) Eighty percent of Federal death row inmates are members of minority groups.

(ii) A report released by the Department of Justice on September 12, 2000, found that 80 percent of defendants who were charged with death-eligible offenses under Federal law and whose cases were submitted by the United States attorneys under the Department's death penalty decision-making procedures were African American, Hispanic American, or members of other minority groups.

(iii) The Department of Justice report shows that United States attorneys in only 5 of 94 Federal districts—1 each in Virginia, Maryland, Puerto Rico, and 2 in New York—submit 40 percent of all cases in which the death penalty is considered.

(iv) The Department of Justice report shows that United States attorneys who have frequently recommended seeking the death penalty are often from States with a high number of executions under State law, including Texas, Virginia, and Missouri.

(v) The Department of Justice report shows that white defendants are more likely than black defendants to negotiate plea bargains saving them from the death penalty in Federal cases.

(vi) A study conducted by the House Judiciary Subcommittee on Civil and Constitutional Rights in 1994 concluded that 89 percent of defendants selected for capital prosecution under the Anti-Drug Abuse Act of 1988 were either African American or Hispanic American.

(vii) The National Institute of Justice has already set into motion a comprehensive study of these racial and geographic disparities.

(viii) Federal executions should not proceed until these disparities are fully studied, discussed, and the federal death penalty process is subjected to necessary remedial action.

(B) In addition to racial and geographic disparities in the administration of the federal death penalty, other serious questions exist about the fairness and reliability of federal death penalty prosecutions:

(i) Federal prosecutors rely heavily on bargained-for testimony from accomplices of the capital defendant, which is often obtained in exchange for not seeking the death penalty against the accomplices. This practice creates a serious risk of false testimony.

(ii) Federal prosecutors are not required to provide discovery sufficiently ahead of trial to permit the defense to be prepared to use this information effectively in defending their clients.

(iii) The Federal Bureau of Investigation (FBI), in increasing isolation from the rest of the nation's law enforcement agencies, refuses to make electronic recordings of interrogations that produce confessions, thus making subsequent scrutiny of the legality and reliability of such interrogations more difficult.

(iv) Federal prosecutors rely heavily on predictions of "future dangerousness"—predictions deemed unreliable and misleading by the American Psychiatric Association and the American Psychological Association—to secure death sentences.

(3) ADMINISTRATION OF THE DEATH PENALTY BY THE STATES.—

(A) The punishment of death carries an especially heavy burden to be free from arbitrariness and discrimination. The Supreme Court has held that "super due process", a higher standard than that applied in regular criminal trials, is necessary to meet constitutional requirements. There is significant evidence that States are not providing this heightened level of due process. For example:

(i) In the most comprehensive review of modern death sentencing, Professor James Liebman and researchers at Columbia University found that, during the period 1973 to 1995, 68 percent of all death penalty cases reviewed were overturned due to serious constitutional errors. In the wake of the Liebman study, 6 States (Arizona, Maryland, North Carolina, Illinois, Indiana, and Nebraska), as well as the Chicago Tribune and the Texas Defender Service are conducting additional studies. These studies may expose additional problems. With few exceptions, the rate of error was consistent across all death penalty States.

(ii) Forty percent of the cases overturned were reversed in Federal court after having been upheld by the States.

(B) The high rate of error throughout all death penalty jurisdictions suggests that there is a grave risk that innocent persons may have been, or will likely be, wrongfully executed. Although the Supreme Court has never conclusively addressed the issue of whether executing an innocent person would in and of itself violate the Constitution, in Herrara v. Collins, 506 U.S. 390 (1993), a majority of the court expressed the view that a persuasive demonstration of actual innocence would violate substantive due process rendering imposition of a death sentence unconstitutional. In any event, the wrongful conviction and sentencing of a person to death is a serious concern for many Americans. For example:

(i) After 13 innocent people were released from Illinois death row in the same period that the State had executed 12 people, on January 31, 2000, Governor George Ryan of Illinois imposed a moratorium on executions until he could be "sure with moral certainty that no innocent man or woman is facing a lethal injection, no one will meet that fate".

(ii) Since 1973, 93 persons have been freed and exonerated from death rows across the country, most after serving lengthy sentences.

(C) Wrongful convictions create a serious public safety problem because the true killer is still at large, while the innocent person languishes in prison.

(D) There are many systemic problems that result in innocent people being convicted such as mistaken identification, reliance on jailhouse informants, reliance on faulty forensic testing and no access to reliable DNA testing. For example:

(i) A study of cases of innocent people who were later exonerated, conducted by attorneys Barry Scheck and Peter Neufeld with "The Innocence Project" at Cardozo Law School, showed that mistaken identifications of eyewitnesses or victims contributed to 84 percent of the wrongful convictions.

(ii) Many persons on death row were convicted prior to 1994 and did not receive the benefit of modern DNA testing. At least 10 individuals sentenced to death have been exonerated through post-conviction DNA testing, some within days of execution. Yet in spite of the current widespread prevalence and availability of DNA testing, many States have procedural barriers blocking introduction of post-conviction DNA testing. More than 30 States have laws that require a motion for a new trial based on newly discovered evidence to be filed within 6 months or less.

(iii) The widespread use of jailhouse snitches who earn reduced charges or sentences by fabricating "admissions" by fellow inmates to unsolved crimes can lead to wrongful convictions.

(iv) The misuse of forensic evidence can lead to wrongful convictions. A recently released report from the Texas Defender Service entitled "A State of Denial: Texas and the Death Penalty" found 160 cases of official forensic misconduct including 121 cases where expert psychiatrists testified "with absolute certainty that the defendant would be a danger in the future", often without even interviewing the defendant.

(E) The sixth amendment to the Constitution guarantees all accused persons access to competent counsel. The Supreme Court set out standards for determining competency in the case of Strickland v. Washington, 466 U.S. 668 (1984). Unfortunately, there is unequal access to competent counsel throughout death penalty States. For example:

(i) Ninety percent of capital defendants cannot afford to hire their own attorney.

(ii) Fewer than one-quarter of the 38 death penalty States have set any standards for competency of counsel and in those few States, these standards were set only recently. In most States, any person who passes a bar examination, even if that attorney has never represented a client in any type of case, may represent a client in a death penalty case.

(iii) Thirty-seven percent of capital cases were reversed because of ineffective assistance of counsel, according to the Columbia study.

(iv) The recent Texas report noted problems with Texas defense attorneys who slept through capital trials, ignored obvious exculpatory evidence, suffered discipline for ethical lapses or for being under the influence of drugs or alcohol while representing an indigent capital defendant at trial.

(v) Poor lawyering was also cited by Governor Ryan in Illinois as a basis for a moratorium. More than half of all capital defendants there were represented by lawyers who were later disciplined or disbarred for unethical conduct.

(F) The Supreme Court has held that it is a violation of the eighth amendment to impose the death penalty in a manner that is arbitrary, capricious, or discriminatory. McKlesky v. Kemp, 481 U.S. 279 (1987). Studies consistently indicate racial disparity in the application of the death penalty both for the defendants and the victims. The death penalty is disparately applied in various regions throughout the country, suggesting arbitrary administration of the death penalty based on where the prosecution takes place. For example:

(i) Of the 85 executions in the year 2000, 51 percent of the defendants were white, 40 percent were black, 7 percent were Latino and 2 percent Native American. Of the victims in the underlying murder, 76 percent were white, 18 percent were black, 2 percent were Latino, and 3 percent were "other". These figures show a continuing trend since reinstatement of the modern death penalty of a predominance of white victims' cases. Despite the fact that nationally whites and blacks are victims of murder in approximately equal numbers, 83 percent of the victims involved in capital cases overall since reinstatement, and 76 percent of the victims in 2000, have been white. Since this disparity is confirmed in studies that control for similar crimes by defendants with similar backgrounds, it implies that white victims are considered more valuable in the criminal justice system.

(ii) Executions are conducted predominately in southern States. Ninety percent of all executions in 2000 were conducted in the south. Only 3 States outside the south, Arizona, California, and Missouri, conducted an execution in 2000. Texas accounted for almost as many executions as all the remaining States combined.

SEC. 102. FEDERAL AND STATE DEATH PENALTY MORATORIUM.

(a) IN GENERAL.—The Federal Government shall not carry out any sentence of death imposed under Federal law until the Congress considers the final findings and recommendations of the National Commission on the Death Penalty in the report submitted under section 202(c)(2) and the Congress enacts legislation repealing this section and implements or rejects the guidelines and procedures recommended by the Commission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each State that authorizes the use of the death penalty should enact a moratorium on executions to allow time to review whether the administration of the death penalty by that State is consistent with constitutional requirements of fairness, justice, equality, and due process.

TITLE II—NATIONAL COMMISSION ON THE DEATH PENALTY

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on the Death Penalty (in this title referred to as the "Commission").

(b) MEMBERSHIP.—

(1) APPOINTMENT.—Members of the Commission shall be appointed by the President in consultation with the Attorney General and the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Commission shall be composed of 15 members, of whom—

(A) 3 members shall be Federal or State prosecutors;

(B) 3 members shall be attorneys experienced in capital defense;

(C) 2 members shall be current or former Federal or State judges;

(D) 2 members shall be current or former Federal or State law enforcement officials; and

(E) 5 members shall be individuals from the public or private sector who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission, which may include—

(i) officers or employees of the Federal Government or State or local governments;

(ii) members of academia, nonprofit organizations, the religious community, or industry; and

(iii) other interested individuals.

(3) BALANCED VIEWPOINTS.—In appointing the members of the Commission, the President shall, to the maximum extent practicable, ensure that the membership of the Commission is fairly balanced with respect to the opinions of the members of the Commission regarding support for or opposition to the use of the death penalty.

(4) DATE.—The appointments of the initial members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT.—Each member shall be appointed for the life of the Commission.

(d) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after all initial members of the Commission have been appointed, the Commission shall hold the first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum for conducting business, but a lesser number of members may hold hearings.

(h) CHAIR.—The President shall designate 1 member appointed under subsection (a) to serve as the Chair of the Commission.

(i) RULES AND PROCEDURES.—The Commission shall adopt rules and procedures to govern the proceedings of the Commission.

SEC. 202. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the administration of the death penalty to determine whether the administration of the death penalty comports with constitutional principles and requirements of fairness, justice, equality, and due process.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include the following:

(A) Racial disparities in capital charging, prosecuting, and sentencing decisions.

(B) Disproportionality in capital charging, prosecuting, and sentencing decisions based on geographic location and income status of defendants or any other factor resulting in such disproportionality.

(C) Adequacy of representation of capital defendants, including consideration of the American Bar Association "Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases" (adopted February 1989) and American Bar Association policies that are intended to encourage competency of counsel in capital cases (adopted February 1979, February 1988, February 1990, and August 1996).

(D) Whether innocent persons have been sentenced to death and the reasons these wrongful convictions have occurred.

(E) Whether the Federal government should seek the death penalty in a State with no death penalty.

(F) Whether courts are adequately exercising independent judgment on the merits of constitutional claims in State post-conviction and Federal habeas corpus proceedings.

(G) Whether mentally retarded persons and persons who were under the age of 18 at the time of their offenses should be sentenced to death after conviction of death-eligible offenses.

(H) Procedures to ensure that persons sentenced to death have access to forensic evidence and modern testing of forensic evidence, including DNA testing, when modern testing could result in new evidence of innocence.

(I) Any other law or procedure to ensure that death penalty cases are administered fairly and impartially, in accordance with the Constitution.

(b) GUIDELINES AND PROCEDURES.—

(1) IN GENERAL.—Based on the study conducted under subsection (a), the Commission shall establish guidelines and procedures for the administration of the death penalty consistent with paragraph (2).

(2) INTENT OF GUIDELINES AND PROCEDURES.—The guidelines and procedures required by this subsection shall—

(A) ensure that the death penalty cases are administered fairly and impartially, in accordance with due process;

(B) minimize the risk that innocent persons may be executed; and

(C) ensure that the death penalty is not administered in a racially discriminatory manner.

(c) REPORT.—

(1) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President, the Attorney General, and the Congress a preliminary report, which shall contain a preliminary statement of findings and conclusions.

(2) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report to the President, the Attorney General, and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with the recommendations of the Commission for legislation and administrative actions that implement the guidelines and procedures that the Commission considers appropriate.

SEC. 203. POWERS OF THE COMMISSION.

(a) INFORMATION FROM FEDERAL AND STATE AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal or State department or agency information that the Commission considers necessary to carry out the provisions of this title.

(2) FURNISHING OF INFORMATION.—Upon a request of the Chairperson of the Commission, the head of any Federal or State department or agency shall furnish the information requested by the Chairperson to the Commission.

(b) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out the provisions of this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths that the Commission, subcommittee, or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, documents, tapes,

and materials that the Commission, subcommittee, or member considers advisable.

(e) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued pursuant to subsection (d)—

(A) shall bear the signature of the Chairperson of the Commission; and

(B) shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (d), the district court of the United States for the judicial district in which the subpoenaed person resides, is served, or may be found, may issue an order requiring that person to appear at any designated place to testify or to produce documentary or other evidence.

(B) CONTEMPT.—Any failure to obey a court order issued under subparagraph (A) may be punished by the court as a contempt.

(3) TESTIMONY OF PERSONS IN CUSTODY.—A court of the United States within the jurisdiction in which testimony of a person held in custody is sought by the Commission or within the jurisdiction of which such person is held in custody, may, upon application by the Attorney General, issue a writ of habeas corpus ad testificandum requiring the custodian to produce such person before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose.

(f) WITNESS ALLOWANCES AND FEES.—

(1) IN GENERAL.—The provisions of section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission.

(2) TRAVEL EXPENSES.—The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

SEC. 204. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for the services of the member to the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform the duties of the Commission.

(2) EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

SEC. 205. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 202.

SEC. 206. FUNDING.

(a) IN GENERAL.—The Commission may expend an amount not to exceed $850,000, as provided by subsection (b), to carry out this title.

(b) AVAILABILITY.—Sums appropriated to the Department of Justice shall be made available to carry out this title.

By Mr. SHELBY:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calender year; to the Committee on the Judiciary.

BUDGET AMENDMENT

Mr. SHELBY. Mr. President, I rise today to introduce a balanced budget amendment to the Constitution. This is the same amendment which I have introduced in every Congress since the 97th Congress. Throughout my entire tenure in Congress, during the good economic times and the bad, I have devoted much time and attention to this idea because I believe that the most significant thing that the Federal Government can do to enhance the lives of all Americans and future generation is to ensure that we have a balanced Federal budget.

Our Founding Fathers, wise men indeed, had great concerns regarding the capability of those in government to operate within budgetary constraints. Alexander Hamilton once wrote that ". . . there is a general propensity in those who govern, founded in the constitution of man, to shift the burden from the present to a future day." Thomas Jefferson commented on the moral significance of this "shifting of the burden from the present to the future." He said: "the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves."

I completely agree with these sentiments. History has shown that Hamilton was correct. Those who govern have in fact saddled future generations with the responsibility of paying for their debts. For a large part of the past 30 years, annual deficits became routine and the federal government built up massive debt. Furthermore, I believe that Jefferson's assessment of the significance of this is also correct: intergenerational debt shifting is morally wrong.

Some may find it strange that I am talking about the problems of budget deficits and the need for a balanced budget amendment at a time when the budget is actually in balance. However, I raise this issue now, as I have time and time again in the past, because of the seminal importance involved in establishing a permanent mechanism to ensure that our annual federal budget is always balanced. Without such an amendment there is a no guarantee that the budget will remain balanced.

A permanently balanced budget would have a considerable impact in the everyday lives of the American people. A balanced budget would dramatically lower interest rates thereby saving money for anyone with a home mortgage, a student loan, a car loan, credit card debt, or any other interest rate sensitive payment responsibility. Simply by balancing its books, the Federal Government would put real money into the hands of hard working people. In all practical sense, the effect of such fiscal responsibility on the part of the government would be the same as a significant tax cut for the American people. Moreover, if the government demand for capital is reduced, more money would be available for private sector use, which in turn, would generate substantial economic growth and create thousands of new jobs. More money in the pockets of Americans, more job creation by the economy, a simple step could make this reality-a balanced budget amendment. Furthermore, a balanced budget amendment would also provide the discipline to keep us on the course towards reducing our massive national debt.

Currently, the Federal Government pays hundreds of billions of dollars in interest payments on the debt each year. This means we spend billions of dollars each year on exactly, nothing. At the end of the year we have nothing of substance to show for these expenditures. These expenditures do not provide better educations for our children, they do not make our Nation safer, they do not further important medical research, they do not build new roads. They do nothing but pay the obligations created by the fiscal irresponsibility of those who came earlier. In the end, we need to ensure that we continue on the road to a balanced budget so that we can end the wasteful practice of making interest payments on the deficit.

However, opponents of a balanced budget amendment act like it is something extraordinary. In reality, a balanced budget amendment will only require the government to do what every American already has to do: balance their checkbook. It is simply a promise to the American people, and more importantly, to future generations of Americans, that the government will act responsibility.

Thankfully the budget is currently balanced. However, there are no guarantees that it will stay as such. We could see dramatic changes in economic conditions. The drain on the government caused by the retirement of the Baby Boomers may exceed expectations. Future leaders may fall pray to the "general propensity . . . to shift the burden" that Alexander Hamilton wrote about so long ago. We need to establish guarantees for future generations. The balanced budget amendment is the best such mechanism available.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. CORZINE, his name was added as a cosponsor of S. 9, a bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes.

S. 11

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 11, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes.

S. 17

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 17, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 25

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 25, a bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes.

S. 29

At the request of Mr. BOND, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 41

At the request of Mr. HATCH, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Vermont (Mr. LEAHY), the Senator from Georgia (Mr. CLELAND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Iowa (Mr. HARKIN), the Senator from Washington (Mrs. MURRAY), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 77

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 126

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 134

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 134, a bill to ban the importation of large capacity ammunition feeding devices.

S. 148

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 205

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 205, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 206

At the request of Mr. SHELBY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 206, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes.

S. 220

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 220, a bill to amend title 11, United States Code, and for other purposes.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Maine (Ms. COLLINS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 5

At the request of Mr. INOUYE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Con. Res. 5, a concurrent resolution commemorating the 100th Anniversary of the United States Army Nurse Corps.

S. CON. RES. 6

At the request of Mr. BIDEN, his name was added as a cosponsor of S. Con. Res. 6, a concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

SENATE RESOLUTION 16—DESIGNATING AUGUST 16, 2001 AS "NATIONAL AIRBORNE DAY"

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 16

Whereas the Parachute Test Platoon was authorized by the War Department on June

25, 1940, to experiment with the potential use of airborne troops;

Whereas the Parachute Test Platoon was composed of 48 volunteers that began training in July, 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon led to the formation of a large and successful airborne contingent serving from World War II until the present;

Whereas the 11th, 13th, 17th, 82nd, and 101st Airborne Divisions and the numerous other regimental and battalion-sized airborne units were organized following the success of the Parachute Test Platoon;

Whereas the 501st Parachute Battalion participated successfully and valiantly in achieving victory in World War II;

Whereas the airborne achievements during World War II provided the basis for continuing the development of a diversified force of parachute and air assault troops;

Whereas paratroopers, glidermen, and air assault troops of the United States were and are proud members of the world's most exclusive and honorable fraternity, have earned and wear the "Silver Wings of Courage", have participated in a total of 93 combat jumps, and have distinguished themselves in battle by earning 69 Congressional Medals of Honor, the highest military decoration of the United States, and hundreds of Distinguished Service Crosses and Silver Stars;

Whereas these airborne forces have performed in important military and peacekeeping operations, wherever needed, in World War II, Korea, Vietnam, Lebanon, Sinai, the Dominican Republic, Panama, Somalia, Haiti, and Bosnia; and

Whereas the Senate joins together with the airborne community to celebrate August 16, 2001 (the 61st anniversary of the first official parachute jump by the Parachute Test Platoon), as "National Airborne Day": Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2001, as "National Airborne Day"; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. THURMOND. Mr. President, I am pleased to rise today to introduce a Senate resolution which designates August 16, 2001 as "National Airborne Day."

On June 25, 1940, the War Department authorized the Parachute Test Platoon to experiment with the potential use of airborne troops. The Parachute Test Platoon, which was composed of 48 volunteers, performed the first official army parachute jump on August 16, 1940. The success of the Platoon led to the formation of a large and successful airborne contingent that has served from World War Two until the present.

I was privileged to serve with the 82nd Airborne Division, one of the first airborne divisions to be organized. In a two-year period during World War Two, the regiments of the 82nd served in Italy at Anzio, in France at Normandy (where I landed with them), and at the Battle of the Bulge.

The 11th, 13th, 17th, and 101st Airborne Divisions and numerous other regimental and battalion size airborne units were also organized following the success of the Parachute Test Platoon. In the last sixty years, these airborne forces have performed in important military and peace-keeping operations all over the world, and it is only fitting that we honor them.

Through passage of "National Airborne Day", the Senate will reaffirm our support for the members of the airborne community and also show our gratitude for their tireless commitment to our Nation's defense and ideals.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, January 31 at 9:30 a.m. to conduct an oversight hearing. The hearing is entitled "California's Electricity Crisis and Implications for the West."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, January 31, 2001 at 9:15 a.m. in room 485 of the Russell Senate Office Building to conduct a business/organizational meeting to elect the chairman and vice chairman of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that David Goldberg and Kara Fecht be granted floor privileges for the remainder of the debate on the nomination of John Ashcroft to be Attorney General.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR THURSDAY, FEBRUARY 1, 2001

Mr. ALLEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. on Thursday, February 1. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the nomination of John Ashcroft to be Attorney General, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLEN. Tomorrow the Senate will resume debate on the Ashcroft nomination at 9 a.m. under the order. Closing remarks will be made throughout the morning. Senators should be aware that a vote on confirmation will occur at 1:45 p.m. Following the final confirmation of the President's Cabinet, the Senate is expected to adjourn in an effort to accommodate those participating in the party retreats taking place tomorrow afternoon and into the weekend.

ORDER FOR ADJOURNMENT

Mr. ALLEN. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks by the Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

NOMINATION OF JOHN ASHCROFT

Mr. GRAHAM. Mr. President, the position of United States Attorney General is the most sensitive in the executive branch.

I have made a practice of setting a different standard for approval of persons nominated to serve in the president's cabinet and those the president has chosen for federal judgeships.

In the former instance, there is a very strong presumption that the president should have the right to choose whomever he feels would effectively carry out his administration's policies.

With a federal judge nominee, that presumption is lessened. Federal judges serve not at the pleasure of the president, but rather for a lifetime and represent the third, equal branch of government.

I place the appointment of an attorney general in between these two standards because of the office's unique role.

The attorney general has far more autonomy than does any other cabinet head. The attorney general decides when and how to take legal action and use government resources supplied by taxpayer dollars.

Attorneys general do not just enforce the law. They have broad discretion to interpret the law, then enforce it based on that interpretation. Traditionally, the attorney general does not attend political functions or otherwise engage in partisan politics to preserve the appearance of neutrality.

Rarely does the president interfere in the realm of the attorney general—a notable exception being when Attorney General Elliot Richardson resigned to avoid complying with President Nixon's order to fire the special prosecutor investigating the Watergate burglary. More often, the president consults the attorney general for legal counsel and follows that advice. The attorney general's interpretations then become government policy.

Interpretation of a law by a United States attorney general has been responsible for some of this country's proudest moments, and some of its most shameful. It was a United States attorney general, in the cabinet of President Martin Van Buren, who argued that the men and women who had rebelled against their slave masters on the Spanish ship Amistad, were property and should be returned to captivity.

It was also the interpretation of civil rights statutes that led Attorney General Robert Kennedy to use federal troops to desegregate schools. Kennedy also chose to use the government's resources to ensure the right of African-Americans to vote—filing more than 50 law suits in four states that were resisting change.

In large part because of this legacy, the attorney general has come to be seen as the primary defender of individuals' basic civil rights.

Because of this protective role, and because of the discretionary nature of the job, the attorney general must be a person who commands the respect of all people in the country. That doesn't mean that everyone has to agree with everything the attorney general has done in the past.

But the attorney general must be able to carry out the covenant with America that comes with the job—the agreement to look at the law with an unbiased eye and enforce it without personal or political prejudice.

I submitted questions to Senator Ashcroft to help me ascertain his level of commitment to that covenant. Specifically, I am concerned about the investigation by the Department of Justice Civil Rights Division into allegations of discrimination in the November 7, 2000 election in Florida. These are serious allegations. These are not about chads, or butterflies or any of the other arcane voting terms that have made their way into the wider American lexicon. These are about Americans and their fundamental rights. These must be investigated by someone who has the trust and confidence of the public.

Investigations are now being conducted by the Department of Justice's Civil Rights division and the United States Commission on Civil Rights.

The focus of these investigations is to determine whether these individual acts, which denied citizens the right to vote, were just that—individual acts of incompetence and inefficiency—or whether they represented a conscious pattern intended to deny thousands of Floridians the right to vote.

Allow me to share a few of the allegations. Donnise DeSouza, a Miami attorney, wanted to teach her 5-year-old son about democracy by letting him punch her ballot. Instead she was told her name was not on the proper list, and was sent home without having cast a vote.

Ernest Duval is a Haitian American who lives in Palm Beach County. He, like many others, found the ballot layout confusing. He punched the wrong hole, recognized his mistake, and asked for a new ballot. His request was denied. He was left with no choice but to repunch the original. His ballot became an official "overvote" and was discarded. He told the NAACP "I left Haiti for the freedom to live in a free land. We have the right to choose the right person."

Radio host Stacey Powers visited polling sites to encourage African-American voters and saw police officers harassing an elderly African-American man for doing nothing more than being in the neighborhood. After she reported it on the air, a police car followed her for five and a half miles.

These were not just the complaints of a few disenfranchised or intimidated voters. In an operation of this scale, reasonable people recognize that unfortunate mistakes will happen. But on Election Day, complaints came from every corner of the state.

Voters in the City of Plantation were never notified that their polling place, Plantation Elementary School, had been demolished two weeks before Election Day. Reports were made of police officers' blocking roads in close proximity to polling places and of minority voters being forced to show identification that white voters didn't need to have. Phones in a number of minority precincts were not working, leaving precinct workers unable to call central election offices for help with broken machines and other problems.

Just as troubling was the information that came out after the election. Statistical analyses by civil rights groups and news organizations suggest that outdated or dilapidated voting equipment was most likely to be found in areas with a high concentration of minority voters. And so it followed that minorities were far more likely to have their votes thrown out than were white Florida voters.

The question that remains is whether these were isolated, though widespread incidences, or if there is a broad, systematic pattern of discouraging or preventing minority votes.

If these allegations are swept under the rug, if they go without a thorough review—and prosecutions if necessary—there will be a permanent scar on the face of our democracy. These allegations are germane to these proceedings because the attorney general, by congressional statute, has almost total discretion to enforce federal voting rights laws.

The attorney general will decide how the investigation into these allegations proceeds—if it does at all—and what will come of the findings.

I asked Senator Ashcroft several questions to further understand his commitment to this investigation: Whether he could assure us that such an investigation could be completed in a timely matter. What was his plan of action for remedies if violations of the Voting Rights Act are identified? Would he consider appropriate decertification of all punch-card voting methods and other unreliable methods, or discontinue purges of the voter registration rolls until procedures are put in place to ensure that such purges are done in a uniform and non-discriminatory fashion? If the United States Commission on Civil Rights does discover instances of voter disenfranchisement, will the Department of Justice expand its investigation and aggressively prosecute violations of the Voting Rights Act? How will the Department of Justice use information from this election to make sure discrimination is not given free reign in the future?

In answering my questions, Senator Ashcroft said the right thing, but did so in a perfunctory manner. The answers were long on platitudes, short on specificity. He did not present a course of action in pursuit of the truth, nor offer potential solutions.

Had these answers been the only information available about Senator Ashcroft's commitment to civil rights, I may have accepted them on their face and approved this nomination.

But Senator Ashcroft has a long record of public service that suggests enforcement of civil rights is not his highest priority. My colleagues on the Judiciary Committee raised questions about several of these incidents. I share their concern. I also believe, as his supporters have said, that Senator Ashcroft has a good heart and that he is a man of integrity.

I hope that my apprehensions about Senator Ashcroft turn out to have been unwarranted and that if confirmed, as I assume he will be, he will prove me wrong by carrying on a full, fair hearing of the allegations raised by thousands of Floridians.

I look forward to the opportunity to acknowledge my mistake. But I am not prepared to take the risk that Senator Ashcroft's longstanding practice of not defending the civil rights of minorities will be prologue to his policies as attorney general.

Since the birth of this country people have died fighting for the right to vote. Our own American Revolution was about lack of representation, lack of voice and choice in governance. Nearly two centuries later Michael Schwerner, Andrew Goodman and James Chaney, were brutally murdered for trying to register African-Americans to vote.

More recently, Americans have been lulled into complacency about voting rights. We seem to believe that if there are no obvious deterrents to voting, like poll taxes, then there are no voting-rights violations.

The events of the past election should wake us up. The right to vote can be violated by armed men lurking menacingly at the door of the polling place.

The right to vote can also be stolen by antiquated voting equipment and careless or discriminatory purging of the voter rolls. Coupled with his record, Senator Ashcroft's answers to my inquiries do not convince me of a genuine commitment to a forceful investigation and follow-up action of voting-rights violations in Florida.

I am not confident that action will follow words. Therefore, I will vote "no" on the confirmation of John Ashcroft for United States Attorney General.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, the Senate stands adjourned until the hour of 9 a.m. on Thursday, February 1, 2001.

Thereupon, the Senate, at 8:08 p.m., adjourned in executive session until Thursday, February 1, 2001, at 9 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO JAN BURNSIDE, OUTSTANDING COLORADO WOMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MCINNIS Mr. Speaker, I would like to take a moment to congratulate a remarkable woman, Jan Burnside, for her devotion to her community and to the people of the State of Colorado. After experiencing the devastating loss of her only daughter to suicide, Jan has devoted her life to helping prevent suicide. For her work in this critical area, Jan Burnside is being honored as an Outstanding Colorado Woman. Jan's contributions to the citizens of Colorado are great in number and deserve the recognition of Congress. Clearly, our State is better off because of Jan's service.

Jan's work in the field of suicide prevention has been tireless. Her work with the State of Colorado has touched many hearts and saved many lives. Too often, this crisis in our culture is overlooked. But thanks to Jan, that's not the case in Colorado. Jan has been at the forefront of the administrative, legislative and social push to reduce the specter of suicide in Colorado. Guided by her own great loss, Jan has worked boldly and bravely to prevent this tragedy from scarring other families.

As you can see, Mr. Speaker, Jan has shown profound courage that's an inspiration to us all. It is that inspiration that has earned her the high honor of being named Outstanding Colorado Woman. Jan is eminently deserving of this prestigious recognition.

It is with this, Mr. Speaker, that I say thank you to Jan for her dedication and service to her community over the years and congratulate her on this deserved honor. She has been a tireless champion in a critically important field.

Jan, we are all proud of your work and grateful for your service!

CONGRATULATIONS TO SERGEANT JOHN JACK BRUBECK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SKELTON. Mr. Speaker, it has come to my attention that Sergeant John "Jack" Brubeck, of Lexington, MO, was recently honored by the Lexington Police Department for his 20 years of outstanding service.

Sergeant Brubeck has dutifully served the Lexington community for 20 years. He has worked under several police chiefs and has received numerous accolades during the last two decades. Sergeant Brubeck has been given a commendation medal for building evidence, a felony commendation medal, and a time in service commendation. Sergeant Brubeck was also recognized for his dedicated investigative work on two felony cases which resulted in the charging of a suspect.

Mr. Speaker Sergeant Brubeck has dedicated 20 years to the police force, serving with honor and distinction. As he continues to protect and serve the citizens of Lexington, I am certain that the Members of the House will join me in wishing him all the best.

RECOGNIZING MR. ROBERT SAKATA OF BRIGHTON, COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SCHAFFER. Mr. Speaker, today I recognize one of my constituents, Mr. Robert Sakata of Brighton, Colorado. This month, Mr. Sakata was awarded The Order of the Sacred Treasure, Gold Rays with Rosette, by the emperor of Japan for Sakata's commitment to better relations between the United States and Japan.

Mr. Sakata has played a major role as an American ambassador of goodwill. He has visited Japan to talk to corporate executives about American businesses, and to Japanese farmers about U.S. farming. He has hosted the emperor and empress of Japan at his Colorado farm. He has served on various agriculture boards, as well as the Japan America Society of Colorado.

Such patriotism is especially remarkable given the obstacles posed to Mr. Sakata early in life. The son of a truck driver, Mr. Sakata was born in California to Japanese-American parents. During World War II, he was set to an interment camp in Topaz, Utah, suffering one of American history's greatest injustices. During that time, Mr. Sakata was sponsored by a Colorado resident who put him to work on a farm near Brighton. From that point on, farming became Mr. Sakata's life.

After the war, Mr. Sakata began to farm for himself, with only 40 acres purchased on borrowed money. Today, Sakata Farms spans 3,000 acres of sweet corn, cabbage, onions and broccoli. His story is that of yet another American dream that came true because of hard work and perseverance.

I am extremely proud of Mr. Sakata. He is an extraordinary Coloradan and an outstanding American. His dedication to American-Japanese relations has made an enduring difference, especially within our agricultural community. I ask the House to join me in extending congratulations to Mr. Sakata of Colorado.

INTRODUCTION OF THE TEACHER TAX CUT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. PAUL. Mr. Speaker, I rise to introduce the Teacher Tax Cut Act. This bill provides every teacher in America with a $1,000 tax credit, thus raising every teacher's take-home pay without increasing federal spending. Passage of this bill is a major first step toward treating those who have dedicated their lives to educating America's children with the respect they deserve. Compared to other professionals teachers are underappreciated and underpaid. This must change if America is to have the finest education system in the world!

Quality education is impossible without quality teaching. If we want to ensure that the teaching profession attracts the very best people possible we must make sure that teachers receive the compensation they deserve. For too long now, we have seen partisan battles and displays of heightened rhetoric about who wants to provide the most assistance to education distract us from our important work of removing government-imposed barriers to educational excellence.

Since America's teachers are underpaid because they are overtaxed, the best way to raise teacher take-home pay is to reduce their taxes. Simply by raising teacher's take-home pay via a $1,000 tax credit we can accomplish a number of important things. First, we show a true commitment to education. We also let America's teachers know that the American people and the Congress respect their work. Finally, and perhaps most importantly, by raising teacher take-home pay, the Teacher Tax Cut Act encourages highly-qualified professionals to enter, and remain in, the teaching profession.

In conclusion, Mr. Speaker, I once again ask my colleagues to put aside partisan bickering and unite around the idea of helping educators by supporting the Teacher Tax Cut Act.

TRIBUTE TO JIM NICHOLSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this moment to recognize an outstanding citizen and a remarkable leader, my friend Jim Nicholson, the now former head of the Republican National Committee. Jim is being honored on January 26, 2001 in Denver, Colorado for his accomplished service as Chairman of the Republican National Committee. During

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

his tenure, Jim took the GOP to new heights. On his watch, the Republican Party took control of the White House while maintaining majorities in both the House of Representatives and the United States Senate. For his service to the party and the American people, I would now like to pay tribute to a great American and friend.

When Chairman Nicholson began as RNC chairman, the committee was $10 million in debt. But under Chairman Nicholson's able leadership, that debt was abolished. When Jim left the RNC, it was $15 million in the black. Along with balancing the RNC's book, Chairman Nicholson also boldly led the RNC into the Internet age, incorporating technological advances in the day-to-day affairs of the organization. The RNC collected 975,000 e-mail addresses from Republican activists during Jim's tenure, up from just 17,000 at the start of 2000.

Much of the electoral success that the GOP experienced under Jim's tutelage was due to the massive get out the vote effort created at Jim's initiative. He triggered the largest communications action in RNC history during the 2000 election cycle, in which the Party mailed over 100 million pieces of direct mail and made 60 million phone calls. This coordinated effort to get out the GOP's message was a major, if leading, cause of the Party's success in November 2000.

More importantly, the RNC also made meaningful strides under Jim's supervision in reaching out to minority communities. Due in large measure to Jim's efforts in this critical area, President Bush earned the highest percentage of Hispanic votes of any Republican Presidential candidate in history. Jim's success in this regard leaves a solid foundation for the Party to build on in the coming weeks, months and years. This is a legacy that Jim can, and should take great pride in!

As has been well documented, Jim's yeoman's work as Chairman of the Republican Party was the continuation of a life-long commitment to serving his country. As you know, Mr. Speaker, Jim fought bravely and with great distinction during the Vietnam War, earning numerous awards and commendations.

Throughout his life, Jim has devoted himself to the cause of his country. In doing so, he has distinguished himself mightily. As Jim leaves the GOP Chairmanship and moves on to new pursuits, Mr. Speaker, I would like to thank him for his remarkable work. In my opinion, Jim will long be remembered as one of the most skilled, most effective and most accomplished leaders in the storied history of the GOP. For this service, we are all grateful.

REPEAL THE NATIONAL VOTER REGISTRATION ACT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STUMP. Mr. Speaker, on the first day of the 107th Congress, I introduced legislation, H.R. 189, to repeal the National Voter Registration Act of 1993, the "motor voter" bill.

The motor voter law, which was championed by the Clinton Administration, took effect in most states on January 1, 1995. It requires states to allow citizens to register to vote by mail, when applying for a driver's license and at certain public assistance agencies. Although motor voter's supporters touted the measure as a way to increase voter turnout by simplifying voter registration, the law has done very little to invigorate election interest. To the contrary, it has devalued voter registration and given citizens good reason to question the integrity of their vote.

It is interesting to note that in 1992, President Bush vetoed motor voter legislation stating it amounted to an "open invitation to fraud and corruption." His words could not have been more prophetic. Since the law's implementation, numerous incidents of illegal voting have surfaced. In fact, motor voter could be responsible for inviting millions of non-citizens and illegal aliens to register to vote.

Motor voter has also created numerous administrative headaches for local election officials and has made the process of purging inactive voters far more cumbersome. It inhibits their ability to remove "dead wood" from their rolls by requiring them to keep registrants who fail to vote or who are unresponsive to voter registration correspondence to be maintained on the voter rolls for years. Motor voter is also responsible for numerous election-related glitches. In many jurisdictions, voters who thought they registered to vote when applying for a driver's license, found they were not registered when they went to the polls to cast their ballots. As noteworthy, in Durham county, North Carolina, the law created an odd statistical glitch. In 1999, the number of registered voters in the county surpassed the number of residents old enough to vote.

Mr. Speaker, motor voter is unreasonable and overzealous. There is no need for this unyielding federal presence in voter registration. The states carry the responsibility for administering all elections and should be able to do so unfettered by unnecessary and burdensome federal intervention.

Mr. Speaker, previous efforts to repeal motor voter has been unsuccessful, largely because of President Clinton's position. Under the Bush Administration, I believe we now have an opportunity to move forward with this important reform and reinstate confidence and integrity in our electoral system. I respectfully urge my colleagues to join me in re-establishing the rights of the states and local jurisdictions to administer voting programs that work best for them by cosponsoring H.R. 189.

THE FEDERAL EMPLOYEES CHILD CARE ACT, H.R. 251

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GILMAN. Mr. Speaker, today I am introducing the Federal Employees Child Care Act, H.R. 251 which will improve the quality of federal child care facilities throughout the country.

I was first introduced to the horrors of inadequate day care by former constituents, Mark and Julie Fiedelholtz of Pembroke Pines, Florida. Mr. Fiedelholtz asked for my help after the tragic death of his 3 month old son, Jeremy. Left at a day care center for merely two hours, little Jeremy died as a result of deplorable conditions, unqualified personnel and the blatant lack of respect for the laws intended to protect our children. Although this horrifying situation did not take place in a federal center, the need for clean, safe and quality conditions for our children has to be ensured in every child care center throughout our Nation.

Because many of these child care facilities are housed in federal buildings, state and local authorities have little or no jurisdiction regarding health, fire and safety codes. This Act requires all federal centers to be responsible for maintaining these basic regulations. With over one thousand federally owned or operated child care centers in the United States capable of accommodating 200,000 children, this legislation is essential.

After conferring with representatives from various federal agencies, I learned that many federal centers, such as the facilities operated by GSA, follow their own standards which in most instances are higher than most states. I want to stress that it is not the intention of this bill to lower any federal agency standards, should they be greater than the state or local regulations. Instead, we are looking to raise the standards of those federal centers across the country whose standards fall below state and local codes and hold them accountable for failure to do so. This bill does not allow state or local law enforcement officials to enter federal facilities to perform checks of any kind unless GSA agrees to it. This option is left entirely up to the discretion of GSA and is not mandated by this bill.

This legislation includes language which will help GSA in its quest to provide a more comprehensive day care plan, by allowing GSA to expand its child care services to more children allowing its centers to join into a consortium of private businesses and health care providers. This provision will enable agencies to partner with external organizations, to conduct pilot programs and to search for new methods of providing child care assistance to federal employees.

Our children are so important and the care they receive during their first 5 years of development are essential to raising intelligent and productive members of society. This legislation can be a great first step in ensuring the positive development and growth of our children. Accordingly, I look forward to working with my colleagues on additional child care measures.

IN MEMORY OF CLARENCE "SONNY" KENNER

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I wish today to pay tribute to an American Jazz legend, Mr. Clarence "Sonny" Kenner. Regrettably, Mr. Kenner died earlier this month, but his inspiring music will live on for generations to come.

His standing room only celebration in Kansas City January 29 began with a two hour

"Jam Session" where local musicians who had played with Sonny over the past 50 years shared his favorites, such as "Sunny Side of the Street." His fellow musicians said Sonny was all about sharing when he played. It was love he was sharing—his love through music. An example of Sonny's love for music was his appearance earlier this year at The Levee where he "jammed" with fellow artists while battling his health issues.

In his eulogy, Reverend Sam Mann of Saint Mark's Church spoke from the Book of Numbers in the Bible, Chapter 6, verses 24 to 26 referring to Sonny's sweet face and the scripture's message: ". . . the Lord make His face to shine upon you . . . lift up His countenance upon you and give you peace." Rev. Mann said, "Whenever you saw Sonny's face, his countenance was one of purity, graciousness, and peace, his face would shine." Sonny's face revealed his innermost insight and when he met persons, he looked at them "face to face."

We all will remember Sonny for his musical genius and his contributions to the music industry. Some of his works include writing, arranging, conducting, and producing, "Never Give Up On Love," and "Yesterday, Today & Tomorrow." His last CD titled "Peace, Love, and Happiness" embodies his life and willingness to give back to others, especially our children. Sonny, a loving and caring human being who always looked at life with smiling eyes. I will remember him as a true humanitarian who championed a cause very dear to my heart, music education. He spent countless hours in schools throughout our community inspiring the next generation of music greats.

He toured throughout the country allowing his gifts to enrich the lives of others. He attained a national following from engagements at venues which included the Hollywood Bowl in Los Angeles, the Apollo Theater in New York, Bop City in San Francisco, and prestigious settings in Baltimore, Washington, DC, New Orleans, Philadelphia, and with the U.S. Armed Services 8th Division Band in Germany. He appeared and recorded with world renowned artists such as Sam Cooke, Quincy Jones, Mahalia Jackson, Big Joe Turner, and Jay McShann to name a few. Whether it was jazz, classical, or rock, Sonny Kenner's recordings and performances were widely recognized and enjoyed.

In addition to his own six children, he was loved by the children of Kansas City because as his daughter said, "Sonny was Love to them." He was all about love. He was all about sharing. When he played, it was love he was sharing through his music. He leaves behind a legacy of unmatched talent and service to the music industry, to Kansas City, and to the hearts of all who knew him.

Mr. Speaker, please join me in celebrating a great musician and great humanitarian who will be remembered by music lovers, friends, and fans everywhere for the warmth of his smile shining from the "Sonny side of the street." His jam sessions at The Levee have ended, but he's puttin' it together for the artists when they join him in his new gig.

TRIBUTE TO JOHN B. HUMPHRIES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, I would like to take a moment to congratulate a remarkable gentleman, John B. Humphries, for his outstanding 30-year career with the Federal Protective Service. John is completing his career as assistant director for the Federal Protective Service, where he was responsible for directing all FPS activities within the Rocky Mountain Region. John's contributions to the citizens of Colorado are great in number and deserve the recognition of Congress.

John is an extraordinary model of the ideal citizen. John has not only had an exceptional career at the federal protection service, but he's also been highly active in his community. John started his career at FPS in 1972 in Cheyenne, Wyoming. He was transferred around the country until he landed in Denver in 1972. After arriving in Denver, he held an array of positions from Line officer to his present position as Director. During his career, he was a model of selfless service, focusing his energies and time on the betterment of his community.

As a member of the Telephone Pioneers, he also assisted in providing various activities throughout Colorado for the hearing and vision impaired. he worked on events such as the Easter Egg Hunt for the visually impaired and wiring of seats at the Barnum and Bailey Circus for the visually impaired. He also took part in the Law Enforcement Torch Run for the Special Olympics, both as a runner during the torch run or as a volunteer at the events. Moreover, he coached numerous sports from baseball to football and bowling for underprivileged children. John has also worked on Wilderness on Wheels providing a boardwalk up Kenosha Pass for wheelchair access and allowing for all to enjoy the wonders of wilderness. For all these reasons, and many more, John deserves the commendation of this body.

It is with this, Mr. Speaker, that I say thank you to John for his dedication and service to his community over the years and congratulate him on an outstanding career. He has worked hard for our community and for our great state.

IN MEMORY OF JAMES L. SMITH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of James L. Smith of Marshall, Missouri.

James Smith was born on March 28, 1917, in Marshall, Missouri, a son of George and Louise Ross Smith. He attended Missouri Valley College and was an Air Force veteran of World War II.

I had the opportunity to serve in the Missouri General Assembly with Jim, who served as a State Representative from 1974 to 1984. In addition, Jim and his wife, Mildred, owned and operated the Valley Drive-In in Marshall for 22 years. He was also a sales representative for the Heynen Monument Company for 30 years.

Jim was a member of the First Christian Church, where he served on the church board and as a deacon.

Mr. Speaker, Jim was a valuable leader of his community and a long time friend of mine. He was a role model for younger people interested in public service. I know the Members of the House will join me in extending heartfelt condolences to his family: his wife, Mildred; his two children, Jamie and Clyde; and his three granddaughters.

HONORING CHARLES HENNINGER

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SCHAFFER. Mr. Speaker, today I honor an outstanding volunteer who is using his life to improve the lives of others. Charles Henninger is a big man with an even bigger heart. After retiring from his job as a director of a Civic Center in Greenwich, Connecticut, Mr. Henninger didn't look to slow down, he went looking to serve.

For the past seven years since his retirement, Mr. Henninger has served as a volunteer at the Catholic Charities Northern's homeless shelter in Fort Collins, Colorado. He sees his work at the shelter as a way to directly assist people and serve their specific needs and as he says, "you get to see immediate results."

Mr. Speaker, it is important for all Americans to follow the lead of those special individuals who give to the needs of the less fortunate. Charlie Henninger challenges us all to look around us and find ways to serve others and lend a helping hand. Mr. Henninger can recount many stories of the people he's met and helped. I'm certain he would tell us that each memory is a treasure of his life.

At the Catholic Charities Northern homeless shelter, Mr. Henninger and the other volunteers aid those that government never could. If a traveling family's car breaks down, the state police bring them into the shelter and they are fed and the volunteers get them bus tickets to their destination. This year for Christmas, Mr. Henninger and his wife Joan, who also works at the shelter, organized volunteers to deliver hot meals to over 300 homebound residents in the Fort Collins area.

Mr. Speaker, in offering this tribute to Mr. Henninger, I am certainly recognizing a great man, and powerful Christian example.

INTRODUCTION OF THE FAMILY EDUCATION FREEDOM ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. PAUL. Mr. Speaker, I rise today to introduce the Family Education Freedom Act, a bill to empower millions of working and middle-class Americans to choose a non-public education for their children, as well as making it easier for parents to actively participate in improving public schools. The Family Education Freedom Act accomplishes its goals by allowing American parents a tax credit of up to $3,000 for the expenses incurred in sending their child to private, public, parochial, other religious school, or for home schooling their children.

The Family Education Freedom Act returns the fundamental principal of a truly free economy to America's education system: what the great economist Ludwig von Mises called "consumer sovereignty". Consumer sovereignty simply means consumers decide who succeeds or fails in the market. Businesses that best satisfy consumer demand will be the most successful. Consumer sovereignty is the means by which the free market maximizes human happiness.

Currently, consumers are less than sovereign in the education "market." Funding decisions are increasingly controlled by the federal government. Because "he who pays the piper calls the tune," public, and even private schools, are paying greater attention to the dictates of federal "educrats" while ignoring the wishes of the parents to an ever-greater degree. As such, the lack of consumer sovereignty in education is destroying parental control of education and replacing it with state control.

Loss of control is a key reason why so many of America's parents express dissatisfaction with the educational system. According to a study by The Polling Company, over 70% of all Americans support education tax credits! This is just one of numerous studies and public opinion polls showing that Americans want Congress to get the federal bureaucracy out of the schoolroom and give parents more control over their children's education.

Today, Congress can fulfill the wishes of the American people for greater control over their children's education by simply allowing parents to keep more of their hard-earned money to spend on education rather than force them to send it to Washington to support education programs reflective only of the values and priorities of Congress and the federal bureaucracy.

The $3,000 tax credit will make a better education affordable for millions of parents. Mr. Speaker, many parents who would choose to send their children to private, religious, or parochial schools are unable to afford the tuition, in large part because of the enormous tax burden imposed on the American family by Washington.

The Family Education Freedom Act also benefits parents who choose to send their children to public schools. Parents of children in public schools may use this credit to help improve their local schools by helping finance the purchase of educational tools such as computers or to ensure their local schools can offer enriching extracurricular activities such as music programs. Parents of public school students may also wish to use the credit to pay for special services, such as tutoring, for their children.

Increasing parental control of education is superior to funneling more federal tax dollars, followed by greater federal control, into the schools. According a recent Manhattan Institute study of the effects of state policies promoting parental control over education, a minimal increase in parental control boosts students' average SAT verbal score by 21 points and students' SAT math score by 22 points! The Manhattan Institute study also found that increasing parental control of education is the best way to improve student performance on the National Assessment of Education Progress (NAEP) tests.

Clearly, enactment of the Family Education Freedom Act is the best thing this Congress could do to improve public education. furthermore, a greater reliance on parental expenditures rather than government tax dollars will help make the public schools into true community schools that reflect the wishes of parents and the interests of the students.

The Family Education Freedom Act will also aid those parents who choose to educate their children at home. Home schooling has become an increasingly popular, and successful, method of educating children. Home schooled children out-perform their public school peers by 30 to 37 percentile points across all subjects on nationally standardized achievement exams. Home schooling parents spend thousands of dollars annually, in addition to the wages forgone by the spouse who forgoes outside employment, in order to educate their children in the loving environment of the home.

Ultimately, Mr. Speaker, this bill is about freedom. Parental control of child rearing, especially education, is one of the bulwarks of liberty. No nation can remain free when the state has greater influence over the knowledge and values transmitted to children than the family.

By moving to restore the primacy of parents to education, the Family Education Freedom Act will not only improve America's education, it will restore a parent's right to choose how best to educate one's own child, a fundamental freedom that has been eroded by the increase in federal education expenditures and the corresponding decrease in the ability of parents to provide for their children's education out of their own pockets. I call on all my colleagues to join me in allowing parents to devote more of their resources to their children's education and less to feed the wasteful Washington bureaucracy by supporting the Family Education Freedom Act.

REMEMBERING MR. TOM STUBBS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, it is with profound sadness that I now honor the life of a great man and friend of Colorado, Tom Stubbs. Tragically, Tom passed away earlier this month. As family and friends remember Tom, I would like to take this brief moment to pay tribute to a man whose life touched many. Clearly, he is deserving of the recognition, praise and remembrance of this body.

Anyone who had the privilege of knowing Tom can attest to the irrepressible zeal for life that he constantly exuded. As a recent story in the Grand Junction Daily Sentinel described it, "Tom displayed a passion and relentless dedication for life's adventures." An apt description for a man who lived his life to the fullest each and every day.

An avid outdoor enthusiast, Tom was an accomplished artist who made his living selling paintings of natural landscapes, predominantly from southwestern Colorado and Arizona. If you appreciate artistic scenes from the American West, Tom's works are truly a site to behold. One such work was selected as a finalist in the "Arts for the Parks" exhibition. The piece was on display around the country in 1992. In addition to selling his own works, Tom taught Figure Drawing and Advanced and Pastel Drawing on and off at Mesa State College for about a decade.

A Flint, Michigan native who lived in Grand Junction for the better part of 30 years, Tom expressed his love for the outdoors in many ways other than painting. According to the Daily Sentinel, Tom was a "local legend in mountain running circles," who was also a world class climber. He was also a talented bicycle racer, skier, swimmer, and surfer. Socially, Tom was part of a close-knit group of friends who spent a great deal of their personal time experiencing the natural marvels of Colorado and beyond. Tom had unique insight into what a wonderful place the American West is.

Although Tom's life came to an end all too suddenly, his memory will long endure. Survived by his parents, Nancy and Bill, his brothers, Mike, Tim and Matthew, his sisters, Kathy Ziola, Karen Stubbs and Laura Stubbs, and countless friends, including my friend Christopher Tomlinson, Tom's life will not soon be forgotten by those fortunate enough to have known him. And what a memorable life it was.

As you can see, Mr. Speaker, the Grand Junction community has lost a wonderful friend. Though he's gone, Tom Stubbs will always hold a special place in all of our hearts.

TERMINATION OF THE PRESIDENTIAL ELECTIONS CAMPAIGN FUND

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STUMP. Mr. Speaker, on January 3, 2001, I introduced H.R. 191, legislation to terminate the Presidential Election Campaign Fund.

Campaign finance reform will surely be part of the agenda for 107th Congress. I believe that one of the most important campaign reforms we can advance is to end taxpayer funded presidential elections. As many in this body know, the current system offers partial public financing to eligible candidates running in presidential primaries and completely subsidizes the campaigns of major party nominees in the general election. The fund also supports political party conventions. The program essentially combines public refunding with limitations on contributions and expenditures. To receive funds, candidates must meet fundraising requirements and agree to limit campaign spending. The funds are derived from a voluntary tax checkoff.

A post-Watergate reform, the Presidential Election Campaign Fund, was intended to respond to the cynical effects of money on the political process and restore public confidence in our elections. More specifically, supporters of public financing believed it would correct perceived problems in the presidential election process, such as the disproportionate influence of wealthy contributors and the demands of fundraising that can keep candidates from conveying their views to the public.

Beyond my basic philosophical objections to publicly-financed elections, which forces taxpayers to finance candidates whom they oppose, I believe the fund has not achieved its goal. Clearly, public funding has not stemmed the decline in confidence in the political system. Moreover, the public has overwhelmingly rejected the campaign funds as is illustrated by declining participation rates. The most recent figures available show that rates have gone from a high of 28.7% on 1980 tax returns to 12.5% on 1997 returns. In fact, public participation has decreased so dramatically that in 1993, Congress trebled the checkoff amount from $1 to $3 to counter a shortfall in the system.

Mr. Speaker, I think it is also important to note that modern-day campaigns and financing tend to render the checkoff-funding system somewhat ineffective. As it was conceived, the fund's creators believed that the program's spending limits would be an asset to campaigns. However, the statute does not limit independent spending, which can supplement a candidate's campaign treasury. As a result, the program is essentially restricting the speech of some elements of our society. In addition, the fund was created to alleviate the fundraising burden for primary candidates. While well intentioned, this components has had the opposite effect because primary candidates must try to raise funds in matchable $250 increments and may not accept more than $1,000 from an individual contributor. Consequently, fundraising requires more time and more resources.

Finally, Mr. Speaker, in six elections—1976 through 1996—$887 million was distributed under the fund. Some of the recipients of these precious tax dollars clearly lacked electoral credibility and appeal. For example, Lyndon LaRouch, who served a prison term for fraud and tax law violations, received more than $2.5 million. Given the public's overwhelming rejection of the system and the fact that tax dollars should be directed to more worthy government programs, I encourage my colleagues to join me in this effort to terminate the presidential Election Campaign Fund by cosponsoring H.R. 191.

HONORING PAUL BESSELIEVRE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Paul Besselievre, the incoming President of the Greater Fresno Area Chamber of Commerce. The Greater Fresno Area Chamber of Commerce is the largest business organization in California's Central Valley.

Paul served as Chief Executive Officer of the Fresno Chamber during the past year. His experience as C.E.O. gives Paul great insight into the goals of the Fresno Chamber during 2001.

Paul graduated from South Dakota School of Mines and Technology in 1964 with a Bachelor of Science Degree in Electrical Engineering. Growing up in South Dakota, Paul had a natural love for the outdoors. It was this passion that brought him to the Fresno area. He opened his own business in Fresno and is currently the President/Owner of Valley Trane Heating and Air Conditioning.

Paul has been highly active in his community. His past and present membership in professional organizations includes: Board Member, Workforce Development Board; Board Member, Fresno Business Council; Board Member, United Way; Board Member/Secretary, Fresno Rotary; Board Member, Community Food Bank; Life Member, Optimist Society; Member, Yosemite Lakes Park Community Church; Member, American Society of Heating, Refrigeration and Air Conditioning Engineers.

The Greater Fresno Area Chamber of Commerce is the second largest Chamber in California. They currently have over 2,300 members. Their sole mission is to promote business and enhance the economic cultural well being of the people in Fresno County.

Mr. Speaker, I rise to honor Paul Besselievre as the incoming President of the Greater Fresno Area Chamber of Commerce. I urge my colleagues to join me in wishing Paul Besselievre many more years of continued success.

IN RECOGNITION OF REVEREND GERARD A. PISANI, HONOREE OF THE RICHARD RUTKOWSKI ASSOCIATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Reverend Gerard A. Pisani, who will be honored by the Richard Rutkowski Association for his exceptional contributions to the community of Bayonne, NJ on January 20, 2001.

In America, the wealth and prosperity of our communities is not based solely on economic indicators. In fact, the most important indicator for the social well being of our neighborhoods and communities is the important contribution of community leaders; and today, I rise to recognize a truly great leader.

Pastor Pisani attended Wheaton College and Taylor University, and completed his theological training at Nyack Missionary College. He was ordained to the ministry in the Baptist church in 1962. Pastor Pisani finished his requirements to become an ordained Priest in the Episcopal Church on October 15, 1966, and was appointed the first Vicar of St. Gabriel's Church, where he served until he became the Rector of Christ Church in Pompton Lakes. In 1974, he came to Trinity Parish in Bergen Point, where he is currently the pastor.

In addition, Pastor Pisani is the president of Windmill Alliance, Inc., an organization that consists of volunteers from several local churches and temples and works in cooperation with leaders from area businesses and industry to provide for the needs of the community. The following groups are involved: The Windmill Center, a daily work activity center for disabled adults; Supportive Living, a residence program for disabled adults; Highways, a program providing support for the needy; the Umbrella Project, a proposed program to provide housing for women and children in need; and Supportive Employment, which provides career development, job training, and employment for adults with special needs.

Pastor Pisani has served on the Board of the Bayonne Medical Center, and is presently serving on the Bioethics Committee of the Bayonne Hospital as co-chair of the education committee. He is also chaplain of the Bayonne Kiwanis Club, the Bayonne Fire Department, and secretary/treasurer of the Bayonne Interfaith Clergy Association. He has received numerous awards from these and other organizations.

Today, I ask my colleagues to join me in recognizing Reverend Gerard A. Pisani. Through his compassion and dedication, he has made great contributions to the community of Bayonne. His leadership and hard work are a great asset and an example for us all.

TRIBUTE TO BETTY FITZPATRICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, I would like to take a moment to congratulate a remarkable woman, Betty Fitzpatrick, for her remarkable devotion to her community.

Betty is being honored on January 31, 2001, by the National Association of School Nurses as the Nurse Administrator of the Year. Over the last eleven years, Betty has served as the Director of Health Services for Jefferson County Schools in Golden, Colorado. Betty oversees 136 schools in the Jefferson County area, where she has spent her life as an advocate for Colorado's youth. The depth of Betty's contributions goes much deeper than nursing. Her portfolio is witness to the difference she has made in the life of others: she has been the president and treasurer of her state nursing association, a prolific author, an advocate for legislation, grant writer, and a national presenter. Betty's contributions to the citizens of Colorado are great in number and deserve the recognition of this body.

Betty is an extraordinary citizen. While her skills as a nurse have been tested daily throughout her accomplished career, on one day—a day our country will never forget—she was put to the test and taken to the limits. On April 20, 1999, an incomprehensible tragedy took place on the grounds of one of Betty's schools—Columbine High School. She was notified of the tragedy within minutes of its occurrence, and with hesitation she enacted an emergency plan and led the charge to assist the war-torn school.

Betty is a tribute to nurses everywhere. Colleagues describe Betty as a quite nurse who handles herself with grace. Her enthusiasm to her work and her compassion is deserving of far more than this Congressional tribute. Ultimately, the highest compliment that she can ever receive is the trust and love of her patients and the community. That, Mr. Speaker, is exactly what she has earned.

Betty is an inspiration for us all and for all these reasons she is deserving of this honor. It is with this, Mr. Speaker, that I say thank you to Betty for her dedication and service to her community over the years. She has worked hard for her community and state, giving mightily of herself to her neighbors.

For that, Betty, we are all profoundly grateful.

SAFER AMERICA FOR EVERYONE'S CHILDREN ACT (SAFE CHILDREN ACT), H.R. 255

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GILMAN. Mr. Speaker, today I am introducing H.R. 255, the Safer America for Everyone's Children Act, or Safe Children Act. The Safe Children Act is a nine-point program which will reward those States and communities who work to keep guns out of the hands of children, promote opportunities for students, and support programs which keep our kids off the streets and away from drugs. By supporting communities who take the initiative to combat school violence, we are encouraging parents and educators to work together to make the decisions which will effectively help our children and provide an appropriate and common sense solution.

The Safe Children Act creates new safe communities and safe States block grants which can be used to supplement, expand, or enforce programs which combat school violence. To be eligible for the new grants, "safe communities" will have to offer a bi-annual gun buyback program, provide working programs to create safe and drug-free schools, and offer after-school programs, which focus on the social, physical, emotional, moral, and cognitive well-being of students. "Safe States" will have to enact legislation to require individuals to be 21 years old to purchase a handgun, require safety locks to be sold with firearms at the time of sale, and create a public-private partnership to support organizations and municipalities which promote safe schools and gun safety.

Furthermore, the Safe Children Act creates a school counseling demonstration program to award grants to schools to establish or expand school psychological counseling programs, offering individual schools the opportunity and funding necessary to have on-site or on-contract child psychologists to assist troubled students. Additionally, the measure promotes the safety of law enforcement personnel by prohibiting the importation of large capacity ammunition feeding devices and exempts qualified law enforcement officers and retired officers from state laws prohibiting the carrying of concealed firearms.

Mr. Speaker, I have been meeting with parents, teachers, students, and law enforcement officials, to discuss the root of the problems in our Nation's schools to find a resolution. The Safe Children Act is an important first step, because it promotes and supports community initiatives and inclusion.

It is obvious that no one solution exists for solving the increase in school shootings, but it is imperative that we all dedicate ourselves to working together within our families and communities to stop the violence among our youth.

The real solution to combating school violence will not be found in the Halls of Congress, rather in our schools, homes, and communities throughout our Nation. The Safe Children Act will reward those communities which work together to provide a safer America for everyone's children.

THE CONSUMER ONLINE PRIVACY AND DISCLOSURE ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GREEN of Texas. Mr. Speaker, unprecedented number of American consumers are flocking to the Internet to transact business and tap the nearly limitless informational databases. The explosion in Internet usage, however, is not without problems. Unlike shopping in a mall or browsing through a library where individuals travel anonymously through the merchandise racks and library stacks, the Internet is becoming less and less anonymous. Direct marketing firms are now trying to identify individuals as they surf the web to isolate where they visit and what they are viewing.

This new data collection practice is most often described as Internet profiling. Internet profiling describes the practice of joining a consumer's personal information with his or her Internet viewing habits. To develop this detailed profile a "persistent cookie" must be attached to a consumer's cookie as they move through a web site. A persistent cookie is a small text file copied for varying lengths of time to consumers' computers to track their movements while online.

My legislation will prohibit Internet Service Providers (ISP) and web site operators from allowing third parties to attach these persistent cookies to a consumer's computer without his or her knowledge and consent. In addition, the legislation requires the Federal Trade Commission (FTC) to promulgate rules specifying that all operators of a Web site or online service provide a clear and conspicuous notice of their privacy policy in clear, non-legalistic terms. The bill also requires a Web site or online service to provide consumers with an option to prevent the use of their personal information for any activity other than the transaction. Finally, the privacy policy must clearly state how any collected information will be shared or transferred to an external company or third party.

While my legislation gives consumers more information and control over how they use the Internet, I have also included a provision that will hold e-commerce companies to their privacy policies. With the insolvency of many dot-com companies, often the only tangible asset left to satisfy creditors is a consumers transaction and personal information.

The global reach of the Internet is beneficial only so long as the information traveling through cyberspace remains private. Consumers will pull back from this burgeoning information and commerce tool if they believe it is being used to invade their privacy. While I understand that there are many differing approaches to the issues of Internet privacy, I believe this legislation addresses a critical component of the Internet privacy debate and I look forward to moving it in the 107th Congress.

IN RECOGNITION OF MARGUERITE S. BABER, ANNUAL HONOREE OF IRELAND'S 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Marguerite S. Baber, one of three honorees at the annual dinner-dance hosted by Ireland's 32 on January 19, 2001. Ms. Baber will be honored for her accomplishments and for her continued dedication to improving the quality of life for the residents of Bayonne, New Jersey.

Marguerite Baber's compassion and dedication to her community and to children are the cornerstone of the Simpson-Baber Foundation for the Autistic, which she founded. The Foundation is a non-profit charity that raises funds for the educational, recreational, and social needs of autistic children and other developmentally disabled children in the Bayonne community. The Foundation works closely with the Bayonne Public Schools to provide for the special education needs of public school students, and sponsors numerous social events for autistic children and their families.

In addition, Ms. Baber is the former director of Financial Services at the Katherine Gibbs School in Montclaire; and she served as trustee and treasurer of the Bayonne Healthcare foundation, director of the Bayonne Chamber of Commerce, and director of the Bayonne Town Center. Currently, Ms. Baber is pursuing her Ph.D. in school business administration at Seton Hall University.

Ms. Baber is also co-owner of Carousel Collections, a children's clothing store. She is married to Superior Court Judge Mark A. Baber, and is the mother of three chidlren: James (12), Stephen (10), and Marguerite (9).

Today, I ask my colleagues to join me in recognizing Marguerite S. Baber for her compassionate and committed service to the community of Bayonne, New Jersey.

TRIBUTE TO DONNA GARNETT, OUTSTANDING COLORADO WOMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, I would like to take a moment to congratulate a remarkable woman, Donna Garnett, for her remarkable devotion to her community. Over the last twenty-five years, Donna has lived in Colorado and has worked to improve the quality of life for its children. Through her volunteer work, Donna has helped hundreds of children in our State. Her continued devotion to the underprivileged children of Colorado has earned her the honor of being named Outstanding Colorado Woman. Donna's contributions to the citizens of Colorado are great in number and deserve the recognition of this body.

Donna is an extraordinary citizen. She has not only devoted her life to helping underprivileged children in Colorado, but she has also been a wonderful mother of three—Austin, 22, and twins, Max and Alexis, who just turned six. In addition to being an advocate for underprivileged children, Donna has also had an outstanding professional career. Over the past twenty-five years, Donna has had a parade of professional accomplishments: she has been a faculty member at University of Colorado-Denver, and a Professor of child development at Colorado State University, as well as Director of the Early Childhood Center at Metropolitan State College, Director of the Auraria Child Care Center. Moreover, she's been a contributing columnist at the Rocky Mountain News, and a Policy Director at the Office of the Governor.

As a volunteer, Donna has worked with numerous groups that work toward the betterment of children and families in Colorado. The following are just a few of her service oriented endeavors: Donna created the Work and Family Consortium to assist employers in accommodating work and family issues in the work place; she has been a consultant for the State of Colorado, working to help parents and teachers with troubled children; she has lent her grant writing expertise to many non profit organizations; and, finally, she helped establish the Urban Farm at Stapleton which helps inner-city children who live in at-risk neighborhoods in Denver.

Donna is an inspiration for us all and for all these reason she is deserving of the honor of Outstanding Colorado Woman. It is with this, Mr. Speaker, that I say thank you to Donna for her dedication and service to her community over the years and congratulate her on this recognition. She has worked hard for her community and State and for that we are all grateful.

COMBAT ILLEGAL IMMIGRATION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STUMP. Mr. Speaker, on January 3, 2001, I introduced H.R. 190, legislation to deny citizenship to the American-born children of illegal aliens.

The 14th Amendment to the U.S. Constitution states, "all persons born in the United States, and subject to the jurisdiction thereof, are citizens." The Federal Government interprets this to grant automatic citizenship to the children of illegal aliens born in the United States. I believe this is a gross misinterpretation and that there is no constitutional requirement to confer citizenship to the U.S.-born children of illegal aliens. Illegal aliens cannot be subject to the jurisdiction of the United States because they are in the United States without legal authority.

Mr. Speaker, few can dispute that the practice of granting automatic-birthright citizenship to the children of illegal aliens is a great incentive for illegal immigration. Citizen children qualify for welfare and other social services, thus illegal parents receive benefits. This raises serious concerns about the use of public assistance by individuals illegally present in the United States. According to a 1997 General Accounting Office report, in FY95 about $1.1 billion in Aid to Families with Dependent Children (AFDC) and Food Stamp benefits were provided to households with an illegal alien parent for the use of his or her citizen child. There can be no mistake that the citizenship grant has significantly contributed to our unprecedented levels of illegal immigration. According to some figures, an estimated 165,000 children are born to illegal aliens in the U.S. annually.

Mr. Speaker, I believe that those individuals who actively defy the laws of the United States by illegal entry or overstaying the terms of their entry should not have the cherished constitutional right to confer citizenship upon their children. As Members of Congress, we have an obligation to ensure that our borders are protected and our immigration laws are followed. Accordingly, I strongly urge my colleagues to cosponsor H.R. 190 to end this injustice.

INTRODUCTION OF THE EDUCATION IMPROVEMENT TAX CUT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. PAUL. Mr. Speaker, I rise to introduce the Education Improvement Tax Cut Act. This act, a companion to my Family Education Freedom Act, takes a further step toward returning control over education resources to private citizens by providing a $3,000 tax credit for donations to scholarship funds to enable low-income children to attend private schools. It also encourages private citizens to devote more of their resources to helping public schools, by providing a $3,000 tax credit for cash or in-kind donations to public schools to support academic or extra curricular programs.

I need not remind my colleagues that education is one of, if not the, top priority of the American people. After all, many members of Congress have proposed education reforms and a great deal of time is spent debating these proposals. However, most of these proposals either expand Federal control over education or engage in the pseudo-federalism of block grants. Many proposals that claim to increase local control over education actually extend Federal power by holding schools "accountable" to Federal bureaucrats and politicians. Of course, schools should be held accountable for their results, but under the United States Constitution, they should be held accountable to parents and school boards not to Federal officials. Therefore, I propose we move in a different direction and embrace true federalism by returning control over the education dollar to the American people.

One of the major problems with centralized control over education funding is that spending priorities set by Washington-based Representatives, staffers, and bureaucrats do not necessarily match the needs of individual communities. In fact, it would be a miracle if spending priorities determined by the wishes of certain politically powerful Representatives or the theories of Education Department functionaries match the priorities of every community in a country as large and diverse as America. Block grants do not solve this problem as they simply allow states and localities to choose the means to reach federally-determined ends.

Returning control over the education dollar for tax credits for parents and for other concerned citizens returns control over both the means and ends of education policy to local communities. People in one community may use this credit to purchase computers, while children in another community may, at last, have access to a quality music program because of community leaders who took advantage of the tax credit contained in this bill.

Children in some communities may benefit most from the opportunity to attend private, parochial, or other religious schools. One of the most encouraging trends in education has been the establishment of private scholarship programs. These scholarship funds use voluntary contributions to open the doors of quality private schools to low-income children. By providing a tax credit for donations to these programs, Congress can widen the educational opportunities and increase the quality of education for all children. Furthermore, privately-funded scholarships raise none of the concerns of state entanglement raised by publicly-funded vouchers.

There is no doubt that Americans will always spend generously on education, the question is, "who should control the education dollar—politicians and bureaucrats or the American people?" Mr. Speaker, I urge my colleagues to join me in placing control of education back in the hands of citizens and local communities by sponsoring the Education Improvement Tax Cut Act.

HONORING LARRY WILLEY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Larry Willey, the outgoing

President of the Greater Fresno Area Chamber of Commerce. The Greater Fresno Area Chamber of Commerce is the largest business organization in California's Central Valley.

Larry served as President of the Fresno Chamber during the past year. His leadership has set an example of positive influence that business can have on the improvement of the community.

Larry started his tile company as a one-man operation in the late 1970's. His hard work, business ethics, and talent for the tile industry have built Willey Tile Company into one of the largest tile contractors in the state. His company has won several awards, including the Building Industry Association's highest honor, Associate of the Year, and the State of California's Mid-Sized Employer of the Year for People with Disabilities.

Mr. Willey has been highly active in his community. His membership in community organizations, committees, and commissions include: Building Industry Association Scholarship Committee; the Coalition for Urban Renewal Excellence; Capital Building Campaign for the Roland McDonald House; Past-Chairman of Fresno Political Action Committee; C.E.O. of Jobs 2000 Board; Vice-Chair of the Work Force Development Education Committee; ARC Advisory Business Board; Business Spokesman of the All-American City Competition; Liaison with Jerry Cook Community Stadium Plan; Mayor's Task Force; and Leadership Fresno Alumnus of the Year 2000.

The Greater Fresno Area Chamber of Commerce is the second largest Chamber in California. They currently have over 2,300 members. Their sole mission is to promote business and enhance the economic and cultural well-being of the people in Fresno County.

Mr. Speaker, I rise to honor Larry Willey as the outgoing President of the Greater Fresno Area Chamber of Commerce. I urge my colleagues to join me in wishing Larry Willey many more years of continued success.

TRIBUTE TO TEXACO QUIZ KIDS

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I wish today to recognize three outstanding young women from my community, and the ongoing efforts of the Lyric Opera of Kansas City to heighten the awareness of the importance of art and culture by sponsoring dozens of programs for young people. Katherine Lorenz, Rebecca Mozley, and Amber Woodward were the three regional finalists chosen to participate in the 2000–2001 Texaco Quiz Kids Program at Kansas City, Missouri's historic Lyric Opera.

The Texaco Quiz Kids Program is a distinguished nationwide competition that brings together talented youth performing arts scholars from six regions of North America. Students take part in a rigorous quiz show format in which they are tested upon their knowledge and understanding of selected operas that they have studied in depth. At the regional round their expertise was called upon to interpret "Aida," "Carmen," and "The Magic Flute."

All three of the young women chosen to represent the Greater Kansas City Area have demonstrated exceptional musical scholarship and dedication to the appreciation of the performing arts. During the regional finals, each of these young scholars demonstrated a comprehensive understanding and knowledge of legendary operas from the 19th Century. Each of their loves for the performing arts radiated from their impressive answers. They are representatives of the best our community has to offer.

Katherine is a senior at Lawrence High School who is involved in a number of organizations. She is Co-Vice President of the FYI Club, Treasurer of the Key Club, and is also an active member of the French Club, National Honor Society, and the cultural heritage panel. She is a teacher's aide for AP European history this year and sings with the Concert Choir. She played basketball through her sophomore year, and is an avid basketball fan. Katherine has studied piano for nine years with Eric Sakamura, and is currently a lesson assistant at Lawrence Piano Studio. Katherine is a National Merit Semifinalist who will begin college this fall, who hopes to major in History, French, and Music.

Rebecca Mozley is a senior at Raytown South High School. Rebecca loves to sing. She has been a member of Raytown South's Cardinal Choral her junior and senior years and has also sung in the Kansas City All District Choir both years. She is a 2-year member of the National Honor Society, Students Against Destructive Decisions (SADD), and Future Teachers of America. This year she is President of SADD and is the cadet teacher for the Concert Choir Class. She is maintaining a 3.8+ GPA and plays the flute and French horn in the school band. Rebecca is also involved in church activities. She plays a handbell in the choir and sings in the teen choir. She also works in the nursery. Through her church, Rebecca has had the opportunity to go on mission trips to different parts of the country to paint and repair homes in low-income neighborhoods for the past four summers. At present, her plans are to attend Central Missouri State University next fall and major in either music education or elementary education.

Amber Woodward is a dedicated student who is maintaining a 4.3 GPA while taking all honors courses in her freshman year at Blue Valley North High School in Overland Park, Kansas. Throughout her academic career she has won numerous good citizen and student awards. Through her participation in musical theater she has contributed time and effort to many charities. Amber has a love for the performing arts. She studies voice, dance, acting, and plays the clarinet and piano. Amber's devotion to the performing arts has led her to a detailed study of Opera. Amber is a coloratura soprano and hopes someday to pursue a career in Opera.

It is an honor for me to recognize Katherine, Rebecca, and Amber on this notable accomplishment. I wish all three of these young women continued success in all of their personal and academic endeavors. Each of the two semi-finalists received $500 scholarships from Texaco. During Round II in Kansas City, Katherine Lorenz was selected to represent our region in the final round in Toronto at Canadian Broadcasting Center next month.

Mr. Speaker please join me in congratulating Kansas City's 2000–2001 Texaco Quiz Kids, Katherine Lorenz, Rebecca Mozley, and Amber Woodward. Also Mr. Speaker, please join me in saluting the Lyric Opera of Kansas City, Texaco, and each of these student's dedicated teachers: Cathy Crispino, Mary Bodney, and Judy Bowser for investing in our youth to help instill the heritage and value which the performing arts have played in shaping our society.

THE CHILDREN'S ACCESS TO TECHNOLOGY ACT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GREEN of Texas. Mr. Speaker, I rise today to introduce the Children's Access to Technology Act to provide the disadvantaged children of this country with the technology they need to succeed in life. My legislation is intended to provide Title I schools with additional financial resources to modernize their Internet delivery tools. Specifically, this legislation will utilize up to $100 million in unspent e-rate funding to provide Title I schools with a maximum $25,000 award to modernize their Internet labs.

Mr. Speaker, the e-rate program has been very effective in bringing the Internet to libraries and classrooms across America. As a strong supporter of that program, I was disturbed to learn that crucial e-rate funding was going unspent because recipients were not following through with their paperwork confirming receipt of service. According to a recent General Accounting Office (GAO) report, almost $1.3 billion has gone unspent during the first two e-rate program years. The Universal Service Administrative Company (USAC) has not yet been able to explain this discrepancy between funds authorized and funds allocated.

Because any unspent e-rate funding is lost at the end of each program year, my legislation will create a new funding mechanism, up to $100 million using any unspent monies, that will allow Title I schools to update their computer hardware. Specifically, the legislation directs the Federal Communications Commission (FCC) to establish a lottery system for Title I schools to enter and be eligible to receive up to $25,000 to modernize their computer hardware.

In light of President Bush's commitment to strengthen and streamline the e-rate program, I believe we must ensure that all funding made available through the USAC be spent on improving our children's access to new and innovative technology. While I intend to seek clarification from the USAC concerning the large amount of unspent funds and the reason for these problems, I believe there will always be some unallocated funding at the end of each program year. In these instances, my legislation will provide an additional benefit to truly needy schools that are struggling to improve the delivery of Internet services to their students.

Our children are our future; without innovating new approaches to provide better tools in our classrooms, the now-passable digital divide will become an impenetrable digital barrier, unbreachable no matter how much funding we throw at the problem.

Mr. Speaker, this is a complementary piece of education legislation when compared with President Bush's proposals and will further enhance the educational opportunities of our children.

TRIBUTE TO STATE TROOPER JASON MANSPEAKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, it is with great sadness that I now honor an extraordinary human being and great American, State Trooper Jason Manspeaker. Mr. Manspeaker was described as a "teddy bear" of a man, who demonstrated both remarkable valor and compassion every day. Sadly, Jason died last week while in the line of duty. As family, friends, and colleagues mourn this profound loss, I would like to honor this truly great American.

Mr. Manspeaker was an individual that served his county, state and nation well. For most of his life, Jason aspired to be a Colorado State Patrolman, a goal he would ultimately realize. As a State Trooper, countless individuals have been affected by Jason's selfless actions, each of whom are better off because of his service. Tragically, Jason's life was cut short while engaged in that service.

On January 23, 2001, Jason was in pursuit of a van that was believed to contain two of the Texas Seven fugitives the day after the other five were captured in nearby Colorado Springs. After passing eastbound through the Eisenhower Tunnel on relatively dry pavement, his Jeep Cherokee squad car hit the steep and icy off-ramp and failed to negotiate the turn, skidding into a snow covered trailer in a dirt pull out. Manspeaker's friend and colleague, Trooper Jeff Matthews, witnessed the crash in his rear view mirror and worked relentlessly, but ultimately unsuccessfully, to revive Manspeaker. "This is somebody who made the ultimate sacrifice to protect the public," said his supervisor, Captain Doyle Eicher, in a recent Denver Post story. "He was just that kind of guy." "It is really tough for us. I knew him personally, and he was an outstanding trooper, liked by everyone," said close friend Sgt. Brett Mattson in the Post's story.

Jason grew up in Montrose, Colorado where he was well-known and widely admired. "He would go out of his way to help people, we are all very proud of him for being a highway patrolman, that is what he wanted to do," said Betty Hokit, secretary at Montrose High School where Jason attended. Jason began his service to the community at a very young age. As a teenager, he volunteered with the Explorer Scout Program for the Montrose Police Department. Even while attending Mesa State College—where he played football—he could often be found riding along with State Troopers based in Grand Junction. "He just absolutely loved the work," said Captain Eicher in the story. "He was just so enthusiastic about the job. He made my job a joy because it is easy to supervise and work with people like that."

Jason was a highly skilled member of his profession. So much so that he was named the officer in charge of ensuring that other officers fulfilled their firearms qualifications. This is just one of the many examples of Jason's skill as a law enforcement officer, skills which Jason used to serve the State of Colorado every day.

Mr. Speaker and fellow colleagues, as you can see, this extraordinary human being truly deserves our timeless gratitude for his service and supreme sacrifice while in the line of duty. Jason Manspeaker may be gone, but his legacy will long endure in the minds of those who were fortunate enough to know him. Colorado is assuredly a better place because of Jason Manspeaker.

The nation's thoughts and prayers are with his wife, Stephanie, and his parents, Ray and Donna, and his colleagues at the Colorado State Patrol. Like these loved ones, the Montrose community and the State of Colorado will miss Jason greatly.

IN RECOGNITION OF AGNES MANGELLI, HONOREE OF THE RICHARD RUTKOWSKI ASSOCIATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, today I recognize Agnes Gallagher Mangelli, who will be honored by the Richard Rutkowski Association for her exceptional contributions to the community of Bayonne, New Jersey on January 20, 2001.

In America, the wealth and prosperity of our communities is not based solely on economic indicators. In fact, the most important indicator for the social well being of our neighborhoods and communities is the important contribution of community leaders; and today, I recognize a truly great leader.

Agnes Mangelli was born and raised in Bayonne. She is married to Nicholas Mangelli Sr., and is the mother of four children: Mary Beth Ward, Anne Marie Tatte, Patricia Mangelli, and Nicholas Mangelli.

Ms. Mangelli is the chairman of the Board of Trustees of the Bayonne Community Mental Health Center, an organization she has served since 1974. She has also served on the Board of Directors and as vice president; fundraising chairman; recording secretary; and corresponding secretary. She has been the chairman since 1993.

In addition, Ms. Mangelli is the co-chair of the United Cerebral Palsy of Hudson County, and serves on the Bayonne Hospital Parent Board and the Bayonne Hospital Compliance Committee. She served as chairman of various committees at St. Peter's Prep Mother's Club. She is also past president and member of the Robinson School of PTC, the Vroom School Parents Association, and the Holy Family Academy Alumni Association.

Today, I ask my colleagues to join me in recognizing Agnes Mangelli. Through her compassion and dedication, Agnes Mangelli has made great contributions to the community of Bayonne. Her leadership and hard work are a great asset and an example for us all.

PERSONAL EXPLANATION

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. BASS. Mr. Speaker, I was regrettably absent on Tuesday, January 30, due to circumstances beyond my control, and I consequently missed a recorded vote on H.R. 93. Had I been present, I would have voted "yea" on rollcall vote No. 5.

INTRODUCTION OF THE PUBLIC SCHOOL CONSTRUCTION PARTNERSHIP ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SHAW. Mr. Speaker, today, along with my colleagues Congressmen PAUL and PETRI, I am introducing the Public School Construction Partnership Act, to help our public schools meet the need for school modernization, new classrooms and the repair of old and aging facilities.

I represent three of the fifteen largest school districts in the country—the Miami-Dade County Public School District is the nation's fourth largest school district, the Broward County School District is the nation's fifth largest, and the Palm Beach County School District is the fifteenth largest. Public school children attend classes in 296 elementary, middle and senior high schools in Miami-Dade County, 178 in Broward County, and 137 in Palm Beach County. Many classes are held in temporary classrooms, many of the buildings are in need of repairs, and the student population in the state of Florida is expected to grow 25 percent faster than the overall population. This makes the need for new school construction and renovation of old ones critical.

Public schools need new ways to raise revenue to meet the problems caused by growth and overcrowding. The financing needs faced by an urban school district may not be of the same nature or scope as those of a rural district. At the same time we need to reduce construction costs and promote school construction efficiencies to ensure that dollars are spent wisely and effectively. This bill is a meaningful step in those directions. Four different approaches to financing new public school construction and repairing older schools are provided for in this legislation.

First, in order to encourage private-sector participation and avoid debt capacity problems for states and localities, the bill would allow school districts to make use of public-private partnerships in issuing private activity bonds for the construction or improvement of public educational facilities. Private activity bonds can now be issued to finance 12 types of activities such as airports, docks and wharves, qualified residential rental projects, and qualified hazardous waste facilities. It makes sense to be able to issue them for the construction and rehabilitation of public schools.

In order to qualify for the bonds, public-private partnerships would build school facilities and lease them to the school district. At the end of the lease term the facilities would revert back to the school district at no additional consideration. Alternatively, a school district could sell their old facilities to such a partnership, which would then refurbish them, and lease the refurbished facilities back to the school district. The proceeds from the sale could then be used by the district to build new classrooms. This allows the school district to leverage investment in school facilities without having to borrow by issuing tax-exempt bonds.

The bonds would be exempt from the annual state volume caps on private activity bonds, but would be subject to their own annual per-state caps equal to the greater of $10 per capita or $5 million. This bill leaves to the states the manner in which the per-state amount is to be allocated.

Second, the bill provides for a 4-year safe harbor for exemption from the arbitrage rules. To prevent state and local governments from issuing tax-exempt bonds and using the proceeds to invest in higher yielding investments to earn investment income (thereby earning arbitrage profits), arbitrage restrictions are placed on the use of tax exempt bonds. In the case of tax-exempt bonds use to finance school construction and renovation, the bond proceeds must be spent at certain rates on construction within 24 months of being issued. The bill would extend the 24-month period to 4 years for school bonds as long as the proceeds were spent at certain rates within this period. It is difficult for school districts to comply with the present 24-month period when funding different projects from a single issuance of bonds. The increase in the time period would give school districts greater flexibility in planning construction projects and more money with which to build and repair schools.

Tax exempt bonds issued by small governments are not subject to the arbitrage restrictions as long as no more than $10 million of bonds are issued in any year. In order to provide relief to small and rural school districts undertaking school construction and rehabilitation activities, the third approach undertaken by the bill is to raise the exemption to $15 million as long as at least $10 million of the bonds were used for public school construction.

Fourth, the bill would permit banks to invest in up to $25 million of tax exempt bonds issued by school districts for public school construction without disallowance of a deduction for interest expense. Currently, banks are allowed to purchase only $10 million without being subject to disallowance of interest expense. Banks traditionally have been an important purchaser of last resort of tax exempt bonds. Increasing the amount of bonds that can be purchased by banks without penalty will allow school districts to sell their bonds to banks, thereby avoiding having to incur the expense of accessing the capital markets.

This legislation offers an innovative approach to help finance the building and rehabilitation of our public schools, which is so vital to improving our education system. The creation of the public/private partnerships would speed up the construction of new public schools that are urgently needed. The bill gives our school districts the flexibility they need to tailor their financing needs to their individual situations.

This legislation can help our public schools to construct and repair needed facilities to educate our children, and I urge my colleagues to join me in seeking its enactment.

THE TAX RELIEF FOR FAMILIES WITH CHILDREN ACT, H.R. 253

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GILMAN. Mr. Speaker, I rise today to introduce the Tax Relief for Families With Children Act, H.R. 253. I urge my colleagues to join me in supporting this worthwhile legislation.

We are long overdue for a major cut in taxes. With our strong economy and growing surplus, there is no excuse why some tax relief cannot be passed this year.

Since the last major tax bill was passed, the Federal budget has been balanced, the estimates for the surplus over the next 10 years have continued to grow and Federal Reserve Chairman Alan Greenspan has stated that some tax relief is necessary in order to keep the economy growing. Giving this environment, I believe that the passage of additional tax relief is appropriate.

This bill will help all American families by increasing tax credits for children and child care expenses. Parents will be able to choose one of three options for each dependent, either the dependent care tax credit, the child tax credit, or the dependent care assistance plan.

Currently, parents who use child care services can use the dependent care tax credit which is capped at $2,400 for one child and $4,800 for two or more children. My bill will increase this credit to $3,600 and $6,000 respectively. Additionally, this credit will be expanded to include more families. The current gross income cap of $50,000 will be increased to $110,000 so that more middle income families who need to use child care can afford to use safe and accredited centers in this country.

Another option for working families who need child care is the dependent care assistance plan (DCAP). DCAP is a savings plan that allows a parent to set aside a portion of their salary each month, prior to being taxed, that they can then use for child care expenses. My bill would increase the contribution to $7,000 and would allow an employee's spouse, parent or grandparent who provides child care services to be defined as a qualifying individual. This would allow a close family member to be paid for providing child care services for a child or grandchild.

The last of the three options is the child tax credit that the 105th Congress enacted in 1997. This tax credit can be used for any child up until the age of 17 and will be increased from $500 to $900 per child.

These three tax credits for families will help the average American family deal with the debate about child care. Some families need to use outside providers, while others choose to have one parent stay at home. Whatever their personal decision is, the provisions in this bill will benefit them all.

In addition to helping families with children, this legislation will help businesses which provide child care services for their employees. By providing a 3-year tax credit for employer provided child care, businesses will be encouraged to become involved in child care. Employees would welcome the implementation of onsite child care so that the guilt that is often associated with day care can be lessened because parents are not that far removed from their children. With less apprehension, employees will be more productive which is good news for any business.

The second provision for businesses is the expansion of opportunities for charitable contributions. Businesses will be permitted to claim a charitable contribution for the donation of tangible personal property to public or private child care centers, public schools or child care support organizations. Businesses will also be allowed to claim a charitable contribution for 50% of the fair market value of donated transportation services, staff volunteer time and company facilities and equipment.

Accordingly, Mr. Speaker, I urge my colleagues to join me in supporting this worthwhile legislation which will provide much needed tax relief for working families.

IN RECOGNITION OF OFFICER JOHN S. WISNIEWSKI'S RETIREMENT FROM THE JERSEY CITY POLICE DEPARTMENT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Police Officer John S. Wisniewski on his retirement from the Jersey City Police Department after thirty years of service to our community.

John S. Wisniewski attended grammar school at Our Lady of Czestochowa, St. Anthony's High School, and Jersey City State College. Between 1966 and 1968, he served in the United States Army and achieved the rank of SP/4, while bravely serving his country and its citizens. As an officer of the law, he continued that invaluable service to his country with integrity and dedication.

On May 1, 1972, John S. Wisniewski was appointed to the Jersey City Police Department. During his thirty years of service, Officer Wisniewski wore many hats at the department. He was assigned to the Neighborhood Taskforce in 1972; the Special Patrol Bureau in 1975; the East District Patrol in 1990; the

West District Patrol in 1991; and again to the Special Patrol Bureau in 1992, until his retirement.

Throughout his career at the Police Department, Officer Wisniewski was a fine example of dedication and excellence. For his hard work, he earned a Class "C" Award, two commendations, and eight excellent police service awards.

I am proud to recognize Police Officer John S. Wisniewski for his accomplishments, and I ask that my colleagues join me in recognizing him for his service to New Jersey.

TRIBUTE TO REVEREND YVONNE McCOY, OUTSTANDING COLORADO WOMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. McINNIS. Mr. Speaker, I would like to take a moment to congratulate a remarkable woman, Yvonne McCoy, for her outstanding courage and devotion to helping her fellow man. Yvonne is a newly ordained minister with the Colorado Community Church. Rev. McCoy's selfless service has helped countless inner-city children turn their lives around. Her continued devotion to the underprivileged children of Colorado has earned her the high honor of being named Outstanding Colorado Woman. Yvonne's contributions to the citizens of Colorado are great in number and deserve the recognition of this body.

Yvonne is a wonderful model for women of all ages. Yvonne has been pivotal in getting troubled youth off the streets by directing a music program that brought many kids out of harm's way. In addition to helping youth get on the right track, she has tirelessly worked to help women who are looking to improve their own lot in life. Yvonne goes directly to areas of need and counsels women on how they can best improve their course in life. Based on her own life experiences, Yvonne knows first hand the travels of those whom she counsels. Because of these experiences, Yvonne can ably guide others toward a better and brighter future. That, Mr. Speaker, is exactly what she has done for so many.

Yvonne not only serves the needs of those less fortunate in America, but she has also lent her compassion to the impoverished in foreign places. Yvonne recently returned from a mission to the Dominican Republic, where she worked with an orphanage. She has plans to continue her service there in the future.

Yvonne is an inspiration for us all and for all these reasons she is deserving of the honor of Outstanding Colorado Woman. What's more, she clearly deserves the commendation and praise of this body.

It is with this, Mr. Speaker, that I say thank you to Yvonne for her dedication and service to her community over the years and congratulate her on this high honor.

Yvonne, your friends, family, state and nation are proud of you and grateful for your gracious service.

TRIBUTE TO THE LATE RICHARD CHARLES "RC" ROBINSON, SR.

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, today I wish to salute a fallen hero. Richard Charles "RC" Robinson, Senior. RC passed away on Saturday, January 27, 2001. The irony is that he gave so much of his heart to others, and it was his heart that failed him in the end.

RC was many things: the first African American appointed to the Missouri State Barber Board, early civil rights activist, and mentor, husband, father, and friend to many, including myself. Whenever duty called RC was never one to turn his back on the task at hand. During the turbulent times of the 60's, RC led a sit-in at a restaurant that refused him coffee. This grassroots effort led to the end of similar discriminatory practices by businesses of the day.

Everyone who knew RC always succumbed to his charisma. The words of Rudyard Kipling's poem "If" depict RC well, for he could "walk with kings" without losing "the common touch." He walked with great celebrities and public officials as well as with those disenfranchised or homeless. The legendary Muhammad Ali once sat in RC's barber chair and the police mistook the fan fare for a riot. "The Greatest" paid great respect to RC. The service that RC provided to the community will never be replaced, just as his many kind deeds will never be forgotten.

When I visited R.C.'s Barber Shop he would always welcome me with open arms. The talk of the day would turn not only to the current events, but also the historic struggles and the resulting progress which led the way to greater equity for African Americans in our community.

Mr. Speaker, please join me in saluting Richard Charles "RC" Robinson, Senior, a dedicated public servant and a soldier for justice and equality. Also, Mr. Speaker please join in sending condolences to his wife, Dottie and his daughter, Terri. This great human being will be missed, but his memory will live on in all those whose lives he touched. We are a better community for his having lived.

CONGRATULATING KAWEAH DELTA HEALTH CARE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Kaweah Delta Health Care District for being awarded the coveted Foster G. McGaw Prize.

The Foster G. McGaw Prize is widely recognized as one of the most significant honors in the health care industry. The prize honors health care delivery organizations that have demonstrated exceptional commitment to community service. It is awarded by the American Hospital Association and supported by the Baxter Allegiance Foundation.

Kaweah Delta Health Care District has always believed that strong community relationships and comprehensive programs are the keys to quality community health. It is therefore quite appropriate, and not surprising, that Kaweah Delta Health Care District has been honored for their proactive role in establishing the web or relationships needed to address the community's health. Its contributions to improving the community's well being have truly been outstanding.

Mr. Speaker, I again want to congratulate Kaweah Delta Health Care District for winning the Foster G. McGaw Prize. I urge my colleagues to join me in wishing the Kaweah Delta Health Care District many more years of continued success.

IN RECOGNITION OF COMMISSIONER RAFAEL FRAGUELA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Commissioner Rafael Fraguela, recipient of the "Los Próceres Antillanos Award," which was presented by Save Latin America, Inc., on January 25, 2001.

Save Latin America, Inc., a non-profit organization that honors Hispanic community leaders for their contributions to society, provides information to Hispanics regarding their rights and responsibilities in the areas of education, health care, housing, and other social services and economic development opportunities.

Rafael Fraguela, who was born in Cuba on June 7, 1955, immigrated to the United States as a boy, and attended Union Hill High School in Union City, New Jersey. He received his BA in Social Studies/Political Science from Montclair State College and his MA in Education from Seton Hall University.

Since receiving his undergraduate degree and teacher certification, Commissioner Fraguela has dedicated his life to public education and to the New Jersey education system, serving as teacher, vice-principal, and principal. He is currently the Principal of Grant School #7 in Passaic, New Jersey.

In addition, Commissioner Fraguela has served the residents of New Jersey as an elected official in a variety of positions over the past decade. He served as President of the Union City School Board and as President and Commissioner on the School Board of Estimates. In 1993, Commissioner Fraguela was elected to replace me as a Commissioner of Union City, an office to which he was re-elected in 1994 and 1998. He served as Commissioner of Revenue and Finance and Public Affairs and Recreation, and as Commissioner of Public Affairs, Parks, and Public Property.

Commissioner Fraguela is a member and founder of the Alliance Civic Association; the National Association of Latino Elected Officials (NALEO); the Mid-West Northeast Voter Registration Project; the Summit Avenue Merchants Association; the Hispanic Leadership for Political Action Committee; the Democratic

National Committee; the Committee to Elect President Clinton; the National Democratic Steering Committee; the Union City Day Care Board of Directors; the Union City A.B.C. Board; and Gore 2000.

For his continued and selfless public service to the community, he has received numerous honors and awards, including the Human Values Award, Man of the Year Award (1993, 1995, 1998); the Babe Ruth League Award (1997); the Summit Avenue Merchant Association Award (1998); the Duarte, Sanchez & Mella Award (1996); and the Hispanic Law Enforcment Society of North Hudson, NJ Achievement Award (1998).

In 1991, it was my distinct honor to appoint Rafael Fraguela to be the President of the School Board of Union City. I am extremely proud of his record, his dedication to public service, and his many achievements since that first appointment. Over the years, I have cherished his friendship as an educator, school board president, and commissioner. More importantly, he is an invaluable asset to the residents of New Jersey.

Today, I ask my colleagues to join me in recognizing Rafael Fraguela for his leadership and for his important contributions to New Jersey and to the Hispanic community:

WHITESIDE SCHOOL CELEBRATES ITS 150TH BIRTHDAY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the Whiteside School District in Belleville, Illinois which is celebrating its 150th anniversary this year. This school has a rich history and has enhanced the Belleville area by consistently demonstrating excellence in teaching.

Mr. William Lot Whiteside, the original owner, was granted land by former President James Monroe in 1817. He deeded the one-acre property to school trustees in 1843 for $100 and a one-room schoolhouse, named after the Whiteside family, was built. A formal school district was established in 1865. At the turn of the century, a second room was added to the school enabling this two room schoolhouse to serve children from Belleville to Shiloh.

A new school was built in 1958 on five acres of land acquired from the Whiteside family and placed directly in front of the old two room schoolhouse. The new school consisted of three classrooms, a multi-purpose area, and an office. Subsequent additions took place in 1965, 1973, 1979, 1987, and 1996 to meet the needs of its growing student body.

With enrollment currently over 1,000 students, the Whiteside School District is now expanding to a second building which will stand on a hill once occupied by Mississipian Indians. Middle school students will occupy the new facility, roughly one mile from the original school site. The new building is scheduled to open in 2002.

Since starting as a one-room schoolhouse, the Whiteside School has operated continuously for 150 years and has been producing students that make and will continue to make a significant contribution to not only Southwestern Illnois but the nation as well. Their impressive level of achievement and accomplishment for a century and a half is a milestone for the school district and the education profession as a whole. Mr. Speaker, I know my colleagues join me in expressing our appreciation to the Whiteside School District for its dedication to service and our very best wishes as it celebrates its 150th year.

NEW YORK TIMES: INDIA CLEARLY RESPONSIBLE FOR CHITHI SINGHPORA MASSACRE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. TOWNS. Mr. Speaker, on December 31, the New York Times Magazine ran a good article on the massacre of 35 Sikhs that took place in Chithi Singhpora in March while President Clinton was visiting India. The article makes it clear that "Everyone knows who did it" and that the responsibility rests squarely on the Indian government. The Times writer, Barry Bearak, the newspaper's bureau chief in New Delhi, wrote that "Among the careful preparations for the historic occasion were a painstaking cleanup around the Taj Mahal, a reconnoitering for wild tigers he might glimpse on a V.I.P. safari and the murder of 35 Sikh villagers in a place called Chittisinghpora."

I will not place the entire article into the RECORD, Mr. Speaker, because it is very long, but I recommend it to my colleagues. Bearak interviewed several people who were witnesses to the massacre or who lost family members. It is very clear from his interviews that the Indian government is responsible. This confirms the findings of two independent investigations, one by the International Human Rights Organization, which is based in Ludhiana, and another jointly conducted by the Movement Against State Repression and the Punjab Human Rights Organization.

This is typical of the Indian government. The Indian newspaper Hitavada reported in November 1994 that the Indian government paid the late Governor of Punjab, Surendra Nath, $1.5 billion to organize terrorist activities in Punjab and Kashmir. The book "Soft Target", written by two Canadian journalists, proved that the Indian government shot down its own airliner in 1985, killing 329 innocent people, to create an image of Sikhs as terrorists.

The article noted that the killers were dressed in the regulation uniform of the Indian Army. Some had their faces painted in celebration of the Hindu holiday of Holi. They rounded up 37 Sikhs, one of whom escaped and one of whom survived. The other 35 were murdered in cold blood. They called out the parting phrase "Jai mata di," a Hindu phrase in praise of a Hindu goddess.

Clearly the Indian government was trying to create a bad image of the Kashmiri freedom fighters for the President's visit. It looks like President Clinton was right when he called the region "the most dangerous place in the world."

Bearak came to Chithi Singhpora in the company of a businessman, who is an associate of a fellow reporter. "So you want to know the truth?" the businessman said to Bearak. "Don't you know the truth can get these people killed?" The Indian government had killed five Muslims, claiming they were Pakistanis responsible for the massacre, but at least one village resident said that he recognized the remains of one of his relatives. One of the men killed was a man of 60. The Indian government has subsequently admitted that the so-called "militants" they killed were in fact innocent. Now they have made another arrest in the case. This is also equally dubious. The 18-year-old that they arrested was "intensively interrogated," according to the article, which usually means torture.

At the close of the article, Bearak writes that "Everyone knows about this crime. The Indian Army did it." The evidence makes it clear that this is true. Why should such a country receive any support from the U.S. government? Let us stop our aid to this terrorist regime and let us openly support self-determination for Punjab, Khalistan, for Kashmir, and for all the nations of South Asia.

THE RETIREMENT OF MR. ED O'CONNOR

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. WELDON of Florida. Mr. Speaker, today I honor a great American who has played a major role in our nation's space program. Ed O'Connor was selected in 1990 to lead the newly established Spaceport Florida Authority, and he retired late last year. It was his leadership, vision, and tireless energy that enabled Florida to preserve and secure its place in the world as "the place for space."

Spaceport Florida Authority is a recognized leader among state spaceports, and it also plays a critical role in recruiting new space-related industries to Florida. Through Ed O'Connor's leadership, the Authority gained international recognition as the first state agency to conduct space launches from its facilities, and has enabled historic partnerships between the State of Florida, NASA, the Air Force, and the commercial and academic space communities.

His service to the space program, however, started long before then. He has a long and distinguished record of service to our nation in the United States Air Force, including directing the Search, Recovery, and Reconstruction Team supporting the Presidential Commission investigating the *Challenger* accident. Upon retiring from the Air Force in 1987, Colonel Ed O'Connor joined Martin Marietta as manager of the Commercial Titan Launch Program.

Mr. Speaker, I am honored to represent Florida's Space Coast in the United States Congress, and I am honored to represent distinguished citizens such as Ed O'Connor who have given so much to our nation. While he will be retired, anyone who knows Ed doesn't expect him to slow down one bit. I'm certain he will continue to be a great source of knowledge and ideas for the nation's space goals.

RECOGNIZING STEPHEN J. HAWKINS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Stephen J. Hawkins, retiring Postmaster of Fresno, California. He has announced his retirement after serving the public for more than 35 years with the United States Postal Service.

Stephen arrived in Fresno with an extensive background of successful postal experience in San Francisco, San Diego, and Los Angeles prior to taking the oath of office in Fresno. Since arriving in Fresno, he has dedicated himself to improving customer satisfaction and serving the community members in numerous ways.

As the population of Fresno grew, Stephen was instrumental in increasing the number of postal stations by opening Post Office Express, Cedar Station, Blythe Station, Sunnyside Station, and Ashlan Park Station. From 1994 through 1999 he served as Chairman of the Fresno/Madera County Combined Federal Campaign where he helped raise over $500,000 for local charities. He has also served on the Board of Directors of Fresno United Way and as President of the Federal Executive Association. Stephen has actively motivated postal employees to volunteer and contribute in the community with teams in events like the Juvenile Diabetes Walk and the American Cancer Society Run, which help raise money locally for worthy causes.

Mr. Hawkins has hosted several stamp release events, including the Breast Cancer Stamp, the Honoring Those Who Served Stamp, the Hospice Stamp, and the Adoption Stamp. He has also sponsored the Youth for Art artists, whose paintings are still located in the lobby of the Main Office Station. Stephen has worked with the Sister Cities Organization and made a presentation and tour of the Fresno Postal Facilities to our sister city from China. Mr. Hawkins has received national recognition by becoming the only Postmaster in the United States to be presented the prestigious Benjamin Award for outstanding communications and community outreach accomplishments four years in a row.

Mr. Speaker, I want to recognize Postmaster Stephen J. Hawkins for his numerous contributions to his community. I urge my colleagues to join me in wishing Postmaster Hawkins many more years of continued success.

TRIBUTE TO MERYL GORDON

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. McCARTHY of Missouri. Mr. Speaker, I wish today to honor a special American who will be honored this Saturday, February 3 in New York City. Every generation has its rites of passage, and for those of us born in the years when Harry Truman brought honor and integrity to the White House, the occasion with which we boomers have recently become most familiar is the celebration of one's 50th birthday. It is in that spirit that I mark the arrival of my dear friend, Meryl Gordon, at that half-century mark today, January 31, 2001.

Our fellowship began in Japan back in the days when there was another President Bush in the White House and, over the past decade, we have shared both literal typhoons (19 including Fukuoka, Japan, 1991) and the successes and occasional storms of everyday life.

Some of those who still fit the chronological categories of "twenty-somethings" or even "thirty-somethings" might not understand that a 50th birthday is a particularly joyous occasion. This milestone serves as an apt moment to take stock of one's life, for it is a time when you have the health, the energy and the idealism to still achieve your fondest dreams. For someone like Meryl—a highly respected magazine writer who is a Contributing Editor of "New York" magazine and lives in that legendary metropolis—a 50th birthday is a wonderful vantage point from which to realize that she has been blessed with professional renown. Her essays and articles touch the heart, the funny bone, and the conscience of our nation. She is also fortunate to have a joyful marriage to esteemed writer, pundit, and comic Walter Shapiro; doting parents, Adelle and David Gordon of Rochester, N.Y. and a large and nurturing circle of friends who have come from far and wide to salute her tonight.

Mr. Speaker, please join me in congratulating Meryl Gordon on this milestone and wish her continued success and happiness in her next half century.

IN RECOGNITION OF H. MICKEY McCABE, ANNUAL HONOREE OF IRELAND'S 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize H. Mickey McCabe, one of three honorees at the annual dinner-dance hosted by Ireland's 32 on January 19, 2001. Mr. McCabe was honored for his accomplishments and for his continued dedication to the improvement of the quality of life for the residents of Bayonne, New Jersey.

Mr. McCabe has demonstrated an unparalleled commitment to the safety and welfare of his community: He is the founder and president of McCabe, and he recently established the Bayonne Community Bank. His service commitments to the community of Bayonne are numerous: coordinator for the Hudson County New Jersey State Police Office of Emergency Management; state president of the Medical Transportation Association of New Jersey for more than 5 years; commissioner of the Bayonne Alcohol Beverage Control Board; chairman of the 2000 Bayonne Mayoral Task Force; past president of the Bayonne Uptown Merchants Association; and member of the board of directors of the Bayonne Chamber of Commerce.

In addition, Mr. McCabe is the founding president of the American Heart Association, Bayonne Chapter; treasurer of D.A.R.E., Bayonne Chapter; and citywide chairman of the Bayonne Police Bulletproof Vest Fund Drive; and he is a founding member of the Bayonne Saint Patrick's Day Parade Committee. He is an honorary lifetime member of the Police Benevolent Association, Local 7, and a recipient of the Boy Scout Council Distinguished Citizens Award, among other awards.

Mr. McCabe is married to Judith P. McCabe, and is the father of two children: Allison (27) and Michael (23).

Today, I ask my colleagues to join me in recognizing H. Mickey McCabe for his important contributions to the community of Bayonne, New Jersey.

FAREWELL CELEBRATION HONORING DR. NAFIS SADIK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mrs. MALONEY of New York. Mr. Speaker, it is an honor to recognize the world's champion for international family planning and women's empowerment and one of the world's most powerful women, Dr. Nafis Sadik.

I am continually amazed by Dr. Sadik's accomplishments. She began her career at the United Nations as the head of UNFPA's Program Branch under the leadership of Rafaal Salas. Dr. Salas used to regularly send Nafis to attend high-level U.N. meetings where she was the only woman in the room.

Not only that, but she was a woman representing the Population Fund, not high on the U.N.'s most favored agency list, and even worse, she was advocating for women. And, as you would guess, she was usually ignored. However these men didn't know whom they were dealing with. Dr. Sadik was undaunted by her male colleagues and regularly spoke with a clear voice and a courageous voice until she was heard.

Now, she is in her 13th year as the head of UNFPA. The first woman to ever be appointed to head a United Nations agency.

Dr. Sadik's passion and commitment to international family planning doesn't come from reciting a UNFPA manual, but learning first hand what access to family planning means for women and families around the world.

As the director of the women's and children's wards of Pakistani hospitals, she helped shape the country's family planning programs. She saw and heard first hand women who didn't want more children, but didn't have the access to the resources or the power to make the decisions they needed to plan their families.

It's this experience that resonates in Dr. Sadik's words and commands our attention. I owe a great deal to Dr. Sadik. It was her words and leadership that helped my colleagues and I restore the U.S. contribution to UNFPA in 1999.

I met Dr. Sadik at the Hague International Forum Conference on population and women's reproductive health. We were just beginning our fight in Congress to restore UNFPA funding.

We had a daunting task before us—restore $25 million for UNFPA during a tough budget fight in a Congress that equates family planning with abortion. But using Dr. Sadik's words that, "population is not someone else's" problem; it's a global issue that needs to engage every country in the world," we won the fight and restored the U.S. contribution to UNFPA.

This past year we achieved another success in Congress, when UNFPA was included in the budget at $25 million. But, we still have a long way to go. My colleagues and I are still working to restore all U.S. funding for international family planning programs back to its 1995 levels. It's far below where we were in the 1980's, but it will be a 20% increase over last year.

This past year, we had more than 120 Members that understand the link between family planning and women's health. With Dr. Sadik at the helm of UNFPA, Congress got the message that family planning is vital to the fight to save women's lives.

Be assured that we will continue Dr. Sadik's fight for women around the world and will work with Thoraya Obaid to keep her legacy moving forward.

Dr. Sadik, thank you for your courage, your leadership, and your commitment to the women of this world. You are an inspiration to us all and we will miss your dearly.

IN MEMORY OF THE OKLAHOMA STATE UNIVERSITY TRAGEDY

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. WATKINS. Mr. Speaker, my heart is heavy and in pain from the tragedy that struck my alma mater—Oklahoma State University, located in my hometown of Stillwater, Oklahoma—on January 27th, 2001.

A plane carrying members of OSU's basketball team, athletic department, and sports broadcast unit crashed shortly after take-off following the OSU men's basketball game at the University of Colorado in Boulder. Ten members of the OSU family lost their lives in the accident.

Understandably, in times such as these, one could not be blamed for believing that the beloved schools of so many had just had a part of itself die. We know these 10 men's families have lost their loved ones, and now have an aching in their heart that will be long in mending. One could not be blamed for believing that life on God's earth is often too barren, and lonely; that the weight of this burden is more than we could possibly endure.

We are only in the beginning of our grief. But deep within our hearts, we humbly know God has a better plan than a lasting hurt. May God provide a lasting and loving memory of the young men who lost their lives.

Daniel Lawson, student athlete; Nate Fleming, student athlete; Jared Weiberg, student manager; Pat Noyes, director of basketball operations; Brian Luinstra, athletic trainer; Will Hancock, coordinator of media relations; Kendall Durfey, engineer for the OSU radio network; Bill Teegins, KWTV sports director and the voice of OSU football and basketball; and two pilots, Denver Mills and Bjorn Falistrom. Every one of these individuals was an important part of the OSU family. We shall miss them dearly, but their memories will live on in our hearts. May the spirit from our wonderful memories of them grant us the grace, peace and strength to fulfill their dreams.

I have a heavy heart—an aching heart—for the loved ones of those who lost their lives. My prayers and love go out to the families, Coach Eddie Sutton and his staff, and the entire OSU family.

Yes, may God's love, mercy and grace sustain and strengthen them. Mr. Speaker, I ask that each member of the House join me as our thoughts and prayers go out to the young men's families, their friends, and to the extended Oklahoma State University family who lost ten loved ones.

IN HONOR OF LARRY BERG

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. ENGLISH. Mr. Speaker, every community has a voice. It's that one person whose voice resonates through the neighborhoods, asking questions and expressing aloud the thoughts of all.

I rise today to pay tribute to one such voice in Butler County, Mr. Larry Berg. He has left an indelible mark on this area of western Pennsylvania, not only as a radio host, but as an active and vital member of the community. Upon his retirement, he deserves to be honored for his outstanding contributions.

As a 16-year-old freshman at New York University, Larry chose his radio broadcasting major simply because it sounded interesting. But during the span of the next 53 years, he found himself working in places such as Baltimore, Des Moines, St. Louis, New Orleans, El Paso and New York. Tired of the gypsy's life, he and his wife decided in 1964 to buy a radio station in Butler, Pa.—a town neither of them had heard of before.

And for 36 years, he ably served this community. On air, he satisfied his listeners by asking probing questions, whether he interviewed the star of the high school musical, a member of Congress, The Beatles' Paul McCartney or even the King himself, Elvis Presley. Larry became a local icon through his daily radio talk show. He brought the world to our cars and living rooms with his unique gift.

His hard work and dedication to the people of Butler County went well beyond what could be heard over the airwaves. Off the air, he served as president of many fine organizations such as the Butler Rotary Club, the Butler County Chamber of Commerce and Tourism, and the B'Nai Abraham Synagogue.

Determined to give back to the community that welcomed him with open arms, he also served as a board member of Butler Memorial Hospital, Visiting Nurses Association of Western PA, Boy Scouts, Salvation Army, Lifesteps, Cancer Society, Butler County Music and Art Festival, and Butler County Jaycees.

And his efforts have not gone unnoticed. He's been honored by various groups including receiving awards such as Junior Man of the Year, Pennsylvania's Most Outstanding Radio Program About Cancer and the City of Butler's True Citizen Award.

Larry is a genuine individual whose openness, honesty and friendliness on and off the air paints a clear picture of his love for the human species. Those who know him describe him not only as an exceptional human being but a wonderful friend, husband to his wife, Judy, father to his three children and grandfather of 10. Now as he retires, I wish to thank Larry for his years of extraordinary service to our community.

Knowing Larry, I am positive that he is entering retirement in name only. He will continue to be a positive influence in Butler County and beyond. I wish him the best in the coming years. This may mark the end of his radio program, but it is simply life moving on to a different frequency.

PAYING TRIBUTE TO RETIRING CAPT. CONNIE R. VAN PUTTEN OF THE UNION CITY POLICE DEPARTMENT FOR OUTSTANDING PUBLIC SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STARK. Mr. Speaker, I rise to pay tribute to Capt. Connie R. Van Putten upon her retirement from the Union City Police Department after nearly 36 years of total service to the law enforcement profession.

Captain Van Putten began her career with the San Diego Police Department on November 19, 1965, and became the first woman patrol officer with the San Diego Police Department on April 15, 1973. She served with distinction in a variety of assignments and venues in her capacity as officer, detective, sergeant and Lieutenant.

She began her career with the Union City Police Department on March 21, 1988 at the rank of captain and became the first female command officer in the Union City Police Department. Captain Van Putten was commander for the Field Operations Division, Administrative Services Division, and Records and Communication Division.

During her exemplary tenure at the Union City Police Department, Captain Van Putten has continuously displayed integrity, diligence and faithfulness in executing her duties. She has earned the respect and admiration of her subordinates, peers, chief executive officer, and other law enforcement professionals as well as the community of the city of Union City.

In addition to her dedicated service to the Union City Police Department, Captain Van Putten has been continuously committed to assisting youth. She received national recognition in 1998 for her outstanding service to youth with the presentation of the Silver Beaver award by the National Council of the Boy Scouts of America.

Captain Van Putten has left her fine mark on the city of Union City and the law enforcement profession and I join her colleagues in thanking her and wishing her all the best on her well-deserved retirement.

IN RECOGNITION OF DR. MARIANO ALONSO, ANNUAL HONOREE OF IRELAND'S 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Dr. Mariano Alonso, one of three honorees at the annual dinner-dance hosted by Ireland's 32 on January 19, 2001. Dr. Alonso will be honored for his accomplishments and for his continued dedication to improving the quality of life for the residents of Bayonne, New Jersey.

A native of Spain, Dr. Alonso was influenced greatly by his grandfather and uncle, both of whom are doctors, and by his father, a pharmacist. After completing medical school at Valladolid University, and serving in the Spanish Army and the Medical Corps, Dr. Alonso arrived in New York City in 1957. He completed his internship and residency at the Jersey City Medical Center and St. Mary's Hospital in Bayonne. Dr. Alonso subsequently became house physician at the Bayonne Hospital until 1964, when he established his own pediatrics practice, which has served the community of Bayonne for 35 years.

Dr. Alonso is the president of the Bayonne Hospital Medical Staff and past president of the Bayonne Medical Society. He is also a member of the American Medical Association, the Academy of Pediatrics, the Hudson County Medical Society, and the New Jersey Medical Society. In addition, Dr. Alonso volunteered at the Bayonne Family Health Center for more than 20 years. He is also the past president and current honorary vice-president of the Spanish American Club, which has allowed him to provide important community support for Spanish and Hispanic Americans.

Today, I ask my colleagues to join me in recognizing Dr. Mariano Alonso for his contributions to health care and for his dedication to the community of Bayonne.

RECOGNIZING THE MASSACHUSETTS DIVISION I STATE CHAMPIONS LUDLOW HIGH SCHOOL BOYS SOCCER TEAM

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, today I recognize the accomplishments of the 2000 Ludlow High School boys soccer team. This past season the Ludlow boys team compiled a record of 19–0–3 en route to earnings the Smith Division League Championship, the Western Massachusetts Division I Championship, and the Massachusetts Division I State Championship. Their efforts enabled them to earn a top five ranking nationally.

Not only did the boys team finish the season undefeated, but their 2000 campaign marked the first time in Massachusetts history that a boys soccer team won four consecutive Western Massachusetts Division I titles. Also, the Lions have won back to back State titles, the first time this has been done in Massachusetts in 35 years. Ludlow High School has a fine and proud tradition in boys soccer play. The school has earned 13 State titles and 26 Western Massachusetts championships.

At the Lions' coaching helm was Tony Goncalves. He and his staff have fine tuned their team's athletic skill and have instilled poise, discipline, and sportsmanship into their players. Coach Goncalves and his staff have certainly earned their reputation as one of the finest coaching staffs in all of New England. I would also like to note that included in this year's team are seven players that were named to the All-Western Massachusetts squad, three players named to the All-State team, and two players receiving All-New England honors.

Mr. Speaker, allow me to recognize here the players, coaches, and managers of the 2000 Ludlow High School boys soccer team. The seniors are: Helder Pires, Jay Devlin, Mike Pio, Joey Jorge, Ray Cheria, Brian Cochenour, Tim Romansky, Paulo Dias, Dennis Carvalho, Paulo Martins, Steve Jorge, Manny Goncalves, and Chris Chelo. Juniors include: Joe Shanley, Seth Falconer, Kevin Keough, and Sebastian Priest. The Sophomores are: Kevin Chelo, Sven Pfefferkorn, Michael Lima, Tyler Severyn, Josh Naginewicz, Casey Siok, and Corey Mange. The Head Coach is Tony Goncalves. Assistant Coaches are Jack Vilaca, Greg Kolodziey, and Dan Pires. Team managers are Sarah Russell, Jill Dube, and Jenn Russell.

Mr. Speaker, once again, allow me to send my congratulations to the Ludlow High School boys soccer team on their outstanding season. I wish them the best of luck in the 2001 season.

OPERATIONS MANAGEMENT INTERNATIONAL WINS PRESTIGIOUS AWARD

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. TANCREDO. Mr. Speaker, today I proudly share with my colleagues a recent accomplishment by Operations Management International, Inc (OMI), which is based in my district. Founded in 1980 by the Colorado-based, employee-owned CH2M HILL Companies, Ltd., OMI offers complete infrastructure development, financing, design, and operations and maintenance services. The company manages 160 water and wastewater facilities in the Americas, the Middle East and Asia.

On November 21, 2000, OMI made history by being the first company in the water and wastewater industry, as well as the first Colorado-based company to receive the Malcolm Baldrige National Quality Award. This is the nation's premier award for quality achievement. OMI is the only company in the service category to win this year. In fact, only four companies nationwide will receive the Baldrige Award in all categories this year.

Named after a former Secretary of Commerce, the Malcolm Baldrige National Quality Award is an annual honor that recognizes U.S. organizations for performance excellence, and is the highest-level quality award given in the United States. Given the growth of Colorado's economy, and the quality of its workforce, I expect to see this award return often to our state.

The Baldrige Award evaluates organizations on seven performance excellence criteria: leadership; strategic planning; customer and market focus; information and analysis; human resource focus; process management; and performance and business results. OMI uses these important criteria as a cornerstone for its Obsessed With Quality management process, which focuses on empowering associates to develop new approaches to enhance how they perform their jobs. The company's mission is summarized in its "E3" motto: Exceed customers' expectations, empower people and enhance the environment—three main goals that illustrate how OMI conducts its business and developed its stellar reputation.

Winning the Baldrige Award rewards the deserving employees at OMI for two decades of work that has positively affected millions of lives worldwide, through the daily provision of superior utility management services. To win such a prestigious award, OMI has proven that its emphasis on quality is evident in their work product.

Mr. Speaker, I urge my colleagues to join me in congratulating Don Evans, the president of OMI and his staff of over 1,400 on their outstanding achievement.

THE MONTGOMERY GI BILL IMPROVEMENTS ACT OF 2001

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. EVANS. Mr. Speaker, as the Ranking Democrat on the House Veterans' Affairs Committee, I am today introducing H.R. 320, the Montgomery GI Bill Improvements Act of 2001, with my good friend Congressman JOHN DINGELL, the principal cosponsor of this important legislation. Our legislation will provide important and needed improvements in education benefits for veterans under the Montgomery GI Bill (MGIB) program, a key recruiting tool for the armed services and a key readjustment benefit for the men and women who honorably serve our Nation in uniform.

Substantial MGIB enhancements are long overdue. The 106th Congress passed an important, but modest increase in MGIB benefits late last year. While I supported and was pleased by the MGIB amendments approved last year, those changes were clearly only an interim, first step toward revitalizing one of

America's most successful and effective programs. It is widely known and agreed that the true purchasing power of veterans' education benefits remains inadequate. MGIB benefits today still do not provide our servicemen and women the resources they need to pay for the ever-increasing costs of higher education.

The GI bill is rightly regarded by many as the greatest social program ever enacted by Congress. Its impact on post World War II America was profound. Millions of America's veterans who might not have been able to afford a college education received college degrees from some of our country's greatest institutions of higher learning. The GI bill helped spark our Nation's post war economic boom and contributed to the development of our cultural heritage. Although not considered an investment at that time, the World War II GI bill was a great investment in both individual veterans and in our Nation as a whole. Overlooked too often is the fact that the cost of this investment has been repaid many times over. It was an investment in our Nation that we can and should make again.

The time is right to make the same commitment again to America's men and women in uniform. We now face a crisis in recruiting high ability young Americans to serve in our Armed Forces. With a booming economy and an overworked and sometime under-appreciated military force, young men and women are not choosing military service and too few of those who have joined are not re-enlisting. This trend cannot continue if we are to maintain a viable fighting force.

President Bush has expressed his strong support for revitalizing our Nation's military forces. The surest way to achieve this goal is to recruit and enlist our most able young men and women. Operation Desert Storm is a stunning example of the importance of attracting the most able of our young men and women to serve in the military. Ten years ago, Iraq had the fourth largest standing army in the world and the highly touted and elite Republic Guard. Iraq's despotic leadership had used these overwhelming forces to invade neighboring Kuwait. America and her allies determined this bald aggression would not stand.

Precipitated by Iraq's hostile actions, the war to free Kuwait was to be the mother of all wars. In truth, Iraq's massive Army and elite Republican Guard units were routed in 48 hours. Clearly, America and her allies had technological superiority, but technological superiority did not win the war. The war was won because American forces had high ability young men and American women who could make effective use of the war-fighting technology available to them. The troops won the war. Operation Desert Storm is a strong and clear demonstration of the fundamental importance of recruiting and enlisting the most capable young men and women to serve in the Armed Forces.

Our military relies on education benefits to recruit quality soldiers, sailors—airmen and marines. To be an effective recruitment tool, the educational readjustment benefits provided to our veterans must provide the range and quality of education benefits that will attract and retain quality young people in a growing economy. That was also the conclusion of our newly confirmed Secretary of Veterans Affairs, Anthony Principi, when he chaired the Commission on Servicemembers and Veterans Transition Assistance in 1999. Mr. Principi, in the Commission's final report, recommended an education benefit much like the original GI bill—with full payment for tuition and books for those enlisting for 4 years or more and a substantial increase in educational assistance for those who enlist for a shorter time period.

The Principi Commission was right. Like its recommendation, this legislation would provide benefits for two tiers of service members; those who enlist or reenlist for a minimum of 4 years (Tier I) and those who enlist for less than 4 years (Tier II). In addition, this bill would increase the stipend level under Tier I and increase the basic benefit under Tier II to reflect increases in the costs of education since enactment of the MGIB program. For servicemembers who enlist or reenlist for a minimum of 4 years, the bill would:

Pay the full costs of tuition, fees, books, and supplies.

Provide a subsistence allowance of $800 per month (indexed for inflation) for 36 months.

Eliminate the $1,200 basic pay reduction required under current law.

Permit payment for approved specialized courses offered by entities other than educational institutions.

For those who enlist for less than 4 years:

The MGIB basic benefit would be increased from the currently authorized level of $650 per month to $900 per month. This benefit level would be close to the amount that would be paid if the basic benefit had kept up with increases in the cost of education.

The $1,200 basic pay reduction would be eliminated.

Trainees would be eligible for accelerated lump-sum benefits and would receive payment for approved specialized courses offered by entities other than educational institutions.

Some may say the cost of this measure is too much. The first year cost, for example, is approximately $800 million in fiscal year 2002. The cosponsors of this bill understand that this is an investment—in a strong military and a stronger America. It will attract more high ability young people to the Armed Forces while providing the economy with highly skilled, college educated veterans. More importantly, the brave men and women who serve in America's Armed Forces deserve, and have indeed earned, far better than the inadequate educational assistance program now available to them. I strongly urge my fellow colleagues to support this bill and the policy it represents of demonstrating a continued national commitment to our veterans.

For the first time in 40 years, America is enjoying a significant on-budget surplus. This week the Senate Budget Committee estimated the surplus could reach $5.7 trillion over the next ten years. In comparison ten-year cost of H.R. 320 is likely to be $5.7 billion—or one-tenth of one percent of the current budget surplus projection. It is clear that we can indeed make this investment now. If our goals are to have a strong military and a strong economy, America cannot afford to fail to make this investment.

The MGIB served veterans of the second half of the 20th century very well. However, the MGIB must now be re-examined in the context of a January 1999 report by the Departments of Commerce, Labor, and Education, the Small Business Administration, and the National Institute for Literacy. This report, entitled "21st Century Skills for 21st Century Jobs," has important implications for veterans entering the civilian workforce following their military service. Emphasizing the importance to the nation of investing in education and training, the report concluded changes in the economy and workplace are requiring greater levels of skill and education than ever before. It predicted eight of the ten fastest growing jobs in the next decade will require college education or moderate to long-term training, and jobs requiring a bachelor's degree will increase by 25 percent.

The report also noted workers with more education enjoy grater benefits, experience less unemployment and, if dislocated, re-enter the labor force far more quickly than individuals with less education. It also reports that, on average, college graduates earn 77 percent more than individuals with only a high school diploma. If America's veterans are to successfully compete in the challenging 21st century workforce, they simply have to have the ability to obtain the education and training critical to their success. As noted by the Transition Commission, ". . . education will be the key to employment in the information age." Although the current GI bill provides some degree of assistance, it is a key that opens very few doors, and it is my belief that all the doors of educational opportunity must be open to our veterans.

According to the 1997 DOD report entitled "Population Representation in the Military Services," 20 percent of the new enlisted recruits for that year were African-American, 10 percent were Hispanic, 6 percent were other minorities, including Native-Americans, Asians, and Pacific Islanders, and 18 percent were women. The report further notes that, although members of the military come from backgrounds somewhat lower in socioeconomic status than the U.S. average, these young men and women have higher levels of education, measured aptitudes, and reading skills than their civilian counterparts. These young people, most of whom do not enter military service with financial or socioeconomic advantages, have enormous potential, and it is in the best interests of the nation they be given every opportunity to achieve their highest potential. Access to education is the key to achieving that potential. It is also important to remember that, through the sacrifices required of them through their military service, this group of young Americans—more than any other—earns the benefits provided for them by a grateful nation.

Of equal concern to me as a member of the Armed Services Committee is the MGIB's failure to fulfill its purpose as a recruitment incentive for the Armed Forces. Findings of recent Youth Attitude Tracking (YATS) Studies confirm recruiters are faced with serious challenges, and these challenges are likely to continue. These surveys of young men and women, conducted annually by the Department of Defense, provide information on the propensity, attitudes and motivations, of young people toward military service. Recent YATS show the propensity to enlist among young males has fallen from 34 percent in 1991 to 26 percent in 1998 in spite of a generally favorable view of the military. In addition to a thriving civilian economy, which inevitably results in recruiting challenges, the percentage of American youth going to college is increasing and the young people most likely to go to college express little interest in joining our Armed Forces. Interestingly, these same youth note that if they were to serve in the military, their primary reason for enlisting would be to earn educational assistance benefits.

The study concluded the propensity to enlist is substantially below pre-drawdown levels and, as a result, the services will probably not succeed in recruiting the number of young, high-ability men and women they require. High-ability young men and women are defined as those who have a high school diploma and who have at least average scores on tests measuring mathematical and verbal skills. The Department of Defense tells us about 80 percent of the recruits will complete their first three years of active duty while only 50 percent of recruits with a GED will complete their enlistment. GAO notes that it costs at least $35,000 to replace a recruit who leaves the service prematurely. The report states these findings underscore the need for education benefits that will attract college-bound youth who need money for school, a segment of American young people we conclude are now opting to take advantage of the many other sources of federal education assistance. The current structure and benefit level of the MGIB must be significantly enhanced if these high quality young men and women are to be attracted to service in our Armed Forces.

Many factors have come together to create what could soon develop into a recruiting emergency. First, our thriving national economy is generating employment opportunities for our young people. Additionally, young Americans increasingly see a college education as the key to success and prosperity. In 1980, 74 percent of high school graduates went to college but, by 1992, that percentage had risen to 81 percent and has been steadily increasing. As a result, the military must compete head-to-head with colleges for high-quality youth. As I have mentioned already, the percentage of young Americans who are interested in serving in the Armed Forces is also shrinking. Make no mistake about it—the strength of our Armed Forces begins and ends with the men and women who serve our nation. Just as education is the key to a society's success or failure, it is also key to the quality and effectiveness of our military—and the MGIB increases provided by this legislation are a big step in the right direction toward providing that key. Some will say there is no recruitment problem and recruitment goals are being met by the various services. With notable exceptions, in most cases recruitment goals have been met in recent years. I urge my colleagues, however, to look behind the numbers. It is clear to me that standards have been reduced in order for recruitment goals to be met. Clearly this is not the course to take to revitalize the nation's military.

I strongly encourage my colleagues from both sides of the aisle to support America's veterans and the military by supporting this vital legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 1, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 7

10:30 a.m.

Foreign Relations

Business meeting to consider committee rules and procedures, subcommittee jurisdiction and membership, and proposed legislation to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorizations Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country.

SD-419

FEBRUARY 8

9:30 a.m.

Armed Services

To hold hearings on the Secretary's priorities and plans for the Department of Energy national security programs.

SH-216

FEBRUARY 13

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the first Monetary Policy Report for 2001.

SH-216

SENATE—*Thursday, February 1, 2001*

The Senate met at 9 a.m., in executive session, and was called to order by the Honorable MICHAEL D. CRAPO, a Senator from the State of Idaho.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, this is the day You have made, we will seek to serve You in it; this is Your Chamber, we want to honor You in it; this is Your Senate, we desire to maintain the unity of Your Spirit and the bond of peace through it. Give us an acute sense of the power of the words we speak. Grant the Senators the ability to disagree without being disagreeable, to declare truth without depreciation of each other's character, to state convictions without demeaning disdain, to refrain from egregiousness in an effort to explain, and to judge merits without being judgmental.

Dear Father, this is a crucial day for the Senate. Remind the Senators on both sides of the aisle that what goes around does come around. Bless this Senate. Keep the Senators close to You and to each other so that when the vote this afternoon is over, we will not have lost the respect that galvanizes and the reconciliation that heals. We simply want to live this day knowing You will be the judge of what is said and how it is said. We commit ourselves to civility and care as men and women who are accountable to You. You are our Judge and Redeemer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL D. CRAPO led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, February 1, 2001.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL D. CRAPO, a Senator from the State of Idaho, to perform the duties of the Chair.
>
> STROM THURMOND,
> *President pro tempore.*

Mr. CRAPO thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of the Ashcroft nomination, which the clerk will report.

The legislative clerk read the nomination of John Ashcroft, of Missouri, to be Attorney General.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:15 shall be under the control of the majority party.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the time until 9:30 shall be under the control of the Senator from Iowa.

Mr. HARKIN. Mr. President, after reviewing his testimony before the Judiciary Committee and studying his long public record, I cannot support the nomination of John Ashcroft to be United States Attorney General.

This is not an easy decision for any of us. We have all served in this body with former Senator Ashcroft. I cannot say that I was a personal friend of his. We never associated socially or anything like that, but I did have dealings with Senator Ashcroft, as we all do around here, on matters of legislative importance.

Quite frankly, in my dealings with him, I always found him to be courteous to me and my staff. I found that we could work together even though we did not have the same views, perhaps, on certain pieces of legislation. I found that we worked together in the spirit of compromise here on the Senate floor.

When John Ashcroft's name was first announced as the nominee for Attorney General, I, of course, thought to myself, he certainly would not have been my first choice, but then again George Bush was not my first choice for President. But I recognized that Presidents should have fairly large leeway to have the people around them they want.

But, again, we also have an obligation, a constitutional obligation, in the advise and consent clause in the U.S. Constitution to look over those individuals, to give careful scrutiny to those individuals, to make sure that we, as a body collectively—at least by majority vote—are able to believe that nominated officials will have the honesty, the character, and wherewithal to carry out their duties and to serve all of the American people well.

After long and difficult deliberation, I have come to the conclusion that there are significant questions raised on John Ashcroft's fitness to be our Nation's chief law enforcement officer.

First and foremost, I have serious concerns about the misleading statements Mr. Ashcroft made during the confirmation hearings.

As we all know, Senator Ashcroft strongly opposed the nomination of Mr. Jim Hormel as Ambassador to Luxembourg. Jim Hormel, a distinguished lawyer, successful businessman, educator, philanthropist, a scion of our famous midwestern families. We all have heard of Hormel Meats. We probably had Hormel bacon in the morning, things such as that. They are a fine family who came from Iowa and Minnesota. Mr. Hormel, of course, has taken up his residency, as of late, in San Francisco, I don't know how many years ago, but some years ago. Prior to that, he had been Dean of Students at the University of Chicago Law School.

I have known Mr. Hormel for many years. I consider him a friend. As I said, not only is he a great lawyer, businessman, educator, and philanthropist, but he is also an outstanding family man.

In 1998, Mr. Ashcroft said he opposed Mr. Hormel's nomination because he had—and I quote John Ashcroft's own words—"actively supported the gay lifestyle."

Further, Mr. Ashcroft said that a person's sexual conduct—and I quote again Mr. Ashcroft's own words—"is within what could be considered and what is eligible for consideration" for ambassadorial nominees.

However, in his testimony just 2 weeks ago, Mr. Ashcroft denied his opposition had anything to do with Jim Hormel's sexual orientation. He said he opposed him because, again, he had known Jim Hormel for a long time, going back to the days when Hormel had—and I quote again John Ashcroft—"recruited him" for law school.

Mr. Ashcroft said he based his opposition to Jim Hormel being Ambassador to Luxembourg on the totality of Hormel's record. I spoke with Ambassador Hormel just last week about this. He said he had never had any contact with Senator Ashcroft, not when he was dean of students at the University of Chicago Law School and not since he was nominated in 1997. He did not recruit Mr. Ashcroft for law school. As dean of students, of course—and there are a lot of students there—Mr. Hormel was honest; he said: I can't remember. Maybe when he was a student, I might have met him. I might have talked to him. I might have said something to a group of students. He may have come into my office for something. But I have no recollection of that.

Furthermore, Mr. Hormel emphatically stated he did not "recruit" John Ashcroft for Chicago Law School. When he was nominated in 1997, Mr. Hormel repeatedly tried to meet with John Ashcroft to talk to him. Even if I oppose someone, I at least give them the courtesy to come in and make their case. I have always made that policy, because maybe there is something I haven't heard or something I would look at differently. John Ashcroft would not even meet with Jim Hormel.

Mr. Hormel did get a recess appointment from President Clinton, served well, and was distinguished in his post in Luxembourg. I asked people at the State Department in charge of that area how he performed, and they said extremely well. They said that he had conducted his position in the best interests of the United States and as a distinguished Ambassador. Again, sexual orientation should not have any bearing on a person's fitness for that job or any other job.

John Ashcroft also testified that he has never asked job applicants about their sexual orientation. But in a recent Washington Post article, a health care expert, Paul Offner, who had interviewed for a cabinet post under then Governor Ashcroft, remembers differently. Offner, who is now part of the Georgetown University faculty, recalled that Governor Ashcroft's first question to him was whether or not he had the same sexual preferences as most men. At the time it happened, Offner, also told others about the interview question.

If this is true, this does not seem to be the kind of individual who should serve as Attorney General of the United States of America.

I am also disturbed by how, as an elected official—namely, U.S. Senator—Mr. Ashcroft used unseemly political tactics, including the reckless and unwarranted destruction of a judicial nominee's reputation, a sitting judge's reputation, for his own political benefit. Senator Ashcroft led the campaign to block the Federal judicial nomination of Missouri Supreme Court Justice Ronnie White in order to gain political points in his reelection bid against then-sitting Gov. Mel Carnahan. Ashcroft on this very floor referred to the distinguished and accomplished judge as "pro-criminal and activist," a man with a "tremendous bent toward criminal activity."

Mr. Ashcroft stood on this floor—I remember listening to him, and I couldn't believe someone actually said this about a sitting State supreme court justice from his own State—that Judge White had "a tremendous bent toward criminal activity."

I don't know Ronnie White. I have met him only once. But after I looked over his record it seemed to me that what Mr. Ashcroft was saying was not only false, it was defamatory. And it is behavior unworthy of a U.S. Attorney General. It is one thing in a political campaign to take on your political opponent and hit him with tough words in tough races, but you can fight back. I have been hit pretty hard in some of my political campaigns. But when the election is over, you get over it because at least you are able to fight back. Here was a Senator using the privileges of the floor of the Senate to personally defame the character of a sitting Supreme Court justice of the State of Missouri when that judge had no ability to fight back.

Finally Mr. White did get his day, sort of, in court before the Judiciary Committee. I commend Senator LEAHY for making sure Ronnie White got his day here to show that he is a distinguished justice, that he has absolutely the opposite of a bent toward criminal activity. He also strongly believes in upholding the law, ensuring that every person, no matter how low that person is, no matter how heinous the crime—that every person has competent representation and a fair trial. Mr. Ashcroft's own words and what he did to Justice White make me wonder if Mr. Ashcroft thinks every person, no matter how low, no matter how heinous the crime, no matter how much you disagree with that person, is entitled to competent representation and a fair trial.

I also have concerns about John Ashcroft's testimony about the desegregation court order in Missouri when he was attorney general and governor. John Ashcroft said that Missouri did nothing wrong. But I think most people would agree that upholding segregation and blatantly defying a federal court order is the very definition of wrong. This was in the 1980s, not the 1950s.

Also while Governor, Mr. Ashcroft appointed the election boards in St. Louis County and in St. Louis city. The county, an affluent area, 84 percent white, votes mainly Republican; the city, less affluent, 47 percent black, votes mainly Democratic. During that period of time, the county hired 1,500 volunteers, such as out of the League of Women Voters, for training, for registration of voters. During that same period of time, the city board trained zero because the city election board, appointed by John Ashcroft, refused to follow the policy on volunteers used by his appointed board in the county and throughout the state. The State legislature saw this anomaly and passed two bills in 1988 and 1989 to require the city to do the same as the county and the state. Governor Ashcroft vetoed both of those bills.

I am also troubled by parts of John Ashcroft's record which reflects poorly on his commitment to seeking justice for all Americans. Despite his statements to the contrary, I am simply not convinced that John Ashcroft will diligently and thoroughly uphold all of our laws.

I am particularly concerned about John Ashcroft's statements and actions regarding reproductive rights. Throughout his career, he has been a staunch opponent of the right of women to make their own reproductive decisions. He even wrote legislation to criminalize abortion, even in the cases of rape and incest. Yet during his recent testimony, John Ashcroft told committee members he believes that Roe v. Wade is the law of the land—and he would not try to overturn it. He even stated, "No woman should fear being threatened or coerced in seeking constitutionally protected health services." How are America's women supposed to believe John Ashcroft in his recent testimony on a woman's right to choose when he had repeatedly stated during his political career that there is no constitutional right to choose and that Roe v. Wade was wrongly decided? I'm not sure he can.

I am not sure anyone can simply switch off decades of hostility to reproductive rights, intolerance towards homosexuals, and other views, and then fairly and aggressively enforce the laws—he deeply believes are wrong.

As I expect, John Ashcroft will be confirmed despite my vote. I hope they will prove me wrong.

I thank the President.

Mr. LEAHY. Mr. President, I ask unanimous consent that a number of editorials and material regarding the nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASHCROFT IS THE WRONG MAN FOR JUSTICE

John Ashcroft, the man who would be attorney general, is quite a deft backpedaler. Just a few weeks ago, he was a right-wing ideologue dedicated to banning abortion and fighting the civil-rights tide. Now he says he's eager to enforce the laws he hates. So which Ashcroft are we getting—last year's true believer or a Bush-era compromiser?

It's impossible to tell, and maybe it doesn't matter. Whether Ashcroft is an extremist in centrist garb or some sort of changeling, Americans have reason to worry. They needn't fret because of Ashcroft's conservative leanings; anyone President Bush sends to Justice is bound to lean that way. They should worry instead about Ashcroft's integrity. As last week's hearings evinced, he has less of it than his backers like to think.'

For starters, there's the small matter of the truth. Ashcroft isn't telling it. His declarations before the Senate contradict his record. Some of his equivocation is penny-ante—such as his claim that he'd never have spoken so fondly of proslavery confederate leaders to Southern Partisan magazine back in 1998 if he'd known the rag favored slave-holding itself.

But other Ashcroft remarks are bold-faced revisionism: His claim that he'd been "found guilty of no wrong" and faithfully heeded all court orders in a St. Louis desegregation case is false; the record shows Ashcroft habitually flouted court orders. His insistence that he derailed a federal judgeship for Missouri Supreme Court Justice Ronnie White for principled reasons is belied by the stealth, slurs and distortions Ashcroft used to achieve his end.

An archaeologist could find a small heap of twisted facts in last week's hearings, and with them many hints that Ashcroft isn't the sort of man who ought to be running the Justice Department. But this would be true even if Ashcroft had been forthright about his past.

The central question of integrity involves the way Ashcroft's mind works. What are senators to make of a man who has spent his life expressing extreme convictions—and who now says he won't lift a finger to fulfill them? They can doubt him, which would be natural enough. The confirmation process is generally regarded as a ceremonial gauntlet to be run, not a serious test of honor. Dissembling is almost part of the game, and it's up to the Senate to separate the clever wheat from the lying chaff.

Perhaps Ashcroft falls into the second category. Perhaps what he's saying isn't what he plans to do once he's got the Justice Department under his thumb. The prospect is haunting, and is reason enough to reject Ashcroft's nomination.

But what if Ashcroft is telling the truth—or at least thinks he is? It could very well be, as the man himself said, that Ashcroft really plans to enforce every last law of the land whether he likes it or not. If that's the case, doubts about Ashcroft should double. It's worth wondering about a man who has spent his life vowing to topple the laws he now says he'll enforce. Why should he want to do this? How will he manage it? How can he possibly muster the spirit to do it well?

An attorney general isn't just an attorney. He's also a visionary, a keeper of the flame of American justice. He must believe with all he has not just in the sanctity of "the law," but in the laws themselves. A quibble with a statute here and there isn't enough to disqualify a seeker of the office. But a nominee who has raged all his life against the guiding lights of American law—against the promises of the Constitution itself—is not a fit flame-keeper.

JOHN ASHCROFT SHOULD BE REJECTED AS ATTORNEY GENERAL

It was not in the United States' best interests for George W. Bush, the incoming president who vowed to unite the country after a bruising and narrowly decided election, to nominate for attorney general a man of such extreme beliefs as John Ashcroft of Missouri.

While that bell cannot be unrung, the Senate should not accommodate or be party to so drastic a move away from the political center that the country is so comfortable with now.

In this unique case, senators—among them Washington state's Patty Murray and Maria Cantwell—should forego their customary deference to a president's Cabinet choice and reject Ashcroft.

Not because of his beliefs. Because of his record as a two-term state attorney general, the public office he has held that most closely resembles the one he seeks. As the nation's chief attorney, he would lead the Justice Department, a mammoth government agency that has been described as being at the front line of battles over emotional social issues like civil rights, abortion, crime and the selection of federal judges.

Personally, and as a governor and member of Congress, Ashcroft had every right to vociferously oppose abortion, even in the case of rape and incest; seek to limit government funds for family planning, and work to defeat modest gun control regulations.

In advance of Ashcroft's hearing before the Senate Judiciary Committee, we posed a question to the senators who would be asked to confirm the nomination: Could they be persuaded that Ashcroft would enforce the laws as they are, not as he would like them to be?

It is clear from the resulting testimony and Ashcroft's long public record in Missouri that the answer is likely to be no. As Missouri attorney general, Ashcroft was not regularly even-handed or moderate on at least a couple of thorny social issues that remain front and center in the country's psyche—women's reproductive rights and civil rights.

He attempted on several occasions to severely restrict a woman's legal right to choose an abortion by seeking out cases in which that was not the main issue and forcing them upward through various layers of appeals to the U.S. Supreme Court.

The end goal was to overturn Roe vs. Wade. His official record invites serious questions whether he would (1) do the same on the federal stage and (2) vigorously enforce existing laws restricting violent and obstructive demonstrations at abortion clinics by anti-abortion opponents.

Aside from Ashcroft's major misstatement during the hearing about the culpability of the state in a long-running school desegregation case, the record paints a picture of an attorney general who obstructed the cause of equal education for children of all races.

When a federal judge ordered the state and city of St. Louis to submit plans for voluntary desegregation of the public schools, Ashcroft balked. The court finally threatened to hold the state in contempt if it did not meet the deadline: "The court can draw only one conclusion—the state has, as a matter of deliberate policy, decided to defy the authority of the court."

Moreover, Gary Orfield, a Harvard University education professor and leading expert on school desegregation, said Ashcroft was the "most resistant individual" he encountered in more than 30 federal court cases on the issue.

The record demonstrates Ashcroft is not a uniter, but a divider—something Bush and the country cannot afford in these early stages of healing.

Within the ranks of the National Association of Attorneys General are 17 people who share Bush's political affiliation, including moderates such as Mike Fisher of Pennsylvania and Carla Stovall of Kansas. We submit either would be a more suitable U.S. attorney general than John Ashcroft.

[From the New York Times, Saturday, Jan. 20, 2001]

AFTER THE BALL IS OVER

(By Frank Rich)

Presidents come and go, but a Washington cliché is forever. Today we'll be lectured repeatedly on the poignancy of a president's exit (not that he's actually going anywhere), the promise of a new president's arrival, and on the glory of our Republic. We'll be reminded that there are no tanks in the streets when America changes leaders—only cheesy floats and aural assault weapons in the guise of high school bands.

All true, and yet at this inaugural more than any other in any American's lifetime there is a cognitive dissonance between the patriotic sentiment and the reality. More Americans voted for the candidate who lost the election than the one who won. The Washington Post/ABC News poll says that only 41 percent believe the winner "has a mandate to carry out the agenda" of his campaign. Even before the Florida fracas, the country's black population rejected the republican candidate (who assiduously tried to attract black voters) by a larger margin than any since Barry Goldwater (who had voted against the Civil Rights Act). And now come calamities ignored in a campaign that dithered about prescription drugs, tax cuts and schools: an energy melt-down in the nation's biggest state, and a possible economic downturn.

George W. Bush seems like an earnest man. When he says he has come to Washington to "change the tone" and "unite, not divide," I don't doubt his sincerity. But so far his actions are those of another entitled boomer who is utterly blind to his own faults. He narcissistically believes things to be so (and his intentions pure) because he says they are.

Change the tone? As Clinton-Gore raised $33 million largely from their corporate masters for their first inaugural, so Bush-Cheney have solicited $35 million from, among others, the securities firms that want to get their hands on your privatized Social Security retirement accounts and the pharmaceutical companies that want to protect the prices of prescription drugs. And already foreign money is making its entrance—in the form of a legal but unsavory $100,000 contribution from the deputy prime minister of Lebanon, channeled through his son.

Now comes the news—reported by the columnist Robert Novak—that John Huang, the convicted Clinton-Gore fund-raiser, repeatedly took the Fifth Amendment in November when questioned in court about his alleged fiscal ties to Republicans, including Senator Mitch McConnell, the No. 1 opponent of the John McCain crusade for campaign finance reform that Mr. Bush has yet to credibly embrace. (Mr. McConnell is also the husband of Mr. Bush's latest labor secretary-designate, Elaine Chao.)

Change the tone? Hard as it is to imagine that anyone could choose an attorney general as polarizing as the last, Mr. Bush has outdone himself. With a single cabinet pick he has reproduced the rancor that attended the full Clinton legal troika of Reno, Hubbell & Foster.

There's been much debate about whether John Ashcroft is a racist—a hard case to make against a man whose history of playing the race card to pander to voters is balanced by his record of black judicial appointments. But there has not been nearly enough debate about whether our incipient chief legal officer has lied under oath to the Senate.

Perhaps his seeming fudging and reversals of his previous stands on Roe v. Wade and gun control can be rationalized as clever lawyerese. Perhaps some of his evasions can be dismissed as a politicians' typical little white lies—and I do mean white—such as when he denies he knew that a magazine he favored with an interview, Southern Partisan, espoused the slaveholding views of Southern partisans. But it took a bolder kind of dissembling to contradict his own paper trail in public office. After he swore that the state of Missouri "had been found guilty of no wrong" in a landmark St. Louis desegregation case and that "both as attorney general and as governor" of the state he had followed "all" court orders in the matter, The Washington Post needed only a day to report the truth: A federal district judge in fact ruled that the state was a "primary constitutional wrongdoer" in the matter and threatened to hold Mr. Ashcroft in contempt for his "continual delay and failure to comply" with court orders.

Mr. Ashcroft may have left even more land mines in his testimony about the businessman, philanthropist and former law school official James Hormel, the Clinton ambassador to Luxembourg whose nomination he had fought. Asked by Patrick Leahy, the Judiciary chairman, if he had opposed Mr. Hormel because Mr. Hormel is gay, Mr. Aschroft answered, "I did not." Then why did he oppose Mr. Hormel? "Well, frankly, I had known Mr. Hormel for a long time. He had recruited me, when I was a student in college, to go to the University of Chicago Law School," Mr. Ashcroft testified, before adding a cryptic answer he would repeat two times as Mr. Leahy pressed him: "I made a judgment that it would be ill advised to make him ambassador based on the totality of the record."

The implication of this creepy testimony is that Mr. Ashcroft, having known the 68-year-old Mr. Hormel for decades, had some goods on him. The use of the word "recruit" by Mr. Ashcroft also had a loaded connotation in context, since it's common for those on the religious right who argue (as Mr. Ashcroft does) that sexual orientation is a choice to accuse homosexuals of "recruiting" the young.

No senator followed up Mr. Ashcroft's testimony about Mr. Hormel, who, unlike another subject of an Ashcroft character assassination, Judge Ronnie White, was not invited to testify at the hearings. I located Mr. Hormel by phone in Washington, where he had traveled for final meetings at the State Department after concluding his service in Luxembourg. He strongly disputed Mr. Ashcroft's version of events.

"I don't recall ever recruiting anybody for the University of Chicago," Mr. Hormel said in our conversation Wednesday night. As an assistant dean involved with admissions, he says, he might have met Mr. Ashcroft in passing while touring campuses to give talks to prospective law school applicants, or in later office visits about grades or curriculum. But, Mr. Hormel quickly adds, he doesn't recall "a single conversation with John Ashcroft." Nor has Mr. Hormel seen him in the three decades since; Mr. Ashcroft didn't have the courtesy to respond to repeated requests for a meeting during Mr. Hormel's own confirmation process and didn't bother to attend Mr. Hormel's hearing before opposing him.

"I think he made insinuations which would lead people to have a complete misunderstanding of my very limited relationship with him," Mr. Hormel says. "I fear that there was an inference he created that he knew me and based on that knowledge he came to the conclusion I wasn't fit to become an ambassador. I find that very disturbing. He kept repeating the phrase 'the totality of the record.' I don't know what record he's talking about. I don't know of anything I've ever done that's been called unethical." The record that Mr. Ashcroft so casually smeared includes an appointment to the U.N. in 1996 that was confirmed by the Foreign Relations Committee on which Mr. Ashcroft then sat.

Since Mr. Bush could easily have avoided the divisiveness of the Ashcroft choice by picking an equally conservative attorney general with less baggage, some of his opponents will start calling him "stupid" again. That seems unfair. Mr. Bush's real problem is arrogance—he thinks *we* are stupid. He thinks that if he vouches incessantly for the "good heart" of a John Ashcroft, that settles it. It hasn't. Polls showed an even split on the nomination well before the hearings. He thinks that if he fills the stage with black faces at a white convention and poses incessantly with black schoolkids and talks about being the "inclusive" president "of everybody," he'll persuade minority voters he's compassionate. He hasn't.

George W. Bush likes to boast that he doesn't watch TV. He didn't even tune in as the nation's highest court debated his fate, leaving his princely retainers to bring him bulletins. Maybe it's time for him to start listening; he might even learn why so many Americans aren't taking his word for John Ashcroft's "heart." I don't doubt that our new president will give a poetic Inaugural Address today, but if he remains out of touch with the country, he will not be able to govern tomorrow.

[From the Austin American Statesman, Jan. 19, 2001]

Ashcroft's Pledge To Enforce the Law

President-elect George W. Bush missed a chance to select a uniter to heal divisions wrought by the bruising presidential election when he chose John Ashcroft to be his nominee for attorney general.

The Senate Judiciary Committee's hearings this week on Capitol Hill have exposed the grave reservations some senators and witnesses have about Ashcroft's fitness for the role of guardian of our country's laws and all Americans' constitutional rights because of his staunchly conservative record. At the same time, the hearings have galvanized Ashcroft's supporters, who praise him as a man of character, principle and honesty, a lawyer who would bring ample leadership experience to the job.

Early indications are that Ashcroft will win Senate confirmation. He was, after all, a member of the Senate, having lost re-election in November. His colleagues know him well and would need extraordinary evidence to sink his nomination. It is customary for senators to give deference to a president in selecting his team to reflect his views. As any boss would attest, that tradition makes sense in building a loyal team, but so does the Senate's valuable role in providing confirmation.

The Judiciary Committee is carefully probing Ashcroft's record as Missouri's attorney general for two terms, governor for two terms and senator for one. Ironically, the man from the Show Me State is being grilled to tell us how he will perform as U.S. attorney general. While his record is mixed—reflecting troubling stands on desegregation, gun control and abortion rights—his words to the committee offer reassurance that can only be tested with time.

The attorney general serves as the country's chief law enforcement officer, vets federal judge nominees, decides which laws to challenge, enforces civil-rights laws and safeguards liberties, including women's reproductive rights.

In his most important pledge, he told the committee his personal beliefs would not interfere with the job he will be sworn to do.

"I understand that being attorney general means enforcing the laws as they are written, not enforcing my own personal preference," he told the senators. "I pledge to you that strict enforcement of the rule of law will be the cornerstone of justice."

Ashcroft is a fierce opponent of the U.S. Supreme Court's landmark Roe v. Wade decision legalizing abortion. He supports a constitutional amendment that would prohibit abortions even in cases of rape or incest and would allow them only if the mother's life were in danger. In the hearings, he said he would not seek to challenge Roe v. Wade and viewed the abortion decisions as "the settled law of the land." He emphasized he knows "the difference between an enactment role and an enforcement role. During my time as a public official, I have followed the law."

He defended his fight against landmark desegregation cases in St. Louis and Kansas City, saying he had never opposed integration. But The Washington Post reported Thursday that court documents show the state of Missouri was labeled by a federal district judge as a "primary constitutional wrongdoer" in perpetuating segregated schools in St. Louis. In 1981, U.S. District Judge William Hungate threatened to hold then-state Attorney General Ashcroft and the state in contempt for "continual delay and failure to comply" with orders to file a desegregation plan. Hungate wrote later, "The state has, as a matter of deliberate policy, decided to defy the authority of this court."

Ashcroft also had to deflect criticism for blocking Ronnie White, the first black Missouri Supreme Court justice, from becoming a federal judge. In U.S. Senate proceedings in 1999, Ashcroft called White "pro-criminal," although White voted to uphold the death penalty in 41 of 59 cases. "I deeply resent those baseless accusations," White told the Judiciary Committee on Thursday. Ashcroft said White's dissents didn't meet the standards for retrying cases.

Ashcroft's defenders make their best case when they give examples of how the nominee enforced laws to which he was personally opposed. He once argued as attorney general against the dissemination of religious materials on public school grounds, even though he favored the practice. He created the structure for a lottery when it won approval in Missouri, even though he calls gambling a "cancer." In other matters, he balanced eight straight budgets, increased education funding, championed consumer protection and advocated online privacy bills.

If his nomination is affirmed, as it appears it will be, in time Ashcroft will be tested on his words to senators that no part of the Justice Department is more important than the Civil Rights Division and on his pronouncement, "My primary personal belief is that the law is supreme." Americans will be counting on him to show us by his actions that his words weren't convenient window-dressing for a record that reflects effective public service but falls short of inspiring national bipartisanship.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:45 a.m. is under the control of the Senator from South Dakota, Mr. JOHNSON.

Mr. JOHNSON. Mr. President, while I have cast votes in favor of all 15 of President Bush's nominees to come thus far before the Senate, I rise today to say, sadly, that I cannot vote in favor of Senator John Ashcroft for the office of Attorney General of the United States.

My position on Cabinet level nominees during both Republican and Democratic Presidencies has remained the same: a presumption in favor of a President's nomination rests with the nominee, and they should be rejected by the Senate only under extraordinary circumstances. Thus far during the 107th Congress, I have voted in favor of: Paul O'Neill for Treasury Secretary; Spencer Abraham for Energy Secretary; Donald Evans for Commerce Secretary; Donald Rumsfeld for Defense Secretary; Ann Veneman for Agriculture Secretary; Roderick Paige for Education Secretary; Colin Powell for Secretary of State; Melquiades Martinez as Housing and Urban Development Secretary; Anthony Principi as Secretary of Veterans Affairs; Mitchell E. Daniels, Jr. to be Director of the Office of Management and Budget; Tommy G. Thompson for Secretary of Health and Human Services; Norman Mineta as Transportation Secretary; Elaine Chao as Secretary of Labor; Gale Norton as Interior Secretary; and Christine Todd Whitman as Environmental Protection Agency Director.

Even though numerous of these people have used positions that are contrary to my own, I have respected the President's nominations, and have cast my votes on all 15 of these instances in favor of the President's nominee.

The U.S. Constitution, however, requires the Senate to consider consent or rejection of Cabinet nominees, and the Senate was not intended by the founders of our Nation to be simply a "rubber stamp" for any President. I am particularly troubled by this nomination for Attorney General, knowing that office does not serve as "the President's personal lawyer"—the President has White House counsel for that purpose—but that the Attorney General serves as the peoples' lawyer; he is an advocate for all Americans in our courts of law.

I have applauded President Bush's expressions of support for bipartisan Government and the kind of political moderation that will bring Americans together rather than tear them apart. In turn, I have helped organize a "centrist caucus" of Republicans and Democrats in the Senate, and a "New Democratic" organization consisting of moderate Democrats committed to working with moderate Republicans. I believe this is the kind of Government the American people want, and that they are weary of political extremism and harsh ideologies of either the left or right.

I must conclude, based on testimony in Senate hearings, and from a review of Senator Ashcroft's years in elective office, that this man is the wrong man at the wrong time for the high office of Attorney General. If ever there was a nominee who has committed his years of public service to rejecting bipartisanship and moderation, it is Senator Ashcroft. This nominee has stated repeatedly that he will never be a party to moderation, or to conciliation between the parties. He has consistently mocked the very notion of bipartisanship during his years in the Senate. He is famous for his observation when he says that only two things will be found in the middle of the road—dead skunks and moderates, and I will be neither. How now, can Senator Ashcroft gain the confidence of all the American people that he will be their defender and their advocate?

Senator Ashcroft refuses to distance himself from Bob Jones University where he received an honorary degree, despite that institution's harsh criticism of the Pope as "anti-Christ" and the Roman Catholic and Mormon religions as "cults." He declines to disavow the Southern Partisan Quarterly Review, a magazine which, incredibly, has defended slavery. He has sponsored as many as seven constitutional amendments to the U.S. Constitution, including one which would outlaw most forms of contraception, and take away a woman's constitutional right to determine for herself whether to have an early abortion, even where rape, incest, or severe physical injury would be involved.

Senator Ashcroft's record indicates that he has not always distinguished between his strident advocacy and his willingness to enforce the law of the land. As the Missouri Attorney General, he did all in his power to undermine a voluntary school desegregation plan in St. Louis, denouncing voluntary desegregation as "an outrage against human decency." The St. Louis Post Dispatch described his campaign as "exploiting and encouraging the worst racist sentiments that exist in the state."

Perhaps most of all, I am troubled by Senator Ashcroft's handling of the Judge White nomination. After the Pope, in a visit to St. Louis, had convinced Governor Mel Carnahan, Senator Ashcroft's opponent at the time, to not execute a certain Missouri prisoner, Ashcroft saw an opportunity to vilify Carnahan as "soft on crime." One of his strategies was to depict a distinguished and highly regarded African American judge as "anti-death penalty" and use the blocking of his nomination to Federal district court as a high profile means of claiming he would be tougher on crime then Governor Carnahan. This despite the fact that Judge White had been endorsed by Republicans and Democrats as well as the Missouri Bar Association and had upheld death sentences at about the same rate as all other members of the Missouri Supreme Court.

The very conservative columnist Stuart Taylor, wrote that the Judge White incident alone renders Senator Ashcroft to be "unfit to be Attorney General." Taylor stated, "The reason is that during an important debate on a sensitive manner, then-Senator Ashcroft abused the power of his office by descending to demagoguery, dishonesty and character assassination." I do not contend that Mr. Ashcroft is a racist, but I do believe his handling of this matter was characterized by naked political opportunism, dishonesty, and an utter disregard for justice.

I have no illusions about the end result of the vote on the Senate floor; Senator Ashcroft will be confirmed. I have stated my opposition to any filibuster effort on this mater. A filibuster would have resulted in the need for Senator Ashcroft to secure 60 votes rather than 51. While tactically, this might have increased the likelihood of defeating his nomination, it is a process which has never been used on Cabinet confirmations before, although Senator Ashcroft, himself, has used it against sub-Cabinet appointments and has frequently voted against Cabinet nominees. I believe President Bush is entitled to a fair, up-and-down vote on his nominee. Although the confirmation is then, virtually certain, I want to make it clear that I will have nothing to do with supporting this particular one of the 16 Presidential nominations to come before the Senate so far.

Senator Ashcroft, I believe, is the wrong man to help heal America's divisions, the wrong man to lead the U.S. Department of Justice, and the wrong man to serve as the guardian of the constitutional rights of all the diverse people of our nation. I take my oath to the U.S. Constitution seriously, and I also take my South Dakota values of fairness, and integrity very seriously—for that reason I will vote no on this nomination.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my friend from South Dakota. He is one of the most thoughtful Members of this body. I know he has spent a great deal of time researching this. I know on an issue such as this, when it was time to make his decision, there were only two elements that totally influenced him—his conscience and his oath of office. I know my friend from South Dakota upheld them both.

Mr. President, I do not see anybody on the Republican side at the moment. The order gives them control of this debate from 9:45 until 10 o'clock. I ask consent to be able to continue. I know I have 4 minutes remaining, but if need be, I ask unanimous consent to take another 5 minutes with the understanding I will yield that back immediately if a member of the Republican Party shows up to take their time, and I so ask unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, my good friend from Arizona, Senator KYL, had mentioned me by name on several occasions during his remarks. I will take a moment to respond to two of the points of the distinguished Senator from Arizona.

First, he said we somehow put Senator Ashcroft in an impossible catch-22 situation where, if he promises to enforce the law, it is described as a confirmation evolution or a metamorphosis. I think that is a significant oversimplification of what the record shows.

I had the record here yesterday. It is well over 2 feet high in just the questions and answers.

It also oversimplifies what the job of the Attorney General is. It is not simply to enforce the law. Nobody questions the fact that if you have some terrible crime—Oklahoma City, for example—whoever is the Attorney General will enforce the law and bring down the full force of the majesty of the law of this country regarding something that heinous. In airplane hijacking, assassination, any one of these things where the Attorney General gets involved in making decisions of who gets prosecuted, what the penalties are, nobody questions, no matter who is Attorney General, instituting the full force of that law.

However, it is the discretionary areas that are troublesome. Many Members in this body have been prosecutors. We know everybody who is an Attorney General, a district attorney, is faced with a number of issues where you can apply the law at any one area of severity. We all know you can decide the interest of society might be not to apply the law, not to seek an indictment. We also know that any prosecutor has broad discretionary powers in what to investigate and what not to investigate; when to initiate a case, when to withhold a case; when to drop a matter or to settle a case. What do you do, for example, in antitrust? Do you bring the suit? Do you drop the suit? What do you do in seeking a civil rights remedy? Do you look into it or not? What happens if you think there has been voter fraud that may affect your party and not the other party? Do you still look at it as strictly, or not?

The Attorney General is not the President's attorney. In fact, it should be pointed out that the President is allowed to appoint a White House counsel—anybody he wants—and there is no Senate confirmation. The reason for that is very simple: We have all believed whoever is President should have counsel, a lawyer, representing him and his interests in the White House with whom nobody else can interfere. Every President has done that. It makes sense the President will pick them and we can't question them. We can't say, you shouldn't have picked this person; you shouldn't have picked that person. That is the President's own attorney.

The Attorney General is different. The Attorney General is different from anybody else in the Cabinet because the Attorney General is not a political officer and a political arm of the White House. The Attorney General represents all of us, whether rich, poor, black, white, Democrat, Republican, old, young, conservative, liberal, moderate. We are all represented by the Attorney General. That is why the Attorney General is given such enormous discretion—in fact, in many instances well beyond, whether the President likes it or not. The President can always fire the Attorney General, but the Attorney General has that discretionary power.

When Senator Ashcroft says he will exercise that discretion in a manner that respects settled law, a number of areas in which he aggressively and vigorously opposed throughout his career, then it is understandable that many Members may be troubled and skeptical.

My friend from Arizona says many Members have criticized the Republicans for applying too tough a standard to the nomination of Bill Lann Lee to head the Civil Rights Division, yet we seem to be applying the same standard to Senator Ashcroft. When Bill Lann Lee swore under oath and reiterated time and time again that he would enforce the law, we were told by our friends on the Republican side of the Senate, this wasn't good enough, we couldn't accept that—basically using the same words Senator Ashcroft used.

The difference is we were prepared to vote against; they wouldn't allow a vote. If they didn't believe him, they should have voted against him; if they were for him, they could have voted for him.

It is different here. Here we are debating Senator Ashcroft to be Attorney General. We actually received the nomination in the Senate earlier this week. After the then-President-elect said he was going to nominate him, we moved forward to have a hearing and completed the hearing prior to the President's inauguration. That is a major difference. We are going to vote on him.

Bill Lann Lee—we should point out, if people are going to raise that as a standard—Bill Lann Lee, a fine, dedicated person, who swore to uphold the law, was never even given the courtesy of a vote by the Senate.

Senator Ashcroft can be asked how he interprets the oath of office. It is the same oath of office he will take as U.S. Attorney General. It is the one he took as Missouri's Governor and attorney general. That is why we have raised so many of the points in the hearing. They demonstrate an interpretation of his oath of office in the past, his interpretation of law that he now claims during 2 days of hearings, an entirely different interpretation from what he has shown for 25 years prior to those 2 days of hearings.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the call for the quorum be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland is recognized and has control of the time until 10:15 a.m.

Mr. SARBANES. Mr. President, first I want to say to the former chairman of the Senate Judiciary Committee—for 17 days, from January 3 until January 20—the very able and distinguished Senator from Vermont, I commend him for the hearings he held on the nomination of John Ashcroft to be the Attorney General of the United States. I had the opportunity to watch some of the hearings. I followed them in the press. I think the able Senator from Vermont conducted a very comprehensive, very careful hearing with respect to former Senator Ashcroft. I think he is much to be commended for doing an outstanding job. He obviously took very seriously the responsibilities of the Senate with respect to its constitutional advise and consent role.

I thought a major effort was obviously made to hear from all sides on this important question. It meant going late into the evening on more than 1 day. But I thought it was a model of how hearings ought to be conducted.

It was not pro forma. It really probed deeply into some very basic and fundamental questions, and I, for one, want to express my very deep appreciation to the Senator from Vermont for the way he planned and conducted those hearings. The Senate is in his debt.

Mr. LEAHY. Mr. President, I appreciate that very much coming from one of the intellectual giants of the Senate, my good friend from Maryland. I appreciate what he said. He and I are two who believe strongly in the Senate's role and to do all we can to carry it out. I appreciate his kind words.

Mr. SARBANES. Mr. President, I rise in opposition to the nomination of John Ashcroft to be the Attorney General of the United States. I do not do this lightly. I recognize, of course, the argument that is made that Presidents ought to be able to have their Cabinet picks. I have generally in the past, although not always, deferred to that concept, although I think it obviously can be overdone, and the Senate needs to be careful not to be taken down the path in which we simply become rubber stamps with respect to nominations for the Cabinet. If that is what the Founding Fathers had intended, presumably they never would have put the advise and consent function in the Senate with respect to nominees to the executive branch of the Government.

Of course, the judiciary is an entirely separate matter since it is an independent branch of the Government, and I think there the standard is much higher and much less acknowledgment or deference should be given to the President's judgment. But I recognize the argument that is made with respect to Cabinet members.

On the other hand, I think it is very important when we consider Cabinet appointments, and particularly an office such as the Attorney General, to be very careful in judging how the very important responsibilities of that office will be carried out.

I thought the Senator from Vermont made a very important contribution to this debate in his statement when he outlined the importance of the position of the Attorney General. I am not sure enough focus has been placed on that dimension.

The Senator pointed out that it is a position of extraordinary importance; that the judgment and priorities of the person who is the Attorney General affect the lives of all Americans; that the Attorney General is the lawyer for all the people and the chief law enforcement officer in the country.

The Attorney General controls a very large budget, over $20 billion. He directs the activities of almost 125,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers, and other employees in over 2,700 Department of Justice facilities throughout this country and in 120 foreign cities. He supervises the selection and actions of the 93 U.S. attorneys and their assistants; the U.S. marshals; supervises the Federal Bureau of Investigation; the Immigration and Naturalization Service; the Drug Enforcement Agency; the Bureau of Prisons; and many other Federal law enforcement components.

Furthermore, the Attorney General evaluates judicial candidates, recommends judicial nominees to the President, advises the executive branch on the constitutionality of bills and laws, determines when the Federal Government will go into court, what statutes to defend in court, what arguments to make to the Supreme Court and other courts.

In other words, as the Senator from Vermont pointed out, the Attorney General exercises a very broad discretion in terms of the judgments he makes and the actions he takes. Therefore, it simply does not dispose of the issue of how someone will perform in the office to assert that he will carry out the laws of the United States.

I would hope so. It is not much of a threshold for a Cabinet nominee to assert that, if confirmed, he will carry out the laws of the United States?

That is the minimum threshold. In the instance of the Attorney General, there is a broad range of activities that are subject to his judgment and discretion, subject to the Attorney General's sense of priorities, and that, of course, is what raises some very difficult questions with respect to this nomination.

Senator Ashcroft has never hidden the fact that he has planted himself at the extreme of the political spectrum. In fact, he has taken pride in that fact and asserted it in the course of his political career. Moderation is not a word which enters into his political thinking. In fact, on more than one occasion, he has belittled moderation, as the Washington Post pointed out in an editorial just a few days ago.

Mr. President, I ask unanimous consent to print the editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21, 2001]

WRONG FOR JUSTICE

The Constitution assigns to the Senate the duty to provide a president advice and consent on his nominations. Had George W. Bush sought senators' advice before designating John Ashcroft as his choice for attorney general, the answer, in our view, would have been easy. Former senator Ashcroft is the wrong man for that job. But a president is entitled to wide latitude in picking his advisers, wider than in selecting judges whose tenure will outlast his, and in part for that reason Mr. Ashcroft seems likely to win confirmation. But if Mr. Bush is entitled to the attorney general he wants, he is not entitled to take pride in the pick, and we fear it is one that may not serve him or the country well.

Mr. Ashcroft's views and record put him on the far right edge of Republican politics. It is not just that we disagree with many of his positions, on issues ranging from gun control to campaign finance reform; it is that Mr. Ashcroft seems in a different place from that which Mr. Bush seemed to promise for his administration during his campaign and again yesterday in his inaugural address. The Missouri politician's support for a constitutional amendment banning abortion even in cases of rape is only one example. Last week he indicated in committee testimony that he would have no difficulty living with Mr. Bush's more nuanced views, but if his lifelong crusade against abortion has stemmed from deep conviction—which we have no reason to doubt—it is hard to understand how that could be so easily switched off. The same is true of his intolerance of homosexuality.

More troubling than his views have been Mr. Ashcroft's inflammatory political tactics. On a range of issues—as a governing philosophy, in fact—Mr. Ashcroft has explicitly belittled moderation; he would now assume a job that demands a sense of balance, of respect for opposing views. He helped block, as senator, the confirmation of well-qualified nominees whose views he found noxious; we think in particular of James Hormel, whom Mr. Ashcroft deemed unfit to serve as ambassador to Luxembourg because of his advocacy of gay rights, and Bill Lann Lee, whom Mr. Ashcroft opposed for a Justice Department position on civil rights.

Most troubling of all is the designee's record of insensitivity toward those rights, a record that raises doubts about whether the Justice Department can maintain its role in a Bush administration as a defender of minorities in need of legal help. In 1984, Mr. Ashcroft based his gubernatorial primary campaign on his zealous opposition as attorney general to a voluntary desegregation plan for St. Louis's public schools, boasting on the trail that his tactics had risked a contempt of court citation and using television attack ads to charge that his Republican primary opponent was too soft in opposing desegregation. While considering a run for president in 1999, Mr. Ashcroft granted an interview to Southern Partisan magazine, which glorifies the former Confederacy, and accepted an honorary degree from Bob Jones University in South Carolina, site of a key GOP primary. In testimony last week he claimed ignorance about the magazine's more odious aspects, but in his interview he explicitly endorsed its efforts to burnish the reputations of Confederate leaders. Mr. Ashcroft also declined during his confirmation hearing to repudiate his association with and praise for Bob Jones ("I thank God for this institution"), which maintained a ban on interracial dating at the time of his visit.

Finally, as he prepared for his reelection campaign for the U.S. Senate last year, then-Sen. Ashcroft grossly distorted the record of black Missouri supreme court judge Ronnie White in opposing his appointment to a federal appeals court, as we wrote in this space at the time. On the Senate floor, Mr. Ashcroft portrayed the respected judge as a man with a "tremendous bent toward criminal activity." In one case, Mr. White had favored a new trial for an African American convicted before a judge who had made racially inflammatory statements; Mr. Ashcroft claimed on the Senate floor, falsely, that Judge White's complaint was that the judge in question opposed affirmative action.

Mr. Ashcroft argues that in each of these instances he was stressing legitimate policy positions, such as opposition to busing, support for state's rights and resistance to a soft-on-crime judiciary. But deliberately or not, he was also playing racial politics.

Senators traditionally have voted to confirm nominees whose ideologies they reject, and that is not a tradition to be lightly set aside. We opposed Mr. Ashcroft's own tendency to block nominations on ideological grounds, a standard that seems no more right when turned against him. Moreover, it is troubling to see opponents overreach and demonize the Ashcroft record, as in Sen. Edward Kennedy's distortion that Mr. Ashcroft considers the U.S. government to be a tyranny. By the same token, though, Mr. Ashcroft's defenders are mistaken when they allege that opposition to him is simply a manifestation of religious prejudice or partisan politics.

If Mr. Ashcroft is confirmed, he, and even more the president, will incur a particular obligation to staff the Justice Department with people of demonstrated fairness and integrity and to show that they can administer the law even-handedly. With this appointment, it seems to us, Mr. Bush has taken on a burden he did not need. We hope, for his sake and the country's, that as attorney general Mr. Ashcroft would behave as the measured and reasonable man he portrayed at last week's hearings, and not with the opportunism that has marred his career.

(Mr. ALLEN assumed the Chair.)

Mr. SARBANES. I now quote from that editorial:

> More troubling than his views have been Mr. Ashcroft's inflammatory political tactics. On a range of issues—as a governing philosophy, in fact—Mr. Ashcroft has explicitly belittled moderation; he would now assume a job that demands a sense of balance, of respect for opposing views. . . .

Those of us who have interacted with him in the Senate have spoken about the intensity and the zeal of his positions as an advocate, and I recognize that. In fact, he has asserted it as one of his great political strengths and something in which he takes a great deal of pride.

He has taken a number of positions which are well outside the mainstream of thinking—most Americans, I think, are in the middle of the road. Senator Ashcroft has been quoted as saying that there are only two things you find in the middle of the road—a moderate and a dead skunk.

I think one will find most of the American people are in the middle of the road.

There are extreme ideological positions here which of course, raise important questions. In fact, when Senator Ashcroft held up the nomination of Bill Lann Lee to be the head of the Civil Rights Division—a man of extraordinary qualification and dedication, a life story that ought to command the respect and admiration of all Americans—he argued that Lee is "an advocate who is willing to pursue an objective and to carry it with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration . . . his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs the [Civil Rights] Division."

That is the mental framework, the perspective that he brought to this very important nomination as the head of the Civil Rights Division in the Department of Justice. I do not intend to simply turn that standard and apply it to him but I do think it is indicative of an attitude and of a mindset that gives me great pause when I come to consider someone who is going to exercise the kind of discretion and broad range of judgments that are placed in the hands of the Attorney General of the United States under the statutes of our country.

Another instance I want to point to which has given me great concern is what John Ashcroft did to Judge Ronnie White. As others have spoken at length on that, I will not go into it in any great detail, But Judge White was ambushed on the floor of the Senate. That, simply put, is what it amounted to. And that ambush was, in effect, staged by John Ashcroft.

Judge White is a man who worked his way up, the classic American opportunity story, to become a judge on the highest court of the State of Missouri, an African American who broke a barrier when he went on that court. He was then nominated to be a Federal district judge. His nomination was brought out of the Judiciary Committee. The arguments used on the floor to ambush him were not raised in the Committee. On the floor the Senate was told that "he has a tremendous bent toward criminal activity." Imagine saying that about a sitting judge of the State's highest court, a statement which upon examination cannot be sustained.

Furthermore, Senator Ashcroft argued about White that, if confirmed "he will use his lifetime appointment to push law in a pro-criminal direction consistent with his own personal political agenda."

No wonder that legal columnist Stuart Taylor, wrote in an article that John Ashcroft's treatment of Judge White alone makes him unfit to be Attorney General.

> The reason is that during an important debate on a sensitive matter, then-Senator Ashcroft abused the power of his office by descending to demagoguery, dishonesty and character assassination.

The Baltimore Sun, in an editorial of yesterday—I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Jan. 31, 2001]

ASHCROFT ISN'T RIGHT FOR ATTORNEY GENERAL

Few people had ever heard. of racial profiling a few years ago.

But now it's a household phrase, because former Attorney General Janet Reno's lawyers proved many police departments were treating skin color as if it were a highway crime, pulling over minority drivers for one reason—their race.

It was an important reminder that discrimination is still very much alive in America.

During Ms. Reno's tenure, Justice Department lawyers delved into problems in employment, fair housing and lending, education, public accommodations and voting. They investigated Americans With Disability Act violations, enforced federal laws protecting access to abortion clinics.

The point: Ms. Reno didn't merely acknowledge or respect the existence of civil rights and other laws designed to protect Americans. She embraced them and enforced them doggedly, because discrimination still robs entire classes of Americans of their most basic liberties.

That brings us to the troubling nomination of former Missouri Sen. John Ashcroft to head the Justice Department.

His record suggests no such embrace of civil rights laws or the premise of equal protection under law. Many things he has said and done betray a vicious hostility toward them.

He has blasted the judiciary (which he calls the least representative branch of government) for granting "group rights" to minorities, without regard to the group discrimination that necessitates those rights.

He has opposed public school desegregation—in one instance to the point of being threatened with judicial contempt—and proposed a constitutional amendment to outlaw abortion in all forms for any reason.

And he has defended or stood mute in the face of other institutions that attack the very premise of equal rights—Bob Jones University, a neo-Confederate magazine called Southern Partisan, even groups with ties to the Ku Klux Klan.

His record has inspired progressive groups around the country to oppose Mr. Ashcroft's nomination. It's also why some Democratic senators are threatening a filibuster to block a confirmation vote.

We share the concerns about Mr. Ashcroft's civil rights record. We worry that his confirmation as attorney general could mean the end of the Justice Department's important efforts to level Americas uneven playing fields.

But that alone would be insufficient for us to call for derailing a Cabinet nominee. Generally, we believe presidents should be given wide latitude in making their appointments.

There is another, a more important reason to oppose Mr. Ashcroft—his character.

When Mr. Ashcroft tanked the federal judicial nomination of Ronnie White, he demonstrated recklessness with truth and integrity that the nation can't countenance in an attorney general.

He lied about Mr. White's stance on death penalty cases, painting him as an anti-death penalty maverick when, in fact, Mr. White had affirmed death sentences 71 percent of the time as a Missouri Supreme Court judge.

And to this date, Mr. Ashcroft has not owned up to what he did. During his own confirmation hearings before the Senate Judiciary Committee, Mr. Ashcroft defended what he did to Mr. White—and denied that it represented a distortion of the truth.

Whatever the reasons for Mr. Ashcroft's actions, they speak to a willingness to pursue his own agenda by any means necessary, without regard to veracity of fairness.

That makes it difficult—or near impossible—to imagine Mr. Ashcroft setting a credible legal agenda from the seat of the nation's highest law enforcement officer.

It also makes it hard to believe any of what Mr. Ashcroft said during his testimony before the Senate Judiciary Committee, when he passionately stated he would abide by and enforce laws that don't necessarily coincide with his personal beliefs.

The Senate Judiciary Committee voted yesterday to confirm Mr. Ashcroft. The full Senate could vote by Thursday.

A "no" vote in the full chamber—however unlikely that might be—is the only course that will save the Justice Department from the taint of Mr. Ashcroft's improbity.

Mr. SARBANES. In commenting on John Ashcroft's distortion of Judge White's record, said:

> Whatever the reasons for Mr. Ashcroft's actions, they speak to a willingness to pursue his own agenda by any means necessary, without regard to veracity or fairness.

This from an editorial in the Baltimore Sun entitled "Ashcroft isn't right for attorney general."

I just want to add one other instance or example of the kind of approach and attitude in John Ashcroft's record that concerns me.

When he was attorney general of the State of Missouri, charged with carrying out the laws, he repeatedly, in school segregation cases, was rebuked and overruled by the courts, both State and Federal courts, on very sensitive and important school segregation cases.

In my view, he has had a consistent record of being at the extreme, of taking positions well outside the mainstream. And we are now faced with the question of whether he should be placed in a position where he will have broad discretion and will be making very sensitive judgments. It is a position that the whole country looks to to sustain its civil rights and its civil liberties.

The Nation needs to have confidence that the person serving as Attorney General will personify fairness and justice to all our people all across our country.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. SARBANES. I ask unanimous consent to speak for another 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. The New York Times, in an editorial opposing this nomination, made reference to President Bush's inaugural visions of "a single nation of justice and opportunity." In my view John Ashcroft does not carry out that vision. I oppose his nomination. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 23, 2001]

OPPOSING THE ASHCROFT NOMINATION

The days after an inauguration are always marked by a spirit of optimism and well-wishing. But it also has to be a time for marking out fundamental principles that should come into play as the nation seeks the new civic accord that President George W. Bush eloquently endorsed in his inaugural address. It is within this framework that the Senate should consider the nomination of John Ashcroft as attorney general.

For our part, we wish that we could simply acquiesce in a confirmation that seems assured by the expectation that all 50 Republicans and a number of Democrats will vote to approve Mr. Ashcroft. But the matter is more complex than that.

As in our first commentary on' Mr. Ashcroft's nomination, we stipulate that we are convinced he is a man of sincere conviction and personal rectitude. But the testimony before the Judiciary Committee established that he is not a nuanced or tolerant thinker about law, about constitutional tradition or about the general direction of an increasingly diverse American society.

Any reasonable reading of the extensive Judiciary Committee testimony shows that Mr. Ashcroft's zeal has overruled prudence in cases that bear directly on issues relevant to the Department of Justice. For example, the desegregation of public schools, often under voluntary agreements supervised by federal courts, has bipartisan roots reaching back to the Eisenhower presidency. But as Missouri attorney general, Mr. Ashcroft opposed a court-approved voluntary desegregation plan for St. Louis and failed to come up with an alternative that would have ameliorated the segregated conditions.

Mr. Ashcroft's tactics in blocking Judge Ronnie White's elevation from the Missouri Supreme Court in the federal bench raise problems of another sort. Judge White had a strong record of supporting capital punishment and often voted with Mr. Ashcroft's appointees on the Missouri Supreme Court. But on the floor of the Senate, Mr. Ashcroft advanced the fabricated charge that Judge White was "pro-criminal" and had "a tremendous bent toward criminal activity."

Before the Judiciary Committee, Mr. Ashcroft persisted in this demagogic attack, insisting that he was merely exercising his prerogative as a senator to reach an independent judgment. He was equally unpersuasive in explaining his plainly homophobic opposition to the confirmation of James Hormel as ambassador to Luxembourg. Mr. Hormel is a man of sterling legal and diplomatic credentials. Yet Mr. Ashcroft declared that he opposed Mr. Hormel based on the "totality" of his record.

As President Bush likes to say, we cannot read what is in another's heart. But neither can any civic-minded participant in this process fail to consider Mr. Ashcroft's history of opposition and code-worded condemnation of those whose color, sexual preference, religious views and attitude toward abortion differ from his own.

On the issue of abortion, Mr. Ashcroft swore that his 30-year history of legislative and constitutional attacks on abortion rights would not lead him to oppose the "settled law" supporting those rights. Of equal importance, he testified under oath that he would not use his powers as attorney general to invite a Supreme Court reversal of Roe v. Wade, the ruling that guarantees reproductive freedom of choice for American women.

We welcome those statements as a solemn pledge to the American people on a pivotal issue of civil liberties and constitutional law. But that reassurance does not lift from this page or the Senate the obligation to look at the entire mosaic pieced together by the Judiciary Committee. In the Senate, Mr. Ashcroft's legislative record shows a public official with a history of insensitivity to minority concerns and a radical propensity for offering constitutional amendments that would bring that document into alignment with his religious views. He even favored an amendment to make it easier to revise the Constitution.

We urge a unified Democratic vote in the Senate against confirmation. If 40 or more Democrats cast a vote of principle against Mr. Ashcroft's record, he and Mr. Bush will be on notice that sensitivity to and regard for the beliefs and rights of all Americans have to be governing realities at the Department of Justice.

We do not argue that Mr. Ashcroft is a bad man. We do assert that his record makes him a regrettable appointee for a new president who speaks with conviction about creating an atmosphere of reassurance for all members of the American family. Given this newspaper's long history of defending civil liberties, reproductive freedom, gay rights and racial justice, we cannot endorse Mr. Ashcroft as an appropriate candidate to lead a department charged with providing justice for all Americans. But recognizing that his confirmation is probable, we can hope that Mr. Ashcroft's performance as attorney general will be based on the president's inaugural vision of "a single nation of justice and opportunity" rather than on the general philosophy of Mr. Ashcroft's public career to date.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. I thank the Senator from Maryland.

Under the previous order, the time until 10:30 shall be under the control of the majority party.

The Chair recognizes the assistant majority leader, the Senator from Oklahoma, Mr. NICKLES.

Mr. NICKLES. Mr. President, thank you very much.

Mr. President, I rise in total and complete support of John Ashcroft to be the next Attorney General of the United States. I do that with great pleasure, and with pride, because I know him. And I am not amused when I hear people talking about John Ashcroft in a way that is not the John Ashcroft I know.

I know John Ashcroft. I have served with John Ashcroft. I have spent hours and hours and hours with John Ashcroft on a multitude of issues. I have absolute, total, and complete confidence that he is going to be one outstanding Attorney General of the United States.

He is as qualified as anybody that has ever been an Attorney General. If you look at his qualifications, he was attorney general for the State of Missouri for 8 years. He was named head of the National Association of Attorneys General which means the other attorneys general all across the country elected him to be their leader.

I have heard some of my colleagues say he is extreme. That is not the type of person a bipartisan group of Attorneys General would pick. He would not have been picked as the head of the National Association of Attorneys General.

He served for 8 years as Governor of the State of Missouri. He was elected head of the National Governors' Association. Again, that is not an extremist. That is not somebody outside the mainstream. He was elected by his peers, by the bipartisan group of Governors, to be head of the National Governors' Association.

He then was elected to the Senate which is how I really got to know him. Of course, I had known him by reputation as being an outstanding attorney general and outstanding Governor.

He was an outstanding Senator. He served 6 years in this institution. I served with him in countless meetings, and I could not have come away knowing a person of greater intellect and integrity—a person of conviction, a person who can get things done, a person who is willing to listen to all people on all sides, a person who is fair. Again, I have come to the conclusion that he will be an outstanding Attorney General.

I am bothered by the opposition. I wonder where it comes from because maybe they are talking about a different person.

On the issue of fairness, I have heard people say that we have done a good job since we have confirmed all of President Bush's nominees except one, and it has only taken a couple weeks.

I go back 8 years ago, after President Clinton was elected, when every one of President Clinton's nominees were confirmed by voice vote, unanimously, by January 21, except for one, and that was for Attorney General. And that delay was not because Republicans were fighting the Attorney General nomination. It was because President Clinton ended up sending three names to the Senate because he had some problems with the first two before he submitted his final nominee. The delay was not because of Senate opposition. It was because he had some problems with the first couple of nominees he submitted.

When we eventually got to Janet Reno, after he submitted her to the Senate, she was confirmed in very short order without all this rancor, without all this partisan nonsense. She was confirmed 98–0. She was every bit as liberal as John Ashcroft is conservative—every bit.

In addition, Ms. Reno said she was going to uphold the law. I have heard the intensity of this debate since John Ashcroft is pro-life. Will he enforce the law and access to abortion clinics? John Ashcroft said he would. He took an oath. He said: I will uphold the law of the land.

In comparison, it is interesting to note that the Beck decision is the law of the land.

Attorney General Reno and the Clinton Administration did not enforce that decision. Also, the law of the land on campaign finance says it is unlawful to solicit or receive funds on Federal property. She did not enforce that statute in spite of the fact that her own people in the Justice Department said: You need to appoint a special counsel. She did not do it. Although it was the law of the land, she did not enforce it. Some of us are troubled by that. Maybe I wish I had my vote back.

If people want to vote against John Ashcroft, they can vote against him, but to make these character assassinations is totally unfair. It certainly is not what happened 8 years ago.

Let me touch on a couple other things. I have heard he should not be confirmed because he was opposed to Judge White. Well, I voted against Judge White, and I would vote against him again. Why? I have been in the Senate for 20 years almost as long as Senator LEAHY, the ranking minority member on the committee. I don't remember a single time a national law enforcement group or association contacting Senators to say please vote no on a Federal judge.

I remember getting a letter from the National Sheriffs' Association saying: Vote no on Judge White. I said: Why? Well, there was a case where three deputy sheriffs were murdered and a sheriff's wife was murdered and the defendant confessed. That case is the reason they wrote the letter. Of seven Missouri Supreme Court judges, Judge White was the sole dissenter who said: Let's review this case. There may be extenuating circumstances and the defendant deserves another trial.

The sheriffs didn't feel that way. The prosecutors didn't feel that way. Other prosecutors, the sheriffs, and the chiefs of police in Missouri, said: Don't confirm Judge White. I can't remember, again, another nomination where you had the chiefs of police all across the State who know the particular judge say: Don't confirm him. That was something I needed to know.

I am also troubled when some people say: You didn't confirm Judge White because of his race. Most of us didn't know what race he was. We knew law enforcement was against him, and we voted no. I make no apologies for that vote.

To imply that someone is a racist because they oppose a nominee is wrong. Most of us opposed Judge White because he was opposed by law enforcement groups.

I heard somebody say: John Ashcroft, back when he was Governor, opposed a court decision on desegregation. Then we find out that Senator Danforth, who is probably as respected a moderate as anybody, also opposed that decision, and Congressman GEPHARDT opposed that decision. At that time, I think Mel Carnahan, who was also an elected official in the State of Missouri, opposed that decision. Yet some people are trying to make that a reason to oppose John Ashcroft.

John Ashcroft has had about three decades of public life. His record has been scrutinized to the nth degree. People are almost making up things to try to oppose his nomination. I think it is unwarranted. It is unfounded. A lot of it is below the belt and is beneath the dignity of the Senate. People have a right to oppose a nomination. If they want to oppose somebody, they can vote no, but they should not mischaracterize his record. I think what has happened repeatedly is beneath the dignity of the Senate, below the civility of the Senate.

I urge people to be cautious when they make personal attacks against other individuals, and especially against a former colleague. Again, many of us in this body have had the privilege to know John Ashcroft. We know him. We know him well. I know him well. I am very proud to cast my vote today in support of John Ashcroft to be the next Attorney General. I look forward to him being the next Attorney General. I am confident he will represent this country extremely well in that capacity.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that some additional op-ed pieces, columns, and others be printed in the RECORD regarding this nomination.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 19, 2001]

ASHCROFT THE ACTIVIST

(By William Raspberry)

Opponents of John Ashcroft's nomination to become attorney general have been turning over every rock in sight, hoping to find some outrageous statement, some political skeleton, some evidence that he is unfit to be the nation's chief law enforcement officer.

His supporters have been doing their best to prove that the nominee is technically qualified for the job and is, moreover, a decent man who would enforce the law fairly.

The whole thing seems to be missing the point. I have never doubted Ashcroft's decency, never questioned his legal abilities, never worried that, in a particular case, he would be unfair.

But the attorney general is not just the nation's chief cop. He is also the chief influencer of our law-enforcement policy.

It is from that office that decisions are made on which laws to enforce, and how vigorously; what discretion ought to be exercised, and in which direction; how law-enforcement resources should be deployed, and with what emphases. Bland reassurances that Ashcroft would "enforce the law fairly" aren't much help.

To take a simple example, what does it mean to enforce America's drug laws "fairly"? Does it mean locking up anybody caught with illegal drugs, as the law permits? Does it mean focusing resources on major traffickers, as the law also permits? Does it mean shifting resources from enforcement to treatment—or the other way around? Does it mean confiscating more and more assets of people found in violation of the drug laws? The law allows all these things—allows as well the disparate sentencing for powdered and "crack" cocaine and the well-documented racial disparity that results from it.

To promise to enforce the law without talking about which policies would be emphasized or changed is to say nothing at all. Absent a president with strong feelings on the matter, law-enforcement policy is largely left to attorneys general to decide. Some have gone against discrimination, some against organized crime, some against monopolies and trusts. Some have followed public sentiment, and some have gone their own way. Most of the time, it hasn't mattered much. So why do so many non-conservatives believe it will matter so much this time?

The answer is in Ashcroft's record of advocacy. He has fought with extraordinary vigor for positions that are well outside the American mainstream—on gun control, on abortion, on juvenile justice, on the death penalty. I don't mean to deny that his position on all these issues might be shared by a significant minority. I say only that his views are unusually conservative. He is, I think it fair to say, an ideologue. And when you take someone who has been advocating views that are well away from the political center and put him in charge of law-enforcement policy, it's not enough to say he'll "enforce the law."

Ashcroft signaled his own understanding of this point when he was asked whether he would try to undermine the 1973 Roe v. Wade decision on abortion. He said that for the solicitor general (who ranks under the attorney general) to petition the Supreme Court to have another look at Roe would undermine the Justice Department's standing before the court.

He was, as I read his response, saying he could make the attempt, though it might be impolitic to do so at this time.

Is it unfair to oppose Ashcroft, an experienced lawyer, out of fear that his personal and religious views would influence his role as attorney general?

As Sen. Patrick Leahy (D–Vt.) reminded us the other day, it is a question Ashcroft himself has answered. When Bill Lann Lee was named by President Clinton to head the Justice Department's civil rights division, Ashcroft fought to deny him the job.

He had no doubt concerning the nominee's professional ability, Ashcroft said at the time, but Lee's beliefs (on affirmative action) "limit his capacity to have the balanced view of making judgments that will be necessary for the person who runs the division."

Why can't the same assessment apply to the person who will run the whole department?

[From the Washington Post, Jan. 18, 2001]

Civil Rights 'R Us

(By Mary McGrory)

Obviously, it's a case of mistaken identity.

That man sitting before the Senate Judiciary Committee is no kooky right-winger. He's not anti-black, anti-Catholic, or antisemitic, as holding an honorary degree from Bob Jones University might suggest. He is against abortion, he admits it, but he'll observe Roe v. Wade. He's a man of law.

Segregation? He's against it. Never mind that he fought integration when he was attorney general and governor of Missouri. He's a little sentimental about the Confederacy, yes, but if he had been alive at the time of the Civil War, he would have fought for the Union. Don't call him a partisan Republican, please. When he's looking for the name of an illustrious predecessor at Justice, Robert Kennedy leaps into his mind. Harry Truman leads his list of prominent Missourians.

This is an erstwhile club member who thanks senators for mean questions and humbly praises their candor when they blast his record.

Sen. Arlen Specter (R–Pa.) noted his sense of humor and pointed out how handy it would be when the witness was discussing "the death penalty and other weighty matters" at the Justice Department.

The makeover of John Ashcroft, a cranky extremist, for his confirmation hearings is a masterpiece. His handlers have created a genial healer; his haberdashery is impeccable and so are his manners. Five young men with black suits and stern expressions sit a row behind him and hand over notes when things get dicey.

This graduate of Yale and Harvard Law is pretty sophisticated about most things, but not about hot potatoes like Bob Jones U. and Southern Partisan magazine, a publication to which he confided his misty-eyed appreciation for the Confederacy, and one that has a profitable sideline in T-shirts celebrating the assassination of Lincoln. Wouldn't you know Lincoln is Ashcroft's favorite political figure? He was shocked, shocked to learn about Southern Partisan's excesses.

Ashcroft the nominee was engulfed in loving friends, colleagues and family with a heavy sprinkling of blacks and women who were so conspicuous in the protest groups outside. This John Ashcroft wouldn't dream of turning down a president's choice for the Cabinet just because there were differences of opinion. He's tolerant almost to a fault, and his opening statement could have been the bid of an aspirant to the chairmanship of the ACLU, not top gun for George W. Bush's legal team.

Opening day theatrics went like clockwork. Sen. Jean Carnahan (D–Mo.), the widow of Ashcroft's opponent, Gov. Mel Carnahan, brought her poignant dignity to a cameo appearance as a presenter of the nominee. Her words were notably chilly. She urged her colleagues to be fair, but it made a nice picture.

Committee Republicans came through with econiums to the nominee's character and integrity. Sen. Charles Grassley (R–Iowa) fervently praised Ashcroft as someone "who always does right by the family farmer." Even Ashcroft's 2-year-old red-headed grandson, Jimmy, performed perfectly. He came onto the scene wailing, but his grandfather cheerfully introduced him and he fell miraculously quiet.

On Day Two, a little celebrity caucus was brought on just before the lunch break. Sen. Susan Collins (R–Maine) gushed about Ashcroft. So did former senator John Danforth (R–Mo.), the patron of Clarence Thomas, Bush I's land mine Supreme Court appointment. Like father, like son: Thomas was supposed to flatten all objections because he is black; for Bush II, Ashcroft's club membership is expected to stifle resistance.

There were moments of discord and disbelief, but these were treated like caterer's mistakes at a splashy wedding. Sen. Edward M. Kennedy (D–Mass.) challenged Ashcroft's record on school desegregation and voter registration. In Missouri, Ashcroft had resisted a voluntary desegregation plan and vetoed a registration expansion scheme. To answer Kennedy, Ashcroft read his veto messages.

If the hearings resume next week, Ashcroft can expect a kinder, gentler hand on the gavel in the person of Sen. Orrin Hatch (R–Utah). Sen. Pat Leahy, Democrat of Vermont, was temporary chairman but turns into a pumpkin when W. takes the oath.

There's only one thing wrong with the Ashcroft picture, the figure of Judge Ronnie White, the Missouri Supreme Court judge who was deprived of a seat on the federal bench by the persecution of Ashcroft, who got every Republican in the Senate to vote against his nomination. Ashcroft found White insufficiently enthusiastic about the death penalty.

By all accounts, Ronnie White is a distinguished member of the State Supreme Court. Ashcroft misrepresented his record. Ronnie White is black. Ashcroft, his allies insist, is no racist. Did he slander Ronnie White for crass politics—an effort to make the death sentence an issue in his campaign against Carnahan? The paragon in the witness chair would not do anything like that. Malice is a singularly unattractive trait in an attorney general.

[From the Washington Post, Jan. 18, 2001]

The Ashcroft Double Standard

(By Richard Cohen)

A review of the record, a reading of the relevant transcripts and some telephone interviews with people in the know lead me to conclude that if John Ashcroft were a Democrat, he would oppose his own nomination as attorney general. For once, he would be right.

The Ashcroft of the Senate Judiciary Committee hearings is a package of hypocrisy. His message is that his ideology, hard right and intolerant, ought to be beside the point. What is supposed to matter is his determination to uphold the law, even the laws he believes are in contradiction to what God himself intends. This is what Sen. Patrick Leahy (D–Vt.) calls the "Ashcroft standard." It is utter nonsense.

Take, for instance, the way Ashcroft handled the nomination of James C. Hormel as ambassador to Luxembourg. Hormel was a man of some accomplishment as, in fact, Ashcroft had firsthand reason to know. Back in 1964, Hormel was a dean at the University of Chicago Law School when Ashcroft was a student there. Nonetheless, Hormel was gay and not particularly shy about it, either. For that reason—and that reason only—Ashcroft opposed the nomination.

This episode tells you quite a bit about Ashcroft. By any measure, Hormel was certainly qualified to be ambassador to this dot of a European country. As mentioned, he had been the dean of a prestigious law school, had become a well-known San Francisco civic leader and philanthropist and had been endorsed by, among others, the Episcopal bishop of California, the Right Rev. William Swing, and the former everything (secretary of state, etc.), George Shultz.

Ashcroft was unmoved. Along with Trent Lott, he considered homosexuality a sin and, as with racists, polygamists, misogynists and you-name-its, he could cite this or that passage of the Bible to support his intolerance. Whatever the reason, he would not even meet with Hormel. He would not take his phone calls.

Ashcroft explained his vote against Hormel in committee as one based on the fear that Hormel was "promoting a lifestyle" and what, when you come to think of it, this might mean to embattled Luxembourg. And then he said this: "People who are nominated to represent this country have to be evaluated for whether they represent the country well and fairly."

There you have it: The Perry Mason Moment in which Ashcroft blurts out the reason he is not suited to be attorney general. His qualifications, as with Hormel's, are beside the point. It's what he advocates that matters—whether, as he would put it, he represents the country well and fairly.

It's Ashcroft's extreme views on abortion—not late-term or mid-term, but what you might call pre-term. (He would ban so-called morning-after pills.) It's his approach to gun control, his reactionary approach to civil rights legislation, his opposition to lifesaving needle exchange programs or his insistence that drug treatment programs are a sheer waste of money since junkies can—to quote an old Nat King Cole tune—simply "Straighten Up and Fly Right." Only experience teaches otherwise.

It might be one thing if George W. Bush had won a mandate for such policies. But he did not even win the popular vote. In no way did the country register its support or even tacit approval of the "soft bigotry" that Ashcroft represents. It does not matter that he says he will administer laws he doesn't particularly like; it matters only that he is unsuited by rhetoric, ideology and political conduct to lead our criminal justice system.

If confirmed, Ashcroft would be instrumental in picking the next generation of federal judges. Bush has already declared himself a committed delegator who will CEO the federal government from the Oval Office. (He has a Harvard MBA, don't forget.) If that's the case—and a man who was among the last to know his vice presidential nominee had suffered a heart attack clearly delegates to a fare-thee-well—then the job of picking federal judges will be left to Ashcroft. The federal bench is going to look like the faculty lounge at Bob Jones University.

John Ashcroft must be laughing to himself. He knows that if the shoe were on the other foot, he would never confirm an attorney general who had views so antiethical to his own. Maybe he'd find something in the Bible or, as he did with the judicial nomination of Ronnie White, distort the record, but he would be true to his beliefs. His opponents should be true to theirs.

[From the Chicago Tribune, Jan. 16, 2001]

THE CONFEDERACY'S FAVORITE CABINET NOMINEE

(By Derrick Z. Jackson)

If the Senate Judiciary Committee straightens its backbone rather than slap the back of attorney general nominee John Ashcroft, we may get to see why his hallucinations about Bull Run will make him a bull in the china closet of civil rights.

Any serious line of questioning should start like this:

Sen. Ashcroft, you praised Southern Partisan magazine for "defending" patriots like Robert E. Lee, Stonewall Jackson, and Jefferson Davis: "Traditionalists must do more. I've got to do more. We've all got to stand up and speak in this respect, or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda."

Let's explore what you meant by that.

Senator, why are you, in the year 2001, praising Davis, the president of the Confederacy, who personally italicized the portions of the Constitution that preserved slavery? Why do you laud a man who said white superiority over African-Americans was "stamped from the beginning, marked in decree and prophecy"?

Why do you love a man whose vice president, Alexander Stephens, said the "cornerstone" of the Confederacy "rests upon the great truth that the Negro is not equal to the white man; that slavery, subordination, to the superior race, is his natural and moral condition"?

Why do you complain about Davis being maligned by historians when Davis tried to rewrite history? He said on the floor of the U.S. Senate in 1860 that "Negroes formed but a small part of people of the southern states."

For the record, in 1860 black people were 55 percent of the population in Davis' home state of Mississippi, 58 percent of South Carolina, and between a third to a half of the people of most of the rest of the slave states.

Now, Senator, I am reading this sentence again, where you say we've all got to stand up or else we'll be taught that Davis, Lee, and Jackson were subscribing their "sacred fortunes" to some "perverted" agenda. That sounds a lot like what Davis said in his first Confederate inaugural address when he said the North "would pervert that most sacred of all trusts."

Senator, since we know that that sacred trust was slavery, what is it that you are trying to say? Does that mean you will not investigate charges of black voter fraud in Florida?

Senator, let's move on to Lee. You say today's history books "make no mention of Lee's military genius!" Why is that so important to you when the same Lee called Mexicans "idle worthless and vicious"? Why do you praise a man who said as he exterminated Indians: "The whole race is extremely uninteresting . . . they are not worth it." Where can we find Lee's genius in saying that killing Indians was "the only corrective they understand and the only way in which they can be taught to keep within their own limits"?

Why is Lee so good when he justified the ripping of black people out of Africa to enslave them by saying, "The blacks are immeasurably better off here than in Africa, morally, socially, and physically. The painful discipline they are undergoing is necessary for their instruction as a race"?

Why does Lee need to be revered when his troops, like other Confederate divisions, hated free black people so much that they sometimes massacred defeated black Union soldiers even though they had thrown down their arms in surrender?

Senator, may I read you a passage from the new book, "The Making of Robert E. Lee," by Michael Fellman? A Confederate major wrote in 1864 after one battle, "such slaughter I have not witnessed upon any battlefield anywhere.

"Their men were principally Negroes and we shot them down until we got near enough and then run them through with the bayonet . . . We was not very particular whether we captured or killed them, the only thing we did not like to be pestered burying the heathens."

Senator, why do you praise Lee when, after the Civil War, he actively resisted Reconstruction? Lee said white people are "inflexibly opposed to any system of laws that would place the political power of the country in the hands of the Negro race." He said black people lacked the "intelligence . . . necessary to make them safe repositories of political power."

Senator, thank you, but in light of your reverence for such men, we'll be asking President-elect George W. Bush to appoint a less antebellum attorney general. As you leave, stop by the front desk. The clerk will arrange for you to participate in a Civil War re-enactment in the slave state of your choice. Please send us a photo of your experience. We would love to see who you dressed up as. We're betting against Frederick Douglass.

Mr. LEAHY. Mr. President, I don't want to leave the impression in this Chamber that there is some kind of unanimity of law enforcement in opposition to Judge Ronnie White. In fact, a very substantial number in law enforcement in Missouri wrote to us, wrote to the Members of the Senate, and said they strongly supported Judge Ronnie White. One of the leading law enforcement organizations wrote to us and said they were distressed that he was not confirmed on the basis that somehow he might be pro-criminal.

The record showed that he voted with appointees by then-Governor Ashcroft something like 95 or 96 percent of the time in death penalty cases.

Mr. NICKLES. Will the Senator yield?

Mr. LEAHY. Of course.

Mr. NICKLES. Just for a point of clarification, is the Senator referring to the Fraternal Order of Police sending a letter in support of Judge White?

Mr. LEAHY. Yes.

Mr. NICKLES. Wasn't that letter sent after Judge White was defeated?

Mr. LEAHY. Indeed, it was.

Mr. President, I ask unanimous consent to print additional editorials and material regarding the nomination in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Newsday]

ASHCROFT'S RIGHTS DO NOT INCLUDE BEING AG

(By Clarence Page)

Now that George W. Bush has nominated Sen. John Ashcroft (R-Mo.) to be attorney general, it would not be inappropriate for Ashcroft's fellow senators to treat him as fairly as he treated Judge Ronnie White.

In other words, will they tar him as an extremist? Will they roast him, not for his personal qualifications, which is what confirmation hearings are supposed to be about, but for his personal beliefs? Will they paint him as an extremist and distort his record without giving him an opportunity to respond? That was how Ashcroft handled President Bill Clinton's nomination of Judge Ronnie White to the federal bench in 1999. Civil rights groups are particularly angry that Ashcroft led the successful party-line fight to defeat White.

Ashcroft painted White's opinions as "the most anti-death-penalty judge on the Missouri Supreme Court" and said that his record was "outside the court's mainstream." Actually, whether you agree with him or not, White can hardly be called "pro-criminal" or "outside the mainstream." Court records show that White voted to uphold death sentences in 41 out of 59 capital cases that came before him on the state supreme court. In most of the other cases, he voted with the majority of his fellow justices, including those appointed by Ashcroft when he was Missouri governor.

In fact, three Ashcroft appointees voted to reverse the death penalty a greater number of times than White did.

On the Senate floor, Ashcroft singled out two of the only three death-penalty cases in which White was the sole dissenter. In one of them, White questioned whether the defendant's right to effective counsel had been violated. Whether you agree or not, you don't have to be "pro-criminal" to value the rights of the accused, especially in a death-penalty case. In the other, White questioned whether the lower court judge, Earl L. Blackwell of Jefferson County was biased and should have recused himself in a trial that began the morning after Blackwell issued a controversial campaign statement.

Blackwell, explaining in a press release why he had switched to the Republican

Party, said, "The truth is that I switched to the Republican Party, said, "The truth is that I have noticed in recent years that the Democrat Party places far too much emphasis on representing minorities such as homosexuals, people who don't want to work and people with a skin that's any color but white." Again, the judge has the right to express his views, but you don't have to be an extremist to understand why White, the first African American to sit on the Missouri Supreme Court, might question that judge's even-handedness.

When Sen. Orrin Hatch (R–Utah) asked White if he opposed the death penalty, White said, "Absolutely not." But White did not get a chance to rebut Ashcroft's charges because Ashcroft did not raise them until months after White's confirmation hearings. This tactic was characterized as "delay and ambush" by Elliot Mincberg, vice president and legal director of People for the American Way, one of several liberal groups that oppose Ashcroft's confirmation.

To charge that Ashcroft is a bigot, as some have done, misses the point. He has a right to express strong views without being called names. He has a right to oppose affirmative action and gay rights, as he has done in the past with other nominations. He has a right to favor a "right to life" until someone has been sentenced to death.

But he does not have a right to be attorney general. Therefore, it is not surprising that the four pillars of the liberal establishment—civil rights, abortion rights, organized labor and environmental protection—have begun to rally their opposition to his confirmation.

Why, they ask, should this country have an attorney general who opposes sensitive laws that he is supposed to enforce? Ashcroft will have a chance to answer that question in his confirmation hearings. The Senate will let him offer his side of the story. That's more than Ashcroft gave Ronnie White.

[From the Des Moines Register, Jan. 5, 2001]

UNEASY WITH ASHCROFT

Will he enforce the laws even-handedly—even those he disagrees with?

The record of Senator John Ashcroft inspires no confidence that he'll enforce the laws of the land impartially as attorney general of the United States.

The Missourian, who lost his re-election bid to the Senate this fall, vigorously opposes abortion rights under virtually all circumstances. So would he fully enforce federal laws safeguarding abortion clinics from violence and harassment? Will he actively protect the legal right of women to choose even though he personally thinks women should not have that right?

Ashcroft is President-elect George W. Bush's nominee to be the next attorney general. As head of the Justice Department, he would be in charge of overseeing the FBI, enforcing antitrust laws, litigating on the government's behalf and enforcing the civil rights of citizens, among other things.

How interested in assuring civil rights is Ashcroft? He's been criticized for his opposition to the elevation of Missouri Supreme Court Judge Ronnie White, an African-American, to the federal bench. Ashcroft called White "pro-criminal," even though White had voted to uphold the death penalty in 41 of 59 cases—said to be about the same share as that of the judges whom Ashcroft appointed when he was governor. Consider that along with Ashcroft's failed fight to keep David Satcher, a respected black physician, from becoming surgeon general because Satcher is against a ban on late-term abortions. And in 1999, Ashcroft accepted an honorary degree from Bob Jones University in South Carolina, which at that time prohibited interracial dating.

Bush Cabinet selections such as moderate African-American Colin Powell for secretary of state don't soften the hard-line insensitivity Ashcroft presents. He is not a leader who brings people together.

Those who share Ashcroft's religious conservatism are no doubt heartened by the expectation that their points of view will be well represented. But all Americans should at least be comfortable that the next attorney general will be fair-minded and even-handed as the nation's chief law-enforcement officer.

Before confirming him, the Senate should expect a pledge from Ashcroft that he will enforce the laws of the land as they exist, not as he would like them to be.

The Missourian vigorously opposes abortion rights under virtually all circumstances. So would he fully enforce laws safeguarding clinics?

[From the New York Times, Jan. 4, 2001]

FAIRNESS FOR WHOM?

(By Bob Herbert)

We keep hearing that George W. Bush's choice for attorney general, John Ashcroft, is a man of honor, a stalwart when it comes to matters of principle and integrity. Former Senate colleagues are frequently quoted as saying that while they disagree with his ultra-conservative political views, they consider him to be a trustworthy, fair-minded individual.

Spare me. The allegedly upright Mr. Ashcroft revealed himself as a shameless and deliberately destructive liar in 1999 when, as the junior senator from Missouri, he launched a malacious attack against a genuinely honorable man, Ronnie White, who had been nominated by the president to a federal district court seat.

Justice White was a distinguished jurist and the first black member of the Missouri Supreme Court. Mr. Ashcroft, a right-wing zealot with a fondness for the old Confederacy, could not abide his elevation to the federal bench. But there were no legitimate reasons to oppose Justice White's confirmation by the Senate. So Mr. Ashcroft reached into the gutter and scooped up a few handfuls of calumny to throw at the nominee.

He declared that Justice White was soft on crime. Worse, he was "pro-criminal." The judge's record, according to Mr. Ashcroft, showed "a tremendous bent toward criminal activity." As for the death penalty, that all-important criminal justice barometer—well, in Mr. Ashcroft's view, the nominee was beyond the pale. He said that Ronnie White was the most anti-death-penalty judge on the State Supreme Court.

Listen closely: None of this was true. But by the time Mr. Ashcroft finished painting his false portrait of Justice White, his republican colleagues had fallen into line and were distributing a memo that described the nominee as "notorious among law enforcement officers in his home state of Missouri for his decisions favoring murderers, rapists, drug dealers and other heinous criminals."

This was a sick episode. Justice White was no friend of criminals. And a look at the record would have shown that even when it came to the death penalty he voted to uphold capital sentences in 70 percent of the cases that came before him. There were times when he voted (mostly with the majority) to reverse capital sentences because of procedural errors. But as my colleague Anthony Lewis pointed out last week, judges appointed by Mr. Ashcroft when he was governor of Missouri voted as often as Justice White—in some cases, more often—to reverse capital sentences.

But the damage was done. Mr. Ashcroft's unscrupulous, mean-spirited attack succeeded in derailing the nomination of a fine judge. The confirmation of Justice White was defeated by Republicans in a party-line vote. The Alliance for Justice, which monitors judicial selections, noted that it was the first time in almost half a century that the full Senate had voted down a district court nominee.

The Times, in an editorial, said the Republicans had reached "a new low" in the judicial confirmation process. The headline on the editorial was "A Sad Judicial Mugging."

So much for the fair-minded Mr. Ashcroft.

A Republican senator, who asked not to be identified, told me this week that he could not justify Mr. Ashcroft's treatment of Ronnie White, but that it would be wrong to suggest that the attack on his nomination was racially motivated.

That may or may not be so. It would be easier to believe if Mr. Ashcroft did not have such a dismal record on matters related to race. As Missouri's attorney general he was opposed to even a *voluntary* plan to desegregate schools in metropolitan St. Louis. Just last year he accepted an honorary degree from Bob Jones University, school that is notorious for its racial and religious intolerance. And a couple of years ago, Mr. Ashcroft gave a friendly interview to Southern Partisan magazine, praising it for helping to "set the record straight" about issues related to the Civil War.

Southern Partisan just happens to be a rabid neo-Confederate publication that ritually denounces Abraham Lincoln, Martin Luther King Jr. and other champions of freedom and tolerance in America.

This is the man George W. Bush has carefully chosen to be the highest law enforcement officer in the nation. That silence that you hear is the sound of black Americans not celebrating.

[From Time Magazine, Jan. 2, 2001]

THE WRONG CHOICE FOR JUSTICE

(By Jack E. White)

What was president-elect George W. Bush thinking when he selected John Ashcroft as his nominee for Attorney General? That since he was designating three superbly qualified African Americans for high-level positions—Secretary of State Colin Powell, National Security Adviser Condoleezza Rice and Secretary of Education Rod Paige—blacks would somehow overlook Ashcroft's horrendous record on race? Or that it was compassionately conservative for Bush to hire a man who had just lost re-election as Missouri's junior U.S. Senator to a dead man? (Governor Mel Carnahan, who died in a plane crash during the campaign, won the seat, and his widow is serving in his place.) It certainly couldn't have been that appointing Ashcroft would enhance Bush's image as a uniter, not a divider. Ashcroft's positions on civil rights issues are about as sensitive as a hammer blow to the head.

It's puzzling, because the nomination of an extremist like Ashcroft is so needlessly out of synch with the rest of Bush's utterly respectable Cabinet choices. He could have satisfied the right by selecting Oklahoma Governor Frank Keating, who is as tough on crime as Ashcroft, yet far less controversial. But as we are about to find out, Ashcroft won't be confirmed without a fight. The angriest coalition of liberal, civil rights and feminist organizations Washington has seen since the 1987 battle over Supreme Court nominee Robert Bork is lining up to oppose him. The opposition's leaders concede that as a former member of the club, Ashcroft would normally sail through the Senate. But since Ashcroft has been on the wrong side of every social issue from affirmative action to hate-crimes legislation and women's rights, there may be a chance to peel off enough moderate Republicans to make him the first Cabinet appointee to be bounced since 1989, when John Tower lost his chance to be Secretary of Defense for President Bush the Elder.

Pushing Ashcroft through will cost the younger Bush considerable political capital, and might be only the start of his headaches. As a leading G.O.P. strategist puts it, "The risk will be that about every six months, [Ashcroft] will do something that he thinks is clever or politically interesting, and they will open their papers at the White House and say, "What the hell is he doing?" Certainly there is plenty in Ashcroft's record to unsettle fair-minded conservatives—and to raise questions about the sincerity of Bush's attempts to reach out to blacks. As the St. Louis Post-Dispatch noted in an editorial in December, Ashcroft "has built a career out of opposing school desegregation in St. Louis and opposing African Americans for public office."

When he served as Missouri's attorney general in the 1980s, Ashcroft persuaded the Reagan Administration to oppose school-desegregation plans in St. Louis, then used the issue to win the governorship in 1984. Since his election to the Senate in 1994, Ashcroft has consistently appealed to the right wing of his party, even when his approach risked appearing racist. He fought unsuccessfully against the confirmation of David Satcher, a distinguished black physician, as surgeon general, because Satcher proposes a ban on late-term abortions. In 1998 Ashcroft told the neo-segregationist magazine Southern Partisan that Confederate war heroes were "patriots." In 1999 he accepted an honorary degree from South Carolina's Bob Jones University, which hadn't yet dropped its ridiculous ban on interracial dating.

Most disturbing of all, as Ashcroft was gearing up a short-lived campaign for the White House last year, he verbally attacked Missouri Supreme Court Justice Ronnie White, an African American whom Bill Clinton has appointed to the federal bench, for supposedly being "pro-criminal" and soft on capital punishment. The charge was outright slander. White had voted to uphold the death sentence in 41 of the 59 cases that came before him, roughly the same proportion as Ashcroft's court appointees when he was Governor. No wonder Gordon Baum, leader of white supremacist Council of Conservative Citizens, in 1999 included Ashcroft along with Pat Buchanan in the circle of politicians he'd like to see in the White House.

Does Baum know something Bush doesn't? Can Ashcroft be trusted to oversee the investigation of alleged voting-rights abuses in Florida, which many blacks believe disenfranchised them and delivered the presidency unfairly to Bush? This is one nomination that, pardon the pun, should be consigned to the Ashcroft of history.

Mr. LEAHY. The point is, the Fraternal Order of Police were dismayed that he was defeated on the basis that he might be anti-law enforcement. They pointed out that he was pro-law enforcement. The concern has been expressed and was expressed at the hearing for Judge White, concern that prompted an apology from some Republicans who had voted against Judge White, regarding the way he was basically ambushed—that is the expression that has been used—on the Senate floor. We have never had a case where a judicial nomination has been voted out of the Judiciary Committee, brought to the Senate floor, and then defeated—in this case, on a party-line vote.

What happened and what has created a great deal of concern is that here is a person who came from very humble beginnings, worked his way through law school, was considered a highly respected member of the bar in Missouri, became a justice of the Supreme Court of Missouri, and then, sort of at the pinnacle of his legal career, was nominated to be a Federal district judge. He went through the hearings in the Judiciary Committee, was voted out by the Judiciary Committee by a lopsided margin. It comes to the floor and then, in a party-line vote, is defeated.

As my friend from Oklahoma mentioned, the Missouri State Lodge of the Fraternal Order of Police indicated that on behalf of 4,500 law enforcement officers they viewed Justice White's record as a jurist as one whose record on the death penalty was far more supportive of the rights of victims than of the rights of criminals. The president of the Missouri police chiefs association described Justice White as an upright, fine individual. They had a hard time seeing that he was against law enforcement and never thought of him as pro-criminal.

One can debate a judge's position. Basically, as I said, he voted on death penalty cases 95 percent of the time with justices appointed by then-Governor Ashcroft. What bothered me and bothered a lot of Senators—and bothered Republican Senators who publicly then apologized to Judge White—was the fact that he was basically ambushed on the Senate floor.

There was testimony before our Judiciary Committee that it was not his vote on one particular case but, rather, the fact that he was made a political pawn in a Senate race. That is wrong.

We should keep the judiciary out of politics. He was dragged in and his reputation was unnecessarily besmirched. His career was damaged. All he had worked for all of his life was for naught, and it was done for political purposes.

That is what most people objected to. That was certainly what the letters indicated that I have received—including concern expressed by people who told me, first and foremost, they voted for then-Governor Bush to become President Bush but felt that this was wrong.

Mr. NICKLES. Mr. President, just to give a little different flavor, I don't like the word "ambush" applied to Judge White.

To clarify again a couple of things that happened, the reason why this Senator voted against him—and I would guess the reason why the majority of Republicans voted against him—was because we received a letter from the National Sheriffs' Association that said: Vote against Judge White. They had good reasons expressed in that letter. In this principal case that we are talking about, three deputy sheriffs were murdered, and the wife of a sheriff was murdered, and Judge White was the sole judge saying: Let's retry it; let's have a new hearing. The Missouri law enforcement community was very opposed to that.

In addition to that, several Chiefs of Police contacted us and suggested we vote no, and to review this dissent. We also heard from prosecutors about this case and other cases who said vote no on Judge White.

The Missouri Fraternal Order of Police sent us a letter in support of Judge White, but they sent that letter after the vote.

Why did we have the vote at that time? Our colleagues on the Democrat side were clamoring for a vote. Why did people vote for Judge White in committee and then vote against him on the floor? The letters of law enforcement did not come up until after he was approved by the Judiciary Committee. I will grant my colleague from Vermont that later there were other letters from law enforcement.

The letter from the National Sheriffs' Association was not before the Judiciary Committee. I wish they would have written it before the Judiciary Committee had voted, but they did it afterwards when it was the pending nomination before the floor of the Senate.

One other clarification I wish to repeat is that I am just very troubled by the allegation that he was opposed because of his race because most people did not know what his race was. I sat through a meeting where these letters by law enforcement were discussed, and Judge White's race was never mentioned. I know that to be the case. I sat in that meeting. That wasn't an issue. It didn't come up.

What came up was law enforcement opposition and at that time the only law enforcement letters we saw were in opposition. If we had the letter from the FOP saying confirm him, maybe that would have made a difference, and probably would have. Maybe if the sheriffs' organizations would have gotten their letter out before the Judiciary Committee vote, it might have made a big difference in the Judiciary Committee. Timing is important. But it is important to remember that the reason why we had the vote on the floor at that time, I believe, was because our colleagues on the Democrat side were clamoring for a vote.

I don't like the word "ambush." Maybe that vote should have been delayed so we could have had a little more discussion of why these law enforcement groups were against him. Maybe some might have been for him given more time to enter into that debate. But that didn't happen, and I wasn't involved in scheduling the vote.

But my point is I didn't feel as though he was ambushed. I do say what was unique was that during my 20 years in the Congress, this is the only time I can remember national law enforcement agencies coming up and saying vote against this person, which is what they did in contacting Members of the Senate. I think that is the reason Judge White went down.

Be that as it may, there are lots of other issues dealing with John Ashcroft.

Again, I think John Ashcroft is one outstanding individual who is more than qualified to be Attorney General of the United States. And I am absolutely confident that when he is confirmed, we will look back and say he is an outstanding Attorney General for the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, just so the RECORD is straight on law enforcement officers, it is interesting that there was no contact of anybody on this side. Senator Ashcroft said the reason he stopped Judge White was because of that urging of law enforcement groups. But then subsequently, press reports and then the reports by the law enforcement officials themselves and Senator Ashcroft's own testimony at his hearing contradicted that; that he had instigated and orchestrated the groups' opposition to Ronnie White. I am not suggesting Ronnie White was defeated because he was an African American, but it would be hard for anybody not to know he was insofar as that was mentioned at great length in the debate the day before and the debate just before the vote by those who were on the floor debating it.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 10:45 a.m. shall be under the control of the Senator from Connecticut, Mr. LIEBERMAN. He is so recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I have known John Ashcroft for almost 40 years, as a college classmate, a fellow State attorney general and a colleague in the Senate. Throughout that time, our views on important issues very often have diverged, but I have never had reason to doubt his sincerity or his integrity. It strikes me in this regard that the often-noted and sometimes derided notion that Senators judge their colleagues more leniently than outsiders misses an important point. It is not that we reflexively defer to our former colleagues. It is instead that we as human beings find it tremendously difficult to pass judgment on those we have worked with and know well. And it is because I have known Senator Ashcroft for so long that I find the conclusion I have reached—which is to oppose his nomination—so awkward and uncomfortable. But that is where my review of the record regarding this nomination and my understanding of the Senate's responsibility under the advice and consent clause lead me.

Throughout my tenure in the Senate, I have voted on hundreds of Presidential nominees. In each case, I have adhered to a broadly deferential standard of review. As I explained in my first speech on the Senate floor—in which I offered my reasons for opposing the nomination of John Tower to serve as Defense Secretary—the history of the debates at the Constitution Convention make clear that the President is entitled to the benefit of the doubt in his appointments. The question, I concluded, I should ask myself in considering nominees is not whether I would have chosen the nominee, but rather whether the President's choice is acceptable for the job in question.

That does not mean that the Senate should serve merely as a rubber stamp. Were that the case, the Framers would have given the Senate no role in the appointments process. Instead, the Senate's constitutional advice and consent mandate obliges it to serve as a check on the President's appointment power. As I put it in my statement on Senator Tower's nomination, I believe this requires Senators to consider several things: First, the knowledge, experience, and qualifications of the nominee for the position; second, the nominee's judgment, as evidenced by his conduct and decisions, as well as his personal behavior; and third, the nominee's ethics, including current or prior conflicts of interest. In unusual circumstances, Senators can also consider fundamental and potentially irreconcilable policy differences between the nominee and the mission of the agency he or she is to serve.

On a few occasions during my 12 years in the Senate, I have determined that the views of certain nominees—on both ends of the political spectrum—fell sufficiently outside the mainstream to compel me to oppose their nominations. In each case, I had serious doubts about whether they could credibly carry out the duties of the office to which they were nominated. In 1993, for example, I voted against President Clinton's nominee to head the National Endowment for the Humanities because I believed that his active support of so-called college speech codes cast doubt on his ability to administer the NEH appropriately. That same year, I expressed opposition to another of President Clinton's nominees—his choice to head the Justice Department's Civil Rights Division—because I feared that her writings and speeches demonstrated an ideological vision of what the voting rights laws should be that was so far from what they had been that I was reluctant to put her in charge of enforcing those laws, regardless of whether or not she had pledged to abide by the law as it existed.

In 1999, just last year, I concluded that a nominee to the Federal Election Commission held views on the nation's campaign finance laws that were so inconsistent with the FEC's mission that I could not in good conscience vote to place him in a position of authority over that agency. And just this week I reached a similar conclusion with respect to President Bush's nominee to lead the Interior Department.

In short, although I believe that the Constitution casts the Senate's advice role as a limited one and counsels Senators to be cautious in withholding their consent, I nevertheless have opposed nominees where their policy positions, statements, or actions made me question whether they would be able to administer the agency they had been nominated to head in a credible and adequate manner. Regretfully, I conclude that such a determination is again warranted on this critically important nomination—because of the record of the nominee and because of the position for which he has been nominated.

The Justice Department occupies a unique role in the structure of the Federal Government. As its mission statement declares, the Justice Department exists "to ensure fair and impartial administration of justice for all Americans." No other agency every day and every hour makes decisions about how and on whom to bring to bear the force of the criminal and civil law, making countless decisions not only on whom to prosecute or sue, but also on how harsh a sentence to seek and even on who—in the name of the people of the United States—should face death as punishment for their actions. No other agency has such broad and sweeping authority to take away our citizens' life, liberty or property—an authority we as Americans accept because no other agency has more consistently sought to exemplify the rule of law and the abiding American aspiration of equal justice for all. No other official of the United States government bears as great a responsibility as does the Attorney General for protecting and enforcing the rights of the vulnerable and disenfranchised in our society. If we are to sustain popular trust in the law, which is so important for "domestic tranquility," it is absolutely critical that the Department which is charged with enforcing the law not only be administered according to law, but also that the great majority of

Americans have confidence in the fairness and integrity of its leadership.

Unfortunately, Senator Ashcroft's past statements and actions have given understandable suspicions to many citizens—particularly some of those whose rights are most at risk—that he will not lead the Department in a manner that will protect them. Others have detailed his record so extensively that I need not do so again. Suffice it to say that on issues ranging from civil rights to privacy rights, Senator Ashcroft has repeatedly taken positions considerably outside of the mainstream of American thinking.

When given the opportunity to consider laws as Missouri's Governor and enforce them as Missouri's attorney general, he took actions that today raise serious questions among many in this country about his commitment to equal justice and opportunity. In speeches and articles, he has spoken and written words that have particularly led many in the African-American community to question his sensitivity to their rights and concerns. And, when acting on nominees in the Senate—including Judge Ronnie White and Ambassador James Hormel—he has made statements that have raised sincere questions in the minds of many about whether he will make fair and appropriate decisions regarding groups of Americans that have frequently been victimized by discrimination.

The cumulative weight of these words and deeds leaves me with sufficient doubt about Senator Ashcroft's ability to appropriately carry out—and be perceived as appropriately carrying out—the manifold duties of Attorney General, so that I have decided not to support his nomination.

Before yielding the floor, I would like to comment on one more issue that has come up during the consideration of this particular nomination: Senator Ashcroft's religious beliefs and his public profession of his faith. During the time since the President nominated Senator Ashcroft, many have argued—too often privately—that Senator Ashcroft's deeply held beliefs and his religious practices somehow cast suspicion on his ability to serve as Attorney General. I emphatically reject—and am confident my colleagues will reject—any suggestion that Senator Ashcroft's religious beliefs bear in any manner at all on the consideration of his nomination.

All across this nation, tens of millions of Americans of a multitude of faiths daily and weekly make professions of faith privately and publically that elevate, order and give purpose to their lives. To suggest that all of us who believe with a steadfast faith in a Supreme Being as the Universe's ultimate Sovereign have an obligation to mute one of our faith's central elements if we wish to serve in government is not to advance the separation of church and state, but instead to erect a barrier to public service by Americans of faith which is totally unacceptable. To consider the private religious practices of a nominee or a candidate for public office which are different from most—whether Pentecostal Christian, Orthodox Jewish, Shia Muslim, or any other faith—as a limitation on that person's capacity to hold that office is profoundly unfair. It is wrong.

Nowhere in the first amendment or anywhere else in the Constitution or in the jurisprudence surrounding them is there any suggestion that of all the values systems that those in public life are permitted to draw upon to inform their views and their actions, religion stands alone as being off limits. Let us remember that the Constitution and the Bill of Rights were drafted by people of faith whose belief in the Creator was the direct source of the rights with which they endowed us and which we enjoy to this day. To suggest that one may justify his or her views on abortion, environmental protection, or any other issue with reference to a system of secular values, but not by drawing upon a tradition of religious beliefs, seems to me to be at odds not only with the freedom of religion and expression enshrined in the first amendment, but also with the daily experience of the vast majority of our fellow citizens. The first amendment tells us that we may not impose our religion on others. It most decidedly does not say that we may not ourselves use our religion to inform our public and private statements and positions.

It is Senator Ashcroft's record, not his religion, that we should judge. I admire Senator Ashcroft for his private and public adherence to his faith, but for the reasons stated above, based on his record, I will vote against his confirmation.

Mr. LEAHY. I ask unanimous consent that I be able to continue for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, while the distinguished Senator from Connecticut is on the floor, I appreciate the last part of his remarks. I will speak more about it later today.

I am concerned that there has somehow been this strawman put up as though there is a religious test. As I and others stated at the beginning of these hearings and as I stated on the floor, one of the things I admire most about Senator Ashcroft is his commitment to his family, his commitment to his religion. As practically everybody has pointed out, whether we are for or against him as Attorney General, these are two things we have admired the most: his commitment to his family and his commitment to his religion. There should be no doubt about that in the public's mind.

The PRESIDING OFFICER. The Chair recognizes that under the previous order the time until 11 a.m. shall be under the control of the majority party. We have gone over by 10 minutes, so the Senator is recognized for 10 minutes. If the Senator's remarks are 15 minutes in length, he can ask unanimous consent for that time.

The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, thank you for your courtesy.

Over the past 8 years, I believe our Justice Department has floundered dangerously, challenging our most basic understanding of the rule of law and starkly reminding us in America of the awesome power of the Federal Government and the dangers that the exercise of that power can present to a free society such as ours. I believe public confidence in our system of justice has been seriously damaged in the past 8 years and that our country has suffered as a consequence.

I believe it is time to restore the public trust, and I do not believe there is a better qualified or more honorable man to do that job than Senator John Ashcroft, our former colleague. Indeed, he is one of the most, if not the most, experienced nominees for Attorney General we have ever had in our history. He is one of the best educated, most experienced nominees for Attorney General I have seen in my 23 years in Washington.

What is most outstanding about Senator Ashcroft is not his resume, although we could go on and on and on about that. It is not his strong record of leadership as the attorney general of his State of Missouri and his leadership as the Governor of the State of Missouri. No, it is not his impressive legislative accomplishments in the Senate.

I submit what is most outstanding about John Ashcroft is his character. It is the strength of that character that makes him so well suited to be Attorney General of the United States. His principles and his integrity underscore the kind of leadership the Justice Department so desperately needs and the American people so rightly deserve in an Attorney General.

John Ashcroft's conscience and his conviction ensure rather than question his commitment to enforce the laws of our land fairly and impartially. I do not believe even for a moment that Senator Ashcroft's most fierce opponents truly believe he will not endeavor to enforce our laws faithfully. While his conservatism threatens them, their real fear, I believe, is that he will enforce the law without prejudice, that he will be uniform in his application. This is because their greatest ideal, I believe, is to use the Justice Department as a tool to advance the political and social agenda of America by selectively enforcing laws with which they agree and ignoring those with which they disagree.

John Ashcroft. I submit to you, is not going to do that. As a man who respects the rule of law and the importance of the public trust in our justice system, I have no doubt that he will enforce the laws of the land rather than creatively interpret them, twist or contort them to match his personal beliefs.

I am pleased to support the nomination of John Ashcroft to be the Attorney General of the United States. I sincerely believe he will honor the office of Attorney General and he will restore integrity to the Justice Department. I look forward to his confirmation later today by the Senate and his future service to the United States of America.

The PRESIDING OFFICER. The Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, I trust the debate is moving along toward a successful vote here in the not too distant future.

I rise today to emphatically support the nomination of John Ashcroft to become the next Attorney General of the United States. He has served our Nation with distinction and with honor. I do not take lightly my senatorial duties to review the qualifications of any nominee for this office. The Attorney General is the Nation's highest law enforcement officer, and without the strong and faithful execution of the laws we pass, representative democracy shall fail. Our laws become mere words. It is with this understanding, and a high personal regard for the office, that I support John Ashcroft's nomination.

It has become clear to me and others, after following the unusually personal debate on this nomination, that no one can question John's qualifications to perform the duties of this job. In fact, I believe one would be hard-pressed to find a more qualified, experienced nominee. John has served with distinction, as has been noted and stated, as attorney general, as Governor, and as U.S. Senator in this body. Not once during his long and successful tenure as a public servant has he ever failed to uphold an oath of office.

Think about that. We have had some experience in debating the merits of the oath of office and just what it means. I think to all of us it is a very sacred oath, a very meaningful oath, and one that should be reflected on. John has never failed to uphold his oath of office in any capacity. I know John Ashcroft does not plan on starting now.

Unfortunately, this nomination process has done a grave disservice to a very decent and honorable man. We as legislators often disagree on policy. I am sure I have disagreed with John on some issues. But our actions as legislators are guided by our own personal convictions. We must vote our conscience and represent the people who graced us with their votes.

But we are not here to elect a legislator. Rather, we deal with the office of the Attorney General of the United States. This is not John Ashcroft the Senator but, rather, John Ashcroft the Attorney General. Like all of us who have served in different roles throughout our lives, I know John fully understands his position in government.

John will faithfully enforce our Nation's laws without a hint of personal bias or a hidden agenda. He will uphold the rule of law for all Americans, enforcing laws as they are enacted by the Congress. At the end of the day and at the end of this debate, my vote will be cast in favor of this nomination for one simple reason: John Ashcroft is a man of his word. I have yet to hear anyone demonstrate in this debate that he is not.

John has clearly stated numerous times that he will not allow his personal beliefs to interfere with his ability to enforce the law. I believe him. Throughout his long and successful career, he has never, never given anyone a reason to doubt his word. I thank John for his willingness to further serve our Nation and his willingness to withstand the numerous unjustified personal attacks that have been made on him. My thanks will be expressed in my vote in favor of the nomination. I encourage my fellow Senators to do the same.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:10 a.m. shall be under the control of the Senator from North Carolina, Mr. EDWARDS. The Senator from North Carolina is recognized.

Mr. EDWARDS. I thank the Chair.

Mr. President, the Nation is emerging from an extraordinarily close election that has left much of the country feeling divided. It is a time when all of us have an enormous responsibility to unite our country. In order to unite this country, we have to turn to leaders who inspire confidence and bring us together. In my judgment, with the nomination of Senator Ashcroft, President Bush has fallen short of that goal.

Why has he fallen short? Because in a time when our country desperately needs a unifier, the President has nominated a man to be the chief law enforcement officer of the country—the people's lawyer, the lawyer for all the people—who has a long record of divisive and inflammatory rhetoric which results in him being viewed as a polarizing figure.

There are some folks who argue that his positions are just the result of very deeply held beliefs. Some people believe his positions are extreme. In the end, the one thing that is certain is that he is, in the view of many Americans, a polarizing and divisive figure.

Senator Ashcroft opposed the nomination of Ronnie White, a very well-respected African American justice on the Missouri Supreme Court, for what at least appeared to be simply political reasons. In opposing the nomination of Justice White, Senator Ashcroft used words and language that not only were inflammatory but showed a fundamental disrespect for a man who had lifted himself out of poverty, worked his entire life to become a justice on the Missouri Supreme Court, and committed his professional life to the fair administration of justice.

It is not unfair for some Americans to question whether Senator Ashcroft can adequately represent their public interests given his history.

Some argue that Senator Ashcroft, in fact, has given his word that he will follow the law and enforce the law. The problem is that the realities of the Justice Department are that there are daily choices the Attorney General will be required to make. He will be required to decide which laws will be vigorously enforced and which laws will be defended from attack.

Senator Ashcroft has spoken very eloquently about the reasons he pursued certain cases while he was attorney general of Missouri and why he challenged certain laws and legislation. Whether you agree or disagree with what Senator Ashcroft did as attorney general of Missouri, you can count on the fact that those same situations can and will arise, in fact, during the term of the next Attorney General of the United States.

The Attorney General will be required to make daily decisions, discretionary decisions, that are critical to the lives of very many Americans. Again, it is not unfair for some Americans to question whether Senator Ashcroft, even keeping his word, which he has given us, will make decisions that will adequately represent and protect them given his prior statements and actions. The question is whether he will, in fact, be all the people's lawyer, as he has a responsibility to be.

The post of the Attorney General is very different from other Cabinet posts. The Attorney General advises the President about the constitutionality of the legislation he is being asked to sign. He makes recommendations to the President about judicial nominations. As I already discussed and as others have discussed, Senator Ashcroft's history does not support the notion that he will recommend candidates for nomination to the Federal bench solely on the basis of their qualifications and abilities to serve.

It is critical to note that the Attorney General is not the President's lawyer, he is the people's lawyer. He represents our Nation before the U.S. Supreme Court. Senator Ashcroft once called a U.S. Supreme Court decision "illegitimate." Again, such statements show a fundamental disrespect for the rule of law which we believe is so critical in this country. When our U.S. Supreme Court speaks, whether we agree or disagree with them, they are the final word and they are the law of the land.

It is very important to recognize also that the vast majority of the decisions that will be made by our Attorney General over the next four years will be difficult judgments made behind closed doors and under the national radar screen, outside the television cameras. When so many Americans believe that when the doors are closed and the lights and the cameras are off, Senator Ashcroft will not protect their interests, our responsibility is to do what is best for the country. The people have to believe that the Attorney General is the people's lawyer and that he will serve all Americans.

Some of Senator Ashcroft's supporters suggest that the opposition to him is about his religion and about his faith. I want to make clear that I think strong faith is an enormous asset in any public servant. In fact, personal touchstones of faith and morality are critical to providing leadership and governance in this country.

I served with Senator Ashcroft in the Senate. I know him, and I absolutely believe his strong faith is deep and sincere. I applaud and, in many ways, share the strength of his religious conviction and his religious faith. It is certainly not because of his faith that I reach the decision I do today. In fact, it is in spite of it.

In conclusion, at a time when our Nation desperately needs unifying leaders, Senator Ashcroft is the wrong man for the wrong job at the wrong time. So it is with deep regret that I will not be able to support the nomination of Senator Ashcroft.

I yield back the remainder of my time.

(Disturbance in the galleries.)

The PRESIDING OFFICER (Mr. ALLARD). There will be order in the galleries.

The Chair recognizes the Senator from Texas, Mr. GRAMM.

Mr. GRAMM. Mr. President, I have to say that as I listen to this organized campaign against John Ashcroft, I sometimes wonder if there is not an effort to make the love of traditional values a hate crime in America.

Fifty years ago, a person who set out to engage in public service might unfairly be criticized for not being a member of a church or not professing religion, but who would have thought 50 years later that a man would be mocked for holding a deeply held faith? Who would have thought 50 years later that calling on the Almighty to help you fulfill trusts that were given to you by your State and your Nation would be held up to ridicule?

The plain truth is, we may have "In God We Trust" on our coins, but we do not have it in our heart.

As I have looked at this caricature that has been created, that his opponents claim is John Ashcroft, this is not the man I know. This is not the man with whom I have worked for 6 years. This is not the man whose son attended college with my son. This is not the man who, in public or private in 6 years, I never heard say a mean word against anyone. This is not the man who, remarkably, in my opinion, can express himself without ever using profanity.

I hear him criticized for opposing judges with no good reason, and yet in the case of Judge White he was opposed by 77 sheriffs in the State. He was opposed by both Senators, and he was opposed and rejected by the Senate on an up-or-down vote.

In short, when I look at all of these criticisms, and when I weigh them against the bottom line facts, there is no basis for them at all.

I thank JON KYL and I thank JEFF SESSIONS for the excellent job they have done in putting out the facts.

A person who fits the ugly caricature that has been presented here in the Senate and around the country could not be the John Ashcroft I know.

A person who fit that ugly caricature could not have been elected Attorney General twice in the State of Missouri. A person fitting that caricature would not have been chosen by his fellow attorneys general to be the president of the National Association of Attorneys General. A person who fit the ugly caricature presented here could not have been elected Governor of Missouri twice, and would not and could not have been chosen by his 49 fellow Governors to head the National Governors' Association.

I know George Bush. I have a pretty good idea what is in his mind and in his heart. And a person who met this ugly caricature that we hear could not and would not have been nominated by George Bush. The plain truth is that John Ashcroft is probably the most qualified person ever to be appointed Attorney General.

I want to conclude with this thought. I am beginning to wonder if this was all an effort to smear and defeat John Ashcroft or whether this was an effort to cow John Ashcroft; whether this is an effort by those who lost the election, who hold views that are alien to the views of most Americans, to try, through smearing John Ashcroft, to cow him in office, and in the process prevent him from carrying out George Bush's agenda. I want to say I vote for John Ashcroft with the happy knowledge that that effort will fail.

I yield the floor.

The PRESIDING OFFICER. The Senator's time does not expire until 11:15. Does he wish to yield that time?

Mr. GRAMM. I yield that time to my dear colleague.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today in support of John Ashcroft. It will not take me long to make my point.

Although I represent the State of Montana, I was raised in the State of Missouri on a small farm, and I understand some of the mindset that is in that State. My mother and father both were active in the Democratic Party. Mom was in the State Democratic Committee in that State and was county chairman. She often wondered what happened to me, but I tried to explain to her about it one time: When you see the outside world, maybe your philosophy changes just a little bit.

I have heard nothing but those who would have reservations about John Ashcroft enforcing the law. It would seem to me, after two terms as attorney general in the State of Missouri, two terms as Governor, and 6 years in the U.S. Senate, it would surface somewhere that he would not.

I thank Senator KYL and Senator SESSIONS for the research they have done. I have talked to some of the law enforcement people in Missouri and have done some research in my own home State of Montana. What I have found is that we couldn't have chosen a better man to represent this country in the halls of the Attorney General. I shall support him—and support him wholeheartedly—because we have a man of substance and of fiber.

I thank my good friend from Texas for yielding some of his time. I also thank my good friend, Senator WELLSTONE from Minnesota, for yielding some of his time he has reserved and allowing me to go at this time.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:45 shall be under the control of the Senator from Minnesota, Mr. WELLSTONE.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I have voted for any number of the President's nominees to serve in our Cabinet, even though I am 100-percent sure I am going to be in disagreement with them on some of the really major public policy questions that face our country.

It is very rare that a Cabinet nominee is defeated by the Senate. It does not happen very often. There is a presumption that the President should be allowed to choose his or her people to serve in the Cabinet. In addition, I do know Senator Ashcroft. I respect his religious convictions. I have had personal interaction with him, which I have enjoyed. And if he is confirmed, I will wish him the very best because he will be Attorney General for our country.

But there is also a set of other questions that are important to me as a Senator from Minnesota. To be the Attorney General, and to head the Justice Department, is to be the lawyer for all the people in the country.

I had a great man who worked for me here who passed away from cancer this last year, Mike Epstein. When I first met Mike, he said to me: I have been in Washington for 30 years, but I still believe in changing the world. I hope we can work together.

He came to the Justice Department and worked with Bobby Kennedy, dealing with enforcement of the Civil Rights Act; the Justice Department, dealing with enforcement of the Voting Rights Act.

Colleagues, in Minnesota, when we were celebrating the life of Dr. Martin Luther King, Jr., I was speaking at a gathering. I didn't expect the reaction. I remember a book Dr. King wrote called "Where Do We Go From Here: Chaos or Community?" I had this cadence where I said: We have a long ways to go. And in the cadence, I said: We have a long ways to go when people of color are pulled along the side of the road on their way to vote because they are people of color.

I could not believe the reaction of the African American community, the Latino community, the Southeast Asian community, and the Native American community. They know that what happened in Florida was wrong. Something went wrong there. And they are very mindful of voting rights, the hate crimes legislation, the Violence Against Women Act, the Church Arson Act.

The Attorney General is the person who advises the President on judicial appointments, whether it be to a Federal district court, the court of appeals, or the U.S. Supreme Court. I do not honestly believe John Ashcroft is the right person to be Attorney General for our country.

Some of my colleagues on the other side of the aisle—I just heard this as I came in, getting ready to speak—have labeled disagreement with this choice and questions that have been raised—I am going to raise civil rights questions; this is my background; this is my life—as a personal attack on John Ashcroft. I don't see it that way.

In fact, I said to John on the telephone: I never will savage you. I don't believe in it. I hate it. Some of my colleagues have spoken on the floor with a considerable amount of eloquence about that.

But my baptism to politics was the civil rights movement. I learned from men and women of color—many of them young, and many of them old, and hardly any of them famous, though they should be famous—about the importance of civil rights and human rights. This is the framework I bring to the Senate. This is why I am going to vote no.

I don't agree with some of the positions Senator Ashcroft took as a Senator, but that is not the basis of my vote.

Some of his views on abortion, to make abortion a crime even in the case of rape and incest, are extreme and harsh. I once said in a TV debate that John Ashcroft gives me cognitive dissonance because I like him as a person and I don't understand how a person whom I like can hold, sometimes, such harsh views. I don't agree with his position on abortion. I don't agree with some of his other positions.

It is not his voting record. Without trying to be self-righteous on the floor of the Senate or melodramatic, I have spent hardly any time with groups or organizations except at the beginning when people came by and I said: Please give me everything to read and let me think this through myself.

I am troubled by the statements made by John Ashcroft and his role in blatantly distorting the record of Judge White. I am going to say "blatantly distorting the record" because I think that is what happened. The evidence is compelling. We heard from Judge White about that as well. To call him a pro-criminal judge on the basis of the decisions he had rendered—I don't want to say it was "extraordinary"—crossed a line. I have a right as a Senator to say, if John Ashcroft, as Attorney General, with the key position he would be playing in terms of judges and the Federal judiciary, is going to use the same standard and the same methodology he used to oppose Justice White, then a lot of justices, a lot of men and women who could serve our country in the Federal judiciary, will never make it. That is one of the reasons I oppose this nomination.

The question was put to John Ashcroft in the committee about his opposition to Jim Hormel: Did he oppose Jim Hormel because he was gay? Senator Ashcroft stated that "the totality of circumstances suggested that Mr. Hormel would not make a good ambassador." What made up that totality? Senator Ashcroft didn't attend Mr. Hormel's hearings. He refused to meet with Mr. Hormel. He never returned any of Mr. Hormel's calls. And in the hearing, John Ashcroft suggested or stated that Mr. Hormel "recruited him" to the University of Chicago School of Law. But Mr. Hormel says: I don't ever recall recruiting anybody for the University of Chicago. And he can't remember a single conversation with John Ashcroft over the past 30-some years.

John Ashcroft also told us, in the battle over the nomination, that Mr. Hormel, by simply being an openly gay man who is also a civic leader, has "been a leader in promoting a lifestyle, and the kind of leadership he has exhibited there is likely to be offensive to individuals in the setting in which he is assigned," suggesting that Luxembourg, as a Catholic nation, would find it difficult to receive him.

The evidence is that Luxembourg openly embraced him. He was a great Ambassador. It is also a questionable assumption, because it is a Catholic country, that Catholics would not embrace a person, would not judge a person by the content of his character.

I want to be clear that as a Senator, as I think about who should head the Justice Department and who should be the Attorney General and I think about my own life, when I was teaching, I used to insist that students answer the following question: Why do you think about politics the way you think about politics? Then I never graded their answer. I just wanted them to think about what really shaped their viewpoint. I have been thinking a lot about that in relation to this debate. There are sets of facts and different versions of truth and all the rest.

What shapes my viewpoint? I am a product of the civil rights movement. I am not a hero like JOHN LEWIS, but I helped. Men and women in the civil rights movement were my teachers. This is a civil rights vote. This is a human rights vote.

I know that John and his supporters will say: Judge us by what is in our heart. For people across the country, people of color, people who have a different sexual orientation, they judge you by your actions. They judge you by what you have said. And I believe the Justice Department has to be all about justice. I don't think John Ashcroft is the right person to head this Justice Department.

It is not any one thing. I will be honest. I will admit a bias. I don't have a great feeling for Bob Jones University. As long as we are talking about race, they banned dating between students of different races and continue to have a policy that states that gay alumni—yes, former students—should be arrested for trespassing when they step foot on the grounds of their alma mater. I don't have a good feeling for this school. I am speaking within the civil rights and human rights framework. I don't know why John Ashcroft accepted an honorary degree. I don't know why you would want to honor such a school. I don't know why you wouldn't want to renounce all of those policies.

It is just one piece of evidence, and I know John has made it clear that he disagrees with some of what the school is about.

I don't understand the interview with Southern Partisan magazine. I find it to be bizarre. This is a magazine which goes out of its way not to promote racial reconciliation or healing but just the opposite. I don't understand John Ashcroft's animus toward Ron White or toward Jim Hormel. If it wasn't that, then it probably was some form of political opportunism. I certainly don't understand the association with Southern Partisan magazine and not even being willing to renounce this magazine or acknowledge his error in doing the interview at the recent hearings.

I don't know why he refused to sign the pledge that his office would not discriminate in its employment practices based on sexual orientation. It is his first amendment right. The point is, we are talking about somebody to head up the Justice Department.

I consider this to be a civil rights vote and a human rights vote. That is why I am voting no. Despite what John Ashcroft said during the hearings about his limited role in the State of Missouri on any number of legal cases dealing with civil rights and human rights, I will discuss his role in opposing what was a voluntary desegregation order. I will highlight the testimony of one who knows John Ashcroft's record in this area best, Bill Taylor. I will highlight Bill Taylor's testimony because I consider him to be a giant. I am proud to say he is one of my teachers. He is a real hero. He is one of those who joined Thurgood Marshall's team in the years just after the Brown decision to work for full implementation of Brown v. Board of Education.

Over two decades, he served as the lead counsel for a class of parents and students in the St. Louis case. During the most active part of that time, John Ashcroft was attorney general and Governor of Missouri. Listen to the words of Bill Taylor in his testimony before the Judiciary Committee:

> I have thought seriously since this nomination about whether Mr. Ashcroft's conduct in the St. Louis case was simply that of a lawyer vigorously defending the interests of the State or whether some of his actions went over the line of strong advocacy and reflect on his qualifications to serve as Attorney General of the United States. My conclusion is that the latter is the case. I believe that in his tenure as Attorney General, Mr. Ashcroft used the court system to delay and obstruct the development and implementation of a desegregation settlement that was agreed to by all major parties except the State.
>
> In so doing, he sought to prevent measures that were a major step toward racial reconciliation in an area where there has been much conflict, and to thwart a remedy that ultimately proved to be a very important vehicle for educational progress. John Ashcroft massively resisted this desegregation effort.

I think the most troubling aspect of the Missouri school desegregation issue, to me, is that John Ashcroft consistently used his fervent opposition to the Federal judge's desegregation order as a political issue in the campaign.

I want to be real clear about it because I am not going to get into any pitched, acrimonious battle with anyone here on the floor of the Senate. But the fact that I talk about his resistance to this voluntary desegregation case is that I am so troubled by the ways in which he went after Justice White; the fact that I talk about Bob Jones University and Southern Partisan magazine is not because I am interested in any personal attack. I already said I don't understand how it is that a person I like so much personally can hold such harsh views. But he is the lawyer for all the people of the United States of America if he is Attorney General. He will head up the Justice Department. This is the Voting Rights Act. This is the Civil Rights Act. This is the Violence Against Women Act. This is all about whether or not you can have a man or a woman—in this particular case a man—who will head the Justice Department and will lead our country down the path of racial reconciliation.

We have a huge divide in the United State of America on the central question of race. We have a question before us as to whether or not we have a man who can lead the Justice Department for justice for all people and who will be a leader when it comes to basic human rights questions. He is not the right choice.

I thank the Judiciary Committee, Democrats and Republicans alike, for the way in which they conducted the hearings.

I say to John Ashcroft, whom I am sure is viewing this debate and listening to all of us, that if confirmed, again, I wish him the very best. He will be the Attorney General for all of us in our country. But I also would like to say, to me, this is, in my 10½ years in the Senate, as close as I can remember coming to a basic civil rights vote, a basic human rights vote, and I cannot support John Ashcroft to be Attorney General and to head the Justice Department; not on the basis of everything I believe in about civil rights and human rights; not on the basis of the younger years of my life; not on the basis of being a United States Senator from the State of Minnesota who had Senator Hubert Humphrey, who gave one of the greatest civil rights speeches ever at the 1948 Democratic Party Convention.

I am in a State which is a civil rights State. I am from a State which is a human rights State which passed an ordnance that said there shall be no discrimination against people, not only by race but sexual orientation, for housing, employment—across the board. Therefore, I vote the tradition of my State; I vote my own life's work "no" to this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that Senator LEAHY's 15 minutes be given to Senator KENNEDY, the Senator from Massachusetts; 7½ minutes to the Senator from Indiana, Mr. BAYH; and 7½ minutes to the Senator from New York, Mr. SCHUMER; and that Senator DASCHLE's time from 12:45 until 1:15 be given to Senator LEAHY.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that the following editorials and materials regarding the nomination of John Ashcroft be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, Dec. 28, 2000]

THE JOKER IN THE DECK

We know that George W. Bush would have to appease the Republican Party's ultra-right-wing.

By nominating John Ashcroft for attorney general, Bush has delivered, big-time. The booby prize goes to the civil rights and human rights communities.

Though Ashcroft's a Missouri Republican—he was attorney general, governor and most recently U.S. Senator—he's a good ol' boy in the old South tradition.

"With the possible exception of Sen. Jesse Helms, I do not believe anyone in the United States Senate has a more abysmal record on civil rights and civil liberties" said Ralph Neas, president of People for the American Way.

Why, Ashcroft was given an honorary degree by the notorious Bob Jones University, the South Carolina school that until recently banned interracial dating.

Meanwhile, graycoats still fighting the Civil War (see Tony Horowitz's book, Confederates in the Attic) must have been glad to read the interview in which Ashcroft delivered a strong defense of Southern "patriots" like Robert E. Lee, Jefferson Davis and Stonewall Jackson.

Does he defend slavery, too?

It's scary that this sort of rhetoric fell so recently from the lips of one who, as attorney general, will oversee the FBI, the Immigration and Naturalization Services, the Drug Enforcement Administration and federal prisons, prosecutors and marshals. The attorney general is often instrumental in the selection of federal judges as well.

Wade Henderson, director of the Leadership Conference on Civil Rights, likened Ashcroft's nomination as "political three card monte."

That's a card game often played by hustlers who scoop up the dollars of suckers convinced that they can pick the right card from among three that the cardsharks shuffle around.

In other words, while many were starting to warm up to Bush with his nominations of retired Gen. Colin Powell and Condoleezza Rice as secretary of State and national security advisor, respectively, the real joker in the deck is Ashcroft.

"The issue is not whether a senator will vote against Ashcroft's nomination," Henderson said. "The question is whether the Judiciary Committee will conduct a full and fair confirmation hearing that will allow Ashcroft's complete record and philosophy to be presented to the American people."

There already are clues as to what Ashcroft's tenure at the Justice Department could mean.

For example, he opposed President Clinton's nomination of Bill Lann Lee to head the Justice Department's civil rights division. He opposed, unsuccessfully, David Satcher's appointment as Surgeon General.

In fact, Ashcroft opposed several of President Clinton's black nominees, especially for the federal bench. He spent two years killing Ronnie White's reputation and elevation to federal judge.

Ashcroft claimed that White, the first black on Missouri's Supreme Court, was more committed to criminals than to victims. In fact, in more than 40 of 58 death penalty cases, White upheld the sentence, and when he didn't he often was joined by judges Ashcroft appointed when he was governor.

We also know that Ashcroft is committed to the death penalty, and is aggressively opposed to the right of choice in women's decisions about pregnancy.

Kate Michelman, of the National Abortion and Reproductive Rights Action League, notes that Ashcroft voted 42 times in the Senate to restrict abortion, and he co-sponsored a bill to outlaw abortion, even in cases of rape and incest.

Ashcroft often received 100 percent ratings from the American Conservative Union, and zero, or near zero, ratings from civil rights and environmental groups. "Bush is playing a very sophisticated game of politics and manipulation," said Henderson, who noted that, in the federal hierarchy, the attorney general is the crown jewel of the social justice movement.

By nominating Ashcroft, Henderson said, the President-elect is showing contempt, "not unlike the contempt his father showed in an equally important position, the U.S. Supreme Court." Under the guise of bringing the best and the brightest, he named Clarence Thomas.

"It's a cruel mockery that speaks volumes about that administration's character and integrity," Henderson said.

With Ashcroft's history, unless there's an epiphany, I wonder whether he will be able to transcend his own beliefs to enforce the laws of the land—whether he likes them or not.

With Ashcroft, George W. Bush confirms many African Americans' worst fears. Moreover, Bush must be listening to those who say he mustn't betray an important GOP base in the name of bipartisanship.

Just forget about healing wounds; act like you've got a mandate, Dubya.

For this liberal, the best thing about John Ashcroft's nomination is its potential to bring even more blacks and minorities to the polls in 2002.

[From the St. Louis Post-Dispatcher, Dec. 24, 2000]

MR. ASHCROFT AND EQUALITY

There is a case to be made that the Senate should confirm John Ashcroft as attorney general. He has a distinguished record of honest and effective public service. He is a smart lawyer who was a strong state attorney general. And the Senate should give some deference to a new president's Cabinet choices.

In addition, Mr. Ashcroft has the institutional tradition of senatorial courtesy on his side. He served in the club and fellow senators will be reluctant to treat him badly.

Nevertheless, the Senate should set aside its sensibilities and scrutinize Mr. Ashcroft's record as it relates to the job of attorney general. In particular, it should investigate Mr. Ashcroft's opposition to civil rights, women's rights, abortion rights and to judicial nominees with whom he disagrees.

The Ashcroft choice is at odds with President-elect George W. Bush's image as a uniter. When Mr. Ashcroft was running for president in 1998, he said: "There are voices in the Republican Party today who preach pragmatism, who champion conciliation, who counsel compromise. I stand here today to reject those deceptions." So much for compassionate conservatism and bipartisanship.

It would be an exaggeration to say Mr. Ashcroft is a racist. It would be an exaggeration to say Mr. Ashcroft is a racist. He recalls that his father, a noted evangelist, urged him as a boy to read Richard Wright's account of the trials of a black youth in "Black Boy." Africans, whom his father had met on church travels, stayed at the family home in segregated Springfield, Mo.

But Mr. Ashcroft has built a career out of opposing school desegregation in St. Louis and opposing African-Americans for public office. As attorney general in the 1980s he lobbied White House counselor Edwin Meese III to help persuade the Reagan Justice Department to switch sides and oppose a broad school desegregation plan in St. Louis. He eventually succeeded.

In the early stages of negotiating the voluntary city-county school desegregation plan in St. Louis, Mr. Ashcroft's office had actually taken a positive role. But Mr. Ashcroft ended up opposing the plan because the state had to pay for it and because he considered it an example of judicial excess. He told the U.S. Supreme Court that he had "little doubt" that "a minority" would be treated better in court than the state.

Mr. Ashcroft's really inexcusable act was riding his opposition to the St. Louis desegregation plan into the governor's mansion. His so-called "McFlip" TV ad, accusing Gene McNary of flip-flopping on desegregation, is credited with helping win a tough GOP primary in 1984.

Mr. Ashcroft's U.S. Senate record deepens the concern about his attitude toward African-Americans. He tried unsuccessfully to block the appointment of Surgeon General Dr. David Satcher. He scuttled the judicial nomination of Ronnie White of St. Louis. He wrote, in a South Carolina magazine, that, "traditionalists must do more" to defend Confederate leaders "or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda." And he accepted an honorary degree from Bob Jones University in 1999. (It's a wonder that Mr. Bush would want to remind anyone of his own disastrous trip there.)

Mr. Ashcroft's successful campaign against Mr. White is especially troubling. He opposed Mr. White for having voted as a Missouri Supreme Court judge to overturn death sentences. Mr. Ashcroft neglected to mention that some of his own appointees had voted to overturn as many capital sentences. Retired Missouri Supreme Court Judge Charles Blackmar, a Republican appointee, criticized Mr. Ashcroft at the time, saying: "The senator seems to take the attitude that any deviation is suspect, liberal, activist and I call this tampering with the judiciary because of the effect it might have in other states . . . where judges, who might hope to be federal judges, feel a pressure to conform and to vote to sustain the death penalty."

Mr. Bush said Friday that he was not worried about the White case because of Mr. Ashcroft's record of appointing African-Americans to the bench. In truth, Mr. Ashcroft had an abysmal record and never appointed a black Supreme Court judge.

Mr. Ashcroft favors the most extreme form of a constitutional amendment to ban all abortions. As state attorney general he filed an unsuccessful antitrust suit against the National Organization of Women because of its economic boycott against states that opposed the Equal Rights Amendment. More recently, he has opposed a strong federal hate crimes law and a bill to bar job discrimination against gays.

All of which raises the question: Is John Ashcroft the person who should be in charge of the nation's civil rights enforcement? Is John Ashcroft the person to protect women who are harassed on their way into abortion clinics? Is John Ashcroft the right person to screen federal judges? In short, is John Ashcroft's commitment to equal justice deep enough to qualify him to be the nation's chief legal officer?

[From the New York Times, Dec. 23, 2000]

MR. BUSH'S RIGHTWARD LURCH

The right-wingers who were beginning to feel like wallflowers at George W. Bush's cabinet dance can stop complaining. Mr. Bush, who made his earlier selections from his party's ideological center, threw a big bouquet to the ultraconservatives yesterday when he chose John Ashcroft, the recently deposed Republican senator from Missouri, for the post of attorney general. The nomination later in the day of Christie Whitman, the moderate Republican governor of New Jersey, to run the Environmental Protection Agency tilted the overall composition of Mr. Bush's early choices back toward the center. But that could not mute the widespread dismay over Mr. Bush's troubling choice of Mr. Ashcroft.

Mr. Bush is clearly hoping that Mr. Ashcroft's old colleagues will extend him the usual senatorial courtesies and confirm him with little dissent. But Mr. Ashcroft's hard-line ideology and extreme views and actions on issues like abortion and civil rights require a searching examination at his confirmation hearing. He should not be given an automatic pass. The Senate is duty-bound to determine whether he will be able to surmount his cramped social agenda to act as the guardian of the nation's constitutional values.

The attorney general has great discretion in deciding how much energy to devote to protecting civil rights, broadening civil liberties, keeping society free of crime, enforcing the antitrust laws and making sure that the president and his cabinet members are held to the same high standards—an area in which the job's present occupant, Janet Reno, has been deficient. More than any other cabinet officer, the attorney general sets the moral tone of an administration.

The position should clearly be filled with someone with a reputation for balance, fairness and independence. Mr. Ashcroft is by all accounts honest and hard-working. Yet he is also, judging by the public record, a man of cramped vision, unyielding attitudes and limited tolerance for those who disagree with him. His actions on racial matters alone are enough to give one pause. As Missouri's attorney general, he opposed even a voluntary school desegregation plan in metropolitan St. Louis. He also conducted a mean-spirited and dishonest campaign against Ronnie White, Missouri's first black State Supreme Court justice, when Justice White was nominated for a federal judgeship. Mr. Ashcroft claimed, erroneously, that Justice White was soft on the death penalty. As an added insult, Mr. Ashcroft also accepted an honorary degree last year from Bob Jones University, a bastion of the Christian right with a history of racial discrimination.

Mr. Ashcroft has been one of the Senate's most adamant opponents of a woman's right to choose an abortion. During his political career in Missouri, he sought to criminalize abortion, and he has consistently supported an extreme constitutional amendment that would ban abortion even in the case of rape or incest. Mr. Ashcroft has a poor record on church-state issues and on gay rights, and a dismal record on the environment. There is thus reason to wonder how vigorously he will help Mrs. Whitman enforce environmental laws.

With Mrs. Whitman, Mr. Bush has offered a far more appealing nominee for high office. His pledge to elevate the E.P.A. post to cabinet level is also commendable. The E.P.A. is no less important than the Interior Department in providing responsible stewardship of the nation's natural resources.

On the plus side, Mrs. Whitman seems genuine in caring about the environment, and as a Northeasterner, she is intimately familiar with the problems of polluted air and water. She joined with Gov. George Pataki of New York in lawsuits aimed at curbing the pollution that drifts eastward from Midwestern power plants, and she has worked to protect the New Jersey coastline by investing in sewage treatment and storm drainage projects. Although land conservation is mainly Interior's responsibility, Mrs. Whitman demonstrated a real appreciation for the importance of saving natural resources for future generations when she sponsored a $1 billion open space program, the largest in New Jersey's history.

On the minus side, she slashed the budget for environmental law enforcement and stopped levying meaningful fines against big polluters. That pro-business mind-set will be disastrous if continued in her new job, as will her oft-repeated but naïve faith in "voluntary" compliance with environmental laws. As Mrs. Whitman will discover, there will be times when negotiating skills simply don't suffice. She must be willing to enforce the law in the face of relentless pressure, not only from the big interest groups but from her superiors in the White House.

[From the Washington Post, Dec. 23, 2000]

Building a Cabinet

President-elect Bush has been assembling a team that for the most part is impressive in stature as well as diversity of race, gender and background. His designation of New Jersey Gov. Christine Todd Whitman to head the Environmental Protection Agency fits that pattern. She has a mixed record on the environment, but on the whole she has pushed to protect open space and to marry economic growth to environmental responsibility. Unfortunately, Gov. Bush also took a step yesterday that was inconsistent with this otherwise constructive performance. John Ashcroft, recently defeated as Missouri senator, has a history out of sync with the Bush rhetoric of inclusiveness. For the crucial post of attorney general, Mr. Bush should have reached higher.

Gov. Whitman, in seven years as New Jersey chief executive, won passage of a $1 billion initiative that aims, over the next decade, to save a million acres of open space from development. Clean-air advocates give her credit for backing tough federal air pollution standards and for efforts to reduce greenhouse gas emissions in New Jersey. Her administration has strongly supported the new heavy truck and diesel fuel pollution standards the Clinton administration issued this week. She has fought ocean dumping and cleaned up beaches, and she is currently heading a Pew Foundation-funded commission to assess what national steps are needed to protect oceans and marine life.

Gov. Whitman's efforts to make New Jersey more business-friendly, particularly in the early days of her administration, earned her sharp criticism from local environmental groups. She was condemned for cutting the staff and budget of the state's environmental agency in her first term and for reducing the reporting requirements on toxic chemical emissions. It will be important for her to make clear in confirmation hearings how she intends to pursue EPA's enforcement mission, but she brings stature and experience to the job. The new administration's posture on the environment will become clearer after Gov. Bush selects his interior and energy chiefs and fills critical sub-Cabinet positions. But Gov. Whitman's appointment, and Gov. Bush's decision to keep the EPA chief in the Cabinet, are positive first steps.

Not so the Ashcroft pick. Mr. Ashcroft handled with class and sensitivity his defeat last month by a dead man, the late Gov. Mel Carnahan. But his Senate tenure was marked by hard-right stances on abortion rights, civil liberties and other issues. He fought confirmation of many of President Clinton's judicial nominations, including well-qualified moderates. In the case of Ronnie White, an African American justice of the Missouri Supreme Court whom Mr. Clinton nominated to a District Court vacancy in Mr. Ashcroft's state. Mr. Ashcroft rallied the Senate's Republican caucus to defeat the nomination in a manner tinged wfth racial politics and unfair to the nominee. Gov. Bush campaigned as a conservative, and he should be expected to appoint conservatives to his Cabinet, as he has with impressive choices for the State Department, the Treasury Department and other posts. But the Senate confirmation process should examine whether Mr. Ashcroft's particular brand of conservatism is best suited to the attorney general's post.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just six weeks ago, President Bush nominated Senator John Ashcroft to serve as Attorney General of the United States. Since then, the nomination has been a source of intense controversy in the Senate and across the Nation.

At the center of the debate is one basic question—will Senator Ashcroft enforce the law fairly and vigorously. Today, I will cast my vote against Senator Ashcroft, because I believe that he cannot do so.

My belief is based on Senator Ashcroft's quarter century track record as a relentless opponent of civil rights—as an architect of a continuing legal strategy to dismantle Roe v. Wade—as an outspoken advocate of extreme Second Amendment rights—and as a harsh and unfair opponent of the nominations of well-qualified men and women to important positions in our government.

On the issue of segregation in the schools of St. Louis, Senator Ashcroft testified before the Judiciary Committee that the State of Missouri had done nothing wrong and had not been found guilty of any wrongdoing.

But that's not true. On numerous occasions, the courts specifically found that the State was responsible for the segregation.

Senator Ashcroft testified that he complied with all court orders in the desegregation case.

But that's not true. In fact, the court ruled that he had a deliberate policy of defying the court's authority.

Senator Ashcroft testified that he never opposed integration.

But that's not true. In fact, he referred to the St. Louis voluntary desegregation plan as "an outrage against human decency." And he fanned the flames of racial division by campaigning against the desegregation plan in his race for Governor in 1984.

On the issue of voter registration, Senator Ashcroft's record as Governor is equally troubling.

In heavily white St. Louis County, he endorsed a policy of training volunteers to register voters.

But in St. Louis City, which has the State's largest African American population, he and his appointed election board refused to allow volunteers to be trained to register voters.

In fact, he even went so far as Governor to veto 2 bills to use volunteer registrars in the City.

As a result there were 1,500 volunteers involved in voter registration in St. Louis County and zero in St. Louis City.

After Governor Ashcroft vetoed the two voter registration bills, the voter registration rate in St. Louis dropped by almost 20 percent.

With this record, how can anyone believe that Senator Ashcroft will be a champion of voting rights for all Americans, particularly African Americans?

Senator Ashcroft testified that Roe v. Wade is the settled law of the land, and that he would not try to overturn it.

But his record of three decades of non-stop attacks on a woman's right to choose tell a different story.

As Attorney General of Missouri, he defended a state rule that prevented poor women from obtaining abortions that were medically necessary to protect their health. He even tried to prevent Missouri nurses from providing basic family planning services.

As Governor of Missouri, he continued his intense assault on a woman's right to choose. He made clear that his mission was to have the Supreme Court overturn Roe v. Wade.

He boasted about Missouri's record of having more anti-choice cases in the Supreme Court than any state in the Nation.

He even proposed legislation to prohibit many common forms of contraception.

As a Senator, he has strongly supported a Constitutional Amendment to ban abortions—even in cases of rape or incest.

The power of the Attorney General is vast. The person who holds that position must have a genuine commitment to enforce the law fairly for all citizens.

But Senator Ashcroft has a deeply disturbing record on issue after issue of enormous importance to millions of Americans.

Throughout his long career, he has been a relentless opponent of many fundamental rights. He's wrong on civil rights—wrong on a woman's right to choose—wrong on needed steps to keep guns out of the hands of criminals and children. He's wrong on many other fundamental issues, and he's the wrong choice to be Attorney General of the United States. It is wrong to send him to be the Attorney General of the United States. I intend to vote no.

I withhold the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I spoke at length yesterday about the deep sense of pain and sadness and fear engendered by this nomination. It has not been an easy few weeks for those who have been involved. Whatever the result today, scars remain. There are some scars, of course, on Senator Ashcroft, but he is a strong and God-fearing man and I know he will recover from those and I hope and pray that he does.

There are scars on the Senate in terms of our bipartisanship and ability to work together. Again, I think the desire for bipartisanship is strong in this body, and I don't think those scars will be permanent. There are some scars from the initial days of the Presidency of George Bush, who had campaigned for inclusiveness, bringing people together. This nomination clearly did not do that, whatever else it has done.

Again, most of the other President's nominees, this nomination notwithstanding, have been bipartisan nominees, and hopefully while this is clearly a setback in bringing people together in that bipartisanship, it is not going to be a problem.

I have made my views known on the floor and in committee as to why John Ashcroft does not deserve to be our Attorney General, despite his career in public service, despite his deep faith, and despite the fact that he is seen as an honorable man by most in this body.

But I hope one thing. Out of the scar tissue and the divisiveness and the argument we have had, I hope something good comes about, and that is this: I hope the President has seen the sadness and the pain and the fear engendered by this nomination. I hope when he nominates people to the U.S. Supreme Court we will not have a repeat of what has happened today. I hope he nominates somebody of intelligence and judicious temperament and devotion to fairness. But I hope he nominates somebody who unites the American people, who brings us together, who is not identified with one extreme faction—either on the far right or the far left.

I do not expect George Bush to nominate a liberal to the Supreme Court, but I hope and pray this nomination has taught us that rather than a nomination of somebody on the extreme, when it deals with the judicial issues, the legal issues that affect us, it is much better off for either a Democrat or Republican President to nominate a moderate—a thoughtful jurist but a moderate.

I think what has happened with the Ashcroft nomination in terms of divisiveness would look small compared to the divisiveness that would occur if someone of Senator Ashcroft's beliefs were nominated to the U.S. Supreme Court.

At the end of the day we will all vote what we think is best. We will each vote our conscience. But I think every one of us can take a lesson from what has happened here in the last few weeks. That lesson is a simple one. When it comes to enforcing the law, as the Attorney General does, when it comes to sitting on the highest court of this land, moderation is, indeed, a virtue.

I hope and pray all of us, including our President, will take from this battle the view that his nominations for the Supreme Court will better serve the Nation if they come from the middle, from the broad moderate section of our political spectrum.

Mr. President, I will vote against Senator Ashcroft. I do that with the conviction that it is the right thing to do in terms of my beliefs, in terms of what is good for the people of New York, in terms of what is good for the people of America. I hope we will not have to go through a similar battle when Supreme Court nominees come before us.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the senior Senator from New York for his words. Could the Chair please advise the Senator from Vermont what is the parliamentary situation?

The PRESIDING OFFICER. The time that was allocated to the Senator from Vermont was reallocated, by unanimous consent, to Senators KENNEDY, BAYH, and SCHUMER.

Mr. LEAHY. I thank the Chair. My understanding is the distinguished Senator from Indiana, Mr. BAYH, will be here presently. To use his time, I will continue under the time reserved to this side. I would like to commend a number of Senators for their contributions to this matter during the day and a half we have been debating it.

I believe Senator KENNEDY—we just heard him—made extraordinarily persuasive, fact-based presentations on some troubling aspects of the nominee's background. I hope all Senators listened to the remarks of Senator MIKULSKI, who spoke to the heart of the question and put to rest the false charge the Democrats are applying a narrow ideological litmus test. I appreciate the eloquent words of her colleague from Maryland, Senator SARBANES, this morning. In the fashion to which we have become accustomed from Senator SARBANES, he discussed the history of the nomination, including the hearing. I continue to marvel at the expertise of the senior Senator from Illinois, Mr. DURBIN, for his comprehensive remarks distilled so wisely and lucidly from the hearing record. Senator DURBIN spent an extraordinary amount of time on this during the hearings. I think the whole Senate benefitted from the knowledge he gained from those hearings. Senator LEVIN presented his characteristically thoughtful remarks and careful reasoning. I thank him for that.

As I said, we heard just now from the senior Senator from New York, Mr. SCHUMER. Not only did he speak so well on the floor, but all the Senate was helped by his thorough work during the hearings and with the kind of committee service that distinguished him on the Judiciary Committee both here and in the kind of service he had in the other body before.

We heard the fine remarks of my friend from New Mexico, Senator BINGAMAN; the forthrightness of Senator CARPER; the plain-spoken eloquence of Senator STABENOW; the statesmanship of Senator KERRY.

I think of the words of the distinguished senior Senator from Florida, Mr. GRAHAM, who brought to the Senate the important circumstances of his State and his concerns—unique among all of us here.

Of course, my friend, the assistant Democratic leader, Senator REID of Nevada, has given the kind of help he always does in debates. It is something the public does not see, but he is the glue that holds everything together. Then, added to that was his own strong statement on the floor.

I think of Senator BYRD, almost my seatmate in the Senate, with whom I served for over a quarter of a century and thank him for sharing his views.

I thank my Republican colleagues for their views, those Senators who supported this nomination, as Senator BYRD did.

I think about what Senator HARKIN said when he spoke again eloquently today, and Senator LIEBERMAN, who spoke not only about his relationship with Senator Ashcroft but of his own concerns about the issues of morality and of one's upbringing, and Senator EDWARDS, a person who went from the courtroom to the Senate, and represents the best of both places.

I also commend Senator HATCH, of course, for his management of the debate.

I yield to the senior Senator from New York.

Mr. SCHUMER. Mr. President, I thank our leader on this issue on this side of the aisle, the senior Senator from Vermont, for the fine, outstanding job of leadership and fairness that he has shown throughout these hearings. Every witness who was called on got to testify. We had plenty of time to question. All the questions were brought out in a fair and strong way, but not in any kind of mean-spirited way. When things began to drift a little bit out of hand, the Senator would wield his big gavel that he had at the beginning of the hearing and his own personal gavel that he wielded throughout. He did a wonderful job. And of course his speeches on the floor and in committee have been among the most thoughtful, erudite, and well researched of all of them. I think I speak for all of us on the Judiciary Committee and in the Senate as a whole: We really thank the senior Senator for the great job he has done during these trying weeks.

I yield to the senior Senator from Vermont.

Mr. LEAHY. I thank the Senator from New York. I have often said how much I enjoyed being on the Senate Judiciary Committee. One of the reasons is that the Senator from New York serves there.

It is a committee where we often have spirited debates. We usually debate the most interesting issues before the Senate, but I rely more and more on the Senator from New York to boil down the essence of the arguments and to lead that debate.

I am sorry the Senator from Utah is not on the floor at the moment, but the Senator from Utah, Mr. HATCH, and I worked very hard to put together a hearing where both sides could be heard. I believe we did that. In fact, unlike the usual practice here, both sides had the same number of witnesses. If I recall, in this case, the minority side, the Republican side, actually had one more witness. But we tried to make sure that anybody who could add anything to the debate and should be heard was heard.

Even during the hearings, we actually had people who were added at the last minute at the request of Senator HATCH. He showed unfailing courtesy throughout all that, and I thank him for that.

I see the Senator from Indiana in the Chamber. I ask unanimous consent that the following editorials and materials with regard to the Ashcroft nomination be printed in the RECORD:

A column by Steve Neal from the Chicago Sun-Times of January 31, 2001;

An editorial from the Christian Science Monitor of today, February 1, 2001;

An editorial from the Rutland Daily Herald of January 24, 2001;

A column by Stuart Taylor from National Journal of January 13, 2001;

A column by Stuart Taylor from National Journal of October 10, 1999; and

An op-ed by Benjamin Wittes from Washington Post of October 13, 1999.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Christian Science Monitor, Feb. 1, 2001]

ASHCROFT'S TOUGH TASKS

President Bush asked the Senate to look into the hearts of each of his cabinet nominees. Through careful, albeit contentious, hearings for his nominee for attorney general, John Ashcroft, the Senate tried to do just that.

In those hearings, Americans got a first, strong taste of the rancor that can occur when the Senate, and the country, is split right down the middle on social issues. The controversy over Mr. Ashcroft's nomination broke along clearly partisan lines.

Ashcroft may now be confirmed by the Senate, but the Democrats have fired a warning shot over the Bush ship of state. Their message: Expect more battles over conservative legal appointments—to the Supreme Court or elsewhere.

Ashcroft's deeply conservative views on abortion, civil rights, and guns were subjected to extraordinarily close scrutiny by Democrats and liberal groups. Still, his critics were left unsatisfied.

Sen. Patrick Leahy of Vermont, the Judiciary Committee's ranking Democrat, summarized much of the concern over Mr. Ashcroft's candor when he spoke on the Senate floor this week: "Most of us in this body have known the old John Ashcroft. During the hearings, we met a new John Ashcroft. Were the demurrals of his testimony real, or were they delicate bubbles that could burst and evaporate a year or a month or a day from now under the reassertion of his long-held beliefs?"

The core issue is whether, as attorney general, Ashcroft will put his own ideology above the law.

Supporters, such as Sen. Chuck Grassley (R) of Iowa, say Ashcroft has demonstrated the integrity to maintain his "by-the-book approach to governing" as he goes about cleaning up a Justice Department he and others feel has lacked integrity.

The new attorney general's adherence to that standard will be closely watched. As he promised the committee, he'll have to "vigorously" uphold the laws of the land whether he personally agrees with them or not—including the Supreme Court's decision legalizing abortion, Roe v. Wade, which Ashcroft acknowledged as "settled law."

Testimony regarding Ashcroft's opposition to the appointment of a black Missouri judge to the federal bench was particularly disturbing. The judge, Ronnie White, said then-Senator Ashcroft distorted his record, calling him "pro-criminal," based on his interpretation of a few of Judge White's written decisions.

Even if Ashcroft's motives at the time were political, not racial, the episode leaves doubts about his judgment among African-Americans and others.

Ashcroft will have to work especially hard to surmount both his critics and some elements of his own record, and to prove to the country that he will be, as Senator Leahy said, an attorney general "for all the people."

[From the Chicago Sun-Times, Jan. 31, 2001]

SOME MORE EQUAL THAN OTHERS

(By Steve Neal)

The attorney general is supposed to represent all of us.

That's what is so troubling about John Ashcroft's nomination to be the chief law enforcement officer of this country.

Some of our more distinguished attorneys general served in Republican administrations. Edward Levi restored integrity in the Justice Department after Watergate. Elliot Richardson showed great principle in resigning when Richard M. Nixon ordered him to fire the special prosecutor investigating Nixon's role in the scandal that brought down his presidency. Herbert Brownell drafted the first civil rights law since Reconstruction and recommended the use of federal troops when the governor of Arkansas sought to block integration of Central High School in Little Rock.

Each of these three men was committed to equal justice under the law. Ashcroft doesn't meet that standard. Though he is a person of ability and intelligence, his public record is one of unfairness, intolerance and exclusion.

His role in sinking the nomination of Missouri Supreme Court Justice Ronnie White for the federal bench was disgraceful. Ashcroft twisted and distorted White's judicial record. The Judiciary Committee, which had a GOP majority at the time of White's nomination, recommended his confirmation. Then Ashcroft waged a mean-spirited crusade that destroyed White's chances. He was dishonest in labeling White's judicial philosophy as "pro-criminal" and claiming that he had "a tremendous bent toward criminal activity." There is no evidence that Ashcroft went after the African-American judge because of his race. It is more likely that he attacked White as part of his re-election strategy.

Ashcroft's record on civil rights, though, is alarming. As governor and attorney general of Missouri, he bitterly opposed court-ordered school desegregation in Kansas City and St. Louis. More than two decades after the Brown vs. Board of Education ruling made equal access to public education the law, Ashcroft still was making the argument that it was better to have segregated schools. As a candidate for statewide office, he fanned racial tensions with his shrill attacks on school integration. He didn't seem to care that African-American youngsters were being denied an equal education.

As governor of Missouri, he vetoed legislation that would have boosted voter registration in minority communities. He claimed that the proposed law would have led to voter fraud. If he is confirmed as the next attorney general, he would have responsibility for enforcing the Voting Rights Act.

During his Senate testimony, Ashcroft said that he would not attempt to undermine Roe vs. Wade, the Supreme Court decision that upheld a woman's legal right to have an abortion. But he has spent his entire public career trying to outlaw abortions or make them impossible to obtain. He is opposed to abortion even in cases of rape or incest.

"Both now and in my first term as [Missouri] attorney general," he told the U.S. Senate Judiciary Committee in 1981, "I have devoted considerable time and significant resources to defending the right of the state to limit the dangerous impacts of Roe vs. Wade, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of the states related to abortions." Ashcroft has previously referred to the Roe decision as "error-ridden." Most Americans disagree with that viewpoint.

In his written response to the Judiciary committee, he vowed not to re-fight these battles because the issue had been settled "through the passage of time and reaffirmation by the Supreme Court." But he never has stopped trying to reverse this landmark decision.

Ashcroft was misguided in his assault on the nomination of the openly gay James C. Hormel to be ambassador to Luxembourg. "Based on the totality of Mr. Hormel's record of public positions and advocacy, I did not believe he would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe," he said in 1998.

Based on the totality of Mr. Ashcroft's record, he is less than committed to equal protection under the law. This cold-hearted man is unfit to be the people's lawyer.

[From the Rutland Daily Herald, Jan. 24, 2001]

NO TO ASHCROFT

Democrats should not be shy about voting against John Ashcroft when his nomination for attorney general comes before the Senate Judiciary Committee and to the Senate floor.

If they are afraid of being tarred as partisan extremists for opposing Ashcroft's nomination, they ought to recognize that Bush's decision to appoint Ashcroft was in itself an unapologetic partisan action.

The Senate almost never rejects a president's cabinet nominee, and the vote count suggests it will not reject Ashcroft. It would be an extraordinary turn of events if it did.

That's because Senate Republicans are lined up unanimously on the side of their party and their president. That includes Sen. James Jeffords, who is a member of a vocal quartet with Ashcroft and who plans to endorse his appointment.

This is not one of those moments when the Senate's moderate Republicans are inclined to stray from the party line. On other issues—campaign finance, tax cuts, missile defense—the Republican leadership will not be able to rely so surely on unanimity within the party.

Ashcroft's nomination has also won the support of a few Democrats, which assures him of victory in the Senate. But for most Democrats, a no vote on the Ashcroft nomination sends an important signal: that bipartisan progress is not achieved by pushing the most extreme brand of Republican ideology.

Under questioning by the Senate Judiciary Committee, Ashcroft felt compelled to repudiate an ideology opposed to civil and women's rights. One wonders why Bush appointed him if it meant he would have to shed the views that have shaped his career. The likely reason is that Bush wanted to appease the religious right.

Everyone was quick to praise Ashcroft's integrity and to deny that he was a racist. But what kind of integrity is involved in the attempt to smear another person's reputation, as he did with Ronnie White, a judge who had been appointed to the federal bench?

In many areas, Democrats are likely to cooperate with Republicans for the sake of bipartisan achievement. It appears that Sens. Joseph Lieberman and Edward Kennedy are willing to work with Bush to put together an education package. And Bush appears willing to court Democratic support by gearing his education package toward low-income students.

In the same vein, Republicans such as Jeffords should be willing to break the party line for the sake of campaign finance reform, health care, and other initiatives that the Republican leadership has long opposed.

The Senate Judiciary Committee was able to win concessions from Ashcroft on civil rights and women's rights, but his work as attorney general will involve far more than the high-profile issues on which the interest groups always focus.

He will help shape anti-trust policy and the government's position on the Microsoft case. He will help shape policy on juvenile justice, which has been slipping back toward the dark ages, and on sentencing policy, which has become dangerously rigid because of mandatory sentences. He will apportion resources within the Department of Justice, deciding how much emphasis to put on civil rights enforcement.

In electing a Republican, Vermonters might have expected that Jeffords would maintain party loyalty in instances such as the Ashcroft nomination. Jeffords will have many other opportunities to show his independence, and Vermonters will be watching.

In electing a Democrat, Vermonters expect Leahy to uphold civil and women's rights. In voting no on Ashcroft, he will be affirming that even with a Republican president, these values should not be allowed to erode.

[From the National Journal, Jan. 13, 2001]

A CHARACTER ASSASSIN SHOULD NOT BE ATTORNEY GENERAL

(By Stuart Taylor Jr.)

Former Sen. John Ashcroft, R–Mo., is an able and accomplished man who won the respect of many Senate colleagues in both parties. But he is unfit to be Attorney General. The reason is that during an important debate on a sensitive matter, then-Sen. Ashcroft abused the power of his office by descending to demagoguery, dishonesty, and character assassination.

The debate was over President Clinton's nomination of Missouri Supreme Court Judge Ronnie White to become a federal district judge. Although too liberal to be picked by a Republican President, White had shown himself to be an honest, skilled, and sometimes eloquent jurist, well within the moderate mainstream. But Ashcroft, leaning hard on Republican Senators who would otherwise have voted to confirm, engineered a 54–45 party-line vote on Oct. 5, 1999, to reject White's nomination. Worse, Ashcroft claimed on the Senate floor that Judge White had "a serious bias against . . . the death penalty"; that he was "pro-criminal and activist, [and would] push law in a procriminal direction"; and that he had "a tremendous bent toward criminal activity." The first statement was a wild exaggeration. The second was a demagogic distortion. The third was a malicious smear.

Ashcroft is not the man to head the Justice Department. The job is vested with such vast authority over the lives of people great and small, and such symbolic importance, that the minimum qualifications should include honesty, fair-mindedness, and judicious self-restraint in the exercise of power. Every new President is entitled to Senate deference in choosing his Cabinet, even when the nominee's policy views draw bitter liberal or conservative opposition. (Linda Chavez might have become a distinguished Labor Secretary but for her sad mistake of failing to tell Bush vetters up front what they needed to know about her illegal-immigrant issue.) But no President is entitled to put a character assassin in charge of law enforcement.

All this would be true even if Judge White were white, if Ashcroft had not expressed such fondness for the Confederacy, if race were not an issue, and if Ashcroft were in tune with the Bush pledge to be a uniter, not a divider. But White is black. The racial context makes Ashcroft's orchestration of a floor vote against a judicial nominee, the first since 1987 (when Robert H. Bork's Supreme Court nomination went down), all the more deplorable. And Ashcroft's confrontational advocacy of absolutist views makes him a divider, not a uniter.

This is not to endorse the unfounded and tiresomely irresponsible suggestions by some liberal critics that Ashcroft's attacks on Judge White were motivated by racial bias or hostility to antidiscrimination laws. Nor is it to join the claque who would fight any conservative nominee for Justice as racially insensitive and divisive. But it does appear that Ashcroft was deliberately engaging in inflammatory racial politics—in part to boost his own 2000 re-election prospects by hanging the "pro-criminal" label both on Judge White and on then-Gov. Mel Carnahan, who had appointed White and was gunning for Ashcroft's Senate seat. Ashcroft must have known that accusing a black judge (falsely) of being "pro-criminal" and of "a tremendous bent toward criminal activity" would stir the worst instincts of those voters who stereotype criminality as black.

One result of Ashcroft's reckless roiling of racial tensions is that he would have especially low credibility with the vast majority of African-Americans, including moderates and conservatives who eschew the race-baiting rhetoric of victimologists such as the Rev. Jesse Jackson. Indeed, people who hope to see the Justice Department move away from its long-standing advocacy of race-based affirmative action preferences (as I do) should wonder: Can John Ashcroft be a credible advocate of making the law more colorblind? I doubt it.

Deceptive rhetoric aside, is Ronnie White soft on crime? Not unless one equates measured concern for civil liberties with softness. According to Justice Department numbers, White, as of October 1999, had voted to uphold 41 (almost 70 percent) of the 59 death sentences he had reviewed. He voted to reverse the other 18, including 10 that were unanimously reversed and just three in which he was the only dissenter. (Some say that White reviewed 61 death sentences and voted to reverse 20.) His rate of affirmance was only marginally lower than the 75 percent to 81 percent averages of the five current Missouri Supreme Court judges whom Ashcroft himself appointed when he was governor.

Ashcroft stressed that Judge White had dissented from decisions affirming death sentences four times as often as any Ashcroft-appointed colleague. True. But does this suggest that White would "push law in a procriminal direction," as Ashcroft said—or that Ashcroft appointees were rubber-stamping unfair trials?

The two dissents most directly assailed by Ashcroft in fact exude moderation and care in dealing with the tension between crime-fighting and civil liberties. In a 1998 decision, the majority upheld the murder convictions and death sentence of a previously law-abiding Vietnam veteran named James Johnson, who had suddenly turned violent. He stalked and killed a sheriff, two deputies, and another sheriff's wife in a horrifying succession of shootings that erupted out of a domestic dispute. The only defense was insanity. The immediate issue was whether Johnson should get a new trial, after which he would either go back to death row or be locked up in a mental hospital.

If Johnson "was in control of his faculties when he went on this murderous rampage," Judge White wrote, "then he assuredly deserves the death sentence he was given." But the jury's consideration of the insanity defense had been skewed by an egregious blunder. Johnson's court-appointed attorney had begun by stressing that a rope-and-tin-can "perimeter" around Johnson's garage was evidence that he had been under a delusion that he was back in Vietnam, at war. This was a gift to the prosecution, which blew the back-in-Vietnam strategy to bits by showing that the police had set up the perimeter.

Both Judge White and his colleagues faulted the defense attorney (for inadequate investigation) as well as the prosecution (for leaving the defense attorney with a false impression of the facts). They differed only on whether there was a "reasonable probability" that the jury might otherwise have found Johnson insane. The majority said no. Judge White said yes. His conclusion was plausible, debatable, highly unpopular (especially among police), and (for that reason) courageous. For Ashcroft to call it "procriminal" was obscene.

In the second case, one Brian Kinder was sentenced to die for a heinous rape-murder. Judge White's "only basis" for voting to give Kinder a new trial, Ashcroft claimed, was that the trial judge had said he was "opposed to affirmative action." False. In fact, Judge White's dissent termed that comment (made in a campaign press release) "irrelevant to the issue of bias." Instead he stressed another, "indefensibly racist" assertion in which the trial judge had contrasted "minorities" with "hard-working taxpayers." This cast grave doubt on the impartiality of a judge who was to try a black man for murder in just six days, Judge White concluded. His dissent was far more candid and convincing than the majority opinion.

Pro-criminal? Some police groups, including 77 of Missouri's 114 sheriffs, criticized Judge White's record. But other law enforcement officials praised him as a good judge and "an upright, fine individual," in the words of Carl Wolf, president of the Missouri Police Chiefs Association.

The smearing of Judge White makes the many testimonials to Ashcroft's integrity ring a bit hollow. But quite apart from that episode, it was most unwise for President-elect Bush to choose Ashcroft for Attorney General. The reason is that Ashcroft is an uncompromising absolutist with a bellicose approach to issues ranging from gay rights and gun control to abortion (which would be a crime, if Ashcroft had his way, even in cases of rape and incest). He is also dead wrong (in my view) on major issues, including his aggressive push to cram even more nonviolent, small-time offenders who pose no threat to society into our prison-industrial complex, which has already mushroomed to 2 million inmates.

What would I be saying if it were President-elect Al Gore trying to put the Justice Department under (say) Sen. Edward Kennedy, D-Mass.—who smeared another judicial nominee (in 1987) by saying: "Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids . . ."

I would be saying that a character assassin should not be Attorney General. How about you?

[From the National Journal, Oct. 16, 1999]

THE SHAME OF THE RONNIE WHITE VOTE

(By Stuart Taylor Jr.)

The Democratic spin is that the Republican Senate's Oct. 5 party-line vote, 54–45, to reject Ronnie L. White's nomination for a U.S. District Court seat in Missouri was tinged with racism. At the very least, as President Clinton put it, the vote adds "credence to the perceptions that they treat minority and women judicial nominees unfairly and unequally."

The Republican spin is, not surprisingly, quite different. In the words of White's main critic, Sen. John Ashcroft, R–Mo., White's record as a Missouri Supreme Court judge is "pro-criminal and activist," and exudes a serious bias against * * * the death penalty," even "a tremendous bent toward criminal activity." Indeed, said Sen. Don Nickles, R–Okla. "many" Republican Senators "didn't know what race Judge White is."

Which is the closer to the truth?

Numbers supply part of the answer. Judge White has voted to uphold 70 percent (41) of the 59 death sentences he has reviewed, while voting to reverse the other 18, including 10 that were unanimously reversed and three in which he was the only dissenter. That's a bit below the 75 percent to 81 percent averages of the five current Missouri Supreme Court judges whom Ashcroft himself appointed when he was Governor, according to numbers compiled by the Missouri Democratic Party. It's well above the 53 percent average of Elwood Thomas, the now-deceased Ashcroft appointee whom White replaced in 1995.

As for race, the raw fact is that the Senate's rejection of the 46-year-old White—the first black person ever to sit on the Missouri Supreme Court—was its first floor vote against any judicial nominee since 1987, when the Senate spurned Robert H. Bork for the U.S. Supreme Court. But Democrats are quick to cite statistics showing that the Senate has confirmed a substantially smaller percentage of Clinton's minority judicial nominees than of his white nominees—while taking longer to bring their nominations to a vote. Some Republicans claim that a higher percentage of Clinton's minority nominees are liberal activists. Perhaps that's true. But does Ronnie White fit that bill?

Consider White's two lone death-penalty dissents specifically criticized by Ashcroft. One involved a rape-murder for which one Brian Kinder was sentenced to die. Judge White's "only basis" for voting to give Kinder a new trial, Ashcroft told his colleagues, was that Earl R. Blackwell, the trial judge, had said he was "opposed to affirmative action."

This was a cynical distortion. In fact, White's dissent stated that Judge Blackwell's criticism of affirmative action—which came in a campaign press release explaining his decision to leave the Democratic Party—was "irrelevant to the issue of bias." What was "indefensibly racist," he continued, was the following assertion in Blackwell's press release:

"While minorities need to be represented or [sic] course, I believe the time has come for us to place much more emphasis and concern on the hard-working taxpayers in this country."

As White wrote, this "pernicious racial stereotype * * * is not ambiguous or complex (nor, unfortunately, original)." It means "that minorities are not hard-working taxpayers."

And for Judge Blackwell to issue such a statement—six days before he was to begin the trial of a black man facing the death penalty—"created a reasonable suspicion that he could not preside over the case impartially."

Judge White was right. And his eloquent dissent was both more candid and more consistent with his court's own precedents than was the majority opinion.

Ashcroft also assailed White's dissent from a 1998 decision upholding the murder convictions and death sentence of one James Johnson. In an appalling succession of shootings growing out of a domestic dispute at Johnson's home, the previously law abiding Vietnam veteran had stalked and killed a sheriff, two deputies, and the wife of another sheriff. His only defense was insanity.

"If Mr. Johnson was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given," Judge White wrote. But a blunder by Johnson's defense lawyer, White added, had so "utterly destroyed the credibility" of his insanity defense as to deny him a fair trial.

In his opening statement, the defense lawyer had focused on a story that Johnson—who claimed to have no memory of what he had done—had strung a "perimeter" of rope and cans around his garage under the delusion that he was "back in Vietnam," in combat. This scenario was soon exposed as fiction: The prosecution revealed with a flourish that the "perimeter" had been the work of police staking out Johnson's home after the killings.

The majority and Judge White alike faulted both the defense lawyer (for inadequate investigation) and the state (for leaving him with a false impression of the facts). They differed on whether there was a "reasonable probability" that, but for these unprofessional lapses, the jury might have upheld the insanity defense. The majority said no; Judge White—noting that Johnson's homicidal conduct suggested at least "something akin to madness"—said yes.

I'm not sure whether he was right. But it surely was a case on which reasonable judges could disagree.

And in another such case, in 1996, it was Judge White who wrote the court's decision upholding a brutal killer's death sentence—and it was an Ashcroft appointee, then Chief Judge John C. Holstein, who dissented. The cornerstone of any civilized system of justice," Holstein wrote then, "is that the rules are applied evenly to everyone, no matter how despicable the crime."

That does not seem to be the view of many Senate Republicans now. Their treatment of Ronnie White suggests that they prefer judges to rubber-stamp the decisions of trial judges, prosecutors, and police.

Sen. Ashcroft also stressed criticism of White's record by police groups, including 77 of Missouri's 114 sheriffs. This may help explain why the state's other Republican Senator, Christopher S. Bond, joined Ashcroft in opposing Judge White on the floor—after having introduced him to the Judiciary Committee last year as "a man of the highest integrity and honor," with the "qualifications and character traits" to be a federal judge.

But it turns out that Ashcroft himself orchestrated some of the police opposition. He faces a tough re-election battle next year and seems to be running as Mr. Death Penalty against the man who appointed Judge

White—Democratic Gov. Mel Carnahan. (Carnahan also supports the death penalty.)

Ashcroft urged at least two police groups to oppose White, according to the St. Louis Post-Dispatch. Carl Wolf, president of the Missouri Police Chiefs Association, told the newspaper that Ashcroft's office had called to solicit his opposition. Wolf declined because his group does not comment on judicial nominations. Besides, he said: "I really have a hard time seeing that [White's] against law enforcement. I've always known him to be an upright, fine individual."

In short, the record shows that Judge White takes seriously his duty both to enforce the death penalty and to ensure that defendants get fair trials. It suggests neither that he's "pro-criminal" nor that he's a liberal activist. What it does suggest is courage.

And while White may be more sensitive to civil liberties than his Ashcroft appointed colleagues are, his opinions also exude a spirit of moderation, care, and candor.

Would the Republicans who voted against Ronnie White—most of them in deference to Ashcroft and Bond—have treated an otherwise identical white nominee any better?

I doubt it. But by giving such transparently bogus reasons for trashing a nominee who happens to be black—at a time when statistics have already raised troubling questions about the Senate's handling of minority nominees—Republicans provoked suspicions not only among those who are profligate in flinging charges of racism, but also among many fair-minded people.

And those who claimed to have been ignorant of White's race compounded insensitivity with obtuseness. Even if true, this shows that they went into the first floor vote in 12 years to reject a judicial nominee without listening to what their Democratic colleagues were saying or learning anything about the nominee's admirable life story.

In an era of politicized law, as I wrote recently, the best antidote for partisan gridlock over judicial nominees is for Presidents to shun ideological crusaders and choose moderate centrists. That's what President Clinton did here. And that's why—race aside—the Senate's vote and the smearing of Judge White were shameful acts of pettiness and partisanship.

[From the Washington Post, Oct. 13, 1999]

JUDGE WHITE'S JUDGES

(By Benjamin Wittes)

Anyone who believes that race played no role in the Senate's rejection last week of the judicial nomination of Ronnie White should read the case of Missouri v. Kinder. Sen. John Ashcroft, the Missouri Republican who led the fight to kill White's nomination to a federal district court vacancy in his state, cited Kinder on the Senate floor as one of three cases that showed not merely White's hostility to the death penalty but his "tremendous bent toward criminal activity."

Ashcroft described White—the first African American to serve on Missouri's Supreme Court—as willing to grant a new trial to a clearly guilty rapist and murderer who had been sentenced to death, because "the trial judge had indicated that he opposed affirmative action and had switched parties based on that." This charge, if true, would indeed be evidence that White had placed politics before the law. But it is a gross distortion. The reality is that by using White's well-reasoned dissent in Kinder as a cudgel against him, Ashcroft provided as clear an example of racial politics infecting the nomination process as one could ever hope to see.

Brian Kinder was tried in the court of an elected judge named Earl R. Blackwell, At the time of the trial, Blackwell was facing a reelection campaign. Six days before Kinder's trial was to begin, Blackwell announced in a press release that he was switching parties because he found "repugnant" the Democratic Party's "reverse-discriminatory quotas and affirmative action."

The politics of the statement were not the problem. The problem was its all-but-overt racism: "The truth is that I have noticed in recent years that the Democrat party places far too much emphasis on representing minorities such as homosexuals, people who don't want to work, and people with a skin that's any color but white. . . . While minorities need to be represented, of course, I believe the time has come for us to place much more emphasis and concern on the hard-working taxpayers in this country."

Faced with a judge who had just gone on the record contrasting minorities with hard-working taxpayers, Kinder—an unemployed black man—asked Blackwell to recuse himself. The judge refused, saying he did not discriminate whether individuals "are yellow, red, white, black or polka dot." Kinder, after his conviction, appealed, arguing that the trial was invalid because recusal should have been mandatory.

The surprising thing about this case is not that Ronnie White voted to reverse the conviction but that he was the only member of the Missouri Supreme Court—several of whose judges were appointed by Ashcroft when he was the state's governor—to stand up for the principle that a minority defendant is entitled to a trial before a judge who does not make public slurs against minority groups. Like Ashcroft, the court majority pretended Blackwell was merely making a political statement against affirmative action and concluded that "we do not agree that the statements in the press release . . . would cause a reasonable person to question the impartiality of the court."

White, in an opinion characterized by admirable restraint, cut through this nonsense. "No honest reading of [Blackwell's statement] can show that it says anything other than what it says: that minorities are not hard-working taxpayers," he wrote. "I doubt that any reasonable person would think that a judge who makes provocative comments in a campaign press release . . . would be able to scrupulously set aside those views just because the judge dons a robe." Because of this appearance problem, he argued, recusal was required. And "since the judge here failed to sustain the motion that he recuse himself, Mr. Kinder must receive a new trial before a judge whose impartiality is beyond reproach."

As a general matter, the White House and its allies overstate the claim that minority and women nominees are discriminated against in the confirmation process. Having looked at many nominations, I am convinced that white men with histories and records similar to those of the women and minority nominees who get bogged down in the Senate would also have problems. And race, to be sure, was not the predominant factor in White's rejection, either. The politics of the death penalty and the 2000 Missouri Senate race have that dishonor.

But if White was not rejected because he's black, it is also impossible to read racial politics out of his rejection. Consider what would have happened had White and Kinder both been Jewish and had Kinder been tried before a judge who had issued a press release denouncing the political parties' support for Israel that included analogous language: "While Jews need to be represented, of course, I believe the time has come for us to place much more emphasis and concern on moral people who are not obsessed with money."

No senator would dare argue that an appeals court judge who insisted that such overt hostility to Jews compelled a new trial—even for a guilty defendant—should be kept off the federal bench for having done so. To argue that the Kinder case is reason to keep Ronnie White off the bench is no less outrageous—just a little more socially acceptable.

Mr. LEAHY. I yield to the Senator from Indiana.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Indiana.

Mr. BAYH. I thank the Chair. Mr. President, I convey my thanks and gratitude to my colleague from Vermont for his extraordinary leadership on this matter of utmost public importance. He has written another honorable chapter in the history of this body, and I am privileged to serve with him, as was my father privileged to serve before me.

I rise today as someone who was invited to Austin, TX, several weeks before the new year to discuss with our new President the cause of bipartisanship when it comes to improving the quality of our public schools.

I rise as someone who was in the White House several nights ago to discuss with the President bipartisanship when it comes to improving the quality of health care.

I rise as someone who wants to work with this President to enact a fiscally responsible tax cut.

I rise as someone who shares his conviction that faith-based organizations have much to contribute to the welfare and well-being of our country.

I rise as someone who deplores the gridlock in recent years and politics of personal destruction and yearns to return to bipartisanship and principled compromise for the sake of the United States of America.

Because of all these things and all we can accomplish together, I also rise to express my opposition to the President's nomination of John Ashcroft to be the next Attorney General of the United States of America.

Let me say at the beginning I do not believe in pointing fingers or calling names. Some of the things that have been said about Mr. Ashcroft, such as he is a racist, are, frankly, not true, and unfair, and for that I have deep regret. We need more civility in this town. Frankly, I wished Mr. Ashcroft himself practiced more civility when he had the privilege of gracing this Chamber. But he is the wrong man for this job.

He is the wrong man for several reasons: First, the unique character of the Justice Department. Mr. Ashcroft has said he will enforce the law, and I am sure that is true, but it begs the central question: What does Mr. Ashcroft consider the law to be? The law is not carved in stone and not subject to difference of opinion or dispute. Very able lawyers can have heated differences of opinion about what the law means, and in the Justice Department each and every day, hundreds of decisions, or thousands of decisions, will be made—some of which the public will never be aware—about which there are varying interpretations of the law. What will happen in those cases? It will be Mr. Ashcroft's interpretation; it will be Mr. Ashcroft's discretion; it will be Mr. Ashcroft's law that will be put into effect for the American people.

I have no doubt whatsoever that he will bring some of his more strident views to bear on that office in ways that will cause great conflict and controversy for this President and the people of our country.

I think about the Supreme Court. We are not dealing with a Supreme Court nominee here, but before my colleagues cast their vote, I ask how they would vote if Mr. Ashcroft had been nominated for the Supreme Court of the United States because, in many ways, the Attorney General has as much or more discretion as does a member of the U.S. Supreme Court. At least before a decision of the Supreme Court is handed down, a Justice must get four of his or her colleagues to agree. Very often, the Attorney General of the United States can make unilateral decisions and interpretations of the law.

At least the Supreme Court is bound to some degree by precedent. The Attorney General very often addresses entirely new areas of the law for which there is no precedent, giving more discretion and more free rein to the views and ideology of that individual. In Mr. Ashcroft's case, I believe that will not serve our country well.

I have been troubled by some of his behavior, and it has been outlined in the hearings Senator LEAHY and my colleague, CHUCK SCHUMER, who just left, so ably outlined in the Judiciary Committee, but I want to particularly mention the issue of Ronnie White.

I disagree with those who say Mr. Ashcroft's opposition to Judge White was racially based. I do not believe that to be true. I believe it was based upon prior political disagreements when Judge White served in the State legislature—but, frankly, when it comes to the Attorney General of the United States engaging in political payback, it is very troubling—and it was based also upon Mr. Ashcroft's desire to be reelected to this body, and the fact that he was willing to misinterpret the record of Judge White for his own political personal gain should concern us all. Not that political payback or sometimes interpreting or misinterpreting one's record is unique even to this Chamber and other political candidates across the country—it happens all the time—but it should not happen in the Justice Department of the United States, and it is not a characteristic we look for in the Attorney General of the United States of America.

I was watching these proceedings last evening, and I will not name names, but I heard a speech of one of our colleagues who expressed his belief that behind opposition to Mr. Ashcroft was, in fact, an opposition to those who are devoutly Christian in their beliefs serving in positions of high public office. I say as one Senator, nothing could be further from the truth. On the contrary, I have a deep respect for Mr. Ashcroft's religious convictions. I think he should wear them as a badge of honor. His devout faith is something we can all look to as a source of pride on his part.

It is his secular views and what implementation of those views would mean for the American people with more polarization, more divisiveness, and, as a result, more gridlock, that troubles me. It has nothing to do with his religious views, just as those of John Kennedy, JOE LIEBERMAN, and others had absolutely nothing to do with their fitness for public service.

We need to state unequivocally on the record his religious convictions have nothing to do with the reservations that at least this Senator—and I believe the majority of my colleagues who stand in opposition—has expressed.

Finally, it is quite clear that before long, Mr. Ashcroft will become the next Attorney General of the United States of America. He can take one of two lessons from the proceedings of these last several weeks. On the one hand, he can draw from these proceedings the conclusion that he should pay no attention to his critics; that there was no basis to any of the objections raised to his nomination; that he needs no reason whatsoever to reach out to those who have expressed their concerns; and he can operate as Attorney General as he will.

On the other hand, he can decide to take the criticism not personally but seriously. He can decide to reach out to those who have raised objections to his nomination. He can reach out to those who have grave concerns about how he conducts himself in the very important position of Attorney General of the United States. He can dedicate himself to proving those who raised objections to his nomination were, in fact, in error and those objections were ill-founded.

It is that course of action that I hope he will take because in the final analysis, any Attorney General of the United States of America must dedicate himself to ensuring that our country lives out the full meaning of our creed: Liberty and justice for all Americans—all—regardless of ideology, race, creed, or orientation.

I hope it is that America to which Mr. Ashcroft will dedicate himself as the next Attorney General of the United States of America and prove that the concerns that have been expressed on the floor of this body were, in fact, misplaced.

Mr. President, I appreciate the honor of addressing my colleagues once again. I yield the floor to my colleague from Vermont.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is somebody controlling time on our side?

The PRESIDING OFFICER. The Senator from Vermont actually has the time until 12:15.

Mr. LEAHY. Mr. President, seeing my friend from New Mexico, I certainly yield to him.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am going to vote for John Ashcroft to be Attorney General of the United States. Let me first say, if you read what he has done in his life, he is eminently qualified. For those who are wondering whether the President of the United States has picked a person who can, in fact, be a real Attorney General for the United States, they can have no doubt about it. He graduated from the University of Chicago Law School, which is a very reputable university. In fact, it is one you do not get into unless they already know you are very bright. That means, if you look at that, he was trained to be a good lawyer.

Frankly, we have had a lot of Attorneys General of the United States who were not good lawyers. There is no question he is trained and has proven that he is not simply good but very good at matters that pertain to law.

Secondly, as a Senator from one of the sovereign States, I feel very concerned about the way this man is being treated and why the votes are being garnered against him because if I were from the State of Missouri instead of the State of New Mexico—and maybe I will transplant myself there just for the next 3 or 4 minutes—I would ask, what kind of people live in Missouri? I think I would conclude that, as you look across America, they are very good people, very diverse. They earn a living in very different ways, from agriculture to manufacturing. And guess what. They elected this man who has been under fire day after day, they elected him to be attorney general of their State two times. They elected him to be Governor twice. Then they elected him to be a Senator.

Frankly, does anybody really believe the people of Missouri would elect a person who would discriminate against people in the State of the population that has been discussed here? Do they think the citizens of the State of Missouri would elect more than once a man to be attorney general of their entire State, for all of their people, and that they have all been beguiled and fooled because he really was not a good attorney general; that he was prejudiced; that he was discriminatory against people; that he did not follow the law? That is pure bunk because he followed the law; he enforced the law. They elected him Governor twice.

For this Senate to spend this much time trying to find little things about this man that are almost the kind of things you would not even ask anybody about—I looked at some of the questions Senators asked this man, and they are not only petty in some respects, but they deserve an answer, a simple answer: I don't remember. I can't understand. It's too long ago.

They asked him questions about conversations 15 years ago with reference to one of the subject matters: Did you talk to so-and-so? Well, I do not remember.

I am a reasonably good Senator, and I can tell you right now, I really remember things when I was 9, and 10, and 12, but I don't remember too well things that happened 2 years ago. And I bet you there are a lot of Senators like that. I will bet you there are a lot of great attorneys general in the United States like that.

In fact, John Ashcroft enforced laws in his State as attorney general that were inconsistent with his beliefs. And you know what. Attorneys general across America are doing that all the time. They are elected by the people. The people know they differ in many respects. They go in, and what do they do? They follow the law. He is going to follow the law.

The one difference versus many other Attorneys General, is that he is a real lawyer. He will be a real Attorney General. He will run that place because he has the intellectual capacity, the organizational ability, and the desire to be a great Attorney General.

My friend and former colleague, Senator John Ashcroft, is fully qualified to serve as the next Attorney General of the United States, and I will vote to confirm his nomination.

I served in this body with Senator Ashcroft for 6 years, and I know him as a man of great honesty and integrity. Unfortunately, honesty and integrity are often characteristics worthy of only secondary praise in today's society. Nevertheless, it is vitally important that the public has confidence that our Attorney General, who enforces our laws, is possessed of these traits.

Of honesty, George Washington once remarked, "I hope I shall always possess firmness of virtue enough to maintain what I consider the most enviable of all titles, the character of an Honest Man." It is my belief that Senator Ashcroft possesses such character and is worthy of the title.

Senator Ashcroft graduated from Yale University and the University of Chicago Law School. He practiced law in his State of Missouri, and then served as Missouri's attorney general from 1976–1985. He was twice Missouri's Governor. He was later elected to the U.S. Senate, where he served with distinction on the Judiciary Committee.

Throughout his career, he has had an impressive record on crime. During his tenure as Governor, he increased funding for local law enforcement, which resulted in a significant increase in full-time law enforcement officers.

He helped enact tougher standards and sentencing for gun crimes, and led the fight against illegal drugs. His tough stance on drugs is important to me because we are seeking to eradicate a growing heroin problem in northern New Mexico.

While Governor, total State and Federal spending for antidrug efforts in Missouri increased nearly 400 percent. In the Senate, he cosponsored the Comprehensive Methamphetamine Control Act of 1996.

Despite his impressive credentials and proven record, Senator Ashcroft's opponents suggest that his religious and ideological beliefs will prevent him from enforcing our Nation's laws. It is true that he is a religious man with strong convictions. It is untrue that this will prevent him from carrying out his duties.

Time and time again throughout his distinguished career, this nominee has enforced laws that run counter to his personal views. While serving as Missouri's attorney general, a Christian group that Senator Ashcroft favored was distributing Bibles on school grounds. After careful review, he issued an opinion stating that such activity violated the State constitution.

On another matter, even though Senator Ashcroft is pro-life, he has unequivocally stated that he will investigate and prosecute any conduct by pro-life supporters at abortion clinics that violates the law. His prior actions support this assertion.

He once asked pro-life marchers to sign a nonviolence pledge and to observe ordinary rules of courtesy with both "friend and foe." It was concern about potential violence at clinics that led to his vote for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Other critics contend that this nominee is insensitive to minorities. His record on the whole indicates otherwise.

This is a charge I take very seriously because my state of New Mexico has a large population of Native Americans and Hispanics. I am deeply concerned about the interests of these and other minority groups throughout the nation, and I have always worked to ensure that minority rights are protected. In fact, I have supported affirmative action programs in nearly every federal agency. I will hold this nominee's feet to the fire on minority issues.

As Governor, Senator Ashcroft enacted Missouri's first hate crimes bill. He was also one of the nation's first governors to sign into law the Martin Luther King Jr. holiday. In addition, he appointed numerous African Americans to the state bench, including the first African American ever selected associate circuit judge in St. Louis County.

After this appointment, the Mound City Bar Association of St. Louis—one of the oldest African-American Bar Associations in the United States—said of then-Governor Ashcroft:

> Your appointment of attorney Hemphill demonstrated your sensitivity, not only to professional qualifications, but also to the genuine need to have a bench that is as diverse as the population it serves. . . . The appointment you have just made and your track record for appointing women and minorities are certainly positive indicators of your progressive sense of fairness and equity. We commend you.

This is not the description of a man who is insensitive to the needs of minorities.

Senator Ashcroft's concern for minorities did not stop when he came to the U.S. Senate. As a matter of fact, while in the United States Senate, he and Senator FEINGOLD convened the first Senate hearing on racial profiling, a practice Senator Ashcroft described as unconstitutional. He testified during his recent confirmation hearings that if confirmed he would make the elimination of racial profiling a priority.

Senator Ashcroft supported 26 of 27 African-American judges who were nominated to the federal judiciary. However, he did not support Missouri Supreme Court Judge Ronnie White. Nor did a majority of the U.S. Senate, 77 Missouri sheriffs, the National Sheriffs' Association, and other law enforcement groups. Senator Ashcroft's opposition to Judge White was based on a review of Judge White's dissenting opinions in death penalty cases.

In my view, a person with honesty and integrity who has a strong law enforcement record and a demonstrated willingness to follow the law regardless of personal beliefs is exactly the type of individual that should lead the Justice Department. That's the Senator Ashcroft I know, and he will serve with distinction as Attorney General. He has my full support. Thank you, Mr. President.

Mr. President, I am very pleased, and I congratulate the leadership here on our side and on their side for finally deciding we would vote today, not too long from now. I am hoping John Ashcroft will be confirmed. I do not know what this magical number of whether the Democrats can get 40 or 41 is all about, but I surely would not like to be a Senator on the other side who is told: We need your vote so we can get 41 votes against this man. What does that mean? Is that some reason to vote against this candidate? To me, if I were on that side and somebody told me: We only have 39 against him; we need you to make 40, and then told somebody else 41, I would say: Don't you think I ought to decide whether I want to vote for him? What does this 49, 40, or 41 mean? I don't understand it, except some think it means that is strength.

Mr. LEAHY. Will the Senator yield on that point?

Mr. DOMENICI. I am finished. I will yield the floor.

It is strength, meaning you can defeat the next person President Bush sends up to be a Supreme Court judge. What is that about? Nobody knows who he is going send, what his philosophy is going to be. Pure speculation. Pure speculation. And they are asking Senators to vote so they can have that kind of message to those who are worried about candidates who are conservative like this man? I don't really think it matters too much if it is 39, 38, 40, or 41; he is going to be Attorney General.

I tell you, I really predict he will be a good one, a very good one.

I yield the floor.

Mr. LEAHY. Mr. President, I realize we are on the time of the distinguished Senator from Utah, but I wonder if I might take 30 seconds to respond to what my friend from New Mexico said.

Mr. HATCH. Of course.

Mr. LEAHY. One, I commend both sides for the way they have managed this. But I tell my friend from New Mexico, this Senator has not asked, urged, or cajoled any Senator to vote one way or the other. I have not lobbied one single Senator in this body or told them how I expect them to vote.

The only time I have heard—I tell the Senator from New Mexico, if I could have his attention——

Mr. DOMENICI. Sure.

Mr. LEAHY. The only time I have heard numbers expressed was from the Republican leadership, when they stated before the hearings began—before 1 minute of hearings was held—that all 50 Republican Senators were expected to, and would, vote for Senator Ashcroft, and, of course, plus Vice President CHENEY, which would make a majority.

I do also appreciate him saying that we now come to the vote. I point out this matter has come to a vote much quicker than the last contested Attorney General, which was in President Reagan's term, with a Republican-controlled Senate, where they took about 10 months to bring it to a vote. The nomination papers arrived Monday, we voted in the committee on Tuesday, and we are going to have a final vote on Thursday.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are at the end of this particular debate. We are rapidly coming up to the time where we are all going to have to vote.

It would be an understatement for me to say I have been disappointed in a number of our colleagues and the approaches they have taken towards this particular nominee.

There has not been a person in the Senate who has not admitted that John Ashcroft is a person of integrity, decency, and honesty. He is a very religious man who believes in what he is doing.

I believe some of the arguments that have been made have been pretty bad. They have distorted his record. Mischaracterizations have been throughout this matter. It has been really hard for me to sit here and listen to some of the arguments that have been made.

Article VI of our Constitution, while requiring that Officers of the government swear to support the Constitution, assures us that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." I fear that with regard to the nomination of John Ashcroft to be Attorney General of the United States, we are coming very close to violating the spirit, if not the letter of that assurance.

In response to a question I posed to Senator Ashcroft about the wide disparity of treatment accorded him as a person of faith and that accorded to Senator LIEBERMAN when he was running for Vice President, and whether anything in his religious beliefs would interfere with his ability to apply the law as critics had charged, Senator Ashcroft said:

> In examining my understanding and my commitment and my faith heritage, I'd have to say that my faith heritage compels me to enforce the law and abide by the law rather than to violate the law. And if in some measure somehow I were to encounter a situation where the two came into conflict so that I could not respond to this faith heritage which requires me to enforce the law, then I would have to resign.

If anyone is looking for reassurances about whether Senator Ashcroft will enforce the law as written, I do not think anyone would have to look farther than this brief paragraph. Senator Ashcroft's critics and supporters uniformly agree that Senator Ashcroft is a man who takes his faith seriously. And if he says his faith compels him to abide by the law rather than violate it, I think his promise carries some weight. As he said in his opening statement, he takes his oath of office seriously, it being an oath taken enlisting the help and witness of God in so doing.

Nevertheless, he has been attacked as a dangerous zealot by many of his opponents, who suggest that his faith will require him to violate the law, or as a liar who cannot be trusted when he says he will uphold the law, even when he disagrees with it, as he has in similar circumstances in the past. His critics cannot have it both ways. They seek to impose either a caricature of strong faith—a faith defined by them—followed with zealous determination in violation of law, or of one who flouts his faith convictions by lying about his principles to get through the confirmation process. Which is it? Apparently, his critics do not understand either a faith that transcends politics and power-grabs or the distinction between being an advocate for change in the law and being an impartial magistrate applying the law. This is not surprising, given the proclivity of many of his critics for a largely lawless, results-oriented, politicized approach to law, whether at the Justice Department, in the Courts, or elsewhere.

I think the corrosive attacks on a qualified nominee because of his religious beliefs not only weakens our constitutional government, but also undermines the ability of citizens in our democracy to engage in a meaningful dialog with each other. When such attacks are made on the ground that a man's faithful conviction will prevent him from discharging the duties of his office, whole segments of our democracy are disenfranchised, and the American heritage of religious tolerance is betrayed.

Strangely, though many have commented on these issues, some claim the inability to see any such religious attack on Senator Ashcroft and the large number of Americans who believe much of what he does. Following my question to Senator Ashcroft, Senator LEAHY, the ranking Democrat on the Judiciary Committee, engaged in the following exchange with Senator Ashcroft:

> Mr. LEAHY. I just would not want to leave one of the questions from my friend from Utah to give the wrong impression to the people here and just, sort of, make it very clear. Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?
>
> Mr. ASHCROFT. No senator has said, "I will test you," but a number of senators have said, "Will your religion keep you from being able to perform your duties in office?"
>
> Mr. LEAHY. I'm amazed at that.

I have been amazed too, and I am not alone. I ask unanimous consent to have a sampling of editorials that have pointed out the religious test element in these attacks printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 19, 2001]

ASHES TO ASHCROFT

(By James W. Skillen)

Do deeply held religious convictions pose a threat to government? May we trust a man like John Ashcroft, whose outlook appears to be saturated by faith, to serve as U.S. attorney general.

It may seem odd, at first, that such a question is asked at all. Odd that sincere religious belief—at least when it comes to holding public office—should be counted as a liability, whereas agnosticism and atheism are presumed to pose no problem whatsoever. But there is a logic to the question—if indeed there is a reasonable concern that some higher authority will interfere with the republic's human ones.

But is there a reasonable concern? That depends. There are religions, and then there are religions. Clearly a man whose God calls for him to overthrow the American system of government would disqualify himself for public office immediately, as would a theocrat for whom clerical edicts would trump federal and state laws.

But of course John Ashcroft is not this sort of man. He is, rather, the kind of Christian whose belief wholeheartedly supports democracy, the rule of law and religious freedom. To put it starkly: He believes that his savior and lord, Jesus Christ, approves of the American system of government.

But that won't save him from his critics, who cringe at such a claim, since they don't think the name of Jesus should be used in a political conversation. But this is a kind of bigotry. We easily accept the idea that broad liberal sentiments inspire public service and that secular, humanitarian ideals are harmonious with American democracy. Why not religious convictions too?

Of course, any truths that anyone holds dear—secular or divinely ordained—must exist in the real world on the same footing as others, under constitutional provisions that hold for everyone. But there is nothing in Mr. Ashcroft's record to suggest that he thinks otherwise.

So why do some people still find his religion so threatening? The answer, I think, is almost philosophical. It has been standard modern practice to speak of religion in isolation, as something separate. Thus we hear of "religion and society" or "religion and politics." This manner of speech has its roots in the European Enlightenment's conviction that Christianity was a kind of residual entity that would soon be made obsolete by the progress of science and reason.

The U.S. was founded at a time when the Enlightenment was beginning to win American converts. Thomas Jefferson expressed the new moralism of the Enlightenment when, in a letter to his nephew, Peter Carr (Aug. 10, 1787), he encouraged him to read the Bible. If such reading, Jefferson wrote to Carr, "ends in a belief that there is no God, you will find incitements to virtue in the comfort and pleasantness you feel in its exercise, and the love of others which it will procure you. If you find reason to believe there is a God, a consciousness that you are acting under his eye, and that he approves you, will be a vast additional incitement."

From this point of view, religion is judged by its pragmatic usefulness—its power to inspire public virtue. Whether God exists, whether faith can be felt to be personally true, does not matter.

The problem with Mr. Ashcroft, in the eyes of those who have been influenced more by the Enlightenment than by Christianity, is that he reveres God as truly superior to himself and, in a moral sense, to the republic. That is, he takes religion too seriously for a modern man. He does not treat it as either a utilitarian devise or a merely private affair.

Of course, if Mr. Ashcroft's political convictions on, say, abortion were the same as those who now fault him, his critics would applaud his belief as an incitement to virtue. But he holds views contrary to their own. How to explain his unwillingness to join their moral majority? Disparage his religion as something dangerous—something out of the mainstream that belongs to a darker, or less "enlightened," age.

And the best way to do this is to suggest, implausibly, that Mr. Ashcroft is blinded by his faith, that it is so illiberal that it renders him unable to honor his obligations as a public official, to revere the Constitution, to obey the law it is his job to enforce. But it is an absurd suggestion: After all, George W. Bush will put his hand on the Bible tomorrow as he takes the oath of office, just like other presidents before him. Somehow, the republic will survive, and perhaps even prosper.

[From the Washington Times, Jan. 17, 2001]

ASHCROFT UNDER FIRE

If John Ashcroft is to be known as an extremist because he is a man of faith; if, as his former Senate colleague Charles Schumer repeatedly intimates, he is deemed ill-equipped to enforce the law—even incapable of knowing whether he is enforcing the law—because of his ideological and philosophical beliefs; if the man is to be labeled a racist because, as a senator from Missouri, he opposed one black judicial nominee while supporting 26; if all these wholly spurious charges are allowed to stand in a disgraceful attempt to, first, smear an honorable and supremely distinguished man and then defeat his nomination for attorney general, it would become clear that the American mainstream is a sterile, even hostile environment.

To be sure, the Senate Judiciary Committee, under Sen. Patrick Leahy's leadership this week, seems to be just such an inhospitable place. Even before Mr. Ashcroft gave a jot of testimony, answered any questions, explained a single point of view or action, or even said howdy-do, the Senate Democrats had bayonets affixed and were on the attack. In an ill-mannered rant harkening back to that science-fictional, if slanderously effective attack on Robert Bork's Supreme Court nomination, Sen. Ted Kennedy depicted an Attorney General Ashcroft as someone who would "advance his personal views in spite of the laws of the land"—the baseless, indeed, fanciful implication being that Mr. Ashcroft would serve as some kind of Cabinet-level desperado in the new Bush administration. Of course, Mr. Kennedy, reprising his oft-played role as Democratic heavy in the confirmation hearings of Republican nominees, was just warming up.

Mr. Schumer, if more cordial, was hardly more temperate in his opening remarks, injecting a note of condescension into the hearings by wondering how such an "impassioned and zealous advocate" as Mr. Ashcroft could, as attorney general, "just turn it off? That may be an impossible task," said Mr. Schumer, implying that Mr. Ashcroft is constitutionally—religiously?—incapable of enforcing the law when it conflicts with his convictions.

One might have thought that Mr. Ashcroft had pricked most of the grossly—and grotesquely—inflated charges against him with his compelling opening testimony during which he emphasized his commitment to enforcing the law as written for all Americans, regardless of race, color or creed. Hardly striking an orthodox conservative pose, Mr. Ashcroft spoke of his commitment, not to a color-blind society, but rather to diversity and integration. He elaborated on his record of supporting minority appointments and nominees throughout his career, and he spoke of his opposition to racial profiling. On the incendiary issue of abortion, Mr. Ashcroft declared that, consistent with previous Republican attorneys general, he believed Roe vs. Wade to have been wrongly decided, but affirmed his unwavering acceptance of the landmark cases upholding abortion's legality.

So what's the liberals' problem? Does anyone still take seriously the charges of racism—even after, say, the brother of slain civil rights activist Medgar Evers came out for Mr. Ashcroft this week? Does anyone—even a Senate Democrat—genuinely worry that Mr. Ashcroft would not enforce abortion laws even after learning, for example, that he has supported a ban on violence against abortion clinics? Mr. Ashcroft has made it clear that, as attorney general, he would uphold the Constitution and the laws of the nation. After eight years of an increasingly degraded Justice Department, that would be—may we say it?—the department's salvation.

[From the New York Times, Jan. 17, 2001]

A CHRISTIAN, A CITIZEN

(By Robert A. Sirico)

GRAND RAPIDS, MI.—Some of the objections to the John Ashcroft nomination for attorney general hint that the problem with his conservative politics is that it is rooted in his Christian faith.

It is true that Mr. Ashcroft has made it clear that he is Christian and that his religious beliefs inform his judgment of the world. But why shouldn't someone who holds this particular belief be qualified to lead the Justice Department?

We must remember our country's progressive tradition of religious tolerance. In our nation's history, certain states subjected public officeholders to certain religious tests. For instance, in 1961, the Supreme Court struck down a Maryland law that required public officials to swear to a belief in the existence of God. Progressives fought valiantly against these religious tests, and it would be a grave error to promote a new religious test that would in effect block committed Christians from public service.

And yet some understandable questions remain. From the time of ancient Israel and the early church, believers have held that there is a law higher than those issued and enforced by government. Its source is transcendent and binds people's souls in a way in which statutory law cannot. Indeed, the idea of a natural law that transcends the political process is a powerful argument against tyranny.

Every serious believer and every conscientious person in public office must balance respect for law with the dictates of conscience. Many have disagreed profoundly with certain policies and wondered whether their religious commitments permitted them to cooperate in enforcing those policies.

Surely, as attorney general, Mr. Ashcroft would also have to struggle with this conundrum—particularly when it comes to abortion, which he opposes. But it is perfectly within Christian belief that one can participate in an essentially just system that sometimes produces unwise laws that must be enforced, as Mr. Ashcroft would do. That is at least as principled a position as that of those Catholic politicians who personally oppose abortion but vigorously support Roe v. Wade.

George W. Bush's response to the attacks on Mr. Ashcroft hints at the distinction between administering the law and advocating legislation. He says that as attorney general, Mr. Ashcroft will enforce, not interpret, the law, until such time as Congress changes them. Presumably that also includes the nation's laws on abortion.

The Bible, in Chapter 13 of Romans, tells Christians that "the powers that be are ordained of God." That passage has never been held to mean that every regime governs according to God's will. But the phrase does imply that Christians face no moral obligation to flee from public life merely because a nation's laws do not always perfectly conform to the highest moral standards.

We are a nation that holds firm to the conviction that a person's religious commitments, or lack thereof, need not bar him or her from public life. The Ashcroft nomination provides an opportunity to reaffirm the best of this old liberal virtue of tolerance.

[From the Washington Post, Jan. 19, 2001]

Disqualified by His Religion?

(By Charles Krauthammer)

A senator is nominated for high office. He's been reelected many times statewide. He has served admirably as his state's attorney general. He is devout, speaking openly and proudly about his religious faith. He emphasizes the critical role of religion in underpinning both morality and constitutional self-government. He speaks passionately about how his politics are shaped by his deeply held religious beliefs.

Now: If his name is Lieberman and he is Jewish, his nomination evokes celebration. if his name is Ashcroft and he is Christian, his nomination evokes a hue and cry about "divisiveness" and mobilizes a wall-to-wall liberal coalition to defeat him.

Just two months ago I addressed a gathering of the Jewish Theological Seminary arguing that the Lieberman candidacy—the almost universal applause his nomination received, the excitement he generated when he spoke of his religious faith—had created a new consensus in America. Liberals have long vilified the "religious right" for mixing faith and politics and insisting that religion has a legitimate place in the public square. No longer. The nomination of Lieberman to the second highest office in the country by the country's liberal political party would once and for all abolish the last remaining significant religious prejudice in the country—the notion that highly religious people are unfit for high office because they confuse theology with politics and recognize no boundary between church and state. After Lieberman, liberals would simply be too embarrassed to return to a double standard.

How wrong I was. The nomination of a passionate and devout Christian for attorney general set off the old liberal anti-religious reflexes as if Joe Lieberman had never existed.

Of course, the great anti-Ashcroft revolt is not framed as religious. The pretense is that it is about issues. Hence this exchange during John Ashcroft's confirmation hearing:

Sen. Patrick Leahy: "Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?"

John Ashcroft: "No senator has said 'I will test you.' But a number of senators have said, 'Will your religion keep you from being able to perform your duties in office?' "

Sen. Leahy: "All right, well, I'm amazed at that."

At the clumsiness, perhaps. No serious politician is supposed to admit openly that Ashcroft's religion bothers him. The religious test that is implied is not just un-American, it is grossly unconstitutional.

The ostensible issues are abortion and racial preferences, both of which Ashcroft fundamentally opposes. But are they really? In a country so divided on these issues, can one seriously argue that opposing abortion and racial preferences is proof of extremism? It would be odd indeed if the minority of Americans who believe in racial preferences and the minority who believe in abortion-on-demand were to define the American mainstream. In fact, under these issues lies a suspicion, even a prejudice, about the fitness of a truly religious conservative for high office. "Christian Right" is a double negative in the liberal lexicon. It is meant to make decent Americans cringe at the thought of some religious wing nut enforcing the laws. Torquemada at Agriculture perhaps. But not Justice, God forbid.

To the anti-Ashcroft coalition, the Christian Right—numbering at least 30 million, by the way—is some kind of weird fringe group to whom bones are thrown by otherwise responsible Republicans to induce them to return to their caves. Politically, they are a foreign body to be ignored, bought off or suppressed. Hence the charge that the very appointment of a man representing this constituency is, in and of itself, divisive.

Hence the salivation when news broke that there was a tape of Ashcroft's commencement address at Bob Jones University. In it, he declared that Jesus is a higher authority than Caesar. That sent some fundamentalist church-state separationists into apoplexy. This proved, said Barry Lynn, the executive director of Americans United for Separation of Church and State, that Ashcroft "has little or no appreciation for the constitutional separation of church and state" and thus is disqualified from serving as attorney general.

What Ashcroft did was not merely to state the obvious—that the American experiment has always recognized its source in the transcendent—but to restate in his own vernacular what Joe Lieberman had been saying up and down the country throughout the summer and fall.

It was a great day when Joe Lieberman was nominated. and it was even greater that he publicly rooted his most deeply held political beliefs in his faith. It is rather ironic that we now need to go through that same process for Ashcroft's constituency of co-believers. When the Senate confirms him, we will have overcome yet another obstacle in America's steady march to religious toleration.

Mr. HATCH. Mr. President, let me point to just a few instances of these amazing attacks on Senator Ashcroft, made on largely religious grounds, since he was nominated. In fairness to my colleagues in the Senate, they have tried to draw a distinction between the liberal pressure groups' attacks on Senator Ashcroft's religious views and my colleagues' questioning into his "values" or "beliefs." But their wholesale adoption of the rest of the liberal interest group critique of John Ashcroft does suggest a connection between the objections, despite a generally more guarded rhetoric. However, I was disappointed that just this morning one of our colleagues was quoted in The New York Times as saying, "he believed Mr. Ashcroft's 'fundamental beliefs and values' would conflict with the attorney general's responsibility to enforce the law." NY Times, Feb. 1, 2001.

Let me turn to the testimony of Professor James M. Dunn, who testified at our Senate hearings as an expert on religion issues. I begin here because Professor Dunn is the most explicit in his religious attack on Senator Ashcroft.

Most attacks have been based on the divergence of his religious beliefs and a particular law, such as abortion rights, or a suggestion that the strength of his deeply-held convictions will make it impossible for him to analyze the law dispassionately and apply it evenhandedly. Professor Dunn makes his attack explicitly on religious grounds. On a personal note, I am deeply disappointed that a Divinity Professor, who has worked on important religious liberty legislation with me and other people of conscience and people of faith, would use such harsh and intemperate language to attack a person of good faith, apparently over a policy difference.

Professor Dunn says explicitly what others have coyly and carefully implied. He says, and I quote what is essentially the thesis statement of his testimony before the Judiciary Committee: "The long history of Senator Ashcroft's identification with and approval of the political agenda of religious, right-wing extremism in this country convinces me that he is utterly unqualified and must be assumed to be unreliable for such a trust."

Let me quote that point again: "The long history of Senator Ashcroft's identification with and approval of . . . religious, right-wing extremism in this country convinces [Professor Dunn] that he is utterly unqualified and must be assumed unreliable for such a trust."

That is about as baldly as the matter can be put, John Ashcroft is "utterly unqualified" and "unreliable" because of his "religious, right-wing extremism."

As if the name-calling were not enough, to make this an even more stunning assertion, the case Professor Dunn offers to prove this perceived "extremism" is that John Ashcroft was the "principal architect" of the so-called "charitable choice" legislation which was passed by the Congress and signed by President Clinton in 1996.

To suggest that duly passed legislation, adopted by two branches of government controlled by different political parties is outside the mainstream is simply ludicrous, and suggests that the one outside the mainstream is not Senator Ashcroft, but rather his critics. This is a point that could be made on a number of policy fronts.

This critique is particularly odd when both major-party presidential candidates have been talking up the concept of charitable choice very recently in their campaigns.

I am disappointed when policy disagreements deteriorate into name-calling, but considering the source I am particularly disappointed. I would hope that the United States Senate would never countenance such attacks in the consideration of this, or any other, nominee. I hope no weight will be given to such intemperate vitriol, nor more guarded attacks made in the same spirit. I hope that none of my colleagues would join in such attacks, whether explicitly stated or couched in more careful language.

I am glad that at least Professor Dunn's clear statement can put to rest the question of whether Senator Ashcroft is being attacked in part on his religious beliefs. Dunn is not alone, either. For example, Barry Lynn, of Americans United for Separation of Church and State, in attacking Senator Ashcroft's nomination also cites charitable choice—again, a law adopted by two branches of government controlled by two different parties—as an instance of Ashcroft's "extreme views." And to underscore the broader point, Lynn points to the apparently decisive fact that "Religious Right leaders find Ashcroft's fundamentalist Christian world view and his far-right political outlook appealing." Let us be clear here: the charge is guilt by association with religious people.

As a number of my colleagues have suggested that the nominee might want to apologize for some of his associations or take the opportunity to dissociate himself from them, I would invite my colleagues to show a similar indignation for these attacks on people of faith, and dissociate themselves from these intolerant statements, unless they too would like their silence to be considered approval of such intolerance. Perhaps there needs to be greater sensitivity shown here.

In addition to such explicit attacks, others attack Senator Ashcroft because his religious beliefs can be viewed as diverging from the legal results favored by far left liberal interest groups.

For example, in the area of abortion, Ms. Gloria Feldt, the President of Planned Parenthood Federation of America criticized Senator Ashcroft for "his belief that personhood begins at fertilization," saying "his actions and statements over time with regard to choice and family planning represent no mere commentary on policy decisions of the day, but rather illustrate deeply held beliefs that put him at odds with the overwhelming majority of Americans." She went on to argue that his view is "one of the most extreme positions among those who oppose a woman's right to make her own reproductive choices, John Ashcroft actually believes that personhood begins . . . at the moment that sperm meets egg, the moment of fertilization." Well, call it extreme if you will—that word is a hobby horse of the far left liberal groups who oppose this nominee—but I understand that is the position of a number of churches, including the Catholic church. What is striking and chilling about this attack is the implication that anyone who holds this belief, including believing members of many churches, including the millions of believing Catholics, are unfit for the office of Attorney General because of their "extreme positions." Surely, the Senate cannot take the position that faithful Americans who adhere to the pro-life doctrines of their churches, or even those who are pro-life on secular grounds, are unfit for office because of this view.

Where all of this leads is down one of two roads. Either the political views of about half of the country—including a duly elected pro-life President—make one unfit for office, which clearly cannot be right in a democracy. Or religious people who actually believe their religions are unfit for public office, which clearly cannot be right in a tolerant and pluralistic society founded in part on religious freedom.

Or there is a third path. That path is the one John Ashcroft's opponents have added most recently to counter his assurances that he will follow the law, even where he disagrees with it. That path is to try to brand as a liar a person who, while disagreeing on policy, promises to honor the law as the policy-makers have made it. This path attacks the very notion of dispassionate analysis and even-handed application of the law.

Besides undermining our basic assumptions supporting the rule of law, this position raises two additional objections. First, it unfairly puts the nominee in a lose-lose position where he cannot ever win the argument because if he disagrees with his opponents on policy he is branded a dangerous extremist, but if he disarms the policy dispute by acknowledging his role as enforcer of policy made by others, his veracity is called into question. There seems to be no way to satisfy these critics without violating the oath to uphold the law; they seem to want a promise that he will make up new liberal law in his enforcement position.

Besides being little more than a desperate attempt to justify opposition under any circumstances, this path leads to a second, and more chilling result for religious tolerance, namely that of Senator's judging a nominee on the basis of their views of the nominee's religious faith and that faith's priorities. John Ashcroft responds to those who criticize him for his beliefs about abortion and the beginning of life, for example, by stating that his religion requires him to follow the law as written when he is filling an enforcement role, and his oath to do that will be binding on him. Those who challenge his veracity on this point are picking and choosing which of Senator Ashcroft's religious beliefs they feel are genuine or which religious principle has priority for him. I think this moves dangerously close to the line of imposing a religious test on a nominee.

Oddly, to justify questions approaching this line, one Judiciary Committee member suggested that is was perfectly appropriate to inquire whether a Quaker could faithfully discharge the office of Secretary of Defense. I am not sure we should be so blithely assured that it is appropriate to inquire about a nominee's religious beliefs and then judge that nominee based on what we think their religion requires of them. That robs the individual conscience of its freedom and robs the executive of the choice of cabinet team based on a Senator's own projection of what a nominee's religious code ought to be. Perhaps we can ask a nominee the general question whether there is anything that would keep them from fulfilling their duties, but I do not think it appropriate to assume that someone is unfit for a job because we have preconceptions about what their sect believes and then criticize them if their answers do not fit our preconceptions of what they should believe. We need to tread very carefully here. We would do well in such matters to give the benefit of the doubt to the nominee. We have certainly given the benefit of the doubt to the last president when we had qualms about the quality or credentials of some of his nominees, or their policy positions. But we owe a special duty to resolve doubts in favor of a nominee when questions stem from our assumptions about a nominee's religious beliefs, especially in the face of the nominee's contradiction of our assumptions.

Mr. President, I think we would all do well to remember what we know about John Ashcroft, and not be influenced by a caricature painted by those extreme groups whose distortions of this honorable man are driven largely by their own narrow political interests. We know him to be a man of integrity, a man of his word. A man who reveres American constitutionalism, democracy, pluralism, and equality before the law. We know John Ashcroft is the sort of person whose word is his bond. And if his religion is relevant, it speaks for him as a person who will discharge the office of Attorney General with honor and dignity, with impartiality, according to the law established by the constitutional process he reveres.

I think if we examine our hearts, we will find nothing that disqualifies him to be Attorney General. And we cannot, in good conscience, say that all those Americans who believe as he does are outside the mainstream of American opinion. No, they are solidly within the history of American pluralism and freedom, including religious freedom. We know John Ashcroft will faithfully discharge his duties and honor his oath of office, sworn as he points out "so help [him] God." And we know this no matter what the liberal pressure groups assert. I hope we will similarly honor our oaths, rejecting what has become in essence a religious test for this nominee, and vote to confirm this honorable man to the post of Attorney General.

My colleague Senator KENNEDY suggests that to oppose court-ordered busing makes a person against integration. But nothing could be farther from the truth. I think most people highly abhor racial segregation. However, the remedy for such segregation is extremely controversial. Mr. Bob Woodson testified that a significant majority of African-Americans opposes busing for integration. And it is no wonder, given that many of these programs have been a dismal failure. They may have moved some children out of city schools, but they have done little to improve inner-city schools.

I would like to address several allegations that continue to be made relating to Senator Ashcroft's involvement with school desegregation cases in Missouri. First, let me say that I do not in the least condone segregation in St. Louis or Kansas City or anywhere else. It is a shameful legacy that must be dealt with appropriately.

Second, while the costs of the desegregation program were exorbitant, this is not the only criticism to be made of the plans. The primary argument repeatedly made by Senator Ashcroft is that the State was never found liable for an inter-district violation.

Senator KENNEDY has referred to an 8th Circuit decision that he argues found the State of Missouri guilty of an inter-district violation. But a circuit court cannot make such a factual finding. Rather, this is a finding that must be made only by a trial court.

The fact that the State was never found liable for an inter-district violation is shown by the fact that throughout 1981 and 1982, the parties were preparing for trial on the very question of inter-district liability.

So again, I emphasize that it is true and correct to say that the State was never found liable for an inter-district violation.

Although the State was not found liable for an inter-district violation, it was required by the district court to pay for a settlement reached by the suburbs and the City of St. Louis. This order by the district court was likely unconstitutional under the Supreme Court's decision in Milliken.

Opposing these court orders for a plan that was constitutionally suspect, expensive, and ineffective, does not make Senator Ashcroft an opponent of desegregation.

Indeed, the plan as implemented has been a dismal failure. Test scores actually declined from 1990 to 1995. Scores on the standard achievement test went from 36.5 to 31.1 at a time when the national mean was 50. And the graduation rate has remained at a dismal 30 percent.

To question Senator Ashcroft's integrity over such a complicated and controversial issue is to seriously distort his record and disbelieve his sworn testimony.

Senator Ashcroft acted with great probity as a representative of the State of Missouri. He supports integration and deplores racism.

As one who feels very strongly about drug issues, I am pleased to say I have been working with Senator LEAHY on legislation dealing with drug treatment and prevention, and we are going to get that done this year.

I feel compelled to respond to some of the criticism launched at Senator Ashcroft yesterday regarding his stance on drug treatment. Some have questioned Senator Ashcroft's dedication to investing in drug prevention and treatment programs in the battle against drug abuse and addiction.

Indeed, yesterday when giving a statement in opposition to Senator Ashcroft, one Senator suggested that Senator Ashcroft opposed investing in drug treatment. That simply is not true. Senator Ashcroft's record in the Senate proves that he placed a lot of faith in drug prevention and treatment.

He has always believed, as do many of us, that America's drug problems can only be conquered through a comprehensive, balanced approach consisting of interdiction and law enforcement efforts as well as prevention and treatment.

It is true that in 1998, Senator Ashcroft called on the Clinton administration to continue the ban on federal funding for clean-needle programs, stating "the nation's leaders have a fundamental responsibility to call Americans to their highest and best." Providing clean needles to drug addicts, Senator Ashcroft reasoned, was analogous to "giving bullet proof vests to bank robbers." He argued that such a policy would "hurt kids, tear apart families, and damage the culture." Senator Ashcroft went on to state that providing needles to addicts "is accommodating us at our lowest and least." In light of the fact that heroin use among eighth graders had doubled and that marijuana use was up 99 percent at the time when the Clinton administration was considering lifting the ban on federal funding for needle exchange programs, Senator Ashcroft concluded that "America deserve[d] better," and that its leaders needed to set "a higher standard than providing clean needles for drug users."

Some have mischaracterized Senator Ashcroft's record on drug treatment. I have complete confidence in saying that the majority of Americans agree with Senator Ashcroft. Providing drug addicts with clean needles is not the most effective drug prevention or treatment.

Just last session, Senator Ashcroft authored and introduced S. 486, a comprehensive bill that attacked the methamphetamine problem on several fronts, including the prevention and treatment fronts. S 486 was a balanced drug bill that contained significant and innovative prevention and treatment provisions. For example, the bill: (1) Expanded the National Drug Abuse Treatment Clinical Trials Network which conducts research and clinical trials with treatment centers relating to drug abuse and addiction and other biomedical, behavioral and social issues related to drug abuse and addiction; (2) authorized $10 million in grants to States for treatment of methamphetamine and amphetamine addiction; (3) authorized $15 million to fund grants to public and nonprofit private entities to carry out school-based and community-based programs concerning the dangers of abuse of and addiction to methamphetamine and other illicit drugs; and (4) required HHS to conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.

Another important treatment provision, included in S. 486, offered an innovative approach to how drug addicted patients could seek and obtain treatment by creating a decentralized system of treating heroin addicts with a new generation of antiaddiction medications. This provision, which was added to S. 486 and was fully supported by Senator Ashcroft, was taken from a bill introduced by myself and Senators LEVIN and BIDEN. I am sure Senator LEVIN would agree that Senator Ashcroft's sponsorship and support for this very provision, not to mention the countless other provisions included in the bill, demonstrate this commitment to utilizing and funding effective prevention and treatment programs in the fight against illicit drug abuse and addiction. Senator Ashcroft's record proves he believes in prevention and treatment programs and his views on one particular, and I must say controversial, form of a treatment program.

There are so many things I could bring up that have been distortions, misrepresentations, and downright falsehoods stated on this floor and in our committee about Senator Ashcroft—especially by outside groups. The sheer volume is mind-boggling to me.

I recall the Golden Rule of "do unto others as you would have them do unto you."

I wonder how many people would like to be treated like Senator Ashcroft has been treated by some of our colleagues here and some of these outside groups, distorting his record, trying to make him look bad—all in the good name of politics. I think it is wrong. Buddhists say it another way. Buddhists say, "Do as you would be done by." It is very similar. Do unto others as you would have them do unto you.

How many of us would like to be treated like this? Here is a man who was elected attorney general of his State, who did his best to do that job, who enforced laws he didn't agree with. And he has a record that can be shown. He was selected by his peers—the other 49 attorneys general of the United States of America—to head the National Attorneys General Association. And we have people here saying he should not be Attorney General of the United States.

You don't get elected by 49 other state attorneys general—Democrats and Republicans—unless you are a quality person. What is more, he became Governor of the great State of Missouri for 8 years. As Governor of the State of Missouri, he also became the head of the National Governors' Association elected by the other 49 Governors. I submit that you don't get elected chairman of the National Governors' Association unless you are a quality individual, of great substance, fair and decent, and you surely would not get elected if you were against desegregation. There is no way.

Then he served 6 years in this Senate and I have never heard one person in this body say that he is not a man of integrity, decency, and honor.

Do unto others as you would have them do unto you.

I have never seen treatment like this of a worthy colleague. I have never seen treatment like this of somebody who has spent a lifetime living his beliefs and doing what is right.

Of the 69 Attorneys General of the United States, John Ashcroft has more qualifications than all but a handful; some say more qualifications than any one who has been Attorneys General. I will not go that far. But there is only a handful that have at least some of the qualifications that John Ashcroft has.

Think of what Senator Ashcroft's critics are doing to the State of Missouri in the arguments that have been made here. Why, you would all have to imply that the people of Missouri just have no brains to elect somebody as vicious, as violent, and as awful as John Ashcroft, when it is completely the other way. I commend the people of Missouri for having the brains to have somebody of that quality serve them as attorney general, Governor, and Senator.

Look at the way he handled his defeat—with decency; much more than has been shown to him—consideration, and kindness. And we are happy to welcome our new colleague from Missouri because of John Ashcroft's gracious concession and because she is a great person to boot. But Senator Ashcroft could have contested the election. The loss of a Senate race has to be personal. There are other legal aspects as well, it could be argued. But he didn't. He did not do what others are doing to him.

When I see these outside groups, I welcome them because it is the first time we have seen them in 8 years. Isn't that interesting? They seem to react and get into action only when there is a Republican President. I wonder why that is the case.

I respect their right to advocate. I respect their point of view even though I don't agree with many of them. I respect their right to come in and state that point of view.

But I resent the way they have done it. I resent the way they have picked on John Ashcroft. I resent the unfair tactics. I resent the distortions of his record. Boy, it has been distorted. I think we all resent it.

Let he who is without sin cast the first stone.

Isn't it amazing that only during Republican Presidencies we have all these groups coming out of the woodwork? I guess they can say it is because Republicans don't agree with them.

That is what makes this country great. We don't all have to agree.

Let me put it bluntly. Is it getting to the point where only pro-choice people can serve in as Attorney General of the United States? Do we have a litmus test that says that we have to reject highly qualified individuals who believe otherwise, but who will enforce the law as it exists? Is that where we are going in this country? Or are we going to continue to distort his record on guns? John Ashcroft has a sterling record on getting tough with criminals who use guns. That is the way to end the misuse of guns in this society—get tough on those who misuse them. There would be a lot less crime. But no, if we don't agree with certain anti-gun groups and we just ignore the history of the second amendment completely, we are not worthy of being Attorney General.

To have his record distorted when he has been a forthright, strong proponent of tough anticrime laws against those who misuse guns, it is a disgrace.

Desegregation: Sometimes in the law we can differ and have a good case and we might lose. But that doesn't mean the case wasn't good. If you look at the record of court-ordered desegregation in St. Louis and Kansas City, it didn't work. The people hurt the worst were the people in the inner cities of St. Louis and Kansas City. It cost $1.8 billion, which John thought was a raid on the State treasury. The State was never found liable for interdistrict segregation. Those are important points.

I want Members to think about it. Why would anybody in this body say some of the things that have been said about John Ashcroft? Is it because they want to make John Ashcroft the new Newt Gingrich so they can raise funds for reelection? I certainly hope not. But there are some who believe that. I am not sure it is not true. Is it because they are sending a message that no conservative who believes in the right to life should ever be Attorney General? Or even more, should never be on the circuit courts or supreme court of this land? Is that what we are doing? I believe some are doing it for that reason. I know some of the outside groups are doing it for that reason. I know they are trying to get as many votes against John Ashcroft so they can claim a victory, even though John Ashcroft is going to be the next Attorney General of the United States. I guess they want to undermine him from day 1. They got the wrong guy.

This is a fellow who will do what he thinks is right, and by and large will be right. Everybody in this body admits he would be a great law enforcement Attorney General.

The fact is, they know he is tough on crime. After all, that is one of the things we are all worried about. People are scared to death in this land today because we have allowed drugs to pervade the land. We have allowed criminality to pervade the land. We haven't been as tough as we should be. We have illicit use of guns in this land because we are not enforcing the laws. Instead of going after those who misuse the guns, they have been complaining about guns themselves. I would rather attack the problem in a responsible and intelligent way. Let he who has not sinned cast the first stone. Do unto others as you would have them do unto you.

I hope we don't have another nominee that goes through this, a person of decency and honor. I hope whether he or she is a Democrat or Republican, they will have a little more class than we have had displayed in this matter. I hope my colleagues on the other side will vote for John Ashcroft because it is the right thing to do. We should never get into these name-calling contests and distort people's records, especially someone of the quality of John Ashcroft, and a colleague at that.

Mr. President, I rise today to speak in strong support of President Bush's nominee for Attorney General, our former colleague, John Ashcroft. Senator Ashcroft will be one of the most qualified Attorney Generals in our history. Unfortunately, he has also been the target of one of the most vicious and unrelenting smear campaigns in our history, and it is with that in mind that I feel compelled to set the record straight and describe at length, the real facts and the real qualifications of someone I think this country will be very fortunate to have serve as our Attorney General.

Mr. President, much of the debate over the nomination of John Ashcroft has focused on issues tangential to the core mission of the Department of Justice. The Senate would be well-served to consider the Ashcroft nomination in light of the duties of the Attorney General. When this debate is placed in the proper perspective, it becomes even more obvious how qualified Senator Ashcroft is to be the next Attorney General of the United States.

The Department of Justice was established by Congress in 1870. It is the largest law firm in the United States, with 123,000 employees and an annual budget of approximately $21 billion. Through its thousands of lawyers, agents, and investigators, the Justice Department plays a vital role in fighting violent crime and drug trafficking, ensuring business competition in the marketplace, enforcing immigration and naturalization laws, and protecting our environment. Consider the following major components of the Justice Department in light of the qualifications of Senator Ashcroft:

The Civil Rights Division was established in 1957 to secure the effective enforcement of civil rights for all Americans. Attorneys in the Civil Rights Division enforce federal statutes that prohibit discrimination on the basis of race, gender, disability, religion, and national origin. In order to enforce these landmark laws, the Civil Rights Division engages in a variety of litigation to fight discrimination in employment, housing and immigration. In particular, the litigation brought by the Civil Rights Division under the Voting Rights Act has had a profound influence on the electoral landscape in the last three decades. As Senator Ashcroft emphatically stated at his confirmation hearing: "No part of the Department of Justice is more important than the Civil Rights Division."

Senator Ashcroft's record proves that he believes in the mission of the Civil Rights Division. He vigorously enforced civil rights laws as the Attorney General and Governor of Missouri. He signed Missouri's first hate crimes statute. Not content to wait for the legislature to act, John Ashcroft made Missouri one of the first States to recognize Martin Luther King Day by issuing an executive order. He also led the fight to save Lincoln University, the Missouri university founded by African-American Civil War veterans.

Furthermore, as the Chairman of the Constitution Subcommittee in the Senate Judiciary Committee, Senator Ashcroft held the first hearing on racial profiling in the history of Congress. When asked at his confirmation hearing about his priorities for the Justice Department, Senator Ashcroft cited the abolition of racial profiling as one of his top two priorities.

I ask my colleagues to look to Senator Ashcroft's record and ignore the propaganda generated by extremist lobbying groups. Under attorney General Ashcroft, the Civil Rights Division will be in good hands.

Senator Ashcroft stated at his confirmation hearing that the paramount civil right is personal safety. The Attorney General is America's chief law enforcement officer, and managing the Criminal Division is the most important aspect of the Attorney General's duties. The Criminal Division oversees thousands of federal agents and is charged with, among other things, investigating and prosecuting drug dealers, illegal gun traffickers, bank robbers, child pornographers, computer hackers, and terrorists. The Criminal Division has a visible and tangible effect on the lives of all Americans.

I have no doubt that, given his extensive experience as a public servant, Senator Ashcroft understands and appreciates the mission of the Criminal Division. Throughout his long career as Missouri Attorney General, Missouri Governor, and United States Senator, Senator Ashcroft has been a strong advocate of tough and effective criminal law enforcement.

Perhaps the greatest threat facing our nation today is the scourge of illegal drugs. For years, Senator Ashcroft has been a leader in the fight against illegal drugs. In 1996, Senator Ashcroft helped enact the Comprehensive Methamphetamine Control Act, which increased penalties for the manufacture and trafficking of methamphetamine. Senator Ashcroft also helped enact federal laws that increased mandatory minimum sentences for methamphetamine offenses and authorized courts to order persons convicted of methamphetamine offenses to pay for the costs of laboratory cleanup. Last year, Senator Ashcroft authored legislation to target additional resources to local law enforcement agencies to fight methamphetamine.

Senator Ashcroft also understands that drug treatment and prevention are vital components of an effective drug strategy. In last year's methamphetamine legislation, Senator Ashcroft included funding for drug education and prevention programs, including resources for school-based anti-methamphetamine initiatives. As Attorney General and Governor of Missouri, Senator Ashcroft increased funding for anti-drug programs by almost 40%, the vast majority of which was for education, prevention and treatment.

Senator Ashcroft has also made clear that prosecuting gun crimes will be a top priority of the Ashcroft Justice Department. Unfortunately, gun prosecutions have not always been a priority for the Department of Justice. For example, between 1992 and 1998, prosecutions of defendants who use a firearm in the commission of a felony dropped nearly 50 percent, from 7,045 to approximately 3,800. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. To reverse the decline in gun prosecutions by the Justice Department, Senator Ashcroft sponsored legislation to authorize $50 million to hire additional federal prosecutors and agents to increase the federal prosecution of criminals who use guns.

In addition, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft juvenile assault weapons ban in May of 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, and he voted for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms. In order to close the so-called "gun show loophole," Senator Ashcroft voted for legislation, which I authored, to require mandatory instant background checks for all firearm purchases at gun shows.

In order to maintain tough federal penalties, Senator Ashcroft sponsored legislation to require a five-year mandatory minimum prison sentence for federal gun crimes and for legislation to encourage schools to expel students who bring guns to school. Senator Ashcroft voted for the "Gun-Free Schools Zone Act" that prohibits the possession of a firearm in a school zone, and he voted for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale. I have no doubt that with John Ashcroft as Attorney General, the Justice Department will target and prosecute gun crimes with unprecedented zeal.

To his credit, Senator Ashcroft understands that the vast majority of criminal law enforcement takes place at the state and local level. Given his tenure as Missouri Attorney General and Governor, Senator Ashcroft appreciates the important role that the federal government can play in supporting state and local authorities by providing resources and training. He also understands that the Justice Department should provide such support without intruding into traditional areas of state sovereignty.

In the Senate, Senator Ashcroft steadfastly supported state and local law enforcement. He won enactment of a bill that extends higher education financial assistance to spouses and dependent children of law enforcement officers killed in the line of duty. He was the principal proponent of the "Care for Police Survivors Act," a measure that increases benefits to the survivors of public safety officers killed in the line of duty. Along with Senator BIDEN, Senator Ashcroft cosponsored legislation to reauthorize the COPS program.

In addition, Senator Ashcroft cosponsored the "Local Law Enforcement Enhancement Act of 1995." This act allocated $1 billion to state and local law enforcement to update and computerize criminal records, automated fingerprint systems, and DNA identification operations. John Ashcroft also cosponsored the "21st Century Justice Act" which included Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants. These grants have provided federal resources to States to build prisons to incarcerate violent and repeat offenders. Given his record, it is no surprise that law enforcement groups such as the Fraternal Order of Police, the National Sheriff's Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Association of Police Organizations are united in their support for Senator Ashcroft's nomination.

The Civil Division represents the United States government, including executive departments and agencies, in civil litigation. First and foremost, the Civil Division defends the constitutionality of federal statutes, regulations, and executive orders. The Civil Division also litigates complex commercial cases. This litigation is especially important for property rights because the Civil Division represents the federal government against claims that private property was taken for public use without just compensation. In addition, the Civil Division represents the federal government in consumer litigation under various consumer protection and public health statutes.

Senator Ashcroft's experience as the Attorney General of Missouri prepared him well to oversee the Civil Division. John Ashcroft established the Consumer Affairs Division in the Missouri Attorney General's office. He brought many consumer protection actions, including odometer tampering cases and financial pyramid schemes. In Illinois v. Abbott & Associates, Inc., Attorney General Ashcroft filed a brief in the United States Supreme Court supporting the right of state attorneys general to conduct antitrust investigations. In the Senate, John Ashcroft helped enact legislation to combat telemarketing scams against senior citizens.

As Missouri Attorney General, Senator Ashcroft defended the constitutionality of state laws. In 1993, he personally argued a case before the United States Supreme Court in defense of the constitutionality of a Missouri statute. Few nominees for Attorney General have been so qualified to oversee the Civil Division.

Created in 1909, the Environment and Natural Resources Division is the Nation's chief environmental lawyer. It is responsible for litigating cases ranging from the protection of endangered species to the clean-up of hazardous waste sites. In addition to prosecuting environmental crimes, the Environment and Natural Resources Division ensures that federal environmental laws are implemented in a fair and consistent manner.

As Missouri Attorney General, John Ashcroft aggressively enforced that state's environmental protection laws. To cite but a few examples, Attorney General Ashcroft brought suit to prevent an electric company from causing oxygen levels in downstream waters to harm fish. He also sought to recover damages from the electric company.

Attorney General Ashcroft brought a successful action against the owner of an apartment complex for violations of the Missouri Clean Water Law relating to treatment of waste water, and he sued the owner of a trailer park for violations of the Missouri Clean Water Law.

As Missouri Attorney General, Senator Ashcroft also filed numerous briefs in the United States Supreme Court that advanced environmental protections. For example:

In Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission, Attorney General Ashcroft filed a brief supporting a California law that conditioned the construction of nuclear power plants on findings that adequate storage and disposal facilities are available.

In Sporhase v. Nebraska, Attorney General Ashcroft endorsed the State of Nebraska's effort to stop defendants from transporting Nebraska groundwater into Colorado without a permit.

In Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc., Attorney General Ashcroft filed a brief supporting the Natural Resources Defense Council's position on tougher environmental regulations relating to storage of nuclear wastes.

As Missouri Attorney General, John Ashcroft issued numerous legal opinions that furthered the enforcement of environmental laws. I would like to describe a few of these formal opinions. In Attorney General Opinion No. 123–84, Attorney General Ashcroft issued an opinion that underground injection wells constitute pollution of the waters of the state and are subject to regulation by the Missouri Department of Natural Resources under the state's Clean Water Act. Attorney General Ashcroft also opined that it would be unlawful to build or operate such a well unless a permit had been obtained from the Clean Water Commission.

In Attorney General Opinion No. 67, Attorney General Ashcroft issued an opinion that operators of surface mines must obtain a permit for each year that the mine was un-reclaimed. In reaching this opinion, Attorney General Ashcroft determined that the operator of the mine must have a permit continuously from the time mining operations begin until reclamation of the site is complete. Attorney General Ashcroft concluded that the continuous permit requirement facilitated Missouri's intention "to protect and promote the health, safety and general welfare of the people of this state, and to protect the natural resources of the state from environmental harm."

In Attorney General Opinion No. 189, Attorney General Ashcroft issued an opinion that Missouri's cities and counties had the authority to require that all solid waste be disposed of at approved solid waste recovery facilities, rather than be buried in landfills. In rendering his opinion, Attorney General Ashcroft gave credence to the arguments that "recycling of solid wastes results in fewer health hazards and pollution problems than does disposal of the same types of wastes in landfills" and that "public welfare is better served by burning solid wastes for generation of electricity, thus conserving scarce natural resources." To those who have irresponsibly charged that Senator Ashcroft will not enforce our environmental laws, I say this: Look at his record.

Mr. President, there are other offices in the Justice Department that are also very important. In the interest of time, however, I have focused on a select few. My point today is a simple one—when this nomination is considered in light of the mission of the Department of Justice, it becomes apparent how well-qualified John Ashcroft is to be Attorney General.

In addition to placing in the record Senator Ashcroft's eminent qualifications, I would also like to correct the record surrounding a number of issues that have been raised by his critics. As Senator SESSIONS has said, Senator Ashcroft has been called "divisive", but that has been a result of a caricature created by extremist lobbying groups who have spared nothing to demonize him. Webster includes in its definition of "caricature", "a likeness or imitation that is that is so distorted or inferior as to seem ludicrous." The portrait of John Ashcroft that has been painted by the People For the American Way and other like-motivated people and organizations is ludicrous. They describe a man that I do not recognize as John Ashcroft. Unlike their demonization, the real John Ashcroft has the character and the intelligence to be a great Attorney General.

Before addressing some of the unfair attacks leveled against Senator Ashcroft, I should say a word or two on standards. We have heard much discussion about the appropriate standard of "advise and consent" that we should apply to the President's Cabinet nominees. Unfortunately, many people, knowing that opposing Senator Ashcroft on ideological grounds would be unprecedented, appear to be manipulating this standard so as to mask their true reasons for opposing this nomination. And those reasons, I must say, are purely ideological. Prodded, and perhaps in some cases even threatened, by assorted left-wing extremist groups, those on the other side appear to oppose Senator Ashcroft simply because he is a conservative.

The standard we should use is that which was applied to Attorney General Janet Reno in 1993, and that standard has three parts. First, by longstanding tradition in the Senate, we must afford the President a significant degree of deference to shape his Cabinet as he sees fit. The election is over, President Bush won, and nothing will change that fact. Some have suggested that because the election was close and divisive, we should be less deferential with respect to Cabinet nominees. Yet, I do not recall hearing that suggestion in 1993 after President Clinton won an extremely close and hard-fought election, an election in which he failed to garner a majority of the popular vote. Despite that close election, every Republican in this body deferred to President Clinton and voted for Attorney General Reno.

The second prong of our standard focuses on the experience and qualifications of the nominee. No one can seriously contend that Senator Ashcroft lacks the experience and qualifications to serve as Attorney General. Indeed, few in our nation's history have come to the post of Attorney General with the qualifications and experience that Senator Ashcroft brings. In almost thirty years of public service, he has served as a state attorney general, state governor, and United States Senator. While Missouri Attorney General, he was elected by the other state attorneys general to head the National Association of Attorneys General, while Governor of Missouri, his fellow governors elected him chairman of the National Governors' Association, and while a United States Senator, he served four years on the Judiciary Committee. By comparison, Attorney General Reno came to the post as a county prosecutor. Yet, despite concerns about her qualifications, every Republican in this body voted to confirm her.

The final prong of our standard requires us to ensure that the nominee possesses the necessary integrity and ethics to serve the American people. Here, Senator Ashcroft is above reproach. He is, by all accounts, a man of absolute honesty and deep religious conviction. I know I speak for many of my colleagues when I say that I knew President Bush had found the right person to enforce the laws of this nation when Senator Ashcroft raised his right hand and said, "As a man of faith, I take my word and my integrity seriously. . . . when I swear to uphold the law, I will keep my oath, so help me God."

Mr. President, as the senior senator from Vermont succinctly stated, albeit when the president was a member of his own party, "The president should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises . . . then the president gets the benefit of the doubt. There is no doubt about this nominee's qualifications or integrity." That is the standard that this Senate has always applied to Cabinet nominees. As others have noted, over the entire history of the Senate, this body has voted to reject only 9 nominations to the President's Cabinet, and only 3 in the 20th Century. In 1993, Republicans applied that traditional standard when we unanimously voted to confirm an attorney general nominee whose views on the death penalty, the Second Amendment, and abortion stood in stark contrast to our own. Unless those on the other side wish to engage in rank hypocrisy, this is the standard we should apply to Senator Ashcroft today.

Opponents of Senator Ashcroft have accused him of being unable to set aside his opinions on certain laws sufficiently in order to enforce those laws. What's being proposed is to disqualify from high office anyone who has previously taken a side on a legislative proposal.

It is simply not true that a legislator is so tainted by efforts to change laws that thereafter he or she cannot perform the duties of attorney general. Outside this Chamber, and outside of the offices of the left-wing liberal group's offices, Americans understand that people can take on different roles and responsibilities when they are given different positions. Americans know that lawyers can become judges, welders can become foremen, engineers can become managers, and school teachers can become school board leaders. And Americans know that a Senator, whose job is to propose and vote on new laws, can become an Attorney General, whose job is to enforce those laws that are duly passed.

There aren't many people who know as much about the different roles in government as John Ashcroft. He has been in the executive branch as Missouri Attorney General for 8 years. He has been chief executive as Missouri's Governor for 8 years. And he has been in the legislative branch as a United States Senator for 6 years. Each of these positions have required an understanding of the differing roles assumed by the three branches of government.

It is in this context that John Ashcroft told us what he will do as Attorney General. He said he will enforce the laws as written, and uphold the Constitution as interpreted by the Supreme Court. This is a concise yet profound statement about the proper role of the Attorney General. And it is more than just a statement, because it is backed up by the unquestioned integrity of John Ashcroft, a man who will do what he says. He will enforce the law as it is written, even in those instances where he would have written it differently.

Still, some members of this body are unconvinced. They apparently think that John Ashcroft will not do what he said. Of course they would not call him a liar at least not explicitly, anyway. They are saying that, try as he might, he simply cannot enforce the law because he wants so badly for the law to say something other than what it actually says.

Some who have adopted this view are accusing John Ashcroft of changing his views. They accuse him of having a "confirmation conversion." By this they mean that people who take off their legislator's cap, and put on an attorney general's hat, cannot adapt from the role of law writer to law enforcer without being insincere. This is a ludicrous proposition. John Ashcroft has not undergone a confirmation conversion; he has been the victim of an interest group distortion.

Members of this body know something that the public may not: There is an unspoken rule that a nominee does not answer questions in public between their nomination and their confirmation hearing. This is done out of respect for the Senate—whose job it is, after all, to listen to the nominee rather than the media. But savvy special interest groups take advantage of this interim time to wage a war of words against nominees they dislike. Many of those words are exaggerated or unsubstantiated attacks. The result can be the fabrication of a false public record.

Mr. President, I am asking my fellow Senators to resist the temptation to label it a "conversion" when a nominee simply corrects the misperceptions created by special interest groups. I am asking my colleagues to look at John Ashcroft's real record, and at his own words in his confirmation hearings, and in his answers to the voluminous written questions—rather than relying on the press releases of issue advocates.

John Ashcroft is committed to enforcing the civil rights of all Americans. He has stated that the Civil Rights Division is the most important division of the Justice Department and that he will make enforcement of civil rights a priority during his tenure as Attorney General. Contrary to the attacks of his critics, Senator Ashcroft has demonstrated his commitment to equality under the law throughout his career. For example, as Governor, he signed Missouri's first hate crimes statute into law. He signed Missouri's Martin Luther King Holiday into law and also signed the law establishing Scott Joplin's house as Missouri's first and only historic site honoring an African-American. John Ashcroft led the fight to save an independent Lincoln University, founded by African-American soldiers. He also established an award emphasizing academic excellence in the name of George Washington Carver, a wonderful intellectual role model for all Missouri students. As Governor, John Ashcroft was presented with 9 panels for judicial appointment that contained minority candidates. In 8 of the 9 instances, Ashcroft appointed a minority candidate to fill the post, and he appointed both of the minority candidates on the 9th panel to judicial positions at a later date. He appointed many African-Americans to Missouri's courts, including David Mason, Jimmy Edwards, Charles Shaw and Michael Calvin, in St. Louis. He also appointed the first African-American judge on the Western Missouri Court of Appeals in Kansas City, Missouri's second highest court. This jurist, Ferdinand Gaitan, now serves on the U.S. District Court for Western Missouri.

He continued this leadership in the Senate where he convened the only Senate hearing on Racial Profiling (March 30, 2000) with Senator FEINGOLD. During that hearing, Senator Ashcroft spoke out strongly on the issue stating that "[U]sing race broadly as profiler in lieu of individualized suspicion is, I believe, an unconstitutional practice." He has supported efforts to study the issue and during his hearing testified that as Attorney General, he would continue the studies already underway to examine racial and geographical disparities in death penalty cases. In short, John Ashcroft's record demonstrates his ability to lead a Justice Department of which we can all be proud.

John Ashcroft will be committed to enforcing the civil rights laws protecting every American's right to vote and participate in the political process. He has done so throughout his career. Some who oppose Senator Ashcroft have charged that as Governor, John Ashcroft essentially blocked two bills that would have required the City of St. Louis Board of Election Commissioners to deputize private voter registration volunteers. These bills were opposed by both democrats and republicans in St. Louis. It was opposed by the bipartisan St. Louis County Board of Election Commissioners, the St. Louis Board of Aldermen President Tom Villa, and St. Louis circuit attorney George Peach. Tom Villa was a noted Democratic leader, and St. Louis circuit attorney George Peach was a Democrat who was the prosecutor in the St. Louis area. All of these people opposed the legislation. The recommendations of these officials was one of the reasons that John Ashcroft vetoed the bills.

It was insinuated during the hearings that these actions were taken out of some kind of partisan or racial motivation, because the City of St. Louis is predominantly black and democratic. But this implication is seriously discredited by the history of voter registration in St. Louis and earlier federal court cases.

The city board has a long history of refusing to deputize private voter registration deputies, long before John Ashcroft appointed anyone to that board. Indeed, in 1981 a lawsuit was filed against the members of the St. Louis board concerning the failure to deputize voter registration deputies. The Federal District Court for the Eastern District of Missouri explicitly rejected charges of racial animus. The court found that the board properly refused to deputize volunteers to prevent fraud and ensure impartiality and administrative efficiency. Moreover, these conclusions were sustained by the 8th Circuit, in an opinion by Judge McMillan, a prominent African-American jurist.

Some have also claimed that then-Governor Ashcroft refused to appoint a diverse group of commissioners to the Election Board. This is simply untrue. Mr. Jerry Hunter, the former labor secretary of Missouri, testified that Senator Ashcroft worked hard to increase black representation on the St. Louis City Election Board, but his efforts were stalled by state senators.

Mr. Hunter testified that, "Governor Ashcroft's first black nominee for the St. Louis City Election Board was rejected by the black state senator, because that person did not come out of his organization." When then-Governor Ashcroft came up with a second black attorney, this candidate was also rejected by two black state senators. As Mr. Hunter stated, "[F]rom the beginning, any efforts to make changes in the St. Louis City Election Board were forestalled because the state senators wanted people from their own organization." Apparently for these state senators the political spoils system was more important than the voters of St. Louis.

Finally, some have implied that these voter registration issues will make Senator Ashcroft less able to deal with allegations of voting improprieties resulting from the Florida vote in the presidential election. Yet Senator Ashcroft has repeatedly testified, "I will investigate any alleged voting rights violation that has credible evidence. . . . I have no reason not to go forward, and would not refuse go forward for any reason other than a conclusion that there wasn't credible evidence to pursue the case." Objective people should have no doubt that Senator Ashcroft will be vigorous in his enforcement of the Voting Rights Act and related statutes.

Critics of Senator Ashcroft have also unfairly criticized his testimony about his involvement with the desegregation cases in St. Louis and Kansas City. Senator Ashcroft gave complete and responsive answers to questions about these cases. Any assertions to the contrary distort Senator Ashcroft's responses to a flurry of questions about difficult and complicated cases in which he was involved over a decade ago.

The Missouri school desegregation cases are extremely complex and involve a variety of different factual and constitutional issues. Perhaps Senator Ashcroft made some preliminary statements that were incomplete, or not fully clear, but when questioned further, he clarified his answers in an accurate and fair manner. Moreover, in an extended response to a written question, he fully detailed Missouri's liability and involvement with the case. Far from being misleading, Senator Ashcroft's answers get to the heart of the distinctions in the case between inter- and intra-district liability for segregation.

Some complain that Senator Ashcroft denied that the state was a party to the lawsuit, however, the initial suit was filed in 1972 and did not make the State a party. Eventually the State was made party to the lawsuit in 1977 and Senator Ashcroft acknowledged this repeatedly in his answers.

Second, Senator Ashcroft's critics argue that Senator Ashcroft denied the State's liability. The State was found liable for school segregation in St. Louis, but only for intra-district segregation within the City of St. Louis. The remedy that the district court ordered was inter-district, between St. Louis and its suburbs. The State was never found liable for the inter-district segregation that would justify such a far-ranging remedy involving the suburbs. Then-Attorney General Ashcroft was battling against this inter-district remedy, and it is fully accurate to say that the State was never found liable for inter-district segregation.

Third, opponents of Senator Ashcroft unfairly charge that Senator Ashcroft misleadingly stated that he followed all court orders in the desegregation cases. Of course, these opponents cannot say that John Ashcroft did not follow the orders, and must admit that John Ashcroft complied with the terms of the orders. They can only criticize "his vigorous and repeated appeals." These appeals were undertaken in his role as attorney general—as the legal representative of the State John Ashcroft had to consider the State's best interests and raise all reasonable legal appeals, which he did. To make a legal appeal is not to disobey a court order. In fact many court orders were complied with while the appeals were pending.

Fourth, the criticisms of Senator Ashcroft's actions strongly and unfairly imply that he was indifferent to the problems of segregation. Nothing could be further from the truth. Senator Ashcroft testified that "I have always opposed segregation. I have never opposed integration. I believe that segregation is inconsistent with the 14th Amendment's guaranteeing of equal protection. I supported integrating the schools." What Senator Ashcroft opposed was court-ordered remedies that we now know to have been wildly expensive and ineffective. Test results have declined, graduation rates have remained at a dismal 30 percent, and the percentage of black students has remained about the same in St. Louis schools. All of this for the price-tag of $1.7 billion. It is hard to see how a person who opposed this plan can be considered against educational equality. The result of court-ordered desegregation in St. Louis is just one example of why, as Bob Woodson testified, a significant majority of African-Americans are against forced busing for integration.

John Ashcroft will stand behind the commitments he made during his confirmation and be a staunch defender of the civil rights of all Americans. Senator Ashcroft has demonstrated his commitment to equality through his record as Attorney General, Governor and Senator. Contrary to his critics who have distorted his record on hiring, John Ashcroft has been deeply committed to promoting equal access to government positions during his tenure as both Attorney General and Governor of Missouri. Witnesses testifying at the hearing made this commitment clear.

Mr. Jerry Hunter, former labor secretary of Missouri, testified that, "Like President-elect George W. Bush, Senator Ashcroft followed a policy of affirmative access and inclusiveness during his service to the state of Missouri as attorney general, his two terms as governor, and his one term in the United States Senate. During the eight years that Senator Ashcroft was attorney general for the state of Missouri, he recruited and hired minority lawyers. During his tenure as governor, he appointed blacks to numerous boards and commissions . . . [B]ut I would say to you on a personal note, Senator Ashcroft went out of his way to find African-Americans to consider for appointments."

Mr. Hunter further elaborated that, "When Governor Ashcroft's term ended in January of 1993, he had appointed more African-Americans to state court judgeships than any previous governor in the history of the state of Missouri. Governor Ashcroft was also bipartisan in his appointment of state court judges. He appointed Republicans, Democrats and independents. One of Governor Ashcroft's black appointees in St. Louis was appointed, notwithstanding the fact that he was not a Republican and that he was on a panel with a well-known white Republican. Of the nine panels of nominees for state court judgeships, which included at least one African-American, Governor Ashcroft appointed eight black judges from those panels."

Judge David Mason, who worked with Ashcroft in the Missouri Attorney General's office stated, "[A]s time went on, I begin to get a real feel for this man and where his heart is. When the subject of Martin Luther King Day came up, I was there. And I recall that he issued the executive order to establish the first King Day, rather than wait for the legislature to do it. Because, as you may recall, some of you, when the Congress passed the holiday, they passed it at a time when the Missouri legislature may not have been able to have the first holiday contemporaneously with it. So he passed a King holiday by executive order. He said, in doing so, he wanted his children to grow up in a state that observed someone like Martin Luther King."

Bob Woodson of the National Center for Neighborhood Enterprise uses faith-based organizations to help troubled young people turn their lives around. Mr. Woodson testified: "Senator John Ashcroft is the only person who, from the time he came into this body, reached out to us. He's on the board of Teen Challenge. He's raised money for them. He sponsored a charitable choice legislation that will stop the government from trying to close them down because they don't have trained professionals as drug counselors. We have an 80 percent success rate of these faith-based organizations with a $60-a-day cost, when the conventional, therapeutically secular program cost $600 a day with a 6 to 10 percent success rate. Senator Ashcroft has gone with us. He has fought with us. And this legislation would help us." Mr. Woodsen further stated that "As a consequence, day before yesterday, 150 black and Hispanic transformed drug addicts got on buses from all over this nation and came here to support him. Fifty of them came from Victory Temple throughout the state of Texas, spent two days on a Greyhound bus at their own expense to come here to voice strong support for Senator Ashcroft."

Congressman J.C. WATTS also testified: "I've worked with [John Ashcroft] on legislation concerning poor communities, under-served communities. I have always found John Ashcroft to have nothing but the utmost respect and dignity for one's skin color. I heard John say yesterday in some of his testimony that his faith requires him to respect one's skin color. And I think that's the way it should be. [I]n my dealings with John, I have had nothing but the utmost respect for him when it comes to his dealings with people of different skin color."

These testimonials and Senator Ashcroft's record of hiring and appointments as Missouri Attorney General and Governor demonstrate beyond any reasonable doubt that he will be committed to equal opportunity as Attorney General of the United States.

Many have expressed concerns about Senator Ashcroft's actions with regard to conducting a telephone interview with a magazine called Southern Partisan. Their concern is what message that interview might have sent to the country. It is clear, however, that Senator Ashcroft has forthrightly and forcefully condemned racism and discrimination, and he has left no doubt or ambiguity regarding his views on that matter.

During his confirmation hearings, Senator Ashcroft said, "Let me make something as plain as I can make it. Discrimination is wrong. Slavery was abhorrent. Fundamental to my belief in freedom and liberty is that these are God-given rights." And in his responses to written questions, he said, "I reject racism in all its forms. I find racial discrimination abhorrent, and against everything that I believe in." It is clear to me that John Ashcroft believes in equal treatment under the law for everyone. He believes in it, and he has committed to fight to make it a reality for all Americans.

Now, as to the magazine itself, Senator Ashcroft contritely admitted that he does not know very much about it. He confessed that he should have done more research about it before talking to them. And he said that he did not intend his telephone interview—or any other interview he has participated in during his career—as an automatic endorsement of the editorial positions of those publications. John Ashcroft went even further than that. He said, "I condemn those things which are condemnable" about Southern Partisan magazine. This was a strong statement against any unacceptable ideas discussed in that publication. And it was the strongest statement possible from someone who did not personally know the facts.

Despite Senator Ashcroft's contriteness and strong words, some Senators and interest groups have demanded that Senator Ashcroft go out on a limb and add his derision based upon an acceptance at face value of all the negative allegations concerning that magazine. In my opinion, Mr. President, this led to one of the most profound moments of the confirmation hearings. A member of the Committee pushed Senator Ashcroft to label the Southern Partisan Magazine as "racist"—even after Senator Ashcroft explained that he did not know whether that was true. The profound part was John Ashcroft's response. He said, "I know they've been accused of being racist. I have to say this, Senator: I would rather be falsely accused of being a racist than to falsely accuse someone else of being a racist." This exchange tells volumes about John's moral character, deep sense of fairness, and his fitness for the office of Attorney General. It would have been a lot easier for him just to say Yes, I agree with anyone who uses that term about someone else. Doing so would have saved him from further bashing by the Committee and the press. It would have been politically expedient. But John Ashcroft chose to take the high road, not to heap disdain onto something he didn't know about just because it would have suited his interests to do so. This was a vivid example of good judgment and good character.

This is not to say that John Ashcroft defended anything about the magazine. Clearly he did not. In fact, when Senator BIDEN asked him whether the magazine was condemnable because it sells T-shirts that imply that Lincoln's assassin did a good thing, he answered: "If they do that, I condemn" it. And he clarified that "Abraham Lincoln is my favorite political figure in the history of this country." What John Ashcroft did was state his absolute intolerance for racism and bigotry, and he did so honestly without creating a straw man, a scapegoat or a fall guy.

I think we need to ask anyone who is not satisfied with John Ashcroft's answers what they really want. What do his accusers think justice is? I surely hope that no one in this body would say that justice means the knee-jerk condemnation of things they do not know about, so long as that condemnation is politically expedient.

John Ashcroft's testimony on this issue demonstrates that he will be a fair and principled Attorney General. As he told the Judiciary Committee, "I believe racism is wrong. I repudiate it. I repudiate racist organizations. I'm not a member of any of them. I don't subscribe to them. And I reject them." These are straightforward words from an honest man. I look forward to having such a man running our Department of Justice.

The anti-Ashcroft groups also took advantage of a controversy concerning Bob Jones University in order to wage a "guilt by association" attack on John Ashcroft. John Ashcroft's visit to the school was not controversial when it occurred in May 1999. In fact, politicians of both parties had spoken there prior to Senator Ashcroft. Early in 2000, however, approximately eight months after John Ashcroft's visit, Bob Jones University became a flash point during the primary election because opponents of then-Governor George W. Bush accused Bush of associating with an anti-Catholic statement that appeared on the University's Internet site.

Following the flap over Bush's visit, John Ashcroft said, "I didn't really know they had these positions," and "[f]rankly, I reject the anti-Catholic position of Bob Jones University categorically." Despite having repudiated the offending statement, John Ashcroft faced a new round of criticism for his appearance after he was nominated to be Attorney General. The special interest groups aligned against him attempted to associate John Ashcroft with every form of bigotry and intolerance they could.

Any controversy over John Ashcroft's speech at Bob Jones University should have been put to rest by John Ashcroft's testimony at his confirmation hearings. That's when we finally got the chance to ask Senator Ashcroft what he thought. And Senator Ashcroft made it clear that he "reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]" Bob Jones University. He couldn't have been more firm.

Senator Ashcroft went on to explain that "[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance." He said he does not endorse any bigoted views by virtue of "having made an appearance in any faith or any congregation." He said, for example, that he has visited churches which do not "allow women in certain roles," and that he does not endorse that view, either.

Apparently, Ashcroft's answer eliminated any doubt about his personal views. As Senator LEAHY told Senator Ashcroft during the hearing, "I made my position very clear yesterday on how I feel about you on any questions of racial or religious bias. I stated that neither I nor anybody on this committee would make that claim about you." Even Catholic groups were satisfied. A spokesperson for the Catholic League said, "In short, the controversy over Ashcroft is much ado about nothing as far as the Catholic League is concerned."

Some outside groups had questioned the meaning of the speech that Senator Ashcroft gave during his visit to Bob Jones University. Senator Ashcroft explained during the confirmation hearing that the phrase "We have no king but Jesus," was a representation of what colonists were saying at the time of the American Revolution. He said that the point of his speech was "the idea that the ultimate authority of the ultimate idea of freedom in America is not governmentally derived." I don't think anyone in the Senate would take issue with that. It is an understatement to say that this idea is well-documented in the Founders' writings.

Lacking any basis to criticize John Ashcroft's May 1999 appearance, members of the Judiciary Committee went in search of controversy by asking Senator Ashcroft if he would go to Bob Jones University again if invited as Attorney General. He said he would "speak at places where [he] believe[s] [he] can unite people and move them in the right direction." In saying that, he contritely explained that his confirmation hearings—"and the prelude to th[o]se hearings"—taught him to be "sensitive at a higher level now than [he] was before, that the attorney general in particular needs to be careful about what he or she does." Senator Ashcroft said that, if confirmed, he "would be sensitive to accepting invitations so as to not allow a presumption to be made that I was endorsing things that would divide people instead of unite them." This answer apparently did not satisfy some on the Committee who have since argued that he should have pledged never to return to the University.

But as Senator Ashcroft explained at his hearing, it is shortsighted to make a pledge not to go somewhere just because you disagree with them. John Ashcroft pointed out that Bob Jones University has "abandoned the policy on interracial dating which was offensive" after that policy became a focus of attention last year. I think John Ashcroft was contrite about what he learned and correct not to rule out visiting places where he thinks his presence could be a force for positive change.

There has been much talk during the nominations process and in the press about the "Ashcroft Standard." This is a catch-phrase invented by opponents of Senator Ashcroft who wish to create the impression that there is something unseemly about a senator vigorously exercising his constitutional duty to advise and give consent to executive branch nominees. But the Ashcroft Standard is strawman—created only so that it might be criticized.

It is telling that this so-called Ashcroft Standard has been left undefined by those who invoke it. Its very hollowness is meant to evoke something inappropriate and suspect a way of evaluating far outside of the mainstream. Apparently this Standard is to be feared, because my colleagues repeatedly stated during the hearings that they would be magnanimous in not applying the Ashcroft Standard to John Ashcroft himself. But I suspect that John Ashcroft would pass the Ashcroft standard with flying colors.

In fact the criteria that Senator Ashcroft used to evaluate executive branch nominees are entirely appropriate and in keeping with the Senate's duty to give "advice and consent" to the President.

For instance, John Ashcroft applied his "Standard" to confirm all but 15 of President Clinton's 1,636 nominees. He voted to approve every Cabinet nomination made by President Clinton. Of President Clinton's 230 judicial nominees, Senator Ashcroft voted to confirm 218. There is also an underlying insinuation that the Ashcroft Standard is tinged with racial bias—and yet Senator Ashcroft voted to confirm 26 of 28 African-American judicial nominees.

With so many of President Clinton's nominees getting past the Ashcroft Standard, some might argue that it's far too lenient, but that is the nature of the Senate's role. The President is thought to have significant leeway in choosing executive branch officials. The Senate gives advice and consent, but with great deference to the president's choice. As Hamilton wrote in the Federalist number 76,

> To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a

> powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

The advice and consent role of the Senate must be exercised with an eye to the moral character of the nominee and his suitability for the office to which he is nominated. But it is a role that must be exercised with some natural deference to the prerogatives of the President. Indeed, this is a deference that has not been shown to President Bush during Senator Ashcroft's four days of hearings followed by more than 350 written questions.

The crux of the Senate's confirmation role is to not to quibble with the policy preferences of the President's nominees, but rather to evaluate the character and moral fitness of the nominee. Indeed, I ask myself when presented with a nominee whether this person will faithfully execute the office to which they have been appointed, upholding the laws of the United States in the given position. I believe that Senator Ashcroft has applied similar criterion when evaluating nominees. This is not a sinister standard, but rather a mostly ordinary one.

When this question is asked about Senator Ashcroft the answer is incredibly clear. As attorney general of Missouri John Ashcroft showed time and again that he was willing to uphold law with which he disagreed. John Ashcroft testified, "I understand that being attorney general means enforcing the laws as they are written, not enforcing my own personal preference; it means advancing the national interest, not advocating my personal interest."

For instance, in 1979 John Ashcroft issued an attorney general's opinion stating that under the state constitution and the law of Missouri, a local school board of education had no legal authority to grant permission for the distribution of religious publications to the student body on school grounds. In another situation, against the demands of pro-life advocates, then-attorney general Ashcroft directed the State of Missouri to maintain the confidentiality of abortion records because a fair reading of the law required it.

Senator Ashcroft has not only testified that he will follow laws with which he disagrees, he has repeatedly shown that he does follow such laws. He has exhibited probity in office as attorney general, governor and senator. It is hard to imagine that he will not execute the office of United States Attorney General with equal integrity and commitment. Indeed, I am certain that Senator Ashcroft passes the much maligned Ashcroft Standard.

So what is the Ashcroft Standard anyway? I admit that I am not quite sure. Is it a careful review of the nominee's written record? A judgment about how the nominee will enforce the law? A healthy dose of deference to the executive prerogative? An appreciation for diversity? These are the standards that I saw applied by Senator Ashcroft.

The opponents of Senator Ashcroft have placed considerable emphasis on several specific nominations which I will discuss in turn.

John Ashcroft's opponents have mischaracterized his actions with respect to the James Hormel nomination, and have fabricated innuendo aimed at tarnishing John Ashcroft's 30-year record of fairness with respect to employment of people without regard to sexual orientation.

I supported James Hormel's nomination as Ambassador to Luxembourg. I thought he was qualified for that post. At the same time, however, I respected the fact that others in this body, including Senator Ashcroft, did not share my opinion. I cannot conclude—as some people have—that because Senator Ashcroft and I disagreed, that Senator Ashcroft's views, which were based on the totality of the record, were not valid. I have been in public service long enough to understand that thoughtful people can have honest differences of opinion on such matters without holding unsupportable or fundamentally biased points of view.

Now, there has been a great deal of confusion about Senator Ashcroft's role in the Hormel nomination. Outside special interest groups—which are trying to derail Senator Ashcroft's nomination have accused him of singlehandedly blocking or stopping James Hormel's nomination simply because of Hormel's sexual orientation. These charges are simply false. Although, as John Ashcroft told the Judiciary Committee, he voted against the nomination when it came to a vote in the Foreign Relations Committee, he did nothing to stop that nomination. John Ashcroft did not block a Senate vote on Mr. Hormel's nomination. In fact, Senator Ashcroft did not do anything to keep James Hormel's nomination from progressing. It was Senator HUTCHINSON who put a hold on the vote. In a letter dated January 24, 2001, Senator HUTCHINSON told Ashcroft that "I feel it is important to set the record straight that you were in no way involved in the effort to delay Mr. Hormel's consideration by the full Senate."

So let's look beyond the smokescreen of unsupported innuendo to examine what we really know about John Ashcroft. During the confirmation hearings, Senator LEAHY asked John Ashcroft directly about his motives with respect to the James Hormel nomination. Senator LEAHY asked, "Did you block his nomination from coming to a vote because he is gay?" And Senator Ashcroft said, "I did not." He could not have been more clear. And when a man of John Ashcroft's integrity makes such a clear statement, we can take him at his word.

Of course, opponents of John Ashcroft do not want to take him as his word. Some outside special interest groups are trying to use his Hormel nomination vote to paint a false portrait of a man who acts in a biased way against homosexuals. But there is absolutely no evidence in the record to support that accusation. Senator Ashcroft made it very clear, both during his hearing and in his responses to numerous written questions, that "sexual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held."

In an effort to cloud this crystal-clear statement, the forces opposing Ashcroft presented to the media—not to the Judiciary Committee—a man named Paul Offner, who claimed that John Ashcroft asked him about sexual orientation 16 years ago in an interview. Mr. Offner's accusations have been entirely rebutted by two eyewitnesses present during that interview, both of whom have said that John Ashcroft never asked Mr. Offner—or any of the many other people he interviewed for jobs—about sexual preference. Carl Koupal, who sat in on numerous interviews with John Ashcroft as head of Ashcroft's gubernatorial transition team, said, "I can say John Ashcroft did not ask that question of him or any other candidate we spoke to." Another Ashcroft aide, Duncan Kincheloe, said, "It's inconceivable to me, and I'm certain I would remember if it had been asked. I've never heard him ask about that, and I've sat through dozens and dozens of interviews with him." This evidence should lay to rest any questions about John Ashcroft's past record of fairness with respect to sexual orientation.

In addition to that past record, we also have Senator Ashcroft's clear pledge for the future. He told the Judiciary Committee in no uncertain terms that he "will enforce the law equally without regard to sexual orientation if appointed and confirmed as attorney general." He also promised that sexual preference "will not be a consideration in hiring at the Department of Justice" if he is confirmed. And this statement reflects more than his promise to uphold current policy; it reflects John Ashcroft's own judgment. He said, "Even if the executive order [barring the consideration of sexual orientation as relevant to hiring] would be repealed, I would still not consider sexual orientation in hiring at the Department of Justice because I don't believe it relevant to the responsibilities." Now, that is a very strong statement, Mr. President. Especially because it comes from a person of unquestioned integrity.

The facts described above convince me completely that John Ashcroft will always act fairly in his law enforcement decisions and hiring decisions to people regardless of sexual orientation.

While reasonable minds can differ and come to different judgments on the matter, there were many legitimate reasons to vote against confirmation for Judge White. In fact, every Republican thought it was appropriate to do so. Several of my colleagues have argued that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and anti-law enforcement, but many of us have reviewed Judge White's record and were greatly troubled by his dissenting opinions in several death penalty cases. In these cases Judge White displayed a real inclination to overturn death sentences, even when they were called for by law.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that there was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant "hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team."

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and come up from humble beginnings. But his record of dissenting in death penalty cases troubled me enough to vote against his confirmation.

Many of my colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson, testified, "I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case . . . In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance."

Since his nomination for a federal judgship was defeated, Judge White has continued to dissent in criminal cases. For example, in *Missouri* v. *Johns*, 2000 WL 1779262, Dec. 5, 2000, a jury sentenced the defendant Johns to death for a murder in which he shot the victim seven times, including a fatal shot to the head. Following this murder, Johns evaded capture for six months, during which time he committed two more murders and several robberies. When finally located by authorities, Johns took a hostage, placed a gun to her head, and threaten to kill her.

Johns confessed to the initial killing, but claimed that he did so in self-defense, despite the fact that he shot the victim seven times. In addition, Johns confessed to the robbery and murder of the two other victims during his flight from justice.

During the trial, Johns tried to introduce evidence that the victim had a violent reputation, but the trial court excluded the proffered evidence on the grounds of relevancy. On appeal, Johns argued that the inability to admit evidence of the victim's reputation harmed his theory of self-defense.

In the Missouri Supreme Court, a 5–2 majority ruled that the trial court did not commit reversible error and upheld the verdict and sentence. Judge White, however, joined a dissent with only one other judge which argued that "Johns was deprived of a fair trial with respect to his self-defense theory."

Like the defendant in *Missouri* v. *Johnson*, the defendant in *Missouri* v. *Johns* murdered several people and confessed to the killings. There was no doubt about the defendant's guilt in either case, yet Judge White dissented and would have granted a new trial to both defendants.

I bring up the recent case of *Missouri* v. *Johns* not to criticize Judge White or reargue his nomination. Instead, I mention this decision only to show that there was a legitimate basis for Senator Ashcroft's concerns about Judge White in death penalty cases. Senator Ashcroft has made the very valid point that if Judge White had been confirmed as a federal district judge, he would have had enormous power to reverse state criminal convictions, including death penalty sentences, unilaterally because of the federal writ of habeas corpus.

Finally, many of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in Committee. He expressed his disapproval at that time. If he had held up the nomination in Committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White, "I beg of you, in the name of fairness and justice and all things that are good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend." (Cong. Rec. S. 11871. Oct. 4, 1999). Other Senators have repeatedly suggested that the Senate has "subtle" means of holding up nominees. But at the same time senators are rebuked for placing holds on nominees. Thus, Senator Ashcroft was between a rock and a hard place as to how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the advice and consent duty of a senator. I regret that we have needed to revisit this issue at such great length.

Senator Ashcroft has also been unfairly criticized for opposing the nomination of Bill Lann Lee to head the Civil Rights Division of the Justice Department. Mr. Lee had a noted record of promoting and preserving race-conscious policies of questionable constitutionality. Opposition to Mr. Lee was not limited to Senator Ashcroft—nine Republicans on the Judiciary Committee opposed this nominee, including myself.

I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream. Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race.

Senator Ashcroft did not distort Mr. Lee's testimony. When Mr. Lee stated the test of Adarand he said that the Supreme Court considered racial preference programs permissible if "conducted in a limited and measured manner." While this might be correct in a narrow sense, it purposefully misses the main point of the Court's fundamental holding that such race-conscious programs are presumptively unconstitutional. Mr. Lee might have stated that strict scrutiny was the standard articulated in Adarand; however, when he described the content of this standard it was far looser than what the Supreme Court delineated. Mr. Lee's misleading description can properly be assailed as a fundamental mischaracterization of the law.

Senator Ashcroft has stated that he opposed Mr. Lee because of his record of advocacy and his mischaracterization of Supreme Court precedent. The failure to recognize the established legal standard established by the Supreme Court would have serious effects on Mr. Lee's ability to serve as Assistant Attorney General for Civil Rights. Senator Ashcroft's reasons for opposing Mr. Lee are amply supported by the record.

Another area in which Senator Ashcroft has been unfairly attacked is his ability to enforce the law in areas related to abortion. Many of those opposing Senator Ashcroft have taken great pains to state that they do not oppose him because of his ideology, but then go on to say they cannot support him because of his positions on abortion issues. Isn't that ideology?

Make no mistake about it, Senator Ashcroft has a consistent pro-life record. Contrary to what his opponents would have you believe, that is not extremist or "out of the mainstream." Millions of Americans share the same view. In the end, what is important is Senator Ashcroft's commitment to enforce the law as its been interpreted by the Supreme Court—and not the policy positions he advocated as a legislator.

While Senator Ashcroft's critics have spared nothing in their attempts to distort his record and create fear, Senator Ashcroft's record over 25 years as a public servant, and his testimony before the Judiciary Committee during his confirmation hearing, demonstrate his lifelong commitment to the rule of law and his respect for the uniquely different roles of a legislator and a law enforcer. Senator Ashcroft has proven that he can objectively interpret and enforce the law even where the law may diverge from his personal views on policy. His record and character demonstrate that he can be, as he has pledged, "law oriented and not results oriented."

Contrary to the fear-mongering of his critics, Senator Ashcroft will enforce the law protecting a woman's right to an abortion. He was very straightforward in his testimony before the Judiciary Committee when he stated that, in his view, Roe v. Wade is settled law and that the Supreme Court's decisions upholding Roe "have been multiple, they have been recent and they have been emphatic." He said he would enforce the law as interpreted by the Supreme Court.

When asked whether he would seek to change the Supreme Court's interpretation of the law, Senator Ashcroft stated that "it is not the agenda of the President-elect to seek an opportunity to overturn Roe. And as his Attorney General, I don't think it could be my agenda to seek an opportunity to overturn Roe." He also stated that as Attorney General, it wouldn't be his job to "try and alter the position of the administration."

Senator Ashcroft clearly recognized the importance of not devaluing "the currency" of the Solicitor General's Office by taking matters to the Supreme Court on a basis the Court has already stated it does not want to entertain. He noted that in this way, "accepting Roe and Casey as settled law is important, not just to this arena, but important in terms of the credibility of the Department." He said he would give advice based upon sound legal analysis, not ideology or personal beliefs. He made a commitment that "if the law provides something that is contrary to my ideological belief, I will provide them with that same best judgment of the law."

From Senator Ashcroft, those are not just words. Throughout his career, he has demonstrated that he can do just that. For example, as Missouri Attorney General, Senator Ashcroft did not let his personal opinion on abortion cloud his legal analysis. He protected the confidentiality of abortion records maintained by the Missouri Department of Health even when they were requested by pro-life groups.

Likewise, when asked to determine whether a death certificate was required for all abortions, regardless of the age of the fetus, Attorney General Ashcroft—despite his personal view that life begins at conception issued an opinion that Missouri law did not require any type of certificate if the fetus was 20 weeks old or less. His legal analysis was fair and objective and unaffected by what his policy views may have been. There has also been, what I consider, unfounded skepticism over whether Senator Ashcroft would vigorously enforce clinic access and anti-violence statutes. Being pro-life is not inconsistent with opposing violence at clinics. The primary focus of the opposition has been the Freedom of Access to Clinic Entrances Act or "FACE". Senator Ashcroft supports the FACE law, and always has.

Senator Ashcroft testified specifically on how he would enforce FACE and other clinic access and anti-violence laws. He stated clearly that he would enforce these laws "vigorously", that he would investigate allegations "thoroughly" and that he would devote resources to these cases on a "priority basis." He further stated that he would maintain the appropriate Task Forces which have been created to facilitate enforcement of clinic access and anti-violence statutes. These statements are totally consistent with Senator Ashcroft's long record of speaking out against violence and his belief that the First Amendment does not give anyone the right to "violate the person, safety and security" of another.

Senator Ashcroft has always spoken out against clinic violence and other forms of domestic terrorism. He has written to constituents about his strong opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. He voted for Senator SCHUMER's amendment to the Bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Senator Ashcroft has always condemned criminal violence at abortion clinics—or anywhere for that matter—and believes people who commit these acts of violence and intimidation should be punished to the fullest extent of the law. As Attorney General he'll do just that.

Access to contraceptives is another area that I think Senator Ashcroft has been unfairly criticized. His critics make dire predictions about the future that are totally unsupported by Senator Ashcroft's testimony. Senator Ashcroft could not have testified any more clearly on the issue of contraception. He stated that: "I think individuals who want to use contraceptives have every right to do so . . . [and] I think that right is guaranteed by the Constitution of the United States." He also testified that he would defend current laws should they be attacked. What more can he say? Is there anything a pro-life nominee could say to please the pro-abortion interest groups?

Senator Ashcroft's opponents argue that someone who has been active in advocating a particular policy position cannot set that aside and enforce the law fairly. I don't believe they can be serious. Does this mean that a person of character and integrity who had been active in the pro-choice movement could never be Attorney General? And what about the death penalty? Could we have no future Attorney General, regardless of how honest and well-qualified, who opposed the death penalty? Of course not. In fact, Republicans voted to confirm Janet Reno, despite her personal opposition to the death penalty, because she said she could still enforce the law even though she disagreed with it.

If this is not about ideology, then we should get to the business of confirming Senator Ashcroft. He has given strong and specific assurances to the Senate on abortion questions. These assurances are backed up by his proven record as Missouri Attorney General and Governor. Most importantly, they are backed up by Senator Ashcroft's personal integrity and decency characteristics known personally by almost every member of this body.

I was quite surprised to hear Senator Ashcroft's opponents criticize his work on behalf of faith-based organizations that everyone recognizes do remarkable good works in every community across this nation. Senator Ashcroft has participated in and encouraged these programs at both a personal and policy level.

I think we should be proud of Senator Ashcroft's efforts to assist the disadvantaged. Senator Ashcroft was the author of the charitable choice provision in the landmark Welfare Reform Act of 1996. That provision encourages faith-based organizations to participate in the welfare reform effort on the same basis as secular organizations. As a result, faith-based groups can now, for example, conduct drug-treatment and job placement programs for the poor. These programs and other similar faith-based programs have proved remarkably successful. As the noted civil rights activist Robert Woodson testified before the Senate Judiciary Committee, Senator Ashcroft's charitable choice legislation "may do more to help blacks solve the real problems in their own communities than anything else government has done."

Some critics claim that Senator Ashcroft's charitable choice provision violates the separation of church and state embodied in the First Amendment. These criticisms, however, are misplaced. The charitable choice law states that no federal funds "shall be expended for sectarian worship, instruction, or proselytization." Moreover, the charitable choice law relies on Supreme Court precedents to clarify what is constitutionally permissible when state and local governments cooperate with religious and charitable organizations. The charitable choice law also allows beneficiaries who object to the religious character of the organization to receive assistance from an alternative provider.

During last year's Presidential campaign of 2000, both President George W. Bush and Vice President Al Gore supported the charitable choice law as a means to empower faith-based charities. As President Bush recently said: "A compassionate society is one which recognizes the great power of faith. We in government must not fear faith-based programs, we must welcome faith-based programs."

Thanks in large part to Senator Ashcroft's leadership, President Bush will be able to expand the role of faith-based charities in fighting poverty, addiction and other social ills. Based on the charitable choice law, President Bush created an Office of Faith-Based and Community Initiatives in the White House last week. This office will be led by the prominent University of Pennsylvania professor John DiIulio. In short, the charitable choice law was one of Senator Ashcroft's most important legislative accomplishments and something that should weigh in favor of his nomination, not against it.

The criticism leveled against Senator Ashcroft on Charitable Choice suggests the possibility of an even more dangerous problem, religious intolerance. Article VI of our Constitution, while requiring that Officers of the government swear to support the constitution, assures us that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." I fear that in considering the nomination of John Ashcroft to be Attorney General of the United States, some are coming very close to violating the spirit, if not the letter of that assurance.

In response to a question I posed to Senator Ashcroft about the wide disparity of treatment accorded him as a person of faith and that accorded to Senator LIEBERMAN when he was running for Vice President, and whether anything in his faith background would interfere with his ability to apply the law as critics had charged, Senator Ashcroft said:

> In examining my understanding and my commitment and my faith heritage, I'd have to say that my faith heritage compels me to enforce the law and abide by the law rather than to violate the law. And if in some measure somehow I were to encounter a situation where the two came into conflict so that I could not respond to this faith heritage which requires me to enforce the law, then I would have to resign.

Those looking for reassurance that Senator Ashcroft will enforce the law as written need look no further than this brief paragraph. Senator Ashcroft's critics and supporters alike uniformly agree that he is a man who takes his faith seriously. If he says his faith compels him to abide by the law, I think his promise carries great weight. As he said in his opening statement, he takes his oath of office seriously, it being a sacred and solemn obligation. Nevertheless, he has been attacked as a dangerous zealot by many of his opponents, who suggest that his faith will require him to violate the law, or as a liar who cannot be trusted because he says he will swear to uphold the law. Well, his critics cannot have it both ways. Apparently, his critics do not understand either a faith that transcends politics and grasping after power or the distinction between being an advocate for change in the law and being an impartial magistrate to apply the law.

The Attorney General is perhaps the most important position in the President's cabinet. The Department of Justice has a long and storied history. It represents all Americans in the pursuit of justice. As such, the Department of Justice demands an Attorney General with great ability, integrity, and judgment. John Ashcroft has all these qualities.

Senator Ashcroft's abilities are demonstrated by the fact he was elected to statewide office five times in Missouri, a classic swing state in America's political landscape. As Attorney General and Governor of Missouri, John Ashcroft served with distinction and built a record of public service and devotion to the rule of law. He continued that proud service representing Missouri in the United States Senate. His leadership and integrity has been recognized by people in both political parties throughout his career. He was elected President of the National Association of Attorneys General by his fellow state attorneys general. As Governor of Missouri, John Ashcroft was elected Chairman of the National Governors Association by his fellow governors. Each time John Ashcroft was elected to these prestigious positions, the majority of state attorneys general and governors were Democrats. The fact that he was chosen to lead these organizations while in the minority party is a testament to his integrity and ability. Mr. President, John Ashcroft is the most qualified nominee for Attorney General in history. We are fortunate to have him as a nominee. I look forward to his stewardship of the Department of Justice.

Mr. President, much of the debate over the nomination of John Ashcroft has focused only on a few important issues, but those are not the only important issues central to the core mission of the Department of Justice. I believe the Senate would be well-served to consider the Ashcroft nomination in light of all of the important duties of the Attorney General. When this debate is placed in the proper perspective, it becomes even more obvious how qualified Senator Ashcroft is to be the next Attorney General of the United States.

The Department of Justice was established by Congress in 1870. It is the largest law firm in the United States with 123,000 employees and an annual budget of approximately $21 billion. Through its thousands of lawyers, agents, and investigators, the Justice Department plays a vital role in fighting violent crime and drug trafficking, ensuring business competition in the marketplace, and enforcing immigration and naturalization laws. Consider the following major components of the Justice Department in light of the qualifications of Senator Ashcroft:

The Civil Rights Division was established in 1957 to secure the effective enforcement of civil rights for all Americans. The Civil Rights Division is responsible for enforcing federal statutes that prohibit discrimination on the basis of race, gender, disability, religion, and national origin. In order to enforce these landmark laws, the Civil Rights Division engages in a variety of litigation to fight discrimination in employment, housing and immigration. In particular, the litigation brought by the Civil Rights Division under the Voting Rights Act has had a profound influence on the electoral landscape in the last three decades.

As Senator Ashcroft stated at his confirmation hearing: "No part of the Department of Justice is more important than the Civil Rights Division." John Ashcroft vigorously enforced civil rights laws as the Attorney General and Governor of Missouri. He signed Missouri's first hate crimes statute. Not content to wait for the legislature to act, John Ashcroft made Missouri one of the first States to recognize Martin Luther King Day by issuing an executive order. He also led the fight to save Lincoln University, the university in Missouri founded by African-American Civil War veterans.

As the Chairman of the Constitution Subcommittee in the Senate Judiciary Committee, Senator Ashcroft held the first hearing on racial profiling in the history of Congress. When asked at his confirmation hearing about his priorities for the Justice Department, Senator Ashcroft cited the abolition of racial profiling as one of his top two priorities.

Senator Ashcroft stated at his confirmation hearing that the paramount civil right is personal safety. The Attorney General is America's chief law enforcement officer, and managing the Criminal Division is the most important aspect of the Attorney General's duties. The Criminal Division oversees thousands of federal agents and is charged with, among other things, investigating and prosecuting drug dealers, illegal gun traffickers, bank robbers, child pornographers, computer hackers, and terrorists. The Criminal Division has a visible and tangible effect on the lives of all Americans.

I have no doubt that, given his vast experience as a public servant, Senator Ashcroft understands and appreciates the mission of the Criminal Division. Throughout his long career as Missouri Attorney General, Missouri Governor, and United States Senator, Senator Ashcroft has been a strong advocate of tough and effective criminal law enforcement.

Perhaps the greatest threat facing our nation today is the scourge of illegal drugs. For years, Senator Ashcroft has been a leader in the fight against illegal drugs. In 1996, Senator Ashcroft helped me enact the Comprehensive Methamphetamine Control Act, which increased penalties for the manufacture and trafficking of methamphetamine. Senator Ashcroft also helped enact federal laws that increased mandatory minimum sentences for methamphetamine offenses and authorized courts to order persons convicted of methamphetamine offenses to pay for the costs of laboratory cleanup. Last year, Senator Ashcroft authored legislation to target additional resources to local law enforcement agencies to fight methamphetamine.

Senator Ashcroft also understands that drug treatment and prevention are vital components of an effective drug strategy. In last year's methamphetamine legislation, Senator Ashcroft included funding for drug education and prevention programs, including resources for school-based anti-methamphetamine initiatives. As Attorney General and Governor of Missouri, Senator Ashcroft increased funding for anti-drug programs by almost 40%, the vast majority of which was for education, prevention and treatment.

During his confirmation hearing, Senator Ashcroft has also made clear that prosecuting gun crimes will be a top priority of the Ashcroft Justice Department. Unfortunately, gun prosecutions have not always been a priority for the Department of Justice. For example, between 1992 and 1998, prosecutions of defendants who use a firearm in the commission of a felony dropped nearly 50 percent, from 7,045 to approximately 3,800. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. To reverse the decline in gun prosecutions by the Justice Department, Senator Ashcroft sponsored legislation to authorize $50 million to hire additional federal prosecutors and agents to increase the federal prosecution of criminals who use guns.

In addition, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft juvenile assault weapons ban in May of 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, and he voted for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms. In order to close the so-called "gun show loophole," Senator Ashcroft voted for legislation, which I authored, to require mandatory instant background checks for all firearm purchases at gun shows.

In order to maintain tough federal penalties, Senator Ashcroft sponsored legislation to require a five-year mandatory minimum prison sentence for federal gun crimes and for legislation to encourage schools to expel students who bring guns to school. Senator Ashcroft voted for the "Gun-Free Schools Zone Act" that prohibits the possession of a firearm in a school zone, and he voted for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale. I have no doubt that with John Ashcroft as Attorney General, the Justice Department will target and prosecute gun crimes with unprecedented zeal.

To his credit, Senator Ashcroft understands that the vast majority of criminal law enforcement takes place at the state and local level. Given his tenure as Missouri Attorney General and Governor, Senator Ashcroft appreciates the important role that the federal government can play in supporting state and local authorities by providing resources and training. He also understands that the Justice Department should provide such support without intruding into traditional areas of state sovereignty.

In the Senate, Senator Ashcroft steadfastly supported state and local law enforcement. He won enactment of a bill that extends higher education financial assistance to spouses and dependent children of law enforcement officers killed in the line of duty. He was the principal proponent of the "Care for Police Survivors Act," a measure that increases benefits to the survivors of public safety officers killed in the line of duty. Along with Senator BIDEN, Senator Ashcroft cosponsored legislation to reauthorize the COPS program.

In addition, Senator Ashcroft cosponsored the "Local Law Enforcement Enhancement Act of 1995." This act allocated $1 billion to state and local law enforcement to update and computerize criminal records, automated fingerprint systems, and DNA identification operations. John Ashcroft also cosponsored the "21st Century Justice Act" which included Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants. These grants have provided federal resources to States to build prisons to incarcerate violent and repeat offenders. Given his record, it is no surprise that law enforcement groups such as the Fraternal Order of Police, the National Sheriff's Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Association of Police Organizations are united in their support for Senator Ashcroft's nomination.

The Civil Division represents the United States government, including executive departments and agencies, in civil litigation. First and foremost, the Civil Division defends the constitutionality of federal statutes, regulations, and executive orders. The Civil Division also litigates complex commercial cases. This litigation is especially important for property rights because the Civil Division represents the federal government against claims that private property was taken for public use without just compensation. In addition, the Civil Division represents the federal government in consumer litigation under various consumer protection and public health statutes.

Senator Ashcroft's experience as the Attorney General of Missouri prepared him well to oversee the Civil Division. John Ashcroft established the Consumer Affairs Division in the Missouri Attorney General's office. He brought many consumer protection actions, including odometer tampering cases and financial pyramid schemes. In Illinois v. Abbott & Associates, Inc., Attorney General Ashcroft filed a brief in the United States Supreme Court supporting the right of state attorneys general to conduct antitrust investigations. In the Senate, John Ashcroft helped enact legislation to combat telemarketing scams against senior citizens.

Created in 1909, the Environment and Natural Resources Division is the Nation's chief environmental lawyer. It is responsible for litigating cases ranging from the protection of endangered species to the cleanup of hazardous waste sites. In addition to prosecuting environmental crimes, the Environment and Natural Resources Division ensures that federal environmental laws are implemented in a fair and consistent manner.

As Missouri Attorney General, John Ashcroft aggressively enforced that state's environmental protection laws. To cite but a few examples, Attorney General Ashcroft brought suit to prevent an electric company from causing oxygen levels in downstream waters to harm fish. He also sought to recover damages from the electric company.

Attorney General Ashcroft brought a successful action against the owner of an apartment complex for violations of the Missouri Clean Water Law relating to treatment of waste water, and he sued the owner of a trailer park for violations of the Missouri Clean Water Law.

As Missouri Attorney General, Senator Ashcroft also filed numerous briefs in the United States Supreme Court that advanced environmental protections. For example:

In Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission, Attorney General Ashcroft filed a brief supporting a California law that conditioned the construction of nuclear power plants on findings that adequate storage and disposal facilities are available.

In Sporhase v. Nebraska, Attorney General Ashcroft endorsed the State of Nebraska's effort to stop defendants from transporting Nebraska groundwater into Colorado without a permit.

In Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc., Attorney General Ashcroft filed a brief supporting the Natural Resources Defense Council's position on tougher environmental regulations relating to storage of nuclear wastes.

As Missouri Attorney General, John Ashcroft issued numerous legal opinions that furthered the enforcement of environmental laws. I would like to describe a few of these formal opinions. In Attorney General Opinion No. 123–84, Attorney General Ashcroft issued an opinion that underground injection wells constitute pollution of the waters of the state and are subject to regulation by the Missouri Department of Natural Resources under the state's Clean Water Act. Attorney General Ashcroft also opined that it would be unlawful to build or operate such a well unless a permit had been obtained from the Clean Water Commission.

In Attorney General Opinion No. 67, Attorney General Ashcroft issued an opinion that operators of surface mines must obtain a permit for each year that the mine was un-reclaimed. In reaching this opinion, Attorney General Ashcroft determined that the operator of the mine must have a permit continuously from the time mining operations begin until reclamation of the site is complete. Attorney General Ashcroft concluded that the continuous permit requirement facilitated Missouri's intention "to protect and promote the health, safety and general welfare of the people of this state, and to protect the natural resources of the state from environmental harm."

In Attorney General Opinion No. 189, Attorney General Ashcroft issued an opinion that Missouri's cities and counties had the authority to require that all solid waste be disposed of at approved solid waste recovery facilities, rather than be buried in landfills. In rendering his opinion, Attorney General Ashcroft gave credence to the arguments that "recycling of solid wastes results in fewer health hazards and pollution problems than does disposal of the same types of wastes in landfills" and that "public welfare is better served by burning solid wastes for generation of electricity, thus conserving scarce natural resources." To those who have irresponsibly charged that Senator Ashcroft will not enforce our environmental laws, I say this: Look at his record.

In conclusion, there are other offices in the Justice Department that are also very important. In the interest of time, however, I have focused on a select few. My point today is a simple one when this nomination is considered in light of the mission of the Department of Justice, it becomes apparent how well-qualified John Ashcroft is to be Attorney General. I look forward to his stewardship of the Department of Justice.

Mr. President, I rise to respond to mischaracterizations about John Ashcroft's role in the James Hormel nomination, and about John Ashcroft's public record of fairness with respect to employment of people.

Let me say at the outset that I supported James Hormel's nomination as Ambassador to Luxembourg. I thought he was qualified for that post. At the same time, however, I respected the fact that others in this body, including Senator Ashcroft, did not share my opinion. I cannot conclude—as some people have—that because Senator Ashcroft and I disagreed, that Senator Ashcroft's views, which were based on the totality of the record, were not valid. I have been in public service long enough to understand that thoughtful people can have honest differences of opinion on such matters without holding unsupportable or fundamentally biased points of view.

Now, there has been a great deal of confusion about Senator John Ashcroft's role in the Hormel nomination. Outside special interest groups—which are trying to derail Senator Ashcroft's nomination—have accused him of singlehandedly blocking or stopping James Hormel's nomination simply because of Hormel's sexual orientation. These charges are false. Although, as John Ashcroft told the Judiciary Committee, he voted against the nomination when it came to a vote in the Foreign Relations Committee, he did nothing to stop that nomination. John Ashcroft did not block a Senate vote on Mr. Hormel's nomination, and he did not vote against that nomination on the floor because it never came to the floor.

So let's look beyond the smokescreen of unsupported innuendo to examine what we really know about John Ashcroft. During the confirmation hearings, Senator LEAHY asked John Ashcroft directly about his motives with respect to the James Hormel nomination. Senator LEAHY asked, "Did you block his nomination from coming to a vote because he is gay?" And Senator Ashcroft said, "I did not." He could not have been more clear. And when a man of John Ashcroft's integrity makes such a clear statement, we should take him at his word. Still, however, several Senators have repeated the unsupported allegation that Ashcroft's sole reason for voting against Hormel is that Hormel is gay.

Some opponents of John Ashcroft are taking the position of using his Hormel nomination vote to paint a false portrait of a man who acts in a biased way towards homosexuals. But there is absolutely no evidence in the record to support that accusation. Senator Ashcroft made it very clear, both during his hearing and in his responses to numerous written questions, that "sexual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held."

In an effort to cloud this crystal-clear statement, the forces opposing

Ashcroft presented to the media a man named Paul Offner, who claimed that John Ashcroft asked him about sexual orientation 16 years ago in an interview. Mr. Offner's accusations have been entirely rebutted not only by Senator Ashcroft but also by two eyewitnesses present during that interview, both of whom have said that John Ashcroft never asked Mr. Offner—or any of the many other people he interviewed for jobs—about sexual preference. Carl Koupal, who sat in on numerous interviews with John Ashcroft as head of Ashcroft's gubernatorial transition team, said, "I can say John Ashcroft did not ask that question of him or any other candidate we spoke to." Another Ashcroft aide, Duncan Kincheloe, said, "It's inconceivable to me, and I'm certain I would remember if it had been asked. I've never heard him ask about that, and I've sat through dozens and dozens of interviews with him." This evidence should lay to rest questions related to the uncorroborated charges of Mr. Offner.

At least one Senator, however, continues to ignore the facts and draw out the innuendo. That Senator said that Mr. Offner's allegations—even if untrue—would not have had any resonance if it were not for a history of unfairness. But that Senator has presented absolutely no evidence of any such history. Not a single person has come forward with a credible story of unfairness in John Ashcroft's 30-year public life, during which he conducted hundreds if not thousands of interviews and meetings, and made many hiring and firing decisions. Given all the public attention to this issue, and all of the league of special interest powerful lobbyists who are working hard to find just one witness against John Ashcroft, the absence of such a witness speaks loudly and clearly.

In addition to his 30-year record of fairness, we also have Senator Ashcroft's clear pledge for the future. He told the Judiciary Committee in no uncertain terms that he "will enforce the law equally without regard to sexual orientation if appointed and confirmed as attorney general." He also promised that sexual preference "will not be a consideration in hiring at the Department of Justice" if he is confirmed. And this statement reflects more than his promise to uphold current policy; it reflects John Ashcroft's own judgment. He said, "even if the executive order [barring the consideration of sexual orientation as relevant to hiring] would be repealed, I would still not consider sexual orientation in hiring at the Department of Justice because I don't believe it relevant to the responsibilities." Now, that is a very strong statement, Mr. President. Especially because it comes from a person of unquestioned integrity.

The facts that I have just described convince me completely that John Ashcroft, once confirmed, will always act fairly in his law enforcement decisions and hiring decisions to people regardless of sexual orientation.

Mr. President, I ask unanimous consent to print an op-ed from the Wall Street Journal from today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 1, 2001]

THE HORMEL DEMOCRATS

With Bill Clinton having split for Chappaqua with the Spielberg china, Democrats have a chance to present a new image to the public. Yet by opposing John Ashcroft for Attorney General, Senate Democrats seem intent on reminding Middle America why it voted against Al Gore.

Some of our readers may already have seen the nearby map of America breaking down the vote in the last election. Mr. Gore won the two left coasts, the latte towns and tonier suburbs, and remnants of the progressive upper Midwest. President Bush won everything else. The map reflects a country divided by culture, with the traditionalist middle rejecting the anything-goes mores of the Clinton years.

Well, here we go again, with the same culturally liberal interests groups who ordered around Mr. Gore now making the Ashcroft vote a litmus test for Senate Democrats. NARAL, NOW, People for the American Way and the rest know they can't defeat him. But they're twisting arms behind the scenes to get as large a negative vote as possible, as a way to show their muscle and to warn Mr. Bush not to name any conservatives to the Supreme Court.

The problem for many Democrats, however, is that voters may notice the company they're keeping. Barbara Boxer, the super-liberal from California, was the first Senate Democrat to declare against Mr. Ashcroft. Ted Kennedy followed close behind, this week joined by Pat Leahy from the Swedish Republic of Vermont and the noted moderate from the great state of New York, Hillary Rodham Clinton. This may all be thrilling news in Hollywood and Manhattan. But we wonder how this brand of Democratic leadership is going to look in, say, Georgia, Montana or South Dakota.

Especially because this time the liberal Borking strategy has been a bust. First the interest groups played the race card, but not even rejected judicial nominee Ronnie White would say that Mr. Ashcroft was racially motivated. The debate over Judge White had been about crime, specifically the death penalty, and Democrats sure didn't want to be soft on that. Then the opposition tried the gender/abortion card, but Mr. Ashcroft defused that one by pledging to enforce even laws he dislikes.

The latest attack line has been to suggest that Mr. Ashcroft is a relentless gay basher. Democrats went to the unusual lengths of calling in the recently returned U.S. ambassador to Luxembourg, James Hormel, to allege that in opposing his nomination to be ambassador Mr. Ashcroft had shown himself to be intolerant. In fact, fellow Republican Tim Hutchinson admitted that he (and not Mr. Ashcroft) was the Senator who had placed a hold on Mr. Hormel, who also helped to found the Human Rights Campaign, the gay lobby that has tried to stigmatize the Boy Scouts.

If nothing else, the Hormel matter certainly is instructive about our current cultural divide. Liberals want to make homosexuality not just a matter of tolerance but essentially a qualification for office: Oppose a gay nominee and you're automatically a bigot.

Never mind that Mr. Hormel was also opposed by the U.S. Catholic League for Religious and Civil Rights because he had pronounced himself amused at the public mockery of the Sisters of Perpetual Indulgence, a notorious anti-Catholic gay group. "When Senator Tim Hutchinson gave James Hormel the opportunity to denounce anti-Catholicism, Hormel refused to do so," wrote William Donohue of the Catholic League in 1998. Luxembourg is more than 90% Catholic.

Mr. Hormel claims he was misrepresented, and maybe he was. But the politics of "tolerance" cuts both ways, and there's no denying that the modern gay-rights agenda has moved beyond mere peaceful co-existence to mock and stigmatize traditional religion. Catholics have been a special target because of the Pope's refusal to bend the church's centuries-old belief that homosexual acts are sinful. Mr. Hormel's critics were merely using the kind of identity politics that liberals have used for years.

The news is that so many Senators are nonetheless lining up to be Hormel Democrats. It's no accident that both North Dakota Democrats, the usually hyper-partisan Byron Dorgan and Kent Conrad, came out early for Mr. Ashcroft. George Bush won their state by two-to-one. But all of the potential Democratic presidential candidates seem to be falling into opposition line: Hillary of course, and even Indiana's Evan Bayh. Joe Lieberman is still pondering from Mt. Olympus.

Mr. Lieberman might reflect that following the liberal line didn't help him or his running mate last year. Democrats lost the White House, despite peace and prosperity, because Middle America didn't share their cultural values. Lining up against John Ashcroft won't help win them back.

Mr. HATCH. Mr. President, I want to respond to an unfair and untrue statement made on the floor of the Senate about John Ashcroft's work to combat the practice of racial profiling.

Senator Ashcroft has a good record on the issue of racial profiling. It was Senator Ashcroft's decision to hold the first-ever congressional hearing on the topic, a decision that Senator FEINGOLD, who is an expert on the issue in his own right, appropriately acknowledged during the confirmation hearings. Senator FEINGOLD reported that Senator Ashcroft and his staff "not only permitted, but assisted in a significant and powerful hearing on racial profiling in the Constitution subcommittee."

Those who attempt to downgrade the importance of that hearing have failed to understand that Senator Ashcroft's motives are genuine. Senator Ashcroft opposes injustice of all kinds. As he explained in his opening statement to the Judiciary Committee, "[f]rom racial profiling to news of unwarranted strip searches, the list of injustice in America today is still long. Injustice in America against any individual must not stand; this is the special charge of the U.S. Department of Justice."

Senator Ashcroft made clear that his efforts to combat racial profiling will continue if he is confirmed as Attorney General. In response to Senator FEINGOLD's direct question "will you make racial profiling a priority of yours?", John Ashcroft pledged, "I will make racial profiling a priority of mine." He could not have been more clear. And he was equally lucid when describing the basis for his views. He said, "I think racial profiling is wrong. I think it's unconstitutional. I think it violates the 14th Amendment." These are powerful words when spoken by a man such as John Ashcroft who is committed to enforcing the rule of law.

Senator Ashcroft's views on racial profiling are part of his larger conception of the role of the Department of Justice on racial issues. Senator Ashcroft has pledged that, if confirmed, "I would do my best never to allow a person to suffer solely on the basis of a person's race." He went on to say that "it is important that the federal government be leading when it comes to respecting the rights of individuals and the Constitution. I will do everything I can to make sure that we lead properly in that respect." These are firm assurances from a man of integrity.

As you can see, Mr. President, it is not only unfair but also inaccurate to portray Senator Ashcroft as insensitive to the issue of racial profiling. I hope my comments help to set the record straight.

Mr. President, I would like to correct some misstatements that were made on the floor of the Senate concerning John Ashcroft's speech at Bob Jones University. There has been a real attempt here to wage a "guilt by association" attack on Senator Ashcroft, and I want to set the record straight.

John Ashcroft's visit to the school was not controversial when it occurred in May 1999. But early in 2000—approximately eight months after John Ashcroft's visit—Bob Jones University became a flash point during the primary election because opponents of then-Governor George W. Bush accused Governor Bush of associating with an anti-Catholic statement that appeared on the University's Internet site.

Following the flap over Bush's visit, John Ashcroft said, "I didn't really know they had these positions," and "[f]rankly, I reject the anti-Catholic position of Bob Jones University categorically."

Despite having repudiated the offending statement, John Ashcroft faced a new round of criticism for his appearance after he was nominated to be Attorney General. The special interest groups aligned against him attempted to associate John Ashcroft with every form of bigotry and intolerance they could.

But any controversy over John Ashcroft's speech at Bob Jones University should have been put to rest by John Ashcroft's testimony at his confirmation hearings. That's when we finally got the chance to ask Senator Ashcroft what he thought. And Senator Ashcroft made it clear that he "reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]" Bob Jones University.

Senator Ashcroft went on to explain that "[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance." He said he does not endorse any bigoted views by virtue of "having made an appearance in any faith or any congregation." He said, for example, that he has visited churches which do not "allow women in certain roles," and that he does not endorse that view either.

Apparently, Ashcroft's answer eliminated any doubt about his personal views. As Senator LEAHY told Senator Ashcroft during the hearing, "I made my position very clear yesterday on how I feel about you on any questions of racial or religious bias. I stated that neither I nor anybody on this committee would make that claim about you." Even Catholic groups were satisfied. A spokesperson for the Catholic League said, "In short, the controversy over Ashcroft is much ado about nothing as far as the Catholic League is concerned."

Some outside groups had questioned the meaning of the speech that Senator Ashcroft gave during his visit to Bob Jones University. Senator Ashcroft explained during the confirmation hearing that "the phrase, 'We have no king but Jesus,' was a representation of what colonists were saying at the time of the American Revolution." He said that the point of his speech was "the idea that the ultimate authority of the ultimate idea of freedom in America is not governmentally derived." I don't think anyone in the Senate would take issue with that. It is an understatement to say that this idea is well-documented in the Founders' writings.

Some went in search of controversy by asking Senator Ashcroft if he would go to Bob Jones University again if invited as Attorney General. He said he would "speak at places where [he] believes[s] [he] can unite people and move them in the right direction." In saying that, he contritely explained that his confirmation hearings—"and the prelude to th[o]se hearings"—taught him to be "sensitive at a higher level now than [he] was before, that the attorney general in particular needs to be careful about what he or she does." Senator Ashcroft said that, if confirmed, he "would be sensitive to accepting invitations so as to not allow a presumption to be made that I was endorsing things that would divide people instead of unite them." This answer apparently did not satisfy some of the committee who have since argued that he should have pledged never to return to the University.

But as Senator Ashcroft explained at his hearing, it is shortsighted to make a pledge not to go somewhere just because you disagree with them. John Ashcroft pointed out that the Bob Jones University has "abandoned the policy on interracial dating which was offensive" after that policy became a focus of attention last year. I think John Ashcroft was contrite about what he learned and correct not to rule out visiting places where he thinks his presence could be a force for positive change.

Thank you for the opportunity to correct the misimpressions about this issue that were unfortunately created on the Senate floor.

Mr. President, I feel compelled to address some of the misperceptions I fear may have been created by my colleagues in their comments about several aspects of Senator Ashcroft's record with regard to his role in antitrust litigation against politically-motivated boycotts and abortion when he was an elected official in Missouri.

First, several of my colleagues have unfairly criticized Senator Ashcroft for the lawsuit Senator Ashcroft filed against the National Organization of Women (NOW) when he was Attorney General of Missouri. In response to Missouri's decision not to ratify the Equal Rights Amendment ("ERA"), NOW organized a boycott against Missouri (as well as other states that failed to ratify the ERA). Pursuant to that boycott, NOW urged organizations not to hold conventions in Missouri. In 1978, Missouri, through then-Attorney General Ashcroft, sued NOW in federal court, alleging that the boycott violated the antitrust laws. As Senator Ashcroft testified during his confirmation, he filed the lawsuit because the boycott was hurting the people of Missouri, and he believed it to be in violation of the antitrust laws. Senator Ashcroft testified that the lawsuit had nothing to do with the ERA or with political differences that Senator Ashcroft might have held with NOW. The decision to file it was purely a legal and economic one. The boycott hurt Missouri and, in his view, was illegal, and it was his duty to act on behalf of Missouri and its citizens.

While some have charged this was settled law because a case cited in an opinion was more than a decade old, the fact that a case is cited in a decision is no indicator of whether the law of the particular case is settled. In fact, the legal question at issue—whether the Sherman Act covers boycotts engaged in with political rather than economic aims—was acknowledged by all the judges on the 8th Circuit panel to be one of first impression. With all appellate judges acknowledging the novelty of the case, I do not know how the argument that the law was settled can be maintained. The language of the Sherman Act on its face covered the conduct at issue, and it was well established that it generally covered boycotts. The court eventually ruled 2 judges to 1 against General Ashcroft, but obviously it was an unanswered question in the law and could have gone either way. The law is clear now, but it wasn't then. An Attorney General for a state represents that state, and like any lawyer, is to zealously defend the rights of those he represents. So, naturally appeals were made. Not to make an appeal from an adverse ruling—especially in a case of first impression—would have departed from normal practice and may have violated his duty to his client, the people of Missouri. And the fact that the Supreme Court denied review means little in this case. The Supreme Court often denies review on cases of first impression to allow the lower courts to develop the law before it reviews and settles a question to get the benefit of broader thinking than a single court. It seems odd to criticize an Attorney General for trying to serve his client's interest, but I guess the point of John Ashcroft's critics is that results are what is important, and if your clients' opponent is a group favored by liberal politicians, serving their needs is more important than serving your constituents and clients, in this case, citizens of Missouri, no matter what your normal duty would be. That cannot be what we expect of either a state or our federal Attorney General.

I would also like to respond to the number of comments that have been made about Senator Ashcroft's actions in *Sermchief* v. *Gonzales*, 660 S.W.2d 683 (Mo. 1983). This case was a declaratory action brought by nurses working at family planning clinics to permit them to prescribe contraceptives and other reproductive health materials according to the same protocols dictated by physicians under the Nursing Practice Act of 1975. The nurses also challenged the constitutionality of the statute. Attorney General Ashcroft's office was served with the lawsuit as required by law when any party challenges the constitutionality of a statute. Attorney General Ashcroft fulfilled his duty to defend the constitutionality of the statute. The brief his office filed did not address the proper scope of nursing practices as some have claimed.

The Attorney General's Office also represented the State Board of Nursing, who was not a party to the case, and filed an amicus brief on behalf on their behalf urging an interpretation of the statute consistent with the position taken by the nurses. This is the view that prevailed in the Missouri Supreme Court. In other words, both of the Attorney General's briefs supported the constitutionality of the statute. It was proper for the Attorney General to file briefs on behalf of parties on either side of the litigation because the positions taken were not in conflict insofar as they supported constitutionality of statute. Even if they had been in conflict, the law recognizes that an Attorney General may take conflicting positions because he or she is the only lawyer the government has—even when different government entities cannot agree.

The nurses were concerned about the Nursing Practice Act of 1975, and whether the term "professional nursing" expanded the scope of authorized nursing practices. The Board of Healing Arts threatened to order the nurses to show cause why the nurses should not be found guilty of the unauthorized practice of medicine, and physicians guilty of "aiding and abetting." The Board of Healing won this argument at trial. The Missouri Supreme Court reversed the trial court and determined that the services complained of by the Board of Registration for the Healing Arts did indeed fall within the legislative standard of "professional nursing" and there were permissible.

The nurses in question were performing services including breast and pelvic examinations, laboratory testing of PAP smears, gonorrhea cultures, and blood serology and providing information about contraceptives. The trial court, in ruling in favor of the Board, found, among other things, that the findings derived from pelvic examinations which the nurses performed to attempt to diagnose the existence or nonexistence of contraindications to the use of contraceptives "require an individual to draw upon education, judgment and skill based upon knowledge and application of principles in addition to and beyond biological, physical, social, and nursing sciences." *Sermchief*, 660 S.W.2d at 686.

It was not unreasonable for the Board to argue that services that were generally performed by physicians and required the "education, judgment and skill" beyond "nursing sciences." In fact, at trial, many prominent physicians testified as such. The Supreme Court, however, ruled in favor of the plaintiffs, based upon the legislative standard that was set at the time. The court relied on the nurses' professional status to know what their limits were. The Board, in bringing the case originally, simply didn't feel comfortable relying on the knowledge of an individual nurse as to what his or her limits were.

Any characterization of Senator Ashcroft's actions as Missouri Attorney General as an effort to deny health services to rural or low income patients, is at war with the facts. He was the Attorney General, and he had an obligation to defend the constitutionality of the statute. That is what he did, and it was perfectly appropriate.

Finally, I would like to respond to some criticism leveled at Senator Ashcroft for his support of pro-life legislation while Governor of Missouri. Even ardent supporters of Roe v. Wade must admit that the decision is not the model of clarity. Moreover, it did not, contrary to what many special interest groups claim, authorize abortion on demand. The decision, while establishing a constitutional right to abortion, set up a scheme that, in the words of Justice White, left the Supreme Court to serve as the country's "ex officio medical board with powers to approve or disapprove medical and operative practices and standards throughout the United States." *Planned Parenthood of Central Mo.* v. *Danforth*, 428 U.S. 52, 99 (1976). Thus, even after the Roe decision, there remained many unanswered questions about the contours of this new constitutional right. These questions included, for example, issues about parental consent for minors, minimal standards for abortion clinics, and whether public facilities or employees can be used to perform abortions. Many state legislatures—not just Missouri's—sought to answer these questions left unanswered by Roe.

The statute passed by the Missouri legislature and signed by then-Governor Ashcroft in 1986 was one of these attempts to define the parameters of the right to an abortion. Many abortions-rights extremists forget that the Supreme Court, in its abortion cases, has consistently held that states have an interest in protecting the health and safety of its citizens and in reducing the incidence of abortions. The 1986 Missouri statute sought to do just that, with 20 provisions covering various issues left unresolved by the Roe decision. The Supreme Court, in its Webster decision, agreed that many of these provisions did not infringe on a woman's constitutional right to an abortion. *See Webster* v. *Reproductive Health Services, et al.*, 492 U.S. 490, 522 (1989). Throughout this legislative and judicial process, the State of Missouri—not simply Governor John Ashcroft—followed established legal rules and procedures in their good faith effort to balance the right to an abortion with the state's interest in protecting the health and safety of its citizens. While it may have asserted its rights to appeal, the State of Missouri and then-Governor Ashcroft always respected the opinions and orders of the court and the rules governing litigation. The good faith use of the courts to decide legal issues is no basis on which to criticize Senator Ashcroft.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, is Senator LEAHY going to speak?

Mr. LEAHY. I yield to the distinguished majority leader.

UNANIMOUS CONSENT AGREEMENT—ZOELLICK NOMINATION

Mr. LOTT. We have a couple of agreements we have worked out we want to get in place.

Mr. President, I ask consent that immediately following the reconvening of the Senate on Tuesday at 2:15 p.m. the Senate proceed to executive session to consider the nomination of Robert Zoellick to be the U.S. Trade Representative, and if not reported at that time, the nomination be discharged and the Senate proceed to its immediate consideration, and that there be up to 2 hours of debate, equally divided, between the chairman and the ranking minority member of the Finance Committee.

I further ask consent that at 4:15 on Tuesday the Senate proceed to vote on the confirmation, and following the confirmation, the motion to reconsider be laid upon the table, the President be immediately notified, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I appreciate the fact there is no objection. I believe this nominee will be confirmed overwhelmingly, probably even unanimously. There is a feeling by Senators on both sides of the aisle that this trade issue is very important. This is an important position. A number of Senators did want to be able to have an opportunity to speak about our trade relations and our trade agreements around the world. That is why it was not completed this afternoon. I believe it will be done in regular order on Tuesday.

MEASURE READ THE FIRST TIME—S. 235

Mr. LOTT. I understand S. 235 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 235) to provide for enhanced safety, public awareness and environmental protection in pipeline transportation, and for other purposes.

Mr. LOTT. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

Mr. LOTT. Mr. President, I should note that the purpose in taking this action now is to get this legislation ready for consideration next week. Senator DASCHLE and I are trying to get in a position to have the Zoellick nomination on Tuesday, the U.N. dues issue on Wednesday, and the pipeline safety legislation next week. These are all issues we are all very familiar with that have broad support. I believe we can do the three of them next week without any problem.

ORDERS FOR MONDAY, FEBRUARY 5, 2001, AND TUESDAY, FEBRUARY 6, 2001

Mr. LOTT. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Monday, February 5, for a pro forma session only. No business will be transacted during Monday's session. The Senate would immediately adjourn until 9:30 a.m. on Tuesday, February 6. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business until 12:30, to be divided in the following fashion: Senator DASCHLE or his designee controlling the time between 9:30 and 11 a.m.; Senator HUTCHISON of Texas or her designee controlling the time between 11 a.m. and 12:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. If I could ask for a modification, that Senator DORGAN control the time from 10:30 to 11 o'clock a.m. on that date.

Mr. LOTT. I have no objection to that addition to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask consent that the Senate stand in recess between the hours of 12:30 and 2:15 in order for the weekly caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. On Tuesday, following the weekly recess, at 2:15 we will proceed to the nomination of Robert Zoellick to be USTR for up to 2 hours. Therefore, a rollcall vote will occur at 4:15 on Tuesday on that nomination, by a previous consent. On Wednesday, the Senate is expected to consider the U.N. dues bill. Therefore a vote or votes could occur, then, on Wednesday of next week relative to that legislation, and on Thursday with relation to the pipeline safety bill.

I yield the floor.

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL—Continued

Mr. LEAHY. Mr. President, while my friend from Mississippi is still here, I ask unanimous consent, it is only a matter of a few minutes, that I still have the full half hour that had been reserved under the previous order.

Mr. LOTT. Are you making a request or observation?

Mr. LEAHY. I make it as a request because the time that the distinguished leader took went into that time.

Mr. LOTT. I certainly would not object to that. I do wish to speak briefly myself. I believe I would be in control of the time after that.

Mr. LEAHY. In fact, I will add to that: In doing so, that it not impinge on the time reserved for the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, as we get to the end of this debate, I think it is wise if we look at some of the facts of the debate and not just the rhetoric.

We debated this matter virtually nonstop from 10:30 yesterday morning until 8:10 yesterday evening. We did it without intervening business. I do not think we had as much as 5 minutes expended in quorum calls. For our side, this was certainly not a dilatory debate but a substantive one. It was not the politics of personal destruction, but the Senate exercising its constitutional responsibility to examine one of the most important nominations that this President or any President could send to the Senate.

Let's go over the facts. The Senate received the President's nomination on Monday afternoon of this week. The Judiciary Committee debated this nomination on Tuesday afternoon the following day, and voted on it that evening. We began the Senate debate yesterday morning, less than 48 hours after receiving the nomination. We are concluding it in less than 14 and one half hours of Senate debate. We are voting up or down on this nomination this afternoon.

I mention this because I have heard those who point to the nomination of the last Attorney General, Janet Reno, as some sort of model of speedy confirmation. She was nominated after an earlier nomination had hearings and was withdrawn. Her nomination was not voted upon for a month after she was nominated. By comparison, we are voting on John Ashcroft when his nomination has been before us for only less than three days. That was not a controversial nomination. Republicans, as well as Democrats, came to the floor to praise her record, but she was still not sworn in until mid-March.

A better comparison would be to find the last controversial nomination; that was that of Attorney General Meese. He was first nominated in January 1984 by President Reagan. He was finally considered by the Republican-controlled Senate in February 1985, 13 months after being nominated. Five weeks ensued between his nomination and his initial hearing.

The nomination underwent 7 days of hearings, involved nearly 50 witnesses, under a Republican-controlled Senate, when he was Republican nominee by a popular Republican President. He was reported by the Judiciary Committee, a Republican-controlled Judiciary Committee, by a 12–6 vote, not the lesser margin of 10–8 by which the Ashcroft nomination was reported.

The Senate, with a Republican majority leader, allowed 2 weeks between the committee vote and Senate consideration—2 weeks, not the 17 hours we had on the Ashcroft nomination. The Senate debated the Meese nomination over 4 days, on February 19, 20, 21, and 23—not the day and a half devoted to the Ashcroft nomination. Then, the Republican-controlled Senate voted 63–31 to confirm Attorney General Meese.

I believe those 31 negative votes were the most ever against an Attorney General. Even as the very popular President Reagan was preparing to begin his second term, the nomination of his Attorney General resulted in 7 days of Senate hearings, 4 days of Senate debate, and 31 votes in opposition. I mention this because there was some suggestion that maybe some on this side held this up. This nomination was handled a lot more rapidly done than at the time of Attorney General Meese.

The Senate is soon going to vote on the nomination of John Ashcroft to be Attorney General. I think it is safe to say that all of us in this body would like to be able to vote in favor of the next Attorney General. Those of us who are going to vote no on this nomination take no pleasure in doing so. Frankly, I have heard many say—and I feel this myself—we wish the President had sent a different nomination for this critical job. We wish, if he wished to have our colleague, Senator Ashcroft in the Cabinet, that he had nominated him for a different position. We wish the President had adhered to the standard he set forth in his own inaugural address and that he had sent us a nominee who would unite the country and have the utmost credibility with the disaffected, dispossessed, and disenfranchised.

We knew the nomination of Senator Ashcroft had become a "done deal" weeks ago. The Republican leadership reported that all 50 Republican Senators would be voting in favor of this nomination, and, of course, with the Vice President they would be able to win.

This decision was made before any hearing, before the nominee answered any question, written or oral, before any background check or review of his record was ever begun, let alone completed. That is why some members of the Judiciary Committee on the other side went so far as to argue that the committee need not hear testimony from the public at all, and need not review the nominees's required financial disclosures, papers required of every nominee.

Most Democratic Senators, I am happy to say, declined to prejudge the matter. As chairman during the 17 days of the Judiciary Committee hearing, I expedited a balanced hearing to review the nominee's record and to hear people from Missouri and others, pro and con, on this important nomination. We had virtually an equal number for Senator Ashcroft as against him—I think actually one more for. But I believe that all Senators can be proud that our hearings focused on issues, not on the nominee's personal life. We can also be proud of the tone set during this debate on the Senate floor.

But there is one big exception. I take strong exception—in fact, the strongest terms I can think of in my 26 years in the Senate—to the characterization we have heard about the issue of religion and this nomination. The Senate was told that opponents of this nomination have implied that Christians have no place in public life.

If that charge was not on its face so absolutely preposterous in this body, it would have invited several hours of discussion to set the record straight. It is such an untrue and inflammatory assertion.

Needless to say, if that was the debate, it would be fair to speculate that many, probably most of President Bush's nominees are Christians and confirmed by this body. All of his nominees are confirmed. I know of none planned, or who have been announced by the distinguished leader as ready for votes, who are not going to be confirmed. If their religion has been mentioned at all, it has been mentioned to their credit.

Is it really necessary to point out that men and women of Christian faiths are plentiful in both parties in these very Halls of Congress? More to the point, there are good people, who are Christians, on both sides of the Ashcroft nomination, just as there are good people, who are not Christians, on both sides of the Ashcroft nomination. In fact, the reason religion has come up during these confirmation proceedings is not because of John Ashcroft's religious beliefs, but because of concern about the level of tolerance he may show towards those with different religious beliefs. That is why his visit to and acceptance of an honorary degree from, and comments made during the hearings about Bob Jones University, have been a legitimate concern to many.

The relevance of Senator Ashcroft's association with Bob Jones University is not about his own religious beliefs. It is about what it says about Senator Ashcroft's sensitivity and tolerance towards those whom that institution regards in such negative ways, and treats so differently. The policies of that institution have been to bar African Americans, to bar interracial dating, and to derogate Mormons and Catholics as belonging to cults.

That John Ashcroft does not seem to fully understand the concern that this causes to many Americans is itself troubling to so many. We have heard from some the term they have seemed to coin: "religious profiling." I will say it once again as clearly as I can. No Senator on either side of the aisle during these proceedings has sought to apply any religious test to John Ashcroft. No Senator has sought to tar the nominee as a racist. Senator Ashcroft's religious beliefs have not been a source of inquiry or concern for any member of the Judiciary Committee.

Notwithstanding, ironically enough, what Bob Jones University has said about Catholics and Mormons—with the two leaders of this committee being one a Catholic and the other a Mormon—both Senator HATCH and I have said we have never once heard Senator Ashcroft take the position that Bob Jones University has towards us or anybody of our religions.

This confirmation debate has not been about religious profiling. If anything, this is a nomination struggle about issue profiling, and those issues include the nominee's record on civil rights and women's rights, the rights of gay Americans, and voter registration.

Those supporting this nomination argue that he should be confirmed because his religious devotion represents a special, unimpeachable level of integrity, and that his religion makes him more likely to abide by his oath of office. My view is that religion is neither a qualification nor disqualification for public office. I hold deep religious beliefs. But as I told someone as I left church this Sunday, this past Sunday: I would not expect anybody to vote either for or against me because of my religious beliefs.

I would expect them to vote for or against me because of my political beliefs.

Indeed, article VI of the Constitution prohibits any religious test as a qualification for public office. I hope Senator Ashcroft's supporters are not urging any form of such unconstitutional test.

The issue is his public record, not his religious faith. I and several others have said how much we admire his commitment to his family and his religion. I consider those two of the most admirable qualities in our former colleague. The issue, though, is how he has fulfilled his public duties.

Senator BYRD posed the question yesterday whether any man's past can withstand scrutiny. Confirmation hearings should not be held to dissect a nominee's personal life—and this one did not—but they are to examine his past record and actions, to hear from the nominee about how he views his prior positions and actions within the perspective and wisdom that time should bring.

What I observed of this nominee at his hearings can be summed up in two words: No regrets.

He had no regrets about the aggressive manner in which he litigated in opposition to a voluntary desegregation plan in St. Louis, or about the missed opportunity to resolve that divisive matter, about his use or his involvement for political gain, or about the misleading testimony he initially gave the committee about whether the State of Missouri was a party to the litigation and had been found liable.

He had no regrets about vetoing two bills designed to ensure equal voting rights for African American voters in St. Louis.

He had no regrets about appearing at Bob Jones University, and he even testified that he might return there after being confirmed as Attorney General of the United States.

He certainly passed up the opportunity, as has been suggested, now that he knows so much about Bob Jones University, to take the honorary degree, put it in an envelope, and send it back. He had no regrets about granting an interview to the Southern Partisan and praising this neo-Confederate magazine and appearing to embrace its point of view.

One of the things that bothered me greatly is that he had no regrets about his treatment of Judge Ronnie White, Ambassador James Hormel, Bill Lann Lee, Judge Margaret Morrow, or any of the other Presidential nominees he opposed.

Each of us has a duty to determine how we exercise our constitutional duty of advise and consent. As I said at the outset of this debate, strangely enough—or perhaps not so strangely—the Constitution is silent on the standard we should use in deciding how to fulfill our advise and consent duty.

I have thought about this over the years, and I have come to the conclusion that it is testament to the wisdom of the framers because, in the end, those who elect us have the final say in whether they approve of how we conducted ourselves and, if they approve, of how we exercised our constitutional responsibilities.

Some have argued that the issues that have arisen during this confirmation process have been generated out of thin air by advocacy groups or by Senators who oppose this nomination. In fact, these are the same issues upon which the voters of Missouri based their verdict on election day last November, an election Senator Ashcroft lost.

John Ashcroft's actions toward Judge Ronnie White and his association with Southern Partisan magazine and Bob Jones University were hotly debated in Missouri. They were issues in his unsuccessful reelection campaign.

The Kansas City Star noted in November 1999:

> A lot of Missourians are still struggling to understand why Sen. John Ashcroft took out Ronnie White.

Rallies for Judge White were held in downtown St. Louis. Local groups circulated petitions calling for Senator Ashcroft to "publicly retract" his comments in Southern Partisan. At least one Missouri municipality passed a resolution asking Senator Ashcroft to "cease the promotion of Jefferson Davis" and other Confederate leaders in Southern Partisan, and they criticized his actions with respect to Judge White.

Another Missouri city council passed a resolution asking Senator Ashcroft to apologize to Missouri residents for his comments in Southern Partisan.

Yesterday, an old friend, a Republican, contacted me to share a quote from Reinhold Niebuhr:

> Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary.

In this regard, I note that we heard often about John Ashcroft's past election victories in Missouri. What has gone unmentioned is the fact that the voters of Missouri registered a negative judgment on the politics, policies, and practices of John Ashcroft just last November. Not surprisingly, they are the same issues that have arisen during his confirmation debate. We heard during our hearings how African American voters of Missouri had voted overwhelmingly against him.

John Ashcroft's stubborn defense of his past record and the fact he has no regrets over incidents that concern many of his Missouri constituents and that now concern many Americans does not instill confidence. On the contrary, to many it is a troubling signal. He lacks the sensitivities and balance we need in the Attorney General. We need an Attorney General who has the trust and confidence of the American people and who is dedicated to protecting the rights of all of us.

Remember, the Attorney General is not the President's lawyer. He has a White House counsel. The White House counsel is not required to come to the Senate for confirmation. The Attorney General is there for all of us—black, white, rich, poor, Democrat, Republican, no matter who we are.

The American people are entitled to an Attorney General who is more than just a friend to many of us in the Senate, as John Ashcroft is a friend, and who promises more than just the bare minimum, that he will enforce the law. All Americans, whether they are part of the 100 Members of a Senate club, no matter what they may be, all Americans, the 280 million other Americans who do not serve here, are entitled to someone who will uphold the Constitution as interpreted by the Supreme Court, who will respect the Congress and the courts, who will abide by decisions with which he disagrees, and enforce the law for all people regardless of politics. They are entitled to someone whose past record demonstrates that he or she knows how to exercise good judgment in wielding the enormous discretionary power of the Attorney General.

I said before that we cannot judge John Ashcroft's heart, nor should we be able to, but we can examine his record. And running through that record are disturbing recurrent themes: Disrespect for Supreme Court precedents with which he disagrees; grossly intemperate criticism of judges with whom he disagrees—the "ruffians in robes" comment—insensitivity and bad judgment on racial issues; and the use of distortions, secret holds, and ambushes to harm the careers of those whom he opposes or for political gain.

I engaged in a colloquy yesterday with the senior Senator from Virginia during this confirmation process. Senator WARNER is a dear and valued friend. We have been friends for decades. He observed that he thought the hearings and consideration by the Senate will result in John Ashcroft being a stronger, more deeply committed public servant.

It is my fervent hope that John Ashcroft has come to understand the reasons that many of us are troubled by his record and troubled by the manner in which he responded to our concerns at the nomination hearing.

I hope Senator Ashcroft better appreciates the concerns of the significant number of Americans who oppose this nomination. Public opinion polls show there are as many people opposed to the nomination as support it. For those who doubt the promise of American justice—and, unfortunately, there are those in this country who do, for whatever reason—this nomination has not inspired confidence in the man nominated to head the U.S. Department of Justice.

If John Ashcroft is to be confirmed, then he is going to have a lot of work to do to prove that the President's choice was a wise one, and that he will be the people's lawyer and defender of their rights—all the people.

The country is sharply divided about this nomination, but so is the Senate. I wish the President had sent the Senate a nominee who would unite us and not divide us, but that did not happen.

I hope the President knows—after this debate, and after this divisive election—the task of bringing the Nation together still lies ahead of us. I hope all of us will be able to help in that uniting.

I think nothing I will ever do in my life will mean as much to me as serving in the Senate. I have served with 280 or so Senators, who have all been people I have admired and respected. I hope that after this nomination, and after this battle—however the vote comes out; I expect I know how it will come out—then the Senate will work together, on both sides of the aisle, with the new President, and with all members of his Cabinet, and with the new Attorney General, to start healing these wounds, to not just talk about bringing us together, but to actually do it.

There are deep, deep concerns in the country about this nomination. I would suggest that every one of us—Republican and Democrat—have a long road ahead of us to bring those sides together, but on that long road we also have the responsibility to take that trip.

I reserve the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to have printed in the RECORD some materials that I believe will be relevant to the consideration of this nomination: a letter from the National Sheriffs' Association; a letter from the Missouri Sheriffs' Association; a written statement of Sheriff Kenny Jones before the Committee on the Judiciary; and testimony of U.S. Representative KENNY HULSHOF before the U.S. Senate Committee on the Judiciary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, October 4, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ASHCROFT: I am writing to ask you to join the National Sheriffs' Association (NSA) in opposing the nomination of Mr. Ronnie White to the Federal Judiciary. NSA strongly urges the United States Senate to defeat this appointment.

As you know, Judge White is a controversial judge in Missouri while serving in the Missouri Supreme Court. He issued many opinions that are offensive to law enforcement; one on drug interdiction and one involving the death penalty. Judge White feels that drug interdiction is not a proper function of law enforcement. He wrongly reasons that drug abuse is a private matter that causes no public harm, and drug abusers should not be inconvenienced by interdiction efforts. We strongly disagree. Drug interdiction is a cornerstone in the fight against crime, and this reckless opinion undermines the rule of law.

Additionally, Judge White wrote an outrageous dissenting opinion in a death penalty case. In 1991 Pam Jones, the wife of Sheriff Kenny Jones of Moniteau, Missouri, was gunned down while hosting a church service at home. The assailant, who was targeting the Sheriff, was tried and convicted of murder in the first degree. He was subsequently sentenced to death for Mrs. Jones' murder. During the appeals process, the case came before the Missouri Supreme Court where six of the seven judges affirmed the conviction and the sentence. Judge White was the court's lone dissenter saying the assailant had a tough childhood and was therefore not accountable for the heinous crime he committed. In our view, this opinion alone disqualifies Judge White from service in the Federal courts. He is irresponsible in his thinking, and his views against law enforcement are dangerous.

We urge you in the strongest possible terms to actively oppose the nomination of Judge White. He is clearly an opponent of law enforcement and does not deserve an appointment to the Federal Judiciary. His views and opinions are highly insulting to law enforcement, and we look forward to working with you to defeat this nomination.

Respectfully,
PATRICK J. SULLIVAN, JR.,
Sheriff.

MISSOURI SHERIFFS' ASSOCIATION,
Jefferson City, MO, September 27, 1999.

Senator ORRIN HATCH,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: Attached please find a copy of the dissenting opinion rendered by Missouri Supreme Court Judge Ronnie White in the case State of Missouri, Respondent, v. James R. Johnson, Appellant.

Also, please find attached a copy of a petition signed by 92 law enforcement officers in Missouri, including 77 Missouri sheriffs.

In December 1991, James Johnson murdered Pam Jones, wife of Moniteau County Sheriff Kenny Jones. He shot Pam by ambush, firing through the window of her home during a church function she was hosting. Johnson also killed Sheriff Charles Smith of Cooper County, Deputy Les Roark of Moniteau County and Deputy Sandra Wilson of Miller County. He was convicted and sentenced to death. When the case was appealed and reached the Missouri Supreme Court, Judge White voted to overturn the death sentence of this man who murdered Mrs. Jones and three good law officers.

As per attached, the Missouri sheriffs strongly encourage you to consider this dissenting opinion in the nomination of Judge Ronnie White to be a U.S. District Court judge.

Sincerely,
JAMES L. VERMEERSCH,
Executive Director.

WRITTEN STATEMENT OF SHERIFF KENNY JONES BEFORE THE COMMITTEE ON THE JUDICIARY, CONFIRMATION HEARINGS OF JOHN ASHCROFT, U.S. ATTORNEY GENERAL DESIGNATE, JANUARY 2001

Senator Leahy, Senator Hatch, Members of the Judiciary Committee, I am honored and a little overwhelmed to be here today to testify on the nomination of John Ashcroft to be Attorney General of the United States.

Mr. Chairman, my name is Kenny Jones and I am the elected Sheriff of Moniteau County, Missouri, an office I have been privileged to hold for the last sixteen years. For those who may not know, Moniteau County is a very small unusually quiet county in mid-Missouri with a population of approximately 13,000. We are a strong tight knit community in the heartland of America. We believe in traditional values and we have a deep faith. We are small town America at its best.

As you know, much has been said about John Ashcroft and his fitness for this office. I for one support his nomination and urge this Committee to support him as well. Last year, Senator Ashcroft was unjustly labeled for his opposition to the nomination of Judge Ronnie White to federal district court. This one event has wrongly called into question his honor and integrity. Be assured that Senator Ashcroft had no other reason that I know about, to oppose Judge White except that I asked him too. I opposed Judge White's nomination to the federal bench and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case.

In December 1991, James Johnson changed the lives of many families in our small rural community. He held an elderly woman hostage, killed four people, and seriously wounded another. Johnson murdered in cold blood, the sheriff from a neighboring county, two deputy sheriffs, and my wife, Pam Jones. For this, he was tried by a jury, convicted of four counts of first degree murder, and sentenced to death.

To understand just how horrid this event is and to comprehend the devastating impact this crime has on my county, you need to understand the facts of that December night. It is easy to talk about dissenting opinions and legal maneuvering in this case and take the human tragedy out of it. But, that is a mistake. This case is entirely about human tragedy and justice. Not a day goes by that I don't think about what James Johnson did to my family and my community. Can you even imagine how it forever changed life in a small Missouri community?

On the evening of December 9th, Deputy Leslie Roark, was dispatched to the residence of James Johnson on a domestic disturbance call. After arriving on the scene and speaking with Johnson, his wife and his stepdaughter, Deputy Roark apparently ascertained they were all fine. He could not have been more wrong. As Deputy Roark turned to leave, Johnson pulled a gun and shot him in the back. My deputy fell face down, rolled over, and struggled to defend himself. Johnson then shot Les in the forehead at point-blank range. After shooting Leslie Roark, Johnson armed himself with more weapons and drove to my house in rural Moniteau County looking for me. I was not home. I had taken my two sons to their 4-H Club meeting. My wife, Pam, and our two daughters were home, however. They were hosting a Christmas party for a group of local churchwomen and their children. Upon arriving at my house, Johnson opened fire on completely innocent people. He fired several shots through a bay window, hitting my wife who was sitting with my daughter on a bench in front of the window. After the assault on my home, Johnson went to the home of Deputy Russell Borts and shot him, also through a window, as he was talking on the telephone. Russ lives today with several injuries inflicted by Johnson.

During the attack on my family and Deputy Borts, a call for help went out and many officers from surrounding counties responded to my office. Sheriff Charles Smith, from Cooper County personally responded to the call for help. What he did not know was that Johnson had moved down the block from the Borts residence and was laying-in-wait at my office. As Sheriff Smith was getting in his car, Johnson gunned him down in front of the Moniteau County Sheriff's Office. Just moments later, Johnson shot and killed Officer Sandra Wilson who had driven in from Miller County responding to the call for help. It is important to note that this coward never once confronted his victims face to face. Every single person he shot and killed was shot in the back.

Before Johnson was apprehended, he held an elderly woman hostage until for some unknown reason, he released her. She escaped and told the authorities where Johnson was hiding. A team of negotiators finally convinced Johnson to surrender and he was taken into custody.

After dropping off my boys at 4-H, I found out that Les Roark had been shot. I went to be with him while we waited for the Life Flight helicopter. While there, I received the call that would change my life forever. I was told of an emergency at my own house. I raced home. There I saw an ambulance in the driveway and shocked people standing around. My secretary, Helen Gross, told me that Pam had been shot and our daughters had been taken to a neighbor's home. Pam was flown by helicopter to the University of Missouri Hospital. I gathered my four children and went to Pam's side. She died just a short time later.

James Johnson was tried, convicted and sentenced to death by a jury in February 1993. Every one of his appeals, including his appeal before the Missouri Supreme Court, was denied. In the Missouri Supreme Court, all but one of the judges affirmed the decision of the lower court. The only dissent was from Judge Ronnie White. In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people Johnson killed were not given a second chance.

When I learned that Judge White was picked by President Clinton to sit on the federal bench, I was outraged. Because of Judge White's dissenting opinion in the Johnson case, I felt he was unsuitable to be appointed for life to such an important and powerful position. During the Missouri Sheriffs' Association Annual Conference in 1999, I started a petition drive among the sheriffs to oppose the nomination. The petition simply requested that consideration be given to Judge White's dissenting opinion in the Johnson case as a factor in his appointment to the federal bench. Seventy-seven Missouri sheriffs, both Democrats and Republicans, signed the petition and it was available to anyone who asked. I have the petition with me and respectfully ask that it be made a part of the record of this hearing. A copy was forwarded to both Senator Bond and Senator Ashcroft. I also asked that the National Sheriffs' Association support us in opposing Judge White's nomination. They willingly did so and I am grateful that they joined us and wrote a strong letter opposing Judge White's nomination.

While some would have you believe otherwise, this is the only reason sheriffs opposed the nomination of Judge White. We contacted Senator Ashcroft and urged him to oppose this nomination as well. He agreed with our position, but unfortunately, his view on Judge White's nomination was misrepresented in the press and misrepresented to other members of the Senate. People alleged all sorts of reasons for the eventual defeat of Judge White's nomination. I can only speak for myself and can only testify to what I know to be true. I opposed Judge White's elevation to the federal bench solely because of his opinion in the Johnson case. Johnson murdered my wife in cold blood. He killed three close friends and colleagues and seriously wounded a fourth. Offering him a second chance as Judge White would do, is something that I will never understand. I asked Senator Ashcroft to oppose the nomination based on what I have shared with you here during this hearing. By opposing the nomination of Judge White, Senator Ashcroft did nothing more than properly exercise Constitutional authority based on the information he had available. I hope this information will correct the record and prove that John Ashcroft did not act with an unseemly intent.

To deny John Ashcroft and reject his nomination to be Attorney General based solely on his opposition to Judge White would be wrong and a terrible loss for the country. I hope my testimony today provides the information you seek to make a truly informed decision on John Ashcroft. In my view, he will make a fine Attorney General and I hope that he will be confirmed. Thank you Mr. Chairman and I stand ready to answer your questions.

TESTIMONY OF U.S. REPRESENTATIVE KENNY HULSHOF BEFORE THE U.S. SENATE COMMITTEE ON JUDICIARY, JANUARY 18, 2001

I would like to thank Chairman LEAHY and Ranking Member HATCH for the opportunity to testify before this committee.

I fully support President-elect Bush's decision to nominate Senator John Ashcroft to the position of Attorney General. His past service to the people of my home state of Missouri as Attorney General, Governor and Senator give him the experience and knowledge to be an effective agent of justice for all Americans.

I am not here today as a U.S. Representative from Missouri's Ninth District. My appearance here is to share with you my unique knowledge of the case of State of Missouri vs. James Johnson.

From February of 1989 until January of 1996, I served as a Special Prosecutor for the Missouri Attorney General's Office. In this capacity, my duties included the prosecution of politically sensitive or difficult murder cases across the State of Missouri. I handled cases in 53 Missouri counties and have tried and convicted violent criminals in more than 60 felony jury trials. In January, 1992, I was assigned as co-counsel in the prosecution of the Johnson case.

As you know, the Johnson case has taken on national prominence, but not because it involves a convicted cop killer. It has become a focal point in this process due to the strong disagreement that John Ashcroft and some law enforcement groups had with Missouri Supreme Court Judge Ronnie White's sole dissent on the appeal of this case.

You are measuring John Ashcroft's ability to be the nation's Attorney General by examining his record. In the same manner, John Ashcroft measured Ronnie White's ability to be a federal jurist by scrutinizing his record and published opinions—not his race as some have charged. John Ashcroft has testified that he had serious reservations about Judge White's opinions regarding law enforcement.

Let me share with you the facts of the Johnson case:

In December of 1991, Moniteau County Deputy Sheriff Les Roark responded to a domestic disturbance call at the home of James Johnson in rural Missouri. After assuring himself the domestic quarrel had ended, Deputy Roark turned to return to his waiting patrol car. James Johnson whipped a .38 caliber pistol from his waistband of his pants and fired twice at the retreating officer. Johnson, realizing that Roark was clinking valiantly to life, walked over to the fallen officer and shot him again execution-style.

He next negotiated the dozen or so miles to the home of Moniteau County Sheriff Kenny Jones. Peering through the window, he saw Pam Jones, the sheriff's wife. She was leading her church women's group in their monthly prayer meeting in her family's living room, her children at her knee. Using a .22 caliber rifle, Johnson fired multiple times through the window, hitting her five times. She was gunned down in cold blood in front of her family.

I wish I could tell you that the carnage soon ended. Instead, James Johnson proceeded to the home of Deputy Sheriff Russell Borts. Displaying the methodical demeanor of a calculating killer, Johnson shot Deputy Borts four times through a window as Borts was being summoned for duty via telephone. Miraculously, Borts survived. Cooper County Sheriff Charles Smith and Miller County Deputy Sandra Wilson were not so fortunate. They died in a hail of bullets when Johnson ambushed them outside the sheriff's office.

As a result of Johnson's rampage, three dedicated law enforcement officials were dead, one was severely injured and Pam Jones, a loving wife and mother, had been slaughtered.

Mr. Chairman, I wish to clarify a few of the points raised during yesterday's hearing regarding the quality of James Johnson's representation at trial. Mr. Johnson hired counsel of his own choosing. He chose a team of three experienced defense attorneys who possessed substantial experience in litigation and criminal law. The three litigants had tried a previous capital case together.

The record conclusively establishes that counsel launched a wide-ranging investigation in an effort to locate veterans who had served with the accused in Vietnam. Counsel hired and presented three nationally-renowned mental health experts on the relevant issue of posttraumatic stress disorder.

The evidence of guilt, however, was unassailable. Based on the strength of a detailed confession by the accused to law enforcement officers, incriminating statements to lay witnesses, eyewitness accounts to one of the murders and circumstantial evidence, including firearms identification, James Johnson was convicted by a jury of four counts of murder in the first degree. The jury later unanimously recommended a sentence of death on each of the four counts.

After a lengthy post-conviction hearing on the adequacy of counsel, Circuit Judge James A. Franklin, Jr. found that Johnson's attorneys devoted a significant period of time and expense to his case, including a substantial attempt to develop and present a mental defense. The court found as a matter of law that James Johnson received skilled representation throughout his trial. The case was then automatically appealed to the Missouri Supreme Court, where the convictions and sentences were upheld 4–1. Judge White's lone dissent focused on inadequate assistance of counsel at trial. As I have stated and the record indicates, this is clearly not the case.

I have been deeply troubled during these confirmation proceedings by statements insinuating, overtly or otherwise, that John Ashcroft is a racist. More to the point, there have been allegations made that John Ashcroft's rejection of Judge Ronnie White's nomination to the federal district court was racially motivated. As a Missourian, I am offended by these baseless claims.

It is my belief that members of this distinguished panel and members of the entire Senate take the constitutional role of "advice and consent" very seriously. It is an integral part of our system of checks and balances.

It is my humble opinion that no individual took that responsibility more seriously than your former colleague, John Ashcroft. As evidence of that fact, I cite to you the October 5, 1999, Congressional Record:

"[Mr. Ashcroft] Confirming judges is serious business. People we put into these Federal judgeships are there for life, removed only with great difficulty, as evidenced by the fact that removals have been extremely rare. There is enormous power on the Federal bench. Most of us have seen things happen through judges that could never have gotten through the House and Senate. Alexander Hamilton, in Federalist Paper No. 78, put it this way:

"'If [judges] should be disposed to exercise will instead of judgement, the consequence would equally be the substitution of their pleasure to that of the legislative body.'

"Alexander Hamilton, at the beginning of this Nation, knew just how important it was for us to look carefully at those who would be nominated for and confirmed to serve as judges."

Former Senator Ashcroft then elaborated on the dissenting opinions by Judge White in a series of criminal cases, including State of Missouri v. James Johnson. He acknowledged an outpouring of criticism levied against Judge White's nomination by respectable law enforcement groups. His ultimate rejection of Judge White's nomination was based on his judgement and legal reasoning. As you know, a majority of the Senate voted to reject the nominee.

Reasonable minds can differ on John Ashcroft's conclusion regarding Judge White's fitness as a federal jurist. These differences should be vigorously debated and considered. That is the hallmark of our republic. But branding a good man who has devoted his professional life to one of public service with the ugly slur of "racist" without justification or cause is intolerable.

I know John Ashcroft. He is an honorable man of high integrity and morals. His commitment to his family, his state and his country are beyond compare. His experience and public service make him very qualified to be the next Attorney General of the United States. You have his assurance that he will faithfully execute the law in a way consistent with the will of Congress, in accordance with the rulings of our judicial system and in a manner that protects the liberties of all Americans.

Again, I would like to thank Chairman Leahy, Ranking Member Hatch and this distinguished panel for allowing me to testify.

Mr. BOND. Mr. President, 28 years ago, I had the responsibility to appoint a State auditor for Missouri. Based upon what I saw to be the promise in John Ashcroft—his character, intelligence, and commitment to public service—I selected him.

For the past 28 years, I have had the honor and privilege to work with him as he handled his duties in the best and highest tradition of Missouri and of this country. Many of my colleagues have also seen him during the last 6 years, when he served with distinction in the Senate.

I know this man. Most of you in this body know this man. He is a good man, whose service reflects well on his friends, his family, our State of Missouri, and on this great body.

Everything about John Ashcroft's record of public service and his personal integrity and character tells us that he will be faithful to the law. Everything about John's career also tells us that he understands one thing above all else: The promise contained in this Nation of laws can only be realized when all the laws are properly enforced.

Two weeks ago, I went before the Judiciary Committee to ask that they judge John Ashcroft's nomination to be Attorney General on the content of his character, and reject the slime campaign then underway against him.

Today I must say I stand here profoundly disappointed so many failed to push away those whose only goal is to tear down and destroy.

However, let me add my sincere appreciation of the fact that some of our colleagues on the other side of the aisle have chosen to support this nomination, despite the strong political winds blowing against them, including clear-cut threats of retaliation at the polls for any vote in favor of John Ashcroft.

Senator RUSS FEINGOLD was courageous in casting the lone Democratic vote in favor of the nominee in committee. My friends, Senator BYRD, Senator DODD, and others, have announced on the floor they intend to support the nominee for reasons they gave. I commend them and thank them for that.

I note that others of my colleagues appear to have given the nomination full consideration and concluded, for their own substantive reasons, not to support this nomination. While I disagree with their final decision, I certainly cannot condemn their actions. But I am deeply disturbed and disappointed in some of the things done and said in the Judiciary Committee and some of the remarks made on the Senate floor.

Over the past month, we have seen self-described spokesmen of various activist groups—groups that preach tolerance, diversity and religious freedom—systematically display their intolerance, narrowness, and dogmatic views, as they try to smear the record of the man who has been nominated to be the Attorney General of the United States.

In fact, I think the words on this chart tell us all we need to know—this is from the special interest groups of what they are doing—"by any means necessary." "We're going to spend whatever it takes." These are the words of the extreme liberal groups that are out to sabotage John Ashcroft and, incidentally, his nomination. The purpose—search and destroy.

Like millions of Americans, I watched the Senate confirmation hearing to see both how my friend would do in answering questions defending his record but also to see how potential opponents would handle their responsibilities.

I, too, hoped for full and fair hearings.

Two weeks ago, the American people did not see a confirmation hearing. They did not see the Senate Judiciary Committee acquit itself in the best and highest traditions of this fine body. They did not see full and fair hearings. What they saw—pure and simple—was an exercise in political theater of the worst kind.

I cannot begin to express my profound disappointment in how some of my colleagues handled their few days in the majority—mishandled their days to rise above the rancor. In the Ashcroft hearing, there was an opportunity to set an example for us to follow for the rest of this session. Instead of rising to the occasion, too many sank to the level of the interest groups, where only the shrillest survive.

What we heard was a campaign designed to create a caricature, and to fan the grotesque charges of racism, bigotry, and so-called political opportunism—a campaign so out of control that 2 days of questions were not enough. An extra day of attack witnesses, and hundreds of additional questions—often asking the same questions over and over again—were then submitted for the record. They even went so far as to ask for a "complete discussion" of all conversations that then-Senator Ashcroft had with Senate leaders about any of the 1,600 Presidential nominations considered by the Senate during his term.

That is an impossible task. Nobody can recall those. The reaction was that the answers were incomplete, when they did not report all those conversations. Who of us could have done that unless we had carried a tape recorder in our pocket at all times.

To the special interest groups who invented the term "Borking," I had little expectation they could or would understand or embrace the terms of civility and respect. So I expected that false charges would be leveled—repeated and repeated—in hopes that something would stick. But I had hopes that colleagues would resist those charges. Too often, they did not.

What are those false charges? One of the false charges thrown against John Ashcroft was that he could not be entrusted to enforce laws with which he personally disagrees. Now, Janet Reno opposed the death penalty, yet she was trusted to follow the law. Now, 8 years later, why is it that with John Ashcroft, a conservative and committed Christian, doubts are aired—and given credence—about his ability to enforce the law?

Some activists who claim to embrace and promote religious diversity and tolerance seem unable to extend their beliefs to a conservative Christian. I thought we broke that barrier when John F. Kennedy became President and we saw the obvious that he did not put his Catholic beliefs above the law of the land. And what of our colleague JOE LIEBERMAN, whose candidacy for Vice President and his public religious utterances tore down even more barriers? Should religious diversity and tolerance be extended only to some religions and not others? What we see in this part of the smear campaign against John Ashcroft is nothing less than religious bigotry.

Second, we have seen the absolutely reckless charge that John Ashcroft opposed desegregation. Several Members have attempted to use the long, tortured and controversial school desegregation cases in the State of Missouri to color further their caricature of John Ashcroft as insensitive and an extremist. To do so, however, they have to ignore the facts of the case, the various tortured rulings, the victory in the Kansas City case, the fiduciary duty of the Attorney General and the widespread opposition to the court-ordered desegregation plan by the public and elected officials alike.

The truth of the matter is that the desegregation cases were filed in St. Louis and Kansas City in 1972, with Kansas City being litigated until 1995 and the St. Louis case being litigated until 1999. The lawsuits and the various court orders have been opposed by Democratic and Republican Governors, Attorneys General and State Treasurers and the overwhelming majority of Missourians for nearly three decades. To single out John Ashcroft and to say his positions on the case and his work was that of an extremist insensitive to the needs of Missouri school children is one of the more misleading positions ever staked out on this floor.

Since I cannot imagine that colleagues and critics would have one set of standards for John Ashcroft, and another for those in their own party, it is only fitting that we review the whole record of the day.

In September of 1981, in response to the controversial Eighth Circuit decision, the current Minority Leader of the House of Representatives, RICHARD GEPHARDT, introduced a constitutional amendment to ban court ordered busing to achieve racial integration. Congressman GEPHARDT was also a sponsor of legislation to bar federal courts from mandating busing as a remedy for segregated schools. In explaining his legislation, the esteemed minority leader called busing for desegregation "a total failure" and called the court-ordered busing program in the St. Louis schools "an obscenity and a crime against the youth of St. Louis." About the same time, again while Senator Ashcroft was Missouri Attorney General, Missouri Senator Tom Eagleton, my predecessor, stated publicly that he "personally opposes court ordered busing" and did not believe the St. Louis plan would work. While in the Senate he fought the Department of Health, Education and Welfare practice of denying funding to school districts that do not have a school desegregation plan in place.

Beyond that, both Missouri State Treasurers who served while John Ashcroft was Attorney General, both of whom were Democrats, opposed the court ordered desegregation. In fact, the second of those Treasurers, the late Mel Carnahan, was highly critical of both Attorney General Ashcroft and me for the handling for the desegregation case. He was not critical of anyone opposing the plan, rather he felt the Attorney General was not being aggressive enough in the fight. In 1981, he told UPI, "In my opinion, they have not staffed up and produced in this case and that's the reason we're where we are today on desegregation."

And in 1983, as he was gearing up to run for Governor, Treasurer Carnahan even took the unusual action of requesting a state appropriation so that the Treasurer's office could join the case, initiating new litigation against the federal court order desegregating the St. Louis schools. The Treasurer said the desegregation payments represented "burdensome demands on the taxpayers of the state." He further stated "my staff and I have been intensely studying the financial problems created for the State of Missouri by the court orders in the St. Louis desegregation case. It is my intention to file additional actions or motions directed to testing the issues of state liability for payments . . . I plan to use outside counsel for a separate additional effort to supplement and complement the efforts of the Attorney General to reverse or modify the orders as to state financial liability."

As Governor, I refused to support the appropriation because it was the job of the Attorney General to handle legal matters that impact the state. But that statement by the state Treasurer, a Democrat and future Governor, shows that John Ashcroft was clearly in the mainstream and representing the people of the state in a complicated and controversial legal matter. Unless of course Mel Carnahan was an extremist too. The strong democratic opposition did not stop in the eighties but continued right on through the '98 election cycle. In fact, the current Missouri Attorney General, Democrat Jay Nixon, made opposition to state involvement in school desegregation a platform of his first campaign for Attorney General, calling busing "a failed social experiment" that must end in the State of Missouri. And he criticized Ashcroft and Webster, the two previous Attorneys Generals by stating "The republican team hasn't been fighting the battle against unfair desegregation payments; they've been losing it." "We need new and better lawyers to win the case."

Upon taking office, Nixon filed suit to end state involvement in the St. Louis desegregation case and filed suit to overturn a court decision in Kansas City. Shortly after that he appealed and fought the Kansas City plan all the way to the United States Supreme Court. In St. Louis, he criticized the appointment of a well respected St. Louisan appointed to negotiate a settlement. He even filed suit on the eve of the beginning of the school year to bar student participation in a St. Louis city-county transfer program.

Former Congressman Bill Clay, in a letter to President Clinton, sharply criticized the Democratic Attorney General as "waging unremitting warfare" against the court orders which "provided educational opportunity for many thousands of students in St. Louis". Nixon was also repeatedly criticized by the St. Louis chapter of the NAACP for his efforts. In 1995, the group said those efforts "will wipe out the gains made by desegregation and deprive city parents of opportunities they now have to better their children's education". The Kansas City Star said this Attorney General "climbed over the backs of African Americans" to advance his career.

Yet when this man wanted again to advance his political career, was the Senator from Massachusetts condemning his actions? Quite to the contrary, the Senator from Massachusetts was actively promoting his political career, even headlining a fund raiser for him here in Washington. Nor can I imagine the Senator labeling the positions of Congressman GEPHARDT, former Senator Eagleton, and the late Governor Carnahan, whose campaign the Senator from Massachusetts supported, as extreme. The hypocrisy could not be clearer. And leads us back to those guiding principles of this entire effort against John Ashcroft—by any means necessary, and spend whatever it takes.

The third charge centers around his handling of the nomination of Judge Ronnie White. Much has been said about this, but let me simply say that the emotional power and pain of the Johnson case remains as strong today as it was 10 years ago when the brutal murders tore apart the lives of 4 families and their communities.

For all my colleagues who agreed with Judge White's reasoning that would have tossed out the conviction and granted a new trial to the triple cop-killer who also killed the sheriff's wife right in front of her 8-year-old daughter; for those who agreed with his lone dissent that Johnson's lawyers didn't do a good enough job so he deserves a new trial—I would hope they would channel their strong views and weigh in with Missouri's Governor in seeking a commutation of his death sentence. Johnson's appeal to the U.S. Supreme Court has been denied and he now sits on death row. I can certainly provide any of you the correct address of the Governor in Jefferson City.

Finally the latest attempt to smear—so weak that's it more of a smudge—was made by a democrat activist who claimed that 16 years ago John

Ashcroft asked a legal but inappropriate question during a job interview. Quickly refuted by others present in the interview this attempted smear fades from view, but again takes time and energy to respond to. And when all one's energy is spent knocking down false charges it is hard to find the time to talk about what you believe can be accomplished at the Justice Department—which of course is what the people of America are really interested in. How will you do the job? What are your plans to improve the lives and opportunities for all Americans?

So where does all this leave us? Back where we started.

A conservative, pro-life, Christian simply isn't fit to serve according to the litmus test of a bunch of left-wing groups. And rather than admit it, the smokescreen of false charges must be used to justify their own intolerance. It is a sad day that we have come to this. But through it all John Ashcroft has stayed firm. Firm in his belief that in America our sense of fairness will outweigh short term political gain. Firm in his belief that while his attackers have been shameless and unrelenting, that he should not, and will not respond in kind.

I am so proud of John Ashcroft. I am proud of his service to Missouri and the nation over the last 28 years. At each level of responsibility, he not only acquitted himself as a gentleman and good American, but he did great work on behalf of so many citizens. That is true of his terms as Missouri Attorney General. As Governor. And United States Senator. He is a fine man. He is a gentleman. A good man of deep conviction who will do great service on behalf of all Americans as our next Attorney General. So I am also very proud that a fellow Missourian will become the next Attorney General of the United States of America. But perhaps most of all, I am proud to be able to call John Ashcroft my friend.

I yield the floor.

Mr. NELSON of Nebraska. Mr. President, today I will vote to confirm former Senator John Ashcroft as Attorney General of the United States. The President of the United States has the constitutional authority to nominate those individuals he thinks will most ably advise him; therefore, I give President Bush latitude in choosing the members of his Cabinet. My role in this process, as defined by the Constitution, is to give my advice and consent to the President on his nominees for Cabinet positions. In keeping with that duty, I want to present a clear explanation as to why I will vote to confirm the President's choice for Attorney General.

I have known John Ashcroft for well over 10 years. We both have had the honor to serve as the Chief Executive for our respective States. We were even colleagues for 2 years when our terms as Governor overlapped. I am familiar with his philosophy and his viewpoints and though we do not see eye-to-eye on every issue I respect him as a person and consider him a friend.

But before my statement is dismissed as a rubber stamp approval, let me be clear: My vote to confirm Senator Ashcroft is not without some concerns. I am disappointed with his decision to accept an honorary degree from Bob Jones University, an institution that has become a national symbol for racial and religious intolerance, without any acknowledgement or discussion let alone repudiation of that school's policies that were egregious. And secondly, his handling of the Judge White nomination was considered by many of his former colleagues to have been unfair.

But these two instances, while troubling, are not disqualifying. For me this vote today is an affirmative vote as a prologue to the future rather than a reaction to the past. This is supported by his pledge he made at his confirmation hearing to serve as Attorney General for "all the people."

I take Senator Ashcroft at his word when he says, and I quote, "I understand that being Attorney General means enforcing the laws as they are written, not enforcing my own personal preferences. It means advancing the national interest, not advocating my personal interest." Throughout his confirmation hearing, Senator Ashcroft was unequivocal and unwavering with respect to the manner in which he would serve, if elected, as Attorney General.

Additionally, yesterday I spoke to Senator Ashcroft and expressed my reservations and concerns. In that conversation, he reiterated his commitment to lead a professional and nonpartisan Justice Department, and assured me of his intention to honor his pledge.

For me, this affirmative vote is not about politics; it is about potential and opportunity. If Senator Ashcroft is a man of integrity—which he says he is and which I believe him to be—then he will uphold his constitutional duty, prove his nay-sayers wrong, and work tirelessly to help ensure justice for all. Indeed, the stakes are high, but that is exactly where Senator Ashcroft has put them. I look forward to working with him and to helping him keep his unequivocal promise to the American people.

Mr. SMITH of New Hampshire. Mr. President, Senator Ashcroft has received broad bipartisan support from a number of organizations. I ask unanimous consent that a list of 332 organizations supporting Senator Ashcroft be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

332 Organizations Endorsing John Ashcroft for U.S. Attorney General

(Compiled by the Free Congress Foundation)

48th Ward Regular Republican Organization (Chicago), 60 Plus Association, A Choice for Every Child, Adirondack Solidarity Alliance, Alabama Citizens for Life, Alabama Policy Institute, Alaska Catholic Defense League, Alaska Right To Life, America's Survival, Inc., American Association of Christian Schools, American Association of Pro-Life Obstetricians and Gynecologists, American Center for Law and Justice, American Civil Rights Coalition, American Civil Rights Union, American Conservative Union, American Council for Immigration Reform, American Decency Association, American Family Association, American Family Association of Arkansas, American Family Association of Colorado, American Family Association of Kentucky, American Family Association of Michigan, American Family Association of Mississippi, American Family Association of New Jersey, American Family Association of New York, American Family Defense Coalition, California Central Coast Chapter.

American Freedom Crusade, American Immigration Control, American Land Rights Association, American Policy Center, American Pro-Constitutional Association, American Renewal, American Shareholders Association, Americans for Ashcroft, Americans for Military Readiness, Americans for Tax Reform, Americans for the Right to Life, Americans for Voluntary School Prayer, Americans United for the Unity of Church and State, Arkansas Family Council, Association of American Educators, Association of American Physicians and Surgeons, Association of Christian Schools International, Association of Concerned Taxpayers, Association of Maryland Families, Baptist International Missions, Inc.

Brass Roots, BrotherWatch, California Public Policy Foundation, California Republican Assembly, Calvary Baptist Academy, Campaign For California Families, Capital Research Center, Catholic Citizens of Illinois, Catholicvote.org, Center for Military Readiness, Center for Pro-Life Studies, Center for Reclaiming America, Center for the Study of Popular Culture, Christian Coalition of Alabama, Christian Coalition of America, Christian Coalition of California, Christian Coalition of Florida, Christian Coalition of Georgia, Christian Coalition of Maine, Christian Coalition of Montana, Christian Coalition of Ohio, Christian Coalition of Rhode Island, Christian Schools of Vermont, Christian Voice.

Christus Medicus Foundation, Citizen Soldier, Citizens Against Government Waste, Citizens Against Higher Taxes, Citizens Against Homicide, Citizens Against Repressive Zoning, Citizens for a Sound Economy, Citizens for Community Values, Citizens for Constitutional Property Rights, Citizens for Excellence in Education, Citizen for Law and Order, Citizens for Less Government, Citizens for Traditional Values, Citizens United, CNP Action, Inc., Coalition for Better Community Standards, Coalition for Constitutional Liberties, Coalition for Local Sovereignty, Coalition on Urban Renewal and Education, Coalitions for America, Colorado Association of Christian Schools.

Committee for a Republican Future, Concerned Citizens Opposed to Police States, Concerned Women for America, Concerned Women for America of Colorado, Concerned Women for America of Kansas, Concerned Women for America of Mississippi, Concerned Women for America of New Jersey, Concerned Women for America of North Carolina, Concerned Women for America of N.E. Texas, Concerned Women for America of S.E. Texas, Concerned Women for America of Utah, Concerned Women for America of Virginia, Connecticut Eagle Forum, Conservative Caucus, Inc., Conservative Party of New York State, Conservative Party of Ontario County, New York, Conservative Victory Funds, Constitution Party of Vermont, Coral Ridge Ministries, Coral Ridge Ministries Media, Inc., Council of Conservative Citizens, Inc., Crime Victims United of California, Culture of Life Foundation, Cutting Edge—A Talk Show, Defenders of Property Rights, Delaware Christian Coalition, Delaware Home Education Association, D.T. Crime Victims Bureau.

Eagle Forum, Eagle Forum of Alabama, Eagle Forum of Alaska, Eagle Forum of Arkansas, Eagle Forum of California, Eagle Forum of Georgia, Eagle Forum of Mississippi, Eagle Forum of New Jersey, Eagle Forum of North Carolina, Eagle Forum of Ohio, Eagle Forum of Oklahoma, Eagle Forum of Rhode Island, Eagle Forum of South Carolina, Eagle Forum of Wisconsin, Eastern Orthodox Women's Council of Greater Bridgeport, English First, Environmental Conservation Organization, Erie Citizens Against Pornography, Evergreen Freedom Foundation, Families Allied for Intelligent Reform of Education, Families and Friends of Murder Victims, Family Association of Kentucky, Family First, Nebraska, Family Life Communications, Family Policy Network, Family Research Council, Family Research Forum of Wisconsin.

Family Research Institute of Wisconsin, Family Taxpayers Network, Florida Eagle Forum, Inc., Focus on the Family, Fraternal Order of Police, Freedom Alliance, Friends of Oregon, Georgia Report, Global Evangelism Television, Government Is Not God—PAC, Graham Williams Group, Granite State Taxpayers, Guardians of Education for Maine, Hawaii Christian Coalition, Heritageridge Church and School, Home Education Radio Network, Home School Legal Defense Assoc., Human Life Alliance, Illinois Assoc. of Christian Schools, Illinois Citizens for Life, Illinois Right to Life Committee, Independent Women's Forum, Indiana Eagle Forum, Information Radio Network, Institute for Justice, Int'l. Assoc. of Chiefs of Police, Iowa Family Policy Center, Islamic Institute Foundation.

Justice Against Crime, Justice for Murder Victims, Kansas Conservative Union, Kansas Eagle Forum, Kansas for Life, Kansas Taxpayers Network, KBRT AM 740 (Costa Mesa, CA), KFLR Radio (Phoenix, AZ), Landmark Legal Foundation, Landowners Assoc. of North Dakota, Law Enforcement Alliance of America, League of American Families, Liberty Counsel, Life Action League of Massachusetts, Life Advocacy Alliance, Life Coalition International, Life Decisions International, Life Issues Institute, Life Legal Defense Foundation, Los Angeles Coalition of Crime Victims Advocates, Louisiana Family Forum, Madison Project, Maine Right To Life Committee, Inc., Maryland Constitution Party, Maryland Taxpayers Association, Massachusetts Citizens for Life.

Massachusetts Eagle Forum, Massachusetts Family Institute, Medina County Christian Coalition, Memory Of Victims Everywhere, Michigan Decency Action Council, Michigan Family Forum, Minnesota Association of Christian Schools, Minnesota Christian Coalition, Minnesota Family Council, Mississippi Family Council, Missouri Eagle Forum, MKL Associates, National Alliance Against Christian Discrimination, National Association of Christian Educators, National Association of Korean Americans, National Assoc. of Muslim American Women, National Center for Constitutional Studies, National Center for Home Education, National Coalition for the Protection of Children and Families, National District Attorneys Association, National Federation of Republican Assemblies, National Institute of Family and Life Advocates, National Law Enforcement Council, National Legal and Policy Center, National Legal Foundation, National Liberty Journal, National Organization for Women—Dulles Area, National Rifle Association, National Sheriffs' Association, National Tax Limitation Committee.

National Taxpayers Union, National Troopers Coalition, Neighborhood Research/Mountaintop Media, Nevada Eagle Forum, Nevada Republican Assembly, New Hampshire Right to Life, New Jersey Christian Coalition, New Jersey Family Policy Council, New York Eagle Forum, North Carolina Christian School Association, North Carolina Conservatives United, Northern Virginia Republican Action Committee, Northwest Legal Foundation, Oklahoma Council of Public Affairs, Oklahoma Family Policy Council, Old Dominion Association of Church Schools, Open Door Baptist Church, Operation Rescue, Operation Save America, Organized Victims of Violent Crime, Orthodox Union, Parents in Control, Parents Requesting Open Vaccine Education, Parents Rights Coalition of Massachusetts, Pennsylvania Family Institute.

Pennsylvania Landowners Association, Pennsylvania Republican Assembly, People Advancing Christian Education, Personal Request, Project 21, Pro-Life Action League, Pro-Life America, Pro-Life Ohio, Property Rights Congress, Providence Foundation, Religious Freedom Coalition, Republican Liberty Caucus, Republican National Coalition for Life, Republican National Hispanic Assembly (Dallas County), Republican Platform Committee, Republicans Against Pornography, Right To Life of Cincinnati, Save America's Youth, Second Amendment Sisters, Small Business Survival Committee, South Dakota Family Policy Council, South Dakota Shooting Sports Association, Southern Baptist Convention, Sovereignty International, Speaking the Truth in Love Ministries, St. John County Private Property Rights Group.

Taxpaying Adults, Teen-Aid, Inc., Tennessee Association of Christian Schools, Tennessee Eagle Forum, Tennessee Republican Assembly, Texas Eagle Forum, Texas Home School Coalition, Texas Journal, Texas Public Policy Foundation, The Alliance for Traditional Marriage and Values, The American Family Policy Institute, The American Pistol and Rifle Association of Vermont, The Armstrong Foundation, The Center for Arizona Policy, The Center for Equal Opportunity, The Center for Security Policy, The Christian Civic League of Maine, The Constitutional Coalition, "The Don Kroah Show" (WAVA Radio), The Family Council, The Family Foundation, The Family Foundation (Kentucky), The Family Institute of Connecticut, The Federalist.

The Greenfield, Tennessee Movement To Impeach Federal Judge John T. Nixon, The National Center for Public Policy Research, The Niobrara Institute, The Patrick Henry Center for Individual Liberty, The Strategic Policies Institute, Toward Tradition, Tradition Family, Property, Inc., Traditional Values Coalition, U.S. Family Network, United Seniors Association, United Seniors Association of Lee County, United States Justice Foundation, U.S. Business and Industry Council, Utah Eagle Forum, Utah Republican Assembly, Victims and Friends United, Watchdogs Against Government Abuse, We the People Congress, We the People Foundation, Weld County Republicans, Well of Living Water, West Virginians Against Government Waste, Whatcom County Republican Party, Wisconsin Information Network, Wisconsin State Sovereignty Coalition, Young America's Foundation, Young Americans for Freedom.

Mr. CORZINE. Mr. President, I rise in opposition to the nomination of John Ashcroft to be Attorney General.

I have given a great deal of thought to this nomination and have considered it very seriously. As a new Senator, I did not serve with Senator Ashcroft, so I do not know him personally. However, I personally attended the nomination hearings and listened carefully to the testimony. I also reviewed many of the statements prepared by supporters and opponents of the nomination, and heard from a large number of my constituents in New Jersey.

After considering all the facts, I concluded that Senator Ashcroft, while in many ways a very fine and distinguished public servant, simply is not the right person for the job. Let me take a few moments to explain my thinking.

In general, I believe that a President's choice for a Cabinet position deserves deference. However, the position of Attorney General deserves special scrutiny. As head of the Justice Department, the Attorney General has the unique responsibility to interpret the law on behalf of the executive branch, to investigate and prosecute suspected criminals, to uphold our civil rights laws, to represent the government before the Supreme Court through the Office of the Solicitor General, and to manage immigration, among many other critically important responsibilities. In addition, the Attorney General, while serving the President, also must maintain a degree of independence from politics, so that he or she can pursue wrongdoing within the government. The Attorney General is the people's lawyer. For all these reasons, it is imperative that the Attorney General be an individual not only of unquestioned personal integrity, but someone who will be broadly perceived as administering justice and enforcing the law fairly and impartially for all people.

Unfortunately, after examining Senator Ashcroft's record, I have serious concerns about whether as Attorney General he would be able to set aside his long-standing and strongly held views and perform his duties in a fully objective, fair and impartial manner.

I base this conclusion on several prior instances in which Senator Ashcroft's view of the law and the facts seem to have been heavily biased and colored by his ideology. Perhaps most importantly, in 1997, he led the opposition to Judge White of the Missouri Supreme Court by making a series of accusations that were inaccurate. For example, he claimed that Judge White opposed the death penalty and believed that "it apparently is unimportant . . . how clear the evidence of guilt." This was very unfair, as Judge White voted to affirm death sentences in the vast majority of cases that had come before him, and had unequivocally assured the Judiciary Committee that he was prepared to impose the death penalty. In fact, in the case that Senator Ashcroft used to criticize Judge White, the Judge's decision was based not on opposition to the death penalty, but on a reasoned analysis of serious constitutional problems that he believed had prevented the defendant from receiving a fair trial. This was a clear example of Senator Ashcroft's ideology coloring his interpretation of the facts.

Senator Ashcroft's strong ideological approach also seemed to skew his views in the case of Bill Lann Lee, a nominee to head the Civil Rights Division of the Department of Justice. Senator Ashcroft said he voted again Lee because of "serious concerns about his willingness to enforce" a Supreme Court decision limiting preferences for minority companies in awarding government contracts, and the Senator adopted a highly restrictive interpretation of that decision, challenging Mr. Lee's interpretations of the Court's instructions and guidance. However, this challenge appears to have been based on Senator Ashcroft's own ideological opposition to affirmative action, not the law or the Court's direction.

In another case, when he served as attorney general of Missouri, Senator Ashcroft sought to invalidate a State law that authorized nurses to engage in various practices, including the dispensing of contraceptives. Senator Ashcroft, a strong opponent of abortion, argued that this was unconstitutional. Yet there was no constitutional authority for this position, and it was rejected by the Missouri Supreme Court on a unanimous vote. Again, Senator Ashcroft's strongly held ideological views had skewed his views of the law and led to a highly subjective and biased conclusion with little objective merit.

These are just a few of many examples in which Senator Ashcroft demonstrated an inability to move beyond his own views and reach a fair, objective and balanced conclusion about the merits of a legal position. If history is any guide, his enforcement of the law will be seriously biased by his ideological views. This, in my view, disqualifies him for a position as Attorney General, for which fairness, objectivity and balance are perhaps the most important qualities. In a period in our nation's history in which we need to come together after a divisive election, I believe it would be a mistake to select an Attorney General whose tendency to view the law ideologically could aggravate our nation's divisions.

For all these reasons, I oppose this nomination.

Mrs. CARNAHAN. Mr. President, encircling the Great Seal of the State of Missouri are the words "United We Stand; Divided We Fall." It is a motto that has guided our people well over the last 180 years.

In that same spirit, President Bush, at the onset of this new century, has declared that he wants to be "uniter not a divider."

I am deeply encouraged, for I want to join with him and the Congress to reach across the chasm of our political differences to do some hard work for the American people.

Within the Senate, we have already reached out in a spirit of bi-partisanship in structuring our committees. So far I have had the opportunity to vote in favor of all of the President's Cabinet nominees.

This was the beginning of a conciliatory course—a fragile alliance—but, nonetheless, one that I believe must mark any real progress in the 107th Congress.

But I do not believe that the nomination of John Ashcroft furthers the conciliatory tone that President Bush has set.

Senator Ashcroft has a long record of public service—a record that I brought to the attention of the Judiciary Committee when I introduced him. But in the end, I must determine if that record makes him suitable to be the United States Attorney General.

Had Senator Ashcroft been nominated for any other Cabinet post, I could have easily supported him. His credentials or faith are not in dispute here, nor should they ever be. Rather, it is the conflict that his words and deeds have generated throughout his public career.

Given the sweeping discretionary power of this position, I do not believe that the office of Attorney General of the United States is the right job for Senator Ashcroft.

When asked by my colleagues about this nomination, I urged them to ignore their personal relationships and political considerations. Instead, I called on them to vote their conscience. I must do the same.

Regrettably, I am unable to provide my consent for this nomination.

I am compelled by principles and beliefs I shared with my husband for over forty years in public life, including the belief that we should do all in our power to bring people together rather than drive them apart.

The call of conscience must supersede all others. It is the only reliable anchor in the tempestuous sea of public life.

In casting this vote, I do so knowing that John Ashcroft will likely be confirmed. I wish him every success. I hope he will take these votes of dissent as they are intended: not as acts of spite or recrimination, but as pleas for healing and harmony.

While I must withhold my vote on his confirmation, I pledge my support on all matters that he and the President pursue in the interest of a more just and peaceful nation.

Mr. ENZI. Mr. President, I rise today in support of the confirmation of my friend and former colleague, Senator John Ashcroft, to be Attorney General of the United States. As a man of the highest integrity, experience, and ability, Senator Ashcroft is uniquely qualified to serve as our nation's premier law enforcement officer and the administrator of one of the federal government's largest agencies.

Senator Ashcroft's qualifications for the position of Attorney General have been well documented on the floor and I only need mention them in passing: law professor, State auditor, two-term Attorney General, two-term Governor, and United States Senator from the State of Missouri. Such a record of public service spanning such a period of years demonstrates the great trust and admiration the people of Missouri have placed in Senator Ashcroft over nearly 30 years.

What has impressed me about Senator John Ashcroft's record is not only the length of public service, but the breadth of this experience as well. There is no doubt that the ideal candidate for the position of attorney general is someone who has a good grasp of the law and a true dedication to enforce that law. However, the job entails a great deal more than that. In fact, the attorney general needs to be a good manager to oversee the 125,000 employees of the Department of Justice in departments as diverse as the Immigration and Naturalization Service, the Federal Bureau of Investigation, and the Federal Bureau of Prisons. Senator Ashcroft's sixteen years as an executive in Missouri, first as State attorney general and then as Governor, have made him uniquely qualified to manage one of the largest federal agencies. Moreover, his service with us in the United States Senate and his involvement on the Senate Judiciary Committee have prepared him to work closely with Congress in enforcement and development of Federal law.

In addition to Senator Ashcroft's remarkable credentials to serve as United States Attorney General for all Americans, I would like to remark on his particular interest and experience in the crime issues facing rural communities. As many of my colleagues know, in the past several years rural America has witnessed an explosion in illegal methamphetamine use, especially among our nation's youth. Nationwide, meth use increased 60% between 1992 and 1999 among America's high school seniors. Unfortunately, the story is much bleaker in our rural communities. In my own State of Wyoming, methamphetamine investigations increased 600% between 1992 and 1998. Like all illegal drug abuse, meth abuse tears at the very fabric of society by destroying families, increasing violent crime, and dashing the dreams and promise of all too many of our nation's youth.

While the battle against meth use and trafficking is primarily a State responsibility, there is a role for the federal government by supplying resources for law enforcement training, meth lab cleanup, and education and prevention programs to help parents and teachers teach children the dangers of meth. Senator Ashcroft was a true leader in recognizing and furthering a limited, focused role for the Federal Government in the battle against methamphetamine use and trafficking. In 1999, Senator Ashcroft introduced legislation to combat this problem. While I knew that Missouri had faced many of the same problems faced in Wyoming, I was truly impressed with Senator Ashcroft's understanding of the meth problem and willingness to listen to the problems facing law enforcement in other states. Before introducing his legislation, Senator Ashcroft and his staff made a particular effort to understand the problems facing law enforcement personnel in Wyoming and incorporated our suggestions in Senator Ashcroft's legislation to help address these problems. I have to say that Senator Ashcroft's deep understanding of the greatest crime issue facing our State of Wyoming and his experience as a problem solver both as Governor of Missouri and United States Senator give me great encouragement that he will work with the Congress to address the needs of all states, not just those with large urban areas.

I must say that Senator Ashcroft's understanding and appreciation for the issues involved in the area of rural crime stands in stark contrast with my experience with the previous Administration. Law enforcement officials in my State have all too often been given the run around by the Department of Justice and the Office of National Drug Control Policy when they have attempted to pursue additional funding programs or when they have attempted to include additional Wyoming counties to the list of High Intensity Drug Trafficking Areas. In fact, in one conversation, an employee at the ONDCP told a top law enforcement officer in Wyoming that they didn't have anyone at the department that could approve new HIDTAs! I found that somewhat astonishing given that is one of the very purposes of the office of the Drug Czar. Given his track record in the State of Missouri and in the United States Senate, I have every confidence that a Justice Department headed by John Ashcroft will pursue a coordinated approach with the Office of National Drug Control Policy and other agencies to help eliminate the red tape and ensure that our law enforcement personnel in rural states are receiving the resources they need to keep our communities safe and drug free.

We have heard a great deal of acrimony from some of the far-left interest groups over the nomination of Senator Ashcroft. Evidently these groups are intent in destroying Senator Ashcroft's reputation even if they are unsuccessful in derailing his confirmation. The attacks by these organizations are entirely unfounded and seem more designed to raise funds for the particular interest groups than to find the truth about our former colleague.

I must say that one of the charges that has been most disturbing to me is the insinuation that Senator Ashcroft will not faithfully enforce the laws of the United States because he is a devoted Christian. Not only are such charges entirely unfounded, but they smack of a religious bigotry of the most dangerous kind. Such bigotry is nothing new, but it should be condemned in any age in which it raises its ugly head. One no less than George Washington warned against the efforts in his own day to banish religion from the public square. In his farewell address of September 29, 1796, President Washington remarked:

> Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labor to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens.

We should pay heed to the words of our first president and disavow any effort to banish Senator Ashcroft, or any other public servant, from public life because of his or her religious beliefs.

The founders were well aware of the dangers inherent in applying religious tests to the holding of public office. That is why they included a specific prohibition to any such practice in Article six of the Constitution where they said "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States". Rather than ask that Senators apply an explicit test such as that prohibited in Article six, the far-left special interest groups that oppose Senator Ashcroft's nomination have turned instead to rumor and innuendo to imply that anyone who has strong religious beliefs such as those held by Senator Ashcroft is incapable of enforcing federal laws with which he might not be in total agreement.

Nor surprisingly, these groups have not brought forth any specific examples where Senator Ashcroft failed to enforce the laws when he served as attorney general or governor of the State of Missouri. Instead, all the evidence seems to point to the contrary. Not only did the people of Missouri continue to elect John Ashcroft to positions of public trust, but his fellow State attorneys general and his fellow governors elected him in turn president of their respective organizations. Keep in mind that these organizations are bi-partisan and represent members from a wide spectrum of political and philosophical views. The fact that the State attorneys general and the State governors would choose John Ashcroft to head their organizations is evidence of the trust and respect that his colleagues had for his integrity, his ability, and his willingness to fairly and faithfully enforce the laws as he found them. This record stands in stark contrast to the revisionist history that has been spread in the media by groups opposed to Senator Ashcroft's nomination.

I have known Senator Ashcroft both as a colleague and a friend. He is a thoughtful and honorable public servant who has served the people of Missouri and the United States with distinction for nearly thirty years. He is dedicated to consistently and fairly upholding and enforcing the Constitution and laws of the United States. I have every confidence that Senator Ashcroft will bring dignity and integrity to the office of the Attorney General as he has to the numerous positions of public trust he has filled in the past. I urge my colleagues to join my voting to confirm Senator Ashcroft as Attorney General.

Mrs. LINCOLN. Mr. President, if there is one thing I have learned about working in Washington is that we must learn to respect and recognize our differences. I certainly expect a new President to select Cabinet nominees who share his basic beliefs and ideology. I have thus far voted to confirm every nominee that President Bush has submitted to the Senate since he took office—even those who hold positions on important issues that are different from my own. In fact, it is fair to say that I have been generally pleased with the talented and dedicated public servants President Bush has chosen to lead this Administration.

While the President retains the Constitutional authority to appoint his Cabinet, I also take very seriously my Constitutional responsibility as a Senator to provide advice and consent on his appointments. Our role in the confirmation process isn't to afix a rubber stamp on presumptive nominees, especially for a position as important as this. Unlike other Cabinet posts, Mr. President, the Attorney General is responsible for representing and defending the rights and constitutional freedoms of every American. I believe this position requires someone who understands and appreciates that not every American is born with equal access to the opportunities and blessings that make our nation great.

In my opinion, to fulfill the duties with which the Attorney General is entrusted, the nominee must be pro-active in his pursuit against discrimination and injustice as the law demands. Successfully defending the rights of every citizen ultimately depends upon the wide discretion an Attorney General exercises to initiate investigations, establish Task Forces and prosecute wrongdoers.

After reading Senator Ashcroft's response to the questions I submitted together with his testimony before the Senate Judiciary Committee, I am reasonably confident he is prepared to react to crime and injustice when it occurs. I am not convinced, however, that he is prepared to do any more when called upon to enforce a law with which he passionately disagrees. His convictions are deeply held and he has fought stubbornly for them in the past. I truly doubt that he can set them aside so easily now.

I must tell you that I am deeply moved by the constitutional role I am called upon to perform today. Passing judgement on a former colleague is extremely difficult and not a part of our normal responsibilities. I respect Senator Ashcroft as a former colleague and someone I know to be deeply committed to his religious teachings and the causes he champions. Also, I would like to add that I would gladly support his confirmation to any other Cabinet post.

In the end, though, I have concluded it is his deeply held beliefs over issues that fall directly under the jurisdiction of the Justice Department that will impede his ability to do this job—to enforce the law without bias or favor toward anyone; to vigorously fight discrimination and its painful legacy and to defend the constitutional rights he has fought so zealously to overturn in the past. Ironically, his passionate advocacy that inspires respect in me and others is what, in my opinion, makes Senator Ashcroft the wrong man for this job.

For the benefit of my constituents who hold passionate views on both sides of this issue and for my colleagues listening today, I would like to take a few moments to highlight some of the factors I considered when making my decision.

I must confess, Mr. President, when I reviewed the history of Senator Ashcroft's involvement in an effort to desegregate public schools in St. Louis, I was surprised and troubled by what I read. According to testimony presented at his confirmation hearing, Senator Ashcroft, in his capacity as Attorney General of Missouri, engaged in an extraordinary legal campaign that spanned several years to block implementation of a voluntary school integration plan in St. Louis. During the course of this litigation, Senator Ashcroft initiated numerous challenges and appeals that were firmly and repeatedly rejected by the courts. Instead of accepting the decisions rendered, he pursued a course of action that drew judicial criticism and, in one instance, a threat of contempt for failure to comply with a court order.

I believe it is one thing to vigorously assert your legal rights in a court of law. It's something else, however, for a state's top law enforcement official to display such a cavalier attitude toward the judicial branch of government. I know the issue of racial integration in public education can ignite powerful emotions. I was a young elementary school student when Helena public schools in Arkansas were integrated. This was not an easy transition at the time and it certainly left a powerful and positive impression on me that I shall never forget. So I know that honest people can disagree passionately about this issue and I don't question the personal views Senator Ashcroft may have on this matter generally. I do, however, question the judgement he exercised as a public official in this case.

As a Senator from a state that experiences difficulty in recruiting physicians and other qualified medical professionals to work in rural communities, I was also concerned by actions Senator Ashcroft took as Attorney General to restrict access to medical care in underserved communities. According to the record, Senator Ashcroft issued an opinion as Attorney General of Missouri and later intervened in a court case to prohibit qualified nurses with advanced training from providing necessary and routine gynecological services to underprivileged female patients at clinics in Missouri. The medical services at issue included conducting breast and pelvic examinations, performing PAP smears and providing information about effective contraceptive practices. Furthermore, the health clinics involved were located in counties in which there was not a single physician who would accept Medicaid eligible patients for pre-natal care or childbirth.

Senator Ashcroft put the weight of his office behind an effort to declare the gynecological services at issue in this case outside the scope of practice for professional nurses in Missouri. Thankfully, for the female patients who depend on qualified medical professionals who aren't physicians to deliver necessary care, that claim was rejected in a unanimous ruling by the Missouri Supreme Court.

I am concerned about access to care because, after growing up in East Arkansas, I am well aware of the obstacles women face in obtaining the specialized medical care they need. While I respect the right of each state to establish their own standards of medical practice, I think that by going to court against the nurses of his state, Senator Ashcroft displayed a relevant degree of insensitivity on a critical issue to the persons most affected in this case.

I must tell you I'm still deeply disappointed by the way this body treated Judge Ronnie White. In my opinion, Judge White is a decent, honorable man who deserved much better. Even though I believe Senator Ashcroft is sincere in his belief that Judge White should not sit on the federal bench, I seriously question the manner in which he acted to defeat his nomination. Now that we have all had time to review a more complete and balanced report of Judge White's record, I am confident the Senate would not make the same mistake again. In fact, Senator Ashcroft has received the same kind of deference and fair treatment that I wish he had shown Judge White.

I was taught at an early age that public service is a high calling and a noble profession. In accordance with that belief, it is essential that we in the Senate discharge our responsibility to consider nominations in a manner that encourages the most talented and qualified individuals to seek employment in the public sector. I am confident that the Senate fell short of that standard in this case.

Taken together—the battle waged over desegregation in St. Louis, the attempts to stop nurses from providing basic medical services to underserved patients and the decision to defeat the nomination of a qualified nominee who deserved better—these instances and other facts in the record lead me to conclude that Senator Ashcroft will further divide our country on these sensitive issues.

I encourage the President to consider another nominee who will help him heal these wounds, not open them anew. In the alternative, I hope our new President will work to heal the wounds inflicted by this nomination on the Senate, the Presidency and our nation so that we can move forward to address the problems of all Americans in a bipartisan way.

Mr. KYL. Mr. President, I rise in strong support of the nomination of John Ashcroft to be the U.S. Attorney General.

Senator Ashcroft has superb legal qualifications. He was educated at Yale and the prestigious University of Chicago law school. While in the U.S. Senate, he served on the Judiciary Committee and chaired its Subcommittee on the Constitution.

Senator Ashcroft is also the most experienced nominee for U.S. Attorney General in American history. He served as Missouri's attorney general, its governor, and, of course, one of its U.S. Senators. Since the founding of the nation, none of the previous 66 Attorneys General had his level of experience.

Opponents have offered a number of reasons for their opposition. I would like to take this opportunity to respond.

First, what should the standard for confirmation be? The general rule for confirmation of Justice Department nominees was well-stated by Senator LEAHY in connection with President Clinton's nomination of Walter Dellinger to be head of the Office of Legal Counsel at the Department of Justice:

> The Senate has a responsibility to advise and consent on Department of Justice and other executive branch nominations. And we must always take our advice and consent responsibilities seriously because they are among the most sacred. But I think most Senators will agree that the standard we apply in the case of executive branch appointments is not as stringent as that for judicial nominees. The President should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises in the course of our carrying out our duties, then the President gets the benefit of the doubt. There is no doubt about this nominee's qualifications or integrity. This is not a lifetime appointment to the judicial branch of government. President Clinton should be given latitude in naming executive branch appointees, people to whom he will turn for advice. I should also note that his nomination went through the Judiciary Committee—by no means a rubberstamp—unanimously.
>
> The recent debate over Walter Dellinger is another instance of people putting politics over substance. Yes, he has advised and spoken out about high-profile constitutional issues of the day. I would hope that an accomplished legal scholar would not shrink away from public positions on controversial issues, as it appears his opponents would prefer. One can question Professor Dellinger's positions and beliefs, but not his competence and legal abilities.

This is the standard that is traditionally applied and it is the proper standard. While acknowledging that presidents are ordinarily entitled to deference in the selections for their cabinet, in the nomination of John Ashcroft critics argue that they are justified in applying a tougher standard for confirmation because of the standard that Senator Ashcroft allegedly used in evaluating Bill Lann Lee to head the Civil Rights Division of the Department of Justice. In considering Bill Lann Lee, Senator Ashcroft had said that Lee was "an advocate who is willing to pursue an objective and to carry it with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration . . . his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs [the Civil Rights] Division."

Some Democrats say that because John Ashcroft applied this "standard" to Bill Lann Lee, they are justified in applying the same standard to John Ashcroft. First, this is not a standard, but a conclusion about Lee based upon his record and testimony. Second, what Senator Ashcroft did on the Lee nomination was justified. Senator Ashcroft's concerns with Bill Lann Lee were based on Lee's long record of activism as a public interest lawyer. Republicans on the Judiciary Committee opposed Lee's nomination because they were justly concerned about his willingness to enforce the law as stated in Justice O'Connor's opinion for the Supreme Court in Adarand. In Adarand, the Supreme Court held that all governmental racial classifications were subject to strict scrutiny—that is, they must be narrowly tailored to serve a compelling government interest. Mr. Lee repeatedly stated the standard for racial preferences in less strict terms. He also found that only one of the 150 current federal programs involving racial classifications would be invalid under Adarand.

Senator Ashcroft explained why he opposed Bill Lann Lee's nomination—he was concerned that Mr. Lee would not enforce the law. Senator Ashcroft testified: "I joined with eight other Republicans on the Senate Judiciary Committee in opposing Bill Lee's nomination to be assistant attorney general because I had serious concerns about his willingness to enforce the Adarand decision . . . [Mr. Lee] was an excellent litigant, but I had concerns that he viewed the Adarand decision as an obstacle rather than as a way in which the law was defined. Adarand held that government programs that establish racial preferences based on race are subject to strict scrutiny, that is the highest level of scrutiny under the Supreme Court's equal protection clause. Adarand was a landmark decision, it was substantial, it was important. Mr. Lee did not indicate a clear willingness to enforce the law based on that decision."

Senator Ashcroft's concerns about Bill Lann Lee proved to be well-founded. For example, in 1998, a federal judge, a Carter-appointee, assessed an unprecedented $1.8 million attorney fee award against the Civil Rights Division for a lawsuit against the City of Torrance, California. The judge found the suit "frivolous, unreasonable and without foundation." The Division then turned around and filed a similar suit in Texas defending the constitutionality of contracting preferences on the basis of race and sex. Mr. Lee also continued to unlawfully coerce state and local governments to adopt race and sex preferences by threatening costly lawsuits based on dubious employment statistics.

Moreover, under Mr. Lee, the Civil Rights Division continued the legal challenge to Proposition 209, a measure that prohibited government discrimination of Californians on the basis of race, gender, or national origin. These suits continued despite the fact that Proposition 209 has repeatedly been upheld by federal courts.

It is also important to note that Bill Lann Lee had never held an executive position—or any position—in the government, whereas Senator Ashcroft served as attorney general of Missouri for eight years and as governor for eight years. He had distinguished tenures in both offices. In fact, he served as President of the National Association of Attorneys General and as Chairman of the National Governors Association and Chairman of the Education Commission of the States.

In sum, Senator Ashcroft had serious reasons for concern with the Lee nomination, and his concern was borne out. In contrast, Senator Ashcroft has not waffled, redefined, or otherwise given reason to believe that he would not apply the law as it is. While Lee continued to aggressively litigate, John Ashcroft has shown no sign that he will continue to legislate. He did not do so as Missouri Attorney General, and he would not do so as U.S. Attorney General. In fact, John Ashcroft has repeatedly stated that he will enforce the law—yet this reassurance has failed to satisfy his critics. It's a Catch-22. He has, like every nominee, said he will uphold the law; and no one has ever questioned his integrity. But when John Ashcroft pledges to uphold the law, critics say that this is a "new" John Ashcroft, that he has flipped and is not credible. What they are saying is that he cannot satisfy them whatever he says. John Ashcroft knows the difference between being a legislator and being an executive. He is a man of integrity. He should be taken at his word. He cannot prove a negative—that he won't fail to do his job. To hold him to that standard is to ask of him the impossible. Senators have the right to vote on any grounds they like; but they should not shroud their vote in a sham standard.

An example of setting up an impossible standard is the view by some that, because Senator Ashcroft opposes abortion he cannot by definition enforce laws such as the Freedom of Access to Clinic Entrances law—the federal criminal statute that punishes those who commit acts of criminal intimidation or violence at abortion clinics. There is no logic to this position. Senator Ashcroft's opposition to abortion does not mean that he supports violations of the law prohibiting violence at clinics. Indeed, Senator Ashcroft supports the freedom of access to clinic entrances law and stated in his written answers that he "will fully enforce FACE." This reinforces the view that he has previously expressed. For example, long before he had any idea he would ever be nominated for attorney general, Senator Ashcroft wrote that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely: "I believe people should be able to enter legal abortion clinics safely. I oppose unlawfully barricading or otherwise curtailing access to legal abortion clinics. I condemn violence regarding this issue by individuals either in favor of or against abortion." Quoted from a May 15, 1996 letter to George Sorenson of St. Clair Shores, MI.

Senator Ashcroft opposes criminal violence at abortion clinics and believes people who commit these acts of violence and intimidation should be punished. As Attorney General he'll do just that. It is irrational for critics to vote against him in the belief that merely because he opposes abortion he won't enforce the freedom of access to clinic entrances law.

While he cannot prove a negative, he can point to past situations that belie the assertion that he won't properly apply the law. As Missouri Attorney General, John Ashcroft did not let his personal opinion on abortion cloud his legal analysis. For example, in Attorney General Opinion No. 5, issued on October 22, 1982, 1981 WL 154492, Mo. A.G., John Ashcroft opined that the Missouri Division of Health should not release to the public information from reports it maintains on the number of abortions performed by particular hospitals. He stated that the legislature made clear its intent that such reports "shall be confidential and shall be used only for statistical purposes" and even made failure to maintain confidentiality a misdemeanor. John Ashcroft opined that, for these reasons, and to protect the patient-physician privilege as recognized by Missouri law, access to the health data maintained by the Division was subject to review only by local, state or national public health officers.

Additionally, in Attorney General Opinion No. 127, issued on September 23, 1980, 1980 WL 115450 Mo. A.G., John Ashcroft was asked to opine on whether a death certificate was required for all abortions, regardless of the age of the fetus. Despite his personal view that life begins at conception, he stated that Missouri statutes did not require any type of certificate if the fetus was 20 weeks or less. After 20 weeks Missouri statutes specifically require a "certificate of stillbirth" regardless of whether death was by natural causes such as a miscarriage or an intentional act such as an abortion.

It is also worth noting that Senator Ashcroft voted for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Finally, it is important to note that Senator Ashcroft has a strong record on women's issues, contrary to what some have charged. As governor, he signed a rape shield law that made inadmissible evidence of the victim's past sexual conduct. He also signed a law recognizing battered woman's syndrome as a defense in criminal cases. As Missouri attorney general, he took a broad view on allowing domestic violence funds to be used by non-profits to establish a network of "safe homes." As Senator, John Ashcroft co-sponsored the Violence Against Women Act.

Third, opponents express concern that Senator Ashcroft does not favor stricter gun control and previously opposed some measures that are now law. As a result, they conclude he will not enforce the gun control laws. Some people may be so pinched in their opinions that they could not distinguish between these two circumstances. Not John Ashcroft.

As a former state attorney general and president of the National Association of Attorneys General, Senator Ashcroft knows how important it is to enforce gun laws vigorously. Unfortunately, the Clinton Justice Department has failed to make gun prosecutions a priority. Between 1992 and 1998, prosecutions of criminals who use a gun to commit a felony dropped nearly 50 percent from 7,045 to 3,765. Senator Ashcroft was one of the leaders in the Senate in directing the Justice Department to increase the prosecution of gun crimes. He sponsored legislation to authorize $50 million to hire additional federal prosecutors and law enforcement officers to increase the federal prosecution of criminals who use guns. Additionally, Senator Ashcroft sponsored legislation to require a five-year mandatory minimum prison sentence for federal gun crimes and for legislation to encourage schools to expel students who bring guns to school.

Moreover, in the Senate, John Ashcroft had a strong record in fighting gun crimes. Last Congress, for example, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft legislation in May 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms, for the "Gun-Free Schools Zone Act" that prohibits the possession of a firearm in a school zone, and for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale. Senator Ashcroft also voted for legislation to close the so-called "gun show loophole." This bill required mandatory instant background checks for all firearm purchases at gun shows.

Senator Ashcroft will uphold the nation's laws on firearms.

Fourth, critics question Senator Ashcroft's record or civil rights. They often begin by raising the issue of desegregation litigation in Missouri. Senator Ashcroft did defend the state of Missouri as state attorney general in a long-running school-desegregation case. Every Missouri attorney general since 1980, including Jay Nixon, John Ashcroft's Democratic successor, backed the state's (and Ashcroft's) position. According to an article in National Review, the attorneys general in Missouri,

> fought the orders because they were unjust, saddling innocent parties with exorbitant costs. They fought the orders because they were unpopular, not only with their victims, but with their beneficiaries. A leitmotif of the desegregation was the persistent splintering of minority groups from the "class action" litigants, whose one-size-fits-all remedies ran roughshod over the aspirations of parents for their children. . . . In Missouri, 400 other public-school districts suffered cutbacks so that a handful of attorneys for civil-rights groups and teachers unions could run uncontrolled clinical trials on a generation of urban school kids. Indeed, non-urban school officials were among the most persistent and vociferous foes of the desegregation orders.

The article continues: "Twenty years of forced bussing, which Ashcroft opposed, left the Kansas City school district slightly less integrated than it was before. Twenty years of forced bussing, plus $3 billion, left Kansas City and St. Louis with schools that consistently rate among the poorest in the nation in reading and math skills." To oppose a particular court order is not, as some critics have said, to "relentlessly oppose school desegregation." That characterization is unfair, even slanderous.

Another point that critics often raise is the fact that Senator Ashcroft spoke at Bob Jones University. The controversy over the Bob Jones University speech has been put to rest. At his confirmation hearings, Senator Ashcroft made it clear that he "reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]" Bob Jones University. Senator Ashcroft explained that "[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance." He said he does not endorse any bigoted views by virtue of "having made an appearance in any faith or any congregation." He said, for example, that he has visited churches which do not "allow women in certain roles," and that he does not endorse that view, either.

In the matter of the role faith plays in our public life, there appears to be a double standard. Senator LIEBERMAN made numerous speeches connecting God to American government when he was running for Vice President last year. In fact, during a campaign speech in a church in Detroit, he said he hoped his candidacy "will enable all people . . . to talk about their faith and about their religion, and I hope it will reinforce a belief that I feel as strongly as anything else—that there must be a place for faith in American public life." [Newsweek 9/11/00] I share in that hope. Sadly, critics of John Ashcroft, who almost universally supported Senator LIEBERMAN, apply a different standard on this issue to John Ashcroft.

During his career, Senator Ashcroft has compiled an outstanding record of protecting the rights of all people. As governor, Fortune named him one of the top 10 education governors in the nation. John Ashcroft was an inclusive governor, signing into law Missouri's first hate-crimes statute and state holiday that recognizes Dr. Martin Luther King's birthday. He nominated the first woman to the Missouri Supreme Court.

John Ashcroft's work on behalf of minorities earned him a commendation from the Mound City Association, an African-American Bar Association of St. Louis, and a campaign endorsement from the Limelight Newspaper, the largest African-American newspaper in St. Louis.

In the U.S. Senate, John Ashcroft convened the first and only Senate hearing on racial profiling. He secured more funding to combat violence against women, voted to prohibit those who have been convicted of domestic violence from owning a gun, and supported the crime victims' rights amendment and Violence Against Women Act.

John Ashcroft has been deeply committed to promoting equal access to government positions during his tenure as both Attorney General and Governor of Missouri. Witnesses testifying at the hearing made this commitment clear.

Mr. Jerry Hunter, former labor secretary of Missouri, testified that, "Like President-elect George W. Bush, Senator Ashcroft followed a policy of affirmative access and inclusiveness during his service to the state of Missouri as attorney general, his two terms as governor, and his one term in the United States Senate. During the eight years that Senator Ashcroft was attorney general for the state of Missouri, he recruited and hired minority lawyers. During his tenure as governor, he appointed blacks to numerous boards and commissions . . . [B]ut I would say to you on a personal note, Senator Ashcroft went out of his way to find African-Americans to consider for appointments."

Mr. Hunter further elaborated that,

> When Governor Ashcroft's term ended in January of 1993, he had appointed more African-Americans to state court judgeships than any previous governor in the history of the state of Missouri. Governor Ashcroft was also bipartisan in his appointment of state court judges. He appointed Republicans, Democrats and independents. One of Governor Ashcroft's black appointees in St. Louis was appointed, notwithstanding the fact that he was not a Republican and that he was on a panel with a well-known white Republican. Of the nine panels of nominees for state court judgeships, which included at least one African-American, Governor Ashcroft appointed eight black judges from those panels.

Congressman J.C. WATTS testified:

> I've worked with [John Ashcroft] on legislation concerning poor communities, underserved communities. I have always found John Ashcroft to have nothing but the utmost respect and dignity for one's skin color. I heard John say yesterday in some of his testimony that his faith requires him to respect one's skin color. And I think that's the way it should be . . . [I]n my dealings with John, I have had nothing but the utmost respect for him when it comes to his dealings with people of different skin color.

Judge David Mason, who worked with Ashcroft in the Missouri Attorney General's office stated,

> As time went on, I begin to get a real feel for this man and where his heart is. When the subject of Martin Luther King Day came up, I was there. And I recall that he issued the executive order to establish the first King Day, rather than wait for the legislature to do it. Because, as you may recall, some of you, when Congress passed the holiday, they passed it at a time when the Missouri legislature may not have been able to have the first holiday contemporaneously with it. So he passed a King holiday by executive order. He said, in doing so, he wanted his children to grow up in a state that observed someone like Martin Luther King.

Bob Woodson of the National Center for Neighborhood Enterprise uses faith-based organizations to help troubled young people turn their lives around. Mr. Woodson testified:

> Senator John Ashcroft is the only person who, from the time he came into this body, reached out to us. He's on the board of Teen Challenge. He's raised money for them. He sponsored a charitable choice legislation that will stop the government from trying to close them down because they don't have trained professionals as drug counselors. We have an 80 percent success rate of these faith-based organizations with a $60-a-day cost, when the conventional, therapeutically secular program cost $600 a day with a 6 to 10 percent success rate. Senator Ashcroft has gone with us. He has fought with us. And this legislation would help us. As a consequence, day before yesterday, 150 black and Hispanic transformed drug addicts got on buses from all over this nation and came here to support him. Fifty of them came from Victory Temple throughout the state of Texas, spent two days on a Greyhound bus at their own expense to come here to voice strong support for Senator Ashcroft.

Kay James of the Heritage Foundation testified:

> The system our founders designed, of course, is famous for its many checks and balances from which no public official is immune. Nevertheless, the charge is still made that these are insufficient to deal with a man of religious conviction. As such, a person cannot be trusted to faithfully execute the laws, especially those which may conflict with his deeply held belief. I reject such religious profiling. On this matter, let me attempt to reassure John Ashcroft's opponents by enlisting the very thing they profess to fear most: his religious faith.

Fifth, opponents claim that Senator Ashcroft has a poor record on the nominations of President Clinton's nominations to the federal bench. This somehow justifies voting against Ashcroft under a standard of "what's good for the goose is good for the gander."

Apart from the intellectual contradiction in such a position, Senator Ashcroft's record contradicts this assertion. He supported 218 out of 230 Clinton judicial nominees, or, put another way, Senator Ashcroft supported more than 94 percent of President Clinton's nominees, many of whom were women and minorities. This is hardly a record of obstruction. Indeed, Senator Ashcroft supported 26 of the 27 African-American judges nominated by President Clinton and considered by the Senate. All other Republican senators also opposed the only one Ashcroft opposed.

That nominee was Ronnie White—nominated to the federal district court bench. Senator Ashcroft, along with the majority of the U.S. Senate, had grave concerns about White's record in Missouri death-penalty cases. White wasn't just the state's leading dissenter in death-penalty cases, he even went so far as to try (unsuccessfully) to overturn the conviction of a man who confessed to brutally murdering four people. White was the only dissenter in that case, which caused his nomination to be opposed by numerous law-enforcement groups and officers, including the National Sheriff's Association, the Missouri Federation of Police Chiefs, the Mercer County Prosecuting Attorney's office, and numerous individual Missouri sheriffs and police departments.

Senator Ashcroft took very seriously his duty to evaluate Judge White's record. He reluctantly concluded White had a propensity to work against the imposition of the death penalty even when called for by law. As Senator Ashcroft testified,

> Judges at the federal level are appointed for life. They frequently have power that literally would allow them to overrule the entire Supreme Court of the state of Missouri. If a person has been convicted in the state of Missouri, but on habeas corpus files a petition with a U.S. district court, it's within the power of that single U.S. district court judge to set aside the judgment of the entire Supreme Court of the State of Missouri. So that my seriousness with which I addressed these issues is substantial. I did characterize Judge White's record as being pro-criminal. I did not derogate his background.

Judge White argued in dissent in the Johnson case, where the defendant was convicted of killing three law enforcement officers and the wife of a sheriff, that the defendant received ineffective assistance of counsel. Congressman HULSHOF, the prosecutor in that case, rebutted that argument quite effectively. Congressman HULSHOF testified, "The points I'd like to raise briefly about the quality of James Johnson's representation is this: He hired counsel of his own choosing. He picked from our area in mid-Missouri what we've referred to as—as I referred to as a dream team." And the court later ruled that the counsel was effective.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson, testified,

> Be assured that Senator Ashcroft had no other reason that I know about to oppose Judge White except that I asked him to. I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case. . . . In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people Johnson killed were not given a second chance.

Some Democrats claim that Ronnie White was treated shabbily. They say the treatment was shabby because it was embarrassing for White to be suffer defeat on the Senate floor and because of alleged misstatements by Senator Ashcroft about White's record. In response to the first point, it must be said that throughout the last Congress, Democrats constantly stressed that they wanted their nominees brought to the floor for a vote. In fact, on June 29, 1999, more than three months before the nomination came to the floor, Senator LEAHY took to the floor to say that Ronnie White "should be allowed a vote, up or down." He continued: "Senators can stand up and say they will vote for or against him, but let this man have a vote." Well, this is what can happen when a nominee is brought to the floor—the nomination can be defeated. If Democrats are concerned that a nominee will be embarrassed if the nominee loses, then Democrats must be careful when they clamor for a vote. I personally expressed to Judge White my regret that his nomination was considered by the full Senate in a way that ended in defeat.

A second point: when Democrats complain that there were misstatements about Ronnie White's record, why didn't they correct the record? Every senator, of course, has the right to set the record straight if there is an error. Further, on this matter there have been misstatements not by Senator Ashcroft but about Senator Ashcroft's floor statement. I want to make one point very clear: Senator Ashcroft did not accuse Ronnie White of being pro-criminal, rather he said that "Judge White's opinions have been, and, if confirmed, his opinions on the Federal bench will continue to be pro-criminal and activist, with a slant toward criminals and defendants against prosecutors and the culture in terms of maintaining order . . ." This statement is in no way a smear of Ronnie White. It is a reasonable conclusion after reviewing Ronnie White's dissents in a number of cases, most notably the Johnson case in which, as the lone dissenter, Ronnie White would have let a confessed murderer go free for three reasons. First, Judge White's dissent concluded that, as noted above, the defendant had ineffective assistance of counsel—yet the case was so overwhelming that Clarence Darrow could not have saved the defendant. Second, White's dissent displayed a pro-criminal bent in stating that the defendant's "previously law-abiding life" could warrant reducing the sentence of this quadruple murderer to life imprisonment. Third, White's dissent demonstrated a willingness to disregard the law, specifically, as the definition of legal insanity. White wrote: "While Mr. Johnson may not, as the jury found, have met the legal definition of insanity, whatever drove Mr. Johnson to go from being a law-abiding citizen to being a multiple killer was certainly something akin to madness." A judge must enforce the law, not make new law by the seat of his pants.

As I stated above—and it merits repeating because Senator Ashcroft's critics have distorted his record—Senator Ashcroft supported 218 out of 230 Clinton judicial nominees. Put another way, Senator Ashcroft supported more than 94 percent of President Clinton's nominees, many of whom were women and minorities. Indeed, Senator Ashcroft supported 26 of the 27 African-American judges nominated by President Clinton and considered by the Senate. This is hardly a record of obstruction.

Like many people who watched the recent confirmation hearings of John Ashcroft for U.S. Attorney General, I too failed to recognize the man as characterized by his opponents. I've known John Ashcroft for six years in the Senate.

As I stated at the beginning of my remarks, Senator John Ashcroft is a man who knows the law. He was educated at Yale and the prestigious University of Chicago law school. While in the U.S. Senate, he served on the Senate Judiciary Committee and chaired its Subcommittee on the Constitution. Furthermore, Senator Ashcroft is the most experienced candidate for U.S. Attorney General in American history. He served as Missouri's attorney general, its governor, and one of its U.S. senators.

During his career, Senator Ashcroft has compiled an outstanding record of protecting the rights of all people. He will continue to do so as the United States Attorney General. I strongly support his nomination and encourage all my colleagues to do so as well.

Mr. TORRICELLI. Mr. President, I have always believed that Presidents are entitled to a degree of deference in their cabinet nominees. And so, while this made it difficult I have nonetheless informed the administration that I cannot support Senator John Ashcroft's nomination to be attorney general.

Senator Ashcroft has been a dedicated public servant and I say that even though we have not found common ground on the issues. The range of issues we have disagreed on has been broad and they have centered on some of the most important laws of our land. No person should be forced to choose between their fundamental beliefs and values and enforcing our Nation's laws. For those who cherish civil rights laws, the freedom of choice and handgun control the stakes are simply too high to expect a cabinet secretary to choose between passionately held beliefs and enforcing not only the letter but the spirit of the law.

I also have specific concerns about New Jersey. It is not enough just to be opposed to racial profiling. The scars this issue has left on my state are too deep and require the strongest possible commitment if we are ever to heal. Further, it will take a concerted effort to enforce a range of civil rights laws from hate crimes to tolerance. It requires the will of the Attorney General, the full force of that office.

I said some very positive things about John Ashcroft at the time he was nominated. I continue to hope that it is possible to disagree and to disagree strongly without demonizing. I also hope he will always reflect on the concerns raised during the confirmation process.

Mr. SPECTER. Mr. President, I have sought recognition to voice my support for the nomination of John Ashcroft, of Missouri, to be U.S. Attorney General.

I think it is important to focus on the standard for a Cabinet nomination, which is fundamentally different from a judicial appointment, which is a lifetime appointment, and focus on the latitude which is customarily accorded the President of the United States in making a selection on a Cabinet nominee.

I do support former Senator Ashcroft for attorney general. And I do so, in substantial measure, because of the record he has compiled as an elected official in Missouri and because of my personal knowledge of him. He was twice elected attorney general of Missouri, he was twice elected governor of Missouri, he was elected Senator of Missouri. And Missouri is a moderate state, I think very much like my own state, Pennsylvania: two big cities, a lot of farmland. The characteristics of the electorate in Missouri, who have elected him five times to major offices, I think, speaks well of Senator Ashcroft in rejecting the notion that he is an extremist.

The John Ashcroft whom I have known for six years in the United States Senate is not an extremist. He sat a couple of seats down from me on the Judiciary Committee. Although we did not agree on many items, I always felt he was exercising his honest judgement.

He was a candidate for President, and it may be that in the course of that candidacy, expressed some views, as candidates sometimes do, which try to appeal to a constituency. But from what I have seen, on this committee and in the Senate, he is not an extremist.

He and I had a very sharp disagreement on a judicial nominee, Philadelphia Common Pleas Judge Massiah-Jackson. And she was, in effect, rejected by the committee, and withdrew her nomination. She was challenged as being soft on crime because of her record on sentences. At the end of a very long, difficult and contentious proceeding, including a hearing before the Judiciary Committee, as I say, she did withdraw. But at the end of the process, it was my view that John Ashcroft had expressed his own judgement about it which differed from mine. I bring in the Judge Massiah-Jackson case because of some similarities which it has to the case involving Missouri Supreme Court Justice White.

I said in the hearing that I thought that we did not accord Judge White the kind of consideration that should have been accorded, because our practices are to rely principally on staff, the ABA recommendation, the FBI investigation, without individual Senators paying as much attention to the district court nominees as we might. I intend on proposing a rule change that in the event someone is going to speak adversely about a nominee, that there be an opportunity for the nominee to respond, and the committee should focus specifically on any charges which are brought.

But I do think that, at the conclusion, Senator Ashcroft expressed his own honest views. I think it is important to note that when Judge White appeared before the committee, he did not ask that Senator Ashcroft be rejected, he raised the question as to whether Senator Ashcroft had the qualities to be an attorney general and left it up to the committee to decide.

Senator Ashcroft made a number of important commitments to the committee. We questioned him at great length on the difference between a legislator and a member of the executive branch who enforces the law. He said categorically that he would not choose to change Roe v. Wade but would be bound to enforce the law as it stood. He spoke emphatically about his commitment to enforce access to abortion clinics. And it was worth noting that, while in the Senate, on a vote on whether someone who had a judgment against them for damaging an abortion clinic and there was one case where there was an enormous judgment in excess of $100 million that the individuals' debt ought not to be dischargeable in bankruptcy, which I think is an indication as to his sentiments on that important subject.

Senator Ashcroft also made very firm commitments on recognizing the distinction between church and state and committed that, to the extent he was involved, there would be no litmus test on the selection of Supreme Court nominees.

There were challenges made to what Senator Ashcroft had done as attorney general on the segregation cases. Former Senator Danforth appeared during the nomination hearing and spoke about his evaluation of John Ashcroft being a vigorous advocate.

There was a question raised as to whether as state attorney general of Missouri Senator Ashcroft used the litigation process inappropriately. He was not held in contempt. He was not sanctioned under the federal rules, which he could have been. So on the basis of that issue and the other objections which have been raised, it seems to me that this is a nomination and a nominee where we ought to accord the traditional latitude to the President of the United States. I intend to vote for Senator Ashcroft's nomination to be Attorney General of the United States.

Mrs. BOXER. Mr. President, I would like to respond to a letter my colleague Senator SESSIONS inserted into the RECORD last evening from the editor of Southern Partisan magazine. In that letter, the editor claims that his magazine did not sell a t-shirt celebrating the assassination of President Abraham Lincoln. In my floor remarks yesterday, I stated that the magazine did in fact sell this offensive shirt, and showed my colleagues a reproduction of the actual shirt.

In particular, the editor stated that this "tasteless item has never been advertised or sold on the pages of our magazine." The editor goes on to say that a part-time staff member compiled a catalog of southern items, including the offensive Lincoln t-shirt, and that the brochure advertising those items were mailed "without careful review by our editors."

I would like to insert into the RECORD a copy of a 1995 letter from Southern Partisan, which is on the Southern Partisan magazine editor-in-chief's letterhead, which clearly indicates that the magazine did in fact sell this offensive shirt. This letter states in relevant part: "Due to the surprising demand for *our* anti-Lincoln T-shirt, our stock has been reduced to odd sizes. If the enclosed shirt will not suffice, we will be glad to refund your money or immediately ship you another equally militant shirt from our catalog [emphasis added]."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTHERN PARTISAN,
Columbia, SC, December 3, 1995.

DEAR FRIEND: Due to a surprising demand for our anti-Lincoln T-shirt, our stock has been reduced to odd sizes. If the enclosed shirt will not suffice, we will be glad to refund your money or immediately ship you another equally militant shirt from our catalog.

Thank you,
SOUTHERN PARTISAN GENERAL STORE.

Mr. MCCONNELL. Mr. President, America is indeed fortunate to have a distinguished public servant of the caliber of John Ashcroft who is willing to serve his country again, this time as Attorney General of the United States. John is certainly the most qualified Attorney General nominee of this century and perhaps in the Republic's history. John has impressive academic credentials and a unique blend of legal, executive, and legislative experience. I am confident that his qualifications, combined with his keen sense of duty and unshakeable integrity, will enable Senator Ashcroft to be one of the finest Attorneys General in the nation's history and to restore luster to a tarnished agency.

John is an honors graduate of Yale University. He received his law degree from the University of Chicago, one of the country's outstanding law schools. After graduating from law school, John returned home to Missouri where he practiced law and joined the faculty of what is now Southwest Missouri State University, teaching business law for five years. Following that, our colleague, then-Missouri Governor KIT BOND, appointed John to serve the citizens of Missouri as State Auditor.

John continued his legal career as an assistant Attorney General on the staff of our former colleague, then-Missouri Attorney General John Danforth. In this capacity, John Ashcroft gained invaluable first-hand knowledge of the day-to-day operation of an Attorney General's Department. This knowledge would serve him well when he became Missouri's Attorney General in 1976. John, in fact, served two terms as Missouri's highest law enforcement officer, and as a result of his eight year tenure in that office, obtained the managerial and executive experience needed to effectively run an Attorney General's Office. Under John's leadership, the Missouri Attorney General's Office earned a reputation for strictly enforcing the law, including laws with which Attorney General Ashcroft disagreed. John Ashcroft understood well his role as Missouri's Attorney General; he was acutely aware that Missourians twice-elected him to enforce the laws, and as his confirmation hearing before the Judiciary Committee clearly showed, John assiduously did so.

Because of his success as Attorney General, Missourians elected John their Governor in 1984 and again in 1988. To illustrate the utter ridiculousness of one of the most scurrilous charges leveled at John—that of being "racially insensitive," as some are euphemistically saying—it must be noted that as Governor, John repeatedly reached out to black Americans. For example, he appointed the first black woman to the Western Missouri Court of Appeals; he established the state's first and only historic site honoring a black American, composer Scott Joplin; he led the fight to save Lincoln College, founded by black soldiers; and last month Missourians celebrated the birthday of Dr. Martin Luther King, Jr. because John Ashcroft signed that proposed holiday law. John also helped enact Missouri's first hate crimes legislation. In short, if John Ashcroft is "racially insensitive," he certainly has a strange way of showing it.

After completing his second term as Governor, John began a career of national public service as Missouri's junior Senator in the United States Senate. As a member of this body, John broadened his legal experience by serving on the Judiciary Committee and by chairing its Subcommittee on the Constitution. He also continued to fight for the rights of all Americans, and was dedicated to the principle of equal treatment under the law. For example, John sponsored legislation providing equal protection for victims of crime, and he convened the first hearing on racial profiling, in which he stated for the record that racial profiling is unconstitutional. And as he did as Missouri Governor, John continued to support black judicial nominees, voting for 26 of 27 African-American nominees to the federal bench.

As impressive as John's qualifications are, what may be most impressive about him is his honor and integrity. I had the opportunity to witness first-hand a test of his character in my capacity as Chairman of the National Republican Senatorial Committee and Chairman of the Committee on Rules and Administration, which would have had jurisdiction over an election contest. As we all know, John lost a heartbreakingly close reelection bid last fall under unorthodox, and some would say, unlawful circumstances. After the election, my office was flooded with phone calls and petitions urging John to challenge the election, and lawyers lined-up to offer their services. Some argued that John should bring a constitutional challenge on the ground that it was patently unconstitutional to elect a deceased person to the United States Senate. Others wanted him to bring an election contest because of improprieties in the voting itself, such as the fact that heavily-Democrat precincts remained open after hours.

Either of these challenges may very well have proved successful, and John might still be a member of this body. But at a minimum, a challenge would have put Missourians—and the entire Senate—through a divisive ordeal, and it might well have left the good people of Missouri without full representation in the United States Senate. Always the public servant, this is something that John Ashcroft would not do. As particularly painful as this loss was, John never once considered challenging the election; he would not put his fellow Missourians through what the nation had to endure in Florida for thirty-five days. Moreover, he made it abundantly clear, both in public and in private, that he did not want others to do so either. Rather than cling to power in the hope of an eventual victory, John graciously conceded the election and wished our new colleague well.

This selfless action was that of a statesman, and it reminds me of the famous words of another statesman, Henry Clay, who said: "I had rather be right . than be President." John Ashcroft's response to this truly unique and difficult loss in November was essentially: "I had rather be right than be Senator." And it is because of principled actions such as this that John is one of the most respected former members of this body. And because Democratic members know of John's character and integrity, they speak with confidence about the outstanding job he would do as Attorney General. For example, our former colleague, Senator Moynihan, stated that John "will be a superb Attorney General." And our current colleague, Senator TORRICELLI, who knew of John's skill and character from their service together on the Judiciary Committee, stated that "While I have obvious philosophical differences with John, his ability and integrity simply can't be questioned."

Now despite John's experience and dedication to duty, I have heard a lot of people say that he is unfit to be Attorney General because of: (1) his strong and abiding faith in God; (2) his firm belief in law and order; and (3) his commitment to the Constitution, even when that commitment is at odds with those unbiased "legal scholars" on the editorial board of the New York Times. Far from disqualifying him from public service, however, these qualities only reinforce my belief that he will ably serve as the nation's chief law enforcement officer. The Senate would serve the nation by confirming him as Attorney General, and I urge it to do so.

Ms. SNOWE. Mr. President, I rise to support the confirmation of President Bush's nominee for Attorney General of the United States, former Senator John Ashcroft.

After serving in this body with John Ashcroft for the last six years, I know him as a man of integrity and compassion. That is not to say we always agree—we have sparred passionately on issues—not the least of which was abortion rights. Clearly, though, John is a well-qualified nominee, as evidenced by the fact that of the 67 persons who have served as United States Attorney General in our history, only John Ashcroft has served as state attorney general, governor, and U.S. Senator serving on the Judiciary Committee.

In fact, John Ashcroft was State Attorney General and Governor for two terms each. He was the head of the National Association of Attorneys General and head of the National Governors' Association. In these roles, John has a solid record of working with and protecting the rights of all people.

That John and I hold differing views is certainly not unusual in this body of one hundred individuals—all with strongly held beliefs, all with disparate backgrounds, and all representing different constituencies with distinct concerns and varying priorities. I respected his right to hold his beliefs, just as he has always respected my right to the beliefs that I have often expressed in this very chamber. That is the nature of our representative democracy, and certainly the nature of the Senate as the embodiment of the union of states.

Likewise, President Bush, as the duly-elected Chief Executive of the United States, is accorded the privilege of nominating those men and women he deems most fit to administer the policies and duties with which he has been entrusted by the people of this Nation.

I did not agree with all of the personal viewpoints of President Clinton's various nominees—far from it. Instead, I attempted to judge the fitness of each nominee based on their individual record, experience, testimony, and integrity. Recognizing that President Clinton's nominees would not surprisingly hold different beliefs than my own in some instances, I asked myself whether or not those beliefs would, in and of themselves, preclude the nominee from executing his or her duties to the extent that they would be unfit to serve.

That is the same question I ask myself concerning the nomination of Senator Ashcroft, keeping in mind that I do not believe that a nominee's ideological philosophy should be a determining factor in their ability to serve. As the Portland Press Herald noted in their January 17 editorial "Senators have the power of "advice and consent" over such nominees, and they have the power to make judgments based on whatever criteria they choose. Still, failing to pass an ideological litmus test is not a sufficient reason to decline to nominate someone to an appointive post, barring hard evidence of unsuitability or criminal misconduct. . ."

And what about the power of "advice and consent" given to the Senate under Article II, Section 2 of the Constitution? Alexander Hamilton in summing up this power noted "To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

And if you review history you will find that this "check" as it were has been used judiciously. The fact is that since 1789—212 years—only 19 cabinet nominees have failed to be confirmed. Clearly the Senate must have differed with the President on his nominees more than 19 times over the past 212 years, yet with very few exceptions has deferred to the President, who will ultimately be held responsible for his choice.

In short, our use of the "advice and consent" power must achieve a careful balance between our responsibility to check presidential abuse at one end of the scale, and a respect for the president's constitutional prerogative on the other. It is a question of degrees and a matter of judgement left to us to weigh with due diligence and care.

In the case of John Ashcroft's nomination to be Attorney General, I would argue that John Ashcroft deserves to be taken at his word with regard to what he has said at his confirmation hearings. He has said, clearly and unequivocally, that he will uphold the laws of the United States of America.

During the confirmation hearings, John Ashcroft was characteristically straightforward when he said, "I understand that being attorney general means enforcing the laws as they are written, not enforcing my personal preferences. It means advancing the national interest, not advocating my personal interest."

During a private meeting in my office, John echoed that pledge and personally assured me that he would carry out this and other laws on behalf of every American. That includes Roe v. Wade. That includes ensuring access to abortion clinics. And I take John Ashcroft at his word.

He also stated during the hearings that, "The attorney general must recognize this: The language of justice is not the reality of justice for all Americans . . . No American should have the door to employment or educational opportunity slammed shut because of gender or race. No American should fear being threatened or coerced in seeking constitutionally protected health services." I commend him for this sentiment and, again, I take John Ashcroft at his word.

Importantly, John has carried himself with distinction in carrying out the laws in other elected positions, notably during his terms as governor and Attorney General of Missouri. As he told the Judiciary Committee, "I take pride in my record of having vigorously enforced the civil rights laws as attorney general and governor," and I take John Ashcroft at his word.

Moreover, not only John's words but his deeds support his strong commitment to civil rights. As Governor, John signed Missouri's first hate crimes statute and legislation creating the Martin Luther King Holiday. He established Missouri's first and only historic site honoring an African-American, and led the fight to save an independent Lincoln University, founded by African-American soldiers. Last year, he convened the only Senate hearing on the subject of racial profiling, and opened the hearing by unequivocally condemning racial profiling, calling it "an unconstitutional practice."

As Missouri Attorney General, John Ashcroft enforced laws that differed from his own beliefs in a number of areas, including abortion and, more specifically, the confidentiality of hospital records on the number of abortions performed; and church and state issues, such as the availability of funds for private and religious schools and the distribution of religious materials in public schools.

As Governor, John was presented on nine occasions with three-candidate panels for judicial appointments that contained one or more minority candidates. As he told the Committee in his nomination hearing, "I took special care to expand racial and gender diversity in Missouri's courts," and the facts bear that out.

In every instance, he either appointed a minority to the post or appointed the minority candidates on the panel to judicial positions at a later date. He appointed more African-American judges to the bench than any governor in Missouri history.

He appointed the first African-American on the Western District Court of Appeals. He appointed the first African-American woman to the St. Louis County Circuit Court.

He appointed the first two women to the Missouri Courts of Appeals. And he appointed the first woman to the Missouri Supreme Court—the only woman ever to have been appointed to that court.

Similarly, in the Senate, John supported every single African American judicial nominee confirmed by the Senate—26 separate nominations in all. But despite this overwhelming record of supporting minority judicial candidates, he has been attacked for opposing the nomination of one African American Judge, Ronnie White—a nominee who was opposed by 54 members of the Senate, including me.

Judge White's nomination was rejected by the Senate not because of his race, but because of his opinions in some death penalty cases. It bears noting that not only was Judge White vigorously opposed by the National Sheriffs' Association, the Missouri Federation of Police Chiefs, and numerous other Missouri and national law enforcement groups, but he also stood as the lone dissenter in a death penalty case involving the brutal slaying of three law enforcement officers in Missouri and the wife of a sheriff who was killed after she was shot five times, in the family's own home, as she was holding a church function.

It is critical to note that in 1998, using similar criteria, I opposed the nomination of Judge Ann Aiken to the federal bench because of her decision to give probation instead of jail time to a man who raped a five-year-old child.

And what has Judge White said about John Ashcroft's motivations? He has said, and I quote, ". . . let me say, I don't think Senator Ashcroft is a racist, and I wouldn't attempt to comment on what's in his mind or what's in his heart."

Finally, I want to emphasize that there were a number of critical policy areas on which Senator Ashcroft and I did agree during our tenure together in the Senate. They deserve mention considering the criticism that has been leveled against this nominee, and the relevance of the issues to the post of Attorney General.

John co-sponsored the benchmark Violence Against Women Act, and helped author the provisions to prevent Internet stalking included in the legislation. He supported minimum hospital stays for women who give birth, and a measure to permit breast and cervical cancer coverage by Medicaid for low-income women.

He supported a provision urging that the "Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack," and voted to make civil judgments for those who commit violent acts at abortion clinics non-dischargeable in bankruptcy—an amendment that I cosponsored.

This is the John Ashcroft I know—a man of ability, remarkable experience in public service, proven integrity, and unimpeachable professionalism. As Attorney General, he will be charged not with writing new laws—as he ably did as a Senator—or interpreting laws—as a judge would do. Instead, he will be given responsibility as our nation's top law enforcement official for executing the laws of the United States on behalf of President Bush and the American people. I am confident he will enforce the laws to protect all Americans equally, regardless of his personal views, and I will vote to confirm John Ashcroft as Attorney General of the United States.

Mr. FEINGOLD. Mr. President, as my colleagues know, I shall vote to confirm Senator Ashcroft. I discussed the reasons for my doing so in my statement before the Judiciary Committee. At that meeting, I said:

> My colleagues, when we vote today, I'm going to do what I sincerely believe to be the right thing to do: vote for confirmation of John Ashcroft as Attorney General of the United States. For many of my colleagues, friends, supporters, and constituents, this is not easy to understand. And some see it as terribly wrong. After all, my voting record and that of John Ashcroft could hardly be more different, and there is no question that the opposition has raised significant and serious concerns about the appropriateness of this nomination.

Let me begin by noting a few positive aspects of former Senator John Ashcroft's positions and responses to questions at his hearing on two issues I care deeply about.

On racial profiling, as I said at the outset of the hearing on Sen. Ashcroft's nomination, during the last Congress I found him more receptive to my concerns about the issue than virtually anyone on the Republican side of the aisle. He and his staff not only permitted but assisted in a significant and powerful hearing on racial profiling in the Constitution Subcommittee. Although he did not ultimately cosponsor our traffic stop statistics bill, he made constructive suggestions about the bill, and his interest in addressing this terrible problem I believe was sincere.

And that sincerity was underlined in recent testimony before this Committee. He stated that he believes racial profiling is an unconstitutional practice and that he will make it a priority of the civil rights division of the Department to eradicate it. I believe him and I look forward to working with him on this if he is confirmed.

I have also expressed great concern that whoever assumes the role of Attorney General of the United States needs to understand and appreciate a need for fairness in the administration of the severest punishment our Federal government can mete out, the death penalty. I understand that both President Bush and Senator Ashcroft support the use of capital punishment. But I was relatively pleased with Senator Ashcroft's responses to my questions, both at the hearing and in written form, concerning the federal death penalty system. I was particularly pleased to hear his commitment to continuing the Justice Department review of racial and regional disparities in the federal system, a review that was ordered by President Clinton and is only in its initial stages. I plan to hold him to his pledge and urge him carefully to consider the results of this review and address the disparities before proceeding with any federal executions.

Having noted at least those areas where I'm hopeful about working together with John Ashcroft, this process has, nevertheless, brought forth extremely serious information that could lead any reasonable person to conclude that this nomination should not go forward.

The interview with Southern Partisan and his acceptance of an honorary degree at Bob Jones University raise significant questions about his sensitivity to the concerns of the African American community in this country. Even worse, his failure to fully disavow these actions is troubling. It seemed almost as if he was playing it safe, trying not to antagonize certain conservative constituencies rather than admitting his mistakes and recognizing the need to take concrete steps to disavow the racist attitudes that both of those institutions represent to many Americans. He will need to do much more if he is confirmed to reassure African-Americans that he will faithfully enforce and apply the civil rights laws of this country.

On another issue, Senator Ashcroft and the Republican majority's treatment of Judge Ronnie White was just plain unfair, and that is why I joined Senator Durbin in apologizing to him when he appeared before the Committee. Senator Ashcroft led opposition to Judge White, misleading our colleagues as to his record and attacking him in harsh and unfair language without giving him an opportunity to respond. There was no excuse for this behavior, and it represents for me an extremely sorry chapter in Senator Ashcroft's public record. Our Republican colleagues on this Committee and in the Senate share the responsibility for what happened. They should not have followed their colleague and allowed this to become a partisan issue on the floor of the Senate.

I agree with David Broder, who in a column in which he stated a number of reasons for supporting John Ashcroft for Attorney General said that in the end, the Ronnie White episode could alone justify voting against him. He said that Ronnie White deserves more than an apology, he deserves an appointment to the federal bench. I agree and I hope that Senator Ashcroft and President Bush will give this idea serious consideration.

And they need to go farther. The White nomination debacle raised the issue of race on the Senate floor in an unprecedented and almost tragic manner. The President and his advisors need to take major steps to right that wrong, and they can start by urging the Senate promptly to approve the nomination of Judge Roger Gregory to the Fourth Circuit Court of Appeals. I would note that Judge Gregory has received the endorsement of his home state Senators, Senators Warner and Allen, both of whom come from the President's party.

Another troubling area is Senator Ashcroft's handling of a St. Louis desegregation case during his time as Attorney General of Missouri. I was impressed with the strong testimony of respected civil rights lawyer Bill Taylor. Mr. Taylor's testimony and the entire record of this case make it clear that at best Senator Ashcroft did not "get" the role of the courts in the case and the urgency of resolving the issue in the best interests of the children in the city. At worst, he exploited the case for political purposes, which is very troubling indeed.

Then there is the case of James Hormel, our current ambassador to Luxembourg, whom Senator Ashcroft strongly opposed when his nomination was under consideration by the Senate. This was an extreme example of a pattern of unwarranted opposition to nominees pursued by Senator Ashcroft. I am frankly mystified by the notion that in the 21st century a nomination of a distinguished American would be blocked because of his sexual orientation. This is another sorry chapter in Senator Ashcroft's record, and frankly, his responses to written questions from members of this Committee about his position on this nomination were unsatisfactory and raise even more questions about his testimony than they answer. Ambassador Hormel is right to be outraged by those answers and the insinuations they contain.

On a related topic, we have the accusations by former Wisconsin state Senator Paul Offner that Sen. Ashcroft questioned him about his sexual orientation in a job interview in 1985. I have worked with both of these people, and based on information I've seen, I find it hard to disbelieve either one. But the Offner account does bother me and while I will vote for Senator Ashcroft in committee today, I reserve the right to review any further information in this area that may come forward prior to the final confirmation vote on the floor. After all, Senator Ashcroft in sworn testimony told me that he had never used such an approach in hiring.

In the end, however, this record has to be put in the context of the standard that I believe should be used when voting on the confirmation of a cabinet position. And, by the way, I do find somewhat persuasive the argument that the position of Attorney General is particularly significant, although it does not rise to the level of a high lifetime judicial appointment.

As a matter of practice, the Senate has, for the most part, avoided rejecting the President's Cabinet nominations because of their ideology alone. The Senate may examine, and has examined, whether the extremity of nominees' views might prevent them from carrying out the duties of the office they seek to occupy. But the Senate has nearly uniformly sought to avoid disapproving nominations because of their philosophy alone. I believe that we should not begin to do so now.

As my colleagues know, in the practices and precedents of the Senate, the Senate considers and approves the overwhelming majority of nominations as a matter of routine. Over the history of the Senate, the Senate has considered and approved literally millions of nominations.

The Senate's voting to reject a nominee has been an exceedingly rare event. Of the 1.7 million nominees received by the Senate in the last 30 years, the Senate has voted to reject just 4, or one in every 425,000. Of course, Presidents often withdraw without a vote the nominations of those who likely face defeat.

The Senate's voting to reject a nominee to the Cabinet has been an exceedingly rare event. Over the entire history of the Senate, the Senate has voted to reject only 9 nominations to the President's Cabinet. The Senate rejected six in the 19th Century, and three in the 20th Century.

Four of the nine Cabinet nominees rejected were during the Presidency of President Tyler alone. Several other rejections may be said to have flowed from larger battles between the Senate and the President, as when the Senate rejected President Jackson's nominee to be Secretary of the Treasury in the wake of the dispute over the Bank of the United States. Similarly, bad feelings after the impeachment of President Andrew Johnson led to the Senate's rejection of President Johnson nominations of his counsel in the impeachment trial to be Attorney General.

In the 20th Century, the Senate rejected half as many Cabinet nominees as it did in the 19th Century. In the wake of the Teapot Dome scandal, the Senate voted down President Coolidge's nomination of Charles Warren because of his ties to trusts. Most recently in 1989, the Senate rejected the nomination of Senator John Tower, an event which many on this Committee will recall from their own memory.

This examination of the history demonstrates that it has been a nearly continuous custom of the Senate to confirm a President's nominees to the Cabinet in all but the very rarest of circumstances. These practices and precedents thus support the principle that the Senate owes the President substantial deference in the selection of the Cabinet.

I should also note, as some members of the committee have done that all of President Clinton's cabinet appointments were confirmed overwhelmingly, and usually unanimously, despite the fact that many Republicans strongly disagreed with their views. This included the view of Attorney General Janet Reno in opposition to the death penalty, a view I strongly share with her but which has enlisted the support of few of my colleagues.

Now, a number of opponents of this nomination for whom I have very high regard have sought to go beyond the traditional standards for cabinet nominations. I think the most interesting approach that the opponents have laid out, especially in light of the serious problems with Senator Ashcroft's record that I have already identified, is the question of whether Senator Ashcroft will actually enforce the law. I think my colleague Senator Schumer set up the question well when he said words to this effect: "Given Senator Ashcroft's entire record of passionate advocacy for very conservative causes: Can he switch it off?" I think this is a useful standard but it must be applied with caution. All of us have observed many talented people taking very different roles in their careers, sometimes having to oppose either people or groups for whom they used to advocate.

Now in my own career, I've certainly been called unreasonable, unyielding and too persistent on occasion. But I remember being a defense attorney for large corporations at a law firm and then subsequently when I went to the Wisconsin State Senate, voting against those interests every time. I went into the State Senate representing a largely rural district and I remember constantly speaking of the need for rural property tax relief and not letting the City of Milwaukee run off with the entire budget. Yet, when I became a United States Senator, I understood my role to have changed and that I needed to advocate zealously for the very real needs for the people of our largest city.

So, it seems to me that I've been asked to switch it off on several occasions. I feel I have done so and that this is fairly common in the careers of those public men and women.

I think we were all struck by the strength of John Ashcroft's commitments and answers to our tough questions which were given under oath. His specific commitments to enforce the law in several areas were certainly not tepid. This was especially true with regard to his responses on choice and abortion-related matters—an area where, as a policy and constitutional matter I disagree with him virtually completely. Given Senator Ashcroft's strident record in this area it is completely understandable to me that critics would regard this as a "confirmation conversion" and that some would even see this as cynical with carefully chosen words with regard to Roe v. Wade, leaving the door open for a very different reality in the new Attorney General's office. I, for one, will not stand by and allow a departure from the clear impression that Senator Ashcroft offered as an assurance. In fact, one area I will closely scrutinize is his choices for top level positions in the Department of Justice. He will have direct responsibility for carrying out the promises he made to this Committee and the country.

But I do take some umbrage at the notion that giving John Ashcroft's sworn testimony the benefit of the doubt is somehow because of Senate collegiality. No, it is because it is sworn testimony.

But I do understand the very strong skepticism on this point in light of the incidents I've already reviewed especially as they relate to the blocking of nominations, a process in which John Ashcroft too often participated. I cannot question anyone for opposing this nomination, anyone for coming to an opposite conclusion of this record. It simply depends on one's view of the cabinet nomination process. It is a judgement call. I feel obligated under the traditional understanding of how cabinet appointments are handled to not put the worst possible interpretation on these facts. And I specifically cannot justify constructing the worst case scenario solely because Senator Ashcroft seemed to do the same for a number of very worthy nominees. It is certainly tempting to do so, but I am afraid it looks too much like political "payback," a lesson that would not be lost in future cabinet confirmation considerations, including those involving the choices of a Democratic President. I don't want to be a part of taking the United States Senate and this country further down the road that John Ashcroft and others in his party paved during the Clinton years.

Having said that, I want to hasten to add that I'm not at all sure that this kind of deference be given anymore on lifetime federal judicial appointments given what appears to be an open assault in recent years by the U.S. Senate on the federal judiciary. As I said in my opening statement at the confirmation hearing, although Democrats are being asked to follow the political golden rule on this nomination, I certainly agree that the line must be drawn at some point concerning the politicization of appointments. My judgment is that this is not the place—not this nomination or this office, as terribly important as it is.

And yes, I firmly believe that as a progressive, this is about our future credibility and ability to move our agenda in a future administration that better reflects on voting records and beliefs, which in most cases are just the opposite of a John Ashcroft's.

I know that some see this as futile or naive in light of the unbending "other side." They may be right. But I believe the American people desperately want us to conduct ourselves, where possible, in a bipartisan manner: with civility, with give and take, and act as if those terms have real meaning and are not just empty rhetoric.

So when I vote for John Ashcroft in committee, I am reaching out to the new Administration and to my Republican colleagues and especially those on the opposite side of this committee. I believe we share mutual respect. So I am extending to you at the beginning of this new Republican Administration an olive branch, but it is not a white flag I assure you. This is about the Department of Justice and it is justice I want to see for the wrong done to Judge Ronnie White. And it is justice I want to see done in the 4th Circuit Court of Appeals where the largest African American population lives and has never had an African American judge until the recess appointment of Roger Gregory. It is justice I want for numerous other circuit court nominees who languished in this committee for years and never even received a hearing. And it is justice I want for the future James Hormels and Bill Lann Lees who were most assuredly treated unfairly. And it is justice I want for the victims of racial profiling in America. And I will press this Administration, the Attorney General, and this committee to prevent it from happening to others in the future.

So I am genuinely appealing to you to show in concrete ways in the near future that you are concerned about the obviously heartfelt and legitimate feelings of many Americans that the Senate's role in the nominations process has been abused and overly politicized. There are real fault lines emerging in our culture and in our political system and repairs must be made. And some who have been harmed can and must be made whole.

In fact, one of the most eloquent statements to this effect came just this month in President George W. Bush's Inaugural Address: "Sometimes our differences run so deep it seems we share a continent, but not a country." I think he's right and I think this committee is the place to begin to repair the breach. That means for me the very difficult decision to vote to confirm John Ashcroft, but it also means immediate concrete efforts by the President and his party to mend the wounds that led to such fierce opposition to the Ashcroft nomination. It, of course, also means that the new Attorney General must vigorously enforce the law and be the Attorney General of all the people, regardless of race, religion, gender or sexual orientation. If he does that, he will earn the support of the American people. If he does not, I will be the first to call him on it and demand that he be held accountable.

That was my statement in the Judiciary Committee.

I rise today to speak more generally on the Senate's role of advice and consent in the President's nomination of individuals to the Cabinet. I rise also to speak a bit about the appointment process in general, apart from the discussion of any particular nomination. This analysis governs my consideration of both Senator Ashcroft's and Ms. Norton's nominations.

John Adams wrote that we seek "[a] government of laws, and not of men." He and other Founders sought a government based on principles, not on personalities. If we, as Senators, wish to serve that end in the nomination process, we must measure Cabinet nominations according to principle, with a look at the past and a view to the future.

The first principle that I think should govern Cabinet nominations is what one might call the political Golden Rule. We, as Democrats, should, if at all possible, do unto the Republicans as we would have the Republicans do unto us. A Democratic President ought to be able to appoint to the Cabinet principled people of strong progressive ideology. And a Republican President ought to be able to appoint to the Cabinet principled people of strong conservative ideology.

Now, some of our Republican colleagues have certainly failed too often in recent years to follow that Golden Rule, and I understand the desire to repay them in kind. To some degree, I share that desire. But I am determined to resist it for the good of the country, the health of the nomination process, and ultimately, to advance the prospects of future nominees who share the unabashedly progressive convictions that I hold dear.

This principle means that, except in the rarest of cases, voting records and conservative ideology alone should not be a sufficient basis to reject at least a Cabinet nominee. I say this as a progressive Democrat from Wisconsin who hopes that future Presidents may appoint the William O. Douglasses and Ramsey Clarks of their times, and that future Senates will not reject them for Cabinet positions on the basis of their ideology alone.

It should not be a requirement for a Cabinet position that the nominee travel solely in the middle of the road. There will come great leaders on the left and on the right.

If we seek the great minds of our times, they may on occasion blow hot or cold. We should not require all the leaders of our country to run a tepid lukewarm.

Now, whether nominating a staunch conservative is good politics or, more importantly, whether it is wise, in light of a promise to unify the nation after a very close election, is an important issue for a sustained national debate. But that question is not at the core of our responsibility in this body to advise and consent on Cabinet nominations.

Alexander Hamilton wrote of the dangers of partisanship in the nomination process in Federalist number 76. He cited the partisanship of legislatures as one of the reasons why the Constitution did well to vest the power to nominate in the President, rather than in the Congress. Considering what would happen if the Constitution had given the Congress the power to nominate, Hamilton wrote:

> The choice which may at any time happen to be made under such circumstances, will of course be the result either of a victory gained by one party over the other, or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party, will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: "Give us the man we wish for this office, and you shall have the one you wish for that." This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations.

So Hamilton wrote in Federalist 76. Thus we honor Hamilton's cautionary warning, and we advance the public service, by avoiding partisanship in the confirmation process.

As a matter of practice, the Senate has, for the most part, limited its consideration of the President's Cabinet nominees to an inquiry into the nominees' fitness for office. The Senate must examine, and has examined, the qualifications of nominees. William Blackstone wrote in his Commentaries on the Laws of England, a work well known among the Founders, that "[a]ll offices . . . carry in the eye of the law an honour along with them; because they imply a superiority of . . . abilities, being supposed to be always filled with those that are most able to execute them." The Senate has thus nearly uniformly sought to test the ability of nominees to execute the office that they seek to occupy.

But as a matter of practice, the Senate has, for the most part, avoided rejecting the President's Cabinet nominations because of their ideology alone. The Senate may examine, and has examined, whether the extremity of nominees' views might prevent them from carrying out the duties of the office they seek to occupy. But the Senate has nearly uniformly sought to avoid disapproving nominations because of their philosophy alone. I believe that we should not begin to do so now.

Mr. President, the second principle that I think should govern nominations is that the Senate owes the President substantial deference in the selection of the Cabinet. The Constitution vests the appointment power primarily in the President. This choice of the Founders, in turn, flows from the Constitution's imposing on the President the duty faithfully to execute the laws of our Nation.

Article 2, section 1 of the Constitution begins: "The executive power shall be vested in a President of the United States of America." That section ends by requiring the President-elect to take the oath "that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States." And article 2, section 3 provides that the President "shall take care that the laws be faithfully executed."

To carry out that duty, the President needs policy-makers in the executive branch, particularly in the Cabinet and subcabinet, who will support the President's program, as well as carry out the law. The Supreme Court in Myers v. United States explained:

> Our conclusion . . . is that Article II grants to the President the executive power of the Government, i.e., the general administrative control of those executing the laws, including the power of appointment and removal of executive officers—a conclusion confirmed by his obligation to take care that the laws be faithfully executed; . . . and . . . that to hold otherwise would make it impossible for the President, in case of political or other differences with the Senate or Congress, to take care that the laws be faithfully executed.

Thus article 2, section 2 of the Constitution confers the appointment power in the following language:

> The President . . . shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Let me begin my discussion of this language with an analysis of its history.

With this language, the Constitutional Convention made a change from the Articles of Confederation. Article 9 of the Articles of Confederation vested appointment powers in the Congress or a committee of Congress. That article provides, in relevant part:

> The United States in Congress assembled, shall have the sole and exclusive right and power of . . . appointing courts for the trial of piracies and felonies committed on the high seas. . . .
>
> The United States in Congress assembled shall also have the sole and exclusive right and power of . . . appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States. . . .
>
> The United States in Congress assembled shall have authority . . . to appoint such other . . . civil officers as may be necessary for managing the general affairs of the United States under their direction. . . .

And finally:

> The United States in Congress assembled shall never . . . appoint a commander in chief of the army or navy, unless nine States assent to the same. . . .

Recall that one of the prime reasons for the Constitutional Convention that wrote our current Constitution was that the Articles of Confederation provided a government that proved less than workable. The Founders thus sought consciously to depart from this legislative government in favor of a stronger executive.

When the Constitutional Convention began to debate the Constitution, its working draft initially provided for the Congress to choose the national judiciary. Many of the Framers found fault with this proposal. Pennsylvania's James Wilson argued that appointment by a group with numerous members would necessarily lead to "[i]ntrigue, partiality, and concealment." He argued: "A principal reason for unity in the Executive was that officers might be appointed by a single, responsible person."

Virginia's James Madison agreed, saying, "Besides the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. The Legislative talents . . . were very different from those of a Judge. . . ."

Massachusetts's Nathaniel Gorham, who in the Convention was an early proponent of the structure finally adopted in the Constitution, also emphasized the value of focusing responsibility on the President. Madison's notes report him saying:

> The Executive would certainly be more answerable for a good appointment, as the whole blame of a bad one would fall on him alone. . . . [N]ot . . . that he would be answerable under any other penalty than that of public censure, which with honorable minds was a sufficient one.

Pennsylvania's Gouverneur Morris argued that the President would need to deal with every part of the United States, and would thus be best informed about the character of potential nominees. Madison's notes report:

> Mr. Gouverneur Morris argued against the appointment of officers by the Senate. He

> considered the body as too numerous for the purpose; as subject to cabal; and as devoid of responsibility.—If Judges are to be tried by the Senate . . . it was particularly wrong to let the Senate have the filling of vacancies which its own decrees were to create.

Gouverneur Morris later summed up: "[A]s the President was to nominate, there would be responsibility, and as the Senate was to concur, there would be security."

When they reported home to their Governor, Connecticut's Roger Sherman and Oliver Ellsworth cited the protection of the rights of smaller states, writing: "The equal representation of the States in the Senate and the voice of that branch in the appointment to offices will secure the rights of the lesser as well as of the greater States." The Supreme Court in Myers v. United States cited this as a major purpose for the creation of the Senate's power of advice and consent, saying:

> The history of the clause by which the Senate was given a check upon the President's power of appointment makes it clear that it was not prompted by any desire to limit removals. . . . [T]he important purpose of those who brought about the restriction was to lodge in the Senate, where the small States had equal representation with the larger States, power to prevent the President from making too many appointments from the larger States.

After the Convention settled on the language now in the Constitution, proponents and opponents of executive power alike agreed that the President received the paramount role.

New York's Alexander Hamilton, who wanted a strong Presidency, wrote in Federalist number 76:

> [I]t is easy to show, that every advantage to be expected . . . would, in substance, be derived from the power of nomination . . . . In the act of nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing.

Similarly, Maryland's Luther Martin, who feared too strong a Presidency, wrote in the Genuine Information:

> To that part of this article . . . which gives the President a right to nominate, and with the consent of the Senate to appoint all the officers, civil and military, of the United States, there were considerable opposition—it was said that the person who nominates, will always in reality appoint . . . .

In the ratification debates, insofar as they addressed the nomination process, Hamilton's two Federalist Papers, numbers 76 and 77, stand most prominently. In Federalist number 76, Hamilton picked up the theme of the value of focusing responsibility on the President, writing:

> The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have fewer personal attachments to gratify, than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. A single well-directed man, by a single understanding, cannot be distracted and warped by that diversity of views, feelings, and interests, which frequently distract and warp the resolutions of a collective body.

Hamilton also wrote of responsibility in Federalist number 77, where he wrote:

> The blame of a bad nomination would fall upon the President singly and absolutely. The censure of rejecting a good one would lie entirely at the door of the Senate; aggravated by the consideration of their having counteracted the good intentions of the Executive. If an ill appointment should be made, the Executive for nominating, and the Senate for approving, would participate, though in different degrees, in the opprobrium and disgrace.

In the discussion among the Founders that touches most closely on the Senate's role in the nomination process, Hamilton wrote that he expected the Senate to reject nominees rather infrequently, but that the potential of such rejections would provide a useful check. Hamilton wrote:

> But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

Hamilton concluded:

> To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

The first Congress, which included among its Members several of the Founders, had occasion to discuss the appointment power. Georgia's Abraham Baldwin, for one, had been a delegate to the Constitutional Convention, and then became a Congressman. In arguing against extending the Senate's advice and consent power to removals from office, he said:

> I am well authorized to say that the mingling of the powers of the President and Senate was strongly opposed in the Convention which had the honor to submit to the consideration of the United States and the different States the present system for the government of the Union. Some gentlemen opposed it to the last, and finally it was the principal ground on which they refused to give it their signature and assent. One gentleman called it a monstrous and unnatural connection and did not hesitate to affirm it would bring on convulsions in the government. This objection was not confined to the walls of the Convention; it has been subject of newspaper declamation and perhaps justly so. Ought we not, therefore, to be careful not to extend this unchaste connection any further?

Similarly, James Madison became a Congressman in the first Congress, where he said:

> Perhaps there was no argument urged with more success or more plausibly grounded against the Constitution under which we are now deliberating than that founded on the mingling of the executive and legislative branches of the Government in one body. It has been objected that the Senate have too much of the executive power even, by having control over the President in the appointment to office. Now shall we extend this connexion between the legislative and executive departments which will strengthen the objection and diminish the responsibility we have in the head of the Executive?

The Supreme Court in Myers v. United States concluded from this history that it should read narrowly the Senate's power of advice and consent, saying: "Our conclusion . . . is . . . that the provisions of the second section of Article II, which blend action by the legislative branch, or by part of it, in the work of the executive, are limitations to be strictly construed and not to be extended by implication . . . ."

Let me turn now briefly to the history of the process of advice and consent in the Senate. Many of my Colleagues will have read the excellent discussion of that history in volume 2, chapter 2, of Senator BYRD's history of the Senate. For those who have not, I recommend it.

As my Colleagues know, in the practices and precedents of the Senate, the Senate considers and approves the overwhelming majority of nominations as a matter of routine. Over the history of the Senate, the Senate has considered and approved literally millions of nominations.

The Senate Executive Journal began totaling the number of nominations received and confirmed beginning in 1929. From then until now, the Senate has received more than 2.9 million nominations and confirmed more than 2.8 million. Over that period, the Senate has confirmed 97.9 percent of the nominations that it received. Among those not confirmed, many simply remained unconfirmed at the end of a Congress.

The Senate's voting to reject a nominee has been an exceedingly rare event. Of the 1.7 million nominees received by the Senate in the last 30 years, the

Senate has voted to reject just 4, or one in every 425,000. Of course, Presidents often withdraw without a vote the nominations of those who likely face defeat.

The Senate's voting to reject a nominee to the Cabinet has been an even more exceedingly rare event. Over the entire history of the Senate, the Senate has voted to reject only 9 nominations to the President's Cabinet. The Senate rejected 6 in the 19th Century, and 3 in the 20th Century.

Four of the 9 Cabinet nominees rejected were during the Presidency of President Tyler alone. Several other rejections may be said to have flowed from larger battles between the Senate and the President, as when the Senate rejected President Jackson's nominee to be Secretary of the Treasury in the wake of the dispute over the Bank of the United States. Similarly, bad feelings after the impeachment of President Andrew Johnson led to the Senate's rejection of President Johnson's nomination of his counsel in the impeachment trial to be Attorney General.

In the 20th Century, the Senate rejected half as many Cabinet nominees as it did in the 19th Century. In the wake of the Teapot Dome scandal, the Senate voted down President Coolidge's nomination of Charles Warren because of his ties to trusts. The Senate voted down President Eisenhower's nomination of Lewis Strauss, some say because of Admiral Strauss's lack of tack. Most recently, in 1989, the Senate rejected the nomination of Senator John Tower, an event which many in the Senate will recall from their own memory.

This examination of the history demonstrates that it has been a nearly continuous custom of the Senate to confirm a President's nominees to the Cabinet in all but the very rarest of circumstances. These practices and precedents thus support the principle that the Senate owes the President substantial deference in the selection of the Cabinet.

Bearing in mind this history and Hamilton's admonition that the Senate's "dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate," what then should be, in Hamilton's words, the "special and strong reasons for the refusal" that should prompt the Senate to reject a nominee to the Cabinet?

It is in the nature of the Constitution's grant of powers to the Senate that each Senator must make his or her own decision how to vote on nominees whom the Senate considers. It thus follows that each decision must to some extent be subjective. But we do injury to the reputation of the Senate when we cannot articulate our reasons for rejecting a nominee as the expression of rules that could have universal application.

It is the nature of justice that different persons of similar circumstances should receive similar treatment. Let us do justice when the Senate exercises its role of advice and consent.

Let us examine nominees to see that they have, in Blackstone's words, "superiority of . . . abilities"; let us see that they are "most able to execute" the offices for which they are nominated.

Let us thoroughly investigate nominees' competence and experience. Let us question whether they have taken actions that would lead us to doubt their ability fully and fairly to execute their offices.

Let us explore nominees' integrity and ensure that they have the proper ethical bearing to administer the high trusts to which they are nominated.

And yes, let us guard against approving the nomination of an individual who stands so far at variance with the core values of this Nation—values of freedom, democracy, and equality—that we cannot realistically imagine the nominee's being able to carry out the duties of an office in our American government. That will necessarily be a subjective judgment, but plainly a legitimate one.

But let us conduct our investigation in matters such as these that involve the lives and reputations of other people—people almost uniformly highly regarded in the community—with civility. Let us take pains to avoid casting the kind of personal "stigma" that Hamilton feared. And let us, when we hold the honor and careers of people in our hands, do what we can to diffuse the bitter viciousness that has seized so much of official Washington.

I propose that we govern ourselves by principle, as a Democrat at the outset of a new Republican Presidency, in the hope that we may rise above that which has come before. For I cannot help but express my objection to the attitude and approach that the Republican majority in the Senate took toward the nominees of the Democratic President since the Republicans took control of the majority in 1994.

In some respects, the Republican majority seemed not even to accept the legitimacy of President Clinton's electoral victories in 1992 and 1996. Elections must have consequences.

Instead, it appeared to me that they unfairly blocked very legitimate, qualified appointees such as Bill Lann Lee, Ronnie White, and James Hormel.

I think this was wrong. But I propose that we Democrats not return the favor, escalating a never-ending harshening of our discourse. Rather, I propose that we treat this new Republican President the way that we would want a Republican majority to treat a Democratic President in the future.

It is not easy for me to tell those who fought so hard for President Clinton and then for Vice-President Gore that we should follow the Golden Rule, and that we should treat President Bush better than the Republican majority treated President Clinton. And should the new President abuse the Senate's deference, there may come a point when we have to draw a line and say, "No more," given the Republican majority's refusal to accord a Democratic President the very deference that Republicans now seek.

I want to make clear the manner in which I have evaluated both of the controversial nominees before this body, the nominee we consider today, former Senator Ashcroft, and the nominee who was confirmed Tuesday, Ms. Norton. I am no more comfortable with these votes and appointments than anyone else of my personal ideological viewpoint.

I fully understand and have heard the pain expressed by my constituents who have strongly criticized these nominations and who devote their time and thought to building broader public support for an end to all forms of discrimination or for reproductive rights or for an environmentally sound energy policy or for wildlands protection. I must work hard every day on issues affecting the public interest and public welfare, and, in order to move a progressive agenda forward I must sit and listen and talk with those who deeply and profoundly disagree with me. These nominees and I do not agree on a number of issues. But the question that this body faces, and that I face as a member of it, is broader than whether or not we are having a referendum on the ideological views expressed by these nominees.

I have reflected and given thought to the deeper historical and philosophical roots of the process of the Senate giving "advice and consent" to Cabinet nominees. In this history of the Senate's treatment of Cabinet nominations, deference is an important principle. Lack of that deference on nominees can result in a confirmation process that is undignified for the country, unlikely to produce outstanding public servants, and unable to advance the debate on matters of public policy.

I am attempting by these votes to assist in restoring the Senate's credibility and trust, and I will use the powers of my office to make certain these nominees live up to the views they have expressed to this body under oath.

And let me underscore that I have risen today to address nominations to the Cabinet, who will serve for a term of years, and whom we should consider under a far looser standard than that we should apply to judges and certainly justices, who will serve for life.

But I fear that in the process of giving its advice and consent with regard to nominations to the President's Cabinet, the Senate is positioning itself to head down a road to a dangerous place. Let us decide not to go down that road.

Let us not go down the road to where those who seek public office must all their life avoid any forceful public utterance.

Let us not go down the road to where young people—college students and graduate students—will fear to experiment with new ideas.

Let us not go down the road to where expression is squelched and thoughts are stifled.

Let us not go down the road to that arid place where public discourse is barren because no public leaders dare write articles declaring their views.

Let us not go down the road to where Senators fear to take a position, make a statement, or cosponsor a bill on a controversial issue, like the death penalty—one way or the other—just to avoid a confirmation fight.

Let us not go down the road to that frozen place where the Senate's nomination process imposes a deep chill over political discourse among all who would someday hold office.

And let us not go down a road to where in order to serve our Country, one must become like milk toast, like Pablum.

Rather, let us work together in this government, working with vigorous minds who may sometimes have vigorous opinions.

The American People expect this Senate and this government, divided as it is, to govern. We owe them no less than to try to do so.

Now is not too soon to start. I extend to President Bush the hand of cooperation as he begins his administration. I will cast my votes on nominations he proposes according to these principles, and hope that the President and the majority will return the favor, and work together with us in a truly bipartisan manner.

Mr. ROCKEFELLER. Mr. President, the United States Constitution expressly grants to the Senate the prerogative, responsibility, and duty to determine its "advice and consent" to the nominations of all Presidents. This is an important, even awesome mandate, and one no Senator takes lightly. While the Senate's constitutional role is plainly much more than a mere rubber stamp, the President also should be given wide latitude in the people he chooses to run our government with him.

Over the last several weeks, I have voted to approve all but one of President Bush's cabinet nominations. I have done so because, on the whole, I believe his nominees are an impressive, diverse, and well-qualified group who reflect the broad spectrum of America's philosophical and cultural backgrounds.

Of course, without exception, they appear to represent the views of the new President who nominated them. Beyond their fundamental ability to do the job, their views and ideologies have been of little consequence to my decisions. Instead, an important additional characteristic I have looked for, particularly at this time in our nation's history, is a proven ability to bring people together. I seek nominees who will welcome diverse points of view and ideas and who will lead in building consensus. In that vein, I have given my full support to 18 of the cabinet nominations sent to the Senate by President Bush this year.

The nominee before us today, however, is not one I can support.

The United States Attorney General has a particularly compelling and important role, as evidenced by this vigorous debate. The Attorney General is known as the President's legal advisor and the people's lawyer. He or she is charged with leading our nation in interpreting, enforcing, and upholding our laws. He must be a person who embodies balance and evenhandedness, so that all of our citizens feel fully and fairly represented by his actions. He must be able to contribute in a meaningful way to the great challenge of uniting our nation. That is my test for this nomination.

Former Senator John Ashcroft is a man that I have come to know here in the United States Senate. I have served with him on the Senate Commerce Committee and spent many hours observing and participating with him in debate. Throughout his service here, and earlier as Governor and Attorney General in the State of Missouri, he has shown a strong moral compass and passionately held views about what he wants for our country and its citizens.

As Senate colleagues, we have sometimes agreed, and more often disagreed on policy and legislation. In many cases, his legislative agenda was not one that I thought helped or protected West Virginia's working families, seniors and children. But, again, my test for Attorney General is not whether I share John Ashcroft's views on any particular issue or matter.

I have great respect for John Ashcroft as a person of deeply held religious beliefs, and his particular faith is of no consequence for me in this decision. In fact, I have been personally offended by a few who suggest that someone's religion might be a consideration in this or any other decision I make. I unequivocally reject that type of thinking and believe my own long record proves otherwise.

John Ashcroft has been honest in his convictions and his principles, and he has fashioned his public life working to advance his firmly held beliefs. He is a man of strong, unbending ideology—so unbending, in fact, that this is what makes him the wrong choice for Attorney General. I have plainly seen in John Ashcroft a basic inability to compromise or to reach out to those with opposing or different points of view.

The problem is not John Ashcroft's ideology. It is the fact that he never seems able to look beyond that ideology to respect and encompass others' equally strong beliefs and convictions. There is nothing in his long history of public service to suggest he can rise to the challenge of being a uniter, someone who can compromise when necessary to bring us all together.

Furthermore, I have heard John Ashcroft's promise to uphold and enforce our laws, and I take him at his word. But the question of his nomination and the role of Attorney General are not that simple. If they were, then every person nominated to a position charged with upholding the law would be approved—every judge, every U.S. Attorney, every Cabinet Secretary. Reasonable people have honest disagreements about what the law says and how to apply it in different situations. The law is not always precise, and the path to justice is not always clearly marked.

The Attorney General instead has a great deal of discretion, and he must bring to that discretion his own standards, experiences and beliefs. Deciding which cases to defend and which to prosecute, which judges and proposed changes in the law to support and which to oppose, where to dedicate limited resources and where to cut back all are tasks that call for objectivity, balance, and leadership.

Mr. President, after carefully reviewing all of the facts and circumstances, and after lengthy personal reflection, I am not convinced that John Ashcroft can do the job of Attorney General without returning to his life-long rejection of moderation and conciliation.

John Ashcroft proudly judges issues and people on the basis of his own strong ideology. Time and again I have seen John Ashcroft show hostility and insensitivity toward those who disagree with him or who hold ideals and values that differ from his. He has never hesitated to use his views as a test to judge others. This uncompromising approach is not what I think our country wants and expects from its leaders.

I do not stand in judgment of my former Senate colleague, but I must reject his nomination for Attorney General.

Mr. INOUYE. Mr. President, I had every intention to once again, as I have done in the past, support the President's choice of Cabinet members. The President was elected, he selected his team, and his choices should be respected. In the case of former Senator John Ashcroft's nomination as the U.S. Attorney General, the President's choice will be respected by a majority vote of the Senate. However, if I supported the nomination of Senator Ashcroft, my vote may be misunderstood not only by my supporters and constituents, but by many others.

It should also be noted that the Constitution reserves to the Senate the power of advice and consent as to the President's nominations. I hope that my opposition, together with the opposition of several of my colleagues, will advise the President of our concerns as to his nomination of Senator Ashcroft.

As a person, my experience in serving with Senator Ashcroft has been a positive one, but I have found myself on most occasions casting my vote in disagreement with Senator Ashcroft. For example, he is for the death penalty; I am against the death penalty. He supports doing away with abortion; I am for freedom of choice. I have also examined Senator Ashcroft's record away from Capitol Hill, and I have found that his actions have been consistent with the views he held when we were colleagues on the floor of the Senate.

Senator Ashcroft's actions in the area of civil rights raise questions as to his commitment to preserving the civil rights of all Americans. As the Governor of Missouri, Senator Ashcroft vetoed bills designed to ensure the equal treatment of African American voters. As the Attorney General of Missouri, Senator Ashcroft actively obstructed the voluntary desegregation plan for the City of St. Louis.

Similarly, Senator Ashcroft's record on reproductive rights causes me some concern. Throughout his political life, Senator Ashcroft has believed that there is no constitutional right to abortion, and has worked to overturn Roe v. Wade by State and Federal legislation and by constitutional amendment. Senator Ashcroft's persistent efforts to limit reproductive rights as Missouri's attorney general and Governor, and as a U.S. Senator suggest the policies he might endorse as the U.S. Attorney General.

I realize that I may be in the minority in my opposition to the death penalty, but I have been against execution as a criminal punishment since the start of my political career. For example, I coauthored the measure in the Territorial Legislature of Hawaii that abolished capital punishment, and from that time forward, no convicted criminal in Hawaii has been put to death. Senator Ashcroft does not share my views on this subject. Indeed, as Governor of Missouri, Senator Ashcroft took the position that the death penalty was appropriate for teenagers, and denied that there is any racial disparity in the application of the death penalty. I do not share these beliefs, and I think that Hawaii's experience with the death penalty points to opposite conclusions.

Knowing these and the many other aspects of Senator Ashcroft's record that have come to light in recent days, I have some difficulty seeing him as the next U.S. Attorney General—so much difficulty that I believe I must exercise my Senatorial right of advice and consent and cast my vote in opposition to the nomination to make sure the record is clear.

Mr. BYRD. Mr. President, I daresay that each of us has received an enormous amount of correspondence about the nomination of Senator John Ashcroft to be Attorney General of the United States. The favorable correspondence tends to emphasize support for the Senator's policy priorities and appreciation of his reputation for honesty and integrity. The unfavorable correspondence tends to emphasize concern about the Senator's policy priorities and disapproval of the standards he applied, as Senator, to the disposition of Presidential nominations.

We must begin by deliberating on the standard to be applied to confirmation decisions. The Constitution merely states that the President shall appoint public ministers with the "advice and consent" of the Senate. This is not a specific standard, nor even a mandate to review particular features of a nominee's background or capabilities. Rather, we are enjoined to employ our judgment, a faculty which—however much we may lament it—focuses on different factors in considering nominees for different public offices and varies its approach in response to the needs of the times. Thus, when it comes to our duty to provide advice and consent on cabinet nominations, we are plainly in an area where reasonable minds can differ, not only about the criteria, but even about the proper result given particular criteria. No amount of pressure politics—and no slickly packaged talking points—can alter this fundamental fact.

I do not subscribe to the view that, barring the taint of criminality or dishonesty, the President is entitled to have his nominations confirmed. I do subscribe to the view that law enforcement officials of good will and ability can separate their policy preferences from the performance of their official duties.

There is a distinct difference between the role of a Senator as the drafter of laws and the role of the Attorney General as the enforcer of laws. Once Senator Ashcroft places his left hand on the Bible and swears to uphold the laws of the United States, he will be required to enforce even those laws about which he harbors serious reservations. Not only that, but given the fact that John Ashcroft is a deeply religious man, that solemn vow, I am sure, will not be taken lightly by him. Let me quote Senator Ashcroft's own words on that subject: "As a man of faith, I take my word and my integrity seriously," he said. "So, when I swear to uphold the law, I will keep my oath, so help me God." Further, during his confirmation hearings, he stated that he understands this obligation and fully intends to honor it. For example, he indicated that he "will vigorously enforce and defend the constitutionality" of the law barring harassment of patients entering abortion clinics, despite any misgivings he might have about that law.

I take him at his word. Although, I do not agree with all of Senator Ashcroft's views, I have no cause to doubt Senator Ashcroft's word or his sincerity regarding his fealty to an oath he will swear before God Almighty. It would be an act of supreme arrogance on my part to doubt his intention to honor such an oath. I will not prejudge him in such a manner.

Given Senator Ashcroft's background, the position to which he has been nominated, and his assurances to the Senate that he will faithfully uphold the laws of the United States, I believe he should be confirmed.

Mr. HATCH. Mr. President, as we prepare to close debate on the nomination of our former colleague, Senator John Ashcroft to be the Attorney General for the United States, I want to first thank a few people. First, let me thank Senator LEAHY, the Ranking Democrat Member on the Judiciary Committee. He faced a difficult task in organizing the hearing for this nomination and working for a fair process. I want to express my gratitude to him and commend his staff, including the Minority Chief Counsel, Bruce Cohen, Senator LEAHY's General Counsel, Beryl Howell, Mary DeOreo, Natalie Carter, and others.

I would also like to thank the other members of the committee for their diligence regarding this matter. In particular let me thank Senator KYL who has been a tremendous advocate in the effort supporting this nomination, and let me also mention Senator SESSIONS for his hard work in behalf of the nomination.

I also want to commend those Senators on the other side of the aisle, who despite intense pressure from and relentless lobbying by a number of left-wing groups have stood up for what they believed was right and announced their support for this nominee. I especially want to express to my colleague on the Judiciary Committee, Senator FEINGOLD, how much my respect for him has grown watching him speak in support of and cast his vote for John Ashcroft. I know that he has been targeted by petitions and email campaigns orchestrated by People for the American Way and others to pressure him, but he has not buckled, and I congratulate him for his courage to take a principled stand.

I would also like to thank the Administration and Transition staff who worked on this matter. And let me also thank my Committee staff who worked literally around the clock to assist me and my colleagues in moving this nomination forward. I believe everyone on the committee staff has worked tirelessly, but let me especially recognize the Committee's Chief Counsel, Sharon Prost, the Committee's Staff Director, Makan Delrahim, our fine and able counsels, Shawn Bentley, Stephen Higgins, Ed Haden, Rhett DeHart, Gary Malphrus, Rita Lari, Lee Otis, Neomi Rao, Rene Augustine, Pat O'Brien, Larry Block, Alex Dahl, Jeff Taylor, Leah Belaire, and John Kennedy, and our valued staff members, Amy Haywood, Kent Cook, Jessica Caseman, Swen Prior, and Jared Garner, and of course our most able press staff, who kept us informed of the smear campaigns, Jeanne Lopatto and Margarita Tapia. They all worked together as a team with numerous others, including Senator GRAMM's staff, Senator BOND's staff, as well as the able staff of the Senate Leadership, particularly Dave Hoppe and Robert Wilkie of Senator LOTT's staff and Stewart Verdery of Senator NICKLES' staff.

Now let me turn to the nomination itself. Mr. President, I believe we are about to confirm one of the most qualified candidates for the office of Attorney General that we have ever had. John Ashcroft has superb credentials, and he is well-prepared to be Attorney General. In addition to graduating from one of our finest law schools, here is a man who has almost 30 years of public service to this country—eight years as attorney general of his state of Missouri, during which time he was elected by his peers, the 50 state attorneys general, Democrats and Republicans, to become the president of the National Association of Attorneys General. Then he was twice elected governor of Missouri, and again elected by his peers, the 50 state governors, to head the National Governors Association. And then he was elected by Missourians to serve with us here in the United States Senate, where we all came to respect him for his work ethic and his integrity.

As a matter of fact, I don't know of one Senator in the whole United States Senate who would disagree with the statement that this is an honorable man of integrity. When he says he'll do something, he'll do it. I don't know anybody, who, knowing his record and his life, who would conclude that John Ashcroft is anything but one of the finest people they've every met.

But during this process, I think that we have seen some attempts here to undermine a truly good man. Some things have been done throughout this process that were outside the bounds of policy debate, beyond what is decent and right. In the zeal to take a political stand against this nominee for whatever reason, I believe there have been numerous charges, innuendos, and distortions that were neither fair nor accurate. I have tried to help rebut these charges, but they ought not to have been made.

Despite these attacks, I do not believe this good man, this man of deep faith and conviction, will take offense or hold grudges. I believe he will do what he has promised to do. He will be inclusive, forthright, and he will follow the law. He will be an Attorney General for all the people and be an Attorney General of whom we can all be proud. I know he will because I know John Ashcroft, as most of us do. I know he is well-prepared. And I know when he promises to discharge his duties faithfully, to uphold the law and Constitution, enlisting the help and witness of God to do so, he means it, and he will do it.

I look forward to working with him to help make our nation safer, more just, and more in line with our founding principles, embodied in our Constitution. His job is largely about making our nation more safe and free. I am glad we will have an Attorney General who will work toward that goal.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, parliamentary inquiry: Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. LOTT. I ask for the yeas and nays on this vote after my closing remarks.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. One other inquiry: Has all time been used except for the time reserved for the majority leader?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. Mr. President, I want to begin by assuring all of my colleagues that I will not use the entire 15 minutes, so we can begin the vote hopefully 5 or 10 minutes early. Senators need to be aware of that so they can come and begin the vote within the next 10 minutes.

Mr. President, this nomination has not been an easy one for the Senate Judiciary Committee or the Senate to deal with without some difficulty. You can argue about why that is. But we have come to it, and now we are ready to vote.

Only nine times in our history has the Senate defeated one of the President's nominees for his Cabinet and only once since 1959. When I was a new Senator in 1989, I observed what I thought was a terrible miscarriage of justice against former Senator John Tower. John Tower should have been Secretary of Defense. I was really disappointed in how he was savaged and how some of his colleagues in this body treated him.

Only one time in 40 years have we not confirmed the President's nomination for a Cabinet position, and that, I am convinced, was a terrible mistake.

Today we will confirm former Senator John Ashcroft to be Attorney General. That is as it should be.

I have been disappointed by this nomination's process through the Judiciary Committee, and to a degree here, although less so on the floor of the Senate. I thought the rhetoric got too hot. It did get into the range of being unfair. But I don't think we should let that permanently alter the atmosphere we have tried to set in the Senate.

I have tried to get through some items that would allow us to move forward in a positive vein.

I think congratulations also would be in order, and certainly a word of appreciation for the leadership on the Democratic side of the aisle. Senator DASCHLE has tried to help get us through this nomination. He made it clear that he would not participate in a filibuster. I do not recall in the 30-something years I have been watching the Senate very closely a Cabinet nomination being filibustered. It would be a terrible precedent. He spoke out, saying he wouldn't do it, that he wouldn't support it. To those who said we shouldn't have a filibuster, I say thank you for that.

There will be those who will speak out about what this vote means, if it is not 60 votes, or if it is 69 over 61, or whatever it may be. I think that will be a futile waste of time. I don't think we should read anything into it. This nominee is going to be confirmed, and he should be. The President of the United States, George W. Bush, is entitled to have his selection to be Attorney General.

I want to say also that I know John Ashcroft. I know him as a man. I knew him as a Senator. I knew him as a close personal friend, and I knew him as a member of the Singing Senators as we sang all across this country together. I have been in his home. I know his wife. I know his children. I know his constituents. I have been all over Missouri. He has been in my home. He knows my friends, and we have been together in many instances. I don't know this person who has been described in some of the debate; some of these allegations about things he did, or didn't do, or whether or not he is a man of his word. I do not know that person. I know John Ashcroft. I know the man who served in this Chamber. I know his abilities, his education, and his qualifications. I don't think there has ever been a more qualified person by background, education, and experience to be Attorney General than John Ashcroft.

I remember 8 years ago, when I voted to confirm the previous Attorney General, thinking that this nominee was not qualified, and I think she proved it. But I voted for her because I thought

President Clinton was entitled to his nominee at that point.

So we have a man who is qualified. But it is more than that. John Ashcroft is a good man of high veracity and who will keep his word.

Senator **Byrd** said yesterday, I believe, in his speech that he has made a commitment he is going to uphold the law. What more should we want: A pound of flesh?

I realize this is all about other things. That is OK. But it is unfair to this man.

Maybe the ravens will be heard never more. But forevermore you can quote me on this and remind me on this. John Ashcroft will go on to be one of the best Attorneys General we have ever had. He will be conscientious. He will show capability. He will be sensitive. He will be honest. He will enforce the laws—some laws that have been ignored the last 8 years—and maybe there are some people who are a little nervous about that. But, as we say in all kinds of different circles in America, I am here to vouch for their man. I vouch for John Ashcroft. I will stand by him. And you mark my words, he will go on to be a great and valuable Attorney General.

So let's move on. Let's work together, as I know we can do.

I accept the olive branch extended by Senator **Russ Feingold**. That is what he said. I extend the olive branch to show a willingness to work together and reach across the aisle and across all the other things that could divide us. He showed courage. I will not forget it. In fact, I think I maybe didn't forget it in advance because we have already worked out an agreement on how we are going to bring up a bill about which he cares a lot.

But that was an important statement on his part. I accept it. We accept it. That is the way we should proceed.

This new President has changed the tone in this city. Absolutely, people are astounded by his willingness to reach out and to listen and to be heard. He is meeting with everybody. He has even seen motion pictures with them. So he is doing his part. Let us make sure the Senate does its part.

Vote for John Ashcroft. You won't regret it. Then let's move on to important legislation. Let's argue about ideas. Let's argue about how to make education better. Let's argue about how to give tax relief—"return to sender," as the Senator from Georgia said. That is what the people want us to talk about. They want to get this vicious and partisan stuff behind us and deal with real issues. I don't think insurmountable damage has been done. I believe we can build on the other things we have done in the last month.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Does the Senate advise and consent to the nomination of John Ashcroft of Missouri to be Attorney General of the United States? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—58

Allard
Allen
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Cochran
Collins
Conrad
Craig
Crapo
DeWine
Dodd
Domenici
Dorgan
Ensign
Enzi
Feingold
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carnahan
Carper
Cleland
Clinton
Corzine
Daschle
Dayton
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

The nomination was confirmed.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Illinois, I ask unanimous consent that the motion to reconsider be laid upon the table and the President be immediately notified that the Senate has given consent to this nomination, and the Senate then resume legislative session.

Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

The PRESIDING OFFICER. In my capacity as a Senator from the State of Illinois, I now ask consent that the Senate be in a period for morning business.

Without objection, it is so ordered.

COMMITTEE ON APPROPRIATIONS RULES—107TH CONGRESS

Mr. STEVENS. Mr. President, the Senate Appropriations Committee has adopted rules governing its procedures for the 107th Congress. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator **Byrd** I ask unanimous consent that a copy of the Committee rules be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Senate Appropriations Committee Rules
107th Congress

I. Meetings

The Committee will meet at the call of the Chairman.

II. Quorums

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. Proxies

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. Attendance of staff members at closed sessions

Attendance of Staff Members at closed sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. Broadcasting and photographing of Committee hearing

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the Full Committee for its decision.

VI. Availability of subcommittee reports

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. Amendments and report language

To the extent possible, amendments and report language intended to be proposed by Senators at Full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. Points of order

Any member of the Committee who is floor manager of an appropriation bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.

FALSE CLAIMS ACT

Mr. GRASSLEY. Mr. President, today I want to speak about an important issue for the taxpayers of this country. The government's strongest and most effective tool against fraud is called the False Claims Act. In recent years, the False Claims Act has been under attack from industries targeted by the government's anti-fraud efforts. Since 1986, when Congress passed amendments that I sponsored to toughen the law than $4 billion has been recovered through the False Claims Act. Hundreds of billions more in fraud have been saved through the deterrent effect that this law has upon those who would betray the public's interest.

In addition to the recovery of money and the deterrent effect of this law, the False Claims Act is important for another, perhaps, more important reason. The fact is that the False Claims Act is being used, day after day, by prosecutors to maintain the integrity of countless federal programs funded by American taxpayers. For example, the False Claims Act is being used in the health care industry to ensure that nursing home residents receive quality care.

Included in the anti-fraud arsenal of the False Claims Act is a provision called qui tam. Qui tam is a concept that dates back to feudal times. It allows private citizens who know of fraud against the taxpayers to bring a lawsuit against the perpetrators. In other words, the citizen acts as a partner with the government. As an incentive, the citizen shares in any monetary recovery to the U.S. Treasury. Over the decades, the False Claims Act, and especially the qui tam provisions, proved to be effective, both in catching and deterring fraud.

In considering the nomination of my former colleague, Senator John Ashcroft, for the position of Attorney General of the United States. I asked about his support for False Claims Act and the qui tam provisions. Senator Ashcroft's January 31, 2001 letter assures me that he will not support efforts to weaken the Act, and will support efforts to strengthen it. This pledge of support will ensure that the Department of Justice plays the critical and necessary role of targeting government waste and abuse. Senator Ashcroft assures that he will support "vigorous enforcement of the law" and "will defend the constitutionality of the Act." I appreciate Senator Ashcroft's support for the False Claims Act. He is a man who is dedicated to enforcing the laws of this country and understands the importance of the False Claims Act.

All in all the history of the assault on the False Claims Act sends us on a long and winding road. The False Claims Act is, and will remain, a target of those industries and accept billions and billions of taxpayer dollars annually and balk at strict accountability. I ask only that we, as legislators, remember the historical and current assaults made upon the False Claims Act. I ask further that we agree to be strong despite the strength of an industry, simply because it is the 'right" thing to do. Taxpayers deserve no less—and as legislators, we should deliver no less.

I ask unanimous consent that the January 31, 2001 letter I received from Senator Ashcroft be considered as read and printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 31, 2001.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter of January 30, 2001, concerning the qui tam provisions of the False Claims Act. I believe that the False Claims Act and the qui tam provisions in particular are vital tools in combating government fraud and abuse. I fully support vigorous enforcement of the law.

Tackling government fraud and abuse through the False Claims Act will be an important priority for the Justice Department. Indeed, I expect that the sustained efforts of the Justice Department will in some respects lessen the need for (but not the importance of) private attorneys general acting pursuant to the qui tam provisions of the Act. I can also assure you that I will defend the constitutionality of the Act, like all Acts of Congress, if it is challenged in the courts.

Finally, I assure you that I will not support efforts to weaken the Act, and indeed, will support efforts to strengthen the Act and ensure that the Justice Department plays a critical role in targeting government waste and abuse.

I look forward to working with you on these issues.

Sincerely,

JOHN ASHCROFT.

ADDITIONAL STATEMENTS

RETIREMENT OF HERSCHEL CUTLER

• Mrs. LINCOLN. Mr. President, I rise today to acknowledge the retirement of Dr. Herschel Cutler from the Institute of Scrap Recycling Industries, ISRI. Dr. Cutler, ISRI's former Executive Director, spent the last 33 years of his life teaching the Nation, including the Congress, about the environmental and economic benefits of recycling. In the course of his tenure, ISRI has become a highly respected trade association known for its dedication to both environmental protection and private sector entrepreneurialism. He had a wonderful knack for hiring extraordinary staff. And, by example, Herschel taught them to do their homework, acquire a deep understanding of their issues, keep their standards high, develop reasonable solutions to problems and, with regard to public policy, to never overreach.

Herschel Cutler is not an Arkansan. But, shortly after my first election to serve as a member of the other body, I met him over dinner through fellow Arkansans whose family recycling business was an ISRI member company. During that dinner Herschel gave me a succinct but thorough description of a serious dilemma facing the scrap recycling industry and its possible resolution. After listening to him discuss the concerns facing the many families in the recycling industry, including many Arkansas families, it was easy for me, a farmer's daughter, to identify with a key concern facing them. That is, certain government policies were, inadvertently, having the effect of causing many recycling families to wonder whether they should remain with their businesses.

That dinner was the beginning of a long and fruitful relationship between me, Dr. Cutler, and the entire scrap recycling industry. Herschel Cutler's earnest integrity convinced me that the recyclers' cause was worth fighting for. I began that fight in 1993. It ended in 1999, after I teamed up with Senators DASCHLE and LOTT, BAUCUS, and CHAFEE to amend the Superfund law to correct a mistake directed at recyclers that nobody had intended.

Dr. Herschel Cutler and I have been fast friends ever since. As he retires on January 31, 2001, I cannot thank him enough for his guidance and his counsel to me over the years since we first met. He is truly a modest man of great wisdom, integrity and intellect. Upon his retirement the Washington association community is much the poorer. And with his counsel absent from the daily give and take of public policy discussions in the Congress, so are all of his many friends in both houses.

Herschel, I wish you the best fishing, reading, writing, and teaching in your retirement. I'm sure your legions of friends would agree, your friendship has been a blessing to us all.•

TRIBUTE TO MAJOR GENERAL TIMOTHY P. MALISHENKO, USAF

• Mr. DEWINE. Mr. President, I rise today to pay tribute to Major General Timothy P. Malishenko, USAF, upon his retirement from the United States Air Force after more than 32 years of distinguished and dedicated service to our Nation.

A son of Ohio, Tim Malishenko grew up not far from my Greene County neighborhood, where his mom and dad were customers of my family's seed, grain, and lumber business. After graduating from Fairborn High School, he went on to The Ohio State University, where he earned a degree in business and honors as a distinguished ROTC graduate. This marked the beginning of what developed into an extraordinary Air Force career, in which Tim rose to the pinnacle of the complex and demanding world of Defense acquisition.

As a young officer, Tim Malishenko served in a variety of contracting and contract-administration assignments related to major programs, including the Polaris and Poseidon missiles and the F-15 Radar. His organizational and crisis-management skills came to the fore during the 1974 oil embargo, when, as a charter member of the Air Force Energy Management Division, he worked tirelessly to mitigate the effects of the supply disruption and safeguard America's military readiness.

From there, Tim went on to work in classified space and satellite programs. He graduated from the Armed Forces Staff College, and, with family in tow, headed for Brunssum, The Netherlands, where he was chief of contracting and acquisition for the NATO Airborne Early Warning and Control Programme Management Agency. In the NATO assignment, Tim demonstrated remarkable tact and diplomacy in reconciling the diverse views and priorities of 13 countries.

Returning stateside in 1982, Tim again served in a variety of contracting and contract-administration positions, including high-level management assignments at Wright-Patterson Air Force Base, Ohio, and at Air Force headquarters in Washington, DC. Of particular note during this period was his extensive involvement in the research-and-development contracting for the advanced tactical fighter, integrated avionics, and high-speed integrated circuitry—programs that set the stage for the information technologies and advanced avionics we know today.

Four years ago, General Malishenko was named commander of the Defense Contract Management Command, an organization of more than 14,000 people responsible for the management of 375,000 contracts cumulatively valued at $100 billion. As commander, he was the standard bearer for a revolution in business affairs that led to the conversion of more than 300 business sectors to ISO 9000, to dramatic advances in paperless contracting, and to the design and introduction of the DoD standard procurement system.

The capstone of Tim's military career came on March 27, 2000, when he became the first director of the Defense Contract Management Agency (DCMA), the position he holds at the time of his retirement. In successfully spearheading the establishment of DCMA, Major General Malishenko brought to fruition a recommendation put forth in 1963 by Secretary of Defense Robert McNamara's Project 60, which called for the eventual creation of a separate Defense agency responsible for contract management.

Under the general's direction, DCMA has emerged as a Combat Support Agency—one that has markedly transformed contractor battlefield support, as fully evidenced by DCMA's role in facilitating optimal support to our troops in Bosnia and Kosovo. He also left an indelible mark on DoD's continuing Revolution in Business Affairs, ushering DoD into an era of paperless contracting and electronic business processes. The inception of DCMA is a living testimonial to Tim Malishenko's exemplary leadership, professionalism, and unbounded energy. It is indeed a magnificent example of what can happen when well-tempered foresight converges with present-day diligence.

Whether he was behind the desk in a major program office, on a contractor's plant floor, in a NATO council room, or "in the door" about to parachute into the open skies, Tim Malishenko served with valor, loyalty, and integrity. On the occasion of his retirement from the Air Force, I offer my congratulations and thanks to this esteemed son of the Buckeye state, and wish him and his wife, Jane, well in their future pursuits.•

IN RECOGNITION OF DEBRA L. FERLAND

• Mr. REED. Mr. President, I rise today to pay tribute to Ms. Debra Ferland, who is being installed as the president of the Women's Council of the National Association of Home Builders on February 11, 2001 in Atlanta, Georgia. I would like to thank her for her twenty-three years of work, and honor her for her achievements within the housing industry.

After graduating from the University of Massachusetts at Dartmouth, Debra began her long and admirable career by working for several prominent national property management firms, including Picerne Properties, First Realty Management, and Diversified Properties. She has been a Construction Manager at HUD approved rehabs, consulted for rent supplement and Section 8 programs, and is currently Director of Special Projects at the Ferland Corporation.

Debra has taken an active role in the industry on both a state and national level by assuming numerous leadership roles, including local Council President, Membership Chair, and National Convention Chairman. She has been appointed as a member of both the Labor Shortage Task Force and the National Association of Home Builders Capital Club, and is the Women's Council Life Director.

In addition to her tremendous career achievements, Debra has devoted herself to family, including her husband A. Austin Ferland, her daughter Nicole, and her extended family of Fred, Deborah, and four year old grandson, Ben. She is a chef and an avid golfer, and has displayed her commitment to her local community through Habitat for Humanity, the Lincoln School for Girls, and the Tomorrow Fund.

The citizens of Rhode Island are indeed fortunate for Debra's many contributions and for her ongoing commitment to creating housing opportunities both within our state and nationwide. I congratulate her on the leadership role which she is about to undertake and know that she will continue her good work for years to come.•

SALUTE TO ELUID L. MARTINEZ, COMMISSIONER OF THE BUREAU OF RECLAMATION

• Mr. DOMENICI. Mr. President, I wish to salute my fellow New Mexican, Eluid L. Martinez, who has just finished a remarkable five-year term as Commissioner of the U.S. Bureau of Reclamation. As the first Commissioner to serve in two different centuries, Mr. Martinez assumed control over the nation's second largest wholesale water supplier and hydroelectric producer in the country when he was appointed by the President in 1995.

A native of Cordova in Rio Arriba County, New Mexico, Commissioner Martinez was the first member of his family to receive a college degree. He holds an undergraduate degree in civil engineering from New Mexico State University and is a licensed Professional Engineer and Land Surveyor.

During his tenure Commissioner Martinez has been recognized by many Reclamation stakeholders for his even-handed approach in addressing western water and power issues. He received the Statesman of the Year award by the National Water Resources Association in November, 2000, for his diligence in helping solve the chronic water shortages in the western United States. He has been responsible for implementing the Bureau of Reclamation transition to a water resources agency with responsibilities for delivering project benefits while balancing the conflicting demands of Reclamation's constituencies.

Commissioner Martinez's professionalism and expertise in his field has gained him the respect of all members of Congress who have worked with him.

Commissioner Martinez has been a leader in privatizing Reclamation projects wherever possible, returning projects to the users who paid for them. He has been an important factor in implementing legislatively mandated environmental requirements, and trying to stretch a finite supply of water to an ever thirsty West. Commissioner Martinez has endeavored to create a more diverse workforce to ensure a future supply of capable individuals for the Federal government. In fact, preparing for the future is one of Commissioner Martinez's hallmarks of achievement.

Before entering Federal service, Eluid Martinez retired as the State Engineer for New Mexico. He has served as Secretary of the New Mexico Interstate Stream Commission, as the New Mexico Commissioner to six Interstate Compact Commissions, and as a member of the New Mexico Water Quality

Commission. He has held executive positions in 12 regional and national water associations, but, as the parent of three children, took the time to run for and serve as President of the City of Santa Fe School Board.

Filling many positions over a 27 year career in the State Engineer's office, Eluid Martinez developed many skills that served him well as Commissioner of the Bureau of Reclamation. His service in New Mexico started with the State Highway Department in 1968 and subsequently in the State Engineer's Office included positions as Chief of the Hydrographic Survey Section, Acting Chief of the Administrative Services Division, Acting Chief of the Water Use and Planning Section, Chief of the Technical Division, principal Hearing Examiner for the State Engineer, and ultimately State Engineer from 1990 to 1994.

I am proud to count as a friend such a hardworking fellow native of New Mexico, who has made the most of his opportunities. Eluid Martinez has performed a valuable service to the Nation and especially to the people of the West in both his state and Federal positions.

In addition to his extensive administrative abilities Mr. Martinez hails from a rich heritage of nine generations of woodcarvers, or santeros. He is the nephew of internationally famous Santero Woodcarver and sculptor George Lopez of Cordova.

Eluid himself is also a quite talented artist and I was very honored to have received several of his beautiful drawings. The fact that Eluid's sculptures, lithographs, and prints reside in the permanent collections of the Smithsonian Institution's American Art Museum, the Colorado Springs Fine Arts Center, the Denver Art Museum and other major collections adds to and broadens his legacy to the United States and his home state of New Mexico.

Eluid will be a tough act to follow and I hope that his successor will have an understanding of western water issues and will continue working to achieve a balance between New Mexico's many competing interests.

I know that as he leaves the demanding job of Commissioner, Eluid and his wife, Suzanne, are looking forward to spending more time in our beautiful home state of New Mexico.●

TRIBUTE TO THOMAS C. RYAN

• Mr. JEFFORDS. Mr. President, today I rise to pay tribute to a man of true courage, a man of boundless compassion, and a man of great character. Today, I rise to pay tribute to fellow Rutland, Vermont resident and friend to many, Tom Ryan.

Tom was born October 14, 1930, the son of Charles F. and Mary Ryan. He graduated from Mt. St. Joseph Academy in 1948, from Georgetown University, Magna Cum Laude, in 1952 and the Wharton School of Business MBA program in 1955.

Bound by a sense of duty and service to country, Tom courageously served as a captain in the U.S. Air Force during the Korean War, and later continued his service in the Reserves.

Tom was a skilled banker and a businessman, yet he was always more focused on people than on profit. In his eloquent eulogy, Stephen K. Ryan called his father, Tom a "leader," and I can't think of a more dedicated community leader than Tom. He served on numerous boards, including: the Vermont Achievement Center; Vermont Children's Aid Society; Small Business Investment Corp.; Economic Development Council for Southwestern Vermont; Vermont Development Credit Corp.; Vermont Bankers Association; Rotary Club; Rutland Downtown Development Corp.; Rutland County Solid Waste; United Way; Paramount Theatre; Rutland West Neighborhood Housing; and College of St. Joseph. I worked together with Tom in the effort to restore the Paramount Theatre to its original grandeur, and I'm so glad he was able to witness the fruits of his labor and the recent revitalization of our historic downtown.

Stephen mentioned that Tom was "proudest of the twelve years he served on the board of Rutland Hospital; bringing a better standard of care to the Rutland Region." As Chairman of the Senate Health Committee, I know that health care is one of the most important issues facing our country today, and I have enormous respect for those individuals working hard on the local level to improve the lives of patients and their families.

Stephen stated that Tom "was involved in politics, but he was not political." He ran for lieutenant governor in 1982, state senate in 1990, and was appointed to the state transportation board in 1991. In every political endeavor, Tom was passionate but respectful, tough but civil.

My wife, Liz, knew Tom's lovely wife, Mary, through their mutual interest in quilting. Liz used to tell me how Tom was an avid gardener, constantly improving the landscape surrounding their house and tending to his gardens. He loved his gardens so much, in fact, that family and friends were known to give him rocks for his birthday!

But Liz and I both know that his greatest love was for Mary and their wonderful children, Stephen of Reston, Virginia, Kate Ryan Whittum of Intervale, New Hampshire, and Maura C. Ryan of Portland, Maine. He had his priorities in line and was always there for his loved ones.

The editorial in the Rutland Daily Herald on December 18th, stated, "If any single word were appropriate for Tom Ryan, it would be 'kindness.'" For me, it would be hard to describe Tom in one word, for he exemplified so many qualities for so many people. You will be greatly missed, Tom, but your legacy will live on in our hearts, our minds and your work that we will strive to continue.●

A TRIBUTE TO BERNARD R. DICK

• Mr. JEFFORDS. Mr. President, I stand before you today to pay tribute to Bernard R. Dick, a distinguished citizen of my hometown, Rutland, Vermont, and a man who I have deeply respected and admired my entire life. I thought highly of Bernie's talent as a lawyer, respected immensely his service to his country, and admired his devotion to family and community.

I ask that The Rutland Daily Herald editorial from January 8, 2001, be included in the record as part of this tribute:

> The death of Bernard R. Dick this past weekend marks the end of another distinguished and longtime Rutland legal career. Only recently came the deaths of two other local attorneys of note—Bartley J. Costello and Thomas Ryan.
>
> Bernie Dick, born in 1909 to a Rutland family, was a whiz at baseball at Rutland High School, where he made his mark as varsity catcher. It was a role he remembered long after he reached adulthood, and for years he could be seen in the audience when the RHS baseball team played home games.
>
> His education was quite varied. After graduating from Rutland High he went to the University of Alabama. After college graduation in 1931 he studied law at New York University. He was admitted to the bar in Vermont in 1937.
>
> As with many young men of his time, Bernie Dick was swept up in the swirl of World War II. Eventually, after Pearl Harbor, he enlisted in the Army as a private in November 1942. Because of his law degree he was stationed in Hawaii, where by 1946 he had reached the rank of captain.
>
> In Hawaii he became chief of the claims division of the central Pacific area, and for his work received the 'Army Commendation Ribbon.' The citation said, in part: 'He reviewed and made recommendations for the payment, disallowance or collection of almost 1,000 claims. So expert were his decisions that no claim reviewed by him and subsequently appealed has been reversed. He demonstrated a high degree of professional skill and efficiency.'
>
> After his honorable discharge in 1946, Dick returned to Rutland and resumed his practice in the law firm of Bove, Billado and Dick. It was an active law firm in many fields, including politics. The senior partner, Peter A. Bove, was an active supporter of Gov. Ernest W. Gibson and U.S. Sen. George D. Aiken. Francis Billado ultimately went to the Legislature and was elected Vermont adjutant general, a post he held until his death.
>
> In legal practice Dick was the one who kept to the daily grind, but the three partners shared ownership with some Castleton people to run a popular summer dance hall at Bomoseen and the Crystal Beach facility on Lake Bomoseen, among several enterprises.
>
> In 1947 Dick was named judge of the Rutland Municipal Court, in line with the policy of Governor Gibson, himself a veteran, to

name veterans to public posts. The municipal court system preceded the present system of district courts, and there was political guessing as to who would be named by the governor. His Army experience served him well, and Dick served four years.

After the departure of Bove and Billado to other jobs, Bernie Dick ran his own practice for a while, and in 1949 formed a new legal association with Donald A. Hackel and Richard A. Hull. It was the latest step in a long and varied Rutland legal career.

Bernie, you will be sorely missed by all those who knew you, and by an entire community who benefitted from your knowledge, hard work and many talents.●

A TRIBUTE TO BARTLEY J. COSTELLO

● Mr. JEFFORDS. I rise today to pay tribute to a great Vermonter and a native son from my hometown of Rutland, Bartley J. Costello.

Bart will be remembered by all who knew him for his commitment to church and family, dedication to community and country, and generosity to his fellow man. A lifelong resident of Rutland, he gave much of himself to our great city, through charities, community organizations and Christ the King Church.

Bart was educated at Holy Innocents Primary School, Mount St. Joseph Academy, the University of Vermont and Albany Law School. His first job was as a teacher at the Muddy Brook School in Williston. He returned to Rutland to work at Howe Scale Co. and served as the assistant Rutland City Treasurer before joining the U.S. Army Air Corps and serving his country in World War II. He reached the rank of Captain before being discharged at the end of the war and returning home to Rutland.

A lawyer in Rutland for forty years with the firm of Webber and Costello, later Webber, Costello and Chapman, Bart was a distinguished member of the Bar, deeply respected and admired by my father, Chief Justice of the Vermont Supreme Court.

Bart was an excellent trial lawyer and a match for the best. And he had a wonderful sense of humor. Bart loved to tell the story of a jury selection when an aunt of his on the panel remained silent when the opposing attorney asked if any of the jurors knew Mr. Costello. Later, after excusing his aunt for obvious reasons, Bart asked her why she had kept quiet. "Well," she said, "I felt you would need all the help you could get."

I also knew him as an avid golfer and consummate sportsman. He and his lovely wife, Catherine, who survives him, were the perfect golfing couple, courteous and competitive, fun-loving and intense.

Bart, as well as Catherine, were blessed with four outstanding sons, Bartley III and Thomas, who are trial lawyers in Albany, NY and Brattleboro, Brian, an award winning school teacher in Rutland, and Barry, a Rear Admiral in the U.S. Navy, currently with the Pentagon staff.

He served his community on many boards and organizations. He was a past Grand Knight at the Knights of Columbus, President of Vermont State Holy Name Society, Rutland Chamber of Commerce, Rutland Country Club and Rutland Regional Medical Center. He was elected to and served on the board of directors of Marble Savings Bank and the Rutland City School Board.

The Rutland Daily Herald had high praise for Bart, stating that he, ". . . left lasting marks for good on [his] native city." He was a man who loved life and was loved by all who knew him. We won't forget you, Bart.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–552. A communication from the Secretary of Energy and the Secretary of Labor, transmitting jointly, a draft of a proposed legislation entitled "Energy Employees Occupational Illness Compensation Amendment of 2001" received on January 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. Breaux, Mr. Smith of Oregon, Mr. Cleland, Mr. Murkowski, Ms. Landrieu, Mr. Crapo, Mr. Bayh, Mr. Jeffords, Mr. Kyl, Mr. Roberts, Mr. Helms, Mr. Bunning, Mr. Santorum, Mr. Craig, Mr. Stevens, Mr. Fitzgerald, Mr. Burns, Mr. Gregg, and Mr. Hatch):

S. 234. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

By Mr. McCAIN (for himself, Mrs. Murray, Mr. Hollings, Mrs. Hutchison, Mr. Bingaman, Mr. Domenici, Mr. Breaux, Mr. Brownback, and Mr. Smith of Oregon):

S. 235. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; read the first time.

By Mr. HUTCHINSON:

S. 236. A bill to amend the Internal Revenue Code of 1986 to expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, and for other purposes; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. Cochran, Mr. Frist, Mr. Inhofe, Mr. Lott, Mr. Warner, and Mr. Murkowski):

S. 237. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. Smith of Oregon):

S. 238. A bill to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River Basin, Oregon; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself, Mr. Dodd, Mr. Roberts, Mr. Dorgan, and Mr. Lugar):

S. 239. A bill to improve access to the Cuban market for American agricultural producers, and for other purposes; to the Committee on Foreign Relations.

By Mr. FRIST:

S. 240. A bill to authorize studies on water supply management and development; to the Committee on Environment and Public Works.

By Mr. REID:

S. 241. A bill to direct the Federal Election Commission to set uniform national standards for Federal election procedures, change the Federal election day, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGAMAN (for himself, Mr. Domenici, and Mr. Crapo):

S. 242. A bill to authorize funding for University Nuclear Science and Engineering Programs at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Mr. Bingaman, Mr. Daschle , Mr. Inouye, Mr. Cochran, Mr. Baucus, Mr. Reid, Mr. Akaka, and Mr. Campbell):

S. 243. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN (for herself, Mr. Helms, Mr. Brownback, Mr. Leahy, Mr. Reid, Mr. Nelson of Nebraska, Mrs. Clinton, Mr. Dodd, Mr. Baucus, Mrs. Boxer, Mr. Byrd, and Mr. Carper):

S. 244. A bill to provide for United States policy toward Libya; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself, Mr. LUGAR, Mr. LEVIN, Mr. REID, Mr. GRAHAM, and Mr. WELLSTONE):

S. Con. Res. 7. A concurrent resolution expressing the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. BREAUX, Mr. SMITH of Oregon, Mr. CLELAND, Mr. MURKOWSKI, Ms. LANDRIEU, Mr. CRAPO, Mr. BAYH, Mr. JEFFORDS, Mr. KYL, Mr. ROBERTS, Mr. HELMS, Mr. BUNNING, Mr. SANTORUM, Mr. CRAIG, Mr. STEVENS, Mr. FITZGERALD, Mr. BURNS, Mr. GREGG, and Mr. HATCH):

S. 234. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today, along with Senator BREAUX and others, to introduce a bill to repeal the telephone excise tax—the Help Eliminate the Levy on Locution Act known as the HELLO Act. The telephone excise tax is a tax that is outdated, unfair, and complex for both consumers to understand and for the phone companies to administer. It cannot be justified on any tax policy grounds.

Mr. President, the federal government has had the American consumer on "hold" for too long when it comes to this tax. The telephone excise tax has been around for over 102 years. In fact, it was first imposed in 1898—just 22 years after the telephone itself was invented. So quickly was it imposed that it almost seems that Uncle Sam was there to collect it before Alexander Graham Bell could put down the receiver from the first call. In fact, the tax is so old that Bell himself would have paid it!

This tax on talking—as it is known—currently stands at 3 percent. Today, about 94 percent of all American families have telephone service. This means that virtually every family in the United States must tack an additional 3 percent on to their monthly phone bill. The federal tax applies to local phone service; it applies to long distance service; and it even applies, in some cases to the extra amounts paid for state and local taxes. It is estimated that this tax costs the American public more than $5 billion per year.

The telephone excise tax is a classic story of a tax that has been severed from its original justifications, but lives on solely to collect money.

In truth, the Federal phone tax has had more legislative lives than a cat. When the tax was originally imposed, Teddy Roosevelt was leading the Rough Riders up San Juan Hill. At that time, it was billed as a luxury tax, as only a small portion of the American public even had telephones. The tax was repealed in the early 20th century, but then was reinstated at the beginning of World War I. It was repealed and reinstated a few more times until 1941, when it was made permanent to raise money for World War II. In the mid-60s, Congress scheduled the elimination of the phone tax, which had reached levels of 10 and 25 percent. But once again, the demands of war intervened, as the elimination of the tax was delayed to help pay for Vietnam. In 1973, the phone tax began to phaseout, but one year before it was about to be eliminated, it rose up yet again—this time justified by the rationale of deficit reduction—and has remained with us ever since.

This tax is a perfect example of why we must stop needlessly collecting the taxpayer's money—it does not pass any of the traditional criteria used for evaluating tax policy. First, this phone tax is outmoded. Once upon a time, it could have been argued that telephone service was a luxury item and that only the rich would be affected. As we all know, there is nothing further from the truth today.

Second, the federal phone tax is unfair. Because this tax is a flat 3 percent, it applies disproportionately to low and middle income people. For example, studies show that an American family making less than $50,000 per year spends at least 2 percent of its income on telephone service. A family earning less than $10,000 per year spendings over 9 percent of its income on telephone service. Imposing a tax on those families for a service that is a necessity in a modern society is simply not fair.

Third, the federal phone tax is complex. Once upon a time, phone service was simple—there was one company who provided it. It was an easy tax to administer. Now, however, phone service is intertwined with data services and Internet access, and it brings about a whole new set of complexities. For instance, a common way to provide high speed Internet access is through a digital subscriber line. This line allows a user to have simultaneous access to the Internet and to telephone communications. How should it be taxed? Should the tax be apportioned? Should the whole line be tax free? And what will we do when cable, wireless, and satellite companies provide voice and data communications over the same system? The burdensome complexity of today will only become more difficult tomorrow.

As these questions are answered, we run the risk of distorting the market by favoring certain technologies. There are already numerous exceptions and carve-outs to the phone tax. For instance, private communications services are exempt from the tax. That allows large, sophisticated companies to establish communications networks and avoid paying any federal phone tax. It goes without saying that American families do not have that same option.

Speaking of complexity, let me ask if anyone has taken a look at their most recent phone bill. It is a labyrinth of taxes and fees piled one on top of another. We may not be able to figure out what all the fees are for; but we do know that they add a big chunk to our phone bill. According to a recent study, the mean tax rate across the country on telecommunications is slightly over 18 percent. That is about a 6 percent rise in the last 10 years. I can't control the state and local taxes that have been imposed, but I can do my part with respect to the federal taxes. I seek to remove this burden from the citizens of my state—and all Americans across the country.

As members of Congress, we need to make sure that our tax policies do not stifle that economic expansion. We should not adhere to policies that are a relic from a different time. In today's economy, the arguments for repeal are even stronger.

Mr. President, it is time to end the federal phone tax. For too long while America has been listening to a dial tone, Washington has been hearing a dollar tone. This tax is outmoded. Why are we taxing a poor family's phone with a tax that was originally meant for luxury items. Mr. President, it is time we hung up the phone tax once and for all. I urge my colleagues to join me in supporting its repeal, and help all Americans to say "Hello."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Eliminate the Levy on Locution (HELLO) Act.".

SEC. 2. REPEAL OF EXCISE TAX ON TELEPHONE AND OTHER COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by striking subchapter B.

(b) CONFORMING AMENDMENTS.—

(1) Section 4293 of such Code is amended by striking "chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33," and inserting "and chapter 32 (other than the taxes imposed by sections 4064 and 4121),".

(2)(A) Paragraph (1) of section 6302(e) of such Code is amended by striking "section 4251 or".

(B) Paragraph (2) of section 6302(e) of such Code is amended by striking "imposed by—"

and all that follows through "with respect to" and inserting "imposed by section 4261 or 4271 with respect to".

(C) The subsection heading for section 6302(e) of such Code is amended by striking "COMMUNICATIONS SERVICES AND".

(3) Section 6415 of such Code is amended by striking "4251, 4261, or 4271" each place it appears and inserting "4261 or 4271".

(4) Paragraph (2) of section 7871(a) of such Code is amended by inserting "or" at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(5) The table of subchapters for chapter 33 of such Code is amended by striking the item relating to subchapter B.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid pursuant to bills first rendered on or after 30 days after the date of the enactment of this Act.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 238. A bill to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River Basin, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I am introducing today legislation that will allow the Bureau of Reclamation to conduct a feasibility study on ways to improve water management in the Malheur, Owyhee, Powder and Burnt River basins in northeastern Oregon. An earlier study by the Bureau identified a number of problems on these four Snake River tributaries, including high water temperatures and degraded habitat.

These types of problems are not unique to these rivers; in fact, many rivers in the Pacific Northwest are in a similar condition. However, Oregon has a unique approach to solving these problems through the work of Watershed Councils. In these Councils, local farmers, ranchers and other stakeholders sit down together with the resource agencies to develop action plans to solve local problems.

The Council members have the local knowledge of the land and waters, but they don't have technical expertise. The Bureau of Reclamation has the expertise to collect the kinds of water flow and water quality data that are needed to understand how the watershed works and how effective different solutions might be.

One class of possible solutions includes small-scale construction projects, such as upgrading of irrigation systems and creation of wetlands to act as pollutant filters. This legislation would allow the Bureau of Reclamation to partner with the Watershed Councils in determining how such small-scale construction projects might benefit both the environment and the local economy.

This bill authorizes a study; it does not authorize actual construction. It simply enables the Bureau to help find the most logical solution to resource management issues.

Last Congress, the Senate passed the same bill I am introducing today. However, the other body did not act on the legislation before the last Congress adjourned.

I look forward to prompt action to enact this bill in the current Congress. I welcome my colleague, Mr. SMITH, as an original cosponsor of this bill.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2001".

SEC. 2. STUDY.

The Secretary of the Interior may conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. HAGEL (for himself, Mr. DODD, Mr. ROBERTS, Mr. DORGAN, and Mr. LUGAR):

S. 239. A bill to improve access to the Cuban market for American agricultural producers, and for other purposes; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, today I am introducing legislation to correct problems with a provision enacted last fall in the fiscal year 2001 agriculture appropriations bill. I am pleased to be joined as original cosponsors by my distinguished colleagues, Senators DODD, LUGAR, ROBERTS, and DORGAN.

The provision contained in the fiscal year 2001 agriculture appropriations bill was a revised version of legislation originally introduced last Congress by former Senator Ashcroft and me, together with Senators DODD, LUGAR, ROBERTS, and many others. The purpose of our bill was to lift all unilateral economic sanctions on the export of American food and medicine. Passage of this provision acknowledges what most Nebraska grain and livestock producers have always known—when the United States places unilateral sanctions on other nations, American producers are hurt, not the sanctioned nation.

As the world leader in the development of pharmaceuticals and medical devices, America plays a critical role in helping prolong and improve the quality of people's lives. Ensuring that these products and therapies are available to people all over the world not only benefits American businesses and workers, but also reinforces America's image as a country of both innovation and compassion.

The provision enacted in the fiscal year 2001 agriculture appropriations bill was changed, however, in the conference committee with the House of Representatives. The final legislation blocked—only for sales to Cuba—access to normal export financing in the U.S. private sector. Thus, while claiming to open up the Cuban market for the export of American agricultural and medical products, it placed restrictions making American exports uncompetitive. Finally, the provision codified new restrictions on the ability of Americans to travel to Cuba.

The Cuba Food and Medicine Access Act of 2001 would correct those mistakes by repealing the new travel restrictions and permitting normal credit and financing support for food and medicine exports to Cuba.

As we rewrite the farm bill we should begin by delivering on a promise we made last year to end unilateral sanctions on our own farmers, ranchers, and agricultural producers.

But this issue goes beyond increased commercial opportunity. The export of American food and medicine is also a humanitarian undertaking. Blocking exports in these commodities harm the health and nutrition of the people of the sanctioned nation. It does nothing to harm governments and government leaders with which we disagree. Until last year, food sales to Cuba were prohibited except to independent importers, which did not exist. And while medical sales to Cuba were theoretically possible, licensing procedures were so difficult and complicated that they had the effect of severely restricting such exports. Last year's bill went part of the way to clear away these impediments. We should now finish the job.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cuba Food and Medicine Access Act of 2001".

TITLE I

SEC. 10. LIMITATION ON PROHIBITIONS AND RESTRICTIONS ON TRADE WITH CUBA TO ALLOW FOR THE EXPORT OF FOOD AND MEDICINES TO CUBA.

Notwithstanding the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106-387, and as contained in the appendix of that Act) (except section 904 of such Act) or any other provision of law (except section 11 of this Act).

the prohibition or restriction on trade or financial transactions with Cuba shall not apply with respect to the export of any agricultural commodities, medicines, or medical devices, or with respect to travel incident to the sale or delivery of agricultural commodities, medicines, or medical devices, to Cuba.

SEC. 11. LIMITATION ON EXCEPTION TO ALLOW FOR THE EXPORT OF FOOD AND MEDICINE TO CUBA.

Section 10 of this Act shall not apply—

(1) with respect to restrictions imposed under section 5 of the Export Administration Act of 1979 for goods containing parts or components on which export controls are in effect under that section; and

(2) with respect to section 203 of the International Emergency Economic Powers Act, to the extent the authorities under that section are exercised to deal with a threat to the national security of the United States by virtue of the technology incorporated in such goods.

SEC. 12. LIFTING CERTAIN PROHIBITIONS ON VESSELS ENTERING U.S. PORTS.

Sanctions pursuant to Section 1706(b) of Title XVII of PL 102–484 (Cuban Democracy Act of 1992) shall not apply with respect to vessels which have transported food or medicine to Cuba.

SEC. 13. STUDY AND REPORT RELATING TO EXPORT PROMOTION AND CREDIT PROGRAMS FOR CUBA.

Title IV of the Agricultural Trade act of 1978 (7 U.S.C. 5661 et seq.) is amended by adding at the end the following:

"SEC. 418. STUDY AND REPORT RELATING TO EXPORT PROMOTION AND CREDIT PROGRAMS FOR CUBA.

"(a) STUDY.—The Secretary shall carry out a study of existing United States agricultural export promotion and credit programs to determine how such programs can be carried out to promote the consumption of United States agricultural commodities in Cuba.

"(b) REPORT.—Not later than 90 days after the date of the enactment of this section, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

"(1) the results of the study carried out under subsection (a); and

"(2) proposed legislation, if any, to improve the ability of the Secretary to utilize United States agricultural export promotion and credit programs with respect to the consumption of United States agricultural commodities in Cuba.".

SEC. 14. REPORT TO CONGRESS.

Not later than 6 months after the date of the enactment of this Act, the President shall transmit to the Congress a report that sets forth—

(1) the extent (expressed in volume and dollar amounts) of sales to Cuba of agricultural commodities, medicines, and medical devices, since the date of the enactment of this Act;

(2) a description of the types and end users of the goods so exported; and

(3) whether there has been any indication that any medicines, or medical devices exported to Cuba since the date of the enactment of this Act—

(A) have been used for purposes of torture or other human rights abuses;

(B) were reexported; or

(C) were used in the production of any biotechnological product.

SEC. 15. DEFINITIONS.

(1) "AGRICULTURAL COMMODITY.—The term "agricultural commodity"—

(A) has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(B) includes fertilizer and organic fertilizer, except to the extent provided pursuant and organic fertilizer, except to the extent provided pursuant to Section 904 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106–387, and as contained in the appendix of that Act).

(2) MEDICAL DEVICE.—The term "medical device" has the meaning given the term "device" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) MEDICINE.—The term "medicine" has the meaning given the term "drug" in section 201 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 7321).

TITLE II

SEC. 20. REPEAL OF CODIFICATION OF TRAVEL RESTRICTIONS BY AMERICAN CITIZENS TO CUBA.

Section 910 of the Trade Sections Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106–387, and as contained in the appendix of that Act) is hereby repealed.

Mr. ROBERTS. Mr. President, I rise today once again to introduce legislation to enhance trade provisions from Title Nine of the fiscal year 2001 agriculture appropriations bill.

The legislation that I join with my colleagues to introduce today, the Cuba Food & Medicine Access Act of 2001, exempts, among other things, the sale of agricultural commodities from the financing and licensing restrictions of Title Nine of last year's agriculture appropriations bill, also known as the Trade Sanctions Reform & Export Enhancement Act.

Last week, Senator DORGAN and I introduced similar corrective legislation. Title Nine of the fiscal year 2001 agriculture appropriations bill made significant progress toward ending the misguided policy of using unilateral food sanctions to isolate or punish so-called "countries of concern". Title Nine holds that "The President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act." That is indeed progress, Mr. President.

As I noted last week with my friend from North Dakota, however, Title Nine prohibits basic facilitators to trade—financing and export promotion. The Trade Sanctions Reform & Export Enhancement Act effectively thwarts U.S. agricultural trade with Cuba.

It is that reality that prompts me to introduce and support as many legislative vehicles as I can toward repealing the prohibitions in last year's bill and opening the Cuban market to American agricultural commodities.

There has been much talk about the importance of American tourist travel to Cuba—this is true and I have stated it repeatedly. The Trade Sanctions Reform & Export Enhancement Act's tourist travel ban stifles the most powerful influence on Cuban society: American culture and perspective, both economic and political.

Consistent with the Dorgan-Roberts bill introduced last week, the codification of tourist travel restrictions is repealed under the Cuba Food & Medicine Access Act of 2001 as are restrictions on the sale of medicine and medical products. Further, the trade of both food and medicine is enhanced by nullifying a provision of the Cuban Democracy Act of 1992, which prohibits ships entering ports in Cuba from visiting U.S. ports for at least 180 days without a special license.

Today, however, I want to place more emphasis on the agricultural trade issue. The U.S. cannot afford to rule out any market for our agricultural commodities. Now more than ever, as new markets develop and our competitors seize those opportunities, it makes no sense to preclude the use of export promotion programs nor outlaw private U.S. financing. It is nonsense to isolate our farmers in this fashion.

Section 908 of the fiscal year 2001 agriculture appropriations bill reads "no United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba." Section 908 goes on to state, incredibly, that "no United States person may provide payment or financing terms for sales of agricultural commodities or products to Cuba or any person in Cuba."

It's quite clear, Mr. President, the intent of this provision is to keep the Cuban market cut off from America's farmers. This is unacceptable.

If it's not to keep the Cuban market cut off, then what is the policy? What are our farmers supposed to do when faced with this kind of contradictory and politicized language: You are permitted to sell to Cuba but don't bother trying? We are either going to encourage and facilitate global agricultural trade or we are going to discourage and complicate global agricultural trade. You can't have it both ways.

Why is this significant in regards to Cuba? Let us sample some recent statistics provided by the U.S.-Cuba Trade & Economic Council, based in New York City: Wheat exports from Canada to Cuba in 1999 and 2000—730,000 tons; corn exports from China to Cuba in 2000—26,101 tons; and rice exports from China to Cuba in 2000—225,510 tons.

No, Cuba is not the largest market, Mr. President, but the point is, our farmers should be able to compete for that business. It's our obligation to at least permit such an opportunity.

By Mr. FRIST:

S. 240. a bill to authorize studies on water supply management and development; to the Committee on Environment and Public Works.

Mr. FRIST. Mr. President, today, I introduce the Water Resource Study Act of 2001. The purpose of this bill is to ensure an adequate supply of fresh water for Tennessee's future.

Currently, Tennessee is one of the fastest growing states in the country. We rank 9th out of the 50 states in projected population growth over the next 25 years. Though we welcome this growth, it is beginning to place a strain on our water supply. For example, public water use increased from 380 million gallons in 1960 to 777 million gallons in 1995. As industry and population increase, it will not be long before growth outpaces available water supply. We must act now to avoid serious problems.

Specifically, this legislation would allow Tennessee to work with the Secretary of the Army, acting through the Chief of Engineers, to select a geographical area within the state having "consistent, emerging water supply needs" and to take a serious look at the water supply in that particular area. After gathering relevant data, the study would consider available federal resources, identify areas for improvement and detect outdated programs. It would also begin determining the appropriate role of the federal government in helping local communities to develop an adequate water supply.

This legislation is not the full solution, but it will assist in understanding the complexity of water supply development and the different alternatives to meeting future water supply needs. It is a good step in addressing this important issue for all Tennesseans.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Resource Study Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) water resources in the United States are among the most plentiful in the world;

(2) for many years, the effective development and use of water resources in the United States has been the focus of a wide array of Federal policies and programs;

(3) in recent years, unprecedented growth, multiple competing water uses, and growing public interest in environmental protection have combined to create an atmosphere of conflicting policy interests;

(4) large-scale water conflicts continue to emerge between communities, States, and stakeholder interests in the southeastern region of the United States; and

(5) Federal support is needed to assess the utility and effectiveness of current Federal policies and programs as they relate to resolving State and local water supply needs.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(2) STATE.—The term "State" means the State of Tennessee.

SEC. 4. STUDIES ON EMERGING WATER SUPPLY NEEDS.

(a) DESIGNATION.—The Secretary shall offer to provide assistance to the State to conduct studies under this section.

(b) STUDIES.—As a condition of receiving assistance under this section, not later than 1 year after the date of enactment of this Act, in consultation with the Secretary, the State shall—

(1) select a geographic area within the State having consistent, emerging, water supply needs; and

(2) conduct a study on the emerging water supply needs of the geographic area.

(c) ADMINISTRATION.—A study conducted under this section shall—

(1) identify Federal and State resources, assistance programs, regulations, and sources of funding for water supply development and management that are applicable to the geographic areas selected under subsection (b)(1);

(2) identify potential weaknesses, redundancies, and contradictions in those resources, assistance programs, regulations, policies, and sources of funding;

(3) conduct a water resource inventory in the geographic study area to determine, with respect to the water supply needs of the area—

(A) projected demand;

(B) existing supplies and infrastructure;

(C) water resources that cannot be developed for water supplies due to regulatory or technical barriers, including—

(i) special aquatic sites (as defined in section 330.2 of title 33, Code of Federal Regulations (or a successor regulation)); and

(ii) bodies of water protected under any other Federal or State law;

(D) water resources that can be developed for water supplies, such as sites that have few, if any, technical or regulatory barriers to development;

(E) any water resources for which further research or investigation, such as testing of groundwater aquifers, is required to determine the potential for water supply development for the site;

(F) a description of the social, political, institutional, and economic dynamics and characteristics of the geographic study area that may affect the resolution of water supply needs;

(G) incentives for cooperation between water districts, local governments, and State governments, including methods that maximize private sector participation in the water supply development; and

(H) new water resource development technologies that merit further analysis and testing.

(d) LEAD AGENCY.—For each study under this section, the Corps of Engineers—

(1) shall be the lead Federal agency; and

(2) shall consult with the State for guidance in the development of the study.

(e) PARTICIPANTS.—

(1) IN GENERAL.—The United States Geological Survey and the Tennessee Valley Authority shall participate in the study.

(2) ENTITIES SELECTED BY THE STATE.—In consultation with the Secretary, the State shall select additional entities to participate in the study.

(3) UNIVERSITY OF TENNESSEE.—The University of Tennessee may elect to participate in the study.

(f) FUNDING.—The Federal share of each study under this section shall be 100 percent.

(g) REPORT.—Not later than 180 days after the completion of a study under this section, the State shall submit a report describing the findings of the study to—

(1) the Committee on Resources of the House of Representatives; and

(2) the Committee on Environment and Public Works of the Senate.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2002.

By Mr. REID:

S. 241. A bill to direct the Federal Election Commission to set uniform national standards for Federal election procedures, change the Federal election day, and for other purposes; to the Committee on Rules and Administration.

Mr. REID. Mr. President, I rise today to introduce the National Election Standards Act of 2001.

The entire nation was disgusted by the presidential election of 2000. That election revealed the flaws in our election process to the entire world. America is the greatest country—and the oldest democracy—in the world, and we can do better.

The most fundamental premise of democracy is that every vote is counted. But the reality is that votes cast in wealthier parts of the country frequently count more than votes cast in poorer areas, because wealthier districts have better, more accurate, more modern and less error-prone counting machines than poorer precincts and districts. Some counties in this nation are using voting machines and vote-counting machines that are 50, 60, 70 years old, and that have error rates of 3 or more percent. In the wealthiest nation in the world, that is simply unacceptable.

Today, I am introducing a bill that will give the Federal Election Commission the authority to issue uniform federal regulations governing registration, access to polling places, voting machines, and vote-counting procedures in federal elections across the country. Unlike some other proposals introduced this Congress, these regulations will be binding on states and localities. The Commission will also be authorized to set deadlines for states and localities to comply, and to provide the necessary federal funding to enable them to comply.

My bill will also require states to allow voters to register on the same day that they vote, and will move federal election days from the current Tuesday, to the preceding Saturday and Sunday. By simplifying registration, by allowing voters to vote on weekends, and extending election day to two days instead of one, more voters will be able to participate in federal elections more easily. I believe these changes will go a long way toward improving our atrocious voter turnout rates, and help restore some of the confidence in our election process that many Americans lost during the last election.

I urge my colleagues to join me in this effort.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. CRAPO):

S. 242. A bill to authorize funding for University Nuclear Science and Engineering Programs at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for the Office of Nuclear Energy, Science and Technology to reverse a serious decline in our nation's educational capability to produce future nuclear scientists and engineers. This bi-partisan bill which is referred to as the "Department of Energy University Nuclear Science and Engineering Act" is cosponsored by my colleagues Mr. DOMENICI and Mr. CRAPO. Let me outline how serious this decline is, after doing so I will outline its impact on our nation and then discuss how this bill attempts to remedy this situation.

As of this year, the supply of four-year trained nuclear scientists and engineers is at a 35-year low. The number of four-year programs across our nation to train future nuclear scientists has declined to approximately 25—a 50 percent reduction since about 1970. Two-thirds of the nuclear science and engineering faculty are over age 45 with little if any ability to draw new and young talent to replace them. Universities across the United States cannot afford to maintain their small research reactors forcing their closure at an alarming rate. This year there are only 28 operating research and training reactors, over a 50 percent decline since 1980. Most if not all of these reactors were built in the late 1950's and early 60's and were licensed initially for 30 to 40 years. As a result, within the next five years the majority of these 28 reactors will have to be relicensed. Relicensing is a long, lengthy process which most universities cannot and will not afford. Interestingly, the employment demand for nuclear scientists and engineers exceeds our nation's ability to supply them. This year, the demand exceeded supply by 350, by 2003 it will be over 400. Our current projections are that in five years 76 percent of the nation's nuclear workforce can retire, the university pipeline of new scientists and engineers is moving in the wrong direction to meet this national problem.

These human resource and educational infrastructure problems are serious. The decline in a competently trained nuclear workforce affects a broad range of national issues.

We need nuclear engineers and health physicists to help design, safely dispose and monitor nuclear waste, both civilian and military.

We rely on nuclear physicists and scientists in the field of nuclear medicine to develop radio isotopes for the thousands of medical procedures performed everyday across our nation—to help save lives.

We must continue to operate and safely maintain our existing supply of fission reactors and respond to any future nuclear crisis worldwide—it takes nuclear scientists, engineers and health physicists to do that.

Our national security and treaty commitments rely on nuclear scientists to help stem the proliferation of nuclear weapons whether in our national laboratories or as part of worldwide inspection teams in such places as Iraq. Nuclear scientists are needed to convert existing reactors worldwide from highly enriched to low enriched fuels.

Nuclear engineers and health physicists are needed to design, operate and monitor future Naval Reactors. The Navy by itself cannot train students for their four year degrees—they only provide advance postgraduate training on their reactor's operation.

Basically, we are looking at the potential loss of a 50 year investment in a field which our nation started and leads the world in. What is worse, this loss is a downward self-feeding spiral. Poor departments cannot attract bright students and bright students will not carry on the needed cutting edge research that leads to promising young faculty members. Our system of nuclear education and training, in which we used to lead the world, is literally imploding upon itself.

I've laid out in this bill some proposals that I hope will seed a national debate in the upcoming 107th Congress on what we as a nation need to do to help solve this very serious problem. It is not a perfect bill, but I think it should start the ball rolling. I welcome all forms of bipartisan input on it. I hope that my colleagues in the House Science Committee looks favorably at this worthy effort and I would suggest joint hearings so that we as a Congressional body can hear together the testimony on the serious decline that we now face. My staff has worked from consensus reports from the scientific community developed by the Nuclear Energy Advisory Committee to the Department of Energy's Office of Nuclear Science and Technology, in particular its subcommittee on Education and Training. The report is available on the Office's website. I encourage everyone to read and look at these startling statistics.

Here is an outline of what is in the bill.

First and foremost, we need to concentrate on attracting good undergraduate students to the nuclear sciences. I have proposed enhancing the current program which provides fellowships to graduate students and extends that to undergraduate students.

Second, we need to attract new and young faculty. I've proposed a Junior Faculty Research Initiation Grant Program which is similar to the NSF programs targeted only towards supporting new faculty during the first 5 years of their career at a university. These first five years are critical years that either make or break new faculty.

Third, I've proposed enhancing the Office's Nuclear Engineering Education and Research Program. This program is critical to university faculty and graduate students by supporting only the most fundamental research in nuclear science and engineering. These fundamental programs ultimately will strengthen our industrial base and over all economic competitiveness.

Fourth, I've strengthened the Office's applied nuclear science program by ensuring that universities play an important role in collaboration with the national labs and industry. This collaboration is the most basic form of tech transfer, it is face-to-face contact and networking between faculty, students and the applied world of research and industry. This program will ensure a transition between the student and their future employer.

Finally, I've strengthened what I consider the most crucial element of this program—ensuring that future generations of students and professors have well maintained research reactors.

I've proposed to increase the funding levels for refueling and upgrading academic reactor instrumentation.

I propose to start a new program whereby faculty can apply for reactor research and training awards to provide for reactor improvements.

I have proposed a novel program whereby as part of a student's undergraduate and graduate thesis project, they help work on the re-licensing of their own research reactors. This program must be in collaboration with industry which already has ample experience in relicensing. Such a program will once again provide face-to-face networking and training between student, teacher and ultimately their employer.

I have proposed a fellowship program whereby faculty can take their sabbatical year at a DOE laboratory. Under this program DOE laboratory staff can co-teach university courses and give extended seminars. This program also provides for part time employment of students at the DOE labs—we are talking about bringing in new and young talent.

For the research funds allocated, I have permitted portions be used to operating the reactor during the investigation. I make this allocation provided that the investigator's host institution makes a cost sharing commitment in its operation. My intent is clearly not to make the program simply fund the operations and maintenance of university reactors; it must be tied to the bill's research. The cost sharing insures that the host institution does not simply reallocate the funds already committed to operating the reactor.

In making all of these proposals, let me emphasize that each one of these programs I have described is intended to be peer reviewed and to have awards made strictly on merit of the proposals submitted. This program is not a hand out. Each element that I am proposing requires that faculty innovate and compete for these funds. Those institutions that do not win such competitions will have the choice of funding the research reactor activities themselves or consider shutting them down.

I have outlined a very serious problem that if not corrected now will cost far more to correct later on. If the program I have outlined is implemented, then it will strengthen our reputation as a leader in the nuclear sciences, strengthen our national security and our ability to compete in the world market place.

Mr. President, I ask for unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Department of Energy University Nuclear Science and Engineering Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) U.S. university nuclear science and engineering programs are in a state of serious decline. The supply of bachelor degree nuclear science and engineering personnel in the United States is at a 35-year low. The number of four year degree nuclear engineering programs has declined 50 percent to approximately 25 programs nationwide. Over two-thirds of the faculty in these programs are 45 years or older.

(2) Universities cannot afford to support their research and training reactors. Since 1980, the number of small training reactors in the United States have declined by over 50 percent to 28 reactors. Most of these reactors were built in the late 1950s and 1960s with 30- to 40-year operating licenses, and will require re-licensing in the next several years.

(3) The neglect in human investment and training infrastructure is affecting 50 years of national R&D investment. The decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future waste storage issues, maintain basic nuclear health physics programs, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(4) Further neglect in the nation's investment in human resources for the nuclear sciences will lead to a downward spiral. As the number of nuclear science departments shrink, faculties age, and training reactors close, the appeal of nuclear science will be lost to future generations of students.

(5) Current projections are that 76% of the nation's professional nuclear workforce can retire in 5 years, a new supply of trained scientists and engineers is needed.

(6) The Department of Energy's Office of Nuclear Energy, Science and Technology is well suited to help maintain tomorrow's human resource and training investment in the nuclear sciences. Through its support of research and development pursuant to the Department's statutory authorities, the Office of Nuclear Energy, Science and Technology is the principal federal agent for civilian research in the nuclear sciences for the United States. The Office maintains the Nuclear Engineering and Education Research Program which funds basic nuclear science and engineering. The Office funds the Nuclear Energy and Research Initiative which funds applied collaborative research among universities, industry and national laboratories in the areas of proliferation resistant fuel cycles and future fission power systems. The Office funds Universities to refuel training reactors from highly enriched to low enriched proliferation tolerant fuels, performs instrumentation upgrades and maintains a program of student fellowships for nuclear science, engineering and health physics.

SEC. 3. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research and development.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.—In carrying out the program under this Act, the Director of the Office of Nuclear Science and Technology shall—

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 4(b) shall, subject to appropriations, be available for the following research and training reactor infrastructure maintenance and research:

(1) Refueling of research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the U.S. nuclear industry, assistance, where necessary, in relicensing and upgrading training reactors as part of a student training program.

(3) A reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY—DOE LABORATORY INTERACTIONS.—The Secretary of Energy, through the Office of Nuclear Science and Technology, shall develop—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under section 3(b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the area of nuclear science under the mentorship of laboratory staff.

(3) OPERATIONS AND MAINTENANCE.—For the research programs described, portions thereof may be used to supplement operation of the research reactor during investigator's proposed effort provided the host institution provides cost sharing in the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this Act shall be made only after independent merit review.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriate to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this Act:

(1) $30,200,000 for fiscal year 2002.
(2) $41,000,000 for fiscal year 2003.
(3) $47,900,000 for fiscal year 2004.
(4) $55,600,000 for fiscal year 2005.
(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(1):

(1) $3,000,000 for fiscal year 2002.
(2) $3,100,000 for fiscal year 2003.
(3) $3,200,000 for fiscal year 2004.
(4) $3,200,000 for fiscal year 2005.
(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(2):

(1) $5,000,000 for fiscal year 2002.
(2) $7,000,000 for fiscal year 2003.
(3) $8,000,000 for fiscal year 2004.
(4) $9,000,000 for fiscal year 2005.
(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING AND EDUCATION RESEARCH PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(3):

(1) $8,000,000 for fiscal year 2002.
(2) $12,000,000 for fiscal year 2003.
(3) $13,000,000 for fiscal year 2004.
(4) $15,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(5):

(1) $200,000 for fiscal year 2002.
(2) $200,000 for fiscal year 2003.
(3) $300,000 for fiscal year 2004.
(4) $300,000 for fiscal year 2005.
(5) $300,000 for fiscal year 2006.

(f) REFUELING OF RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(1):

(1) $6,000,000 for fiscal year 2002.

(2) $6,500,000 for fiscal year 2003.

(3) $7,000,000 for fiscal year 2004.

(4) $7,500,000 for fiscal year 2005.

(5) $8,000,000 for fiscal year 2006.

(g) RE-LICENSING ASSISTANCE.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(2):

(1) $1,000,000 for fiscal year 2002.

(2) $1,100,000 for fiscal year 2003.

(3) $1,200,000 for fiscal year 2004.

(4) $1,300,000 for fiscal year 2005.

(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(3):

(1) $6,000,000 for fiscal year 2002.

(2) $10,000,000 for fiscal year 2003.

(3) $14,000,000 for fiscal year 2004.

(4) $18,000,000 for fiscal year 2005.

(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY—DOE LABORATORY INTERACTIONS.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(d):

(1) $1,000,000 for fiscal year 2002.

(2) $1,100,000 for fiscal year 2003.

(3) $1,200,000 for fiscal year 2004.

(4) $1,300,000 for fiscal year 2005.

(5) $1,300,000 for fiscal year 2006.

By Mr. JOHNSON (for himself, Mr. BINGAMAN, Mr. DASCHLE, Mr. INOUYE, Mr. COCHRAN, Mr. BAUCUS, Mr. REID, Mr. AKAKA, and Mr. CAMPBELL):

S. 243. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

Mr. JOHNSON. Mr. President, I, along with Senators BINGAMAN, DASCHLE, CAMPBELL, INOUYE, COCHRAN, REID, AKAKA, and BAUCUS am introducing legislation to establish an innovative funding mechanism to enhance the ability of Indian tribes to construct, repair, and maintain quality educational facilities. Representatives from tribal schools in my State of South Dakota have been working with tribes nationwide to develop an initiative which I believe will be a positive first step toward addressing the serious crisis we are facing in Indian education.

Over 50 percent of the American Indian population in this country is age 24 or younger. Consequently, the need for improved educational programs and facilities, and for training the American Indian workforce is pressing. American Indians have been, and continue to be, disproportionately affected by both poverty and low educational achievement. The high school completion rate for Indian people aged 20 to 24 was 12.5 percent below the national average. American Indian students, on average, have scored far lower on the National Assessment for Education Progress indicators than all other students.

By ignoring the most fundamental aspect of education; that is, safe, quality educational facilities, there is little hope of breaking the cycle of low educational achievement, and the unemployment and poverty that result from neglected academic potential.

The Indian School Construction Act establishes a bonding authority to use existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the Nation. Instead of funding construction projects directly, these existing funds will be leveraged through bonds to fund substantially more tribal school construction, maintenance and repair projects.

The Bureau of Indian Affairs estimates the tribal school construction and repair backlog at over $1 billion. Confounding this backlog, inflation and facility deterioration severely increases this amount. The administration's school construction request for fiscal year 2001 was over $62 million. In this budgetary climate, I believe every avenue for efficiently stretching the Federal dollar should be explored.

Tribal schools in my State and around the country address the unique learning needs and styles of Indian students, with sensitivity to Native cultures, ultimately promoting higher academic achievement. There are strong historical and moral reasons for continued support of tribal schools. In keeping with our special trust responsibility to sovereign Indian nations, we need to promote the self-determination and self-sufficiency of Indian communities. Education is absolutely vital to this effort. Allowing the continued deterioration and decay of tribal schools through lack of funding would violate the Government's commitment and responsibility to Indian nations and only slow the progress of self-sufficiency.

I urge my colleagues to closely examine the Indian School Construction Act and join me in working to make this innovative funding mechanism a reality. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian School Construction Act".

SEC. 2. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) INDIAN.—The term "Indian" means any individual who is a member of a tribe.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRIBAL SCHOOL.—The term "tribal school" means an elementary school, secondary school, or dormitory that is operated by a tribal organization or the Bureau for the education of Indian children and that receives financial assistance for its operation under an appropriation for the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) under a contract, a grant, or an agreement, or for a Bureau-operated school.

(5) TRIBE.—The term "tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40) of the Internal Revenue Code of 1986, including the application of section 7871(d) of such Code. Such term includes any consortium of tribes approved by the Secretary.

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible tribes have the authority to issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools, including the advance planning and design thereof.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), a tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by such bond will be used primarily for elementary and secondary educational purposes for not less than the period such bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction meets the requirements of this subparagraph if such plan—

(i) contains a description of the construction to be undertaken with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been undertaken concerning the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined appropriate by the Secretary.

(C) PRIORITY.—In determining whether a tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to tribes that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List as of FY 2000 of the Bureau of Indian Affairs (65 Fed. Reg. 4623-4624);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) which meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—A tribe may propose in its plan of construction to receive advance planning and design funding from the tribal school modernization escrow account established under paragraph (6)(B). Before advance planning and design funds are allocated from the escrow account, the tribe shall agree to issue qualified tribal school modernization bonds after the receipt of such funds and agree as a condition of each bond issuance that the tribe will deposit into such account or a fund managed by the trustee as described in paragraph (4)(C) an amount equal to the amount of such funds received from the escrow account.

(3) Permissible activities.—In addition to the use of funds permitted under paragraph (1), a tribe may use amounts received through the issuance of a qualified tribal school modernization bond to—

(A) enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms in order to determine the needs of the tribal school and for the design and engineering of the school;

(B) enter into and make payments under contracts with financial advisors, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the tribe in issuing bonds; and

(C) carry out other activities determined appropriate by the Secretary.

(4) Bond trustee.—

(A) In general.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(B) Trustee.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) Content of trust agreement.—A trust agreement entered into by a tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of such bond, a transfer of funds from the tribal school modernization escrow account established under paragraph (6)(B) or from other funds furnished by or on behalf of the tribe in an amount, which together with interest earnings from the investment of such funds in obligations of or fully guaranteed by the United States or from other investments authorized by paragraph (10), will produce moneys sufficient to timely pay in full the entire principal amount of such bond on the stated maturity date therefor;

(iv) invest the funds received pursuant to clause (iii) as provided by such clause; and

(v) hold and invest the funds in a segregated fund or account under the agreement, which fund or account shall be applied solely to the payment of the costs of items described in paragraph (3).

(D) Requirements for making direct payments.—

(i) In general.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with requirements that the tribe shall prescribe in the trust agreement entered into under subparagraph (C). Before making a payment to a contractor under subparagraph (C)(v), the trustee shall require an inspection of the project by a local financial institution or an independent inspecting architect or engineer, to ensure the completion of the project.

(ii) Contracts.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) Payments of principal and interest.—

(A) Principal.—No principal payments on any qualified tribal school modernization bond shall be required until the final, stated maturity of such bond, which stated maturity shall be within 15 years from the date of issuance. Upon the expiration of such period, the entire outstanding principal under the bond shall become due and payable.

(B) Interest.—In lieu of interest on a qualified tribal school modernization bond there shall be awarded a tax credit under section 1400K of the Internal Revenue Code of 1986.

(6) Bond guarantees.—

(A) In general.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) Establishment of account.—

(i) In general.—Notwithstanding any other provision of law, beginning in fiscal year 2002, from amounts made available for school replacement under the construction account of the Bureau, the Secretary is authorized to deposit not more than $30,000,000 each fiscal year into a tribal school modernization escrow account.

(ii) Payments.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (iii) to make payments to trustees appointed and acting pursuant to paragraph (4) or to make payments described in paragraph (2)(D).

(iii) Transfers of excess proceeds.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the tribal school modernization escrow account.

(7) Limitations.—

(A) Obligation to repay.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds furnished under paragraph (4)(C)(iii). No qualified tribal school modernization bond issued by a tribe shall be an obligation of, nor shall payment of the principal thereof be guaranteed by, the United States, the tribes, nor their schools.

(B) Land and facilities.—Any land or facilities purchased or improved with amounts derived from qualified tribal school modernization bonds issued under this subsection shall not be mortgaged or used as collateral for such bonds.

(8) Sale of bonds.—Qualified tribal school modernization bonds may be sold at a purchase price equal to, in excess of, or at a discount from the par amount thereof.

(9) Treatment of trust agreement earnings.—Any amounts earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall not be subject to Federal income tax.

(10) Investment of sinking funds.—Any sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond shall be invested in obligations issued by or guaranteed by the United States or in such other assets as the Secretary of the Treasury may by regulation allow.

(c) Expansion of Incentives for Tribal Schools.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

"Subchapter XI—Tribal School Modernization Provisions

"Sec. 1400K. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400K. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Tribal School Modernization Bond; Other Definitions.—For purposes of this section—

"(1) Qualified tribal school modernization bond.—

"(A) In general.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 2(c) of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by a tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(i) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2002,

"(II) $200,000,000 for 2003, and

"(III) zero after 2004.

"(ii) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond limitation shall be allocated to tribes by the Secretary of the Interior subject to the provisions of section 2 of the Indian School Construction Act, as in effect on the date of the enactment of this section.

"(iii) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2010.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) BOND.—The term 'bond' includes any obligation.

"(4) TRIBE.—The term "tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tribal school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tribal school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(h) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(i) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

"(j) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

"(k) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).".

(d) ADDITIONAL PROVISIONS.—

(1) SOVEREIGN IMMUNITY.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) APPLICATION.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2001, regardless of the status of regulations promulgated thereunder.

By Mrs. FEINSTEIN (for herself, Mr. HELMS, Mr. BROWNBACK, Mr. LEAHY, Mr. REID, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. DODD, Mr. BAUCUS, Mrs. BOXER, Mr. BYRD, and Mr. CARPER):

S. 244. A bill to provide for United States policy toward Libya; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, yesterday a Scottish court, meeting in the Netherlands, convicted Abdel Basset Ali Megrahi for the 1988 bombing of Pan American flight 103 over Lockerbie, Scotland. That court sentenced him to life in prison. Two-hundred seven people, including 189 Americans, lost their lives in this barbaric act.

In addition, the court conclusively tied the planning and execution of the bombing to Libya and Libya intelligence.

While no verdict could have fully comforted the families of the victims, eased their anguish, or removed the haunting images from their minds, they can take some solace in the fact that guilt has now been established. I would like to personally thank the families of the victims for their hard work, for their dedication, and for the unyielding determination to ensure that their loved ones did not die in vain. The international community truly owes them a debt of gratitude.

Nevertheless, the quest for justice is not over. Now some have suggested the verdict brings the matter to a close, and at the sanctions in place since 1992 should now be lifted. We, however, believe that would be a serious mistake and an insult to the victims and their families. U.N. Resolutions have required Libya to pay compensation to the families of the victims of Pan Am 103 if a guilty verdict is rendered, and, second, to officially end support for international terrorism before the multilateral sanctions can permanently be lifted.

A formal lifting of the sanctions now would send Libya the wrong signal. It would indicate that the international community has absolved Libya of its role in the bombing, a role, to repeat, clearly established by the Scottish court. It would say that Libya should be accepted back into the community of responsible nations. It would bestow upon Colonel Qadhafi's regime a respect and credibility it seeks but has not earned.

The United States must press Libya to publicly accept its role in the bombing of Pan Am Flight 103, issue an apology, and compensate the victims' families.

Consequently, today we are introducing the Justice for the Victims of Pan Am 103 Act of 2001. This legislation is cosponsored by Senators HELMS, BROWNBACK, LEAHY, REID of Nevada, NELSON of Nebraska, CLINTON, DODD, BAUCUS, BOXER, BYRD, and CARPER.

The legislation states that it shall be the policy of the United States to oppose lifting U.N. and U.S. sanctions against Libya until all cases of American victims of Libyan terrorism have been resolved; the Government of Libya has accepted responsibility, has issued an apology, has paid compensation to the victims' families of Pan Am 103; and has taken real and concrete steps to end support of international terrorism; and the legislation would prohibit assistance to the Government of Libya until the President determines and certifies that Libya has fulfilled the above requirements.

In addition, the legislation expresses the sense of the Senate that the Government of Libya should be condemned for its support of international terrorism and the bombing of Pan Am 103.

Second, the Government of Libya should accept responsibility for the bombing, issue a public apology, and provide due compensation.

Finally, the President, the Secretary of State, and other U.S. officials should encourage other countries and the United Nations to maintain sanctions against Libya until it fulfills the above requirements. Until Libya accepts responsibility for its actions, apologizes, and ends its support for international terrorism, the United States should leave and will leave no stone unturned in the quest for justice.

We owe the victims of Pan Am 103 no less.

Mr. President, I yield the floor.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. HAGEL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 29

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 37

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 37, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 120

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 120, a bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers.

S. 127

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 143

At the request of Mr. GRAMM, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 143, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 174

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 174, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 189

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 189, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

S. 231

At the request of Mr. CAMPBELL, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Hawaii (Mr. AKAKA), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 231, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 7—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES SHOULD ESTABLISH AN INTERNATIONAL EDUCATION POLICY TO ENHANCE NATIONAL SECURITY AND SIGNIFICANTLY FURTHER UNITED STATES FOREIGN POLICY AND GLOBAL COMPETITIVENESS.

Mr. KERRY (for himself, Mr. LEVIN, Mr. REID, Mr. GRAHAM, and Mr. WELLSTONE) submitted the following concurrent reslution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 7

Whereas educating international students is an important way to spread United States values and influence and to create goodwill for the United States throughout the world;

Whereas international exchange programs, that in the past have done much to extend United States influence in the world by educating the world's leaders, are suffering from decline;

Whereas international education is important to meet future challenges facing the United States including challenges involving national security and the management of global conflict and competitiveness in a global economy;

Whereas international education entails the imparting of effective global literacy to United States students and other citizens as an integral part of their education;

Whereas more than 500,000 international students and their dependents contributed an estimated $12,300,000,000 to the United States economy in the academic year 1999-2000;

Whereas other countries, especially the United Kingdom, are mounting vigorous recruitment campaigns to compete for international students;

Whereas United States competitiveness in the international student market is declining, the United States share of internationally mobile students having declined from 40 percent to 30 percent since 1982;

Whereas less than 10 percent of United States students graduating from college have studied abroad; and

Whereas research indicates that the United States is failing to graduate enough students with expertise in foreign languages and cultures to fill the demands of business, government, and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS ON THE ESTABLISHMENT OF AN INTERNATIONAL EDUCATION POLICY FOR THE UNITED STATES.

It is the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness.

SEC. 2. OBJECTIVES OF AN INTERNATIONAL EDUCATION POLICY FOR THE UNITED STATES.

An international education policy for the United States should strive to achieve the following:

(1) Invigorate citizen and professional international exchange programs and to promote the international exchange of scholars.

(2) Streamline visa, taxation, and employment regulations applicable to international students.

(3) Significantly increase participation in study abroad by United States students.

(4) Promote greater diversity of locations, languages, and subjects involved in study abroad to ensure that the United States maintains an adequate international knowledge base.

(5) Ensure that a college graduate has knowledge of a second language and of a foreign area.

(6) Enhance the educational infrastructure through which the United States produces international expertise.

(7) Capture 40 percent of the international student market for the United States.

Mr. KERRY. Mr. President, today I am honored to be joined by Senators LUGAR, LEVIN, REID, WELLSTONE, and GRAHAM in submitting a resolution focused on the important issue of international education. My colleagues and I strongly believe that the United

States should continue to build a vigorous international education policy. Former Secretary of Education Richard Riley has noted that nations across the world are keen on fostering greater faculty and student exchanges and suggested a series of new steps to re-energize the cause of international education in the United States. The conference report of the FY01 Commerce, Justice, State Appropriations bill included language recognizing that international education is a foreign policy priority. On November 11–17, 2000, campuses and schools across the country celebrated the first-ever International Education Week, recognized by Presidential Proclamation. I hope that this resolution will build on these efforts to preserve and extend a proud tradition of support for U.S. international education programs that dates back almost a half century.

Providing an excellent education to America's children has always been vital in preserving U.S. leadership abroad. During the cold war, we demonstrated democracy's strength by winning the space race, by possessing superior scientific knowledge, and by understanding the languages, cultures and history of regions where the defense of liberty and freedom was paramount. In 1958, in response to the launch of Sputnik by the Soviet Union, the Congress enacted the National Defense Education Act as a major tool of cold war policy. The NDEA focused on improving the teaching of science and math education, history, geography and foreign languages in all levels of education. The National Defense Education Act provided capital funds to colleges and universities so that they could make low-interest loans to students.

Today more than ever, in an environment of intense global economic, scientific and technological competition, a national education policy is crucial to America's leadership in the world. I believe that we need a new national defense education policy that focuses on foreign languages and the history and cultures in other parts of the world, because we can not lead in a world we do not understand. Unfortunately, we are once again falling behind when it comes to providing our children the tools they need to compete on the global stage.

Less than one-tenth of graduating American college students have studied abroad. The reality of the global economy dictates that we cannot allow this rate to stand. In order for graduates to be effective in the increasingly international business community, they must better understand the world. Secretary Richard Riley put it well last year when he argued that "college students [should] expect their education to give them a diverse global perspective that enriches their learning. More and more, international education will become the norm, not the exception, and students will routinely study abroad and know multiple languages."

Of course, international education works both ways. The resolution we are introducing today also recognizes the intrinsic value of bringing international students to study in this country. Today, the percentage of science and engineering doctoral recipients from abroad is declining. We must reverse this trend, because international students working in our universities make a valuable contribution to the research and study of their American counterparts and an invaluable contribution to global peace and stability when they return to their home nations imbued with all the possibilities democracy has to offer.

Mr. LUGAR. Mr. President, I rise to introduce a resolution expressing the need for establishing an international education policy for the United States. I am pleased to join Senator KERRY and other colleagues from both sides of the aisle in this endeavor.

Ask any American Ambassador in any U.S. Embassy what their most valuable programs are and many will respond by citing those programs which promote international cooperation and understanding. Educational and cultural exchanges typically rank high on their list because they are integral to our foreign policy and national security interests and build enormous good will abroad.

Our resolution reflects the same priority to international education. It expresses the need for an international education policy that enhances our national security, advances our foreign policy and strengthens our global competitiveness.

Our resolution states: 1. That all college graduates should have knowledge of a second language and another geographic area of the world; 2. That we should enhance and streamline our educational infrastructure to strengthen international expertise—this should include our employment practices, our tax laws, visa and immigration procedures, educational advising and other areas for improving international education programs; 3. That we should increase U.S. student participation in study abroad programs. For now, only about one percent of our college population study abroad; 4. That we should increase the diversity of countries, languages, and subjects in our study abroad and exchange programs; and 5. We should promote and expand the number, diversity and educational levels of citizen and international professional exchange programs.

We are introducing this resolution because we believe that improved international education and global literacy are important elements of a sound foreign policy. They help: build a foundation of trust and knowledge on which the conduct of international affairs must take place; narrow the distance with other cultures and societies with whom we increasingly interact and share burdens; our competitiveness in international commerce and trade in an increasingly global economy—95 percent of the world's population live outside the United States and are potential customers and knowing the language, the culture, and the customs of other countries helps improve doing business abroad; develop skills to manage our political relations with other countries as we address diverse challenges to stability, national security and economic growth; and in sharing our values (e.g., democracy and freedom) and know-how with others and to acquire values and know-how from others.

We know that international cultural and educational programs played a key role in helping to end the cold war and build the post-Cold War era through interpersonal contacts, grass-roots exchanges and other forms of international engagement.

Success in promoting international education programs today and in the future will help promote democratic values and international cooperation. They can serve to reduce poverty and injustice and promote new leaders and new leadership skills in the U.S. and abroad that are essential to a better world.

Forty-six years ago, I traveled to study at Oxford University, England, where I had the unique opportunity to meet and study with student leaders and scholars from Asia, Africa, the Middle East, and other parts of the world. Those two years made a difference in my life and I have been indebted ever since to the experiences and the idealism I learned at the time.

I hope colleagues will share our enthusiasm for international education and will join us in urging the development of a sound, cohesive and constructive international education policy for the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, February 1, 2001 at 9:30 am on the American TWA merger.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, February 1, at 10:30 a.m. for a hearing entitled "High-Risk: Human Capital in the Federal Government."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Jay Barth, who is a fellow in my office, be allowed to have privileges of the floor during the duration of this debate up to the final vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank Jay Barth for all of his help in our office.

ORDER FOR ADJOURNMENT

The PRESIDING OFFICER. In my capacity as the Senator from the State of Illinois, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks by the Senator from California, Mrs. FEINSTEIN.

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of S. 244 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 5, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. Monday, February 5, 2001, for a pro forma session only.

Thereupon, the Senate, at 2:53 p.m., adjourned until Monday, February 5, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 1, 2001:

DEPARTMENT OF STATE

PAUL HENRY O'NEILL, OF PENNSYLVANIA, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES D. GRUEFF, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

SUZANNE E. HEINEN, OF MICHIGAN
ROBIN A. TILSWORTH, OF VIRGINIA
GEOFFREY W. WIGGIN, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

PETER FERNANDEZ, OF NEW YORK
JOHN S. NICHOLS, OF MARYLAND
RALPH IWAMOTO, JR., OF HAWAII

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001:

DEPARTMENT OF STATE

AN THANH LE, OF FLORIDA
JOSEPH T. ZUCCARINI, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001

DEPARTMENT OF STATE

DANIEL T. FROATS, OF CALIFORNIA
MICHAEL ANDREW ORDONEZ, OF WASHINGTON
GAVIN ALEXANDER SUNDWALL, OF NORTH CAROLINA
DAVID MICHAEL ZIMOV, OF OHIO

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001:

DEPARTMENT OF STATE

ABIGAIL KESSLER ARONSON, OF NEW JERSEY
ERIN C. BRANDT, OF MICHIGAN
DON L. BROWN, OF TEXAS
LINDA ELISA DAETWYLER, OF CALIFORNIA
PAUL GRADY DEGLER, OF TEXAS
CHERYL L. EICHORN, OF VIRGINIA
JOSHUA D. GLAZEROFF, OF NEW YORK
JOHN J. HILL, OF ALASKA
MICHELLE MARIE HOPKINS, OF CALIFORNIA
GEORGE W. LYNN, OF VIRGINIA
DOUGLAS L. PADGET, OF VIRGINIA
REBECCA ANN PASINI, OF INDIANA
TROY ERIC PEDERSON, OF VIRGINIA
SCOTT MICHAEL RENNER, OF COLORADO
JOHN C. ROBERTS, OF MISSISSIPPI
ABIGAIL ELIZABETH RUPP, OF VIRGINIA
AMY WING SCHEDLBAUER, OF TEXAS

CONFIRMATION

EXECUTIVE NOMINATION CONFIRMED BY THE SENATE FEBRUARY 1, 2001:

DEPARTMENT OF JUSTICE

JOHN ASHCROFT, OF MISSOURI, TO BE ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE HONORABLE RUBY BUTLER DeMESME

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. ETHERIDGE. Mr. Speaker, today I pay tribute to the accomplishments and career of one of North Carolina's daughters, Mrs. Ruby Butler DeMesme. Mrs. DeMesme, a public servant of the highest order, recently retired from her post as Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations and Environment after 32 years of service.

Mrs. DeMesme earned her bachelor of arts degree in English from Saint Augustine's College in Raleigh in 1969. Ten years later she earned a master's degree in social work from the University of North Carolina at Chapel Hill. Before beginning her civil service career, Mrs. DeMesme was a highly recognized and respected expert on child and spousal abuse and adolescent programs for the Cumberland County Department of Social Services in Fayetteville.

Mrs. DeMesme's career in the federal work force began in 1980 as an Army adjutant and diversion chief in Mainz, West Germany, where she led the effort to improve family support and quality of life programs. In 1989, she left the Department of the Army and served as a senior aide to former Senator John Glenn. After leaving Capitol Hill, Mrs. DeMesme returned to the Army for a brief time until her move to the Department of the Air Force in 1991, where she would work until her retirement. She was appointed and confirmed to her current post on August 13, 1998.

Over her ten years with the Air Force, Mrs. DeMesme was responsible for increasing housing and station funding policies, establishing the military Transition Assistance Program, and working to ensure that the Air Force had the highest quality child development programs. She was also the catalyst behind the effort to revitalize communities affected by base closures and realignments, overhauled the military commissary and base exchange system, established policies regarding harassment and discrimination, and led the Department of Defense in military family housing privatization.

Mrs. DeMesme has touched the lives of thousands of people during her distinguished career and it is fitting that we honor her today. Ruby Butler DeMesme is a true patriot who has helped maintain the best military force in the world. Today, I thank her for her years of dedicated service to our brave men and women in uniform and wish the very best for her and her family in the years to come.

HUMAN RIGHTS IN COLOMBIA

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. SCHAKOWSKY. Mr. Speaker, I submit the following article printed on the front page of the January 28, 2001 Washington Post. The article demonstrates a fundamental aspect of the growing human rights emergency in Colombia. It also details the role of paramilitary organizations in human rights violations taking place in Colombia and the complicity of the Colombian military and government in allowing human rights abuse, such as the Chengue massacre, to continue.

Despite the thousands of civilian deaths and millions of displaced people in Colombia, the United States has moved forward with a misguided policy of massive military aid and close involvement in Colombia's conflict. I strongly believe that our current policy under Plan Colombia is the wrong approach for our nation in dealing with Colombia and is certainly the most ineffective and insincere way to deal with our domestic drug problem.

CHRONICLE OF A MASSACRE FORETOLD

(By Scott Wilson)

CHENGUE, COLOMBIA.—In the cool hours before sunrise on Jan. 17, 50 members of the United Self-Defense Forces of Colombia marched into this village of avocado farmers. Only the barking of dogs, unaccustomed to the blackness brought by a rare power outage, disturbed the mountain silence.

For an hour, under the direction of a woman known as Comandante Beatriz, the paramilitary troops pulled men from their homes, starting with 37-year-old Jaime Merino and his three field workers. They assembled them into two groups above the main square and across from the rudimentary health center. Then, one by one, they killed the men by crushing their heads with heavy stones and a sledgehammer. When it was over, 24 men lay dead in pools of blood. Two more were found later in shallow graves. As the troops left, they set fire to the village.

The growing power and brutality of Colombia's paramilitary forces have become the chief concern of international human rights groups and, increasingly, Colombian and U.S. officials who say that 8,000-member private army pose the biggest obstacle to peace in the country's decades-old civil conflict.

This massacre, the largest of 23 mass killings attributed to the paramilitaries this month, comes as international human rights groups push for the suspension of U.S. aid to the Colombian armed forces until the military shows progress on human rights. The armed forces, the chief beneficiary of the $1.3 billion U.S. anti-drug assistance package known as Plan Colombia, deny using the paramilitaries as a shadow army against leftist guerrillas, turning a blind eye to their crimes or supporting them with equipment, intelligence and troops.

But in Chengue, more than two dozen residents interviewed in their burned-out homes and temporary shelters said they believe the Colombian military helped carry out the massacre.

In dozens of interviews, conducted in small groups and individually over three days, survivors said military aircraft undertook surveillance of the village in the days preceding the massacre and in the hour immediately following it. The military, according to these accounts, provided safe passage to the paramilitary column and effectively sealed off the area by conducting what villagers described as a mock daylong battle with leftist guerrillas who dominate the area.

"There were no guerrillas," said one resident, who has also told his story to two investigators from the Colombian prosecutor general's human rights office. "There motive was to keep us from leaving and anyone else from coming in until it was all clear. We hadn't seen guerrillas for weeks."

A "DIRTY WAR"

The rutted mountain track to Chengue provides a vivid passage into the conflict consuming Colombia. Chengue and hundreds of villages like it are the neglected and forgotten arenas where illegal armed forces of the right and left, driven by a national tradition of settling political differences with violence, conduct what Colombians call their "dirty war."

Despite peace talks between the government and the country's largest guerrilla insurgency, more than 25,600 Colombians died violently last year. Of those, 1,226 civilians—a third more than the previous year—died in 205 mass killings that have come to define the war. Leftist guerrillas killed 164 civilians last year in mass killings, according to government figures, compared with 507 civilians killed in paramilitary massacres. More than 2 million Colombians have fled their homes to escape the violence.

In this northern coastal mountain range, strategic for its proximity to major transportation routes, all of Colombia's armed actors are present. Two fronts of the Revolutionary Armed Forces of Colombia (FARC), the country's oldest and largest leftist guerrilla insurgency with about 17,000 armed members, control the lush hills they use to hide stolen cattle and victims of kidnappings-for-profit.

The privately funded United Self-Defense Forces of Colombia, known by the initials AUC in Spanish, patrols the rolling pastures and menaces the villages that provide the FARC with supplies. Paramilitary groups across Colombia have grown in political popularity and military strength in recent years as a counterweight to the guerrillas, and obtain much of their funding from relations with drug traffickers. Here in Sucre province, ranchers who are the targets of the kidnappings and cattle theft allegedly finance the paramilitary operations. AUC commander Carlos Castano, who has condemned the massacre here and plans his own investigation, lives a few hours away in neighboring Cordoba province.

The armed forces, who are outnumbered by the leftist guerrillas in a security zone that covers 9,000 square miles and includes more than 200 villages, are responsible for confronting both armed groups. Col. Alejandro

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Parra, head of the navy's 1st Brigade, with responsibility for much of Colombia's northern coast, said the military would need at least 1,000 more troops to effectively control the zones.

The military has prepared its own account of the events surrounding the massacre at Chengue, which emptied this village of all but 100 of its 1,200 residents. Parra confirmed elements of survivor accounts, but denied that military aircraft were in the area before or immediately after the killings. He said his troops' quick response may have averted a broader massacre involving neighboring villages.

"They must have been confused about the time" the first helicopters arrived, Parra said. "If there were any helicopters there that soon after the massacre, they weren't ours."

STRATEGIC LOCATION

Three families have flourished in Chengue for generations, tending small orchards of avocados renowned for their size and sweetness. The only residents not related to the Oviedo, Lopez or Merino families are the farm workers who travel the lone dirt road that dips through town. The longest trip most inhabitants ever make is the two-hour drive by jeep to Ovejas, the local government seat.

But in recent years the village, set in the Montes de Maria range, has become a target on battle maps because of its strategic perch between the Caribbean Sea and the Magdalena River. Whoever controls the mountains also threatens the most important transportation routes in the north.

Villagers say FARC guerrillas frequently pass through seeking supplies. Any support, many villagers say, is given mostly out of fear. As one 34-year-old farmer who survived the massacre by scrambling out his back window said, "When a man with a gun knocks on our door at 11 at night wanting food and a place to sleep, he becomes your landlord."

The AUC's Heroes of the Montes de Maria Front announced its arrival in Chengue last spring with pamphlets and word-of-mouth warnings of a pending strike. The paramilitaries apparently identified Chengue as a guerrilla stronghold—a town to be emptied. The AUC's local commander, Beatriz, was one a member of the FARC's 35th Front, which operates in the zone, military officials said. Ten months ago she quarreled with the FARC leadership for allegedly mishandling the group's finances and defected to the AUC for protection and perhaps a measure of revenge.

In April, community leaders in Chengue and 20 other villages sent President Andres Pastrana and the regional military command a letter outlining the threat. "We have nothing to do with this conflict," they wrote in asking for protection.

The letter was sent two months after the massacre of 36 civilians in El Salado, a village about 30 miles southeast of here in Bolivar province that is patrolled by the same military command and paramilitary forces. But according to villagers and municipal officials in Ovejas, the request for help brought no response from the central government or the navy's 1st Brigade, which is based in the city of Sincelejo 25 miles south of here.

In October, the villagers repeated their call for help in another letter to Pastrana, regional military leaders, international human rights groups and others. Municipal officials met with members of the 1st Brigade in November, but said no increased military presence materialized. In fact, municipal officials said, the 5th Marine Infantry Battalion seemed to stop patrolling the village.

Six Chengue residents who signed the letter died in the massacre. Col. Parra said the requests for help were among dozens received at brigade headquarters in the past year, but that manpower shortages made it impossible to respond to every one.

"What is clear is that the government and [the military] knew about the evidence of a possible massacre and did nothing," said a municipal official in Ovejas, who like many interviewed in the aftermath of the slaughter requested anonymity for fear of reprisal. "The military seemed to clear out of the zone."

After weeks of not seeing any sign of the military, villagers said a small, white propeller plane swooped low over the village on Jan. 14, three days before the massacre. They identified the aircraft as the same plane used to drop anti-guerrilla pamphlets three months earlier—a "psychological operation," Parra confirmed, although he denied knowledge of this particular flight. The low-altitude pass left the farmers uneasy.

Over the next two nights, the darkness fell on the village, residents said two green military helicopters passed over in slow circles. "They are the same ones I'd seen pass by before, but just coming and going, not circling," said a young mother. "We didn't know what they were doing."

Seven hours after the helicopters left the second time, the power went out in Chengue, Salitral and a series of neighboring villages that had warned of a pending paramilitary attack. Villagers noted the time somewhere between 1:30 and 2 a.m. because, as one woman remembered, "the dogs started barking when the house lights went out." Some villagers lit candles. Most remained asleep.

In the blackness, the paramilitary column dressed in Colombian army uniforms moved along the dirt road from the west, arriving between 4 and 4:30 a.m., villagers said. The column was led by Beatriz, whom military officials said is a nurse by training; witnesses said the me in her command addressed here as "doctora."

The column stopped at the gray concrete home of Jaime Merino, the first on the road, and kicked in the door. They seized him and three workers, including Luis Miguel Romero, who picked avocados to pay for medical treatment for his infant daughter.

They were led down the steep dirt road into the village, past the church and school, and to a small terrace above the square where they waited. Three brothers from the green house on the square, a father and two sons from the sky blue house across the square, and Nestor Merino, a mentally ill man who hadn't left his home in four months, all joined them in the flickering darkness.

When the men arrived for Rusbel Oviedo Barreto, 23, his father blocked the door.

"They pushed me away," said Enrique al Alberto Oviedo Merino, 68. "I was yelling not to take him, and they were saying 'we'll check the computer.' There was no computer. They were mocking us. They took my identification card and said they would know me the next time."

Cesar Merino awoke on his farm above the village, and peering down, saw the town below lit by candles. His neighbors, 19-year-old Juan Carlos Martinez Oviedo and his younger brother Elkin, were also awake. The three men, who worked the same avocado farm, walked down the hillside into town. Elkin, 15, was the youngest to die.

On the far side of town, where the road bends up and out toward Ovejas, the paramilitaries gathered Cesar Merino's cousin, Andres Merino, and his 18-year-old son, Cristobal. One of them, father or son, watched the other die before his own execution.

Human rights workers and survivors speculated that the paramilitaries, who were armed with automatic rifles, used stones to kill the men to heighten the horror of the message to surrounding villages and to maintain a measure of silence in a guerrilla zone.

The work was over within an hour and a half. As the column prepared to leave, according to several witnesses, one militiaman used a portable radio to make a call. No transmission was intercepted that morning by military officials, although their log of the preceding weeks showed numerous intercepts of FARC radio traffic. Then the men smashed the town's only telephone and set the village on fire.

The hillside was full of hiding villagers, many of whom say that between 15 and 30 minutes later two military helicopters arrived overhead and circled for several minutes. The sun was beginning to rise.

"They would have been able to see [the paramilitaries] clearly at that hour," said one survivor, who has fled to Ovejas. "Why didn't they catch anyone?"

Human rights officials say the described events resemble those surrounding the massacre last year in El Salado. Gen. Rodrigo Quinones was the officer in charge of the security zone for Chengue and El Salado at that time, and remained in that post in the months leading up to the Chengue massacre. He left the navy's 1st Brigade last month to run a special investigation at the Atlantic Command in Cartagena, from where military flights in the zone are directed.

In a report issued this month, Amnesty International, Human Rights Watch and the Washington Office on Latin America called specifically for Quinones's removal. As a regional head of naval intelligence in the early 1990s, Quinones was linked to the killings of 57 trade unionists, human rights workers and activists. He was acquitted by a military court. According to the human rights report, a civilian judge who reviewed the case was "perplexed" by the verdict, saying he found the evidence of Quinones's guilt "irrefutable."

El Salado survivors said a military plane and helicopter flew over the village the day of the massacre, and that at least one wounded militiaman was transported from the site by military helicopter. Soldiers under Quinones's command sealed the village for days, barring even Red Cross workers from entering.

"We are very worried and very suspicious about the coincidences," said Anders Kompass, the U.N. High Commissioner for Human Rights representative in Colombia. "This involves the same officer in charge, the same kind of military activity before and after the massacre, and the same lack of military presence while it was going on."

"THERE IS A TERROR HERE"

During the two hours following the killings, survivors emerged from hiding and into the shambles of their village. Eliecer Lopez Oviedo, a 66-year-old Chengue native, said his son arrived at his small farm at 9 a.m.

"He told me they had burned Chengue, killed my brothers, my sister and my niece," he said. "I arrived there to find that they hadn't killed the women. But my three brothers were above the square, dead."

What Oviedo and others found were two piles of bodies—17 on the dirt terrace above the square, seven in front of the health center. Cristobal Merino's Yankees hat, torn and bloody, lay near his body. The rocks used in the killings remained where they were dropped. The bodies of Videncio Quintana Barreto and Pedro Arias Barreto, killed along with fathers and brothers, were found later in shallow graves.

Ash from more than 20 burning houses floated in the hot, still air. Graffiti declaring "Get Out Marxist Communist Guerrillas," "AUC" and "Beatriz" was scrawled across the walls of vacant houses. "The bodies were all right there for us to see, and I knew all of them," said a 56-year Chengue resident whose brother and brother-in-law were among the dead. "Now there is a terror here."

Officials at the 1st Brigade said they were alerted at 8:45 a.m. when the National Police chief for Sucre reported a possible paramilitary "incursion" in Chengue. According to a military log, Parra dispatched two helicopters to the village at 9:30 a.m. and the Dragon company of 80 infantry soldiers based in nearby Pijiguay five minutes later. Villagers said the troops did not arrive for at least another two hours.

When they did arrive, according to logs and soldiers present that day, a gun battle erupted with guerrillas from the FARC's 35th Front. Parra said he sealed the roads into the zone "to prevent the paramilitaries from escaping." The battle lasted all day—the air force sent in one Arpia and three Black Hawk helicopters at 2:10 p.m., according to the military—and village residents waved homemade white flags urging the military to shop shooting. No casualties were reported on either side. No paramilitary troops were captured.

Three days later, the 1st Brigade announced the arrest of eight people in connection with the killings. They were apprehended in San Onofre, a town 15 miles from Chengue known for a small paramilitary camp that patrols nearby ranches. Villagers say that, though they didn't see faces that morning because of the darkness, these "old names" are scapegoats and not the men who killed their families.

A steady flow of traffic now moves toward Ovejas, jeeps stuffed with everything from refrigerators to pool cues to family pictures. The marines have set up two base camps in Chengue—one under a large shade tree behind the village, the other in the vacant school. The remaining residents do not mix with the soldiers.

"We have taken back this town," said Maj. Alvaro Jimenez, standing in the square two days after the massacre. "We are telling people we are here, that it is time to reclaim their village."

No one plans to. Marlena Lopez, 52, lost three brothers, a nephew, a brother-in-law and her pink house. Her brother, Cesar Lopez, was the town telephone operator. He fled, she said, "with nothing but his pants."

In the ashes of her home, she weeps about the pain she can't manage. "We are humble people," she said. "Why in the world are we paying for this?"

RECOGNIZING THE MASSACHUSETTS DIVISION I STATE CHAMPIONS LUDLOW HIGH SCHOOL GIRLS SOCCER TEAM

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, today I recognize the achievements of the 2000 Ludlow High School girls soccer team. This past season the Ludlow girls team compiled a record of 21–0–0 en route to earning the Coombs Division League Championship, the Western Massachusetts Division I Championship, and the Massachusetts Division I State Championship. Their efforts enabled them to earn a ranking of 3rd in the country.

Each year the Commonwealth of Massachusetts fields many talented high school soccer squads. Every season the Ludlow community looks forward to cheering on their hometown heroes. This year the Lions certainly did not disappoint. Finishing a season undefeated and untied, as the Ludlow girls did, is a feat well deserving of high praise. The Ludlow girls soccer team rose to the challenge each and every game. They are winners in every sense of the word and are examples of athletic prowess, class, and true sportsmanship.

For leading his team to such accomplishments, Head Coach Jim Calheno has been named the Massachusetts Division I Girls' Coach of the Year. Under his leadership, the Lions have remained a perennial powerhouse. His assistants are tireless and deserve praise as well. In addition I would like to note that senior midfielder Liz Dyjak has earned All-American honors while senior forward Stephanie Santos has been named to the All-New England team.

Mr. Speaker, allow me to recognize here the players, coaches, and managers of the 2000 Ludlow High School girls soccer team. The seniors are: Jessica Vital, Lindsay Robillard, Sarah Davis, Lindsay Haluch, Nikky Gebo, Liz Dyjak, Kara Williamson, Stephanie Santos, and Ana Pereira. Kristine Goncalves is a Junior on the squad. The Sophomores are: Darcie Rickson, Beth Cochenour, Natalie Gebo, and Lauren Pereira. Freshmen members include Jessica Luszcz, and Stefiny Knight. The Head Coach is Jim Calheno. Assistant Coaches are Saul Chelo, James Annear, Nuno Pereira, and Tony Vital. The team manager is Katie Romansky.

Mr. Speaker, once again, allow me to send my congratulations to the Ludlow High School girls soccer team on their outstanding season. I wish them the best of luck in the 2001 season.

H.R. 93, THE FIREFIGHTERS RETIREMENT AGE CORRECTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STARK. Mr. Speaker, I was a cosponsor of H.R. 460, the Federal Firefighters Retirement Age Correction Act in the 106th Congress and would have voted to support H.R. 93 yesterday. Unfortunately, due to an unforeseen family illness, I was absent and not able to vote in support of H.R. 93, the Federal Firefighters Retirement Age Correction Act. I would like the RECORD to reflect my support for H.R. 93.

RECOGNIZING BETTY FITZPATRICK

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. TANCREDO. Mr. Speaker, today, I am pleased to recognize Ms. Betty Fitzpatrick from Evergreen, Colorado, who was selected by the National Association of School Nurses (NASN) as the School Nurse Administrator of the year for 2000. Recently, NASN hosted an event for Ms. Fitzpatrick on Capitol Hill to honor her, and to applaud her for her excellent work on behalf of the public school children in my district.

As a former public school teacher, I had first-hand experience in seeing the hard work of our Nation's school nurses. All teachers know that being a good student require a degree of good health, and I appreciate the work of Ms. Fitzpatrick in organizing health efforts for the children in my district and wish to extend my personal congratulations.

It is important to note that the work of many school nurses, like Ms. Fitzpatrick, goes beyond the assistance they provide directly to students. They serve as mentors to their colleagues, and serve an array of needs ranging from medical ailments to counseling for a student who needs a listening ear. Betty Fitzpatrick, especially, has participated in training for and as a consultant to school nurses, to assist them in developing crisis plans, and in dealing with tragic situations.

Ms. Fitzpatrick has spent her personal and professional life advocating children's physical and mental health while supporting school nursing. For the past 11 years she has served as the Director of Health Services for all 136 Jefferson County Schools in Golden, Colorado. She has been the president and treasurer of her state organization, a prolific author, an advocate for legislation, a grant writer and a national presenter.

The NASN newsletter reported that aside from the day to day challenges of being a school nurse administrator, Ms. Fitzpatrick had the great misfortune of dealing with an incomprehensible tragedy, which took place at one of her high schools—Columbine. Within minutes, she was contacted, and her emergency plan was activated. She and her nurses didn't wait for instructions, they knew what needed to be done, and they got to work. As the newsletter stated, the Columbine tragedy wounded a nation, but Betty continues to meet the unique needs of this school community and the others she serves.

Again, I am delighted by this honor that Ms. Fitzpatrick has brought to the State of Colorado, and I offer my sincere congratulations.

HONORING GAYE LeBARON

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Gaye LeBaron. For 43 years Gaye LeBaron's columns in the Santa Rosa Press Democrat have recorded and enlivened Sonoma County and the Redwood Empire. By personalizing the community's history and sense of place with honesty and good humor, LeBaron captured the respect and the hearts of her readers.

In her 8,000 columns LeBaron demonstrated that quality journalism can be witty, insightful, and compassionate. She worked as an observer and story teller, yet did not hesitate to take a stand—on issues as great as racial discrimination or as mundanely important as street lights—when it was needed. Whether focusing on the quirkiness of every day happenings or wrapping the reader in the sweep of North Coast history, Gaye LeBaron's colorful depictions made life what it is—interesting and personal.

LeBaron has also devoted her time and expertise to community causes through teaching, speaking, fundraising, and serving as a resource where needed. Her work interviewing local elders for a video history project with the Sonoma County Museum will stand with her columns as a testament to this special region and the spirit of its people.

I can say personally that being included in a Gaye LeBaron column is a coveted experience. We will miss Gaye on a daily basis but will look forward to her continuing contributions.

DAVID A. HARRIS GIVES THOUGHTFUL INSIGHT ON ISRAEL'S DIFFICULT POLITICAL AND SECURITY CHOICES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. LANTOS. Mr. Speaker, finding a peaceful solution to the problems in the Middle East has long been an important concern of the United States. Attempts to reach a resolution of these difficulties, unfortunately have thus far failed.

While workable solutions have been found in short supply, a number of extremely helpful insights have been put forward. In this regard, I would like to call the attention of my colleagues to a particularly insightful article by David A. Harris, Executive Director of the American Jewish Committee. Although it was written before the inauguration of the new American President and prior to the latest of peace negotiations ending in a stalemate, the insights that Mr. Harris provides are still timely and important.

Mr. Speaker, I commend David Harris' thoughts to my colleagues and urge them to give his article careful attention.

As Israel Makes Fateful Political and Security Choices, Its Friends Abroad Also Are Confronting Hard Truths

(By David A. Harris, Executive Director, The American Jewish Committee, Jan. 4, 2001)

In recent months, like many friends of Israel, I've had my share of sleepless nights. With only a few brief moments of either hope or respite, the news has been unremittingly disturbing and depressing. Israel is once again under siege. Every corner of Israel, every Israeli is a potential target. There is no distinction between soldier and civilian, between adult and youth, between dove and hawk, between believer and atheist, or between those living within and those living beyond the Green Line. It may not be all-out war as we saw in 1967 or 1973, but it is a calculated Palestinian strategy to obtain through violence what they have heretofore failed to achieve by negotiation.

Some Israelis and their friends abroad react to this volatile situation by beating their breasts and asking yet again what more Israel might do to meet demands of the Palestinians. Others, at the opposite end of the political spectrum, conclude that not only is the pursuit of peace a dangerous dream but, even more, a risk to the very existence of the state.

DECISIONS ON WAR AND PEACE

As I see it, Israel has no clear option, no obvious way to turn, and its predicament is further exacerbated by its complex and polarized domestic situation. In saying this, I do not wish to second-guess the Israeli government and people. I have always taken the view that it is for them, first and foremost, to make the fateful decisions about war and peace and the steps that can lead in either direction. And the sheer survival of Israel over 52 years, not to mention its remarkable growth and development, adequately attests to its uncanny ability to overcome the odds, confound the skeptics, and disprove the doomsayers. Even as I openly worry about the future, then, I am inspired and reassured by Israelis' determination to go on, to fight when necessary, to negotiate for peace whenever possible.

Today we are confronted with a situation that few, especially in the West, might have predicted. A dovish Israeli government—prepared to cross its own red lines, especially regarding the future status of Jerusalem, in the pursuit of an historic peace agreement with the Palestinians—is faced with violence in the streets, calls for jihad, and terrorist attacks in the heart of the country, while the Arab world lines up foursquare behind the Palestinians and seeks to isolate Israel by depicting it as the trigger-happy-aggressor, the Nazi reincarnation.

Thus, instead of grasping Israel's outstretched hand and seeking to resolve outstanding issues, however challenging, at the bargaining table, the Palestinians perceived instead a weakened Israel. If proof was needed, it came for them in the unilateral decision to withdraw from Southern Lebanon after Israeli mothers led a campaign to bring their sons home before more were killed at the hands of Hizbullah; in Prime Minister Barak's determination to make peace before the end of the Clinton presidency, which was, in the final analysis, an artificial deadline; and in Israel's perceived vulnerability to the sting of international censure, given Barak's efforts to undo the global public relations impact of the Netanyahu years.

In effect, Arafat, though the weaker party by far, has skillfully leveraged his position, emerging stronger than might have been imagined. He has, for example, already managed to prove once again that violence does pay—the current deal being brokered by the White House and given tentative approval by Barak appears to go beyond the package on the table at Camp David in July. If so, why should Arafat, from his point of view, stop here?

VIOLENCE AND NEGOTIATIONS

Eager to see his long-sought Palestinian state emerge from the "honor and blood" of the martyred, ever mindful of the most radical elements among the Palestinians, and determined not to demand less than Anwar Sadat, King Hussein, or Hafaz el-Assad in insisting on Israeli compliance with all his territorial demands. Arafat continues his complete juggling act of encouraging violence and talking peace at one and the same time.

At the very least, we can expect from Arafat more of the same brinksmanship through the last days of the Clinton Administration, though we don't know what, if anything, will come of it. Knowing how eager the American leader is to leave the political scene with substantial progress to show in the Middle East given his extraordinary investment of time, energy, and the prestige of the presidency, and aware of how committed the Israeli leader has been to making this possible on Clinton's watch, Arafat will squeeze the moment for all it's worth, and then some, in an effort to improve still further his bargaining position.

Not quite, some observers will note. Arafat doesn't hold all the cards. After all, there's an Israeli election around the corner and, without a peace deal, the conventional wisdom is that Barak will fall and Arafat will then have to face his old nemesis, Ariel Sharon, who will make the Palestinian leader's life a lot more difficult. Maybe, but then again, maybe not.

We in the West make a living out of failing to understand the Middle East. We're so busy superimposing our own deeply ingrained ways of thinking on the region—based in large measure on our rationalism, pragmatism, willingness to compromise, and tendency to mirror-image ("surely they're like us and want the very same things in life as we do")—that we too often end up surprised and puzzled when things don't go as we might expect.

We don't speak Arabic; we have little contact with Arab culture; we have minimal understanding of the nature of Islam and its pervasive role in the life of the Arab world; we spend too little time reading the writings of Judith Miller, Bernard Lewis, Fouad Ajami, and other knowledgeable observers of the region; and we embrace too quickly as representative those selected Arab voices that sound reassuring to us.

Yet none of this stops us from thinking we know enough about the region to offer grounded views on diplomacy and strategy. Indeed, the U.S. Government, with its far greater resources and expertise, has stumbled more than once, with fatal consequences, trying to make its way across the Middle East minefields.

Isn't it just possible that the prospect of a Prime Minister Sharon not only doesn't frighten Arafat but actually appeals to him? Taking a page from Leon Trotsky—the worse it gets, the better it becomes—Arafat may, in fact, perceive advantages in such an outcome: with Sharon demonized in the international news media and sharply criticized in world capitals, Israel could face new international pressures, including renewed calls for UN intervention and increased sympathy for a unilateral declaration of independence.

TESTS FOR BARAK AND SHARON

And this brings us back to Israel's domestic predicament. Barak, the pollsters say, needs a peace deal before February 6 if he is to have a chance at winning the election. Without it, he is saddled with negative images—accusations of political ineptness, willingness to yield to the demands of religious parties despite his calls to marginalize them, and inexperience and imprudence in dealing with the Palestinians. Thus, no matter what he says between now and February 6, no matter how tough his language may be at times, the prevailing assumption is that he needs Arafat to bail him out and both men know it.

On the other hand, Sharon is a known quantity who is a deeply polarizing figure in Israel. He is seen as representing a return to the Shamir years of a "fortress Israel" in eternal conflict with the enemies of the Jewish people. That will not sit well, not for long, I suspect, with many Israelis living in a prospering first-world country that longs for regional stability and even a chilly peace with its neighbors, so that it can finally one day turn to the future and away from the endless cycles of violence of the past.

After all, if the Israeli left was revealed to be the victim of its own illusions about creating a new Middle East, the Israeli right, illustrated by Sharon, has been the victim of its own illusions about the possibility of maintaining an indefinite status quo of occupation. If Barak is found wanting by the Israeli electorate in his ability to provide answers and solutions, then it's equally likely Sharon, if elected prime minister, will face the same prospect within short order, unless he is able to turn in entirely new policy directions.

Of course, whoever is elected, Barak or Sharon, will face the very same unruly and fractionated Knesset, which further clouds the outlook for stable governance. This is precisely what Benjamin Netanyahu is counting on. Although polls showed him leading both Barak and Sharon, he chose not to run this time around unless the Knesset dissolved itself and also stood for new elections. It was a statesmanlike position, praised by many, including some who do not normally count themselves among Netanyahu's most fervent admirers; it was also a position calculated to elevate his standing in the expectation that whoever is elected in February will not be able to lead for long before yet another round of voting, including parliamentary elections, is needed. At that time, Netanyahu, seeking to cast himself as the true centrist, would almost surely step into the political fray.

OVERRIDING POLITICAL AND STRATEGIC FACTORS

In the meantime, as Israeli politics seeks to sort itself against the backdrop of the deep and seemingly irreconcilable fissures in Israeli society, certain things seem clear and best not be forgotten.

First, many of the claims of the Israeli right, especially since the signing of the Oslo Accords in 1993, have proved accurate, though they were largely ignored by those on the left who reflexively dismissed anything said by spokesmen on the right. For example, incitement to hatred among Palestinians has continued unabated and with devastating consequences. Moreover, the accumulation of weapons and the build-up of the Palestinian police and militia, in direct contravention of the Oslo Accords, have created a deadly adversary for Israel. And the wink and nod to Palestinian extremists—many arrested with great fanfare only to be released as soon as no one was paying attention—has undermined the chances for a peaceful settlement with Israel.

Second, many of the claims of the Israeli left have also proved strikingly accurate, despite attempts by those on the right to dismiss them. Palestinians who not docilely remain under Israeli occupation forever. Neither could Israel expect occupation to continue without some corrosive effects on its democratic values, nor could it absorb the Palestinians in the territories without undoing the Jewish character of the state. And sooner or later, Jewish settlers in remote outposts in Gaza, for example, would become flashpoints for violence between Israelis and Palestinians.

Third, as a consequence, no one school of thought has a monopoly of wisdom on what is best for Israel. Ideologues, whether of the left or right, become prisoners of their own preset views, and, as a result, tend to adjust the facts to their doctrinal thinking rather than the other way around.

Fourth, regardless of what happens in the short run respecting Israeli-Palestinian issues, the sad reality is that Israel will continue to face severe challenges in the region, requiring a powerful military, eternal vigilance, and close coordination with the United States.

Iran and Iraq pose dangerous, and growing, threats, particularly in the nonconventional field. Islamic extremist groups operating in the region will not soon go away. Syria possesses missiles and chemical warheads. Disturbingly, Egypt has embarked on a broad modernization program of its conventional forces and is known to be engaged in research on some nonconventional weapons systems as well. An emerging Palestinian state will alter the political and security landscape for Jordan, with unknown consequences.

PRESSURES ON THE ARAB WORLD

And, of course, the larger problems of the need for a true reformation in the Arab world, of the glaring absence of democracy and the rule of law, of governmental lack of accountability to its citizens, of endemic corruption and nepotism, of high birth rates and insufficient jobs, of economic stagnation and fear of opening to the world, of the Islamists influence on society, all continue to plague this vast and important region of the world.

A few pertinent statistics illustrate the dimensions of the problems faced by the Arab world. Fouad Ajami of Johns Hopkins University has pointed out, for example, that Finland, with a population of 5 million, exports more manufactured goods than the entire Arab world combined, with its 22 countries and its population well over 200 million. Israel has a higher per capita GNP than its five contiguous neighbors—Lebanon, Syria, Jordan, the Palestinian Authority, and Egypt—combined, and more Internet users by far than all five put together. And impoverished Gaza has a higher birthrate by a multiple of nine than prosperous Bologna, Italy.

Fifth, we should be under little illusion about such notions as a "demilitarized Palestinian state" or "an end to the conflict." A Palestinian state is coming, one way or another, and the debate about whether it is good or bad for Israel seems largely irrelevant. It will happen, and Israel no doubt will do its utmost to establish harmonious ties, but it must also recognize, as a recent CIA report looking ahead to the year 2015 predicted, that "chilly" relations are likely to prevail and surveillance and monitoring will be required.

That Palestinian state will not be demilitarized, I believe, regardless of agreements signed, which could pose a threat both to Israel and Jordan. And there will remain those Palestinians who will seek to continue the struggle with Israel, either because they see Israel proper as their real home, or because they see the Zionists as "infidels" and "modern-day Crusaders" who have no right to be there, or both.

Sixth, we need to take very seriously anti-Semitism emanating from the Arab world. Not only is it pernicious and contrary to the promotion of peaceful relations in the region, but it also fuels anti-Semitic attacks against Jews and Jewish targets throughout the world, as we have tragically seen in recent months.

And finally, we need to remind ourselves of the importance of our own role in making a difference on Israel's behalf. Both in our public education and advocacy efforts in the United States, in which we stress the mutual benefits of close U.S.-Israel ties as well as America's vital national interest in Israel's security in a stable Middle East, and in our diplomatic, exchange and public affairs programs around the world, the American Jewish Committee is making a unique contribution to Israel's well-being and its quest for peace and security. The political and security challenges that lie ahead for Israel will doubtless only heighten the importance of that work.

NOW IS THE TIME FOR CAMPAIGN FINANCE REFORM

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. HORN. Mr. Speaker, they say the third time is the charm. This year the House will pass—for the third time—the Shays-Meehan or McCain-Feingold bill. By either name, this is genuine, necessary and effective reform that will return power to the people and curb the endless money chase in our political campaigns.

This legislation ends the raising and spending of "soft" money. The parties have become addicted to huge checks from corporations, unions, and wealthy individuals. This bill puts both parties into immediate rehab.

This legislation also ends the sham "issue" ads that savage candidates of both parties in every election. It forces into the sunlight big money interests behind these ads.

The House has made it clear. It wants this reform to become law. This year, all of us hope that the Senate and our new President will look at this issue very carefully, offer constructive suggestions, and then join us in passing real campaign finance reform.

U.S. MIDDLE EAST POLICY

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. SCHAKOWSKY. Mr. Speaker, I want to share with my colleagues an article written by Douglas Bloomfield for the Chicago Jewish

Star. The article provides an accurate summary of President Clinton's efforts to facilitate peace and dialogue in the Middle East during his service to this country. I agree with Mr. Bloomfield that "No other (U.S.) President has been so closely identified with Israel's search for peace."

Mr. Bloomfield's article discusses the popularity of President Clinton in Israel and among the Jewish Community in the United States due, in large part, to the commitment he made to do everything within his means to bring peace to the Middle East. I share that appreciation for the priority President Clinton made of these important issues. I have often looked to Mr. Bloomfield's work for an accurate perspective on events and trends in the Middle East as well as a constructive evaluation of U.S. Middle East policy. Clearly the Bush Administration has a tough act to follow in ensuring that Americans and Israeli's feel comfortable in America's commitment to the security of Israel and her prosperity in the future. I urge all of my colleagues to take the time to read the following article.

[From the Chicago Jewish Star]

WASHINGTON WATCH—SHALOM, BILL

(By Douglas M. Bloomfield)

"If Bill Clinton is looking for a job, he can come over there and run for prime minister. He'd win easily," said a caller from Israel the other morning. "He's still the most popular politician in the country."

And he remains popular at home as well, particularly in the Jewish community, despite the controversies that plagued his administration. The peace proposal he revealed recently in a farewell speech to peace activists included proposes that made even left even some dovish followers uncomfortable, but no reasonable person could challenge the sincerity of his desire to help Israel find peace.

Nor can anything overcome the hysterical frenzy of the Clinton haters and those extremists who see any concessions to the Palestinians as selling out Israel.

No other president has been so closely identified with Israel's search for peace. He may have been motivated in part by a desire to leave a historic legacy, but as one of the savviest politicians ever to occupy the Oval Office he long ago figured out there were far better ways to do that than by plunging into the Middle East morass.

Look instead to his relationship with the late Prime Minister Yitzhak Rabin, who brought the completed Oslo agreement to Clinton with an appeal for help in implementing it. Clinton promised to minimize the risks for Israel and help smooth out the rough decisions. After Rabin's assassination, Clinton's commitment became a mission.

He can be faulted for pushing too long and too hard, especially after it should have been clear that he wanted peace more than the parties themselves, particularly Yasser Arafat.

He wrongly relied on Ehud Barak's faulty political instincts and novice politician's enthusiasm. The President ignored the advice of his own advisors, the Palestinians and some Israelis when he bowed to Barak's desire to convene last summer's abortive Camp David summit.

More recently, he has been trying to salvage a last minute agreement before leaving office—failing or refusing to hear the window of opportunity slam shut.

Clinton consistently overestimated his ability to affect Arafat's behavior, and he may have badly miscalculated the level of the Palestinian leader's commitment to a genuine peace.

Clinton has succeeded on so many fronts by dint of charm and personality, and he thought he could do it with Arafat as well. No other foreign leader has been to the White House as often, and Clinton's mistaken failure to demand Arafat pay more for that access only encouraged the Palestinian leader's obstinacy.

"He played Clinton masterfully," said a former White House official. "Clinton felt he was giving peace every chance, but, like Rabin, Peres and Barak, he failed to hold Arafat's feet to the fire."

Clinton admonished Arafat in his speech earlier this month to Jewish leaders for fostering "the culture of violence and the culture of incitement." But his persistent reluctance to deal with Palestinian incitement was interpreted as a sign of weakness and may have fueled the current crisis.

Echoing a hopeful Israeli leadership, he wrongly expected Israel's surprisingly forthcoming offers would elicit positive responses. But his blindness to Arafat's faults and deceptions may have encouraged the semi-retired terrorist to cling more tightly to his maximalist demands and let the Israelis negotiate with each other and with the Americans.

American and Israeli insiders say Clinton never pushed Israel without being encouraged by leaders there to give them a nudge and some political cover for tough decisions. But at the same time, Clinton mistakenly listened too much to some of his left-leaning Jewish friends who gave him bad advice on such things as his wife's meeting with Mrs. Arafat and his counter-productive confrontations with Prime Minister Benjamin Netanyahu.

If Clinton was too intensely involved in the nitty gritty of the peaces process, there is a greater risk that his successor will be too disengaged.

Whatever his shortcomings, there can be no questioning Clinton's commitment to Israel and its search for peace. He brought an unprecedented warmth and understanding, even as he demonstrated a genuine empathy for the Palestinians that won their trust.

A key to Clinton's winning the confidence of the Israelis and the vast majority of Jewish voters was his high comfort level with the Jewish community at home. It is unmatched by any president, as is the affection and support he got in return.

That backing was bolstered by domestic policies that were in synch with most Jewish voters, particularly on issues such as church-state separation, civil liberties, reproductive rights, the environment, education and social welfare.

Jewish voters rewarded him and his vice president with nearly 80% of their votes in three national elections.

There were more Jewish officials at all levels of the Clinton administration than in any prior government; at one time there were six in Cabinet level posts, compared to none so far in the incoming Bush administration.

American Jews never felt on the outside during the Clinton years; that was particularly important since he followed a president who publicly questioned their patriotism.

He deserves enormous credit for his historic contribution to the struggle to bring a measure of justice to the survivors of the Holocaust after decades of frustration and inaction. His personal commitment and the intense involvement of his administration, particularly through the outstanding work of Deputy Treasury Secretary Stuart Eizenstat, helped end half a century of Swiss denial and stone-walling.

That personal involvement produced progress in such areas as the restitution of stolen property in other nations, compensation for slave and forced laborers, the settlement of insurance claims, the return of cultural artifacts and aid for the neediest of Hitler's remaining victims.

Credit is shared with an unlikely partner, former Sen. Alfonse D'Amato (R–NY). Although as chairman of the Senate Banking Committee, D'Amato was leading an investigation of the Clintons' Whitewater investments, both men rose above their political differences to cooperate fully in the Swiss investigations, realizing success beyond anyone's expectations.

Both the Administration and the Congress worked closely with the World Jewish Restitution Organization, representing both Israel and the diaspora, to bring about historic results.

I will leave it to others to chronicle Clinton's many shortcomings. I expect history will judge this flawed president more kindly than his contemporaries. He alone robbed his presidency of greatness as he demonstrated that in Washington most of the slings and arrows politicians suffer are self-inflicted.

But the Jewish community should be very grateful for his stewardship, for his dedication to assisting Israel in its search for peace, for his contribution to the survivors of the Holocaust and for his undeniable friendship.

HEALTH PREMIUMS AND PRESCRIPTION DRUGS SHOULD BE TAX DEDUCTIBLE ITEMS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. STEARNS. Mr. Speaker, today, I will reintroduce legislation to allow health insurance premiums and unreimbursed prescription drug expenses to be tax deductible. Last year's bill number was H.R. 4472.

Under current law, employers can write off the cost of health care coverage purchased for their employees. Why can't individuals also be afforded the same opportunity to write off their premiums and unreimbursed prescription drug expenses? The current tax code sets the threshold at 7.5 percent of adjusted gross income before an individual can write off their medical expenses. That doesn't seem right to me.

Currently, in order to claim health care expenses an individual must file an itemized tax return. I believe that all taxpayers should be allowed to deduct these out-of-pocket costs and that we need to include a place where this deduction could be taken on the short form such as the 1040 EZ and 1040A.

My bill also applies to the self-employed because individuals who are self-employed will not be eligible for a 100 percent write off until 2003.

This type of relief is long overdue. Allowing individuals to write off certain costly health care expenses they may incur would be a tremendous benefit that may not be available under the current system.

The National Taxpayers Union (NTU) endorsed my bill in the last congress.

LET'S NOT FORGET OUR FRIENDS ON TAIWAN

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mrs. CLAYTON. Mr. Speaker, as a new administration takes office, we wish to remind them and our colleagues in Congress that we must not forget our friends in the Republic of China on Taiwan. Let's not forget Taiwan has a democratically-elected president and a parliament that is fully committed to the free enterprise system, democracy, and human rights. Let us not forget that we need to give the Republic of China on Taiwan all the support she richly deserves.

As many of us know, Mr. Chen Shi-gian was elected president of the Republic of China last March and was inaugurated as President on May 20. He chose Dr. Hung-mao Tien as his Foreign Minister. Since assuming office in May, under the direction of President Chen Shui-bian, Foreign Minister Tien has clearly articulated Republic of China's foreign policy thrusts. Regarding the People's Republic of China, Minister Tien has made clear that peace and non-aggression are essential to ensure that the two entities engage in reasonable and responsible discussions. At the same time, President Chen has made a number of conciliatory gestures towards the mainland. Taiwan does not seek confrontation, but a friendly dialogue with mainland China leading to future talks on all issues, including eventual reunification.

In terms of solidifying friendship and ties with ROC's allies, President Chen and Minister Tien have traveled far and wide. Last year they completed a grueling 2-week journey of friendship to ROC's allies in Central America and Africa. Minister Tien also traveled to Europe to strengthen Taiwan's ties with friendly nations.

It is our understanding that to seek greater international recognition, Taiwan will continue to seek a return to the United Nations and other international organizations. It is our view that a worthy nation like Taiwan must be given its proper recognition in the community of nations.

Taiwan considers its relations with the United States a matter of utmost importance. We are delighted that Taiwan is ably represented by Ambassador C.J. Chen in Washington. Ambassador Chen was Republic of China's former Foreign Minister and served in Taiwan's Washington office as Deputy Representative in the 80's. He knows Washington well and we are very pleased that he has briefed us from time to time and we are impressed with his energy and enthusiasm as he strengthens the ever growing bonds between Taiwan and the United States.

Even though Taiwan is isolated diplomatically, Taiwan has a strong foreign policy team, headed by President Chen Shui-bian whose policies are ably executed by his foreign minister, Dr. Hung-mao Tien, and his Washington representative, Cambridge-educated C.J. Chen.

It is our hope that the new administration and Congress will always remember our traditional friendship with Taiwan and its people. Let's not sacrifice Taiwan's interests as we seek better relations with the People's Republic of China in the months ahead. Taiwan and the United States have always stood together shoulder to shoulder and will always remain strong partners in maintaining peace and stability.

VIGILANCE IS NEEDED TO PROTECT AGAINST MAD COW DISEASE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the January 23, 2001, Lincoln Journal Star. The editorial emphasizes the need to maintain strict standards and take aggressive actions in the United States so that our country does not have to confront the serious effects associated with mad cow disease.

[From the Lincoln Journal Star, Jan. 23, 2001]

GET TOUGHER ON MAD COW DISEASE RULES

Much has been done in the United States to protect against bovine spongiform encephalopathy, or mad cow disease.

But not enough.

More needs to be done. One major need is for a strict prohibition against production of animal feed made from the parts of dead animals.

More than 80 people in Britain have already died from mad cow disease. The degenerative brain disease has been detected in one European country after another. France, Germany and Spain have all reported mad cow disease. Earlier this month Italy was added to the list.

Needless to say, the effects have been drastic. More than 2 million British cattle were killed in order to stop the spread of the disease. In Germany beef sales have dropped by more than 40 percent. The European Commission estimates that beef consumption among its members dropped by 27 percent between October and December, before the revelation the disease had been detected in Italy.

The costs of coping with the new disease are immense. The European Union has set aside almost $1 billion to help its member nations establish new measures to prevent the disease from spreading.

Experts believe that bovine spongiform encephalopathy is caused by a twisted protein. The disease destroys brain cells, eventually leaving the brain riddled with spongy holes.

The disease is spread when cattle consume feed that includes protein rendered from slaughtered cattle. Since 1997 it has been illegal under Food and Drug Administration regulations to feed mammal proteins to cattle.

It is still legal, however, to feed mammal proteins to pigs and poultry. The FDA announced earlier this month that some feed producers frequently fail to use proper warning labels and that some producers have no system to avoid commingling protein from rendered cattle with other products. In other words, the system is flawed.

A total ban against using rendered cattle for animal feed admittedly would hurt the rendering industry and perhaps contribute to a rise in the price of feed.

But those negative effects should be measured against the need to protect consumers from the human variant to mad cow disease and the economic devastation that would quickly follow discovery of the disease in the United States.

In Nebraska, the cattle industry contributes more than $4 billion a year to the state's economy.

With mad cow disease continuing to spread in Europe, aggressive measures should be used to keep the disease outside U.S. borders. Legislative has been introduced in North Dakota to prohibit production and use of feed containing animal parts. Nebraska should consider the same approach. Even better would be a ban that is nationwide.

HONORING THE RETIREMENT OF MR. PAUL FARMER FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. REYES. Mr. Speaker, I rise today to honor an individual who has served his country during a time of war and within the Department of Veterans Affairs during a time of peace. After entering the military at the age of 17, Mr. Paul G. Farmer of Spray, North Carolina served the majority of his military career in Europe before serving in Viet Nam in 1967 and 1968. He retired after 21 years of service to be with his wife shortly after she was diagnosed with a terminal illness. Yet, Mr. Farmer did not let his retirement from the military end his service to his country.

Paul Farmer began a long and successful career with the Department of Veterans' Affairs on December 5, 1989, but it was not until 1995 that Paul arrived in my district of El Paso, Texas with a new and inventive assignment. Paul was to implement a joint initiative between the Department of Defense and the Department of Veterans' Affairs that was designed to evaluate medical disabilities for active duty personnel prior to their discharge or retirement from service, a program that became very successful. Anyone who had the pleasure to work with Paul knew that he maintained an open door policy in his office to all area veterans. Paul initiated several community outreach programs and worked to achieve compensation and medical benefits for numerous veterans in the El Paso and Southern New Mexico area.

Mr. Speaker, Paul Farmer has dedicated his career to the safety and security of his country and has further dedicated his professional life to ensure that United States Armed Service veterans are given the utmost respect and service a grateful nation should, by honor, bestow upon them. I ask that we recognize this individual, thank him for his years of dedicated service, and wish him Godspeed in his retirement.

IN TRIBUTE TO UNDERSECRETARY OF THE AIR FORCE, CAROL DIBATTISTE

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GRAHAM. Mr. Speaker, I rise today to bring to the attention of this body the fact, in January, a distinguished leader of the Air Force left office to begin a new chapter in her life. Carol DiBattiste, Under Secretary of the Air Force, has recently resigned from her position, and I want to join her many friends and colleagues in commending her for a job well done.

During her tenure, Under Secretary DiBattiste served with honor and distinction, providing exceptional leadership to reinforce a promising future for the Department of Defense, the Air Force, and for American aerospace power. Coupled with her unprecedented energy, commitment, and enthusiasm, Under Secretary DiBattiste's initiatives became catalysts for success, and helped lead the Air Force through a critical period of modernization and consolidation. She was the Air Force's key leader in the fight to solve and reverse Air Force retention shortages and recruiting shortfalls. Her successes in these endeavors are both impressive and lasting.

Most notably, Under Secretary DiBattiste did a remarkable job on behalf of Air Force members and their families. Her leadership of a special Department of Defense task force to formulate anti-harassment policy resulted in outstanding guidance on this emotionally charged subject. This emphasis on equal opportunity and her tireless pursuit of higher standards for Air Force quality of life are examples of the many ways she found to invigorate morale and retention during a period of critical shortfalls, personnel reductions, and increased operations tempo. Her visionary and aggressive campaign against recruiting shortfalls, including creation of the Air Force Recruiting and Retention Task Force, the Air Force Marketing and Advertising Office, and the Strategic Communications Outreach Program, made all the difference for the Air Force in their ability to make recruiting goals and erase shortfalls. Under Secretary DiBattiste led by example, delivering almost 100 speeches in a 12 month period, and traveling to over 85 bases and locations throughout the world during her tenure.

I join my colleagues on behalf of a grateful nation in thanking Carol DiBattiste. The increased opportunities and improvements she affected across the Department of Defense and the Air Force have poised both for a brilliant future.

HONORING WAYNE GYENIZS ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I pay tribute today to a man whose tireless efforts have left an indelible mark on the State of Connecticut. Today, after nearly 40 years of dedicated service to the International Union of Operating Engineers Local 478, Wayne Gyenizs will celebrate his retirement.

Over the course of his career with IUOE Local 478, Wayne's innumerable contributions have strengthened the voice of tradesmen across the State of Connecticut. One of his most impressive achievements has been the establishment and continued expansion of Local 478's Joint Apprentice Training and Skill Improvement School. Each year, the Joint Apprentice Program provides training, skill enhancement, and refresher courses to over 600 apprentices and journeymen. This program give individuals the ability to acquire a skilled trade and lifetime opportunity—giving working families the sense of contentment that comes with economic independence. As president of the Local 478 for the past decade, Wayne has provided a unique combination of leadership and commitment that has promoted stability among his membership and in the union's relations with its local employers.

In addition to his work with the Local 478, Wayne has been an active voice in local and national labor activities. As a member of the AFL–CIO Executive Board and the State Building and Construction Trades Council Wayne has fought for better wages, more comprehensive health benefits for workers and their families, steady and substantive employment, and safer work environments. He has been a true leader for our working families, giving them a voice during the hardest of economic times.

Wayne's generosity and commitment extends beyond his professional contributions. Serving in the U.S. Air Force for 12 years, Wayne dedicated over a decade of his life to protecting the fundamental freedoms we so often take for granted. As a member of the Easter Seals Board of Directors, Wayne has given his time and energy to improving the lives of some of our most vulnerable citizens. Throughout his life, Wayne has demonstrated a unique commitment to public service and to improving our community.

I would like to extend my deepest thanks and sincere appreciation to Wayne for his many years of service of working families throughout Connecticut. I am proud to stand today and join his wife, Judy; Sons, Glenn, Garry, and Gregg; family friends; and colleagues in saluting my dear friend, Wayne Gyenizs as he celebrates his retirement. My best wishes for many more years of health and happiness.

IN HONOR OF THE LATE RICK PACURAR

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. PELOSI. Mr. Speaker, I rise with pride and deep sadness to pay my respects to a San Francisco leader, Michael "Rick" Pacurar, who tragically passed away last month from AIDS-related complications. Rick was a tireless advocate for the causes he believed in, and his work touched the lives of many people. He will be long remembered with great affection and respect.

Rick Pacurar graduated Phi Beta Kappa from Stanford University with a degree in psychology. He began attending Harvard Business School but soon moved to San Francisco after deciding his studies there were not taking him in the direction he wished to go.

He found the satisfaction from his work which had been missing in business school as an activist in San Francisco. Early on in the AIDS crisis, Rick helped to publish a pamphlet, "Can We Talk," and founded the Harvey Milk AIDS Education Fund to raise awareness about the disease. For these and other efforts, he was asked to serve on the San Francisco Joint Task Force on HIV. Rick was also an advocate for San Francisco artists and served as the director of a live-work complex for artists named Project Artaud.

Rick's activism extended into his work for candidates and elected officials. He worked on campaigns for Senator BARBARA BOXER, former San Francisco Mayor Art Agnos, and San Francisco Supervisor Tom Ammiano. He also served as an aide to former Supervisor Harry Britt and to then-Assemblyman John Burton.

Rick's passing is a great loss for San Francisco. Despite his illness, he was always ready and willing to fight for what he believed in. His activity and commitment were inspirational, and he put his heart into everything that he did. Rick was a true friend to the community, and he was loved for it. We will miss him greatly.

My thoughts and prayers are with his partner, Mike Housh; his parents, Victor and Doris; his sister, Vicki Lekas; and all of his family and friends.

THE EXCELLENCE AND ACCOUNTABILITY IN EDUCATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to join my colleague Mr. KILDEE and other Democratic members of the House in introducing the Excellence and Accountability in Education Act, a comprehensive K–12 education reform bill.

Along with proposals last week from President Bush and from Senator JOE LIEBERMAN and Representatives TIM ROEMER and CAL DOOLEY, this is the third education proposal unveiled so far this year to improve America's public schools. All three proposals share a great deal in common.

Our schools are in a crisis. The school system, in too many instances, is failing to properly educate all of our kids. Frankly, it is nothing short of a crime that we have tolerated failing schools for so many years.

But I believe strongly that this year is going to be different.,

For many years, we have debated whether we have the will or the wallet to really fix our schools. I believe we are now at a time in history when we have both the will and the wallet to improve public school education. We have a President who has clearly indicated he has the will to impose real accountability and fix failing schools. But we must also provide real resources to get the job done.

There is no point in misleading parents and schools by telling them we will help but without providing the investments that are necessary. This must be an honest process with respect to the policies and the resources that must go with them. In exchange for the recourses we are going to demand accountability. That will be a winning formula if we give it a chance. That is what we do in this bill today.

In the last Congress, Mr. Kildee and I, and other Members of Congress, worked to enact many of other policies included in our bill. I am energized and encouraged that there now appears to be a great deal of agreement across party lines and political sectors on what is needed to improve public school education for all children.

There is widespread agreement that if we provide adequate resources to schools and in return hold them accountable for meeting high standards, that all children, no matter their background, can have the opportunity to succeed in school. Such widespread agreement did not exist even one year ago.

Here is what our bill would do.

Our bill would hold schools accountable to high standards. It places particular emphasis on closing the "achievement gap" between different groups of kids—rich and poor, minority and non-minority. this is something President Bush and I both believe in strongly.

Our bill would provide the greatest amount of resources of any proposal yet to help schools meet their standards.

And our bill will continue to target resources on the most vulnerable children in the most difficult schools.

Our bill provides real money in return for real reform.

For example, we would double funding for the Title I program, boost funds to the lowest performing schools, and provide funds to improve assessment and accountability systems to make them fairer and more accurate.

Let me be clear about the differences between our bill and the approach taken by President Bush.

Our bill would not divert public funds from public schools to private and religious schools, through vouchers or through any other means. Neither would the Lieberman/Roemer/Dooley bill.

The issue vouchers, in my opinion, is a nonstarter.

Nor would our bill dilute or eviscerate key local education programs, such as the After-School and Safe-And Drug-Free Schools programs, school renovation, and the e-rate program that funds school and library Internet connections.

I am open to discussing with my Republican and Democratic colleagues what we can do to streamline federal education programs at the state and local level. But the history of reduced funding and weakened accountability that comes with block grants suggests that we should approach this issue very cautiously.

I want to add that our bill places greater emphasis in certain areas where the President places less and where we hope to work together to find agreement, specifically, in the areas of: raising teacher standards; creating financial incentives such as loan forgiveness and pay bonuses to attract teachers to high-need schools; improving state and local assessment and accountability; and investing more resources.

I think the Miller/Kildee bill is the best approach in terms of committing new resources to schools, targeting effective programs, and holding schools accountable to high standards without abandoning them.

I am encouraged by the beginning of this Congress and this new Administration. I take the President's commitment to education and to working with Congress very seriously and I look forward to making a difference this year for all children.

PUBLIC EDUCATION REINVESTMENT REINVENTION AND RESPONSIBILITY ACT

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mrs. TAUSCHER. Mr. Speaker, I would like to take this opportunity to join my colleagues in highlighting some important aspects of the Public Education Reinvestment Reinvention and Responsibility Act.

This legislation, often referred to as the Three R's, would refocus our national education policy by giving school districts the money and local control they need to improve. And, it demands that they get results.

This bill is the way to help American public schools be a true path to equal opportunity for all students by closing the achievement gap; improving teacher quality; helping immigrant students master English; promoting public school choice; and stimulating local initiatives.

It will increase public education funding by $35 billion in the next five years and let local schools spend more time with our children, rather than wasting time applying for the same grants year after year by consolidating about 50 federal programs into 5 performance-based grants. This new process would ensure a strong stream of funding with fewer strings attached. In exchange for this increased investment and fewer strings, states and schools would be held accountable for results.

Although increased funding is a critical component to reform, it is not the only one. If we expect states to meet high standards for students, we must give them broad flexibility and strong incentives to try bold new ideas—returning the power to decide how to best educate our children to the teachers who spend the most time with them.

Because education should be a national obsession, as well as a local possession.

INTRODUCTION OF THE SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. MANZULLO. Mr. Speaker, today I will introduce my bill, the Self-employed Health Insurance Fairness Act of 2001, to accelerate the health insurance deduction for the self-employed to 100 percent immediately.

Remarkably, more than 44 million Americans are uninsured. Over 60 percent of the 44 million uninsured Americans have one thing in common: they are either self-employed or have a family member who is employed by a small business that cannot afford to provide health benefits to its employees. Among self-employed families, approximately 5 million Americans and their children or other dependents are uninsured. These families represent small businesses operating as sole proprietors, S corporations, limited liability companies, and partnerships—including the majority of farmers and ranchers. Congress should make health insurance more accessible and affordable to these working families by accelerating their health insurance deduction to 100 percent immediately.

We have the opportunity this year to provide tax fairness and parity on the deductibility of health insurance for all employers. Larger businesses can deduct 100 percent of their health insurance costs. Under current law, the long-standing disparity between the self-employed and large employers does not end until the year 2003. Three more years is a long time to ask small business families with no health insurance to wait for simple tax fairness. For most of us, the prospect of having no health insurance coverage for ourselves and our children for even a few months is daunting—imagine three years.

As critical as this bill is to eliminating the tax disparity between small and large businesses, the bill would also provide small businesses greater access to affordable health care; expand the ability of small employers to provide health insurance to their employees, and simply taxes for small businesses.

Mr. Speaker, as Chairman of the Committee on Small Business, I am proud to offer this bipartisan bill together with our ranking Democrat Nydia M. Velázquez of New York, and Representatives Phil English of Pennsylvania and Karen L. Thurman of Florida of the Committee on Ways and Means. We urge its prompt passage in this Congress.

TRIBUTE TO DOUG JACOBS

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. CALVERT. Mr. Speaker, I rise today with a heavy heart to pay tribute to a fallen detective from Riverside, CA. Detective Doug Jacobs died Saturday, January 13, in the line of duty for his Riverside community. We send our condolences and prayers to his family, neighbors, and the community.

Doug Jacobs was 30 years of age and employed with the Riverside Police Department since 1995. He leaves behind his young wife, Tamara, daughter Rachel, and stepson Nicholas Sohn. He also leaves behind neighbors and a community that will miss his constant self-sacrifice, generosity, and deep faith in God. And, now those left behind must pull together to support and strengthen each other during the coming months and years.

Being a police officer was all that Doug ever dreamed about when growing up—his family remembers him as a child riding in the car and pretending to talk to officers in passing police cars through the spare seat belt buckle. His career ambition only grew stronger as he grew older, joining the Riverside Sheriff's Department as an Explorer at 14. And recruiters saw in Doug an applicant who not only talked the talk of being an officer, but walked the walk. His love for police work led him to service in the police and sheriff's departments of Los Angeles, before returning home to work for Riverside in 1995.

The National Law Enforcement Officer Memorial, says it the best, that it is not how these officers died that made them heroes, it is how they lived." And as Riverside Police Chief Russ Leach noted at the funeral, Detective Jacobs "Lived His Dreams." Many of us cannot truly understand the latent danger associated with the day to day routine of our law enforcement officers. They put themselves in danger everyday when they stop a vehicle, respond to an incident or a noise complaint—like Detective Jacobs. The danger and violence they face day in and day out is very real and it is times like these, sadly, that make us stop and honor our law enforcement officers. We hope that they be given such honor, respect and thanks always—not only when life's fragile nature is revealed. Detective Doug Jacobs lived his life protecting others and we can best serve his memory by honoring, respecting, and thanking our law enforcement officers.

Mr. Speaker, I ask that you and our colleagues join us today to remember this fine detective. On behalf of the residents of the city of Riverside, we extend our prayers and most heartfelt sympathy to his family and loved ones.

IN HONOR OF THE SOCIETY OF AMERICAN FLORISTS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Ms. ESHOO. Mr. Speaker, it's with great pride that I rise today to honor the work of the Society of American Florists and specifically, my constituents John and Eda Muller of Half Moon Bay, California, for their breathtaking work which displayed during the Inauguration.

The Society of American Florists has provided the floral needs for inaugural events since John F. Kennedy's administration. This year, more than 150 floral industry volunteers from 32 states and the District of Columbia arrived in Washington, D.C. a week before the inaugural festivities to create the floral themes for inaugural festivities. Together, the volunteers donated over 5,000 hours during pre-inauguration week, creating elegant and exquisite works of floral art for nine balls, three dinners and other events. Designers used their skills to arrange 150,000 roses, tulips, lilies and other flowers from around the world, and delivered more than 1,500 centerpieces, podium pieces and stage arrangements.

Mr. Speaker, I'd specifically like to commend the efforts of my constituents John and Ida Muller. For the last thirty years, John and Ida have owned and operated Daylight Nursery in Half Moon Bay, California. Their efforts during the Inauguration are consistent with their spirit of giving, which is unlimited. They are constantly giving to their community, often hosting disabled children at their nursery. John Muller serves on the San Francisco Bay Regional Water Control Board and was recently named Chairman.

Mr. Speaker, John and Eda Muller are two of the finest human beings that I've ever had the privilege of knowing and it is a great privilege to represent them. We owe all the volunteers from the Society of American Florists our deepest gratitude for their selfless efforts during the Inauguration. Because of them, the words "America the Beautiful" have ever more meaning for us all!

IN HONOR OF DARIEN'S 2000 CITIZEN OF THE YEAR

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mrs. BIGGERT. Mr. Speaker, I rise in honor of Dee Leverson, the 2000 Citizen of the Year for Darien, IL.

The city of Darien is at the heart of Illinois' 13th Congressional District. It is a central crossroads for a growing region. And its residents continue to work hard to live up to the city's understated motto—"a nice place to live."

Sometimes, though, that is a tall order. We all know that civic involvement is declining. Even the pillars of our communities, such as the Parent Teachers Association and the Boy Scouts, are experiencing declining rates of participation.

But we also know that there are those in our communities that set a shining example to which we all should aspire. Dee Leverson is one of those people.

When one looks at all that Dee has done for Darien, it becomes clear why she was selected as Darien's 2000 Citizen of the Year. She helped found the Darien Women's Club. She assisted in organizing the Darien Chamber of Commerce. She served on the Darienfest committee for several years, including two as its cochairperson. She then served as chairperson of Darien Day for 2 years as well.

In between all of that, Dee somehow found time to serve on the committee for the first Darien Bookmobile, was active in the Lace School PTA, was a Cub Scout leader, and coowned and operated a women's apparel store in Darien. She also served as a cochairman for the first Cystic Fibrosis drive in the area and helped her husband, Ron, launch the Darien Lion's Club needy family drive.

However, I could not sum up what Dee has meant to Darien better than what her own neighbors said about her.

They wrote: "Dee exemplifies what good citizenship is. Her strong commitment to home, family, community, and the less fortunate make her an outstanding candidate for Citizen of the Year."

I could not agree more. Dee is the kind of person who keeps our communities vibrant and alive. Congratulations to Dee Leverson, Darien's 2000 Citizen of the Year. She has made Darien much more than a "nice place to live."

THE OVARIAN CANCER RESEARCH AND INFORMATION AMENDMENTS OF 2001

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to announce that I am today introducing the Ovarian Cancer and Research Amendments of 2001. I am proud to be joined by 56 original co-sponsors and would like to invite the rest of my colleagues to join me in support of the bill.

Ovarian cancer is the most lethal cancer of the female reproductive system, primarily because it is so difficult to detect in its early stages. While survival rates are quite high if the disease is found before it spread beyond the ovaries, the five-year survival rate drops to 28% for women who are diagnosed and treated in the later stages of the disease. Only 25% of ovarian cancer cases are caught in the earliest stages.

The Ovarian Cancer and Research Amendments of 2001 has three components.

First, it authorizes $150 million for ovarian cancer research: one-half to be spent on basic cancer research and one-half on clinical trials and treatment. The bill requires that priority be given to developing a test for the early detection of ovarian cancer; research to identify precursor lesions and to determine the manner in which benign conditions progress to malignant status; and research to determine the relationship between ovarian cancer and endometriosis. Moreover, the bill requires that appropriate counseling be provided to women participating in clinical trials.

Second, the bill provides for a comprehensive education program to provide information to patients and the public on screening procedures, the genetic basis to ovarian cancer, factors that increase the risk of getting ovarian cancer; and any new treatments for ovarian cancer.

Finally, it requires that the National Cancer Advisory Board include at least one individual who is at high risk of developing ovarian cancer.

I hope all my colleagues will join me in supporting this worthy cause and help to give women a fighting chance against ovarian cancer.

INTRODUCTION OF INTERNATIONAL PRESCRIPTION DRUG PRICING PARITY RESOLUTION

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. BALDACCI. Mr. Speaker, our nation is facing a growing crisis—the high cost of prescription drugs. The threat is greatest to our elderly who rely most heavily on prescription medications to maintain their health.

The scientific wonders of newly-developed life-saving drugs mean nothing if the people who need these medications cannot afford them.

Within our country, citizens pay widely varying prices for the same drugs. We know, for example, that seniors who rely on Medicare actually pay the highest prices for prescription drugs. We can and should work to provide a voluntary, universally-available prescription drug benefit under Medicare.

However, what I find most unconscionable is the difference in price between identical drugs sold in the United States and in our neighboring countries. Studies show that U.S. drug manufacturers often charge Americans more for their products than they do citizens of other countries. The average price differential is about 33 percent, though for certain drugs it can be much greater. Apparently, American pharmaceutical companies are happy to utilize taxpayer funded research to develop new drugs and then turn around and sell the resulting medicines to Americans at premium prices, while selling them abroad at reduced rates. Talk about fleecing of America.

Citizens of my state and many other border states have resorted to boarding busses to visit doctors and pharmacies in Canada in order to save money on their prescriptions. America is the greatest nation in the world, yet Maine people are forced to travel to Canada to obtain life-saving medicines at a price they can afford. This is simply wrong.

And yet, currently they have no alternative. Congress must seize this opportunity to make a real difference in the health and welfare of all Americans by ensuring that our citizens have affordable access to prescription drugs. We must ensure that Americans can purchase medications at prices comparable to those that citizens of other countries pay.

The need for this action is clear. Today I am reintroducing, along with Representative JO ANN EMERSON, a resolution that makes clear Congress' understanding of the high priority this issue must hold. It affirms our opposition to cross-border prescription drug price disparities and our commitment to address this issue in a meaningful way. I hope that my colleagues will join us in recognizing the seriousness of this issue, and taking action to help those most in need of affordable medications.

COMMENDING THE PREVENTION OF A TRAGEDY AT DE ANZA COLLEGE

HON. MIKE HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. HONDA. Mr. Speaker, I rise today to express my deepest appreciation for the excellent investigative work of the San Jose Police Department and the actions of an extraordinary citizen. Yesterday, through the thoughtful work of our law enforcement and a concerned citizen who chose not to "look the other way", a tragedy liken to Columbine was averted.

A young man, whose motives are not yet fully understood, was apprehended with a cache of weapons and explosives, which he allegedly was intending to use in an elaborate mass killing scheme and blowing up of the campus of De Anza College in Silicon Valley. Having spent much time at De Anza College and working with many of its wonderful students, I was shocked to hear of this news.

As a former schoolteacher and principal, I know how hard it is for young people today to deal with the many pressures they face. We don't yet know what this young man's motives were, but this news is a powerful reminder to all of us that we must continue to do better in identifying the warning signs for violence in our schools and work personally with our students, teaching diversity, and tolerance.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. EVERETT. Mr. Speaker, due to a serious family illness that necessitated my presence in my district yesterday and today, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 5 (H.R. 93, the Federal Firefighters Retirement Age Fairness Act)—Yes;

Rollcall No. 6 (H. Con. Res. 14, permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust)—Yes;

Rollcall No. 7 (H. Con. Res. 15, expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts)—Yes.

Rollcall No. 8 (Approval of the Journal)—Yes.

TRIBUTE TO FRANK GREGORIN

HON. ASA HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. HUTCHINSON. Mr. Speaker, I am pleased today to rise to commend the valiant service of a fellow Arkansan, Mr. Frank Gregorin of Sommers, AR. A recounting of his World War II heroics was recently published in the 65th Signal Battalion's July 2000 Newsletter which follows below. I want to again thank Mr. Gregorin for his service to our country during those difficult times and wish him all the best in his future endeavors.

[From the 65th Signal Battalion July 2000 Newsletter]

"March 29, 1945 began as an ordinary World War II day in Europe, but on this day I was scheduled to become a cinder. It was my turn to die unless some friend would help me. The help I would need was nearly impossible to obtain. The friend would have to put his life on the line, place himself in worse danger than I who was about to die. And this was not enough. He would have to have certain skills and be able to summon super-human strength. He would have to disregard enemy rifle fire and work patiently beside gasoline which was about to explode. He would have to disregard all these dangers and concentrate on a tough and complicated task. I had such a friend and didn't know it.

The day was the one where we departed France and entered Germany. Our convoy of 65th Signal Battalion vehicles moved into Worms, Germany, a large city on the West side of the Rhine River. The city appeared intact, but soon we noticed that those tall buildings had no insides. All roofs had fallen into basements. It was a city of shell buildings.

We arrived at the river and began a drive across it on a two track bridge, one track for each wheel, supported by flimsy pontoons. I was perched on a repair bench inside the shop of a radio-repair truck. Slight waves in the river made the pontoons roll back and forth. Movements of the convoy made it worse. There was concern that trucks would tip over and sink into the river, but all made it across. The convoy began moving deeper into Germany. First roads wound through the Hartz Mountains. Danger seemed past so I made myself comfortable. A repair bench on the away from the cliff became a bed on which I could enjoy forest scenery. It was beautiful. What a pleasant way to fight a war.

Suddenly, the convoy stopped. Looking out the window, forward, men were running away from me. To the rear, men were running away from me. Obviously, I was in some kind of a problem area. A view through the rear window told the story. There was no view, only fire, and no ordinary fire. Yow! Those were violent gasoline flames hitting the window. The entire supply of gasoline on board the trailer of the radio-repair truck was about to explode! The only exit was through the one door, through the flames, to the outside world. All windows had steel screening which could not be removed. A small, six-inch diameter opening in the front of the shop was to small to pass me. I wasted precious time, wondering if somehow I could fit through the little hole. No. I must dive through the fire. I opened the door, slightly. A bunsen-burner flame blew into the truck from the top of that tiny opening to bottom. I dared open it no further.

At this point, a voice came to me from outside and beneath the door, "Stay in the truck, Oneby!" Technical Sergeant Frank Gregorin was beneath those wild flames unhitching the trailer. This was no comfort. It takes a wrench to release this type of hitch and at least two men to move the trailer; the book says four. The trailer, besides having a gasoline supply, held the entire weight of a fifteen-kilowatt gasoline-powered electric generator. He had arrived at the hitch too fast to have a wrench. He was trying to unhitch the damn thing barehanded. I'd never seen anyone even try it.

I stared at the six-inch diameter hole in the front of the repair shop. It was still too small for me to squeeze through. Suddenly, success! The flames departed from the rear window Sergeant Gregorin had removed the hitch and was walking the trailer over to the cliff, single-handedly. If one of the wheels had hit a pebble or the trailer became unbalanced in any way, he wouldn't have been able to handle it. I opened the door and prepared to join him in this four-man job. What I saw was frightening. Flames were flowing off the trailer in a vertical sheet. The sheet was inches away behind him. He didn't know of this danger and was looking at me. He yelled. "Stay away from here, Oneby. That's an order!" He was so worried about me, he didn't realize that a slight change in the direction of the wind, and he'd be burned alive. No one could ever continue carrying a heavy trailer with a bunsen-burner flame hitting him.

I closed the door, so he wouldn't look at me, gave him time to look away then opened it again. Sergeant Gregorin had already thrown the trailer over the cliff and hit the dirt, flat as a pancake. His timing was perfect. The trailer blew up as it left his hand. A mushroom cloud moved up into the sky. I'd never seen one before. Pleases of metal were flying everywhere. I hadn't had time to be scared until then. The realization of the closeness of a nasty way of dying sunk in right there.

Everyone, including me, converged on Greg to see what was left of him. He arose and moved his arms sideways proving to himself and the rest of us that he was completely whole, not a scratch. Unbelievable.

Sergeant Damrow couldn't believe he was unhurt. He asked, incredulously, "Are you sure, you're not hurt?" Then, "You were a damn fool, Greg!" I thought, "Thank God for a damn fool." Something holy and miraculous had occurred. My wonderful sergeant had become a miracle man.

Sergeant Hess, who had been driving behind Sergeant Gregorin, called us to see damage to his vehicle. Snipers had put bullets into his windshield and wipers. Snipers had started the gasoline fire. Snipers had hit vehicles ahead and behind Sergeant Gregorin's vehicle. When Greg began his rescue, the snipers ceased their firing. I like to believe they were in awe of a brave man. Did they watch the scene from the forest above the road?

Greg returned to his vehicle behind the radio truck. I returned to the bench but didn't lie down and enjoy scenery for a whole day. Later, I asked Greg, "Would you like me to report this event, so you receive a medal?" He gave a negative reply. It was war time, and there was little opportunity for writing, immediately.

The war ended, and one day there was a big battalion meeting. Medals were issued with no mention of Greg. I could not imagine a more heroic deed, yet he got nothing. I asked him again, and he stood firm on his previous commitment. Soon he learned the folly of his way. With the medals came points to get the men home, sooner. he lamented secretly to me, "Maybe I should have let you report that event."

A sad day arrived. Greg got kicked up the ladder, transferred to higher headquarters, and made into a master sergeant. His heroism and great capabilities seemed to be rewarded slightly. He disappeared from my life for a few months, then returned one day for a visit.

The 65th Signal Battalion was stationed atop a mountain near Stutgart, Germany. He visited during October 1945. Upon his arrival, his replacement, Sergeant Valentine, called to me, saying, "A friend of yours is here." I was pleasantly surprised to see him in great health and with the smile I always like to see. Sergeant Valentine took our picture together. It was the last I would see of him for many years. We both returned home to busily take up where we left off. We eventually began exchanging letters and again got to visit together. Although not near neighbors, we do live within 800 miles of each other. I count him as my best friend. No one could ever beat him at that.

HONORING NEW MEXICO'S CATHOLIC SCHOOLS

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. UDALL of New Mexico. Mr. Speaker, this week is National Catholic School Week. I want to take this opportunity to highlight, praise and congratulate our Catholic schools in my home state of New Mexico.

A whole host of events and presentations are planned for this annual observance of the significant role that Catholic elementary and secondary schools play in educating our young people. This is also an occasion to observe the high standard of excellence and the quality of education available in these institutions.

Mr. Speaker, whatever our religious affiliations, we can all admit that for many generations our parochial schools have achieved outstanding results in providing an excellent education. Even non-Catholic parents have turned to the parochial schools to educate their children.

I especially wish to acknowledge Archbishop Michael J. Sheehan of the Archdiocese of Santa Fe. His strong leadership is an example to all of us. On Sunday, April 25, 1999, an editorial by Archbishop Sheehan appeared in the Albuquerque Journal. As he eloquently stated, "Learning takes place in the home and in the classroom. To improve academic performance, we have to have students who are willing and ready to learn, competent teachers who care about children and who have high expectations of students, and parents and extended families who also care and have high expectations of their children." Indeed, Archbishop Sheehan has captured the essence of education.

I urge all my colleagues to join with me and salute the fine people that make the Catholic schools in New Mexico a reality. It is in the spirit of this wonderful celebration that I wish to recognize and pay tribute to Catholic Schools Week.

RESPONSIBLE DEBT RELIEF AND DEMOCRACY REFORM ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. WOLF. Mr. Speaker, today I am reintroducing the Responsible Debt Relief and Democracy Reform Act. This legislation, which I first introduced in the 106th Congress, is intended to provide debt relief to poor countries that have an insurmountable debt burden and to encourage these same countries to implement reforms for sound democracy and the maintenance of a civil society.

Having just returned from a trip to Central Africa where I visited the Democratic Republic of the Congo, Rwanda, Burundi, and Sudan, I am convinced that responsibly provided debt relief to the poorest countries of the world is one of the best ways to help the poor and the suffering.

The countries I recently visited are among the poorest of the world. Life in those countries and throughout Africa is not easy. Death, famine, disease and pain are a constant as millions struggle to survive another day. A recent report by the United Nations says that 180 million people in sub-Saharan Africa are undernourished. Some children go days without a meal. Malnourishment lowers immune systems and horrible diseases take hold.

The AIDS virus is reaching epidemic proportions. Seventy percent of the world's AIDS cases are in Africa where more than 16,000 people a day are infected. More than 2 million Africans died of AIDS in 2000. There are 16 African countries where more than 10 percent of the adult population is infected with AIDS.

Hunger and disease lead the list as the major crises facing the poorest countries of the world. But there are also other similar characteristics: most of these countries struggle with democracy or with bad governance; they also are caught in a downward spiral of debt, causing difficult and uncertain futures.

Many of the poorest countries must spend an exorbitant amount of their budgets simply to make their debt payments. The rock singer, Bono, a vocal advocate for providing debt relief to heavily indebted poor countries, says, "A country like Niger, with a life expectancy of 47 years, spends more paying off their debts than on health and education combined."

Indeed, a country like Niger is not alone. Debt payments can consume as much as 30–40 percent of a poor country's revenue. The chances of these countries ever paying back their loans is slim to none. Realistically, none of their debt is going to be repaid.

The poor countries of the world have an alarmingly low life expectancy rate, with reports indicating that the average person in Sierra Leone only lives for 27 years. Canceling or reducing the debt of the poorest countries of the world is an opportunity for the U.S. to alleviate the suffering that these people face. Unfortunately, many of these poor countries facing insurmountable debt and needing democratic reform are in Africa.

The new Bush Administration has a unique opportunity to make a difference in Africa. Throughout my trip, the constant refrain I heard was that the United States just needed to show it cared. No one asked for American troops to be deployed. They just want America to send a signal that it will begin to focus on the plight of Africa before another generation of young people is lost to civil war, famine, disease and AIDS.

The U.S. can help provide hope and opportunity for those who may be hopeless. Providing debt relief to the poorest governments of the world, if done in the right way, can free these governments to better address the needs of their own people.

But simply canceling a country's debt doesn't necessarily pave the way to good government. The governments of poor countries are often part of the problem. For a variety of reasons, poorly run governments frequently stand in the way of alleviating poverty or sickness or of providing hope and opportunity to the poorest of the poor.

That is why the legislation I propose today will provide incentives to countries to reform their governments, to institute needed democratic reforms and basic structures of a civil society such as, respect for human rights, promoting religious freedom, freedom of the press, and freedom of association.

The legislation says that debt by the U.S. will be provided to countries that meet the following requirements, as determined by the President of the U.S.:

Freedom of the press.

Freedom of association.

An independent and non-discriminatory judiciary.

Reduction or elimination of corruption relating to public officials, including the promulgation of laws prohibiting bribery of public officials and disclosure of assets by such officials; the establishment of an independent anti-corruption commission; the establishment of an independent agency to audit financial activities of public officials.

Free and fair elections.

Practice of internationally recognized human rights.

Opposition to international terrorism as determined by the Secretary of State.

The President may waive one or more of these requirements for emergency humanitarian relief purposes, if the President determines and certifies to Congress that it is in the national security interests of the U.S., or if the President determines that a recipient country is making demonstrable progress in the aforementioned areas.

The President is to notify Congress of the justification for the determination of the countries that will receive a cancellation or reduction of debt according to the conditions in this legislation.

Finally, this legislation conveys the sense of Congress that the President should instruct the U.S. director at each international financial institution to which the U.S. is a member to use the voice, vote, and influence of the U.S. to urge the cancellation or reduction of debt owed to the institution by a country only if the country meets the same requirements applicable in this legislation.

We need to help the poorest countries overcome their debt burdens but it must be done responsibly. We must ensure that a dictator's pockets are not lined as a result of debt relief. That is why this legislation sets up a framework to help the poorest nations of the world in their struggle toward democracy, rather than just simply writing off their debt. This legislation says progress in democratic reforms, honoring human rights, and opposition to terrorism are important for developing our poor countries. It says that one of the ways to help the poor is to give them opportunities created by engendering democracy, transparency, and much needed relief from their country's overwhelming debt burden. Lastly it says that if those goals are met, the U.S. will help those countries struggling to help their citizens to a better, more prosperous life.

Mr. Speaker, while this legislation may not be the perfect answer, I am hopeful it will provide the foundation for discussion on how to help the poor and give them opportunities so that the 107th Congress and the Bush Administration can deal with this important issue. I urge my colleagues to join me in co-sponsoring this bill.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Responsible Debt Relief and Democracy Reform Act”.

SEC. 2. ADDITIONAL REQUIREMENTS FOR CANCELLATION OR REDUCTION OF DEBT OWED TO THE UNITED STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

“PART VI—ADDITIONAL REQUIREMENTS FOR CANCELLATION OR REDUCTION OF DEBT OWED TO THE UNITED STATES

“SEC. 901 CANCELLATION OR REDUCTION OF DEBT.

“Beginning on and after the date of the enactment of this part, the President may cancel or reduce amounts owed to the United States (or any agency of the United States) by foreign countries as a result of concessional or nonconcessional loans made, guarantees issued, or credits extended under any other provision of law only if, in addition to the requirements contained under the applicable provisions of law providing authority for the debt cancellation or reduction, the requirements contained in section 902 are satisfied.

“SEC. 902 ADDITIONAL REQUIREMENTS.

“(a) IN GENERAL.—A foreign country shall be eligible for cancellation or reduction of debt under any other provision of law only if the government of the country—

“(1) ensures freedom of the press;

“(2) ensures freedom of association;

“(3) has established an independent and non-discriminatory judiciary;

“(4) provides for the reduction or elimination of corruption relating to public officials, including—

“(A) the promulgation of laws to prohibit bribery of and by public officials, including disclosure of assets by such officials upon taking office, periodically while in office, and upon leaving office;

“(B) the establishment of an independent anti-corruption commission—

“(i) to receive and verify the disclosure of assets by public officials in accordance with subparagraph (A); and

“(ii) to investigate allegations or corruption or misconduct by public officials and to make all findings available to the appropriate administrative or judicial entries; and

“(C) the establishment of an independent agency—

“(i) to audit the financial activities of public officials and agencies; and

“(ii) to make all aduits under clause (i) available to the appropriate administrative or judicial entities;

“(5) is elected through free and fair elections;

“(6) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

“(7) does not repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).

“(b) EXCEPTIONS.—The President may waive the application of 1 or more of the requirements of subsection (a) with respect to the cancellation or reduction of debt owed to the United States by a foreign country—

“(1) for emergency humanitarian relief purposes;

“(2) if the President determines that it is in the national security interests of the United States to do so or

“(3) if the President determines that the foreign country is making demonstrable progress in meeting the requirements of paragraphs (1) through (7) of subsection (a) by adopting appropriate legal and other related reforms.

“(c) CONGRESSIONAL NOTIFICATION.—Not later than 7 days prior to the cancellation or reduction of debt in accordance with section 901, the President shall transmit to the Congress a report that contains a justification for the determination by the President that—

“(1) the requirements contained in each of paragraphs (1) through (7) of subsection (a) have been satisfied with respect to the foreign country involved; or

“(2) the requirement of paragraph (1), (2), or (3) of subsection (b) has been satisfied with respect to the foreign country involved.”.

SEC. 3. SENSE OF THE CONGRESS RELATING TO CANCELLATION OR REDUCTION OF MULTILATERAL DEBT.

It is the sense of the Congress of the President should instruct the United States Executive Director at each international financial institution to which the United States is a member to use the voice, vote, and influence of the United States to urge that the cancellation or reduction of debt owed to the institution by a country may be provided only if the country meets the same requirements applicable to the cancellation or reduction of amounts owed to the United States under paragraphs (1) through (7) of section 902(b) of the Foreign Assistance Act of 1961 (as added by section 2).

COMMITTEE JURISDICTION RELATING TO H. CON. RES. 15

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. HYDE. Mr. Speaker, I insert into the RECORD, a letter from Chairman OXLEY, concerning his committee's jurisdiction over H. Con. Res. 15 and his willingness to waive that committees referral of the bill, to permit us to proceed to its consideration.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, January 31, 2001.
Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Rayburn House Office Building, Washington, DC.

DEAR HENRY: I understand that you intend to bring H. Con. Res. 15, a resolution expressing sympathy for the victims of the Indian earthquake, to the floor today for consideration under the suspension calendar. As you know, the Committee on Financial Services was granted an additional referral upon the resolution's introduction pursuant to the Committee's jurisdiction over international financial and monetary organizations under Rule X of the Rules of the House of Representatives.

Because of the importance of this matter, I recognize your desire to bring this legislation before the House in an expeditious manner and will waive consideration of the resolution by the Financial Services Committee. By agreeing to waive its consideration of the resolution, the Financial Services Committee does not waive its jurisdiction over H. Con. Res. 15. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the resolution that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H. Con. Res. 15 or related legislation.

I request that you include this letter and your response as part of the Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

SENATE—*Monday, February 5, 2001*

The Senate met at 10 a.m. and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 5, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. THOMAS thereupon assumed the chair as Acting President pro tempore.

ADJOURNMENT UNTIL 9:30 A.M., TUESDAY, FEBRUARY 6, 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand adjourned until 9:30 a.m., Tuesday, February 6, 2001.

Thereupon, the Senate, at 10 o'clock and 46 seconds a.m., adjourned until Tuesday, February 6, at 9:30 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 6, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 7

9:30 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine airline consolidation implications.
SD–226

10 a.m.
Intelligence
To hold hearings to examine worldwide threats to national security.
SH–216

Budget
To hold hearings to examine the impact of demographic trends on the budget and long-term fiscal policy.
SD–608

10:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine how to establish an effective, modern framework for export controls.
SD–538

Foreign Relations
Business meeting to consider committee rules of procedures, subcommittee jurisdiction and membership, and proposed legislation to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorizations Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country.
SD–419

2:30 p.m.
Intelligence
To hold closed hearings on intelligence matters.
SH–219

FEBRUARY 8

9:30 a.m.
Armed Services
To hold hearings on the Secretary's priorities and plans for the Department of Energy national security programs.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine the Department of Health and Human Services' regulations that affect patient privacy.
SD–430

10:30 a.m.
Budget
To resume hearings to examine certain budgetary issues and the economic outlook of the United States.
SD–608

FEBRUARY 9

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the current state of California's electricity crisis and the use of the Defense Production Act.
SD–538

FEBRUARY 13

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the first Monetary Policy Report for 2001.
SH–216

FEBRUARY 14

9:30 a.m.
Judiciary
To hold hearings to examine the impact of recent pardons granted by President Clinton.
Room to be announced

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, February 6, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we join Americans across the Nation in celebrating the 90th birthday of President Ronald Reagan. On this day, Democrats and Republicans unite in thanking You for Ronald Reagan's life and leadership, his patriotism and character, and his wisdom and vision. Our prayers for our former President and friend lift us above politics as we pray that You will tenderly care for him in these days of illness and recovery from surgery. In Your wondrous grace, penetrate to the depths of his soul with Your comfort and assurance of our admiration. Through Your Spirit, may he somehow feel the love that overflows from the hearts of people here in the Senate and throughout the land.

Dear Lord, bless Nancy Reagan as she continues to care for the President with indefatigable devotion and courageous love. Be with the family as they celebrate this day with the joy of wonderful memories and deep affection. We renew our commitment to pray for and support the research seeking a cure for Alzheimer's disease. Now we invite You to fill this Chamber with Your presence and each Senator with Your power for the work of this day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 6, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. L. CHAFEE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. NICKLES. Mr. President, today the Senate will be in a period for morning business until 12:30 p.m., with Senators DURBIN, DASCHLE, and HUTCHISON in control of the time. By previous consent, at 12:30 p.m. the Senate will recess for the weekly party conference meetings. Upon reconvening at 2:15 p.m., the Senate will begin consideration of the nomination of Robert Zoellick to be U.S. Trade Representative. There will be up to 2 hours debate on the nomination, with a vote scheduled to occur at 4:15 p.m.

I thank my colleagues for their attention.

MEASURE PLACED ON CALENDAR—S. 235

Mr. NICKLES. Mr. President, I understand there is a bill at the desk due for its second reading.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (S. 235) to provide enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

Mr. NICKLES. Mr. President, I object to further proceedings on this bill at this time.

The ACTING PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, could I ask, what are the terms of morning business?

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 12:30 p.m.

Under the previous order, the time until 10:30 a.m. shall be under the control of the Democratic leader or his designee.

Mr. WELLSTONE. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EDUCATING CHILDREN

Mr. WELLSTONE. Mr. President, I had a chance to speak before the National School Board Association yesterday. Sometimes it is only when you speak that you realize how strong your conviction is on an issue. I have come to the floor of the Senate to make an appeal to all Senators, starting with Democrats.

The President, in his inaugural speech, talked about leaving no child behind. And the President, in his education proposal, also spoke about leaving no child behind. I think that is a wonderful value and a wonderful vision for our country. That, by the way, is the mission of the wonderful organization called the Children's Defense Fund headed by Marian Wright Edelman.

If we look at the arithmetic of the President's tax cut he is proposing this week for the country, and if we are to stay true to the theme of accountability—the President in his education proposal called for accountability—I would like to hold the administration accountable on the floor of the Senate, and with amendments and with debate, in what I think is going to be a historic debate.

The non-social Security surplus—putting the Social Security trust fund aside—is $3.1 trillion. President Bush calls for $1.6 trillion in tax cuts. The argument is: There is $1.5 trillion left. What is the problem?

The problem is, first of all, when you look at the $1.6 trillion and when you look at the $3.1 trillion surplus, it is not really that, because we all know the Medicare trust fund money will be kept separate, and now all of a sudden $3.1 trillion in surplus becomes $2.6 trillion. When you add to that the tax extenders—the tax credits that we all know will be extended—and the payments that will go to farmers and other groups of citizens in our country, we are now down to $2 trillion. And when you understand that there will be

Social Security trust fund solvency issues, which, if we do not deal with those issues, will mean that either benefits are cut or the age eligibility goes up, it may be less than $2 trillion. That is $2 trillion.

On the other side of the equation, the $1.6 trillion in tax cuts—once you now understand that we will no longer be paying down part of the debt, and interest payments go up—becomes $2 trillion—$2 trillion and $2 trillion—$2 trillion in tax cuts, only really $2 trillion in surplus; and there will be no resources for our investment to leave no child behind. There will be no resources.

So the only thing you have is a proposal, A, with vouchers, which I think is a nonstarter and I think ultimately will be discarded. Then what you have is telling States and school districts: You do tests every year, starting at age 8—third grade—all the way up to eighth grade. But we are setting the schools and the children and our teachers up for failure because we are not providing any of the resources to make sure that all of those children will not be left behind and will have an opportunity to achieve.

Fanny Lou Hamer is a great civil rights leader from the State of Mississippi. She once uttered the immortal words: I'm sick and tired of being sick and tired.

I am sick and tired of symbolic politics with children's lives. Where in this budget, where in the arithmetic of the tax cuts and the surplus, will there be the investment to make sure that no child is left behind?

Two percent of all the children who could benefit from Early Head Start, 2 years of age and under, benefit today. That is all we have funded.

With only 50 percent of Head Start, only 10 percent for good child care for low-income families, much less middle-income families, when are we going to fully fund the IDEA program, which we made a commitment to school districts and States to do? Not in this budget. Not in this budget.

I say to Senators and, in particular, since the majority leader is on the floor, to Democrats, it is extremely important that we have a civil debate, but it should be a passionate debate. We ought not to believe that in the call for bipartisanship, we should not as Senators speak up for the values and the people we represent. On present course, the best we are going to get is a decade; if we fold and if we do not challenge the tax cut proposals and the plan of this administration, the best we will get is not one dollar for investment in children, in education, in health care, in prescription drug costs; and the worst we will get is deficits going up again.

I would like to, as a Democratic Senator from Minnesota, make three suggestions:

A, we should hold the President and this administration accountable for the words, "leave no child behind." I take that seriously. I don't let anybody get away with saying my goal and my value and my vision is to leave no child behind, when I see only a pittance, if that, of investment in the health and skills and intellect and character of our children so we leave no child behind.

B, Democrats ought to be able to present a set of tax cuts which do not provide the vast majority of the benefits to the top 1 or 5 percent of the population. A lot of what President Bush is unfolding this week doesn't add up. You have the waitress, the single parent, making $23,000 a year with two children. She is not helped, because the tax cuts are not refundable. These tax cuts overwhelmingly go to the most affluent and powerful citizens. We should be able to present a clear alternative.

Finally, I would be willing to debate anybody, anywhere, anytime, anyplace over tax cuts that go to the very wealthy versus prescription drug costs for elderly people. You don't do that on the cheap. I would be willing to debate anybody on tax cuts that go to wealthy, high-income citizens versus expanding health care coverage for the 44 million people who have no health insurance at all. I would be willing to debate anybody over tax cuts going primarily to wealthy people versus doing more for children, so when they come to kindergarten they really are ready to learn.

If we can't stand for these values and can't have this debate, then what in the world do we stand for? One more time, I summarize: The $3.1 trillion becomes about $2.6, $2.7 trillion right away, because we are not going to touch the Medicare trust fund money, nor should we. Then we all know we are going to extend the tax credits. So all of a sudden it is about $2 trillion. And the $1.6 trillion in tax cuts automatically, once we understand we now have to pay the interest that we wouldn't have paid if we were paying down the debt, goes to $2 trillion.

Where is going to be the investment in the children? Where is going to be the investment in education? Where is going to be the investment so that we make sure no child is left behind? When are we going to do something about the fact that we have the highest percentage of poor children among all the western European and all the advanced economies in the world? When are we going to do something about the fact that single elderly women also are among the poorest citizens in our country? Where is going to be the investment

You don't proclaim the goal of leaving no child behind and then expect to do this on a tin cup budget. That is all we are getting from this President and his priorities. It is time for debate on the floor of the Senate about the priorities of our country.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The majority leader.

Mr. LOTT. Mr. President, I believe the time is reserved for the next hour or 40 minutes or so for the Democratic leadership. Since there is no Democrat seeking recognition at this point, I yield myself time out of my leader time to make some brief remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. LOTT. Mr. President, I look forward to the debate the Senator from Minnesota was discussing. I agree; just because we should and will have a civil debate doesn't mean we should not have that debate and lay out our differences of opinion very aggressively and passionately. I look forward to doing that.

The good news today, while there is a lot of gloom and doom in certain corners, is that tax relief is on the way for working Americans. They deserve it. We have a tax surplus, $5.6 trillion in overpayment by the American people.

Now, we will argue over exactly how that $5.6 trillion tax surplus should be used. We agree that Social Security should be set aside, put in a lockbox. If you listened to the campaign debate last year, you would have thought Vice President Gore came up with that idea. He needs to check with Senator DOMENICI and others who actually came up with the idea of having a lockbox on Social Security.

We should continue to pay down the debt in an orderly way, as was suggested by Alan Greenspan, Chairman of the Federal Reserve System, over a period of years, and we can eliminate it earlier than was indicated. We ought to do that on a steady basis. We can have additional investment in areas where we really need it—in education, in health care, even in defense.

To the President's credit, he is saying in the defense area, let's take a look and see what our needs may be in defense; let's look and see if there might be someplace where we can save some money in defense while we clearly are going to have to do more in terms of having readiness and modernization and quality of life for our men and women in the military. We need to assess what we are going to need in the future. He is going about it in an orderly fashion. That is a good idea.

There is no question that working Americans need some tax relief. You talk about breaks for the wealthy. What about the single educated young woman making $30,000 a year in the 28-percent bracket? That is not rich. We have these brackets now that force people into higher and higher brackets at very low income levels. That is fundamentally unfair. We are talking about tax relief for all Americans across the board. It is very fair to do it that way.

I thought we had fundamental agreement last year that we need to do something about reducing the marriage penalty. The President proposes that we double the child tax credit. I don't believe there are a lot of Democrats who are going to speak against that. He encourages more use of charitable contributions without being first penalized with taxes when you take some of your savings and put it into charity. He has a whole package of good ideas, and it is a very fair proposal because it is across-the-board rate cuts.

There is another benefit here. We are not just talking about the fairness in the Tax Code; we are talking about the need for some economic growth incentives. Look at what President Kennedy did, what President Reagan did, and how much their tax relief was as a percentage of GDP. As a matter of fact, President Bush's proposals are actually below what the Kennedy-Johnson package provided for way back in the 1960s. In each case, we had economic growth; we had an increase of revenue coming into the Federal Government.

The problem was, in the 1980s, we had an insatiable spending appetite by the Democratically-controlled Congress that kept pushing up spending. Unfortunately, we could not convince President Reagan to veto more of those bills. I hope President George W. Bush will press aggressively for his proposal on tax relief. I know he is doing it. He is going today to have an event with a young woman in business to show how this tax relief would help her.

As a matter of fact, we checked on a lady who was here a couple years ago, expressing concern about Government mandates and regulations and taxes, named Harriet Cane from the Sweetlife, a small restaurant in Marietta, GA. She had eight employees. She was struggling to make ends meet. She was doing more and more herself. She did the mopping, the preparation.

Well, we checked with her to see how she is doing. Guess what. She is out of business. She said: What drove me out of business was a lot of things, but Government mandates and regulations and taxes contributed mightily to it. When she heard what President Bush is talking about, she said: That certainly would have helped me. For the young entrepreneur, this tax relief will be very positive.

There is a fundamental difference. There are people here who think that any money we can take from people to bring to Washington, we have the brilliance on how it should be spent.

I have a fundamental faith in the people to decide what they should do with their own money that they worked hard to earn. Now they are paying 28 percent, 15 percent, 33 percent, 36.5 percent. When you add it all up, you still have people in this country paying 40, 50 percent of everything they earn for taxes, to bring it to Washington so the brilliant Members of Congress and the bureaucrats can decide how they think it should be spent.

I don't agree with that. I think the family can decide how to best spend money for their children's needs, whether it is buying clothes or a refrigerator, a different car, or a tutor for education. The same thing is true in education.

States such as Minnesota put a lot of money into education. Other States don't put as much into education. Quality education is not consistent across this country, between States and within States, including my own State.

My State has put a high priority on education. We are beginning to make progress. We are going to be paying teachers more. Our universities have been competing more aggressively for research money in physics, acoustics, and polymerscience.

I still believe education should be run at the local level and decisions should be made there. I think we should have a program that leaves no child behind; we should improve reading, but we should also improve math and science skills.

The Federal Government can help with that. By the way, not everybody even agrees with that. My predecessor—a Democrat, I might add—in the House and in the Senate thought there was a great concern about the Federal dollar and Federal control following the Federal dollar. I don't agree. I think we have a role to play in early childhood education and elementary and secondary and in higher education. We have been doing a better job in higher education than in elementary and secondary.

I think money should be given to the States and the localities, local education administrators and teachers and parents, with flexibility so they can decide how to spend it. People in Washington don't like it. They want to tell you to spend it here, there, or somewhere else. Pascagoula, MS, might have different needs from Pittsburgh, PA. We may need more teachers, or maybe we need more remedial reading programs, or maybe we need to fix a leaky roof. But the Federal Government doesn't know what the priority is.

We are going to have a good debate. I look forward to it. When I check with my constituents, the people working, paying taxes, pulling the load, people out in the forests who are being told, "By the way, you can't cut trees anymore and you can't have roads to get to those trees," and people working in the shipyards or oil refineries, they are wondering what will happen. They don't have to have a national energy crisis. The problem is we haven't been producing more energy because we want to shut down our resources—coal, oil.

Let's debate education and energy policy and we will get a result. I believe the American people will be better off when we get those done.

If we don't have a budget plan of how to use this tax surplus, it will be spent by the Washington Government. That is a mistake. I think the working people deserve help. Should we be concerned about low-income needs? Yes. We should address that in a variety of ways, and we are going to do that.

Yes, I think it is time to get on with the debate. I commend the President for what he proposed. He will bring it up to the Congress Thursday. We will have a chance to study it. I am pleased that he said let's make the income tax cuts retroactive to the first of the year. I think that will be even more positive for the economy.

THE NOMINATION OF ROBERT ZOELLICK

Mr. LOTT. Mr. President, there is one other subject on which I want to touch. Later today we will consider the nomination of Robert Zoellick to be the U.S. Trade Representative. That vote will occur at 4:15 p.m. I am satisfied that he will be confirmed, and he should be confirmed. He has a tremendous record in terms of education and experience and previous administrations in the private sector. I believe he will be a strong USTR.

I want to add that I am very much concerned about what I see happening in the trade area. I want the U.S. Trade Representative to be strong. I am concerned about dictates I have seen in the past by both Democrat and Republican administrations, where the State Department or the Commerce Department goes to the White House and stops our Trade Representative from enforcing the trade laws. Free trade, yes, but also fair trade and enforce the laws on the books.

Canada is not dealing with us fairly when it comes to soft wood lumber and wheat. Our closest neighbor, perhaps our best friend in the world, and we cannot get them to live up to the trade agreement we have with them. While we see increased trade in Mexico and Central America, that is good. We have certain problems with Mexico, too. In Europe, for heavens' sake, the first two decisions that the WTO made the Europeans basically have thumbed their nose at. I suggested to Mr. Zoellick, to quote a former great Senator from Georgia, Richard Russell, "I think we ought to have an American desk at the U.S. Trade Representative's office."

Somebody needs to speak for America and quit quaking in our boots about the diplomatic impact it would have with Canada if we say enforce the law. Enforce the law.

I made that statement to Mr. Zoellick privately and in the Finance Committee hearings, and I am going to do so when he is confirmed. I thought Charlene Barshefsky of the previous administration was a good U.S. Trade Representative up until the last year. Then I think she was overrun by the election year and the State Department and all kinds of other people. I think she was tougher than most Trade Representatives. Overall, she did a good job, particularly in the high-tech area.

In agriculture, she was not quite so good. But I am worried. I have supported all of these trade agreements we voted on over the years—GATT, NAFTA, Africa and CBI trade, and China PNTR. But I am getting really fed up with the way we are being treated by our trading partners. I am even more fed up with the way our administrations don't insist on the laws being enforced. So I have urged Mr. Zoellick to do that. I believe he will. I hope he will. If he does not, I can assure him and this administration and our trading partners that a strong letter to follow and action will be taken to be commensurate with how I feel about this issue.

We have to have some change in how we deal with our trading partners. Now is the time, at the beginning of a new administration. Without being overly critical, it has been both Republican and Democrat administrations. It is time we look after American interests in the trade area as well as in the diplomatic, economic, and military areas.

I know others will say things such as this, and in the Finance Committee some of my friends on the Democratic side were surprised to hear me say this and liked it. I don't mean to sound as if I am some sort of a traditional protectionist, but fair is fair. I don't think our trading partners are dealing with us fairly right now.

I support this nomination, and I will urge a vote for his confirmation.

I yield the floor.

TAX CUTS

Mr. WELLSTONE. Mr. President, I will say to the majority leader that I think his last set of remarks may be the basis of bipartisanship between the two of us. We will keep this civil.

I will also say to the majority leader and others that I can't wait for the debate because he focuses on the $30,000-a-year family. But anybody who looks at the distribution of benefits of President Bush's tax cut plan will see—I don't know—40 percent of the benefit going to the top 1 percent of the top 5 percent, which is ridiculous. It is like Robin Hood in reverse. Yes, we will make sure there is a set of tax credits to go to middle-income and working-income families. Absolutely.

I will point out one more time—and I didn't hear the majority leader respond to this at all—I want to hold President Bush accountable for these numbers—a $3.1 trillion non-Social Security surplus becomes 2.6 when you put Medicare trust money aside, which we will do. It becomes $2 trillion when extending tax credits, and we also provide payments to farmers and other people, which we will do without doubt. The tax cuts go from $1.6 trillion to $2 trillion, when you now have to pay the interest on the debt, when you are not paying the debt down, in which case I want to know where are the resources to leave no child behind.

I say to the majority leader that I am more than willing to debate after we provide tax cuts for middle-income working families, whether or not we, in fact, provide some benefits so elderly people can afford prescription drugs versus tax cuts for the wealthy, whether we can expand health care coverage versus tax cuts, or whether or not we will live up to the words of leaving no child behind and make investment in child care and in Head Start and in our schools and fund the IDEA program versus tax cuts for the wealthy.

I think the message President Bush is trying to convey and the majority leader echoes to the people in the country—I all of a sudden find myself being a fiscal conservative—is that we can do it all. There is no free lunch. We can't do it all. We can't have tax cuts disproportionally to the wealthy, erode the revenue base, and at the same time say we are going to leave no child behind; we are going to make an investment in education; we are going to make an investment in covering prescription drugs for the elderly. We can't do both. The people in the country are smart enough to figure that out, and I hope Democrats will engage this administration. The sooner the better. I don't think we need to wait one more day to have this debate.

Senators and President Bush: You cannot proclaim the vision and the value of leaving no child behind and keep this on a tin cup budget. If we are real about this, we will make the investment in the intellect, the skills, and the character of our children.

This budget is not real. It does not make that commitment to leaving no child behind.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AIRLINE INDUSTRY COMPETITION

Mr. WYDEN. Mr. President, a key principle of economic competition today is that one big merger begets another. Known as copycat mergers, these deals are made when the companies that did not merge first felt forced to copy the initial merger. If those left behind do not merge, then they just can't keep up with the Joneses.

This morning, I am going to focus for a few minutes on competition in the airline industry. I want to begin by saying that when it comes to copycat airline mergers, this country has reached the point where there are virtually no more cats.

This weekend, Americans opened their newspapers to learn that Delta Airlines, the nation's third largest carrier, and Continental, have begun merger discussions. The Associated Press says that Delta and Continental don't even really want to merge. But you guessed it—they say other major airline mergers might drive them to it.

The latest round of airline merger reports comes on the heels of the proposed United-U.S. Airways merger and American's proposed deals with TWA and United.

In my opinion, if nothing is done in the face of these proposed airline mergers, our country is headed down a runway of no return. If this lineup of mergers takes off, it will destroy the last remnants of competition in the airline history.

The trend toward concentration in the airline industry did not begin in the last few weeks. More than 20 consecutive airline mergers were approved in the 1980s.

I believe much of the problem we are seeing today stems from that huge array of airline mergers that took place in the 1980s. In fact, I think the merger between TWA and Ozark sets in motion the trend that began in the 1980s. I come to the floor this morning to say I believe it is time to change course.

The central problem stems from the fact that the major proponents of deregulation have not been willing to simultaneously and vigorously enforce the antitrust laws. As a result, our country gets the worst of both worlds: dominant companies with a choke hold on the market, and nobody setting rules to make sure they don't run roughshod over the American consumer—the flying public.

The Justice Department, which has been run by officials from both political parties since concentration in the airline industry accelerated, has not fully utilized the antitrust tools at its disposal. As a result, I want to make a proposal this morning: Before the Justice Department clears one more major airline merger, the Federal Trade Commission (FTC) should have to make a public report demonstrating that the merger will not have negative long-term implications for consumers and the economy. The FTC should dig in, hold public hearings to examine these deals, and get to the bottom of the long-term consequences of these airline mergers. It is time to make sure that these mergers don't strand any more airline passengers with too few choices and too many headaches.

The real question is: Is competition in the airline industry working today?

In my view, there certainly aren't enough competitive forces in the airline industry to force companies to compete now to improve service.

Actually, some of our constituents report to us that they are left out on the runway for hours with a glass of water. Is it any wonder consumer complaints are at record high levels and some fliers call the departure board at our airports the "delay board"? I think not. I think those problems stem from the lack of competition we are seeing in the airline sector today. This Congress should not stand idly by while a chain reaction of mega-mergers squeezes out whatever competitive juices remain in the airline industry. As I make my proposal for airline mergers this morning, I want to make clear that I am not one who believes that all the mergers taking place in America are bad. Many of the mergers our country is watching have not only not been harmful, they have been beneficial. They have resulted in more efficient companies that ultimately benefit consumers with better service and lower prices.

When it comes to the big airlines, it doesn't look like that's the case. These airline mergers seem to permanently reduce competition. So I believe it's time for Congress and the executive branch to take a time out on airline mergers and assess the long term implications of where the airline industry is headed. The shape of the airline industry created today is one America will have to live with for a long time, and we ought to know what we are getting into. Competition in the airline industry is too important to too many people, who fly to conduct their business and their personal affairs.

Slowing up this airline merger frenzy to look at the long-term consequences, as I propose this morning, is a modest step that the U.S. Congress ought to take now.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 249 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I understand we are in morning business and I have some time assigned to me; is that correct?

The PRESIDING OFFICER. The Senator is correct. Under the order, the time until 11 a.m. shall be under the control of the Senator from North Dakota.

TAX CUTS

Mr. DORGAN. Mr. President, last Friday morning we had an issues conference with the Democratic caucus at the Library of Congress, just across the street from this building. Those of us in the Democratic caucus in the Senate—and there are 50 of us in a 100-person Senate—spent the day talking about the issues we want to raise during this Congress.

We invited President Bush to come by this issues conference, which I believe was unprecedented. As chairman of the Democratic Policy Committee, I recommended we invite the new President. He came and made a very short presentation to us—very general and very cordial. We asked a series of questions, and then he departed. We were very pleased he did come by to our issues conference.

One of the things he said in discussing issues with the Democratic caucus was that when he campaigned for the Presidency, he campaigned on certain issues, and he said: I intend to pursue those issues as President, and there will be time when we disagree, but we should be able to do that without being personal and without being disagreeable. He understands that there are times we will disagree as a matter of public policy, and that is the way democracy works.

There is an old saying that when everyone in the room is thinking the same thing, no one is really thinking very much. That is certainly true in public policy. The ability in this kind of a setting to have a good aggressive debate on public policy issues, especially controversial issues, benefits the American people. Then we get the best of what everyone has to offer. So let's begin this debate.

The President has proposed that we have a $1.6 trillion tax cut in this country over the next 10 years. That was not a surprise to us. He campaigned on that throughout this country. That election ended in a dead-even tie, but the members of the electoral college cast their votes, and he is now President. There is not necessarily a mandate for this tax cut, at least one for $1.6 trillion.

I make the point that this President campaigned on it and yesterday he announced it, and we will in this Congress now begin to discuss and debate the advantages or disadvantages of that particular plan.

There are a lot of reasons for us to say that now is the time to offer a tax cut to the American people. We do have a budget that is now in surplus, and that surplus exists in a measure that will allow some of that money to be sent back to the American taxpayers. That is the way it should happen. There are other uses for that money as well, and we ought to include them.

We ought to pay down the Federal debt with part of it. If during tough times we run up the Federal debt, during good times we ought to pay it down. Not all of that surplus ought to go to tax cuts; some ought to go to reduce the Federal debt. Yes, some ought to go to tax cuts, and then some ought to be used to improve life in this country—invest in education, invest in health care, prepare for the needs of Social Security and Medicare in the future. There is a range of needs and a range of priorities, and that is what I want to talk about today.

Twenty years ago, we had a new President come to this office, President Ronald Reagan. He proposed in 1981 a very large tax cut. In fact, one of the contestants for the Presidency was Republican Senator Howard Baker who called the economic plan that President Reagan brought in 1981 a "riverboat gamble."

President Reagan said we should cut taxes substantially and double the defense budget, and the concurrence of those two policies—cutting taxes and doubling the spending on defense—would result in a balanced budget. In fact, the plan backfired. It did not result in a balanced budget. It resulted in long-term, abiding, deep Federal budget deficits that kept growing and growing. And $3 trillion was added to the Federal debt in a very short period of time because the plan did not add up—with annual budget deficits of hundreds of billions of dollars.

I make that point only because it has taken years of struggle to try to deal with those annual budget deficits that kept growing like a cancer in our budget. But we did deal with it. Through a series of public policies and private initiatives, those budget deficits are gone and replaced now by surpluses.

How did they disappear? One, we changed the direction of fiscal policy early in the last decade. We cut some spending and increased some taxes. Some did not like it. It was very controversial. Some of my colleagues said, if we do this, it will throw the country into a recession and throw people out of work. Of course, it did not. It gave the American people confidence that we were going to be on the right track and that finally Washington was serious about getting rid of Federal budget deficits. The result: We had unprecedented economic growth. We then had, as well, diminishing Federal budget deficits to the point where deficits turned into surpluses.

So finally, after 20 years, the accumulated deficits are gone. But we still have a substantial amount of Federal debt that resulted from those annual deficits.

President Bush says, let us decide to cut the Federal tax load by $1.6 trillion over the coming 10 years. What is wrong with that? Aren't tax cuts always good? Don't the American people always want tax cuts—the bigger the better?

Let me read something written by Allan Sloan, who is a thinker and a journalist that I really respect. This was in today's paper. He describes what is wrong with it, from my perspective. I am quoting Allan Sloan:

> There are weeks when you have to wonder whether the American economic attention span is longer than a sand flea's. Consider last week's two big economic stories: The Congressional Budget Office increased the projected 10-year budget surplus by $1 trillion, and the Federal Reserve Board cut short-term interest rates another half-percentage point to try to keep the economy from tanking.
>
> To me, the real story isn't either of these events; it is their connection. The Fed is cutting rates like a doctor trying to revive a cardiac patient because as recently as last fall, Fed Chairman Alan Greenspan didn't foresee what today's economy would be like. Meanwhile, although it is now clear that even the smart, savvy, data-inhaling Greenspan couldn't see 4 months ahead, people are treating the 10-year numbers from the Congressional Budget Office as holy writ.
>
> Hello? If Greenspan missed a 4-month forecast, how can you treat 10-year numbers as anything other than educated guesswork? Especially when the CBO has for years devoted a chapter in its reports to "The Uncertainty of Budget Projections"?

Should we really be talking about 10 years, $1.6 trillion?

Abe Lincoln once gave a speech, and he said that an Eastern monarch once charged his wise men to invent for him a sentence to ever be in view and which would be true and appropriate in all times and situations. Working on the problem, they finally presented the following words: "This, too, shall pass away." Abe Lincoln said: "How much that expresses. How chastening in the hour of pride and how consoling in the depths of affliction, this, too, shall pass away."

Because we have turned deficits into surpluses, what has happened in this town is that we have people who believe that this kind of economic growth and opportunity will continue for 10 years unabated.

I thought the definition of a conservative was to be reasonably cautious about things. That, apparently, is not the case. Let's lock in very large tax cuts that have the danger of throwing us right back into the same deficit ditch we were in for so very long.

Let me say this. I believe there is room for a tax cut. I do not believe we ought to lock in large tax cuts for the next 10 years. I do not happen to believe the kind of tax cuts proposed by this President are the kind of tax cuts that we should lock in, in any event. I do not happen to believe that you ought to just say, the tax burden in this country represents the income tax burden people pay, and whatever else they pay is irrelevant. The fact is taxpayers paid over $600 billion in payroll taxes in this country last year, and that is relevant because three-fourths of the American people pay more in payroll taxes than in income taxes.

But this plan proposed by President Bush says: Ignore that. That is not a tax burden that counts. All we are concerned about is giving back some income tax. And, by the way, we will give it back on the basis of who paid it, and so our giveback plan is that the largest payers get back the largest refunds.

I do not think that is good policy. I do not think it is conservative. I do not think it is good for this country.

Let me go through just a couple of charts that describe the choices we are going to make.

These are budget choices and tax choices: Should we risk slipping back into big deficits or should we move forward and build on recent economic successes? I think almost everyone would say that is a choice which is very simple: Let's build on these economic successes.

If that is the case, then what are the risks of the fiscal policy we choose? What are the risks of deciding that we can see 10 years out? Everyone here knows that is not the case. That is foolhardy. We cannot see 6 months, 2 years, 3 years, 5 years, or 7 years out. We can't see that far. We do not know what is going to happen.

Does anyone in their own family budget think they have the opportunity to understand what is going to happen 7 years or 10 years from now? They don't. Yet that is exactly what we are being told by the President and his economic advisers: Lock in a $1.6 trillion tax cut because we know what is going to happen for the next 10 years. That is, in my judgment, very risky for this country.

The Congressional Budget Office does an analysis of what might or might not happen.

Let's look at the difference in optimistic versus pessimistic presumptions. If you want to take an optimistic view of things, if you want to always look for a pony in a manure pile—you always think there is good news just around the corner—you can ride on this top line. But what if it is wrong? What if it is this bottom line? What does that mean for the country? What does it mean for kids going to schools in disrepair? What does it mean for kids going to school in classrooms where there are 32, 34 kids in a classroom? What does it mean for a woman who has diabetes or heart trouble and can't pay for her medicine because Medicare does not cover it?

If you make the wrong choice—and we have a huge tax cut that lasts 10 years, when the economy is soft, and we are back into deficits, it means there is no money for education, no money for prescription drugs in Medicare, and no money for health care.

The President proposes that we can see 10 years out, and with the surplus that we expect for 10 years out we can propose massive tax cuts. Eighty-five percent this is the $2.2 trillion that people say really is the cost of what the President says his tax cut is—and there is very little money left for debt reduction, which, in my judgment, ought to be a priority. It seems to me, one of the things that ought to rank high here is reducing the Federal debt during better times. If you run it up during tough times, reduce it during good times.

Prescription drugs in Medicare, we ought to do something in that. We know of the challenges in education. They say that defense is going to need more money. This administration has talked about substantially more money for defense. You also have agriculture, Medicare reform, Social Security reform. And how about a rainy day fund. Should there be something set aside in case something goes wrong with our economy? Yes, I believe so.

Those are some of the considerations. And President Bush's plan is a tax cut that has a relatively small cut in the first year but permanently is backloaded with huge tax cuts in the 10th year. What that does is, it puts us right back in the same circumstances that we found ourselves in in to the 1980s, in my judgment.

Some say, this public debt is all coming down. Let me take a look at this chart. We have a long way to go to reduce public indebtedness, and it ought to be a priority. What better gift to America's children, to remove that yoke of indebtedness around their shoulders. It ought to be a priority. It is, in my judgment, a conservative ethic to decide one of the priorities is to reduce debt.

Finally, let me make the point that we are going to discuss this at a time following the longest economic expansion in this country's history, when we see a weakening of the economy.

Let me hasten to add, this is not a surprise. Seven months ago, Alan Greenspan decided the American economy was too strong. He and his brethren at the Federal Reserve Board locked their door because they are the last place in town that locks their door to keep the public out. It is the last American dinosaur in our Government. They locked their door. They make secret decisions. And 7 months ago they said: Our economy is too strong. It is growing too fast. We have to slow it down. We are going to increase interests rates.

Seven to eight months later, where are we? Planned job cuts at Montgomery Ward, Daimler Chrysler, Lucent Technologies, Sara Lee, and General Electric—potentially 80,000. This morning EToys is broke. This economy is softening far beyond the imagination or expectation of the Federal Reserve Board. But no one should be surprised by that. The Fed insisted that the economy was growing too rapidly, and they wanted to slow it down some. Don't call this economic slowdown anything other than Federal Reserve Board strategy.

Having both studied economics and taught economics in college, it is useful to ask the question, notwithstanding the Federal Reserve Board action, has anyone really repealed the business cycle, that cycle in which you have economic expansion and contraction? It is inevitable. We have economic stabilizers to try to even it out a bit more, but has anyone been able to repeal the business cycle? The answer is no. As a result of that, we have economic contractions, notwithstanding what the Fed does. When those contractions exist, we will hope they are minor.

But the point of all of that is, we should not decide to lock in very large tax cuts for a 10-year period when we can't see out 2 years. The Fed can't see out 7 months. It is risky for this country, risky for our economy and our children, to do that.

Some, I suppose, can't help it; it is just habit forming. There is a story about how elephants with circuses are able to be tied to the little metal posts. If you ever to go to a circus, you see the elephants. They have a metal cuff around their leg and a chain. The chain goes to a little metal stake pounded into the ground. You wonder, how can that stake hold an elephant that weighs thousands and thousands of pounds?

The answer is that in Thailand, when they catch the elephants, what they do is they put that cuff around the elephant's back leg with a chain, and they tie the other end to a big banyan tree. That elephant, for a week or two or more, will pull with all of his might and all of his energy to get away. But he can't shake that banyan tree. Finally, the elephant simply discovers: With that cuff on my leg and that chain, I can't move. They take the other end off the banyan tree and put a little stake in the ground, and the elephant never moves. He is chained by his habit. He can't move, so he doesn't move.

There is a lot of that in this policy we see these days. This is a policy born of habit. The minute you have some good economic news, you decide you are going to offer a very big tax cut and it doesn't matter what the consequences are.

I mentioned when I started that there are a lot of ways to provide a tax cut. I happen to believe there is room to have a tax cut in this country now. But people pay income taxes, and they pay payroll taxes. They pay a range of taxes, income and payroll being the two largest. The President's proposal, like a lot of others, says the only taxes that really count are the income taxes and we will give you a portion of them back.

What about the people at the bottom of the economic ladder who pay payroll taxes? Three-fourths of the American people pay more in payroll taxes than in income taxes. Yet no one ever talks about giving them something back. Why not? How about those who work at the bottom rung of the economic ladder, many of whom pay no income taxes because they don't earn enough income? How about giving them something back in terms of the heavy payroll taxes they pay? How about making sure that when you provide a tax cut, the tax cut is fair across the board, not just provide very large tax cuts to the people making three, four, five hundred thousand, and more, millions a year, and then just small crumbs to the people at the bottom, if any at all.

This economic engine of ours works because a lot of people are out there working, some at the top, some at the bottom. Don't diminish the efforts of those at the bottom. They pay taxes, too. They get up in the morning. They work hard all day. They pay taxes. They pay the same rate of payroll taxes as the richest Americans pay on their salaried income. So how about some help for those folks.

What I would prefer we do in a tax cut plan would be to propose a 2-year tax cut plan for this country, and, at the end of 2 years, to evaluate: Do we have continuing surpluses? Is our economy good and strong? And if so, then we should continue those tax cuts. What I would suggest is that we provide a tax cut over the next 2 years that represents a percentage cut in income taxes paid, plus payroll taxes paid. Add those burdens together and take a percentage of that and provide a tax cut for 2 years based on that. That recognizes then that people at the bottom who are paying payroll taxes also ought to get a percentage of that back.

I am not saying we should eliminate money from the trust fund. Let that go into the trust funds. I am saying that when you measure the burden of taxes, measure the Federal income taxes paid and the payroll taxes paid and provide a percentage of that and give it back. And I would have a maximum of perhaps $1,000. That is a way to give a tax cut in a manner that is fair and in a manner that makes sense.

Second, as we talk about taxes, there is one other thing we ought to do. I have been working on this for a couple years. I have introduced it with a couple of my colleagues. It is called the FASST plan—the Fair and Simple Shortcut Tax plan. Over 70 million Americans can pay income taxes in the future, if we adopt this plan, without ever having to file an income tax return. Your withholding at work is your actual tax liability. Check a few additional boxes on your W-4, one of which says I am a homeowner, yes or no, and your actual withholding becomes your actual tax liability. No waiting in line on April 15 at the post office. No more audits. Over thirty countries have return-free tax filing systems for most of their taxpayers. We could, and we should.

Seventy million Americans can avoid having to file income tax returns in the future if we pass the Fair and Simple Shortcut Tax plan I propose. That also can be done in a way that reduces taxes, because in order to do that, you would eliminate taxes on the first increment of interest, dividend and other investment income that families have.

I won't go into all of the details of my plan, but it makes sense, if we are talking about substantial changes in our Tax Code, to consider simplifying the Tax Code at the same time. Those are a couple of things I think we should do. We ought to recognize that payroll taxes count as well. That is part of the tax burden. We ought to do something that recognizes that.

Finally, let me talk for a moment about the alternatives. If we decide to lock in a 10-year tax cut, a very sizable proportion, there will not be any money left to pay down the Federal debt, which, as I said, I think ought to be a priority, and, second, to make needed investments which we know are necessary.

I have talked before about a couple of people. I will do it again. We know it is a priority to provide a prescription drug benefit in Medicare.

I was in Michigan, ND, one evening. A woman came up to me after a town meeting, and she grabbed hold of my arm. She was perhaps in her late seventies, early eighties. She began to speak to me about the prescription drug medicine she had to purchase. Then her chin began to quiver, her eyes filled with tears, and she said: I can't afford to buy these prescription drugs. I don't have the money. I know I need them. The doctor says I must take them, but I don't have the money. Her eyes were filled with tears, and she turned away from me. That goes on all across this country, people who need prescription drugs, living on Medicare, but they don't have the money.

Do we have needs to respond to in those areas? You bet your life we do. That ought to be a priority.

I have talked about Rosie Two Bears, a third grader in a school that is dilapidated, in a school where kids sit at desks 1 inch apart in crowded classrooms in a school, part of which has been condemned, in a school that has classrooms where they have to evacuate because the sewer gas comes up a couple times a week. And little Rosie Two Bears says to me: Mr. Senator, are you going to build me a new school?

I can't build her a new school. I don't have the money to build her a new school. She and so many others around this country need a school that is renovated and modern and capable. When she walks through that classroom door, we do her and others a disservice by not having a first-class facility for her to be educated in. Is that a need for us? Yes, that is a need.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. I ask unanimous consent to proceed for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. We have many needs and many priorities, one of which is, yes, let's provide a tax cut. Let's make it fairer.

Second, let's not have a 10-year tax cut locked in so that we put this country's economy at risk and throw us back into Federal deficits.

Third, let's also pay down the Federal debt while we have some surpluses. What better gift to our children than paying down the Federal indebtedness we ran up during tougher times.

Fourth, let's not provide a tax cut that is so large, the bulk of it will go to the upper income people, in a way that would prohibit us from having the resources we need for education, health care, and other areas that we know need additional investment in this country. Those ought to be our priorities.

I say to the new President, I am interested in working with him and others. Having an aggressive, good debate about fiscal policy is not personal, and it shall never become personal. We have different ideas about the priorities in this country. We need to debate that in the coming months. I intend to talk about that because I believe so strongly that we ought to do all of the things I have described in order to give us an economy that will continue to grow, prosper, and provide opportunities for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Idaho.

Mr. CRAPO. Mr. President, I have been here on the floor listening to the debate. I am very pleased that we are engaging in a real debate about the possibility of meaningful tax relief. I have worked since I was elected to Congress, about 8½ years ago, to try to reform the Tax Code. I hope our debate over reducing taxes does not cause us to lose sight of the fact that we have to ultimately reform our Tax Code. Taxes are not only too high but too complicated, and the cost of simply complying with the Tax Code is a burden the people must see removed.

Tax relief. Why are we debating so much about tax relief right now? What is the thing that caused us to come together? It is the fact that President Bush has been elected and has followed through on his campaign commitment to propose a $1.6 trillion tax cut to the American people.

I want to go through what it is President Bush has proposed. We have had a lot of debate about whether it is good or bad to have a tax cut, but not a lot of details about what President Bush is proposing we do. The President's tax relief proposal is fair and responsible. It provides a typical American family at least $1,600 in relief. They get to keep at least $1,600 of their own money that they are now sending to Washington with these skyrocketing surpluses, which I will talk about in a moment, which are growing. The typical American family is defined in this context as a family of four with one wage earner who earns $50,000 annually. I will give you more statistics about what this means for other types of situations.

For example, the President's proposal gives a tax cut to every single family in America who pays income taxes. What does it do? It reduces the current five-rate tax structure to a four-rate tax structure and reduces every tax rate. Every taxpayer who is in any tax rate—in any tax bracket—will receive relief. Right now, he is proposing that we move to a 10-percent, a 15-percent, a 25-percent, and a 33-percent tax bracket.

For those of you who don't follow tax brackets, currently the lowest is 15. So if you are in the lowest income category, paying the lowest rates of income taxes, you will see your tax rates go from 15 percent to 10 percent—a 33-percent reduction for that tax bracket alone. The tax reductions are lower as the rates go higher, in terms of percentage of income.

It doubles the child tax credit to $1,000. It reduces the marriage tax penalty.

I think we ought to eliminate the marriage tax penalty. I have cosponsored legislation which does that. Many of us will be trying to see if that total elimination of the marriage tax penalty can be worked into this package.

It eliminates the death tax and expands the charitable tax deduction.

What does this mean? It means that one in five families with children now who are paying taxes will no longer pay any tax at all. Six million families, those at the lower income levels, will be totally eliminated from the tax rolls. A family of four making $35,000 would get a 100-percent tax cut. A family of four making $50,000 would receive about a 50-percent tax cut. A family of four making $75,000 would receive about a 75-percent tax cut. The marginal income tax rate on low-income families will fall by over 40 percent.

The current Tax Code is unfair to a single mom paying $25,000 a year. She pays a higher marginal tax than somebody making $250,000 a year. That will be changed under this tax proposal. Federal taxes today are the highest they have ever been in peacetime America. Americans pay more now for taxes than they spend on food, clothing, and housing combined. Americans work more than 4 months out of every year just to pay their tax bills. The current high tax rates are keeping low-income taxpayers out of the middle class.

Recent business layoffs show that the economy needs a boost quickly. Those layoffs are not a reason not to have tax relief; they are a reason we need tax relief.

The critics—and there are always critics—are throwing everything they can at this tax relief proposal. I am in my ninth year in Congress, with 6 years in the House and almost 3 years in the Senate. During the entire time I have served in Congress, we have fought for tax relief. We have put forward bill after bill. We have put forward every kind of idea you can think of to get the President and the administration and those who oppose tax relief in this city to support something.

Every time in the last 8½ years, whatever we have proposed, whatever it is, has been attacked as a "tax cut for the wealthy." I start to wonder if anybody who pays taxes is defined as wealthy. When we get a proposal such as this one that benefits everybody in America and gives higher percentages of relief for those at the lower income level, it is attacked as what? A tax cut for the wealthy.

It seems there is not ever going to be a tax cut that is acceptable to those in this country who want to keep taxes high so they can keep spending high. That is what this debate is about. Make no mistake about it; We are now seeing that the record levels of spending by this Federal Government are not enough to those who want to see spending increased even more. We have projections of $5.6 trillion of surplus in the next 10 years, and that is not enough.

We have to say that a $1.6 trillion tax cut is going to threaten our country. The reason it is a threat is that there are those who believe that from cradle to grave this Federal Government must take care of you. In order to do so, it has to have your tax dollars. Spending at the Federal level is the ultimate objective.

Let's talk about that surplus. The latest projections are for a $5.6 trillion surplus. One of the battles we have won in the last 8 years since I have been in Congress is that we have stopped the Federal Government from robbing the Social Security surplus and spending Social Security dollars, masking excess spending. We don't allow that to happen anymore, and we won't here.

If you take out the Social Security part of the surplus and the other off-budget portions of the surplus, that is about $2.5 trillion, leaving somewhere in the neighborhood of $3.1 trillion of non-Social Security on budget surplus over the next decade. President Bush is proposing that we give tax relief for $1.6 trillion of that.

You have heard the argument made that it is risky; we can't project 10 years and be accurate. That is true. In the 8 or 9 years I have been here, I can't remember a year when we got it exactly right. But I can remember that every year we got it low. We used conservative estimates. We have built in downturns in the economy. Frankly, if we find that even these conservative estimates are not too low—and I will note that they are upgraded every month now, showing that they are low—we can adjust things as we move along. To scare people out of a tax cut by saying we don't know for sure is simply another argument by those who never want to see taxes cut.

We have an opportunity to reduce taxes in a significant way, and we ought to take it.

Let's talk a little bit about what the positive effect of tax relief will be. Tax relief is going to have the immediate effect of helping families, businesses, and communities save and invest more while moving in a direction toward reforming the Tax Code. Prompt action will also improve the economic environment and strengthen consumer confidence.

By the way, those projections we use are what we call static projections. As we project, we are not allowed to assume reduced taxes will stimulate economic activity. We have to assume that every dollar of taxes that we cut is a dollar of lost revenue to the Federal Government.

Experience shows us that in many of the areas where we reduce taxes the increased stimulation to the economics of the country actually generate increased revenues. Every time so far that we have cut the capital gains tax, the revenues from the capital gains tax have gone up—not down—because it has allowed more capital transactions to take place in this country. We are not allowed to take any of that into consideration. But tax relief will—mark my words—allow for more investment, will allow for more safety, will strengthen consumer confidence, and will stimulate and strengthen our economy.

Recently Alan Greenspan was emphatic about the superiority of tax cuts to spending increases. He said: If long-term fiscal stability is the criterion, it is far better, in my judgment, that the surpluses be lowered by tax reductions than by spending increases.

That is what the debate is about. This debate is not about whether to pay down the debt or to reduce taxes. This debate is about whether to keep taxes high so this Government can continue its increasing appetite to spend Federal dollars and pull control over the economy and over people into Washington. The argument is made that we should reduce the Federal debt first. Frankly, I agree with that.

I strongly believe that our highest priority should be to pay down the Federal debt. Alan Greenspan pointed out that with the surpluses we are seeing now we are paying down the Federal debt at a rate about as fast as we can.

There are certain instruments out there that go beyond the 10-year timeframe with which we are dealing—public debt instruments—and if we buy those down early, we will actually have to pay a premium in order to do so.

His point was that if we continue our current rate of paying down the national debt, we can do so and have this tax relief.

We have already reduced the national debt by $360 billion. We reduced it last year by $224 billion. Even assuming this tax relief package goes into place, in 5 years we will have paid off more than half the Federal debt, and in 10 years we can pay off most of it—still working on both areas where we have debt instruments that are out there beyond the 10-year time cycle.

Make no mistake about this either. We are committed to paying down the national debt, and we will pay down the national debt. But stopping a tax relief package is not going to accelerate that process. Stopping the tax relief package is simply going to accelerate the opportunity for Federal spending sprees as we go into our appropriations cycles in this Congress.

I think it is important that we get this debate in its proper perspective. Our goal here is to improve the quality of life for all Americans. The argument has been made about this tax package that, well, it is going to stop us from being able to make needed investments in areas that we have to invest.

Remember those budget surplus numbers I talked to you about earlier. Even if they are not adjusted up anymore, we are going to have somewhere in the neighborhood of $1.5 trillion over the next 10 years after the tax relief package; after saving all the Social Security surplus and other off-budget surplus dollars to use for strengthening things where we have legitimate needs for Federal spending.

For example, America's failing schools still fail to deliver a world-class education; and President Bush has proposed to make sure not one student is left behind.

Our national security needs some strengthening. We can assure that we have an effective defense against ballistic missile attacks; that our military's aging equipment and personnel shortages are addressed; Our health services and programs for the elderly are out of date and need reform and strengthening.

Those things can happen. We can address the needs of this country without being caused, by the politics of fear, to think we don't have an opportunity for tax relief right now. That is what it ultimately gets down to.

This time, as well as every time in the last 8 years, we will try to talk America out of a tax cut. They will use what I call the politics of fear. They will say we can't protect you if you do not let us have these tax dollars; that we can't do what is needed to make sure that your life is made safe; and that if you allow this tax relief package to go through, then all kinds of terrible things are going to happen to the economy.

The truth is, this is a modest tax relief proposal given the potential surpluses we see growing; and as we move forward this country will be strengthened—not weakened—by a resolve to reduce the tax burden paid by the American families.

Again, we pay the highest rates of taxes today than we have paid in peacetime America. We have some of the highest surpluses ever. We can protect Social Security and strengthen our country, and we can do so if we will properly address the issue of tax relief.

I encourage us to move forward quickly to pass this tax package.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume up to 15 minutes. I may not use all 15 minutes, if there are other speakers waiting to come to the floor.

I have been asked by the manager of this bill to accommodate Senator DURBIN by adding 11 minutes at the end of the time of morning business for Senator DURBIN, and in the process of my doing that for Senator THOMAS, I need to apologize to the Senator from Louisiana, Ms. LANDRIEU, because she asked to do the same thing. I guess we weren't at that point so accommodating because I said I would accommodate her at 3 o'clock this afternoon. I apologize to Senator LANDRIEU.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this morning, and a lot of times during this debate over the next 4 or 5 months on tax legislation, we will hear a lot of economic arguments. I don't want to detract from those economic arguments as not being good arguments, but I think they are tailored to fit the pattern of people who have a political philosophy that believes more money running through the Federal budget, and through the Federal Treasury, as a percent of our gross domestic product is a better thing to do.

They believe that a political decision made by Senators and Congressmen and a President on the distribution of goods and services within our country is better than leaving the money in the pockets of the men and women who are working in America to pay those taxes to decide how that money should be spent. We may not talk about it enough, but our philosophy for those of us who are fighting for tax relief for every taxpayer in America is that we believe there is more economic good done for America—and creating jobs in America and having a better life in America—if the money does not come through the Federal Treasury; or at least if less of it comes through the Federal Treasury and more is spent and invested by individual working men and women, entrepreneurs, and people who create jobs; or even if the money is spent by consumers. We believe that by having the marketplace and willing buyers and sellers make that determination of how the money should be divided creates more jobs, and turns over many more times in the economy than if the money comes through the Federal Treasury, and there is a political decision on how it should be distributed.

Those are honest political and philosophical differences between our political parties. They are honest differences, but one has great faith in government to make decisions; the other one, mine, has great faith in individuals to make decisions. My philosophy will create more jobs. Since government does not create wealth, government distributes wealth or expends wealth, there aren't as many jobs created in the process. When the government actually creates a job, it is a job that consumes taxpayers' money, not creating wealth.

These economic arguments are very good, but I feel more comfortable applying a little basic common sense to the whole argument of a tax cut; a little common sense to offset a lot of Washington nonsense. It is common sense that we have a tax surplus. We haven't had a tax surplus except in the last 4 or 5 years. Before that, I have to admit, Congress was very fiscally irresponsible with budget deficits. We had some tax surplus in the Social Security account, and we still have it, but it was meant to cover up irresponsible spending on the other side. That is behind us now that we have had a new Congress for the last 6 years, going on 7. We have not only budget surpluses, but surpluses beyond budget surpluses; those are tax surpluses.

It has reached a point, because of automatic bracket creep, where people earn more and they are put in higher brackets. That money is coming in at historically high levels of taxation. Automatic bracket creep comes because people get put in a higher bracket and there isn't enough reduction in the tax brackets through the inflationary adjustment to offset that. Consequently, we have automatic tax increases on people without a vote of Congress. As a result of bracket creep as well as other enacted tax increases, taxes are now at 20.6 percent of gross domestic product, whereas over a 50-year period of time it was somewhere between 18.5 and 19.5. Historically, the economy has adjusted itself to that level of taxes. I think the people have accepted it as a reasonable rate of taxation. But they don't accept this historical high of 20.6 percent. That is why we are having the demand for tax relief for every taxpayer.

Common sense dictates if we are going to keep this level of taxation up, that it is going to be burning holes in the pockets of Senators, Congressmen, and even Presidents to get spent. Those expenditures are generally on a continuing basis and an obligation always on the Federal Treasury. We want to discourage the level of expenditures growing as it did over the last 3 years, an average of 6 percent, twice the rate of inflation; or last year, 11.9 percent, three times the rate of inflation. That is not sustainable because taxes aren't coming in at that level. Even if they were coming in at that level, we would not want to have the level of expenditures that high because sometime there will be a downturn in the economy, and when that income goes down, expenditures don't go down to adjust to the income of the Federal Treasury.

Common sense dictates we have to take some money out of Washington, DC, and leave it in the pockets of the taxpayers of America so we aren't the overtaxed nation that we are, that we are more where the historical level of taxation has been for 50 years.

Now is the time to do that, to make up for the real bracket creep we have had, these automatic tax increases we have had, where we have reached the point where the average taxpayer is spending more on food, clothing, and shelter than they are spending on taxes. We will give tax relief to working men and women, to taxpayers in America, because of this high level of taxation, because we don't want money burned up in Washington, DC. We want to keep the money out of Washington, DC, leaving it in the taxpayers' pockets.

There is 50 years of common sense behind that because that has been the level of taxation, 18 to 19 percent of the gross national product.

We need to understand the taxpayers trust themselves with the money more than they trust the Internal Revenue Service. We will hear the tax relief that I am talking about is labeled a risky scheme. The only scheme is Washington's insatiable appetite for more and more of the working men and women's hard-earned tax dollars.

There is a threat, we are told, that we can't continue to pay down the national debt. We can continue to pay down the national debt. We will continue to pay down the national debt. We are going to continue to pay down the national debt until we get to that point where Chairman Greenspan has advised that you can't pay down any more national debt because there is about $1 trillion of the national debt that is held by individuals who want the security of the Federal Treasury for their savings. They have bought 30-year Treasury bonds, and about $1 trillion of those are not callable. In about 6 or 7 years, we are going to reach the point where there is money coming into the Federal Treasury, that if these bonds are not callable, you don't pay down the national debt anymore, you start having the Federal Government invest in the stock market, buying other bonds, buying other stock, or at the very least, as the law requires now, to invest in federally insured financial institutions and then have an inordinate political impact upon the economy when that enormous transfer of billions and billions of dollars is put into the private banking system. That caution is not urged by Senator GRASSLEY. That caution is urged by Chairman Greenspan.

I assure people we are going to continue to pay down on the national debt. Taxes are so high we have reached the point where a two-wage-earner family, particularly if they are middle-income or below, one-wage earner is working to put food on the table and a roof over the head and just to provide for the family; the other one is working to pay for the Washington bureaucracy. That isn't how a family gets ahead.

For a family with a $50,000-a-year income—this will probably be a two-wage-earner family; it wouldn't have to be but it could be—but for a $50,000 income family of four, their taxes now are about $4,000, on average. Under the President's proposal they drop down to $2,000. Consequently, that will leave in the pockets of those working men and women income for them to decide on their own how that money can be better used, whether it is saved for college education, pay more down on credit card debt, pay more down on the house mortgage. They may want to spend it, but that family making a determination of how to spend it is going to do more good for the entire U.S. economy than anything else.

We have also been urged this morning: Don't get locked into a tax cut—this is where the trigger mechanism comes in—and that maybe we ought to have automatic increases in taxes for 4 or 5 years down the road in case something unpredictable happens.

We do not need to worry about that. Common sense tells me that it is easier for Congress to increase taxes than to decrease taxes. We do not have to have an automatic trigger. It is not good for the economy to have it anyway because working men and women are going to perform according to the predictability of the Tax Code, and we should make sure it is predictable.

My time is up. I assure my colleagues, we do not have to worry about triggers because we have only had two tax decreases in 20 years, but we have had Congress vote tax increases in 1982, 1984, 1986, 1990, and the biggest tax increase in the history of the country under President Clinton in 1993. So we do not need an automatic trigger. If we need to increase taxes, Congress can do it, and common sense tells me that we will do it. I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Wyoming.

Mr. ENZI. I thank the Chair. Mr. President, it is always an exciting day when an accountant gets to talk about taxes.

The American people have had some concerns over taxes for a long time. If you were to throw that into a list of things about which they are concerned, it would probably come out at the top. Do they think there is going to be tax relief?

I ran into a song written by a guy named Roger Miller that sums up the trust people have in the Federal Government giving them some tax relief, and it goes something like this:

Well, you dad-gum gov'ment
You sorry so 'n' so's
You got your hands in every pocket of my clothes
Well, you dad-gum, dad-gum, dad-gum gov'ment.
Well, you dad-gum gov'ment
You sorry rackafratchits
You got yourself an itcha
And you want me to scratch it
Well, you dad-gum, dad-gum, dad-gum gov'ment.

The President is coming through with relief on the burden of every taxpayer—every taxpayer. I am in support of President Bush's relief proposal. It is time to ax the tax and cut the burden down to size.

I applaud President Bush in acknowledging that surplus revenue is a tax overcharge. It is time to stop the overcharge. It is time to return the money to the American people. It is time to relieve the burden on all the taxpayers.

Americans deserve tax relief. Right now Federal taxes are the highest they have been in America during peacetime. Americans pay more in taxes than they spend on food, clothing, and housing combined. Most people work more than 4 months each year just to fund their government. It is time for the Federal Government to get its hands out of the pockets and allow them to keep more of their own money.

President Bush has proposed tax relief for every taxpayer. That is right; if you pay taxes now, you will receive tax relief under President Bush's proposal. As an example, a family of four who earns $50,000 a year will receive tax relief of $1,600. That is a 50-percent reduction for those families.

Right now I can tell you $1,600 will go quite far in my home State of Wyoming. For most folks, that will pay for 1 or even 2 months of mortgage payments. It will cover a year's worth of gasoline for two cars. It will cover the cost of a year's tuition at many of the community colleges. It will cover the cost of groceries for 4 months for many people in my State.

Most importantly, President Bush and the Republican Congress trust the American people themselves to spend their own money as they see fit.

President Bush's tax relief will simplify the code while providing relief for all Americans. That is another place where we have a huge burden: The amount of time that it takes to get the information together to see if you owe or if the country is going to give you back some of what you paid.

This plan replaces the current five rates with four lower rates of 10, 15, 25, and 33 percent. As such, this tax rebate legislation takes an important step in simplifying our terribly complex code, while allowing all taxpayers to keep more of their own money.

Instead of attempting to pick winners and losers—beware of the tax plan that starts out with: Don't give any money to the rich; just give it to the poor. You will find that under the definition of "rich," anyone who pays taxes is considered rich and will not get money back. Watch the wording. Watch the details.

We cannot have a bill that attempts to pick winners and losers and makes tax relief a lottery, particularly including those who do not pay.

The President's tax plan honors the contribution of all Americans and recognizes they can spend their own money better than the Federal Government.

In addition to a simplified lower tax structure, President Bush's tax proposal will benefit families by doubling the child credit from $500 per year to $1,000 a year. It lowers the marriage penalty. It kills the death tax.

This is a tax policy that puts its money where its mouth is. The current Tax Code punishes marriages and savings. The Bush proposal rewards marriage, rewards parents, rewards savings. This plan recognizes the enormous burdens that many parents are under and provides some hard-earned relief for each and every taxpaying family in the United States by returning to them part of the tax overcharge that has made this historical surplus possible.

While this tax relief proposal will benefit all taxpaying Americans, it especially helps middle-class families who are the backbone of our economy. Those receiving the largest percentage reduction in their Federal income taxes will be those in the middle class.

For example, a family of four earning $75,000 a year will see their Federal taxes reduced by 25 percent. The same family of four earning $50,000 a year will benefit from a 50-percent reduction. If a family of four earns $35,000 a year, they will pay no Federal income taxes under President Bush's proposal.

This tax proposal is part of a three-prong strategy to save Social Security, pay down the debt, and return a portion of the tax overpayment to the people responsible for it: the American taxpayers.

For decades, the Democrat-controlled Congress spent the Social Security surplus on a variety of programs. Under a Republican-controlled Congress, the Social Security surplus is being protected so that it will be there for present and future retirees. It is now time to return a portion of the non-Social Security tax overcharge to the American people.

There are those on the Democratic side of the aisle who say we cannot afford tax relief for Americans because we need to spend the money to pay down the Federal debt. If I really thought they were serious about this, I would be more inclined to listen. The problem is, in the 4 years I have been here, I have not seen their actions back up this rhetoric.

I have been working with my colleagues, primarily Senator ALLARD and Senator VOINOVICH, to actually implement a policy that ensures we pay off the entire publicly held debt regardless of whether all the budget surplus numbers materialize. We have tried at least six different approaches. Guess how many Democratic cosponsors we have had on any of those proposals? Zero.

Our Democratic friends love to talk about debt reduction, but when it comes time to vote on a tax cut, when it comes time to vote on debt reduction, their enthusiasm disappears as soon as the next appropriations bill hits this floor; and they envision 1,000 ways to spend that same surplus. They say: Don't lock us into $1.6 trillion of tax relief. Don't lock us into that.

Do you know what spending does? Spending locks the American taxpayer into an eternal debt. Do you ever see us stop a program? Do you ever see us hold a program at the same level? Every program continues; every program gets an increase.

We talk about how the cost of living is going up, and we better spend more on that program to cover the additional costs of that program for the cost of living. Then we expect to increase it on the basis of whether it is a good program. The evaluation isn't whether it is good or bad. We lock things in. Every time a dime of the American taxpayer's money is spent on a new program, that dime is obligated, year in and year out, for their generation and generations to come.

Tax relief isn't locked in quite that well, as people have noticed when they have had their taxes raised in previous years.

A tax raise can happen. Tax raises happen more often than spending cuts. So don't talk about locking in a tax cut, particularly with the hope of being able to put it into new programs.

There is also talk about the need to reduce payroll taxes. The Bush plan reduces payroll taxes. It reduces that portion of the payroll taxes that are income taxes. It does not yet deal with that portion of the payroll tax that is Social Security or Medicare. Those are two programs funded separate from the Federal income tax. Those are two programs that must be reformed. To make statements on the floor that we are going to reduce those payroll taxes without putting reform in place says that we do not care about the future of Social Security and Medicare. We do. We need the reform. The payroll taxes that are involved with Medicare and Social Security have to be taken into consideration as part of that reform.

And the rich versus poor: That is an attempt to start class warfare. The idea is to relieve the tax burden of every taxpayer.

You will see things thrown into the rhetoric that will give tax relief to those who do not pay taxes. To me, the surplus is a tax overcharge. That is like going to the store and buying something and being overcharged. When that happens—and somebody discovers it, and somebody is honest enough to pay that back—I kind of expect them to pay it back to me. I do not expect them to pay it back to somebody who just happened to walk through the store. That is what we are talking about with some of the proposals that are being put out there.

We need to remember that the surplus is not some magical pot of money created by those in Washington. It is an overpayment of taxes by the American people. It is only fair that we return a portion of that overcharge to those who gave us this surplus in the first place.

My experience has been that if we do not give a large portion of this surplus back, we will see it disappear in the waning days of this Congress, as we feed the unquenchable appetite of the ravenous appropriations bills. How does that affect you? When we are voting on appropriations, we are spending a very small part of the American taxpayer's money on each and every proposal. I think the American taxpayer realizes, if you spend enough quarters, you have used all of their tax money. That is about what they put into a program—25 cents. Some people are more than willing to put 25 cents into a new program. But they ought to be able to pick which programs themselves and not rely on the beneficence or the unique knowledge that 100 of us have here and 435 have on the other end of the building. If they want to give, they should be able to give. They should get credit for giving, but they should be able to select what they want to give. They should be able to select what they want to buy. That is what the tax package does.

We also have a unique opportunity to simplify. Complexity is a tax burden. It is a tax burden for individuals. That is the No. 1 thing the National Taxpayer Advocates have pointed out: Complexity is the No. 1 problem. The No. 2 problem is complexity for small business, where a lot of individuals are trying to earn a living out there.

It is time to ax the tax and cut the burden down to size. We do need tax relief, and we need it now. President Bush's tax proposal is fair, responsible, and will benefit all American taxpayers. This tax plan will create jobs, it will spur economic growth, it will mean jobs for us and our kids, and it will support families in the essential task of raising children.

Let's return the tax overcharge and give the American people tax relief now.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I commend my colleague from Wyoming for his very strong, clear, and forceful statement supporting tax relief for the American people. It was well reasoned. I applaud him for making his statement and associate myself with it.

CORRECTION OF RECORD

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that an editorial I submitted last Thursday be stricken from the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CUTS

Mr. HUTCHINSON. Mr. President, I also applaud President Bush for his leadership on the tax relief issue. He has come forward with a plan that I think will have the support of the American people and will provide them much needed relief.

Senator ENZI very correctly called the huge surplus that is projected over the next 10 years a tax overcharge. That is precisely what it is. The CBO has estimated the Federal surplus will total $5.6 trillion over the next 10 years. Setting aside Social Security surplus revenues, the Federal surplus will total $3.1 trillion. So if you take away the Social Security—put it in that lockbox—you still have $3.1 trillion over that same period.

Our country and our Government has experienced a surplus for the last 3 years running, and we have paid down the national debt now by over $363 billion. It is clear, we have to continue that path of fiscal responsibility. We have paid down the public debt $363 billion.

President Bush has pointed to a very real problem that exists, and that is the increase in personal debt, consumer debt, in this Nation. One of the imperatives for providing tax relief to low- and middle-income working Americans is that that increasing personal debt, consumer debt, in this country can be addressed while we simultaneously address the problem of the national debt.

The Government also has an obligation to the American taxpayer who is now paying more in taxes than the Government is spending every year. The Federal tax burden is the highest ever during our peacetime history. Americans, as Senator ENZI pointed out, pay more in taxes than they spend on food, clothing, and housing.

Instead of growing Government bureaucracies, and devising new Federal programs on which to spend that surplus, it is incumbent on Congress to give taxpayers back some of the money they have overpaid because it is, in fact, their money.

President George W. Bush has proposed that we give back about one-quarter of the projected surplus, which allows us to pay down the national debt, protect Medicare, and ensure the viability of Social Security, and not touch the Social Security trust fund—all at the same time—and give back to the American people one-quarter of the tax overcharge, of the surplus.

I think that is extremely prudent. It is a smaller tax relief package than that which was proposed under President Reagan a number of years ago.

If, in fact, we do not return that money to the American people, the temptation will be so great in Washington, DC, that we will most assuredly spend it; every day politicians are devising means by which we can spend that surplus. So while you will hear those who are opposed to broad-based tax relief, no one will say they are opposed to tax cuts completely. They are all couching it and saying: I favor tax relief, but we want to target it to those who need it most.

That is Washington-speak for those who really don't want to provide tax relief for every taxpayer and who really believe that wisdom resides within the District of Columbia and that we can better decide where those precious resources should be expended than the American people.

The fundamental question is, when it comes to a tax relief package: Whom do you trust more? Do you trust the American people? Do you trust American families or do you believe that it is wiser and smarter for us to collect the tax revenues and then, in our sense of priorities, decide where those revenues will go?

We can prevent the tax relief debate from degenerating into a class warfare debate, and we can keep the focus on: Whom do you really trust, do you want to return the surplus to the American people, or do you want to keep it in Washington where we will divide it up and decide who are the winners and who are the losers and what programs should be started and what programs should be increased? That will be the debate we ought to have before the American people, and on the floor of the Senate.

President Bush has a number of key reforms in the plan with which he has come forward. He replaces the current five-rate tax structure with four lower rates—10, 15, 25, and 33.

I agree with George W. Bush: No American taxpayer should be required to give more than one-third of their income in Federal income taxes.

There was a time, back before Ronald Reagan was elected President, when the top rate for some Americans was 70 percent. That was obscene. Frankly, 33 percent is too high. No American ought to pay more than a third of their income in Federal taxes. President Bush simplifies it by replacing the five-rate tax structure with four lower rates.

The most common complaint about the current Tax Code is its complexity. While this isn't a panacea and it is not going to fix all of the problems in the Tax Code, at least it is a step toward greater simplification. I applaud that. It doubles the child tax credit to $1,000. I was the original sponsor, when I was in the House of Representatives, of the $500-per-child tax credit which eventually was signed into law. President Bush says we must go further; we need to double that $500-per-child tax credit. He is right.

Americans who have the greatest burden from our tax system are those who are trying to rear their children, trying to pay for their clothes, trying to keep food on the table, and trying to plan for college tuition. Those Americans facing the greatest economic challenges deserve that commitment to the American family that the child tax credit provides.

When the per-child deduction was originally passed and put into the Tax Code, the goal was, the statement was, that our Tax Code was to say families are important. And they are important. But over time, the effects of inflation so eroded tax deduction that it became less than significant. The $500-per-child tax credit is a move in the right direction, and doubling it, as President Bush has proposed, is a big step in providing relief for American families. He reduces the marriage penalty. And he eliminates the death tax altogether.

This has been an effort of Senators and Congress men and women on both sides of the aisle for years. It is a provision in our Tax Code that is widely recognized as being inequitable and anti-American: Penalizing savings, penalizing investments, penalizing the American dream of passing on part of what you accumulate in your life to your children and to your grandchildren. I applaud the fact that that death tax would be pulled up by the roots to no longer be a part of our American tax system.

He expands the charitable tax deduction. This is very much needed as part of the faith-based initiative the President came forward with and will unleash charitable giving in this country.

Contrary to the claims of critics that the Bush plan only benefits the rich, in fact low- and middle-income families will receive the greatest reduction in the amount of taxes they must pay each year relative to their income.

There are going to be a lot of linguistic games played. It is true that those in higher income brackets may see a greater relief in terms of dollars because 5 percent of wage earners in this country pay 40 percent of the taxes. Even though President Bush's plan is highly progressive, it is going to benefit low- and middle-income taxpayers more in percentage terms, in raw dollar terms, because they pay so much more of the tax revenues of this country, they will receive more of the benefit. But every American taxpayer will receive relief. And those in low- and middle-income brackets are going to receive the highest percentage of relief relative to their income.

A family of four making $50,000 a year would receive a 50-percent tax cut, which means an extra $1,600 in their pockets every year, enough money to pay the average monthly mortgage payment, depending upon where you live, or several months' worth of grocery bills for an average family. A family of four making $75,000 a year would receive a 25-percent tax cut, and a family of four making $35,000 a year would have a 100-percent tax reduction.

Yet you will hear time and time again echoed on the floor of this body, as we debate this issue in the coming weeks, that this is a tax cut for the rich. You tell that to the family making $35,000 a year who will owe zero in their Federal tax liability; you tell that to the family of four making $50,000 a year who will see their tax burden cut in half, that this is a tax break for the rich.

President Bush's tax plan would use approximately one-fourth of the surplus for tax relief while reserving a portion for debt reduction, Medicare, and for Social Security preservation. The Bush plan would decrease total Federal revenue by no more than 6.2 percent each year.

By comparison, President Reagan's tax plan reduced Federal revenues by over 18 percent. My favorite Democrat, President Kennedy's tax proposal would have cut Federal revenue by over 12 percent. He saw the value of what tax relief would mean not only to the American people but to the economy itself.

President Bush is proposing fair and responsible tax relief. The surplus doesn't belong to the Federal Government; it belongs to the hard-working Americans who pay taxes every year. I wholeheartedly support the President's plan and look forward to seeing it passed very much intact.

May I inquire, how much time do we have remaining?

The PRESIDING OFFICER. The Senator spoke for 11 and a half minutes. The time until 12:30 is under the control of the Senator from Wyoming, Mr. THOMAS.

TRIBUTE FOR SECRETARY OF THE AIR FORCE PETERS

Mr. HUTCHINSON. Mr. President, I rise to take a few minutes to recognize the contributions of a patriot, a leader, and a good friend of this institution who has departed Government service to return to life as a private citizen.

During his 4-year tenure as Under Secretary, Acting Secretary, and Secretary of the Air Force, F. Whitten Peters had led his service to new heights of achievement, and the world is better for it. At a time when the global security environment became less predictable with each passing day, Whit Peters understood the need for the Air Force to become more responsive, more versatile, and more powerful—all at the same time. With boundless energy and enthusiasm, he set out to help the U.S. Air Force do those things and more.

As the leading architect of aerospace power, Whit Peters drove a fundamental re-examination of the relationship between air, space, and information systems. As a result, the cold war Air Force he inherited is well on its way to becoming a modern, integrated aerospace force, designed to meet the challenges of a new millennium.

During Secretary Peters' tenure, in the troubled skies over Serbia, a war was won using the strengths of our military—and we did it without losing a single American to enemy action.

Today, despots and dictators hesitate to act because they know America's Air Force can bring power to bear at the point of decision in a matter of minutes or hours. And, millions of people, the world over, live better lives because of the humanitarian missions undertaken by our U.S. Air Force in the last 4 years.

While busy guiding the evolution of the Air Force's operational capabilities, Secretary Peters also directed significant improvements in acquisition, logistics, and sustainment programs to ensure the best possible use of defense resources. He presided over the development of the Evolved Expendable Launch Vehicle—a revolutionary pairing of Russian propulsion technology with the best United States commercial space-launch capabilities—which will drastically lower the cost of placing commercial and defense payloads in earth orbit. He led the consolidation of five Air Force aircraft depots into three, reducing depot over-capacity by 40 percent and saving the taxpayers over $377 million a year. And, he arrested a 10-year drop in aircraft readiness rates by putting 2 billion dollars' worth of additional spares on the shelf where they will be useful to aircraft maintainers. He was instrumental on an issue critical to my home State of Arkansas—his commitment secured Little Rock Air Force Base as the Nation's C-130 schoolhouse and the Center of Excellence for future generations.

Most important, Whit Peters took care of his people. As every Member of this body knows, he fought hard for improved pay, housing, and medical benefits for every member of America's Air Force. He fought for better re-enlistment bonuses for people in hard-to-fill skills such as air traffic control, computer network administration, and over a hundred others. He pushed relentlessly for better child-care facilities to meet the demands of working families, and today 95 percent of all Air Force child care centers meet federal accreditation standards, compared to just 10 percent of child care facilities nationwide.

No wonder the enlisted men and women of the Air Force honored him with their most prestigious recognition: Induction into the Air Force Order of the Sword. In the 53-year history of America's youngest service, no other Air Force Secretary has even been so honored. Nor has any service secretary been so respected by the men and women he leads.

Like the men and women of the Total Air Force—the Air National Guard, the Air Force Reserve, and the Regular Air Force—we hate to see Whit Peters go, and I know my colleagues will join me in wishing him the fondest of farewells. I have rarely known someone with greater commitment, greater work ethic, or a greater zeal for life than Whit Peters displayed. He is a rare leader and an even rarer person in this town: a true gentleman who cares more about others than himself. As the Air Force slogan says, "No one comes close."

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, it is my understanding that time has been set aside for Senator THOMAS. I would like to claim 15 minutes of that time.

The PRESIDING OFFICER. Without objection, the Senator from Colorado is recognized.

TAX CUTS

Mr. ALLARD. Mr. President, before I say anything about how necessary I believe the President's tax cut is at this time in our Nation's history, I want to also point out to my colleagues on the Senate floor another way we can save dollars, save on Government expenditures, another way we can make money available for tax cuts, another way we can begin to do more to pay down the debt: voluntarism. Senators who are here in this body are going to have a great opportunity on March 7 to volunteer for a very worthwhile project, Habitat for Humanity. Members of the Senate are sponsoring a home, where staffs, spouses, and Members of the Senate can actually go out and help construct a home for a family who is struggling and needs assistance. This is an excellent alternative to a Federal program. I encourage Members of the Senate to participate in this volunteer program.

I am also pleased to join my colleagues in the Senate in calling for tax cuts for all Americans. I support tax cuts for the people who work hard every day. Everyone paying taxes should receive tax relief. I agree with my colleague from Arkansas who earlier spoke very eloquently about the need for tax cuts, that people have a better idea how they would like to spend their dollars than any bureaucrat in Washington or any Member of this Senate. I think it is time we have a tax cut now that we have unprecedented revenues coming into the Federal Government.

Many people I see here on the floor arguing against tax cuts, willingly and excitedly spend more money in the appropriations process. Their argument against tax cuts is that we need to have the money to pay down the debt. But when we get toward the end of the session, we have a spending binge. In the final 6 months of last year, we spent $561 billion—the biggest tax spending binge in this country's history in peacetime. I don't think we should allow that to happen because in the long-term we are dealing with some very big liabilities. To increase programs and increase spending at this time just means it is going to get worse. We should work to pay down the debt, and we did a good job toward paying down the debt. Ninety percent of our surplus went toward debt repayment last year. I am proud of our efforts in doing that.

I think the other solution is that we need to have a tax cut. We need a plan to pay down the debt, and we need to have a plan to reduce the tax burden on the American people. I happen to agree with what the President recently said, that we need to make tax cuts retroactive. Why not? In the past, Congress has instituted tax increases and made them retroactive. So if we see a need to keep the economy from slowing down too much, or if we have excess surpluses, then I think we ought to go ahead and have tax cuts that are actually retroactive rather than increase spending.

We frequently discuss the budget surplus, and I believe it is actually more accurate—and I want to emphasize this—to talk about it as a tax surplus. The surplus represents an overpayment by taxpayers. These overassessed taxpayers should not have to send the money to Washington in the first place. My colleague from Arkansas pointed out that it gets distributed on the whims and wishes of the bureaucracy and Members of the Congress. I think it is better to empower local taxpayers to spend that money as they see fit. Allowing people to keep their own money makes sense to me. They are in a better position to know what they need. I believe in people's priorities, not Washington priorities.

Rather than addressing the basic question of whom we should trust with the taxpayers' money—the taxpayers or Washington—some have attempted to shift the focus, claiming they can't afford tax cuts. In fact, tax cuts don't jeopardize debt repayment or the Government's other obligations.

I think my record here on the Senate floor is clear. I am known as a budget and debt repayment hawk. I want to see the debt paid down as fast as possible. Federal Reserve Chairman Alan Greenspan said in a recent Budget Committee hearing, which I attended, that based on the current projections, there is room in the surplus for both debt repayment and a tax cut. He stated repeatedly before many different committees that the least desirable option is to use surplus money for new spending—exactly what the Congress did in the final 6 months of the last Congress.

On July 1, 2001, CBO delivered an encouraging fiscal forecast. They saw that the foreseeable budget surplus would allow the Government to return a major portion of the surplus to its rightful owners. That means a tax cut. They saw that the surplus would allow continued efforts to pay down our national debt. It continues to make good on a Republican promise to protect the Social Security surplus.

To put it simply, CBO's baseline assumptions for 2001 to 2011 project surpluses large enough to allow the Federal Government to retire all available debt held by the public.

Surpluses from this year through 2011 are projected to approach between $5.6 trillion and $6 trillion—nearly four times the amount needed to fund the Bush tax cut.

The Bush tax cut plan is an important first step towards returning the tax surplus by lowering taxes. It will mean on the average $1,600 more for each American family. That is real money. It can be used for such things as buying a home, paying for a college education, purchasing a computer to help kids in school, buying a car, or paying the energy bill.

I support the Bush tax cut because it offers real tax relief for every American taxpayer.

First, the Bush plan cuts and simplifies the current tax rate structure. Rather than five marginal tax rates President Bush proposes four new, lower rates. In effect, this simplifies the Tax Code and also provides tax relief where it is really needed. I think that all taxpayers should have a tax break. The current tax rate brackets, which run from 15 percent to 39.6 percent, will be replaced by four new brackets at 10 percent, 15 percent, 25 percent, and 33 percent. Those at the lower end will receive the highest percentage of relief. I want to repeat that. Those at the lower end—that is the 10 percent range—will receive the highest percentage of relief. In fact, one in five taxpaying families with children will no longer pay any tax at all. This means 6 million families will receive complete tax relief.

The Bush tax cut will also provide important tax relief for families by reducing the marriage tax penalty.

In meeting with my constituents at town meetings, I have heard repeatedly that the people of Colorado want marriage penalty relief. I am one who takes my responsibilities seriously, and I hold a town meeting in every county in Colorado every year. You can imagine how many people stood up and made that very important statement on behalf of their family.

The statistics show why. In the State of Colorado, over 400,000 couples pay additional, unfair taxes simply because they are married. Nationally, this amounts to more than 21 million couples paying on average another $1,400 per year in taxes; again, just because they are married.

The Bush tax cut will go a long way towards eliminating this disparity.

The penalty runs counter, in my view, to common sense. Marriage is a practice that should be encouraged rather than discouraged.

This penalty really hits young married couples hard. As chairman of the Subcommittee on Housing, I am constantly reminded of the increasing scarcity of affordable housing for young couples. This tax relief would go a long way towards helping working families afford a home.

President Bush also proposed that the child tax credit be doubled from $500 per child to $1,000 per child.

Again, this is money in the pocket of hard-working American families—particularly young American families just getting started. Undoubtedly, it would be especially helpful to lower income families.

I am particularly pleased to support the provision to eliminate the death tax. I share the President's belief that the tax should be eliminated. I have already introduced legislation to do just that, as have a number of other Members in the Senate.

The United States retains among the highest estate taxes in the world, and top estate tax rates can reach over 55 percent. This is money that was already taxed when it was earned. Frankly, the estate tax—or death tax—can destroy a family business. This has been called to my attention a number of times in the State of Colorado. One of the more recent examples happens to be a ranch in the Aspen area—a pretty affluent area experiencing a lot of growth.

A family happened to have an unexpected death. They had to sell off the family ranch to pay the estate tax. As a result, open space will be developed, contrary to what many people in that area wanted to see happen. They wanted to see more open space instead of more development.

Repeal of the estate tax would certainly benefit the economy. Without the estate tax, greater business resources can be put toward productive economic activity.

I think the President's proposal to expand education savings accounts will also give parents more flexibility in determining what is best for their children.

There is a lot more to the President's tax plan. But the fact is that I do think we need to move forward. Americans are spending more than ever on taxes, and we need to reduce that tax burden.

I strongly support the President's comments that we should make it retroactive. In other words, we ought to address the problem now and not wait. I offer my strong endorsement of the President's proposed tax cut, and I look forward to a swift enactment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Thank you, Mr. President.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 253 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Texas.

TAX RELIEF

Mrs. HUTCHISON. Mr. President, I rise today to talk about President Bush's tax relief plan and what I hope will be congressional approval of tax relief for hard-working Americans.

It is very clear we are going to have a bigger surplus than we ever even dreamed would be possible when we passed the Balanced Budget Act. It is estimated now at $5.6 trillion. The President's plan takes approximately 25 percent of this huge surplus and says the people deserve to keep more of their money. This is an income tax surplus. People are sending more to Washington than Washington needs to do its responsibility to cover the costs of Government, to the tune of $5.6 trillion. Doesn't it make sense to cut back on the amount people have to send to Washington? We think so.

The President's plan gives a tax cut to every American who is paying taxes. It replaces the current five-rate tax structure with four lower rates: 10, 15, 25, and 33. It doubles the child tax credit to $1,000, reduces the marriage penalty, which we have been trying to do now for 4 years, eliminates the death tax, expands the charitable tax deduction, and makes the research and development tax credit permanent.

What happens when this is passed? Who are the biggest winners? One in five taxpaying families with children will no longer pay any income tax at all. One in every five families who pay taxes and have children will pay no income tax. It will remove 6 million American families from the tax rolls. A family of four making $35,000 will get a 100-percent Federal income tax cut. A family of four making $50,000 a year will receive a 50-percent tax cut, receiving at least $1,600 in tax relief. A family of four making $75,000 a year will receive a 25-percent tax cut. The marginal income tax rate on low-income families will fall by more than 40 percent. That is the effect this tax relief will have on American families.

The current code is not fair, and it is taking too much. What we need is balance in our system. What this approach will do is pay down the debt, protect Social Security, increase spending for priority needs, and give hard-working Americans more in their pocketbook.

Mr. President, you are going to hear a lot more about this in future months because I believe Congress is going to work with the President to give the tax relief he is seeking. I look forward to the discussion because I cannot think of any reason hard-working Americans should not have the money they earn in their pocketbooks rather than sending it to Washington for a program of which they have never heard.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 11 minutes.

Mr. DURBIN. I thank the Chair.

Mr. President, during the last hour and a half Senators have come to the floor to talk about the President's proposed tax cuts. Of course, we are all interested in finding out what the details are on that tax cut because it is true, the devil is in the details. We need to know exactly what the President is proposing, the impact it will have on our budget, first, certainly on our economy, and on the families of this Nation.

I guess two of the most magic words for politicians are "tax cut." Can you think of anything more popular to say to an audience? I think we have learned over history that if you just focus on the term "tax cut," and you do not fill in the details, you can find yourself in a pretty terrible predicament.

When President Reagan was elected in 1980, he was dedicated to a tax cut. He said that was the highest single priority. Of course, he enacted that tax cut. We all understand what happened after that tax cut was enacted. We totaled up the biggest run of deficits in the history of the United States. We created such a monster that many of my Republican friends who were faithful supporters of President Reagan came to the floor and said: We are going to have to amend the Constitution now; there is no other way to stop this mess between the President and Congress; we have to give the Federal courts the authority through a constitutional amendment to stop Congress from spending and stop the President from spending.

Thank goodness cooler heads prevailed. Leadership came on the scene that changed the dynamics of this debate dramatically. In 1993, under President Clinton, we passed a deficit budget reduction plan, and several years later we passed a bipartisan plan. Between the two of them, we have finally reached the point in our history where we are no longer laboring with annual deficits adding to the national debt but we are dealing with surpluses.

The obvious question is, What is the responsible thing to do?

First we have to ask ourself this question: How big is the surplus? How much money do we have to spend either on tax cuts or for programs or for some other purpose? I have to say, quite honestly, that is where I have some difficulty with this whole debate.

Let me give one illustration. Seventy percent of all the surplus we are talking about for tax cuts does not appear for 5 years. Thirty percent of it starts to show, but then 70 percent of it is in the last 5 years of the economists' estimates.

Think about that for a second. We are pinning our hopes on statistical projections starting 5 years from now as to what America is going to look like, what the economy is going to look like.

I have a very limited education in economics, and I do not consider myself an expert, but I will tell you, I have worked with some of the real experts on economics here in Washington, and they miss by a country mile trying to guess where we are going to be 5 months from now, let alone 5 years or 10 years from now.

Allow me to use one example. If the 5-year projection is where we really start coming into surpluses, it is reasonable to step back and ask: What were the economists in America saying 5 years ago about today? Let's take a look.

They projected that today in America we would be running a $320 billion deficit. Guess what. They were wrong. We are running a $270 billion surplus. They missed it by $590 billion 5 years ago. They did not have a clue. They were clearly guessing based on assumptions that were just plain wrong.

I think one can understand the skepticism of many of us who say, if we are going to build on America's future, let us do it with assumptions that are honest, that are accurate, and on which we can count. When one starts off with the premise that we are going to have this fantastic surplus 5, 6, 7, 8, 9, 10 years from now, I say take care, be careful, because if we are wrong, if we commit ourselves to spending tax cuts we cannot cover, we will find ourselves not only putting our toe but our whole leg back into that red-ink deficit pool. I do not want to see that happen.

Keep in mind, the mortgage we now have on America, our national debt, is substantial. We owe over $5.7 trillion for things we have done in the past—roads we have built, decisions we have made, programs we have funded. That $5.7 trillion national debt costs American families, businesses, and individual taxpayers $1 billion a day in interest. We collect that much in your taxes and mine to pay interest on old debt. That $1 billion a day does not educate a child, does not buy a computer for a school, does not provide a prescription drug benefit under Medicare to a soul in America, nor does it buy us a new tank, a new plane, or pay for a new soldier—nothing. It is money paid on interest servicing old debt.

I believe if we have any surplus, the first thing we should dedicate it to is eliminating the national debt. Can you think of a better thing to leave our children than to say to them: We paid off our mortgage, kids; it's your America; dream your dreams and you won't be saddled with our debt. It seems pretty basic to me.

Will there be room for a tax cut if we do that? I think there will be, but I think we ought to take care that that tax cut is one that makes sense. This is where Democrats and Republicans really part company. I am sorry we get back to this debate, but the President made his choice, and now we will return to that debate: Who deserves a tax cut in this country? If we want to pick out a group of Americans who really need a helping hand in reduced taxes, where should we turn first?

Forty-three percent of the tax cut that President Bush is proposing goes to the top 1 percent income earners in this country, people making over $300,000 a year. Take a look at this chart which gives an idea about what I am talking. This is President Bush's tax plan and the impact it has on people in different income categories in America.

The top 1-percent income—people making over $300,000 a year, incidentally, have an average income of $915,000. For people who are making over $25,000 a month in income, the President wants to give them $46,000 in tax cuts.

Then take a look down the list at how this number starts diminishing as you get closer to working families and middle-income families. It starts off with $42 for those in the lowest income categories, the lowest 20 percent. It goes up to $187 if you are making $24,000; $453 a year if you are making $39,000 or less.

What a disparity: That if we are going to give a tax cut in America to the people most deserving, the people who need the most help, it is those who are making over $300,000 a year.

Yesterday at a press conference in Springfield, IL, about an issue that is near and dear to people in Springfield, IL, and I think nationally—it goes back to a telephone call I received a month or so ago from my consumer advocate in Illinois. Her name is Loretta Durbin. She is my wife. She called me and said: I just got the gas bill, Senator. What is going on here?

People across America are getting heating bills and electric bills that are absolutely stopping them in their tracks. These are working families, by and large, who have seen their bills doubled and tripled, and they are calling my office and saying: What can you do to help us?

There is a limited amount we can do, but one thing we can consider and I support is providing some tax relief to these families struggling to pay their heating bills. I do not think that is an unreasonable idea. Senator HARKIN has a proposal, which I think makes sense, to give a tax credit to people for the increase in their heating bills over this last year. Do you know what the people are going to do with it? They will pay their bills or they will replenish their savings accounts, or they will decide, yes, we can go ahead and make an important purchase for our family. I think that is the kind of tax cut that really is reasonable in America.

Can you imagine the people making over $25,000 a month having husbands calling wives, saying: Our heating bill is up to $400 this month. I don't think so.

But I can tell you, if you are making $25,000 a year, a $400 heating bill, or more, is something of which you would take notice. That is why I hope if there is going to be a tax cut, that it be sensible, based on the real surplus, and that it be after we have dedicated funds to bringing down this national debt, the debt that costs us so much, and raises interest rates on everything across America and, finally, a tax cut that really zeros in on the people who need it the most.

I am worried, too, that the President's proposal, when you take a look at it, takes 85 percent of our surplus and dedicates it to a tax cut, leaving precious little for things which we value.

I just left a meeting of the heads of Illinois school boards. I think those are some of the best public servants in America, people who serve on school boards. It is a tough job. In Illinois, they are trying to make sure they serve the needs of the children. And, of course, they are responsible to the taxpayers. They have talked to me about the needs of education in my State, which would be the same in many other States: crumbling schools, areas where they need new schools, teachers needing training, schools that have a hookup now to the Internet but need new computers and new access to new technology. They are saying to me: Senator, if there is a surplus, for goodness' sake, can't we have a piece of this for education? Isn't that important to our Nation? I think it is. But if you take 85 percent of our surplus and spend it on tax cuts, it leaves so little to consider any money for education.

In the last campaign, both candidates talked about a prescription drug benefit under Medicare. We know what seniors are facing now in trying to pay for their drug bills. We have not had a conversation about this in 3 or 4 months. Since all of the hoopla of November 7, people have not talked about it. But President Bush does not leave the money aside to take care of that necessity, as far as I am concerned, for seniors and disabled people.

There are important programs in education, in health, and in national defense that will cost us as a nation. I think we have to be prepared to look at the surplus honestly, to make certain if there is a tax cut, it is fair, and to make certain that we do keep money aside for important national priorities.

Thank you, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:42 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

EXECUTIVE SESSION

NOMINATION OF ROBERT B. ZOELLICK TO BE UNITED STATES TRADE REPRESENTATIVE

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senate will now go into executive session and proceed to consideration of the nomination of Robert Zoellick which the clerk will report.

The assistant legislative clerk read the nomination of Robert B. Zoellick, of Virginia, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

The PRESIDING OFFICER. Under the previous order, the time for debate on the nomination shall be limited to 2 hours equally divided between the chairman, Mr. GRASSLEY, and the ranking member, Mr. BAUCUS.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

Today we are taking up the nomination of Robert Zoellick to be United States Trade Representative. Mr. Zoellick appeared before the Finance Committee exactly one week ago, and I am pleased that we have been able to schedule this vote so quickly. I support this nomination, and I urge my colleagues to join in supporting his confirmation at the end of this debate.

Trade has never been as important to the American economy as it is today. The import and export of goods and services is equivalent to 27 percent of America's gross domestic product, as compared to only 11 percent in 1970. Opening and expanding markets around the world for our manufactured goods, our agricultural commodities, and our services is critical for our economy to grow and for the creation of good quality jobs at home. Expanded trade is also critical for global economic growth.

For that reason, I was very pleased that President Bush, when announcing the selection of Robert Zoellick to be USTR, stressed that Mr. Zoellick would be a member of the Cabinet and would report directly to the President. Trade must have a prominent and equal place at the table when we make decisions about our Nation's global affairs.

Last year, the Congress and the Administration worked together on trade policy. We had a number of significant accomplishments. We passed a bill to extend permanent normal trade relations status to China, PNTR, once it accedes to the WTO, a monumental achievement. We passed legislation on expanding trade with Africa and enhancing CBI, the Caribbean Basin Initiative. We changed the structure of the Foreign Sales Corporation. And we passed a Miscellaneous Tariffs Act.

This year, we have a full trade agenda. We must build on the progress we made last year. We must make sure that we are not left behind as other nations make new trade arrangements with each other. Let me stress that our trade policy and our efforts at further trade liberalization must be carried out in the proper way.

Our first priority must be to rebuild the consensus on trade in this country. Further progress on trade liberalization and opening markets requires a political consensus, and that means a public consensus. We must demonstrate to all our citizens that trade and expanding markets contribute to their prosperity. We must address legitimate labor and environmental concerns in our trade agreements. We must aggressively enforce our trade laws. And we must ensure that we provide new opportunities to those who have been left behind by globalization.

One focus of discussion during Mr. Zoellick's confirmation hearing was whether it was appropriate to include labor and environmental issues in trade negotiations. In fact, this has dominated much of the trade policy debate over the past decade.

I must confess to a good deal of frustration. Trade-related labor and environmental issues were addressed in NAFTA, the North American Free Trade Agreement, and in the U.S.-Jordan FTA. The United States concluded a historic agreement with Cambodia in cooperation with the International Labor Organization that tied increased access to the United States market to Cambodian observance of basic labor rights. Our law on the Generalized System of Preferences, GSP, as well as the Caribbean Basin Initiative, CBI, also include labor provisions.

Labor and environmental issues were on track to be included in free trade agreements with Singapore and Chile that the Clinton Administration was negotiating in its closing days.

Labor and environmental issues have been discussed under the aegis of the world trading system. In the last several years, a number of important WTO disputes have directly involved environmental matters. The WTO has created a Committee on the Environment.

And the interest in labor and environment is not limited to the United States. In developing the European Union, the countries of Europe addressed these issues. As they work on their own free trade area, some of our neighbors in Latin America have also recognized the need to address labor and the environment.

In short, like it or not, environment and labor issues are firmly on the trade agenda. Unfortunately, at least in some circles, the debate in the United States goes on as if none of these things had happened, as if the issues will just go away if we do not talk about them.

I fear that a major reason for the disappearance of the public and political consensus in the United States is our refusal to acknowledge these important issues. I don't pretend to know all the answers about how to deal with these complex questions, but I do know that it is long past time for us to acknowledge them and to begin to address them.

For this reason, I have made it clear that I will vote against fast track trade negotiating authority, and work to defeat it, unless labor and environmental issues are meaningfully addressed.

I welcome the fact that, in his confirmation hearing, Mr. Zoellick expressed a willingness to address these issues. In that spirit, let me issue a challenge to him and to the Bush Administration on three specific labor and environmental issues related to trade.

First, I call on Mr. Zoellick to endorse the U.S.-Jordan Free Trade Agreement and work for prompt congressional passage. Among other provisions, this agreement calls upon Jordan and the United States to adhere to their own labor and environmental laws. Because of this, the agreement has been endorsed by many labor and environmental groups.

Some have asserted that the Jordan agreement would open our labor and environmental laws to challenge or would block us from making any change in our own laws. This is simply untrue.

The agreement only requires that each country enforce its own laws and not make changes designed to distort trade. The agreement states explicitly that each country has the right to establish its own domestic labor and environmental standards and laws.

I cannot imagine how these modest provisions can credibly be seen as a threat. I can only conclude that those making the charges have not read the agreement. I refer them to the U.S.-Jordan Free Trade Agreement.

Second, I call on Mr. Zoellick to implement rigorously the Executive Order requiring an environmental assessment of all trade agreements. These assessments help to focus discussion, identify issues, and avoid needless problems. We should be doing these assessments for all future trade agreements.

Finally, I call on Mr. Zoellick to appoint an Assistant USTR for Labor. This position was created last year and has never been filled. A trade official focused on labor could ensure that labor issues are not ignored and serve as an important point of contact between our trade negotiators and the labor community. This position should be filled before the April Ministerial meeting that will discuss the Free Trade Area for the Americas, the FTAA.

By taking these three steps, Mr. Zoellick and the Bush Administration would demonstrate that the commitments to work together in a bipartisan fashion are real and not just rhetoric. It would help set the stage for granting fast track authority and go a long way toward establishing trust between the Congress and the administration on trade policy.

As Mr. Zoellick sends his deputies to the Finance Committee for confirmation, I plan to review his progress in meeting these three challenges that I have set out today.

Let me now discuss a number of other trade issues that will be before the Administration and the Congress in the coming months.

I have already discussed the U.S.-Jordan Free Trade Agreement. Jordan is a critical partner in our effort to promote lasting peace in the Middle East. This agreement will help bring our two nations even closer together.

Second, the Administration should send the U.S.-Vietnam Bilateral Trade Agreement to the Congress soon. We have made significant progress in our economic and political relationship with Vietnam over the past decade, and this agreement builds on that. The agreement requires major liberalizing changes in Vietnam's economic and trade structure. The agreement paves the way for Vietnam's eventual application to join the WTO. The agreement will provide American business and agriculture with predictability and stability in Vietnam's market. We need to approve this agreement, and we need to look at how to deal with legitimate labor and environmental issues.

Third, President Bush will attend the Summit of the Americas in Quebec in April, where the major topic will be progress on completing a Free Trade Area for the Americas. I support trade liberalization in this hemisphere. I will support fast track negotiating authority for the FTAA, so long as it properly accommodates legitimate labor and environmental concerns. I hope that President Bush will tell the gathering of leaders in Quebec that he plans to work closely with Congress, business, labor, and environmental groups over the coming year so that he can succeed in enactment of this negotiating authority.

Fourth, the U.S.-Canada Softwood Lumber Agreement expires on March 31. Today, the U.S. lumber industry is in dire straits. The price of lumber is less than in 1995. Many timber operations in Montana, and around the nation, have closed as a result of the depressed lumber market—displacing workers and devastating communities. The Canadian softwood lumber industry receives over four billion dollars in stumpage and other subsidies annually. There is considerable evidence that they are dumping lumber into the United States. To make matters worse, the absence of adequate environmental laws in Canada clearly provides an unfair advantage to Canadian firms. It contributes to over-cutting in Canada's forests and damages the environment, with significant implications for our own forests and environment. We need to resolve this issue quickly and, I hope, avoid lengthy and costly litigation.

Fifth, the agriculture crisis. Commodity prices remain near record low levels. Agriculture is Montana's largest industry. Over 60 percent of Montana's grain and meat products are exported, so the farmers and ranchers in my state depend on new and growing markets. We need to expand agricultural exports from Montana and from the entire country. That means:

Opening agricultural markets around the world.

Attacking the massive agricultural export subsidies of the European Union that distort food trade world-wide.

Getting Europe to end its decade-old ban on U.S. hormone-treated beef.

Taking measures to end the trade distorting activities of the Canadian and Australian wheat boards, including completion of the Section 301 investigation of the anti-competitive practices of the Canadian Wheat Board.

Ensuring that China fully implements its WTO obligations, as well at the U.S.-China bilateral agreement on agricultural cooperation.

Abandoning unilateral embargoes, including the embargo on Cuba that has closed that market to our food producers.

Ensuring that our domestic agriculture industry is insulated against devastating surges of imports, such as has happened with lamb.

Sixth, the survival of America's steel industry is in jeopardy. Over the next few months, Congress, the Administration, the steel companies, and the United Steelworkers of America must work together on a program to prevent irreparable damage to this important sector of our economy.

Finally, we need to develop a comprehensive approach to monitoring and compliance of trade agreements. This includes bilateral agreements as well as multilateral commitments of our trading partners. China's accession to the WTO will present further new challenges to our ability to ensure full compliance. We need an early assessment of the monitoring activities in the Executive Branch to ensure that we are using them as effectively as we can. I welcome Mr. Zoellick's statement at his confirmation hearing that justice delayed is justice denied. We take a double hit when we fail to ensure full compliance with trade agreements. First, our businesses, workers, and farmers don't receive the benefits we negotiated. And then, our credibility as a nation is damaged, and our future negotiating ability is hampered. We must be more aggressive on monitoring and compliance.

This is a full agenda for a short period of time. I look forward to working closely with Bob Zoellick as we try to rebuild the consensus for trade so that we can enhance the benefits to America of opening markets and expanding trade liberalization.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I apologize to Senator BAUCUS because I was not here to hear his statement. I am glad he was able to go ahead and proceed with his opening statement. I also appreciate Senator BAUCUS' cooperation during the hearing and, more importantly, to be able to bring this nomination to the floor without our committee meeting.

Obviously, I am going to support President Bush's nomination of Robert Zoellick to the position of U.S. Trade Representative. As chairman of the Senate Finance Committee, I am pleased to report to my distinguished colleagues that Robert Zoellick is uniquely qualified to represent the United States in an extremely important position—important because the trade negotiations that will take place in the year 2001. As far as the trade negotiations that are ongoing, similar to the China wall, they never stop.

They just go on and on.

I want to go into some detail about Mr. Zoellick's impressive professional qualifications for a very demanding and highly sensitive Cabinet post. One of the questions I asked him in the private meeting in my office was whether or not he was prepared to spend this much time away from home. There is much time away from family because there is a tremendous commitment to travel with this job besides the policymaking. You get the impression that these people who do our trade negotiations just never have any private time whatsoever. Obviously, when he takes on a demanding job such as this, we know he is committed to doing what needs to be done.

Before I go into his impressive professional background, I would like to say a word about his performance at his Senate Finance Committee nomination hearing. That was on January 30.

I think it is fair to say that Members on both sides of the aisle were highly impressed with Mr. Zoellick's thorough command of complex trade issues, with his broad visions of America's historic leadership role in the whole international trade regime, and with his understanding of the close cooperation required between the legislative and executive branches of government in crafting and implementing an effective U.S. trade policy.

The nature of trade issues Congress will deal with this year clearly requires that a person of Mr. Zoellick's stature and ability be the U.S. Trade Representative.

In regard to working closely with Congress, understand that Congress has the authority to regulate international, or what you call interstate, and foreign commerce. We guard this very jealously. We have to, in the process of doing that under the practicality of 535 Members of Congress and negotiating with 138 different countries in the World Trade Organization on the issues of reducing tariff and nontariff trade barriers or settling any sort of dispute. From time to time, Congress has given the President of the United States the authority to do that in negotiation. But we do it with a very tight rein. I suppose in the future it will be even more of a tighter rein. That requires a person in Mr. Zoellick's position as U.S. Trade Representative to work very closely with the Congress, particularly the Ways and Means Committee and the Senate Finance Committee, consulting with us on a regular basis. That consultation, as I have seen in the past, has made the executive branch of government responsive to Members of Congress; more importantly, respectful of our constitutional rights as we guard them. It is our responsibility to do that not only for the economic interests of our constituents but for the sole fact that we take an oath to uphold the Constitution of the United States.

I will mention a few of the challenges that face Mr. Zoellick, and then I will go into why Mr. Zoellick is ideally suited to deal with them.

One important trade challenge right around the corner is the free trade area of the Americas negotiations.

The objective of these talks, which are supposed to conclude in 2005, is to create a single free trade zone of nearly 700 million people, stretching from the Arctic Ocean in the North, to Tierra del Fuego in the South.

The free trade area is the single most important economic initiative we have undertaken with Latin America since President Kennedy launched the Alliance for Progress in 1961.

Latin America is our fastest growing regional trade partner. Roughly 46 percent of all the goods manufactured in this country are exported to our own hemisphere. We export large amounts of our agricultural products to the FTAA countries as well.

Our continued prosperity, and our leadership in world trade, clearly rests on the success of these talks.

But when you see the concentration of trade in the Western Hemisphere, you know why these talks are singularly important.

Yet despite the obvious importance of the FTAA, there is little agreement on the major issues under discussion. It's time to get these talks moving again. And it's time for the United States to resume its leadership in trade not only in the Western Hemisphere but in all areas.

The FTAA Ministerial Conference is coming up in Buenos Aires in the first week in April. Two weeks after the FTAA Ministerial, the United States will attend the Third Summit of the Americas in Quebec City.

Mr. Zoellick knows how important U.S. leadership is in getting the FTAA talks headed in the right direction.

And more importantly, he has the skills and the background to get the job done.

What about these skills?

For example, while serving in the former Bush administration, Mr. Zoellick played a key role in the NAFTA process. At one point during the NAFTA negotiations, when the talks weren't going well, Mr. Zoellick served as a special channel with then President Salinas of Mexico to keep the negotiations on track.

Also during the former Bush administration, Mr. Zoellick served as Counselor of the Department of State, and Under Secretary of State for Economics. At the State Department, he helped launch APEC, the Asia Pacific Economic Cooperation group for advancing trade and prosperity in that region.

The creation of APEC was a tremendous achievement. It is a highly successful international trade and economic forum. APEC's main agenda is to dismantle trade and investment barriers in the region, to strengthen an open, multilateral trading system, and to encourage constructive interdependence by encouraging the flow of goods, services, capital, and technology.

Mr. Zoellick's central role in launching APEC clearly demonstrates his deep commitment to the principle of international cooperation that is at the heart of America's leadership in promoting global free trade.

It also demonstrates his broad vision, and his ability to accomplish big things.

In recognition of his outstanding service to his country, Mr. Zoellick received the Distinguished Service Award, the State Department's highest honor.

Another important trade challenge this year is to launch a new round of multilateral trade negotiations at the WTO Ministerial to be held later this year in Qatar.

The failure of the Seattle WTO Ministerial was a terrible embarrassment for the United States, and a major setback for trade liberalization around the world than we now realize 18 months later.

The collapse of the Seattle talks was also a major setback for American agriculture. Without a comprehensive new round of global trade negotiations, it will be extremely difficult for American agriculture to gain access to new markets, and to get rid of the trade-distorting subsidies and barriers that shut our agricultural producers out of foreign markets.

If we lose the momentum for the liberalization of world agricultural markets that we gained with the successful conclusion of the Uruguay Round of trade negotiations, we may never be able to recover.

Here too, Mr. Zoellick's experience demonstrates that he is the right person for the job of U.S. Trade Representative.

In 1992, when it looked like the fundamental disagreement between the European Union and the United States over agricultural trade liberalization would end the Uruguay Round in failure, Mr. Zoellick helped forge the Blair House Accord, the compromise agriculture agreement that broke the negotiation logjam, and saved the Uruguay Round, not just for agriculture but for other segments of the economy that was held by them.

Thanks to Mr. Zoellick's efforts in crafting the Blair House accord, negotiators then immediately were able to clear the political hurdles that brought about an agreement.

As a result, the World Trade Organization agreement on agriculture represents the first serious step toward reform of the international rules governing trade in agricultural products. That agreement is now the spring board for current efforts to further liberalize world agricultural trade. Other trade challenges beyond agriculture that Mr. Zoellick and the Congress will be dealing with include the United States-Jordan Free-Trade Agreement, the United States-Vietnam Trade Agreement, we have the Singapore free-trade negotiations, and on December 5th of last year we began the Chile free-trade negotiations. Those latter two are on the table. We would expect perhaps some conclusion shortly.

Mr. Zoellick's record of achievement clearly demonstrates he has the ability to handle those which might be called lesser issues because they are bilateral but still very important.

During his distinguished career, he has led various bilateral trade negotiations with the European Union, with Korea and other nations, but most importantly they involved the structural impediment initiative with the country of Japan.

I will say a word about another tough trade challenge, one that will involve, hopefully, this Congress. As chairman of the Senate Finance Committee, I can help move it along. We had discussions with Senator BAUCUS about that, even this week, about how he and I can get together and try to solve some of the things involved with giving the President negotiating authority; in other words, that authority which allows a President to move forward and finalize a multilateral or WTO-involved trade agreement. It is very important to have that even for bilateral agreements but perhaps less important for bilateral than for the multinational, multilateral negotiations. It will be very difficult to write this legislation. We shouldn't have any illusions that it will be easy to accomplish. I can't think of a single thing more important to restoring America's leadership in trade and to preserving America's negotiating credibility.

It is certainly true, as many have pointed out, that the United States can start negotiations without the President having trade negotiating authority. We know this from our experience during the Uruguay Round when it took 2 years to get legislation renewing the President's trade negotiating authority through Congress after the Uruguay Round started. But doing it that way misses the point. The President—not just this President, any President—needs negotiating authority from Congress because his negotiating credibility is diminished, sometimes a little, most often a lot, without that grant of authority from Congress. That is as true at the start of formal trade negotiations as it is at the conclusion—maybe a little less at the beginning than at the end.

We would all be better off if we could have the President go to the table with Congress saying here is what we want you to do for us; here is how we want you to keep in touch with us so we can represent the people, our constituents, and the leeways that we might give on final negotiations when we get something we can pass.

This is sometimes referred to as fast track. It is innovation. We all remember from history, designed in large part as a response to the diminished U.S. negotiation credibility that resulted from the failure of Congress to implement some of the trade agreements concluded during the Kennedy Round. Here again I think Mr. Zoellick can play a very important role. I think he has a record that speaks for itself.

Other than U.S. Trade Representative Carla Hills, Mr. Zoellick spent more time with the Congress than any other administration official to get fast track authority passed in 1991. I have confidence in Mr. Zoellick's ability to work with Congress, to get a bill renewing the President's trade negotiating authority through Congress. We need to at least start that process, even though it is a very difficult process, and do it soon. That is the conversation that Senator BAUCUS and I have had to this point.

I conclude with why I view Mr. Zoellick's nomination with enthusiasm. It is a very extraordinary record and has some length. I have looked carefully at what he has done during the past 20 years in promoting America's trade interests. That record tells me Mr. Zoellick understands that trade matters to every American. It matters to the farmers in my hometown of New Hartford, IA, who want to sell his or her grain in the international markets. It matters to the Caterpillar workers in Illinois who make tractors for sale in Asia, Europe, and America. It matters to John Deere workers in Waterloo, IA. One out of five jobs on that assembly line are related to export. These are very good jobs and on average, jobs connected with trade, pay 15 percent above the national average.

It matters to the Boeing employees in the State of Washington who make state-of-the-art aircraft for every major world aircraft maker. It matters to the radio workers who make avionics in Cedar, IA, that go into these Boeing airplanes. It is going to involve their jobs, as well. Trade is very important in almost every State. But 40 percent of our agricultural products are exported. I don't have a dollar value on that, but I know for manufacturing and services, the dollar value of those exports is many times what it is for agriculture. Perhaps most importantly, open international markets increasingly matter to millions of very small entrepreneurs as well. These are the people who compete for business every day, wherever they find it, anywhere in the world.

Bob Zoellick understands that all of these Americans, whether they toil on the farm, whether they punch the time clock at the assembly line, or whether they work in the high-tech new economy, are able, through these jobs, which are better jobs because of international trade, to pay their mortgage; they are able to support their families; and they are able to make their communities better places to live.

I believe Mr. Zoellick has already shown himself to be an eminent public servant with an outstanding record of leadership in trade policy who has already served his country well. I have come to know him and to respect him. I know that my distinguished colleagues on both sides of the aisle will as well.

As chairman of the Senate Finance Committee, I strongly urge my distinguished colleagues to vote to confirm this nomination and appoint this outstanding individual to America's most important international trade position.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 2 minutes to my very good friend, the esteemed Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Montana.

I rise to speak not to question the nomination of Mr. Zoellick—he is obviously qualified for the position of U.S.

Trade Representative—but to question the trade policy priorities of administrations past and present. For the problems our manufacturers and workers face today are not Democratic problems or Republican problems, they are problems with a trade liberalization approach that needs to be rethought and reinvigorated. That approach has led to record trade deficits and alarming trends in income inequality. The current crisis in the U.S. steel industry demonstrates that unfettered importation of unfairly traded products causes serious harm to our manufacturers and workers.

Sustained reflection on the causes and consequences of the trade deficits has led me to three conclusions. First, there must be a general recognition that low-wage competition from less-developed countries is part of the problem. The low wages in those countries both undercut the economics of production in the United States and impede the development of a middle class that can purchase U.S. exports. Our trade policy cannot be complacent as first-world manufacturing plants are relocated to take advantage of less-developed labor markets, a phenomenon that makes it increasingly difficult for American employers to stay competitive and, at the same time, pay good wages and provide good benefits. If, as President Bush maintains, we are to be compassionate, let us start by making sure that American workers are not made worse off—on balance—by future moves toward freer trade with less-developed countries.

Indeed, the inevitable result of the current trade liberalization approach in many historically high-wage and efficient industries is bankruptcy. Need I tell you Senators about all of the steel companies in, or on the verge of, bankruptcy? Are we so naive as to believe that the problems of the steel industry—as well as the elimination of millions of manufacturing jobs across the economy since 1979—are unconnected to predatory trade practices by foreign producers and their governments? For those who have any doubts on this score, I recommend study of the recent Commerce Department report entitled "Global Steel Trade."

Second, we must recognize that a key objective of many of our trading partners in any full trade negotiation is to weaken U.S. trade laws, including our antidumping, countervailing duty, and safeguard regimes. It is an iron law of international trade negotiations and the implementation of international trade agreements—that, if the trade laws are "on the table," they will be weakened. Is there any doubt that the antidumping and countervailing duty laws were weakened in the Uruguay Round negotiations? Is there any doubt that we see more evidence of this weakening every day? Has the trade representative ever prevailed at the World Trade Organization in defending U.S. implementation of U.S. trade law? The United States simply must not once again enter into an open-ended negotiating round in which countries such as Japan, Korea, and the European Union are able to work in concert to eviscerate the framework of fair trade. Equally important, we cannot permit any international tribunal to interpret and to apply the trade laws of the United States.

Third, in addition to including strong labor and environmental protections in all trade agreements, we must adopt and enforce policies to attack hidden and non-tariff barriers and to effectively counter or challenge foreign subsidies for research, development, and exports. For example, we must do more to address the manner in which producers in many countries are able to control distribution in their home markets and thereby shut out their U.S. competitors. The current trade liberalization approach limits the ability of the United States to use import restrictions to ensure fair trade in our markets while giving mercantilist foreign countries virtually a free hand in excluding selected U.S. exports from their markets. In light of the record U.S. trade deficit, this imbalance can no longer be tolerated.

One last thought for Mr. Zoellick: The 106th Congress passed a joint resolution calling on the President to request an investigation of the steel industry under section 201 of the Trade Act of 1974. Such an investigation is necessary because of the crisis conditions I alluded to—total imports for 2000 approached the record levels set during 1998, prices for many steel products are at record lows, and many companies are in bankruptcy. On January 19, 2001, in a letter to the Chairman of the International Trade Commission, then-President Clinton stated that "our analysis of the current and prospective import situation and recent events in the steel industry lead us to believe that Section 201 relief may be warranted in the near future." Mr. Zoellick, our steel companies and steel workers cannot wait for the "near future." The crisis is now. The remedies are at hand. Let us not tarry!

Mr. CORZINE. Mr. President, I rise in support of the nomination of Robert Zoellick to be United States Trade Representative.

I know Mr. Zoellick personally and am confident that he has the background and skills to do an outstanding job. He is an exceptionally bright and talented individual with a broad understanding of trade policy and a strong commitment to public service. President Bush deserves real credit for this selection.

Robert Zoellick has an extensive background that should prepare him well for his new position. During the administration of former President George H. W. Bush, he served as Deputy Chief of Staff at the White House, as Counselor of the Department of State and Undersecretary of State for Economics, and as the President's personal representative for the G–7 Economic Summits in 1991 and 1992. In the 1980's he also served at the Department of the Treasury in various positions, including counselor to Secretary James A. Baker III.

Mr. Zoellick is now poised to play an important role in the current Bush administration and could have a real impact on the future of our economy. In my view, it is critical that we continue working hard to open up foreign markets for American businesses, while maintaining a strong commitment to environmental protection and labor protections. Although it has received little attention, the United States has been running very large trade deficits in recent years, and our net foreign debt now exceeds $1.5 trillion. This means we are increasingly dependent on foreign investors to maintain our economic strength, a vulnerability with potentially serious consequences.

I know that Bob Zoellick will be an aggressive advocate for opening up foreign markets. As the same time, I hope that he will work hard at forging consensus on the various trade issues that will come before the Congress. In particular, I am hopeful that he will work constructively with those who want labor and environmental concerns to be addressed seriously in international negotiations. I realize that this is a controversial area and that President Bush has expressed skepticism about incorporating these matters in trade agreements. However, if trade policy is going to enjoy strong bipartisan support, as it should, the administration will have to compromise.

Few people would be better prepared to navigate the complex political and substantive issues involved with trade policy than Bob Zoellick. I believe he will be a highly effective trade representative, and I wish him the best of luck in his new position. I am looking forward to working with him.

Mr. DOMENICI. Mr. President, I rise today in support of Robert Zoellick to be United States Trade Representative. As the world economy of the twenty-first century continues to evolve, it is paramount that the United States continue to pursue comprehensive international trade, commodity, and direct investment policies that create growth and raise living standards both at home and abroad. By nominating Robert Zoellick for the position of U.S. Trade Representative, USTR, President Bush has chosen someone who is eminently qualified to coordinate these policies, and I look forward to doing all I can in Congress to support him.

A respected scholar at Harvard University and former president and chief executive officer of the Center for Strategic and International Studies, Robert is no stranger to public service. He served during President George Bush Sr.'s Administration with distinction in variety of important posts including Under Secretary of State for Economics, as well as the President's personal representative for the G-7 Economic Summits in 1991. From 1985 to 1988, he served as Counselor to Secretary of Treasury James Baker, as well as Deputy Assistant Secretary for Financial Institutions Policy at Treasury. Indeed, this extensive government experience, coupled with his outstanding academic credentials make Robert Zoellick a USTR nominee who I am proud to support.

Mr. DODD. Mr. President, I rise this afternoon to briefly comment on the nomination of Robert Zoellick to be United States Trade Representative. At the outset, I would first like to commend President Bush for choosing a nominee of such high caliber to take on the responsibilities demanded of the U.S. Trade Representative. Furthermore, I am pleased with the President's decision to keep the Trade Representative a Cabinet-level position. This was the right decision that reaffirms the United States's role in a global trading environment. I fully support Mr. Zoellick's nomination and look forward to working with him in the new Administration.

Mr. President, in a world that has become increasingly interconnected through and dependent on trade, a skilled and experienced Trade Representative is essential to ensuring that the United States maintains it position as a leader in this area. The U.S. Trade Representative has the dual responsibilities of fostering continued openness with traditionally underserved markets while at the same time safeguarding the well-being of American businesses and workers. I believe Mr. Zoellick's past experience makes him qualified to fulfill these obligations.

After earning both public policy and law degrees at Harvard University, Mr. Zoellick went on to serve as a Deputy Assistant Secretary at the Department of the Treasury during the Reagan Administration. He then assumed the position of Under Secretary for Economic Policy at the State Department under President George Bush. He left public service to serve as the Executive Vice President of Fannie Mae and most recently sat as a fellow and board member of the German Marshall Fund of the United States.

Mr. Zoellick assumed a key role in some of the most critical trade deals to face the United States in decades. Some of his most notable achievements include managing the negotiations over German reunification after the fall of the Berlin Wall, fostering compromise that led to the creation of World Trade Organization, and negotiating approval of the North American Free Trade Agreement.

Mr. President, if, which I assume will be the case, Mr. Zoellick is confirmed as U.S. Trade Representative, he would assume stewardship of an agency that enjoys one of its strongest positions in its history. I would be remiss if I did not acknowledge the great strides made under the former U.S. Trade Representative Charlene Barshefsky, Deputy U.S. Trade Representative Richard Fisher, and their team.

In the last two years alone, we have passed legislation that created new trading opportunities in Sub-Saharan Africa and enhanced the Caribbean Basin Initiative program. And one of the most monumental trade achievements in recent history was the accession agreement reached between the U.S. and China with respect to its entry into the WTO and the granting of Permanent Normal Trade Relations status to China just last fall. These were both landmark agreements that have significantly altered the face of U.S.-Chinese trade relations. More importantly, they are accomplishments we can and should build upon.

And while we should take pride in these achievements, we must not lose sight of the tremendous tasks that still lie ahead, and upon being confirmed as Trade Representative, Mr. Zoellick will be faced with a number of unresolved trade matters that, in my opinion, will require his immediate attention.

First, we must continue to ensure that China adheres to the concessions it made in its WTO Accession Agreement with the United States in order to guarantee that American workers and industries gain the full benefits negotiated in this historic agreement.

Secondly, the Trade Representative will need to formulate solutions to our on-going troubles with the European Union (EU), specifically in regard to the beef-hormone and banana disputes. Moreover, the WTO is scheduled to rule on the EU's case against the U.S. with respect to foreign sales corporations. A ruling against the U.S. in this matter could result in almost $4 billion in retaliatory tariffs being levied against American goods that could financially ruin businesses and cost countless American jobs. Resolution of this issue must be a priority.

Finally, one of Mr. Zoellick's greatest challenges will be working with Congress to gain approval of fast-track trading authority for the President. This authority will take on increased importance at the upcoming Summit of the Americas in Quebec in April where, President Bush has stated, he will make the creation of a Free Trade Agreement of the Americas his number-one priority. Allowing the President to assure other world leaders that he will gain this authority will only increase the prospects of this agreement becoming reality.

And while I support both of these initiatives, I do so with the additional belief that worker rights and environmental protections must be included within any fast-track legislation.

I am disappointed that President Bush has publicly voiced his opposition to these provisions as a part of trade agreements.

It is my hope that Mr. Zoellick will show some flexibility on these issues and be mindful of their importance in future negotiations. Absent these safeguards, it is my opinion that the President will face a difficult time obtaining the support needed to secure this critical trading authority.

In closing, Mr. President, I have long supported efforts to open the doors of trade to new markets. Expanded trade improves the lives of American workers by providing better paying jobs and increased markets for American goods. Ultimately, this translates into a stronger national economy.

I also believe that it can serve the purpose of slowly transforming countries that have been socially and politically intolerant into countries that recognize the rights of their own citizens. Ultimately, ruling by respect rather than fear is in their own best economic interest.

At the same time, I firmly believe that every effort must be made to balance the economic benefits of free trade with the needs of American businesses and workers and to vigorously enforce existing trade laws against unfair trading practices. The U.S. Trade Representative must be unwavering in this regard.

Mr. Zoellick has agreed to undertake this critical balancing act, and I believe his record as a fair and capable negotiator will serve him well as he assumes this post. Again, I wish to reiterate my support for his nomination as U.S. Trade Representative and urge my colleagues to do likewise.

Mr. McCAIN. Mr. President, "A foreign policy wunderkind," "Baker's second brain," "a resume so impressive it might be mistaken for a parody of overachievement," "the most impressive thinker of my time in government," "the best-prepared guy in the room," a man whose "board memberships read like the directory of the internationalist establishment," one whose friends possess "almost a cultlike admiration for his intelligence, hard work, and integrity"—such praise for Bob Zoellick demonstrates the high expectations for his tenure as the United States Trade Representative. I share these hopes for his leadership of our ambition to expand free trade and restore America's rightful place at the forefront of global trade liberalization.

Unlike previous trade representatives, who often possessed more narrow legal backgrounds, Bob's range of experience at the Departments of Treasury and State, in the White House, and with organizations like NATO, the

WTO, and the G–7 grant him unusual insight into the role of trade within the framework of America's broader engagement with the world. Bob's talents, combined with the enthusiasm and purity of his belief in free trade as a force to advance American interests and increase prosperity around the globe, suggest that he will serve well President Bush's mandate to push forward with a meaningful free trade agenda. If personnel is policy, as we often say in Washington, Bob's selection for the cabinet-rank trade post foretells important achievements in our nation's trade expansion efforts.

Yet such achievements will not come easily. America's economy, which has been the engine of global economic growth, is slowing, and there exists no broad-based domestic consensus on the benefits of free trade. Japan's economy remains mired in an enduring recession that can be ended only by fundamental structural reforms. China's implementation of its market-opening obligations under the WTO remains worrisomely incomplete. The European Union, where growth has recently accelerated, retains significant market distortions that are reflected in its continued agricultural protectionism and the array of trade disputes with the United States over subjects like hormone-treated beef. The economic health of Latin America is mixed, and many African nations with tremendous trade potential suffer the pernicious effects of poor governance and civil strife. Clearly, Bob has his work cut out for him.

Given the challenges and opportunities ahead—and the critical role of trade to the continued dynamism of our own economy—our nation must, to the extent possible, speak with one voice in favor of trade expansion. Bob has pledged to work closely with the Congress on such priorities as creating a hemispheric free trade zone, providing the President with renewed trade-promotion authority, ratifying our bilateral trade agreement with Vietnam, locking in free trade with partners like Singapore and Jordan, and setting the stage for a new round of global trade talks. It is my hope that both parties in Congress will work constructively and in good faith with Bob and the Administration to advance this ambitious but achievable trade agenda, for the benefit of the American people we serve.

As Bob noted in a "Foreign Affairs" article during the campaign, "A primary task for the next President of the United States is to build public support for a strategy that will shape the world so as to protect and promote American interests and values for the next 50 years. . . . America must capture the dynamism of the era and transform its new elements into the economic and security foundations for a future system." Such an integrated approach, which I strongly endorse, requires restoring our nation's leadership in liberalizing global trade. I wish Bob the best as he spearheads this effort, upon which rests our fondest hopes as a people for prosperity and purpose in the world.

Mr. LEVIN. Mr. President, today the Senate will consider the nomination of Robert Zoellick to become the U.S. Trade Representative. I will support confirmation of the nomination of Robert Zoellick.

Given the important contribution of the automotive industry to America's economic prosperity and job creation, I wish to flag two important automotive trade relationships that I hope will be made a priority by USTR designate Zoellick: the United States automotive trade relationship with Korea and with Japan.

I was disappointed to note that Mr. Zoellick was not asked during his Senate Finance Committee confirmation hearing last week about two trade agreements of key interest to the automotive industry: the 1995 Framework Agreement on Autos and Auto Parts between the United States and Japan and a 1998 United States-Korea Auto Market Access MOU. Neither have achieved the expected results of opening these markets to United States automotive exports. It is time to go back to the table and insist on the results we were promised.

The automotive industry is the largest manufacturing industry in the United States representing 3.7 percent of GDP. It ranks first among manufacturing industries in R&D expenditures spending over $18 billion a year, employs almost 2.5 million Americans and exports more than any other industry. This is why it is so important for our USTR and the Administration to fight aggressively to allow this industry to compete on a fair and level playing field in foreign markets.

The 1995 Framework Agreement on Autos and Auto Parts between the United States and Japan was allowed by the Government of Japan to expire at the end of 2000. This is despite the Agreement's failure to accomplish its stated objective to significantly expand sales opportunities resulting in purchases of foreign parts by Japanese firms in Japan and through their transplants in the United States and to resolve market access problems for foreign autos and auto parts in Japan. The U.S. Government, working closely with the American auto parts industry, organized labor and Members of Congress, developed and presented a significant proposal for extending and enhancing the 1995 Agreement. In the closing days of 2000 Japan was even unwilling to permit the extension of the existing Agreement which would have allowed time for the new Administration to pursue a more substantial five year agreement.

I urge the Bush administration, and Mr. Zoellick in particular, to make the renegotiation of a stronger and more effective agreement one of its earliest and highest priorities.

Regarding Korea, despite two separate automotive trade agreements between the United States and Korea intended to open Korea's market, we now have a rapidly increasing automotive trade imbalance between the two countries. Korea exported almost 500,000 vehicles to the United States last year but imported only 4,300 foreign vehicles from everywhere in the world. Foreign vehicles make up only .32 percent of Korea's total vehicle market, making it the most closed market in the developed world.

This is not a level playing field and should not be tolerated. This imbalance has occurred despite efforts by United States auto manufacturers to make long-term and extensive efforts to increase sales in Korea. I urge the administration and Mr. Zoellick to redouble the United States efforts to achieve market access progress in Korea, especially in urging the Government of Korea to take specific actions to reverse the anti-import attitudes and policies that so blatantly discriminate against foreign vehicles in Korea.

Mr. HATCH. Mr. President, I am pleased to support the nomination of Robert Zoellick as the next United States Trade Representative. I think that Bob Zoellick has the experience, education, and leadership skills to be an outstanding USTR.

Mr. Zoellick has had a broad range of experience in the executive branch, including the Treasury Department, State Department, and the White House. Chairman GRASSLEY has detailed his record of accomplishment.

Mr. Zoellick's experience is not just from the view of a government administrator. Since 1997, he has held a number of positions with private sector firms involved with asset management and capital development. This unique combination of public sector and private sector experience will prove vital to his performance as USTR.

As trade becomes more important to the economy of Utah and the United States as a whole, it is imperative that we have senior officials that understand the significance of free and fair trade. And it is critical that they can view trade issues with a vision of the attendant foreign policy, national security, and economic policy considerations that are at stake. I think Bob Zoellick can see the world from many perspectives.

The United States faces a number of key trade issues in the next few years. It will be a great advantage to American workers and American consumers if we can create a bi-partisan U.S. trade policy.

We need to look at the issue of granting new trade promotion authority to

Ambassador Zoellick. But fast track authority alone should not replace the hard work and effort to forge bi-partisan support for U.S. trade initiatives.

My experience on the Judiciary Committee has taught me that intellectual property issues will play an increasingly important role in the international economy. We must make sure that the creative efforts of those who produce software, entertainment such as music and movies and breakthrough drugs and medical devices get the benefit of TRIPS implementation and enforcement. Frankly, we need to get better across the board at enforcing the trade agreements that we negotiate.

We also need to resist any efforts to impose unnecessary barriers on the emerging Internet economy. For example, we must work to see that computer downloads are not unduly hindered through tariffs or technical barriers.

I want to re-enforce many of the comments that my friend from West Virginia, Senator BYRD made with respect to the crisis among our domestic steel producers. I want to work with Mr. Zoellick and Senator O'Neill on the efforts by the Bush Administration to re-energize our domestic steel industry. I think at his confirmation hearing that Mr. Zoellick made the correct comment to Senator ROCKEFELLER, my other good friend from West Virginia, on the potential use of section 201 authority with respect to steel. We must come up with a comprehensive plan to help U.S. producers of steel like Geneva Steel from my state of Utah. Part of this plan must focus on foreign dumping and countervailing duties.

At his confirmation hearing, Majority Leader LOTT and I raised the bananas and beef cases and the use of the carousel rotation of product retaliation lists. We can't let the Europeans avoid the consequences when the lose WTO cases. Frankly, I think that one of the first things this Administration ought to do in the trade area is to follow the law we passed last year and immediately implement the carousel system.

The Korean government's recently announced $2.1 billion bailout of Hyundai electronics raises many troubling questions. This development may be a direct violation of commitments made to the IMF in 1997. Specifically, USTR must examine whether this new bailout program is in accordance with the commitments made in paragraphs 34 and 35 of the 1997 IMF Standby Arrangement addressing, respectively, bank lending practices, and government subsidies and tax preferences. I trust that USTR will look into this, and I want my colleagues to know that this is an issue that I take very seriously. Frankly this government bailout must be scrutinized by USTR so that we can be sure that American high technology firms like Micron can remain competitive in the international marketplace.

I am confident that Bob Zoellick can work effectively with Commerce Secretary Evans and other key Administration officials to bring the American public the promise of free and fair trade. We need to open new trading opportunities, but we also need to enforce U.S. trade laws and ensure compliance with international trade agreements.

Many believe—and I believe—that the Office of the United States Trade Representative is the best governmental trade organization in the world. We ask Mr. Zoellick to lead and inspire this very strong agency to perform even better. The citizens of Utah and throughout the United States have much at stake in the performance of USTR.

As a Senator who believes in the long-term benefits to America of free and fair trade, I plan to vote for Robert Zoellick and stand ready to work with him and my colleagues to build a strong, bipartisan trade policy.

Mr. President, I thank all Senators and I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I now yield to my good friend from North Dakota, Senator DORGAN, for 15 minutes.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Chair and my colleague from Montana, Senator BAUCUS.

Mr. President, I intend to vote for Bob Zoellick to be the U.S. Trade Representative. I am not a big fan of the U.S. Trade Representative's office—never have been—under Republican or Democratic administrations. My view is that our trade policy in this country is a mess. It has gotten worse, not better. We are headed towards a $440 billion merchandise trade deficit.

In fact, it might be useful to show a chart that describes what has happened to our trade deficits. It shows that since 1993 our merchandise deficit has ballooned from $136 billion to over $440 billion. All the Republicans and all the Democrats that give us soothing assurances and say this trade policy of ours is working really well ought to take a look at these deficits, that are ballooning, year after year after year after year.

I want to talk a little about why I think it is so important, as we vote on the confirmation of Mr. Zoellick, we need to expect something different from the U.S. Trade Representative's office. You could put a blindfold on and listen to both Republican and Democratic administrations over last 20 years, Republican and Democratic stewards at USTR, and you couldn't tell the difference between them. It wouldn't matter. It is all the same, all the same trade policy: Negotiate another agreement and hope things get better. However, what really happens is, they negotiate another agreement and things get worse.

I am told that we have, in the last 8 years, negotiated 304 trade agreements. I am also told, that some of the agreements cannot even be located in the offices of the Trade Representative, let alone get them enforced. At the time when we have negotiated 304 trade agreements, our trade deficit has increased over 300 percent.

Let me show you what bothers me from time to time about our current trade strategy. Let me do it in terms of T-bone steaks. I have a chart I want to share with you.

We negotiated a trade agreement with Japan in 1989 on the issue of beef. The U.S. could not successfully get beef into the country of Japan. So our negotiators went to Japan, and they negotiated really hard, and they got an agreement, and then they had a big celebration. They had banquets, and, Lord, they had headlines in the newspapers: "We have reached an Agreement with Japan." Good for them. God bless them.

Now 12 years later, we are getting more beef into Japan. Good for us. Do you know what the tariff is on every pound of beef that goes into Japan? Incidentally, these are T-bone steaks on the chart. As this chart shows, there is a 38.5-percent tariff on every pound of American beef going into Japan. This is 12 years after the great agreement with Japan, a country, incidentally, that has over a $70 billion merchandise trade surplus with us, or to say it another way, a U.S. deficit with Japan.

By what justification does anyone who negotiates this kind of trade agreement stand here and say to American producers: We really scored a victory for you this time? These people obviously did not wear jerseys that said "USA" when they negotiated this one. They said: We will agree, after a phase-in, to a 50-percent tariff that will be reduced over time. Great, except it has a snap-back provision which says, the more you get in, the higher the tariff will be. So guess what. Twelve years later, we have a 38.5-percent tariff on every single pound of beef going to Japan. It is a failure. Not only do people not care about it, most people don't know about it; and nobody is going to do much about it.

If not T-bone steaks, what about cars? We just finished a trade agreement with China. We have over a $70 billion merchandise trade deficit with

China, and it is growing rapidly. Here in the Senate, we did not have a vote on the bilateral trade agreement with China. If we did vote, I would have voted no. We had a vote on PNTR, but we did not have a vote on the bilateral trade agreement. We had negotiators go to China, and once again, apparently, they left their jerseys at home, the ones who say: "USA"—"Here is what I am negotiating for. I want a good deal for us."

Our negotiators go to China and negotiate an agreement. At the end of the agreement, after a long phase-in, here is what we have done on automobiles. We have said: Yes, there are probably 1.2 billion people over there, and if they are able to increase their standard of living, at some point they will become more affluent and want to start driving cars. If that happens there will be more automobile trade between the United States and China. What we will agree to, China, we will grant you access to our market at a 2.5-percent tariff on any cars, and we will allow you to have a tariff that is 10 times higher—25 percent—on any U.S. automobiles going to China.

What on Earth are we thinking about? Here is a country that has a huge surplus with us, or we have a huge deficit with them. We negotiate an agreement with them and say: Oh, yes, by the way, we will allow you to impose tariffs on automobiles 10 times higher than those we impose on you.

Time after time, there are examples of the incompetence of these negotiators, let alone the fact that once we get these agreements, as bad as they are for this country, they are not enforced. Do you know how many people we have enforcing our trade agreements? Yes, even the bad trade agreements with China? Seven. There used to be 10; now there are 7. China has done little to comply with any of our trade agreements. So now we have gone and negotiated a new bilateral agreement that is poorly designed and at the same time decreased the number of people monitoring and investigating how China is not playing by the rules. Our staff for China went from 10 to 7.

At some point we have to realize, that ballooning trade deficits we currently have in this country, are unhealthy for our country, our future and our economy.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, might I inquire how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Montana has 25 minutes 7 seconds remaining. The Senator from Iowa has 32 minutes 24 seconds.

Mr. BAUCUS. I yield 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Montana. I noticed on the floor the presence of my good friend and colleague from Louisiana. It was actually her idea that drew me over here. I am glad she is here. I will try and be brief in my remarks and then defer to the Senator from Louisiana to share some of her thoughts.

Let me say, first of all, I am a strong supporter of Bob Zoellick to be the new U.S. Trade Representative. I think he will make a very fine Trade Representative. We worked very closely together over the years on other matters. He was at the State Department. I know him to be tremendously thoughtful, a good listener, one who is not afraid of new ideas and is attentive to a wide diversity of interests dealing with some of the issues affecting some of the very regions of the world I will address some remarks to, and that is Central America and Latin America back in the 1980s.

So I am a strong supporter of Bob's. He will do a great job. The President is lucky to have his willing services in this administration.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 4 minutes.

(The remarks of Ms. LANDRIEU and Mr. DODD pertaining to the introduction of S. 260 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WELLSTONE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Who yields to the Senator?

Mr. GRASSLEY. Mr. President, I don't think I have authority to yield time, but I think Senator BAUCUS would be comfortable yielding 10 minutes.

Mr. WELLSTONE. Mr. President, I thank the Senator from Louisiana for her work.

Mr. President, I support Mr. Zoellick. I am not here to oppose his nomination at all, but I would like to express my great reservations about the direction of our trade policy. Unless I am mistaken, I think I heard the majority leader today out on the floor saying that we need to, of course, have the trade but we need for it to be fair trade. I was pleased to hear his very strong remarks.

I guess it was about maybe a month ago that I was on the Iron Range of Minnesota with the taconite workers at a gathering at Hoyt Lakes. There were about 1,000 workers there, although 1,300 of them have lost their jobs. The LTV Steel Company closed down. They shut down the taconite operation. Fourteen-hundred workers on the Iron Range lost their jobs. Other workers, by the way, are being laid off at other mines. It is not just those workers. It is the subcontractors. It is their families. It is the people in the community.

I never mind saying this because it is just true. Even though you talk about one region of the State, you never want to act as if you don't care about other regions. Northeastern Minnesota is like a second home to Sheila and I. This is where our campaign started in 1989. They supported me when no one thought I ever had a chance. These are people with the greatest work ethic in the world. They are just incredible people. There are a lot of broken lives, broken dreams, and potentially broken families in northeastern Minnesota.

I always go to one high school just to stay in touch with the students there. I have been there about three or four times in the last year or two. The discussions with the students are so poignant. They want to know if they can afford college. They want to know what is going to happen to their mom or dad, and whether or not there will be any jobs for them. These are good jobs that pay probably $65,000 a year, counting health benefits. There are not a lot of other jobs such as that. Of course, there will be a future because when you have people with such a strong work ethic and who are so self-reliant and self-sufficient it will happen.

But I want to say this on the floor of the Senate. When I was at this gathering, I was looking out over about 1,000 workers. And I thought to myself: These are industrial workers. All too often in our trade policy and all too often on the floor of the Senate and on the floor of the House of Representatives, they have been out of sight and out of mind. I could add the autoworkers to the steelworkers, and a lot of industrial workers as well.

In this particular case, the import surge of steel—in the case of taconite workers, it is semifinished steel—slab steel from Brazil, from South Korea, from Russia, and from other countries way below our cost of production has essentially put them out of work. These steel workers on the Iron Range of Minnesota want to know where they fit into this international economy. I say this to Mr. Zoellick—and I will say it every day for the rest of my time in the Senate—why can't we have a trade policy that, of course, recognizes the importance of trade but also works for working people in our country? If it is true that we live in an international economy—yes, it is true—then if you care about human rights, you have to care about it not only in our country but other countries. If you care about the right of people to join a union and make decent wages for their families—you have to care about that, not only in our country but other countries as well—if you care about religious freedom, you have to care about this in our country but other countries as well. If you care about the environment, you have to care about it in an international context. But from NAFTA to GATT to WTO to efforts to have fast track here and there, I have not seen an effort to really talk about a fair trade policy.

I am not an isolationist. I am an internationalist. My dad was born in Odessa, Ukraine. He fled persecution in Russia. He spoke 10 languages fluently. I grew up in a family where there was no other choice but to be an internationalist. But there has to be some new rules that come with this international economy.

This has to be an international economy and global economy that works for steelworkers—workers for autos, workers for family farmers, the environment, and human rights. That is not the case now. Lord, I have given enough speeches on the Senate floor about human rights violations in China and other countries as well. I will not do that today.

I make this appeal to Mr. Zoellick and appeal to my colleagues that, whatever we do, let's try to figure out some additional steps we can take that will give some assurance to hard-working people in our country so they don't get the short end of the stick and get spit out of the economy because we have no level playing field.

That is what has happened to these steelworkers on the Iron Range. That is exactly what has happened to these taconite workers.

I think Senator DAYTON would say the same thing. We are desperately trying, with Congressman OBERSTAR and others, to get trade adjustments to people. We hope the taconite workers fit into that. We want to talk about section 201, and the Rockefeller bill deals with the whole problem of unfair trade in steel, and whether or not we have to say to the other countries we can't deal with these import surges, especially if we think it is a dumping of steel, or semifinished steel well below the cost of production; especially when you talk about countries where people do not get decent wages, where there are no OSHA or any workplace safety rules.

There has to be a way we can have some competition and a trade policy that makes sure steelworkers on the Iron Range of Minnesota and family farmers and people who care about the environment and people who care about human rights figure in. I think those industrial workers are simply off the radar screen when it comes to politics in the Nation's Capital today.

There are two Senators on the floor: Senator GRASSLEY from Iowa, who is chair of the Finance Committee, one of the best Senators in the Senate—he is wrong on every issue but he is one of the best Senators in the Senate—and Senator BAUCUS, who is also ranking member of the Finance Committee, who is very skillful. I say to both of my colleagues and other Senators, I hope maybe this year, since we are 50/50, and we will have a lot of passionate debates, there are certain areas where maybe we can work together. Maybe there are some things we can do to try to make this trade policy work a little better for some of the people in our country and in this particular case for some of the steelworkers on the Iron Range and some other people in my State much less other States. That is the appeal I make today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

GRANT ALDONAS

Mr. GRASSLEY. Mr. President, I rise for a very special purpose relating to the work of the Senate Finance Committee and the aspect of our work that deals with international trade and the high caliber of staff who have been on the International Trade Subcommittee over a long period of time. But I take special note of one of our staff people, our chief trade counsel, Grant Aldonas. He is right here.

He is going to soon be leaving the position that he has with our committee. It is going to be a loss for our committee, and particularly for me as a new chairman. It is going to be a tremendous loss because people of his caliber who are so successful in the private sector and are willing to come back into public service are few and far between. He is one who has done that. He has done it for 3½ years as the Finance Committee's top trade lawyer. He served Senator Roth before me with the greatest of professionalism and diligence; he has done a very good job.

Grant has left his mark on some of the Senate's most significant trade policy initiatives—the passage of the Trade and Development Act of 2000, and the passage of the bill that has been on everybody's mind over the last 3 or 4 years giving permanent normal trade relations status to the great country of China. This was chief among all the work that he did for that period of time on the Senate Finance Committee.

I think I can speak for members of the Senate Finance Committee on both sides of the aisle. They have come to rely upon Grant's skill and judgment. Even though he is very skillful, judgment is the greatest asset that he has when dealing with the policies of international trade, not only from the domestic standpoint but from the international standpoint. Judgment with good common sense is very important.

I have already referred to his success in the private sector. That is because he is a good lawyer. He is also a good public servant and just a plain good person.

I wish you, Grant, and your wife Pam all the best in your new life beyond the Hill. Thank you very much for your services.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield myself such time as I consume.

I join in the remarks of our distinguished chairman to Grant Aldonas. I am fond of saying I believe the most noble human endeavor is service—service to church, to family, to the community, State and Nation; whatever makes the most sense for each one of us graced to be on the face of this Earth particularly public service—more particularly, public service where you don't get your name in the headlines or the evening news, public servants who don't have huge egos but are working for the country in the best interests of the United States of America and all Americans. Grant certainly is in that category.

Grant is a guy who works behind the scenes to get results. Again, it is not headlines. It is talking to all the Senators, the Senators' staffs, the administration, whoever it is he must talk to in order to get a result, legislation, something passed for the sake of the people.

He is a great bipartisan kind of a guy. He is particulary effective because of his prior service, whether USTR, the State Department, or private sector.

I do think his background as a lawyer helps. The understanding of the law helps one be effective. There are very bright and fine ways to get around that stuff, but generally I think a legal background is quite helpful.

Whether it is China, PNTR, or trade bills of Africa, Caribbean, Grant has been there—a true professional, calm, even tempered, smart, creative thinking, diligent, hard working, focused on getting results.

I underline the point the chairman made; namely, of Grant's sense of judgment and his common sense, a commodity which is probably one of the most important a person can have. We will miss you, Grant. We know you will go on to bigger and better things. We also know in the real sense you will not have left. We will still be able to call you, seek your advice, and wish you the very best.

In the remaining minutes, I thank the Senators who have spoken. They make very good points on which I know the administration and Mr. Zoellick will focus.

How we bring all the components together for coherent consensus in developing a trade policy for America is extremely difficult. It includes business interests of America, labor interests in America, and environmental interests in America. It includes all the Americans who think they are left out of trade and the benefits of trade agreements. Companies do pretty well in some places and employees wonder where they fit in to all of this. We have to work harder to develop that consensus. I very much look forward with the chairman and people such as Grant and others in the administration to develop that consensus. Frankly, we have no other choice. We have to find that consensus to be effective and serve our people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I want to say a few things about the nominee and about the larger issue of trade.

I commend my distinguished ranking member for his comments earlier and those who have already expressed themselves. It goes without saying, and it ought to be emphasized, that Robert Zoellick is going to be an excellent Trade Representative. He has broad Government experience and a record of achievement that is enviable. His experience in the State Department, the Treasury Department, and the White House is a clear demonstration of his commitment to public service and public policy.

The USTR role is one that I think is an increasingly important role in the Federal Government, particularly given the increasing importance of trade and globalization generally.

I am concerned about reports that consideration was given to downgrading the position from its Cabinet rank, and I am very pleased that the Cabinet rank in this case will be retained.

As I look back over the 106th Congress, one could argue that some of our greatest achievements were in the field of trade. We enacted the Caribbean Basin and African trade bill. We met our obligation under the WTO regarding FSC. We granted permanent normal trading relations to China, paving the way for the most populous country in the world to join the global rules-based trading system.

Now we have a chance to build upon the achievements and the record of the 106th Congress by promoting the economic, national, and foreign policy interests of the United States in a global economy.

The United States is uniquely positioned to benefit, in my view, from increased globalization. First, we have the most productive economy in the world. Second, we have a comparative advantage in an increasingly information-based global economic framework.

Globalization improves productivity as countries specialize in areas of comparative advantage and puts downward pressure on prices consumers face. We have seen examples of that over and over.

The promotion of international understanding and the reduction of international conflict is critical if this is going to happen in the months and years ahead.

The freer flow of goods, capital, people, and ideas around the world creates interdependence and understanding that both can help lower the probability of conflict and raise the cost of conflict.

There is an economic cost to a nation being ostracized from the global economy. Economic liberalization advances key foreign policy goals such as increased economic freedom and reduced poverty. So the stakes could not be much higher for us or for the world as we create this global framework and recognize the advantages of participating in it.

We also have to recognize that participation in and of itself is not all necessarily positive. There is a lack of domestic consensus on expanded trade and globalization, and as we consider all of the public policy choices we will face in the 107th Congress, I hope we work to try to build a better consensus, one we did not have in all occasions last year.

We start building that better consensus by recognizing that globalization can inflict costs on certain groups, and those costs need to be addressed.

Workers in import-competing countries may face downward wage pressure and job loss. In a recent study, "Americans on Globalization" the author, Steven Kull, found that people would be much more supportive of increased globalization if the government did more to help people who lose out through trade. I believe that is true. I do not think there is any question that if we could find ways with which to address that concern, a consensus could be more the reality than it is today.

Fully 66 percent of respondents agreed with the following statements: I favor free trade, and I believe it is necessary for the government to have programs to help workers who lose their jobs.

That is all they seem to be asking: the realization that there are people who get hurt as this new infrastructure gets established.

Another 18 percent favored free trade in the absence of such help, while 14 percent opposed it with or without the help. We have 66 percent of the people who say they favor free trade so long as we address the problems of free trade. We need to work together to do that to address those problems.

Our challenge is to build that consensus on trade policy in a global economy, not only in this country but around the world.

I look forward to working with Bob Zoellick and my colleagues on the challenge we face in doing that constructively and successfully.

There are some key elements, in my view, for building that consensus. First, I believe one of the key and perhaps one of the fundamental approaches that will be required is a realization that expanded worker adjustment assistance is one way with which to ease the pain and address the problem. A more broad-based, flexible, and effective adjustment assistance program is clearly needed, and I hope we all can accept that realization.

A smooth transition from displacement back into the workforce is important for communities and the overall economy, and such assistance is critical to building consensus on moving forward on greater trade liberalization.

Bob Zoellick was a key member of the Trade Deficit Commission. The Commission did not agree on the underlying cause of the trade deficit or how to remedy it. The only area of broad bipartisan agreement was for expanded worker adjustment assistance. I look forward to working with Mr. Zoellick in this area. I look forward to recognizing the possibility for bipartisan consensus on expanded worker adjustment assistance. I hope it will be an integral part of anything we do in the longer term with regard to trade policy.

A second element is increased support and emphasis on lifetime learning. A policy that waits until someone loses a job is doomed to failure. Over time, the goal has to be to embed the culture with an appreciation of learning and upgrading skills throughout one's life, and that by doing so, economically and educationally, this new construction of lifelong learning can be an integrally important and extremely essential part of anything we do to advance the cause of world trade.

Let's recognize that building those learning skills and upgrading them throughout life must not be viewed simply as an education issue but as a trade issue.

Third, we must advance labor and environmental standards around the world. I believe this has to be done on a bilateral and multilateral basis. Recent bilateral trade pacts, such as the one with Jordan, have begun to make progress in this critical area. But there is so much more that needs to be done. We recognized it in the bilateral arrangement with Jordan. We ought to recognize it in any new bilateral arrangement. But, clearly, we have to recognize it in multilateral efforts as well.

We recognize how difficult it is. We recognize how challenging. We recognize how divisive. We recognize how much debate, and in some ways confrontation, has occurred over issues relating to labor and environmental standards. But we also must recognize that if we are going to address increased consensus, we must address this issue.

We also must make sure that our trade laws work and are perceived as fair. Fair trade laws help create an environment that maintains consensus for the openness we all seek in the first place. We have to maintain vigilance to ensure that laws are perceived as fair both inside and outside the country. Frankly, we have not always done a good job at that.

The steel industry is one such industry. Despite substantial investment and modernization, steel has faced repeated pressure from dumped steel all over the world. We have to do a better job.

We have to also understand the importance of making the WTO work better. Greater transparency and avenues for participation are needed. In the United States, we must advance those reforms.

We have to help poor countries. Greater globalization holds great promise for further reducing poverty in poor areas. But the United States and other rich countries need to continue to help poor countries participate in the WTO, and the trading system generally, and be mindful that poor countries often seem to believe that globalization is being imposed on them. We simply cannot allow that to happen.

So I look forward to working, on a bipartisan basis, on all of these challenges. I look forward to working with the soon-to-be-confirmed USTR and with my colleagues. As I talked a moment ago about steel and dumping, there is an array of dumping and serious imbalances in trade with our European and Canadian allies with regard to agriculture that also must be addressed—whether it is meat or agriculture in a number of ways, or whether it is the New Softwood Lumber Agreement with Canada.

The Softwood Lumber Agreement with Canada expires in a few short months. There is a major risk of a flood of imports entering our market at a time when low timber prices already have led to mill shutdowns and closures. This will be one of the first issues that Mr. Zoellick will have to face. I share Senator BAUCUS' concern, as he has taken a leadership role in addressing this matter.

We need a new agreement with all stakeholders at the table. We need to address agriculture with all producers, processors, and traders at the table.

We need to understand the implications of the imbalances, the dumping, and the serious problems that we face in agriculture today as a result of unfair trading practices in agriculture. That has to be addressed and put on the table.

We have to work towards a consensus, as I said a moment ago, on labor and the environment. I hope we can find common ground on those issues as well.

The President has made a strong nomination. I know my colleagues will be as supportive of this nominee as I am. I hope and expect it will be an overwhelming vote. But I also hope and expect that this is not the end but the beginning of the creation of an even more balanced trade policy with more consensus on international trade and globalization, and a realization that that consensus depends on how effectively we address myriad challenges that we have not addressed successfully to date. I look forward to working with our nominee and with my colleagues in that regard.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I intend to vote for Mr. Robert Zoellick for U.S. Trade Representative. I believe he brings excellent credentials to this position. I do believe the new President, President George W. Bush, is entitled to discretion but, in any event, this is a qualified man. I would like to take a moment or two to talk about the enforcement of U.S. trade laws, especially as they relate to a very serious situation in my State with respect to the steel industry.

Steel has been victimized in the United States by illegal trade practices, trade practices which violate U.S. law and trade practices which violate international law.

We have had a surge of dumping in the United States which has cost the steel workers, in the past two decades, a reduction in employment from close to half a million steel workers to now less than 160,000 workers, and a situation where many steel corporations today are on the verge of bankruptcy.

We need to see to it that dumping is not permitted in this country. Simply stated: Dumping is where steel, for example, is sold in the United States at a lower price than it is sold in the country from which it is exported.

I have introduced legislation in the past and intend to reintroduce it this year which would provide for a private right of action, which would enable the corporation or the injured workers and the union to go to Federal court and to get injunctive relief. That relief can be obtained very promptly.

It is possible, under the Federal Rules of Civil Procedure, to get a temporary restraining order on an ex parte basis on the filing of affidavits—there has to be a hearing within 5 days, evidence can be put into the record, equity actions can be tried very promptly, and that is an effective way to see to it that U.S. trade laws are enforced and that they are consistent with international trade laws.

Last year we legislated on a matter on a bill introduced by Senator DEWINE of Ohio and backed by quite a number of us in the Senate steel caucus, a caucus which I chair, with the cochair being Senator JAY ROCKEFELLER of West Virginia. Then through the leadership of Senator ROBERT BYRD of West Virginia, with my concurrence in the Appropriations Committee, we put that bill into effect last year which provides that where duties are imposed for violations of U.S. trade laws, that those duties are paid to the injured parties instead of going into the U.S. Treasury.

Obviously, it is desirable to have funds go into the Treasury, but where it can be ascertained that the illegal foreign trade practices resulted from a violation of U.S. trade law and can be traceable to damages to specific companies and individuals, that is where those duties ought to be paid.

A question has arisen as to whether the United States will fight to retain that legislation against complaints by some of the foreign countries where infractions have been found. I do hope our new Trade Representative will enforce that legislation which was passed by the Congress and was signed by the President under an appropriations bill last year.

I make these comments because U.S. jobs, U.S. industrial interests ought not to be sacrificed for foreign policy or for defense policy. Not too long ago, when we were anxious to back up the Russian economy, we permitted tremendous dumping of steel by Russia in the United States. While I am concerned about the stability of the Russian economy, I am candidly more concerned about the stability of the Pennsylvania economy and the U.S. economy. But fair is fair. When the laws are on the books, they ought to be enforced and they ought not to be sacrificed for collateral U.S. interests on foreign policy or on defense policy.

I make these comments with the hope that our new Trade Representative will be a vigorous enforcer of U.S. trade laws and that my colleagues will consider the legislation, which I will introduce later in this session, which will provide for that private right of action.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Robert B. Zoellick to be United States Trade Representative?

The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 9 Ex.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee, L.
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—2

Breaux
Inouye

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

UNANIMOUS CONSENT REQUEST

Mr. CRAIG. Mr. President, I have a series of unanimous consent requests that I will proceed with. I ask unanimous consent that at 1 p.m. on Wednesday, February 7, the Senate proceed to the U.N. dues bill if reported by the Foreign Relations Committee, and all amendments offered be relevant to the subject matter of the bill and cleared by both managers. I further ask consent that if the committee has not reported the bill by 1 p.m., it be immediately discharged and the Senate proceed to its immediate consideration.

Mr. FEINGOLD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator yield?

Mr. CRAIG. I do not yield. I have another unanimous consent to put us in morning business.

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELEBRATING PRESIDENT REAGAN'S 90TH BIRTHDAY

Mr. LOTT. Mr. President, this is a remarkable day in American history. Today we celebrate the 90th birthday of Ronald Reagan, the 40th President of the United States. As a Senate, we send to him our heartfelt best wishes for his continued recovery from a recent surgery and we thank him for all that he has done to make America, the Shining City on the Hill. Ronald Regan stands in the first rank of freedom's pantheon. Happy Birthday, Mr. President.

I ask unanimous consent that an article highlighting Ronald Reagan's early journey through politics, Rehearsals for the Lead Role, written by John Meroney, associate editor of The American Enterprise, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 4, 2001]

REHEARSALS FOR A LEAD ROLE

Ronald Reagan was a liberal, an actor; a labor chief, but some unscripted plot twists forged a new character

(By John Meroney)

HOLLYWOOD.—All day, memories had been flooding back to him. Riding home from the airport across the west side of L.A., he was traveling the same streets he had driven years before. Back then he knew the town by heart, and used to drive it with the top down on his green Cadillac convertible.

As the car pulled into the residence of 668 St. Cloud Rd. in Bel Air, the city was beginning to slip into the afternoon dusk. Millions of tiny lights would soon fill the L.A. basin, a scene he always thought remarkable. And looking out across it on that January day when he became a private citizen 12 years ago, Ronald Reagan knew that had it not been for the events of his life in this place, he probably never would have been president.

This week, Ronald Reagan will join John Adams and Herbert Hoover as the only presidents to reach the age of 90. An entire generation knows him only as president or as the ailing statesman living in seclusion. Even though Reagan was a movie star who appeared in 53 motion pictures, and is unique among presidents in that so much from his early years is preserved on film for posterity, that critical part of his life has largely become forgotten history.

His movies rarely appear on television. (During the 1980 presidential campaign, Federal Communications Commission officials banned them from broadcast because they asserted it gave him an unfair advantage.) Dozens of books have been written about him, but the three decades he spent as a movie star and labor leader are given scant attention in most.

This is remarkable given that Reagan's life during the 1940s and '50s was often more dramatic than the parts he played. He lived in surroundings so compelling that they have formed the basis of many great films, such as "Chinatown" and "L.A. Confidential." Writers from Raymond Chandler to James Ellroy have for decades carved their stories from Reagan's era in Hollywood. The town was at the height of its glamour, and was steeped in national political intrigue. And Ronald Reagan not only witnessed this, but was a central figure to much of it.

Recently, new details about his life have emerged, presenting a more accurate and deeper understanding of him. Last fall, Nancy Reagan published a collection of dozens of love letters and personal correspondence her husband wrote that reveal a creative and passionately emotional side to the 40th president. A collection of 677 scripts for radio commentaries that Reagan wrote by hand during the 1970s was recently discovered by researchers, and is being published this week. They document a man with clearly defined ideas about public policy.

Still, there persists the caricature of Reagan as a B-movie actor who used the talents he honed on soundstages in Burbank to attain high office where he stumbled into the end of the Cold War. Even his conservative supporters have perpetuated this view. Reagan national security adviser Robert McFarlane once remarked, "He knows so little and accomplishes so much."

But a close review of the historical record, and recent interviews with those who knew Reagan best during the 1940s and '50s, show a man profoundly affected by his experiences as a movie star and six-term president of the Screen Actors Guild. He emerges as a complex individual who—through what he once described as intense "philosophical combat"—changed his political ideology. Contrary to assertions (which Reagan himself often encouraged) that he became a Republican because the Democratic Party abandoned him, Reagan actually went from being a staunch liberal who participated in Communist front groups to a stalwart anti-communist because of his firsthand experiences dealing with Communist Party members.

History sometimes reveals the moments and incidents that mold and shape our presidents. Most of Ronald Reagan's occurred here. In part, he is simply a man who loved (as he called them) "pictures"—being in them, talking about them and the business of making them. But it was a growing obsession with politics that sharply diminished his acting career, helped destroy his first marriage, and changed his life forever.

Reagan's involvement with the Screen Actors Guild spanned more than a decade, and even before he became president of it in 1947 (a position that paid him no salary or benefits), he immersed himself in its work. He would often speak extemporaneously for extended periods on the labyrinthine matters of the industry workforce, impressing professional negotiators with his knowledge of thorny labor issues.

The nature of Reagan's role as labor leader isn't the only part of his life that runs counter to the popular perception. In the years after his divorce from actress Jane Wyman in 1948, Reagan was living a life that most who know him best as the grandfatherly president would never recognize. Indeed, Reagan was handsome, rich (spending in excess of $750 a month on dinners and nightclubs) and dating some of the most beautiful actresses in the business.

Hollywood was booming. It was, as David Niven once described it, filled with great personalities, but controlled by arrogant moguls, overcrowded and smelling of despotism, nepotism and blacklists. Los Angeles supposedly had more swimming pools and private detectives per square mile than any other place in the world.

"THE GIPPER" IS BORN

When Reagan arrived in Hollywood in May 1937, the country was still in the Depression, but L.A. still had a grand style about it. Virtually all of the residences Reagan had here still exist, and are largely unchanged. His first apartment was at the elegant Art Deco Montecito apartment building on Franklin Avenue in Hollywood. Today, as one walks into the lobby and then the unit that he rented, the romance and glamour of the era become obvious.

Barely 12 months later, Reagan's career was in full flourish. By the end of 1938, he had already made nine pictures. "Brother Rat," the story of cadets at the Virginia Military Institute, is perhaps the best among them. More important, he had fallen in love with his co-star, Wyman, and they married just over a year later. The Warner Bros. publicity machine was churning out press releases touting them as the new all-American couple.

Jack Warner typically knew a good thing when he saw it, and from the moment of Reagan's screen test, he took a liking to the young man from Dixon, Ill. Now, Reagan seemed to be exceeding expectations. For years, he had dreamed about making a movie based on the life of the legendary Notre Dame football star George Gipp, whose deathbed words became a rallying cry for the Fighting Irish. In his spare time, Reagan would make notes about a possible film. And when he heard that Warner had given the green light to a picture about Notre Dame coach Knute Rockne, he saw his chance.

"I've been a great fan of Gipp's throughout his career, and I've read just about everything that's been written on him and Rockne," Reagan told Pat O'Brien, who was signed to play Rockne. "I can play the part. I won't let you down," he pleaded. Studio records show that Reagan beat out both John Wayne and William Holden for the part of Gipp. "Knute Rockne, All American" was released in 1940. And the line "Win one for the Gipper" eventually became as synonymous with a politician as "I like Ike."

By the middle of 1941, Reagan was making almost $2,000 a week. He and Wyman had built a house on Cordell Drive, just above Sunset Boulevard, with a sweeping view of the city. (Record producer Richard Perry lives there now.) And Warners was about to release "Kings Row," a film that it had been holding for a year, afraid of how audiences might react to its depiction of an idyllic small town that turns sinister. Reagan gives what is arguably the best performance of his career as Drake McHugh, a happy young man with a bright future who wakes up after a train accident to discover his legs have been needlessly amputated. "Where's the rest of me?!" he screams.

On a hot July day of that year, Wyman suggested to SAG Executive Director Jack Dales that her husband would be the best candidate to fill a vacant alternate position on the SAG board of directors. "I remember Jane looked at me and said, 'My husband might be president of SAG one day,'" Dales remembers today. "Then she added, sort of jokingly, 'Who knows, he might even be president of the United States.'" With that, Ronald Reagan's life began to take a completely different turn.

A WITNESS TESTIFIES

On April 10, 1951, in Room 226 of what is now the Cannon House Office Building on Capitol Hill, actor Sterling Hayden was under oath, describing to members of the House Committee on Un-American Activities what had caused him to join the Communist Party. "There was something boiling inside of me," said Hayden, whose unforgettable face made him look like one of the toughest characters in all of Hollywood. (Years later, he would play the Air Force general who sets off nuclear war in "Dr. Strangelove" as well as the corrupt police captain in "The Godfather.")

"I felt reluctant accepting the very lucrative and easy life Hollywood had offered me," he said. "All of it planted a seed: If I could do something about the conditions of the world, I could probably justify my position as an actor. I was appalled at what the Communists were telling me. I would get propaganda literature, scan it, and then burn it up."

Hayden said he left the Communist Party after being convinced it was ultimately being directed by Joseph Stalin. "Joining was the stupidest, most ignorant thing I have ever done," he said. Hayden said Communists tried to paralyze entertainment industry labor unions so that all studio workers would eventually be organized under one gigantic union controlled by the party itself, and he was asked what stopped them. "They ran into Ronald Reagan, who was a one-man battalion."

AN FDR DISCIPLE

Although he was a captain in the Army, Reagan spent most of World War II in Culver City, Calif., because his nearsightedness prevented him from being in combat. His responsibility while stateside was to help administer the Army Air Forces 1st Motion Picture Unit at the Hal Roach Studios, making military training and promotional films.

Making "This Is the Army," a 1943 musical for Warners, and watching Franklin Roosevelt prosecute the war, stirred Reagan's longings to be a part of it. It also increased his zeal for the leadership in Washington. "Ronnie really idolized FDR," remembers Dales. "I mean, you have to understand, Ronald Reagan thought Roosevelt was a true savior. And by getting involved with the politics of the Guild, he heightened his reverence for FDR's abilities. There's no question that I think he imagined himself having a major role in our industry that way."

Biographer Edmund Morris once interviewed a man in the Signal Corps who encountered a distraught Reagan all alone on the studio lot just after FDR's death in 1945. "He seemed really stricken, like he had a migraine," said Elvin Crawford. "When he looked at me I saw he was in despair. 'Oh, sergeant, I don't know what's going to happen to this country.'"

As the celebrations of victory in World War II ended, Americans were flush with success in practically every area of their lives. Some 90 million were going to movies every week. And within what seemed like just a moment, Hollywood was on the front lines of the Cold War.

THE ERA OF FBI SURVEILLANCE

Today, the concern about Soviet subversion that gripped the country through the late 1940s and '50s seems odd. After all, the Soviet Union had been an ally during World War II. But once no less an authority than Winston Churchill announced that "an iron curtain has descended" across Europe in his famous 1946 speech in Fulton, Mo., and he warned that the Communist Party was "seeking everywhere to obtain totalitarian control," Americans began to look at Soviet influence in a different light. Washington had become aggressive in its efforts to investigate possible subversion and infiltration from elements deemed loyal to Stalin, and because films and entertainment reached such wide audiences, Hollywood seemed a ripe target for propaganda.

On Capitol Hill, the House Un-American Activities Committee (HUAC) convened hearings in October 1947, at which Reagan testified. Although he cooperated with the HUAC, he resented government interference in the business he loved, later calling the panel (which included another future president, Richard Nixon) a "pretty venal bunch."

The FBI conducted surveillance on thousands of prominent Americans, including Reagan. But Reagan was also helping J. Edgar Hoover gather information about others, and agents first visited him in 1941. While most of the information Reagan provided pertains to possible Communist influence, the FBI appears to have been interested in anything politically controversial. In 1943, for example, he told an agent about a party where anti-Semitic statements were made. "Captain Reagan became highly incensed and withdrew from the conversation," according to the report contained in Reagan's partially declassified FBI file. "He said that he almost came to blows" with someone who had spoken disparagingly about Jews.

In every war, there is injustice and unfairness, and the Cold War was certainly no different. Careers were sidetracked, others destroyed. Actress Jane Wyatt (TV's "Father Knows Best") is one example of someone who was inadvertently caught up in organizations that eventually turned out to be Communist front groups. Wyatt was blacklisted, and in order to work again, she had to publicly criticize the party.

Director John Huston, who worked at Warner Bros. during Reagan's time there, was sympathetic to those on the blacklist. In his memoirs of Hollywood published in 1980, he wrote: "There is no doubt in my mind that the Communists were out to proselytize, to win converts. But there is also no doubt in my mind that activity in no way posed a threat to national security. The Communists I knew were liberals and idealists, and would have been appalled at the idea of trying to overthrow the United States government."

HOLLYWOOD HAS NO BLACKLIST

Part of the journey to understand how this backdrop influenced Reagan's life and eventually the presidency takes one to—of all people and places—Hugh Hefner and the Playboy Mansion. Hefner recalls that in 1960, he had heard about a dinner with Reagan and Homer Hargrave, a friend of Hefner's who was the son of silent film star Colleen Moore.

It came just after Playboy had published a favorable story about Charlie Chaplin, who was then a stalwart supporter of the Soviet Union. "Thank God for Communism," Chaplin said in 1942. "They say Communism may spread all over the world. I say, So what?"

In addition, Playboy had also published an article about the Academy Awards by screenwriter Dalton Trumbo, a member of the Communist Party from 1943 to 1948. He famously refused to answer questions from the House Un-American Activities Committee and served 10 months in prison in 1947 for refusing to testify. He rejoined the party briefly in 1954.

Starting in November 1947—in response to charges that the industry was infiltrated by subversives—the studios adopted an industry-wide policy forbidding the hiring of anyone suspected of communist sympathies. For Trumbo, the blacklist period was a financial hardship, but like many on the blacklist, he continued to write scripts under pseudonyms. And in 1960, he again began to work under his own name when Otto Preminger announced he'd hired Trumbo to write the script for "Exodus."

"When Trumbo wrote his story for us, he was just starting to come out of the shadows," remembers Hefner. Reagan and Trumbo had both been members of the liberal Hollywood Independent Citizens Committee of the Arts, Sciences and Professions (HICCASP, as Reagan called it, "pronounced like the cough of a dying man"), later revealed to be secretly supported by the Communist Party. At the dinner, Reagan told Hargrave that considering Chaplin and Trumbo's defiant attitudes about communism, he found Hefner's support for them galling. Hargrave mentioned the remark to Hefner.

"When I heard what Reagan said, I wrote to him," says Hefner. "I liked 'Kings Row' and all that, but I was also unhappy about what had happened during the blacklist era. And so I told him."

What Hefner received in response—six pages, handwritten on Reagan's personal stationery—is, perhaps, a more precise rendering of the former president's personal and ideological transformation than has ever appeared in the legion of books and articles written about him. It surfaces very briefly in Morris's book on Reagan, but until now the 1960 letter has never been published in its entirety.

JULY 4.

DEAR MR. HEFNER: I've been a long time answering your letter of May 13 and my selection of—The 4th—as an answering date is coincidence plus the fact that Holidays are—free time—days around our house:

Your letter has been very much on my mind and I question whether I can answer in a way that will make sense to you. First because I once thought exactly as you think, and second because no one could have changed my thinking (and some tried). It took seven months of meeting communists and communist influenced people across a table in almost daily sessions while pickets rioted in front of studio gates, homes were bombed and a great industry almost ground to a halt.

You expressed lack of knowledge about my views, political back ground etc, Because so much doubt has been cast on "anti-communist," inspired by the radicalism of extremists who saw "Reds" under every "cause," I feel I should reveal where I have stood and now stand.

My first four votes were cast for F.D.R., my fifth for Harry Truman. Following World War II my interest in liberalism and my fear of "neo-fascism" led to my serving on the board of directors of an organization later exposed as a "Communist Front," namely the "Hollywood Independent Citizens Comm. of the Arts, Sciences & Professions"! Incidentally Mr. Trumbo was also on that board.

Now you might ask who exposed this organization as a "Front"? It was no crusading committee of Congress, the D.A.R. or the American Legion. A small group of board members disturbed by the things being done in the organization's name introduced to their fellow board members a mild statement approving our Dem. system and free enterprise economy and repudiating communism as a desirable form of govt. for this country. The suggestion was that by adopting such a policy statement the board would reassure our membership we were liberal but not a "front." The small group who introduced this measure were such "witch hunters" as James Roosevelt, Dore Schary, Don Hartman, Olivia de Havilland, Johnny Green & myself.

Leaders of the opposition to our statement included Dalton Trumbo, John Howard Lawson and a number of others who have since attained some fame for their refusal to answer questions. I remember one of their group reciting the Soviet Constitution to prove "Russia was more Democratic than the U.S." Another said if America continued her imperialist policy and as a result wound up in a war with Russia he would be on the side of Russia against the U.S. We suggested this "policy statement" was perhaps a matter for the whole organization to decide—not just the board. We were told the membership was "not politically sophisticated enough to make such a decision."

When we resigned the organization went out of existence only to reappear later (minus us) as "Independent Citizens Committee of the Arts, Sciences & Prof." in support of Henry Wallace and the Progressive Party.

The "seven months" of meetings I mentioned in the first paragraph or two refers to the jurisdictional strike in the Motion Pic. business. There are volumes of documentary evidence, testimony of former communists etc. that this whole affair was under the leadership of Harry Bridges and was aimed at an ultimate organizing of everyone in the picture business within Mr. Bridges longshoreman's union.

Now none of what I've said answers your argument that "freedom of speech means freedom to disagree," does it? Here begins my difficulty. How can I put down in less than "book form" the countless hours of meetings, the honest attempts at compromise, the trying to meet dishonesty, lies and cheating with conduct bound by rules of fair play? How can I make you understand that my feeling now is not prejudice born of this struggle but is realization supported by incontrovertible evidence that the American Communist is in truth a member of a "Russian American Bund" owing his first allegiance to a foreign power?

I, like you, will defend the right of any American to openly practise & preach any political philosophy from monarchy to anarchy. But this is not the case with regard to the communist. He is bound by party discipline to deny he is a communist so that he can by subversion & stealth infuse on an unwilling people the rule of the International Communist Party which is in fact the govt. of Soviet Russia. I say to you that any man still or now a member of the "party" was a man who looked upon the death of American soldiers in Korea as a victory for his side. For proof of this I refer you to some of the ex-communists who fled the party at that time & for that reason, including some of Mr. Trumbo's companions of the "Unfriendly 10."

Hollywood has no blacklist, Hollywood does have a list handed to it by millions of "movie goers" who have said "we don't want and will not pay to see pictures made by or with these people we consider traitors." On this list were many names of people we in Hollywood felt were wrongly suspect. I personally served on a committee that succeeded in clearing these people. Today any person who feels he is a victim of discrimination because of his political beliefs can avail himself of machinery to solve this problem.

I must ask you as a publisher, aside from any questions of political philosophy, should a film producer be accused of bigotry for not hiring an artist when the customers for his product have labeled the artist "poor box office," regardless of the cause?

I realize I've presented my case poorly due to the limitations of pen & paper so may I ask one favor? Will you call the F.B.I. there in Chi. ask for the anti-communist detail, then tell him of our correspondence (show him my letter if you like) and ask his views on this subject of communism as a political belief or a fifth column device of Russia.

Now my apologies for having taken so long in answering your letter and my appreciation for your having taken the time to write in the first place.

Sincerely,

RONALD REAGAN.

I asked Hefner whether he took Reagan's advice. "Growing up," he answered, "FBI agents were my heroes. I saw Cagney in 'G-Men' when I was a kid. But by the '50s I had already had visits from them, and they had harassed my ex-wife. So to say that Reagan's suggestion fell on deaf ears is an understatement."

STANDING UP AGAINST COMMUNISM

A scene from 1946, once recounted by Reagan: The setting is the posh residence of a top star, a meeting of the HICCASP. Reagan is running late, and arrives to grab a seat next to MGM studio head Dore Schary.

"Lots of people here I didn't think I'd see," he says.

"Stick around," answers Schary.

FDR's son James stands to propose adopting a statement denouncing communism and the Soviet state. "I was amazed at the reaction," remembered Reagan. One musician stands to assert that the Soviet constitution is superior to the American one. A screenwriter says he'd volunteer for Russia if war between it and the United States ever broke out. "I decided that an Irishman couldn't stay out, and took the floor and endorsed what Roosevelt said." Pandemonium. Reagan recalled one woman having a heart attack.

The meeting breaks up. Schary tells Reagan, "We're meeting up at Olivia de Havilland's apartment."

Reagan goes over to find about a dozen HICCASP members celebrating how they'd just smoked out the Communists.

Reagan is looking at de Havilland, grinning.

"What's so funny?" she asks him.

"Nothing," he says, "except I thought you were one."

She looks at him, smiling, "I thought you were one. Until tonight, that is."

RIVAL UNIONS

Aside from Dales, the man Reagan worked mostly closely with during his days as SAG president, it was Roy Brewer. An FDR New Dealer, Brewer had grown up in Grand Island, Neb., and at age 19, as a projectionist at the Capital Theater, ran the 1927 version of "The Jazz Singer," all 15 reels of it.

Brewer became a top labor official in Nebraska, and rose quickly to prominence in the International Alliance of Theatrical and Stage Employees (IATSE), part of the American Federation of Labor. When he arrived in Hollywood in 1945 on a mission to mediate what appeared to be a jurisdictional strike, he walked into a dispute between his IATSE members and a rival labor group, the Conference of Studio Unions, headed by Herbert Sorrell. What he also discovered was an industry that during the war had attracted a wide variety of characters—some who thought Hollywood was their ticket to fame and fortune, and a very small minority who were pushing political agendas.

Reagan was initially on the side of the strikers, but after he became convinced that the real objectives of those behind the strike were detrimental to the industry, he became a fast ally with Brewer. The two were soon confidants, and were featured together in Fortune magazine as two of the most influential figures in the business. By 1948, Reagan and Brewer were co-chairing the Hollywood campaign for Harry S Truman's reelection.

Reagan and Brewer believed Sorrell's group was trying to force the entire film community to accept an industry-wide union headed by Harry Bridges, leader of the International Longshore and Warehouse Union, who had attained fame from organizing the San Francisco waterfront strike of 1934. Records that have emerged since the end of the Cold War seem to support this claim, and also show that Bridges was a Communist Party member.

"Ronnie and I saw that the way things were going, it would be impossible for the studios to produce any movies at all," Brewer says today. Historians on both sides of the political spectrum now estimate there were approximately 300 party members in Hollywood during this era, and some of them have since admitted that while a concerted effort was underway to insert propaganda into films, the more important immediate goal was to seize control of the unions because they held the financial keys to all of the industry.

Reagan's increasing involvement in the affairs of the industry seemed to come at great personal cost. Threats were made against his life, and Warner's issued him a .32, which he began wearing in a shoulder holster.

A union transcript of a divisive SAG meeting late one night at the Knickerbocker Hotel during October 1946 shows Reagan aggressively confronting rival union organizer Sorrell:

"I have had to have guards for my kids because I got telephone warnings about what would happen to me because of my activities in trying to settle this strike.

"Now, smile. I don't know where the telephone calls came from. I know I took them seriously and I have been looking over my shoulder when I go down the street. Now, I know there are people from both sides in the hospital. I know it has been a vicious and deplorable thing in our business. I have never given up for one minute trying for peace, because I believed if the two factions wanted peace, there must be a grounds upon which they can meet. . . .

"Herb, as far as I'm concerned, you have shown here tonight that you intend to welsh on your statement of two nights ago [about settling the strike], and as far as I am concerned, you do not want peace in the motion picture industry."

Those who would know Reagan later in life say these experiences shaped his presidency, and eventually the way he approached the Soviets. "That era was a major influence on him," says Edwin Meese, attorney general under Reagan. "He said it gave him a good sense of the tactics used by the Communist Party, and a sense for their methods of subversion. There's no question it was pivotal."

But it was also devastating to his marriage. In early 1948, Wyman sued him for divorce, complaining that her husband's life revolved around the union. His discussions "were far above me," and "there was nothing left to sustain our marriage."

Said Reagan: "Perhaps I should have let someone else save the whole world and saved my own home."

MOVING ON

By the early 1950s, with the back of the Communist Party in Hollywood now essentially broken, Reagan found that securing work for former Communists and others who were innocently caught up in the blacklist was one of the responsibilities of his volunteer job. Along with Brewer and Dales, Reagan would vouch for actors and others in the industry who publicly broke ranks with the party.

It was this role that partly accounted for his first substantive meeting with actress Nancy Davis in 1949. Of course, Reagan was an eligible bachelor, and Nancy knew it.

But she also wanted Reagan to protect her, and make sure industry leaders knew she wasn't politically controversial. "I told her director, Mervyn LeRoy, that I'd take care of it—having made the switch from Ronald Reagan, actor, regretfully to Ronald Reagan, SAG president," he once wrote. Davis herself tried to make sure that politics never jeopardized her career, and became a member of the Guild's board of directors in August 1950, a position she would keep for more than a decade. The Reagans' first real date, though, is now the stuff of legend. It began with both of them saying they needed to be home early and ended sometime after 3 a.m. In 1952, they married.

Shortly thereafter, Reagan, who had a ranch at the beach, landed his first position in public office: honorary mayor of Malibu Lake. Within hours, California car dealer Holmes Tuttle came calling, saying he and others were prepared to back Reagan for the U.S. Senate. On that occasion, Reagan turned him down.

Hollywood has remained a constant in Ronald Reagan's life since the day he arrived here in 1937. Often it appears in the most curious ways. Screenwriter and producer Douglas Morrow once tried to find Reagan a role when no one else seemed to be offering one. Years later, in 1979, Morrow, who had connections in the aerospace industry, arranged for Reagan to make a secret visit to the North American Defense Command headquarters deep in the mountains of Colorado. Seeing firsthand that the United States had no defenses against nuclear strikes moved him, and stoked his fire for a missile defense system.

When Washington conservatives were nervous about President Reagan giving away the store to the Soviets at Reykjavik, and sent Lyn Nofziger in to urge him to be cautious and remain stalwart, Reagan responded: "Don't worry. I still have the scars on my back from fighting the communists in Hollywood."

HOLLYWOOD'S GUIDING LIGHTS

When he came back from Washington, Reagan was approached about possibly returning to films for a special cameo, but always politely declined the overtures.

Reagan's personal office now overlooks the 20th Century Fox studios, and is in a building that has served as the site for numerous films. A parade of dignitaries from Gorbachev to Thatcher has visited him there, but Reagan always seemed to especially relish the industry people who would appear at his door.

On Tuesday, in a house high above the city, Nancy Reagan will mark her husband's 90th birthday with him, without fanfare. And perhaps, at the end of it, as the sun goes down and the lights of the City of the Angels come up, Ronald Reagan will have a fleeting glance of the town where an American president found his destiny.

Mr. McCAIN. Mr. President, today, we celebrate the birthday of a giant, Ronald Reagan. America is indebted to President Reagan for reviving our national spirit and ensuring that we prevailed in that "long twilight struggle" against soviet totalitarianism. His leadership not only revitalized our economy, but gave us a rebirth of patriotism and national greatness.

My fellow Vietnam Prisoners of War share a special affection for Ronald Reagan. Word of his steadfastness against aggression even reached us in our cells thousands of miles away from freedom. When we were released, he befriended and supported us. He understood and appreciated the "noble cause" for which so many brave Americans made the ultimate sacrifice.

Today, America enjoys unprecedented peace and prosperity largely due to the policies of Ronald Reagan. So, to celebrate your 90th birthday, we salute you President Reagan, a brave soldier in the battle for freedom.

Mr. SMITH of New Hampshire. Mr. President, I rise today to recognize and celebrate the 90th birthday of our 40th President, Ronald Wilson Reagan.

It is ironic that today this body is debating the merits of a tax cut. Almost twenty years ago, President Reagan introduced and helped to pass the largest tax cut in our Nation's history. Nearly two decades later, we are still enjoying the economic benefits of that tax cut. Our economy has had real growth every year since 1982, with the exception of a tiny 1.2 percent dip in 1991.

Thanks to President Reagan's tax cut, we have experienced by far the longest run of economic growth in American history.

President Reagan's main reason for supporting tax relief was not to provide an economic stimulus, although that was an inevitable result. His main reason was to promote freedom. Freedom from the heavy hand of Government. Freedom to spend one's own hard earned money on whatever one wanted.

Back in our country's colonial days, the colonists would tar and feather tax collectors because they had to pay around one percent of their wages. One percent! The famous Boston Tea Party was another way that our forefathers protested a relatively small, by our modern standards, tax increase.

But by 1980, our highest tax rate was an enormous 70 percent!

President Reagan understood that such a tax rate was indefensible. It was unjust, oppressive and against everything for which our Nation stands. He supported and got a 25 percent across the board tax cut. He knew that the American people, not the American Government, knew best how to spend their own money. Pretty revolutionary thinking.

President Reagan also took office at the height of Communist expansion around the world.

The Soviet Union had just invaded Afghanistan. Southeast Asia was still experiencing the dreadful repercussions of Pol Pot. Communist insurgents were wreaking havoc all over Central America. The embryonic Solidarity movement in Poland was being brutally repressed. The voice of Democracy was being stifled around the globe. Our own armed forces were in a shambles, both in terms of morale and military readiness.

But our President did not waver. He knew that as the most visible leader of the Free World, he must stand up for freedom and democracy. And despite facing strong opposition, at home and abroad, from those who considered the dominance of the Soviet Union to be inevitable, President Reagan stood up and helped change the course of history.

It was his military buildup that showed the Soviet Union that we meant business. He knew that the Communists could not withstand an arms race. He knew that eventually the voices of freedom would drown out the nightmarish cries of Communist regimes.

He knew that our country's character, dedication, industriousness and resolve would push the Soviet Empire into the abyss. All our Nation needed was a leader. And because of his visionary leadership, the Berlin Wall came crumbling down, democracy spread across Eastern Europe and the Soviet Union collapsed. Today millions of Europeans view President Reagan as their liberator, and our economy has been further helped along because of the "peace dividend."

President Reagan was known as the "Great Communicator." Sometimes this was used as a derisive term against him, as though the only reason ordinary Americans liked and trusted him was because the former actor had somehow pulled the wool over their eyes.

Nothing could be further from the truth.

The American people saw an uncomplicated man, much like themselves, who held the same traditional values as they did. They saw a man who personified class. They saw a man who led by example, a man who never took off his jacket in the Oval Office because he held The People's sacred trust in such high esteem. Most important of all, they saw a man who trusted them to run their own lives.

No wonder the American people love Ronald Reagan. No wonder we elected him twice by overwhelming margins. He proved to everyone, at home and abroad, that "Government is not the solution—Government is the problem." He gave us hope for the future. He gave us hope for our country. He gave us hope in ourselves.

He told us that it was "morning in America" again and that our great Nation is a "shining city on the hill."

Although President Reagan's voice has been silenced by Alzheimer's, we can still hear the echoes of freedom ringing from his writings and his presidency.

We can still pay homage to his deeds by recognizing the woman behind the man, his wife, Nancy. Mrs. Reagan, we salute you.

Today we honor the life and leadership of Ronald Wilson Reagan. Without his shining example, our country, and our world, would be a much darker place.

Happy Birthday Mr. President!

ONLINE ACCESS TO CONGRESSIONAL DOCUMENTS

Mr. LEAHY. Mr. President, I am pleased to join today with Senator McCAIN to introduce a Senate resolution to provide Internet Access to important Congressional documents.

Our bipartisan resolution makes certain Congressional Research Service products, lobbyist disclosure reports and Senate gift disclosure reports available over the Internet to the American people.

The Congressional Research Service, CRS, has a well-known reputation for producing high-quality reports and information briefs that are unbiased, concise, and accurate. The taxpayers of this country, who pay $67 million a year to fund the CRS, deserve speedy access to these public resources and have a right to see that their money is being spent well.

The goal of our legislation is to allow every citizen the same access to the wealth of CRS information as a Member of Congress enjoys today. CRS performs invaluable research and produces first-rate reports on hundreds of topics. American taxpayers have every right to direct access to these wonderful resources.

Online CRS reports will serve an important role in informing the public. Members of the public will be able to read these CRS products and receive a concise, accurate summary of the issues before the Congress. As elected representatives, we should do what we can to promote an informed, educated public. The educated voter is best able to make decisions and petition us to do the right things here in Congress.

Our legislation follows the model online CRS program in the House of Representatives and ensures that private CRS products will remain protected by giving the CRS Director the authority to hold back any products that are deemed confidential. Moreover, the Director may protect the identity of CRS researchers and any copyrighted material. We can do both—protect confidential material and empower our citizens through electronic access to invaluable CRS products.

In addition, the bipartisan resolution would provide public online access to lobbyist reports and gift disclosure forms. At present, these public records are available in the Senate Office of Public Records in Room 232 of the Hart Building. As a practical matter, these public records are accessible only to those inside the Beltway.

I applaud the Office of Public Records for recently making technological history in the Senate by providing for lobbying registrations through the Internet. The next step is to provide the completed lobbyist disclosure reports on the Internet for all Americans to see.

The Internet offers us a unique opportunity to allow the American people to have everyday access to this public information. Our bipartisan legislation would harness the power of the Information Age to allow average citizens to see these public records of the Senate in their official form, in context and without editorial comment. All Americans should have timely access to the information that we already have voted to give them.

And all of these reports are indeed "public" for those who can afford to hire a lawyer or lobbyist or who can afford to travel to Washington to come to the Office of Public Records in the Hart Building and read them. That is not very public. That does not do very much for the average voter in Vermont or the rest of this country outside of easy reach of Washington. That does not meet the spirit in which we voted to make these materials public, when we voted "disclosure" laws.

We can do better, and this resolution does better. Any citizen in any corner of this country with access to a computer at home or the office or at the public library will be able to get on the Internet and get these important Congressional documents under our resolution. It allows individual citizens to check the facts, to make comparisons, and to make up their own minds.

I commend the Senior Senator from Arizona for his leadership on opening public access to Congressional documents. I share his desire for the American people to have electronic access to many more Congressional resources. I look forward to working with him in the days to let the information age open up the halls of Congress to all our citizens.

As Thomas Jefferson wrote, "Information is the currency of democracy." Our democracy is stronger if all citizens have equal access to at least that type of currency, and that is something which Members on both sides of the aisle can celebrate and join in.

This bipartisan resolution is an important step in informing and empowering American citizens. I urge my colleagues to join us in supporting this legislation to make available useful Congressional information to the American people.

NONPROLIFERATION REPORT CARD

Mr. DOMENICI. Mr. President, I rise today to discuss a recent report released by The Russia Task Force entitled "A Report Card on the Department of Energy's Nonproliferation Programs with Russia." This bipartisan Task Force was co-chaired by Lloyd Cutler and Howard Baker. The report concludes that proliferation of weapons of mass destruction or weapons-usable material is "the most urgent unmet national security threat for the United States today."

This conclusion restates similar conclusions of other reports and analyses done over the past several years. The book Avoiding Nuclear Anarchy published in 1996 drew a similar conclusion. A January 2000 Center for Strategic and International Study report, "Managing the Global Nuclear Materials Threat" provided a concise analysis and numerous policy recommendations of this "most devastating security threat."

The U.S. response has not been and still is not commensurate to the threat.

The Cooperative Threat Reduction programs have achieved much and contributed greatly to U.S. security. Still there is always room for innovative approaches to remaining issues and faster progress.

The Department of Energy programs—from Materials Protection, Control and Accounting to the Initiatives for Proliferation Prevention—have also enhanced U.S. security. But their work is not even close to complete, and a "clear and present danger" looms.

I have repeatedly suggested that we have a very simple choice: we can either spend money to reduce the threat or spend more money in the future to defend ourselves. I am a strong believer that threat reduction is now underfunded and is the first-best approach in this case.

The report estimated the cost at $30 billion to be provided not only from the U.S. budget, but also by Russia and other countries. The national security benefits to U.S. citizens from securing 80,000 nuclear weapons and potential nuclear weapons would constitute the highest return on investment of any current national security program.

How do we get there? One recommendation of the report is the dire need for a White House-level nonproliferation czar. Not just the Department of Energy and the Defense Department are involved in Russia. We have a number of federal agencies chipping away at specific, isolated aspects of the problem.

But we do not have a coherent, integrated agenda. Overlaps and shortfalls exist. But no one person—with budgetary responsibility and requisite authority—can view the spectrum and identify the gaps, remedy inter-agency turf battles and bring the necessary coordination to get the job done efficiently and quickly.

A nonproliferation czar should be given access to the President and the necessary budgetary powers. This person should be charged with formulating a cohesive strategy. This would allow us to coordinate and streamline our efforts. This person would identify which programs are ripe for more resources and which ones are already adequate to address the immediate need.

The Nunn-Lugar-Domenici legislation enacted in 1996 required that such a nonproliferation czar be put in place. Also, Section 3174 of the FY2001 Defense Authorization bill expressed again Congressional will to have one person accountable for our nonproliferation efforts. The Clinton Administration refused to adhere to the statute and repeatedly ignored other Congressional attempts to address the coordination problem. Other Commissions have also recommended this remedy in the past to no avail. I am hopeful that the national security team within the new Administration will see the merits of this recommendation and act on it soon.

The Task Force also offered several other important insights and recommendations. These included:

> The threat today arises from Russia's weakened ability to secure its nuclear arsenal. Contributing factors include, delays in paying those who guard nuclear facilities, breakdown in command structures and inadequate budgets for stockpile protection.

I would go even further than that. I believe that it's the economics that drives many of the threats and areas of potential conflict that the U.S. faces with Russia today. They sell nuclear technologies to Iran not because they like the Iranians and want to snub the Americans. The Russians are also aware that Iran could present a threat should it acquire the requisite nuclear and ballistic missile capabilities. However, the Russian decision is driven by economics—not by ideology, not by historical ties, but by necessity. If we don't attempt to address the underlying economics of the situation, cooperation with Iran may continue and many other programs may eventually fail.

> The President should develop a strategic plan, consulting Congress and cooperating with the Russian Federation, to secure all weapons-usable material located in Russia, and to prevent the outflow of weapons of mass destruction-related scientific expertise.

We can only move so fast as the Russians allow. We can only achieve sufficient transparency and get access so long as Russia agrees. However, I believe several existing programs, such as the Plutonium Disposition Agreement, have demonstrated that a serious U.S. commitment, especially in financial terms, is exactly the appropriate incentive to get action.

Repeatedly, however, our nonproliferation programs with Russia are in a Catch-22 situation. Congress will not adequately fund them until they demonstrate success. A trickle at the tap is insufficient to persuade Russians of the seriousness of our intent. So, the U.S. programs stumble along unable to achieve the gains necessary because the Russians are reticent to play ball. And, in turn, Congress becomes even more leery of providing any funding at all in light of the meager gains. It's in our immediate national security interest to remedy this situation.

> The plan should review existing programs, identifying specific goals and measurable objectives for each program, as well as providing criteria for success and an exit strategy.

It would be reasonable to propose that one plan be geared toward addressing the fundamental linkages between economic and social instability in Russia and specific proliferation threats. Without addressing the relationship of Russians' economic situation to a decaying nuclear command and control infrastructure, threats of diversion from within, rather than from outside, the weapons complex, and many other tight relationships, we will fail to prevent proliferation.

The report envisions an 8–10 year time-frame. At that point, Russia will hopefully be in a position to take over any remaining work.

In the next decade we could eliminate the greatest security challenge we currently face. Inaction will only drive up costs to defend ourselves against unknowables that we could have squelched had we had greater foresight.

I believe President Bush and his team have foresight. President Bush repeatedly mentioned the importance of these programs as an integral part of his national security strategy.

To quote our new National Security Advisor, Condoleezza Rice:

> American security is threatened less by Russia's strength than by its weakness and incoherence. This suggests immediate attention to the safety and security of Moscow's nuclear forces and stockpile.

I believe this recent report reiterates this clear fact and sets forth several very important policy recommendations for tackling this challenge. I look forward to working with the new Administration to ensure that a decade from now we have protected U.S. citizens from this proliferation threat and secured a more peaceful future.

RETIREMENT OF THE HONORABLE BUD SHUSTER

Mr. SPECTER. Mr. President, I have sought recognition today to honor my colleague, Congressman Bud Shuster, who retired from Congress last week after serving fifteen terms in the United States House of Representatives. I am grateful to have had the opportunity to serve with Congressman Shuster since 1981, when I first came to the United States Senate. Bud Shuster has worked tirelessly on behalf of his constituents in the 9th Congressional District of Pennsylvania, the entire state, and the nation.

During his time in office, Congressman Shuster consistently reached across party lines to work with his colleagues on the other side of the aisle to pass some of the most important public works bills in our nation's history. Over the years he built up a remarkable level of clout in Congress, affording him a great deal of success in enacting his legislative priorities.

The name Bud Shuster is synonymous with transportation, and I have worked closely with Congressman Shuster on a number of transportation challenges facing Pennsylvania and the nation, including the ISTEA and TEA-21 highway authorization bills, the effort to take the highway trust fund off-budget, and the AIR-21 airport authorization bill. As Chairman of the Committee on Transportation and Infrastructure, he brought a level of insight and tenacity into infrastructure, highways and airports that was really remarkable. Congressman Shuster's expertise in the field of transportation and public works projects was second to none, and I valued his advice and counsel on a number of issues over the years.

Few may know that Congressman Shuster graduated Phi Beta Kappa from the University of Pittsburgh, holds an MBA from Duquesne University and a Ph.D. in business from the American University. While these academic accomplishments have suited him well in his role as a legislator, they have also served him in his role as an accomplished author, penning two acclaimed novels about life in small-town Pennsylvania.

Bud Shuster's legislative skill and almost thirty years of dedicated service to his constituency will be sorely missed in Pennsylvania and in America. We will be hard pressed to replace such a distinguished public servant and I wish him the best of luck in his future.

IN MEMORY OF ALAN CRANSTON

Mr. HOLLINGS. Mr. President, it is an honor for me to pay tribute to my former Senate colleague Alan Cranston. With Senator Cranston's passing, we lost a gifted leader, a shrewd politician and a dedicated reformer. It seemed significant that Senator Cranston passed away on New Year's Eve 2000 because his life encompassed, literally, the 20th century. He was born the year World War I began, grew up during the Depression, covered the rise of fascism in Europe as a foreign correspondent and led the fight for a nuclear arms freeze during the Cold War. He called luminaries of the age among his friends, most notably Albert Einstein. Alan Cranston arrived in the Senate shortly after I did and we served together for 24 years until his retirement in 1993. We even hit the Presidential campaign trail together, both running for the White House on the Democratic ticket in 1984.

Those of us who served with Senator Cranston will remember the tally sheets he carried around to count votes. We will also remember the talent he had for carefully preserving his own liberal ideologies while working effectively with those on the opposite end of the political spectrum. He may have offended some with his push for disarmament, but more often than not he disarmed them with his own friendly manner. Senator Cranston left an indelible mark on environmental, civil rights and global security policy. His legacies are the Global Security Institute, his accomplishments as a U.S. Senator and his dedication to the people of California. He will be missed, but a political giant like Alan Cranston will not be forgotten.

RURAL AMERICA NEEDS COMPETITION

Mr. JOHNSON. Mr. President, on Monday, January 22, I introduced S. 142, the Rural America Needs Competition to Help Every Rancher Act, legislation to prohibit meatpackers from owning livestock prior to slaughter. My bill enjoys bipartisan support from Republican Senators CHUCK GRASSLEY of Iowa and CRAIG THOMAS of Wyoming. Senator TOM DASCHLE cosponsored my bill, as well. We believe this proposal will help restore a competitive bidding process to the cash slaughter-livestock marketplace by strengthening the Packers and Stockyards Act of 1921.

The growing, unabated trend of agribusiness consolidation and concentration—a problem really sweeping across this entire nation—is one of the prime concerns of South Dakota family farmers and ranchers. However, concern about meatpacker concentration is not new in the United States. Newspaper cartoons in the 1880s depicted companies that forced the pooling of livestock prior to any purchase agreement as counterproductive "beef trusts," engaging in discriminatory pricing behavior. In 1917, President Woodrow Wilson directed the Federal Trade Commission (FTC) to investigate meatpackers to determine if they were leveraging too much power over the marketplace.

As a result, the FTC released a report in 1919 stating that the "Big 5" meatpackers at that time (Armour, Swift, Morris, Wilson, and Cudahy) dominated the market with "monopolistic control of the American meat industry." The FTC also found these meatpackers owned stockyards, rail car lines, cold storage plants, and other essential facilities for distributing food. These findings led to the Packers Consent Decree of 1920 which prohibited the Big 5 packers from engaging in retail sales of meat and forced them to divest of ownership interests in stockyards and rail lines. Subsequently, Congress enacted the Packers and Stockyards Act of 1921 which prohibited meatpackers from engaging in unfair, discriminatory, and deceptive pricing practices.

Unfortunately—veiled behind what some mistakenly describe as inevitability—the meatpacking industry is once again crusading to take free enterprise and market access away from independent livestock producers. On January 1, 2001, Tyson Foods declared its intention to acquire IBP, and the Justice Department recently accepted Tyson's assertion that the deal poses no antitrust violation. I am very disappointed with the Justice Department's decision, and believe their inaction on this matter makes it imperative for Congress to act.

I recently met with executives of Tyson and IBP to discuss the ramifications of this merger. The CEO of Tyson made a provocative promise that Tyson will not replicate its current practice of owning livestock—they now own swine and poultry—after buying IBP. Essentially, Tyson alleges they will not own cattle before slaughter. Yet, it has been reported that Tyson would only make that promise for ten years into the future, and the company has declined to comment on what purchasing practices a merged Tyson-IBP would utilize after that time.

While this may be a short-term panacea to satisfy Federal agencies and elected officials, livestock producers—particularly cattle ranchers—are in business for the long-term. Ten years can go by awful quickly in the cattle business. Moreover, I believe—as do most South Dakotans—that doing and saying are two very different things. Indeed, Lee Swenson, President of the National Farmers Union, has called upon Tyson to issue a written commitment to the Securities and Exchange Commission that Tyson won't go into the cattle owning business.

Consequently, my bill to forbid packer ownership of livestock restores healthy competition to the cash marketplace and ensures that Tyson and other vertical integrators won't engage in packer ownership. Agricultural concentration is not inevitable, it is sweeping the rural landscape because of the choices we make. Given the Justice Department's reluctance to address this merger, Congress must take some responsibility to recommend ways to strengthen our competition and anti-trust laws. I believe S. 142 is one step Congress can take.

Last year, several major farm organizations endorsed my bipartisan effort to prohibit meatpackers from owning livestock prior to slaughter. I would like to thank them for their support. These grassroots groups include the National Farmers Union, South Dakota Farmers Union, the South Dakota Cattlemens Association, the Iowa Pork Producers Association, Illinois Farm Bureau, the Center for Rural Affairs, the Organization for Competitive Markets, and the Ranchers—Cattlemens Action Legal Fund, R-CALF.

The members of these organizations believe that packer ownership and captive supply arrangements by meatpackers result in less competition for all sellers in the market, even though producers or feeders who have these arrangements often enter into them voluntarily. As a consequence of having slaughter livestock supplies locked up through captive supplies, meatpackers do not have to bid competitively for all of their slaughter needs. This may depress the marketplace and restrict access to producers and feeders without the arrangements. Packer ownership of livestock increases the likelihood of price manipulation in the marketplace. When packers own livestock, they have the ability to push forward or hold back captive supplies in response to market price. My bipartisan legislation is one way to achieve a more competitive bidding process in the cash market.

So today, almost a century after President Teddy Roosevelt used a big stick to give livestock producers a square deal, we again face a choice between corporate takeover of agriculture and a fight for free enterprise. I proudly cast my lot with free-enterprise family farm and ranch agriculture that has served our country so well.

ADDITIONAL STATEMENTS

TRIBUTE TO HOWARD BILLIMAN, JR.

• Mr. McCAIN. Mr. President, I rise today to pay homage to Howard Billiman, Jr., a decorated war hero, proud father and grandfather, and loyal servant of this country. It is with profound sympathy and respect that I commemorate the passing of this honorable man. He exemplified the true spirit of an American hero, humbly willing to place his loyalty to this country before his own life.

Howard will be remembered as one of the celebrated Navajo Code Talkers of World War II, a dedicated Marine of the 2nd Marine Division who answered his country's call to duty and served with distinction.

In reflection of his life, Howard's family has said that he never forgot his roots, beginning in the small town of Buell Park, Arizona. He grew up in a small town, attending schools at Ft. Defiance and Ft. Wingate, hardly known by most outsiders. Howard, at the young age of 16, voluntarily enlisted in the Marine Corps, leaving behind his family, town, and childhood. He would face trials that would change his life forever.

As one of 420 Navajos selected by the military, Howard quickly excelled, and was appointed as one of the first instructors of the Navajo Code Talkers. With other young Navajos, Howard helped to create an unbreakable code that baffled the Japanese. Military experts now estimate that these code-talking efforts shortened the war in the Pacific by at least one year—and some have even speculated that the war may have turned out differently, had it not been for their heroic deeds.

During World War II, Howard participated in every campaign of the 2nd Marine Division including the invasions of Saipan, Tinian, the Battle of Okinawa, and the occupation of Japan at Nagasaki. Howard did not seek credit nor praise, but quietly and modestly amassed a memorable record of brave acts and passionate service to his country and family. As a tribute for his valiant service, Howard received numerous awards and honors including the Marine Corps Good Conduct Medal, a Presidential Unit Citation with Star for Combat Action at Tarawa, the Navy/Marine Corps Occupation service Medal, and the Purple Heart for wounds received in combat. He was honorably discharged as a Corporal on January 18, 1946.

After returning to the Navajo reservation, Howard settled down at Buell Park and then Sawmill, where he raised 10 children with his spouse, Mary Louise. He later became a proud grandfather of 42 grandchildren.

In later years, as a member of the Navajo Code-Talkers Association, Howard received several more awards during travels with the group to Philadelphia and Washington, D.C. He was the last surviving original Navajo Code Instructor.

Until recently, the American public was not aware of the tremendous sacrifice and contribution of Howard and other Code Talkers. Without the Navajo Code Talkers, one can only imagine what tragedies might have occurred at that pivotal time in history. As Americans, we owe a debt of gratitude to the sacrifices of selfless patriots like Howard whose noble service teaches us valuable lessons of duty and honor.

Howard Billiman, Jr. will be missed by his family and friends, but his remarkable courage and patriotism will be long remembered by his country.•

TRIBUTE TO CAROL DIBATISTE

• Ms. LANDRIEU. Mr. President, It is an honor to take this opportunity to recognize Carol DiBattiste, under Secretary of the Air Force, who departed office last month. During her tenure, Under Secretary DiBattiste served with honor and distinction, providing exceptional leadership, and ensuring a promising future for the Department of Defense, the Air Force, and for American aerospace power.

Under Secretary DiBattiste earned a respected reputation for her energy and enthusiasm, focused directly on improving quality of life for Air Force members and their families. She quickly became the Air Force's key leader in the fight against retention shortages and recruiting shortfalls; her successes in these endeavors are both impressive and renowned.

Because of her immense talent and dedication, Under Secretary DiBattiste was selected to lead a special Department of Defense task force to formulate anti-harassment policy—an emotionally and politically charged subject. She delivered, as always, a brilliant solution, and then returned her sharp focus back to her visionary and aggressive campaign against recruiting shortfalls. The Air Force met its goals in recruiting last year mainly because of her visionary solutions to create an Air Force Recruiting and Retention Task Force, an Air Force Marketing and Advertising Office, and a Strategic Communications Outreach Program. Under Secretary DiBattiste is a leader we respect because she leads by example. In a short, 12-month stretch of time, she delivered almost 100 speeches; and she traveled to over 85 bases and locations throughout the world during her tenure.

Carol DiBattiste has set a high standard of leadership, commitment, energy, and service to country. I know my colleagues in Congress and our grateful nation join me in thanking her for her dedication and distinguished service to our country; and we wish her continued success in the future.•

TRIBUTE TO WHITTEN PETERS

• Ms. LANDRIEU. Mr. President, I want to take a few minutes to recognize the contributions of a patriot, a leader, and a good friend of this institution who has departed government service to return to life as a private citizen.

During, his four-year tensure as Under Secretary, Acting Secretary, and Secretary of the Air Force, F.

Whitten Peters has lead his Service to new heights of achievement, and the world is better for it. At a time when the global security environment became less predictable with each passing day, Whit Peters understood the need for the Air Force to become more responsive, more versatile, and more powerful—all at the same time. With boundless energy and enthusiasm, he set out help the United States Air Force do those things and more.

As the leading architect of aerospace power, Whit Peters drove a fundamental re-examination of the relationship between air, space, and information systems. As a result, the Cold War Air Force he inherited is well on its way to becoming a modern, integrated aerospace force, designed to meet the challenges of a new millennium.

During Secretary Peters' tenure, in the troubled skies over Serbia, a war was won for the first time with aerospace power alone—and we did it without losing a single American to enemy action. Today, despots and dictators hesitate to act because they know America's Air Force can bring power to bear at the point of decision in a matter of minutes or hours. And, millions of people, the world over, live better lives because of the humanitarian missions undertaken by our United States Air Force in the last four years.

While busy guiding the evolution of the Air Force's operational capabilities, Secretary Peters also directed significant improvements in acquisition, logistics, and sustainment programs to ensure the best possible use of defense resources. He presided over the development of the Evolved Expendable Launch Vehicle—a revolutionary pairing of Russian propulsion technology with the best US commercial space-launch capabilities—which will drastically lower the cost of placing commercial and defense payloads in earth orbit. He led the consolidation of five Air Force aircraft depots into three, reducing depot over-capacity by 40 percent and saving the taxpayers over $377 million a year. And, he arrested a 10-year drop in aircraft readiness rates by putting two billion dollars worth of additional spares on the shelf where they will be useful to aircraft maintainers.

Most important, Whit Peters took care of his people. As every member of this body knows, he fought hard for improved pay, housing, and medical benefits for every member of America's Air Force. He fought for better re-enlistment bonuses for people in hard-to-fill skills such as air traffic control, computer network administration, and over a hundred others. He pushed relentlessly for better child-care facilities to meet the demands of working families, and today 95 percent of all Air Force child care centers meet federal accreditation standards, compared to just 10 percent of child care facilities nation-wide.

No wonder the enlisted men and women of the Air Force honored him with their most prestigious recognition: induction into the Air Force Order of the Sword. In the 53-year history of America's youngest service, no other Air Force Secretary has ever been so honored. Nor has any service secretary been so respected by the men and women he leads.

Like the men and women of the Total Air Force—the Air National Guard, the Air Force Reserve, and the Regular Air Force—we hate to see Whit Peters go, and I know my colleagues will join me in wishing him the fondest of farewells. He is a rare leader and an even rarer person in this town: a true gentleman who cares more about others than himself. As the Air Force slogan says, "No one comes close."●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Governmental Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 203(f) of the Andean Trade Preference Act (ATPA) of 1991, as amended (19 U.S.C. 3201 et seq.), I transmit herewith the third report to the Congress on the Operation of the Andean Trade Preference Act.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 5, 2001.*

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 235. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH of New Hampshire:

S. 245. A bill to make permanent the moratorium on the Federal imposition of taxes on the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH of New Hampshire:

S. 246. A bill to extend the moratorium on the imposition of taxes on the Internet for an additional 5 years; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. CHAFEE, Mr. GRAHAM, Mr. BINGAMAN, and Mr. JOHNSON):

S. 247. A bill to provide for the protection of children from tobacco; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS (for himself, Mr. BIDEN, and Mr. WARNER):

S. 248. A bill to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country; to the Committee on Foreign Relations.

By Mr. REID:

S. 249. A bill to amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources; to the Committee on Finance.

By Mr. BIDEN (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. DASCHLE, Mr. KERRY, Mr. BAUCUS, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Mr. BYRD, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORZINE, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI, Mr. WARNER, and Mr. WELLSTONE):

S. 250. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. HAGEL, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. 251. A bill to require the Food and Drug Administration to establish restrictions regarding the qualifications of physicians to prescribe the abortion drug commonly known as RU-486; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VOINOVICH:

S. 252. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself, Mr. CONRAD, Mr. GREGG, Mr. BURNS, Mr. HUTCHINSON, Mr. ENZI, Mr. ROBERTS, Mr. ALLARD, Mr. HAGEL, Mr. DORGAN, Mr. THOMAS, and Mr. JOHNSON):

S. 253. A bill to reauthorize the Rural Education Initiative in subpart 2 of part J of title X of the Elementary and Secondary

Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself and Mr. Smith of Oregon):

S. 254. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mrs. Murray, and Mr. Johnson):

S. 255. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 256. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 257. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mrs. Lincoln):

S. 258. A bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. Domenici, and Mrs. Murray):

S. 259. A bill to authorize funding the Department of Energy to enhance its mission areas through Technology Transfer and Partnerships for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU (for herself and Mr. Dodd):

S. 260. A bill to authorize the President to provide international disaster assistance for the construction or reconstruction of permanent single family housing for those who are homeless as a result of the effects of the earthquake in El Salvador on January 13, 2001; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. 261. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND (for himself and Ms. Landrieu):

S. 262. A bill to provide for teaching excellence in America's classrooms and homerooms; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mr. Torricelli):

S. 263. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself and Mr. Torricelli):

S. 264. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis; to the Committee on Finance.

By Mr. FITZGERALD (for himself, Mr. Bayh, Mr. Brownback, Mr. Kohl, and Mr. Durbin):

S. 265. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

By Mr. SMITH of Oregon (for himself and Mr. Wyden):

S. 266. A bill regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Indian Affairs.

By Mr. AKAKA (for himself, Mr. Reid, Mr. Levin, Mr. Schumer, Mr. Graham, Mr. Gregg, Mr. Torricelli, Mrs. Boxer, and Mr. Smith of New Hampshire):

S. 267. A bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. LINCOLN (for herself, Mr. Lugar, Mr. Breaux, Mr. Kyl, Ms. Landrieu, Mr. Cochran, and Mr. Bayh):

S. 268. A bill to amend the Internal Revenue Code of 1986 to allow nonrefundable personal credits, the standard deduction, and personal exemptions in computing alternative minimum tax liability, to increase the amount of the individual exemption from such tax, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself and Mr. Torricelli):

S. Res. 17. A resolution congratulating President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 53 years of independence; to the Committee on Foreign Relations.

By Ms. LANDRIEU (for herself and Mr. Dodd):

S. Res. 18. A resolution expressing sympathy for the victims of the devastating earthquake that struck El Salvador on January 13, 2001; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. Chafee, Mr. Graham, Mr. Bingaman, and Mr. Johnson):

S. 247. A bill to provide for the protection of children from tobacco; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, just under 3 years ago, on March 31, 1998, Senators Harkin, John Chafee and Graham teamed up to introduce the first comprehensive bipartisan legislation to reduce teen smoking. Today, I am pleased to announce that Senators Harkin, Lincoln Chafee and Graham are teaming up again with the same goal. We are re-introducing the first bipartisan Senate bill to restore the Food and Drug Administration's authority to protect our kids from tobacco.

We hope the introduction of this bill is the beginning of a bipartisan push to get this type of common sense legislation passed. The need is clear. As Supreme Court Justice Sandra Day O'Connor recognized, tobacco use among children and adolescents is probably the single most significant threat to public health in the United States. Study after study has shown how the tobacco industry continues to successfully target our children. In a survey done by the Campaign for Tobacco Free Kids, seventy-three percent of teens reported seeing tobacco advertising in the previous two weeks, compared to only 33 percent of adults. And 77 percent of teens say it is easy for kids to buy cigarettes.

This is why every day another 3000 kids in this country become regular smokers. And that is why cigarette smoking among high school seniors is at a 19-year high.

There is no question. Nicotine is an addictive product and cigarettes kill. Even the tobacco companies are starting to admit it. In fact, Big Tobacco has known this for so long, they deliberately manipulate the nicotine in cigarettes to get more people addicted.

The FDA regulations, struck down by the Supreme Court last year, were about stopping kids from smoking. These regulations were an investment in the future of our kids. They also provided consumers with critical protections against false advertising and health claims by tobacco manufacturers.

Tobacco companies are making harm reduction claims about new products with no real independent examination or oversight. This deceptive, self-interested behavior is not part of a new pattern. The history of tobacco companies is rife with examples of deceptive practices designed to addict both adults and children with their harmful products. Our bill will ensure that this type of behavior is stopped.

Our legislation re-affirms the FDA's authority over tobacco products. It classifies nicotine as a drug and tobacco products as drug delivery devices. It allows FDA to implement a "public health" standard in its review and regulation of tobacco products. Companies will be prevented from making claims of reduced risk unless they can show scientific evidence their product is actually safer.

By codifying FDA's regulation of 1996, our legislation also allows for continuation of the critically important youth ID checks. It provides needed youth access restrictions such as requiring tobacco products to be kept behind store counters and ban vending machines. It also includes sensible advertising limits to reduce teen access to tobacco.

I urge my colleagues to join us in supporting this legislation. I hope we can work with Senators on both sides of the aisle to move this important issue forward.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kids Deserve Freedom from Tobacco Act of 2001" or the "KIDS Act".

TITLE I—PROTECTION OF CHILDREN FROM TOBACCO

Subtitle A—Food and Drug Administration Jurisdiction and General Authority

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 102. STATEMENT OF GENERAL AUTHORITY.

The regulations promulgated by the Secretary of Health and Human Services in the rule dated August 28, 1996 (Vol. 61, No. 168 C.F.R.), adding part 897 to title 21, Code of Federal Regulations, shall be deemed to have been lawfully promulgated under the Food, Drug, and Cosmetic Act as amended by this title. Such regulations shall apply to all tobacco products.

SEC. 103. NONAPPLICABILITY TO OTHER DRUGS OR DEVICES.

Nothing in this title, or an amendment made by this title, shall be construed to affect the regulation of drugs and devices that are not tobacco products by the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act.

SEC. 104. CONFORMING AMENDMENTS TO CONFIRM JURISDICTION.

(a) DEFINITIONS.—

(1) DRUG.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by striking "; and (D)" and inserting "; (D) nicotine in tobacco products; and (E)".

(2) DEVICES.—Section 201(h) (21 U.S.C. 321(h)) is amended by adding at the end the following: "Such term includes a tobacco product.".

(3) OTHER DEFINITIONS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption.".

(b) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(aa) The manufacture, labeling, distribution, advertising and sale of any adulterated or misbranded tobacco product in violation of—

"(1) regulations issued under this Act; or

"(2) the KIDS Act, or regulations issued under such Act.".

(c) ADULTERATED DRUGS AND DEVICES.—

(1) IN GENERAL.—Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351) is amended by adding at the end the following:

"(j) If it is a tobacco product and it does not comply with the provisions of subchapter D of this chapter or the KIDS Act.".

(2) MISBRANDING.—Section 502(q) (21 U.S.C. 352(q)) is amended—

(A) by striking "or (2)" and inserting "(2)"; and

(B) by inserting before the period the following: ", or (3) in the case of a tobacco product, it is sold, distributed, advertised, labeled, or used in violation of this Act or the KIDS Act, or regulations prescribed under such Acts".

(d) RESTRICTED DEVICE.—Section 520(e) (21 U.S.C. 360j(e)) is amended—

(1) in paragraph (1), by striking "or use—" and inserting "or use, including restrictions on the access to, and the advertising and promotion of, tobacco products—"; and

(2) by adding at the end the following:

"(3) Tobacco products are a restricted device under this paragraph.".

(e) REGULATORY AUTHORITY.—Section 503(g) (21 U.S.C. 353(g)) is amended by adding at the end the following:

"(5) The Secretary may regulate any tobacco product as a drug, device, or both, and may designate the office of the Administration that shall be responsible for regulating such products.".

SEC. 105. GENERAL RULE.

Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended by adding at the end the following: "The sale of tobacco products to adults that comply with performance standards established for these products under section 514 and other provisions of this Act and any regulations prescribed under this Act shall not be prohibited by the Secretary, notwithstanding sections 502(j), 516, and 518.".

SEC. 106. SAFETY AND EFFICACY STANDARD AND RECALL AUTHORITY.

(a) SAFETY AND EFFICACY STANDARD.—Section 513(a) (21 U.S.C. 360c(a)) is amended—

(1) in paragraph (1)(B), by inserting after the first sentence the following: "For a device which is a tobacco product, the assurance in the previous sentence need not be found if the Secretary finds that special controls achieve the best public health result."; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B) and (C) as clauses (i), (ii) and (iii), respectively;

(B) by striking "(2) For" and inserting "(2)(A) For"; and

(C) by adding at the end the following:

"(B) For purposes of paragraph (1)(B), subsections (c)(2)(C), (d)(2)(B), (e)(2)(A), (f)(3)(B)(i), and (f)(3)(C)(i), and sections 514, 519(a), 520(e), and 520(f), the safety and effectiveness of a device that is a tobacco product need not be found if the Secretary finds that the action to be taken under any such provision would achieve the best public health result. The finding as to whether the best public health result has been achieved shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(i) the increased or decreased likelihood that existing consumers of tobacco products will stop using such products; and

"(ii) the increased or decreased likelihood that those who do not use tobacco products will start using such products.".

(b) RECALL AUTHORITY.—Section 518(e)(1) (21 U.S.C. 360h(e)(1)) is amended by inserting after "adverse health consequences or death," the following: "and for tobacco products that the best public health result would be achieved,".

Subtitle B—Regulation of Tobacco Products

SEC. 111. PERFORMANCE STANDARDS.

Section 514(a) (21 U.S.C. 60d(a)) is amended—

(1) in paragraph (2), by striking "device" and inserting "nontobacco product device";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) The Secretary may adopt a performance standard under section 514(a)(2) for a tobacco product regardless of whether the product has been classified under section 513. Such standard may—

"(A) include provisions to achieve the best public health result;

"(B) where necessary to achieve the best public health result, include—

"(i) provisions respecting the construction, components, constituents, ingredients, and properties of the tobacco product device, including the reduction or elimination (or both) of nicotine and the other components, ingredients, and constituents of the tobacco product, its components and its by-products, based upon the best available technology;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product device or, if it is determined that no other more practicable means are available to the Secretary to assure the conformity of the tobacco product device to such standard, provisions for the testing (on a sample basis or, if necessary, on an individual basis) by the Secretary or by another person at the direction of the Secretary;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product device;

"(iv) provisions requiring that the results of each test or of certain tests of the tobacco product device required to be made under clause (ii) demonstrate that the tobacco product device is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision that the sale and distribution of the tobacco product device be restricted but only to the extent that the sale and distribution of a tobacco product device may otherwise be restricted under this Act; and

"(C) where appropriate, require the use and prescribe the form and content of labeling for the use of the tobacco product device.

"(4) Not later than 1 year after the date of enactment of the KIDS Act, the Secretary (acting through the Commissioner of Food and Drugs) shall establish a Scientific Advisory Committee to evaluate whether a level or range of levels exists at which nicotine yields do not produce drug-dependence. The Advisory Committee shall also review any other safety, dependence or health issue assigned to it by the Secretary. The Secretary need not promulgate regulations to establish the Committee.".

SEC. 112. APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT TO TOBACCO PRODUCTS.

(a) TOBACCO PRODUCTS REGULATION.—Chapter V (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"SUBCHAPTER F—TOBACCO PRODUCT DEVELOPMENT, MANUFACTURING, AND ACCESS RESTRICTIONS

"SEC. 570. PROMULGATION OF REGULATIONS.

"Any regulations necessary to implement this subchapter shall be promulgated not later than 12 months after the date of enactment of this subchapter using notice and comment rulemaking (in accordance with chapter 5 of title 5, United States Code). Such regulations may be revised thereafter as determined necessary by the Secretary.

“SEC. 571. MAIL-ORDER SALES.

“(a) In General.—Not later than 2 years after the date of enactment of this subchapter, the Secretary shall review and determine whether persons under the age of 18 years are obtaining tobacco products by means of the mail.

“(b) Restrictions.—Based solely upon the review conducted under subsection (a), the Secretary may take regulatory and administrative action to restrict or eliminate mail order sales of tobacco products.

“SEC. 572. IMPLEMENTATION OF THE PROPOSED RESOLUTION.

“(a) Additional Restrictions on Marketing, Advertising, and Access.—Not later than 18 months after the date of the enactment of this subchapter, the Secretary shall revise the regulations related to tobacco products promulgated by the Secretary on August 28, 1996 (61 Fed. Reg. 44396) to include the additional restrictions on marketing, advertising, and access described in Title IA and Title IC of the Proposed Resolution entered into by the tobacco manufacturers and the State attorneys general on June 20, 1997, except that the Secretary shall not include an additional restriction on marketing or advertising in such regulations if its inclusion would violate the First Amendment to the Constitution.

“(b) Warnings.—Not later than 18 months after the date of the enactment of this subchapter, the Secretary shall promulgate regulations to require warnings on cigarette and smokeless tobacco labeling and advertisements. The content, format, and rotation of warnings shall conform to the specifications described in Title IB of the Proposed Resolution entered into by the tobacco manufacturers and the State attorneys general on June 20, 1997.

“(c) Rules of Construction.—

“(1) In general.—Nothing in this section shall be construed to limit the ability of the Secretary to change the text or layout of any of the warning statements, or any of the labeling provisions, under the regulations promulgated under subsection (b) and other provisions of this Act, if determined necessary by the Secretary in order to make such statements or labels larger, more prominent, more conspicuous, or more effective.

“(2) Unfair acts.—Nothing in this section (other than the requirements of subsections (a) and (b)) shall be construed to limit or restrict the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of tobacco products.

“(d) Limited Preemption.—

“(1) State and local action.—No warning label with respect to tobacco products, or any other tobacco product for which warning labels have been required under this section, other than the warning labels required under this Act, shall be required by any State or local statute or regulation to be included on any package of a tobacco product.

“(2) Effect on liability law.—Nothing in this section shall relieve any person from liability at common law or under State statutory law to any other person.

“(e) Violation of Section.—Any tobacco product that is in violation of this section shall be deemed to be misbranded.

“SEC. 573. GENERAL RESPONSIBILITIES OF MANUFACTURERS, DISTRIBUTORS AND RETAILERS.

“Each manufacturer, distributor, and retailer shall ensure that the tobacco products it manufactures, labels, advertises, packages, distributes, sells, or otherwise holds for sale comply with all applicable requirements of this Act.

“SEC. 574. DISCLOSURE AND REPORTING OF TOBACCO AND NONTOBACCO INGREDIENTS AND CONSTITUENTS.

“(a) Disclosure of All Ingredients.—

“(1) Immediate and annual disclosure.—Not later than 30 days after the date of enactment of this subchapter, and annually thereafter, each manufacturer of a tobacco product shall submit to the Secretary an ingredient list for each brand of tobacco product it manufactures that contains the information described in paragraph (2).

“(2) Requirements.—The list described in paragraph (1) shall, with respect to each brand or variety of tobacco product of a manufacturer, include—

“(A) a list of all ingredients, constituents, substances, and compounds that are found in or added to the tobacco or tobacco product (including the paper, filter, or packaging of the product if applicable) in the manufacture of the tobacco product, for each brand or variety of tobacco product so manufactured, including, if determined necessary by the Secretary, any material added to the tobacco used in the product prior to harvesting;

“(B) the quantity of the ingredients, constituents, substances, and compounds that are listed under subparagraph (A) in each brand or variety of tobacco product;

“(C) the nicotine content of the product, measured in milligrams of nicotine;

“(D) for each brand or variety of cigarettes—

“(i) the filter ventilation percentage (the level of air dilution in the cigarette as provided by the ventilation holes in the filter, described as a percentage);

“(ii) the pH level of the smoke of the cigarette; and

“(iii) the tar, unionized (free) nicotine, and carbon monoxide delivery level and any other smoking conditions established by the Secretary, reported in milligrams of tar, nicotine, and carbon monoxide per cigarette;

“(E) for each brand or variety of smokeless tobacco products—

“(i) the pH level of the tobacco;

“(ii) the moisture content of the tobacco expressed as a percentage of the weight of the tobacco; and

“(iii) the nicotine content—

“(I) for each gram of the product, measured in milligrams of nicotine;

“(II) expressed as a percentage of the dry weight of the tobacco; and

“(III) with respect to unionized (free) nicotine, expressed as a percentage per gram of the tobacco and expressed in milligrams per gram of the tobacco; and

“(F) any other information determined appropriate by the Secretary.

“(3) Methods.—The Secretary shall have the authority to promulgate regulations to establish the methods to be used by manufacturers in making the determinations required under paragraph (2).

“(4) Other tobacco products.—The Secretary shall prescribe such regulations as may be necessary to establish information disclosure procedures for other tobacco products.

“(b) Safety Assessments.—

“(1) Application to new ingredients.—

“(A) In general.—Not later than 1 year after the date of enactment of this subchapter, and annually thereafter, each manufacturer shall submit to the Secretary a safety assessment for each new ingredient, constituent, substance, or compound that such manufacturer desires to make a part of a tobacco product. Such new ingredient, constituent, substance, or compound shall not be included in a tobacco product prior to approval by the Secretary of such a safety assessment.

“(B) Method of filing.—A safety assessment submitted under subparagraph (A) shall be signed by an officer of the manufacturer who is acting on behalf of the manufacturer and who has the authority to bind the manufacturer, and contain a statement that ensures that the information contained in the assessment is true, complete and accurate.

“(C) Definition of new ingredient.—For purposes of subparagraph (A), the term ‘new ingredient, constituent, substance, or compound’ means an ingredient, constituent, substance, or compound listed under subsection (a)(1) that was not used in the brand or variety of tobacco product involved prior to January 1, 1998.

“(2) Application to other ingredients.—With respect to the application of this section to ingredients, constituents substances, or compounds listed under subsection (a) to which paragraph (1) does not apply, all such ingredients, constituents, substances, or compounds shall be reviewed through the safety assessment process within the 5-year period beginning on the date of enactment of this subchapter. The Secretary shall develop a procedure for the submission of safety assessments of such ingredients, constituents, substances, or compounds that staggers such safety assessments within the 5-year period.

“(3) Basis of assessment.—The safety assessment of an ingredient, constituent, substance, or compound described in paragraphs (1) and (2) shall—

“(A) be based on the best scientific evidence available at the time of the submission of the assessment; and

“(B) demonstrate that there is a reasonable certainty among experts qualified by scientific training and experience who are consulted, that the ingredient, constituent, substance, or compound will not present any risk to consumers or the public in the quantities used under the intended conditions of use.

“(c) Prohibition.—

“(1) Regulations.—Not later than 12 months after the date of enactment of this subchapter, the Secretary shall promulgate regulations to prohibit the use of any ingredient, constituent, substance, or compound in the tobacco product of a manufacturer—

“(A) if no safety assessment has been submitted by the manufacturer for the ingredient, constituent, substance, or compound as otherwise required under this section; or

“(B) if the Secretary finds that the manufacturer has failed to demonstrate the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment under paragraph (2).

“(2) Review of assessments.—

“(A) General review.—Not later than 180 days after the receipt of a safety assessment under subsection (b), the Secretary shall review the findings contained in such assessment and approve or disapprove of the safety of the ingredient, constituent, substance, or compound that was the subject of the assessment. The Secretary may, for good cause, extend the period for such review. The Secretary shall provide notice to the manufacturer of an action under this subparagraph.

"(B) INACTION BY SECRETARY.—If the Secretary fails to act with respect to an assessment of an existing ingredient, constituent, substance, or additive during the period referred to in subparagraph (A), the manufacturer of the tobacco product involved may continue to use the ingredient, constituent, substance, or compound involved until such time as the Secretary makes a determination with respect to the assessment.

"(d) RIGHT TO KNOW; FULL DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

"(1) IN GENERAL.—Except as provided in paragraph (3), a package of a tobacco product shall disclose all ingredients, constituents, substances, or compounds contained in the product in accordance with regulations promulgated under section 701(a) by the Secretary.

"(2) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—The regulations referred to in paragraph (1) shall require that the package of a tobacco product disclose, with respect to the tobacco contained in the product—

"(A) the percentage that is domestic tobacco; and

"(B) the percentage that is foreign tobacco.

"(3) HEALTH DISCLOSURE.—Notwithstanding section 301(j), the Secretary may require the public disclosure of any ingredient, constituent, substance, or compound contained in a tobacco product that relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, if the Secretary determines that such disclosure will promote the public health.

"SEC. 575. REDUCED RISK PRODUCTS.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No manufacturer, distributor or retailer of tobacco products may make any direct or implied statement in advertising or on a product package that could reasonably be interpreted to state or imply a reduced health risk associated with a tobacco product unless the manufacturer demonstrates to the Secretary, in such form as the Secretary may require, that based on the best available scientific evidence the product significantly reduces the overall health risk to the public when compared to other tobacco products.

"(2) SUBMISSION TO SECRETARY.—Prior to making any statement described in paragraph (1), a manufacturer, distributor or retailer shall submit such statement to the Secretary, who shall review such statement to ensure its accuracy and, in the case of advertising, to prevent such statement from increasing, or preventing the contraction of, the size of the overall market for tobacco products.

"(b) DETERMINATION BY SECRETARY.—If the Secretary determines that a statement described in subsection (a)(2) is permissible because the tobacco product does present a significantly reduced overall health risk to the public, the Secretary may permit such statement to be made.

"(c) DEVELOPMENT OR ACQUISITION OF REDUCED RISK TECHNOLOGY.—

"(1) IN GENERAL.—Any manufacturer that develops or acquires any technology that the manufacturer reasonably believes will reduce the risk from tobacco products shall notify the Secretary of the development or acquisition of the technology. Such notice shall be in such form and within such time as the Secretary shall require.

"(2) CONFIDENTIALITY.—With respect to any technology described in paragraph (1) that is in the early stages of development (as determined by the Secretary), the Secretary shall establish protections to ensure the confidentiality of any proprietary information submitted to the Secretary under this subsection during such development.

"SEC. 576. ACCESS TO COMPANY INFORMATION.

"(a) COMPLIANCE PROCEDURES.—Each manufacturer of tobacco products shall establish procedures to ensure compliance with this Act.

"(b) REQUIREMENT.—In addition to any other disclosure obligations under this Act, the KIDS Act, or any other law, each manufacturer of tobacco products shall, not later than 90 days after the date of the enactment of the KIDS Act and thereafter as required by the Secretary, disclose to the Secretary all nonpublic information and research in its possession or control relating to the addiction or dependency, or the health or safety of tobacco products, including (without limitation) all research relating to processes to make tobacco products less hazardous to consumers and the research and documents described in subsection (c).

"(c) RESEARCH AND DOCUMENTS.—The documents described in this section include any documents concerning tobacco product research relating to—

"(1) nicotine, including—

"(A) the interaction between nicotine and other components in tobacco products including ingredients in the tobacco and smoke components;

"(B) the role of nicotine in product design and manufacture, including product charters, and parameters in product development, the tobacco blend, filter technology, and paper;

"(C) the role of nicotine in tobacco leaf purchasing;

"(D) reverse engineering activities involving nicotine (such as analyzing the products of other companies);

"(E) an analysis of nicotine delivery; and

"(F) the biology, psychopharmacology and any other health effects of nicotine;

"(2) other ingredients, including—

"(A) the identification of ingredients in tobacco products and constituents in smoke, including additives used in product components such as paper, filter, and wrapper;

"(B) any research on the health effects of ingredients; and

"(C) any research or other information explaining what happens to ingredients when they are heated and burned;

"(3) less hazardous or safer products, including any research or product development information on activities involving reduced risk, less hazardous, low-tar or reduced-tar, low-nicotine or reduced-nicotine or nicotine-free products; and

"(4) tobacco product advertising, marketing and promotion, including—

"(A) documents related to the design of advertising campaigns, including the desired demographics for individual products on the market or being tested;

"(B) documents concerning the age of initiation of tobacco use, general tobacco use behavior, beginning smokers, pre-smokers, and new smokers;

"(C) documents concerning the effects of advertising; and

"(D) documents concerning future marketing options or plans in light of the requirements and regulations to be imposed under this subchapter or the KIDS Act.

"(d) AUTHORITY OF SECRETARY.—With respect to tobacco product manufacturers, the Secretary shall have the same access to records and information and inspection authority as is available with respect to manufacturers of other medical devices.

"SEC. 577. OVERSIGHT OF TOBACCO PRODUCT MANUFACTURING.

"The Secretary shall by regulation prescribe good manufacturing practice standards for tobacco products. Such regulations shall be modeled after good manufacturing practice regulations for medical devices, food, and other items under section 520(f). Such standards shall be directed specifically toward tobacco products, and shall include—

"(1) a quality control system, to ensure that tobacco products comply with such standards;

"(2) a system for inspecting tobacco product materials to ensure their compliance with such standards;

"(3) requirements for the proper handling of finished tobacco products;

"(4) strict tolerances for pesticide chemical residues in or on tobacco or tobacco product commodities in the possession of the manufacturer, except that nothing in this paragraph shall be construed to affect any authority of the Environmental Protection Agency;

"(5) authority for officers or employees of the Secretary to inspect any factory, warehouse, or other establishment of any tobacco product manufacturer, and to have access to records, files, papers, processes, controls and facilities related to tobacco product manufacturing, in accordance with appropriate authority and rules promulgated under this Act; and

"(6) a requirement that the tobacco product manufacturer maintain such files and records as the Secretary may specify, as well as that the manufacturer report to the Secretary such information as the Secretary shall require, in accordance with section 519.

"SEC. 578. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"Notwithstanding section 521 and except as otherwise provided for in section 572(e), nothing in this subchapter shall be construed as prohibiting a State or locality from imposing requirements, prohibitions, penalties or other measures to further the purposes of this subchapter that are in addition to the requirements, prohibitions, or penalties required under this subchapter. State and local governments may impose additional tobacco product control measures to further restrict or limit the use of such products.".

SEC. 113. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle (and the amendments made by this subtitle).

(b) TRIGGER.—No expenditures shall be made under this subtitle (or the amendments made by this subtitle) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

SEC. 114. REPEALS.

The following provisions of law are repealed:

(1) The Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), except for the first section and sections 5(d)(1) and (2) and 6.

(2) The Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.), except for sections 1, 3(f) and 8(a) and (b).

(3) The Comprehensive Smoking Education Act of 1964 (Public law 98-474).

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. NONAPPLICATION TO TOBACCO PRODUCERS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall not apply to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives.

(b) RULE OF CONSTRUCTION.—Nothing in this Act, or an amendment made by this Act, shall be construed to provide the Secretary of Health and Human Services with the authority to—

(1) enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer; or

(2) promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer that affect production.

(c) MANUFACTURER ACTING AS PRODUCER.—Notwithstanding any other provision of this section, if a producer of tobacco leaf is also a tobacco product manufacturer or is owned or controlled by a tobacco product manufacturer, the producer shall be subject to the provisions of this Act, and the amendments made by this Act, in the producer's capacity as a manufacturer.

(d) DEFINITION.—In this section, the term "controlled by" means a producer that is a member of the same controlled group of corporations, as that term is used for purposes of section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

SEC. 202. EQUAL TREATMENT OF RETAIL OUTLETS.

The Secretary of Health and Human Services shall promulgate regulations to require that retail establishments that are accessible to individuals under the age of 18, for which the predominant business is the sale of tobacco products, comply with any advertising restrictions applicable to such establishments.

By Mr. REID:

S. 249. A bill to amend the Internal Revenue Code of 1986 to expand the credit for electricity produced from certain renewable resources; to the Committee on Finance.

Mr. REID. Mr. President, the bill I have introduced expands the existing production tax credit for renewable energy technology to cover all renewable energy technologies.

We have a crisis in America today. It is called electricity. It is called power. What took place and is taking place in California is only a preview of things that are going to happen all over America unless we do something about it. It is time to recognize the present system isn't working.

We can criticize California and what they did. It is obvious to everyone that their deregulation program simply was not workable. It wasn't workable because they were energy inefficient. They did not produce enough energy inside the State of California for the deregulation bill they passed to work. The only time a deregulation bill such as they had would work is if you have a State that produces more electricity than it uses. There are some examples of that. California, however, decided they were going to deregulate, even though they didn't have enough electricity produced within the State. They figured they could buy cheap power elsewhere and have it brought into California. It was a recipe for disaster. The disaster hit. They are now trying to work their way out of the problem.

There is no question that the current energy crisis in California has demonstrated that America must diversify its energy mix. Already in Nevada electricity rates have risen six times; the natural gas price has increased more than 75 percent. This is a real problem. All we have to do is look around. I have a letter from a man named Ronald Feldstein from Carson City, NV. Among other things, he said: I was horrified to read that Southwest Gas was increasing our gas bills 35 percent effective February 1. Nevada is a poor State, mostly composed of senior retired citizens.

I add editorially, that isn't true, but we do have lots and lots of senior citizens. To the author of this letter, it seems the State of Nevada is composed mostly of senior citizens.

Last month, he says, his Southwest Gas bill was over $100; a 35-percent increase will mean an additional $35 on his electricity bill. The only way a senior can afford such a huge increase is to give up something. In other words, lower his standard of living. That usually means giving up a certain prescription drug or lowering his food bill.

He went on to say other things, but I think that conveys the problem we have in Nevada, and people all over America are about to have; that is, a huge increase in the price of fuel energy.

Ensuring that the lights and heat stay on is critical to sustaining America's economic growth and our quality of life. The citizens of Nevada and of this Nation demand a national energy strategy to ensure their economic well-being and security, and to provide for the quality of life they deserve.

It is a sad state of affairs that people like Mr. Feldstein, which can be multiplied in the State of Nevada thousands and thousands of times, have to make significant sacrifices to pay their energy bills. People are saying: I'm going to have to cut back on my prescriptions. I will have to cut back on the food I buy because I have a fixed income, and these power bills must be paid because I can't go without heat. Carson City, NV, is a cold place in the winter.

Nevadans understand that a national energy strategy must encompass something other than what we are doing. What we are doing now does not work. We are depending mostly on importing oil, and people who import the oil are manipulating the price and that price is going sky high. We have to do something different. Of course, we have to do something about conservation. We must be more efficient. We must also expand our generating capacity. How are we going to do that? There are some who say that one of the ways is to do something with clean coal technology. That is something I am willing to take a look at, hopefully, so we can reduce the global warming problem when it is necessary to use coal. But it is difficult to significantly reduce harmful emissions with coal.

I have supported clean coal technology. We have a plant near Reno, NV, that started out with clean coal technology. It is important we do that. We are not going to develop any more nuclear powerplants in America in the foreseeable future. There are too many problems. It is too expensive. We have no way of disposing of the waste.

What else can we do? We have powerplants now, but the primary way they can be constructed is if they are fueled by natural gas. The cost of natural gas has gone way up.

What else can we do? I think one of the things we can do is develop renewable energy resources. This is a responsible way to expand our power capacity without compromising air or water quality.

Fossil fuel plants pump out over 11 million tons of pollutants into our air each year. This is not 11 million pounds, but tons, into our air each year. Powerplants in the United States are responsible for 35 percent of our national carbon dioxide emissions which contribute to global climate change, global warming. Powerplants in the United States are responsible for 66 percent of sulphur dioxide, which causes acid rain, 25 percent of nitrogen oxides, which lead to smog, and 21 percent of mercury, which poisons fish and other animals. That is what powerplants in the United States do. There is no disputing that. That is a fact.

The legislation I have introduced will renew the wind power production tax credit, expand the credit to additional renewable technologies, including solar, open-loop biomass, poultry and animal waste, geothermal, and incremental hydropower facilities. There is so much that can be done.

We are constructing, as we speak, 90 miles northwest of Las Vegas at the Nevada Test Site, wind-generating capacity that in 3 years will produce from windmills enough electricity, 265 megawatts, to power a quarter of a million homes.

These renewable energy sources can enhance America's energy supply on a scale of 1 to 3 years, considerably shorter than the time required for a fossil fuel powerplant.

The proposed production tax credit for all these renewable energy sources would be made permanent. One of the problems we have with many of our tax credits is we do them for a short period of time. People don't know whether they are going to be in existence, and therefore they are unwilling to commit long term. This proposed production tax credit, if it is made permanent, will encourage use of renewable energy and signal America's long-term commitment to clean energy, to a healthy environment, and to our energy independence.

My bill also allows for coproduction credits to encourage blending of renewable energy with traditional fuels and provides a credit for renewable facilities on Native American and Native Alaskan lands.

Renewable energy is poised to make major contributions to our Nation's energy needs over the next decade.

It is so important we recognize that within 3 years one wind-generating farm in Nevada will produce 8 percent of all the electricity needs of the state. We can multiply that by 6 years to 20 percent. It is remarkable what can be done.

Nevada has already developed 200 megawatts of geothermal power with a longer term potential of more than 2,500 megawatts, enough capacity to meet the State's energy needs. Growing renewable energy industries in the United States will also help provide growing employment opportunities in the United States and help U.S. renewable technologies compete in world markets.

In States such as Nevada, expanded renewable energy production will provide jobs in rural areas—areas that have been largely left out of America's recent economic boom.

The Department of Energy has estimated we could increase our generation of geothermal energy almost tenfold, supplying 10 percent of the energy needs of the West, and expand wind energy production to serve the electricity needs of 10 million homes.

Renewable energy, as an alternative to traditional energy sources, is a commonsense way to ensure the American people that they can have a reliable source of power at an affordable price.

The United States needs to move away from its dependence on fossil fuels that pollute the environment and undermine our national security interests and balance of trade.

If there were ever a national security interest that we have, it would be doing something about the importation of fossil fuel. We have to do something to stop our dependence on these countries that manipulate the price of oil and other fuels. We have to do that; it is essential for our national security.

We need to send the signal to utility companies all over America that we are committed in the long term to the growth of renewable energy. We must accept this commitment for the energy security of the United States, for the protection of our environment, and for the health of the American people and literally the world.

By Mr. BIDEN (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. DASCHLE, Mr. KERRY, Mr. BAUCUS, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Mr. BYRD, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORZINE, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TORRICELLI; Mr. WARNER, and Mr. WELLSTONE):

S. 250. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, I rise today to introduce, along with Senator HUTCHISON, Senator LOTT, Senator DASCHLE, and 47 other cosponsors, the High Speed Rail Investment Act of 2001. With this legislation we continue the work begun by our former colleagues, Senator Bill Roth, Senator Pat Moynihan, and especially Senator Frank Lautenberg, who worked so hard in the last Congress to support high speed intercity passenger rail.

Since the very first steam locomotive in this country rolled in Newcastle, Delaware, railroading has been a capital-intensive industry. From the rolling stock to the right of way, railroads require major long-term investments. But unlike every other passenger rail system in the world, Amtrak has lacked a secure source of public support for its capital needs. Over the years, along with many of my colleagues here in the Senate, I have looked for ways to right that wrong.

The bill that Senator HUTCHISON and I introduce today is designed to provide Amtrak with the capital funds to establish a truly national high speed passenger rail system. The idea is simple, and it is modeled on a program we already have in place to support another important public priority, public school construction. Under this legislation, Amtrak is authorized to issue, over the next ten years, up to $12 billion in bonds. Instead of an interest payment, the holders of those bonds will be paid by a rebate on their federal income taxes.

The funds generated from the sale of the bonds will be available for investments in high speed rail corridors throughout the country, from the established and profitable Northeast Corridor to planned corridors from Florida to the Pacific Northwest. One thing I learned from my days on the County Council in Delaware was that each route on a bus system supports and sustains the others. Cut one route, and ridership will fall off on the others as the whole system becomes less useful. Conversely, the more complete the system the more people will find that it meets their needs.

Another thing I learned on the county council, Mr. President, is that if state and local governments are required to put up some of their own funds to match assistance from the federal government, they will think long and hard about the best use of their funds. That is why this legislation requires a twenty percent match by the state before a high speed rail project can qualify for the support this bill provides. This provision not only provides an additional safeguard that high speed rail investments meet the many real needs the states have, but it also assures that the funds will be there to pay off the bonds as they come due.

Before a project is eligible for the funds raised under this bill, it must be reviewed by the Secretary of Transportation for its financial soundness, its role in a national passenger rail system, and its contribution to balance among the many regional corridors in the national system.

I know that I don't have to tell my colleagues about the growing chorus of public complaints about air travel in this country. All over the country, overworked and over booked airports and flyways keep passengers sitting in terminals or out on the runways, waiting for some movement in a clogged system. The vast majority of our most crowded airports are located near rail lines that could take some of those passengers where they need to go faster, safer, and more comfortably.

But only if we make the same investment in passenger rail that every other advanced economy does, Mr. President. Today, those tracks carry no passengers while our airports are bursting at the seams.

The same is true for the major highway corridors between our nation's cities. Those arteries are clogged with every kind of traffic, from freight haulers to vacationers to business travelers. Many of them run parallel to major rail corridors, that could share some of that load. But only, Mr. President, if we make the same investment in passenger rail that every other advanced economy does.

Just look at the lack of balance in our transportation spending, Mr. President. We spend $80 billion a year on our highways. We spend a billion just cleaning up road kills, and more than a billion a year salting icy roads. But we spend less than $600 million a year on rail infrastructure.

We spend $19 billion a year on aviation, but, again, less than $600 million on rail.

These numbers are even more disturbing when you realize what you get for each dollar spent. Look at the enormous cost of individual projects. Construction of a freeway in Los Angeles costs $125 million per mile. Per mile, Mr. President. But that is cheap compared to the "Big Dig" Central Artery in Boston—the price tag on that is $1.5 billion per mile. Airport construction is just as expensive: the Denver International Airport cost $4.2 billion. To expand the Los Angeles International Airport will involve $3 billion to $4 billion in ground transportation costs alone.

High speed passenger rail investments can get a lot more done for a lot less money—five to ten times as much as an investment in new highways. For example, expanding I–95, our major east-coast highway corridor, by just one lane can cost as much as $50 million a mile. That works out to about 45 passengers per hour for every million dollars. But a mile of new, high-speed rail track, which can cost $8 million a mile, will move 450 passengers per hour for every million dollars invested. That's a good deal all around.—fewer cars, less pollution, more people getting where they want to go.

Under the terms of the Amtrak Reform Act of 1997, we have put Amtrak on a path to self-sufficiency in its operating budget by the year 2003. I have said many times that I do not think that this is the wisest course. Given the long history of underfunding Amtrak's needs, I am far from convinced that we have put Amtrak in a position to reach full operating self sufficiency by that artificial deadline. But whatever we make of that deadline on operating support, Mr. President, it is clear that the very least we can do is provide Amtrak with the capital funds to become the passenger rail service this nation needs.

With the commitment of the leadership in both parties, with the support of over half of the Senate on the day of its introduction, this legislation is off to a great start. We will need all of these resources and more to see this through to final passage, and to get a real, world-class passenger rail system for the United States under way.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "High-Speed Rail Investment Act of 2001".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

(a) In General.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Amtrak Bonds

"Sec. 54. Credit to holders of qualified Amtrak bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified Amtrak bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified Amtrak bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified Amtrak bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Amtrak Bond.—For purposes of this part—

"(1) In general.—The term 'qualified Amtrak bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for any qualified project,

"(B) the bond is issued by the National Railroad Passenger Corporation,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it meets the State contribution requirement of paragraph (3) with respect to such project and that it has received the required State contribution payment before the issuance of such bond,

"(iii) certifies that it has obtained the written approval of the Secretary of Transportation for such project, including a finding by the Inspector General of the Department of Transportation that there is a reasonable likelihood that the proposed program will result in a positive incremental financial contribution to the National Railroad Passenger Corporation and that the investment evaluation process includes a return on investment, leveraging of funds (including State capital and operating contributions), cost effectiveness, safety improvement, mobility improvement, and feasibility, and

"(iv) certifies that it has obtained written certification by the Secretary, after consultation with the Secretary of Transportation, that, in the case of a qualified project which results in passenger trains operating at speeds greater than 79 miles per hour, the issuer has entered into a written agreement with the rail carriers (as defined in section 24102 of title 49, United States Code) the properties of which are to be improved by such project as to the scope and estimated cost of such project and the impact on freight capacity of such rail carriers; Provided that the National Railroad Passenger Corporation shall not exercise its rights under section 24308(a) of such title 49 to resolve disputes with respect to such project or the cost of such project,

"(D) the term of each bond which is part of such issue does not exceed 20 years,

"(E) the payment of principal with respect to such bond is the obligation of the National Railroad Passenger Corporation (regardless of the establishment of the trust account under subsection (j)), and

"(F) the issue meets the requirements of subsection (h).

"(2) Treatment of changes in use.—For purposes of paragraph (1)(A), the proceeds of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified Amtrak bond.

"(3) State contribution requirement.—

"(A) In general.—For purposes of paragraph (1)(C)(ii), the State contribution requirement of this paragraph is met with respect to any qualified project if the National Railroad Passenger Corporation has a written binding commitment from 1 or more States to make matching contributions not later than the date of issuance of the issue of not less than 20 percent of the cost of the qualified project. State matching contributions may include privately funded contributions.

"(B) Use of state matching contributions.—The matching contributions described in subparagraph (A) with respect to each qualified project shall be used—

"(i) as necessary to redeem bonds which are a part of the issue with respect to such project, and "(ii) in the case of any remaining amount, at the election of the National Railroad Passenger Corporation and the contributing State—

"(I) to fund a qualified project,

"(II) to redeem other qualified Amtrak bonds, or

"(III) for the purposes of subclauses (I) and (II).

"(C) STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to any qualified project on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, the State contribution requirement of this paragraph may include the value of land to be contributed by a State for right-of-way and may be derived by a State directly or indirectly from Federal funds, including transfers from the Highway Trust Fund under section 9503.

"(ii) SPECIAL RULES REGARDING USE OF BOND PROCEEDS.—Proceeds from the issuance of bonds for such a qualified project may be used to the extent necessary for the purpose of subparagraph (B)(i), and any such proceeds deposited into the trust account required under subsection (j) shall be deemed expenditures for the qualified project under subsection (h).

"(D) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—Except as provided in subparagraph (C), for purposes of this paragraph, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

"(E) NO STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—With respect to any qualified project described in subsection (e)(4), the State contribution requirement of this paragraph is zero.

"(4) QUALIFIED PROJECT.—

"(A) IN GENERAL.—The term 'qualified project' means—

"(i) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for the northeast rail corridor between Washington, D.C. and Boston, Massachusetts,

"(ii) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, and

"(iii) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings, for other intercity passenger rail corridors for the purpose of increasing railroad speeds to at least 90 miles per hour.

"(B) REFINANCING RULES.—For purposes of subparagraph (A), a refinancing shall constitute a qualified project only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the National Railroad Passenger Corporation—

"(i) after the date of the enactment of this section,

"(ii) for a term of not more than 3 years,

"(iii) to finance or acquire capital improvements described in subparagraph (A), and

"(iv) in anticipation of being refinanced with proceeds of a qualified Amtrak bond.

"(C) PRIOR ISSUANCE COSTS.—For purposes of subparagraph (A), a qualified project may include the costs a State incurs prior to the issuance of the bonds to fulfill any statutory requirements directly necessary for implementation of the project.

"(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a qualified Amtrak bond limitation for each fiscal year. Such limitation is—

"(A) $1,200,000,000 for each of the fiscal years 2002 through 2011, and

"(B) except as provided in paragraph (5), zero after fiscal year 2011.

"(2) BONDS FOR RAIL CORRIDORS.—Not more than $3,000,000,000 of the limitation under paragraph (1) may be designated for any 1 rail corridor described in clause (i) or (ii) of subsection (d)(4)(A).

"(3) BONDS FOR OTHER PROJECTS.—Not more than $100,000,000 of the limitation under paragraph (1) for any fiscal year may be allocated to all qualified projects described in subsection (d)(4)(A)(iii).

"(4) BONDS FOR ALASKA RAILROAD.—The Secretary of Transportation may allocate to the Alaska Railroad a portion of the qualified Amtrak limitation for any fiscal year in order to allow the Alaska Railroad to issue bonds which meet the requirements of this section for use in financing any project described in subsection (d)(4)(A)(iii) (determined without regard to the requirement of increasing railroad speeds). For purposes of this section, the Alaska Railroad shall be treated in the same manner as the National Railroad Passenger Corporation.

"(5) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year—

"(A) the limitation amount under paragraph (1), exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (d)(1)(C)(i),

the limitation amount under paragraph (1) for the following fiscal year (through fiscal year 2015) shall be increased by the amount of such excess.

"(6) ADDITIONAL SELECTION CRITERIA.—In selecting qualified projects for allocation of the qualified Amtrak bond limitation under this subsection, the Secretary of Transportation—

"(A) may give preference to any project with a State matching contribution rate exceeding 20 percent, and

"(B) shall consider regional balance in infrastructure investment and the national interest in ensuring the development of a nation-wide high-speed rail transportation network.

"(f) OTHER DEFINITIONS.—For purposes of this subpart—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) STATE.—The term 'State' means the several States and the District of Columbia, and any subdivision thereof.

"(4) PROGRAM.—The term 'program' means 1 or more projects implemented over 1 or more years to support the development of intercity passenger rail corridors.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(h) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

"(A) to spend at least 95 percent of the proceeds of the issue for 1 or more qualified projects within the 5-year period beginning on such date, and

"(B) to proceed with due diligence to complete such projects and to spend the proceeds of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—If at least 95 percent of the proceeds of the issue is not expended for 1 or more qualified projects within the 5-year period beginning on the date of issuance, an issue shall be treated as continuing to meet the requirements of this subsection if either—

"(A) the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period, or

"(B) the following requirements are met:

"(i) The issuer spends at least 75 percent of the proceeds of the issue for 1 or more qualified projects within the 5-year period beginning on the date of issuance.

"(ii) The issuer has proceeded with due diligence to spend the proceeds of the issue within such 5-year period and continues to proceed with due diligence to spend such proceeds.

"(iii) The issuer pays to the Federal Government any earnings on the proceeds of the issue that accrue after the end of such 5-year period.

"(iv) Either—

"(I) at least 95 percent of the proceeds of the issue is expended for 1 or more qualified projects within the 6-year period beginning on the date of issuance, or

"(II) the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 6-year period.

"(i) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a qualified Amtrak bond ceases to be a qualified Amtrak bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(j) Use of Trust Account.—

"(1) In general.—The amount of any matching contribution with respect to a qualified project described in subsection (d)(3)(B)(i) or (d)(3)(B)(ii)(II) and the temporary period investment earnings on proceeds of the issue with respect to such project, and any earnings thereon, shall be held in a trust account by a trustee independent of the National Railroad Passenger Corporation to be used to the extent necessary to redeem bonds which are part of such issue.

"(2) Use of remaining funds in trust account.—Upon the repayment of the principal of all qualified Amtrak bonds issued under this section, any remaining funds in the trust account described in paragraph (1) shall be available—

"(A) to the trustee described in paragraph (1), to meet any remaining obligations under any guaranteed investment contract used to secure earnings sufficient to repay the principal of such bonds, and

"(B) to the issuer, for any qualified project.

"(k) Other Special Rules.—

"(1) Partnership; S corporation; and other pass-thru entities.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(2) Bonds held by regulated investment companies.—If any qualified Amtrak bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(3) Credits may be stripped.—Under regulations prescribed by the Secretary—

"(A) In general.—There may be a separation (including at issuance) of the ownership of a qualified Amtrak bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(B) Certain rules to apply.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the qualified Amtrak bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(4) Treatment for estimated tax purposes.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(5) Credit may be transferred.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

"(6) Reporting.—Issuers of qualified Amtrak bonds shall submit reports similar to the reports required under section 149(e).".

(b) Reporting.—Subsection (d) of section 6049 (relating to returns regarding payments of interest), as amended by section 505(d), is amended by adding at the end the following new paragraph:

"(9) Reporting of credit on qualified Amtrak bonds.—

"(A) In general.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

"(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) Clerical Amendments.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Qualified Amtrak Bonds.".

(2) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after September 30, 2001.

(e) Multi-Year Capital Spending Plan and Oversight.—

(1) Amtrak capital spending plan.—

(A) In general.—The National Railroad Passenger Corporation shall annually submit to the President and Congress a multi-year capital spending plan, as approved by the Board of Directors of the Corporation.

(B) Contents of plan.—Such plan shall identify the capital investment needs of the Corporation over a period of not less than 5 years and the funding sources available to finance such needs and shall prioritize such needs according to corporate goals and strategies.

(C) Initial submission date.—The first plan shall be submitted before the issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of the Internal Revenue. Code of 1986 (as added by this section).

(2) Oversight of Amtrak trust account and qualified projects.—

(A) Trust account oversight.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(j) of such Code (as so added) is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(B) Project oversight.—The National Railroad Passenger Corporation shall contract for an annual independent assessment of the costs and benefits of the qualified projects financed by such qualified Amtrak bonds, including an assessment of the investment evaluation process of the Corporation. The annual assessment shall be included in the plan submitted under paragraph (1).

(C) Oversight funding.—Not more than 0.5 percent of the amounts made available through the issuance of qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of such Code (as so added) may be used by the National Railroad Passenger Corporation for assessments described in subparagraph (B).

(f) Protection of Highway Trust Fund.—

(1) Certification by the secretary of the treasury.—The issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation or the Alaska Railroad pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section) is conditioned on certification by the Secretary of the Treasury, after consultation with the Secretary of Transportation, within 30 days of a request by the issuer, that with respect to funds of the Highway Trust Fund described under paragraph (2), the issuer either—

(A) has not received such funds during fiscal years commencing with fiscal year 2002 and ending before the fiscal year the bonds are issued, or

(B) has repaid to the Highway Trust Fund any such funds which were received during such fiscal years.

(2) Applicability.—This subsection shall apply to funds received directly, or indirectly from a State or local transit authority, from the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986, except for funds authorized to be expended under section 9503(c) of such Code, as in effect on the date of the enactment of this Act.

(3) No retroactive effect.—Nothing in this subsection shall adversely affect the entitlement of the holders of qualified Amtrak bonds to the tax credit allowed pursuant to section 54 of the Internal Revenue Code of 1986 (as so added) or to repayment of principal upon maturity.

(g) Exemption From Taxes for High-Speed Rail Lines and Improvements.—Notwithstanding any other provision of law, no rail carrier (as defined in section 24102 of title 49, United States Code) shall be required to pay any tax or fee imposed by the Internal Revenue Code of 1986 or by any State or local government with respect to the acquisition, improvement, or ownership of—

(1) personal or real property funded by the proceeds of qualified Amtrak bonds (as defined in section 54(d) of the Internal Revenue Code of 1986 (as added by this section) or any State or local bond (as defined in section 103(c)(1) of such Code), or revenues or income from such acquisition, improvement, or ownership, or

(2) rail lines in high-speed rail corridors designated under section 104(d)(2) of title 23. United States Code, that are leased by the National Railroad Passenger Corporation.

(h) Issuance of Regulations.—The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code (as added by this section) not later than 90 days after the date of the enactment of this Act.

(i) ISSUANCE OF TAX-EXEMPT BONDS FOR RAIL PASSENGER PROJECTS.—

(1) FUNDING STATE MATCH REQUIREMENT.—Section 142(a) (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", or", and by adding at the end the following new paragraph:

"(13) the State contribution requirement for qualified projects under section 54.".

(2) REPEAL OF GOVERNMENTAL OWNERSHIP REQUIREMENT FOR MASS COMMUTING FACILITIES.—Section 142(b)(1)(A) (relating to certain facilities must be governmentally owned) is amended by striking "(3),".

(3) DEFINITION OF HIGH-SPEED INTERCITY RAIL FACILITIES.—Section 142(i)(1) is amended by striking "in excess of 150 miles per hour" and inserting "prescribed in section 104(d)(2) of title 23, United States Code,".

(4) EXEMPTION FROM VOLUME CAP.—Subsection (g) of section 146 (relating to exception for certain bonds) is amended by striking paragraph (4) and the last sentence of such subsection and inserting the following new paragraph:

"(4) any exempt facility bond issued as part of an issue described in paragraph (3), (11), or (13) of section 142(a) (relating to mass commuting facilities, high-speed intercity rail facilities, and State contribution requirements under section 54).".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued after the date of enactment of this Act.

Mr. KERRY. Mr. President, I am proud to join our esteemed majority and minority leaders in sponsoring the High Speed Rail Investment Act of 2001. I am proud that our two leaders have been willing and able to work in a bipartisan manner to fulfill a promise that they made last month to re-introduce this critical legislation. I thank them, and I thank Senator BIDEN and Senator HUTCHISON for their strong leadership as well. Their commitment to this bill cannot be overstated.

This legislation would allow Amtrak to sell $12 billion in bonds over the next ten years and permit the federal government to provide tax credits to bondholders in lieu of interest payments. Amtrak would use this money to upgrade existing rail lines to high-speed rail capability. This bill has supporters from both parties and all regions of the country.

Mr. President, high speed rail is not a partisan issue. It is not a regional issue. It is not an urban issue. The High-Speed Rail Investment Act has the support of the National Governors Association, the U.S. Conference of Mayors and the National Conference of State Legislatures. Thirty newspapers, from the New York Times and Providence Journal, to the Houston Chronicle and Seattle Post Intelligencer, have called for the enactment of this legislation.

It is in our national interest to construct a national infrastructure that is truly intermodal. Rail transportation helps alleviate the stress placed on our environment by air and highway transportation. It is a sad fact that America's rail transportation, and its lack of a national high-speed rail system, lags well behind rail transportation in most other nations—we spend less, per capita, on rail transportation than Estonia and Greece.

Mr. President, I know I made many of these same points on the floor of the Senate in December when we discussed a similar version of the High Speed Rail Investment Act. However, I believe that this legislation is critical to our nation's transportation infrastructure needs, and these facts bear repeating:

The federal government has invested $380 billion in our highways and $160 billion in airports since Amtrak was created. By contrast, the federal government has spent only about $30 billion on Amtrak. We have spent just four percent of our transportation budget on rail transportation in the last 30 years. The Congress has mandated that Amtrak soon achieve operational self-sufficiency. That does not, nor should it, preclude further capital improvement grants. This is often misunderstood and misinterpreted. Amtrak has reduced its operating losses over the last two years, and remains capable of meeting its goal. However, it will continue to need the federal government to support its track upgrades, rolling stock improvements and other large-scale upgrades so that it may maintain its trademark quality service.

There is a compelling need to invest in high-speed rail. Our highways and skyways are overburdened. Intercity passenger miles traveled have increased 80 percent since 1988, but only 5.5 percent of that has come from increased rail travel. Meanwhile, our congested skies have become even more crowded. The result, predictably, is that air travel delays are up 58 percent since 1995. Things have gotten so bad in Chicago that O'Hare airport maintains 1,500 cots for snow-bound travelers. This summer, the airport had to order additional cots to accommodate passengers left stranded by myriad delays and cancellations.

Amtrak ridership is on the rise. More than 22.5 million passengers rode Amtrak in Fiscal Year 2000, a million more than the previous year. Nearly six million riders took Amtrak in the first quarter of this fiscal year, the best first quarter in the company's 30-year history. Ridership for the quarter was up 8.5 percent, while ticket revenue climbed almost 14 percent over the first quarter of FY00. We should welcome that increased use and support it by giving Amtrak the resources it needs to provide high-quality, dependable service.

The High-Speed Rail Investment Act is critical to the future of Amtrak. For about the cost of the new Denver International Airport, we can improve intercity transportation in 29 states. For less than double the cost of constructing the new Woodrow Wilson bridge improving transportation in two states, we can create eight high-speed rail corridors in 29 states.

High-speed rail is a viable transportation alternative. There is a large and growing demand for rail service in the Northeast Corridor. Amtrak captures almost 70 percent of the business rail and air travel market between Washington and New York and 30 percent of the market share between New York and Boston. True high-speed rail will undoubtedly increase that market share. These new trains, like the Acela Express that debuted in the Northeast this year, currently run at an average of only 82 miles per hour, but with track improvements, will run at 130 miles per hour.

As a nation, we have recognized the importance of having the very best communication system, and ours is the envy of the world. That investment is one of reasons our economy is the strongest in the world. And we should do the same for our transportation system. It should be equally modern and must be fully intermodal. Rail transportation is a part of that network and I hope that we can pass this critical, cost-efficient legislation this year.

By Mr. VOINOVICH:

S. 252. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 2001, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund, SRF Program administered by the U.S. Environmental Protection Agency, EPA.

As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the Clean Water SRF Program in 1987 to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or, as it is known, the Clean Water Act. State and local governments have used the Federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each state determines which projects get built.

The performance of the Clean Water SRF Program has been spectacular. Total federal capitalization grants have been nearly doubled by non-federal funding sources, including state contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 7,000 projects nationwide have been approved to date.

As in many states, Ohio has needs for public wastewater system improvements which greatly exceed typical Clean Water SRF funding levels. For instance, in fiscal year 2001, a level of $1.35 billion was appropriated for the Clean Water SRF. However, in Ohio alone, about $4 billion of improvements have been identified as necessary to address combined serve overflow, CSO, problems, according to the latest state figures. The City of Akron, for example, has proposed a Long Term Control Plan that will cost more than $248 million to implement—nearly 20 percent of the total SRF level appropriated in fiscal year 2001. Because of Akron's CSO problem, city sewer rates will more than double without outside funding.

Further, estimates indicate that among Ohio towns with a population of less than 10,000, there exists $1.2 billion in CSO needs. In recent years, Ohio cities and villages have been spending more on maintaining and operating their systems in order to stave-off the inevitable upgrades. Nevertheless, their systems are aging and will need to be replaced.

While the Clean Water SRF Program's track record is excellent, the condition of our nation's overall environmental infrastructure remains alarming. A 20-year needs survey conducted by the EPA in 1996 documented $139 billion worth of wastewater capital needs nationwide. In 1999, the national assessment was revised upward to nearly $200 billion, in order to more accurately account for expected sanitary sewer needs. This amount may be too small; private studies demonstrate that total needs are closer to $300 billion when anticipated replacement costs are considered.

Authoziation for the Clean Water SRF expired at the end of fiscal year 1994, and the continued failure of Congress to reauthorize the program sends an implicit message that wastewater collection and treatment is not a national priority. The longer we have an absence of authorization of this program, the longer it creates uncertainty about the program's future in the eyes of borrowers, which may delay or, in some cases, prevent project financing. In order to allow any kind of substantial increase in spending, reauthorization of the Clean Water SRF program is necessary in the 107th Congress.

The bill that I am introducing today will authorize a total of $15 billion over the next five years for the Clean Water SRF. Not only would this authorization bridge the enormous infrastructure funding gap, the investment would also pay for itself in perpetuity by protecting our environment, enhancing public health, creating jobs and increasing numerous tax bases across the country. Additionally, the bill will provide technical and planning assistance for small systems, expand the types of projects eligible for loan assistance, and offer financially-distressed communities extended loan repayment periods and principal subsidies. The bill also will allow states to give priority consideration to financially-distressed communities when making loans.

The health and well-being of the American public depends on the condition of our nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted absent a crisis. Let me assure my colleagues that the costs of poor environmental infrastructure cannot be ignored and the price will pay for continued neglect will far exceed the authorization level of this bill. Now is the time to address our infrastructure needs while the costs are manageable.

In just over a decade, the Clean Water SRF Program has helped thousands of communities meet their wastewater treatment needs. My bill will help ensure that the Clean Water SRF Program remains a viable components in the overall development of our nations' infrastructure for years to come. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

By Ms. COLLINS (for herself, Mr. CONRAD, Mr. GREGG, Mr. BURNS, Mr. HUTCHINSON, Mr. ENZI, Mr. ROBERTS, Mr. ALLARD, Mr. HAGEL, Mr. DORGAN, Mr. THOMAS, and Mr. JOHNSON):

S. 253. A bill to reauthorize the Rural Education Initiative in subspart 2 of part J of title X of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I rise today to introduce the Rural Education Improvement Act. I am pleased to be joined by my colleagues, Senators CONRAD, GREGG, HUTCHINSON, ENZI, HAGEL, ROBERTS, DORGAN, THOMAS, ALLARD, BURNS, and JOHNSON, as original cosponsors of this common sense, bipartisan proposal to help rural schools make better use of federal education funds. I also want to acknowledge the valuable assistance provided over the past two years by the American Association of School Administrators.

Last Congress, I introduced the Rural Education Initiative Act—the foundation for today's legislation. I am pleased that the REIA was largely incorporated into the final appropriations bill, thus allowing small, rural school districts to combine funds from four formula grant programs, giving them the flexibility to target funds toward their students' most pressing needs. While the passage of this bill represented substantial progress, it was a one-year authorization only, and no appropriations were provided for the supplemental grant program authorized by the new law.

Mr. President, the bill we introduce today strengthens the legislation enacted last year. The Collins-Conrad bill would provide a 5-year authorization of the rural education provisions enacted last year and authorize $150 million annually for the supplemental grant program.

Our legislation would benefit school districts with fewer than 600 students in rural communities. More than 35 percent of all school districts in the United States have 600 or fewer students. In Maine, the percentage is even higher: 56 percent of our 284 school districts have fewer than 600 students. Our legislation would help them overcome some of the most challenging obstacles they face in participating in federal education programs.

By way of background, the Elementary and Secondary Education Act authorizes formula and competitive grants that help many of our local school districts to improve the education of their students. These federal grants support such laudable goals as the professional development of teachers, the incorporation of technology into the classroom, gifted and talented programs, and class size reduction. Schools receive categorical grants, each with its own authorized activities and regulations, each with its own red tape and paperwork. Unfortunately, as valuable as these programs may be for many large urban and suburban school districts, they often do not work well in rural areas for two major reasons.

First, formula grants often do not reach small, rural schools in amounts sufficient to achieve the goals of the programs. These grants are based on school district enrollment, and, therefore, smaller districts often do not receive enough funding from any single grant to carry out a meaningful activity. One Main district, for example, received a whopping $28 to fund a district-wide Safe and Drug-free School program. This amount is certainly not sufficient to achieve the goal of that federal program, yet the school district could not use the funds for any other program.

To give school districts more flexibility to meet local needs, our legislation would allow rural districts to combine the funds from four categorical programs and use them to address the school district's highest priorities.

The second problem facing many rural school districts is that they are essentially shut out of the competitive programs because they lack the grant-writers and administrators necessary to apply for, win, and manage competitively awarded grants. The Rural Education Improvement Act would remedy this program by providing small, rural districts with a formula grant in lieu of eligibility for the competitive programs of the ESEA.

A district would be able to combine this new supplemental grant with the funds from the formula grants and use the combined monies for any purposes that would improve student achievement or teaching quality. Districts might use these funds to hire a new reading or math teacher, fund professional development, offer a program for gifted and talented students, or purchase computers or library books.

Let me give you a specific example of what these two initiatives would mean for one school Maine School District in Northern Maine with 400 students from the towns of Frenchville and St. Agatha receives four separate formula grants ranging from $1,904 for Safe and Drug Free Schools to $9,542 under the Class Size Reduction Act. You can see the problem right there. The amounts of the grants are so small that they really are not useful in accomplishing the goals of the program. The total for all four programs is just under $16,000. Yet, each must be applied for separately, used for different—federally mandated—purposes, and accounted for independently.

Superintendent Jerry White told me that he needs to submit eight separate reports, for four programs, to receive this $16,000. Under our bill, this school district would be freed from the multiple applications and reports and would have $16,000 to use for its educational priorities.

Moreover, since this district does not have the resources to apply for the competitive grant programs, our legislation would result in a supplemental grant of $34,000 as long as the District foregoes its eligibility for the competitively awarded grants. Under the Rural Education Improvement Act, therefore, the District will have $50,000 and the flexibility to use these funds for its most pressing needs.

But with this flexibility and additional funding come responsibility and accountability. In return for the advantages our bill provides, participating districts would be held accountable for demonstrating improved student performance over a 3-year period. Schools will be held responsible for what is really important—improved student achievement—rather than for time-consuming paperwork. As Superintendent White told me, "Give me the resources I need plus the flexibility to use them, and I am happy to be held accountable for improved student performance. It will happen."

Mr. President, we must improve our educational system without requiring every school to adopt a plan designed in Washington and without imposing overly burdensome and costly regulations in return for federal assistance. Our bill would allow small, rural districts to use their own strategies for improvement without the encumbrance of onerous federal regulations and unnecessary paperwork.

Congress took an important step last year by recognizing that small, rural districts face challenges in using federal programs to help provide a quality education for their students. Due to our efforts last year, the law now reflects Congress's intention to provide these districts more flexibility and additional funding. This legislation will move us from intention to implementation by providing sustained support, flexibility, and funding for our rural schools.

I am pleased that this legislation has been endorsed by the American Association of School Administrators, National Rural Education Association, the Association of Educational Service Agencies, and the National Education Association, and I ask unanimous consent that endorsement letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RURAL
EDUCATION ASSOCIATION,
Arlington, VA, February 5, 2001.

Senator SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: The National Rural Education Association would like to applaud your recognition of the unique hardships that face small, rural schools in respect to their federal funding. Along with U.S. Senators Kent Conrad, D–ND; Judd Gregg, R–NH; Conrad Burns, R–MT; Chuck Hagel, R–NE; Michael Enzi, R–WY; Pat Roberts, R–KS; and Tim Johnson, D–SD; and Byron Dorgan, D–ND, you have reintroduced legislation that would ensure that small rural schools get a baseline amount of federal funding.

Currently, many small and rural schools are at a disadvantage when they receive their ESEA funding. Federal funding formulas are based on enrollment, which prevent small schools from receiving adequate resources. Due to the small numbers of students, these schools rarely receive enough combined funds to hire a teacher. Small schools also lack the administrative capacity to apply for competitive grants. This puts small rural schools on unequal federal footing with many of their urban and suburban counterparts.

Last December, your Rural Education Initiative was included in the omnibus appropriations bill. The new law allows districts to commingle some of the federal funds they receive and use them in areas to improve student achievement and professional development. In addition, it included legislation that would provide a minimum of $20,000 to schools of 600 or less. These are the same schools are typically receiving approximately $5,000 from the federal government.

By setting a baseline amount and allowing schools to commingle the funds, the local school district will have the opportunity to hire a specialist, provide signing bonuses to teachers, extend after school opportunities and enhance many other aspects of the small school budget. Most of all, it would enable the school to provide an education consistent with local needs.

Once again, we would like to extend our grateful thanks for your leadership on this issue. We urge the full Senate to reauthorize and fully fund this legislation on behalf of those schools who are too small to be heard.

Sincerely,

MARY CONK,
Legislative Analyst.

AMERICAN ASSOCIATION
OF SCHOOL ADMINISTRATORS,
Arlington, VA, February 5, 2001.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the American Association of School Administrators, representing more than 14,000 school system leaders, we would like to express our support for your bill reauthorizing the Rural Education Initiative. Your hard work and commitment to rural schools last congress improved federal education programs for all of the small isolated schools throughout rural America. The changes proposed in your reauthorization bill would improve upon last year's effort by providing more flexibility and increased funding for small isolated schools. Thank you for your continuing advocacy on behalf of rural schoolchildren and rural communities.

Currently small and rural school districts find it difficult to compete with larger districts for hundreds of millions of dollars in federal education competitive grants. Small, isolated districts receive well below their share of competitive grants, usually because they lack the administrative staff to apply for grants. The problem is compounded by shortcomings of federal formula programs. Federal education programs allocate funds based on enrollment, typically providing very little revenue to the smallest schools. The Collins-Conrad Rural Education Initiative would level the playing field by ensuring that each small district receives at least enough funding to hire a teacher or a specialist.

Studies in individual states and the National Assessment of Educational Progress document the difficulties of small, rural school districts:

Difficulty attracting and retaining quality teachers, and administrators,

Inability to offer advanced academic or vocational courses,

Disproportionate spending on transportation,

Loss of a sense of community when schools are consolidated, and

Inability to process all the federally required paperwork normally required of recipients.

The Rural Education Initiative would help small/rural districts by providing enough school improvements funds to implement real change. Rural and small school districts would be eligible for grants of $20,000 to $60,000 depending upon enrollment. Although the program was passed into law last year, it has not yet been funded. More than 4,000 small and rural school districts benefit from the flexibility provided in last year's program; those same 4,000 districts will be able to advance even greater improvements when the program is reauthorized and appropriated.

The funds would be used to enhance the reading and math proficiency of students; to provide an education consistent with local needs; and to enable small/rural communities to prepare young people to compete in the emerging knowledge-based economy.

The Association is grateful to you, Kent Conrad, R–ND; Judd Gregg, R–NH; Conrad Burns, R–MT; Chuck Hagel, R–NE; Michael Enzi, R–WY; Pat Roberts, R–KS; Tim Johnson, D–SD; and Byron Dorgan, D–ND for their advocacy on behalf of rural school children. We urge the full Senate to embrace and fund this important legislation.

Sincerely,

JORDAN CROSS,
Legislative Specialist.

ASSOCIATION OF
EDUCATIONAL SERVICE AGENCIES,
Arlington, VA, February 5, 2001.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Association of Education Service Agencies, we would like to express our gratitude for your work on the Rural Education Initiative. Your efforts during the 106th Congress helped rectify many of the inequalities that disadvantage small school districts. By increasing the flexibility of federal education programs, local districts can now make better use of federal dollars. This year, you have taken that effort one step further with the reauthorization of the Rural Education Initiative. The Collins-Conrad reauthorization proposal would complete last year's goal by ensuring that small rural schools are treated fairly by federal formula programs and funded at an adequate level.

Educational Service Agencies (ESAs) are intermediate units that frequently provide assistance to small and rural schools that do not have the administrative staff to operate some education programs in-house. When a small rural school district receives a tiny federal education grant, ESAs often facilitate consortia to make better use of federal funds. ESAs are the primary source of professional development and technology assistance to rural schools. The members of our association understand first-hand the particular needs of rural districts; your proposal offers the best hope for accommodating those needs and the best means for improving rural education.

Rural schoolchildren deserve to benefit from the federal education programs enjoyed by urban and suburban students. We thank you for your work on the Rural Education Initiative, and we offer our full support.

Sincerely,

BRUCE HUNTER,
Legislative Specialist.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, January 31, 2001.

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION IN SUPPORT OF THE RURAL EDUCATION INITIATIVE

The National Education Association's (NEA) supports the concepts included in the Rural Education Initiative (REI), introduced today in the United States Senate by Senators Collins and Conrad.

NEA research demonstrates the need for increased emphasis on meeting the needs of rural schools. For example, 49 percent of the nation's public schools, teaching 40 percent of the nation's students, are located in rural areas and small towns. Yet, schools in rural and small towns receive only 22 percent of total federal, state, and local education spending. In addition, federal funding formulas often provide rural and small towns with small allotments that afford little or no actual assistance but require significant paperwork.

The Rural Education Initiative represents an important step toward addressing the unique problems associated with education in small towns and rural areas. We encourage its passage into law.

Mr. CONRAD. Mr. President, I am very pleased to join my distinguished colleagues, Senator SUSAN COLLINS and Senator JUDD GREGG, to introduce the Rural Education Initiative (REI). We introduced similar legislation, S. 1225, during the 106th Congress to respond to a number of challenges facing small, rural schools, and I am pleased that we were successful in incorporating some of the major the provisions of S. 1225 in the FY. 2001 Omnibus Appropriations bill. This Congressional action will provide flexibility for school officials from small, rural schools to make better use of Federal education funds for critical educational needs at the local level.

Under Public law 106–1033, Congress authorized school districts with fewer than 600 students, and a Department of Education (DOE) Locale Code designation of 7 or 8 to combine funding from four Federal education programs (Titles, II, IV, VI and Class Size Reduction) and use that funding to supplement Federal education programs under Titles I, II, IV, and VI. Congress also authorized, although was not able to fund, supplemental grants of up to $60,000 to assist small, rural school districts develop programs to improve academic achievement and the quality of instruction. Funding the supplemental grants program in the Rural Education Initiative is a major priority during consideration of the Elementary and Secondary Reauthorization in the 107th Congress.

Today, we are re-introducing legislation to extend the authority under the Rural Education Initiative in P.L. 106–1033 for a five-year period to permit small, rural school districts to continue to have flexibility in the use of funds from a limited number of Federal education programs. This bill will also authorize $150 million for supplemental grants of up to $60,000 to rural schools to improve student achievement, provide professional development opportunities for educators or undertake education reform activities. School districts with fewer than 600 students and with a DOE Locale Code of 7 or 8 will be eligible to participate in the REI program.

I am particularly pleased that the Rural Education Initiative has received bipartisan support and is cosponsored today by Senators COLLINS, GREGG, HAGEL, ENZI, HUTCHINSON, DORGAN, ROBERTS, BURNS, JOHNSON, and THOMAS. The Rural Education Initiative is also being endorsed by the American Association of School Administrators, the National Education Association, the National Rural Education Association, and the Association of Educational Service Agencies.

Mr. President, small rural schools face a growing number of unique challenges because of declining school age populations, aging facilities, and significant distances and remote locations for many rural school districts. While increased Federal education funding and targeting of these funds has been very helpful for rural school districts, these efforts alone are not responding sufficiently to the needs of many small, rural schools.

Many rural schools, for example, while recognizing the importance of new initiatives like Class Size Reduction, are already at the levels recommended under the Class Size Reduction Initiative. Under current law, rural schools have only limited flexibility to use Class Size funds to meet other local education priorities. In many instances, the Class Size funds and allocations from a number of other Federal formula programs are not sufficient to permit effective use of the funds by the rural district.

Additionally, although rural schools are able to apply for DOE competitive grant programs, rural schools are not able to compete as effectively as some urban and suburban schools because limited resources do not permit many smaller, rural districts to hire specialists to prepare grant applications to compete for these funds. In some cases, the only option for a smaller district is to form a consortium with other schools to qualify for sufficient funding.

The difficulties accessing DOE competitive grant funds by rural schools are summed up well by Elroy Burkle, Superintendent of the Starkweather Public School District, a district with 131 students. Burkle remarked, "schools districts have lost their ability to access funds directly, and as a result of forming these consortiums in order to access these monies, it is my opinion, we have lost our individual ability to utilize these monies in an effective manner that would be conducive to promoting the educational needs of our individual schools."

Mr. President, the Rural Education Initiative responds to many of the concerns of Elroy Burkle and thousands of other school officials from smaller, rural school districts. The REI authorizes flexibility for local school officials to more effectively use certain DOE formula funds. The legislation also authorizes supplemental grant funding for rural school districts who are not in a position to apply for some DOE competitive grant programs and in need additional funds for programs to improve student achievement or provide professional development opportunities for educators.

As we begin our debate in the 107th Congress on the education proposals recently presented by President Bush and reauthorization of the Elementary and Secondary Education Act, it's very important that we consider the Rural Education Initiative as part of this debate. No issue is more important for rural America than the future of our schools. We must make certain that Federal education dollars are available to assist small, rural schools to provide the best education opportunities for children in rural America.

I commend Senator COLLINS for taking the lead again in the 107th Congress on this important education issue. I also congratulate the American Association of School Administrators and the National Education Association for their leadership on rural education issues and the development of this important rural education initiative. I strongly urge the Committee on Health, Education, Labor, and Pensions to carefully examine the many concerns of schools in rural America and to support reauthorization of the Rural Education Initiative that was adopted during the 106th Congress.

Mr. President, I ask unanimous consent that the endorsements of the Rural Education Initiative from the American Association, of School Administrators, the National Education Association, the National Rural Education Association, and the Association of Educational Service Agencies be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION IN SUPPORT OF THE RURAL EDUCATION INITIATIVE

The National Education Association (NEA) supports the concepts included in the Rural Education Initiative (REI), introduced today in the United States Senate by Senators Collins and Conrad.

NEA research demonstrates the need for increased emphasis on meeting the needs of rural schools. For example, 49 percent of the nation's public schools, teaching 40 percent of the nation's students, are located in rural areas and small towns. Yet, schools in rural and small towns receive only 22 percent of total federal, state, and local education spending. In addition, federal funding formulas often provide rural and small towns with small allotments that afford little or no actual assistance but require significant paperwork.

The Rural Education Initiative represents an important step toward addressing the unique problems associated with education in small towns and rural areas. We encourage its passage into law.

AMERICAN ASSOCIATION OF
SCHOOL ADMINISTRATORS,
Arlington, VA, February 5, 2001.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: On behalf of the American Association of School Administrators, representing more than 14,000 school system leaders, we would like to express our support for your bill reauthorizing the Rural Education Initiative. Your hard work and commitment to rural schools last congress improved federal education programs for all of the small isolated schools throughout rural America. The changes proposed in your reauthorization bill would improve upon last year's effort by providing more flexibility and increased funding for small isolated schools. Thank you for your continuing advocacy on behalf of rural schoolchildren and rural communities.

Currently small and rural school districts find it difficult to compete with larger districts for hundreds of millions of dollars in federal education competitive grants. Small, isolated districts receive well below their share of competitive grants, usually because they lack the administrative staff to apply for grants. The problem is compounded by shortcomings of federal formula programs. Federal education programs allocate funds based on enrollment, typically providing very little revenue to the smallest schools. The Collins-Conrad Rural Education Initiative would level the playing field by ensuring that each small district receives at least enough funding to hire a teacher or a specialist.

Studies in individual states and the National Assessment of Educational Progress document the difficulties of small, rural school districts: Difficulty attracting and retaining quality teachers, and administrators, inability to offer advanced academic or vocational courses, disproportionate spending on transportation, loss of a sense of community when schools are consolidated, and inability to process all the federally required paperwork normally required of recipients.

The Rural Education Initiative would help small/rural districts by providing enough school improvement funds to implement real change. Rural and small school districts would be eligible for grants of $20,000 to $60,000 depending upon enrollment. Although the program was passed into law last year, it has not yet been funded. More than 4,000 small and rural school districts benefit from the flexibility provided in last year's program; those same 4,000 districts will be able to advance even greater improvements when the program is reauthorized and appropriated.

The funds would be used to enhance the reading and math proficiency of students; to provide an education consistent with local needs; and to enable small/rural communities to prepare young people to compete in the emerging knowledge-based economy.

The Association is grateful to you, Susan Collins, R–ME; Judd Gregg, R–NH; Conrad Burns, R–MT; Chuck Hagel, R–NE; Michael Enzi, R–WY; Pat Roberts, R–KS; Tim Johnson, D–SD; and Byron Dorgan, D–ND for their advocacy on behalf of rural school children. We urge the full Senate to embrace and fund this important legislation.

Sincerely,

JORDAN CROSS,
Legislative Specialist.

NATIONAL RURAL EDUCATION
ASSOCIATION,
Arlington, VA, February 5, 2001.

Senator KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: The National Rural Education Association would like to applaud your recognition of the unique hardships that face small, rural schools in respect to their federal funding. Along with U.S. Senators Kent Conrad, D–ND; Judd Gregg, R–NH; Conrad Burns, R–MT; Chuck Hagel, R–NE; Michael Enzi, R–WY; Pat Roberts, R–RS; and Tim Johnson, D–SD; and Byron Dorgan, D–ND, you have reintroduced legislation that would ensure that small rural schools get a baseline amount of federal funding.

Currently, many small and rural schools are at a disadvantage when they receive their ESEA funding. Federal funding formulas are based on enrollment, which prevent small schools from receiving adequate resources. Due to the small numbers of students, these schools rarely receive enough combined funds to hire a teacher. Small schools also lack the administrative capacity to apply for competitive grants. This puts small rural schools on unequal federal footing with many of their urban and suburban counterparts.

Last December, your Rural Education Initiative was included in the omnibus appropriations bill. The new law allows districts to commingle some of the federal funds they receive and use them in areas to improve student achievement and professional development. In addition, it included legislation that would provide a minimum of $20,000 to schools of 600 or less. These are the same schools typically receiving approximately $5,000 from the federal government.

By setting a baseline amount and allowing schools to commingle the funds, the local school district will have the opportunity to hire a specialist, provide a signing bonus to teachers, extend after school opportunities and enhance many other aspects of the small school budget. Most of all, it would enable the school to provide an education consistent with local needs.

Once again, we would like to extend our grateful thanks for your leadership on this issue. We urge the full Senate to reauthorize and fully fund this legislation on behalf of those schools who are too small to be heard.

Sincerely,

MARY CONK,
Legislative Analyst.

ASSOCIATION OF
EDUCATIONAL SERVICE AGENCIES,
Arlington, VA, February 5, 2001.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CONRAD: On behalf of the Association of Education Service Agencies, we would like to express our gratitude for your work on the Rural Education Initiative. Your efforts during the 106th Congress helped rectify many of the inequalities that disadvantage small school districts. By increasing the flexibility of federal education programs, local districts can now make better use of federal dollars. This year, you have taken that effort one step further with the reauthorization of the Rural Education Initiative. The Collins-Conrad reauthorization proposal would complete last year's goal by ensuring that small rural schools are treated fairly by federal formula programs and funded at an adequate level.

Educational Service Agencies (ESAs) are intermediate units that frequently provide assistance to small and rural schools that do not have the administrative staff to operate some education programs in-house. When a small rural school district receives a tiny federal education, ESAs often facilitate consortia to make better use of federal funds. ESAs are the primary source of professional development and technology assistance to rural schools. The members of our association understand first-hand the particular needs of rural districts; your proposal offers the best hope for accommodating those needs and the best means for improving rural education.

Rural schoolchildren deserve to benefit from the federal education programs enjoyed by urban and suburban students. We thank you for your work on the Rural Education Initiative, and we offer our full support.

Sincerely,

BRUCE HUNTER,
Legislative Specialist.

Mr. ROBERTS. Mr. President, today I rise in support of the Rural Education Initiative introduced by Senator COLLINS. I am also pleased to join my other colleagues from the Health, Education, Labor, and Pensions Committee in support of this bill. In a time when the education of our nation's youth is a priority, we need to make sure that all schools have the opportunity to improve and reform. This legislation does just that.

The Rural Education Initiative Act will allow small rural schools to make better use of federal education dollars. In Kansas, 46 percent of our school districts have fewer than 600 students. In Utica, Kansas, in the Nes Tre La Go Unified School District number 301, there are 34 elementary students and 39 high school students that make up the entire enrollment. Districts like these in Kansas and other rural areas face multiple obstacles when obtaining and utilizing federal funds.

First, they seldom receive enough money from any single grant to make a lasting and measurable impact on school improvement. Grants are based on school enrollment and the funds doled out to these small districts are rarely enough. This bill would allow the merging of splintered federal funds so that grant money can be used effectively to meet local education priorities. Districts are granted the freedom to spend the funds as they see fit.

Second, small rural districts do not have the manpower to apply for competitive grants. This bill provides a formula grant as an option instead of limiting districts to the lengthy and involved application process for ESEA competitive grant programs. Under this formula, districts don't have to strain their resources simply applying for federal funds.

With this reform and flexibility there will be accountability. Districts will be required to demonstrate improved student performance using tests they already administer to assess student achievement.

This bill abolishes undue obstacles rural districts face as they try to improve the quality of education in their own schools. I urge my colleagues to support this common sense legislation and allow small rural districts to obtain federal funds and use them to meet their own objectives.

Mr. THOMAS. Mr. President, I would like to take this opportunity to express my support for Senator COLLINS' Rural Education Improvement Act, a bill that would allow school districts in my state and across the nation to more fully benefit from the use of federal grant monies. In current formula-based federal grants, some of the amounts rural districts receive are so small the school districts can not do anything meaningful with them. This "One-size-fits-all" policy would be remedied under the "Rural Education Improvement Act," which would allow several small sums to be joined and spent according to local needs. Like Senator COLLINS, I'm committed to giving parents and local school districts more say in how their education dollars are spent. I commend the Senator for her efforts in this area and am proud to cosponsor this legislation.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 254. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise today to introduce the Little Sandy Watershed Protection Act.

I promised Oregonians that one of my first legislative actions when the 107th Congress convened would be the introduction of this bill.

Therefore, joined by my friends Senator GORDON SMITH and Congressman EARL BLUMENAUER, I introduce this legislation to make sure that Portland families can go to their kitchen faucets and get a glass of safe and pure drinking water today, tomorrow, and on, into the 21st century.

The Bull Run has been the primary source of water for Portland since 1895. The Bull Run Watershed Management Unit, Mount Hood National Forest, was protected by Congressional action in 1904, in 1977 and then again, most recently, in 1996 (P.L. 95-200, 16, U.S.C. 482b note) because it was recognized as Portland's primary municipal water supply. It still is.

Today I propose to finish the job of the Oregon Resources and Conservation Act of 1996. That law, which I worked on with former Senator Mark Hatfield, finally provided full protection to the Bull Run watershed, but only gave temporary protection to the adjacent Little Sandy watershed. I promised in 1996 that I would return to finish the job of protecting Portland's drinking water supply, and I intend to continue to push this legislation until the job is completed.

The bill I introduce today expands the Bull Run Watershed Management Unit boundary from approximately 95,382 acres to approximately 98,272 acres by adding the southern portion of the Little Sandy River watershed, an increase of approximately 2,890 acres.

The protection this bill offers will not only assure clean drinking water, but also increase the potential for fish recovery. Reclaiming suitable habitat for our region's threatened fish populations must be an all-out effort. Through the cooperation of Portland General Electric and the City of Portland, the Little Sandy can be an important part of that effort.

The bill I introduce today is a compromise that was passed unanimously by the Senate during the last days of the 106th Congress. Unfortunately, the U.S. House of Representatives of the 106th Congress refused to pass this important, noncontroversial, piece of legislation before the final bells rang.

My belief is that the children of the 21st century deserve water that is as safe and pure as any that the Oregon pioneers found in the 19th century. This legislation will go a long way toward bringing about that vision.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF ADDITIONAL PORTION OF THE LITTLE SANDY RIVER WATERSHED IN THE BULL RUN WATERSHED MANAGEMENT UNIT, OREGON.

(a) IN GENERAL.—Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking section 1 and inserting the following:

"SECTION 1. ESTABLISHMENT OF SPECIAL RESOURCES MANAGEMENT UNIT; DEFINITION OF SECRETARY.

"(a) DEFINITION OF SECRETARY.—In this Act, the term 'Secretary' means—

"(1) with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and

"(2) with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled 'Bull Run Watershed Management Unit'.

"(2) MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of—

"(A) the Regional Forester-Pacific Northwest Region of the Forest Service; and

"(B) the Oregon State Director of the Bureau of Land Management.

"(3) BOUNDARY ADJUSTMENTS.—The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) SECRETARY.—Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking "Secretary of Agriculture" each place it appears (except subsection (b) of section 1, as added by subsection (a), and except in the amendments made by paragraph (2)) and inserting "Secretary".

(2) APPLICABLE LAW.—

(A) IN GENERAL.—Section 2(a) of Public Law 95-200 (16 U.S.C. 482b note; 91 Stat. 1425) is amended by striking "applicable to National Forest System lands" and inserting "applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior)".

(B) Management plans.—The first sentence of section 2(c) of Public Law 95–200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended—

(i) by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)"; and

(ii) by striking ", through the maintenance" and inserting "(in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) (in the case of land administered by the Secretary of the Interior), through the maintenance".

SEC. 2. MANAGEMENT.

(a) Timber Cutting Restrictions.—Section 2(b) of Public Law 95–200 (16 U.S.C. 482b note; 91 Stat. 1426) is amended by striking paragraph (1) and inserting the following:

"(1) In general.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.".

(b) Repeal of Management Exception.—The Oregon Resource Conservation Act of 1996 (division B of Public Law 104–208) is amended by striking section 606 (110 Stat. 3009–543).

(c) Repeal of Duplicative Enactment.—Section 1026 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4228) and the amendments made by that section are repealed.

(d) Water Rights.—Nothing in this section strengthens, diminishes, or has any other effect on water rights held by any person or entity.

SEC. 3. LAND RECLASSIFICATION.

(a) Oregon and California Railroad Land.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall identify any Oregon and California Railroad land that is subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f), within the boundary of the special resources management area described in section 1 of Public Law 95–200 (as amended by section 1(a)).

(b) Public Domain Land.—

(1) Definition of public domain land.—

(A) In general.—In this subsection, the term "public domain land" has the meaning given the term "public land" in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) Exclusion.—The term "public domain land" does not include any land managed under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) Identification.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall identify public domain land within the Medford, Roseburg, Eugene, Salem, and Coos Bay Districts and the Klamath Resource Area of the Lakeview District of the Bureau of Land Management in the State of Oregon that—

(A) is approximately equal in acreage and condition as the land identified in subsection (a); but

(B) is not subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(c) Maps.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress and publish in the Federal Register 1 or more maps depicting the land identified in subsections (a) and (b).

(d) Reclassification.—After providing an opportunity for public comment, the Secretary of the Interior shall administratively reclassify—

(1) the land described in subsection (a), as public domain land (as the term is defined in subsection (b)) that is not subject to the distribution provision of title II of the Act of August 28, 1937 (43 U.S.C. 1181f); and

(2) the land described in subsection (b), as Oregon and California Railroad land that is subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

SEC. 4. FUNDING FOR ENVIRONMENTAL RESTORATION.

There is authorized to be appropriated to carry out, in accordance with section 323 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1101 note; 112 Stat. 2681–290), watershed restoration that protects or enhances water quality, or relates to the recovery of endangered species or threatened species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), in Clackamas County, Oregon, $10,000,000.

By Ms. SNOWE (for herself, Mrs. Murray, and Mr. Johnson):

S. 255. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce the Women's Health and Cancer Rights Act. I am pleased to be joined by my friends, Senator Murray of Washington and Senator Johnson of South Dakota, as original cosponsors of this bill.

This bill has a two-fold purpose. First, it will ensure that appropriate medical care determines how long a woman stays in the hospital after undergoing a mastectomy. This provision says that inpatient coverage with respect to the treatment of mastectomy—regardless of whether the patient's plan is regulated by ERISA or State regulations—will be provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate. Second, this bill allows any person facing a cancer diagnosis of any type to get a second opinion on their course of treatment.

A diagnosis of breast cancer is something that every woman dreads. But for an estimated 192,200 American women, this is the year their worst fears will be realized. One thousand new cases of breast cancer will be diagnosed among the women in Maine, and 200 women in my home State will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and 54, there is no other disease which will claim more lives.

It's not hard to understand why the words "you have breast cancer" are some of the most frightening words in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many woman, the answer to that last question is a mastectomy or lumpectomy. Despite the medical and scientific advances that have been made, despite the advances in early detection technology that more and more often negate the need for radical surgery, it still remains a fact of life at the beginning of the 21st century these procedures can be the most prudent option in attacking and eradicating cancer found in a woman's breast.

These are the kind of decisions that come with a breast cancer diagnosis. These are the kind of questions women must answer, and they must do so under some of the most stressful and frightening circumstances imaginable. The last question a woman should have to worry about at a time like this is whether or not their health insurance plan will pay for appropriate care after a mastectomy. A woman diagnosed with breast cancer in many ways already feels as though she has lost control of her life. She should not feel as though she has also lost control of her course of treatment.

The evidence for the need for this bill—especially when it comes to so-called "drive through mastectomies", is more than just allegorical. Indeed, the facts speak for themselves—between 1986 and 1995, the average length of stay for a mastectomy dropped from about six days to about 2 to 3 days. Thousands of women across the country are undergoing radical mastectomies on an outpatient basis and are being forced out of the hospital before either they or their doctor think it's reasonable or prudent.

This decision must be returned to physicians and their patients, and all Americans who face the possibility of a cancer diagnosis must be able to make informed decisions about appropriate and necessary medical care.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

By Ms. SNOWE:

S. 256. A bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce a bill that is very important to working women and their families—the Pregnancy Discrimination Act Amendments of 2001. This bill would clarify that the Pregnancy Discrimination Act protects breastfeeding under civil rights law, requiring that a woman cannot be fired or discriminated against in the workplace for expressing breast milk during her own lunch time or break time.

According to the U.S. Department of Labor, women with infants and toddlers are the fastest growing segment of today's labor force. At least 50 percent of women who are employed when they become pregnant return to the labor force by the time their children are three months old. Although the Pregnancy Discrimination Act was enacted in 1978 and prohibits workplace discrimination on the basis of pregnancy, childbirth, or related medical conditions, courts have not interpreted the Act to include breastfeeding.

Some employers deny women the opportunity to express milk . . . some women have been discharged for requesting to express milk during lunch and other regular breaks . . . some women have been harassed or discriminated against; some women have had their pay withheld or been taken off of shift work for saying that they wanted to pump milk.

On the other hand, many employers have seen positive results from facilitating lactation programs in the workplace, including low absenteeism, high productivity, improved company loyalty, high employee morale, and lower health care costs. Parental absenteeism due to infant illness is three times greater among the parents of formula-fed children than those that are breastfed. Worksite programs that aim to improve infant health may also bring about a reduction in parental absenteeism and health insurance costs.

There is no doubt as to the health benefit breastfeeding brings to both mothers and children. Breastmilk is easily digested and assimilated, and contains all the vitamins, minerals, and nutrients they require in their first five to six months of life. Furthermore, important antibodies, proteins, immune cells, and growth factors that can only be found in breast milk. Breastmilk is the first line of immunization defense and enhances the effectiveness of vaccines given to infants.

Research studies show that children who are not breastfed have higher rates of mortality, meningitis, some types of cancers, asthma and other respiratory illnesses, bacterial and viral infections, diarrhoeal diseases, ear infections, allergies, and obesity. Other research studies have shown that breastmilk and breastfeeding have protective effects against the development of a number of chronic diseases, including juvenile diabetes, lymphomas, Crohn's disease, celiac disease, some chronic liver diseases, and ulcerative colitis. A number of studies have shown that breastfed children have higher IQs at all ages.

This is a simple bill—it simply inserts the word "breastfeeding" in the Pregnancy Discrimination Act. It will change the law to read that employment discrimination "because of or on the basis of pregnancy, childbirth, breastfeeding, or related medication conditions" is not permitted.

I believe that it is absolutely critical to support mothers in across the country—they are, of course, raising the very future of our country. And we should ensure that the Pregnancy Discrimination Act covers this basic fundamental part of mothering.

I urge my colleagues to join me in supporting this bill.

By Ms. SNOWE:

S. 257. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Improved Patient Access to Clinical Studies Act. This bill builds on progress made in the last several years in the difficult and challenging fight against life-threatening diseases.

This bill will prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

This bill has a two-fold purpose. First, it will ensure that many patients who could benefit from these potentially life-saving experimental treatments, but currently do not have access to them because their insurance will not cover the associated costs. Second, without reimbursement for these services, our researchers' ability to conduct important research is impeded as it reduces the number of patients who seek to participate in clinical trials.

According to a report published by the General Accounting Office in September 1999, "given the uncertainty about [health insurance] approval and payment levels, patients and physicians can be discouraged from seeking prior approval from insurers" and therefore, will not attempt to enroll in what could possibly be the patients' last hope. When faced with a life-threatening disease, such as cancer, it is absolutely paramount that individuals be given every opportunity, every possibly imaginable, to fight their illness. What patients should not be faced with is the certainty of a health insurance fight.

I hope my colleagues will join me in supporting this bill which will help those suffering from life-threatening diseases and their families.

By Ms. SNOWE (for herself and Mrs. LINCOLN):

S. 258. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of annual screening pap smear and screening pelvic exams; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Providing Annual Pap Tests to Save Women's Lives Act of 2001. I am pleased to be joined by my friend, Senator LINCOLN of Arkansas, as an original cosponsor of this bill.

According to the American Cancer Society cervical cancer is one of the most successfully treatable cancers when detected at an early stage. In fact, 88 percent of cervical cancer patients survive one year after diagnosis, and 70 percent survive five years.

In the 52 years since use of the pap test became widespread, the cervical cancer mortality rate has declined by an astonishing 70 percent. There is no question that this test is the most effective cancer screening tool yet developed. The Pap smear can detect abnormalities before they develop into cancer. Having an annual Pap smear is one of the most important things a woman can do to help prevent cervical cancer.

Congress has recognized the incomparable contribution of the Pap smear in preventing cervical cancer and nine years ago directed Medicare to begin covering preventive Pap smears. Under this law Medicare beneficiaries were eligible for one test every three years, although a more frequent interval is allowed for women at high risk of developing cervical cancer. And through the Balanced Budget Act of 1997, Congress expanded the Pap smear benefit to also include a screening pelvic exam once every three years. Last year as a part of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act, P.L. 106–544, we brought the screening down to once every other year.

However, the American Cancer Society screening guidelines recommend that all women who are or have been sexually active or who are 18 and older should have an annual Pap test and pelvic examination. After three or more consecutive satisfactory examinations with normal findings, the Pap test may be performed less frequently at the physician's discretion. Unfortunately, Medicare guidelines do not reflect this recommendation.

Women understand the usefulness and life-saving benefit of the Pap smear. The U.S. Centers for Disease Control and Prevention reported that 88.3 percent of women between the ages of 18 and 44 have received a pap test within the preceding three years. However, this rate dropped, for women age 65 and over—only 72.3 percent have received a pap test within the preceding three years.

The bill Senator LINCOLN and I are introducing today will bring Medicare guidelines in line with the American Cancer recommendations, and it will encourage Medicare beneficiaries to utilize this screening benefit more regularly.

The Pap test has contributed immeasurably to the fight against cervical cancer. We cannot risk erasing our advancements in this fight because of an inadequate Medicare screening benefit.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. MURRAY):

S. 259. A bill to authorize funding the Department of Energy to enhance its mission areas through Technology Transfer and Partnerships for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for technology transfer. This bi-partisan bill which is referred to as the "National Laboratories Partnership Improvement Act of 2001" is co-sponsored by my colleagues Mr. DOMENICI and Mrs. MURRAY. Let me summarize this bill. First, I will outline the Department's commitment to science and how it has admirably worked to transfer its technology in light of a serious resource decline. I then will discuss how tech transfer naturally compliments the Department's mission oriented R&D. I will review the legislation we introduced in the last session which is a start in the right direction. I will conclude by proposing how this bill by leveraging existing efforts, should move the Department in the right direction to support technology transfer without disrupting its R&D mission focus.

The Department of Energy is about science. For FY 2001, the Department's R&D budget was roughly $8 billion out of the $18.3 billion appropriated. Science programs account for 43 percent of the Department's budget. In the area of the physical sciences, DOE provides roughly half of all of the federal R&D. In mathematics and computer sciences, DOE is second after the DOD. In engineering, the DOE ranks third after NASA and the DOD. DOE affiliated scientists have won more than 71 Nobel prizes for fundamental research; they garner the largest number of R&D 100 awards for applied research. The Department has more than 60 multi-purpose laboratories and primary purpose facilities across the U.S. in high energy physics, materials science, nuclear science and engineering, waste management, biosciences, robotics, advanced scientific computing, microelectronic and nanomaterials fabrication. Each year DOE labs and facilities are used by more than 18,000 researchers from universities and industry.

Yet with this surprising portfolio of research, the Department in FY 2001 only line allocates $10 million for the transfer of technology. In 1995 this allocation was over $200 million. That is not to say DOE is not transferring its technology. In FY 1998, which is our last set of good statistics from the Department of Commerce's Office of Technology Policy, the DOE was second only to the DOD in the number of CRADA's granted from its federal facilities, the DOD had 1424 and the DOE had 868. The in-kind funds from industry to DOE for these CRADA's averages about $100 million while its work for others from non-federal sources was $145 million. In FY 1998, the DOE had 168 licenses granted to use its technology, the DOD had 34 and HHS had 215. In FY 1998, the DOE had 512 patents issued on federal lab inventions while the DOD had 579, the next closest was HHS with 171. In FY 1998, 50 companies were established as a result of DOE technology transfer. To put these numbers in perspective, the DOD R&D budget for FY 1998 was $37.5 billion, HHS' was $13.8 billion, while DOE's was $6.3 billion. These statistics are impressive because in FY 1998 the DOE had line allocated about 1 percent of its R&D budget to tech transfer. Today, that number is 0.14 percent of its R&D budget.

Given that tech transfer is not the Department's primary mission, the question is what is the right mix and what is the optimal technology to transfer? For the NNSA, the primary mission is ensuring a safe and reliable nuclear stockpile. The Office of Science's primary mission is advancing the frontiers of basic R&D. The Office of Environmental Management's primary mission is cleaning up contaminated DOE sites. The Fossil Energy Program's mission is developing cleaner and more efficient fossil fuels. The list goes on. Nor do I think that tech transfer, given the above numbers will be the principal engine for direct economic growth in the tech heavy new economy. Let me explain this premise by examing the pattern of economic and technological growth in a little more detail. In the year 2000, the National Science Foundation estimates that total U.S. R&D was $264 billion, a 7.9 percent increase over 1999 which itself was a 7.5 percent increase over 1998. Technology R&D has a growth rate exceeding 15 percent in the last two years alone. What counts is the make up of these R&D trends. In the year 2000, the industry contribution to the total R&D was $179 billion, a 10.3 percent increase over 1999 while federal R&D grew by only 3.9 percent. Given the investment the federal government makes in R&D, technology transfer from federal labs does not contribute directly to these amazing growth rates. In industries like telecommunications and chip design, the turn around cycles from research to product ranges from 1 to 3 years. The government is simply too slow to contribute directly to industrial driven short term needs that are so clearly evident in these national trends of R&D funding. On the other end of the spectrum, basic and applied R&D are areas where industry finds it difficult to invest given the short term equity demands on their profits. The right mix then is for the government to maintain basic and applied R&D so it can transfer this knowledge to industry over the long term.

If we agree that the government best transfers long term R&D we must ask the next question which is how do the Department's mission focused R&D programs transfer technology to the private sector and how can the Department ensure its continued success with minimal disruption to its mission areas? Mission focused DOE programs like the NNSA, Environmental Management, Fossil Energy, Renewable Energy, Nuclear Energy and the Office of Science all advance the frontiers of science at different stages. All of these programs in carrying out their missions naturally perform different degrees of tech transfer. The Fossil Energy, Nuclear and Renewable programs work closely with industry and usually cannot start without an industry partner through a CRADA. The NNSA with their advanced computing requirements naturally push the state of the art in industry. CRADA's and Licenses provide to the NNSA a fresh influx of the outside world's advancing technology into their national security missions. The Office of Science with their wonderful user facilities and broad basic energy research mandate provide a fertile R&D base by which industry can stay competitive ten years out into the future, CRADA's smooth and shorten that transition. CRADA arrangements are a natural outgrowth of the DOE mission programs. A CRADA or License simply makes the tech transfer process smoother. So the issue is not how much money do we need to line item for the formation of a CRADA or a license—the CRADA is simply a by product of a organic tech transfer process in the Department's R&D programs. The issue is what kind of organizational structure in the DOE do we need to keep track of these tech transfer activities and how to insure that it is easily accessible for potential partnerships.

If as I have just described that tech transfer occurs organically to the Department's R&D mission areas we need to ask ourselves is there an infrastructure that moves beyond the single contractual framework which a CRADA represents? Tech transfer is not so much a static contract but it is a multi-dimensional transactional process. In some select cases we should stimulate the transactional tech transfer process by regional technology clusters. Technology clusters will permit industry to locate around these wonderful pools of scientific knowledge. In turn they will build the R&D infrastructure surrounding the laboratory itself. We all too often think that the internet can solve the distance problem of connecting business transactions thus negating the need for regional technology clusters—that's actually wrong, very wrong. Successful utilization of R&D technology starts because many small business are nearby to each other in a supportive state business climate. The technology clusters that form simply use the internet to exchange ideas and data that they generate from face-to-face collaboration on short notice. People to people transactions initiate business and wealth in a rather spontaneous event; the internet is simply a tool to make it more efficient. You see such natural clustering occurring in Wall Street for financial markets, Palo Alto for information technology, Detroit for automobiles and right here in Bethesda for genetics around the NIH. Thus, enabling the formation technology clusters rather than focusing on the static contractual CRADA process should be the next step in the evolution of federal technology transfer.

The bill I am introducing today address the issues I have just outlined. It establishes a headquarters level Technology Transfer Coordinator as the Secretary's lead advocate for developing DOE technology transfer policy across its many missions. This Coordinator will collect and disseminate tech transfer data to Congress, the interagency and public. I have provided a ceiling limit of about $1 million per year to collect this data and prepare the reports as required by law. I have provided additional funding for the Coordinator to help out the administrative tasks associated with the Interlaboratory Technology Partnerships Working Group. This group is staffed by members from the DOE laboratories and facilities with the purpose to deconflict and disseminate publically DOE's R&D. The Interlaboratory Technology Partnerships Working Group is a powerful grass roots organization outside the beltway. This group operates at the local community and laboratory level where the technology initiates. I have designated the Coordinator as the Secretary's lead federal officer for the group's oversight by reporting its activities to Congress and the interagency. I have authorized about $1 million a year to leverage the Technology Partnerships Working Group's activities by ensuring that it can develop the necessary web interfaces and databases by which the public can easily access DOE's technology. I have expanded the clustering bill that was introduced in the last Congress through the Defense Authorization Act from the NNSA laboratories to the entire DOE complex. This expansion will permit industry to benefit from the entire range of technology R&D across the DOE. If successful, these clusters will strengthen our experience in technology clusters; it will actively involve the state and local communities in encouraging the role that a technology infrastructure will have in their economic development. I have authorized $10 million for these clusters while requiring a 50 percent in-kind funding contribution from the proposed partner. The clustering partner can be a state, university, R&D consortia or business entity. I have given the Secretary discretion to stop this clustering expansion if the pilot effort for the NNSA labs proves unworkable. I have authorized a small-business advocate, to support DOE wide, for what has been a lab by lab policy. Such a small business provision is needed to accommodate the unique needs for R&D collaboration of start up businesses. I have proposed modifying the Department of Energy Organization Act to make it more flexible in entering into alternative research contracts with entities such as R&D consortia. Finally, I have asked the Secretary to examine the need for a policy to move people across the lab fence to start up companies. This policy is balanced against the unique mission areas of each lab. In some cases implementing such a policy may prove unworkable based upon a lab's mission requirement. If such a policy proves unreasonable based upon a particular lab's mission, I have given the Secretary the discretion not to implement it. I must emphasize though that half of tech transfer is not just a piece of technology moving across the fence but the movement of people and their know-how to a small start up. Universities are a classic example of the movement of technology and people between their home institution and a small regional technology park. Everyone benefits from this flow in people, the start-up, the lab or facility with a more vibrant workforce surrounding it and the local economy through local high tech business start ups.

Mr. President, I want to emphasize that this is not another line item CRADA funding project, its not corporate welfare. This bill takes the tech transfer activities that are naturally occurring in all these varied science mission areas and leverages them with small amounts of funding—about 0.06 percent of DOE's overall budget.

Let me summarize once more what I have just outlined is in the proposed bill. First, a small Technology Transfer Coordinator is proposed to be the Secretary's advocate across the Department for uniform policy development and reporting. Second, a small web based interface is proposed to help the public easily access and leverage the R&D activities at all the DOE labs and facilities. Third, I've proposed to help seed small technology clusters local to the labs under merit review and with the discretion not to proceed forward if the FY 2001 NNSA pilot program proves unworkable. Technology clusters are the next evolutionary stage past a static CRADA. Fourth, I've asked the Secretary to implement, where its feasible, a policy where by laboratory personnel can move with the technology to start up a company outside the fence. Fifth, I asked the Secretary to ensure where its reasonable a uniform policy to help small businesses with their unique needs access DOE technology. Like most government programs that come under close scrutiny by Congress, their intent is worthy but the program's size oscillates greatly over time. The pendulum for tech transfer at the DOE is one such program. This program has swung from a $200 million program in the mid 1990's to essentially zero funding in FY 2001 with a minimal headquarter's office to help policy development across its diverse mission areas. This bill establishes what I feel is the right level of tech transfer in a R&D organization by leveraging the existing industrial collaboration that naturally occurs in carrying out their missions.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 259

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Laboratories Partnership Improvement Act of 2001".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Department" means the Department of Energy;

(2) the term "departmental mission" means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "National Laboratory" means any of the following multi-purpose laboratories owned by the Department of Energy—

(A) Argonne National Laboratory;

(B) Brookhaven National Laboratory;

(C) Idaho National Engineering and Environmental Laboratory;

(D) Lawrence Berkeley National Laboratory;

(E) Lawrence Livermore National Laboratory;

(F) Los Alamos National Laboratory;

(G) National Renewable Energy Laboratory;

(H) Oak Ridge National Laboratory;

(I) Pacific Northwest National Laboratory; or

(J) Sandia National Laboratory;

(5) the term "facility" means any of the following primarily single purpose entities owned by the Department of Energy—

(A) Ames Laboratory;

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Fernald Environmental Management Project;

(E) Fermi National Accelerator Laboratory;

(F) Kansas City Plant;

(G) National Energy Technology Laboratory;

(H) Nevada Test Site;

(I) New Brunswick Laboratory;

(J) Pantex Weapons Facility;

(K) Princeton Plasma Physical Laboratory;

(L) Savannah River Technology Center;

(M) Standard Linear Accelerator Center;

(N) Thomas Jefferson National Accelerator Facility;

(O) Y-12 facility at Oak Ridge National Laboratory; or

(P) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities;

(6) the term "nonprofit institution" has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(5));

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "small business concern" has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632);

(9) the term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research,

(B) develops new technologies,

(C) manufacturers products based on new technologies, or

(D) performs technological services;

(10) the term "technology cluster" means a concentration of—

(A) technology-related business concerns;

(B) institutions of higher education; or

(C) other nonprofit institutions,

that reinforce each other's performance in the areas of technology development through formal or informal relationships;

(11) the term "socially and economically disadvantaged small business concerns" has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)); and

(12) the term "NNSA" means the National Nuclear Security Administration established by title XXXII of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65).

(13) the term Technology Partnerships Working Group refers to the organization of technology transfer representatives of DOE laboratories and facilities, the purpose of which is to coordinate technology transfer activities occurring at DOE laboratories and facilities, exchange information about technology transfer practices, and develop and disseminate to the public and prospective technology partners information about DOE technology transfer opportunities and procedures.

SEC. 3. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the appropriate officials of the Department, shall establish a Technology Infrastructure Program in accordance with this section.

(b) PURPOSE.—The purpose of the program shall be to improve the ability of National Laboratories or facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support the missions of the National Laboratories or facilities;

(2) improving the ability of National Laboratories or facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between National Laboratories or facilities and—

(A) institutions of higher education,

(B) technology-related business concerns,

(C) nonprofit institutions, and

(D) agencies of State, tribal, or local governments,

that can support the mission of the National Laboratories and facilities.

(c) PROGRAM.—In each of the first three fiscal years after the date of enactment of this section, the Secretary may provide no more than $10,000,000 to National Laboratories or Facilities designated by the Secretary to conduct Technology Infrastructure Program Programs.

(d) PROJECTS.—The Secretary shall authorize the Director of each National Laboratory or facility designated under subsection (c) to implement the Technology Infrastructure Program at such National Laboratory or facility through projects that meet the requirements of subsections (e) and (f).

(e) PROGRAM REQUIREMENTS.—Each project funded under this section shall meet the following requirements:

(1) MINIMUM PARTICIPANTS.—Each project shall at a minimum include—

(A) a National Laboratory or facility; and

(B) one of the following entities—

(i) a business,

(ii) an institution of higher education,

(iii) a nonprofit institution, or

(iv) an agency of a State, local, or tribal government.

(2) COST SHARING.—

(A) MINIMUM AMOUNT.—Not less than 50 percent of the costs of each project funded under this section be provided from non-Federal sources.

(B) QUALIFIED FUNDING AND RESOURCES.—

(i) The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project.

(ii) Independent research and development expenses of government contractors that qualify for reimbursement under section 31-205-18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended either before the start of a project under this section or outside the project's scope of work shall be credited toward the costs paid by the non-Federal sources to the project.

(3) COMPETITIVE SELECTION.—All projects where a party other than the Department or a National Laboratory or facility receives funding under this section shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary or his designee.

(4) ACCOUNTING STANDARDS.—Any participant receiving funding under this section, other than a National Laboratory or facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(5) LIMITATIONS.—No federal funds shall be made available under this section for—

(A) construction; or

(B) any project for more than five years.

(f) SELECTION CRITERIA.—

(1) THRESHOLD FUNDING CRITERIA.—The Secretary shall authorize the provision of Federal funds for under this section only when the Director of the National Laboratory or facility managing such a project determines that the project is likely to improve the participating National Laboratory or facility's ability to achieve technical success in meeting departmental missions.

(2) ADDITIONAL CRITERIA.—The Secretary shall also require the Director of the National Laboratory or facility managing a project under this section to consider the following criteria in selecting a project to receive Federal funds—

(A) the potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan;

(B) the potential of the project to promote the development of a commercially sustainable technology cluster, one that will derive most of the demand for its products or services from the private sector, that can support the missions of the participating National Laboratory or facility;

(C) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or facility to achieve its departmental mission or the commercial development of technological innovations made at the participating National Laboratory or facility;

(D) the commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;

(E) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or facility and that will make substantive contributions to achieving the goals of the project;

(F) the extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project; and

(G) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves such small business concerns substantively in the project.

(3) SAVINGS CLAUSE.—Nothing in this subsection shall limit the Secretary from requiring the consideration of other criteria, as appropriate, in determining whether projects should be funded under this section.

(g) REPORT TO CONGRESS ON FULL IMPLEMENTATION.—Not later than 120 days after the start of the third fiscal year after the date of enactment of this section, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the fully implemented program should be managed.

SEC. 4. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) ADVOCACY FUNCTION.—The Secretary shall direct the Director of each National Laboratory, and may direct the Director of each facility the Secretary determines to be appropriate, to establish a small business advocacy function that is organizationally independent of the procurement function at the National Laboratory or facility. The person or office vested with the small business advocacy function shall—

(1) work to increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative

research, technology licensing, and technology transfer activities conducted by the National Laboratory or facility;

(2) report to the Director of the National Laboratory or facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;

(4) increase the awareness inside the National Laboratory or facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report the effectiveness of such program to the Director of the National Laboratory or facility.

(b) Establishment of Small Business Assistance Program.—The Secretary shall direct the Director of each National Laboratory, and may direct the Director of each facility the Secretary determines to be appropriate, to establish a program to provide small business concerns—

(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or facility; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.

(c) Use of Funds.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

SEC. 5. POLICY CONTINUITY FOR PARTNERSHIPS, AND TECHNOLOGY TRANSFER.

(a) The Secretary shall establish within the Office of Policy, in conjunction with that Office's responsibilities as executive secretariat to the Department's Research and Development Council, a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department of Energy.

(1) The Secretary through Technology Transfer Coordinator, shall to the extent feasible, insure that the recommendations from the Report as generated by the Secretary of Energy Advisory Board in Sec. 3163 of the "National Defense Authorization Act for Fiscal Year 2001" are coordinated and carried Department-wide to non-NNSA laboratories and facilities consistent with the statutory authority of the Administrator of the NNSA.

(2) No funds under Section 3(c) for partnerships shall be allocated under this Act until the Secretary through the Technology Transfer Coordinator has submitted to Congress an implementation plan that adequately addresses concerns outlined by the Administrator of NNSA of the Technology Infrastructure Pilot Program of collaborative projects as outlined in Section 3161(b) of the "National Defense Authorization Act for Fiscal Year 2001". The Secretary shall retain the discretion to not implement the partnership program defined by Section 3 if the implementation concerns cannot be reasonably addressed.

(3) The Technology Transfer Coordinator shall prepare a report to Congress for each fiscal year of funding under this Act outlining accomplishments, anticipated shortfalls, proposed remedies and expenditure of funds related to DOE Technology Transfer. The report should address the integration of the Department's Technology Transfer efforts within the overall scope of Technology Transfer Policies within the U.S. Government.

(4) The Technology Transfer Coordinator shall be designated by the Secretary as the Senior Departmental Official responsible for liaison with, and the oversight of funds authorized in section 5(c) the Technology Partnerships Working Group. The Coordinator shall report on the Group's activities and budget in subsection (3).

(b) Authorization.—The following sums are authorized to be appropriated to the Secretary of Energy, to carry out the duties of the Technology Transfer Coordinator and staff, to remain available until expended, for the purposes of carrying out this Act:

(1) $2,500,000 for Fiscal Year 2002
(1) $2,600,000 for Fiscal Year 2003
(1) $2,800,000 for Fiscal Year 2004
(1) $2,800,000 for Fiscal Year 2005
(1) $2,800,000 for Fiscal Year 2006

(c) Policy Development.—Of the funds authorized to be appropriated under subsection (b) the following sums are authorized to be appropriated to carry out DOE Technology Transfer Policy Development and Reporting:

(1) $1,000,000 for Fiscal Year 2002
(2) $1,100,000 for Fiscal Year 2003
(3) $1,200,000 for Fiscal Year 2004
(4) $1,200,000 for Fiscal Year 2005
(5) $1,200,000 for Fiscal Year 2006

(d) Technology Partnerships Working Group.—Of the funds under subsection (b), the following sums are authorized to be appropriated to carry out administrative tasks DOE Technology Partnerships Working Group:

(1) $1,400,000 for Fiscal Year 2002
(2) $1,500,000 for Fiscal Year 2003
(3) $1,600,000 for Fiscal Year 2004
(4) $1,600,000 for Fiscal Year 2005
(5) $1,600,000 for Fiscal Year 2006

SEC. 6. OTHER TRANSACTIONS AUTHORITY.

(a) New Authority.—Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended adding at the end the following new subsection:

"(g) Other Transactions Authority.—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

"(2)(A) The Secretary of Energy shall ensure that—

"(i) to the maximum extent practicable, no transaction entered into under paragraph (1) provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy; and

"(ii) to the extent that the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction.

"(B) A transaction authorized by paragraph (1) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

"(3)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-Federal entity under paragraph (1) that is privileged and confidential.

"(B) The Secretary shall not disclose, for five years after the date the information is received, any other information submitted by a non-Federal entity under paragraph (1), including any proposal, proposal abstract, document supporting a proposal, business plan, or technical information that is privileged and confidential.

"(C) The Secretary may protect from disclosure, for up to five years, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.".

(b) Implementation.—Not later than six months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions. Other transactions shall be made available, if needed, in order to implement projects funded under section 3.

SEC. 7. MOBILITY OF TECHNICAL PERSONNEL.

(a) General Policy.—Not later than two years after the enactment of this Act, based upon the report generated under Section 3161(a)(2) of the "National Defense Authorization Act for Fiscal Year 2001", the Secretary through the Technology Transfer Coordinator shall determine whether it is reasonable to ensure whether each contractor operating a National Laboratory or facility has policies and procedures that do not create disincentives to the transfer of scientific, technical and business personnel among the contractor-operated National Laboratory or facilities. This determination may be made on an individual laboratory or facility basis due to their varied missions.

SEC. 8. CONFORMANCE WITH NNSA STATUTORY AUTHORITY.

All actions taken by the Secretary in carrying out this Act with respect to National Laboratories and facilities that are part of the NNSA shall be through the Administrator for Nuclear Security in accordance with the requirements of title XXXII of the National Defense Authorization Act for Fiscal Year 2000.

By Ms. SNOWE:

S. 261. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to reintroduce a bill which builds on progress made in the last few years in the difficult and challenging fight against breast cancer.

Our challenge was summed up by one breast cancer advocate when she stated, simply and eloquently, "We must make our voices heard, because it is our lives."

A diagnosis of breast cancer is something that every woman dreads. Over 192,000 American women, and 1,000 in my home state of Maine—will face a diagnosis of breast cancer this year. Over 40,000 women across the country will die from this tragic disease. The fact is, one in nine women will develop breast cancer during their lifetime, and for women between the ages of 35 and

54, there is no other disease which will claim more lives.

This bill will give breast cancer advocates a voice in the National Institutes of Health's, NIH's research decision-making. The Consumer Involvement in Breast Cancer Research Act urges NIH to follow the Department Of Defense's lead and include lay breast cancer advocates in breast cancer research decision-making.

The involvement of these breast cancer advocates at DOD has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the higher level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease, as well as the scientific community.

I hope that my colleagues will join me in supporting this bill.

By Mr. CLELAND (for himself and Ms. LANDRIEU):

S. 262. A bill to provide for teaching excellence in America's classrooms and homerooms; to the Committee on Health, Education, Labor, and Pensions.

Mr. CLELAND. Mr. President, this nation was rocked by the publication, in 1983, of the landmark report, A Nation at Risk. The findings were devastating: Our educational system was being "eroded by a rising tide of mediocrity that threatens our future as a nation and a people." That report went on to say that if "an unfriendly foreign power" had tried to impose on America our "mediocre educational performance," we might well have viewed it "as an act of war."

A Nation at Risk sounded a wake-up call to our educators, parents, businesses, community leaders and officials at all levels of government. Since its publication in 1983, a number of states have strengthened their commitment to educational improvements. Many tightened high school graduation requirements. They pushed for more achievement testing for students and higher standards for teachers.

As a result of these efforts, we have seen improvement. Our dropout rate is down, and student achievement is up. Performance on the National Assessment of Educational Progress, NAEP, has increased, particularly in the key subjects of reading, math, and science. Yet still, in America, 2,800 high school students drop out every single day. Each school year, more than 45,000 under-prepared teachers, teachers who have not even been trained in the subjects they are teaching, enter the classroom. Clearly, this is not acceptable.

The positive news is that eighteen years after A Nation at Risk, there is widespread agreement that the improvement of our educational system must be a priority and hope that there will be consensus on education reform. Key to the success of any effective education reform initiative is the issue of teacher quality. What teachers know and can do are the single most important influences on what students learn, according to the National Commission for Teaching and America's Future Teachers.

Three years after A Nation at Risk, the Carnegie Task Force on Teaching as a Profession issued a seminal report, A Nation Prepared: Teachers for the 21st Century. Its leading recommendation called for the establishment of a National Board for Professional Teaching Standards. Founded in 1987, the National Board for Professional Teaching Standards is an independent, non-profit, and non-partisan organization whose mission is to establish high and rigorous standards for what accomplished teachers should know and be able to do.

To date, over 9,500 teachers from all 50 states and the District of Columbia have completed advanced certification by the National Board for Professional Teaching Standards—the most rigorous assessment process that a teacher can go through and the highest professional credential in the field of teaching. And more than 12,000 teachers have applied for National Board Certification in the 2000–2001 school year. Recognizing the value of qualified teachers in the classroom, 39 states and 181 local school districts have enacted financial incentives for teachers seeking National Board Certification, including fee support to candidates and salary increases for teachers who successfully complete the certification process.

Georgia, for example, provides a 10 percent salary increase to teachers who achieve National Board Certification as well as full reimbursement of the $2300 fee upon certification. The State of Louisiana provides an annual salary adjustment of $5,000 for its National Board Certified Teachers, NBCTs, and in addition, the State Board of Elementary and Secondary Education has allocated a $300,000 supplement over a three-year period to provide fee support for National Board Certification. North Carolina, which has over 2,400 National Board Certified Teachers, has a particularly strong support program. Among its incentives, the State pays the fee for up to 1,500 teachers who complete the National Board Certification process; offers up to three days of release time for candidates to work on their portfolios and prepare for the assessment center exercises; and provides a 12 percent salary increase for those who achieve National Board Certification. Florida, with 1,267 National Board Certified Teachers, has passed legislation appropriating $12 million to pay 90 percent of its candidates' certification fee. In addition, the State provides a 10 percent salary increase for the life of the certificate and an additional 10 percent bonus to those who mentor newly hired teachers or serve as support mentors for advanced certification candidates. Florida also provides $150 to candidates to offset National Board Certification expenses.

The incentives offered by Georgia, Louisiana, North Carolina, Florida and the remaining 35 states clearly demonstrate that state leaders recognize and understand the value and contribution of National Board Certification to their own efforts to enhance quality teaching and improve school performance. In an effort to assist states' efforts and to encourage participation, the 1994 Improving America's Schools Act authorized federal assistance to the National Board for Professional Teaching Standards. To date, the Board has provided over $18 million to the states according to a formula based on teacher population. In FY 2000, $2.5 million was appropriated to help states and local school districts subsidize the certification fee for National Board Certified candidates.

In each and every year since funding was authorized, candidate demand has outpaced the money available. Therefore in an effort to encourage and promote teacher quality in the classroom, I am joined today by my colleague, Senator LANDRIEU, in introducing the Teaching Excellence in America's Classrooms and Homerooms (TEACH) Act. According to a new study by the National Education Association, teacher salaries have remained stagnant over the past decade, and two-thirds of the states do not meet the national average of $40,582 for teacher salaries. Therefore to help teachers pay the $2300 certification fee, our bill would double the candidate subsidy funding, from the current $2.5 million to $5 million. Further, our legislation would provide an additional $1 million for outreach and educational activities to heighten teachers' awareness of the National Board Certification process, with a priority given to teachers in school districts serving special populations, including limited English proficient children, children with disabilities, and economically and educationally disadvantaged children.

Teachers who successfully complete the arduous requirements for National Board Certification should not be penalized. Therefore, our legislation would provide that any financial benefit, such as a bonus, which a teacher receives solely as a result of achieving National Board Certification would be tax-free. And teachers who pay out of pocket expenses for advanced certification, such as fees, travel, and supplies, should be reimbursed for these costs. The Teaching Excellence in America's Classrooms and Homerooms would allow candidates to take an above-the-line deduction for their certification expenses. This will allow these teachers who do not itemize their deductions to still be able to benefit from tax-favored treatment for their National Board Certification.

A study by researchers at the University of North Carolina at Greensboro has recently concluded that teachers who are certified by the National Board for Professional Teaching Standards significantly outperform their peers who are not National Board Certified on 11 of 13 key measures of teaching expertise, including an extensive knowledge of subject matter, the capacity to create optimal environments for learning, and the ability to inspire students and to promote in them problem-solving skills. The Accomplished Teaching Validation Study, released in October, was originally designed as a means to seek independent validation for the National Board's assessment process, and it is based on criteria which two decades of research have deemed to be the measures of effective teaching. Among its conclusions, the study found that nearly three-quarters of the National Board Certified Teachers produced students whose work reflected deep understanding of the subject being studied compared with less than one-quarter of non-certified teachers. The Greensboro study is believed by some education leaders to be the first step in compiling research that will shed important light on the connection between accomplished teaching and student learning.

Christa McAuliffe, selected to be the first schoolteacher to travel in space, described simply but poetically the awesome potential of her vocation: "I touch the future," she said. "I teach." If we are to improve student achievement and success in school, the United States must encourage and support the training and development of our nation's teachers, the single most important in-school influence on student learning. Investing in teacher quality is a direct investment in quality education—and as Benjamin Franklin said, "on education all our lives depend."

I ask unanimous consent that the text of the bill and the letter of support from the National Education Association be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL BOARD CERTIFICATION ASSISTANCE

SEC. 101. NATIONAL BOARD CERTIFICATION ASSISTANCE.

Part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621 et seq.) is amended by adding at the end the following:

"SEC. 2104. NATIONAL BOARD CERTIFICATION ASSISTANCE.

"(a) Short Title.—This section may be cited as the 'Teaching Excellence in America's Classrooms and Homerooms Act' (TEACH).

"(b) Findings.—Congress makes the following findings:

"(1) Accomplished teachers are an essential resource for schools and key to the success of any effective education reform initiative. What teachers know and can do are the most important influences on what students learn, according to national studies.

"(2) Three years after the landmark 1983 report, 'A Nation at Risk', the Carnegie Task Force on Teaching as a Profession issued a seminal report entitled 'A Nation Prepared: Teachers for the 21st Century'. Its leading recommendation called for the establishment of a National Board for Professional Teaching Standards. Founded in 1987, the National Board for Professional Teaching Standards is an independent, nonprofit and nonpartisan organization whose mission is to establish high and rigorous standards for what accomplished teachers should know and be able to do.

"(3) Over 9,500 teachers from all 50 States and the District of Columbia have completed advanced certification by the National Board for Professional Teaching Standards, which certification is the most rigorous assessment process that a teacher can go through and the highest professional credential in the field of teaching. And more than 12,000 teachers have applied for National Board Certification in the 2000–2001 school year.

"(4) Teacher salaries have remained stagnant over the past decade, according to a new study by the National Education Association, and ⅔ of the States do not meet the national average of $40,582 for teacher salaries.

"(5) The full fee for National Board Certification is $2,300. Thirty-nine States and 181 local school districts have enacted financial incentives for teachers seeking National Board Certification, including fee support to candidates and salary increases for teachers who achieve National Board Certification.

"(6) Recent data from the Accomplished Teaching Validation Study have demonstrated that teachers who are certified by the National Board for Professional Teaching Standards significantly outperform their peers who are not National Board Certified on 11 of 13 key measures of teaching expertise.

"(7) If we are to improve student achievement and success in school, the United States must encourage and support the training and development of our Nation's teachers, who are the single, most important in-school influence on student learning.

"(c) Purpose.—The purpose of this section is to provide a Federal subsidy and support to certain elementary school and secondary school teachers who pursue advanced certification provided by the National Board for Professional Teaching Standards.

"(d) Definitions.—In this section:

"(1) Board.—The term 'Board' means the National Board for Professional Teaching Standards.

"(2) Eligible teacher.—The term 'eligible teacher' means an individual who is a prekindergarten or early childhood educator, or a kindergarten through grade 12 classroom teacher, instructor, counselor, or principal in an elementary school or secondary school on a full-time basis.

"(e) Program Authorization.—

"(1) Program authorized.—From sums appropriated pursuant to the authority of subsection (g) for any fiscal year, the Secretary, in accordance with this section, shall provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the authorized activities described in subsection (f).

"(f) Authorized Activities.—

"(1) In general.—Federal funds received under this section may be used only for the following activities:

"(A) To help States and local school districts provide fee support to teachers seeking National Board Certification.

"(B) For outreach and educational activities directly related to teachers' awareness and pursuit of National Board Certification.

"(2) Priorities.—The Board shall give priority to providing outreach and educational activities under paragraph (1)(B) among the following:

"(A) School districts in which there are a significant number of low-performing schools.

"(B) School districts with low teacher participation rates in the National Board Certification process.

"(C) School districts serving special populations, including—

"(i) limited English proficient children;

"(ii) gifted and talented children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children.

"(g) Authorization of Appropriations; Allocation.—

"(1) Authorization of appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $6,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) Allocation.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary shall make available—

"(A) 85 percent of such amounts to carry out subsection (f)(1)(A); and

"(B) 15 percent of such amounts to carry out subsection (f)(1)(B).".

TITLE II—TAX INCENTIVES FOR TEACHER CERTIFICATIONS

SEC. 201. EXCLUSION OF CERTAIN AMOUNTS RECEIVED BY CERTIFIED TEACHERS.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

"SEC. 139. CERTAIN AMOUNTS RECEIVED BY CERTIFIED TEACHERS.

"(a) In General.—In the case of an eligible teacher, gross income shall not include the value of any eligible financial benefit received during the taxable year.

"(b) Eligible Teacher.—For purposes of this section—

"(1) In general.—The term 'eligible teacher' means an individual who is a pre-kindergarten or early childhood educator, or a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

"(2) Elementary and secondary schools.—The terms 'elementary school' and 'secondary school' have the respective meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965.

"(c) Eligible Financial Benefit.—For purposes of this section, the term 'eligible financial benefit' means any financial benefit, including incentive payment, received solely by reason of the successful completion by the eligible teacher of the requirements for advanced certification provided by the National Board for Professional Teaching Standards. Such completion shall be verified in such manner as the Secretary shall prescribe by regulation.

"(d) AMOUNTS MUST BE REASONABLE.—Amounts excluded under subsection (a) shall include only amounts which are reasonable.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(19) of the Internal Revenue Code of 1986 is amended by striking "117 or 132" and inserting "117, 132, or 139".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following new items:

"Sec. 139. Certain amounts received by certified teachers.

"Sec. 140. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 202. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO QUALIFIED ADVANCED CERTIFICATION EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 67(b) of the Internal Revenue Code of 1986 (defining miscellaneous itemized deductions) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following new paragraph:

"(13) any deduction allowable for the qualified advanced certification expenses paid or incurred by an eligible teacher (as defined in section 139(b)).".

(b) DEFINITIONS.—Section 67 of the Internal Revenue Code of 1986 (relating to 2-percent floor on miscellaneous itemized deductions) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ADVANCED CERTIFICATION EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13), the term 'qualified advanced certification expenses' means expenses—

"(1) for fees, supplies, equipment, transportation, and lodging required to secure the advanced certification provided by the National Board for Professional Teaching Standards, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, February 5, 2001.

Senator MAX CLELAND,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLELAND: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for the Teaching Excellence in America's Classrooms and Homerooms (TEACH) Act. We believe this legislation will make a critical difference in allowing teachers to pursue National Board Certification and, thereby, ensuring the highest quality teachers in our nation's classrooms.

As you know, no single factor will have a greater impact on improving student achievement than the quality of our nation's teaching force. National Board Certification offers the highest credential in the teaching profession, taking teachers through a rigorous assessment and evaluation process. An October 2000 study found that Board Certified teachers significantly outperformed their peers on 11 of 13 measures of teaching expertise. In addition, the study found that 74 percent of work samples from students of Certified teachers reflected "high levels of comprehension," compared with 29 percent of students whose teachers did not have national certification.

Unfortunately, the high cost prohibits many teachers from seeking Board Certification. By providing funding to states and local districts to help teachers pay Board Certification fees, your legislation will enable more teachers to participate in this important process. In addition, the resourses provided for outreach will help bring information about Board Certification to many more teachers.

We thank you for your leadership in introducing the TEACH Act and look forward to working with you in support of our nation's teachers.

Sincerley,
MARY ELIZABETH TEASLEY,
Director of Government Relations.

By Ms. SNOWE (for herself and Mr. TORRICELLI):

S. 263. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

S. 264. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce two bills which build on progress made in the last few years in the difficult and challenging fight against osteoporosis. I am pleased to be joined by my friend, Senator TORRICELLI of New Jersey, as an original cosponsor of these bills.

Osteoporosis is a major public health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass. Osteoporosis causes 1.5 million fractures annually at a cost of $13.8 billion—$38 million per day—in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. Amazingly, a woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. Though we now have drugs that promise to reduce fractures by 50 percent and new drugs have been proven to actually rebuild bone mass, a bone mass measurement is needed to diagnose osteoporosis and determine one's risk for future fractures.

And we have learned that there are some prominent risk factors: age, gender, race, a family history of bone fractures, early menopause, risky health behaviors such as smoking and excessive alcohol consumption, and some medications all have been identified as contributing factors to bone loss. But identification of risk factors alone cannot predict how much bone a person has and how strong bone is.

Congress passed the Balanced Budget Act 3½ years ago. In doing so, we dramatically expanded coverage of osteoporosis screening through bone mass measurements for Medicare beneficiaries.

Since we passed this law, we have learned that under the current Medicare law, it is very difficult for a man to be reimbursed for a bone mass measurement test. Each year, men suffer one-third of all the hip fractures that occur, and one-third of these men will not survive more than one year. In addition to hip fracture, men also experience painful and debilitating fractures of the spine, wrist, and other bones due to osteoporosis.

The first bill we are introducing today, the Medicare Osteoporosis Measurement Act, would help all individuals enrolled in Medicare to receive the necessary tests if they are at risk for osteoporosis.

Currently, Medicare guidelines allow for testing in five categories of individuals—and most "at risk" men do not fall into any of them. The first category in the guidelines is for "an estrogen-deficient woman at clinical risk for osteoporosis." The Medicare Osteoporosis Measurement Act changes this guideline to say that "an individual, including an estrogen-deficient woman, at clinical risk for osteoporosis" will be eligible for bone mass measurement. This change—of just a few words—will vastly increase the opportunities for men to be covered for the important test.

The second bill Senator TORRICELLI and I are introducing today is similar to the Medicare bone mass measurement benefit. The Osteoporosis Federal Employee Health Benefits Standardization Act guarantees the same uniformity of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries in 1997.

Unfortunately, coverage of bone density tests under the Federal Employee Health Benefit Program, FEHBP, is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the almost 300 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. Many plans have no specific rules to guide reimbursement and cover the tests on a case-by-case basis. Some plans refuse to provide consumers with information indicating when the plan covers the test and when it does not and some plans cover the test only for people who already have osteoporosis.

Mr. President, we know that osteoporosis is highly preventable, but only if it is discovered in time. There is simply no substitute for early detection. These bills will ensure that all Medicare beneficiaries at risk for osteoporosis will be able to be tested for this disease, and will standardize coverage for bone mass measurement under the FEHBP.

I hope that our colleagues will join Senator TORRICELLI and me in supporting these bills.

By Mr. FITZGERALD (for himself, Mr. BAYH, Mr. BROWNBACK, Mr. KOHL, and Mr. DURBIN):

S. 265. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Environment and Public Works.

Mr. FITZGERALD. Mr. President, I rise today to introduce the "MTBE Elimination Act of 2001." I thank my colleagues—Senators BAYH, BROWNBACK, KOHL, and DURBIN for joining me as original co-sponsors of this important legislation. I have become deeply concerned by the use and ultimate misuse of the gasoline additive methyl tertiary butyl ether, MTBE, a nonrenewable fuel derivative, and its potential adverse health effects on those who come in contact with it. As my colleagues may remember, I introduced the "MTBE Elimination Act of 2000" last Congress, but no action was taken in the 106th Congress to eliminate the use of this potentially hazardous chemical additive.

Specifically, the "MTBE Elimination Act of 2001" will phase out MTBE use across the United States over the next three years, ensure proper labeling of all fuel dispensaries containing MTBE enriched reformulated gasoline, provide grant awards for MTBE research, and express the sense of the Senate that the Administrator of the Environmental Protection Agency should provide assistance to municipalities to test for MTBE in drinking water sources, as well as provide remediation where appropriate. This bill represents an important first step toward nationwide safe and healthy drinking water.

Despite the potential damaging effects of MTBE, research of this chemical is still in its preliminary stages. In February of 1996, the Health Effects Institute reported that MTBE could be classified as a neurotoxicant for its acute impairment effects on humans. Further, the Alaska Department of Health and Social Services and the Centers for Disease Control from December 1992 through February 1993 monitored concentrations of MTBE in the air and in the blood of humans. These studies showed that people with a higher concentration of MTBE in their bloodstream have a much greater tendency toward headaches, eye irritation, nausea, disorientation, and vomiting. Finally, the January 16, 2000 broadcast of the "60 Minutes" show noted, "the EPA's position is that MTBE is a possible human carcinogen." Mr. President, we must remove this kind of chemical from our Nation's drinking water supply.

Widespread pollution of water systems by MTBE has been perpetuated by a lack of knowledge, as well as indifference, to this potentially hazardous substance. MTBE does not readily attach to soil particles, nor does it naturally biodegrade, making its movement from gasoline to water extremely rapid. The physical properties of MTBE, coupled with its potential adverse health effects, make the use of this specific oxygenate dangerous to the American people.

The elimination of the use of MTBE in reformulated gasoline should not mean the removal of the oxygenate requirement set forth under the Clean Air Act of 1990—which requires reformulated gasoline to contain two percent oxygen by weight. I believe it to be reasonable for our nation to expect both clean air and clean water, without having to eliminate the reformulated gasoline market or sacrifice our national health.

According to the United States Department of Agriculture study entitled "Economic Analysis of Replacing MTBE with Ethanol in the United States," replacing MTBE with the corn-based oxygenate additive ethanol would create approximately 13,000 new jobs in rural America, increase farm income by more than $1 billion annually over the next ten years, and reduce farm program costs and loan deficiency payments through an expanded value-added market for grain. Furthermore, the U.S. Department of Agriculture has concluded that within three years, ethanol can be used as a substitute oxygenate for MTBE in nationwide markets without price increases or supply disruptions.

Ethanol has proven to be a viable, environmentally-friendlier alternative to MTBE. The Chicago reformulated gas program (RFG) has used ethanol for years, and according to the American Lung Association, Chicago has established one of the most successful RFG programs in the country. Ethanol is vitally important to my home state since Illinois is the number one producer of ethanol in the nation. Each year, 274 million bushels of Illinois corn are used to produce about 678 million gallons of ethanol. At a time when agricultural prices are at near-record lows, this increased demand is sorely needed.

Recently, Tosco Corporation, one the nation's largest independent oil refiners and marketers, announced its intention to sell ethanol-blended fuel from its 1,600 retail outlets throughout California. This decision will result in the replacement of MTBE with ethanol in one-fifth of California's reformulated gasoline by the end of this year, thereby helping to protect California's water supply for future generations, while keeping its air clean. The bill that I introduce today paves the way for this important bio-based fuel to be used not only in California and the Midwest, but nationwide. By supporting bio-based fuel through legislative measures such as this bill, we are taking positive and decisive steps toward cleaning our nation's water, and the environment we will leave for our children and grandchildren.

This legislation will send a signal that the Senate strongly supports bio-based fuels research and recognizes the need to find viable ways to reduce our dependency on fossil fuels.

Through research programs, localized testing, and proper labeling we can help assure that MTBE is properly identified in gasoline, extracted from groundwater, and phased out of use thereby reducing the risk of future MTBE contamination.

By phasing out MTBE over a three year period and replacing it with ethanol, we can help secure an ample supply of reformulated gasoline, clean water, and clean air for future generations. This bill should enjoy bipartisan support. I urge my colleagues to join me in co-sponsoring this bill that is so important to the well being of the environment as well as our nation's farmers.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "MTBE Elimination Act".

SEC. 2. FINDINGS; SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) a single cup of MTBE, equal to the quantity found in 1 gallon of gasoline oxygenated with MTBE, renders all of the water in a 5,000,000-gallon well undrinkable;

(2) the physical properties of MTBE allow MTBE to pass easily from gasoline to air to water, or from gasoline directly to water, but MTBE does not—

(A) readily attach to soil particles; or

(B) naturally degrade;

(3) the development of tumors and nervous system disorders in mice and rats has been linked to exposure to MTBE and tertiary butyl alcohol and formaldehyde, which are 2 metabolic byproducts of MTBE;

(4) reproductive and developmental studies of MTBE indicate that exposure of a pregnant female to MTBE through inhalation can—

(A) result in maternal toxicity; and

(B) have possible adverse effects on a developing fetus;

(5) the Health Effects Institute reported in February 1996 that the studies of MTBE support its classification as a neurotoxicant and suggest that its primary effect is likely to be in the form of acute impairment;

(6) people with higher levels of MTBE in the bloodstream are significantly more likely to report more headaches, eye irritation, nausea, dizziness, burning of the nose and throat, coughing, disorientation, and vomiting as compared with those who have lower levels of MTBE in the bloodstream;

(7) available information has shown that MTBE significantly reduces the efficiency of technologies used to remediate water contaminated by petroleum hydrocarbons;

(8) the costs of remediation of MTBE water contamination throughout the United States could run into the billions of dollars;

(9) although several studies are being conducted to assess possible methods to remediate drinking water contaminated by MTBE, there have been no engineering solutions to make such remediation cost-efficient and practicable;

(10) the remediation of drinking water contaminated by MTBE, involving the stripping of millions of gallons of contaminated ground water, can cost millions of dollars per municipality;

(11) the average cost of a single industrial cleanup involving MTBE contamination is approximately $150,000;

(12) the average cost of a single cleanup involving MTBE contamination that is conducted by a small business or a homeowner is approximately $37,000;

(13) the reformulated gasoline program under section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) has resulted in substantial reductions in the emissions of a number of air pollutants from motor vehicles, including volatile organic compounds, carbon monoxide, and mobile-source toxic air pollutants, including benzene;

(14) in assessing oxygenate alternatives, the Blue Ribbon Panel of the Environmental Protection Agency determined that ethanol, made from domestic grain and potentially from recycled biomass, is an effective fuel-blending component that—

(A) provides carbon monoxide emission benefits and high octane; and

(B) appears to contribute to the reduction of the use of aromatics, providing reductions in emissions of toxic air pollutants and other air quality benefits;

(15) the Department of Agriculture concluded that ethanol production and distribution could be expanded to meet the needs of the reformulated gasoline program in 4 years, with negligible price impacts and no interruptions in supply; and

(16) because the reformulated gasoline program is a source of clean air benefits, and ethanol is a viable alternative that provides air quality and economic benefits, research and development efforts should be directed to assess infrastructure and meet other challenges necessary to allow ethanol use to expand sufficiently to meet the requirements of the reformulated gasoline program as the use of MTBE is phased out.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator of the Environmental Protection Agency should provide technical assistance, information, and matching funds to help local communities—

(1) test drinking water supplies; and

(2) remediate drinking water contaminated with methyl tertiary butyl ether.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE GRANTEE.—The term "eligible grantee" means—

(A) a Federal research agency;

(B) a national laboratory;

(C) a college or university or a research foundation maintained by a college or university;

(D) a private research organization with an established and demonstrated capacity to perform research or technology transfer; or

(E) a State environmental research facility.

(3) MTBE.—The term "MTBE" means methyl tertiary butyl ether.

SEC. 4. USE AND LABELING OF MTBE AS A FUEL ADDITIVE.

Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended by adding at the end the following:

"(f) USE OF METHYL TERTIARY BUTYL ETHER.—

"(1) PROHIBITION ON USE.—Effective beginning on the date that is 3 years after the date of enactment of this subsection, a person shall not use methyl tertiary butyl ether as a fuel additive.

"(2) LABELING OF FUEL DISPENSING SYSTEMS FOR MTBE.—Any person selling oxygenated gasoline containing methyl tertiary butyl ether at retail shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that—

"(A) specifies that the gasoline contains methyl tertiary butyl ether; and

"(B) provides such other information concerning methyl tertiary butyl ether as the Administrator determines to be appropriate.

"(3) REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Administrator shall establish a schedule that provides for an annual phased reduction in the quantity of methyl tertiary butyl ether that may be used as a fuel additive during the 3-year period beginning on the date of enactment of this subsection.".

SEC. 5. GRANTS FOR RESEARCH ON MTBE GROUND WATER CONTAMINATION AND REMEDIATION.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established a MTBE research grants program within the Environmental Protection Agency.

(2) PURPOSE OF GRANTS.—The Administrator may make a grant under this section to an eligible grantee to pay the Federal share of the costs of research on—

(A) the development of more cost-effective and accurate MTBE ground water testing methods;

(B) the development of more efficient and cost-effective remediation procedures for water sources contaminated with MTBE; or

(C) the potential effects of MTBE on human health.

(b) ADMINISTRATION.—

(1) IN GENERAL.—In making grants under this section, the Administrator shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes for which a grant may be awarded under subsection (a); and

(D) give priority to those proposals the applicants for which demonstrate the availability of matching funds.

(2) COMPETITIVE BASIS.—A grant under this section shall be awarded on a competitive basis.

(3) TERM.—A grant under this section shall have a term that does not exceed 4 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2005.

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. 266. A bill regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Indian Affairs.

Mr. WYDEN. Mr. President, I rise as the original cosponsor of the Pelton Dam Agreement legislation introduced today by my friend and colleague from Oregon, Senator GORDON SMITH.

This legislation sanctions an historic agreement, reached on April 12, 2000, between the Oregon Confederated Tribes of the Warm Springs Reservation, Warm Springs, Portland General Electric Company, PGE, and the United States Department of the Interior (Department). This agreement is important because it sets a responsible precedent for the joint ownership and operation of the Pelton-Round Butte Hydroelectric Project located in Jefferson County, Oregon, on the Deschutes River. It also provides a model for how the United States, Indian tribes and private companies can work together to solve contentious issues.

Beginning in the summer of 1998, the Warm Springs and PGE began negotiations to settle Pelton Dam Project ownership and operation issues. Approximately one-third of the Project lands are located on the Warm Springs Reservation. Because of the Department's legal trust responsibility to the Warm Springs, Department representatives also participated in the negotiations. On April 12, 2000, Department, Warm Springs and PGE representatives signed the Long Term Global Settlement and Compensation Agreement (Agreement). The Agreement creates shared ownership responsibilities and benefits between PGE and the Warm Springs for all three Pelton Project dams and facilities located both on and off the Warm Springs Reservation.

The Warm Springs, PGE and the Department worked with myself and Senator SMITH to carefully craft this legislation to authorize the Department to sanction the Agreement. This legislation provides Federal approval for only the aspects of the Agreement that affect tribal lands, resources, or other tribal assets. Section 2(b)(1) makes it clear that the legislation does not affect the normal Federal and State regulatory approvals that would be required for an agreement of this type. Section 2(b)(2) was included to address a Departmental concern that this legislation will not be interpreted to mean that legislative approval of future similar agreements will be necessary. In addition, this bill authorizes a 99-year leasing authority for the Warm Springs that is shared by countless other tribes.

This bill is supported by PGE, the Warm Springs Tribe and Jefferson County.

By Mr. AKAKA (for himself, Mr. REID, Mr. LEVIN, Mr. SCHUMER, Mr. GRAHAM, Mr. GREGG, Mr. TORRICELLI, Mrs. BOXER, and Mr. SMITH of New Hampshire):

S. 267. A bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, today I am reintroducing the Downed Animal Protection Act, a bill to eliminate inhumane and improper treatment of downed animals at stockyards. Senators CARL LEVIN, CHARLES SCHUMER, ROBERT TORRICELLI, JUDD GREGG, BOB GRAHAM, BOB SMITH, HARRY REID and BARBARA BOXER have joined me in sponsoring this bill. The legislation will prohibit the sale or transfer of downed animals unless they have been humanely euthanized.

Downed animals are severely distressed recumbent animals that are too sick to rise or move on their own. Once an animal becomes immobile, it must remain where it has fallen, often without receiving the most basic assistance. Many of these downed animals that survive the stockyard are slaughtered for human consumption.

These animals are extremely difficult, if not impossible, to handle humanely. They have very demanding needs, and must be fed and watered individually. The suffering of downed animals is so severe that the only humane solution to their plight is immediate euthanasia. It is important to note that downed animals compromise a tiny fraction, less than one-tenth of one percent, of animals at stockyards. Banning their sale or transfer would cause no economic hardship.

While I commend the major livestock organizations such as the United Stockyards Corp., the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas, along with responsible and conscientious livestock producers throughout the country, for their efforts to address the issue of downed animals, this lamentable problem still exists. Not only is this suffering inhumane and unnecessary, it is eroding public confidence in the industry.

The Downed Animal Protection Act will prompt stockyards to refuse crippled and distressed animals, and will make the prevention of downed animals a priority for the livestock industry. The bill will complement and reinforce the industry's effort to address this problem by encouraging better care of animals at farms and ranches.

The bill will remove the incentive for sending downed animals to stockyards in the hope of receiving some salvage value for the animals and would encourage greater care during loading and transport. By eliminating this incentive, animals with impaired mobility will receive better treatment in order to prevent them from becoming incapacitated. In addition, the bill will also discourage improper breeding practices that account for most downed animals.

My legislation would set a uniform national standard, thereby removing any unfair advantages that might result from differing standards throughout the industry. Furthermore, no additional bureaucracy will be needed as a consequence of my bill because inspectors of the Packers and Stockyard Administration regularly visit stockyards to enforce existing regulations. Thus, the additional burden on the agency and stockyard operators will be insignificant.

As I stated before, this bill will stop the inhumane and improper treatment of downed animals at stockyards and I encourage my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Downed Animal Protection Act".

SEC. 2. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Title III of the Packers and Stockyards Act, 1921, is amended by inserting after section 317 (7 U.S.C. 217a) the following:

"SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

"(a) DEFINITIONS.—In this section:

"(1) HUMANELY EUTHANIZED.—The term 'humanely euthanized' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

"(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

"(b) UNLAWFUL PRACTICES.—It shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) takes effect 1 year after the date of the enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the names of the Senator from Virginia (Mr. WARNER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 38

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 38, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 41

At the request of Mr. HATCH, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from Virginia (Mr. WARNER), the Senator from Oregon (Mr. WYDEN), and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 60

At the request of Mr. BYRD, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Ohio (Mr. DEWINE), the Senator from Wyoming (Mr. ENZI), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas (Mr. BROWNBACK) was withdrawn as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 110

At the request of Mr. FEINGOLD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 110, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 122

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 122, a bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes.

S. 123

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 123, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 126

At the request of Mr. CLELAND, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 131

At the request of Mr. JOHNSON, the names of the Senator from Nevada (Mr. REID), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Mississippi (Mr. LOTT), and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 135

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 135, a bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the medicare program.

S. 143

At the request of Mr. GRAMM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 143, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 178

At the request of Mr. WELLSTONE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 178, a bill to permanently reenact chapter 12 of title 11, United States Code, relating to family farmers.

S. 207

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Montana (Mr. BURNS), the Senator from Nevada (Mr. REID), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 207, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 217

At the request of Mr. SCHUMER, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 217, a bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes.

S. 228

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 228, a bill to amend title 38, United States Code, to make permanent the Native American veterans housing loan program, and for other purposes.

S. 231

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 231, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

S. 232

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 232, a bill to amend the Internal Revenue Code of 1986 to exclude United States savings bond income from gross income if it is used to pay long-term care expenses.

S. 235

At the request of Mr. MCCAIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 235, a bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes.

S. 244

At the request of Mrs. FEINSTEIN, the names of the Senator from Arizona (Mr. KYL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 244, a bill to provide for United States policy toward Libya.

S. CON. RES. 6

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Con. Res. 6, a concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

At the request of Mr. TORRICELLI, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. Con. Res. 6, supra.

S. CON. RES. 7

At the request of Mr. KERRY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness.

SENATE RESOLUTION 17—CONGRATULATING PRESIDENT CHANDRIKA BANDARANAIKE KUMARATUNGA AND THE PEOPLE OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA ON THE CELEBRATION OF 53 YEARS OF INDEPENDENCE

Mr. BROWNBACK (for himself and Mr. TORRICELLI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 7

Whereas February 4, 2001, is the occasion of the 53rd anniversary of the independence of the Democratic Socialist Republic of Sri Lanka from Britain;

Whereas the present constitution of the Democratic Socialist Republic of Sri Lanka has been in existence since August 16, 1978, and guarantees universal suffrage; and

Whereas the people of the Democratic Socialist Republic of Sri Lanka and the United States share many values, including a common belief in democratic principles, a commitment to international cooperation, and promotion of enhanced trade and cultural ties: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 53 years of independence;

(2) expresses best wishes to the Government and the people of the Democratic Socialist Republic of Sri Lanka as they celebrate their national day of independence on February 4, 2001; and

(3) looks forward to continued cooperation and friendship with the Government and people of the Democratic Socialist Republic of Sri Lanka in the years ahead.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that the President further transmit such copy to the Government of the Democratic Socialist Republic of Sri Lanka.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 18—RESOLUTION EXPRESSING SYMPATHY FOR THE VICTIMS OF THE DEVASTATING EARTHQUAKE THAT STRUCK EL SALVADOR ON JANUARY 13, 2001

Ms. LANDRIEU (for herself and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 18

Whereas, on the morning of January 13, 2001, a devastating and deadly earthquake of a magnitude of 7.6 on the Richter scale shook the entire nation of El Salvador, killing more than 700 people, injuring more than 3,000, and leaving more than 50,000 homeless;

Whereas the earthquake of January 13, 2001, has left thousands of buildings in ruin, caused deadly landslides, and destroyed highways and other infrastructure;

Whereas the strength, courage, and determination of the people of El Salvador has been displayed since the earthquake;

Whereas El Salvador is still recovering from years of civil war, hurricane damage, and flood damage;

Whereas the people of the United States and El Salvador share strong friendship and mutual interests and respect;

Whereas some United States specialists from Costa Rica and Miami, including specialists from the Miami-Dade Fire Rescue Department, were deployed to assist disaster relief efforts in El Salvador;

Whereas United States military personnel from the United States Southern Command are providing some technical assistance;

Whereas the USAID/Disaster Assistance Response Team (DART) has set up an office in El Salvador's National Emergency Committee (COEN) to assist the office in its coordination efforts and to ensure access to the latest information; and

Whereas the United Nations launched an appeal for humanitarian assistance and initial rehabilitation to address the devastation caused by the powerful earthquake: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest sympathies to the people of El Salvador and other Central American countries for the tragic losses suffered as a result of the earthquake of January 13, 2001;

(2) expresses its support for the people of El Salvador as they continue their efforts to rebuild their cities and their lives;

(3) expresses support for disaster assistance being provided by the United States Agency for International Development and other relief agencies;

(4) recognizes the important role that is being played by the United States and other countries in providing assistance to alleviate the suffering of the people of El Salvador; and

(5) encourages a continued commitment by the United States and other countries to the long-term, sustainable development of El Salvador.

Ms. LANDRIEU. Mr. President, I thank my colleague for his tremendous leadership in this area for many years as it relates to Latin America. He is usually the first one on the floor to outline a strategy for U.S. assistance because he knows that we share mutual benefits in opening trade lines and expanding our cultural ties to this particular part of the world. I thank him for his leadership.

On behalf of the Senator from Connecticut and myself, I send a resolution to the desk and a bill that I will briefly describe.

Mr. President, the resolution simply calls the attention of the Congress to this particular dilemma in El Salvador, a country that has been wracked for decades by war, only to be hit 2 years ago by one of the largest and most destructive hurricanes. And now to face an earthquake is almost too much to describe.

As the Senator from Connecticut pointed out, the devastation has totaled about $1 billion. To put that into perspective, that is 5 percent of El Salvador's entire GDP. The equivalent of 5 percent of the United States' GDP is $500 billion. When hurricane Andrew struck, it was the largest natural disaster in our history at $7 billion. So it is hard for us in America to understand what a natural disaster can do to a country whose economy is so fragile.

We are blessed in this Nation with an abundance of resources. We have the means and structures in place to deal manage such crises. When devastation like this hits other countries, they just reel. If we are not there quickly with assistance, it is very difficult, if not impossible, for them to recover.

Let me be quick to point out that the people of El Salvador will do everything they can to help themselves; they will work hard and struggle. But the U.S. must be quick to aid them. That is what our resolution calls for.

Our bill specifically calls for quite a modest amount, but a start, to aid the over 50 thousand people who lost their homes. There is an immediate need for shelter. That is how our bill will help in some way to complement what USAID is doing now.

I am happy to urge my friends and Members in the Senate and the House to come quickly to the aid of a country that needs so much help.

Mr. President, like many of my colleagues, I have watched the humanitarian calamity unfurl in El Salvador, with horror and sorrow. In the wake of a 7.6-size earthquake, the people of Central America are struggling to rebuild their lives. Still marred by hurricane and flood damage, they are desperate for help: to heal the wounded, feed the hungry, and shelter the displaced. And now, my colleagues, tragedy has struck these people once again. Crisis has not spared the men, women and children of El Salvador.

Of course most of the destruction is difficult to quantify. The death toll is over 700, with nearly 3,000 people injured, over 50,000 estimated homeless, 46,000 evacuated, and 91,000 homes damaged or destroyed. In fact, as President Francisco Flores pleaded for international aid, he requested an additional 3,000 coffins.

As our Latin American neighbors desperately seek comfort in their faith and family, let us find solace in a passage from the Second Book of Corinthians: "Blessed be God . . . God of all comfort; Who comforts us in all our affliction so that we will be able to comfort those who are in any affliction with the comfort with which we ourselves are comforted by God."

The United States must rise to the occasion, and respond with aid. Perseverance has proven a critical trait for Salvadorans these last few weeks; we shouldn't count it to become a way of life.

Already, our ties with El Salvador run deep along both cultural and historic lines. On one score, El Salvador has stood by the U.S. as a strategic ally and crucial trading partner during and after the Cold War. On another, the U.S. remains home to millions of immigrants who have sought refuge from calamity in Central America. Helping Central America rebuild is of special concern in Louisiana. It may come as some surprise to my colleagues to learn that New Orleans, with one of the largest Honduran and Salvadoran communities in the U.S., is often cited as one of the largest Central American cities outside Latin America. And with organizations like Partners of the Americas, we are continuing to foment our bonds of friendship with Central America. The Louisiana Chapter of Partners already has two Medical Assistance and Emergency Preparedness teams set up for travel to El Salvador to work in delivery of health care and work with communities on future needs.

It was these strong connections and long history of humanitarian aid which induced us to respond to pleas for help after Hurricane Mitch in 1998. And for these reasons, I am introducing two pieces of legislation today. The first is a resolution to raise awareness of the circumstances in El Salvador. Simply put, I am sure that my colleagues will join me and Senator DODD in expressing sympathy for the victims of the devastating earthquake that struck El Salvador January 13, 2001.

The second piece of legislation is meant to complement USAID's current efforts to provide short term relief and establish preventative measures to prepare for future disasters. As USAID and the State Department help draft long term strategies for Central America, let us not neglect some immediate concerns. One of the most pressing problems afflicting the Honduran people is lack of shelter. In the last Congress, I authored legislation with several senators on both sides of the aisle that provided **$10** million for the home building program for Central American countries affected by Hurricane Mitch. Today, I hope my colleagues will join me in supporting a similar measure to help complete the work which we began. We must do all that we can to expeditiously provide homes for the more than 50,000 displaced persons through El Salvador. Time is of the essence.

In the last Congress, we witnessed a historic meeting in the Capitol's LBJ Room hosted by Senators LOTT and the late Paul Coverdell. There, four Central American Presidents made it clear to us that permanent housing along with opening trade opportunities were among the highest priorities for their recovery. The Republican leader and members of his caucus were very helpful in providing housing aid after Hurricane Mitch.

And yet, here we are, in the beginning of an entirely new Congress. People are once again homeless, and have no suitable means to protect themselves from future natural disasters. I will be working along with other colleagues on both sides of the aisle—to see that we do all we can in the area of housing in Central America. Let us begin today, with El Salvador. Then we shall extend our efforts throughout the region, to try and stop such devastation from occurring again. Let me assure our Central American friends of one thing, we will not turn our backs on you.

Mr. DODD. Mr. President, I rise today to speak on behalf of the people of El Salvador and India who are working so bravely towards recovery in the wake of the devastating earthquakes that recently struck those nations.

In the case of El Salvador, the death toll has exceeded 700, and countless numbers have been left injured and homeless. More than 68,000 people have been evacuated with no promise of ever returning, and 60,000 are living in temporary shelters. Indeed, in addition to the 74,000 homes that were so suddenly destroyed last month, another full 118,000 may have been damaged beyond repair, and in some areas, Mr. President, one quarter of schools were completely destroyed. While the cost of rebuilding is still being calculated, the El Salvador National Emergency Committee estimates that it most certainly will run to over $1 billion, with an estimated $100 million loss in agricultural revenue alone.

At the time of the quake the people of El Salvador were already hard at work rebuilding their country after the 12 years of civil conflict that had claimed the lives of 70,000 men, women, and children during the 1980's. Their suffering, as they struggle toward stability and development, has only been compounded by the natural disasters of the past two years. After a dozen years of civil strife, the people of El Salvador were able to reach a political settlement of their differences. This speaks volumes about their commitment and courage. Since the 1992 peace accords, they have worked to build a prosperous and democratic country. This is a people tested well beyond what they should be asked to bear. At each step on the path to recovery they have faced a new challenge, and each time they have responded tenaciously and stepped forward again.

Mr. President, this earthquake is not the first time in recent memory that a natural disaster has brought devastation on such a wide scale to the people of El Salvador. In addition to this terrible earthquake, there has also been a serious outbreak of dengue fever, a serious and debilitating disease. And it was only two years ago that Hurricane Mitch tore through Central America, exacting an unbearable toll on an already fragile region. In the countries of El Salvador, Honduras, and Nicaragua, more than 11,000 lives were swept away in the rain, winds, and massive landslides that Mitch wrought. In some areas, more than 70 percent of crops were demolished. The price tag of that devastating hurricane soared to more than $4 billion once a full accounting was made.

Mr. President, the people of El Salvador did not simply wring their hands in despair at the devastation of Mitch. They worked to improve their lives—they rebuilt roads, and schools, and homes. They began to address the needs of citizens dealing with painful losses and an uncertain future. They began to pull themselves, with the help of international monetary and humanitarian assistance, out of the darkness created by Mitch when they were struck again by another wanton force of mother nature. This earthquake, which registered a thundering 7.6 on the Richter scale, once again threatens to break the back of an already struggling nation.

Mr. President, the story unfolding right now in India is no less compelling and deserves our equal attention and concern. January 26th is traditionally a day of celebration in India, a day when people gather with their families in their homes to celebrate Republic Day, their constitution, and their country. But this January the clamor of parades and cheers was replaced by the roar of collapsing buildings torn down by an earthquake registering 7.9 on the Richter scale, the worst earthquake in India in a half century. Tremors were felt in Pakistan, Nepal and Bangladesh as the earth shook early that morning.

Hardest hit was Bhuj, a city of 150,000 in the Gujarat state, only 43 miles from the quake's epicenter. The government of India places the official death toll at more than 16,000, but estimates this figure could climb to a ghastly 100,000 in the days and weeks to come. Six hundred thousand people have been left homeless, many of whom are sleeping out in the open, with too few blankets among them, for fear of returning to unsteady buildings. Many others simply have no place to go. As many as 35 million people have been affected in some way by the earthquake, a figure so staggering it is almost impossible to comprehend. The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) places the cost of rehabilitation and reconstruction at $1.3 billion.

The daunting task that now lies before us is to bring some measure of relief and care to those who were spared, including an estimated 3,000 orphaned children. Tragically, the state of Gujarat was particularly vulnerable to a natural disaster such as this, as one quarter of its citizens live below the poverty line and almost one half of households rely on public food distribution under normal conditions. In an emergency such as this, the situation becomes exponentially more dire than before. In addition to the desperate need for food, medicine, and shelters, many Indian officials now fear epidemics of cholera and typhoid if access to clean, safe, drinking water is not quickly restored. This task has been made all the more difficult because it comes in the midst of a 3 year drought in India which affected almost 3 million people in the state of Gujarat last year. The majority of water supply wells are caked with mud and temporarily out of service, promoting concerns that some who managed to survive the earthquake may instead succumb to disease while they wait for clean water. Certainly, the survivors of this earthquake should not be exposed to further suffering and injury.

Mr. President, we cannot and should not ask the governments of El Salvador and India, or their people, to walk the path toward recovery alone. At a time when these countries seek peace and development, we must be there as both an ally and a partner. We must not turn away from their suffering, but rather must respond swiftly and effectively.

In fact, international relief efforts are already in full operation in both El Salvador and India, providing basic necessities such as drinking water, food, blankets and temporary shelter to the quakes' victims. The United States government is actively participating in these international efforts through the work of USAID. At the time of the quake, USAID personnel in El Salvador immediately began meeting with Salvadoran relief agencies to evaluate the extent of the damage and the level of aid necessary. To date, USAID assistance to El Salvador totals more than $5 million, the majority of which was allocated for temporary shelter programs. In addition, the World Food Programme has provided 900 metric tons of rations, the International Federation of the Red Cross has released

$100,000 of disaster relief funds as well as sent a delegation of relief workers to assist the 1,200 person Salvadoran Red Cross. Medicines for hospitals and temporary clinics are pouring in from the Pan-American Health Organization, and the International Development Bank is considering a $20 million emergency loan. Monetary and other contributions from additional organizations continue to arrive as well.

In India, USAID has pledged $9 million in emergency relief, including emergency food distribution, airlifts, and temporary shelter equipment. Indeed, more than 38 countries have responded to India's cries, as well as several hundred non-governmental organizations including UNICEF, The International Federation of the Red Cross, and the World Food Programme.

It is my hope, Mr. President, that the Bush administration will recognize how desperately our help is still needed in El Salvador and India and will respond not only with continued short-term emergency relief aid, but also with a comprehensive plan for long term reconstruction and development. In the case of India that will require that waiver authority be exercised by the Administration to permit broader categories of assistance to be provided despite existing sanctions against that country. I would urge the Administration to do so.

I am confident that our colleagues in the Senate join with me in extending our prayers and our hands to the people of two nations who must persevere at very difficult moments in their histories. I am confident that with our help the lives of the peoples of these two nations will improve day by day.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Peter Winokur be granted the privilege of the floor during today's session of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent that Mark Peters be granted floor privileges for the purpose of this debate. He is a fellow from the Commerce Department.

The PRESIDING OFFICER. Without objection, it is so ordered.

LORETTA F. SYMMS

Mr. CRAIG. Mr. President, let me take a few additional moments to speak to the Senate about a friend of ours who has worked with us in the Senate for a good number of years. This week marks the last week of work for the Senate in the career of Loretta Symms. Loretta, as I mentioned, has become a friend of all of us while she has worked n the Senate.

Loretta, who is originally from Coeur d'Alene, IO, moved to Washington in the midseventies and began her career working for then-Congressman Steve Symms as executive assistant and office manager. In 1981, after Congressman Symms was elected to the Senate, Loretta became his executive secretary and then office manager.

Most in the Senate got to know Loretta in 1987 when Senator Bob Dole appointed her as the Republican representative to the Sergeant at Arms Office. Between 1987 and 1996, Loretta filled a number of positions within that organization. As its director, she restructured the Capitol Facilities Department, providing career ladders, formal position descriptions, instituting reading programs, basic computer classes for employees, and other training programs—clearly, an effort to build a more professional staff within the Sergeant at Arms Office.

Loretta also participated in the renovation and the opening of Webster Hall, the first and current Senate page dormitory.

Like you, Mr. President, I have had the privilege now of having several Senate pages, and I know they appreciate the facilities that are made available for them and, of course, the educational program that is provided to them while they serve us in the Senate.

Loretta worked closely with the Office of the Secretary of the Senate and has been actively involved in the oversight and the management of the Senate page program.

In 1996, Senator TRENT LOTT named Loretta Deputy Sergeant at Arms, the post in which she still serves. As deputy, Loretta has managed the day-to-day operations of 750 employees of the Sergeant at Arms organization. In addition to assisting Presidents, Vice Presidents, and foreign heads of state on official visits to our Senate, Loretta has led Senate delegations to the funerals of former President Richard Nixon, the late Senator John Heinz, the late Senator John Chafee, the late Senator Paul Coverdell, and a good number of other Senators.

During her tenure as deputy, and working closely with the Assistant Secretary of the Senate, Loretta was instrumental in the formation of the Joint Office of Education and Training which provides a wide variety of professional seminars and training for the staff of the Senate offices and committees.

. Loretta is married to former U.S. Senator Steve Symms. They have 7 children and 10 grandchildren. Retirement plans, she tells me, include building a new home that I think is under construction at this moment, traveling—that is if she can get Steve out of town—needlepoint, which she already does very well, and spending a lot of time with her children and grandchildren who live as far away as Atlanta, GA, and in her original home of Coeur d'Alene, ID. Of course, we Idahoans look forward to seeing her back home in our State.

Yes, Mr. President, we will miss Loretta and, of course, the fine work she has always provided us in the Senate. As a fellow Idahoan, I stand before you today to say how proud I am of Loretta Symms for the work she has done for all of us and to make the Senate a better place to be and to work.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. LOTT. Mr. President, we have had a number of conversations over the past several days with Senator MCCAIN and Senator FEINGOLD, with the Democratic leadership, Senator MCCONNELL, Senator HOLLINGS, Senator NICKLES, a whole number of Senators have been involved in this, Senators DODD and LEVIN, in coming to an agreement on how to proceed on the election campaign reform issue. We have come to agreement here that everybody seems to be satisfied with at this time. I would like to enter this unanimous consent request.

I actually have three. One is dealing with how to handle the campaign finance reform issue. The next one is the Hollings constitutional amendment, and then also a consent regarding the U.N. dues and its consideration on the floor of the Senate beginning tomorrow.

UNANIMOUS CONSENT AGREEMENT—S. 27

Mr. LOTT. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, either on March 19, 2001, or March 26, 2001, the Rules Committee be immediately discharged from consideration of S. 27, as introduced, and the Senate shall return to its immediate consideration.

I further ask unanimous consent that following the reporting of the bill by the clerk, the bill become the pending business, to the exclusion of all other business, except for a motion to temporarily postpone consideration of the pending legislation made by the Republican leader, following approval of the Democratic leader, and that no call for the regular order serve to displace this item, except one made by the Republican leader, also after the approval of the Democratic leader.

I ask unanimous consent that when a first-degree amendment is offered, there be up to 3 hours evenly divided in the usual form for debate only, after which a motion to table may be made. If a motion to table fails, the amendment then be fully debatable and amendable. Further, that if the motion to table is not made at the expiration of the 3 hours, a vote occur on the amendment without intervening action, motion or debate, provided that no point of order be considered as having been waived by this agreement.

Mr. DASCHLE. Mr. President, reserving the right to object, I will have more comment later, but is it the intent of the majority leader to include in this unanimous consent agreement debate and disposal of the Hollings constitutional amendment as well?

Mr. LOTT. Mr. President, I respond to the Senator from South Dakota that I will, after this agreement is entered into, follow that immediately with an agreement with regard to the Hollings constitutional amendment, which I assume will also be agreed to.

Mr. DASCHLE. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, would the Senator like to be heard at this point? I will be glad to yield to Senator McCain for comment before I go to the next consent.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the majority leader and the Democratic leader, without whose strenuous efforts we would not have been able to enter into this unanimous consent agreement.

I want to make one thing clear: This campaign finance reform will be before the Senate bumping up against the April recess. I hope we can devote every effort to get that done in the final 2 weeks before the April recess. It would be very good if we could, over a 2-week period, dispose of amendments and move to final passage. It is critical that we do that. Perhaps, if necessary, we could even delay the recess, something that none of us like, but we really don't want to have this issue clouding the legislative agenda for the rest of the year.

I thank Senator Lott and Senator Daschle, but I do want to point out, I do insist that we get a final vote on this issue. We really need to have it disposed of finally. I know Senator Daschle and Senator Lott appreciate that.

If there is a filibuster, in other words, just a loading up of amendments, whether they be extraneous or not, but basically covering the same ground, I will be the first to condemn that, and I know that my friend from Wisconsin feels the same way. There are a number of issues that need to be addressed, but we will know if it is becoming extraneous and just a delaying tactic. Then we will have to make our decisions as to what our options are.

We owe it to the American people, and we owe it to the Members of this body who have been involved in this issue for so long to bring this issue to conclusion.

I ask unanimous consent that a colloquy between myself and Senator Lott be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I believe that colloquy also includes Senator Daschle. I think the three of us are included.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, reserving the right to object, I would like to see a copy of that colloquy.

Mr. LOTT. Mr. President, if I could get a clarification. the Senator is reserving the right to object?

Mr. FEINGOLD. Mr. President, I would like to see a copy of the colloquy that was just referred to before agreeing to unanimous consent that it be printed in the Record.

Mr. LOTT. Mr. President, I ask that Senator McCain withhold that request until he can consult further with his colleague. I presume there would be no problem at that point.

Mr. FEINGOLD. If I could make a brief comment, as did my leader, Senator McCain, I thank the majority leader for his cooperation on this, coming to this agreement. I especially thank the Democratic leader, who has not only provided our Democratic unity on this issue, but has also worked so effectively to help us come to this agreement. I also thank the Senator from Michigan, Mr. Levin, who is not with us on the floor at this time, for his tremendous efforts on this.

I reiterate two points the Senator from Arizona has made. One is that this, fortunately, through the cooperation of everybody, will be a truly open process. Senator McCain and I have been very involved in this issue. But we are certainly not the only people who know a lot about this issue. Every Member of the Senate is an expert on campaign finance reform. That means it is essential that every Senator have an open chance to participate in the amending process. I believe that is what this agreement truly does.

The second is to simply agree with the Senator from Arizona that we want to finish as fast as we can, within the bounds of giving everybody a chance to participate. We hope to finish before the Easter recess. But we will make sure that this matter comes to a vote up or down in the end and that is our understanding in going forward with this agreement.

I thank the leader.

Mr. LOTT. Mr. President, while the Senators are consulting, we are going to have a colloquy. Let me add to what has been said by Senators McCain and Feingold, and I know Senator Daschle feels the same way.

This is a fair and very open agreement. I guess there is plenty of opportunity for mischief, if somebody on either side decides to cause it. I guess we could get tangled up on many issues, completely unrelated to election and campaign finance reform. But we are trying to all act in good faith. We are going to have to try to do that.

The way this is constructed, Senators should have an opportunity to offer amendments, have those amendments debated for a reasonable period of time—3 hours is a good bit of time—and get a vote. Then if that doesn't carry, then a second degree could be offered or other amendments could be offered. I suppose that one example of the kind of mischief you can have is a Senator could get the floor and talk for a long time without ever offering an amendment and eat up 2 hours before he or she ever lays down their amendment. Then there would be 3 hours. That is not good faith. That would be violating the spirit of what we are doing here. Three hours is enough time to talk and have a vote.

I have said all along, unlike in the past, I think everybody ought to have a chance to make their case and get a vote. I also think that 2 weeks is long enough. In that period of time, if you get to figuring the amount of time we are going to be in, a number of amendments could be offered. I don't know whether it will wind up being 15 or 25. But there will be plenty of opportunity, and more, for amendments to be offered and then to wrap it up. I think, hopefully, we will get a vote on final passage of the end product and move on. I am going to think that bad faith, again, is at play if we are into the middle of the third week, or if it goes beyond that, when we should be taking up the budget resolution instead or taking up some other issue, such as energy, or any other matter. I think we have a fair parameter in terms of how amendments can be offered, debated, voted on, and come to a conclusion within a 2-week period of time.

I ask that Senators on both sides of the aisle try to live up not only to the specifics of the agreement and the colloquy, but the spirit in which it has been put together.

Mr. DASCHLE. Mr. President, I was going to wait until after the other unanimous consent request, but I am compelled now to add my comments. I don't think it could have been said any better than what you have just heard the majority leader say. As we talked about how we were going to run the Senate over the next 2 years, I can't tell you the number of times we have said you can put as much as you want on paper, but at the end of the day it is going to be what good faith there is between caucuses and among Senators on whether or not this will work. I believe this is a good example. We can put as much on paper as we want to, but it still depends upon the intentions and the approach and the attitude that people bring to the floor as we debate this issue.

As the majority leader said, I think 2 weeks ought to be adequate. There are a lot of complicated issues here. Clearly, if anybody comes with good faith, we ought to have a good, vigorous debate on all of the issues and accommodate all of the ideas and the philosophies that are presented as we consider these amendments.

I compliment the majority leader and thank him for his approach in this matter, and I certainly compliment our two ardent advocates and leaders on campaign finance reform, Senators MCCAIN and FEINGOLD. They have put forth an extraordinary amount of effort to bring us to this point. We are going to work with them to assure this is a productive and successful debate. I am appreciative of the effort that has been made to get us to this point. I look forward to the debate. I don't think we can have a better framework within which to have the debate in the coming weeks. I yield the floor.

Mr. LOTT. Mr. President, I am pleased to come to the floor today to share with my colleagues the discussions that the Senator from Arizona and I have been having on campaign reform. I appreciate the Senator's willingness to work through this issue, and I believe that we have come up with a fair arrangement.

Mr. McCAIN. I thank the majority leader for working with me on this agreement. I believe that it accommodates my desire to have a full and open debate early, while ensuring that the leader has the opportunity to move important bills prior to its consideration.

Mr. LOTT. Under this agreement, the President will have some time to introduce his agenda to the American people and to the Congress. I believe that the agreement we have reached will allow us to begin work on some of these issues, while ensuring that campaign, political, and election reform is addressed early. It is my hope that we will be able to move expeditiously on both education reform and the budget resolution in the next 2 months. To that end, should we have a budget resolution ready for floor consideration prior to March 19, we will consider the resolution first. If the budget is not ready within that timeframe, we will consider campaign, political and election reform first, to be followed by consideration of the budget in early April.

Mr. FEINGOLD. Mr. Leader, I just want to add that I am very pleased that this agreement has been worked out in a cooperative way with Senator MCCAIN and also the Democratic leader. I also want to thank Senator LEVIN for his contribution to this agreement. We look forward to having a full and fair debate on our bill for the first time.

Mr. McCAIN. It is important that there is a full and open debate on campaign reform. I am pleased that the majority leader has agreed to use S. 27, the McCain-Feingold bill, as the legislation that will be considered by the Senate.

Mr. LOTT. It is my intention to call up S. 27, the McCain-Feingold bill, within the time frame we have discussed. I also believe that we should have a full and open debate. I expect that many of my colleagues have ideas on campaign reform, political reform and election reform that warrant consideration by the Senate. The amendments, I hope, should be on the subjects of campaign reform, political reform and election reform. In addition, I do not anticipate a circumstance arising that will compel me to use my prerogatives as majority leader to fill up the amendment tree. I anticipate that we will have a full, open and spirited debate on any amendment offered to the Senate for consideration. Let me be clear, we intend to allow an opportunity for all amendments to be considered. Therefore, I do not expect that any major striking amendments, or the so-called wrap around amendments will be offered toward the end of the Senate's consideration. I intend to complete action on the bill, working long hours if necessary, within 2 weeks.

Mr. McCAIN. I appreciate the majority leader's assurances that all amendments will be considered by the Senate. It is also my intention to let the will of the Senate prevail. I share the majority leader's intention that all amendments be fairly considered and voted on prior to final passage, and I agree that a wrap around amendment would be a show of bad faith. I will work with the majority leader to ensure that all amendments are voted on and the bill is ready for final action within the 2 weeks that the leader anticipates. In order to facilitate this, it would be my hope and expectation that the bill would not be filibustered.

Mr. LOTT. As the Senator from Arizona is aware, every Senator has rights in this regard. However, I would discourage any efforts to filibuster this measure, and do not anticipate a filibuster of this bill. In fact, it is my expectation that the Senate will finish deliberations of campaign, political and election reform within 2 weeks of commencing action on it. I am determined to stick to this schedule, even if we must work through the weekend to complete action.

Mr. FEINGOLD. I thank the leader for his comments, and I want to assure him that supporters of this bill are ready to work through the weekend and into the evenings to make sure that this bill passes the Senate in a timely manner. I think the American people will applaud the leader's statement that he does not anticipate a filibuster on this important legislation. I think we have reached a fair and balanced agreement, and I congratulate the leader and my colleague from Arizona for this achievement.

Mr. McCAIN. I thank the majority leader and I appreciate his willingness to work with me on this important issue. Again, I believe that we have reached a fair and balanced agreement.

Mr. LOTT. I thank my colleague from Arizona.

Mr. McCONNELL. I congratulate the majority leader and the Senator from Arizona for this win-win compromise. The deal will allow the President's top agenda items to be center stage prior to a discussion on campaign and election reform. And I agree that we will all work to keep the debate focused on these issues and that a wrap-around amendment would be a show of bad faith.

We may disagree on the public's interest in campaign reform, but I think that we can all certainly agree that there is a true public demand for election reform and political reform. The upcoming debate will in many respects be the equivalent of a bill mark-up on the Senate floor. I think we all agree that there should be a full opportunity for everyone who wants to offer an amendment to be allowed to do so and to get a vote on that amendment without any games played by either side. So I want to thank the majority leader and my colleague from Arizona for their willingness to ensure that an open and robust debate will occur on this matter. I also appreciate the willingness of my colleague from Arizona to work with the majority leader to ensure that no vote on final passage occur until all amendments are voted on. I, too, believe that this is a fair agreement and again, I congratulate the leader and the Senator from Arizona.

UNANIMOUS CONSENT AGREEMENT—HOLLINGS-SPECTER CONSTITUTIONAL AMENDMENT

Mr. LOTT. Mr. President, I ask unanimous consent that during or immediately following the disposition of the McCain-Feingold legislation, S. 27, the Hollings-Specter constitutional amendment legislation then become the pending business and that it be considered under the following limitations:

That no amendments be in order to the constitutional amendment; 5 hours to be divided as follows: 2 hours under the control of Senator HOLLINGS, 2 hours under the control of Senator HATCH or his designee, and 1 hour equally divided between the Republican and Democratic leaders or their designees; that upon the use or yielding back of time, the Senate, without intervening action, motion, or debate, proceed to vote on passage of the constitutional amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—U.N. DUES

Mr. LOTT. Mr. President, I ask unanimous consent that at 1 p.m. Wednesday, February 7, the Senate proceed to the U.N. dues bill, if reported by the Foreign Relations Committee, and all amendments offered be relevant to the subject matter and cleared by both managers.

I further ask consent that if the committee has not reported the bill by 1 p.m., it be immediately discharged and the Senate proceed immediately to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 105–83, announces the reappointment of the Senator from Illinois (Mr. DURBIN) as a member of the National Council on the Arts.

The Chair, on behalf of the President pro tempore, and upon the recommendation of the Democratic leader, pursuant to 22 U.S.C. 2761, as amended, appoints the Senator from West Virginia (Mr. BYRD) as cochairman of the Senate Delegation to the British-American Interparliamentary Group during the 107th Congress.

The Chair, on behalf of the majority leader, pursuant to Public Law 106–550, announces the appointment of the following Senators to serve as members of the James Madison Commemoration Commission: The Senator from Virginia (Mr. WARNER), and the Senator from Alabama (Mr. SESSIONS).

The Chair, on behalf of the majority leader, pursuant to Public Law 106–398, announces the appointment of the following individuals to serve as members of the Commission on the Future of the United States Aerospace Industry: William Schneider, Jr., of New York, and Robert J. Stevens, of Maryland.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 7

Mr. LOTT. Mr. President, when the Senate receives from the House H.J. Res. 7 relating to the birthday of former President Ronald Reagan, I ask unanimous consent that the resolution be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements thereon be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, FEBRUARY 7, 2001

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Wednesday, February 7. I further ask that on Wednesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period for morning business until 1 p.m. to be divided in the following fashion: The time between 10 a.m. and 11 a.m. be divided as follows: Senator LOTT or designee under 30 minutes, Senator LIEBERMAN in control of 15 minutes, Senator DURBIN or designee in control of 15 minutes, Senator THOMAS or designee controlling the time between 11 and 12 noon, Senator BYRD controlling the time between 12 and 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, on Wednesday, the Senate will be in a period of morning business until 1 p.m. under the order. At 1 p.m., the Senate will begin consideration of S. 248, the U.N. dues legislation. A minimal amount of debate is expected on the legislation. Therefore, it is expected that a vote will occur during tomorrow afternoon's session.

On Thursday, the Senate will begin consideration of the pipeline safety bill. I hope the Senate can complete consideration of that bill prior to the week's adjournment.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of the distinguished Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETIREMENT OF OUR FRIEND "TINKER," ARTHUR MALAN ST. CLAIR

Mr. DASCHLE. Mr. President, a special guest joined us at our caucus lunch this afternoon. His name is Arthur Malan St. Clair. We know him better as "Tinker."

Tinker St. Clair has spent 55 years in public service. He has worked in the Senate—for the Sergeant at Arms—for the last 22 years. This Friday, he is retiring.

His leaving was inevitable. He is, after all, 85 years old, although you would never guess it. Even so, Tinker's departure will leave a void for all of us.

Every Member of this Senate knows how dedicated Tinker is to his work. We all know how much he loves this Senate, and this Nation. We have all benefitted—at some time—from Tinker's kind smile, and from his quiet words of encouragement, which always seemed to come exactly when we needed them. We will all miss him.

Tinker St. Clair was born in a coal miner's camp in McDowell County, West Virginia. His father worked in the mines. All together, his parents had six sons and one daughter.

He got his nickname from his grandmother, because he was a curious little boy—always "tinkering" with something, she said.

While some of his brothers followed their father into the coal mines, Tinker knew he wanted to do something different with his life. After graduating from high school in 1937, he went to work as a school bus driver, and then a commercial bus driver. He later owned his own small taxi business.

In 1940, Tinker had the good sense and good fortune to marry Elnora Hall. They would remain married for 55 years, until her death.

Tinker and Elnora had two daughters, Patty and Linda. In 1948, when the girls were little, Tinker began his life in public service. He became Deputy Sheriff for McDowell County.

Over the next 20 years, he would serve as: court bailiff; criminal investigator for the McDowell County prosecuting attorney; and justice of the peace.

In 1968, Tinker was elected McDowell County Clerk, running on the slogan: "the man to give the office back to the people." In 1974, he was re-elected—with 89 percent of the vote. He might have won 100 percent of the vote had he chosen to run for a third term.

As a local office holder, Tinker helped many a national leader through the back roads of West Virginia. He walked through the coal fields with President Truman. In 1960, he campaigned with a charismatic young Senator from Massachusetts, John Kennedy. He greeted President Johnson during LBJ's visit to West Virginia. He was at Robert Kennedy's side in 1968 when Senator Kennedy sought to bring hope to places prosperity had overlooked. He has been a constant help over the years to his fellow West Virginians, ROBERT BYRD and JAY ROCKEFELLER.

In July 1979, Tinker and Elnora left West Virginia and moved to the Washington area to be closer to their daughters and grandchildren. At 63—an age when most people are thinking about retiring—Tinker came to work in the Senate.

A friend once told me that—for a month after she started working in this building—every time she saw Tinker, she thought, "Which Senator is that?" You can see how a person could think that. Tinker St. Clair is one of the most distinguished-looking men you could ever hope to meet. He's also one of the kindest.

At our caucus lunch today, Tinker told us he plans to visit his two brothers in Florida. He also hopes to do a little traveling with his 82-year-old sister, who lives in Tennessee—if she can get away long enough from the little shop she owns and runs.

Tinker also told us about some of the friendships he has made in the Senate. Probably the most important of those friendships was with the man who was sitting at his left at lunch, his fellow West Virginian, ROBERT BYRD—the only man in the Senate with hair as nice as Tinker's own.

He also spoke about his friendship with the man seated to his right: TED KENNEDY. They first met in 1960—two years before TED KENNEDY was elected to the Senate. Recently, as a token of their friendship, SENATOR KENNEDY gave Tinker a framed photograph. It shows the three Kennedy brothers John, Bobby and TED all standing together, smiling and young.

"It's really something," Tinker told us.

We feel that same way about you, Tinker. You're really something.

On behalf of the Senators and staff, I want to say: We're proud to have had the chance to work with you and to know you. You are a treasured member of our Senate family. You take with you our best wishes as you begin this next chapter of your life.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in adjournment.

Thereupon, the Senate, at 5:32 p.m., adjourned until Wednesday, February 7, 2001, at 10 a.m.

NOMINATION

Executive Nomination Received by the Senate February 6, 2001:

FEDERAL EMERGENCY MANAGEMENT AGENCY

JOE M. ALLBAUGH, OF TEXAS, TO BE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

CONFIRMATION

EXECUTIVE NOMINATION CONFIRMED BY THE SENATE FEBRUARY 6, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT B. ZOELLICK, OF VIRGINIA, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

HOUSE OF REPRESENTATIVES—*Tuesday, February 6, 2001*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. SHIMKUS).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 6, 2001.

I hereby appoint the Honorable JOHN SHIMKUS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You created each of us in Your own likeness. In the divine image You created us. Male and female You created us.

May we know our dignity by the very fact of our creation, our being, our very living this new day imaging You.

May we treat each other with the sacred honor that each is due. Seeing Your reflection in the eyes of the other, may we touch intelligence, imagination, internal powers and know eternal freedom.

Lord God, having come from You, living in You and destined for You, guide us in all we say and do this day, to sustain and further Your creation.

Teach this Congress and all people of this Nation how to seek the best ways to be Your instruments of a new creation; loving only what is good and seeking only what is true and lasting, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana (Mr. PENCE) come forward and lead the House in the Pledge of Allegiance.

Mr. PENCE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMEMBERING FOUNDING FATHERS WHO FOUGHT AGAINST SLAVERY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on this day in history, February 6, 1865, 136 years ago, the 13th amendment went into effect, ending 246 years of slavery in America. Slavery was introduced into America in 1619 by the Dutch and subsequently encouraged in the Colonies by the British Crown. In fact, it was not until after the Declaration of Independence was signed that it became possible to abolish slavery, and half of the States promptly did it at that time.

Significantly, the major opposition to slavery in America was led by religious groups like the Quakers, Presbyterians, Congregationalists, and Methodists, and was joined by many of the religious Founding Fathers, including signers of the Declaration like Benjamin Rush, John Witherspoon, Samuel Adams, John Hancock, and John Adams, as well as the signers of the Constitution like Rufus King, John Dickinson, James Wilson, and William Livingston.

While much attention today is often paid to Founding Fathers who owned slaves, nearly nothing is said of the many who opposed slavery. Therefore, it is worth remembering that the work of so many of our Founding Fathers to end slavery finally came to maturity when the 13th amendment was adopted, 136 years ago.

REMEMBERING ALAN CRANSTON

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, my first job offer on the Hill came from the late California Senator, Alan Cranston, who will be remembered at a memorial service this afternoon by generations of colleagues and staffers.

Though I never worked on Alan's staff, I relied on him for counsel and support for 3 decades. Alan was a mentor to me when I served in senior staff positions for Senator John Tunney. I always had the sense that Alan was looking out for John and me, and for California's interests.

We remained friends through the years and saw each other last at Stanford University only a few months ago. Alan's counsel and continued focus on issues he cared passionately about, especially world peace, set the marker. He was always working. No doubt he was working until the moment he left us.

I was fortunate to know and learn from him. We were fortunate to have him as a congressional leader for 24 years.

RONALD REAGAN MEMORIAL ACT

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, it is with great pleasure and very fitting that I am today introducing the Ronald Reagan Memorial Act as we celebrate this great man's 90th birthday. This bill establishes a Presidential memorial for one of the most influential men of the 20th century. As one of our most notable Presidents, Ronald Reagan initiated policies that helped win the Cold War, tamed the economic stagnation of the early eighties by cutting taxes and increasing funding for the national defense, and helped to restore the United States as the leader of the world front. In doing so, President Reagan helped restore the America people's faith in our system of government and capitalism and returned pride in being an American.

Specifically, this bill creates and then requires the Ronald Reagan Memorial Commission to cooperate with the Secretary of the Interior in the National Capital Memorial Commission to identify and then recommend to Congress an appropriate site for the construction of a memorial honoring former President Ronald Reagan.

This bill specifies that the memorial be situated in "Area 1" as identified in the Commemorative Works Act, and that is between the Lincoln Memorial and the United States Capitol building. The Ronald Reagan Memorial Commission would also select the memorial design and raise the necessary funds to complete the memorial.

Mr. Speaker, this bill honors a great American who deserves a national tribute in a place of prominence and recognition.

COZY DEALS BETWEEN NONPROFIT MEDICAL RESEARCH INSTITUTES AND FOR-PROFIT COMPANIES

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Last week, Mr. Speaker, the Wall Street Journal reported on some cozy deals between nonprofit medical research institutes and for-profit companies. It works this way: a nonprofit institute wins millions in research dollars from the National Institutes of Health. The director of the institute also happens to own a for-profit company that has exclusive rights to the institute's research. The for-profit company turns that research into a marketable product and makes millions. Everyone is flush, except for American taxpayers.

Does this raise conflict-of-interest issues? You bet. Why is the Federal Government using our tax dollars to give for-profit companies a free ride? Good question.

Why do Americans pay the highest prescription drug prices in the world, when billions of U.S. tax dollars go into the development of these drugs? Because Congress is not doing its job.

The U.S. invests more than any other nation in medical research. The drug industry feeds off our tax dollars to develop outrageously profitable drugs, and then they "thank" American taxpayers by charging us the highest prices in the world.

It is a racket, and it must stop. Drug companies must compensate taxpayers fairly through lower prices or royalty payments for our front-end investment in their products.

TAX RELIEF NOW

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, last month Federal Reserve Chairman Alan Greenspan echoed what this Republican-led Congress has supported for years, that we should pay down our national debt and grant Americans tax relief, instead of increasing the size of the Federal Government.

According to the Census Bureau, Mr. Speaker, the average household pays almost $9,500 in Federal income taxes this year, and that is twice what the average family paid in 1985. But we do not only pay Federal income taxes, we pay taxes when we use the phone, buy clothing, pump gas, sell stock, sleep at a motel, ride on an airplane, get married, or even when we die.

It is time for hard-working Americans to get a break from all of these taxes. Now is the time. We can enact meaningful tax relief while still remaining fiscally responsible and paying off our national debt.

There is no excuse, Mr. Speaker, not to give the Americans what they want, what they need, and what they deserve, a tax break.

SUPPORTING THE PRESIDENT'S PRO-AMERICAN, PRO-WORKER, RETROACTIVE TAX CUT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there are opponents trying to kill President Bush's tax cut. They say it is too big, it is not targeted. They say it is even retroactive.

Now, if that is not enough to glorify a 1040, they say they are upset because all Americans would get a tax cut.

Beam me up, Mr. Speaker. I support the pro-American, pro-worker, retroactive tax cut of President Bush.

Let me say this, Congress: there are not two or three United States of America, there is just one; one people, under God. And one tax cut that qualifies for all of America strengthens our Republic.

I yield back the fact that we have a Tax Code that would give Hulk Hogan a hernia.

AMERICA NEEDS TAX RELIEF NOW

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, while the Federal Government prepares to inhale a nearly $5.7 trillion tax surplus over the next 10 years, I rise to speak on behalf of the families, small businesses and family farms of Indiana who face a much less promising future.

Despite the talk of boom times, Hoosier families in my district are faced with layoffs at major employers in Columbus and New Castle, Indiana; and many of the small businesses dependent on these companies are fearful as well.

This House of Representatives is the heart of the American Government; and as such, it should resonate with the hearts of the people.

Mr. Speaker, the people's hearts are anxious with increasingly disappointing news about our economy. All this while income tax rates measured as a percentage of the economy are at the highest level ever.

Mr. Speaker, our Congress must again be the Congress of economic recovery. President Reagan, whose birth we celebrate today, showed us the way to turn around this American economy, by cutting taxes for all taxpayers. In order for our country to recover economically, we must cut taxes big and cut taxes now.

ELIMINATE THE MARRIAGE TAX PENALTY

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, I want to ask an important fundamental issue of fairness that particularly affects the middle class, and that is the question, is it right, is it fair that, under our Tax Code, a married working couple, a couple with two incomes, pay higher taxes just because they are married? Is it right that 28 million married working couples pay on average $1,400 more in higher taxes just because they are married, $1,400 more than an identical couple that chooses to live together outside of marriage? That is wrong.

I was proud when this House and Senate last year sent H.R. 6, the Marriage Tax Elimination Act, to the White House to be signed into law. Unfortunately, President Clinton at that time vetoed our effort to eliminate the marriage tax penalty.

But we have an opportunity. President Bush has indicated during his campaign he would sign into law the Marriage Tax Elimination Act, a bipartisan effort to wipe out the marriage tax penalty.

Let us pursue this opportunity. As we work to provide broad-based, real fundamental tax relief for working families, let us remember middle class working couples, and let us eliminate the marriage tax penalty.

IT IS TIME FOR TAX RELIEF

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, every American who pays taxes deserves a tax cut. With consumer confidence starting to slump and the economy starting to slow down, the Congress and President needs to work in a bipartisan manner to pass meaningful tax relief for the American people. Cutting taxes is essential to strengthening our economy.

With President Bush, we have a greater opportunity to get tax relief to the American people. President Bush has a tax relief proposal that will cut taxes for every American who pays taxes. This proposal will spur economic growth in two ways: first, it will put more money in the wallets of the American people; second, it will take money off the table in Washington, making it more difficult for the government to grow out of control.

Mr. Speaker, we need to reduce marginal tax rates; we need to eliminate the death tax; we need to eliminate the marriage penalty; and we need to have a charitable tax deduction. A series of changes needs to be made in the Tax Code to make it more fair and simpler for all Americans.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

THIRD REPORT ON OPERATION OF ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means.

To the Congress of the United States:

As required by section 203(f) of the Andean Trade Preference Act (ATPA) of 1991, as amended (19 U.S.C. 3201 et seq.), I transmit herewith the third report to the Congress on the Operation of the Andean Trade Preference Act.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 5, 2001.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

□ 1415

RECOGNIZING 90TH BIRTHDAY OF RONALD REAGAN

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 7) recognizing the 90th birthday of Ronald Reagan.

The Clerk read as follows:

H.J. RES. 7

Whereas February 6, 2001, is the 90th birthday of Ronald Wilson Reagan;

Whereas both Ronald Reagan and his wife Nancy Reagan have distinguished records of public service to the United States, the American people, and the international community;

Whereas Ronald Reagan was twice elected by overwhelming margins as President of the United States;

Whereas Ronald Reagan fulfilled his pledge to help restore "the great, confident roar of American progress, growth, and optimism" and ensure renewed economic prosperity;

Whereas Ronald Reagan's leadership was instrumental in extending freedom and democracy around the globe and uniting a world divided by the Cold War;

Whereas Ronald Reagan is loved and admired by millions of Americans, and by countless others around the world;

Whereas Ronald Reagan's eloquence united Americans in times of triumph and tragedy;

Whereas Nancy Reagan not only served as a gracious First Lady but also led a national crusade against illegal drug use;

Whereas together Ronald and Nancy Reagan dedicated their lives to promoting national pride and to bettering the quality of life in the United States and throughout the world; and

Whereas the thoughts and prayers of the Congress and the country are with Ronald Reagan in his courageous battle with Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Ronald Reagan on his 90th birthday.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to have the House consider House Joint Resolution 7, important legislation introduced by the gentleman from California (Mr. COX).

This resolution expresses the sense of the House of Representatives in recognition of President Ronald Reagan's 90th birthday.

Mr. Speaker, today we honor Ronald Reagan, our Nation's 40th President, who joins only John Adams and Herbert Hoover as former presidents to reach the age of 90.

President Reagan moved into the White House in 1981, 7 years after America lost confidence in the presidency due to Watergate, 6 years after the end of the Vietnam War, which ripped America apart and, during dire economic times, including high inflation, high unemployment, and high interest rates. Across the country, morale was low. America was embarrassed in Iran with the hostage crisis, and our standing abroad had been greatly diminished.

And then came Ronald Reagan, riding into Washington to save the American spirit.

From the moment he placed his hand on the Bible to take the oath as President on January 20, 1981, it was clear that America would once again stand tall. In his inaugural address, Ronald Reagan said that we had every right to dream heroic dreams. After all, he said, "Why not? We are Americans."

Ronald Reagan came to office disdained by many so-called wise men and women. They called him an "amiable dunce" and an actor reading a script. They twisted his belief in a strong defense and staunch anticommunism into a caricature of a war-monger unable to deal constructively with the Soviet Union. They were aghast at his common-sense characterization of the Soviet Union as an "evil empire," and his prediction that it was headed for the "ash heap of history."

But President Reagan was a man of character and a man of conviction. He was a leader, a man not mesmerized by polls and focus groups, but one with the courage to stand up for what was right.

With the strength of his beliefs and his faith in the ideals in the Founders and the inherent talent, energy and character of the American people, Ronald Reagan transformed our country and our world.

He brought the world closer to peace and ended the nuclear arms race with the Soviet Union. Thanks to President Reagan's determination and leadership, the Berlin Wall fell, and then the Soviet Union fell, and with it, all the statues and monuments to Lenin, Stalin, and other former Soviet Union leaders. President Reagan had brought the Cold War to an end. The world was finally at peace.

Ronald Reagan lead our economy out of an economic abyss and into years of prosperity with low interest rates, low unemployment, and low inflation. He rebuilt the hollow military force that he inherited into a fighting force second to none. America stands tall today, thanks to the leadership of Ronald Reagan. He is a giant among presidents and remains a larger-than-life figure who changed the world for the better.

Ronald Reagan was a President with class, dignity and respect for the high office to which he was elected. Future historians will recognize him as one of America's truly great Presidents. For all that he did, for all that he said, and for all that he stood for, President Reagan deserves our admiration, our respect, and our gratitude. On behalf of all Americans, we in the Congress proclaim: Happy 90th birthday, President Reagan.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my pleasure to stand up here to honor the man, Ronald Reagan, today. My father was born only 6 days after Ronald Reagan. He passed away early last year and shared, as a World War II veteran as Ronald Reagan was, my father shared the same values and the same patriotism that my friends talk about with Ronald Reagan.

I hope that we learned something from the Reagan years. We all watched this country in 1981. This country went down the course of tax cuts for the wealthiest citizens, big increases in military spending, the beginning of Star Wars, and the beginning of the most persistent, obscene budget deficits that this country had ever seen, to the point that by 1992, when President Clinton was elected, we were running up the budget deficit; we were spending $1 billion a day more than we were bringing in. We ran a deficit which was $1 billion in 1981 when President Reagan took office, a debt of $1 trillion that went to $5 trillion in those 12 years.

So while we do honor President Reagan today, and we have taken the last 8 years to clean up, if you will, that debt, those fiscal problems we were in, I hope that we can honor Ronald Reagan best by, while honoring the good things he did, but not repeating the mistakes he made, not repeating the way that some want to today with tax cuts for the rich, more increases in military spending, and Star Wars running up again these huge budget deficits.

So I hope that we honor the man, and we certainly, on this side as Democrats have no objection to this bill and support the measure. We honor the man and we learn from history's mistakes.

Mr. Speaker, I yield back the balance of my time.

Mr. PLATTS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding me this time.

When I first was elected to Congress in 1988, it was the last year of the Reagan administration. I had worked for President Reagan in the White House as his legal counsel, and because the Congress is sworn in shortly before the Presidential Inauguration, as we recall from the events of just a few weeks ago, I served in this House of Representatives under President Reagan for a period of a few weeks. My colleague from southern California, also elected to the House of Representatives that year, the gentleman from California (Mr. ROHRABACHER), who is here in the Chamber with us today, likewise had been here when President Reagan came and addressed us from the floor of the House, the minority Members then, because we were a Republican minority, and I sat in that back row, and President Reagan, who not being a former Member of Congress, stood at this particular rostrum, which is reserved under our traditions, because it is on the left-hand side of the aisle, for the Democrats. He described his career and how he became involved in public life as the leader of a labor union, how he had campaigned for Harry Truman, and how the principles of freedom that he stood for had remained with him all of that time. But, he said, about midway through his adult life, while he helped fashion those principles, his party did not, and he strode, purposefully across the floor from this rostrum to this rostrum and said, that is how he became a Republican. But the truth is that after two terms as President, Democrats and Republicans overwhelmingly claimed Ronald Reagan as their great President and a great leader and a great spokesman for the ideas that Americans, not Republicans, not Democrats, all share.

It was 20 years ago that this brave and idealistic man came to Washington, and I will say that with the benefit of a fifth of the century since that time, it is pretty clear that Washington has rarely seen his like. He is a hero to the Nation, and I can honestly say he is a hero of mine. We have seen that heroism once again as he and his wife, Nancy, whom we all fondly recall as our First Lady, wage their brave fight against Alzheimer's disease.

Ronald Reagan has lived a remarkable life of leadership, first as the head of a great labor union, then as governor of California, now our most populous State, two terms, then two terms as President of the United States. The same qualities brought him through each of those remarkable careers. The courage to be candid, to be honest, to be forthright, the courage fortified by faith and by humor. Even now on his 90th birthday, I am sure, were he with us today, I am sure he would tell us a joke about his age. I remember when I worked for him at the White House he used to say, I have already lived 20 years longer than my life expectancy at birth, and that has been a source of annoyance to a great many people.

His courage created the unique optimism that is now always associated with President Reagan, and that spread throughout the whole country. Our Nation became more optimistic, believed more in itself as a result of his leadership. When President Reagan stood at the Brandenburg gate and said, "Mr. Gorbachev, tear town this wall," he did so at a time when most people in official circles in Washington believed that the Berlin Wall and, indeed, Soviet communism itself, were permanent facts of life, to be accommodated and, perhaps, at best, contained. But Ronald Reagan knew better. Shortly after he said, "Mr. Gorbachev, tear down this wall," the Berlin Wall did, in fact, come tumbling down, and half a continent in chains for 45 years was liberated.

President Reagan, of course, would deny much credit for this. He attributed it to America and its own ideals. Here is what he said on December 16, 1983, when he created the National Endowment for Democracy. "Speaking out for human rights and individual liberty and for the rule of law is good and right," he said, "but it is just not good enough. We must work hard for democracy and freedom, and that means putting our resources, organizations, sweat and dollars behind a long-term program," and he had a long-term program to win the Cold War, and today we are all the beneficiaries of it.

President Reagan saw this not as a great military victory alone, although surely it ended that doctrine of mutual assured destruction that loomed like a shadow over all of our lives for so many decades but, rather, even more as a victory of freedom for millions of people enslaved by communism.

I will mention in response to the gentleman from Ohio (Mr. BROWN), that because I worked in the White House during the Reagan administration, I saw that here in Congress, President Reagan was unsuccessful in controlling spending. Yes, he did bring America's top tax rates from 70 percent down to 28 percent, and yes, that did ignite an economic expansion that we are still living through today; but no, President Reagan did not bring us deficits, for during the 1980s tax revenues to the government more than doubled as a result of that economic expansion that he started. Instead, it was runaway spending in Congress that President Reagan unsuccessfully railed against. In his last State of the Union address from this very rostrum, he asked Americans to give him a Balanced Budget Amendment to the Constitution, so that even if Congress were unwilling to be fiscally responsible, we could live within our means.

□ 1430

Mr. Speaker, I say to President Reagan, I am happy to tell him that his message has sunk in. We are all Reaganites now, for all of us working together, Republicans and Democrats, are balancing the budget. We are now arguing about how to spend the tax surplus or give it back to the taxpayers.

These are happy times. Indeed, all of it, I think, can be dated back to the hard work and leadership provided by President Reagan.

So, Mr. Speaker, for President Reagan's 90th birthday, how about if we promise to complete the Reagan revolution here in Congress. Happy birthday, Mr. President.

Mr. PLATTS. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is a real pleasure for me to be able to rise and speak in support of this resolution, and join my two distinguished colleagues from California, Mr. COX and Mr. ROHRABACHER, who are both alumni of the Reagan administration.

Later this afternoon I will have a bill on the floor that further honors the legacy of Ronald Reagan by naming a post office in my congressional district after our 40th President.

I feel very strongly that what we are doing today and what we are doing as part of the Reagan Legacy Project in items like naming a post office after Ronald Reagan are extremely important.

Ronald Reagan was a man who was harshly criticized by the liberal Democrat-leaning press in the United States throughout his Presidency. Much of his legacy will be defined by those press reports, and, as well, by those historians who, in addition to journalists, tend to be overwhelmingly liberal, Democratic-leaning, anti-Republican and anti-conservative in most of their philosophy.

So therefore, I think it is extremely important that people such as ourselves raise our voices and try our best to get the truth out.

In this regard, I was extremely pleased just Sunday to pick up a copy of the Washington Post, a newspaper that had been, I think, harshly critical of much of the Reagan administration initiatives, and lo and behold, there was a favorable story in there indicating that when we actually sit down and read some of Ronald Reagan's papers that are being made available to the public, lo and behold, we find that he was actually smart; that he actually had very, very good insights into what he was doing. To see this indeed printed by the Washington Post to me was extremely gratifying.

Ronald Reagan indeed was one of the greatest Presidents in our Nation's history, and I believe was one of the greatest of the 20th century. As was very, very well outlined by my colleague, the gentleman from Pennsylvania, in his comments earlier, he came to office at a time when we had very high inflation rates, high unemployment, low morale.

We had been through some very difficult years. His policies were successful not only in ending the Cold War and turning that economic crisis around, but probably, more importantly, lifting the American spirit.

We are living under the legacy of the policies that he introduced back then still to this day. Economists attribute the strong economy of the nineties to Alan Greenspan and the policies of Ronald Reagan. It is therefore fitting that we honor him on his birthday in this way.

Mr. PLATTS. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Speaker, today I am honored to join my colleagues and thousands of Idaho citizens in sending the very best of birthday wishes to President Ronald Reagan on his 90th birthday, or, in his words, the 51st anniversary of his 39th birthday.

When President Reagan came to office 20 years ago, he was faced with double-digit interest rates, rampant inflation, high unemployment, long gas lines, a weakened military, low national morale, and with a Democrat-controlled House, he, too, sought a bipartisan agreement and support, and in that process, cut the tax rates 25 percent, reduced wasteful spending, strengthened our national defense, and restored America's pride and her respect.

I was honored to serve on President Reagan's Task Force on International Private Enterprise. His vision of free markets, reducing tax burdensome regulations, and smaller, more responsible government, is as relevant in the year 2001 as it was in 1981.

America thanks President Reagan for his vision and leadership. Our prayers are with him and our prayers are with Nancy.

Mr. PLATTS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today we honor former President Ronald Reagan on the occasion of his 90th birthday. For those of us who worked with him, it is a tremendous source of satisfaction that our former boss is now being given the credit that he is due as one of America's greatest Presidents.

Every day it is becoming ever more clear that the long period of prosperity our people have enjoyed started in January of 1983. January of 1983 is when Ronald Reagan's economic policies, especially his tax program, went into full effect. At that point the economy took off like a rocket, and it has not ceased to expand since then to this very day, except for a very short 6-month dip in 1999 and 1992, unfortunately during a presidential election.

By the time President Clinton took office, however, the man who now claims credit for this long period of expansion, the growth rate in the economy was already 5.4 percent based on, of course, the strong economy that ignited in January of 1983.

My apologies to my friends on the other side of the aisle, but it was President Reagan whose policies led to this dramatic uplifting of the well-being of the American people that we have enjoyed for over a decade now.

Most of all, one of the factors that has insured that prosperity was that Ronald Reagan had a tough pro-freedom, pro-strength foreign policy that ended the Cold War and ushered the world into a new historic era of peace. The potential for world peace was never greater than at the end of his term in office, so that hundreds of billions of dollars that would have been spent on weapons now can build better lives for people and help pay off our debt. Our brightest minds, instead of focusing on developing technologies that will kill people more effectively, now can focus on technologies that will uplift the condition of humankind. That is what Ronald Reagan brought us, the kind of world that Ronald Reagan brought us.

The peace and prosperity to which I refer did not just happen. It came as a result of the courage and the wisdom of Ronald Reagan, a former lifeguard in a very small town in Illinois. A lifeguard, that is how he started out, and that is what he did for his entire life. He saved the lives of 17 people in a small lake, and continued trying to save people for the rest of his life.

He invested in the military, in our military, to win the Cold War. Just like we did in World War II, we invested a lot of money. There was a great deal of debt in World War II, but under his leadership, America went on the offensive. We began supporting freedom fighters, battling Soviet troops and surrogates from Afghanistan to Nicaragua, and supported democratic movements in Poland and in the Soviet Union itself.

In the end, the greatest and most sinister threat to freedom on our planet collapsed in its own evil. It would not have happened without the vision of Ronald Reagan, a former lifeguard, and yes, a former sports announcer and a former actor.

Today it is often said that the accomplishments I have mentioned would have happened anyway, without Ronald Reagan. Well, it just is not so. Ronald Reagan fought his battle against people who opposed everything he was trying to do every step of the way. He made things happen with the strength of his convictions and the power of his speeches.

He was maligned as heartless and as stupid by people who disagreed with his approach. Let me add, a majority of Democrats in this Congress and in the Congress at that time consistently voted to undermine every attempt Ronald Reagan made to confront Soviet expansionism, whether it was the supporting of anti-Communist forces in Latin America or the rebuilding of our military strength. Had their policies been heard and carried the day, we would still be in the Cold War and still be spending those billions of wasted dollars on weapons systems that now can be spent in economy-building ways.

Ronald Reagan was a good-hearted man. He was a strong man, but a good-hearted man, as good-hearted as I have ever met. He was hurt by suggestions that he was a mean-spirited person or did not care about others.

The SPEAKER pro tempore (Mr. SHIMKUS). All time has expired.

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent to speak for 3 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Each side will control 3 additional minutes.

Mr. PLATTS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, by insisting on responsible policies, President Reagan proved that he cared much more about the needy and downtrodden than his touchy-feely liberal critics whose decades-long failed policies had kept millions of Americans in despair and dependency.

Yes, during the Reagan years there was a budget deficit, as has been mentioned, just as there was in World War

II. That deficit can almost all be attributed to our military buildup, and I admit that, certainly, that was the factor. But it was that buildup that permitted us to end the Cold War and to lower the level of defense spending and now to balance our budget, which is exactly what we have done. Now, in the spirit of Ronald Reagan, we are cutting taxes and paying down and paying off the debt.

Finally, the viciousness against Reagan was at times so much. However, he himself kept a positive attitude. Reagan was often described as a puppet, a man, just a front man, and other decision-makers were using him. This characterization is so contrary to the reality of those of us who knew him that it just boggles the mind.

The now famous Berlin Wall speech in which Ronald Reagan called for Gorbachev to tear down the wall, every one of his senior advisors told him, begged him, pleaded with him not to say it, but Ronald Reagan knew that if he was to remain true to the things that he had believed in all his life and was going to give hope to those people around the world, that they had to know that we believed in what we had been saying. He had to tell Mr. Gorbachev to tear down that wall, even though George Schultz and all his advisors and people in this city today who claim to have written that speech for Ronald Reagan were people who were actually advising him not to give the speech.

Reagan stayed true to his ideals, and he saved the world in doing so. Today, the Ronald Reagan we knew and loved still lives, and he grows in stature as history reflects upon his enormous accomplishments and leadership. We wish him a happy 90th birthday.

We enter now a new millenium, celebrating our liberty, secure in our peace, and blessed by prosperity and unimagined opportunity. A man of vision and ideals saw this as he looked ahead. He took the steps and stands that were necessary to make it happen.

We thank Ronald Reagan. Now it is up to us, and I am certain if he were with us today, he would be just as confident of the American people as he ever was, and he would urge us on to greater heights and achievements because, after all, as he reminded us, we are Americans. So, what is holding us up? Let us get going.

Mr. PLATTS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, President Reagan has also enjoyed a special relationship with the American people. In 1994, after being diagnosed with Alzheimer's disease, he wrote a heartfelt letter to all of us. "My fellow Americans," he wrote, "I now begin the journey that will lead me into the sunset of my life. I know that for America there will always be a bright dawn ahead."

Thanks to President Reagan, there is still a bright dawn in our future. For that, President Reagan deserves our gratitude, our best wishes, and our love. Happy birthday, President Reagan. Mr. Speaker, I encourage all Members to support this joint resolution.

Mr. STEARNS. Mr. Speaker, today we celebrate the 90th birthday of Ronald Reagan. As we honor his life it is important to reflect on what he has contributed to our nation. As I consider this remarkable life, from his boyhood to the present, I see the heroic figure of a man coming to the rescue.

His first period of public service was when he served as lifeguard at Lowell Park in Dixon, Illinois. In seven years as a lifeguard, he is credited with saving 77 lives. To this very day, the sum of Ronald Reagan's contributions is measured by what he has done for others.

After a successful career in Hollywood as an actor and union president, Reagan again turned to public service. He witnessed the turmoil of the 1960s and the difficulties facing his beloved state of California. He saw the need for leadership and a new course directed from the governor's mansion. Never before holding public office, Ronald Reagan boldly stepped forward and offered his vision to the voters of America's most populous state. He won in a landslide.

After two terms in Sacramento, Governor Reagan saw a series of threats menacing the United States. He challenged the incumbent Republican President in 1976 for the nomination, and, although he did not succeed, he revitalized the conservative movement. In 1980, Reagan again entered the presidential race and this time he won his party's nomination.

I remember well the era of uncertainty that clouded America's future. Communism had reached the zenith of its power with strongholds in Asia, Africa, Europe, Cuba, and even Central America. American hostages were held in Iran and the enemies of the United States celebrated our weakness. Our economy was deflated and the American people dispirited.

Here in Washington in 1980, the President buckled to the pessimism of the time and called on the people to accept that our best days were gone. Ronald Reagan would have none of that—not the nonsense that America was a crippled giant, or that our best days were history. He placed before the American people his vision that we could overcome any hardship and route any challenge.

He renewed our belief in ourselves and we elected him to the White House. Again, Ronald Reagan came to the rescue. He turned our economy around, rebuilt our military, and aggressively outlined our national interests. The results were astounding.

Double-digit inflation and a 70-percent tax rate drained out economic vitality. He pushed the top tax rate down to 28 percent and broke the back of inflation. In the last 18 years, we have enjoyed economic growth in all but six months. Our recent prosperity is rooted in the seeds Reagan planted 20 years ago.

Reagan applied his faith in freedom and opportunity to world events as well. He knew that if we stood up to communism, it would be the forces of oppression that would collapse. Now, the Cold War is over—his unwavering defense of freedom and economic opportunity has transformed the world.

Our prosperity and our security are the legacies of Ronald Reagan. However, I think his most lasting gift to the nation is the rekindled American spirit. Thank you President Reagan for all you have done for the nation and for the world. I join everyone in wishing you a happy birthday.

Mr. GRUCCI. Mr. Speaker, thank you for this opportunity to add the voices of New York's First Congressional District as we honor a true American hero, President Ronald Reagan, on the celebration of his 90th Birthday.

At a dark time in our country's history, President Reagan reminded our nation of its greatness of all we had accomplished over the course of 200 years of history, and all the potential we held in store. If only we could shed the great sense of pessimism that plagued our country.

And why not? America has always been the home of the industrious, the self reliant, and those who knew that a better way to a better future could, and would be found. Americans have excelled because they won't settle for second best, or merely for the best that is available. We constantly strive to make things better.

President Reagan knew this, and he knew it was his mission to remind us of that. It was his mission to restore our faith and confidence in our nation and ourselves.

Spreading his message in a way that cut across all social and economic classes, President Reagan cut to the heart of the arguments of popular pessimism, and revealed their folly. He inspired us as a nation. As a people.

President Reagan knew America could be better. He reminded us that America is, and always has been, the land of hope, freedom and prosperity, the destination of millions who dream of coming here and sharing in, and contributing, to our destiny with greatness.

Under his guidance, America's prominence in the World community was restored. Our economy blossomed, and hope and promise spread from neighborhood to neighborhood. Community to community. From one coastline to another.

Ronald Reagan was the voice in the darkness that reminded us of this. It wasn't just nostalgic longing after a decade of economic, military and social decline. It was a fact. Just look around.

And just as we have countless times in our history, from the Sons of Liberty to the spirit of inventors such as Thomas Edison and the great economic expansion of the Eisenhower Administration, America rallied.

President Reagan led our charge. We as a nation seized our destiny, under his leadership, and proved once again that we were the best on the planet. Simply because of a man who, like our father, told us that he believed in us, and knew all along that we could.

He inspired all Americans to make a contribution into our communities. On a personal note, I distinctly recall how President Reagan energized me to get involved in public service. His words and actions instilled within me the importance of public service. His guiding principles of tax relief, patriotism, contributions to our communities, and pride in our country led me to public service. To use the skills I learned in private industry to enhance the quality of life of my neighbors, friends and family.

I can't imagine America today if it hadn't been for Ronald Reagan. For that, and so much more, on behalf of citizens of New York's First Congressional District, grateful for your service to our nation and the inspiration you are, I wish you the very best of birthdays.

Mr. Speaker, thank you, and God bless the United States of America.

Mr. WOLF. Mr. Speaker, today marks the 90th birthday of former President Ronald Reagan, a decent and honorable man, who had the unique ability to see what was best about America and appeal to "the better angels of our nature."

He came into office when America was suffering from a crisis of confidence, and he gave us back our voice.

By invoking images of a "shining city upon a hill" he reminded Americans not only of our national heritage, but of how the oppressed and downtrodden of the world looked to this nation for leadership.

In my recent trip to Africa I was again reminded of how incredibly blessed America is. It is my firm belief that to whom much is given much is required.

Those who are oppressed and downtrodden today still view this nation as Ronald Reagan described it a decade ago—a "shining city upon a hill"—a beacon of hope and democracy.

And so, in the spirit of President Reagan's birthday I ask that you take a moment to reflect on how we can continue to embrace this calling. While the Cold War is over, the Berlin Wall is down, and Soviet communism is in the ash heap of history as Reagan predicted it would be, there are still those fighting for the freedom that we so often take for granted. Whether it be the persecuted House Church pastor in China or the frightened civilian in the Sudanese marketplace praying not to be the unlucky target of daily bombing raids, these people demand a voice.

President Reagan was a champion for human rights in the Soviet Union and Eastern Europe. He spoke up in defense of freedom and democracy. He raised the cases of dissidents during his high-level meetings with Soviet officials. He made passionate and eloquent speeches outlining America's values. He engaged, but he engaged forthrightly and he backed up engagement with action.

President Reagan once said, "We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings."

Sadly President Reagan does not remember the hope that his words provided to millions living behind the Iron Curtain. But we can not forget. For while the times and circumstances may have changed, the yearning for freedom has not.

We send our best wishes today to Ronald Reagan and with those wishes go our appreciation as a grateful nation that we were fortunate enough to have him serve as our President.

Mr. REYNOLDS. Mr. Speaker, I rise today to commemorate the birthday of our 40th President, Ronald Reagan.

It is natural on birthdays to reflect on the mark one has made in life. We have much to reflect upon today, on Ronald Reagan's Ninetieth birthday. Because of his leadership, Americans are more prosperous, secure, and free.

Reagan's leadership has left America more prosperous. The record economic expansion of the past two decades can be directly attributed to the policy changes enacted by Ronald Reagan. Cutting taxes, deregulating industries, and greatly reducing the possibility of catastrophic war have proven a winning formula for economic success. Leaders across the world have learned and are copying his example.

When his contemporaries pursued an industrial policy or a middle ground between capitalism and socialism, Reagan opted for limited government. As a result, America has reaped virtually uninterrupted economic growth and surged ahead of rivals in technological innovation.

Reagan's leadership has left America more secure. His grand strategic plan brought down the greatest threat to our way of life. His contemporaries counseled détente and feared confrontation with the Soviet Union. But Reagan unabashedly called it the Evil Empire and wanted nothing less than its destruction.

After years of military decline, Reagan rebuilt and restored the morale of our military. Never has a nation become so mighty as the United States, and it is due in no small part to leadership of Ronald Reagan.

And Reagan's advocacy of the Strategic Defense Initiative will shortly bear fruit as we build a national missile defense. He recognized the insanity of MAD, and though we should instead construct a physical, rather than merely psychological, defense to protect Americans and our allies from the horror of nuclear war.

Most important, Reagan's leadership has left Americans and the world more free. Domestically, Americans are freer than before Reagan entered the Oval Office. And, his philosophical legacy has shifted the momentum of history toward, rather than away from, greater individual freedom.

Around the world, hundreds of millions of people formerly enslaved by communism have been liberated by the collapse of the Soviet Union, precipitated by Ronald Reagan. Only five countries remain so enslaved. Even citizens in countries that were not communist also enjoy greater freedom, as their governments recognize the success of the Reagan model and decrease government interference in their lives.

In increasing our prosperity, security, and freedom, president Ronald Reagan succeeded greatly in the most crucial functions of government. For this, he is one of our greatest presidents.

Mr. DIAZ-BALART. Mr. Speaker, I rise today in support of H.J. Res. 7, a bill to recognize the accomplishments and legacy of President Reagan.

What is the standard we use to judge our Presidents? How do we appropriately honor those men who have served our great nation and the office of the Presidency with great distinction, courage, honor, and vision? In this city, which is already graced with so many memorials of marble, granite, and bronze, to men and women who have loved freedom more than life and their country more than self—how can we best remember and celebrate the service rendered to these United States and to those dedicated to the cause of freedom throughout the world by President Ronald W. Reagan?

President Reagan represents the spirit that has made America strong. He began his eight years in office at a time when America appeared to be on the ebb—economically and militarily demoralized. But for President Reagan—it was morning in America. America during the Reagan years was an America of hopes fulfilled and a place where dreams came true. Reagan's America was to be a Shining City on a Hill—shining the light of freedom for all peoples throughout the world. This was his vision, a vision from which he never wavered.

In a speech given in 1964, President Reagan responded to his detractors, to those who said that only bigger and more powerful governments could provide security despite the price of freedom.

He said:

They say the world has become too complex for simple answers. They are wrong. There are no easy answers, but there are simple answers. We must have the courage to do what we know is morally right. . . You and I have a rendezvous with destiny. We will preserve for our children the last best hope of man on earth or we will sentence them to take the first step into a thousand years of darkness.

Thoughout his life, President Reagan has fought against tyranny and oppression—against that thousand years of darkness. He did not shy back from calling the communist Soviet Union an Evil Empire; He did not hesitate to support those freedom-fighters who were engaged in battle against tyranny; He fought back relentlessly against every attack against America's people and her interest.

His moral courage and his conviction that America should be the example for all who would desire freedom to pursue life, liberty and happiness never failed and he is an example to all Americans. Around the world today, we are harvesting the benefits of that vision and hard labor as more and more nations around the world are turning from tyranny and oppression to democracy and justice.

I still share President Reagan's vision of America as a Shining City on a Hill shining its light freedom around the world. It is only fitting that we honor the lifetime and legacy of this great American hero. As long as freedom is our watchword and liberty our call to arms, America will continue to so shine its light into the world for all to see.

Mr. KERNS. Mr. Speaker, today history is made, as President Ronald Wilson Reagan is one of only three President's to reach the age of 90. Mr. Speaker, I rise today to wish President Reagan a Happy Birthday!

President Reagan is the reason I am able to stand here before my colleagues today. His strength as a leader, inspired me to someday serve this great nation, as he so eloquently has served. And I feel honored that I have been given the opportunity.

Because of his hard work and devotion to conservative ideals, his presidency resulted in one of the most dynamic periods in recent U.S. history, refocusing our nations business, international and social agendas. We are a better country today because of his leadership.

It is my hope, that I may be able to work with my colleagues to continue what President Reagan started, "to make government work with us, not over us; stand by our side, not ride on our back." We are still working to continue what he started 20 years ago, "the era of national renewal".

We are faced with many important domestic policy decisions before us this Congress. Many of the same issues President Reagan's presidency was faced with including tax cuts, social security reform and issues concerning medicare. May we always be able to look back on his years and have them guide us into the next century.

Let us be able to remember President Reagan's daily optimism and wake up each day with the aspirations of making today better than yesterday, and tomorrow better than today.

As we work to make tomorrow better, may we remember his bi-partisan message that "there is no such thing as a left or right. There is only an up or down.

Let us keep President Reagan's vision for America alive and never back down on what we believe will make this world a better place, doing what sometimes may seem the impossible. Let us remember his words that make the unthinkable a reality. "Mr. Gorbachev, open this gate! Mr. Gorbachev, tear down this wall!".

The President once remarked: "What I'd really like to do is go down in history as the President who made Americans believe in themselves again."

The Gipper said it best, "we will always remember, we will always be proud, we will always be prepared, so we may always be free."

Hapy Birthday to President Reagan!

Mr. DAVIS of Illinois. Mr. Speaker, on this day, Ronald Reagan will join John Adams and Herbert Hoover as the only Presidents to reach age 90. We know him as our 40th President. However, many do not know the precedents set by him. For example:

He was the oldest man elected president;

He was the first Hollywood actor to be elected President, earning the monikers, "Dutch," "The Gipper," and "The Great Communicator," and

He appointed the first woman to the supreme court, Supreme Court Justice Sandra Day O'Connor.

Ronald Reagan was born in Tampico, Illinois on February 6, 1911. While at Eureka College, he studied economics and sociology, played on the football team, acted in school plays, and served as class president. While in college, young Reagan proven himself to be a strong, well-liked, vocal leader, characteristics that would suit him well in future endeavors.

After graduation, Reagan worked as a sports announcer for WOC, a radio station in Davenport, Iowa. Subsequently, he pursued a career in broadcasting and acting.

In 1947, after serving for three years in the U.S. Army, he was elected president of the Screen Actors Guild. As president of the Screen Actors Guild, Reagan became embroiled in disputes over the issue of Communism in the film industry; his political views shifted from liberal to conservative. Moreover, he toured the country as a television host, becoming a spokesman for conservatism—taking it to the mainstream.

Leadership extended beyond Reagan's film career into public service. He focused on understanding the nation's institutions and developed a philosophy and outlook that he implemented throughout his political career. Furthermore, Reagan was able to rally others to believe in his political ideals as he ascended into higher legislative positions.

In 1966, Ronald Reagan successfully secured a bid for governorship. While Reagan was governor, he cut the state budget and raised taxes. He signed a new billion dollar tax increase, which helped balance the state budget. In addition, he raised personal and sales taxes, and lowered property taxes. As a result of his popular appeal, he was reelected for a second term in 1970. After a successful eight years as governor of California, Ronald Reagan focused exercising his leadership skills in the highest public office in the United States.

In 1980, Ronald Reagan won the Republican Presidential nomination. While working with Congress. Reagan obtained legislation to stimulate economic growth, curb inflation, increase employment, and strengthen the national defense. He embarked upon a course of cutting taxes and Government expenditures, refusing to deviate from it when the strengthening of defense forces led to a large deficit. His staunch approach to public policy combined with his savvy appeal has earned Ronald Reagan the title as "The Great Communicator." We all can learn from the legacy of Ronald Reagan.

Today, this nation and this body celebrates his 90th birthday. This resolution acknowledges not only his birthday, but his role as our 40th President.

Mr. Speaker, I urge the passage of this resolution.

Mr. MARKEY. Today our nation's 40th President turns ninety—one of only three other Presidents in our history to reach his ninetieth year. With recent advances made in health and science, we can anticipate many more of our future Presidents to live into their nineties, along with the entire U.S. population.

But what impact does an increase in our country's aging population have? And what sort of quality of life will our elderly enjoy? I have my concerns.

Currently there is a threat facing our elderly population—a wave, gaining momentum and sweeping its way through the minds of our aged. This disease afflicts President Reagan. It is Alzheimer's and it threatens the future for our nation's elderly, their families and our health care system.

Alzheimer's is indiscriminate and cruel, it creeps into the brain, captures the mind and steals the memory—irrevocably altering the personality of its victims leaving not only loved ones unrecognizable to the Alzheimer's patient but the patient unrecognizable to their loved ones. This is what makes this disease particularly cruel . . . the loss of the thread of continuity that weaves itself through every experience of our lives and defines us as who we are.

It was only forty years ago that researchers considered Alzheimer's Disease a rare disorder. But since then, scientists have come to realize that it is far more common than we originally thought . . . so common in fact that today Alzheimer's Disease is the leading cause of age-related dementia in the country.

So common—that one in ten Americans over the age of 65, and one out of every two Americans over the age of 80 are afflicted.

So common—that 37 million Americans say they know someone with Alzheimer's.

So common—that 19 million Americans say they have a family member with the disease.

So common that 2.7 million spouses, relatives and friends care for people with Alzheimer's.

And so common that today over 4 million Americans suffer with the disease.

The word epidemic is derived from the Greek word "epideemia" which translates literally to "a visit." Alzheimer's has become the epidemic of our aging population . . . but given the projection that by 2050 14 million Americans will be afflicted—unless we find a way to stop this disease—Alzheimer's won't be just visiting our aging population, Alzheimer's will be moving in.

Two years ago, I joined with my Republican colleague Chris Smith of New Jersey to create the Bipartisan Congressional Task Force on Alzheimer's Disease. To date over 130 Members of Congress have signed on. And last Congress, I along with my dedicated colleagues fought to increase NIH research funding for Alzheimer's research—I am pleased to say NIH received somewhere in the range of an $85 million increase bringing the total budget for federally funded Alzheimer's research to $515 million.

In addition, I was able to include a $300 million (or $1.3 billion over 10 years) provision in the Balanced Budget Refinement Act of 2000 that would make it possible for homebound Medicare beneficiaries with Alzheimer's Disease to go to adult day care and religious services mass or synagogue, without losing their home health benefits. Believe it or not, before this provision was passed into law—Medicare beneficiaries with Alzheimer's Disease would lose their home health benefit if they went to church or adult day care.

My efforts to improve the lives of those afflicted and affected by Alzheimer's are animated by my own personal experience with my mother's battle. However, there is one program—a bill I introduced last Congress which made its way into law—that was specifically inspired by ongoing discussions I had with the doctors who treated my mother's illness.

In talking to these caring physicians, I was made aware of the lack of funding for clinical research or as physician-scientists call it "translational" research. Specifically, there is not enough applicable research being done on "real" people with the disease or likely to get the disease. Not enough focus on cutting edge treatments, and preventative measures.

The Alzheimer's Clinical Research and Training Awards program which passed into law last Congress will provide $11.25 million over five years to fund physician-scientists in translational research. It's a small start but I'm hoping this program will grow.

In the battle against Alzheimer's we've accomplished some—but there is still so much more we must do. By working together to increase funding for research, prevention and care, it is my hope that President Reagan and the millions of other Americans who currently suffer with Alzheimer's will be the last generation to experience this devastating epidemic.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the Resolution, H.R. 7, expressing the sense of Congress on behalf of the American people, to extend our birthday greetings to our former President, Ronald Reagan, who turns 90 today.

I am pleased to associate myself with the legislation we will be considering immediately after this Bill, which renames the facility of the U.S. Postal Service in West Melbourne, Florida, in honor of President Reagan.

Of our 43 Presidents, only two prior to today—John Adams and Herbert Hoover—reached their 90th birthday. It is a remarkable achievement and it is totally appropriate that the Congress make note of it.

In recent years, the publication of new material—including the love letters written by the President to his wife, and the radio addresses which he delivered from 1977 until 1980—have led to a long overdue reassessment of our 40th President by historians and by the general public. While some unfairly had characterized President Reagan as a mouthpiece for others, the historic evidence now shows beyond dispute how erroneous that perception has been. Ronald Reagan was the author of his own thoughts and the articulator of them. His vision and leadership helped bring about a better nation and a better world, and it is long overdue that he received appropriate credit for his contributions.

Americans across the nation have long held President Reagan in high regard. President Reagan became known for his skill at inspiring his audience. He was eloquent and effectively expressed his philosophies to all people. He united our nation after what many considered the most turbulent time in history, and in times of tragedy, such as the Challenger explosion, his words of sympathy and consolation eased the grief of our nation.

President Reagan's skills as "the great communicator" may have obscured the fact that he was a genuine visionary. When President Reagan took office, America and the Soviet Union held the world under a sword of Damocles, with the threat of nuclear war never far from our minds. President Reagan fully grasps the most valuable of all lessons of history—the lesson that negotiations are futile if we do not go to the bargaining table from a position of strength.

Though President Reagan faced challenges at home from many who disagreed with this belief, he never wavered. The fruit of his efforts, the 1988 Arms Control Treaty, heralded our final victory in the Cold War, and ushered in the era of pax Americana.

Today, President Reagan faces the most serious fight of his life as he battles against Alzheimer's disease. May his family receive some solace and strength from the knowledge that his friends and admirers, including those of us in this Chamber, always keep in our thoughts and prayers, the "Gipper".

His birthday today is a reminder to all of us of just how precious life is, and an appropriate time to commemorate the genuine contributions of this great American hero.

Mr. Speaker, I am honored to associate my name with these legislative initiatives which honor one of the great Americans of the 20th century, our 40th President, Ronald Reagan.

Mr. HALL of Texas. Mr. Speaker, I rise today to honor the 90th birthday of former President Ronald Reagan and to pay tribute to his distinguished service during his eight years as our Nation's leader. President Reagan's idealism and vision set the stage for remarkable achievements both at home and abroad. His policies placed America on a course for economic growth and prosperity and military superiority in the world—helping to secure America's position as the world's super power and the pivotal leader of the free world.

President Reagan's optimism for life, and his ability to inspire, renewed our citizens' commitment to the values and principles of freedom and justice upon which our Nation was founded. His policy of "peace through strength" brought an historic ending to the Cold War, dismantling much of the Soviet Union's military might and positioning our armed forces for victory a few years later in the Persian Gulf. His domestic policies introduced an era of economic expansion that would help carry us through the end of the 20th century. His efforts to combat crime and drugs and to reevaluate our Nation's healthcare system marked the beginnings of much-needed and long-overdue reforms.

In short Mr. Speaker, President Reagan embodied those qualities that we seek in our Nation's leaders—vision, optimism, decency, integrity, responsibility. He believed in democracy, freedom, and the basic goodness of America. And he led by example. I am honored to join my colleagues today in honoring this great American and great former President—Ronald Reagan—and extending to him and to his wonderful wife, Nancy, our best wishes and our eternal gratitude for their contributions to our great Nation.

Mr. BROWN of South Carolina. Mr. Speaker, Ronald Reagan exemplified honor and dignity while serving his country and restored stability to an unstable nation. The United States will be forever indebted to this exceptional man. I am proud and humbled to honor our 40th President, Mr. Ronald Reagan, on his 90th birthday.

President Reagan focused on rebuilding our country's military forces and developing a defense system to protect our shores. On May 15, 1993, Mr. Reagan delivered the Commencement Speech at The Citadel. This remarkable address highlighted his continued support of our military and the need for military readiness, an issue clearly facing us today.

It is with honor and humility that I read to you a part of his address:

"It is said that the price of freedom is eternal vigilance. And I'd like to offer several reasons why we must stay strong militarily:

"First, despite the spread of democracy and capitalism, human nature has not changed. It is still an unpredictable mixture of good and evil. Our enemies may be irrational, even outright insane—driven by nationalism, religion, ethnicity or ideology. They do not fear the United States for its diplomatic skills or the number of automobiles and software programs it produces. They respect only the firepower of our tanks, planes and helicopter gun ships.

"Second, the Soviet Union may be gone, but even small powers can destroy global peace and security. The modern world is filled with vulnerable "choke-points"—military, geographic, political and economic . . .

"Third, technology—for all its blessings—can enable new enemies to rise up overnight. Scientific information flows to ambitious dictators faster than ever . . . who can predict what will be the 'blitzkriegs' of tomorrow?"

President Ronald Reagan advised against weakening the military in peacetime, and, in turn, honored the young men willfully seeking the opportunity to serve our nation. He further commented, "In my eighty-two years, I've seen America drop her guard time and time again—and each time with tragic consequences. . . . Today, the United States dominates the world arena. Once again, our noble first instinct is to seek peace. And that's why America needs the brave and skilled soldiers of The Citadel more than ever."

I share many of President Reagan's views on military readiness. I am happy and proud to add that we share one more thing—we both received Honorary Doctorates from The Citadel.

Happy Birthday, Mr. President.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support for the purpose of recognizing Ronald Reagan's 90th Birthday (H.J. Res. 7)—the 40th President of the United States. This resolution simply extends the best wishes and warm birthday greetings of the 107th Congress to former President Reagan on his 90th birthday.

Twelve years after leaving the White House with plans to spend his sunset years chopping wood and riding horses, Ronald Reagan celebrates his 90th birthday while battling old age, Alzheimer's disease and a broken hip. These are not easy obstacles for a wonderful man like Ronald Reagan or his loved ones. Fortunately, I have learned that Mr. Reagan will celebrate his 90th birthday very quietly at his home with a birthday cake (likely his favorite chocolate) and his lovely wife, Mrs. Reagan.

Reagan basked in the glory of retirement for six years, then learned he had Alzheimer's. Mrs. Reagan, his wife of nearly 49 years, has vigilantly guarded his privacy since he withdrew from public view on Nov. 5, 1994, with a poignant letter about his Alzheimer diagnosis. "I know this touched many of my fellow Americans. I only wish there was some way I could spare Nancy from this painful experience," he wrote.

Former President Reagan was recognized as the Great Communicator for good reason. His powers of persuasion over foe and friend—which extended to a range of issues—were considerable. He clearly held views with an acute passion. He loved public policy and spent a great deal of his life assuming the highest office of the land. From speeches early in his political career and his final days in Hollywood, through the White House years and into retirement, President Reagan has left a vast legacy of achievement.

The perceptions of Ronald Reagan as a political figure and a foreign policy maker are numerous. I respected the fact that Ronald

Reagan was dedicated to winning the Cold War. By the end of his presidency, he had led the groundwork for the fall of the Soviet Empire. While many of us never viewed the Soviet Empire as the danger that he envisioned, we respected his vision and determination to spread freedom around the world.

Finally, let me just make a few remarks about Mr. and Mrs. Reagan. We should salute the couple's extraordinary courage in continuing to share their story with the world, building awareness, and lifting the enormous stigma of Alzheimer's and showing that life goes on. Again, happy birthday, Mr. Reagan.

Ms. ROS-LEHTINEN. Mr. Speaker, I stand today to honor one of our nation's greatest patriots and most respected Presidents, Ronald W. Reagan, on this, the 90th anniversary of his birthday.

There are those Americans who today will remember Ronald Reagan as the charismatic 40th President of the United States. A leader who by the sheer force of his immutable optimism gave America a reason to be proud and secure of our place in the world.

Others will remember the "Great Communicator" who in the wake of "stagflation" and an oil crisis, articulated a doctrine of personal responsibility and limited government, which brought to our nation economic stability, security, and self-respect.

But I am here to honor another Reagan. A man of steely convictions, and resolute vision. A man who in one simple speech redefined America's purpose, and gave us all new certitude that we would prevail against the Soviet Union.

In 1983, the international stage was a different place than it is today. The Soviet Union still stared menacingly westward over the satellite states of Eastern Europe. The nuclear arms race was a reality, and fear of nuclear war gripped the nation.

It was in this atmosphere of Cold War fear, and amid growing calls to give up the arms race that Mr. Reagan, at perhaps his most eloquent, strode onto a stage in Orlando, Florida and delivered a speech that put his critics on notice that America would not back down. America would stand, alone if she must, to defend and protect the institutions of liberty and freedom from the Communists.

He reminded us not to ignore the facts of history, and the aggressive impulses of an evil empire because, as he said, "to simply call the arms race a giant misunderstanding is to remove ourselves from the struggle between right and wrong and good and evil." He reminded us not only of why we were fighting, but of what we were fighting for. The cold war was a struggle between good and evil, freedom and oppression.

It was this message which President Reagan carried with him to my hometown of Miami, FL. At the Orange Bowl Stadium, and in the middle of Little Havana, he placed the Cuban Dictator, Fidel Castro, on notice—that the United States would stand firm against the tyrannical Castro regime and would defend the right of the Cuban people to live free of oppression; that the United States would not tolerate communist Cuba's continued threats against U.S. national security and regional stability.

His words still carry with them a strength and clarity of vision which only the greatest of leaders possess. His insistence that this was the path America would take was tempered by the knowledge that in doing so, we would all share in the glory of the right and the honorable. Ronald Reagan reminded us all that America was strong, that America was right, that America was proud.

The legacy of Ronald Reagan is secure, for no other reason than the fact that he stood up for America and said in a strong, clear voice that patriotism is not dead, and that liberty and freedom are always worth fighting for.

Because of this President Reagan, I would like to thank you for your service to your country, and wish both you, and Mrs. Reagan, Godspeed.

Mr. KNOLLENBERG. Mr. Speaker, I am delighted to be here today to honor President Ronald Reagan on his 90th birthday. President Reagan's policies have shaped this great nation and set us on the path to the longest peacetime economic expansion since the end of the Second World War. His optimism restored Americans' confidence in our great nation and in themselves.

President Reagan once said "A leader, once convinced a particular course of action is the right one, must have the determination to stick with it and be undaunted when the going gets rough." President Reagan proved he was a true leader. Despite dire predictions from pundits about his policies, Reagan fought for what he believed in and made the country better off as a result.

President Reagan inherited an economy that was out of control with high inflation, interest rates and unemployment. Americans were being held hostage in Iran and the Soviet Union was threatening freedom across the world. Once elected, Reagan embarked on an ambitious agenda to reduce taxes, reduce Americans' dependence on the federal government, and achieve "peace through strength" by rebuilding our military. His tax cuts stimulated the economy and Americans re-elected him by one of the largest margins in U.S. history. During his second term, we began to see the results of Reagan's commitment to the principles of individual rights for all and projecting military strength with the weakening of communist control of Eastern Europe and the Soviet Union. These principles led soon thereafter to the collapse of the Berlin Wall and the Soviet Union.

America is still experiencing the benefits of the Reagan's economic policies of lower taxes, free trade and reliance on free markets. We have had eighteen consecutive years of nearly unbroken economic growth and low inflation. Productivity is growing and incomes are rising. As Reagan stated at the end of his presidency:

> In eight short years, we have reversed a 50-year trend of turning to the government for solutions. We have relearned what our founding Fathers knew long ago—it is the people, not the government, who provide the vitality and creativity that make a great nation. Just as the first American Revolution, which began with the shot heard 'round the world, inspired people everywhere who dreamed of freedom, so has this second American revolution inspired changes throughout the world. The message we brought to Washington—reduce the government, reduce regulation, restore incentives—has been heard around the world.

One of Reagan's greatest legacies is that he restored Americans' confidence in themselves and reminded them that the government has no power except that granted it by the people. I look forward to continuing Reagan's revolution by fighting for lower taxes, less intrusive government and individual responsibility.

Happy Birthday President Reagan and God bless.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the joint resolution, H.J. Res. 7.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PLATTS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1445

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair must remind all Members that remarks in debate should be addressed to the Chair and not to others who may be viewing proceedings.

RONALD W. REAGAN POST OFFICE OF WEST MELBOURNE, FLORIDA

Mr. PLATTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 395) to designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida."

The Clerk read as follows:

H.R. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, shall be known and designated as the "Ronald W. Reagan Post Office of West Melbourne, Florida".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Ronald W. Reagan Post Office of West Melbourne, Florida.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. PLATTS) and the gentlewoman from California (Ms. SANCHEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PLATTS).

GENERAL LEAVE

Mr. PLATTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 395.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PLATTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, introduced by the gentleman from Florida (Mr. WELDON) is supported by the House delegation from the State of Florida and it is fitting and appropriate that we bring this legislation to the floor today to commemorate the 90th birthday of our great leader.

There has been much written and known about former President Reagan, and everybody has a favorite story or anecdote. We will, however, be unable to capture all facets of his life during our allotted time.

Mr. Reagan, our 40th President, won a landslide victory in 1980 and was easily reelected 4 years later. Ronald Wilson Reagan came from humble beginnings. He was born in Tampico, Illinois, son of a salesman with a mother who was a devout member of the Disciples of Christ Church.

After moving to various locations, the family settled in Dixon, Illinois, where his father became part owner of a shoe store and his mother did occasional work to supplement the family's meager income.

Young Ronald Reagan excelled in sports and received a scholarship to attend Eureka College. Even with a scholarship, he had to work hard to stay in college. He graduated with a B.A. in economics and sociology, the first person in his family to attend and graduate from college.

He showed an early interest in politics, but did not participate. He did, however, show interest in some form of show business. "Dutch" Reagan, as he was known, became a very popular sportscaster in Iowa. Soon thereafter, he went to Hollywood where he was offered a 7-year contract with Warner Brothers for $200 a week, an offer he could not turn down. He then brought his parents to live with him in California; and although not an instant star, he was a steady worker.

Mr. Speaker, Ronald Reagan became President of the Screen Actors Guild in 1947; and several years thereafter, his activities with the Screen Actors Guild aroused his latent interest in politics. Thereafter, when his longstanding friend, Barry Goldwater, won the Republican nomination for President, Mr. Reagan helped with the campaign. Soon after, he was persuaded to run for governor of California, a race he won by a landslide over a popular incumbent. He won reelection in 1970.

Ronald Reagan was nominated for President in 1980, supporting the issues of family, work, neighborhood, peace, and freedom. He became the oldest President to be elected in our Nation's history. Two months after his election, he was the victim of an assassination attempt, but made a remarkable recovery.

He served the Nation as President for 8 years and now resides in California. In 1994, after several years of writing, traveling, and silence, former President Reagan, who was known as the Great Communicator, wrote a handwritten letter informing the Nation he had the early stages of Alzheimer's disease.

Perhaps the essence of President Reagan's life is captured in his own words. He wrote: "In this land of dreams fulfilled where greater dreams may be imagined, nothing is impossible. No victory is beyond our reach. No glory will ever be too great.

"The world's hopes rest with America's future.

"Our work will pale before the greatness of America's champions in the 21st Century."

Mr. Speaker, I urge all my colleagues to support H.R. 395.

Mr. Speaker, I reserve the balance of my time.

Ms. SANCHEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 395, which names a Post Office after Ronald W. Reagan, was introduced today by the gentleman from Florida (Mr. WELDON). This measure is identical to H.R. 5309 introduced last year by the gentleman and which was passed by the House on October 27 of the year 2000.

Ronald Wilson Reagan, known as "Dutch," "The Gipper" and "The Great Communicator," was the 40th President of the United States. He served as President from January 1981 to January 1989. At 73, he was the oldest man ever elected to the Presidency. And, as remarked earlier, today marks his 90th birthday.

He was an actor by profession, but he also served as the Governor of my State of California from 1966 to 1979. During his Presidency, his economic policies came to be known as "Reaganomics." In November of 1994, former President Reagan announced that he was afflicted with Alzheimer's.

Although a number of facilities have been named after the former President, schools, streets, highways, and even the Washington airport, a crowning achievement was when President Clinton dedicated the Ronald Reagan Building here in Washington D.C. in 1998. That building houses an international trade center, international cultural activities, the Agency for International Development, and many others.

Mr. Speaker, I urge the swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. PLATTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. PLATTS) for yielding me this time.

Mr. Speaker, I am proud to stand on the floor of the House today to honor our former President, Ronald Reagan. Today is an appropriate day to consider this bill, because it is President Reagan's 90th birthday.

Today, we wish him the very best. We have the opportunity to honor a man who made us proud again to be Americans. As was stated, I have introduced this legislation to designate this Post Office at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne." This Post Office is in Florida's 15th Congressional District, and I am pleased that every member of the Florida Congressional Delegation has signed on as a cosponsor of this bill.

Last year, I introduced similar legislation and it passed the House on October 27. Due to time constraints, the Senate was unable to give final approval to the bill prior to its adjournment. However, now it is more appropriate than ever for this House to pass this bill again.

Former President Reagan is a true American hero, and naming this U.S. Post Office after him is a fitting way to honor his legacy.

Ronald Reagan was born on February 6, 1911, in Tampico, Illinois. He was a man with many ambitions, growing up a Midwestern boy in hard economic times. He worked his way through Eureka College. He started his career as a radio announcer; and in 1937 went to Hollywood where he appeared in more than 50 movies. He became president of the Screen Actors Guild and was involved in fighting Communist influences in Hollywood.

In 1966, he was elected the Governor of the State of California by a margin of more than 1 million votes; and then was elected governor again in 1970 to another 4-year term.

In 1980, Reagan was elected to serve as our 40th President. Ronald Reagan set our Nation on a path to prosperity. He was a strong moral leader and made Americans proud to be Americans. The economic policies he pursued in the 1980s set a firm foundation for the economic prosperity that we have experienced over the last decade as well.

Ronald Reagan reinvigorated the American people through smaller government, putting a lid on inflation, and strengthening our national defenses.

President Reagan's persistence in achieving peace through strength carried our Nation to its longest recorded period of peacetime prosperity.

President Reagan negotiated a treaty with Soviet leader Mikhail Gorbachev to eliminate medium-range nuclear missiles. Mr. Reagan went to Berlin and challenged Mr. Gorbachev to "Tear down this wall." His 8 years of persistence paid off; and as a result of his tireless fight for freedom, the Iron Curtain fell shortly after he left office.

President Reagan certainly followed through with his 1980 campaign pledge to restore "the great, confident roar of American progress and growth and optimism."

I am happy that we are considering this legislation today, and I encourage all of my colleagues to support this effort to name this post office in my congressional district in Ronald Reagan's honor.

Mr. PLATTS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the bill, H.R. 395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING CONTRIBUTIONS OF CATHOLIC SCHOOLS

Mr. TIBERI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 28) honoring the contributions of Catholic schools.

The Clerk read as follows:

H. RES. 28

Whereas America's Catholic schools are internationally acclaimed for their academic excellence, but provide students more than a superior scholastic education;

Whereas Catholic schools ensure a broad, values-added education emphasizing the lifelong development of moral, intellectual, physical, and social values in America's young people;

Whereas the total Catholic school student enrollment for the 1999–2000 academic year was 2,653,038, the total number of Catholic schools is 8,144, and the student-teacher ratio is 17 to 1;

Whereas Catholic schools provide more than $17,200,000,000 a year in savings to the Nation based on the average public school per pupil cost;

Whereas Catholic schools teach a diverse group of students and over 24 percent of school children enrolled in Catholic schools are minorities;

Whereas the graduation rate of Catholic school students is 95 percent, only 3 percent of Catholic high school students drop out of school, and 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual, character, and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, "Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives": Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals of Catholic Schools Week, an event sponsored by the National Catholic Educational Association and the United States Catholic Conference and established to recognize the vital contributions of America's thousands of Catholic elementary and secondary schools; and

(2) congratulates Catholic schools, students, parents, and teachers across the Nation for their ongoing contributions to education, and for the key role they play in promoting and ensuring a brighter, stronger future for this Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TIBERI) and the gentlewoman from California (Ms. SANCHEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TIBERI).

GENERAL LEAVE

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 28.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TIBERI. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from Ohio (Mr. TIBERI) for yielding me this time.

Mr. Speaker, I am pleased to rise today in support of House Resolution 28, which recognizes and honors the contributions of Catholic schools in the United States. Our Nation's Catholic schools have a long tradition of academic excellence, and I am pleased to join in recognizing them today.

As this new Congress begins, it is fitting that we are focusing on the impact and the important role that Catholic schools play in providing a well-rounded education for America's young people; one that gives special attention to the academic, moral, and social development of our children.

One of the top priorities for the Committee on Education and the Workforce will be to reauthorize this year the Elementary and Secondary Education Act, which provide benefits to both public and private schools. Across our country, many Catholic schools participate in many programs and activities assisted by these funds.

Last year, Catholic schools around the country enrolled more than 2.6 million children in more than 8,000 Catholic schools across the country. The student-teacher ratio in most Catholic schools is 17-to-1, and more than 24 percent of their students come from disadvantaged backgrounds.

Mr. Speaker, 95 percent of Catholic school students graduate; and 83 percent of their high school graduates go on to pursue a higher education. It stands to reason that if it were not for our Nation's Catholic schools, and the dedicated teachers who serve them, the achievement gap between the disadvantaged students in our society and their peers would be even wider.

Moreover, I would point out that of the total students enrolled in Catholic schools, about 13 percent are not of the Catholic faith. These students come from a wide variety of faiths and have chosen to attend a Catholic school. I think that it speaks to the mission and success of Catholic educators to reach out to all students and their parents who are seeking the best possible education for their children, especially for inner-city schools in which the majority of students enrolled are non-Catholic.

Mr. Speaker, I can attest to the outstanding contributions, dedication, and accomplishments of Catholic schools, because I and my 11 brothers and sisters are products of Catholic schools in Ohio. I attended St. Peter and Paul Elementary School in Reading, Ohio and Archbishop Moeller High School in the Cincinnati suburbs. I then went on to attend and graduate from Xavier University.

☐ 1500

Catholic schools have made a positive difference in the lives of hundreds of thousands of students in my State and around the country. Outstanding schools such as Archbishop Fenwick High School in Middletown, Ohio; Stephen T. Badin High School in Hamilton, Ohio; and Sidney Lehman High School in Sidney, Ohio; and countless Catholic elementary schools throughout my district, they have shaped the lives of countless students and continue to make a profound contribution on our communities.

I am proud of how these and all Catholic schools emphasize intellectual, spiritual, moral and social values and produce well-rounded citizens. Catholic schools have found a way to teach students not only academic knowledge, but also real-life lessons in service to mankind and respect for one's neighbors.

This resolution is very simple. We want to rightly honor and congratulate Catholic schools, students, parents, and teachers for their ongoing contributions to education and for the key role they play in promoting and ensuring a brighter and stronger future for this Nation.

I want to commend the gentleman from Colorado (Mr. SCHAFFER) for his leadership in sponsoring this legislation and urge my colleagues to vote in support of it.

Ms. SANCHEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am honored to stand with my colleagues and recognize our Nation's Catholic schools.

First, I must point out the number of Catholic schools in our Nation. There are 8,200 elementary and secondary Catholic schools in the United States. They do, indeed, deserve to be celebrated.

What a great gift to our Nation these schools provide, producing graduates who are not only academically capable but also such a great part of the community. Our Catholic schools not only teach subjects like the alphabet and the Pythagorean Theorem and the Preamble to the Constitution, but they teach our students how to be part of our communities.

They teach that service to others is an integral part of any life, religious or lay. They teach the dignity of the individual. They teach students to work for justice and to help each child develop a strong moral compass to follow.

Today, I believe I am joined by several colleagues who also are known for their support of education.

Mr. Speaker, I reserve the balance of my time.

Mr. TIBERI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today, along with my colleagues, to recognize the contributions of America's Catholic elementary and secondary schools and congratulate these schools, the students, the teachers, and their parents for the dedication to education in our country.

I would like to thank the gentleman from Colorado (Mr. SCHAFFER), the sponsor of this legislation, and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, as well as the majority leader, for bringing this important resolution to the floor this afternoon.

This resolution recognizes Catholic schools and Catholic Schools Week. This is an event sponsored by the National Catholic Education Association and the United States Catholic Conference and established to recognize the vital contributions of America's Catholic schools.

Catholic schools are widely acclaimed for their academic success. Central Ohio, which I am fortunate enough to represent, is blessed with many outstanding Catholic schools. In fact, St. Francis DeSales, a Columbus Catholic high school in my neighborhood, is a past recipient of the U.S. Department of Education's Blue Ribbon Schools Award for Excellence. This is the highest award any private or public school can achieve.

But Catholic schools provide more than a superior scholastic education. They ensure a broad education emphasizing the development of moral, intellectual, physical, and social values in our young people. They produce students strongly dedicated in our faith, values, families, and communities. Indeed, they are central to building a sense of community in this country that all Americans should have the opportunity to enjoy.

I am proud to be an original cosponsor of this resolution, and I strongly support its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Ms. SANCHEZ. Mr. Speaker, may I inquire how many speakers the gentleman from Ohio (Mr. TIBERI) has?

Mr. TIBERI. Mr. Speaker, we believe there will be three additional speakers.

Ms. SANCHEZ. Mr. Speaker, since none of mine have shown, if the gentleman from Ohio would like to go ahead.

Mr. TIBERI. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from Ohio (Mr. TIBERI) for granting me the time in which to speak on this important resolution.

Today I rise in strong support of the resolution honoring the contributions of Catholic schools to our children and the educational system. As the debate on education continues and reform education continues, I think it is vitally important to recognize people and schools who have succeeded in educating our children.

America's Catholic schools are internationally acclaimed for their academic excellence and among the many fine academic Catholic schools in this Nation.

In the city of Reno, for example, there is Bishop Manogue High School, which has a long and distinguished record of excellence in their academic and athletic programs.

Catholic schools, like Bishop Manogue, emphasize the lifelong development of moral, intellectual, physical, and social values in America's young people. These values are crucial to the future of our Nation, especially as our society tends to grapple with problems like the breakdown of the family and school violence.

I want to thank our Catholic schools for their dedication to our children, and I look forward to working with them toward our goal of improving the education of every child.

As an original cosponsor of this resolution, I encourage all of my colleagues to strongly support its passage and the contributions that Catholic schools have made to our children and to our Nation.

Ms. SANCHEZ. Mr. Speaker, does the gentleman from Ohio (Mr. TIBERI) have any other speakers? We do not have any on this side other than myself to close.

Mr. TIBERI. Mr. Speaker, unfortunately we have two more speakers, and they are not here.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Ohio (Mr. TIBERI) has the right to close. If the gentlewoman from California (Ms. SANCHEZ) will proceed.

Ms. SANCHEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, growing up Catholic in a pretty Catholic family, I know firsthand that the Catholic Church has always sought to feed the hungry and clothe the poor. We welcome immigrants, people who speak different languages and bring very different needs. We welcome everyone as we work to help the rich and the poor, the powerful and the powerless.

Catholic schools, too, welcome diverse studentbodies with open arms. It is not just Catholics who attend Catholic schools; children who need special attention, dedicated teachers attend Catholic schools. Families who are looking for an added dimension to faith and morals sometimes choose Catholic schools. Parents who want safe schools that excel in academics choose Catholic schools.

Today with our communities' public schools, the Catholic schools and the Diocese of Orange educate, in every sense of the word, our children. Various schools, like Santa Margarita High School or Mater Dei in my own district, Servite in my district, Rosary, Connelly, and numerous elementary parochial schools, all are Catholic schools.

So, Mr. Speaker, today I am proud to recognize Catholic schools and the educators, parents and parishes who make these wonderful institutions possible.

Mr. Speaker, I reserve the balance of my time.

Mr. TIBERI. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware (Mr. CASTLE), who is the subcommittee chairman on the issue we are debating.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Mr. Speaker, I rise today in support of this resolution honoring Catholic schools and their contributions to our communities throughout our Nation.

Catholic Schools Week is an annual celebration of the important role that Catholic elementary and secondary schools across the country play in providing a values-added education for America's young people.

This tradition of honoring Catholic schools is 27 years old this year and is one I believe should continue.

Just last week, students from St. Hedwig Elementary School in Wilmington, Delaware, visited me in Washington, D.C. during Catholic Schools Week. I was impressed by all they have been learning and achieving, and I compliment them for their hard work and interest in our democratic process.

While the majority of our students are enrolled in public schools, Catholic schools still play a key role in our entire society. Over 2.5 million children attended 8,000 Catholic schools last year throughout the United States.

In my State of Delaware, which is the size of a congressional district, we have over 15,000 students attending 38 Catholic schools, all of whom obviously contribute greatly to their communities.

I thank the students, teachers, principals, and the administrators for making the Catholic community shine in my State.

I regard Catholic schools as a team player with public schools, other private and parochial schools and home schools in defining America's education system.

According to the National Catholic Educational Association, the graduation rate of students in Catholic schools is nearly 95 percent. The dropout rate is just about 3 percent. Eighty-five percent of all Catholic school graduates go on to college. These achievements impress me and deserve to be honored today on the House floor.

I would just add, Mr. Speaker, the importance of the integration of all the education of our young children, as they get into more choice, more opportunities for our kids, more comparisons, the Catholic schools, along with all the other schools, add to this mix. Our goal should be to educate every child in America as well as we possibly can. Certainly Catholic schools aid in that; and for that, we are very blessed. I honor them and appreciate them and encourage support for this resolution.

Ms. SANCHEZ. Mr. Speaker, I yield myself such time as I may consume.

I would like to close by saying that sometimes I think people think those of us who are so supportive of public schools may not be as supportive of our private schools, but the reality is that we care about all of our schools and those institutions who choose to help educate our children. Today I have been proud to talk about our Catholic schools and the way that they excel and the way that they complement the rest of the education system that we have here in the United States.

Mr. BACA. Mr. Speaker, today, I am pleased that Congress has recognized the important role that Catholic Schools play in our community. As a Latino, I know the important place in our history of Catholic Education. In my district, the Saint Thomas Aquinas High School is regarded as both an academic and athletic giant. The San Bernardino Diocese School System under Bishop Gerald Barnes has made major investments into their school system to bring their students education into the 21st Century.

Even though I am a strong supporter of public schools, I understand the importance Catholic Schools have played in our nation's education. The quality of education provided at Catholic schools is truly remarkable. Not only do they focus on academic achievement but they also instill values and moral lessons in young people. Their curriculums are often full of programs in character development and community service. Catholic school students graduate with a wide variety of skills that will not only help them in their careers but also in their family and community life. I am pleased to support this resolution honoring the contributions of Catholic Schools.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today in recognition of the invaluable contributions of our nation's Catholic schools.

Last week was Catholic Schools Week, and January 31st was National Appreciation Day for Catholic Schools. In honor of these events, my colleague, Mr. SCHAFFER from Colorado, has introduced a resolution to honor our nation's Catholic schools.

The United States Department of Education has provided us with statistics that show Catholic schools take in children from many different ethnic and socioeconomic backgrounds and yield well educated, college-bound, young adults.

Our nation's Catholic schools boast a 95 percent graduation rate and 83 percent of their students go on to college.

Not only do these children come away from their schools with strong academic credentials, but they gain an appreciation for the importance of faith, family, and community that is critical to our society's well being.

At a time when our nation is asking the question: "How can we give our children the best education possible?" The Catholic schools are providing some answers by demonstrating what works.

For these achievements, I congratulate Catholic schools, students, parents, and teachers across the Nation for their ongoing contributions to education and for the key role they play in promoting and ensuring a brighter, stronger future for our nation's students.

Ms. SCHAKOWSKY. Mr. Speaker, I am proud today to join with my colleagues in passing House Resolution 28, honoring the contributions of Catholic schools to academic excellence. Catholic schools have enhanced the quality of life for the community, as well as hundreds of thousands of young people who have benefited from its commitment to developing their minds and their spirits.

I would like to recognize the good work of schools such as Notre Dame High School, Resurrection High School, Northside Catholic Academy Schools, and St. Scholastica Academy in Illinois. These Catholic schools, like their counterparts, provide critical leadership and support to the intellectual development of the lives of so many in Illinois. With a 95 percent graduation rate, and 83 percent rate of continuing on to higher education, catholic schools deserve our recognition for the work they do.

I applaud the success and commitment of Catholic schools in the 9th Congressional District and in this nation.

Mrs. MORELLA. Mr. Speaker, I rise today in recognition of our nation's Catholic schools. Catholic schools not only provide students with an excellent education but also provide spiritual enrichment.

The contributions made by Catholic schools often exceed the classroom walls. The curriculum is designed to challenge students and to encourage religious awareness and development of morals and values. Students are encouraged to volunteer in a range of activities including working in soup kitchens, aiding other students with homework or working to improve a neighborhood park.

During the past 30 years, Catholic schools around the nation have made significant improvements in enrolling minorities and have continued to expand the educational mission in urban areas. There are approximately 1,020 Catholic schools in urban areas today.

A common complaint of parents and teachers is overcrowding in classrooms. Catholic schools often provide students and teachers with the opportunity for learning on a personal level. For instance, class size on average provide a ratio of 17 students to every one teacher, allowing teachers to focus on the needs of individual students. The effectiveness of this system is repeated in the statistic that 83 percent of Catholic high school graduates go on to college and the drop-out rate is only 3.4 percent.

I urge my colleagues to join me in supporting these institutions and the wonderful contributions they make in their communities and in our nation's future.

Mr. UNDERWOOD. Mr. Speaker, I rise today in strong support of house resolution 28 which celebrates the contributions of Catholic schools throughout the nation. From the easternmost point of the U.S. Virgin Islands to the westernmost tip of Orote Point in Guam, Catholic schools continue to provide a valuable education to more than 2.5 million students in the United States.

As Guam is home to more than 1,000,000 Roman Catholics, representing an overwhelming majority of the resident population, I am particularly pleased to speak in support and in recognition of the contributions of Catholic schools today.

Guam has a long and rich history of Catholicism since the island was discovered by Ferdinand Magellan in 1521, who docked at Guam with his chaplains during his sail around the world. The year 1662 ushered the first of many arrivals of Spanish missionaries. Over time various types of Catholic education have been provided in Guam beginning with the tradition of "Eskuelan Pale", or Catholicism classes, which taught basic literacy in Guam for 275 years today's modern school facilities which usher in 21st Century lessons into the classroom. Several religious orders and countless cadres of lay teachers have provided educational guidance and have broadened opportunities for Guam's school children since the end of World War II, when a formal Catholic school system was established. The School Sisters of Notre Dame, Sisters of Mercy, Dominican Sisters, the religious orders of Capuchin, Franciscans, Jesuits and Marists have all served to educate Guam's school children.

There are three Catholic high schools in Guam, including: Notre Dame High School in Talofofo; Academy of Our Lady of Guam in Hagatna; and Father Duenas Memorial School in Mangilao serving an enrollment of approximately 1,100 students. There are also seven elementary and middle schools, including: Bishop Baumgartner Memorial School in Sinajana; Our Lady of Mt. Carmel School in Agat; Saint Anthony School in Tamuning;

Saint Francis School in Yona; San Vicente School in Barrigada; Santa Barbara School in Dededo and Dominican School in Yigo, serving an estimated enrollment of 2,300 students. Four Catholic nursery schools in Guam Bridge the continuum of education from infancy to elementary. These include the Dominican Child Care Center in Ordot; the Infant of Prague in Mangilao; Maria Artero in Agana Heights; and Mercy Heights in Tamuning.

Although I have not attended Catholic schools, as a former educator raised in the Catholic faith, I certainly appreciate the education provided by Catholic schools. Three of my five children have attended Catholic schools in Guam and in Virginia and 10 of my 17 staffers in both my District and D.C. offices are products of the Catholic school system in Guam and the Philippines. Additionally, my aunt, Mary Underwood, was instrumental in the establishment of the Catholic school system after World War II. She was also the first native of Guam to become a nun.

Catholic schools have often provided a broad, value-added education and shape to the life-long development of moral, intellectual, physical and social values of students. Catholic Schools Week is the culmination of an annual national celebration of the important role that Catholic elementary and secondary schools across the country play in the education of our nation's students.

At this time, I would like to commend the contributions of all Catholic schools, students, parents, teachers and administrators in Guam and across the nation. I would also like to recognize the contributions of the Archdiocese of Hagatna, which oversees the administration of Guam's Catholic schools, and particularly Archbishop Anthony Apuron, for continuing the tradition of providing excellence in the education and moral well-being of the children of Guam.

I urge your support of House Resolution 28.

Mr. SCHAFFER. Mr. Speaker, I urge the House to adopt H. Res. 28 commending the contributions of Catholic schools. As a Roman Catholic having attended and graduated from Catholic Schools and a Catholic university, I am proud to be the original sponsor of this resolution.

Mr. Speaker, today the House voices its strong support for the goals of Catholic Schools Week and recognizes the vital contributions of America's thousands of Catholic elementary and secondary schools. The House also congratulates Catholic schools, students, parents, and teachers across our great nation for their ongoing contributions to education and for the key role they play in promoting and ensuring a brighter, stronger future for America. As the first clause of the resolution states, "America's Catholic schools are internationally acclaimed for their academic excellence, but provide students more than a superior scholastic education." Mr. Speaker, this is the essence of the resolution.

Catholic schools ensure a broad values-added education, emphasizing the life-long development of moral, intellectual, fiscal and social values in America's young people. Americans have responded positively to Catholic schools. The total Catholic school student enrollment for 1999 and 2000 was 2,653,038, which is an increase over the 1998 and 1999 school year. The total number of Catholic schools is 8,144. The student/teacher ratio in those institutions is less than 17 to 1.

Catholic schools provide more than $17 billion a year in savings to the nation based on the average school per pupil cost, enabling more money to be spent on students in government-owned schools. Catholic schools teach and contribute to a diverse group of students. Twenty-four percent of school children enrolled in Catholic schools are minority students. The graduation rate of Catholic school students is 95 percent, and only 3 percent of Catholic high school students drop out of school. Eighty-three percent of Catholic high school graduates go on to college. Mr. Speaker, these are impressive statistics, and they quantify why America's Catholic schools are internationally acclaimed for academic excellence.

Catholic schools not only develop sound academic abilities in their students, but they produce students strongly dedicated to their faith, their values, their families, and communities. Catholic schools do this by providing an intellectually stimulating environmental rich in spiritual development and moral character.

In 1972, a pastoral message was adopted by the National Conference of Catholic Bishops that stated the following, "Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also for the destinies of the many communities in which he lives."

It is on that basis, Mr. Speaker, that this resolution recognizes Catholic schools and Catholic Schools Week. This is an event sponsored by the National Catholic Education Association, which is, by the way, the largest private organization of professional teachers in the world. It is also sponsored by the United States Catholic Conference and established to recognize the vital contributions of America's thousands of Catholic elementary and secondary schools.

So today the House congratulates Catholic schools, their students, their parents, and teachers across the country, for their ongoing contributions to education and for the key role they play in promoting and ensuring a brighter and stronger future for this nation.

Mr. REYES. Mr. Speaker, this week is National Catholic School Week and I want to spend a few moments commending the Catholic schools in my home district of El Paso, Texas and in other parts of our country for a job well done.

There are many Catholic Schools in my district including Cathedral High School and Loretto Academy; Our Lady of Mount Carmel, Blessed Sacrament, Father Yermo, Holy Trinity, Our Lady of the Assumption, Our Lady of the Valley, St. Joseph's, St. Patrick's, Saint Pius the X, St. Raphael's, and St. Michael's. I know each and every one of these schools contributes greatly to the fabric of the educational system in El Paso, and I am proud of the efforts of all of the priests, nuns, teachers and other support staff in these schools. They work tirelessly to improve the lives of our children.

Our Catholic schools continue to show exemplary results in education. They share, with other Catholic schools across the nation, a long-standing tradition of excellence. The Catholic schools in El Paso continue to show steadfast commitment to teaching and spiritually guiding young men and women as they prepare for higher education and for life's many challenges. Catholic schools continue to exhibit strong leadership, a clear vision and sense of mission that is shared by the schools, students, parents, and alumni. In El Paso, our Catholic schools have exhibited high quality teaching and have provided a safe environment for learning. Spirituality, as a guiding principle, should be emulated across our country. The values that are instilled at our Catholic schools are fundamental values that are central and important to the functioning of society as a whole.

Daily school prayer, religion classes, and school Mass emphasize God's central role in our lives. As a Catholic myself, God and reverence are personally and centrally important to me and I appreciate the commitment that our Catholic schools make in insuring that our students will have faith and prayer in their lives. I cannot overstate how important faith in God is to overall success and happiness in life.

Finally, Mr. Speaker, I wish to acknowledge Archbishop Armando X. Ochoa of the Archdiocese of El Paso for his strong leadership and dedication. He continues to support the mission of our Catholic schools in educating our youth. I urge all my colleagues to join with me and commend all of the people across the country who make the Catholic schools so successful.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise in strong support of this resolution honoring the contributions of Catholic schools in America. I congratulate the more than 8,000 Catholic schools that serve this nation's students. I am a product of Catholic schools as a graduate of Holy Family High School in Birmingham, Alabama so I know first hand about the value of a Catholic school education.

According to the National Catholic Education Association, Catholic schools serve over two and a half million students a year. With an impressive average student-teacher ratio of 17 to 1, Catholic schools provide the necessary one-on-one teaching that students need to learn. My graduating class of Holy Family had 23 students who graduated with me! I was able to bond with my classmates and had a true sense of family and support. My experiences with Sister Mary Catherine, Sister Mary Ambrose, Sister Mary Mathilda, Sister Jean Bernadette, Father Nathaniel, Father Carl, and Father Alvin instilled in me and the other girls at Holy Family an appreciation for Math and Science that was unprecedented at that time. The same quality education that I enjoyed as a youth is making a difference in communities across the United States, including my 37th District of California.

I am proud that the four Catholic schools in my district that have created rigorous educational environments with quality teaching: St. Miguel Catholic School in Los Angeles, California, Verbum Dei High School in Watts, California, St. Albert the Great Catholic School in Compton, California, Our Lady of Victory Grade School in Compton, California and St. Philomena Grade School in Carson, California. These schools make a tremendous contribution to the community and I am proud to represent them in Congress.

Many years ago, my Catholic education spawned a love of learning that I have treasured throughout my life. Institutions that generate this type of intellectual curiosity in our nation's youth are critical to developing productive, hardworking citizens and leaders of tomorrow. That is why I join my colleagues in recognizing America's Catholic schools. I commend the community of teachers, students, parents and administrators that have established this high standard for learning that challenges and engages students. They are playing an integral role in promoting and ensuring a brighter, stronger future for the children of today and the leaders of tomorrow.

Mr. DAVIS of Illinois. Mr. Speaker, I rise this afternoon to recognize the splendid reputation, the years of dedicated service, and the outstanding achievement of Catholic Schools. During Catholic Schools Week, it gives me great pleasure to extend warm remarks that highlight the achievements of a leading institution that provides immeasurable educational support to neighborhoods and communities throughout our Nation.

In fact, Catholic Schools in America have had a tremendous impact in the lives of many Americans. For example, Chicago has the Largest Catholic School System in the United States. It is comprised of 277 elementary schools serving close to 105,000 students. In addition to educating younger students, the Chicago Catholic School System provides direction and oversight to 48 secondary schools; its programs and services reach the lives of 33,648 teenagers.

In Chicago and abroad, Catholic Schools have provided education and service to those that have been traditionally left behind in our society. For years, through their educational programs, they planted seeds of hope in the minds and hearts of many poor and neglected children, which have germinated to produce leaders and champions.

So, I graciously thank our teachers, counselors, Nuns, and Priests in our Catholic Schools for their years of dedicated service. And I urge them to "keep on, keeping on" as they continue to prepare our young to excel in the New Millennium.

Ms. KAPTUR. Mr. Speaker, I rise today to join my colleagues in recognizing the contributions of our Nation's Catholic schools. As Father Andrew Greeley of Chicago has observed: "Our Nation's Catholic schools are a seventh sacrament." Today, we salute Catholic teachers and students around the world. As a product of Catholic schools, back home in Toledo I can attest to the quality of instruction, the professional and nurturing approach of the many fine sisters, priests and lay teachers whom I remember so fondly, and in fact still count among my friends and advisors to this day.

Despite the coarsening of our popular culture, what I call the "poverty of affluence", it is heartening to know that total Catholic school enrollment for the 1999–2000 school year was over 2.6 million students at more than 8,100 schools. In my home state of Ohio, there are over 193,000 students attending 528 Catholic schools. In these quality institutions, joined by many fine public schools, character and commonly cherished values are instilled into generation after generation. Honesty, integrity, love of family and country, self-respect and self-discipline are just a few of the hallmark results of Catholic-based education.

Catholic schools are one of the cornerstones of our educational system providing faith based educational opportunities to those families who desire their children to have a Catholic faith based education. Catholic schools accept young people from every walk of life, from all economic and ethnic backgrounds. These schools have played an historic role in welcoming and teaching the sons and daughters of immigrants, whether they be Irish, Polish, Hungarian or Russian, whether they are African-American, or Chinese or Latino, just to name a few. In the heart of our Nation's biggest cities and most humble rural towns, Catholic schools continue this missionary endeavor.

It is my pleasure to honor the contributions of Catholic schools, both the men and women who lead and teach and care so deeply for our young people. Those students have made, and continue to make, a difference in the life of their families, communities and world.

Our system of education is most appropriately conducted on the local level. Therefore, it is both our right and responsibility to support our schools, our teachers, parents, support staff, administrators, our sisters and priests, and our children, whom we know will one day inherit and take responsibility for all of our work and world.

Mr. FERGUSON. Mr. Speaker, I rise today in support of our nation's Catholic schools and the record of excellence they hold in our children's education.

I believe our most profound responsibility is to ensure that every child has a first-class education, that no child is left behind and that all students share in the pride and promise of educational opportunity—Catholic education provides that opportunity.

As a former student at the University of Notre Dame and a former teacher at Mount Saint Michael's Academy in the Bronx, NY, I know the benefits Catholic schools and universities provide to students in America.

Our children deserve the best schools in the world; they deserve schools that will help them meet the challenges of tomorrow. That is why I'm pleased with the bipartisan support H. Res. 28, "Honoring our Catholic Schools," is receiving from my colleagues in the House today.

America's student drop-out rate is increasing at an alarming pace. But our nation's Catholic schools have given a diverse group of students the inspiration, environment and counsel they need to stay in school. A tribute to the strength and quality of a Catholic school education is the 95 percent graduation rate among Catholic high school seniors.

America's Catholic schools are internationally acclaimed for providing small classrooms where each student can have the attention they need to achieve their future goals. America's Catholic schools also graduate a record 83 percent of students who go on to college.

I believe that while we call for higher standards in our nation's schools, we must also recognize those schools that are providing the education America's students need to succeed. I am pleased to join with my colleagues in honoring the contributions of Catholic schools. After all, our children are our country's most precious resource.

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to Catholic schools across America and back home in Illinois. All Catholic schools, their teachers, administrators, parents and students should be congratulated for their vital role in promoting and ensuring a bright future for this country.

It is amazing that Catholic Schools graduate 95 percent of their students and that 83 percent of Catholic high school graduates go on to college. I know that the education and, more importantly, the values, that were imbedded in me at St. Patrick's high school in Chicago proved themselves invaluable in college and in my professional career.

In my hometown of Chicago, the Catholic Archdiocese has an unparalleled record of educating students of all racial and economic backgrounds. Chicago has one of the largest Catholic school systems in the nation, and the best and the brightest in Chicago are often alumni of their Catholic schools.

So, Mr. Speaker, I thank you for scheduling this vote honoring the contributions of Catholic Schools. It is my hope that they will continue to flourish and prosper for the benefit of millions of school children around the country.

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the National Appreciation Day for Catholic Schools. As a Catholic school graduate, I know the value of a Catholic education. I know first hand that Catholic schools teach students discipline, pride and respect for learning. I am so grateful to the priests, nuns and lay persons who taught me at St. Peter's Elementary, Holy Name Elementary, Parmadale, St. Aloysius Elementary, St. Colman Elementary and St. John Cantius High School for their love and guidance through my formative years.

I especially wish to recognize the delegation of students, teachers and parents that make the National Appreciation Day for Catholic Schools a special day. Their commitment to ensuring an exceptional education and maintaining quality Catholic schools ensures that Catholic students in the future will continue to benefit from outstanding educational opportunities. An overwhelming percentage of Catholic high school graduates attend college, which is a sign of the excellent work of our Catholic School system.

I would also like to recognize the National Catholic Educational Association (NCEA) for their efforts to promote educational and catechnetical goals. By sponsoring programs like the Seton Awards, which recognize individuals who have made outstanding contributions to Catholic education, the NCEA works diligently to insure better education across America.

Providing quality educational opportunities for all children is one of the most important goals of our society. I am encouraged by the ongoing involvement of the students, teachers and parents who are observing the National Appreciation Day for Catholic Schools.

Mrs. CHRISTENSEN. Mr. Speaker, I am pleased to join my colleagues in celebrating Catholic Schools.

As a student at St. Mary's elementary school in St. Croix from kindergarten through eighth grade, a graduate of St. Joseph's Mountain School in St. Joseph's, New York, and St. Mary's College, Notre Dame Indiana, I personally owe a debt of gratitude to Catholic schools for what I have been able to achieve.

Catholic schools across the country have contributed greatly to the communities in which they exist and the nation at large. Numerous studies show that parents place their children in Catholic schools for the superior academic achievement of Catholic school students. They 1996 tests of the National Assessment of Educational Progress (NAEP) sponsored by the U.S. government demonstrated that students in Catholic schools score higher than those in public schools. As a result, Catholic school education is becoming a popular choice among parents. Catholic preschool enrollment has increased by nearly 223% since 1987–88.

As I pay tribute to the 8144 Catholic schools in this country, I want to pay tribute to those schools that have nurtured and educated me, those that I have already mentioned, and St. Pius V in Jamaica, New York.

I also would also like to make special mention of the Catholic Schools in my district—St. Mary's, St. Joseph and St. Patrick's in St. Croix, and Saints. Peter and Paul in St. Thomas. The people of the Virgin Islands and I appreciate them for all they do and have done for the children of our islands.

Mr. PAUL. Mr. Speaker, I am pleased to join the sponsors of the H. Res. 28 in honoring the success of Catholic Schools in providing a quality education to millions of children around the country. However, I am concerned that this resolution also contains language that violates the sprit, if not the letter, of the establishment clause of the first amendment, thus insulting the millions of religious Americans who are struggling to educate their children free from federal control and endangering religious liberty.

The success of Catholic schools has been remarkable. Catholic schools operating in the inner-city have been able to provide an excellent education to students written off by the educational establishment as "unteachable." Contrary to the claims of its critics, Catholic schools do not turn away large numbers of children in order to limit their enrollment to the "best and the brightest." In fact, a few years ago the Archdiocese of New York offered to enroll all students who had been expelled from New York's public schools! Mr. Speaker, I have introduced legislation, the Family Education Freedom Act (H.R. 368) which would help more parents afford to send their children to Catholic, or other religious schools, by providing them with a $3,000 tax credit for K–12 education expenses.

While I join with the sponsors of this legislation in praising Catholic schools, I am disturbed by the language explicitly endorsing the goals of the United States Catholic Conference. The Catholic Conference is an organization devoted to spreading and advancing Catholicism. While the Conference may advance other social goods through its work, those purposes are secondary to its primary function of advancing the Catholic faith. This is especially true in the case of Catholic schools which were founded and are operated with the explicit purpose of intergrating Catholic doctrine into K–12 education.

Therefore, even though Congress intends to honor the ways Catholic schools help fulfill a secular goal, the fact is Congress cannot honor Catholic schools without endorsing efforts to promulgate the Catholic faith. By singling out one sect over another, Congress is playing favors among religions. While this does not compare to the type of religious persecution experienced by many of the founders of this country, it is still an example of the type of federal favoritism among religions that the first amendment forbids.

What is the superintendent of a Baptist private school or a Pentecostal home schooler going to think when reading this resolution? That Congress does not think they provide children with an excellent education or that Congress does not deem their religious goals worthy of federal endorsement? In a free republic, the legislature should not be in the business of favoring one religion over another. I would also like to point out the irony of considering government favoritism of religion in the context of praising the Catholic schools, when early in this century Catholic schools where singled out for government-sanctioned discrimination because they were upholding the teachings of the Catholic Church.

Allowing Congress to single out certain religions for honors not only insults those citizens whose faith is not recognized by Congress, it also threatens the religious liberty of those honored by Congress. This is because when the federal government begins evaluating religious institutions, some religious institutions may be tempted to modify certain of their teachings in order to curry favor with political leaders. I will concede that religious institutions may not water down their faith in order to secure passage of "Sense of Congress resolutions," however, the belief that it is proper to judge religious institutions by how effectively they fulfill secular objectives is at the root of the proposals to entangle the federal government with state-approved religions by providing taxpayer dollars to religious organizations in order to preform various social services. Providing taxpayer money to churches creates the very real risk that a church may, for example, feel the need to downplay its teaching against abortion or euthanasia in order to maintain favor with a future pro-abortion administration and thus not lose its federal funding.

Of course, the idea that politicians should bestow favors on religions based on how well they fulfill the aims of the politicians is one that should be insulting to all believers no matter their faith. After all, despite what a few of my colleagues seem to think, Mr. Speaker, we in Congress are neither omnipotent nor divine.

In conclusion, Mr. Speaker, I join the sponsors of H. Res. 28 in their admiration for the work of Catholic schools. However, I also have reservations about the language singling out the religious goals of one faith for praise.

Ms. JACKSON-LEE of Texas. Mr. Speaker I rise in support of this measure to recognize the role Catholic Schools have played in the education of America's Children.

Last week over 8,200 Catholic elementary and secondary schools nationwide celebrated their 27th annual Catholic Schools Week. This event was established to increase support for private Catholic schools and to recognize their accomplishments and contributions to the country.

"Catholic Schools Week" celebrates education that goes beyond preparation for a secular life; it is an education that prepares students for a Christian life. Parents who chose to send their children to Catholic Schools do so because they not only want their children to have an excellent education in reading, writing and arithmetic, they also want them to have a Christian education.

Although public schools can prepare children for a secular life through a good education, they are constitutionally bound not to extend their role as educators into the area of religious education. I strongly urge parents who would like the benefits of public education and the rewards of faith based education to make a commitment to work with those religious communities that share their beliefs in the development of after school and weekend parochial programs.

This bill states that Congress supports the goals of Catholic Schools Week, an event sponsored by the National Catholic Education Association and the U.S. Catholic Conference, and congratulates Catholic schools, students, parents, and teachers for their contributions to education.

Catholic schools teach a diverse group of students, 24 percent of whom are minorities. Moreover, only three percent of Catholic high school drop out of school and 83 percent go on to attend college.

Finally, the resolution states that, by providing an intellectually stimulating environment rich in moral guidance, Catholic schools produce students and, ultimately, citizens who are strongly dedicated to their faith and communities.

I offer my heart felt thanks to the Catholic Schools across the nation for their dedication to excellence in the classroom as they prepare young people to achieve excellence in life. In closing I would like to extend a special thanks to the Catholic Schools in Houston like Saint Philips High School, and Saint Pius High School.

Mrs. WILSON. Mr. Speaker, I rise today to support this resolution on Catholic education, and to share with my colleagues some of the rich history and achievements of Catholic schools in New Mexico.

The Catholic Church has had a presence in the American Southwest for over 400 years. Before public education was established in New Mexico, Catholic friars began teaching at local Indian pueblos. In the early 1800s, the Spanish government, cooperating with the Catholic Church, established schools in the territory of New Mexico.

Today New Mexico has 29 Catholic elementary schools and 4 secondary schools. Over 8,000 New Mexico children are enrolled in Catholic schools and the ethnic composition of the student body reflects the rich diversity of New Mexico (Hispanic 43%, Anglo 31%, American Indian 11%). I am very proud of

New Mexico's Catholic schools and their students. Last year 324 students graduated from Catholic high schools in New Mexico. This is a 99% graduation rate and, of those, 99% went on to post-secondary education.

It's the dawn of a new century: It is a century in which knowledge is a commodity children must have to succeed. Catholic schools across America are giving our children this opportunity.

Catholic schools have given New Mexico's children the wings they need to achieve their dreams. As Catholic schools nationwide celebrate Catholic school week, we thank them.

Mr. SANCHEZ. Mr. Speaker, I yield back the balance of my time.

Mr. TIBERI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TIBERI) that the House suspend the rules and agree to the resolution, House Resolution 28.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TIBERI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6 p.m.

Accordingly (at 3 o'clock and 11 minutes p.m.), the House stood in recess until approximately 6 p.m.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 6 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order: House Joint Resolution 7, by the yeas and nays, and House Resolution 28, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

RECOGNIZING 90TH BIRTHDAY OF RONALD REAGAN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 7.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. PLATTS) that the House suspend the rules and pass the joint resolution, H.J. Res. 7, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 0, answered "present" 7, not voting 16, as follows:

[Roll No. 9]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—7

DeFazio
Johnson, E. B.
Lee
Sanchez
Stark
Waters
Woolsey

NOT VOTING—16

Becerra
Bono
Brown (FL)
Buyer
Cannon
Conyers
Graves
Greenwood
Grucci
Hefley
Maloney (NY)
McInnis
Moakley
Osborne
Quinn
Rogers (KY)

□ 1827

Ms. SANCHEZ and Ms. WATERS changed their vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. OSBORNE. Mr. Speaker, on rollcall No. 9, I did not have a beeper notification. Had I been present, I would have voted "yea."

Mr. GRAVES. Mr. Speaker, on rollcall No. 9, I didn't get a beeper notification and the vote was not recorded. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the provisions of clause 8 of rule XX, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

HONORING CONTRIBUTIONS OF CATHOLIC SCHOOLS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 28.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. TIBERI) that the House suspend the rules and agree to the resolution, H. Res. 28, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, answered "present" 1, not voting 19, as follows:

[Roll No. 10]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Paul

NOT VOTING—19

Becerra
Bono
Brown (FL)
Buyer
Calvert
Cannon
Conyers
Cooksey
Fattah
Greenwood
Grucci
Hefley
Maloney (NY)
McInnis
Moakley
Quinn
Rogers (KY)
Rothman
Weldon (FL)

□ 1839

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRUCCI. Madam Speaker, due to the death of my mother-in-law, Mrs. Carmella Fierro, I was unable to participate in today's recorded votes. However, I would have voted in the affirmative on each of the three suspension bills on today's agenda:

H.J. Res. 7 Recognizing the 90th Birthday of Ronald Reagan, H.R. 395 Ronald Reagan Post Office Designation, and H. Res. 28 Honoring the Contributions of Catholic Schools.

AUTHORIZING THE SPEAKER TO ENTERTAIN A MOTION TO SUSPEND RULES ON WEDNESDAY, FEBRUARY 7, 2001

Mr. WAMP. Madam Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules relating to H.R. 132 on Wednesday, February 7, 2001.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRESIDENT REAGAN TURNS 90

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Madam Speaker, tonight we celebrate the 90th birthday of President Ronald Reagan, and I would like to read some lines from a column that appeared on Sunday in the London Times in London, England. It was written by Andrew Sullivan, and frankly I cannot say this better than he did about a President that I have admired literally for many, many years. Let me read and I quote: "He will turn 90 on Tuesday, but in all likelihood he will barely be aware of it. The cruelty of Alzheimer's has robbed Ronald Reagan of the capacity for clear memory. But that doesn't apply to the rest of us.

"He seems, in some respects, a historical oddity now, his political and cultural presence obscured by the Clinton psychodrama and the Bush dynasty. But his successors do not begin to compare—either in achievement or legacy."

□ 1845

Madam Speaker, Reagan stood for two simple but indisputably big things: the expansion of freedom at home and the extinction of tyranny abroad. He achieved both.

When he came into office, the top tax rates in the United States were 70 percent. Against all odds, Reagan slashed the top rate to 28 percent and ignited the economic boom that is still with us.

He was right about taxation and the role of government. He was also right about the other great question of his day, the Soviet Union.

I will never forget the moment I heard his "evil empire" speech. It was broadcast on Radio 4 with skeptical British commentary about this inflammatory new president who knew nothing about the complexities of communism.

But for all the criticism, what came through in my teenage brain was the actual truth. Yes, the Soviet Union was evil. Who now doubts that? He alone saw that communism was destined to be put on the ash heap of history, as he told the House of Commons, and he helped put it there.

Think of Tony Blair and Bill Clinton. In the 1980s, they were nuclear freeze supporters; and yet both now thoughtlessly enjoy the soft and easy fruits of a greater man's courage.

The critics harp on the economic deficits of the Reagan era, but the truth is that the Federal revenue boomed on Reagan's watch. What created the deficits was an unprecedented increase in defense spending, the bargaining chip that eventually forced the Soviets to surrender.

The end of the welfare entitlement was also presaged by Reagan. Reagan's unlikeliest dream, the nuclear missile defense, is also still with us. Lampooned as "Star Wars," it will soon regain the pre-eminence it deserves in American military defense, as Donald Rumsfeld aggressively moves it forward.

He was devoted to his second wife with a romantic zeal, wore a coat and tie at all times in the Oval Office, a room he considered sacred.

Madam Speaker, it takes time to recognize greatness and sometimes it appears in the oddest forms. When he dies, this country will go into shock. For Americans know in their hearts that this unlikely man understood the deepest meaning of their country in a way nobody else has done for a generation.

Madam Speaker, I remember when Ronald Reagan, just outside of this Capitol, stepped aboard Marine One for the last time and saluted back and left the presidency. I remember turning to my wife and saying, "He was a long time coming. He will be a long time gone."

Mr. President, on behalf of a grateful Nation, let me say, thank you, God bless you, and happy birthday.

Mr. LEWIS of California. Madam Speaker, will the gentleman yield?

Mr. GUTKNECHT. I yield to the gentleman from California.

Mr. LEWIS of California. Madam Speaker, I so much appreciate my colleague for taking a moment to express his deep appreciation for truly one of the greatest Americans of all time, former governor of California and President of the United States, Ronald Reagan.

I want to share with my colleagues just a couple of thoughts because my colleague has been kind enough to take this time.

I will never forget, while a member of the State Legislature, one day listening to television as I heard for the first time Ronald Reagan giving a speech for then candidate for President Barry Goldwater. And I rolled over and said to my family, "By golly, he ought to run for governor of California." And by golly, not very far after that, he did run and was successfully elected.

During that period of time, it was my privilege to work very closely with the governor. And people should know this about Ronald Reagan, two items I would mention. The first is it was my privilege to work with him on what is now known as the Child Development Act of 1972. It was the first quality preschool day-care act in the country and now serves as a model for the country, a Ronald Reagan-signed bill in 1972. And 25 years later the Federal Government discovered it might be an issue.

Another item: In the southland in my district in California, air quality is by far the most serious challenge we faced in the last 20 or 30 years. It was Ronald Reagan who signed model language developing a regional district that has developed the toughest clean air standards in the entire country, leading the country.

Above and beyond that, let me say that the gentleman is correct at pointing to this great man as President of the United States.

TRIBUTE TO RONALD REAGAN

The SPEAKER pro tempore (Mrs. BIGGERT). Under a previous order of the House, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of California. Madam Speaker, I wanted to further say to the gentleman from Minnesota (Mr. GUTKNECHT) that the job that Ronald Reagan did as President, my colleague has expressed almost the wonderment of that very well. But the thing that we must all remember is that the East-West confrontation is now a thing of the past, and indeed we are on a pathway for long-term opportunities for peace, not just for the United States but for the world; and if it were not for Ronald Reagan's leadership, I cannot say that we would be there today.

So while I will be happy to yield to my colleague, I very much appreciate his commentary in working with us at this very serious time in his life congratulating him on his 90th birthday.

Mr. GUTKNECHT. Madam Speaker, if the gentleman would yield, if I could just say, I was one who sort of came of age politically under Ronald Reagan, and he was and always will be to me a tremendous teacher of true principles, and he seemed to have a tremendous understanding of the American people.

We certainly wish our current President, George W. Bush, the best. And we all, I think, could be better students of what Ronald Reagan tried to teach; and if we learn nothing else, it is that we need to continue to relearn those simple principles, I think we will all be better served.

Mr. LEWIS of California. Madam Speaker, I certainly very much appreciate the consideration of my colleague.

Madam Speaker, I yield to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding.

Let me just say that tonight we are going to hear, my colleagues, all kinds of great things that Ronald Reagan accomplished as President of the United States. But I want to tell my colleagues real briefly a little personal aside that happened to me.

My mother and stepfather, who died 2 years ago, both were working class people. My mother worked as a waitress for 18 years at L.S. Ayres & Co. Tearoom. She used to bring her tips home to help keep the house afloat. And my stepfather was what they called a sand hog in a foundry. Not very glamorous jobs.

When I entered politics, I told them one day I wanted to be a congressman to serve in the United States Congress. And, of course, they both had great aspirations for me, but they, in the back of their minds, thought I would never make it.

So I promised my mom and my dad that, if I ever made it to the United

States Congress, I was going to take them in the front door of the White House to meet the President of the United States, not the back door, but the front door.

And so, the time came when I was elected; and it just so happened that Ronald Reagan was the President of the United States and a man whom I think was one of the greatest Presidents we ever had. The day came when I was going to take my mom and dad over to the White House and go in the front door to meet the President. And unbeknownst to me, Ronald Reagan's staff, because the President had asked them to, had called and said, we want to know something about Dan Burton, his background and everything before he comes over so we can talk to his parents.

And when we went in the Oval Office to meet the President of the United States, this little waitress and this man who worked in a foundry all his life getting up at 5:30 in the morning, he walked in and he shook their hands and he started telling them what a great guy I was, and told them all the things he knew about me and what a great asset I was to the United States Congress. He did not need to do that, but it sure was great for me and it was great for my mom and dad.

And so, I thank President Reagan very much for making my mom and dad feel like they were two of the proudest people in the United States one day in my life.

Mr. LEWIS of California. Madam Speaker, I say to the President, our colleagues and all Americans join together in joining Ronald Reagan, our great President, a very happy 90th birthday.

FAMILY FARM EMERGENCY ENERGY ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Madam Speaker, the unusually cold winter and the dramatic increase in heating costs are hurting everybody in my State of Mississippi.

Clearly, we need to encourage more domestic production of oil and gas.

But in Mississippi, we need immediate action, we need help today, especially for our region's agriculture industry.

Some farmers and ranchers have seen their gas bills double and triple over the last year. And this is through no fault of their own.

Our own local economy depends on agricultural production, which is a major employer in many of our communities.

These days the industry has been devastated by the dramatic rise in the cost of gas. This may not be a natural disaster, like a tornado or a flood, but this is a disaster just the same. This is an economic disaster that threatens the very existence of farms throughout our region.

Today I introduced a bill that will provide both immediate and long-term emergency assistance to our farmers and ranchers. My bill, the Family Farm Emergency Energy Assistance Act, will authorize the Secretary of Agriculture to provide grants that would not have to be repaid to help local agricultural producers deal immediately with financial pressures caused by this crisis.

This bill would also make low-interest loans available to help deal with the energy crisis for the months ahead.

This important legislation needs to be enacted quickly. Our farmers need help, and they need it now.

I am calling upon our leaders in Congress to move this emergency assistance bill quickly to passage. I will not rest until the Family Farm Emergency Energy Assistance Act becomes law.

EIGHTH ANNIVERSARY OF FAMILY AND MEDICAL LEAVE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, yesterday was the eighth anniversary of the signing of the Family and Medical Leave Act.

Since 1993, that landmark legislation has allowed 35 million Americans to take time off from their jobs to be with children or ailing relatives without fear of losing their jobs. That is peace of mind for the American worker, and it is something that all workers need and deserve.

But even with FMLA in place, not all parents are taking the time off that is available to them. In fact, a recent study by the U.S. Department of Labor found that 88 percent of eligible employees who need time off do not take it because they cannot afford to go without a paycheck.

Scientific research shows that early bonding between parent and child is exceptionally critical to that child's future, to that child's success. Yet 83 percent of women who give birth are back to work within 6 months, and 70 percent of them say it is because they need the money.

Madam Speaker, America's children are paying the price for their parents' need to earn a living; and those parents are forced to choose between the needs of their children and putting food on the table. And that is not right.

The Family and Medical Leave Act has helped millions of families. But what we are finding out is there are millions more who are being left behind. It is time that the United States joined the more than 120 countries around the world that provide paid leave for new parents.

Let us face it, times are changing. If today's children are lucky enough to have two parents living with them, chances are that both parents are in the workforce and they work outside of the home. Parents are working hard. They are commuting long hours. And it is our children who are being left behind due to today's hectic lifestyles.

Studies find that parents are spending an average of 52 days a year less with their children than they did 30 years ago, 52 days a year less with their children.

We have to give parents the tools they need to bridge the gap between work and family, especially when there is a new baby in the home.

Along with Senator CHRIS DODD of Connecticut, I have, again with this Congress, introduced legislation to provide start-up funding for States that want to establish paid leave programs for new parents.

Already, my State of California offers new moms paid maternity leave through their State Disability Insurance. Women are eligible for up to 4 weeks of leave before delivery and 6 weeks after. That means a great deal for mothers. It means a lot to the newborns and the newly-adopted children. And, in the long-run, it will mean a great deal for the children as they grow up and become successful and are working on their futures.

But 10 weeks is not enough time. It is too short.

As a member of the Committee on Education and the Workforce, I continue to work to make education our top priority. But I have come to realize that having the best schools and the best teachers in the world will not matter if kids are not ready to learn when they enter the classroom.

One thing that we need to do to help them be ready to learn is have them bond with their parents right after birth or right after adoption.

□ 1900

As my cochairs and I on the Democratic Caucus Task Force for Children came to the conclusion last year that part of our children's agenda was paid for leave for new parents, we realize that it is more critical than ever to allow paid leave so that kids will get a good start.

Madam Speaker, parents want to be there for their children. Children are their number one priority. As a parent and a grandmother, I know how important those first weeks and months are to the parent and to the child. Let us show America's families, their parents and their children that the Family and Medical Leave Act was a good start but that these parents, these families, deserve more. Let us make paid leave for new parents a priority in this Congress.

Our children are 25 percent of our population, but they are 100 percent of our future.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H. J. Res. 7. Joint resolution recognizing the 90th birthday of Ronald Reagan.

The message also announced that pursuant to Public Law 105–83, the Chair, on behalf of the Democratic Leader, announces the reappointment of the Senator from Illinois (Mr. DURBIN) as a member of the National Council on the Arts.

The message also announced that pursuant to section 2761 of title 22, United States Code, as amended, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Democratic Leader, appoints the Senator from West Virginia (Mr. BYRD) as Co-Chairman of the Senate Delegation to the British-American Interparliamentary Group during the One Hundred Seventh Congress.

The message also announced that pursuant to Public Law 106–550, the Chair, on behalf of the Majority Leader, announces the appointment of the following Senators to serve as members of the James Madison Commemoration Commission—

the Senator from Virginia (Mr. WARNER); and

the Senator from Alabama (Mr. SESSIONS).

The message also announced that pursuant to Public Law 106–398, the Chair, on behalf of the Majority Leader, announces the appointment of the following individuals to serve as members of the Commission on the Future of the United States Aerospace Industry—

William Schneider, Jr., of New York; and]

Robert J. Stevens, of Maryland.

PUBLICATION OF THE RULES OF THE COMMITTEE ON THE JUDICIARY 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Madam Speaker, pursuant to clause 2(a)(2) of Rule XI of the Rules of the House of Representatives, I hereby submit the rules of the Committee on the Judiciary for the 107th Congress for publication in the CONGRESSIONAL RECORD. These rules were adopted by the Committee on January 31, 2001, in a meeting that was open to the public.

U.S. House of Representatives, Committee on the Judiciary, Rules of Procedure, One Hundred Seventh Congress, Adopted January 31, 2001

MEMBERS OF COMMITTEE—ONE HUNDRED SEVENTH CONGRESS

F. James Sensenbrenner, Jr., Wisconsin, *Chairman*, Henry J. Hyde, Illinois, George W. Gekas, Pennsylvania, Howard Coble, North Carolina, Lamar S. Smith, Texas, Elton Gallegly, California, Bob Goodlatte, Virginia, Steve Chabot, Ohio, Bob Barr, Georgia, William L. Jenkins, Tennessee, Asa Hutchinson, Arkansas, Chris Cannon, Utah, Lindsey O. Graham, South Carolina, Spencer Bachus, Alabama, Joe Scarborough, Florida, John N. Hostettler, Indiana, Mark Green, Wisconsin, Ric Keller, Florida, Darrell E. Issa, California, Melissa A. Hart, Pennsylvania, and Jeff Flake, Arizona.

John Conyers, Jr., Michigan, Barney Frank, Massachusetts, Howard L. Berman, California, Rick Boucher, Virginia, Jerrold Nadler, New York, Robert C. Scott, Virginia, Melvin L. Watt, North Carolina, Zoe Lofgren, California, Sheila Jackson Lee, Texas, Maxine Waters, California, Martin T. Meehan, Massachusetts, William D. Delahunt, Massachusetts, Robert Wexler, Florida, Steven R. Rothman, New Jersey, Tammy Baldwin, Wisconsin, and Anthony D. Weiner, New York.

RULES OF PROCEDURE

Rule I

The Rules of the House of Representatives are the rules of the Committee on the Judiciary and its subcommittees with the following specific additions thereto.

Rule II. Committee Meetings

(a) The regular meeting day of the Committee on the Judiciary for the conduct of its business shall be on Tuesday of each week while the House is in session.

(b) Additional meetings may be called by the Chairman and a regular meeting of the Committee may be dispensed with when, in the judgment of the Chairman, there is no need therefor.

(c) At least 24 hours (excluding Saturdays, Sundays and legal holidays when the House is not in session) before each scheduled Committee or subcommittee meeting, each Member of the Committee or subcommittee shall be furnished a list of the bill(s) and subject(s) to be considered and/or acted upon at the meeting. Bills or subjects not listed shall be subject to a point of order, unless their consideration is agreed to by a two-thirds vote of the Committee or subcommittee.

(d) The Chairman, with such notice to the ranking Minority Member as is practicable, may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(e) Committee and subcommittee meetings for the transaction of business, i.e., meetings other than those held for the purpose of taking testimony, shall be open to the public except when the Committee or subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(f) Every motion made to the Committee and entertained by the Chairman shall be reduced to writing upon demand of any Member, and a copy made available to each Member present.

(g) For purposes of taking any action at a meeting of the full Committee or any subcommittee thereof, a quorum shall be constituted by the presence of not less than one-third of the Members of the Committee or subcommittee, except that a full majority of the Members of the Committee or subcommittee shall constitute a quorum for purposes of reporting a measure or recommendation from the Committee or subcommittee, closing a meeting to the public, or authorizing the issuance of a subpoena.

(h) Transcripts of markups shall be recorded and may be published in the same manner as hearings before the committee and shall be included as part of the legislative report unless waived by the Chairman.

Rule III. Hearings

(a) The Committee Chairman or any subcommittee chairman shall make public announcement of the date, place, and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing. If the Chairman of the Committee, or subcommittee, with the concurrence of the ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or subcommittee chairman shall make the announcement at the earliest possible date.

(b) Committee and subcommittee hearings shall be open to the public except when the Committee or subcommittee determines by majority vote to close the meeting because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House.

(c) For purposes of taking testimony and receiving evidence before the Committee or any subcommittee, a quorum shall be constituted by the presence of two Members.

(d) In the course of any hearing each Member shall be allowed five minutes for the interrogation of a witness until such time as each Member who so desires has had an opportunity to question the witness.

(e) The transcripts of those hearings conducted by the committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Individuals, including Members of Congress, whose comments are to be published as part of a committee document shall be given the opportunity to verify the accuracy of the transcription in advance of publication. Any requests by those Members, staff or witnesses to correct any errors other than errors in the transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript.

Rule IV. Broadcasting

Whenever a hearing or meeting conducted by the Committee or any subcommittee is open to the public, those proceedings shall be open to coverage by television, radio and still photography except when the hearing or meeting is closed pursuant to the Committee Rules of Procedure.

Rule V. Standing Subcommittees

(a) The full Committee shall have jurisdiction over the following subject matters: antitrust law, tort liability, including medical malpractice and product liability, legal reform generally, and such other matters as determined by the Chairman.

(b) There shall be five standing subcommittees of the Committee on the Judiciary, with jurisdictions as follows:

(1) *Subcommittee on Courts, the Internet, and Intellectual Property:* copyright, patent and trademark law, information technology, administration of U.S. courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, other appropriate matters as referred by the Chairman, and relevant oversight.

(2) *Subcommittee on the Constitution:* constitutional amendments, constitutional rights, federal civil rights laws, ethics in government, other appropriate matters as referred by the Chairman, and relevant oversight.

(3) *Subcommittee on Commercial and Administrative Law:* bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

(4) *Subcommittee on Crime:* Federal Criminal Code, drug enforcement, sentencing, parole and pardons, Federal Rules of Criminal Procedure, prisons, other appropriate matters as referred by the Chairman, and relevant oversight.

(5) *Subcommittee on Immigration and Claims:* immigration and naturalization, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, other appropriate matters as referred by the Chairman, and relevant oversight.

(c) The Chairman of the Committee and ranking Minority Member thereof shall be ex officio Members, but not voting Members, of each subcommittee to which such Chairman or ranking Minority member has not been assigned by resolution of the Committee. Ex officio Members shall not be counted as present for purposes of constituting a quorum at any hearing or meeting of such subcommittee.

Rule VI. Powers and Duties of Subcommittees

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all mattes referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

Rule VII. Non-Legislative Reports

No report of the Committee or subcommittee which does not accompany a measure or matter for consideration by the House shall be published unless all Members of the Committee or subcommittee issuing the report shall have been apprised of such report and given the opportunity to give notice of intention to file supplemental, additional, or dissenting views as part of the report. In no case shall the time in which to file such views be less than three calendar days (excluding Saturdays, Sundays and legal holidays when the House is not in session).

Rule VIII. Committee Records

The records of the Committee at the National Archives and Records Administration shall be made available for public use according to the Rules of the House. The Chairman shall notify the ranking Minority Member of any decision to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

PROTECTING OUR GREATEST MILITARY ASSET: OUR MILITARY PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. SKELTON) is recognized for 5 minutes.

Mr. SKELTON. Madam Speaker, as we begin the 107th Congress and our debate turns to our national security, I want to remind our colleagues that we must remain vigilant in protecting the greatest asset in our defense arsenal, our military personnel. Without our soldiers, sailors, airmen and Marines, we cannot sail our ships, fly our fighters, or put boots on the ground to protect our Nation's interests here and abroad.

Our highly qualified, well-trained military personnel are the core of our Nation's defense. I am concerned that the new administration will rush to fund high visibility weapons systems with important political constituencies, like the National Missile Defense, at the expense of ensuring that our military personnel remain the best in the world.

I believe we must make every effort to continue to recruit quality service members to ensure the continued success of our Armed Forces. With the good economic times, rising numbers of high school graduates going on to college, low unemployment, myriad job opportunities in the private sector, and a whole host of other factors, it is no secret that the military services have been experiencing difficulties in recruiting and retaining enough qualified individuals.

Last year, all of the services reached their yearly recruiting goals for enlisted active duty personnel, but this success was not easily achieved. For example, the Air Force, which historically has an easier time recruiting, had to establish a special task force in order to improve its recruiting program. This year, the services are forecasting that they will each make their active duty recruiting goals for enlisted personnel. Time will tell.

Active duty recruiting is not the only challenge facing the services. Maintaining a suitable reserve force to provide the additional support for our military is also a daunting challenge. Last year, two of the seven reserve components, the Navy Reserve and the Air Force Reserve, missed their enlisted recruiting goals.

Currently, the Army National Guard and the Naval Reserve are both on a path to miss their projected goals for this fiscal year. Both the Army and the Air National Guard are struggling to meet a higher recruiting mission with fewer recruiters than last year. With our growing dependence on the Guard and the Reserve, these difficulties are a cause for serious concern. Unlike years past, our military cannot operate effectively without the participation of the National Guard and Reserve. So we must do everything possible to ensure that we devote sufficient resources to Reserve and Guard recruiting.

Retaining those highly trained service members who are already in the military is also vitally important. We cannot afford to lose the investment we make in our service members by failing to provide adequate education, training, working conditions and quality of life to make military service an attractive career option. Today, highly skilled, motivated individuals are being enticed to leave the military and to use their skills and expertise in the private sector. We simply cannot allow this trend to continue if we hope to remain the world's most foremost military power.

Last year, enlisted retention was a particularly acute problem for the Air Force. In the officer corps, the Army missed its officer retention goal by 1,069 while the Air Force was short 523. Many officers who leave are in the junior officer ranks. These are the leaders of tomorrow; and if we hope to keep them in the military, we must be responsive to their needs and concerns.

Spending on high-tech weapons systems is important, but we simply cannot afford to neglect the people side of our defense equation. The personnel and compensation systems of today are based on outdated notions which do not make sense for the 21st Century. For example, the up or out promotion system may not make the most sense in an era where we have computer experts who aspire only to work with computers for their entire careers.

We need to revisit how the services fill critical specialty positions. The current retirement system, which penalizes those who do not stay for a full 20-year career, clearly merits scrutiny. And although the Committee on Armed Services addressed retiree health care last year, it is clear to me that the TRICARE system, which also serves the active duty and reserve communities, is broken and needs to be fixed.

If we do not attend to these people programs, all the sophisticated weapons systems in the world will not do us any good because we will not have enough people who are smart enough and well trained enough to operate them.

We simply cannot afford to let that happen. Therefore, as we begin this new millennium, let us renew our commitment to the dedicated men and women who serve in our Nation's military and to ensuring that our Nation's Armed Forces continue to be the best trained, most highly qualified force in the 21st Century.

HONORING FORMER PRESIDENT RONALD REAGAN ON HIS 90TH BIRTHDAY

The SPEAKER pro tempore (Mr. AKIN). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, on this 90th birthday of Ronald Reagan, I think all of us should be inspired; and we unfortunately are a country that has grown so cynical that, okay, it is not cool to say something nice about Ronald Reagan because I am a Democrat or it is not good to say something about Jimmy Carter because I am a Republican. Yet, I think all people who have served in public service in the courthouses, in the school boards and in the Nation's Capital, in the State legislatures around the country deserve respect for their contributions and for their attempts to make the world a better place.

I was a college student when I first knew of Ronald Reagan. He was running for President in 1976. I was in the Ford camp, but I listened to his speeches very carefully and realized over the next several years that he, in fact, had something to contribute and something to say.

Reagan's ideas, I would say, were probably basic conservative philosophies of less government, of individualism, of people solving problems and not government solving problems, and yet beyond that there seemed to be something else in him, a little twinkle in the eye that maybe captured our imagination; in the words of a poet, maybe took the ordinary and made them extraordinary, and had this ability to galvanize the people of America to try to do their best. In his inaugural address, his closing line was, "Good Morning, America." And he would say repeatedly, after all, we are America; America, where great things happen.

I had the opportunity this weekend to hear our new President, George W. Bush, speak, and I saw a lot of the same tendencies, a sincerity. The ideas are ideas that we in this Congress have debated many, many times, and yet there seems to be something new. There seems right now to be a new energy, a new chemistry in this town.

People, I think, Democrat and Republicans, are excited. Here we have a President of the United States who went to the Republican retreat this weekend, where we were doing our budget planning. No big deal, a Republican President going to a Republican retreat. Yet, after that he went to the Democrat retreat to talk to them, to reach out to them. Indeed, he has met several times over the past couple of weeks with Democrat group after Democrat group, Democrat leader after Democrat leader, holding out his hands.

In that Republican retreat this weekend, rather than taking a partisan swing at the Democrats, who often were not so kind to him and did not show the same benevolent spirit or the magnanimity that he has, he held everything up with high integrity. He referred to Mr. DASCHLE with great respect. He referred to the institution of Congress and the passing of legislation with great respect.

I am looking forward to working with this gentleman. I like his ideas on education, local control for local school boards, the teacher in the classroom who knows the kids' names, where she will have a lot more input in the process. After all, that teacher knows what the needs of the classroom are. More professionals, more computers, more classroom space, more bricks and mortar. The teacher who knows the children's names, who knows which ones need a hugging and which ones need an A or a B; they are the ones who should be leading education, not the bureaucracy out of Washington, D.C.

I am very interested in his passion for education.

On the subject of taxes, it is just this easy: If you knew that the Federal Government could operate, pay all of our obligations and all of our normal functions of government on your contribution as a taxpayer, you would probably say, okay, I do not like paying my taxes but you need the money, fine. But if you found out we could do it on less than what you were paying in, you would probably want the money back.

I had the opportunity to talk to a little girl at Johnson High School over the break. She had a job, senior in high school, made $7.00 an hour. So I said to her, Julie, if you work for two hours, you make $14. Do you get to take it all home?

She said, no. I have to pay about $4 in taxes.

I said, okay. On the $14 you earn, you have to pay $4 in taxes. If you knew that I could run the government on $3.50 of that money, what would you want me to do with the extra 50 cents?

She said, give it back to me.

Now, why does she want it back and what is she going to do with that money? She is going to buy more CDs, more hamburgers, fill up her tank a few more times; and when she does that, she stimulates the economy, businesses expand, jobs are created, more opportunities, more people are working. Therefore, less people are on welfare, more are paying taxes, more paying into the system than taking out of the system, and it is a win/win. It is what Adam Smith, the great economist, called the invisible hand of America that makes the whole engine thrive.

If this senior in high school at Johnson High in Savannah, Georgia, could understand that, why is it so many people in Washington are confused about it? The surplus does not belong to the government. It belongs to the 17-year-old Julies around the country, and Bush understands this. I am looking forward to working with the new President on this.

On Social Security, he supports a lockbox. He says, we are going to save Social Security, not just for the next election but for the next generation. And in doing so, we are not going to change benefits for near-retirees or for retirees. We are not going to have a tax increase, and that is important. And from there on we are going to work on a bipartisan basis to do what is best for the American people.

The reason I believe that we have a new President and a new administration in the White House is because George Bush dared to stick his foot in the water of issues. Rather than skirting around the edge, he got into the water. I think the American people are ready for a substantive debate on real issues that affect all of us.

So on this birthday of Ronald Reagan, let me wish the Reagan family the best, but let me also wish the best to the Bush family and make a pledge that this Member of Congress is ready to work.

□ 1915

TRIBUTE TO RONALD REAGAN ON HIS 90TH BIRTHDAY

The SPEAKER pro tempore (Mr. AKIN). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mr. SCHAFFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and submit extraneous material on the following Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAFFER. Mr. Speaker, this leadership Special Order is one that we dedicate to and devote the time to our 40th President of the United States, Ronald Reagan, on the occasion of his 90th birthday.

Mr. Speaker, we have a number of Members on the majority side who have indicated a desire to speak during a portion of this Special Order. I have got a number of remarks I would like to make; but others here are here now, so I will immediately yield to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I want to express appreciation to my distinguished colleague from Colorado for taking this time this evening to honor a man who has had a profound impact on the lives of all of us, and a very positive impact in my estimation, and I am a former U.S. history professor, I think the greatest impact of anybody in the lifetime of anyone today, a positive impact that has had a reverberating positive effect, not just here in the United States, but worldwide.

I was familiar, of course, with Ronald Reagan, as one of the most popular and handsome movie actors growing up as a child and going to the movies; but it was not that Ronald Reagan that I got really attached to. Rather, it was during the 1964 campaign.

I was teaching history at Bradley University in Peoria, Illinois, at the time, and got involved. One of the things that was frustrating in that campaign was we were not communicating our message well on behalf of Barry Goldwater. But something that happened during that campaign was Ronald Reagan delivered a speech that was taped, and that taped message that Ronald Reagan delivered for Barry Goldwater in the 1964 campaign was far and away the most effective message in getting our word out to the people at the grassroots. It certainly turned me on.

I was then intrigued to learn that Ronald Reagan had only been a Republican for 2 years. He had been a Democrat until 1962; and he became a Republican that year, so he had been working on behalf of the values that he believed in, which extended beyond party lines.

Ronald Reagan believed in the same values that he had believed in when he was still a registered Democrat, but he communicated them effectively, and that resounding message was something that we took from that 1964 campaign on into future elections. It was something that got so many of us that were involved in the Goldwater campaign excited that we pushed to try to get Ronald Reagan the nomination at the 1968 convention down in Miami.

I know there was tribute paid for him getting elected Governor of California. That was demoralizing to us, because Ronald Reagan felt that to continue to go from the election of governor to seeking the Presidential nomination was not proper. So we were disappointed that our troops were split down in Miami, and I was down there working behind the scenes for Ronald Reagan at that time.

In 1976 again we had that window of opportunity, and we all got charged up and excited. I must confess to you that the biggest disappointment I have ever experienced in politics was when Ronald Reagan, by that very narrow margin, lost the nomination in 1976. I remember standing on a balcony at one of the hotels down there with tears in my eyes, because I was fearful that was the end of the Ronald Reagan candidacy.

Because of that, I got in that Presidential race in 1980, in the summer of 1978, because it was the principles I believed in; and I was fearful that Ronald Reagan might wait until the end of 1979 and then say, Well, Mommy and I have looked at it and decided to go to the ranch. I figured there was no way I could get name identification between the end of 1979 and getting into that Presidential cycle. As a result, I entered that race.

Ronald Reagan ended up getting in that race, as you all know, and I told him at the time, because I only got 2 percent of the vote in the New Hampshire primary, I knew it was all history, I was going to stick it out through the Illinois primary in mid-March because our candidates out there were on the ballot indicating who they were going to support at the convention, and they were all going to take a bath if they had my name after theirs, and I figured I had an obligation to take a bath with them. But I reassured Ronald Reagan that all of those people would support him and I would support him as soon as we got Illinois behind us. That is exactly what happened.

We went on, as you well know, to the most exciting victory, at a time in our history when Jimmy Carter, the retiring President at that time, was looking to the future of this country with total despair. But those of you that remember back to that era remember that we suffered an inflation rate of 14 percent, 14 percent, that last year. We had unemployment rates and interest rates that were staggering, and, sad to say, President Carter looking to the future was despondent and thought this country had peaked.

Ronald Reagan saw it from a totally different perspective, and he took it and ran with it and started to elevate this country and the world on the right path. That includes not only the biggest tax cut in history, that we are still benefiting from, but I want to also read from some remarks that Ronald Reagan made when he was over at the Brandenburg Gate at that time. That is when the Wall was still there in Berlin.

He pointed out that Kruschev had predicted that he is going to bury us. Mr. Reagan said, "But in the West today, we see a free world that has achieved a level of prosperity and well-being unprecedented in all human history. In the communist world, we see failure, technological backwardness, declining standards of health, even want of the most basic kind, too little food. Even today, the Soviet Union still cannot feed itself."

He went on to say, "We welcome change and openness; for we believe that freedom and security go together, that the advance of human liberty can only strengthen the cause of world peace. There is one sign the Soviets can make that would be unmistakable that would advance dramatically the cause of freedom and peace.

"General Secretary Gorbachev, if you seek peace, if you seek prosperity for the Soviet Union and Eastern Europe, if you seek liberalization; come here to this gate. Mr. Gorbachev, open this gate. Mr. Gorbachev, tear down this wall."

Amen. And we know the Wall came down.

I had a meeting in my office today with 12 businessmen from Russia coming to talk about expanded trade opportunities between us and them. It is exciting to hear them expressing their interest in pursuing those values and those principles that Ronald Reagan played such a key role in achieving.

It is something that has brought our Nation to a peak that is unprecedented in history, and it simultaneously has brought the world to a peak unprecedented in history. It is not that we still do not have a lot more to accomplish, we do indeed; but we can be excited about this.

Let me just conclude with one final word. Ronald Reagan, and I say this as an Illinoisan, Ronald Reagan is the only President we have ever had from the State of Illinois. He was born in the little town of Tampico. He grew up in Dixon, Illinois. In high school and while he was going to college, he used to serve as a lifeguard at a park there every summer, and he pointed out that he did that for 7 years. He was working for like $15 or $20 a week in those days. But he pointed out that during the 7 years that he served in the capacity of lifeguard, that he saved 77 lives, 77 lives.

I just want to pay tribute to the man who has saved more than 77 lives as he remarkably did in his years as a lifeguard. He has saved millions and millions of lives, and he has left his permanent stamp on the course of history. We salute that gentleman who has turned 90 today and pay tribute to him.

God bless you, President Reagan. We are all eternally grateful for that unprecedented role that you played in our national experience and which will never be forgotten.

Mr. SCHAFFER. Mr. Speaker, I now yield to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, first I want to thank my friend and colleague from Colorado for granting me the time to speak on this very important issue this evening.

Mr. Speaker, it is a great honor for me to join my colleagues this evening in recognition of former President Ronald Reagan's 90th birthday. Last year, for his 89th birthday, the gentlewoman from Washington (Ms. DUNN), the late Senator Paul Coverdell from Georgia and I introduced legislation to bestow the Congressional Gold Medal to President Ronald Reagan and his beloved wife, Nancy, in honor for their individual, and, may I say, combined dedicated service to the United States. I would like, Mr. Speaker, once again to thank my colleagues on both sides of the aisle for joining with me in that tribute, a tribute which touched both President Reagan and Mrs. Reagan very deeply.

Upon passage of the Reagan Congressional Gold Medal bill, Mrs. Reagan remarked personally to me, "It means a lot to us to receive so much support at this difficult time, and we are very honored."

Yet, Mr. Speaker, and may I say not surprisingly, honor and fame were never the priorities of Ronald Reagan, and his journey to the White House was not marked by a desire for personal power or position of personal privilege. He preferred to see himself, however, as just a simple citizen who was called upon to serve the Nation he so loved.

Ronald Reagan truly is a great American in every sense. Led by his belief in the limitless potential of Americans, President Reagan turned the tide of public cynicism and sparked a national renewal.

During his 8-year tenure, the United States enjoyed a period of astonishing economic growth, renewed military superiority and international respect. Ronald Reagan's contagious optimism and passionate patriotism served as an inspiration to the entire Nation. Under his leadership, Americans believed once again in that American dream.

As we enter the 21st century, Mr. Speaker, our Nation still finds its strength in President Reagan's ideals and his steadfast confidence in democracy, freedom, and America. Often as Americans we look back at our history to learn from our mistakes, but as well as Americans we look back and celebrate our triumphs.

The leadership and accomplishments of President Reagan certainly will not be forgotten, for they shaped the country we call home and the world today as we know it.

Thank you, President Reagan, for your commitment, dedication, and faith in America and her people. Today as you celebrate your 90th birthday, please know that we wish you and Mrs. Reagan the very best, and we also thank you for distinguished service to our great Nation.

Mr. SCHAFFER. I thank the gentleman for joining us tonight.

Mr. Speaker, I now yield the floor to my good friend and colleague from the great State of Colorado (Mr. TANCREDO), who a few years before coming to Congress was an appointee in the Reagan administration and served with distinction in our region out in the West in the Department of Education.

Mr. TANCREDO. Mr. Speaker, I thank my good friend and colleague, the gentleman from Colorado (Mr. SCHAFFER).

It is true, as has been cited here by other Members, that there was one time in history, about 1966 or 1967, at the time I was in college in Colorado, and I happened to see a television rebroadcast of a speech that, again, as I say, has been cited here, by Ronald Reagan. It was at a campaign rally for Goldwater. I was mesmerized by that speech. It was the first time I had heard that man speak. I was amazed at his ability to capture the imagination of the audience he was speaking to directly and of the millions of people he was speaking to through the power of television.

I was later privileged to be a delegate to the national convention, a Reagan delegate in the 1980 election, and shortly thereafter was asked to serve, as the gentleman from Colorado (Mr. SCHAFFER) mentioned, in the Reagan administration.

Although I am truly humbled and proud of my service here in this body, it is a wonderful experience; it is an incredible experience for anyone. I must say that I have never cherished anything in my public life more than I have cherished the time I spent in Mr. Reagan's administration, because I was serving in the Reagan revolution and he made me feel like a revolutionary, and he gave me the zeal and the ardor and the enthusiasm for the cause.

His words inspired me. His integrity illuminated the American spirit. How wonderful it was to be proud of the President of the United States. How wonderful it was to see him up there on that dais when he spoke to the assembled Congress of the United States, or when he spoke at the Berlin Wall or when he spoke at Normandy. How wonderful it was to recognize that this man, the leader of the free world, was in fact a man with as great a heart as anyone who has ever occupied that office.

□ 1930

I have in our office in Denver, our regional office, I have almost a shrine to Ronald Reagan. We have everything, every imaginable picture that has ever been taken, we have all of the Christmas cards that they sent us from the White House in those days, and every time I walk into my office, I look back and see that and I am just again reinspired for what he did for us.

Mr. Speaker, Michaelangelo, I believe it was, stated once, when they asked him about his particular talent as a sculptor, and I am certainly paraphrasing here, I know I am not quoting, but he said something like, I am just the person that takes away all of the exterior rock from this form that God has put inside that thing. I can see it in there. I am just moving the rock away, that is all I am doing. I often think of Ronald Reagan in that way. I think that Ronald Reagan saw the beauty of America and the American spirit. He saw it inside a complex and somewhat rough mold that we would see it as, someone without his insight, and he saw the opportunity of America, the greatness of America, and he expressed it eloquently. And, in doing so, he let us all see inside that rock. He let us all see that form. He made us all part of that incredible experience.

Mr. President, you made us proud. You made me proud to be part of the Reagan revolution. And even as you said good-bye to America, you, once again, inspired me personally in your message to the country when you told us of your debilitating disease, of Alzheimer's, and I say you inspired me personally because my father is stricken with the same affliction.

This is the way the President left us; these are the words he gave us in this letter: "I have recently been told that I am one of the millions of Americans who will be afflicted with Alzheimer's disease.

"Upon learning this news, Nancy and I had to decide whether as private citizens we would keep this a private matter or whether we would make this news known in a public way. In the past, Nancy suffered from breast cancer and I had my cancer surgeries. We found through our open disclosures we were able to raise public awareness. We were happy that as a result, many more people underwent testing, they were treated in early stages and able to return to normal, healthy lives. So now we feel it is important to share it with you. In opening our hearts, we hope this might promote greater awareness of this condition. Perhaps it will encourage a clearer understanding of the individuals and families who are affected by it.

"At the moment I feel just fine and I intend to live the remainder of the years God gives me on this earth doing the things I have always done. I will continue to share life's journey with my beloved Nancy and my family. I plan to enjoy the great outdoors and stay in touch with my friends and supporters.

"Unfortunately, as Alzheimer's disease progresses, the family often bears a heavy burden. I only wish there was some way I could spare Nancy from this painful experience. When the time comes, I am confident that with your help, she will face it with courage and faith.

"In closing, let me thank you, the American people, for giving me the great honor of allowing me to serve as your President. When the Lord calls me home, whenever that may be, I will leave with the greatest love for this country of ours and eternal optimism for this future.

"I now begin the journey that will lead me into the sunset of my life. I know that for America there will always be a bright dawn ahead.

"Thank you, my friends. May God always bless you."

And may God always bless you, Mr. President, and happy birthday.

Mr. SCHAFFER. Mr. Speaker, I now yield to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman from Colorado for allowing me the time to honor this great statesman. I am pleased to see that so many of my colleagues have thoughts about the gentleman, President Reagan.

Interestingly, from a different perspective, as a college freshman, I did have the opportunity, Mr. Speaker, to travel to Cleveland to witness the presidential debate in Cleveland, Ohio between President Jimmy Carter and Ronald Reagan. That evening, I saw what so many of us came to know as the quintessential Reagan, the perfect mix of humor and sincerity, while still being able to communicate the passions that he felt inside, the passions and desires of our Nation. Most people remember that debate for his famous challenge to President Carter over Medicare. However, my memories focus more on the hope that he presented for America that night. I saw a man who sought to govern this Nation not for self-serving reasons or for power, but for the chance to restore the confidence and the spirit to all Americans, a vision which all of us shared, regardless of our party affiliation.

While President Reagan's policies, once he was in office, guided our country to a brighter future, it was his leadership skills that brought us together as a people. He possessed the unique ability to express our emotions during both times of sorrow and celebration, whether he was soothing our distraught public during the time after the Challenger Space Shuttle disaster, or his fiery cry to Mikhail Gorbachev to tear down the Berlin wall, he was both comfortable and confident in his role as the voice of America, but he always took it very seriously.

It is important to note that his philosophies evolved from a lifetime spent on both sides of the political spectrum. He was not a partisan. He was convicted. In his early years he was a staunch supporter of F.D.R., campaigned for Harry Truman, while years later delivered a rousing speech in support of Barry Goldwater. His message, though, from that speech is one that really rings true today, and that is that government had gotten too big and too intrusive. His message is one that was carefully formulated through his life experiences as a union President and as governor of California. His ideological evolution is the personification of the man. He carefully studied both sides of the issue before he took a stand. He always had principles. He always stood by them, regardless of their popularity. He was a true leader, never one who would settle for the path of least resistance.

Many of the issues that we find ourselves discussing on the floor of the House today are those that were first suggested by President Reagan, such as his Strategic Defense Initiative or Star Wars. Perhaps most notably, he predicted the demise of the communist regime years before scholars and pundits would even acknowledge that his claim was plausible. As early as 1942, he foresaw that the "march of freedom and democracy" would leave communism on the ash heap of history where it belongs, and where a lot of us thought it belonged, but where we were not so sure to believe that it could actually happen. His words were dismissed as out of touch. I am very pleased that he was able to see that prediction come true.

Overall, Ronald Reagan's greatest gift was his unbridled optimism. It enabled him to transcend the partisanship of Washington, which I am just starting to experience, and unite our Nation. He realized that the strengths and principles of our democracy are more powerful than any adversity or obstacle that we could ever be faced with. When he was asked in 1991 whether he was responsible for the end of the cold war and the revitalization of our economy, he humbly said that people should believe in themselves, and he was pleased that he was able to get us to believe in ourselves again. He did not take credit for the great accomplishments that he really deserved credit for. It is that ability, that "aw, shucks" sort of manner that I think endeared him to a lot of people across the Nation, Republicans, Democrats, Independents, people who were not interested in politics at all. Those who knew him as an actor loved him still.

It is his faith in Americans and the resilience of our great Nation that I remember most about President Reagan. Twenty-one years ago, he taught me about the honor and importance of public service to our country. Today, he continues to inspire a new generation of Americans, as all of the writers and people who knew him place before a new generation stories of his life, stories of his goals, stories of his leadership.

I am pleased that a younger generation is going to be able to experience Ronald Reagan again. I am just sorry that they are not going to be able to experience him in the personal way that we did. My prayers go out to Ronald Reagan and his family tonight on his birthday. My hopes are that the Lord will be with him, and I wish him the happy birthday we all hope we can have.

Mr. SCHAFFER. Mr. Speaker, I thank the gentlewoman. I yield to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Speaker, I thank the gentleman for yielding.

I rise tonight to join my colleagues in paying tribute to our Nation's 40th President, Ronald Wilson Reagan on this, his 90th birthday.

When Ronald Reagan was elected President in 1980, I had just graduated high school. Already involved in politics, I followed and admired President Reagan over the next 8 years in office, and certainly ever since.

In that time, the world changed a lot. President Reagan challenged the Soviet Union to "tear down this wall," and the wall came down. He saw a day when Eastern Europe would join the Free World, and it did. He stayed firm at Reykjavik and, for the first time, Russia and America stopped building, and started destroying, nuclear weapons.

Over those 8 years, America itself changed.

Ronald Wilson Reagan was the eternal optimist, a believer in America's abilities, ideals, and innate goodness. His faith in the greatness of our Nation was best expressed when he said, "In this land of dreams fulfilled where greater dreams may be imagined, nothing is impossible, no victory is beyond our reach, and no glory will ever be too great."

Ronald Reagan restored America's confidence in itself.

Three years ago, in commemoration of President Reagan's 87th birthday, I had the pleasure of joining First Lady Nancy Reagan at the Reagan Library in California. I was there as an elected official at that time with the Pennsylvania General Assembly, a step that helped lead me here to becoming a member of this great institution. But I was there, most importantly, to pay tribute to, and to express my deep gratitude to President Reagan for his tremendous service to our Nation. In my conversation with Nancy Reagan that day, my message was simply one of thanks. Thanks to her and, through her, to President Reagan for their dedicated, hard-working and outstanding service to our great Nation and its citizens.

President Reagan's conduct in office and his statesmanship, his love of country, were great role models for all of us citizens, and they were very inspiring to countless citizens. His example helped to reaffirm my commitment to the ideals of public service, to the ideals of giving back to one's Nation, and certainly helped to reaffirm my interest in serving in office and to serving here in Congress.

I am greatly honored to join with my colleagues tonight in saying, Mr. President, happy birthday, and God bless you and this great Nation of ours, the United States of America.

Mr. SCHAFFER. Mr. Speaker, I appreciate the gentleman from Pennsylvania for joining us tonight and for his fine remarks.

Mr. Speaker, I rise today in honor of President Ronald Reagan on the occasion of his 90th birthday.

More than 12 years having passed since Mr. Reagan left the White House in Washington, the passing of time only magnifies his greatness as a leader and as a human being. I ask our colleagues to recall those early days of the Reagan era.

I remember all too well that January 20, 1981, President Reagan inherited a nation wallowing in pessimism produced by the previous decade. I also remember how Mr. Reagan strode into Washington, confident of America's promise and ideals, and quickly revived this country's morale. By reminding Americans, we are the most able people in the world, he reinvigorated our patriotism like no other President of the postwar era.

Mr. Reagan's tenure in the oval office was underscored by his amazing life story, a tale of one of America's most popular leaders. Most of us remember Mr. Reagan as President. But if we examine his earlier years, we learn a lot about Mr. Reagan, the man, and what fueled the vision he brought to Washington, D.C.

What is often overlooked is that long before he became our 40th President, Mr. Reagan was a liberal Democrat, and just like his father, he cast the first presidential vote that he ever cast for Franklin Delano Roosevelt in 1984, and he campaigned for Harry Truman in 1948.

□ 1945

Perhaps Mr. Reagan felt obliged to be liberal in his younger days. After all, at 26 Mr. Reagan left the great Midwest and his promising radio career to go to Hollywood. The work ethic instilled in him as a young boy growing up in Illinois paid off. He earned a reputation as a solid, dependable performer, even though he appeared in mostly less-than-memorable films.

Despite the environs of Hollywood, Mr. Reagan's political philosophy evolved as the years passed. While the sixties brought a new era of liberal rule to America, from the Kennedys to the Great Society, Mr. Reagan became more troubled by what he perceived as the erosion of American liberties.

He found himself siding with the country's new conservative movement. Granted, it was not the popular thing to do, especially given his trendy California backdrop. But by 1964, Mr. Reagan was backing Barry Goldwater for President, campaigning vigorously for the Arizona Republican.

It was a mighty display of political courage, and at the same time, it was the courage that brought Mr. Reagan a change of political thought and affiliation which eventually won the former actor two terms as California's governor, and of course 8 years as our President, 8 glorious years that changed America.

How did he do it? Some say it was his vision and his unmatched ability to communicate. Others credit his warmth and congeniality. Still others attribute his success to his strength and his determination.

Whatever the case, no one can dispute the gravity of Mr. Reagan's accomplishments. No one can argue the greatness of his years as our Nation's chief executive. Given the mess he inherited, Reagan's legacy is one to behold.

Remember 1979? The country had fallen victim to the days of malaise, with 21 percent interest rates, 14 percent inflation rates, skyrocketing unemployment, and long gas lines. It was Ronald Reagan who restored the American economy by setting it on a course for long-term success.

With dramatic tax cuts and other measures, Reaganomics produced the longest peacetime economic expansion in the history of the United States. Since 1981, when President Reagan's economic programs were first enacted, we have had less than 2 years of recession. Mr. Reagan understood that if we motivate good people, successful, productive people, instead of punishing them, the whole country would fare better. More than anyone else in the last half century, he brought that concept home and empowered millions of Americans to reach new heights of excellence.

We all reap the rewards of Mr. Reagan's leadership still today. In addition to his economic legacy, we remember Ronald Reagan for conducting the most successful foreign policy in the 20th century. He presided over the conquest of communism and brought the Cold War to a conclusion, all because he never lost faith in the virtues of the American free market and our democratic gospel.

When dealing with the Soviets, Mr. Reagan put aside his affability and labeled the evil empire for what it was. By confronting the Soviet Union with massive rearmament, he gave Americans the upper hand. By replacing detente with the policy of containment and rollback, he was the first President to reach an arms reduction accord with the Soviets. He broke the debilitating grip of the Nation's post-Vietnam syndrome, and restored our confidence in the American military.

In the realm of social issues, President Reagan was a conservative of the heart. He sided with and supported at every turn the traditionalists. He convinced us that smaller government was a good thing. He waged with unprecedented stamina the national war on drugs and crime, and without apology, he valiantly defended the sanctity of the unborn.

No focus groups, no poll-driven shifts, no triangulation, Reagan was driven by what was in his heart and what he perceived to be right. Opposed by a hostile Congress and a rabidly liberal news media, Mr. Reagan stood up for what he believed was correct, and stood up to those who he opposed.

Indeed, the Reagan years were revolutionary years. Looking back, that revolution was not only a shift in the legislative priorities and White House personnel, it was an intellectual challenge to the status quo that had reigned for a generation prior. Suddenly, because of Mr. Reagan, no serious national politician wanted to be identified as a "liberal." Of course, the same holds true even for today.

With a perfect blend of realism and idealism, this courageous man single-handedly overhauled our system of politics, as well as our collective outlook. The greatest communicator of all time, he reaffirmed with eloquence the value and validity of the American dream. Most of all, he trusted his fellow Americans like no other.

As he said in his farewell address, by appealing to our best hopes, not our worst fears, to our confidence rather than to our doubts, he made us conscious of our own potential. He restored our optimism, and brought together his party and his countrymen in an unprecedented manner. Never were we as proud to be Americans as when the Gipper was at the helm.

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

Mr. SCHAFFER. I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank the gentleman from Colorado, Mr. Speaker, for yielding to me.

Mr. Speaker, on the occasion of his 90th birthday, this Congress remembers President Ronald Reagan, celebrating his life and his legacy.

In the current time, where some confuse legacy with licentiousness; when some confuse notoriety with being notorious; when some, regardless of partisan stripe or political philosophy, so confuse the notion of leadership to be poll-driven rather than principle-based, we celebrate the life of Ronald Wilson Reagan.

Prime Minister Thatcher said that one man more than any other was responsible for the spread of freedom and the embrace of democracy in the world. His name is Ronald Reagan.

It is interesting, Mr. Speaker, at a time when the dominant media culture castigates simplicity for lacking in intellectual rigor, the triumph of Ronald Reagan is the notion that simple beliefs sincerely held are not only eloquent, they are eminently practical: faith, family, freedom; the notion that individual spirit outweighs the heavy hand of bureaucratic government; the notion to first provide for the common defense to ensure not only national security, not only personal security, but financial security. These are the lessons of Ronald Reagan.

Mr. Speaker, those who hear me come to the well from time to time note my fondness for an observation of Mark Twain. Quoting Mark Twain, now, "History does not repeat itself, but it rhymes."

Our greatest leaders, regardless of political pedigree, were those brave souls who unflinchingly embraced a set of principles and knew the true meaning of leadership: that leadership is not the searching for a legacy, it is the creation of a record; that history is best served by working with the energy and intellect and all we can bring at this time, in this place, in the circumstances in which we find ourselves, understanding that the Constitution is not just a document to be put on the shelf to collect dust, but the very cornerstone of our liberty, and if you will, in the parlance of the 21st century, the mission statement that defines us.

Ronald Wilson Reagan, called by some a revolutionary, instead went about the business of restoration, restoring more than our pride, restoring a sense of national purpose. That is what we celebrate, and that is what we remember, and that is what will sustain us in the days ahead, celebrating his life and his accomplishments, and learning from the rhythm and rhyme of his days in Washington the example that can motivate us in what he called the last best hope of mankind.

Mr. SCHAFFER. Mr. Speaker, I thank the gentleman for joining me tonight on the floor. I was in college, starting my freshman year, it was 1980, during the campaign between President Reagan and President Carter, and I remember the first debate, I think it was the debate in Cleveland, that was televised.

All of my friends who I had just met at the University of Dayton met in my dormitory room, so imagine 10 or 15 people packed into a small little cell and watching this debate on television. For many of us at that time, we were just starting to figure out where we stood politically in America.

We were just youngsters, graduated from high school and moving on to college. President Carter, as you know, was a very honorable man, a very well respected President, in his personal qualities. He might have caused some, those of us who ended up being pretty conservative in Washington, to be at least open and attracted in some ways to the liberal thought governing the country at that time.

But it was that debate that stated with such clear terms the distinction between liberal leadership in America and a conservative vision for America's future. It was at that point in time, after watching the whole debate, that I was inspired in a way that is almost beyond description. I not only decided that I wanted to become an active Republican, but signed up that very day with the Republican organization there at the University of Dayton, and that was the beginning of my political activism.

That was what really radicalized me on this concept of American liberty and American freedom, and conservative from the standpoint that President Reagan harkened back to the early days of our Nation's founding. He quoted Washington, Jefferson, Adams, Madison, Franklin, and all the rest, and applied the wisdom of those Founders to every modern problem that confronted America at the time.

It was that sense of continuity, that sense of American purpose, that firm belief that God has blessed the United States of America with a destiny that is truly the hope for the world, that was something that I wanted to be part of. That was the America that attracted my grandparents as immigrants to this country. That was the America that I wanted to be part of. That was the America that I wanted to work for. That was the America that I wanted to entrust my children to as I raised my family, and raised them up in a glorious Nation that Ronald Reagan has delivered to them.

Ronald Reagan's speeches throughout the course of his Presidency, and even after his retirement, have had that kind of effect on American after American after American. To this day when we speak with Members of the Congress, our colleagues, it is remarkable the number of times core beliefs, the fundamentals of philosophy that people bring to this Congress, have been inspired by President Reagan, by some speech that he made, by some action he took, by some moment of courage when, against all odds, he stood up not for what was politically expedient, not for what pollsters might have advised him, but stood up for what was right and what was just and what was fair.

That is the kind of courage that I think about often on this House floor. It is something that I know many of us think about, not just on the President's birthday. We think about President Reagan every day as we carry out the business of the United States Congress.

□ 2000

Mr. HAYWORTH. Mr. Speaker, as the gentleman from Colorado is caught up in collegiate revery for what was for the gentleman a political epiphany in the campaign debates of 1980, I thought back in my own memory to a brilliantly beautiful day in late October in 1992 when former President Reagan, answering the call of duty to his party and to his Nation, hit the campaign trail.

It was my honor to serve as a master of ceremonies at a time, while as a public figure, as a broadcaster, still ostensibly was a private citizen, not a candidate for political office, not an office holder. In that appearance, one of his last public campaign appearances, the genius of Ronald Reagan came through. And, again, it was not something that would please the intellectual elite, but it was the simplicity of his optimism.

Another great President, Dwight David Eisenhower, noted that the most important component of leadership is optimism. In contrast to those who came before who, in a moment of introspection and personal disappointment, referred to a national malaise, Ronald Reagan championed the essential goodness of the American people. That notion that tomorrow would bring a better day, that notion that this constitutional republic represented the last, best hope of mankind, that vision of a shining city on a hill was more than poetic license. For Ronald Reagan, it was a vision that he championed every day to make reality.

The lessons are legion and the examples are great. When professional diplomats of the State Department said, "Oh, no, do not give that speech," Ronald Reagan went to West Berlin and in the sight of the terrible wall, Mr. Speaker, said, to the general secretary of what was then the Soviet Union, "Mr. Gorbachev, tear down this wall."

His sense of purpose and his clear and unmistakable call led eventually to The Wall coming down and opportunity and freedom being swept up, not only across what was called East Germany, but all of Eastern Europe.

When he said the Soviet Union would be relegated to the dustbin of history, he was not disdainful of the Russian people but instead of the tyranny and the ultimate unworkability of their system. And Ronald Reagan was right.

When those in this town championed, oh, we must have a nuclear freeze, we must be subservient to the Soviet Union, we must throw up our hands in hopelessness and despair, Ronald Reagan believed in the goodness of the American people and the constitutional charge of this unique, grand experiment. And his vision, his prophecy was correct.

A British writer today put it, talking about other contemporary leaders, saying of those who may have sat in seats of power here or in the halls of Parliament from our British allies, lesser men who easily enjoy the fruits and labors of a greater man with firm conviction.

That is what we remember and that is what we champion and that is why the American people, regardless of political party, rise as one, Mr. Speaker, to say" "Happy Birthday, President Reagan."

Mr. SCHAFFER. Mr. Speaker, that vision of the shining city on the hill is one that the President did make a reality. And despite the fact that in the 1984 Democratic National Convention it was Governor Cuomo whose job it was to discredit the President in the course of his reelection campaign, stood there before the convened assembly and ridiculed that vision of the shining city on a hill and said that it was unsuitable for an American ideal, for an American understanding of itself.

But as I have since learned and had a chance to meet many people through the course of being a Member of Congress around the world, I have come to realize just how prophetic Ronald Reagan was and that these words were not merely words. These were not hollow statements. These were not just a pretty collection of syllables. America really is the shining city on the hill. And at the time, was the hill to which, the city to which people around the world in some very dire circumstances looked toward with hope and with optimism. Sometimes that vision of America was all they had.

Mr. Speaker, I am reminded of a trip I took to Israel. I met with Mr. Scharansky who had grown up in the old Soviet Union and who had spent a number of years in the Russian gulags being oppressed as a political prisoner, as a Jew, and in a very antireligious society in the Soviet Union. He said that when word passed through the prison cells that Ronald Reagan had publicly and emphatically described the Soviet Union as an "evil empire," that was the day their hearts began to pound, because they knew that it was just a matter of time before they were released.

As I stood there in Jerusalem listening to this story years later about a former Soviet prisoner, it made me extraordinarily proud, not just to be an American, but to be one who voted for, supported, worked for Ronald Reagan and his candidacy, because it was a victory that did more than set the United States of America on the proper course. It was a victory that did represent that shining city on the hill that shone bright to the darkest corner of the globe and represented real hope and opportunity and optimism for those who saw no other source of optimism.

Mr. Speaker, I have heard lots of stories like that. I have heard stories like that from people who have spent time in Chinese prisons suffering behind bars as a result of religious persecution. That the words of President Reagan, the firmness with which he would deal when it came to communism and the oppressive nature of communism, it has inspired revolutionaries across the planet. It has inspired those whose thirst for democracy has been fulfilled. It has inspired those who have run for office in countries where pro-democracy, pro-free markets, pro-religious expression, those kinds of sentiments are all but abolished. And we see President Reagan's firm commitment to these concepts taking root in some of the most unlikely places.

Here in the United States, as I mentioned before, there are many, many people who have come to Congress for the first time this year who have won seats in the State legislatures around the Nation, who have campaigned and won titles as county commissioner and city council member and school board member, who are inspired in their vision of a constitutional government of local strength, of a Nation that defines itself from within, inspired to run for office in the first place, to be active in their communities, and to lead as real Americans lead.

Mr. Speaker, Ronald Reagan taught us that character means the world. With his unwavering moral sense, steeped in selflessness and decency, President Reagan offered a vision, a vision to all America, and then he followed through. For that I am grateful, as is this Nation.

Mr. Speaker, I say to the former President, "Mr. President, I thank you and happy birthday. America and the world are better because of you, because of your courage, and because of your sacrifice. We shall never forget you."

If we have time left, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Colorado for yielding. As the gentleman discussed, those who have crossed his path who have run for public office, whether in this country or beyond these borders, I think of the scores of young people who apply for internships or that first job here in Washington or back in our districts who unfailingly cite the example of Ronald Reagan coming to political awareness, whether in elementary school or junior high, looking to that example of leadership. It is an example which will continue to inspire and motivate what he called the last, best hope of mankind.

Mr. Speaker, it is the optimism that this noble experiment would continue. That despite the travails and the challenges we face, our basic goodness as a people and our reliance on principle and the notion of limited government will prevail. We shall not see his like again, though he will be emulated, though he always will be remembered.

Mr. Speaker, the special nature of the leadership of Ronald Reagan, his optimism, his eloquence, his leadership ability, his foresight give us all reason to pause on this, his 90th birthday, not only to remember the past, but to pledge ourselves to work in the present, to provide for a glorious future. For as he said, America's greatest days are still to come.

Mr. SCHAFFER. Mr. Speaker, I would like to close with three quotes from President Reagan. In his first inaugural address in January of 1981, he said, "No arsenal or no weapon in the arsenals of the world is so formidable as the will and moral courage of free men and women."

Later that year, in September of 1981, he said, "We who live in free market societies believe that growth, prosperity, and ultimately human fulfillment are created from the bottom up, not the government down. Trust the people."

And, finally, in a speech to the Republican National Committee, August 23, 1984, President Reagan said this: "In this springtime of hope, some lights seem eternal; America's is."

Mr. Speaker, I thank you for recognizing me for this special order and for all of my colleagues who joined in this special order tonight in wishing President Reagan a happy 90th birthday. The country is grateful for the President's service and for his optimism and passion for the country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MALONEY of New York (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. BECERRA (at the request of Mr. GEPHARDT) for today and the balance of the week on account of business in the district.

Mr. GRUCCI (at the request of Mr. ARMEY) for today and the balance of the week on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHOWS) to revise and extend their remarks and include extraneous material:)

Mr. SHOWS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

(The following Members (at the request of Mr. ROGERS of Michigan) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, February 7.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. LEWIS of California, for 5 minutes, today.

Mr. SENSENBRENNER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

ENROLLED JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. recognizing the 90th birthday of Ronald Reagan.

ADJOURNMENT

Mr. SCHAFFER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 7, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

527. A letter from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting the Department's final rule—Retained Water in Raw Meat and Poultry Products; Poultry Chilling Requirements [Docket No. 97–054F] (RIN: 0583–AC26) received January 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

528. A letter from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department's final rule—Post-loan Policies and Procedures Common to Guaranteed and Insured Loans (RIN: 0572–AB53) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

529. A letter from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department's final rule—Policy on Audits of RUS Borrowers; Management Letter (RIN: 0572–AB66) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

530. A letter from the Under Secretary of Defense, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force which occurred in the fiscal year (FY) 1986, FY 1987, and FY 1988 Aircraft Procurement, and the FY 1988 Operation and Maintenance (O&M), Air Force appropriations, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

531. A letter from the Under Secretary of Defense, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force which occurred at the 438th Air Mobility Wing (now the 305th Air Mobility Wing), located at the McGuire Air Force Base, New Jersey, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

532. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, Department of Defense, transmitting notification that Headquarters Air Mobility Command has conducted a Business Analysis to reduce the cost of the Andrews Air Force Base (AFB), Maryland, 89th Airlift Wing Aircraft Maintenance and Base Supply function, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

533. A letter from the Secretary of the Navy, Department of Defense, transmitting the Secretary's determination and findings that it is in the public interest to use other than competitive procedures for a particular procurement, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

534. A letter from the Secretary, Department of Defense, transmitting the approved retirement and advancement to the grade of general on the retired list of General Patrick K. Gamble, United States Air Force; to the Committee on Armed Services.

535. A letter from the Secretary, Department of the Treasury, transmitting a report entitled, "The Community Reinvestment Act After Financial Modernization: A Final Report" pursuant to section 715 of the GRAMM–Leach-Bliley Act; to the Committee on Financial Services.

536. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions For Certain Expenses; and Disallowance for Earned Income; Delay of Effective Date [Docket No. FR–4608–F–03] (RIN: 2501–AC72) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

537. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Revision to the Application Process for Community Development Block Grants for Indian Tribes and Alaska Native Villages; Delay of Effective Date [Docket No. FR–4612–F–03] (RIN: 2577–AC22) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

538. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Discontinuation of the Section 221(d)(2) Mortgage Insurance Program; Delay of Effective Date [Docket No. FR–4588–F–03] (RIN: 2505–AH50) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

539. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Changes in Flood Elevation Determinations [Docket No. FEMA-P–7600] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

540. A letter from the Secretary of the Treasury and Chairman of the Board of Governors of the Federal Reserve System, transmitting a report on the feasibility and desirability of mandatory subordinated debt, pursuant to Section 108 of the GRAMM–Leach-Bliley Act, P.L. 106–102; to the Committee on Financial Services.

541. A letter from the Director, Office of Management and Budget, transmitting the pay-as-you-go report, as required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on the Budget.

542. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

543. A letter from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—State Vocational Rehabilitation Services Program; Delay of Effective Date—received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

544. A letter from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—State Vocational Rehabilitation Services Program; Delay of Effective Date—received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

545. A letter from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—Assistance to States for the Education of Children With Disabilities; Delay of Effective Date— received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

546. A letter from the Acting Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting the Department's final rule—Developing Hispanic-Serving Institutions Program; Delay of Effective Date—received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

547. A letter from the Assistant Secretary for Employment Standards, Department of Labor, transmitting a report entitled, "Minimum Wage and Overtime Hours Report"; to the Committee on Education and the Workforce.

548. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting the Department's report entitled "Performance Profiles of Major Energy Producers 1999," pursuant to 42 U.S.C. 7267; to the Committee on Energy and Commerce.

549. A letter from the Secretary, Department of Health and Human Services, transmitting the annual financial report to Congress required by the Prescription Drug User Fee Act (PDUFA), as amended (section 104(b)), pursuant to 21 U.S.C. 379g nt; to the Committee on Energy and Commerce.

550. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, "Demonstration Projects to Study the Effect of Allowing States to Extend Medicaid to Pregnant Women and Children Not Otherwise Qualified to Receive Medicaid Benefits," pursuant to Public Law 101—239, section 6407(g)(2) (103 Stat. 2267); to the Committee on Energy and Commerce.

551. A letter from the Secretary, Department of Commerce, transmitting a report on the Anticybersquatting Consumer Protection Act of 1999, section 3006 concerning the abusive registration of domain names; to the Committee on Energy and Commerce.

552. A letter from the Chief Counsel, National Telecommunications and Information Administration, Department of Commerce, transmitting the Department's final rule—Technology Opportunities Program [Docket No. 981203295–0355–05] (RIN: 0660–ZA06) received January 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

553. A letter from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting the Department's final rule—Weatherization Assistance Program for Low-Income Persons (RIN: 1904–AB05) received December 18, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

554. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "Performance Improvement 2000: Evaluation Activities of the U.S. Department of Health and Human Services"; to the Committee on Energy and Commerce.

555. A letter from the Secretary, Department of Health and Human Services, transmitting a study concerning any safeguards

needed to ensure that the health care of individuals with special health care needs and chronic conditions, enrolled with Medicaid managed care organizations are adequately met, pursuant to Section 4705(c)(2) of the Balanced Budget Act; to the Committee on Energy and Commerce.

556. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting the Department's final rule—Facsimile Transmission of Prescriptions for Patients Enrolled in Hospice Programs [DEA-190F] (RIN: 1117-AA54) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

557. A letter from the Director, Environmental Protection Agency, transmitting a report on Sensitive Subpopulations and Drinking Water Contaminants; to the Committee on Energy and Commerce.

558. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, "Response to Section 6102(e) of the Transportation Equity Act for the 21st Century"; to the Committee on Energy and Commerce.

559. A letter from the Associate Bureau Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102] received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

560. A letter from the Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, transmitting the Commission's final rule—Numbering Resource Optimization [CC Docket No. 99-200] Petition for Declaratory Ruling and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 [CC Docket No, 96-98] received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

561. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Creation of Low Power Radio Service [MM Docket No. 99-25; RM-9208; RM-9242] received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

562. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Charlotte, North Carolina) [MM Docket No. 00-178; RM-9914] received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

563. A letter from the Deputy Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, transmitting the Commission's final rule—2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations [CC Docket No. 99-216] received February, 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

564. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting a report on the Board's technical and scientific review of the Department of Energy's program to characterize a site at Yucca Mountain, Nevada, for its suitability as the possible location of a repository; to the Committee on Energy and Commerce.

565. A communication from the President of the United States, transmitting the final report on the national emergency declared by Executive Order 12924 of August 19, 1994, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 107—38); to the Committee on International Relations and ordered to be printed.

566. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a report containing an analysis and description of services performed by full-time USG employees during Fiscal Year 2000, pursuant to 22 U.S.C. 2765(a); to the Committee on International Relations.

567. A letter from the Under Secretary of Defense, Department of Defense, transmitting a copy of Transmittal No. 27-0 to certify the the Memorandum of Understanding (MOU) among Canada, France, Germany, Italy, Norway, the United Kingdom and the United States for Coalition Surveillance and Reconnaissance (CSR), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

568. A letter from the Secretary of Defense, transmitting the FY 1999 Report on Accounting for United States Assistance under the Cooperative Threat Reduction (CTR) Program, pursuant to 37 U.S.C. 403(b) nt; to the Committee on International Relations.

569. A letter from the Assistant Secretary for Legislative Affairs, Department of the State, transmitting the final report from the White House Conference on Culture and Diplomacy; to the Committee on International Relations.

570. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification that the Republic of Turkmenistan and the Republic of Tajikistan are committed to the courses of action described in Section 502 of the FREEDOM Support Act (Public Law 102-511); to the Committee on International Relations.

571. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendments to the International Traffic in Arms Regulation: Canadian Exemption—received January 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

572. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-396, "Seniors Protection Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

573. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-552, "Protections from Predatory Lending and Mortgage Foreclosure Improvement Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

574. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-501, "Tax Clarity Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

575. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-547, "Washington Convention Center Marketing Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

576. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-543, "New E-Conomy Transformation Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

577. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-559, "Child Support and Welfare Reform Compliance Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

578. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-518, "Closing of a Public Alley in Square 4335, S.O. 98-245 Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

579. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-469, "Board of Education Campaign Contribution Clarification Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

580. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-549, "Liquor Sales Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

581. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-558, "International Banking Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

582. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-468, "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

583. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-482, "Bishop Samuel Kelsey Way Clarification Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

584. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-505, "Sales Tax Holiday Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

585. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-506, "Workers' Compensation Administrative Law Judges Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

586. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-507, "Make a Difference Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

587. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-508, "Uniform

Unicorporated Nonprofit Association Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

588. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-510, "Banner Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

589. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-481, "Snow and Ice Control Program Temporary Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

590. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-470, "Moratorium on the Construction of Certain Telecommunications Towers Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

591. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-478, "Lovejoy School New Housing and Economic Development Temporary Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

592. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-477, "Funeral Services Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

593. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-479, "Health and Hospitals Public Benefit Corporation Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

594. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-511, "Estate Tax Technical Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

595. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-512, "Soil and Water Conservation Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

596. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-554, "Motor Vehicle Excessive Idling Exemption Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

597. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-544, "Information Technology Apprenticeship Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

598. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-545, "Street Festival One Day Public Space Rental Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

599. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-541, "Women's Health and Cancer Rights Federal Law Conformity Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

600. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-542, "Convention Center Authority Shaw Community Development Fund Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

601. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-551, "Uniform Per Student Funding Formula Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

602. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-550, "Off-Premises Wall Sign Moratorium Temporary Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

603. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-540, "Comprehensive Annual Financial Report Scheduling and Notice Requirement Act 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

604. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-539, "Interim Disability Assistance Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

605. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-514, "District of Columbia Emancipation Day Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

606. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-487, "Gray Market Cigarette Prohibition Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

607. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-533, "Retirement Reform Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

608. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-486, "Emergency Medical Services Non-Resuscitation Procedures Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

609. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-538, "Election Day Challenge Procedures Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

610. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-509, "District of Columbia Municipal Regulations Publication Improvement Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

611. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-515, "Taxicab Drivers Protection Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

612. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-532, "Closing of Public Alleys in Square 236, S.O. 00-36 Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

613. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 13-466, "Insurance Demutualization Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

614. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-537, "Nonprofit Corporation Voting Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

615. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-536, "Administrative Procedure Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

616. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-522, "Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

617. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-531, "Closing of O Street, N.E., S.O. 98-124, and Closing of Public Alleys in Square 670, S.O. 90-235, Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

618. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-530, "Wage-Hour Enforcement Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

619. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-520, "Disposal of District Owned Surplus Real Property Temporary Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

620. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-521, "Noise Control Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

621. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-519, "Gallery Place Economic Development Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

622. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-516, "Driving Under the Influence Repeat Offenders Amendment Act

of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

623. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–504, "ANC Procurement Exclusion Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

624. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–502, "Service Improvement and Fiscal Year 2000 Budget Support Special Education Student Funding Increase Non-service Nonprofit Provider Clarifying and Technical Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

625. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–467, "Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

626. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–480, "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

627. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–498, "Redevelopment Land Agency Disposition Review Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

628. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–517, "Mortgage Lender and Broker License Renewal Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

629. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–555, "Insurance Trade and Economic Development Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

630. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–513, "Government Employer-Assisted Housing Program Teacher, Police Officer, and Firefighter Hiring Incentive Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

631. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–557, "Prohibition on Abandoned Vehicles Amendment Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

632. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during December 2000, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

633. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13–556, "Opportunity Accounts Act of 2000" received February 2, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

634. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Revision of Freedom of Information Act Regulations; Delay of Effective Date [Docket No. FR–4292–F–03] (RIN: 2501–AC51) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

635. A letter from the Administrator, Environmental Protection Agency, transmitting notification that the Environmental Protection Agency (EPA) plans to submit an Annual Report for FY 2000 that consolidates a number of statutorily required financial and performance management reports; to the Committee on Government Reform.

636. A letter from the Chairman, Federal Election Commission, transmitting a report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

637. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting an annual report on commercial activities inventory list; to the Committee on Government Reform.

638. A letter from the Director, Financial Management, General Accounting Office, transmitting the FY 2000 annual report of the Comptroller General's Retirement System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

639. A letter from the Chairman, Merit Systems Protection Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2000, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

640. A letter from the Inspector General, National Aeronautics and Space Administration, transmitting a report on the list of commercial activities for 2000; to the Committee on Government Reform.

641. A letter from the Director, Office of Management and Budget, transmitting the FY 2000 Annual Performance Report; to the Committee on Government Reform.

642. A letter from the Director, Office of National Drug Control Policy, transmitting a report on the "FY 2000 Accounting of Drug Control Funds"; to the Committee on Government Reform.

643. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Redefinition of the Los Angeles, CA, Appropriated Fund Wage Area (RIN: 3206–AJ23) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

644. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Abolishment of the St. Louis, MO, Special Wage Schedule for Printing Positions (RIN: 3206–AJ24) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

645. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Abolishment of the Philadelphia, PA, Special Wage Schedule for Printing Positions (RIN: 3206–AJ22) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

646. A letter from the Acting Director, Peace Corps, transmitting the Strategic Plan under the Government Performance and Results Act for FY 2000–2005; to the Committee on Government Reform.

647. A letter from the Secretary, Department of the Interior, transmitting notification of the intention to accept a 360-acre land donation to be added to wilderness areas, pursuant to 16 U.S.C. 1135(a); to the Committee on Resources.

648. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting a report entitled, "Status and Trends of Wetlands in the United States 1986 to 1997"; to the Committee on Resources.

649. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—New Mexico Regulatory Program [NM–041–FOR] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

650. A letter from the Secretary, Department of Commerce, transmitting the biennial report on the Coastal Zone Management Act (CZMA) of the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) for fiscal years 1998 and 1999; to the Committee on Resources.

651. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Donation Program [Docket No. 000905252–0339–02; I.D. 080700D] (RIN: 0648–AN98) received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

652. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Hook-and-line in the Bering Sea and Aleutian Islands [Docket No. 000211040–0040–01; I.D. 120800B] received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

653. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting a report on the Apportionment of Regional Fishery Management Council (RFMC) Membership in 2000, pursuant to section 302 (b)(2)(B) of the Magnuson-STEVENS Fishery Conservation and Management Act; to the Committee on Resources.

654. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled, "The Sexual Victimization of College Women," pursuant to Section 40506 of the Violent Crime Control and Law Enforcement Act of 1994; to the Committee on the Judiciary.

655. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—VISAS: Reissuance of O and P Nonimmigrant Visas (RIN: 1400 AA–96) received January 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

656. A communication from the President of the United States, transmitting a report entitled, "The Unfinished Work of Building One America"; to the Committee on the Judiciary.

657. A letter from the Deputy Secretary, Office of the General Counsel, Securities and Exchange Commission, transmitting the Commission's final rule— Adjustments to Civil Monetary Penalty Amounts [Release Nos. 33–7946; 34–43897; IA–1921; IC–24846] received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

658. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule—Sanctions Against Motor Carriers, Brokers, and Freight Forwarders for Failure To Pay Civil Penalties [Docket No. FMCSA-00-7332] (RIN: 2126-AA54) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

659. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, "The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 1999," pursuant to 42 U.S.C. 9604(i)(D); to the Committee on Science.

660. A letter from the Director, National Science Foundation, transmitting a report entitled, "Women, Minorities, and Persons With Disabilities in Science and Engineering: 2000," pursuant to 42 U.S.C. 1885d; to the Committee on Science.

661. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Investment Companies—received December 19, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

662. A letter from the Secretary, Department of the Treasury, transmitting the United States Government Annual Report for the Fiscal Year ended September 30, 2000, pursuant to 31 U.S.C. 331(c); to the Committee on Ways and Means.

663. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Comments on Research Credit Regulations [Notice 2001-19] received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

664. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Liabilities Assumed in Certain Corporate Transactions [TD 8924] (RIN: 1545-AY63) received January 8, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

665. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens [REG-126100-00] (RIN: 1545-AY62) received January 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

666. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Notice to Interested Parties [REG-129608-00] (RIN: 1545-AY68) received January 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

667. A letter from the Chairman, International Trade Commission, transmitting a report on Investigation No. TA-204-3 entitled, "Lamb Meat: Monitoring Developments in the Domestic Industry" pursuant to section 204(a)(2) of the Trade Act of 1974; to the Committee on Ways and Means.

668. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (RIN: 0960-AE42) received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

669. A letter from the Chairman, Federal Election Commission, transmitting a supplemental FY 2001 request for additional funds, pursuant to 2 U.S.C. 437d(d)(1); jointly to the Committees on House Administration and Appropriations.

670. A letter from the Secretary, Department of Transportation, transmitting the Second Edition of the Research and Development Plan, required by Section 5108 of the Transportation Equity Act for the Twenty-First Century (PL 105-178); jointly to the Committees on Transportation and Infrastructure and Science.

671. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a report entitled, "Action Plan for Reducing, Mitigating, and Controlling, Hypoxia in the Northern Gulf of Mexico"; jointly to the Committees on Science, Resources, and Transportation and Infrastructure.

672. A communication from the President of the United States, transmitting His report to increase investment in and access to assistive technologies and a quality education, and help integrate Americans with disabilities into the workforce and into community life; (H. Doc. No. 107—39); jointly to the Committees on Education and the Workforce, Financial Services, Ways and Means, Energy and Commerce, Transportation and Infrastructure, the Judiciary, and House Administration and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of January 30, 2001]

By Mr. BILIRAKIS (for himself, Mr. CONDIT, Mr. SHOWS, and Mr. KOLBE):

H.R. 303. A bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By. Mr. TANCREDO (for himself, Mr. CANTOR, and Mr. BAKER):

H.R. 316. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for education expenses of children receiving or eligible to receive free or reduced price school meals; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE MOUNT NEBO WILDERNESS BOUNDARY ADJUSTMENT ACT

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. HANSEN. Mr. Speaker, today I am introducing the Mount Nebo Wilderness Boundary Adjustment Act.

The Mount Nebo Wilderness Area is located in the Uinta National Forest in Juab County, Utah. This is a very beautiful area, rich in biological diversity. Inside the Wilderness Area are streams teeming with Rainbow Trout, collages of wildflowers during Spring and Summer, and beautiful mountain scenery. This area is also home to mule deer, elk, and moose. The Mount Nebo area undoubtedly deserves Wilderness protection.

Mount Nebo was designated a Wilderness Area in the Utah Wilderness Act of 1984, which I sponsored. However, during the legislative process, various oversights occurred because a map of the area was not adequately reviewed at the committee level. Erroneously included inside the boundaries were various preexisting developments to the water systems that have supplied clean water to Juab County since the late 1800s. These systems are in need of constant maintenance and care, and due to the restrictions on motorized vehicles in Wilderness Areas, it became very difficult—and sometimes impossible—to adequately maintain these facilities. In addition to these maintenance problems, the Wilderness Area includes a very small portion of private land that should not be inside the boundaries.

This bill will remedy this situation by adjusting the current boundary to exclude these water developments, and the small portion of private land. The boundary will then be modified to include an area of roadless Forest Service land to compensate for the boundary adjustment, resulting in a ten acre net-gain in the Wilderness Area. Thus, this bill results in a net gain of Wilderness acreage within the Mount Nebo Wilderness Area.

As this bill is non-controversial, I urge all of my colleagues to support the Mount Nebo Wilderness Boundary Adjustment Act.

STATEMENT BY CONGRESSMAN ALCEE L. HASTINGS IN TRIBUTE TO AND IN MEMORY OF MRS. EULA GANDY JOHNSON

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in order to express condolences for one of Florida's best known and most respected civil rights activists who passed away earlier this month. I am deeply saddened by the loss of Mrs. Eula Gandy Johnson, a long-time personal friend and confidant, political supporter, and civil rights mentor.

Eula Gandy Johnson, well known to many as "Miss Eula," started her pioneering leadership in civil rights in Statenville, Georgia. A short time after, she moved on to Fort Lauderdale where she then lived for 62 years, bringing with her strong beliefs and passion for politics. She was simply a bold woman, who through her many contributions to human dignity, became an educator, opening our minds to the endless possibilities of an educated community. She was an immense resource for the National Conference of Community and Justice, to which she served as a strong supporter. Additionally, she was quite a strong force behind aspects of racial desegregation and discrimination to the African American community in Broward County.

Miss Eula was a graceful lady who epitomized dignity and charm. She had a deep, abiding faith in God, being a Sunday School teacher at First Baptist Church in Piney Grove and always enlightened those with her words of inspiration. She will always be remembered as having a keen mind with a way of achieving her goals with a certain fearless attitude.

It is often said that everyone is expendable, no matter their greatness. Eula Gandy Johnson, for her greatness, for the unselfish contributions that she made to the African American community throughout Florida, to her friends, and to all those who had the privilege to know her, is uniquely irreplaceable.

RECOGNIZING CONSTITUENT SURVEY RESULTS FROM COLORADO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SCHAFFER. Mr. Speaker, today I speak about Colorado's Fourth Congressional District and the opinions of my constituents concerning the direction their country is taking. The Fourth Congressional District covers the 21 counties of Colorado's eastern plains, and approximately half of the State. I would like to share with you the thoughts of thousands of citizens from Eastern Colorado by reporting the results of an opinion survey I sent to Fourth District constituents. On December 29, 2000 I asked each registered household in my district to respond to a mail-return opinion survey.

The survey asked, "What is the single most important issue facing our country today?" Respondents came back with a whole host of answers including preserving social security, the need for an effective missile defense system, our country's moral deterioration and the lack of immigration law enforcement.

An overwhelming majority of Colorado's Fourth District constituents believe taxes and education are the two most important issues facing American families today. In separate questions, they voiced their opinions citing problems and solutions to these tough issues.

Responses concerning education included the need for parental involvement; smaller classroom sizes; school funds not reaching the classroom; worries over drugs and violence in schools and the demand for more local control. While the answers are varied, the message is the same: Parents expect quality public education and deserve to get the most for their tax dollar.

Colorado constituents are also concerned with a number of different tax issues. Last year I fought to repeal the death tax and marriage penalty taxes. Despite bipartisan support, Bill Clinton vetoed both these bills. Recently, I signed the National Taxpayer Protection Pledge promising to oppose all tax increases and continue opposing any efforts to spend Social Security funds on other government programs. Tax increases of any shape, size or form are wrong at a time when we have a budget surplus. My constituents expect me to balance the federal budget, provide needed tax relief, eliminate government waste, and save Social Security. I believe Coloradans should keep more of their hard-earned money for themselves and their children's futures, and I will continue to fight for this just cause.

Fourth District Coloradans, more than two-to-one, oppose partial birth abortions and overwhelmingly oppose second amendment gun rights being restricted. They also are concerned about our elderly and our veterans. I am proud to fight for the soldiers, sailors and airmen who valiantly defended our country, and I will continue to ensure our nation keeps its promise to our veterans.

Mr. Speaker, I am grateful for the opinion survey responses I received. I shall consider this valuable input and share it with colleagues. As one of my constituents said, "P.S.—Thanks for asking." The voice of the people is the cornerstone of our political system and I encourage constituents throughout the country to share their thoughts with their elected officials. As a public servant, I asked, and as always will listen and work for the betterment of Colorado and this great nation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

INTRODUCTION OF THE TAX RELIEF AND MARRIAGE PENALTY ELIMINATION ACT OF 2001

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I am introducing legislation that will provide substantial tax relief to all American taxpayers and entirely eliminate the marriage penalty.

The federal government taxes Americans too much. In fact, Washington is taxing our citizens at the highest rate ever during peacetime. This high level of over-taxation is helping to generate ever-larger surpluses. Not surprisingly, many Washington politicians want to use these tax overcharges to increase the size and scope of the federal government. Like President Bush, I believe that a government with unlimited funds becomes a government with unlimited reach. Thus, he is correct when he states that the solution is stop taking this excess money from the people who earn it in the first place.

At the same time the federal government is taking more than its fair share from our hard working Americans, our federal tax laws have become more and more confusing as special interests line up to get tax breaks. What we need to do is provide substantial tax relief in a simple and fair manner.

The first part of my bill is based on President Bush's across-the-board tax cut proposal. It will simplify and reduce the existing 15%, 28%, 31%, 36%, and 39.6% tax rates with four lower rates of 10%, 15%, 25%, and 33% over a period of 5 years. My tax plan will mean lower taxes for all working Americans.

Time and again, history has demonstrated that across-the-board tax relief has significant, positive economic benefits. Each time in the last century that tax rates were lowered, an economic boom followed. This was most recently demonstrated in the last 20 years. Under strong leadership, the malaise and stagflation of the 1970s melted into the prosperity of the 1980s. And the economic growth of the 1980s provided the venture capital to seed the technology revolution of the 1990s. The turning point of this remarkable economic transformation came on August 13, 1981, when President Reagan signed into law the largest tax relief bill in American history. The 25% across-the-board cut in income taxes, combined with prudent deregulation and anti-inflation monetary policies, helped unleash the longest economic boom in the 20th century. It is clear that providing tax relief in this manner will generate millions of jobs, raise living standards for tens of millions of Americans and increase our collective national wealth by several trillions of dollars.

Tax relief should encourage personal opportunity and economic growth instead of attempting to manipulate individual behavior based on Washington values. We must move away from Washington picking winners and losers by its manipulation of our country's tax laws. Recently, Alan Greenspan, Chairman of the Federal Reserve System, reiterated his long-standing professional opinion that across-the-board tax relief is economically the best way to provide tax relief. Importantly, he stressed the unarguable point that Washington politicians will spend the current national surplus if it is not returned to its rightful owners, the American taxpayers. Consequently, Mr. Greenspan now agrees that we must make across-the-board tax relief a top policy goal.

The second part of my bill will immediately eliminate the marriage penalty in our tax code. This legislation rewrites the existing discriminatory tax laws in order to ensure that married couples will never be penalized on the account of their marital status. Married couples will be able to get standard deduction that is twice the amount of single tax filers. Currently, the standard deduction for a single American is $4,550 but the married couple only gets $7,550. Under my bill the married couple will get a standard deduction in the amount of $9,100, which is twice the amount of the single standard deduction.

Importantly, my bill will also ensure that all income brackets are adjusted so that the married brackets are twice the amount of the single brackets. Currently, American families pay a marginal tax rate of 28% on income above $46,000, while an unmarried couple pays a marginal tax rate of 15% on total income up to $54,000. That's just plain wrong. My bill will ensure that American families never pay a higher marginal tax rate than an unmarried couple.

It is simply wrong that Washington is punishing our American families by taxing our traditional values. Increasingly, our sons and daughters can not afford to marry. Consequently, they are less likely to dedicate themselves to their relationship and their children. We must eliminate this perverse disincentive for all American families.

I urge my colleagues to join me in providing meaningful tax relief for all taxpayers and immediately eliminating the marriage penalty in our tax laws.

HONORING SENATOR ALAN CRANSTSON

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. NAPOLITANO. Mr. Speaker, today I remember an icon in California public service and a true role model for elected officials. Senator Alan Cranston embodied many attributes that symbol his dedication and commitment to serving the constituents he represented.

Senator Cranston spent 32 years in public office, including twenty-four as a United States Senator and rose to become a powerful force in the Democratic Party. After founding the California Democratic Council and winning two terms as state Controller, Alan Cranston was elected to the United States Senate in 1968, where he served until his retirement in 1993. Always a defender of the less fortunate, Senator Cranston fought for citizens of all races, ethnicities and income brackets, firmly believing that part of the American Dream was equality and opportunity for everyone.

In recognition of his astute leadership and perseverance, Senator Cranston was elected Majority Whip by his colleagues from 1977–1981 and 1987–1991 and served as Minority Whip from 1981–1987.

One of Senator Cranston's most admirable causes was his passionate advocation of arms control. He was a profound believer in the United Nations and joined with former Soviet leader Mikhail Gorbachev to set up the Gorbachev Foundation USA, dedicated to eliminating nuclear weapons.

On a personal note, Senator Cranston was a frequent visitor to my 34th Congressional district where he would attend receptions at the Whittier home of our mutual constituents Kauzo and Mary Miyashita in support of the California Democratic Party. That is where my husband Frank and I first met the Senator in the mid 1980's.

Alan Cranston will be remembered as a superb mechanic of the political process and for being one of California's and the nation's most devout public servants. His leadership should inspire us all and I am proud to celebrate his life and his causes.

ASHCROFT NOMINATION

HON. MELVIN L. WATT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. WATT of North Carolina. Mr. Speaker, I submit the following resolution of the North Carolina Association of Black Lawyers regarding the nomination of John D. Ashcroft as Attorney General of the United States.

NORTH CAROLINA ASSOCIATION OF BLACK LAWYERS ANNOUNCES OPPOSITION TO THE NOMINATION OF JOHN D. ASHCROFT AS ATTORNEY GENERAL OF UNITED STATES

The North Carolina Association of Black Lawyers, founded in 1971 and representing over 800 African American Lawyers in North Carolina is dedicated to the pursuit of equal justice for all people. In defense of rights of African Americans and all persons believing in the pursuit of equal justice, we announce our active opposition to the confirmation of John A. Ashcroft for Attorney General of the United States. Our opposition is based upon Mr. Ashcroft's demonstrated hostility to ensuring equal justice and access to justice for all Americans.

The Attorney General is responsible for vigorous enforcement of our nation's civil rights laws—pursuing those laws in a fair, vigorous and consistent manner.

Ashcroft has opposed appropriately tailored race-conscious measures designed to remedy present and past discrimination. He even opposes programs that are constitutionally permissible under current Supreme Court precedent.

He repeatedly sponsored legislation to end affirmative action programs in employment, contracting and public programs. He sponsored legislation to end the Department of Transportation's Disadvantaged Minority and Women Business Program. He also sponsored legislation to make provisions similar to California's Proposition 209—which banned affirmative action—a part of federal law.

He opposed Bill Lann Lee because Mr. Lee expressed support for constitutionally permissible affirmative action programs—applying an ideological litmus test to this nomination as he has with judicial nominations. Ashcroft's efforts helped to prevent a vote before the full United States Senate.

As Attorney General and then as Governor, Ashcroft vigorously opposed efforts to desegregate St. Louis' public schools. His opposition was so great that the court almost ordered the State in contempt citing "continual delay and failure to comply" with a court order to submit a voluntary desegregation plan.

Governor Ashcroft vetoed legislation that would have allowed private non-profit, civic, religious and political groups to register voters in the City of St. Louis, he later vetoed a bill that would have allowed such registration in all of Missouri.

During testimony before the Senate Judiciary Committee, Ashcroft said that he believed in and supported the President's ideas, which he termed "affirmative access"—already at work in California, Texas and Florida. He calls these programs

The Attorney General is the gatekeeper to the federal judiciary—playing a key role in whom the President selects for the federal bench.

Ashcroft has repeatedly blocked the consideration of qualified nominees. His record shows that, as a Senator, he has repeatedly used tactics to block and delay votes on qualified women and minorities nominated to the federal courts.

Senator Ashcroft's decisive role in sabotaging the nomination of a well qualified African American, Judge Ronnie White, to the federal bench points to his disregard for judicial independence and his willingness to use ideological litmus tests in the judicial selection process.

Ashcroft spearheaded the party-line vote to defeat Judge Ronnie White's confirmation to a federal district court judgeship. He did this by misrepresenting Judge White's record, labeling him pro-criminal because of his death penalty record even though White voted to uphold the death penalty over 70% of the time.

The Attorney General should have the temperament, objectivity and commitment to fairness necessary to carry the awesome responsibilities of Attorney General.

Ashcroft's fervent and long-term commitment to his extremist political beliefs call into question his ability to suppress those political beliefs and enforce the constitutional principles with which he so profoundly disagrees. This extremist ideology also raises questions about his objectivity.

As a member of the Senate he made racially insensitive comments to Southern Partisan magazine that were divisive. Ashcroft applauded the magazine for its "heritage of doing that, of defending Southern patriots like [Robert E.] Lee, [Stonewall] Jackson, and [Jefferson] Davis." Southern Partisan has printed articles stating that African Americans, Hispanics, Asians, and other immigrants have "no temperament for democracy, never had, [and] never will" and that these groups have dissipated the nation's "genetic race pool."

He further demonstrated his racial insensitivity when, as a United States Senator from a state with over 500,000 African Americans, he gave the commencement address and received an honorary degree from Bob Jones University, a school known for its racist policies and anti-Catholic bigotry. Although Ashcroft has claimed that he did not know about the policies of the University, he has refused to return the degree. The credibility of his denial is called into question when as governor he declined to appoint a professor to a state judgeship who had made supportive comments of the University in a law review article.

We are communicating our opposition to Senators Helms and Edwards as well as members of the Senate Judiciary Committee. We urge our membership to oppose vigorously this nomination. We join the multitude of organizations opposing this nomination.

EXPRESSING SYMPATHY FOR VICTIMS OF EARTHQUAKE IN INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

SPEECH OF

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. BLAGOJEVICH. Mr. Speaker, I rise to express my sympathy for the victims of the earthquake in Gujarat state in India, and I am proud to be a cosponsor of this resolution, which demonstrates our commitment here in Congress to the victims of this tragedy.

Over the past few days, Americans have been confronted with images of the devastation in Western India. Of course, Americans of Indian descent have been concerned for their family and friends. But no American who saw the extent of the tragedy in Gujarat could be unmoved by the fate of the citizens of our sister democracy. Americans and Indians share a bond forged by shared values. And that bond has motivated Americans to ask their government to play an active role in assisting the victims of this earthquake.

Thankfully, the administration has been quick to respond. By Sunday morning, an assessment team from the United States Agency for International Development was on the ground in Gujarat, determining needs and offering immediate comfort to victims. Since that time, the United States has provided generators, water purification equipment, tents and food to assist the survivors. The United States is continuing to work with relief agencies to get more critical assistance into the crisis zone as soon as possible. My colleagues and I in the Caucus for India and Indo-Americans have been working with the administration to minimize any roadblocks which could prevent the delivery of assistance.

I commend the administration for their quick response. But we here in Congress must ensure that as the immediate shock of this tragedy fades, our commitment to the victims does not fade along with it. Long after this earthquake passes from the headlines of American papers, we need to remember that people in Gujarat will be working to rebuild their homes, their businesses, and their lives. The leaders of our nation, the world's oldest democracy, must never forget our bond with the people of India, the world's largest democracy. I have written to the President and the Director of the United States Agency for International Development to urge them to show their commitment to assist India in the aftermath of this crisis. I will be working over the coming months to ensure that the United States provides whatever is necessary to ease the suffering of the victims of the Gujarat earthquake.

CONGRATULATIONS TO THE UNIVERSITY OF MASSACHUSETTS MINUTEMAN MARCHING BAND

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. OLVER. Mr. Speaker, I rise to congratulate the University of Massachusetts Minuteman Marching Band on its appearance in the 2001 Presidential Inaugural Parade. The Minuteman Marching Band was nominated by the Governor of Massachusetts and was selected by the Inaugural Committee to appear in the parade.

The Minuteman Marching Band has long been recognized for its excellence, receiving the prestigious Sudler Trophy in 1998. In addition, the band has a history of participation in Presidential inaugural festivities. The Minutemen marched in the 1981 Presidential Inaugural Parade and performed at the Inaugural Ceremonies in 1985.

The band, made up of 300 students, represents 16 states and over 90 Massachusetts communities. These talented students provide an invaluable service to the student body of Umass-Amherst, and to the citizens of the state of Massachusetts. They performed admirably in the 2001 Inaugural Parade, and everyone from the UMass community is proud of their achievement. I am pleased to recognize the band's director, George Parks, and all the students in the band for their outstanding performance.

SUPPORT THE MONTGOMERY G.I. BILL IMPROVEMENTS ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. DINGELL. Mr. Speaker, I rise to join my colleague and fellow veteran, LANE EVANS, in reintroducing the Montgomery G.I. Bill Improvements Act. H.R. 1071 had the support of 160 of my colleagues in the 106th Congress, all of whom recognized, like our new Secretary of Veterans Affairs Anthony Principi, that improving the military's primary education benefit, the Montgomery G.I. Bill, is wise policy for a number of reasons. It will reverse the military's deteriorating ability to recruit the number and quality of individuals it needs; it provides veterans the tools necessary to reenter the workforce; and, it expands access to higher education to the young men and women in uniform.

In 1999, the Congressional Commission on Servicemembers and Veterans Transition Assistance, chaired by now Secretary of Veterans Affairs Anthony Principi, recommended overhauling and greatly improving the G.I. Bill. Our legislation is modeled on the Commission's recommendation, and I am encouraged and hopeful that the new Administration will work with us to pass this important bill. Clearly, Sec. Principi's appointment is a positive development.

America's military supremacy has been unquestioned since the end of the Cold War. In the Gulf War, Bosnia, and Kosovo we proved that our armed forces set the world standard for excellence. While much of our battlefield success has to do with the superiority of our weapons systems, weapons are only as good as the people who operate them. Our success on the battlefield boils down to the quality and ability of our troops.

Today, Mr. Speaker, the military is having increasing difficulty recruiting the quantity and quality of troops it needs to meet today's challenges. Recruiting shortfalls are a serious problem, and as statistics have grown worse, recruiting budgets have soared. In addition to new advertising campaigns, the services have resorted to gimmicks, including sponsoring drag racers, deploying psychedelic humvees, and offering emergency cash giveaways. I do not criticize the armed forces for these efforts, but they highlight the need for a greater, more effective recruiting tool. The best recruiting tool is education, and we would best help our armed forces by modernizing the military's primary education benefit, the Montgomery G.I. Bill.

The Department of Defense's Youth Attitude Tracking Studies (YATS) confirm that fewer young men and women are considering serving. This shouldn't come as a surprise. "Money for college" is the top reason young men and women choose to serve. College costs have quadrupled in the last 20 years, but the G.I. Bill hasn't. At the same time, more nonservice financial assistance has become available, which has benefited society but not the military.

Today's G.I. Bill does not provide enough assistance to attract the number of high quality high school graduates the armed forces need, especially when considering the risks of service. This has forced the military to accept lower quality recruits. Statistics tell us that lower quality recruits, as measured by aptitude tests, have a much greater attrition rate. Troops that fail to make it through training or fulfill their service obligations cost taxpayers dearly.

The Montgomery GI Bill Improvements Act ensures that our all volunteer armed forces have the ability to attract quality recruits, and provides veterans with skills to better our economy and their lives. In exchange for four years of service, our legislation would provide servicemembers a benefit covering the full cost of tuition, fees and books and provide a subsistence allowance. Those opting for a shorter enlistment or enrolled in the current program would earn a basic benefit of $900/month. Our legislation is not inexpensive, but we must invest to stay the best. The young men and women who will benefit from this legislation will have to earn it through service to our country.

Mr. Speaker, I strongly urge my colleagues on both sides of the aisle to join us in standing up for our armed forces, servicemembers and veterans by supporting this much needed legislation.

HIGH-ACHIEVEMENT FOR SILVER GROVE HIGH SCHOOL

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today in recognition of Silver Grove High School. This is a success story about a school in a high poverty district that has overcome adversity and has become one of the models in education reform.

Silver Grove High School is one of eight schools to be recognized by Kentucky's Commissioner of Education for its outstanding performance in Kentucky's state testing program. Silver Grove High performed so well that it has become a model of the best Kentucky's public schools have to offer.

I rise today to commend Silver Grove High School and all of the educators, staff and students of this fine educational institution. I ask you to join me in congratulating Silver Grove High School and the entire community of Silver Grove on their achievements.

TRIBUTE TO MAYOR AND MRS. BILL HEXT

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. COMBEST. Mr. Speaker, I rise today to commend Mayor Bill Hext and Jane Hext for their tremendous contributions to the city of Odessa, Texas. They were recently honored by being named "Outstanding Citizen(s) of the Year" for 2000.

The "Outstanding Citizen of the Year" award was established some 44 years ago to recognize those who dedicate their time, talent and resources to improve the quality of life for the community. Mayor and Mrs. Hext are more than civil servants, but also leaders and rolemodels.

Their commitment to public and community service and their adherence to family- and faithbased principles truly make them ideal for such an honor. Mayor Hext has been actively involved in such organizations as the Texas Municipal League, the MOTRAN policy advisory committee and Grace Christian Fellowship, serving in various leadership positions. He was inducted into the Business Hall of Fame in 1995 in recognition of his entrepreneurial ventures in two successful businesses and served as a member of the City Council for two years. Last May Mayor Hext was elected mayor of Odessa with the focus to continue the successes and build upon new opportunities in education, health care and the economy.

Mrs. Hext has dedicated her time and talents over the years to the Ector County Independent School District schools, Meals on Wheels, the Girl Scouts, Operation Blessing, and the Boys and Girls Club of Odessa. Mayor and Mrs. Hext went above and beyond the call to service when they established the Hext Family Foundation committed to providing resources to foster educational, medical and faith-based organizations in Odessa.

It is with great pride that I commend Mayor Bill Hext and Jane Hext for their active involvement and leadership in the community and I congratulate them on being awarded the "Outstanding Citizen(s) of the Year."

CELEBRATING THE CONTRIBUTONS OF MRS. MARY COOK, CONGRESSIONAL LIAISON, V.A. REGIONAL OFFICE, DECATUR, GEORGIA

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. COLLINS. Mr. Speaker, I rise today to honor Mrs. Mary Cook for her contributions to the veterans of the State of Georgia. Over the past 34 years, Mrs. Cook, who works in the V.A. Regional Office in Decatur, Georgia, has gone above and beyond the call of duty. She has always assisted my office and other legislative offices in providing courteous, expeditious and judicial treatment of veterans in the Southeast area.

Mrs. Cook began her career in federal service in 1960 with the Federal Aviation Agency. In 1970, she came on board with the Veterans Administration, where she has remained for the last 30 years.

In all our dealings Mrs. Cook has never allowed cases to languish in government red tape. She has always been very aggressive in pursuing these cases and making sure our office was kept informed of all developments.

She has taken on many special projects over the years, including serving as the VA Regional Office Women's Veterans Coordinator from January 1993 to March 2000. As the WVC, Mrs. Cook interviewed, counseled and provided help to women veterans seeking specialized assistance. She also worked with the Women Veterans Committees at the Georgia VA Medical Centers to insure coordinated services and assistance were provided to women veterans.

Mr. Speaker, we often overlook the daily sacrifices and dedication of federal employees. Mrs. Cook is an example of a federal employee who not only takes pride in her work, but has a true dedication to the people she is charged with serving. As she retires from federal service and goes on to another phase in her life, please join me in congratulating her on a job well done and wishing her the very best in the future.

TRIBUTE TO RETIRING CARRIER EXECUTIVE T. HUME LAIDMAN

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. WALSH. Mr. Speaker, today I want to congratulate a man from my New York's 25th

Congressional District whose distinguished career has contributed to the growth and prosperity of a major employer in Central New York. This month, Mr. T. Hume Laidman will retire from the Carrier Corporation division of United Technology after 44 dedicated years of service.

Since 1957, Mr. Laidman has served in five different divisions of Carrier, participating in the company's growth from a largely domestic supplier to a truly global leader in its industry. Mr. Laidman has personally overseen the opening of manufacturing plants on five continents, and since 1997 as Vice President of Operations for Carrier Refrigeration, he has played a key role in establishing its refrigeration division, which has its worldwide headquarters in Syracuse, as a $3 billion operation.

Raised in Florida, Mr. Laidman spent summers as a youth visiting his godmother in Cazenovia, New York. After graduating from the University of Miami, Mr. Laidman decided to pursue his career and raise his family in Central New York. While his vocation frequently took him to various countries, Mr. Laidman still found time to volunteer locally for the ski patrol at Song Mountain for more than 40 years.

Mr. Laidman's leadership at Carrier has contributed greatly to the organization's success and to its ability to support a large employee base, community organizations and civic betterment. On behalf of the people of the 25th Congressional District, it is my honor to congratulate Mr. Laidman on his well-deserved retirement and to thank him for 44 years of service to Central New York. We wish him and his family the very best.

PROBLEMS FOR TEENS WHO WORK: WE NEED THE "YOUNG AMERICAN WORKERS BILL OF RIGHTS"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. LANTOS. Mr. Speaker, during the 106th Congress, over 60 Members of Congress joined me in support of comprehensive domestic child labor law reform which would protect our children in the workplace. This bipartisan legislation—entitled "The Young American Workers' Bill of Rights Act" (H.R. 2119 in the 106th Congress)—would assist both families and teenagers' struggling with the competing interests of holding a job while gaining an education. The legislation will also reduce the incidence of injuries and deaths of minors at the workplace. I look forward to reintroducing this important bill early in the 107th Congress.

As we continue our efforts to combat the injustice of international child labor, we must not forget our own children here. The exploitation of child labor is unfortunately not a thing of the past in our country. It has become a growing problem that continues to jeopardize the health, education, development and lives of many of our children.

People often associate the evils of child labor only with Third World countries. But American teenagers are also negatively impacted by exploitation on the job. Our economy has changed considerably since the days when teenagers held after school jobs at a "Mom and Pop" corner drug store or soda fountain. In today's low unemployment economy, teenagers are hired to work part-time to fill-in or to hold jobs previously held by adults in full-time positions. Many high-school students are working 30 and even 40 hours a week, and often they are working well past midnight on school nights. Research shows that long hours on the job take away time needed for schoolwork and family responsibilities.

Mr. Speaker, studies have shown that the majority of children and teenagers who hold jobs in the United States are not working to support their families, but rather are employed to earn extra spending money. Employment is important in teaching young people the value of work, and I see nothing wrong with minors working to earn extra spending money. I think it is a serious problem, however, when teenagers work more hours for spending money than they spend working for their education. It is important for children to learn the value of work, but a solid education, not after school jobs, are the key to a successful future. We need to set sensible limits on the hours that minors are permitted to work during the school year so that our children can focus on their primary job—earning a good education.

Mr. Speaker, I would like to call the attention of my colleagues to an article which appeared in the New York Times recently entitled "Problems Seen For Teenagers Who Hold Jobs" which was written by Steven Greenhouse. The article discusses some of the problems many teenagers face when they hold a job during the school year. According to the article, a study of the National Academy of Sciences found that when teenagers work more than 20 hours a week, it often leads to lower grades, higher alcohol use and too little time with parents and families.

Mr. Speaker, I will place the entire text of this article in the RECORD, but I would like to call special attention to a couple of paragraphs that are particularly indicative of the problems we face:

"One recent Friday, Alicia, [a] waitress, a senior at Governor Livingston Regional High School in Berkeley Heights, N.J., acknowledged that she had put in a grueling week. Alicia, who works at Johnny Rockets, a 1950's-style diner at the Short Hills Mall, had missed one day of school that week and arrived late the four other days. The reason was that she had to work past midnight on Tuesday and Thursday, and that came after working from 10:30 a.m. until 12:30 a.m. on Saturday and Sunday.

"It's fun, and I get a lot of money—I made $240 on Saturday alone," she said, noting that she sometimes earns $40 in tips in an hour when its busy.

"'I'm not doing good in school this semester,' Alicia acknowledged, her tone half rueful, half isn't-this-cool. 'Because of work, I come into school late or I stay home because I'm so tired.'

"Joan Tonto, one of Alicia's teachers, said, 'She's tired when she comes into school, and by sixth period she's too tired to work on problems in class. I've talked to Alicia about how her job is affecting her in school, and she says, 'I'm making a lot of money, Mrs. Tonto.'"

Mr. Speaker, it is clear to me from reading these excerpts and from reviewing a recent study by the National Academy of Sciences, that it is time for us to carefully weigh the benefits of children working against the costs that too much work can take on a child's academic performance and healthy development. At what point does the desire to earn extra spending money negatively effect the ability of a child to perform to her or his learning potential at school? According to Steven Greenhouse, 16- and 17-year-olds are working 40 hours a week on top of 30 hours in the classroom and in many cases education is taking a back seat to after school employment.

Mr. Speaker, I ask that the entire article "Problems Seen For Teenagers Who Hold Jobs" be placed in the RECORD. I urge my colleagues to read this article and to join me in cosponsoring "The Young American Workers' Bill of Rights Act." This legislation will ensure that the job opportunities available to our youth are meaningful, safe, and healthy, and our bill will encourage—not discourage—their healthy development and will give them the tools to help prepare them for a productive adult life.

[From the New York Times, Jan. 29, 2001]

PROBLEMS SEEN FOR TEENAGERS WHO HOLD JOBS

(By Steven Greenhouse)

Some weekdays, Alicia Gunther, 17, works past midnight as a waitress at a New Jersey mall, and she readily admits that her work often hurts her grades and causes her to sleep through first period.

Jason Ferry, a high school junior, loves working 30 hours a week as a cashier at a Connecticut supermarket, but he acknowledges that when he gets home from work at 9:30 p.m. he usually does not have enough time to study for big tests.

For decades, the conventional wisdom has been that it is great for teenagers like these to hold after-school jobs because they teach responsibility, provide pocket money and keep the teenagers out of trouble.

But in a nation where more than five million teenagers under 18 work, a growing body of research is challenging the conventional wisdom and concluding that working long hours often undermines teenagers' education and overall development.

In the most important study, two arms of the National Academy of Sciences—the National Research Council and the Institute of Medicine—found that when teenagers work more than 20 hours a week, the work often leads to lower grades, higher alcohol use and too little time with their parents and families.

Influenced by such studies, lawmakers in Connecticut, Massachusetts, Alabama and other states have pushed in recent years to tighten laws regulating how many hours teenagers can work and how late they can work. In Massachusetts, several lawmakers are seeking to limit the maximum amount of time 16-year-olds and 17-year-olds can work during school weeks to 30 hours, down from the current maximum of 48 hours.

In 1998, Connecticut lawmakers reduced the maximum number of hours 16-year-olds and 17-year-olds can work during school weeks to 32 hours, down from 48, and last year they debated imposing fines on employers who violate those limits. In New York, students that age are allowed to work up to 28 hours during school weeks, while in New Jersey the maximum is 40 hours.

The impetus to tighten restrictions grows largely out of concerns about education, especially fears that American students are falling short on tougher standards and are lagging behind foreign students in comparative tests. While there are myriad reasons for poor school performance, legislators seeking tougher restrictions say American students would certainly do better if they placed more emphasis on work inside school and less emphasis on working outside school.

"We have 16- and 17-year-olds working 40 hours a week on top of 30 hours in the classroom," said Peter J. Larkin, the Massachusetts state representative sponsoring the bill to reduce the number of hours teenagers can work. "Something has to give, and academics seems to be taking a back seat. Sure there is pressure against the bill from employers who need teenage workers to help in a full-employment economy, but many other employers are complaining that the graduates of our high schools are not up to par."

With the national jobless rate at 4 percent, near its lowest point in three decades, many employers are eager to hire teenagers and say it would be bad for the economy and for their businesses to limit the number of hours teenagers can work.

In many states, those pushing for tougher restrictions include pediatricians' groups, P.T.A.'s, women's clubs, teachers' unions and the National Consumer League. Those opposing tighter restrictions usually include business groups and the many parents who see benefits in teenagers' working, and who have warm memories of their own first jobs as soda jerks or supermarket clerks.

Studies by the National Research Council and professors at Stanford University, Temple University and the University of Minnesota found negative effects when 16- and 17-year-olds work more than 20 hours a week. These studies concluded that students who work long hours often do not have enough time or energy for homework and miss out on social and intellectual development gained from participating in school clubs and athletic teams.

Several studies also found that 16-year-olds and 17-year-olds who work long hours tend to use alcohol more than others in their age group, largely because they have extra pocket money and copy older co-workers.

"It's probably safe for kids to work 10 hours or less each week when they're in school, but probably not such a good idea for them to work more than 20 hours," said Laurence Steinberg, a professor of psychology at Temple University. "That's when we and other researchers find decreased academic performance and decreased engagement in school."

But many child development experts, teachers and parents said working a modest amount could be valuable for teenagers, teaching responsibility and how to work with others, as well as contributing money to financially strapped households.

"It's a positive thing," said Ted Simonelli, a guidance counselor at Linden High School in New Jersey. "They're learning to be on time, they're learning to be good employees, they're learning a skill that they can trade on when they graduate. Many of the students in the top half of our class work after school."

For teenagers in poor city neighborhoods, several studies have found, a job can be especially beneficial because it fosters discipline and provides needed role models.

Supporters of teenage work point to success stories like Josh Hershey, 16, of West Hartford, Conn., who took a job at an after-school child care center because it would help prepare him for the career to which he aspires: teaching. His job helped his schoolwork, he said, because it forced him to procrastinate less and focus more when doing homework.

"There are a lot of benefits to students' working in moderation," said Jeylan T. Mortimer, a sociology professor at the University of Minnesota in Minneapolis. "But most sociologists and psychologists would say that it's an excessive load for full-time students to work 25 or 30 hours a week if you think it's important for young people to participate in extracurricular activities, develop friendships and spend time with their families."

A newly released study by the Department of Labor shows that 58 percent of American 16-year-olds hold jobs sometime during the school year, not including informal work like baby-sitting, while another study shows that one-third of high-school juniors work 20 or more hours each week. The Department of Labor also found that slightly more than two-fifths of 15-year-olds work, as do one in five 14-year-olds.

Several economists said the percentage of teenagers who work has remained at the same level in recent years. Although the statistics are sketchy, these experts said they believed that the number of hours students work has increased, partly because of the tight labor market.

A new study by the International Labor Organization showed that American teenagers work far more than teenagers in most other countries. The study found that 53 percent of American teenagers, from the ages of 16 to 19, work in any given week. In Japan, 18 percent of teenagers aged 15 through 19 work, while in Germany, 30.8 percent of teenagers in that age bracket work.

One recent Friday, Alicia, the waitress, a senior at Governor Livingston Regional High School in Berkeley Heights, N.J., acknowledged that she had put in a grueling week. Alicia, who works at Johnny Rockets, a 1950's-style diner at the Short Hills Mall, had missed one day of school that week and arrived late the four other days.

The reason was that she had to work past midnight on Tuesday and Thursday, and that came after working from 10:30 a.m. until 12:30 a.m. on Saturday and Sunday.

"It's fun, and I get a lot of money—I made $240 on Saturday alone," she said, noting that she sometimes earns $40 in tips in an hour when it is busy.

"I'm not doing good in school this semester," Alicia acknowledged, her tone half rueful, half isn't-this-cool. "Because of work, I come into school late or I stay home because I'm so tired."

Joan Tonto, one of Alicia's teachers, said, "She's tired when she comes into school, and by sixth period she's too tired to work on problems in class. I've talked to Alicia about how her job is affecting her in school, and she says, 'I'm making a lot of money, Mrs. Tonto.'"

Teenage labor dates from colonial times, when many youths served as apprentices or helped sow and harvest. But with the nation's rapid industrialization came heightened concerns about teenage labor because of the increased emphasis on education and the many exposés about businesses exploiting children.

Still, many parents urge their children to work, saying it is better than sitting around watching television.

Laura Stifel, whose son Jason Ferry has the 30-hour-a-week supermarket job in Southington, Conn., saw a benefit to teenagers' working. "I think it's great that kids work because it leaves them with less time to get in trouble or be out on the street," she said.

But when she began to worry that Jason's $7.75-an-hour job was taking a toll on his grades, Ms. Stifel barred him from using his car until he got his grades back up.

In the summer of 1999, a 16-year-old Southington High School student working at an amusement park died when he stepped too close to the amusement ride he was tending and was dragged underneath. About 70 teenagers die each year in work-related accidents, and safety experts say these accidents occur because teenage workers often receive little training or supervision.

Federal regulations bar 12-year-olds and 13-year-olds from working in most jobs, with one exception being delivering newspapers. Federal rules prohibit 14- and 15-year-olds from working more than three hours or past 7 p.m. on school days. The federal government places no restrictions on the hours 16- and 17-year-olds can work, leaving the matter to the states.

Jeffrey Ellenberg, who owns a dry-cleaning shop in West Hartford, likes hiring teenagers.

"We used to have quite a few more high school students working," he said. "Unfortunately, in this economy we can't get more of them. The advantage is you can train them to do what full-timers do, but you don't have to pay them the full-time wages and benefits."

At Mr. Ellenberg's shop, Rebecca Gohsler, 16, works two or three afternoons a week behind the counter and 10 hours on Saturdays. Although Rebecca's guidance counselor frets that Rebecca's job is pulling down her grades and pulling her away from extracurricular activities, Rebecca sees her $8-an-hour job as one of the best things in her life. She likes the spending money, likes chatting with customers and likes the sense of independence.

Rebecca, who hopes to become a marine biologist, said her job sometimes undercut her schoolwork. "If I just came home from work and I have a paper to write, there is a chance I might not spend as much time on it or put in enough effort," she said.

Many educators say parents should crack down on their teenagers' jobs if grades start to languish. Carol Hawkins did just that last spring, ordering her son Jon, 16, a junior at Governor Livingston High, to cut back his 20 hours a week pumping gas when his grades started to suffer.

"This year I've been able to manage my work and my school better," Jon said. "But sometimes I still have to study until 2 in the morning."

Several studies have found that 20 percent to 30 percent of teenage workers contribute to family expenses. Most use their earnings for cars, gasoline, clothes, cosmetics, cell phones, pagers and movies.

Dawne Naples, a guidance counselor at Southington High, said she advised Jason Ferry, when his grades were suffering, that it was unwise to work 30 hours a week, largely to pay for his car and gasoline. "'The car will get you around town,' I told him, 'but what's going to get you beyond Southington High?'" she said.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. HINOJOSA. Mr. Speaker, on January 31, 2001 I was in my Congressional District and missed two yea and nay votes and one recorded vote. Had I been present I would have voted as follows:

Roll No. 6, H. Con. Res. 14, permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust, "yea".

Roll No. 7, H. Con. Res. 15, expressing sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts, "yea".

Roll No. 8, Speaker's approval of the Journal of Tuesday, January 30, "aye".

A TRIBUTE TO STEPHEN J. HAWKINS

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. DOOLEY of California. Mr. Speaker, I rise today to pay tribute to Stephen J. Hawkins, who is retiring as Postmaster of the city of Fresno after more than thirty-five years of service to the United States Postal Service.

Mr. Hawkins arrived in Fresno after a successful career with the Postal Service in San Francisco, San Diego, and Los Angeles. Mr. Hawkins has served the Fresno community in numerous ways.

As the city of Fresno has grown exponentially over the past few years, Mr. Hawkins was instrumental in increasing the number of postal stations in Fresno.

Mr. Hawkins' dedication to public service extends beyond his professional life. He was the chairman of the Fresno/Madera County Combined Federal Campaign from 1994 through 1999 and helped raise more than five hundred thousand dollars for local charities.

Mr. Hawkins has been a leader in community organizations, having served on the Board of Directors of Fresno United Way and President of the Federal Executive Association.

He has also encouraged postal employees to volunteer and contribute to the community to such events as the Juvenile Diabetes Walk and the American Cancer Society Run.

Mr. Hawkins has helped to raise public awareness of commemorative stamps honoring worthy causes and notable Americans, including the breast cancer awareness stamp, the stamp honoring those who serve, the hospice stamp, and the adoption stamp.

Mr. Hawkins has been active in Fresno's civic life, working with the Sister Cities Organization and making a presentation and tour of the Fresno postal facilities to Fresno's sister city in China.

In recognition of Mr. Hawkins' outstanding communications and community outreach, he was awarded with the Postal Service's prestigious Benjamin Award for four years in a row.

Mr. Speaker, please join me in congratulating Stephen J. Hawkins on his retirement and in wishing him continued success in the future.

LEADERSHIP WILKES-BARRE CELEBRATES 20TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. KANJORSKI. Mr. Speaker, today I honor Leadership Wilkes-Barre on the occasion of its 20th anniversary. The mission of this distinguished organization is to develop informed and committed leaders from all segments of the community who will serve, strengthen and improve Northeastern Pennsylvania, and it is doing exactly that.

Leadership Wilkes-Barre began in 1981, when then-Chamber of Commerce Director John Sheehan proposed the idea to community leaders Tom Bigler, John Conyngham, Ed Schechter and the late Tom Kiley, who together formed the steering committee.

The inaugural class of 20 graduated in June 1982. Since then, the program has grown and now has 648 graduates, with a depth of experience and a diversity of backgrounds from India and Iran to Clarks Summit and Shickshinny. The graduates of Leadership Wilkes-Barre are putting their skills to work on hundreds of community projects and volunteer boards throughout the region and the state.

Since its founding, the organization has expanded by adding the Junior Leadership Wilkes-Barre program for high school students in 1986 and the Intercollegiate Leadership Wilkes-Barre program in 1987. The Intercollegiate program serves students from College Misericordia, Keystone College, King's College, Luzerne County Community College, Penn State Wilkes-Barre and Wilkes University.

In 1999, the organization developed Masters Leadership Wilkes-Barre, designed to give retired and semi-retired members of the community a chance to become more involved in community service. Over the 20 years of Leadership Wilkes-Barre's existence, there have been 2,013 participants in its programs.

Mr. Speaker, the driving force behind this record of accomplishment and service is Executive Director Sue Kluger, a founding board member who has led the organization since 1983. I am pleased to call her hard work and the many achievements of Leadership Wilkes-Barre to the attention of the House of Representatives, and I wish her and the fine organization she leads many more years of success.

RECOGNIZING THE MASSACHUSETTS DIVISION I STATE CHAMPIONS—LUDLOW HIGH SCHOOL BOYS SOCCER TEAM

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to recognize the accomplishments of the 2000 Ludlow High School boys soccer team. This past season the Ludlow boys team compiled a record of 19–0–3 en route to earning the Smith Division League Championship, the Western Massachusetts Division I Championship, and the Massachusetts Division I State Championship. Their efforts enabled them to earn a top five ranking nationally.

Not only did the boys team finish the season undefeated, but their 2000 campaign marked the first time in Massachusetts history that a boys soccer team won four consecutive Western Massachusetts Division I titles. Also, the Lions have won back to back State titles, the first time this has been done in Massachusetts in 35 years. Ludlow High School has a fine and proud tradition in boys soccer play. The school has earned thirteen State titles and twenty-six Western Massachusetts championships.

At the Lions' coaching helm was Tony Goncalves. He and his staff have fine tuned their team's athletic skill and have instilled poise, discipline, and sportsmanship into their players. Coach Goncalves and his staff have certainly earned their reputation as one of the finest coaching staffs in all of New England. I would also like to note that included in this year's team are seven players that were named to the All-Western Massachusetts squad, three players named to the All-State team, and two players receiving All-New England honors.

Mr. Speaker, allow me to recognize here the players, coaches, and managers of the 2000 Ludlow High School boys soccer team. The seniors are: Helder Pires, Jay Devlin, Mike Pio, Joey Jorge, Ray Cheria, Brian Cochenour, Tim Romansky, Paulo Dias, Dennis Carvalho, Paulo Martins, Steve Jorge, Manny Goncalves, and Chris Chelo. Juniors include: Joe Shanley, Seth Falconer, Kevin Keough, and Sebastian Priest. The Sophomores are: Kevin Chelo, Sven Pfefferkorn, Michael Lima, Tyler Severyn, Josh Naginewicz, Casey Siok, and Corey Mange. The Head Coach is Tony Goncalves. Assistant Coaches are Jack Vilaca, Greg Kolodziey, and Dan Pires. Team managers are Sarah Russell, Jill Dube, and Jenn Russell.

Mr. Speaker, once again, allow me to send my congratulations to the Ludlow High School boys soccer team on their outstanding season. I wish them the best of luck in the 2001 season.

EXPRESSING SYMPATHY FOR VICTIMS OF EARTHQUAKE IN INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. HASTINGS of Florida. Mr. Speaker, it saddens me greatly to have to introduce this resolution along with my colleagues, our effort to support the victims of the catastrophic earthquake that struck India on January 26, 2001, on the very day the people of India were to celebrate the adoption of their first constitution as an independent people.

On January 26, the people of Gujarat in western India were hit with an earthquake the size and devastation of that which hit San Francisco in 1906 killing more than 30,000.

As a fellow democracy we must provide the people of India immediate relief, economic assistance and the reconstruction efforts needed to rebuild the lives and the state of Gujarat.

I have had the pleasure of visiting India on a number of occasions and have established a candid and sincere relationship with the Indian community, both in my congressional district in Florida and abroad.

Several governments have taken action and are providing assistance to the people of India in determining what needs are to be met during this critical time of despair. Notably, the government and people of Pakistan have been quick to send aid and much needed supplies. I am hopeful that their friendship will continue far beyond this difficult period. Moreover, I believe it is America's duty to lend a helping hand to our great neighbors.

India and its people need us and it is our duty to expedite immediate assistance in reconstructing their lives and concretely showing our continued friendship and support.

PERSONAL EXPLANATION

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. BONO. Mr. Speaker, I was necessarily absent for all legislative business during the week of January 29, 2001 through February 2, 2001, due to a medical condition. As a result, I missed the following votes: On Tuesday, January 30, 2001—question "On Motion to Suspend the Rules and Pass, as Amended" (Roll No. 5) for issue H.R. 93—Federal Firefighters Retirement Age Fairness Act. On Wednesday, January 31, 2001—question "On Motion to Suspend the Rules and Agree" (Roll No. 6) for issue H. Con. Res. 14—Permitting the Use of the Rotunda of the Capitol for a Ceremony as part of the Commemoration of the Days of Remembrance of Victims of the Holocaust, question "On Motion to Suspend the Rules and Agree" (Roll No. 7) for issue H. Con. Res. 15—Expressing Sympathy for the Victims of the Devastating Earthquake that Struck India, and question "On Approving the Journal" (Roll No. 8) for issue Journal. Had I been present, I would have voted "yea" for the question "On Motion to Suspend the Rules and Pass, as Amended" for the issue H.R. 93 (Roll No. 5), "yea" for the question "On Motion to Suspend the Rules and Agree" for the issue H. Con. Res. 14 (Roll No. 6), "yea" for the question "On Motion to Suspend the Rules and Agree" for the issue H. Con. Res. 15 (Roll No. 7), and "yea" for the question "On Approving the Journal" (Roll No. 8) for the issue Journal.

REINTRODUCTION OF THE NAMING OF THE GARDNER C. GRANT POST OFFICE BUILDING

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. BALDACCI. Mr. Speaker, today I reintroduce legislation to rename the Post Office in Cherryfield, Maine after the town's long-time Postmaster, Gardner C. Grant.

In rural Maine, as in rural areas all across the country, the Post Office is more than just a place to get your mail, and the Postmaster is more than just an employee. The Post Office is a gathering place, where neighbors catch up and exchange information. The Postmaster is part of the community, sharing news and helping everyone.

Gardner Grant served as Postmaster in Cherryfield for a remarkable 27 years. He also has been an active part of the community, serving as a Selectman, Academy Trustee, Planning Board member and an assessor. Gardner and his family—his wife Virginia and their two sons—are part of the very fabric of this Down East Maine town.

Gardner's service has earned him the admiration and respect of the people of Cherryfield. To honor him, I have been asked to submit this legislation to designate the Gardner C. Grant Post Office Building. I am proud to do so. Gardner Grant has served Cherryfield with distinction, and I agree that naming the Post Office in his honor would be a fitting tribute. I look forward to working with my colleagues to pass this legislation into law.

100TH ANNIVERSARY OF ANSON IMPLEMENT, CO., OF HIGGINSVILLE, MO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the Anson family and my friends at Anson Implement, Co., of Higginsville, Missouri, who recently celebrated the company's 100th anniversary as a John Deere dealership.

The Anson family has contributed to the betterment of Lafayette County, MO, since they migrated from Kentucky and Tennessee in the 1830s. Born Moses Anson and later named "Mode", the great grandfather of current co-owner Joe Anson cherished all aspects of farming. Mode recognized the need for a country store that would benefit those who worked on farms and other businesses in rural Missouri. In 1897, he opened a lumber, hardware, and building materials business in Aullville, MO, to assist these individuals. Four years later, in 1901, the Anson family, still committed to farming, opened a John Deere dealership that moved to Higginsville, MO, in 1917.

Through the years, Anson Implement, Co., has become an important part of the history of Higginsville. Established by Mode Anson, the implement dealership eventually passed into the hands of his son, Leslie Anson, then to his son, M.L. Anson. Both Leslie and M.L. worked in and learned the family business from a young age. In 1979, current co-owner Joe Anson began operating the implement company after attending Westminster College and working for six years at the Kansas City John Deere branch.

Indeed, through their commitments to farming, to their community, and to their country, four generations of Ansons have positively impacted the lives of many rural Missourians. As the residents of Lafayette County share in Anson Implement's 100th anniversary, I am certain that all Members of the House will join me in paying tribute to this establishment and to the Anson family, Mary Lou Anson, Joe Anson, Jill Sutherland, Jan Weycker, and Jenny Gockel.

RECOGNIZING FREDDIE TIDWELL FOR HIS MANY YEARS OF SERVICE TO CRAWFORD COUNTY, GEORGIA

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. CHAMBLISS. Mr. Speaker, I would like to recognize a distinguished gentleman from Georgia's 8th District who has recently passed away, Freddie J. Tidwell.

Mr. Tidwell served four terms as Crawford County Commissioner and worked relentlessly to bring millions of dollars to Crawford County, Georgia. Additionally, he served Crawford County as Judge of Small Claims Court for 12 years, served in the U.S. Navy as an advisor to the South Korean Army during the Korean Conflict, and served as a Georgia State Representative.

Mr. Tidwell made a career of serving people, and we all know this world needs more people who are willing to put selfishness aside and dedicate themselves to serving their community and their country. As a Member of Congress from Georgia, I am fortunate to have known Mr. Tidwell and had many opportunities to work with him on issues facing both Crawford County and the state of Georgia.

Mr. Speaker, Georgia continues to be home to incredible leaders and public servants. Mr. Tidwell was one of those people. He was an outstanding American, and it is an honor to have known him.

SAN ANTONIO MOURNS THE LOSS OF POLICE OFFICER JOHN ANTHONY RIOJAS

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. RODRIGUEZ. Mr. Speaker, today the San Antonio community mourns the loss of one of its young police officers, John Anthony Riojas. As his community grieves this week, not only should this officer's story be remembered, but so should the story of every law enforcement officer who takes risks daily to protect us.

This past Friday, Officer Riojas, a member of the Street Crimes Arrest Team unit and eleven-year veteran of the San Antonio Police force, was mortally shot while on duty. He was one of nine officers participating in an operation to stop a rash of property crimes plaguing an apartment complex. At the time of his fatal injury he was attempting to apprehend an individual on foot. He overtook the suspect, who reportedly shot the young officer with his own weapon.

Sadly, John Riojas, known to his friends as "Rocky," joins 42 other San Antonio police officers killed in the line of duty and is the fourth death of an officer in the past 45 days. We in this great House of Representatives join his family, fellow officers and many friends in mourning this tragic loss.

This 37-year old father of two was seen as a man who was tying to make the community a better place by those who worked with him. Officer Riojas graduated in 1982 from St. Gerard's Catholic High School in San Antonio. A star football player, his friends recall Riojas' excitement upon entering the police force because he wanted to make a difference. And he has.

Our condolences go out to his widow, two young children, and his entire family. His children, a two-year old daughter and a son of only eight weeks, have lost their father. Hopefully, they will always know his devotion and sacrifice on behalf of his community. All too often, we forget that our sense of safety is rooted in the work of law enforcement officers like John Riojas. His service and devotion to his family, community, and country exemplify the best in our society. May his children and family always see the work he did in their community and be proud of the example he set.

INTRODUCTION OF VETERANS RESOLUTION

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. BALDACCI. Mr. Speaker, today I offer a resolution regarding some of the neediest and most deserving citizens of our country: elderly veterans. I was pleased to support efforts in the 106th Congress to make long-term care for our veterans a priority, but more remains to be done. My resolution calls for additional resources to be directed towards addressing Alzheimer's in the veteran population.

Alzheimer's, a degenerative brain disease, gradually causes a person to forget recent events or familiar tasks. Attempts to perform basic daily functions can turn into dangerous situations, and the disease eventually forces the afflicted to become totally dependent on others.

Dementia, an umbrella term used to describe the loss of cognitive or intellectual function, is commonly associated with Alzheimer's. Caused by a number of diseases, dementia refers to memory loss, having difficulty making use of simple words, and poor or decreased judgement. In addition, dementia creates problems with abstract thinking and can result in personality changes.

Veterans are widely affected by dementia in general and Alzheimer's specifically. Nearly 8 million, 37% of the total veterans population, suffer from dementia caused by Alzheimer's. Due to the severity of this condition, and the inability of those afflicted to care for themselves, specialized care is needed.

Currently the Veterans Alzheimer's/Dementia Program includes both inpatient and outpatient clinics. Ranging from short-term behavioral stabilization to long-term comfort and supportive care, these clinics are designed to treat patients while research is conducted on their condition and treatment. However, with an aging population and corresponding rise in dementia cases, the resources of our veterans nursing homes are being strained. Currently there are a very small number of facilities dedicated to treating patients with Alzheimer's. In addition, the traditional nursing home model does not provide the most effective method of treatment.

While Alzheimer's remains incurable, progress is being made. Department of Veterans Affairs (VA) researchers have discovered a genetic association to the development of Alzheimer's and they continue to pioneer dementia research. However, there are still only three FDA-approved drugs that may temporarily relieve some symptoms of the disease. Clearly, more dedicated research should be encouraged.

Research and treatment provided through dementia-specific nursing homes will enhance the development of appropriate care options. To encourage such homes to be leased and constructed, the Veterans of Foreign Wars has urged the VA to establish a demonstration project for this purpose. I am pleased to support the VFW's Resolution 639 by offering this resolution today. I urge my colleagues to join me in support of this effort.

TRIBUTE TO RETIRING MAYOR OF CROCKER, MO, THE HONORABLE NORMA LEA MIHALEVICH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SKELTON. Mr. Speaker, it has come to my attention that a remarkable public servant, the Honorable Norma Lea Mihalevich, Mayor of Crocker, MO, will retire from her post on April 7, 2001.

A graduate of Waynesville High School and the Missouri State Teachers College, Norma Lea Mihalevich has dedicated her life to public service. For the past 23 years, she has diligently served the citizens of Crocker, MO, as their mayor. During her tenure in office, she has always unselfishly devoted her time and energy to the betterment of her community.

In addition to her service as mayor, Mrs. Mihalevich has been a member of the Crocker R-2 Board of Education, first being elected in 1952. During her time on the School Board, she served on the Board of Directors of the Missouri School Boards Association, receiving their 1998 "Recognition of Commitment" award. Additionally, in 1986, she was recognized as a "Pioneer in Education" by the Missouri Department of Elementary and Secondary Education.

Mrs. Mihalevich, a member of the Crocker Baptist Church for 59 years, has also worked for community betterment by serving as a member of the Pulaski County Hospital Board, the Pulaski County Health Department Home Health Agency, and the Pulaski Board for the Handicapped.

Norma Lea Mihalevich is truly a role model for young public servants. As she prepares for quieter times with her husband, Dr. John Mihalevich, I am certain that all Members of the House will join me in paying tribute to Mrs. Mihalevich's outstanding commitment to public service.

PRIME RECRUITING GROUND FOR ACADEMIES

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. FRELINGHUYSEN. Mr. Speaker, every year, more high school seniors from the 11th Congressional District trade in varsity jackets for Navy peacoats, Air Force flight suits, and Army brass buckles than any other district in the county. But this is nothing new—our area has repeatedly sent an above-average proportion of its sons and daughters to the Nation's military academies for decades.

This shouldn't come as a surprise. The educational excellence of our area is well known and has long been a magnet for families looking for the best environment in which to raise their children. Our graduates are skilled not only in mathematics, science, and social studies, but also have solid backgrounds in sports, debate teams, and other extracurricular activities. This diverse upbringing makes military academy recruiters sit up and take note—indeed, many recruiters know our towns and schools by name.

Since the 1830's, Members of Congress have enjoyed meeting, talking with, and nominating these superb young people to our military academies. But how did this process evolve?

In 1843, when West Point was the sole academy, Congress ratified the nominating process and became directly involved in the makeup of our military's leadership. This was not an act of an imperial Congress bent on controlling every aspect of the Government.

Rather, the procedure still used today was, and is, one further check and balance in our democracy. It was originally designed to weaken and divide political coloration in the officer corps, provide geographical balance to our armed services, and to make the officer corps more resilient to unfettered nepotism that handicapped European armies.

In 1854, Representative Gerritt Smith of New York added a new component to the academy nomination process—the academy review board. This was the first time a Member of Congress appointed prominent citizens from his district to screen applicants and assist with the serious duty of nominating candidates for academy admission. Today, I am honored to continue this wise tradition in my service to the 11th Congressional District.

The Academy Review Board is composed of nine local citizens who have shown exemplary service to New Jersey, to their communities, and to the continued excellence of education in our area—many are veterans. Though from diverse backgrounds and professions, they all share a common dedication to seeing that the best qualified and motivated graduates attend our academies. And, as is true for most volunteer panels, their service goes largely unnoticed.

I would like to take a moment to recognize these men and women and to thank them publicly for participating in this important panel. Being on the board requires hard work and an objective mind. Members have the responsibility of interviewing upwards of 50 outstanding high school seniors every year in the academy review process.

The nomination process follows a general timetable. High school seniors mail personal information directly to the Military Academy, the Naval Academy, the Air Force Academy, and the Merchant Marine Academy once they become interested in attending. Information includes academic achievement, college entry test scores, and other activities. At this time, they also inform their Representative of their desire to be nominated.

The academies then assess the applicants, rank them based on the data supplied, and return the files to my office with their notations. In mid-December, our Academy Review Board interviews all of the applicants over the course of 2 days. They assess a student's qualifications and analyze character, desire to serve, and other talents that may be hidden on paper.

Last year, the board interviewed over 30 applicants. Nominations included 10 to the Naval Academy, 7 to the Military Academy, 4 to the Air Force Academy, and 5 to the Merchant Marine Academy—the Coast Guard Academy does not use the Congressional nomination process. The Board then forwards their recommendations to the academies by January 31, where recruiters review files and notify applicants and my office of their final decisions on admission.

It is both reassuring and rewarding to know that many of our military officers hail from our hometowns or close by. When we consider the role of these officers in peace or war, we can rest easier knowing that the best and brightest are in command. Wherever they are sent, be that Bosnia, Somalia, Haiti or the Persian Gulf, many of these officers have academy training.

And while a few people may question the motivations and ambitions of some young people, the academy review process shows that the large majority of our graduates are just as highly motivated as the guidance from loving parents, dedicated teachers and schools, and from trusted clergy and rabbis. Indeed, every time I visit a school, speak at a college, or meet a young academy nominee, I am constantly reminded that we as a nation are blessed with fine young men and women.

Their willingness and desire to serve their country is perhaps the most persuasive evidence of all.

ACADEMY NOMINEES FOR 2001, 11TH CONGRESSIONAL DISTRICT, NEW JERSEY

AIR FORCE ACADEMY

Christopher Hill, Pompton Plains, Peqannock H.S.; Tin T. Nguyen, Denville, Morris Knolls H.S.; Michael Raphel, Jr., Bridgewater, Bridgewater-Raritan; and Alexander T. Wong, Montville, Montville H.S.

MERCHANT MARINE

Joseph M. Crowley, Randolph, Randolph H.S.; Michael Frediani, Morris Plains, Parsippany H.S.; James J. Maye, IV, Bridgewater, Bridgewater-Raritan; Bradley W. Schmidt, Mine Hill, Dover H.S.; and Patrick H. Uhles, Montville, Montville H.S.

MILITARY ACADEMY

Lee W. Barnes, Mendham, West Morris Mendham; Robert J. Brougham, Randolph, Randolph H.S.; Paul P. Crooke, Long Valley, West Morris Central; Bethanne N. Laggy, Flanders, Pope John XXIII H.S.; David M. Marshall, Jr., Pompton Plains, Pequannock; Andrew G. Schmidt, Chester, West Morris Mendham; and William Wu, Morris Plains, Parsippany Hills H.S.

NAVAL ACADEMY

Andrew R. Bradley, Chester, West Morris Mendham; John J. Donnelly, III, Randolph, Delbarton School; Patrick M. Falvey, Randolph, Randolph H.S.; Thomas J. Kelly, Liberty Corner, Ridge H.S.; Jerimiah D. Lancaster, Lake Hopatcong, Jefferson H.S.; Ralph P. Lufkin, Basking Ridge, Ridge H.S.; Amy Swiatecki-McCabe, Chatham, Chatham H.S.; Adam R. Mueller, Bridgewater, Bridgewater-Raritan; Amanda M. Orson, Towaco, Montville H.S./The Citadel; and Grant M. Thompson, Livingston, Livingston H.S.

HONORING LANNA WALSH OF SAN DIEGO, CALIFORNIA

HON. SUSAN DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. DAVIS of California. Mr. Speaker, I would like to congratulate and honor a California student from my district who has achieved national recognition for exemplary volunteer service in our community. Lanna Walsh of San Diego has just been named one of California's top honorees in the 2001 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in the United States.

Lanna Walsh is being recognized for founding a tutoring and mentoring program that pairs high school students with elementary and middle school students through the county public library system. She is a senior at Patrick Henry High School.

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contributions this young citizen is making. As a former director of a youth leadership program myself, I know what an incredible difference these programs make in our community. Volunteers like Lanna are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

I heartily applaud Lanna Walsh for making San Diego a better place to live, and for the positive impact she is making on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can, and do, play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

INTRODUCED LEGISLATION THAT WILL IMPROVE VETERAN'S HEALTHCARE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. DUNCAN. Mr. Speaker, today I introduced a bill that will improve veterans healthcare.

I speak with veterans in the Second District of Tennessee on a regular basis, and I have heard time and time again of their frustration with scheduling an appointment at a Veterans Administration Clinic. Many times, people have to wait weeks and months just to see a doctor.

Mr. Speaker, this is not fair, and it is not right. Those who have laid their lives on the line for America deserve the utmost respect and assistance. They should not have to wait weeks and even months to be treated for a health problem.

When our Nation's veterans signed up to serve in the military, they were promised that they would be taken care of when they retired. We have a responsibility to live up to that promise, and to provide veterans with good healthcare.

Under this legislation, if a veteran tried to get a doctor's appointment at a Veterans' Clinic and had to wait longer than six months, the VA would be required to provide healthcare outside of the VA Clinics.

I am sure all veterans would agree that something needs to be done to improve their access to healthcare at Veterans' Clinics, and I am hopeful that this bill will be a step in the right direction.

I urge my colleagues to support this bill and improve healthcare for the loyal and committed veterans of our Nation.

WOMT CELEBRATES 75 YEARS OF BROADCASTING

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. PETRI. Mr. Speaker, I want to salute and congratulate WOMT Radio in Manitowoc, Wisconsin, as it celebrates 75 years of community leadership and local broadcasting. This station has become a mainstay of the community and we have come to rely on WOMT to provide current, useful, and—perhaps most important—community-based programming. WOMT is relatively unique in the current broadcast world by maintaining its local control and focus. It prides itself on its ability to provide programming that centers on talk, news and local sports programs.

The station first went on the air back in 1926 and at the time was only the third radio station in existence in the state of Wisconsin. Over its proud 75 year history, WOMT has had only three owners. In this era of broadcasting mega-mergers, WOMT has thrived under local ownership, providing the community not only news and information, but also shows featuring local on-air personalities that lakeshore residents have come to know well over the years. Throughout its long history, WOMT has proven that a radio station can be successful without compromising its goal of informing and educating its listeners.

WOMT has provided hours of listening pleasure to lakeshore residents over the years as we drive to work, pick up the kids from school, run our errands on the weekend, or tune in to catch a high school game. I again want to congratulate all the people at WOMT, including longtime owner Don Seehafer, for their dedication and commitment to making our lives a little more enjoyable. Congratulations, WOMT, on your first 75 years and we look forward to at least 75 more.

EXPRESSING SYMPATHY FOR VICTIMS OF EARTHQUAKE IN INDIA ON JANUARY 26, 2001, AND SUPPORT FOR ONGOING AID EFFORTS

SPEECH OF

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. SHAW. Mr. Speaker, I rise today to express my deepest sympathy for the victims of the earthquake that recently struck the state of Gujarat in western India.

January 26th marked Republic Day for the Indian people. The celebration of the fifty-first anniversary of the ratification of the Indian constitution was overshadowed by an earthquake, which although it only lasted sixty seconds, took an incalculable toll on western India.

It measured 7.9 on the Richter Scale. An earthquake so forceful and deadly that tremors were felt throughout the country and an estimated 25,000 people were killed. Remarkably, rescuers continue to find survivors, and we are grateful for their work on behalf of the Indian people. The slow and arduous process of rebuilding both buildings and lives has begun. The aftershock of such a calamity will be felt for years to come.

It is therefore my hope that our government will provide the necessary and appropriate funds that may help alleviate the destruction caused by this catastrophe. So far, USAID has allotted nine million dollars for relief efforts. However, no amount of aid can ever compensate for the anguish and profound loss that has been experienced by the Indian people.

HONORING THE EFFORTS OF ONE ACCORD MINISTRY

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. JENKINS. Mr. Speaker, today I honor the efforts of a local community organization, Of One Accord Ministry, making the lives of many people in the First Congressional District better.

This weekend, Of One Accord Ministry will hold a celebration dinner in honor of the many volunteers who offered their time and assistance to help those who were less fortunate. Last year, these efforts helped over 28,000 individuals in Hawkins and Hancock Counties.

The true heroes of this organization were over 200 volunteers from all walks of life such as young scouts, employees from local businesses and industries, members of civic clubs, local schools, and members of various churches. These individuals offered their services in collecting needed items, taking donations, delivering food and other items to needy families, serving a free medical clinic for those in need of basic medical attention, and many other tasks.

In the Congress, I have often advocated that the government cannot be the answer to all of the problems that exist in our society. We can do many things to help out those who need assistance, but real changes come about with the help of the local community, neighbors helping neighbors, one individual at a time. Local organizations like Of One Accord Ministry are our first line of defense against these social problems. Their efforts should be highlighted and commended for the results they have achieved.

Too often, we only hear and read about the negative news in our localities. Positive efforts such as those provided by local citizens often go unnoticed. I want to take this opportunity to recognize, congratulate, and bring to the attention of the Congress the great work that is being accomplished by the volunteers of Of One Accord Ministry. Tennesseans are long known for their selfless devotion, earning us the nickname the "Volunteer State." These volunteers carry on that tradition and are truly deserving of our thanks today.

TRIBUTE TO SENATOR ALAN CRANSTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying tribute to former Senator Alan Cranston of California who passed away over the holiday break. In a career spanning most of the 20th century, both as a private citizen and a Member of Congress, he developed a reputation as a tireless advocate of worthy causes from the environment to veterans health, and most notably arms control. His passing gives us pause to reflect on the legacy of one who fought hard his entire life for peace and democratic freedoms.

Mr. Speaker, Alan Cranston began his crusade for peace early in his life as a journalist. Born in Palo Alto, California in 1914, Cranston graduated from Stanford University in 1936 and he worked for the International News Service where he edited the first unaltered version of Mein Kampf, laying bare Hitler's racist beliefs, and inviting a lawsuit from the Fuehrer over copyright infringement. In 1939, Cranston continued his fight against racism as an advocate for the Common Council for America Unity, an organization opposing discrimination against the foreign born.

Cranston's service to his country began during World War II, when he enlisted in the United States Army and became a private. Because of his verbal skills, he was assigned to lecture to soldiers on war aims. After the war, Cranston continued to advocate peace through his career in journalism.

Mr. Speaker, in 1968, he became a United States Senator from California. In the U.S. Senate, Alan Cranston's tireless advocacy for protecting the California desert and advocating the philosophy of arms control and arms reduction earned him the reputation of a "workhorse," and it is one he rightly deserves. And even after leaving the Senate at the age of 82, Alan Cranston continued until the time of his death to press for arms reduction by chairing two San Francisco-based think tanks—the Gorbachev Foundation USA and the Global Security Institute.

Mr. Speaker, Senator Alan Cranston worked long and hard for peace, and at his passing I join his many friends and admirers in paying tribute to his distinguished service, and it is my hope that we may carry on his work with equal strength and conviction.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. ORTIZ. Mr. Speaker, during rollcall vote Nos. 5, 6, 7 and 8 on January 30–31, 2001 I was unavoidably detained. Had I been present, I would have voted "yea."

INTRODUCTION OF THE MAKE TAX CREDITS WORK—FIX ALTERNATIVE MINIMUM TAX

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, I am introducing today badly needed legislation to make permanent the temporary provision of current law that allows all nonrefundable personal tax credits to be used against the alternative minimum tax. These credits include the child credit, the adoption credit, the HOPE credit, the lifelong learning credit, and the dependent child care credit.

I have introduced this bill in the two previous Congresses, H.R. 4489 and H.R. 1097. In 1998 Congress enacted a 1-year provision to solve the problem, and in 1999 Congress enacted a 3-year solution. Now is the time to permanently fix the problem, if only because the problem will get more serious and the revenue cost will increase every year we delay. According to the Joint Committee on Taxation, a permanent solution to this problem enacted in 1999 would have cost $6 billion over 2000–2004, and $29.6 billion over 2000–2009. This rapid escalation in cost demonstrates why it is important to resolve the problem now. It also indicates how rapidly this provision will affect American families if it is not solved permanently.

To date, two messages have come out of the Bush administration on this issue. The first message is that the alternative minimum tax is a problem to be thought about. The second message is that Congress ought to fix it. Refusing to face this problem directly, and taking responsibility for helping resolve it, is a recipe for continued temporary solutions in an era where budget surpluses demand real tax solutions to real tax problems. I have offered twice to work with the administration on permanent solutions, and I continue to hope a permanent solution will be incorporated into its tax proposals.

Without these temporary solutions, current law would not allow personal tax credits to be used against the alternative minimum tax. Since taxpayers must pay the higher of their regular federal income tax, or the alternative minimum tax, many families find some or all of these credits disallowed by the AMT. In 1998 the Department of the Treasury estimated that over 800,000 families would have been denied the full amount of the child credit or the education credits, and that the number would increase annually.

According to the Internal Revenue Service, the estimated average time it takes to fill out the alternative minimum tax form was 5 hours and 39 minutes. It would, of course, take much longer for hundreds of thousands of taxpayers who may be forced to fill out this form for the first time as a result of the credits Congress offered them in the name of child care, adoption, and education. And I cannot think of anything that would produce greater cynicism on the part of the American people than not enacting a permanent solution to this problem.

Mr. Speaker, I have never thought of this issue as a partisan issue. I have worked with the former chairman of the Ways and Means Committee Mr. Archer, and with the chairman of the Oversight Subcommittee AMO HOUGHTON, to bring this issue to the attention of Members of Congress, the administration, and the American people. I will continue to pursue all avenues during the 107th Congress to defuse this hidden time bomb permanently.

Finally, Mr. Speaker, let me simply say that the AMT presents additional challenges to Congress. The interaction of the AMT and the nonrefundable personal tax credits is only the most immediate, most crucial, problem. A second problem is that over the next decade the fact that the AMT is not adjusted for inflation while the regular federal income tax is adjusted, will push millions of families into the AMT and that should be dealt with as soon as possible. A third problem exists because the AMT will slash much of the tax relief that will be promised by President Bush this week, if it is not dealt with within the Bush proposals. I, and others, have proposed various solutions to these problems and I will continue to press for solutions to all the problems presented by the AMT. But the most immediate problem is that caused by the interaction of the AMT and nonrefundable credits, and that must be dealt with no matter what this year.

PERSONAL EXPLANATION

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. THURMAN. Mr. Speaker, I was present and voting on Wednesday, January 31. Although my votes on rollcall Nos. 6 and 8 were registered, I was not registered as having voted on rollcall No. 7—the India earthquake sympathy resolution. I intended to vote "yea" on this resolution.

INTRODUCTION OF THE DISABLED WORKERS OPPORTUNITY ACT OF 2001

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. STARK. Mr. Speaker, today I join my colleague, Representative MATSUI and several other colleagues to introduce the "Disabled Workers Opportunity Act." This bill will remove a persistent employment barrier facing people with disabilities—the fear of losing their health insurance. It builds on the Work Incentives Improvement and Ticket to Work Act enacted last year. That law extended Medicare coverage for disabled, working beneficiaries who qualify for SSDI for eight and a half years. The legislation we are introducing today would make Medicare coverage permanent for these workers.

According to a recent survey commissioned by the National Organization on Disability, 79% of unemployed people with disabilities want to work. Yet, only one-third of them are actively working. Despite major advances in disability services and technologies, less than 1% of SSI/SSDI disability enrollees leave the rolls each year to return to work. In large part, this gap can be explained by the fact that SSI/SSDI disability beneficiaries risk losing health insurance coverage if they return to work—and many jobs lack the health benefits they require to maintain employment. Health insurance is vital for all workers, but for someone who is disabled, it can be a matter of life or death.

On December 17, 1999, the "Ticket to Work and Work Incentives Improvement Act" was signed into law (P.L. 106–170). This important piece of legislation extended and improved healthcare and vocational rehabilitation opportunities for people with disabilities. Yet it does not go far enough in one fundamental respect. Instead of allowing disabled workers to permanently retain access to Medicare, people with disabilities who have worked a total of 8.5 years (whether consecutive or not) will still lose their Medicare benefits under existing law.

While 8.5 years may sound like a sufficient transition period, let's not forget an important fact—managing a physical or mental disability is often a lifelong process. Someone with a spinal cord injury or a serious mental illness can face health challenges and vulnerabilities throughout their lives. The original version of the Work Incentives bill—as introduced in the House with bi-partisan support—recognized this fact and extended Medicare coverage permanently.

Our legislation would improve the Ticket-to-Work and Work Incentive Improvement Act by making Medicare Part A coverage permanent for disabled, working beneficiaries who qualify for SSDI. This small but critical fix will help remove an ongoing barrier facing disabled workers—the threat of losing healthcare coverage after returning to work. It is time to give our disabled workers the opportunity to succeed by providing permanent Medical coverage. Enacting this legislation will allow the Ticket to Work and Work Incentives Improvement Act to live up to its name and really make it possible for those on SSDI to become permanent, active members of the workforce.

Last week, President Bush announced his "New Freedom Initiative" which shares the same goal as our disabled workers bill—to help people with disabilities becoming working members of our community. I look forward to working with President Bush and my Congressional colleagues to pass this small, but important piece of legislation that would make a real difference in the lives of those people on SSDI who are able and willing to remain in our workforce. I submit the following co-sponsor listing as well as a letter from the Consortium for "Citizens With Disabilities" into the CONGRESSIONAL RECORD.

The full list of original co-sponsors is as follows:

1. Mr. Stark.
2. Mr. Matsui.
3. Ms. Morella.
4. Mr. Rangel.
5. Mr. Lewis of Georgia.
6. Mr. Cardin.
7. Mr. Coyne.
8. Mr. Doggett.
9. Ms. Thurman.

10. Mr. Jefferson.
11. Mr. McNulty.
12. Mr. Waxman.
13. Mr. Bonior.
14. Mr. Kucinich.
15. Mr. Frost.
16. Mr. Murtha.
17. Mr. Holden.
18. Mr. Frank.
19. Mr. Kildee.
20. Mr. Hilliard.
21. Ms. McCarthy of Missouri.
22. Mr. Berman.
23. Mr. Allen.
24. Mr. Hinchey.
25. Mr. Baird.
26. Mr. Green.
27. Ms. Christensen.
28. Mr. Lantos.
29. Mr. George Miller of California.
30. Ms. Baldwin.
31. Mr. Abercrombie.
32. Mr. McDermott.
33. Mr. Rush.

A letter of support from the Consortium for Citizens with Disabilities follows:

CONSORTIUM FOR CITIZENS
WITH DISABILITIES,
February 5, 2001.

Hon. PETE STARK,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN STARK, The undersigned members of the Consortium for Citizens with Disabilities (CCD) Work Incentives and Social Security Task Forces are pleased to support your legislation that allows for Social Security Disability beneficiaries who go back to work to permanently retain their Medicare coverage.

As you know, the lack of quality affordable health care is one of the largest barriers facing disabled beneficiaries who want to work. Witnesses with disabilities have testified before the House Ways and Means and Commerce Committees and the Senate Finance Committee that the loss of healthcare or the inability to afford healthcare because of limited incomes prevents them from working. In addition, we know that this fear keeps people on the rolls who might try to go back to work simply because they might lose their healthcare coverage. This is wrong and it must be changed.

Congress and the President went to great lengths to remedy this problem with P.L. 106-170, The Ticket-to-Work & Work Incentives Improvement Act. This law improves access to rehabilitation services, eliminates many disincentives to work with SSA, and extends Medicaid and Medicare coverage for those who work.

Unfortunately, during last minute consideration of the bill, a limit was imposed on the Medicare coverage despite the fact that 249 members of the House and 79 Senators cosponsored legislation that provided permanent coverage under Medicare.

We believe that this limit must be lifted so that beneficiaries can work without the fear that one day they will be left with the choice of either working without coverage or being forced back onto the disability rolls. That's not fair and it's not right. We urge Congress to support and pass this legislation.

Sincerely,

American Association on Mental Retardation.
American Association of University Affiliated Programs.
American Congress of Community Supports and Employment Services.
American Council of the Blind.
American Network of Community Options and Resources.
Association for Persons in Supported Employment.
Brain Injury Association.
Inter-National Association of Business, Industry and Rehabilitation.
International Association of Psychosocial Rehabilitation Services.
National.Alliance for the Mentally Ill.
National Association of Developmental Disabilities Councils.
National Association of Protection and Advocacy Systems.
National Council for Community Behavioral Healthcare.
National Down Syndrome Congress.
National Mental Health Association.
National Organization of Social Security Claimants' Representatives.
NISH.
Paralyzed Veterans of America.
The Arc of the United States.
United Cerebral Palsy.

TRIBUTE TO BILL AND CLAUDIA COLEMAN

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. UDALL of Colorado. Mr. Speaker, I wish to honor Bill and Claudia Coleman for donating the largest gift ever given an American public university—$250 million—to the University of Colorado to be used to fund advanced research and development of innovative technologies to enhance the lives of people with cognitive disabilities.

Today, approximately 20 million persons, or 7 percent of the U.S. population experience significant cognitive disabilities, such as mental retardation, autism, severe and persistent mental illness, traumatic brain injury, stroke, and Alzheimer's disease.

Based on the Coleman's generous donation, the University of Colorado will establish the Coleman Institute for Cognitive Disabilities. The Institute will focus on education, research, and the development of new technology and software programs to improve the quality of life for the cognitively disabled.

The Coleman Institute at the University of Colorado, which will include all four campuses of the University, will help bring together many areas of engineering, medical and biomedical, clinical and brain research necessary to make a significant advance in understanding cognitive disabilities and developing future generations of assistive technology devices.

I commend University of Colorado President Elizabeth Hoffman for her vision in making the Coleman Institute the international center of excellence in developing adaptive assistive technologies, based on advanced biomedical and computer science research, for people with cognitive disabilities.

This unprecedented gift is a tribute to the Colemans' generosity and vision, as well as to the University's growing reputation for work in developmental disabilities and assistive technology.

I am proud to represent the University of Colorado's Boulder campus, and I look forward to aiding the Coleman Institute for Cognitive Disabilities in realizing Bill and Claudia Coleman's worthy goal.

HONORING THE 2001 BEA CHRISTY AWARD NOMINEES

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the 2001 Bea Christy Award Nominees, who will be honored Friday, February 9, 2001 in Lansing, Michigan for their contributions to improve their communities and neighborhoods.

Bea Christy was a dedicated member of the Eastside Neighborhood Organization for more than ten years until her death. She also worked with other organizations to make the neighborhood and community a better place to live. She was the kind of individual who volunteered to do the "unglamourous" tasks, who worked quietly and diligently behind the scenes, who never sought recognition for her efforts.

First, she was a good neighbor in her immediate neighborhood, welcoming new people, planting flowers in the church yard across the street from her house, taking elderly folks to the doctor, and noticing where the sidewalk needed repairs. She also helped edit and deliver the Eastside Neighborhood Organization newspaper, made soup for the annual fundraiser, and helped plant flowers in the bed on Michigan Avenue.

Bea was also an active member of her church, volunteered with Radio Talking Book, as well as helped to initiate the Lansing area CROP Walk. She made these contributions in addition to being a devoted wife, mother, and grandmother.

It is quiet, committed, unsung people like Bea who make neighborhood organizations successful, and the community as a whole a better place to live. It is in this spirit that individuals are nominated for an annual award exemplifying the qualities of Bea Christy. The following six criteria must be considered when making a nomination for the Bea Christy Award: variety of activities in your neighborhood organization; unsung nature of contributions; overall good neighbor; reliability; willingness to take on tasks; and, other service to the community.

Friday night, ten deserving individuals will be recognized as 2001 Bea Christy Award Nominees. I salute the following nominees for their outstanding service to their communities and neighborhoods: Dr. Calvin C. Anderson, Northwest Neighborhood Alliance; Chris Bobier, Potter/Walsh Neighborhood Association; Linda Hartman, River Forest Neighborhood Association; Chad Hutchison, Downtown Neighborhood Association; Denise Kelley, Association for the Bingham Community; Rick Kibbey, Eastside Neighborhood Organization; Antonia Miernik, Genesee Neighborhood Association; Kathy Rogers, Old Forest Neighborhood Association; Leonard Earl Salisbury, Hosmer Neighborhood Organization; and Jane Sawyers, Neighbors United in Action.

INTRODUCTION OF THE HOUSING PRESERVATION MATCHING GRANT ACT OF 2001

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. NADLER. Mr. Speaker, today I am introducing the Housing Preservation Matching Grant Act of 2001 previously championed by our esteemed colleague, the late Representative Bruce Vento.

With the recent rise in real estate prices, many owners of HUD-assisted and insured projects are finding it more lucrative to repay their mortgages and operate their buildings in the private market. The tendency to opt-out of Section 8 contracts is placing hundreds of thousands of affordable housing units at risk. According to the National Housing Trust, there are over half a million Section 8 apartments in all 50 states that are below market and in danger of losing affordability. We simply cannot allow this vital housing stock to evaporate.

The Housing Preservation Matching Grant Act would provide assistance to states for operating costs, capital expenditures, debt restructuring, and acquisition of projects with HUD-insured mortgages, Section 8 contracts, and resident ownership. This project-based assistance is a necessary complement to tenant-based approaches by preserving the units that accept vouchers, and ensuring that low-income families have a safe and affordable place to live. Federal matching grants would also give states a much needed incentive to either continue or create innovative programs to preserve their housing resources.

Before we can create new affordable housing we must preserve the resources we already have, and stop the rising tide of low-income rents to the private market. This legislation achieves both these goals, and hopefully will entice states to appropriate more money for public housing programs knowing that the federal government will provide a substantial share of the cost. By setting up a mechanism for federal and state partnership, this legislation fosters cooperation and coordination between all those responsible for administering and maintaining housing programs.

Mr. Speaker, the Housing Preservation Matching Grant Act of 2001 is an important part of any broader strategy to save affordable housing, and I ask all my colleagues to support it.

THE ANNIVERSARY OF THE FOUR CHAPLAINS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. GILMAN. Mr. Speaker, this month is the 57th anniversary of one of the most heart touching incidents of World War II, the coverage of the four chaplains.

We are fortunate in that we are living in an era when the sacrifices of what is now called "The Greatest Generation" are finally being fully appreciated. The release of recent films and books, the groundbreaking last Veterans Day for the official World War Two Memorial, and other historic events, are underscoring for younger generations the magnitude of the commitment of all the American people to their task at hand in World War Two.

However, of the countless incidents of heroism during that conflict, none have the emotional impact or the relevance to today's society as the story of the four chaplains.

It is now 57 years since that fateful night of February 3, 1943, when four brave chaplains—George I. Fox and Clark V. Poling, Protestant ministers; Alexander D. Goode, a Rabbi; and John P. Washington, a Roman Catholic Priest—laid down their lives abroad the U.S.S. *Dorchester* so that others might live on.

The *Dorchester*, carrying 902 servicemen, merchant seamen, and civilian workers, was traveling across the North Atlantic, towards a U.S. Army base on the coast of Greenland, when it was attacked by a German U-boat. The German submarine fired a series of torpedoes toward the *Dorchester*, which struck the transport ship well below the water line, and injuring her beyond repair.

As water began to flood in through the ship's battered hull, chaos set in aboard the *Dorchester*, and it was into the ensuing scene of utter hopelessness and despair that the Chaplains' legacy was woven.

When it was discovered that the supply of life jackets aboard the *Dorchester* was insufficient, the Chaplains—without hesitation—removed their own, and offered them to four frightened young men.

The Chaplains then stayed with those injured by the initial blast as the ship slanted towards the icy water, and were last seen clutching hands together, offering prayers for those around them.

The qualities which the Chaplains embodied—self sacrifice, unity, faith, and respect for each other's creeds—are the qualities upon which our nation rests, and which, at the dawn of the new millennium, are relevant for us today more than ever. It is for this reason that the Four Chaplains deserve our respect and our honor as true American heroes.

As we pay homage to the Four Chaplains today and throughout this month, let us reflect for a moment upon the attributes which defined their actions, and forget not those four heroic men. The uniquely American brand of heroism which they represented and the countless other men and women who gave their lives in the name of our country must not be forgotten.

Nathaniel Hawthorne once wrote: "A hero cannot be a hero unless in a heroic world." Accordingly, it is fitting to note that the Four Chaplain's sacrifice came in the midst of a conflict which called upon all Americans to make sacrifices in order to guarantee the preservation of our way of life and to eradicate tyranny from the world.

In my Congressional District, many veterans and patriotic organizations paid tribute to the Four Chaplains this month with appropriate ceremonies.

Mr. Speaker I invite our colleagues to join in commemorating these courageous remarkable American heroes . . . The *Dorchester*'s Four Chaplains.

GLOBAL GAG RULE

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. UDALL of Colorado. Mr. Speaker, on his second day in office—also the 28th anniversary of Roe v. Wade—President Bush acted to reimpose the "global gag rule," a policy begun in the Reagan years to restrict international family planning assistance. I am seriously concerned about what this step will mean for the more than 150 million women worldwide who currently want access to family planning resources. I am concerned as well that President Bush's action might be only the first step in a longer-term effort to chip away at women's reproductive rights.

Not only would the reimposition of the "global gag rule," keep women's rights advocates around the world from working to prevent the suffering that results from unsafe abortions, but such restrictions would also prohibit international family planning organizations from spending their own, non-U.S.-funds to provide legal abortion services or to advocate for changes in abortion laws in their own countries.

In explaining this step, President Bush stated that he did not want taxpayer dollars to be spent to perform or promote abortions overseas. This is a misrepresentation of the nature of international family planning funding. Currently, no U.S. funds are spent to perform or promote abortions overseas, nor can they be under current U.S. law.

President Bush also stated that he hoped the reimposition of restrictions would help make abortions more rare. But when the policy was previously in effect, it didn't achieve this stated goal. Instead, according to the Center for Reproductive Law and Politics, it reduced access to health care and caused more unintended pregnancies and more abortions.

Anti-abortion activists remain adamantly opposed to using U.S. aid for international family planning programs. Yet as the Denver Post points out, an investment in these programs is important "not only to save women from horrible deaths, but also to quell the population explosion in impoverished nations. . . . Using tax dollars to prevent unwanted pregnancies is far more cost-effective than spending huge sums to feed starving populations who remain unenlightened about family planning."

Mr. Speaker, I agree, and for the benefit of our colleagues, I am submitting for inclusion in the RECORD the full editorial from the Denver Post, another editorial from the Boulder Daily Camera, and a letter to the Denver Post in opposition to the "global gag rule" written by former Colorado first lady Dottie Lamm, who also served as a delegate to the UN Conference of Population and Development in 1994.

[From the Denver Post, Jan. 24, 2001]

GLOBAL GAG RULE BACKFIRES

Nobody likes abortions—not the women who have them nor the activists who believe in a woman's right to choose.

Yet the most adamant anti-abortion activists were rejoicing Monday when President

Bush instituted a ban that likely will spur even more abortions in Third World countries.

Bush banned federal aid from international organizations that perform or "actively promote" abortion as a family planning method.

Yet those are the same groups that promote birth control so women can avoid abortions. And because illegal abortions are rampant in Third World countries, those organizations cannot eliminate abortion discussions from their services.

Such groups must be able to counsel women who are seeking illegal abortions. Without such counsel, many women die during illegal abortions—and many don't learn about family planning methods that can make abortion unnecessary.

The only way to stem the high rate of abortions in such countries is to make family planning readily available. But when the U.S. strips money from family planning groups, it also strips hope that Third World women will have access to birth control.

So Bush's action, while oddly satisfying to anti-abortion forces, ironically guarantees that abortions will continue to increase.

Opponents denounced it as an "international gag rule" on discussion of abortions, a move that would be unconstitutional if imposed in the United States.

Yet some anti-abortion activists even question why the U.S. should provide any family planning to foreign countries. "I'm not sure it's an effective use of our tax dollars . . ." said Chuck Gosnell, president of the Colorado Christian Coalition.

The Post, however, has historically upheld the need to support worldwide family planning—not only to save women from horrible deaths, but also to quell the population explosion in impoverished nations.

Using tax dollars to prevent unwanted pregnancies is far more cost-effective than spending huge sums to feed starving populations who remain unenlightened about family planning.

We deeply regret Bush's action Monday, and we urge the administration to reconsider the ultimate effects of such a ban.

[From the Daily Camera, Jan. 25, 2001]

Bush the Divider

During his campaign, President George W. Bush sought to keep the hot-button issue of abortion off the radar screens of both the media and the voters.

When pressed, he pointed to his long, strong anti-abortion record. But often he tempered that message by saying "good people can disagree" on the issue—as well he might, given his wife Laura's recent remarks in favor of keeping abortion legal, and his mother's similar sentiments. He also suggested he might be a moderate on the issue when he said repeatedly that many hearts and minds would have to be changed before the nation was ready to overturn Roe v. Wade, the 1973 Supreme Court decision that made access to abortion a constitutional right.

Following the disputed election—in which pro-choice Al Gore won the popular vote by more than a half million votes—many abortion-rights supporters hoped that Bush's lack of a mandate would keep his anti-abortion instincts in check.

Some of those same optimists even crossed their fingers and hoped that John Ashcroft, Bush's profoundly anti-abortion nominee for Attorney General, was telling the truth when he said his personal views would not affect his enforcement of abortion-related laws, from clinic access to Roe v. Wade itself. Ashcroft went so far as to declare that he considers the landmark case "the settled law of the land."

Such hopes surely were dashed Monday—Bush's second full day in office—when he marked the 28th anniversary of Roe v. Wade by reinstating the "global gag rule," which prevents overseas family planning organizations that receive U.S. aid from even discussing abortion or lobbying for legalized abortion in their countries.

Using U.S. funds to pay for actual abortions, or even to promote abortion, already is prohibited under the annually-renewed Helms Amendment, adopted in 1973. This "gag rule" was tied on by President Reagan in 1984 and maintained by President George H.W. Bush. It was overturned in the opening days of President Clinton's first term.

Bush's reinstatement is mostly a symbolic bone thrown to his anti-abortion supporters, since statistics show the gag rule hasn't reduced abortions in the past. But forcing family planning agencies to choose between desperately-needed dollars and providing full and accurate information means that many women will go without any care at all.

Bush also took pains to issue encouraging words (albeit through a proxy) to an anti-abortion protest in the capital Monday: ". . . you are gathered to remind our country that one of those ideals is the infinite value of every life."

And, to complete a Monday trifecta, Bush's chief of staff Andrew Card told reporters that the new administration is "reviewing" the recent Food and Drug Administration approval of the abortion pill, RU-486.

And so, despite recent public opinion polls that show about 60 percent of Americans believe abortion should be legal in all or most cases, despite hopeful predictions that he would hew to a moderate line in the wake of his tenuous election victory, Bush the self-declared "uniter" has thrown down the abortion gauntlet from the outset.

Some political analysts have suggested he may be trying to fatten his supporters on the socially-conservative right with treats right now so they'll still be sated later on in the banquet, when the time comes to reach compromise with hungry Democrats.

That may be. But surely Bush could have chosen a less contentious issue to mollify his conservative base. By rushing in to demonstrate his allegiance to those who would impose their beliefs on the nation and ban abortion, he has demonstrated in his first week that he missed some important lessons of his sketchy victory.

[From the Denver Post, Jan. 24, 2001]

GAG RULE DECRIED

Re: "Abortion opponents jubilant," Jan. 23 news story.

President Bush's re-instatement of the gag rule on international family planning aid is the worst example of "compassionate conservatism" possible.

As Sylvia Clark, a life-long Republican and president and CEO of Planned Parenthood of the Rocky Mountains, said Monday:

"In short, the U.S. government will be telling the desperately poor women of the developing world, 'Don't you dare ask about abortion options, because if you do, you will lose access to the family planning that could prevent you from ever needing an abortion in the first place.'"

Some history here: From 1984–1993 Ronald Reagan's "Mexico City Policy" prohibited recipients of international family planning assistance from providing abortion services or offering medical advice to women dealing with an unintended pregnancy.

President Clinton rescinded that policy in early 1993.

Right now, nearly two out of every five pregnancies worldwide are still unintended. Early and frequent pregnancy contributes significantly to the deaths of infants, children and women in developing countries, where a woman dies literally every minute in childbirth or because of complications of pregnancy.

But, when contraceptive prevalence rates rise, rates of unintended pregnancies, maternal deaths and abortion go down.

Restrictions on international family planning assistance will do nothing to stop abortion. In fact they will increase the number of times desperate women turn to abortion as a means to control family size.

Instead of reinstating the gag rule, Bush should have made good on his original promise stated to The New York Times "to find common ground and reduce the number of abortions that happen."

Yet, President Bush's gag rule policies will promote exactly the opposite. It will increase the number of abortions that happen. For shame, Mr. President!

DOTTIE LAMM,
Denver.

ARIEL SHARON'S COMMENT

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Ms. MCKINNEY. Mr. Speaker, how dare Ariel Sharon comment about Condolezza Rice's legs. I wonder what his legs look like. And let me go on to say how "unsexy" some people might think he looks. But they don't say it out loud! Probably they would be too busy thinking about that and unable to keep their mind on their work.

Why would he say such a thing out loud?

But does that have anything to do with his effectiveness as an Israeli leader? No.

Neither his legs nor his sexiness has anything to do with whether he will stand for peace, make war, or whether he is competent to do the job for which he has been chosen.

Likewise, Dr. Rice's looks have nothing to do with her effectiveness as a leader or as National Security Advisor to President Bush.

The press seems to think this episode is cute.

But it's an insult for all the women out there who go to school, study hard, then work long hours to break the glass ceiling. The last thing we need is for some boorish man who can control neither his libido nor his tongue to come on publicly to women he finds attractive.

I think Mr. Sharon owes all women, especially working women, an apology.

TRIBUTE TO THE LATE SENATOR ALAN CRANSTON

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. BACA. Mr. Speaker, I would like to express my sympathies to the family of the late

Senator Alan Cranston. Senator Cranston passed away on New Year's Eve, 2000.

Born in California, Senator Cranston honored our Golden State for many years with his service to community and country, serving for eight years as State Controller of California, and in the United States Senate for twenty-four years.

Senator Cranston will be remembered for his fight for human rights in the world. He will be remembered for his mastery of the issues, his hard work, plain spoken manner, and humility.

He fought against fascism and Nazism, alerting people to the threat of Hitler, by exposing the virulent nature of Hitler's writings. This act of courage helped to show the world the importance of fighting this menace to freedom and democracy. Many years later he fought with the same level of conviction against apartheid in South Africa, helping to end that unjust system through economic sanctions by the United States.

He fought to protect federal employees against job discrimination, worked for opportunities for women in the workforce, and strove to end discrimination against pregnant employees.

He championed legislation to expand the family planning program, and he helped lead the fight for the proposed equal rights amendment.

Senator Cranston was always eloquent, honorable, tenacious in his causes, respected even by those who did not share his position on the issues. He was gentlemen in the best sense of the word, a scholar, a thinker, a doer, and a leader. He will be missed.

IN RECOGNITION OF SENATOR ALAN CRANSTON

HON. ADAM SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SCHIFF. Mr. Speaker, I rise today in celebration of the life of the late Senator Alan Cranston. Growing up in California, I developed a strong admiration for the life and work of this great leader. As a young man living in Northern California and attending Stanford University, I came to view Senator Cranston as a model for our time and an inspiration to young people everywhere. He served a legendary four terms in the United States Senate and made history by being the only U.S. Senator ever to have been elected his Party's Whip seven times. His vibrant intellect, persuasive skill, and even-handed approach were recognized by leaders here and abroad, and Senator Cranston came to be seen as guiding hand in shaping many of the important legislative measures that came up for consideration during his 24 years on Capitol Hill. His devotion to the causes he cared about and his expertise on both domestic policy and international relations made him one of the most talented and well-respected public servants of this century.

The people of California will be forever grateful for the many accomplishments of Senator Alan Cranston. He was a tireless advocate for his constituents, while always being mindful of the needs of the entire nation. His efforts to provide affordable housing, protect our environment, secure a woman's right to choose, and advocate for the disabled paved the way for groundbreaking legislation that transformed domestic policy in the United States. But what Senator Cranston is best known for is his lifelong commitment to world peace and his conscientious objection to nuclear weapons. He played a pivotal role in developing arms reduction and nuclear arms control treaties and traveled the world, building relationships with foreign leaders and promoting peace. Senator Cranston will always be remembered for his many contributions to the global community, and I am proud to rise today in celebration of his life of service to the State of California, this nation, and our world.

WELL WISHES TO HON. BUD SHUSTER ON HIS DEPARTURE FROM HOUSE OF REPRESENTATIVES

SPEECH OF

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 2001

Mr. COYNE. Mr. Speaker, I want to pay tribute to one of our colleagues, Congressman BUD SHUSTER who is retiring this year after 28 years of service in the House of Representatives.

BUD SHUSTER has served his constituents well in his time in Congress. He has worked hard to improve the economic health of Pennsylvania's 9th Congressional District, and he has been successful in securing federal infrastructure funding for Pennsylvania's 9th District, which is located in the rugged terrain of the Allegheny Mountains. He has also honestly and accurately reflected his constituents' views in his many votes in the House of Representatives.

Congressman SHUSTER has also worked tirelessly and in a bipartisan fashion as a leader of Pennsylvania's Congressional delegation to address problems facing the Commonwealth. The collegiality that has marked the Pennsylvania delegation's cooperative efforts has stood out as a refreshing contrast to the bitter partisanship that has often divided the House in recent years, and BUD SHUSTER, as one of the senior members of the delegation, has had a significant role in setting and maintaining that tone. I have always appreciated the courtesy and attention that he has displayed to his delegation colleagues—which, I want to emphasize, took no notice of party affiliation.

Congressman SHUSTER's most important legacy will undoubtedly be the leadership that he provided on the House Committee on Transportation and Infrastructure. Congressman SHUSTER has long recognized the importance of government-provided infrastructure in promoting economic growth in this country. He has led a highly successful fight to provide greater resources for investments in our nation's highways, bridges, mass transit, and aviation system. He was actively involved with Chairman Robert Roe in crafting the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, which increased federal funding for surface transportation infrastructure. As chairman of the Transportation and Infrastructure Committee, Congressman SHUSTER was the driving force behind the Transportation Efficiency Act for the 21st Century (TEA 21) and the Aviation Investment and Reform Act for the 21st Century (AIR 21). America will benefit from Congressman SHUSTER's legislative initiatives for decades to come.

I want to wish Congressman SHUSTER well on the occasion of his retirement.

TRIBUTE TO LATE SENATOR ALAN CRANSTON

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. FARR of California. Mr. Speaker, today I am proud to pay tribute to one of California's finest and most respected Senators, the late Alan Cranston.

Alan Cranston was born in Palo Alto, California, on June 19, 1914. He studied at the University of Mexico and then continued at Stanford University. While he began his professional career as a news correspondent, the international events of that time led him to join the United States Army. At the conclusion of the Second World War, he left the Army to become President of the United World Federalists. This, along with his founding of the California Democratic Council, propelled him into the political spotlight. Other positions he held during his tenure at the Senate include Chairman of the Committee on Veteran Affairs, Chairman of the Gorbachev Foundation, President of the United States: Kyrgyz Business Council, and Senior International Advisor for Schooner Capitol Corporation.

Those who know him and worked with him remember his modesty and true commitment towards making the world a safer one. Senator Cranston was honored with numerous awards for outstanding achievements in the field of world security, and for his efforts towards global peace. During his 24-year Senate career, Senator Cranston had a hand in developing and promoting some of the most influential legislative measures considered by Congress. His efforts to end the Vietnam War and to improve relations with the Soviet Union go unmatched. In addition, he helped shape the Senate opinion of the SALT II and START treaties.

After leaving public office, Alan Cranston continued his fight to abolish nuclear weapons. He founded and acted as President of the Global Security Institute, enabling citizens to express their concerns about security issues. His expertise was frequently sought in treaty negotiation and nuclear arms control, and he published many works on these issues.

Mr. Speaker, Alan Cranston did not seek attention for himself nor demanded honor, but he deserved it. He honored all living beings by serving to promote peace and prevent destruction. Please join me in remembering the respectable and truly remarkable man, Sen.

Alan Cranston. I end with a quote that Senator Cranston carried in his wallet for years:

> A leader is best when people barely know he exists, less good when they obey and acclaim him, worse when they fear and despise him. Fail to honor people and they fail to honor you. But of a good leader, when his work is done, his aim fulfilled, they will all say, "We did this ourselves."

CELEBRATING THE LIFE OF SENATOR ALAN CRANSTON

HON. MIKE HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. HONDA. Mr. Speaker, today I honor the life of a great American, Senator Alan Cranston. While Senator Cranston left the Congress 8 years ago, after four terms in the Senate, his legacy remains as strong as ever because of the depth of his convictions and the significance of his accomplishments.

Senator Cranston was one of only two California senators to be elected to the Senate four times and he served 14 years as the Democratic Whip. His accomplishments bear great weight. During his service in the United States Senate, Alan Cranston had a hand in many major pieces of legislation. He was deeply involved with arms reduction and nuclear arms control and led the debate on SALT II and START treaties, worked on ratification of the Panama Canal treaty, helped to expand trade for California technological and agricultural products, and reduced military spending.

Senator Cranston also fought tirelessly to build affordable, adequate housing for our families and to protect our national environment for present and future generations. The Cranston-Gonzales National Affordable Housing Act of 1990, was a major housing bill he helped pass. He also authored legislation that created three major national parks and expanded two others, seven park wilderness areas and 51 forest areas and he was the original author of the California Desert Protection Act.

Senator Cranston's record of accomplishment in public service spanned 10 Presidents and 6 decades, and his thoughtful approach to making policy impacted the everyday lives of many Americans. He helped formulate legislation to get more highway money available for mass transit, which reduced our dependence on oil and helped to reduce air pollution and traffic congestion. A champion of civil liberty and individual rights, Senator Cranston authored the freedom of choice bill that enacted Roe vs. Wade into law and created and fought for a "Bill of Rights" for the disabled.

Senator Cranston's dedication to public service has inspired generations of Californians and Americans to get involved in public service. His integrity and dedication influenced my commitment to fight for social justice and my decision to run for public office. Senator Cranston's life ended on the night of December 31st 2000—at the conclusion of the 20th century. While tragic, this is truly fitting, as it is due in no small part to the work of Alan Cranston that 20th century will always be known as the American Century.

A TRIBUTE TO ALAN CRANSTON

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. FILNER. Mr. Speaker, today I pay tribute to Alan Cranston, a man who walked among us as world leader, candidate for President, Senator, public servant, businessman, writer, reporter, public speaker, athlete, and artist—a true Renaissance man. He had a passion for civil rights, freedom of the press, nuclear disarmament and environmental causes. He worked selflessly to try to make the planet a better place for us all.

I was honored to know Senator Cranston personally and fortunate to benefit from his advice when I was first elected to Congress.

We celebrate today his noteworthy efforts on the international level for world peace, especially helping to end the Vietnam War and to improve our relations with the Soviet Union. He was a leader in Senate consideration of the SALT I and SALT II treaties, Middle East peace, and reduced military spending. In 1996, he entered private-sector work on nuclear disarmament, as Chairman of the Gorbachev/USA Foundation and later founding the Global Security Institute, both San Francisco-based think tanks.

Senator Cranston authored bills to create three major national parks and to expand two others, seven park wilderness areas and 51 forest areas. He was the original author of the California Desert Protection Act, finally enacted in 1993.

He was the second-longest serving U.S. Senator from California—and was Democratic whip seven times and Chairman of the Veterans' Affairs Committee.

His work in the Senate included not only the international peace and environmental efforts already mentioned, but he was in the forefront in the fight for affordable housing, mass transit to combat air pollution and traffic congestion, reducing our dependence on foreign oil, choice and women's rights, veterans' rights and medical care, education, civil rights and civil liberties, immigration reform, and the prevention of drug abuse and crime.

He was a Stanford University graduate, an early San Francisco home builder, a foreign correspondent for International News Service (now part of the United Press International), and an author of "The Killing of the Peace" which the New York Times rated one of the 10 best books of 1945. This book was written about the Senate's decision in 1919 to keep the United States out of the League of Nations, in an effort to help the United Nations avoid a similar fate.

He was also athletically gifted. He was a world-class quarter-miler in the mid-1930s and resumed his sprinting at the age of 55. In 1984, as one of eight Democrats running for President, he could be found sprinting barefoot through the hotel hallways.

He credited his participation in track with teaching him the need to focus. He said he could have been in the Olympic Games in 1936 and was good enough but didn't quite make it because he did not concentrate enough. That taught him a lesson that stayed with him throughout his life: success requires discipline and focus.

His artistic bent was evident by the three of his oils that hung in his Senate office.

When praising someone of such wide and varied interests and talents, the tributes often end up listing accomplishment after accomplishment. And, as impressive as that may be, such tributes often miss the soul of the man. The life of Alan Cranston presents us with these goals. To put the good of country and of the people of our nation first. To work tirelessly for the causes we believe are important. To understand that, working together, we really can change the world! We will miss him deeply, but we pledge to remember his dedication and to carry on his work.

IN MEMORY OF SENATOR ALAN CRANSTON

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Ms. WOOLSEY. Mr. Speaker, earlier today several of my colleagues gathered in the Senate to pay tribute and celebrate the life of former Senator Alan Cranston. Like my colleagues, I marvel at the passion and commitment Senator Cranston brought to the issues he cared about during his 86 years.

Senator Cranston's wide-ranging life experiences gave him an incredible insight on some of the most important events in the 20th century. We are fortunate that he shared his experiences and perspective with us as a journalist and an author, most notably with his 1946 book, Killing the Peace, which was an account of the Senate's failure to join the League of Nations. The Senator's distinguished career also included time as president of the World Federalists, comptroller of California, and as a leading figure in reforming the California Democratic party. His contributions will always be remembered in these fields by those who worked with him and benefitted from his work.

However, I am most thankful for his commitment and leadership on issues of peace and nuclear disarmament. As many of my colleagues know, Senator Cranston and I share a common perspective and commitment to these issues. His leadership on disarmament and the abolition of nuclear weapons is truly admirable. After leaving the Senate in 1993, Senator Cranston continued his push for nuclear arms reductions. He launched a much-needed effort at the 1995 State of the World Forum to abolish nuclear weapons worldwide through educating U.S. citizens and world leaders. Senator Cranston took his message and crusade far and wide, including to former Soviet Union President Mikhail Gorbachev. Locally, my congressional district—home to many caring and dedicated peace and environmental groups—was fortunate enough 2 years ago to have Senator Cranston join us for an event highlighting the need to abolish nuclear weapons. Once again, he reminded us all that while nuclear weapons will not be eliminated overnight, the United States must be a leader and take the first steps toward elimination of these weapons. As the founder of the Global Security Institute, he was able to forge ahead with this dream of abolishing nuclear weapons.

With his passing, the peace and nuclear disarmament community certainly lost a true friend and leading voice. On behalf of the thousands of citizen groups that will continue to campaign for the elimination of nuclear weapons, I thank him for his ground breaking work in this arena. And, everyone should know, we will continue in this shared quest to make the world safe from the dangers of nuclear weapons.

TRIBUTE TO LATE SENATOR ALAN CRANSTON

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. DREIER. Mr. Speaker, I wish today to join my colleagues in paying my respects to one of California's longtime, dedicated public servants, the late Senator Alan Cranston, who passed away last New Year's Eve.

Alan Cranston's career of public service spanned almost half of the 20th century. He was first elected State controller of California in 1958, and was sent to the Senate by California voters in 1968. He served there through 1993. Throughout his career, Cranston dedicated himself to a range of important causes—seeking to strengthen federal environmental laws, to expand assistance to the disadvantaged in society and to bolster civil rights. His commitment to arms control led him to work closely with President Reagan for the Intermediate Range Nuclear Force Treaty, even though the two agreed on little else. Senator Cranston was also respected for his advocacy of the interests of his State—for farmers, film makers, aerospace companies, financial institutions and independent oil producers.

Throughout his career and throughout his life, Alan Cranston distinguished himself with his hard work, his tenacity and his self-discipline. He was an Olympic-class runner who kept himself in shape through the end of his life. He took the time to make himself an expert in whatever issue he was working on. Whether it was arms control, housing, or the views and concerns of his Senate colleagues, Alan Cranston took the time to master the subject. It was this discipline that made him an extremely effective party-builder, coalition builder, advocate and legislator. That dedication and that commitment deserve our respect.

DEATH OF FORMER MAYOR JOHN V. LINDSAY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. OWENS. Mr. Speaker, throughout the neighborhoods of New York, millions mourn the death of former Mayor John Lindsay. He is still remembered as the great patron of community empowerment who provided the opportunity for the people on the bottom to enter the mainstream of New York politics as well as civil service and government employment.

John Lindsay was a highly visible and articulate idealist and advocate for greater inclusion of minorities in the American dream. Although his direct impact on policy and practice never moved beyond New York City, he belongs in the category with Robert and John Kennedy and Franklin Roosevelt.

Assuming great political risks, Lindsay was one of the few leaders in the nation who seriously adopted Lyndon Johnson's "Maximum feasible participation of the poor" policy. His administration made a Herculean effort to institutionalize power-sharing down to the local level. Instead of siphoning off dollars and resources from federal programs like the Community Action Program and the Model Cities initiative, Lindsay added city support and thus increased his own tax and budget burdens.

With ignorance and incompetence, the people on the bottom sometimes betrayed their mayoral advocate; however, it was the lack of vision and the resistance within the ranks of the city's organized machine Democrats which blocked the realization of a new progressive base for the governing of New York City. Unfortunately, Lindsay never sought to build a movement or even his own partisan machine. But as a solo force, a lone Achilles of New York politics, he left a lasting legacy of new leadership within the poor and minority communities.

After serving as a commissioner appointed by John Lindsay, I was elected to the New York State Senate in 1974. When I entered the legislature for the first time, I noted that every minority member of the legislature had previously been in some way supported by the Community Action Program or the Model Cities Program, both empowerment vehicles sponsored by John V. Lindsay.

New York City mourns a great visionary leader and champion of the poor and powerless.

THE LINDSAY TRUMPET STILL SOUNDS

For the Great John Lindsay
The grave is not a period,
But a colon:
The good comes
Flowing endlessly afterwards
In offspring never seen,
Achievements never footnoted.
John Lindsay's trumpet sounds
In the heads
Of unknown urban soldiers;
The posterity of the powerless
Now hear the beat of new drums;
The smothering of grassroots fervor
Is now a gasping scheme;
Heroes from the neighborhoods
May still match the Lindsay dream.
A Socrates for empowerment,
He spawned Platos and Aristotles;
Somewhere his Alexanders
Are mobilizing new young armies.
For the Great John Lindsay
The grave is not a decaying period
But a bright blossoming colon:
The movement is not yet murdered,
Its fervor only temporarily stolen;
The rivers of righteous anger
Again are fully swollen.
Alive nailed to an unjust cross
Big John bled away alone;
With resurrections of his disciplines
New Lindsay miracles of the City
Can still be carved in stone.

IN MEMORY OF MILTON ROEMER—ONE OF THE WORLD'S LEADING PUBLIC HEALTH ADVOCATES AND HEALTH POLICY THINKERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. STARK. Mr. Speaker, one of the world's most thoughtful health policy experts and advocates, Dr. Milton L. Roemer has passed away. His brillance and insights will be sorely missed by all those who were his students and who had the privilege of working with him.

Few of 'us in Congress ever get a law named after us, and even fewer people throughout the world get a law of nature or science named after themselves—but Roemer's law is a law that all of us in health policy and finance must live and deal with daily. In popular language, Roemer's law is "build it and they will come"—which he postulated way before the movie was ever dreamed of. In health policy, it means that in an insured population, if you add beds to a health care facility, they will get filled. In medicine and health care, supply can drive demand. The implications for health policy, costs, and financing are key to many of the problems we face and will be facing in the decades to come.

Roemer's law is just one of the innumerable contributions he gave the world. Since earning his medical degree 60 years ago, he worked on public health problems in 71 nations, published as sole author 20 books[!!], co-authored 12 other books, and 430 articles. The doctor was obviously possessed of energy and talent almost beyond imagination.

Dr. Roemer earned the MD degree from New York University in 1940, along with a masters' degree in sociology from Cornell University in 1939, and a public health degree from the University of Michigan in 1943.

As a medical officer of the New Jersey State Health Department, he supervised 92 venereal disease clinics, as they were called in 1943. During World War II as a member of the commissioned corps of the US Public Health Service, he served as Assistant to the Chief Medical Officer of the War Food Administration and Associate in Medical Care Administration to the Chief of the State Relations Division. His 1948 book, written with F.D. Mott Rural Health and Medical Care was the first to analyze systematically rural health care needs and services in the United States.

As county health officer of Monoghela County, West Virginia, he introduced public health innovations, including pioneering a cancer detection clinic, for this mining community, against the objections of organized medicine. Dr. Roemer explained to the doctors that this screening clinic would provide more patients for them to treat. This experience led him later to establish a prize for a creative, local public health leader who had overcome opposition to advances in public health. He early called for the integration of public health and medical care and launched the Medical Care Section of the American Public Health Association.

Dr. Roemer's international work began in 1951 when he served as chief of the Social and Occupational Health Section of the newly formed World Health Organization (WHO) in Geneva, Switzerland. In 1953, in the midst of the McCarthy hysteria, he was forced to leave Switzerland and his work as an international civil servant, when the US government withdrew approval of his appointment at WHO.

In 1953 the Province of Saskatchewan, Canada, had just introduced hospital insurance for its people in this prairie province and was on the verge of extending it to include insurance for doctors' care Dr. Roemer was appointed Director of Medical and Hospital Services of the Saskatchewan Department of Public Health, North America's first social insurance program for hospital care.

After teaching at Yale and Cornell Universities, in 1962, Dr. Roemer came to the UCLA School of Public Health, where he taught health administration for 38 years and served as chairman of the Department of Health Services for eight years. The capstone of Dr. Roemer's many publications was his 2-volume work, National Health Systems of the World, a monumental, comparative analysis of national health systems of countries of the world set within a logical and coherent framework.

At UCLA, Dr. Roemer's research encouraged the development of not for profit HMOs, promoted the use of ambulatory care, and documented the need for a national health insurance covering the total population. He advocated the development of doctoral training in health administration to prepare students for leadership in public health practice and established an endowed fellowship to support students in this program.

The American Public Health Association awarded Dr. Roemer its International Award for Excellence in Promoting and Protecting the Health of People in 1977. In 1983, APHA awarded him its highest honor—the Sedgwick Memorial Medal for Distinguished Service in Public Health. In 1992, the Centers for Disease Control gave Dr. Roemer its Joseph W. Mountain Award. In 1997, he was given the Lifetime Achievement Award of the APHA International Health Section and the Distinguished Career Award of the Association for Health Services Research.

Dr. Roemer is survived by his wife of 61 years, Ruth Roemer, his son, John E. Roemer, of New York City, his daughter, Beth Roemer Lewis, of Berkeley, California; and six grandchildren.

A memorial service will be held at UCLA in the spring. Contributions in Milton Roemer's memory may be made to the American Public Health Association, Washington, DC, the Department of Health Services, UCLA School of Public Health, or Physicians for Social Responsibility.

To repeat, America and the world have lost a wonderful teacher who truly had a sense of the whole and of the oneness of mankind—and that a just and honorable society should join in helping ensure that no member of that society goes without health care.

TRIBUTE TO THE LATE R.P. "BOB" STRINGER

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. PICKERING. Mr. Speaker, I rise today to honor the life of my friend and constituent R.P. "Bob" Stringer who passed away on January 15, 2001, at Scott Regional Hospital in Morton, Mississippi. Bob, as he was affectionately called by his close friends and colleagues, was preceded in death by his wife, Mrs. Mary Cooper Stringer, who died on the same date as Bob, two years ago.

Bob was a native of Noxubee County and lived in Forest, Mississippi, since 1960. He was a World War II veteran and was actively involved in veterans activities that enhanced and promoted esprit de corps among veteran organizations at the local, county, state, and national level. He was a member of the Forest Presbyterian Church, the Veterans of Foreign Wars (VFW) and the American Legion. He served as past county and district president of the Mississippi State University Alumni Association. He was also a past post commander of the VFW. As if this was not enough to keep him busy, he was a board member of the MF&G Association and served on the Forest Board of Aldermen for sixteen years.

My predecessor, former Congressman G.V. "Sonny" Montgomery, was a very close friend of Bob's and has been quoted as saying that "Bob Stringer was really an All-American. He loved his family and country very much. He served in the Marine Corp at Iwo Jima and after the War he was very active in the VFW and the American Legion. He was proud of his community and served both the City of Forest and Scott County in a commendable manner. I have lost one of my closest friends."

Bob is survived by daughters, Anne Stringer Land and Jean Stringer Ellis; sons, Robert P. Stringer, Jr., and John Walter Stringer; their husbands and wives, thirteen grandchildren, one great grandchild, and one brother, John.

Bob was the originator of the G.V. "Sonny" Montgomery Annual Hunters Stew held in Forest and personally hosted it, along with members of the American Legion and VFW, for more than twenty-four years. He even continued this tradition after Congressman Montgomery stepped down from office in 1996 because he knew how much the community loved and respected "Sonny."

The legacy that I am sure Bob would want us to remember him by is his love for the Lord, his family, his friends, his country, his state, and by all means his love for the City of Forest and Scott County. Thus, it is an honor for me to express my appreciation, and that of all the citizens of the Third Congressional District, for his life of service and contributions to the betterment of our world.

HONORING A LIFELONG COMMITMENT TO LAW ENFORCEMENT

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. BLUNT. Mr. Speaker, I rise today to commend a law enforcement leader in Southwest Missouri.

John T. Pierpont has always had law enforcement blood running through his veins. John's personal experience with law enforcement began early in life; his father was Sheriff of Greene County. During the last two decades of the 20th century, the Sheriff of Greene County in Missouri was again a Pierpont, this time John.

John Pierpont started his law enforcement career as the U.S. Marshall for the 66 counties of western Missouri, a job he held for eight years.

In 1981 voters choose him to be sheriff and they re-elected him four more times. During that period, the facilities for law enforcement in Greene County underwent major transformation and the approach to fighting crime got a new more pro-active philosophy. John embraced public participation in crime prevention and quickly had in place a county-wide series of "neighborhood watch" districts. The new sheriff also stepped up regular patrols to curb burglaries, thefts and vandalism. He made citizens partners with sheriff's office in the fight against criminal activity.

Perhaps the most startling change guided by Sheriff Pierpont was in the Greene County jail. The old jail, built more than 40 years ago, housed a hundred inmates in 1981. Pierpont pushed for more facilities and new technology. The last of three major modernizations and additions were underway at the time of his retirement. The new jail will house five hundred inmates in the most secure environment available.

John's leadership has also won him praise among his peers. He was elected President of both the Missouri Sheriff's Association and the National Sheriff's Association.

John has been an active leader at home, in our state and for the nation. You would find him in the field working on major crimes, directing manhunts and making sure that investigators had the tools to be thorough and professional. It's been evident during his time in office that John Pierpont has enjoyed being the Sheriff of Greene County. It is equally evident that John's leadership has provided the citizens of this county a higher level of safety, law enforcement competence and protection for the lives and property of the people he has served during his 20 years as sheriff.

I know that my colleagues from Missouri join me in thanking John Pierpont for his years of making our state a safer place to live and wishing him well as he leaves the Greene County Sheriff's office and opens a new chapter in his life.

IN MEMORY OF JUDGE EARL B. GILLIAM

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. FILNER. Mr. Speaker, I wish today to say a few words in the memory of one of the outstanding jurists of our nation who passed away on January 28, 2001, after a long illness. The Honorable Earl B. Gilliam served on the United States District Court for the Southern District of California, which includes the 50th Congressional District that I represent.

Judge Gilliam was born on August 17, 1931, in Clovis, New Mexico, and spent his early years in Oklahoma City, Oklahoma. As a boy, he moved to San Diego, California with his family where he attended local primary and secondary schools before graduating from San Diego High School and later San Diego State University, with a business degree, in 1953.

Judge Gilliam's many years of distinguished service to the legal community began in 1957 when, having just graduated from Hastings College of Law, he was admitted to the California Bar and appointed Deputy District Attorney for the County of San Diego. In 1961, he started his own general practice, and two years later Judge Gilliam was appointed to the Municipal Court, becoming the first African-American to sit on the San Diego bench. In 1971, Judge Gilliam became the Presiding Judge of the Municipal Court, and in 1975 he was elevated to the Superior Court by California Governor Jerry Brown. Five years later, President Jimmy Carter appointed him to serve on the United States District Court for the Southern District of California.

In his long and distinguished career, Judge Gilliam presided over numerous noteworthy trials of regional and national importance. Whether these cases dealt with drug trafficking, fraud, tax evasion, bribery or civil matters, Judge Gilliam's fair and professional approach to the law laid the foundation for his solid reputation both within and outside the legal community.

In 1969, Western State School of Law in San Diego (presently known as Thomas Jefferson School of Law) recruited Judge Gilliam as an adjunct professor. With a background in business administration, economics, civil and criminal law, and trial practice, Judge Gilliam proved to be an inspirational and devoted instructor for the Contracts, Torts, Criminal Law, Trusts, Community Property and Trial Practice courses.

In civic activities, Judge Gilliam actively promoted the value of education for youth, for women, and for his fellow lawyers. He generously gave time and effort to his community in countless ways. He served on the boards of numerous civic, professional and charitable organizations, including the YMCA, the Urban League, the Salvation Army, Western State University and the University of California at San Diego.

The community in turn, has repeatedly acknowledged his contributions. He was named Young Man of the Year by the San Diego Junior Chamber of Commerce in 1965 and Golden Man of the Year in 1981. In 1982 he was honored twice—he was the recipient of the prestigious Trial Judge of the Year award by the San Diego Trial Lawyer's Association and San Diego's African American Lawyer's Organization honored him by changing its name to the Earl B. Gilliam Bar Association. Judge Gilliam was named Legal Professional of the Year in 1994 by the City Club and Chamber of Commerce and in 1995 he earned the Sharp Hospital Foundation's Eagle Spirit Award and the NAACP's Civil Rights Pioneer Award.

Mr. Speaker, we have lost not only one of our nation's great legal minds but a true friend who contributed so much to so many. He will be truly missed.

IN SUPPORT OF MIFEPRISTONE

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. CAPUANO. Mr. Speaker, I rise today as a pro-choice member of Congress who supports the recent FDA approved use of mifepristone, and I strongly oppose any efforts that would undermine the availability of mifepristone, also known as RU–486, to women who are seeking a safe method to terminate a pregnancy.

I recognize that there is misinformation out there on the use and access of this drug. But, the truth is mifepristone pills must be prescribed by a doctor, and the treatment is done under strict supervision of a medical professional. The first dose is taken at the doctor's office, and the second dose is taken 48 hours later. There are some doctors that allow women to take the second dose at home, but others require a clinic visit. It is also important to note that a woman can only take mifepristone up to 49 or 63 days from the date of her last menstrual period. This restriction is well within the laws of aborting a fetus in the first trimester.

Mifepristone has been laboriously studied and tested by FDA for 8 years. Nearly 10,000 American women have used this drug safely and effectively in clinical trials. Furthermore, Europeans have been using this drug for over 12 years.

Women in this country should have a choice to make decisions about their own fate. Abortion is legal, and women should be entitled to all medically proven safe options available, including mifepristone. Furthermore, I believe that women should be able to choose a less invasive procedure such as mifepristone rather than a surgical abortion.

Attempts to restrict a woman's access to this drug are not done to protect her safety, but rather to influence her choice. By allowing mifepristone to be prescribed by her own doctor, a woman can preserve her anonymity and be comfortable with her choice.

I have advocated for the approval of RU–486 for several years, in my past and current position. I truly believe that all women should have the right to make their own choices, and I hope that they will not be denied any safe and proven methods to make those decisions.

INTRODUCTION OF THE FEDERAL ELECTION STANDARDS ACT OF 2001

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. DELAHUNT. Mr. Speaker, I am pleased to join today with my colleague from South Carolina, Mr. GRAHAM, in introducing the Federal Election Standards Act of 2001.

Now that the dust has settled over the presidential election of 2000, I hope we will treat our recent experience as an opportunity to adopt long overdue reforms in the way we run our Federal elections. I hope we will enlist our best minds in the effort to develop better systems and procedures that will restore public confidence in the accuracy and integrity of the electoral process. And I hope we will provide State and local election officials with the wherewithal to take advantage of these improvements.

The Act seeks to advance these goals by establishing a bipartisan commission to study the accuracy, integrity, and efficiency of Federal election procedures and develop standards of best practice for the conduct of Federal elections. It further authorizes grants and technical assistance to States which wish to adopt measures consistent with the standards.

Title I of the Act establishes the National Advisory Commission of Federal Election Standards (the "Commission"). Twelve of the 24 voting members of the Commission are appointed by Congress; the other 12 by leading State and local government associations. The Attorney General and the Chairman of the Federal Election Commission serve ex-officio as non-voting members.

In addition to ensuring a balance among Federal, State and local interests, the Act requires that the members of the Commission include equal numbers of Republicans and Democrats, and that larger and smaller states from all geographic regions be fairly represented.

The Commission will have three responsibilities which it must discharge within one year of its appointment. First, it will examine and report to the President, the Congress, and the State Secretaries of State regarding the accuracy, integrity, and efficiency of Federal election procedures in the several States.

Second, the Commission will develop a set of standards for the conduct of Federal elections and make recommendations with respect to the periodic review and updating of the standards. Among the issues to be addressed by the standards are (1) procedures for voter registration and maintenance of lists of registered voters; (2) ballot design, voting equipment, the methods employed in counting [and recounting] votes, and the procedures for challenging the results; (3) factors that affect access to and the efficient and orderly operation of polling places, including hours of voting (which may include standards for a uniform national poll closing time for presidential elections); number and accessibility of polling stations; training of poll workers; methods of reducing delay; and steps to ensure that all voters who report to the polls have an opportunity to cast their vote; and (4) procedures for mail-in and absentee voting (including deadlines for receipt of mail-in and absentee ballots).

Third, the Commission will make additional recommendations to Congress in regard to certain procedural aspects of Federal elections that are governed by Federal law (and would therefore require Congressional action to alter), such as whether Federal law should be amended to authorize Federal elections to be conducted (1) on dates other than those prescribed by current Federal law so as to permit weekend elections, voting on multiple days, or expanded early voting options; or (2) by means of the Internet.

Title II of the Act authorizes the FEC to provide matching grants and technical assistance to the States to improve the accuracy, integrity, and efficiency of Federal election procedures. The Federal share may not exceed 75 percent of the total costs of the program, project, or activity, although the FEC may waive this requirement in whole or in part where appropriate.

Grants may be used for programs, projects, and other activities whose purpose is to bring the conduct of Federal elections into conformity with the standards for Federal elections developed by the National Advisory Commission. Specifically, grants may be used to (1) hire employees or consultants to design and implement systems and procedures that meet the standards; (2) procure equipment, technology, and administrative and managerial support systems that meet the standards; (3) provide training or retraining to election officials, employees and volunteers in the proper use and maintenance of new systems and procedures that meet the standards; (4) enhance public confidence and participation in the electoral process by increasing awareness of new systems and procedures that meet the standards; and (5) evaluate the effectiveness of new systems and procedures put in place through Federal assistance under the Act.

The Act would not mandate changes in State practices, nor would it federalize election procedures. Rather, it would encourage State election officials to upgrade and modernize their election systems by establishing benchmarks for the conduct of Federal elections and providing the States with the resources needed to meet them. In so doing, the Act gives maximum latitude to the states and localities in assessing their own needs and determining which solutions are most appropriate for their circumstances.

Recent announcements of collaborative ventures among academic researchers and technology companies have fueled expectations of a technological "fix" to our nation's election problems. Such initiatives as the one launched this past December by the Massachusetts Institute of Technology and Caltech are a very promising development, and ought to be encouraged.

On the other hand, we must resist the temptation to look for attractively simple—and simplistic—solutions. The latest hi-tech equipment will be expensive, and the best technology in the world will make little difference if voters and election workers don't know how to use it. Thus, while some jurisdictions may choose to acquire new technologies, others may feel their resources would be better spent on voter education and training of election workers.

I am hopeful that the Congress will take prompt action on this legislation, so that the most advanced nation on earth will have an electoral system that is second to none.

FEDERAL ELECTION STANDARDS ACT OF 2001

The Act establishes a bipartisan commission to study the accuracy, integrity, and efficiency of Federal election procedures and develop standards of best practice for the conduct of Federal elections. It further authorizes grants and technical assistance to States which wish to adopt measures consistent with the standards.

NATIONAL ADVISORY COMMISSION ON FEDERAL ELECTION STANDARDS

Title I of the Act establishes the National Advisory Commission on Federal Election Standards (the "Commission"). Twelve of the 24 voting members of the Commission are appointed by Congress; the other 12 by State and local government associations. The Attorney General and the Chairman of the Federal Election Commission (the "FEC"), or their representatives, serve ex-officio as non-voting members of the Commission.

In addition to ensuring a balance among Federal, State and local interests, the Act requires that the members of the Commission include equal numbers of Republicans and Democrats, and that larger and smaller states from all geographic regions be fairly represented.

The Commission will have three responsibilities which it must discharge within one year of its appointment. First, it will examine and report to the President, the Congress, and the State Secretaries of State regarding the accuracy, integrity, and efficiency of Federal election procedures in the several States.

Second, the Commission will develop a set of standards for the conduct of Federal elections and make recommendations with respect to the periodic review and updating of the standards. Among the issues to be addressed by the standards are (1) procedures for voter registration and maintenance of lists of registered voters; (2) ballot design, voting equipment, the methods employed in counting [and recounting] votes, and the procedures for challenging the results; (3) factors that affect access to and the efficient and orderly operation of polling places, including hours of voting (which may include standards for a uniform national poll closing time for presidential elections); number and accessibility of polling stations; training of poll workers; methods of reducing delay; and steps to ensure that all voters who report to the polls have an opportunity to cast their vote; and (4) procedures for mail-in and absentee voting (including deadlines for receipt of mail-in and absentee ballots).

Third, the Commission will make additional recommendations to Congress in regard to certain procedural aspects of Federal elections that are governed by Federal law (and would therefore require Congressional action to alter), such as whether Federal law should be amended to authorize Federal elections to be conducted (1) on dates other than those prescribed by current Federal law so as to permit weekend elections, voting on multiple days, or expanded early voting options; or (2) by means of the Internet.

FEDERAL ELECTION STANDARDS IMPLEMENTATION GRANTS

Title II of the Act authorizes the FEC to provide matching grants and technical assistance to the States to improve the accuracy, integrity, and efficiency of Federal election procedures. The Federal share may not exceed 75 percent of the total costs of the program, project, or activity, although the FEC may waive this requirement in whole or in part where appropriate.

Grants may be used for programs, projects and other activities whose purpose is to bring the conduct of Federal elections into conformity with the standards for Federal elections developed by the National Advisory Commission. Specifically, grants may be used to (1) hire employees or consultants to design and implement systems and procedures that meet the standards; (2) procure equipment, technology, and administrative and managerial support systems that meet the standards; (3) provide training or retraining to election officials, employees and volunteers in the proper use and maintenance of new systems and procedures that meet the standards; (4) enhance public confidence and participation in the electoral process by increasing awareness of new systems and procedures that meet the standards; and (5) evaluate the effectiveness of new systems and procedures put in place through Federal assistance under the Act.

CONGRATULATING GENE BESS, COACH OF THREE RIVERS COMMUNITY COLLEGE MEN'S BASKETBALL, ON HIS 880TH WIN AND FOR BEING THE WINNINGEST COACH IN JUNIOR COLLEGE BASKETBALL

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. EMERSON. Mr. Speaker, Vince Lombardi once said, "Leadership rests not only upon ability, not only upon capacity; having the capacity to lead is not enough. The leader must be willing to use it. His leadership is then based on truth and character. There must be truth in the purpose and will power in the character."

While Vince Lombardi coached football, the same thoughts regarding his life and leadership can be applied to Coach Gene Bess of Three Rivers Community College. As a coach for Three Rivers, Gene has had amazing career that has spanned three decades. During that time, he has proven that a true leader leads not simply with words, but through example. Without a doubt, Gene Bess has lived his life—on and off the court—as an example of what many of us strive to achieve in life.

Now, Gene stands on the threshold of a remarkable accomplishment. This month, Gene will set a record that only few in coaching have reached when he secures his 880th win as the coach of the Three Rivers Community College Men's Basketball Team. No longer will he be exactly like the 212 other coaches in the National JC Athletic Association Division I. Sure, like those coaches and the others who influence the lives of their players day in and day out, he will place a whistle around his neck, don a pair of athletic shoes, and stand on the sidelines coaching and cheering his players on to victory. But unlike those coaches, his hard work, determination, and dedication to being a positive influence in the lives of his players, has placed him in a special class that is set aside for coaches like John Wooden, Mike Krzyzewski, Dean Smith and Mizzou's own Norm Stewart.

The leadership and dedication that Gene Bess demonstrates on the court does not end at the final buzzer. Instead, it translates into his personal and public life. He has been married for nearly 40 years and is a deacon at First Baptist Church of Poplar Bluff where he has attended Sunday Service in service to God for 30 years. He still lives on his same street—Sunset Avenue—that he has jogged nearly every morning for more than two decades. And most of all, he has an unwavering code that he lives by which reflects his common sense, nose to the grindstone attitude. As Tony Jimenez noted in the Juco Report, "Basketball is not number one in his life, in or out of the season, he puts faith first, family second, and the game third. "

In a society where it oftentimes seems so difficult to find heroes, I am honored and privileged to have a man who exemplified the character of a leader, right here in our own community. Gene Bess is that type of a man. He is a man of purpose who has a way of understanding that people, when working together—on the court, in their church or in their community—can have a positive and memorable impact on the lives of each and everyone they meet throughout the journey of life.

As the same article by Tony Jimenez mentions, Gene Bess has a reputation for winning that is build on a foundation of leadership, truth, and respect for all those who work with him. Jimenez stated, "What has bode well for Bess' reputation is his unwillingness to bend to give certain issues when it comes to his team and the players. He doesn't swear. He doesn't just talk about an open door policy, the players know that his door is always open. He treats his players with the respect all coaches talk about, but not all of them follow through on. He carries himself with the aura of a major college coach, but he is just as a accessible, honest and down to earth as, well, a juco coach in a small town in Missouri."

It's often been said that success is not measured by great wealth or material treasures. Instead, success is measured on the person you are, the life you live, and how your life influences the lives of others. If that is true, and I believe that it is, then we are all richer for knowing Gene Bess. Mr. Speaker, on this very special occasion, I ask that all of my colleagues join me in congratulating Coach Bess and the Three Rivers Raiders on this milestone and wish them every happiness for the future. Thank you.

PROVIDING GRANTS FOR 100,000 RESOURCE-BASED STAFF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mrs. MINK of Hawaii. Mr. Speaker, today I rise to re-introduce a bill that provides 100,000 Resource-Based Staff for our public schools to help students cope with the stress and anxieties of adolescence. This bill is similar to HR 2982, which I introduced in the 106th Congress.

None of us will ever forget the tragedy at Columbine High School in Littleton, Colorado, where two student gunmen killed 12 classmates and a teacher before taking their own lives. Why did this happen? What could make children from a seemingly typical upbringing turn so violent? And what can we do to ensure that our children will be safe at school?

I don't know if we will ever find all of the answers. I believe that ultimately, we must look to our culture and within our own families to find some of the answers. Congress owes it to our children to work on policies that can bring about change.

First, we must look to substantive preventative measures. Security guards, metal detectors, and expelling violent students all have their place in addressing this problem. But they do nothing to prevent tragedies from occurring.

Ultimately, we must work with children to ensure they can handle their anger and emotions without resorting to violence. Many of our children enter school with emotional, physical, and interpersonal barriers to learning. We need more school counselors in our schools, not only to help identify these troubled youths, but to work on developmental skill building.

Surgeon General Dr. David Satcher has said that appropriate interventions made during or prior to adolescence can direct young people away from violence toward healthy and constructive lives. The window of opportunity for effective interventions opens early and rarely, if ever, closes. Thus, prevention is the best guard against youth violence.

We have no real infrastructure of support for our kids when it comes to mental health services in our schools. The most recent statistics indicate that there are 90,000 guidance counselors for approximately 41.4 million students in our public schools. That translates to 1 counselor for every 513 students. In Hawaii, we have only 1 counselor for every 525 students. In California, there is only 1 counselor for more than 1,000 students. That is simply not enough.

With current counselors responsible for such large numbers of students, they are unable to address the students' personal needs. Instead, their role is more often administrative, scheduling, and job and college counseling. The child is forfeited for different goals.

My bill will put 100,000 new resource staff in our schools to focus on the mental health needs of students. This will make it easier for children to get the attention they need.

This resource staff will be hired to address the personal, family, peer level, emotional, and developmental needs of students, enabling them to detect early warning signs of troubled youth. They will improve student interaction and school safety. In a nutshell, they can help save children's lives.

The resource staff can also consult with teachers and parents about student learning, behavior, and emotional problems. They can develop and implement prevention programs and deal with substance abuse. They can set up peer mediation, and they can enhance problem solving in schools. Resource staff will provide important support services to students, and to parents and teachers on behalf of the students.

This legislation should be the cornerstone of a much larger proposal. We must address the media's impact on violence and the easy accessibility of guns. We must strengthen our programs for families and early childhood development, and we must develop character education programs.

If we really are serious about addressing school violence, we must address prevention.

I urge my colleagues to support this legislation.

HOUSE OF REPRESENTATIVES—*Wednesday, February 7, 2001*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 7, 2001.

I hereby appoint the Honorable DAN MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Imam Bassam A. Estwani, Dar Al-Hijrah Islamic Center, Herndon, Virginia, offered the following prayer:

All praise is for God, the Lord of the worlds.

The compassionate, the merciful.

Master of the day of judgment.

O God, You alone we worship and You alone we call on for help.

O God, guide us to the straight way.

The way of those whom You have blessed; not of those who have earned Your anger, or of those who have lost the way.

We pray that You guide this noble body of men and women to seek justice and equality for all. For as You said:

O mankind. We created you from a male and a female and made you into nations and tribes that you may know and honor each other. Indeed the most honorable of you in the sight of God is the most righteous. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. MURTHA) come forward and lead the House in the Pledge of Allegiance.

Mr. MURTHA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO IMAM BASSAM A. ESTWANI, DAR AL-HIJRAH ISLAMIC CENTER, HERNDON, VIRGINIA

(Mr. THOMAS M. DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS M. DAVIS of Virginia. Mr. Speaker, I would like to thank Mr. Imam Bassam A. Estwani for joining us today as the guest chaplain and offering this morning's prayer. He is the chairman of the board of the Dar Al-Hijrah Islamic Center, which is one of the Nation's most active and influential mosques, located in the 11th Congressional District, which I represent. He has participated in many international conferences that focus on Islam and religious values in America. He has been instrumental in bringing members of different faith communities together to promote social justice.

Mr. Estwani is a native of Syria. He has a law degree from the University of Damascus. He studied Islamic law in Damascus and at the University of Cairo. In Kuwait, Mr. Estwani participated in the publication of the Encyclopedia of Islamic Jurisprudence. In Lebanon, he established an Islamic publishing house that produced more than 200 titles in a number of different languages. He also participated in and sponsored relief and literacy programs for orphans and the homeless in this country and overseas.

The American Muslim community is growing, both in Northern Virginia and around this country, numbering over 6 million Americans today. I am very proud to represent one of the largest concentrations of American Muslims, who have chosen Northern Virginia as their home; and we are just very, very proud to have you offer the prayer today.

BETTERING RURAL HEALTH CARE IN AMERICA

(Mr. McINTYRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINTYRE. Mr. Speaker, as cochairman of the Rural Health Care Coalition, I want to thank my good friend and the former cochairman, the gentleman from Iowa (Mr. NUSSLE), for all of his hard work on behalf of rural health care. His leadership will be missed, but I am sure my colleagues will join me in representing the gentleman from Kansas (Mr. MORAN) as cochairman of our Rural Health Care Coalition.

Just 2 days ago, I had the opportunity to visit Cape Fear Valley Medical Center in Fayetteville, North Carolina, along with Senator JOHN EDWARDS from North Carolina, to talk about the impact that the Balanced Budget Act of 1997 has had on the quality of care. While I am pleased that those of us in Congress have taken significant steps over the last 2 years to stop cuts in Medicare, we have much more to do to ensure that all citizens, no matter where they live in America, have access to quality health care.

The voice of rural America needs to be heard and to be heard loudly in these halls of Congress. I encourage all of my colleagues here in the Congress to join our efforts to make sure that, as we talk about and work to improve health care, that we are improving it for all Americans everywhere, so that no one is left behind.

TIME TO GIVE BACK THE BUDGET SURPLUS TO AMERICA'S FAMILIES

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, many Nevadans have come to me and said, Jim, I just can't make ends meet. We are paying more and more in taxes. How are we supposed to save for our retirement, pay off our mortgage, or even send our kids to college?

Well, Mr. Speaker, these concerns are real. According to the Census Bureau, the average household today pays almost $9,500 in Federal income taxes every year, and that is twice what it paid in 1985. By conservative estimates, the Federal Government will have a record-breaking surplus this year of $5.6 trillion.

Now it is time to grant the hard-working Americans the tax relief they so deserve and need. The tax relief package that President Bush has outlined will give $1,600 back to the average working American family of four. This $1,600 could pay their mortgage for a month, help pay off a credit card debt, or the tuition at a community college for one year.

The surplus was created by the tax dollars of the American people. It belongs to them. There is no excuse for Congress not to give the hard-working Americans what they want, what they need and what they deserve, a tax

---

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

break. It is time to give the extra money back.

WASHINGTON-LINCOLN RECOGNITION ACT OF 2001

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I am pleased to announce that yesterday on the 90th birthday of one of my favorite Presidents, Ronald Reagan, I introduced legislation that will honor two of my most favorite Presidents, George Washington and Abraham Lincoln.

My legislation, the Washington-Lincoln Recognition Act of 2001, will accomplish two goals: first, my bill will correct a long-standing misconception regarding the Federal holiday honoring Washington's birthday, which in law is designated Washington's Birthday, but which is erroneously called President's Day by many since a 1971 Nixon proclamation.

Second, my legislation urges our President to issue a proclamation each year recognizing the anniversary of the birth of President Abraham Lincoln. Although this does not create a new Federal holiday, I believe it will serve to bring this great leader the recognition he deserves. At the present time, there is no official Federal recognition of President Lincoln's birthday.

As I have always said, when you honor everyone, you honor no one. Simply celebrating a generic President's Day diminishes the accomplishments of great Presidents like Washington and Lincoln and rewards the mediocrity of others.

Mr. Speaker, I look forward to working with my colleagues on this issue and the passage of the Washington-Lincoln Recognition Act of 2001.

BUYING OUR WAY INTO BANKRUPTCY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the trade deficit is at $10 billion a week, $40 billion a month, a half trillion dollars a year. Unbelievable. Japan continues to take $60 billion out of our economy a year, and China is now taking over $100 billion a year out of America, and both Japan and China continue to keep American products out.

Now, if that is not enough to neuter your dragon, China has missiles pointed at us.

Beam me up. A Nation that buys more than they sell will go bankrupt, and a Nation that allows illegal trade destroys all American industry.

I yield back the bankruptcy of America's steel industry. Day after day the filings continue to mount up.

HIGHLIGHTING THE IMPORTANCE OF THE RURAL HEALTH CARE COALITION

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Kansas. Mr. Speaker, I rise today to join the gentleman from North Carolina (Mr. MCINTYRE) in highlighting the importance of a caucus here in this Congress, the Rural Health Care Coalition. It is a group of us, 160 strong, both Republicans and Democrats, who have come together to advance the cause on behalf of rural America and to make certain that our constituents, our citizens across this country, can access health care, regardless of where they live.

I would encourage my colleagues, the new Members of Congress and those who have not considered belonging to our organization, to do so, for the purpose of educating ourselves, advocating our positions with other Members of Congress and leveraging our votes.

We would encourage our urban colleagues to join us as well, because many of them have very similar issues, as our constituents try to obtain the health care necessary.

I commend the gentleman from Iowa (Mr. NUSSLE) and thank him for his leadership of this organization over the last 2 years and look forward to working with my colleague from North Carolina for the next two.

CLOSING THE PRESIDENTIAL OFFICE OF RACE RELATIONS

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, how in the world can a President who lost the African American vote, the Latino vote, the Asian American vote and the popular vote shut down the Presidential Office of Race Relations?

I thought George W. Bush wanted to change the tone in Washington. Or maybe changing the tone to President Bush means stifling minority voices. I hope not.

Our President confided to us that he is just a "white guy Republican." Well, we know that. But all of America is not white or Republican, and he has got to serve us too. He said he would be President for all Americans. Our President needs to listen to America's minorities and give us a chance to be heard.

The Office of Race Relations was an effort on the part of the previous President to allow minority voices to be heard. This is not a good move to restore healing in America or to allow this administration to bridge the racial divide. It sends a terrible message to whites and minorities who care about racial healing in this country.

I hope the President and his advisers will reconsider this action.

ENSURING TAX CUTS STRENGTHENS AMERICA

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, we are now considering the question of tax relief: What kind of tax relief should we have? How far should we go to stimulate the economy?

It strikes me, Mr. Speaker, that we have heard a lot of bragging out of the White House for the last 7 years that the 1993 tax increase was part of the reason that we have had such a good economy. But now I see nobody, nobody on that side of the aisle or anyplace else, suggesting that we should have a tax increase now to stimulate the economy. It is ridiculous.

The question is, how do we have some kind of tax cuts that are going to help keep this economy strong? One of the greatest contributors to the surplus or overtaxation is the Social Security tax. That is where most of the surplus has come from. The challenge is—how do we use that money, how do we save that money—because we are going to need it starting in 2010 when the baby boomers retire. The challenge is great.

I urge the American people and this body to become familiar with the debate on how do we give the kind of tax cuts that are best going to lead to a strong economy and a strong America.

□ 1015

GORO HOKAMA POST OFFICE BUILDING

Mr. MILLER of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 132) to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building".

The Clerk read as follows:

H.R. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GORO HOKAMA POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, shall be known and designated as the "Goro Hokama Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Goro Hokama Post Office Building.

The SPEAKER pro tempore (Mr. GIBBONS). Pursuant to the rule, the gentleman from Florida (Mr. MILLER) and the gentlewoman from Hawaii (Mrs. MINK) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, I reserve the balance of my time.

Mrs. MINK of Hawaii. Mr. Speaker, I yield myself such time as I may consume.

On January 3 of this year, I introduced H.R. 132, to designate the Post Office on the island of Lanai as the "Goro Hokama Post Office." I thank the majority of this committee for allowing me to bring this bill up at this early stage in our session, and I know that this is a moment of great honor to Mr. Hokama, whom I advised yesterday. Although it is only 5:00 a.m. in Hawaii, I believe that he and his family are listening.

The Lanai Post Office came to my attention, and it is in my district; it is a small island with only 3,000 people, but the Post Office situation came to my attention several years ago. The population had grown at that point and there were post office boxes on the outside of the Old Post Office, and it became quite evident that a new building had to be constructed. So, after years of waiting, finally in February of the year 2000, a new post office was constructed.

I think that it is extremely appropriate, therefore, that this post office be named the Goro Hokama Post Office. I have known Mr. Hokama almost the entire time that I have been active in politics, since the late 1950s. I have known him as a person of enormous dedication and integrity. He has given of his life to the growth and development of the island of Lanai where he was born and where his family currently resides. He was picked out as a person of great leadership potential. Even in his high school, he was elected to serve as the student body president.

Like most other young men, he went off to war, served in the army, came back and began his public service career. He was employed by the Dole Pineapple Company, which virtually ran the entire economic industry of Lanai for many, many years, and was a member of the International Longshoremen and Warehousemen's Union and served in many important capacities.

I recall that he came to Washington during my first tenure here as a Member of Congress representing the interests of the working people of this Nation, as well as the people of his union, the ILWU. He continues to serve in many capacities as a member of that union.

His life story expands the traditional life story of most people who are active in civic affairs, in athletic programs, giving of himself in every possible way. But the thing that singles out Goro Hokama is someone who is deserving of this honor that we are bestowing on him today is his 42 years in elective office, representing his island on the Maui County Council and previously on that same board which was then named the Board of Supervisors. He chaired this County Council for 16 years, served in all of the various capacities, and really exerted not just a feeling of Lanai and his hometown, but the essence of Hawaii, the directions that we wanted to go, the concern that he always expressed about working families.

He also was active in the Hawaii Association of Counties and served as president 11 times and came to numerous meetings with NACO, the National Association of Counties. He has currently not abandoned his responsibilities; in fact, he has engaged himself in many, many more ways. He serves as the chairman of the Maui County Hospital Management committee and has been, since 1998, vice-chair of the Maui Civil Service Commission. In fact, when I called to reach him yesterday, he was presiding over that Civil Service Commission meeting over on Maui.

So with his family, his wife, Kiwae Deguchi and their two children, Riki and Joy, who I know are all very, very honored and pleased at this effort today in the naming of the central place on Lanai Island where everybody goes and to have the name of Goro Hokama emblazoned over this post office is just a small way to honor this humble and simple public servant for all of the years that he has devoted to the betterment of their lives. So I am pleased to stand and offer this bill and to ask Members to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from the First Congressional District of Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I want to particularly thank the chairman today for the opportunity to be here. Mr. Speaker, it is probably something that many of us tend to take for granted over time, that we have the opportunity to be on this floor and to sponsor bills such as the Goro Hokama Post Office Building bill, and in some respects could be seen by others as pro forma. I think, Mr. Speaker, we have learned, and I am sure the chairman has learned, that it is the obvious that we have to repeat to ourselves over and over again, because it is the obvious that sometimes we take most for granted and forget first. This, perhaps, Mr. Speaker, is one of those occasions, where we remind ourselves that we really, in fact, do have the high honor and privilege of serving the people of this Nation.

While the issues may be weighty in many respects and a somber and sober attitude required with respect to the adjudication of these issues and the resolution of these issues, today I can tell my colleagues, this is an occasion of joy for the gentlewoman from Hawaii (Mrs. MINK) and myself, and I hope, by extension in some small way, for the gentleman from Nevada (Mr. GIBBONS) as presiding officer, and for the gentleman from Florida (Mr. MILLER) today, to be here because we have, in fact, the opportunity to recognize, as my colleague indicated, a public servant, someone who has seen himself always as the humble servant of the people of Hawaii and, most particularly, the people of Lanai.

As the gentlewoman from Hawaii (Mrs. MINK) indicated, the island of Lanai is a small island; small in population, small in size, known the world over as the Pineapple Island, and Goro Hokama is central to the history of this island, not only from the time that he spent as a young man before his service in the United States Army, but almost literally upon the time that he returned from the service to Lanai to take up his duties as a member of the ILWU in representing the working people of the island of Lanai. He was elected to public office. The people who knew him best, who knew him from the time he was a little boy, understood that in Goro Hokama, they had someone of extraordinary ability. That ability and insight, I might add, Mr. Speaker, was such that he encouraged people. He encouraged people to participate in the public life of Hawaii, and with statehood 41 years ago, the experience that he had with the county, the experience he had with my good and dear friend, the gentlewoman from Hawaii (Mrs. MINK), and in encouraging her, and this is not always possible. It is something we take for granted now, Mr. Speaker.

It was not easy to be a member of a minority. It was not easy to be seen as someone who did not have control of the levers of power, to be able to continue to succeed, to encourage others, to participate in a way that gave others confidence in him, and Goro Hokama was the person who did that. Goro Hokama was someone who encouraged the gentlewoman from Hawaii (Mrs. MINK) to pursue her political career which has manifested itself in the marvelous record that she has here in the United States Congress. Goro Hokama was someone that encouraged a young kid from the east coast of the United States who had come all the way to Hawaii in the hopes of beginning another life with statehood as I did 41 years ago, not only encouraged me, but gave me the idea that it was what I had to contribute that counted. It was what was in my heart that counted. And when we have a man like Goro Hokama as a guiding light, as a mentor, as someone who can make clear the path for you, encouraging you all the way, it is something that is truly to be treasured.

So my colleague and I come to the floor today with a sense that with the naming of the Goro Hokama Post Office Building, there is a conclusion to a life of public service, and I hope that his grandsons, Jordan and Trent, possibly are up at 5 o'clock in the morning, too, to see their grandfather honored.

So, Mr. Speaker, I want to conclude my remarks by again thanking the chairman, not only for his consideration, but for giving us the opportunity to honor someone who truly deserves it, a great American, a great son of Hawaii, a true representative of everything that is great and good about the island of Lanai, Goro Hokama.

Mrs. MINK of Hawaii. Mr. Speaker, I yield myself such time as I may consume.

I would like to conclude by saying that I want to thank two of my colleagues who cosponsored this legislation, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. STARK), both of whom are cosponsors of this legislation. I want to thank the majority for giving me this opportunity to bring this bill up so early in the session. I want to thank the gentleman from Florida (Mr. DAN MILLER) for taking on this responsibility of representing the majority. I certainly want to thank the gentleman from Indiana (Mr. BURTON) for his support of this legislation, and certainly the gentleman from California (Mr. WAXMAN). I appreciate so much this opportunity to honor a longtime friend and colleague, and I hope that this bill will be passed and reported over to the Senate.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

On behalf of the majority, let me congratulate the gentlewoman from Hawaii for bringing forth this method of recognition of someone who has apparently done a great deal for Lanai City and Hawaii. This is one small way that the House of Representatives and Congress can help recognize people that have made outstanding contributions to their areas, and certainly this is the case here.

With that, I urge a vote in favor of this motion.

Mr. Speaker, I yield back the balance of my time.

Mrs. MINK of Hawaii. Mr. Speaker, I ask unanimous consent to reclaim my time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

Mrs. MINK of Hawaii. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I rise in support of H.R. 132, designating the Lanai City Post Office the Goro Hokama Post Office.

To bring just some of the Stark family remembrance to this occasion, my family and I have been visiting the Island of Lanai for at least 10 years and, with all due respect to the rest of the Hawaiian islands, pretty much the same hibiscus, and pretty much the same bougainvillea, pretty much the same marvelous climate, pretty much the same sand.

□ 1030

What is so different about Lanai? It is the people. It really is. They have made us and our children feel welcome there, at home, comfortable, not overburdened, just a wonderful group of people. And when we have someone like Goro Hokama, who is almost a legend on the island of Lanai, he has served the people as a public servant for the County of Maui, the State of Hawaii, over 40 years, long before it became the tourist mecca that it is today.

He has been a labor leader, an elected official, a Little League volunteer, and he typifies the kind of pitch-in spirit of togetherness that the Hawaiian people on the island of Lanai have every right to be so proud of.

I am delighted to be here with my colleagues from Hawaii today in support of H.R. 132.

Mrs. MINK of Hawaii. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GIBBONS). The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 132.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. MILLER of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 19, as follows:

[Roll No. 11]

YEAS—413

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Camp
Cantor
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Thomas M.
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)

Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—19

Baird
Becerra
Bono
Buyer
Calvert
Cannon
Capito
Clement
Doolittle
Evans
Greenwood
Grucci
Istook
Meehan
Moakley
Morella
Rodriguez
Rogers (KY)
Young (AK)

□ 1059

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GRUCCI. Mr. Speaker, due to the death of my mother-in-law, Mrs. Carmella Fierro, I was unable to participate in today's recorded vote. However, I would have voted in the affirmative on the suspension bill on today's agenda: H.R. 132 to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building."

Ms. CAPITO. Mr. Speaker, on rollcall No. 11, I was not present due to erroneous information. Had I been present, I would have voted "yea."

ENSURING FAIRNESS AND JUSTICE WITH REGARD TO TREATY OF GUADALUPE HIDALGO

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker. I rise to recognize an important anniversary of the United States: 153 years ago, the United States and Mexico signed the Treaty of Guadalupe Hidalgo. This treaty sought to protect the property rights of those who remained in the United States and became United States citizens.

There is now substantial evidence there were many violations of this treaty's provisions. The GAO has undertaken an investigation to get to the heart of this important matter. This situation cries out for justice.

I urge all my colleagues to follow this study closely so we can bring justice to this issue.

Mr. Speaker, February 2nd marks the 153rd anniversary of the signing of the Treaty of Guadalupe Hidalgo. The Treaty of Guadalupe Hidalgo ended the Mexican War, and ceded to the United States what is now California, Arizona and New Mexico. The Treaty also recognized U.S. claims over Texas, with the Rio Grande as its southern boundary.

In turn, the United States paid Mexico $15,000,000, and among other things, agreed to recognize prior land grants issued by Spain and Mexico to individuals, communities, and indigenous pueblo people. Thus, during the 50 years that followed the signing, numerous procedures were developed to evaluate and validate the land grants.

However, the change in sovereignty in 1848 brought together two different legal systems—the Spanish/Mexican and the Anglo-American. These competing legal systems resulted in the inability of the United States to properly recognize and honor the role that custom played in preserving the lands and waters in accordance with Spanish and Mexican law.

Mr. Speaker, this along with other facts, suggests that the manner in which these private and communal land grants were evaluated by the U.S. Courts and by Congress, did not satisfy the obligations assumed by the United States when we signed the treaty. To address this issue, the GAO has embarked on a study of whether the United States fulfilled its obligations under the Treaty of Guadalupe-Hidalgo with regard to land grants made by Spain and Mexico. I am pleased that the initial exposure draft was recently completed, and I believe that this ongoing study is a proper step in addressing the numerous issues regarding the Treaty and its implementation.

Mr. Speaker, the issues that have evolved from the signing of the Treaty of Guadalupe Hidalgo center on the concept of fairness and justice. Thus, I ask that all Americans acknowledge the 153rd anniversary of the Treaty of Guadalupe Hidalgo, by recognizing the many issues that remain to be properly addressed in order to assure a fair evaluation of the land grant claims.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MILLER of Florida). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONTINUING ESCALATION OF HIV AND AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, as we reconvene the Congress, as we begin to deal with the various issues which affect our Nation and our country and our world, I thought I would take some time this morning to highlight one of those; and it has to do with the continuing escalation of HIV and AIDS.

As a matter of fact, I was looking at a report that suggests that, in the first detailed study to target some of the AIDS epidemic's overlooked victims, researchers in Chicago reported Monday that fully 30 percent of young gay African-American men are infected with HIV.

The infection rate for gay blacks was twice that of any other ethnic group, a finding that shocked some experts despite the already well-documented racial gap in AIDS cases.

"This is a disturbing and frightening number, and something should be done about it," said Linda Valleroy, an epidemiologist at the Centers for Disease Control and Prevention, who led the six-city survey of gay men in their twenties. The results were outlined Monday at the 8th Annual Retrovirus Conference being held in Chicago this week.

The new figures reflect a troubling reality for gay black men who may not have enough income to live in the largely white gay enclaves where AIDS health centers are located. Such problems are amplified, gay advocates say, by lingering rifts over homosexuality within the African-American community itself.

For example, and I quote, "I am an African-American gay man living with HIV. In some people's eyes, I'm damned several times over," said Frank Oldham, Jr., who is the assistant commissioner of AIDS public policy at the Chicago Department of Health.

Previous AIDS surveys tended to focus on members of the white population, Valleroy said, in part because the researchers sampled gay neighborhoods where relatively few blacks live, men who frequented gay bars, clubs, restaurants and coffee houses.

Valleroy's team succeed in recruiting 408 gay black men for the survey, about 17 percent of the total. Moreover, no previous study had looked at the infection rate among gays in this age group, which included men, ages 23 to 29.

The findings suggest that gay men of all races are engaging in risky behavior. Nearly half of the men interviewed had unprotected anal sex during the previous 6 months. Even those who are not infected are in danger of becoming infected.

I think what this report suggests, Mr. Speaker, is that, notwithstanding whatever the resources are that have heretofore been made available, that there is a tremendous need.

I would urge President Bush, as he prepares his budget for the coming year, to make absolutely certain that there are ample provisions for the prevention, detection, and treatment of the AIDS-HIV virus.

SOCIAL SECURITY REFORM VITAL IN BUDGET PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would like to spend a couple minutes talking about the challenges that this body faces over the next several weeks and months.

We are talking about a tax cut. We are talking about what is the status of the economy in the United States, where will we go with unemployment, what can we do as a body in Congress to help make sure that the economy of the United States continues.

We were talking about economic expansion in the neighborhood of 1.8 percent a year for economic expansion. Now we are talking about maybe 2.8 percent a year economic expansion, even with the slowdown. The technology that we have acquired over the last several years is a result of our investment in research.

If there is one thing that I would suggest that we do in this body to help make sure that we have a strong economy, it is capital investment.

I divide capital investment in two areas. One is physical capital, where we make sure that we put the effort into research to develop the state-of-the-art equipment and technology and techniques that can maximize our productivity. The other is investment in human capital so that we have a better education system.

Now we are challenged with a question of how much do we excite the economy by leaving more money in the pockets of those individuals that have earned that money. In other words, where do we cut taxes? How do we cut taxes? How do we do it in such a way that it is going to maximize the economic benefit of keeping a strong economy?

I have a couple suggestions. One is that we do not look away, or in any way disregard the importance of paying down the Federal debt. Today the Federal debt is $5.7 trillion. The Government has borrowed $5.7 trillion either from Social Security and the other trust funds or has issued Treasury paper to lend money to the public.

Out of that $5.7 trillion, and this is the whole load of hay, out of that $5.7 trillion, $3.6 trillion, that is, $3.6 trillion out of the $5.7 trillion, is debt held by the public. So over the last several years, whether it is this body or whether it is the White House, when they talk about paying down the public debt, they are talking about only paying down a portion of that debt that has been lent to the public, Treasury bills, what I call the Wall Street debt.

As we pay down the debt, the question that we have to ask ourselves is, where is the money coming from to pay down that debt held by the public? And where it is coming from is the surplus coming into the trust fund. And the trust fund that has the greatest dollar amount of surplus or other taxation is the FICA tax.

In that FICA tax, most of it is Social Security tax, 12.4 percent of the total 15-odd percent is Social Security tax.

This year we will have $158 billion more coming in from the Social Security tax than is needed to pay benefits. But when we hit the year 2010 to 2012, there will be less Social Security tax money coming in than is required to meet the benefits just 10 years from now.

So the question before this body, the question before America, is, what do we do with the extra surplus now to make sure that that money is more available when we need it 10 years from now?

Some have suggested, look, let us start getting some real return on investment, let us invest that money and let us put it in the name of those individuals so that Government and politicians cannot mess around with it in later years. And that is important. Because what we have done in the past is, when we were short of money, we cut benefits or we increased taxes.

I think Social Security reform continues to be a vital part of the decision of where we go in the budget process, how much we cut taxes, and how much we increase spending in government.

Let me give my colleagues an example of the danger of not having a tax cut, not getting some of this money out of Washington. That danger is that this body and the body over on the other end of this building ends up increasing spending so much faster than inflation.

The last three bills that we put together and passed last December increased spending almost 14 percent over what those three particular appropriation bills spent the year before.

The challenge before us is holding down spending, deciding what percentage of our total income is reasonable in terms of paying taxes.

Right now, if one is an American taxpayer, on the average, he spends 41 cents out of every dollar he makes to pay Government taxes at the local, State, and national level. I suggest that that amount is too much.

Let us decide on the priority for the limit on taxes. And if that limit is less than what we are paying now, then let us decide on the best way to spend that money so that we keep social security solvent and Medicare solvent and give some priorities to important projects, like improving education.

ADJOURNMENT FROM THURSDAY, FEBRUARY 8, 2001 TO MONDAY, FEBRUARY 12, 2001

Mr. PENCE. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, February 8, 2001, it adjourn to meet at 2 p.m. on Monday, February 12.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HOUR OF MEETING ON TUESDAY, FEBRUARY 13, 2001

Mr. PENCE. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, February 12, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, February 13, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GUAM JUDICIAL EMPOWERMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today I am reintroducing the Guam Judicial Empowerment Act, a bill which seeks to mend the Organic Act of Guam for the purposes of clarifying the local judicial structure.

This legislation will correct the defect in the Guam Organic Act relative to the judicial branch of the government of Guam and seeks to correct a longstanding judicial anomaly.

It would establish the local court system, including the Supreme Court of Guam, as a coequal branch of the government of Guam within the framework of the Guam Organic Act and place the judiciary on equal footing with Guam's legislative and executive branches of government.

Currently, the Organic Act of Guam, which functions as a de facto constitution for Guam, clearly delineates the inherent powers of the legislative and executive branches of the Government of Guam, but it does not do so for the judicial branches.

This legislation seeks to bring the courts in Guam to a level that is comparable and similar to other states and territories and seeks to establish a framework that is equal to the powers of the other branches.

Mr. Speaker, this legislation completes the process of establishing a clearly Republican form of government in Guam, one in which the three branches of government are coequal.

The Organic Act of 1950 created the original Government of Guam. At that time, it had a legislature which was elected by the people, but it did not have an independent judiciary, it was nexused into the Federal judiciary and it had an appointed governor.

□ 1115

Since that time, there has been a number of incremental improvements in this relationship, an elected governor in 1968, an elected representative in Congress in 1972, and Congress allowed for the establishment of a Guam

Supreme Court in the 1980s; but that Guam Supreme Court and that judicial branch subjected it to the local legislation. At first, it looked like a good blow for local government; but it meant that the judicial branch in Guam was not organized based on a constitution, as in Guam's case the Organic Act, but based on local legislation.

Well, the possibilities for mischief were enormous as the judicial branch remained at the behest and the wiles of a local legislature and the executive branch. This anomalous, atypical system must be rectified; and my legislation seeks exactly to do that.

The architects of the U.S. Constitution had the foresight to establish an institutional mechanism that would protect this great Nation from an autocratic regime, and that is that it establishes three coequal branches of government. This doctrine of separation of powers is the fundamental principle of this great Nation and has since laid the foundation for the democratic system of government that has been established in subsequent States and territories.

The passage of this legislation would solidify the structure of Guam's judiciary and ensure a status as a separate and equal branch of government. I certainly hope that Members of this body will support this legislation.

CUYAHOGA COUNTY BAR ASSOCIATION 55TH ANNUAL GOVERNMENT SERVICE MERIT AWARDS LUNCHEON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I rise today as a part of a celebration of the Cuyahoga County Bar's Association 55th annual government service merit awards luncheon.

On Friday, in Cleveland, Ohio, the Cuyahoga County Bar Association will recognize public servants who have given at least 25 years of service in the public arena. I would like to briefly go through and say a little bit about each of the persons who are going to be recognized.

The first, Sandy Patton Campbell in the Cuyahoga County prosecutor's office. Since 1974, she has been an employee of the office of the prosecutor. Since 1999, she has been the administrative secretary to the person who nominated her, County Prosecutor William Mason. Mr. Mason is my successor.

I previously served as a Cuyahoga County prosecutor and had the opportunity to supervise Sandy Patton Campbell, and she did a wonderful job.

The second person, Carolyn Cervenak, she works in the Court of Common Pleas, Division of Domestic Relations. She is the assignment commissioner nominated by the Domestic Relations Administrative Judge Timothy Flanagan, and she is the person whose name is often spoken of at the court. Not only does she supervise the initial processing of newly filed cases, she is also in charge of the processing of pre- and post-decree motions.

The third person, Albin T. Chesnik, is in the clerk's office of the Court of Common Pleas. He has worked there since 1973 and it is the only full-time employer he has ever had. That employer is Gerald E. Fuerst, the clerk of courts.

Mr. Chesnik is the chief clerk for the Eighth District Court of Appeals and is responsible for maintaining the court's dockets and files and supervising data entry.

The fourth person, William Danko, he has been employed by the General Division of the Common Pleas Court most recently as a court administrator. Again, I had the pleasure, when I served as a judge on the Court of Common Pleas, to have Mr. Danko as the administrator, where he did a fine job. It gives me great pleasure to celebrate him today.

The fifth person, Linda Frolick in the Cuyahoga County Probate Court. She is the deputy clerk in the psychiatric department and has been with the Probate Court for the past 30 years. Her nominator is presiding Judge John J. Donnelly.

The sixth person, Mary J. Gambosi of the Shaker Heights Municipal Court since 1975, she has worked for either the Shaker Heights Law Department or the Municipal Court, nominated by Municipal Court Judge K.J. Montgomery.

The next person, Richard Graham of the Court of Common Pleas, Juvenile Court Division, nominated by Judge Peter Sikora, he has been an employee at the Juvenile Court since 1973, advancing through the series of positions to his current title of chief magistrate and judicial counsel. Again, I am able to say that I had an opportunity to work closely with Mr. Graham when I served as a Cuyahoga County prosecutor and would like to personally congratulate him.

The eighth person, Yvonne C. Wood, United States Bankruptcy Court since 1969, she served in the Northern District of Ohio, nominated by Judge Randolph Baxter. She is now the deputy clerk in charge managing an office staff of 23 persons trained in preparing budgets, providing administrative tasks, and interacting with the public.

Finally, Frances Zagar of the Eighth District Court nominated by Judge Ann Dyke. She has worked since 1977, been a judicial secretary at the Eighth Appellate District Court. Currently serving for Judge Terrence O'Donnell, her duties include editing and preparing journal entries for circulation to other judges.

It gives me great pleasure, in light of the fact that I represent the 11th Congressional District of Ohio, to celebrate all of these public servants who have given of their time and energy on behalf of the public. Congratulations to each and every one of them, and I will provide them with a copy of the CONGRESSIONAL RECORD.

SANDY PATTON CAMPBELL—CUYAHOGA COUNTY PROSECUTOR'S OFFICE

Since 1974, Sandra Patton Campbell, has been an employee of the office of the Cuyahoga County Prosecutor. Since 1999, she has been the Administrative Secretary to the man who nominated her, County Prosecutor William D. Mason. Sandy is responsible for a myriad of tasks from, among others, making appointments for her boss to preparing correspondence and pleadings to maintaining bank accounts to preparing and processing office vouchers and employee time sheets to helping with the extradition of defendants from other states. She takes pride in helping the office become modernized. She recalls helping the Prosecutor's office in its first attempts to computerize more than 20 years ago and takes pride in her efforts in assisting such new programs as the Community Based Prosecution Program in East Cleveland. Married to Thomas Campbell since 1988, Sandy, the mother of Thomas and Mary Kate, is a graduate of Our Lady of Angels School and St. Joseph Academy. She continues to be active as a coach for her children and those of others at Our Lady of Angels and St. Mark's. She enjoys being a working Mom. Sandy spends her time involved in any kind of sport, making crafts, decorating and shopping.

CAROLYN CERVENAK—COURT OF COMMON PLEAS, DIVISION OF DOMESTIC RELATIONS

Assignment Commissioner Carolyn Cervenak, nominated by Domestic Relations Administrative Judge Timothy M. Flanagan, is, perhaps, the person whose name is most spoken at the Court. Not only does she supervise the initial processing of newly-filed cases, she also is in charge of the processing of pre- and post-decree motions and the scheduling of hearings in front of more than a dozen motion and support magistrates. She also serves as Network Administrator of the Division's computer system and was Project Manager in implementing the Case Management System. A graduate of St. Augustine Academy, Carolyn joined the Court after service as a claims processor at an insurance company and as a secretary to an attorney. Carolyn and her husband of over three decades, Richard, are the parents of Scott, Robb and Cindy. Carolyn is an active member of a woman's investment group and enjoys cooking classes (and cooking). She also attends special classes in computers and database technology to insure that she will acquit herself well of her position as "Computer Czar" for the Court. Carolyn recalls one incident, some years ago, when a fellow employee was filing and was startled by someone coming up behind her. She thought it was a co-worker who liked to bother her and reacted by shouting "What are ya' doin', pervert!" Carolyn remembers her colleague's shock in turning around to find not the other individual, but instead Judge Flanagan, who cordially (and jokingly) invited the startled employee to get her discharge notice from the Court Administrator's office.

ALBIN T. CHESNIK—CLERK'S OFFICE, COMMON PLEAS COURT

Albin T. Chesnik works now, as he has since 1973, for the only full time employer he has ever had, the Common Pleas Court's Clerk's Office. Nominated by Clerk Gerald E. Fuerst, Albin is Chief Clerk for the 8th District Court of Appeals and is responsible for maintaining that Court's dockets and files and supervising data entry of filings in the appellate court. Beyond that, he insures that there is coordination between filings in the 8th District with the necessary filings in the trail courts and the Supreme Court of Ohio and coordinates the return of files to the trial courts for proceedings consistent with the decisions issued at the appellate level. After graduation from St. Peter Chanel High School in Bedford, Albin attended Cuyahoga Community College and Kent State University. In his spare time, Albin enjoys model railroading and railroad photography and is proud of his collection of thousands of slides he has taken in his travels around the country.

WILLIAM DANKO—COURT OF COMMON PLEAS, GENERAL DIVISION

Since 1972, William Danko has been employed by the General Division of the Court of Common Pleas, most recently as the Court Administrator, where he takes charge of non-judicial employees and their compliance with court policies and procedures, is liaison for the Court with other courts and governmental agencies, prepares the court's annual budget, performs human resources functions and a myriad of other responsibilities. Prior to his current position, Presiding and Administrative Judge Richard J. McMonagle's nominee served in a variety of positions from scheduler to project coordinator, among others. After receiving his bachelor's degree from John Carroll University, William received graduate degrees in social work and law, from Case Western Reserve University and Cleveland State University. Prior to his tenure at the Common Pleas Court, he was employed at Catholic Family & Children's Services and at Parmadale Children's Village. William is proud to have been married to his wife Mary Lou since 1966, and they are the parents of two adult children, Michael and Kristen. William is active in professional organizations of court administrators and a number of diocesan organizations and is a member of the Leadership Cleveland Class of 1992.

LINDA FROLICK—CUYAHOGA COUNTY PROBATE COURT

Linda Frolick, Deputy Clerk in the Psychiatric Department, has been with the Probate Court for the past thirty years. Her nominator, Presiding Judge John J. Donnelly, writes that she is "a conscientious and willing member" of the staff.

MARY JANE GAMBOSI—SHAKER HEIGHTS MUNICIPAL COURT

Since 1975, Mary Jane Gambosi, nominated by Shaker Heights Municipal Court Judge K.J. Montgomery, has worked for either the Shaker Heights City Law Department or the Shaker Heights Municipal Court. In her position as Administrative Manager of the Court, she plans, organizes and directs the Court's activities, keeps the judge's calendar, coordinates the judge, acting judges and magistrates, deals with the public, handles human resources, prepares the budget and has, from time-to-time, been involved in almost every non-judicial activity of the Court. Mary Jane is active in various local and state organizations for court clerks and administrators and also has helped her bosses in the administrative work of their professional organizations. A graduate of Maple Heights High School, Mary Jane has been married for over 40 years to Frank, and they have three adult children: Frank, Mary Catherine and Theresa Ann. Previously honored by the City of Shaker Heights for her years of public service, Mary Jane, in her spare time enjoys swimming, golf, travel, music, dancing, computer classes, and, most of all, her nine grandchildren. She takes pride in solving problems, although she was a little taken aback when an elderly lady asked for permission to come into the secure area where Mary Jane's office was located, after which that lady lifted her skirt above her head to get to funds she had "stored" in her lingerie prior to using those funds to pay a traffic ticket.

RICHARD T. GRAHAM—COURT OF COMMON PLEAS, JUVENILE COURT DIVISION

Nominated by Juvenile Court Administrative Judge Peter Sikora, Richard Graham has been an employee at the Juvenile Court since 1973 (with one short hiatus), advancing through a series of positions to his current title of Chief Magistrate and Judicial Counsel. Prior to this position, Richard served in other positions, including Director of Legal Services and Referee. He supervises the Court's magistrates, helps develop and update procedures, provides advice to the judges and magistrates and helps implement new law as they are promulgated from Columbus. Raised in St. Clairsville, Ohio, Richard received his undergraduate degree at Ashland University and his law degree from Cleveland State University. He and his wife, Diane, to whom he has been married since 1973, are the parents of Brent and Adam. Now retired from a long-time commitment as a soccer referee for youth soccer leagues, Richard enjoys golf, cooking and computers.

YVONNE C. WOOD—UNITED STATES BANKRUPTCY COURT

Since 1969, Yvonne C. Wood has served at the United States Bankruptcy Court for the Northern District of Ohio. Nominated by Bankruptcy Judge Randolph Baxter, Yvonne is now the Deputy Clerk in Charge, managing an office staff of 23 in training those staff members, preparing a budget, performing administrative tasks and interacting with the public. Yvonne rose to her current position from service as an Intake Clerk, Docket Clerk and Case Administrator. Raised in McMinnville, Tennessee, Yvonne is the mother of Ericha and enjoys cooking and gardening. She cites the reward of activities in which one can see the "fruits" of one's labor.

FRANCES ZAGAR—EIGHTH DISTRICT COURT OF APPEALS

Nominated by Chief Judge Ann Dyke, Frances Zagar has, since 1977, been a Judicial Secretary at the 8th Appellate District, Court of Appeals of Ohio. Currently serving for Judge Terrence O'Donnell, her duties include editing and preparing journal entries for circulation to other judges, tracking case status, data entry and any other tasks required of her. For over 40 years, she was married to William, who passed away in October 1997, and she still finds his loss devastating. William was in advertising and art, and Frances treasures his oils and watercolors. She is fond of bridge, her cats and music. Prior to assisting Judge O'Donnell, Frances is proud to have worked for now-retired Judges Thomas Parrino and Blanche Krupansky. She maintains close contact with her "wonderful, fun" family and still can count on them, including her identical twin, Catherine. She is pleased that the statute of limitations has passed and that she can now confess that her sister took a course in high school for her and that she and her sister are still so close that, on a vacation, they brought the same books to read and that they have even separately ordered the same dress from a catalogue.

THE ECONOMIC RECOVERY AND GROWTH ACT OF 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Indiana (Mr. PENCE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PENCE. Mr. Speaker, I thank the Speaker for this opportunity to address the House on a topic that is important to all Americans.

Mr. Speaker, while the Federal Government prepares to inhale a nearly $6 trillion tax revenue surplus over the next 10 years, I join many of my colleagues here on the floor today to speak on behalf of American families who face a much less promising future.

Our goal today is to call attention to the growing surplus here in Washington and the moral imperative to return this excess revenue to the people who earned it. My colleagues and I have claimed this time today to argue in favor of the economic recovery package of 2001, a package not unlike the one proposed by President Ronald Reagan in 1981. While not nearly as ambitious as its namesake, we are lucky that we do not confront nearly the same grave economic crisis. Today our challenge is preserving the economic prosperity first leveraged by that 1981 Reagan tax cut made some 20 years ago.

Despite the not inconsiderable economic successes of the past few years, Mr. Speaker, Hoosier families in my district are confronting layoffs at a record number of major employers. Our hometown Cummins Engine in Columbus, Indiana, and DaimlerChrysler in New Castle, Indiana, have both announced layoffs that have garnered national attention. I am sure their employees and families are watching and waiting for some sign of what is ahead.

So, too, I know that the small businesses dependent on these companies are fearful. Uncertainty stalks the heartland and these Americans are looking to this Congress to at least return the overpayment collected by the Federal Government, at a minimum.

This House of Representatives, Mr. Speaker, is the heart of the American government, and as such it should resonate with the hearts of the American people.

Mr. Speaker, the people's hearts are anxious with increasingly disappointing news about our economy. All this while income tax rates, as a percentage of the economy, are at the highest level ever recorded. The time has come to cut taxes for working families, small businesses, and family farms.

Federal Reserve Chairman Alan Greenspan's decision to support a tax cut is not a change of heart, as some have characterized it. He has long argued that surplus revenues should not be used for spending programs. He, like me, recognizes that money not used to pay down the debt will be spent in Washington. This is one of the many compelling reasons for supporting tax relief. It is not, however, the reason that moves the American people. All the media attention devoted to the recent downward pressure on interest rates and the wonkery of supply side theories has done little to answer a very important question. Why is the government keeping so much of the Nation's wealth while watching the economy falter?

The plan proposed by President Bush is an excellent start, Mr. Speaker. This plan will indeed reduce personal income tax rates. A new 10 percent tax bracket would be created that would apply to a substantial portion of the income that is currently taxed at 15 percent. The 28 percent and 31 percent tax brackets would be reduced to 25, and the 36 percent bracket and 39.6 would be lowered to 33. This is good public policy for several reasons.

Number one, the current tax rate on work, savings, and investment penalizes productive behavior and impedes economic growth. Because of steep personal income tax rates, highly productive entrepreneurs and investors can take home only about 60 cents of every dollar they earn, not including State and local taxes and other Federal taxes. This reduces the incentive to be productive. Lower tax rates will reduce this tax wedge and encourage additional work, savings and investment, risk taking and entrepreneurship.

This is also good public policy because, Mr. Speaker, the budget surplus is growing. According to the latest Congressional Budget Office projections, the aggregate budget surplus for the 10-year period of 2001 to 2010 will be at least $4.6 trillion. The CBO is expected to revise this projection upward. The Clinton White House reportedly projected tax surplus revenues between 2002 and 2011 of $5 trillion. President Bush's proposed tax relief package is expected to save taxpayers $1.3 trillion to $1.6 trillion over the next 10 years, not including revenue, feedback from the additional economic growth that will follow.

Mr. Speaker, this is also good public policy because reducing the tax burden will help control Federal spending. Without the specter of deficits, lawmakers lose the will to say no to special interests and pork barrel projects. In the 3 years since the surplus materialized in 1998, inflation adjusted Federal spending has grown twice as fast as it did during the three prior years when the government was running a deficit.

Also, Mr. Speaker, lower tax rates are an important step toward fundamental tax reform. When tax rates are high, deductions, credits and exemptions provide large savings to some taxpayers, but roughly 70 percent of all taxpayers receive no benefits since they claim the standard deduction. A simple and fair Tax Code would treat everyone equally, without creating winners and losers, by taxing all income once and at one low rate.

Reducing marginal tax rates, Mr. Speaker, will move the Nation toward a low tax rate system and reduce the value of special interest tax breaks which are more valuable when rates are high. The economic distortions they cause, the political pressure they add, all command tax relief. Also, Mr. Speaker, tax increases did not cause the surplus; and tax cuts will not cause a deficit.

Opponents of tax cuts often claim that the 1993 tax increase is responsible for today's budget surpluses. This is contradicted by the Clinton administration's budget documents. In early 1995, nearly 18 months after the enactment of the 1993 tax increase, the Office of Management and Budget projected budget surpluses of more than $200 billion for the next 10 years. Clearly, events after that date, including the 1997 capital gains tax cut and a temporary reduction in the growth of Federal spending, caused the economy to expand and the budget deficit to vanish.

Finally, Mr. Speaker, this is good public policy because tax rate reductions and entitlement reforms are not mutually exclusive actions. Critics argue that a big tax cut would make it harder to reform Medicare or modernize Social Security by allowing younger workers to shift some of their payroll taxes into personal retirement accounts.

□ 1130

Given the magnitude of the projected budget surpluses, there is no conflict between these goals. Moreover, entitlement reform would be desirable, even without a budget surplus, because it would significantly reduce the long-run unfunded liability of both programs. Large projected surpluses simply make it easier for legislators to implement the necessary policies.

Opponents once argued that tax cuts were unwarranted because the Federal Government was running a budget deficit. Now they argue that tax cuts are unwarranted because there is a surplus. Their real agenda is to block any tax reduction and a reduction in tax rates and increase the dollars they have available here in Washington, D.C.

Mr. Speaker, the American people are wise to this game. Hundreds of layoffs in my Indiana district will attest, this economy is listing badly under the weight of 8 years of increased taxes and regulation.

This Congress must again become the Congress of economic recovery. President Bush's tax plan plus the additional incentives for work and investment contained in the Economic Recovery and Growth Act of 2001 is the cure for what ails our economy. This Congress must turn this economy around. This bill will achieve economic recovery for the families, small businesses, and family farms that make this Nation great.

The supporters of the Economic Recovery and Growth Act believe that the Congress should do all we can to give America's families a tax cut they will feel right away. We want American workers to see the difference in their weekly paycheck. As the President has said, this should include a cut effective at the beginning of this year. So, too, the cut should be designed to stimulate economic growth.

Our Economic Recovery and Growth Act will, number one, continue to save Social Security and Medicare surpluses and thereby reduce the deficit; number two, keep all existing components of President Bush's outstanding tax reduction proposal; and, number three, the Economic Recovery and Growth Act would accelerate and expand the across-the-board cut in income tax rates, accelerate and expand the repeal of the marriage penalty and death taxes; the capital gains tax reduction and small business tax relief all would be accelerated and expanded under the Economic Recovery and Growth Act. The bill will also repeal the 1993 Social Security tax increase and provide IRA expansion and pension reform.

While some have tried to argue that even the Bush plan is extreme and a risky scheme, a close analysis of the historical record, Mr. Speaker, will prove otherwise. Both Senator BOB GRAHAM of Florida and Alan Greenspan agree that the Bush tax cut is average by historical standards.

Consider, for example, this chart, prepared by the nonpartisan National Taxpayers Union. The Bush tax cut and the tax cut proposal we support in the Economic Recovery and Growth Act of 2001 are considerably smaller than either the Kennedy tax cut of the 1960s or significantly smaller than the Reagan tax cut of 1981 as a percentage of gross national product. So too, Mr. Speaker, the Bush tax cut and the Economic Recovery and Growth Act proposal represent a smaller portion of Federal revenues in constant 2000 dollars than either of the earlier tax reduction proposals.

In fact, even Democrat Speaker Tip O'Neill, not exactly legendary for his support of big tax cuts, Democrat Speaker Tip O'Neill's alternative tax initiative in 1981 was larger than the plan that many of us conservatives in the Congress propose today. The Economic Recovery and Growth Act proposal is a well-reasoned and sensible alternative to plans that call for keeping more money in Washington, D.C.

As the preceding comparisons demonstrate, Mr. Speaker, the Bush and our own Bush-plus tax cut are anything but dangerous or irresponsible. They are, instead, measured actions, taken to alleviate two serious challenges facing the American people today.

First, by reducing rates and thus increasing the incentive for work and investment, both plans can help reinvigorate an economy that is finally beginning to collapse under the weight of 8 years of ever-increasing tax and regulatory burdens. Secondly, the proposals will finally offer relief to American families who are currently taxed at a rate not seen since the world was at war.

Hard-working Americans deserve to keep more of their wages, Mr. Speaker, so that they may provide for their families, not for bigger government bureaucracies.

CHALLENGE TO AMERICA: A CURRENT ASSESSMENT OF OUR REPUBLIC

The SPEAKER pro tempore (Mr. REHBERG). Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, I have asked for this time to spend a little bit of time talking about the assessment of our American Republic.

Mr. Speaker, the beginning of the 21st century lends itself to a reassessment of our history and gives us an opportunity to redirect our country's future course, if deemed prudent. The main question before the new Congress and the administration is, are we to have gridlock, or cooperation?

Today we refer to cooperation as bipartisanship. Some argue that bipartisanship is absolutely necessary for the American democracy to survive. The media never mentions a concern for the survival of the Republic, but there are those who argue that left-wing interventionism should give no ground to right-wing interventionism, that too much is at stake.

The media are demanding the Bush administration and the Republican Congress immediately yield to those insisting on higher taxes and more Federal Government intervention for the sake of national unity because our government is neatly split between two concise philosophic views. But if one looks closely, one is more likely to find only a variation of a single system of authoritarianism, in contrast to the rarely mentioned constitutional non-authoritarian approach to government. The big debate between the two factions in Washington boils down to nothing more than a contest over power and political cronyism, rather than any deep philosophic differences.

The feared gridlock anticipated for the 107th Congress will differ little from the other legislative battles in recent Congresses. Yes, there will be heated arguments regarding the size of budgets, local versus Federal control, private versus government solutions; but a serious debate over the precise role for government is unlikely to occur.

I do not expect any serious challenge to the 20th century consensus of both major parties that the Federal Government has a significant responsibility to deal with education, health care, retirement programs, or managing the distribution of the welfare-state benefits. Both parties are in general agreement on monetary management, environmental protection, safety and risk, both natural and man-made. Both participate in telling others around the world how they must adopt a democratic process similar to ours as we police our worldwide financial interests.

We can expect most of the media-directed propaganda to be designed to speed up and broaden the role of the Federal Government in our lives and in the economy. Unfortunately, the token opposition will not present a principled challenge to big government, only an argument that we must move more slowly and make an effort to allow greater local decision-making.

Without presenting a specific philosophic alternative to authoritarian intervention from the left, the opposition concedes that the principle of government involvement per se is proper, practical, and constitutional.

The cliche "the third way" has been used to define the so-called compromise between the conventional wisdom of the conservative and liberal firebrands. This nice-sounding compromise refers not only to the noisy rhetoric we hear in the United States Congress, but also in Britain, Germany, and other nations as well.

The question, though, remains, is there really anything new being offered? The demand for bipartisanship is nothing more than a continuation of the third-way movement of the last several decades. The effort always is to soften the image of the authoritarians who see a need to run the economy and regulate people's lives, while pretending not to give up any of the advantages of the free market or the supposed benefits that come from compassionate welfare or a socialist government.

□ 1145

It is nothing more than political, have-your-cake-and-eat-it-too, deception.

Many insecure and wanting citizens cling to the notion that they can be taken care of through government benevolence without sacrificing the free market and personal liberty. Those who anxiously await next month's government check prefer not to deal with the question of how goods and services are produced and under what political circumstances they are most efficiently provided. Sadly, whether personal freedom is sacrificed in the process is a serious concern for only a small number of Americans.

The third way, a bipartisan compromise that sounds less confrontational and circumvents the issue of individual liberty, free markets and production is an alluring, but dangerous, alternative. The harsh reality is that it is difficult to sell the principles of liberty to those who are dependent on government programs, and this includes both the poor beneficiaries as well as the self-serving, wealthy elites who know how to benefit from government policies. The authoritarian demagogues are always anxious to play on the needs of people made dependent by a defective political system of government intervention, while perpetuating their own power. Anything that can help the people to avoid facing the reality of the shortcomings of the welfare-warfare state is welcomed. Thus, our system is destined to perpetuate itself until the immutable laws of economics bring it to a halt at the expense of liberty and prosperity.

The third-way compromise or bipartisan cooperation can never reconcile the differences between those who produce and those who live off others. It will only make it worse. Theft is theft, and forced redistribution of wealth is just that. The third way, though, can deceive and perpetuate an unworkable system when both major factions endorse the principle.

In the last session of the Congress, the majority party, with bipartisan agreement, increased the Labor, Health and Human Services and Education appropriation by 26 percent over the previous year, nine times the rate of inflation. The Education Department alone received $44 billion, nearly double Clinton's first educational budget of 1993. The Labor, HHS and Education appropriation was $34 billion more than the Republican budget had authorized. Already, the spirit of bipartisanship has prompted a new administration to request another $10 billion along with more mandates on public schools. This is a far cry from the clear constitutional mandate that neither the Congress nor the Federal courts have any authority to be involved in public education. The argument that this bipartisan approach is a reasonable compromise between the total free market of local government or local government approach, and that of a huge activist centralized government approach may appeal to some, but it is fraught with great danger. Big government clearly wins. Limited government and the free market lose. Any talk of the third way is nothing more than propaganda for big government. It is no compromise at all.

The principle of Federal Government control is fully endorsed by both sides, and the argument that the third way might slow growth of big government falls flat. Actually, with bipartisan cooperation, government growth may well accelerate.

How true bipartisanship works in Washington is best illustrated by the way a number of former Members of Congress make a living after leaving Congress. They find it quite convenient to associate with other former members of the opposing party and start a lobbying firm. What might have appeared to be contentious differences when in office are easily put aside to lobby their respective party members. Essentially, no philosophic differences of importance exist; it is only a matter of degree and favors sought, since both parties must be won over. The differences they might have had while they were voting Members of Congress existed only for the purpose of appealing to their different constituencies, not serious differences of opinion as to what the role of government ought to be. This is the reality of bipartisanship.

Sadly, our system handsomely rewards those who lobby well and in a bipartisan fashion. Congressional service too often is a training ground or a farm system for the ultimate government service: lobbying Congress for the benefit of powerful and wealthy special interests. It should be clearly evident, however, that all the campaign finance reform and lobbying controls conceivable will not help the situation. Limiting the right to petition Congress or restricting people's right to spend their own money will always fail and is not morally acceptable and misses the point. As long as government has so much to offer, public officials will be tempted to accept the generous offers of support from special interests. Those who can benefit have too much at stake not to be in the business of influencing government.

Eliminating the power of government to pass out favors is the only real solution. Short of that, the only other reasonable solution must come from Members' refusal to be influenced by the pressure the special interest money can exert. This requires moral restraint by our leaders. Since this has not happened, special interest favoritism has continued to grow.

The bipartisanship of the last 50 years has allowed our government to gain control over half of the income of most Americans. Being enslaved half the time is hardly a good compromise, but supporters of the political status quo point out that in spite of the loss of personal freedom, the country continues to thrive in many ways. But there are some serious questions that we as a people must answer. Is this prosperity real? Will it be long-lasting? What is the true cost in economic terms? Have we sacrificed our liberties for government security? Have we undermined the very system that has allowed productive effort to provide a high standard of living for so many? Has this system in recent years excluded some from the benefits that Wall Street and others have enjoyed? Has it led to needless and dangerous U.S. interventions overseas and created problems that we are not yet fully aware of? Is it morally permissible in a country that professes to respect individual liberty to routinely give handouts to the poor and provide benefits to the privileged and rich by stealing the fruits of labor from hard-working Americans?

As we move into the next Congress, some worry that gridlock will make it impossible to get needed legislation passed. This seems highly unlikely. If big government supporters found ways to enlarge the government in the past, the current evenly-split Congress will hardly impede this trend and may even accelerate it. With a recession on the horizon, both sides will be more eager than ever to cooperate on expanding Federal spending to stimulate the economy, whether the fictitious budget surplus shrinks or not. In this frantic effort to take care of the economy, promote education, save Social Security, and provide for the medical needs of all Americans, no serious discussion will take place on the political conditions required for a free people to thrive. If not, all efforts to patch the current system together will be at the expense of personal liberty, private property, and sound money.

If we are truly taking a more dangerous course, the biggest question is, how long will it be before a major political economic crisis engulfs our land? That, of course, is not known, and certainly not necessary, if we as a people and especially the Congress understand the nature of the crisis and do something to prevent the crisis from undermining our liberties. We should, instead, encourage prosperity by avoiding any international conflict that threatens our safety or wastefully consumes our needed resources.

Congressional leaders do have a responsibility to work together for the good of the country, but working together to promote a giant interventionist state dangerous to us all is far different from working together to preserve constitutionally protected liberties.

Many argue that the compromise of bipartisanship is needed to get even a little of what the limited government advocates want, but this is a fallacious argument. More freedom can never be gained by giving up freedom, no matter the rationale. If liberals want $46 billion for the Department of Education and conservatives argue for $42 billion, a compromise of $44 billion is a total victory for the advocates of Federal Government control of public education. Saving $2 billion means nothing in the scheme of things, especially since the case for the constitutional position of zero funding was never even entertained. When the budget and government controls are expanding each year, a token compromise in the proposed increase means nothing. And those who claim it to be a legitimate victory do great harm to the cause of liberty by condoning the process. Instead of it being a third-way alternative to the two sides arguing over minor details of how to use government force, the three options instead are philosophically the same. A true alternative must be offered if the growth of the state is to be contained. Third-way bipartisanship is not the answer.

However, if, in the future, the constitutionalists argue for zero funding for the Education Department and the liberals argue to increase it to $50 billion and finally $25 billion is accepted as a compromise, progress will have been made. But this is not what is being talked about in D.C. When an effort is made to find a third way, both sides are talking about expanding government and neither side questions the legitimacy of the particular program involved. Unless the moral and Constitutional debate changes, there can be no hope that the trend toward bigger government with a sustained attack on personal liberty will be reversed. It must become a moral and constitutional issue.

Budgetary tokenism hides the real issue. Even if someone claims to have just saved the taxpayer a couple billion dollars, the deception does great harm in the long run by failure to emphasize the importance of the Constitution and the moral principles of liberty. It instead helps to deceive the people into believing something productive is being done, but it is really worse than that, because neither party makes an effort to cut the budget. The American people must prepare themselves for ever more spending and taxes.

A different approach is needed if we want to protect the freedoms of all Americans, to perpetuate prosperity, and to avoid a major military confrontation. All three options in reality represents only a variation of the one based on authoritarian and interventionist principles. Nothing should be taken for granted, neither our liberties, nor our material well-being. Understanding the nature of a free society and favorably deciding on its merits are required before true reform can be expected. If, however, satisfaction and complacency with the current trend toward bigger and more centralized government remain the dominant view, those who love liberty more than promised security must be prepared for an unpleasant future.

□ 1200

Those alternative plans will surely vary from one to another. Tragically, for some it will contribute to the violence that will surely come when promises of government security are not forthcoming. We can expect further violations of civil liberties by a government determined to maintain order when difficult economic and political conditions develop.

But none of this needs occur if the principles that underpin our Republic, as designed by the Founders, can be resurrected and reinstituted. Current problems that we now confront are government-created and can be much more easily dealt with when government is limited to its proper role of protecting liberty, instead of promoting a welfare-fascist state.

There are reasons to be optimistic that the principles of the Republic, the free market, and respect for private property can be restored. However, there remains good reason, as well, to be concerned that we must confront the serious political and economic firestorm seen on the horizon before that happens.

My concerns are threefold: the health of the economy, the potential for war, and the coming social discord. If our problems are ignored, they will further undermine the civil liberties of all Americans. The next decade will be a great challenge to all Americans.

The booming economy of the last 6 years has come to an end. The only question remaining is how bad the slump will be. Although many economists express surprise at the sudden and serious shift in sentiment, others have been warning of its inevitability. Boom times built on central bank credit creation always end in recession or depression. But central planners, being extremely optimistic, hope that this time it will be different, that a new era has arrived.

For several years we have heard the endless nostrum of a technology and productivity-driven paradigm that would make the excesses of the 1990s permanent and real. Arguments that productivity increases made the grand prosperity of the last 6 years possible were accepted as conventional wisdom, although sound free-market analysts warned otherwise.

We are now witnessing an economic downturn that will, in all likelihood, be quite serious. If our economic planners pursue the wrong course, they will make it much worse and prolong the recovery.

Although computer technology has been quite beneficial to the economy, in some ways these benefits have been misleading by hiding the ill effects of central bank manipulation of interest rates and by causing many to believe that the usual business-cycle correction could be averted. Instead, delaying a correction that is destined to come only contributes to greater distortions in the economy, thus requiring an even greater adjustment.

It seems obvious that we are dealing with a financial bubble now deflating. Certainly, most observers recognize that the NASDAQ was grossly overpriced. The question remains, though, as to what is needed for the entire economy to reach equilibrium and allow sound growth to resume.

Western leaders for most of the 20th century have come to accept a type of central planning they believe is not burdened by the shortcomings of true socialist-type central planning. Instead of outright government ownership of the means of production, the economy was to be fine-tuned by fixing interest rates, that is, Fed funds rates, subsidizing credit, government-sponsored enterprises, stimulating sluggish segments of the economy, farming and the weapons industry, aiding the sick, Medicaid and Medicare, federally managing education, the Department of Education, and many other welfare schemes.

The majority of Americans have not yet accepted the harsh reality that this less threatening, friendlier type of economic planning is minimally more efficient than that of the socialist planners with their 5-year economic plans.

We must face the fact that the business cycle, with its recurring recessions, wage controls, wealth transfers, and social discord, is still with us, and will get worse unless there is a fundamental change in economic and monetary policy. Regardless of the type, central economic planning is a dangerous notion.

In an economic downturn, a large majority of our political leaders believe that recession's ill effects can be greatly minimized by monetary and fiscal policy. Although cutting taxes is always beneficial, spending one's way out of a recession is no panacea. Even if some help is gained by cutting taxes, or temporary relief given by an increase in government spending, they distract from the real cause of the downturn: previously pursued faulty monetary policy.

The consequences of interest rate manipulation in a recession, along with tax-and-spending changes, are unpredictable and do not always produce the same results each time they are used. This is why interest rates of less than 1 percent and massive spending programs have not revitalized Japan's economy or her stock market.

We may well be witnessing the beginning of a major worldwide economic downturn, making even more unpredictable the consequence of conventional western-style central banking tinkering.

There is good reason to believe that Congress and the American people ought to be concerned and start preparing for a slump that could play havoc with our Federal budget and the value of the American dollar. Certainly the Congress has a profound responsibility in this area. If we ignore the problems or continue to endorse the economic myths of past generations, our prosperity will be threatened. But our liberties could be lost as well if expanding the government's role in the economy is pursued as the only solution to the crisis.

It is important to understand how we got ourselves into this mess. The blind faith that wealth and capital can be created by the central bank's creating money and credit out of thin air, using government debt as its collateral, along with fixing short-term interest rates, is a myth that must one day be dispelled. All the hopes of productivity increases in a dreamed-about new era economy cannot repeal eternal economic laws.

The big shift in sentiment of the past several months has come with a loss of confidence in the status of the new paradigm. If we are not careful, the likely weakening of the U.S. dollar could lead to a loss of confidence in America and all her institutions.

U.S. political and economic power has propped up the world economy for years. Trust in the dollar has given us license to borrow and spend way beyond our means. But just because world conditions have allowed us greater leverage to borrow and inflate the currency than otherwise might have been permitted, the economic limitations of such a policy still exist. This trust, however, did allow for a greater financial bubble to develop and dislocations to last longer, compared to similar excesses in less powerful nations.

There is one remnant of the Bretton Woods gold exchange standard that has aided U.S. dominance over the past 30 years. Gold was once the reserve all central banks held to back up their currencies. After World War II, the world central banks were satisfied to hold dollars, still considered to be as good as gold, since internationally the dollar could still be exchanged for gold at $35 an ounce.

When the system broke down in 1971 and we defaulted on our promises to pay in gold, chaos broke out. By default, the dollar maintained its status as the reserve currency of the world. This is true even to this day. The dollar still represents approximately 77 percent of all world central bank reserves.

This means that the United States has a license to steal. We print the money and spend it overseas, while world trust continues because of our dominant economic and military power. This results in a current account and trade deficit so large that almost all economists agree that it cannot last. The longer and more extensive the distortions in the international market, the greater will be the crisis when the market dictates a correction. That is what we are starting to see.

When the recession hits full force, even the extraordinary power and influence of Alan Greenspan and the Federal Reserve, along with all other central banks of the world, will not be enough to stop the powerful natural economic forces that demand equilibrium. Liquidation of unreasonable debt and the elimination of the overcapacity built into the system and a return to trustworthy money and trustworthy government will be necessary. Quite an undertaking.

Instead of looking at the real cost and actual reasons for the recent good years, politicians and many Americans have been all too eager to accept the newfound wealth as permanent and deserved, as part of a grand new era. Even with a national debt that continued to grow, all the talk in Washington was about how to handle the magnificent budget surpluses.

Since 1998, when it was announced that we had a budgetary surplus to deal with, the national debt has nevertheless grown by more than $230 billion, albeit at a rate less than in the past, but certainly a sum that should not be ignored. But the really big borrowing has been what the U.S. as a whole has borrowed from foreigners to pay for the huge deficit we have in our current account. We are now by far the largest foreign debtor in the world and in all of history.

The convenient arrangement has allowed us to live beyond our means, and according to long-understood economic laws must end. A declining dollar confirms that our ability to painlessly borrow huge sums will no longer be cheap or wise. During the past 30 years, in the post-Bretton Woods era, worldwide sentiment has permitted us to inflate our money supply and get others to accept the dollar as if it were as good as gold. This convenient arrangement has discouraged savings, which are now at an historic low.

Savings in a capitalist economy are crucial for furnishing capital and establishing market interest rates. With negative savings and with the Fed fixing rates by creating credit out of thin air and calling it capital, we have abandoned a necessary part of free market capitalism, without which a smooth and growing economy is not sustainable.

No one should be surprised when recessions hit, or bewildered as to their cause or danger. The greater surprise would be the endurance of an economy fine-tuned by a manipulative central bank and a compulsively interventionist Congress.

But the full payment for our last economic sins may now be required. Let us hope we can keep the pain and suffering to a minimum.

The most recent new era of the 1990s appeared to be an answer to all politicians' dreams: a good economy, low unemployment, minimal price inflation, a skyrocketing stock market, with capital gains tax revenues flooding the Treasury, thus providing money to accommodate every special-interest demand.

But it was too good to be true. It was based on an inflated currency and massive corporate, personal and government borrowing. A recession was inevitable to pay for the extravagance that many knew was an inherent part of the new era, understanding that abundance without a commensurate amount of work was not achievable.

The mantra now is for the Fed to quickly lower short-term interest rates to stimulate the economy and alleviate a liquidity crisis. This policy may stimulate a boom and may help in a mild downturn, but it does not always work in a bad recession. It actually could do great harm since it could weaken the dollar, which in turn would allow market forces instead to push long-term interest rates higher. Deliberately lowering interest rates is not even necessary for the dollar to drop, since our policy has led to a current account deficit of a magnitude that demands the dollar eventually readjust and weaken.

A slumping stock market will also cause the dollar to decline and interest rates to rise. Federal Reserve Board central planning, though, through interest rate control, is not a panacea. It is, instead, the culprit that produces the business cycle. Government and Fed officials have been reassuring the public that no structural problems exist, citing no inflation and a gold price that reassures the world that the dollar is indeed still king.

The Fed can create excess credit, but it cannot control where it goes as it circulates throughout the economy, nor can it dictate value. Claiming that a subdued government-rigged CPI and PPI proves that no inflation exists is pure nonsense. It is well established that, under certain circumstances, new credit inflation can find its way into the stock or real estate market, as it did in the 1920s, while consumer prices remained relatively stable. This does not negate the distortions inherent in a system charged with artificially low interest rates. Instead, it allows the distortion to last longer and become more serious, leading to a bigger correction.

If gold prices reflected the true extent of the inflated dollar, confidence in the dollar specifically and in paper more generally would be undermined. It is a high priority of the Fed and all central banks of the world for this not to happen. Revealing to the public the fraud associated with all paper money would cause loss of credibility of all central banks. This knowledge would jeopardize the central bank's ability to perform the role of lender of last resort, and to finance and monetize government debt. It is for this reason that the price of gold, in their eyes, must be held in check.

From 1945 to 1971, the United States literally dumped nearly 500 million ounces of gold at $35 an ounce in an effort to do the same thing by continuing the policy of printing money at will, with the hopes that there would be no consequences to the value of the dollar. That all ended in 1971, when the markets overwhelmed the world central bankers.

A similar effort continues today, with central banks selling and loaning gold to keep the price in check. It is working and does convey false confidence, but it cannot last. Most Americans are wise to the government statistics regarding prices and the no-inflation-exists rhetoric. Everyone is aware that the prices of oil, gasoline, natural gas, medical care, repairs, houses, and entertainment have all been rapidly rising.

The artificially low gold price has aided the government's charade, but it has also allowed a bigger bubble to develop.

□ 1215

This policy cannot continue. Economic law dictates a correction that most Americans will find distasteful and painful. Duration and severity of the liquidation phase of the business cycle can be limited by proper responses, but it cannot be avoided and could be made worse if the wrong course is chosen.

Recent deterioration of the junk bond market indicates how serious the situation is. Junk bonds are now paying 9 to 10 percent more than short-term government securities. The quality of business loans is suffering, while more and more corporate bonds are qualifying for junk status. The Fed tries to reassure us by attempting to stimulate the economy with low, short-term Fed fund rates at the same time interest rates for businesses and consumers are rising. There comes a time when Fed policy is ineffective, much to everyone's chagrin.

Micromanaging an economy effectively for a long period of time, even with the power a central bank wields, is an impossible task. The good times are ephemeral and eventually must be paid for by contraction and renewed real savings.

There is much more to inflation than rising prices. Inflation is defined as the increase in the supply of money and credit. Obsessively sticking to the "rising prices" definition conveniently ignores placing the blame on the responsible party: The Federal Reserve. The last thing central banks, or the politicians who need a backup for all their spending mischief, want is for the government to lose its power for creating money out of thin air, which serves political and privileged financial interests.

When the people are forced to think only about rising prices, government-doctored price indexes can dampen concerns for inflation. Blame then can be laid at the doorstep of corporate profiteers, price gougers, labor unions, oil sheiks, or greedy doctors. But it is never placed at the feet of the highly paid athletes or entertainers. It would be economically incorrect to do so, but it is political correctness that does not allow some groups to be vilified.

Much else related to artificially low interest rates goes unnoticed. An overpriced stock market, overcapacity in certain industries, excesses in real estate markets, artificially high bond prices, general mal-investments, excessive debt and speculation all result from the generous and artificial credit the Federal Reserve pumps into the financial system. These distortions are every bit, if not more, harmful than rising prices. As the economy soars from the stimulus effect of low interest rates, growth and distortions compound themselves. In a slump, the reverse is true and the pain and suffering is magnified as the adjustment back to reality occurs.

The extra credit in the 1990s has found its way especially into the housing market like never before. Government Sponsored Enterprises, in particular Freddie Mac and Fannie Mae, have gobbled up huge sums to finance a booming housing market. GSE securities enjoy implicit government guarantees that have allowed for a generous discount on most housing loans. They have also been the vehicles used by consumers to refinance and borrow against their home equity to use these funds for other purposes, such as investment in the stock market. This has further undermined savings by using the equity that builds with price inflation that homeowners enjoy when money is debased.

In addition, the Federal Reserve now buys and holds GSE securities as collateral in their monetary operations. These securities are then literally used as collateral for printing Federal Reserve notes. This is a dangerous precedent.

If monetary inflation merely raised prices and all prices and labor costs moved up at the same rate and it did not cause disequilibrium in the market, it would be of little consequence. But inflation is far more than rising prices. Creating money out of thin air is morally equivalent to counterfeiting. It is fraud and theft, because it steals purchasing power from the savers and those on fixed incomes. That in itself should compel all nations to prohibit it, as did the authors of our Constitution.

Inflation is socially disruptive in that the management of fiat money, as all today's currencies are, causes great hardships. Unemployment is a direct consequence of the constantly recurring recessions. Persistent rising costs impoverish many as the standard of living of unfortunate groups erodes. Because the pain and suffering that comes from monetary debasement is never evenly distributed, certain segments of society actually benefit.

In the 1990s, Wall Streeters thrived while some low-income, non-welfare, non-homeowners suffered with rising costs for fuel, rent, repairs, and medical care. Generally, one should expect the middle class to suffer and to literally be wiped out in severe inflation. When this happens, as it did in many countries throughout the 20th century, social and political conflicts become paramount when finger-pointing becomes commonplace by those who suffer, looking for scapegoats. Almost always, the hostility is inaccurately directed.

There is a greater threat from the monetary mischief than just the economic harm it does. The threat to liberty resulting when economic strife hits and finger-pointing increases should concern us most. We should never be complacent about monetary policy.

We must reassess the responsibility Congress has in maintaining a sound monetary system. In the 19th century, the constitutionality of a central bank was questioned and challenged. Not until 1913 were the advocates of a strong federalist system able to foist a powerful central bank on us, while destroying the gold standard. This banking system, which now serves as the financial arm of Congress, has chosen to pursue massive welfare spending and a foreign policy that has caused us to be at war for much of the 20th century.

Without the central bank creating money out of thin air, our welfare state and worldwide imperialism would have been impossible to finance. Attempts at economic fine-tuning by monetary authorities would have been impossible without a powerful central bank. Propping up the stock market as it falters would be impossible as well.

But the day will come when we will have no choice but to question the current system. Yes, the Fed does help to finance the welfare state. Yes, the Fed does come to the rescue when funds are needed to fight wars and for us to pay the cost of maintaining our empire. Yes, the Fed is able to stimulate the economy and help create what appears to be good times. But it is all built on an illusion. Wealth cannot come from a printing press. Empires crumble and a price is eventually paid for arrogance toward others. And booms inevitably turn into busts.

Talk of a new era these past 5 years has had many believing, including Greenspan, that this time it really would be different. And it may indeed be different this time. The correction could be an especially big one, since the Fed-driven distortion of the past 10 years, plus the lingering distortion of the past decades, have been massive. The correction could be made big enough to challenge all of our institutions, the entire welfare state, Social Security, foreign intervention, and our national defense.

This will only happen if the dollar is knocked off its pedestal. No one knows if that is going to happen sooner or later. But when it does, our constitutional system of government will be challenged to the core.

Ultimately, the solution will require a recommitment to the principles of liberty, including a belief in sound money, when money once again will be something of value rather than pieces of paper or mere blips from a Federal Reserve computer. In spite of the grand technological revolution, we are still having trouble with a few simple, basic tasks: counting votes, keeping the lights on, or even understanding the sinister nature of paper money.

Mr. Speaker, I will continue this special order tomorrow.

GENERAL LEAVE

Mr. PAUL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the special order by the gentleman from Indiana (Mr. Pence) today.

The SPEAKER pro tempore (Mr. Simpson). Is there objection to the request of the gentleman from Texas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Calvert (at the request of Mr. Armey) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Abercrombie) to revise and extend their remarks and include extraneous material:)

Mr. Brown of Ohio, for 5 minutes, today.

Mr. Davis of Illinois, for 5 minutes, today.

Mr. Underwood, for 5 minutes, today.

Mrs. Mink of Hawaii, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Member (at the request of Mr. PENCE) to revise and extend his remarks and include extraneous material:)

Mr. SMITH of Michigan, for 5 minutes, today.

ADJOURNMENT

Mr. PAUL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, February 8, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

673. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force in the 1st Fighter Wing, Langley Air Force Base, Virginia, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

674. A letter from the Director, Office of Small and Disadvantaged Business Utilization, Department of Defense, transmitting a report on the Department's efforts and planned initiatives to achieve the five percent goals for women-owned business concerns; to the Committee on Armed Services.

675. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Rule To Deconcentrate Poverty and Promote Integration in Public Housing; Change in Applicability Date of Deconcentration Component of PHA Plan [Docket No. FR-4420-F-11] (RIN: 2577-AB89) received February 5, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

676. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Capital Requirements for Federal Home Loan Banks [No. 2000-46] (RIN: 3069-AB01) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

677. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Interagency Guidelines Establishing Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness [Docket No. 00-35] (RIN: 1557-AB84) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

678. A letter from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting the Commission's final rule—Integration of Abandoned Offerings [Release No. 33-7943; File No. S7-30-98] (RIN: 3235-AG83) received January 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

679. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-6935-8] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

680. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Illinois [IL198-1a; FRL-6935-4] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

681. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality State Implementation Plans; Texas; Approval of Clean Fuel Fleet Substitution Program Revision [TX-105-1-7404; FRL-6935-3] received January 17, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

682. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Jewelry, Precious Metals and Pewter Industries—received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

683. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Kingdom (Transmittal No. 02-01), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

684. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification that the Russian Federation and Ukraine are committed to the courses of action described in Section 1203 (d) of the Cooperative Threat Reduction Act of 1993 (Title XII of the Public Law 103-160), Section 1412 (d) of the Former Soviet Union Demilitarization Act of 1992 (Title XIV of Public Law 102-484) and Section 502 of the FREEDOM Support Act (Public Law 102-511); to the Committee on International Relations.

685. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-570, "Commemorative Works on Public Space Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

686. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-568, "Equity in Contracting Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

687. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-572, "Newborn Hearing Screening Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

688. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-590, "Child and Family Services Agency Establishment Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

689. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-560, "Anti-Graffiti Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

690. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-567, "Bail Reform Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

691. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-566, "Foster Children's Guardianship Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

692. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-565, "Safe Needle Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

693. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-562, "Health Care and Community Residence Facility, Hospice and Home Care Licensure Penalties Temporary Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

694. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 13-561, "Unemployment Compensation Administration Enhancement Amendment Act of 2000" received February 7, 2001, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

695. A letter from the Comptroller General, General Accounting Office, transmitting a list of reports issued or released by GAO during the month of November 2000; to the Committee on Government Reform.

696. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the 2000 annual report of the Foundation, pursuant to 20 U.S.C. 4513; to the Committee on Government Reform.

697. A letter from the Director, Office of Management and Budget, transmitting the 2000 Federal Financial Management Report; to the Committee on Government Reform.

698. A letter from the the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 2000 through December 31, 2000 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a; (H. Doc. No. 107—40); to the Committee on House Administration and ordered to be printed.

699. A letter from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule—Update of the List of Countries Whose Citizens or Nationals Are Ineligible for Transit Without Visa (TWOV) Privileges to the United States Under the TWOV Program [INS No. 2020-99] (RIN: 1115-AF81) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

700. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Intelligent Transportation System Architecture and Standards: Delay of Effective Date [FHWA Docket No. FHWA-99-5899] (RIN: 2125-AE65) received February 2, 2001, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

701. A letter from the Assistant Chief Counsel for Legislation and Regulations, Federal Transit Administration, Department of Transportation, transmitting the Department's final rule—Major Capital Investment Projects; Delay of Effective Date (RIN: 2132–AA63) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

702. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regattas and Marine Parades: Delay of Effective Date (RIN: 2115–AF17) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

703. A letter from the Deputy Chief Counsel, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators with 500 or More Miles of Pipelines) [Docket No. RSPA–99–6355; Amdt. 195–70] (RIN: 2137–AD45) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

704. A letter from the Deputy Chief Counsel, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Areas Unusually Sensitive to Environmental Damage [Docket No. SPA–99–5455; Amdt. 195–71] (RIN: 2137–AC34) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

705. A communication from the President of the United States, transmitting principles for a bipartisan Patients' Bill of Rights to provide all Americans with protections in managed care; (H. Doc. No. 107—42); jointly to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of February 6, 2001]

By Mr. NETHERCUTT (for himself, Mr. Foley, Mr. Reyes, Ms. Dunn, Mr. Watkins, Mr. Doyle, Mrs. Emerson, Mr. English, and Mrs. Thurman):

H.R. 394. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserves, to allow a comparable credit for participating self-employed individuals, and to restore the pre-1986 status of deductions incurred in connection with services performed as a member of a Reserve component of the Armed Forces; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself, Mr. Young of Florida, Mr. Shaw, Ms. Ros-Lehtinen, Mr. Stearns, Mr. Mica, Mr. Miller of Florida, Mr. Keller, Mrs. Meek of Florida, Mr. Goss, Ms. Brown of Florida, Mr. Deutsch, Mr. Bilirakis, Mr. Foley, Mr. Davis of Florida, Mr. Hastings of Florida, Mr. Crenshaw, Mr. Putnam, Mr. Diaz-Balart, Mr. Scarborough, Mr. Wexler, Mr. Boyd, and Mrs. Thurman):

H.R. 395. A bill to designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida"; to the Committee on Government Reform.

By Mr. PICKERING:

H.R. 396. A bill to amend the emergency crop loss assistance provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, to respond to the severe economic losses being incurred by crop producers, livestock and poultry producers, and greenhouse operators as a result of the sharp increase in energy prices; to the Committee on Agriculture.

By Mr. GALLEGLY (for himself, Mr. Bereuter, Mr. George Miller of California, Mrs. Johnson of Connecticut, Mr. Lantos, Mr. Gilman, Mr. Abercrombie, Mr. Leach, Mr. Tancredo, Mr. Smith of New Jersey, Mr. Pallone, Mr. Shays, Mr. Smith of Washington, Mr. Whitfield, Mr. Levin, Mr. Kolbe, Mr. Ackerman, Mr. Greenwood, Mr. Berman, Mr. Horn, Mr. Wexler, Mr. Mica, Mr. Menendez, Mr. Bass, Ms. Lee, Mr. Boehlert, Mr. Kleczka, Mr. Inslee, Mr. Nadler, Mrs. Maloney of New York, Ms. Woolsey, Ms. Pelosi, Mr. Doyle, Mr. Boucher, Ms. Norton, Mr. Borski, Mr. Olver, Ms. Baldwin, Mr. Price of North Carolina, Ms. Rivers, Mr. Holt, Mr. Neal of Massachusetts, Mr. Bentsen, Mr. Blagojevich, Mr. Lampson, Mr. Filner, Mr. Pascrell, Ms. Eshoo, Ms. Schakowsky, Mr. Blumenauer, Mr. Rothman, Mrs. Mink of Hawaii, Mr. Simmons, Mr. Weiner, Ms. DeLauro, Mr. Costello, Mr. Luther, Mr. Kucinich, Mr. Sherman, Mr. Frelinghuysen, Ms. Carson of Indiana, Mr. Thompson of California, Mr. Lipinski, Mr. Green of Wisconsin, Mr. Evans, Mr. Delahunt, Mr. Phelps, Mr. Oberstar, Mr. Baird, Mr. Hinchey, Mr. Ehlers, Ms. McKinney, Ms. Roybal-Allard, Mr. Frank, Mr. Payne, Mr. Tierney, and Mr. Stark):

H.R. 397. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Resources, and in addition to the Committees on International Relations, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 398. A bill to make supplemental appropriations for fiscal year 2001 to ensure the inclusion of commonly used pesticides in State source water assessment programs, and for other purposes; to the Committee on Appropriations.

By Mr. BISHOP (for himself, Mr. Sherman, Mr. McNulty, Mr. Condit, Mr. Capuano, Mr. Chambliss, Mrs. Christensen, Mr. Barr of Georgia, Mr. Frost, Mr. Brady of Pennsylvania, Mr. Blumenauer, Mr. Hastings of Florida, Mr. Hall of Ohio, Mr. Delahunt, Mr. Kildee, Mr. Kucinich, Ms. Kilpatrick, Mr. Jefferson, Ms. Eddie Bernice Johnson of Texas, Mrs. Jones of Ohio, Mr. Meehan, Ms. Norton, Mr. George Miller of California, Mr. McGovern, Mr. McDermott, Ms. McKinney, Ms. Millender-McDonald, Mr. Payne, Mr. Kleczka, Mr. Ney, Mrs. Meek of Florida, Ms. Roybal-Allard, Mrs. Napolitano, Mr. Thompson of Mississippi, Mr. Sisisky, Mr. Lantos, Mr. Filner, Mrs. Clayton, Mr. Sabo, Mr. Faleomavaega, Mr. Phelps, Mr. Wynn, Mr. Shimkus, Mr. Thompson of California, Mr. Rush, Mr. Owens, Mrs. Thurman, Mr. Udall of Colorado, Mr. Deal of Georgia, and Mr. Lewis of Georgia):

H.R. 399. A bill to authorize the President to present gold medals on behalf of the Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation; to the Committee on Financial Services.

By Mr. HASTERT:

H.R. 400. A bill to authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 401. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to notify parents concerning missing person reports about their children, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 402. A bill to amend the Higher Education Act of 1965 to recognize the time required to save funds for the college education of adopted children; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 403. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to require persons who are plan administrators of employee pension benefit plans or provide administrative services to such plans, and who also provide automobile insurance coverage or provide persons offering such coverage identifying information relating to plan participants or beneficiaries, to submit to the Federal Trade Commission certain information relating to such automobile insurance coverage; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 404. A bill to amend the National Labor Relations Act to ensure that certain orders of the National Labor Relations Board are enforced to protect the rights of employees; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 405. A bill to amend title 49 of the United States Code to require automobile manufacturers to provide automatic door locks on new passenger cars manufactured after 2004; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 406. A bill to prohibit an insurer from treating a veteran differently in the terms or conditions of motor vehicle insurance because a motor vehicle operated by the veteran, during a period of military service by the veteran, was insured or owned by the United States; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 407. A bill concerning denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 408. A bill to provide for the establishment of a national database of ballistics information about firearms for use in fighting crime, and to require firearms manufacturers to provide ballistics information about new firearms to the national database; to the Committee on the Judiciary.

By Mr. ANDREWS (for himself, Mr. SAXTON, and Mr. LoBIONDO):

H.R. 409. A bill to amend title 28, United States Code, to divide New Jersey into 2 judicial districts; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 410. A bill to amend Title II of the Social Security Act to restore child's insurance benefits in the case of children who are 18 through 22 years of age and attend postsecondary schools; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 411. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment of the dollar limitation on the exclusion of gain on the sale of a principal residence; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 412. A bill to amend the Internal Revenue Code of 1986 to exempt from income tax the gain from the sale of a business closely held by an individual who has attained age 62, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 413. A bill to amend the Social Security Act to require that anticipated child support be held in trust on the sale or refinancing of certain real property of an obligated parent; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 414. A bill to amend the Internal Revenue Code of 1986 to make the Hope and Lifetime Learning Credits refundable, and to allow taxpayers to obtain short-term student loans by using the future refund of such credits as collateral for the loans; to the Committee on Ways and Means.

By Ms. SANCHEZ:

H.R. 415. A bill to amend the Internal Revenue Code of 1986 to encourage new school construction through the creation of a new class of bond; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 416. A bill to establish a Fund for Environmental Priorities to be funded by a portion of the consumer savings resulting from retail electricity choice, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 417. A bill to amend the Controlled Substances Act to provide penalties for open air drug markets, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BALDACCI:

H.R. 418. A bill to designate the facility of the United States Postal Service located at 14 Municipal Way in Cherryfield, Maine, as the "Gardner C. Grant Post Office"; to the Committee on Government Reform.

By Mr. BARRETT (for himself, Mr. FARR of California, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. DELAHUNT, Mr. FROST, Mr. BALDACCI, Mr. HOLDEN, Mr. HINOJOSA, Mr. CLEMENT, Mr. BECERRA, Mr. UDALL of New Mexico, Mr. GEORGE MILLER of California, Mrs. JONES of Ohio, Mr. GREEN of Texas, Ms. BALDWIN, Mr. KLECZKA, Mr. MEEHAN, Mr. McINTYRE, Mr. CAPUANO, Mr. ABERCROMBIE, Mr. ALLEN, Mr. WAXMAN, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. NADLER, Ms. HOOLEY of Oregon, Mr. RUSH, Ms. CARSON of Indiana, Mr. TOWNS, Mr. BONIOR, Mr. McDERMOTT, Mr. CARDIN, Ms. McCARTHY of Missouri, Mr. NEAL of Massachusetts, and Mr. LANTOS):

H.R. 419. A bill to amend the Elementary and Secondary Education Act of 1965 to authorize the Secretary of Education to make additional grants under the 21st Century Community Learning Centers Program, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARTLETT of Maryland (for himself, Mr. TANCREDO, Mr. CHAMBLISS, Mr. WELDON of Pennsylvania, and Mr. PETRI):

H.R. 420. A bill to recognize the birthdays of Presidents George Washington and Abraham Lincoln; to the Committee on Government Reform.

By Mr. BECERRA:

H.R. 421. A bill to make single family properties owned by the Department of Housing and Urban Development available at a discount to elementary and secondary school teachers and public safety officers, and for other purposes; to the Committee on Financial Services.

By Mr. BECERRA:

H.R. 422. A bill to require ballistics testing of the firearms manufactured in or imported into the United States that are most commonly used in crime, and to provide for the compilation, use, and availability of ballistics information for the purpose of curbing the use of firearms in crime; to the Committee on the Judiciary.

By Mr. BECERRA:

H.R. 423. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the fair market value of firearms turned in to local law enforcement agencies; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 424. A bill to amend the Internal Revenue Code of 1986 to provide to employers a tax credit for compensation paid during the period employees are performing service as members of the Ready Reserve or the National Guard; to the Committee on Ways and Means.

By Mr. NADLER (for himself, Mr. GEORGE MILLER of California, Mr. LANTOS, Mr. OBERSTAR, Mr. BONIOR, Ms. PELOSI, Mr. FARR of California, Mr. QUINN, Mr. SABO, Mr. GUTKNECHT, Ms. MILLENDER-McDONALD, Mr. SANDERS, Ms. McKINNEY, Mr. WAXMAN, Ms. HOOLEY of Oregon, Mr. CAPUANO, Mrs. JONES of Ohio, Mr. ABERCROMBIE, Mr. ENGLISH, Mr. HILLIARD, Mr. MEEHAN, Ms. VELÁZQUEZ, Mr. LAMPSON, Mr. BRADY of Pennsylvania, Ms. SLAUGHTER, Mrs. MORELLA, Mr. BLUMENAUER, Mr. OWENS, Mr. KENNEDY of Rhode Island, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. BERMAN, Mr. McGOVERN, Ms. McCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mr. FROST, Mr. COYNE, Ms. KILPATRICK, Mr. FILNER, Ms. LOFGREN, Mr. PASCRELL, and Mr. KUCINICH):

H.R. 425. A bill to authorize the Secretary of Housing and Urban Development to make grants to States to supplement State assistance for the preservation of affordable housing for low-income families; to the Committee on Financial Services.

By Mr. BILIRAKIS:

H.R. 426. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to employers for the value of the service not performed during the period employees are performing service as members of the Ready Reserve or National Guard; to the Committee on Ways and Means.

By Mr. BLUMENAUER (for himself, Mr. DeFAZIO, and Mr. WU):

H.R. 427. A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of Ohio (for himself, Mr. CHABOT, Mr. BERMAN, Mr. LANTOS, Mr. DEUTSCH, Mr. WEXLER, Mr. CALVERT, Mr. CAPUANO, Mr. WYNN, Mr. WU, Mr. ROHRABACHER, Mr. BILIRAKIS, Ms. PRYCE of Ohio, Mrs. TAUSCHER, Mr. COX, Mr. NEY, Mr. SESSIONS, Mr. ANDREWS, and Mr. STARK):

H.R. 428. A bill concerning the participation of Taiwan in the World Health Organization; to the Committee on International Relations.

By Mr. CONYERS (for himself, Ms. BALDWIN, Mrs. MALONEY of New York, Mrs. MORELLA, Mr. GEPHARDT, Mr. BONIOR, Mr. FRANK, Mr. BERMAN, Mr. BOUCHER, Mr. NADLER, Ms. JACKSON-LEE of Texas, Mr. MEEHAN, Mr. DELAHUNT, Mr. ROTHMAN, Mr. WEXLER, Mr. WEINER, Mr. CROWLEY, Mr. POMEROY, Mr. WU, Ms. RIVERS, Mr. ANDREWS, Mrs. LOWEY, Mr. SANDERS, Mr. HINCHEY, Mr. WYNN, Mr. STARK, Mr. ABERCROMBIE, Mr. BACA, Mr. BLAGOJEVICH, Ms. ROYBAL-ALLARD, Ms. CARSON of Indiana, Mr. FROST, Mr. BRADY of Pennsylvania, Ms. DeLAURO, Mr. FOLEY, Mr. DeFAZIO, Mr. ETHERIDGE, Mrs. MEEK of Florida, Mr. MOORE, Mr. THOMPSON of California, Mr. TIERNEY, Ms. NORTON, Mr. GEORGE MILLER of California, Ms. LEE, Mr. DICKS, Mr. ACKERMAN, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. BARCIA, Ms. McKINNEY, Mr. LANTOS, Mr. DOOLEY of California, Mr. FILNER, Mr. CARDIN, Ms. SCHAKOWSKY, Mr. BROWN of Ohio, Mr. SAM JOHNSON of Texas, Mr. COYNE, Mr. PALLONE, Ms. HARMAN, Mr. WAXMAN, Mr. TOWNS, Mrs. MINK of Hawaii, Mrs. THURMAN, and Mr. KUCINICH):

H.R. 429. A bill to restore the Federal civil remedy for crimes of violence motivated by gender; to the Committee on the Judiciary.

By Mr. DELAHUNT (for himself, Mr. GRAHAM, Mr. LARSON of Connecticut, Mr. DEAL of Georgia, Mr. FROST, Mr. GREENWOOD, Ms. MILLENDER-McDONALD, Mr. SCARBOROUGH, Mrs. JONES of Ohio, Mr. DUNCAN, Ms. RIVERS, Mr.

Cooksey, Mr. Holden, and Mr. McGovern):

H.R. 430. A bill to establish a bipartisan commission to study the accuracy, integrity, and efficiency of Federal election procedures and develop standards for the conduct of Federal elections, and to authorize grants and technical assistance to the States to assist them in implementing such standards; to the Committee on House Administration.

By Mr. DICKS:

H.R. 431. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to allow certain grant funds to be used to provide parent education; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL:

H.R. 432. A bill to authorize State and local governments to regulate, for public safety purposes, trains that block road traffic; to the Committee on Transportation and Infrastructure.

By Mr. DINGELL:

H.R. 433. A bill to require the Secretary of Transportation to issue regulations addressing safety concerns in minimizing delay for automobile traffic at railroad grade crossings; to the Committee on Transportation and Infrastructure.

By Mr. DOOLITTLE (for himself and Mr. Condit):

H.R. 434. A bill to direct the Secretary of Agriculture to enter into a cooperative agreement to provide for retention, maintenance, and operation, at private expense, of the 18 concrete dams and weirs located within the boundaries of the Emigrant Wilderness in the Stanislaus National Forest, California, and for other purposes; to the Committee on Resources.

By Mr. DUNCAN:

H.R. 435. A bill to amend title 38, United States Code, to improve access to medical services for veterans seeking treatment at Department of Veterans Affairs outpatient clinics with exceptionally long waiting periods; to the Committee on Veterans' Affairs.

By Mr. ENGLISH (for himself and Mr. Hulshof):

H.R. 436. A bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on the deduction for interest on education loans, to increase the income threshold for the phase out of such deduction, and to repeal the 60 month limitation on the amount of such interest that is allowable as a deduction; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 437. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Ms. Hart, Mrs. Kelly, Mr. Schaffer, Ms. Rivers, Mr. Baldacci, and Mr. Goode):

H.R. 438. A bill to eliminate automatic pay adjustments for Members of Congress; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 439. A bill to amend title 10, United States Code, to extend commissary and exchange store privileges to veterans with a service-connected disability rated at 30 percent or more and to the dependents of such veterans; to the Committee on Armed Services.

By Mr. FILNER:

H.R. 440. A bill to amend title 10, United States Code, to authorize transportation on military aircraft on a space-available basis for veterans with a service-connected disability rated 50 percent or more; to the Committee on Armed Services.

By Mr. FILNER:

H.R. 441. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the San Diego, California, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. FILNER (for himself and Mr. Evans):

H.R. 442. A bill to amend title 38, United States Code, to increase the maximum amount of a home loan guarantee available to a veteran; to the Committee on Veterans' Affairs.

By Mr. FILNER:

H.R. 443. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profit tax on wholesale electric energy sold in the Western System Coordinating Council; to the Committee on Ways and Means.

By Mr. FOSSELLA:

H.R. 444. A bill to amend title 36, United States Code, to grant a Federal charter to the National Lighthouse Center and Museum; to the Committee on the Judiciary.

By Mr. FOSSELLA:

H.R. 445. A bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 30 percent; to the Committee on Ways and Means.

By Mr. FOSSELLA:

H.R. 446. A bill to amend certain provisions of title 5, United States Code, relating to disability annuities for law enforcement officers, firefighters, and members of the Capitol Police; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GIBBONS:

H.R. 447. A bill to require the Secretary of the Interior to make reimbursement for certain damages incurred as a result of bonding regulations adopted by the Bureau of Land Management on February 28, 1997, and subsequently determined to be in violation of Federal law; to the Committee on Resources.

By Mr. GIBBONS:

H.R. 448. A bill to limit the age restrictions imposed by the Administrator of the Federal Aviation Administration for the issuance or renewal of certain airman certificates, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GILCHREST:

H.R. 449. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office; to the Committee on House Administration.

By Mr. GILCHREST:

H.R. 450. A bill to amend the Federal Election Campaign Act of 1971 to prohibit candidates for election to the House of Representatives from accepting contributions from individuals who do not reside in the district the candidate seeks to represent; to the Committee on House Administration.

By Mr. HANSEN:

H.R. 451. A bill to make certain adjustments to the boundaries of the Mount Nebo Wilderness Area, and for other purposes; to the Committee on Resources.

By Mr. HANSEN:

H.R. 452. A bill to authorize the establishment of a memorial to former President Ronald Reagan within the area in the District of Columbia referred to in the Commemorative Works Act as 'Area I', to provide for the design and construction of such memorial, and for other purposes; to the Committee on Resources.

By Ms. HOOLEY of Oregon (for herself, Mrs. Napolitano, Mrs. Capps, Mr. Frost, Ms. DeLauro, Mr. Brown of Ohio, Mr. Bonior, Mr. DeFazio, Mr. Kildee, Mr. Levin, Ms. Lofgren, Mr. George Miller of California, Ms. Slaughter, Mr. McGovern, and Mr. Rush):

H.R. 453. A bill to amend title XIX of the Social Security Act to require criminal background checks on drivers providing Medicaid medical assistance transportation services; to the Committee on Energy and Commerce.

By Mr. JOHNSON of Illinois:

H.R. 454. A bill to prohibit the use of, and provide for remediation of water contaminated by, methyl tertiary butyl ether; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas (for himself and Mr. Cardin):

H.R. 455. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation; to the Committee on Ways and Means.

By Mr, SAM JOHNSON of Texas:

H.R. 456. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty in the income tax rates and standard deduction and to reduce individual income tax rates; to the Committee on Ways and Means.

By Ms. KAPTUR (for herself, Mr. Hunter, Mr. Oberstar, Mr. Sanders, Mr. Delahunt, Mr. Whitfield, Mr. Borski, Ms. Ros-Lehtinen, Mr. Shows, Mr. Gillmor, Mr. Wynn, Mr. LaTourette, Mr. Brady of Pennsylvania, Mr. McHugh, Ms. Pelosi, Mr. Ney, Ms. Kilpatrick, Mr. Baca, Mr. Filner, Mr. Sweeney, Mr. McIntyre, Mr. Conyers, Mr. Kucinich, Mr. McNulty, Mr. Tierney, Mr. Lipinski, Mr. Dingell, Mr. Pascrell, Mr. Faleomavaega, Mr. Lantos, Mrs. Thurman, Mr. Frost, and Mr. McDermott):

H.R. 457. A bill to amend the Trade Act of 1974 to establish a transitional adjustment assistance program for workers adversely affected by reason of the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the People's Republic of China; to the Committee on Ways and Means.

By Mr. KELLER:

H.R. 458. A bill to amend title 18, United States Code, to provide that Federal prisons may not provide cable television and similar luxuries to their inmates; to the Committee on the Judiciary.

By Mr. LARSEN of Washington (for himself, Mr. Inslee, Mr. Dicks, Mr. Pallone, Mr. McDermott, Mr. Baird, and Mr. Smith of Washington):

H.R. 459. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Education and the

Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. McKINNEY:

H.R. 460. A bill to require nationals of the United States that employ individuals in a foreign country to provide full transparency and disclosure in all their operations; to the Committee on International Relations.

By Mr. McNULTY:

H.R. 461. A bill to authorize the President to award the Medal of Honor posthumously to Henry Johnson for acts of valor during World War I; to the Committee on Armed Services.

By Mr. McNULTY:

H.R. 462. A bill to amend title 10, United States Code, to provide that military reservists who are retained in active status after qualifying for reserve retired pay shall be given credit toward computation of such retired pay for service performed after so qualifying; to the Committee on Armed Services.

By Mr. McNULTY:

H.R. 463. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McNULTY:

H.R. 464. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Resources.

By Mr. McCNULTY:

H.R. 465. A bill to amend the Internal Revenue Code of 1986 to allow rollover contributions to individual retirement plans from deferred compensation plans maintained by States and local governments and to allow State and local governments to maintain 401(k) plans; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii (for herself, Ms. Jackson-Lee of Texas, Mr. Andrews, Mr. Scott, Mr. George Miller of California, Mr. Engel, Mr. Stark, Mr. Menendez, Mr. Tierney, Mr. Ford, Mr. Rush, Mr. Hinojosa, Ms. Schakowsky, Mr. Owens, Mr. Payne, and Mr. Kucinich):

H.R. 466. A bill to amend the Elementary and Secondary Education Act of 1965 to direct the Secretary of Education to make grants to local educational agencies for the recruitment, training, and hiring of 100,000 individuals to serve as school-based resource staff; to the Committee on Education and the Workforce.

By Mr. NADLER:

H.R. 467. A bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of certain works of artistic property created by the decedent; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts:

H.R. 468. A bill to amend the Internal Revenue Code of 1986 to simplify the $500 per child tax credit and other individual nonrefundable credits by repealing the complex limitations on the allowance of those credits resulting from their interaction with the alternative minimum tax; to the Committee on Ways and Means.

By Mr. OWENS:

H.R. 469. A bill to amend title XII of the Elementary and Secondary Education Act of 1965 to provide grants to improve the infrastructure of elementary and secondary schools; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H.R. 470. A bill to prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone; to the Committee on Resources.

By Mr. PASCRELL (for himself, Mrs. Roukema, Mr. Payne, Mr. Pallone, Mr. Andrews, Mr. Smith of New Jersey, Ms. Baldwin, Mrs. Maloney of New York, Mr. Hoyer, Mrs. Morella, Ms. DeLauro, Mr. Greenwood, Mr. Skelton, Mr. Lantos, Mr. Clement, Mr. Boehlert, and Mr. Rush):

H.R. 471. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RADANOVICH:

H.R. 472. A bill to amend the Endangered Species Act of 1973 to exempt the Woodrow Wilson Bridge project from certain provisions of that Act and allow the bridge and activities elsewhere to proceed in compliance with that Act, and for other purposes; to the Committee on Resources.

By Ms. RIVERS:

H.R. 473. A bill to assess the impact of the North American Free Trade Agreement on domestic job loss and the environment, and for other purposes; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 474. A bill to repeal the War Powers Resolution; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan (for himself, Mr. English, Mr. Camp, Mrs. Kelly, Ms. Granger, Mr. Smith of Michigan, and Mr. Knollenberg):

H.R. 475. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid to any qualified State tuition program and to provide that distributions from such programs which are used to pay educational expenses shall not be includible in gross income; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. Barcia, Mr. Istook, Mr. Pitts, Mr. Bachus, Mr. Burton of Indiana, Mr. Camp, Mr. Chabot, Mr. Fossella, Mr. Walsh, Mr. Peterson of Pennsylvania, Mr. Phelps, Mr. Portman, Mr. Tancredo, Mr. Ryun of Kansas, Mr. Baker, Mr. Riley, Mr. Shows, Mr. Norwood, Mr. Pombo, Mr. Shadegg, Mr. Hilleary, Mr. Hutchinson, Mr. Brady of Texas, Mr. Burr of North Carolina, Mr. DeMint, Mr. Hoekstra, Mr. Hyde, Mr. McCrery, Mr. Shimkus, Mr. Everett, Mr. King, Mr. Hayworth, Mr. DeLay, Mr. Fletcher, Mr. Oberstar, Mr. Smith of Texas, Mr. Thune, Mr. Goodlatte, Mr. Gutknecht, Mr. Stearns, Mr. Cunningham, Mr. Buyer, Mr. Schaffer, Mr. Deal of Georgia, Mr. Sununu, Mr. Terry, Mr. Cantor, Mr. Combest, Mr. Diaz-Balart, and Mrs. Jo Ann Davis of Virginia):

H.R. 476. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. SAXTON (for himself, Mr. Andrews, Mr. Weiner, Mr. Ackerman, Mr. LaTourette, Mr. Sanders, Mr. Kucinich, Mr. Stenholm, Mr. Hastings of Florida, Mr. Lampson, Mr. Moran of Virginia, and Mr. Cardin):

H.R. 477. A bill to direct the Secretary of Education to provide grants to promote Holocaust education and awareness; to the Committee on Education and the Workforce.

By Mr. SHOWS (for himself, Mr. Turner, Mr. Holden, and Mr. Thompson of Mississippi):

H.R. 478. A bill to require the Secretary of Agriculture to make emergency loans under the Consolidated Farm and Rural Development Act and to provide emergency assistance to agricultural producers whose energy costs have escalated sharply; to the Committee on Agriculture.

By Mr. SHOWS:

H.R. 479. A bill to authorize the Secretary of Agriculture to make emergency loans under the Consolidated Farm and Rural Development Act to greenhouse farmers whose energy costs have escalated sharply; to the Committee on Agriculture.

By Mr. SHOWS:

H.R. 480. A bill to require the Secretary of Agriculture to make emergency loans under the Consolidated Farm and Rural Development Act and to provide emergency assistance to greenhouse farming operations whose energy costs have escalated sharply; to the Committee on Agriculture.

By Mr. STARK (for himself, Mr. Matsui, Mrs. Morella, Mr. Rangel, Mr. Lewis of Georgia, Mr. Cardin, Mr. Coyne, Mr. Doggett, Mrs. Thurman, Mr. Jefferson, Mr. McNulty, Mr. Waxman, Mr. Bonior, Mr. Kucinich, Mr. Frost, Mr. Murtha, Mr. Holden, Mr. Frank, Mr. Kildee, Mr. Hilliard, Ms. McCarthy of Missouri, Mr. Berman, Mr. Allen, Mr. Hinchey, Mr. Baird, Mr. Green of Texas, Mrs. Christensen, Mr. Lantos, Mr. George Miller of California, Ms. Baldwin, Mr. Abercrombie, Mr. McDermott, and Mr. Rush):

H.R. 481. A bill to amend the Social Security Act to remove the limitation on the period of Medicare eligibility for disabled workers; to the Committee on Ways and Means.

By Mr. VITTER:

H.R. 482. A bill to require the Food and Drug Administration to establish restrictions regarding the qualifications of physicians to prescribe the abortion drug commonly known as RU09486; to the Committee on Energy and Commerce.

By Mr. WALDEN of Oregon (for himself, Mr. Wu, Mr. Blumenauer, Mr. DeFazio, and Ms. Hooley of Oregon):

H.R. 483. A bill regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Resources.

By Mr. SHAYS (for himself, Mrs. Maloney of New York, Mr. Smith of New Jersey, Ms. Kilpatrick, Mr. Simmons, Mr. Lewis of Georgia, Mrs. Morella, Mr. Pallone, Mr. Delahunt, Mr. Moran of Virginia, Mr. Rangel, Mr. Brown of Ohio, Mr. Olver, Mr. George Miller of California, Mr. Sanders, Mr. Wexler, Ms. Pelosi, Mr. Capuano, Ms. McKinney, Mr. Allen, Mrs. Capps, Mr. Hinchey, Mr. Weiner, Mr. Kucinich, Ms. Lee, Mr. McGovern, Mr. Tierney, Mr. Blumenauer, Mr. Rothman, Ms. Eddie Bernice Johnson of Texas, Mr. Conyers, Mr. Towns, Mr. Price of

North Carolina, Mr. BONIOR, Mr. MARKEY, Mr. EVANS, Ms. BALDWIN, and Mr. SERRANO):

H.R. 488. A bill to designate as wilderness, wild and scenic rivers, national park and preserve study areas, wild land recovery areas, and biological connecting corridors certain public lands in the States of Idaho, Montana, Oregon, Washington, and Wyoming, and for other purposes; to the Committee on Resources.

By Mr. McNULTY:

H. Con. Res. 21. Concurrent resolution expressing the sense of Congress regarding the primary author and the official home of "Yankee Doodle"; to the Committee on Government Reform.

By Mr. SAXTON (for himself and Mr. CHAMBLISS):

H. Con. Res. 22. Concurrent resolution expressing the sense of Congress regarding Internet security and "cyberterrorism"; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHAFFER (for himself, Mr. BOEHNER, Mr. HOEKSTRA, Mr. TANCREDO, Mr. TIBERI, Mrs. BIGGERT, Mr. PLATTS, Ms. SANCHEZ, Mr. BAKER, Mr. CHABOT, Mr. GIBBONS, Mr. KING, Mr. BACHUS, Mr. LAHOOD, Mr. ENGLISH, Mr. VITTER, Mr. SESSIONS, Mr. FOSSELLA, Mr. OXLEY, Mr. DIAZ-BALART, Mr. FOLEY, Mr. LANTOS, Mr. CANTOR, Mr. HAYWORTH, Mr. WELDON of Florida, Mrs. NORTHUP, Mr. AKIN, Mr. PASCRELL, Mr. BACA, Mr. STUPAK, Mr. DAVIS of Illinois, Mr. FERGUSON, Ms. HART, Mr. TOOMEY, and Mr. REHBERG):

H. Res. 28. A resolution honoring the contributions of Catholic schools; to the Committee on Education and the Workforce.

By Mr. BALDACCI:

H. Res. 29. A resolution relating to the treatment of veterans with Alzheimer's disease; to the Committee on Veterans' Affairs.

By Ms. RIVERS:

H. Res. 30. A resolution amending the Rules of the House of Representatives to require that the expenses of special-order speeches be paid from the Members Representational Allowance of the Members making the speeches; to the Committee on Rules.

[Submitted February 7, 2001]

By Mr. GALLEGLY:

H.R. 489. A bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs for teachers of mathematics and science, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GALLEGLY (for himself, Mr. ETHERIDGE, Mr. WHITFIELD, Mrs. MINK of Hawaii, Mrs. BONO, Mr. BALDACCI, Mr. ENGLISH, Ms. BERKLEY, Mr. BURR of North Carolina, Mr. ALLEN, Mr. LEWIS of Kentucky, Mr. DAVIS of Florida, Mrs. MORELLA, Mr. BOUCHER, Mr. FILNER, Mr. STARK, and Mr. MOORE):

H.R. 490. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Education and the Workforce.

By Mr. GILMAN:

H.R. 491. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BACHUS:

H.R. 492. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed services voter was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud, to direct the Secretary of Defense to conduct a study of methods to improve the procedures used to enable absent uniformed services voters to register to vote and vote in elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. BARRETT:

H.R. 493. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for payroll taxes; to the Committee on Ways and Means.

By Mr. BURTON of Indiana (for himself, Mr. DUNCAN, Ms. HART, Mr. HORN, Mr. PAUL, Mr. PITTS, and Mr. TERRY):

H.R. 494. A bill to amend the Internal Revenue Code of 1986 to allow all taxpayers a credit against income tax for up to $200 of charitable contributions; to the Committee on Ways and Means.

By Mrs. CHRISTENSEN (for herself, Mr. FALEOMAVAEGA, and Mr. UNDERWOOD):

H.R. 495. A bill to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the "Ron de Lugo Federal Building"; to the Committee on Transportation and Infrastructure.

By Mrs. CUBIN (for herself, Mr. GORDON, Mr. BARRETT, Mr. PICKERING, and Mr. LARGENT):

H.R. 496. A bill to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DUNCAN:

H.R. 497. A bill to provide that of amounts available to a designated agency for administrative expenses for a fiscal year that are not obligated in the fiscal year, up to 50 percent may be used to pay bonuses to agency personnel; to the Committee on Government Reform.

By Mr. EHRLICH (for himself, Mr. CHAMBLISS, Mr. OXLEY, Mr. LAHOOD, Mr. FROST, Ms. BALDWIN, Mr. COBLE, Mr. BOSWELL, Mr. PAYNE, Mr. NEY, Ms. CARSON of Indiana, Mr. UDALL of New Mexico, Mr. SENSENBRENNER, Mr. KIND, Mr. VISCLOSKY, Mrs. BONO, Mr. CRAMER, Ms. BERKLEY, Mr. NETHERCUTT, Mr. GREEN of Texas, Mrs. JONES of Ohio, Mr. BARTLETT of Maryland, Ms. LOFGREN, Mr. BOUCHER, Mr. PAUL, Ms. KAPTUR, Mr. McNULTY, Mr. NUSSLE, Mr. PHELPS, Mr. BENTSEN, Mr. RYUN of Kansas, Mr. SCHIFF, Mr. LAFALCE, Mr. ROGERS of Michigan, Mr. FRANK, Mrs. NORTHUP, Mr. HOLT, Mr. CANTOR, Mr. ALLEN, Mr. CRENSHAW, Mr. ABERCROMBIE, Mr. HANSEN, Mr. BALDACCI, Mr. McHUGH, Mr. KANJORSKI, Mr. TANCREDO, Mr. TOWNS, Mr. ISAKSON, Mrs. MEEK of Florida, Mr. GILMAN, Mr. ACEVEDO-VILÁ, Mr. FOLEY, Ms. PELOSI, Mr. GILCHREST, Mr. DEFAZIO, Ms. SCHAKOWSKY, Ms. JACKSON-LEE of Texas, Mr. TRAFICANT, Ms. VELÁZQUEZ, Mr. BROWN of Ohio, Mrs. KELLY, Mr. GANSKE, Mrs. MORELLA, and Mr. KING):

H.R. 498. A bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability; to the Committee on Ways and Means.

By Mr. ENGEL (for himself and Mr. MARKEY):

H.R. 499. A bill to amend the Consumer Product Safety Act to confirm the Consumer Product Safety Commission's jurisdiction over child safety devices for handguns, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUTIERREZ:

H.R. 500. A bill to revise various provisions of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. ENGEL:

H.R. 501. A bill to amend the Internal Revenue Code of 1986 to provide for designation of overpayments and contributions to the United States Textbook and Technology Trust Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLEGLY:

H.R. 502. A bill to amend the Foreign Assistance Act of 1961 to establish a coordinated program to provide economic and development assistance for the countries of the Caribbean region; to the Committee on International Relations.

By Mr. GRAHAM (for himself, Mr. BACHUS, Mr. BARR of Georgia, Mr. CHABOT, Mr. COSTELLO, Mr. DELAY, Mr. HUTCHINSON, Mr. HYDE, Mr. BARCIA, Mr. SMITH of New Jersey, Mr. VITTER, Mr. HILLEARY, Mr. BURTON of Indiana, Mr. RYUN of Kansas, Mr. HALL of Texas, Mr. SHOWS, Mr. LARGENT, Mr. PITTS, Mr. GREEN of Wisconsin, Mr. COLLINS, Mr. GOODLATTE, Mr. GARY MILLER of California, Mr. BLUNT, Mrs. EMERSON, Mr. PHELPS, Mr. HANSEN, Mr. SHIMKUS, Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. TANCREDO, Mr. GUTKNECHT, Mr. DEMINT, Mr. HAYWORTH, Mr. CHAMBLISS, Mr. ENGLISH, Mr. WELDON of Florida, Mr. BRADY of Texas, Mr. JONES of North Carolina, Mr. SCHAFFER, Mr. STEARNS, Mr. DEAL of Georgia, Mr. CANTOR, Mr. EVERETT, Mrs. JO ANN DAVIS of Virginia, Mr. LAHOOD, Mr. HASTINGS of Washington, Mr. LIPINSKI, Mr. LEWIS of Kentucky, Mr. OXLEY, Mr. DOOLITTLE, and Mr. ROGERS of Michigan):

H.R. 503. A bill to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Texas (for himself, Ms. Pelosi, Mr. Deutsch, Mr. Nadler, Mr. Filner, Mr. Frost, Mr. Jefferson, Mr. Hinchey, Mr. Coyne, Mrs. Meek of Florida, Mr. Stark, Mr. Rodriguez, Mr. Bass, Mr. Bentsen, Mr. Capuano, Mr. Barrett, Mr. Reyes, Mrs. Christensen, Mr. Stenholm, Ms. DeGette, Mr. Kleczka, Mrs. Jones of Ohio, Mrs. Morella, Mr. Abercrombie, Mr. Ford, Ms. McCarthy of Missouri, Mr. Clyburn, Mr. Rush, Ms. Baldwin, Mr. McDermott, Mr. Lantos, Mr. Wexler, Mr. Blagojevich, Mr. Udall of New Mexico, Mr. Pastor, and Mr. Matsui):

H.R. 504. A bill to amend part D of title III of the Public Health Service Act to provide grants to strengthen the effectiveness, efficiency, and coordination of services for the uninsured and underinsured; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida:

H.R. 505. A bill to amend the Immigration and Nationality Act to provide for the adjustment of status of certain unaccompanied alien children and the establishment of a panel of advisors to assist unaccompanied alien children in immigration proceedings; to the Committee on the Judiciary.

By Mr. HASTINGS of Florida:

H.R. 506. A bill to establish a commission to make recommendations on the appropriate size of membership of the House of Representatives and the method by which Representatives are elected; to the Committee on the Judiciary.

By Mr. HILLEARY (for himself, Mr. Etheridge, Mr. Norwood, Mr. Hall of Texas, Mrs. Emerson, Mr. Cramer, Mr. Paul, Mr. Ross, Mr. Ney, Mr. Goode, Mr. Schaffer, Mr. Hutchinson, and Mr. Bishop):

H.R. 507. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Ways and Means.

By Mr. LaFALCE (for himself, Mr. Gutierrez, Mr. Sandlin, Mr. Gonzalez, Mrs. Jones of Ohio, and Mr. Capuano):

H.R. 508. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit based on their earned income; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 509. A bill to amend title II of the Social Security Act to provide for treatment of severe spinal cord injury equivalent to the treatment of blindness in determining whether earnings derived from services demonstrate an ability to engage in substantial gainful activity; to the Committee on Ways and Means.

By Mr. MURTHA (for himself, Mr. Watts of Oklahoma, Mr. Bartlett of Maryland, Mr. Bonior, Mr. Boswell, Mr. Boyd, Mr. Brown of South Carolina, Mr. Condit, Mr. Coyne, Mr. Cunningham, Mr. Davis of Illinois, Mr. Doyle, Mr. Evans, Mr. Filner, Mr. Gibbons, Mr. Gilchrest, Mr. Goode, Mr. Gutierrez, Mr. Hall of Texas, Mr. Hoeffel, Mrs. Kelly, Mr. Kolbe, Mr. King, Mr. Markey, Mr. Moran of Virginia, Mr. Nethercutt, Mr. Reyes, Mr. Simmons, Mr. Sisisky, Mr. Snyder, Mr. Towns, and Mr. Fossella):

H.R. 510. A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial in the District of Columbia; to the Committee on Resources.

By Mr. PASCRELL (for himself, Mr. Evans, Mr. Filner, Mr. Doyle, Mr. Peterson of Minnesota, Mr. Abercrombie, Mr. Baldacci, Mr. Barcia, Mr. Brady of Pennsylvania, Mr. Capuano, Mr. Coyne, Mr. Davis of Florida, Mr. Frost, Mr. Hinchey, Ms. Hooley of Oregon, Mrs. Kelly, Mr. Maloney of Connecticut, Mrs. McCarthy of New York, Mr. McGovern, Mr. Moore, Mr. Olver, Mr. Phelps, Mr. Shows, Mr. Stark, Mrs. Thurman, Mrs. Roukema, Mr. Holden, Mr. Cramer, Mr. Pallone, Mrs. Maloney of New York, Mr. Bonior, Mr. Hall of Texas, Mr. Gordon, Mr. DeFazio, Mr. Hoyer, Mr. Obey, Mr. Frank, Mr. Holt, Mrs. Capps, Mr. Visclosky, Mr. Baird, Mr. Waxman, Ms. Pelosi, and Mr. Skelton):

H.R. 511. A bill to amend title 38, United States Code, to improve outreach programs carried out by the Department of Veterans Affairs to provide for more fully informing veterans of benefits available to them under laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. PETERSON of Minnesota (for himself, Mr. Oberstar, and Mr. Sanders):

H.R. 512. A bill to amend title 32, United States Code, to end the prohibition against overtime pay for National Guard technicians; to the Committee on Armed Services.

By Mr. PETERSON of Minnesota (for himself, Mr. Walsh, Mr. McGovern, Mr. Cramer, Mr. Evans, Mr. LaHood, Mr. Petri, Mr. Sanders, Mr. Stenholm, Ms. Hooley of Oregon, Mr. Oberstar, Mr. Hutchinson, Mr. Phelps, Mr. Frost, Mr. Strickland, Mrs. Kelly, Mr. Filner, Mr. Hinchey, Mrs. Myrick, Mr. Kucinich, Mr. Kind, Mr. Doyle, Mr. Bonior, Mr. McDermott, Mr. Calvert, Mr. Terry, Mr. Goodlatte, and Mr. Green of Wisconsin):

H.R. 513. A bill to amend title 10, United States Code, to provide more equitable civil service retirement and retention provisions for National Guard technicians; to the Committee on Armed Services.

By Mr. PETERSON of Minnesota:.

H.R. 514. A bill to amend title 38, United States Code, to provide a presumption of service connection for certain specified diseases and disabilities in the case of veterans who were exposed during military service to carbon tetrachloride; to the Committee on Veterans' Affairs.

By Mr. PETRI:

H.R. 515. A bill to require that employers offering benefits to associates of its employees who are not spouses or dependents of the employees not discriminate on the basis of the nature of the relationship between the employee and the designated associates; to the Committee on Education and the Workforce.

By Ms. PRYCE of Ohio (for herself, Mr. Pitts, Mr. Ortiz, Mr. Hansen, Mr. Miller of Florida, Mrs. Roukema, Mr. Horn, Mr. Fletcher, Mr. Simpson, Mr. Boehlert, Mr. McIntyre, Mr. Rogers of Michigan, Ms. Hart, Mr. Paul, Mr. McHugh, Mrs. Kelly, Mr. Shadegg, Mr. Ose, Mrs. Christensen, Mr. Shimkus, Mr. Blagojevich, Mr. Ney, Mrs. Jones of Ohio, Mr. Kolbe, Mr. Gillmor, Mr. Frost, Mr. Gilman, Mr. Baker, Mr. LaHood, Mr. Gallegly, Mr. Gilchrest, Mr. Mica, Mr. Gary Miller of California, and Mr. Lantos):

H.R. 516. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. RAHALL:

H.R. 517. A bill to provide for the correct implementation of the Railroad Rehabilitation and Improvement Financing Program; to the Committee on Transportation and Infrastructure.

By Mr. REGULA:

H.R. 518. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Ways and Means.

By Mr. REYES (for himself, Mrs. Bono, Mr. Rodriguez, Mr. Ortiz, Mr. Hunter, Mr. Filner, Mr. Hinojosa, and Mrs. Davis of California):

H.R. 519. A bill to amend section 4723 of the Balanced Budget Act of 1997 to assure that the additional funds provided for State emergency health services furnished to undocumented aliens are used to reimburse hospitals and their related providers that treat undocumented aliens and to extend additional funding for 2 additional fiscal years; to the Committee on Energy and Commerce.

By Mr. TRAFICANT:

H.R. 520. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to provide for increased loan guarantees for steel companies under that Act, and for other purposes; to the Committee on Financial Services.

By Mr. UNDERWOOD:

H.R. 521. A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; to the Committee on Resources.

By Mrs. EMERSON:

H.J. Res. 9. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.J. Res. 10. A joint resolution proposing an amendment to the constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that; to the Committee on the Judiciary.

By Mrs. EMERSON:

H.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. Waxman, Mr. Coyne, Mr. Frost, Mr. Lantos, Mr. George Miller of California, Ms. Schakowsky, and Mr. Strickland):

H.J. Res. 13. A joint resolution expressing the sense of Congress regarding the need for a White House Conference to discuss and develop national recommendations concerning quality of care in assisted living facilities in the United States; to the Committee on Energy and Commerce.

By Mr. CANTOR (for himself, Mr. Armey, Mr. DeLay, Mr. Hyde, Mr. Gilman, Mr. Israel, Mr. Waxman, Mr. Schrock, Mr. Blunt, Mr. Sisisky, Mr. Ferguson, Mr. Tiberi, Mr. Culberson, Mr. Schiff, Mr. Crenshaw, Mr. Reynolds, Mr. Cardin, Mr. Berman, Mr. Towns, Mr. Diaz-Balart, Mr. Crowley, Mr. Fossella, Mr. Watkins, Mrs. Davis of California, and Mr. Thomas M. Davis of Virginia):

H. Res. 31. A resolution commending the people of Israel for reaffirming, through their participation in the election of February 6, 2001, their dedication to democratic ideals, and for other purposes; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII,

2. The SPEAKER presented a memorial of the Senate of the State of Idaho, relative to Senate Joint Memorial No. 101 memorializing the United States Congress to provide diversion funds that have been earmarked by Congress for potato producers to help ease the economic crisis they face in 2001; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of February 6, 2001]

By Mr. DICKS:

H.R. 484. A bill for the relief of James Mervyn Salmon; to the Committee on the Judiciary.

By Ms. LEE:

H.R. 485. A bill for the relief of Geert Botzen; to the Committee on the Judiciary.

By Mr. REYNOLDS:

H.R. 486. A bill for the relief of Barbara Makuch; to the Committee on the Judiciary.

By Mr. REYNOLDS:

H.R. 487. A bill for the relief of Eugene Makuch; to the Committee on the Judiciary.

[Submitted February 7, 2001]

By Mrs. KELLY:

H.R. 522. A bill for the relief of Frank Redendo; to the Committee on the Judiciary.

By Mrs. KELLY:

H.R. 523. A bill for the relief of Thomas J. Sansone, Jr.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of February 6, 2001]

H.R. 12: Mr. Thune, Mr. DeLay, Mr. Sensenbrenner, Ms. Pryce of Ohio, Mr. Reynolds, Mr. Green of Wisconsin, Mr. Barton of Texas, Mr. Barcia, Mr. Thomas M. Davis of Virginia, Mr. Sweeney, Mr. Filner, Mr. Otter, Mr. Petri, Mr. Weldon of Florida, Mr. Hinchey, Mr. Larsen of Washington, Mr. Tauzin, Ms. Eshoo, Mr. Fossella, and Mr. Pascrell.

H.R. 17: Mrs. Christensen.

H.R. 27: Mr. English, Mr. Schaffer, and Mr. Stump.

H.R. 28: Ms. McKinney, Mr. Spratt, Mrs. Capps, Mr. Udall of New Mexico, Mrs. Napolitano, Ms. Eshoo, Mr. Brown of Ohio, Mrs. Christensen, Mr. Levin, Mr. Kennedy of Rhode Island, Mr. Bonior, Mr. Dooley of California, Mr. McGovern, Mr. Capuano, Mr. Baca, Ms. Lofgren, Mr. Olver, Mr. Coyne, and Ms. Harman.

H.R. 42: Mr. Schaffer.

H.R. 57: Mr. Luther.

H.R. 65: Ms. Hooley of Oregon, Mr. Schaffer, Mr. Etheridge, Mr. Hall of Texas, Mr. Weldon of Florida, Mr. Sisisky, Mr. Cramer, Mrs. Emerson, Mr. Clement, Mr. Cunningham, Mr. Evans, Mr. Foley, Mr. Rohrabacher, Mr. Weiner, Ms. Dunn, Mr. Davis of Florida, Mr. Capuano, Mr. Maloney of Connecticut, Mrs. Kelly, Mr. Filner, Mr. Boucher, Mr. Jones of North Carolina, Mr. Frank, Mrs. Meek of Florida, and Ms. Berkley.

H.R. 68: Mr. Andrews, Mr. Bentsen, Mr. Shimkus, Mr. Paul, Mr. Doyle, Mr. Burton of Indiana, and Mr. Wexler.

H.R. 80: Mr. Hayworth.

H.R. 85: Mr. Ney, Mr. Goode, Mr. Whitfield, Mr. Gillmor, Ms. Lofgren, and Mr. McGovern.

H.R. 100: Mr. Petri, Mr. Isakson, Mr. Jenkins, Mr. Barton of Texas, Mrs. Biggert, Mr. Sensenbrenner, Mrs. Bono, Mr. Moore, Mr. Sweeney, Mr. Shays, Mr. Bereuter, Mr. Deal of Georgia, Mr. Blagojevich, Mr. Green of Wisconsin, Mr. Whitfield, Ms. Granger, Mr. Upton, Mr. Allen, Mr. Bilirakis, Mrs. Johnson of Connecticut, Mr. Gutknecht, and Mr. Frost.

H.R. 101: Mr. Petri, Mr. Isakson, Mr. Jenkins, Mr. Barton of Texas, Mrs. Biggert, Mrs. Bono, Mr. Moore, Mr. Sweeney, Mr. Shays, Mr. Bereuter, Mr. Frank, Mr. Deal of Georgia, Mr. Blagojevich, Mr. Whitfield, Ms. Granger, Mr. Upton, Mr. Allen, Mr. Bilirakis, Mrs. Johnson of Connecticut, and Mr. Frost.

H.R. 102: Mr. Petri, Mr. Isakson, Mr. Jenkins, Mr. Barton of Texas, Mrs. Biggert, Mrs. Bono, Mr. Moore, Mr. Sensenbrenner, Mr. Sweeney, Mr. Shays, Mr. Bereuter, Mr. Frank, Mr. Deal of Georgia, Mr. Blagojevich, Mr. Whitfield, Ms. Granger, Mr. Upton, Mr. Allen, Mr. Bilirakis, and Mr. Frost.

H.R. 108: Mr. Udall of Colorado.

H.R. 110: Mr. Udall of Colorado.

H.R. 122: Mr. Hastings of Washington, Mr. Crane, Mr. Paul, Mr. Cooksey, Mr. Everett, Mr. Goss, Mr. English, Mr. Gilman, Mrs. McCarthy of New York, Mr. Bachus, Mr. Terry, Mr. Burr of North Carolina, Mr. Hayworth, Mr. Knollenberg, Mr. Ganske, Mr. Sensenbrenner, Mr. Sununu, Mr. Schaffer, Ms. Pryce of Ohio, Mr. Cunningham, Mr. Tancredo, Mr. Brown of South Carolina, Mrs. Cubin, Mr. Goodlatte, Mrs. Jo Ann Davis of Virginia, Mr. Whitfield, Mr. Rogers of Michigan, Mr. Stump, Mr. Hansen, Mr. LaHood, Mr. Sessions, Mr. Akin, Mr. Reynolds, Mr. Kerns, Mr. Ryun of Kansas, Mr. Fossella, and Mrs. Kelly.

H.R. 123: Mr. Shows, Mr. Isakson, and Mr. Everett.

H.R. 129: Ms. Hart.

H.R. 132: Mr. Abercrombie, Mr. George Miller of California and Mr. Stark.

H.R. 159: Mr. Gillmor, Mr. LaTourette, Mr. Sessions, Mr. Rohrabacher, Mr. Terry, Mr. LaHood, Mrs. McCarthy of New York, and Mr. LoBiondo.

H.R. 162: Mr. Horn, Mr. Frank, and Mr. Ortiz.

H.R. 168: Mr. Grucci.

H.R. 179: Mr. Andrews, Mrs. Bono, Mr. Camp, Mrs. Clayton, Mr. Costello, Mr. Coyne, Mr. Davis of Illinois, Mr. Deal of Georgia, Mr. Dicks, Mr. Duncan, Mr. Foley, Mr. Gillmor, Ms. Hart, Mr. Jackson of Illinois, Mr. Johnson of Illinois, Mr. Kennedy of Rhode Island, Ms. Kilpatrick, Mr. LaHood, Mr. Lampson, Mr. Langevin, Mr. Lantos, Mr. Lewis of Georgia, Ms. Lofgren, Mr. Lucas of Kentucky, Mr. Maloney of Connecticut, Mr. Moran of Virginia, Mr. Paul, Mr. Pence, Ms. Rivers, Mr. Rush, Mr. Spence, Mr. Stearns, Mr. Thompson of Mississippi, Mr. Watkins, and Mr. Wexler.

H.R. 184: Mr. Nethercutt, Mr. Faleomavaega, Mr. Luther, Mrs. Thurman, Ms. Jackson-Lee of Texas, Mr. Doyle, and Mr. Nadler.

H.R. 187: Mr. McGovern, Mrs. Johnson of Connecticut, Mr. Abercrombie, Mr. Whitfield, Mr. Maloney of Connecticut, Mr. Neal of Massachusetts, and Mrs. McCarthy of New York.

H.R. 189: Mr. Sessions.

H.R. 190: Mr. Schrock.

H.R. 191: Mr. Otter.

H.R. 192: Mr. LaHood and Mr. Paul.

H.R. 200: Mr. Evans and Mr. Cunningham.

H.R. 210: Mr. Gillmor.

H.R. 218: Mr. Lipinski, Mr. Buyer, Mr. Gillmor, Mr. Hulshof, Mr. Ryan of Wisconsin, Ms. McCarthy of Missouri, Mr. Toomey, Mr. Calvert, and Mr. Manzullo.

H.R. 232: Mr. Deal of Georgia.

H.R. 236: Mr. Bilirakis, Mr. Pitts, Mr. Hulshof, Mr. Sweeney, Mr. Schaffer, Mr. Deal of Georgia, Mr. Culberson, Ms. Hart, Mr. DeMint, Mr. Fossella, Mrs. Emerson, Mr. Doolittle, Mr. Riley, Mr. LaHood, Mr. Weldon of Florida, Mr. Green of Wisconsin, Mr. Baker, Mr. Sessions, Ms. McCarthy of Missouri, Mr. Rush, Mr. Boehner, Mr. Baird, and Mr. Ney.

H.R. 239: Mrs. Mink of Hawaii, Mr. Bentsen, Mr. Sanders, Ms. Slaughter, and Mr. Bonior.

H.R. 241: Mr. Goode, Mr. Cooksey, and Mrs. Emerson.

H.R. 244: Mr. Brady of Pennsylvania, Mr. Edwards, Mr. Oberstar, Mr. Dingell, Mr. Skelton, Mr. Filner, Ms. Jackson-Lee of Texas, Ms. Hooley of Oregon, Mr. Etheridge, Mr. Pastor, Ms. McCarthy of Missouri, Mr. Reyes, and Mr. Sisisky.

H.R. 245: Mr. Lipinski, Mr. McGovern, Mr. Filner, Mr. McHugh, and Mr. Ney.

H.R. 250: Mr. Terry, Mr. Udall of New Mexico, Mr. Thune, Mr. Green of Wisconsin, Ms. DeLauro, Mr. McNulty, Mr. English, Mr. Cooksey, Mr. Lewis of Kentucky, Mr. George Miller of California, Ms. McKinney, Mr. Tierney, Mr. Rothman, Mr. Gutknecht, Mr. Lantos, Mr. Sweeney, Mr. Larsen of Washington, and Mr. Ryun of Kansas.

H.R. 257: Ms. Hart.

H.R. 259: Mr. Calvert, Mr. Smith of New Jersey, and Ms. Hart.

H.R. 261: Mr. Calvert.

H.R. 262: Mr. Smith of New Jersey.

H.R. 267: Mr. Sweeney, Mrs. Emerson, Mr. Peterson of Minnesota, Mr. Ose, Ms. Roybal-Allard, Mr. Inslee, Mr. Cunningham, Mr. McIntyre, Mr. Boehner, Mr. Lantos, Mr. Thune, and Mr. Riley.

H.R. 270: Mr. Nadler, Ms. Pelosi, Ms. Lee, and Mr. McGovern.

H.R. 275: Mr. Cox, Mr. Stump, Mr. Issa, Mr. Sessions, and Mr. Paul.

H.R. 276: Mr. McInnis and Mr. Houghton.

H.R. 288: Mr. Towns, Mr. Frank, and Ms. McCarthy of Missouri.

H.R. 294: Mr. Smith of Michigan, Mr. Shimkus, Mr. Duncan, Mr. Reynolds, Mr. Chambliss, Mr. Schaffer, Mr. Green of Wisconsin, and Mr. Whitfield.

H.R. 296: Ms. Slaughter and Mr. Deal of Georgia.

H.R. 301: Mr. Hilliard, Mr. Turner, Mr. Cramer, Mr. Davis of Illinois, and Mr. Thompson of Mississippi.

H.R. 302: Mr. HILLIARD, Mr. TURNER, Mr. CRAMER, Mr. DAVIS of Illinois, and Mr. THOMPSON of Mississippi.

H.R. 303: Ms. HOOLEY of Oregon, Mr. KANJORSKI, Mr. SCHAFFER, Mr. EHRLICH, Mr. SMITH of Texas, Mr. WU, Mr. HALL of Texas, Mr. WELDON of Florida, Mr. SISISKY, Mr. COLLINS, Mrs. EMERSON, Mr. CLEMENT, Mr. YOUNG of Alaska, Mr. BASS, Mr. CRAMER, Mr. WHITFIELD, Mr. THUNE, Mr. CUNNINGHAM, Mr. COOKSEY, Mr. SERRANO, Mr. CALLAHAN, Mr. EVANS, Ms. LEE, Mr. FOLEY, Mr. ROHRABACHER, Mr. WEINER, Mr. SANDERS, Mr. COYNE, Ms. BROWN of Florida, Mr. HINCHEY, Mr. SHIMKUS, Ms. DUNN, Mr. PAUL, Mr. BURR of North Carolina, Mr. DAVIS of Florida, Mr. CAPUANO, Mr. KING, Ms. ROYBAL-ALLARD, Mr. GORDON, Mr. RAHALL, Mr. JENKINS, Mr. MALONEY of Connecticut, Mr. McGOVERN, Mr. WEXLER, Mr. McCRERY, Mr. ETHERIDGE, Mr. BACA, Mrs. KELLY, Mr. FILNER, Mr. MENENDEZ, Mr. BOUCHER, Mr. JONES of North Carolina, Mr. COMBEST, Mr. FRANK, Mrs. MEEK of Florida, Mr. HASTINGS of Washington, Mr. ISAKSON, Ms. BERKLEY, and Mr. BOEHLERT.

H.R. 306: Mr. HANSEN.

H.R. 311: Mr. BILIRAKIS, Mr. ROHRABACHER, Mr. FOLEY, Mr. WAMP, Mr. SHIMKUS, Mr. CALVERT, Mr. SHOWS, Mr. LaHOOD, Mr. BAKER, and Mr. SESSIONS.

H.R. 316: Mr. CAMP, Mr. BILIRAKIS, Mr. WATTS of Oklahoma, Mr. SCHAFFER, Mr. SMITH of New Jersey, and Mr. PITTS.

H.R. 320: Mr. GONZALEZ, Ms. HART, Mrs. LOWEY, Mr. BARTLETT of Maryland, Mr. DAVIS of Illinois, Ms. McCOLLUM, Ms. LOFGREN, Mr. ALLEN, Mr. McINTYRE, Mr. HOYER, Ms. PELOSI, Mr. LANTOS, Mr. HOUGHTON, Mr. BOUCHER, and Mr. LEVIN.

H.R. 322: Ms. BERKLEY, Ms. BROWN of Florida, Mr. BRYANT, Mrs. CUBIN, Mr. DICKS, Mr. DUNCAN, Ms. DUNN, Mr. FOLEY, Mr. FORD, Mr. GORDON, Mr. GREEN of Texas, Mr. HASTINGS of Washington, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LARSEN of Washington, Mr. McDERMOTT, Mr. MURTHA, Mr. NETHERCUTT, Mr. PAUL, Mr. REYES, Ms. ROS-LEHTINEN, Mr. SMITH of Washington, Mr. TANNER, and Mr. WAMP.

H.R. 326: Mr. BLAGOJEVICH, Mr. GUTIERREZ, Mr. BARRETT, Mrs. CHRISTENSEN, Ms. LOFGREN, Mr. BERMAN, Ms. SLAUGHTER, Mr. McGOVERN, Mr. CLYBURN, and Mr. CALVERT.

H.R. 330: Mr. JOHNSON of Illinois, Mr. OTTER, and Mr. CULBERSON.

H.R. 333: Mr. NEY, Mr. BARCIA, Mr. ROEMER, and Mr. THOMAS M. DAVIS of Virginia.

H.R. 340: Mr. MENENDEZ, Mr. LANTOS, Mr. WAXMAN, Mrs. MEEK of Florida, Ms. LEE, Mr. COSTELLO, Ms. ROYBAL-ALLARD, Mr. BACA, Mr. BERMAN, Mrs. MALONEY OF NEW YORK, Mr. FARR of California, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, and Mr. HOEFFEL.

H.R. 369: Mr. SMITH of New Jersey and Mr. DEAL of Georgia.

H.R. 380: Mr. BOSWELL, Mr. BOYD, Mr. OLVER, Mr. ETHERIDGE, Mr. HINOJOSA, and Mrs. THURMAN.

H.R. 385: Mr. GOODE, Mr. SHADEGG, Mr. SCHAFFER, Mr. DEAL of Georgia, Mr. PITTS, and Mr. AKIN.

H.R. 389: Mr. ACKERMAN.

H.J. Res. 7: Mr. HOYER and Ms. SANCHEZ.

H.J. Res. 8: Mr. TANCREDO, Mr. WICKER, and Mr. SCHROCK.

H. Con. Res. 17: Ms. SLAUGHTER.

H. Con. Res. 20: Mrs. NAPOLITANO, Mr. RANGEL, Mr. MILLER of Florida, Mr. BLAGOJEVICH, Mr. RODRIGUEZ, Mr. CAPUANO, Mr. CALVERT, Ms. SLAUGHTER, Mr. GREEN of Wisconsin, Mr. McHUGH, Ms. HART, Mr. McGOVERN, Mr. MALONEY of Connecticut, Mr. GEKAS, Mr. BARTLETT of Maryland, and Ms. LOFGREN.

H. Res. 15: Mr. TERRY.

H. Res. 27: Mr. PHELPS, Mr. BROWN of Ohio, Mr. SANDERS, Mr. SMITH of New Jersey, Ms. HOOLEY of Oregon, and Mr. LANTOS.

[Submitted February 7, 2001]

H.R. 41: Mr. TOWNS, Mr. SAM JOHNSON of Texas, Mr. HULSHOF, Mr. ENGLISH, Mr. ENGEL, Mr. SHOWS, Mrs. McCARTHY of New York, Mr. McHUGH, Mr. SESSIONS, Mr. ETHERIDGE, Ms. DUNN, and Mr. BENTSEN.

H.R. 65: Mr. SCARBOROUGH, Mr. MICA, and Mr. SAXTON.

H.R. 126: Mrs. MORELLA, Mr. FARR of California, Ms. RIVERS, and Mr. FRANK.

H.R. 168: Mr. PAUL.

H.R. 179: Mr. BROWN of South Carolina, Ms. McCOLLUM, Mr. PHELPS, and Mr. SAXTON.

H.R. 225: Mrs. McCARTHY of New York, Mr. TIERNEY, Mr. MEEHAN, Mr. PASCRELL, Mr. BLAGOJEVICH, Mrs. MALONEY of New York, Ms. CARSON of Indiana, Ms. ESHOO, Mr. FILNER, Mr. SABO, Mr. STARK, Mr. FRANK, Mr. LIPINSKI, Mr. SHERMAN, Mr. McGOVERN, Mr. DAVIS of Illinois, Mr. ENGEL, Ms. McKINNEY, Mr. BLUMENAUER, Mr. ROTHMAN, Mrs. MORELLA, Mr. TOWNS, Ms. LEE, Ms. SCHAKOWSKY, Mr. CAPUANO, Mr. HOLT, Mr. BRADY of Pennsylvania, Mr. OLVER, Mr. MOAKLEY, Mr. KENNEDY of Rhode Island, Mr. DELAHUNT, Mr. ANDREWS, Mr. PALLONE, Mr. WYNN, Mr. LANTOS, Mr. BECERRA, Ms. MILLENDER-McDONALD, Mr. RUSH, Mrs. MEEK of Florida, Mr. DEUTSCH, Ms. BROWN of Florida, Mr. LEWIS of Georgia, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of Mississippi, Mrs. MINK of Hawaii, Mr. FALEOMAVAEGA, Ms. NORTON, and Mr. SERRANO.

H.R. 296: Mr. THOMPSON of Mississippi.

H.R. 301: Ms. KAPTUR.

H.R. 302: Ms. KAPTUR.

H.R. 303: Mr. PUTNAM, Mr. ROSS, Ms. McCOLLUM, Mr. MILLER of Florida, Mr. GEORGE MILLER of California, Mr. SCARBOROUGH, Mr. UDALL of New Mexico, Mr. SANDLIN, Mr. MICA, Mr. SAXTON, Mr. STEARNS, and Mr. GOODE.

H.R. 322: Mr. DEUTSCH, Mr. FROST, Mr. GONZALEZ, Mr. HILLEARY, Mr. HINOJOSA, Mr. LAMPSON, Mr. ORTIZ, Mr. SCARBOROUGH, and Mrs. THURMAN.

H.R. 419: Mr. STARK, Mr. LaHOOD, and Mr. HILL.

H.R. 420: Mr. WOLF and Mr. STEARNS.

H.R. 429: Ms. VELÁZQUEZ.

H.R. 478: Mr. PETERSON of Minnesota and Mr. SANDERS.

SENATE—*Wednesday, February 7, 2001*

The Senate met at 10:00 a.m. and was called to order by the Honorable SUSAN M. COLLINS, a Senator from the State of Maine.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

The Lord bless you and keep you; the Lord make His face to shine upon you, and be gracious to you; the Lord lift up His countenance upon you, and give you peace.—Numbers 6:24–26.

Father, we begin this day by claiming this magnificent fivefold assurance. We ask You to make this a blessed day, filled with the assurance of Your blessings. May we live today with the godly esteem of knowing You have chosen us and called us to receive Your love and to serve You. Keep us safe from danger and the forces of evil. Give us the helmet of salvation to protect our thinking brains from any intrusion of temptation to pride, resistance to Your guidance, or negative attitudes. Smile on us as Your face, Your presence, lifts us from fear and frustration.

Thank You for Your grace to overcome the grimness that sometimes pervades our countenance. Instead, may our faces reflect Your joy. May Your peace flow into us, calming our agitated spirits, conditioning our dispositions, and controlling all we say and do. Help us to say to one another, "Have a blessed day," and expect nothing less for ourselves. For 22 years, Arthur "Tinker" St. Clair, Senior Democratic Doorkeeper, has helped this Senate have great days. On the eve of his retirement, we want to thank You for his faithfulness, kindness, and loyalty. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SUSAN M. COLLINS led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 7, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SUSAN M. COLLINS, a Senator from the State of Maine, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Ms. COLLINS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. NICKLES. Madam President, today the Senate will begin a period of morning business until 1 p.m. Following morning business, the Senate will begin consideration of S. 248, the United Nations debt reduction legislation. Senators should be prepared to vote on the legislation at approximately 2 p.m. today. Therefore, those Senators who intend to debate the bill should work with the bill managers to schedule floor time as soon as possible. Senators will be notified as soon as the vote time has been locked in.

I wish to thank my colleagues for their cooperation.

The ACTING PRESIDENT pro tempore. The assistant Democratic leader.

Mr. REID. Madam President, the Senate is getting a lot of important work done. The more we can work without having a lot of quorums, the better off we are. The time for morning business has been used well. I think we had even the beginnings of a good debate on the tax issue. That is important. The American people are looking to Members to come up with something that is important to them and important to the country with the tax issue before the Senate.

With the bipartisan tone that has been set in the early stages of this Congress, I hope the debate will continue to be civil and constructive, and I hope we can come up with something constructive that is the best for the American people.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed the hour of 1 p.m.

Mr. NICKLES. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. BUNNING): Without objection, it is so ordered.

ARTHUR LEVITT: THE INVESTORS' ADVOCATE

Ms. COLLINS. Mr. President, I rise today to recognize the remarkable public service of the Honorable Arthur M. Levitt, Chairman of the Securities and Exchange Commission, the longest-serving chairman in the history of the SEC. Mr. Levitt will be departing the Commission soon with a proud legacy of accomplishment—a legacy that has made his tenure as Chairman one of extraordinary distinction as well as one of unusual duration.

Correctly seeing his position as a stewardship for the public good, Chairman Levitt has consistently set aside partisan concerns to advocate tirelessly on behalf of the individual investor. He has also implemented changes that have strengthened the public's trust in U.S. securities markets.

Chairman Levitt was first appointed to a five-year term in 1993, and was reappointed in 1998. No stranger to economic issues and the American securities market, he previously had served as Chairman of the New York City Economic Development Corporation, as well as Chairman of the American Stock Exchange. In addition, Mr. Levitt owned a newspaper that is very familiar to those of us who work on Capital Hill: Roll Call.

During his eight-year tenure, Chairman Levitt has consistently worked to deliver the important message that investors must use the increasing amounts of information available to them to do more research before investing. He traveled extensively across the country to spread this message, holding 43 Investors' Town Meetings. At these events, Chairman Levitt took pains personally to educate investors about their rights and their obligations, while giving them the tools they need to invest wisely and to protect themselves from securities scams.

On one particularly memorable occasion in 1998, Chairman Levitt was scheduled to speak at an Investor's Town Meeting in Bangor, Maine. When bad weather thwarted his efforts to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

reach Bangor and the nearly 600 Maine citizens awaiting him, Chairman Levitt improvised, answering all of the questions from the audience by phone in what may have been the biggest conference call in the history of the State. In Maine, we truly appreciate a person's ability to overcome the elements.

Chairman Levitt also brought his expertise to Capitol Hill, testifying in 1997 before the Permanent Subcommittee on Investigations, which I chair, about problems in the micro-cap markets—including penny stock fraud—and providing investors valuable insights on how to avoid falling victims to the predators who lie in wait for the unwary. Chairman Levitt testified before my Subcommittee again in 1999, this time on the risks associated with day trading. Investor alertness and diligence have been his watchwords, and his advice in this regard has been consistently sound.

A strong proponent of technological advances, Chairman Levitt worked to promote the use of technology not only in securities transactions, but also in helping inform and educate investors through the Internet. Under his guidance, the SEC's first Web site went online in 1995. Today, it provides valuable information and services—including access to the Electronic Data Gathering Analysis and Retrieval database (also known as "EDGAR"), which contains a large volume of information about public companies, including corporate annual reports filed with the SEC and disclosures of purchases and sales by corporate insiders. The SEC's Web site also has an Investor Education and Assistance service, which advises investors on how to invest wisely and avoid fraud, answers the public's questions, and reviews investors' complaints.

Chairman Levitt has truly been a man for his time. With Americans flocking to take part in what has been the longest bull market in U.S. history, he championed the right of the small investor to a level playing field with the big institutions. Last year, for example, the SEC approved the adoption of a regulation on Fair Disclosure, which requires companies to disclose material, nonpublic information—such as earnings results and projections—simultaneously to Wall Street analysts and the public. This new regulation makes significant strides toward bringing individual investors into the information "loop" on a timely basis.

In addition, Chairman Levitt oversaw the SEC's adoption in 1998 of the Plain English Rule, which requires that public companies and mutual funds prepare the cover page, summary, and risk factor portions of their prospectuses in clear, concise, and understandable English. The Plain English Rule finally makes prospectuses accessible to those outside the small circle of securities lawyers and market professionals accustomed to reading them.

Chairman Levitt has worked to ensure that the small investor gets the best available price. In 1997, the SEC adopted its Order Handling Rule, which places individual investors' bids on an equal footing with those of professional traders on the NASDAQ. This Rule is designed to prevent collusion among dealer and to promote competition in the market. At the same time, Chairman Levitt has overseen the SEC's vigorous efforts to root out Internet securities fraud and bring the perpetrators to justice.

Protecting investors' rights and rooting out securities fraud have long been among my primary interests, and I have been both delighted and very fortunate to be able to work toward these ends with an SEC Chairman who shares a powerful commitment to these goals. Mr. President, while small investors are losing a true friend at the SEC, I am confident that the benefits he brought them will endure for many years to come.

Mr. President, I wish to thank Chairman Levitt for shepherding the securities market into the 21st Century, and ensuring that America's thriving markets are open to all investors, big and small, and are worthy of the public's confidence. I offer him my very best wishes for his future undertakings.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

TAX CUTS INCREASE REVENUE

Mr. INHOFE. Mr. President, as a lot of people have been doing, I have been watching and listening with a great deal of interest to the debate and the brilliant things that have been said about the proposed tax cut.

I think there are three significant things that have not come across in this debate, and I think we need to talk about that and concentrate on it.

One is the myth that if we cut rates, somehow that is going to have the result of cutting revenues. I do not know what we have to do in history to show that is not correct.

The first time that the whole idea—some call it supply side—came out was way back, following the First World War. At that time, it was the Harding administration and the Coolidge administration. They raised money in order to fight the war. And, of course, that was successful. But after the war, they decided that with the war effort gone, they could reduce the taxes. They reduced the top rate from 73 percent to 25 percent. They thought that would have a dramatic reduction in the revenues that were produced around our country. But they were willing to do it. To their surprise—this is the first time they had learned this—the economy, as a result of that reduction from the top rate of 73 percent down to 25 percent, actually grew the economy 59 percent between 1921 and 1929. And the revenues during that time grew from $719 million in 1921 to $1.16 billion in 1928.

Then along came the Kennedy administration. This is the one where I don't understand how liberal Democrats can stand here and ignore the lesson that we learned during the Kennedy administration. Yes. Kennedy wanted more money spent on social programs. And he said on this floor that we needed more money to raise more revenues to pay for all the domestic programs we were getting into, and the best way to increase revenue was to reduce taxes. At that time, the top tax rate was 91 percent.

So he reduced the taxes with the help of Congress from 91 percent down to 70 percent, and exactly the same thing with exactly the same percentages that took place after World War I took place. Tax revenues grew during that period of time, 1961 through 1968, by 62 percent.

I know there are a lot of people who don't want to believe this. I don't want to unfairly attribute a quote to Laura Tyson, but I remember in 1993 she made a statement I interpreted to be: There is no relationship between the taxes that a country pays and its economic performance. Theoretically, if that is true, you could tax Americans 100 percent and they would have the same motivation to stimulate the economy as if they were taxed 50 percent. We knew that is not right.

We had gone through that during the 1960s. For some reason, Democrats today will not acknowledge that. This is a lesson we learned from Democrats. Of course, the 1980s came. In 1980, the total amount of revenue raised to run the United States of America was $517 billion. In 1990, that was $1 trillion. It almost doubled in that 10-year-period. Those are the 10 years we had the most dramatic marginal rate reductions in the history of America. If you take just the marginal rates, it was $244 billion raised in 1980 and $446 billion raised in 1990. In that 10-year period it almost doubled, and that was dropping the rate from the 70-percent top bracket we inherited from President Kennedy when he brought it from 91 percent to 28 percent.

History has shown it will happen. Never once in the debate do we talk at all about the fact that it will not reduce revenues; it will increase revenues. I have watched this happen over my short lifespan in politics and have been surprised to find this is true. If the money is there, the politicians will spend it.

One of the best political speeches I heard in my life was the first one that Ronald Reagan made, "A Rendezvous With Destiny." I bet some don't remember it at all. In the speech he said, the closest thing to immortality on the face of this Earth is a government program once started. That means if there is a problem, form a government program to take care of it; the problem goes away but the program remains there. This is a fact of life. It has repeated itself over and over again.

The second item—a lot of the liberals say this because it sounds good to conservatives—let's go ahead and not have tax cuts until we pay down the debt.

The Wall Street Journal had an article entitled, "Where Do We Put the Surplus?" A couple of professors say we have a serious problem because if we wanted to take the surpluses projected, which is $5.5 trillion in the next 10 years—upgraded by OMB to $6 trillion in that same timeframe we would have to find someplace to put the money. If you don't return it to the taxpayers, it will get spent. There aren't enough places you can put money like that because you can't pay down the debt immediately. Some things have not matured. You can't force a debt repayment in the publicly held portion, and the debt is $3 trillion. You have to find a place to put it.

You can go into the equity market. If you go into the equity market, that will create a problem. According to Greenspan, by the year 2020, if we take this course, the Government will own one-fifth of all domestic equities. If there is anything we don't want to happen, it is to have Government owning 50 percent of the private equities in this country.

The last point is how modest this cut is. I would like to have it much greater than $1.6 trillion because I believe we can afford to do that. During the Reagan administration, it was $1.6 trillion, but in today's dollars that would equal $6 trillion that we would actually have as tax cuts. If you look at it another way, taking it as a percentage of the gross domestic product, what we are suggesting is somewhere between a 0.9 and 1.2 percent cut in the gross domestic product. In the Kennedy years, it was 2.2 percent; during Reagan it was 3.3 percent. This is far less than those tax cuts would have been.

I conclude by saying we have a decision to make—and it is a very difficult decision—as to what to do with that amount of surplus.

I ask unanimous consent the Wall Street Journal article I referred to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1)

Mr. INHOFE. I don't think there is any question, if we are honest, 'we would deny that if we leave this money, it will be spent. Parkinson's law is: Government expands to consume the resources allocated to it, plus 10 percent. This has proven to be true over and over again.

I can argue as to the fairness of where this cut takes place. I could talk about the fact that the top 5 percent of the income makers in this country actually pay 54 percent of the taxes; the bottom 50 percent only pay 4.2 percent of the taxes. That begs the question. There is no reason to talk about the fairness of this because it is too logical. Obviously, what we are going through now is an overpayment. We have taxed the American people, and anyone out there right now—and there are millions of people who have paid any type of taxes—is entitled to a refund. To redistribute that wealth would be as unfair as it would be if you went down to an auto dealership, bought a new car, paid the sticker price, got home and said: Wait, I paid $2,000 too much. And you get in the car and drive to the auto dealer and say: You overcharged me $2,000, and he says: I just gave it to my mother-in-law.

This is an overpayment of taxes we have made and I think people are entitled to have the overpayment back. If you do that, it will have the effect of increasing revenue, and stimulating the economy, which we desperately need. We are on the brink right now of a recession.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Jan. 29, 2001]

WHERE DO WE PUT THE SURPLUS?

(By Kevin A. Hassett and R. Glenn Hubbard)

When historians look back on Alan Greenspan's tenure as chairman of the Federal Reserve and attempt to identify the source of his enormous success, last Thursday's Congressional testimony—in which he advanced the course of tax reform—will likely provide one answer. Mr. Greenspan raised a pressing public-policy question that has been overlooked by most, a question that will likely become the focal point of political and economic debate during President Bush's first four-year term.

If the U.S. government starts accumulating big surpluses, where should it put the money?

That might not seem so tricky. After all, the government already occasionally places deposits in private banks. But this time we aren't talking nickels and dimes. Current surplus estimates are so large that the government's passbook savings account, if nothing changes, will soon become the Mount Everest of cash hoards.

Let's look at the numbers. The latest Office of Management and Budget forecast is for the surplus to reach about $5.5 trillion over the next 10 years. Rumor has it that the soon-to-be-released Congressional Budget Office forecast will peg it at $6 trillion, with almost $1 trillion arriving in 2011 alone. (Note: actual CBO numbers are $5.61 trillion, of which $3.12 trillion will be the non-Social Security surplus)

Why not just pay down the debt? Put simply, there's not that much debt to pay. According to the Treasury Department, total government debt held by the public is only about $3 trillion. With no change in tax policy, projected surpluses would pay down the debt by around 2008. Government will subsequently have to decide in what it will invest the massive surpluses.

But that is far in the future. Many opponents of tax reduction have suggested that we wait until the uncertain surpluses arrive, and the $3 trillion of existing government debt is retired, before considering tax cuts. Mr. Greenspan had an answer for that as well: "Private asset accumulation may be forced upon us well short of reaching zero debt."

Indeed, by some estimates, as much as half of existing government debt will be almost impossible to retire, since savings bonds and state and local government series bonds often aren't redeemed until maturity, and because many holders of long-term treasury bills will be unwilling to sell them back to the government. Factor in that surplus estimates keep getting revised upward, and government may well be forced to invest in private assets in just three or four years.

How big could the hoard get? Investing that much public money would likely mean the government purchase of stocks, because only equity markets are large enough to absorb such inflows and still remain liquid. Assuming the Treasury begins to invest surpluses in the stock market as soon as it has retired all the debt that it can, and that these investments earn a 10 percent annual return, our government will be sitting on a stock-market portfolio worth $20 trillion by 2020. To put that in perspective, the current market value of all equities in the U.S. is about $17 trillion, according to the Federal Reserve. Projecting forward, the U.S. government could own about one-fifth of all domestic equities by 2020.

Allowing the government to own that much of the private economy is an invitation to unbounded mischief. Firms will lobby to be put on the list of acceptable investments; those firms or assets left off will suffer hardship. Calls to sell firms that aren't "green" or that fail to pass litmus tests will become the latest in political lobbying. Which is why Mr. Greenspan stated flatly: "The federal government should eschew private asset accumulation because it would be exceptionally difficult to insulate the government's investment decisions from political pressures." The risks are just too great.

His argument on Thursday caught Democrats flat-footed. Sen. Ernest Hollings of South Carolina told Mr. Greenspan that "in all candor, you shock me with your statement." An apoplectic Sen. Charles Schumer of New York dubbed Mr. Greenspan's analysis a mistake." Such venom is reserved for truly decisive arguments. Indeed, word is out that economists at President Clinton's Council of Economic Advisers prepared an analysis of this issue that wasn't allowed to see the light of day.

Perhaps the Democratic senators had not previously recognized that their opposition to tax cuts would require the government to buy a massive share of private America. Mr. Hollings later warned Mr. Greenspan that he was "going to start a stampede." It is not a stampede we will observe, but a wholesale retreat by poll-conscious opponents of tax reform, who will have little stomach to defend such a massive government intrusion into private life. A large tax cut is virtually a sure thing.

Which doesn't mean we've seen the last of this important question. First, if supply-side arguments are correct, then the marginal-rate reductions proposed by Mr. Bush will eventually increase tax revenues and surpluses, presenting us once again with the quandary of what to buy. Second, Social Security continues to be on very weak footing in the long run, and something must be done to stave off fiscal disaster. This puts Democrats in a tough position. For if they reject

> the option of allowing the government to hoard private assets in anticipation of retiring baby boomers, there is—as Mr. Greenspan highlighted elsewhere in his remarks—one inevitable alternative: individual accounts.
>
> In taking a stand on such important issues in such a public forum, Mr. Greenspan has fundamentally altered the debate on the surplus, taxes and government investment. From now on, opponents of privatization will have to reveal just where it is they intend to put our money, and convince us that those investments will be economically benign.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to speak about the tax cuts proposed this week by President Bush and to join my colleagues in this discussion. As I listened to my colleague from Oklahoma, Senator INHOFE, a number of the points he was making are the ones that I think are most germane to this discussion. He spoke eloquently; I have some charts that support what he said.

He was talking about the one law that Government spending expands to reach the amount of Government resources we have available, plus 10 percent. I had not heard of that law, but it sounds as if it is fairly accurate.

I have a chart that shows that the surpluses lead to higher spending. We can see that is what has taken place as we have had surpluses coming on line in 1995 through the year 2002. We had an enormous growth in discretionary spending during the same period of time. This is a time period when we had a Democrat President and a Republican Congress. There were supposed to be some restraints in spending, but the ironclad rule of Government is if there is a dollar left on the table anywhere, it will be spent. We now see that is, indeed, what has taken place where the discretionary spending has increased. If you leave the money on the table, it will get spent.

I want to talk about another thing that my colleague addressed, as have others, and that is tax freedom day, the day we finally start working for ourselves and stop working for the Government. This day, unfortunately, has continued to grow longer in the career. We have less freedom from taxation in this country right now than at any time since World War II.

I will first show the size of the overall tax cuts President Bush has put forward. They are pretty modest. My colleague from Oklahoma was discussing the relatively small size of the tax cuts in proportion to the economy. This is the percentage of Gross Domestic Product. The Bush tax cut is 1.2 percent of GDP which is quite small, in my estimation. We should be talking about a larger tax cut given the difficulty our economy is starting to show. We are seeing some slowness in the economy. We need to stimulate it both in fiscal and in monetary policy. The Fed is coming forward with monetary policy, and we need to come forward with fiscal policy.

You can see Ronald Reagan had a 3.3-percent cut in percentage of GDP, and President Kennedy had a 2-percent cut. I think we ought to be getting up to this 2-percent category and talking more along the lines of a $2 trillion tax cut. This will stimulate the economy, keeping it from going into recession. That is the best thing to do to ensure that we maintain a surplus; with people doing well in this country, we can avoid an economic recession. That is what we are starting to face.

This is a modest tax cut, particularly given the times and situation. We need to do so to help stimulate the overall economy. I think a 2-percent cut overall, a $2 trillion tax cut, would be more in keeping with traditional sizes of major tax cuts and would keep our economy from slipping into an actual recession.

You can see what has happened to tax freedom day. This is the day you stop working for the Government and start working for yourself. It extended until May 3 in the year 2000. People are working for government at all levels of the government until May 3.

I just bought a used car from an individual. He asked me what I did, and I told him I worked in the Senate. He said: If you guys can, do anything to cut taxes, I have a paycheck that comes in, and I never look at the gross number because it just depresses me. I just basically cut my gross wage in half, and that is how much I get to take home. Just cut it in half, was his statement.

We ask people why they are having difficulties with the situation at home, with their families. They don't have enough money to take care of their kids, buy braces, pay for education, and take care of the normal expenses. They need to have at least two jobs in this family, maybe more.

Why is that? We look at this chart and see one of the big cost drivers in that situation. It is the tax burden.

Look at what happened in the 1990s. In this time period, it has gone up precipitously. That shows how much people work for the Government rather than working for themselves. Is it any wonder people experience stress or have difficulty in their family situation, when they are working for somebody else, who gets close to half the year?

How does this break down? I want to break down this tax freedom day issue. These are the minutes in an 8-hour day that you are working for government, or other taxes that you are paying. Look at how many minutes of an 8-hour day you are working for Federal taxes: 112 minutes. It is getting close to 2 hours a day that you are working for the Federal Government. I appreciate you working for us that much. I am glad people are doing that.

My point in highlighting this is that it is too much. It is too long. You should not be working for the Government that amount of time.

Look at the Federal Government, but also look at State and local taxes. You add another 50 minutes to that. We are getting close to 3 hours of your workday to pay for Federal taxes and State and local taxes. That is before you ever pay for housing, health care, food, recreation, transportation, clothing, and put money away in savings. What happens to savings when you take this big of a bite out of it?

This chart puts a graphic on it, and it shows that if you start working at 9 a.m., you are basically working in the morning for the Government, and then the rest of the day you are working for other things. The morning is basically given to the Government.

It is nice that people are willing to do that, but my point is that it is too long, it is too much, it is taking too much from them, and it is hurting our families and individuals. This is just to point out how much it is, how it breaks down. This is from the Tax Foundation.

How much per dollar of a median family income goes to taxes, comparing 1955 to 1998? In 1955—Federal income tax was 9 cents. Federal payroll tax, other Federal tax, State and local taxes, were 3 cents. In 1955, we had a pretty good size Government. In 1998, after-tax income was 61 cents; we are nearly at 40 percent today.

Look at the size of this Federal payroll tax. When I go to high school senior classes, two-thirds of the groups with which I speak are paying taxes. The tax that they are paying is Federal payroll tax, which for most people in this country is larger than any other single tax they pay. This is one tax about which we are going to have a lot of discussion.

This chart shows other Federal taxes and State and local taxes, which have increased a great deal as well. This breaks it down on the dollar.

Finally, this is tax freedom day by type of tax. Many people don't realize all of the taxes that they pay. Basically, on anything you do, you are paying a tax. If you turn on a water faucet in the morning, there is going to be a tax on the water that comes through. If you use the phone, there is a phone tax. If you die, there is going to be a death tax, and if you get married, there is a marriage penalty tax—both of which I think we need to address and eliminate.

We have a system where we have figured out how to tax virtually everything you do or that happens to you. It creates these type of burdens.

To pay individual income taxes, we are working 50 days a year. You can look at the others. Business taxes, corporate taxes, property taxes, estate and excise taxes, social insurance taxes are also on this chart. It is a big overall burden.

One person has suggested, instead of having payroll taxes, that we require a person to each month write a check out to the Government for their level of taxes rather than taking it out of the account. If we really wanted to cut taxes, we should do that so people could see that each month when they wrote that check out. It is a heavy burden.

I wanted to put that forward to put some context on this. When we talk about a $1.6 trillion tax cut—which I think actually should be at the $2 trillion category—we are overburdening people on taxes now. This is clear. We need help in stimulating the economy. This is clear. We should not be taxing things such as marriage when it is the foundational unit for the family. We need to get rid of the marriage penalty tax.

I want my colleagues, particularly from Texas and Georgia, who put this tax plan forward, to know I am going to be aggressively pushing to get rid of the full marriage penalty tax rather than a portion of it, which is in this current bill. I think we have to do much better towards our working families, particularly getting rid of the marriage penalty tax. I also hope that we can make these tax cuts retroactive to stimulate the economy.

I point out to my colleagues as well about the surplus—we have been paying down the debt, and we will continue to do so. We have paid down the debt by about $360 billion over the last 3 years. We will continue to pay the debt down. However, those surpluses have led to increased government spending as well. So we need to get some of the tax dollars out of the system and back into people's individual pockets.

Finally, we have the wherewithal to do this and to protect Social Security. We can do a $2 trillion tax cut and we can still pay the debt down at the current rate (if not more than what we are currently doing) and provide for substantial Federal Government needs that we have identified. That is all doable because the projection on our own receipts is substantial enough that we can get that accommodated—roughly in the $5.6 trillion surplus over the next 10 years.

We need to do this. American working families need this to take place. It is the right thing to do. It is the right time to do it. I hope we do not waste much more time before we actually get these tax cuts in place.

Mr. President, I thank my colleague from Wyoming for hosting this dialog and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, this, obviously, is the week and the time to be talking about taxes, tax relief, and tax reductions.

It is an appropriate time to deal with all of the involved issues. Certainly, the President has talked a great deal about his tax plan not only in the campaign but certainly now as he is prepared to reveal and unveil this plan of relieving the tax burden on all taxpayers.

The plan, of course, is oriented toward stimulating economic growth, reducing family tax burdens, and saving family estates from the auction block, and hopefully making this Tax Code simpler and more fair. That is an important aspect of it. We talk all the time about the Tax Code being so detailed and complex, and yet we do not do much about it.

I hope we do not start seeking to have directed tax reductions here, there, and other places, aimed more at behavior than at tax reductions. This is designed to make it simpler, and that is important.

The case for the President's relief package is strong. First, there is a record surplus of taxes coming in. It is really a tax overpayment. That makes possible a policy of paying down the debt and reducing taxes on working families.

Second, the slowing down of the economy has many people concerned and properly so. Absent some kind of fiscal stimulus, our record economic expansion may turn downward and into a recession.

The third argument is the one my friends have talked about this morning, but I think it is really the issue for most of us, and that is the burgeoning tax burden on American families.

No matter how one looks at it as a proportion of national income, the burden persists as compared to other family expenses. Actual time spent working just to fund the Federal Government is taking more of a typical family's income than at any other time in history. Isn't that interesting? Almost any time in history.

Federal revenues for fiscal year 2000 pulled more than $2 trillion out of the economy for the first time in American history. Along with that being the highest level ever, the Federal tax burden is also the highest rate of gross domestic product since World War II. In 1944, revenues reached 20.9 percent of GDP. Today, revenues have returned to that extraordinary level. They are at 20.6 percent, well above the historical norm.

Interestingly enough, since 1935, the average tax burden has been 17.2 percent. Never during the Korean war, the Vietnam war, or the cold war did it ever reach 20 percent. Yet the Federal tax burden continues to take more financial power out of the economy without a particular cause.

In the last few years, the American people have had to pay 20 percent of what they earned. The impact on the economy, on families, and the taxpayers has been extraordinary. We have an opportunity to do some things differently, and I hope we do that.

The current tax system, I believe, is a mess. Just think how difficult it is for all of us as we prepare our tax returns. We often say if anyone cannot make out their own return, it must be too complex. Seldom are people able to make out their own.

After 80 years of lawmakers, lobbyists, and special interests working on it—which will continue—it is unfair; it is complex; it is costly. Those are the kinds of things of which I hope, as we move forward, we can take advantage. Someone suggested taxpayers devote almost 5.5 billion hours a year to the preparation of tax returns. The other thing—and it depends, I suppose, on your point of view and philosophy with respect to Government; if one believes Government ought to be contained in its growth, that there are limits to in what the Government ought to be involved—the Federal Government in particular—why, this has something to do with that.

When there is a surplus, it is more difficult to maintain limits on the growth of Government than it is when there is not a surplus. Obviously, we want to fund the essentials such as health care, education, and Social Security. There also ought to be a limit on the growth of Government, the involvement of Government.

We are saying all the time that the Federal Government is involved in too many things; we ought to give more emphasis to State and local governments; we ought to evaluate what is the legitimate role of the Federal Government. I believe that is true, but that depends on your philosophy of government.

We are going to hear arguments during the course of this discussion that there needs to be more Government, more Government spending. If one believes that is the direction we ought to go, there is no end to the programs. It is very difficult, once a Federal Government program is in place and builds a constituency around it, to change it, to eliminate it, to reduce it.

It comes down to a philosophy of government. When you have, as in this case, a surplus of dollars, what do you do with it? You can spend it and increase the size of Government. That is a philosophy we hear quite often in this Chamber. Another is we ought to limit the role of the Federal Government; we ought to use our best judgment to determine which of those things are most important, which of those things are essential, which of those things can only be done by the Federal Government as opposed to local and State governments, which of those things should be done in the private sector as opposed to the Federal Government. All those things have a play in what you do in the future.

I happen to believe we ought to be paying down the debt. It is unfair for us to have gone into debt over the last number of years to finance programs young people will have to pay for. We can do that.

I am persuaded that under the President's program we can pay down the debt over this period of time. I am persuaded that we will have adequate money to spend on essential programs.

At the same time, we can substantially reduce the tax burden on American families, and that is very much what we want to do.

I do believe one of the elements of taxes ought to be fairness. One of the issues we have talked about for some time and passed last year, only to be vetoed by the President, was the marriage tax penalty. It really does not make sense from a fairness standpoint that a single man and woman earning this amount of money pays *x* amount of dollars; if they are married, making the same amount of money, they pay more. That is a fairness issue and one that needs to be decided.

Of course, the estate tax also is one that many argue is a fairness issue. People, particularly on farms, ranches, and in small businesses, work their whole lives to create some capital and assets, and if they own property, as many ranchers and farmers do, they have to pay this 55-percent estate tax. They have to dispose of the property to do that and that seems unfair. There are some legislative ideas, and I do not know which one will prevail. There can be expansion of exemptions, and there can be elimination, which I favor. There can also be some efforts made to pass these on without taxes and allow then for a tax to be placed on their growth.

There are many things we can do. The President has put forth a package that is very useful, one that deals with the issues as we see them, one which will bring fairness, one which will bring a reduction in costs, one which will pay down the debt, one which will allow us to go ahead and fund those programs that we deem to be essential and of a high priority.

We have an opportunity to do that now. I am hopeful we will move forward and do it quickly, to the benefit of this country, its economy, its taxpayers, and all of its families.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am very pleased to be working with my colleague, Senator THOMAS, today, and all of this week, to talk about the tax cuts we have tried to provide for hard-working American families.

We have been trying to give tax relief to working Americans for the last 3 years, but we had a President who did not agree with us. Every time we sent him a tax relief bill, it got vetoed.

But today we have a President who agrees with us that hard-working Americans deserve to keep more of the money they earn. Because we believe it is their money, not ours, we want them to have the choices.

So we do have a proposal that Congress and the President are going to work together, hopefully, on a very bipartisan basis, to produce for the American people something they can realize, not something that is so complicated and minuscule and fractionated that nobody is ever going to know they got a tax cut. What we want is real tax relief for hard-working Americans.

It is pretty simple. The basic part of this tax relief plan would replace the current five-rate tax structure—which is 15 percent, 28 percent, 31 percent, 36 percent, and 39.6 percent—with four lower tax brackets: 10 percent, not 15 percent, would be the lower bracket; then 15 percent; then 25 percent; and then 33 percent.

That is the bulk of the tax relief plan that we will send to President Bush if we can get the support of our colleagues on the other side of the aisle.

For a couple with two children, making $35,000 they will have their taxes eliminated. For a couple with two children, making $50,000, their taxes will be cut by 50 percent. For a couple with two children, making $75,000 their taxes will be cut by 25 percent.

This is tax relief that people will be able to experience. We also hope that people will feel so good that they will buy the car they have been waiting to buy or that they will know then that they will be able to make the downpayment on the house they have been saving for—something that will spur the economy because there is no question our economy is not growing right now. It is stagnant.

But we think it can be revived if there is consumer confidence. Consumer confidence would come if people feel good about their jobs and their prospects and if they have more money in their pockets. So this is a very important staple of the tax cut plan.

The part that I have been working on personally for so many years is the marriage penalty tax cut. Why, in America, would we have to ask people to choose between love and money? The fact is, most couples in America, indeed, have to pay an average of $1,400 more in taxes just because they got married.

Who does this hit the hardest? It hits the policeman and the schoolteacher who get married and all of a sudden find they have $1,000 more that they owe to Uncle Sam—$1,000 they could certainly use. So we want to help married couples not have to pay any penalty whatsoever.

Why should you pay a penalty just because you got married? It does not make sense. So we want to eliminate the marriage tax penalty. In fact, I am going to be working with others to make the marriage penalty tax cut part of our tax plan significant. We believe we should double the standard deduction, that you should not have to pay more in a standard deduction because you are married than you would if you had two single income-earning people. So we are going to try to change that.

We are going to encourage charitable contributions by allowing people who have saved and put money in their IRAs through the years—if they find out they do not need that money because they are doing OK, and their kids are doing OK—to give some of that money to charity if they want. But there is a big bar to doing that today, and that is the tax consequence. You cannot just take the money out and give it to the charity; You have to pay the taxes.

So we want to eliminate that tax, if it is going to go straight to charity. This will encourage people to do things that will enhance our communities, and that is to give to the charity of their choice.

We want to try to help parents by doubling the child tax credit. President Bush has made this a priority. He wants to make sure that we have a $1,000 per child tax credit rather than the $500 per child tax credit that we are working toward today because we know it costs a lot of money to raise a family. Children grow. They grow out of their clothes; they eat a lot; they need to be healthy; and they need to be well fed and well dressed.

The occupant of the Chair is smiling because he has nine children. He knows. He has been there. He has fed and clothed them. He knows this is something that parents need the help to do.

Mr. President, I am very pleased to be here and be a part of the group that is talking about the Bush tax cuts. We are talking about the Bush tax cuts for hard-working American families. We are talking about Congress working with the President on a bipartisan basis for a lot of reasons to let people keep more of the money they earn. That is the bottom line.

We want people to be able to keep the money they earn because we believe it belongs to them, not to us. We believe families, especially, should get the break they so badly need.

We are being taxed at a higher rate today than ever in peacetime. I am very pleased that we have this tax relief plan. We know it is going to pass. That is what pleases me. Before, when we had been working on tax cuts, we had a President who would threaten to veto them every time we sent them to him. Today, we have a tax cut plan with a President who says he is going to sign it.

So we feel very good about that. We are going to be talking about it and hope the people of this country realize we are going to do something significant for every taxpaying American. Those in the lowest brackets will get the most relief; those in the upper brackets will get the least relief, but they will get some relief. We think it is fair to target it to middle-income and low-income people. We want them to get the most benefit. They are the ones who pay the most per capita, per income dollar. We want to relieve that, but we want every working American who pays taxes to get relief.

Mr. President, I am very proud to be here with my colleague, Senator PETE DOMENICI. Senator DOMENICI is, of course, the person who heads our Budget Committee. He knows, in the final analysis, it is his committee that is going to give us a budget that is balanced, that pays down the debt, that takes care of the increases in spending that we know we are going to need in places such as education, national defense, Medicare reform, prescription drug benefits and options, and give back to hard-working Americans some of their tax money.

I cannot think of anyone that I would trust to be able to do that than my colleague from New Mexico. I will now turn the floor over to him.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Texas.

Mr. President, I know that by some strange coincidence the occupant of the Chair seems to occupy the Chair quite frequently when the Senator from New Mexico speaks. I do not know what that bodes for the distinguished Senator, but I will try to make it interesting today, again, perhaps.

First, I am here because I want to share with the American people, and my constituents in New Mexico, the fact that this fiscal situation of our Nation is about as good as any generation could expect. This is a good situation. I have been here during times when we were going into debt almost as fast as we were gaining surpluses each year.

We had accumulated enormous annual debts that we called the "deficit," and the first good news is that by the time this year ends, we will have reduced the debt of our Nation by $600 billion. That is for real. That is not a graph. That is not a projection. We have already paid it down substantially. Unless something very dramatic happens in the next few months, that total number will be $600 billion in reduction.

Interestingly enough, a few weeks ago, probably the most distinguished American on matters economic, and probably the most distinguished American in terms of impact for the positive on the American economy, Dr. Alan Greenspan, appeared before the Budget Committee of the Senate. For some people, it was a bombshell when he said in the course of his discussion, just as deficits can get too big and hurt the economy, so can surpluses get too big and, if not handled right, can hurt the economy. He came to that conclusion on the basis of his own assessment of where we are going. And without saying it, he certainly lent great credence to a big fact: surpluses are generating on the inside of the American budget at rates and levels never expected or understood in America.

He at least implicitly acknowledged that the Congressional Budget Office was on the right track in estimating that the surpluses were growing and growing, and we were told a few days later by the Congressional Budget Office—and when we say that, we mean the whole paraphernalia that goes with estimating the American economy groups of economists, economists within the Congressional Budget Office, comparing their results with all kinds of outside estimators whose job it is, because of the businesses they work for or the funds they control, to be as right as they can—that the Congressional Budget Office which Dr. Greenspan was looking at was giving us their best estimate.

There are some who say it is only an estimate. They could give us an estimate that is not their best estimate that would say the surplus is going to be $9 trillion. They could give us another estimate which would not be their best estimate that the surplus in the next decade is going to be $1 trillion. But when they were asked, which one should we build our policy on, the answer was, the modest growth path, the modest path in terms of increases in productivity, nonetheless sustained productivity increases and sustained and very large over the next decade. Use the one we gave you, they said.

There are some people down here talking about all the possibilities and all the probabilities. When we are told about Social Security 40 years from now, Medicare 30, 40, or 50 years from now, we are using the best we can in giving those notions of costs and liabilities.

We have $5.6 trillion. Let's just start right off and say, it is our responsibility to take a good look, with our fellow Senators, at what we ought to do with it. Let me start by saying, we want to pay the debt down as soon as practicable. It is no longer as soon as possible because we have been told now by both the Congressional Budget Office, our experts, and Dr. Alan Greenspan, that there is a limit as to how fast we pay it down.

First, there is a limit because there is certain of our indebtedness that we cannot buy up; it is just not viable, such as savings bonds and the like; they are going to be there.

There is other long-term debt that is too expensive to try to persuade the holders of those debts to cash them in now; it costs too much money. So close to $1 trillion cannot be paid off as soon as we have the surplus.

We were told by Dr. Greenspan to use a glidepath for the reduction of the debt, and we will use one in whatever proposals we make to the committee—I will as chairman—and whatever we make to the Senate and to the people. The debt will be coming down rather fast, but not as fast as the money is accruing in the surplus because we are being told it won't work. We are also being told that is probably not good for the future of the American economy.

Let me talk about the future of the American economy. There is a lot being discussed today about Social Security 20, 30, 40 years from now, and Medicare during the same time interval. Those who work very hard at demographics, telling us how many people are going to be collecting from these two major beneficiaries programs, how many are going to be paying in, and how much money we are going to have sitting around, are all suggesting, from what I hear, that the very best thing that can happen is that the American economy has very prolonged intervals of sustained growth with high productivity, much like the last 9 or 10 years. If we want the best outcome for the seniors of America, the baby boom population, in terms of their health care that we can pay for and their Social Security being payable, just have, during the next 40 years, three 9-year growth patterns, or four, like the immediate past ones we have had. That will put us closer to being able to meet our obligations than any other policy we can undertake in the Congress.

In fact, another thing that has been discussed is a rainy day fund. The best rainy day fund is sustained economic growth over a prolonged period of time. That is the best rainy day fund.

Why do I raise this right in the middle of a discussion about surpluses and what should we do with them? Because we are in a slowdown right now. We have different versions of how severe this slowdown is in the economy. Again, he has been correct most of the time. Dr. Greenspan says it is short lived and it is not too deep, and he is correcting it in terms of the short term by substantially lowering the interest, which is within the Federal Reserve Board's power. They have done that in a rather dramatic fashion the last couple months, and I surmise they will do some more.

The question becomes, what policy could we adopt up here that would fit in with these interest reductions and produce long-term growth at sustained rates with low rates of inflation and probably high productivity?

The best thing we can do is, one, pay down the debt on a glide path which says we will get it down but not abruptly. We will get it down within 2 or 3 years of the time that we would get it down if we put all of it on there, or tried to. Then we would take all of the Social Security trust fund money, put it in a lockbox; Medicare. And then we could still provide for very high priority items, both in appropriations and elsewhere. And what is left could, indeed, be $1.6 trillion that we ought to give back to the American people rather than keep up here to be spent.

If we do not give some of this back to the American people, and start soon giving it back a little bit each year, I think the highest probability is that the pressure that will be responded to will be to spend it. There is already some evidence that in the last 6 months we have spent over the baseline, over the amount that would have been expected, $561 billion over the next decade. That is what we have done in appropriations. That is what we have done in entitlements. That is what we have done for veterans and a whole list of them. Surplus was here in abundance. Spending occurred in abundance, and I believe the American people would not like to see a much larger Government because of these surpluses. I think they would like to see Government at the most efficient level possible.

They would clearly like us to give some of this money back to them. I will leave for others on another day whose tax plan is best. I already hear Democrats saying they want a tax cut but not as large as the President does, and they want different shapes and models of it. So, from my standpoint, I am not going to discuss the details of the plan, other than to say one thing: That same Dr. Alan Greenspan who came upon these facts and suggested to us that if we didn't give some of this money back to the people, there would be an accumulation of money in the hands of the Federal Government—and he saw no alternative other than the Federal Government would start investing it in assets of America—contends that would be a negative factor on the growth, prosperity, and efficiency of the American economy, which is what we need for the future of Social Security and Medicare and for our people to have sustained, increasing paychecks.

When you add all this together, you would then say if you are going to give part of it back to the American people—and I want everybody to understand that after you take all the Social Security money and put it where it belongs, you have $3.1 trillion that is sitting there over the next decade if you believe, or at least have sufficient trust in the estimating, as I do, to act upon it. It is $3.1 trillion. That is almost unfathomable to people listening, and probably to most Senators and their staffs and my staff and me—$3.1 trillion. I could give you a number. Our whole budget for everything, including entitlements, appropriations, and the like is somewhere around $1.6 trillion to $1.8 trillion per year. So here we have a surplus that is almost twice as big as the total outlays of the Federal Government for a full year. That is at least a comparable.

That same Dr. Greenspan has consistently told us, if you have a surplus, the best thing you can do is pay down the debt. He has qualified that now and said, yes, pay it down under a glidepath that is best for America. Don't pay it down abruptly because you are apt to create money in the pockets and drawers of the American Government that will invest it in less efficient Government by acquiring assets, owning things.

Having said that, what else has he said repeatedly and reconfirmed? If you are going to have a positive impact on the prosperity level of Americans and have the economy grow, the best tax medicine is marginal rate reductions. Cut everybody's marginal taxes some. He says it will increase savings, it will increase investment, and it is the best way to use tax dollars. He says the third and worst way to have a positive impact on our future is to spend the surplus.

I believe we are moving in the right direction. Debate is good and the President is leading well. I think before we are finished, we will have a significant tax cut of the right kind and still do the marriage penalty and death taxes, and we will have a very formidable expenditure budget. Everything can grow substantially, especially priority items. I think if we work together and work with the President, we can give the American people something very good by the end of this year.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). Under the previous order, the time from 12 noon to 1 p.m. is under the control of the Senator from West Virginia, Mr. BYRD.

PROJECTED SURPLUSES

Mr. BYRD. Mr. President, I have listened to my distinguished friend from New Mexico with great interest. May I compliment him on the broad range of testimony that his Budget Committee has been acquiring through expert witnesses. I am a new member of the committee. I am very impressed with the well-organized, well-focused hearings that are being conducted in that committee.

Mr. President, our Nation is facing a fork in the road. The Congressional Budget Office is projecting a 10-year surplus of $2.7 trillion, excluding the Social Security and Medicare surpluses. These surpluses provide us with the opportunity to invest in our future and to deal with the long-term threats to the budget, such as the retirement of the baby boom generation.

The administration is proposing large and ballooning tax cuts which, if enacted, would have a significant impact on the Federal budget for decades to come. It falls to the Congress to decide how much to allocate to tax cuts, how much to spending increases, and how much to reserve for debt reduction.

Before we make these decisions, we must first decide whether we have sufficient confidence in the surplus estimates to use them to make long-term budget decisions. In his recent testimony before the Senate Budget Committee, Federal Reserve Board Chairman Alan Greenspan—and his name has been referred to already by my dear colleague, Mr. DOMENICI—expressed his hope that we use caution. He said:

> In recognition of the uncertainties in the economic and budget outlook, it is important that any long-term tax plan or spending initiative, for that matter, be phased in. Conceivably, (the long-term tax plan) could include provisions that, in some way, would limit surplus-reducing actions if specified targets for the budget surplus and federal debt were not satisfied.

Now, while we all rely on the professional estimates provided by the Congressional Budget Office, we must recognize that long-term budget projections often have proved to be wrong. In its own report, entitled "The Budget and Economic Outlook: Fiscal Years 2002–2011," released last week, CBO characterizes its estimates as uncertain. On page 95 of that report, CBO States that the estimated surplus could be off in one direction or the other, on average, by about $52 billion in fiscal year 2001, by $120 billion in fiscal year 2002, and by $412 billion in fiscal year 2006. CBO confirmed in testimony before the Senate Budget Committee last week that this uncertainty would grow even larger for fiscal year 2007 through fiscal year 2011.

Further evidence of the volatility of these estimates can be found on page XV of the summary of the CBO report. In summary table 2, entitled "Changes in CBO's Projections of the Surplus Since July 2000," CBO changes its 10-year revenue estimate by $919 billion. In just 6 months, therefore, from July of 2000 to January of 2001, CBO changed its revenue estimate, I repeat, by $919 billion and its 10-year estimate of the surplus by over $1 trillion for economic and technical reasons alone.

In its report, CBO concludes that there is "some significant probability" that the surpluses will be quite different from the CBO baseline projections.

Let me now use this chart, entitled "Uncertainty in CBO's Projections of the Surplus Under Current Policies, in Trillions of Dollars." In fact, CBO indicates that, "there is some probability, albeit small, that the budget might fall into deficit in the year 2006, even without policy changes." So on page xviii of the report, CBO indicates that the probability that actual surpluses will fall—we can see that in the darkest area on the chart—is only 10 percent.

The probability that the surplus will fall in the shaded area is 90 percent. Imagine that after some 15 years of crawling and scratching to get out of the deficit hole, the "d" word just might reappear in our national vocabulary in a scant 5 years even if we stay the course. The "d" word of course, is "deficit."

Yet we are now being asked by President Bush and the Republican leadership to use these extremely tenuous 10-year budget estimates as the baseline for considering a tax cut that could cost $2 trillion or more over the next 10 years. We have been down this road before, and sadly I went along for the ride. In 1981, as my good friend, the senior Senator from Maryland, Mr. SARBANES, well knows, President Reagan proposed a large tax cut over 5 years. There are not many in this town who remember that his 5-year budget plan projected a surplus for fiscal year 1984 of $1 billion; for fiscal year 1985, a surplus of $6 billion; and for fiscal year 1986, a surplus of $28 billion.

Congress passed the tax cut bill that reduced revenues by over $1 trillion from fiscal year 1982 to fiscal year 1987. Did the Reagan administration's projected surpluses come to pass? No. In fact, precisely the opposite occurred. The fiscal year 1984 deficit was not a surplus of $1 billion as projected. The fiscal year 1984 deficit was $185 billion—using the "d" word, "deficit." The fiscal year 1985 deficit was $212 billion. The fiscal year 1986 deficit was $221 billion.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. BYRD. Yes. I yield.

Mr. SARBANES. These figures are the actual deficit figures the Senator is talking about.

Mr. BYRD. Yes, indeed.

Mr. SARBANES. They should be contrasted with the projections which were made only a few years before—projections which projected surpluses. Am I correct?

Mr. BYRD. Precisely.

Mr. SARBANES. I think this is an extraordinarily important point. We have these projections now. We are talking about having a surplus of trillions over 10 years, and yet two-thirds of the surplus being projected now is in the last 5 years of the 10-year period.

Mr. BYRD. Yes.

Mr. SARBANES. Everyone has underscored that you can't really base a policy on these projections, they are so uncertain. As the Senator pointed out earlier in his statement, in just 6 months the Congressional Budget Office changed its projections to raise the surplus estimate by about $1 trillion between last summer and last month.

Mr. BYRD. Yes. That is remarkable.

Mr. SARBANES. I want to bring one other fact to your attention, and then I will certainly yield back to the Senator.

Just to show you how fragile these budget surplus estimates are, in 1995 CBO estimated that in the year 2000 we would have a deficit of $342 billion. Five years out they were making that projection. Instead, we had a surplus of $236 billion, because we restrained ourselves on spending. We recouped taxes in order to balance the budget. That is a swing of $578 billion from the projections to the actuality. That was only projecting 5 years. Now we are talking about projections that go for 10 years.

I think the Senator is absolutely right to underscore the fragile nature, which would be the best way to put it, of budget projections. These projections have almost an evaporating dimension to them. I think we have to be extremely careful, cautious, and prudent in planning our policy if we are using these kinds of projections.

Of course, the Senator just underscored it, by outlining the projections that were made in the Reagan years to support the tax cut and how far from the mark they were, only a few years later—not quite immediately, but only a few years later.

Mr. BYRD. Yes.

Mr. SARBANES. I thank the Senator for yielding.

Mr. BYRD. I thank the distinguished Senator. He served with me as we sought to have the President postpone the third year of that 3-year tax cut until such time as we could see what the impact of the 2 previous years' tax cuts was going to be on the budget and on the economy.

I remember going down to the White House. I was the minority leader at that time. As I say, there in the Oval Office I said to the President: Mr. President, you are proposing a tax cut over 3 years—I believe it was 3 years—5 percent, then 10 percent, and then 10 percent? It may not be the exact sequence, but those are the correct numbers. Why not wait until we see what the results are and the impact is for the first 2 years? Why go ahead now and add a third year of tax cuts? Why do it now? Why not wait?

President Reagan responded. After he responded, I said: Mr. President, that doesn't answer my question. So he turned to Mr. Regan, who was the Secretary of the Treasury, and asked Mr. Regan to explain to me why we had to have 3 consecutive years all at once. Mr. Regan sought to explain it. When he finished, I said: Well, Mr. Regan, you still haven't answered my question.

President Reagan then turned to Mr. Meese and asked Mr. Meese to explain it. This was all down in the Oval Office. Mr. Meese explained it somewhat like this: Senator, in order to give to the business people of this country certainty that there will be 3 years of tax cuts and in these amounts, in order that they might plan ahead with certainty, we need to package the three tax cuts in one bill.

That was a reasonable explanation. I didn't buy it. But there were some people who might buy it. And there was something to it.

I came back to the Hill, and on the Senate floor I, with Mr. SARBANES and others on this side—we were in the minority then as we are now—offered an amendment to postpone that third year until after the first 2 years of tax cuts had been implemented. We lost, of course. As we see, the projections did not pan out.

Lord Byron said, "History, with all thy volumes vast, hath but one page." Well, the one page of history that we see today tells us very clearly that we cannot depend upon these projections.

I know of no one who can better testify to this fact than the distinguished Senator from Maryland, Mr. SARBANES. He has served on the Joint Economic Committee for several years.

Regarding the administration's 3-year across-the-board tax cut, we tried. We lost. In order to help give President Reagan's economic program a chance, I voted for the final bill because my people in West Virginia who send me here said: Give him a chance. Give this new President a chance.

"Give him a chance." So I did, I gave him a chance. I voted for the Reagan tax cut. It was a mistake on my part.

On October 1, 1981, I went out on the floor as minority leader to take a look forward to the new fiscal year. On that day I said: "Today is the beginning of the new fiscal year. Yesterday, there was a kind of New Year's Eve celebration. The trouble with New Year's Eve celebrations, we all have to wake up the next day and face reality."

I quoted Arthur Schlesinger who wrote: "This supply side fantasy is voodoo economics. The witch doctors have had their day. Reality is awaiting."

On that October day, I noted: ". . . The administration's brave words and rosy predictions began to wilt."

The reality was that deficits as far as the human eye could see were out there. Deficits peaked in fiscal year 1992 at $290 billion. Not until fiscal year 1998, 17 years after the 1981 Reagan tax cuts, were we able to achieve a budget surplus. Having passed the Reagan tax cuts in 1981, which in large part created these unprecedented triple-digit, billion-dollar deficits, the Congress had no choice but to pass, and Presidents Reagan, Bush, and Clinton signed, numerous bills to correct our mistake and increase taxes in hopes of stemming the unprecedented tide of red ink.

The Budget anachronisms of those tax increase measures are painful to recall: TEFRA, DeFRA, OBRA of 1987, OBRA of 1990, OBRA of 1993, and so on.

Despite all of these efforts to stem the red ink during the 12 years of Presidents Reagan and Bush, the national debt rose from $932 billion, the day Mr. Reagan took office on January 20, 1981, to $2.683 trillion the day Mr. Reagan left office; to $4.097 trillion the day President Bush left office on January 20, 1993. These protracted deficits also resulted in higher interest rates for you and for you and for you, the American taxpayer, to pay. This forced the average American to pay more for his mortgage, more for his car, more for his child's education because of our rush to enact a huge tax cut. Because of our rush to enact a huge tax cut, the benefits of which went mainly to the wealthiest taxpayer, many, many middle-class American taxpayers were left with shrinking paychecks and shriveled dreams.

As a result of the tough votes we took on the deficit reduction bills of 1990, Senator SARBANES, and 1993, do you remember 1990, when we went over to Andrews Air Force Base? And do you remember 1993 when we passed the bill for which no Republican in the House or in the Senate voted? We are now reducing the debt held by the public, but gross debt continues to grow to this day.

Our current gross debt is $5.6 trillion. Here is the chart: $5.646 trillion. The chart will show that, if these $5 trillion were stacked in $1 bills, the national debt would reach into the stratosphere 382 miles.

May I ask Senator SARBANES if he remembers when Mr. Reagan first came into office, Mr. Reagan made a presentation to the American public on television, and in that presentation Mr. Reagan talked about the debt he had inherited. It was $932 billion at that time. Mr. Reagan very graphically presented it by saying: If this $932 billion were in $1 bills, that stack of $1 bills representing the national debt of $932 billion which I inherited would reach into the stratosphere 63 miles.

When Mr. Reagan left office, that same stack of $1 bills would have reached into the stratosphere 182 miles, three times what it was when Mr. Reagan took office.

Our current gross debt worldwide is $929 for every man, woman, and child. Get that: Our current gross debt comes to $929 for every man, woman, and child around the globe! That is not pocket change. It represents $20,062 per man, woman, and child in the United States.

Some may argue that increased Federal spending is responsible for the deficit. That is not so, not totally so. Looking at the chart entitled "Total Federal Spending Lowest Level Since 1966," I have heard my ranking member on the Budget Committee, Mr. CONRAD, refer to this chart and to this total of Federal spending. He has said it is the lowest level since 1966. Federal spending this year is only 1.2 percent of GDP, the lowest since 1966, and almost 5 percentage points less than in 1982 during the Reagan administration, and 4 percentage points less than in 1992 during the Bush Administration.

Once again, we face the fork in the road. We have faced it before. We took the wrong path. We voted for that tax cut. But this time, we have a signpost. It is easy to vote for a tax cut. I love to cast easy votes. The easiest vote I have ever cast in my 55 years in politics has been a vote to cut taxes. Oh how easy. It doesn't take much courage to do that.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I yield.

Mr. SARBANES. I want to underscore what the Senator is saying. Some make the argument that somehow it takes great political courage to advocate a sweeping tax cut. I have never encountered that in the course of my public career; a tax cut is always welcome. If it is possible, if the fiscal circumstances are such, I think we should consider doing tax cuts. But the real problem is always how to act in a responsible manner and how to think about the future and not rush. The paper this morning has an article entitled "Congressional Republicans Seek Bush's Big Tax Cut and Think Bigger."

Another headline says, "Business Vows to Seek Its Share of Tax Relief."

Once you take the lid off the punch bowl, everyone wants to come to the punch bowl and gorge themselves. The real challenge, the difficult political challenge, is not to do the tax cut. The difficult political challenge is to restrain yourself so whatever you do is done in a responsible manner, in a manner that takes into account the future of the country—by "the future" I don't just mean next year, but the next generation and the generation after that—and in a manner that will build the strength of the Nation over time. That is the difficult challenge. I agree completely with the Senator in his observation.

Mr. BYRD. I thank my friend.

Does the Senator from Maryland have grandchildren?

Mr. SARBANES. I do, indeed.

Mr. BYRD. Does he have great grandchildren?

Mr. SARBANES. Not yet.

Mr. BYRD. One day we will leave this Chamber for the last time. And, if I am able to do so, I will look in a mirror. I will say to myself: How did you serve? Did you think mostly of yourself? Did you think in terms of only your generation? Did you think in terms of your children's future? Did you think about your great grandchildren? What about that little great granddaughter? She is going to be in school one day.

When I look into that mirror, what will I say as to my stewardship during these years when I have served the people in the Congress? If I haven't served well, I shall have cheated that great granddaughter. I shall have cheated my daughters and my grandchildren.

I would say as I look in that mirror:

When you get all you want in your struggle for pelf,
And the world makes you King for a day,
Then go to the mirror and look at yourself,
And see what that guy has to say.
For it isn't your Father, or Mother, or Wife,
Who judgment upon you must pass.
The fellow whose verdict counts most in your life
Is the man staring back from the glass.
He's the fellow to please, never mind all the rest,
For he's with you clear down to the end,
And you've passed your most dangerous, most difficult test
If the man in the glass is your friend.
You may be like Jack Horner and "chisel" a plum,
And think you're a wonderful guy,
But the man in the glass will just say you're a bum
If you can't look him straight in the eye.
You may fool the whole world down the pathway of years,
And get pats on the back as you pass,
But your final reward will be heartaches and tears,
If you've cheated the man in the glass.

If I have cheated the people who sent me here, if I have cheated my grandchildren, my children, your children, then I shall have cheated myself most of all.

Senator SARBANES and Senator CONRAD, we will have to look in that glass one day. And right here coming up, this year is one of the tests as to how we are going to react to the challenge before us.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. CONRAD. The Senator attended the Budget Committee yesterday in which we heard from the Comptroller General of the United States, the head of the General Accounting Office. He warned us of precisely what you are talking about. He warned us that this near-term outlook has improved, but the long-term outlook has gotten worse. Does the Senator remember that testimony?

Mr. BYRD. Yes. I do. I do. And I was very much impressed by that. We were talking about 10 years. What was the testimony, just beyond the 10 years?

Mr. CONRAD. The Comptroller General of the United States alerted us that just beyond the 10 years lie massive deficits. We are talking about short-term surpluses, but there are massive deficits to come and we ought to take this window of opportunity to strengthen ourselves for the future.

We had four demographers today before the Senate Budget Committee with this same message, telling us that if we would set aside some of these acorns, instead of using them all, consuming them all in a tax cut or spending—but, instead use some of it to pay down this long-term debt and address this long-term demographic time bomb, the retirement of the baby boom generation—that we will have a much stronger economy in the future.

It is really a message that Senator SARBANES has delivered so powerfully in the past to the members of the committee. If we are really thinking ahead, we will realize we ought to take some of these funds and invest them for the future to reduce our long-term indebtedness, to expand the pool of savings, to expand the pool of investment, to take pressure off of interest rates, and to have a much bigger economy when the baby boomers start to retire.

That is really the lesson that Senator SARBANES has provided to us day after day in the committee as well.

Mr. BYRD. Yes. Yes. I thank the distinguished ranking member of the Budget committee, on which Senator SARBANES and I serve.

Mr. President, once again we face the fork in the road. We have faced it before and we took the wrong path—but this time we have a signpost. The lesson of recent history is very clear, and we have only to review it to see which way to go.

The choices are these: Do we rely on uncertain, 10-year budget forecasts to pass a colossal tax cut, or do we exercise a little caution in case the forecasts prove to be only a mirage, as they have so often proved to be before? If we pass such a tax cut and the surpluses do not materialize, what needs of our citizens may have to be left behind?

Let's take Social Security. Currently, 44.8 million older Americans receive Social Security. That is projected to grow to 82.7 million in the year 2030 when the baby boom generation has retired. The ratio of workers to beneficiaries was 42 to 1 in 1945, at the end of World War II. Today, that ratio is 3.4 to 1, and it is projected to fall to 2.1 to 1 in the year 2040. The Social Security trust fund is projected to be exhausted in the year 2037. If we go along with the Bush administration's tax cut, what about our pledge to protect Social Security?

Let's take Medicare—33.4 million Americans rely on Medicare for their health care costs. This is projected to grow to 77 million in 2030. The Medicare—hospital insurance—trust fund is projected to have benefits exceed receipts in 2015 and to run out of money in 2023. If we go along with the Bush administration's tax cuts, shall we just pretend that the Medicare problem will solve itself?

How about prescription drugs? Since Medicare was created in 1965, the practice of medicine has changed dramatically. Prescription drugs allow patients to avoid more expensive and invasive procedures, such as surgery. Since 1990, national spending on prescription drugs has tripled. The current Medicare program does not provide a prescription drug benefit. How can we pay for a prescription drug benefit if we have emptied the kitty with tax cuts?

Just go up to your local drugstore. Get yourself a comfortable place somewhere over in the corner if you can, and watch that line as it progresses along that counter. Listen to some of the people who come there. They get their drugs, and they pay $100, $150. I sometimes wonder, how can they do it? Drugs are so terribly expensive, and they are becoming more expensive. And yet these people rake and scrape and save to try to have a little money with which to buy drugs. We have heard many stories about how some of them have to make a choice between food on the table or drugs to keep down pain, and the problem is getting worse. We are at a crossroads. What are we going to do about it?

Discretionary spending—let's talk about it for a moment. I am an appropriator. The population of this Nation grew by 33 million, or 13.2 percent, from 1990 to 2000, and according to the U.S. Census is expected to grow by another 8.9 percent by 2010. Congress should make sure that we allow for the future growth of our population.

There are those who argue that discretionary spending is too high. Let me refer to this chart entitled "Total Discretionary Outlays, Fiscal Years 1962 to 2000." The distinguished ranking member of our Budget Committee has referred to this subject matter as we have discussed the budget surplus from day to day.

In fiscal year 2000, discretionary spending as a share of our economy was just 6.3 percent. There it is. This share of spending has been shrinking for decades and is less than half of the share in 1962. When I came to this Senate, I say to Senator CONRAD—I came to this Senate 43 years ago—the line on the graph would have been up between 12.7 and 14 percent. That was for discretionary spending. I was on the Appropriations Committee. I went on it the first month I came here.

What is it today? At that time, the estimates—the latest estimates that were available were 1962. I came here in 1959. But in that year, 68 percent of all Federal spending was discretionary. On the pie chart, one can see how much of that chart was for discretionary spending: $72 billion; 68 percent was for discretionary spending. That was the amount of money that went through the hands of the Appropriations Committee.

Today, only 34 percent of the Federal budget is discretionary. Entitlement spending has grown. We heard a witness before the Budget Committee just the other day talk about entitlement spending. Let's look at this chart entitled "Entitlement Spending as a Share of the Economy." We see that entitlement spending has grown from 5.7 percent of GDP, gross domestic product—the source is CBO—in 1966 to 10.5 percent today. So America continues to have real needs that are not being met in the areas of infrastructure, education, health care, national security, and the list goes on and on.

For example, the number of vehicle miles traveled on our Nation's highways has grown—from 1983 to 1999—from 1.65 trillion miles per year to over 2.69 trillion miles per year. Of the road miles in rural America, 56.5 percent are in fair to poor condition, according to the Federal Highway Administration; 56.9 percent are in fair to poor condition. One does not have to go very far to see that. Just travel along the streets in this Capital city and see the potholes, and what is happening to traffic congestion. I came to this city 49 years ago.

Conditions are even worse in urban America, where 64.6 percent of the road miles are considered to be in some state of disrepair.

The situation is no better when we turn our attention to the Nation's highway bridges. According to the most recent data from the Federal Highway Administration, 28.8 percent of our Nation's bridges are either functionally obsolete—they can no longer handle the kind of traffic for which they were built—or they are structurally deficient.

We all should remember the Silver Bridge disaster that took place a few days before Christmas at Point Pleasant, WV, a few years ago. That bridge collapsed, sending many people to their watery graves, on the Ohio River. Do we just cross our fingers and hope that these bridges do not collapse?

The EPA has estimated $200 billion in unmet needs for sewer, wastewater, and safe drinking water systems construction and maintenance, just to maintain the current systems and to allow for necessary expansion. Clean and safe drinking water should be a basic right of every man, woman, and child in America. We simply must address these needs, and it will take dollars—billions of dollars—to do it.

According to the Department of Housing and Urban Development, there are 5.4 million families, representing 12.3 million individuals, who are in need of affordable housing. Do we sacrifice these needs on the altar of tax-cut fever?

We are all familiar with the myriad problems confronting our military forces today: Recruitment and retention problems, crushing deployment burdens, aging ships and tanks and aircraft, a scarcity of spare parts, a scarcity of ammunition—just read it in today's Washington Post, a scarcity of ammunition—substandard housing, outdated facilities. All of these factors affect readiness.

Beyond the current budget, we are bracing for the likelihood of requests of major leaps in defense spending, perhaps as much as $50 billion a year just over the horizon.

When we allocate the surplus, it would be totally irresponsible—totally irresponsible—to fail to provide enough discretionary resources to allow us to invest in our future. Ask the mayors of the big cities throughout this country. Ask the mayors of the little cities, the towns throughout this country.

Debt reduction—let's talk about it for a moment. Our debt held by the public peaked in fiscal year 1997 at $3.8 trillion. In recent years, we have paid about $200 billion per year in interest—interest—on that debt. As we approach the retirement of the baby boom generation, we could do no greater favor for my granddaughter, for my great granddaughter, for your children, for all of our people, no greater favor than to eliminate that debt and to eliminate those interest payments.

I know we have received testimony in the committee that we can only eliminate it to a certain point as of a year that is not too far away. By the end of fiscal year 2001, we expect to have reduced the publicly held debt to $600 billion from the level in fiscal year 1997.

We should make sure that we can stay on that course. If we enact large tax cuts that siphon away—that suck away, that draw away—the on-budget surpluses, we could return to the days when we had to use the Social Security surplus to help finance Federal operations rather than using it for reducing debt.

In July of 1999, when the Republican leaders were pushing large tax cuts, I suggested that Congress take five steps:

One, watch our investments carefully and manage them prudently. Manage the economy and watch out for inflation.

Two, pay our debt. Pay down the national debt.

Three, cover the necessities. Do not shortchange our Nation's core programs, such as education, health care, and the like.

Four, put aside what we need to put aside for a rainy day. Reserve the Social Security and Medicare surpluses exclusively for future costs of those programs.

Five, take prosperity in measured doses. Ease up on taxes without pulling the rug out from under projected surpluses.

Mr. President, our present conundrum regarding budget surpluses reminds me of that old Aesop's fable about the ant and the grasshopper. It seems, as Aesop told it, that a commonwealth of ants, busily employed in preserving their corn, was approached by a grasshopper which had chanced to outlive the summer. The grasshopper was ready to starve from the cold and hunger and begged the ants for a grain of the corn, much like the 10 virgins in the Scripture; 5 who were wise and who had oil in their lamps, and 5 who were foolish who had no oil in their lamps.

In this case, one of the ant colony asked the grasshopper why he had not anticipated the winter and put aside food, as the ants had so wisely done. The grasshopper answered that he had so enjoyed the abundance of summer that he had never once thought of the possibility of winter.

So we are going to have a big tax cut. Ah, we will enjoy that. How enjoyable. How sweet. How sweet it would be.

If that be the case, the ant replied, then all I can say is, those who spend all day reveling in summer may have to starve in the winter. The moral is, of course, do not fail to provide for the future.

So a prudent course would demand, Mr. President, that we anticipate a cold and chilly downturn in our economic fortunes and forecasts and put back something for the winter. After all, it is only a very few years after the 10-year budget window that even these rosy estimates return to deficits as we cope with the retirement of the baby boom generation.

Given the pressing needs of our Nation in the coming decades and the uncertainty of the budget projections, I believe it is critical we establish a mechanism that would put a cautionary curve on tax cuts and new spending. In response to my question at a recent Senate Budget Committee hearing, Mr. Barry Anderson of the Congressional Budget Office responded that it would be prudent to establish such a mechanism.

So I intend to work diligently with my colleagues on the committee to craft some way to put a cautionary brake on these huge, foolhardy tax cuts that are being proposed, until we can be more sure that the surpluses will materialize. In my heart of hearts, I would prefer that any tax cuts this year be limited to no more than half a trillion dollars. That is my own viewpoint: $500 billion.

Americans believe in prudence. They would not blow the mortgage money at the race track. Neither should we. Massive tax cuts of the size that is being proposed, based merely on projections, merely on pieces of paper—here they are. These are the projections. These are the projected surpluses. There they are on paper. Can you spend it? What is it worth? It is money not even in our pockets yet. It borders on reckless disregard for the needs of our people and the promises we have made to them to proceed in this manner and spend it based on 10-year forecasts.

Even worse, we risk a return to serious budget deficits. As Mr. CONRAD has said so many times, let's not get back into the ditch which our children would have to address. So, as we approach this fork in the road, we owe it to our children and to our children's children to make the right choice. We should invest in our future. We should set aside funds for problems that we know are lurking just over the horizon. Let us not make a risky U-turn and return to the rocky road of deficits as far as the eye can see.

Mr. President, we will hear this refrain, that: "It's the people's money. Let's give it back. It's their money. It's their money." And it is. But it is also their debt. It is also their deficits. It is also their highway safety. It is also their water and sewage treatment needs. It is also their children's education. It is theirs. It is also their safety in the skies. It is all theirs. And we are the stewards. How do we best serve them?

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I will yield to Senator SARBANES.

Mr. SARBANES. As always, I think the very able Senator from West Virginia has given us an extremely important message. Moderation in all things is essentially what the Senator is talking about. He is saying: Be cautious. Be prudent. These steps that the Senator set out, if one goes over them carefully, are a balanced package which he is recommending. He says: Watch the investments. Manage the economy. Pay down the debt. Cover the necessities. Do those programs that are essential to our future strength: Education, health care. Put aside what we need for a rainy day, preserve Social Security and Medicare. And then ease up on the taxes.

The Senator is not saying: Don't do a tax cut, in light of these surpluses or projected surpluses. But let's be careful about it. And do not pull the rug out from under the projections in the future.

Now that is a package that makes sense. That is what all the commentators are telling us. The Baltimore Sun just today had an editorial. I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Feb. 7, 2001]

CALMING DOWN FRENZY FOR A BIG FEDERAL TAX CUT

President Bush is a glib salesman for his massive tax-cut program. But a closer look at the numbers should prompt Congress to be careful.

For a conservative Republican, the president is using very rosy revenue forecasts. The numbers he's using understate the cost of ongoing programs. He's ignoring the extra cash needed for his other proposals and congressional initiatives, such as a prescription-drug plan. he hasn't factored in spending to fix the Social Security and Medicare programs.

Mr. Bush is promising more in tax cuts than this country can probably afford. He calls it a $1.6 trillion plan, but other analysts say the true cost is closer to $2.5 trillion. And that amount may not be affordable, even if large surpluses pour in for a decade.

Congressional leaders would be wise to listen to David M. Walker, who heads the General Accounting Office on Capitol Hill. He said this week that "no one should design tax or spending policy pegged to the precise numbers in any 10-year forecast."

Yet this is what President Bush is doing. It's a mistake Congress shouldn't duplicate.

Will there be a tax cut this year? Yes, indeed. The momentum is there. But the size of the president's proposal is unrealistic. And, sadly, some Republicans are talking about adding even more to it in this form of capital gains tax cuts and business tax reductions.

If there is to be a tax cut, Congress should see that it is more tilted toward those at the lower and middle ranges of the income scale than the president's proposal. Prudence is essential in handling future surpluses that might never occur. And there must be enough left on the table to deal with other pressing needs, such as modernizing the military and making repairs to old-age programs.

Mr. Bush has raised expectations, but Congress still must carefully examine every aspect of this major proposal. We all want smaller tax bills, but only if they are reasonable and responsible.

Mr. SARBANES. "Calming down frenzy for a big federal tax cut. Congress should take a close look at Bush's forecast figures and a decidedly cautious approach."

They quote the Comptroller General from his testimony before our committee where he said that: "No one should design tax or spending policy pegged to the precise numbers in any 10-year forecast"—exactly the point that the able Senator made at the outset of his statement.

And they conclude: "Mr. Bush has raised expectations, but Congress still must carefully examine every aspect of this major proposal. We all want smaller tax bills, but only if they are reasonable and responsible." Reasonable and responsible—and, as the Senator has pointed out, in the context of dealing with these basic needs: Education, infrastructure, defense.

This administration has already sent the signal that they are going to want a major step up in defense and of course, reserving a significant amount of the surplus to pay down the debt. When are we going to pay off the debt, if we don't do it when we are running large surpluses and are at a 4.2 percent unemployment rate? We have a strong economy now. We don't want to risk the chance of knocking it off the track.

The Washington Post had an editorial entitled "Fiscal Souffle." They conclude it by saying:

> A rush to commit too much of the projected surplus could take the country back to borrow and spend, just as the last big tax cut did 20 years ago.

Mr. BYRD. Right.

Mr. SARBANES. I ask unanimous consent that that editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 1, 2001]

Fiscal Souffle

The Congressional Budget Office has raised by another $1 trillion its estimate of the likely budget surplus over the next 10 years, and Republicans, led by President Bush, say the new figures prove there's plenty of room to enact the president' tax cut and still fulfill the government's other obligations. Democrats, including notably the conservative Blue Dogs in the House, say that's not so, that the true surplus is unlikely to be that large and that Congress, while it can safely grant a tax cut, should exercise caution in doing so.

The people flashing the caution signs are right. CBO itself warns that "considerable uncertainty surrounds" the projections, and that once the baby boomers retire, the outlook shifts from sunny to bleak. About 70 percent of the 10-year surplus is projected to occur in the last five years of the period, for which the estimates are least dependable; only 30 percent is projected to occur in the nearer term. The supposed $3 trillion, 10-year surplus consists in part of Medicare funds that both parties in Congress have said should not be counted because Medicare is headed for a deficit. The surplus makes no allowance for the funds that, even with benefit cuts, will be required to avert that deficit, nor the Social Security deficit that likewise lies ahead, nor the increase in defense spending that both parties say is necessary.

Make these and similar, smaller allowances, all of them realistic, and the amount available for tax cuts quickly falls. A realistic estimate, assuming everything goes right, is probably well under $2 trillion, and in the past, members of both parties have said they want to use some of that for debt reduction. The true 10-year cost of the Bush tax cut, meanwhile, is well in excess of the $1.3 trillion estimate used in the campaign. In part that's because important provisions would not take effect until toward the end of the 10-year estimating period. The 10-year cost of the Bush proposals fully fledged would be more than $2 trillion.

"It doesn't leave room for much of anything else," Rep. John Spratt, the ranking Democrat on the House Budget Committee, said the other day. And it may grow; such Republicans as House Majority Leader Dick Armey have begun to say that the Bush proposal may be too small. The Blue Dogs issued a statement yesterday warning that "budget projections can deteriorate just as rapidly as they have improved in the last few years," and that a "rush to commit" too much of the projected surplus could take the country back to borrow-and-spend, just as the last big tax cut did 20 years ago. That risk is real.

Mr. SARBANES. I thank the Senator. He has set out for us what, really, is a historic decision we will be confronting. We must recognize it as such.

Mr. BYRD. Yes.

Mr. SARBANES. It will affect generations to come. We must make a wise and prudent decision. I thank the Senator from West Virginia for his extraordinary leadership in this effort.

Mr. BYRD. I thank the distinguished Senator from Maryland.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. CONRAD. The Senator may recall when we had the Congressional Budget Office personnel before us, they were the ones who made this forecast of the surplus, and yet they themselves warned us of the uncertainty of their projections.

Mr. BYRD. They did.

Mr. CONRAD. The Senator may recall that Mr. Anderson put up a chart and the chart showed that in the fifth year of this 10-year forecast, based on the previous variances in their projections, we could have a budget that was anywhere from a $50 billion deficit to more than a $1 trillion surplus.

Mr. BYRD. Yes; here is the chart.

Mr. CONRAD. I see the Senator has that chart that shows in the year 2006, which is 5 years into this 10-year forecast, we could have anywhere from a $50 billion deficit to over a $1 trillion surplus. That is the uncertainty of their forecast, according to them.

Mr. BYRD. Yes, that is just 5 years out.

Mr. CONRAD. That is just 5 years out in a 10-year forecast. They are warning, I take it—I would be interested in the Senator's reaction——

Mr. BYRD. That is my reaction.

Mr. CONRAD. That we should not bet the farm on a specific number with a 10-year forecast because of the failure of previous forecasts to be accurate over such an extended period.

Mr. BYRD. Exactly.

Mr. CONRAD. Isn't that the upshot of their testimony?

Mr. BYRD. That is the point we should take home with us.

Mr. SARBANES. In addition to the Post editorial from which I quoted, I have a column that appeared in the Post written by Newsweek's Wall Street Editor entitled "Iffy Long-Term Numbers Are Poor Excuse for Huge Tax Cuts and Wild Spending." The discipline has to be on both sides, on the tax cut and on the spending side.

No one is saying we should not do some tax cuts. Obviously, we need to make some investments on the expenditure side if we are going to meet the needs of our country. But they have to be responsible, they have to be reasonable. And, as this says, iffy long-term numbers are a poor excuse for huge tax cuts and wild spending. We need to keep that admonition in mind as we proceed to engage in this debate.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 6, 2001]

Iffy Long-Term Numbers Are Poor Excuse for Huge Tax Cuts and Wild Spending

(By Allan Sloan)

There are weeks when you have to wonder whether the American economic attention span is longer than a sand flea's. Consider last week's two big economic stories: The Congressional Budget Office increased the projected 10-year budget surplus by $1 trillion, and the Federal Reserve Board cut short-term interest rates another half-percentage point to try to keep the economy from tanking.

To me, the real story isn't either of these events; it's their connection. The Fed is cutting rates like a doctor trying to revive a cardiac patient because as recently as last fall, Fed Chairman Alan Greenspan didn't forsee what today's economy would be like. Meanwhile, although it's now clear that even the smart, savvy, data-inhaling Greenspan couldn't see four months ahead, people are treating the 10-year numbers from the Congressional Budget Office as holy writ.

Hello? If Greenspan missed a four-month forecast, how can you treat 10-year numbers as anything other than educated guesswork? Especially when the CBO has for years devoted a chapter in its reports to "The Uncertainly of Budget Projections"?

Both the Fed's rate cuts and the CBO's projection are being cited to justify a huge tax cut. Basing economic policy on long-term projections is nuts, and I'd be saying the same thing about Al Gore's campaign spending proposals if he had become president. I sure wouldn't base my personal financial decisions on ultra-iffy long-term numbers. I hope you wouldn't run your life or business that way.

A stroll through the numbers would be helpful here, as would a little history. Remember that through the mid-1990s, experts were forecasting huge federal deficits as far as the eye could see. Now they are projecting huge surpluses. When you're dealing with a $10 trillion economy and looking 10 years out, relatively small changes make a huge difference—if they come to pass.

The fact that the projected 10-year surplus grew to $5.6 trillion from $4.6 trillion a mere six months ago is an obvious sign that these aren't the most reliable numbers in the world.

Here's the math: The surplus grew about $1 trillion because the CBO increased the projected average 10-year national growth rate to about 3 percent (adjusted for inflation) from the previous 2.8 percent or so. Another $600 billion comes from dropping fiscal 2001 (the current year) from the 10-year numbers and adding fiscal 2011. The 2011 number, being the furthest out, is the shakiest one in the projection.

Those two changes add up to $1.6 trillion of higher surpluses. But the total increased by only $1 trillion. That's because last year's late-session congressional spending spree knocked $600 billion off the 10-year number. So, even though these numbers are huge, you see how vulnerable they are to moving dramatically as taxes, spending and economic projections change.

Now, let's subtract the $2.5 trillion Social Security surplus, which is supposedly going to be "saved," and you have $3.1 trillion to play with. (I treat the Social Security number as reliable because it's based on demographics rather than on economic guesstimates.) Subtract another $500 billion for the Medicare surplus, because we're supposedly saving that money, too. That leaves $2.6 trillion—provided the projections are accurate, which they won't be.

The CBO hasn't put a cost on President Bush's proposed tax cut package. The package supposedly costs $1.6 trillion, but I'll bet that's way understated, which is typical of such things. And it doesn't include the impact of the feeding frenzy that will undoubtedly result with a big tax cut on the table. Remember what happened when the Reagan tax cuts were enacted in the early 1980s? In addition, Bush's campaign proposals are "back-loaded"—they cost far more in the later years than in the earlier years.

The reason we used to have projected budget deficits as far as the eye could see and now have seemingly endless surpluses lies in the nature of projections—even those as sophisticated and intellectually honest as the CBO's. The CBO takes what's going on now, projects it forward and adjusts for things such as higher or lower interest rates or debt levels, or for programs such as Social Security. It assumes that discretionary spending rises at a fixed rate, which never happens, and that no major new changes in taxes will be enacted. If things are going well in budgetland, as they are now, projections will get better the further out you go. If things are going badly, the projections will get worse.

Now we come to Social Security, which contributes hugely to today's happy surplus situation but is projected to start causing trouble, big time, around 2015. That's not all that long after 2011, when the CBO's 10-year projection ends. In 2015, Social Security is predicted to start taking in less cash than it pays out, so it will have to start cashing in the Treasury securities in its trust fund. In remarkably short order, Social Security will start running 12-figure cash deficits unless something is done.

Until last year, the Social Security problem was projected to start in 2013, but it's been put off because the economy has been doing better than expected. That, combined with now-slipping fiscal discipline, is why the federal budget numbers turned around a few years ago. But if we go on a big tax-cut-and-spend spree, which seems increasingly likely, and the economy performs worse than now projected, we'll be back in the fiscal soup quicker than you can say "fiscal responsibility."

For now, I'm going to pass on what many people have taken as Greenspan's support for tax cuts. Even if you believe him to be semidivine, you can parse his public utterances as being cautious about tax cuts. (There is occasionally an advantage to having been an English major in college.)

Finally, despite 10 years of projected huge surpluses, the CBO predicts that the total national debt ($6.7 trillion) would be higher on Sept. 30, 2011, than it is now ($5.6 trillion.) That's because, even though publicly held debt shrinks to $800 billion from $3.4 trillion, the debt held in government accounts, primarily Social Security, rises to $5.9 trillion from today's $2.2 trillion.

So if we go on a tax-cutting and spending spree, don't be surprised to find us back in the soup a few years down the road. Don't say that you had no way to know. The Fed and the CBO were telling you the risks last week. You just weren't listening.

Mr. BYRD. I thank the distinguished Senator from Maryland, a very, very fine Senator, knowledgeable. He has had many years of experience. I thank him for his contribution today and for the articles which he has brought to our attention and which will be included in the CONGRESSIONAL RECORD as he has requested. I value my association with the Senator, and I thank him very much.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Morning business is now closed.

UNITED NATIONS PEACEKEEPING ASSESSMENT ADJUSTMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of S. 248 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 248) to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the pending legislation makes a small revision in the United Nations reform legislation approved by Congress in 1999 known as the "Helms-Biden" law.

This legislation justifiably used the leverage of the United States to press for reforms, by linking payment of the United States' so-called "U.N. arrears" to specific U.N. reforms. And it was the product of bipartisan cooperation in the Congress, cooperation between the Executive Branch and the Congress, and cooperation between the United States and the United Nations. And it worked, thereby producing millions of dollars in savings to the American people.

The Helms-Biden law gave the U.S. Ambassador to the United Nations, Richard Holbrooke, the tools he needed to negotiate much-needed reforms, ranging from restoring the membership of the United States to the U.N.'s administrative and finance committee, known in the rarified language of the U.N. as the "A-C-A-B-Q", to the adoption of results-based budgeting.

But the most important reforms restore an equitable burden-sharing for the enormous cost of operating the United Nations.

This was achieved by reducing the U.S. share of the U.N.'s general budget and its peacekeeping budget. In painstaking negotiations, the U.S. faced opposition not merely from increasingly affluent non-Western nations, which were clinging to their cut-rate U.N. assessment rates, but from our rich NATO allies as well.

Ambassador Holbrooke succeeded in persuading the United Nations member countries to reduce the U.S. share of the general U.N. budget to 22 percent, which was specified by Helms-Biden. This was the first reduction, in more than 28 years, in the American taxpayers' bloated share of the U.N.'s budget.

Similarly, Ambassador Holbrooke persuaded U.N. member states to agree to a new scale for assessments for U.N. peacekeeping.

This was an even more complicated undertaking because it required convincing several nations to give up the big discounts they had enjoyed for the better part of thirty years, when they were regarded as so-called "developing" countries.

Our friends Israel, South Korea, Hungary, Estonia, and Slovenia were among those who gave up those discounts. We should be grateful to them—I certainly am—for their willingness to do that.

On the other hand, some other nations in the Middle East and East Asia—which have become rich in recent years—dragged their feet—and shame on them.

But when all is said and done, the U.N. put in place a six-year plan to reduce what the U.N. now says the U.S. owes for peacekeeping.

Here's how it will work. The U.S. share of peacekeeping costs will drop: from 31 percent to about 28 percent in the first six months of 2001; and then, Mr. President, to about 27½ percent in the second half of 2001; and then, Mr. President, to about 26½ percent in 2002; and then, Mr. President, down to approximately the 25 percent benchmark specified in the Helms-Biden law.

Now then, Mr. President, when all this is fully implemented it will eliminate at least $170 million each year from the amount that the United Nations had billed the American taxpayers.

While this does not quite meet the Helms-Biden specification of a 25 percent peacekeeping dues rate, not yet, at least, it comes close.

That is why Senator BIDEN, Senator WARNER and I have offered this legislation to propose making a relatively small change in the arithmetic of the original Helms-Biden law.

Based on the clear prospect of U.S. peacekeeping dues moving down to 25 percent in the coming years, we propose to agree to releasing the Year 2 dues payment of $582 million to the United Nations immediately—in recognition of the savings already achieved for the American taxpayers.

This $582 million payment is the largest of the three phases of arrears attached to reform conditions in the Helms-Biden law—and for good reason: the toughest conditions imposed upon the United Nations by the Helms-Biden law were included. These conditions have already been met largely, and I believe, in response, that the Senate should now reward the enormous progress made in New York last December when the U.N. adopted most of the Helms-Biden benchmarks agreed to when I met with Secretary-General Kofi Annan when we met shortly after he took office at the U.N.

I emphasize that the United States does not owe the United Nations one dime more than 25 percent of the peacekeeping budget.

In fact, in 1994, Senator Bob Dole led a bipartisan effort to institute a cap on how much the U.S. would pay to the U.N. for peacekeeping. That year, a Democrat-controlled Congress passed, and President Clinton signed, a 25 percent cap on the U.S. share of the U.N. peacekeeping assessment.

I see no reason to abandon that bipartisan policy. Some may argue that, in addition to releasing the Year 2 arrears, we should remove that cap as well. I cannot and will not agree to that, though there may be a way that Senator BIDEN and I can work out to do something.

We are already taking an important step by releasing $582 million in arrears.

But we must not (and will not if I have anything to do with it) concede that the United States expects, in the coming years that the U.N. will ultimately reach the 25 percent rate mandated by Congress in two separate pieces of legislation.

In any event, the Helms-Biden reform benchmarks are working, which brings us to the issue of: what next? What are principal remaining agenda items for the Congress regarding the U.N.?

First, the Congress must continue to take public note of the size of the U.N. budget.

There will of course be a major campaign in the U.N., and even by some in the American foreign policy establishment, to allow the U.N. to increase its budget.

Congress must make sure that those seeking another explosion of budgetary growth at the U.N. are stopped dead in their tracks. It is one thing to allow adjustments in the U.N. budget for inflation and currency fluctuations. But Congress must not allow the floodgates for rampant bureaucratic spending to be opened. Fiscal discipline at the U.N. will remain a priority for Congress.

Specifically, we need to focus on the biggest outrage in the U.N.—the bloated public information bureaucracy. The U.N.'s "PR bureaucracy" is, quite simply, out of control. I agree completely with Ambassador Holbrooke's assessment made to the Foreign Relations Committee this past January 9, when he declared (and I quote):

> The Office of Public Information must be cut. It still has over 800 people. And I believe that is inappropriate. . . . And that should be one of the next major campaigns. . . . We need to attack the Office of Public Information and its over-padded structure.

I say again, I wholeheartedly agree.

Finally, Congress must keep a vigilant eye on plans to remodel and expand the U.N. headquarters in New York. The so-called "U.N. Capital Plan" estimates that it will cost more than $1 billion. The United States—the American taxpayers—will be asked to pay for at least 25 percent of that.

I've asked the General Accounting Office to conduct a thorough study of the U.N.'s plans for the renovation. GAO's initial judgment is that the project will end up with major cost overruns well beyond the billion dollars estimated in the "U.N. Capital Plan."

And that U.N. plan calls for interest-free loans from the American taxpayers. New York City will be called upon to transfer even more land to the U.N. as a gift.

Before building plush new offices for U.N. bureaucrats, let's first make sure that all of the reforms called for in the Helms-Biden law are completed first.

For the moment, Mr. President, we are at an encouraging stage in U.S.-U.N. relations. The exchange of visits between the Senate Foreign Relations Committee and ambassadors on the U.N. Security Council last year in New York and Washington had a positive impact.

I believe this exchange gave the U.N. Ambassadors a greater appreciation of the role of the U.S. Congress in shaping our nation's foreign policy. It certainly gave Senators a better understanding of views held at the U.N.

I'm told that the exchange of visits helped bring about the diplomatic achievements of December of 2000 to reform the U.N.'s assessment scales. That kind of cooperation is certainly welcome.

Mr. President, I must conclude. But before I do, I must note that any worthwhile and meaningful cooperation with the U.N. depends upon firm leadership by the United States—and particularly the United States Congress. Almost every reform that has been enacted by the U.N. in recent years was mandated by the Congress of the United States.

Some at the U.N. will always object to so-called Congressional "micro management" of the U.N., and will chafe at the United States Government seeking to "dictate" reforms. But, Ambassador Holbrooke put it aptly in his final appearance before the Foreign Relations Committee:

> What I discovered was that since people assume the United States is overbearing and arrogant anyway, it is better to say what the U.S. view is. . . . America should be unafraid to say its views. . . . We were persistent. And sometimes to the point of being regarded as a little bit obnoxious, but not arrogant. And we got the job done. And I think that can be a model.

Mr. President, the Foreign Relations Committee and I believe, the American taxpayers, are grateful to Ambassador Holbrooke for a job well done. Needless to say, Mr. President, I hope the Senate will support the pending legislation.

UNANIMOUS CONSENT AGREEMENT

Mr. HELMS. Mr. President, I have been asked to make this unanimous consent request. I ask unanimous consent that at 3 p.m. today the bill be advanced to third reading and final passage occur at 3 p.m., with no intervening action, motion, or debate; the time between now and 3 p.m. be equally divided between the two managers; and paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, before I begin, let me, as we say in the Senate, be afforded a personal privilege. I want my colleagues to know and the American people to know that this was accomplished not merely because of the hard, industrious, and imaginative efforts of Ambassador Holbrooke, but this was accomplished primarily because of the Senator from North Carolina. He has been resolute in his commitment to saving the American taxpayers' money. He has been resolute in his commitment to preventing waste, and he has been forthright in his assertion that when U.S. interests are at stake, we should speak up. That is precisely what he did here with regard to the United Nations.

As a consequence of his insistence, although this is called Helms-Biden—and I am proud to be a cosponsor of it and am proud to have worked all along with the Senator from North Carolina—but it was his insistence that we condition our commitment to pay what we agree were the arrears, not what the U.N. asserted was the amount of the arrears, upon some serious and genuine reform at the United Nations. Again, it was his insistence on saving the American taxpayers' money if it didn't have to be spent.

The result that no one anticipated from his efforts—maybe he did; most didn't; and I was not certain it would turn out this way—has been that not only are the very folks upon whom conditions were forced not angry but they are probably happier with U.S. participation in the United Nations today than at any time in the last probably 15 years—at least the last decade.

Senator HELMS demonstrated that there was nothing venal, nor was it an attempt at retribution, nor an ideological assault upon the United Nations when he opened this gambit by introducing the legislation and immediately inviting the members of the United Nations to come to Washington, DC, to speak before and meet with the Foreign Relations Committee. I may be mistaken, but I don't think this was ever done before. I don't think at any time in the existence of the United Nations was there a wholesale invitation to the Security Council to come to the U.S. Foreign Relations Committee.

The amazing thing is, they all came. They came gleefully. They were slightly skeptical. This was as a consequence of the Senator from North Carolina having first spoken to the Security Council.

Again, I don't know how many Senators have addressed the Security Council in the Senate, and I don't know if he was the first, but I know he preceded me, and I can't think of anyone else in my memory who has done that. He went to the United Nations and in his typical southern gentlemanly fashion was bluntly forthright about his objectives.

I remember at the time reading in the press some fairly harsh criticism of his assertions, assertions made in his gentlemanly manner in New York. Again, almost everyone was wrong because they anticipated the response would be a further freezing, rather than thawing, of the relationship between the United States and the United Nations. A vast majority thought the U.N. would deny us the right to vote because we were not paying our dues.

My colleague, although we arrived the same year, arrived with more wisdom than I did. My colleague, once again, demonstrated that he knew what he was doing. A very close friend of his and a man who actually was a former Democratic State senator, I am told, worked with Senator HELMS in years gone by. This man was a public delegate to the United Nations and from North Carolina at the time.

I will never forget, and I don't think anyone ever anticipated they would see, a dinner in New York, organized by our Ambassador, to honor Senator HELMS. If I am not mistaken, originally something on the order of 100 invitations were sent out, and yet close to 140 Ambassadors of the 180 nations showed up in the large ballroom of a large hotel in New York City to honor the man many in the press and other places wanted to vilify.

I never thought I would live to see the day when I saw Senator JESSE HELMS, Henry Kissinger, Ambassador Holbrooke, Mr. Belk, the public delegate from North Carolina, and the U.N. brass have their picture taken in the middle of that ballroom wearing blue U.N. caps. That was a bit of an epiphany for me.

I was sitting at the table with the German Ambassador. My table had at least three members of the Security Council sitting there. I was amazed to watch what happened. Everyone looked somewhat bemused and amused, and then I noticed all these very dignified diplomats, among the highest ranking persons in their governments, lining up very tactfully, as if they really weren't wanting a picture, to have their picture taken with Senator JESSE HELMS.

Now, I don't know if Senator HELMS expected that—I don't think he did, knowing him. I cite it not to be humorous, not to say this was sort of interesting simply because it happened, but to point out that because of Senator HELMS, for the first time in the 28 years I have been here, there is a genuine sense of warmth, there is a degree of trust, there is a greater openness that has occurred between the U.S. and the U.N. as a consequence of his insistence in saving the American taxpayers money.

I reluctantly went along with the conditions, as my friend from North Carolina knows. I had no doubt the reforms were needed. I thought we should pay the back dues and then prospectively insist on conditions in the future. It was a distinction with some difference.

However, I expect we will have people come to the floor and say the way we finally went was the wrong way to go about it. I point out when we were debating this, and I ask my friend from North Carolina to correct me if I am wrong, I don't remember anybody else who supported the U.N. that garnered one single penny in back dues.

I remember saying to a very significant former Member of the House who was upset with the Helms-Biden approach: I will withhold pushing this. I will give you a week if you can come back to me and tell me you are able to raise one single cent in the House of Representatives to pay the back dues; I'll withdraw.

The point was, everyone talked about the pure game, the purity of doing it the "right way," which leads to the second point. I have served with my friend too long not to understand he has a very healthy skepticism of international organizations. Not a hostility, skepticism. I have served with him too long not to know that he has a skepticism for international agreements made with people who have histories of not keeping international agreements. And I have served with him too long to underestimate his ability to know how to get things done. He knew better than most of us that even if he thought there should be no conditions—which he thought there should be—that you weren't going to get anything done here. You had to bring along a significant portion of the House and a significant minority in the Senate who didn't even want to pay the back dues; didn't want to pay anything, conditions or not.

So as the old saw goes over the last 30 years, anyway, just as only Nixon could go to China, only HELMS can fix the U.N. That is true. That is absolutely, positively true. I am sure he has taken some heat from his historically loyal and traditional friends on the center right for doing this. I have no doubt he has taken some heat, but, as usual, being a man who sticks to his principles, he took the heat but in the process of doing so he put the argument against U.S. participation in the U.N. in a position where it had no credibility. How could anyone from the center right challenge the Senator from North Carolina? Nobody doubts his convictions and principle. He is too darned conservative for me. I love him, but he is too darned conservative for me. But if JOE BIDEN had come along and done this, if TRENT LOTT had come along and done this, if DICK LUGAR and other respected Members did this, and it had been Lott-Biden, anybody on the Republican side, BIDEN and not HELMS, this would not have gotten done.

I pay tribute not only to the substantive changes he has wrought, but pay tribute to his tactical genius and how to get it done. It would not have gotten done, without him and we would be standing here today in semicrisis about whether or not we stay in the U.N., whether or not our vote had been taken from us, whether or not it was any longer relevant. We would have had some bitter ideological debates on this floor had he not gotten us to this place.

I, for one, think the United Nations is an incredibly valuable institution that, on balance, overwhelmingly benefits the American people. But, I say to my colleagues, don't do what some of us who have served with Senator HELMS sometimes do—don't underestimate what this fellow did and does, and don't underestimate how knowledgeable he is about getting something done. I am just glad we were not only in the same hymnal on this one, but on the same page on this one.

So I want to personally thank him. He did more than save the American taxpayers $170 million and more to come. He did more than set an atmosphere and tone where now in the United Nations, because of what he did, there is open discussion and debate among the members, not including us, about the need to reform. He was sort of the fellow who came along and said: Hey, but the emperor has no clothes.

Everybody sitting there knew the emperor had no clothes on, but Senator HELMS said, "The emperor has no clothes and until he starts getting dressed I am not playing." Now I ask a rhetorical question. Did my friend ever think he would hear a debate with everyone from the Chinese Ambassador to the Russian Ambassador to the German Ambassador to the French Ambassador talking about the need for further reform? And going back to their constituents and saying: We need Reform. They want to save taxpayers money as well.

So that is a big deal. But the bigger deal, in my view, is there is a new sense of legitimacy and vitality in this Chamber, in this Government, in this country, for the United Nations.

I am not Pollyannaish about this. I don't think the United Nations is a one-world government leading to nirvana. That is the farthest from what it is. But it is a practical tool in a number of circumstances, and an increasingly necessary forum for the one superpower in the world to be able to make her views known and garner the support of—or at least prick the conscience of—the rest of the world. We do not want to constantly be put in the position of being that great nation imposing her view on all the rest of the world.

What most of our foreign colleagues do not understand is we Americans are uncomfortable being the sole superpower. I often tell our European friends—my colleague knows, I am, as is he, deeply involved with NATO and Europe—I often tell them when they complain about us being the only superpower: You don't understand. Americans were not looking or seeking this title. We don't want to be the superpower. If there has to be one it will be us, but that is not our goal. We have no countries to conquer. We have no desire to impose our will. Americans would just as soon tend to their business and be home.

But that is how we are cast today. That is how we are cast by our friends as well as by our foes. I think in that context the United Nations takes on a different and dynamic role with the possibility that we can use it to further our interests.

So what my friend from North Carolina did is make that possible. Whether the U.N. meets those expectations, whether it continues down the road of reform, whether it does what it has the potential to do, remains to be seen. But we would not even be in this position today, February 7, 2001, talking about this possibility were it not for his insistence.

As I said, only Nixon could go to China. Only HELMS could make the U.N. relevant at the end of this century and the beginning of the next.

I know he understands, but knowing how he is, he probably refuses to believe how big a role that he played. It is literally that big. That is the deal. That is why this is so consequential. This legislation before us is, in a sense, inconsequential. We are changing one number in a piece of legislation to accommodate what we believe to be the good-faith serious effort to have embarked upon and stay embarked upon making an institution of the 20th century relevant in the 21st century.

As my friend and I have pointed out, we have both spoken at the Security Council. We have both had private meetings, and jointly, with I think literally almost every single delegate to the United Nations. The luncheon he and I did up there, there were 160-some U.N. ambassadors. I doubt whether there is a single U.N. representative—there may be one; I will be dumbfounded if there are more than 20—who has not personally met Senator HELMS and personally interfaced with him.

You know, it is an interesting phenomenon. When they looked him in the eye, when they heard him talk and saw him, and kind of touched him, they realized this is the real deal. This isn't about bashing the United Nations for hometown political consumption. And it has had a dramatic impact on the attitude that institution has about itself, the attitude of the American people have about it, the attitude of this body has about it, and the potential utility of that institution to work the way we hoped it would work.

As the chairman has explained, this legislation was reported by the Committee on Foreign Relations earlier today by a vote of 18–0.

This bill is neither long nor complicated. Let me explain it briefly.

In late 1999, Congress passed legislation—the so-called "Helms-Biden" law—which authorizes payment of $926 million owed to the United Nations in back dues, conditioned on certain reforms in the United Nations.

The bill provided for payment of the funds in three installments. Each installment was linked to a set of reforms in the United Nations.

The first installment of $100 million was paid in December 1999.

The second installment authorized is $582 million.

The key reform linked to this installment is a requirement that the amount of money the United States pays for U.N. operations be reduced.

We believed such reductions were important because the United Nations had become overly dependent on the United States for its funding.

Also, the economies of many other nations had grown considerably since the rates were last reviewed seriously in the early 1970s, and we believed it only fair that a greater share of the budget burden be assumed by those countries.

I am pleased to report that there has been remarkable progress, not only in the reduction of the U.S. assessment rates, but in U.N. institutional reform in general. Let me talk about the budget reductions.

The United Nations has two budgets. The first budget is the so-called regular budget, which pays for the day-to-day operations of the U.N. Secretariat in New York.

The law that Congress enacted in 1999 required that the rate we are charged for this budget be reduced from 25 percent to 22 percent of the total budget.

Our previous Ambassador to the United Nations, Richard Holbrooke, achieved this objective. Effective January 1, our assessment for this budget is 22 percent.

The second budget is for U.N. peacekeeping operations—for the soldiers in blue helmets around the world. The Helms-Biden law required that our assessment be cut from a rate of just over 30 percent to 25 percent.

Here, as some in the new administration who come from Texas might say, we did not get the whole enchilada—Ambassador Holbrooke did not get our rate down to 25 percent, but Ambassador Holbrooke succeeded in reducing our peacekeeping assessment substantially.

Effective January 1, our peacekeeping rate has been cut to just over 28 percent. It will continue to go down gradually to 26.5 percent by 2003, and possibly lower after that.

It is not everything we wanted, but Senator HELMS and I believe that the United Nations has met us more than halfway—and that we should respond.

Accordingly, the bill before the Senate amends the original Helms-Biden legislation to change the one legislative provision that was not completely satisfied.

Taking that step will release the second installment of $582 million.

The bill was approved unanimously by the Committee on Foreign Relations, and I hope the vote in the Senate will also be unanimous.

So let me reiterate. Dick Holbrooke took us a long way.

Mr. HELMS. You bet.

Mr. BIDEN. My grandfather Abrose's name was Abrose Finnigan. He used to say: Remember, God protects two groups of people: well-intended Irishmen who are drunk, and the United States of America. And then he would joke and say: You know, in our history where there are big and large issues, it always seems to be the right person comes along at the right moment to tackle the big issues. Dick Holbrooke, in another generation, maybe would not have been as consequential, but what did we need? We needed a man who was—remember when our friend from Texas won his first Senate race? He beat an incumbent, an appointed Democrat who was a good guy. They asked the Democrat about how he felt the night of the election when he lost. He said: There are two things you should know about PHIL GRAMM: One, he is meaner than a junk yard dog, and, two, he is smarter than you.

There are two things you should know about Dick Holbrooke: One, he is more persistent than STROM THURMOND, which is almost impossible, and he is likely to be smarter than you.

He kept his commitment to Senator HELMS.

Mr. HELMS. He did.

Mr. BIDEN. He kept his commitment. Senator HELMS was wary at the front end of this when he was named, whether or not he really was going to do it. He held up his nomination until he came before the committee to say: I will commit to Helms-Biden. Once he did that, it was home free and he headed to work. But he did a remarkable job.

So I do not, in my praise for Senator HELMS, mean to in any way suggest that at the end of the day this could have been done without the ingenuity, intelligence, and dedication of Ambassador Holbrooke and his staff, who, as the chairman has pointed out, many nights toward the end stayed up close to around the clock getting this locked down.

So I think we are at a good place. I have been with my friend from North Carolina too long not to think I understand what is behind his reluctance to lift a cap that locked into law the amount we would pay for peacekeeping. In 1994, out of frustration with the United Nations and its waste and failure to modernize, the U.S. Congress passed a piece of legislation that said starting October 1, 1996 we will not pay any more than 25 percent of the peacekeeping assessment. Then we were being charged about 31 percent, as the Senator said.

Now this may confuse people. Although the Helms-Biden change we are making today will allow over half a billion dollars to go to settle our accounts, if we do not do something about that 25 percent cap—because in spite of everything Ambassador Holbrooke did, our peacekeeping rate is not going to go down to 25 percent this year—we will, by the end of the year, accrue another roughly $70 million in debt. We will be behind the 8-ball another $70 million in terms of what we "owe" the U.N.

If I did not know better, I would say, as the old saying goes, my friend from North Carolina is from Missouri because he is a show-me guy. I am hopeful I can convince him or he can become convinced—not that I can convince him—but he will become convinced before the legislative year is over hopefully that these changes are real and maybe we should lift that 25-percent cap. Knowing him, he may toy with the idea of either not doing it at all, doing it temporarily, doing it conditionally—I do not know what. I know he will come up with something.

I say to him and my colleagues, I for one feel very strongly—we have gone this far—we should not now undo the good will and circumstance we have created, primarily through his leadership.

Again, not lifting the 25 percent cap now does not do any damage, any injustice, or any harm to the good that has been done, but if we do not by the end of the year deal with this—and he is committed we will deal with it; not how, not what the result will be, what his position will be, but we will deal with it—if we do not deal with it, I fear we will have begun to undo some of the significant good that we did by changing this legislation.

Mr. President, I thank former President Clinton and former Secretary Albright who were also instrumental in lobbying world leaders to have their countries accommodate this change, which is overdue.

I note parenthetically, when we signed on to these commitments, it was a different world. We were the only game in town economically. The combined GDP of Europe eclipses ours. Thank God, through the good works of a lot of people, including the generosity of the American people, the rest of the world is doing pretty well in many places, and they can afford to pay more. But it still took a lot of cajoling, it took a lot of nursing, it took a lot of diplomatic skill to get it done.

I say to my friend from North Carolina, I look forward to, before the summer passes, being back on the floor, hopefully with an agreement on what to do about the 25-percent cap set in 1994, but at least here to ventilate it, debate it, and let the Senate work its will on what we should do about it.

I note parenthetically that Secretary of State Powell supports such an amendment to the 1994 law. I received a letter from him 2 days ago on this subject.

I have no doubt the Senator has thought about it a lot and will think about it, and I have no doubt that whatever decision he comes to on the 25-percent cap, it will be viewed through the prism of making sure the American people are not paying more than they should and that the American taxpayers catch a break.

It has been an honor working with Senator HELMS. As I said, he and I came the same year, 1972. We have both been here 28 years, going on 29. We have, as the old saying goes, been together and we have been agin one another. For me, it is always more comfortable when we are together. It has never, never been anything other than a pleasure, since I shifted my responsibilities as top Democrat on the Judiciary Committee to Foreign Relations, working with Senator HELMS.

I am told there are some of our colleagues who wish to speak to this. I, quite frankly, would be surprised if there is a controversial aspect to this. It passed out of our committee this morning 18–0, unanimously, with very little debate and with some considerable enthusiasm.

I hope there will be bipartisan support for these objectives. I urge my colleagues to support this legislation.

I ask unanimous consent to print in the RECORD the letter from Secretary Powell.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, February 5, 2001.

Hon. JOSEPH R. BIDEN, Jr.,
Committee on Foreign Relations,
U.S. Senate.

DEAR SENATOR BIDEN: Thank you for your January 23 letter regarding the Senate Foreign Relations Committee's plans, at next week's business meeting, to take up the question of revising Helms-Biden legislation to allow a second tranche of payments of UN arrears to go forward. I appreciate the Committee's willingness to move forward so quickly with this needed step.

In your letter, you asked for my views as to whether a 1994 State Authorization Bill provision that places a 25 percent cap on our contribution to UN peacekeeping should also be revised, so that we can pay at the new assessment rate we negotiated in December. My staff have informed me that, unless this cap is revised, we will accrue new arrears of around $77 million in this fiscal year alone. Clearly, this needs to be taken care of to avoid falling into new arrears; my preference would be to move on it now, so that we can put this behind us quickly and focus together on further steps toward UN reform. I hope that the Committee will take the necessary steps to amend the 1994 provision as rapidly as possible.

Again, thank you for your letter. I welcome your partnership on this and other matters as we seek to advance America's foreign policy interests in the months ahead.

Sincerely,

COLIN L. POWELL.

Mr. BIDEN. I know we do not have a vote until 3 o'clock. That is when it has been set. I am not sure who is going to be here to speak when, but I am not going to trespass on the Senate's time anymore. I am going to shortly yield the floor, and I look to my colleague to ask whether I should suggest the absence of a quorum or does he wish to speak?

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. WARNER. I ask unanimous consent for such time that I may require.

Mr. HELMS. I yield to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I rise in strong support of the work that has been done by our distinguished chairman, the senior Senator from North Carolina, and indeed the ranking member, the senior Senator from Delaware. I have had the privilege of working with them on this issue including traveling to New York City with them while we were working with the distinguished Ambassador, Mr. Holbrooke, on this issue. I also traveled a second time to New York City at the invitation of then-Ambassador Holbrooke to work on this issue.

These three, the great triumvirate, have brought this about. It is a remarkable feat for freedom. This institution, the U.N., through the years has collected a good deal of disparaging comment, but it is an essential institution. Despite the disparaging references in years past, it is a stronger institution today under the current leadership of the distinguished Kofi Annan, and it is performing tasks that, frankly, I would not want to see our Government out in front on. Better we take second place and work with other nations through the U.N. to achieve certain objectives, rather than the unilateral intervention or, indeed, the unilateral participation by the United States.

This funding issue has been a cloud that has hung over the institution of the Congress and the U.N. for many years. Through the able leadership of Chairman HELMS and the ranking member, Mr. BIDEN, that cloud is now in a large measure dispelled. It is a job that should receive the commendation and support of all in this Chamber.

I see the Presiding Officer is a distinguished Senator from the great State of New York which provides a home for the United Nations. The United Nations is an institution that hopefully will live long and will benefit from the strong support expressed by this vote in the Senate today.

I rise today as an original cosponsor of this very important legislation on the payment of United States arrearages to the United Nations. We are at this crucial point due to the determined efforts of the distinguished chairman and ranking member of the Senate Foreign Relations Committee and our former Ambassador to the United Nations, Richard Holbrooke.

The United Nations Reform Act of 1999, known as Helms-Biden, provided for the payment of $926 million in U.S. arrears to the United Nations in return for a series of United Nations reforms, including a reduction in the U.S. assessment for the regular and peacekeeping budgets. The United States made its first payment under Helms-Biden, which totaled $100 million, in December of 1999. Under Helms-Biden, however, the second installment, totaling $582 million, could only be paid once the Secretary of State certifies that the ceiling for the U.N.'s regular budget scale of assessment for the U.S. is set at 22 percent, and that there is a ceiling set at 25 percent for the U.S. assessment for the U.N.'s peacekeeping budget.

After a lengthy and substantive debate, in late December 2000 the United Nation's General Assembly agreed to reduce U.S. dues to the United Nations. The General Assembly voted to set the ceiling for the regular budget scale of assessment for the U.S. at 22 percent—down from 25 percent—and set the ceiling for the peacekeeping scale of assessment for the U.S. at 28.15 percent—previously there was no ceiling and the U.S. was assessed approximately 31 percent. While the new scale of assessment ceiling for the U.N. regular budget meets the requirements of Helms-Biden, the new scale of assessment ceiling for the U.N. peacekeeping budget falls just short of what is required under Helms-Biden.

This legislation we are considering today will amend Helms-Biden so as to allow the U.S. to make its second payment of arrears to the U.N. Specifically, the requirement that the U.N.'s peacekeeping scale of assessment ceiling for the U.S. must be set at 25 percent is amended to the U.N. agreed upon number of 28.15 percent.

Although we all wish that the U.N. would have agreed to the 25 percent ceiling for the U.S. share of the peacekeeping budget, the agreement that was reached is significant and deserves our wholehearted support. By passing this legislation, we can move forward with the implementation of the goals of Helms-Biden and continue to strengthen our relationship with the United Nations.

At this point I want to recognize three individuals whose heroic efforts made this landmark agreement possible. Senate Foreign Relations Committee Chairman HELMS and Ranking Member BIDEN spent years crafting the Helms-Biden legislation. Without their tireless efforts and the bipartisanship with which they tackled a task which many felt was unachievable, we would not be where we are today. Their commitment and total devotion to strengthening and reforming the United Nations deserves our highest praise.

Likewise, the unflagging efforts of former U.S. Ambassador to the United Nations Richard Holbrooke must be recognized. Ambassador Holbrooke spent his 17 months at the U.N. working incessantly to see that the reforms contained in Helms-Biden were implemented. To achieve this goal, he traveled repeatedly to Washington to consult with Members of Congress, invited numerous Members, including myself, to New York for meetings with U.N. ambassadors and spent uncountable hours on the telephone promoting these reforms. In fact, during Ambassador Holbrooke's tenure I visited the U.N. twice to meet with numerous U.N. ambassadors and Secretary-General Kofi Annan in order to discuss U.N. reform issues. Without Ambassador Holbrooke's efforts, it is unlikely, in my view, that the U.N. General Assembly would have agreed to reform the U.N.'s regular and peacekeeping budgets.

The United Nations, under the strong leadership of Secretary-General Kofi Annan, plays a crucial role in global affairs. It is in our national interests to continue to work with the United Nations to ensure that it is strong and effective.

In light of that, I reiterate my strong support for the rapid passage of this legislation which will keep reforms at the U.N. on schedule and allow for the continued payment of U.S. arrearages.

I yield the floor.

Mr. GREGG of New Hampshire addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator from New Hampshire?

Mr. HELMS. Madam President, I yield such time as the Senator may need.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Chair and congratulate the Senator from North Carolina for his efforts in bringing a resolution to the U.N. arrearage issue. This is an issue in which I have had a fair amount of involvement, as I chair the appropriations subcommittee which is responsible for actually paying the bills.

It was a pleasure to work with the Senator from North Carolina and the Senator from Delaware, the Senator from Minnesota, Mr. Grams, and Senator HOLLINGS, my ranking member, as we worked with the prior administration, especially the Secretary of State, to try to bring a resolution to this very intricate and difficult issue—very touchy issue in many ways—which had hung over the U.N. and America's relationship with the U.N. for far too long.

There were very significant issues, however, that had to be addressed and which, as a result of the efforts of Senator HELMS and Senator BIDEN and the working group which I had a pleasure to work with, were addressed.

Two of the ones that have gotten the most visibility, of course, are our contribution levels to the U.N. operation accounts, which were excessive, in my opinion and in the opinion of the Senate and the Congress, and also the contributions to the peacekeeping accounts, which were equally excessive.

So the adjustments in the contribution levels, although not everything we desire, are a significant step in the right direction. But I think we need to remember as we proceed, especially in the area of peacekeeping, that basically the United States is, no matter what the assessment level, giving the U.N. what amounts to essentially a blank check.

The tremendous expansion in peacekeeping activity which the U.N. has undertaken over the last few years—much of it, quite honestly, not consistent with American policy—for example, what is happening today in Sierra Leone, where the U.N. has one of its major peacekeeping initiatives—is not consistent with the present American policy on how to handle that situation. In fact, the British, who are physically on the ground there, and whose position we do agree with, are taking the brunt of the legitimate effort in that country; whereas the U.N. peacekeepers, regrettably, are not contributing to the process of resolving the Sierra Leone situation but are actually, well, at best, on site but not a positive force. Yet we are paying for that. American taxpayers are paying for that.

It is inconsistent with the policy as laid out in a letter from the then-Ambassador to the U.N., Mr. Holbrooke, to the Congress relative to what the American policy was to be in Sierra Leone. That letter, which was very specific and quite appropriate and on point, unfortunately, is not the U.N. policy.

So as we move down the road, this whole issue of peacekeeping is going to be a continuing concern to us, as the payers of the bills, because I am not much interested, quite honestly, in sending a large amount of tax dollars, in what amounts to an open check, to the U.N. on the matter of peacekeeping, if the policies of the U.N. are going to be—in those areas where we are actually paying for the peacekeeping—180 degrees at odds with American policy.

I do not understand why we should be paying to underwrite policies which are inconsistent and, in some instances, actually at odds with what our policies are as a nation. So this issue of an open check for U.N. peacekeeping is one which will require more attention.

But as to the question of arrearages, we have at least settled the matter of what the percentage should be in those instances where U.N. obligations are due relative to peacekeeping. For that reason, we are able to release the $582 million which was held up relative to that issue. There remains, however, one more payment, one more tranche here—$244 million—which needs to be made and which we have appropriated.

By the way, all this money was always appropriated. We, in our committee, put it on the table, signed the check, but we did not send the check. It was a letter of credit. We said: When you meet the conditions of the letter of credit, which were basically the Helms-Biden proposal, then we will release the funds. But, again, the $244 million, which is available to the U.N., and which is the third payment, is still conditioned on what I would call structural reforms within the U.N. which are very important, structural reforms which go to the operation of the U.N., specifically, stronger Inspector General activities, stronger evaluation of the effectiveness and the relevance of U.N. programs, a termination of programs that are no longer needed, establishment of clearer budget priorities and, of course, an accounting office similar to the General Accounting Office we have here in the U.S. which can actually go in and audit what goes on in the U.N.

One of the big problems we have had in the U.N. was that for many years, regrettably, it was essentially, for lack of a better word, a patronage stop for a lot of folks from other countries who found it was a place where they could basically place friends and relatives, and, as a result, end up with the United States paying the cost of the salaries of those friends and relatives. It had a huge inefficiency. It also had programmatic activity which simply was inconsistent with what you would call good fiscal policy.

I understand it is not something you can change overnight because, to some degree, it is an institutional issue, but the U.N. is moving towards trying to address this. And that is positive. We look forward to these management systems being put in place which can show the American people that their tax dollars are not being wasted when they are sent to the U.N.

The U.N. is a very important institution. It is important that the American people have confidence in it. This is an institution which can play a huge and positive role as we, as a nation, engage the world. Since we are paying a quarter of the costs of the institution, American taxpayers have to know that when they send the tax dollar up there, it is going to be used effectively and efficiently. It is not because they oppose, at least in my State—there is some opposition, but there is general support for the U.N. funding. It is not because they oppose funding per se for the U.N; it is because they oppose the concept that money isn't being used efficiently and effectively. In fact, for a number of years it was being used inefficiently and ineffectively and in some cases just plain in a poor way.

So putting these systems in place—a strong Inspector General approach, general accounting rules along the lines of what we use in the U.S. General Accounting Office, financial data procedures which allow us to track the dollars, where they go, who is using them, and actual personnel tracking procedures which allow us to make sure the personnel that claims to be doing things is actually doing them, and that we are not ending up paying no-show employees—is very important in running a fiscal house effectively.

They are the basic elements of good governance. If you are expecting taxpayers to support an undertaking, then you must expect that the taxpayers will demand that there be an accounting as to how their dollars are being used. That is all we have asked for here. We have not asked for anything outrageous or unreasonable, in my opinion. We have just asked for reasonable accounting procedures.

The U.N., to their credit, especially the present Secretary General, has made an extra effort to try to address these concerns. I congratulate the Secretary General for doing that. I especially congratulate Ambassador Holbrooke because really he has been a fierce force for bringing responsibilities to the U.N. in the way they have dealt with American tax dollars over his tenure there. He has been a conscientious protector of the American tax dollar. I think he has done it because he understands that support for the U.N. is critical, and support is tied to American taxpayers having confidence in their dollars being used effectively.

The agreement which has been reached—I again congratulate the Senator from North Carolina for his extraordinary effort, the Senator from Delaware, and all those who played a role in it—is a very positive step forward in putting in place the systems that are necessary to give American taxpayers confidence in the U.N. When we give that confidence to the American taxpayer, we will in turn give the U.N. strength. When we give the U.N. strength, in the end it will benefit us as a nation and obviously the world. It is a plus for us. It is a plus for the U.N.

I am very happy to be here today to support this initiative and look forward, as chairman of the appropriating committee, to their completion of the additional issues that are to be addressed and the release of the additional $244 million as a result of successful completion of those initiatives.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I also rise to voice support for S. 248, a bill to release $582 million in U.S. dues to the United Nations. Payment of our dues is long overdue, and I am glad to see this bipartisan bill come before the Senate.

We know the United Nations is not a perfect organization. No organization made up of 189 countries could possibly satisfy everyone. In that sense, it is sort of like a country composed of 50 States. But just as the States rely on the Federal Government to address problems that affect each of us collectively, the United States relies on the collective diplomacy and security that only the United Nations can provide.

Every day the U.N. is fighting critical battles to resolve conflicts, contain the spread of infectious diseases, stop environmental pollution, protect human rights, strengthen democracy, and prevent starvation, to mention just some of its roles. U.N. peacekeepers are deployed around the world—from East Timor to Cyprus to the Sinai—to help prevent violence and restore stability where it is badly needed. Of the tens of thousands of U.N. peacekeepers deployed, only a tiny fraction are Americans. These missions help to avoid U.S. military intervention and far more costly humanitarian relief operations.

We are the world's only superpower, and we have a wide range of interests on every continent. We need to send a strong message that the United States supports the United Nations but that other nations need to contribute their share as well. This legislation is a clear step in that direction.

Getting here has not been easy, and I want to commend four individuals who deserve special credit. First and foremost, it was the determination of Ambassador Richard Holbrooke who led us to this breakthrough that few thought was possible. In January, he received a standing ovation from both Republicans and Democrats on the Foreign Relations Committee. It was well deserved.

We also had the bipartisan vision and leadership of Senator JESSE HELMS and Senator JOE BIDEN. They established a framework for this deal with the Helms-Biden legislation, and both deserve a great deal of credit.

Finally, we should recognize Ted Turner. It was his gift of $34 million that was the final piece of the puzzle. We should all be grateful for his generosity and foresight, although it is somewhat embarrassing that the government of the wealthiest, most powerful nation in history had to rely on the personal donation of a private citizen to help meet its obligations to the international community.

While I am very pleased with this legislation, more still needs to be done to address weaknesses in United Nations peacekeeping missions. We have seen poorly conceived missions, serious logistical delays, ill-equipped and undertrained troops, and instances of misconduct. While these were exceptions rather than the rule and were largely the fault of the U.N.'s member states, I was encouraged by two developments early this fall that began to address some of these problems.

First, the U.N. issued a report, produced by an outside panel of experts, that included some common-sense recommendations for improving the effectiveness of U.N. peacekeeping. This was followed by a serious discussion of peacekeeping reform by the heads of state of several key countries at the Millennium Summit.

These two events triggered widespread praise from the international community and a number of supportive editorials in the U.S. press. The Bush administration and Congress need to take a close look at these developments and determine what the U.S. can do to further efforts to improve U.N. peacekeeping.

The administration and Congress should also consider lifting the 25 percent cap on U.S. peacekeeping contributions. During the campaign, President Bush called for the U.S. to act in a more "humble" manner in the international arena. This may be a good place to start. The European Union, whose GDP is roughly equivalent to our own, pays over 39 percent of U.N. peacekeeping costs, while the U.S. contribution will fall to 26.5 percent. Moreover, the agreement that was reached in December requires 29 nations to accept increases in their assessment rates, ranging from 50 percent to 500 percent. Yet, we still maintain the 25 percent cap, and continue to accumulate arrears—hardly a statement of humility. The time may now be right to remove the cap, especially if the administration concludes that U.S. interests are better served without it.

Mr. President, we all want to see reform to continue at the U.N. However, refusing to pay our dues has irritated our friends and allies, who were legitimately concerned that we wanted a continued veto over U.N. decisions, without meeting our treaty obligations. It hurt our credibility, and it weakened our influence.

So I am pleased that we are finally acting to remedy this problem by passing this legislation today.

I see the Senator from Florida, and I yield the floor to him.

The PRESIDING OFFICER. The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are located in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Georgia is recognized.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 269 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for S. 248, a bill to amend the Helms-Biden agreement on United Nations arrears payments.

I have long supported the goals of the United Nations as it works to promote peace, to protect human rights, and to improve economic and social development throughout the world. Participation in the UN acts as an incentive to promote peace and provides a forum for negotiations and international action which can avert the need for more expensive unilateral or bilateral military interventions in the future.

I believe repaying United States arrears to the UN is crucial to ensure that the organization can continue to be a force for peace and security in the 21st Century.

As you know, significant steps have been undertaken in the last several years by the UN to reform their administrative structure and to reduce costs as called for by the Helms-Biden agreement. Among other things, the UN has reduced its budget and staffing levels, and has strengthened its Office of Internal Oversight.

In addition, the UN has agreed to reduce the US assessment for the UN regular budget from 25 percent to 22 percent, and the peacekeeping assessment from more than 30 percent. I congratulate Senator HELMS, Senator BIDEN, Ambassador Richard Holbrooke, and Secretary-General Kofi Annan for their efforts and hard work on these issues.

It is my hope that the UN will continue in this direction and enact further reforms designed to save costs and to make the UN a more effective and efficient organization. This bill recognizes that efforts have been made and will continue to be made towards achieving this goal. I urge my colleagues to support it.

Mr. DASCHLE. Mr. President, I come to the floor to express my strong support for S. 248, the U.N. dues bill. This is a straightforward bill that continues our efforts to set right U.S. accounts at the United Nations. Those efforts are not yet complete, but in passing this bill today we take a big step in the right direction.

This bill—and the $582 million in U.S. arrears it will allow us to pay—will go a long way to improving our relations at the United Nations. The importance of a solid relationship with a capable UN should not be underestimated. In the last year alone, we have worked with the UN to bolster U.S. interests, including: Containing Saddam Hussein; combating the debilitating effects of the AIDS pandemic; confronting—and detaining—war criminals in the Balkans; and controlling the potentially destabilizing conflicts in East Timor and East Africa.

Two years ago the outlook was much different. At that time, skepticism about the effectiveness of the UN prevailed, and Congress outlined an aggressive agenda for reform at the United Nations. Behind the leadership of Senators BIDEN and HELMS, Congress outlined a series of conditions before we would pay the nearly $1 billion in debts.

Passing that bill was difficult here, including months of debate, deliberation and negotiation. But it turns out that we in Congress had the easy part. The heavy lifting was done by Ambassador Richard Holbrooke and his team at the United States Mission to the United Nations, who took the demands we made here in Congress and came back from New York with a solid deal.

Let's take a quick look at what Ambassador Holbrooke and his team delivered:

A reduction in the U.S. assessed costs for the UN regular budget: That reduction—from 25 percent to 22 percent—is the first rate drop for the United States in the regular budget account since 1972.

A reduction in the U.S. assessed costs for the UN peacekeeping budget: That reduction—from 31 percent to 27 percent—is the first rate drop for the United States in the peacekeeping account since 1973.

A combined savings for the U.S. from these reductions is in excess of $100 million annually; and, perhaps most importantly, rejuvenated Congressional support for the United Nations.

Yet the agreement that Ambassador Holbrooke delivered does not spell the end of reform at the United Nations.

Last year saw the release of the so-called Brahimi Report, a series of common sense improvements to the way the United Nations handles peacekeeping operations. The report gives cause for optimism, but aggressive implementation of the report's recommendations is crucial to ensure success. Those recommendations will go a long way to burying the peacekeeping failures of Srebrenica and Sierra Leone and developing a Department of Peacekeeping Operations that can successfully plan, deploy and manage complex peacekeeping operations.

We will also watch the implementation of a series of accountability, oversight and planning measures created in the last year. Secretary General Annan is demanding a high level of excellence from his team in New York, and we join him in expecting efficiency and results.

Work here in Washington is not done yet. Nor is our work in Congress done yet. Continued reform at the United Nations demands U.S. leadership and involvement—and approving this bill today is only the first step in convincing the international community that we are serious about reform.

As it stands right now, the United States will continue to accrue arrears at the United Nations. A law we passed in 1994 that caps U.S. payments to the UN peacekeeping budget at 25 percent, but we will continue to be billed by the UN for between 26 percent and 28 percent of that budget, generating arrears and engendering criticism of the U.S.—particularly from our European allies whose combined assessments account for well over a third of UN peacekeeping operations.

If Congress does not make this fix this year, we risk worsening U.S. relations with the UN and its member states, limiting our ability to use the United Nations to advance vital U.S. interests, and setting back the efforts or reform that Ambassador Holbrooke did so much to move forward.

It is my hope that, before the end of this fiscal year, Congress will lift the cap on U.S. assessed contributions to international peacekeeping efforts. Doing otherwise will be a lost opportunity.

Mr. McCAIN. Mr. President, I am pleased the Senate will vote today to release $582 million in U.S. arrearages to the United Nations. In 1999, Congress mandated a series of reform benchmarks for the United Nations to meet in order for the United States to release funds we were withholding. One requirement related to reform of the scales for peacekeeping assessments by member nations, which were created in 1973 to fund the Sinai mission and have been in place ever since. As we move today to release the so-called Tranche II funds for the U.N. under the terms of the Helms-Biden law, I commend my colleagues for their work on this issue and note the efforts of Ambassador Richard Holbrooke and the American mission to the United Nations that made this progress possible.

Over the years, the United Nations and its subsidiary bodies have supported U.S. humanitarian interests in a number of ways, performed peacekeeping missions important to the security of our nation and our allies, and provided a useful forum for developing consensus among nations, as demonstrated by former President Bush's extraordinarily successful coalition-building to repel Saddam Hussein's 1990 invasion of Kuwait. But U.N. accomplishments cannot hide the fact that the U.N. bureaucracy must be totally reformed from top to bottom.

As Ambassador Holbrooke recently told the Foreign Relations Committee, "I leave my position as confident as ever that the United Nations remains absolutely indispensable to American foreign policy. . . . But at the same time, I am even more convinced that the U.N. is deeply flawed, and that we must fix it to save it." Our vote today to pay $582 million in U.S. arrearages reflects this philosophy. I expect close Congressional scrutiny of United Nations operations and administration to spur additional and much-needed reforms. And I look forward to a continuing debate in this body over the level of U.S. contributions for U.N. peacekeeping, which requires additional review and may call for further Congressional action.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (S. 248) was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. Announced that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—99

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner
Wellstone
Wyden

NOT VOTING—1

Inouye

The bill (S. 248) was passed, as follows:

S. 248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON THE PER COUNTRY SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) IN GENERAL.—Section 931(b)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–480) is amended by striking "25 percent" and inserting "28.15 percent".

(b) CONFORMING AMENDMENT.—The undesignated paragraph under the heading "ARREARAGE PAYMENTS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; 112 Stat. 2681–96) is amended by striking "25 percent" and inserting "28.15 percent".

Mr. SHELBY. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate now be in a period of morning business with Senators speaking therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CUT DEBATE

Mr. DASCHLE. Mr. President, as the tax cut debate begins in earnest this week, I would like to commend to my colleagues' attention two editorials that appeared in separate South Dakota newspapers this week, the Pierre Capital Journal and the Madison Daily Leader. Both of these opinion pieces give an excellent explication of this year's budget and tax cut debate and responsibly advocate a tax cut while paying down the national debt. In so doing, each reminds us that beyond the Beltway and across the country the American public can see through the often overheated rhetoric of political debate and focus on the bottom line priority of maintaining the fiscal responsibility that forms the foundation of the economic recovery of the 1990's.

As these editorials underscore, balance between tax cutting and debt reduction should be a central principle of the tax and budget debate. While Congress should and will pass a significant tax cut this year, it must also make sure that we pay down the national debt and address budget priorities like education, defense and healthcare. And so I commend Dana Hess of the Pierre Capital Journal and Jon Hunter of the Madison Daily Leader for their exceptional pieces advocating a tax cut within the parameters of sound fiscal policy. Their words should give us all pause for thought.

I ask consent that these editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Madison Daily Leader]

PAYING OFF NATIONAL DEBT WILL YIELD GREAT RESULTS

(By Jon Hunter)

Federal budget surpluses are now reducing the massive federal debt after two decades of rapid growth. The benefits of such debt reduction will be broad and long-lasting.

The surpluses are so strong that the United States Treasury announced it will stop issuing one-year Treasury notes at the end of February. Why borrow money for one year when cash receipts outweigh expenses every day?

The change will permit the government to eliminate roughly $20 billion in debt issuance in the current fiscal year. Treasury had already eliminated sales of three-year and seven-year notes.

The changes mean lower interest payments on the national debt but also pose a challenge for investors because there is a dwindling supply of Treasury securities, considered the world's safest investment.

Even this potential challenge will be good for the U.S., in our opinion. Investors who now own maturing one-year bills will have to find other places to invest, and the most logical place is short-term, high-quality corporate notes. The demand will drive down borrowing costs for corporations, which would be similar to an interest-rate cut by the federal reserve.

It makes sense to pay down the debt in an orderly fashion. If Treasury tried to pay off the existing longer-term bonds, it would have to buy them back at a high premium. That's why Fed Chairman Alan Greenspan said last week that since surplus estimates are growing, he would support both debt reduction and a tax cut.

On Tuesday, the Congressional Budget Office (headed by former Madison resident Dan Crippen) projected that the overall budget surplus would be $5.6 trillion over the decade, up from the $5 trillion bounty projected by the Office of Management and Budget near the end of the Clinton administration.

In the early 1990s, the combination of a huge budget deficit and higher interest rates were a drain on our economy. Just the interest on the federal debt was consuming about one-seventh the entire federal budget.

We will soon experience the opposite effect: lower interest payments will free up money for tax cuts or funding for programs. Provided Congress makes good decisions about the tax cuts or spending, both will provide excellent long-term benefits for America.

[From the Pierre Capital Journal, Feb. 1, 2001]

PAYING DEBT SHOULD HAVE HIGHEST PRIORITY

(By Dana Hess)

Maybe it's his Texas roots that cause President George W. Bush to think big. Or maybe he's just generous. Whatever the reason, the president is pushing for a $1.6 trillion tax cut over 10 years.

Bush pushed the tax cut idea throughout his campaign for office, even though polls showed that it was getting a lukewarm reception from the public. Give him marks for consistency because Bush still insists that the tax cut needs to happen.

We generally support the idea of the federal government getting less of our money. After making such a mess of the budget for so many years, it stands to reason that the less money our representatives have to work with, the less likely they'll be to get into trouble with it.

Bigger and bigger budget surplus projections are giving Bush and everyone else in Washington, D.C., big ideas about what to do with the money. It's a politician's dream come true—enough money to offer tax cuts and promote new spending.

We would hope that the years of deficit spending in Washington would have taught lawmakers to be cautious when it comes to spending our money. No one seems to have learned that lesson.

As much as we'd like to see taxes cut, there are a couple of good reasons why Bush and our lawmakers should slow down.

The surplus exists, in a large part, because of the booming economy our country has enjoyed. If that economy goes sour—and indications are that it may be ripening a little more every day—then the projections of a big surplus will turn out to have as much truth as the fears about the millennium bug.

With all the talk of surpluses and tax cuts, it's easy to forget that there's still a debt to pay. Taking care of that obligation should have a higher priority than trying to win the favor of voters with tax cuts and new programs.

We know they're famous for doing things in a big way in Texas. But this nation has a Texas-sized debt. The president should make sure his plan places just as high a priority on paying down the debt as it does on tax cuts and spending plans.

THE PRESIDENT'S TAX CUT PROPOSAL AND THE BUDGET

Mr. NELSON of Florida. Madam President—that has a nice ring to it—it is a privilege for me to take the floor and speak on an unrelated subject but a subject that is of considerable importance to the country and to the decisions we will be making very shortly. That is the adoption of a budget and the decision in that budget of how large the tax cut should be.

Just in the last 24 hours, we have seen a consequence of the tax cut that now is proposed by the administration that is soaring upwards of $2.5 trillion over the next 10 years, a tax cut that the fiscal effect of $2.5 trillion would be so large as not only to wipe out all of the available surplus over the next 10 years, but to cause us to suddenly plunge back into deficit spending.

We see a consequence of this in the last 24 hours in the fact that the administration is now not proposing to increase the defense budget. Personally, I think we should be looking at a minimum of increasing the defense budget over the next decade to the tune of $100 billion.

The administration, now recognizing that its tax cut is going to absorb all of the available surplus, has just, in the last 24 hours, laid out the fact that it will not ask for an increase in the defense budget. When that occurs, I am quite concerned about our existing troops and what their pay is, the fact that there would be no increase for maintenance and operating costs, such as spare parts and rising fuel costs, a part of the defense budget that is absolutely essential to keeping our existing systems and equipment ready in case they have to be deployed, and the sufficient allocation of fuel so that our troops can have the proper training that is essential to their readiness.

I can tell you there are a lot of pilots out there right now whose morale is pretty low because they don't feel as if they are getting enough flying hours, so that if the call comes and they have to go abroad to defend this country—particularly the pilots who are flying these precise pinpoint missions, not even to speak of the ones who have to engage in aerial combat—they will have had that training. This is going to be the consequence of keeping down the defense budget that this administration is reflecting because of its fiscal proposal of a tax cut so large that it is going to absorb all of the projected surplus—and, by the way, that may never materialize—over the next decade.

If you cut the defense budget too severely, you are suddenly going to have systems that have not been upgraded and we will have unsafe planes and ships. That is simply a consequence that I don't think is in the interest of this country. After all, one of the main reasons for a national Federal Government is to provide for the common defense. So we are starting to see the ripple effects of this proposed fiscal policy. Why can't this fiscal policy instead be one that is balanced with a substantial tax cut?

The question is not a tax cut or not; the question is how large should the tax cut be? That is where I argue for balance, so that we have a substantial tax cut balanced with the increased spending needs. And I have just given one example of defense.

To give you another example, strengthening the Social Security fund; another example is modernizing Medicare with a prescription drug benefit; to give another example, increased investment in education. I have just listed only four additional areas. In this time of prosperity and budget surpluses, if we are fiscally disciplined, and if we are fiscally conservative, then we can meet all of the needs in a budget that will be balanced and that will protect the investment and spending needs as well as returning part of the surplus in the form of a tax cut.

We have seen the charts offered by the Congressional Budget Office as to the projected surplus. I likened it, from my old position as the State fire marshal in Florida, to a fireman's hose. When that fireman takes that hose into a fire and he starts turning the nozzle, it first goes into fog, a light spray, and then increasingly, as you turn the nozzle, it goes into a straight stream of water.

The charts we saw by the CBO projecting what the surplus would be over the next 10 years look like the spray coming off of a fireman's hose. For the chart with a line up to the present showing what the surplus is today, as you project it over 10 years, the range is from a huge surplus 10 years out to no surplus at all 10 years out indeed, into deficit. That is the inaccuracy of forecasting that CBO has admitted is truth.

They also stated to us in the Budget Committee that the projected surplus—60 percent of it—will not materialize until the last 5 years of the 10-year period—all the more increasing the uncertainty of what is going to be available.

So my plea to our colleagues, Madam President, is to let us be conservative in our planning, let us be fiscally disciplined and not fall back into the trap that I personally experienced when I voted for the Reagan tax cuts in 1981 and suddenly realized that I had made a mistake—and the country at large understood that it was a mistake—because the cut was so big, we had to undo it in the decade of the 1980s not once but three times. It had run us into such deficits in the range of about $20 billion at the end of the decade of the 1970s to deficits that were in excess of $300 billion per year by the end of the decade of the 1980s. In other words, the Government of the United States was spending $300 billion more each year than it had coming in in revenue, and that was getting tacked on to the national debt, which is what took us from a debt in the 1970s in the range of $700 billion to a national debt that is in excess of $3.5 trillion today.

My argument to our distinguished colleagues in this august body is to use balance, let's use fiscal discipline, and let's use fiscal conservatism as we plan and adopt the next budget for the United States of America.

Madam President, I am pleased to yield to the distinguished Senator from Georgia, one of the most able and capable of this body, a former Administrator of the Veterans' Administration in the Carter administration, a former distinguished Secretary of State of the State of Georgia, a distinguished junior Senator, now senior Senator, and even more so, I am proud that he is my good, personal friend. I yield to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Madam President, it is an honor to share the floor with my distinguished friend from Florida. He and I have known each other for a long, long time. I was out in the corridors and heard a familiar voice and realized that my friend was making his first speech on the floor of the Senate, which was a great pleasure for me to hear. He has eloquence, he has intelligence and everything it takes to make a powerful impact on this body. It is an honor to be with him on the floor.

Mr. NELSON of Florida. I thank the Senator.

HIGH SPEED RAIL IMPROVEMENT ACT

Mrs. HUTCHISON. Mr. President, I wish to express my gratitude to the leadership of both parties for making good on their commitment to make high speed rail a priority early in the 107th Congress. The support of both Senator LOTT and Senator DASCHLE and a majority of our colleagues will send a message that Congress is serious about establishing rail as a viable alternative to our crowded roads and skies.

This innovative finance bill will provide a dedicated source of capital funding for high-speed rail that will not subtract from the highway or aviation trust funds, or general appropriations. This is not a handout. We will use a modest Federal investment to leverage $12 billion in rail improvements. Amtrak's congressionally mandated requirement to become operationally self sufficient is not affected by this legislation.

Air traffic congestion is at an all time high and will only worsen over the next ten years. U.S. airports will have to deal with one billion annual passengers in less than ten years. Already, one in every four flights is delayed or canceled. Meanwhile, highway expansion has become extremely expensive and environmentally sensitive, as our major arteries grow ever more clogged with traffic.

We desperately need a third leg to our national transportation strategy. I believe passenger rail can function in that role.

High-speed rail is a reliable, efficient alternative to both driving and air travel—particularly over distances of 500 miles or less. Investment in high-speed rail will ease overcrowding and delays at the airports that have the worst problems. Of the 20 airports with the most flight delays in 1999, 18 were located on high-speed rail corridors. And most of the airports projected to have the worst flight delay problems over the next ten years are located on high-speed rail corridors.

There has never been so much support at the national, state and local levels for such an innovative rail financing measure. Last year, we had 67 United States Senators, 171 U.S. House Members, the National Governors' Association, U.S. Conference of Mayors, National League of Cities, National Conference of State Legislatures, the environmental community, organized labor and the business community—including such notables as Bank of America and Goldman Sachs, and Morgan Stanley Dean Witter—all support the High Speed Rail Investment Act. Today, we enjoy similar support, with more than half of the Senate joining us in sponsoring this landmark legislation.

High-speed rail projects are ready to go in more than 20 states across the country. States that have promoted passenger rail for years and those which are just now investing in rail alternatives will benefit from this Federal commitment to partnership in passenger rail funding. The 2001 version of the bill provides sufficient financing to ensure that these new corridors can enjoy the benefits of passenger rail.

The United States currently invests less than $600 million on its rail infrastructure, while spending $80 billion per year on highways and $19 billion per year on aviation. We even spend $1 billion every year clearing road kills and $1.4 billion salting icy roads, but only a fraction of that amount on rail.

Where adding new highway and aviation capacity is now prohibitively expensive, incremental improvements in rail capacity can provide a viable alternative for intercity travelers who face rising congestion on existing highways. In fact, every dollar invested in new rail capacity can deliver 5 to 10 times as much capacity as a dollar invested in new highway capacity, depending on the location. A comparable mile of new high-speed track is estimated to cost about $8 million per track-mile—the equivalent of about 450 passengers per hour for every $1 million invested.

With this Federal investment, we can increase speeds, further reduce trip times and better compete with airlines. In states like Texas, these funds will be used to increase train speeds of existing Amtrak trains, and to establish better, more reliable service along our three corridors.

* * *

NOMINATIONS

GALE NORTON

Mr. CONRAD. Mr. President, I supported the nomination of Gale Norton to be Secretary of the Interior.

As Secretary of the Interior, Ms. Norton will be responsible for the management of nearly half a billion acres of Federal land. She will assume the responsibility of overseeing our Nation's public land treasures—namely our national parks and wildlife refuges. She will also be responsible for enforcing the laws that protect threatened and endangered species. The Secretary is in charge of many agencies that directly affect North Dakota, including the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Reclamation, the Fish and Wildlife Service, and the Geological Survey.

I met with Ms. Norton in my office earlier this month to discuss some of the critical issues facing my State and found her receptive to working together to address these challenges. Water development is critical in my State and has been among my highest priorities as Senator from North Dakota. Last year Congress passed the Dakota Water Resources Act, which will redirect the Garrison Diversion Project to meet North Dakota's contemporary water needs. The Bureau of Reclamation, working under the direction of the Secretary, will be responsible for implementing that act, and Ms. Norton indicated her desire to help ensure the DWRA is implemented responsibly.

Ms. Norton will also face significant responsibilities and challenges in maintaining government-to-government relations with tribal nations. The Department of the Interior, which includes the Bureau of Indian Affairs, is the entity most directly responsible for federal policy in Indian country. I know she has worked with Colorado tribes in the past and therefore has an understanding of many of the diverse and complex issues that tribes face. The tribes in my State anticipate building a productive relationship with Ms. Norton and the new head of the Bureau of Indian affairs. I hope she will take time early in her tenure to meet with the United Tribes of North Dakota and listen to their concerns and goals for the future.

I was also pleased that during her confirmation hearings she was given the opportunity to explain her beliefs on public land management and to respond to some of the criticisms that had been leveled against her. I hope Ms. Norton will continue to follow the moderate stands she identified during her confirmation hearing. Public land management issues are often very controversial locally as well as nationally, and Ms. Norton will have to work very carefully to balance local interests with the Nation's interests when resolving these conflicts.

Ms. Norton will face tremendous challenges as Secretary of the Interior, and I look forward to working with her on those issues.

ELAINE CHAO

Mr. CONRAD. Mr. President, I supported Elaine Chao's nomination to be Secretary of Labor. I am confident that her experience and intellect will serve her well as she considers issues relating to our Nation's workforce and workplaces.

Elaine's career exemplifies her dedication to public service and commitment to leadership. Elaine served as deputy transportation secretary under former President Bush and later became director of the Peace Corps in 1991. She headed United Way of America between 1992 and 1996, and she currently serves as a Heritage Foundation fellow. Additionally, many of us in this body also know her as the distinguished wife of our colleague, Senator MITCH MCCONNELL.

As a member of the new Administration, I hope that Elaine will be able to build coalitions and work effectively with groups holding a wide range of political views. These skills will be essential as we consider many of the important labor-related issues during the beginning of the 21st Century.

GOVERNOR WHITMAN

Mr. CONRAD. Mr. President, I supported the nomination of New Jersey Governor Christie Whitman to serve as Administrator of the U.S. Environmental Protection Agency.

As one of the organizers of the first Earth Day more than 30 years ago, I understand the importance of protecting and improving our Nation's environment. The Clean Air Act, Clean Water Act, Safe Drinking Water Act, and other major environmental statutes have helped this Nation significantly improve our air and water quality. We have made significant progress over the past three decades, and North Dakota has done well to maintain its clean environment. However, our Nation still has too many areas that have dirty air and unclean water. Too many of our citizens develop diseases as a result of pollution in our environment. We need to continue the progress of the past three decades without sacrificing the tremendous economic growth of the past eight years.

I met with Governor Whitman in my office last week to discuss some of the differences between rural western States and more urban, industrialized eastern States. I emphasized the need to develop different solutions to environmental problems in different areas, and also indicated my support for incentive-based approaches to improving our environment. I have been pleased to hear some of Governor Whitman's preliminary statements on that subject. However, I also believe we cannot abandon enforcement efforts to improve compliance with our Nation's environmental laws. Governor Whitman will have to strike an appropriate balance between the two. It will be a difficult task, but after meeting with her and reviewing her record, I believe she is up to the job.

President Bush made a good selection when he asked Governor Whitman to head the EPA. She assumes a tremendous new responsibility, and I look forward to working with her in her new role as Administrator.

MESSAGES FROM THE HOUSE

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on February 6, 2001, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 7. Joint resolution recognizing the 90th birthday of Ronald Reagan.

ENROLLED JOINT RESOLUTIONS SIGNED

At 11:35 a.m., a message from the House of Representatives, delivered by Mr. Rota, one of its clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 7. Joint resolution recognizing the 90th birthday or Ronald Reagan.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

At 12:43 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 132. An act to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building."

H.R. 395. An act to designate the facility of the United States Postal Service located at 2305 Minton Road in West Melborne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 17: A resolution congratulating President Chandrika Bandaranaike Kumaratunga and the people of the Democratic Socialist Republic of Sri Lanka on the celebration of 53 years of independence.

S. Res. 18: A resolution expressing sympathy for the victims of the devastating earthquake that struck El Salvador on January 13, 2001.

From the Committee on Foreign Relations, without amendment:

S. 248: A bill to amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country.

From the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 6: A concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. HELMS for the Committee on Foreign Relations.

Paul Henry O'Neill, of Pennsylvania, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund; United States Governor of the European Bank for Reconstruction and Development.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Foreign Service nominations beginning James D. Grueff and ending Ralph Iwamoto Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on 2/1/01.

Foreign Service nominations beginning An Thanh Le and ending Amy Wing Schedlbauer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on 2/1/01.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CLELAND:

S. 269. A bill to ensure that immigrant students and their families receive the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. LEVIN, Mr. BROWNBACK, and Mr. HELMS):

S. 270. A bill to amend title XVIII of the Social Security Act to provide a transitional adjustment for certain sole community hospitals in order to limit any decline in payment under the prospective payment system for hospital outpatient department services; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. AKAKA, Mr. CRAPO, Ms. COLLINS, Mr. CLELAND, Mr. WARNER, Mr. COCHRAN, and Mr. VOINOVICH):

S. 271. A bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Governmental Affairs.

By Mr. FEINGOLD:

S. 272. A bill to rescind fiscal year 2001 procurement funds for the V-22 Osprey aircraft program other than as necessary to maintain the production base and to require certain reports to Congress concerning that program; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 273. A bill to amend title 28, United States Code, to divide New Jersey into 2 judicial districts; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 274. A bill to establish a Congressional Trade Office; to the Committee on Finance.

By Mr. KYL (for himself, Mr. BREAUX, Mr. GRAMM, Mrs. LINCOLN, and Mr. BAYH):

S. 275. A bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes; to the Committee on Finance.

By Mr. SHELBY (for himself, Mr. BOND, Mr. THOMAS, Mr. HAGEL, Mr. SESSIONS, Mr. HELMS, Mr. INHOFE, Mr. BURNS, Mr. KYL, Mr. COCHRAN, Ms. SNOWE, and Mr. ALLARD):

S. 276. A bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DODD, Mr. DURBIN, Mr.

Feingold, Mrs. Feinstein, Mr. Harkin, Mr. Kerry, Ms. Landrieu, Mr. Lieberman, Mr. Leahy, Mr. Levin, Ms. Mikulski, Mrs. Murray, Mr. Reed, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, Mr. Wellstone, and Mr. Wyden):

S. 277. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself, Mr. Bingaman, and Ms. Snowe):

S. 278. A bill to restore health care coverage to retired members of the uniformed services; to the Committee on Armed Services.

By Mr. LOTT (for himself and Mr. Daschle):

S. 279. A bill affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee; considered and passed.

By Mr. JOHNSON (for himself, Mr. Graham, Mr. Campbell, Mr. Enzi, Mr. Baucus, Mr. Cleland, Mr. Daschle, and Mr. Hollings):

S. 280. A bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HAGEL (for himself, Mr. McCain, Mr. Cleland, and Mr. Kerry):

S. 281. A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. Lugar):

S. 282. A bill to establish in the Antitrust Division of the Department of Justice a position with responsibility for agriculture antitrust matters; to the Committee on the Judiciary.

By Mr. McCAIN (for himself, Mr. Edwards, Mr. Kennedy, Mr. Chafee, Mr. Graham, Mr. Specter, Mrs. Lincoln, Mr. Harkin, Mr. Baucus, Mr. Torricelli, Mr. Dodd, Mr. Nelson of Florida, and Mr. Schumer):

S. 283. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN (for himself, Mr. Edwards, Mr. Kennedy, Mr. Chafee, Mr. Graham, Mr. Specter, Mrs. Lincoln, Mr. Harkin, Mr. Baucus, Mr. Torricelli, Mr. Dodd, Mr. Nelson of Florida, and Mr. Schumer):

S. 284. A bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. Specter, Mr. Cleland, and Mr. Byrd):

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself, Mr. Lott, Mrs. Lincoln, Mr. Cochran, Mr. Hutchinson, Mr. Thurmond, Mr. Crapo, and Mr. Craig):

S. Con. Res. 8. A concurrent resolution expressing the sense of Congress regarding subsidized Canadian lumber exports; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND:

S. 269. A bill to ensure that immigrant students and their families receive the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CLELAND. Mr. President, within the last decade, many States have experienced a wave of immigration that is rivaling the first and second waves of German, Irish, Polish and Scandinavian immigrants who arrived in the U.S. in the late 1800s and early 1900s. In fact, the Census Bureau is estimating that these recently arrived immigrants and refugees will account for 75 percent of the U.S. population growth over the next 50 years. These changing demographics are impacting not just communities accustomed to large immigrant populations like New York, Los Angeles and Miami, but also non-traditional immigrant communities like Gainesville, Georgia and Fremont County, Idaho.

One result of our new wave of immigrants is a significant increase in the number of children with diverse linguistic and cultural backgrounds enrolling in our schools. The Waterloo, Iowa school system, for example, is being challenged to teach 400 Bosnian refugee children, who came here without knowing our language, culture or customs. Schools in Wausau, Wisconsin are filled with Asian children who want to achieve success in the United States. In Dalton, Georgia, over 51 percent of the student population in the public schools are Hispanic children eager to participate in their new schools and communities. In Turner, Maine, the school-aged children of hundreds of recently arrived Latino immigrant families are pouring into this rural town's schools.

It is clear that U.S. schools from Florida to Washington State are being increasingly challenged by these changing demographics. We need to make sure that these children are served appropriately—and that their families are as well. Studies have shown that where quality educational programs are joined with community-based services, immigrants have an increased opportunity to become an integral part of their community and their children are better prepared to achieve success in school.

The recent influx of immigrants into U.S. communities calls for innovative and comprehensive solutions. Today I am reintroducing the Immigrants to New Americans Act. This legislation would establish a competitive grant program within the Department of Education to assist schools and communities which are experiencing an influx of recently arrived immigrant families. Specifically, this grant program would provide funding to partnerships of local school districts and community-based organizations for the purpose of developing model programs with a two-fold purpose: to assist culturally and linguistically diverse children achieve success in America's schools and to provide their families with access to comprehensive community services, including health care, child care, job training and transportation.

It does take a village to raise a child, Mr. President.

I have seen firsthand the benefits of one community's program that brings together teachers, community leaders and businesses in an innovative partnership to aid their linguistically and culturally diverse population. It is the Georgia Project, and its mission is to assist immigrant children from Mexico achieve to higher standards in Dalton, Georgia's public schools.

In recent years, the carpet and poultry industries in Dalton and surrounding Whitfield County experienced the need for a larger workforce. The city's visionary leaders encouraged immigrants from Mexico to settle in their community to fill that need. The challenge has been in Dalton's public school system where Hispanic enrollment went from being just four percent ten years ago to over 51 percent today.

To deal with this sizable increase, Dalton and Whitfield County public school administrators and business leaders formed a public-private consortium. This consortium, known as The Georgia Project, initiated a teacher exchange program in 1996 with the University of Monterrey in Mexico. Today, twenty teachers from Mexico are helping to bridge the language and culture gap by serving as instructors, counselors and role models and providing Spanish language training to English-speaking students. In addition, Dalton public school teachers spend a month each year in Monterrey, Mexico learning firsthand the culture, language and customs of the Hispanic students they serve.

There are other programs across the United States that address similar challenges experienced by the City of Dalton and Whitfield County. One such example is the Lao Family Project in St. Paul, Minnesota. This is a community-based refugee assistance organization that provides a wide range of parent-student services to Hmong and Vietnamese refugees in St. Paul in an effort to help parents become economically self-sufficient and their children succeed in school. The Lao Family Project's staff are bilingual/bicultural para-professionals who provide services that include adult English-language acquisition programs and preschool literacy activities for children.

In the rural communities of Healdsburg and Windsor, California, the Even Start program provides a variety of instructional and support services to low-income, recently arrived Hispanic immigrant families and their preschool and elementary school children. The program focuses on increasing family involvement in their children's education, helping parents and children with their literacy skills, and offering English as a second language course. Many of the instructional activities for the parents' classes are coordinated with the classroom teachers to ensure consistency with what is being taught to both the parent and child. One focus of these classes is to communicate what the children are learning in their regular classes so that parents can help their children at home.

The Exemplary Multicultural Practices in Rural Education Program, or EMPIRE, operates in the Yakima region of rural Central Washington State, an area with a diverse mix of ethnic groups, including Caucasians, Hispanics, Native Americans, African Americans, and Asian Americans. The program promotes positive race relations and an appreciation for ethnic and cultural differences. It encourages schools to develop learning environments where children of all backgrounds can be successful in school and in the community. With support from EMPIRE's board of advisors, each school designs and carries out its own projects based on local resources and needs. Schools in which EMPIRE is active plan a wide variety of programs and activities with emphasis on staff development, student awareness, parent involvement and improvement of curriculum and instruction.

The Immigrants to New Americans Act is not a one-size-fits-all approach. It rewards model programs designed by individual communities to address that community's specific needs and challenges. The legislation is endorsed by the National Association for Bilingual Education, the League of United Latin American Citizens, the National Council of La Raza, the Hispanic Education Coalition, the India Abroad Center for Political Awareness, the Southeast Asia Resource Action Center, and the National Korean American Service and Education Consortium.

Our Nation's communities are being transformed by the diverse culture of their citizens. Successfully addressing this change will require leadership, creative thinking and an eagerness to encourage and promote the promise that these new challenges bring. By doing so, we as a Nation will better serve all our children—the best guarantee we have of ensuring America's strength, well into the 21st Century and beyond.

Mr. President, I ask unanimous consent that the text of the bill and the letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigrants to New Americans Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In 1997, there were an estimated 25,800,000 foreign-born individuals residing in the United States. That number is the largest number of such foreign-born individuals in United States history and represents a 6,000,000, or 30 percent, increase over the 1990 census figure of 19,800,000 of such foreign-born individuals. The Bureau of the Census estimates that the recently arrived immigrant population (including the refugee population) currently residing in the Nation will account for 75 percent of the population growth in the United States over the next 50 years.

(2) For millions of immigrants settling into the Nation's hamlets, towns, and cities, the dream of "life, liberty, and the pursuit of happiness" has become a reality. The wave of immigrants, of various nationalities, who have chosen the United States as their home, has positively influenced the Nation's image and relationship with other nations. The diverse cultural heritage of the Nation's immigrants has helped define the Nation's culture, customs, economy, and communities. By better understanding the people who have immigrated to the Nation, individuals in the United States better understand what it means to be an American.

(3) There is a critical shortage of teachers with the skills needed to educate immigrant students and their families in nonconcentrated, nontraditional, immigrant communities as well as communities with large immigrant populations. The large influx of immigrant families over the last decade presents a national dilemma: The number of such families with school-age children requiring assistance to successfully participate in elementary schools, secondary schools, and communities in the United States, is increasing without a corresponding increase in the number of teachers with skills to accommodate their needs.

(4) Immigrants arriving in communities across the Nation generally settle into high-poverty areas, where funding for programs to provide immigrant students and their families with the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States is inadequate.

(5) The influx of immigrant families settling into many United States communities is often the result of concerted efforts by local employers who value immigrant labor. Those employers realize that helping immigrants to become productive, prosperous members of a community is beneficial for the local businesses involved, the immigrants, and the community. Further, local businesses benefit from the presence of the immigrant families because the families present businesses with a committed and effective workforce and help open up new market opportunities. However, many of the communities into which the immigrants have settled need assistance in order to give immigrant students and their families the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations for the development of model programs to provide immigrant students and their families with the services the students and families need to successfully participate in elementary schools, secondary schools, and communities in the United States.

SEC. 4. DEFINITIONS.

(1) IMMIGRANT.—In this Act, the term "immigrant" has the meaning given the term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) OTHER TERMS.—Other terms used in this Act have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 5. PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary of Education may award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(1) assist immigrant students achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(2) assist parents of immigrant students by offering such services as parent education and literacy development services and by coordinating activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(b) ELIGIBLE PARTNERSHIPS.—To be eligible to receive a grant under this Act, a partnership—

(1) shall include—

(A) at least 1 local educational agency; and

(B) at least 1 community-based organization; and

(2) may include another entity such as—

(A) an institution of higher education;

(B) a local or State government agency;

(C) a private sector entity; or

(D) another entity with expertise in working with immigrants.

(c) DURATION.—Each grant awarded under this Act shall be awarded for a period of not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

SEC. 6. APPLICATIONS FOR GRANTS.

(a) IN GENERAL.—Each eligible partnership desiring a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) REQUIRED DOCUMENTATION.—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(1) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(2) the leadership of each participating school has been involved in the development and planning of the program in the school.

(c) OTHER APPLICATION CONTENTS.—Each application submitted by a partnership under this section for a proposed program shall include—

(1) a list of the organizations entering into the partnership;

(2) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency in the schools or school districts to be served through the program and the characteristics of the students described in this paragraph, including—

(A) the native languages of the students to be served;

(B) the proficiency of the students in English and the students' native languages;

(C) achievement data for the students in—

(i) reading or language arts (in English and in the students' native languages, if applicable); and

(ii) mathematics; and

(D) the previous schooling experiences of the students;

(3) a description of the goals of the program;

(4) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(5) a description of activities that will be pursued by the partnership through the program, including a description of—

(A) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(B) how the activities will further the academic achievement of immigrant students served through the program;

(C) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(D) methods of coordinating comprehensive community social services to assist immigrant families;

(6) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(7) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this Act that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(8) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(9) any other information that the Secretary may require.

SEC. 7. SELECTION OF GRANTEES.

(a) CRITERIA.—The Secretary, through a peer review process, shall select partnerships to receive grants under this Act on the basis of the quality of the programs proposed in the applications submitted under section 6, taking into consideration such factors as—

(1) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(2) the quality of the activities proposed by a partnership;

(3) the extent of parental, student, and community involvement;

(4) the extent to which the partnership will ensure the coordination of comprehensive community social services with the program;

(5) the quality of the plan for measuring and assessing success; and

(6) the likelihood that the goals of the program will be achieved.

(b) GEOGRAPHIC DISTRIBUTION OF PROGRAMS.—The Secretary shall approve applications under this Act in a manner that ensures, to the extent practicable, that programs assisted under this Act serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

SEC. 8. EVALUATION AND PROGRAM DEVELOPMENT.

(a) REQUIREMENT.—Each partnership receiving a grant under this Act shall—

(1) conduct a comprehensive evaluation of the program assisted under this Act, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(2) prepare and submit to the Secretary a report containing the results of the evaluation.

(b) EVALUATION REPORT COMPONENTS.—Each evaluation report submitted under this section for a program shall include—

(1) data on the partnership's progress in achieving the goals of the program;

(2) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(A) data comparing the students served under this Act with other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(B) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this Act is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(3) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(4) such other information as the Secretary may require.

SEC. 9. ADMINISTRATIVE FUNDS.

A partnership that receives a grant under this Act may use not more than 5 percent of the grant funds received under this Act for administrative purposes.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $10,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

NATIONAL ASSOCIATION FOR
BILINGUAL EDUCATION,
Washington, DC, January 29, 2001.
Hon. MAX CLELAND,
U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR CLELAND: On behalf of the National Association for Bilingual Education (NABE), I want to thank you for introducing legislation that will help address one of the greatest challenges facing the American educational system—that of addressing the changing needs of emerging immigrant populations.

The dramatic demographic changes that are taking place in our nation are forcing school districts and communities to reevaluate their ability to integrate America's newcomers. While it was once the case that immigrants settled primarily in urban areas like New York City or Los Angeles, poultry processing plants, meat packing firms, and other businesses are attracting immigrants to states like Georgia, Iowa, Arkansas, North Carolina and Idaho. Often, these communities have no experience in helping immigrant children and families integrate so that they too will attain the American dream and help make our country stronger.

Your bill clearly recognizes the contributions that immigrants have made to the United States over its history, and takes a definitive step forward in the spirit of empowerment through education and community-based collaboration. NABE strongly believes that given the appropriate tools and support immigrant students will rise to the highest of levels of achievement. Our endorsement of this forward-thinking legislation is a reaffirmation of this philosophy, and we hope your colleagues in Congress will grant it prompt approval. Once again, I commend you on the introduction of this important piece of legislation.

Sincerely,

DELIA POMPA,
Executive Director.

LEAGUE OF UNITED
LATIN AMERICAN CITIZENS,
Washington, DC, January 26, 2001.
Hon. MAX CLELAND,
U.S. Senate, Dirksen Senate Building, Washington, DC.

DEAR SENATOR CLELAND: The League of United Latin American Citizens (LULAC) wishes to thank you for your efforts at facilitating and enhancing the ability of immigrant children and their families to achieve success in America's schools and communities. We would like to strongly support your legislation, "The Immigrants to New Americans Act."

We believe that this act will greatly enhance the ability for schools and community-based services to develop model programs aimed at helping immigrant students and their families to receive the tools that they need to be successful in their new homeland.

We find that this closely supports our mission and beliefs that immigrants should be supported in any way possible. LULAC is the oldest and largest Latino civil rights organization in the United States. LULAC advances the economic conditions, educational attainment, political influence, health and civil rights of Hispanic Americans through community-based programs operating at more than 700 LULAC Councils nationwide.

Once again, thank you for putting forth this effort to help those who need a little help getting started in this country. Your legislation will help to carry the United

States in a positive way well into the 21st century.

Sincerely,

RICK DOVALINA,
LULAC National President.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, January 30, 2001.

Senator MAX CLELAND,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATOR CLELAND: The National Council of La Raza (NCLR) thanks you for your effort to facilitate and enhance the participation of immigrants in American society. In particular, we would like to express our support for your legislation, the "Immigrants to New Americans Act," which would provide education, adult English as a Second Language (ESL), job training, and other important services to immigrants in "emerging" communities.

Over the past decade, dramatic shifts have occurred in the immigrant population in the United States, particularly among Hispanic immigrants. Many Hispanic immigrants have settled in areas where their presence had previously been virtually invisible. For example, the U.S. Census Bureau determined that the South (Alabama, Arkansas, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee) experienced a 93% increase in its Hispanic population from 1990 to 1998, far outpacing growth in "traditional" Hispanic states like California, New York, and Texas, where increases hovered around 32%. While the U.S. Census Bureau estimated the total Hispanic population in the South in 1998 to be 640,870, unofficial estimates place the Hispanic population of both Georgia and North Carolina at close to 500,000 in each state. Midwestern states have also experienced significant increases in their Hispanic populations during this period, such as Iowa (74%), Minnesota (61%), and Nebraska (96%). Many of these Hispanics are immigrants in search of employment.

The emergence of new immigrant populations has created a significant need for educational and social services. The search for employment opportunities has historically been the primary impetus for the migration of immigrants. An ever-increasing availability of permanent employment has provided the opportunity for many immigrants to settle with their spouses and children, often in areas where previously there had only been seasonal agricultural work available. However, these opportunities have largely been in unskilled or low-skilled, low-paying jobs, such as the textile, poultry, and construction industries in the South; meat- and vegetable-packing in the Midwest; and light manufacturing and service-sector work in major cities like New York City, Los Angeles, and Houston. As these new immigrant populations form permanent settlements, they often face social isolation and disconnection from mainstream society.

Emerging immigrant communities face a multitude of issues in adapting to their new environment. Among the needs identified in these communities are access to rigorous standards-based curriculum in the public schools, effective parental involvement in their children's education, adult English-language acquisition programs, quality child care, and employment and training. Your legislation would help local communities to provide services in each of these critical areas.

NCLR believes that the "Immigrants to New Americans Act" can have a significant, positive impact on the lives of many immigrant children and families, and on the communities in which they are settling. That is why we strongly support your legislation and encourage the entire Congress to do the same.

Sincerely,

RAUL YZAGUIRRE,
President.

HISPANIC EDUCATION COALITION,
January 29, 2001.

Hon. MAX CLELAND,
U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR CLELAND: On behalf of the Hispanic Education Coalition (HEC)—an ad hoc coalition of national organizations dedicated to improving educational opportunities for over 30 million Hispanics living in the United States—we are writing to commend you for introducing The Immigrants to New Americans Act. We support this legislation because it will help improve educational opportunities for Hispanic Americans by supporting education and community-based collaboration.

Recent demographic data show that Hispanic children are the fastest growing segment of the school-aged population. While the majority of Hispanic children live in large urban areas in states like California, Texas and Florida, more and more Hispanic families are migrating to states like Arkansas, Iowa, North Carolina and Georgia. Emerging immigrant communities face a multitude of issues in adapting to their new environment such as academic and language support and effective parental involvement in their children's public schools, adult English-language acquisition programs, and employment and training. Communities like Rogers, Arkansas are in dire need of assistance to ensure new Hispanic and immigrant families are integrated in their communities and schools.

The Immigrants to Americans Act recognizes that while local communities may need support, they are ultimately in the best position to address the needs of the newly arrived Hispanic immigrant families. We are particularly supportive of the inclusion of community-based organizations as partners in developing model programs that help immigrant children succeed in schools and provide families with access to community services.

HEC believes that The Immigrants to New Americans Act can have a significant, positive impact on the lives of many immigrant children and families, their local communities and our nation. That is why we strongly support your legislation and encourage the entire Congress to do the same.

Sincerely,

PATRICIA LOERA,
Co-Chair, National Association
For Bilingual Education.

On behalf of: Association for the Advancement of Mexican Americans (AAMA); HEP-CAMP Association; Hispanic Association of Colleges and Universities (HACU); League of United Latin American Citizens (LULAC); Migrant Legal Action Program; National Association for Migrant Education (NAME); National Association of Latino Elected and Appointed Officials (NALEO); National Council of La Raza (NLCR); National Puerto Rican Coalition (NPRC).

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. LEVIN, Mr. BROWNBACK, and Mr. HELMS):

S. 270. A bill to amend title XVIII of the Social Security Act to provide a transitional adjustment for certain sole community hospitals in order to limit any decline in payment under the prospective payment system for hospital outpatient department services; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce, along with my colleagues Senators JEFFORDS, LEVIN, BROWNBACK, and HELMS the "Rural Hospital and Health Network Preservation Act of 2001."

As you are aware, rural health care providers have operating margins that are often much lower and more dependent upon Medicare and Medicaid reimbursement then suburban or urban providers. The Balanced Budget Refinement Act of 1999 (BBRA 99) allowed rural hospitals of less than 100 beds to be held harmless in the conversion to the new outpatient Prospective Payment System by allowing them to choose to stay essentially under the old fee-for-service program which provided them with increased revenue. However, that 100-bed limit seems arbitrary and will actually result in many slightly larger rural hospitals, that have even higher per patient costs and lower per patient margins, being squeezed even harder under BBA 97 rules.

With passage of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, several additional fixes were put in place for rural providers. While these were steps in the right direction, rural hospitals with between 100 and 400 beds are still not being held harmless in the conversion to the new outpatient Prospective Payment System. This group of hospitals is still suffering under provisions of the BBA of 1997.

Rural hospitals, and all hospitals for that matter, operate on very slim margins yet manage to bring cutting-edge medical care to the communities they serve. But changes in Medicare payments to hospitals have put many institutions in a bind.

The bill I am introducing today will extend the BBRA of 99 hold-harmless provisions to rural hospitals of up to 400 beds that are both Rural Referral Centers and Sole Community Hospitals. This will bring outpatient reimbursement rates for these critical health care providers closer in line to the actual health care costs incurred in rural America by these valued providers.

Rural communities across New Mexico have felt the negative impact of the BBA of 97. The Carlsbad Regional Medical Center, Eastern New Mexico Medical Center, San Juan Regional Medical Center, and Lea Regional Hospital have all been suffering because of the BBA of 97. They tell me that they are bearing substantially higher expenses per patient due to diseconomies of scale for the technically intensive speciality care that is required at these types of facilities. In addition, they face difficulties in recruiting qualified health professionals, as well as qualified coders and compliance experts that are required under the new outpatient Prospective Payment System given Medicare's complexity. This is not a New Mexico only problem. There are at least sixty-one other rural hospitals that fall in this same category across the United States that are also suffering.

While the positive restorative effects of BBRA of 99 and the recently enacted "Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000" were very helpful, they are not enough to protect rural providers. We must prevent rural hospitals from reducing services or closing completely. When a rural hospital reduces services, or worse yet closes, local residents lose access to preventive, routine, and even emergency services. Doctors and other highly trained professionals move away. Then people must drive a hundred miles or more in some cases to get the care city dwellers take for granted. Local economies suffer when jobs are lost. Existing businesses may have to move, and new businesses won't locate in places where health care is unavailable. Hospital closure can be a death-knell for struggling towns. We must move forward to preserve and strengthen the ability of our Nation's rural hospitals and other Medicare providers to provide adequate health care to their patients.

I urge my colleagues to support and pass the Rural Hospital and Health Network Preservation Act of 2001.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Hospital and Health Network Preservation Act of 2001".

SEC. 2. TEMPORARY TREATMENT OF CERTAIN SOLE COMMUNITY HOSPITALS TO LIMIT DECLINE IN PAYMENT UNDER THE OPD PPS.

(a) Hold Harmless Provision.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended by inserting "(or not more than 400 beds if such hospital is a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) and is classified as a rural referral center under section 1886(d)(5)(C))" after "100 beds".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 202(a) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–342), as enacted into law by section 1000(a)(6) of Public Law 106–113.

By Mr. FEINGOLD:

S. 272. A bill to rescind fiscal year 2001 procurement funds for the V–22 Osprey aircraft program other than as necessary to maintain the production base and to require certain reports to Congress concerning that program; to the Committee on Appropriations and the Committee on the Budget, concurrently, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

Mr. FEINGOLD. Mr. President, today I am introducing the Osprey Safety, Performance, and Reliability Evaluation Act of 2001. This legislation would delay the procurement of the V–22 Osprey tilt-rotor aircraft for one year, and would require reports from the Secretary of the Navy and the Department of Defense's Inspector General regarding the program.

The Osprey is an experimental tilt-rotor aircraft that takes off and lands like a helicopter, but flies like an airplane by tilting its wing-mounted rotors forward to serve as propellers. The premise for the aircraft is to combine the operational flexibility of a helicopter with the speed, range, and efficiency of a fixed-wing aircraft.

The Marines, Air Force, and Navy all want to purchase versions of this aircraft. The MV–22 would be used by the Marines for missions such as troop and cargo transport and amphibious assault; the CV–22 would be used by the Air Force for special operations; and the HV–22 would be used by the Navy for search and rescue missions.

I want to be very clear. This bill does not terminate the V–22 program. It does not affect the Marine Corps' ability to continue the research, development, testing, and evaluation of this aircraft.

This bill delays the start of full-rate procurement of the MV–22 Osprey, the Marines' version of this aircraft, for one year. It also delays the procurement of four CV–22s, the Air Force's version of this aircraft, for one year.

There are serious allegations and serious questions surrounding the V–22 program. Thirty Marines have died in Osprey crashes since 1991. Many questions regarding the validity of maintenance records and the safety and viability of this aircraft remain unanswered.

We cannot, in good conscience, move forward with the full-scale procurement of the MV–22 until these allegations have been investigated fully and until these questions have been answered.

We should not move forward with the procurement of this aircraft until further testing has been done to address potentially serious design flaws that could continue to endanger the lives of our military personnel.

We owe it to our men and women in uniform to put their safety first. They are willing to go into harm's way while serving their country. That service should not include being put into harm's way by a potentially unsafe aircraft. We should not move forward with the procurement of an aircraft that crashed as recently as December. We should not procure this aircraft until the Department of Defense is absolutely certain that all major design flaws have been corrected.

The legislation that I am introducing today will delay full-rate production of the MV–22 for one year. This delay is prudent given the ongoing controversy that has loomed over this program during the last weeks and months.

I want to reiterate that this legislation does not require the Department of Defense to terminate the Osprey program. I appreciate the importance of this program to the Marine Corps. I agree that they need to replace the aging CH–46 Sea Knight helicopters that they currently have. However, I am not sure that the Osprey is the safest and most cost-effective alternative to the Sea Knight.

I know that the leaders of the Marines and the Air Force have the greatest concern for the safety of their personnel who are and who will be assigned to the Osprey program. I share that concern. My bill would require the Marine Corps to wait one year to move to full-rate production of the MV–22. Because the airframes for the MV–22 and the CV–22 are 90 percent similar, it follows that the four CV–22s the Air Force plans to buy this year may be subject to many of the same design flaws that have been found in the MV–22. For that reason, my bill would also require the Air Force to wait one year to procure the four CV–22s, which would be used to train their pilots.

I realize that an effort is being made to address the design flaws found during testing of this aircraft resulting in some changes in the new planes that are scheduled to go into production in fiscal year 2001. However, I remain concerned about the many unanswered questions, and the potentially costly retrofits that these aircraft would require as more information about the safety and reliability of the Osprey continues to come to light. In my view, it would be more prudent and more cost effective to wait to move to full-rate production until these questions have been answered.

For those reasons, my bill rescinds most of the fiscal year 2001 procurement funds for the MV–22 and the CV–22, but leaves enough funding in place to maintain the integrity of the production line. These rescissions would return to the taxpayers more than $1.2 billion dollars. This kind of investment should not go forward until we are sure that the Osprey is safe.

The bill does not affect the $148 million in research and development funding for this program. During the next year, vigorous research and testing on the problems that remain should continue once the decision has been made to resume test flights.

This program has a troubled history. Thirty Marines have been killed in Osprey crashes since 1991, twenty-three of them in the past eleven months alone. The Osprey program has been grounded since the December crash that killed four Marines. Following that crash, former Secretary of Defense William Cohen appointed a blue ribbon panel to study the Osprey program. That panel's report is due to be presented to Secretary of Defense Rumsfeld in March or April of this year. In addition, two investigations on the December crash are ongoing.

The safety of our men and women in uniform should be the top priority every time the Department of Defense develops and procures new technology, whether it be weapons, ships, or aircraft.

During his tenure as Secretary of Defense, Vice President CHENEY tried to cancel the V-22 program in each of his budget requests from fiscal year 1990 through 1993 because he believed the program was too costly. Congress disagreed, and the program continued to receive funds.

When asked about the Osprey program last month, the Vice President said, "Given the track record and the loss of life so far, it would appear to me that there are very serious questions that can and should be—and I hope will be—raised about the Osprey."

I agree with Vice President CHENEY's statement, and I hope that this legislation will help to get answers to these serious concerns.

One additional concern about this program is its cost. The Marines, the Air Force, and the Navy each want to buy a version of this aircraft, for a total of 458 aircraft at a cost of $38.1 billion, or about $83 million per Osprey. Some defense observers have argued that the mission of the Osprey could be performed by less costly helicopters.

Another concern is the safety of the aircraft. One of the newspapers in my home state of Wisconsin, the Milwaukee Journal Sentinel, has called the Osprey a "lemon with wings." Is that a fair description? There is reason to pause and take a good look at the program and find out. In addition to the four crashes that have occurred since 1991, there are also a number of unanswered questions regarding the design and performance of the aircraft.

The MV-22 underwent operational evaluation, OPEVAL, between October 1999 and August 2000. During OPEVAL, in June 2000, a draft DoD Inspector General's report cited 23 major operational effectiveness and suitability requirements that would not be met prior to the scheduled December 2000 Milestone III decision on whether to enter into full-rate production of the MV-22 in June 2001. The Marine Corps conceded that these problems exist, and said they had been aware of these deficiencies prior to the beginning of the OPEVAL.

In October 2000, the Navy announced that the MV-22 had been judged operationally effective and suitable for land-based operations. In November 2000, the MV-22 was also judged operationally effective and suitable for sea-based operations.

Following the completion of OPEVAL, the Department of Defense's Director of Operational Testing and Evaluation, Philip Coyle, released his report on the MV-22. This report, which was issued on November 17, 2000, makes a number of recommendations regarding further testing that should be conducted on this aircraft, including testing on a number of requirements for the aircraft that were waived during OPEVAL.

Particularly troubling are the MV-22's Mission Capable, MC, and Full Mission Capable, FMC, rates at the end of OPEVAL. These ratings demonstrate the availability of the aircraft—the amount of time that each MV-22 is able to fly versus the amount of time that each MV-22 is unavailable due to maintenance needs.

The Mission Capable rating represents the percentage of time that the test aircraft were able to perform at least one of their assigned missions. The Marine Corps' objective for the MC rate is between 82 and 87 percent. At the end of OPEVAL, the MC rate for the MV-22 was 49 percent. That means, Mr. President, that the MV-22 test fleet was capable of performing at least one of its missions only 49 percent of the time during OPEVAL. From 1995-1999, the entire CH-46 fleet Sea Knight fleet, which the Osprey is supposed to replace, was rated Mission Capable 79 percent of the time.

The Full Mission Capable rate, FMC, is defined as the percentage of time that the aircraft could perform all of its assigned missions. The Marine Corps' objective for FMC is 75 percent. At the end of OPEVAL, the MV-22 had a FMC rate of only 20 percent. From 1995-1999, the CH-46 fleet had a FMC rate of 74 percent.

I want to say this again—at the end of OPEVAL, the MV-22 test fleet was capable of performing all of its assigned missions only 20 percent of the time. The Coyle report says that part of this low rating can be attributed to problems with the blade fold wing stow, BFWS, system, and that measures to address this problem will be incorporated into all new MV-22s.

While both the MC and the FMC both improved over the course of OPEVAL, both rates are still well below the Marines' own requirements. By delaying the full rate production of the MV-22 for one year, the Marines will have the opportunity to further improve these crucial rates, including testing the modifications to the BFWS system, and potentially save countless maintenance hours and costs over the life of this program.

In addition to the problems outlined in the Coyle report, a General Accounting Office report released last month titled "Major Management Challenges and Program Risks: Department of Defense" also expresses concern about the Osprey program. The report states that "the DoD . . . begins production on many major and nonmajor weapons without first ensuring that the systems will meet critical performance requirements." The report cites a number of examples, including the Osprey. GAO reports that "the Navy was moving toward a full-rate production decision on the MV-22 Osprey aircraft without having an appropriate level of confidence that the program would meet design parameters as well as cost and schedule objectives."

This finding is just another of the many reasons why the full-rate procurement of the MV-22 and the procurement of four CV-22s should be delayed. I share GAO's concern about the frequency with which DoD moves into full-rate production of systems that may not have been adequately tested. This rush to production often raises safety concerns and costs the taxpayers large sums for costly retrofits to address problems that were often evident—but not fixed—before full-rate production began. And even if the Osprey is proven to be safe, questions still remain about its cost.

I am also deeply troubled by the allegations that the Commander of the Marine Tilt-Rotor Training Squadron 204 may have ordered his team to falsify maintenance records for the MV-22. An anonymous DoD whistle blower released a letter and documentation, including an audio tape on which it is reported that the Commander is heard telling his squadron to "lie" about maintenance reports on the MV-22 until the Milestone III decision to move into full-rate production of the aircraft had been made. This decision was scheduled to be made in December 2000, but has been postponed indefinitely. The Commander has been relieved of his command pending a full investigation by the DoD Inspector General's office.

There have been reports that high-ranking Marine Corps officers may have known about the low MC and FMC rates for the MV-22 in November 2000, and that one of them may have released inaccurate information to the press regarding the Mission Capable rates of the MV-22.

An electronic mail message from one of these officers to a superior officer dated November 11, 2000, states that the information regarding the MV-22 MC and FMC rates for November contained in the message should be "close held" and that the MC and FMC rates for Squadron 204 were 26.7 percent and 7.9 percent, respectively. The message also said that the sender "had hoped to be able to use some recent numbers next month when [his superior] meet[s] with Dr. Buchanan for his Milestone III/FRP decision in December . . . this isn't going to help."

Later that month, on November 30, 2000, the officer who reportedly sent that electronic mail message participated in a DoD press briefing at which the Osprey was discussed in some detail. During this press briefing, the officer said the following regarding the Mission Capable rates of the MV-22s being tested by Squadron 204: ". . . as I was walking down here [to the briefing], I pulled the first 13 days of November, mission-capable rate on those airplanes, and the average is 73.2 percent for the first 13 days in November of those nine airplanes. So when we start talking about the airplane, even since OPEVAL, improving and getting better, the answer is it is absolutely a resounding yes."

This information is contrary to the electronic mail message that the officer in question reportedly sent to a superior officer only nine days before, which stated that the MC rate for the MV-22s being tested by Squadron 204 for November 2000 was only 26.7 percent. That is a difference of 46.5 percent. News reports last week said that the officer admitted sending the message and attributes the discrepancy in the MC rate figures to a new software system.

I understand that these very serious allegations are still being investigated, and I agree that all of those involved deserve a fair and impartial investigation. We should not rush to judgement about the alleged conduct of any of these personnel, all of whom who have dedicated their lives to serving and protecting this country. However we must remain cognizant of the fact that the outcome of this investigation could have an enormous impact on the Osprey program.

This still unfolding situation is another reason why the full rate procurement of the MV-22 should be delayed. Until these disturbing allegations have been fully investigated to determine whether records were falsified in order to make the Osprey appear safe and reliable, the Department of Defense should not move ahead with this program.

Because of the safety concerns outlined above, Mr. President, my bill requires the Secretary of the Navy to submit a report to the Congress on the V-22 program that includes: a description of the planned uses for the fiscal year 2001 research and development funding for the Osprey program; a description of the actions taken as a result of the Coyle report; and a description of the manner in which the Navy and the Marine Corps have responded to the allegations of the falsification of maintenance records at Squadron 204. The bill also requires the DoD Inspector General to report to the Congress on the results of its investigation into the alleged falsification of maintenance records at Squadron 204. It would require that these reports be submitted three months after the enactment of this legislation or on the date of the Milestone III decision regarding full-rate production of the MV-22 Osprey, whichever is earlier.

The safety of our men and women in uniform should be the principle that guides this important decision. We should not begin to procure the MV-22 in mass quantities until we know for certain that this aircraft is safe, that its maintenance records are accurate, and that the design flaws described in the Coyle report have been adequately addressed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Osprey Safety, Performance, and Reliability Evaluation Act of 2001".

SEC. 2. RESCISSIONS.

(a) IN GENERAL.—Of the funds made available in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), the following amounts are rescinded from the following accounts:

(1) "Aircraft Procurement, Navy", $856,618,000, of which $776,760,000 shall be derived from "V–22 (Medium Lift)" and $79,858,000 shall be derived from "V–22 (Medium Lift) (AP–CY)".

(2) "Aircraft Procurement, Air Force", $358,440,000, of which $335,766,000 shall be derived from "V–22 Osprey" and $22,674,000 shall be derived from "V–22 Osprey (AP–CY)".

(b) LIMITATION ON USE OF REMAINING FUNDS.—Following the rescission made by subsection (a)(1), the balance of the funds remaining available for obligation in the account involved for "V–22 (Medium Lift)" may be used only to carry out activities necessary to maintain the production base for such aircraft program.

SEC. 3. REPORTS TO CONGRESS.

(a) SECRETARY OF THE NAVY REPORT.—The Secretary of the Navy shall submit to Congress a report on the V–22 Osprey aircraft program. The report shall include the following:

(1) A description of the activities carried out, and programmed to be carried out, using funds appropriated for that program for research, development, test, and evaluation for fiscal year 2001.

(2) A description of the actions taken by the Secretary as a result of the report on that program issued by the Director of Operational Test and Evaluation of the Department of Defense dated November 17, 2000.

(3) A description of the manner in which the Marine Corps and the Department of the Navy have responded to the reports of data falsification concerning the Osprey aircraft by Marine Corps personnel assigned to Marine Medium Tilt-Rotor Training Squadron 204.

(b) INSPECTOR GENERAL REPORT.—The Inspector General of the Department of Defense shall submit to Congress a report on the results, as of the submission of the report, of the investigation of the Inspector General into the V–22 Osprey aircraft program.

(c) TIME FOR SUBMISSION OF REPORTS.—The reports under subsections (a) and (b) shall each be submitted not later than the earlier of the following:

(1) The date that is three months after the date of the enactment of this Act.

(2) The date of the Milestone III decision for the V–22 Osprey aircraft program approving the entry of that program into full-rate production.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 273. A bill to amend title 28, United States Code, to divide New Jersey into 2 judicial districts; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, I rise today to introduce, on behalf of myself and my distinguished colleague, Senator CORZINE, a bill that will help bring more criminals to justice and create a better federal judicial system in New Jersey. This legislation will divide the federal District of New Jersey into the Southern and Northern Districts of New Jersey thus enabling federal courts and federal law enforcement to better serve the State's approximately eight million residents.

Currently, the District of New Jersey has 17 judges. This bill does not increase the number of judges, but divides them between the Southern and Northern Districts giving the South 7 judges and the North 10. The bill will also result in the creation of several new federal positions for the Southern District including a Clerk of the Court, U.S. Attorney, U.S. Marshal, and a Federal Public Defender.

The creation of two districts in New Jersey is called for by the additional crime-fighting resources a split will bring to the State and by the sheer size of the State. The current District of New Jersey is the third most populous federal judicial district in the nation. Of the 25 states that have a single federal judicial district, New Jersey has the largest population. More than a dozen states with smaller populations have multiple judicial districts. In fact, with more than 2 million residents in the southern counties, the population of the proposed Southern District of New Jersey would exceed that of almost half of the current judicial districts. The proposed Northern District would rank even higher.

And while the bill would not create any new judgeships, it would mean that, for the first time, the judges of the Southern District would necessarily come from and be part of the unique community they serve. This can only lead to enhanced sensitivity to the community's needs.

The bill will also take a significant step towards addressing the disparity in crime-fighting resources allocated to northern and southern New Jersey. In 1998, southern New Jersey accounted for 25 percent of the state's urban murders, 32 percent of the state's murder arrests and 33 percent of the state's arrests for violent crimes. Despite these statistics, only 10 percent of the FBI agents, 15 percent of U.S. Marshals and 18 percent of DEA agents in New Jersey are assigned to the southern counties.

The bill will also ensure that crime-fighting decisions are made locally instead of by officials who are based elsewhere in the state. This too would result in a government more sensitive and responsive to the people it serves.

Given these facts, it is not surprising that the bill has received a ringing endorsement from many in New Jersey's legal and law enforcement community. In the last Congress, the House version of this bill was cosponsored by the entire southern New Jersey Congressional delegation. I hope to have their support again. It is also supported by the New Jersey State Bar Association, all of the southern county bar associations, the South Jersey Police Chief's Association, the Chamber of Commerce of Southern New Jersey, and various former county prosecutors and former federal law enforcement officials.

While the process of reviewing and deliberating the merits of this legislation will be lengthy and time consuming, this is a change that is long overdue. The citizens of New Jersey deserve a better federal judicial system and their fair share of federal crime-fighting resources. I look forward to working with my colleagues to secure passage of this legislation.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) In 1978, the Judicial Conference of the United States established a procedure for creating new Federal judicial districts, which is still in force. According to the "Proceedings of the Judicial Conference, September 21–22, 1978", this procedure requires that 4 principal criteria be taken into consideration in evaluating the establishment of a new Federal judicial district: caseload, judicial administration, geography, and community convenience.

(2) The criterion of "caseload" is found to include the total number of Federal court cases and the number of cases per Federal judge, for both criminal and civil Federal cases.

(3)(A) The 13 southern counties of New Jersey, consisting of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Monmouth, Ocean, Salem, Somerset, and Warren Counties, have a substantial criminal caseload which requires the creation of a separate judicial district.

(B) 463 Federal criminal cases originated in the 13 southern New Jersey counties in fiscal year 1999 and were handled principally by the 5 judges of the Camden vicinage and the 3 judges of the Trenton vicinage.

(C) In fiscal year 1999, the criminal cases originating in the 13 southern New Jersey counties exceeded that of 57 of the current 93 Federal judicial districts other than the District of New Jersey. Only 36 of the other current Federal judicial districts had more criminal cases than the southern region of New Jersey.

(D) For example, in the District of Massachusetts (19 judges), 434 criminal cases were filed in fiscal year 1999. In the District of Connecticut (14 judges), only 250 criminal cases were filed in fiscal year 1999.

(4)(A) The substantial civil caseload concentrated in the southern counties of New Jersey requires the creation of a separate judicial district.

(B) Approximately 2,983 Federal civil cases originated in the 13 southern New Jersey counties in fiscal year 1999 and were handled principally by the 5 judges of the Camden vicinage and the 3 judges of the Trenton vicinage.

(C) In the fiscal year 1999, the civil cases originating in the 13 southern New Jersey counties exceeded that of 68 of the current Federal judicial districts other than the District of New Jersey. Only 25 of the other Federal judicial districts had more civil cases than the southern region of New Jersey.

(D) For example, in the Southern District of West Virginia, a separate judicial district with 8 judges, only 1,203 civil cases were commenced in fiscal year 1999. The Western District of Tennessee, with 6 judges, had only 1,512 civil cases commenced in fiscal year 1999.

(5) The criterion of "judicial administration" is found to include the backlog of pending cases in a Federal judicial district, which hinders the effective resolution of pending business before the court.

(6)(A) The size of the backlog of pending cases concentrated in the 13 southern counties of New Jersey requires the creation of a separate judicial district.

(B) In fiscal year 1999, the pending criminal cases attributed to the 13 southern New Jersey counties exceeded that of 62 of the current 93 Federal judicial districts other than the District of New Jersey. Only 31 of the other current Federal judicial districts had more pending criminal cases than the southern region of New Jersey.

(C) In fiscal year 1999, the pending civil cases attributed to the 13 southern New Jersey counties exceeded that of 66 of the current 93 Federal judicial districts other than the District of New Jersey. Only 27 of the other current Federal judicial districts had more pending civil cases than the southern region of New Jersey.

(D) The number of pending cases in the Camden vicinage of New Jersey exceeds the number of cases pending before entire judicial districts with similar numbers of judges, clearly indicating that southern New Jersey merits a separate Federal judicial district. For example, as of October 1, 1999, there were 1,431 civil cases pending before the Camden vicinage, and only 113 of those were commenced in fiscal year 1999. The Western District of Tennessee, with 6 judges, had only 1,079 civil cases pending in fiscal year 1999. The Western District of Oklahoma had only 1,356 civil cases pending in fiscal year 1999 before 9 judges. Finally, there are 161 criminal cases pending before the Camden vicinage, while the entire Southern District of Indiana, with 7 judges, had only 117 criminal cases pending in fiscal year 1999.

(7) The criterion of "geography" is found to mean the accessibility of the central administration of the Federal judicial district to officers of the court, parties with business before the court, and other citizens living within the Federal judicial district.

(8)(A) The distance between the northern and southern regions of New Jersey and the density of New Jersey's population create a substantial barrier to the efficient administration of justice.

(B) The distance from Newark, New Jersey to Camden, New Jersey is more than 85 miles.

(C) When a new Federal court district was created in Louisiana in 1971, the distance between New Orleans and Baton Rouge (nearly 80 miles) was cited as a major factor in creating a new district court, as travel difficulties were impeding the timely administration of justice.

(9) The criterion of "community convenience" is found to mean the extent to which creating a new Federal judicial district will allow the court to better serve the population and diverse communities of the area.

(10)(A) New Jersey's culturally and regionally diverse population of over 8,000,000 citizens, widely distributed across a densely populated State, is inconvenienced by having only 1 judicial district.

(B) The District of New Jersey is the third most populous Federal judicial district in the United States.

(C) The population of the 13 southern New Jersey counties exceeds the population of 67 of the current 93 Federal judicial districts other than the District of New Jersey. The population of the 8 northern New Jersey counties (consisting of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex, and Union) exceeds the population of 73 of the current 93 Federal judicial districts other than the District of New Jersey.

(D) Of the 25 States that have only a single Federal judicial district (including Puerto Rico, the United States territories, and the District of Columbia), New Jersey has the highest population.

(E) More than a dozen States have smaller populations than New Jersey, yet they have multiple Federal judicial districts, including Washington, Oklahoma, Iowa, Georgia, West Virginia, and Missouri.

(11) In evaluating the creation of a new Southern District of New Jersey, the Judicial Conference should seek the views of the chief judge of the affected district, the judicial council for the affected circuit court, and the affected United States Attorney as representative of the views of the Department of Justice, as required in the procedure established by the "Proceedings of the Judicial Conference, September 21–22, 1978".

SEC. 2. ESTABLISHMENT OF 2 DISTRICTS IN NEW JERSEY.

(a) CREATION.—Section 110 of title 28, United States Code, is amended to read as follows:

"§ 110. New Jersey

"New Jersey is divided into 2 judicial districts to be known as the Northern and Southern Districts of New Jersey.

"Northern District

"(a) The Northern District comprises the counties of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex, and Union.

"Court for the Northern District shall be held at Newark.

"Southern District

"(b) The Southern District comprises the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Monmouth, Ocean, Salem, Somerset, and Warren.

"Court for the Southern District shall be held at Camden and Trenton.".

(b) JUDGESHIPS.—The item relating to New Jersey in the table set forth in section 133(a) of title 28, United States Code, is amended to read as follows:

"New Jersey:	
"Northern	10
"Southern	7".

(c) BANKRUPTCY JUDGESHIPS.—The item relating to New Jersey in the table set forth in section 152(a)(1) of title 28, United States Code, is amended to read as follows:

"New Jersey:	
"Northern	4
"Southern	4".

SEC. 3. DISTRICT JUDGES, BANKRUPTCY JUDGES, MAGISTRATE JUDGES, UNITED STATES ATTORNEY, UNITED STATES MARSHAL, AND FEDERAL PUBLIC DEFENDER.

(a) TRANSFER OF DISTRICT JUDGES.—(1) Any district judge of the District Court of New Jersey who is holding office on the day before the effective date of this Act and whose official duty station is in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex, or Union County shall, on or after such effective date, be a district judge for the Northern District of New Jersey. Any district judge of the District Court of New Jersey who is holding office on the day before the effective date of this Act and whose official duty station is in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Monmouth, Ocean, Salem, Somerset, or Warren County shall, on and after such effective date, be a district judge of the Southern District of New Jersey.

(2) Whenever a vacancy occurs in a judgeship in either judicial district of New Jersey, the vacancy shall first be offered to those judges appointed before the enactment of this Act and in active service in the other judicial district of New Jersey at the time of the vacancy, and of those judges wishing to fill the vacancy, the judge most senior in service shall fill that vacancy. In such a case, the President shall appoint a judge to fill the vacancy resulting in the district of New Jersey from which such judge left office.

(b) TRANSFER OF BANKRUPTCY AND MAGISTRATE JUDGES.—Any bankruptcy judge or magistrate judge of the District Court of New Jersey who is holding office on the day before the effective date of this Act and whose official duty station is in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex, or Union County shall, on or after such effective date, be a bankruptcy judge or magistrate judge, as the case may be, for the Northern District of New Jersey. Any bankruptcy judge or magistrate judge of the District Court of New Jersey who is holding office on the day before the effective date of this Act and whose official duty station is in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Monmouth, Ocean, Salem, Somerset, or Warren County shall, on and after such effective date, be a bankruptcy judge or magistrate judge, as the case may be, of the Southern District of New Jersey.

(c) UNITED STATES ATTORNEY, UNITED STATES MARSHAL, AND FEDERAL PUBLIC DEFENDER.—

(1) THOSE IN OFFICE.—This Act and the amendments made by this Act shall not affect the tenure of office of the United States attorney, the United States marshal, and the Federal Public Defender, for the District of New Jersey who are in office on the effective date of this Act, except that such individuals shall be the United States attorney, the United States marshal, and the Federal Public Defender, respectively, for the Northern District of New Jersey as of such effective date.

(2) APPOINTMENTS.—The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and a United States marshal for the Southern District of New Jersey. The Court of Appeals for the Third Circuit shall appoint a Federal Public Defender for the Southern District of New Jersey.

(d) PENDING CASES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect any action commenced before the effective date of this Act and pending in the United States District Court for the District of New Jersey on such date.

(e) JURIES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Judicial District of New Jersey on the effective date of this Act.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) APPOINTMENTS.—Notwithstanding subsection (a), the President and the Court of Appeals for the Third Circuit may make the appointments under section 3(c)(2) at any time after the date of the enactment of this Act.

By Mr. BAUCUS:

S. 274. A bill to establish a Congressional Trade Office; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am introducing a bill today to create a Congressional Trade Office. It is similar to the bill I offered in the last session of Congress. This legislation is designed to assist the Congress in fulfilling our Constitutional responsibility for trade policy by creating an entity that can provide us with the expertise we need to get independent, non-partisan, and neutral analysis and information about trade.

Over the past three decades, the role of trade in our economy has grown enormously. In 1970, trade was equal to only eleven percent of our Gross Domestic Product. In contrast, today exports and imports are equivalent to 27 percent of our economy.

I have been in Congress for 26 years. During that time, I have watched a continuing transfer of authority and responsibility for trade policy from the Congress to the Executive Branch. The trend has been subtle, but it has been clear and constant. We need to reverse this trend.

Article I, Section 8, of the U.S. Constitution says: "The Congress shall have power . . . To regulate commerce with foreign nations." It is our responsibility to set the direction for the Executive Branch in its formulation of trade policy. It is our responsibility to ensure that agreements with our trading partners are followed and that there is full compliance. It is our responsibility to provide more effective and active oversight of our nation's trade policy. I believe strongly that we must re-assert Congress' constitutionally defined responsibility for international commerce.

The Congressional Trade Office I am proposing will provide the entire Congress, through the Senate Finance Committee and the House Ways and Means Committee, with the additional trade expertise that will allow us to meet these responsibilities.

The trade issues that the Congress may face this session are many and complex: Fast track; incorporating legitimate labor and environmental issues into trade policy; the U.S./Jordan Free Trade Agreement; the U.S./Vietnam Bilateral Trade Agreement; Free Trade Area for the Americas; possible free trade agreements with Singapore, Chile, and others; Chinese accession to WTO and then compliance with its WTO commitments; and a new comprehensive multilateral trade round.

Congress needs to be much better prepared to deal with these issues responsibly and authoritatively. That means we need access to more and better information, independently arrived at, from people whose commitment is to the Congress, and only to the Congress.

The Congressional Trade Office would help us meet these responsibilities through its four core functions.

First, it will monitor compliance with major bilateral, regional, and multilateral trade agreements. Congress needs the independent ability to look more closely at agreements with other countries. The Congressional Trade Office will analyze the performance under key agreements and evaluate success based on commercial results. It will do this in close consultation with the affected industries. The Congressional Trade Office will recommend to the Congress actions necessary to ensure that commitments made to the United States are fully implemented. It will also provide annual assessments of the extent to which agreements comply with labor and environmental goals.

The General Accounting Office has reported on the deficiencies in the Executive Branch in following trade agreements and monitoring compliance. Often more energy goes into negotiating new agreements than into ensuring that existing agreements work. The Administration has increased the resources it devotes to compliance, and

I supported that. But an independent and neutral assessment in the Congress of compliance is necessary. It is unrealistic to expect an agency that negotiated an agreement to provide a totally objective and dispassionate assessment of that agreement's success or failure. Human nature, and institutional nature, does not lead to such an outcome.

Second, observing trade negotiations first hand is critical to the ability of Congress to provide meaningful oversight of trade policy. Congressional Trade Office staff will participate in selected negotiations as observers and report back to the Committees.

Third, the Congressional Trade Office will be active in dispute settlement deliberations. It will evaluate each WTO decision where the U.S. is a participant. In the case of a U.S. loss, it will explain why it lost. In the case of a U.S. win, it will measure the commercial results from that decision. Congressional Trade Office staff should participate as observers on the U.S. delegation at appropriate dispute settlement panel meetings at the WTO.

I don't think we even know whether the WTO dispute settlement process has been successful or not from the perspective of U.S. commercial interests. A count of wins versus losses tells us nothing. The Congressional Trade Office will give us the facts we need to evaluate this process properly.

Fourth, the Congressional Trade Office will have an analytic function. For example, after the Administration delivers its annual National Trade Estimates report, the NTE, to Congress, it will analyze the major outstanding trade barriers based on the cost to the U.S. economy. It will also provide an analysis of the Administration's Trade Policy Agenda.

The Congressional Trade Office will analyze proposed trade agreements. It will examine the impact of Administration trade policy actions. And it will analyze the trade accounts every quarter, including the global current account, the global trade account, and key bilateral trade accounts.

The Congressional Trade Office is designed to service the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee. It will also advise other committees on both the impact of trade negotiations and the impact of the Administration's trade policy on those committees' areas of jurisdiction. Trade rules increasingly affect domestic regulations. Expertise on the implications of trade policy on domestic regulatory issues will be vitally necessary. The Congressional Trade Office can provide that assistance.

The staff of the Congressional Trade Office will consist of professionals who have a mix of expertise in economics and trade law, plus in various industries and geographic regions. My expectation is that staff members will see this as a career position, thus, providing the Congress with long-term institutional memory.

I encourage my colleagues to support this innovative proposal.

By Mr. KYL (for himself, Mr. BREAUX, Mr. GRAMM, Mrs. LINCOLN, and Mr. BAYH):

S. 275. A bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes; to the Committee on Finance.

Mr. KYL. Mr. President, today, Senators BREAUX, GRAMM, LINCOLN, and BAYH and I are introducing the Estate Tax Elimination Act, a bill to replace the federal estate tax with a tax on capital gains earned from inherited assets due when those assets are sold.

This is the approach that won the support of bipartisan majorities in both houses of Congress last year. Instead of levying an estate tax at death, Congress agreed that a tax should be imposed when income is actually realized from inherited property—that is, when it is sold. The bipartisan consensus that already exists in support of this plan means that Congress and President Bush—who, unlike his predecessor, supports repeal of the death tax—can come together and quickly dispose of the issue this year.

Mr. President, the beauty of this approach is that it removes death as the trigger for any tax. Whether an asset is sold by the decedent during his or her lifetime, or by someone who later inherits the property, the gain is taxed the same. Death neither confers a benefit, nor results in a punitive, confiscatory tax. Senators on both sides of the aisle accepted this arrangement last year, and should support it again this year.

Mr. President, we know that many Americans are troubled by the estate tax's complexity and high rates, and by the mere fact that it is triggered by a person's death rather than the realization of income. For a long time, I have advocated repeal, because I believe death should not be a taxable event.

Others agree that the tax is problematic, but are concerned that the unrealized appreciation in certain assets might escape taxation forever if the death tax were repealed while the step-up in basis allowed by under current law remained in effect. That is a legitimate concern.

We address this by recommending the elimination of both the death tax and the step-up in basis, and attributing a carryover basis to inherited property so that all gains are taxed at the time the property is sold and income is realized.

The concept of a carryover basis is not new. It exists in current law with respect to gifts, property transferred in cases of divorce, and in connection with involuntary conversions of property relating to theft, destruction, seizure, requisition, or condemnation.

In the latter case, when an owner receives compensation for involuntarily converted property, a taxable gain normally results to the extent that the value of the compensation exceeds the basis of the converted property. However, Section 1033 of the Internal Revenue Code allows the taxpayer to defer the recognition of the gain until the property is sold. The concept recommended in this amendment would treat the transfer of property at death—perhaps the most involuntary conversion of all—the same way, deferring recognition of any gain until the inherited property is sold.

Small estates, which currently pay no estate tax by virtue of the unified credit, and no capital-gains tax by virtue of the step up, would be unaffected by the basis changes being proposed here. The estate tax would be eliminated for them, and a limited step-up in basis would be preserved. Each person could still step up the basis in his or her assets by up to $2.8 million. Beyond that, a carryover basis would apply.

I want to stress to colleagues, particularly colleagues on the Democratic side of the aisle, that this measure would not allow unrealized appreciation in inherited assets—beyond the limited step-up amount—to go untaxed, as other death-tax repeal proposals would do. We are merely saying that if a tax is imposed, it should be imposed when income is realized.

Mr. President, some people may ask whether the American people want this kind of tax relief. I will answer that question. Although most Americans will probably never pay a death tax, most still sense that there is something terribly wrong with a system that allows Washington to seize more than half of whatever is left after someone dies—a system that prevents hard-working Americans from passing the bulk of their nest eggs to their children or grandchildren.

Fairness, Mr. President. That is what the effort to repeal the death tax is all about. A June 22–25, 2000 Gallup poll found that 60 percent of the people support repeal, even though about three-quarters of those supporters do not think they will ever have to pay a death tax themselves.

A poll conducted by Zogby International on July 6, 2000, found that, given a choice between a candidate who believes that a large estate left to heirs should be taxed at a rate of 50 percent for anything over $2 million, and a candidate who believes that the estate tax is unfair to heirs and should be eliminated, 75 percent of the people prefer the person supporting death-tax repeal.

Other polls similarly put support for repeal at between 70 and 80 percent.

Voters in two states approved referenda last November to repeal their state death tax: South Dakota by a vote of 79 to 21 percent, and Montana by a vote of 68 to 32 percent. Many other states have already done the same.

Mr. President, the significant majorities in the House and Senate that voted for repeal last year means that we have finally found a formula for taxing inherited assets in a fair and commonsense way. Appreciated value will be taxed, but only when income is actually realized—that is, when the assets are sold. And then, the gains would be treated by the Tax Code no better, and no worse, than the gains from the sale of any other kind of asset.

I invite our Senate colleagues to join in support of this bipartisan initiative again this year.

By Mr. SHELBY (for himself, Mr. Bond, Mr. Thomas, Mr. Hagel, Mr. Sessions, Mr. Helms, Mr. Inhofe, Mr. Burns, Mr. Kyl, Mr. Cochran, Ms. Snowe, and Mr. Allard):

S. 276. A bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes; to the Committee on Governmental Affairs.

Mr. SHELBY. Mr. President, I rise today with my colleague Senator Bond, to introduce the Stealth Tax Prevention Act. Perhaps the most important power given to Congress by the Constitution of the United States, is the responsibility of taxation. The Founding Fathers rationale behind bestowing this power on Congress is that as elected representatives, Congress remains accountable to the people when they levy and collect taxes. Members of Congress, unlike Federal agency bureaucrats, are rightly held responsible to the public for producing fair and prudent tax legislation.

In 1996, Mr. President, Congress passed the Congressional Review Act, which provides that when a major agency rule takes effect, Congress has 60 days to review it. During this time period, Congress has the option to pass a disapproval resolution. If no such resolution is passed, the rule then goes into effect.

As you know, Mr. President, the Internal Revenue Service maintains an enormous amount of power over the lives and the livelihoods of the American taxpayers through their authority to implement and enforce the Tax Code. Even though Congress, and only Congress, has the authority to tax, the Internal Revenue Service has found a "backdoor" way to increase our federal tax burden through their interpretive authority. The Stealth Tax Prevention Act, that Senator Bond and I are introducing along with Mr. Thomas, Mr. Hagel, Mr. Kyl, Mr. Burns, Mr. Helms, Mr. Inhofe, Mr. Sessions, Mr. Cochran, Ms. Snowe, and Mr. Allard, will return the authority of taxation to the United States Congress by expanding the definition of a major rule to include any IRS regulation which increases Federal revenue.

For example, if the Office of Management and Budget finds that the implementation and enforcement of a rule would result in an increase of Federal revenues over current practices or revenues anticipated from the rule on the date of the enactment of the statute, the Stealth Tax Prevention Act would allow Congress to review the regulations and take appropriate measures to avoid raising taxes on hard working Americans and small businesses.

The discretionary authority of the Internal Revenue Service exposes small businesses, farmers, and individual taxpayers to the sometimes arbitrary actions of bureaucrats, creating an uncertain and, in many instances, a hostile environment in which to conduct day-to-day activities. The Stealth Tax Prevention Act will be particularly helpful in lowering the tax burden on small business which suffers disproportionately, Mr. President, from IRS regulations. This tax burden discourages the startup of new firms and ultimately the creation of new jobs in the economy, which has really made America great.

Average American families and small businesses are saddled with the highest tax burden in our country's history. Americans pay federal income taxes, they pay state income taxes and they pay property taxes. On the way to work in the morning they pay a gasoline tax when they fill up their car and a sales tax when they buy a cup of coffee. Allowing federal bureaucrats to increase taxes even further at their own discretion through interpretation of the tax code is intolerable. The Stealth Tax Prevention Act will leave tax policy where it belongs—to elected members of Congress—not an unelected and unaccountable IRS.

Mr. BURNS. Mr. President, I rise today with my colleague from Alabama to introduce the Stealth Tax Prevention Act. I sponsored this bill in the 105th and again in the 106th Congress. I felt strongly enough about this bill to sponsor it again this year.

One of the most common concerns I hear from my constituents is regarding the Federal Government's authority to levy and collect taxes. This is an important role that we in Congress do not take lightly as we are accountable to the voters who pay those taxes.

Three years ago, Congress passed the Congressional Review Act, which provides that when a major agency rule takes effect, Congress has 60 days to review it. During this time period, Congress has the option to pass a disapproval resolution. If no such resolution is passed, the rule then goes into effect.

The Stealth Tax Prevention Act will expand the definition of a major rule to include any IRS regulation which increases taxes. It is not the role of the IRS to make decisions that will result in increased taxes.

For example, if the Office of Management and Budget finds that the implementation and enforcement of a rule would result in an increase of Federal revenues over current practices or revenues anticipated from the rule on the date of the enactment of the statute, the Stealth Tax Prevention Act would allow Congress to review the regulations and take appropriate measures to avoid raising taxes on hard working Americans, in most cases, small businesses.

Bureaucrats are not directly accountable to taxpayers—I am.

Under the bill introduced today, an IRS implemented stealth tax could not go into effect for at least 60 days following its publication in the Federal. Register. This window would allow Congress the opportunity to review the rule and vote on a resolution to disapprove the tax increase before it is applied to a single taxpayer.

I urge my colleagues to join us in supporting this important legislation to ensure that the IRS neither usurps the proper role of Congress—nor skirts its obligations to identify the impact of its proposed and final rules. When the Department of the Treasury issues a final IRS rule that increases taxes, Congress should have the ability to exercise its discretion to enact a resolution of disapproval before the rule is applicable to a single taxpayer.

The Stealth Tax Prevention Act will leave tax policy where it belongs, to elected Members of the Congress, not unelected and unaccountable IRS bureaucrats.

Thank you, Mr. President, I yield the floor.

By Mr. KENNEDY (for himself, Mr. Akaka, Mr. Bingaman, Mrs. Boxer, Mrs. Clinton, Mr. Corzine, Mr. Daschle, Mr. Dodd, Mr. Durbin, Mr. Feingold, Mrs. Feinstein, Mr. Harkin, Mr. Kerry, Ms. Landrieu, Mr. Lieberman, Mr. Leahy, Mr. Levin, Ms. Mikulski, Mrs. Murray, Mr. Reed, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, Mr. Wellstone, and Mr. Wyden):

S. 277. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, this afternoon I and others will be introducing legislation to increase the minimum wage. We will increase the minimum wage by 60 cents this year, 50 cents next year, and 40 cents the year after.

The reason we are doing this is to recognize that over the last 8 years, we have had the most extraordinary economic expansion, but there are a number of Americans, about 11 million to 13 million Americans, who have not benefitted from our economic expansion.

They are the individuals who are on the lowest rung of the economic ladder. This is an attempt to make an adjustment in their income, and this increase in the minimum wage will provide an extremely modest increase in that income.

This issue is a women's issue because the great majority of those who receive the minimum wage are women.

This is a children's issue because the great majority of the women who are receiving the minimum wage have children and their lives are directly affected by the amount of income their mother or their parents make, and if they are making the minimum wage, often it is not just one job, but two jobs, and their lives are dramatically affected.

It is a civil rights issue because so many of those who are earning the minimum wage are men and women of color.

Most of all, it is a fairness issue. Men and women in this country who work 40 hours a week, 52 weeks a year should not have to live in poverty.

This is about rewarding work. It is a recognition that people in our country who are playing by the rules attempting to provide for their family, if they are making a minimum wage today with a family of three, they are still falling $3,400 below the poverty line in the United States of America. This minimum wage will reduce that, but they will still fall within the definition of poverty.

With this extraordinary expansion we have seen, with the extraordinary benefits that have gone to so many millions of Americans, it is time that we ought to give some attention to those who have been left out and left behind.

Who are these minimum wage workers? First of all, they are men and women of dignity; men and women who take pride in the work they do; men and women who are proud to go to work and understand the value of work, frustrated as others might be, but nonetheless are willing to put their shoulder to the wheel because they want to take care of their families and because they have a sense of pride.

What do they do? By and large, minimum wage workers work in child care centers. They are helping to look after the children of others who are working hard in American industry. Many of them are assistants to teachers in our schools and, again, are working with children all across this country. Many others are working in nursing homes looking after those who have retired, those who need nursing home attention. These are men and women who are doing very important work, in many instances helping to make sure that the major buildings that house our industries and corporations are attended to during the nighttime. These are hard-working people, and they are people who take great pride in what they do, as they should.

Let's look at what their situation has come to. This chart says: Working hard, but losing ground. The real value of the minimum wage. If we look at constant dollars, the purchasing power of the minimum wage was $7.66 in 1968. Over the years, we have seen how that has fallen, with just a few interruptions when there was an increase in the minimum wage in 1988 and another increase in 1994. We can see what has happened with the purchasing power of the minimum wage. Without an increase in the minimum wage, in the year 2002, it would be down to $4.75, just about the lowest that it has been since the mid-1960s. This is in real purchasing power.

If we raise the minimum wage 60 cents, 50 cents, and 40 cents, and add that $1.50 on top of the $5.15 an hour now, the purchasing power would only be $6.14, which is identical to what it would be if we actually increased the minimum wage in the last 2 years by 50 cents and 50 cents, which was our proposal. Since we lost a year, there has been further deterioration in the purchasing power of the minimum wage. Even with the step-up of 60 cents, 50 cents, and 40 cents, its purchasing power will still only be $6.14.

This is an extremely modest increase. Historically, the percentage increase in the minimum wage we are asking for is extremely modest. Most other times, the percentage has been a good deal higher than it is in this proposal. This is a modest increase, but a very important increase.

What has been happening to our minimum wage workers? This chart indicates what has happened to average hourly earnings from 1969 to the year 2000.

You can see from the chart that the average hourly earnings have been constantly going up. Going back to 1969, the minimum wage was 53 percent of average hourly earnings. In the year 2000, do you think it has even held at 53 percent? No. It has dropped to 37 percent of average hourly earnings—a dramatic reduction, even in comparison to what has been happening to the average American workers across the country. They are falling further and further behind.

This chart is very interesting in that it shows what is happening out there in the workplace among those who have families with children who are in the bottom 40 percent of U.S. family incomes from 1979 to 1999.

All workers are averaging 416 hours more a year. Do we understand that? In 1999, they are working more than 400 hours a year more than they were working in 1979, even when their amount of income proportionately was a good deal better. Now we find American workers are working longer and harder than any other workers in any other industrial country in the world. And this is true about minimum wage workers, who, in most instances, have not just one job but have two jobs.

So for all those from whom we are going to hear in this Chamber about the importance of rewarding people who work, here we have some of the hardest workers in the world who are making pitiful little and find it enormously difficult to be able to provide for their families.

Four hundred sixteen hours, what does that translate into? What it translates into is this: The average minimum wage worker today gets to spend 25 hours a week less with his or her children than they did 15 years ago. When we are talking about family values—and we will hear a great deal about family values—one of the most important and basic and fundamental family values is having an adequate income to provide for one's children. The minimum wage does not provide it.

We see from this chart that working families are increasingly living in poverty. The red line indicates what the poverty line represents here in the United States. What we have seen for many years—in the 1960s, 1970s, right up to about 1980—is that the minimum wage was effectively the poverty wage. That was the bare minimum to be able to live with some degree of dignity in terms of providing the housing, the food, the shelter, the clothing, the essentials for families. What we have seen is this spread has been growing and increasing. Minimum wage workers are falling further and further behind.

Now, this is against a very important chart here which reflects the changes in family incomes from 1979 to 1999. The top fifth of families' incomes have increased by 42 percent in the last 20 years; middle-income families by about 11 percent over the last 20 years; the bottom fifth has actually declined in terms of their quality of life and in terms of what their income is. It shows they are going down, working longer, working harder, providing important kinds of services at a time of extraordinary economic prosperity. They are falling further and further and further behind. We have an opportunity to do something about that.

We provided an increase in the earned-income tax credit in the recent times, which is helpful for those with larger families who have a number of children; but still, for the single mom, or the mother and father with a single child, the minimum wage is the way to go when you are talking about benefitting and increasing the income for families.

We often hear on the Senate floor we cannot do that because if we do do it, we are going to have an adverse impact in terms of our employment situation. That is a lot of hogwash.

Let's look at what has happened since the last time we increased the minimum wage. Since 1996, when we increased the minimum wage in two steps, we heard: We do not want to do that because it is going to have an adverse impact on teens. That is wrong. The unemployment rate for teens has actually gone down with our two-step increase in the minimum wage.

For those who are lacking high school diplomas—they said: They will not be able to get employment at the McDonald's in order to gain work habits—wrong again. We found that the unemployment rate has gone down even for those lacking a high school diploma.

How about, we often heard: This isn't fair to African Americans. Wrong again. We found out the unemployment rate has still declined. It is certainly more than double what it is for the national average, but the employment level has dropped over what it was previously. The same is true with regard to Hispanics. And the same is true with regard to women.

So we believe this is an issue of fairness. We believe it is a matter of urgency. We have tried, over the period of recent years, to get this measure up before the Senate. We were denied that opportunity to have an up-or-down vote. We were told by the Republican leadership at the end of the last Congress: You can have this if you provide $73 billion in tax breaks for American companies and corporations. Effectively, they were saying: We are going to hold this hostage. They were going to hold this hostage until they got the $73 billion. They did not hold their own pay increase hostage. They did not hold hostage increasing Members' pay $3,800 a year in order to benefit businesses and corporations. But they are holding hostage those who are at the lowest level, the most vulnerable people, working hard, trying to make ends meet for their families. They are holding them hostage until they get additional tax breaks for companies and corporations at an unparalleled level.

The last time we had the increase we had a modest tax break for small business. Small business may need help and assistance, I am for that. But at that time, it was $20 billion. Now that they have that up at $73 billion, and they refuse to let us give consideration to an increase in the minimum wage, they are saying to all of those women, all of those children, all of those workers who are minimum wage workers: No, you can just wait there. You can stay at $5.15 an hour. You can continue to work at $5.15 until we get around to developing our package in order for the $73 billion in tax breaks. And then at that time, when we are ready to get that $73 billion, the Senate of the United States better take all $73 billion or we are not going to increase your minimum wage.

I think that is an outrageous position to take in terms of a contemptible attitude toward our fellow Americans.

I want to indicate, we welcome the support we have. This issue is not going to go away. We are going to have to face this issue. We want to have a fair opportunity. It is not one of those issues that needs a great deal of study. All of us remember the situation where people tap us on the shoulder and say: Will you support H.R. 222 or S. 444? and we are unfamiliar with the details of a particular program. This one is very simple. Increase in the minimum wage: Three steps, 60, 50, 40 cents. You don't need to have a lot of hearings.

To reiterate, Mr. President, the minimum wage is one of the Nation's fundamental workplace protections. It is a bedrock right of every working man and woman. For over 60 years, this country has been committed to the principle that employees are entitled to a fair minimum wage that guarantees a fair day's pay for a fair day's work and protects the dignity of their employment.

In recent years, the country as a whole and most Americans have benefitted from unprecedented prosperity—the longest period of economic growth in the Nation's history and the lowest unemployment rate in three decades. But minimum wage workers have been left out and left behind. A fair increase in the minimum wage is long overdue.

The real value of the minimum wage is now nearly $3 below what it was in 1968. To have the purchasing power it had in that year, the minimum wage would have to be $8.05 an hour today, not $5.15 an hour.

At the same time, poverty has almost doubled among full-time, year-round workers. Since the late 1970s, it has climbed from about 1.5 million to almost 2.5 million in 1999. An unacceptably low minimum wage is part of the problem. Minimum wage employees working 40 hours a week, 52 weeks a year, earn only $10,700 a year—$3,400 below the poverty line for a family of three. Minimum wage workers today fail to earn enough to afford adequate housing in any area of this country. No one who works for a living should have to live in poverty.

In too many cases, minimum wage workers are forced to work longer and longer hours to make ends meet, with less and less time to spend with their families—still without sharing fairly in the Nation's prosperity. In fact, the lowest paid American families worked 416 more hours in 1999 then they did in 1979. Since 1969, the ratio of the minimum wage to average hourly earnings has dropped from 53 percent to 37 percent.

It is shameful that Congress acted to raise its own pay by $3,800 last year—the third pay increase in 4 years—yet we did not find time to provide any pay increase at all to the lowest paid workers.

The increase in the legislation we are introducing today—the Fair Minimum Wage Act of 2001—will directly benefit over 11 million workers. It will raise the minimum wage by $1.50 in three installments: 60 cents on the 30th day after the bill's enactment; another 50 cents on January 1, 2002; and 40 more cents on January 1, 2003. The bill will also apply the federal minimum wage to the Mariana Islands, which now has an unacceptably low level of $3.05 an hour.

The $1.50 increase is necessary to make up for lost time. In real value, the $1.50 increase will bring the minimum wage up to the same level it would have been if our proposed one dollar increase had gone into effect last year.

Raising the minimum wage is a labor issue, because it guarantees that American workers will be paid fairly for their contribution to building a strong Nation and a strong economy. It is a women's issue, since 60 percent of minimum wage earners are women. It is a children's issue, because 33 percent of minimum wage earners are parents with children—and 4.3 million children live in poverty, despite being in a family where a bread-winner works full-time, year-round. And it is a civil rights issue, because 16 percent of those who will benefit from a minimum wage increase are African Americans, and 20 percent are Hispanic.

The record of past increases clearly shows that raising the minimum wage has not had a negative impact on jobs, employment, or inflation. After the last increases in the minimum wage in 1996 and 1997, the economy continued to grow with impressive strength. The unemployment rate has fallen from 5.2 percent to 4.2 percent. Twelve million new jobs have been created, at a pace of 230,000 per month, with more than 6 million new service industry jobs, including one and a half million new retail jobs, and over a half a million new restaurant jobs. Similarly, the minimum wage increase during the recession in 1991 provided needed support for low-income workers and caused no loss of jobs.

President Bush supports raising the minimum wage, but suggests that states should be able to opt out of the increase. But allowing states to opt out of the minimum wage would violate the basic principle, which we have stood by for over 60 years, that working men and women are entitled to a fair minimum wage. Millions of workers across the country deserve a pay raise, and they deserve it now.

The Federal minimum wage guarantees a floor, but it also allows States to set wage rates higher than the Federal minimum. Massachusetts recently raised its minimum wage to $6.75 an hour, one of the highest levels in the country. Other states, such as California, Connecticut, Vermont and Rhode Island, have also set their State rates higher than the Federal minimum.

In other States, however, the State minimum wage is far below the Federal level. In these States, the Federal level applies to the vast majority of workers. But for those not covered by the Federal law, the State level is often extremely low. It is $1.60 in Wyoming, $2.65 in Kansas, and $3.35 in Texas. Clearly, Congress should not leave the minimum wage to the tender mercy of the States.

A fair increase in the federal minimum wage is long overdue. I urge Congress to act as quickly as possible to pass this long overdue increase.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Minimum Wage Act of 2001".

SEC. 2. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.75 an hour beginning 30 days after the date of enactment of the Fair Minimum Wage Act of 2001;

"(B) $6.25 an hour during the year beginning January 1, 2002; and

"(C) $6.65 an hour beginning January 1, 2003;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 3. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour beginning 30 days after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

By Mr. JOHNSON (for himself, Mr. BINGAMAN, and Ms. SNOWE):

S. 278. A bill to restore health care coverage to retired members of the uniformed services; to the Committee on Armed Services.

Mr. JOHNSON. Mr. President, our country must honor its commitments to military retirees and veterans, not only because it's the right thing to do, but also because it's the smart thing to do. We all know the history: for decades, men and women who joined the military were promised lifetime health care coverage for themselves and their families. They were told, in effect, if you disrupt your family, if you work for low pay, if you endanger your life and limb, we will in turn guarantee lifetime health benefits.

In my own family, my oldest son is in the Army and has served tours of duty in Bosnia and Kosovo. I fully appreciate what inadequate health care and broken promises can do to the morale of military families.

Military retirees and veterans are our nation's most effective recruiters. Unfortunately, poor health care options make it difficult for these men and women to encourage the younger generation to make a career of the military. In fact, in South Dakota, I was talking to military personnel and talking to retirees who are loyal and patriotic, who have paid a price second to none for our nation's liberty, and they told me: "Tim, I can't in good faith tell my nephews, my children, young people whom I encounter, that they ought to serve in the U.S. military, that they ought to make a career of that service because I see what the Congress has done to its commitment to me, to my family, to my neighbors."

I am pleased that last year we made historic improvements in health care coverage for the approximately 12,600 military retirees living in South Dakota. In the 106th Congress, I introduced the Keep Our Promise to America's Military Retirees Act to restore the broken promise of lifetime health care for military retirees and dependents. My bipartisan legislation received the endorsement from most military retiree and veterans organizations and called for military retirees to have the option of staying in their TRICARE military health care program or electing to participate in the Federal Employees Health Benefit Program, FEHBP.

I offered my legislation as an amendment to last year's defense bill and received 52 votes. Although the amendment failed on a procedural motion, I was able to convince my colleagues to include one part of my bill—the expansion of TRICARE to Medicare-eligible military retirees—in both the Senate defense bill and the final version signed into law.

While I am pleased that last year's defense bill begins to address problems with military retiree health care, there is more work that needs to be done. That is why I am once again working with fellow Democrats and Republicans in the Senate to continue the progress we've made at living up to our country's commitment to those who serve in the military.

Today, I am reintroducing the Keep Our Promise to America's Military Retirees Act to finish the job we started last year. I am pleased to be joined by Senator JEFF BINGAMAN and Senator OLYMPIA SNOWE. Similar legislation introduced in the House of Representatives by Representative RONNIE SHOWS and Representative CHARLIE NORWOOD already has overwhelming bipartisan support, and I expect a number of Democrats and Republicans here in the Senate to once again support my bill.

My legislation addresses the pressing health care needs of military retirees under age 65. Thanks to our efforts last year, retirees over 65 soon will be able to choose their own doctor and be covered by Medicare and TRICARE as a secondary payer. However, retirees under age 65 must continue coverage under a TRICARE program that offers care at military treatment facilities on a space available basis. Nationwide, base closures and downsizing have made access to these military bases difficult. For many military retirees in South Dakota and other rural states, it is next to impossible to find a doctor participating in TRICARE, and these men and women are forced to drive hundreds of miles just for basic health care.

In addition, retirees who entered the service prior to June 7, 1956, when space-available care for military retirees was enacted, actually have seen much of their promised benefits taken away. Under the Keep Our Promise to America's Military Retirees Act, the United States government would pay the full cost of FEHBP enrollment to this most elderly group of retirees.

Congress has the unique opportunity to use a portion of the budget surplus to improve the quality of life for our military retirees, veterans, and active duty personnel. I have always believed that our nation's defense is only as good as the men and women who serve in our armed forces. Broken promises of health care, retirement benefits, education incentives, and pay have eroded the morale of the most valuable assets to our national security. I am hopeful that members of both parties will join me once again making these issues a priority—instead of an afterthought—during this session of Congress.

By Mr. JOHNSON (for himself, Mr. GRAHAM, Mr. CAMPBELL, Mr. ENZI, Mr. BAUCUS, Mr. CLELAND, Mr. DASCHLE, and Mr. HOLLINGS):

S. 280. A bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRAHAM. Mr. President, I rise today with my colleagues Senator JOHNSON, Senator CAMPBELL, Senator CRAIG, and Senator CLELAND to introduce the Consumer Right to Know Act of 2001.

This bill would require country of origin labeling of perishable agricultural commodities and meat products sold in retail establishments. I offer this legislation to ensure that Americans know the origin of every orange, banana, tomato, cucumber, and green pepper on display in the grocery store.

For two decades, Floridians shopping at their local grocery stores have been able to make educated choices about the food products they purchase for their families. In 1979, during my first year as governor, I proudly signed legislation to make country-of-origin labels mandatory for produce sold in Florida. This labeling requirement has proven to be neither complicated nor burdensome for Florida's farmers or retailers.

Country of origin labeling is not new to the American marketplace. For decades, "Made In" labels have been as visible as price tags on clothes, toys, television sets, watches, and many other products. It makes little sense that such labels are nowhere to be found in the produce or meat sections of grocery stores in the vast majority of states. The current lack of identifying information on produce means that Americans who wish to heed government health warnings about foreign products don't have the information they need to protect themselves. Nor can Americans show justifiable concerns about other nations' labor, environmental, and agricultural standards by choosing other perishables.

According to nationwide surveys, between 74 and 83 percent of consumers favor mandatory country of origin labeling for fresh produce. This is a low-cost, common sense method of informing consumers, as retailers will simply be asked to provide this information by means of a label, stamp, or placard. It is estimated that implementing produce labeling would take about two hours per grocery store per week. At the current minimum wage, this equates to about $10.30 per store per week. This is a remarkable small price to pay to provide American consumers with the information they need to make informed produce purchases.

In addition, a study by the General Accounting Office found that all of the 28 countries that account for must of the U.S. produce imports and exports have requirements for fruit and vegetable labeling. By adopting this legislation, our law will become more consistent with the laws of our trading partners.

Consumers have the right to know basic information about the fruits and vegetables that they bring home to their families. Congress can take a major step toward achieving this simple goal by adopting this amendment, thereby restoring American shoppers' ability to make an informed decision.

Both Senator Johnson and I have worked on this legislation for several Congresses. I am very pleased to be introducing one legislative package this year which contains both fruit and vegetable and meat labeling requirements. Both have passed the Senate in the 105th and 106th Congress.

I urge my colleagues who have supported this concept in the past to cosponsor our legislation. I urge those of you who are new to this issue to review this legislation and ask yourselves if American consumers deserve this basic level of information about their food supply—the country of origin.

I ask for your support, and I look forward to working with my colleagues on the Senate Agriculture Committee to move this legislation expeditiously through the Committee process.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 282. A bill to establish in the Antitrust Division of the Department of Justice a position with responsibility for agriculture antitrust matters; to the Committee on the Judiciary.

Mr. HARKIN. Mr. President, I am pleased to introduce today, along with Senator LUGAR, legislation that would ensure that there is in the Antitrust Division of the Department of Justice a position with the primary responsibility of providing advice and assistance to further effective enforcement of the antitrust laws in the food and agricultural sectors of our economy.

As so many of my colleagues understand, we are in a period of very rapid change in the economic structure of agriculture and of our food system from the farm on through retail distribution. Those changes include sweeping consolidation and greatly increased economic concentration in many segments of our nation's food and agriculture system that have profoundly affected agricultural producers and rural communities and raised serious questions about impacts on consumers.

The purpose of this bill is to ensure that our nation's antitrust laws are fully enforced during this time of rapid change in our food and agriculture system. This is the same legislation as Senator LUGAR and I introduced late in 1999. Following that introduction, the Clinton Administration did appoint a person to fill the position required by this legislation. While that action obviated the necessity of enacting the legislation at that time, we do not know for certain what the present or future administrations may do in assigning personnel at the Department of Justice to antitrust enforcement in agriculture. This bill is an important safeguard to ensure that we have a person who is devoted full-time at Justice to the critical task of enforcing our antitrust laws in the food and agriculture sector.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—There shall be established within the Antitrust Division of the Department of Justice a position the primary responsibility of which shall be to provide assistance and advice to the Assistant Attorney General of the Antitrust Division to further the effective enforcement of the antitrust laws with respect to the food and agricultural sectors.

(b) APPOINTMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall appoint a person to the position described in subsection (a).

(c) FUNCTIONS.—The responsibilities of the position established under subsection (a) shall include all actions appropriate to furthering effective enforcement of the antitrust laws with respect to the food and agricultural sectors, including—

(1) assisting and advising with respect to the investigation of possible restraints of trade;

(2) assisting and advising with respect to the investigation of mergers and acquisitions; and

(3) ensuring that any investigation described in paragraphs (1) or (2) takes into account the effects of the conduct or transaction under investigation on consumers, agricultural producers and rural communities.

SEC. 2. ENFORCEMENT AUTHORITY.

Nothing in this Act shall affect or limit the authority of the Attorney General or the Assistant Attorney General of the Antitrust Division to delegate or assign functions relating to the enforcement of any provision of law.

SEC. 3. EFFECTIVE PERIOD.

This Act shall be effective until the date that is 5 years after the date of enactment of this Act.

Mr. LUGAR. Mr. President, I rise today to join my esteemed colleague and Ranking Democratic Member of the Agriculture Committee from Iowa, Senator HARKIN, in once again introducing legislation to help ensure that antitrust laws impacting agriculture are properly enforced.

Mr. President, the face of rural America is rapidly changing. Ever-changing technologies, developments in biotechnology and concentration in production agriculture and agribusiness are developing a new profile in rural areas. Farmers in my home state of Indiana have many questions and concerns related to these rapid changes. Many remain to be convinced that appropriate oversight of merger and acquisition activity in ag business is a reality.

The intent of this legislation is to establish the Office of Special Counsel for Agriculture in the Antitrust Division of the Justice Department. While this office will focus on reviewing ag business mergers and acquisition activity, it will also serve as an information resource for American agriculture producers wanting to provide input on antitrust-related issues.

It is important to note, Mr. President, that shortly after introduction of this legislation in 1999, Attorney General Reno, on her own initiative, established the Office of Special Counsel for Agriculture and appointed Mr. Doug Ross to that position. While the perspective of Attorney General Ashcroft is not yet known on this matter, this legislation is a signal, a strong statement, that the Chairman and the Ranking Democratic Member of the Senate Agriculture Committee are in favor of greater transparency and consideration to those issues surrounding ag business mergers in the United States.

By Mr. McCAIN (for himself, Mr. EDWARDS, Mr. KENNEDY, Mr. CHAFEE, Mr. GRAHAM, Mr. SPECTER, Mrs. LINCOLN, Mr. HARKIN, Mr. BAUCUS, Mr. TORRICELLI, Mr. DODD, Mr. NELSON of Florida, and Mr. SCHUMER):

S. 283. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Health, Education, Labor, and Pensions.

S. 284. A bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals; to the Committee on Finance.

Mr. McCAIN. Mr. President, I ask unanimous consent that the text of S. 283 and S. 284 be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Patient Protection Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. Availability of civil remedies.
Sec. 303. Limitations on actions.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Application of requirements to group health plans under the Internal Revenue Code of 1986.
Sec. 402. Conforming enforcement for women's health and cancer rights.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.
Sec. 503. Severability.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) Prohibition of conflicts.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) Procedures of Initial Claims for Benefits.—

(1) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) Access to information.—

(A) Timely provision of necessary information.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) Limited effect of failure on plan or issuer's obligations.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) Oral requests.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claims for such benefits without regard to whether and when a written confirmation of such request is made.

(b) Timeline for Making Determinations.—

(1) Prior authorization determination.—

(A) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) Expedited determination.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) Ongoing care.—

(i) Concurrent review.—

(I) In general.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) Contents of notice.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) Rule of construction.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) Retrospective determination.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) Notice of a Denial of a Claim for Benefits.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) Requirements of Notice of Determinations.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the average participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) Definitions.—For purposes of this part:

(1) Authorized representative.—The term "authorized representative" means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) Claim for benefits.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) Denial of claim for benefits.—The term "denial" means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) Treating health care professional.—The term "treating health care professional" means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) Right to Internal Appeal.—

(1) In general.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) Time for appeal.—

(A) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) Date of denial.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) Failure to act.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) Plan waiver of internal review.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) Timelines for Making Determinations.—

(1) Oral requests.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) Access to information.—

(A) Timely provision of necessary information.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) Limited effect of failure on plan or issuer's obligations.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) Prior authorization determinations.—

(A) In general.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) Expedited determination.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) Ongoing care determinations.—

(i) In general.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) Rule of construction.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) Retrospective determination.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) Conduct of Review.—

(1) In general.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) Review of medical decisions by physicians.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts, shall be made by a physician (allopathic or osteopathic) with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) who was not involved in the initial determination.

(d) Notice of Determination.—

(1) In general.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) Final determination.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) Requirements of notice.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the average participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) Right to External Appeal.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) Initiation of the Independent External Review Process.—

(1) Time to file.—A request for an independent external review under this section

shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) Filing of request.—

(A) In general.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) Requirements and exception relating to general rule.—

(i) Oral requests permitted in expedited or concurrent cases.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such an external review without regard to whether and when a written confirmation of such request is made.

(ii) Exception to filing fee requirement.—

(I) Indigency.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) Fee not required.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) Refunding of fee.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) Collection of filing fee.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) Referral to Qualified External Review Entity Upon Request.—

(1) In general.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) Access to plan or issuer and health professional information.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) Screening of requests by qualified external review entities.—

(A) In general.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) Process for making determinations.—

(i) No deference to prior determinations.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) Use of appropriate personnel.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) Notices and general timelines for determination.—

(i) Notice in case of denial of referral.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by an average participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) General timeline for determinations.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) Independent Medical Review.—

(1) In general.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) Medically reviewable decisions.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) Denials based on medical necessity and appropriateness.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) Denials based on experimental or investigational treatment.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) Denials otherwise based on an evaluation of medical facts.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) Independent medical review determination.—

(A) In general.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) Standard for determination.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) No coverage for excluded benefits.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)) except to the extent that the application or interpretation of the exclusion or limitation involves a determination described in paragraph (2).

(D) Evidence and information to be used in medical reviews.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) Independent determination.—In making determinations under this subtitle, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by the definition used by the plan or issuer of "medically necessary and appropriate", or "experimental or investigational", or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) Determination of independent medical reviewer.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) Nonbinding nature of additional recommendations.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) Timelines and Notifications.—

(1) Timelines for independent medical review.—

(A) Prior authorization determination.—

(i) In general.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) Expedited determination.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made as soon in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) Ongoing care determination.—Notwithstanding clause (i), in the case of a review described in such subclause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) Retrospective determination.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) Notification of determination.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) Form of notices.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by an average participant.

(f) Compliance.—

(1) Application of determinations.—

(A) External review determinations binding on plan.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) Compliance with determination.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) Failure to comply.—

(A) In general.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) Reimbursement.—

(i) In general.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) Amount.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) Failure to reimburse.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) Available remedies.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) Penalties against authorized officials for refusing to authorize the determination of an external review entity.—

(A) Monetary penalties.—

(i) In general.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a health care professional (other than a physician), a reviewer shall be a practicing physician (allopathic or osteopathic) or, if determined appropriate by the qualified external review entity, a practicing health care professional (other than such a physician), of the same or similar specialty as the health care professional who typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term "practicing" means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term "related party" means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan

or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term "qualified external review entity" means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause.

(vii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals

and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) Additional Costs.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) Open Season.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) Primary Care.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) Specialists.—

(1) In general.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) Limitation.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) Construction.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) Coverage of Emergency Services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) Definitions.—In this section:

(A) Emergency medical condition.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) Emergency services.—The term "emergency services" means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) Stabilize.—The term "to stabilize", with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w-22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) Coverage of Emergency Ambulance Services.—

(1) In general.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) Emergency ambulance services.—For purposes of this subsection, the term "emergency ambulance services" means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) Timely Access.—

(1) In general.—A group health plan or health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) Rule of construction.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) Access to certain providers.—

(A) In general.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) Treatment of nonparticipating providers.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) Referrals.—

(1) Authorization.—A group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) Referrals for ongoing special conditions.—

(A) In general.—A group health plan or health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term "specialist" means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan or health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term "continuing care patient" means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible

for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term "contract" includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term "health care provider" or "provider" means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term "serious and complex condition" means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) The Food and Drug Administration.

(D) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) Inpatient Care.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) Exception.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) Prohibition on Certain Modifications.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) Secondary Consultations.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) Exception.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) Prohibition on Penalties or Incentives.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) Requirement—

(1) Disclosure.—

(A) In general.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) Participants, beneficiaries, and enrollees.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) Provision of information.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) Required Information.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) Benefits.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) Cost sharing.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) Service area.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(4) Participating providers.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(5) Choice of primary care provider.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(6) Preauthorization requirements.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(7) Experimental and investigational treatments.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(8) Specialty care.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(9) Clinical trials.—A description the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(10) Prescription drugs.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(11) Emergency services.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain

emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(12) Claims and appeals.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(13) Advance directives and organ donation.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(14) Information on plans and issuers.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(15) Translation services.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(16) Accreditation information.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(17) Notice of requirements.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act of 2001 (excluding those described in paragraphs (1) through (16)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(18) Availability of additional information.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(c) Additional Information.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) Status of providers.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) Compensation methods.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) Prescription drugs.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) External appeals information.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) Manner of Disclosure.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by an average participant or enrollee.

(e) Rules of Construction.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) General Rule.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) Nullification.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) In General.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) In General.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) Construction.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(3) ENROLLEE.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(4) GROUP HEALTH PLAN.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(5) HEALTH CARE PROFESSIONAL.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(6) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(7) NETWORK.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(8) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health

care provider with respect to such items and services.

(9) PARTICIPATING.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(10) PRIOR AUTHORIZATION.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(11) TERMS AND CONDITIONS.—The term "terms and conditions" includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY EQUIVALENT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that is substantially equivalent (within the meaning of subsection (c)) to a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially equivalent requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) PATIENT PROTECTION REQUIREMENT DEFINED.—For purposes of this section, the term "patient protection requirement" means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(c) DETERMINATIONS OF SUBSTANTIAL EQUIVALENCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially equivalent to one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law provides for at least substantially equivalent and effective patient protections to the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that are at least substantially equivalent to and as effective as the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial equivalence.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act of 2001, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

(b) Conforming Amendment.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act of 2001 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) In General.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) Plan Satisfaction of Certain Requirements.—

"(1) Satisfaction of certain requirements through insurance.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act of 2001 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 111 (relating to consumer choice option).

"(B) Section 112 (relating to choice of health care professional).

"(C) Section 113 (relating to access to emergency care).

"(D) Section 114 (relating to timely access to specialists).

"(E) Section 115 (relating to patient access to obstetrical and gynecological care).

"(F) Section 116 (relating to access to pediatric care).

"(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(H) Section 118 (relating to access to needed prescription drugs).

"(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

"(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

"(K) Section 134 (relating to payment of claims).

"(2) Information.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act of 2001, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) Internal appeals.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

"(4) External appeals.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) Application to prohibitions.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Bipartisan Patient Protection Act of 2001, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 131 (relating to prohibition of interference with certain medical communications).

"(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

"(C) Section 133 (relating to prohibition against improper incentive arrangements).

"(D) Section 135 (relating to protection for patient advocacy).

"(6) Construction.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) Treatment of substantially equivalent state laws.—For purposes of applying this subsection, any reference in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act of 2001 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that is substantially equivalent (as determined under section 152(c) of such Act) to the requirement in such section or other provisions.

"(8) Application to certain prohibitions against retaliation.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Patient Protection Act of 2001, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) Enforcement of Certain Requirements.—

"(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Patient Protection Act of 2001 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) Conforming Regulations.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act of 2001 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.".

(b) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act of 2001, and compliance with regulations promulgated by the Secretary, in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) Conforming Amendments.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b))" after "part 7".

SEC. 302. AVAILABILITY OF CIVIL REMEDIES.

(a) Availability of Federal Civil Remedies in Cases Not Involving Medically Reviewable Decisions.—

(1) In general.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) Cause of Action Relating to Provision of Health Benefits.—

"(1) In general.—In any case in which—

"(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor—

"(i) upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act of 2001 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

"(I) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

"(II) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

"(III) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, or

"(ii) otherwise fails to exercise ordinary care in the performance of a duty under the terms and conditions of the plan with respect to a participant or beneficiary, and

"(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such person shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

"(2) Cause of action must not involve medically reviewable decision.—

"(A) In general.—A cause of action is established under paragraph (1)(A) only if the decision referred to in clause (i) or the failure described in clause (ii) does not include a medically reviewable decision.

"(B) Medically reviewable decision.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

"(3) Definitions.—For purposes of this subsection.—

"(A) Ordinary care.—The term 'ordinary care' means—

"(i) with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claim involved; and

"(ii) with respect to the performance of a duty, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in performing the duty or a duty of like character.

"(B) Personal injury.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) Claim for benefits; denial.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Bipartisan Patient Protection Act of 2001.

"(D) Terms and conditions.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001 or under part 6 or 7.

"(E) Group health plan and other related terms.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

"(4) Exclusion of employers and other plan sponsors.—

"(A) Causes of action against employers and plan sponsors precluded.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

"(B) Certain causes of action permitted.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment)—

"(i) under clause (i) of paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act of 2001 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits, or

"(ii) under clause (ii) of paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the failure described in such clause.

"(C) Direct participation.—

"(i) Direct participation in decisions.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in clause (i) of paragraph (1)(A) or a failure described in clause (ii) of such paragraph, the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

"(ii) Rules of construction.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in clause (i) of paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary or that is merely collateral or precedent to the conduct constituting a failure described in clause (ii) of paragraph (1)(A) with respect to a particular participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iv) Irrelevance of certain collateral efforts made by employer or plan sponsor.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

"(5) Requirement of exhaustion.—

"(A) In general.—Except as provided in this paragraph, a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) Late manifestation of injury.—The requirements under subparagraph (A) for a cause of action in connection with any denial of a claim for benefits shall be deemed satisfied, notwithstanding any failure to timely commence review under section 103 with respect to the denial, if the personal injury is first known (or first reasonably should have been known) to the individual (or the death occurs) after the latest date by which the applicable requirements of subparagraph (A) can be met in connection with such denial.

"(C) Occurrence of immediate and irreparable harm or death prior to completion of process.—

"(i) In general.—The requirements of subparagraph (A) shall not apply if the action involves an allegation that immediate and irreparable harm or death was, or would be, caused by the denial of a claim for benefits prior to the completion of the administrative processes referred to in subparagraph (A) with respect to such denial.

"(ii) Construction.—Nothing in clause (i) shall be construed to preclude—

"(I) continuation of such processes to their conclusion if so moved by any party, and

"(II) consideration in such action of the final decisions issued in such processes.

"(iii) Definition.—In clause (i), the term 'irreparable harm', with respect to an individual, means an injury or condition that, regardless of whether the individual receives the treatment that is the subject of the denial, cannot be repaired in a manner that would restore the individual to the individual's pre-injured condition.

"(D) Receipt of benefits during appeals process.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

"(6) STATUTORY DAMAGES.—

"(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

"(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

"(7) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

"(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

"(B) the date as of which the requirements of paragraph (5) are first met.

"(8) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

"(10) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

"(11) EXCLUSION OF DIRECTED RECORDKEEPERS.—

"(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

"(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

"(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

"(12) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.".

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) in subparagraph (B), by striking "plan;" and inserting "plan, or"; and

(C) by adding at the end the following new subparagraph:

"(C) for the relief provided for in subsection (n) of this section.".

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

"(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

"(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

"(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

"(C) LIMITATION ON PUNITIVE DAMAGES.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:

"(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

"(II) Section 103 of such Act (relating to internal appeals of claims denials).

"(III) Section 104 of such Act (relating to independent external appeals procedures).

"(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

"(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

"(3) DEFINITIONS.—For purposes of this subsection and subsection (e)—

"(A) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

"(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act of 2001.

"(4) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

"(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

"(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action described in paragraph (1) maintained by a participant or beneficiary against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment)—

"(i) in the case of any cause of action based on a decision of the plan under section 102 of the Bipartisan Patient Protection Act of 2001 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits, to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision, or

"(ii) in the case of any cause of action based on a failure to otherwise perform a duty under the terms and conditions of the plan with respect to a claim for benefits of a participant or beneficiary, to the extent there was direct participation by the employer or other plan sponsor (or employee) in the failure.

"(C) DIRECT PARTICIPATION.—

"(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B)(i) or a failure described in subparagraph (B)(ii), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

"(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B)(i) on a particular claim for benefits of a particular participant or beneficiary or that is merely collateral or precedent to the conduct constituting a failure described in subparagraph (B)(ii) with respect to a particular participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

"(5) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—Except as provided in this paragraph, paragraph (1) shall not apply with respect to a cause of action described in such paragraph in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

"(B) LATE MANIFESTATION OF INJURY.—The requirements under subparagraph (A) for a cause of action in connection with any denial of a claim for benefits shall be deemed satisfied, notwithstanding any failure to timely commence review under section 103 or 104 with respect to the denial, if the personal injury is first known (or first should have been known) to the individual (or the death occurs) after the latest date by which the applicable requirements of subparagraph (A) can be met in connection with such denial.

"(C) OCCURRENCE OF IMMEDIATE AND IRREPARABLE HARM OR DEATH PRIOR TO COMPLETION OF PROCESS.—

"(i) IN GENERAL.—The requirements of subparagraph (A) shall not apply if the action involves an allegation that immediate and irreparable harm or death was, or would be, caused by the denial of a claim for benefits prior to the completion of the administrative processes referred to in subparagraph (A) with respect to such denial.

"(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to preclude—

"(I) continuation of such processes to their conclusion if so moved by any party, and

"(II) consideration in such action of the final decisions issued in such processes.

"(iii) DEFINITION.—In clause (i), the term 'irreparable harm', with respect to an individual, means an injury or condition that, regardless of whether the individual receives the treatment that is the subject of the denial, cannot be repaired in a manner that would restore the individual to the individual's pre-injured condition.

"(D) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

"(6) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

"(7) EXCLUSION OF DIRECTED RECORDKEEPERS.—

"(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

"(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

"(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

"(8) CONSTRUCTION.—Nothing in this subsection shall be construed as—

"(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

"(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001, or

"(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

"(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

"(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

"(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

"(9) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

"(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

"(1) affecting any State law relating to the practice of medicine or the provision of medical care, or affecting any action based upon such a State law,

"(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act of 2001, or

"(3) affecting any applicable State law with respect to limitations on monetary damages.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the date of the enactment of this Act.

SEC. 303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 302(a)) is amended further by adding at the end the following new subsection:

"(o) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act of 2001 (as incorporated under section 714).

"(2) CERTAIN ACTIONS ALLOWABLE.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act of 2001 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

"(A) such an action may not be brought or maintained as a class action; and

"(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

"(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

"(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.".

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 401. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patients' bill of rights.";

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

SEC. 402. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 401, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

"Sec. 9814. Standard relating to women's health and cancer rights.";

and

(2) by inserting after section 9813 the following:

"SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

"The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.".

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 301, 303, and 401 and 402 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2002 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 301, 303, and 401 and 402 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this division shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this division (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 503. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

S. 284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bipartisan Patient Protection Act of 2001—Part II".

SEC. 2. EXPANDED AVAILABILITY OF ARCHER MSAS.

(a) EXTENSION OF PROGRAM.—Paragraphs (2) and (3)(B) of section 220(i) of the Internal Revenue Code of 1986 (defining cut-off year) are each amended by striking "2002" each place it appears and inserting "2004".

(b) INCREASE IN NUMBER OF PERMITTED ACCOUNT PARTICIPANTS.—

(1) IN GENERAL.—Subsection (j) of section 220 of such Code is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6) and by inserting after paragraph (2) the following new paragraph:

"(3) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR YEARS AFTER 2001.—

"(A) IN GENERAL.—The numerical limitation for any year after 2001 is exceeded if the sum of—

"(i) the number of Archer MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

"(ii) the Secretary's estimate (determined on the basis of the returns described in clause (i)) of the number of Archer MSA returns for such taxable years which will be filed after such date, exceeds 1,000,000. For purposes of the preceding sentence, the term 'Archer MSA return' means any return on which any exclusion is claimed under section 106(b) or any deduction is claimed under this section.

"(B) ALTERNATIVE COMPUTATION OF LIMITATION.—The numerical limitation for any year after 2001 is also exceeded if the sum of—

"(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

"(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such year preceding July 1 (based on the reports required under paragraph (5)) for taxable years beginning in such year,

exceeds 1,000,000."

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 220(j)(2)(B) of such Code is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(B) Subparagraph (A) of section 220(j)(4) of such Code is amended by striking "and 2001" and inserting "2001, 2002, and 2003".

(c) INCREASE IN SIZE OF ELIGIBLE EMPLOYERS.—Subparagraph (A) of section 220(c)(4) of such Code is amended by striking "50 or fewer employees" and inserting "100 or fewer employees".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) GAO STUDY.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact of Archer MSAs on the cost of conventional insurance (especially in those areas where there are higher numbers of such accounts) and on adverse selection and health care costs.

SEC. 3. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 4. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

“SEC. 45E. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

“(a) General Rule.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

“(b) Applicable Percentage.—For purposes of subsection (a), the applicable percentage is—

“(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

“(2) in the case of insurance not described in paragraph (1), 20 percent.

“(c) Limitations.—

“(1) Per employee dollar limitation.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

“(A) $2,000 in the case of self-only coverage, and

“(B) $5,000 in the case of family coverage. In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

“(2) Period of coverage.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

“(d) Definitions.—For purposes of this section—

“(1) Health insurance coverage.—The term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1).

“(2) New health plan.—

“(A) In general.—The term ‘new health plan’ means any arrangement of the employer which provides health insurance coverage to employees if—

“(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

“(ii) such arrangement provides health insurance coverage to at least 70 percent of the, qualified employees of such employer.

“(B) Qualified employee.—

“(i) In general.—The term ‘qualified employee’ means any employee of an employer if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

“(ii) Treatment of certain employees.—The term ‘employee’ shall include a leased employee within the meaning of section 414(n).

“(3) Small employer.—The term ‘small employer’ has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

“(e) Special Rules.—

“(1) Certain rules made applicable.—For purposes of this section, rules similar to the rules of section 52 shall apply.

“(2) Amounts paid under salary reduction arrangements.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

“(f) Termination.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2010.”.

(b) Credit To Be Part of General Business Credit.—Section 38(b) of such Code (relating to current year business credit) is amended by striking “plus” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “, plus”, and by adding at the end the following:

“(14) in the case of a small employer (as defined in section 45E(d)(3)), the health insurance credit determined under section 45E(a).”

(c) No Carrybacks.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

“(10) No carryback of section 45E credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E.”

(d) Denial of Double Benefit.—Section 280C of such Code is amended by adding at the end the following new subsection:

“(d) Credit for Small Business Health Insurance Expenses.—

“(1) In general.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45E for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45E(a).

“(2) Controlled groups.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.”

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

“Sec. 45E. Small business health insurance expenses.”

(f) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001, for arrangements established after the date of the enactment of this Act.

SEC. 5. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) In General.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

“(k) Certain Qualified Health Benefit Purchasing Coalition Distributions.—

“(1) In general.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

“(2) Qualified health benefit purchasing coalition distribution.—For purposes of paragraph (1)—

“(A) In general.—The term ‘qualified health benefit purchasing coalition distribution’ means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

“(B) Exclusions.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

“(i) for the purchase of real property,

“(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

“(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

“(3) Termination.—This subsection shall not apply—

“(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2009, and

“(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2010.”.

(b) Qualified Health Benefit Purchasing Coalition.—

(1) In general.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

“Subchapter D—Qualified Health Benefit Purchasing Coalition

“Sec. 9841. Qualified health benefit purchasing coalition.

“SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

“(a) In General.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

“(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

“(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

“(b) Board of Directors.—

“(1) In general.—Each purchasing coalition under this section shall be governed by a Board of Directors.

“(2) Election.—The Secretary shall establish procedures governing election of such Board.

“(3) Membership.—The Board of Directors shall—

“(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but

“(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

“(c) Membership of Coalition.—

“(1) In general.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

“(2) Other members.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

“(3) Voting.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

"(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

"(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

"(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

"(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

"(4) serve a significant geographical area and market to all eligible members in that area, and

"(5) carry out other functions provided for under this section.

"(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

"(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

"(2) assume insurance or financial risk in relation to any health plan, or

"(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

"(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

"(g) RELATION TO OTHER LAWS.—

"(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

"(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

"(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

"(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

"(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.".

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

"Subchapter D. Qualified health benefit purchasing coalition.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 6. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program (in this section referred to as the "program") to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as a purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

Mr. KENNEDY. Mr. President, I'm honored to join my colleagues in introducing the Bipartisan Patient Protection Act. This bill is a true bipartisan compromise, and I am confident it will receive the support of the majority of the Senate.

We believe that our proposal is just what the doctor ordered to end abuses by HMOs and managed care health plans. Doctors and patients should be making medical decisions, not insurance company accountants. It is long past time for Congress to start protecting patients, instead of HMO profits.

Prompt passage of this legislation is vital for the 161 million Americans with private health insurance coverage. This is the fifth year that Congress has considered patient protection—and too many patients have been subject to unacceptable abuses as the result of our inaction. Every day that Congress fails to act, more patients suffer.

A survey by the School of Public Health at the University of California found that every day—each and every day—50,000 patients experience added pain and suffering because of actions by their health plan. Thirty-five thousand patients have needed care delayed—or denied all together. Thirty-five thousand other patients have a referral to a specialist delayed or denied. Thirty-one thousand patients are forced to change their doctors. Eighteen thousand patients are forced to change their medications.

A survey of physicians by the Kaiser Family Foundation and the Harvard School of Public Health found similar results. Every day, tens of thousands of patients across the country suffer serious declines in their health as the result of the action—or inaction—of their health plan.

Whether the issue is diagnostic tests, specialty care, emergency care, access to clinical trials, availability of needed drugs, protection of doctors who give patients their best possible advice, or women's ability to obtain gynecological services—too often, in all of these cases. HMOs and managed care plans treat the company's bottom line as more important than the patient's vital signs. These abuses have no place in American medicine. Every doctor knows it. Every patient knows it. And in their hearts, every member of Congress knows it.

Every American also knows that it is wrong for the current legal system to give immunity to health insurance companies and HMOs that kill or injure patients. No other industry in America has immunity from liability when it acts irresponsibly, and HMOs and health insurance companies shouldn't have it either.

The legislation we are offering today is bipartisan. Whether the issue is liability, the appeals process, or state flexibility, we have made significant modifications to respond to legitimate concerns. but we have preserved the basic principle that when serious illness strikes, every American deserves the protection they were promised.

President Bush campaigned on a pledge to pass an effective patients' bill of rights. We are ready to work with him to bring the American people the protection they deserve. Ending the current abuses should be a priority for the new Congress and the new Administration, and I am hopeful that we can work together to past this legislation as soon as possible this year.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. Bond, the names of the Senator from Pennsylvania (Mr. Santorum) and the Senator from Connecticut (Mr. Dodd) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 31

At the request of Mr. Campbell, the name of the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 31, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 41

At the request of Mr. Hagel, the names of the Senator from California (Mrs. Feinstein) and the Senator from North Dakota (Mr. Dorgan) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 88

At the request of Mr. Rockefeller, the names of the Senator from New Hampshire (Mr. Smith), the Senator from Pennsylvania (Mr. Santorum), and the Senator from Idaho (Mr. Crapo) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 124

At the request of Mr. Brownback, the names of the Senator from West Virginia (Mr. Byrd) and the Senator from North Carolina (Mr. Helms) were added as cosponsors of S. 124, a bill to exempt agreements relating to voluntary guidelines governing telecast material, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes.

S. 126

At the request of Mr. Cleland, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 131

At the request of Mr. Johnson, the name of the Senator from Arkansas (Mr. Hutchinson) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 148

At the request of Mr. Craig, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 161

At the request of Mr. Wellstone, the names of the Senator from Hawaii (Mr. Inouye), the Senator from Illinois (Mr. Durbin), the Senator from Rhode Island (Mr. Reed), and the Senator from New Jersey (Mr. Corzine) were added as cosponsors of S. 161, a bill to establish the Violence Against Women Office within the Department of Justice.

S. 205

At the request of Mrs. Hutchison, the names of the Senator from Colorado (Mr. Allard), the Senator from Louisiana (Ms. Landrieu) and the Senator from Arizona (Mr. Kyl) were added as cosponsors of S. 205, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 208

At the request of Mr. Frist, the names of the Senator from New York (Mrs. Clinton) and the Senator from New Jersey (Mr. Corzine) were added as cosponsors of S. 208, a bill to reduce health care costs and promote improved health care by providing supplemental grants for additional preventive health services for women.

S. 214

At the request of Mr. McCain, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 214, a bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

S. 225

At the request of Mr. Warner, the name of the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 225, a bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans.

S. 234

At the request of Mr. Grassley, the names of the Senator from Colorado (Mr. Allard), the Senator from South Dakota (Mr. Johnson), and the Senator from Arkansas (Mrs. Lincoln) were added as cosponsors of S. 234, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

S. CON. RES. 6

At the request of Mr. Torricelli, the names of the Senator from New Jersey (Mr. Corzine), the Senator from Connecticut (Mr. Dodd) and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. Con. Res. 6, a concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

SENATE CONCURRENT RESOLUTION 8—EXPRESSING THE SENSE OF CONGRESS REGARDING SUBSIDIZED CANADIAN LUMBER EXPORTS

Ms. SNOWE (for herself, Mr. Lott, Mrs. Lincoln, Mr. Cochran, Mr. Hutchinson, Mr. Thurmond, Mr. Crapo, and Mr. Craig) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 8

Whereas the Canadian provinces use government timber to subsidize lumber production and employment by providing timber to Canadian lumber companies through noncompetitive, administered pricing arrangements for a fraction of the timber's market value;

Whereas unfair subsidy practices have resulted in shipments of lumber to the United

States to the point that subsidized Canadian lumber is being imported into the United States at record levels and now accounts for over one-third of the United States softwood lumber market;

Whereas highly subsidized Canadian lumber imported into the United States has resulted in lost sales for United States lumber companies, depressed United States lumber values, jeopardized thousands of United States jobs, and contributed to a collapse in lumber prices;

Whereas Canadian lumber subsidy practices have been identified by a variety of independent analyses;

Whereas United States Government officials in the Reagan, Bush, and Clinton Administrations, United States industry, timberland owners, and labor unions have called for an end to the subsidies and for fair trade; and

Whereas an agreement between the United States and Canada on lumber trade is scheduled to expire on March 31, 2001: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President, the United States Trade Representative, and the Secretary of Commerce should—

(1) make the problem of subsidized Canadian lumber imports a top trade priority to be addressed immediately;

(2) take every possible action to end Canadian lumber subsidy practices through open and competitive sales of timber and logs in Canada for fair market value, or if Canada will not agree to end the subsidies immediately, provide that the subsidies be offset in the United States; and

(3) if Canada does not agree to end subsidies for lumber—

(A) enforce vigorously, promptly, and fully the trade laws with respect to subsidized and dumped imports;

(B) explore all options to stop unfairly traded imports; and

(C) limit injury to the United States industry.

Ms. SNOWE. Mr. President, I rise today to submit a Senate concurrent resolution that urges the administration to realize that an immediate trade priority should be to address the problem of subsidized Canadian softwood lumber imports. I am pleased to be joined in this effort by Senators LOTT, LINCOLN, COCHRAN, HUTCHINSON, THURMOND, CRAPO, and CRAIG.

The U.S.-Canada Softwood Lumber Agreement of 1996 will expire on March 31, 2001—just 53 short days from now—and there are no government-to-government negotiations taking place. We do not know just what will happen if the Agreement is allowed to expire with no alternative solution in place, but without restrictions, the subsidized lumber from Canada will flood over the border further impacting our U.S. sawmills. This to me is unacceptable.

It is safe to say that we who represent our respective states here in the Senate share the same goals for our constituents—economic growth and prosperity through secure businesses and jobs, a healthy environment, including the ability to purchase reasonably priced homes and lumber with which to remodel. I cannot stand by, however, and watch someone's dream become another's nightmare.

The United States has over four million forest landowners, with approximately 20,000 logging facilities, sawmills and planing mills, which employ over 700,000 employees. In the past year, lumber prices in the United States have plummeted by 33 percent while Canadian imports have grown to record levels. Approximately 3,500 mills have already closed, and I have heard from those with sawmills in Maine that are still open that they are close to laying off their hard-working employees and using their lumber to board up their businesses. Their message, as is mine, is for free trade that is also fair trade.

I would like to note that, the problem of the subsidized lumber is not coming from Maine's good neighbors to the North—those small sawmills of the Canadian Maritimes—as they do not have vast amounts of crown, or government-owned, forest, but also get their wood from private forests, and they do not fall under the current quotas of the Agreement. There are only four provinces that actually fall under the quota system, Quebec, Ontario, Alberta and British Columbia, and the large integrated sawmills—those that have both pulp and sawmill operations, are doing very well. On the other hand, the small sawmills in the Maritimes are hurting just as much as our sawmills in the United States. This is a trade problem that we must negotiate with Canada in the interests of the United States while they also work to solve their own inequities.

The U.S. timber prices for lumber are set by the market for both public and private forests, while the Canadian Government sets the price of timber from Quebec to British Columbia at a level that is one half to one-quarter the actual market value of timber. Some of the Canadian provinces with vast crown forests use government timber to subsidize lumber production and employment by providing timber to Canadian lumber companies through noncompetitive, administered pricing arrangements for a fraction of the timber's market value.

These unfair subsidy practices have fueled shipments to the United States to the point that subsidized Canadian imports are at record levels and now control over one-third of the U.S. softwood lumber market. The highly subsidized Canadian lumber imports have gained sales volume from U.S. lumber companies, depressed U.S. timber values, and jeopardized thousands of U.S. jobs, and contributed to a collapse in lumber prices.

Canadian lumber subsidy practices have been identified by a variety of independent analyses. U.S. Government officials in the Reagan, Bush and Clinton administrations, the U.S. industry and timberland owners, and labor unions all have called for an end to the subsidies and for fair trade.

We are calling upon the President, the Office of the U.S. Trade Representative, and the Secretary of Commerce to take every possible action to end Canadian lumber subsidy practices through open and competitive sales of timber and logs in Canada for fair market value, or if Canada will not agree to end the subsidies immediately, the subsidies must be offset pending some sort of reform.

In addition, if Canada will not reach an agreement to vigorously, promptly, and fully enforce the trade laws against subsidized and dumped imports and explore all options to stop unfairly traded imports, and to limit injury to the U.S. industry pending further action, the administration should be prepared to vigorously and fully enforce the trade laws against subsidized and dumped imports from Canada.

I hope that these efforts today will jump start the administration as soon as tomorrow to start working towards negotiations with Canada. There are no surprises here, as the issue has been around since the 1930s. There have been years of investigations, assessments, petitions, rulings, imposed duties, and a 1986 Memorandum of Understanding to address the inequities.

As a matter of fact, a major reason for bringing Canada to the negotiating table for the 1996 Agreement, along with a lawsuit by the Coalition for Fair Lumber Imports, was the implementing legislation for the GATT Uruguay Round Agreements. Congress approved the President's "statement of administrative action" that stated that lumber imports from Canada could be subject to countervailing duties under the Uruguay Round.

Every possible action must be taken immediately, to end Canadian lumber subsidy practices through open and competitive sales of timber and logs in Canada at fair market value. This trade must be both free and fair. I thank the Chair.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 7, 2001, to conduct a hearing on "Establishing an Effective, Modern Framework for Export Controls."

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 7, 2001, at 10:30 a.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 7, 2001, at 9:30 a.m., in Dirksen 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HELMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 7, 2001 at 10 a.m., to hold a hearing on intelligence matters, and at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent, on behalf of Senator BIDEN, that Paul Foldi, a State Department fellow on the staff of the Foreign Relations Committee, be granted floor privileges during the consideration of S. 248.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sara Roberts:									
United States	Dollar				8,048.26				8,048.26
Taiwan	New T. Dollar		789.24						789.24
China	Yaun		226.00						226.00
Korea	Won		439.72						439.72
Australia	Aud		468.24						468.24
Stephanie Mercier:									
United States	Dollar				1,098.28				1,098.28
Netherlands	Guilder		1,204.55						1,204.55
Jeffry Burnam:									
United States	Dollar				995.28				995.28
Netherlands	Guilder		1,362.47						1,362.47
Total			4,490.22		10,141.82				14,632.04

DICK LUGAR,
Chairman, Committee on Agriculture, Nutrition and Forestry, Jan. 31, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2000.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel K. Inouye:									
Japan	Yen		2,030.00						2,030.00
Charlie Houy:									
Japan	Yen		2,030.00						2,030.00
James Morhard:									
France	Franc		976.00		5,976.31				6,952.31
Senator Judd Gregg:									
France	Franc		976.00		5,976.31				6,952.31
Senator Patrick Leahy:									
United States	Dollar				741.12				741.12
Canada	Dollar		454.00						454.00
Tim Rieser:									
United States	Dollar				734.25				734.25
Canada	Dollar		227.00						227.00
Senator Ernest F. Hollings:									
Panama	Dollar		428.00						428.00
Lila Helms:									
Panama	Dollar		428.00						428.00
Susan Hogan:									
United States	Dollar				8,806.99				8,806.99
Australia	Dollar		1,729.78						1,729.78
Total			9,278.78		22,234.98				31,513.76

TED STEVENS,
Chairman, Committee on Appropriations, Jan. 15, 2001.

AMENDMENT TO THE 3RD QUARTER 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1, TO SEPT. 30, 2000.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Steve Cortese:									
United States	Dollar				4,399.00				4,399.00
Greece	Dollar		402.00						402.00

AMENDMENT TO THE 3RD QUARTER 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1, TO SEPT. 30, 2000—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Bosnia	Dollar		351.00						351.00
Croatia	Dollar		274.00						274.00
Italy	Dollar		1,002.00						1,002.00
Portugal	Escudo		375.00						375.00
Sid Ashworth:									
United States	Dollar				4,399.00				4,399.00
Greece	Dollar		402.00						402.00
Bosnia	Dollar		351.00						351.00
Croatia	Dollar		274.00						274.00
Italy	Lire		1,002.00						1,002.00
Portugal	Escudo		375.00						375.00
Kraig Siracuse:									
United States	Dollar				4,399.00				4,399.00
Greece	Dollar		402.00						402.00
Bosnia	Dollar		351.00						351.00
Croatia	Dollar		274.00						274.00
Italy	Lire		1,002.00						1,002.00
Portugal	Escudo		250.00						250.00
Jennifer Chartrand:									
United States	Dollar				4,399.00				4,399.00
Greece	Dollar		402.00						402.00
Bosnia	Dollar		351.00						351.00
Croatia	Dollar		274.00						274.00
Italy	Lire		1,002.00						1,002.00
Portugal	Escudo		375.00						375.00
Paul Doerrer:									
South Africa	Rand		650.00		5,679.00				6,329.00
Robin Cleveland:									
Singapore	Dollar		1,500.00		5,856.46				7,356.46
Christine Drager:									
Canada	Dollar		385.37						385.37
Total			12,026.37		29,131.46				41,157.83

TED STEVENS,
Chairman, Committee on Appropriations, Jan. 15, 2001.

AMENDMENT TO THE 3RD QUARTER 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), ARMED SERVICES COMMITTEE, TRAVEL AUTHORIZED BY SENATOR JOHN WARNER, CHAIRMAN, COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1, TO SEPT. 30, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Cleland:									
Japan	Yen	88,454	818.00						818.00
Korea	Won	690,680	599.00						599.00
William S. Chapman:									
Japan	Yen	83,251	768.00						768.00
Korea	Won	649,462	583.00						583.00
Patricia Murphy:									
Japan	Yen	90,080	831.63						831.63
Korea	Won	727,887	653.40						653.40
Simon Sargent:									
Japan	Yen	73,152	674.84						674.84
Korea	Won	512,743	460.27						460.27
Andrew Vanlandingham:									
Japan	Yen	84,300	777.67						777.67
Korea	Won	531,873	477.44						477.44
Total									6,643.25

JOHN WARNER,
Chairman, Committee on Armed Services, Jan. 30, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), ARMED SERVICES COMMITTEE, TRAVEL AUTHORIZED BY SENATOR JOHN WARNER FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Pamela Farrell:									
France	Franc	15,264.40	2,462.00						2,462.00
Germany	Deutsche Mark	825.72	393.20						393.20
Charles W. Alsup:									
Germany	Dollar		1,222.10						1,222.10
Daniel J. Cox:									
Germany	Dollar		1,057.49						1,057.49
Richard W. Fieldhouse:									
Russia	Dollar		1,049.72						1,049.72
United States	Dollar				4,519.20				4,519.20
Mary Alice Hayward:									
Russia	Dollar		3,910.21						3,910.21
John Barnes:									
Japan	Dollar		590.00						590.00
Korea	Dollar		1,084.96						1,084.96
Thomas L. MacKenzie:									
Japan	Dollar		590.00						590.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), ARMED SERVICES COMMITTEE, TRAVEL AUTHORIZED BY SENATOR JOHN WARNER FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Korea	Dollar		1,084.96						1,084.96
Senator James M. Inhofe:									
Kuwait	Dollar		778.00						778.00
Rwanda	Dollar		125.00						125.00
Congo	Dollar		565.00						565.00
Angola	Dollar		494.00						494.00
United States	Dollar				6,311.00				6,311.00
Cord A. Sterling:									
Kuwait	Dollar		740.00						740.00
Rwanda	Dollar		190.00						190.00
Italy	Dollar		40.00						40.00
Spain	Dollar		580.00						580.00
United States	Dollar				5,706.63				5,706.63
Senator Jack Reed:									
United States	Dollar				4,903.84				4,903.84
Total									38,397.31

JOHN WARNER,
Chairman, Committee on Armed Services, Jan. 5, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ENVIRONMENT AND PUBLIC WORKS COMMITTEE TRAVEL AUTHORIZED BY ENVIRONMENT AND PUBLIC WORKS COMMITTEE FOR TRAVEL FROM OCT. 1, 2000 TO DEC. 31, 2000

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Christopher Miller:									
Netherlands			2,610.00		831.90				3,441.90
Louis Renjel:									
Netherlands			1,740.00		821.12				2,561.12
Total			4,350.00		1,653.02				6,003.02

BOB SMITH,
Chairman, Committee on environment and Public Works, Jan. 22, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elise Bean:									
United States	Dollar				1,314.80				1,314.80
Antigua/Dominica	Dollar			715.98					715.98
Robert Roach:									
United States	Dollar				1,314.80				1,314.80
Antigua/Dominica	Dollar			708.65					708.65
Total			1,424.63		2,629.60				4,054.23

FRED THOMPSON,
Chairman, Committee on Government Affairs, Jan. 2, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(c), JUDICIARY COMMITTEE FOR TRAVEL FROM OCT. 1, 2000 TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Paul Palagyi:									
Brazil			900.00		3,287.80				4,187.80
Total			900.00		3,287.80				4,187.80

ORRIN HATCH,
Chairman, Committee on Judiciary, Jan. 22, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(c), COMMITTEE ON SMALL BUSINESS FOR TRAVEL FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Patricia Forbes:									
France	Franc		886.12		39.08		90.51		1,015.71

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(c), COMMITTEE ON SMALL BUSINESS FOR TRAVEL FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
	Dollar				883.00				883.00
Total			886.12		922.08		90.51		1,898.71

KIT BOND,
Chairman, Committee on Small Business, Dec. 18, 2000.

AMENDMENT TO THE 3RD QUARTER 2000 CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE—UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM JULY 1, TO SEPTEMBER 30, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Doman O. McArthur:									
Spain			181.00				6.00		187.00
Morocco			498.00				125.00		623.00
Senegal			88.00				7.00		95.00
Mali			79.00				19.00		98.00
Ghana			136.00				10.00		146.00
Democratic Republic of the Congo			150.00				57.00		207.00
Angola			10.00				31.00		41.00
Zambia			98.00				35.00		133.00
South Africa			351.00				104.00		455.00
Uganda			161.00						161.00
Tunisia			71.00				111.00		182.00
Algeria			80.00				32.00		112.00
Portugal			178.00				46.00		224.00
Total			2,081.00				583.00		2,664.00

ARLEN SPECTER,
Chairman, Committee on Veterans Affairs, Dec. 20, 2000.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1, TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kenneth Myers, III			2,545.00						2,545.00
Kenneth Myers, Jr.			2,490.00						2,490.00
Senator Richard Lugar			2,490.00						2,490.00
Senator Richard Shelby			1,379.00						1,379.00
	Dollar				5,571.76				5,571.76
Senator Jon Kyl			1,360.00						1,360.00
	Dollar				5,571.76				5,571.76
Randall Bookout			1,329.00						1,329.00
	Dollar				5,571.76				5,571.76
James Barnett			790.00						790.00
	Dollar				8,806.99				8,806.99
Senator Max Baucus			755.14						755.14
	Dollar				5,269.89				5,269.89
Lorenzo Goco			1,034.00						1,034.00
	Dollar				5,269.89				5,269.89
Zak Anderson			1,274.00						1,274.00
	Dollar				5,269.89				5,269.89
James Barnett			1,947.00						1,947.00
	Dollar				5,208.00				5,208.00
Patricia McNerney			1,947.00						1,947.00
	Dollar				3,609.30				3,609.30
Total			19,340.14		50,149.24				69,489.38

RICHARD SHELBY,
Chairman, Committee on Intelligence, Feb. 1, 2001.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), THE MAJORITY LEADER FOR TRAVEL FROM SEPT. 21, TO SEPT. 22, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Kay Bailey Hutchinson:									
Mexico	Pesos		146.25						146.25
Senator Jon Kyl:									
Mexico	Pesos		146.25						146.25
Senator Jeff Sessions:									
Mexico	Pesos		146.25						146.25
Larry DiRita:									
Mexico	Pesos		146.25						146.25
Mike Gerber:									
Mexico	Pesos		146.25						146.25
Julia Hart:									
Mexico	Pesos		146.25						146.25
Delegation expenses [1]								428.63	428.63

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), THE MAJORITY LEADER FOR TRAVEL FROM SEPT. 21, TO SEPT. 22, 2000—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			877.50					428.63	1,306.13

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

TRENT LOTT,
Majority Leader, Nov. 15, 2000.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), DEMOCRATIC LEADER FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2000

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Franz Wuerfmannsdorbler:									
Netherlands	Dollar		3,359.28						3,359.28
Total			3,359.28						3,359.28

TOM DASCHLE,
Democratic Leader, Jan. 31, 2001.

THE FUTURE OF INDO-AMERICAN RELATIONS

Mr. KERRY. Mr. President, the powerful earthquake which recently devastated India's densely populated western state of Gujarat has focused our attention, once again, on India. Gujarat officials estimate that 28,000 to 30,000 people have died. Thousands more have been injured, and hundreds of thousands have been displaced.

In response to India's dire need for help, USAID has sent blankets, generators, water containers, plastic sheeting, food, and other relief supplies—all part of our official commitment to provide some $10 million in emergency humanitarian aid. But in my view this is not enough. We can and should do more. In the initial phase of this disaster when India particularly needed search and rescue teams and medical assistance, the United States was conspicuous in its absence. The Russians, the Brits, the Swiss and others were engaged in pulling people out of the rubble. We were not. At least half a dozen countries, including Denmark, Israel, and Sweden, sent field hospitals, doctors and medical personnel. We did not. Given our slow start, it is especially important for the United States to be particularly generous when it comes to reconstruction.

Indian-Americans, on the other hand, have moved quickly to mobilize their own relief effort—collecting sizeable donations and medical supplies as well as assembling teams of doctors. Reflecting the depth of concern among Americans for the tragedy that has struck India, President Bush, last week, made a condolence call to Indian Prime Minister Atal Bihari Vajpayee. I commend the President for making this call, not only because it was the right thing to do under the circumstances, but also because it was an important gesture by the new Administration toward a country in a region that the United States tends to ignore, except in times of crisis.

Regrettably the Clinton Administration paid little attention to developments in South Asia until May 1998, when India broke its 25 year moratorium on nuclear testing with five underground tests. Taken by surprise, the Administration tried—to no avail—to persuade Pakistan not to test in response. Confronted with escalating tensions not only in the nuclear realm but on the ground over Kashmir, the Administration was forced to focus on growing instability in the subcontinent.

Belatedly the Administration picked up the pace of its diplomacy in the region, opening a high level dialogue with India and Pakistan on nuclear issues, interceding to reduce tensions over Kashmir, and arranging a Presidential visit last March to India, with a brief stop in Pakistan. President Clinton's trip to India—the first by a US president in 22 years—was an effort, in his words, to "rekindle the relationship" between the United States and India. It was a welcome initiative.

I was in India in December 1999, a few months before President Clinton's visit, to participate in the World Economic Forum's India Economic Summit. While there, I had an opportunity to meet with a number of Indian officials including the Prime Minister, his National Security Adviser and the Defense Minister. During the course of these meetings, it became very clear to me that India wanted a better relationship with the United States. In many respects, this was predictable because from India's perspective, the neighborhood in which it lives has become less friendly and more threatening, and its historical ally, the Soviet Union, no longer exists.

Pakistan is under the control of a military regime rather than a democratically elected government—a regime which New Delhi views as illegitimate and threatening. In the months before the Clinton visit, tensions with Pakistan had intensified not only over Kashmir but also over Pakistani support for terrorists. Although tensions have subsided since then, Kashmir continues to be a volatile issue that could provoke another war between India and Pakistan both armed with nuclear weapons. Pakistan, like India, has declared its intention to be in the nuclear game. Pakistan clearly poses a security problem for India but not of the magnitude of China. As one Indian told me during my visit, "Pakistan is a nuisance but not a threat—China is a threat."

The biggest and from the Indian viewpoint most menacing power in the neighborhood is China—a country with which India has had longstanding tensions over border and territorial issues. China's past assistance to Pakistan's nuclear program and its ongoing efforts to build influence with other smaller countries in the region, particularly those on India's border such as Burma, are proof at least in the minds of Indians that China is trying to encircle India. Whereas most of the countries in Southeast Asia see Chinese aspirations as limited to that of a regional power that wants recognition and respect, India is wary of China's aspirations both in the region and globally.

The Indian fear of China seems to me to be larger than reality but it is real nonetheless, and it is a major reason why India has been seeking improved relations with the United States. The Clinton Administration, recognizing that improved relations would be in America's interests as well as India's, wisely took advantage of this opportunity. India is the largest democracy in Asia and a potentially important partner in our efforts to promote regional stability, economic growth and more open political systems in surrounding countries. It is a fledgling nuclear power with the potential to affect the nuclear balance in South Asia as well as our nonproliferation goals on a global level. It is involved in a longstanding conflict with Pakistan which could erupt into another war possibly at the nuclear level. It is a player in a region dominated by China, with whom the US has mutual interests but also major differences.

While the United States and India have differences over serious issues related to the development of India's nuclear program, labor and the environment, Cold War politics and alliances no longer stand in the way of improved relations. In fact, as many of my Indian hosts suggested, the United States and India are "natural allies". Both are vibrant democracies; Indian-American family ties are strong and extensive. As India has begun to open and liberalize its economy over the past decade, American business and investment in India has grown, particularly in the high tech region of Bangalore, and America has become India's largest trading partner and source of foreign investment. And on the flip side, Indians are playing a major role in the growth of our high tech industry in California, Massachusetts, New York, and elsewhere. Together with the Taiwanese, Indians own more than 25 percent of the firms and supply more than 25 percent of the labor in this country in those technology fields. All of India's political parties have accepted the need to continue India's economic modernization. Undoubtedly there will be disagreements over how to do it but continuation of the process holds out the prospects of increased economic interaction with the United States.

The potential exists for the U.S. and India to have a strong, cooperative relationship across a broad range of issues. President Clinton's visit to India was an important step in laying the foundation for this new relationship. Working groups were set up on trade, clean energy and environment, and science and technology. A broad range of environmental, social and health agreements were signed. To strengthen economic ties, $2 billion in Eximbank support for U.S. exports to India was announced. U.S. firms signed some $4 billion in agreements with Indian firms. The effort to institutionalize dialogue was capped by an agreement between President Clinton and Prime Minister Vajpayee for regular bilateral summits between the leaders of both countries. An invitation was extended to the Prime Minister to visit Washington, which he did last September. During that visit, the two leaders agreed to expand cooperation to the areas of arms control, terrorism and AIDS.

The seeds have been sown for a new Indo-American relationship. It is up to the Bush Administration to nurture them. The Administration must devote time and attention to the relationship—and to developments in the region—on a consistent basis, not on a crisis only basis. President Clinton and Prime Minister Vajpayee set out to regularize bilateral contacts not only at the working level but also at the highest levels. President Bush should continue this process. Personal diplomacy at the highest levels, particularly when dealing with Asian countries, is an essential element of relationship-building. I also believe that the time is long overdue for the United States to distinguish, once and for all, between India and Pakistan and to treat each differently and according to the demands of those bilateral relationships.

A constant source of irritation for Indians has been the inability or unwillingness of the United States to differentiate between India and Pakistan. From their perspective, India's commitment to democracy and economic reform dictate that the United States have a different relationship with India than with Pakistan, which has a military regime that supports terrorism. I agree that a distinction must be drawn. That the United States lumps them together or even worse is soft on Pakistan is clearly unacceptable from the Indian point of view. To a certain extent, they have a point. To a certain extent, they have made their point accurately.

Just as the passing of the Cold War has improved the atmosphere for an improvement in Indo-American relations, it has also removed the need for the United States to ignore Pakistan's transgressions both within and outside of its borders. The United States no longer needs to tilt toward Pakistan in pursuit of larger strategic objectives. We should look at our relationships with India and Pakistan separately, analyzing each in terms of mutual interests and differences and being more candid in defining areas of agreement and disagreement. President Clinton attempted to find a new balance during his trip last year, by spending several days in India and only a few hours in Islamabad. But more needs to be done. In my view, we can advance our interests and strengthen our relationship with India by immediately terminating the sanction on loans to India from international financial institutions (IFIs).

Although President Clinton waived most of the sanctions imposed on India after it tested in 1998, he chose not to exercise the waiver for IFI loans to India, amounting to some $1.7 billion, or for FMF (foreign military financing) for India. I believe that we should lift the IFI sanction at this time. The release of these funds would send an important signal to India of our ongoing commitment to improved relations while also encouraging the government of India to continue its economic modernization.

The sanction on FMF needs discussion in hopes of finding further progress regarding India's position on nuclear issues. At the moment, Indian officials have made it clear that there would be no rollback of India's nuclear program and that India intends to have a credible minimum nuclear deterrent which means nuclear weapons and delivery systems. They believe that the United States is under-emphasizing India's security needs and overemphasizing nonproliferation objectives. I believe there is a happy medium between these two. Although there has been ongoing dialogue between Indian and American officials on the Clinton Administration's four nonproliferation benchmarks set after the 1998 tests—signing and ratifying the Comprehensive Test Ban Treaty (CTBT), halting fissile material production, refraining from deploying or testing missiles or nuclear weapons, and instituting export controls on sensitive goods and technology.

Despite the fact that we set up these benchmarks, the truth is there has been little progress made with respect to them.

We must be frank and acknowledge at the same time, as we see and measure the progress, that we have to be honest about our own status, if you will. That requires us to acknowledge that our failure in the Senate to approve the Comprehensive Test-Ban Treaty has undermined our ability to influence India and many other countries. And Pakistan, obviously, is in the same equation.

Nevertheless, it is imperative that the dialog continue because too much is at stake in terms of regional stability and nonproliferation to allow it to wither. We need to understand the fears that are driving India's sense of security and insecurity. We need to ask ourselves what is realistic to expect from India in light of those fears.

For their part, the Indians must understand that much can be gained in the relationship with the United States and with progress on these issues. Arms control and regional stability are inextricably linked, and global security is inextricably linked to our resolution of these issues.

I am very hopeful we can quickly reach a mutual understanding to permit the FMF sanction to also be lifted. I believe we can make progress on these difficult issues if both parties are prepared to tackle them and to be sensitive to understanding the other's security concerns.

India and the United States have begun to build a new cooperative relationship that reflects our common ties and our common interests. A process has begun, and the administration needs to continue that progress with commitment and with zeal.

India and the United States have an enormous amount to offer each other. We both can benefit, in my judgment, from a more cooperative and friendly working relationship. I think the groundwork has been laid. I hope this administration can move rapidly to lift the current sanctions, to enter into the talks, and to move forward in this most critical relationship. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in a period for morning business, with Members allowed to speak for up to 10 minutes.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 277 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 235

Mr. DEWINE. Mr. President, on behalf of the leader, I ask unanimous consent that at 11 a.m. on Thursday, the Senate proceed to S. 235, the pipeline safety bill and all amendments be relevant to the subject matter of pipeline safety or energy policy in California or a study relative to energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, in light of this agreement, I announce to the Members of the Senate that there will be no further votes today.

MODIFICATION OF S. RES. 7

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that notwithstanding the adoption of S. Res. 7, the resolution be modified to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification reads as follows:

MODIFICATION

Designating Senator Larry Craig as chairman of the Committee on Aging;

Designating Senator Pat Roberts as Chairman of the Committee on Ethics;

Designating Senator Harry Reid as Vice Chairman of the Committee on Ethics;

Designating Senator Inouye as Vice Chairman of the Committee on Indian Affairs.

JOINT ECONOMIC COMMITTEE REPRESENTATION

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 279 regarding the membership of the Joint Economic Committee.

Further, I ask that the bill be read the third time and passed, with the motion to reconsider laid upon the table.

There being no objection, the Senate proceeded to consider the bill.

The bill (S. 279) was read the third time and passed, as follows:

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, and specifically section 5(a) of the Employment Act of 1946 (15 U.S.C. 1024(a)), the Members of the Senate to be appointed by the President of the Senate shall for the duration of the One Hundred Seventh Congress, for so long as the majority party and the minority party have equal representation in the Senate, be represented by five Members of the majority party and five Members of the minority party.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 106-553, announces the appointment of the following Senators to serve as members of the Congressional Recognition for Excellence in Arts Education Awards Board: The Senator from Mississippi (Mr. COCHRAN) and the Senator from Utah (Mr. BENNETT).

The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84 and Public Law 106-292, appoints the following Senators to the United States Holocaust Memorial Council for the 107th Congress: The Senator from Utah (Mr. HATCH), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Maine (Ms. COLLINS).

ORDERS FOR THURSDAY, FEBRUARY 8, 2001

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, February 8. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and then the Senate proceed to a period for morning business until 11 a.m., to be divided in the following manner: Senator TORRICELLI, in control of the time between 9:30 a.m. and 10 a.m.; Senator DURBIN, or his designee, controlling the time between 10 a.m. and 10:15 a.m.; Senator THOMAS, or his designee, controlling the time between 10:15 and 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Mr. President, tomorrow the Senate will begin the day with a period of morning business. At 11 a.m. the Senate will proceed to the consideration of the pipeline safety legislation. Relevant amendments are in order under a previous agreement, and Senators who have amendments are encouraged to inform the managers of that fact. It is hoped a vote on final passage can occur as early as tomorrow afternoon.

ORDER TO RECOGNIZE THE MAJORITY LEADER

Mr. DEWINE. Mr. President, I ask unanimous consent that the majority leader be recognized at 11 a.m. tomorrow for up to 15 minutes for a tribute.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAITI: A HUMAN TRAGEDY

Mr. DEWINE. Mr. President, let me turn to an event occurring to our neighbor to the south, Haiti, this very day. It is an event that has impact not just for the people of that impoverished country, but also for the United States.

Today, Jean-Bertrand Aristide will be inaugurated. This is the second time that Aristide is being inaugurated as Haiti's President. Aristide, with great popularity and great expectations, will today be succeeding his hand-picked successor of Rene Preval.

For Aristide, and more importantly for the Haitian people, this is a moment of great historic import and significant opportunity. Aristide's second inauguration represents a monumental opportunity because this man has the power to save his tiny nation from its own self-destruction—destruction due in large part to the collective ideas, hopes, and dreams that both President Preval and President Aristide himself have squandered over the precious years since 1994.

When last many Americans tuned into Haiti, it was 1994. In 1994, our country sent 20,000 troops to Haiti as part of an internationally endorsed effort to restore Aristide to power. That did occur in 1994. Tragically, though, during these past 6 years, both President Aristide, and then President Preval, have failed to enact the necessary reforms to bring democracy, stability, and, yes, hope to Haiti. As a result, Haiti, today, still has a declining gross national product. Nobody knows what the unemployment is. Official estimates are between 60 and 70 percent unemployment. There is little to no foreign investment. In fact, there is less today than a number of years ago. They have the hemisphere's lowest per capita income and highest infant mortality rate. The Haitian National Police, HNP, a civilian police force, which the United States and the international community helped to establish 6 years ago, and that we worked very hard on and saw great success made, now, today, unfortunately, is declining in its expertise.

Six years ago, there was great promise for the Haitian National Police. Today, though, the HNP has become more corrupt, more engaged in politics, and is in a state of steady decline.

In 1994, when Aristide was returned to power, everyone was realistic. No one expected miracles. Haiti was, after all, a country that has been miserably governed by Haitians and non-Haitians alike for not just decades but for centuries. What could have been expected and should have been expected was the establishment of a foundation for change and the establishment of a foundation for progress that would help move that country away from its failed past and toward a hopeful and productive future.

Tragically, under both President Aristide, and then President Preval, there has been no movement in that direction. Moreover, the few Haitians who comprised the economic elite have shown no interest in becoming stakeholders in their country's overall social, political, and economic progress. For them, it seems, they think it is in their best interest to stand back from the turmoil that surrounds them so as to not risk their own wealth and security. That has been true of the economic elite, and it has been true of the political elite as well.

Despite this, in politics, as in theater and in life itself, there are second acts, second opportunities for redemption. President Aristide now has such an opportunity. His immense popularity and his political hold on the country give him the capability to reverse Haiti's destructive course. It is within his means to do the things that are necessary. Quite frankly, anyone who has spent any time looking at Haiti knows that there are four, five, six basic things that Haitians need to do to get their country moving in the right direction. It is within Aristide's grasp today to help Haiti begin to eliminate corruption, create free markets and new industries, to do basic things such as privatize Port-au-Prince port, which today, unbelievably, is the most expensive port in the entire hemisphere to ship anything into or out of. He has it within his power to improve the country's judicial system, to stabilize its political system, to respect human rights, and to learn to establish and sustain an agricultural system that can begin to feed its own people.

It is within Aristide's means to help Haiti break out of its vicious cycle of despair, a cycle in which political stalemate stops government and judicial reforms which, in turn, discourage investment and privatization. Caught in a cycle such as this, the economy stands to shrink further and further until there is no economic investment to speak of at all.

That will occur unless some action is taken. Aristide already has given some indication—at least on paper—that he is willing to make some of these changes. In a December letter to President Clinton, he said he was committed to a broad range of governmental and political reforms, including: Rapid review and rectification of 10 contested Senate seats; creation of a credible new provisional electoral council in consultation with opposition party members; substantial enhancement of cooperation with the United States to combat drug trafficking; nomination of capable and respected officials for senior security positions, including the Haitian National Police; strengthening of democratic institutions and protection of human rights; installation of a broad-based government, including members of the opposition; initiation of new dialogue with international financial institutions to enhance free markets and private investment; and negotiation of an agreement for the repatriation of illegal migrants.

All of these things were spelled out in that letter from President Aristide to then-President Clinton. All of these things are readily achievable.

Aristide's pledge is encouraging. But, unless he has the political will to actually carry out these reforms and create a stable and democratic government, Haiti has no hope of making real and lasting economic, political, and judicial progress. Quite candidly, there's nothing the United States can do to fix Haiti if its government isn't willing to fix itself. Since the mid-1990s, we've spent more than $2 billion—and the international community has poured in at least another $1.5 billion—to try to bring democracy and stability to Haiti.

Yet if we look at where Haiti is today versus where it was 6 years ago, a casual observer going through that country would come to the conclusion that virtually nothing has changed, that nothing has happened.

Candidly, Mr. President, the fact is that extraordinary amounts of financial assistance and the good intentions behind them are no substitute for the political will and leadership necessary to rescue an unstable country in an economic freefall. Unless Aristide and his Family Lavalas Party take responsibility for the situation and commit to turning things around, history will repeat itself.

Unless President Aristide, his political party, and the leadership of Haiti take responsibility for the situation and commit to turning things around, history will once again tragically repeat itself.

Unless Aristide makes concrete changes, we will once again be seeing makeshift boats and rafts overflowing with Haitians who want a better life trying to get to Florida. We will begin to see that again—people risking their lives as they float towards Miami for a chance of freedom and democracy and food for their children.

But should Aristide begin to demonstrate a legitimate commitment to change, the United States and the international community stand ready to resume our efforts to help the Government of Haiti. But it will take action, and it will take action from the President, President Aristide, and from the Haitians. Until then, until we see that kind of commitment, U.S. commitment will remain limited to directly helping the children of Haiti, the people of Haiti, and not the Government.

The United States, irrespective of what Aristide does, must remain involved in humanitarian efforts—efforts such as Public Law 480, the Food Assistance Program, a food assistance program that is helping tens of thousands of Haitian children every day, giving them the one meal a day they have, and for many of them giving them an incentive to go to school and become educated. We must continue to do that.

One of the bright spots of what has been going on in Haiti, and one of the things of which I think this country should be very proud, is how many Americans are in Haiti every single day working to make a difference. Many of them are religious. Many of them belong to church groups. Many of them belong to other nonprofit organizations or groups. Some go for a week, some go for 2 weeks, and some have gone to live and stay. But there are thousands and thousands of Americans every day who are making a difference in Haiti.

We must continue as a U.S. Government to assist them as they try to assist the children of Haiti because it is the children who are the true casualties in Haiti. It is the children who have suffered the most from the lack of progress over the last 6 years. It is the children who have suffered the most from the inability and the unwillingness of the Haitian Government to move to make real changes in Haiti.

So the real victims have been the children. They are the victims of the turmoil. They are the victims of the instability. They are the victims of a lack of political will. We as a country and as a people simply cannot and will not turn our back on them.

This is a country where the infant mortality rate is approximately 15 times that of the United States. It has the highest infant mortality rate in our hemisphere. Of those Haitian children under 5 years of age, 129 of every 1,000 never make it to the age of 6.

Because Haiti lacks the means to produce enough food to feed its population, the vast majority of Haitian children who survive are malnourished and rely heavily on our humanitarian food aid.

Additionally, because of the lack of clean water and sanitation, only 39 percent of the population has access to clean water and 26 percent has access to decent sanitation. Because of that, diseases such as measles and tuberculosis are epidemic, and children die from the simplest thing as diarrhea. That happens every single day in Haiti.

The future of Haiti's children ultimately is in Aristide's hands. It is time for President Aristide to match his words with his deeds and uphold his recent pledge to place his country and its people on a path of significant democratic societal reform. Lip service and piecemeal efforts, actions temporarily to appease the United States and the international community, frankly, will get Haiti nowhere.

This is Aristide's second act. The curtain comes up on that act today. He and the political rulers have a simple choice: To break with recent history and create a stable political system and a free and democratic, market-driven economy, or to perpetuate the status quo and the needless bloody tragedy that confines future generations of Haitians to lives of distress, disillusionment, and despair.

It is, quite candidly and quite bluntly, up to President Aristide to make that determination. This is the second act. This is the second opportunity. History will judge whether or not he takes that opportunity for the people of Haiti or whether that opportunity is squandered.

I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 4:59 p.m., adjourned until Thursday, February 8, 2001, at 9:30 a.m.

EXTENSIONS OF REMARKS

HONORING THE 100TH ANNIVERSARY OF THE EUREKA WOMEN'S CLUB

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. THOMPSON of California. Mr. Speaker, I wish to rise today in recognition of the 100th anniversary of the Eureka Women's Club of Humboldt County, California.

Formed in 1901 as the Monday Club Federation of Eureka, the club quickly allied with the California Federation of Women's Clubs, and finally became known as the Eureka Women's Club. The club membership has provided countless hours of service for the betterment of the community.

Through cultural and educational events, as well as charitable interests, the Eureka Women's Club has encouraged a high moral standard and abiding interest in the historical traditions of Eureka and the region. Their legacy includes advocacy for the preservation of the acclaimed California Federated Women's Club Grove along the Eel River in Humboldt Redwoods State Park, as well as their classic Craftsman styled 1917 clubhouse, located at 1531 J Street, in the Victorian Seaport town of Eureka, California.

Mr. Speaker, it is appropriate at this time that we honor the members of the Eureka Women's Club and acknowledge their dedication and commitment to the many worthwhile projects over the past century that have enhanced the broader community.

TRIBUTE TO THE ALPHA KAPPA ALPHA DEBUTANTES OF HUNTSVILLE, ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. CRAMER. Mr. Speaker, today I recognize the accomplishments and bright future of thirty-one young ladies in my district. These outstanding young women will be honored on February 23, 2001 at the Forty-Third Annual Debutante Presentation Ball. In conjunction with the upcoming ball, five of these debutantes, Carlquista Champagne Johnson, Deanna Dion-Belvin Davis, De'Shandra Natasha Teague, Jasamine Greene and Jessica LaTori Burwell, will be honored by their parents this Saturday at a Sweetheart Tea.

I wanted to take a moment and recognize these women for their dedication to the debutante program. For these past few months, these women have attended training sessions emphasizing the areas of leadership, health, careers, personal enhancement and social graces. Before celebrating their coming of age in the traditional ball these women will have completed cultural and community service projects and prepared a scrapbook.

Chosen on the basis of academic, leadership, personal development, social graces, spiritual and civic awareness, these women represent the promise of a better future and the potential for making a difference in their community. This year the Epsilon Gamma Omega Chapter of Alpha Kappa Alpha is following the international theme of "Blazing New Trails".

I commend these debutantes for blazing new trails of knowledge and understanding. I also commend their parents for their dedication to their daughters' upbringing and success. I send my best wishes to the debutantes for a delightful tea and a magical Ball.

PERSONAL EXPLANATION

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. OSBORNE. Mr. Speaker, on February 6, 2001, I was unavoidably detained and missed having the opportunity to vote on H.J. Res. 7, a resolution recognizing the 90th birthday of Ronald Reagan. If I had been present, I would have voted for the resolution.

President Reagan served his country honorably as President and was a great leader of the free world. He is very deserving of this recognition on his birthday, and I deeply regret that I was not present to vote in favor of the resolution honoring him.

IN HONOR OF ANN BALDERSON

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to Ann Balderson of Dartmouth, Massachusetts. For over 25 years, Mrs. Balderson has served the people of the Commonwealth of Massachusetts as a devoted schoolteacher, and she will retire on June 30th of this year. I commend her for her tireless efforts aimed at educating and molding the minds of our greatest resource, our children.

Mrs. Balderson has spent the majority of her career in the Dartmouth school system. After graduating in 1965 from Notre Dame College of Maryland in Baltimore, Mrs. Balderson moved to Massachusetts to continue her career as an educator, and she has continued to this day as a teacher of the 2nd grade. Today, I join with her husband William, and her two children Margaret and Robert, and applaud her for her many years of distinguished service. Nothing is more important than the education of our children, and I commend and thank Ann Balderson for devoting 25 years of her time and energy to the youth of Massachusetts.

TRIBUTE TO JULIE GRISHAM

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Ms. LOFGREN. Mr. Speaker, today I rise to recognize the achievements of Julie Grisham, Senior Public Health Manager for Health Promotion and Director of Maternal, Child and Adolescent Health for the Public Health Department of Santa Clara County. Ms. Grisham is retiring after 30 years of dedicated service to the people of Santa Clara County.

Julie Grisham began serving in the Department of Public Health in 1971 as a staff Public Health Nurse. She was consistently commended for her dedication and the quality of her nursing care and was promoted first to Supervising Public Health Nurse and then AIDS Program Manager before assuming her current roles of Senior Public Health Program Manager for Health Promotion and Director of Maternal, Child and Adolescent Health.

Julie Grisham demonstrated leadership and vision in both Santa Clara County and the State of California by assuming the responsibilities of President of the California Conference of Local Maternal, Child and Adolescent Health Directors and President of the California Public Health Association, North. She took active roles in promoting legislation through such committee assignments as Children and Families Committee Liaison, the Santa Clara County Health Department Frontline Leadership Committee and the Early Childhood Development Collaborative.

Julie Grisham is a role model and a leader both in her community and in the county, and is valued as a coworker and a friend. The Santa Clara Valley Health and Hospital System has benefited greatly from her vision, expertise, commitment and care for the community and her coworkers.

I wish to thank Julie Grisham for her tireless and loyal service to the County and wish her the best in her future endeavors. Furthermore, she has my personal thanks for our years of friendship. Though we will miss her creativity, expertise and commitment, her dedication has left its mark on both the Public Health Department and all of Santa Clara County.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN RECOGNITION OF THE HARRISBURG BULLDOGS

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. PHELPS. Mr. Speaker, today I wish to recognize and congratulate one of my district's high school football teams. The Harrisburg Bulldogs of Harrisburg, IL recently won the Illinois Class 3A state football championship. The Bulldogs defeated the Oregon Hawks 41–13 in the championship game at University of Illinois' Memorial Stadium. The Bulldogs ended their season with a perfect record of 14–0.

Led by coaches Al Way and Greg Langley, members of the 2000 Harrisburg Bulldogs include Roth Clayton, Braden Jones, Joey Pilcher, Kyle Smithpeters, Walker Franks, Bob Dovell, Noah Stearns, Blake Emery, Brad Brachear, John Potts, Jeff McDonald, Mike Hancock, Nathan Potts, Cameron Chapman, Matt Oshel, A.J. Smith, Kyle Hicks, Jared Borders, Seth Hall, Tyler Rumsey, Justin Aud, Chris Stokich, Jacob Potter, Jacob Grubbs, Mark Hancock, Houston Ellis, Bard Karnes, Denver Milligan, Marques Scott, Kory Potts, Josh Goemaat, Patrick Beal, Travis Jerrels, Joe Speaks, Nick George, Alan Hurd, Jason Pigg, Justin Milligan, Daniel Henderson, Travis Boots, Travis Butler; cheerleaders, Casey Sowels, Jayna Beal, Sophia Hobson, Brooke Lane, Krystal Eudy, Liz Franks, Erin Brannock, Devin Kielhorn, Ashley Williams, and Brittany English.

The members of the Harrisburg Bulldogs should be proud of their achievement. I congratulate them and wish them good luck in future football seasons.

IN MEMORY OF JOHN R. STOKES, HUMBOLDT COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. THOMPSON of California. Mr. Speaker, I wish today to recognize Humboldt County attorney and World War II hero John Reynolds Stokes, who died Friday, January 5, 2001 in Arcata, California at the age of 83. His life was dedicated to the defense of democracy in war and in peace.

John Stokes grew up in Southern California and received his undergraduate education at Santa Barbara State College. In 1942 he was commissioned a Second Lieutenant in the Army Air Corps and was trained to fly the Martin B–26 Marauder. Stationed in England, he flew many missions over France. His 29th mission was the D-Day bombing of the Normandy Coast. After the liberation of Paris, Group Commander Stokes, based in France, made his last combat flight on March 13, 1945. He served with valor and distinction and was awarded the Distinguished Flying Cross with ten Oak Leaf Clusters. Throughout his life, he stayed in touch with survivors of the 344th Bomb Group with whom he had shared the perils of war. He returned often to France to visit with French comrades.

John Stokes returned to California and entered Boalt Hall School of Law at the University of California at Berkeley. After graduation in 1948, he moved to Arcata, California with his wife Edith where he practiced law for more than fifty years. He served that community as City Attorney from 1950 to 1983. He was a member of the State Bar Board of Governors from 1979 to 1982 and was Chairman of the Committee of Bar Examiners from 1985 to 1986. Many young lawyers, new to the practice of law, were grateful for his guidance and counsel.

A life-long Democrat, he took particular pleasure in helping young people who sought careers in public service. Many successful candidates valued his advice and support. He served as Chairman of the Humboldt County Democratic Central Committee for ten years.

Courageous in war, honorable and valiant in the pursuit of justice, John Stokes devoted his life to safeguarding the liberties we all enjoy as American citizens.

He has left a distinguished legacy to his five children, Katherine, John, Mary, Lucy and Emily, as well as his grandchildren, Sam, Catherine and Anna.

Mr. Speaker, it is appropriate at this time that we recognize John Reynolds Stokes for his unwavering commitment to the ideals and values that sustain our great country.

TRIBUTE TO MISS REBECCA PASSION, MISS RODEO USA OF ATHENS, ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. CRAMER. Mr. Speaker, today I recognize the outstanding success of Rebecca Passion of Athens, Alabama. Crowned Miss Limestone Rodeo 2000, Miss Passion represented Limestone County at the IPRA National Finals in Oklahoma City, Oklahoma on January 15. Miss Passion was crowned Miss Rodeo USA on January 20. As her community gathers to honor her victory this Saturday at the Limestone County Sheriff's Rodeo Arena, I would like to join them in congratulating her.

Miss Passion's win is a testament to her talent, hard work and perseverance. The grueling competition included a test of riding skills, a public speaking portion and a lengthy interview. She excelled in all levels and surpassed the other competitors easily.

I know that Limestone County is very proud of their "hometown hero". They have supported her every step of the way. The Miss Rodeo USA crown is a crown that she shares with her community. Miss Passion is a wonderful role model and I know that she will use her time as Miss Rodeo USA to serve her community.

On behalf of the United States Congress, I congratulate Miss Passion and wish her a rewarding reign as Miss Rodeo USA. I wish her the best in all her future endeavors.

INTRODUCTION OF THE INDEPENDENT TELECOMMUNICATIONS CONSUMER ENHANCEMENT ACT OF 2001

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mrs. CUBIN. Mr. Speaker, today I have the pleasure of introducing the Independent Telecommunications Consumer Enhancement Act of 2001.

As many will recall, last year I introduced H.R. 3850, the Independent Telecommunications Consumer Enhancement Act of 2000, to lessen the burdens on small and mid-sized telephone companies and allow them to shift more of their resources to deploying advanced telecommunication services to consumers in all areas of the country.

Small and mid-size companies are truly that—while the more than 1,200 small and mid-size companies serve less than 10% of the nation's lines, they cover a much larger percentage of rural markets and are located in or near most major markets in the country.

Some of these telephone companies are mom and pop operations typically serving rural areas of the country where most other carriers fear to tread—in high cost places where it is less profitable than more populated areas.

In 1996 Congress passed historic legislation in the form of the Telecommunications Act. Section 706 of the Act sent a clear message to the American people and to the Federal Communications Commission (FCC) that the deployment of new telecommunications services in rural areas around the country must happen quickly and without delay.

Unfortunately the FCC has not made it any easier for small telephone companies to deploy advanced services in rural areas—in some cases they've actually made it more difficult. The reason is that the FCC more often than not uses a one size fits all model in regulating all Incumbent Local Exchange Carriers (ILECs). This type of model may be fine for the big companies than have the ability to hire legions of attorneys and staff to interpret and ensure compliance with the federal rules.

However, I for one would rather see the small and mid-size companies use their resources to deploy new services and make investment in their telecommunications infrastructure.

Two examples of these burdensome FCC requirements are CAM and ARMIS reports.

These reports, separately, cost about $500,000 to compile and would equate to a small phone company installing a DSLAM or other facilities to provide high speed Internet access to customers in rural areas.

Just to give you an example of how burdensome these reports are, the Commission's instructions for filling them out are over 900 pages long. More often than not, the FCC does not refer to—and in some cases simply ignores—the data filed by mid-size companies.

Let me be very clear, however, that the bill does nothing to restrict the Commission's authority to request this or any other data at any time.

I want to be fair—the FCC should be commended for their efforts to bring some of these reporting requirements down to a reasonable level. In fact, during our hearing on this legislation, the FCC told the Telecommunications Subcommittee that it may be issuing a notice of proposed rule-making on the reporting requirements for 2 percent companies sometime this fall.

The problem, though, is that the agency's time frame on issuing these proposed rules has changed like the Wyoming winds. It's time those obligations are met and this legislation would solidify what the FCC has promised to do for a long time.

In addition, I want everyone to know that I have bent over backwards to accommodate many of the initial concerns that some members had with this legislation and have incorporated a majority of their helpful suggestions.

Some of the changes that were adopted during the Commerce Committee's consideration of the bill took into account several technical provisions that will continue to allow the FCC to do its job but in a way that still ensures that small and mid-size companies are treated differently.

Mr. Speaker, I want to state for the record what this legislation does and what it does not do.

The bill does not reopen the 1996 Act; it does not fully deregulate two percent carriers; and it does not impact regulations dealing with large local carriers. It would, however, be the first free-standing legislation that would modernize regulations of two percent carriers; it would accelerate competition in many small to mid-size markets; accelerate the deployment of new, advanced telecommunication services; and benefit consumers by allowing two percent carriers to redirect resources to network investment and new services.

Mr. Speaker, this legislation is critical for rural areas across the country where these small telephone companies operate.

Without this bill, these two percent companies will continue to be burdened with this "one-size-fits-all" regulatory approach that has kept them from providing rural areas with what they need most—a share of the new economy.

I want to remind members of the House that H.R. 3850 passed with wide-spread support during the 106th Congress. Unfortunately, the Senate wasn't able to bring up the bill due to time constraints, but I am confident that we will continue to garner support for this common sense regulatory initiative.

In closing I want to thank the original cosponsors of the bill: Reps. BART GORDON, CHIP PICKERING, and TOM BARRETT. The cosponsors and I acknowledged that there may be room for improvement and welcome refinements. As I acknowledged earlier, last year I was very receptive to concerns that individual members and industry representatives brought to my attention. My office has always had an open door policy and that will never change. We look forward to working with incumbent and competitive interests so that in the end the ultimate goal will be realized: improved access to advanced telecommunications and common sense regulatory changes that lessen the burdens on small and mid-size telecommunications providers.

We collectively acknowledge the new leadership at the Federal Communications Commission and look forward to their thoughtful suggestions as well as their own internal changes that will hopefully improve the regulatory environment that these small and mid-size companies operate under.

Mr. Speaker, I want to thank the members of the Commerce Committee for their help in moving this bill last year and ask my colleagues to once again unanimously support this very important piece of legislation.

RAISING THE SUBSTANTIAL GAINFUL ACTIVITY AMOUNT FOR PERSONS WITH SPINAL CORD INJURIES

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise to introduce a bill that would provide Social Security disability beneficiaries with severe spinal cord injuries the same protections as are afforded the blind.

Many people who suffer from spinal cord injuries are unable to earn a living, and receive Social Security disability.

My legislation seeks to help those who have overcome their debilitating injury, and are able to work.

Under current law, recipients of Social Security disability are eligible for benefits if they are unable to earn no more than the Substantial Gainful Activity (SGA) amount, which is $740/month.

The Senior Citizens' Right to Work Act of 1995 increased the SGA amount for blind individuals to $1000/month. The provision allows blind individuals to qualify for Social Security disability even if their income is $1000/month. In 2001, the monthly SGA amount was raised to $1,240/month.

My bill would raise the SGA amount for persons with spinal cord injuries to $1,240/month. These individuals should not be discouraged from earning income that could supplement their disability payments.

Social Security disability benefits should not be withdrawn from persons with spinal cord injuries because they have the courage to return to work.

I urge my colleagues to join as cosponsors of this legislation.

ON THE INTRODUCTION OF THE COMMUNITY ACCESS TO HEALTH CARE ACT OF 2001

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the Community Access to Health Care Act of 2001, legislation I am introducing to help our states and communities deal with the crisis of the uninsured.

More than 42 million Americans do not have health insurance and this number is increasing by over a million persons a year. Most of the uninsured are working people and their children—nearly 74 percent are families with full-time workers. Low income Americans, those who earn less than 200 percent of the federal poverty level or $27,300 for a family of three, are the most likely to be uninsured.

Texas is a leader nationally in the number of insured, ranking second only to Arizona. About 4 million persons, or 26.8 percent of our non-elderly population, are without health insurance.

The uninsured and under-insured tend to be more expensive to treat because they fall through the cracks of our health care system. The uninsured and under-insured often can't afford to see the doctor for routine physicals and preventive medicine. Consequently, they arrive in the emergency room with costlier, often preventable, health problems.

Research by the Kaiser Family Foundation underscores this problem. Nearly 40 percent of uninsured adults skip a recommended medical test or treatment, and 20 percent say they have needed but not received care for a serious problem in the past year. Kaiser also reports that uninsured children are at least 70 percent less likely to receive preventive care. Uninsured adults are more than 30 percent less likely to have had a check-up in the past year, uninsured men 40 percent less likely to have had a prostate exam and uninsured women 60 percent less likely to have had a mammogram than compared to the insured.

This broken health care system yields dangerous, sometimes deadly results. The uninsured are at least 50 percent more likely than the insured to be hospitalized for conditions such as pneumonia and diabetes. Death rates from breast cancer are higher for the uninsured than for those with insurance.

Our Nation's health care safety net is in dire need of repair. Communities across the country are identifying ways to better tend to the uninsured, to provide preventive, primary and emergency clinical health services in an integrated and coordinated manner. This kind of service can only be accomplished, however, if our safety net providers have the resources to improve communication to better reach this target population.

The Community Access Program (CAP) promotes this kind of interagency coordination and communication. It stems from a very successful Robert Wood Johnson Foundation-funded project that demonstrated how community collaboration can increase access to quality, cost-effective health care. The Community Access to Health Care Act of 2001 provides competitive grants to assist communities in developing programs to better serve their uninsured population.

Funding under CAP can be used to support a variety of projects to improve access for all levels of care for the uninsured and under-insured. Each community designs a program that best addresses the needs of its uninsured and under insured and its providers. Funding is intended to encourage safety net providers to develop coordinated care systems for the target population.

The Clinton Administration created a $25 million CAP demonstration project in FY 2000.

More than two hundred applications were submitted by groups from 46 states and the District of Columbia. Applications were evenly distributed between urban and rural areas; and six were submitted by tribal organizations.

Funding in FY 2000 provided grants to 23 communities. An increase to $125 million in FY 2001 will make grants available to an additional 55 projects. While this increase has helped communities get their program off the ground, more can be done to ensure that future funding is available.

I would like to highlight one program, the Harris County Public Health and Environmental Services Department, in my hometown of Houston, TX. This program is a good example of how CAP funds can improve a community's health care network. Harris County, Texas is the third most populated county in the nation and the most populated county in the state with approximately 3.2 million residents.

The Texas Health and Human Services Commission estimated that in 1999, 25.5 percent of the total population in Harris County—834,867—was uninsured. Harris County's CAP project aims to assist three populations: Those with incomes under 200 percent of the Federal poverty level; those with incomes over 200 percent of the Federal poverty level; and those who are under insured.

The primary focus of this project is to improve the interagency communication and referral infrastructure of major health care systems in the city. This will improve their ability to provide preventive, primary and emergency clinical health services in an integrated and coordinated manner for the uninsured and under insured population. Harris County will place particular emphasis on the development and/or enhancement of the existing local infrastructure and necessary information systems.

In addition to expanding the number and type of providers who participate in collaborative care giving efforts, Harris County would establish a clearinghouse for local resources, care navigation and telephone triage to increase accessibility and reduce emergency room care. The clearinghouse will receive referrals of uninsured patients from health service providers and patient self-referrals. The consortia will give special attention to health disparities in minority groups. It will establish a database for monitoring, tracking, care navigation and evaluation. In Harris County, it is expected that this initial support from grant funds would become self-sustained through contributions from participating providers, especially smaller primary care providers who can rely on the centralized triage program for after-hours response.

Harris County will also develop a plan to allow private and public safety-net providers to share eligibility information, medical and appointment records, and other information. The program will beef up efforts to make sure families and children enroll in programs for which they might be eligible, including Medicaid and the Children's Health Insurance Program (CHIP). In addition, Harris County would facilitate simplified enrollment procedures for children's health programs.

Fortunately for my constituents in Houston, Harris County's program is eligible for a grant through the FY 2001 demonstration project. They have completed their site visit, and are in the final stages of having their program approved. Unfortunately, communities who weren't fortunate enough to receive grants are still searching for ways to improve the health of their uninsured.

We in Congress have argued for years about the federal government's role in ensuring access to affordable health care. I believe that some type of universal care should be a priority for the long term. For the short term, however, authorizing the CAP program will place much-needed funds in the hands of local consortia who, working together, can help to alleviate this crisis—town by town and patient by patient.

RECOGNIZING JOSEPH PEATMAN

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. THOMPSON of California. Mr. Speaker, I wish today to recognize and congratulate Mr. Joseph Peatman for his exceptional 41 years of service to the legal field and his outstanding commitment and generosity to the Napa Valley community.

Joe Peatman was born in Los Angeles in 1934 and was admitted to the bar in 1959 after completing his education at Stanford University. His extensive experience within the community can be traced back over 40 years. From the early–60s through the mid–70s, he was a member of the Napa County Board of Supervisors and served as a Trustee and President of the Napa Valley Unified School District.

He has also served, Mr. Speaker, as a Member of the Board of Directors to the Napa National Bank and as a Member of the Board of Visitors of Stanford Law School from 1978–1980. He is a member of the Napa County Bar Association and served as its President from 1963–1964. A managing partner in the professional law corporation of Dickenson, Peatman & Fogarty, established in 1965, he has specialized in land use, zoning, and real estate law for the past 41 years. On December 31, 2000, Joe Peatman officially retired from his successful legal practice.

In addition to his numerous legal accomplishments, Joe Peatman continues to be an active member of the Napa community. His contributions to the Queen of the Valley Hospital Foundation ensure that quality health care is available to, the northern California community. He serves as the Executive Director of the Gasser Foundation and a Member of the Board of Trustees of the American Center for Wine, Food and the Arts. The Gasser Foundation is Napa Valley's largest philanthropic organization and its two main beneficiaries are Queen of the Valley Hospital and Justin-Siena High School. The American Center for Wine, Food and the Arts is posed to provide an array of public programs, including films, classes, demonstrations, tastings, and workshops for those individuals who enjoy food and drink as expressions of American culture.

Joe Peatman and his wonderful wife of 43 years, Angela, reside in Napa. They have three children and seven grandchildren. Mr. Speaker, it is my privilege to recognize, congratulate and thank my friend Joe Peatman for his 41 years of extraordinary service to the legal profession and to the community of Napa Valley. I wish him the best of luck in future endeavors.

TRIBUTE TO ELDER EDWARD EARL CLEVELAND OF OAKWOOD COLLEGE

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. CRAMER. Mr. Speaker, today I pay tribute to one of this century's most powerful evangelists, Elder Edward Earl Cleveland. As a worldwide evangelist traveling to over 67 countries of the world, Oakwood College is very fortunate to have had the talents of Elder Cleveland reside on their campus since 1977. During his fruitful 24-year career, Elder Cleveland has shared his evangelistic techniques with Oakwood students as a Lecturer in the Department of Religion at the College.

Cleveland's life and accomplishments are truly extraordinary. He has conducted over 60 public Evangelism campaigns, trained over 1100 pastors world-wide, preached on 6 continents and brought over 16,000 new believers into the Seventh-day Adventist Church.

His involvement with his community and his commitment to civil rights is no less impressive. Cleveland participated in the First March on Washington in 1957 with Dr. Martin Luther King, Jr. He took the message of Dr. King with him to Oakwood organizing the NAACP Chapter for students there. He also took it to his Church where he was the first African-American integrated into a department of the General Conference of Seventh-day Adventists.

I believe Elder Cleveland's blessed life can be captured in his life philosophy, "I have seen God, for so long, do much with so little, I now believe He can do anything with nothing—meaning me." Thank goodness he had left a library of his works for us to learn from including "The Middle Wall," "The Exodus" and his most recent work, "Let the Church Roll On."

As Elder Cleveland retires, I would like to extend my gratitude for his service to his family, his wife Celia, his son Edward Earl and his grandsons Edward Earl II and Omar Clifford for sharing their beloved husband, father and grandfather with the world.

On behalf of United States Congress, I pay homage to Elder Cleveland and thank him for a job well done. I congratulate him on his retirement and wish him a well-deserved rest.

HONORING DR. JOHN M. SMITH, JR. OF BEATTYVILLE, KENTUCKY FOR 50 YEARS OF DISTINGUISHED AND DEDICATED MEDICAL SERVICE

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. ROGERS of Kentucky. Mr. Speaker, our nation's history is filled with countless stories of people from humble beginnings who turn their challenges into triumphant success. These stories have a familiar ring: ambitious and hard-working young people from rural communities making good in the big city.

These inspiring stories, however, sometimes have a down side. In southern and eastern Kentucky, for example, the hope for bigger and better things has at times created an 'outmigration' of our best, brightest and most effective young people. At the same time that they were seeking a better life away from rural areas, the friends and family members they left behind continued the struggle at home to improve the qualify of life in their communities.

Today, Mr. Speaker, I want to salute a Kentucky citizen who made the choice to stay and fight—helping thousands of people in one of the most remote regions of the nation. Please join me in this salute to my constituent, Dr. John M. Smith, Jr., of Beattyville, Kentucky.

More than a half-century ago, as a young medical student, John Smith faced the common problem of how to finance a medical education. In 1942, after graduating Phi Beta Kappa with an undergraduate degree from the University of Kentucky in Lexington, he enlisted in the United States Navy and served with distinction through the war years until 1946. He saved, scraped and borrowed money to begin his coursework at the University of Louisville School of Medicine, but he needed much more financial help. Fortunately, he learned about the Rural Medical Fund, sponsored by the Kentucky State Medical Association.

The idea of the scholarship fund was simple: a student would receive a year of financial assistance at the U of L medical school in exchange for a commitment to practice one full year in a rural county that was short of doctors. After graduation, and service as a medical intern in the U.S. Navy, Dr. John Smith, Jr., chose Lee County, Kentucky.

The Louisville Courier-Journal newspaper recognized Dr. Smith in an October 26, 1952, article by Joe Creason, which I ask to be inserted in the RECORD at the conclusion of these remarks. In that article, the essence of Dr. Smith's commitment to Lee County and the people of Beattyville is clearly expressed: "If John Smith is a fair sample, then the Rural Medical Fund can be pronounced quite a large success. He has now served his year of obligation, owns a home in town and shows no signs of leaving, which is exactly what sponsors of the fund were hoping for. They reasoned that if they could get young doctors into rural areas for a year or so, some of them, at least, would settle down to permanent practice."

Mr. Speaker, Dr. John Smith had the opportunity to serve his year in Lee County and move onto a more lucrative practice elsewhere. Instead, he chose a career that now spans 50 years. He has helped thousands of people in a mountainous and remote area who would otherwise have been forced to travel many miles for medical care. Most folks who drive down country roads need a map to find their bearings. Dr. Smith could find his way simply by knowing the homes of the countless patients he visited over the years.

Since opening his practice in Beattyville on July 16th, 1951, he has been a distinguished member of the Kentucky medical community. He is the owner and operator of The Smith Clinic in Beattyville, which provides primary medical care to families in Lee County and beyond. Since 1985, he has served as the medical director for Lee County Constant Care, Inc., a nursing home facility, and is the medical director of the Geri-Young House, a senior care facility. His outstanding record of accomplishments has earned him the award of Citizen of the Year from the Beattyville/Lee County Chamber of Commerce.

Tomorrow evening, surrounded by his family, friends, colleagues, patients and admirers, Dr. John M. Smith, Jr. will be honored for his 50 years of distinguished and dedicated medical service. I regret that I am unable to join this celebration personally, but know that I join literally thousands of fellow Kentuckians who extend our congratulations and our humble gratitude.

Most of all, we are grateful that Dr. Smith made that choice 50 years ago to stay among us—choosing to help make our home a better place to live. Mr. Speaker, Dr. John M. Smith, Jr. has been a success beyond measure. His dedication, his professionalism, and his generosity has enriched us all and will continue for years to come. He is an outstanding Kentuckian and American who has earned the respect of this House. I thank you for joining me in this recognition today.

[From the Courier-Journal, Oct. 26, 1952]

BEYOND THE CALL OF DUTY

(By Joe Creason)

John M. Smith, Jr., had a pretty good idea he'd be in for some unusual times when he hung up shingle and started the practice of medicine in Beattyville, Ky.

After all, he knew beforehand that Lee County was one of some 40 in Kentucky that was critically short on doctors, having then—in 1951—only one for a population of more than 8,000 people.

And he knew six other neighboring counties of mountainous East-Central Kentucky—Clay, Owsley, Jackson, Wolfe, Powell and Menifee—likewise were on short rations indeed, so far as doctors were concerned.

So he must have suspected he'd face a lot of situations and experiences not generally covered in medical textbooks.

But, even with all that forewarning, it's extremely doubtful if Dr. John M. Smith, Jr., expected the time would come when a tractor would be the only way he'd be able to get into a remote area to see a patient.

Or that he'd have to cross the rain-swollen Kentucky River in a rowboat in the dead of winter with a half-blind woman at the oars.

Or that he'd ever take country hams—at the exchange rate of $1 a pound—in line of payment for medical services.

Or that a dozen and one other unusual experiences would come his way in less than a year and a half.

For that's just the length of time Dr. John M. Smith, Jr., one of the first 12 products of the Rural Kentucky Medical Scholarship Fund, has been practicing in Beattyville.

The Rural Medical Fund, sponsored by the Kentucky State Medical Association in cooperation with the University of Louisville School of Medicine, was started in the 1946-47 school year. The purpose of the fund, raised by public subscription, was to provide better medical care for the people of rural Kentucky. Medical students needing financial help may borrow from the fund and make repayment on the basis of a year of practice in a doctor-short section for each year of aid.

To translate the intention of the fund into a real situation, John Smith received help from it for one year—1946–47. That was his first in medical school and the year the first of his two sons was born. Having very little he could use for money, he borrowed in order to get started in school. After that he needed no help.

In return for that year of financial assistance, he was obligated to devote one year's practice to a county approved by the State Board of Health as needing doctors. After looking over the field, he chose Lee County.

If John Smith is a fair sample, then the Rural Medical Fund can be pronounced quite a large success. He now has served his year of obligation, owns a home in town and shows no signs of leaving, which is exactly what sponsors of the fund were hoping for. They reasoned that if they could get young doctors into rural areas for a year or so, some of them, at least, would settle down to permanent practice.

During his year-plus in Lee County, Dr. John Smith has given medical help to hundreds of people from a rather populous and mountainous seven-county area who, conceivably, would have had none otherwise.

Moreover, the people he serves are the kind who don't go rushing off to the doctor with every stomach-ache, or some such.

"Most of these folks are stoic and will suffer a long time before coming in," he says.

"Why, I've had patents with pneumonia walk in to the office from seven or eight miles away.

"I do all I can for them and send them to the hospital—the nearest one is in Richmond, 52 miles away—only in emergencies," he adds. "After all, many of my patients can't afford to go to the hospital with every ache and pain like city folks."

Sponsors of the fund actually got a more than somewhat rare bargain in John Smith. They didn't get just one rural doctor—they got two. For his wife also is a doctor, a 1945 medical graduate of New York University, and she recently opened an office at Booneville, 12 miles south in adjoining Owsley County.

Although there were two doctors in Booneville, both were old. One had suffered a stroke. Smith was receiving so many patients from that area it seemed a perfect spot for his wife to open a office to relieve some of the strain.

Now that he's settled in Lee County, John Smith has become a family doctor in every sense of the word. He's known as "Doc" everywhere and can call most of the folks he passes on the road by their first names. He can point to children he brought into the world. He is taken into confidences, sought out for advice on every conceivable situation.

Since opening his office, he has been too busy even to attend a single movie. The only days he has been away from work was once during a medical meeting and the couple days he was out last winter with the flu.

Incidentally, that case of the deep sniffles came in the line of duty. He was called to see a woman in the Oakdale section of the country who was sick with pneumonia. He had to follow a narrow path above an ice-laced creek in reaching the home.

As he inched along the bank, it suddenly caved in and he was dunked, bag, baggage and pill bottles.

Smith keeps a pair of galoshes in the back of his car for hiking over terrain not suited even for the most sturdy horseless carriage. And it's quite often that a car can't make it back into a particularly rough, hilly section. As, for instance, when the husband of a sick woman had to ride him in and out on a tractor, the only transportation that could make the trip.

Then there was the boat ride last winter that he—a veteran of three years of destroyer-escort duty in the Navy—never will forget. He had gone to call on a patient who lived on the other side of the North Fork of the Kentucky River some distance above Beattyville. The only way across the river was by boat. The return was long after sundown and in inky darkness. The pilot was a partially blind woman.

"I crouched in the bottom of the boat," he recalls, "and wondered about my life insurance."

"How she hit the tiny landing on the other side of the river in that darkness and pulling into a swift current, I'll never know."

Numerous times he has been called to see patients in parts of the area he doesn't know. In such cases, the family of the sick person will more or less blaze a trail for him. They'll place a forked stick at the place he's supposed to turn off the main road and leave assorted other signs along the way.

He gets night calls, of course, but not as many as might be expected.

"These folks are sturdy, and they'll usually stick it out until morning," he says.

But the night calls do come. This spring he was 'roused at 1 a.m. He went with the caller to see the man's wife, gave her some pills and returned home to bed.

Less than 30 minutes later, he was brought out of bed again. It was the same man.

"Better come again, Doc," he urged, "she ain't a bit better."

Lots of patients have been unable to pay cash for doctor-work. So Smith has taken almost everything in payment. He keeps well supplied in ham, chicken and farm produce.

"At first my wife had a little trouble understanding what some patients were talking about," he says.

"Folks would come in and say, 'Take a look at this kid, Doc, he's been daunceyin' 'round,' and she'd have a hard time figuring what they meant.

"But since I was born in Perry County and grew up in Jackson County, I knew when they talked about 'daunceying 'round' or 'punying 'round,' another very descriptive bit of speech, they meant the child was sort of dragging around and showing little life."

Since he opened his office, another young doctor has come to Beattyville. Sam D. Taylor, born there, and also a U. of L. graduate, returned home in August to start practice. The two have worked out a scheme whereby one day a week they take the other's office calls. That allows them to get one day all to themselves.

Smith has his office in what was an old drugstore across the street from the Courthouse. He has divided the gunbarrel-shaped space into a reception room, office, drug room, examination room and delivery room. He delivers babies at homes, but prefers to have expectant mothers come to his office where he has all necessary equipment, including oxygen. He keeps them 10 to 12 hours after the delivery and sends them home in an ambulance.

Beattyville has no pharmacist, so Smith has to dispense his own pills and medicines. Neither is there an X-ray machine in town, although he hopes to install one soon.

Besides his unusual doctoring experiences, Smith has the rather unique distinction of having served as an officer in two different branches of the Navy within a five-year period.

After being graduated from the University of Kentucky in 1942, the 30-year-old Smith went into the Navy as a line officer. Upon his discharge, he entered medical school and was graduated in 1949. Then, following his intern work, along came the war in Korea and he volunteered to go back into the Navy, this time as a medical officer. He served for more than a year in Louisville at the recruiting station.

His second discharge came July 6, 1951. He opened his office 10 days later.

In the nearly seven years since the Rural Medical Fund was set up, 64 students have received $100,450 in financial help. Twelve of those students, including Smith, have served at least one year in rural areas. Nine are still there. Of the three who left the rural field, one is in the Army, one is sick and one moved to another state.

Besides Smith, other fund-helped doctors with at least one year in rural practice are O. C. Cooper, Wickliffe; Carson E. Crabtree, Buffalo; Oscar A. Cull, Corinth; William G. Edds, Calhoun; Clyde J. Nichols, Clarkson; Benjamin C. Stigall, Livermore; William L. Taylor, Guthrie, and Loman C. Trover, Earlington.

Six other doctors who were helped by the fund completed their intership in July and now are practicing in the country.

"Rural practice gets next to a fellow," John Smith says. "You have to make a lot of changes from what they say in the books—you have to be down-to-earth and forget all about dignity and professional manners at times.

"But there's an awful lot of satisfaction in serving people who really need help."

Which pretty nearly describes the country doctor.

TRIBUTE TO WILLIAM BENJAMIN GOULD IV

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Ms. LOFGREN. Mr. Speaker, I wish today to recognize the accomplishments of William Benjamin Gould IV, the Charles A. Beardsley Professor of Law at Stanford Law School. Professor Gould was Chairman of the National Labor Relations Board from 1994–1998. While awarding William Gould his fifth honorary doctorate, the Rutgers University President remarked: "perhaps more than any other living American . . . [he has] contributed to the analysis, the practice, and the transformation of labor law and labor relations."

William Gould has been a member of the National Academy of Arbitration since 1970, and has arbitrated and mediated more than 200 labor disputes, including the 1989 wage dispute between the Detroit Federation of Teachers and the Board of Education of that city, as well as the 1992 and 1993 salary disputes between the Major League Baseball Players Association and the Major League Baseball Player Relations Committee. William Gould was named in Ebony Magazine's "100+ Most Influential Black Americans" List for 1996, 1997 and 1998. He is a member of the Stanford University John S. Knight Journalism Fellows Program Committee, and the Rand Institute Board of Overseers.

I commend to my colleagues the following article by Professor Gould, which appeared in the San Francisco Chronicle on January 17, 2001.

[From the San Francisco Chronicle, Jan. 17, 2001]

"BORKING"—THEN AND NOW

(By William B. Gould IV)

When Bill Clinton was inaugurated as president in January 1993, most Republicans in Congress commenced a sustained drive against the legitimacy of his election, notwithstanding the undisputed nature of his victory.

Except for the gays-in-the-military controversy, the most immediate conflicts related to confirmation of his nominees at the Cabinet and subcabinet levels.

"Nannygate" doomed Zoe Baird, his first choice for attorney general, but soon ideas and political philosophy were to affect the debate about Lani Guinier (whose Justice Department nomination as assistant attorney general in charge of the civil rights division was withdrawn), and Jocelyn Elders (who was confirmed as surgeon general).

Both were African American. I was the third of Clinton's black subcabinet early selections (for chairman of the National Labor Relations Board), and, although confirmed, I attracted the largest number of senatorial "no" votes of any administration appointee during that time.

Bill Lann Lee, a Chinese American lawyer from California, was put forward for assistant attorney general, but his nomination was stymied. He was forced to serve on an acting basis, without Senate confirmation.

Opposition to Clinton nominees was said by some to be Republican vengeance for the Senate's 1987 rejection of Robert Bork for the U.S. Supreme Court. The press created a verb, "Borked." The term is now attached to the pending nominations of John Ashcroft for attorney general, Gale Norton for secretary of the interior, and the now-withdrawn candidacy of Linda Chavez for secretary of labor.

The Borking of Clinton nominees differs from the Borking of the Bush triumvirate.

Formal debate about my nomination, for instance, focused on my proposals to strengthen existing labor law. This contrasts with Chavez, who opposes minimum wage, family leave and affirmative action legislation. The contention was that when I would adjudicate labor-management disputes, I would use my reform proposals aimed at fortifying the law.

Bork was attacked primarily because he had opposed most civil rights legislation affecting public accommodations and employment. The Senate rejected him because he was outside the mainstream in the race arena and also opposed the Supreme Court's Roe vs. Wade decision.

Ashcroft and Norton, like Senate Majority Leader Trent Lott, R-Miss., extol the virtues of the Confederacy and lament its defeat, which spelled slavery's extinction. As Missouri's attorney general, Ashcroft fought desegregation orders in that state. He was a vigorous opponent of affirmative action. As senator, he single handedly scuttled the nomination of a black Missouri judge to the federal bench—an act which President Clinton properly denounced as "disgraceful," illustrating the unequal treatment of minority and women nominees.

As senator, Ashcroft decried the cherished American principle of separation of church and state, railed against common-sense gun control legislation and, like Bork, denounced Roe vs. Wade. Thus, like Bork, the question is whether he can faithfully enforce and promote laws to which is so deeply opposed.

All of this is in sharp contrast to the three of us Clinton nominees whose sin was fidelity to existing law. In 1993, today's supporters of Ashcroft derailed the nomination of those of us who supported the law. Now they support those who would radically transform it.

Some deference to a new president's nomination is appropriate. This was not followed in the Clinton era. As a result, the president was obliged to nominate middle-of-the-road and sometimes downright innocuous judicial candidates and to accept Republican selections for his own administrative agencies.

No one's interests are served if the Democrats now wreak havoc for Bush in response to the Borking visited upon Clinton. But elected representatives have the right and duty to both scrutinize and reject nominees who are out of the mainstream and who would disturb precedent in the absence of a mandate. A half-million Gore plurality in the voting and the murkiness of the Florida ballot hardly supply a mandate for George W. Bush.

WASTEFUL GOVERNMENT SPENDING

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. DUNCAN Mr. Speaker, I believe that one of the most serious problems facing our country today is wasteful government spending. Each year our government spends billions of taxpayer dollars on things that are ineffective and simply unnecessary.

I have heard many stories from federal employees about the pressure to spend all of the money they have been appropriated for a given fiscal year. Agency administrators know that if they have a surplus at the end of the fiscal year, it is likely that their budgets will be cut the following year.

That is why I have decided to introduce legislation to address this problem. This bill will allow government agencies to keep half of any unspent administrative funds. This money can then be used to pay for employee bonuses. The remaining half would be returned to the Treasury for the purpose of reducing the national debt.

My bill rewards fiscal responsibility by giving employees a direct benefit for saving taxpayer dollars. At the same time, it will address one of the biggest problems facing our Country—the national debt. I think this is an important step toward restoring the financial security of our Nation.

GIFTED AND TALENTED STUDENTS EDUCATION ACT—MATH AND SCIENCE TEACHER RECRUITMENT ACT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. GALLEGLY. Mr. Speaker, today I am introducing two bills aimed at improving the quality of education in areas that need immediate attention. One would provide incentives for prospective teachers to train in math and the sciences; the other would increase opportunities for gifted students from all backgrounds to succeed.

The Math and Science Teacher Recruitment Act would allow forgiveness of up to $10,000 in federal student loans for math and science majors who teach in a middle or secondary school for up to six years. Beginning with the successful completion of the third year of teaching, educators could have $2,500 in loans forgiven each year, up to a total of $10,000. This bill will provide an incentive for students majoring in math, the sciences, engineering, and technology to choose education as a career. Students are failing to grasp basic math and science concepts because they are being taught by teachers who are not grounded in the field. Last year, only 41 percent of our students learned math from teachers who majored the subject in college. This bill helps to ensure that our children will be taught by teachers who have extensive knowledge of mathematics and the sciences.

I am also reintroducing the Gifted and Talented Students Education Act, with my colleagues, Representatives ETHERIDGE, MORELLA, BALDACCI, BURR, MOORE, ALLEN, MINK, Mr. DAVIS of Florida, FILNER, ENGLISH, BOUCHER, BONO, BERKLEY, Mr. LEWIS of Kentucky, STARK, and Mr. WHITFIELD. The measure provides grants to State educational agencies to identify gifted and talented students from all economic, ethnic and racial backgrounds—including students with limited English proficiency, those who live in low-income areas and students with disabilities. The measure authorizes State educational agencies to distribute competitive grants to local educational agencies, which will allow them to develop and expand gifted and talented education programs. This bill will ensure that all gifted children will have access to challenging programs designed to develop and enhance their gifts and reach their full potential.

Mr. Speaker, we must ensure our children are ready and able to take on the challenges of the new economy. I strongly encourage my colleagues to cosponsor these important pieces of legislation and work toward their passage.

RECOGNIZING RABBI DAVID WHITE FOR ACHIEVING A DOCTOR OF DIVINITY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. THOMPSON of California. Mr. Speaker, I wish today to recognize an outstanding member of our Napa community, Rabbi David White, for his 25 years of service as a rabbi and for achieving a Doctor of Divinity degree.

Rabbi White was raised in San Francisco, the only son of Rabbi Saul E. White, who served as Rabbi of Congregation Beth Sholom for 48 years. After his Bar Mitzvah at Beth Sholom, Rabbi David White began his journey by attending Camp Tel Yehuda in New York at the age of 17. The camp was a Young Judaea academic summer program providing leadership in Israel, Zionism and youth programming.

Entering the Jewish Theological Seminary in 1970, David was ordained a Conservative Rabbi five years later. In 1977, Rabbi White obtained his first pulpit, Congregation Kol Shofar in Tiburon consisting of 45 families. Rabbi White left in 1991 after the Congregation had grown to 200 families.

After 14 dedicated years of service to the synagogue, Rabbi White entered the business world, creating Relationship Resources Unlimited, establishing awareness of partnership and collaboration. Since 1993, he has been working at both Congregation Beth Sholom as a rabbi and at Relationship Resources Unlimited.

Rabbi White was recently elected to the Board of Directors of the Community Foundation of the Napa Valley, a program of philanthropy dedicated to meeting the needs of many worthy groups and causes. In addition, Rabbi White is the Executive Director of the Wine Spirit, exploring the relationship between the wine industry and spirituality, and an active member of the Napa Interfaith Council.

On March 14, 2001, Rabbi White will be honored by the Jewish Theological Seminary in New York with an honorary Doctor of Divinity degree. Mr. Speaker, I congratulate Rabbi David White for his enthusiastic participation in and generous contributions to the Nap community, his 25 years of dedicated service to the Rabbinate and for the monumental goal of attaining the Doctor of Divinity degree.

TO BILL AND MARY KOCH, CUSTOMERS WERE FAMILY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Bill and Mary Koch of Bear Creek Township, Pennsylvania, who recently closed their beloved Koch's Deli in Wilkes-Barre after 20 years of excellent service.

For more than 10 years, my district office was located next door to Koch's Deli, and almost every day that I was working from

Wilkes-Barre, I stopped into the deli for a cup of coffee or a cheeseburger. Like everyone else who frequented the deli, I could always count on welcoming smiles and excellent service.

To the Koches, people in their deli were not just customers—they were friends and family. Their business is housed in the Ten East South building, which is home to dozens of senior citizens, and near Washington Square, another residence for the elderly. Bill and Mary delivered meals to many of them and even ran errands for them, such as banking, picking up their mail and getting their prescriptions filled. And even regular customers who did not need these favors often found their orders waiting for them on the table when they came in. Basically, Koch's Deli became for many residents of Wilkes-Barre a home away from home.

Before starting the deli, Bill already had a long career in the restaurant business, having risen to district manager for a chain, but found that it took too many hours away from his family. So Bill and Mary went into business for themselves, and eventually involved their three daughters. Becky, Christine and Lisa, who are all grown now, learned valuable skills at the deli, like handling money and interacting with people.

Mr. Speaker, I am proud to call Bill and Mary personal friends, as well as constituents. I am pleased to call the Koch family's long service and many kindnesses to the attention of the House of Representatives, and I wish them all the best in their retirement.

RUSSIA'S UNFREE PRESS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. FRANK. Mr. Speaker, while there are many aspects of recent developments in Russia which are encouraging, especially in the economic area, there are also some very disturbing trends from the standpoint of human rights and democracy. Recently, in the Boston Globe, one of the leading American scholars focused on Russia, Marshall Goldman, wrote about the disturbing aspects of President Putin's apparent opposition to freedom of the press. As a professor of economics at Wellesley College, who is also the Associate Director of the Center for Russian Studies at Harvard University, Mr. Goldman is one of the most acute observers of what is happening in Russia and I think his very thoughtful analysis ought to be widely read by those of us who have policy making responsibilities. I submit it for the RECORD.

RUSSIA'S UNFREE PRESS

(By Marshall I. Goldman)

As the Bush administration debates its policy toward Russia, freedom of the press should be one of its major concerns. Under President Vladimir Putin the press is free only as long as it does not criticize Putin or his policies. When NTV, the television network of the media giant Media Most, refused to pull its punches, Media Most's owner, Vladimir Gusinsky, found himself in jail, and Gazprom, a company dominated by the state, began to call in loans to Media Most.

Unfortunately, Putin's actions are applauded by more than 70 percent of the Russian people. They crave a strong and forceful leader; his KGB past and conditioned KGB responses are just what they seem to want after what many regard as the social, political, and economic chaos of the last decade.

But what to the Russians is law and order (the "dictatorship of the law," as Putin has so accurately put it) looks more and more like an old Soviet clampdown to many Western observers.

There is no complaint about Putin's promises. He tells everyone he wants freedom of the press. But in the context of his KGB heritage, his notion of freedom of the press is something very different. In an interview with the Toronto Globe and Mail, he said that that press freedom excludes the "hooliganism" or "uncivilized" reporting he has to deal with in Moscow. By that he means criticism, especially of his conduct of the war in Chechnya, his belated response to the sinking of the Kursk, and the heavy-handed way in which he has pushed aside candidates for governor in regional elections if they are not to Putin's liking.

He does not take well to criticism. When asked by the relatives of those lost in the Kursk why he seemed so unresponsive, Putin tried to shift the blame for the disaster onto the media barons, or at least those who had criticized him. They were the ones, he insisted, who had pressed for reduced funding for the Navy while they were building villas in Spain and France. As for their criticism of his behavior, They lie! They lie! They lie!

Our Western press has provided good coverage of the dogged way Putin and his aides have tried to muscle Gusinsky out of the Media Most press conglomerate he created. But those on the Putin enemies list now include even Boris Berezovsky, originally one of Putin's most enthusiastic promoters who after the sinking of the Kursk also became a critic and thus an opponent.

Gusinsky would have a hard time winning a merit badge for trustworthiness (Berezovsky shouldn't even apply), but in the late Yeltsin and Putin years, Gusinsky has earned enormous credit for his consistently objective news coverage, including a spotlight on malfeasance at the very top. More than that, he has supported his programmers when they have subjected Yeltsin and now Putin to bitter satire on Kukly, his Sunday evening prime-time puppet show.

What we hear less of, though, is what is happening to individual reporters, especially those engaged in investigative work. Almost monthly now there are cases of violence and intimidation. Among those brutalized since Putin assumed power are a reporter for Radio Liberty who dared to write negative reports about the Russian Army's role in Chechnia and four reporters for Novaya Gazeta. Two of them were investigating misdeeds by the FSB (today's equivalent of the KGB), including the possibility that it rather than Chechins had blown up a series of apartment buildings. Another was pursuing reports of money-laundering by Yeltsin family members and senior staff in Switzerland. Although these journalists were very much in the public eye, they were all physically assaulted.

Those working for provincial papers labor under even more pressure with less visibility. There are numerous instances where regional bosses such as the governor of Vladivostok operate as little dictators, and as a growing number of journalists have discovered, challenges are met with threats, physical intimidation, and, if need be, murder.

True, freedom of the press in Russia is still less than 15 years old, and not all the country's journalists or their bosses have always used that freedom responsibly. During the 1996 election campaign, for example, the media owners, including Gusinsky conspired to denigrate or ignore every viable candidate other than Yeltsin. But attempts to muffle if not silence criticism have multiplied since Putin and his fellow KGB veterans have come to power. Criticism from any source, be it an individual journalist or a corporate entity, invites retaliation.

When Media Most persisted in its criticism, Putin sat by approvingly as his subordinates sent in masked and armed tax police and prosecutors. When that didn't work, they jailed Gusinsky on charges that were later dropped, although they are seeking to extradite and jail him again, along with his treasurer, on a new set of charges. Yesterday the prosecutor general summoned Tatyana Mitkova, the anchor of NTV's evening news program, for questioning. Putin's aides are also doing all they can to prevent Gusinsky from refinancing his debt-ridden operation with Ted Turner or anyone else in or outside of the country.

According to one report, Putin told one official, you deal with the shares, debts, and management and I will deal with the journalists. His goal simply is to end independent TV coverage in Russia.

An uninhibited press in itself is no guarantee that a society will remain a democracy, but when it becomes inhibited, the chances that there will be such freedom all but disappear.

When Western leaders meet Putin, they must insist that a warm handshake and skill at karate are not enough for Russia and Putin to qualify as a democratic member of the Big 8. To do that, Russia must have freedom of the press—a freedom determined by deeds, not mere declarations.

TRIBUTE TO KENNETH W. MONFORT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. SCHAFFER. Mr. Speaker, today I rise to recognize and honor the life of a great American, Mr. Kenneth W. Monfort of Greeley, Colorado. A cattleman, philanthropist, community leader, humanitarian, devoted father and husband, Mr. Monfort exemplified the American dream and the great western spirit. Sadly, Kenny Monfort passed away on Friday, February 2, 2001.

Mr. Monfort had a long and distinguished career in the cattle industry in which he pioneered many new processes and innovations. His first measure of success came at the age of 12, winning the prize of Grand Champion Steer at the National Western Stock Show. From there he used hard work, intelligence and perseverance to turn the family's 18 head of cattle into the largest stockyard operation in the world.

From the prosperity in his business, Mr. Monfort used his wealth to enrich the lives of all around him. During his childhood in the Great Depression, Kenny Monfort learned the value of giving back to the community, and in turn, has passed this lesson on to his four children. Through the Monfort Family Foundation and individual contributions totaling over $33 million have been donated to a wide variety of organizations in the Monfort name.

Today Greeley, Colorado is a much better place for having had Kenny Monfort as a native son. One merely has to look around at the many landmarks bearing the Monfort name to see the impact his generosity has had. To the north one can see the Monfort Children's Clinic treating the children of low-income parents. To the west is Monfort Elementary where every student is taught to be a steward of the community. To the east is the Monfort School of Business at the University of Northern Colorado educating the future business leaders of tomorrow. To the south, new-born babies are brought into the world in the safety of the Monfort Birthing Center.

Despite his tremendous success in all he did, Mr. Monfort will always be remembered as a modest, humble man whose legacy serves as a role model to those who knew him and whose lives he touched. I ask the House to join me in commemorating the remarkable Mr. Kenneth W. Monfort of Colorado.

LEGISLATION TO PROVIDE VETERANS BENEFITS TO MEMBERS OF THE PHILIPPINE COMMONWEALTH ARMY AND THE MEMBERS OF THE SPECIAL PHILIPPINE SCOUTS, H.R. 491

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. GILMAN. Mr. Speaker, I rise today to introduce H.R. 491, the Filipino Veterans Equity Act of 2001. I urge my colleagues to join me in supporting this worthy legislation.

On July 26, 1941, President Roosevelt issued a military order, pursuant to the Philippines Independence Act of 1934, calling members of the Philippine Commonwealth Army into the service of the United States Forces of the Far East, under the command of Lt. Gen. Douglas MacArthur.

For almost 4 years, over 100,000 Filipinos, of the Philippine Commonwealth Army fought alongside the allies to reclaim the Philippine Islands from Japan. Regrettably, in return, Congress enacted the Rescission Act of 1946. That measure limited veterans eligibility for service-connected disabilities and death compensation and also denied the members of the Philippine Commonwealth Army the honor of being recognized as veterans of the United States Armed Forces.

A second group, the Special Philippine Scouts called "New Scouts" who enlisted the United States armed forces after October 6, 1945, primarily to perform occupation duty in the Pacific, were similarly excluded from benefits.

It is long past due to correct this injustice and to provide the members of the Philippine Commonwealth Army and the Special Philippine Scouts with the benefits and the services that they valiantly earned during their service in World War II.

There are some who may object to this legislation on the grounds of its cost. In years past, when we were running chronic deficits, this may have been a valid argument. That past validity however, has been dispelled by today's record surpluses.

While progress has been made towards restoring these long overdue benefits to those brave veterans who earned them, much remains to be done. I would remind my colleagues that time is not on the side of these veterans. Each year, thousands of these veterans pass away. We have a moral obligation to correct this problem before the last of these dedicated soldiers passes from this life.

These Philippine veterans have waited more than 50 years for the benefits which, by virtue of their military service, they were entitled to back in 1946.

Accordingly, I urge my colleagues to carefully review this legislation that corrects this grave injustice and provides veterans benefits to members of the Philippine Commonwealth Army and to the members of the Special Philippine Scouts.

I request that the full text of the bill be included at this point in the RECORD:

H.R. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Filipino Veterans Equity Act of 2001".

SEC. 2 CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "not" after "Army of the United States, shall"; and

(B) by striking out ", except benefits under—" and all that follows in that subsection and inserting in lieu thereof a period;

(2) in subsection (b)—

(A) by striking out "not" after "Armed Forces Voluntary Recruitment Act of 1945 shall"; and

(B) by striking out "except—" and all that follows in that subsection and inserting in lieu thereof a period; and

(3) by striking out the subsection (c) inserted by section 501 of H.R. 5482 of the 106th Congress, as introduced on October 18, 2000, and enacted into law by Public Law 106–377, and the subsection (c) inserted by section 332(a)(2) of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419).

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

"107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on January 1, 2002.

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.

INTRODUCTION OF HOUSE JOINT RESOLUTION REGARDING QUALITY OF CARE IN ASSISTED LIVING FACILITIES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. STARK. Mr. Speaker, today I rise with Mr. WAXMAN, Mr. COYNE, Mr. FROST, Mr. LANTOS, Mr. MILLER, Ms. SCHAKOWSKY, and Mr. STRICKLAND to re-introduce a joint resolution calling for a White House conference to discuss and develop national quality of care recommendations for assisted living facilities (ALFs). Between 800,000 and 1.5 million American seniors currently reside in ALFs and these numbers may double in the next 20 years. Until recently, the industry has been almost entirely private-pay. But times are changing and ALFs increasingly seek and receive federal funding through Medicaid's Home and Community-Based Services waiver. In fact, overall spending for this waiver swelled 29% between 1988–1999, due in part to growing numbers of ALF placements.

In many states, industry expansion has not been accompanied by a tightening of quality standards or accountability measures. Instead, the definition and philosophy across ALFs varies from state to state and their is little consistency in state regulatory efforts. Furthermore, a 1999 General Accounting Office report found that 25% of surveyed facilities were cited for five or more quality of care violations between 1996–1997 and 11% were cited for 10 or more problems. Frequently cited problems ranged from providing inadequate care, particularly around medication issues, to having insufficient and unqualified staff.

I'd like to call attention to an article entitled, "'Assisted Living' firm prospers by housing a frail population," published on January 15th in the Wall Street Journal. This article discusses industry trends and carefully details the business practices and policies of Sunrise Assisted Living, Inc., one of the country's most successful ALF companies. At a time when many of its competitors are posting large operating losses, Sunrise earns millions of dollars in profits each year. How do they do it?—by accepting elderly applicants with serious health conditions and collecting extra-care fees, sometimes as high as $1640/month (on top of regular monthly fees) for very sick or cognitively impaired residents. Paul Klassen, Sunrise's chief executive, makes no bones about this marketing strategy. At a recent orientation for new Sunrise managers, he urged that "the frailest of the frail" be considered as candidates for assisted living.

Although originally developed as an alternative to nursing homes, this article makes abundantly clear that ALFs are now recruiting the same frail seniors that might otherwise be served by nursing homes. Yet the average Sunrise facility (housing 90 residents) maintains only one registered nurse on duty for 8–

12 hours per day. Nursing homes of that same size average four to five nurses on duty at all times. Furthermore, nursing homes must comply with federal quality regulations, but ALFs answer only to states, where there is considerable variation in terms of regulation and oversight.

This regulatory variation can have deadly consequences. As reported by the Wall Street Journal, staffing issues contributed to the death of a visually-impaired Sunrise resident in Georgia, who was awaiting delivery of a liquid herbal supplement. At the resident's request, a substitute concierge delivered a package that was not specifically addressed to the resident. After drinking what they thought was an herbal supplement (but was really caustic bathroom cleaner), both the resident and his wife became critically ill and she died several days later. Perhaps as disturbing as the incident itself, is the fact that the facility's only penalty to date has been a paltry $3000 state fine.

Closer to home, last August in my district, an elderly woman passed away in an assisted living facility due to hemorrhaging from her dialysis shunt. Two times, she pressed her call pendant for help, but no help came. Instead, the ALF staff cleared the alarms and reset the machines both times. The facility did not place a 911 call for assistance until 1 hour and 34 minutes later. There was no nurse on duty, and all four resident aides in the facility at the time have denied responding to the calls or clearing/resetting the call system. This situation is still under investigation, but it highlights the seriousness of inadequate quality of care in these facilities.

I believe that ALFs that receive federal funding should be required to meet reasonable, commonsense quality standards to protect residents. This joint resolution presents a valuable opportunity for policymakers, industry stakeholders, and consumers to discuss and debate how best to develop these needed quality standards. Frail, elderly ALF residents must be protected and sub-par facilities must face real consequences. I look forward to working with my colleagues on both sides of the aisle to protect frail seniors in ALFs throughout our country.

The resolution has been endorsed by the Consumer Consortium on Assisted Living. California Advocates for Nursing Home Reform, National Association for HomeCare, and Elder Care America, which are organizations active in protecting consumer interests in assisted living and other settings. The January 15, 2001 article by Ann Davis of the Wall Street Journal appears below:

"ASSISTED LIVING" FIRM PROSPERS BY HOUSING A FRAIL POPULATION

(By Ann Davis)

ATLANTA.—Early last year, Tom Spiro, the director of a Sunrise Assisted Living Inc. home here, warned his boss he might lose another resident.

It wasn't welcome news. The home's 71% occupancy was already far below the corporate target of 95%. But the resident, an 82-year-old woman just out of a hospital, could no longer walk, took a battery of medications and was being fed from a tube. Mr. Spiro felt that his assisted-living facility—a nursing-home alternative that provides less care—was in no position to accommodate someone so frail.

He was told he was being too cautious. "There was pressure to take everybody," he says. Ultimately, Mr. Spiro retained the resident, along with several others he considered too infirm. Even so, with the home's performance still lagging a few months later, he was asked to resign.

Linda Selvidge, who was his boss but has also since left the company, says it made sense to keep the elderly woman as a resident because her husband was in the facility. But Ms. Selvidge acknowledges urging Mr. Spiro to accept residents despite his reservations. "Being frail is nothing to be nervous about," she recalls telling him.

THE MISSION

Why such eagerness to enroll clients whose care would seem sure to mean extra cost, complexity and risk? One reason is the company founders' longtime commitment to offering a homelike alternative to nursing homes. But accepting residents who are infirm also helps to fill beds, at a time when the assisted-living industry is burdened by overcapacity. And Sunrise, more so than its competitors, has figured out how to make serving such clients a profitable business.

The assisted-living industry is at a crossroads, two decades after springing up amid dissatisfaction with nursing homes. Its mission was to offer attractive housing—for those who could afford it—where the elderly could get help with daily routines like bathing and dressing, but no intensive nursing care. Yet while the initial target was the relatively healthy elderly, providers have increasingly targeted frailer and frailer people since a capacity glut developed in the late 1990s.

Sunrise's founders, Paul and Terry Klaassen, make no apologies for housing ailing seniors. The couple, who own 13.2% of the McLean, Va., company, refer to shunting old people into nursing homes as "the dreaded act of our society." At a recent orientation session, Mr. Klaassen, who is Sunrise's chief executive, urged new managers to see "the frailest of the frail" as candidates for assisted living.

Meanwhile, Sunrise facilities have higher operating-profit margins than those of other public assisted-living companies that disclose this information. A key reason for its success is occupancy. A rule of thumb in the business is that facilities don't produce much profit till they reach about 90% occupancy, but can throw off rich profits above that level. Sunrise averages 91.4% occupancy at homes open at least a year; most competitors are below 90%.

Sunrise credits its customer service. In addition, says David Schless of the American Seniors Housing Association in Washington, some other companies "have had much shorter resident stays" because they "haven't ever been willing to provide some of the supportive-care services to care for the truly frail elderly" that Sunrise does.

Sunrise doesn't just enroll more people—it also charges them more. The company "has figured out how to price its services better than its competitors," Mr. Schless adds.

Sunrise makes the business pay by charging hefty premiums for care beyond assisted living's basics, which are help with dressing, bathing and getting around. Competitors do something similar in pricing, but Sunrise collects extra-care fees from a larger percentage of residents, about 60%, than most. Extra-care fees average $517 a month per resident at Sunrise; they come to about $200 a month at one major competitor, Alterra Healthcare Corp.

And despite the industry overcapacity, Sunrise manages to raise fees. It has increased the base rent about 5% a year (now an average of $2,700 monthly). And lately it has made a concerted effort, when residents grow frailer, to reassign them to higher-care, higher-price categories. In typical homes, residents' monthly bills are $677 higher than they were in 1998, figures supplied by Sunrise show. The company's costs for resident care have risen just $180 a month per resident, the same figures show.

Mr. Klaassen says fees went up because local Sunrise managers realized they weren't charging enough, given the costs and staff time that frailer residents require. The CEO also says Sunrise spends more to run its homes than others do, and that the key to success is offering consumers such high quality that it contrasts sharply with a nursing-home environment. "Competitors that are not as full charge less," Mr. Klaassen says, "and that's their problem. Most assisted-living communities do not charge enough and do not spend enough."

Sunrise earned $15.5 million the first three quarters of 2000, including gains on the sale of several properties it is managing under contract. Rival Alterra had a $35 million net loss in the nine months, and another big competitor, the Marriott Senior Living Services unit of Marriott International Inc., had a $6 million operating loss. Sunrise's stock is up about 50% from a year ago, making the Klaassen's stake worth about $60 million.

Sunrise's methods have been put to a severe test in Atlanta. The city seemed an ideal market when Sunrise was launching a big expansion in the 1990s. It targets metropolitan areas "with dense rings of relatively affluent people," says the company's president, Tom Newell. Sunrise ultimately built or acquired six assisted-living facilities in the Atlanta area and two more elsewhere in Georgia.

TARGETING ELDER DAUGHTERS

Its marketing focus isn't the elderly themselves but their grown children. The target customer is a 45-to-64-year-old eldest daughter who is deciding how to care for an octogenarian parent. The chain adapts ideas from other franchises, setting out to emulate, as Mr. Klaassen puts it, the pleasant environment of the Ritz-Carlton and the personalized customer service of Nordstrom.

Many Sunrise buildings resemble sprawling Victorian mansions, with curving staircases. They have hair salons, libraries and small kitchens in rooms, whose doors have locks for privacy. To avoid an institutional feel, handrails in hallways look like molding Signature touches include ice-cream parlors with jukeboxes that play Sinatra and exhibits of antique wedding dresses to stimulate memories.

Peggy Farris of Atlanta jumped at the chance to put her mother in a special Sunrise unit for Alzheimer's patients rather than in a nursing home. Now her mother is taking part in flower-arranging and music programs and "seems to be flourishing more than she was in my home," Ms. Farris says. A great many other customers are similarly pleased.

Sunrise was part of a building boom that added about 3,700 assisted-living beds in Atlanta in four years, quintupling the supply, according to market-research firm AZ Consulting. The facility Mr. Spiro managed was half-empty and losing tens of thousands of dollars a month for parts of 1998 and 1999, Sunrise records show.

Competitors resorted to price wars. Sunrise experimented with discounting, too, but mostly it threw its energy into recruiting residents. Marketing directors at five of its homes were asked to log 20 face-to-face meetings, 100 phone calls and 200 mailings a week to potential customers and medical professionals, some recall. One incentive: a commission of about $250 whenever a new customer made a deposit.

Chris Boyce of Atlanta says that after Marriott expressed reluctance in 1998 to take his mother, who was incontinent, the Sunrise in Decatur, Ga., accepted her, along with her husband. "Sunrise told us they would handle my parents until they died," Mr. Boyce says. Nonetheless, he eventually moved them to a nursing home when their health declined further.

Sunrise also scored points with hospitals' "discharge planners," making it easy for them to place patients needing too much care to go home. With Sunrise, "we can make a call in the morning and by the afternoon it's taken care of and the patient is moving in," says John Dornbusch, a planer at DeKalb Medical Center in Decatur.

In handling health needs, Sunrise facilities are quite different from nursing homes. Despite nursing homes' chronic problems with short staffing, those the size of Sunrise's homes—about 90 residents—average two registered nurses and two or three licensed practical nurses on duty at all times, according to federal data. Sunrise says it usually has one registered nurse on duty the eight to 12 hours during the day and none the rest of the time. Nursing homes also have to have an on-call medical director. Assisted-living homes rely on residents' own outside doctors.

While nursing homes are supposed to meet numerous federal requirements, assisted-living homes face only state regulation. In about half of the states, they come under antiquated rules covering "board and care" group homes. Such homes, which fell out of favor in the 1970s provided meals and minimal assistance, often in private houses and for just two or three residents. While many states have strengthened the regulations, there is still lots of leeway.

Medication is a particularly knotty issue. A key function of nursing homes is administering medicines to residents, whether pills, IVs or injections. Not so at assisted-living facilities; in most states. Georgia's rules say that with a few exceptions, notably insulin shots, assisted-living homes' staffs are allowed only to prompt residents to take their medication. Putting a pill in a resident's mouth and helping him or her hold a glass of water to swallow it isn't permitted.

But some aides feel they have no choice. Sharon Thompson, a former caregiver on the Alzheimers' floor at Sunrise at East Cobb (County) says that if she merely left a pill on a table, the resident, often wouldn't take it. While the rules said that in such a case she should simply note on the resident's files that the person refused the medication, she says she routinely placed pills to people's mouths and got them to swallow. Otherwise, "in an Alzheimers' unit, they'll never get their medications, I know you're not supposed to administer medicine, but what are you going to do?"

ADMISSIONS RULES

Tim Cox, a Sunrise senior vice president, says there are various ways around this problem, including asking the family to give the medicine and developing an eating or drinking routine that gets the resident accustomed to taking medicine at a certain time. "It is never appropriate to administer if the regulations to do not permit us to," he says. A Georgia regulator says the medication issue is one of the reasons for restricting whom assisted-living homes can admit.

Georgia bars assisted-living facilities from taking certain kinds of residents, such as people too weak to propel a wheelchair or walker in an emergency evacuation. In six months, the state has cited Sunrise's six Atlanta-area homes for accepting 27 residents who needed more care than the homes were licensed to provide, Alterra and Marriott, which together have seven Atlanta homes, were each cited just once. David Dunbar, Georgia's top long-term-care regulator, calls Sunrise's number of citations "unusual."

Yet the state has never asked Sunrise to discharge a resident, he says. When cited, a facility can simply apply for a waiver to keep the person. The state routinely grants one if it is the resident's

A government ombudsman wasn't so lenient in 1998, when Sunrise at East Cobb sought to admit a man to its Alzheimer's unit who couldn't communicate, dress, feed himself or walk. Laura Formby, who had been notified of the case by a social worker, says she found the man "totally unacceptable" for assisted living and contacted the facility, which canceled the admission.

Sunrise President Tom Newell says Sunrise tries to "balance risk" against the preferences of residents and family. It sometimes asks the relatives of people who want to remain, despite worsening health, to supplement the care at their own expense. "We work with the regulators to explain how we will be able to care for them," Mr. Newell says. "Part of the plan that's developed to allow them to live in assisted living would be private-duty aides they would bring in or home-care agencies."

Gwen Birchall says she paid Sunrise $930 a month in extra-care charges for her aged mother but still felt obliged to hire an aide. She says she also did certain chores that Sunrise staff had promised to handle, and her husband routinely washed dishes after meals to free up frazzled Sunrise caregivers. She moved her mother to a nursing home in January. Told of the case, Tiffany Tomasso, Sunrise's president of resident-care operations, says such an experience is "unfortunate" but when the company is made aware of these concerns, it addresses them right away.

FINE-TUNING

Sunrise calibrates its staffing levels precisely with residents' "acuity level"—how medically needy they are—and facilities quickly adjust workers' hours when the resident mix changes. Sometimes, Sunrise appears to cut it too close. After a Dec. 5 inspection of Sunrise at Huntcliff Summit in Atlanta, Georgia regulators said the facility "has consistently operated with fewer employees than needed to properly safeguard the health, safety and welfare of all residents." Muriel Flournoy, an 87-year-old resident of the facility, says, "If you need help at night, it can be almost impossible to get an answer."

Ms. Tomasso says Sunrise's review of its hours at that home indicates staffing was "well within the parameters of our model" and exceeded minimum state staffing ratios. She adds that Sunrise increases staff hours when a resident is reassessed at a higher-care level. "It's a very fluid process," she says. As for Ms. Flournoy's complaint, "We're never happy when customers don't feel their needs are being met," Ms. Tomasso says. A company spokeswoman adds that Sunrise has recently taken steps to improve response time at night to address her complaint.

In 1999, Sunrise rolled out new, more-expensive pricing tiers, such as "Plus Plus" for extra-sick residents and "Reminiscence Plus" for those with later-stage dementia. Such care levels can add as much as $1,640 a month in fees. Families say they were told that residents placed in higher-care categories would get more staff time. But Carla Neal, former head of the Alzheimer's floor at Sunrise at East Cobb, says her boss told her she was "overstaffing" her floor and should stick more closely to the staffing formula. She says she wound up giving residents less attention than before, even though they were now paying more. "There wasn't any way we could deliver the care needed," says Ms. Neal, who left Sunrise.

Rick Gagnon, who was her boss but who also has since left, terms the staffing guidelines "quite appropriate." Caregivers, he observes, "tend to err on the side of the person whom they're caring for." But also important, in his view, are managers with "the corporate mentality to make the system work."

Staffing issues contributed to a death at Sunrise at East Cobb last July. A volunteer was filling in at the front desk for an absent concierge when a visually impaired resident asked for a package he thought contained a liquid herbal supplement he was expecting. Though the box was addressed to Sunrise, not to the resident, the volunteer delivered it to the man's room, a state "complaint narrative" says. The liquid was a caustic bathtub cleaner. The man and his wife each drank some. He became critically ill and she died a few days later.

The state fined the company $3,001 after alleging that it had failed to provide the care these residents needed. Sunrise's Mr. Cox says the facility erred in not training the volunteer to safeguard all packages in the mailroom. Since Mr. Cox was interviewed, the surviving husband has filed suit against Sunrise.

FIGHTING AN EVICTION

Some of Sunrise's rivals have also drawn regulatory scrutiny. For instance, Michigan regulators cited Alterra last summer for accepting a number of patients the state deemed too sick for assisted living.

Alterra helped two of the residents find an attorney, and the residents then sued the state of Michigan, alleging that their eviction would violate federal laws barring housing discrimination against the disabled. The suit is pending, but in the meantime, Michigan has enacted a law saying regulators must let a resident stay in an assisted-living facility if the resident, the family, the resident's doctor and the facility all agree the person can remain. It isn't clear whether the new law applies to the two who sued.

In the Atlanta area, Sunrise's efforts to recruit and accommodate increasingly infirm residents finally paid off. Its facilities there now have occupancy and operating-profit rates in line with company averages. Meanwhile, marketing and pricing efforts continue. To interest younger seniors in its facilities, Sunrise is testing a new service, Sunrise At Home, which sends aides and nurses to private residences. It is also casting about for new ways to cater to the oldest and frailest of Americans. Internally, the initiative is dubbed "Plus Plus Plus."

INTRODUCTION OF LEGISLATION TO CREATE THE "WORKER'S INCOME TAX CREDIT"

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. LAFALCE. Mr. Speaker, today I introduce legislation to provide substantial tax relief to all Americans through the Worker's Income Tax Credit. In brief, this bill will create a refundable tax credit equal to 6.2% of wages, up to a maximum of $350 per earner. For couples, the credit is computed per earner, for a maximum credit of $700 per couple.

I believe any tax cut plan should pass two requirements: it should be fair, and it should be fiscally responsible. This proposal meets both standards. The Worker's Income Tax Credit provides a tax cut to all workers, but provides the most relief to those who need it most—middle and lower income workers. And it does so without undermining fiscal responsibility. This proposal will cost less than $440 billion over ten years, leaving enough surpluses to achieve the goals of debt reduction and meeting critical investment needs.

"The Worker's Income Tax Credit Is Fair and Simple".—All workers, rich and poor, will benefit from this tax cut. But the relief will be greatest for those whose tax burden is most onerous—middle and lower income working families. The vast majority of the tax cut's benefits would accrue, not to the wealthiest 10% of tax payers, but to the remaining 90%. Compare this to President Bush's version of tax fairness and equity. When fully phased in, the $2.1 trillion Bush tax plan would deliver half of all its benefits to the wealthiest 5% of taxpayers. President Bush may hold up highly-stylized examples of waitresses and lawyers who will benefit from his tax cut, but in reality, it will tax a legion of tax lawyers to determine who qualifies and who doesn't for the Bush tax cuts. But the complexity of his plan can not obscure the basic fact of where most of the money goes—and it doesn't go to the waitresses of this country. For example, while the lawyer earning $200,000 in President Bush's example would receive a tax cut of approximately $3,100 a year, a waitress who is married with family earnings of $25,000 would receive absolutely no benefits from the Bush tax plan.

Low-income workers will benefit from the Worker's Income Tax Credit because the credit is refundable. A full-time minimum wage earner would qualify for the full $350 credit, and a couple working at minimum wage would receive a $700 credit. But the benefits are not limited to low-income workers. Anyone earning more than $5,600 a year would qualify for the full credit, and those earning less would receive a partial credit.

"The WITC is a better alternative to President Bush's Marginal Rate Cuts".—Because a majority of Americans pay more in payroll taxes than they do in income taxes, adjustments to marginal income tax rates will not provide significant tax relief to most taxpayers, and particularly to lower and middle income workers. In focusing on marginal rate adjustments, particularly at the high end, President Bush makes our tax system more regressive, favoring wealthier taxpayers over middle and lower income workers. While the bottom 40 percent of the population would receive just 4% of the Bush tax cuts, the wealthiest 1% of taxpayers would receive 43% of the total tax cuts. The Worker's Income Tax Credit does just the opposite, favoring lower and middle income workers over the wealthy by extending a refundable credit to all workers, even when they face little or no income tax liability.

"The Worker's Income Tax Credit will alleviate the Marriage Tax Penalty".—There is considerable support in this Congress for addressing the marriage tax penalty. I am strongly in favor of achieving a workable solution to addressing this problem in the tax code, but I would also offer the Worker's Income Tax Credit as a means of providing some relief from the penalty. In short, the tax credit is doubled for two-earner married couples. As a result, it will provide relief from the additional tax burden that two-earner couples face as a result of being married.

"The Worker's Income Tax Credit is fiscally responsible".—The tax credit will cost approximately $440 billion over ten years, less than 1/4 the estimated cost of the Bush tax plan, which has grown to exceed $2 trillion by recent estimates.

Given current and projected budget surpluses, it is appropriate to provide taxpayers with significant tax relief. However, favorable surplus estimates do not give us license to pursue an irresponsible fiscal policy. We worked hard during the 1990's and made painful budget decisions to achieve the surpluses we now enjoy. It would be tremendously irresponsible to squander that effort before we achieve our debt reduction and federal investment goals.

The total cost of the broad-based Worker's Income Tax Credit is modest enough that it could be combined with other reasonable tax cut priorities. I have suggested that a reasonable tax package would not exceed $700–$800 billion over ten years, allowing room for passage of a number of other tax cut priorities in addition to the Worker's Income Tax Credit.

Mr. Speaker, if we can all agree on the principles of fairness and fiscal responsibility in considering any tax cut, then I hope we can also agree that the Worker's Income Tax Credit is an excellent means of providing tax relief to the American people this year.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker's Income Tax Credit Act of 2001".

SEC. 2. REFUNDABLE CREDIT FOR INDIVIDUALS BASED ON EARNED INCOME.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. WORKER CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount equal to 6.2 percent of the sum of—

"(1) the individual's wages, salaries, tips, and other employee compensation includible in gross income, plus

"(2) the individual's earned income (as defined in section 401(c)(2)).

"(b) LIMITATION.—The amount allowed as a credit under subsection (a) to an individual for any taxable year shall not exceed $350.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "or from section 35 of such Code," after "1978,".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 35. Worker credit.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

RECOGNIZING 90TH BIRTHDAY OF RONALD REAGAN

SPEECH OF

HON. JOHN B. SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 6, 2001

Mr. SHADEGG. Mr. Speaker, today we celebrate President Reagan's birthday. Although he left office more than 12 years ago, after eight years of distinguished service as our Commander in Chief, Americans today continue to benefit from the fruits of his hard work. It is for that reason I rise to honor Ronald Reagan on his 90th birthday.

During the 20th Century America witnessed the rise of a handful of great leaders. From Theodore Roosevelt to Franklin Roosevelt to John Kennedy, America rose to prominence—she expanded internationally, built the Panama Canal, overcame a Great Depression and fought two world wars. However, it was under Ronald Reagan that America achieved her true greatness.

President Reagan was a common man who, unlike many who came before him, entered politics at a later stage in life. He did so because of a belief that the country was headed in the wrong direction. A common man who touched every American, Ronald Reagan used his charm and steadfast beliefs to right the direction and shape the United States into the great country she is today.

President Reagan turned around the public perception of government, sparked economic growth, restored the military, won the Cold War and restored our faith in America.

My first memory of Ronald Reagan dates back to 1964 when Ronald Reagan spoke to the country on behalf of the Republican candidate for President that year—Senator Barry Goldwater of Arizona. On a personal note, my father, Stephen Shadegg, worked for Senator Goldwater during the 1964 presidential campaign. This afforded me the opportunity to experience, first-hand, what a true visionary and leader Mr. Reagan was. Ronald Reagan gave a speech on behalf of Senator Goldwater that year. It later became known as "A Time for Choosing." Many of the points he raised in that speech I hold dear and use to guide my judgment while serving the citizens of my District and the state of Arizona.

In that speech President Reagan spoke of several principles Republicans, indeed all Americans, continue to hold dear. The first principle is personal freedom. Ronald Reagan quoted James Madison when he stated that the Framers of the Constitution, "base[d] all our experiments on the capacity of mankind for self-government." He was correct: Each person should be able to live with the freedom that the Constitution guarantees. Ronald Reagan spent every day in office seeing to it that this principle was advanced and defended.

The second principle that President Reagan advocated was that the government is beholden to the people. Not the reverse. He stated: "This idea that the government was beholden to the people, that it had no other source of power is still the newest, most unique idea in all the long history of man's relation to man.

"This is the issue of this nation: whether we believe in our capacity for self-government or whether we abandon the American Revolution and confess that a little intellectual elite in a far-distant capital can plan our lives better than we can plan them ourselves." Therein lies the essence of President Reagan. Personal choice should not be a right or a gift. Rather, left to their devices, the American people would grow the economy, improve our schools, save for the future and have personal flexibility to achieve those goals. Ronald Reagan showed us the way. We, the American people, proved him right.

During the speech, he also asked: "Are you willing to spend time studying the issues, making yourself aware, and then conveying that information to family and friends?" He continued: "Will you resist the temptation to get a government handout for your community? Realize that the doctor's fight against socialized medicine is your fight. We can't socialize the doctors without socializing the patients. Recognize that government invasion of public power is essentially an assault upon your business. If some of you fear taking a stand because you are afraid of reprisals from customers, clients or even government, recognize that you are just feeding the crocodile hoping he'll eat you last." Truer words have never been spoken, Mr. Speaker. In fact, these words ring true today.

Mr. Reagan extended his vision to a third principle—the economy and the tax code. His belief in lower taxes and private enterprise was based upon the idea that each individual best knows how to spend their money and manage their store. Like the Founding Fathers, President Reagan believed that government control of any enterprise leads to control of the people who run them. How correct he was when he stated:

"The Founding Fathers knew a government can't control the economy without controlling the people. And they knew when a government sets out to do that, it must use force and coercion to achieve that purpose. So we have come to a time for choosing. Public servants say, always with the best of intentions, "What greater service we could render if only we had a little more money and a little more power." But the truth is that outside of its legitimate function, government does nothing as well or as economically as the private sector."

President Reagan led by those principles. His faith in the individual, belief in free enterprise, and unending conviction in providing freedom of choice in everyday decisions helped to restore the "great, confident roar of American progress, growth and optimism." The "choice" was right then. It is right today. Yet, we must continue to fight for these principles today.

In his farewell address in January of 1989, President Reagan modestly summed up his eight years in office, "All in all, not bad, not bad at all." Well, Mr. Speaker, I believe this is more fitting of his overall contribution to the American public: "All in all, not bad, not bad at all." Happy Birthday Mr. President. We salute you.

IMPROVING EDUCATION THROUGH THE THREE R'S

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mrs. DAVIS of California. Mr. Speaker, there is widespread agreement that improving education must be our priority in this session of Congress. Fortunately, there is bipartisan agreement about much of the thrust of a program to use our surplus to substantially increase funding for programs that will reach the poorest students.

An important area that we must work on, however, is how to deal with schools where children are not succeeding in learning. As a member of the California Assembly's Education Committee, I worked with my colleagues on both sides of the aisle to address this issue. The program which was put in place makes very clear rewards for schools which demonstrate improvement for students at all levels of achievement.

But what happens where a school doesn't improve? This is the important difference. We do not propose using critical funds in the Title I program for low income students to offer a portion of the cost for a child to seek private education. Instead, the failing schools themselves must be changed—through focusing professional development dollars on the principals and teachers or, if necessary replacing the leadership altogether. No school should be allowed to fail.

One of the most critical elements of the New Democrat proposal for the Three R's, therefore, is investment in recruiting, training, and retraining teachers. We must do our best to support our professional educators. Every child has a right to an excellent teacher.

FARMERS NEED A SAFETY NET IN ADDITION TO FLEXIBILITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 7, 2001

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the February 2, 2001, Omaha World-Herald. The editorial highlights the challenges in developing a workable agriculture policy which maintains flexibility while providing farmers with assistance when needed.

"FREEDOM" NOT IN FARM LAW

The time is at hand for the U.S. government and the Americans involved in production agriculture to decide how they're going to coexist for the next few years. For farmers, in addition, there is the matter of how to survive in a world in which their product is often available in income-depressing surplus.

Freedom to farm, the tag line given to the 1996 federal farm policy, came along at an inopportune time. The original plan—an end to federal crop subsidies as of next year—turned out to be impractical. Something else is needed.

The underlying philosophy was worth a try. Agriculture was stagnating under the old system, in which farmers received subsidies for planting a specified number of acres to a specified crop. The 1996 idea was to de-link subsidies from planting decisions for a half-dozen years while continuing the flow of cash in the form of transition payments.

This was "freedom to farm." At the end of the transition period, the subsidies would theoretically dry up. Farmers, having tailored their production to maximize their income from the marketplace, would theoretically be ready for financial independence.

Now, with the transition period nearing an end, agriculture's ability to take that next step is more than a little doubtful. It turned out that even a relatively deregulated grain-producing industry couldn't respond in time to take advantage of fast-changing market conditions. As the Asian currency crisis worsened in the late 1990s, American farmers were stuck with huge piles of grain they had produced on the theory that the Pacific Rim boom would be sustained into the new century. From planning to planting to harvest takes many months. When conditions change, it's too late if the crop is in the ground.

The transition payments, instead of descending as planned, have skyrocketed. Since 1996, when the total was $7 billion, the amount quadrupled. This year's $28 billion constituted half of all the revenues that farmers received from their operations.

This isn't healthy. But the best idea to come out of a federal panel, created to monitor the outcome of the 1996 approach, is a new variety of subsidy to provide income maintenance for farmers when hit by sagging market demand for their products.

Subsidies have a downside. They keep inefficient operations from being squeezed out by efficient competitors. This creates a self-fulfilling cycle. Inefficiency intensifies the demand for subsidies, leading to more inefficiency.

Subsidies, in addition, sometimes undermine the political support for agriculture in parts of the country where the Midwestern corn-wheat-cattle-hogs economy is not well understood. Eastern commentators include farms among the recipients of corporate welfare. They seem to forget that subsidies have been part of a cheap-food policy under which Americans pay a lower percentage of their income for food than is possible in nearly any other part of the world.

So the aid the government has given to agriculture is not necessarily bad. Indeed, former Secretary of Agriculture Dan Glickman said the alternative would have been chaos in rural America last year. And the current secretary, Ann Veneman, says a "safety net" of some sort has to be kept in place, although she has not been more specific.

Few farmers and ranchers, given a choice, would accept the subsidized way of life as opposed to an economic system in which they had an even chance to get a fair return on their labor and investment. On the other hand, survival would be difficult, with conditions as they currently are, without what Veneman calls a safety net.

Accordingly, designing a system that makes sense financially, politically and socially is a task for the sharpest economic minds. As they proceed, some thought should be given to what returns—such as habitat restoration, wetlands preservation and the safeguarding of productive land in the form of conservation reserves—might be secured, in the process, for the tax-payers.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 8, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 9

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the current state of California's electricity crisis and the use of the Defense Production Act.
SD–538

FEBRUARY 12

2:30 p.m.
Budget
To hold hearings to examine the current outlook for the national defense budget.
SD–608

FEBRUARY 13

9:30 a.m.
Armed Services
To hold hearings on current and future worldwide threats to the national security of the United States, to be followed by closed hearings (in Room S–407, Capitol).
SD–106

10 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the first Monetary Policy Report for 2001.
SH–216

Health, Education, Labor, and Pensions
Aging Subcommittee
To hold hearings to examine the nursing shortage and it's impact on America's health care delivery system.
SD–430

Judiciary
To hold hearings to examine the Hart/Rudman Commission findings on terrorism.
SD–226

10:30 a.m.
Governmental Affairs
To hold hearings on the nomination of Joe M. Allbaugh, of Texas, to be Director of the Federal Emergency Management Agency.
SD–342

FEBRUARY 14

10 a.m.
Judiciary
To hold hearings to examine the impact of recent pardons granted by President Clinton.
SD–226

2 p.m.
Appropriations
Transportation Subcommittee
To hold oversight hearings on the Department of Transportation's management challenges.
SD–124

2:30 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the issues of saving investors money and strengthening the Security and Exchange Commission.
SD–538

FEBRUARY 15

9:30 a.m.
Health, Education, Labor, and Pensions
To hold hearings on proposed legislation to strengthen certain education programs.
SD–430